

CONSTABLE

PRELIMINARY REPORT
ON THE
ORGANIZATION,
COMPOSITION, &
RESPONSIBILITIES
OF THE
CONSTABLE OF
MULTNOMAH COUNTY, OREGON

W. C. MERRELL
Executive Secretary
Home Rule Charter Committee
December 22, 1964

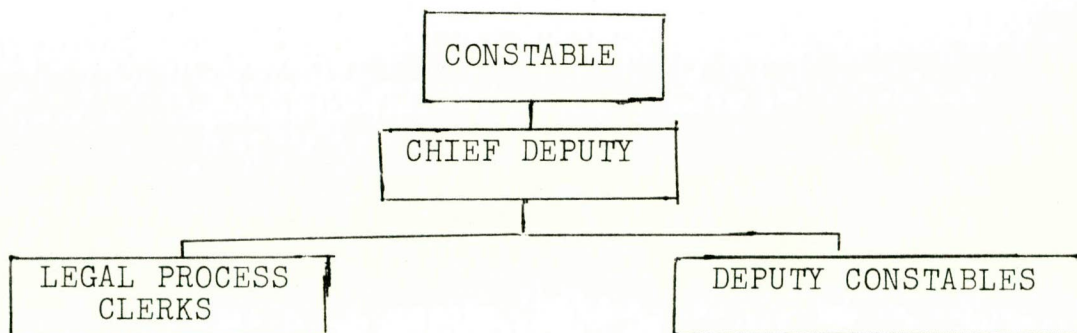
This is a preliminary report on the organization, composition, and responsibilities of the Multnomah County Constable.

These findings are based upon a review of the 1964-65 fiscal year budget request, the Oregon Revised Statutes, and interviews of the supervisory personnel of the Office of the Constable. This report is not complete, nor is it intended to be. Minor inaccuracies may be found, but since the membership requested copies of the work in progress, it must be expected that the early errors of any analysis will be included.

No effort has been made to evaluate the competence of the Constable or any part of his department. The scope of this preliminary report is limited to present organization and statutory responsibilities.

A review of the Office of the Constable reveals an activity employing a total of 17 personnel with a budget for 1964-65 fiscal year in excess of \$127,000. It is headed by a Constable, who is an elected official of Multnomah County drawing a salary of \$9,500 per year. Chart I is the operational organization of the office.

