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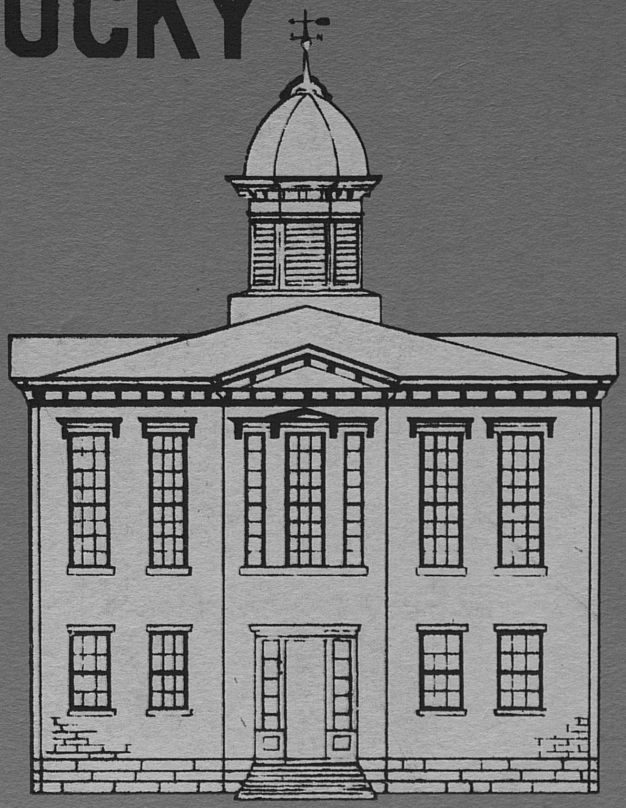
INVENTORY OF THE COUNTY ARCHIVES OF KENTUCKY

BRECKINRIDGE COUNTY
(HARDINSBURG)
NO. 14



THE HISTORICAL RECORDS SURVEY
WORK PROJECTS ADMINISTRATION

INVENTORY OF THE COUNTY ARCHIVES

OF KENTUCKY

No. 14. BRECKINRIDGE COUNTY (HARDINSBURG)

Prepared by

The Kentucky Historical Records Survey Project
Division of Professional and Service Projects
Work Projects Administration

Sponsored

by

State Department of Libraries and Archives

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Louisville, Kentucky
The Kentucky Historical Records Survey Project
September 1940

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FOREWORD

The Inventory of the County Archives of Kentucky is one of a number of bibliographies of historical materials prepared throughout the United States by workers on the Historical Records Survey Program of the Work Projects Administration. The publication herewith presented, an inventory of the archives of Breckinridge County, is number 14 of the Kentucky series.

The Historical Records Survey Program 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carrying out this objective, the project was organized to compile inventories of historical materials, particularly the unpublished documents and records which are basic in the administration of local government, and which provide invaluable data for students of political, economic, and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, businessmen, 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 Program 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 county 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 Program, 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 Program was organized by Luther H. Evans, who served as Director until his appointment as Director of the Legislative Reference Service of the Library of Congress. He was succeeded on March 1, 1940, by Sargent B. Child, who had served in the capacity of Field Supervisor since the inauguration of the Survey. The Survey Program operates as a Nation-wide series of locally sponsored projects in the Division of Professional and Service Projects, of which Mrs. Florence Kerr, Assistant Commissioner, is in charge.

F. C. Harrington
Commissioner

PREFACE

The Historical Records Survey, as a part of the Federal Writers' Project of the Works Progress Administration, was begun in January 1936 under the national directorship of Dr. Luther H. Evans, who served until March 1, 1940, when he was succeeded by Mr. Sargent B. Child. Dr. T. D. Clark was appointed supervisor of the Kentucky project, under the administrative direction of Dr. U. R. Bell, State Director of the Federal Writers' Project. In July 1936 Dr. Clark returned to the University of Kentucky and was succeeded by Mr. O. B. Wilder. Upon Mr. Wilder's resignation in December 1936, Mr. Walter M. Hoefelman was made State Director. Mr. Hoefelman directed the project from December 1936 until July 31, 1939, at which time he was succeeded by Mr. Earl D. Hale. Mr. Hale, under whom the major portion of the work of this inventory was prepared, supervised the project until January 26, 1940, when the present director assumed charge of the Kentucky Historical Records Survey.

In December 1936, the National Survey was separated from the Federal Writers' Project, being designated as Federal Project Number 1, and the Kentucky Historical Records Survey became a State-wide unit. As of September 1, 1939, the Historical Records Survey changed its method of operations from one Nation-wide, WPA-sponsored Federal Project to a series of State-wide projects sponsored by legally constituted public agencies. At the present time, the Kentucky Historical Records Survey Project, sponsored by the State Librarian and Archivist, Mrs. Emma Guy Cromwell, is under the administrative control of the Professional and Service Division of the Work Projects Administration.

The Breckinridge County Inventory is divided into two parts. The first part, A, deals with the general information on the history and government of the county, the housing and care of the records, and abbreviations and explanatory notes. Part B is devoted to the inventory proper.

The arrangement of agencies in Part B of the inventory classifies them according to governmental function; administration; registration of property titles; administration of justice; law enforcement; finance; elections; education; health; and miscellaneous. The structural organization of the agency, the powers and duties (or jurisdictions of courts), and the records requirements are discussed in a section preceding the inventory of the records of each agency. Records are classified, in general, according to the agencies which make them, unless other deposition of the records is directed by law. Under agencies, records have been classified, as far as possible, according to the subjects with which they deal.

Records are described in entries whose style is formalized to give the following information: title of record, dates for which available, quantity, labeling of volumes or containers, variant titles, description of record contents, manner of arrangement, indexing, nature of recording, size of containers or volumes, and location.

The original survey of Breckinridge County was made early in 1937 by Miss Golda Gillian, under supervision of Mr. Jesse H. Raymer, Assistant

State Supervisor. Messrs. Joseph Gurganus and George Baugher, editors, made the recheck in October 1939. Mr. Harry P. Hoskins, editor, did the research work for the Historical Sketch; and Messrs. Robert P. Arnold and Abraham Freeman, editors, did the legal research work for the essays, under the direction of the present State Supervisor. Mr. John C. Simmons, Assistant Project Technician, and Mr. Gurganus edited the entries, which were arranged in final form by Mr. Simmons. The indexes were also written under the latter's supervision.

Mrs. Julo Wykle, Miss Bevvie Hill, and Messrs. F. A. Kenney, R. P. McAdams, and G. W. Buck, under the supervision of Mrs. Elizabeth Johnston, Assistant Project Technician, were responsible for the essays and the final editorial work necessary for the publication of this inventory. Stencils were cut by Mrs. Lucille Vairin, Miss Sallie Dickinson, and Mr. Charles Hockenjos.

The Kentucky Historical Records Survey wishes to express its sincere appreciation to Miss Mabel S. Brodie, Editor in the Survey's Washington office, for her careful editorial analysis; and to Mr. Dan Lacy, Assistant Director, Historical Records Survey Projects, for his valuable suggestions.

Grateful acknowledgment is made to the officials of the Work Projects Administration in Kentucky for the use of mimeographing equipment; to Mrs. Jouett Taylor Cannon, Secretary of the Kentucky State Historical Society in Frankfort, for her assistance in supplying the project with special historical information; to Mrs. Emma Guy Cromwell, State Librarian and Archivist, and Judge D. D. Dowell, Circuit Court Clerk of Breckinridge County, for supplying our editorial staff with volumes used in the compilation of inventory material; and to the Filson Club, Louisville, for its generous cooperation in the use of its library. Without the cooperation and interest of the officials of Breckinridge County, this volume could not have been written, and we appreciate especially the assistance given our workers by County Judge Reuben J. Bolling; Circuit Court Clerk, Judge D. D. Dowell; and the late Arthur T. Board, former County Court Clerk, and his successor, Mrs. Arthur T. Board.

Forthcoming volumes of the Inventory of the County Archives of Kentucky will be issued in mimeograph form for free distribution to governmental offices, libraries, and historical societies in Kentucky, as well as to selected libraries and depositories in other states. For a list of publications of the Historical Records Survey in Kentucky, see p. 391. Requests for information concerning particular volumes should be addressed to the State Supervisor, 550 South Fifth Street, Louisville, Kentucky.

Clifford R. Rader

Clifford R. Rader
State Supervisor
The Historical Records Survey Project

Louisville, Kentucky
September 30, 1940

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1. HISTORICAL SKETCH

Creation

Breckinridge County, created December 9, 1799, by an act of the Kentucky Legislature from a part of Hardin County, was the thirty-ninth county to be established in the state. (1) The act creating the county, approved December 9, 1799, and effective January 1, 1800, read as follows: "All that part of Hardin County which is included in the following bounds, to wit: Beginning at the mouth of Blackford's Creek running with the Ohio County line to Rough Creek, then up said creek opposite the mouth of Big Clifty, from thence such a course as will strike the Big Spring on the road leading from Elizabethtown to Hardin's Settlement, thence such a course as will strike the head of Wolf Creek, thence down said creek to the Ohio River, and down said river to the beginning, shall be one distinct county, and called and known by the name of Breckinridge." (2)

The new county was named in honor of John Breckinridge, a distinguished lawyer and statesman who was born in Virginia in 1760 and came to Kentucky in 1793, settling in Fayette County near Lexington. He was connected prominently with the early history of Kentucky and helped to write the second constitution of the state. (3)

Boundaries

In subsequent years several changes were made in the boundaries of the new county. By an act approved December 17, 1823, provision was made for the creation of Meade from a part of Breckinridge (4); in 1829, Hancock was formed from another part of Breckinridge. (5) An act approved January 13, 1831, added a portion of Ohio County to Breckinridge (6), and the final change in boundary lines was approved April 13, 1886, when the lines between Breckinridge and Hancock Counties were finally established. (7)

At the present time, Breckinridge is bounded on the north by the Ohio River and Meade; on the east, by Meade and Hardin; on the south, by Grayson; and on the west, by Ohio and Hancock Counties and the Ohio River. (8)

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1. WILLIAM LITTELL, THE STATUTE LAW OF KENTUCKY, WITH NOTES, PRAELECTIONS, AND OBSERVATIONS ON THE PUBLIC ACTS, 5 VOLS., FRANKFORT, KY., 1799, VOL. 2, P. 271. HEREAFTER CITED AS LITTELL.
2. IBID.
3. W. H. PERRIN, J. H. BATTLE, G. C. KNIFFIN, KENTUCKY: A HISTORY OF THE STATE, LOUISVILLE, KY., AND CHICAGO, ILL., 1888, PP. 561-565.
4. ACTS OF THE GENERAL ASSEMBLY OF THE COMMONWEALTH OF KENTUCKY, 1823-24, FRANKFORT, KY., 1824, P. 336. HEREAFTER CITED AS ACTS.
5. ACTS, 1828-29, P. 30.
6. ACTS, 1830-31, P. 79.
7. ACTS, 1885-86, VOL. I, P. 1377.
8. RAND MCNALLY COMMERCIAL ATLAS AND MARKETING GUIDE, SEVENTIETH EDITION, NEW YORK, CHICAGO, SAN FRANCISCO, 1939, P. 156.

Establishment of Hardin's Station

The first pioneer to settle in this section of the State was Captain William Hardin, a renowned hunter and Indian fighter. Early in 1780, Hardin and several companions set out by boat down the Ohio River in search of a desirable location for a colony. Without mishap they reached the Falls of the Ohio, where the city of Louisville stands today. Not satisfied to settle there, however, they floated on to the mouth of Sinking Creek. Scarcely had they landed at this spot, when Indians seized their boat. One member of the party was killed; the others made their way to Hines Fort (Hynes Station), the present site of Elizabethtown. No place favorable for settlement was decided upon at this time, and in the spring of 1780, Hardin returned and brought his family and twenty other families down the Ohio to the mouth of Sinking Creek. After proceeding up the creek, the party landed near the present site of Hardinsburg. The spot was well chosen. In the midst of beautiful hills, with plentiful game and a spring and a cave conveniently near, where provisions could be safely kept, it was a most desirable location for the establishment of a community in the wilderness. (9) Work was begun immediately. The only instruments used in planning and surveying the fort were a grapevine and an ax, since no surveying instruments were available in the wilderness. Four of the most experienced hunters in the group guarded the workers as they brought in the logs and dug the post holes for the new station; those busy with its erection kept their weapons close at hand because of the menace of Indian attacks. In April 1780, Hardin's Station was completed.

Settlement of Hardin's Station was not accomplished without difficulty and succeeded only as the result of the foresight of Captain Hardin. When he learned that the Indians were settling across the Ohio, too near for the safety of his own people, he attacked before the Indians could surprise the little settlement. After considerable loss on both sides, the Indians were forced to withdraw, and from that time the continued occupancy of the station was assured. (10)

Early Settlers

Disaster frequently overtook bands of pioneers as they made their way to the new fort in the wilderness. William McDaniels and John Bruner brought their families and household goods by flatboat as far as the "Falls" in Sinking Creek. The men departed to obtain assistance in transporting their possessions to Hardin's Station, leaving a Negro slave with their families for protection. In hiding, awaiting their opportunity, Indians closed in around them shortly after McDaniels and Bruner had left.

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9. MARY ALLEN GOODSON, HARDIN'S FORT AND ITS FOUNDER, LOUISVILLE, KY., 1924, PP. 1-6; WILLARD R. JILLSON, PIONEER KENTUCKY, FRANKFORT, KY., 1934, P. 85.
10. RICHARD H. COLLINS, HISTORY OF KENTUCKY, 2 VOLS., LOUISVILLE, KY., 1924, VOL. 2, PP. 97,98.

Terrified, Mrs. McDaniels fell in the water and was drowned; Mrs. Bruner, her child, and the slave were captured. As they were being taken toward an Indian settlement in Illinois, the child and the slave were brutally killed by the savages. But for the intervention of an old chief who agreed to take her for his wife, Mrs. Bruner would have shared the same fate. Months later she was rescued by white men and returned to her husband. (11)

Other members of the courageous group of pioneers who settled in this region were: Samuel Spencer, an able Indian fighter; John Barbee, reported to have been the first to manufacture a plow from a forked tree limb and an "L"-shaped piece of iron; Sally McDonald; Joseph Allen; John Jolly; and the Reverend Francis Clark, credited with being the first Methodist minister in Kentucky. (12)

On November 2, 1882, at the site of the old Hardin's Station where William Hardin lies buried beneath a sturdy hickory tree, a centennial celebration was held under the direction of Colonel Alfred Allen, President of the Breckinridge Historic Society. (13) The Breckenridge (sic) News, dated November 8, 1882, quotes from Colonel Allen's address as follows: "It will be remembered that the ground immediately adjacent to the fort was broken up by John Barbee and devoted to the cultivation of corn. It was the habit to detail pickets, who were posted in the forest beyond the field, to guard against the men and women engaged in planting the corn being surprised and massacred or borne off prisoners by the Indians. One day Hardin himself was performing picket duty, when he was fired upon and wounded in the neck or shoulder by savages. Among those at work in the field was a man named McDonald and his three daughters. Hardin, not knowing how badly he was wounded, made for the field to hurry those who may not have taken the alarm and fled to shelter into the fort. He was closely pursued by several Indians. All had sought safety in flight except the eldest McDonald girl, who waited to see if she could be of any assistance to the wounded hero, the blood streaming down and dyeing his shirt, apprising her that he had been hit. She ran by his side encouraging him to greater exertion, causing him to turn about twice and raise his empty gun as though about to fire, thus temporarily checking the pursuers, until they reached Barbee's plough, to which was attached a span of horses by rope gearing. By this time a burly Indian was but a few yards behind them, brandishing his tomahawk and uttering triumphant yells, already certain of his prey. At this moment Sallie McDonald exclaimed: 'For God's sake, Mr. Hardin, stop and raise your gun, while I loosen the horses!' He did so. The Indian dodged back, threw down his tomahawk, and began rapidly loading his own rifle. But the intrepid girl succeeded in freeing the horses from the plough, almost threw Hardin on the back of one of the animals -- such strength did excitement lend her -- mounted the other,

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11. GOODSON, OP. CIT., PP. 8-14.
12. IBID.
13. WM. C. P. BRECKINRIDGE, ADDRESS DELIVERED AT THE CENTENNIAL CELEBRATION OF THE SETTLEMENT OF BRECKINRIDGE COUNTY ON THE SITE OF HARDIN'S OLD FORT NEAR HARDINSBURG, FRANKFORT, KY., 1882.

and they galloped off as the Indian fired, fortunately in too great a hurry to shoot with accuracy, and they reached the fort in safety. . . . Hardin lived to see his settlement grow into a town that took his name and that town became the capital of a new county and twice represented the county in the congress of the State. He lived to see a neighboring county erected and named after his honored father, and, full of years and honors, laid him down and died the death of a just and brave and conscientious man. Yonder where that flag so proudly flashes its stars and beautiful crimson bars in the air repose his bones -- to our shame be it said, in an open field where years ago the vagrant cow and iconoclastic hog have destroyed the last vestige of the mound that covered the mortal remains of the heroic pioneer and founder of our county." (14)

In 1782, two years after the settlement of Hardin's Station, lots and streets were laid out (15), and it was called Hardin's Town in honor of its founder.

On May 30, 1930, a marker erected to the memory of Captain Hardin was unveiled in the courthouse square in Hardinsburg. Judge Henry Dehaven Moorman presented the memorial to Breckinridge County in behalf of the Hardin Memorial Association, and Judge R. L. Oelze accepted it for the county. (16)

Establishment of County Government

First Officers

The first meeting of the county court was held on January 20, 1800, at the home of William Hardin to appoint the first officers and decide on a site for the county seat. The first justices of the peace to compose the county court were Benjamin Huff, John Pate, Thomas Kincheloe, John Walker, and John Hamilton, who produced commissions from Governor James Garrard. After their commissions were read and the oaths required by law were taken, the court appointed William Kelso clerk pro tempore. He served for about six months, when he was succeeded by Joseph Allen, who held office for about fifty-seven years. (17)

On March 17, 1800, a second meeting of the county court was held. William Hardin, son of the founder of Hardin's Station, gave bond with surety for the office of sheriff. Elijah Hardin was appointed commissioner of the tax and Ansel Hyde became the first jailer for the county. The first constable appointed was Barney Miller. Commissions from the Governor appointed John Walker, coroner, and Abraham McClellan, surveyor. (18)

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14. "ADDRESS OF COL. ALFRED ALLEN, PRESIDENT OF THE CENTENNIAL SOCIETY" IN THE BRECKENRIDGE (SIC) NEWS, VOL. VII, NO. 16, NOV. 8, 1882, CLOVERPORT, KY.
15. COLLINS, OP. CIT., P. 96.
16. CIVIL ORDERS, VOL. 41, P. 557, IN BRECKINRIDGE COUNTY ARCHIVES, ENTRY 158.
17. COUNTY COURT ORDERS, FIRST VOL. NOT LABELED, PP. 2, 10, IN BRECKINRIDGE COUNTY ARCHIVES, ENTRY 225.
18. COUNTY COURT ORDERS, FIRST VOL. NOT LABELED, PP. 1, 2, SEE ENTRY 225.

William Comstock, Edward Pate, and James Jennings presented commissions from Governor Garrard, appointing them justices of the quarter session court, which held its first meeting on April 21, 1800. (19) Joseph Allen was appointed clerk and Henry Davidge attorney for this court. (20)

County Seat

Since Hardin's Town had already been laid out in town lots, it was natural that it should be chosen as the seat of justice for the new county, and on January 19, 1801, it was "established by name of Hardinsburgh." (21)

Public Buildings

On March 17, 1800, the court ordered that public buildings be erected on the public square in Hardin's Town on lots given by William Hardin, senior, for that purpose. (22) The first courthouse was a log house that had belonged to Hardin, which was ordered to be prepared to serve as a courthouse and the adjoining shed to be remodeled for a jury room and clerk's office. Commissioners were appointed to let the contract to the lowest bidder. (23) Apparently a second courthouse was built to replace this inadequate log building, and several of the oldest inhabitants today recall its existence. No mention of this building, however, was found either in the actual records or in any history of the county. The present courthouse was erected in 1869 at a cost of approximately $37,000. (24) For a detailed description of this building, see the essay on Housing, Care, and Accessibility of the Records, p. 97.

A court order also provided for the erection of a jail, stocks, and a pillory to be let to the lowest bidder. (25)

Topography

Breckinridge County is situated in the western central part of the state on the Ohio River. The land is high, and the surface is generally rolling. In some sections the land is hilly, however, and along the Rough River it is decidedly rugged. Hardinsburg, which is situated near the center of the county, has an elevation of 700 feet above sea level. Creeks flowing into the Ohio River, which forms a great part of the northern bound-

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19. IBID., P. 3, SEE ENTRY 225; CIVIL ORDERS, VOL. I, P. I, IN BRECKINRIDGE COUNTY ARCHIVES, ENTRY 158.
20. RECORD (ORDER BOOK, QUARTER SESSION COURT), VOL. I, P. 2, IN BRECKINRIDGE COUNTY ARCHIVES, ENTRY 138.
21. ORDER BOOK COURT OF CLAIMS AND LEVY, P. 23, IN BRECKINRIDGE COUNTY ARCHIVES, ENTRY 2.
22. COUNTY COURT ORDERS, VOL. I, P. 3, SEE ENTRY 225.
23. IBID., P. 5, SEE ENTRY 225.
24. IBID., VOL. 12, P. 376, SEE ENTRY 225.
25. IBID., VOL. I, P. 5, SEE ENTRY 225.

ary, water the county. Rough Creek, which follows the southern border line of Breckinridge County, and its tributaries, as well as many springs, also add to the county's supply of water. (26)

Educational Development

While the pioneers of Breckinridge County were busily engaged in clearing forests, establishing homes and protecting themselves from frequent Indian attacks, the educational advantages were chiefly confined to those offered by persons who traveled from settlement to settlement teaching and receiving as compensation for their services, furs, tobacco, whiskey, food, and lodging. Acts passed in 1798 and 1805 had provided for the granting of 6,000 acres of vacant land for the establishment of a county academy (27), and an act of February 10, 1816, specified that Joseph Allen and John P. Oldham, of Hardinsburg, be appointed trustees to sell the land so appropriated and invest the proceeds for the benefit of a seminary when it should be established. (28)

First Educational Institutions

In accordance with legislation passed in 1820, eight trustees were appointed by the court to constitute the board of trustees for a seminary to be known as Breckinridge Seminary. They were given authority to control the institution. The same act provided that a lot of ground purchased by the county court for the use of a seminary be vested in the trustees for the purpose of erecting a building to be used as the seminary. (29)

An act approved January 12, 1847, established Breckinridge College and directed that the trustees of Breckinridge Seminary transfer its land and buildings in Hardinsburg to the named trustees of the newly incorporated college, the legal title to the property to remain in Breckinridge County. (30) The same year Mt. Alba Female Collegiate Institute was incorporated (31), and seven years later an act approved February 6, 1854, provided for the establishment of the Louisville Conference High School, under the supervision of the Louisville Annual Conference of the Methodist Church South. (32)

A lack of hard-surfaced roads throughout the county long delayed the development of schools in the sparsely settled sections outside of Hardinsburg. In 1871 the board of trustees of the town of Cloverport was author-

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26. EDWARD F. SEILLER, CHIEF, DEPARTMENT OF LABOR, COMPILER, KENTUCKY NATURAL RESOURCES, INDUSTRIAL STATISTICS, INDUSTRIAL DIRECTORY, DESCRIPTION BY COUNTIES, BULLETIN 34, FRANKFORT, KY., 1929, P. 141.
27. SEE COUNTY BOARD OF EDUCATION, P.322.
28. LITTELL, VOL. 5, 1816, P. 401.
29. ACTS, 1820-21, P. 119.
30. ACTS, 1846-47, P. 76.
31. IBID., P. 81.
32. ACTS, 1853-54, VOL. I, P. 321.

ized to issue bonds not to exceed $10,000 for the purpose of erecting suitable school buildings. This money was directed to be kept as a separate fund from all other town money and could be used only for educational purposes. (33) Slowly, from this beginning, a modern system of education adequate for the needs of the county was developed. Hardinsburg is today the most important center of education, and the public schools are exceptionally well organized and capably administered. A fine high school building, costing $110,000, was erected there in 1928. The Kingswood Holiness College at Kingswood is the only private school in Breckinridge at the present time. (34)

Transportation

The need for establishing roads to provide communication throughout the county was one of the primary considerations of the new county, and the first record books of the county court are full of orders for the viewing and laying off of roads. (35) An act approved February 11, 1834, gave 6,000 acres of vacant land to Breckinridge County, and directed the county court to devote the proceeds from the sale of these acres to the improvement of roads. (36)

In 1886, the Hardinsburg and Cloverport Turnpike Road Company was incorporated. This company took over all the rights, privileges, and franchises of all former owners, and was one of the most important factors in road building in the early history of the county. (37) Today, Federal Route 60 passes through Breckinridge, linking Hardinsburg, Cloverport, Irvington, and Garfield with Louisville, Owensboro, and other towns. The Louisville, Henderson, and St. Louis Railroad crosses the northern part of the county, and a branch from Irvington connects with Hardinsburg and a number of other towns in the central and southern sections of the county. There is also bus service between the larger towns of the county, as well as to Louisville and Owensboro. Cloverport maintains ferry service across the Ohio River, and is, with Stephensport and other river towns, served by packet lines. (38)

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33. Acts, 1871, vol. 1, p. 66.
34. Kentucky Magazine, Louisville, Ky., September 1927; Seiller, op. cit., pp. 141, 142; The Courier-Journal, Louisville, Ky., January 19, 1929.
35. See Road Orders, in Breckenridge County Archives, entry 39.
36. Acts, 1833-34, pp. 459-461.
37. Acts, 1885-86, vol. 2, p. 140.
38. Interview between Mr. J. H. Raymer, former Assistant State Supervisor, Historical Records Survey, and Mr. Roy McCoy, Deputy County Court Clerk, February 16, 1939, at Hardinsburg.

Religious Development

At a very early date in the history of Breckinridge County, religion was given a certain amount of attention. The first Methodist minister to enter Kentucky was said to be the Reverend Francis Clark, who settled about six miles from Danville in 1784. His work extended into practically every settlement and fort in the State at that time, and he was instrumental in organizing a Methodist group at Hardin's Fort that same year. For a number of years services were held in the various homes; later, this body met in the courthouse until a church was built. The Reverend Mr. Whalen, the first Roman Catholic priest to reach this settlement, erected a log church in 1787. A number of the early settlers were Scotch-Irish Presbyterians, who were deeply religious and lived in accordance with the teaching of the Bible which they read together regularly. (39) Records show that the Catholic Church of St. Romuald was established in Hardinsburg about 1806; in 1813 the Baptists erected a church on Lost Run, known as the Lost Run Baptist Church. In 1833, the Cumberland Presbyterians built a church of huge logs at Freedom where, before that year, the site had been used as a camp ground. Mr. D. D. Dowell, in a paper on the history of the Freedom Congregation of the Cumberland Presbyterian Church, gave the following account of the early religious life in the county: "The available records show that the church received members into its communion as early as 1833. At that time, and for a number of years thereafter, there was held a camp meeting, beginning on the second Sunday in August. (The annual revival still begins on said Sunday.) People would gather in great numbers to these annual camp meetings, coming from miles away in all kinds of conveyances, wagons drawn by horses and mules, some drawn by ox teams, others on horseback and still others on foot, but all coming for one purpose - to worship. Scores would be saved in these meetings. . . . Also, among the early members of the church are the names of: Amy, a colored woman, Mark, a colored man, and Coleman, a colored man, showing that the Cumberland Presbyterian Church has been a missionary church since its organization." (40)

As the population of the county grew, the number of churches increased, and according to the religious census of 1926 Breckinridge had a total of 7,473 members belonging to various religious bodies. Of that number, there were 2,539 Southern Baptists (white); 39 Baptists (Negro); 140 Disciples of Christ; 591 Methodist Episcopalians; 1,409 Methodist Episcopalians, South; 476 Cumberland Presbyterians; and 1,896 Roman Catholics, the remaining 383 being divided among other denominations. (41)

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39. GOODSON, OP. CIT., PP. 18, 19.
40. D. D. DOWELL: "ESTABLISHMENT OF BRECKINRIDGE COUNTY," PAPER READ BEFORE THE HARDIN HISTORIC SOCIETY BY MR. DOWELL, THE PRESENT CIRCUIT COURT CLERK OF BRECKINRIDGE COUNTY; "SOME EARLY HISTORY OF THE FREEDOM CONGREGATION OF THE CUMBERLAND PRESBYTERIAN CHURCH," NO PAGE NUMBERS, NO DATE.
41. RELIGIOUS BODIES: 1926, 2 VOLS., WASHINGTON, 1930, VOL. I, TABLE 32, PP. 618, 619.

Politics

Normally, Breckinridge is a Republican county, as revealed by the record of the County Board of Election Commissioners, the majority being approximately 300. (42)

Economic Development

Mineral Resources

Bituminous sandstone, known to the trade as rock asphalt, is found in great abundance in Breckinridge County. This region also furnishes limestone suitable for all general purposes of building construction and cement making. Oil has been secured in a number of wells in the county, and natural gas has been produced and used in the vicinity of Cloverport from the Chattanooga (Devonian) black shale for many years. (43) Extensive quantities of cannel coal are found in the northwestern part of the county near Cloverport. Prior to the discovery of petroleum in Pennsylvania, coal oil was manufactured in the northwestern part of the county. Before the War Between the States a factory was built, which for a number of years successfully manufactured coal oil from this cannel coal. Four miles from Cloverport, the Breckinridge Tar and White Sulphur Springs were formerly recognized as fashionable resorts and were well-known for their medicinal properties. (44)

Agriculture

The 568 square miles composing the area of the county are drained by waters of the Ohio River, Rough River, and their tributaries; and the bottoms along the Ohio River have farms as fine as any found in the State. These, together with the valleys of rich bluegrass over red clay and the hickory flats, which are unsurpassed as tobacco lands, place the county among the foremost in agricultural pursuits, the leading products being tobacco, corn, and wheat. Breckinridge, one of the greatest tobacco growing counties in Kentucky, in 1890 produced 1,816,958 pounds of the weed. (45) Formerly, dark air-cured tobacco was cultivated chiefly for export, but today the growers specialize in burley. In 1900, tobacco production increased to 4,005,230 pounds (46), to 4,299,724 pounds in 1930 (47), but dropped to 2,135,601 pounds in 1934. (48)

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42. RECORD OF PROCEEDINGS (COUNTY BOARD OF ELECTION COMMISSIONERS), PP. 281, 284, IN BRECKINRIDGE COUNTY ARCHIVES, ENTRY 351.
43. WILLARD R. JILLSON, THE GEOLOGY AND MINERAL RESOURCES OF KENTUCKY, 43 VOLS., FRANKFORT, KY., 1928, SERIES 6, VOL. 17, PP. 35, 36.
44. COLLINS, OP. CIT., VOL. 2, P. 97.
45. REPORT ON THE STATISTICS OF AGRICULTURE . . . 1890, VOL. 5, CHART 20, P. 433.
46. TWELFTH CENSUS . . . 1900, AGRICULTURE, VOL. 6, CHART 10, P. 553.
47. FIFTEENTH CENSUS OF THE UNITED STATES: 1930, AGRICULTURE, VOL. 2, WASHINGTON, 1932, TABLE 5, P. 789.
48. UNITED STATES CENSUS OF AGRICULTURE, 1935, VOL. I, TABLE 3, P. 580.

Wheat production reached an all-time high in 1900 when 190,720 bushels were produced (49), this being a tremendous increase over the 70,179 bushels produced in 1890. (50) In 1935, however, wheat production for this county showed a marked decrease, as only 52,122 bushels were produced that year. (51) Corn also showed a decrease in this same period, with a production of 1,130,000 bushels in 1900 (52), and only 893,739 bushels in 1934. (53)

The decrease in the production of these staples in recent years has probably resulted from economic problems faced by the farmers during this period, although it is interesting to note that the value of farms, improvements, and implements in Breckinridge County increased from $2,157,950 in 1900 (54) to $5,816,594 in 1930. (55)

In addition to the wheat, corn, and tobacco produced in 1935, the farmers reported the production of 20,115 tons of hay and 21,532 bushels of potatoes. (56) Large quantities of various kinds of fruits also were grown in the county, the community in the vicinity of Cloverport leading in production of apples, peaches, and grapes. (57)

Due in large measure to the efforts of the Reverend John F. Knue, an enthusiast in cooperative farming methods, the county ranked very high for a time in diversified farming. He introduced pickle farming in Breckinridge, which soon reached extensive and profitable proportions. These pickle farms operated on a cooperative basis, and the crops were sold collectively at a minimum of expense. Tons of gherkins were furnished annually to the bottling plants. (58) In 1930 a report from 123 farms showed 176 acres devoted to the cultivation of cucumbers, the value of the crop being $ 8,098. (59) Today, however, the pickle industry has almost died out.

Of the 2,763 farms in Breckinridge County in 1930, 1,585 of them were operated by full owners, 195 by part owners, 10 by managers, and 973 by tenants. (60)

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49. TWELFTH CENSUS OF THE UNITED STATES TAKEN IN THE YEAR 1900, AGRICULTURE, VOL. 6, WASHINGTON, 1902, CHART 55, P. 165.
50. REPORT ON THE STATISTICS OF AGRICULTURE IN THE UNITED STATES AT THE ELEVENTH CENSUS: 1890, VOL. 5, WASHINGTON, 1895, CHART 14, P. 367.
51. UNITED STATES CENSUS OF AGRICULTURE, 1935, VOL. 1, WASHINGTON, 1936, TABLE 3, P. 580.
52. TWELFTH CENSUS . . . 1900, AGRICULTURE, VOL. 6, CHART 55, P. 165.
53. UNITED STATES CENSUS OF AGRICULTURE, 1935, VOL. 1, TABLE 3, P. 580.
54. TWELFTH CENSUS . . . 1900, AGRICULTURE, VOL. 1, TABLE 19, P. 279.
55. UNITED STATES CENSUS OF AGRICULTURE, 1935, VOL. 1, TABLE 1, P. 559.
56. UNITED STATES CENSUS OF AGRICULTURE, 1935, VOL. 1, TABLE 3, P. 580.
57. SEILLER, OP. CIT., P. 142.
58. THE COURIER-JOURNAL, LOUISVILLE, KY., DECEMBER 14 AND APRIL 13, 1924.
59. FIFTEENTH CENSUS . . . 1930, AGRICULTURE, VOL. 2, TABLE 6, P. 810.
60. IBID., TABLE 1, P. 758.

Animal Husbandry

With the exception of sheep raising, which has practically doubled in the past five years, there has been no outstanding development in stock production, the livestock census remaining steady in proportion to population fluctuations throughout the years. In 1935 there were listed in the county 6,481 horses and mules, 15,722 cattle, 8,321 sheep, and 11,245 swine. (61) Poultry production, however, has increased from 113,452 chickens, turkeys, geese, and ducks in 1900 (62) to 137,342 in 1935. (63)

Industry

In 1930 sixteen industries operated in Breckinridge County. Their annual production was valued at $1,988,749. (64) Included in these is a factory which manufactures tile for roofing, and is the leading industry of Cloverport, the largest town in the county. Cloverport also has a canning factory and a button factory, which manufactures buttons from mussel shells obtained from the Ohio River. Three quarries are operated in the county. (65)

An unusual industry, which may rightly be described as county-wide in scope and which has done much to publicize Breckinridge County in all parts of the country, began with the piecing and quilting of " home-made" quilts. Soon a number of establishments, including that of the famous Eleanor Board, with headquarters at Hardinsburg, were engaged in the marketing of quilts, pillow slips, bedspreads, and a great variety of exquisite articles made by hand at the homes of the women of the community. Approximately 700 homes, sprinkled over the entire county, contribute workers to this fireside industry which returns more than a half million dollars annually. (66)

Natural Attractions

Sinking Creek, formerly called Hardin's Creek, and one of the county's principal streams, is recognized as a natural phenomenon. Rising some fifteen miles east of Hardinsburg, it flows in a northerly direction for eight or ten miles; then, suddenly sinking into the ground, it disappears. For about five or six miles there is no trace of it, except when extremely high water causes it to overflow and fill the dry bed above the underground channel with a swift stream. Further on it reappears and affords fine

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61. UNITED STATES CENSUS OF AGRICULTURE, 1935, VOL. 1, TABLE 2, P. 575.
62. TWELFTH CENSUS . . . 1900, AGRICULTURE, VOL. 1, CHART 47, P. 645.
63. UNITED STATES CENSUS OF AGRICULTURE, 1935, VOL. 2, TABLE 5, P. 587.
64. FIFTEENTH CENSUS OF THE UNITED STATES, MANUFACTURES: 1929, VOL. 3, WASHINGTON, 1933, CHART 2, P. 194.
65. SEILLER, OP. CIT., PP. 141, 142.
66. IBID.

water power for mill machinery. At Stephensport it empties into the Ohio River. Five or six miles from the mouth of this creek there is a natural mill-dam of rock, approximately eight feet high and forty feet wide, which produces an attractive falls. (67) Until twenty-five or thirty years ago, several old water mills were operated on Sinking Creek. (68)

A number of natural caves are found along this creek, the largest of which is known as Penitentiary Cave. Though never fully explored, it is said to rival the size and wonders of Mammoth Cave. One chamber, which contains subterranean streams and deep pools of clear water, measures from 60 to 70 feet in height. Elevated above the floor in this room are three curious natural basins in the form of troughs, approximately 15 feet long, 4 feet wide, and 12 inches deep. The stone which forms the sides and ends of these troughs is as thin as the blade of a table knife. (69)

Population

From the time of the creation of the county until 1910, census figures show a steady growth in the population. The inhabitants listed in 1800 were 807, including 41 Negro slaves. By 1830 this number had increased to 7,345, of which 1,480 were slaves. The population in 1870 was listed as 11,758 white and 1,652 colored persons; however, many of the latter left the county during the next few years. (70) In 1910 the total population of the county was 21,034. (71) In 1930, however, it had dropped to 17,368, of which number only 941 were Negroes. (72) The population of Hardinsburg, the county seat, was 805 in 1930; Cloverport, the largest town in the county had at that time a population of 1,324. (73)

The percentage of foreign- born population in the county in 1870 was 1.4 per cent, or 186 of a total of 13,254 persons. (74) In 1890 the percentage of foreign-born inhabitants had dropped to .76, or 144 of a total 18,892 native-born (75) and in 1930, only fifteen persons out of 16,412 (not including Negroes) were foreign born, or .09 per cent. (76)

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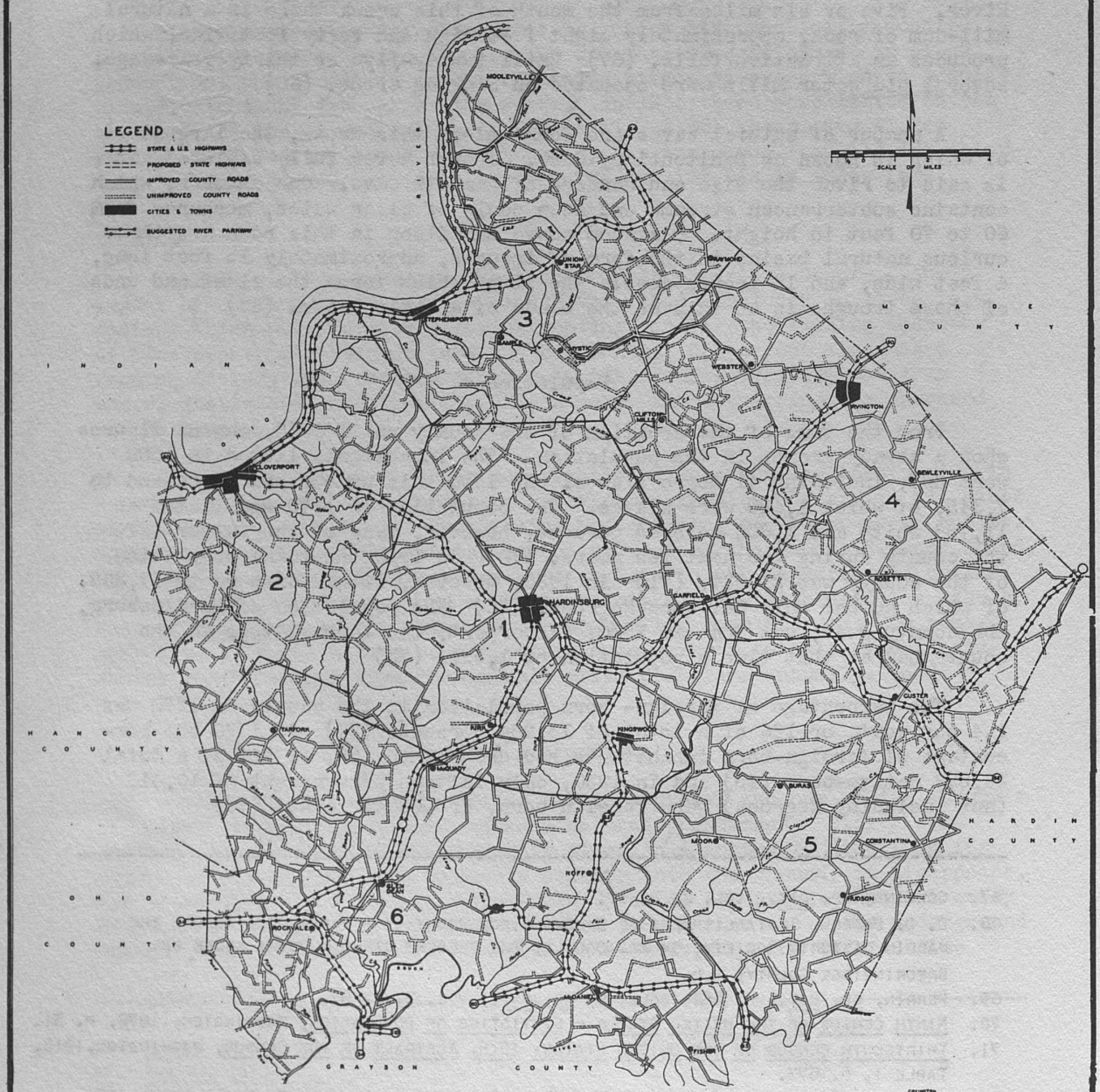
67. COLLINS, OP. CIT., VOL. 2, P. 97.
68. D. D. DOWELL, "ESTABLISHMENT OF BRECKINRIDGE COUNTY," A PAPER READ BEFORE THE HARDIN HISTORIC SOCIETY, BY MR. DOWELL, THE PRESENT CIRCUIT COURT CLERK OF BRECKINRIDGE COUNTY, N.D.
69. PERRIN, OP. CIT., P. 562; COLLINS, OP. CIT., VOL. 2, P. 97.
70. NINTH CENSUS OF THE UNITED STATES - STATISTICS OF POPULATION, WASHINGTON, 1872, P. 31.
71. THIRTEENTH CENSUS OF THE UNITED STATES: 1910, ABSTRACT OF THE CENSUS, WASHINGTON, 1913, TABLE I, P. 575.
72. FIFTEENTH CENSUS OF THE UNITED STATES: 1930, POPULATION, VOL. 3, WASHINGTON, 1931, TABLE 21, P. 952.
73. IBID., VOL. 3, TABLE 22, P. 961.
74. COMPENDIUM OF THE ELEVENTH CENSUS, 1890, PART I, POPULATION, WASHINGTON, 1892, P. 413. (COMPARATIVE TABLE)
75. IBID.
76. FIFTEENTH CENSUS OF THE UNITED STATES: 1930, POPULATION, VOL. 3, PART I, WASHINGTON, 1931, TABLE II, P. 903.

BRECKINRIDGE COUNTY



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Towns

Cloverport, the largest town in the county, with a population of 1,324 according to the 1930 census, was established in 1803 on the Ohio River, twelve miles northwest of Hardinsburg. Stephensport, on the Ohio ten miles above Cloverport, was also established in 1803. (77) Irvington and Kingswood are other towns in the county. (78)

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2. GOVERNMENTAL ORGANIZATION AND RECORDS SYSTEM

Legal Status of the County

In general usage the county is spoken of as a quasi-corporation because of the limited scope in which any degree of local autonomy may be exercised by it. The county is the creature of the state, an administrative district designed for the sole purpose of carrying out state policies. It has no functions per se, but operates only within the limits of the state constitution and law. (1)

The above remarks are true of the counties in Kentucky. The degree to which these counties are dependent upon specific authorization by the State for the exercise of power is illustrated by two decisions of the State's highest court. In the first, the Court of Appeals held the general rule to be "that a county has no right to do anything or engage in any business that is not expressly authorized by the statutes." (2) This same principle of strict interpretation was later reaffirmed in the case of Adams' Heirs v. McCoy in 1926. Here the Court of Appeals said that a county "has no right to make any contract or do anything that is not expressly authorized by statute." (3)

Therefore, since counties are created by the state for the purpose of obtaining better administration of state affairs, it follows that the power to alter, abolish, or create counties is a plenary power of the state. From the beginning of the State the Legislature of Kentucky has used this power,

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77. COUNTY COURT ORDERS, FIRST VOL. NOT NUMBERED, PP. 129-132, SEE ENTRY 225.
78. SEILLER, OP. CIT., PP. 141, 142.
1. JOHN A. FAIRLIE AND CHARLES MAYARD KNEIER, COUNTY GOVERNMENT AND ADMINISTRATION, NEW YORK, 1930, PP. 221-224.
2. BREATHITT COUNTY V. HAMMONDS, 150 S.W. 661 (1912).
3. 212 KY. 73, 279 S.W. 1103 (1926).

however, under the present constitution it is subject to the following limitations: that as a result of such action, no county shall be created or rendered less than 400 square miles in area and containing less than 12,000 inhabitants, unless it be completely abolished; that no boundary line pass within less than ten miles of the county seat; and that such action shall be taken only upon the petition of the majority of the voters living in the territory to be transferred. (4)

Structural Development of the County

Breckinridge County was created by an act approved December 9, 1799. This act provided that the court of the county be composed of five justices of the peace, and that three other justices should constitute the quarter sessions court. Each justice of the peace also held court within his district. The court appointed its own clerk. (5) The justices of Breckinridge County have not held court in their districts since 1925.

When Breckinridge County was created, few constitutional officers were provided for. These were the justices of the peace, to be appointed by the Governor (6); and the sheriff and coroner, who were elective. (7) Although the office of constable is an old one, it was not specifically provided for in the first constitution; however, the General Assembly made provision for this officer to be appointed by the county court. (8) Other statutory officers at this time were the surveyor, appointed by the Governor (9), and the commissioner of the tax, appointed by the county court. (10)

Shortly before Breckinridge County came into being, the second constitution of Kentucky was adopted. The same general structure of county government provided for in the first constitution was continued under the second. There were, however, certain important changes. The sheriff and coroner, the only elective county officers under the first constitution, were made appointive. (11) The second constitution also made provision for an attorney for the Commonwealth to be appointed by the Governor and an attorney for the county to be appointed by the county court. (12) It also changed the county court from a legislative to a constitutional body. (13) Prior to the second constitution there was no regular provision for

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4. CONST. OF 1891, SECS. 63, 64, 65.
5. LITTELL, VOL. 2, 1799, P. 271.
6. CONST. OF 1792, ART. 5, SEC. 6.
7. IBID., ART. 6, SEC. 1.
8. LITTELL, VOL. 1, 1792, P. 101.
9. IBID., P. 61.
10. IBID., P. 89.
11. CONST. OF 1799, ART. 3, SEC. 31; ART. 4, SEC. 8.
12. IBID., ART. 3, SEC. 23; TESH V. COMMONWEALTH, 4 DANA 522 (1836).
13. CONST. OF 1799, ART. 4, SEC. 5.

the jailer as a separate office, the sheriff acting in this capacity. This constitution provided for a jailer to be appointed as often as necessary by the county court. (14)

While various attempts were made to provide educational opportunities in the counties, it was not until 1830 that a definite act was passed providing for three commissioners for the purpose of carrying out a public school program. (15) An act of 1838 established the State Board of Education, and provided for a five-member board in each county. (16)

Several fundamental changes in county government were brought about by the third constitution adopted in 1850. The most significant change was the adoption of the elective method in the selection of a majority of the county officials. Another important feature was that all the courts of the county then in existence were provided for in the constitution, whereas formerly all but the county court had been statutory courts. (17) This constitution created the separate office of county judge (18), and also made provision for the establishment of the court of claims by the General Assembly. (19) In addition to the above constitutional courts, the General Assembly created the quarterly court. (20)

The office of county assessor was established by the Constitution of 1850 to take over the functions of the former tax commissioner (21), and in 1852 the General Assembly created the board of tax supervisors. (22) The General Assembly also provided at this time for the appointment of a master commissioner by the circuit court. (23)

In 1867 the General Assembly established the court of common pleas to relieve the overburdened circuit court; this court was in existence one year when it was abolished in the third district. (24)

For the most part the framework of county government developed under the first three constitutions was continued under the fourth, adopted September 28, 1891. There were, however, a few changes of considerable significance. 1. The fiscal court was created to assume the functions formerly performed by the court of claims and levy. (25) 2. Even more significant was the provision for a commission of three members as an alter-

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14. IBID., ART. 3, SEC. 9.
15. ACTS, 1829-30, PP. 272-281.
16. ACTS, 1837-38, PP. 276, 277, 281.
17. CONST. OF 1850, ART. 4, SECS. 16, 29.
18. IBID., SEC. 30.
19. IBID., SEC. 37; ACTS, 1850-51, VOL. 1, PP. 4-46.
20. ACTS, 1850-51, VOL. 1, P. 40.
21. CONST. OF 1850, ART. 6, SEC. 11.
22. ACTS, 1850-51, VOL. 1, PP. 279, 280.
23. ACTS, 1851-52, P. 293.
24. ACTS: 1867, VOL. 1, PP. 18-21; 1867-68, VOL. 1, PP. 12, 13.
25. CONST. OF 1891, SEC. 144.

native administrative set-up for the county. (26) 3. The entire court system was given constitutional status, and the courts of common pleas, not being so provided for, were abolished. (27)

Following soon upon the adoption of the fourth constitution, the General Assembly established several county agencies. Under authority of acts passed in 1893 and 1904, counties were authorized to set up county boards of health and provide for a county health officer. (28)

While the office of treasurer had been established in certain counties by special acts of the legislature, prior to 1893, a general law passed in this year established the office in all the counties of the state. (29) In 1898, the State Board of Election Commissioners was created, with power to appoint in each county a county board of election commissioners. (30)

A law of 1906, amended by a series of later acts established the juvenile court as a special jurisdiction of the county court. (31) Other more recent agencies of county government are: the county livestock inspector (32), the county board of registration and purgation (33), the county budget commission (34), and the county agricultural agent. (35)

General Administration

Since the counties in Kentucky can exercise only such functions as are specifically delegated to them by laws passed by the General Assembly, and since the courts have generally followed the rule of strict interpretation in the application of these delegations in determining the scope of authorized activity of the counties, it is clear that whatever avenues there are, still open for the exercise of local self-determination, exist only in the form of administrative discretion rather than as per se powers of policy determination. The county, therefore, has only administrative powers in which more or less discretion may be exercised by the officers, depending upon the letter of the law, and its spirit, as divined by the courts when questions arise as to the limits of those powers.

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26. IBID.
27. IBID., SEC. 135.
28. ACTS: 1891-93, PP. 824-826; 1904, PP. 106-108.
29. ACTS, 1891-93, PP. 522-526.
30. ACTS, 1898, PP. 43-57.
31. ACTS, 1906, P. 324; SEE COUNTY COURT, P. 205.
32. ACTS, 1910, P. 192.
33. ACTS, 1938, PP. 576-578.
34. ACTS, 1934, P. 63.
35. ACTS: 1916, P. 156; 1930, P. 37.

Those administrative functions exercised by the county are delegated by state law, not to any central agency of the county, but to the various county officials individually. Thus it occurs that there is no officer or agency within the county that may be held solely responsible for the efficient administration of the county. Since most of the county officials have their functions and jurisdictions determined for them by the State, and since popularly elected county officials are responsible to no one except the general electorate of the county, it is therefore clear that every such official has almost unlimited discretion in deciding matters pertaining to the carrying out of his duties.

Thus it follows that the concept of a county as a unit of government, or even as an administrative unit, is quite at variance with the facts. On the contrary, the county is almost completely headless and lacking in all the forms of administrative centralization and control found in any well organized and workable administrative system like a city managership or a modern business concern. (36) While certain agencies in the counties of Kentucky have minor powers of administrative control, such as those of the fiscal court to make certain appointments and determine certain salaries (37), and those of the county court and the sheriff to appoint and supervise certain minor officials (38), it still remains true that Kentucky counties are hardly more than areas delineated by the State wherein State laws are administered by officials who are provided for by the State constitution and law, but who are chosen by the county. It is this latter fact, namely the popular election of county officials, plus the confinement of their activities to the county limits, that provides the basis for their being considered county rather than state officials.

While the relationship between the state and the counties is constantly changing, due to the transfer of functions from or to the county agencies, there are certain types of administration in which the counties have had a large part from their beginning.

Throughout its history the Kentucky county has been a district for the administration of justice. The act creating Breckinridge County provided for a county court composed of eight justices of the peace (39) which sat as a judicial body and also in a quasi-legislative capacity as the court of claims and levy. (40) In 1851 the judicial functions were placed under a county court presided over by a single judge, while the court of claims and levy, of which the county judge was a member and the presiding officer, continued in its former capacity. (41) In 1892 the fiscal court was created as a distinct entity, although its composition was the same and its functions not materially different from its predecessor, the court of claims and levy. (42)

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36. FAIRLIE AND KNEIER, OP. CIT., P. 107 FF.
37. SEE FISCAL COURT, P. 105.
38. SEE COUNTY COURT, P. 205; SHERIFF, P.262.
39. LITTELL, VOL. 2, 1799, P. 271; COUNTY COURT ORDERS, VOL. 1,(NOT LABELED), P. 1, SEE ENTRY 225.
40. LITTELL, VOL. 1, 1792, P. 93; ACTS, 1824-25, P. 29.
41. CONST. OF 1850, ART. 4, SECS. 29, 30, 33; ACTS, 1851-52, P. 96.
42. CONST. OF 1891, SECS. 140, 141.

From the beginning of Breckinridge County, each justice of the peace constituted a separate court in which petty cases were determined. (43) In 1850 the county was divided into six districts with two elective justices of the peace in each. (44) The county is still divided into six districts, in each of which a single justice of the peace is elected. Since 1924, however, they have ceased to function as judicial agents and serve only in their capacity as members of the fiscal court.

When Breckinridge County was created there were two courts superior to the county court. The court of quarter session, which met in each county, had common law and chancery jurisdiction and also limited jurisdiction in criminal cases. (46) The district courts had jurisdiction over matters and things at common law or in chancery and general criminal jurisdiction. (47) In 1802 these two courts were abolished and in their place was established the circuit court which assumed the jurisdiction formerly exercised by them. (48) This court is the court of general jurisdiction in common law, equity, and criminal cases, and serves as an appellate court for all cases, with the exception of certain petty cases arising in the justices', county, and quarterly courts. (49)

In 1850 the General Assembly created the quarterly court to be presided over by the county judge (50) and with a jurisdiction falling somewhat between and overlapping to a large extent the jurisdiction of the justices of the peace below and that of the circuit court above. (51) This court also serves as an appellate court for all judgments and orders of justices', fiscal, and police courts. (52)

The county has always been an important unit for the enforcement of law. The sheriff, with his deputies, constitutes the chief agent for the preservation of the peace. Not only is he clothed with authority to arrest persons disturbing the peace, but in emergencies he can call out a posse comitatus. (53) Other peace officers are: the constable, who has power to arrest and conduct persons to jail for riots, routs, and breaches of the peace (54); the coroner, whose peace officer powers are essentially those of the sheriff (55); and the jailer who has the same power to act as the sheriff in civil, criminal, and penal matters. (56)

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43. LITTELL, VOL. I, 1792, P. 91.
44. CONST. OF 1850, ART. 4, SECS. 34, 35; ACTS, 1850-51, VOL. I, SECS. 1-13, PP. 4-14.
45. SEE JUSTICES' COURTS, P. 254.
46. LITTELL, VOL. I, 1792, P. 94.
47. IBID., 1795, P. 299 FF.
48. LITTELL, VOL. 3, 1802, PP. 37, 38, 45, 86, 88.
49. SEE CIRCUIT COURT, P. 164.
50. CONST. OF 1850, ART. 4, SEC. 1; ACTS, 1850-51, VOL. I, P. 40.
51. SEE QUARTERLY COURT, P. 241.
52. ACTS, 1904, P. 157.
53. LITTELL, VOL. I, 1796, SECS. 9, 11, PP. 584, 585; ACTS, 1891-93, SECS. 11, 17, PP. 556, 557.
54. LITTELL, VOL. 3; 1802, P. 55; 1803, PP. 129, 130; ACTS, 1891-93, P. 819.
55. REV. STAT., VOL. 2, P. 349; ACTS, 1859-60, P. 49; GEN. STAT., 1873 ED., P. 263.
56. ACTS, 1891-93, P. 753.

Inquests are chiefly performed by the coroner; however, in his absence any justice of the peace can function in his stead. (57)

Other phases of law enforcement carried out by the county are: indictments, which are returned by the grand jury (58); apprehension of criminals by the various arresting officers, including the sheriff and his deputies, coroner, and constable; the custody of prisoners by the jailer; prosecution by the county and commonwealth attorneys; and the execution of sentences by the ministerial officers of the court.

In the field of financial administration, the county has always been an important unit. Although until 1934, there was nothing approaching a scientific program of budgeting (59), the county court, sitting as a court of claims and levy, and after 1892, the fiscal court, has had broad powers to borrow money, levy poll and ad valorem taxes, impose licenses, and expend the revenue arising therefrom to maintain schools, build roads and bridges, acquire other county property, and defray the general operating expenses of the county. (60)

The county in Kentucky has always served as a unit for the conduct of elections. At first, elections were held in the county courthouse, but later the county was divided into precincts within which polling places were established, and the elections were supervised, canvassed, and certificates of election issued by the sheriff and his deputies . (61) Other changes in the election machinery were made from time to time (62), until 1898, when the State Board of Election Commissioners was created with power to appoint a county board of election commissioners, into whose hands the complete control of the county's election machinery is now placed. (63)

During the early years of the State's history popular education was not looked upon as a public obligation, but it soon came to be considered so and the county was made the chief unit through which the State carried out its public educational policy. An act of 1830, providing for the first uniform system of public education, established a board of county school commissioners in each county to determine and administer the local educational policies. (64) From time to time the structure of this agency has been altered, but throughout the history of public education in Kentucky, the county's educational policies have been determined and administered by some such county agency. (65) Other agencies of the county educational system are: the county school superintendent who serves as the administra-

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57. Acts, 1851-52, p. 10; Gen. Stat., 1873 ed., p. 311; Acts: 1891-93, p. 371; 1936, p. 271.
58. See Commonwealth Attorney, p. 174.
59. Acts, 1934, p. 63 ff.; see County Budget Commission, p.302.
60. See Fiscal Court, p. 105.
61. Littell, vol. 2, 1799, pp. 340, 341; Acts, 1836-37, p. 23.
62. See County Board of Election Commissioners, p. 310.
63. Acts: 1898, pp. 43-57; 1900, p. 28.
64. Acts, 1829-30, pp. 272-281.
65. Acts: 1837-38, pp. 276, 277, 281; 1838-39, pp. 381, 382; 1855-56, vol. 1, pp. 103-105; 1883-84, vol. 1, pp. 121-128; 1908, pp. 138-142.

tive agent of the county board (66), and the subdistrict trustees, who have general control of schools within their subdistrict. (67)

As a district for the administration of public works the county has long been important. This is especially true with regard to building roads and bridges and county buildings. (68) As a part of the county road program, and also of the program of public health and sanitation, the county has had the power to carry out drainage and reclamation projects. (69)

One of the oldest functions performed by the county is that of welfare administration. Until recent years this has been generally considered a strictly local concern; however, today it is being realized more and more that the county is too small a unit to be charged with the sole administration of this important function. The elaborate plant and highly trained personnel required to provide up-to-date treatment for those cases requiring institutional care can best be provided by the State rather than by the individual counties, the large majority of which have inadequate resources to supply even the minimum facilities modern methods of care make necessary. In Breckinridge County the welfare work has been provided for and supervised by the fiscal court. In 1928 and 1934 acts were passed which provided for a degree of State participation in this function; however, all such work is still under the direction of the fiscal court. (70)

More recently the county has been made the unit whereby Federal, state, and local aid to agriculture is administered. The county agricultural agent and the home demonstration agent are optional offices with the fiscal court, and their functions are based upon an agreement and regulations made by the Secretary of Agriculture, the trustees of the University of Kentucky, and the fiscal court of the county. (71)

An act of 1910 created the office of county livestock inspector, to be appointed by the county judge (72), but in 1918 the power to appoint this official was transferred to the fiscal court, subject to the approval of the State Livestock Sanitary Board. (73) The county livestock inspector serves as the local administrative agent for the State Board of Agriculture, which in 1936 succeeded to the functions of the former State Livestock Sanitary Board. (74)

The county has always had the duty of record-keeping, the county court clerk being the official chiefly charged with this function. These records have been kept primarily in connection with his duties as clerk of the county court (75), and of the fiscal court since its creation in 1892. (76) He

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66. Acts, 1934, pp. 264, 265.
67. Ibid., pp. 235-237.
68. See County Road Engineer, p.357 ; Fiscal Court, p.105.
69. See Fiscal Court, p.105.
70. Acts: 1928, p. 129; 1934, p. 679.
71. Acts: 1916, p. 156; 1930, p. 37; Carroll, secs. 4636 h-1, 4636 f-9.
72. Acts, 1910, p. 192.
73. Acts, 1918, p. 375.
74. Acts, 1936, First Extra Session, p. 7.
75. Const. of 1799, art. 4, sec. 10; Gen. Stat., 1873 ed., p. 306.
76. Acts, 1891-93, p. 269.

became clerk of the juvenile session of the county court upon its creation in 1906 (77); he also serves as the clerk of the board of tax supervisors, the county board of election commissioners, and the county budget commission, and as such keeps their records.

The circuit court clerk is the recorder for the circuit court (78), however, he keeps various other records. Aside from the records kept by the county and circuit court clerks, certain other officers keep records pertaining primarily to the functions which they perform.

Administration of Land Title Law

The functions of keeping a register of titles to property has belonged to the counties in Kentucky from their creation. This has been primarily a duty of the county court clerk. (79) He also keeps an indexed record of conveyances (80) and also records and certifies all instruments, mortgages, pledges, and liens on personal property. (81)

Upon the creation of Breckinridge County the Governor appointed a surveyor, and while this office became elective in 1850, the functions of the office have continued with little change up to the present. The primary duty of this office from the beginning has been to make maps, surveys, and plats, locate lost corners and lines, and keep a record and explanatory notes of same. (82)

Administration of Justice

Civil Jurisdiction

A. Justices' Courts:

When Kentucky County was created in 1776 (83) the jurisdiction of the justices' courts was governed by the Virginia law of 1748, which became effective in 1751. This act reformed the courts' jurisdiction and in civil cases gave them jurisdiction over all cases involving less than twenty-five shillings or 200 pounds of tobacco. They could also grant attachments against the estates of debtors moving out of the county in the amounts stated above, but no action could be taken against the person; attachments over these amounts issued by the justices were returnable to the county court. (84)

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77. Acts: 1906, p. 324; 1908, p. 183.
78. Littell, vol. 3, 1802, pp. 37 ff., 87,88, 358.
79. Littell, vol. 1, 1796, p. 567.
80. Acts: 1840, p. 27; 1891-93, p. 835.
81. Gen. Stat., 1873 ed., p. 259.
82. Littell, vol. 1, 1792, p. 61; Acts, 1904, pp. 263, 264.
83. Hening, vol. 9, p. 257.
84. Hening, vol. 5, pp. 489-508.

Because the depreciation of the value of paper money limited the power of creditors to bring suits before the justices' courts, the civil jurisdiction was redefined by an act of 1780, so that the single justice could have final determination in cases where the value did not exceed 200 pounds of tobacco or the value thereof in paper money as settled by the grand jury of the general court from time to time. (85)

The year in which Kentucky became an independent state, an act was passed creating the courts for the new state. By this act the justices' courts were given jurisdiction over all cases of less value than five pounds in money or 1,000 pounds of tobacco, and it also authorized the justices to give judgments and award executions against goods and chattels, but not against the person. All judgments were final in cases involving less than fifty shillings or 500 pounds of tobacco, but appeals could be taken to the court of quarter session in cases over these amounts. They could also grant attachments within the above jurisdictional limits. (86) Less than six months later, December 22, 1792, an act was passed providing that appeals be taken from the justices' courts to the county court in cases over twenty-five shillings, thereby leaving the final civil jurisdiction of the justices to less than that amount. They could award executions against the person of the debtor in cases over twenty-five shillings, but the debtor could be released upon delivery of sufficient property to satisfy the debt. (87) An act of December 20, 1794, enacted a fragment of the admiralty law of Colonial Virginia which authorized justices to issue warrants against owners of boats for breach of contracts. (88)

By an act of February 23, 1808, the legislature gave the justices' courts jurisdiction in cases of bonds, bills, notes, or open accounts, when the original amount was five pounds or over, but which had been subsequently reduced below that amount by credits duly indorsed. (89) An act of June 30, 1812, increased the jurisdiction of justices in all debts and accounts not exceeding fifty dollars, subject to appeal to the circuit court where the amount is above five pounds (90); and on January 28, 1813, exclusive original jurisdiction was given to justices in all sums not exceeding fifty dollars founded on any specialty bill, or note in writing. (91)

An act of January 31, 1810, regulated the proceedings in cases of forcible entry and detainer before the justices' courts and provided an avenue of appeal (92), and on January 31, 1811, an act was passed prohibiting landlords from issuing their own distress warrants for rent, and this jurisdiction was given exclusively to the justices' courts.

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85. HENING, VOL. 10, P. 352.
86. LITTELL, VOL. 1, 1792, PP. 91, 93; 1796, P. 595.
87. IBID., 1792, PP. 157, 158; 1795, P. 376.
88. IBID., 1794, P. 262.
89. IBID., VOL. 3, 1807, P. 503.
90. IBID., VOL. 4, 1811, PP. 342-345.
91. IBID., VOL. 5, 1812, P. 29.
92. IBID., VOL. 4, 1809, PP. 182-186.

On February 4, 1820, justices were authorized to hear and decide motions against constables for collected money in behalf of other parties. (93) This jurisdiction was made concurrent with the quarterly court upon its creation in 1850. (94)

An act of February 14, 1820, made it lawful that all oaths or affidavits made before a justice, on pleadings, have the same effect as though done before a circuit judge or in court. (95)

In 1839 the justices were given equity jurisdiction of cases involving sums of less than five pounds. (96) After 1851, the jurisdiction of the justices was reaffirmed in all cases of contracts, written, verbal, or implied, where the debt or damages claimed, exclusive of interest, did not exceed fifty dollars and they were given law and equity jurisdiction in all cases where the amount in controversy did not exceed sixteen dollars. By the same act they were given concurrent jurisdiction with the circuit court and quarterly court to issue attachments in cases of judgments for less than fifty dollars and over sixteen dollars, and in the subjection of choses in action and property of non-residents to payments on demand. This act also repealed the jurisdiction of the justices of the peace in cases of idiocy and lunacy. (97)

At the present the justices' courts have jurisdiction, concurrent with the quarterly and circuit courts, of all actions and proceedings for the recovery of money or personal property in civil cases where the matter in controversy, exclusive of interest and costs does not exceed $100; and jurisdiction, exclusive of the circuit courts, but concurrent with the quarterly courts in civil cases, of all actions and proceedings for the recovery of money or personal property when the value in controversy, exclusive of interest and costs is fifty dollars or under. (98) They also have jurisdiction over forcible entry and detainer proceedings (99) and distress warrants. (100)

B. Quarterly Court:

The act of 1851, creating the quarterly court, gave the county judge as presiding judge of that court, concurrent jurisdiction, in both law and equity, with the justices of the peace; and concurrent jurisdiction with the circuit courts in all sums over fifty dollars and under $100, and in all actions of trespass, and trespass on the case, and writs of replevin, where the damage does not exceed $100 - except where the title or boundaries of land may be in controversy. (101)

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93. Acts: 1819-20, p. 867; 1834-35, p. 301; 1851-52, p. 100.
94. Acts: 1851-52, p. 94; 1891-93, p. 1057.
95. Acts, 1819-20, p. 976.
96. Acts, 1838-39, p. 310.
97. Acts, 1851-52, pp. 99, 100.
98. Acts, 1891-93, p. 1057.
99. Civil Code, 1938 ed., sec. 454.
100. Ibid., sec. 651; Acts, 1891-93, pp. 458, 459.
101. Acts, 1850-51, vol. 1, pp. 40-43.

Governmental Organization
and Records System

(First entry, p. 117)

An act of 1852, after Kentucky became a Code State, simplified the jurisdiction of the courts, including the quarterly court, and reenacted in substance the jurisdiction established by the act of creation with some minor modifications. It gave the quarterly court concurrent original jurisdiction both in law and equity with justices of the peace in all civil cases, jurisdiction throughout the county in proceedings against constables for defalcation in office, and jurisdiction concurrent with the circuit court in all civil cases where the amount in controversy did not exceed $100 exclusive of interest and costs and where the right to or boundary of real estate is not drawn in question. It was also given power to impanel a jury (102), and was authorized to issue and try warrants of forcible entry and detainer. (103)

From 1851 to 1893 the legislature enlarged the jurisdiction of the quarterly courts by certain special acts. An act of 1874 increased the civil jurisdiction concurrent with the circuit court for forty-three counties from cases involving not more than $100 to cases involving amounts up to $200. (104) In 1886 the jurisdiction of the quarterly courts of certain individual counties was increased to include original jurisdiction in all civil actions involving money or personal property not exceeding $200. (105) It was not until 1893, however, that an act was passed giving the quarterly court jurisdiction concurrent with justices' and city or police courts of all actions for the recovery of money or personal property, where the value in controversy is $100 or under, exclusive of interest and costs; and concurrent jurisdiction with the circuit court of all such actions, where the value in controversy is over fifty dollars and not more than $200, exclusive of interest and costs. This general legislation superseded the special acts for particular counties, and applies to all counties equally and is in force at the present time. This act also reaffirmed the jurisdiction of quarterly courts, concurrent with the justices' courts of motions against constables and their sureties for process or claims put in their hands for collection, which upon demand they had neglected or refused to pay (106); and reaffirmed the jurisdiction, concurrent with justices' courts, over forcible entry and detainer proceedings. (107)

In 1851 appeals from justices' courts were directed to the county court. (108) In 1856, however, an act repealed the above line of appeals from justices' courts to county court in all amounts of five dollars and over and directed them to the quarterly courts. (109) An act of 1893, reaffirmed and made some changes in appellate procedure, by allowing appeals to the quarterly court from all judgments and orders of justices', fiscal, city or police courts where the value was over ten dollars. (110) Later legislation amended

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102. Acts, 1851-52, pp. 93, 94.
103. Acts: 1850-51, vol. 1, p. 42; 1851-52, p. 93; Gen. Stat., 1873 ed., pp. 300-302.
104. Acts, 1873-74, p. 32.
105. Acts, 1885-86, p. 211.
106. Acts, 1891-93, pp. 1049, 1057.
107. Civil Code, 1938 ed., sec. 651; Acts, 1850-51, vol. 1, p. 2; Gen. Stat., 1873 ed., pp. 300-302.
108. Acts: 1850-51, vol. 1, pp. 43, 44; 1851-52, p. 96; Rev. Stat., vol. 1, p. 327.
109. Acts, 1855-56, vol. 1, p. 51; Rev. Stat., vol. 1, p. 346.
110. Acts, 1891-93, p. 1050.

this act and provided that appeals from all judgments and orders of justices', fiscal, city, or police courts could be taken to the quarterly court in all cases instead of, as formerly, in cases where the controversial value was over ten dollars. (111) This law is still in effect.

C. County Court:

Most of the early judicial system in Kentucky was adopted directly from Virginia; however, there were some important changes made when Kentucky became a State. This is true particularly with regard to the county courts, because up to and after Kentucky became an independent state, the county courts in Virginia were composed of two separate sessions: (1) a quarter session, with jurisdiction in all matters of common law of chancery in sums over twenty dollars or 800 pounds of tobacco, excepting loss of life or member, outlawry, and all other matters less than five dollars or 200 pounds of tobacco (these jurisdictions were delegated to other tribunals); and (2) a monthly session with jurisdiction over small debts, trover and conversion, or detention, and of anything not exceeding twenty dollars or 800 pounds of tobacco. The two sessions together were referred to as the county court, and the line of jurisdiction separating them was twenty dollars or 800 pounds of tobacco. (112)

This distinction has never prevailed in Kentucky, because the first act pertaining to the courts of the State, enacted shortly after Kentucky was created, provided for a judicial system, consisting of two distinct courts which were to serve in essentially the same capacity as the two sessions of the county court of Virginia. This act provided that monthly courts should be held in each county, which courts should be called county courts. The same act provided for courts of quarter session in each county. The county courts were to have the same jurisdiction as the monthly courts in Virginia, except such jurisdiction expressly given by this act to the courts of quarter session. The county court in Kentucky therefore lost its position as an intermediary judicial body in this respect, as the courts of quarter session and justices' courts met at a jurisdictional line of five pounds current money or 1,000 pounds of tobacco, amounts below that going to the justices and above that to the courts of quarter session. This separation, in Kentucky, made the county court not exclusively a judicial tribunal, but essentially a court of administration, supervision and regulation of county affairs, with very little civil and criminal jurisdiction.

Outstanding among its functions which were not strictly judicial was its jurisdiction over the probation of wills and administration of estates, in which respect it was a court of general and exclusive jurisdiction. The act setting up the county court gave it the jurisdiction which the courts in Virginia had had as early as 1645 in probating wills, granting letters of administration, and regulating tavern keepers and ferries, by reenacting most of these in a general act specifying jurisdiction "over all cases respecting wills, letters of administration, mills, roads, the appointment of guardians

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111. ACTS, 1904, P. 157.

112. HENING, VOL. 12, PP. 32-36, 467-474.

and settling of their accounts and the admitting of deeds and other writings to record." (113) An act of December 19, 1793, repealed the Virginia laws in effect in Kentucky regulating taverns and tippling houses, and passed its own legislation to remedy the inadequacies of the former laws. (114) With slight additions these acts were reaffirmed and delegate today essentially the same jurisdiction by declaring that the county court shall have jurisdiction to probate wills, appoint and remove personal representatives, guardians, trustees, curators and other fiduciaries, to grant tavern, drug, and liquor licenses, and such other jurisdiction as may be conferred upon it by law. (115)

In a number of instances the laws setting out the jurisdictional limits of the county courts have been judicially interpreted. In Pennington v. Woolfolk, the Court of Appeals held that the county court was not exclusively a judicial tribunal, although classed in the judicial department by the constitution, and though possessing judicial powers, it is not exclusively a judicial tribunal. Many other non-judicial functions are vested in this court. (116) In Jacobs v. The L. & N. Ry., it was held that in matters of probating wills and granting administration, county courts are not courts of special or limited, but of general exclusive jurisdiction; but it may be attacked collaterally, the onus being upon the assailant to show want of jurisdiction (117), and in Miller v. Swan, it was held that the order of probate of a will is conclusive as to everything except jurisdiction. (118)

From time to time acts have been passed adding to or otherwise modifying the jurisdiction of the county court. It should not be inferred, however, that the absence of prior acts marks a departure in Kentucky from the general law and custom of the time. For the most part such legislation was a reenactment of Virginia statutory or common law, changes being made only where necessary to meet local conditions. On December 22, 1792, county courts were authorized to appoint overseers of the poor; however, an act of December 19, 1793, repealed this and provided for the poor to be supported out of the county levy, and also authorized the court to bind out poor orphan children as apprentices and to receive complaints against their masters. (119) With the exception of providing for the poor, which today belongs to the fiscal court, the matter of apprenticeship still remains a county court jurisdiction. (120)

The county court still exercises administrative control in matters of issuing licenses, fixing rates, supervising local option elections, et cet-

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113. HENING, VOL. I, PP. 302, 411; LITTELL, VOL. I, 1792, PP. 90-101, 279, 374.
114. LITTELL, VOL. I: 1793, PP. 194-197; 1796, P. 374.
115. CONST. OF 1891, SECS. 140, 141; ACTS, 1891-93, P. 1051.
116. 79 KY. 13; 3 REPORTER 42 (1880).
117. 10 BUSH 263 (1874).
118. 91 KY. 36; 14 S.W. 964 (1890).
119. LITTELL, VOL. I: 1793, P. 191; 1796, P. 374; 1797, P. 677.
120. CARROLL, 1936 ED., SEC. 2591, ET SEQ.

era. (121) Acts of 1922 and 1934 classified and provided penalties for the various violations of the liquor law and named the courts having this jurisdiction; however, no mention was made of the county court. (122) Legislation in 1793 gave county courts jurisdiction over bastardy proceedings; this was reaffirmed in 1892 and remains true today. (123) An act of 1802 made the county courts examining courts for criminal offenders (124); but an act of February 11, 1809, took this jurisdiction away from the county courts and provided that any two justices sitting together could constitute an examining court. (125)

The county court was early authorized to hear cases challenging the evaluations placed upon property by the tax commissioner. (126) In 1842 the county court was authorized to summon a jury to determine the facts against persons failing to list taxable property in order to ascertain whether such person be guilty or not, and after such determination the county court could render judgment according to the findings of the jury. (127) A later act required the board of tax supervisors to report tax delinquents to the county court (128), and this court, rather than the circuit court, was made the tribunal in which proceedings were heard against tax delinquents. (129) This jurisdiction was reaffirmed by an act of 1906, and is today a function of the county court. (130)

From 1851 until the Civil Code of 1876, the quarterly court concurrently with justices had jurisdiction to issue and try warrants of forcible entry and detainer; but had no jurisdiction in cases involving title to real estate. (131) The Civil Code of 1876 changed this to allow the county judge to issue and try such warrants not designating what court in which he was to act. (132) In Breckinridge County these records are kept in the quarterly court; however, the current law does not specify any particular court. (133)

When the original registration of voters' law of 1892 was repealed by an act of 1924, and registration provided for in cities of the first, second, third, and fourth classes with a population over 5,000, it also provided for purgation officials from whom aggrieved voters could carry

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121. ACTS: 1850-51, VOL. 1, P. 43; 1891-93, P. 216; 1902, PP. 41-43; 1938, PP. 59-61.
122. ACTS: 1922, P. 129; 1934, P. 653; 1936, P. 17.
123. LITTELL, VOL. 1, 1793, P. 202; ACTS: 1851-52, PP. 95, 96; 1891-93, PP. 67-72.
124. IBID., VOL. 3, 1802, P. 41.
125. IBID., VOL. 4, 1809, PP. 67-70.
126. ACTS, 1817-18, P. 660.
127. ACTS, 1841-42, P. 76.
128. REV. STAT., VOL. 2, PP. 257, 258.
129. IBID., VOL. 1, PP. 295, 296; VOL. 2, PP. 254, 255.
130. ACTS, 1906, P. 111; CARROLL, SECS. 4061-4063.
131. ACTS, 1850-51, VOL. 1, P. 42; GEN. STAT., 1873 ED., PP. 300-302.
132. CIVIL CODE, 1876 ED., SEC. 454.
133. ACTS, 1894, P. 190; CIVIL CODE, 1938 ED., SEC. 454.

their grievance to the circuit judge. (134) Later when registration was made state wide, except in cities of the first class, it was provided that appeals from the decision of the purgation officials were to be taken to the county judge. (135) In 1938 the General Registration and Purgation Act was passed which provided that appeals from any purgation officer or from the county board of registration and purgation or from the board of registration commissioners of any city of the first class, could be made to the county judge or to the circuit judge. (136)

Legislation of 1918, gave to the county courts jurisdiction over cases of parents failing to educate deaf children. (137)

In 1934, for the first time in Kentucky, the county court by name was given concurrent jurisdiction with the justices', quarterly, and police courts and exclusive of the circuit courts in all penal and misdemeanor cases, the punishment of which is limited to a fine of not exceeding twenty dollars and concurrent, along with the above courts, with the circuit courts in such cases the punishment of which is limited to a fine not exceeding $500, or imprisonment not exceeding twelve months, or both. (138)

The county court has always had jurisdiction to punish for contempt. An act of 1793 provided that no court or judge should punish summarily for contempt by imposing a fine exceeding ten pounds or one day in prison without a jury to fix the additional fine and prison term. Justices' courts were limited by this act to a fine of not more than twenty shillings or six hours imprisonment. (139) Later this general law was amended so as to limit the contempt jurisdiction of any court to a fine of not exceeding thirty dollars or imprisonment for thirty hours. Justices', county, quarterly, and police courts were limited to a fine of not more than three dollars or imprisonment for more than six hours. Also prohibited were contempt proceedings against persons for statements, either spoken or written, "not in the presence of such court or judge in the courthouse during the sitting of the court." (140)

In 1792 the county court was given appellate jurisdiction in cases tried before single justices involving a sum of twenty-five shillings or over. (141) No appeal could be taken from the decisions of the county court on cases heard on appeal from the justice's court, "nor shall a writ of error be issued from the Court of Appeals to reverse the same." (142) In 1851 this appellate jurisdiction over justices' courts was

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134. Acts, 1924, p. 153.
135. Acts, 1936, p. 130.
136. Acts, 1938, pp. 595, 596.
137. Acts, 1918, p. 142.
138. Acts, 1934, p. 422.
139. Littell, vol. 1, 1793, p. 198.
140. Acts: 1829-30, p. 205; 1851-52, pp. 348, 349; 1891-93, pp. 796, 797.
141. Littell, vol. 1: 1792, p. 157; 1796, p. 374.
142. Ibid., vol. 2, 1801, p. 443.

limited in civil cases to " where the amount in controversy, exclusive of interest and costs, is over four dollars, and is under sixteen dollars." (143) Since 1856 the county court has had no appellate jurisdiction. An act of that year gave this jurisdiction to the quarterly court. (144)

D. County Judge - Judicial Functions:

The county judge, or the presiding judge of the county court (both phrases are used interchangeably, either of which being his official title in Kentucky), is a relatively new judicial officer who is unique in the sense that he sits in different courts and also exercises certain functions per se. Shortly after the adoption of the Constitution of 1850, creating this office (145), legislation was passed in 1851 and 1852 providing for his duties as a judge sitting in either the county or quarterly court, and for others which he has by virtue of that office, independent of any court that he might happen to sit in.

While the law specifies in some instances the capacity in which the county judge is to function -- that is, as either judge of the county court or judge of the quarterly court -- there are other functions delegated to this official with no specification as to the capacity in which they are to be exercised. Referring to this situation, the Court of Appeals in a decision of 1926 stated: "These two sections of the constitution (secs. 139 and 140, creating the county and quarterly courts) provide that the same individual shall preside over each of said courts. And the legislature in conferring civil and criminal jurisdiction upon these courts used the names 'judge of the county court' or 'judge of the quarterly court' indiscriminately."

The decision in which this statement occurs was in answer to an appeal challenging the legality of a proceeding before the county judge wherein the judge styled himself as judge of the quarterly court, whereas the statute conferred the particular jurisdiction which he exercised in this instance upon the county judge. In answer to this question the court said: "Under the constitution, the individual holding the office of county judge is empowered to hold two courts, and only two -- the county court and the quarterly court. It is not contended by appellant that the county judge did not have jurisdiction to try him for the offense with which he stood charged, but he makes his objection because of the fact that the judge signed his name to the warrant, and to the record of the proceedings had in his court, as judge of the Taylor Quarterly Court. But it will be observed that, in conferring jurisdiction in misdemeanor cases, the jurisdiction was not given to the county court, or to the quarterly court, but the jurisdiction is conferred on the county judge, the officer, rather than to the court over which he presides. And as this same officer is authorized to hold two courts, and only two courts, he must exercise

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143. Acts, 1851-52, p. 96; Rev. Stat., vol. 1, p. 327.
144. Acts, 1855-56, vol. 1, p. 51; Rev. Stat., vol. 1, p. 346.
145. Const. of 1850, art. 4, secs. 29-31.

his jurisdiction, when exercised at all, while sitting as judge of one or the other of these courts. And it is wholly immaterial to either the Commonwealth or the accused in the trial of misdemeanor cases, whether he styled himself 'judge of the county court' or 'judge of the quarterly court' or simply county judge, so long as the one charged with the misdemeanor is tried before the officer holding the commission as county judge. . . ." (146)

An act of 1906 clarified the jurisdictional limits between the county and quarterly courts to the extent that penal cases, within the same limitations formerly exercised by these courts -- cases carrying a fine of $100 or less, and up to fifty days imprisonment -- were bestowed upon "justice and quarterly courts and the judges thereof." (147) There remained, however, certain other functions of a judicial nature which were delegated to the county judge with no specification as to the court in which they were to be exercised. Regarding these questions, it is only through reference to the interpretations placed on such laws by the courts that a conception may be arrived at of the distribution of the functions of the county judge between the two courts over which he presides and the office of county judge per se.

In the case of Hickman County v. Jackson, decided May 6, 1913, the Court of Appeals held that "An examining trial is a mere preliminary investigation for the purpose of determining whether a prosecution shall be instituted in the circuit court. In holding such an examination the county judge sits merely as a committing magistrate, and he is not holding either the quarterly or county court. The county judge is by the constitution made a conservator of the peace. Under this power, he may, as provided by the statute, hold an examining trial, though not sitting as a county or quarterly court. There are a great many things that a judge may do, but in so doing he does not sit as a court. Thus a circuit court judge may in vacation discharge an attachment, grant or dissolve an injunction, hear a motion for bail, and take a number of like steps; but in doing these things he is not holding a circuit court. In like manner a judge of this court (Court of Appeals) may, in vacation, extend the time for filing a petition for rehearing, or he may discharge or reinstate an attachment or dissolve or reinstate an injunction; but in doing these things he is not sitting as the Court of Appeals. The provisions of the constitution to which we have above referred, were not intended to prevent judicial officers from exercising the powers necessary for taking preliminary steps in an action or proceeding, and in fact some preliminary steps may be taken before a ministerial officer. The holding of an examining trial is not to be distinguished from the things we have mentioned. . . , because in holding an examining trial he is holding neither a county nor a quarterly court. . . ." The same decision also concludes with a statement on inquests of lunacy, as: ". . .

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146. STEINBERGER V. MILLER ET AL., 96 S.W. 1101 (1906).
147. ACTS, 1906, PP. 382, 383.

a judicial determination of the status of the person charged with lunacy. He may be committed to an asylum, and a committee may be appointed to take charge of his property. The inquest is conclusive of the condition of the lunatic's mind at the time, and is therefore a judicial proceeding. The judgment is final without further action by any court. We therefore conclude that in holding such an inquest the county judge holds it as the county or quarterly court. . . ." (148)

The county judge, since his creation as a judicial officer, was never required to be a lawyer, and with an office so ubiquitous as his, it is not to be wondered at, that neither he, nor the legal-minded -- and certainly not the laity -- could very often distinguish whether he was representing himself as judge or exercising his duties in one or the other courts.

The acts of 1851 and 1852, referred to above, gave the county judge power as a conservator of the peace within his county, also all the powers of a justice of the peace in penal and criminal proceedings, and of a court of inquiry in such proceedings. He was also authorized to grant injunctions, and attachments at common law or in chancery, from his own court or the circuit court of his county. By the latter act, he also was given jurisdiction to hold inquests upon idiots and power to administer oaths. (149)

The Code System provided for by the Constitution of 1850 was in process of being compiled when this office of county judge was created and the Civil and Criminal Codes, in which court practices were included, were completed and became effective July 1, 1854. Most of the powers mentioned above were included in the code. The Civil Code first appeared in the acts of 1851. The same matter was revised and included in the code containing both the Civil and Criminal Codes and provided under provisional remedies, that attachments could be granted by the court in which the action was brought, or by the judge thereof, or any circuit judge, or by the presiding judge of the county court -- that is, the county judge. (150) In the case of injunctions, the code provided that the stay of proceedings in actions or suits, could be granted at the commencement, or at any time before the judgment, by the court in which the action was instituted, or by the judge thereof, or by any circuit judge, or if he was out of reach, by the clerk thereof, or in the absence of the clerk, by the county judge. (151) Such remedies were designed to meet urgent and immediate occasions, and were made so elastic as to enable one or the other of the judicial officers to act, in the event the court was not in session, or the judge was absent; but the code must be strictly observed and in order that these provisional remedies so issued may be valid the sequence, laid down in the code, of officials having this authority had to be conformed with by the applicant. The 1938 Civil Code reaffirms in

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148. HICKMAN COUNTY V. JACKSON, 153 KY. 551; 156 S.W. 391 (1913).
149. ACTS: 1850-51, VOL. I, PP. 40-43; 1851-52, P. 94.
150. ACTS, 1850-51, VOL. I, PP. 147, 151, 153; CIVIL CODE, 1854 ED., SECS. 264, 275.
151. CIVIL CODE, SECS. 300, 305.

substance the procedure in attachments and injunctions, and further provides that two justices, sitting as a body, be added to the list of officers authorized to grant provisional remedies. (152)

Essentially the same officials and in the same sequence were authorized to issue writs of habeas corpus. Application for such writ was made first to the circuit judge whether sitting in court or on vacation. In the absence of the circuit judge, a police judge of any city, county or town, or judge of the county court, or a justice could issue the writ. In this respect the jurisdiction of the circuit judge was coterminous with the state whereas that of the other officials exercising this power was limited to their respective county or city. (153)

The act of 1893, which prevails today, reaffirms the original acts of 1851 and 1852, providing that the county judge may administer oaths, shall be a conservator of the peace within his county, and have all of the power of a justice in penal and criminal proceedings, and may singly hold a court of inquiry in such proceedings. (154)

Under the same act of 1893, it is provided that both the county judge and county attorney shall be notified of persons charged with a misdemeanor and lodged in jail in default of bail, if the court in which the prisoner was indicted or before which he has been ordered to appear is not in session, and that the case shall be transferred from the circuit court to the county judge to try, which trial and proceedings after judgment shall be in all respects the same as if the case had been tried in the circuit court. (155) This matter is contained in Carroll's Kentucky Statutes, sections 1073-1076, and the Court of Appeals on May 6, 1913, held that these three sections, "are to be read together, and it will be observed that in all the sections the county judge alone is referred to, and are duties imposed upon him. The meaning of the statute taken as a whole is that the jurisdiction may be exercised by the county judge in this class of cases. Under sections 1073-1076, he is sitting either as the quarterly or county court." (156) In Carrington v. Commonwealth, decided September 26, 1879, it was held that if a person, after being indicted in the circuit court, procures a trial and acquittal before the county judge, without having been in jail, the judgment of acquittal is void (157); and in Commonwealth v. Carter, decided February 25, 1913, it was held that the original jurisdiction of judges of county courts is not enlarged by Kentucky Statutes, section 1074. (158)

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152. CIVIL CODE, 1938 ED., SECS. 238, 251, 284, 689.
153. REV. STAT., VOL. 1, P. 584; CRIM. CODE: 1854 ED., SEC. 395-1; 1938 ED., SEC. 399.
154. ACTS, 1891-93, P. 1055.
155. ACTS, 1891-93, PP. 1055, 1056.
156. HICKMAN COUNTY V. JACKSON, 153 KY. 531; 156 S.W. 391 (1913).
157. CARRINGTON V. COMMONWEALTH, 78 KY. 83 (1879).
158. COMMONWEALTH V. CARTER, 152 KY. 463; 153 S.W. 735 (1913).

The powers of the county judge to hold inquests in matters of idiots and lunatics, are exercised only when the circuit or chancery court is not in session. This is an exclusive jurisdiction of the circuit court, and when the county judge serves in this capacity he is serving in lieu of the circuit judge and as a special judge of that court. (159) The line of succession to the exercise of this jurisdiction is similar to that for the granting of the provisional remedies dealt with above. When the circuit court is not in session this jurisdiction devolves upon the county judge, however, the particular court in which he is to exercise it is not specified.

At the same time the jurisdiction of justices in such cases was repealed. (160) The present provisions are a reaffirmation of the above, providing that when no circuit court is in session, the circuit judge or the county judge may hold such inquests. (161)

The county judge also holds examining trials, and in cases of homicide he has exclusive jurisdiction as an examining court. (162)

E. Circuit Court:

Prior to the creation of the circuit courts in 1802, the courts of quarter session and the district courts served as the appellate tribunal for the inferior courts of the county and also exercised general and unlimited jurisdiction in all civil matters. The court of quarter session heard civil cases involving more than five pounds in money or 1,000 pounds of tobacco - such cases involving lesser amounts going to the justices' courts. (163) This court was also authorized to issue all process and attachments at common law, subpoenas, and other process in chancery. (164)

This general civil jurisdiction was bestowed upon the circuit court, by the act which abolished the court of quarter session and the district court and established the circuit court in their stead. As defined by this act the jurisdiction of the circuit courts included "all causes, matters and things at common law and in chancery, within their respective circuits, except in cases of less value than five pounds, or one thousand pounds of tobacco -- and the same circuit courts, shall have the same powers, authority and jurisdiction which the district courts and the quarter session courts are vested with." (165)

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159. TURPIN'S ADM. V. SPRINGER, 228 KY. 32; 14 S. W. (SECOND SERIES) 189 (1929)
160. ACTS, 1851-52, PP. 94, 100, 253.
161. ACTS: 1891-93, P. 483; 1928, P. 110.
162. CRIM. CODE, 1930 ED., SECS. 71A-1 TO 71A-3; HICKMAN COUNTY V. JACKSON, SUPRA, P. 36.
163. LITTELL, VOL. 1, 1796, P. 504.
164. IBID., P. 505.
165. LITTELL, VOL. 3, 1802, P. 40.

Governmental Organization and Records System

(First entry, p. 117)

From the district courts, which were courts created primarily to relieve the Court of Appeals of cases involving title to land, the circuit court inherited the exclusive jurisdiction of cases in which the title to land was in question. (166) This jurisdiction still belongs to the circuit court and includes all cases concerning a lien upon land or provisional remedies to subject land to the payment of debt. (167)

The circuit court also inherited from its predecessor bodies jurisdiction over persons of unsound mind. (168) While the county judge and the judges of city and police courts were subsequently authorized to hold insanity inquests, they could only exercise this jurisdiction when the circuit court was in vacation and the services of the circuit judge could not be obtained. In such instances all papers were filed with the circuit court clerk and the final disposition of the case was made at the next term of the circuit court. (169) The circuit court still exercises this jurisdiction with the county judge serving during vacation time as a sort of and in lieu of the circuit judge in such matters. (170)

The circuit court has continued to be the highest court of civil jurisdiction, within the county. Since no maximum jurisdictional limits have ever existed, it is only possible to delimit the circuit court's jurisdiction by indicating such minor cases that may not be brought before it either as a court of first instance or on appeal from the county, quarterly, justices', city or police courts. By an act of 1852 the original jurisdiction of the court was defined to include "all matters both in law and equity, within its county, of which jurisdiction is not, by law exclusively delegated to some other tribunal." The same act gave the circuit court appellate jurisdiction of decisions of the county court "in all controversies concerning the establishing, alteration, or discontinuance of ferries, roads, and passways, and in all cases concerning the probate of wills, and from orders concerning mills or waterworks, and from orders refusing or allowing dams to be built across water courses." Likewise appeals could be taken to the circuit court from the quarterly and justices' courts "in all civil cases where the amount in controversy, exclusive of interest and costs, is sixteen dollars and upwards; and in all actions of trespass and trespass on the case. . . ." (171)

By an act of 1879 the circuit court was given jurisdiction of claims against the State Treasury (172), and in 1852 the Franklin Circuit Court was given state-wide jurisdiction of all actions "against clerks of courts, collectors of public money, and all public debtors or defaulters." (173)

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166. LITTELL, VOL. 3, 1802, P. 40.
167. ACTS, 1891-93, P. 1030; CARROLL, SEC. 966.
168. LITTELL, VOL. 1, 1793, P. 191; 1795, P. 302; VOL. 3, 1802, P. 40; ACTS, 1831-32, PP. 109-111.
169. REV. STAT., VOL. 2, PP. 33, 35, 37; GEN. STAT., 1873 ED., PP. 534, 536; ACTS, 1891-93, PP. 483-485.
170. ACTS: 1918, P. 156; 1924, P. 27; 1928, PP. 110, 123; CARROLL, SECS. 216 AA-68, 2149; TURPIN'S ADM. V. SPRINGER, 228 KY. 32; 14 S.W. (SECOND SERIES) 189 (1929).
171. ACTS, 1851-52, PP. 90, 91.
172. ACTS, 1879, VOL. 1, P. 106.
173. ACTS, 1851-52, P. 93; 1891-93, P. 1048.

The act of 1893 changed the appellate jurisdiction to include "all orders and judgments of the fiscal court or quarterly court in civil cases where the value in controversy, exclusive of interest and costs, is over twenty-five dollars, and from all judgments of the county court where the amount in controversy is over fifty dollars, exclusive of interest and cost; and from all judgments and orders of said court in cases of bastardy, or in the settlement of the accounts of personal representatives, assignees, guardians, trustees, curators and other fiduciaries, and from orders granting, revoking or refusing letters testamentary or of administration, or appointing or refusing to appoint, or removing curators, guardians, trustees or committees of estates, or granting or refusing to grant druggist, tavern or liquor licenses and from judgments in proceedings to condemn land for any purpose, and in all other cases allowed by law." (174) By this same act the original jurisdiction of the court was redefined to include "all matters, both in law and equity of which jurisdiction is not exclusively delegated to some other tribunal, and shall have jurisdiction in all cases where the title to land is in question, or in which it is sought to enforce a lien upon or to subject land by provisional remedy to the payment of debt." (175)

Aside from minor changes the above statutes define the jurisdiction of the circuit court as it is today.

Criminal Jurisdiction

A. Justices' Courts:

The jurisdiction of justices' courts in criminal matters was outlined by the general law of Virginia of 1748, and for the most part was in effect when Kentucky became a state in 1792. The limited scope of the courts' authority in criminal matters, a limitation which precluded the final disposition of any such cases, shows that the early justices' courts primary significance was in the field of minor civil cases. As defined by the Virginia act of 1748, the criminal jurisdiction was limited to the issuance of warrants for the apprehension of traitors, felons, pirates, rioters, breakers of the peace, or other criminal offenders. Jurisdiction over such cases was limited to conducting examining trials. (176) By an act of 1777, this jurisdiction was enlarged to permit the conduct of examining trials of all criminal offenders except slaves, which came within the jurisdiction of the county court. (177)

An act of June 28, 1792, conferred jurisdiction in the conduct of examining trials upon those justices of the peace who made up the court of quarter session. When any person, not a slave, was charged before such justice, that justice was required to call a meeting of the quarter

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174. ACTS, 1891-93, PP. 1048, 1049.
175. IBID., P. 1033.
176. HENING, VOL. 5, PP. 489-508.
177. IBID., VOL. 9, P. 415.

session court within five to ten days to sit as an examining court with power to hold over the accused to the next regular session of the quarter session court, or to the court of oyer and terminer (178) and after the abolition of this court in 1795 to the district court. (179) Criminal jurisdiction of the court of quarter session was provided for in an act of December 22, 1792, in that it was given the full powers of the oyer and terminer court in cases of capital offense against slaves. This same act also gave to every justice of the peace the power to issue warrants for the apprehension of any person charged before him with any criminal offense which in his opinion should be examined into or tried by the court of quarter session. It provided that the justice should have power to examine and commit the person to jail pending such hearing before the quarter session court, and issue summonses calling this court into session. (180) Additional jurisdiction over slavery cases was authorized by an act of 1798 which provided that justices of the peace should hear and determine cases against slaves engaging in riots, routs, unlawful assemblies, trespasses, and seditious speech by issuing writs for their apprehension and punishing them with stripes. (181) This jurisdiction was further increased by an act of 1800 which provided that the justices might summon the court of quarter session to make final disposition of any criminal charges against slaves. (182) An act of December 27, 1806, extended this jurisdiction to include trying without jury all misdemeanors against slaves. (183) By an act of February 23, 1806, a justice was required to have jurisdiction over cases arising from enforcement of the law which prohibited the interstate migration of free Negroes and mulattoes. Upon information, it was the duty of the justice to issue warrants for the apprehension of the offenders and hold them over till the next term of the county court. (184) A requirement that the justices summon a jury to try slaves for conspiring to commit murder and to determine their punishment not to exceed 100 stripes was provided in an act of January 25, 1811. (185)

In the conduct of examining trials, the justices were given, by an act of 1802, authority to receive charges against criminal offenders, and, if in his opinion the charges would be punishable by capital punishment or confinement in the penitentiary, he took recognizance of all witnesses to appear before the county court for a formal examination of the charge. (186) A further modification in the examining procedure was provided for by an act of February 11, 1809, which took from the county

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178. LITTELL, VOL. 1, 1792, P. 96.
179. IBID., 1795, P. 316.
180. IBID., 1792, P. 158.
181. IBID., VOL. 2, 1798, P. 115.
182. LITTELL, VOL. 2, P. 417.
183. IBID., VOL. 3, P. 403.
184. IBID., VOL. 3, 1807, PP. 499, 500.
185. IBID., VOL. 4, 1810, P. 224.
186. IBID., VOL. 3, 1802, P. 41.

court its jurisdiction in this matter and required in all cases where any free person was brought before a justice charged with a crime punishable by capital or penitentiary sentence, this justice should go to some other justice, and the two together may commit him for further trial before the circuit court. (187)

An act of 1793 provided that justices of county courts "shall have cognizance of all matters relating to bastardy within their respective counties, agreeable to the laws of Virginia now in force in this state." (188) This, however, did not convey the jurisdiction to make final disposition of such cases. The specific powers of the justice's court in bastardy proceedings were definitely stated in an act of December 14, 1795, which provided that a justice of the peace could issue warrants to command persons on charge of bastardy to appear before him or some other justice to be bound over to the next session of the county court. (189) The justices' courts have continued to hold the power to conduct preliminary proceedings in bastardy cases, but the actual trial has been from the beginning in Kentucky a jurisdiction of the county court. (190)

Other early criminal jurisdictions of the justices' courts were: to hear cases concerning stray boats and animals (191); to punish violations of laws respecting taverns and tippling houses (192); to punish summarily for contempt not exceeding a fine of twenty shillings or imprisonment for over six hours (193); to issue warrants and bind over to the county court persons charged with violation of vagrancy laws (194); to issue escape warrants for persons escaping from jail to other counties (195); to conduct proceedings against runaways (196); to aid in the enforcement of gambling laws by having such places closed and the devices seized (197); and the owners of such establishments apprehended and held (198); to report such offenders to the grand jury (199); to arrest and confine in jail persons interrupting places of worship (200); to fine con-

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187. LITTELL, VOL. 4, 1808, PP. 67-70.
188. IBID., VOL. 1, 1793, P. 202.
189. IBID., 1795, PP. 282, 283.
190. IBID., 1793, P. 202; ACTS: 1851-52, PP. 95, 96; 1891-93, PP. 67-72.
191. LITTELL, VOL. 1: 1792, P. 88; 1794, PP. 250, 251.
192. IBID., 1793, P. 196.
193. IBID., 1793, P. 199.
194. IBID., 1794, P. 291.
195. IBID., 1796, P. 590; VOL. 2, 1798, PP. 31, 32.
196. LITTELL, VOL. 2, 1798, P. 4.
197. IBID., VOL. 2, 1799, P. 284.
198. IBID., VOL. 3, 1804, PP. 176, 177.
199. IBID., VOL. 5, 1815, P. 318.
200. IBID., 1812, PP. 48, 49.

stables, or other officers, not over ten dollars for neglect of duty in summoning jurors and delinquent or disorderly jurors not over five dollars (201); and to receive writs of habeas corpus in the same manner as the circuit judge in his absence from the county, and examine into the cause of commitment and admit bail. (202)

An act of 1852 gave jurisdiction to the justices in all penal cases where the fine or penalty does not exceed sixteen dollars, except where jurisdiction thereof is otherwise specifically conferred. The method of holding examining courts was also changed by requiring two justices to examine into all infractions of the penal and criminal laws, the final trial of which is cognizable in the circuit court, and, when proper, to send the accused on for further trial, to commit him to jail, or allow and take bail. His power to impanel juries and grant new trials or rehearings in civil or penal cases was also reaffirmed. (203)

The jurisdiction of justices in 1893 in all penal and misdemeanor cases exclusive of the circuit court was limited to offenses carrying a fine of twenty dollars or less, and concurrent with the circuit court in offenses punishable by a fine not exceeding $100 or imprisonment for not more than fifty days, or both. (204) In 1906, the justices' and quarterly courts were given concurrent jurisdiction in amounts not over twenty dollars. (205) By an act of 1928, this jurisdiction was enlarged to cover offenses punishable by a fine of $500 or imprisonment for six months, or both. (206) This jurisdiction was again enlarged in 1934 by extending the imprisonment to one year, and the county court was made concurrent in the exercise of this jurisdiction. (207) Today, justices have jurisdiction to hold inquests in the absence of the coroner (208), and to hear and determine vagrancy cases. (209)

B. Quarterly Court:

The act of 1851, creating quarterly courts, gave the presiding judge of the county court, who presided over the quarterly court, the power of conservator of the peace and also gave him jurisdiction concurrent with justices of the peace in cases of riots, routs, and unlawful assemblies, breaches of the peace, and all misdemeanors, and authorized him to conduct examining trials. (210) The jurisdiction in examining trials was repealed by the act of 1852, and the judge's jurisdiction was reaffirmed by a general statement that he should have all the powers of a justice in penal and criminal proceedings, and of a court of inquiry,

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201. LITTELL, VOL. 5, 1812, P. 29.
202. Acts, 1820-21, PP. 263, 264.
203. Acts, 1851-52, P. 99.
204. Acts, 1891-93, P. 1058.
205. Acts, 1906, P. 383.
206. Acts, 1928, PP. 55, 56.
207. Acts, 1934, P. 422; CRIM. CODE, 1938 ED., SEC. 13-5.
208. Acts: 1891-93, P. 371; 1936, P. 271.
209. Acts, 1904, P. 134.
210. Acts, 1850-51, VOL. 1, PP. 42, 43.

which court at that time was to be composed of two justices. (211) A ruling of the Court of Appeals held that the county judge had all the powers of a justice of the peace in criminal and penal proceedings, and could, therefore, in conjunction with a justice of the peace, hold a court of inquiry in criminal cases and take recognizance; but it held that he had no right to do so unless associated with a justice of the peace. (212)

In the meantime, the second part of the code provided for in the Constitution of 1850 - i.e., the Criminal Code - was completed, and became effective on July 1, 1854, and superseded the act of 1852. This was further clarified by a Court of Appeals decision, a few years later, which stated that the county judges are magistrates, and therefore may conduct examining trials alone -- in the meaning of the code, justices were also magistrates, but in such cases each had to associate himself with another justice for such purpose. (213)

The act of 1893 reaffirmed basically all of the criminal jurisdiction formerly possessed by the county judge per se. Although, from 1851 to 1891, the legislature gave this jurisdiction to the county judge as such (which, of course, he could exercise in either the county or quarterly court), it is implied that at least in the regular sessions of the quarterly court he exercised his criminal jurisdiction. As the penal cases were usually minor, he held many of them in his office. Because of the county judge's powers as a single justice, judge of the county, quarterly, and later of the juvenile and fiscal courts, a great deal of legal confusion arose as to whether he was sitting in one court or another, or in neither, but acting as county judge per se. A Court of Appeals decision of 1860 declared that such jurisdiction as was conferred upon him in the act of 1852, and also carried in Criminal Code, sec. 24, was to be exercised in the quarterly court; and another decision of the same court, as late as 1924, declared the county courts have no criminal jurisdiction, but quarterly courts are given criminal jurisdiction. (214) The lines of demarcation are very fine indeed, and therefore the county judge and his per se powers are treated in a separate section. (215)

It was not, however, until 1906 that the legislature specified criminal jurisdiction for the quarterly court, in contradistinction to such jurisdiction already possessed by the county judge which he still exercises. This act provided that the quarterly court shall have concurrent jurisdiction with the justices' courts exclusive of the circuit courts in all penal cases, the punishment of which is limited to a fine not exceeding twenty dollars and concurrent jurisdiction with the circuit

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211. Acts, 1851-52, pp. 94, 99.
212. Bowman v. Commonwealth, 14 B.M. 313 (1854).
213. Crim. Code, 1854 ed., sec. 66; Commonwealth v. Cummins, 18 B.M. 21; Cookendorfer v. Commonwealth, Mss. opin. (1857).
214. Arthur V. Green, 60 Ky. 75 (1860); Craig v. Shelton, 201 Ky. 790 (1924).
215. Acts, 1891-93, p. 1055; See County Judge -- Judicial Functions, Supra p. 33.

courts of all penal cases, the punishment of which is limited to a fine not exceeding $100, or imprisonment not exceeding fifty days, or both. This act also gave quarterly courts jurisdiction of all city ordinances in towns of the sixth class, to impose such fines or forfeitures as provided for by such ordinances and to enforce such judgments for the benefit of the town, in such towns in which there is no acting or qualified police judge. (216) An act of 1928 did not change the jurisdiction of the quarterly court in essence but merely changed the penalty to a fine not exceeding $500 or imprisonment not exceeding six months, or both, and made police courts in cities of the first, second, third, fourth, fifth, and sixth classes concurrent in the exercise of this jurisdiction. (217) An act of 1934 again changed the term of imprisonment from six months to twelve months, and also bestowed the same jurisdiction upon the county court. (218)

An act of 1904 gave the quarterly court concurrent jurisdiction with the circuit, police, and justices' courts, over offenses of vagrancy. (219)

In 1922 jurisdiction of liquor offenses was conferred upon the quarterly court concurrent with circuit, justices' and police courts, in cases involving a fine not exceeding $300 and imprisonment for sixty days. This applied only to liquor offenses, and did not change the general criminal jurisdictions as shown above in the act of 1906. (220) The constitutionality of this act making the jurisdiction of these courts greater in liquor cases than in other matters was passed upon by the Court of Appeals, June 23, 1922. In upholding this act the Court of Appeals said: "The legislature has the power to prescribe the jurisdiction of the various courts and the fact that it assigns to all the courts of a certain class the jurisdiction wherein the punishment is greater than for other offenses of which the same class of courts have jurisdiction, does not make the act creating the law a special one, if there is not in some way an unnatural and arbitrary classification -- that is, that it does not embrace all of a class which naturally belong to it or exclude parts of a class which it ought to include. . . ." (221)

An act of 1934 proposed the repeal of Section 226a of the constitution, which prohibited intoxicating liquors after June 30, 1920, which repeal was voted on and adopted in the November election of 1935; this restored section 61 of the constitution which allowed the General Assembly to provide for local option. (222) A local option law was passed February 25, 1936, jurisdiction of which was given to the above-named courts where the penalty

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216. Acts, 1906, p. 383.
217. Acts, 1928, pp. 155, 156.
218. Acts, 1934, p. 422.
219. Acts, 1904, pp. 133, 134.
220. Acts: 1922, p. 129; 1934, p. 653.
221. Lakes v. Goodloe, 195 Ky. 240; 242 S.W. 532 (1922).
222. Acts, 1934, p. 177.

did not exceed a fine of $100 and imprisonment not exceeding sixty days. (223) The Alcoholic Beverage Control Law, passed in 1938, superseded the above act, but did not specify any particular courts. It merely stated the offenses and fines. Jurisdiction of cases arising under this law fall within the respective jurisdictions of the various courts, just as do other offenses, according to the amount of fine and punishment involved. (224)

In criminal matters the quarterly court has no appellate jurisdiction. All appealable cases, those involving a fine of twenty dollars or over, go directly to the circuit court. (225)

C. Circuit Court:

As in civil matters, the circuit court inherited the general criminal jurisdiction formerly lodged with the court of quarter session and the district court. By an act of February 12, 1798, it was provided that "The district courts to be held as aforesaid, shall have power to hear and determine all treasons, murders, felonies, and other crimes and misdemeanors, committed within their district, that shall be brought before them by any rules or regulations directed by law." (226) In criminal matters the court of quarter session was limited to "such criminal causes where the judgment upon conviction shall be for the loss of life or member. . . ." (227) An act of 1802 which established the circuit court provided that "the said circuit courts within their respective circuits shall have the same power, authority and jurisdiction which the district courts and quarter session courts are vested with." (228)

The circuit judge was authorized by an act of 1816 to hold additional terms "for the trial of chancery causes, or for the trial of any person apprehended upon a charge of felony" (229), and four years later it was provided further that at such special terms the circuit court could "try all indictments for misdemeanors, or presentments, and all Commonwealth's pleas, or any action, prosecution, suit or suits in which the Commonwealth is a party; and all process shall be as valid returnable thereto, and all recognizances as good as if made returnable to the regular terms of the circuit courts," (230) The circuit judge was authorized by an act of January 14, 1841, to have a grand jury summoned to meet on the first day of such special terms for the trial of criminal causes. (231)

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223. Acts, 1936, p. 17.
224. Acts, 1938, pp. 59, 119.
225. Crim. Code, 1938 ed., sec. 362.
226. Littell, vol. 2, 1798, p. 127.
227. Ibid., vol. 1, 1792, p. 94.
228. Ibid., vol. 3, 1802, p. 37 ff.
229. Ibid., vol. 5, 1816, p. 346.
230. Acts, 1819-20, p. 831.
231. Acts, 1840-41, p. 18.

