

Chapter 4

Circuit Court Terms

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NOTES OF DECISIONS

1. In general

The Supreme Court will take judicial notice of the regular terms of the various circuit courts under the statute. *Deering v. Quivey*, (1895) 26 Or 556, 38 P 710.

An indictment may be continued from term to term where evidence must be procured and additional time is necessary. *State v. Moltzner*, (1932) 140 Or 128, 13 P2d 347.

Where case went over two succeeding regular terms without consent of the defendant, after continuance thereof at each of two previous terms, a motion for dismissal of indictments was improperly denied. *State v. Chadwick*, (1935) 150 Or 645, 47 P2d 232.

2. Powers after term

After the term in which a judgment is entered, the court has no power to make any substantial change therein except to correct clerical errors or to make the judgment conform to the actual decision. *Silliman v. Silliman*, (1913) 66 Or 402, 133 P 769; *Freytag v. Vitas*, (1958) 213 Or 462, 326 P2d 110.

A court has no power to vacate, set aside or amend a judgment after the expiration of the term at which it was entered except pursuant to proceedings begun within the proper time and continued to a subsequent term. *Hicks v. Hill Aeronautical School*, (1930) 132 Or 545, 286 P 553.

In a habeas corpus proceeding to determine custody of a child, a motion in the original case made after the term has expired requesting modification of the original judgment will not be granted. *Armstrong v. Vancil*, (1942) 169 Or 320, 128 P2d 951.

Where the court granted a decree in the divorce action giving the plaintiff possession of the home as long as she made a home for the youngest child, an order subsequently issued after the expiration of the term granting plaintiff and defendant each a one-half interest in the realty was void. *Bogh v. Bogh*, (1949) 185 Or 93, 202 P2d 503.

3. Commencement and adjournment of terms

The commencement of a term in one county was held not an automatic termination of a term in another county in the same judicial district having the same judge. *State v. Ryan*, (1925) 114 Or 91, 234 P 811; *Oxman v. Baker County*, (1925) 115 Or 436, 234 P 799, 236 P 1040.

A term may be adjourned to such time as the court may direct and failure to set a definite date for reconvention of the court does not result in a termination of the court's authority. *Ex parte Harrell*, (1910) 57 Or 95, 110 P 493.

A term continues to final adjournment or until lapsed by operation of law. *State v. Ryan*, (1925) 114 Or 91, 234 P 811.

If a term is extended until the time prescribed by law for the commencement of another term for the same county, the preceding term lapses and a new term commences at the appointed time. *Id.*

FURTHER CITATIONS: *Smith v. Smith*, (1871) 3 Or 363; *Dietzel v. Conroy*, (1909) 53 Or 446, 101 P 215; *First Christian Church v. Robb*, (1914) 69 Or 283, 138 P 856; *Paabo v. Hanson*, (1917) 82 Or 512, 162 P 256; *Shepherd v. Inman*, (1917) 85 Or 639, 167 P 785; *State v. Clark*, (1917) 86 Or 464, 168 P 944; *State v. Stilwell*, (1924) 109 Or 643, 221 P 174; *State v. Kuhnhausen*, (1954) 201 Or 478, 266 P2d 698, 272 P2d 225; *Johnson v. City of Astoria*, (1961) 227 Or 585, 363 P2d 571.

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Judgment notwithstanding the verdict was timely when entered before the term had expired but 52 days after the original judgment. *Nusom v. Fromm*, (1959) 217 Or 36, 340 P2d 186.

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Prior to the 1967 amendment the October term in the fourth judicial district expired with the commencement of the November term. *Travelers Ins. Co. v. Staiger*, (1937) 157 Or 143, 69 P2d 1069.

Prior to the 1967 amendment, after expiration of March term, the trial court had no jurisdiction to enter a decree reversing a former decree when no appropriate pleading had been filed so court would retain jurisdiction. *Belcher v. Pentecostal Church*, (1959) 216 Or 200, 338 P2d 100.

FURTHER CITATIONS: *State v. Robinson*, (1959) 217 Or 612, 343 P2d 886.

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CASE CITATIONS: *State v. Kuhnhausen*, (1954) 201 Or 478, 266 P2d 698, 272 P2d 225; *Barone v. Barone*, (1956) 207 Or 29, 294 P2d 609; *In re Adoption of Laules*, (1959) 216 Or 188, 338 P2d 660.

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A special session refers to a temporary sitting of a court either during a general or special term; but a special term refers to a court's convening at a time other than during the general terms set forth by statute. *In re Rockaway Water Dist.*, (1936) 153 Or 382, 55 P2d 1107.

FURTHER CITATIONS: *Kamer v. Clatsop County*, (1877) 6 Or 238; *Dougan Co. v. Klamath County*, (1921) 99 Or 436, 193 P 645; *Colombo v. Hewitt*, (1960) 221 Or 121, 350 P2d 893.

ATTY. GEN. OPINIONS: Construing "next regular term" of county court for reading report of county road viewers, 1964-66, p 428.