CHART I

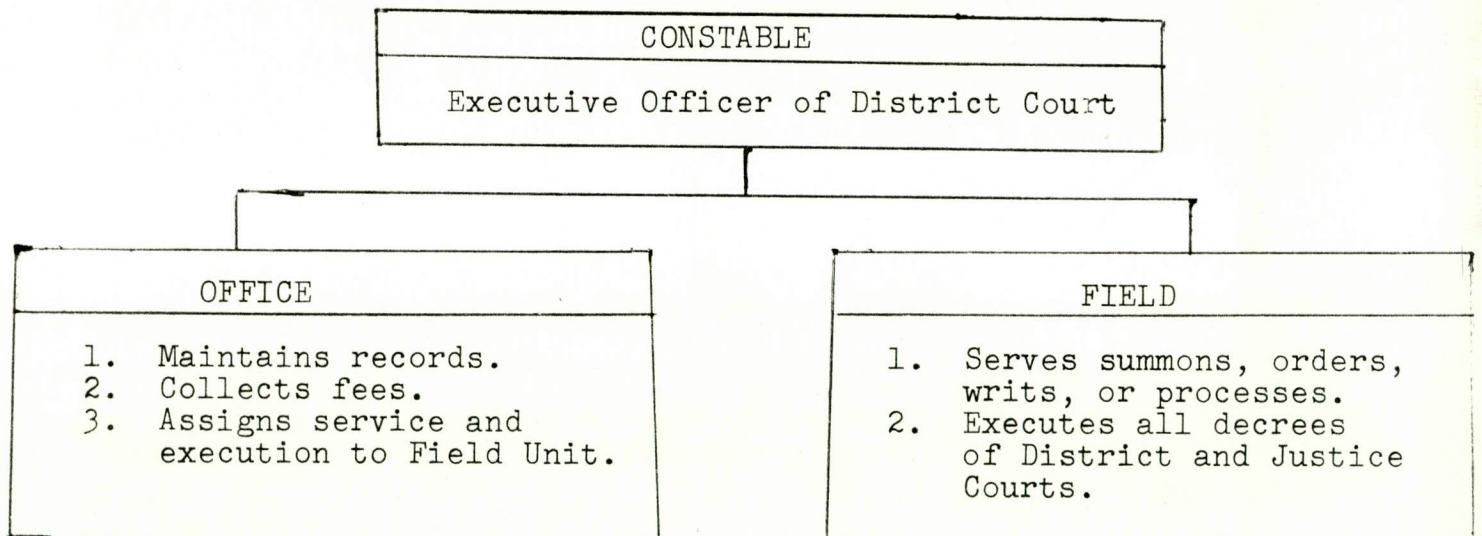


As contrasted with the Office of the District Court Clerk who has the responsibility of the clerical service to the District Court, the Constable serves as the executive officer of the District Court. His statutory duties are as follows:

- (1) Serves summons, writs, orders, or processes.
- (2) Executes all decrees of the District and Justice Courts.
- (3) At various times executes orders and decrees for the Circuit Court.

Reduced to its simplest terms, the functional duties of the Constable are indicated on Chart II.

CHART II



Appended hereto are copies of the statutes pertaining to Constables in the State of Oregon. It will be noted that election of Constables only takes place in cities having 25,000 or more inhabitants. In all other jurisdictions the duties of the Constable are performed by appointed Constables or by the Sheriff.

Throughout the Oregon Revised Statutes there are literally dozens of statutes pertaining or referring to Constables and their duties. However, these statutes have not been included, nor should they be, for they are merely making reference to Constables and their duties as they relate to peace officers in general. The Constable and the Deputy Constable in the Portland district are primarily concerned with the responsibilities of serving the District Court and they are not peace officers in the usual connotation of the words.

It will be noted that the Constable has no policy making decisions to render and no discretion in the execution of the duties enumerated. All of his duties are either spelled out by statute or are as directed by the District Court.

51.410 Elective office of constable abolished, appointive office created. The elective office of constable is abolished, and the appointive office of constable is created.

51.420 to 51.430 [Reserved for expansion]

51.440 Appointment of constables; term; manner of appointment; revocation. The county court or board of county commissioners may appoint a constable of and for any justice of the peace district in the county. He shall hold office for a term of four years unless sooner removed as provided in this section. The appointment shall be in writing filed with the county clerk and shall be revocable only for cause, and then by a writing of the court or board filed with the clerk. Upon the filing of the revocation, the term of office of the constable shall cease and expire.

51.450 Qualifications for office. A person shall not be eligible to the office of constable unless he is a citizen of the United States, and an elector of the county, and for a period of not less than six months next preceding his appointment has been, and then is, a resident of the district.

51.460 When term of office to commence; filing oath and undertaking; amount of undertaking. The term of office of a constable shall commence on the first Monday in January next following the appointment of the constable. Before entering upon the duties of the office, the person appointed thereto shall qualify by filing with the county clerk of the county wherein he has been appointed an oath of office, by him subscribed, to the same effect as that required of a justice of the peace, and also an official undertaking, duly approved as in the case of a justice of the peace, in the penal sum of \$2,500; provided, that the official undertaking of a constable of any district in which is located the county seat, or any part thereof, shall be in such greater penal sum, not exceeding \$10,000, as the county court or board of county commissioners shall designate.

51.470 Form of undertaking. The official undertaking of a constable shall be in substantially the following form:

Whereas A B has been duly appointed constable of the district of _____, in the County of _____, we, C D and E F, hereby undertake that if A B does not faithfully execute and return all process to him directed and delivered, and pay over according to law all moneys that shall come into his hands by virtue of his office, then we, or either of us, will pay to the State of Oregon the sum of \$_____.

C D.
E F.

51.480 Qualifications of sureties. The sureties in the undertaking provided for in ORS 51.460 shall have the qualifications of bail and shall be residents of the county; and their justification must be filed with the undertaking.

51.490 Filling vacancies; qualifying for office. If a vacancy occurs in any such office of constable, the county court or board of county commissioners may appoint some person possessing the qualifications prescribed by ORS 51.450 to fill the vacancy until the expiration of the term. The person so appointed to fill the vacancy shall qualify in the manner and form prescribed by ORS 51.460.