General state-wide jurisdiction of charges against fugitives from the State penitentiary was given to the Franklin Circuit Court by an act of 1852. (232)

Since the circuit court has been from its beginning a court of general criminal jurisdiction, the limitations placed upon this authority have been by way of express delegations of certain petty cases to justices', quarterly, and other minor courts. An act of 1852 provided that justices of the peace "shall have jurisdiction in all penal cases where the fine or penalty is so regulated by law that it cannot exceed sixteen dollars, except where the jurisdiction thereof is otherwise specifically conferred." (233) The same act conferred upon the presiding judge of the county court "all the powers of a justice in penal and criminal proceedings." (234) In 1893 the justices were given "jurisdiction, exclusive of the circuit courts, in all penal cases, the punishment of which is limited to a fine not exceeding twenty dollars, and jurisdiction concurrent with the circuit courts of all penal cases, the punishment of which is limited to a fine not exceeding one hundred dollars, or imprisonment not exceeding fifty days, or both." (235) By the same statute the county judge was given "all the power of a justice in penal and criminal proceedings." (236) In 1906 the penal jurisdiction of the justices' courts was continued as stated above and the quarterly court was made concurrent with them. (237) In addition to reaffirming the above limitations upon the general criminal jurisdiction of the circuit court, an act of 1924 provided that "justices' and quarterly courts and the judges thereof shall have jurisdiction concurrent with circuit courts of the offenses of petit larceny, vagrancy, and first offense of carrying concealed and deadly weapons." (238) Police courts of the six classes of cities were made concurrent with the justices' and quarterly courts in the exercise of the above jurisdiction exclusive of the circuit court. By the same act these courts were given concurrent jurisdiction with the circuit court "of all penal cases and misdemeanor cases, the punishment of which is limited to a fine of not exceeding five hundred dollars, or imprisonment not exceeding six months or both." (239)

Violations of the common carrier laws were made cognizable by the circuit court by an act of 1920. (240) In 1934 the court was given concurrent jurisdiction with the quarterly and justices' courts over

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232. Acts, 1851-52, p. 338.
233. Ibid., p. 99.
234. Ibid., p. 94.
235. Acts, 1891-93, p. 1058.
236. Ibid., p. 1055.
237. Acts, 1906, p. 383.
238. Acts, 1924, p. 66.
239. Acts, 1928, p. 155.
240. Acts, 1920, p. 250 ff.

violations of local option laws (241), and also jurisdiction of appeals from decisions of the Public Service Commission. (242) The circuit court was authorized by an act of 1936 to set aside sentences and place the persons convicted on probation. (243)

Chancery

When Breckinridge County was established, the quarter session court was the court of common law and chancery jurisdiction. (244) When the circuit court was created, it inherited this jurisdiction from the quarter session court, which it superseded. (245) An act of 1793 placed the care of persons of unsound mind under the jurisdiction of a chancery court. (246) In 1852 this jurisdiction was given to the circuit court and reaffirmed by subsequent legislation. (247) The fourth constitution abolished such chancery and equity courts as were then in existence and gave this jurisdiction to the circuit courts. (248)

Probate

Probate jurisdiction, in its broader sense, includes not only the authority of a court to admit to proof wills and other testamentary instruments of persons deceased, but also the administration of estates, the appointment of administrators, guardians and other fiduciaries, and the general supervision of such appointees. The act of 1792 setting up the general court system of the State provided that the "county courts shall and may have cognizance and shall have jurisdiction of all cases respecting wills, letters of administration, . . . the appointment of guardians and settling of their accounts. . . ." (249) This general jurisdiction to hear and determine all probate matters has continued to be one of the primary functions of the county court.

An act of 1852 directed the county judge to "make settlements with personal representatives and guardians in his county," and "to hear testimony on such settlement in support or in opposition to any item." He was required to reduce to writing all verbal evidence given before him and to submit this, together with such other evidence submitted in the case, to the clerk of the county court. This report was to lie over for one term to permit the filing of exceptions by any interested person. If no exceptions were filed by the second term of the court the settlement, if approved, was final. In case there were exceptions, "other evidence besides that reported may be heard, and the court shall, upon the whole

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241. Acts: 1934, p. 653; 1936, p. 17.
242. Acts, 1934, p. 605.
243. Acts, 1936, p. 74.
244. Littell, vol. 1, 1792, pp. 98, 99.
245. Littell, vol. 3, 1802, p. 40; Acts, 1851-52, p. 90.
246. Littell, vol. 1: 1793, p. 191; 1795, p. 302.
247. Acts, 1831-32, pp. 109-111.
248. Const. of 1891, Schedule, sec. 3; Acts, 1891-93, p. 1030.
249. Littell, vol. 1: 1792, p. 93; 1796, p. 374.

case, alter or amend the report and order it to be recorded, or so order it without altering or amending it, as shall appear right and legal." Witnesses could be summoned to give evidence before the judge on the settlement, or the trial of exceptions by the court. (250)

In 1893 the probate jurisdiction of the county court was reaffirmed by an act which provided that "The county court shall have jurisdiction to probate wills, appoint and remove personal representatives, guardians, trustees, committees, curators, and other fiduciaries. . . ." (251) The provisions designating the county judge to make settlements with personal representatives, trustees, assignees, committees, curators, and guardians in his county were also reenacted. When necessary, he was authorized to appoint a special commissioner to make such settlements. The provisions of the act of 1852, referred to above, providing for exceptions to be taken by interested parties and the ultimate determination of the settlement by the county court, were also reaffirmed. (252)

In all matters wherein the title to real estate is involved, the circuit court has always had original and exclusive jurisdiction. (253) It has also had general appellate jurisdiction in cases concerning the probating of wills. (254)

Juvenile

Under provisions of legislation in effect when Breckinridge County was created, the county court had jurisdiction over orphans, and neglected, dependent, and delinquent children. (255) Provisions of an act of 1896, which established houses of reform in the state for confinement of boys and girls under eighteen years of age, authorized the county or circuit court, when any boy or girl under eighteen years of age was brought before it, to commit such boy or girl to a house of reform for any period of time not exceeding the child's minority. (256)

It was not until 1906 that the General Assembly provided for special treatment of juvenile offenders. (257) This act provided that the county court when considering juvenile cases, might be called "The Juvenile Session of the County Court." This act, however, did not, according to an opinion of the Court of Appeals in 1911, create a new court, but merely increased the powers of the county court. (258) An amendment to this act in 1908 authorized the juvenile session of the county court, when a child

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250. ACTS, 1851-52, PP. 98, 99.
251. ACTS, 1891-93, P. 1051.
252. IBID., PP. 1053, 1054; CARROLL, SEC. 2015.
253. SEE CIRCUIT COURT, P. 164.
254. ACTS: 1829-30, P. 217; 1891-93, PP. 1048, 1049; CARROLL, SEC. 978.
255. LITTELL, VOL. 1: 1793, PP. 191, 192; 1797, P. 677; VOL. 3, 1802, P. 74; ACTS: 1825-26, P. 137; 1894, PP. 28, 29.
256. ACTS, 1896, PP. 60-62.
257. ACTS, 1906, PP. 322-332.
258. MARLOW V. COMMONWEALTH, 142 KY. 106 (1911).

was charged with the commission of a crime, to transfer such offender, after advising with his parents or guardian, to the court having jurisdiction of such cases, where the child might be proceeded against as an adult. (259)

Early laws also gave the county court jurisdiction of persons charged with cruel or inhuman treatment of children, and subsequent legislation gave exclusive jurisdiction of such cases to the juvenile session of the county court. (260)

Jury System

A. Grand Juries and Indictments:

The common law required the sheriff at each term of court to summon not more than twenty-three nor less than thirteen gentlemen of estate, intelligence, and character from the different neighborhoods of the county, who should compose the grand jury. (261) The laws of Virginia, under which the early courts of Kentucky functioned, provided for the summoning by the court of twenty-four householders, from which group sixteen grand jurymen were selected. (262) One of the earliest Kentucky laws required the sheriff to summon twenty-four freeholders qualified as the law required for grand jurors to appear at succeeding court of oyer and terminer and provided that the same twenty-four or any sixteen of them should be a grand jury. This law also provided that no grand jury should make any presentment in the court of oyer and terminer unless penalty was more than forty shillings or 400 pounds of tobacco. (263) These early laws have undergone several changes as to the number of grand jurymen, until today a grand jury consists of twelve persons, nine of whom concurring may find an indictment. (264)

From the beginning, errors in the wording of an indictment such as omission of the name of any town, village, or hamlet in the Commonwealth have not constituted grounds for quashing the indictment or for reversal in the event of a conviction, nor has the use of the term "force and arms" in an indictment been considered necessary. (265) An early decision of the Court of Appeals held that no indictment on a statute could be supported unless it stated the offense had been committed against the statute (266), while another decision at about the same time held that an indictment need not express that it was by the authority of the Commonwealth. (267)

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259. ACTS: 1908, PP. 181-198; 1912, PP. 446-449.
260. ACTS: 1825-26, P. 137; 1894, PP. 29-31; 1906, PP. 322-332; 1908, PP. 152-157; 1910, PP. 226-228.
261. JAMES SPEED, GRAND AND PETIT JURORS, LOUISVILLE, KY., 1873.
262. HENING, VOL. 12, 1788, PP. 730-763.
263. LITTELL, VOL. 1, 1792, PP. 99, 100.
264. REV. STAT., VOL. 2, PP. 75, 76; GEN. STAT., 1873 ED., PP. 570, 571; CONST. OF 1891, SEC. 248.
265. HENING: VOL. 12, 1786, P. 270; VOL. 13, 1789, PP. 38-40; LITTELL, VOL. 1, 1796, P. 466.
266. MCCULLOUGH V. COMMONWEALTH, 3 KY. 95 (1805).
267. ALLEN V. COMMONWEALTH, 2 BIBB 210.

Governmental Organization and Records System

(First entry, p. 117)

From the beginning presentments have been required to specify the crime committed, time and place, and by whom, and the name of person or persons upon whose information the presentment was made. Early laws also required that a prisoner be given a copy of his indictment and a panel of the jury who were to try him, and provided for the discharge of a prisoner if not indicted before or at the second term after he was committed unless attendance of witnesses had been prevented by himself. (268)

Although the statutes from the beginning have clearly defined the qualifications of grand juries, there formerly being a property qualification of from ten to twenty pounds in current money, the fact that a person not qualified or competent served on a grand jury was not grounds for setting aside an indictment. (269)

Statutes in effect today require that a person qualified to serve as a grand juryman be a citizen and a housekeeper of the county in which he may be called to serve and over the age of twenty-one years. No civil officer (except trustees of schools), no surveyor of a highway, tavernkeeper, vendor of ardent spirits by license, or person who is under indictment, or who has been convicted of a felony and not pardoned, shall be competent to serve as a grand juror. (270) The general statutes provided that a grand jury composed of bystanders could be empaneled after the discharge of the grand jury first empaneled. (271) Legislation now in effect authorizes the judge to summon bystanders, not to exceed three, to supply grand jury vacancies. (272) An early law gave the courts power to summon a grand jury during term time. (273) Present laws require that a grand jury shall be summoned at three regular terms of circuit court, unless otherwise ordered by the judge. (274) Each time a grand jury is empaneled the court appoints a foreman. (275)

In addition to those persons prohibited from serving as grand jurors, justices of the peace were exempted from grand jury service by an early statute. (276) Later legislation exempted physicians, surgeons, ministers of the gospel, and cashiers and tellers of those who may be supplying their places for the time. (277) Also exempted today are members of boards of education, and executive officers, superintendents, principals, teachers, and other employees of boards of education while the common schools are in session.(278)

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268. LITTELL, VOL. 1, 1796, P. 466.
269. IBID., P. 468; LEE V. COMMONWEALTH, 210 KY. 410 (1925).
270. ACTS: 1891-93, P. 948; 1918, P. 672.
271. GEN. STAT., 1873 ED., P. 570.
272. ACTS: 1891-93, P. 948; 1894, P. 219; 1906, P. 519.
273. LITTELL, VOL. 4, 1811, P. 267.
274. ACTS: 1891-93, P. 957; 1932, PP. 350, 351.
275. LITTELL, VOL. 5, 1814, P. 136; ACTS, 1891-93, P. 948.
276. LITTELL, VOL. 3, 1804, P. 242.
277. GEN. STAT., 1873 ED., P. 572.
278. ACTS, 1924, P. 62.

Governmental Organization and Records System

(First entry, p. 117)

Under provisions of the revised statutes the circuit court was empowered to appoint three jury commissioners, free white citizens at least twenty-one years of age, and housekeepers from different portions of the county whose duty it was to select grand and petit jurors by lot, certifying and directing the list to the circuit court judge, endorsing it "a list of the standing jury." (279)

Formerly, grand jurors in Kentucky were compensated at the rate of $1.50 per day. This later was increased to two dollars, and they now receive three dollars per day for not to exceed six days at any term, unless by order, entered of record by the court, they are permitted to sit longer. (280)

B. Petit Juries:

Although early laws required petit jurors in superior courts to be possessed of an estate, real or personal, of the value of twenty pounds, their other qualifications were the same as those required of grand jurors. (281) Early legislation authorized the sheriff to summon jurors from bystanders for trial of causes (282), and with the advent of jury commissioners, petit jurors were selected in the same manner as grand jurors. (283) Petit jurors are summoned on the second day of the court term unless ordered by the court to be summoned the first day; a new panel, however, may be summoned in each week of the court. (284)

A petit jury in the circuit court consists of twelve persons, although legislation in 1932 provided for a thirteenth juror, and in all trials held in courts inferior to the circuit court, or by any county, police, or city judge, or justice of the peace, a jury shall consist of six persons, but the parties to any action or prosecution, except for felony, may agree to a trial by a less number of persons. (285)

Early legislation provided compensation of one dollar per day for venire men, but not if challenged and rejected. (286) Later petit jurymen were allowed two dollars per day and by an act of 1934 they receive three dollars per day in addition to one dollar for each night they are kept together. (287)

Early legislation prohibited a justice of peace who had committed a felony from serving as a petit juror at the felon's trial. (288) A later act exempted all justices of the peace from jury service. (289) An act

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279. REV. STAT., VOL. 2, P. 79; ACTS: 1891-93, P. 948; 1912, P. 451.
280. GEN. STAT., 1873 ED., P. 574; ACTS: 1891-93, P. 948; 1926, P. 165.
281. LITTELL, VOL. 1, 1796, P. 468.
282. IBID.
283. REV. STAT., VOL. 2, P. 79; ACTS: 1891-93, P. 948; 1912, P. 451.
284. GEN. STAT., 1873 ED., P. 572.
285. IBID., P. 571; ACTS: 1891-93, P. 957; 1932, P. 341.
286. LITTELL, VOL. 5, 1817, P. 436.
287. GEN. STAT., 1873 ED., P. 574; ACTS: 1891-93, P. 949; 1932, P. 351; 1934, P. 664.
288. LITTELL, VOL. 1, 1795, P. 319.
289. IBID., VOL. 3, 1804, P. 242.

of 1806 exempted transient persons, physicians, surgeons, and ministers of the gospel from jury service. (290) Later legislation in effect today extended petit jury service exemptions to include, in addition to those also exempted from grand jury service, practicing attorneys, asylum attendants, retail druggists, pharmaceutists, undertakers, railroad depot agents, and telegraph operators. (291) An act of 1910 exempted persons more than sixty years of age from serving as petit jurors. (292) In 1924, teachers, principals, and all employees of the board of education were exempted from jury service while schools were in session. (293) Later this exemption was extended to the term of contract of such persons. (294) Legislation of 1932 exempted from jury service all officers and enlisted men of the Kentucky National Guard. (295) This was later amended to extend only to members of the active militia. (296)

By the common law a prisoner had a right in all prosecutions for felony to challenge thirty-five jurors peremptorily. (297) Early legislation provided that there could be no challenge on the part of the Commonwealth without cause assigned, and that the prisoner could challenge not above twenty-four in case of treason and twenty in case of murder or felony. (298) A later act extended the rights of peremptory challenge to all criminal cases whatsoever. (299) Present laws provide that each party litigant in civil actions shall have the right of peremptory challenge to three jurors, and the right to challenge as now allowed by law. (300)

Administration of Law

Preservation of Peace

From the beginning the sheriff has been the chief law enforcement officer of the county, his office having been created by the first constitution. (301) Early statutes made it a duty of the sheriff to arrest persons engaged in riots, routs, unlawful assemblies, or breaches of the peace, and to empanel a jury for their trial; to arrest persons disturbing public worship; and to pursue convicts escaped from the penitentiary. (302)

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290. LITTELL, VOL. 3, 1806, P. 402.
291. ACTS, 1891-93, P. 959.
292. ACTS, 1910, P. 77.
293. ACTS, 1924, P. 62.
294. ACTS, 1934, P. 179.
295. ACTS, 1932, P. 443.
296. ACTS, 1934, P. 157.
297. MONTEE V. COMMONWEALTH, 3 JJ. MAR. 138 (1830).
298. LITTELL, VOL. 1, 1796, P. 466.
299. IBID., VOL. 2, 1798, P. 236.
300. ACTS: 1891-93, P. 948; 1894, P. 219.
301. CONST. OF 1792, ART. 6, SEC. 1.
302. LITTELL, VOL. 3, 1802, PP. 48, 49, 55, 56, 73.

He now executes persons condemned to be hanged in the county; conveys to the penitentiary all persons sentenced to be confined there; commands and takes with him, if need be, the "power of the county," a posse comitatus to aid him in the execution of the duties of his office; and attends and keeps order in the circuit, county, and quarterly courts. (303) He also suppresses places of gambling (304) and enforces the game and fish laws. (305) Incident to these duties, and to the enforcement of the law in general, the sheriff has the right to carry concealed weapons (306) and he may now call out the county militia when needed to enforce the laws and maintain order. (307) Under provisions of an act of 1937, the sheriff and his deputies were required to patrol public roads and highways in the county, to control traffic, and to act in instances where criminal negligence occurs in connection with any accident. They also were required to visit public camps, restaurants, roadhouses, or any places where intoxicating liquors are sold and where men and women are furnished rooms or lodging in the day or night, and to investigate the way and manner of operation of such establishments. (308) From the beginning of his office the sheriff has had authority to appoint his deputies, with the approval of the county court, and to remove them at will, since he is responsible for their actions. (309)

The office of coroner, which was provided for by the first constitution, is equal in power to the sheriff in law enforcement. In addition to his principal duty of holding inquests over the body of any person whose death may have resulted from violence (310), the coroner also has the power to arrest and commit to the county jail any person who, at an inquest, was adjudged guilty of murder, manslaughter, or of being an accessory thereto. (311) Although the coroner, who always has been the highest peace officer in the county with power to arrest the sheriff, was authorized to investigate housebreaking before the county had adequate police protection, he usually left such investigation to the sheriff or police, when they were available. (312) The coroner also has the power to execute process in all criminal, penal, and civil cases; to execute warrants in bastardy proceedings in cases in which the sheriff was charged; and to execute process in criminal cases where the sheriff is defendant or related to the defendant. When the coroner performs these functions the laws in regard to the sheriff apply to him. (313)

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303. Acts, 1891-93, pp. 558-560.
304. Acts, 1908, p. 121.
305. Acts: 1912, p. 162; 1916, p. 634.
306. Acts, 1891-93, p. 800.
307. Acts, 1934, p. 166.
308. Acts, 1936-37, Fourth Special Session, pp. 116-118.
309. Littell, vol. 1, 1796, p. 580; Acts: 1891-93, pp. 555, 556; 1905, p. 157.
310. Littell, vol. 2, 1798, pp. 69, 70; Rev. Stat., vol. 2, p. 349; Acts, 1860, p. 49; Gen. Stat., 1873 ed., p. 263; Acts, 1891-93, p. 369; Carroll, secs. 528, 533.
311. Acts, 1891-93, pp. 369, 370.
312. Rev. Stat., vol. 2, p. 349; Acts, 1860, p. 49; Gen. Stat., 1873 ed., p. 263.
313. Littell: vol. 1, 1795, p. 282; vol. 2, 1798, pp. 64, 72; vol. 3, 1805, p. 292; Acts, 1820, p. 117; Gen. Stat., 1873 ed., p. 263; Acts, 1891-93, p. 371.

Governmental Organization and Records System

(First entry, p. 117)

The early duties of the constables were to arrest persons for riots, routs, and breaches of the peace; to arrest persons charged with bribery; to conduct prisoners to jail; to arrest fugitives from justice; and to whip slaves when so ordered by the justices of the peace. (314) He has power to seize and destroy any gambling device with or without a warrant, The constable is also authorized to carry concealed weapons. (315)

The jailer has power to act in the county in civil, penal, or criminal cases, with the same authority as the sheriff. (316)

Inquests

When it appears that a person's death may have resulted from violence, or that he or she may have died from unnatural causes without the attendance of a qualified physician, or when death results from violence or accident within ninety days from date of such act, it is the duty of the coroner to hold an inquest with the assistance of a jury. (317) In cases of violent death the coroner orders the sheriff or constable to summon a jury to the place where the death or crime occurred. (318) A coroner's jury formerly consisted of twelve persons (319), but is now composed of six householders. (320) As the result of an act of 1851, and reaffirmed by later legislation, when the coroner is absent from the county, or at such distance that his immediate attendance cannot be obtained when necessary, any justice of the peace, through his common law powers, is empowered to summon a jury and hold an inquest when the condition of a body warrants speedy interment. (321)

Indictments

The first constitution of Kentucky required that "no person shall for any indictable offense be proceeded against criminally by information" except in cases arising in the armed forces, or "by leave of the court for oppression or misdemeanor in office." (322) This general prohibition of indictments made otherwise than by grand juries was reaffirmed by the subsequent constitutions of the state. (323) For fuller treatment of indictments see Grand Juries and Indictments, supra, p. 49.

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314. LITTELL, VOL. 3: 1803, PP. 129, 130; 1805, P. 300; 1806, P. 403.
315. ACTS, 1891-93, PP. 743, 800; CARROLL, SEC. 1906.
316. ACTS, 1891-93, P. 753; SEE SHERIFF, P. 262.
317. LITTELL, VOL. 2, 1798, PP. 69, 70; REV. STAT., VOL. 2, P. 349; ACTS, 1860, P. 49; GEN. STAT., 1873 ED., P. 263; ACTS: 1891-93, P. 369; 1936, PP. 269, 270; CARROLL, SECS. 528, 533.
318. REV. STAT., VOL. 2, PP. 349, 350; ACTS, 1891-93, PP. 369-371; CARROLL, SECS. 528,533.
319. LITTELL, VOL. 2, 1798, P. 349.
320. ACTS, 1859-60, P. 49; GEN. STAT., 1873 ED., P. 263; ACTS, 1891-93, P. 369; CARROLL, SEC. 533.
321. ACTS, 1851-52, P. 10; GEN. STAT., 1873 ED., P. 311; ACTS: 1891-93, P. 371; 1936, P. 271; CARROLL, SEC. 535; SEE JUSTICES' COURTS, P. 254.
322. CONST. OF 1792, ART. 12, SEC. 11.
323. CONST. OF 1799, ART. 10, SEC. 11; CONST. OF 1850, ART. 13, SEC. 13; CONST. OF 1891, SEC. 12.

Apprehension of Criminals

It has always been a duty of the sheriff to apprehend criminals. (324) The constable, too, has the power to apprehend criminals (325), and the coroner is also authorized to arrest and commit to the county jail any persons adjudged by an inquest to be guilty of murder or manslaughter, or of being an accessory thereto. (326)

Custody of Prisoners

Although both the sheriff and the constable have always been authorized to convey prisoners to jail (327), and although the sheriff took charge of prisoners in the county jail prior to 1799 (328), the actual custody of prisoners today rests primarily with the jailer. (329) In connection with these duties he may also impress or hire guards upon order of the circuit judge, or county judge if the circuit judge is not in the county, when necessary for the safe-keeping of prisoners. It also is his duty to keep the jail clean and warm. (330)

Prosecutions

It is the duty of the commonwealth's attorney to attend each circuit court in his district, and prosecute all violations of the criminal and penal laws therein. This has been a duty of the commonwealth's attorney since the beginning of his office, and prior to that time it was a duty of the Attorney General. (331) The county attorney has always assisted in the enforcement of laws against riots, routs, and breaches of the peace, and prosecuted all such cases, except those in circuit court. (332) Later legislation required the county attorney to attend the circuit courts held in his county, and aid the commonwealth's attorney in all prosecutions therein, and in the absence of an acting commonwealth's attorney he attends to all the business of the Commonwealth in these courts. (333)

Execution of Sentence

The sheriff is required to execute persons condemned to be hanged in the county; to convey to the penitentiary all persons sentenced to be confined there and to execute the sentence of the court in other criminal

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324. LITTELL: VOL. 2, 1798, P. 118; VOL. 3, 1802, PP. 55, 56, 73; VOL. 5, 1813, PP.48,49.
325. IBID., VOL. 3: 1803, PP. 129, 130; 1805, P. 300.
326. ACTS, 1891-93, PP. 369, 370.
327. LITTELL: VOL. 2, 1798, P. 118; VOL. 3, 1803, P. 130.
328. IBID., VOL. 1, 1792, P. 86.
329. IBID.: VOL. 1, 1795, PP. 317-319; VOL. 3, 1802, PP. 89, 90.
330. GEN. STAT., 1873 ED., PP. 566-569; ACTS, 1891-93, PP. 752-755; CARROLL, SECS. 2238-2240.
331. CONST. OF 1792, ART. 2, SEC. 16; CONST. OF 1799, ART. 3, SEC. 23; LITTELL: VOL. 2, 1798, P. 77; VOL. 5, 1813, PP. 19, 20; ACTS, 1891-93, P. 263.
332. ACTS, 1829, P. 105.
333. ACTS, 1891-93, P. 258.

or penal cases. (334) Early statutes also authorized the constable to execute the sentence of the court by conveying prisoners to jail. (335) When a prisoner is condemned to death, the sheriff and jailer of the county in which the condemned person is confined are required to cause the condemned prisoner to be conveyed to the penitentiary where the warden or his deputy carry out the sentence. (336)

Financial Administration

Taxation

The principal source of state and county income has always been taxation. In the early history of Kentucky some of the taxes imposed were: two shillings for every hundred acres of land; two shillings for every slave except those who were exempted by the county court for infirmities; eight pence for every horse, mare, colt, or mule, except covering horses; three pence for every head of cattle; varied amounts for different types of carriages; ten pounds for every billiard table; three pounds for every ordinary license; and ten pounds for every retail store. (337) Tithables also figured importantly in early taxation. A law of 1797 stated that all male persons and all female slaves over sixteen years were chargeable for defraying county levies unless exempted by the county court by reason of age or infirmities. (338) Some ten years later another act repealed the provision which required white males sixteen to twenty-one to pay the county levies. (339) Still later legislation provided that all males over twenty-one be chargeable for county levies except when exempted by the county court. The levy, which could not exceed three dollars on each tithable, if not enough, was divided into installments and payments were provided for in subsequent annual levies. (340)

Fees

County revenue has also been supplemented by fees from licenses and fees received by various officers in the form of compensation for particular services rendered. In Kentucky, as in most states, from the beginning, the most natural method of compensating county officers was to pay them a stipulated amount for each particular service, thus applying to public service the common practice in industry known as "piecework." The fee system in Kentucky, which had its origin in the laws of Virginia, is, however, hedged about with certain limitations: first, all allowable fees are specifically set out in the statutes; second, no fee may be charged unless authorized; it may not be greater in amount than the statutes allow, nor may it be charged for services not rendered or

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334. ACTS, 1891-93, PP. 558-560.
335. LITTELL, VOL. 3, 1803, P. 130.
336. ACTS, 1910, P. 111.
337. LITTELL, VOL. 1, 1792, P. 64.
338. IBID., 1797, P. 678.
339. IBID., VOL. 4, 1808, P. 38.
340. GEN. STAT., 1873 ED., PP. 269, 270.

(First entry, p. 117)

for "ex officio" service.(341)

A Virginia law of 1745 made it lawful for all county court clerks, sheriffs, coroners, constables, and surveyors to demand, receive, and take the several fees mentioned in the act. All fees authorized by this act were made payable in pounds of tobacco. (342) This law was continued in substance when the Kentucky Legislature passed an act in 1792 making all fees payable in currency of the State at the rate of one penny current money for each pound of tobacco. (343)

Passage of an act in 1796 empowering the sheriff to collect or distrain for fees which remained uncollected by his predecessor, and also authorizing him to sell the goods and chattels of persons refusing to pay fees due and unpaid after April 10 of any year, indicated that it was the intent of the legislature to make the fee system a permanent institution in the state. (344) An act of 1798 provided that clerks of district, quarter session, and county courts, justices of the peace, sheriffs, coroners, constables, and surveyors receive fees and it also authorized a fine of four dollars for each case of overcharging. (345) An act of 1817, the provisions of which were later reaffirmed, provided stipulated sums to compensate circuit court and county court clerks for public and ex-officio services. (346) An early decision of the Court of Appeals defined ex-officio services as those relating to the public interests or business of the county or State, as contradistinguished from those relating to the private interests of individuals. (347)

Legislation from year to year in connection with fees indicates that almost from the beginning there has been a tendency to question the efficacy of the fee system. The Revised Statutes and later the General Statutes provided that any officer who split up or divided his services in order to make two charges where the law intended but one charge or fee for the whole service, or who issued an illegal fee bill, or attempted to collect twice would be deemed guilty of extortion. (348)

Fees received by justices of the peace in connection with their administration of justice probably have come in for more citicism than any other phase of the fee system and rightly so, for when the decision of a justice of the peace is to be a factor in determining the amount of the fees he is to receive, his ability to dispense impartial justice at all times might well be questioned. Decisions of the Court of Appeals and an opinion of the Attorney General of Kentucky seem to attempt to place a price tag on the impartiality of justices of the peace.

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341. THE GOVERNMENT OF KENTUCKY, REPORT OF THE EFFICIENCY COMMISSION, THE STATE JOURNAL COMPANY, FRANKFORT, KENTUCKY, 1924, VOL. I, P. 624.
342. HENING, VOL. 5, 1745, PP. 326-344.
343. LITTELL, VOL. I, 1792, P. 88.
344. IBID., VOL. I, 1796, PP. 586-589.
345. IBID., VOL. 2, 1798, PP. 247-262.
346. IBID., VOL. 5, 1817, P. 543; REV. STAT., VOL. I, P. 527; GEN. STAT., 1873 ED., P. 471.
347. GILBERT v. JUSTICES OF MARSHALL COUNTY, 18 B.M. 430 (1857)
348. REV. STAT., VOL. I, P. 528; GEN. STAT., 1873 ED., P. 477.

(First entry, p. 117)

The Attorney General in his opinion stated that in trials of misdemeanors where the penalty is a fine of twenty dollars or less the justice of the peace could not tax as costs against the defendant more than three or four dollars, and that under the maxim, de minimis non curat lex - that is, the law does not concern itself with trifling matters - the county judge or magistrate had the right to disregard the defendant's objection, since the amount involved was too small to influence the officer.

Previous decisions of the Court of Appeals had held that where a judge or magistrate receives fees and commissions to the extent that either or both constitute a "substantial pecuniary interest" to be paid by the defendant only in event of conviction, and no compensation in event of acquittal, the judge or justice of the peace has such an interest in a conviction that the defendant is deprived of the "due process" clause of the fourteenth amendment of the Federal Constitution. These decisions hold that a judge or justice of the peace is without power to try a defendant when he makes "seasonable objections" on the grounds of the justice's interest in his conviction, but the Attorney General in his opinion seems to believe that this officer cannot be swayed in his administration of justice unless his pecuniary interest is in excess of four dollars . (349)

Another weak point in the fee system would seem to be the lack of supervision in connection with the maintenance of fee books, and the recording of all fees received by each officer. The Court of Appeals, however, has held that it is within the power of the fiscal court to require such records to be kept and reports made to that body. (350)

In addition to these statutory limitations the constitution limits the personal compensation of public offices, except that of the Governor, to $5,000 per year. (351) In interpreting this provision, the Court of Appeals has put a definite responsibility on the fiscal court to make this rule effective, even in the face of inadequate legislation. By this court it was stated: "The Fiscal Court should and must know the necessities of his (the sheriff's) office as to salaries paid and as to deputies and assistants employed and it is charged, as the fiscal agent of the county, with the duty of protecting the county from extravagant employment at exorbitant salaries and other waste in the administration of the office. . . . The sheriff is a county officer primarily, acting for and in behalf of the county, and as such ought to be required to account to the county for the fees collected from litigants therein, in excess of what he can lawfully retain for salaries. . . . ." (352)

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349. O.A.G. 88, 1928, pp. 106-111; WAGERS V. SIZEMORE, 222 KY. 306; 300 S.W. 918; CHESTER D. ADAMS ET AL. V. JAMES SLAVIN ET AL., 225 KY. 135.
350. HOLLAND, JAILER, V. FAYETTE COUNTY, 240 KY. 37 (1931).
351. CONST. OF 1891, SEC. 246.
352. SHIPP V. RODES, AND SHIPP V. BRADLEY, 196 KY. 523 (1922).

Bonds

The county court of claims did not have, nor does the fiscal court have any broad debt-creating powers. It would appear that the purpose of section 157 of the Constitution of 1891 was to inaugurate and perpetuate the "pay-as-you-go" plan of government in counties and municipalities and to prevent fiscal authorities, invested with power to appropriate public moneys, from incurring obligations in excess of the income and revenue actually provided for. It also has been held by the Court of Appeals that the county must apply its revenue first to governmental matters before it expends funds on non-governmental matters. (353) Such powers to incur indebtedness as the fiscal court has, have been granted from time to time as necessities have arisen. For example, by an act of 1904 counties were authorized to issue railroad refunding bonds to take care of obligations created many years before in connection with the subsidy of local railroads. These bonds were to run for not to exceed forty years and the fiscal court was required to levy a tax for interest and retire bonds at maturity. (354) An act of 1893 authorized the fiscal court to issue bonds for erecting, repairing, or remodeling public buildings; however, it was provided that the bond issue must be approved by two-thirds of the voters and that no more than six per cent interest be paid. (355) A later act empowered the fiscal court to issue new bonds to refund old bonds, outstanding, which were issued by magisterial districts or other portions of counties other than incorporated towns. (356) The establishment of sinking funds were provided for by legislation of 1910 which required fiscal courts in counties in which no courthouse or jail had been erected to levy and collect an annual tax of not less than ten cents on the $100 assessed valuation to be set apart until sufficient funds had accumulated to erect and equip such buildings. (357) In 1932 it was made unlawful for the fiscal court to issue and offer to sell any bond or obligation until the issuance had been approved by a court of competent jurisdiction, declaring the same to be based upon and covering an indebtedness incurred within the constitutional limitations governing the creation of such indebtedness. (358)

A further limitation upon the power of counties to incur indebtedness was provided in the County Debt Act of 1938. This act created a commission, of which the Governor is chairman, to study the problem of county finance in Kentucky and other states for the purpose of making recommendations to the Legislative Council and the General Assembly. The agent of the commission referred to in this act as the "State Local Finance Officer" was required to approve bond issues in excess of one-half of one per cent of the value of the taxable property, an appeal

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353. BALLARD V. ADAIR COUNTY, 268 KY. 347; 104 S.W. (2D) 1100 (1937).
354. CONST. OF 1891, SEC. 178; ACTS: 1891-93, P. 269; 1904, PP. 177-180; PAYNE V. CITY OF COVINGTON, 276 KY. 380; 123 S.W. (2D) 1075 (1938).
355. ACTS, 1891-93, P. 200.
356. ACTS, 1902, P. 239.
357. ACTS, 1910, P. 154.
358. ACTS, 1932, P. 125.

from his decision being permitted to the County Debt Commission. The State Local Finance Officer also was authorized to lend money to the county for the redemption of matured road and bridge bonds, or to purchase such bonds as may have been approved by him. The State Local Finance Officer was further authorized by this act to approve or disapprove the county budget and he may refuse to approve it until he is authorized by the county budget commission to make changes he believes to be required by law.

The county judge, by the provision of this act, is required to certify to the State Local Finance Officer a copy of the original budget in which all changes made by the fiscal court are clearly indicated. The fiscal court, with the approval of the county budget commission, is authorized to make provision for expenditures of receipts unanticipated in the original budget by preparing an amendment to the budget to be submitted to the State Local Finance Officer in the same manner as the original budget. This act further requires the fiscal court to prepare every three months a statement of receipts, totals of all encumbrances and expenditures charged against each budget fund, and all transfers and other information prescribed by the State Local Finance Officer. This report must be made within fifteen days following the period covered, posted by the clerk of the fiscal court for ten consecutive days on the courthouse door, and read to the fiscal court at its next meeting. A copy of the statement must be given to the county judge and the State Local Finance Officer. (359)

The constitutionality of this law was soon challenged, chiefly on the grounds that it was a limitation upon the constitutional authorization of counties to incur indebtedness up to two per cent of their assessed valuation (360), and also that it supplanted the fiscal courts of the counties by the County Debt Commission. In upholding the law the court held that "Section 158 fixes the limit beyond which the Legislature cannot go, but the section cannot be construed as preventing the Legislature from fixing a lower limit."

The general purpose of the act was stated by the court in answering the contention that the fiscal courts were supplanted by the County Debt Commission. Here the court stated that "the act by no means supplants the fiscal court with the County Debt Commission, but it provides a way in which the County Debt Commission may be of much assistance to fiscal courts in solving the financial problems of the counties. All persons having any knowledge of county affairs must recognize that many counties of the State are in a deplorable financial condition due to the improvident spending during the last three decades and due to the unbusinesslike

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359. Acts, 1938, First Special Session, p. 1095 ff.
360. Const. of 1891, sec. 158.

manner in which their fiscal affairs have been handled. The First Extra Session of the 1938 General Assembly passed this act, chapter 31, giving counties the privilege of reorganizing their finances with state aid and under state supervision with the hope that the counties might be rescued from the plight their own improvidence had visited upon them. . . . If the State Local Finance Officer will delve deep into the records of counties desiring to fund or refund their indebtedness, and have a complete and accurate report made of the hearings, such abuses will be stopped and the valid indebtedness of counties will be separated from the debts which are not valid. It takes no great imagination to see the benefit that may come to counties through this act if the State Local Finance Officer is vigorous and painstaking in his work." (361)

Fines and Forfeitures

An early law provided that all fines and forfeitures should be applied toward lessening the county levy, and one of the functions of the sheriff, constable, or other person having custody of these funds was to transmit an account to the county court clerk one week before time for laying the county levy. (362) Later legislation applied these fines and forfeitures to seminaries of learning but this act, as applying to certain counties, including Breckinridge, was repealed. (363) An act in effect in 1852 provided that the entire net proceeds of any fine imposed for trespassing on public property of the county be paid to the county court in aid of the county levy. (364)

Although the legislature attempted in the early history of the State to provide a sort of budgetary control for counties, they had little success, many county officials claiming it was impossible for them to determine at the beginning of the year what their expenses for the ensuing period would be, hence despite statutory restrictions there was considerable juggling of funds. (365) An early law provided that the majority of justices of the peace be present when levies were made for bridges or public buildings, and that the courts in laying levies consider claims against the county, and those to become due by the time levies were collected, adding reasonable over-plus for probable delinquents. (366)

County claims and settlements made by various county officers were given legislative attention early in the history of the Commonwealth, but for a long period there seems to have been a tendency on the part of county officials to evade the provisions of these laws whenever possible to do so. One of the earliest laws, for instance, required that a majority of the justices of the peace be present when the county court

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361. COUNTY DEBT COMMISSION ET AL., V. MORGAN COUNTY ET AL. . . . SAME V. BALLARD COUNTY ET AL., 130 S.W. (2D) 779 (1939).
362. LITTELL, VOL. 2, 1801, PP. 481, 482.
363. ACTS, 1819-20, P. 976,
364. REV. STAT., VOL. 2, P. 223.
365. GOVERNMENT OF KENTOCKY, VOL. 1, P. 591.
366. LITTELL, VOL. 4, 1809, PP. 172, 173.

met in October for the levy and for hearing and examining the claims. (367) A later act also required that a majority of the justices of the peace be present when the payment of any sum exceeding $100 was under consideration. (368) The legislature has from time to time enacted laws prohibiting speculation and trafficking in claims by county officials. Each such act has been a step forward toward the later establishment of a unified budget control. (369)

The allowance of claims is one of the chief functions of the fiscal court, except that claims under fifty dollars may be allowed by the county judge between sessions of the court. The law on the matter is not explicit except as to road claims, in which case certification by the county road engineer is required. The consequence of such loose regulation has been that counties have let custom and expediency be their guide. A great variety of practices in the procedure of allowing claims is found in different counties. In the smaller ones it is customary for the magistrates to bring in their claims unsworn to and unitemized. The fiscal court thereupon votes the claims and the clerk draws up the warrant on the treasurer. In other counties, there is some attempt at verification, but always the political factor seems to be evident. There often seems to be a mutuality of interest among the magistrates which makes it an affair of honor to pay whatever each asks, without going into the merits of the case. (370)

While various laws have been enacted by the legislature dealing with settlements of county officials and audits of their accounts, these matters have never been dealt with efficiently until the creation of the State and county budget commissions. As early as 1793 a law provided that the justices of the county courts take bonds and security of the sheriff or collector of public revenue, and authorized them to appoint two of their own body to settle with these collecting officers and report the settlement to the county court. If such collecting officers were found to be in arrears to the county court, that body was authorized to award execution against them, their securities, executors, administrators, or legal representatives. (371) An act of the previous year had established the office of Auditor of Public Accounts and abolished the office of Solicitor which existed under Virginia laws. (372)

In 1850 the legislature set up the court of claims but narrowed its powers down to the barest of fiscal functions and cut the counties off from any real control or supervision by the central state government. (373)

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367. LITTELL, VOL. 4, 1811, PP. 217, 218.
368. ACTS, 1820-21, P. 443.
369. ACTS, 1851-52, P. 9; GEN. STAT., 1873 ED., P. 309.
370. GOVERNMENT OF KENTUCKY, VOL. 1, P. 597.
371. LITTELL, VOL. 1, 1793, P. 202.
372. IBID., 1792, P. 60.
373. GOVERNMENT OF KENTUCKY, VOL. 1, P. 552.

At this time the county court, and the term seems to be used synonymously with the court of claims, was empowered to lay and superintend the collection of the county levy, erect, superintend and repair all needful public county buildings and structures, and superintend and control the fiscal affairs and property of the county. (374) Later legislation required county clerks to make out statements immediately after the meeting of the court of claims which included the claims allowed, resources of the county, county debts and amount received by the county from all sources. This statement was required to be published in a county newspaper, and if no newspaper was published in the county the statement was to be printed on handbills and distributed by the county court clerk to the various justices of the peace who in turn distributed them among the citizens of the county. (375)

The court of claims set-up continued to function until the establishment of the fiscal court in 1892. In the meantime, legislative action had divided the State into sixteen revenue districts, Breckinridge County being placed in the fifth district. Under this law the Auditor of Public Accounts appointed an agent in each revenue district who was empowered to investigate the accounts of clerks and sheriffs and proceed against them. This was another step indicating the recognition of a need for State control of county finances. (376) Under provisions of an act of 1934 the State Inspector and Examiner was required once yearly to inspect and examine the accounts and papers of all county officers handling public money. The county was required to bear a proportionate amount of the expense of making this audit, a copy of which was furnished the Governor and the county judge. (377) In 1936 this duty was transferred to the Department of Revenue. (378)

The establishment of the fiscal court in 1892 and the creation of the office of county treasurer marked an important step in the handling of county finances. Both the fiscal court and the county treasurer have been discussed in detail in separate essays; therefore, it will be considered sufficient here to mention only the matters relating to the administration of financial affairs.

County Budget Commission

The first attempt to have the fiscal affairs of the counties administered under a uniform budget system was made in 1926 when a legislative act created in each county a county budget commission to be composed of the county judge and two members to be appointed by the county judge. (379)

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374. REV. STAT., VOL. I, P. 327.
375. ACTS, 1859-60, VOL. I, P. 110.
376. GEN. STAT., 1873 ED., PP. 753-759.
377. ACTS, 1934, PP. 525, 526.
378. ACTS, 1936, FIRST EXTRA SESSION, CH. I, ART. XI.
379. ACTS, 1926, PP. 783-808.

The act creating these county budget commissions provided that it should not apply to counties having fiscal courts composed of the county judge and three commissioners, and because of this provision the Court of Appeals held on December 18, 1926, that the entire act was unconstitutional in that it was a violation of section 59 of the constitution which prohibits special legislation when a general law can be applicable. (380)

In 1932 the legislature again passed an act creating county budget commissions in the various counties of the Commonwealth. The act, the provisions of which were virtually the same as those of the 1926 act, did not exclude the counties having the commission form of government, yet an attempt was also made to have this law declared invalid on the grounds that the title did not comprise and set forth what was in the body of the act and that it did not expressly provide what body was to furnish the forms necessary to the operation of the county budget commissions, nor did it appropriate funds for such forms. The Court of Appeals on June 9, 1933, upheld the constitutionality of this act but did not declare it was operative because of the lack of appropriations. (381)

Because of the doubt left by the Court of Appeals as to whether the act was operative or not, and also because the act itself was believed too elaborate and too complicated for successful operation, county budget commissions were not established in any county of the State until after the passage of a new act in 1934 which carried provisions for appropriations necessary for the operation of a uniform county budget system.

The 1934 County Uniform Budget Law under which counties today administer their financial affairs provides that contemplated county expenditures for the ensuing fiscal year be incorporated into a budget which shall be given publicity in advance of its adoption by the fiscal court so that taxpayers shall have ample opportunity to protest against any objectionalbe features. It further provides for the adoption of a system of bookkeeping whereby the condition of each budget fund can be ascertained at any time thus preventing any department from overdrawing, thus it attempts to compel the county to live within its income and guarantee stability of the county fiscal administration so that county warrants will be good commercial paper for the banks holding them. The structure and functions of the county budget commission are treated in detail in the essay on that office. (382)

No important changes have been made in the 1934 act in so far as its budgetary control provisions are concerned; however, the County Debt Act of 1938 referred to previously made a significant change in county financial administration, particularly with regard to the state supervision and control over the creation of additional indebtedness by the fiscal court. (383)

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380. FELTS V. LINTON, 217 KY. 305; 289 S. W. 312 (1926).

381. ACTS, 1932, PP. 127-149; STATE BUDGET COMMISSION ET AL. V. ADAMS, COUNTY JUDGE, ET AL., 249 KY. 580 (1932).

382. ACTS, 1934, P. 63; SEE COUNTY BUDGET COMMISSION, P. 302.

383. ACTS, 1938, FIRST SPECIAL SESSION, P. 1095 FF.

Administration of Elections

Early Election Procedure

In the early days elections were required to be held at places for holding court, and they could be continued for three days at the request of any one of the candidates. Electors were privileged from arrest while going to and from elections, except for treason, felony, or breach of peace. Voting under provisions of the first consittution was by ballot. The election of the Governor during this period was by an electoral college, composed of as many electors as the counties were entitled to Representatives, and elected in the same manner. Senators were elected by the same electoral college. (384)

The Constitution of 1799 changed the manner of voting to viva voce (385), provided for division of counties into precincts, and the taking of an enumeration of all the free male inhabitants of the State above twenty-one years of age every four years for the purpose of establishing equal representation. (386) This constitution also provided for the election of Senators by the people. (387) Legislation at this time authorized elections to be continued three days when necessary, and required the polls to be opened not later than ten o'clock each morning and to remain open until at least one hour before sunset. (388) It was also provided at this time that the justices of the county court appoint each year two of their own body as judges of elections, and a proper person to act as clerk. If, however, the persons appointed failed to attend, or if the county court failed to make the appointments, the sheriff appointed such persons. (389) Later legislation authorized the county court to appoint two voters, preferably justices of the peace, from different political parties, and a clerk different in politics from the sheriff, to serve as precinct election officials for a term of one year. (390)

An act of 1852, which created a board composed of the county judge, county clerk, and the sheriff, for the purpose of examining the pollbooks of the county and issuing certificates of election, also required the county court to appoint annually two justices of the peace, if there were a sufficient number, or one justice and one other proper person, to act as judges of the election in each precinct, together with a clerk. The judges superintended the elections, attended to the proper counting of the votes, certified the pollbook and delivered it, sealed in an inner

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384. CONST. OF 1792, ART. 2, SECS. 2, 3; ART. 3, SECS. 1-3.
385. CONST. OF 1799, ART. 6, SEC. 16.
386. IBID., ART. 2, SECS. 5, 6.
387. IBID., ART. 2, SEC. 14.
388. LITTELL, VOL. 2, 1799, PP. 339-354.
389. IBID., P. 339.
390. ACTS, 1841-42, PP. 83-86.

envelope, to the sheriff of the election, who in turn delivered it to the high sheriff at the courthouse. (391)

An act of 1864 authorized elections to be held at any military post, camp, or other place where soldiers were assembled, and authorized the three ranking officers of a company or regiment to act as judges of election and to appoint a qualified voter to act as clerk. They were required to take oath, open and close the polls at agreed times, to permit all voters to vote, and, after closing the polls, to canvass votes cast and make a statement in writing of the result, one copy of which was sent to the Secretary of State and one to the Attorney General. (392)

In 1871 a Federal statute provided that all votes for Representatives in Congress be by written or printed ballot (393), and in accord with provisions of this statute, the legislature passed an act, effective March 27, 1872, providing that all elections for Representatives in Congress be by ballot, and requiring the sheriff to provide ballot boxes at the expense of the county. Under provisions of this act the election officers counted the ballots, certified the returns, replaced all the ballots in the box, locked and sealed it, then sealed the pollbook in an envelope, and delivered both box and envelope to the sheriff of the election, who in turn delivered them to the high sheriff at the courthouse. Within two days after the election, the sheriff deposited the ballot boxes and pollbooks of the several precincts with the county clerk, and the county examining board canvassed the returns and certified the election results. (394)

Elections Under the Present Constitution

An act approved June 30, 1892, dealt in considerable detail with the regulation of elections held in the Commonwealth, especially in view of the change provided for in the Constitution of 1891 from voice to ballot voting. (395) The new law, while continuing many of the previously enacted provisions as to the conduct of elections, authorized the county courts to divide the justices' districts of the county into election precincts. Each precinct was to contain, as nearly as practical, 300 voters, but no more than 350. The county court continued to appoint the two judges and the clerk for each precinct, and also appointed in each precinct the sheriff of election, an office previously filled by a deputy sheriff. This act made it a duty of the sheriff, before each election, to obtain in each precinct of the county a suitable room in which to hold the election, and have placed therein one booth for each hundred voters who voted at the last election. The sheriff was also required by provisions of this act to furnish strong and well-made ballot boxes for each precinct. (396)

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391. Acts: 1851-52, pp. 123-138; 1891-93, p. 140.
392. Acts, 1863-64, pp. 122-125.
393. The Code of the Laws of the United States of America, of a General and Permanent Character, in Force January 3, 1935, United States Government Printing Office, Washington, 1935, Title 2, p. 6.
394. Acts, 1871-72, vol. I, pp. 75-78.
395. Const. of 1891, sec. 147.
396. Acts, 1891-93, pp. 106-119.

Governmental Organization and Records System (First entry, p. 117)

The Constitution of 1891 provided that elections be held on the first Tuesday after the first Monday in November, and that no more than one election each year be held. It also provided that elections be held between the hours of six a.m. and seven p.m. (397) Legislation of 1892 required the sheriff of each precinct to preserve order at the polls and enforce the provisions of the election laws, under the direction of the judges, and to act as umpire when the judges disagreed. (398)

In 1900 the present county board of election commissioners was created. It consists of two electors of the county, appointed annually by the State Board of Election Commissioners, and the sheriff, who presides at the meetings and votes in cases of disagreement of the other members. The county board of election commissioners annually appoints for each election precinct two judges, one clerk, and one sheriff of the election, all of whom must be voters of the precinct for which they are appointed. Under provisions of this act the precinct election officers make a tally sheet of the count of the ballots. All unquestioned ballots are placed consecutively on a string, the ballots twice wrapped with the string, and the string knotted, sealed and stamped with the county election seal. Questioned ballots are placed in an envelope and sealed. The tally sheet is sealed in a separate envelope and placed, together with the counted, tied and sealed ballots in a large envelope which is sealed and locked in the ballot box. The county election seal and the keys to the box are given to the judge of the election, who delivers them to the sheriff at the courthouse. The county board of election commissioners continues to examine and canvass the election returns of the county and prepares, in triplicate or more, certificates of election for those who have received the highest number of votes for any office exclusively within the gift of the voters of the county. One copy of this goes to the Secretary of State, one to the person elected, and the third is retained in the clerk's office. (399) Later acts have made minor changes in election procedure, but the basic provisions of the 1900 act remain in effect today. (400)

Educational Administration

General Development

Public education began in Kentucky in 1775 when Mrs. William Coomes came from Charles County, Maryland and became the first teacher of the first school in Kentucky. In the years that followed, other schools were taught by John May at McAfee's Station, Joseph Doniphan at Boonesborough, and John McKinney at Lexington Fort. It is likely that during the period from 1775 to 1780 there existed instruction of some kind in many of the

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397. CONST. OF 1891, SEC. 149.
398. ACTS, 1891-93, PP. 106-119.
399. ACTS, 1900, SPECIAL SESSION, P. 27.
400. ACTS, 1936, P. 143 FF.

forts and stations that dotted the country, and when the fear of Indian attacks diminished, schools were built outside the walls of the forts. These were known as "Old-field Schools," probably because they were built on waste land formerly used by the Indians for agricultural purposes. These schools were very primitive and were provided for by joint subscription and joint labor. (401)

While the old-field schools were multiplying throughout the state, there was also in the process of formation an academy system of education. The earliest of these, Transylvania Seminary, was later known as Transylvania University. Transylvania Seminary had its origin in an act of 1780 passed by the Virginia Assembly which provided that 8,000 acres of escheated British land should be used by trustees for the erection of a seminary in Kentucky as soon as circumstances and finances would permit. A later Virginia act granted an additional 12,000 acres of land and conferred a regular charter to an enlarged board of twenty-five trustees, among whom were George Rogers Clark, Isaac Shelby, and Thomas Marshall. (402)

The first Kentucky legislation on the subject of academies was approved December 12, 1794, incorporating Kentucky Academy at Pisgah, near Lexington. (403) This was followed by other legislation of 1798 which reserved a considerable area of land for use of "seminaries of learning" in the State. This act gave the county courts in five counties the right to a donation of 6,000 acres each, and stipulated that academies be established on any waste and unappropriated lands. (404) Similar acts approved December 21, 1805 and January 27, 1808 extended these provisions to all counties of the State. (405) These grants were noble in purpose and liberal in plan, but by subsequent ill-considered and unwise acts, the lands were allowed to be sold by county authorities, and the proceeds of the sales, in the hands of self-perpetuating trusteeships, were prodigally expended in every conceivable way. (406) By 1820 there were forty-seven academies in operation, which led a precarious existence and their failure as a system of education had begun to be realized. Between 1819 and 1829 six colleges were chartered which were destined to compete with and eventually ruin the chances of Transylvania University developing into a strong university. (407)

Governor Slaughter was the first to mention popular education in messages to the legislature, but it was not until 1821 that that body yielded to public opinion and appointed a committee to study the subject and make a report. (408) As the result, the legislature created a "literary fund," providing that "one-half of the clear profits that have

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401. G. W. RANCK, HISTORY OF LEXINGTON, KENTUCKY, ITS EARLY ANNALS AND RECENT PROGRESS, pp. 97-99.
402. HENING: VOL. 10, P. 287; VOL. 11, P. 282.
403. LITTELL, VOL. 1, 1794, PP. 228, 230.
404. IBID., VOL. 2, 1798, PP. 107, 234.
405. IBID., VOL. 3: 1805, PP. 279, 280, 1808, PP. 440, 441.
406. IBID., VOL. 5, 1814, PP. 163, 164.
407. CYCLOPEDIA OF EDUCATION, VOL. 3, P. 592.
408. HAMLETT, OP. CIT., PP. 4, 5.

arisen and may hereafter arise to the state from the operations of the Bank of the Commonwealth of Kentucky, be set apart as a fund" for the establishment and support of a system of general education. This fund was to be distributed proportionately to the various counties and the county courts were authorized to lay off their counties into not less than four nor more than sixteen school districts. (409) Little progress in education was made, however, with the aid of this fund as the Bank of the Commonwealth failed a few years later. (410)

Legislation of 1825 provided for the establishment of private schools throughout the State (411), and an act of 1830 attempted to provide financial support for a uniform system of public education, yet this latter act proved ineffectual as almost every provision of it was optional. (412)

An act of 1838, which created the State Board of Education, really marks the beginning of an organized system of public education in Kentucky. This act provided that the management of each county's schools be placed in the hands of county school commissioners and with few changes it continued to function in principle until the legislature in 1884 created the office of county school superintendent. (413)

Meanwhile, in 1862, the State had received a donation from Congress of 330,000 acres of land which were sold for $165,000, a sum which yielded an annual income of $9,900. (414) This donation was for the establishment of a State Agricultural and Mechanical College. In return for the $9,900 received annually from the State, the college was required to furnish free tuition to three pupils from each legislative district. (415)

The education of Negroes, upon their emancipation, presented a new problem to the people of Kentucky. An act of 1865 provided a separate fund for Negro education, and trustees were authorized to cause a separate school to be taught in districts for Negro and mulatto children. (416) A later act made it unlawful for white and colored children to attend the same school. It further stipulated that no school for Negroes could be situated nearer than one mile to a school for white children. This act also authorized the appointment of three Negro trustees to each Negro school district and provided for organization of colored teachers' and auxiliary county institutes. (417) Further progress was made in Negro

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409. Acts, 1821-22, p. 351.
410. Basil W. Duke, History of the Bank of Kentucky, Louisville, Ky., 1895, pp. 20, 21.
411. Acts, 1825-26, p. 118.
412. Acts, 1829-30, pp. 272-281.
413. Acts: 1837-38, pp. 274-282; 1883-84, vol. 1, pp. 121-139.
414. U. S. Code of Laws, 1934 ed., Title 2, p. 135.
415. Acts, 1861-63, pp. 335, 336; Smith's History of Kentucky, p. 707.
416. Acts: 1863-64, pp. 27-38; 1865-66, pp. 51, 72, 74.
417. Acts, 1873-74, pp. 61-66.

education in 1886 when the legislature appropriated $3,000 annually for the maintenance of a Negro Normal School at Frankfort. Admission requirements established a minimum age of sixteen years, required applicants to give evidence of moral character, and sign a pledge to teach in a Negro common school for a period at least twice as long as that spent in the Normal School. (418) The Constitution of 1891 provided that in distribution of the school fund no distinction was to be made because of race or color. (419) Legislation in 1904 provided for higher education of Negroes by authorizing the erection and maintenance of separate private schools, colleges, or other institutions of learning twenty-five miles distant from any similar institution for pupils of one color. (420)

By 1925 the education of Negroes in the State had progressed to a point where there were 2,586 Negro pupils in high schools, and forty-three counties were providing education above the elementary level. (421)

An act of 1908 created county boards of education and made it a duty of each board to provide one or more high schools in the county. (422) Another act of this year created the Kentucky Educational Commission whose duties were to make a thorough investigation of the school system and all the educational interests of Kentucky, to make a comparative study of other school systems, and to submit to the next General Assembly a report embracing recommendations concerning the state's educational system. (423) Many of the suggestions embodied in this report, made a year later, formed the basis of constructive school legislation of subsequent years. (424)

Adult education received attention in 1911 with the advent of "moonlight schools." This movement was to bring nation-wide attention to a fight against illiteracy conducted on a magnitude never before undertaken by any state. Moonlight schools, so called because the terms were begun at a time when the light of the moon would facilitate travel to and from the school buildings, originated in Rowan County. Their success there caused this system of education to spread throughout the State and succeeded in bringing the educational needs of the great body of adult illiterates to the attention of the State as a whole. (425) Earlier in the same year a legislative act had created the Illiteracy Commission for the purpose of making a study of illiteracy in the State. Two thousand teachers volunteered to work in sixty counties, and soon 100,000 illiterate persons, ranging in age from fifteen to ninety-five years, were being taught to read and write. This movement had its inception in the moonlight schools and to it much credit must be given for reducing illiteracy in the State. (426)

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418. Acts, 1885-86, vol. 1, pp. 233, 234.
419. Const. of 1891, sec. 187.
420. Acts, 1904, p. 182.
421. Courier-Journal, January 22, 1925.
422. Acts, 1908, pp. 138-142
423. Hamlett, op. cit., pp. 209, 210, 226-229.
424. Acts, 1908, pp. 133-142, 170, 171.
425. Connelly and Coulter, vol. 2, p. 991.
426. Acts, 1914, pp. 101-103, Courier-Journal, March 19, 1916.

Governmental Organization and Records System (First entry, p. 117)

A survey in 1933 revealed that Kentucky ranked forty-seventh in the United States in school buildings and equipment. Coincident with the release of this information, the State Superintendent of Public Instruction issued an appeal to all school boards in the State to be ready to take advantage of government aid under provisions of the public works section of the National Industrial Recovery Act. (427) In February 1934, the Federal Emergency Relief Committee for Kentucky received $150,000 for current teachers' pay to be used in rural districts having a population of 5,000 or less to permit full school terms in those counties which had assessed the maximum school tax of seventy-five cents and were still unable to continue schools for the full term. (428)

The School Code of 1934 endeavored to repeal all the laws theretofore enacted in relation to popular education. County boards of education are required under this law to furnish, by establishment of a school or by contract with another district, at least an approved twelve-grade school service for the pupils in its district. (429) An act of 1938 made it a duty of each county board of education to provide appropriate high school service within the county for all children of high school grade. If the number of such children is not sufficient to warrant a high school, the board is required to transport such children to another district or provide board and room within reasonable walking distance of such a school, provided the expenses do not exceed $100 a year. (430)

Due largely to the aid of the Federal Government in building programs in recent years, there is at present a public school, although in some instances it may be a poor one, placed within a reasonable distance of every child in the Commonwealth. Adequate buildings, grounds, and other necessary equipment are being supplied at public expense. During the biennium ended June 30, 1937, $12,000,000 were expended in the state for school construction and improvements. This sum, of which approximately one-half represented Federal aid, was more than had been spent for school building at any similar period in the history of Kentucky. (431) The free textbook law approved March 16, 1928, (432) has also furthered the cause of public education in the State and during the school years of 1934-35, 1,333,402 books were purchased and delivered. The increase in school attendance in recent years is demonstrated by the contrast of the increase in population of 9.5% for the period of 1920 to 1935 against an increase in daily school attendance of 43%. (433)

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427. LEXINGTON HERALD, JULY 23, 1933.
428. THE LOUISVILLE TIMES, FEBRUARY 8, 1934.
429. ACTS, 1934, PP. 228, 229.
430. ACTS, 1938, FIRST SPECIAL SESSION, PP. 1039, 1040.
431. COURIER-JOURNAL, APRIL 10, 1938.
432. ACTS, 1928, PP. 183-188.
433. BIENNIAL REPORT OF THE SUPERINTENDENT OF PUBLIC INSTRUCTION OF THE COMMONWEALTH OF KENTUCKY, BIENNIUM ENDING JUNE 30, 1937, FRANKFORT, KY., DEC. 1937, PP. 10, 17, 18, 31.

Local Administrative Agencies

Almost from the beginning Kentucky attempted to establish a centralized local control of its county educational institutions. As early as 1805 county courts were authorized to appoint seven trustees for each county academy established under land grants of 1798. These trustees had the right of self-perpetuation, managed - or mismanaged - the land grants, buildings faculty; set the rates of tuition, the latter not always uniform; and formulated rules of discipline. (434)

An act of 1825 provided for the establishment of private schools and placed their management in the hands of seven trustees appointed by the county court. Three years later an amendment to this act took from the county court the authority to appoint trustees and provided for their election, for a term of one year, by the parents and guardians of children attending the schools. It also authorized subscribers to these schools to adopt a constitution and by-laws for the government of the trustees. (435)

An act to establish a uniform system of public schools was passed in 1830. This statute gave county courts the power to divide the counties into school districts and authorized the people to elect three trustees for each district. (436) So small, however, was the interest in education, and so great the unwillingness of the people to pay taxes, that few schools were ever organized under the provisions of this law.

An act approved February 16, 1838, organized in effect, the first public school system of the State. A State Board of Education, a body corporate, was created. This board was composed of the Secretary of State, the Attorney General, and the Superintendent of Public Instruction. The latter was appointed by the Governor. Local administration was provided by a five-member board of county school commissioners, appointed in each county by the State Board of Education and five school trustees elected from each subdistrict. The latter, with the county school commissioners, examined and classified persons applying for positions as teachers and issued certificates to successful applicants. Although subject to the supervision of the county school commissioners, the subdistrict school trustees were empowered to purchase or lease sites for schoolhouses, contract with and employ teachers, and levy and collect a poll tax not exceeding fifty cents on every white male resident over twenty-one years of age. In 1839 the number of county school commissioners in each county was reduced from five to three. (437)

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434. LITTELL, VOL. 3: 1805, PP. 279, 280; 1808, PP. 440, 441.
435. ACTS: 1825-26, P. 118; 1827-28, P. 15.
436. ACTS, 1829-30, PP. 272-281.
437. ACTS: 1837-38, PP. 276-282; 1838-39, PP. 381, 382.

Governmental Organization and Records System

(First entry, p. 117)

Although the act of 1838 provided a definite form of organization for a public school system, for years it struggled with doubtful success under the provisions of unsympathetic and crude legislation, with the result that no marked progress was made in education until after the War Between the States. (438) In the meantime, several legislative acts changed the number of county school commissioners and subdistrict school trustees in the various counties. In 1845 the appointment of the county school commissioners was given to the State Superintendent of Public Instruction who acted under the advice of a majority of the State Board of Education. (439) However, in 1849, this power was returned to the county court. (440) An act of 1856 reduced the number of county school commissioners in each county to one (441), and, in 1874, the number of subdistrict school trustees was reduced to one for each subdistrict. (442) In 1878 this number was increased to three. (443)

An important step was made in the progress of education when the office of county school superintendent was created in 1884. This official assumed the general administrative functions formerly discharged by the county school commissioners and managed the educational system in the county until the creation of county boards of education in 1908. (444) During this period the subdistrict trustees continued to function as formerly and were required to keep a record of their official transactions open at all times to the inspection of the county school superintendent. (445)

Prior to the establishment of county boards of education in 1908, the so-called subdistrict trustee system had prevailed in the State for nearly a century. During this time at almost every session of the legislature amendments were made, or new laws passed embodying attractive features adopted from laws of other states, and by various makeshifts, attempts were made to modernize the methods and offer fuller opportunities to the children of Kentucky. The result of all this, however, was practically the destruction of the system. The school laws were full of inconsistencies, incongruities and obscurities. The State Board of Education had become merely a clerical bureau for the distribution of funds, and the real power was in the hands of 25,000 subdistrict trustees. These, in groups of from three to six, controlled the 8,000 school districts, and each group was in a large measure a law unto itself. (446)

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438. Acts, 1843-44, pp. 53, 54.
439. Acts, 1844-45, pp. 47, 51.
440. Acts, 1848-49, pp. 26, 27.
441. Acts, 1855-56, vol. 1, pp. 103-105.
442. Acts, 1873-74, p. 61.
443. Acts, 1877-78, vol. 1, pp. 21, 22.
444. Acts, 1883-84, vol. 1, pp. 131-139.
445. Acts, 1883-84, vol. 1, pp. 143, 144.
446. Hamlett, op. cit., p. 206.

Governmental Organization and Records System (First entry, p. 117)

Under provisions of the act of 1908, which created the county boards of education, each county composed one school district. This act also provided that cities and towns might maintain separate systems of public schools within their limits. The county judge was required to meet with the county attorney and the county superintendent of schools to divide each county school district into educational divisions containing as nearly as possible an equal number of children of school age. This same board divided each educational division into subdistricts, each of which, in order to obtain its share of the common school fund, was required to contain not less than 30 or more than 100 white children of school age. It was also provided by this act that one trustee should be elected by the voters of each subdistrict. The county superintendent of schools, organized the trustees of each division into a board and elected a chairman and secretary. Under the provisions of this act the trustees in each subdistrict exercised personal supervision over their schools and reported their needs to the division board. The county board of education was composed of the chairmen of the several educational boards in the county and the county superintendent of schools, the latter being a member ex officio. In addition to its functions connected with financing the public school system, this board was required to establish, within two years, one or more high schools in the county, and it was also authorized to lease, sell, rent, and repair school sites, buildings and furnishings, condemn property for school use, receive grants or donations for the benefit of the schools, and employ and fix salaries of teachers in the high schools. (447)

Legislation of 1922 provided that the county, as one school district, be continued under the general administration of the county board of education, which consisted of five members elected by the voters of the county. The county superintendent of schools was executive officer and secretary of the county board of education. (448)

An act of 1932 increased the number of school trustees from one to three for each district, this act being passed after widespread charges that individual trustees had been selling school jobs. (449) Under the School Code of 1934, which with minor changes governs the schools of today, subdistrict trustees are elected by secret ballot. Under provisions of this code the subdistrict trustees nominate competent teachers in their subdistricts to be elected by the county board of education, and they have general control over the school property in the subdistricts. They also advise with the county school superintendent on all matters pertaining to the general welfare of the schools.

The county board of education meets monthly, but special meetings may be called upon request of three of its members. The board elects a county school superintendent, a secretary, and a county school treasurer,

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447. ACTS, 1908, PP. 133-142.
448. ACTS, 1922, PP. 150-153.
449. ACTS, 1932, PP. 371, 372; THE COURIER-JOURNAL, FEBRUARY 19, 1932.

who may also act as secretary. The county board of education reports to the State Board of Education on all phases of the school services and publishes, for the benefit of the public, a report on the progress of the schools. It is authorized to take possession of, sue for and recover, sell, or convey such property in the district as reverts to the state, and it may convert to the general school fund the income from invested money which it holds. (450)

Financial Administration

Elsewhere in this section it has been pointed out that the early schools of Kentucky were primarily dependent for financial support from private subscriptions. The first provisions made for the levy of a local tax came with the enactment of the 1830 law which authorized school commissioners to levy and collect an ad valorem tax not exceeding six and one quarter cents on the $100 assessed valuation, and a poll tax not exceeding fifty cents. (451)

An act of Congress of June 11, 1836, however, deposited with the Commonwealth $1,433,757 of the surplus revenue of the United States, with the understanding that the profits arising from this sum should be set apart for sustaining the public schools of the State. (452) A legislative act approved February 23, 1837, dedicated only $1,000,000 of this fund for founding and sustaining a general system of education. Nor did this mark the end of the State's encroachment upon this school fund. Exhausting the treasury as the result of an extensive and costly system of internal improvements, the legislature again drew upon the resources of the common schools. By an act approved February 16, 1838, the $1,000,000 "education fund" was reduced to $850,000. (453)

Under the act of 1838 the interest from the school fund was apportioned to the respective counties according to the number of school children in the district, but no county was permitted to receive any portion of this fund until a school had been organized, a schoolhouse built, and a school tax levied. Upon being advised of their share of the school fund, the county courts were authorized and required to submit to the voters of each school district the question of levying a sum upon the taxable property which, when added to the money received from the state fund, would be sufficient to meet all the school expenses of the district. (454) In 1840 the State refused to pay the interest on the school fund, and in 1845 the school bonds were destroyed by authority of a legislative act. (455)

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450. Acts, 1934, pp. 247-277
451. Acts, 1829-30, pp. 272-281.
452. U.S. Statutes At Large, vol. 5, p. 55.
453. Acts: 1836-37, p. 321; 1837-38, p. 274.
454. Acts, 1837-38, pp. 276-281.
455. Acts, 1844-45, p. 69.

 (First entry, p. 117)

The office of county school treasurer was created in 1843, and made appointive by the county court. (456) This power of appointment, however, was given to the county school commissioners by an act of 1845. The same act also provided that no taxes could be levied in any district unless two-thirds of the voters living in the district so voted. (457)

District taxation, the most vital feature of the 1838 law, was discarded in 1845 and raising money by private subscription substituted. (458) This doubtless was due to the numerous objections voiced against district taxation. The many serious changes made in the school laws weakened the confidence of the people in the stability and effectiveness of the system. The idea of popular education apparently had not taken root in the affection and life of the people.

In 1848 the debt to the school fund was recognized and capitalized in the form of a bond (459), and in 1849 a proposal to levy a State two-cent tax for schools was submitted to a vote of the people and adopted. The school fund was also benefitted at this time by returns from the Green and Barren River projects. (460)

The Constitution of 1850 provided that the capital of the common school fund be held inviolate for the purpose of sustaining a system of common schools and directed that the income of the school fund should be appropriated in aid of common schools, and for no other purpose. (461) In this manner the legislature was deprived of power to use school funds for internal improvements or to defray the ordinary expenses of government. The fund at this time consisted of $1,225,768.42, for which bonds had been executed by the State to the State Board of Education; and also $51,223.29 which was the unexpended balance of interest on the fund for the year 1848. (462) In 1856 the State tax was raised from two to five cents per $100 of assessed valuation. (463)

An act passed in 1865 provided that all taxes collected from Negroes and mulattoes be set apart and constitute a separate fund for their use and benefit. An additional tax of two dollars was authorized to be levied on every Negro and mulatto over eighteen years of age. (464) In 1869, after a bitter legislative fight, the State school tax was raised to twenty cents. (465) This increase of school revenue and the enactment of the new school laws began a marked era of reform and progress in education.

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456. ACTS, 1842-43, PP. 72, 73.
457. ACTS, 1844-45, PP. 47-51.
458. IBID., PP. 53, 54.
459. ACTS, 1848-49, PP. 26, 27.
460. ACTS, 1849-50, PP. 29-31.
461. CONST. OF 1850, ART. II.
462. SMITH, OP. CIT., P. 703.
463. ACTS, 1855-56, VOL. I, P. 11.
464. ACTS, 1865-66, PP. 51, 72, 74.
465. ACTS, 1869-70, P. 28.

Unquestionably this was one of the most important pieces of school legislation in Kentucky and may well be regarded as one of the four greatest events in the history of education in the State.

The use of any part of the common school fund or the revenue thereof, for any purpose other than the payment of legally qualified and employed teachers, was prohibited by an act of 1884. (466) An act approved May 4, 1888, authorized the subdistrict school trustees, after approval of the voters of the district, to levy an annual ad valorem tax not exceeding twenty-five cents on each $100, a poll tax not exceeding two dollars, and to issue bonds for the erection of school buildings. (467)

The school fund in 1893 consisted of $1,327,000, in addition to a surplus of $381,986, then due the several counties. This was to remain a perpetual obligation against the State for the benefit of the counties. Through provisions of the Constitution of 1891 the school fund had been augmented by $606,641, a refund received from the United States Government from direct taxes levied during the war. This school fund was further benefited by an annual tax of twenty-two cents on each $100 of all real and personal property and corporate franchises directed to be assessed for taxation. (468)

Under provisions of an act of 1908 the fiscal court was required, upon a receipt from the county board of education of an estimate for educational needs, to lay a tax not to exceed twenty cents on each $100 of property, and a capitation tax not to exceed one dollar, provided that no tax for school purposes should be levied on property of residents in cities and towns maintaining a separate and distinct system of schools. (469)

From 1851 to 1912 the school fund had been distributed among the districts upon the per capita basis, that is, in proportion to the number of children of pupil age residing in the district, and not by the number who actually attended school. An act of 1912 placed the State fund belonging to a county in the hands of the county board of education to be used for teachers' salaries upon the basis of the qualification of the teacher and the relative school attendance. To carry out the provisions of this law the county boards of education found it necessary to reduce the salaries of some of the higher paid teachers in order to provide a living wage for those of the smaller schools, but apparently this was the real purpose of the law. This law fixed the maximum salary of teachers at seventy-five dollars a month and the minimum at thirty-five dollars, thereby attempting to provide equal pay for equal service. (470) An

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466. Acts, 1883-84, vol. I, p. 111.
467. Acts, 1887-88, vol. I, pp. 194-200.
468. Const. of 1891, sec. 188; Acts, 1891-93, p. 1416.
469. Acts, 1908, p. 139.
470. Acts, 1912, pp. 402, 403.

act of 1920 provided for a minimum salary of seventy-five dollars for teachers. (471)

All money and securities due and belonging to the county board of education for the use of public schools were, by an act of 1922, deposited with the county treasurer, elected by the county board of education, and not a member of the board. The board had entire control of the county school funds and no amount for school purposes could be appropriated from the county treasury except when so ordered by a majority of the board. (472)

A decision of the Court of Appeals in 1931 put the county boards of education on a pay-as-you-go basis by invalidating $845,600 of refunding bonds issued by various county boards and making illegal an additional $2,500,000 of floating debts, open accounts and notes. Before this court ruling the county boards of education had been under but few restrictions. The Court of Appeals had previously ruled that the fiscal court could issue bonds to retire an accumulated debt, if that debt when added to the taxes collected in a year, did not exceed the total that would have been collected if the maximum tax levy had been imposed. Representatives of bonding houses reasoned that if a fiscal court could retire a floating debt, so then might a county board of education. Some bonding houses were sending agents to show county boards of education how money could be had without raising the school levy, so, without first making a test case, many boards were prevailed upon to issue bonds and pay floating debts. The monetary loss to individuals and possibly to bonding houses as the result of this court decision was estimated to be $3,345,000. (473)

The School Code of 1934 provided that all school taxes be levied by the fiscal court, except in cities of the first, second, third, and fourth classes having independent school districts, and also that the levy of an annual ad valorem tax and the issue and sale of bonds for school purposes be submitted to voters of subdistricts by the county boards of education. It was stipulated, however, that the rate of taxation for school purposes should not exceed seventy-five cents on each $100 of assessed valuation and the proceeds should be for the benefit of the subdistrict. (474)

It became a duty of the county board of education under provisions of the 1934 act to prepare a school budget, showing the estimated total to be received from the common school fund, the amount to be raised by local taxation, and to file a copy of the budget with the clerk of the tax

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471. Acts, 1920, pp. 8, 9.
472. Acts, 1922, pp. 153, 154.
473. Hockensmith v. County Board of Education of Franklin County, 240 Ky. 76 (1931).
474. Acts, 1934, pp. 237-239, 259-261.

levying authority of the district. Poll taxes levied under the provisions of this act were limited to two dollars on each male inhabitant, and could not be levied in any district embracing a city of the first class. Each county board of education was authorized to appoint a bank or trust company to serve as its depository. The county boards of education might also, borrow money and issue negotiable notes in anticipation of revenue from school taxes, and when deemed necessary for acquiring or building schools, issue bonds to obtain necessary funds. (475)

An act of a special legislative session of 1934 authorized counties to acquire elementary and high school buildings and to issue bonds therefor, payable from revenue of such buildings, for the purpose of qualifying for financial assistance from the Federal Government. District boards of education were also authorized to convey school sites to other boards to permit amortization of the cost of school construction under Federal grants. (476)

Public Health

The first movement in Kentucky toward protection of public health came in 1798 when a legislative act empowered the county court to employ a physician to inoculate persons against smallpox. (477) A few years later, another step was taken when the county court was authorized to provide medical aid for any persons unable to provide it for themselves. (478) The county judge was later given the power to employ a physician for vaccinations and the court of claims was required to provide payment for such services. (479) In 1873 all persons of the age of twenty-one years and over, who had not been successfully vaccinated, were required to procure their own vaccination or re-vaccination. (480) A decision of the Court of Appeals in 1916 upheld the authority of the county board of health to order vaccinations. The court in discussing the case stated: "the power and discretion lodged in health boards will not be interfered with by the courts unless it is plainly abused." (481)

The first attempt to establish State control for county health work came in 1893 when county boards of health were created by a legislative act which authorized the State Board of Health to appoint three or more intelligent and discreet citizens of the county to constitute such a board. (482) In 1904 this act was amended and the county board of health

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475. ACTS, 1934, PP. 266-272.
476. ACTS, 1934, SPECIAL SESSION, PP. 119-129.
477. LITTELL, VOL. 2, 1798, P. 46.
478. IBID., VOL. 3, 1803, P. 133.
479. REV. STAT., VOL. 2, P. 389.
480. GEN. STAT., 1873 ED., P. 790.
481. HIGHLAND PARK GRADED COMMON SCHOOL DISTRICT NO. 46 V. MCMURTRY, 169 KY. 457 (1916).
482. ACTS, 1891-93, PP. 824-826.

was composed of three licensed and practicing physicians, together with the county judge and one person appointed by the fiscal court. (483)

Under the present law, the fiscal court may create a county board of health by resolution which, however, is subject to reversal by vote of the electors. On the other hand, the initiative is in the hands of the voters to set up a county health department in case the fiscal court fails to act. Upon adoption of the resolution referred to, the fiscal court is required immediately to appropriate out of the county funds on hand, or to authorize to be paid out of the county levy, amounts deemed sufficient to support such a board and its activities. The court is then required to notify the State Health Department of its action, and that department in turn must investigate the adequacy of the appropriation as measured by the needs of the county. If it is satisfied with the measures taken the department of health is established and must be maintained up to the standards required by the rules and regulations of the State Board of Health. The department may report its findings to the Governor, who may authorize the Auditor of Public Accounts to draw his warrant in favor of the State Board for work in the county to the amount of $2,500 per annum. The salary of a full-time health officer must be not less than $2,000 or more than $3,000 a year. The State Board may appoint also, in certain counties, from one to three assistant health officers, and make regulations for the control of public health and prevention and control of contagious and infectious diseases within the county. The county health officer is required to be a licensed physician. He is removable at any time by the county board, but may appeal from its decision to the State Board. If funds are adequate, he is required to maintain a laboratory and to make chemical and bacteriological examinations, and to enforce the orders of the local and State boards. Among his duties is the exercise of rather broad police powers, including the right to condemn unsanitary school buildings. In the exercise of his powers, he may call upon the county attorney for legal aid. (484)

Under provisions of an act of 1918 counties may now receive state aid up to one-third of the monthly salary, which aid in no case may exceed twenty-five dollars monthly, for employment of a visiting nurse. This nurse cooperates with the county board of health in caring for cases of communicable diseases and giving instructions to families in disease prevention. This nurse also cooperates with the county board in conducting prenatal and child hygiene conferences. She visits schools, conducts drills to inculcate health habits in pupils and instructs them in personal hygiene. (485) By more recent legislation counties are authorized to contract with other counties or municipalities for hospitalization of indigent

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483. Acts, 1904, p. 107.
484. Acts: 1918, pp. 290-315; 1920, pp. 558-565.
485. Acts, 1918, pp. 149-153.

sick when the county itself has no facilities for caring for such cases. (486)

Public Welfare

In no activity has the county had greater freedom of action than in dealing with paupers. The statutory provisions for the care of the poor have taken the form generally of authorizations to spend money rather than alleviate poverty. In this condition of practically absolute freedom, the counties have generally chosen to ignore what slight law there was on the subject and work out their problems as best they could. Early legislation required the various county courts to provide for the poor when laying the county levy. Hence, it was recognized as the interest as well as the duty of the Commonwealth to take care of the helpless poor and, as parens patriae, the state confided that curative trust to the county courts as its representatives. (487)

Other early legislation made it unlawful to bring a pauper from another state or from one county to another. Any person doing so was required to furnish a bond for the support of the pauper or go to jail. (488) Legislation of 1820 provided for a grant of 100 acres of waste land to any widow without an estate of a value of $100 or more. (489)

Legislation of 1821 provided for the establishment of poorhouses by counties, and the appointment of superintendents and receivers for the money appropriated for the maintenance of such institutions. (490) Although poorhouse commissioners, superintendents, and receivers were authorized by statutory provision, none of the titles was generally used. It became the practice of the county courts to designate some person to take charge of the poorhouse and poor farm, although the statutory provisions authorizing these appointments were reaffirmed by later legislation. (491)

A decision of the Court of Appeals in 1869 held that the establishment of a poorhouse was not compulsory, that the inherent power of the State to provide for the poor was plenary; and the enactment concerning poorhouses was only a partial fulfillment of that trust. This decision also held that the object of trust confided to county courts as curators of the poor was two-fold: first, to save from starvation a helpless and pestilent class of adult poor; and, second, to maintain and take care of poor infants and mold them for the benefit of society as well as for their own welfare. Stating that the food, raiment, and

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486. Acts, 1936, pp. 298, 299.
487. Littell, vol. 1, 1793, p. 191.
488. Ibid., vol. 2, 1798, p. 87; Gen. Stat., 1873 ed., p. 696.
489. Acts, 1820-21, p. 159.
490. Acts, 1821-22, p. 385.
491. Rev. Stat., vol. 2, pp. 215-217; Gen. Stat., 1873 ed., pp. 696, 697.

shelter furnished by the poorhouse supplied only the physical wants and that the mental and moral wants required careful tutelage, neither of which was possible in a mere poorhouse, this decision also held that when the poorhouse failed to fulfill these wants entirely, the county court may and must, to some extent, supply the deficit by other and more benefiting means. (492)

Pauper idiots came in for legislative consideration when it was provided that they might remain with their families as long as their maintenance did not exceed the amount that would be similarly expended for them as inmates of the asylum. This was set at fifty dollars per year. (493) This allowance was later increased to seventy-five dollars. (494)

The General Statutes provided that the county court in term time or the county judge in vacation might order a pauper to the poorhouse and cause medical aid to be furnished at public expense when needed. County courts were also authorized to prescribe on their records just and humane rules for management of poorhouses and poor farms, and to provide for burial of paupers. (495)

When the fiscal courts were created all legislation conferring the care of the poor upon county courts was repealed and this function was placed under the jurisdiction of the fiscal courts. (496)

By an act of 1894 county courts were given jurisdiction to commit minors adjudged to be vagrants or destitute to a charitable reformatory or other authorized institution. (497) It was made a duty of fiscal courts in 1902 to provide hospitalization facilities for the indigent sick of the county or contract with another hospital in the county for the care of such persons. (498)

Legislation of 1928 set up the Kentucky Children's Bureau which was given supervision of the county children's bureaus created by the same act. The duties of the county bureaus were to discover dependent, neglected, delinquent, and defective children and obtain for them the benefits of the law, and make such investigations and perform such other services as were requested by the fiscal court, county judge, or the

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492. ORPHAN SOCIETY OF LEXINGTON v. FAYETTE COUNTY, 6 BUSH 413 (1869).
493. ACTS: 1823-24, P. 432; 1824-25, P. 112; REV. STAT., VOL. 2, PP. 215-217.
494. ACTS: 1891-93, P. 853; 1928, P. 81.
495. GEN. STAT., 1873 ED., P. 698.
496. ACTS, 1891-93, P. 268; FARMER v. MARR, 238 KY. 417 (1931).
497. ACTS, 1894, PP. 28, 29.
498. ACTS, 1902, P. 215.

Kentucky Children's Bureau. (499) This bureau was abolished by legislation of 1934, and under provisions of the Administration Reorganization Act of 1936, the State Department of Public Welfare is required to provide welfare service to the counties including the organization and supervision of county departments for the administration of welfare functions. (500)

Public Works

Roads and Bridges

During the first century of Kentucky's history as a state, the county courts, until 1892, exercised supervision over county roads and bridges. Since 1892, when the fiscal court became a separate body to carry on the functions of the county court of claims and levy, the county and fiscal courts have had joint control of the county's roads and bridges. County roads in Kentucky, mostly dirt, though sometimes surfaced or "pike" roads, had always been constructed and maintained at county expense. Since 1912, when a State Department of Roads and Highways was created, the State and the Federal Governments have cooperated with counties in the construction and maintenance of post roads and Federal highways. The counties have remained in sole charge of such roads which are not an integral part of the State and National highway system.

From the founding of Breckinridge County until December 1851, a person or persons wishing to have a new road opened or an existing road altered for the convenience of traveling to the county seat, to Frankfort, or to any public warehouse, landing, ferry, mill, lead or iron works, church, or other important place, made application to the county court, which then appointed three or more road viewers. These appointees were to view the proposed route - in case of an application to alter a road, to view the existing road as well - and report to the court the comparative advantages and disadvantages of the proposal. If the court approved the proposal, it issued summonses to landowners through whose property the new road would go, to show cause why the work should not be done; if damages could be agreed upon, the court then ordered the work to be done. If interested parties could not agree with the court as to proper damages, the court ordered its clerk to issue a writ of ad quod damnum to be directed to the sheriff, commanding the latter to impanel a jury of twelve freeholders. This jury was charged with the duty of viewing the ground and assessing proper damages for both the use of the land and for the additional fencing rendered necessary. The court then weighed the findings of the jury, the road viewers' report, together with any other evidence, and decided whether the work should be done; if the court decided in the affirmative, it levied on the county,

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499. ACTS, 1928, PP. 129-142.
500. ACTS: 1934, P. 879; 1936, FIRST EXTRA SESSION, P. 3.

at the next laying of the county levy, the damages assessed and the jury costs; if the court decided not to do the work, the jury costs were charged against the applicants. It was not legal, however, for the court to order a road to be opened through any lot of land in any town, without the consent of the owner or tenant. (501) This procedure continued unchanged - except that an act of 1851 stipulated that the county court should appoint only two road viewers (502) - until an act of 1893 provided the following differences in procedure: a petition for a new road or for alteration of an old road must be signed by at least five landowners; three commissioners were to be appointed by the county court to act as both road viewers and as commissioners to assess damages to which owners of property condemned for the road should be entitled. The commissioners made a full report in writing to the county court, setting forth advantages and disadvantages of the proposal, the names of landowners affected, and the probable damages to be assessed. If the court decided the road was of insufficient utility, or if the applicants refused to pay the necessary damages, the court dismissed the application at the cost of the petitioners; but if the court thought the road useful, it issued writs of ad quod damnum summoning interested parties to the hearing. If the latter filed no exceptions, the court made its decision. If exceptions were filed, the court impaneled a jury and received its verdict. It then determined what action should be taken. It could open or alter a road on condition that the petitioners pay all or part of the attendant expenses; or it could include such costs in the next county levy. If the court decided to open or alter the road, the court issued an order to that effect to the road overseer of the precinct in which the road was to be built. (503)

When the county found it necessary to build a bridge over a county line or to build a road into an adjoining county, the county court notified the county court of the adjoining county of such intention and requested the appointment of three commissioners to meet with its commissioners, so that the joint commission could come to terms about the work involved. If the county court of the adjoining county refused to cooperate, the first county court could apply to the circuit court of the non-cooperating county for a writ of mandamus and thus force compliance. (504) This procedure, with minor variations, continued (505) until 1893, when the fiscal court was given jurisdiction instead of the county court. (506)

Meantime an act of 1860 had brought in a new variety of procedure: namely, that when the route of a proposed new road began in the county, ran into another county but finally terminated in the first county, the

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501. LITTELL, VOL. I, 1797, PP. 633-636.
502. REV. STAT., VOL. 2, PP. 285-289.
503. ACTS, 1891-93, PP. 1187-1192.
504. LITTELL, VOL. I, 1797, P. 637.
505. REV. STAT., VOL. 2, PP. 292, 293.
506. ACTS, 1891-93, PP. 1196, 1197.

circuit and county courts of the first county were given jurisdiction to appoint viewers for the entire length of the road in both counties, and to decide whether to establish the road. (507) This procedure was soon changed to give the county court sole authority in such a case (508), and this method was reaffirmed in 1893. (509)

These two methods of constructing both bridges and roads between adjoining counties continued in operation until 1912, when the State Department of Public Roads was created and took over the duty of building and maintaining State roads and bridges throughout the Commonwealth. The commissioner of this department determined the method of their construction. (510) This somewhat vague act was superseded by an act of 1914, which specified that if it became necessary to build or repair any bridge or road between two counties, the respective fiscal courts could enter into such agreements as they thought best; but in case of disagreement, it was the duty of each court to appoint two special commissioners to meet with the road engineers of the two counties and the State Commissioner of Public Roads, or his representative, and arrange the matter. If either fiscal court failed to appoint the special commissioners upon request, or if either court failed to fulfill its part of the agreement, the remedy remained as before; namely, application to the circuit court of the non-cooperating county for a writ of mandamus to compel the county's fiscal court to do "what ought to be done in the matter." (511) This act is the present law upon the subject of inter-county bridges and roads, except that subsequent changes have now established a State Department of Highways, and the commissioner of this body now acts as consultant in such inter-county matters. (512)

The basic road act of 1797 gave the county court the powers which it has today, to divide all the public roads in the county into precincts, and to appoint, as often as the road situation necessitated, a road surveyor to oversee the roads in his precinct. (513) The road surveyor continued indefinitely in office until the county court replaced him. (514) A later law stated that he could not, without the court's consent, resign his place under two years, unless he moved from the precinct. (515) An act of 1894, reaffirmed by the present law, specified that his appointment by the court was for two years. (516)

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507. Acts, 1859-60, p. 103.
508. Gen. Stat., 1873 ed., p. 268.
509. Acts, 1891-93, p. 1198.
510. Acts, 1912, pp. 98, 99.
511. Acts, 1914, p. 349.
512. Acts, 1936, First Extra Session, ch. 1, art. 12, sec. 1.
513. Littell, vol. 1, 1797, p. 634; Acts, 1914, p. 381.
514. Littell, vol. 1, 1797, p. 634.
515. Gen. Stat., 1873 ed., p. 764.
516. Acts: 1894, p. 79; 1914, p. 381.

Ten days after the appointment of a road surveyor, the county court clerk delivered a copy of the order of appointment to the sheriff. The sheriff endorsed thereon the time he received it and, within fifteen days after receipt of the order, delivered it to the road surveyor, together with a description of the bounds of the road precinct and a list of the tithables over whom the road surveyor was placed; the sheriff returned the original order, properly endorsed, to the circuit court clerk. The county court clerk also posted annually in the courthouse a list of the names and precincts of the road surveyors in the county. Neglect of such duties by either the county court clerk or the sheriff was punished by a fine of fifteen shillings, such fines going to decrease the county levy. (517) A later act provided the same procedure, but punished neglect of such duties by the clerk and sheriff with a fine of $2.50 for each offense. (518) An act of 1894 broadened this procedure by requiring the clerk to deliver two copies of the order of appointment to the sheriff, or to a constable, town marshal, or the county jailer; the officer delivering the order was required to return a copy, with his endorsement of service, to the county court. Failure to do so was penalized by a five dollar fine. (519)

The duties of the road surveyor (overseer) are especially important in giving a picture of the development of the road system in the county, since a recountal of his functions shows in detail an evolution of the primitive system of communal road labor, road fines, and the use of slaves. In 1799, the duty of the road surveyor was to superintend the road in his precinct and to see that it was cleared and in good repair. All male laborers, white and black, who were sixteen years old or more, except masters of two or more slaves, were appointed by the county court to work; every such appointee, who refused or failed to provide an able substitute, or who failed, without legal cause, to appear at the work place with proper tools, was fined seven shillings and sixpence for each day's offense. This fine was paid by the offender if he were a free man of full age; if an infant, by his parent, master, or guardian; or if a slave or servant, by his overseer or his master. This fine was recovered by the road surveyor before any justice of the peace in the county; one half of the fine went to the overseer and the remainder was used for further improvement of the road. (520) Ministers of the Gospel were exempted from road work (521), as were all free male inhabitants of the county who were fifty years or older. (522) The road surveyor could not call out road hands on militia muster days; he had to give two days' notice to road workers, but could call out one or more hands at any time to remove road obstructions. (523)

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517. LITTELL, VOL. I, 1797, PP. 634, 635.
518. GEN. STAT., 1873 ED., P. 764.
519. ACTS, 1894, PP. 79, 80.
520. LITTELL, VOL. I, 1797, P. 633.
521. LITTELL, VOL. 3, 1804, P. 203.
522. ACTS, 1822-23, P. 108.
523. ACTS, 1819-20, P. 886.

Governmental Organization and Records System

(First entry, p. 117)

Shortly after 1850 an act reaffirmed the above-mentioned provisions for road labor but specified that the fine of $1.25 be applied entirely for the improvement of the road. (524) A later act changed the fine to $2.50. (525) An act of 1893, however, provided that the fiscal court could require all able-bodied citizens of the county over eighteen years of age and under fifty, except ministers and citizens of incorporated towns and cities, to work on the roads not exceeding six days a year. A day's work was eight hours and, delinquent road workers were fined $2.50. Road and bridge supervision was placed under the fiscal court instead of the county court. (526) An act passed in 1894 reaffirmed these provisions, specified that hands need not work more than two of their six required days in any one week, and that if the fiscal court paid the hands, the court could require them to work more than six days in a year. It was within the fiscal court's discretion to pay a reasonable sum per day to hands allotted to work, for all or any part of their labor. In case payment was made, the amount due each man was certified by the overseer to the fiscal court, which then directed the sheriff to settle all such claims at tax-payment time in the event the worker owed taxes; and if he owed no taxes, or if the claim amounted to more than the taxes due, the sheriff paid the claimant, taking a receipt as a voucher for his settlement with the county treasurer. Fines of $2.50 were recoverable from delinquent workers, as before. (527) A later law gives any one subject to road duty the privilege of exemption for a year upon payment of ten dollars. (528) These statutory provisions have remained in effect to the present time. In 1932 the fiscal court was given the option to allot hands for road work or to employ road labor. The overseers report to the fiscal courts the number of road workers and the time worked, and furnish each worker a certificate of his time in counties where the practice of employing road workers is followed. (529) This is the practice followed in Breckinridge County. (530)

An act of 1893 provided that male prisoners confined in county jails or workhouses, under sentence of hard labor, were available to the overseer for road work, but could be used on contract work only if the contractor consented. (531) An act of 1914 dropped the provision concerning contract work (532), was reenacted in 1920, and is the present law. (533)

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524. REV. STAT., VOL. 2, P. 290.
525. ACTS, 1865, VOL. 1, P. 137.
526. ACTS, 1891-93, PP. 1194, 1195; FOR ROAD AND BRIDGE TAXES LEVIED BY THE COURT, SEE FISCAL COURT, P. 105 ; AND FOR OTHER DUTIES OF THAT COURT IN CONNECTION WITH THE COUNTY'S ROAD SYSTEM, SEE FISCAL COURT, P. 114 FF.
527. ACTS: 1894, P. 78; 1914, PP. 379, 380.
528. ACTS, 1928, P. 591.
529. ACTS, 1932, PP. 724, 725.
530. SEE ROAD ORDERS, FISCAL COURT ENTRY 39, P. 125.
531. ACTS, 1891-93, P. 1199.
532. ACTS, 1914, P. 465 FF.
533. ACTS, 1926, P. 713; CARROLL, SEC. 1379-1.

From the establishment of the county, the road surveyor has had the duty of providing road markers and keeping them in repair. When bridges or causeways were needed, he built them at least twelve feet wide (but when such construction work was too difficult for him and the road hands, the county court could contract for the work and charge the costs in the county levy), and could take from adjoining land such materials as stone, earth, and timber, which were first viewed and valued by two housekeepers appointed for the purpose by a justice of the peace, unless the owner gave the material freely. When teams were necessary, the road surveyor could obtain a warrant from a justice of the peace to impress such after two viewers, appointed and sworn by a justice of the peace, had made a valuation of the teams' services per day; this valuation, with a certificate from the overseer of the number of days each team worked, constituted the owner's claim on the county. (534)

The road surveyor's duties, as previously stated, continued until 1893, when the fiscal court was directed to prescribe necessary regulations for the management of the county's roads and bridges; and the overseer, acting under such rules, was allowed to hire teams, wagons, and other implements. Nothing is said about materials to be taken from adjoining land, and the inference is clear that such materials were procured by contract or in any other manner prescribed by the fiscal court. (535) These provisions continue in effect (536), with the exception that a later law now provides that the road overseer may not use teams or other equipment, or undertake work, requiring the expenditure of money, without previous written authority from the fiscal court. (537)

Public Buildings

Upon the creation of the county, the county court was authorized to erect public buildings. This has been a general power of the county court, and after its creation, the fiscal court.(538) Since 1892 the fiscal court has had the power to issue bonds and levy an ad valorem tax for county buildings, subject to the approval of the voters. (539)

Following the general policy of separate administration of the public school system, the erection of school buildings has been for the most part a function of school authorities. During the early days of Breckinridge County, school buildings were provided by joint subscrip-

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534. LITTELL, VOL. I, 1797, P. 835.
535. ACTS, 1891-93, PP. 1194, 1195.
536. ACTS, 1914, P. 382.
537. ACTS, 1932, P. 725.
538. SEE FISCAL COURT, P. 105.
539. ACTS, 1891-93, P. 198; CARROLL, SEC. 1872.

tion and joint labor. (540) The act of 1838, however, which created the State Board of Education, authorized district school trustees to lease or purchase sites for needed schoolhouses. (541) Later legislation gave district school trustees additional power to condemn property for use of schools, provided such property did not exceed one acre (542), and in 1888 they were authorized to issue bonds for the erection of school buildings. (543)

An act of 1908, creating the county board of education, gave that body jurisdiction over building, improvement, and equipment of schoolhouses, and required the board to establish in the county, within two years, one or more high schools. (544) A later act authorized the county judge to appoint, upon petition of 250 or more legally qualified voters, a school building commission of four persons, two from each political party, to superintend building of schools. Voters determined the question of issuing bonds for school construction. (545) The county board of education today has general supervision of school building construction and may borrow money and issue negotiable notes in anticipation of revenue from school taxes; the board may issue bonds to obtain necessary funds to acquire or build schools, and for the purpose of qualifying for financial assistance from the Federal Government. (546)

Reclamation

The fiscal court was given authority in 1894 to carry out drainage programs (547), which authority was later transferred to the county judge. This included drainage projects to drain or reclaim low, swampy, or over-flowed lands. It was stipulated, however, that this action could be taken only upon petition of twenty-five per cent of the landowners of the land affected, or the owners of twenty-five per cent of the land. (548)

Under provisions of an act of 1918 as amended by an act of 1924 jurisdiction, power and authority to establish and organize drainage, levee and reclamation districts was conferred upon all county and circuit courts of the Commonwealth, such jurisdiction to be concurrent, the one with the other. The circuit court also was given appellate jurisdiction with reference to all reclamation matters from the county court. (549)

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540. ALVIN FAYETTE LEWIS, HISTORY OF HIGHER EDUCATION IN KENTUCKY, WASHINGTON, 1899, PP. 30, 31.
541. ACTS, 1837-38, PP. 279-282.
542. ACTS, 1883-84, VOL. I, PP. 133-137.
543. ACTS, 1887-88, VOL. I, PP. 194, 200.
544. ACTS, 1908, PP. 138-142.
545. ACTS, 1912, PP. 141-146.
546. ACTS, 1934, PP. 266-268, 364-370.
547. ACTS, 1894, P. 216 FF.
548. ACTS: 1912, P. 483; 1918, P. 502 FF.
549. ACTS: 1918, P. 191; 1924, P. 491.

 (First entry, p. 117)

Records System

Maintenance of Records

Early in the county's history, the records were kept in a more or less haphazard fashion according to the ideas of the incumbents of the various offices, since the statutes of Kentucky made no definite provision for keeping records in a uniform manner. Today, records are maintained with greater regard for uniformity than was possible in the past, since standard printed forms are available to replace the miscellaneous kinds previously used. Loose-leaf sheets which may be typed and bound have eliminated many of the undesirable features of early recording; and these, together with modern binding practices enable the present county officials to record and preserve their records with less difficulty than before and with a minimum degree of variance from the way in which officials of other Kentucky counties keep their records.

The deed, mortgage, and order books, the oldest records of the county, were handwritten from 1800 to 1905, and also for the years 1906 and 1911. With the exception of these years, they have been typed. Since 1923 deeds and mortgages have been recorded in loose-leaf volumes; orders have been similarly recorded since 1928. Prior to these years the volumes were stitched. They are bound in heavy morocco leather and most of the original bindings are in fairly good condition. The first quarter session order book, however, was found to have no cover, and was rebound in the state office of the Kentucky Historical Records Survey Project. The first deed book fell to pieces and was recopied by the county court clerk in 1883, who received the usual recording fee of two cents for each twenty words.

