

## Chapter 549

### Drainage and Flood Control Generally

**549.110**

#### NOTES OF DECISIONS

Jurisdiction is conferred by this section only to locate a ditch where there is none; the existing ditch of a proprietor may not be utilized. *Seely v. Sebastian*, (1870) 4 Or 25.

A right of way for the construction and maintenance of a drain to carry off the overflow of septic tank and waste water and sewage from a house was not acquired under this section. *Laurance v. Tucker*, (1939) 160 Or 474, 85 P2d 374.

FURTHER CITATIONS: *Harbison v. City of Hillsboro*, (1922) 103 Or 257, 204 P 613.

LAW REVIEW CITATIONS: 3 WLJ 296.

**549.180**

#### NOTES OF DECISIONS

The compensation mentioned in this section is in the nature of a contribution; it is distinct from the damages which the commissioners are authorized to assess for the cutting of a new ditch. *Seely v. Sebastian*, (1870) 4 Or 25.

FURTHER CITATIONS: *Harbison v. City of Hillsboro*, (1922) 103 Or 257, 204 P 613.

**549.190**

CASE CITATIONS: *Parkersville Drainage Dist. v. Wattier*, (1906) 48 Or 332, 86 P 775; *Re Hood River*, (1914) 114 Or 112, 227 P 1065.

**549.380**

ATTY. GEN. OPINIONS: Power of county to condemn land, 1956-58, p 159.

LAW REVIEW CITATIONS: 46 OLR 131, 132, 134.

**549.390**

LAW REVIEW CITATIONS: 46 OLR 136.

**549.510**

#### NOTES OF DECISIONS

This section is not unconstitutional as depriving persons of property without due process of law. *Waite v. Siuslaw Boom Co.*, (1925) 115 Or 316, 237 P 664.

Preliminary examination of the dike and notice to the delinquent landowner must be shown by the plaintiff. *Id.*

The jury properly determines the question as to whether the cost of repair was commensurate with the benefits to the defendant's land. *Id.*

The amount recovered of the delinquent landowner should not exceed the reasonable cost of repair. *Id.*

The questions as to reasonable value of labor and material, and as to whether plaintiffs paid therefor, were for the jury. *Id.*

The questions as to whether the plaintiff did unnecessary work, and as to whether his own dike was in a good state of repair, were for the jury's determination. *Id.*

**549.520**

#### NOTES OF DECISIONS

Notice by county judge to delinquent landowner was sufficient. *Waite v. Siuslaw Boom Co.*, (1925) 115 Or 316, 237 P 664.

**549.605 to 549.645**

LAW REVIEW CITATIONS: 3 WLJ 313.

**549.645**

LAW REVIEW CITATIONS: 46 OLR 307.