51.500 Deputies; appointment; revocation; oath of office; authority and powers; compensation. With the approval of the county court or board of county commissioners of the county wherein he has been appointed, such constable may have one or more deputies, who shall be appointed by him in writing. Each such appointment shall be filed with the county clerk of the county, and shall be revocable at any time by the constable, by a writing signed by him and filed with the clerk; and, upon the filing, the term of the deputy or deputies therein named shall cease. Every person appointed deputy shall, before entering upon the duties of the office, take and file with the county clerk an oath of office of like effect to that taken and filed by the constable. Each deputy shall have authority and power to perform any duty or act that the appointing constable has the authority and power to perform, and the constable shall be responsible on his official bond for any act or omission of any deputy. Each deputy shall receive monthly from the county such salary as may be fixed by order of the county court or board of county commissioners. The salary shall be payable in the same manner as the salaries of county officers are paid, and shall be in full compensation for all official duties and services performed and rendered by the deputy; and no other compensation, commissions or fees whatever shall be allowed to, or received or retained by him.

51.530 Computing mileage of constable.

Mileage for any service performed by a constable shall be computed from the place of holding the justice's court in the district where the constable resides, if issued by a justice of such district; and if not, then from the residence of the constable.

51.540 Civil fees collected in advance; payment to county treasurer. The constable shall collect in advance in civil cases for each service performed in the execution of his official duties the fees fixed by law to be charged for the same or a similar service by the sheriff of the county wherein such constable has been appointed. The constable shall, not later than the fifteenth day of the month following the month in which such fees are collected, pay them over to the county treasurer of the county wherein he has been appointed, for crediting to the general fund of the county, and take the receipt of the treasurer for them.

51.550 Office; clerical assistance; books, office equipment and supplies. The constable shall have his office in and with that of the justice of the peace, without charge. The county court or board of county commissioners of the county wherein such constable has been appointed may provide him with such clerical assistance as shall be necessary to enable him promptly and efficiently to perform the duties of his office, and also with such books, records, forms, papers, stationery, postage and office equipment and supplies as may be necessary in the proper transaction of the business of such office.

51.610 Election of constables in cities having 25,000 or more inhabitants; term of office. In every city having 25,000 or more inhabitants, there shall be one constable who shall be elected at the election for such office next preceding the expiration of the term of office of his predecessor and who shall hold office for a term of four years. He shall be elected, in the manner now provided by law, by the qualified electors of the city and of such contiguous territory as has been or hereafter may be set off and established by the county court or board of county commissioners as a part of the justice of the peace and constable district comprising such city and such contiguous territory.

51.620 Special deputies in justice of the peace and constable districts having over 100,000 population. The constable of such a district of 100,000 or more inhabitants, now holding office or hereafter elected under the provisions of ORS 51.610, may appoint a special deputy or deputies for the purpose only, and with authority only, to receive and serve summons and civil process in any particular action or proceeding, the title of the action or proceeding to be stated in the appointment of such special deputy. The special deputies shall serve without pay. A certified copy of the appointment of the special deputy or deputies shall be filed with the county clerk; and the persons so appointed shall, before entering upon the duties of the office, take and file with the county clerk the requisite oath of office. The constable shall also be responsible on his official bond for any and all acts and omissions of the special deputies.

51.630 Traveling expenses and mileage in justice of the peace and constable districts in which district court is located. In any such justice of the peace and constable district, whenever the constable is required to make service of summons, or any other writ or process, within the limits of such district, he shall be entitled to receive and collect from the litigant requesting him to make the service, the actual, necessary traveling expenses incurred by him in making service of the summons or other writ or process, and not exceeding 10 cents per mile for the actual number of miles necessarily traveled, except that the minimum charge for traveling expense shall be 50 cents for each service. [Amended by 1959 c.621 §1]

51.640 Fees in civil cases collected by constable in districts of over 300,000. Each constable in a district having more than 300,000 inhabitants shall collect in advance in all civil cases from all litigants the fees prescribed in this section, which fees shall be for the benefit of the general fund of the county, and shall, not later than the first day of the month following the collection of such fees, be paid by the constable to the treasurer of the county. Such fees shall be as follows:

(1) For serving a summons, order, writ or process in any civil case, other than in cases in the small claims department, \$1 for service on one party and 50 cents additional for each additional party served.

(2) For serving any process issued out of the small claims department upon a cause of action assigned to the plaintiff or claimant in such proceeding, \$1.

(3) For serving any process issued out of the small claims department, which cause of action has not been assigned to the plaintiff therein, 50 cents.

204.685 Multnomah County deputies.

(1) Each deputy, assistant and clerk in the offices of the elective officers of Multnomah County and of the constable of the Portland District shall be appointed in writing by the officer in whose office the service is to be performed, which writing shall be filed in the office of the county clerk.