Such regulations as exist pertaining to the keeping of records were laid down as requirements of certain offices, since the four constitutions of Kentucky made no provision for a centralized head of county government, with supervision over the manner in which records were to be maintained. Arrangement of the county's records, therefore, leaves a great deal to be desired from the standpoint of modern archival practice.

Titles

In Breckinridge County, as in most Kentucky counties, many inaccuracies are found in the titling of early records. Titles assigned to both file boxes and volumes, in many instances, do not accurately describe the records contained therein, and such titles often prove puzzling or misleading. Original records are filed promiscuously in file boxes in the various offices, especially in the county court clerk's office. Here a file box bears the title "Just Look for Anything," (550) and that is what one finds, literally, in this container.

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550. SEE ENTRY 132.

Either through carelessness, or from a desire to economize, the early officials frequently used blank pages remaining in volumes to enter records totally different from those which are indicated by the title. Such volumes, unless properly labeled, give no evidence of the miscellaneous records they contain and, unless carefully checked, may conceal parts of record series. "Miscellaneous Bonds," entry 59, is another example of recording that is very confusing. The original documents from 1800 to the present are filed in twenty-three file boxes and four volumes. In 1836, the file boxes were discontinued and the original bonds since that year have been recorded in volumes. In this series fifty-six different types of bonds were recorded. "Dismissions of the Fiscal Court," entry 60, contains twenty-one miscellaneous, original records; "Dismissions of the County Court," entry 278, contains sixty such miscellaneous types of records. For many years, the deed books were also used to record many dissimilar records, and "Deeds," entry 64, contains eleven types of records other than deeds. Prior to 1841 real estate mortgages were recorded in deed books; since 1841 they have been treated as a separate series of records. Since 1911, chattel mortgages have also constituted a separate record series; since 1928 they have been recorded in minute chattel mortgage volumes, as required by law. In later years, however, the deed books have been used almost exclusively in record deeds. Articles of incorporation are recorded in volume labeled "Articles of Incorporation," from 1906--; from 1820 to 1905, they were recorded in deed books. Power of Attorney," entry 74, covers the original power of attorney grants. The recordings of these power of attorney grants, however, are found in miscellaneous volumes, wherever such record was made. Claims are filed in four distinct and separate series of records, all differently titled (551); sheriffs' settlements are also filed in four different record series.

The original marriage licenses have been maintained since the creation of the county and represent a complete series of records. Marriage bonds have been maintained since 1800, without missing dates or volumes. From 1800 through 1851, the original bonds were filed with the marriage licenses, but this practice was discontinued in 1852. Since that year the marriage bonds have been recorded in separate volumes. The register of marriages from 1858 to 1905 is kept as a separate series of records. Prior to 1858 and subsequent to 1905, marriages are registered in marriage bond books. The original marriage consents - that is, the documents given by the parents or guardians enabling minors to obtain marriage licenses - are each filed with either the original marriage license or bond.

Negro marriage records are treated as a separate series through 1935; since that year they have been kept in the same volume with the white records.

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551. SEE ENTRY 15.

Two volumes entitled "Miscellaneous Records" contain diverse accounts and documents recorded by the county court clerk, the majority of which were formerly recorded in deed books.

Record Content

Among the records kept by the first courts established in the county, and maintained today, were the following: order books; records pertaining to guardianship, trusteeship, apprenticeship, and the probate of wills; civil and criminal actions at law, including case papers, dockets, judgments, executions; juvenile proceedings; surety bonds; and miscellaneous records.

Old case papers, dockets, minutes, orders and executions of the quarter session court are filed in the circuit court clerk's office, with the exception of one minute book which is in the county court clerk's office. The rule docket covers records from 1800 to 1811, but, since the circuit court held its first meeting in 1805 and the clerk continued to use the quarter session volumes to record circuit court records, the ordinary, commonwealth, and equity dockets of the circuit court were recorded from 1805 until 1811 in the volumes belonging to the quarter session court. The minute, order, and execution books were completed in the same manner. The workers were very fortunate in listing all the records of the quarter session court, which have been most carefully preserved by Judge D. D. Dowell, Circuit Court Clerk.

The first eight volumes of "County Court Orders," entry 219, are titled "Minute Book"; however, they were never used as minute books and only county court orders were recorded there. Since 1936 all fiduciary records have been maintained by County Judge Reuben J. Boling, who deserves credit for the thorough and complete manner in which they have been recorded. (552)

The circuit court keeps case papers and records of civil, criminal, and chancery actions; lunacy inquests; officers' reports; until 1934, trustee of the jury fund reports; witness attendance records; motor operators' licenses; and miscellaneous records. "Circuit Court Deed Book," entry 207, contains records of deeds of conveyance transferring title to property sold by special commissioners on order of the circuit court. These deeds were also recorded in the county court deed books by the county court clerk. Since 1877 deeds of conveyance executed by the master commissioner have been recorded in a separate series of records by the county court clerk. (553) All the records of the circuit court are excellently maintained and easily accessible to persons desiring to consult them.

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552. SEE ENTRY 243.
553. SEE ENTRY 217.

Governmental Organization and Records System

(First entry, p. 117)

The records of the fiscal court concern the fiscal affairs of the county; its revenue and expenditures; treasurers' settlements and officials' reports; bond issues; welfare; public works; buildings; and officials' bonds.

The quarterly court records in the county judge's office, like those of the circuit court, have been given excellent care, especially since 1936.

From the beginning of his office, the county court clerk, as the chief recorder for the county (554) has recorded deeds, wills, leases, records of personal property, liens and mortgages, including chattel mortgages. He keeps marriage and numerous miscellaneous records, various licenses and registers. Other important records of the county include tax lists, assessments, election matters, school censuses, and those records maintained by county officials which are listed under the separate offices discussed in Section B of this inventory and which are each fully described. For example, a deed, one of the oldest county records, shows date of instrument, names of the grantor and grantee, location and description of the property, amount involved, notarized signatures of the grantor and witnesses, certification of the county court clerk, number of the deed book, page where recorded, and date of recording.

The sheriffs' returns on process (summonses, subpoenas, warrants, writs, and similar records) are filed in the case papers of the various courts which issued them. Therefore no entries covering "process" appear under the section on the sheriff.

The report which the coroner makes of the inquests he holds is one of the important records kept in the county. This report is made to the county court and, prior to 1937, was filed with the county court clerk, together with his claim for services rendered. Since 1937, he has kept these records in his home.

The coroner's claims are entered in the county court order books; his reports of inquests are kept in file boxes in the office of the county clerk. No coroner's report is recorded, however, unless, as a result of an inquest, criminal action is taken. In such case the report is embodied in the case papers of the circuit court and kept by the circuit clerk. Certificates of births and deaths were filed with the county court clerk by the attending physicians or midwives from 1858 to 1875. No current birth or death records are filed in Breckinridge County.

The records kept by the treasurer of Breckinridge County rank among the best maintained records in the State. Both original and recorded documents are complete and are arranged in a most orderly manner.

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554. Acts, 1891-93, p. 1054.

(First entry, p. 117)

Indexing

From the creation of the county to the present, each deed volume has been indexed by an individual, alphabetical cross index, direct by the first letter of the surname of the grantor, showing the name of the grantee and page number where recorded, and indirect by the first letter of the surname of grantee, showing the name of grantor and page number where recorded. The deed series also has a separate general cross index, alphabetically direct by first letter of the surname of the grantor, showing the name of the grantee, the deed volume and page number where recorded, and type of instrument; and indirect by first letter of the surname of the grantee, showing the name of the grantor, the deed volume and page number where recorded, and the type of instrument.

Mortgages, in the same manner as deeds, have an individual cross index for each volume, as well as a general cross index to the entire series. Before 1841, however, mortgages were indexed in the deed indexes. Chattel mortgages are also completely indexed by self-contained, as well as a separate general cross index. Deeds of conveyance executed by the master commissioner have a well maintained separate index.

Civil cases in the county court were not indexed from 1800 through 1894. For the period since 1895 there is a general cross index. Judgments have a self-contained cross index; commonwealth cases were not indexed prior to 1895; but since that year a general cross index has served both civil and criminal suits.

Civil cases belonging to the circuit court have been indexed since its creation. Commonwealth cases, prior to 1916, were in the same index with civil cases; since 1916, commonwealth cases have been in a separate general cross index, chancery cases in the same volumes with the civil cases. The circuit court clerk has indexed executions, orders, and surety bonds; he also keeps a judgment book with an alphabetical cross index in which he records all civil and criminal judgments.

Control of Records

Certain State agencies require that county officers or departments working under their supervision, including the county tax commissioner, the county school superintendent, and the county agricultural agent, use standard forms specified by such agencies for the purpose of recording. These forms enable those officers to keep record systems with a greater degree of uniformity than could otherwise be attained.

Appropriation for Supplies

In addition to $150 furnished by the State, the fiscal court is authorized to appropriate funds to purchase the necessary record books and supplies which are used in the various county offices.

Governmental Organization and Records System

(First entry, p. 117)

Preservation of Records

Certain provisions have been made for the permanent preservation of some of the county's non-current records. An act of 1926 specified that the fiscal court of each county may, at its discretion, remove certain records, documents, and papers for which the county no longer has need, to the Kentucky State Historical Society at Frankfort, Kentucky. Here they can be filed and permanently preserved for the use of historians or persons interested in the records. (555) Old marriage records from 1854 to 1857, and from 1859 to 1904, are deposited with this society, and old birth and death records for those same years are also filed there. In addition old assessment lists have been preserved in the Kentucky State Historical Society.

In 1930, legislation authorized the circuit clerk, who is librarian of the county law library, to give such non-current books, records, papers, and reports as the library or the county no longer needs, to the libraries of the University of Kentucky and the four state teachers' colleges. (556)

Destruction of Old Records

No provision is made for the destruction of non-current records, except in the case of tax schedules of tangible personal property, which may be destroyed after five years (557), and election returns, in compliance with statutory provision for their destruction. (558)

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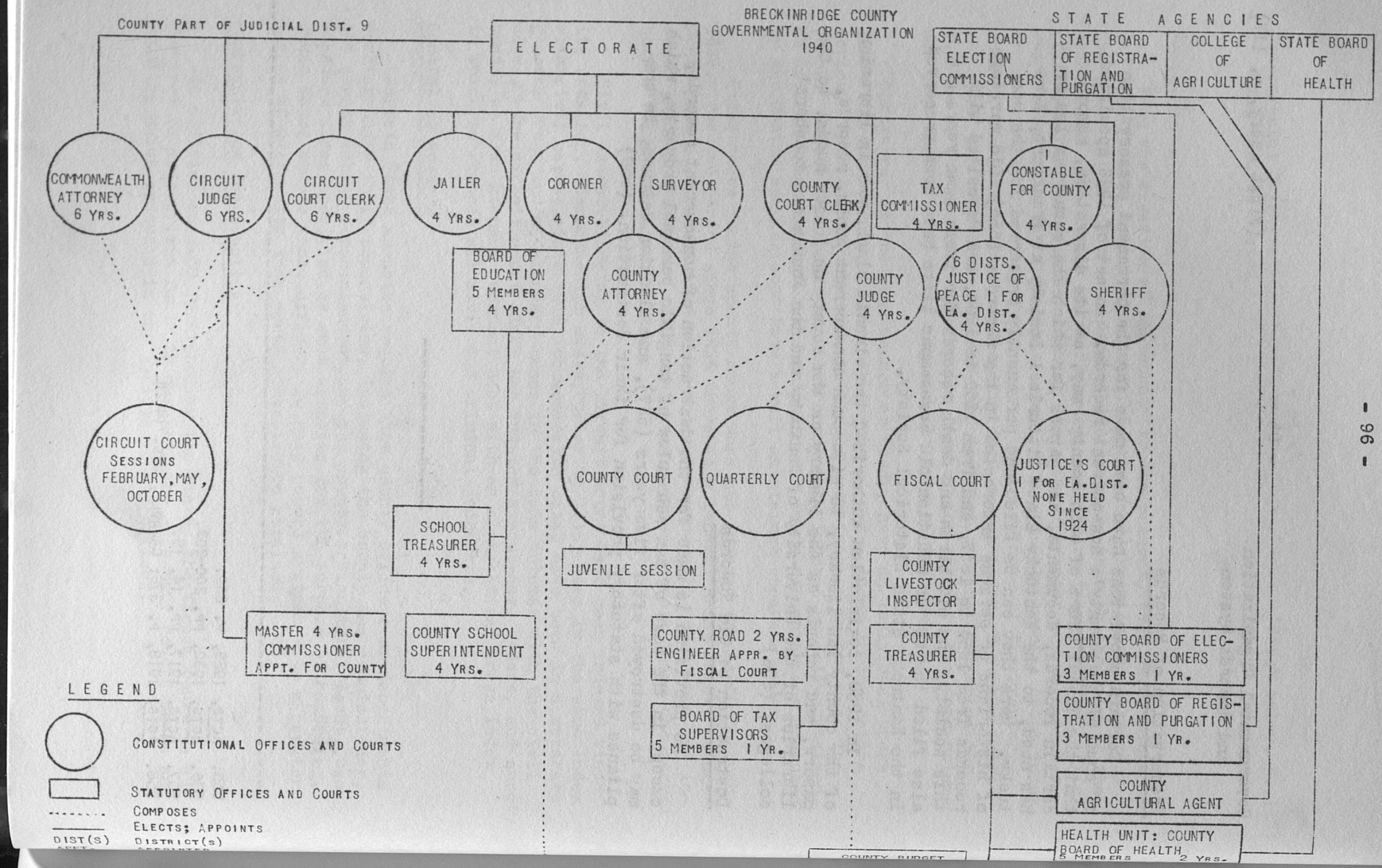
555. Acts, 1926, p. 869.
556. Acts, 1930, pp. 200-203.
557. Acts, 1917, pp. 14, 15.
558. Acts, 1918, p. 378; Carroll, sec. 1482B.


COUNTY PART OF JUDICIAL DIST. 9
ELECTORATE
BRECKINRIDGE COUNTY
GOVERNMENTAL ORGANIZATION
1940
STATE AGENCIES
STATE BOARD ELECTION COMMISSIONERS
STATE BOARD OF REGISTRATION AND PURGATION
COLLEGE OF AGRICULTURE
STATE BOARD OF HEALTH
COMMONWEALTH ATTORNEY 6 YRS.
CIRCUIT JUDGE 6 YRS.
CIRCUIT COURT CLERK 6 YRS.
JAILER 4 YRS.
CORONER 4 YRS.
SURVEYOR 4 YRS.
COUNTY COURT CLERK 4 YRS.
TAX COMMISSIONER 4 YRS.
CONSTABLE FOR COUNTY 4 YRS.
BOARD OF EDUCATION 5 MEMBERS 4 YRS.
COUNTY ATTORNEY 4 YRS.
COUNTY JUDGE 4 YRS.
6 DISTS. JUSTICE OF PEACE 1 FOR EA. DIST. 4 YRS.
SHERIFF 4 YRS.
CIRCUIT COURT SESSIONS FEBRUARY, MAY, OCTOBER
COUNTY COURT
QUARTERLY COURT
FISCAL COURT
JUSTICE'S COURT 1 FOR EA. DIST. NONE HELD SINCE 1924
SCHOOL TREASURER 4 YRS.
JUVENILE SESSION
COUNTY LIVESTOCK INSPECTOR
COUNTY TREASURER 4 YRS.
COUNTY BOARD OF ELECTION COMMISSIONERS 3 MEMBERS 1 YR.
COUNTY BOARD OF REGISTRATION AND PURGATION 3 MEMBERS 1 YR.
MASTER 4 YRS. COMMISSIONER APPT. FOR COUNTY
COUNTY SCHOOL SUPERINTENDENT 4 YRS.
COUNTY ROAD ENGINEER 2 YRS. APPR. BY FISCAL COURT
BOARD OF TAX SUPERVISORS 5 MEMBERS 1 YR.
COUNTY AGRICULTURAL AGENT
HEALTH UNIT: COUNTY BOARD OF HEALTH 5 MEMBERS 2 YRS.
COUNTY BUDGET
LEGEND
CONSTITUTIONAL OFFICES AND COURTS
STATUTORY OFFICES AND COURTS
COMPOSES
ELECTS; APPOINTS
DIST(S) DISTRICT(S)

(First entry, p. 117)

3. HOUSING, CARE, AND ACCESSIBILITY OF THE RECORDS

The courthouse where the records of Breckinridge County are housed is a two-story brick building, now rather dilapidated and in need of repair thoughout. It was erected by Edward Bennett at Hardinsburg, the county seat. In 1868, at its November term, the county court appointed a committee to draw up an agreement between the court and the building contractors, E. Bennett and W. H. Dix, for the erection of a new courthouse at Hardinsburg.

According to the plans and specifications approved by the court, the proposed structure, whose dimensions were 55 x 69 feet, was to be a two-story brick edifice with stone foundation and steps, iron portico and balcony, and tin roof. The materials to be used in its construction were to be of best quality throughout and were subject to constant inspection by members of the above-mentioned committee. Any alterations or additions to the building, as directed by the court, must have been decided upon before the contractors had let their contracts for the building materials. If an agreement between the committee appointed by the court, and the contractors, Bennett and Dix, could not be reached as to a suitable estimate of the cost of such work, it was agreed that a third party, composed of two workmen skilled in the performance of such alteration work, together with the contractors and the committee, should settle the price to be paid.

Construction was to begin on February 1, 1869, if the weather permitted, and all work was to be completed on or before January 1, 1871, at a total cost of $36,985. According to the terms of the agreement, an installment of $8,000 was to be paid each year, and the balance upon completion and acceptance of the building by the court. (1) In 1869, within the specified time the courthouse was completed. For a description of the first courthouse, see Historical Sketch, p. 4.

A hallway 12 feet wide runs the length of the building on the first floor and is crossed by another hallway 8 feet wide. The latter, however, on one side of the building has been partitioned off from the main hall to furnish office space for the WPA certifying agent. A smaller hallway at the west end of the second floor leads to the entrance of the court room. In 1938, the second floor was remodeled, and in the space between the roof and the second floor two small offices were fitted up. The building, which has wooden floors throughout and walls and ceilings of plaster over wooden laths, is not a fireporoof structure, nor is there a fireproof vault in any office. Since the courthouse has no central heating plant and each office is heated by its own stove, there is a decided variation in temperature during the winter months. This constant temperature change, frequently resulting in a lack of atmospheric moisture, unquestionably has a harmful effect on the records. The building is equipped throughout with electric lights.

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1. INFORMATION TAKEN FROM THE ORIGINAL CONTRACT TO BUILD THE COURTHOUSE AT HARDINSBURG, RECORDED IN COUNTY COURT ORDERS, VOL. 12, SEE ENTRY 225.

Housing, Care, and Accessibility of the Records (First entry, p. 117)

The offices of the county court clerk, the circuit court clerk, the county judge, the tax commissioner, and the sheriff are located on the lower floor. On the second floor, one large room serves as a court room, two small rooms are used as witness rooms; and one other, a jury room, is now occupied by the office of the Old Age Assistance Bureau. The United States Department of Agriculture Farm Loan Office has offices on the attic floor. There is a small law library in the rear of the court room, which is also used for storage purposes.

The room which the county court clerk occupies is 17 x 27 x 13 feet. It is ventilated and lighted by five large windows. The flooring of soft wood is in poor condition and the walls are dirty and in need of repair. The appearance of this office is somewhat over-crowded; there are approximately 30 feet of counters which, together with the other furnishings, contribute to its disorderly state, much of which could be eliminated by a more judicious and orderly arrangement. The office contains approximately 600 feet of wooden shelving on the south and west walls of the room. This shelving is fitted with glass doors. For more efficient filing, additional equipment is needed, as it is impossible to house the records of this office in their present cramped quarters and at the same time make them readily accessible to those desiring to use them.

The room assigned to the circuit court clerk is the same size as that occupied by the county court clerk, but, in spite of the fact that this office has five windows, the ventilation is poor. The condition of the floor, ceiling, and walls detracts from the appearance of the room. The 515 feet of shelving, which is constructed of wood, is entirely inadequate to hold the large number of records filed in this office. At present there is not sufficient space for more shelving of any kind, and the housing of future records in this office presents a difficult problem. A table and several chairs are provided for the use of any one wishing to refer to the records. This office also contains a four-drawer steel cabinet and a safe, the latter being the only one in the building.

The county does not furnish quarters for the master commissioner, who uses his own law office in the Security Bank Building. The commonwealth's attorney maintains his office in Leitchfield.

The office of the county judge is 17 x 17 x 14 feet, and here again, the walls, ceiling, and floor are in need of repair. Two large windows furnish ventilation and natural lighting. On the east side of the room, 110 feet of wooden shelving with glass doors affords space for records. Although these records are not crowded, as are those in several other offices, they are poorly arranged and somewhat musty. There is also a four-drawer steel filing cabinet in the office. Consultants of the records here have a table and chair furnished for their use. There is a small amount of space in this room for additional equipment to care for expansion in the next few years, and additional steel filing cabinets or a fireproof office vault are recommended for the safekeeping of the judge's records.

Housing, Care, and Accessibility of the Records (First entry, p. 117)

The county attorney has no space in the courthouse but uses his own offices in the Security Bank Building. The county, however, pays part of his rent.

The justices of the peace have not held court in Breckinridge County for approximately fifteen years; consequently they have no offices nor do they maintain any records. The records of these offices prior to 1924, are housed in the county judge's office.

The room assigned to the sheriff, which is 17 x 17 x 14 feet, contains only 50 feet of shelving, making it necessary for this officer to keep some records on and in the three desks in this office. Such a method of filing, however, does not afford facilities for the proper housing and preservation of records. There is ample space in the room for fireproof steel filing cabinets, which would eliminate the confusion arising from the present haphazard storage of the records and facilitate research work. No provision has been made to accomodate persons using the records, but, when the need arises, tables and chairs are willingly proffered.

The constable has no office in Breckinridge County, nor does he keep any records.

The jailer uses the living room of his home as an office. The jail and the jailer's home are both in a two-story building across from the courthouse. The jailer keeps his register in his office.

The coroner uses his home as his headquarters and directs his official duties from there.

The county tax commissioner's office, situated on the first floor of the courthouse, is 17 x 10 x 13 feet. Three windows afford good natural lighting. One side of the room is lined with glass-enclosed shelves, which provide space for the records of the tax commissioner and some of those belonging to the county school superintendent, who formerly occupied this room. The records housed here need to be more systematically arranged.

Neither the board of tax supervisors nor the county budget commission has an office in the county. The records of both of these bodies are cared for by the county court clerk.

Since the county makes no provision for an office for the county treasurer, the present incumbent has desk space in a lawyer's office in the Security Bank Building. Certain records belonging to the treasurer are kept there, and others are filed in the office of the county court clerk.

The county board of election commissioners and the county board of registration and purgation have no offices in the county. Their records are housed in the office of the county court clerk.

Housing, Care and Accessibility of the Records (First entry, p. 117)

The records of the county board of education are filed in the offices of the county school superintendent in the Hook Building. The county school superintendent's offices are quite modern and well equipped. His outer office, 12 x 16 x 14 feet, contains three steel filing cabinets, a wall cabinet, two desks, and a number of chairs. The private office, furnished only with a desk and chairs, is 11 x 12 x 14 feet. A smaller room, 7 x 12 x 14 feet, is used for the storage of stationery and textbooks. Each of the offices is lighted and ventilated by two windows. The building in which the county school superintendent has his office is steam heated and modern in every respect.

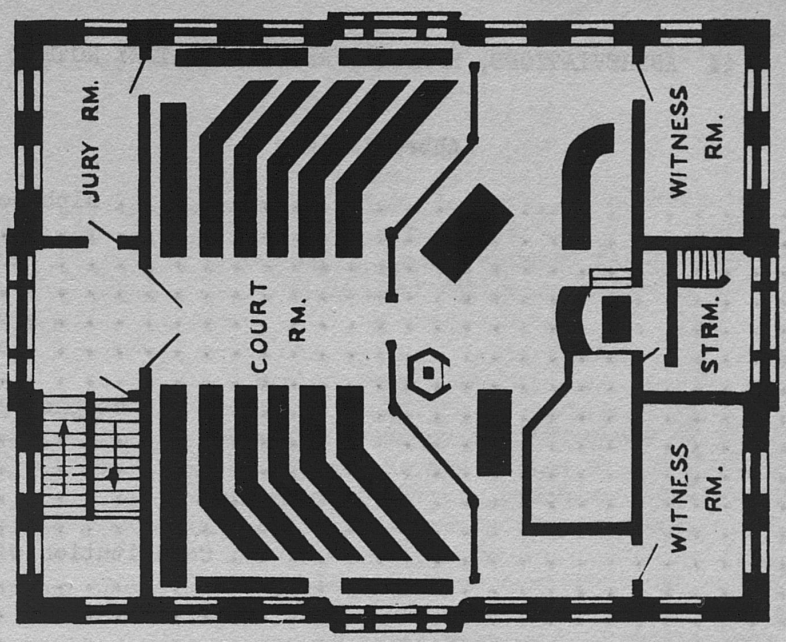
The county health officer has no office and operates from his home in Union Star. This officer keeps no records. The county livestock inspector also has no office and maintains no records.

There is no welfare department in Breckinridge County, the indigent throughout the county being cared for by direct relief administered by the county judge and the fiscal court. The county does, however, maintain a poor farm at the edge of Hardinsburg. The keeper of the poor farm, George C. Hester, keeps no records.

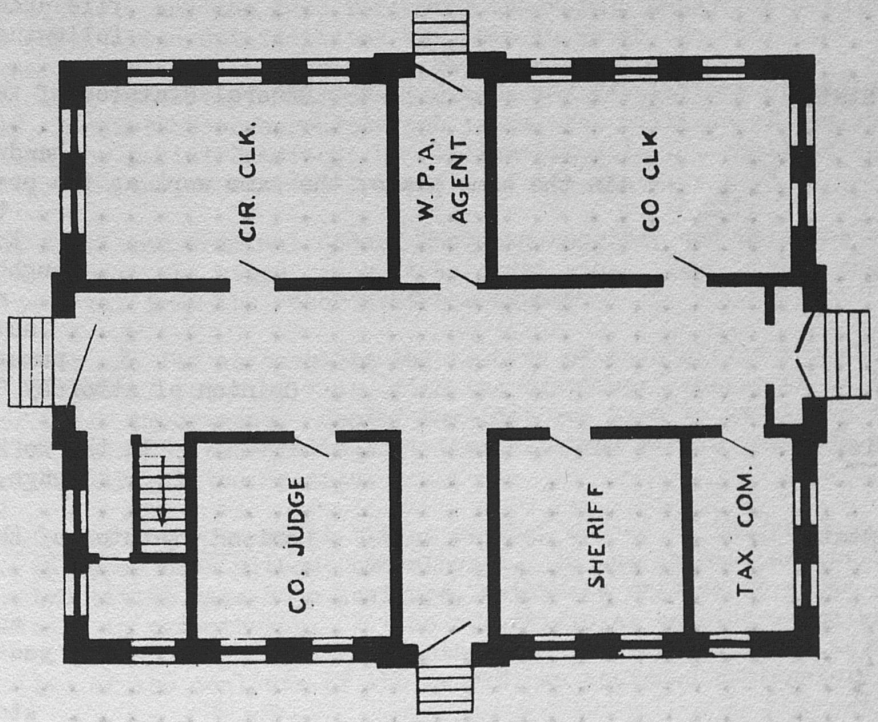
The county surveyor lives at Kingswood. His records are filed in the county court clerk's office. The county road engineer has his headquarters in the office of the county judge and keeps his records there.

The county agricultural agent has his office in the K. of C. (Knights of Columbus) Building. The office has an area of approximately 1200 square feet; it is modern in every respect and is well equipped with office furniture and filing equipment of good quality. The agent keeps all records in this office.

The records of Breckinridge County are, for the greater part, not safely housed. Under existing conditions, in which the hazard of fire is always imminent and the physical state of the records is constantly being jeopardized, the officials are greatly handicapped in their efforts to care for them efficiently. The most outstanding need is for the erection of a fireproof vault in the courthouse. Such a vault would provide the space so necessary for the storage of present and future records and would also improve the appearance of the interior of the courthouse by eliminating the cumbersome wooden shelving now in use. If it is not feasible to construct such a vault at the present time, it is recommended that at least the wooden shelving be replaced by modern steel shelves and filing cabinets, and that the sheriff be furnished with some sort of depository to relieve him of the necessity of crowding his records into desk drawers.



SECOND FLOOR PLAN



FIRST FLOOR PLAN

(First entry, p. 117)

4. ABBREVIATIONS, SYMBOLS, AND EXPLANATORY NOTES

Abbreviations

alph. . . . . alphabetical(ly)
arr. . . . . arranged
art(s). . . . . article (s)
aver. . . . . average
bd. . . . . board
bdl(s). . . . . bundle (s)
ch. . . . . chapter
chron. . . . . chronological (ly)
cir. . . . . circuit
clk. . . . . clerk
co. . . . . county
cond. . . . . condition
Const. . . . . Constitution of Kentucky
Crim. . . . . Criminal
ct. . . . . court
dist. . . . . district
ed. . . . . edition
et al. . . . . and others
et seq. . . . . and the following
f.b. . . . . file box(es)
f.d. . . . . file drawer (s)
ff. . . . . following pages
fm. . . . . forms
Gen. Stat. . . . . General Statutes of Kentucky
hds. . . . . heads
hdw. . . . . handwritten
ibid. . . . . in the same place, the same work as the preceding
i.e. . . . . that is
Ky. . . . . Kentucky
Lough. . . . . Loughborough
n.d. . . . . no date
no(s). . . . . number(s)
numer. . . . . numerically
O.A.G. . . . . Opinion of Attorney General
off. . . . . office
op. cit. . . . . in the work cited
p., pp. . . . . page, pages
pr. . . . . printed
Rev. Stat. . . . . Revised Statutes of Kentucky
rm. . . . . room
sch. . . . . school
sched. . . . . schedule
sec(s) . . . . . section(s)
st. . . . . street
strm. . . . . storeroom
supt. . . . . superintendent's
U. S. . . . . United States
v. . . . . versus
vol(s). . . . . volume(s)

Other commonly accepted abbreviations are occasionally used.

Symbols

-	indicates that dates, letters, or numbers are inclusive
--	indicates that the record is current
x	used between figures indicates "by"
'	when used following numbers, indicates feet

Explanatory Notes

Essays: An essay giving the creation and structure of the office, and discussing functionally its powers and duties or its jurisdiction, if a court, and the records which it keeps, precedes the inventory of the records of each department of the county's government.

Citations: Whenever possible, the four constitutions and original acts of the General Assembly of Kentucky are cited to substantiate statements made in the legal essays of this inventory. Compilations are also used to supplement the original acts in documentation. Acts passed between 1792 and 1817 are cited from five volumes of original acts compiled by William Littell, which also contain Parliamentary and Virginia laws from 1776 to 1792. The page numbers in such cases refer to those volumes by Littell, and the date following the volume number is not the year of publication but indicates the year in which the acts were passed which are included in that volume. Those original acts are cited with the following authority: "The session acts and resolutions of the General Assembly, heretofore or hereafter published, the editions of the statutes of Kentucky by Daniel Bradford, by William Littell. . . shall be received as evidence in the courts and tribunals of the state. . . ."

The Civil and Criminal Codes, Kentucky Reports, and Opinions of the Attorney General are cited, as well as order books, deed books, and other source material from the records of the county.

Entries: As far as possible the records of each office are arranged from a functional point of view, with the functions considered in the order of their importance. Center headings are used to designate a group of similar records; sub-headings at the left-hand margin indicate a group of specifically related records.

Titles of Records: Exact titles as they appear on the records, are written in upper case without parentheses. In the absence of titles, descriptive titles have been assigned, which are written in upper case and enclosed in parentheses. Titles of artificial entries are also in solid capitals and enclosed in parentheses. If a record title is not descriptive of the contents of the record, an assigned explanatory title

(or explanatory words), written with initial capitals and enclosed in parentheses, has been added. The current or most recent title of a record is used as the entry title and title variation is indicated.

Dates: All dates used are inclusive. Missing records are indicated by broken dates. Where no reason for the creation or for the discontinuance of records is given, and where no cross reference appears, the reason for such creation or discontinuance could not be ascertained.

Labeling: Figures or letters in parentheses, following the number of volumes, file boxes, or other type of container, indicate the labeling. If no labeling is indicated, it may be assumed that there is none.

Description of Records: The description of the contents of a record applies only to the current or most recent record unless change in contents is actually shown in the record entry. A statement of the nature, contents, and purpose of the record, with a summary of the subjects treated, constitutes each description of an entry.

Condition of Records: Omission of comment indicates that records are in good condition.

Dimensions: Dimensions are always given in inches, unless otherwise indicated, and therefore, the symbol (") has been omitted.

Location of Records: All records are located in the county courthouse unless otherwise indicated. When all or the majority of the records of an office have a common location, the location is indicated in the last sentence of the office essay instead of in each individual entry.

Cross References: Cross references in the title line are used to complete series for records kept separately for a period of time, and in other records for different periods of time as in entry 3, "Fiscal Court Order Book, 1894--. 4 vols. (1-4). 1892-93 in Order Book Court of Claims and Levy, entry 2." Title-line cross references are arranged chronologically, as in entry 88, "Chattel Mortgage Releases, 1911--. 4 f.b. 1800-1836 in Deeds Recorded, entry 62; 1837-1927 also in Mortgages (Realty), entry 76." In both instances, the description of the master entry shows the title and the entry number of the record from which the cross reference is made, arranged in numerical order, as in entry 60, "Dismissions of Fiscal Court, 1893--. 25 f.b., also contains: (Tax Exemption Notices), 1911-36, entry 8; Delinquent Taxes, 1929--, entry 9." Dates shown in the description of the master entry or entry of miscellaneous content are only for the part or parts of the record contained therein, and are shown only when they vary from those of the master entry.

Numerals appearing in parentheses at the upper right of the page always refer to entry numbers, unless pages are indicated.

(First entry, p. 117)

I. FISCAL COURT

Structure

Creation

Originally, the fiscal affairs of Breckinridge County were administered by the county court, which sat at least once a year as a court of levy and at all other necessary times as a court of claims. In 1892, however, after the creation of the fiscal court by constitutional provision (1), a meeting of the county court of claims of Breckinridge County was called November 18, 1892, and by order of the court the fiscal affairs of the county were transferred to the fiscal court. (2)

For a time after its creation the records of the fiscal court were continued as records of the court of claims and levy, a natural procedure when one considers that there was no change in the personnel and functions of the new court. The order books of the fiscal court, labeled as such, begin with the session held April 3, 1894, while the orders recorded between November 18, 1892, and April 3, 1894, are found in the order book of the court of claims and levy. (3)

Misunderstandings and disputes concerning appointments arose at first because some county judges believed that the powers previously given to the county court as a court of claims and levy were to be construed as belonging solely to the county court; i. e., the county judge. These disputes were definitely settled in 1922, when the Court of Appeals handed down a decision stating that it was the evident intention of the legislature to give the fiscal court all the duties of the old court of claims and levy. (4) As the county court acted both in a judicial and an administrative capacity, it may have been the intention of the writers of the present constitution to draw a sharper line of demarcation between the two functions and thus leave the judicial functions to the county court and put the fiscal duties under a new agency created specifically for that purpose. (5)

The Court of Appeals has recognized the fact that the county court in Kentucky, prior to the establishment of the fiscal court in 1892, was both a judicial and administrative body. "Although classed in the judiciary department by the constitution and possessing judicial powers, the county court is not exclusively a judicial tribunal. Many other powers not judicial are vested in this court." (6)

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1. CONST. OF 1891, SEC. 144; ACTS, 1891-93, PP. 268-274; CARROLL, SEC. 1840.
2. COUNTY COURT ORDERS, VOL. 19, P. 150, SEE ENTRY 225.
3. ORDER BOOK COURT OF CLAIMS AND LEVY, VOL. 1, SEE ENTRY 2, AND FISCAL COURT ORDER BOOK, 4 VOLS., SEE ENTRY 3.
4. SILBERSACK V. KRAFT ET AL., 194 KY. 587 (1922).
5. CONST. OF 1891, SEC. 144; ACTS, 1891-93, PP. 268-274; SEE COUNTY COURT, P. 205.
6. PENNINGTON V. WOOLFOLK, 79 KY. 13 (1880).

Fiscal Court (First entry, p. 117)

Selection and Term

Since its origin in 1892, the fiscal court of Breckinridge County has been composed of the county judge and six justices of the peace. (7) The manner of selection and term and other features of the structure of these offices are treated in the essay on County Court and the essay on Justices' Courts.

Sessions

At least two meetings a year must be held by the fiscal court, although the county judge may call as many additional meetings as are necessary for the transaction of county business. (8) A majority of the justices constitutes a quorum. (9) At present the court meets at Hardinsburg on the first Tuesday after the first Monday in April and on the first Wednesday after the first Monday in each month. (10)

Although the court of claims and levy, prior to its emergence in 1892 as a separate legal entity, had been as much a part of the county court as the judicial meetings of that body, this essay will treat the administrative branch of the county court (the court of claims and levy) as the forerunner of the fiscal court and will discuss as the "fiscal court" both the court of claims and levy (1799-1892) and the present fiscal court. Hereafter in this essay "the court" will be used to designate both the fiscal court and its forerunner.

Function of the County Judge

Before the office of county judge was established in 1851, each justice of the court acted in turn as presiding officer. (11) Since then the county judge has presided over the court, and he may fine and imprison for contempt of court, as he has authority to do when presiding over the county court. In the absence of the judge, or when he is disqualified, the justice elected to preside in his place has similar powers. (12)

Functions of the County Court Clerk and County Attorney

The county court clerk, from the beginning of his office, acted as clerk of the county court when it sat as a judicial body and also when it sat as a court of claims and levy. (13) When the fiscal court was established he continued as its clerk. (14)

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7. Acts, 1891-93, p. 268.
8. Const. of 1891, sec. 144; Acts: 1891-93, pp. 269, 270; 1932, p. 147.
9. Acts, 1891-93, p. 269.
10. Kentucky Court Calendar For 1938-1939, published by the Bradley and Gilbert Company, Louisville, Ky., p. 27.
11. County Court Orders, first vol. not labeled, p. 2, see entry 225.
12. Acts, 1851-52, p. 96; Rev. Stat., vol. 1, p. 235; Acts, 1891-93, p. 268.
13. Littell, vol. 1, 1797, p. 680; Const. of 1799, art. 4, sec. 10.
14. Acts, 1891-93, p. 269.

It has been the county attorney's duty since 1829 to attend all meetings of the court and to serve as its legal consultant whenever the business before this body demanded his services. (15)

Functions

Fiscal Administration

The court of claims and levy has always had the duty of laying the county levy to pay the debts of the county and to meet current expenses. (16) The court made up in its minutes an account of all expenses legally incurred by the court, chargeable to the county and remaining unpaid, stating in the minutes the sums due, for what and to whom due, and also all credits owing to the county. When the balance due from the county was ascertained by deducting the sums due to the county from those owing by the county, the court then levied on the tithables (persons taxable by law), the amount of that balance in equal proportions. The sums due the county and the sums to be assessed upon the tithables, after being added together, were then appropriated by the court in order to show the right of each county creditor and the amount of his demand. Ten days after such apportionment of the levy, the county court clerk delivered to the sheriff, or collector, a list of the persons chargeable with the payment of levies and the sum to be paid by each as his county rate, a list of the sums due to the county and of persons from whom the sums were due, and a list of persons to whom the county owed money, with the amounts of their respective claims. The sheriff then collected from the persons chargeable therewith the sums due to the county, together with the county rates as fixed by the county. After deducting his commission, he paid the money to the county creditors, according to their respective approved claims, and held all surplus money for the further orders of the court. (17) This general procedure was varied in 1821 by an act which provided that the county levy could not exceed one dollar and fifty cents per person. (18) This act was reaffirmed in 1852. (19) Following the abolition of slavery in 1863, however, the county levy (poll tax) was increased to a sum not exceeding three dollars (20), but the tax was reduced in 1892 to not more than one dollar and fifty cents per person a year. (21) This amount remains the present poll tax in the county. (22)

In performing the duties mentioned above, the sheriff acted from 1800 through 1892 as the treasurer of the county; in 1893, however, the office of

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15. ACTS: 1828-29, P. 105; 1891-93, P. 266; CARROLL, SEC. 126.
16. LITTELL: VOL. 1, 1792, P. 90; VOL. 4, 1810, P. 172; ACTS: 1825-26, PP. 84-86; 1851-52, PP. 95, 184, 185; GEN. STAT., 1873 ED., PP. 269, 270; ACTS, 1891-93, PP. 40,41.
17. LITTELL, VOL. 1, 1797, PP. 679, 680; ACTS, 1891-93, PP. 40-42.
18. ACTS, 1820-21, P. 443.
19. ACTS, 1851-52, PP. 184, 185; REV. STAT., VOL. 1, P. 209.
20. GEN. STAT., 1873 ED., P. 270.
21. ACTS, 1891-93, PP. 40-42.
22. ACTS, 1908, P. 71; CARROLL, SEC. 1882.

county treasurer was created, and thereafter the sheriff served only as collecting agent for the county, turning over his collections to the treasurer, who paid the county's claims.

In 1934 this type of primitive budgetary control was superseded by a uniform budget system applicable to all the county's finances except those relating to education. The court continues to fix the county levy, but does so in conformity with a budget set up and supervised by a county budget commission composed of the county judge, the county attorney, and an appointee of the fiscal court. (23)

Ad Valorem Tax

Before 1892 there was no general statutory provision permitting counties to levy ad valorem taxes, but from time to time the legislature passed special acts granting such permission to specific counties. An act of 1892, however, authorized the fiscal court to levy and collect an ad valorem tax to pay off current indebtedness and to defray the current and necessary expenses of the county. (24) This ad valorem tax could not exceed fifty cents per one hundred dollar valuation of taxable county property based on the supervised assessment for State taxes. Neither the poll tax nor the ad valorem tax could be used to pay any railroad bonded indebtedness or any interest on such indebtedness. (25)

Licenses

By recent legislation the fiscal court has a limited jurisdiction to impose liquor license fees on those who wish to sell alcoholic beverages in the county. The amount of such fees must be reported to the Division of Alcoholic Control by the county court clerk, and, in the event that a person pays a similar fee in an incorporated town, he may deduct the amount from his county fee. (26) Since Breckinridge is a dry county, the fiscal court does not exercise this jurisdiction.

Presentation and Payment of Claims

From 1800 through 1892, claims against the county were presented to the court and, when approved, were paid by the sheriff. (27) Since the creation of the county treasurer's office in 1893, however, the county treasurer has paid approved claims from the county revenue which the sheriff collected and turned over to him. The latter submits his settlements to the fiscal court for approval. In order to make his settlements, the treasurer presents to the court the claims paid, with receipts showing payment, and the court, upon approval, orders such settlements recorded by the county court clerk in a book kept for the purpose. (28)

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23. Acts, 1934, p. 62 ff.; see also County Budget Commission, p. 302.
24. Acts, 1891-93, pp. 40-42.
25. Ibid.; Carroll, sec. 1882.
26. Acts, 1938, pp. 63, 64; Carroll, sec. 2554b-112.
27. Littell, vol. 1, 1797, pp. 679, 680; Acts, 1891-93, p. 41.
28. Acts, 1891-93, p. 522 ff.; see also essay on County Court Clerk, p. 132, and essay on Treasurer, p. 305 ; Carroll, sec. 931.

Payment of Claims by Warrants

Legislation in 1912 provided that any warrant which the fiscal court directed to be issued for payment of a claim against the county must be presented to the county treasurer not more than thirty days after the date of the court's approval of the claim. If payment was refused, the warrant drew interest at six per cent per annum from that date until the warrant was paid or was called in for payment. (29) In 1916 the law was amended to allow the court to anticipate the revenue for a current year and borrow money at a lower interest rate with which to pay county claims, instead of issuing six per cent warrants. (30) An act of 1926 attempted to repeal section 1840-a of Carroll's Kentucky Statutes, but was held unconstitutional on December 17, 1926. (31) An act of 1932 repealing section 1840-a was upheld June 9, 1933 (32), but the Court of Appeals failed to decide whether or not the act was operative. An act of 1934, setting up the present county budget commission, did not specify the exact rate of interest which warrants might bear, but gave the court authority to anticipate the revenue for a fiscal year and borrow money to meet current expenses or to pay off interest-bearing county warrants which became due before sufficient revenues had accrued to pay off the warrants. All orders of the court approving claims designated the budget fund from which each claim was to be paid, and each county warrant had to show in written form the budget unit from which it must be paid. Unless the county treasurer certified that each warrant or contract was within the budget appropriation, such warrant or contract was void. (33) The court was also required to designate one or more banks or trust companies as county depositories where the treasurer was authorized to deposit county's funds. (34)

Audit of Claims

In 1922 the court was authorized to cause correct accounts and records to be kept of all receipts and disbursements of the public funds of the county, to have accounts of all county offices audited when necessary, and to employ, if the court saw fit, a competent person to keep such accounts and records and to make such audits. (35) The Breckinridge County Fiscal Court has never employed a county auditor. Instead its books have been audited by an inspector from the office of the State Auditor of Public Accounts. (36)

Bond Issues

Kentucky's present constitution, adopted September 28, 1891, allowed all counties to modernize their methods of obtaining money to pay for increasing county expenditures, but limited them to a tax rate of not more than fifty

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29. Acts, 1912, pp. 227, 228.
30. Acts, 1916, p. 581; Carroll, sec. 1840-a.
31. Felts v. Linton, 217 Ky. 305 (1933).
32. State Budget Commission v. Adams, 249 Ky. 680 (1933).
33. Acts, 1934, pp. 68, 69; Carroll, sec. 1851c-7; see also County Budget Commission, p. 302.
34. Acts, 1891-93, p. 226; see Treasurer, p. 305.
35. Acts, 1922, p. 161.
36. Report upon audit of fiscal records and affairs in Breckinridge County, for fiscal year ending June 30, 1938, by Nat. B. Sewell, Director of Post Audits.

cents per $100 of taxable county property, unless it should be necessary to enable the county to pay interest and sinking fund charges for the extinction of indebtedness contracted before the adoption of the present constitution. (37) This provision must be kept in mind in reading the following discussion of bonds, and it will be noted that the court's powers in such matters still require clarification of some points by the Court of Appeals.

1. Refunding Bonds: In 1892 the court was given power to call in any of its outstanding bonds, matured or subject to call, which were legally issued prior to the adoption of the present constitution for railroad or other purposes, and to issue and substitute therefor new bonds, not exceeding the old bonds in amount or interest rate. The new bonds could not pay more than six per cent interest. The court could levy an annual tax on each $100 of assessable county property, sufficient to pay interest on the bonds and to create a sinking fund for their payment. (38) The act was amended twelve years later to include all legally issued bonds, whether issued prior or subsequent to September 28, 1891. (39)

2. Funding Bonds: In the same year, the court was also given permission to fund debts contracted in the construction and repair of county buildings, bridges, and turnpikes by issuing bonds; the court could levy an ad valorem tax not exceeding fifty cents per $100 worth of taxable county property to pay interest on such bonds and create a sinking fund for their redemption. (40)

3. Bridge Bonds: In 1892 the court, with the approval of the voters, was authorized to issue bonds bearing not more than six per cent interest, to enable the court to build bridges in the county. The court could appoint a commissioner to sell such bonds and could annually levy an ad valorem tax not to exceed fifty cents per $100 valuation to pay interest and sinking fund requirements. (41) An act of 1914 attempted to repeal section 1862 (42), but the editors of Carroll's Kentucky Statutes have nevertheless continued the section as effective until the Court of Appeals shall have upheld the validity of the attempted repeal. Until such time, there undoubtedly will exist a great deal of doubt as to a fiscal court's power to issue bridge bonds.

4. Financing of Roads and Bridges: Early statutes authorized the court of claims and levy to issue orders for the construction and maintenance of county roads and bridges. (43) The county court was authorized to sell unappropriated lands and use the proceeds for the improvement of roads and bridges (44), and for other county purposes (45) upon submission of the

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37. CONST. OF 1891, SEC. 157.
38. ACTS, 1891-93, P. 222.
39. ACTS, 1904, P. 177; CARROLL, SEC. 1852.
40. ACTS, 1891-93, PP. 5, 6; CARROLL, SEC. 1857.
41. ACTS, 1891-93, PP. 203-205; CARROLL, SECS. 1862, ET SEQ.
42. ACTS, 1914, P. 382; CARROLL, SEC. 4356s.
43. LITTELL: VOL. 1, 1792, P. 90; VOL. 4, 1810, P. 162; ACTS, 1825-26, PP. 84-86; GEN. STAT., 1873 ED., PP. 269, 270.
44. ACTS, 1834-35, P. 360.
45. REV. STAT., VOL. 2, PP. 430-435; ACTS: 1891-93, P. 445; 1926, P. 865.

proposition to the voters for their approval or rejection. (46) The court was given power to levy a special ad valorem tax not to exceed twenty-five cents per $100 for the construction and improvement of roads and bridges. This tax was to be collected in the same manner as other county revenue, and the proceeds were designated as the "road and bridge fund." (47) An act of 1908 provided that the proceeds of the poll tax could be used by the fiscal court for the maintenance of roads; however, when this was done, the court was required to enter an order to that effect. (48) In November 1906 an amendment to the present constitution was ratified, providing that any county could incur indebtedness for public road purposes in any amount fixed by the county, not in excess of five per cent of the value of taxable property, on condition that such additional indebtedness be submitted to the voters for approval or rejection at a special election held for the purpose. When any such indebtedness is incurred by the county, the court may levy, in addition to the tax of fifty cents authorized by the constitution, an amount not exceeding twenty cents on the $100 for the purpose of providing for interest and sinking fund requirements. (49) Bonds issued under this section must be limited to such amount as can be paid from the twenty cent tax. This limit is not affected by the appropriation of a part of the fifty cent tax, levied for general court purposes, to pay interest and to create a sinking fund. (50)

Legislation in 1914 allowed the court to issue and sell five per cent bonds within the constitutional limitation for the purpose of constructing and improving roads and bridges. Before issuing such bonds, however, the county judge, upon petition of 150 legal voters and freeholders of the county was required to order a special election so that the voters could approve or reject the proposal. (51) Although this law specifically stated that proceeds from the bonds could be used for the building and maintenance of roads only, two recent decisions of the Court of Appeals held that "a bridge is nothing more than that part of a road which crosses a stream" and that therefore the proceeds of the bonds could be used for the construction and repair of both bridges and roads. (52) Under this ruling of the court, section 4307 plainly permits fiscal courts to issue bonds for both road and bridge purposes, and raises the question whether section 1862 has not been clearly superseded. The same act provided that, if bonds were sold for such purpose, the court could levy a tax not exceeding thirty cents per $100 to be appropriated as follows: 1. to the payment of the interest on the bonds; 2. the balance to be placed to the credit of a sinking fund for the redemption of the bonds. The court could lend any accumulation in the sinking fund on first mortgage real estate security, on the basis of fifty per cent of its value, at legal interest which accrued to the sinking fund. (53) This latter section, giving the court permission to levy a tax not over thirty cents, was held unconstitutional

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46. Acts, 1891-93, pp. 203-206.
47. Ibid., pp. 1193, 1194.
48. Acts, 1908, p. 71.
49. Const. of 1891, as amended November 1909, sec. 157a.
50. Smith v. Livingston County, 195 Ky. 382 (1922).
51. Acts, 1914, pp. 347, 348; Carroll, sec. 4307.
52. Denton v. Pulaski County, 170 Ky. 33 (1916); Whitley County v. Luten Bridge Co., 208 Ky. 625 (1925).
53. Acts, 1914, p. 348; Carroll, sec. 4308.

and void in so far as it purported to authorize a tax exceeding the constitutional limit (section 157a) of twenty cents per $100. (54) An act of 1916 authorized the court to appoint four or more commissioners to act as a road commission in handling funds derived from the sale of road and bridge bonds. (55)

In 1917 the legislature sought to clarify the situation by providing that any fiscal court could submit to the voters the question of voting a tax not exceeding twenty cents per $100, under section 157a of the constitution, for the construction or improvement of the county's roads and bridges, either or both, as directed by the court. The court's order calling an election must specify the amount of the tax to be levied each year and the number of years for which the tax may be imposed, not exceeding ten years. It must also provide that no amount of money in excess of the amount that may be raised by the levy in any one year shall be expended in that year. In addition the court may borrow money in any year in advance of the collection of the tax for that year, not exceeding eighty per cent of the estimated tax, and may issue bonds therefor, the amount of the tax to be estimated according to the assessment and collection of the preceding year. Any money so borrowed shall be paid out of the money raised from the tax in the year in which the money is borrowed, so that all indebtedness in any one year shall be paid out of the fund raised in that year. (56) This act is valid. (57)

Bonds for Construction and Maintenance of County Buildings

Since 1892 the court has had the power to issue bonds for building and maintaining county jails, courthouses, and other county buildings. Before issuance of the bonds the court is required to submit the proposal to the voters. The court can appoint a commissioner to sell the bonds, and can levy an ad valorem tax not exceeding fifty cents per $100 to pay interest and sinking fund charges on the bonds. (58) Although the phrase "other county buildings" in this law would seem to include county schoolhouses, a law of 1934 specifically provided that the court can construct and maintain county school buildings, and can issue bonds to defray the necessary expense. (59)

Since 1932 the court has been required, when issuing bonds for any purpose whatsoever, to provide, in addition to the payment of semi-annual or annual interest, that a certain proportion of bonds shall fall due annually and shall be called in and paid off, so that at final maturity all bonds shall have been paid off and cancelled. (60)

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54. MITCHELL V. KNOX COUNTY FISCAL COURT, 165 KY. 543 (1915).
55. ACTS, 1916, PP. 51, 52; CARROLL, SEC. 4307A-1.
56. ACTS, 1917, P. 23; CARROLL, SEC. 4307B-1.
57. COLLIER V. BOURBON COUNTY FISCAL COURT, 188 KY. 491 (1920).
58. ACTS, 1891-93, PP. 198-206; CARROLL, SEC. 1872, ET SEQ.
59. ACTS, 1934, PP. 366-368; CARROLL, SECS. 4421-24, -25.
60. ACTS, 1932, P. 126.

General Administration

Education

Throughout the early development of a system of general education in Breckinridge County, the levying and collecting of taxes for schools was in the hands of the school authorities and not the court of claims and levy, except at the direction of such school authorities. Nor did the establishment of the fiscal court affect in any way the management of school districts, which continued to function in the same manner, until changes in the method of levying and collecting school taxes, and in the school organization, were made in 1908. This act required the fiscal court to approve the bond of the county school superintendent, and to receive from him an annual report of receipts and disbursements. (61) The court was further authorized to lay a tax of not more than twenty cents on each $100 of assessable property in the county, and a capitation tax not to exceed one dollar, upon receiving a request for the same from the county board of education, based upon an estimate of educational needs. They were to exempt cities and towns maintaining a first class school system. (62) It is the duty of the court, upon request of the county board of education, to levy a minimum tax of twenty-five cents per $100 of property, and more if necessary, to provide funds to pay a minimum salary of seventy-five dollars per month to teachers. (63) All school taxes are now levied by the fiscal court except in cities of the first four classes. (64)

Public Health

The court has a limited jurisdiction over health matters in the county. It can appoint a member of the board of health (65) and may create a health district. (66) The court of Breckinridge County, however, has not created such district, although there is a county health board, which is not active. The court also appoints a physician to act as part time county health officer. (67)

Public Welfare

1. Care of the Poor: The court has always had the duty of providing for the care of the poor in Breckinridge County, (68) and has done so, first by contracting for the care of indigents in the homes of private citizens for an annual sum and, second, by establishing a poorhouse and a poor farm for group care of the poor. In the first case citizens made competitive bids to the

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61. Acts, 1908, p. 142; see County School Superintendent, p. 338.
62. Acts: 1908, p. 139; 1926, p. 282 ff.
63. Acts, 1920, pp. 8, 9.
64. Acts, 1934, pp. 237-239, 259-261.
65. Acts: 1891-93, pp. 824, 825; 1904, pp. 106, 107.
66. Acts, 1918, p. 294.
67. See County Health Unit, p. 348.
68. Littell, vol. 1, 1793, p. 191; Acts, 1891-93, p. 270; Carroll, sec. 1840.

court for the maintenance of individual paupers. (69) The fiscal court could purchase land for use as a county poor farm (70) and later statutes authorized it to provide a poorhouse and poor farm. (71) Approximately forty years ago the present poorhouse was built, and thirteen paupers today are cared for in this institution. An interview with E. F. Bickett, the present coroner and former poor commissioner of the county, revealed that until 1938 the county court appointed a poor commissioner whose duty was merely to conduct investigations of paupers and report to the county court. Such investigations formed the basis of the fiscal court's action on the cases of the paupers concerned. (72) Direct relief, whenever it is necessary, is granted to other persons by the court. (73)

2. Provision for Indigent Sick, Recreation: Since 1902 the court has had authority to provide for the hospitalization of the indigent sick. (74) Recent legislation gives the county the power to contract with another county or municipality for the hospitalization of indigent sick when the county itself has no facilities for caring for such cases. (75) In 1924 the court was given the following powers: to provide for crippled children; to appropriate money for the support of the blind; to appoint a recreation board and to establish and maintain playgrounds and a recreation system; and to establish and maintain tuberculosis sanatoriums. (76)

Public Works

1. Roads and Bridges: The court has always had the financial administration of the construction and maintenance of roads and bridges, and the county court has had jurisdiction of such matters as the appointment of road viewers and the judicial steps necessary to lay out the routes of new roads. (77)

The fiscal court, and its predecessor, managed the county's roads by dividing the county into road precincts and appointing a road surveyor in each precinct. (78) In 1894, it was directed to appoint a county road supervisor with general supervision of county roads and bridges. (79) In 1914, when the county road engineer replaced the county road supervisor, that officer was appointed by the county judge upon approval of the court. (80) The court also appointed commissioners to examine proposed contracts for purchase of stock in turnpike road companies. (81)

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69. COUNTY COURT ORDERS, FIRST VOL. NOT NUMBERED, VOLS. 2 AND 3, SEE ENTRY 225.
70. ACTS, 1891-93, P. 187.
71. ACTS: 1902, P. 215; 1906, P. 342; 1922, PP. 161, 162.
72. INTERVIEW HELD IN JUNE 1939 BETWEEN R. P. ARNOLD, WRITER, KENTUCKY HISTORICAL RECORDS SURVEY, AND K. F. BICKETT, BRECKINRIDGE COUNTY CORONER.
73. INTERVIEW, JUNE 1939, BETWEEN MR. ARNOLD AND G. G. HESLER, POORHOUSE KEEPER, BRECKINRIDGE COUNTY.
74. ACTS: 1902, P. 215; 1906, P. 342; 1922, PP. 161, 162.
75. ACTS, 1936, PP. 298, 299.
76. ACTS, 1924, PP. 25, 30, 256, 293, 294.
77. LITTELL, VOL. 1, 1797, PP. 633-636; ACTS, 1914, PP. 338-382.
78. LITTELL, VOL. 1, 1792, P. 90; GEN. STAT., 1873 ED., P. 764.
79. ACTS, 1894, PP. 80, 81.
80. ACTS, 1914, P. 357.
81. ACTS, 1894, PP. 64, 65.

2. Public Buildings: The court has always been authorized to cause the construction of necessary county buildings such as a courthouse and jail, and to provide in the county levy for their repair. (82) Since 1910 the court has had the power to levy and set aside in a separate fund an annual tax of not less than ten cents per $100 for the erection and equipment of a courthouse and jail. (83) Acts of 1914 and 1928 have amended this act to allow the county judge, county attorney, and county clerk to compose a building commission, empowered to make contracts for such buildings. (84) Recent building activity has caused Breckinridge County to form such a commission. An act of 1916 gave the court power to acquire armories or contract for them if the county had a militia organization (85), but Breckinridge County has no militia unit.

3. Drainage: Since 1894 the court has had the power to undertake drainage projects in order to prevent sickness, the cost of such work to be paid out of the county levy or by taxation of county property. Should the probable cost of such work amount to more than the revenues of the county for the year in which the work is to be done, the county court must order a special election held to ascertain the wishes of the electorate. Any debt voted must be so divided as not to require a tax rate over fifty cents per $100. In the event of an affirmative vote, the county judge then prepares semi-annual coupon bonds; these are turned over to the fiscal court, which may then contract for the necessary work. If the land to be drained is confined to a small part of the county, and the legal voters thereof wish the work done despite the fact that its costs amounts to more than the revenue of the county for that year, the county court may lay off such portion of the county into a taxing district, prepare county bonds to be turned over to the fiscal court, and the latter court then makes contract for the work. The bonds are paid by taxation of the inhabitants of the taxing districts. (86) An amending act of 1930 provided that, when the fiscal court undertook a drainage project, it had the power to acquire for the county, by contract or condemnation, such land as was necessary to carry out the work. If condemnation proceedings were necessary, they were to be carried on in the same manner as provided by law in the case of railroad companies. (87)

Jurisdiction of Land

Since the creation of the county, the court has had the power, derived from the common law, to buy land for county use and also to sell and convey land. This general jurisdiction over county real estate, including unappropriated land belonging to the county, is summarized in an act of 1892. (88)

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82. LITTELL, VOL. 1, 1792, P. 90; GEN. STAT., 1873 ED., PP. 269, 270; ACTS, 1891-93, P. 270; CARROLL, SEC. 1840.
83. ACTS, 1910, P. 155.
84. ACTS: 1914, P. 1 FF.; 1928, PP. 156, 157.
85. ACTS, 1916, PP. 479, 480.
86. ACTS, 1894, P. 216 FF.
87. ACTS, 1930, PP. 36, 37; CARROLL, SECS. 2413-2416.
88. ACTS, 1891-93, P. 187; CARROLL, SEC. 927.

Miscellaneous Powers and Duties

1. Agricultural Aid: At first the county judge was authorized to appoint a county livestock inspector, whose salary was to be fixed and paid by the fiscal court (89), but later he was appointed and paid solely by the court. (90) The appointment of this officer is optional but, if made, the appointee must be subject to the approval of the State Livestock Sanitary Board. (91) Money to carry on extension work in home economics and county agriculture may be appropriated by the fiscal court, and an agricultural agent and a home demonstration agent may be appointed. (92) At present Breckinridge County employs an agricultural agent and a livestock inspector. There is no home demonstration agent, although home economics is taught in the local schools.

2. Weights and Measures: The furnishing of a standard set of weights and measures for county use was a duty of the county court of claims and levy from 1840 to 1892, and of the fiscal court from 1892 to 1910. (93) An act of 1910 provided that the fiscal court supply duplicates of the standard weights, measures, and balances approved by the Federal Government, which were to be kept in the office of the county clerk. (94) In addition, the court could appoint an inspector of weights and measures for a two-year term to test public and commercial scales. (95) This act was later repealed (96), and at present the fiscal court has no control over weights and measures.

3. Libraries: In any county in which there is no free public tax-supported library, the fiscal court of that county may establish such a library and levy a tax of not less than one-half or more than one mill per dollar of assessable property to support such a library, on written petition of twenty-five freeholders of each magisterial district, and may appoint two members of the county library board. (97) In 1930 the court was required to establish a county law library at Hardinsburg, and provide adequate quarters for it. The circuit court clerk is librarian and the members of the fiscal court act as library trustees. (98)

4. Appointments: Since 1893, when the office of treasurer was created, it has been the duty of the court to appoint the incumbent and to designate a person or bank as a depository for the revenue. (99) In connection with the general county administration, the court has wide discretionary powers in the appointment of various commissioners to sell bonds, convey land, and attend to other such delegated functions.

5. Records: Records of the fiscal court are stored in the county court clerk's office, unless otherwise specified.

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89. Acts, 1910, pp. 196, 197.
90. Acts, 1914, p. 385.
91. Acts, 1918, pp. 375, 376.
92. Acts, 1916, p. 156.
93. Acts, 1838-39, p. 84.
94. Acts, 1910, pp. 265, 266.
95. Ibid., p. 266.
96. Acts, 1914, p. 129.
97. Acts, 1920, p. 639.
98. Acts, 1930, pp. 200-203.
99. Acts, 1891-93, pp. 226, 522; Carroll, sec. 928; see Treasurer, p. 305.

Fiscal Court - Proceedings; Finance (1-4)

Proceedings

1. MINUTES FISCAL COURT, 1894--. 5 vols. (1-5)
Record of proceedings at each daily session of fiscal court, showing: date, term of court, names of presiding judge, members present, and parties concerned, summary of proceedings, action taken, and notation of adjournment. Arr. chron. by date of session. No index. Hdw. Aver. 450 pp. 16 x 11 x 3.

2. ORDER BOOK COURT OF CLAIMS AND LEVY, 1889-93. 1 vol. 1800-1888 in County Court Orders, entry 225.
Record of administrative orders issued at each daily session of court of claims and levy terms regarding business affairs of county, showing: date, term of court, names of presiding judge, members present, and principals involved, nature of order, and signature of presiding official. Also contains: Fiscal Court Order Book, 1892-93, entry 3. Arr. chron. by date of court term. No index. Hdw. 600 pp. 18 x 12 x 2.

3. FISCAL COURT ORDER BOOK, 1894--. 4 vols. (1-4) 1892-93 in Order Book Court of Claims and Levy, entry 2.
Record of administrative orders issued at each daily session of fiscal court terms regarding business affairs of county, including: accepting bids and approving contracts; accepting road rights-of-way; advertising for bids; allowing payment of claims for county's expenses; appointing auditing committees, commissioners to settle with sheriff, committees to negotiate loans, county officials, and members of bond commission; appropriating funds for payment of county's expenses; approving commissions of officials, reports, resignations, and settlements; approving or rejecting bonds of officials, and sales of county owned property; directing the collection of delinquent taxes; establishing magisterial districts, rates of levy, salaries of county officials and employees, and voting precincts; granting franchises; issuing bonds; allowing poll tax exemptions; printing ballots for county elections; providing insurance coverage for county owned property; purchasing supplies and materials for institutions, buildings, and offices of county; rejecting claims; and retiring bonds. Summary of each shows: date, term of court, names of presiding official, members present, and principals involved, nature of order, and signature of presiding official. Also contains: Road Orders, 1931--, entry 39. Arr. chron. by date of order. No index. Hdw. Aver. 600 pp. 18 x 11 x 3.

Finance

Administration

4. BUDGET, 1938--. 1 f.b.
Financial statement of anticipated income and expenditures prepared by county budget commission and approved by State Department of Revenue, showing: date, period for which budget is prepared, itemized estimates of receipts and source, total amounts of income and expenditures of current and previous years, amounts allotted to various county units, amount of bonded and other indebtedness, approval of State Revenue Department, date approved, signatures of budget commission, and approval of county judge. Arr. chron. by date of budget. No index. Typed. $4\frac{1}{2}$ x $4\frac{1}{2}$ x 10.

5. COUNTY AUDIT, 1934--. 1 f.b.
Audits of county officials' accounts furnished fiscal court and Governor of Commonwealth by agents of State Auditor's office, showing: date of audit, names of Governor and county judge, title of each office, detailed analysis of receipts and disbursements of each office, condition of each fund, amount of county's outstanding obligations and bonded indebtedness, salary of each county official, remarks, and signature of auditor. Arr. chron. by date of audit. No index. Typed. 4½ x 4½ x 10.

Revenue

6. COUNTY REVENUE AND LEVY, 1872-1903. 4 f.b.
County levy as established by fiscal court to raise revenue for county's expenses, showing: date, rate of levy, amount of county assessment, total anticipated revenue, amount allotted each fund, and signature of county judge. No obvious arr. No index. Hdw. 4½ x 4½ x 10.

Taxation

7. FRANCHISES, 1891--. 8 f.b. Title varies: Railroad Assessments, 1 f.b., 1891-1909; Franchise Lists and Assessments, 5 f.b., 1909-22; Corporation Franchise and Tangible, 1 f.b., 1923-37.
Assessment schedules levied on tangible property of public utilities furnished fiscal court by state tax commissioner, showing: date of assessment, name of corporation, description of property, assessed value, amount of tax due county, distribution of tax, and signature of State Tax Commissioner. Arr. chron. by date of assessment list. No index. 1891-1909, hdw. on pr. fm.; 1910--, typed on pr. fm. 4½ x 4½ x 10.

8. (TAX EXEMPTION NOTICES), 1907--. 1907-10 in Delinquent Taxes, entry 9; 1911-36 in Dismissions of Fiscal Court, entry 64; 1937-- in Miscellaneous, entry 132.
Notices issued by fiscal court exempting named property owners from payment of county levy for certain specified reasons, showing: date of notice, name of taxpayer, description of property, assessed value, reason for exemption, and signature of county judge.

9. DELINQUENT TAXES, 1907--. 4 f.b. 1875 in Miscellaneous, entry 132; 1909-28 also in Dismissions of County Court, entry 284; 1929-- also in Dismissions of Fiscal Court, entry 64.
Sheriffs' reports of delinquent taxes collected and reported to fiscal court, showing: date of report, name and district number of taxpayer, description of property assessed, amount of taxes, interest, and penalty due, amount collected, dates collected and reported, and signature of sheriff. Also contains: (Tax Exemption Notices), 1907-10, entry 8. Arr. chron. by date of report. No index. Hdw. under pr. hds. 4½ x 4½ x 10.

10. NOTICE OF LAND SOLD TO COUNTY FOR TAXES, 1937--. 1 f.b. 1909-28 in Dismissions of County Court, entry 284; 1929-36 in Dismissions of Fiscal Court, entry 64.
Notices of land sold to county by sheriffs upon property owner's failure to pay taxes and sheriff's failure to secure bidder for property at duly advertised tax sale, showing: date and place of sale, name of delinquent taxpayer,

years delinquent, location and description of property, assessed value, amount of tax, interest, and costs due, amount paid for property by fiscal court and reason for county's purchase of property, signature of sheriff, attestation of county judge, date filed, and fiscal court order book number and page where sale recorded. Arr. chron. by date filed. No index. Typed on pr. fm. 4½ x 4½ x 10.

11. AUDITORS AGENTS BACK TAXES, 1903-15. 2 f.b. Record discontinued.

Tax bills of unlisted and unpaid taxes prepared by agents appointed by State Revenue Department and collected on a commission basis, showing: name and address of taxpayer, tax assessment volume and page number where recorded, date, amount, years delinquent or unlisted, and remarks. No obvious arr. No index. Hdw. on pr. fm. 4½ x 4½ x 10.

12. BACK TAX SUITS, 1912-15. 1 f.b. 1903-11 in Dismissions of Fiscal Court, entry 64.

Notices of suits filed by fiscal court and agents of State Revenue Department against delinquent taxpayers, showing: date filed, name of delinquent taxpayer, years delinquent, location and description of property, assessed value, amount of taxes, interest, and costs due, signatures of county judge, and agent of state revenue department. Arr. chron. by date of notice. No index. Hdw. on pr. fm. 4½ x 4½ x 10.

13. TAX AFFIDAVITS (Erroneous Assessments), 1923--. 1 f.b.

Affidavits made before county judge by taxpayers claiming erroneous assessments on their property and praying for proper relief, showing: name of taxpayer, date of affidavit, description of property assessed, amount assessed, tax bill number, amount assessed in error, signature of affiant, and acknowledgment of county judge. Arr. chron. by date of affidavit. No index. Hdw. 4½ x 4½ x 10.

Bond Issues

14. REGISTER OF BONDS, 1926--. 1 vol.

Record of outstanding county bonds, showing: name of holder, number of bond, dates of issue and payment, amount, by whom issued, object of issue, transferred to and by whom, date transferred, and date of payment of refund. Arr. chron. by date recorded. No index. Hdw. under pr. hds. 100 pp. 10 x 8 x 1.

Expenditures

15. CLAIMS, 1887--. 88 f.b. Title varies: Claims Allowed, 1 f.b., 1887; Fiscal Court Claims, 10 f.b., 1910-36; Lights, Telephone Bills, 4 f.b., 1927-33. 1803-1915 also in Dismissions of County Court, entry 284; 1882, 1934 also in Miscellaneous, entry 132; 1893-- also in Dismissions of Fiscal Court, entry 64.

Original claims filed with fiscal court against county for services rendered and materials furnished, showing: date and amount, name of claimant, description of services and material, date filed, date and amount allowed, fund to which charged, order book number and page reference, and certification of fiscal court clerk. Also contains: Pauper Claims, 1895--, entry 33. Arr. chron. by date allowed. No index. Hdw. on plain sheets and typed on pr. fm. 4½ x 4½ x 10. Co. judge off.

16. WARRANTS (Voucher Stubs), 1876--. 19 vols. Title varies: Claims Certified, 2 vols., 1876-1909; County Orders, 1 vol., 1910-12; Claim Orders, 2 vols., 1913-27.
Stub record of vouchers issued by fiscal court in payment of claims against county, showing: date, number, and amount of voucher, name of payee, purpose of payment, fund on which drawn, and order book reference. Also contains: Pauper Claim Book, 1928--, entry 34. Arr. chron. by date of warrant. No index. Hdw. on pr. fm. Aver. 300 pp. 14 x 16 x 2.

17. APPROPRIATION LEDGER, 1935--. 1 vol.
Record of appropriations made by fiscal court for payment of county's expenses, showing: date, amount, number, and purpose of appropriation, and fund from which payable. Arr. numer. by appropriation no. and chron. thereunder by date of record. No index. Hdw. under pr. hds. 400 pp. 12 x 14 x 2.

Settlements of County Officials' Accounts

18. SHERIFF SETTLEMENTS, 1883--. 69 f.b. Title varies: Reports and Settlements, 2 f.b., 1883-89. 1800-1889 also in Dismissions of County Court, entry 284; 1882 also in Miscellaneous, entry 152; 1895-1910 also in Dismissions of Fiscal Court, entry 64.
Original financial settlements made annually by sheriffs with commissioners and receivers appointed by fiscal court to settle with county officials, showing: date of settlement, name of sheriff, period covered, itemized list of receipts and disbursements, totals and balances, sworn statement of sheriff, signature of commissioner, date settlement approved, attestation of county judge, fiscal court order book number and page reference to approval order, acknowledgment of county court clerk, and date recorded. Also contains: Sheriffs Reports, 1883-89, entry 21; Commissioners and Receivers Reports, 1883-89, entry 23. Arr. chron. by date of settlement. No index. 1883-1916, hdw.; 1917-- typed. 4½ x 4½ x 10.
For record of settlements, see entry 323.

19. TREASURERS SETTLEMENTS, 1917--. 3 f.b.
Original financial settlements made annually by county treasurers with commissioners and receivers appointed by fiscal court to settle with county officials, showing: date of settlement, name of treasurer, period covered, itemized list of receipts and disbursements, totals and balances, sworn statement of treasurer, signature of commissioner, date settlement approved, attestation of county judge, fiscal court order book, number and page reference to approval order, acknowledgment of county court clerk, and date recorded. Arr. chron. by date of settlement. No index. Typed. 4½ x 4½ x 10.

20. JAILERS SETTLEMENTS, 1875--. 4 f.b. 1800-1874 in Dismissions of County Court, entry 284; 1901-11 also in Dismissions of Fiscal Court, entry 64.
Original financial settlements made annually by jailers with commissioners and receivers appointed by fiscal court to settle with county officials, showing: date of settlement, name of jailer, period covered, enumerated and itemized list of prisoners committed to jail, dates committed and released, amount of board costs per prisoner, number of prisoners committed and released during period and total costs for keeping prisoners, itemized list of repairs to jail

and cost of each, itemized list of other expenditures, total disbursements, sworn statement of jailer, signature of commissioner, date settlement approved, attestation of county judge, fiscal court order book number and page reference to approval order, acknowledgment of county court clerk, and date recorded, Arr. chron. by date of settlement. No index. Hdw. on pr. fm. 4½ x 4½ x 10.

21. SHERIFFS REPORTS, 1893--. 7 f.b. 1800-1892 in Dismissions of County Court, entry 284; 1883-89 also in Sheriff Settlements, entry 18; 1902-12 also in Dismissions of Fiscal Court, entry 64.

Original financial reports made monthly by sheriffs to fiscal court, showing: name of sheriff, month reported, amount collected, itemized list of receipts, date report made, signature of sheriff, approval of county judge, fiscal court order book number and page where approval recorded, and certification of county court clerk. Arr. chron. by date of report. No index. Hdw. on pr. fm. 4½ x 4½ x 10.

For record of sheriffs reports, see entry 322.

22. TREASURERS REPORTS, 1917--. 2 f.b. (dated).

Original monthly financial reports made by treasurer to fiscal court, showing: date of report, itemized list of receipts and disbursements, totals of each, nature of receipts and disbursements, signature of treasurer, date approved by fiscal court, signature of county judge, fiscal court order book number and page reference to approval order, and cancelled vouchers covering disbursements. Arr. chron. by date of report. No index. Typed. 4½ x 4½ x 10.

23. COMMISSIONERS AND RECEIVERS REPORTS, 1906-10. 1 f.b. 1800-1882, 1890-92 in Dismissions of County Court, entry 284; 1883-89 in Sheriff Settlements, entry 18; 1893-1905, 1911-- in Dismissions of Fiscal Court, entry 64.

Reports made annually to fiscal court by commissioners and receivers appointed by court to settle with county officials, showing: date of report, name of commissioner, enumerative list of county officials and itemized report of each official's settlement, remarks, sworn statement of commissioner, attestation of county judge, and date filed. No obvious arr. No index. Hdw. 4½ x 4½ x 10.

24. COMMISSIONERS REPORTS (Special Railroad Commissioners' Reports), 1891-1905. 1 f.b.

Original semi-annual reports made to fiscal court by special tax commissioners appointed to receive and disburse funds collected to retire railroad bonds subscribed to by county, showing: date, itemized schedule of receipts and disbursements, supporting evidence of disbursements, affidavits of commissioners, and attestation of county court clerk. Arr. chron. by date of report. No index. 1891-1900, hdw.; 1901-5, typed. 4½ x 4½ x 10.

25. CITY OF CLOVERPORT, TREASURERS REPORTS, 1930--. 2 f.b. Title varies: Financial statements of Incorporated Towns, 1 f.b., 1930-36.

Original reports made annually by city treasurers of Cloverport, Ky., to fiscal court, showing: date of report, period covered, name of city treasurer, itemized list of receipts and disbursements, totals and balances, sworn statement of city treasurer, bank cashier's affidavit in proof of

balance on hand, acknowledgment of county court clerk, and date report filed. Arr. chron. by date of report. No index. Typed. 4⅓ x 4⅓ x 10.

26. SCHOOL REPORTS (School Commissioners' Tax Books), 1810-17. 3 f.b.
Reports made to county court by commissioners appointed to assess property for school purposes, showing: date assessed, name of person chargeable with tax, number acres of land, assessed value, rate of tax, county in which land lies, in whose name entered, in whose name surveyed, and in whose name patented; number of slaves over sixteen, sex of each slave, number of horses, mares, and studs, and date of covering season; number of retail stores, taverns, and wheel carriages; signatures of commissioners, date filed, and attestation of county court clerk. Arr. chron. by date of report. No index. Hdw. 4⅓ x 4⅓ x 10.

27. ANNUAL SETTLEMENT WITH COMMON SCHOOL COMMISSIONER, 1876-90. 1 vol.
Record of settlement by common school commissioner with county court, showing: date of settlement, amount and source of receipts, amount disbursed and to whom paid, approval of county judge, and attestation of county court clerk. Arr. chron. by date of settlement. No index. Hdw. on pr. fm. 450 pp. 16 x 14 x 2.

Insurance

28. INSURANCE POLICIES ON COURT HOUSE AND JAIL, 1930--. 1 f.b. Prior records missing.
Fire insurance policies issued in favor of county covering courthouse and jail, showing: date of issuance, name of carrying company, location and description of property covered, amount of policy and premium rate, expiration date, signature of agent of carrying company, and approval of county judge. No obvious arr. No index. Typed on pr. fm. 4⅓ x 4⅓ x 10.

Welfare

29. W. P. A. (Work Projects Administration Activities), 1935--. 2 f.b.
Miscellaneous correspondence, papers, and activity reports of Work Projects Administration in county, including:

i. Correspondence between county judge and officials of Work Projects Administration concerning welfare activities in county, showing: date, to whom written, title of person addressed, nature of correspondence, and signature of sender.
ii. Appointments to Civilian Conservation Corps by local certifying agent, showing: date of appointment, name, age, color, and description of appointee, names of parents or guardian and number of dependents in family, term of enlistment, camp in which enrolled, salary of appointee and amount to be remitted to parents or guardian, signatures of appointee, parents or guardian, and local certifying agent, and attestation of county judge.
iii. Invoices of materials purchased by fiscal court to be used on

Work Projects Administration projects, showing: date of invoice, from whom purchased, itemized list of material purchased and price of each article and total amount of bill, name and number of project receiving material, signature of project foreman, and attestation of county judge.

iv. Project supervisors' receipts for materials purchased by fiscal court for use on local projects sponsored by fiscal court, showing: date of receipt, from whom received, description of material and amount received, number of project, and signature of project supervisor.

v. Notices to open projects received by fiscal court from Work Projects Administration officials, showing: date of notice, name and number of project, nature of work to be done, location of project, and personnel quota, and signature of area supervisor.

Arr. chron. by date of document. No index. Typed on pr. fm. 4½ x 4½ x 10. Co. judge off.

30. (CONTRACTS WITH POORHOUSE KEEPERS), 1869--. 1869-81 in Dismissions of County Court, entry 284; 1882-92 in Miscellaneous, entry 132; 1893-- in Dismissions of Fiscal Court, entry 64.

Contracts made between poorhouse keepers and fiscal court legally binding principal to properly clothe, board, and care for pauper inmates as per stipulated agreement, showing: date of contract, name of poorhouse keeper, terms of agreement, expiration date of contract, signature of poorhouse keeper, and attestation of county judge.

31. (POORHOUSE KEEPER'S BOND), 1882--. 1882-87 in Officers Commissions, entry 52; 1888-- in Miscellaneous Bonds, entry 63.

Original surety bonds furnished fiscal court by poorhouse keepers as a covenant that all duties will be well and truly performed according to law, showing: names of principal and surety, terms and amount of bond, signatures of principal and surety, date bond executed, and attestation of county judge.

32. PAUPER COMMISSIONERS REPORTS, 1926--. 9 f.b. (dated). 1871-92 in Dismissions of County Court, entry 284; 1882 also in Miscellaneous, entry 132; 1893-1925 in Dismissions of Fiscal Court, entry 64.

Original monthly reports made to fiscal court by pauper commissioners, showing: date of report, number of inmates in poorhouse, number and names of paupers cared for outside of poorhouse, salaries of commissioner and poorhouse keeper, paid bills for supplies furnished paupers, and signature of pauper commissioner. Arr. chron. by date of report. No index. Typed. 4½ x 4½ x 10.

33. PAUPER CLAIMS, 1934. 1 f.b. 1827-92 in Dismissions of County Court, entry 284; 1893-- also in Dismissions of Fiscal Court, entry 64; 1895-- also in Claims, entry 15.

Claims filed with fiscal court for services, material, or merchandise furnished paupers, showing: date of claim, name of claimant, nature of services rendered or description of material or merchandise furnished,

amount of claim and claimant's affidavit in support of claim, signature of claimant, amount allowed, date approved, fiscal court order book number and page where approval recorded, and signature of county judge. Arr. chron. by date of claim. No index. Hdw. 4⅓ x 4½ x 10. Co. judge off.

34. PAUPER CLAIM BOOK, 1921-27. 1 vol. 1928-- in Warrants (Voucher Stubs), entry 16.
Stub record of warrants issued by fiscal court in payment of pauper claims showing: number, date, and amount of warrant, names of payee and beneficiary. Arr. chron. by date of warrant. No index. Hdw. on pr. fm. 100 pp. 14 x 16 x 1.

Public Works, Roads, and Bridges

Conveyances

35. ROAD DEEDS, 1875--. 6 f.b. Title varies: Deeds, Orders, etc., 1 f.b., 1882-87.
Road deeds executed between grantors and fiscal court transferring title to property to be used as road rights-of-way, showing: date of instrument, names of grantor and grantee, location and description of property, consideration, terms of grant, notarized signature of grantor, attestation and acknowledgment of county court clerk, deed book number and page where recorded, and date recorded. Arr. chron. by date of deed. Also contains: Road Orders, 1882-87, entry 38; (Old Patents), 1782-1800, entry 65; Commissioner's Deeds, 1883-89, entry 216. Arr. chron. by date of instrument. No index. Hdw. and typed. 4⅓ x 4½ x 10.

36. W. P. A. (Work Projects Administration) Roads (Road Rights-of-Way), 1938--. 1 f.b.
Road rights-of-way agreements made between property owners and fiscal court conveying title of property to be used for roads built by Work Projects Administration, filed with county court clerk for recording, showing: date of agreement, name and address of grantor, name and direction of road, width, length, and location of property, plans of road, number of acres in grant, signatures of grantor and county road engineer, attestation of county judge and certification of county court clerk, date filed, and deed book number and page where recorded. Arr. chron. by date recorded. No index. Typed. 4½ x 4½ x 10.

37. QUARRY LEASES AND ROAD AGREEMENTS, 1910-14. 1 f.b.
Original leases held by fiscal court on various properties for quarrying purposes, showing: name of lessor, date and terms of lease, location of property, signatures of county judge and lessor, and lease book and page numbers where recorded. Also contains: Road and Bridge Contracts, entry 41. Arr. chron. by date of lease. No index. Typed on pr. fm. 4½ x 4½ x 10. Co. judge off.

Orders

38. ROAD ORDERS, 1815--. 35 f.b. 1882-87 also in Road Deeds, entry 35.
Original road and bridge orders issued by fiscal court at each daily

session of court terms, including: accepting road rights-of-way; advertising for bids; approving contracts; appointing road engineers, road and bridge commissioners, road overseers, road supervisors, and road surveyors; building new roads and changing courses of old roads; issuing ad quod damnum writs; purchasing equipment, material, and supplies to be used on roads and bridges; and assigning workers to roads. Summary of each order shows: date, term of court, names of principals involved, nature of order, road order volume number and page where recorded, and signature of presiding judge. Also contains: Road and Bridge Contracts, 1915, entry 41; Road Viewers Reports, 1815-39, entry 43; Road Petitions, 1815-29, entry 283. No obvious arr. No index. Hdw. and typed on plain sheets and pr. fm. 4½ x 4½ x 10.

39. ROAD ORDERS, 1879-1930. 5 vols. (1-5). 1800-1878 in County Court Orders, entry 225; 1931-- in Fiscal Court Order Book, entry 3.

Record of road and bridge orders issued at each daily session of fiscal court, showing: date and term of court, names of presiding official and members present, nature of each order, names of principals involved, and signature of presiding official. Recorded fiscal court road and bridge orders include:

i. Accepting road rights-of-way, showing: date of order, name of grantor, location and description of property, consideration involved, and signature of presiding judge.

ii. Advertising for bids for work to be done on county roads and bridges, showing: date of order, name of road or bridge upon which work is to be done, type of material to be used and building specifications, dates work to be commenced and completed, and signature of presiding judge.

iii. Approving contracts covering work to be done on county roads and bridges, showing: date of contract, name of road or bridge upon which work is to be done, name of contractor, dates work to be commenced and completed, and signature of presiding judge.

iv. Appointing road engineers, 1912--, showing: date of order, name of appointee, term of appointment, salary schedule, amount of surety bond required, and signature of county judge.

v. Appointing road and bridge commissioners to handle funds derived from sale of road and bridge bonds and all other funds allocated to road and bridge purposes, showing: date of order, name of appointee, term of appointment, salary schedule, and amount of surety bond required, and signature of presiding judge.

vi. Appointing road overseers, 1815-1911, showing: date of appointment, name of appointee, name of road to be worked, names of hands assigned to work on road, nature of work to be performed, date road to be worked, and signature of presiding judge.

vii. Appointing road supervisors, showing: date of order, name of appointee, term of appointment, salary schedule, roads to be maintained, amount of surety bond required, and signature of presiding judge.

viii. Appointing road surveyors, showing: date of order, name of appointee, term of appointment, salary schedule, location of route to be surveyed, amount of surety bond required, and signature of presiding judge.

Fiscal Court - Public Works, Roads, and Bridges (40-42)

ix. Building new roads and changing courses, repairing and widening old roads, showing: date of order, name of road, nature of work to be performed, date work to commence, and signature of presiding judge.

x. Issuing of ad quod damnum writs condemning land for road purposes, showing: date of order, location of land, name of property owner, date inquest held to assess damages, amount of damages allowed, and signature of presiding judge.

xi. Purchasing equipment, material, and supplies to be used on county roads and bridges, showing: date of order, amount and description of equipment, material and supplies purchased, cost, from whom purchased, date of delivery, and signature of presiding judge.

xii. Assigning workers to county roads, 1815-1912, showing: date of order, road to be worked, nature of work, names of residents living along boundaries of road assigned to work, name of road overseer, and signature of presiding judge.

Arr. chron. by date of order. No index. Hdw. Aver. 600 pp. 18 x 13 x 2. 1879-1906, 3 vols., co. ct. clk. off.; 1907-30, 2 vols., co. judge off.

Boundaries

40. ROAD BOUNDARIES, 1879-95. 1 vol.

Record of road boundaries as established by fiscal court and prepared for use of road overseers, showing: number of precinct, name and identification of road, boundaries of lands served by road, and name of road overseer. Arr. numer. by precinct no. No index. Hdw. 400 pp. 16 x 12 x 2.

Contracts

41. ROAD AND BRIDGE CONTRACTS, 1914-18. 1 f.b. 1814-74 in Dismissions of County Court, entry 284; 1910-14 also in Quarry Leases and Road Agreements, entry 37; 1915 also in Road Orders, entry 38.

Original contracts between fiscal court and various contractors for construction of new and repairs to old roads and bridges, showing: date, name of contractor, location and description of road or bridge, specifications of work to be done and type of material to be used, terms of contract, consideration, signatures of contractor and county road engineer, and approval of judge of fiscal court. Arr. chron. by date of contract. No index. Typed on pr. fm. 4½ x 4½ x 10. Co. judge off.

Reports

42. (ROAD SURVEYORS' REPORTS), 1821-1930. 1821-84 in Miscellaneous, entry 132; 1885-92 in Dismissions of County Court, entry 284; 1893-1930 in Dismissions of Fiscal Court, entry 64.

Original reports made monthly by road surveyors to fiscal court of work performed, materials and supplies used, and wages due, showing: date of report, name of road surveyor, name and location of road, period covered by report, names of men employed, nature of work, amount due each, amount and value of materials and supplies used, signature of road surveyor, and date report filed.

Fiscal Court - Public Works, Roads, and Bridges (43-47)

43. ROAD VIEWERS REPORTS, 1852-92. 2 f.b. 1810-74 also in Dismissions of County Court, entry 284 ; 1815-39 also in Road Orders, entry 38; 1893-1912 in Dismissions of Fiscal Court, entry 64.
Original reports made to fiscal court by road viewers appointed to view routes for new roads, showing: date of report, name of road viewers, points of direction of road, location and description of route viewed, remarks, signature of road viewer, approval of fiscal court, attestation of county judge, and fiscal court order book number and page where approval recorded. Arr. chron. by date of report. No index. Hdw. 4½ x 4½ x 10.

44. OVERSEERS REPORTS, 1920-30. 1 f.b. 1805-75 in Dismissions of County Court, entry 284; 1876-92 in Miscellaneous, entry 132; 1893-1919 in Dismissions of Fiscal Court, entry 64.
Original reports made to fiscal court by road overseers, showing: date of report, name of overseer, name and location of road on which report is made, period covered by report, names of men employed, nature of work, amount and value of material furnished, signature of overseer, and date filed. Arr. chron. by date of report. No index. Hdw. on pr. fm. 4½ x 4½ x 10. Co. judge off.

45. RECORD OF ROAD TOOLS AND OTHER COUNTY PROPERTY, 1906-12. 2 vols.
Record of road overseers' reports made to fiscal court of tools used and work done on county roads, showing: name and number of road, magisterial district number, name and address of overseer and date appointed, class, length, miles, and condition of road at time of appointment of overseer, date reports filed, number of hands subject to work on road, number of culverts and bridges, remarks, list of equipment used, and date recorded. Arr. chron. by date recorded. No index. Hdw. on pr. fm. Aver. 600 pp. 18 x 12 x 2. Co. judge off.

46. ROAD AND BRIDGE COMMISSIONERS REPORTS, 1896--. 4 f.b. 1828-88 in Miscellaneous, entry 132; 1871-95 also in Dismissions of County Court, entry 284.
Original reports made by road and bridge commissioners to fiscal court, showing: date of report, name of commissioner, period covered, itemized list and source of receipts, total receipts, balance, signature of commissioner, attestation of county judge, date report approved, and fiscal court order book number and page where approval recorded. Arr. chron. by date of report. No index. Hdw. on pr. fm. 4½ x 4½ x 10.

47. REPORT OF COUNTY ROAD ENGINEER, 1913--. 1 f.b.
Original reports made by road engineers to fiscal court of money received and disbursed and of work performed on county roads, showing: date of report, name of road engineer, itemized list of receipts and disbursements, totals and balances, statement as to work performed on county roads, sworn statement of road engineer, attestation of county judge, date report approved, and fiscal court order book number and page where approval recorded. Arr. chron. by date of report. No index. Typed. 4½ x 4½ x 10.

Claims

48. ROAD CLAIMS ALLOWED, 1840--. 29 f.b. 1811-92 also in Dismissions of County Court, entry 284 ; 1893-1929 also in Dismissions of Fiscal Court, entry 64 .
Road claims allowed by fiscal court for services rendered or material furnished county, showing: name of claimant, date, amount, and nature of claim, affidavit of claimant, date and amount allowed, certification of county judge, and order book number and page where recorded. Arr. chron. by date allowed. No index. Hdw. and typed on plain sheets and pr. fm. 4½ x 4½ x 10. Co. judge off.

49. BRIDGE CLAIMS, 1921--. 6 f.b. 1810-92 in Dismissions of County Court, entry 284 ; 1893-1925 also in Dismissions of Fiscal Court, entry 64.
Bridge claims allowed by fiscal court for services rendered or material furnished county, showing: name of claimant, date, amount, and nature of claim, affidavit of claimant, date and amount allowed, certification of county judge, and order book number and page reference. Arr. chron. by date allowed. No index. Typed on pr. fm. 4½ x 4½ x 10. Co. judge off.

Miscellaneous

50. STATE HIGHWAY PAPERS, 1918--. 3 f.b.
General correspondence between county judge and state highway department regarding old roads, detours, and construction of new roads, showing: date, subject matter, name of addressee, and signature of addressor. Arr. chron. by date of correspondence. No index. Typed. 4½ x 4½ x 10. Co. judge off.

Officials of County

Appointments

51. (APPOINTMENTS OF COUNTY OFFICIALS), 1800--. 1800-1892 in Dismissions of County Court, entry 284; 1803, 1823, 1829-32, 1927 also in Miscellaneous, entry 132; 1893-- also in Dismissions of Fiscal Court, entry 64.
Appointments of county officials made by fiscal court, showing: date of appointment, name of appointee, title of office, term of appointment, salary schedule, amount of surety bond required, and signature of county judge.

Commissions

52. OFFICERS COMMISSIONS, 1881-1913. 2 f.b. 1800-1892 also in Dismissions of County Court, entry 284; 1804, 1812, 1819, 1821, 1827, 1830, 1832, 1845 also in Miscellaneous, entry 132; 1914-- in Dismissions of Fiscal Court, entry 64.
Commissions issued by Governor of Commonwealth to county officials appointed or elected to office, showing: date issued, name of official, title of office, conditions of commission, seal of state, and signatures

of Governor and Secretary of State. Also contains: (Poorhouse Keeper's Bond), 1882-87, entry 31; Power of Attorney, 1887-88, entry 78; Guardians Bonds, 1884, entry 244; (Assignees' Bonds), 1886, entry 248; Druggists Bonds and Declarations, 1880-86, entry 280; Election Certificates, 1882-86, entry 353; (Oaths of Teachers' Examiners), 1882-88, entry 383. No obvious arr. No index. Hdw. on pr. fm. 4½ x 4½ x 10.

Resignations

53. (RESIGNATIONS OF OFFICIALS), 1800--. 1800-1892 in Dismissions of County Court, entry 284; 1893-- in Dismissions of Fiscal Court, entry 64.

Notices of resignations of county officials filed with fiscal court for acceptance, showing: date of notice, name of official and title of office held, reason for resignation, date effective, and signature of principal.

Surety Bonds

54. CONSTABLES BONDS, 1852-1908. 2 vols. 1802-51 in Miscellaneous Bonds, entry 63.

Original surety bonds furnished Commonwealth by constables as a covenant that principal shall well and truly collect all officers' fees and dues put into his hands to collect, and account for and pay the same in such time and manner as directed by law; and execute all process and precepts to him directed and of all notices and orders of justices or other tribunals given to him to execute, and pay all sums of money received by him upon any such process or precept, or any note, account, fee-bill, or other claim placed in his hands for collection, to the person entitled thereto, or to his order; and in all other things faithfully execute the office of constable during his continuance therein, showing: names of principal and surety, amount of bond, date executed, signatures of principal and surety, and attestation of county court clerk. Arr. chron. by date of bond. Alph. index, direct by first letter of surname of principal, showing p. no. where recorded. Hdw. on pr. fm. Aver. 350 pp. 16 x 12 x 2.

55. BONDS OF JUSTICES OF THE PEACE, 1867-1935. 2 vols. Title varies: Justice of Peace Bonds, 1 vol., 1867-86. 1805-66 in Miscellaneous Bonds, entry 63.

Original surety bonds furnished Commonwealth by justices of the peace as a covenant that principal will faithfully discharge all duties of office, and pay over in due time, to the proper person, all money received by him for fines, taxes, judgments rendered, or executions, showing: names of principal and surety, amount of bond, date executed, signatures of principal and surety, and attestation of county court clerk. Arr. chron. by date of bond. Alph. index, direct by first letter of surname of principal, showing p. no. where recorded. Hdw. on pr. fm. Aver. 300 pp. 14 x 10 x 2.

56. SHERIFF'S THREE BONDS, 1874--. 4 vols. (2 vols., not labeled; 1, 2). Title varies: Sheriff Bond Book, 1 vol., 1874-89; Sheriff's & C. Bonds, 1 vol., 1890-1901; Sheriffs Bonds, 1 vol., 1902-15. 1800-1873 in Miscellaneous Bonds, entry 63.

Original surety bonds furnished Commonwealth by sheriffs including sheriff's official bond, county levy bond, and State revenue bond. Sheriff's official bond is a covenant to and with the Commonwealth that principal

shall, by himself and his deputies, well and truly discharge all the duties of said office and pay over to such persons, and at such times as they may respectively be entitled to the same, all moneys that may come to principal's hands, showing: names of principal and surety, date and amount of bond, signatures of principal and surety, and attestation of county court clerk; sheriff's bond for the collection of county levy furnished Commonwealth as security that principal shall well and truly collect, account for, and pay over to the person entitled to receive the same, according to law, the county levy and public dues, and that principal shall, when called upon by the county court, settle his accounts, if any, of public money in his hands belonging to county, and shall, in all things, well and truly demean himself and perform the duties of collector of the county levy, showing: names of principal and surety, year covered by bond, date bond executed, signatures of principal and surety, and attestation of county court clerk; sheriff's bond for the collection of state revenue is a covenant with Commonwealth that principal shall faithfully perform the duties appertaining to the collection of revenue, and shall within the time prescribed by law, collect, account for, and pay into treasury of State, and to the persons entitled thereto, according to law, all taxes and public dues, fines, amercements, and penalties directed or authorized by law to be collected or received by him within the said year, showing: names of principal and surety, year covered by bond, date bond executed, signatures of principal and surety, and attestation of county court clerk. Arr. chron. by date of bond. 1874-1901, 1916--, 3 vols., alph. index, direct by first letter of surname of principal, showing p. no. where recorded; 1902-15, 1 vol., no index. Hdw. on pr. fm. Aver. 300 pp. 14 x 8 x 2.

57. JAILERS, COR'N'RS (Coroners), ASSESSORS AND SURVEYORS BONDS, 1878-1918. 1 vol.

Miscellaneous original surety bonds, including: (Assessors' Bonds), entry 58; (Coroners' Bonds), 1878-1917, entry 59; (Surveyors' Bonds), 1878-1909, entry 60; (Jailers' Bonds), 1886-1917, entry 61. Arr. chron. by date of bond. Alph. index, direct by first letter of surname of principal, showing p. no. where recorded. Hdw. on pr. fm. 600 pp. 18 x 12 x 3.

58. (ASSESSORS' BONDS), 1854--. 1854-77, 1919-- in Miscellaneous Bonds, entry 63; 1878-1918 in Jailers, Cor'n'rs (Coroners), Assessors and Surveyors Bonds, entry 57.

Original surety bonds executed by assessors as a covenant with Commonwealth for faithful performance of duties, showing: date and amount of bond, names of principal and surety, affidavit of surety, and signatures of principal and surety.

59. (CORONERS' BONDS), 1821--. 1821-77, 1918-- in Miscellaneous Bonds, entry 63; 1878-1917 in Jailers, Cor'n'rs (Coroners), Assessors and Surveyors Bonds, entry 57.

Original surety bonds executed to Commonwealth by coroners securing faithful performance of duties, showing: date and amount of bond, names of principal and surety, affidavit of surety, approval of county court judge, and signatures of principal and surety.

60. (SURVEYORS' BONDS), 1800--. 1800-1877, 1910-- in Miscellaneous Bonds, entry 63; 1878-1909 in Jailers, Cor'n'rs (Coroners), Assessors and Surveyors Bonds, entry 57.
Original surety bonds executed by surveyors with Commonwealth as security for faithful performance of duties, showing: date and amount of bond, names of principal and surety, approval of county judge, and signatures of principal and surety.

61. (JAILERS' BONDS), 1809--. 1809-85, 1918-- in Miscellaneous Bonds, entry 63; 1886-1917 in Jailers, Cor'n'rs (Coroners), Assessors and Surveyors Bonds, entry 57.
Original surety bonds executed by jailers with Commonwealth securing faithful performance of duties, showing: date and amount of bond, names of principal and surety, affidavit of surety, signatures of principal and surety, and approval of county judge.

62. SCHOOL TREASURERS BOND, 1894-1909. 1 f.b.
Original surety bonds furnished Commonwealth by school district treasurers as a covenant that all official duties will be well and truly performed, showing: date, name of principal, amount of bond, name of surety, signatures of principal and surety, date bond approved by county court, signature of county judge, and attestation of county court clerk. Arr. chron. by date of bond. No index. Hdw. $4\frac{1}{3}$ x $4\frac{1}{2}$ x 10.

63. MISCELLANEOUS BONDS, 1800--. 23 f.b., 4 vols. (1 vol., 1887-1905, not labeled; 2-4). Title varies: Bonds, 23 f. b., 1800-1886.
Miscellaneous original surety bonds furnished fiscal court by county officials and private individuals, including: Circuit Court Clerk, 1800--; Commissioners and Receivers, 1874--; Common School Commissioners, 1858-75; County Board of Education Treasurer, 1893-1910; County Court Clerk, 1800--; County Judges, 1852--; County Road Engineers, 1915--; County School Superintendents, 1888--; County Treasurers, 1917--; Delinquent Poll Tax Collectors, 1887--; Depositories, 1934--; Ferry Operators, 1804--; Gasoline Tax Collector, 1922; Inspectors, 1811-38; Inspector of Weights and Measures, 1911; Inspector, Weigher, and Registrar of Grain, 1915; Oil Inspector, 1897; Paymasters of Kentucky Militia, 1809-37; Police Judges, 1901--; Public Administrator and Guardian of County Affairs, 1809; Purgation Officers, 1938--; Railroad Policemen, 1918--; Railroad Tax Commissioners and Receivers, 1895-1910; Receivers, 1916; Road and Bridge Contractors, 1809--; Road Commissioner, 1926; Road Foremen, 1938--; Road Overseers, 1906; Road Supervisor, 1899; School Tax Collector, 1922; Special Bridge Commissioner, 1906; Stock Inspector, 1918; Tax Commissioners, 1801--; Trustees of Jury Fund, 1838-1934. Summary of each record shows: date and amount of bond, names of principal and surety, affidavit of surety, signatures of principal and surety, and approval of county court judge. Also contains: (Poorhouse Keeper's Bond), 1888--, entry 31; Constables Bonds, 1802-51, entry 54; Bonds of Justices of the Peace, 1805-66, entry 55; Sheriff's Three Bonds, 1800-1873, entry 56; (Assessors' Bonds), 1854-77, 1919--, entry 58; (Coroners' Bonds), 1821-77, 1918--, entry 59; (Surveyors' Bonds), 1800-1877, 1910--, entry 60; (Jailers' Bonds), 1809-85, 1918--, entry 61; Power of Attorney, 1852--, entry 78; Executors Bonds, 1833-51, entry 236; Administrators Bonds, 1833-51, entry 237;

Guardians Bonds, 1803-51, entry 244; (Assignees' Bonds), 1887--, entry 248; Replevin Bonds, 1802-33, entry 258; (Appeal Bonds), 1830--, entry 261; Peace Bond, 1800-1921, entry 271; Bail Bonds, 1800-1893, entry 272; Minister's Bonds, 1809-74, entry 278; Notary Bonds, 1866-74, entry 279; Druggists Bonds and Declarations, 1887-1919, entry 280; Coffeehouse Keeper's Bonds, 1801-77, entry 281; Tavern Keeper's Bonds, 1801-51, entry 282. Arr. chron. by date of bond. 1800-1886, f.b., no index; 1887--, vols., alph. index, direct by first letter of surname of principal, showing p. no. where recorded. Hdw. on pr. fm. F.b., 4½ x 4½ x 10; vols., aver. 300 pp. 18 x 12 x 2.

Miscellaneous

64. DISMISSIONS OF FISCAL COURT, 1893--. 25 f.b.
Miscellaneous fiscal court papers filed in county court clerk's office for recording after approval of court. Contains: (Tax Exemption Notices), 1911-36, entry 8; Delinquent Taxes, 1929--, entry 9; Notice of Land Sold to County for Taxes, 1929-36, entry 10; Back Tax Suits, 1903-11, entry 12; Claims, entry 15; Sheriff Settlements, 1895-1910, entry 18; Jailers Settlements, 1901-11, entry 20; Sheriffs Reports, 1902-12, entry 21; Commissioners and Receivers Reports, 1893-1905, 1911--, entry 23; (Contracts with Poorhouse Keepers), entry 30; Pauper Commissioners Reports, 1893-1925, entry 32; Pauper Claims, entry 33; (Road Surveyors' Reports), 1893-1930, entry 42; Road Viewers Reports, 1893-1912, entry 43; Overseers Reports, 1893-1919, entry 44; Road Claims Allowed, 1893-1929, entry 48; Bridge Claims, 1893-1925, entry 49; (Appointments of County Officials), entry 51; Officers Commissions, 1914--, entry 52; (Resignations of Officials), entry 53; General Vouchers, 1893-1921, entry 338. No obvious arr. No index. Hdw. and typed on plain sheets and pr. fm. 4½ x 4½ x 10.

II. COUNTY COURT CLERK

Structure

Creation

In 1792, when Kentucky was admitted to the Union, constitutional provision directed each county court to appoint its own clerk, who was to serve during good behavior. (1)

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1. CONST. OF 1792, ART. 6, SEC. 5.

County Court Clerk (Next entry 65, p. 141)

The county court of Breckinridge, at its first meeting on January 20, 1800, appointed William Kelso as clerk pro tempore. He served for a number of months and was succeeded by Joseph Allen, who acted in this capacity for fifty-seven years. (2)

Selection and Term

Under provisions of the second constitution, in force when Breckinridge County was created, the court was directed to appoint its own clerk, who served during good behavior (3), and this method of appointment by the court continued until 1850, when the office was made elective for a four-year term. (4) This provision was reaffirmed in 1891 and is still in effect. (5)

Residence

The clerk was required to have been a resident of the county (or, in this case, of Hardin, from which Breckinridge, the new county, was taken) for one year prior to his appointment. (6) Later provisions required him to reside one year in the county and two years in the State prior to his election. (7)

Age

No age limit was specified for this office prior to 1850, but in that year the clerk was required to be at least twenty-one years of age at the time of his election, as he must be today. (8)

Qualifications

It has always been necessary for the clerk, before qualifying as a permanent official, to produce a certificate from a majority of the judges of the Court of Appeals that he has been examined by their clerk and is qualified to exercise his duties. (9)

Oath

The clerk was required to take an oath to support the constitution and to perform the duties of his office faithfully. (10) In 1850, and again in 1891, this provision of the previous constitution was reaffirmed, with the added stipulation that the incumbent must not have participated in any way in duels. (11)

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2. COUNTY COURT ORDERS, FIRST VOL. NOT NUMBERED, PP. 2, 97, SEE ENTRY 225.
3. CONST. OF 1799, ART. 4, SEC. 10.
4. CONST. OF 1850, ART. 6, SEC. 1.
5. CONST. OF 1891, SEC. 99.
6. CONST. OF 1792, ART. 2, SEC. 8; CONST. OF 1799, ART. 3, SEC. 9.
7. CONST. OF 1850, ART. 6, SEC. 2; CONST. OF 1891, SEC. 100.
8. IBID.
9. CONST. OF 1799, ART. 4, SEC. 10; CONST. OF 1850, ART. 4, SEC. 39; CONST. OF 1891, SEC. 100.
10. CONST. OF 1799, ART. 6, SEC. 1.
11. CONST. OF 1850, ART. 8, SEC. 1; CONST. OF 1891, SEC. 228.

