

Chapter 5

County Courts (Judicial Functions)

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NOTES OF DECISIONS

The county courts exercise a general and superior jurisdiction in probate matters. *Yeaton v. Barnhart*, (1915) 78 Or 249, 150 P 742, 152 P 1192.

5.010

NOTES OF DECISIONS

The county court, in deciding matters brought before it to be heard as a tribunal, consists of the county judge sitting alone. *State v. MacElrath*, (1907) 49 Or 294, 89 P 803.

ATTY. GEN. OPINIONS: Jurisdiction of the county court in criminal matters, 1924-26, p 59; eligibility of county judge to hold position of school district director, 1956-58, p 296.

5.020

NOTES OF DECISIONS

Any adult contributing to the delinquency of a minor is guilty of a crime and the law under which prosecution takes place should be construed as a criminal statute. *State v. Dunn*, (1909) 53 Or 304, 99 P 278, 100 P 258.

Where a county court acquires jurisdiction of an infant and renders a decree concerning the custody of the infant, a subsequent decree in another county court cannot be issued contrary to the original decree. *Ex parte Bowers*, (1915) 78 Or 390, 153 P 412.

The marriage of a minor female will not so change her status as to exempt her from the application of the delinquency statute. *Ex parte Packer*, (1931) 136 Or 159, 298 P 234.

FURTHER CITATIONS: *In re Application of Loundagin*, (1929) 129 Or 652, 278 P 950; *Zachary v. Zachary*, (1937) 155 Or 346, 63 P2d 1080.

ATTY. GEN. OPINIONS: The jurisdiction of a justice of the peace to commit delinquent girls to the state institution for such girls, 1922-24, p 386; jurisdiction of a justice of the peace to impose a sentence on a minor under 18 years, 1922-24, p 685; whether a minor may be turned over to the juvenile court by a justice of the peace for motor vehicle violation, 1932-34, p 363; concerning the expenses and salaries of juvenile officers appointed by the circuit court, 1934-36, p 673; circuit judges serving on the court of domestic relations in some instances, 1934-36, p 700; jurisdiction of a county court in adoption proceedings, 1934-36, p 643; jurisdiction of circuit judges over domestic relation cases in the counties, 1936-38, p 133; jurisdiction of county courts in juvenile matters, 1936-38, p 296; supervision and control by an institution over a committed child, 1944-46, p 240; commitment of dependent children to private individuals, 1944-1946, p 248; duty to authorize medical care for ward, 1958-60, p 242; order to produce prisoner-parent in juvenile proceedings, 1960-62, p 297; validity of county charter provisions regarding judicial duties, 1960-62, p 403.

LAW REVIEW CITATIONS: 1 OLR 41; 46 OLR 84; 47 OLR 178.

5.060

NOTES OF DECISIONS

When a statute refers to terms of a county court, it means the regular terms appointed by law and not the special terms as may be appointed by the court or judge under this section. *Godfrey v. Douglas County*, (1896) 28 Or 446, 43 P 171.

A term continues from the time appointed by law to the final adjournment, or until the lapse of the term by operation of law from the coming on of the next term. *State v. Maddock*, (1911) 58 Or 542, 115 P 426.

FURTHER CITATIONS: *In re Rockaway Water Dist.*, (1936) 153 Or 382, 55 P2d 1107.

ATTY. GEN. OPINIONS: The validity of a contract entered into at an unauthorized term, 1928-30, p 149; when a county court may transact county business, 1938-40, p 337.

5.080

NOTES OF DECISIONS

A final order made in a cause or proceeding after it has been transferred is the judgment or decree of the circuit court, and any party may appeal therefrom to the Supreme Court. *In re Bethel's Estate*, (1924) 111 Or 178, 209 P 311, 226 P 427.

A judge is disqualified from hearing and determining matters pending in the administration of an estate where there is pending against him an unsatisfied judgment for costs rendered in a proceeding brought by the administrator of the estate. *State v. Graham*, (1933) 144 Or 705, 26 P2d 46.

FURTHER CITATIONS: *Leonard v. Hill*, (1928) 124 Or 351, 264 P 463; *In re Fehl*, (1938) 159 Or 545, 81 P2d 130.

5.090

NOTES OF DECISIONS

Judgments and decrees of a circuit judge are valid where the judge sits in place of the county judge and passes on matters exclusively within the county courts' jurisdiction. *State v. Holman*, (1914) 73 Or 18, 144 P 429.

ATTY. GEN. OPINIONS: Whether a circuit judge can sit with the county commissioners to transact county business, 1934-36, p 553; whether a circuit judge can act as county judge where a vacancy exists, 1934-36, p 214; whether a county court can transfer a competency proceeding to the circuit court, 1934-36, p 311; whether a circuit judge can sign an order in probate in the absence or illness of the county judge, 1944-46, p 64; order to produce prisoner-parent in juvenile proceedings, 1960-62, p 297.

5.100

NOTES OF DECISIONS

When the county court acts as a fiscal agent in the transaction of county business, parol evidence is admissible to show the extent of the county's liability arising out of contract where the county officials failed to record the entire transaction. *Stout v. Yamhill County*, (1897) 31 Or 314, 51 P 442.

Subsection (2) is merely directory and an order or judgment entered in other than the designated book for that subject matter, is valid. *State v. MacElrath*, (1907) 49 Or 294, 89 P 803.

Where a purported contract was signed by the judge and one commissioner and made a part of the record, it could be impeached only by evidence tending to prove it was not genuine and that the recitals in it were not true. *Douglas County Road Co. v. Douglas County*, (1877) 6 Or 299.

Where the compensation for modification of the plans of a bridge was omitted from the entry in the record and the modification was accepted, the county was liable for the reasonable value thereof. *Pacific Bridge Co. v. Clackamas County*, (1891) 45 Fed 217.

FURTHER CITATIONS: *Sprigg v. Stump*, (1881) 7 Sawy 280, 8 Fed 207; *Ex parte Emma*, (1891) 48 Fed 211; *Stadelman v. Miner*, (1917) 83 Or 348, 155 P 708, 163 P 585.

ATTY. GEN. OPINIONS: Whether the county court has power to fill the vacancy of county commissioner, 1926-28, p 612.

5.110

FURTHER CITATIONS: *Williams v. Florida*, (1970) 399 US 78, 141, 26 L Ed 2d 446, 477, 90 S Ct 1893.

5.120

NOTES OF DECISIONS

A judgment of dismissal and for costs in the county court is appealable. *Blanchard v. Bennett*, (1860) 1 Or 328.

Proceedings touching the final account of an administrator are in the nature of a suit in equity, and the appeal is from a decree and not from a judgment. *In re Plunkett's Estate*, (1898) 33 Or 414, 54 P 152.

An order of the county court rejecting a claim against a spendthrift's estate is appealable. *In re Barker*, (1917) 83 Or 702, 164 P 382.

The writ of review does not exist to correct mere errors in the exercise of rightful jurisdiction but is used to keep inferior courts within jurisdictional bounds. *Bechtold v. Wilson*, (1947) 182 Or 360, 186 P2d 525, 187 P2d 675.

FURTHER CITATIONS: *Willis v. Marks*, (1896) 29 Or 493, 45 P 293; *In re Prince's Estate*, (1926) 118 Or 210, 221 P 554, 246 P 713; *In re Cook's Estate*, (1941) 167 Or 58, 115 P2d 302; *Todd v. Bigham*, (1964) 238 Or 391, 390 P2d 168, 395 P2d 163.

ATTY. GEN. OPINIONS: Paying of witness fees where the witness appeared before the county court and then before the circuit court on appeal, 1944-46, p 431.