(2) Each such deputy, assistant and clerk shall, before entering upon the duties of his office, take the same oath of office required to be taken by the officer making the appointment, and such oath shall be indorsed on or attached to the writing by which he shall be appointed, and shall be filed with the county clerk and be a public record.

(3) Each such deputy, assistant and clerk shall have the power to perform any act or duty that the officer making the appointment may perform, and for the acts of such deputy, assistant and clerk the officer making the appointment shall be responsible.

(4) Each such deputy, assistant and clerk shall be continuously employed in the discharge of the duties of his office for at least eight hours of each judicial day, and may be directed and required to do and perform any work or duty pertaining to the office of the officer making the appointment. Such officer shall dispose, direct and employ all deputies, assistants and clerks in his office in such manner as to discharge the duties and responsibilities thereof at the least possible expense to the county.

(5) Salaries of each such deputy, assistant and clerk shall be paid out of the county treasury of Multnomah County in the same manner as salaries of county officers are paid.

(6) None of the provisions of the 1961 amendment to this section shall affect the provisions of ORS 204.905.

**INDEMNIFICATION FOR WRONGFUL
LEVY; ADVERSE CLAIMS TO
PROPERTY**

23.310 Indemnity to sheriff or constable. Whenever a writ of attachment or execution is delivered into the hands of any sheriff or constable, under which the personal property of any person, firm or corporation is to be held or sold for the satisfaction of any judgment or costs of action or suit, if the sheriff or constable has actual notice of any third-party claim to the personal property, or is in doubt as to ownership of the property, or of encumbrances thereon, or damage to the property held that may result by reason of its perishable character, such sheriff or constable may require the plaintiff or judgment creditor to file with the sheriff or constable a good and sufficient bond, having the same qualifications as a bail bond, indemnifying the sheriff or constable and his bondsmen against any loss or damage by reason of the illegality of any such holding or sale on execution, or by reason of damage to any personal property held under attachment or execution, which bond shall be in double the amount of the claim or judgment by which the personal property is either held or to be sold.

98.160 Inventory and order to sell. Upon the delivery to him of the affidavit as provided in ORS 98.150, the justice shall cause the property to be examined in his presence, and a true inventory thereof to be made. He shall annex to such inventory an order under his hand that the property therein described be sold at public auction by any constable of the constable district where the property is located, or if there is no constable, then by the county sheriff.
[Amended by 1963 c.228 §1]

98.170 Sale. The constable or sheriff receiving the inventory and order provided for in ORS 98.160 shall give 10 days' notice of the sale by posting written notices thereof in three or more places in such constable district, or in the county, and sell the property at public auction to the highest bidder in the same manner as provided by law for sales under execution from justices' courts.
[Amended by 1963 c.228 §2]

98.180 Delivery of proceeds to justice. Upon completing the sale provided for in ORS 98.170, the constable or sheriff making the sale shall indorse upon the order provided for in ORS 98.160 a return of his proceedings. He shall deliver the order to the justice, together with the inventory and the proceeds of sale, after deducting his fees.
[Amended by 1963 c.228 §3]

98.230 Sale of perishable property. Perishable property consigned or left as mentioned in ORS 98.110, if not reclaimed within 30 days after it was left, may be sold by giving 10 days' notice thereof. The sale shall be conducted and the proceeds of the sale shall be applied as provided in ORS 98.170 to 98.210. Any property in a state of decay or manifestly liable to immediately become decayed, may, after inspection, be summarily sold by order of a justice of the peace, as provided in ORS 98.160.

98.240 Fees allowed to justice of peace and constable or sheriff. A justice of the peace shall receive \$3 for each day's service rendered pursuant to ORS 98.160 to 98.230; and a constable or sheriff shall receive the same fees as are allowed by law for sales upon an execution, and 10 cents a folio for making an inventory of property.
[Amended by 1963 c.228 §4]

133.170 Directed to and executed by peace officer. A peace officer is a sheriff, a constable, a marshal, a policeman of a town or a member of the Oregon State Police, and a warrant of arrest shall be directed to and executed by such peace officer.
[Amended by 1961 c.443 §2]

156.250 Execution of judgment of conviction. The judgment shall be executed by the sheriff of the county or by a constable of the district in which the conviction is had, or by any marshal or policeman authorized to act as a constable therein, upon receiving a certified copy of the entry of judgment.