County Court Clerk (Next entry 65, p. 141)

Bond

Legislation in 1810 required the clerk to give bond and security approved by the county court. (12) In 1850 constitutional provision required the clerk to give bond and security to the Commonwealth; however, subsequent constitutional provision required him to give such bond and surety as often as was deemed necessary. (13) His bond was executed and approved by the county judge and entered on the records of the county court; a copy was transmitted by the clerk to the Auditor of Public Accounts within a month after its approval. He must renew his bond over two years, or oftener if so required by the court. (14) An act of March 21, 1928, further stipulated that, in counties of Breckinridge County's population category, the clerk's bond shall be not less than $5000. (15)

Removal

The Court of Appeals, two-thirds of the judges concurring, has always had power to remove the clerk from office, upon information and good cause shown. (16)

Vacancy

Until 1850 the county court filled a vacancy in the office of county court clerk by appointing a competent person to act in that capacity. (17) From 1850 to the present, a vacancy in this office has been temporarily filled by the county court until a successor has been elected and has qualified. (18)

Compensation

Since the beginning of the office, the county court clerk has been compensated on a fee basis regulated by statute. (19)

Deputies

The clerk may appoint deputies to assist him whenever necessary. (20)

Requirements of Office

Until 1852 the county court clerk was required to live at the seat of justice. (21) In 1852, however, legislation specifically directed him to

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12. LITTELL, VOL. 4, 1810, P. 123.
13. CONST. OF 1850, ART. 6, SEC. 9; CONST. OF 1891, SEC. 103.
14. ACTS, 1891-93, P. 535.
15. ACTS, 1928, P. 408; CARROLL, SEC. 373.
16. CONST. OF 1799, ART. 4, SEC. 10; CONST. OF 1850, ART. 6, SEC. 2; CONST. OF 1891, SEC. 124.
17. CONST. OF 1799, ART. 4, SEC. 10.
18. GEN. STAT., 1873 ED., P. 386; ACTS, 1891-93, P. 106; CARROLL, SEC. 1526.
19. LITTELL, VOL. 1, 1792, P. 62; CONST. OF 1891, SEC. 106; ACTS: 1891-93, PP. 1131-1137; 1904, P. 289 FF.; 1928, P. 392; CARROLL, SEC. 1720.
20. LITTELL, VOL. 2, 1798, P. 83.
21. LITTELL, VOL. 2, 1799, P. 300.

keep office within two hundred yards of the courthouse, and to hold it open and accessible to the public at all reasonable times, Sundays excluded, under penalty of a fine of five dollars for each failure to do so. (22)

Enactment subsequent to 1850 expressly prohibited the county court clerk from practicing law while in office, and from having any interest in contracts with the county. (23)

Functions

Functions Relative to Other Agencies

As clerk of the county court, this officer has always been a ministerial officer of the court in its judicial capacity. (24) He was also clerk of the county court when it met as a court of claims from its establishment until 1892, and subsequently he served as clerk of the fiscal court. (25) His duties with regard to the supervision of tax assessments were part of his ministerial duties as a county court officer until 1852 (26); from 1852 to the present, however, they have been a part of his duties as clerk of the board of tax supervisors. (27) In 1906, he became clerk of the "juvenile session" of the county court (28); in 1934, he was made clerk of the county budget commission (29); he served as clerk of the various canvassing boards, which preceded the county board of election commissioners and also as the clerk of the latter board. (30) In addition, he is a member of the county building commission (31), which Breckinridge County has recently established for the purpose of erecting a few small county buildings.

Independent Functions

The clerk has had, and continues to have, a great many duties which he performs, not necessarily at the behest of a court or other body, but as duties delegated to him as the clerk of the county. Although it is difficult, and possibly impracticable, to distinguish clearly in every instance whether a clerk is performing a ministerial or secretarial duty, or carrying out per se duties, in general his independent duties may be grouped as follows: 1. Chief recording agent of his county; 2. Custodian of the major portion of the county's records; 3. County official charged with the clerical task of preparing certain tax data for the tax commissioner and sheriff; 4. County officer issuing marriage, occupational,

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22. Acts: 1851-52, p. 62; 1891-93, p. 536; Carroll, sec. 380.
23. Acts, 1891-93, p. 271.
24. For such ministerial duties, see County Court, p. 205.
25. See Fiscal Court, p. 105.
26. See County Court, p. 205.
27. See Board of Tax Supervisors, p. 298.
28. See County Court, p. 205.
29. See County Budget Commission, p. 302.
30. See County Board of Election Commissioners, p. 310.
31. Acts, 1914, p. 1.

motor, hunting, and fishing licenses; 5. County officer charged with the preparation of election paraphernalia; 6. County officer acting as agent of the State in reporting and accounting to the State Auditor concerning State taxes received by him on documents and suits, and in making reports to the State Tax Commission concerning appraisals of estates; 7. Miscellaneous duties. Rarely, however, does any particular function of the clerk consist of a single act, such as serving only as the custodian of the surveyor's books; more often, he combines two, three, and sometimes four duties, as in his duties in connection with a deed. In this instance, he records the deed, is custodian of the deed as a permanent record, collects a fee for his office, and acts as an agent for the State in collecting the State tax upon the deed. These seven categories of duties, delegated to him by statute as clerk of the county, are treated in the paragraphs below.

1. Recording Officer: The county court clerk has always been required to record deeds. (32) When the Breckinridge Circuit Court was established in April 1805, the circuit court clerk could also record deeds (33), but in 1806 this provision was repealed and the county court clerk became the sole recorder of deeds in the county. (34) In 1839, he was required not only to record deeds and mortgages, but also to index them in deed books. (35) Two years later, he was required to make an index of conveyances and an alphabetical cross-index (36); in 1842, he was required to make this index by the name of the grantor which is the procedure today. (37) Since 1928, he has been required to keep a chattel mortgage minute book in which to enter abstracts of all pledges, mortgages, or liens on personal property. (38)

Since 1839 the county court clerk has been required to advertise annually a list of unrecorded deeds, giving the reasons why they have not been recorded. (39) In that same year, he began to keep a list of persons who held life estate in slaves (40), but this record was discontinued after the Emancipation Proclamation. Since 1896, the clerk has received and recorded notices of lis pendens in a book kept for that purpose; it has been his duty to number each notice in the order of its receipt and to endorse on each the day and hour of receipt, and the name of the person by whom it was filed. (41) Legislation in 1938 required the county court clerk to keep in a special lien book furnished by the State Department of Public Welfare a record of liens against recipients

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32. LITTELL: VOL. 2, 1798, PP. 90, 262; VOL. 3, 1806, P. 358; ACTS: 1891-93, P. 830; 1910, P. 249; CARROLL, SECS. 501, 502.
33. LITTELL, VOL. 3, 1802, P. 88; SEE CIRCUIT COURT CLERK, P. 180.
34. LITTELL, VOL. 3, 1806, P. 358.
35. ACTS: 1838-39, P. 96; 1841-42, P. 20; 1891-93, P. 830; CARROLL, SEC. 512.
36. ACTS, 1841-42, P. 20.
37. ACTS: 1841-42, P. 20; 1891-93, P. 835; 1918, P. 597; 1920, P. 270; CARROLL, SEC. 513.
38. GEN. STAT., 1873 ED., P. 259; ACTS, 1928, P. 470; CARROLL, SEC. 532A-2.
39. ACTS: 1838-39, P. 96; 1841-42, P. 20; 1891-93, P. 829; CARROLL, SEC. 512.
40. ACTS, 1838-39, P. 135.
41. ACTS, 1896, P. 14; CARROLL, SEC. 2358A-3.

of old age assistance. (42) This function he performs for the Division of Public Assistance created in the Department of Public Welfare by an act of 1936. (43)

In general, the clerk records all instruments of writing embraced in the statutes which are lodged for record and properly certified, or which are acknowledged or proved before him as required by law. (44) The county court may or may not scrutinize a particular instrument which it is the duty of the clerk to record. Thus, the clerk records any deed or instrument of conveyance given to him for record; if the instrument is the subject of litigation, the clerk's further action is in strict obedience to the order of the court. Obviously, the clerk's duties as a recording agent may at times be ministerial and at other times be independent.

2. Custodian: The clerk as custodian of all records, whose preservation by him was directed by statute, is also charged with the safekeeping of the greater portion of the records of the county. He must not permit the records of his office to be taken from the county, except in an emergency or upon a summons or order of the court. Upon his resignation, removal from office, or the expiration of his term of office, he must immediately, upon application, deliver to his successor, or such other person as the court may designate, all books, papers, and records belonging to his office. (45)

3. Preparation of Tax Data: The duties of the county court clerk regarding the compilation of tax data provide an interesting example of evolutionary development. Originating with the performance of a few minor services, these duties have gradually increased through the years, until today this officer is the coordinator of the majority of the county's property and tax records.

Upon the establishment of his office, the clerk received from each commissioner of the tax, his original tax list and three alphabetical lists made by him from the original list. He examined these lists, correcting any errors by comparing the lists with county deed books, and then certified these lists as true copies. He retained one list to use in laying the county levy and returned the others to each commissioner of the tax, who delivered one copy to the sheriff and sent another copy to the State Auditor. The remaining copy he kept for his own use. (46) In 1809 each commissioner of the tax delivered only the original tax list of persons and property to the clerk, who then compiled alphabetical books from the original list, examined these books, and certified them as correct. After the sheriff had entered into bond for collecting the taxes, the clerk delivered to him one copy of the tax book as a guide to the collection of these taxes, transmitted another copy to the State

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42. ACTS, 1938, P. 392.
43. ACTS, 1936, PP. 303-309.
44. ACTS, 1891-93, P. 829; CARROLL, SEC. 511.
45. LITTELL, VOL. 2, 1798, PP. 83, 255; ACTS, 1891-93, PP. 535, 536; CARROLL, SECS. 374, 377.
46. LITTELL: VOL. 1, 1797, P. 678; VOL. 2, 1799, P. 319.

(Next entry 65, p. 141)

Auditor as a check upon their collection by the sheriff, and kept a copy in his office for use in laying the county levy. (47) He continues to copy the tax books, sending a copy to the State Auditor. (48) In addition he prepares annually a book of tax bills and stubs in triplicate for the use of the sheriff. (49) At present, he must certify to the county tax commissioner, each year, a complete statement of all conveyances for the preceding year (50); make and certify annually to the tax commissioner a complete statement of all purchase money, notes, mortgage notes, and other obligations for money due or to be paid, except such as are owned by banks or trust companies (51); and on or before July 10 of each year report to the State Tax Commission a record of all sales of real estate for the year immediately preceding July 1, on forms provided for the purpose. (52) He receives from the county tax commissioner, on or before January 1 of each year, all tax schedules, except those of intangible property, and files and preserves them for five years. (53)

4. License Duties: The initial duties of the county court clerk concerning licenses were few. He has always issued and recorded marriage licenses. (54) An act approved March 11, 1938, but not effective until March 1, 1940, however, requires a person applying for a marriage license to be examined within fifteen days before such application, to show freedom from venereal diseases. If the applicant fails to show this certificate, it is unlawful for the clerk to issue the license. (55) To date, this legislation has not been put into effect.

He issued and recorded licenses to tavern keepers, peddlers of clocks, owners and keepers of covering horses and jacks. (56) Statutory provision after 1850 gave him power to issue licenses for bowling alleys, menageries, circuses, et cetera, as well as to vendors of playing cards and peddlers of merchandise. (57) Provisions regarding the issuance of licenses to pawnbrokers were covered by special legislation. (58) Legislation between 1904 and 1933 made it the duty of the county court clerk to issue licenses to transient merchants, auctioneers, fortune tellers, steam laundries, restaurants, real estate agents, and a miscellany of other business enterprises. (59) As agent for the State, he issued all licenses to businesses intended to be conducted in the county, except for such businesses

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47. LITTELL, VOL. 4, 1809, P. 162; Acts, 1831-32, P. 173.
48. Acts, 1891-93, P. 534; CARROLL, SEC. 384.
49. Acts, 1912, P. 474; CARROLL, SEC. 4239A; SEE BOARD OF TAX SUPERVISORS, P. 298. SHERIFF, P. 262.
50. Acts, 1906, P. 217; CARROLL, SEC. 4051.
51. Acts, 1906, PP. 97, 98; CARROLL, SEC. 4051A.
52. Acts, 1917, PP. 13, 14; CARROLL, SEC. 4114I-14.
53. Acts, 1917, PP. 14, 15; CARROLL, SEC. 4114I-15.
54. LITTELL, VOL. 2, 1799, P. 275; Acts: 1891-93, P. 927; 1934, P. 524.
55. Acts, 1938, P. 625.
56. Acts, 1831-32, PP. 132, 135.
57. GEN. STAT., 1873 ED., PP. 688, 711-715, 727.
58. Acts: 1877-78, VOL. 1, P. 28; 1885-86, VOL. 1, P. 76; 1906, P. 102; 1938, P. 398.
59. Acts: 1904, P. 104; 1906, PP. 190, 191; 1916, P. 654; 1933, PP. 14-16.

as were otherwise provided for by law. (60) The licensing and supervision of loan companies continues today under special legislation (61), although a vast number of license taxes were repealed by an act of March 12, 1938, including those of peddlers, transient merchants, auctioneers, and fortune tellers. (62) He also issues automobile licenses and accounts for them to the State Tax Commissioner. (63)

Subsequent to 1850, at each term of court, the clerk was required to report to the circuit court a list of licenses granted, giving the name of licensee, the date of and reason for issuance of each license, the date of expiration, and the amount of tax. (64) An act of 1906 made it also the clerk's duty to include in such report the amount of all money due the Commonwealth and collected by him from all sources except State and district taxes, since his last report was made. (65) An act of 1914 makes it the clerk's present duty to make his report to the State Auditor instead of the circuit court, reporting on the last day of each month and paying into the State Treasury all the funds on hand. (66)

Since 1912 the clerk has issued hunting licenses, keeping in a special book a record of all licenses issued. (67) He must return to the State Game and Fish Commission all stubs and unused licenses. (68) Since 1928 he has issued fishing licenses, accounting to the commission in the same manner as for hunting licenses. (69)

In 1918 the county court clerk was required to issue dog and kennel licenses and permits. He also keeps a record of these licenses; but in 1930 this duty was given the sheriff. (70)

5. Election Official: The clerk, from the beginning, has had a great many duties in connection with holding elections. For the treatment of these duties, see County Board of Election Commissioners, p. 310. His election duties, apart from his duties as clerk of the board of election commissioners, are now as follows: to cause to be printed, bound, and ready for distribution at least thirty days before any regular primary or regular election, and at least two days before any other election, one book of stubs and ballots for each voting precinct in his county; to furnish fifty per cent more ballots for each precinct than there were votes cast in the precinct at the last State or national election; and to furnish the precincts with necessary election materials, such as county

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60. ACTS, 1906, P. 183.
61. ACTS, 1922, P. 286.
62. ACTS, 1938, P. 398 FF.
63. ACTS: 1920, P. 415; 1934, P. 498.
64. GEN. STAT., 1873 ED., PP. 729, 805.
65. ACTS, 1906, PP. 224, 225.
66. ACTS, 1914, P. 47; CARROLL, SEC. 4608-5.
67. ACTS, 1912, P. 165; CARROLL, SEC. 1954c-26.
68. ACTS: 1912, P. 166; CARROLL, SEC. 1954c-30.
69. ACTS, 1928, P. 228; CARROLL, SECS. 1893c-1, 1893c-7.
70. ACTS: 1918, PP. 484, 488; 1930, P. 3.

election seals, sealing wax, linen envelopes, black ink stencils, sample ballots, and cards of instruction to voters. (71)

6. Agent of the State: At the beginning of his office in Breckinridge County, the clerk was required to account to the State Auditor and pay into the State Treasury each November, all money received by him on public account for taxes on suits, documents, and various instruments. (72) By an act of 1838 which set up a jury fund and a trustee of the fund, the clerk, upon the order of the circuit court, was required to turn over to the trustee State moneys collected by him, including fines and forfeitures imposed by the county court. The clerk settled with the trustee on the first of each circuit court term. His settlement was filed by the trustee with the clerk of the circuit court, who sent a copy to the State Auditor. (73) This procedure continued with minor variations (74), until an act of 1934 abolished the jury fund and its trustee and required the circuit court clerk to take over the trustee's duties. This same act directed the county court clerk to report to the clerk of the circuit court a full list of all fines and forfeitures imposed by the county court at each term of court; since July 1, 1934, the effective date of the act, the county court clerk has paid into the county treasury all moneys which were formerly paid to the trustees. The county treasurer then transferred this money to the general fund of the State and accounted for it to the State Auditor. (75)

Since 1924 the clerk has had the duty of sending each month to the State Tax Commission, on forms furnished by the Commission, a list of wills probated and administrators appointed, together with the name of the decedent and the inventory value of the estate when an inventory is filed; and on request from the Commission, he furnishes such other information as may be of record concerning any such estate. (76)

7. Miscellaneous Duties: Since 1850 the clerk has had the duty of reporting to the county judge a list of law books received on public account, and of safeguarding these books and preventing their removal from his office. (77)

Since 1800 the clerk has been empowered to administer oaths pertaining to any matter in which an oath may be legally administered. (78)

Unless otherwise specified, the records of this office are housed in the county court clerk's office.

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71. Acts: 1891-93, pp. 111, 113, 118; 1900, pp. 32, 35, 37; 1918, pp. 111, 113; Carroll, sec. 1465; see County Board of Election Commissioners, p. 310.
72. Littell, vol. 2, 1798, p. 85.
73. Acts, 1838-39, p. 239.
74. Acts: 1891-93, p. 921 ff.; 1906, pp. 219, 220.
75. Acts, 1934, pp. 541, 542; Carroll, sec. 2290-1.
76. Acts, 1924, p. 340; Carroll, sec. 4281A-34.
77. Gen. Stat., 1873 ed., p. 612; Acts, 1891-93, p. 597; Carroll, sec. 2429.
78. Littell, vol. 2, 1800, p. 370; Acts, 1891-93, p. 534; Carroll, sec. 380.

Instruments of Conveyance

Land Titles

65. (OLD PATENTS), 1783-1817. 1 f.b. 1782-1800 also in Road Deeds, entry 35.

Land patents and grants, transferring title of vacant lands to persons for services rendered, filed with county court clerk for record, showing: name of grantee, date of instrument, type of services rendered, number of acres in grant, signature of person bestowing grant, date filed for recording, certification of county court clerk, and deed book letter or number and page number where recorded. No obvious arr. No index. Hdw. 4½ x 4½ x 10.

66. DEEDS RECORDED, 1800--. 51 f.b. (dated). Title varies: Deeds, 31 f.b., 1800-1869.

Original deeds of conveyance, filed with county court clerk for recording, transferring title to property from one person to another, showing: date and type of instrument, names of grantor and grantee, location and description of property, consideration, attested signature of grantor, dates filed and recorded, deed book number and page where recorded, and certification of county court clerk. Also contains: (Leases), entry 71; (Agreements and Contracts), entry 73; Mortgages (Realty), 1800-1836, entry 80; Chattel Mortgages, 1800-1836, entry 89; Chattel Mortgage Releases, 1800-1836, entry 93; (Commissioners' Reports of Land Divisions), 1800-1851, entry 232; (Processioners' Reports), 1803-39, entry 234. Arr. chron. by date filed. No index. Hdw. and typed on plain paper and pr. fm. 4½ x 4½ x 10.

67. UNRECORDED DEEDS, 1838--. 5 f.b.

Original deeds filed with county court clerk, unrecorded because recording fee was not paid, transferring title to property from one person to another, showing: date of instrument, names of grantor and grantee, amount of consideration, location and description of property, notarized signature of grantor, date filed, and acknowledgment of county court clerk. Arr. chron. by date filed. No index. Hdw. and typed on plain paper and pr. fm. 4½ x 4½ x 10.

68. DEEDS, 1800--. 80 vols. (A, A-I, K-Z, 26-80). Title varies: Deed Book, vols. A-I, K-Z, 26-32, 35-36, 41-58, 60-73, 75-76.

Record of conveyances transferring title to property from one party to another recorded by county court clerk. Conveyances include: deeds of assignment, confirmation, correction, emancipation, exchange, gift, merger, partition, release, relinquishment, road, and trust; agreements and contracts; sheriff's deeds; slave deeds; and warranty deeds. Summary for each conveyance showing: date of instrument, names of grantor and grantee, location and description of property, amount involved, copy of grantor's notarized signature, certification of county court clerk, and date recorded. Also contains: Lease Book, 1800-1916, entry 72; Articles of Incorporation, 1820-1905, entry 75; Emigrant Negroes (Affidavits of Slave Ownership), 1856-65, entry 79; Real Estate Mortgages, 1800-1840, entry 82; (Mortgage Releases), 1800-1840, entry 84; Chattel Mortgages, 1800-1840, entry 91; (Allotment of Dower), 1851--, entry 231; Reports of Commissioners Division of Land, 1800-1850, entry 233; Processioners Reports,

1917-31, entry 235; Inventory and Sale, 1800-1814, entry 239; (Indenture of Apprenticeship), entry 253. Arr. chron. by date recorded. Alph. cross index: direct by first letter of surname of grantor, showing name of grantee and p. no. where recorded; and indirect by first letter of surname of grantee, showing name of grantor and p. no. where recorded; for separate index, see entry 69. 1800-1904, hdw.; 1905--, typed. Aver. 600 pp. 18 x 14 x 4.

69. GENERAL INDEX TO DEEDS, 1800--. 5 vols.
General cross index to Deeds, entry 68, alphabetical direct by first letter of surname of grantor, showing: name of grantee, volume and page number where recorded, and type of instrument; alphabetical indirect by first letter of surname of grantee, showing: name of grantor, volume and page number where recorded, and type of instrument. Arr. alph. by first letter of surnames of grantor and grantee and chron. thereunder by date recorded. Hdw. under pr. hds. Aver. 500 pp. 18 x 14 x 3½.

70. DEEDS AND MORTGAGES LODGED, 1837-44, 1868-76. 2 vols. Title varies: Memo. Record of Deeds, 1 vol., 1837-44. Record discontinued.
Register of deeds to real estate and mortgages received by county court clerk for record, showing: date of filing, names of grantor and grantee, fully or partially acknowledged, amount of recording fee, name of instrument and date filed, description of property and consideration involved, date recorded, volume number and page where recorded, and by whom withdrawn. Arr. alph. by first letter of surname of grantor or mortgagor and chron. thereunder by date filed. No index. Hdw. under pr. hds. Aver. 440 pp. 18 x 12 x 3.

Leases and Contracts

71. (LEASES), 1800--. 1800-1892 in Dismissions of County Court, entry 284; 1800-- also in Deeds Recorded, entry 66; 1800-- also in Miscellaneous, entry 132; 1861-83 also in School Reports (Reports of District Trustees), entry 369.
Original leases, granting possession of described land for specified time and purpose, filed with county court clerk for recording, showing: names of lessor and lessee, date, terms, and purpose of lease, location and description of land, source of title, lessor's and lessee's notarized signatures, certification of county court clerk, date recorded, and deed or lease book number and page where recorded.

72. LEASE BOOK, 1917--. 7 vols. (1-3, 5-8). 1800-1916 in Deeds, entry 68.
Record of leases granting possession of described land for specified time and purpose, showing: names of lessor and lessee, date, terms, and purpose of lease, location and description of land, source of title, copy of notarized signatures of lessor and lessee, certification of county court clerk, date recorded, and date certificate delivered to lessee. Arr. chron. by date recorded. Alph. cross index: direct by first letter of surname of lessor, showing name of lessee and p. no. where recorded; and indirect by first letter of surname of lessee, showing name of lessor and p. no. where recorded. Hdw. and typed. Aver. 474 pp. 18 x 12 x 3.

73. (AGREEMENTS AND CONTRACTS), 1800--. In Deeds Recorded, entry 66; 1820-90 also in Dismissions of County Court, entry 284; 1882-86 also in Miscellaneous, entry 132.
Original agreements of mutual understanding made between contracting parties and filed with county court clerk for recording; showing: date of instrument, names of parties to agreement, nature and terms of agreement, signatures of contracting parties and witnesses, attestation of notary public, certification of county court clerk, date recorded, and deed book number and page where recorded.
For recordings, see entry 68.

Personal Property

74. (ARTICLES OF INCORPORATION), 1820--. 1820-92 in Dismissions of County Court, entry 284; 1850-- also in Miscellaneous, entry 132.
Original incorporation papers of firms authorized to transact business in county filed with county court clerk for recording, showing: date of instrument, names of corporation and incorporators, principal office and place of business, nature of proposed business, amount of capital stock, par value of shares, address of each incorporator, number of shares subscribed by each, articles of incorporation, signatures of incorporators, attestation of notary public, certification of county court clerk, date recorded, and volume and page number where recorded.

75. ARTICLES OF INCORPORATION, 1906--. 2 vols. 1820-1905 in Deeds, entry 68; 1918-- also in Miscellaneous Records, entry 133.
Record of incorporation papers of firms authorized to transact business in county, showing: names of corporation and incorporators, principal office and place of business, nature of proposed business, amount of capital stock, par value of shares, address of incorporators, number of shares subscribed by each, articles of incorporation, copies of signatures of incorporators, certification of county court clerk, and date recorded. Arr. chron. by date recorded. Alph. index, direct by first letter of name of corporation, showing p. no. where recorded; for separate index, see entry 76. Typed. Aver. 490 pp. 12 x 14 x 3¼.

76. INDEX TO PARTNERSHIP RECORD, 1906--. 1 vol.
General index to Articles of Incorporation, entry 75, alphabetical direct by first letter of corporation name, showing: date of filing, volume number and page where recorded. Arr. alph. by first letter of name of corporation, and chron. thereunder by date of record. Hdw. under pr. hds. 250 pp. 12 x 14 x 2.

77. MEMBERS OF FIRMS AND PARTNERSHIPS, 1900--. 2 f.b.
Declarations of intention to operate as firms or partnerships filed by individuals with county court clerk for recording, showing: date of notice, nature and address of proposed business, name of proposed operation, names of owners, and acknowledgment of county court clerk. Arr. chron. by date filed. No index. Typed. 4½ x 4½ x 10.

78. POWER OF ATTORNEY, 1904--. 3 f.b. (dated). 1836-1903 in Miscellaneous, entry 132; 1852-- also in Miscellaneous Bonds, entry 63; 1887-88 also in Officers Commissions, entry 52.
Original power of attorney grants to agents appointed to act for principals in stated transactions, showing: names of principal and agent, purpose and

limits of grant, notarized signature of principal, and attestation of county court clerk. Arr. chron. by date of grant. No index. Hdw. and typed. 4½ x 4½ x 10.

79. EMIGRANT NEGROES (Affidavits of Slave Ownership), 1818-55. 1 vol. 1856-65 in Deeds, entry 68. Record discontinued.
Record of citizenship affidavits of slave owners in support of statement that slaves purchased and brought into county were not for sale but for use of owner only, showing: name of affiant, date of affidavit, number of slaves, copy of owner's notarized signature, date notarized and by whom, certification of county court clerk, and date recorded. Arr. chron. by date of affidavit. No index. Hdw. 200 pp. 12 x 14 x 1½. Cir. ct. clk. off.

Encumbrances

Real Estate Liens

80. MORTGAGES (Realty), 1837--. 22 f.b. Title varies: Mortgages Recorded, 12 f.b., 1866-1913. 1800-1836 in Deeds Recorded, entry 66.
Original mortgages filed with county court clerk for recording pledging real estate as security for payment of indebtedness, showing: names of mortgagor and mortgagee, date mortgage made and date due, rate of interest, amount secured, location and description of property pledged, mortgagor's notarized signature, certification of county court clerk, dates filed and recorded, mortgage volume number, and page where recorded. Also contains: Lis Pendens Notices, entry 85; Chattel Mortgages, 1837-1927, entry 89; Chattel Mortgage Releases, 1837-1927, entry 93; Tobacco Mortgages, 1837-1927, entry 96. Arr. chron. by date filed. No index. Hdw. and typed on plain paper and pr. fm. 4½ x 4½ x 10.

81. MORTGAGES UNRECORDED, 1891-1906. 1 f.b.
Original mortgages filed with county court clerk, unrecorded because recording fee was not paid, pledging real estate as security for payment of indebtedness, showing: names of mortgagor and mortgagee, date mortgage made and date due, rate of interest, amount secured, location and description of property, mortgagor's notarized signature, acknowledgment of county court clerk, and date filed. Arr. chron. by date filed. No index. Hdw. on plain paper and pr. fm. 4½ x 4½ x 10.

82. REAL ESTATE MORTGAGES, 1841--. 38 vols. (1-28, 30, 33-36, 39, 41, 43-45). Title varies: Mortgage Book, 22 vols. (1-8, 12-23, 25, 34); Mortgages, 7 vols. (9-11, 24, 26, 27, 36); Real Estate Mortgage Book, 5 vols. (33, 35, 39, 41, 43). 1800-1840 in Deeds, entry 68.
Record of mortgages pledging real property as security for payment of indebtedness recorded by county court clerk, showing: names of mortgagor and mortgagee, date mortgage made and date due, rate of interest, amount secured, location and description of property pledged, date recorded, copy of mortgagor's notarized signature, certification of county court clerk, and date certificate delivered to mortgagee. Also contains: (Mortgage Releases), entry 84; Chattel Mortgages, 1841-1910, entry 91.

Arr. chron. by date recorded. Alph. cross index: direct by first letter of surname of mortgagor, showing name of mortgagee and p. no. where recorded; indirect by first letter of surname of mortgagee, showing name of mortgagor and p. no. where recorded; for separate index, see entry 83. 1841-1905, hdw.; 1906--, typed. Aver. 500 pp. 18 x 12 x 3.

83. GENERAL CROSS INDEX TO MORTGAGES, 1841--. 4 vols.
General cross index to Real Estate Mortgages, entry 82, alphabetical direct by first letter of surname of mortgagor, showing: date of instrument, name of mortgagee, book and page number where recorded; and indirect by first letter of surname of mortgagee, showing: date of instrument, name of mortgagor, and book and page number where recorded. Arr. alph. by first letter of surnames of mortgagor and mortgagee and chron. thereunder by date recorded. Hdw. under pr. hds. Aver. 600 pp. 18 x 12 x 3.

84. (MORTGAGE RELEASES), 1800--. 1800-1840 in Deeds, entry 68; 1841-- in Real Estate Mortgages, entry 82.
Record of mortgage releases issued upon fulfillment of agreements filed with county court clerk for recording, showing: names and addresses of mortgagor and mortgagee, amount of payment, description of property, date of mortgage deed, date of release, names of witnesses, certification of county court clerk, and date recorded.

85. LIS PENDENS NOTICES, 1912--. 1 f.b. 1837-- also in Mortgages (Realty), entry 80; 1840-1892 also in Dismissions of County Court, entry 284.
Original liens on property filed to secure payment of court judgments and notices that actions affecting title to property have been filed protesting against subsequent claims except subject to this action, showing: date of lien, names of plaintiff and defendant, date, amount, and kind of judgment, location and description of property, signature of plaintiff, attestation of county court clerk, date lis pendens notice issued, encumbrance volume number and page where recorded, and date recorded. Arr. chron. by date filed. No index. Hdw. and typed on pr. fm. 4½ x 4½ x 10.

86. RECORD OF ENCUMBRANCES UPON REAL ESTATE, 1862--. 2 vols.
Record of liens on property filed to secure judgments rendered by court, showing: date lien filed, names of plaintiff and defendant, date, amount, and type of judgment, location and description of property, and date recorded. Arr. chron. by date recorded. Alph. cross index: direct by first letter of surname of plaintiff, showing date, name of defendant, and p. no. where recorded; and indirect by first letter of surname of defendant, showing date, name of plaintiff, and p. no. where recorded. Hdw. on pr. fm. Aver. 450 pp. 14 x 12 x 3.

87. MECHANIC AND MATERIALMANS LIENS, 1890--. 2 f.b.
Original liens upon property securing payment of debts for labor or material furnished filed with county court clerk by claimants for recording, showing: names of person seeking to enforce lien and property owner, description and location of property, amount of claim, date lien filed, nature of labor performed or description of material furnished, affidavit of claimant, date recorded, volume and page number where recorded, and

attestation of county court clerk. Arr. chron. by date filed. No index. Hdw. and typed. 4½ x 4½ x 10.

88. MECHANICS LIEN BOOK, 1875--. 1 vol.
Transcribed record of liens filed on property to secure payment of claims for labor or material furnished, showing: names of property owner and person filing lien, date lien filed, amount of claim, nature of labor or description of material furnished, affidavit of claimant, copy of affiant's signature, date recorded, and attestation of county court clerk. Arr. chron. by date recorded. Alph. index, direct by first letter of surname of person seeking to enforce lien, showing name of defendant and p. no. where recorded. Hdw. and typed. 300 pp. 16 x 12 x 2.

Chattel Liens

89. CHATTEL MORTGAGES, 1928--. 27 f.b. (dated and numer. by chattel mortgage no.). 1800-1836 in Deeds Recorded, entry 66; 1837-1927 in Mortgages (Realty), entry 80; 1838 also in Miscellaneous, entry 132.
Original mortgages filed with county court clerk for recording pledging personal property as security for payment of indebtedness, showing: names of mortgagor and mortgagee, date mortgage made and date due, number of document, amount secured, description of property pledged, notarized signature of mortgagor, acknowledgment of county court clerk, dates filed and recorded, and minutes chattel mortgage volume number and page where recorded. Also contains: Tobacco Mortgages, 1928--, entry 96. Arr. numer. by mortgage no. No index. Hdw. and typed on pr. fm. 4½ x 4½ x 10.

90. GENERAL CROSS INDEX TO MORTGAGES CHATTEL, 1911--. 2 vols.
Title varies: Index to Chattel Mortgages, 1 vol., 1911-27.
General cross index to Chattel Mortgages, entry 91 and Minutes Chattel Mortgages, entry 92, alphabetical direct by first letter of surname of mortgagor, showing: date, name of mortgagee, description of property, and volume number and page where recorded; and indirect by first letter of surname of mortgagee, showing: date, name of mortgagor, description of property, and volume number and page where recorded. Arr. alph. by first letter of surnames of mortgagor and mortgagee and chron. thereunder by date recorded. Hdw. under pr. hds. Aver. 600 pp. 18 x 12 x 3.

91. CHATTEL MORTGAGES, 1911-28. 5 vols. (29, 31, 31½, 32, 37). 1800-1840 in Deeds, entry 68; 1841-1910 in Real Estate Mortgages, entry 82.
Record of mortgages pledging personal property as security for the payment of indebtedness recorded by county court clerk, showing: names of mortgagor and mortgagee, date mortgage made and date due, number of document, amount secured, description of property pledged, date recorded, copy of mortgagor's notarized signature, certification of county court clerk, and date certificate delivered to mortgagee. Arr. chron. by date recorded. Alph. cross index: direct by first letter of surname of mortgagor, showing name of mortgagee, and p. no. where recorded; and indirect by first letter of surname of mortgagee, showing name of mortgagor, and p. no. where recorded; for separate index, see entry 90. Typed. Aver. 600 pp. 18 x 14 x 3.
For subsequent records, see entry 92.

92. MINUTES CHATTEL MORTGAGES, 1928--. 4 vols. (38, 40, 42, 43). Record of mortgages pledging personal property sold on time payment contracts as security for the payment of indebtedness, showing: time filed, date filed, names of mortgagor and mortgagee, description of property, amount secured, and remarks. Also contains: Federal Crop Mortgages, 1936--, entry 95. Arr. chron. by date filed. Alph. cross index: direct by first letter of surname of mortgagor, showing name of mortgagee and p. no. where recorded; and indirect by first letter of surname of mortgagee, showing name of mortgagor and p. no. where recorded; for separate index, see entry 90. Typed on pr. fm. Aver. 600 pp. 18 x 14 x 3.

For prior records, see entry 91.

93. CHATTEL MORTGAGE RELEASES, 1911--. 4 f.b. 1800-1836 in Deeds Recorded, entry 66; 1837-1927 in Mortgages (Realty), entry 80. Releases upon chattel mortgages issued upon fulfillment of agreement and filed with county court clerk, showing: names and addresses of mortgagor and mortgagee, description of property, date and amount of mortgage, date paid and date of release, signature of mortgagee, minutes chattel mortgage volume and page where recorded, and date release filed. Arr. chron. by date filed. No index. Hdw. and typed. 4½ x 4½ x 10.

94. FEDERAL CROP MORTGAGES, 1931--. 14 f.b. (dated and numer. by mortgage no.). Title varies: Seed Loan Mortgages, 1 f.b., 1937. Original mortgages pledging crops as security for payment of federal loans filed with county court clerk for recording, showing: mortgage number, name and address of mortgagor, date and amount of loan, description and location of property, kind of crop, number of acres planted, notarized signature of mortgagor, attestation of county court clerk, date filed, and federal crop mortgage volume number and page where recorded. Arr. numer. by mortgage no. No index. Typed on pr. fm. 4½ x 4½ x 10.

95. FEDERAL CROP MORTGAGES, 1931-35. 3 vols. (1-3). 1936-- in Minutes Chattel Mortgages, entry 92. Record of mortgages executed on crops securing payment of federal loans recorded by county court clerk, showing: name and address of mortgagor, date and amount of loan, description and location of property, nature of crop, number of acres planted, signature of mortgagor, notary's acknowledgment, attestation of county court clerk, and date recorded. Arr. chron. by date recorded. Alph. index, direct by first letter of surname of mortgagor, showing p. no. where recorded. Hdw. on pr. fm. Aver. 340 pp. 18 x 12 x 3.

96. TOBACCO MORTGAGES, 1902-6. 2 f.b. 1837-1927 also in Mortgages (Realty), entry 80; 1928-- in Chattel Mortgages, entry 89. Original mortgages pledging tobacco crops as security for payment of indebtedness filed with county court clerk for recording, showing: date of mortgage, names of mortgagor and mortgagee, date mortgage due, amount secured, rate of interest, location and kind of tabacco mortgaged, mortgagor's notarized signature, attestation of county court clerk, date certificate delivered to mortgagee, and tobacco mortgage volume number and page where recorded. Arr. chron. by date filed. No index. Hdw. and typed on pr. fm. 4½ x 4½ x 10.

97. TOBACCO MORTGAGES, 1877--. 6 vols. (1-6). Record of mortgages filed pledging tobacco crops as security for payment of indebtedness, showing: names of mortgagor and mortgagee, inception and

due dates of mortgage, rate of interest, amount secured, location and description of crop pledged, date recorded, copy of mortgagor's notarized signature, certification of county court clerk, and date certificate delivered to mortgagee. Arr. chron. by date recorded. Alph. index, direct by first letter of surname of mortgagor, showing name of mortgagee and p. no. where recorded. 1877-1905, hdw. on pr. fm.; 1906--, typed on pr. fm. Aver. 640 pp. 14 x 9¼ x 4.

Vital Statistics

Marriage Records

98. MARRIAGE LICENSES, 1800--. 107 f.b.
Original marriage licenses issued by county court clerk to applicants and certificates of marriage filled in by persons performing ceremony. Marriage licenses are returned to county court clerk within 90 days by person performing ceremony as per State law, showing: date of license, names, addresses, ages, places of birth, and marital status of groom and bride, names and places of birth of parents, occupation of groom, and signature of county court clerk; certificates of marriage, showing: date of marriage, names of groom and bride, place of marriage, title of person performing ceremony, signatures of person performing ceremony and witnesses, and date of return. Also contains: Marriage License and Bonds, 1800-1851, entry 99; (Marriage Consents), entry 100; Marriage Licenses (Colored), 1936--, entry 102. Arr. chron. by date of license. No index. Hdw. on pr. fm. 4½ x 4½ x 10.

99. MARRIAGE LICENSE AND BONDS, 1852--. 53 vols. (1-53). Title varies: Marriage Bond, vols. 1-31; Marriage Bond Book White, vols. 32-33. 1800-1851 in Marriage Licenses, entry 98.
Original marriage bonds and record of marriage certificates of time and place of marriage. Marriage bonds are furnished by parties obtaining marriage licenses as a covenant with Commonwealth that licenses will not be transferred, showing: number of bond, names of groom and surety, date and amount of bond, maiden name of bride, signatures of groom and surety, and attestation of county court clerk; record of marriage certificates of time and place of marriage recorded by county court clerk from information supplied on original marriage license and certificate of marriage returned by person performing ceremony, showing: date of marriage, names of groom and bride, place of marriage, names of witnesses, title and name of person performing ceremony, date recorded, and attestation of county court clerk. Also contains: (Marriage Consents), entry 100; Register of Marriages, 1852-57, 1906--, entry 101; Marriage Licenses and Bonds (Colored), 1936--, entry 103; Marriage Register (Colored), 1936--, entry 104. Arr. chron. by date of bond. Alph. index, direct by first letter of surname of groom, showing name of bride, and p. no. where recorded. Hdw. on pr. fm. Aver. 600 pp. 14 x 10 x 3.

100. (MARRIAGE CONSENTS), 1800--. In Marriage Licenses, entry 98; 1852-- also in Marriage License and Bonds, entry 99; 1866-1935 also in Marriage Licenses (Colored), entry 102; 1866-1935 also in Marriage Licenses and Bonds (Colored), entry 103.
Original letters of consent written by parents or guardians of minors authorizing county court clerk to issue marriage licenses to named minors,

showing: date of consent, name and age of minor, statement of consent, name of person whom minor wishes to marry, and signature of parent or guardian.

101. REGISTER OF MARRIAGES, 1858-1905. 4 vols. Title varies: Marriage Register, 3 vols., 1858-1901. 1852-57, 1906-- in Marriage License and Bonds, entry 99.
Register of marriage licenses returned by persons performing ceremonies recorded by county court clerk, showing: date of marriage, parties names, by whom married, place of marriage, and names of witnesses present. Arr. chron. by date of marriage. Alph. index, direct by first letter of surname of groom, showing name of bride and p. no. where recorded. Hdw. under pr. hds. Aver. 240 pp. 16 x 12 x 1½. 1895-1901, 1 vol., co. judge off.; 1858-94, 1902-5, 3 vols., co. ct. clk. off.

102. MARRIAGE LICENSES (Colored), 1866-1935, 4 f.b. 1936-- in Marriage Licenses, entry 98.
Original marriage licenses issued by county court clerk to Negroes and mulattoes and certificates of marriage filled in by persons performing ceremony. Marriage licenses are returned to county court clerk within 90 days by person performing ceremony as per State law, showing: date of license, names, addresses, ages, places of birth, and marital status of groom and bride, names and places of birth of parents, occupation of groom, and signature of county court clerk; certificates of marriage, showing: date of marriage, names of groom and bride, places of marriage, title of person performing ceremony, signatures of person performing ceremony and witnesses, and date of return. Also contains: (Marriage Consents), entry 100. Arr. chron. by date of license. No index. Hdw. on pr. fm. 4½ x 4½ x 10.

103. MARRIAGE LICENSES AND BONDS (Colored), 1866-1935. 5 vols. Title varies: Marriage Bonds for Freedmen, 1 vol., 1866-77; Marriage Bonds Colored, 2 vols., 1877-1914; Marriage Bond Book Colored, 1 vol., 1915-18. 1936-- in Marriage License and Bonds, entry 99.
Original marriage bonds furnished by Negroes and mulattoes and record of marriage certificates of time and place of marriage. Marriage bonds are furnished by parties obtaining marriage licenses as a covenant with Commonwealth that licenses will not be transferred, showing: number of bond, names of groom and surety, date and amount of bond, maiden name of bride, signatures of groom and surety, and attestation of county court clerk; record of marriage certificates of time and place of marriage recorded by county court clerk from information supplied on original marriage license and certificate of marriage returned by person performing ceremony, showing: date of marriage, names of groom and bride, place of marriage, names of witnesses, title and name of person performing ceremony, date recorded, and attestation of county court clerk. Also contains: (Marriage Consents), entry 100; Marriage Register (Colored), 1906-35, entry 104. Arr. chron. by date of bond. Alph. index, direct by first letter of surname of groom, showing name of bride and p. no. where recorded. Hdw. on pr. fm. Aver. 600 pp. 14 x 10 x 3.

104. MARRIAGE REGISTER (Colored), 1866-1905. 3 vols. Title varies: Marriage Register for Freedmen, 1 vol., 1866-77. 1906-35 in Marriage Licenses and Bonds (Colored), entry 103; 1936-- in Marriage Licenses and Bonds, entry 99.
Register of marriage licenses returned by person performing ceremonies between Negroes and mulattoes recorded by county court clerk, showing: date of license, parties' names, authority and return of person performing ceremony, date and place of marriage, and names of witnesses present. Arr. chron. by date of return. Alph. index, direct by first letter of surname of groom, showing name of bride and p. no. where recorded. Hdw. under pr. hds. Aver. 300 pp. 16 x 12 x 1½.

105. DECLARATION OF FREEDMEN, 1866-95. 1 vol. Record discontinued.
Declarations of colored persons who have lived together as man and wife for more than five years, stating their desire to continue living together as such, and make these declarations as a matter of record, petitioning county court clerk for a certificate legalizing the union, showing: date, names of husband and wife, number of years lived together, statement of declaration, and signature of county court clerk. Arr. chron. by date of declaration. No index. Hdw. 450 pp. 14 x 9 x 1½.

106. MARRIAGE RECORDS, 1854-57, 1859-1904. 12 vols.
Old marriage records deposited with Kentucky Historical Society, showing: name of husband and maiden name of wife, place of birth, addresses and ages of parties, and date of marriage. Arr. chron. by date of marriage. No index. Hdw. under pr. hds. Aver. 15 pp. 24 x 15 x 1/8. File room, 1st floor, Old State Capitol, Frankfort, Ky.

Births and Deaths

107. BIRTHS AND DEATHS, 1858-75. 4 f.b. (dated). 1874 also in Election Certificates, entry 353; 1877, 1897, 1903, 1912 in Miscellaneous, entry 132.
Certificates of births and deaths filed with county court clerk by attending physicians or midwives; giving on birth certificates: date of birth, sex, place of birth, names of parents (or owner prior to 1865), maiden name of mother, name of child, and signature of attending physician or midwife; and on death certificates: name of deceased person, date of birth, date and cause of death, names of parents (or owner prior to 1865), address, sex, and age of deceased, places of birth and death, and signature of attending physician. Arr. chron. by date filed. No index. Hdw. on pr. fm. 4½ x 4⅛ x 10.

108. BIRTH RECORDS, 1854-57, 1859-1904. 12 vols.
Record of births, showing: names of child, father, and mother (or owner prior to 1865), date and place of birth. Arr. chron. by date of birth. No index. Hdw. on pr. fm. Aver. 15 pp. 24 x 15 x 1/8. File room, 1st floor, Kentucky Historical Society, Old State Capitol, Frankfort, Ky.

109. DEATH RECORDS, 1854-57, 1859-1904. 11 vols.
Record of deaths, showing: name of deceased, date of birth, date and cause of death, names of parents (or owner prior to 1865), address, sex, and age of deceased, and places of birth and death. Arr. chron. by date of birth. No index. Hdw. on pr. fm. Aver. 15 pp. 24 x 15 x 1/8. File room, 1st floor, Kentucky Historical Society, Old State Capitol, Frankfort, Ky.

Revenue

Taxation

110. REPORT OF RETAIL GASOLINE DEALERS, 1920-25. 4 f.b. Title varies: Retail Gasoline Reports, 1 f.b., 1920-22; Gasoline Dealers Reports, 2 f.b., 1923-24.

Original monthly reports made to county court clerk by gasoline dealers and duplicates of county court clerk's monthly reports of gasoline tax collections made to State Auditor of public accounts. Gasoline dealers' monthly reports show: date of report, name of dealer, month covered by report, number of gallons on hand at beginning of period, number of gallons purchased during month, number of gallons on hand at ending of period, number of gallons sold during month, amount of tax due, signature of dealer, attestation of county court clerk, and date report filed; duplicates of county court clerk's monthly reports to Auditor of Public Accounts show: date of report, name and address of each gasoline dealer licensed in county, date of dealer's report, number of gallons on hand at beginning of period, number of gallons purchased during month, number of gallons on hand at ending of period, number of gallons sold during month, amount of tax collected, clerk's fees, amount submitted to auditor of public accounts, date submitted, signature of county court clerk, and remarks. Arr. chron. by date of report. No index. Hdw. on pr. fm. 4½ x 4½ x 10.

111. DRUGGISTS LIQUOR REPORTS, 1929-33. 1 f.b. Record discontinued.

Reports of liquor sales under state laws made monthly to county court clerk by druggists, showing: date of report, name of druggist, itemized list of sales made during month, date of each sale, name and address of purchaser, amount purchased by each, amount on hand at beginning of period, amount bought during period, amount sold during period, amount on hand at ending of period, sworn statement of druggist, and attestation of county court clerk. Arr. chron. by date of report. No index. Typed. 4½ x 4½ x 10.

Licenses

112. DUPLICATE AUTO REPORTS, 1921--. 15 f.b. (dated). Title varies: Auto Licenses, 5 f.b., 1921-25, 1938; Automobile License Reports, 1 f.b., 1938.

Applications for automobile licenses, filed with county court clerk by car owners and weekly reports of licenses issued made by county court clerk to State Tax Commissioner, giving, on application: registration number, date, year, name and address of applicant, amount of license fee, make of car, year made, model, horse power, chassis number, motor number, previous registration, what state and date, if passenger car, weight, if truck, load capacity, style of body, motive power, signature of applicant and attestation of county court clerk; and on weekly reports: line number, class, license number, to whom issued, horse power, weight, amount of fee, amount of clerk's commission, amount due Commonwealth, total number of licenses issued, amount remitted, and signature of county court clerk. Arr. chron. by date of record. No index. Hdw. on pr. fm. 4½ x 4½ x 10.

113. AUTOMOBILE TRANSFERS AND LICENSES, 1935--. 202 vols.
Duplicate record of automobile licenses and transfers issued by county court clerk, showing: license number, name and address of owner, make, model, motor and serial numbers, horsepower, body style, amount of fee, date issued, and signature of county court clerk. Arr. numer. by license no. No index. Hdw. on pr. fm. Aver. 100 pp. 8 x 5 x 3/4.

114. MOTOR VEHICLE REGISTER, 1925--. 2 vols.
Registration of motor vehicles in county, showing: type of vehicle, date registered, registration number, name and address of owner, amount of registration fee, make of vehicle, year, model, horsepower, loading capacity, weight, style of body, chassis and motor numbers, previous registration number, if transferred, and date of transfer. Arr. chron. by date registered. No index. Hdw. under pr. hds. Aver. 179 pp. 18½ x 13 x 1¼.

115. REGISTER TRUCKS, 1915--. 1 vol.
Register of trucks licensed by county court, showing: date registered, registration number, name and address of owner, amount of fee, make of vehicle, year, model, horsepower, load capacity, weight, motor and serial numbers, old registration number, if transferred, and date of transfer. Arr. chron. by registration date. No index. Hdw. under pr. hds. 210 pp. 18 x 16 x 1½.

116. HUNTING, FISHING, AND OCCUPATIONAL LICENSES, 1925--. 8 f.d.
Duplicates of hunting and fishing licenses issued, showing: date of issue, name, address and description of licensee, fee paid, date and number of license, date, expiration, and signatures of licensee and county court clerk. Also contains: (Occupational Licenses), entry 118. Arr. chron. by license date and numer. thereunder by license number. No index. Hdw. on pr. fm. 12 x 4½ x 25.

117. LICENSE RECORD GAME AND FISH COMMISSION, 1916-18, 1927-29. 2 vols.
Record of hunting and fishing licenses issued, showing: date license issued, name, address, and description of licensee, amount of fee collected, number of license, expiration date, and attestation of county court clerk. Arr. numer. by license no. and chron. thereunder by date issued. No index. Hdw. on pr. fm. Aver. 100 pp. 8 x 14 x 3/4.

118. (OCCUPATIONAL LICENSES), 1925--. In Hunting, Fishing, and Occupational Licenses, entry 116; 1930 also in Miscellaneous, entry 132.
Duplicates of occupational licenses issued, showing: number of license, date issued, name of licensee, nature of business, purpose of license, amount of fee, and signature of county court clerk.

119. PETITIONS FOR LICENSES, 1890-1920. 1 f.b. 1915 also in Dismissions of County Court, entry 284.
Petitions filed with county court clerk by persons desiring licenses to operate businesses in county, showing: date, nature of license, name, address, and signature of petitioner, date approved or rejected, date license issued, and certification of county court clerk. Arr. chron. by date filed. No index. Hdw. 4½ x 4½ x 10.

120. MALE ANIMALS LICENSED, 1919--. 1 vol. 1800-1918 in County Court Orders, entry 225.
Record of county court orders licensing male animals, showing: date of order, to whom license issued, kind and description of animal, amount of service fee, and attestation of county court clerk. Arr. chron. by date of order. No index. Hdw. on pr. fm. 200 pp. 14 x 12 x 1½.

121. LICENSE REGISTER, 1878-88. 1 vol. Record discontinued.
Clerk's record of recording and licensing fees, showing: nature of recording and license fees, to whom license issued, date of expiration, amount of fee, and date reported. Arr. chron. by date recorded. No index. Hdw. under pr. hds. 600 pp. 18 x 12 x 2.

Registrations

122. MEDICAL REGISTER, 1893--. 2 vols.
Register of professional practitioners, including: Chiropractors, 1925--; Dentists, 1895--; Optometrists, 1920--; Osteopaths, 1905--; and Physicians, 1893--; each summary shows: date registered, name, age, address, and nativity of practitioner, name of hospital or school granting diploma, date granted, type of degree, and certification of county court clerk. Also contains: (Register of Nurses), 1916--, entry 123. Arr. chron. by date registered. No index. Hdw. on pr. fm. Aver. 300 pp. 14 x 12 x 12.

123. (REGISTER OF NURSES), 1916--. In Medical Register, entry 122; 1922 also in Miscellaneous Records, entry 133.
Register of nurses in county holding certificates from State Board of Nurses' Examiners, showing: date registered, name, age, address, and nativity of nurse, name of hospital granting diploma, date granted, and certification of county court clerk.

124. MEDICAL AND DENTAL REGISTER VETERINARY (Register of Graduate and Non-graduate Veterinarians), 1916--. 1 vol.
Register of veterinarians certified by state board and licensed to practice within county, showing: date of license, whether graduate or non-graduate, names of certifying board, date certified, date of license, and certification of county court clerk. Arr. chron. by date of license. Alph. index, direct by first letter of surname of licensee, showing p. no. where recorded. Hdw. on pr. fm. 240 pp. 14 x 12 x 2.

125. RECORD OF REGISTERED PHARMACISTS, 1885-98. 1 vol. Record discontinued.
Register of pharmacists certified by State Board of Pharmacy and licensed to practice in county, showing: name and address of licensee, number and date of license, registration date, how licensee qualified for certification, names of board members granting certificate, and certification of county court clerk. Arr. chron. by date of license. Alph. index, direct by first letter of licensee's surname, showing p. no. where recorded. Hdw. on pr. fm. 300 pp. 12 x 13 x 1.

Finance

126. CLERKS FEES, 1910--. 3 vols. Title varies: County Court Clerks Fee Book, 2 vols., 1910-37.
Record of fees collected by county court clerk, showing: date received,

name of payor, service rendered, amount of fee, and signature of county court clerk. Arr. chron. by date received. No index. Hdw. on pr. fm. Aver. 400 pp. 13 x 8 x 2 3/4.

127. CASH BOOK, 1864--. 8 vols. Title varies: Tax Reports, 2 vols., 1864-87; Public Money Received, 3 vols., 1888-1912; Taxes Received, 1 vol., 1913-14; Clerk's Reports, 1 vol., 1903-22.
A daily record of county court clerks' cash receipts reported monthly to State Auditor of Public Accounts, showing: date collected, from whom, and services rendered; recapitulation shows: number of deeds and mortgages recorded, marriage licenses issued, and tax on seals; summary shows: amount collected for each service, total collected less commission, and total reported. Arr. chron. by date collected. No index. Hdw. under pr. hds. Aver. 600 pp. 22 x 16 x 2.

128. STATE AUDITORS TAX RECEIPTS, 1920--. 2 f.b.
Receipts from State Auditor for taxes collected and transmitted to Commonwealth by county court clerk, showing: date and amount of receipts, nature of remittance, and signature of State Auditor. Arr. chron. by date of receipt. No index. Hdw. on pr. fm. 4½ x 4½ x 10.

129. RECEIPTS FROM AUTO DEPARTMENT, 1922--. 5 f.b. Title varies: Audit, 1 f.b., 1922.
Receipts issued by State Automobile Department to county court clerk upon receipt of weekly reports covering fees collected for the sales of automobile licenses, showing: date of receipt, name of county court clerk, date of report, amount of money received as license fees reported to auditor, acknowledgment of remittance, and signature of State Auditor. Arr. chron. by date of receipt. No index. Typed on pr. fm. 4½ x 4½ x 10.

Miscellaneous

130. (LIST OF ENROLLED MILITIA), 1864. 1 vol.
List of members enrolled in militia, showing: enlistment number, name of member, remarks, and signature of circuit court clerk. Arr. numer. by enlistment no. No index. Hdw. under pr. hds. 150 pp. 8 x 6 x 1. Cir. ct. clk. off.

131. HONORABLE DISCHARGE RECORD, 1919. 1 vol. 1920-- in Miscellaneous Records, entry 133.
Record of honorable discharge papers from military service in United States Army and Navy, showing: name of soldier, date and place of birth, name of parents, dates enlisted and discharged, and service record. Arr. chron. by date recorded. Alph. index, direct by first letter of surname of soldier, showing p. no. where recorded. Hdw. on pr. fm. 640 pp. 18½ x 13 x 4.

132. MISCELLANEOUS, 1803--. 14 f.b. Title varies: Just Look For Anything, 1 f.b., 1803-1927.
Miscellaneous papers and documents filed with county court clerk including:
i. Assessors' affidavits, 1906, showing: date, name of assessor, sworn statement of assessor that assessments were properly made, attestation of county court clerk, and date filed;

ii. Inspector's of weights and measures reports, 1911, showing: date of report, name of inspector, list of scales inspected, inspector's statement as to accuracy of scales, signature of inspector, attestation of county court clerk, and date filed;
iii. Petition of administrator for court order to sell property, 1937, showing: date, name of estate and administrator, description of property, reason for petition, signature of administrator, acknowledgment of county court clerk, and date filed;
iv. Federal crop mortgage releases, 1937, showing: date, name of mortgagee, location and description of property pledged, amount secured, date encumbrance paid, date lien released, certification of county court clerk, and date filed;
v. Affidavit of descent, 1937--, showing: date, name of deceased, relationship of affiant to deceased, signature of affiant, and attestation of county court clerk.

Also contains: (Tax Exemption Notices), 1937--, entry 8; Delinquent Taxes, 1875, entry 9; Claims, 1882, 1934, entry 15; Sheriff Settlements, 1882, entry 18; (Contracts with Poorhouse Keepers), 1882-92, entry 30; Pauper Commissioners Reports, 1882, entry 32; (Road Surveyors' Reports), 1821-84, entry 42; Overseers Reports, 1876-92, entry 44; Road and Bridge Commissioners Reports, 1828-88, entry 46; (Appointments of County Officials), 1803, 1823, 1829-32, 1927, entry 51; Officers Commissions, 1804, 1812, 1819, 1821, 1827, 1830, 1832, 1845, entry 52; (Leases), entry 71; (Agreements and Contracts), 1882-86, entry 73; (Articles of Incorporation), 1850--, entry 74; Power of Attorney, 1836-1903, entry 78; Chattel Mortgages, 1838, entry 89; Births and Deaths, 1877, 1897, 1903, 1912, entry 107; (Occupational Licenses), 1930, entry 118; County Court Orders, 1934-37, entry 224; (Processioners' Reports), 1840-1931, entry 234; Sheriffs Certificates of Land Sold for Taxes, 1858-78, entry 317; Stray Notices, 1871-1900, entry 325; Coroners Inquests, 1910-37, entry 328; Election Commissioners Reports, 1932--, entry 350. No obvious arr. No index. Hdw. and typed on plain sheets and pr. fm. 4½ x 4⅝ x 10.

133. MISCELLANEOUS RECORDS, 1918--. 2 vols.

Record of miscellaneous papers and documents recorded by county court clerk, including:

i. Agreements and contracts made between interested parties, showing: date, names of contracting parties, purpose and terms of instrument, copy of contracting parties' signatures, attestation of county court clerk, and date recorded;
ii. Power of attorney grants giving one person authority to legally transact specified business matters for another, showing: names and addresses of grantor and attorney in fact, date of grant, terms, and conditions of instrument, copy of grantor's signature, attestation of county court clerk, and date recorded;
iii. Revocation of power of attorney grants, 1920--, showing: date of revocation, names of grantor and attorney in fact, terms and conditions of grant, reason for revocation, copy of grantor's signature, attestation of county court clerk, and date recorded;
iv. Record of school teachers' life certificates, 1938, showing: name of teacher, provisions under which certificate granted, basis of issuance, validity, date issued, copy of signatures of superintendent of public instruction and director of certifications, attestation of county court clerk, and date recorded;

v. Rights-of-way agreements, 1925--, showing: date of instrument, names of grantor and grantee, terms and conditions of agreement, amount involved, copy of grantor's signature, attestation of county court clerk, and date recorded;

vi. Promissory notes promising to pay named persons on demand certain sums of money, 1922--, showing: date of note, name of payer and payee, amount of note, copy of payer's and witnesses signatures, attestation of county court clerk, and date recorded;

vii. Releases of promissory notes upon satisfaction of payees' interests, 1922--, showing: date, names of payer and payee, amount of note, date claim satisfied, copy of payee's signature, attestation of county court clerk, and date recorded;

viii. Adjudication of bankruptcy, 1922--, showing: date, name of person or firm in bankruptcy, list of creditors, amount of liabilities and assets, sworn statement of affiant, date papers filed, acknowledgment of county court clerk, and date recorded;

ix. Record of quietus from Auditor of Public Accounts to sheriff, 1936--, showing: date, amount remitted by sheriff, date of remittance, copy of Auditor's signature, attestation of county court clerk, and date recorded;

x. Disputed boundary line agreements, 1932, showing: date, names of property owners, location and description of property, plat of boundary line as agreed upon, copy of property owner's signature, attestation of county court clerk, and date recorded;

xi. Certificates of election of church trustees, 1923-35, showing: date of election, denomination, names of trustees, term of office, attestation of county court clerk, and date recorded;

xii. Statement of dissolution, 1937, showing: date, name of firm being dissolved, reason for dissolution, copy of firm members' signatures, terms of dissolution, attestation of county court clerk, and date recorded;

xiii. Bills of sale, 1927--, showing: date, names of vendor and purchaser, description of property, amount of sale, copy of parties' signatures, attestation of county court clerk, and date recorded;

xiv. Release of vendors' liens, showing: date, names of vendor and purchaser, description of property, amount of sale, date vendor's lien satisfied, copy of vendor's signature, attestation of county court clerk, and date recorded;

Also conatins: Articles of Incorporation, entry 75; (Register of Nurses), 1922, entry 123; Honorable Discharge Record, 1920--, entry 131. Arr. chron. by date recorded. No index. Hdw. Aver. 600 pp. 18 x 12 x 2.

(Next entry 134, p. 162)

III. COURT OF QUARTER SESSION

Structure

Creation

The Virginia House of Burgesses established the court of quarter session in Kentucky counties as early as 1785, and patterned this court after the old English court. (1) When Kentucky was admitted to statehood in 1792, the legislature made provision for courts of quarter session. (2) These courts continued to function until an act of December 20, 1802, abolished them and created the circuit court system, except in certain counties which retained them until 1804. (3)

The act creating Breckinridge County provided for the establishment of a court of quarter session (4), and this court continued to hold sessions until an act approved December 13, 1804, and effective in April 1805, abolished this court and organized a circuit court for the county. (5)

Appointment and Term

When the court of quarter session held its first meeting at the home of William Hardin on April 21, 1800, Edward Pate, William Comstock, and James Jennings, who had been appointed and commissioned by Governor James Garrard, composed the court. William Kelso was appointed clerk pro tempore until Joseph Allen, a few months later, qualified for office. (6) Although the three justices sat as the court, any two of them constituted a quorum. When serving as members of the quarter session court, they could not serve in any other capacity. (7) The first justices of the new court were appointed and commissioned by the Governor, with the consent of the Senate, and held office during good behavior. (8) Subsequent appointments, however, were made by the Governor upon the recommendation of the county court, a majority of the justices concurring. (9)

Residence

The first justices were required to have been citizens and residents of Hardin County for one year prior to their appointment, since Breckinridge was formed from Hardin County. After Breckinridge County had been in existence one year, however, the residential qualification applied to that county. (10)

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1. HENING, VOL. 12, PP. 32-36.
2. LITTELL, VOL. 1, 1792, P. 90 FF.
3. LITTELL, VOL. 3, 1802, PP. 86, 88.
4. LITTELL, VOL. 2, 1799, P. 271.
5. LITTELL, VOL. 3, 1804, P. 184.
6. RECORD (ORDER BOOK, QUARTER SESSION COURT), FIRST VOL. NOT NUMBERED, PP. 1, 2, IN BRECKINRIDGE COUNTY ARCHIVES, SEE ENTRY 138.
7. LITTELL: VOL. 1, 1792, PP. 94, 101; VOL. 3, 1802, P. 45.
8. CONST. OF 1799, ART. 3, SEC. 9; ART. 4, SEC. 9.
9. IBID., ART. 4, SEC. 8.
10. CONST. OF 1799, ART. 3, SEC. 9.

(Next entry 134, p. 162)

Age and Oath

The statutes did not provide any qualifications for age or experience, but all justices were required to take an oath to support the constitution and to execute their duties faithfully. (11)

Removal and Vacancy

The justices were liable to impeachment for misdemeanor in office, by the House of Representatives; upon impeachment, a justice was tried by the Senate and if convicted by a two-thirds vote of the Senators present, was removed from office. (12) When a vacancy occurred by death, resignation, or removal, the Governor appointed as successor a justice of the peace, or any other fit person residing in the county. (13)

Compensation

Members of the court received twelve shillings for each day they were in session. (14)

Terms

The court met four times a year on the third Monday in February, April, June, and September. Each session consisted of six judicial days. (15) By an act approved December 19, 1801, three terms of court, instead of four, were held each year on the third Monday in May, August, and November. (16)

Jurisdiction of Court

Criminal Jurisdiction

The court was both an examining court and a court of trial for free men and slaves. When a free man was brought before him on a criminal charge, any justice of the court, or any justice of the peace could either discharge the defendant or hold him for further examination. In case of the latter action, the justice summoned the court of quarter session. The court then could discharge the defendant, hold him for trial by the next regular court of quarter session, or turn him over to the district court at Lexington for trial, if conviction on the charge was punishable by loss of life or member. If a slave was brought before a justice of the court or before any justice of the peace, either he was discharged from further prosecution, or the justice summoned the court of quarter session to make further investigation into the case. The examining court could then

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11. CONST. OF 1799, ART. 6, SEC. 1.
12. IBID., ART. 5, SECS. 1-3.
13. LITTELL, VOL. 1, 1795, P. 353.
14. IBID., 1796, P. 507.
15. IBID., VOL. 2, 1799, P. 271.
16. IBID., 1801, PP. 482-484.

discharge the prisoner, or hold him for trial at the next term of court. If the latter action was taken, the court constituted itself a court of oyer and terminer (a power expressly stated in the commission of a justice of the peace appointed to the court), tried the slave, and punished him, upon conviction, with loss of life or limb. Thus, the court had concurrent jurisdiction with the district court at Lexington of cases involving free men charged with criminal offenses, the punishment of which was not loss of life or limb. Included in this category were several cases of assault and battery which, according to the earliest records of the court of quarter session in Breckinridge County, were instituted by the plaintiffs for the recovery of damages against their defendants, great bodily harm having been inflicted against their persons, thereby endangering loss of life or limb. These assailants were not only adept with their fists, but frequently resorted to the use of sticks, stones, bottles, and even arms. Prominent among these early offenders was William Hardin, junior, who was several times tried for the above offense. (17) The court could not try cases where the punishment was loss of life or limb, but sent them on to trial by the district court. It had exclusive jurisdiction of the trial of slaves charged with any capital or less offense. (18) The court had exclusive jurisdiction of actions of assault and battery. (19)

General Jurisdiction

The court of quarter session had power to administer all necessary oaths and punish by fine and imprisonment all contempts of its authority. It had concurrent jurisdiction with the district court to hear and determine all causes at common law or in chancery within the county, except the above-mentioned criminal cases involving free men, and cases of less value than five pounds in money or 1,000 pounds in tobacco. The court, or any two of its justices out of court, could award injunctions and writs of ne exeat and habeas corpus. The court had jurisdiction of all matters concerning escheats and forfeitures within the county. (20)

The court also had jurisdiction of attachments issued by any justice of the peace (21); jurisdiction of caveats (22); power to issue an attachment on a debtor who had moved from the county (23); and power to issue all process and attachments at common law, as well as all subpoenas, attachments, or other process in chancery. (24)

Recordation

The court of quarter session was a court of record. In all cases where title to land or the bounds thereof were in question, pleadings were

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17. RECORD (ORDER BOOK, QUARTER SESSION COURT), FIRST VOL. NOT NUMBERED, PP. 48, 49, 55-57, 112-119, SEE ENTRY 138.
18. LITTELL, VOL. 1, 1796, PP. 466, 467, 507.
19. IBID., 1795, P. 302.
20. IBID., 1796, P. 504.
21. IBID., 1792, P. 157.
22. IBID., P. 159.
23. IBID., PP. 95, 96.
24. LITTELL, VOL. 1, 1796, P. 505.

(Next entry 134, p. 162)

required to be in writing and were entered at large, with the judgments in the case, in a book kept for that purpose. The clerk of the court was required to read the minutes before every adjournment of court and to correct them where necessary. The minutes, which were signed by the first justice in commission then sitting, were kept in the minute book. No proceedings or judgments of the court were valid unless the minutes were so read and signed. (25)

Clerk of Court - Structure

Appointment and Term

The clerk was appointed by the court and held office during good behavior. (26)

Experience and Residence

To be eligible for the office of clerk, the candidate was required to produce to the court appointing him a certificate of competency from the judges of the Court of Appeals. (27) It was necessary for the first clerk to have been a citizen and a resident of Hardin County, from which Breckinridge was formed, for one year prior to his appointment. After the new county had been in existence one year, the residential qualification applied to that county. (28)

Oath and Bond

The clerk was required to take the oath of office and give bond with good security for the faithful performance of his duties. (29)

Removal and Vacancy

He could be removed from office for breach of good behavior by the Court of Appeals only; two-thirds of the members of the court present were required to concur in the sentence. (30) The court of quarter session filled a vacancy occurring in the office of the clerk. (31)

Compensation

The clerk received a sum not exceeding thirty dollars which was paid from the State Treasury upon receipt of an account in writing. (32)

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25. LITTELL, VOL. 1, 1796, PP. 502-508.
26. CONST. OF 1799, ART. 4, SEC. 10.
27. IBID.
28. IBID., ART. 3, SEC. 9.
29. LITTELL, VOL. 2, 1798, PP. 83, 84.
30. CONST. OF 1799, ART. 4, SEC. 10.
31. IBID.
32. LITTELL, VOL. 2, 1798, PP. 253, 254, 261.

Court of Quarter Session (Next entry 134, p. 162)

Functions

At the beginning of every annual meeting of the Kentucky General Assembly, the clerk was required to transmit to the Secretary of State a correct list of the justices of the court of quarter session who were in office the preceding month (33) and to set up, in a public place in the courthouse and in his office, a list of the clerk's and the sheriff's fees. (34)

As stated earlier in this essay, the clerk publicly read the minutes of the court proceedings. (35) Within ten days after an examining court was held, the clerk transmitted a copy of the proceedings, depositions, and recognizances to the clerk of the district court. (36) In a case of treason or felony, the clerk was required to transmit to the attorney for the Commonwealth, immediately after the examining court was held, a copy of the warrant for commitment and copies of the depositions taken on the examination. (37) The clerk of the court of quarter session was authorized to issue subpoenas (38); upon application, he could issue subpoenas in chancery against any person who was a resident of any other county. (39) He could issue summonses in cases of appeal (40) and writs of capias and ad respondendum. (41) In cases of treason or felony, the clerk issued a writ of venire facias to the sheriff to summon a jury and then returned a panel of their names to the clerk of the district court. (42) When the clerk received a caveat he entered it in a book and issued a summons, giving the cause for which the caveat was entered, which required the defendant to appear. (43) Each November, the clerk paid into the State Treasury all sums of money received by him on public account. (44) The clerk transmitted a list of all deeds recorded in his office to the clerk of the Court of Appeals. (45) He could receive acknowledgment or proof of deeds out of court. (46) He could not demand or receive any tax on judgments. (47) All judgments by default, non-suits, or dismissions not set aside on the second day of the next succeeding term, were entered by the clerk as of that day. (48)

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33. LITTELL, VOL. 2, 1798, P. 88.
34. IBID., P. 261.
35. LITTELL, VOL. 1, 1796, P. 467.
36. IBID.
37. IBID., P. 507.
38. IBID., PP. 467, 470.
39. IBID., P. 506.
40. IBID., 1793, P. 202.
41. IBID., 1796, P. 506.
42. IBID., 1792, P. 97.
43. IBID., 1796, P. 501.
44. LITTELL, VOL. 2, 1798, P. 85.
45. IBID., P. 261.
46. IBID., P. 262.
47. LITTELL, VOL. 1, 1793, P. 205.
48. IBID., 1796, P. 498.

Recordation

Before each session of the court, the clerk entered in a particular docket all causes in which an issue was to be tried, an inquiry of damages was to be made, or in which a special verdict, case agreement, or demurrer, or other matter of law was to be argued. (49) He was required to proportion the causes on the docket and to docket the causes in order as they were put to issue. (50)

The court of quarter session directed the clerk to purchase the necessary record books. (51) It was his duty to preserve the declarations, pleas, evidences, and all other papers relating to any cause in court, and to file them all together in his office. (52) All process of the court bore the attestation of the clerk. (53)

He was directed to keep his office at or within one-half mile of the courthouse. (54) Upon his removal, resignation, or the expiration of his term, he delivered all records and papers belonging to his office, to his successor or such person as the court might appoint; he could not remove any records from the county except in great emergencies or by court order. (55)

An act approved December 13, 1804, which established the circuit court in Breckinridge County and abolished the court of quarter session, provided that the clerk of the court of quarter session deliver to the clerk of the new circuit court all records and papers belonging to his office. (56) As Joseph Allen, clerk of the court of quarter session, became the first clerk of the circuit court (57), no transfer of the records was necessary as they became a part of the circuit court records.

Unless otherwise specified, all records of the court of quarter session are located in the office of the circuit court clerk.

Case Papers

134. QUARTER SESSION DISMISSIONS, 1800-1805. 14 bdls.
Original case papers and documents filed in cases tried before court of quarter session, from institution to final disposition, including petitions, citations, answers, motions, bills, notes, and other documentary evidence exhibited, exceptions, returns on process, and disposition, showing: docket number, style of case, date filed, form of document, and

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49. LITTELL, VOL. 1, 1796, P. 499.
50. IBID., P. 507.
51. IBID., 1794, P. 240.
52. IBID., 1796, P. 507.
53. IBID., P. 502 FF.
54. LITTELL, VOL. 2, 1798, PP. 255, 300.
55. IBID., PP. 84, 85, 255.
56. LITTELL, VOL. 3, 1804, P. 184.
57. RECORD (ORDER BOOK, QUARTER SESSION COURT), VOL. 2, P. 10, SEE ENTRY 138.

signature of presiding official. Arr. numer. by case no. No index. Hdw. on pr. fm. 3 x 3 x 6.

Dockets and Executions

135. RULE DOCKET QUARTER SESSION COURT, 1800-1811. 1 vol. Docket for cases set for trial at each term of court of quarter session prepared for use by the presiding official during the court term, showing: number and style of case, names of plaintiff and defendant, cause of action, date filed, date of trial, judgment rendered, and remarks. Also contains: Ordinary Docket, April 1805-11, entry 152; Commonwealth Docket, April 1805-11, entry 181; Equity Docket, April 1805-11, entry 189. Arr. chron. by date of trial. No index. Hdw. on pr. fm. 600 pp. 18 x 12 x 2.

136. EXECUTION DOCKET (Quarter Session Court), 1800-1816. 1 vol. Record of executions issued in cases tried at each session of court of quarter session, showing: case number, parties' names, amount of principal, interest, credit, and costs, date of execution, return day, county, to whom delivered, when returned, and sheriff's return. Also contains: Execution Docket, April 1805-16, entry 153. Arr. chron. by date of execution. No index. Hdw. on pr. fm. 600 pp. 18 x 12 x 2.

Minutes and Proceedings

137. (MINUTE BOOK, QUARTER SESSION COURT), 1800-1811. 3 vols. Minutes of proceedings in administrative matters and cases tried at each tri-yearly session of court of quarter session, showing: date, term of court, summary of official acts of court, and notation of adjournment. Also contains: Minutes Civil, April 1805-11, entry 154; Minutes Commonwealth, April 1805-11, entry 182. Arr. chron. by date of court term. No index. Hdw. Aver. 400 pp. 14 x 8 x 2. 1800-1802, 1 vol., co. ct. clk. off.; 1803-11, 2 vols., cir. ct. clk. off.

138. RECORD (Order Book, Quarter Session Court), 1800-1811. 2 vols. Record of orders issued by court of quarter session in cases tried and in administrative matters at each tri-yearly session of court, showing: date, term of court, names of parties at interest, nature of court's order, and signature of presiding official. Also contains: Civil Orders, April 1805-11, entry 158; Commonwealth Orders, April 1805-11, entry 184. Arr. chron. by date of order. No index. Hdw. Aver. 150 pp. 12 x 8 x 1.

(Next entry 139, p. 189)

IV. CIRCUIT COURT

Structure

Creation

In 1792, when Kentucky was admitted to the Union, two types of courts were created superior to the county court and inferior to the Court of Appeals: the quarter session court, which was established in each county, and which had common law and chancery powers and limited criminal jurisdiction; and the court of oyer and terminer, which met annually at Lexington as the court of general criminal jurisdiction for the State. (1) In 1795 the quarter session courts were continued, but the court of oyer and terminer was abolished, and in its place the legislature created the district courts, which had, in general, concurrent jurisdiction of civil matters with the quarter session courts, and general jurisdiction of criminal causes. (2) An act approved December 20, 1802, and amended four days later, provided for the establishment of circuit courts and abolished all district courts, as well as the quarter session courts in those counties in which a circuit court was held. The circuit court succeeded to both the civil and criminal jurisdiction of its two predecessor bodies. (3) In Breckinridge County, the court of quarter session continued to function until an act approved December 13,1804, which was effective in April 1805, organized a circuit court in that county. (4)

From 1805 to 1816, the court was composed of a chief judge and two assistant judges. The chief judge, or the two assistant judges, or the chief judge and one assistant judge could constitute the court. (5) By an act of 1815, effective February 3, 1816, the office of assistant judge was abolished. Since 1816 a single judge has presided over the circuit court. (6)

The court has always had the power to order grand and petit jurors to attend the court, with the sheriff acting as the summoning officer (7), as the constitutions provide that the right of trial by jury be held inviolate. (8)

In the following treatment of the elements of structure of the court, it must be remembered that since 1816, a single judge has presided.

Selection and Term

The circuit judge and the assistant judges were appointed and commissioned by the Governor, and served during good behavior. (9) The office

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1. LITTELL, VOL. 1, 1792, PP. 98, 99.
2. IBID., 1795, P. 299 FF.
3. LITTELL, VOL. 3, 1802, PP. 37, 38, 48, 86, 88.
4. IBID., 1804, P. 184.
5. LITTELL, VOL. 3: 1802, P. 40; 1804, P. 184.
6. LITTELL, VOL. 5, 1815, P. 346; CONST. OF 1850, ART. 4, SEC. 23; CONST. OF 1891, SEC. 129.
7. LITTELL, VOL. 3, 1802, PP. 41-44; REV. STAT., VOL. 1, P. 321; ACTS, 1932, P. 346.
8. CONST. OF 1799, ART. 10, SEC. 6; CONST. OF 1850, ART. 13, SEC. 8; CONST. OF 1891, BILL OF RIGHTS, SEC. 7.
9. LITTELL, VOL. 3, 1802, PP. 40, 41.

of circuit judge was made elective in 1850. The first election took place in May 1851; the second was held on the first Monday in August 1856, and at the same time every sixth year thereafter. (10) The present constitution continues the elective method. After the adoption of the constitution, the first election of the circuit judge was held in 1892, with the first judge elected to hold office for five years. From 1897 to the present, the judge has held office for a six-year period, from the first Monday in January succeeding his election. (11)

Residence

The judge and the assistant judges were required to have been citizens and inhabitants of Breckinridge County for one year prior to their appointment. (12) This requirement continued for the assistant judges until the abolishment of that office in 1816. But in 1808 Breckinridge County ceased to be a circuit by itself and became a part of the sixth circuit, and from 1808 to 1850 the chief judge was required to be a resident of the district only. (13) The third constitution required him to have lived two years in his district prior to his election. (14) He is now required to be a citizen of Kentucky, and he must also have been a resident of his district for two years prior to his election. (15)

Age and Experience

No qualifications regarding age and experience were specified until 1850, when the judge was required to be at least thirty years old, and to have been a practicing lawyer for eight years, or a judge whose service upon the bench of any court of record, when added to the time he had practiced law, was equal to eight years. (16) He is now required to be at least thirty-five years old when elected, and to have been a practicing lawyer eight years. (17)

Oath

Judges of the circuit court, including the assistant judges, have always been required to take the oath to perform their duties faithfully and to "do equal right to the poor and rich." (18)

Removal

Judges of the court have always been subject to impeachment by the House of Representatives for misdemeanor. Upon impeachment, a judge is tried by the Senate, and conviction, which must be by two-thirds vote of

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10. CONST. OF 1850, ART. 4, SEC. 20.
11. CONST. OF 1891, SEC. 129.
12. CONST. OF 1799, ART. 3, SEC. 9.
13. LITTELL, VOL. 3, 1807, PP. 504-507.
14. CONST. OF 1850, ART. 4, SEC. 22.
15. CONST. OF 1891, SEC. 130.
16. CONST. OF 1850, ART. 4, SEC. 22.
17. CONST. OF 1891, SEC. 130.
18. LITTELL, VOL. 3, 1802, P. 41; ACTS, 1891-93, P. 1047; CARROLL, SEC. 972.

the Senators present, results in removal from office. (19) A judge has also been subject to removal by the Governor for any "reasonable cause which shall not be sufficient ground for impeachment." Such action must be preceded by an address to the Governor by two-thirds of the members of each house of the legislature. Each address must state in detail the cause given for removal; the journal of each house must also give a detailed statement of the reason. (20) Since 1850, a judge's residence outside his district has been automatic cause for his removal from office. (21)

Vacancy

A vacancy in the office has always been filled by the Governor, with the advice and consent of the Senate. (22) An act of 1851 added the stipulation that the Governor must fill a vacancy within six weeks of receiving notice of such vacancy. (23)

Compensation

By an act of 1802, in effect in 1805, the chief judge received $750 a year, subject to deductions for non-attendance; an assistant judge received two dollars for each day he served in court. (24) After the office of assistant judge was abolished in 1816, the circuit judge received $1,200 a year (25), until an act of 1852 raised his salary to $1,400. (26) His salary was later increased to $3,000 (27), which amount he receives today. (28)

First Meeting of Court

The first meeting of the circuit court of Brockinridge County was held in April 1805 (29), with Henry P. Broadnax presiding as the first circuit judge. (30)

Terms

When the circuit court was organized in Breckinridge County in 1804, it held three terms a year, on the third Monday in April, July, and October, consisting of six judicial days each. (31) Legislation in 1808 authorized

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19. CONST. OF 1799, ART. 5, SECS. 1-3; CONST. OF 1850, ART. 5, SECS. 1-3; CONST. OF 1891, SECS. 66-68.
20. CONST. OF 1799, ART. 4, SEC. 3; CONST. OF 1850, ART. 4, SECS. 3, 23; CONST. OF 1891, SEC. 112.
21. CONST. OF 1850, ART. 4, SEC. 23; CONST. OF 1891, SEC. 129.
22. CONST. OF 1799, ART. 3, SEC. 9; CONST. OF 1850, ART. 3, SEC. 9; CONST. OF 1891, SEC. 152.
23. ACTS, 1850-51, VOL. 1, P. 90.
24. LITTELL, VOL. 3, 1802, P. 43.
25. LITTELL, VOL. 5, 1816, P. 347.
26. ACTS, 1851-52, P. 170.
27. GEN. STAT., 1873 ED., P. 773.
28. ACTS, 1887-88, VOL. 1, P. 143; CARROLL, SEC. 4357-5.
29. RECORD (ORDER BOOK, QUARTER SESSION COURT), VOL. 2, P. 10, SEE ENTRY 138.
30. IBID.
31. LITTELL, VOL. 3, 1804, P. 184.

the court to hold its sessions in the same months for the same number of days, as previously provided for. (32) Constitutional provision in 1891 continued the requirement that the circuit court meet three times each year (33), and the present circuit court convenes at Hardinsburg, the county seat, on the second Monday in February and May and on the first Monday in October. Each term is eighteen judicial days. (34) The circuit judge may also call a special term whenever he deems it necessary.

Districts

From 1805 to 1808, Breckinridge County was a circuit by itself. (35) In 1808 the State was divided into ten districts and Breckinridge County was placed in the sixth district, which was composed of Ohio, Muhlenberg, Henderson, Hopkins, and Breckinridge Counties. (36) It was included in the third judicial district in 1850, that district being composed of Daviess, Hancock, Ohio, Grayson, Meade, Hardin, Muhlenberg, Larue, and Breckinridge Counties. (37) In 1892 the State was redivided into judicial districts, and Breckinridge County was placed in the ninth district, which consisted of Grayson, Breckinridge, Meade, and Hardin Counties. (38)

Jurisdiction of the Court

The circuit court has always been a court of record. (39)

Original Jurisdiction

By an act of 1802 the court was given jurisdiction over "all causes, matters, and things" at common law and chancery involving five pounds or more in money, or 1000 pounds or more of tobacco. (40) Specific additions to its original jurisdiction authorized by the legislature throughout the court's existence are as follows: in 1809, jurisdiction in cases of public debtors (41); in 1852, reaffirmation of the court's jurisdiction as "over all matters in law and equity, provided the jurisdiction of these matters is not exclusively delegated to some other tribunal" (42); in 1879, jurisdiction of claims upon the State Treasury (43); and in 1893, jurisdiction concurrent with justices' and quarterly courts, of penal actions where the fine upon conviction exceeds twenty dollars. (44) In 1906 this concurrent

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32. LITTELL, VOL. 3, 1807, PP. 504-507.
33. CONST. OF 1891, SEC. 131.
34. ACTS: 1891-93, P. 1039; 1918, P. 684; CARROLL, SEC. 965-9.
35. LITTELL, VOL. 3, 1804, P. 184.
36. LITTELL, VOL. 3, 1807, PP. 504-507.
37. ACTS, 1850-51, P. 23; REV. STAT., VOL. 1, P. 311.
38. ACTS, 1891-93, PP. 174, 1033.
39. LITTELL, VOL. 3, 1802, P. 40; ACTS: 1851-52, P. 91; 1891-93, P. 1033.
40. LITTELL, VOL. 3, 1802, P. 40.
41. LITTELL, VOL. 4, 1809, P. 70.
42. ACTS, 1851-52, P. 90.
43. ACTS, 1879, VOL. 1, P. 106.
44. ACTS, 1891-93, P. 1058.

(Next entry 139, p. 189)

jurisdiction was changed to "all penal cases, the punishment of which is limited to a fine not exceeding $100, or imprisonment not exceeding fifty days, or both." (45) This provision was reaffirmed by an act of 1924. (46) An act of 1928, effective today, gives the court concurrent jurisdiction with the justices' and quarterly courts in all penal and misdemeanor cases, the punishment of which is limited to a fine not exceeding $500, or imprisonment not exceeding six months, or both. (47)

The circuit court was also given jurisdiction concurrent with the justices' and quarterly courts of the offense of vagrancy (48); an act of 1924 enlarged this jurisdiction to include petit larceny, and the first offense of carrying concealed and deadly weapons. (49)

In 1893 the circuit court was given jurisdiction concurrent with the quarterly court in all actions for the recovery of money or personal property in civil cases where the amount in controversy, exclusive of interest and costs, was over fifty dollars and not more than $200. (50)

Still another act of 1893 directed that, if at the end of any term of circuit court there should be persons in jail charged with misdemeanor, the court shall order transfer of all such indictments to the county court. The circuit court clerk, immediately upon adjournment, shall furnish a copy of the record in such cases to the county judge, who shall proceed to try the cases. An appeal may be taken from the judgment of the county court in such cases. (51)

In 1920 the circuit court was given jurisdiction of violations of the common carrier laws (52); in 1922, jurisdiction in criminal actions against juvenile offenders, and authority to commit convicted minors to the house of reform (53); in 1934, jurisdiction concurrent with the quarterly and justices' courts over violations of local option laws (54); and in 1936, power to postpone judgments and to place on probation persons charged with crime. (55)

Jurisdiction in Land Cases

The court has always had original and exclusive jurisdiction of cases involving land title, having inherited this jurisdiction from the district courts which were abolished in 1802, after having been expressly set up in

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45. Acts, 1906, p. 383.
46. Acts, 1924, p. 66.
47. Acts, 1928, p. 155; Carroll, sec. 1093.
48. Acts, 1904, p. 134.
49. Acts, 1924, p. 66; Carroll, sec. 4758-3.
50. Acts, 1891-93, p. 1049; Carroll, sec. 1051.
51. Acts, 1891-93, p. 1056; Carroll, secs. 1076, 1077.
52. Acts, 1920, pp. 257, 258.
53. Acts, 1922, p. 158.
54. Acts: 1934, pp. 653, 654; 1936, p. 17.
55. Acts, 1936, p. 74.

1795 to take over land cases from the Court of Appeals. (56) The present law gives the court jurisdiction in all cases where the title to land is in question, or in which it is sought to enforce a lien upon land or to subject it by provisional remedy to the payment of debt. (57)

The court's original and exclusive jurisdiction in land cases is interestingly demonstrated by two other statutes passed in 1893. One was an act which gave the circuit court the power to sell, upon petition in equity by interested parties, lands formerly belonging to charitable and religious societies other than the Shakers. Such lands passed to the trustees of the county seminary when the societies were dissolved; or, if the county had no seminary, the county court received it for the benefit of the common schools of the county. Sale of such lands could be made only for the purpose of reinvesting in similar property in the same county. (58) The other was an act which provided that in actions tried in the quarterly court involving title to real estate, it was the duty of the court, on motion of either party to the action, to make an order transferring the case to the circuit court, and to deliver the original papers in the case and certified copies of all orders to the circuit court clerk, whose duty it was to docket the case. The case was then tried as though the action had been brought originally in the circuit court; but if the judgment was rendered by the quarterly court, the title to any real estate involved could not be affected thereby. (59)

Jurisdiction of Persons of Unsound Mind

A Virginia law, effective January 1, 1787, directed that three justices of the peace sit as a court to hold insanity inquisitions and to supervise the care and custody of persons of unsound mind. (60) An act of the Kentucky Legislature, effective December 19, 1793, provided that applications to appoint committees for persons of unsound mind must be made to a chancery court (the court of quarter session was at this time the sole chancery court in each county), and that the court should inquire into the facts of the case and make proper orders concerning the support, restraint, and safe-keeping of the person adjudged to be of unsound mind. (61)

An act of 1795 established district courts as courts of chancery with jurisdiction similar to that given the court of quarter session over persons of unsound mind. (62) An act of 1802, in effect in 1804, gave the new court sole charge of matters in relation to persons of unsound mind (63), still pursuant to the law of 1793 which had placed

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56. LITTELL, VOL. 3, 1802, P. 40.
57. ACTS, 1891-93, P. 1033; CARROLL, SEC. 966.
58. ACTS, 1891-93, PP. 910, 911; CARROLL, SECS. 323, 324.
59. ACTS, 1891-93, P. 1050; CARROLL, SEC. 1052; SEE QUARTERLY COURT, P. 241.
60. HENING, VOL. 12, P. 199; LITTELL, VOL. 2, APPENDIX, PP. 577-580.
61. LITTELL, VOL. 1, 1793, P. 191.
62. IBID., 1795, P. 302.
63. LITTELL, VOL. 3, 1802, P. 40.

(Next entry 139, p. 189)

supervision of such matters in the jurisdiction of "any court of chancery in the commonwealth." (64) The law stipulated merely that the court "inquire into the facts." In 1831 the legislature declared that this mode of proceeding had resulted in many persons who were not idiots, being declared such and supported out of the public treasury. The legislature, therefore, provided that the circuit court could not draw any order allowing money to be paid to any idiot or to his committee until the court has ascertained by competent evidence or personal examination that the person was an idiot. Thereafter, the court was not only directed not to be content with an "inquiry into the facts," but it was also required to summon a jury of twelve housekeepers to sit upon insanity inquisitions. The circuit court was thus given exclusive jurisdiction over the care and custody of persons of unsound mind and the appointment and control of their committees. (65) This jurisdiction was continued by acts passed in 1840 and 1841. (66)

Later acts specified that when the circuit court was not in session, an insanity inquest could be held by the circuit judge, the county judge, or the judge of a city or police court. The papers in such cases were filed with the circuit court clerk, and at the next term of circuit court a committee was appointed by the court in the same manner as though the inquest had been regularly held by the circuit court, and necessary orders were issued. (67) This procedure continued until 1893, when the legislature abolished the power of city and police judges to hold insanity inquests when the circuit court was not in session, but continued the county judge's power to hold such inquests when the circuit court was not in session. It also allowed the county judge to have concurrent jurisdiction with the circuit court in the care and custody of persons of unsound mind and jurisdiction over their committees, with power to appoint, suspend, and remove committees, to require committees to make settlements in the same manner as fiduciaries, and to make all necessary orders. (68) Later acts made several changes in the general procedure (69), but the above-mentioned jurisdiction was unchanged and continues at present under an act of 1928. This act, however, adds the provision that in no case shall an inquest upon an idiot or convict be held except in circuit court, and an inquest upon a convict must be held at a regular term of court. (70) Upon the county court's being given concurrent jurisdiction with the circuit court in 1893, in cases of persons of unsound mind, the circuit court since that time has had appellate jurisdiction of county court cases in which persons adjudged unsound of mind seek to be legally declared of sound mind; and also jurisdiction of appeals from orders of the county court appointing or removing, or refusing to appoint or remove, guardians or committees. (71)

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64. LITTELL, VOL. 1, 1793, P. 191.
65. ACTS, 1831-32, PP. 109-111.
66. PRESTON S. LOUGHBOROUGH, A DIGEST OF THE STATUTE LAWS OF KENTUCKY, FRANKFORT, KY., 1842, PP. 268-270.
67. REV. STAT., VOL. 2, PP. 33, 35, 37; GEN. STAT., 1873 ED., PP. 534, 536.
68. ACTS, 1891-93, PP. 483-485.
69. ACTS: 1918, P. 156 FF.; 1924, P. 27.
70. ACTS, 1928, PP. 110, 123; CARROLL, SECS. 216AA-68, 2149.
71. ACTS: 1891-93, PP. 483-489; 1928, P. 123.

Other Jurisdictions

In 1805 the court was given concurrent jurisdiction with the justices of the peace over the arrest and imprisonment of fugitives from the justice of another state. (72) An act effective January 27, 1815, gave the circuit court exclusive jurisdiction in such cases, as well as the power to return the fugitive to the state where he was wanted, upon the order of the Governor of that state. (73) In 1893 this power was reaffirmed. (74)

In 1804, the Breckinridge Circuit Court had the power, inherited from the district and quarter session courts, to issue injunctions and writs of certiorari, ne exeat, and habeas corpus. (75) These powers are continued today under the chancery jurisdiction of the court, as provided by the Code of Practice. (76)

Appellate Jurisdiction

Before 1820, persons aggrieved by the action of the county court in establishing a ferry could appeal to the Court of Appeals. (77) By an act approved February 14, 1820, in force today, such an appeal could be taken to the circuit court. (78)

Prior to 1830, the Court of Appeals was also authorized to try matters of law and fact concerning road cases appealed from the county court. An act approved January 29, 1830, however, repealed this procedure , and provided that the appeal be made to the circuit court, as could cases concerning the probating of wills. (79)

In 1852 the circuit court was given jurisdiction over cases concerning passways, mills, waterworks, and dams, appealed from the county court; appellate jurisdiction of quarterly and justices' courts in cases where the amount of the suit was more than sixteen dollars; and appellate jurisdiction of trespass actions in justices' courts. (80)

A taxpayer, prior to 1894, had no appeal from the action of the board of tax supervisors. An act approved March 15, 1894, gave a taxpayer aggrieved by the action of the board, the right to appeal to the judge of the county court, and from the latter's action to the circuit court, and finally to the Court of Appeals. (81) An act of 1906, reaffirmed in 1924,

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72. LITTELL, VOL. 3, 1805, PP. 300, 301.
73. IBID., VOL. 5, 1814, PP. 185, 186.
74. ACTS, 1891-93, P. 195.
75. LITTELL, VOL. 3, 1802, PP. 37, 38.
76. ACTS, 1932, P. 334.
77. LITTELL, VOL. 1, 1796, P. 361.
78. ACTS, 1819-21, P. 952; GEN. STAT., 1873 ED., PP. 479, 480; CARROLL, SEC. 1801.
79. ACTS, 1829-30, P. 217.
80. ACTS, 1851-52, P. 90.
81. ACTS, 1894, P. 185.

substituted the quarterly court for the county court in this line of appeals. (82)

An act of 1893 gave the court appellate jurisdiction of the following: all orders or judgments of the fiscal or quarterly courts in civil cases where the value in controversy, exclusive of interest and costs, is more than twenty-five dollars; all judgments of the county court where the amount in controversy is over fifty dollars, exclusive of interest and costs; all judgments and orders of the county court in cases of bastardy, or in the settlement of the accounts of personal representatives, assignees, guardians, and other fiduciaries; orders of the county court granting, revoking, or refusing testamentary letters or letters of administration; orders of the county court appointing, refusing to appoint, or removing guardians, curators, trustees, or committees of estates; county court orders granting or refusing to grant druggist, tavern, or liquor licenses; and judgments in proceedings to condemn land for any purpose. (83) The court also has appellate jurisdiction in judgments against defendants in criminal actions in the lower courts for imprisonment, or for fine of twenty dollars or more (84), and in judgments of justices' courts in forcible entry and detainer proceedings. (85)

An act of 1938 which authorized a county board of registration and purgation to purge election lists provided that a voter, aggrieved by the action of the board or its purgation officers, may take an appeal to the county judge or the circuit judge five days prior to an election. (86)

Naturalization

Power to naturalize foreigners was conferred by Congress on state courts which were courts of record "having a seal, a clerk, and jurisdiction in actions at law or equity, or law and equity, in which the amount in controversy is unlimited." (87) This category includes the circuit court (88), but a search of the records of Breckinridge County has revealed no record of naturalization in the circuit clerk's office since 1912.

Common Pleas Court

An act of 1867 created a common pleas court in Breckinridge County, which served as an overflow court for the circuit court of the county. The judge of the common pleas court possessed the same qualifications as the circuit judge; the court had original jurisdiction of all civil

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82. ACTS: 1906, P. 152; 1924, P. 417.
83. ACTS, 1891-93, PP? 1048, 1049; CARROLL, SEC. 978.
84. CRIM. CODE, SEC. 362.
85. IBID., SEC. 463.
86. ACTS, 1938, PP. 595, 596.
87. U. S. CODE OF LAWS, 1934 ED., TITLE 8, SEC. 357; MORGAN V. DUDLEY, 18 B.M. 693.
88. U. S. DEPARTMENT OF LABOR, DIRECTORY OF COURTS HAVING JURISDICTION IN NATURALIZATION PROCEEDINGS (FIFTH ED.) WASHINGTON, 1932, PP. 37-39.

business which the circuit court had, but no criminal or penal jurisdiction; and it had appellate jurisdiction, just as the circuit court had, in civil actions and writs of forcible detainer. Procedure in the court was the same as in the circuit court, and the latter court's ministerial officers - the circuit court clerk, the commonwealth's attorney, and the master commissioner - were required to perform the same functions in both courts. The court held two terms each year. (89) This court continued to function until 1868, when it was abolished by an act approved February 13, 1868. (90)

Non-Judicial Functions

Appointments

An act effective February 16, 1808, gave the circuit court power to appoint one or more commissioners to convey title to lands by deed, agreeable to the court's decree, in certain chancery cases. (91) In 1839 the court was empowered to appoint a standing master commissioner to carry out the court's orders in the administration and settlement of estates. (92) For detailed duties of the master commissioner, see Circuit Court, p. 164.

An act approved February 15, 1838, required the circuit judge to appoint the circuit court clerk, or other competent person, as trustee of the jury fund. This trustee was charged with the duty of collecting fines and forfeitures accrued by judgment of the circuit, county, justices', and police courts, together with jury fees authorized by law; and the duty of disbursing this fund in payment to the grand and petit jurors serving in the county. (93) An act effective July 1, 1934, abolished the jury fund and the office of trustee of the fund, and delegated to the circuit court clerk the duties formerly discharged by the trustee. (94) For details of the collection of fines and forfeitures in the county, and the procedure by which the jury fund was collected, see the essay on Governmental Organization and Records System, p. 17.

The circuit court now may appoint: guards for prisoners(95); an elisor to act in place of the sheriff (96); an attorney pro tempore to act for the commonwealth's attorney during his absence from any term of court (97); persons to occupy the vacated positions of commonwealth's attorney and circuit court clerk pending an election for these offices (98); a court reporter

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89. Acts, 1867-68, vol. 1, pp. 18-21.
90. Acts, 1867-68, vol. 1, pp. 12, 13.
91. Littell, vol. 3, 1807, p. 460.
92. Acts, 1838-39, p. 295.
93. Acts, 1837-38, p. 239.
94. Acts, 1934, pp. 540, 541.
95. Acts, 1891-93, p. 191.
96. Ibid., p. 228.
97. Ibid., p. 264.
98. Ibid., p. 146; see Commonwealth's Attorney, p. 174, and Circuit Court Clerk, p. 180.

for the judicial district (99); a receiver in cases where the master commissioner cannot act as a receiver (100); guardians ad litem for persons under disability (101); two physicians to examine persons declared to be of unsound mind (102); three persons to serve as jury commissioners (103); two or more examiners in each county of his district to take depositions (104); and to appoint a competent person, at least thirty years old, to the position of County Alcoholic Beverage Control Administrator, if the county judge is not qualified to act. (105) Upon application of any printer, editor, publisher or proprietor of any newspaper, the circuit court was given power to authorize publication of any advertisement required by law to be published. (106)

Judicial Council

In 1928 the circuit judge became a member of the judicial council of the Commonwealth, a body composed of the judges of the Court of Appeals and the circuit judges, with the Chief Justice of the Court of Appeals presiding. This council meets at least once a year in order to study the organization, procedure, and practice of the State's judicial system, and to review work accomplished and current problems. Each circuit judge reports to the council concerning conditions in the circuit courts over which he presides, and the business dispatched and pending therein. (107)

Indexing

Since 1874 the court has had authority to order its clerk to make an index and a cross index of any records without indexes, or of any poorly-indexed records belonging to the circuit court in the county. (108)

Commonwealth's Attorney - Structure

Creation

Prior to 1798, the duties now performed by the commonwealth's attorney were exercised by the Attorney General, whose office was established by constitutional provision in 1792. (109) Legislation passed in 1798 and constitutional provision made in 1799, in effect when Breckinridge County was created, provided that in the absence of the Attorney General, or when other attorneys for the Commonwealth were needed, such "attorneys for the commonwealth for the several counties shall be appointed by the

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99. ACTS, 1891-93, P. 1523.
100. IBID., P. 1402.
101. CIVIL CODE, SEC. 38.
102. ACTS, 1928, PP. 112, 113.
103. ACTS, 1936, P. 69.
104. CIVIL CODE, SEC. 559.
105. ACTS, 1938, PP. 59-61.
106. ACTS: 1835-36, P. 264; 1891-93, P. 426.
107. ACTS, 1928, PP. 145-148; CARROLL, SECS. 1126A-1 TO 1126A-7.
108. ACTS: 1873-74, P. 10; 1891-93, P. 538.
109. CONST. OF 1792, ART. 2, SEC. 16.

respective courts having jurisdiction therein." (110) Henry Davidge, appointed April 21, 1800, was the first attorney for the Commonwealth appointed by the quarter session court of Breckinridge County. (111)

Selection and Term

The office of "commonwealth's attorney" was created in 1813, when the Governor was authorized with the advice and consent of the Senate to appoint a commonwealth's attorney in each judicial district for a term of two years. (112) This procedure continued until 1850, when the commonwealth's attorney was elected by the voters in each judicial district for a term of six years. (113) His term coincided with that of the circuit judge. (114) Constitutional provision in 1891 fixed his term of office at six years, beginning with 1897; the commonwealth's attorney elected in 1892 was to serve only until that time. (115) Since the creation of his office in 1813, the commonwealth's attorney has always been commissioned by the Governor. (116)

Residence

Under provision made in 1799, the attorney for the Commonwealth was required to have been a citizen and a resident of the county for one year prior to his appointment. (117) When the office of commonwealth's attorney was established, it was only necessary that the incumbent live in the judicial district for which he was appointed. (118) Since 1850 he must have resided in the State for two years, and in the county and district one year, preceding his election. (119)

Age

Before 1850, no age qualification was specified, but since that year, the commonwealth's attorney has been required to be at least twenty-four years of age. (120)

Experience

By constitutional provision in 1850, the commonwealth's attorney must have been a licensed, practicing attorney for two years (121), and in 1891 this requirement was raised to four years. (122)

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110. LITTELL, VOL. 2, 1798, P. 77; CONST. OF 1799, ART. 3, SEC. 23.
111. RECORD (ORDER BOOK, QUARTER SESSION COURT), VOL. 1, P. 2, SEE ENTRY 138.
112. LITTELL, VOL. 5, 1813, PP. 19, 20.
113. CONST. OF 1850: ART. 4, SEC. 20; ART. 6 SEC. 1.
114. IBID.
115. CONST. OF 1891, SEC. 97.
116. LITTELL, VOL. 5, 1813, P. 19; ACTS: 1891-93, P. 916; 1920, P. 390.
117. CONST. OF 1799, ART. 3, SEC. 9.
118. LITTELL, VOL. 5, 1813, P. 19.
119. CONST. OF 1850, ART. 6, SEC. 2; CONST. OF 1891, SEC. 100.
120. IBID.
121. CONST. OF 1850, ART. 6, SEC. 2.
122. CONST. OF 1891, SEC. 100.

Oath

It has always been necessary for the commonwealth's attorney to take the oath of office before assuming his duties. (123)

Removal

The commonwealth's attorney, since the creation of his office, has been liable to impeachment by a two-thirds concurrence of the House of Representatives, for misdemeanor in office. (124)

Vacancy

A vacancy in the office of attorney for the Commonwealth was filled, in the beginning, by the court having jurisdiction to appoint this officer. (125) From 1813 to 1850, a vacancy was filled by the Governor, with consent of the Senate (126), and since 1851, by the incumbent circuit judge, pending the election and the qualifying of a successor. (127) In 1894, the Governor was authorized to fill a vacancy and an act of 1930 reaffirmed this provision. (128)

Compensation

In 1798 the district court employed an attorney to represent the Commonwealth in the absence of the Attorney General, and allotted him proper compensation which the Attorney General paid out of his salary. (129) After the district courts were abolished, an act of 1803 provided that attorneys for the Commonwealth be paid from the county levies. (130) In the absence of the commonwealth's attorney, the circuit judge appointed, pro tempore, an attorney to represent the State, who was paid out of the commonwealth's attorney's salary. (131) Legislation in 1893 specified that the temporary attorney could receive from the treasury a maximum of seven dollars per day, plus one-half the per centum allowed the commonwealth's attorney. (132)

In 1813, the commonwealth's attorney was paid $400 a year from the public treasury (133); after 1851, he received $300 a year, plus a percentage of certain fees. (134) Later statutes gave him $500 a year in addition to thirty per cent of all judgments, with certain exceptions, rendered in favor of the Commonwealth in the circuit court of his district. (135) In

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123. CONST. OF 1799, ART. 6, SEC. 1; CONST. OF 1850, ART. 8, SEC. 1; CONST. OF 1891, SEC. 228.
124. CONST. OF 1799, ART. 5, SECS. 1-3; CONST. OF 1850, ART. 5, SECS. 1-3; CONST. OF 1891, SECS. 66-68.
125. CONST. OF 1799, ART. 3, SEC. 23.
126. LITTELL, VOL. 5, 1813, P. 19.
127. ACTS, 1850-51, VOL. 1, P. 90; REV. STAT., VOL. 1, P. 441; GEN. STAT., 1873 ED., P. 386; ACTS, 1891-93, P. 146.
128. ACTS, 1894, P. 11; 1930, PP. 390, 391; CARROLL, SEC. 3758.
129. LITTELL, VOL. 2, 1798, P. 77.
130. LITTELL, VOL. 3, 1803, P. 146.
131. LITTELL, VOL. 5, 1813, P. 20.
132. ACTS, 1891-93, P. 264.
133. LITTELL, VOL. 5, 1813, PP. 19, 20.
134. ACTS, 1851-52, P. 170; REV. STAT., VOL. 1, P. 188.
135. GEN. STAT., 1873 ED., P. 152.

1892 his salary was set at $500, plus one-half of all judgments, fines, and forfeitures rendered in favor of the Commonwealth in his district. His annual compensation, however, could not exceed $4000. (136) An act of 1932 confirmed $4000 as his total yearly compensation from the sources mentioned above and added that if the funds were insufficient to pay him this amount in one year, then it was to be made up the succeeding year. (137)

Restrictions

The commonwealth's attorney was forbidden to accept anything from defendants in criminal cases, as consideration for failure to prosecute (138), or to defend any criminal in the state except in cases in which he was employed before his election, or to which he was a party. (139) Nor could his law partner defend any person whom it was the duty of the commonwealth's attorney to prosecute. (140)

Commonwealth's Attorney - Functions

The paramount duties of the Attorney General and the attorney for the Commonwealth, as derived from the old English common law, have always been to present to each grand jury the evidence in cases accumulated since its previous session, or left over from former sessions; to draw up indictments against persons where the grand jury returned true bills; to prosecute such cases before a petit jury; and to prosecute cases taken to the Court of Appeals. (141)

From 1799 to 1813, the Attorney General, or the attorney for the Commonwealth appointed in his stead, represented the State in criminal and civil cases in which the Commonwealth was interested, performing such duties as were prescribed by law. (142) It was later provided that in such civil cases the Governor could employ counsel to assist him. (143)

In 1813, it became the duty of the commonwealth's attorney to attend the several circuit courts in his district and to prosecute for the Commonwealth. (144) As early as 1809 attorneys for the Commonwealth had been required to oppose improper application for divorce (145), but this duty was later given to the county attorney. (146) It was the commonwealth's attorney's duty to prosecute persons against whom the grand jury returned

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136. ACTS: 1891-93, PP. 264-267; 1928, P. 161.
137. ACTS, 1932, P. 35.
138. ACTS, 1891-93, P. 809.
139. IBID., P. 264.
140. IBID., P. 261.
141. LITTELL, VOL. 4, 1809, P. 68.
142. CONST. OF 1792, ART. 2, SEC. 16.
143. ACTS, 1891-93, P. 263.
144. LITTELL, VOL. 5, 1813, P. 19.
145. LITTELL, VOL. 4, 1809, P. 20.
146. GEN. STAT., 1873 ED., P. 524.

true bills charging violations of the election laws (147); to take depositions in the interest of the Commonwealth (148); and to obtain a rule against persons delinquent in payment of fines and forfeitures, (149) The above-mentioned duties are in effect today. (150)

An act of 1829, in force today, authorized the commonwealth's attorney to prosecute attorneys who failed to pay to clients money they had collected, or who were otherwise delinquent. (151) Recent statutes require him to represent the Commonwealth in road cases appealed to the circuit court from the county court, adding that the county attorney should attend and aid him in all the prosecutions therein. (152) Before it was made legal to operate billiard tables under license (153), the commonwealth's attorney was required to prosecute keepers of billiard tables. (154)

The commonwealth's attorney has always had the duty of applying to the court for appointment of committees for persons of unsound mind. (155) Later he was empowered to require a committee in charge of an idiot to show why annual allowance of public funds for his care and custody should not cease. (156) This measure was afterwards amended by an act intended to provide care for such idiots in designated asylums (157), and the same act made it the duty of the commonwealth's attorney to represent the Commonwealth in all inquests concerning sanity. (158)

In 1833 statutory provision required the commonwealth's attorney to take a special oath to prosecute persons importing slaves into the state. Conviction on such a charge carried a fine of $600, one-fifth of which was allowed the commonwealth's attorney, and the remainder went into a fund for colonizing free Negroes on the coast of Africa. This procedure ceased in 1863. (159)

Early statutes required the commonwealth's attorney to prosecute persons violating the currency laws (160), and to apply to the court for injunctions against such violations. (161) Enforcement of the currency laws is now under control of the United States Treasury Department. (162) In

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147. Acts, 1828-29, p. 1198.
148. Littell, vol. 3, 1804, p. 189.
149. Acts, 1819-21, p. 181.
150. Acts, 1891-93, p. 263.
151. Acts: 1828-29, p. 129; 1891-93, p. 264.
152. Acts: 1855-56, vol. 1, p. 76; 1891-93, p. 266
153. Gen. Stat., 1873 ed., p. 746.
154. Acts, 1830-31, p. 127.
155. Littell, vol. 1, 1793, p. 191.
156. Acts, 1839-40, p. 170.
157. Acts, 1928, p. 116.
158. Ibid., p. 111.
159. Acts, 1832-33, p. 259.
160. Acts, 1837-38, p. 249.
161. Acts, 1838-39, p. 119; Rev. Stat., pp. 277, 278; Gen. Stat., 1873 ed., p. 368; Carroll, sec. 1388.
162. U. S. Code, 1934 ed., title 18, sec. 262, p. 264.

1840 the commonwealth's attorney was required to see that the trustee of the jury fund faithfully applied such funds to the payment of jurors, and made a proper settlement to the circuit court at the close of each court term. (163) This duty was reaffirmed later, and the commonwealth's attorney was further required to advise the trustee in regard to motions against delinquent officers charged with the collection of fines and forfeitures, for failure to make returns on collections to the trustee. It was also his duty to prosecute such motions. (164) With the abolishment of the office of trustee of the jury fund in 1934; its functions were assumed by the circuit court clerk under supervision of the Auditor of Public Accounts. (165)

As a matter of common law practice, the commonwealth's attorney has always filed a statement with the presiding judge setting forth reasons for dismissing indictments or entering nolle prosequi; however, statutory provision for this practice was not made until 1873, and was reaffirmed in 1892. (166)

Recent statutes gave the commonwealth's attorney for the following duties: to advise the collector of public funds regarding motions against collecting officers delinquent in paying over money due the Commonwealth; to investigate all unsatisfied judgments in his districts which are in favor of the Commonwealth (167); to prosecute suits brought by the Auditor of Public Accounts for collection of taxes due the State (168); to prosecute violations of the game and fish laws (169); to prosecute violators of the sanitation laws, representing the State Board of Health in such cases (170); and to assist the Forestry Department in enforcing its regulations. (171)

An act of 1922 which prohibited the manufacture, sale, transportation, possession, or other disposition of spirituous or intoxicating liquors, made it the duty of the commonwealth's attorney, except in districts containing cities of the first class, to appear personally and conduct all prosecutions in the inferior courts against such liquor violations as he deems necessary. It was the intention of this act to coordinate the law enforcement machinery of the State in order to make more effective the provisions of this legislation. (172)

The commonwealth's attorney keeps no records.

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163. Acts, 1839-40, p. 134.
164. Gen. Stat., 1873 ed., pp. 152, 580.
165. Acts, 1934, pp. 540-542.
166. Gen. Stat., 1873 ed., p. 153; Acts, 1891-93, p. 265.
167. Acts: 1891-93, pp. 264, 266; 1926, p. 101.
168. Acts, 1906, p. 172.
169. Acts, 1912, p. 162.
170. Acts: 1916, p. 424; 1918, p. 291.
171. Acts, 1930, p. 291.
172. Acts, 1922, pp. 129, 130.

Circuit Court Clerk - Structure

Selection and Term

When an act of December 1804 provided for the establishment of the circuit court in Breckinridge County, the court was given authority to appoint its own clerk, who held office during good behavior. (173) At the first meeting of the circuit court of Breckinridge County in April 1805, Joseph Allen was appointed circuit court clerk. (174) Constitutional provision in 1850 made this office elective for a term of six years. (175)

Residence

In 1804 the circuit court clerk was required to have been a resident of the county for one year preceding his appointment (176); but when his office became elective in 1850, the residential qualifications were changed, and he was required to have resided in the State two years and in the county one year prior to his election. (177)

Age

It was not until 1850 that constitutional provision specified any age limit for the circuit court clerk. Since that year he has been required to be at least twenty-one years of age, as he must be today. (178)

Qualifications

When the circuit court clerk was appointed, he was required to produce a certificate, signed by a majority of the judges of the Court of Appeals, stating that he was qualified to perform the duties of his office. (179)

Oath

The Constitution of 1799 provided that each civil officer must take an oath to support the constitution and to discharge faithfully the duties of his office, and this provision applied to the circuit court clerk when he assumed office in April 1805. (180) Legislation in 1850 required that he must not have participated in any manner in duels. (181)

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173. LITTELL, VOL. 3; 1802, PP. 37-48; 1804, P. 184.
174. CIVIL ORDERS, VOL. 2, P. 10, SEE ENTRY 158.
175. CONST. OF 1850, ART. 6, SECS. 1, 3; CONST. OF 1891, SEC. 97.
176. CONST. OF 1799, ART. 3, SEC. 9.
177. CONST. OF 1850, ART. 6, SEC. 2; CONST. OF 1891, SEC. 100.
178. IBID.
179. CONST. OF 1799, ART. 4, SEC. 10; CONST. OF 1850, ART. 6, SEC. 2; CONST. OF 1891, SEC. 100.
180. CONST. OF 1799, ART. 6, SEC. 1.
181. CONST. OF 1850, ART. 8, SEC. 1; CONST. OF 1891, SEC. 228.

Circuit Court - Circuit Court Clerk (Next entry 139, p. 189)

Bond

From 1850 to the present, the circuit court clerk has been required to give surety bond in such amount, and as often, as required by law. (182)

Removal

Upon information and good cause shown, the circuit court clerk has always been liable for removal from office by the judges of the Court of Appeals, with the concurrence of two-thirds of the judges of that court present. (183)

Vacancy

From the beginning of his office until 1850, when the office of circuit court clerk became elective, a vacancy was filled by the court. (184) Since 1850, a vacancy in this office has been filled by the circuit judge, pending an election. (185)

Compensation

The circuit court clerk has always been compensated on a fee basis.(186)

Office Requirements

The circuit court clerk at first kept office in or near the courthouse. He now keeps it within 200 yards of the courthouse. (187)

Circuit Court Clerk - Functions

Court Recorder

Upon the establishment of his office, the circuit court clerk assumed the duties performed by the clerks of the courts preceding the circuit court. (188) He was authorized to draw up and record the orders of court each day and have them signed by the judge (189), and make complete records of court proceedings, if required, as in cases of appeal. (190) In 1839 he was given the duty of endorsing on an inner envelope all steps

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182. CONST. OF 1850, ART. 6, SEC. 9; CONST. OF 1891, SEC. 103; ACTS: 1891-93, P. 534; 1928, P. 407; 1934, PP. 60-62.
183. CONST. OF 1799, ART. 4, SEC. 10; CONST. OF 1850, ART. 4, SEC. 39; CONST. OF 1891, SEC. 124.
184. CONST. OF 1799, ART. 4, SEC. 10.
185. GEN. STAT., 1873 ED., P. 386; ACTS, 1891-93, P. 146.
186. LITTELL, VOL. 3, 1802, P. 83; ACTS, 1851-52, PP. 303, 304; GEN. STAT., 1873 ED., PP. 458-465; ACTS, 1928, PP. 392-398; CARROLL, SEC. 1720.
187. LITTELL, VOL. 3, 1802, P. 88; ACTS, 1891-93, P. 536.
188. LITTELL, VOL. 3, 1802, PP. 37, 38.
189. REV. STAT., VOL. 1, P. 249; GEN. STAT., 1873 ED., P. 200.
190. LITTELL, VOL. 4, 1810, P. 192.

taken in each case. (191) This duty was later expanded to include the listing of all steps taken in each action and the filing of summaries thereof, with other papers in the case, within thirty days after the close of each term of court. (192) At present, he must write up each day's proceedings in court (193), and each November, make a full report to the Auditor of Public Accounts regarding cases filed in court the preceding year. (194) In 1815, the circuit court clerk was authorized to forward papers when a change of venue had been granted, and was held answerable for the trustworthiness of persons carrying those papers. (195) He now has the additional duty of making a transcript of all papers when a change of venue is granted, and of forwarding the transcript to the clerk of the court to which the case has been removed. (196)

By an act of 1810, the circuit court clerk was required to prepare a docket for the succeeding term of court. (197) He was later required to keep equity and common law dockets. (198) He is also required to keep a rule docket in which to enter the names of parties in the cases, and the steps taken in the court procedure. (199) From the creation of his office to 1806, the circuit court clerk recorded deeds, transmitting a list of deeds from lands recorded by him to the clerk of the Court of Appeals (200); in 1806 he was required to deliver all records of deeds and original deeds to the county court clerk. (201)

A statute enacted in 1811 required the clerk to endorse and note returns of executions (202); after 1850, he issued executions and turned them over to the sheriff. (203) He now keeps a record of every execution and return made by the sheriff, recording all sales of real estate under execution, and the date relating to them. (204)

Collection of Revenue

By laws in effect in 1802, the circuit court clerk was authorized to receive fees, fines, and taxes in money instead of tobacco, as had been the custom (205); to deliver fee bills to the sheriff for collection (206);

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191. ACTS, 1838-39, P. 138.
192. ACTS, 1891-93, P. 536.
193. IBID.
194. IBID., PP. 537, 538.
195. LITTELL, VOL. 5, 1815, P. 209; ACTS, 1891-93, P. 589.
196. ACTS, 1891-93, P. 1060.
197. LITTELL, VOL. 4, 1810, P. 177.
198. GEN. STAT., 1873 ED., P. 200; ACTS, 1891-93, P. 420.
199. ACTS, 1891-93, P. 420.
200. LITTELL, VOL. 3, 1802, P. 88.
201. LITTELL, VOL. 3, 1806, P. 358; SEE COUNTY COURT CLERK, P.132.
202. LITTELL, VOL. 4, 1811, P. 278.
203. GEN. STAT., 1873 ED., P. 728.
204. ACTS, 1891-93, P. 535.
205. LITTELL, VOL. 1, 1792, P. 88.
206. LITTELL: VOL. 1, 1796, P. 588; VOL. 4, 1808, P. 485.

to produce fee bills chargeable to a person and place in his office a list of these fee bills for public inspection (207); and to receive the tax on law process or writs. (208)

Legislation effective in 1873 directed the circuit court clerk to enter in a book a record of all money received by him for the State. (209) He now keeps a record of all public money received and makes a report of such receipts, together with the taxes, up to the first day of each circuit court session. (210) He lists all receipts and expenditures, and sends to the circuit judge, every four months a written report on such receipts and expenditures. (211) In 1934 he was authorized to act for the State Tax Commissioner in issuing operator's licenses. (212)

The circuit court clerk was required, by various acts, to tax both the costs on papers filed before execution (213) and the costs of each party on papers filed with the case at the termination of the action (214); and to give to the Auditor of Public Accounts an accounting of all tax moneys received by him. (215) On the second day of the term of court, it was his duty to give the State Auditor an account in writing, verified by oath, of all money on hand. (216) He was also required to deliver to the county court clerk before the tenth day preceding the meeting of the court of claims and levy, a list of fines inflicted or collected by the circuit court (217); and to forward to the State Auditor a list of fines and forfeitures at each term, together with copies of the settlement with the trustee of the jury fund. (218) An act of July 1, 1934, abolished the jury fund and the office of trustee of this fund, and gave the duties of the trustee to the circuit court clerk, who now is required to attend to the collection of fines and forfeitures and keep a record of the funds paid to jurors. (219)

County Librarian

By an act of 1825, the circuit court clerk was made responsible for the law books in his charge and was directed to submit periodically to the circuit judge, a list of all law books received. He also transmitted a copy of the list to the Secretary of State. (220) He is now required

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207. LITTELL, VOL. 2, 1798, P. 261.
208. IBID., 1799, P. 329.
209. GEN. STAT., 1873 ED., P. 728.
210. ACTS 1906, PP. 219, 220.
211. IBID., P. 224.
212. ACTS, 1934, SPECIAL SESSION, P. 139.
213. ACTS, 1817-18, P. 548.
214. GEN. STAT., 1873 ED., P. 202; ACTS, 1891-93, P. 534.
215. ACTS, 1831-32, P. 113.
216. GEN. STAT., 1873 ED., P. 579.
217. IBID., P. 388.
218. ACTS, 1839-40, PP. 132-134.
219. ACTS, 1934, P. 541.
220. ACTS, 1825-26, P. 110.

to keep in his office for public use, all books entrusted to him (221) and to make a biennial report to the circuit judge of all books received on public account, and of all books remaining in his office. (222) In 1930 he was made librarian of the county library, with a monthly stipend of twenty dollars. He keeps the room in order, preserves the books, makes inventories, and gives receipts to the State Librarian for all books, maps, and furniture. (223) By a statute enacted in 1934, he was authorized to give, at his discretion, non-current documents, reports, and other library materials not needed by the county to the libraries of the University of Kentucky and the four state teachers' colleges. (224)

Miscellaneous Functions

Duties given the circuit court clerk by early statutes were: to certify to the Auditor of Public Accounts the number of slaves condemned and executed (225), until this duty was dropped with the abolition of slavery in 1863; to send the Governor a certified copy of the conviction of officers accused of certain crimes (226); to make a certificate of the number of terms the judge attended (227); and to transmit to the keeper of the penitentiary a statement of the expense of convicting prisoners. (228)

The circuit court clerk was also required to administer oaths of pleas of non est factum (229); to procure a seal of office (230); to administer oaths out of office; and take recognizance for the peace in certain cases. (231) An act of 1833 provided that the circuit court clerk make no charge for affixing the seal of office to documents for Revolutionary War Soldiers. (232) He now certifies soldiers' claims without charge. (233)

Circuit Court Clerk - Recordation

At the present time the circuit court clerk has certain duties in regard to the maintenance of an adequate record system. In 1810 he furnished his own books for keeping records, his own presses, and stationery, chargeable to the public treasury. (234) Upon order of the circuit court, the clerk now procures the record books for this office at the expense of the

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221. Acts, 1891-93, p. 596.
222. Ibid., pp. 596, 597.
223. Acts, 1930, pp. 200-203.
224. Acts, 1934, p. 427.
225. Littell, vol. 2, 1798, p. 118.
226. Ibid., 1799, p. 356.
227. Ibid., 1800, p. 416.
228. Littell, vol. 3, 1802, p. 71.
229. Littell, vol. 2, 1801, p. 440.
230. Littell, vol. 3, 1804, p. 234.
231. Acts: 1827-28, p. 31; 1891-93, p. 534.
232. Acts, 1832-33, p. 149.
233. Acts, 1891-93, p. 537.
234. Littell, vol. 4, 1810, p. 189.

State. (235) In 1831, he was required to make a list of idiots and lunatics and their committees in a docket book. (236) At present, he also submits a list of pauper idiots to the Auditor of Public Accounts on or before September 10 of each year, and transmits to him a certified copy of inquest proceedings. (237)

In addition to the recordation duties previously mentioned, the circuit court clerk keeps the following records: a registry of suits to settle insolvent estates (238); a book of witnesses' attendance (239); a "General Index" containing the names of the parties to each suit, after the case is decided, together with reference to the number of the bundle or file box in which papers are filed (240); and a judgment book, with an alphabetically arranged index in which all civil and criminal judgments are entered. (241)

Upon removal, resignation, or expiration of his term of office, the circuit court clerk must deliver all records and papers belonging to his office to his successor, or to such persons as the court may appoint. He must not remove records from the county, except in great emergencies or by court order. (242)

Master Commissioner - Structure

Creation

As early as 1789 the Virginia Assembly passed an act, which provided that the high court of chancery, in cases requiring a report which could not be performed by the court without delay to its regular business, could employ one or more commissioners for that purpose. (243)

In Kentucky, an act of 1797 provided that, whenever necessary, commissioners be appointed to convey land. (244) In 1808 the circuit court was given the power to appoint one or more commissioners to convey title to land by deed, satisfactory to the decree of the court, in certain chancery cases. (245) In 1811, legislation specified that when executors refused to act, commissioners to convey land could be appointed. (246) Commissioners so appointed were the forerunners of the present master commissioner. It was not until 1839, however, that the name "master commissioner" was used, but no provision was made at that time for him as a

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235. ACTS, 1891-93, P. 534.
236. ACTS, 1830-31, P. 111.
237. ACTS, 1928, P. 108.
238. GEN. STAT., 1873 ED., P. 555.
239. IBID., P. 201.
240. IBID., P. 203; ACTS, 1891-93, P. 538.
241. ACTS, 1926, P. 160.
242. LITTELL, VOL. 3, 1804, P. 184; GEN. STAT., 1873 ED., P. 199; ACTS, 1891-93, PP. 535, 536.
243. HENING, VOL. 12, P. 766.
244. LITTELL, VOL. 1, 1796, P. 400.
245. LITTELL, VOL. 3, 1807, P. 460.
246. LITTELL, VOL. 4, 1811, P. 238.

regular officer of the county. (247)

Selection and Term

In 1851, commissioners were appointed by the circuit court for as long as necessary to settle accounts, partitions of land, or personal estates. (248) By an act of 1852, the master commissioner was appointed by the circuit court for a term of four years. (249) In 1873, appointment for a single term of four years was provided for, which is the term of his office today. (250) The master commissioner is not eligible for reappointment.

Residence and Age

There is no age requirement for either the early commissioners or the master commissioner, but in 1799, the incumbent was required to be a citizen of the United States and to have resided in his county for one year prior to his appointment. (251) Today the master commissioner must reside within his county to qualify for office. (252)

Oath and Bond

By legislation passed in 1852, the master commissioner was required to take the oath of office and furnish bond with good security. (253) Subsequent legislation, in force today, provided that he take oath and execute a surety bond approved by the court for the faithful performance of his duty. This bond was to be renewed once, or oftener, if required by the court. Aggrieved persons could take action against his surety. (254) He was also required to execute a new or special bond whenever it was considered necessary. (255)

Removal

Since the creation of his office, the master commissioner has been subject to removal for adequate cause, by the circuit court. (256)

Vacancy

When the office has been made vacant by death, resignation, removal for cause, or removal from the county, the circuit judge has always filled the vacancy by appointment at the next term of the court. (257)

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247. Acts, 1838-39, p. 295.
248. Acts, 1850-51, vol. 1, pp. 172-177.
249. Acts, 1851-52, p. 293; Rev. Stat., vol. 2, p. 140.
250. Gen. Stat., 1873 ed., p. 656; Acts, 1891-93, p. 48; Carroll, sec. 392.
251. Const. of 1799, art. 3, sec. 9; Const. of 1850, art. 6, sec. 2; Const. of 1891, sec. 100.
252. Const. of 1891, sec. 234.
253. Acts, 1851-52, pp. 293, 294; Gen. Stat., 1873 ed., p. 656.
254. Acts, 1891-93, p. 48; Carroll, sec. 393.
255. Gen. Stat., 1873 ed., p. 657; Acts, 1891-93, p. 48.
256. Acts, 1851-52, p. 293; Gen. Stat., 1873 ed., p. 656; Acts, 1891-93, p. 48; Carroll, sec. 392.
257. Acts: 1851-52, p. 293; 1873-74, p. 21; 1891-93, p. 49; Carroll, secs. 397,398.

Compensation

In 1852, the master commissioner was allowed a sum not to exceed three dollars a day, for each day engaged in his duties, unless the parties in the suit consented to more. He was allowed one dollar and a half for each deed executed under the decrees of the courts, unless the parties concerned agreed to a larger amount. (258)

By an act of 1893 he received not more than three dollars a day when the amount was not agreed upon by the parties concerned, and in addition he was paid on a fee or percentage basis, according to the amount involved, for various duties concerned with dividing and selling property, settling accounts, and allotting dowries. (259) In 1852 all his fees were taxed as a part of the costs (260), the tax being collected in the same manner as the fees of the circuit court clerk. (261) No allowance was made him until his fees were ascertained by oath and evidence. (262) He was also required to file a statement in court under oath before he could collect any allowance. (263)

Deputies

The master commissioner could appoint a deputy commissioner if and when, in the opinion of the court, one was necessary; if more than one was necessary, the court designated the number to be appointed. Deputies so appointed were required to take oath and furnish surety, and were removable at will by the master commissioner. (264)

Special Commissioner

By provision made in 1873 the circuit court, upon request of litigants, could appoint a special commissioner to handle any case in which the master commissioner was personally involved. This commissioner took oath and gave bond in the same manner as the master commissioner (265), and received fees which were fixed by the circuit court and added as part of the costs of the case. (266)

Master Commissioner - Functions

A present duty exercised by the master commissioner, and one which commissioners performed as early as 1839 is as follows: if an estate was insufficient to pay its debts and when, as a result, the representative

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258. Acts, 1851-52, p. 294; Gen. Stat., 1873 ed., p. 657.
259. Acts, 1891-93, p. 1146; Carroll, sec. 1740.
260. Acts, 1851-52, p. 294; Rev. Stat., vol. 2, p. 140.
261. Acts, 1891-93, p. 494.
262. Acts, 1851-52, p. 294.
263. Acts, 1891-93, p. 49; Carroll, sec. 396.
264. Acts, 1891-93, p. 493.
265. Gen. Stat., 1873 ed., p. 658; Acts, 1891-93, pp. 49, 50.
266. Gen. Stat., 1873 ed., p. 658; Acts, 1891-93, p. 50.

had filed a bill in chancery for settlement, the master commissioner, after the court had referred the matter to him, ascertained and reported the estate, its debts, and the date fixed by the court when the debtors were required to prove their claims. (267) It was also his duty to settle the accounts of insolvent estates pending in the circuit court. (268) In 1852, he executed deeds under the decree of the court. (269)

It was the master commissioner's duty, unless otherwise ordered by the court, to make all conveyance of real property authorized by law to be made by a commissioner appointed by the court. (270) Today he makes only one deed in case of partition of land, unless otherwise specified by the court. (271) The master commissioner was early required to administer oaths and grant certificates thereof. (272) He could also compel the attendance of witnesses by subpoena and attachment. (273) In 1893 he could summon witnesses; and whenever such persons refused to testify, he could request the circuit court to issue citations against them, to show cause why they should not be punished for contempt of court. Then if they failed to show just cause, the court could punish them by fine, or imprisonment, or both. (274) It was his duty not only to summon, but to swear witnesses and take their proof in writing. (275) He also executed judicial sales. (276)

An act of 1852 made the master commissioner receiver and collector of money at the discretion of the court. (277) He kept safely all money paid him under written order of the court, which must be attested by the circuit court clerk (278), and reported the amount of money on hand the first day of the circuit court, showing the style of each case in which it had been collected. (279)

Master Commissioner - Recordation

The master commissioner was authorized to keep a docket containing the number of the action, the style of suit, names of plaintiff and defendant,and date of reference in each case. It was also his duty to enter all claims filed in his office in such cases, show the date, name of person filing claim, and the nature and amount. He was required to show

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267. Acts, 1838-39, p. 295.
268. Acts, 1851-52, p. 293; Rev. Stat., vol. 2, p. 140; Acts, 1891-93, p. 48.
269. Acts, 1851-52, p. 294; Rev. Stat., vol. 2, p. 140; Acts, 1891-93, p. 494; Carroll, sec. 406.
270. Acts, 1891-93, p. 494.
271. Acts, 1891-93, p. 494; Carroll, sec. 406.
272. Gen. Stat., 1873 ed., p. 657; Acts, 1891-93, p. 48.
273. Gen. Stat., 1873 ed., p. 657.
274. Acts, 1891-93, p. 48.
275. Gen. Stat., 1873 ed., p. 657; Acts, 1891-93, p. 48.
276. Ibid.
277. Acts, 1851-52, p. 294; Rev. Stat., vol. 2, p. 140; Acts, 1891-93, p. 1402; Carroll, sec. 412.
278. Acts, 1891-93, pp. 1402, 1403; Carroll, sec. 412.
279. Acts, 1891-93, p. 50; Carroll, sec. 402.

whether or not the claim bears interest and, if so, from what date; to endorse the date on which claim was filed on the back or margin of each claim; and to attest the date. (280)

Unless otherwise specified, the records listed under the circuit court are housed in the circuit court clerk's office.

Actions at Law

Case Papers

139. ORDINARY DISMISSIONS, 1805--. 223 f.b. (numer. by case no.), 37 bdls. (numer. by case no.).
Original case papers and documents filed in civil suits tried before circuit court from institution to final disposition, including petitions of plaintiffs, citations, answers, motions, bills, notes, and other documentary evidence exhibited, exceptions, returns on summonses and subpoenas, notices to take depositions, and depositions, showing: docket number, style of suit, date filed, names of parties' attorneys, various clauses indicating form of document, and signature of circuit court clerk. Also contains: Replevin Bonds, 1917--, entry 142; Subpoenas, 1918--, entry 147; Summons, 1918--, entry 148; Attachments, 1920--, entry 149. Arr. chron. by date filed. For index, see entry 140. Hdw. on pr. fm. F.b., $4\frac{1}{2}$ x $4\frac{1}{2}$ x 10; bdls., 5 x 4 x 11.

140. INDEX TO SUITS, 1805--. 3 vols.
General cross index to Ordinary Dismissions, entry 139, and Equity Dismissions, entry 186, alphabetical direct by first letter of surname of plaintiff, showing: case no., name of defendant, and bundle or file where filed; and indirect by first letter of surname of defendant, showing: case no., name of plaintiff, and bundle or file where filed. Also contains: General Index to Commonwealth Cases off Docket, 1805-1915, entry 167. Arr. alph. direct by first letter of surname of plaintiff and indirect by first letter of surname of defendant. Hdw. under pr. hds. Aver. 600 pp. 18 x 13 x 3.

141. ATTORNEYS RECEIPTS FOR SUITS, 1885--. 3 vols.
Receipts furnished circuit court clerk by lawyers borrowing case papers in circuit court actions, showing: case number, names of plaintiff and defendant, dates received and returned, and signature of attorney. Arr. chron. by date received. No index. Hdw. under ruled hds. Aver. 300 pp. 14 x 8 x 2.

Surety Bonds

142. REPLEVIN BONDS, 1850-1916. 2 vols. 1917-- in Ordinary Dismissions, entry 139; 1917-- also in Equity Dismissions, entry 186.
Original surety bonds furnished circuit court by principals as a covenant

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280. Acts, 1891-93, p. 493; Carroll, sec. 404.

with Commonwealth securing payment of civil and equity judgments rendered by court within three months, showing: date of bond, names of plaintiff, defendant, and surety, amount of judgment, costs, and interest, date judgment rendered, amount of bond, signatures of principal and surety, and attestation of circuit court clerk. Arr. chron. by date of bond. Alph. index, direct by first letter of surname of principal, showing p. no. where recorded. Hdw. on pr. fm. Aver. 340 pp. 14 x 10 x 2.

143. ATTACHMENT AND INJUNCTION BONDS, 1882--. 4 vols. (1-3; one vol. not numbered).
Original surety bonds executed before circuit court by plaintiffs as a covenant with Commonwealth securing defendants against damages that may accrue should final judgment of court state that attachments or injunctions were wrongfully obtained, showing: date, number, and amount of bond, number of case, names of plaintiff and defendant, affidavit of surety, signatures of plaintiff and surety, and attestation of circuit court clerk. Arr. chron. by date of bond. Alph. index, direct by first letter of surname of plaintiff, showing: case no., name of defendant, and p. no. where recorded. Hdw. on pr. fm. Aver. 480 pp. 14 x 9 x 3.

144. BONDS FOR COST, 1881--. 1 vol.
Original surety bonds executed before circuit court as a covenant with Commonwealth assuring payment of court costs, showing: date, number, and amount of bond, style of case, affidavit of surety, signatures of principal and surety, and attestation of circuit court clerk. Arr. chron. by date of bond. Alph. cross index: direct by first letter of surname of plaintiff, showing case no., name of defendant, and p. no. where recorded; and indirect by first letter of surname of defendant, showing case no., name of plaintiff, and p. no. where recorded. Hdw. on pr. fm. 480 pp. 14 x 9 x 3.

145. APPEAL BONDS, 1884--. 2 vols.
Original surety bonds executed before circuit court by appellants as a covenant with Commonwealth securing payment of court costs and response to judgments rendered, showing: date, number, and amount of bond, number and style of case appealed, affidavit of surety, signatures of appellant and surety, and attestation of circuit court clerk. Arr. chron. by date of bond. Alph. index, direct by first letter of surname of appellant, showing case no. and p. no. where recorded. Hdw. on pr. fm. Aver. 650 pp. 14 x 10 x 2.

146. SUPERSEDEAS BOND, 1894--. 1 vol.
Original surety bonds executed before circuit court by appellants praying for stay of judgment execution pending decision of court upon appeal, showing: names of appellant and appellee, date and amount of bond, judgment of court, signatures of appellant and surety, and attestation of circuit court clerk. Arr. chron. by date of bond. Alph. index, direct by first letter of surname of appellant, showing name of appellee and p. no. where recorded. Hdw. on pr. fm. 350 pp. 14 x 9 x 2.

Miscellaneous Papers

147. SUBPOENAS, 1832-1917. 5 bdls. 1918-- in Ordinary Dismissions, entry 139; 1918-- also in Commonwealth Dismissions, entry 166; 1918-- also in Equity Dismissions, entry 186.
Subpoenas issued by circuit court clerk directing sheriff to produce named persons in cases set for trial before circuit court, showing: date issued, names of officer addressed and persons subpoenaed for appearance, date of appearance, number and style of case, signature of circuit court clerk, sheriff's return and date of return. No obvious arr. No index. Hdw. on pr. fm. 5 x 4 x 11.

148. SUMMONS, 1821-1917. 9 bdls. 1918-- in Ordinary Dismissions, entry 139; 1918-- also in Commonwealth Dismissions, entry 166; 1918-- also in Equity Dismissions, entry 186.
Summonses issued by circuit court clerk for service by sheriff upon named person for appearance in cases set for trial before circuit court, showing: date issued, names of officer addressed and person summoned, date of appearance, number and style of case, signature of circuit court clerk, sheriff's return, and date of return. No obvious arr. No index. Hdw. on pr. fm. 5 x 4 x 11.

149. ATTACHMENTS, 1809-1919. 3 bdls. 1920-- in Ordinary Dismissions, entry 139.
Orders of attachment issued by circuit court directing sheriff to attach and hold in custody property of defendant to satisfy plaintiff's claim, showing: date issued, names of plaintiff, defendant, and attorneys, amount of claim, interest, and costs, location and description of property, signature of circuit judge, sheriff's return, and date of return. Arr. chron. by date of return. No index. Hdw. on pr. fm. 5 x 4 x 11.

150. CIVIL WITNESS ATTENDANCE, 1841-1936. 6 vols. 1937-- in Civil Orders, entry 158.
Record of attendance of witnesses appearing in civil and equity cases tried before circuit court, showing: date, term of court, number and style of case, for whom appearing, number of days attending, itemized charges and total amount due. Arr. chron. by date of court term. No index. Hdw. on pr. fm. Aver. 475 pp. 18 x 12 x $2\frac{1}{2}$.

151. WITNESS ATTENDANCE BOOK COURT OF COMMON PLEAS, 1867-75. 1 vol. Court discontinued.
Record of witnesses appearing in cases tried before court of common pleas, showing: date, term of court, number and style of case, name of witness, for whom appearing, number of days served, amount due for service, mileage, tollage, and ferriage, and total amount due. Arr. chron. by date recorded. No index. Hdw. on pr. fm. Aver. 600 pp. 18 x 12 x 2.

Dockets

152. ORDINARY DOCKET, 1812--. 16 vols. (2-17). Title varies: Court Docket, 1 vol., 1812-20; Bar Docket, 1 vol., 1821-26; Circuit Court Docket, 2 vols., 1827-40; Docket, 1 vol., 1841-48; Common Law Docket, 4 vols., 1849-75. April 1805-11 in Rule Docket Quarter Session Court, entry 135.
Docket of civil cases set for trial at each term of circuit court prepared

for use by the judge during court term, showing: date, term of court, case number, last order in case, plaintiff's attorney, parties to action, defendant's attorney, action, return on process, step at present term, judgment rendered, and remarks. Also contains: Commonwealth Docket, 1812-75, entry 181; Equity Docket, 1812-42, entry 189. Arr. chron. by date of court term. No index. Hdw. under pr. hds. Aver. 600 pp. 18 x 13 x 3.

153. EXECUTION DOCKET, 1817-1930. 13 vols. (1-13). April 1805-16 in Execution Docket (Quarter Session Court), entry 136; 1931-- in Memorandum Book, entry 155.
Record of executions issued in cases set for trial before circuit court prepared for use by judge during court term, showing: date, term of court, case number, parties' names, amount of principal, interest, credit, and costs, date of execution, return day, county, to whom delivered, when returned, and sheriff's return. Arr. chron. by date of court term. No index. Hdw. on pr. fm. Aver. 600 pp. 18 x 14 x 2.

Minutes and Proceedings

154. MINUTES CIVIL, 1812--. 9 vols. (1-5; four vols. not numbered). April 1805-11 in (Minute Book, Quarter Session Court), entry 137.
Recorded minutes of proceedings of circuit court at each daily session of court in civil cases, equity cases, and administrative matters, showing: date, term of court, summary of proceedings, and action of court. Also contains: Minutes Commonwealth, 1812-75, entry 182. Arr. chron. by date of court term. No index. Hdw. Aver. 700 pp. 14 x $9\frac{1}{2}$ x $2\frac{1}{2}$. 1812-74, 1883-86, 1892-93, 1908--, 6 vols., cir. ct. clk. off.; 1875-82, 1887-91, 1904-7, 3 vols., law library.

155. MEMORANDUM BOOK, 1839--. 15 vols. (1-15)
Attorneys' memorandum to circuit court clerk to file petitions or exhibits and issue process on cases to be tried before circuit court, showing: date entered, term of court, style of case, nature of memorandum, and signature of attorney. Also contains: Execution Docket, 1931--, entry 153. Arr. chron. by date entered. No index. Hdw. Aver. 475 pp. 16 x 12 x 3.

156. MINUTE BOOK COMMON PLEAS, 1867-79. 1 vol. Court discontinued.
Recorded minutes of proceedings of common pleas court at each daily session showing: date of session, names of plaintiff, defendant, and attorneys, nature of action, judgment and date rendered, and certification of circuit court clerk. Arr. chron. by date of session. No index. Hdw. 300 pp. 14 x 12 x 2.

157. (MERCHANTS' LEDGERS AND JOURNALS), 1857-58, 1861-65. 4 vols.
Ledgers and journals of merchants used as evidence in circuit court suits to recover cost of merchandise, showing: names of plaintiff and defendant, date suit filed and noted, signature of circuit court clerk, and date of record. Arr. chron. by date of record. No index. Hdw. Aver. 150 pp. 14 x 8 x 1.

Orders, Judgments, and Executions

158. CIVIL ORDERS, 1812--. 43 vols. (3-45). April 1805-11 in Record (Order Book, Quarter Session Court), entry 138.
Record of orders issued in civil and equity cases and administrative matters

at each daily session of circuit court, showing: date, term of court, nature of order, and signature of presiding judge. In civil and equity cases; orders, rules, and judgments are among the items: each summary shows, docket number, style of case, amount of judgment rendered, action taken, and steps at present term. Administrative orders include appointments of officials, acceptance of resignations, calls of special court terms, and approval of reports: each summary shows, date, term of court, name of principal, and nature of order. Also contains: Civil Witness Attendance, 1937--, entry 150; Commonwealth Orders, 1812-80, entry 184. Arr. chron. by date of order. Alph. index, direct by first letter of surname of plaintiff or principal, showing nature of order, and p. no. where recorded. 1812-1915, hdw.; 1916-- typed. Aver. 600 pp. 18 x 13 x 3.

159. ORDER BOOK COURT OF COMMON PLEAS, 1867. 1 vol.
Record of orders issued in civil cases tried before court of common pleas, showing: date, term of court, names of plaintiff and defendant, nature of order, and signature of presiding official. Arr. chron. by date of court term. No index. Hdw. 600 pp. 18 x 13 x 2.

160. COMMONWEALTH AND CIVIL JUDGMENTS, 1851--. 6 vols. (1-4; two vols. not numbered). Title varies: Judgment Book, 2 vols., 1851-1935.
Record of criminal, equity, and civil judgments rendered by circuit court. Criminal judgments, showing: number and style of case, name of defendant, offense, amount of judgment rendered, date rendered, when and how satisfied, and signature of circuit judge; equity and civil judgments, showing: number and style of case, names of plaintiff and defendant, amount and nature of judgment, return on process, when and how satisfied, and signature of circuit judge. Arr. chron. by date recorded. Alph. index, direct by first letter of surname of defendant, showing name of plaintiff, case no., and p. no. where recorded. Hdw. under pr. hds. Aver. 400 pp. 18 x 12 x 2½.

161. JUDGMENT BY DEFAULT, 1863--. 2 vols.
Record of judgments rendered in favor of plaintiffs upon failure of defendants to appear in circuit court to answer plaintiffs' petitions, showing: date, term of court, names of plaintiff and defendant, action of court, plaintiff's cost, date costs to be paid, and signature of circuit judge. Arr. chron. by date of court term. Alph. index, direct by first letter of surname of plaintiff, showing name of defendant and p. no. where recorded. Hdw. under pr. hds. Aver. 480 pp. 16 x 12 x 3.

162. JUDGMENTS FROM INFERIOR COURTS, 1850--. 1 f.b., 15 bdls.
Case records of judgments rendered in inferior courts and appealed to circuit court, showing: date, names of plaintiff and defendant, type and number of suit, date filed, judgment of court, and purpose of appeal. Arr. chron. by date of appeal. No index. Hdw. on pr. fm. F.b., 4½ x 4½ x 10; bdls., 4 x 2 x 6.

163. JUDGMENT FROM INFERIOR COURT, 1858--. 2 vols.
Record of judgments rendered in lower courts and appealed to circuit court, showing: number and style of case, judgment of lower court, date of appeal, and date set for trial before circuit court. Arr. chron. by date recorded. Alph. index, direct by first letter of surname of plaintiff, showing name of defendant and p. no. where recorded. Hdw. under pr. hds. Aver. 400 pp. 14 x 9 x 2.

164. EXECUTIONS, 1805--. 52 f.b., 1 paper carton.
Executions issued on judgments rendered in cases tried before circuit court, showing: number and style of case, names of plaintiff, defendant, and attorneys, date and number of execution, amount of debt, interest, costs, and credits, date judgment rendered, signature of executing officer, to whom delivered, return, and return date. Arr. chron. by date issued. No index. Hdw. on pr. fm. F.b., 4½ x 4½ x 10, cir. ct. clk. off.; carton, 36 x 20 x 48, law library.

165. EXECUTION BOOK, 1805--. 25 vols. (1-25)
Record of executions issued on judgments rendered in cases tried before circuit court, showing: number and style of case, names of plaintiff, defendant, and attorneys, date and number of execution, amount of debt, interest, costs, and credits, date judgment rendered, name of executing officer, to whom delivered, return, and return date. Arr. chron. by date of execution. Alph. index, direct by first letter of surname of defendant, showing name of plaintiff and p. no. where recorded. Hdw. on pr. fm. Aver. 600 pp. 18 x 12 x 2.

Criminal Actions
(See also entries 141, 147, 148, 153, 155, 164, and 165)

Case Papers

166. COMMONWEALTH DISMISSIONS, 1805--. 49 f.b. (numer. by case no.), 90 bdls. (numer. by case no.).
Original case papers and documents filed in criminal actions tried before circuit court from institution to final disposition, including bills of information, grand jury indictments, petitions, citations, answers, evidence exhibited, pleas of accused, fixing of bonds, returns on process, notices to take depositions, depositions, warrants, capias, and pardons, showing: docket number, style of suit, date filed, offense, date of trial, action taken, and signature of presiding judge. Also contains: subpoenas, 1918--, entry 147; Summons, 1918--, entry 148; Misdemeanor Cases, 1916--, entry 168; Felony Cases, 1916--, entry 169. Arr. numer. by case no. For index, see entry 167. Hdw. on pr. fm. F.b., 4½ x 4½ x 10; bdls., 5 x 4 x 11.

167. GENERAL INDEX TO COMMONWEALTH CASES OFF DOCKET, 1916--. 1 vol. 1805-1915 in Index to Suits, entry 140.
General index to Commonwealth Dismissions, entry 166, alphabetical direct by first letter of surname of defendant, showing offense, case number, and bundle or file box where filed. Arr. alph. by first letter of surname of defendant. Hdw. under pr. hds. 600 pp. 18 x 14 x 3.

168. MISDEMEANOR CASES, 1805-1915. 80 bdls. 1916-- also in Commonwealth Dismissions, entry 166.
Case papers and documents filed in misdemeanor actions tried before circuit court from institution to final disposition, including bills of information, indictments, petitions, citations, answers, evidence exhibited, pleas of accused, fixing of bonds, returns on process, and notices, showing: style and number of case, name of defendant, date of indictment, offense, date and place committed, signature of commonwealth attorney, amount of bail bond, if any, arraignment, date of trial, names of jury, verdict of jury, signature of jury foreman, judgment and date rendered, when and how satisfied. Arr. numer. by case no. No index. Hdw. and typed on pr. fm. 6 x 8 x 3.

169. FELONY CASES, 1805-1915. 65 bdls. 1916-- in Commonwealth Dismissions, entry 166.
Case papers and documents filed in felony actions tried before circuit court from institution to final disposition, including bills of information, indictments, petitions, citations, answers, evidence exhibited, pleas of accused, fixing of bonds, returns on process, and notices, showing: date filed, number, style, and nature of case, offense, date and place committed, order book number and page where recorded, last order on case, dates of indictment and summons, date filed, and signature of circuit court clerk. Arr. numer. by case no. No index. Hdw. on pr. fm. 6 x 8 x 3.

Surety Bonds (See also entries 144-146)

170. BAIL BONDS, 1877--. 5 vols. (1-5). Title varies: Bail Bond Book, 2 vols., 1877-1922.
Original surety bonds furnished Commonwealth by accused persons securing their release from custody and guaranteeing appearance for trial before circuit court, showing: date, number, and amount of bond, name of defendant, offense, date of appearance, affidavit and signature of surety, and attestation of circuit court clerk. Also contains: Bonds after Conviction, 1877-1922, entry 171. Arr. chron. by date of bond. Alph. index, direct by first letter of surname of defendant, showing offense and p. no. where recorded. Hdw. on pr. fm. Aver. 318 pp. 14 x 10 x 2. 1877-1922, 2 vols., law library; 1923--, 3 vols., cir. ct. clk. off.

171. BONDS AFTER CONVICTION, 1923--. 1 vol. 1877-1922 in Bail Bonds, entry 170.
Original surety bonds furnished Commonwealth by defendants convicted in circuit court securing release from custody pending satisfaction of court's judgment, showing: date, number, and amount of bond, name of defendant, offense, judgment of court, date to be satisfied, signature of surety, and attestation of circuit court clerk. Arr. chron. by date of bond. Alph. index, direct by first letter of surname of defendant, showing offense and p. no. where recorded. Hdw. on pr. fm. 350 pp. 14 x 10 x 2.

172. COMMONWEALTH REPLEVIN BONDS, 1878--. 3 vols. Title varies: Replevin Bond Book for Fines, 1 vol., 1878-1917.
Original surety bonds furnished Commonwealth by defendants securing satisfaction of criminal judgments rendered by circuit court within three months, showing: date, number, and amount of bond, judgment of court, amount of court costs, date judgment rendered, signatures of defendant and surety, affidavit of surety, and attestation of circuit court clerk. Arr. chron. by date of bond. Alph. index, direct by first letter of surname of defendant, showing p. no. where recorded. Hdw. on pr. fm. Aver. 480 pp. 14 x 9 x 3. 1878-1917, 1 vol., law library; 1918--, 2 vols., cir. ct. clk. off.

173. PEACE BONDS, 1904--. 2 f.b., 4 bdls.
Original surety bonds executed before circuit court by defendants as a covenant with Commonwealth as surety against breaking the peace during stated time, showing: date, number, and amount of bond, names of principal and surety, affidavit of surety, signatures of principal and surety, and attestation of circuit court clerk. Arr. chron. by date of bond. No index. Hdw. on pr. fm. F. b., 4½ x 4½ x 10; bdls., 8 x 6 x 3.

174. BONDS IN LIQUOR CASES, 1922--. 1 vol.
Original surety bonds furnished Commonwealth by persons convicted in circuit court of liquor law violations guaranteeing peaceful behavior for one year, showing: date, number, and amount of bond, affidavit of surety, signatures of principal and surety, and attestation of circuit court clerk. Arr. chron. by date of bond. No index. Hdw. on pr. fm. 480 pp. 14 x 9½ x 3.

Miscellaneous Papers

175. INDICTMENTS, 1850--. 90 f.b., 28 bdls.
Criminal indictments returned by grand jury against accused persons, showing: name of accused, offense, date and place committed, affidavit of plaintiff, signatures of commonwealth's attorney and jury foreman, date and number of indictment, date of trial, and certification of circuit court clerk. Arr. chron. by date of session. No index. Hdw. on pr. fm. F.b., 4½ x 4½ x 10; bdls., 8 x 6 x 3.

176. AFFIDAVIT OF ARREST, 1820--. 5 f.b., 23 bdls.
Affidavits for warrants of arrest, showing: date, name of defendant, offense, date and place committed, names of witnesses, and signatures of commonwealth's and county attorneys. Arr. chron. by date of affidavit. No index. Hdw. on pr. fm. F.b., 4½ x 4½ x 10; bdls., 8 x 6 x 3.

177. BENCH WARRANTS, 1830--. 4 f.b., 19 bdls.
Bench warrants issued in circuit court, showing: name of offender, type of offense, date of warrant, signature of circuit court clerk, and officer's return. Arr. chron. by return date. No index. Hdw. on pr. fm. F. b., 4½ x 4½ x 10; bdls., 8 x 6 x 3.

178. PEACE WARRANTS, 1850--. 2 f.b., 7 bdls.
Peace warrants issued by circuit court clerk against persons accused of law violations upon orders of circuit court, showing: names of plaintiff and defendant, offense, date issued, signature of issuing officer, date and nature of return, and signature of executing officer. Arr. chron. by date of return. No index. Hdw. on pr. fm. F.b., 4½ x 4½ x 10; bdls., 8 x 6 x 3.

179. WRITS OF HABEAS CORPUS, 1920--. 2 f.b., 3 bdls.
Original writs of habeas corpus issued by circuit judge for delivery of persons before court, showing: date issued, names of jailer and person for whom writ is issued, date to be presented in court, signature of circuit court judge, name of judge who committed prisoner to jail, charge, date committed to jail, date of release, and signature of jailer. Arr. chron. by date of writ. No index. Hdw. on pr. fm. F.b., 4½ x 4½ x 10; bdls., 8 x 6 x 3.

180. COMMONWEALTH WITNESS ATTENDANCE, 1866-1936. 7 vols. 1937--
" in Commonwealth Orders, entry 184.
Record of attendance of witnesses appearing in criminal cases tried before circuit court, showing: date, term of court, number and style of case, name of witness, for whom appearing, number of days served, itemized charges and total amount due for appearing. Arr. chron. by date of court term. No index. Hdw. on pr. fm. Aver. 475 pp. 18 x 12 x 2. 1866-1917, 6 vols., law library; 1918-36, 1 vol., cir. ct. clk. off.

Dockets

181. COMMONWEALTH DOCKET, 1876--. 8 vols. April 1805-11 in Rule Docket Quarter Session Court, entry 135; 1812-75 in Ordinary Docket, entry 152.
Docket of criminal cases set for trial at each term of circuit court prepared for use by judge during court term, showing: date, term of court, number and style of case, name of defendant, offense, action taken, date of trial, judgment rendered, and how satisfied. Arr. chron. by date of court term. Alph. index, direct by first letter of surname of defendant, showing type of offense and p. no. where recorded. Hdw. on pr. fm. Aver. 600 pp. 18 x 12 x 3.

Minutes and Proceedings

182. MINUTES COMMONWEALTH, 1876--. 4 vols. Title varies: Minute Book Criminal Court, 1 vol., 1876-80, April 1805-11 in(Minute Book, Quarter Session Court), entry 137; 1812-75 in Minutes Civil, entry 154.
Minutes of proceedings of criminal cases tried before circuit court, showing: term of court, date of trial, name of defendant, offense, detailed proceedings in case, and action taken. Arr. chron. by date of court term. No index. Hdw. Aver. 600 pp. 14 x 9 x 2½. 1876-1911, 2 vols., law library; 1912--, 2 vols., cir. ct. clk. off.

183. GRAND JURY MINUTES, 1910--. 5 f.b., 10 bdls.
Minutes of proceedings of each daily session of grand jury, showing: date of session, names of jury foreman and members, names of witnesses heard, affidavits read, action taken, signature of jury foreman, and attestation of commonwealth's attorney. Arr. chron. by date of session. No index. Hdw. on pr. fm. F. b., 4½ x 4½ x 10; bdls., 8 x 6 x 3.

Orders

184. COMMONWEALTH ORDERS, 1881--. 12 vols. April 1805-11 in Record (Order Book, Quarter Session Court), entry 138; 1812-80 in Civil Orders, entry 158.
Record of orders issued in Commonwealth cases tried before circuit court, showing: date, number, and style of suit, name of defendant, nature and disposition of order. Also contains: Commonwealth Witness Attendance, 1937--, entry 180; Parole Record, 1922--, entry 185. Arr. chron. by date of order. Alph. index, direct by first letter of surname of defendant, showing nature of order, offense, and p. no. where recorded. Hdw. on pr. fm. Aver. 600 pp. 18 x 13 x 3.

Paroles

185. PAROLE RECORD, 1890-1921. 1 vol. 1922-- also in Commonwealth Orders, entry 184.
Record of prisoners convicted by circuit court and paroled from penitentiaries, showing: name of parolee, docket number, address, race, sex, and age of parolee, order book and page reference, charge, dates of conviction, sentence, and probation, name, address, and business of person to whom paroled, and date recommitted if probation order set aside. Arr. alph. by first letter of surname of parolee. No index. Hdw. on pr. fm. 380 pp. 18 x 13 x 2½.

Chancery Actions

(See also entries 141, 147, 148, 150, 154, 155, 158, 160, 164 and 165)

Case Papers

186. EQUITY DISMISSIONS, 1805--. 205 f.b. (numer. by case no.), 872 bdls. (numer. by case no.).
Original case papers and documents filed in equity suits tried before circuit court from institution to final disposition, including: petitions of plaintiffs, citations, answers, motions, bills of exception, returns on process, depositions, and other documentary evidence exhibited, showing: docket number, style of suit, date filed, names of parties' attorneys, various clauses indicating form of document, and signature of circuit court clerk. Also contains: Replevin Bonds, 1917--, entry 142; Subpoenas, 1918--, entry 147; Summons, 1918--, entry 148. Arr. numer. by case no. For index, see entry 140. Hdw. and typed. F. b., 4½ x 4½ x 10; bdls., 4 x 4 x 11.

Surety Bonds (See also entries 136-140)

187. RECORD OF BONDS IN EQUITY, 1892--. 2 vols.
Original surety bonds furnished circuit court as a covenant with Commonwealth guaranteeing payment of purchase money in equity cases, showing: names of plaintiff, defendant, and surety, date and amount of bond, signatures of plaintiff and surety, affidavit of surety, and attestation of circuit court clerk. Arr. chron. by date of bond. No index. Hdw. on pr. fm. Aver. 400 pp. 14 x 9 x 2½. 1892-1911, 1 vol., law library; 1912--, 1 vol., cir. ct. clk. off.

188. SALE BONDS, 1848--. 2 f.b., 5 bdls.
Original surety bonds executed by purchasers of property sold by master commissioner as a covenant with Commonwealth securing payment of deferred balances, showing: date, number, and amount of bond, affidavit of surety, signatures of principal and surety, and attestation of circuit court clerk. Arr. chron. by date of bond. No index. Hdw. on pr. fm. F. b., 4½ x 4½ x 10; bdls., 8 x 6 x 3.

Dockets

189. EQUITY DOCKET, 1843--. 15 vols. Title varies: 1843-52, 4 vols., Chancery Docket; 1863-65, 2 vols., Judge's Docket. April 1805-11 in Rule Docket Quarter Session Court, entry 135; 1812-42 in Ordinary Docket, entry 152.
Docket of equity cases set for trial at each term of circuit court prepared for use by judge during court term, showing: number and style of case, date of trial, names of plaintiff's attorney, parties, and defendant's attorney, date filed, steps taken, type of summons, date issued, to whom issued, date executed, name of executing officer, and final disposition of case. Arr. chron. by date of trial. No index. Hdw. on pr. fm. Aver. 600 pp. 18 x 13 x 3.

Lunacy and Guardianship
(See also entries 244-247, 252, 253)

190. LUNACY INQUESTS, 1906--. 3 f.b. 1886-1905 in Dismissions of County Court, entry 284.
Case papers in inquests held to determine mental status of persons suspected of being of unsound mind, showing: date of inquest, name, age, sex, occupation, marital status, and address of incompetent, names of jurors, statements of examining physicians, names of parents, name of person to be notified in case of death, findings of court, signature of jury foreman, examining physician, and county court clerk, and order book number and page where action of court is recorded. Arr. chron. by date of inquest. No index. Hdw. on pr. fm. 4½ x 4½ x 10. 1906-12, 1 f.b., co. ct. clk. off.; 1913--, 2 f.b., cir. ct. clk. off.

191. LUNACY INQUESTS, 1890--. 5 vols. Title varies: Record of Inquests, 1 vol., 1890-1909; Record of Lunacy Inquests, 1 vol., 1910-18; Inquests Feeble Minded Persons, 1 vol., 1919-25.
Record of inquests held by circuit court to determine mental status of persons suspected of being of unsound mind, showing: date of inquest, name, age, sex, marital status, and address of incompetent, names of parents, if living, names of jurors, statement of examining physician, history of case, verdict of jury, decision of court, and final disposition of case. Arr. chron. by date of inquest. Alph. index, direct by first letter of surname of incompetent, showing p. no. where recorded. Hdw. on pr. fm. Aver. 500 pp. 14 x 9 x 3. 1890-1918, 2 vols., co. ct. clk. off.; 1919--, 3 vols., cir. ct. clk. off.

192. IDIOT INQUESTS, 1892--. 3 f.b.
Case papers of inquests held by circuit court upon pauper idiots, showing: date of inquest, names of presiding judge and pauper idiot, description of idiot, names of jurors, and decision of court. Arr. chron. by date filed. No index. Hdw. on pr. fm. 4½ x 4½ x 10.

193. IDIOT INQUESTS, 1885--. 5 vols. Title varies: Inquest Pauper Idiots, 1 vol., 1885-86.
Record of inquests held by circuit court upon pauper idiots, showing: date, term of court, names of presiding judge and defendant, age, mental, physical, and pecuniary condition of idiot, statement of examining physician, history of case, statement of support, names of parents or nearest relative, verdict of jury, and attestation of circuit court clerk. Arr. chron. by date of inquest. No index. Hdw. on pr. fm. Aver. 478 pp. 14 x 9½ x 3. 1885-1911, 1922--, 3 vols., cir. ct. clk. off.; 1912-21, 2 vols., law library.

194. PAUPER IDIOT CLAIMS, 1909--. 1 vol.
Record of orders issued by circuit court approving payment of allowances to pauper idiots, showing: date of order, names of idiot and committee, amount of allowance, period covered, and signature of circuit judge. Arr. chron. by date of order. Alph. index, direct by first letter of surname of idiot, showing name of committee and p. no. where recorded. Hdw. on pr. fm. 480 pp. 14 x 4½ x 3.

195. PAUPER IDIOT CLAIM BOOK, 1916--. 1 vol.
Stubs of certificates issued to committees for payment of pauper idiot

allowances, showing: names of pauper idiot and committee, date certificates issued, amount allowed, and page number in pauper idiot claims where recorded. Arr. chron. by date issued. No index. Hdw. on pr. fm. 300 pp. 14 x 9 x 2.

196. BOND OF COMMITTEE FOR IDIOTS, 1886--. 2 vols.
Original surety bonds furnished Commonwealth by committee for pauper idiots securing faithful performance of duties in managing idiots' affairs, showing: date and amount of bond, names of idiot and committee, date committee appointed, signatures of committee and surety, and attestation of circuit court clerk. Also contains: Guardian Bonds, 1886-1919, entry 197. Arr. chron. by date of bond. Alph. index, direct by first letter of surname of committee, showing name of idiot and p. no. where recorded. Hdw. on pr. fm. Aver. 480 pp. 14 x 9 x 3. 1886-1901, 1 vol., law library; 1902--, 1 vol., cir. ct. clk. off.

197. GUARDIAN BONDS, 1920--. 1 vol. 1886-1919 in Bond of Committee for Idiots, entry 196.
Original surety bonds furnished circuit court by guardians of minors' affairs as a covenant with Commonwealth securing faithful execution of duties, showing: date and amount of bond, names of guardian and ward, signatures of guardian and surety, affidavit of surety, and attestation of circuit court clerk. Arr. chron. by date of bond. Alph. index, direct by first letter of surname of guardian, showing name of ward and p. no. where recorded. Hdw. on pr. fm. 475 pp. 14 x 10 x 2½.

Business Administration

Reports

198. CLERKS REPORTS AND CLAIMS ALLOWED, 1927--. 1 f.b.
Duplicates of circuit court clerks' reports made to State Department of Revenue, Division of Accounts and Controls, of claims allowed, showing: date of report, itemized list of claims allowed, name of each claimant, amount of claim, nature of services rendered, total amount allowed, and signature of circuit court clerk. Arr. chron. by date of report. No index. Hdw. on pr. fm. 4½ x 4½ x 10.

199. JUDGE'S AND CLERK'S REPORTS, 1864--. 5 vols. Title varies: Tax Reports, 1 vol., 1864-80.
Record of circuit judges' and circuit court clerks' reports made to Commonwealth of fines, taxes, and license fees collected, showing: date of report, items of tax, amount and from whom received, nature of tax and fees, and signatures of circuit judge and circuit court clerk. Arr. chron. by date of report. No index. Hdw. on pr. fm. Aver. 600 pp. 18 x 14 x 2. 1864-80, 1 vol., law library; 1881--, 4 vols., cir. ct. clk. off.

200. CASH TRUSTEE OF JURY FUND, 1894-1935. 4 vols. Title varies: Order Book Trustee Jury Fund, 1 vol., 1894-1910; Trustee of Jury Fund Reports, 1 vol., 1911-20; Judgments Trustee Jury Fund, 1 vol., 1921-26.
Record of reports made by trustee of jury fund to Commonwealth of fines and forfeitures received, showing: date of report, itemized list of collections, date of each entry, from whom received, on what account, total collected, signatures of trustee of jury fund and commonwealth's attorney,

date report examined and approved by circuit court, and signature of circuit judge. Arr. chron. by date of report. No index. Hdw. on pr. fm. Aver. 600 pp. 18 x 14 x 2.

201. REPORTS OF GRAND JURY, 1860--. 3 f.b. 1868-80 also in Dismissions of County Court, entry 284.
Original reports of grand jury made to circuit court on conditions of courthouse and jail, showing: date of report, subject covered, and signature of grand jury foreman. Arr. chron. by date of report. No index. Hdw. on pr. fm. 4½ x 4½ x 10.

Books of Account

202. CLAIMS ALLOWED, 1885--. 5 f.b., 1 bdl.
Original claims allowed by circuit court for services rendered, showing: date and amount of claim, name of claimant, type of service, date allowed, and attestation of circuit court clerk. Arr. chron. by date of claim. No index. Hdw. on pr. fm. F. b., 4½ x 4½ x 10; bdls., 4 x 2 x 6.

203. CIRCUIT CLERK'S CASH BOOK, 1886--. 4 vols. Title varies: Public Funds Collected, 1 vol., 1886-91.
Record of circuit court clerk's daily cash collections reported monthly to State Auditor of Public Accounts, showing: date of collection, from whom received, style of action, amount, to what account credited, amount of jury fees, fines, and forfeitures collected, grand total, amount remitted to State Auditor, and remarks. Arr. chron. by date of collection. No index. Hdw. under pr. hds. Aver. 600 pp. 19 x 12 x 2. 1886-1914, 1928--, 3 vols., cir. ct. clk. off.; 1915-27, 1 vol., law library.

204. FEE BOOK, 1875--. 8 vols. (1-5; three vols. not numbered).
Account book of fees collected daily by circuit court clerk and reported monthly to the Auditor of Public Accounts, showing: date received, name of payor, services rendered, itemized fees, and signature of circuit court clerk. Arr. chron. by date received. No index. Hdw. on pr. fm. Aver. 640 pp. 18 x 13 x 3. 1875-91, 3 vols., co. judge off.; 1892--, 5 vols., cir. ct. clk. off.

205. AUDITOR'S REPORT (Receipts from Auditor), 1890--. 5 f.b.
Receipts from the Auditor of Public Accounts to circuit court clerk for funds and taxes received, showing: name of clerk, amount received, date, and signature of Auditor. Arr. chron. by date filed. No index. Hdw. on pr. fm. 4½ x 4½ x 10.

206. RECORD OF BOOKS WITHDRAWN FROM COUNTY LIBRARY, 1930--. 1 vol.
Record of books withdrawn from county law library and inventories of books in law library; giving, on withdrawals: title of book withdrawn, name of author, date withdrawn, signature of borrower, and date returned; and on inventories: number of books on hand, amount of fees collected, number of books lost, stolen, destroyed, and repaired, title of book, name of author, from whom purchased or received, cost, and signature of circuit court clerk. Arr. chron. by date of record. No index. Hdw. on pr. fm. 600 pp. 18 x 13 x 3.

Jury Fund Records

207. LIST OF GRAND AND PETIT JURORS, 1882--. 6 f.b.
List of grand and petit jurors serving in cases tried before circuit court, showing: name of juror, address, date beginning and ending service, total number of days each juror served, date and amount paid, and juror's signature. Arr. chron. by date of list. No index. Hdw. on pr. fm. $4\frac{1}{2}$ x $4\frac{1}{2}$ x10.

208. JURY BOOK, 1841--. 5 vols. (1-5)
Record of jurors serving in cases tried before circuit court, showing: name of juror, day of week serving, total days served, and amount of fees allowed. Arr. chron. by date recorded. No index. Hdw. on pr. fm. Aver. 350 pp. 15 x 10 x 2.

Witness Claims

209. WITNESS CERTIFICATES CIVIL CASES, 1888--. 5 vols.
Stubs of certificates issued to witnesses appearing in civil cases tried before circuit court, showing: names of plaintiff, defendant, and witness, for whom appearing, date, number of days, amount, mileage, ferriage, tollage, and total amount of certificate. Arr. chron. by date issued. No index. Hdw. on pr. fm. Aver. 300 pp. 18 x 12 x 2.

210. FELONY WITNESS CERTIFICATES, 1885--. 5 vols. Title varies: Witness Book, Felony Cases, 2 vols., 1885-1907; Witness Certificates Felony Cases, 1 vol., 1908-21.
Stubs of certificates issued to witnesses appearing in felony cases tried before circuit court, showing: name of defendant, offense, name of witness, term of court, number of days served, amount paid for service, and date certificate issued. Arr. chron. by date issued. No index. Hdw. on pr. fm. Aver. 300 pp. 18 x 12 x 2.

Motor Operator's License

211. STANDARD MOTOR OPERATOR'S LICENSE REGISTER, 1935. 1 vol. Record discontinued.
Register of persons obtaining motor operator's license, showing: name, address, age, sex, color, weight, and height of licensee, date and number of license, and amount of fee paid. Arr. chron. by date of license. No index. Hdw. on pr. fm. 600 pp. 14 x 9 x 2.

212. OPERATOR'S LICENSE, 1934--. 3 f.d.
Triplicate copies of motor vehicle operators' licenses issued by circuit court clerk; original issued to driver, duplicate to Auditor of Public Accounts, and triplicate retained by clerk. Summary shows: license number, expiration date, name, address, date of birth, sex, color of eyes, race, color of hair, weight, and height of driver, date license issued, license fee, signature of driver, attestation of circuit court clerk, and record of violations. Arr. alph. by name of driver. No index. Typed on pr. fm. 24 x 12 x 36.

Land Instruments

Deeds

213. CIRCUIT COURT DEED BOOK, 1817-41. 1 vol.
Record of deeds of conveyance transferring title of property sold by special commissioners upon orders of circuit court recorded by circuit court clerk, showing: number of case, names of special commissioner, plaintiff, and defendant, date of instrument, location and description of property, date and amount of sale, date confirmed by court, name of purchaser, attestation of circuit court clerk, and date recorded. Arr. chron. by date recorded. For index, see entry 214. Hdw. 150 pp. 10 x 8 x 1.

214. INDEX (Circuit Court Deed Book), 1817-41. 1 vol.
Alphabetical index to Circuit Court Deed Book, entry 213, alphabetically direct by first letter of surname of plaintiff, showing name of defendant, date of record, and page number where recorded. Arr. alph. by first letter of surname of plaintiff. Hdw. under pr. hds. 100 pp. 10 x 18 x 1.

215. MEMORANDUM BOOK FOR DEEDS, 1820-36. 1 vol.
Memorandum of tax due on deeds recorded by circuit court clerk upon orders of circuit court, showing: names of grantor and grantee, dates recorded, certified, and admitted to record, amount of tax due, date paid, and by whom. Arr. chron. by date recorded. No index. Hdw. on pr. fm. 150 pp. 12 x 9 x 1.

216. COMMISSIONER'S DEEDS, 1928--. 1 f.b. 1883-89 in Road Deeds, entry 35.
Original deeds of conveyance transferring title to property sold by master commissioner upon orders of circuit court, showing: number of case, names of commissioner, plaintiff, and defendant, date, location and description of property, date and amount of sale, date confirmed by circuit court, signature of commissioner, commissioner's deed book number and page where recorded, attestation of circuit court clerk, and date filed. Arr. chron. by date of instrument. No index. Hdw. and typed. $4\frac{1}{2}$ x $4\frac{1}{2}$ x 10.

217. COMMISSIONER'S DEED BOOK, 1877--. 6 vols. (1-6).
Record of deeds of conveyance executed by master commissioner transferring title to property sold upon orders of circuit court recorded by county court clerk, showing: number and style of case, date of instrument, names of plaintiff and defendant, location and description of property, date and amount of sale, date confirmed by court, name of purchaser, copy of commissioner's signature, attestation of circuit court clerk, certification and acknowledgment of county court clerk, and date recorded. Arr. chron. by date recorded. For index, see entry 218. Hdw. Aver. 600 pp. 18 x 12 x 3. Co. ct. clk. off.

218. INDEX TO COMMISSIONER'S DEED BOOK, 1877--. 1 vol.
General index to Commissioner's Deed Book, entry 217, alphabetical direct, by first letter of surname of plaintiff, showing case number, name of defendant, book and page number where recorded; and indirect by first letter of surname of defendant, showing: case number, name of plaintiff, and book and page number where recorded. Arr. alph. direct by first letter of surname of plaintiff and indirect by first letter of surname of defendant. Hdw. under pr. hds. 600 pp. 18 x 12 x 3. Co. ct. clk. off.

Orders and Reports

219. TRANSCRIPTS OF EXECUTIONS VENDITIONI EXPONAS, 1874--. 2 vols. Record of circuit court commands to sheriff to sell estates which remain in his hands, unsold, showing: name of estate, description of property, amount of judgment rendered against estate, names of attorneys, amount of fees due, date of return, signature of circuit court clerk, and sheriff's return. Arr. chron. by date of order. No index. Hdw. on pr. fm. Aver. 640 pp. 18 x 13 x 2.

220. COMMISSIONERS REPORT OF SALE AND DISTRIBUTION, 1904. 2 f.b. Master commissioner's final reports of sales and distribution of actions in his hands, made to circuit court, showing: names of plaintiff and defendant, amount paid out since last report, itemized list of disbursements since last report, voucher number, name of payee, amount of each payment, total, date of sale, amount to be raised, terms of sale, location and description of property, signatures of purchaser and appraisers, amount of sale, and attestation of master commissioner. Arr. chron. by date of report. No index. Hdw. on pr. fm. 4⅓ x 4½ x 10.

For recordings of reports, see entry 221.

221. COMMISSIONER AND RECEIVER'S RECORD, 1922--. 1 vol. Record of master commissioner's final reports of sales and distribution of actions in his hands made to circuit court, showing: names of plaintiff and defendant, amount paid out since last report, itemized list of disbursements since last report, voucher number, name of payee, amount of each payment, total, date of sale, amount to be raised, terms of sale, location and description of property, names of purchaser and appraisers, amount of sale, and date recorded. Arr. chron. by date recorded. No index. Hdw. on pr. fm. 600 pp. 19 x 12 x 3. Master comm. off.

For original reports, see entry 220.

222. MASTER COMMISSIONERS REPORTS, 1925--. 1 f.b. Master commissioners' financial reports to circuit court at each court term regarding the status of accounts in his hands in the various actions pending in circuit court, showing: name of circuit judge, term of court, number of action, names of plaintiff and defendant, amount of each action, itemized list of receipts and disbursements, balance on hand, total, sworn statement of master commissioner, attestation of circuit court clerk, and volume number and page where recorded. Arr. chron. by date of report. No index. Hdw. on pr. fm. 4⅓ x 4½ x 10.

For recording of reports, see entry 223.

223. RECORD OF COMMISSIONERS REPORTS, 1871--. 6 vols. (1-6). Record of master commissioners' financial reports made to circuit court at each court term regarding the status pf accounts in his hands in the various actions pending in circuit court, showing: name of circuit judge, term of court, number of action, names of plaintiff and defendant, amount involved in each action, total, itemized list of receipts and disbursements, balance on hand, statement of master commissioner, attestation of circuit court clerk, and date recorded. Arr. chron. by date recorded. No index. Hdw. on pr. fm. Aver. 640 pp. 18 x 13 x 3.

For original reports, see entry 222.

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V. COUNTY COURT

Structure

Creation

The act creating Breckinridge County was approved December 9, 1799; it established the new county as of January 1, 1800, and directed that the first meeting of the county court be held on January 20, 1800. (1) Accordingly, five justices of the peace named by the Governor met at the home of William Hardin on the day appointed, took the oaths of office, and appointed William Kelso as clerk pro tempore. (2) For names of the first justices of Breckinridge County, and for the structure of the office see Justices' Courts, p. 254..

Constitutional and Statutory Changes in the Court

From January 1800, when the court first met, until June 1851, justices composed the court; any three of whom constituted a quorum. (3) During this early period the court sat monthly as a judicial body, but could constitute itself a court of claims whenever necessary to consider the fiscal business of the county. The court also met annually in October or November as a court of levy to determine the county's expenses and to assess the poll tax to defray such expenses. (4)

The Constitution of 1850 provided that the county court should be a tribunal composed of a county judge and two associate judges, but that the legislature could abolish the office of associate judge at any time it saw fit. (5) The legislature did this prior to the county election of May 1851, and, therefore, the county judge elected in that month assumed office as the sole member and presiding judge of the judicial branch of the court in June 1851. Whenever it was necessary to consider the fiscal business of the county, the county judge associated himself with the justices; i.e., in the court of claims and the court of levy. (6) Although these two latter courts were considered as divisions of the county court, and as much a part of the county court as the court over which the county judge presided as sole member (7), the county court of claims and the court of levy are best considered as predecessors of the present fiscal court, which was created in October 1892, as a separate administrative body. (8) To summarize: only the justices composed the judicial and fiscal divisions of the county court from the creation of Breckinridge County in 1800 until June 1851; thereafter, the county judge acted as sole member of the judicial

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1. LITTELL, VOL. 2, 1799, P. 271.
2. COUNTY COURT ORDERS, VOL. 1, P. 1, SEE ENTRY 225.
3. LITTELL, VOL. 1, 1792, P. 93; 1796, P. 374.
4. IBID., 1797, PP. 678-681.
5. CONST. OF 1850, ART. 4, SEC. 29.
6. ACTS, 1851-52, P. 96.
7. PENNINGTON V. WOOLFOLK, 79 KY. 13.
8. ACTS, 1891-93, PP. 268-274.

division, associating himself with the justices to form the fiscal division, which was constituted as a separate legal entity, under the name of fiscal court, in 1892. To understand this complex set-up, it will be helpful to remember that the personnel of the judicial division of the county court, which is the subject of this essay, the fiscal division (fiscal court) being treated in a separate essay (9), consisted of the justices only until the establishment of the office of county judge in 1851, and that since that time the county judge has continued as presiding judge and sole member of the judicial branch of the county court, his jurisdiction being reaffirmed under the present constitution. (10)

Sessions

For the first two years of the county's existence, the court met on the third Monday in each month, except in February, April, June, and September, when the court of quarter session met. (11) An act of December 19, 1801, provided that the court hold nine terms annually on the third Monday in each month except May, August, and November. (12) An act of December 13, 1804, creating a circuit court in the county, provided that the county court henceforth hold monthly terms, beginning on the third Monday in each month except April, July, and October. (13) Until 1893 the court continued to hold monthly terms in months during which the circuit court did not meet, but an act of that year made the Breckinridge County Court a court of regular monthly terms, meeting on the first Monday in each month; however, the judge may call a special term at any time for the transaction of any business except the probating of wills, or granting tavern, liquor, or druggist licenses. (14)

County Judge

Selection and Term

The first county judge of Breckinridge County was Williamson Cox, who was elected May 1851, and took office in June. (15) He was the presiding judge and sole member of the judicial division of the county court and also acted as chairman of the court of claims and levy. (16) Pursuant to the present constitution, the latter court was established in 1892 as the fiscal court, thus ending the confusing status under which Kentucky county courts, from 1792 to 1892, had been considered as both judicial and administrative. Henceforth, "County Court" meant the judicial tribunal presided over by the county judge, its sole member. (17)

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9. SEE FISCAL COURT, P. 105.
10. CONST. OF 1891, SECS. 140, 141; SEE FISCAL COURT, P. 105.
11. LITTELL, VOL. 2, 1798, P. 271.
12. IBID., 1801, P. 483.
13. LITTELL, VOL. 3, 1804, P. 184.
14. ACTS, 1891-93, P. 105; CARROLL, SEC. 1058.
15. COUNTY COURT ORDERS, VOL. 11, P. 10, SEE ENTRY 225; CONST. OF 1850, ART. 4, SEC. 32.
16. ACTS, 1851-52, P. 96.
17. CONST. OF 1891, SEC. 140.

(Next entry 224, p. 224)

The county judge has always been an elective office, the first incumbent serving until the first Monday in August 1854, when his successor took office for a four-year term. (18) When the Constitution of 1891 was adopted, the county judge then in office had been elected in August, 1890, and his term normally would have expired in August 1894; but the constitution provided that he continue in office until the first Monday in January, 1895, at which time the judge elected in August 1894 assumed office and served three years. In 1897, and every four years thereafter, a county judge was elected who held office for four years from the first Monday in January after his election. (19)

Qualifications

The county judge had to be at least twenty-one years of age. (20) The age qualification is now twenty-four years. (21) In 1852, he must have been a resident of the county, one year prior to his election (22); this provision was later extended to include a residence requirement of one year in the county and two years in the State, preceding his election. (23)

Oath, Bond, and Security

Since 1851 the judge has sworn to support the constitution and to perform the duties of his office faithfully, with the added provision that he must not have participated in duels (24); he gives bond and security before assuming office and as often thereafter as may be deemed necessary. (25)

Compensation

From 1851 to 1892 the court of claims and levy fixed the judge's annual salary (26); since 1892 the fiscal court has had this duty. (27) Today the annual salary of the judge of the Breckinridge County Court is $1,400, paid in monthly installments. (28)

Method of Filling a Vacancy

From 1851 to 1930 a vacancy in the office was filled by a majority of the justices of the peace, whose appointee served until a successor could

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18. CONST. OF 1850, ART. 4, SECS. 30, 31.
19. CONST. OF 1891, SECS. 99, 100, 140.
20. CONST. OF 1850, ART. 4, SEC. 32.
21. CONST. OF 1891, SEC. 100.
22. CONST. OF 1850, ART. 4, SEC. 32.
23. CONST. OF 1891, SEC. 100.
24. CONST. OF 1850, ART. 8, SEC. 1; CONST. OF 1891, SEC. 228.
25. CONST. OF 1850, ART. 6, SEC. 9; CONST. OF 1891, SEC. 103.
26. REV. STAT., VOL. 1, P. 300.
27. ACTS: 1891-93, P. 1030; 1918, P. 448; CARROLL, SEC. 1072.
28. REPORT UPON AUDIT OF ACCOUNTS OF FISCAL RECORDS AND AFFAIRS IN BRECKINRIDGE COUNTY FOR FISCAL YEAR ENDING JUNE 30, 1938, BY NAT. B. SEWELL, DIRECTOR OF POST AUDITS.

be elected and qualified. (29) In 1930, however, the legislature stipulated that, in case the fiscal court failed to fill a vacancy within ten days, the county court clerk must notify the Governor in writing, and it then became the duty of the Governor to fill the vacancy immediately. (30) In 1936 the fiscal court's power to fill a vacancy in the office was taken away; when the office of county judge became vacant, the county court clerk immediately notified the Governor, who then filled the vacancy and issued his commission to the appointee. (31)

Removal

The county judge was liable to impeachment for any misdemeanor in office by concurrence of two-thirds of the members of the House of Representatives. (32) By a later provision, he was subject to indictment or prosecution for any misdemeanor in office, or for wilful neglect of official duties, in such a manner as was prescribed by law; he was given the right of appeal to the Court of Appeals; however, the General Assembly also provided other methods for his removal or reinstatement. (33) By legislation approved March 20, 1924, it was provided that if he be found guilty of gross misconduct, bribery, or gross neglect of duty, he be removed from office by the Governor; he may take an appeal, within ten days after the entry of the order of removal, to the Court of Appeals; if removed, he shall be disqualified from holding office in this State, for a period of four years. (34)

Duties of Judge

In addition to his duties as presiding judge of the county court, which are discussed under the general jurisdiction of the court, and as chairman of the fiscal court (35), the county judge has been given, through the years, many additional duties. Since 1852, he has been the presiding judge of the quarterly court. (36) From 1852 to 1858, he and the county court clerk composed a county board of tax supervisors (37), but an act of February 15, 1858, required the judge to appoint citizens of the county as members of the board. (38) In 1904, he became a member of the board of health (39), and in 1906, the judge of the juvenile session of the county court. (40) Recent provision made him a member of the county building commission, but Breckinridge County has not as yet availed itself

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29. Acts: 1851-52, p. 131; 1891-93, p. 106.
30. Acts, 1930, pp. 390, 391.
31. Acts, 1936, p. 272; Const. of 1891, sec. 152; Carroll, sec. 1529.
32. Const. of 1850, art. 5, secs. 1-3.
33. Const. of 1891, sec. 227, amendment 6.
34. Acts, 1924, pp. 72-75.
35. See Fiscal Court, p. 105.
36. Acts, 1851-52, p. 93 f.; Const. of 1891, sec. 139; See Quarterly Court, p. 241.
37. Rev. Stat., vol. 2, pp. 257, 258.
38. Acts, 1857-58, vol. 1, pp. 57, 58; See Board of Tax Supervisors, p. 290.
39. Acts, 1904, p. 107.
40. Acts, 1906, p. 322.

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of the statutory authorization to create such a commission (41); and in 1934 he became a member of the county budget commission. (42)

General Jurisdiction

Penal and Misdemeanor Cases

Since 1934, the county court has been authorized by statute to exercise criminal jurisdiction concurrent with the justices', quarterly, and circuit courts, over cases in which the punishment did not exceed a fine of $500, or imprisonment for one year, or both. (43) For a more detailed treatment of the courts exercising this jurisdiction, see Governmental Organization and Records System, p. 17 ; Justices' Courts, p. 254 ; Quarterly Court, p. 241; and Circuit Court, p. 164.

Insanity Inquests

Subsequent to the passage of the third constitution, the circuit judge or the county judge was given power to hold an insanity inquest when the circuit court was not in session. (44) If the county judge held the inquest, he was required to file the papers in the case with the circuit court clerk, and the circuit court at its next term appointed a committee and issued orders concerning the care of the person adjudged unsound of mind. (45) Legislation in 1893 and 1918 continued the county judge's power to hold such inquests, but specified that in no case could an inquest upon an idiot be held except in the circuit court. (46) This power continues today with the proviso that an inquest upon an idiot or a convict shall be held only in the circuit court, and an inquest upon a convict shall be conducted at the regular term of that court. (47)

Care of Persons of Unsound Mind

Before 1893 the circuit court had exclusive jurisdiction over all matters pertaining to the care and custody of persons of unsound mind and their committees, and made the proper orders for the support, restraint, and safe-keeping of such persons. (48) In 1893 the county court was given jurisdiction concurrent with the circuit court over their persons and estates, and over their committees, with power to appoint, suspend, and remove them, and to make settlements in the same manner as was made over the persons, estates, and guardians of infants. (49) Several changes were made by later acts in the general procedure concerning the care and treatment of persons of unsound mind (50), but the jurisdiction as specified

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41. Acts: 1910, p. 154; 1914, p. 1; 1928, p. 156.
42. Acts, 1934, p. 62 ff.
43. Acts, 1934, p. 422; Carroll, sec. 1093.
44. See Circuit Court, p. 164.
45. Acts, 1851-52, p. 253; Rev. Stat., vol. 2, p. 33 ff.; Gen. Stat., 1873 ed., pp. 534, 535.
46. Acts: 1891-93, p. 485; 1918, p. 161.
47. Acts, 1928, p. 110; Carroll, sec. 216aa-68.
48. Littell, vol. 3, 1802, p. 40; Acts, 1831-32, pp. 109-111; Preston S. Loughborough, A Digest of the Statute Laws of Kentucky, Frankfort, Ky., 1842, pp. 268-270; Acts, 1851-52, p. 250.
49. Acts, 1891-93, p. 483.
50. Acts: 1918, pp. 164, 165; 1924, p. 27.

in 1893 remains the same today under an act of 1928. (51)

Complaints of Apprentices and Servants

The county court heard complaints of apprentices or hired servants who were citizens living within the jurisdiction of the court, against masters or mistresses. (52) An act approved January 16, 1798, authorized the court to hear a servant's complaint against his master when that master failed in his legal duties or was guilty of injurious treatment. (53) No later legislation on the court's jurisdiction to hear servants' complaints has been found, and the sections in Carroll's 1936 Edition, Kentucky Statutes, merely define the reciprocal obligations of servants and masters, without mentioning the matter of complaints. (54) The county court today continues to receive and hear complaints of apprentices who reside in the county, against their masters for undeserved correction, insufficient food, raiment, or lodging, or lack of medical attention. (55)

Forcible Entry and Detainer Proceedings

Cases of forcible entry and detainer, which came under the individual jurisdiction of the justices of the peace in 1810 and not under their jurisdiction in their corporate capacity as the county court (56), were later tried either by the county judge or by a justice, if neither party demanded a jury. In such case, the county judge or the justice was authorized to try all questions concerning cases of forcible entry and detainer, whether of law or fact. (57)

Assignments

Since 1894 the county court has had jurisdiction of voluntary assignments. Whenever a suit involving a settlement of the estate was brought to the circuit court of the county in which the assignment was made, the jurisdiction of the county court ceased, and all papers relating to the estate which were filed in that court were transmitted by the county court clerk to the circuit clerk. (58)

Bastardy Proceedings

At all times the county court heard and determined all causes concerning bastardy proceedings. (59)

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51. Acts, 1928, pp. 115, 116, 123; Carroll, sec. 2149.
52. Littell, vol. 1: 1796, p. 375; 1797, pp. 677, 678.
53. Littell, vol. 2, 1798, p. 8; Gen. Stat., 1873 ed., p. 655.
54. Carroll, secs. 2607-2610.
55. Carroll, sec. 2602.
56. Littell, vol. 4, 1810, p. 182.
57. Civil Code, 1876, sec. 454; Acts, 1887-88, vol. 1, p. 112; Civil Code, 1938, sec. 454.
58. Acts, 1894, p. 196; Carroll, secs. 74-96.
59. Littell, vol. 1: 1793, p. 202; 1795, pp. 282-284; Acts, 1891-93, pp. 67-72; Carroll, sec. 170, et seq.

(Next entry 224, p. 224)

Jurisdiction of Tax Matters

The county court, by legislation in 1793 and subsequently, was given power to hear cases and impose a fine and triple tax on persons delinquent in filing lists of taxable property with the commissioner of the tax. (60) The court also heard appeals from evaluations placed upon property by the commissioner and, if it thought proper, corrected such valuations. (61) An act approved February 26, 1842, gave the county court authority to summon a jury to determine the facts against a person failing to list taxable property. When it had been ascertained whether or not such person was guilty, the court rendered judgment according to the findings of the jury. (62) An act approved March 22, 1844, further provided that each commissioner, as before, list with the county court the names of all persons failing to list their property; such persons, however, were to be proceeded against in the circuit court instead of in the county court. (63) By legislation effective July 1, 1852, the county judge and the county court clerk constituted a board of tax supervisors, with power to hold sessions attended by the commissioner of the tax and his assistants; to report delinquents to the county court; and, finally, to give a certificate of approval to the tax books. (64) The county court, therefore, instead of the circuit court, was again made the court in which proceedings were heard against tax delinquents. (65)

Jurisdiction of Juvenile Cases

From the time of its establishment in Breckinridge, the county court has had jurisdiction over orphans, apprentices, and neglected, dependent, and delinquent children. (66) A later act empowered the court to regard infant children of convicts as orphans, appoint guardians for them, and bind them out as apprentices during the term of confinement of the parent (67), and in 1825 the jurisdiction of the court was extended to include poor children of color who were free. (68)

An act approved February 24, 1894, directed the court to commit to any charitable reformatory, or other institution in the county authorized to take charge of minors, any child adjudged to be vagrant or destitute, and made it a duty of the county court clerk to enter proceedings against any such child in a separate book, styled "Infant Vagrants." (69)

Legislation in 1896 gave the county court the power to commit any boy or girl under eighteen years of age to a house of reform upon receipt of

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60. LITTELL, VOL. 1, 1793, P. 213; VOL. 5, 1814, P. 290.
61. Acts, 1818-19, PP. 652-660.
62. Acts, 1841-42, P. 76.
63. Acts, 1843-44, PP. 78-80.
64. Rev. Stat., VOL. 2, PP. 257, 258.
65. Rev. Stat.: VOL. 1, PP. 295, 296; VOL. 2, PP. 254, 255; Acts, 1906, P. 88; CARROLL, SEC. 4185.
66. LITTELL, VOL. 1; 1793, PP. 191, 192; 1797, P. 674.
67. LITTELL, VOL. 3, 1802, P. 74.
68. Acts, 1825-26, P. 137; CARROLL, SEC. 2591.
69. Acts, 1894, PP. 28, 29.

a report, in lieu of an indictment, recommending such action. The provisions of this act, however, were not mandatory; therefore it left the status of juvenile offenders unchanged, except at the discretion of the court. (70)

An act approved March 21, 1906, and amended by an act of 1908, created "The Juvenile Session of the County Court," to have original jurisdiction for the care, protection, and correction of dependent and delinquent male children under seventeen years of age, and female children under the age of eighteen years. It did not, according to an opinion of the Court of Appeals in 1911, create a new court, but merely enlarged the powers of the county court. (71) The court was required under the provisions of this act to keep a "Juvenile Record," and the docket for cases coming within the scope of the act was to be known as "The Juvenile Docket." The court was also authorized to appoint probation officers and confine any delinquent, dependent, or neglected child in a family home, detention school, house of reform, or in any institution within the county suitable for the care of such children. In no case, however, could a child under fourteen years of age be placed in a detention school or detention ward of the county jail. The juvenile session of the county court was also empowered to issue a summons for the parents or persons having custody of any child appearing to be neglected, dependent, or delinquent, and to issue a warrant when any such summons was not obeyed. If facts in the case warranted it, the court was authorized to exclude the general public and to hold proceedings against such children privately. After advising the parent or guardian of the child on any such contemplated action, the juvenile session had authority to transfer the case to the court having jurisdiction of such offense, where the child could be proceeded against in the same manner as an adult. The court, under provisions of this act, also, could appoint a board of not less than six or more than ten reputable inhabitants to serve without compensation as the "Advisory Board of the County Court, Juvenile Session," and to hold office during the pleasure of the court. (72)

An act approved March 23, 1920, transferred jurisdiction of neglected, dependent, and delinquent children from the county court to the circuit court (73), but was held invalid by the Court of Appeals on November 11, 1920 (74); consequently, the county court continues to hear juvenile cases in the juvenile session. (75)

As early as 1825 the county court of Breckinridge had jurisdiction of cases concerning persons charged with cruelty toward children. (76) This jurisdiction was extended by legislation of 1894, which provided severe

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70. Acts, 1896, pp. 60-62.
71. Marlow v. Commonwealth, 142 Ky. 106.
72. Acts: 1906, pp. 322-332; 1908, pp. 181-198.
73. Acts, 1920, pp. 329-333.
74. Lynn v. Bullock, 189 Ky. 604.
75. Carroll, sec. 331E-2.
76. Acts, 1825-26, p. 137.

penalties for persons guilty of employing children in indecent or immoral occupations, exhibiting any insane or idiotic child, neglecting to provide for any child under fourteen years of age, and wilfully deserting any child under six years of age. (77)

An act of 1906 provided that parents or persons who, having legal custody of a dependent, neglected, or delinquent child, promoted or directed such neglect, dependency, or delinquency, were guilty of a misdemeanor which was punishable by a fine of not more than $200, or imprisonment for not more than twelve months, or both. (78) Legislation in 1908 repealed this act and provided that any person or institution could file a petition with the clerk of the county court, stating the facts or a belief concerning such delinquency; this petition then formed the basis of court proceedings against the person or persons charged with contributing to the neglect, dependency, or delinquency of any child. If, however, a criminal action was involved, the judge was authorized to dismiss the case and direct the county attorney to prosecute such person in accordance with the penal laws of the State. (79) An act approved March 23, 1910, repealed this act of 1908 and reenacted the act of 1906, decreasing the amount of the fine, however, to not more than $100, and imprisonment to fifty days. It also empowered the court to suspend sentence upon any such defendant, and place him on probation for one year. (80) In addition, the county court was given jurisdiction in 1918 over cases of parents who failed to educate deaf children. (81)

Policy-determining Functions

Roads

From the beginning, the jurisdiction of the county court has extended over road matters. (82) It had power to construct and maintain county roads, and to decide whether county roads, bridges, and landings should be established, altered, or discontinued. It was also empowered to take whatever judicial steps were necessary to effectuate its decisions. (83) The financial administration of such work is under the fiscal court, but as the county judge also presides as chairman of the fiscal court, the functions of the county and fiscal courts in regard to the construction of roads, bridges, and landings are closely inter-related. (84)

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77. Acts, 1894, pp. 29-31.
78. Acts, 1906, pp. 302, 303.
79. Acts, 1908, p. 152 ff.
80. Acts, 1910, pp. 226-228; Carroll, secs. 331G-1, -3.
81. Acts, 1918, p. 142; Carroll, sec. 298F-6.
82. Littell, vol. 1, 1792, p. 93.
83. Littell, vol. 1: 1796, pp. 374, 375; 1797, p. 633-636; vol. 3, 1803, p. 126; vol. 4, 1811, p. 361; Acts: 1851-52, p. 33 ff.; 1891-93, p. 235 ff.; 1914, pp. 341-344; Carroll, sec. 4302.
84. See Governmental Organization and Records System, p. 17, for detailed treatment of this subject.

Toll Gates

In 1833 the county court was given power to cause toll gates to be erected across public roads and to have such gates repaired or removed, on condition that mail roads or main highways leading from the courthouse of one county to that of an adjoining county were not obstructed by such gates. (85) This power was continued by legislation in 1914 which authorized the county court, upon petition, to permit toll gates to be erected across any county road, or cause any toll gate so erected to be removed. (86) In Johnson et al. v. Clark County et al., the Court of Appeals, in a decision handed down on March 22, 1935, hold that the jurisdiction of the State Highway Commission is confined exclusively to the construction and maintenance of State highways and that the commission has no jurisdiction of county roads. (87)

Ferries

The county court was early given authority, which it exercises today, to establish and regulate ferries and grant ferry privileges. (88)

Constables' Districts

One of the earliest functions of the county court was to lay the county off into districts and to appoint a constable for each district. (89) This function of the court included the power to change or modify constables' districts, with respect to both boundaries and number. In 1850, when the office of constable was made elective, the court's power to appoint these officers was discontinued. (90)

Justices' Districts: Election Precincts

Legislation passed in 1822, and subsequently, authorized the county court to establish justices' districts, divide them into election precincts, and appoint a clerk and two election judges in each precinct. (91) In 1892 the county judge was given power to appoint three responsible citizens living in different parts of the county whose duty it was to divide the county into not less than three or more than eight justices' districts (92), which the county court continued to divide into election precincts; to establish the name or number and boundaries of such precincts; and to establish a place of voting in each. The court could divide or consolidate precincts, change its boundaries, or change the places of holding elections whenever public convenience required it; and these continue to be present functions of this body. (93) The court has had

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85. Acts, 1832-33, p. 85.
86. Acts, 1914, p. 355; Carroll, sec. 4319.
87. 250 Ky. 563-566.
88. Littell: vol.1, 1796, pp. 361, 375; vol. 3, 1806, p. 361; Acts: 1823-24, p. 386; 1851-52, p. 175; Gen. Stat., 1873 ed., p. 479; Carroll, sec. 1800.
89. Littell: vol. 1, 1792, p. 101; vol. 3, 1803, p. 126; Acts, 1819-20, p. 865.
90. Const. of 1850, art. 6, sec. 5; Carroll, sec. 1519.
91. Acts: 1822-23, p. 35; 1851-52, p. 124; Gen. Stat., 1873 ed., pp. 302, 376, 377.
92. Acts, 1891-93, p. 189.
93. Acts, 1891-93, pp. 106-108; Carroll, secs. 1443, 1444.

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jurisdiction since 1936 over the cancellation of voters' registrations. (94)

Tavern Licenses

All causes pertaining to the granting of tavern licenses and the regulation of tippling houses have, since the creation of the county court, come under its jurisdiction. (95) All places of public entertainment that sold liquor were required by an act of 1936 to obtain licenses from the court. (96) Since Breckinridge is a dry county, the court does not exercise this jurisdiction.

Peddlers' Licenses

The county court was given jurisdiction in 1797 to grant licenses to peddlers. (97) An act of 1806, reaffirmed later, transferred this duty to the county court clerk who, upon the applicant's payment of a fee of twenty dollars, granted and issued the license. (98) Still later legislation returned to the county court the power to grant peddlers' licenses. Until 1938 it had exclusive jurisdiction of granting such licenses after the applicant had proved in open court that he was of good moral character; and upon his payment of proper fees and costs, the court ordered the county court clerk to issue the license. (99)

Towns

An act approved December 19, 1796, and effective March 1, 1797, gave the county court power to establish towns within the county, appoint town trustees, and lay off streets and lots. (100) In 1800 the court was authorized to fix the number of trustees for each town in the county (101), and in 1852 the power of the court to establish towns, appoint trustees, and lay the town off into lots, streets, and alleys was reaffirmed. (102) An act approved July 3, 1893, transferred to the circuit court the county court's authority to establish towns and appoint trustees, and stated that a town must contain at least 200 inhabitants within the boundaries proposed to be established for such town, before a petition could be brought before the circuit court. (103)

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94. Acts, 1936, p. 131; Carroll, secs. 1486BB-15, -16.
95. Littell, vol. 1: 1792, p. 90 ff.; 1793, p. 194; Acts: 1851-52, pp. 41-45; 1891-93, p. 1051.
96. Acts, 1936, p. 187; Carroll, sec. 2554D-1.
97. Littell, vol. 1, 1797, p. 668.
98. Littell: vol. 3, 1806, p. 342; vol. 5, 1814, p. 114; Acts: 1834-35, p. 218; 1841-42, p. 36.
99. Gen. Stat., pp. 688, 689; Carroll, sec. 4219.
100. Littell, vol. 1, 1796, pp. 512, 513.
101. Littell, vol. 2, 1800, p. 406.
102. Acts, 1851-52, p. 73.
103. Acts: 1891-93, pp. 1387, 1388; 1914, p. 9; Carroll, sec. 3714.

County Court (Next entry 224, p. 224)

Public Buildings

Jurisdiction over all matters pertaining to the erection and maintenance of public buildings for county purposes, except school buildings, has always been vested with the county courts in Kentucky. An act of 1796 provided that "forever hereafter, the court of every county of this Commonwealth shall cause to be erected and kept in good repair. . . within each respective county, and at the charge of such county, one good and convenient courthouse, of stone, brick, or timber, and one common jail and county prison, well secured with iron bars, bolts, and locks; and also one pillory, whipping post, and stocks. . . and such courts may purchase two acres, whereon to erect the public buildings for the use of their county, and for no other use whatsoever." (104) As originally established, any three justices of the county court were " sufficient to hear and determine all causes depending in said county courts" (105), but in 1811 it was provided that "no county court shall make an appropriation for erecting a courthouse, jail, or any additional repairs thereto. . . unless a majority of all the justices. . . shall be present and compose the court." (106) Authority to rent a suitable courthouse not more than one quarter mile from the public square was given the county court by an act of 1818. (107)

It was later made the duty of the county court, when it desired to erect a public edifice or building, "to appoint three or more discreet persons not justices of the peace, commissioners, whose duty it shall be to let the erection of such building publicly, at auction, to the lowest bidder. . . ." The commissioners were required to take bond to the amount of double the contract "for the true and faithful discharge of the work so undertaken." (108)

This general jurisdiction over matters pertaining to public buildings was reaffirmed by an act of 1852 which gave to the county court authority "to erect, superintend, and repair all needful public county buildings and structures." (109)

By an act of 1892, the fiscal court was authorized to issue bonds to fund indebtedness "contracted in the construction, repair, or building or remodeling of any courthouse, jail or other public building. . . " (110), and to issue revenue bonds for the above-mentioned purposes. (111)

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104. LITTELL, VOL. I, 1796, P. 374.
105. IBID., 1792, P. 93.
106. LITTELL, VOL. 4; 1810, P. 172; 1811, P. 217.
107. ACTS: 1817-18, P. 418; 1851-52, PP. 70, 71.
108. ACTS, 1821-22, P. 443.
109. ACTS, 1851-52, P. 95.
110. ACTS, 1891-93, P. 5; CARROLL, SEC. 1857.
111. ACTS, 1891-93, PP. 198, 199; CARROLL, SEC. 1872.

(Next entry 224, p. 224)

School Districts

With the development of a public educational system (112), it became the duty of the county court to lay off school districts. (113) In 1852, the county court appointed commissioners who had power to alter, modify, or establish school districts. (114) Today each county constitutes one county school district, provided that, where there is one or more independent school districts, the county school district is composed of the remainder of the county outside the boundaries of such independent school districts. (115)

Marriages

A law in effect when Breckinridge County was established provided that ordained ministers properly certified by the county court could marry persons who had procured marriage licenses from the clerk of the court of the county in which the bride lived. The act stated that justices of the peace and others not authorized by law had been induced, because of a lack of ministers, to solemnize marriages. (116) Legislation effective January 1, 1800, gave the county court power to license one or more justices to solemnize marriages in case of an insufficient number of ministers. (117) A few years later the authority to solemnize marriages was extended to all ministers who were duly qualified to preach, but they were first required to obtain from the county court a license to solemnize marriages. (118) An act of 1814 prohibited "ordained excommunicated preachers" from performing marriages. (119) More recent legislation directed that marriages could be solemnized by a minister or priest of any denomination, by judges of the county court, or by such justices of the peace as the Governor or county court might authorize. (120)

Inspections of Commodities

Very early in its history, the county court was authorized to hear and decide all causes concerning public inspections and was given their supervision. (121) Among various inspections, it supervised those of flour, hemp, and tobacco (122), and established inspection warehouses. (123)

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112. See County Board of Education, p. 322.
113. Acts: 1821-22, p. 352; 1837-38. pp. 277, 278; 1841-42, pp. 81, 82.
114. Acts, 1851-52, pp. 163-165.
115. Acts, 1934, p. 228 ff.; Carroll, sec. 4399-2.
116. Littell, vol. 2, 1798, pp. 64-69.
117. Ibid., 1799, pp. 275, 276.
118. Littell, vol. 3, 1804, p. 202.
119. Littell, vol. 5, 1814, p. 95.
120. Acts: 1891-93, p. 925; 1914, p. 263; 1932, p, 489; Carroll, sec. 2103-2.
121. Littell, vol. 1: 1794, p. 258; 1796, pp, 374, 375; Const. of 1799, art. 3, sec. 9.
122. Littell: vol. 3, 1803, p. 123; vol. 4, 1809, p, 13,
123. Littell, vol. 2, 1798, p. 195; Acts, 1851-52, p. 152 ff.; Gen. Stat., 1873 ed., p. 557; Carroll, sec. 2186.

Mills

From its inception the county court has had jurisdiction of all matters pertaining to mills, mill dams, and obstructions in such dams. In such cases it followed a procedure similar to that used in its jurisdiction over roads. (124)

Reclamation: Drainage

In 1893 the county judge was given power, at any regular session of the county court, to order the construction of any ditch, drain, canal, levee, or water course deemed necessary in the county, upon petition of interested land-owners. (125) An act of 1912, amended by an act of 1926, continued the authority of the county judge "to locate, establish, and have constructed all levees, ditches, drains or canals, and to have constructed, straightened, widened, or deepened any ditch, drain, creek, or non-navigable water course. . . all for the purpose of draining or reclaiming low, swampy, or overflowed lands in such county." (126)

By an act of 1918, amended in 1924, a separate program was established in which the functions of the county court in carrying out reclamation projects was considerably altered. (127) The Court of Appeals held that the drainage acts of 1912 and 1918 did not constitute a single code of laws, but that they constituted separate alternative codes for the reclamation of wet lands. (128) By this latter program, jurisdiction was conferred upon all county and circuit courts of the Commonwealth to establish and organize drainage, levee, and reclamation districts, and "to provide ways and means consistent with the provisions of this act for the establishment, organization, operation and maintenance of drainage, levee and reclamation districts. . . ." It was also stated that the original jurisdiction of the county and circuit courts "to establish, organize, and provide for the operation and maintenance of drainage, levee, and reclamation districts shall be concurrent, the one with the other;" however, provision was made for appeals to the circuit court "from all orders and judgments of the county court concerning matters pertaining to the provisions of this act, which are final in their nature." (129)

An elaborate and evidently unwieldy method of allocating costs of drainage work, with the sheriff collecting for damages, was provided in the original law of July 10, 1893; an act of 1894, however, gave the fiscal court the power to let drainage contracts and to finance the work. (130)

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124. LITTELL, VOL. 1: 1792, P. 93; 1796, PP. 374, 375; 1797, P. 606; VOL. 3, 1802, P. 9; ACTS, 1891-93, PP. 601-604; CARROLL, SEC. 2712, ET SEQ.
125. ACTS, 1891-93, P. 1502 FF.
126. ACTS: 1912, P. 483; 1926, P. 9; CARROLL, SEC. 2380-1.
127. ACTS: 1918, P. 192; 1924, P. 491.
128. BOARD OF DRAINAGE COMMISSIONERS V. LANG, 187 KY. 123; 218 S.W. 736 (1920).
129. CARROLL, SEC. 2380B-1.
130. SEE FISCAL COURT, P. 105.