(6) If the legal owner or mortgagee, or his assignee or the person claiming to own the chattel or have an interest therein, or someone in his behalf, shall not, within 14 days after the taking and service upon the person in possession of the chattel and the legal owner, mortgagee or assignee, of a copy of the lien and bill of particulars, make a written denial of any allegation contained in the lien notice or bill of particulars, or allege full or partial payment of the sum demanded by the lien claimant, the sheriff or constable shall advertise the property for sale in the manner provided by law for the sale of personal property on execution, for a period of not less than 10 days, and after giving such notice of sale, shall sell the chattel at public auction to the highest bidder for cash, to satisfy the lien, accrued interest, costs of seizure and storage and costs of filing and recording such lien and certified copies thereof.

(7) The proceeds derived from such sale shall be applied to the payment of costs and attorney's fees, as provided in this section, and the amount of the lien and accrued interest in the order named, and any proceeds remaining shall be paid to the owner of the chattel. When the lien claimant is represented by an attorney in such sheriff's or constable's foreclosure, and the proceeding reaches actual sale, the lien claimant shall be entitled to an item of \$5 costs for the compensation of his attorney, and if the proceeding does not reach actual sale by reason of payment prior to actual sale, the sum of \$2.50.

87.365 Foreclosure. Liens created under ORS 87.340 may be foreclosed by suit, or they may be foreclosed by advertisement and sale in the following manner. The lien claimant shall deliver to the sheriff or any constable of the county in which such animal is situated a certified copy of the notice of lien, with the request indorsed thereon for the foreclosure of such lien; thereupon the sheriff or constable shall take the animal described in such notice of lien into his pos-

session and hold the same, and shall advertise the same for sale to satisfy the lien once a week for two successive weeks in a daily or weekly newspaper published in the county, and after giving such notice shall sell the animal at public auction to the highest bidder for cash to satisfy the lien, accrued interest and costs of taking possession, and holding and selling the animal, delivering the overplus of money arising upon such sale, if any, to the owner of the animal, or his authorized agent.

87.115 Redelivery bond. (1) If any legal owner or mortgagee or his assignee or any person claiming an interest in the chattel on which foreclosure by advertisement and sale is sought, after making the denial referred to in ORS 87.110 of any material allegation in the lien notice or bill of particulars or alleging payment in whole or in part of the lien claimed, executes and causes to be delivered to the sheriff or constable then having possession of the chattel a sufficient undertaking, equal to double the amount of the lien claimed but not less than \$100 and executed by one or more sufficient sureties, to redeliver the chattel to such officer, in the same order and condition as it was when seized, upon demand of such officer having an execution issued upon any judgment, or in lieu thereof to pay to the lien claimant any judgment which the lien claimant, his personal representative or assigns may recover against the defendant in any foreclosure suit brought to foreclose the lien within the period prescribed in ORS 87.110, then the sheriff or constable shall deliver the chattel to such legal owner, mortgagee or his assignee or to the person executing the undertaking. The sheriff or constable shall pass upon the sufficiency of the undertaking and the sureties thereon.

(2) The court having jurisdiction in any foreclosure suit shall, at the time of rendering the judgment and decree of foreclosure, make and enter an alternative decree directing the principal and surety forthwith to surrender the chattel to the sheriff or constable or, in lieu thereof, to pay the lien claimant the amount of the judgment. The judgment shall thereupon be entered and docketed against the principal and surety with the same effect as if they were defendants.

(3) Any defendant may, in lieu of such undertaking, deposit with the sheriff or constable a sum of money equal to the amount of claimant's lien, together with an additional sum of \$50, which moneys shall be held in lieu of such bond and, after execution is issued, may be used to pay claimant's judgment.

46.470 Notice of claim; contents; service.

The notice of claim shall be directed to the defendant, naming him, and shall contain a statement in brief and concise form notifying the defendant of the plaintiff's name and address, and the amount and nature of the plaintiff's alleged claim, and requiring the defendant to appear personally in court before the judge named in the notice, at a time certain, which shall not be less than five nor more than 20 days from the date of service of the notice. The notice shall further provide that in case of failure to so appear, judgment will be given against the defendant for the amount of the claim. The notice shall be served by the officers provided for in ORS 52.120, in the manner provided for in ORS 52.140.

[Amended by 1963 c.248 §1]

52.120 By whom summons served; compensation. (1) The summons shall be served by the sheriff of the county or his deputy, or any constable of the county or his deputy, or may be served by any competent person over the age of 21 years who is a resident of the State of Oregon and is not a party to or an attorney in the action.