Water Districts

The county judge was given power in 1924, and subsequently, to create water districts, appoint water commissioners, and provide for the establishment, construction, or purchase of a water system to furnish water to the inhabitants. (131)

Probate

At its inception, in Breckinridge, the county court was by previous legislation, given jurisdiction of all cases "respecting wills, letters of administration . . . the appointment of guardians and settling of their accounts. . . ." (132) This jurisdiction has remained practically intact with the county court which, at present, is authorized to have jurisdiction to probate wills, appoint and remove personal representatives, guardians, trustees, committees, curators, and other fiduciaries. (133)

Care of the Poor

By an act of 1793 the county court was required to provide for "laying the county levy, for the relief of such poor persons in their several counties, as by personal debility or otherwise, are incapable of procuring a livelihood." The same act required the justices of the court to give information concerning poor orphans and "such other children within their knowledge, whose parents they shall judge incapable of supporting and bringing up in honest courses." Such children could be bound out by the court as "apprentice to the age of twenty-one years, if a boy, or eighteen if a girl." (134)

Authority to provide medical care for the poor was given to the county court by an act of 1803. Reasonable compensation to such physicians designated by the court was to be provided out of the county levy. (135)

Poorhouses were provided for by an act of 1821 which authorized county courts to purchase "any quantity of land within their respective counties, not exceeding two hundred acres, for the purpose of erecting a poorhouse thereon, and for the use and accommodation of the poor. . . ." The county court was further authorized to make rules and regulations for the administration of such poorhouse and employ a superintendent who, in addition to "reasonable compensation," was authorized "to cause any poor person or persons kept at such poorhouse, who shall be able to do any useful labor, to perform the same, under any reasonable and proper coercion." (136)

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131. Acts: 1924, p. 251; 1926, p. 666; 1930, p. 591; Carroll, sec. 938g-1.
132. Littell, vol. 1: 1792, p. 93; 1796, pp. 374, 375; 1797, pp. 613, 673-678.
133. Acts, 1891-93, p. 1051; Carroll, secs. 1057, 4849.
134. Littell, vol. 1, 1793, p. 191.
135. Littell, vol. 3, 1803, pp. 133, 134.
136. Acts, 1821-22, p. 885.

The above provisions regarding the establishment and maintenance of poorhouses by the county courts were reenacted in 1852 (137), and in all essential features constitute the present law. (138)

It has been held by the Court of Appeals that the above provisions authorizing county courts to purchase and maintain poorhouses do not prohibit the county court from adopting other methods of providing care for the poor. On the contrary, the court may contribute to and cooperate with private agencies, such as an orphan society, for example, which provides care for persons who otherwise would be a charge upon the county. (139) The methods by which the court actually cared for the poor are discussed in the section under Public Welfare, pp. 81-83.

Appointments

In addition to the appointments already mentioned, the county court was authorized by constitutional provision in 1799 to appoint various inspectors, collectors and their deputies, highway surveyors, jailers, and other inferior officers. (140) By that same provision, the office of county jailer was created as a regular county office, the county court making the appointment. (141) The court continued to perform this function until 1850, when the jailer's office was made elective. (142) Since 1852 the county judge, when the court temporarily filled a vacancy in the office of jailer, has issued a writ of election. (143)

In addition to the inspectors for flour, hemp, and tobacco mentioned earlier in this essay, the court was authorized in 1804 to appoint an inspector of salted beef and pork for exportation. (144) A year later an additional inspector was appointed to make such examinations (145), but legislation passed November 22, 1806 repealed these acts which had failed to serve their intended purpose. (146) The court has continued to appoint various inspectors to the present time. (147)

In 1820 the county court was given power to appoint a person to superintend the county's public works and buildings including the courthouse, jail, and stray pen. (148) Later, the jailer, by virtue of his office was made superintendent of the public square, courthouse, jail, and stray pen. (149)

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137. ACTS, 1851-52, P. 86.
138. CARROLL, SEC. 3925.
139. ORPHAN SOCIETY OF LEXINGTON V. FAYETTE COUNTY, 6 BUSH 413.
140. CONST. OF 1799, ART. 3, SEC. 9; CONST. OF 1891, SEC. 99, CARROLL, SEC. 1519.
141. CONST. OF 1799, ART. 3, SEC. 9; LITTELL, VOL. 2, 1799, P. 294.
142. CONST. OF 1850, ART. 6, SEC. 1; CARROLL, SEC. 1519.
143. ACTS, 1851-52, P. 131; GEN. STAT., 1873 ED., P. 567; CARROLL, SEC. 1526.
144. LITTELL, VOL. 3, 1804, P. 237.
145. IBID., 1805, PP. 321, 322.
146. IBID., 1806, P. 329.
147. ACTS, 1851-52, P. 152; GEN. STAT., 1873 ED., P. 556-560; CARROLL, SECS. 2188, 2189.
148. ACTS, 1820-21, P. 48.
149. ACTS, 1851-52, P. 70; GEN. STAT., 1873 ED., P. 703; ACTS, 1908, P. 116; CARROLL, SEC. 3948.

(Next entry 224, p. 224)

The court, in 1792, was authorized to appoint commissioners to list the taxable property in the county (150), and, in 1797, to take lists of tithables. (151) For the evolution of and appointment of these commissioners, see Tax Commissioner, p. 287. An act of 1792 gave the sheriff the duty of collecting the revenues for the county, and if he failed to give satisfactory bond, the court could appoint a collector of the taxes. Later legislation reaffirmed this power. (152)

In the beginning the county court appointed two justices to examine the sheriff's accounts of money collected for the county and to make a report of such settlement. (153) Later legislation, however, authorized the court to appoint a commissioner to examine the sheriff's accounts. (154) After 1893, however, the sheriff turned all county money over to the county treasurer, who reported the amount collected to the county judge. The judge, in turn, then brought the report to the attention of the fiscal court. (155)

It could appoint annually, three justices vested with the power to award injunctions when the circuit court was not in session. (156) Because of the urgent nature of injunctions, the Civil Code of 1938 provides that two justices sitting together may issue injunctions only when the court in which action is pending is not in session, and the circuit and the county judges are both absent from the county. (157)

The county court was authorized in 1837 to appoint guardians for non-resident infants having property in the county (158) and could empower such guardian to sue for, recover, and remove any personal estate of such minor. (159)

In 1793 the court was given power to appoint a public administrator to administer decedents' estates for which there were no personal representatives, and to act as guardian of such orphans as have none. (160) Reaffirmed by later legislation, this power is exercised by the court today. (161)

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150. LITTELL, VOL. I, 1792, P. 89.
151. IBID., 1797, P. 678.
152. LITTELL: VOL. I, 1792, PP. 69-71; VOL. 2, P. 322; REV. STAT., VOL. I, P. 297; ACTS: 1891-93, PP. 317, 318; 1902, PP. 326, 327; CARROLL, SECS. 4129, 4131.
153. LITTELL, VOL. I, 1793, P. 202.
154. ACTS, 1851-52, P. 187; REV. STAT., VOL. I, PP. 300, 301.
155. ACTS, 1891-93, P. 522; CARROLL, SECS. 931, 932.
156. ACTS, 1817-18, P. 525.
157. CIVIL CODE, 1938 ED., SEC. 284.
158. ACTS, 1836-37, P. 238.
159. ACTS, 1891-93, P. 378; CARROLL, SEC. 2041.
160. LITTELL, VOL. I, 1793, P. 202.
161. GEN. STAT., 1873 ED., P. 453; ACTS, 1891-93, P. 552; CARROLL, SEC. 3909.

By legislation in 1912, reaffirmed in 1918, the county judge was authorized to appoint a board of drainage commissioners. (162) A later act in 1918 empowered him to appoint a drainage commissioner for the county who had the authority and performed the duties of the former board. (163) In 1924, the act of 1918 providing for a board of drainage commissioners was amended and reenacted, and the county judge at present appoints this board. (164)

Land Titles

In 1795 the county court was directed to appoint commissioners for processing land. (165) An act of December 19, 1796, effective March 1, 1797, authorized the court, upon application of any person claiming land in the county, to appoint three or more justices of the peace, or other fit persons, as commissioners to procession lands; these commissioners, or any two of them, were required to examine entry marks of claimed land and witnesses thereto, to take their depositions, and to make a report to the county court for recording by the county court clerk. Further provision directed the court to lay off the county into districts for the purpose of processing every person's land, and to appoint one or more commissioners, upon proper application, to go around the applicant's lands to resurvey old boundary lines, and to certify alterations in boundary marks to the county court clerk. (166)

In January 1802, the county court divided Breckinridge into two districts, and appointed Horace Beardsley for one and Samuel Stuckey for the other, as commissioners to procession land. (167) An act of December 1814, approved January 7, 1815, required the commissioners to work in conjunction with the county surveyor or his deputy. (168) Later legislation gave the court power to appoint three qualified persons for a four-year term, any two of whom could constitute a quorum; they made a report as before to the court, for recording by the county clerk. (169)

The court, by legislation in 1893, was authorized to appoint three commissioners to assess damages in railroad condemnation proceedings. The court makes these appointments today. (170)

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162. Acts: 1912, p. 491 ff.; 1918, p. 216 ff.
163. Acts, 1918, pp. 504-507.
164. Acts: 1924, p. 492; 1936, pp. 99, 100.
165. Littell, vol. 1, 1795, p. 278.
166. Ibid., 1796, pp. 554-557.
167. County Court Orders, vol. 3, p. 100, see entry 225.
168. Littell, vol. 5, 1814, p. 145.
169. Acts: 1851-52, p. 46; Gen. Stat., 1873 ed., p. 596; Acts, 1891-93, p. 495; Carroll, sec. 2367.
170. Acts, 1891-93, p. 612; Carroll, sec. 835.

(Next entry 224, p. 224)

County Patrol

In 1799 the county court was required to lay off the county into not more than five districts, and to appoint in each district a company of patrollers for a year's service. A captain and not more than four men composed the patrol. Each appointee took an oath of office. The company patrolled as many hours each month as the court directed, but never less than twelve hours. It visited Negro quarters and other places suspected of unlawful assemblies of slaves. Any slave found at such assembly, or caught strolling about from one plantation to another without a pass from his master, mistress, or overseer, or discovered with any property not specified in his pass, was given not exceeding ten lashes. If such offenders were taken before a magistrate, the number of lashes was left to the discretion of the magistrate, but could not exceed thirty-nine. The captain received four shillings, and each patroller three shillings for every twelve hours of service; they made return upon oath before a justice of the peace, of the time served. After the justice certified the return, it was laid before the county court of claims and paid out of the county levy. (171)

This general procedure continued for more than a half-century, when the duties of patrols were broadened to include the same power to arrest, search, seize, and serve process, which sheriffs had, subject to the orders of the county court. They were paid a sum not to exceed one dollar for each ten hours of service. (172) In 1936, however, the old system of patrolling was abolished by a law which created a county highway patrol and an investigator for Breckinridge County, whose duties were to be performed by the sheriff and his deputies. (173)

Records

Deeds: Admission to Record

From its establishment, the county court has had power to determine all causes respecting the admission to record of deeds and other writings. (174)

Functions of County Court Clerk in County Court

The county court had jurisdiction over the preservation of records, with power to have them transcribed and rebound (175), and the county court clerk, who was clerk of the county court, when it sat both as a

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171. LITTELL, VOL. 2, 1799, P. 264.
172. GEN. STAT., 1873 ED., PP. 687, 688.
173. ACTS, FOURTH SPECIAL SESSION, 1936-37, PP. 116 FF.; SEE SHERIFF, P. 262.
174. LITTELL, VOL. 1: 1792, P. 93; 1796, P. 375; ACTS, 1891-93, P. 829 FF.; 1910, P. 249; CARROLL, SEC. 501.
175. GEN. STAT., 1873 ED., P. 411; ACTS: 1891-93, P. 1164; 1912, P. 302; 1918, P. 555; CARROLL, SEC. 1632.

judicial body and as a court of claims (176) recorded and preserved all records of the court. (177) It was his duty to administer oaths before the court relating to any matter in which an oath might be legally administered. (178) He kept a record of persons testifying in court on legal summonses (179); made and certified an exact copy of every conveyance acknowledged or proved before the court, made a docket of them in alphabetical order, and returned the originals to their owners (180); and wrote up the proceedings of the court each day, to be signed by the county judge. (181) By an act of December 1807, approved February 1808, he issued commissions for taking depositions of witnesses in certain cases when court was not in session. (182) He also affixed seals to soldiers' claims, or to any power of attorney concerning them, free of charge (183), and recorded relinquishment of dowers. (184) It was his duty to endorse upon an inner envelope a list of the parties concerned and the steps taken in each case, within thirty days after the close of each term of court, and to file the envelope with the papers of the case. (185) The clerk keeps a docket or book in which he enters a list of every execution, giving the names of plaintiff and defendant, the amounts and from what period it bears interest, the date, return day, the name of the person to whom delivered, and date when returned. (186)

All records are kept in the county court clerk's office unless otherwise specified.

Proceedings

224. COUNTY COURT ORDERS, 1910--. 3 f.b. 1804-- also in Dismissions of County Court, entry 284; 1934-37 also in Miscellaneous, entry 132.

Original orders issued by county court at each daily session of court, showing: date, term of court, names of principals, nature of order, order book number and page where recorded, and signature of county judge. No obvious arr. No index. Hdw. and typed. 4½ x 4½ x 10.

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176. LITTELL, VOL. 1, 1792, P. 94; Acts, 1829-30, P. 53; GEN. STAT., 1873 ED., P. 307; Acts, 1891-93, P. 534; CARROLL, SEC. 1519.
177. LITTELL, VOL. 1, 1796, P. 568; Acts: 1851-52, P. 60; 1891-93, P. 534; CARROLL, SECS. 372, 1060.
178. LITTELL, VOL. 2, 1800, P. 370; Acts, 1891-93, P. 536; CARROLL, SEC. 380.
179. LITTELL, VOL. 1, 1796, P. 470; Acts: 1851-52, P. 62; 1891-93, P. 537; CARROLL, SEC. 383.
180. LITTELL, VOL. 1, 1796, P. 571; Acts, 1891-93, P. 834; CARROLL, SEC. 510.
181. LITTELL, VOL. 2, 1798, P. 83 FF.; Acts, 1851-52, P. 62; 1891-93, P. 536; CARROLL, SEC. 378.
182. LITTELL, VOL. 4, 1807, P. 524.
183. Acts: 1830-31, P. 113; 1836-37, P. 278; 1851-52, P. 62; 1891-93, P. 537; CARROLL, SEC. 382.
184. LITTELL: VOL. 1, 1792, P. 153; VOL. 3, 1803, P. 133; Acts, 1891-93, P. 1382; CARROLL, SEC. 1404.
185. Acts: 1838-39, P. 138; 1851-52, P. 62; 1891-93, P. 536; CARROLL, SEC. 379.
186. LITTELL, VOL. 2, 1798, P. 86; Acts: 1851-52, P. 60; 1891-93, P. 535; CARROLL, SEC. 376.

225. COUNTY COURT ORDERS, 1800--. 26 vols. (1 vol. not labeled; 2-26). Title varies: Minute Book, 1 vol. not labeled, vols. 2-8, 1800-1851; Order Book, vols. 9-16, 18-24, 1852-84, 1888-1928; Orders, vol. 17, 1885-87.

Record of civil, criminal, and administrative orders issued by county court at each daily session, showing on each day's orders: date, term of court, nature of order, and signature of county judge. In civil cases, items include rules, motions, and judgments; each summary shows: docket number, style of case, and action of court. In criminal cases are included orders for filing information, pleas of accused, fixing bonds if allowable, continuances, rules, motions, and judgments of court; each summary shows: docket number, style of case, offense, and action of court. Administrative orders include accepting resignations of county officials and appointees; allowing claims against county for services rendered and material furnished; appointing commissioners to appraise damages to, and fix value of, land condemned for public purposes; appointing county officials, election officers, and special commissioners; approving: bonds of officials and private individuals, commissions issued by Governor, deeds to property for highway purposes, officials' reports and settlements, and tax commissioners' books; apprenticing minors; assigning convicted prisoners to county road work; correcting clerical errors in assessments; erecting public buildings; establishing: livestock identification marks, magisterial districts, and townships; exonerating taxpayers from payment of county levy; extending boundaries of precincts; granting franchises; and qualifying public officials for office are among the items. Also contains: Order Book Court of Claims and Levy, 1800-1888, entry 2; Road Orders, 1800-1878, entry 39; Male Animals Licensed, 1800-1918, entry 120; Probate Orders, 1800-1935, entry 229. Arr. chron. by date of order. No index. Hdw. Aver. 600 pp. 18 x 12 x 3.

Probate of Wills

226. WILLS, 1800--. 20 f.b. (dated). Title varies: Wills Recorded, 18 f.b., 1800-1936.

Original wills disposing of testators' estates filed with county court clerk to be recorded after being probated by county court, showing: date of will, name of testator, address, statement of intent, names of beneficiaries, manner of distribution, amount willed to each heir, description of each grant, signatures of testator and witnesses, will book number and page where recorded, date recorded, and attestation of county court clerk. Also contains: (Commissioners' Reports of Land Divisions), 1851--, entry 232. Arr. chron. by date recorded. No index. Hdw. and typed. 4½ x 4½ x 10.

227. WILLS UNRECORDED, 1903--. 1 f.b.

Original wills filed with county court clerk pending probation and county court orders to record, showing: names of testator and beneficiaries, date of will, value of estate and manner of distribution, signatures of testator and witnesses, and date filed. Arr. chron. by date filed. No index. Hdw. and typed. 4½ x 4½ x 10.

228. WILLS, 1800--. 3 vols. (1-3). Title varies: Will Book, 2 vols., 1800-1934.
Record of original wills probated in county court and recorded by county court clerk upon orders of court, showing: date of will, names of testator and beneficiaries, value of estate, description of property, amount willed to each heir, date probated, attestation of county court, and date recorded. Also contains: (Allotment of Dower), 1800-1850, entry 231; Reports of Commissioners Division of Land, 1851-81, 1888--, entry 233. Arr. chron. by date recorded. Alph. index, direct by first letter of surname of testator, showing p. no. where recorded. Hdw. Aver. 600 pp. 18 x 12 x 3.

229. PROBATE ORDERS, 1936--. 1 vol. 1800-1935 in County Court Orders, entry 225.
Record of probate orders issued by county court at each daily session in court recorded by county court clerk. Among the items are orders: admitting wills to probate; appointing appraisers and fiduciaries; approving: appraisements, inventories, sales of estates, fiduciaries' reports and settlements, and filing of petitions and motions for inventories; fixing fiduciaries' bonds; and discharging fiduciaries. Each summary shows: date, term of court, names of estate and fiduciary, nature of order, and signature of county judge. Arr. chron. by date recorded. No index. Hdw. 600 pp. 18 x 12 x 3.

230. COMMISSIONERS REPORTS OF DOWER ALLOTMENTS, 1906-8. 1 f.b. 1800-- also in Dismissions of County Court, entry 284.
Original reports made to county court by commissioners appointed to make dower allotments, showing: date of report, names of testator, dowager, and commissioners, value and description of property allotted, signatures of commissioners, volume and page number in deed or will book where recorded, date recorded, and attestation of county court clerk. Arr. chron. by date of report. No index. Hdw. 4½ x 4½ x 10.

231. (ALLOTMENT OF DOWER), 1800--. 1800-1850 in Wills, entry 228; 1851-- in Deeds, entry 68.
Record of dower allotment reports made to county court by commissioners appointed to make dower allotments, showing: date of report, names of testator, dowager, and commissioners, value and description of property allotted, copy of commissioners' signatures, date recorded, attestation of county court clerk, and date allotment approved by county court.

232. (COMMISSIONERS' REPORTS OF LAND DIVISIONS), 1800--. 1800-1851 in Deeds Recorded, entry 66; 1851-- in Wills, entry 226; 1868-74 also in Dismissions of County Court, entry 284.
Original reports made to county court by commissioners appointed by court to divide land in disputed estate division causes, showing: date of report, names of commissioners, estate, and beneficiaries, manner of division and description of property allotted to each heir, signatures of commissioners, date report approved by court, attestation of county court clerk, and date recorded.

233. REPORTS OF COMMISSIONERS DIVISION OF LAND, 1882-87. 1 vol. 1800-1850 in Deeds, entry 68; 1851-81, 1888-- in Wills, entry 228.
Record of reports made to county court by commissioners appointed by court to divide land in disputed estate division causes, showing: date of report, names of commissioners, estate, and beneficiaries, manner of division and description of property allotted to each heir, copy of commissioners' signatures, date report approved by court, certification of county court clerk, and date recorded. Arr. chron. by date recorded. Alph. index, direct by first letter of surname of estate, showing p. no. where recorded. Hdw. 240 pp. 14 x 12 x 1.

234. (PROCESSIONERS' REPORTS), 1803-1931. 1803-39 in Deeds Recorded, entry 66; 1840-1931 in Miscellaneous, entry 132; 1850-76 also in Dismissions of County Court, entry 284.
Original reports made to county court by processioners appointed by court to establish boundary lines in disputed land causes, showing: date of report, name of landowner, amount, location, and description of land in original survey, description of boundaries established by processioner, names of adjoining landowner, drawing of processioners survey, date of survey, signature of processioner, date report approved by court, attestation of county court clerk, and date recorded.

235. PROCESSIONERS REPORTS, 1803-7, 1882-1916. 2 vols. 1917-31 in Deeds, entry 68.
Record of reports made to county court by processioners appointed by court to establish boundary lines in disputed land causes recorded by county court clerk upon approval of court, showing: name of land owner, amount, location, and description of land in original survey, description of boundaries established by processioner, names of adjoining land owners, copy of drawing of survey by processioner, date of survey, copy of signature of processioner, date report filed, date recorded, and certification of county court clerk. Arr. chron. by date filed. No index. Hdw. 200 pp. 24 x 14 x 1½.

236. EXECUTORS BONDS, 1852--. 3 vols. (1 vol. not numbered; 2, 3). 1833-51 in Miscellaneous Bonds, entry 63.
Original surety bonds furnished county court by executors as a covenant with Commonwealth securing faithful execution of duties, showing: date and amount of bond, names of executor, surety, and estate, signatures of principal and surety, and attestation of county court clerk. Arr. chron. by date of bond. Alph. index, direct by first letter of surname of principal, showing p. no. where recorded. Hdw. on pr. fm. Aver. 240 pp. 14½ x 9½ x 1½.

237. ADMINISTRATORS BONDS, 1852--. 11 vols. (1-7; four vols. not labeled). 1833-51 in Miscellaneous Bonds, entry 63.
Original surety bonds furnished county court by administrators as a covenant with Commonwealth securing faithful execution of duties, showing: date and amount of bond, names of administrator, surety, and estate, signatures of principal and surety, and attestation of county court

clerk. Arr. chron. by date of bond. Alph. index, direct by first letter of surname of principal, showing p. no. where recorded. Hdw. on pr. fms. Aver. 240 pp. 14 x 10 x 1½.

238. INVENTORY AND SALE BILL, 1818--. 56 f.b. Title varies: Sales Bills, 21 f.b., 1818-69; Sales Bills and Inventories, 4 f.b., 1870-79; Appraisements and Sales Bills, 7 f.b., 1913-19. 1800-1817 in Dismissions of County Court, entry 284.

Inventories, appraisements, and sale bills of deceased persons' estates; showing on inventories and appraisements: date of inventory, names of estate, appraisers, and trust, description, valuation, and itemized list of property, and sworn statement of appraisers; and on sale bills: date of sale, itemized list of property sold, sale price of each article, total amount of sale, sworn statement of trust, certification of county court clerk, and date filed. Arr. chron. by date filed. No index. Hdw. and typed. 4½ x 4½ x 10.

239. INVENTORY AND SALE, 1875--. 8 vols. (1-8). Title varies: Inventory and Sale Bills, vols. 1-6, 1875-1921. 1800-1814 in Deeds, entry 68; 1815-74 in Decedents Estate Book, entry 242.

Record of inventories, appraisements, and sale bills of deceased persons' estates recorded by county court clerk upon approval of county court; showing on inventories and appraisements: date of inventory, names of estate, appraisers, and trust, description, valuation, and itemized list of property, and copy of sworn statement of appraisers; and on sale bills: date of sale, itemized list of property sold, sale price of each article, total amount of sale, copy of sworn statement of trust, acknowledgment of county court clerk, and date recorded. Arr. chron. by date recorded. Alph. index, direct by first letter of surname of estate, showing p. no. where recorded. 1875-1929, hdw. on pr. fms.; 1930--, typed on pr. fms. Aver. 600 pp. 18 x 14 x 3.

240. ADMINISTRATORS SETTLEMENTS, 1800--. 215 f.b. (dated). Title varies: Settlements of Estates, 141 f.b., 1800-1889; Executors and Administrators Settlements, 44 f.b., 1890-1909, 1925-30; Settlements With Administrators and Executors, 20 f.b., 1910-24. 1868 also in Dismissions of County Court, entry 284.

Original reports and settlements made with county court by administrators, executors, committees, processioners, special commissioners, curators, and special representatives, showing: date of report or settlement, names of trust and estate, date qualified, value of estate, date classified, date claims filed against estate, amount, whether allowed or rejected, costs of administration, summary of costs, itemized list of receipts and disbursements, totals and balance, sworn statement and notarized signature of fiduciary, certification of county court clerk, date delivered to trust, and volume number and page where recorded. Also contains: Guardian Settlements, 1800-1855, entry 245; (Trustee Settlements), 1800-1855, entry 251. Arr. chron. by date of record. No index. Hdw. and typed. 4½ x 4½ x 10.

241. SETTLEMENTS OF EXECUTORS AND ADMINISTRATORS, 1840-1935. 9 vols. Title varies: Executors and Administrators, 1 vol., 1840-72; List of Executors and Administrators, 1 vol., 1873-86; Fiduciaries Record Quarterly Court, 2 vols., 1879-1918; Settlements of Administrators and Executors, 1 vol., 1919-26. 1815-35 in Decedents Estate Book, entry 242; 1936-- in Fiduciaries Record, entry 243.
Record of fiduciaries' reports and settlements made with county court and recorded by county court clerk upon approval of court, showing: date of report or settlement, names of decedent and fiduciary, date fiduciary qualified, value of estate, date claims filed against estate and date allowed, itemized claims, itemized list of receipts and disbursements, totals and balance, copy of ficuciaries' sworn statement, attestation of county court clerk, and date recorded. Also contains: (Assignments), 1876-1935, entry 250. Arr. chron. by date recorded. Alph. index, direct by first letter of surname of estate, showing p. no. where recorded. Hdw. Aver. 600 pp. 18 x 12 x 3. 1840-1918, 4 vols., co. judge off.; 1919-26, 1 vol., cir. ct. clk. off.; 1927-35, 4 vols., co. ct. clk. off.

242. DECEDENTS ESTATE BOOK, 1815-75. 13 vols. (2-14).
Record of fiduciary settlements and reports filed with county court and recorded by county court clerk, including: Inventory and Sale, 1815-74, entry 239; Settlements of Executors and Administrators, 1815-35, entry 241; Settlements of Guardians, 1815-40, entry 246; Guardians Report Book, 1815-73, entry 247; (Assignments), entry 250; (Committee Settlements), entry 252. Arr. chron. by date recorded. Alph. index, direct by first letter of surname of estate, showing p. no. where recorded. Hdw. under pr. hds. Aver. 600 pp. 18 x 12 x 3.

243. FIDUCIARIES RECORD, 1936--. 1 vol.
Record of fiduciary reports filed with county court and recorded by county judge upon court's order of approval, showing: names of fiduciary and estate, amount of surety bond required, name of surety, date settlement due, date reported, amount reported, dates of first and second settlement, balance on settlement, and remarks. Also contains: Settlements of Executors and Administrators, entry 241; Settlements of Guardians, entry 246; Guardians Report Book, entry 247; (Assignments), entry 250; (Committee Settlements), entry 252. Arr. in sections by type of trust and chron. thereunder by date recorded. No index. Hdw. under pr. hds. 600 pp. 22 x 14 x 3. Co. judge off.

Guardianship

244. GUARDIANS BONDS, 1852--. 10 vols. (8 vols. dated; 2 vols. 1, 2). Title varies: Guardians Bond Book, 1 vol., 1876-79; Bond Book for Guardian or Committee, 1 vol., 1880-1923. 1803-51 in Miscellaneous Bonds, entry 63; 1884 also in Officers Commissions, entry 52.
Original surety bonds executed in county court by guardians of wards as

a covenant with Commonwealth securing faithful execution of duties, showing: date and amount of bond, names of ward, surety, and guardian, signatures of principal and surety, and attestation of county court clerk. Arr. chron. by date of bond. Alph. index, direct by first letter of surname of principal, showing p. no. where recorded. Hdw. on pr. fms. Aver. 240 pp. 14 x 10 x 1½.

245. GUARDIAN SETTLEMENTS, 1856--. 54 f.b. (dated). Title varies: Guardians Reports, 11 f.b., 1856-1917; Guardian and Trustee Settlements, 3 f.b., 1931-32. 1800-1855 in Administrators Settlements, entry 240.

Original reports and settlements of wards' affairs filed with county court by guardians, showing: date, names of decedent, ward, and guardian, date guardian qualified, value of estate, date claims filed, amount, whether allowed or rejected, costs of administration, summary of costs, itemized list of receipts and disbursements, totals and balance, guardian's notarized signature and sworn statement, certification of county court clerk, date delivered to guardian, and volume number and page where recorded. Also contains: (Trustee Settlements), entry 251. Arr. chron. by date of record. No index. Hdw. and typed. 4½ x 4½ x 10.

246. SETTLEMENTS OF GUARDIANS, 1841-1935. 5 vols. (2 vols. not labeled; 1-3). Title varies: List of Guardians, 2 vols., 1841-74; Guardian Settlements, 1 vol., 1875-98. 1815-40 in Decedents Estate Book, entry 242; 1936-- in Fiduciaries Record, entry 243.

Record of settlements of wards' affairs filed with county court and recorded by county court clerk upon approval of court, showing: date of settlement, names of decedent, ward, and guardian, date guardian qualified, value of estate, date claims filed, amount, whether allowed or rejected, costs of administration, summary costs, itemized list of receipts and disbursements, totals and balance, copy of guardian's notarized signature and sworn statement, date approved by court, attestation of county court clerk, and date recorded. Also contains: Guardians Report Book, 1919-38, entry 247; (Committee Settlements), 1876-1935, entry 252. Arr. chron. by date recorded. No index. Hdw. under pr. hds. Aver. 600 pp. 16 x 12 x 2. 1841-74, 2 vols., co. judge off.; 1875-1935, 3 vols., co. ct. clk. off.

247. GUARDIANS REPORT BOOK, 1874-1918. 3 vols. (1 vol. not labeled; 2, 2). Title varies: Book of Guardians Reports, 1 vol., 1874-85; Guardians Report, vol. 2, 1886-1900. 1815-73 in Decedents Estate Book, entry 242; 1919-38 in Settlements of Guardians, entry 246; 1936-- in Fiduciaries Record, entry 243.

Record of reports made by guardians of wards' affairs filed with county court and recorded by county court clerk upon approval of court, showing: date of report, names of guardian and ward, amount of receipts and disbursements since last report, balance on hand, copy of guardian's signature, date report approved by county court, attestation of county court clerk, and date recorded. Arr. chron. by date recorded. Alph. index, direct by first letter of surname of ward, showing p. no. where recorded. Hdw. under pr. hds. Aver. 600 pp. 18 x 12 x 2.

County Court - Trusteeship; Committeeship and Apprenticeship (248-252)

Trusteeship

248. (ASSIGNEES' BONDS), 1886--. 1886 in Officers Commissions, entry 52; 1887-- in Miscellaneous Bonds, entry 63.
Original surety bonds furnished county court by assignees as a covenant with Commonwealth guaranteeing faithful performance of duties, showing: names of principal and surety, date, amount, and conditions of bond, signatures of principal and surety, and attestation of county court clerk.

249. ASSIGNMENTS, 1910. 1 f.b. 1871-- also in Dismissions of County Court, entry 284.
Original instruments of assignments of property for benefit of creditors filed with county court clerk for recording, showing: date of assignment, names of assignor, assignee, and creditors, itemized schedule of property assigned, amount of indebtedness, affidavit of assignor, and certification of county court clerk. Arr. chron. by date of assignment. No index. Typed. 4½ x 4½ x 10.

250. (ASSIGNMENTS), 1815--. 1815-75 in Decedents Estate Book, entry 242; 1876-1935 in Settlements of Executors and Administrators, entry 241; 1936-- in Fiduciaries Record, entry 243.
Record of assignments of property for benefit of creditors recorded by county court clerk upon approval of county court, showing: date of assignment, names of assignor, assignee, and creditors, itemized schedule of property assigned, amount of indebtedness, copy of assignors' sworn statement, and attestation of county court clerk.

251. (TRUSTEE SETTLEMENTS), 1800--. 1800-1855 in Administrators Settlements, entry 240; 1856-- in Guardian Settlements, entry 245.
Original settlements made with county court by trustees of lunatics' affairs, showing: names of trustee and incompetent, itemized schedule of receipts and disbursements, expenditures supported by original receipts, dates settlement filed, confirmed, and recorded, approval of county judge, attestation of county court clerk, and volume number and page where recorded.

Committeeship and Apprenticeship

252. (COMMITTEE SETTLEMENTS), 1815--. 1815-75 in Decedents Estate Book, entry 242; 1876-1935 in Settlements of Guardians, entry 246; 1936-- in Fiduciaries Record, entry 243.
Record of settlements made with county court by committees of pauper idiots' affairs, showing: names of committee and pauper idiot, itemized schedule of receipts and disbursements, dates settlement filed, confirmed by court, and recorded, and attestation of county court clerk.

253. (INDENTURE OF APPRENTICESHIP), 1890-95. 1 vol. 1800-- also in Deeds, entry 68.
Record of indentures of apprenticeship executed by county court clerk upon orders of county court by which children are bound out to serve masters until they reach 18 years of age, showing: names of child, parents, and master, date, trade to be taught, conditions of apprenticeship, date court order indenture, order book number and page where recorded, and attestation of county court clerk. Arr. chron. by date recorded. No index. Hdw. 150 pp. 10 x 8 x ½.

Civil Actions at Law
(See also entries 224 and 225)

Case Papers

254. CIVIL CASES, 1800--. 48 f.b. (numer. by case no.).
Original case papers and documents from institution to final disposition of civil suits filed in county court for recovery of rights or claims; included are petitions, citations, answers, motions, bills, notes and other evidence exhibited, exceptions, summonses, subpoenas, warrants, writs, and judgments; each summary shows: number of suit, style of case, date filed, signature of plaintiff's attorney, acknowledgment of county court clerk and date of trial. Arr. numer. by case no. 1800-1894, no index; for index, 1895--, see entry 255. Hdw. and typed on pr. fms. 4½ x 4½ x 10.

255. GENERAL INDEX TO SUITS, 1895--. 2 vols.
General index to Civil Cases, entry 254, and Commonwealth Cases Dismissed, entry 268, alphabetical by first letter of surnames of plaintiff and defendant, showing: case number, date filed, and file box where filed. Arr. alph. direct by first letter of surname of plaintiff and indirect by first letter of surname of defendant. Hdw. under pr. hds. Aver. 250 pp. 15 x 11 x 1½. 1895-1906, 1 vol., co. judge off.; 1907--, 1 vol., co. ct. clk. off.

256. MEMORANDUM BOOK, 1800--. 1 vol.
Attorneys' memorandum to county court clerk to file petitions or exhibits and issue process on cases to be tried before county court, showing: date entered, style of case, nature of memorandum, and signature of attorney. Arr. chron. by date entered. No index. Hdw. 500 pp. 16 x 12 x 2½.

257. LAND CONDEMNATION SUITS, 1892-1910. 1 f.b. 1911-- in Dismissions of County Court, entry 284.
Original case papers in suits filed in county court petitioning land condemnation for public use, including citations, motions, exceptions, answers, evidence, summonses and subpoenas, judgment rendered, showing: docket number, style of suit, date filed, location and description of property, and date of disposition. No obvious arr. No index. Hdw. 4½ x 4½ x 10.

Bonds

258. REPLEVIN BONDS, 1885--. 2 vols. 1802-33 in Miscellaneous Bonds, entry 63; 1834-84 in Dismissions of County Court, entry 284.
Original surety bonds executed by defendants securing payment of judgment rendered by county court, showing: names of plaintiff, defendant, and surety, date and amount of bond, signatures of defendant and surety, and attestation of county judge. Arr. chron. by date of bond. Alph. index, direct by first letter of surname of defendant, showing p. no. where recorded. Hdw. on pr. fms. Aver. 382 pp. 14 x 9 x 2½. Co. judge off.

259. ATTACHMENT BONDS, 1889--. 4 vols. (1-4)
Original surety bonds furnished county court by plaintiffs securing defendants against damages sustained should attachment be wrongfully obtained, showing: names of plaintiff, defendant, and surety, date and amount of bond, signatures of plaintiff and surety, and attestation of county judge. Arr. chron. by date of bond. Alph. index, direct by first letter of surname of plaintiff, showing p. no. where recorded. Hdw. on pr. fms. Aver. 241 pp. 14 x 9½ x 1½. Co. judge off.

260. INJUNCTION AND BONDS FOR COST, 1893--. 2 vols.
Original surety bonds furnished county court by plaintiff securing payment to defendant of all costs that may accrue should injunction be wrongfully granted, showing: names of plaintiff, defendant, and surety, date and amount of bond, signatures of plaintiff and surety, and attestation of county court clerk. Arr. chron. by date of bond. No index. Hdw. on pr. fms. Aver. 480 pp. 14½ x 10 x 3. Co. judge off.

261. (APPEAL BONDS), 1803--. 1803-29 in Dismissions of County Court, entry 284; 1830-- in Miscellaneous Bonds, entry 63.
Original surety bonds executed by defendants guaranteeing payment of court costs and judgments rendered in lower courts and appealed to county court, showing: date, number, and amount of bond, names of principal and surety, signatures of principal and surety, and attestation of county court clerk.

Dockets

262. DOCKET COUNTY COURT, 1801--. 17 vols. (1-7; ten vols. not numbered). Title varies: Execution Docket, 2 vols., 1801-93.
Docket of cases set for trial before county court at each term of court prepared for use of judge during court term, showing: date, term of court, number and style of case, names of attorneys and parties to action, return on process, action of court, and steps at present term. Arr. chron. by date of court term. No index. Hdw. under pr. hds. Aver. 600 pp. 16 x 10 x 2.

Judgments

263. CIVIL AND COMMONWEALTH JUDGMENTS, 1850--. 5 vols. Title varies: Judgment Book, 3 vols., 1850-1925.
Record of judgments rendered in civil actions tried before county court, showing: date of judgment, term of court, names of plaintiff and defendant, number of case, amount of debt, interest, costs, and credits, date judgment rendered, return on execution order, when and how satisfied, order book number and page reference, and signature of county judge. Arr. chron. by date of court term. Alph. index, direct by first letter of surname of plaintiff, showing p. no. where recorded. Hdw. on pr. fms. Aver. 600 pp. 18 x 13 x 3. 1850-1925, 3 vols., co. ct. clk. off.; 1926--, 2 vols., co. judge off.

264. JUDGMENT BY DEFAULT, 1877--. 4 vols. (1-4)
Record of civil judgments favoring plaintiffs rendered in absence of defense, showing: date, term of court, names of plaintiff and defendant, action of court, amount of judgment and costs, date to be paid, and signature of presiding judge. Arr. chron. by date of court term. Alph. index, direct by first letter of surname of plaintiff, showing p. no. where recorded. Hdw. on pr. fms. Aver. 480 pp. 16 x 11⅓ x 3. Co. judge off.

Executions

265. EXECUTIONS, 1813--. 42 f.b.
Original execution orders issued on judgments rendered in county court, showing: nature of execution, number and style of case, amount of judgment, interest, and costs, number, date, and amount of execution order, return date, officer's return, and date returned. Arr. numer. by no. of execution. No index. Hdw. on pr. fms. 4½ x 4⅓ x 10. 1813-53, 5 f.b., co. ct. clk. off.; 1851--, 37 f.b., co. judge off.

266. EXECUTION BOOK, 1846--. 3 vols.
Transcript of executions issued on judgments rendered in county court, showing: number and style of case, names of plaintiff and defendant, amount of judgment, interest, and costs, date and amount of execution, signature of issuing officer. Arr. chron. by date of execution. No index. Hdw. on pr. fms. Aver. 550 pp. 18 x 12 x 3. Co. judge off.

Witness Records

267. WITNESS BOOK, 1878--. 4 vols.
Record of witnesses' appearance in cases tried in county court, showing: date of trial, names of parties, names of witnesses, for whom appearing, action, number of days served, amount paid for service, mileage, tolls, and ferriage. Arr. chron. by term of session. Alph. index, direct by first letter of surname of witness, showing p. no. where recorded. Hdw. under pr. hds. Aver. 300 pp. 1 4 x 12 x 2.

Criminal Actions
(See also entries 224, 225, 256, and 262)

Case Papers

268. COMMONWEALTH CASES DISMISSED, 1883--. 27 f.b. 1803-82 in Dismissions of County Court, entry 284.
Case papers in criminal suits tried in county court, showing: number and style of action, names of plaintiff, defendant, attorneys, and witnesses, offense, date and place committed, affidavit of plaintiff, date warrant of arrest issued, return on process, date of arraignment, amount of bond, judgment rendered, return on judgment execution, and final disposition. Arr. numer. by case no. 1883-94, no index; for index, 1895--, see entry 255. Hdw. and typed on pr. fms. 4⅓ x 4½ x 10. Co. judge off.

269. EXAMINING TRIAL RECORDS, 1910-15. 1 f.b. 1837 in Dismissions of County Court, entry 284.
Record of cases referred to county court for trial by inferior court holding examining trial, showing: date of examining trial, court, style of case, recommendation of inferior court, and signature of presiding official. No obvious arr. No index. Hdw. 4⅓ x 4½ x 10.

270. WARRANTS OF ARREST, 1870--. 12 f.b. 1800-1869 in Dismissions of County Court, entry 284.
Warrants of arrest issued by county court for persons accused of law violations, showing: number and style of case, name of defendant, offense, date issued, signature of issuing officer, date and nature of return, and signature of executing officer. Arr. chron. by date of warrant. No index. Hdw. on pr. fms. 4½ x 4½ x 10. Co. judge off.

Bonds (See also entries 258 and 261)

271. PEACE BOND, 1922--. 1 vol. 1800-1921 in Miscellaneous Bonds, entry 63.
Original surety bonds executed before county court by defendants as surety against breaking the peace during stated time, showing: date, number, and amount of bond, affidavit of surety, signatures of principal and surety, and attestation of county judge. Arr. chron. by date of bond. Alph. index, direct by first letter of surname of defendant, showing p. no. where recorded. Hdw. on pr. fms. 242 pp. 14 x 9⅓ x 1½.

272. BAIL BONDS, 1894--. 4 vols. 1800-1893 in Miscellaneous Bonds, entry 63.
Original bail bonds furnished county court by defendant securing release from custody and guaranteeing appearance for trial at stated time, showing: names of plaintiff, defendant, and surety, offense, amount of bail, date of appearance, signature of surety, and attestation of county judge. Arr. chron. by date of bond. No index. Hdw. on pr. fms. Aver. 241 pp. 14 x 9 x 1½. Co. judge off.

Judgments (See also entry 264)

273. FINES AND FORFEITURES, 1910--. 2 vols. Prior records missing.
Record of fines and forfeitures levied in criminal cases tried before county court, showing: date, term of court, style and number of case, judgment of court, amount of fine, when and how satisfied, and signature of county court clerk. Arr. chron. by date of court term. No index. Hdw. under pr. hds. Aver. 450 pp. 14 x 9 x 2.

Juvenile Actions

Case Papers

274. JUVENILE PAPERS, 1906--. 4 f.b. Title varies: Juvenile County Court, 1 f.b., 1906.
Case papers and documents in juvenile cases heard before juvenile division of county court, showing: number and style of case, name, address, age, and sex of defendant, names of parents or guardians, offense, date and place committed, date of trial, judgment rendered, and signature of county judge. Arr. numer. by case no. No index. Hdw. and typed on pr. fms. 4½ x 4½ x 10. Co. judge off.

Docket

275. JUVENILE COURT DOCKET, 1916--. 1 vol.
Docket of charges filed against indigent, neglected, or wayward juveniles appearing for trial before juvenile court, showing: style and number of case, date filed, name, age, and sex of juvenile, names of parents or guardian, offense, date and place committed, date of trial, judgment rendered, return on process, last order in case, and steps taken. Arr. chron. by date of trial. No index. Hdw. on pr. fms. 478 pp. 18 x 13 x 3. Co. judge off.

Orders

276. JUVENILE ORDER BOOK, 1907--. 1 vol.
Transcripts of orders issued by county judge in cases tried before juvenile division of county court, showing: style and number of case, name, address, age, and sex of juvenile, names of parents or guardian, offense, date and place committed, date of trial, judgment rendered, nature, description, and disposition of order, and signature of county judge. Arr. chron. by date of trial. No index. Hdw. on pr. fms. 478 pp. 18 x 13 x 3. Co. judge off.

Miscellaneous

277. JUVENILE RECORD, 1906--. 1 vol.
Record of juvenile cases tried before juvenile division of county court, showing: case number, date of filing, classification, full name, sex, color, birthplace, date of birth, grade in school, physical, mental,

home and neighborhood condition, father's name and mother's maiden name, age, color, nationality, chruch, education, occupation, marital status, habits, institution, physical and mental condition of each parent, number of brothers and sisters, form of delinquency, dependency, or neglect, remarks, name of investigating officer, disposition of case, and date disposed of. Arr. chron. by date recorded. No index. Hdw. on pr. fms. 640 pp. 18 x 13 x 2. Co. judge off.

Surety Bonds

278. MINISTER'S BOND, 1902--. 1 vol. 1809-74 in Miscellaneous Bonds, entry 63; 1874 also in Dismissions of County Court, entry 284; 1875-1901 in Notary Bonds, entry 279.
Original surety bonds furnished by ministers as a covenant and agreement with Commonwealth that principal shall not violate State laws concerning matrimony, showing: names of principal and surety, amount of bond, date executed, signatures of principal and surety, and attestation of county court clerk. Arr. chron. by date of bond. Alph. index, direct by first letter of surname of principal, showing p. no. where recorded. Hdw. on pr. fms. 350 pp. 14 x 10 x 1½.

279. NOTARY BONDS, 1875--. 3 vols. Title varies: Notary Public Bond Book, vol. 2, 1902-24. 1866-74 in Miscellaneous Bonds, entry 63.
Original surety bonds furnished by notaries public as a covenant and agreement with Commonwealth that principal shall well and truly discharge all the duties as required by law, showing: names of principal and surety, date of bond, signatures of principal and surety, and attestation of county court clerk. Also contains: Minister's Bond, 1875-1901, entry 278. Arr. chron. by date of bond. Alph. index, direct by first letter of surname of principal, showing p. no. where recorded. Hdw. on pr. fms. Aver. 450 pp. 14 x 9 x 2.

280. DRUGGISTS BONDS AND DECLARATIONS, 1920-22. 1 f.b. 1880-86 in Officers Commissions, entry 52; 1887-1919 in Miscellaneous Bonds, entry 63.
Declarations of intentions to sell spirituous liquors filed with county court clerk by druggists and surety bonds furnished Commonwealth by druggsists as a covenant that all spirituous liquors will be dispensed according to State laws; showing, on declaration: date, name of druggist, statement of purpose, and signature of druggist; and on surety bonds: date of bond, names of druggist and surety, amount and conditions of bond, signatures of druggist and surety, and attestation of county court clerk. Arr. chron. by date of bond. No index. Typed. 4½ x 4½ x 10.

281. COFFEEHOUSE KEEPER'S BONDS, 1878-1900. 1 vol. 1801-77 in Miscellaneous Bonds, entry 63.
Original surety bonds furnished by coffeehouse keepers as a covenant and agreement with Commonwealth that principal shall keep an orderly

house, will not sell or give any spirituous or vinous liquors to any person who is at the time acting in a disorderly manner, or who is intoxicated, and that he will not sell or give such liquors to any minor in violation of the State laws, showing: names of principal and surety, amount of bond, date executed, signatures of principal and surety, and attestation of county court clerk. Arr. chron. by date of bond. Alph. index, direct by first letter of surname of principal, showing p. no. where recorded. Hdw. on pr. fms. 450 pp. 16 x 12 x 2.

282. TAVERN KEEPER'S BONDS, 1852-1903. 4 vols. Title varies: Tavern Keepers Bond Book, 1 vol., 1870-95. 1801-51 in Miscellaneous Bonds, entry 63.

Original surety bonds furnished by tavern keepers as a covenant and agreement with Commonwealth that principal shall provide good and wholesome food and clean lodging for travelers; provide stabling and provender or pasturage for horses and mules; that he will not suffer any gaming in his house or on his premises; and will not suffer any person to tipple or drink more than is necessary in his house or on his premises, showing: names of principal and surety, amount of bond, date executed, signatures of principal and surety, and attestation of county court clerk. Arr. chron. by date of bond. Alph. index, direct by first letter of surname of principal, showing p. no. where recorded. Hdw. on pr. fms. Aver. 300 pp. 14 x 9 x 2.

Miscellaneous

283. ROAD PETITIONS, 1895--. 5 f.b. 1804-86 also in Dismissions of County Court, entry 284; 1815-29 in Road Orders, entry 38.

Petitions filed with fiscal court for construction of new roads, widening, repairing, and changing old roads, and for free turnpikes and tollgates, showing: date of petition, name and location of road, tollgate, or turnpike, nature of petition, signatures of petitioners, and date filed. Arr. chron. by date filed. No index. Hdw. on pr. fms. 4½ x 4½ x 10.

284. DISMISSIONS OF COUNTY COURT, 1800--. 83 f.b.

Miscellaneous county court papers and documents filed in county court clerk's office, including:

i. Depositions taken in cases tried before county court, 1810-1918, showing: date, style of case, for which party to action testimony is given, signatures of deponent and witnesses, and attestation of county court clerk;

ii. Order of county court to sheriff regarding collection of debts due in cases tried by court, 1817-33, showing: date of order, names of plaintiff and defendant, amount of debt and court costs, date judgment rendered, and date of sheriff's return;

iii. Orders of attachment of property issued in suits tried before county court, 1852-1908, showing: date of order, names of plaintiff and defendant, date order given sheriff for execution, location and description of property, and sheriff's return;

iv. Petitions for changes of venue of trials docketed before county court, 1845-73, showing: date of plea, number and style of case, reason of plea and statement in behalf of plea, and signature of appellant;

v. Appeals filed with county court upon judgments rendered by inferior courts, 1910-19, showing: date of appeal, names of plaintiff and defendant, kind of suit, judgment rendered by inferior court, date rendered, and statement of appellant in behalf of plea;

vi. Petition filed with county court for special school levy, 1877, showing: date petition filed, amount of special school levy sought, purpose of levy, signatures of petitioners, and acknowledgment of county court clerk;

vii. Appointment by county court of public administrator and guardian to manage affairs of county, 1874, showing: date appointed, name of appointee, reason for appointment, duties of appointee, and signature of county judge.

viii. Plats and reports of surveys furnished county court by surveyors appointed by court to establish boundary lines, 1805-1910, showing: date of report, names of surveyor and property owner, date court ordered survey, location and description of property, plat of survey, signature of surveyor, and acknowledgment of county court clerk;

ix. Druggists' licenses issued by county court, 1854-89, showing: date issued, name of licensee, terms and conditions of license, signature of licensee, and attestation of county court clerk;

x. Applications for citizenship filed with county court by foreign born residents of county, 1874, showing: date of application, name of alien, age, sex, and place of birth, time of residence in United States, Commonwealth, and county, occupation, place of employment, references, declaration of intent to become citizen, signature of alien, and attestation of county court clerk;

xi. Applications filed with county court for tavern keeper's licenses, 1870-92, showing: date of application, name of applicant, address of tavern, names of references, statement as to applicant's honesty and character, signatures of applicant and references, and attestation of county court clerk;

xii. Declarations for pensions filed with county court by soldiers honorably discharged from the United States Army, Navy, and Marine Corps who served ninety days or more during the war with Spain, the Phillipine insurrection, or the China Relief Expedition, 1926-27, showing: State, county, date of petition, name of applicant, date enlisted, company and regiment, date discharged, statement of disability, whether incurred during service or not, age of applicant, date of birth, description at time of enlistment, and signatures of claimant and witnesses;

xiii. Search warrants issued by county court, 1900--, showing: name of accused, description of person or location of property to be searched, reason for search, date of warrant, signature of issuing officer, date of return, report of findings, and signature of executing officer;

xiv. Writs for recovery of possession of occupied property issued on judgments rendered in county court, 1890--, showing: number and style of case, names of plaintiff and defendant, location and description of property, date issued, and signature of issuing officer;

xv. Affidavits filed with county court in support of claims and charges, 1800--, showing: date, purpose and statement of affidavit, signature of affiant, and acknowledgment of attesting officer.

Also contains: Delinquent Taxes, 1909-28, entry 9; Notice of Land Sold to County for Taxes, 1909-28, entry 10; Claims, 1803-1915, entry 15; Sheriff Settlements, 1800-1889, entry 18; Jailers Settlements, 1800-1874, entry 20; Sheriffs Reports, 1800-1892, entry 21; Commissioners and Receivers Reports, 1800-1882, 1890-92, entry 23; (Contracts with Poorhouse Keepers), 1869-81, entry 30; Pauper Commissioners Reports, 1871-92, entry 32; Pauper Claims, 1827-92, entry 33; Road and Bridge Contracts, 1814-74, entry 41; (Road Surveyors' Reports), 1885-92, entry 42; Road Viewers Reports, 1810-74, entry 43; Overseers Reports, 1805-75, entry 44; Road and Bridge Commissioners Reports, 1871-95, entry 46; Road Claims Allowed, 1811-92, entry 48; Bridge Claims, 1810-92, entry 49; (Appointments of County Officials), 1800-1892, entry 51; Officers Commissions, 1800-1892, entry 52; (Resignations of Officials), 1800-1892, entry 53; (Leases), 1800-1892, entry 71; (Agreements and Contracts), 1820-90, entry 73; (Articles of Incorporation), 1820-92, entry 74; Lis Pendens Notices, 1840-92, entry 85; Petitions for Licenses, 1915, entry 119; Lunacy Inquests, 1886-1905, entry 190; Reports of Grand Jury, 1868-80, entry 201; County Court Orders, 1804--, entry 224; Commissioners Reports of Dower Allotments, entry 230; (Commissioners' Reports of Land Divisions), 1868-74, entry 232; (Processioners' Reports), 1850-76, entry 234; Inventory and Sale Bill, 1800-1817, entry 238; Administrators Settlements, 1868, entry 240; Assignments, 1871--, entry 249; Land Condemnation Suits, 1911--, entry 257; Replevin Bonds, 1834-84, entry 258; (Appeal Bonds), 1803-29, entry 261; Commonwealth Cases Dismissed, 1803-84, entry 268; Examining Trial Records, 1837, entry 269; Warrants of Arrest, 1800-1869, entry 270; Minister's Bond, 1874, entry 278; Road Petitions, 1804-86, entry 283; Coroners Inquests, 1810-74, entry 328; General Vouchers, 1860-92, entry 338; Petitions for Special Elections, 1874-79, entry 342. No obivious arr. No index. Hdw. and typed on plain sheets and pr. fms. 4½ x 4½ x 10.

(Next entry 285, p. 244)

VI. QUARTERLY COURT

Structure

Creation

Under provision made by the Constitution of 1850, which gave the legislature the power to create, from time to time, such inferior courts as should be necessary, the quarterly court was established in Kentucky in 1851. (1)

From its establishment until 1891, the quarterly court was a statutory court (2), but in 1891 it was made a constitutional court, having the same jurisdiction it had formerly exercised as a statutory court. This change of procedure was made to conform with the constitutional provision which made the jurisdiction of all quarterly courts uniform throughout the State. (3)

When the quarterly court was established in Breckinridge County in July, 1851, Williamson Cox, the county judge, was the presiding officer and acted as his own clerk. (4) He held four sessions of court yearly at the courthouse at Hardinsburg, the county seat, but was later authorized to order monthly or continuous sessions, at his discretion. (5) For the structure of the office of county judge, see the essay on County Court, p. 205.

Civil Original Jurisdiction

Upon its creation, the quarterly court was given power to impanel a jury; it was also given "concurrent original jurisdiction, both in law and equity, with justices of the peace, in all civil cases" and "concurrent jurisdiction with the circuit court in all civil cases where the amount in controversy does not exceed one hundred dollars, exclusive of interest and costs, and where the right to or boundary of real estate is not drawn in question." (6) In addition, it had jurisdiction over proceedings against constables for defalcation in office (7), and jurisdiction concurrent with justices' courts in motions against constables for money collected. (8) An act of February 17, 1874, gave the quarterly court original jurisdiction, concurrent with the circuit court, of all actions for the recovery of money or personal property when the matter in question, exclusive of interest and costs, was between $100 and $200. (9) By the act of June 10, 1893, the $200

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1. CONST. OF 1850, ART. 4, SEC. 1; ACTS, 1850-51, VOL. 1, P. 40.
2. ACTS: 1850-51, VOL. 1, P. 40; 1851-52, P. 94.
3. CONST. OF 1891, SEC. 139.
4. ORDERS QUARTERLY COURT, VOL. 1, P. 1, IN BRECKINRIDGE COUNTY ARCHIVES, SEE ENTRY 299.
5. ACTS: 1850-51, VOL. 1, PP. 40-43; 1851-52, PP. 93-95; REV. STAT., VOL. 1, PP. 324-326; ACTS: 1891-93, P. 1049; 1938, PP. 410, 411.
6. ACTS: 1850-51, VOL. 1, PP. 42, 43; 1851-52, PP. 93, 94.
7. ACTS, 1851-52, P. 94.
8. ACTS, 1891-93, P. 1050.
9. ACTS, 1873-74, P. 32.

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maximum jurisdiction in civil cases was continued, with all actions for the recovery of money or personal property involving $100 or less being concurrent with the justices' courts and concurrent with the circuit court in controversies involving amounts between fifty dollars and $200. (10)

In 1851 the quarterly court was given jurisdiction concurrent with the justices' courts to issue and try warrants of forcible entry and detainer; however, it had no jurisdiction in cases involving title to real estate. (11) In 1876 the Civil Code authorized the justices or the county judge to try such cases of forcible entry and detainer, without designating or making it mandatory in which of the two courts over which the county judge presides - the county court or the quarterly court - he was to exercise this jurisdiction. Today, however, the custom seems to be to hear forcible entry and detainer cases in the county courts. (12)

An act of 1906 gave aggrieved taxpayers the right to appeal to the quarterly court within thirty days after the final adjournment of the board of tax supervisors. From the quarterly court an appeal could be taken to the circuit court and ultimately to the Court of Appeals. (13)

Criminal Original Jurisdiction

In penal and criminal proceedings the quarterly court was given all the powers of a justice and of a court of inquiry. (14) It was also authorized to have concurrent jurisdiction with justices' courts in cases of riots. (15) By an act of 1906 the quarterly court was given jurisdiction concurrent with justices' courts and "exclusive of circuit courts in all penal cases, the punishment of which is limited to a fine not exceeding twenty dollars, and jurisdiction concurrent with circuit courts of all penal cases, the punishment of which is limited to a fine not exceeding one hundred dollars or imprisonment not exceeding fifty days, or both." It was also given jurisdiction of all city ordinances in towns of the sixth class in which there was no acting or qualified police judge. (16) In 1928 the jurisdiction exclusive of the circuit court was continued and made concurrent with justices' courts and police courts in the six classes of cities; however, the jurisdiction concurrent with the circuit court was extended to include "all penal cases and misdemeanor cases, the punishment of which is limited to a fine of not exceeding five hundred dollars, or imprisonment not exceeding six months, or both." (17) An act of 1934 continued this jurisdiction, but enlarged the

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10. Acts, 1891-93, p. 1049.
11. Acts, 1850-51, vol. 1, p. 42; Gen. Stat., 1873 ed., pp. 300-302.
12. Civil Code, 1876 ed., sec. 454; Acts, 1894, p. 190; Civil Code, 1938 ed., sec. 454.
13. Acts, 1906, p. 152; Eminence Distillery v. Henry County Board of Tax Supervisors, et al., 178 Ky. 811.
14. Acts: 1850-51, vol. 1, pp. 42, 43; 1851-52, pp. 93, 94.
15. Acts, 1850-51, vol. 1, pp. 42, 43; Gen. Stat., 1873 ed., pp. 300-302.
16. Acts, 1906, pp. 382, 383.
17. Acts, 1928, pp. 155, 156.

(Next entry 285, p. 244)

jurisdiction concurrent with the circuit court by extending the imprisonment limit to twelve months. (18)

The quarterly court was also given concurrent jurisdiction with the circuit court over violations of the liquor law, where the penalty did not exceed a fine of $300 and sixty days imprisonment in the county jail. (19) In 1936, however, this jurisdiction was reduced to a fine of $100, with the imprisonment provision remaining the same. (20)

Appellate Jurisdiction

In 1851 appeals from the justices' courts were directed to the county court. (21) This line of appeal continued in force until 1856, when an act was passed directing such appeals in all cases involving five dollars and over to the quarterly court. (22) Subsequently provision was made for the quarterly court to hear appeals from all judgments and orders of justices', fiscal, city or police, and ordinance courts, where the matter in controversy exceeded ten dollars. (23) By an act of 1904 this appellate jurisdiction was broadened to include "all judgments and orders of justices', fiscal, city or police, and ordinance courts in civil cases." (24)

Recordation

As originally provided, the presiding judge of the quarterly court, the county judge, acted as his own clerk, issued all process, and kept a docket, order book, and execution book. (25) Later, provision was made for the judge to appoint a clerk of the quarterly court if he chose to do so, and either such clerk or the judge, himself, today keeps a docket, order book, and execution book, in which the proceedings of the court are recorded. (26)

Unless otherwise specified, the records of this court are found in the office of the county judge.

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18. Acts, 1934, p. 422; Crim. Code, sec. 13-5.
19. Acts, 1934, p. 653.
20. Acts, 1936, p. 17.
21. Acts: 1850-51, vol. 1, pp. 43, 44; 1851-52, p. 96; Rev. Stat., vol. 1, p. 327.
22. Acts, 1855-56, vol. 1, p. 51; Rev. Stat., vol. 1, p. 346.
23. Acts, 1891-93, p. 1050.
24. Acts, 1904, p. 157.
25. Acts: 1850-51, vol. 1, pp. 42, 43; 1851-52, pp. 93-95.
26. Acts: 1891-93, p. 1050; 1934, p. 424.

Civil Actions at Law

Case Papers

285. QUARTERLY COURT DISMISSIONS, 1852--. 104 f.b.
Original case papers and documents filed in civil suits tried before quarterly court from institution to final disposition, including petitions of plaintiff, citations, answers, motions, bills, notes, and other documentary evidence exhibited, exceptions, returns on summonses and subpoenas, notices to take depositions, and depositions, showing: docket number, style of suit, date filed, case number, names of parties' attorneys, various clauses indicating form of document, and certification of presiding judge. Also contains: Commonwealth Dismissions, 1852-1917, entry 303. Arr. numer. by case no. No index. Hdw. and typed on plain sheets and pr. fm. 4½ x 4½ x 10.

286. MEMO BOOK, 1871-99. 1 vol. Record discontinued.
Attorneys' memoranda to quarterly court clerk to file petitions or exhibits and issue process on cases to be tried before quarterly court, showing: date filed, term of court, style of case, nature of memorandum, and signature of attorney. Arr. chron. by date filed. No index. Hdw. on pr. fm. Aver. 475 pp. 16 x 12 x 2.

287. (LEDGERS), 1852-53, 1860-61, 1872, 1875, 1889-90, 1893, 1897, 1898. 14 vols.
Journals of merchants used as evidence in quarterly court suits to recover cost of merchandise, showing: names of plaintiff and defendant, date suit filed and noted, and signature of county judge. Arr. chron. by date of record. No index. Hdw. Aver. 150 pp. 14 x 8 x 1.

Surety Bonds

288. REPLEVIN BOND BOOK, 1872--. 2 vols., 2 f.b.
Original surety bonds furnished Commonwealth by defendants securing payment of judgment rendered in quarterly court within three months, showing: date, amount, and number of bond, names of defendant and plaintiff, amount of judgment, costs, and interest, date rendered, signatures of defendant and surety, attested by county judge, and date recorded. Arr. chron. by date of bond. Vols. 1910--, alph. index, direct by first letter of surname of defendant, showing: name of plaintiff, case no., and p. no. where recorded; f.b.,1872-1909, no index. Hdw. on pr. fm. Vols. aver. 250 pp. 14 x 9 x 1; f.b., 4½ x 4½ x 10.

289. ATTACHMENT BONDS, 1889--. 5 vols. (1-5).
Original surety bond executed by plaintiff as a covenant with Commonwealth securing defendant against damages which he may sustain should the attachment, issued by quarterly court be wrongfully obtained, showing: names of plaintiff and defendant, date and amount of bond, amount of attachment, signatures of plaintiff and surety, and attestation of county judge. Arr. chron. by date of bond. Alph. index, direct by first letter of surname of plaintiff, showing name of defendant and p. no. where recorded. Hdw. on pr. fm. Aver. 300 pp. 16 x 8 x 2.

290. APPEAL AND SUPERSEDEAS BOND, 1891--. 1 vol.
Original appeal and supersedeas bonds furnished Commonwealth in cases tried before quarterly court. Appeal bonds assuring payment of court costs and response to judgment of court, each summary showing: date, number, and amount of bond, number and style of case, affidavit of surety, signatures of principal and surety, and attestation of county judge. Supersedeas bonds stay execution of court's judgment pending appeal, each summary showing: date, number, and amount of bond, style and number of case, affidavit of surety, signatures of principal and surety, and attestation of county judge. Arr. chron. by date of bond. Alph. index, direct by first letter of surname of principal, showing kind of bond and p. no. where recorded. Hdw. on pr. fm. 600 pp. 14 x 9 x 2.

291. INJUNCTION AND BONDS FOR COST, 1893--. 1 vol.
Original surety bond furnished Commonwealth by plaintiff guaranteeing payment to defendant any damages he may sustain if it be finally decided by quarterly court that injunction should not have been granted, showing: names of plaintiff and defendant, date and amount of bond, signatures of plaintiff and surety, and attestation of county judge. Also contains: Bonds for Cost, 1893-1937, entry 292. Arr. chron. by date of bond. Alph. index, direct by first letter of surname of plaintiff, showing name of defendant, case no., and p. no. where recorded. Hdw. on pr. fm. Aver. 300 pp. 14 x 9 x 2.

292. BONDS FOR COST, 1938--. 1 vol. 1893-1937 in Injunction and Bonds for Cost, entry 291.
Original surety bonds executed before quarterly court as a covenant with Commonwealth securing payment of court costs, showing: number, date and amount of bond, style of case, affidavit of surety, signatures of principal and surety, and attestation of county judge. Arr. chron. by date of bond. Alph. index, direct by first letter of surname of principal, showing name of defendant and p. no. where recorded. Hdw. on pr. fm. 400 pp. 14 x 9 x 2½.

Miscellaneous Papers

293. SUBPOENAS, 1910--. 3 f.b.
Writs issued by county judge addressed to sheriff commanding appearance of named witnesses in cases tried before quarterly court, showing: name of witness, term of court, time and place of appearance, style of case, for whom appearing, date of subpoena by sheriff, and certification of county judge. Arr. chron. by term of court. No index. Hdw. on pr. fm. 4½ x 4½ x 10.

294. SUMMONSES RETURNED, 1872--. 3 f.b.
Original summonses issued by county judge commanding appearance before quarterly court and returned after service by sheriff, showing: name of person summoned, date and purpose of appearance, style of case, date of summons, date returned, and signature and remarks of sheriff. Arr. chron. by date returned. No index. Hdw. on pr. fm. 4½ x 4½ x 10.

295. ATTACHMENTS, 1890--. 4 f.b.
Attachment orders issued by quarterly court against wages and personal property for satisfaction of debts, showing: number and style of case, names of

plaintiff, defendant, and co-defendant, date and amount of attachment, date of trial, signature of presiding judge, date and nature of officer's return, signature of executing officer, and final disposition. Arr. chron. by date of return. No index. Hdw. on pr. fm. 4½ x 4½ x 10.

296. FORCIBLE ENTRY AND DETAINER, 1920--. 2 f.b.
Writs of forcible entry and detainer issued by quarterly court upon petitions filed with court by plaintiffs, showing: names of plaintiff and defendant, date writ issued, and nature of writ. Arr. chron. by date of writ. No index. Hdw. on pr. fm. 4½ x 4½ x 10.

Dockets

297. CIVIL DOCKET, 1851--. 8 vols. (1-8).
Docket of civil cases set for trial before quarterly court prepared for use by judge during court term, showing: names of plaintiff, defendant, and attorneys, style, type, and number of case, action taken, steps at present term, return on process, and judgment rendered. Also contains: Commonwealth Docket, 1851-1906, entry 307. Arr. chron. by date of court term. No index. Hdw. on pr. fm. Aver. 480 pp. 18 x 13 x 3.

Minutes

298. MINUTES, 1906--. 1 vol.
Record of proceedings at each daily session of quarterly court, showing: date, term of court, name of presiding judge, style of case, summary of proceedings, and action of court. Arr. chron. by date of court term. No index. Hdw. 350 pp. 16 x 10 x 2½.

Orders, Judgment, and Executions

299. ORDERS QUARTERLY COURT, 1851--. 7 vols. (1-7).
Record of orders issued in civil cases tried before quarterly court at each session of court, showing: date, term of court, case number, names of plaintiff and defendant, nature of order, judgment rendered, and signature of presiding judge. Also contains: Commonwealth Orders, 1851-1905, entry 308; Witness Book, 1914--, entry 310. Arr. chron. by date of court term. Alph. index, direct by first letter of surname of plaintiff, showing name of defendant and p. no. where recorded. Hdw. Aver. 484 pp. 18 x 13 x 3.

300. CIVIL AND COMMONWEALTH JUDGMENTS, 1851--. 5 vols. Title varies: Judgment Book, 1 vol., 1851-1925.
Record of civil and commonwealth judgments rendered by quarterly court. Civil judgments, showing: names of plaintiff and defendant, date of judgment, order book number and page where recorded, amount of judgment, interest, and costs, date of satisfaction, and how satisfied. Commonwealth judgments, showing: Commonwealth v. defendant, offense, name of arresting officer, judgment rendered, date rendered, amount, division of costs, how settled, dates committed and released, Commonwealth order book number and page where recorded, and whether capias or execution issued. Arr. chron. by date of trial. No index. Hdw. under pr. hds. 600 pp. 18 x 12 x 2.

301. JUDGMENT BY DEFAULT, 1882--. 4 vols. (1-4).
Record of judgments rendered by quarterly court in favor of plaintiffs upon defendants' failure to appear for trial, showing: number and style of case, names of plaintiff and defendant, date and description of judgment rendered, and attestation of presiding judge. Arr. chron. by date of judgment. Alph. index, direct by first letter of surname of plaintiff, showing name of defendant and p. no. where recorded. Hdw. on pr. fm. Aver. 300 pp. 18 x 12 x 2.

302. EXECUTIONS, 1852--. 7 vols.
Record of executions issued in cases tried before quarterly court, showing: number of suit, names of plaintiff, defendant, and attorneys, amount of execution debt, interest, credit, and costs, date judgment rendered, return day, when and to whom delivered, return, and date recorded. Arr. chron. by date recorded. No index. Hdw. on pr. fm. Aver. 300 pp. 16 x 13 x 2.

Criminal Actions
(See also entries 286, 293, 294, 298, 300 and 302)

Case Papers

303. COMMONWEALTH DISMISSIONS, 1918--. 36 f.b. 1852-1917 in Quarterly Court Dismissions, entry 285.
Original case papers and documents filed in criminal actions tried before quarterly court from institution to final disposition, including bills of information, indictments by grand jury, petitions, citations, answers, evidence exhibited, pleas of accused, fixing of bond, returns on summonses and subpoenas, notices to take depositions, warrants, capiases, and pardons, showing: docket number, style of suit, date filed, offense, date of trial, action taken, and signature of presiding judge. Arr. numer. by case no. No index. Hdw. on pr. fm. $4\frac{1}{2}$ x $4\frac{1}{2}$ x 10.

304. RECORD OF MISDEMEANORS, 1876-1908. 1 vol. 1909-- in Commonwealth Orders, entry 308.
Record of misdemeanor cases tried before quarterly court, showing: date of court term, names of plaintiff and defendant, nature and date of offense, date of trial, disposition of case, and signature of presiding judge. Arr. chron. by date of trial. No index. Hdw. on pr. fm. 400 pp. 18 x 12 x $3\frac{1}{2}$.

Surety Bonds (See also entries 288, 290, and 392)

305. BAIL BONDS, 1896--. 4 vols.
Original surety bonds executed before quarterly court as a covenant with Commonwealth releasing defendant from custody and guaranteeing his appearance for trial, showing: date, number, and amount of bond, name of defendant, offense, signature of surety, and attestation of county judge. Arr. chron. by date of bond. Alph. index, direct by first letter of surname of defendant, showing p. no. where recorded. Hdw. on pr. fm. Aver. 500 pp. 14 x 9 x $3\frac{1}{2}$.

306. PEACE BOND, 1922--. 1 vol.
Original surety bonds executed before quarterly court by defendants as surety with Commonwealth against breaking the peace during stated time, showing: date, number, and amount of bond, affidavit of surety, signatures of principal and surety, and attestation of county judge. Arr. chron. by date of bond. No index. Hdw. on pr. fm. 400 pp. 6 x 4½ x 10.

Dockets

307. COMMONWEALTH DOCKET, 1907--. 4 vols. (1-4). 1851-1906 in Civil Docket, entry 297.
Record of criminal cases docketed for trial before quarterly court prepared for use by judge during court term, showing: date of court term, number and style of case, names of plaintiff and defendant, date of trial, type of offense, and action of court. Arr. chron. by date of court term. Alph. index, direct by first letter of surname of plaintiff, showing name of defendant and p. no. where recorded. Hdw. on pr. fm. Aver. 550 pp. 18 x 12 x 3½.

Orders

308. COMMONWEALTH ORDERS, 1906--. 3 vols. (1-3). 1851-1905 in Orders Quarterly Court, entry 299.
Record of orders issued in criminal cases tried before quarterly court, showing: date, term of court, names of plaintiff and defendant, nature of order, judgment rendered, and signature of presiding judge. Also contains: Record of Misdemeanors, 1909--, entry 304; Witness Book, 1914--, entry 310. Arr. chron. by date of court term. No index. Hdw. on pr. fm. Aver. 484 pp. 18 x 13 x 3.

Business Administration

Books of Assessment

309. JUDGE'S FEE BOOK, 1870--. 4 vols. (1-4).
Record of fees collected on cases tried before quarterly court, showing: style and number of case, names of plaintiff and defendant, itemized list and amount of fees collected, date and from whom collected, and signature of county judge. Arr. chron. by date collected. No index. Hdw. on pr. fm. Aver. 320 pp. 18 x 13 x 2.

Witness Records

310. WITNESS BOOK, 1854-1913. 4 vols. 1914-- in Orders Quarterly Court, entry 299; 1914-- also in Commonwealth Orders, entry 308.
Record of attendance of witnesses appearing in cases tried before quarterly court, showing: date and term of court, number and style of case, names and addresses of witnesses, for whom appearing, number of days served, itemized charges, and total amount paid. Arr. chron. by date of service. No index. Hdw. on pr. fm. Aver. 480 pp. 12 x 9 x 3.

(Next entry 311, p. 261)

VII. COUNTY ATTORNEY

Structure

Creation

The office of county attorney was not created by statute until 1829, when the legislature took cognizance of the ever-increasing duties of the commonwealth's attorney, who, in all probability, acted as the prosecutor for the county, prior to the establishment of this office. (1) Provision had been made in the Constitution of 1799 for the appointment of an Attorney General and for such other attorneys for the Commonwealth as might be necessary, and also for "attorneys for the Commonwealth for the several counties" to be appointed by the respective courts having jurisdiction therein. (2) Although a decision of the Court of Appeals in 1836 construed the above constitutional section to include two classes of attorneys - one, to be appointed by the county court (county attorney), and the other, to be appointed by the Governor with the consent of the Senate (commonwealth's attorney) - this decision cannot be considered as retroactive; therefore the existence of a county attorney prior to statutory provision for that office is open to question. (3)

In November 1829, William Sterritt, after his appointment by the court, took office as the first county attorney of Breckinridge County. (4)

Selection and Term

The county attorney, from 1829 until 1850, was appointed by the county court for a period of one year, a majority of the justices concurring. (5) By constitutional provision in 1850, the office was made elective for a term of four years (6), and these provisions were reaffirmed in 1891. (7)

Residence

Constitutional provision in 1799 which governed all constitutional offices then in existence, or those to be created subsequently, required the county attorney to have been a resident of the county for one year prior to his appointment. (8) In 1850, this provision was extended to include a residence requirement of two years in the state and of one year in the county preceding his election (9), which provision was reaffirmed in 1891 and is in force today. (10)

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1. ACTS, 1828-29, P. 105.
2. CONST. OF 1799, ART. 3, SEC. 23.
3. TESH V. COMMONWEALTH, 4 DANA 522.
4. COUNTY COURT ORDERS, VOL. 5, P. 195, SEE ENTRY 225.
5. ACTS, 1828-29, P. 105.
6. CONST. OF 1850; ART. 4, SEC. 30; ART. 6, SEC. 3.
7. CONST. OF 1891, SEC. 99.
8. CONST. OF 1799, ART. 3, SEC. 9.
9. CONST. OF 1850, ART. 6, SEC. 2.
10. CONST. OF 1891, SEC. 100.

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County Attorney

Age

Until 1850, no age qualification was specified for the county attorney; however, in that year he was required to be at least twenty-one years of age (11) and this requirement was later increased to at least twenty-four years of age. (12)

Experience

Before 1850 no provision was made requiring any previous experience of the county attorney. In that year, the candidate must have been a licensed practicing attorney for two years prior to his election to office (13) and in 1891 this constitutional requirement was reaffirmed. (14)

Oath and Bond

The county attorney was required to take an oath to support the constitution, and to perform the duties of his office faithfully. (15) The provision was later added that he must not have participated in any way in duels. (16) In addition, he had to give such bond as was prescribed by law, as often as it was deemed necessary. (17)

Removal

The county attorney has always been liable to impeachment for any misdemeanor in office by concurrence of two-thirds of the members present in the House of Representatives. (18) He was also subject to indictment or prosecution for any misdemeanor in office, or for wilful neglect of official duties, in such manner as may be prescribed by law; however, he could take such charges on appeal to the Court of Appeals. The General Assembly also has authority to provide other methods for the removal or reinstatement of this officer. (19) An act approved March 20, 1924, provided that if he was found guilty of gross misconduct, bribery, or neglect of duty, the Governor could remove him from office; he may take an appeal, however, to the Court of Appeals within ten days after the entry of the order of removal. If so removed he is disqualified from holding office in the State for a period of four years. (20)

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11. CONST. OF 1850, ART. 6, SEC. 2.
12. CONST. OF 1891, SEC. 100.
13. CONST. OF 1850, ART. 6, SEC. 2.
14. CONST. OF 1891, SEC. 100.
15. CONST. OF 1799, ART. 6, SEC. 1.
16. CONST. OF 1850, ART. 8, SEC. 1; CONST. OF 1891, SEC. 228.
17. CONST. OF 1850, ART. 6, SEC. 9; CONST. OF 1891, SEC. 103.
18. CONST. OF 1799, ART. 5, SECS. 1-3; CONST. OF 1850, ART. 5, SECS. 1-3; CONST. OF 1891, SECS. 66-68.
19. CONST. OF 1891, SEC. 227, AMENDMENT 6.
20. ACTS, 1924, PP. 72-75.

County Attorney (Next entry 311, p. 261)

Vacancy

When a vacancy occurred in the office of county attorney, a successor was appointed by the Governor with the consent of the Senate. (21) Under the provisions of the Constitution of 1850, however, a vacancy in the office was filled by the county court until the next succeeding August election. (22) Since 1891, a vacancy has been filled by the county court until a successor was properly elected and qualified. (23) The county judge is empowered to appoint an attorney pro tempore to serve in the county attorney's absence. (24)

Compensation

In 1829, the county attorney was paid out of the county levy upon authority of the county court (25); later legislation, however, provided that he receive a reasonable salary out of the county levy, plus fees from fines and taxable costs in cases prosecuted by him. (26) In 1873, as provided for by statute, he received thirty per cent of the fines and forfeitures for the prosecution of misdemeanors before the county judge, the justices of the peace, or other magistrates. (27) In Breckinridge County, the salary for the county attorney for 1938 was $1,200. (28)

Functions

Attorney for the County

As legal agent for the county, the county attorney's duties as specified by the act of 1829 were: to attend all county cases wherein the rights and interests of the county were concerned; to give legal advice to any court or justice trying such cases; to conduct motions of prosecution in the county court against sheriffs, constables, or other officers; and to attend the court of claims and assist in investigating claims to see that only legal and just ones were approved. (29) Later the county attorney instituted and conducted prosecutions of suits in any court in the state where the interests of the county were involved. (30)

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21. CONST. OF 1799, ART. 3, SECS. 9, 10.
22. CONST. OF 1850, ART. 6, SEC. 7; ACTS, 1850-51, VOL. 1, P. 90.
23. ACTS, 1891-93, PP. 146, 767.
24. IBID., P. 258.
25. ACTS, 1828-29, P. 105.
26. REV. STAT., VOL. 2, P. 188.
27. GEN. STAT., 1873 ED., P. 151.
28. REPORT UPON AUDIT OF ACCOUNTS OF FISCAL RECORDS AND AFFAIRS IN BRECKINRIDGE COUNTY, FISCAL YEAR ENDING JUNE 30, 1938 BY NAT. B. SEWELL, DIRECTOR OF POST AUDITS.
29. ACTS, 1828-29, P. 105.
30. GEN. STAT., 1873 ED., P. 151; CARROLL, SEC. 127.

(Next entry 311, p. 261)

After the court of claims was abolished in 1892 and the fiscal court established in its place, statutes were passed redefining the duties of the county attorney. As the attorney for the county he was required to attend all sessions of the county and fiscal courts, and to conduct all cases and business in these courts which concern the interests of the county; to oppose the allowance of unjust or illegally presented claims; and to advise the county court and various county officers on matters within their respective jurisdictions. (31) He was later required to attend all circuit court sessions in his county, to aid the commonwealth's attorney in all prosecutions in the circuit court, and to attend to all business of the Commonwealth within the circuit court during the absence of the commonwealth's attorney. (32) He also investigated all unsatisfied judgments in the county in favor of the Commonwealth, and took all the steps necessary to collect them. (33)

Law Enforcement

Since the beginning of his office, the county attorney has enforced the laws governing the granting of tavern licenses. (34) In 1831, legislative enactment required him to prosecute tavern keepers and owners or keepers of covering horses and jacks for failure to obtain licenses and pay taxes. (35) Still later legislation required him to prosecute if a tavern license was improperly granted and, when necessary to appeal to the circuit court. (36) More recent legislation required him to oppose the improper granting of merchant, drug, and tavern licenses, and to prosecute an appeal to the circuit court if he believed a license had been improperly granted. (37)

The county attorney has always assisted in the enforcement of laws against riots, routs, and breaches of the peace; and his duties in this regard, as specifically defined by statute, required him to prosecute all riots, routs, and breaches of the peace, except circuit court prosecutions of such cases. (38) He was also required to prosecute all charges of felony or other public offenses before examining courts in his county. (39) Under legislation passed in 1825, he prosecuted masters for inhuman treatment of apprentices. (40) Later, he was also required to defend for the apprentices and to resist the release of the masters from their obligations. (41)

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31. Acts, 1891-93, p. 266.
32. Ibid., p. 266; Carroll, sec. 127.
33. Acts, 1891-93, pp. 266, 267; 1926, pp. 101, 102; Carroll, sec. 130.
34. Acts, 1828-29, p. 105.
35. Acts, 1831-32, pp. 132, 133.
36. Gen. Stat., 1873 ed., p. 150.
37. Acts, 1891-93, p. 266; Carroll, sec. 129.
38. Acts, 1828-29, p. 105.
39. Gen. Stat., 1873 ed., p. 151; Carroll, sec. 126.
40. Acts, 1824-25, p. 138.
41. Gen. Stat., 1873 ed., p. 655; Carroll, sec. 2599.

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Road Cases

Legislation in 1830 required him to represent the Commonwealth in road cases appealed to the circuit court from the county court. (42) Subsequent legislation required him to oppose the wrongful alteration of roads. (43) In addition, an act of 1891 extended this last duty, to include the opposing of the wrongful opening or discontinuance, as well as the wrongful alteration, of public roads. (44)

Functions Regarding County Revenue

Since the creation of his office, legislation has required him to prosecute attorneys for the non-payment of money collected by them which rightfully belonged to their clients, or who were otherwise delinquent in the performance of their duties. (45) It was his duty to prosecute delinquent taxpayers (46), and to prosecute for the recovery of penalties for tax evasions; to appeal from decisions of the board of tax supervisors to the quarterly court in behalf of the county, but, on the other hand, to represent the board when a taxpayer appealed from its decision to the quarterly or circuit courts. (47)

Prosecution

An additional duty, as provided for by statute, required him to prosecute the sheriff for failure to transmit election certificates to the Secretary of State. (48) Under statutory provision subsequent to 1850, he was required to file a signed statement, setting forth his reasons for dismissal or failure to prosecute, before entering a nolle prosequi. (49) He is also directed by statute to prosecute in bastardy proceedings. (50) Early legislation required him to examine the county court clerk's list of deeds and seals, and compare it with the number recorded. (51) He was authorized by recent statutes to prosecute for erroneous entries of mortgages and deeds, and for failure of the county court clerk to perform his duties of recording deeds and mortgages. (52)

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42. Acts, 1829-30, p. 217.
43. Gen. Stat., 1873 ed., p. 150.
44. Acts, 1891-93, p. 266; Carroll, sec. 129.
45. Acts: 1828-29, p. 129; 1891-93, p. 260; Carroll, secs. 102, 105.
46. Gen. Stat., 1873 ed., p. 723; Acts, 1906, p. 230.
47. Acts, 1906, pp. 112, 151.
48. Acts, 1833-34, p. 478; see County Board of Election Commissioners, p. 310.
49. Gen. Stat., 1873 ed., p. 154; Acts, 1891-93, p. 265; Carroll, sec. 123.
50. Gen. Stat., 1873 ed., p. 161; Acts, 1891-93, p. 71.
51. Acts, 1831-32, p. 112.
52. Acts, 1906, p. 99.

(Next entry 311, p. 261)

Miscellaneous Functions

Among the miscellaneous duties which the county attorney performs he must: prepare and have election instructions printed (53); resist every application for divorce (54); attend examining trials before magistrates (55); represent state and local boards of health within his jurisdiction, and prosecute violators of the health laws (56); prosecute violators of the hotel and restaurant inspection laws (57); conduct prosecutions for violation of the labor act (58); enforce the game and fish laws (59); and represent actions brought by the forestry department. (60) He is a member of the county budget commission. (61) A recent statute provided that he examine candidates for the office of tax commissioner. (62)

The county attorney keeps no records.

VIII. JUSTICES' COURTS

Structure

Creation

Upon Kentucky's admission to statehood in 1792, the first constitution provided for an adequate number of justices for each county in the State. (1) When Breckinridge County was established in 1799, Governor James Garrard, acting upon the recommendations of a majority of all members of the House of Representatives from the senatorial district of which the

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53. Acts, 1891-93, p. 119; Carroll, sec. 1466.
54. Acts, 1891-93, p. 931.
55. Ibid., p. 266.
56. Ibid.: p. 827; 1916, p. 420.
57. Acts, 1918, p. 305.
58. Acts, 1924, p. 164.
59. Acts, 1912, p. 162.
60. Acts, 1930, p. 29.
61. Acts, 1934, p. 63.
62. Acts, 1918, pp. 36, 37; see Tax Commissioner, p.287.

1. Const. of 1792, Art. 5, sec. 6.

county was a part, commissioned eight justices of the peace (2). Benjamin Huff, John Pate, Thomas Kincheloe, John Walker, and John Hamilton composed the county court (3); Edward Pate, William Comstock, and James Jennings composed the court of quarter session. (4) When an additional justice was needed, the county court recommended two persons to the Governor, one of whom he appointed to serve during good behavior. (5)

An act of 1801 fixed the number of justices at six (6); but in 1806 one additional justice was allowed Breckinridge County. (7) In 1850 this office became elective and Breckinridge County was divided into six justices' districts, with two justices elected in each district for a term of four years. (8) At present there are six magisterial districts in the county, with one justice elected from each district for a four-year term. (9)

Residence

The justice has always been required to have resided in his county one year before his appointment or election (10) and to be a resident of his magisterial district. (11) Today he must have been a citizen of the State two years, and of his county and district, one year preceding his election. (12)

Age

Prior to 1850 no age qualification was ever mentioned. In 1850 the justice was required to be at least twenty-one years of age; but since 1891, he must be at least twenty-four years old. (13)

Oath

The justice of the peace, before taking office, has always been required to take an oath to support the constitution, and to perform faithfully the duties of his office, with the added provision in 1850 and 1891, that he must not have taken part, in any way, in duels. (14)

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2. CONST. OF 1799, ART. 4, SEC. 6.
3. COUNTY COURT ORDERS, FIRST VOL. NOT NUMBERED, P. 1, SEE ENTRY 225.
4. RECORD (ORDER BOOK, QUARTER SESSION COURT), FIRST VOL. NOT NUMBERED, P. 2, SEE ENTRY 138.
5. CONST. OF 1799, ART. 4, SECS. 6, 8.
6. LITTELL, VOL. 2, 1804, PP. 444, 445.
7. LITTELL, VOL. 3, 1806, P. 343.
8. CONST. OF 1850, ART. 4, SECS. 34, 35; ACTS, 1850-51, PP. 4-14.
9. CONST. OF 1891, SEC. 99; ACTS, 1891-93, P. 143.
10. CONST. OF 1799, ART. 3, SEC. 9.
11. CONST. OF 1850, ART. 4, SEC. 34.
12. CONST. OF 1891, SEC. 100.
13. CONST. OF 1850, ART. 4, SEC. 34; CONST. OF 1891, SEC. 100.
14. CONST. OF 1799, ART. 6, SEC. 1; CONST. OF 1850, ART. 8, SEC. 1; CONST. OF 1891, SEC. 228.

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Bond

Since 1850, justices have been required to give bond and security as often as is thought necessary. (15)

Removal

For any misdemeanor in office, the justice has always been liable to impeachment. (16) He is also subject to indictment or prosecution for any misdemeanor in office, or wilful neglect of official duties; he has the right of appeal to the Court of Appeals; the General Assembly may also provide other methods for the removal or reinstatement of this officer. (17)

A later act provided that upon being found guilty of gross misconduct, bribery, or gross neglect of duty, the justice shall be removed from office by the Governor, however, he may take an appeal, within ten days after entry of the order of removal, to the Court of Appeals. If so removed, he is disqualified from holding office for a period of four years. (18)

Vacancy

Vacancies in the office of justice of the peace have always been filled by the Governor. Between 1800 and 1850, the county court recommended two persons, when a vacancy was to be filled, and the Governor appointed one of the eligibles. (19) However, a statute of 1814 authorized the county court to appoint the justice of the nearest district to receive the papers and to discharge the duties of the vacant office until an appointment was made by the Governor. (20) After 1850, at which time justices were made elective, the Governor filled the vacancy temporarily (21), until 1893, when the county court filled such vacancy, pending an election. (22) An act of 1894, amending the act of 1893, was interpreted by the Court of Appeals in 1901 to empower the Governor, alone, to fill a vacancy in this office. (23)

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15. CONST. OF 1850, ART. 6, SEC. 9; CONST. OF 1891, SEC. 103.
16. CONST. OF 1799, ART. 5, SECS. 1-3; CONST. OF 1850, ART. 5, SECS. 1-3; CONST. OF 1891, SECS. 66-68.
17. CONST. OF 1799, ART. 4, SEC. 6; CONST. OF 1850, ART. 4, SEC. 36; CONST. OF 1891, SEC. 227, AMEND. 6.
18. ACTS, 1924, PP. 72-75.
19. CONST. OF 1799, ART. 4, SEC. 8.
20. LITTELL, VOL. 5, 1814, P. 258.
21. GEN. STAT., 1873 ED., P. 386.
22. ACTS, 1891-93, P. 146.
23. ACTS, 1894, P. 11; DAUGHERTY V. ARNOLD, 110 KY. 1; ACTS, 1930, P. 390.

Compensation

For their services as judicial officials the justices of the peace have always been paid by fees as established by law. (24) Nothing was said about compensation for their services in connection with the county court of claims and levy until 1852 when provision was made for their payment from the county levy of one dollar per diem for attendance. (25) It was later provided that all members of the fiscal court, excepting the county judge, shall be paid on a per diem basis the amount of which, however, was changed in 1892, 1902, 1918, and 1926, at which latter date the present per diem rate was fixed at six dollars. (26)

Time and Place of Courts

The justices held court in their districts every three months, for trial of civil cases, at a time set by the county court, but in 1908 it was provided that they hold court once each month. (27) The justices of Breckinridge County have not held court since 1924.

Non-Judicial Functions

In 1800 the justices of Breckinridge County had the power: to see that tavern regulations were enforced (28); to license Indians and free Negroes to keep firearms (29); and to perform marriages, when there was, in the opinion of the county court, an insufficient number of ordained ministers. (30) Since 1891 justices have performed marriages when authorized by the county court (31); and today their authority to perform marriages may come from the Governor as well as the county court. (32)

The justices have always had the power to suppress riots, routs, and breaches of the peace; to try persons accused of disorderly conduct and be responsible for their appearance in court; and to place persons under bond to keep the peace. (33) An early statute still in effect empowers the justices to suppress gaming and lotteries. (34) In 1814 they were permitted to grant certificates for payment to persons for killing wolves. (35)

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24. LITTELL, VOL. 1, 1792, PP. 112, 113; CONST. OF 1891, SECS. 99, 100, 106; ACTS: 1891-93, P. 1141; 1916, P. 702.
25. REV. STAT., VOL. 1, P. 234.
26. ACTS: 1891-93, P. 271; 1902, P. 216; 1918, P. 672; 1926, P. 173; CARROLL, SEC. 1845.
27. ACTS: 1851-52, P. 100; 1891-93, P. 1056; 1908, P. 131.
28. LITTELL, VOL. 1, 1793, P. 196.
29. LITTELL, VOL. 2, 1798, P. 114.
30. LITTELL, VOL. 2, 1799, P. 275.
31. ACTS, 1891-93, P. 927.
32. ACTS, 1932, PP. 488, 489.
33. LITTELL, VOL 3, 1802, PP. 55-57; ACTS: 1851-52, P. 99; 1891-93, P. 1058; 1934, P. 422.
34. LITTELL, VOL. 3, 1804, P. 176; ACTS, 1891-93, PP. 9, 744, 745.
35. LITTELL, VOL. 5, 1814, P. 101.

(Next entry 311, p. 261)

Today they may order mad dogs killed. (36) In the absence of the coroner, justices may hold inquests. (37) The jurisdiction of a justice of the peace is coextensive with the county and uniform throughout the State. (38)

General Court Powers

An act of 1812 gave the justices power to determine questions of law and to fine disorderly or delinquent jurors and constables for neglect of duty. (39) Later provisions authorized them to subpoena witnesses, issue process, impanel juries, grant new trials or rehearings, and issue original or final process in all cases within their jurisdiction. (40) Since 1821, the justices have had the power to take oaths or affidavits with the same authority as the circuit judge (41); and recent legislation gave them further power to make and adopt appropriate and uniform court rules in keeping with the civil and criminal codes of practice for governing their courts. (42)

General Jurisdiction

Jurisdiction given the justices prior to 1800 included all causes of less value than five pounds in current money, or one thousand pounds of tobacco, and empowered them to give judgments and award executions against goods and chattels, but never against the body of the defendant. (43) Later they were given original jurisdiction over debts and accounts up to fifty dollars; however, appeals could be taken in cases involving more than five pounds. This included original jurisdiction in cases where sufficient credits were endorsed to reduce the value to fifty dollars. (44) Their jurisdiction included cases involving sums up to fifty dollars when the disputed matter concerned any specialty, bill, or note in writing, or account(45); or a bank note or contract not exceeding fifty dollars. (46)

After 1850, the jurisdiction granted the justices of the peace, was reaffirmed in all cases of contract involving not more than fifty dollars, and they were given jurisdiction in all cases of law and equity when the amount in question did not exceed sixteen dollars; and in all penal cases involving a fine up to sixteen dollars. (47) This jurisdiction was extended to include the subjection of choses in action and property of non-resi-

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36. Acts, 1906, p. 29.
37. Acts, 1851-52, p. 10; Gen. Stat., 1873 ed., p. 311; Acts: 1891-93, p. 371; 1936, p. 271; see Coroner, p. 282.
38. Const. of 1891, sec. 142; Acts, 1891-93, p. 1056.
39. Littell, vol. 5, 1812, pp. 28, 29.
40. Acts: 1851-52, pp. 99, 100; 1891-93, p. 1057; Carroll, sec. 1087.
41. Acts: 1819-20, p. 976; 1891-93, p. 1030.
42. Acts, 1932, p. 605.
43. Littell, vol. 1, 1792, p. 91.
44. Littell, vol. 4, 1811, p. 342.
45. Littell, vol. 5, 1812, p. 29.
46. Acts: 1823-24, p. 397; 1827-28, p. 228; 1838-39, p. 310.
47. Acts, 1851-52, pp. 99, 100, 101.

dents, to payment of demands. (48)

The justices have jurisdiction concurrent with the circuit court in all actions for recovery of money and property which, exclusive of interest, do not exceed $100. They also have jurisdiction, concurrent with the quarterly and circuit courts, of personal actions in civil cases when the amount in question is not above $100, and jurisdiction, exclusive of the circuit court and concurrent with the quarterly court, of civil cases of not more than fifty dollars. (49) The same act also gave jurisdiction exclusive of the circuit court in criminal cases when the fine is limited to twenty dollars, and concurrent with the circuit court where the fine is limited to $100, or imprisonment for fifty days, or both. (50) The above criminal jurisdiction was subsequently enlarged, so that at present justices may hear cases carrying a fine of $500 and imprisonment for one year. (51)

Prior to 1831, three justices sat as a court to hold inquests on persons suspected of being of unsound mind (52), but in that year the jurisdiction of insanity inquisitions was given the circuit court because of illegal execution of previous laws. (53) Later provisions repealed the jurisdiction of justices' courts in cases of idiocy and lunacy, and reaffirmed the authority given the circuit court over insanity inquisition. (54)

The justices of the peace in 1835 were empowered to render judgments against constables for money collected and not paid.(55) They were later given jurisdiction of motions against constables. (56) Today, they have jurisdiction of motions against constables concurrent with the quarterly court. (57)

13.

In 1800 the justices of the peace had authority to examine charges against slaves and aid in the return of runaway slaves, stray boats, and animals. (58) They now have jurisdiction over stray and glandered animals. (59) Formerly the justices also examined cases of free Negro immigrants entering Kentucky from other states in contravention of the law. (60)

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48. Acts, 1851-52, p. 100.
49. Acts, 1891-93, p. 1057.
50. Ibid., p. 1058.
51. Acts: 1928, pp. 155, 156; 1934, p. 422; Crim. Code, sec. 13-5.
52. Littell, vol. 2, 1785, Virginia Law, p. 578.
53. Acts, 1831-32, p. 109.
54. Acts, 1851-52, p. 100.
55. Acts, 1834-35, p. 301.
56. Acts, 1851-52, pp. 99, 100.
57. Acts, 1891-93, p. 1057.
58. Littell, vol. 2, 1798, pp. 5, 79, 215.
59. Acts, 1891-93, pp. 842-844.
60. Littell, vol 3, 1807, p. 499.

(Next entry 311, p. 261)

Miscellaneous Powers

Legislation now in effect gives the justices jurisdiction of forcible entry and detainer proceedings. (61) In 1801 they were authorized to issue executions to constables in other counties to which debtors had moved. (62) They were also required to order payment made to the plaintiff when executions, not exceeding five pounds had been returned with no property found. (63) They now render new judgments when records are lost or destroyed. (64)

In 1809 a justice, sitting with another justice, could examine criminal charges, the punishment of which was capital, corporal, or imprisonment. (65) Later enactment, however, provided that two justices could examine and try all persons charged with infractions of penal and criminal laws, the final trial of which was cognizable in the circuit court. (66) Today, they have authority to conduct examining trials when the county attorney has been notified of such action. (67)

From the earliest days the justices of the peace have had the power to examine charges against vagrants (68); and their courts have been considered open at all times to try such offenses. (69)

Justices of the peace were required to issue the following: warrants in bastardy cases (70); escape warrants (71); warrants for arrest of traitors, felons, and disturbers of the peace (72); warrants for persons disturbing public worship (73); warrants for persons charged with shooting, stabbing, or wounding (74); and distress warrants for rent. (75) Later statutes added the power to issue attachments for rent as well as distress warrants. (76) The justices also were authorized to issue warrants for the arrest of fugitives (77) and persons violating the game laws. (78)

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61. Civil Code, p. 452 ff.
62. Littell, vol. 2, 1801, pp. 465, 466.
63. Littell: vol. 3, 1806, p. 376; vol. 4, 1810, pp. 182-186.
64. Acts, 1891-93, p. 1058.
65. Littell, vol. 4, 1809, p. 67.
66. Acts, 1851-52, p. 99.
67. Acts, 1891-93, p. 266; Civil Code, secs. 49, 51.
68. Littell, vol. 1, 1795, p. 289.
69. Acts, 1904, p. 134.
70. Littell, vol. 1, 1795, p. 282.
71. Ibid., 1796, pp. 590, 591.
72. Ibid., p. 505.
73. Littell, vol. 2, 1801, p. 479.
74. Littell, vol. 4, 1809, p. 78.
75. Ibid., 1810, p. 271.
76. Acts, 1891-93, p. 458.
77. Acts, 1839-40, p. 114.
78. Acts, 1894, p. 42.

Recordation

At the beginning of their office the justices of the peace furnished the county clerk with a list of fines assessed in their respective courts, together with their constables' returns on executions for such fines. (79) They were required to keep a record of all proceedings of their courts, and to send a copy of the record, with other court papers, to the circuit court clerk. (80)

An act of 1838, providing a trustee for a jury fund, made it necessary for the justices to file with the trustee a list of fines and forfeitures made by them, and to pay over to the trustee the amounts received from such sources (81); but, when the jury fund and the office of trustee were abolished on July 1, 1934, all money previously paid to the trustee, has since been paid into the county treasury. (82)

The justices were required to keep a record of all proceedings in an order book, and to keep an execution book, with a proper index for each.(83) They also furnished copies of records of proceedings in their custody, to persons desiring such documents. (84) Since 1924, however, the justices in Breckinridge County have kept no such records.

Before they ceased holding court, the justices, on the first day of each circuit court session, reported the amount of all money due the Commonwealth and collected from all sources since the last report, except State and district taxes. They were required to report all unsatisfied judgments rendered in their courts in favor of the Commonwealth during the twelve months covered by the report and to list the names and residences of the persons against whom such judgments were rendered, with the date and amount of each judgment, and the reason the judgments were not collected. (85)

The records of the justices' courts, prior to 1924, are found in the county judge's office.

311. DOCKET AND EXECUTION BOOK, 1835-94, 1916-24. 4 vols. Title varies: Docket of Cases, 1 vol., 1835-66.
Docket of cases set for trial before justices of the peace prepared for use by justice at each session of court and a record of executions issued in each case. Docket shows, number of case, names of plaintiff and defendant, date of trial, judgment rendered, and amount of costs; record of executions show, names of parties, number and amount of judgment, execution number, date issued, name of constable addressed, return day, and constable's return. Arr. chron. by date of trial. No index. Hdw. under pr. hds. Aver. 600 pp. 18 x 12 x 2.

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79. LITTELL, VOL. 3, 1806, PP. 375, 376.
80. LITTELL, VOL. 4, 1811, P. 343.
81. Acts, 1837-38, P. 240.
82. Acts, 1934, P. 541.
83. Acts, 1891-93, P. 1057.
84. IBID., P. 1058.
85. Acts, 1906, PP. 224-226.

(Next entry 312, p. 270)

IX. SHERIFF

Structure

Creation

Before Kentucky was admitted to the Union, sheriffs played an important part in the governmental organization of Virginia and exercised the same powers and duties as sheriffs in England. (1) In 1799, the second constitution provided for the office of sheriff in each Kentucky county (2), and under this provision when Breckinridge County was established in 1800, William Hardin became the first sheriff. (3)

Appointment and Term

Upon recommendation by a majority of all the members of the House of Representatives from the senatorial district in which the new county was situated, the Governor appointed the first sheriff. (4) Thereafter, until 1850, the Governor with due regard for seniority appointed the sheriff from one of two justices of the peace recommended by the county court, for a term of two years. If the court failed to make its recommendations within the time specified, the Governor, with consent of the Senate, appointed and commissioned a fit person for the office. (5)

In 1850 the office was made elective for a two-year term. The sheriff was eligible for reelection, but could not serve a third successive term. (6) The present constitution provided for the election of a sheriff in 1892 for a term of two years; in 1894, for three years; and in 1897, and every four years thereafter, for a four-year term. After the election in 1894, no sheriff could succeed himself; neither could he act as deputy to his successor. (7) An elisor, however, in filling the office, could serve one year, or until a regularly elected sheriff had qualified. (8)

Residence

From 1799 to 1850, the sheriff was required to have resided in his county for one year prior to his appointment, and, as in the case of a newly formed county such as Breckinridge, then for one year in Hardin from which it was partitioned. (9) Since 1850, the sheriff was required to be

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1. HENING, VOL. I, P. 223.
2. CONST. OF 1799: ART. 3, SEC. 31; ART. 4, SEC. 9.
3. COUNTY COURT ORDERS, FIRST VOL. NOT NUMBERED, PP. 2, 3, SEE ENTRY 225.
4. IBID.
5. CONST. OF 1799, ART. 4, SEC. 9.
6. CONST. OF 1850, ART. 6, SEC. 4.
7. CONST. OF 1891, SEC. 99.
8. ACTS, 1891-93, PP. 228, 229.
9. CONST. OF 1799, ART. 3, SEC. 9.

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a citizen of the United States. He must also have been a resident of the State two years and of his county one year prior to his election. (10)

Age

In 1850 the sheriff was required to be at least twenty-one years of age when qualifying for office. (11) Earlier statutes failed to mention an age qualification although, as mentioned before, the Governor gave due consideration to seniority when appointing the sheriff from recommendation made by the county court. (12) The present constitution requires the sheriff to be at least twenty-four years of age. (13)

Oath

Constitutional provision required the sheriff, before assuming office, to take an oath to support the constitution and to discharge faithfully the duties of his office. (14) In 1850, and again in 1891, these provisions were reaffirmed, with the added stipulation that he must not have participated in duels. (15)

Bond

Legislation enacted before the creation of Breckinridge County provided that the sheriff must not only take oath before the county court, but must give bond with good security for the proper performance of his duties as peace officer and as collector of taxes, fines, and fees, as well as for his deputies' actions. (16) Since 1850 the sheriff has furnished bond and security as often as the General Assembly deemed it proper. (17)

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Removal

Since the creation of his office, provisions, in force today, specified that the sheriff could be impeached by a concurrence of two-thirds of the House of Representatives and removed for misdemeanor in office. (18) He could also be indicted or prosecuted for malfeasance in office, or for willful neglect of official duties, in the manner prescribed by law, from which he had the right of appeal. The General Assembly was also authorized to provide other methods for the removal or reinstatement of the sheriff. (19)

An act of 1924 gave the Governor authority to remove the sheriff if he was found guilty of gross misconduct, bribery, or gross neglect of duty. The sheriff could take an appeal, however, to the Court of Appeals within

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10. Const. of 1850, art. 6, secs. 1, 2; Const. of 1891, sec. 100.
11. Const. of 1850, art. 6, sec. 4.
12. Const. of 1799, art. 3, sec. 31.
13. Const. of 1891, sec. 100.
14. Const. of 1799, art. 6, sec. 1.
15. Const. of 1850, art. 8, sec. 1; Const. of 1891, sec. 228.
16. Littell, vol. 1, 1796, pp. 580, 581; Acts: 1906, p. 154; 1934, pp. 55, 56.
17. Const. of 1850, art. 6, sec. 9; Const. of 1891, sec. 103.
18. Const. of 1799, art. 5, secs. 1-3; Const. of 1850, art. 5, secs. 1-3; Const. of 1891, secs. 66-68.
19. Const. of 1891, sec. 227, amend. 6.

ten days after the entry of the order of removal; if the order was sustained, he was disqualified from holding office in this State for a period of four years. (20)

Vacancy

From 1796 until 1850, a vacancy in the office of sheriff was filled by the Governor, with the advice and consent of the Senate. (21) Since 1850, however, a vacancy has been filled by the county court pending the next election. (22) If, at any time, the office of sheriff was vacant when the circuit court was in session, the circuit judge could appoint an elisor to act as sheriff, who held his office for one year unless removed by the circuit judge, or until a sheriff was elected and qualified. The elisor took the oath of office and gave bond acceptable to the county court. He received the same fees and compensation as the sheriff and performed the same duties of that officer, with the exception of the collection of any kind of taxes or judgments rendered upon the capital stock or bonds of any railroad. (23)

Compensation

From 1800, when Breckinridge County was established, to 1906, the sheriff was allowed six per cent for collections, subject to the constitutional limit of $5,000 a year, as compensation for collecting and paying over the State and county taxes. (24) In 1906, the State Auditor of Public Accounts was authorized to allow the sheriff ten per cent on the first $5,000 paid into the State Treasury each year, and four per cent on the remainder. The county treasurer allowed him the same percentages on the county revenue; but the aggregate annual compensation of the sheriff could not exceed $5,000 for fiscal services, independent of the compensation of legally authorized deputies and assistants. (25) A recent statute requires the sheriff and his deputies to serve as a county highway patrol. For this extra duty he is allowed not more than $1,500 a year, to be determined by the Auditor of Public Accounts and paid by the treasurer, provided the total compensation of the sheriff does not exceed the limit of $5,000. (26)

Deputies

The sheriff, with the approval of the county court, has always appointed his deputies and removed them at will, since he is held accountable for their actions. (27)

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20. Acts, 1924, pp. 72-75.
21. Littell: vol. 1, 1796, p. 580; vol. 2, 1801, p. 465.
22. Acts, 1850-51, vol. 1, p. 95; Rev. Stat., vol. 1, p. 44; Gen. Stat., 1873 ed., p. 386; Acts, 1891-93, p. 146.
23. Acts, 1891-93, pp. 228, 229.
24. Littell, vol. 1, 1792, p. 84.
25. Const. of 1891, sec. 246; Acts: 1891-93, p. 1140; 1906, pp. 171, 172.
26. Acts, 1936-37, Fourth Special Session, p. 119.
27. Littell, vol. 1, 1796, p. 580; Acts: 1822-23, p. 292; 1891-93, pp. 555, 556; 1906, p. 157.

Sheriff

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Functions

Law Enforcement

It is the duty of the sheriff to see that peddlers obtain licenses (28); to suppress places of gambling (29); to break down doors, if necessary, in executing certain writs, and in making arrests (30); to enforce the game and fish laws (31); to impound unlicensed dogs running at large (32); to pursue escaped convicts (33); to arrest persons engaged in riots, routs, unlawful assemblies, or breaches of the peace, and to impanel a jury for their trial (34); and to arrest persons disturbing public worship. (35)

The sheriff was authorized to command and use, when necessary, the assistance of male citizens in forming a posse comitatus, or "power of the county," to aid him in executing the duties of his office, whether civil or criminal. (36) He could also call out the county militia to enforce the laws. (37)

An act approved January 18, 1937, created a county highway patrol and investigator for the county, and specified that the duties performed by the sheriff and his deputies were to patrol each public road and highway in the county, and to direct, regulate, and control the traffic on such roads in order to maintain a maximum degree of safety to the general public. The sheriff makes an office record of his findings in cases of accidents upon the highways; also, when any person is wounded or killed in such an accident and there is no reason to suspect criminal negligence, the sheriff or deputy, upon investigation, takes necessary statements or affidavits and returns them, together with his report to the county attorney and a duplicate of the papers to the circuit court clerk, for submission to the foreman of the next grand jury. The act does not affect the duties of the State Highway Patrol. At least once each month the sheriff or his deputies visit, inspect, and investigate the manner in which each owner or operator conducts any public house, pavilion, ground, or place where music is furnished or permitted, and also all camps, restaurants, road-houses, or any place where intoxicating liquors are sold or furnished to the public, or where men and women are furnished rooms or lodging either by day or night. He then reports in writing to the county attorney his conclusions, together with the name and address of any witness who claims knowledge of any violation of the law or of any disturbance occurring at

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28. GEN. STAT., 1873 ED., P. 688; ACTS: 1906, PP. 190-192; 1916, PP. 667-672.
29. ACTS, 1908, P. 121.
30. ACTS, 1891-93, P. 558.
31. ACTS: 1912, P. 162; 1916, P. 634.
32. ACTS: 1918, P. 490; 1930, P. 9.
33. LITTELL, VOL. 3, 1802, P. 73.
34. IBID., PP. 55, 56.
35. LITTELL, VOL. 5, 1813, PP. 48, 49.
36. ACTS, 1891-93, P. 558.
37. ACTS, 1934, P. 166.

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such places, and files with the circuit court clerk a duplicate of each report, to be delivered to the foreman of the grand jury next to be convened in the county; he also sends a copy to the State Alcoholic Board. (38) Incident to the duties mentioned above and to the enforcement of the law in general, the sheriff has the right to carry concealed weapons. (39)

Servant of the Court

Statutes passed prior to the formation of Breckinridge County authorized the sheriff to execute all writs and process legally issued to him for service within his county and, in making his return, to endorse upon each writ of execution the date he received it. (40) Before 1863, he made certificates of executions of slaves. (41) He was not allowed to execute process on Sunday, however, except for treason, felony, breach of the peace, or escape. (42) A later statute, reaffirming the above, added that the sheriff could also serve a writ of habeas corpus on Sunday. (43) In making return of execution of notices and process, he endorsed upon the back of each document the date of receipt, and a memorandum of how the service was accomplished. (44)

The sheriff has always had the power to summon grand and petit juries; and it was his duty, further, to make returns to the court, to indicate he had served the jurors to provide the panel. (45)

Early statutes still in effect provided that the sheriff, upon orders of the county court, should take charge of estates for which there was no administrator, and sell so much of the estate as would satisfy the debts of the deceased. (46) He has always had the power to convey land sold by virtue of an execution. (47) It has long been the sheriff's duty to convey to the penitentiary all persons sentenced to be confined there; to execute persons condemned to be hanged in the county; to carry out the sentence of the court in other criminal or penal cases; and to attend, keep order, and obey the court orders in the circuit, county, and quarterly courts, in the court of claims until 1892, and thereafter in the fiscal courts. (48) Since 1865 the sheriff has had authority to make arrests in bastardy proceedings upon warrants issued to him by the county court clerk. (49)

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38. Acts, 1936-37, Fourth Special Session, pp. 116-118; Baldwin's Statute Service, Supplement to Carroll's Kentucky Statutes, April 1939, sec. 3786-3.
39. Acts, 1891-93, p. 800.
40. Littell, vol. 1, 1796, p. 585.
41. Littell, vol. 2, 1798, p. 118.
42. Littell, vol. 1, 1796, p. 584.
43. Gen. Stat., 1873 ed., p. 781; Acts, 1891-93, p. 556.
44. Gen. Stat., 1873 ed., pp. 781-786; Acts, 1891-93, pp. 556, 557.
45. Littell: vol. 1, 1796, p. 475; vol. 3, 1802, p. 41; vol. 4, 1811, p. 267; Acts, 1891-93, p. 955.
46. Littell, vol. 1, 1797, p. 264; Acts: 1885-86, vol. 1, p. 84; 1891-93, p. 553.
47. Littell, vol. 1, 1796, p. 585; Acts, 1906, p. 169.
48. Rev. Stat., vol. 2, p. 344; Gen. Stat., 1873 ed., p. 784; Acts: 1891-93, pp. 559-560; 1920, p. 694.
49. Gen. Stat., 1873 ed., p. 161; Acts, 1891-93, p. 68.

Sheriff (Next entry 312, p. 270)

Collector of Revenue

Since his office was established, the sheriff of Breckinridge County, in addition to his duties as a peace officer, collected both the State tax and the county levy (50), and paid out the latter to the creditors of the county as certified to him by the county court clerk. (51) In 1892, however, his authority was extended to collect not only the county levy of $1.50 per taxable person, but also an ad valorem tax not to exceed fifty cents per $100 of taxable property, to be used for the payment of debts and current county expenses. (52) In 1893, a short time after the passage of the above act, the office of county treasurer was created, and to him the sheriff now pays over his collections of county taxes. (53) At present the sheriff remits to the county treasurer on May 1, and every sixty days thereafter, all the money in his hands, for which he receives a receipt in duplicate. One copy he retains and the other he gives to the county judge. Upon final annual settlement, he pays all county money on hand to the county treasurer, taking and giving receipts as before. (54)

By an act of 1906, the sheriff collected all county and district taxes, unless payment was directed by law to be made to some other officer. (55) A later statute instructed the sheriff to collect a special tax, if such tax should be voted at a special election, for the construction and improvement of county roads and bridges, and to pay over such tax as the fiscal court directed. (56) He was also required to report under oath to the Auditor of Public Accounts on October 1 of each year, and every sixty days following, the amount of State taxes collected, and to pay these over, at the same time making a fiscal settlement and payment by April 1, annually. For failure to make these reports and payment punctually, the sheriff and his sureties were liable for damages. (57) He now makes reports to the Auditor of Public Accounts and pays into the State treasury the amount of all the State taxes collected for the preceding month, on or before the tenth day of each month. Failure to do so renders him liable to indictment. (58)

An early duty of the sheriff, later reaffirmed, was to return a list of all delinquent taxpayers. (59) Today, upon receiving a list of omitted property from the board of tax commissioners, with the original and duplicate of each omitted tax bill, the sheriff notifies the delinquent taxpayer of the omission, and upon payment of the tax, gives the receipted bill to the taxpayer, keeping the duplicate for record. (60)

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50. LITTELL, VOL. 2, 1799, P. 322.
51. LITTELL, VOL. 1, 1797, PP. 680, 681.
52. Acts, 1891-93, PP. 40-42.
53. IBID., PP. 522-526.
54. IBID.
55. Acts, 1906, P. 152.
56. Acts, 1917, P. 24.
57. Gen. Stat., 1873 ED., P. 733.
58. Acts: 1906, P. 157; 1932, P. 631.
59. LITTELL, VOL. 3, 1804, P. 180; Gen. Stat., 1873 ED., P. 723.
60. Gen. Stat., 1873 ED., P. 736; Acts, 1912, PP. 476-483.

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Sheriff

In 1800 the sheriff was required to make a list of insolvent taxpayers and a list of persons who had moved from the county. (61) This latter duty fell into disuse, but the listing of insolvent taxpayers was reaffirmed by the later statutes which further authorized the sheriff to hold property of insolvent debtors in trust for creditors. (62)

Since 1906 the sheriff has advertised property to be sold for taxes, by publishing the list in a newspaper of general circulation once a week for four consecutive weeks, and by posting a notice conspicuously at the courthouse for fifteen days before the sale. (63) He is required to notify all taxpayers whose property has been raised or assessed by the board of supervisors, and to buy real estate for the State, county, or district, when such property is being sold for taxes and no one else will purchase it. (64)

The sheriff has always collected all officers' fees listed with his office which are due and payable in the county during his term of office, accounted for such money, and paid it to the persons legally entitled to it. (65) After paying the several county officers the fees due them, and accounting for fines, forfeitures, and fees collected by him, the sheriff used the remainder of the public money in his hands to defray claims against the county. (66) In so doing he functioned in the capacity of treasurer of the county.

The act of February 15, 1838, which provided for a jury fund and a trustee therefor, required the sheriff to file his list with the trustee and to pay to him the amounts received from fines and forfeitures. (67) In 1934, the jury fund and the office of trustee were abolished, the latter's duties being assumed by the circuit court clerk. Since that time the sheriff has paid into the county treasury all such money formerly paid to the trustee of the jury fund. (68)

At present, on the first day of each court session, the sheriff makes a sworn, written report to the Auditor of Public Accounts of the money due the Commonwealth and collected from all sources except State and district taxes, since his last report. He must also show the following: from what source the money came; the amount and date of collection and reason for payment; the fines and forfeitures on which the county attorney is due a commission; all unsatisfied judgments in favor of the Commonwealth; the names and addresses of persons against whom judgments were rendered; the date and amount of judgment; and the reason judgments were not collected. (69)

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61. LITTELL, VOL. 2, 1799, P. 321.
62. GEN. STAT., 1873 ED., P. 555; ACTS, 1891-93, PP. 87-89.
63. ACTS, 1906, P. 162.
64. ACTS: 1906, P. 150; 1928, PP. 448-450.
65. LITTELL, VOL. 1, 1796, PP. 582, 583; ACTS, 1891-93, P. 557.
66. LITTELL, VOL. 1, 1797, PP. 680, 681.
67. ACTS, 1836-37, P. 240.
68. ACTS, 1934, P. 541; SEE CIRCUIT COURT, P. 164.
69. ACTS, 1906, P. 224.

Sheriff (Next entry 312, p. 270)

It has always been the duty of the sheriff to deliver to the person from whom taxes, levies, or fees are to be collected, a list of each article of the demand, before making a distress. (70) He may also distrain the goods of persons failing to pay taxes or levies. (71) Since 1891 he has had authority to collect, for two years after his term expires, any distrainable fee bills which he had received for collection during his term of office. (72)

The sheriff, by an act of 1906, was required to hold his office open at all reasonable hours, except Sunday and legal holidays, for the collection of money and the reporting of such collections, although he has undoubtedly done so from the beginning of his office. (73)

Elections

An act approved December 21, 1799, authorized the sheriff to advertise and conduct elections and to deliver certificates of election to those elected. For a time all the sheriffs met in Frankfort to compare the polls for the election of Governor, Lieutenant Governor, and electors of the President and Vice-President of the United States; he also appointed deputies solely to attend elections and compare the polls. (74)

In 1833, however, the State was divided into thirteen congressional districts with Breckinridge County in the sixth district, and all the sheriffs in this district met at the courthouse in Grayson County to count the votes for Representatives. In case of a tie, the sheriffs decided who should take office. (75) This law was repealed in 1841, when it became the sheriff's duty to deposit the pollbooks of each election with the county court clerk. (76)

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An act effective December 1, 1873, provided that the county judge, the county court clerk, and the sheriff, constitute a board to examine the pollbooks of the county and to issue certificates of election. Any two of these officers could act. The sheriff was authorized to deposit the pollbooks of the various precincts with the county court clerk, within two days after an election. The day after the books were deposited, the board met at the county court clerk's office, compared the polls, and signed three or four certificates of election for those elected. The county court clerk kept one copy, one was given to each person elected, and a third was sent to the Secretary of State. Where a Representative to Congress was elected, a fourth copy of the certificate was mailed to the Clerk of the House of Representatives. (77)

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70. LITTELL, VOL. 1, 1792, P. 85; ACTS, 1891-93, P. 557.
71. LITTELL, VOL. 1, 1796, P. 582; ACTS, 1906, P. 161.
72. ACTS, 1891-93, P. 556.
73. ACTS, 1906, P. 156.
74. LITTELL, VOL. 2, 1799, PP. 339-341, 345, 346; ACTS, 1822-23, P. 292.
75. ACTS, 1832-33, PP. 267-269.
76. ACTS, 1841-42, P. 83.
77. GEN. STAT., 1873 ED., P. 301 FF.

The sheriff is an ex officio member of the county board of election commissioners, which was created by an act of 1900. (78) He is required to provide a voting place in each precinct of the county for each election; to preserve order at the polls, and enforce the election laws; to act as an umpire when the judges disagree (79); and to deposit with the county court clerk the election returns from the different precincts. (80)

Miscellaneous

Legislative enactment in 1812 authorized the sheriff to serve as jailer if the jailer was himself committed to jail. (81) At present he also acts as jailer when that office is vacant. (82) Since 1922, it has been his duty to execute summonses and orders issued by the Railroad Commission. (83)

Recordation

As explained in detail under the section on revenue, the sheriff makes written, sworn reports to the Auditor of Public Accounts. (84) From the beginning of his office in the county, he has made an annual report and payment to the State Treasurer of all State taxes levied in his county (85); he keeps a cash book and his other books in the manner specified by the State Auditor of Public Accounts. (86) At present he makes a monthly report to the county court, for each month of the year, of money collected the previous month (87); and he also gives the fiscal court, yearly, an itemized, sworn financial statement which he has published at the close of the fiscal year. (88)

Records of the sheriff are located in the county court clerk's office unless otherwise specified.

Taxation
(See also entries 7-13)

Assessments

312. ASSESSMENTS, 1927--. 31 vols. (dated and numer. by dist. no.) Assessment lists of real and personal property subject to taxation furnish-

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78. Acts, 1900, p. 29.
79. Acts, 1891-93, pp. 119, 128, 129.
80. Acts, 1900, p. 33.
81. Littell, vol. 5, 1812, p. 387.
82. Acts, 1891-93, p. 753.
83. Acts: 1922, p. 272; 1930, p. 621.
84. Acts: 1906, p. 224; 1932, p. 631.
85. Littell, vol. 2, 1799, p. 322.
86. Acts, 1906, p. 156.
87. Acts, 1932, pp. 631, 632.
88. Acts: 1926, p. 267; 1928, p. 461.

ed sheriff for collection by tax commissioner, showing: tax bill number, name and address of taxpayer, name of nearest resident, itemized descriptive list of property, total tax value of land, coal, timber, and improvements, assessed value, and amount of tax due. Arr. numer. by dist. no. and alph. thereunder by name of taxpayer. No index. Hdw. on pr. fm. Aver. 1000 pp. 18 x 16 x 6. 1927--, 24 vols., tax com. off.; 1934--, 7 vols., sheriff off.

313. OMITTED TAX LIST, 1892--. 2 vols.
Additional list of property omitted from general tax roll upon owners' failure to list property for assessment, certified to sheriff for collection by county court clerk, showing: name of property owner, location and description of property omitted from assessment rolls, assessed value as fixed by tax commissioner, amount of tax due, date assessed, and signature of county court clerk. Arr. alph. by name of property owner. No index. Hdw. on pr. fm. Aver. 700 pp. 18 x 12 x 3.

314. RECORD OF EXONERATIONS, 1898--. 1 vol.
Record of persons exonerated from payment of county levy certified to sheriff by county court clerk upon orders of fiscal court, showing: name of property owner, location and description of property, year and reason exonerated, and signature of county court clerk. Arr. chron. by date recorded. No index. Hdw. under pr. hds. 600 pp. 18 x 14 x 2.

Inheritance Taxes

315. INHERITANCE TAX, 1919--. 1 f.b.
Duplicates of receipts issued by sheriffs for money collected for inheritance taxes, showing: date of receipt, name of deceased person, heirs, and payee, location, description, and amount of estate, date and amount of tax paid, receipt number, and signature of sheriff. Arr. chron. by date of receipt. No index. Hdw. on pr. fm. $4\frac{1}{2}$ x $4\frac{1}{2}$ x 10. Sheriff off.

Tax Receipts

316. COPY TAX BILL, 1931--. 132 vols.
Duplicate receipts of State and county taxes collected by sheriff, original receipts being given to taxpayers upon payment of county levy, showing: name and address of taxpayer, district number, description of property, assessed value, amount of tax due, date paid, signature of sheriff, and attestation of county court clerk. Arr. numer. by dist. no. and alph. thereunder by name of taxpayer. No index. Hdw. on pr. fm. Aver. 320 pp. 18 x 8 x 2. 1931--, 110 vols., tax com. off.; 1934--, 22 vols., sheriff off.

Land Sales

317. SHERIFFS CERTIFICATES OF LAND SOLD FOR TAXES, 1934--. 5 f.b.
Title varies: Land Sales Tax Bills, 1 f.b., 1934; Land Sales, 2 f.b., 1935-36. 1858-78 in Miscellaneous, entry 132.
Duplicates of certificates issued by sheriffs to purchasers of land sold for non-payment of taxes, showing: name of delinquent taxpayer, amount of tax, penalty, and costs due, number of tax bill, year or years delinquent,

location and description of property, date and place of sale, name of purchaser, amount and terms of sale, amount of sale bond required securing purchase money, attestation of sheriff, date certificate issued, and acknowledgment of county court clerk. Arr. chron. by date issued. No index. Hdw. on pr. fm. 4½ x 4½ x 10. 1934-36, 3 f.b., co. ct. clk. off.; 1937--, 2 f.b., sheriff off.

318. LAND SOLD FOR TAXES, 1877--. 6 vols. (1-4; two vols. not numbered). Title varies: Sheriff's Land Sales for Taxes, 1 vol., 1877-94; Sheriff's Report of Land Sold for Taxes, 2 vols., 1895-1932.

Record of reports made to fiscal court of land sold for taxes and debts, showing: date of sale, amount of taxes or debt, amount of cost, interest, and penalty, date of sale, number of tax bill or execution order, name of purchaser, copy of sheriff's signature, and attestation of county court clerk. Arr. chron. by date of sale. Alph. index, direct by first letter of surname of purchaser, showing p. no. where recorded. Hdw. on pr. fm. Aver. 450 pp. 14 x 10 x 3.

319. LAND SALES REDEEMED, 1930--. 3 f.b.

Duplicates of receipts issued by sheriff to delinquent taxpayers redeeming land sold for non-payment of taxes, showing: date of receipt, names of purchaser and delinquent taxpayer, amount of purchase price, year delinquent, tax bill number, location and description of property, date property redeemed, and signature of sheriff. Arr. chron. by date redeemed. No index. Hdw. on pr. fm. 4½ x 4½ x 10. 1930-37, 2 f.b., co. ct. clk. off.; 1938--, 1 f.b., sheriff off.

Dog Licenses

320. DOG LICENSE, 1919--. 6 f.b.

Duplicates of dog licenses issued by sheriffs, original being issued to owner upon payment of license fee, showing: date issued, name and address of owner, license number, breed, sex, age, color, and markings of dog, and signature of sheriff. Arr. numer. by license no. and chron. thereunder by date issued. No index. Hdw. on pr. fm. 4½ x 4½ x 10. 1919-20, 1 f.b., co. ct. clk. off.; 1921--, 5 f.b., sheriff off.

321. SHERIFF'S DOG LICENSE REGISTER, 1918-21, 1935--. 2 vols. Title varies: Dog License Record, 1 vol., 1918-21.

Record of monthly reports made by sheriff to State department of agriculture of dog licenses issued during the month, showing: date of report, each license number, date issued, to whom, description of dog, amount of license, sheriff's fee, and total amount reported. Arr. chron. by date of report. No index. Hdw. under ruled hds. Aver. 450 pp. 12 x 16 x 3. 1918-21, 1 vol., co. judge off.; 1935--, 1 vol., sheriff off.

Business Administration

Cash Book and Settlements

322. SHERIFF'S CASH, 1925--. 4 vols.
Record of sheriff's daily cash collections reported monthly to fiscal court, showing: date and amount received, name of payee, distribution of receipts, and total collected. Arr. chron. by date collected. No index. Hdw. under pr. hds. Aver. 500 pp. 17 x 15 x 2. 1925-26, 1931--, 3 vols., sheriff off.; 1927-30, 1 vol., cir. ct. clk. off.
For original reports, see entry 21.

323. SHERIFFS SETTLEMENTS, 1881--. 3 vols.
Record of settlements made by sheriffs with fiscal court covering funds collected and disbursed, showing: date of settlement, itemized list of receipts and disbursements, totals, balance, copy of sheriff's signature, date recorded, and attestation of county court clerk. Arr. chron. by date of settlement. No index. Hdw. on pr. fm. Aver. 378 pp. 9 x 4 x 2¼.
For original settlements, see entry 18.

Livestock Claims

324. SHEEP CLAIMS, 1919--. 5 f.b.
Original claims against livestock fund filed with sheriff by owners for livestock destroyed or injured by dogs, showing: date and amount of claim, name of claimant, description of livestock, affidavits of claimant and appraisers, dates approved and paid, and signatures of claimant and sheriff. Arr. chron. by date of payment. No index. Hdw. on pr. fm. 4½ x 4½ x 10. 1919-26, 3 f.b., co. ct. clk. off.; 1927--, 2 f.b., sheriff off.

Strayed Animals

325. STRAY NOTICES, 1840-91. 1 f.b. 1871-1900 also in Miscellaneous, entry 132.
Notices issued by sheriff of strayed stock which were reported by persons taking up stock, showing: name of finder, description of stock, date and place found, signature of finder, appraised value of stock, signature of appraiser, attestation of sheriff, date notice issued, stray book number and page where recorded, and date recorded. No obvious arr. No index. Hdw. on pr. fm. 4½ x 4½ x 10.

326. STRAY BOOK, 1854-1907. 1 vol.
Record of notices issued by sheriff of strayed stock which were reported by persons taking up stock, showing: name of finder, names of appraisers, description of stock, when and where found, appraised value of stock, copy of signatures of finder and appraiser, date recorded, and certification of county court clerk. Arr. chron. by date recorded. No index. 1854-1906, hdw.; 1907, typed. 490 pp. 14 x 10 x 3.

(Next entry 327, p. 282)

X. CONSTABLES

Structure

Creation

Originating in the time of the Roman emperors and later brought to England, the office of constable was associated with church government in England as early as the fifth century. (1) Later, as the only officer of the hundred, and the most active peace officer of the parish, he served as an agent of the justices. (2) His duties remained substantially unchanged under the Virginia colonial and commonwealth governments. (3) After Kentucky became a state, the first legislature provided that each county court should lay off its county into districts, and appoint a constable in each district to act as a ministerial officer of the justices. (4)

Selection and Term

When Breckinridge County was created, the county court appointed a constable for each magisterial district, to serve during good behavior. (5) Barney Miller was the first constable appointed for Breckinridge County. (6) In 1835 the constable was appointed for a term of two years, but was eligible for reappointment. (7) After 1850, when the office was made elective for a two-year term (8), statutes provided for the election of one constable for each of the six magisterial districts into which Breckinridge County was divided. (9) In 1891, a constable was elected in each magisterial district for a term of four years. He was eligible for reelection, and could act as deputy for his successor. (10)

Residence

The first appointee was required to have resided for one year in Hardin County, the county from which Breckinridge was formed; subsequent appointees must have resided for a year in Breckinridge County. (11) Constitutional provisions in 1850, and again in 1891 required the constable to have resided in the State two years and in his district one year, previous to election, a qualification for office in force today. (12)

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1. ENCYCLOPAEDIA BRITANNICA, ELEVENTH ED., VOL. 6, P. 983.
2. FAIRLIE AND KNEIER, OP. CIT., P. 10.
3. HENING, VOL. 4, P. 73.
4. LITTELL, VOL. 1, 1792, P. 101.
5. CONST. OF 1799, ART. 3, SEC. 9; LITTELL, VOL. 2, 1799, P. 294.
6. COUNTY COURT ORDERS, FIRST VOL. NOT NUMBERED, P. 2, SEE ENTRY 225.
7. ACTS, 1834-35, P. 61.
8. CONST. OF 1850, ART. 6, SEC. 5.
9. ACTS, 1850-51, VOL. 1, PP. 4-14; GEN. STAT., 1873 ED., P. 111.
10. CONST. OF 1891, SEC. 99; ACTS, 1891-93, P. 143.
11. CONST. OF 1799, ART. 3, SEC. 9.
12. CONST. OF 1850, ART. 6, SEC. 2; CONST. OF 1891, SEC. 100.

Constables (Next entry 327, p. 282)

Age

An age requirement was first mentioned in 1850, when the constable was required to be at least twenty-one years old. (13) Since 1891 however, to be a candidate for office he must be at least twenty-four years of age. (14)

Oath

Before assuming his duties, the constable took an oath to support the constitution and to perform faithfully the duties of his office. (15) Later constitutional provision added the specification that he must not have taken part, in any way, in duels. (16)

Bond

By successive legislation from the creation of his office to the present, the constable has been required to execute a satisfactory bond. (17) In 1803, he was required to renew his bond every two years (18), and in 1850, he gave bond as often as was deemed proper. (19) The present requirement is that he furnish surety bond, every two years or oftener, with such additional security as the county court may demand. (20)

Removal

The constable has always been liable to impeachment for any misdemeanor in office, by a two-thirds concurrence of the House of Representatives. (21) At present the constable is subject to indictment or prosecution for any misdemeanor in office, or for wilful neglect of official duties, in such manner as may be prescribed by law, although he has the right of appeal to the Court of Appeals. By a constitutional amendment adopted in 1919 the General Assembly may provide other methods for his removal or reinstatement. (22) Pursuant to this amendment, an act of 1924 specified that, if the constable is found guilty of gross misconduct, bribery, or neglect of duty, the Governor may remove him from office. In this event, the constable may take an appeal to the Court of Appeals within ten days after entry of the order of removal; if removed from office, he is disqualified from holding office in the State for a period of four years. (23)

-13.

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13. CONST. OF 1850, ART. 6, SEC. 2.
14. CONST. OF 1891, SEC. 100.
15. CONST. OF 1799, ART. 6, SEC. 1; LITTELL: VOL. 2, 1799, P. 294; VOL. 3, 1803, PP. 127, 128; ACTS: 1819-20, P. 866; 1891-93, P. 816.
16. CONST. OF 1850, ART. 8, SEC. 1; CONST. OF 1891, SEC. 228.
17. CONST. OF 1799, ART. 3, SEC. 9; LITTELL: VOL. 2, 1799, P. 294; VOL. 3, 1803, PP. 127, 128; ACTS: 1819-20, P. 866; 1891-93, P. 816.
18. LITTELL, VOL. 3, 1803, P. 131.
19. CONST. OF 1850, ART. 6, SEC. 9.
20. CONST. OF 1891, SEC. 103; ACTS, 1891-93, P. 817.
21. CONST. OF 1799, ART. 5, SECS. 1-3; CONST. OF 1850, ART. 5, SECS. 1-3; CONST. OF 1891, SECS. 66-68.
22. CONST. OF 1891, SEC. 227, AMEND. 6.
23. ACTS, 1924, PP. 72-75.

(Next entry 327, p. 282)

Constables

An early statute, still in effect, provided that when a constable vacates his office he must return and account for all claims, process, and other papers in his hands, in the same manner as if he had retained his office. (24)

Vacancy

Until 1850, when the office of constable became vacant, the county court filled the vacancy (25); after 1850, when the constable was elected to office, the county court filled the vacancy pending an election. (26)

Compensation

The constable has always been paid on a fee basis. (27)

Deputies

The constable has the power to appoint one or more deputies. (28)

Functions

Servant of Court

From the beginning of his office in Breckinridge County, the constable was directed to execute warrants against persons breaching contracts with owners of boats (29); to execute warrants in bastardy cases (30); to levy any execution or attachment; to serve or execute warrants or other process anywhere in the county; and to endorse all warrants or other process executed by him. (31) He also summoned witnesses (32), served and made returns of notices in cases of injunctions, and gave notices of ejectment and every other notice required by law, endorsing on each the time it was given. (33) Later laws reaffirmed these duties, and required him to execute the rules and orders of the court in all criminal, penal, and civil cases, and make return to the court on or before return day, noting the time of execution on each return. (34) He has never

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24. LITTELL, VOL. 3, 1803, P. 127; ACTS, 1891-93, P. 817.
25. CONST. OF 1799, ART. 3, SEC. 9; LITTELL, VOL. 2, 1799, P. 294.
26. GEN. STAT., 1873 ED., P. 386; ACTS, 1891-93, P. 146.
27. LITTELL, VOL. 2: 1798, P. 26; 1799, PP. 299-301; ACTS, 1851-52, P. 307; GEN. STAT., 1873 ED., PP. 179, 471, 472; ACTS, 1891-93, P. 1143.
28. ACTS, 1891-93, P. 816.
29. LITTELL, VOL. 1, 1794, P. 262.
30. IBID., 1795, P. 282; ACTS, 1891-93, P. 68.
31. LITTELL, VOL. 3: 1803, P. 131; 1804, P. 239; VOL. 5, 1813, P. 28; ACTS: 1819-20, P. 865; 1891-93, PP. 819, 820.
32. LITTELL, VOL. 3, 1803, P. 130; ACTS, 1891-93, P. 818.
33. LITTELL, VOL. 4, 1808, P. 458.
34. GEN. STAT., 1873 ED., P. 240; ACTS, 1891-93, P. 818.

been permitted to execute a process in which he was personally interested, or to sell or levy on land. (35) He could not execute or make return of "not found" without actually visiting the home of the defendant, if known to him. (36)

An old Virginia law in effect when Breckinridge County was created authorized the constable to execute warrants to search for deer skins, in order to detect violations of the hunting laws. (37) Later statutes, still in effect, require him to enforce the game and bird law. (38) The present law concerning same forbids the killing, catching, injuring, or molesting of elk or deer. (39)

Maintenance of Law and Order

In 1804, the constable's power was extended to include the execution of warrants destroying gambling devices, and he was authorized to call upon bystanders for assistance, if needed. (40) Today he has authority, not only to destroy, but also to seize, with or without warrant, any illegal gambling device. (41) From the beginning of his office he has been authorized to arrest persons for rioting, routs, and breaches of the peace (42); to conduct prisoners to jail and to arrest persons charged with bribery (43) and to arrest fugitives from justice and, before slavery was abolished, to whip slaves, by order of a justice of the peace. (44) The constable has the right to carry concealed weapons. (45)

Collection of Revenue

Unless precept was against property in the district, the constable could not be forced to receive a fee bill, precept, order for witness attendance, or other claims, against anyone residing outside his district. (46) It has always been his duty to account, to the court giving him an order, for his own and other officer's fees placed in his hands for collection. He is also required to give additional security when demanded by the county court. (47) An 1803 statute required the constable to take forthcoming and replevin bonds, and he still has authority to distrain for his own and other officers' fees placed with him for collection. (48)

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35. Acts: 1819-20, p. 248; 1891-93, p. 819.
36. Littell, vol. 3, 1803, p. 128; Acts, 1891-93, p. 819.
37. Littell, vol. 2, 1738, Virginia Law, p. 555.
38. Gen. Stat., 1873 ed., p. 495; Acts, 1916, p. 633.
39. Acts: 1920, p. 575; 1936, p. 159; Carroll, sec. 1938a-16.
40. Littell, vol. 3, 1804, pp. 176, 177.
41. Acts, 1891-93, p. 743; Carroll, sec. 1962.
42. Littell, vol. 3, 1803, p. 130.
43. Ibid.
44. Littell, vol. 3; 1805, p. 300; 1806, p. 403.
45. Acts, 1891-93, p. 800.
46. Littell, vol. 3, 1803, p. 128; Acts, 1891-93, p. 819.
47. Littell, vol. 3: 1803, p. 130; 1806, p. 329; Acts, 1891-93, p. 819.
48. Littell, vol. 3: 1803, p. 130; 1806, p. 329; Acts, 1891-93, pp. 819, 1012, 1013.

(Next entry 527, p. 282)

Constables

An act of 1803 required him to collect bonds forfeited by other constables; later, he collected fines and forfeitures, and accounted for them, before making payment to the proper officials. (49) Today, like the sheriff, the constable accounts for and makes payment of fees, fines, and forfeitures. (50)

It is the duty of the constable today, as in the past, to levy on and satisfy fee bills, orders of witness attendance, distress warrants, and attachments in the order in which they are placed in his hands. (51)

By statutory provision in 1839, the constable delivered to the sheriff all property attached by him, when the amount involved was more than fifty dollars. (52) Later acts broadened the jurisdiction of justices' courts to include cases involving as much as $100, and as a result the constable could levy on and distrain personal property up to $100, and make his return on such distress to the justice's court issuing it until the justices of Breckinridge County ceased holding court. (53)

The functions performed by the constable decreased to such an extent after the justices ceased holding their courts, that only one constable serves the entire county today. This officer keeps no records.

XI. JAILER

Structure

Creation

The office of jailer was created by constitutional provision in 1799, when the county court was authorized to appoint a jailer as often as necessary to hold office at the pleasure of the court. (1)

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49. LITTELL, VOL. 3: 1803, P. 127; 1806, P. 374.
50. Acts, 1891-93, P. 818.
51. Acts: 1820-21, P. 865; 1891-93, P. 819.
52. Acts, 1838-39, P. 261.
53. Acts, 1891-93, P. 1057.
1. ENCYCLOPAEDIA BRITANNICA, ELEVENTH ED., VOL. 6, P. 983.

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Selection and Term

Under this authorization Ansel Hyde was the first jailer to be appointed in Breckinridge County. (2) In 1850 this office was made elective for a four-year term. (3) The Kentucky General Assembly was authorized to consolidate the offices of sheriff and jailer at any time. (4) This consolidation was accomplished in 1934, but was abolished in 1937. (5)

Residence

The first jailer was required to be a resident of Hardin County, from which the new county was taken, for one year prior to his appointment. Thereafter, this officer must have resided for one year in the county before qualifying for office. (6) In 1850 the residence requirements were changed and he had to reside in the State two years, and in the county one year. (7)

Age

Prior to 1850 there was no age requirement provided for the jailer. In 1850, however, a law was passed requiring him to be at least twenty-four years of age. This age requirement remains in effect today. (8)

Oath, Bond, and Surety

The jailer has always been required to take oath and give surety bond before entering upon the duties of his office. (9)

1-13.

Removal

In 1891 the jailer was subject to indictment or prosecution for any misdemeanor in office, or wilful neglect of official duties in such manner as might be prescribed by law, although he had the right to appeal to the Court of Appeals. The General Assembly could also provide other methods for the removal or reinstatement of this officer. Pursuant to the constitutional provision in 1891, an act approved March 20, 1924, authorized the Governor to remove the jailer from office if he were found guilty of gross misconduct, bribery, or neglect of duty. He could take an appeal to the Court of Appeals within ten days after entry of the order of removal; if removed, he was disqualified from holding office in the State for a period of four years. (10)

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2. COUNTY COURT ORDERS, VOL. 1, P. 5, SEE ENTRY 225.
3. CONST. OF 1850, ART. 6, SEC. 1; CONST. OF 1891, SEC. 99.
4. CONST. OF 1891, SEC. 105.
5. ACTS: 1934, P. 540; 1936-37, FOURTH SPECIAL SESSION, P. 120.
6. CONST. OF 1799, ART. 3, SEC. 9.
7. CONST. OF 1850, ART. 6, SEC. 2; CONST. OF 1891, SEC. 100.
8. IBID.
9. LITTELL, VOL. 2, 1799, P. 294; CONST. OF 1850: ART 6, SEC. 9; ART. 8, SEC. 1; CONST. OF 1891, SECS. 103, 228; ACTS, 1891-93, P. 751; CARROLL, SEC. 2224.
10. CONST. OF 1891, SEC. 227, AMENDMENT 6; ACTS, 1924, PP. 72-75.

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Jailer

Vacancy

The county court was authorized by law to fill a vacancy in the office of jailer. (11) In 1812 provision was made for the sheriff to perform the duties of the jailer in the event the jailer himself was committed to jail. (12) Later statutes provided that whenever the office of jailer became vacant, the sheriff should act as jailer, unless unable to do so. In such case the county judge appointed a person to act in his stead. (13) Another act passed in the same year empowered the county court to fill any vacancy in the office of jailer, pending an election. (14)

Compensation

The expense of the jail, including the salaries of the jailer and jail employees, were paid from fees. (15) In Breckinridge County the jailer receives seventy-five cents per day for each county prisoner, and one dollar per day for each State prisoner. (16)

Deputies

Since the beginning of his office the jailer has had the power to appoint a deputy, this power being recognized by the Court of Appeals in the case of Ellison v. Stevenson. (17)

Functions

Servant of the Court

When the coroner or the sheriff was unable to execute process, the jailer performed this duty. (18) The jailer also had power to act in the county in civil, penal, or criminal cases, with the same authority as the sheriff. (19) Later statutory provisions made the jailer an officer of the county and circuit courts, and directed him to execute process of any court in civil, penal, or criminal cases. (20) It was also his duty to attend sessions of the circuit court and execute its commands. (21)

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11. CONST. OF 1799, ART. 3, SEC. 9.
12. LITTELL, VOL. 5, 1812, PP. 386, 387.
13. ACTS, 1891-93, P. 753.
14. IBID., P. 146.
15. GEN. STAT., 1873 ED., P. 468; ACTS: 1891-93, PP. 1140, 1141; 1932, P. 751 FF.
16. COUNTY COURT ORDERS, VOL. 26, P. 239, SEE ENTRY 225.
17. GEN. STAT., 1873 ED., P. 565 FF.; ACTS, 1891-93, P. 753.
18. ACTS, 1835-36, P. 96.
19. ACTS, 1891-93, P. 753; SEE SHERIFF, P. 262.
20. GEN. STAT., 1873 ED., PP. 301, 566, 569; ACTS, 1891-93, P. 753.
21. LITTELL, VOL. 3, 1802, P. 89; ACTS, 1891-93, P. 752.

Jailer

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Custody of Prisoners

In 1798 the jailer was directed to receive Federal prisoners, and this provision, reaffirmed in 1893, is still in effect. (22) He was also directed to receive and keep persons committed under ordinances of any town in the county, as well as all other persons committed to jail, until their lawful discharge. It was his duty to receive and keep prisoners transferred from other county jails for safekeeping by order of the circuit judge; he also had custody of all persons committed to jail in the county by the circuit court. (23) Upon order of the circuit judge, he could impress or hire guards necessary for the safekeeping of prisoners. Furthermore he was required to keep the jail clean and warm. These duties the jailer still performs. (24)

By an act of 1893, reaffirmed in 1914, the jailer must turn over to the manager of the workhouse or to the work crew, all prisoners sentenced to hard labor, reporting once each month to the county court the disposition made of such prisoners. (25) By acts of 1910 and 1920 he is required to cause persons under sentence of death by electrocution to be conveyed to the penitentiary. (26) He must also deliver the bodies of those who die in jail to their friends, upon request, or bury them decently at the county's expense. (27)

Custody of County Property

In 1820 statutory provision added supervision of the county buildings to the jailer's routine duties. (28) By legislation in 1873, and reaffirmed in 1880 and 1908, the duties of the jailer were extended to include supervision of the public square. (29) He has power to sue for any damage to property under his supervision. (30) It is the jailer's duty to obey the rules made by the county court concerning the management of the jail. (31)

1-13.

The jailer has always been exempt from jury duty and militia service. (32)

Recordation

The jailer keeps a register which, at the expiration of his term, he delivers to his successor, together with the custody of the county jail, its keys and furniture, the prisoners, and all official papers of commitment and liberation. (33)

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22. LITTELL, VOL. 2, 1798, P. 57; ACTS, 1891-93, PP. 752, 754, 755.
23. LITTELL: VOL. 1, 1795, PP. 317-319; VOL. 3, 1802, PP. 89, 90; ACTS, 1891-93, P. 752.
24. GEN. STAT., 1873 ED., PP. 566-569; ACTS, 1891-93, PP. 752-755.
25. ACTS: 1891-93, P. 813; 1914, PP. 467, 468.
26. ACTS: 1910, P. 111; 1920, P. 693; CARROLL, SECS. 1137-1, 1137-3.
27. GEN. STAT., 1873 ED., PP. 566-569; ACTS, 1891-93, P. 755.
28. ACTS, 1820-21, P. 48.
29. GEN. STAT., 1873 ED., P. 703; ACTS: 1879-80, VOL. 1, PP. 194, 195; 1908, P. 116.
30. ACTS, 1820-21, P. 48; GEN. STAT., 1873 ED., P. 703; ACTS: 1879-80, VOL. 1, PP. 194, 195; 1908, P. 116.
31. GEN. STAT., 1873 ED., PP. 566-569; ACTS, 1891-93, P. 755.
32. LITTELL, VOL. 3, 1802, P. 89; ACTS: 1891-93, P. 958 FF.; 1916, P. 436.
33. ACTS, 1891-93, P. 752.

The jailer keeps his register in his office.

327. JAILER'S REGISTER, 1928--. 1 vol.
Jailer's register of prisoners committed to jail, showing: date committed, name of prisoner, offense, color, age, sentence, name of arresting officer, date released, number of days in custody, amount of fees allowed for boarding prisoner, and remarks. Arr. chron. by date of commitment. No index. Hdw. under ruled hds. 500 pp. 20 x 12 x 2½.

XII. CORONER

Structure

Creation

The Kentucky General Assembly in 1792, provided for the office of coroner for a three-year term. (1) His first duties were similar to the duties originally performed in Virginia by one of the justices of the peace, who served as coroner. (2) John Walker, appointed by Governor James Garrard, became the first coroner of Breckinridge County after its establishment in 1799. (3)

Selection and Term

Under provisions made in 1799, after the coroner had served his term, his successor was appointed by the Governor from one of two persons recommended by the county court to hold office during good behavior. (4) In 1850, however, the office of coroner was made elective for a term of four years. (5)

Residence

The coroner must be a citizen of the United States, and must have been a resident of the State two years, and of the county one year, prior to his election. Since the county had not been in existence for one year,

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1. CONST. OF 1792, ART. 6, SEC. 1.
2. HENING, VOL. 2, P. 375.
3. CONST. OF 1799, ART. 4, SEC. 9; COUNTY COURT ORDERS, FIRST VOL. NOT NUMBERED, P. 2, SEE ENTRY 225.
4. CONST. OF 1799, ART. 4, SECS. 8, 9.
5. CONST. OF 1850, ART. 6, SEC. 1; CONST. OF 1891, SEC. 99.

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the coroner for that length of time, was required to have been a resident of Hardin County from which Breckinridge was taken. (6)

Age

Previous to 1850 no age qualification was mentioned for the coroner. Since 1850 he must have been at least twenty-four years of age, at the time of his election. (7)

Oath

In common with all civil officers, the coroner has always been required to take oath to support the constitution and to perform his duties faithfully. In addition, since 1850, he must not have participated in any way in duels. (8)

Bond

From 1799 to 1850, the coroner was required to furnish a surety bond and security approved by the county court. From 1850 until 1892, he gave such bond as often as was deemed necessary by the county court. Legislation passed in 1892, in force today, required him to give bond and security every two years, or as often as demanded by the county judge. (9)

Removal

The coroner has always been liable to impeachment for misdemeanor in office by two-thirds concurrence of the House of Representatives. (10) By constitutional provision in 1891 he was made subject to indictment or prosecution for any misdemeanor in office or for wilful neglect of official duties, but he was given the right of appeal to the Court of Appeals. (11) An act of 1924 stipulated that if the coroner is found guilty of gross misconduct, bribery, or neglect of duty, the Governor may remove him from office; however, he has the right to appeal to the Court of Appeals within ten days after the entry of the order of removal. If the order of removal is sustained by the court, he is barred from holding office in the State for a period of four years. (12)

1-13.

Vacancy

Until 1850 a vacancy in this office was filled by the Governor from one of two persons recommended by the county court, a majority of the

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6. CONST. OF 1799, ART. 3, SEC. 9; CONST. OF 1850, ART. 6, SEC. 2; CONST. OF 1891, SEC. 100.
7. CONST. OF 1850, ART. 6, SEC. 2; CONST. OF 1891, SEC. 100.
8. CONST. OF 1799, ART. 6, SEC. 1; CONST. OF 1850, ART. 8, SEC. 1; CONST. OF 1891, SEC. 228.
9. LITTELL, VOL. 2, 1798, P. 69; CONST. OF 1850, ART. 6, SEC. 9; GEN. STAT., 1873 ED., P. 262; CONST. OF 1891, SEC. 103; ACTS, 1891-93, P. 369; CARROLL, SEC. 527.
10. CONST. OF 1792, ART. 4, SECS. 1-3; CONST. OF 1799, ART. 5, SECS. 1-3; CONST. OF 1850, ART. 5, SECS. 1-3; CONST. OF 1891, SECS. 66-68.
11. CONST. OF 1891, SEC. 227, AMEND. 6.
12. ACTS, 1924, PP. 72-75.

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justices concurring. In the event the court failed to make proper recommendations during a period of twelve months, the Governor, with the approval of the Senate, then made the appointment from other recommendations. Since 1850, when the office became elective, the county court has filled any such vacancy until a successor could be elected and qualified. (13) The office of coroner has always been considered as vacant, upon the coroner's removal of residence from the county, since such removal was construed to be incompatible with the performance of the functions of this office. (14)

Compensation

Since the beginning of this office, the coroner has been compensated for his services on a fee basis, regulated by law. In 1852 the coroner was allowed six dollars for holding an inquest, including burial, which amount was paid out of the estate of the deceased, if sufficient; otherwise it was paid out of the county levy. (15) Recent legislation reaffirmed these provisions and increased this allowance to twelve dollars for each inquest. (16) When an inquest was held by a justice of the peace in the absence of the coroner, he has always been allowed the same fee as the coroner received. (17)

Deputies

When the coroner is able to attend to his duties, he must hold an inquest himself. If ill or unable to attend, however, he may appoint a deputy at his own expense to act with full power in his place. In case no deputy is appointed and the condition of the body demands immediate interment, any justice of the peace may hold the inquest. (18)

Functions

Inquests

Of the numerous duties performed by the coroner, that of holding an inquisition, with the assistance of a jury, over the body of any person whose death may have resulted from violence is, and always has been, paramount to all other duties. (19)

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13. CONST. OF 1799, ART. 4, SEC. 8; ACTS, 1850-51, VOL. 1, P. 96; GEN. STAT., 1873 ED., P. 386; ACTS, 1891-93, P. 146; CARROLL, SEC. 1526.
14. LITTELL, VOL. 2, 1796, P. 72; CONST. OF 1850, ART. 6, SEC. 11; CONST. OF 1891, SEC. 234; ACTS, 1891-93, P. 913.
15. LITTELL, VOL. 1, 1792, P. 167; ACTS, 1851-52, P. 307; REV. STAT., VOL. 1, P. 523; GEN. STAT., 1873 ED., P. 472; ACTS, 1891-93, P. 1145.
16. ACTS, 1924, P. 77; CARROLL, SEC. 1739.
17. ACTS, 1851-52, P. 10; GEN. STAT., 1873 ED., P. 311; ACTS, 1891-93, P. 371; CARROLL, SEC. 535.
18. ACTS, 1936, P. 271; CARROLL, SEC. 535.
19. LITTELL, VOL. 2, 1798, PP. 69, 70; REV. STAT., VOL. 2, P. 349; ACTS, 1859-60, VOL. 1, P. 49; GEN. STAT., 1873 ED., P. 263; ACTS, 1891-93, P. 369; CARROLL, SECS. 528, 533.

When necessary, the coroner could search any sink or vault for a dead body. (20) If he had reason to believe a human being had died in his county, from unnatural causes and without the attendance of a qualified physician, it was his duty to investigate such death, and hold an inquest over the dead body upon the request of any responsible citizen. (21) When death resulted from an act of violence or accident within ninety days from the date of such occurrence, the coroner held an inquest in the same manner as if death had occurred immediately. These laws govern the present procedure in the holding of inquests. (22)

In case of violent death, the coroner ordered the sheriff or constable to summon a jury to the place where the death or crime occurred, to determine the cause or the culprit. (23) Formerly a jury composed of twelve persons was required in all cases of probable homicide. (24) By subsequent legislation the number composing the jury was changed to six householders. This change also applied to inquests conducted by a justice of the peace, and is the law today. (25)

When an inquest resulted in the indictment of a person or persons for murder, manslaughter, or as an accessory or accessories thereto, it was the duty of the coroner to put the evidence given the jury in writing; to find material witnesses to appear at the trial of the indicted person or persons; to recognize such witnesses who were to appear before the circuit court on the first day of the next term; and to return the recognizances, with the testimony taken at the inquest, to the circuit court clerk's office. (26) He was further authorized to arrest and commit to the county jail any person who, at an inquest, was found guilty of murder, manslaughter, or of being an accessory thereto. If the culprit had fled, he could summon aid, pursue, and arrest him whenever he was found in the State. At inquests, in cases of indictment of accused persons, he had power to bind witnesses to appear before the circuit court. (27) 1-13.

Legislation in 1851 provided that, when the coroner was absent from the county, or at such a distance that his immediate attendance could not be obtained when necessary, any justice of the peace, through his common law powers, could summon a jury and hold an inquest when the condition of a body found in the justice's district warranted speedy interment. The same legislation limited their power to hold such inquests to certain counties only. (28) Subsequent legislation, however, extended this power to include all counties. (29)

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20. Acts, 1891-93, p. 371; Carroll, sec. 534.
21. Acts, 1936, pp. 269, 270; Carroll, sec. 528.
22. Ibid.
23. Littell, vol. 2, 1798, p. 69; Rev. Stat., vol. 2, pp. 349, 350; Acts, 1891-93, pp. 369-371; Carroll, secs. 528, 533.
24. Littell, vol. 2, 1798, p. 69.
25. Acts, 1859-60, vol. 1, p. 40; Gen. Stat., 1873 ed., p. 263; Acts: 1891-93, p. 369; 1936, p. 270; Carroll, sec. 533.
26. Rev. Stat., vol. 2, p. 350; Gen. Stat., 1873 ed., p. 263; Acts, 1891-93, p. 370; Carroll, secs. 529, 530.
27. Acts, 1891-93, pp. 369, 370.
28. Acts, 1851-52, p. 10; see Justices' Courts, p.254.
29. Acts, 1857-58, vol. 1, p. 6; Gen. Stat., 1873 ed., p. 311; Acts: 1891-93, p. 371; 1936, p. 271; Carroll, sec. 535.

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Unless requested by an authorized person, or unless he had reason to believe a crime had been perpetrated, the coroner has no right to hold an inquest or post-mortem. If he holds an autopsy without the fulfillment of the above conditions, as, for instance, at the request of an insurance company, he is liable to prosecution for damages by the relatives of the deceased. (30)

After an inquest, the coroner released the body to legitimate claimants for burial; however, if the identity of the deceased person was unknown, he arranged for burial at the expense of the county. (31) Statutory provision in 1892, still in effect, required the coroner, or justice of the peace who acted for him, to turn over to the county judge within ten days any money or valuables found upon an unknown deceased person. This money, if adequate to cover the burial expenses, was used for that purpose; and the remainder, if not claimed by persons legally entitled thereto, was paid into the county treasury. (32) Recent legislative enactment required persons aware of the deaths under suspicious circumstances to notify the coroner immediately; and removal of the body or of anything from it, unless directed by the coroner or other authorized person, was strictly prohibited, as is the case today. (33)

As provided by legislation in 1860, the coroner was empowered to employ a competent physician or surgeon to hold a post-mortem examination, if necessary, of the body over which an inquest was held, provided it assisted him in the execution of his common law powers and duties as previously set forth. (34) This provision was later amplified by a statute of 1892 to include the power of the coroner to employ a chemist to analyze the contents of the deceased person's stomach during an inquest, if he had reasonable grounds to believe that death resulted from poison. (35) Upon receipt of an affidavit from any person stating a reasonable belief that such deceased person, now buried, had died from poison or other unknown illegal cause, it was the duty of the coroner, the county judge, or a justice of the peace to have the body exhumed and a chemical or other examination made to determine the cause of death. (36)

Immediately after the inquest, the coroner and the person employed by him to make such examination were required to make out, sign, and file with the county court clerk, a concisely written and sworn report of their findings. (37)

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30. STRIEPE V. LIBERTY MUTUAL INSURANCE COMPANY, 243 KY. 15.
31. LITTELL, VOL. 2, 1798, P. 69; REV. STAT., VOL. 2, P. 350; GEN. STAT., 1873 ED., P. 263; ACTS, 1891-93, P. 370.
32. ACTS, 1891-93, P. 370; CARROLL, SEC. 531.
33. ACTS, 1936, P. 270; CARROLL, SEC. 528.
34. ACTS, 1859-60, VOL. 1, P. 106.
35. ACTS, 1891-93, P. 370; CARROLL, SEC. 537A.
36. ACTS, 1912, P. 217; CARROLL, SEC. 537A.
37. ACTS, 1912, PP. 217, 218; CARROLL, SEC. 537A.

Peace Officer Functions

The coroner had the power to execute process in all criminal, penal, and civil cases; execute warrants in bastardy proceedings in cases in which the sheriff was charged; remove to other counties property of the sheriff which is levied on for sale under an execution, and cannot be sold in the county in which the sheriff resides; execute judgments in cases where the process is served by him; and execute process in criminal cases where the sheriff is defendant or related to the defendant. When so acting, the laws in regard to the sheriff apply to and govern the coroner. (38)

Although the coroner, who always has been the highest peace officer in the county with power to arrest even the sheriff, was authorized to investigate housebreaking before the county had adequate police protection, he left such investigation to the sheriff or police, where they were available. (39)

328. CORONERS INQUESTS, 1938--. 1 f.b. 1810-74 in Dismission of County Court, entry 284; 1910-37 in Miscellaneous, entry 132.

Original reports made by coroner to county court of inquests held on persons who have died under questionable or suspicious circumstances, showing: date of report, name of coroner, date of inquest, name, age, sex, and color of deceased, date and place of death, names of jurors and witnesses, verdict of jury, and signatures of jury foreman and coroner. Arr. chron. by date of report. No index. Hdw. 4½ x 4½ x 10. Co. ct. clk. off.

1-13.

XIII. TAX COMMISSIONER

Structure

Creation

The General Assembly made provision in 1792, for a commissioner of the tax for each county, to be appointed by the county court for a term of two years. (1).

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38. LITTELL: VOL. 1, 1795, P. 282; VOL. 2, 1798, PP. 64, 72; VOL. 3, 1805, P. 292; ACTS, 1820-21, P. 117; GEN. STAT., 1873 ED., P. 263; ACTS, 1891-93, P. 371.
39. LITTELL, VOL. 2, 1798, P. 69; REV. STAT., VOL. 2, P. 349; ACTS, 1859-60, VOL. 1, P. 49; GEN. STAT., 1873 ED., P. 263.
1. LITTELL, VOL. 1, 1792, PP. 64, 67, 89.

(Next entry 329, p. 298)

Tax Commissioner

On March 17, 1800, the county court appointed Elijah Hardin as commissioner of the tax to serve for one year in Breckinridge County. (2)

Selection and Term

An act approved January 30, 1810, and reaffirmed in 1825, provided for a commissioner of the tax to be appointed for one year by the county court, within the bounds of each militia company. (3) The act of 1825 also provided that, if the bounds of any militia company lay within the bounds of two or more counties, the court of the county in which the commanding officer of such company lived made the appointment and necessary reappointments. (4)

In 1828 this district system of assessment was abolished. In its place the county court established not more than three districts in each county and appointed a commissioner for each district, for a term of ten months. (5) An act approved December 23, 1831, provided that, thereafter, each county court appoint commissioners of the tax every second year, instead of annually. (6) This act, however, was repealed January 17, 1834, by a statute which restored annual appointments. (7)

An act approved March 2, 1844, provided that if the county court failed to appoint commissioners of the tax before March of any year, no court being in session, the county court clerk should fix a day in March 1844, and similarly in every year thereafter, for a county court meeting to appoint commissioners. If the county court failed to appoint commissioners of the tax on or before April 1, of any year, the county court clerk was required to lay off the county into districts, if necessary, and to notify the Governor immediately of such action; whereupon the Governor was empowered to appoint the commissioners for the county. (8)

The office of county assessor was created in 1850. This officer, who assumed the duties performed previously by the district tax commissioners, was now elected for a term of four years. (9) The Constitution of 1891 gave the legislature power to abolish the office of county assessor, as well as power to reestablish the office and prescribe its duties. (10) The first election for assessor thereafter was held in November 1894; the successful candidate took office on the first Monday in January 1895 and continued in office three years, until January 1898, the beginning of the next four-year term. (11)

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2. COUNTY COURT ORDERS, FIRST VOL. NOT NUMBERED, P. 4, SEE ENTRY 225.
3. LITTELL, VOL. 4, 1810, PP. 159-163; Acts, 1825-26, PP. 84-87.
4. Acts, 1825-26, PP. 84-87.
5. Acts, 1827-28, P. 37.
6. Acts, 1831-32, P. 173.
7. Acts, 1832-33, P. 342.
8. Acts, 1843-44, PP. 78-80.
9. CONST. OF 1850: ART. 6, SEC. 11; ART. 4, SEC. 31; Acts, 1850-51, VOL. 1, P. 378; GEN. STAT., 1873 ED., PP. 718, 719.
10. CONST. OF 1891, SEC. 104.
11. IBID., SEC. 99; Acts, 1891-93, P. 143.

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An act approved March 6, 1918, abolished the office of county assessor, and incumbents then in office were made county tax commissioners. The powers and duties heretofore exercised by the county assessor were transferred to the tax commissioner, with whatever additional powers and duties might be imposed by law or by order of the State Tax Commission. The tax commissioner was elected for a four-year term of office. (12)

When the office of county assessor was created as an elective office, no provision was made that the incumbent be eligible for a succeeding term. (13) An act of October 1, 1874, specified, however, that the county assessor was ineligible for a succeeding term of office. (14) By an act of January 30, 1878, this law was repealed and the county assessor was made eligible for reelection. (15) In 1891 the assessor again became ineligible for a succeeding term (16), but by recent legislation the tax commissioner may now be a candidate for reelection. (17)

Age and Experience

An act approved February 18, 1840, provided the first age requirement for the commissioner of the tax and specified that he be at least twenty-one years of age. (18) Provision in 1850 required a candidate to be at least twenty-four years old, as he must be today. (19) Each candidate must also hold a certificate from the State Tax Commission attesting his capability for the office. (20)

Oath

1-13.

Both constitutional and statutory provisions required the commissioner of the tax from 1799 to 1852, the assessor from 1852 to 1918, and the tax commissioner from 1918 to the present, to take the oath to support the constitution and to perform the respective duties of his office. It was also provided that the candidate for this office must not have participated in any way in duels. (21)

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12. Acts, 1918, p. 32.
13. Const. of 1850: art. 6, sec. 11; art. 4, sec. 31.
14. Acts, 1873-74, p. 49.
15. Acts, 1877-78, vol. 1, pp. 13-15.
16. Const. of 1891, sec. 104.
17. Acts, 1918, pp. 31, 32.
18. Acts, 1839-40, p. 224.
19. Const. of 1850, art. 6, sec. 2; Const. of 1891, sec. 100.
20. Acts, 1918, pp. 36, 37.
21. Const. of 1792, art. 7, sec. 1; Const. of 1799, art. 6, sec. 1; Acts, 1827-28, p. 37; Const. of 1850, art. 8, sec. 1; Const. of 1891, sec. 228; Acts, 1918, pp. 32, 33.

Tax Commissioner

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Bond

In 1799, the commissioner of the tax was required to give bond with sufficient security, in the amount of $2,000, payable to the Governor; later statutes changed the amount of bond to $500, with security approved by the county court. (22) It was not until 1850 that constitutional provision specified that this officer must give bond; this provision was reaffirmed in the Constitution of 1891. (23) An act of 1918 required the tax commissioner to furnish bond of $1,000 for himself and his deputies, with surety approved by the county court. (24)

Removal

First the commissioner of the tax, then the assessor, and finally the tax commissioner were each, in turn, liable to impeachment by concurrence of two-thirds of the members present in the House of Representatives, for any misdemeanor in office. (25) The assessor and, later, the tax commissioner were also subject to indictment for any misdemeanor, or for wilful neglect of official duties. Each, however, had the right to appeal to the Court of Appeals. (26)

Vacancy

Until 1850, a vacancy in the office of commissioner of the tax was filled by the Governor, with the consent of the Senate. (27) Since 1850, when this office became elective, a vacancy in the assessor's and, later, in the tax commissioner's office was filled by the county court until a successor was elected and qualified. (28)

Compensation

Early legislation directed the county court to allow each commissioner of the tax six shillings for every day served. (29) In 1825, all laws that provided any compensation to commissioners of the tax were repealed. (30) Between 1825 and 1827, commissioners in many counties failed or refused to function because no provision was made for compensation. To remedy this situation the legislature passed an act in 1827 providing compensation of one dollar a day for each day's performance of duty. (31)

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22. LITTELL, VOL. 2, 1799, P. 316; ACTS, 1828-29, P. 149.
23. CONST. OF 1850, ART. 6, SEC. 9; CONST. OF 1891, SEC. 103.
24. ACTS, 1918, P. 33.
25. CONST. OF 1799, ART. 5, SECS. 1-3; CONST. OF 1850, ART. 5, SECS. 1-3; CONST. OF 1891, SECS. 66-68.
26. CONST. OF 1891, SEC. 227, AMENDMENT 6.
27. CONST. OF 1792, ART. 2, SEC. 8; CONST. OF 1799, ART. 3, SEC. 9.
28. GEN. STAT., 1873 ED., PP. 386, 718, 719; ACTS, 1918, P. 33.
29. LITTELL, VOL. 1, 1792, P. 67; ACTS, 1818-19, P. 658.
30. ACTS, 1825-26, PP. 84-87.
31. ACTS, 1826-27, PP. 28, 29.

(Next entry 329, p. 298)

In 1829 commissioners were paid not more than five cents on each list of taxable property turned in; if it appeared that this would not amount to one dollar a day the county court allowed each commissioner that amount. (32) In 1851, the commissioners received a fee not to exceed eight cents for each list turned in. (33) This provision was later reaffirmed with the fee being fixed at a sum not exceeding fifteen cents for each list. (34) By an act of 1924, in effect today, the commissioner's pay was based on the following graduated percentage of the total assessment made by him, as finally equalized by the county board of tax supervisors: five cents on each $100 of the first $1,000,000, and two cents on each $100 of the excess over $1,000,000, with the proviso that no tax commissioner was entitled to receive more than $4,000 for his yearly services. (35)

Deputies

Before 1850, no statutory provision was made for deputies of the commissioners of the tax. In 1850, constitutional provision, reaffirmed by later legislation, empowered the assessor, with the approval of the county court, to appoint as many capable deputies not under twenty-four years of age as he deemed necessary. He could also remove his deputies at will. (36) A recent act authorized the tax commissioner, with the approval of the State Tax Commission, to appoint as many deputies not under twenty-one years of age as he deemed necessary, and to remove them at his pleasure. (37)

Exemptions and Requirements

1-13.

By early legislation a tax commissioner was exempt from militia duty (38), and later provision exempted him from military duty, highway work, and jury service for one year. (39) Failure to perform his duties without reasonable excuse subjected him to a fine not to exceed $100, which varied according to the degree of neglect. (40) Later statutes changed the fine to a sum not exceeding $500. (41) He also was required to keep his office open at all reasonable times from July 1 to October 31. (42) The tax commissioner was also required to attend an annual conference, conducted at Frankfort by the State Tax Commission, for the purpose of receiving instructions concerning assessment duties. (43)

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32. Acts, 1828-29, p. 149.
33. Acts, 1850-51, vol. 1, p. 276; Rev. Stat., vol. 2, p. 252.
34. Gen. Stat., 1873 ed., p. 720.
35. Acts: 1924, pp. 319, 320; 1938, pp. 356-358.
36. Const. of 1850, art. 6, sec. 11; Gen. Stat., 1873 ed., pp. 386, 718, 719.
37. Acts, 1918, p. 32.
38. Littell, vol. 1, 1792, p. 67.
39. Acts: 1817-18, pp. 654-660; 1825-26, p. 86.
40. Acts, 1825-26, p. 86.
41. Gen. Stat., 1873 ed., p. 718; Acts, 1918, p. 32.
42. Acts, 1918, p. 39.
43. Ibid., p. 558.

(Next entry 329, p. 298)

Since the county assessment agency has been variously denominated commissioner of the tax, assessor, and tax commissioner, the latter term will be used in the following discussion of the functions of this office.

Functions

Assessment

Each August, the tax commissioner called on every person in his district subject to taxation, and obtained a written list of taxables (44), making a return on oath to another commissioner. (45) After listing the property in his district, he made four alphabetical general lists showing by columns the date of receipt of each list, the persons chargeable with the tax, the amount or value of each kind of property, and the number of all free males over the age of 21, distinguishing those who were also subject to county levies. (46) Each commissioner kept one list; a copy, with the original lists taken from individuals in his district, went to the county court clerk; a third, after being certified by the clerk, was delivered to the sheriff to guide him in collecting the taxes; and the fourth copy was transmitted by the commissioner to the Auditor of Public Accounts. All four lists were delivered to those persons on or before October 3. (47) The commissioner received from the county court clerk a report of the sums received as tax on filing certain legal papers, compared this report with the clerk's record, and certified the same to the Auditor of Public Accounts. (48) He also received from the county court clerk a list of insolvents made up by the sheriff, which he entered in his books. (49) The commissioner transmitted to the Auditor of Public Accounts a list of all fines and additional taxes and a list of all taxpayers who had moved to other counties. (50)

The tax commissioner turned in to the county court a list of property belonging to persons who had made a fraudulent return, or who had refused to give a list on oath. The property belonging to such persons was subject to a triple tax, recoverable in the county court. (51) In cases of failure of persons to give in returns, the commissioner personally placed a value on such property. The valuation set by him or determined by other competent evidence was used by the court in deciding the valuation upon which the triple tax was to be based. (52) By an

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44. LITTELL, VOL. I, 1792, P. 65.
45. IBID., P. 66.
46. IBID., P. 67.
47. IBID.
48. IBID., P. 69.
49. IBID.
50. IBID.
51. IBID., P. 67.
52. ACTS: 1817-18, PP. 654-660; 1825-26, P. 86.

(Next entry 329, p. 298)

act approved December 20, 1794, the commissioner was required to appraise the value of all town lots in his district and to assess a tax of three shillings per 100 pounds valuation exclusive of improvements. (53) Later legislation authorized him to impose penalties for failure to make tax returns. (54)

Legislation with respect to the commissioner's list of taxable property required him to make out his return under oath to another commissioner of the same county, which return was to be given to the county court of his county.

By this system, assessments were made as of March 10. Since widows and infirm persons were not required to attend the company muster, the commissioner was required to make personal application to them. Single women and men not attending the muster of a militia company had until August 1 to hand in their lists. In addition, the taxpayers were required to swear to the correctness of their lists, and to give a description of their property, sufficient to enable the commissioner to estimate its value. (55) As stated previously, this tax collecting procedure within the bounds of a militia company was abolished. (56)

On February 26, 1842, the Court of Appeals ruled that it was the duty of a tax commissioner to apply at the residence of each citizen for a list of taxable property, and that the citizen incurred no penalty by failing to give in his list, unless he was called upon for it at home. (57)

An act effective October 1, 1874, provided that each voting precinct constitute a revenue district; that the commissioner enter the assessments of each revenue district in a separate book; and that he furnish each taxpayer, regardless of race, with a blank tax form on which to set out a complete list of all his taxable estate, both real and personal. Heretofore, the taxable property of Negroes, mulattoes, and Indians was listed in a separate book, but this provision was repealed by an act approved February 23, 1874. (58) 1-13.

The tax commissioner was directed by an act approved May 17, 1886, to assess his county by justices' districts, keeping the assessment of each district in a separate book. He was further directed to complete his list by December 15 of each year and return his tax books to the county court clerk, together with the statement of property transfers furnished him before September 15 by the clerk. (59)

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53. LITTELL, VOL. 1, 1794, P. 268.
54. LITTELL, VOL. 5, 1815, P. 289.
55. ACTS, 1825-26, PP. 84-86.
56. ACTS, 1827-28, P. 37; SEE SELECTION AND TERM, SUPRA P. 288.
57. LEE V. COMMONWEALTH, 6 DANA 311.
58. ACTS, 1873-74, PP. 47-49.
59. ACTS, 1885-86, VOL. 1, P. 162.

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Tax Commissioner

An act approved April 4, 1890, provided that the tax commissioner, after he had added any item to a tax list, report the name of the taxpayer to the board of tax supervisors, together with a short statement of the reason for making the addition. (60) The act of November 11, 1892, provided for property schedules and required the commissioner not only to assess his county by justices' districts and make a book for each district, but to make a separate book for each incorporated city, town, or taxing district, except school districts. This act further provided that the commissioner should use assessment books and blank schedules prepared by the Auditor of Public Accounts, and that these schedules should contain two columns. In one, the taxpayer fixed the value of his property; in the other, the commissioner fixed what in his judgment was a proper valuation. If the valuation fixed by the commissioner was greater than that fixed by the taxpayer, the official was required to notify the taxpayer, at the time of the assessment, of the amount of the increase and the time and place of the meeting of the board of tax supervisors. As formerly, the commissioner reported to the board a complete list of such taxpayers. (61) If the commissioner raised the valuation without notice being received by the taxpayer from either the commissioner or the board of tax supervisors, the taxpayer was not required to pay taxes on the difference between his own valuation and the illegal assessment made by the commissioner. (62)

A subsequent act changed the assessment date from September 15 to September 1 (63), and later it was changed to July 1, as is the case today. The commissioner makes the assessments of all property in his county, subject to the direction of the State Tax Commission. As formerly, the taxpayers must appear during the tax commissioner's office hours and file their schedules. If they fail to do so, the commissioner or one of his deputies must notify them of their failure. It is the duty of the commissioner to meet with the county board of supervisors to supply needed information with regard to assessment. (64)

Taxation

Under the provisions of an act approved January 31, 1814, owners of wholesale and retail stores were required to add the value of imported merchandise to their lists of taxable property. (65) Later provision required these owners to place a value on imported, but not domestic merchandise. (66) By still later provision, these owners were required to include both imported and domestic wares in their lists. (67)

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60. Acts, 1889-90, pp. 52-54.
61. Acts: 1891-93, pp. 287 - 297; 1918, p. 33.
62. Negley v. Henderson Bridge Company, 107 Ky. 414.
63. Acts, 1906, pp. 99, 464.
64. Acts, 1918, pp. 33, 39, 40.
65. Littell, vol. 5, 1814, pp. 110-116.
66. Acts, 1825-26, pp. 84-86.
67. Acts, 1830-31, pp. 173-178.

Tax Commissioner

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By an act of 1837, the requirements of the assessment procedure were such that each taxpayer had to fix a sum, under oath, to cover what he was worth, exclusive of the property heretofore required by law to be listed for taxation, which sum did not include his exemption of $300, or lands or other property outside of the State and subject to taxation there. The taxpayer was subject to a State ad valorem tax on this sum, and the amount was entered in a column designated "Value under the equalizing law," which did not include the growing crop, or one year's crop then on hand, or articles made at home for domestic use. (68)

By recent provision, the tax commissioner was required to fix a value on each note or lien, and enter this value in his tax book against the owner or beneficial holder of the same. He returned the statement to the clerk for the use of the tax supervisors. (69)

Legislation in 1865 required the tax commissioner to list the number of dogs, over two, owned by each household. This list the sheriff used in collecting the dog tax of one dollar per dog. (70) Since 1918 the commissioner has kept a list of dog owners, as well as a list of dogs, furnishing the sheriff and the Commissioner of Agriculture with duplicate lists. (71)

Before slavery was abolished, the tax commissioner was required to list in a separate column, the number of free Negroes in the county. (72) When slavery was abolished in 1863, all men over twenty-one years of age were considered tithable, and the poll tax was raised from a sum not exceeding one dollar and fifty cents to a sum not exceeding three dollars per person per year. After the Emancipation Proclamation, slaves were dropped from the tax lists and the taxable property of Negroes, mulattoes, and Indians was required to be listed in a separate book. (73) 1-13.

Prior to 1894, a married woman could not hold property in her own name unless she has been "emancipated," either by her husband or by an ante-nuptial agreement which gave her the right to hold property and transact business in her own name. In case of such an emancipatory agreement, a married woman listed her property with the tax commissioner and paid taxes; and if not emancipated, her husband listed her property on his tax return, or made a separate return for her. In 1894 a married woman was given the same status as a single woman to acquire and dispose of property and to make contracts. (74)

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68. Acts, 1836-37, p. 313.
69. Acts, 1906, pp. 88, 98, 217.
70. Acts, 1865, vol. 1, p. 16.
71. Acts, 1918, p. 489.
72. Rev. Stat., vol. 2, p. 693.
73. Gen. Stat., 1873 ed., pp. 269, 270, 718.
74. Acts, 1894, p. 176.

Census and Statistics

From 1821 until 1934, the tax commissioner added a column to his tax books in which he listed the number of children of school age in each school district. (75) Since 1934, the district school attendance officer has maintained this school census. (76)

Each commissioner, after giving ten days' notice, was required to attend the muster of his militia company in April and June, for the purpose of listing the taxable persons (white men over twenty-one and slaves over sixteen years of age, who were subject to an annual poll tax not exceeding $1.50 per person) and property within his company's bounds. (77) This procedure was changed in 1828, when the annual census of voters was made by district instead of militia precinct. (78)

From 1851 to 1934, each commissioner returned a list of the names and ages of deaf and dumb children between seven and twenty-one years, on the backs of the tax books. (79) A similar list of blind children under twenty-one years was returned on the backs of the tax books by each commissioner, from 1852 to 1934. (80)

By provision made in 1852, the commissioner was directed to keep a list of births, deaths, and marriages which occurred each year in his county and to turn this list over to the county court clerk, together with the registries of clergymen, physicians, and midwives, from which the list had been compiled. (81) This law, repealed in 1862, was reenacted in 1874. (82) It was again repealed in 1910, and the duties connected with the compilation of the list of births and deaths were transferred to the Bureau of Vital Statistics under the State Board of Health. (83) Since 1892, he has also been required to furnish the Commissioner of Agriculture with crop statistics. (84)

In 1835, the annual census of voters was replaced by a census every fourth year. (85) In 1851, and every eighth year thereafter, the commissioner was required to return with his tax book, a list of the qualified voters of his entire county. A city or town was assigned a separate representation in either house of the legislature; therefore, he was required to compile a separate list of the voters of such city or town in

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75. Acts: 1821-22, p. 353; 1885-86, vol. 1, p. 171.
76. Acts, 1934, p. 291.
77. Acts, 1825-26, pp. 84-86.
78. Acts, 1827-28, p. 37.
79. Acts, 1850-51, vol. 1, p. 26.
80. Acts: 1851-52, p. 361; 1934, p. 279.
81. Acts, 1851-52, p. 359.
82. Acts, 1873-74, pp. 13, 14.
83. Acts, 1910, p. 96.
84. Acts, 1891-93, p. 20.
85. Acts, 1830-31, p. 177.

(Next entry 329, p. 298)

his county. (86) Acts of 1878 and 1880 directed the commissioner to enroll, in a special column in the tax book, the names of all citizens in the county who were entitled to vote for representatives in the Kentucky General Assembly in 1879 and 1881. (87) An act of 1886 restored the annual census of voters, but required no list of voters to be made in 1886 or 1887. (88) A later act, in effect today, required the commissioner to compile an annual census of voters. (89)

Recordation

Legislation prior to 1799, directed the commissioner to keep a separate book for the purpose of entering land assessments. (90) At the time the commissioner returned his tax book to the county court clerk, he also made a written report to the county court, listing the names of persons failing to give in a tax return, or giving a false return. (91) Failure to return his tax books by May 1 of each year subjected him to a fine of $100. (92) Beginning in 1825, the commissioner listed in his tax book the number of white men above twenty-one years of age who lived within the bounds of his militia company, to enable the legislature to apportion its representatives. In addition, he kept a separate list of all free white men above twenty-one years of age who lived in each town in his militia precinct. (93) Subsequent provision required him to list annually the enrolled militia. (94) Some years later it was provided that, unless the Governor made a public proclamation commanding the listing of members of the reserve militia, such listing should not be made. (95) Each commissioner was required to add accurately the columns of each page of his tax book, so that each page was a perfect balance sheet. (96) By legislation approved January 10, 1882, the commissioner was directed to make out and file with the county court clerk a complete list of property exempt from taxation. (97) An act of November 11, 1892, required the commissioner to return the tax books and schedules annually to the county court clerk on or before January 1. (98)

1-13.

The records of this office are housed in the office of the tax commissioner, unless otherwise specified.

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86. REV. STAT., VOL. 2, P. 255.
87. ACTS: 1877-78, VOL. 1, P. 4; 1879, VOL. 1, PP. 4, 5.
88. ACTS, 1885-86, P. 162.
89. ACTS, 1906, P. 101.
90. LITTELL, VOL. 1, 1795, P. 321.
91. ACTS: 1817-18, PP. 654-660; 1825-26, P. 86.
92. REV. STAT., VOL. 2, PP. 251, 252, 258.
93. ACTS, 1825-26, P. 86.
94. ACTS, 1865, VOL. 1, P. 98.
95. ACTS: 1875-76, VOL. 1, P. 119; 1916, P. 477.
96. ACTS, 1838-39, P. 24.
97. ACTS, 1881-82, PP. 8, 9.
98. ACTS, 1891-93, P. 295.

329. ASSESSMENTS, 1934--. 9 shelves in wall cabinet.
Copy of assessment lists of real and personal property subject to taxation, showing: tax bill number, name and address of taxpayer, name of nearest resident, itemized descriptive list of property, total tax value of land, coal, timber, and improvements, assessed value, and amount of tax due. Arr. numer. by dist. no. and alph. thereunder by name of taxpayer. No index. Hdw. on pr. fm. 24 x 36 x 18.

330. ASSESSMENTS, 1934--. 28 vols. (dated and numer. by dist. no.).
Record of assessment lists of real and personal property subject to taxation, showing: tax bill number, name and address of taxpayer, name of nearest resident, itemized descriptive list of property, total tax value of land, coal, timber, and improvements, assessed value, and amount of tax due. Arr. numer. by dist. no. and alph. thereunder by name of taxpayer. No index. Hdw. on pr. fm. Aver. 600 pp. 17½ x 18 x 3½.

331. ASSESSMENTS OF BRECKINRIDGE COUNTY, 1800-1809, 1811-17, 1819-29, 1831-35, 1837-70. 56 vols.
Old assessment lists of real and personal property, showing: name of taxpayer, description of property (number of slaves, number head of livestock), valuation, date and amount assessed, and signature of tax commissioner. Arr. numer. by dist. no. and alph. thereunder by name of taxpayer. No index. Hdw. on pr. fm. Aver. 100 pp. 15 x 15 x 1. 1800-1809, 1811-17, 1819-35, 1837-51, 35 vols., file room, first floor; 1852-70, 21 vols., balcony, Kentucky Historical Society, Old State Capitol, Frankfort, Ky.

XIV. BOARD OF TAX SUPERVISORS

Structure

Creation

From 1799 when Breckinridge County was established until 1851, taxes were collected under the general supervision of the county court. (1) In the latter year it was provided that the county judge and the county court clerk should constitute a board of tax supervisors for their counties. (2)

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1. LITTELL, VOL. I, 1792, PP. 64, 67, 89.
2. ACTS, 1850-51, VOL. I, PP. 279, 280.

Board of Tax Supervisors

(Next entry 332, p. 301)

Selection and Term

In 1858 the county court was authorized to appoint three taxpayers, citizens of the county, as a board of tax supervisors, to hold office for one year. Such officials were, however, eligible for reappointment. (3) This was changed in 1874 by providing that the county judge and the justices of the peace, when sitting as a court of claims each year, should appoint a tax board consisting of one taxpaying citizen for each voting precinct. (4) In 1892 and in 1906, statutes provided that a tax board, composed of five housekeepers, residing in different sections of the county, should be appointed by the county judge. (5) In 1917 the number was changed to three taxpayers residing in different parts of the county, one of whom should be a resident of the largest city of the county. Each was eligible for reappointment. (6) In 1918 the county judge was authorized to appoint a tax board of three or more members, providing the total number did not exceed one person for each magisterial district in the county. (7)

Oath

Since 1858 each member of the tax board has been required to take an oath to discharge faithfully the duties of the office. (8)

Vacancy

Legislation passed in 1892 provided that vacancies occurring in the board of tax supervisors from any cause should be filled by the county judge. (9)

1-13.

Compensation

Early legislation fixed the compensation for members of the board at two dollars for each day they attended board meetings. (10) In 1892 the supervisors and clerk were allowed three dollars for each day the board met, to be paid out of the State Treasury. (11) Acts passed in 1906 and 1917 provided for the same rate of pay per day, but specified that one-half was to be paid by the fiscal court and the other half out of the State Treasury. (12)

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3. Acts, 1857-58, vol. 1, p. 57.
4. Acts, 1873-74, p. 49.
5. Acts: 1891-93, pp. 313-316; 1906, p. 148.
6. Acts, 1917, p. 16.
7. Acts, 1918, p. 15.
8. Gen. Stat., 1873 ed., p. 724; Acts: 1891-93, p. 314; 1906, p. 148; Carroll, sec. 4117.
9. Acts: 1891-93, p. 314; 1906, p. 149; 1917, p. 17; Carroll, sec. 4118.
10. Gen. Stat., 1873 ed., p. 724.
11. Acts, 1891-93, p. 316.
12. Acts: 1906, p. 151; 1917, p. 20.

Board of Tax Supervisors

(Next entry 332, p. 301)

Functions

An act passed in 1831 made it the duty of the county court to examine the books returned by the tax commissioner, compare them with the lists of preceding years and with the pollbooks to ascertain the number of persons omitted, and certify to the Auditor of Public Accounts the amount allowed the commissioner. (13)

Since 1851, when the judge and the clerk of the county court constituted the board of tax supervisors, the board met at the county court clerk's office each year, examined the tax books, corrected any errors made by the assessor and determined the facts in relation to the valuation of the property listed. If they thought the property had been incorrectly valued, they fixed a proper value. (14) This board, by an act of 1858, was given the same powers and duties as the previous board had exercised (15), and statutes enacted in 1874 provided that the newly formed board of tax supervisors should perform all the duties, and were subject to the same regulations as formerly. (16) Subsequent statutory provisions continued these duties and gave the board of tax supervisors the additional authority to revise items which were incorrect, to list all property omitted by the assessor, and to determine the value of property for which they found no owner. (17) The board had authority to compel attendance and conduct the examination of witnesses before them (18), to receive the tax list of any person omitted by the assessor, to report to the county court any omitted tax lists, and to certify to the Auditor of Public Accounts its approval of the tax book. (19) Later statutes provided that the tax board should list and assess all taxable property, whether or not it was omitted by the assessor or property owner (20), and summon and swear witnesses. (21)

A previous act passed by the legislature had made decisions of the board final (22), but a statute enacted in 1906 gave the taxpayer the right of appeal to the quarterly court from the decision of the board. (23)

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13. Acts, 1831-32, p. 173.
14. Rev. Stat., vol. 2, p. 257.
15. Acts, 1857-58, vol. 1, p. 57.
16. Gen. Stat., 1877 ed., p. 979.
17. Acts, 1891-93, pp. 313-316.
18. Rev. Stat., vol. 2, p. 257.
19. Ibid.
20. Acts: 1906, pp. 112, 151; 1922, pp. 350, 351.
21. Acts, 1906, p. 151.
22. Acts, 1891-93, p. 315.
23. Acts, 1906, p. 152.

Records

In 1892 an act was passed requiring the board of tax supervisors to keep a record of its proceedings, examine and correct the tax books, and return them with the record of its proceedings to the county court. (24) Although the county clerk had, from the beginning, kept the records of all proceedings of each successive tax-supervising body, this statute specifically directs that he serve as clerk of the tax board. It also directed him after examination and revision of the tax books by the board, to make and report a recapitulation of the book. (25) The county court clerk, as clerk of the board of tax supervisors, has the tax bills examined and approved by the board, makes and records a recapitulation of the tax bills, and on or before May 10, files a certified copy of this recapitulation with the State Tax Commission. (26)

The records of the board are housed in the office of the county court clerk.

332. TAXES REVISION NOTICES, 1938--. 1 f.b.
Board of tax supervisor's notices to taxpayer regarding the revision of changes in their tax assessments, showing: date of notice, name of taxpayer, location and description of property, assessed value of property, amount of revision, date board will meet to hear complaints, and signature of county court clerk. Arr. chron. by date of notice. No index. Hdw. on pr. fm. 4½ x 4½ x 10.

333. SUPERVISORS PROCEEDINGS, 1923--. 3 vols. 1-13.
Record of revised assessments by board of tax supervisors of real and personal property, showing: district number, name and address of property owner, location and description of property, assessed valuation of real and personal property, amount of increase or decrease in valuation, amount of taxes, and date assessed. Arr. chron. by date assessed. No index. Hdw. under pr. hds. Aver. 300 pp. 14½ x 12 x 2.

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24. Acts, 1891-93, pp. 313-316.
25. Acts: 1891-93, pp. 313-316; 1917, SPECIAL SESSION, p. 21.
26. Acts: 1906, p. 151; 1917, p. 21.

(Next entry 334, p. 304)

XV. COUNTY BUDGET COMMISSION

Structure

Creation

Since 1892 the fiscal affairs of the various counties of Kentucky have been managed by their respective fiscal courts, and prior to that year they were managed by the courts of claims and levy. In the absence of any laws specifying a uniform procedure, these affairs were conducted in a random, unscientific manner. (For a discussion of early budget practices, see Governmental Organization and Records System, p. 17). The inefficiency and corruption growing out of such practices, resulting in high taxes and an increasing county indebtedness, gave stimulus to a reform movement which culminated in the passage, in 1934, of the County Uniform Budget Act. (1) This law provided for the creation in each county of a county budget commission to be composed of the county judge, the county attorney, and a third member appointed by the fiscal court.

Selection, Term, Qualifications

The appointive member of the commission must be a resident taxpayer of the county; he must not have been a public officeholder for a period of at least two years prior to his appointment; and he must be at least thirty years old. His term of office is four years and runs concurrently with that of the fiscal court members; he is eligible for reappointment. The fiscal court fills a vacancy in the office. (2)

Functions

The fiscal court, under a uniform budget system, conducts all county financial affairs, with the exception of those pertaining to education. Each county is classified according to its population and expenditures, or upon some other proper basis, by the State Budget Officer, and all funds expended by the county are provided for by this budget from the revenue of each fiscal year. (3)

Preparation of Budget

Before May 1 of each year, the budget commission must make a careful investigation of each activity of the county for which county funds are to be expended by the fiscal court. It then classifies all

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1. Acts, 1934, p. 63.
2. Ibid.; Carroll, sec. 1051c-2.
3. Acts, 1934, p. 63; Carroll, sec. 1051c-1.

expenditures into budget units, subdividing these units when necessary, so that the cost of each class of expenditures can at any time be ascertained and regulated in accordance with the financial needs of the county. Estimates of funds necessary for both general and particular purposes, together with an estimated statement of receipts anticipated from various sources of income, are prepared by the budget commission. (4)

Adoption of Budget

Not less than twenty days before the time to adopt the county budget, the county judge, as chairman of the commission, must send two copies of the proposed budget to the State Inspector and Examiner, who is authorized to supervise and direct the form and classification of the budget. (5) This same act specifies that changes made by the State Inspector, in case of disapproval, must be accepted by the commission. In case of approval, the commission cannot make any change unless so authorized by the Inspector. (6) All proposed county budgets adopted by the county budget commission and by the State Inspector and Examiner must be submitted to the fiscal court for approval or rejection, not later than July 1 of each year. (7) To keep the expenditures of the county within budgetary limits, the county treasurer files with the clerk of the fiscal court a monthly statement of the county's financial condition. (8)

Debt Service

The bonded indebtedness is paid out of the "Sinking Fund Principal Account," while a sum equal to the proportional yearly amount required to retire the bonds at maturity is annually allocated to it. To another fund of the county budget, the "Sinking Fund Interest Account," is assigned, each year, a sum sufficient to pay the interest on the bonded indebtedness maturing during the current year. (9) Funds set apart in the county budget for a budget unit constitute a separate fund to be appropriated and accounted for separately. (10) 1-13.

Publicity

The county judge, as chairman of the budget commission, must post conspicuously in the courthouse, every three months, a statement showing the appropriations and expenditures for the preceding quarter, and the balance on hand in the budget fund. All fiscal court orders approving claims must designate the particular budget fund from which

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4. Acts, 1934, p. 64; Carroll, sec. 1851c-3.
5. Acts, 1934, p. 65; Carroll, sec. 1851c-4.
6. Acts, 1934, p. 65.
7. Ibid., pp. 65, 66.
8. Ibid., p. 69; see Treasurer, p. 305.
9. Acts, 1934, pp. 66, 67; Carroll, sec. 1856c-6.
10. Acts, 1934, p. 64; Carroll, sec. 1851c-4.

each claim is to be paid. All warrants or contracts paid by the county treasurer must be certified as being within the budget appropriation, or they are voided. (11)

Recordation

The records kept by the county budget commission are accessible for public inspection, and for examination by the State Inspector and Examiner when making the regular audit of county officials' records. Payment for all forms, books, blanks, and materials necessary for the work of the commission is made from county funds. The county court clerk acts as clerk of the commission and keeps the records of that body. He also keeps, in an appropriate ledger, separate accounts for each of the budget funds mentioned above, showing in detail the amount of the original appropriation, all transfers to and from the budget fund, and all expenditures duly approved by the fiscal court and properly chargeable to the fund. (12)

The report of the budget commission is housed in the county court clerk's office.

334. BUDGET REPORT, 1935--. 1 f.b., 1 loose-leaf folder. Summary of budget requests made by budget commission to fiscal court for each fiscal year, showing: general expenditure fund, salaries, fees, office expense, miscellaneous expense, comparative income statement, general expense fund, names of county officials, salary of each official, protection to persons and property, general health and sanitation, highways and bridges, charities, hospitals, infirmaries, and corrections, recreational, new property and improvements, interest and debt payments, miscellaneous and contingent, signatures of budget commission, and date filed. Arr. chron. by date filed. No index. Typed. F.b., 4½ x 3½ x 10; folder, 8½ x 11. 1935-38, f.b., co. ct. clk. off.; 1939--, folder, co. ct. clk. desk drawer.

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11. ACTS, 1934, P. 69.
12. IBID., PP. 67-69.

(Next entry 335, p. 309)

XVI. TREASURER

Structure

Creation

Before the office of treasurer was created in Brockinridge County, the sheriff collected the county levy and disbursed the funds to those creditors of the county certified to him by the county court clerk, thus performing the duties later assigned to the treasurer. (1) After the office of county treasurer was created in 1893, the sheriff collected the ad valorem and poll taxes and paid them over to the county treasurer. (2)

Selection and Term

At first the county treasurer was appointed by the fiscal court for a term of two years, a majority of the justices concurring. (3) In 1912 the term of this office was changed to four years. (4) From 1893 through 1932, a member of the fiscal court was prohibited from holding the office of county treasurer. (5)

Residence

When the office of county treasurer was established, it was stipulated that he must have resided in the county four years preceding his appointment (6); however, an act of 1932 changed this residential qualification to two years. (7)

1-13.

Age

Originally the treasurer was required to be at least thirty years of age (8); however, an amendment approved in 1894, and reaffirmed later, provided that at the time of his appointment the treasurer must be at least twenty-five years of age. (9)

Oath, Bond, and Surety

The county treasurer takes oath before the fiscal court upon entering the office, and executes bond with at least two sureties. (10)

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1. LITTELL, VOL. 1, 1797, PP. 679-681.
2. Acts, 1891-93, P. 522.
3. IBID.; SEE FISCAL COURT, P. 105.
4. Acts: 1912, P. 298; 1932, P. 145.
5. Acts: 1891-93, P. 523; 1912, P. 298; 1920, P. 652.
6. Acts: 1891-93, P. 523; 1912, P. 298.
7. Acts, 1932, P. 145.
8. Acts, 1891-93, P. 523.
9. Acts: 1894, PP. 43, 44; 1932, P. 145.
10. Acts: 1891-93, P. 523; 1932, PP. 145, 146.

(Next entry 335, p. 309)

Treasurer

Removal

The power to remove the county treasurer at any time for cause has always been vested in the fiscal court. (11)

Vacancy

It is the duty of the county judge to call a special meeting of the fiscal court to fill any vacancy which may occur in the office of the county treasurer. (12)

Compensation

Legislation in 1892 specified that the county treasurer should receive a salary not to exceed $1,000 per annum, such compensation to be fixed by the fiscal court. (13) In 1932 compensation of the treasurer was raised to not more than $2,000 per annum. (14) Today, the treasurer of Breckinridge County receives a salary of sixty dollars per month. (15)

Functions

Receipt and Disbursement of Funds

The county treasurer since the creation of his office in 1893 has received the county taxes which were collected by the sheriff. (16) At present, the county treasurer receives from the sheriff on May 1, and every sixty days thereafter, all county money in the sheriff's hands, giving the sheriff duplicate receipts for the money, one of which is retained by the sheriff and the other delivered to the county judge. Upon final annual settlement with the fiscal court the county treasurer receives from the sheriff all county money on hand, giving receipts as stated above. (17) In 1893, the county treasurer was directed to receive and receipt for all money due the county from other collecting officers, or from any person whose duty it was to pay money into the county treasury. All money so received was held subject to the order of the fiscal court and could only be disbursed for such purposes as those for which it was received. (18)

By legislation in 1926 the county treasurer assumed the functions of the office of treasurer for the county board of education. (19) This

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11. Acts, 1891-93, p. 523; 1912, p. 298; 1932, p. 146.
12. Ibid.
13. Acts, 1891-93, p. 525.
14. Acts, 1932, p. 146.
15. County Court Orders, vol. 26, p. 239, see entry 225.
16. Acts, 1891-93, p. 525.
17. Ibid.
18. Ibid., p. 524.
19. Acts, 1926, p. 613.

act, however, was repealed in 1928. (20) On May 5, 1928, the county treasurer was made custodian of the livestock fund by an opinion of the Attorney General. (21) When so ordered by the fiscal court, he was also required to institute actions in the name of the county against delinquent sheriffs or collectors of the county, and against any one failing to pay over to him, on demand, money due the county. (22)

Depositories for County Funds

Legislation in 1932 made it the duty of the fiscal court to designate one or more banks or trust companies as county depositories, and the county treasurer was required to deposit all county funds in such depositories. The court must enter into an agreement with the depositories for payment of interest on daily balances of county deposits, and such interest rate must not be less than two per cent. This same act specified that the court require depositories to execute sufficient bond, or give collateral security in lieu of bond, to pay over and account for all county funds deposited therein. (23) It is worthy of note, however, that the editors of Carroll's Kentucky Statutes (1936) omitted this section from the volume, believing it was "impliedly repealed" by the present law of 1934, but reinstated the section in April 1939, upon mature reflection. (24)

Settlements

It was the treasurer's duty to settle his accounts whenever required by the fiscal court, to make a complete settlement each April, and to submit all settlements for the approval of the fiscal court. (25) He was required to file with the fiscal court, on the first day of each regular and special meeting with the exception of the first meeting, a financial statement showing the balance in each budget fund according to the budget ledger, this statement to be signed by the county court clerk upon the fiscal court order book. (26) On or before the first day of April after the close of each fiscal year, the county treasurer was directed to make a financial statement as of December 31 of the preceding year, showing in detail receipts and disbursements of county funds. In the same statement he is required to account for each budget fund separately, one copy of which statement he must file with the county court clerk to be preserved as a part of the records of the county. The other copy he is required to transmit to the State Inspector and Examiner of the Commonwealth of Kentucky. (27) Those provisions became effective in 1934 when the county

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20. Acts, 1928, pp. 219, 220.
21. 1928 O. A. G. 422.
22. Acts, 1891-93, p. 523.
23. Acts, 1932, p. 148.
24. Carroll's 1939 Supplement, sec. 9384-5; see also Fiscal Court, p. 105.
25. Acts, 1891-93, p. 523.
26. Acts, 1932, pp. 135, 136.
27. Ibid., p. 147.

budget commission became operative under the control of the State Budget Commission. (28)

The county treasurer is required to keep his office open at the county seat at all reasonable times for the collection of money, and to hold his books open to inspection by the fiscal court, by any member thereof, or by any taxpayer of the county. (29)

Recordation

By an act of 1893, the county treasurer submits all settlements for the approval of the fiscal court. (30) He is required to keep an accurate set of books showing receipts and disbursements in separate and distinct accounts, and must balance his books on the first day of each month to show the correct amount on hand belonging to each fund. (31) He must also keep a record of suits directed by the fiscal court to be filed by him in the county's behalf against all delinquent sheriffs or collectors, and report to the county judge in writing all money paid to him. (32) In addition to the books mentioned above, showing all receipts and disbursements, the county treasurer must keep as part of his records a book to be known as the "Budget Ledger," in which the county budgets are kept, and each budget fund is accounted for separately. (33) Legislation in 1934 authorized the county treasurer to file with the clerk of the fiscal court a monthly statement containing a list of warrants paid by the treasurer during the month, and showing all cash receipts and the cash balance at the beginning and close of the month. He must also certify that each warrant or contract is within the budget appropriation; otherwise any such warrant or contract is considered null and void. (34) By an act approved March 15, 1926, and amended March 20, 1928, the county treasurer is directed to publish yearly, in the newspaper having the largest circulation in the county, a complete statement showing all receipts and disbursements. (35)

When vacating office, the county treasurer is required to deliver all books, papers and other records of his office to his successor, and make a complete and final settlement of his account with the fiscal court. (36)

For treasurer's settlements with the fiscal court, see entry 19, and for treasurer's reports to the fiscal court, see entry 22. The records of the treasurer are found in the treasurer's office, unless otherwise specified.

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28. Acts, 1934, p. 69; County Budget Commission v. Adams, County Judge, et al., 249 Ky. 680; see County Budget Commission, p.302.
29. Acts, 1891-93, p. 524.
30. Ibid., p. 525.
31. Ibid., pp. 524-526.
32. Ibid., p. 524.
33. Acts, 1932, pp. 135, 136.
34. Acts, 1934, pp. 69, 70; see County Budget Commission, p.302.
35. Acts: 1926, pp. 287, 288; 1928, pp. 460-462.
36. Acts, 1891-93, p. 526.

Treasurer - Receipts and Disbursements; Vouchers, Checks, and Reports (335-340)

Receipts and Disbursements

335. COUNTY TREASURER'S CASH LEDGER, 1934--. 1 vol.
Record of county treasurers' cash collections, showing: date, balances first of month, debits and credits during month, and cash balance at end of month. Arr. chron. by date recorded. No index. Hdw. under pr. hds. 600 pp. 18 x 14 x 2.

336. CASH REVENUE RECEIPTS (Revenue Receipts and Check Distribution Ledger), 1934--. 2 vols.
Record of treasurer's revenue receipts and check distribution ledger of county's general funds; giving, on receipts: date received, total receipts, from whom, from what source derived, and bills payable; and on check distribution ledger; date, check number, to whom, amount, warrant number, appropriation number, fund payable from, and bills payable. Arr. chron. by date recorded. No index. Hdw. under pr. hds. Aver. 600 pp. 22 x 18 x 2.

337. BUDGET LEDGER (Budget Appropriation Ledger), 1938--. 1 vol.
County treasurer's budget appropriation ledger of county warrants paid, showing: date of warrant, serial number, to whom payable, warrant payments, contracts placed, contracts paid, and appropriation balances. Arr. chron. by date paid. No index. Hdw. under ruled hds. 600 pp. 22 x 18 x 2.

Vouchers, Checks, and Reports

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338. GENERAL VOUCHERS, 1922--. 40 f.b. (dated). 1860-92 in Dismissions of County Court, entry 284; 1893-1921 in Dismissions of Fiscal Court, entry 64.
Cancelled vouchers issued by county court clerk upon orders of fiscal court and certified to county treasurer for payment for services rendered and material furnished county, showing: levy from which paid, date, number, and amount of voucher, name of payee, nature of services rendered or description of materials furnished, approval of county judge, and signature of county court clerk. Arr. numer. by voucher no. and chron. thereunder by date issued. No index. Hdw. on pr. fm. $4\frac{1}{2}$ x $4\frac{1}{2}$ x 10. 1922-24, 12 f.b., co. ct. clk. off.; 1925--, 28 f.b., treasurer off.

339. CANCELLED CHECKS, 1934--. 31 f.b.
County treasurers' cancelled checks, showing: date issued, to whom, amount, purpose of payment, signature of treasurer, bank's cancellation, and date cancelled. Arr. chron. by date of check. No index. Hdw. on pr. fm. $4\frac{1}{2}$ x $4\frac{1}{2}$ x 10.

340. COUNTY TREASURERS REPORT, 1926--. 1 vol.
Record of county treasurers' report of receipts and disbursements made monthly to fiscal court, showing: date of report, itemized schedule of receipts and disbursements, nature, amount, and source of receipts, amount and purpose of disbursement, balance on hand, copy of treasurer's signature, and acknowledgment of fiscal court clerk. Arr. chron. by date of report. No index. Hdw. on pr. fm. 600 pp. 9 x 13 x 4. Co. ct. clk. off.

(Next entry 341, p. 315)

XVII. COUNTY BOARD OF ELECTION COMMISSIONERS

Structure

Creation

The General Assembly, by an act of 1898, authorized the creation of a county board of election commissioners in each county. In accordance with the provisions of this act and the amendment of 1900, Breckinridge County established its first county board of election commissioners. (1)

Selection and Term

Early in the history of Kentucky, the county court was given authority to appoint, annually, two of its members to act as judges of the election and a third person to serve as clerk. (2) An amendment in 1837 gave the court authority to appoint two justices as judges, and a clerk for each election precinct. If the number of justices in the county was insufficient for that purpose, the court could appoint one justice and a qualified citizen to serve as judges of the election. (3) Legislation in 1842 provided that the county court appoint two voters, preferably justices of the peace of different political leanings, to act as judges in each precinct, and a clerk whose political views opposed those of the sheriff. They all served for one year. (4)

An act of 1852 named the county judge, the county court clerk, and the sheriff as a board to examine the pollbooks. At this time the method of appointing judges of the election in each precinct by the county court was reaffirmed. The court was also authorized to appoint, every second year, two judges and a clerk in each district, for the election of justices of the peace and a constable in the county. If either of the judges or the clerk failed to appear at the voting place, the sheriff had the power to appoint a voter of the precinct to fill the vacancy. (5)

Legislation in 1892 empowered the county court to appoint, annually, two judges, a clerk, and a sheriff of election for each precinct, to serve until their successors were appointed and qualified. (6) In 1898 the General Assembly established a State Board of Election Commissioners, and that body was authorized to appoint two electors in each county who, with the sheriff, composed a county board of election commissioners whose functions were more fully outlined by an act of 1900. (7) The members of the county board were appointed for one year or until their successors were duly appointed and qualified. (8)

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1. Acts: 1898, p. 43 ff.; 1900, special session, p. 27 ff.
2. Littell, vol. 2, 1709, pp. 340, 341.
3. Acts, 1936-37, p. 23.
4. Acts, 1841-42, p. 85.
5. Rev. Stat., vol. 1, p. 432 ff.; Acts, 1851-52, p. 124 ff.
6. Acts, 1891-93, p. 109.
7. Acts: 1898, p. 43 ff.; 1900, Special Session, p. 27 ff.
8. Acts, 1900, Special Session, p. 28.

 (Next entry 341, p. 315)

Residence

Election officials have always been citizens of the county. For nearly a century these officers were generally either members of the county court, or others holding county offices, who were required to be residents of the county they served. (9) An act of 1892, reaffirmed in 1900, specified that the precinct election officials must be resident householders of the precinct for which they were appointed. They could not serve as election officials, however, and be candidates for office at that election. The two members of the county board of election commissioners must be citizens and electors of their county, and are designated for appointment as members of the board by the county executive committees of the two major political parties of the State. (10)

Age

Whether they served on examining boards or as precinct officials, the election officials have always been required to be at least twenty-one years of age. (11) The two appointive members of the county board of election commissioners must be at least twenty-five years old at the time of their appointment. (12)

Oath

Each election official took an oath before an officer authorized to administer one, that he would discharge his duties faithfully. If necessary, the oath could be administered by the clerk of the election who, himself, must have been sworn by one of the judges of the election. (13) The members of the county board of election commissioners qualify for office today by taking an oath before the clerk of the county court, to perform their duties faithfully. (14) 1-13.

Removal

The county court, having the power to appoint, could also remove any member of the election board or any precinct official. (15) Under statutes in effect at the present time, the State Board of Election Commissioners may remove any member of the county board, and the county board may remove the precinct officials prior to five days before the election. (16)

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9. LITTELL, VOL. 2, 1799, PP. 340, 341; ACTS: 1836-37, P. 23; 1841-42, P. 85; REV. STAT., VOL. 1, P. 432 FF.; ACTS, 1851-52, P. 124 FF.
10. ACTS: 1891-93, P. 109; 1900, SPECIAL SESSION, P. 28.
11. LITTELL, VOL. 2, 1799, PP. 340, 341; ACTS: 1836-37, P. 23; 1841-42, P. 85; REV. STAT., VOL. 1, P. 432 FF.; ACTS: 1851-52, P. 124 FF.; 1891-93, P. 109; 1900, SPECIAL SESSION, P. 30.
12. ACTS, 1900, SPECIAL SESSION, P. 28.
13. ACTS: 1851-52, P. 124; 1891-93, P. 110.
14. ACTS, 1900, SPECIAL SESSION, P. 29.
15. ACTS, 1851-52, P. 124.
16. ACTS: 1898, P. 43 FF.; 1900, SPECIAL SESSION, P. 27.