(2) Compensation to such person serving the summons shall be as prescribed by subsection (2) of ORS 15.060.
[Amended by 1953 c.479 §4]

52.700 When execution returnable; to whom directed; duty of officer to execute writ. An execution issued by a justice must be made returnable within 30 days from the date thereof, and may be directed to the sheriff of the county, or any constable or marshal or policeman authorized to act as a constable therein, and must be executed by any one of such officers when delivered to him.

52.110 Foreclosure generally; foreclosure by advertisement and sale. Liens described in ORS 87.085 may be foreclosed by suit in the circuit or district court, or they may be foreclosed by advertisement and sale in the following manner:

(1) The person or claimant, desiring to foreclose the lien by advertisement and sale, shall deliver to the sheriff or any constable of the county in which the chattel is then situated, a copy of the notice of lien, certified by the recording officer of the county where it was filed, with the request indorsed thereon, signed by the claimant or his attorney, for the foreclosure of the lien.

(2) Thereupon the sheriff or constable shall take the property described in the notice into his possession, and for that purpose may forcibly, if necessary, enter any building, garage or other inclosure where the chattel may be, in the manner provided by law under a writ of replevin.

(3) The sheriff or constable shall, at the time of such taking, deliver to the person having possession of the chattel and also to the legal owner of the chattel, as appears from the record in the office of the Secretary of State or Department of Motor Vehicles, and to any mortgagee or his assignee, if known, having a duly recorded chattel mortgage upon the chattel described in the lien, a copy of the lien notice certified by the lien claimant or his attorney, together with an itemized bill of particulars of the lien claimant's demand, also certified by the lien claimant or his attorney.

(4) The person claiming to own or have an interest in the chattel may, within 14 days after such service upon him, deliver to the sheriff or constable a written and verified denial of any allegation contained in the lien notice or bill of particulars and shall also forthwith transmit by registered mail a copy of such written and verified denial to the lien claimant or his attorney of record in such proceedings.

(5) If such denial or any allegation of payment on the part of such person is so made and served upon the officer then in possession of the chattel, the officer shall retain the possession of the chattel, subject only to the order of the court having jurisdiction of the parties or the subject matter, in a suit to be prosecuted by the lien claimant, which suit shall be commenced within an additional period of 10 days from the time of service upon the officer of the denial or allegation of payment. If the suit is not commenced within 10 days, the sheriff or constable shall release the chattel from the levy and deliver it to the person having or claiming an interest therein. If the suit is commenced within 10 days, the sheriff or constable shall retain the chattel in his possession subject to the final decree of the court in the suit.

1.025 Duty of court and court officers to require performance of duties relating to administration of justice; enforcement of duty by mandamus. (1) Where a duty is imposed by law upon a court, or upon a judicial officer, clerk, bailiff, sheriff, constable or other officer, which requires or prohibits the performance of an act or series of acts in matters relating to the administration of justice in a court, it is the duty of the judicial officer or officers of the court, and each of them, to require the officer upon whom the duty is imposed to perform or refrain from performing the act or series of acts.

(2) Matters relating to the administration of justice include, but are not limited to, the selection and empaneling of juries as provided in ORS chapters 10 and 132, the conduct of trials as provided in ORS chapter 17, the entry and docketing of judgments as provided in ORS chapter 18 and all other matters touching the conduct of proceedings in courts of this state.

(3) The duty imposed by subsection (1) of this section may be enforced by writ of mandamus.

[1957 c.565 §1]

46.120 Service of process. (1) The summons of a district court shall be served by the sheriff of the county or his deputy, or any constable of the county or his deputy, or by a marshal or chief of police of any incorporated city within the limits of such city, or by any competent person over the age of 21 years who is a resident of the State of Oregon and is not a party to or an attorney in the action. The summons shall be returned to the clerk with whom the complaint is filed within 60 days after its delivery to the person for service, with proof of such service; provided, however, that a person, other than an officer, making such service shall make an affidavit of service in the same manner as provided in ORS 15.110, or that the defendant cannot be found. When served out of the county in which the action is commenced the summons may be returned by mail. The person to whom the summons is delivered for service shall indorse thereon the date of such delivery.

(2) Service of all processes of a district court, other than the summons, shall be made by one of the officers named in ORS 52.120.