 (Next entry 341, p. 315)

Vacancy

Before the creation of the State and county boards of election commissioners, the county court filled all vacancies that occurred among the election officers. (17) At the present time, vacancies on the county board are filled by the State Board of Election Commissioners from names supplied by the county executive committees of the two strongest political parties in the State. The county board fills vacancies on the precinct boards from lists already submitted by the executive committees of the major political parties in the county. If, on the day of election, any official refuses to act, or is absent, the attending officer of his party, or the voters of his party who are present, may elect a person to act in his stead. (18)

Compensation

In 1852, the judge and sheriff each received one dollar for every day that they served as election officers, and the clerk received two dollars. For comparing the returns of two or more counties in the election of a Senator or a Representative, the sheriff was paid two dollars a day, and one dollar and fifty cents for each twenty-five miles of travel in the performance of his duty. (19) An act of 1892 allowed the precinct officials each two dollars a day, and the sheriff an additional eight cents a mile for traveling duty. (20) In 1900, members of the county board of election commissioners were paid two dollars each for every day they were in session, but the total amount paid them for any one year could not exceed twenty dollars. (21) In 1928, the precinct officers each received three dollars a day. The sheriff and the judge accompanying him were each allowed eight cents a mile for returning the ballot boxes to the county seat. (22) At present, the fiscal court is directed to allow a reasonable compensation, determined by the number of votes counted, the cost of the count, and the number of days the board was in session. (23)

Functions

Appointment of Local Election Officials

The county board of election commissioners annually appointed two judges, a clerk, and a sheriff of elections for each election precinct, all of whom must have been voters of the precinct for which they were appointed. If, however, a list of names for each precinct was submitted

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17. Acts: 1851-52, p. 124; 1891-93, p. 110.
18. Acts: 1891-93, p. 110; 1900, Special Session, p. 30.
19. Acts, 1851-52, p. 135.
20. Acts, 1891-93, p. 153.
21. Acts, 1900, Special Session, p. 41.
22. Acts, 1928, p. 401.
23. Carroll, sec. 1596a-14.

by each of the county executive committees of the two major political parties, a judge and a clerk must be appointed from one party, and a judge and a sheriff from the other. As previously stated in this essay, the board could remove any of the officers prior to five days before the election. If an election officer refused to act at the polls, the attending officer of his party could appoint some person to take his place; if both were absent, the voters of his party who were present could elect persons to act in their stead. (24)

Canvass of Election Returns

Prior to 1800, when the courthouse was the only voting place in the county, the presiding judge of the county court arranged to receive the votes and made the final statement of the result of the election, which the sheriff announced to the public. (25) Later, when election precincts had been established in the county, the sheriff appointed a deputy to preserve order in each precinct, and, when the polls were closed, to take charge of the election books. It was his duty to carry these books to the county seat, where he assisted the sheriff in comparing the polls and in making out the certificates of election. (26) In 1852, the county judge, the county court clerk, and the sheriff constituted a county election board, any two of whom could act. They examined the pollbooks and made out certificates of election. If a member of the board was a candidate for office, he had no voice in deciding his own case. (27)

The General Assembly, in an act of 1892, specified that the election officers in each precinct, after the closing of the polls, should count the votes in the presence of the sheriff and inspectors and announce the result. After this was done, they destroyed the ballots voted, mutilated, spoiled, or unused, saving only those ballots whose legality appeared to be doubtful. Such ballots, the election officers sealed and returned to the clerk of the county court with the election returns. (28) By legislation passed in 1898 and 1900, the county election machinery was placed under the control of the county board of election commissioners. In case of disagreement between the appointive members, the sheriff acted as umpire and was permitted to vote. The two appointive members, or the sheriff and one member, constituted a quorum for the transaction of business. (29)

1-13.

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24. Acts, 1900, Special Session, pp. 30-32.
25. Littell, vol. 2, 1799, pp. 340, 341.
26. Acts, 1836-37, p. 23.
27. Rev. Stat., vol. 1, p. 436; Acts, 1851-52, p. 127.
28. Acts, 1891-93, p. 127.
29. Acts, 1900, Special Session, p. 27 ff.

 (Next entry 341, p. 315)

The basic election law of 1900 made it the duty of the county board of election commissioners to examine and canvass the election returns, and to issue election certificates. After the polls closed, the precinct officials immediately sent the sealed ballot boxes and other election material to the office of the county court clerk. (30) On the following day the board met at the clerk's office, opened and canvassed the votes cast in the election, and, over the signatures of the members, issued triplicate or more certificates of those receiving the highest number of votes. One copy was given to each of those elected, one was mailed to the Secretary of State, and a third copy the county court clerk kept for his record. For offices not within the gift of the voters of the county, the board gave signed duplicate certificates of the number of votes received in the county, city, town, or district particularizing the precinct where the votes were cast. The county court clerk retained one copy; another was given to the sheriff, and one, in the case of a municipal or district election, was sent to the city council or the governing authority of the district, as the case might be. The board was authorized to employ at county expense the necessary clerical help to count the votes. (31)

Enforcement of the Election Laws

It was the duty of the clerk of the election to compare each prospective voter's signature with that opposite his name on the registration book; to swear and keep a record of those who were unable to sign their names; and, after issuing a ballot to any voter, to note that such person actually voted. (32) The precinct election officials informed the grand jury, or the commonwealth's attorney, of all infractions of the election laws. When there was reason to fear such an offender might escape out of the county, it became the duty of any election official to cause his immediate arrest. If any member of the county board of election commissinners failed to carry out the provisions of the law, he was subject to a fine of not less than $100 or more than $1,000, and to imprisonment of not more than sixty days. (33)

Recordation

One member of the board, selected to act as secretary, kept a record of the proceedings of the board's meetings, and this record was open to public inspection at all times in the office of the county court clerk. (34)

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30. Acts: 1900, Special Session, p. 32 ff.; 1914, pp. 417, 418; 1930, pp. 147, 148; 1936, p. 143 ff.
31. Acts: 1891-93, p. 127; 1900, Special Session, p. 27 ff.; 1936, p. 143 ff.
32. Acts, 1891-93, p. 172.
33. Ibid., 1900, Special Session, p. 42.
34. Acts, 1900, Special Session, p. 27 ff.

Unless otherwise specified, the records of the board may be found in the county court clerk's office.

Petitions

341. NOMINATING PETITIONS, 1912--. 3 f.b. Title varies: Nomination Petitions and etc., 1 f.b., 1912-17. 1913 also in Election Certificates, entry 353.
Petitions filed with board of election commissioners to have certain candidates' names placed on ballots, showing: date of petition, name and party affiliation of candidate, title of office sought, signatures of petitioners, date petition filed, and acknowledgment of county court clerk. Arr. chron. by date filed. No index. Hdw. and typed. 4½ x 4½ x 10.

342. PETITIONS FOR SPECIAL ELECTIONS, 1904--. 2 f.b. 1874-79 in Dismissions of County Court, entry 284.
Petitions filed with board of election commissioners by qualified voters of county seeking to have special elections held, showing: date of petition, purpose of special election, signatures of petitioners, date petition filed, and acknowledgment of county court clerk. Arr. chron. by date filed. No index. Hdw. and typed. 4½ x 4½ x 10.

343. LOCAL OPTION PETITIONS, 1934. 1 f.b.
Petitions filed with board of election commissioners by qualified voters in county seeking an election to determine whether spirituous liquors may be sold under State local option law, showing: date and nature of petition, signatures of petitioners, date filed, and acknowledgment of county court clerk. No obvious arr. No index. Hdw. 4½ x 4½ x 10. 1-13.

344. NOTIFICATION AND DECLARATION, 1912--. 8 f.b. 1933 also in Election Certificates, entry 353.
Candidates' declarations of intent to run for public office filed with board of election commissioners, showing: name, address, qualifications and party affiliation of candidate, title of office sought, date declaration filed, signature of candidate, and acknowledgment of county court clerk. No obvious arr. No index. Hdw. and typed. 4½ x 4½ x 10.

Registrations

345. PERMANENT REGISTRATION OF VOTERS, 1936--. 43 loose-leaf binders. (numer. by precinct no.).
Register of qualified voters in county, showing: name, age, color, weight, height, address, party affiliation, time residing in precinct, county, and State, signature of voter, number of precinct, and attestation of county court clerk. Arr. numer. by precinct no. and alph. thereunder by name of voter. No index. Hdw. on pr. fm. Aver. 300 pp. 14 x 12 x 3.

346. REGISTER OF CANDIDATES FOR NOMINATION IN PRIMARY ELECTIONS, 1915--. 1 vol.
Register of candidates for nomination to public office in primary elections, showing: title of office sought, name, age, address, and party affiliation of candidate, date petition filed, and certification of county court clerk. Arr. chron. by date recorded. No index. Hdw. on pr. fm. 630 pp. 18 x 14 x 2½. Co. judge off.

Affidavits

347. VOTERS AFFIDAVITS, 1871--. 1 f.b.
Affidavits furnished county court clerk by persons who for some reason were unable to register as qualified voters, showing: name of affiant, reason affiant was unable to register, sworn statement and signature of affiant, signatures of witnesses, precinct number, age, date born, height, color of eyes and hair, weight, and occupation of affiant, and attestation of county court clerk. Arr. chron. by date filed. No index. Hdw. on pr. fm. 4½ x 4½ x 10.

348. AFFIDAVITS OF ELECTION OFFICERS, 1933--. 1 f.b.
Affidavits filed with board of election commissioners by precinct officers upon return of ballot boxes, pollbooks, and election supplies, showing: name of precinct officer, title of office, date of election, sworn statement that all unused supplies were returned, date returned, signature of precinct officer, and attestation of county court clerk. Arr. chron. by date of election. No index. Hdw. on pr. fm. 4½ x 4½ x 10.

Tabulation of Votes

349. PERTAINING TO NEW ELECTION LAW (Election Returns), 1930--. 1 f.b.
Duplicates of election returns prepared by county election commission and certified to Secretary of State, showing: date of return, date of election, enumerative list by precincts of ballots cast for each candidate, total number of votes cast for each candidate, and signatures of election commissioners. Arr. chron. by date of return. No index. Hdw. on pr. fm. 4½ x 4½ x 10.

350. ELECTION COMMISSIONERS REPORTS, 1912-31. 11 f.b. 1932-- in Miscellaneous, entry 132.
Election commissioners' reports of votes cast in primary elections held in county, showing: date of election, name of each candidate for office, title of office sought, number of votes cast for each candidate, total number of votes cast, name of each candidate nominated, signatures of commissioners, and date filed. Arr. chron. by date filed. No index. Hdw. on pr. fm. 4½ x 4½ x 10.

351. RECORD OF PROCEEDINGS (County Board of Election Commissioners), 1912--. 2 vols.
Election commissioners' record of votes cast, showing: date of election,

number of precinct, name of candidate for each office, title of office sought, number of votes cast for each candidate, and signature of county court clerk. Arr. chron. by date of election. Alph. index, direct by first letter of surname of candidate, showing p. no. where recorded. Hdw. and typed on pr. fm. Aver. 300 pp. 17 x 14 x 2.

Certifications

352. CERTIFICATES OF NOMINATION, 1893--. 11 f.b.
Nomination certificates issued by board of election commissioners to candidates nominated in primary elections, showing: name of candidate, title of office to which nominated, date of primary election and date of general election, and signatures of county judge, county court clerk, and sheriff. Arr. chron. by date issued. No index. Hdw. on pr. fm. 4½ x 4½ x 10.

353. ELECTION CERTIFICATES, 1859--. 11 f.b. 1882-86 also in Officers Commissions, entry 52.
Certificates of election issued by board of election commissioners to successful candidates, showing: name of candidate, title of office, date of general election, party affiliation, and signatures of county judge, county court clerk, and sheriff. Also contains: Births and Deaths, 1874, entry 107; Nominating Petitions, 1913, entry 341; Notification and Declaration, 1933, entry 344; Expense Accounts, 1916, entry 356. No obvious arr. No index. Hdw. and typed on pr. fm. 4½ x 4½ x 10.

354. CERTIFICATES OF ELECTION, 1883-97, 1913--. 3 vols. Title varies: Record of Election Certificates, 1 vol., 1883-97; Certificates of Nomination, 1 vol., 1913-35.
Stub record of election certificates issued to successful candidates, showing: date of election, title of office to which elected, party affiliation, date certificate issued, and signatures of election commissioners. Arr. chron. by date of election. No index. Hdw. on pr. fm. Aver. 100 pp. 16 x 4 x 1.

Claims and Expense Accounts

355. CLAIMS OF ELECTION OFFICERS, 1932--. 3 f.b.
Claims filed with board of election commissioners by precinct officers for services rendered during county elections, showing: date of claim, name of claimant, nature of services rendered, date of election, amount of claim, signature of claimant, and acknowledgment of county court clerk. Arr. chron. by date filed. No index. Hdw. on pr. fm. 4½ x 4½ x 10.

356. EXPENSE ACCOUNTS, 1925--. 5 f.b. 1916 in Certificates of Election, entry 353.
Lists of campaign expenditures filed with board of election commissioners by candidates seeking election to public office, showing: date of list,

names of candidate, title of office sought, date of election, itemized list of expenditures, signature of candidate, date list filed, and acknowledgment of county court clerk. Arr. chron. by date filed. No index. Hdw. and typed. $4\frac{1}{2}$ x $4\frac{1}{2}$ x 10.

XVIII. COUNTY BOARD OF REGISTRATION AND PURGATION

Structure

Introduction

In 1891, the present constitution provided for the registration of all persons entitled to vote, and the following year the General Assembly passed an act which set up a system of registration. (1) This act was amended by acts of 1904 and 1908. (2) An act of 1922 which provided for the registration of every voter in the Commonwealth was declared unconstitutional (3), and the registration provisions of the act of 1892 continued in force until repealed by an act of 1924. This act permitted any voter to move the county court to strike from the registry the name of any registered voter, and gave detailed instructions concerning the manner in which the registration book for each precinct was to be kept up to date. (4) An act of 1936, called the "General Registration Act," made the provisions of the 1924 act apply to all voters in the Commonwealth with the exception of voters in Louisville, Jefferson County, and in 1938 the registration requirement was made general throughout the State. (5)

Creation

In 1938, the act creating the State Board of Registration and Purgation provided for the establishment, within twenty days of the passage of the act, of a county board of registration and purgation in each county of the Commonwealth. (6)

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1. CONST. OF 1891, SEC. 147; ACTS, 1891-93, P. 129.
2. ACTS: 1904, PP. 31-33; 1908, P. 126.
3. ACTS, 1922, P. 413; PERKINS V. LUCAS, 197 KY. 1.
4. ACTS: 1924, P. 153; 1936, P. 131.
5. ACTS: 1936, P. 114 FF.; 1938, P. 576 FF.; CARROLL, SECS. 1406ss-1 - 1406ss-24.
6. ACTS, 1938, P. 576. FF.

County Board of Registration and Purgation

(Next entry 357, p. 322)

Selection and Term

The three members of the board are appointed by the State Board of Registration and Purgation on January 1 of each year. (7)

Qualifications

The county board of registration and purgation is composed of three members, one chosen from each of the two dominant political parties, and the third a citizen of the county selected by the State Board of Registration and Purgation, all of whom must reside in the county, possess all the qualifications of a legal voter, and be at least twenty-one years of age. (8)

Oath and Bond

The members of the county board of registration and purgation are required to take the oath of office and furnish bond in the sum of $1,000 each, for the faithful performance of their duties. (9)

Removal and Vacancy

The State Board of Registration and Purgation is authorized to remove, at its discretion, any member of the county board and fill any vacancy that may occur in this body. (10)

Compensation

1-13.

In Breckinridge County the members of the board receive no compensation for their services, since they are paid a salary only in counties containing cities of the first class. In such case they receive $1,200 a year, in monthly installments allowed by the fiscal court. (11)

Meetings

At its first meeting, the newly appointed county board selects a chairman and a secretary who must belong to different political parties. Meetings are generally held in the courthouse unless circumstances demand another meeting place. If such is the case, the members receive a notice in writing showing the time and place of such meetings. The board must meet not more than fifteen days before the election. (12)

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7. Acts, 1938, p. 580.
8. Ibid.
9. Acts, 1938, p. 581.
10. Ibid., p. 580.
11. Ibid., pp. 583, 584.
12. Ibid., pp. 581, 584

(Next entry 357, p. 322)

Penalty

Failure of any officer of the board to perform his duty as required by law subjects him to a fine of not less than ten dollars and not more than $100. (13)

Functions

Registration and Purgation

The board is specifically charged with the registration of voters under provisions of the General Registration Act of 1936, and it may adopt reasonable rules for the performance of its duties. No rule, however, may be adopted by the board until it has been submitted in writing and approved by the State Board of Registration and Purgation. (14)

The county board of registration and purgation must examine the registration books and lists in the county clerk's office as often as it thinks necessary, and especially the registration books after the closing date of the books and before any election, in order to remove therefrom the names of persons who have died, moved, or otherwise been disqualified to vote since the date of their registration. The board prepares a list of such names, but no name is stricken until the challenged voter has been given an opportunity to be heard. A challenged voter must be notified in writing at the address shown on his registration record that his name will be stricken unless he appears and shows cause to the contrary within five days. If the voter fails to appear, after proper notice, the board deletes his name. If the voter appears and the board determines that the man is legally registered, his name remains on the registration lists; but, in the event of a contrary decision, the board enters an order directing the county clerk to strike off the name of the voter. The notices may be served by any officer authorized to serve process from any court, or they may be served by special process servers selected by the board. (15) Process servers of the notices are paid fees provided by law, and the payments are made by the fiscal court upon proper certification. (16)

Since the clerk must close his registration books or lists fifty-nine days prior to any election, and these books are not reopened until ten days after any election, a legal voter must register, change registration, or change his party affiliation with the county court clerk at least sixty days prior to any election. (17)

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13. IBID., P. 597.
14. ACTS: 1936, PP. 114-145; 1938, PP. 501, 502.
15. ACTS, 1938, PP. 502, 503.
16. IBID., P. 505.
17. IBID., PP. 590, 591.

County Board of Registration and Purgation

(Next entry 357, p. 322)

Whenever the county executive committee of one of the two dominant political parties applies to the county board of registration and purgation between September 5 and October 15, in any year preceding a general election, the board appoints two purgation officers, one from each party. These officers are selected by the board from a list of names submitted by the county executive committees, and their duty is to purge the registration list in any precinct of names of voters who should be stricken from the list. The purgation officers serve without pay and need not live in the precinct they serve. Such request filed by a county executive committee must contain the names of the challenged voters and grounds for the challenges. Similarly, any group of candidates in a primary election may request a purge, provided that their request is filed between June 5 and July 10. In fulfilling such a request for purgation of registration in a primary election, the county board may appoint purgation officers from voters of the county without regard to their party affiliation. (18)

The list of challenged voters in either the primary or the general election is turned over to the two purgation officers, who are sworn to discharge their duties faithfully. They meet in the precinct in which they are to act, at some place designated and provided by the sheriff. These officers have power to summon and swear witnesses and conduct hearings in the precinct. Each challenged voter, unless upon investigation the purgation officers find that the challenge is unfounded, is notified in writing of the time and place of the meeting at which the challenge against him is to be heard, such notice to be served upon the challenged voter by delivering a copy of the notice to him in person. If he cannot be found at his place of residence shown on the registration records, a copy of the notice must be left with any person over the age of sixteen living in the family of the voter. If no such person lives there, a copy of the notice must be affixed to the front door of the residence. The notice server returns a copy of the notice to the purgation officers with an endorsement stating when and how the notice was served. (19)

1-13.

After the investigation and hearing of such evidence as may be presented, the purgation officers determine whether or not the challenged voter is legally registered. If they determine he is not legally registered, his registration is cancelled. Failure of such voter to appear at a hearing after due notice shall constitute ample warrant for cancellation of his registration. If the name is found to be legally registered, no further action is necessary. (20)

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18. Acts, 1938, pp. 591-595.
19. Ibid., pp. 593, 594.
20. Ibid., p. 594.

Appeals from the action of the purgation officers or the county board of registration and purgation may be taken to the county judge or, in case of cities of the first class, to any circuit judge five days prior to any election. No decision affecting the right of a voter may be rendered by any purgation officer or by the county board of registration and purgation later than eight days before any election. (21)

The board of registration and purgation may employ necessary clerical help and may buy necessary supplies and equipment, to be paid for by the fiscal court, when such costs have been certified by the chairman and secretary of the board and accompanied by an affidavit that such costs are necessary and reasonable. (22)

357. PURGATION BOARD (Proceedings of Board Meetings), 1938---.
1 f.b.
Proceedings of county board of registration and purgation at each daily session of board, showing: date registration books examined, names of voters who have died, moved away or otherwise have been disqualified to vote, date notice sent to challenged voter, date board met to hear challange against voter, action of board, whether voter qualified or name was purged from roll, and signature of chairman of board. Arr. chron. by date of meeting. No index. Typed on pr. fm. $4\frac{1}{2}$ x $4\frac{1}{2}$ x 10. Co. ct. clk. off.

XIX. COUNTY BOARD OF EDUCATION

Introduction

The educational development of Breckinridge County was slow during its early existence, as was the case in most Kentucky counties. For the history of its first institutions, see Historical Sketch, p. 4. These early institutions of learning and the various old-field schools (buildings erected on waste and unappropriated land) scattered throughout the county, offered the only educational facilities available until an act of 1821 attempted to establish a system of general education by authorizing the county courts to lay off counties into school districts.

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21. Acts, p. 595.
22. Ibid., p. 504.

(Next entry 358, p. 332)

Funds for the maintenance of this educational system were provided by the creation of a "literary fund" to consist of one-half of the profits arising from the operation of the Bank of the Commonwealth of Kentucky. The subsequent failure of this institution destroyed the "literary fund" and left the new system of general education without financial support. (1)

Although early acts authorized private schools in Breckinridge County, it was not until 1830 that provision was made for the establishment and financial support of a uniform system of public schools. The act creating this system of education provided for the election of three school commissioners, who were a body corporate. This body, and its successors, constituted the first attempt to have the educational policies of the county formulated by a central governing body and was a forerunner of the present county board of education. (2)

Structure

Creation

In 1838 the State Board of Education was created and empowered to appoint in each county a board of school commissioners consisting of five members. A body corporate, this county board was authorized to hold real and personal property for the sole use of the common schools for the county, and was liable for any loss resulting from mismanagement or neglect of any funds committed to its care. (3) By an amendment approved in 1839, its membership was reduced to three (4) and later to one commissioner. (5)

1-13.

Selection and Term

The five-member board of county school commissioners, created in 1838, was appointed by the State Board of Education for a term of one year. (6) Later, the State Superintendent of Public Instruction was given authority to appoint the county board, with the advice and consent of the State Board. (7) This power was subsequently given to the county court (8), and a later act extended the term to two years. (9)

An act of 1908 provided for a county board of education to be composed of the chairmen of the educational boards established in each of

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1. Acts, 1821, p. 351; Basil W. Duke, Gen., History of the Bank of Kentucky, Louisville, Ky., 1895, pp. 20, 21.
2. Acts, 1829-30, pp. 272-281.
3. Acts, 1837-38, pp. 276, 277, 281.
4. Acts, 1838-39, pp. 381, 382.
5. Acts, 1855-56, vol. 1, pp. 103-105.
6. Acts, 1837-38, pp. 276, 277, 281.
7. Acts, 1844-45, pp. 47-51.
8. Acts, 1849-50, pp. 29-31.
9. Acts: 1855-56, vol. 1, pp. 103-105; 1861-63, p. 132.

(Next entry 358, p. 332)

the four, six, or eight educational divisions into which the county was to be divided. (10) Such chairmen, being elected as subdistrict trustees, held office for two years. In 1920 provision was made for a county board of education composed of five members to be popularly elected for four-year terms from the county at large, one to be elected each year, except in those years when the terms of two members expired, thus making necessary the election of two. (11) This arrangement was soon altered by the act of 1922 which provided that the county be divided into five districts, each of which was to elect one member of the board for a term of two years. (12) By legislation in 1924, reaffirmed in 1928, the district system of election was retained, but the term was extended to four years; however, the general school code adopted in 1934 continued the board of five members elected for terms of four years, but the district method of election was abolished, and all members were made elective from the county at large. (13)

Qualifications

In the early years of the public school system in Breckinridge County no specific qualifications were required of county school commissioners, but in 1920 each member of the county board of education was required to be at least twenty-one years of age and a resident of the county for one year prior to his election. (14) Later legislation required members of this board to have at least a common school education. (15) In 1934 a member of the county board of education was required to be twenty-four years old, and to have been a citizen of Kentucky for at least three years preceding his election. He also was prohibited from holding any other civil or political office and from voting on employment of a relative. No person was eligible for membership on the board under provisions of this act if he had been previously removed for cause. (16)

Removal

A county school commissioner could be removed for cause by the State Superintendent of Public Instruction upon the advice of the State Board of Education. (17) An act passed in 1934 stipulated that when a member of the board fails to attend three consecutive meetings without excuse, he must vacate his office. (18)

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10. Acts, 1908, pp. 138-142.
11. Acts, 1920, pp. 148-153.
12. Acts, 1922, p. 150.
13. Acts: 1924, p. 81; 1928, pp. 215-217; 1934, p. 247; Carroll Sec. 4399-24.
14. Acts, 1920, p. 149.
15. Acts: 1922, p. 151; 1924, p. 79; 1934, p. 245.
16. Acts, 1934, p. 245.
17. Acts, 1844-45, pp. 47-51.
18. Acts, 1934, p. 252.

Vacancy

The State Superintendent of Public Instruction was authorized to fill vacancies with the advice of the State Board of Education. (19) Later legislation authorized the county judge, sitting alone, to fill vacancies, and his appointee held office until the next session of the court of claims. (20) Recent legislation provides that vacancies shall be filled by appointment of the board for the unexpired term within ninety days after such vacancy occurs. If not filled within ninety days by the county board, it shall be filled by the State Board of Education within thirty days after information has been filed by any citizen of the district that such vacancy has existed for more than ninety days. (21)

Compensation

An early act of the legislature set the compensation of the county school commissioners at one dollar for every day engaged in the performance of school duties (22); but this amount was later increased to two dollars per day, not exceeding fifty days a year. (23) Subsequent acts provided that, in addition to the maximum compensation in any one year, each commissioner was to receive three dollars for each of his districts in which a school was held, and one per cent of all money received and disbursed by him. (24) Legislation in 1908 specified that the remuneration was to be three dollars per day, not to exceed twelve days in any year, for a member of the county board of education. (25) In 1922 this amount was increased to five dollars a day plus necessary expenses incurred in attendance upon board meetings, to be paid from county school funds. (26) The legislature in 1934 limited compensation to expenses incurred in the performance of their duties as members of the county board (27), but legislation in 1938 again provided five dollars per day and expenses for attendance at board meetings, but stipulated that the total paid each member could not exceed $100 per year. (28)

Functions

General Administration

Upon its creation, the county board of school commissioners was

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19. Acts, 1844-45, pp. 47-51.
20. Acts, 1861-63, p. 132.
21. Acts: 1920, p. 150; 1922, p. 152; 1924, p. 80; 1934, p. 252.
22. Acts, 1838-39, pp. 381, 382.
23. Acts, 1855-56, vol. 1, pp. 103-105.
24. Acts, 1869-70, p. 123.
25. Acts, 1908, p. 142.
26. Acts, 1922, pp. 150-153.
27. Acts, 1934, pp. 247, 251-253.
28. Acts, 1938, p. 151.

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given general corporate powers to hold real and personal property for the sole use of the common schools of the county, and was made liable for any loss resulting from mismanagement or neglect of funds under its supervision. (29) It was also authorized to divide the county into school districts; to change or modify them; to call meetings in the various districts; to hold elections of trustees (30); to fill vacancies in the office of subdistrict trustee until the next election (31); and to appoint three Negro trustees for each Negro school district. (32)

The county board of education created by an act of 1908 assumed the general administrative functions formerly exercised by the board of school commissioners. By an act of 1912 it was given authority to provide supervisors to serve as substitute teachers or truant officers under the direction of the county school superintendent. (33) In 1920 the county board was authorized to call meetings of teachers for instruction in their work; to suspend or remove from office the county school superintendent, teachers, subdistrict trustees, or other employees, for cause; and to employ attendance officers and supervisors. (34) The same act provided for the appointment of the county school superintendent by the board of education for a term of four years. (35) An act of 1932 sought to elect the county school superintendent by popular vote, but the measure was annulled by the Court of Appeals before it became effective. (36) The board was also authorized to appoint assistant school superintendents, when necessary, and also an attendance officer and assistants, upon the nomination of the superintendent. (37)

The administrative agent of the board of education is the county school superintendent, and all his acts and policies are subject to the approval of the board. The board also elects a secretary and a treasurer, or it may confer both functions on the same individual. (38) It is also the duty of the board to supply sanitary facilities for each school (39); to provide for roads and passways to school buildings; to supply educational facilities for home-bound, but mentally fit, handicapped children (40); and to summon and force attendance of witnesses in any investigation or proceeding before it. (41)

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29. Acts, 1837-38, pp. 275, 277, 281.
30. Ibid., pp. 277, 278; 1841-42, pp. 81, 82.
31. Acts, 1855-56, pp. 103-105.
32. Acts, 1873-74, pp. 63-66.
33. Acts, 1912, pp. 401, 402.
34. Acts, 1920, pp. 148-152.
35. Ibid., p. 158.
36. Acts, 1932, pp. 357-359.
37. Acts, 1934, pp. 265, 283, 288.
38. Ibid., pp. 241, 277, 283, 284, 295.
39. Acts, 1920, pp. 148-152.
40. Acts, 1934, p. 279.
41. Ibid., pp. 274, 275.

County Board of Education (Next entry 358, p. 332)

Under provision of the act of 1908, a county board of education was established which, aside from certain features of structure, differed in no fundamental respects from the present board. This act required that, within two years, the board establish one or more high schools in the county; purchase, lease, sell, rent, and repair school sites, buildings, and furnishings; condemn property for school purposes; and employ and fix salaries of teachers in the high schools established in the county. (42) The county board of education is required today to furnish, by establishing a school or by contract with another district, at least an approved twelve-grade school service for pupils in the district. (43) In 1938 the board was authorized to provide appropriate high school facilities within the county; and if the number of such children is not sufficient to warrant a high school, the board is required to provide transportation for such children to another district, or furnish board and room within reasonable walking distance of such school, provided those expenses do not exceed $100 per year for each pupil. (44)

In 1934, an act approved by a special session of the legislature authorized counties to acquire elementary and high school buildings and to issue bonds therefor, payable from revenue derived from the lease of such buildings to local boards of education, for the purpose of qualifying for financial assistance from the Federal Government. District boards of education were also authorized to convey school sites to other boards in order to permit amortization of costs of school construction under Federal grants. (45)

Financial Administration

When the county public school system was first established, the legislature authorized district school commissioners to provide necessary funds for the operation of schools in their districts by imposing and collecting taxes on property not to exceed six and one-fourth cents per $100 of assessed valuation. They could also levy a poll tax of not more than fifty cents. (46) Where counties failed to adopt the common school system, such amounts as were due them from the funds of the State were to be paid to the county school commissioners for education of the indigent children of school age in the county. (47)

The county board was given entire control of the county school funds, and no amount for school purposes could be appropriated from the school treasury except when so ordered by a majority of the board. (48) In ad-

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42. Acts, 1908, pp. 135-142.
43. Acts, 1934, pp. 228, 229.
44. Acts, 1938, First Special Session, pp. 1039, 1040.
45. Acts, 1934, Special Session, pp. 119, 129.
46. Acts, 1829-30, pp. 272-281.
47. Acts, 1842-43, pp. 72-75.
48. Acts: 1908, pp. 138-143; 1920, p. 153; 1922, p. 154.

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dition to the power to appoint a treasurer, the board was authorized to appoint a bank or trust company as a depository for school funds, and when the annual receipts exceeded $100,000, it could designate two such depositories (49); it was also given power to borrow money and issue bonds in anticipation of revenue from school taxes, when it was deemed necessary for acquiring or building schools, subject to the approval of two-thirds of the voters of the district. (50) The same act authorized the board to take possession of, sell, or convey property in the district that reverted to the State, and to convert to the general fund any income derived from invested money which it owned. (51)

Legislation in 1938 required the county school commissioners to apply for and receive from the State Superintendent of Public Instruction the money apportioned to the county for school purposes and also to receive from the sheriff all money raised in the county for the same purpose. From these funds the board allotted to each subdistrict a pro rata share based on the ratio of the number of children of school age within the subdistrict, to the total number of such children in the county. (52)

In the beginning of the public school system of Kentucky, the county courts were authorized and required to submit to the voters of each school district the question of levying a sum upon the taxable property which, when added to the funds to be received from the State, would be sufficient to meet all the school expenses of the district. (53) In 1845, this method of raising revenue by district taxation was discontinued and raising money by private subscription was substituted. (54) A later act authorized the board to impose a capitation tax of not more than two dollars per annum on parents whose children were attending the district school. It further stipulated that all fines and forfeitures recovered from violations of the liquor laws should be applied toward the erection and furnishing of schoolhouses. (55) The power to raise school revenue locally was broadened by an act which authorized district trustees, upon the approval of the voters of the district, to levy an annual ad valorem tax not exceeding seventy cents on the $100 valuation, and a poll tax not exceeding two dollars. Power to issue bonds for the erection of school buildings was also granted. (56) In 1920 the county board of education was directed to request the fiscal court to levy a minimum tax of twenty-five cents on each $100 of property, and more if necessary, to provide funds to pay teachers a minimum salary of seventy-five dollars per month. (57)

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49. Acts, 1934, pp. 266, 267.
50. Acts, 1934, pp. 268-272.
51. Ibid., p. 275.
52. Acts, 1837-38, pp. 276-279.
53. Ibid., pp. 276, 277.
54. Acts, 1844-45, pp. 53, 54.
55. Acts, 1883-84, pp. 135, 136.
56. Acts, 1887-88, pp. 194-200.
57. Acts, 1920, pp. 8, 9.

County Board of Education

(Next entry 358, p. 332)

The county board of education was authorized by an act of 1926 to submit to the voters of the county, or of any subdistrict, the question of levying an annual tax in addition to the regular annual levy for specified school purposes, not to exceed seventy-five cents on each $ 100 of taxable property. (58) In 1934 the board was required to submit to the voters of subdistricts, upon written petition of forty per cent of the voters therein, such additional levy up to seventy-five cents per $100 assessed valuation, or a bond issue, to raise revenue to be used for such specified school purposes within the subdistrict. (59)

In 1843 the office of county school treasurer was created. The county court was authorized to appoint this officer (60); legislation soon after, however, directed the board of school commissioners to make the appointment. (61) An act of 1850 then abolished the office of school treasurer, and provision was made for the board of school commissioners, or any one of them, to serve as treasurer. (62) Provision was later made for the school trustees to appoint a district treasurer to handle all school funds of the school district (63); or, as was subsequently provided, if the trustees deemed it preferable, the duties of school treasurer could be given to the sheriff. (64) By an act of 1922 all moneys and securities belonging to the county board of education were deposited with a treasurer elected by the board. (65) This provision was reaffirmed by the general school code adopted in 1934. (66)

Although from the beginning, the county board of school commissioners, and later the board of education, has had general charge of the financial administration of the county public school system, until recently only the most rudimentary principles of budgetary procedure were followed. The act of 1908 made it the "duty of the county board of education to estimate and lay before the fiscal court of the county the educational needs of the county. . . ." (67) Legislation in 1920 provided for a more detailed budget which required the board "to prepare subject to the rules and regulations of the State Board of Education and on and with the advice of the county superintendent an itemized and detailed school budget. . . ." This budget was required to show

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58. Acts, 1926, p. 282.
59. Acts, 1934, pp. 237-240.
60. Acts, 1842-43, p. 72.
61. Acts, 1844-45, p. 50.
62. Acts, 1849-50, pp. 29-31.
63. Acts, 1891-93, pp. 1455-1457.
64. Acts, 1898, pp. 29-33.
65. Acts, 1922, pp. 153, 154.
66. Acts, 1934, pp. 264, 265.
67. Acts, 1908, p. 139.

an itemized estimate of the expense, and also an estimate of the anticipated revenue based on the State per capita allotment and on the levy set by the board, which could not be less than twenty-five cents or more than fifty cents on each $100 valuation, and a capitation tax not exceeding one dollar. (68) Essentially this same budget requirement was reenacted in the general school code of 1934, with the exception that the maximum levy was raised to $1.50 per $100 assessed valuation and a capitation tax of two dollars was provided. (69) This act also required that "school money shall be expended by the board of education in accordance with the recommendations contained in the budget submitted. . . ." (70)

Certification and Employment of Teachers

The county board of school commissioners, with the district school trustees, was early authorized to examine and classify applicants for positions as teachers and to issue certificates to those who met all requirements. (71) An act of March 1, 1842, empowered the board to appoint three examiners, who were required to be professional teachers, to examine and certify applicants for employment as teachers. (72) This authority of the county board over certification was continued in an act which made it necessary for the prospective teacher to obtain a certificate of qualifications signed by two members of the county or State Board of Examiners. (73) By an act of March 21, 1906, two normal schools were created in Kentucky, the boards of regents of which were given "power and authority to confer by diploma . . . such certificates as are usually granted by normal schools." (74) Students of such normal schools, however, could also take the regular examination for teachers' certificates. (75) This method of certification by examinations was continued and revised by subsequent acts (76); however, in this and later acts dealing with certification of teachers, the county board was relieved of all functions in this connection by the State Board of Examiners and the various teachers' training institutions of the State. (77)

The employment of teachers for the public schools in the county has always been a function of the county board of school commissioners and of the board of education. (78) The act of March 24, 1908, which re-

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68. Acts, 1920, p. 155.
69. Acts, 1934, pp. 260, 261.
70. Ibid., p. 262.
71. Acts, 1837-38, pp. 277, 288.
72. Acts, 1841-42, pp. 81, 82.
73. Acts, 1883-84, p. 139.
74. Acts, 1906, p. 397.
75. Acts, 1908, p. 163.
76. Acts, 1920, pp. 172-185.
77. Acts, 1924, pp. 126-136.
78. Acts: 1829-30, pp. 272-281; 1837-38, pp. 279-282.

quired the county boards of education to provide high school facilities to pupils within their counties, made it the duty of such boards to employ and fix the salaries for the teachers of such schools. (79) All principals, assistant principals, and teachers were later appointed by the board, upon recommendation of the county school superintendent from a list of names submitted by him. (80) Power to suspend those officials for incompetency neglect of duty, or immoral conduct was also vested in the board by this act. The board was also authorized by the act of 1934 to elect teachers upon the nomination of the subdistrict trustees. (81)

Reports

Early legislation required the board of school commissioners to report annually all school funds received and disbursed. (82) Legislation in 1838 further required that the annual report of the commissioners include the number of school districts, the number of children of school age in the district, the number attending school as reported to the State Auditor, the length of the school term in each district, the amount of money received other than State funds, the total expenditure for the period, and the balance on hand. (83) Later legislation required the county school commissioners, on or before December 1, to make or cause to be made annually to the State Superintendent of Public Instruction or the State Board of Education, such school reports as were required by law. (84) By an act of 1844 a report was required of the county school commissioners to the State Superintendent of Public Instruction, on or before the first Monday in December. This report was to include the number of school districts in the county, the number maintaining school according to law, the number of children in each district between the ages of five and sixteen, the average number attending school during the year, and the cost of each scholar, quarter or session. (85) The county school commissioners, under the provisions of an act of 1855, were required to submit a report to the Superintendent of Public Instruction, between January 15 and February 15, based on reports received from the district trustees. This report was to be used by the State Auditor in determining what proportion of the income from the common school fund was due the county. (86) Under present legislation the board of education is required to report to the State Board of Education all phases of the school services, and it is also required to publish for the benefit of the public a report on the progress of the schools. (87)

1-13.

Unless otherwise specified, the records of the board of education are housed in the county school superintendent's office.

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79. Acts, 1908, p. 142.
80. Acts, 1920, p. 154.
81. Acts, 1934, pp. 235-237.
82. Acts, 1829-30, pp. 272-281.
83. Acts, 1837-38, pp. 276-279.
84. Acts, 1842-43, pp. 72-74.
85. Acts, 1844-45, pp. 47-51.
86. Acts, 1855-56, vol. 1, pp. 103-105.
87. Acts, 1934, p. 274.

Business Administration

Instruments of Conveyance

358. DEEDS (School Property), 1850--. 1 f.b. 1919 also in County Board Documents, entry 390.
Original deeds transferring title of property to county board of education for school purposes, showing: date, name of grantor, consideration and terms of deed, location and description of property, attested signature of grantor, deed volume number and page where recorded, date recorded, and attestation of county court clerk. Arr. chron. by date of deed. No index. Hdw. and typed. 4½ x 4½ x 10.
For recordings, see entry 68.

359. BUILDING CONTRACTS AND SCHOOL BONDS, 1924--. 3 f.b., 1 f.d. 1918-23 in County Board Documents, entry 390.
Bids furnished county board of education, contracts made by board, and surety bonds executed before board for work to be done on county school property. Bids for work proposed on school property or buildings, showing: date bid accepted, name and location of property and building, nature of proposed work, building specifications, type of material to be used, bidder's estimate and signature, and acknowledgment of county school superintendent. Contracts for work to be done on school property and buildings, showing: date of contract, name and location of property or building, name of contractor, nature of work, building specifications, type of material to be used, amount of contract, date work to commence and date to be completed, amount of surety bond required, signatures of contractor and county school superintendent, and attestation of county court clerk. Surety bonds executed before county board of education by contractors guaranteeing fulfillment of contract, showing: names of principal and surety, date of bond, amount secured, affidavit of surety, signatures of principal and surety, acknowledgment of county school superintendent, and attestation of county court clerk. Arr. chron. by date of record. No index. Hdw. and typed on pr. fm. F.b., 4½ x 4½ x 10; f.d., 12 x 16 x 24. 1924-30, 3 f.b., tax com. off.; 1931--, 1 f.d., co. sch. supt. off.

360. BUS CONTRACTS, 1936--. 1 f.d.
Contracts made between county board of education and bus operators for transportation of school children, showing: date, name of bus driver, name of school and subdistrict number, amount of surety bond required, name of surety, signatures of bus driver, surety, and county school superintendent, and attestation of county court clerk. Arr. chron. by date of contract. No index. Typed on pr. fm. 12 x 16 x 24.

Financial Records

361. SCHOOL BUDGET, 1936--. 1 f.d.
Budget estimate furnished county board of education by county school superintendent, showing: date, code number, revenue receipts received during previous year, budget estimate for coming year, balance due as per budget estimate, total revenue receipts, current expense, amount spent during

year, total budget appropriation, recapitulation, signature of county school superintendent, and date of budget estimate. Arr. chron. by date of estimate. No index. Typed. 12 x 4 x 24.

362. FINANCIAL LEDGER, 1915--. 10 vols.
Record of receipts and disbursements of county board of education; giving on receipts: date received, amount, source of revenue, and account credited; and on disbursements: date of payment, amount, to whom payable, nature of payment, fund charged to, and total disbursements. Arr. chron. by date of record. No index. Hdw. under pr. hds. Aver. 600 pp. 22 x 16 x 2.

363. BILLS PAID BY COUNTY BOARD, 1910--. 12 f.b. 1918-33
also in County Board Documents, entry 390.
Claims filed against county board of education for school expenses, showing: date, name of creditor, itemized list of material furnished or nature of work performed, total amount of claim, amount paid, balance, date due, and signature of county school superintendent. Arr. chron. by date of claim. No index. Typed on pr. fm. $4\frac{1}{2}$ x $4\frac{1}{2}$ x 10. 1910-23, 8 f.b., tax com. off.; 1924--, 4 f.b., co. sch. supt. off.

364. SALARY SCHEDULES, 1917--. 2 f.b.
Salary schedules of teachers prepared by county school superintendent upon approval of county board of education, showing: date of schedule name of teacher, kind of certificate, class of school position, experience, and amount of salary for each teacher. Arr. chron. by date of schedule. No index. Typed on pr. fm. $4\frac{1}{2}$ x $4\frac{1}{2}$ x 10. 1917-19, 1 f.b., tax com. off.; 1920--, 1 f.b., co. sch. supt. off.

1-13.

365. ORDERS FROM TEACHERS, 1910--. 4 f.b.
Requests from county school teachers to county board of education that specified amounts be paid out of their salaries to named persons, showing: date of request, date and amount to be paid, to whom, and signature of teacher. Arr. chron. by date of request. No index. Hdw. $4\frac{1}{2}$ x $4\frac{1}{2}$ x 10. 1910-18, 2 f.b., tax com. off.; 1919--, 2 f.b., co. sch. supt. off.

366. PAYROLL COPIES, 1934--. 1 f.d.
Monthly payroll record of teachers and other employees of board of education, showing: period covered, names and addresses of employees, amount due, type of service rendered, date paid, and certification of county school superintendent. Arr. chron. by date of payroll. No index. Typed on pr. fm. 12 x 16 x 24.

367. MONTHLY FINANCIAL REPORT, 1914--. 3 vols.
Record of financial reports made monthly to State department of education by county school superintendent, including:

i. Revenue and non-revenue receipts for month, showing: amount received during month, budget estimate in work sheet, total received since July 1, and balance due as per budget estimate;

ii. Itemized list of disbursements for current expenses, instruction, operation and maintenance of school plants, fixed charges, auxiliary agencies, capital outlay, debt service, and payment of temporary loans, showing: amount spent during month, total budget appropriation, total amount spent since July 1, balance of budget appropriation, total for current expenses, total for debt service, grand total of disbursements;

iii. Recapitulation of receipts and disbursements showing: balance on hand at beginning of month, total received during month, total of balance and receipts, total disbursed during month, balance on hand at close of month, balance in bank at close of month, outstanding checks or unpaid drafts at close of month, and actual bank balance;

iv. List of claims for which payment was not authorized paid by board because of insufficient funds, showing: name of claimant, for what due, and amount.

Arr. chron. by date of report. No index. Hdw. on pr. fm. Aver. 600 pp. 14 x 8 x 2.

368. FREE TEXTBOOK INFORMATION, 1934--. 1 f.d.
Free textbook cards furnished county school superintendent by principals of schools at end of each school year, showing: name of pupil, grade, school attended, list of books received, book number, condition of each book when issued and condition when returned, remarks, and signature of teacher. Arr. by school attended and alph. thereunder by name of pupil. No index. Hdw. on pr. fm. 12 x 18 x 24.

369. SCHOOL REPORTS (Reports of District Trustee), 1859-89. 4 f.b.
Title varies: School Commissioners, 1 f.b., 1861-83.
Original financial and statistical annual reports made by district trustees with school commissioners, showing: district number, county, date of report, number of district reporting, whole number of children in the district, highest number at school, lowest number at school, average number at school, number of months the school was taught, cost of each child for three months counting the highest number of children, amount of money received from State the preceding year, how that money was disposed of, signatures of district trustees, attestation of school commissioner, and date attested. Also contains: (Leases), 1861-83, entry 71. Arr. chron. by date of report. No index. Hdw. on pr. fm. 4½ x 4½ x 10. Co. ct. clk. off.

370. SETTLEMENTS (Sheriffs' Settlements), 1903-17. 1 f.b. 1918-33 in County Board Documents, entry 390.
Sheriff's settlements with board of education for funds collected from railroad and bridge companies, showing: date and amount collected, from whom collected, cost of collection, district number, and signature of sheriff. Arr. chron. by date of settlement. No index. Hdw. on pr. fm. 4½ x 4½ x 10. Tax com. off.

Boundary Records

371. GRADED SCHOOL BOUNDARIES, 1907--. 5 f.b.
Original records of boundary lines of graded school districts in county, showing: date, division number, name of school, number of district, date approved, and signature of members of county board of education. Arr. chron. by date of record. No index. Hdw. 4½ x 4½ x 10. 1907-19, 2 f.b., tax com. off.; 1920--, 3 f.b., co. sch. supt. off.

372. RECORD OF BOUNDARY, 1910--. 1 vol.
Record of boundaries of educational divisions, showing: division number, name of school, number of district within each boundary, and boundary of each subdistrict. Arr. numer. by dist. no. No index. Hdw. on pr. fm. 250 pp. 14 x 9 x 2.

General Administration

Teachers' Records

373. TEACHERS APPLICATIONS, 1902--. 15 f.b. 1923-25 also in County Board Documents, entry 390.
Original applications of teachers filed with county school superintendent for action of board of education, showing: name of teacher, kind of certificate, date of expiration, teaching experience, high school units, number of college hours, major and minor subjects, age, weight, height, physical defects, and signature of teacher. Arr. alph. by name of applicant. No index. Hdw. on pr. fm. 4½ x 4½ x 10. 1902-22, 10 f.b., tax com. off.; 1923--, 5 f.b., co. sch. supt. off. 1-13.

374. TEACHERS CERTIFICATES, 1918--. 1 f.d.
Certificates issued by State Board of Public Instruction to teachers and filed with county board of education, showing: name of teacher, provisions under which certificate granted, basis of issuance, validity and period covered, date issued, signatures of superintendent of public instruction and director of certifications, and seal of Commonwealth. Arr. alph. by name of teacher. No index. Hdw. on pr. fm. 12 x 16 x 24.

375. PETITIONS, 1910--. 2 f.b.
Petitions for assignment of teachers to named districts filed with county board of education, showing: date of petition, number of district, name of teacher, and signatures of petitioners. Arr. chron. by date of petition. No index. Hdw. 4½ x 4½ x 10. 1910-14, 1 f.b., tax com. off.; 1915--, 1 f.b., co. sch. supt. off.

376. TEACHERS CONTRACTS, 1903--. 4 f.b.
Articles of agreement entered into by teachers and county board of education, showing: date, name and address of teacher, date teacher's certificate expires, school months of actual teaching, opening and closing dates of school terms, teacher's agreement to comply with State school laws and the rules and regulations of State board and county board of

education, salary schedule, signatures of teacher and chairman and secretary of county board of education. Arr. chron. by date of contract. No index. Typed on pr. fm. 1903-16, 2 f.b., co. ct. clk. off.; 1917--, 2 f.b., co. sch. supt. off.

377. EXAMINATION REPORTS, 1914-20. 1 f.b. 1921-24 in County Board Documents, entry 390.
Reports of grade attainments made in teachers' examinations held by local examiner, showing: name of teacher, date of examination, grade attained, and signatures of examiners. Arr. alph. by name of teacher. No index. Hdw. on pr. fm. 4½ x 4½ x 10. Tax com. off.

378. TEACHERS ELECTED BY DIVISION BOARD, 1918-19. 1 f.b.
List of teachers elected in county by division board, showing: number of district, division number, name of teacher, and date elected. Arr. chron. by date elected. No index. Typed on pr. fm. 4½ x 4½ x 10. Tax com. off.

379. RECOMMENDATION OF TEACHERS BY LOCAL TRUSTEES, 1920. 1 f.b.
Letters written by local district trustees to board of education recommending teachers, showing: name of teacher, date, grade for which recommended, and signature of school trustee. Arr. chron. by date of letter. No index. Hdw. 4½ x 4½ x 10. Tax com. off.

380. SUMMER SCHOOL, 1922. 1 f.b.
Record of county school teachers attending summer schools operated by county board of education, showing: date, name of teacher, grade classification, number of credits received, and total cost of school. Arr. chron. by date of record. No index. Typed on pr. fm. 4½ x 4½ x 10. Tax com. off.

381. DISABILITY CERTIFICATES OF TEACHERS, 1914--. 3 f.b.
Original certificates furnished county board of education by physicians certifying teachers' inability to teach because of illness, showing: date of certificate, name of teacher, nature of illness, number of days disabled, and signature of physician. Arr. chron. by date of certificate. No index. Hdw. on pr. fm. 4½ x 4½ x 10. 1914-17, 1 f.b., tax com. off.; 1918--, 2 f.b., co. sch. supt. off.

382. SCHOOL EXAMINERS APPOINTMENTS, 1926-28. 1 f.b.
Record of appointments by county board of education of examiners of teachers, showing: date of appointment, name of appointee, signature of county school superintendent, sworn statement of county court clerk that appointee has taken oath of office, and signature of county court clerk. Arr. chron. by date of appointment. No index. Typed. 4½ x 4½ x 10. Co. ct. clk. off.

383. (OATHS OF TEACHERS' EXAMINERS), 1882-88, 1918-33. 1882-88 in Officers Commissions, see entry 52; 1918-33 in County Board Documents, see entry 390.
Oaths administered to applicants for State diplomas, State certificates, and county certificates by teachers' examiners, showing: name of applicant, age,

date of birth, sworn statement of applicant that he or she has not had the access directly or indirectly to questions to be used in examination, signature of applicant, date, and signatures of county school superintendent and examiners.

Trustees' Records

384. SCHOOL TRUSTEES (Nomination Petitions), 1908-11. 3 f.b.
Title varies: School Election, 1 f.b., 1911.
Nomination petitions filed with county board of education by persons wanting their names placed on ballot for election to office as school trustee, showing: name of candidate, date of election, qualification of candidate, signatures of petitioners, and date filed. Arr. chron. by date of election. No index. Hdw. 4½ x 4½ x 10. Co. ct. clk. off.

385. TRUSTEES ELECTED, 1921-26. 1 f.b.
List of school trustees elected for each school subdistrict, showing: name of trustee, number of subdistrict, date elected, and signature of county school superintendent. Arr. chron. by date of record. No index. Hdw. on pr. fm. 4½ x 4½ x 10. Tax com. off.

386. CERTIFICATES OF QUALIFICATION OF TRUSTEES, 1914-23. 2 f.b.
Trustees' certificates of qualification filed with county board of education, showing: date of certificate, qualifications, and signatures of trustees, witnesses, and county school superintendent. Arr. chron. by date of certificate. No index. Hdw. on pr. fm. 4½ x 4½ x 10. Tax com. off.

387. RESIGNATIONS OF TRUSTEES, 1905-22. 2 f.b.
Resignations of school trustees filed with county board of education, showing: date of resignation, names of school trustee and successor, number of district, reason for resignation, and signature of resigning school trustee. Arr. chron. by date of resignation. No index. Hdw. 4½ x 4½ x 10. Tax com. off.

Miscellaneous

388. GENERAL RECORD BOOK (Minutes of County Board of Education), 1880--. 15 vols.
Minutes of proceedings of each daily meeting of county board of education, showing: names of board members present, date of meeting, summary of proceedings, and signature of secretary of board of education. Arr. chron. by date of meeting. No index. Hdw. Aver. 140 pp. 14 x 9 x 1.

389. BOARD OF EDUCATION ELECTIONS, 1909--. 7 f.b.
Record of elections held for membership to county board of education, showing: date of election, names of candidates, number of votes cast for each candidate, and attestation of county school superintendent. Arr. chron. by date of election. No index. Hdw. on pr. fm. 4½ x 4½ x 10. 1909-19, 4 f.b., tax com. off.; 1920--, 3 f.b., co. sch. supt. off.

390. COUNTY BOARD DOCUMENTS, 1918-33. 2 f.b.
Miscellaneous papers and documents of county board of education. Contains: Deeds (School Property), 1919, entry 358; Building Contracts and School Bonds, 1918-23, entry 359; Bills Paid by County Board, entry 363; Settlements (Sheriffs' Settlements), entry 370; Teachers Applications, 1923-25, entry 373; Examination Reports, 1921-24, entry 377; (Oaths of Teachers' Examiners), entry 383. No obvious arr. No index. Hdw. on plain sheets and pr. fm. 4½ x 4½ x 10. Tax com. off.

XX. COUNTY SCHOOL SUPERINTENDENT

Structure

Creation

The general powers of administering the public school system in Breckinridge County, formerly exercised by the county board of school commissioners or other similar agency (see County Board of Education, p. 322), were given to the county school superintendent upon the creation of this office in 1884. An act of 1908 gave these general administrative powers to the board of education created by this act and the superintendent thereby became the administrative agent of the board. (1)

Selection and Term

This newly created officer was elected for a term of two years, but later legislation increased his term to four years. (2) At the present time his term may be one, two, three, or four years, as the county board of education may decide. (3) This office continued to be elective until 1920 when the county board was authorized to appoint a county superintendent of schools. (4) In 1932, this office was again made elective by the voters of the county, excluding cities of the first four classes, but because of a violation of section 6 of the Constitution of 1891, which provides that all elections be free and equal, the act was declared void by the Court of Appeals. (5) Two years later, the county board of education was given authority to appoint the county school superintendent

1. Acts: 1883-84, vol. 1, pp. 121-128; 1891-93, p. 1426 ff.; 1908, pp. 140, 142.
2. Acts: 1883-84, vol. 1, pp. 121-128; 1887-88, vol. 1, p. 163; 1920, p. 158.
3. Acts, 1934, p. 253.
4. Acts, 1920, 158.
5. Acts, 1932, pp. 357-359; Const. of 1891, sec. 6; Robertson et al v. Hopkins County, et al., 247 Ky. 129-132.

for a term of from one to four years, according to the decision of the board. (6)

Qualifications

The county superintendent was required to be of good moral character, to have a good education, to be capable of examining and certifying teachers, and to have the ability to manage the common school interests of the county. (7) Later statutes required him to be twenty-four years of age; to have resided two years in the State and one year in the county in which he is a candidate; and to hold a diploma or certificate from the State Board of Examiners. (8) In 1932, he was required to have completed four years of college work; and before assuming his duties, the superintendent had to present to the county board of education a statement, signed by the State Superintendent of Public Instruction, that he had been issued a certificate of administration and supervision. (9)

Oath and Bond

Since 1884, the county school superintendent has taken the oath of office, and until 1934, he furnished bond in the amount required by the county court. (10) Later statutes provided that he furnish bond for twice the amount he received at any one installment from the State Treasury. One copy he gave to the State Superintendent of Public Instruction, and the other to the county court. (11) At present, the county superintendent takes the oath of office but is not required to give bond, since he no longer performs any financial functions. (12)

1-13.

Removal

This officer has always been subject to removal by the county court for inability, habitual neglect of duty, or malfeasance in office. If he intentionally falsified his reports to the State Superintendent of Public Instruction, or failed to make the required financial statements to the State Auditor, he could be removed, fined, and imprisoned. (13) Under the existing law, the county board of education has the power to remove him for cause. (14)

Vacancy

Formerly, a vacancy in this office was filled by the county court

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6. Acts, 1934, p. 253.
7. Acts: 1883-84, vol. 1, p. 121; 1887-88, vol. 1, p. 163; 1891-93, p. 1426.
8. Acts: 1887-88, vol. 1, p. 163; 1891-93, p. 1426; 1912, p. 399.
9. Acts: 1932, p. 365; 1934, p. 253.
10. Acts, 1883-84, vol. 1, p. 121; Const. of 1891, sec. 228; Acts: 1891-93, p. 1429; 1908, p. 140; 1934, p. 253.
11. Acts: 1912, p. 401; 1916, pp. 184, 185; 1920, p. 161.
12. Acts, 1934, p. 253.
13. Acts: 1883-84, vol. 1, p. 121 ff.; 1891-93, pp. 1433, 1434, 1438; 1916, pp. 196, 197.
14. Acts: 1920, p. 154; 1934, p. 254.

until an act of 1920, in effect today, authorized the county board of education to fill such vacancy. (15)

Compensation

The act creating the office provided that the county school superintendent be allowed a reasonable compensation, fixed by the court of claims annually and paid out of the fund raised by taxation, as provided by the act; in case no such tax was levied, he was paid out of the general county levy, as the county judge and county attorney were paid. (16) In 1887, the court of claims based his salary on the number of pupil children reported in the census taken by the district trustees. He received not less than ten cents or more than twenty cents for each child, and in no case more than $1,500 annually. (17) In 1892, the superintendent received from eight to twenty cents for each pupil child; his annual salary, however, was still fixed at an amount not to exceed $1,500. (18) The fiscal court was authorized later to pay him not less than $600 and not more than $2,500 a year (19); but in 1916 he received from eight to twenty cents for each pupil child reported in the school census; and in counties having less than one million dollars of taxable property, his salary was fixed at from $400 to $1,500 a year. In counties having more than a million dollars taxable property, he was paid not less than $600 and not more than $2,500. (20) Under the present law, the superintendent of county schools receives a minimum salary of $1,200 a year, the amount being determined by the county board of education. (21)

Functions

General Administration

Upon the creation of his office, the county school superintendent assumed all the duties formerly discharged by the county school commissioner in managing the educational system of the county. He inspected the trustees' record books; advised them and saw that they discharged their duties, particularly with regard to securing pupil attendance; conferred with them about necessary schoolhouse repairs or additions and new furniture; consulted with teachers; and admonished them for neglect of school property. The superintendent held office at the county seat on the second Saturday of each month, and at other times when necessary, to transact official business. It was his duty to do his utmost

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15. Acts: 1883-84, vol. 1, p. 121 ff.; 1891-93, p. 1438; 1920, p. 159; 1934, p. 253.
16. Acts, 1883-84, vol. 1, p. 127.
17. Acts, 1887-88, vol. 1, pp. 170, 171.
18. Acts, 1891-93, pp. 1437, 1438.
19. Acts, 1912, pp. 401, 402.
20. Acts, 1916, p. 185.
21. Acts, 1934, p. 254.

County School Superintendent

(Next entry 391, p. 344)

to promote the interest of common schools. He was prohibited, however, from acting as textbook agent. (22)

By an act of 1893 the superintendent was required to hold a teachers' institute annually, which lasted not less than three or more than five days, for the better qualification and educational improvement of teachers in the county. The proceedings of the institutes were published in the county papers. (23) It was also his duty to designate the time and place for all meetings of the county board of education; to approve plans for new schoolhouses, although he could not have an interest in contracts to build or repair them (24); and to exercise jurisdiction over the supervisors provided by the county board. (25)

The superintendent advised the county board regarding the educational policy of the county, and prepared rules, regulations, by-laws, and statements of policy for the approval and adoption by the county board of education, and subject to its control. He had general supervision of the conduct, course of instruction, management of teachers, discipline of pupils, and management of school business affairs. He could also administer to any teacher or other person the oath required by the board. The superintendent, as well as all teachers and county school employees, were exempt from jury service during the school term. (26)

Financial Administration

Under provisions of an act of 1894, the county school superintendent received the school tax which was collected and paid to him on or before December 1 (27); and upon receipt of certificates from the district board of trustees, it was his duty to pay the teachers' salaries. (28)

1-13.

Legislation in 1892 provided for a railroad tax to be levied for school purposes, and this tax the sheriff collected and turned over to the county school superintendent, who in turn distributed it proportionately to the district school treasurers. (29) Later statutes required him on or before July 1, to report annually to the company or companies operating railroads or bridges, the boundary of school districts through which the railroad passed, or in which bridges were located. Until 1926, payment of all taxes levied against such utility concerns operating in a school district was made to the county superintendent for the benefit of such district. (30) Today, he prepares all budgets and salary schedules required of his board by the State Board of Education. (31) By an act of 1920, amended in 1922 and

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22. Acts: 1883-84, vol. 1, p. 121 ff.; 1887-88, vol. 1, p. 165 ff.; 1891-93, p. 1455 ff.; 1934, pp. 236, 255, 256.
23. Acts, 1891-93, p. 1484.
24. Acts, 1908, pp. 140, 143.
25. Acts, 1912, p. 402.
26. Acts: 1920, p. 153; 1924, p. 62; 1934, pp. 253, 254, 306.
27. Acts: 1883-84, vol. 1, pp. 114, 115; 1908, p. 140.
28. Acts, 1887-88, vol. 1, pp. 167, 169, 170.
29. Acts, 1891-93, p. 1456.
30. Acts: 1906, pp. 88, 142; 1916, p. 162.
31. Acts: 1934, p. 256.

(Next entry 391, p. 344)

reaffirmed in 1934, the county school superintendent became the executive officer and secretary of the county board of education. He was required to attend all board meetings and each committee meeting, unless his own salary, term, or the administration of his office was under discussion. He had the right to advise on any question but could not vote. (32)

Appointments

The county school superintendent, at the beginning of his office, was given authority to fill vacancies of district trustees by written appointment. (33) At present he may appoint members to any free library that may be established (34); appoint necessary clerical help; recommend teachers to the board of education for appointment, when the subdistrict trustee fails to do so; and nominate attendance officers and such other assistants as may be necessary. (35)

In 1928, the county school superintendent and the county judge were given authority to recommend three to five persons to the Kentucky Children's Bureau, for membership on the county children's bureau. (36) Breckinridge County, however, has no such bureau.

Ex Officio Functions

At the beginning of his office the superintendnt was made a member of the commission to re-form old, and to define new school districts. He was also a member of the county teachers' examining board, which issued certificates of qualification. (37) Later he was made a member of the library committee and was required to keep a teachers' library in his office. (38) He also served as a member of the county textbook commission from its creation in 1904 until it was abolished. (39)

By legislation in 1908 each county composed one school district, except where a city or town maintained a separate system of public schools. In such cases, that part of the county outside the city constituted a school district, and the county superintendent was required to meet with the county attorney and the county judge for the purpose of dividing each county school district into educational divisions containing an approximately equal number of children of school age, including both white and colored children. The board separated such divisions into subdistricts

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32. Acts: 1920, p. 153; 1922, p. 153; 1934, p. 254.
33. Acts: 1883-84, vol. 1, p. 131.
34. Acts, 1920, p. 644.
35. Acts, 1934, pp. 236, 253, 283, 284.
36. Acts, 1928, p. 135.
37. Acts, 1883-84, vol. 1, pp. 128, 129, 139.
38. Acts, 1891-93, p. 1488.
39. Acts, 1904, p. 13.

in each of which there were required to be from thirty to 100 white children in order to secure funds to pay one teacher. The voters of each subdistrict elected one trustee for a two-year term, who was required to be a resident of the subdistrict. These trustees of the various subdistricts of each educational division, with the county school superintendent, formed a division board of trustees. One trustee was appointed chairman, and one, secretary. The superintendent was a member of the board but could not vote except in case of a tie. At this time, he became an ex officio member of the county board of education and acted as its treasurer. (40)

Settlements

An early duty performed by the county school superintendent was to make an annual settlement with the county judge for the previous school year, and to forward to the State Superintendent of Public Instruction a copy, certified by the county court clerk, showing receipts and disbursements for that year. (41) Later he was required to keep an account of receipts and disbursements and to make reports to the county board of education and the fiscal court, as often as these bodies deemed it necessary. (42)

In 1934, the superintendent was required to present all claims to the county board of education which passed upon them. If approved, the board issued an order to the treasurer to pay such claims from the county school fund. The county school superintendent also sent the State Board of Education, at the close of each year, an itemized account of all funds received from the State and other sources, and a statement of all expenditures during the year. (43)

Reports

The county school superintendent has always been required to make a complete report on August 1, annually, to the State Superintendent, and later to the State Board of Education. In addition, he reported to the county judge the number and cost of textbooks needed for indigent children. (44) He also received an annual report from each district school treasurer until 1908, when he himself assumed the duties of school treasurer. (45)

Unless otherwise specified, all records are found in the county school superintendent's office.

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40. Acts, 1908, pp. 133, 134, 136, 140.
41. Acts, 1887-88, vol. 1, p. 167 ff.
42. Acts, 1908, pp. 140, 142.
43. Acts, 1934, pp. 256, 264, 265.
44. Acts: 1887-88, vol. 1, p. 167 ff.; 1934, pp. 253-256.
45. Acts: 1891-93, p. 1456; 1908, p. 140.

Census Records

391. MONTHLY CENSUS REPORT, 1906--. 1 f.d.
Duplicate of monthly census reports furnished State Department of Education, division of census and attendance, by attendance officer, showing: total census at beginning of month, number of children becoming six years of age during the month, number received by transfer during month, number found without transfer during month, number moving out of school district during month, number becoming 18 years of age during month, number of deaths during the month, net census at close of month, sworn statement of attendance officer and date of report. Arr. numer. by dist. no. and chron. thereunder by date of report. No index. Hdw. on pr. fm. 12 x 16 x 24.

392. RECORD OF SCHOOL CENSUS REPORTS, 1898-1917. 2 vols. Record discontinued.
Transcribed record of school census reports, showing: district number, names of parents, guardians, heads of families, or persons having charge of child, name of child, date of birth, age, and sex, address of parent or guardian. Arr. numer. by dist. no. and alph. thereunder by first letter of surname of child. No index. Hdw. under pr. hds. 180 pp. 16 x 12 x 1½. Co. ct. clk. off.

393. PERMANENT CENSUS RECORD, 1918--. 6 f.d.
Census cards of children of school age in county filed with county school superintendent as a permanent census record, showing: school district, name of child, race, sex, date of birth, authority for age, address, date of census, school attending, grade, date entered, cause of non-enrollment or late entrance, parents' names, occupation, whether living or dead, name and relation of person child lives with, whether enrolled in public, private, parochial school, or not enrolled, cause of permanent withdrawal from school, comes from what school outside this school district and date, gone to what school outside this district and date, physical disability, nativity, American or foreign born, and remarks. Arr. numer. by school dist. no. and alph. thereunder by surname of child. No index. Hdw. on pr. fm. 16 x 12 x 24.

394. PRE-SCHOOL CENSUS, 1930--. 1 f.b.
Census record of children under school age enumerated in order to determine approximate number of children who will be enrolled during the next school year, showing: name, race, and sex of child, date of birth, name of father or guardian, name of mother, district number, date of census, school child will attend, address, and remarks. Arr. numer. by dist. no. and chron. thereunder by date of census. No index. Hdw. on pr. fm. 4½ x 4½ x 10.

Enrollment

395. SCHOOL ENROLLMENT CARDS, 1918--. 11 bound vols., 2 f.d.
Enrollment cards of children attending public schools in county, showing: school district, census district, name of child, race, sex, school at-

tending, grade, date of entrance, address of parent or guardian, address where pupil lives, date of birth, authority for birth date, last school attended, location, state, name of parent or guardian, occupation, first name of mother, whether living or dead, name of person child lives with, relationship, school transferred to, if any, date of transfer, signature of teacher, and names and ages of brothers and sisters and any others under 18 living in family. Arr. numer. by school dist. no. and alph. thereunder by name of child. No index. Hdw. on pr. fm. Vols., 1918-33, aver. 600 pp. 18 x 14 x 3; f.d., 1934--. 16 x 12 x 24.

396. REPORT OF WITHDRAWAL, 1928--. 1 f.b.
Report of children withdrawing from county schools furnished attendance officer by teachers, showing: school district number, school, name of child, address, grade, date of birth, names of parents, and reason for withdrawal. Arr. numer. by dist. no. and alph. thereunder by name of child. No index. Hdw. on pr. fm. $4\frac{1}{2}$ x $4\frac{1}{2}$ x 10.

397. NOTICE OF TRANSFER, 1929--. 1 f.b.
Record of children transferring from one school to another furnished attendance officers by school principals, showing: name of child, grade, date of birth, race, names of parents, new address, county, old address, county, name of school child expects to attend, date of withdrawal, signature of principal of school withdrawing from, date entered new school, signature of principal of school entering, and name of attendance officer. Arr. alph. by name of child. No index. Hdw. on pr. fm. $4\frac{1}{2}$ x $4\frac{1}{2}$ x 10.

Attendance

398. WEEKLY ATTENDANCE REPORT, 1936--. 1 f.d.
Reports furnished attendance officer weekly by teachers of all absences from school except excusable absences for less than three days, showing: date of report, name of teacher, school, names of child and parent or guardian, address, number of days absent, and cause. Arr. numer. by dist. no. and chron. thereunder by date of report. No index. Hdw. on pr. fm. 12 x 16 x 24.

399. TEACHERS MONTHLY ATTENDANCE REPORT, 1924--. 1 f.b., 1 f.d.
Title varies: Oath of Teachers on Attendance, 1 f.b., 1924-31.
Public school enrollment and attendance reports submitted monthly to superintendent or school board by principal, showing: name of school, month covered by report, name of teacher, grades reported, days taught, number and sex of first entry enrollees, analysis or re-entries and losses, total enrolled, aggregate attendance and absence, aggregate days membership and average membership, average daily attendance, percentage attending, number of tardy cases, and signature of principal. Arr. numer. by dist. no. and chron. thereunder by date of report. No index. Hdw. on pr. fm. F.b., $4\frac{1}{2}$ x $4\frac{1}{2}$ x 10; f.d., 12 x 16 x 24. 1924-31, f.b., tax com. off.; 1932--, f.d., co. sch. supt. off.

400. MONTHLY REPORT OF ATTENDANCE OFFICER (Attendance Report), 1935--. 1 f.d.
Monthly report of attendance officer furnished county school superintendent, showing: school district number, county, date of report, number of absences reported and investigated, number of visits to homes, schools, business firms, courts and other agencies, total visits, number of transfers sent and received, number of phone calls made, number of letters written, number of form letters mailed, number of teachers' meetings attended, number of final notices served, number of children provided with clothing, food, or medical attention, number of days spent in office, number of days spent in field, and signature of attendance officer. Arr. numer. by dist. no. and chron. thereunder by date of report. No index. Hdw. on pr. fm. 12 x 16 x 24.

401. MONTHLY REPORT OF ATTENDANCE OFFICER (Activity Report), 1927--. 1 f.d.
Reports of attendance officers' daily activity record reported monthly to superintendent, showing: district number, period covered by report, number absences investigated and reported, number of transfers made and received, number of children provided with clothing, food, or medical attention, and signature of attendance officer. Arr. numer. by dist. no. and chron. thereunder by date of report. No index. Hdw. on pr. fm. 12 x 16 x 24.

Grades

402. SCHOLASTIC RECORDS, 1918--. 14 vols.
Scholastic records attained by children enrolled in county schools, showing: name of child; age, school attending, grade, scholastic records attained in each subject, date of record, and signature of county school superintendent. Arr. numer. by school dist. no.; numer. by grade enrolled in, and alph. thereunder by name of child. No index. Hdw. under pr. hds. Aver. 500 pp. 11 x 9½ x 3.

403. HIGH SCHOOL GRADES, 1930--. 1 f.d.
Carded report of high school students' scholastic and deportment records, showing: name of high school, name of pupil, date of birth, date entered school, phone number, name and address of parents, occupation of parent, nationality of parents, grade entered in, term of school, subjects studying, grade attained in each subject, number of days absent and tardy, deportment, and signature of teacher. Arr. numer. by school no. and alph. thereunder by name of student. No index. Hdw. on pr. fm. 12 x 16 x 24.

404. GRADE SCHOOL GRADES, 1926--. 1 f.d.
Report cards of grade school students' scholastic and deportment records, furnished county board of education by principals of schools at end of each scholastic year, showing: name of school, name of student, date of birth, date entered school, name and address of parent, phone number, occupation of parent, nationality of parents, grade entered in, subject

studying, grade attained monthly in each subject, number of days absent and tardy, deportment, and signature of teacher. Arr. numer. by dist. no. and alph. thereunder by name of student. No index. Hdw. on pr. fm. 12 x 16 x 24.

405. GRADED SCHOOL ANNUAL REPORT (Eighth Grade Examination Papers), 1926--. 2 f.d.
Original examination papers of eighth grade pupils, showing: name and age of student, date of examination, name of teacher, name and address of school, subjects given, grade attained in each subject, and signature of teacher. Arr. chron. by date of examination. No index. Hdw. on pr. fm. 12 x 16 x 24.

Health Records

406. DIPHTHERIA IMMUNIZATIONS, 1928--. 1 f.b.
Record of diphtheria immunization administered to school children by county health doctor, showing: name, age, address, sex, and color of child, parents' initials, type of toxoid administered, date, remarks, date of Schick test, and result. Arr. alph. by name of child. No index. Hdw. on pr. fm. 4½ x 4½ x 10.

407. TYPHOID IMMUNIZATION, 1925--. 1 f.b.
Record of typhoid immunizations administered to school children by county health doctor, showing: name, age, address, sex, and color of child, school attending, name of parents, date of immunization, dose, and remarks. Arr. alph. by name of child. No index. Hdw. on pr. fm. 4½ x 4½ x 10.

408. SMALLPOX VACCINATIONS, 1926--. 1 f.b.
Record of smallpox immunizations administered to school children by county health doctor, showing: name, age, address, sex, and color of child, school attending, name of parents, date of immunization, result, and remarks. Arr. alph. by name of child. No index. Hdw. on pr. fm. 4½ x 4½ x 10.

Correspondence

409. DECISIONS BY STATE SUPERINTENDENT (Correspondence), 1913--, 1 f.b., 1 f.d.
Letters of information and decisions from State school superintendent to county school superintendent, showing: date of letter, nature of information or instructions, and signature of State school superintendent. Arr. chron. by date of letter. No index. Typed under pr. hds. F.b., 4½ x 4½ x 10; f.d., 12 x 16 x 24. 1913-20, f.b., tax com. off.; 1921--, f.d., co. sch. supt. off.

(Next entry 410, p. 360)

XXI. COUNTY HEALTH UNIT

County Board of Health - Structure

Creation

Before the creation of the county board of health in 1893 by general law, acts were passed at various times giving the county court power to employ a physician to inoculate persons against smallpox, and the court of claims provided payment for his services. (1) For further details of the early provisions for public health matters, see the essay on Governmental Organization and Records System, p.17.

On January 11, 1883, Breckinridge County, upon authority granted by statutory provisions mentioned above, took measures to protect the general health of its citizens, and Doctors A. M. Kincheloe, E. R. Pennington, and J. E. Brown, were appointed by the county court to serve as members of "a board of health." Each physician was allowed ten dollars for his services. (2) In 1893 the act which established the State Board of Health authorized that body to appoint a county board of health as a regular county office. (3)

Selection and Term

Three or more intelligent, discreet citizens residing in the county were appointed for a term of two years by the State Board of Health to constitute the county board of health. (4) In 1904, an amendment to the act of 1893 provided that three "intelligent and discreet licensed, practicing physicians," the county judge, and one person elected by the fiscal court of each county should compose the county board of health and hold office for two years. (5)

Residence

The members of the county board of health were required to be residents of Breckinridge County, a qualification they must fulfill today. (6)

Removal

The members of the county board of health could be removed for cause at any time by the board appointing them. (7)

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1. LITTELL: VOL. 2, 1798, P. 46; VOL. 3, 1803, P. 133; REV. STAT., VOL. 2, P. 389; GEN. STAT., 1873 ED., P. 790.
2. COUNTY COURT ORDERS, VOL. 16, P. 479; RECORDS OF THE STATE BOARD OF HEALTH, 620 SOUTH THIRD STREE, LOUISVILLE, KY.
3. ACTS, 1891-93, P. 824.
4. IBID.
5. ACTS, 1904, P. 107; CARROLL, SEC. 2055.
6. IBID.
7. ACTS: 1891-93, P. 828; 1918, P. 352.

Compensation

In 1893, the members of the local board of health received such compensation for their services as the county court determined upon. (8) A change was made in 1904, when the General Assembly provided that the members should receive no compensation, and this provision remains in force today. (9)

9.

County Board of Health - Functions

i)

Upon its creation, the county board of health was authorized to require heads of families and other persons to execute necessary sanitary regulations to prevent the outbreak of cholera, smallpox, yellow fever, scarlet fever, and other communicable diseases; and to treat infected populations promptly during premonitory or other stages of such diseases. The board was also directed to inspect premises believed unclean and infectious; to examine all nuisances which may endanger the health of the inhabitants; and to determine and fix the location of a county hospital for treatment of smallpox and other eruptive diseases, at a site sufficiently remote from habitation and public highways. The county board enforced the rules and regulations adopted by the State Board of Health and persons failing to comply with such rules were subject to a fine of not less than ten dollars or more than $100 for each day of non-compliance. Local physicians and heads of families were required to report all communicable diseases to the county board of health. (10) These functions are exercised by this board today. (11)

...

14.

i)

v) 1-13.

The county board of health, since its creation, has been authorized to appoint a competent physician to serve as health officer for the county. It may also employ an assistant health officer. (12)

County Board of Health - Records

The county board has always made reports to the State Board of Health at least every three months concerning, first, the character of infectious, epidemic, and communicable diseases prevailing in the county; second, the number of persons reported infected with such diseases; third, the action taken by the county board in arresting the progress of epidemics; and fourth, the visible effect of such action. The local board also makes such special reports as are required or requested by the State Board. (13)

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8. Acts, 1891-93, p. 825.
9. Acts, 1904, p. 108.
10. Acts: 1891-93, p. 825; 1904, pp. 107, 108.
11. Acts, 1918, p. 300 ff.
12. Acts: 1891-93, p. 826; 1904, p. 108; 1918, pp. 300, 301.
13. Acts: 1891-93, p. 825; 1904, p. 108.

(Next entry 410, p. 360)

County Health Unit

County Health Officer - Structure

Selection and Term

The county board of health was given authority in 1893 to appoint a physician as health officer for a term of two years. (14) In 1904, this provision was amended, and the health officer held office at the pleasure of the board. (15) In 1918 a majority of the board was empowered to elect a health officer for a term of four years. (16)

Qualifications

Until 1918 the only requirement for the health officer was that he be a physician, competent to perform his duties as required by the board. (17) In 1918, however, he was required to be a graduate in medicine and surgery from a recognized medical college, and must have had at least six months' special training in preventive medicine and public health work in some school or college recognized by the State Board of Health. (18)

Removal

The county health officer could be removed at any time by the county board of health. (19)

Compensation

Until 1904, a physician appointed as health officer by the local board of health received such compensation for his services as the county court allowed. (20) In 1904, however, the salary of the health officer was fixed by the fiscal court. (21) Dr. W. L. Milner is the present health officer for Breckinridge County and serves only part time. In 1938 he received an annual salary of $150. (22)

Assistant

An assistant to the health officer, if one should be necessary, could be appointed by the local board. (23)

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14. Acts, 1891-93, p. 826.
15. Acts, 1904, p. 108.
16. Acts, 1918, p. 301.
17. Acts: 1891-93, p. 826; 1904, p. 108.
18. Acts, 1918, p. 300.
19. Acts: 1891-93, p. 828; 1918, pp. 291, 301.
20. Acts, 1891-93, p. 828.
21. Acts: 1904, p. 108; 1918, pp. 293, 301.
22. Report upon Audit of Accounts of Fiscal Records and Affairs in Breckinridge County for Fiscal Year Ending June 30, 1938, by Nat. B. Sewell, Director of Post Audits.
23. Acts, 1918, p. 301.

Functions

The chief function of the county health officer was to act as executive agent for the board, and see that the rules and regulations of the State Board of Health and county board were enforced. (24) In so far as he is able, as a part-time officer, he executes the orders of the county board of health, and the rules and regulations of the State Board of Health.

There are no records of the Health Unit kept in Breckinridge County.

XXII. COUNTY LIVESTOCK INSPECTOR

Structure

Creation: Selection

The office of county livestock inspector was created by legislative action approved March 22, 1910, when the county judge was authorized to appoint a livestock inspector for the county. This same act also created the State Livestock Sanitary Board and gave it power to appoint any inspector or employee of the United States Department of Agriculture as State Inspector of Livestock, who could exercise the duties of the county livestock inspector, but who, when acting in such capacity, could not receive compensation for his services from either the State or the county. (1) An act of 1918 authorized the fiscal court to appoint or elect a county livestock inspector, subject to the approval of the State Livestock Sanitary Board. (2)

Qualifications

In 1910 no specific qualifications for the office of livestock inspector were mentioned, but in 1918, he was required to be not only a citizen of the county, but a licensed, practicing veterinarian as well, if one was available in the county. If there was neither a licensed, graduate veterinarian, nor a licensed, non-graduate veterinarian in the county, the county livestock inspector was required to be a reputable citizen familiar with livestock. (3)

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24. Acts, 1918, p. 301.
1. Acts, 1910, pp. 196, 197.
2. Acts, 1918, p. 375.
3. Ibid.

(Next entry 410, p. 360)

Compensation

The salary of the county livestock inspector was paid by the fiscal court, which also fixed the amount of his compensation. (4) W. R. Moorman, Jr., the first livestock inspector appointed for Breckinridge County, began his duties in February 1911, and was paid a claim for his services from that date until December 1911.(5) The annual salary which the livestock inspector received in 1938 was $100. (6)

Functions

From 1910 until 1935, the county livestock inspector, as the local agent and representative of the State Livestock Sanitary Board, enforced the laws, rules, and regulations of that body, under the direction of the State Veterinarian. (7) An act effective March 7, 1936, however, provided that the functions heretofore vested in the State Livestock Sanitary Board be transferred to and vested in the State Board of Agriculture. (8) The county livestock inspector is required to report in writing to the State Veterinarian, all outbreaks of communicable diseases of livestock, giving the names and addresses of owners of the animals. He must report the number of animals that have died, the number diseased, and the number exposed to the disease. He is also authorized by the State Veterinarian to enter any premises and examine any such livestock as may be necessary in the furtherance of any investigation in connection with his office; to order any such quarantine of animals or premises as circumstances warrant; and to see that quarantine restrictions are observed until released by order of the board. The county livestock inspector is required to cooperate at all times with the board in preventing, suppressing, controlling, and eradicating communicable diseases in livestock, and to report the action he deems advisable in such cases to the State Veterinarian, who, upon receipt of such report, must give him all necessary assistance. Failure on the part of the county livestock inspector to comply with instructions of the State Veterinarian is cause for removal from office at the direction of the board. (9)

The county livestock inspector keeps no records for the county.

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4. Acts: 1910, p. 197; 1918, p. 376.
5. Fiscal Court Order Book, vol. 2, p. 49, see entry 3.
6. Report upon Audit of Accounts of Fiscal Records and Affairs in Breckinridge County, for Fiscal Year Ending June 30, 1938, by Nat. B. Sewell, Director of Post Audits.
7. Acts: 1910, pp. 192-195; 1918, pp. 361-376.
8. Acts, 1936, First Extra Session, p. 7.
9. Acts, 1918, pp. 375-377.

(Next entry 410, p. 360)

XXIII. COUNTY SURVEYOR

Structure

Creation

In 1792, the Kentucky General Assembly then in session at Lexington provided that the Governor, with the approval of the Senate, appoint a well-qualified surveyor for each county. His term of office was indefinite, and lasted during good behavior. (1)

Selection and Term

In 1799, the county court recommended two qualified persons to the Governor, one of whom he appointed as county surveyor, to hold office during good behavior. (2) The method of selection changed in 1850, however, when constitutional provision made the office an elective one (3), and stipulated that the surveyor's term be for four years, as it is today. (4) He was not permitted to hold any other office while acting as the county surveyor. (5)

In March 1800, Abraham McClellan, commissioned by Governor James Garrard, was appointed the first surveyor of Breckinridge County. (6)

Residence

In order to qualify for his appointment the county surveyor must have been a resident of his county for one year; but since Breckinridge County had not been in existence that long, then the first surveyor must have lived for one year in Hardin County from which the new county was taken. (7) In 1850, and again in 1891, the surveyor was required to be a citizen of the United States and to have resided in the State two years, and in the county one year, preceding his election. (8)

1-13.

Age

Until 1850, no age limitation was placed on the surveyor. Since 1850, however, he has been required to be at least twenty-four years of age to qualify for office. (9)

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1. LITTELL, VOL. 1, 1792, PP. 61, 62.
2. CONST. OF 1799, ART. 4, SEC. 8; LITTELL, VOL. 3, 1806, P. 405.
3. CONST. OF 1850, ART. 6, SEC. 1.
4. CONST. OF 1850, ART. 6, SECS. 1, 3; CONST. OF 1891, SEC. 99.
5. ACTS, 1891-93, PP. 912, 913.
6. COUNTY COURT ORDERS, FIRST VOL. NOT NUMBERED, P. 40, SEE ENTRY 225.
7. CONST. OF 1799, ART. 3, SEC. 9.
8. CONST. OF 1850, ART. 6, SEC. 2; CONST. OF 1891, SEC. 100.
9. IBID.

(Next entry 410, p. 360)

Oath

The county surveyor, before assuming his office in Breckinridge County, was required to appear before the county court and take the oath to support the constitution and to perform faithfully the duties of his office. (10) Since 1850 the oath required, in addition, that "he must not have participated in any way in duels." (11)

Bond

Authorized by an act of 1792, the newly-appointed surveyor presented his credentials to the court and furnished bond of $3,000 to the Governor (12); later statutes exacted bond and security as often as the Kentucky General Assembly deemed necessary. (13) For failure to give bond and security in the county court before June 1, 1807, the county surveyor forfeited a sum not to exceed $500. (14) From 1810 and every fifth year thereafter, a surveyor's bond was to be renewed in the county court, with two or more securities approved by the court. For failure to carry out the provisions of this act, the offending surveyor became guilty of a misdemeanor and was subject to removal from office. (15)

Removal

From the beginning of his office, the county surveyor has been liable to removal by impeachment for any misdemeanor in office, upon two-thirds concurrence of the House of Representatives. (16) The county surveyor is now subject to indictment or prosecution for any misdemeanor in office or for wilful neglect of official duties, in such mode as may be prescribed by law. He has, however, the right to appeal to the Court of Appeals. (17)

Vacancy

After 1799, during the time in which the surveyor's term was for good behavior, vacancies were filled by the regular method of appointment. (18) Legislation in 1891 provided that when a vacancy in the office of the county surveyor occurred, the county judge or, in his absence from the county, the county court clerk, issues a writ of election to fill the office. (19)

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10. CONST. OF 1799, ART. 6, SEC. 1; LITTELL, VOL. 3, 1806, P. 405.
11. CONST. OF 1850, ART. 8, SEC. 1; CONST. OF 1891, SEC. 228.
12. LITTELL: VOL. 1, 1792, PP. 61, 62; VOL. 3, 1806, P. 405.
13. CONST. OF 1850, ART. 6, SEC. 9; CONST. OF 1891, SEC. 103.
14. LITTELL, VOL. 3, 1806, PP. 405, 406.
15. LITTELL, VOL. 4, 1810, PP. 123-125.
16. CONST. OF 1799, ART. 5, SECS. 1-3; CONST. OF 1850, ART. 5, SECS. 1-3; CONST. OF 1891, SECS. 66-68.
17. CONST. OF 1891, SEC. 227.
18. CONST. OF 1799, ART. 4, SEC. 8.
19. ACTS, 1891-93, P. 143.

Compensation

As in the past, the county surveyor today keeps the fees which he charges in the performance of his duties, as remuneration for his services. These fees are fixed by law and are collected by the sheriff. (20)

Deputies

Upon the recommendation of the county surveyor, the county court was authorized to appoint one or more deputy surveyors, for whose conduct the county surveyor was responsible. (21) In all orders of the court the county surveyor could select his chainmen and other needed workers (22), and legislation in 1841 gave him authority to administer oaths to his chainmen. (23)

Functions

An act of 1800 gave the county surveyor authority to receive direct orders from the county court (24), and statutory provisions passed after 1850 required him to execute promptly and faithfully every order of survey issued by the county court, and to make and return a true plat of each survey. (25) Unless orders of court provided otherwise, statutes passed after 1891 directed that surveying or civil engineering work ordered to be performed by the court must be considered as being part of the duties belonging to the office of the county surveyor. For noncompliance with the court's orders, the county surveyor was subject to a fine. (26) His functions were enlarged in 1904 when he was made a member of committees, or one of a group of commissioners, to locate, inspect, care for, and report on bridges and other public improvements. While so serving, he had authority to administer oaths to his fellow commissioners, acting himself upon his oath of office. (27) The county surveyor was also made a member of a commission, appointed by the county judge, to re-form school districts or define new ones, when conditions made it necessary to enlarge or define such districts. (28) In addition to his specific duty of surveying, locating, and superintending the construction of roads, canals, levees, and ditches financed by taxation, other duties of the surveyor comprised the processing of land, the locating of lost corners and dividing lines, and, when the court directed, the surveying and dividing of estates when they were sold. (29)

1-13.

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20. LITTELL: VOL. 1, 1796, PP. 508, 509; VOL. 2, 1801, P. 435; VOL. 5, 1814, PP. 147, 267; ACTS: 1851-52, PP. 301, 302; 1891-93, PP. 1140, 1149; CARROLL, SEC. 1744.
21. REV. STAT., VOL. 2, P. 402.
22. LITTELL, VOL. 3, 1804, P. 263.
23. ACTS, 1840-41, P. 27.
24. LITTELL, VOL. 2, 1800, P. 403.
25. GEN. STAT., 1873 ED., PP. 800, 801.
26. ACTS, 1904, P. 263 FF.
27. IBID.
28. ACTS, 1883-84, VOL. 1, PP. 128, 129.
29. ACTS, 1904, P. 263.

County Surveyor

(Next entry 410, p. 360)

Statutory provisions enacted in 1814 authorized the county surveyor to survey lands in the county and to return the survey to the Register of the Land Office, who issued patents thereon. (30) The Land Register's office was abolished in 1898, and its duties were assigned to the State Auditor of Public Accounts. (31)

To prevent illegal surveys, the county surveyor was forbidden to make any entry for land, or receive or issue any plat or certificate of survey on any entry made after May 1, 1792. For each offense against this order, he was subject to a fine of two hundred pounds, to be recovered with costs in any court of record within the State. In addition, he was required to certify the date of the survey on each plat or certificate of survey. (32) To prevent fraudulent appropriation of lands under cover of treasury warrants, legislative action made it a misdemeanor and malfeasance in office for any surveyor to issue, illegally, certificates of survey on Virginia land office treasurer warrants, on military reserved lands, on lands in counties where such lands were located, and lands acquired by the Treaty of Tellico. For such offense the surveyor was liable to indictment and imprisonment not to exceed one year, at the discretion of the jury, and to a fine amounting to twice the value of the lands illegally surveyed. (33)

Recordation

Statutory provision already in force in 1799 made it the duty of the county surveyor to keep a record of lands to which title, interest, or claims had been relinquished by the persons concerned. (34) For the safety of the records, as well as for the convenience of the public, all surveyors having possession of books of original land entries were directed to transcribe such entries in a fair, legible hand, in good books bound in calf, and to deposit the same, certified under the hand and seal of each surveyor, with the Register of the Land Office until its abolishment in 1898. (35) In 1882, legislation required him to append the date of the survey to his field notes, and the variation of the needle from the true meridian at the time of making the survey. (36) After 1891, statutory provision gave the county surveyor the duty of keeping records of all plats, and explanatory notes of all surveys made by him and his deputies, in a book furnished by the county court, but no such record was found in Breckinridge County. (37)

For the record of land surveys which is housed in the county court clerk's office, see entry 278. The present surveyor of Breckinridge County lives at Kingswood.

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30. LITTELL, VOL. 5, 1814, P. 92.
31. Acts, 1898, P. 41.
32. LITTELL, VOL. 1, 1792, P. 165.
33. LITTELL, VOL. 4, 1809, PP. 71-73.
34. LITTELL, VOL. 1, 1794, P. 233.
35. LITTELL, VOL. 2, 1799, P. 302.
36. Acts, 1881-82, PP. 11, 12.
37. Acts, 1904, P. 264.

(Next entry 410, p. 360)

XXIV. COUNTY ROAD ENGINEER

Introduction

From 1799 to 1892, the county court at its claims and levy sessions exercised supervision of county roads and bridges in Breckinridge County; thereafter, upon its creation in 1892, the fiscal court directed the management of such work in the county. (1)

In its supervision of this work, the county court had the duty of appointing road overseers; since the composition of the court was radically changed in 1851, this appointive duty was first a power of the court as a whole (the justices) from 1799 to 1851; it then became a power of the county judge who, from 1851 to the present, has been the sole member of the court. (2)

From 1799 until 1894, the technical duties of constructing and maintaining the road and bridge system of the county were carried on by precinct overseers; in 1894, the office of county road supervisor was established to take over the general supervision of the entire road system, under the direction of the fiscal court. The overseers, however, continued their individual jobs in their assigned precincts. (3)

Structure

Creation

An act of 1912, which abolished the office of road supervisor, created the office of county road engineer to meet the need in each county of a trained road man to exercise county-wide supervision of the construction and repair of modern rural roads, and to integrate such county's road system with the State and Federal highway systems. (4) 1-13.

R. M. Basham was appointed as the first road engineer of Breckinridge County in April 1913. (5)

Selection and Term

An act of 1914, which superseded the act of 1912, provided for the appointment of a county road engineer by the county judge, with the approval of the fiscal court. His term of office was for two years. If the county court failed to appoint a road engineer, his duties were performed by the county surveyor, the road commissioner, or some other person designated by the county court. The compensation of such person was

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1. LITTELL, VOL. 1, 1797, P. 634; GEN. STAT., 1873 ED., P. 759; ACTS, 1891-93, PP. 1194, 1195.
2. SEE COUNTY COURT, P. 205.
3. ACTS, 1894, P. 79.
4. ACTS, 1912, P. 329.
5. FISCAL COURT ORDER BOOK, VOL. 2, P. 102, SEE ENTRY 3.

the same as that which commissioners receive for dividing land. (6)

Qualifications

Legislation in 1914 provided that the road engineer must be either a reputable civil engineer or a man who has had practical experience as a road supervisor or builder for two years, and has passed a creditable examination by the road authorities of the State. The county surveyor may receive the appointment as county road engineer, provided he is qualified to hold the office. (7)

Oath and Bond

The road engineer must make bond to the county court within ten days after the notice of his appointment. He is also required to take the oath of office. (8)

Removal

The county engineer may be removed from office by the county judge at any time for adequate cause. (9)

Vacancy

A vacancy in the office of county road engineer is filled by the county judge, who, with the consent and approval of the fiscal court, appoints a person to serve for the unexpired term. (10)

Compensation

In 1912, the county road engineer was compensated by salary or per diem, as might be decided by the fiscal court. Under the act of 1914 he now receives a salary of not less than $600 per year, to be fixed by the fiscal court. (11)

In 1938, the county road engineer of Breckinridge County received a salary of $1,200. (12)

Penalty

Neglect of his duties, or refusal to perform any of them, constitutes a misdemeanor, for which the road engineer, on conviction, may be penalized by a fine not exceeding $100. (13)

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6. Acts, 1914, pp. 357, 359.
7. Ibid., pp. 357, 358.
8. Ibid., p. 358.
9. Ibid., p. 359.
10. Ibid., p. 357, 358.
11. Acts: 1912, p. 330; 1914, p. 358.
12. Report Upon Audit of Accounts of Fiscal Records and Affairs in Breckinridge County, for Fiscal Year Ending June 30, 1938, by Nat. B. Sewell, Director of Post Audits.
13. Acts, 1914, pp. 359, 360.

County Road Engineer

(Next entry 410, p. 360)

Functions

It is the duty of the county road engineer to post on the courthouse door a printed notice for bids on contracts to build or repair roads and bridges, and to exercise general charge over all public roads and bridges within the county except privately-owned turnpikes and bridges, keeping such roads and bridges in repair and supervising all construction work on them. He must designate, with the consent of the county judge, certain roads or parts of roads that are not to be let out, but which are to be kept in repair. He must also be responsible for implements furnished him by order of the fiscal court and advise and direct those employed by contractors concerning the best way to repair, maintain, and improve county roads and bridges. It is his duty to examine various formations and deposits of gravel for suitability of materials; to submit such samples of gravel upon request, to the State highway authorities; to acquire gravel beds and stone quarries for grading purposes, with the approval of the fiscal court; and to provide for necessary grades and drainage. The road engineer is further authorized to enter any lands adjacent to public roads in order to drain them; to have roads measured when so directed by the highway authorities of the State; and together with the fiscal court, to consider plans, specifications, and estimates submitted for the construction and maintenance of public roads. It is his duty to hold road meetings in each magisterial district yearly; to inspect or cause the inspection of the county's roads and bridges every six months, and at such other times as the fiscal court may require; to certify to the fiscal court that the work is carried on according to contract, and when it is not, to stop such work until the fiscal court passes upon it; to hear and examine complaints and hold hearings to adjust damages; and to certify claims of contractors. The county road engineer must remove obstructions and post guide boards on roads; place foot bridges across streams; post notices of closed roads; have hills cut down by contract; plant, care for, and control public shade trees; establish wells and cisterns; lease necessary machinery, and have water troughs maintained. The county road engineer must not be personally interested in contracts and must not seek to employ a relative as a road worker. It is the duty of the county road engineer to serve notice of the court's order for the appointment of a road overseer, in the absence of other officers required to issue such summons. (14) 1-13.

The fiscal court may warn in hands to work on public roads in the county when man power instead of road machinery is to be used. (15) The county road engineer is assisted by overseers who, under his supervision, superintend work in their respective road precincts. (16)

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14. Acts, 1914, pp. 344-367.
15. Ibid., p. 379.
16. Ibid., pp. 379-382.

Recordation

The county road engineer makes reports as directed by the county judge and the fiscal court. At the expiration of his term of office, he is required to turn over his books to his successor. (17) For the report of the county road engineer, see entry 47.

410. ROAD ENGINEER REGISTER AND DUPLICATE RECORD OF ROAD ORDERS, 1913--. 4 vols.
Road engineer's register and duplicate record of road orders kept under supervision and approval of county judge, showing: date, number of order, in whose favor drawn, services rendered, material furnished, amount of order, and by whom given. Arr. chron. by date of order and numer. thereunder by order no. No index. Hdw. under pr. hds. Aver. 600 pp. 22 x 8 x 3. Co. judge's off.

XXV. COUNTY AGRICULTURAL AGENT

Structure

Although the office of county agricultural agent is not specifically provided for by law, acts of Congress in 1914, 1928, and 1930 set up a program for cooperative agricultural extension work with all counties of the State. An act approved March 15, 1916, accepted the provisions of the initial act of Congress and authorized the fiscal court and board of education of Breckinridge County to appropriate such sums of money out of their annual funds as they believed necessary to aid in carrying on extension work in agriculture and home economics, in cooperation with the Federal Government and in connection with the University of Kentucky. (1)

The first agricultural agent for Breckinridge County, J. W. Harth, was appointed by the fiscal court April 1, 1918, although he did not assume his duties until July 1, 1918. The fiscal court appropriated $800 for his salary, and an additional $1,000 was paid him by the Federal Government. (2) The present county agricultural agent of Breckinridge County receives an annual salary of $2,700; $800 of this amount is paid by the county. (3)

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17. Acts, 1914, pp. 360, 378.
1. U. S. Code, Title 7, sec. 341, et seq.; Acts: 1916, p. 156; 1930, pp. 37, 38.
2. Fiscal Court Order Book, vol. 2, p. 129; vol. 3, pp. 161, 188, see entry 3.
3. Fiscal Court Order Book, vol. 3, p. 438, see entry 3; Report upon Audit of Accounts of Fiscal Records and Affairs in Breckinridge County, for Fiscal Year Ending June 30, 1936, by Nat. B. Sewell, Director of Post Audits.

Functions

The functions performed by the county agricultural agent are not statutory, but are regulated jointly by the Secretary of Agriculture, the trustees of the University of Kentucky, and the fiscal court of the county.

There is no home demonstration agent in Breckinridge County.

Contracts

411. FARM PLAN (Agricultural Conservation Program), 1934--. 2 f.d.
Duplicate copy of farm plan agreement between farm operators and United States Department of Agriculture under the Agriculture Conservation Program, showing: serial number, name and address of operator, year planned, maximum payment, acreage allotments, soil building practices and number units earned if completed, signatures of county representative and operator, and date signed. Arr. chron. by date filed. No index. Hdw. on pr. fm. 12 x 16 x 24.

412. CORN - HOG CONTRACTS, 1934--. 5 f.d.
Duplicates of corn and hog control contracts made between operators and Agricultural Conservation Program, showing: serial number, name and address of operator, names and addresses of tenants and sharecroppers, acres share crop, total acres cropland, yield per acre, total corn production, hog production allowed, adjustments, and signatures of operator and county agricultural agent. Arr. alph. by name of operator. No index. Hdw. on pr. fm. 12 x 16 x 24. 1-13.

413. TOBACCO CONTRACTS, 1934--. 15 f.d.
Duplicates of tobacco control contracts made between operators and Agricultural Conservation Program, showing: serial number, name and address of operator, names and addresses of tenants and sharecroppers, acres sharecrop, total acres cropland, yield per acre, total production, adjustments, and signatures of operator and county agricultural agent. Arr. alph. by name of operator. No index. Hdw. on pr. fm. 12 x 16 x 24.

414. FINANCIAL RECORD, 1934--. 8 f.d.
Continuation sheets listing payments made by checks to producers in corn-hog and tobacco program and conservation program furnished county agricultural agent by Agricultural Conservation Program, Washington, D. C., showing: serial number, name and address of operator, check number, amount of payment, and nature of payment. Arr. numer. by serial no. No index. Typed under pr. hds. 12 x 16 x 24.

Reports

415. SUPERVISORS FARM REPORT, 1938--. 1 f.d.
Duplicates of reports made by county agricultural agents to College of Agriculture, University of Kentucky, concerning Agricultural Conservation

Program, showing: code and serial numbers, serial photo number, name and address of operator, materials furnished, field number, total acres in field, crop or land use, deduction measurements, depleting, non-depleting other than idle, and idle cropland, non-cropland, soil building practices, division of crops, names and addresses of tenants and sharecroppers, fraction share crop, acres share crop, practice interest, and signatures of operator and county agricultural agent. Arr. alph. by name of operator. No index. Hdw. on pr. fm. 12 x 16 x 24.

416. SUMMARY OF SUPERVISOR'S FARM REPORT, 1934--. 4 f.d.
Duplicates of county agricultural agents' summary farm reports made to College of Agriculture, University of Kentucky, including:

i. Soil depleting allotments and yearly acreages, showing: name of operator, serial and code numbers, kind of crop, yield per acre, acreage allotment, yearly acreage, payment rate per acre, acreage for reduction, deduction rate per acre, gross deduction, gross payment, and net payment or deduction;

ii. Soil building practices and goal, showing: practices, code, units, total units, practice description, quantity, acres, item and rate, total cropland, non-payment acreage, cropland for payment, eligible non-crop pasturage, commercial orchards, and maximum soil building goal;

iii. Division of payment, showing: name and address of operator, other farms, division of soil depleting crops, name and address of assignee, amount assigned, division of soil building units, grants of aid, and additional committee determinations;

iv. Farm acreages for year, showing: depleting crops, acreage of each crop, total acres of depleting crops, acres of non-depleting crops, total, non-commercial orchards, total non-depleting acreage, idle cropland, total cropland, commercial orchard, open non-crop pasturage, other non-crop land, and total farm land.

Arr. alph. by name of operator. No index. Hdw. on pr. fm. 12 x 16 x 24.

417. MONTHLY STATISTICAL REPORT, 1934--. 4 f.d.
Duplicates of monthly statistical reports made by county extension workers to College of Agriculture, University of Kentucky, including:

i. Itinerary report, showing: county, town, month covered by report, community visited daily, amount of time spent in field, office, and absent daily, mileage traveled by auto, horse or rail and mileage not charged daily, totals for month, days absent without pay, signatures of agent, and date of report;

ii. Report of meetings attended, showing: date, community or place where held, project and nature of meeting, and attendance;

iii. Assistance received from college and other sources outside the county, showing: date, from whom received, line of work, and nature of assistance received;

iv. Summary of activities, showing: county, name of agent, month covered by report, number of days in office, field, on vacation and on sick leave, miles traveled, days devoted to adjustment work, days out of county, number of community and commodity programs built, number of 4-H clubs organized and number of members enrolled, number of farm or home visits made and number

visited for the first time this year, number of office and telephone calls made, number of news stories published, number of individual and circular letters written, number of bulletins distributed, number of radio talks made, number of events at which exhibits were made, number of farms on which changes in practices have resulted from extension work, attendance of men and women at training meetings held for local leaders or committeemen, 4-H club meetings, tours, achievements or encampments, other meetings of an extension nature, and meetings held by leaders or committeemen, total of each activity for this month, previous month, and total to date this year;

v. Project summary, showing: line of work, days devoted to project, number of communities in which work was conducted, number of voluntary leaders or committeemen assisting, days assistance rendered by leaders or committeemen, number of new adult result demonstrations established, number of meetings at result demonstrations, number of method demonstration meetings held, number of other meetings held, number of farms or home visits made, number of office calls received, number of news stories published, and number of different circular letters issued.

Arr. chron. by date of report. No index. Typed on pr. fm. 12 x 16 x 24.

4-H Club Records and Correspondence

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418. EXTENSION FILE 4-H CLUB, 1934--. 3 f.d.
4-H club records and project reports filed with county agricultural agent, showing: names of member and parent, project work selected, program made, club a member of, names of club's officers, crops planted, acreage, yield per acre, and remarks. Arr. alph. by name of member. No index. Hdw. on pr. fm. 12 x 16 x 24.

419. CORRESPONDENCE, 1934--. 12 f.d.
Correspondence written to county agricultural agent by operators and College of Agriculture and duplicates of letters written by county agricultural agent, showing: date of letter, to whom written, subject of letter, and signature of writer. Arr. by subject matter and alph. thereunder by name of principal. No index. Hdw. and typed. 12 x 16 x 24.

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