(3) Compensation to such persons serving the summons and processes shall be as provided in subsection (2) of ORS 15.060. [Amended by 1953 c.479 §4]

15.160 Proof of service of summons.

(1) Proof of service of summons, or of the deposit thereof in the post office, shall be as follows:

(a) If the service or deposit in the post office is by the sheriff or his deputy, or by a constable or marshal, the certificate of such officer; or,

(b) If by any other person, except those persons making proof of service as provided in ORS 15.060 or 15.110, his affidavit thereof; or,

(c) In case of publication, the affidavit of the owner, editor, publisher, manager or advertising manager of the newspaper or the principal clerk of any of them, or the printer or his foreman, showing the same; or,

(d) The written admission of the defendant.

(2) In case of service otherwise than by publication, the certificate, affidavit or admission must state the time and place of service; and in case of deposit in the post office the time and place thereof. In case of publication the affidavit may be in substantially the following form:

Affidavit of Publication

State of Oregon, _____ } ss.
County of _____ }

I, _____, being first duly sworn, depose and say that I am the owner, editor, publisher, manager, advertising manager, principal clerk of the _____, printer or his foreman of the _____, a newspaper of general circulation, as defined by ORS 193.010 and 193.020; published at _____ in the aforesaid county and state; that the _____, a printed copy of which is hereto annexed, was published in the entire issue of said newspaper for _____ successive and consecutive weeks in the following issues (here set forth dates of issues in which the same was published).

Subscribed and sworn to before me this _____ day of _____, 19____.

Notary Public of Oregon.
My commission expires
_____ day of _____, 19____.

[Amended by 1961 c.353 §1]

CONSTABLE HAGGERTY'S REMARKS TO HOME RULE CHARTER COMMITTEE
JANUARY 5, 1965 MEETING, ROOM 384, MULTNOMAH COUNTY
COURTHOUSE

I'm not here to oppose home rule, and I am very much in favor of any change that can be made in county government, city government, state government, or any other business that will be of benefit to people as taxpayers in your work studying the process of county government. I am opposed to the abolishment of elective offices. I think that this election of officers is the people's right, and that is what made this country what it is. It has given us leadership in the free world in the last 300 years where other countries with different types of government have failed to acquire this.

I do think that perhaps some of the positions here in county government could be rearranged; maybe part of the Sheriff's work in the Civil Department could be put under the Constable's Department. The Sheriff has a big load, and in the past several years his office has really grown. Some of the duties of the Constable's office which they used to have, such as police work, have been done away with and the load placed more on the Sheriff. We serve a lot of civil papers through our department anyway, and I think it would probably be a proper thing to place the Civil Department of the Sheriff's office under the Constable. We serve approximately 45,000 papers a year, the Sheriff serves about 10,000. We do this with 15 deputies and, I believe, the Sheriff has around 13. I don't think it would require much more help than we have now; we could probably do it with less personnel than he has now.

I know that there are some changes that can be made in the Constable's office, but I will not express them, as I am not sure which way to go yet. But, there is always room for improvement in any business practice or in county government. I would like to appear later on in regards to offering suggestions, when I am more familiar with the process down there, but as of now, that is about all I have to offer. I will be glad to try to answer any questions I can.

QUESTIONS ASKED BY HOME RULE CHARTER COMMITTEE OF
CONSTABLE HAGGERTY ON JANUARY 5, 1965

Mr. Swan: You primarily serve the District Court, isn't that right?

A. Yes.

Mr. Swan: And the Sheriff serves primarily the Circuit Court?

Sheriff Clark: We serve process for all the courts. Our fee is a little more for the District Court, so most people filing in the District Court file with the Constable, since his fee is less.

Mr. Haggerty: We serve a lot of papers for the Civil Court, too. I believe about 50% of our papers are for them.

Mrs. Damskov: Why is the fee different?

A. That is because of statute; the District Court is supposed to be a poor man's court.

Mr. Stephenson: You spoke about elective offices. Do you think we should elect a Coroner and a Surveyor?

A. The Coroner's office, in my opinion, should be under the State Medical Examiner. That is one office that has a little difference involved.

Mrs. Damskov: But not the Constable?

A. Be abolished?

Mrs. Damskov: No, be appointive rather than elective?

A. No, I do not believe that would be proper. 99% of the time, it has been proven, that the voters are right. I do not think that because of the 1% we should take it upon ourselves or use that as an excuse to abolish an elective office. In regards to your home rule, now I know a charter is going to be submitted, and there is very likely to be some changes made. And in regards to your legislative end of your home rule and your administrative end of home rule, I think these should very definitely be two different camps. The administrative should be one and the legislative should be another. I haven't had a chance to acquaint myself too much with some of the things that have been discussed here. I sat in on one of your other meetings when you had the commissioners from Lane County in. But, I believe, that is investing too much authority in, well, it would probably be the Board of Commissioners, and that would be vesting too much authority in one office as the legislative and administrative branch. Another possibility would be, probably, that your elected officials could be your legislative arm of your county government, and maybe your county commissioners could be your administrative end; or your total elected officers could be your legislative and you could elect an administrator. I don't know, but I would not be opposed to both a legislative and administrative end of county government.

Mr. Swan: Is there a set routine for handling matters in your office? Can you change things, that is procedure or routine, easily in your office?

A. Yes, it can be done. The work itself is there, there is so much to be done and a certain type to be done. Maybe there are some places it can be made more efficient or more of a service to the public, but the work itself is quite well established, as far as function is concerned.

Mr. Fitzgerald: Have you taken office yet?

A. Just about 26 hours ago, I was sworn in.

Mr. Stephenson: You do feel, though, Mr. Haggerty, that there is an area regarding the process serving in your office and in the Sheriff's Civil Division that warrants a good look to see if consolidation on some basis could be made?

A. I do believe so. I believe that the Civil end of the Sheriff's office could probably be handled through our office quite well. In fact, a lot of civil work goes through our office. We are not strangers to it. I don't think the Sheriff would be too disappointed about it. He has quite a load down there now, what with his traffic, his criminal, and his civil. I don't think, if he was in for the next 30 years, he could familiarize himself with all the functions of all of the departments. It would probably be a more efficient operation if the offices were combined.

Mr. McCallum: How would you feel about, instead of having the Sheriff's civil process transferred to the Constable's office, having the entire process transferred to the Sheriff's office?

A. That is what I was just saying. I think the Sheriff now has a big load to handle. There are many departments there now. For example, he has a big load there recently with the floods. Probably a little relief in his office would lead to a more efficient, better operating office. Whereas, it would make little difference in our office to have this job.

Mr. McCallum: Don't you feel that this would call for legislation? For your office to handle this function?

A. That is a question I could not answer at this time.

Mr. Ruinella: I think the home rule charter would do this.

Mr. McCallum: In other words you are saying the charter could actually provide for substituting the office of the Constable for the Sheriff's civil?

Mr. Ruinella: It could make it the duty of one office to be the executive office of the courts.

Mr. McCallum: I wonder if it would be necessary to have the Constable deputized. Would he have to be a deputy sheriff?

Mr. Haggerty: I don't believe it would be necessary. I would like to ask the committee one question. From what I gathered when I talked to some of the members and some people in the county, is it one of the prime interests to be able to legislate county matters during the interim of our state legislature? Wouldn't this be one of the big benefits of a home rule charter?

Mr. McCallum: As any member of the committee would tell you, the purpose of a home rule charter is to give the county authority to legislate in matters regarding the government and regulation of county. The county does not now have that power. That is one of the purposes of home rule, regardless of when the legislature meets. You speak of it as an interim function, between meetings of the legislature. Of course, this would be true regardless of when the legislature meets.

Mr. Stephenson: I think one of the reasons that the home rule matter is under consideration is to permit the county to have more flexibility than it now has. To keep it from having to go to the legislative body as it now has to do. There are a lot of matters that take two or three sessions to accomplish when, if they had the power to do it themselves, they could get the job done and be on their way. That is the basic theory of home rule.

Mr. McCallum: Of course, we wouldn't expect you to be checked out on the laws. We are not completely checked out on that ourselves. We will have legal counsel to advise us.

Mr. Fitzgerald: I have a question, Mr. Chairman, but I don't know if I should direct it to Mr. Haggerty or not. There is a question that arises in my mind and that is if the Constable's office doesn't cover the entire county, as I understand it...

Mr. Haggerty: No, actually it is a district office. But, from what I gather, it is just a matter of a decision from the Commissioners office, if they would want to extend it to cover the full county.

Mr. Fitzgerald: Well, that almost answers my question, because what I was getting at, I was thinking about the circuit court papers. But, if that is correct, then it answers my question.

Mr. McCallum: Well, I don't know if that is correct or not.

Mr. Haggerty: I am not sure, because this was not brought out. This is one of the things I plan to look further into, and it would be one of my suggestions, to extend the Constable's office to the full service of the county. Actually, we are doing it now. And, yet, some of the districts are paying a Justice of the Peace. There is a saving of tax dollars.