

Chapter 156

Proceedings and Judgment in Criminal Actions

156.010

NOTES OF DECISIONS

A change of place of trial may be granted. *Packwood v. State*, (1893) 24 Or 261, 33 P 674.

Withdrawal of a plea of guilty may, in the court's discretion, be allowed or denied. *Curran v. State*, (1909) 53 Or 154, 99 P 420.

FURTHER CITATIONS: *Ex parte McGee*, (1898) 33 Or 165, 54 P 1091; *Harlow v. Clow*, (1924) 110 Or 257, 223 P 541.

ATTY. GEN. OPINIONS: Change of venue, 1920-22, p 222; disposition of fines imposed by district courts, 1946-48, p 234; authority of justice of peace to rule on questions of law, 1950-52, p 292; authority of city police to cite persons under state law, 1966-68, p 336.

156.020

NOTES OF DECISIONS

Procedure in a municipal or recorder's court is by complaint when the city charter makes the procedure in the justice's court applicable. *Portland v. Erickson*, (1900) 39 Or 1, 62 P 753; *Wong Sing v. City of Independence*, (1905) 47 Or 231, 83 P 387; *Gue v. Eugene*, (1909) 53 Or 282, 100 P 254.

The provisions of this section determine the validity of the complaint. *State v. Rand*, (1941) 166 Or 396, 111 P2d 82, 112 P2d 1034.

FURTHER CITATIONS: *State v. Langworthy*, (1910) 55 Or 303, 104 P 424, 106 P 336; *Straub v. State*, (1927) 121 Or 451, 255 P 897; *State v. Dodson*, (1961) 226 Or 458, 360 P2d 782.

ATTY. GEN. OPINIONS: Right to a preliminary examination when charged with a misdemeanor in a minor court, (1971) Vol 35, p 764.

156.030

NOTES OF DECISIONS

Use of a complaint rather than a Uniform Traffic Citation is not a defect such as can be reached by demurrer. *State v. Powell*, (1962) 233 Or 71, 377 P2d 7, cert. denied, 84 S Ct 176, 11 L Ed 2d 126.

Complaint for violation of liquor law was held insufficient to state a crime. *Wong Sing v. City of Independence*, (1905) 47 Or 231, 83 P 387; *City of Astoria v. Malone*, (1918) 87 Or 88, 169 P 749.

The names of the defendants having been set forth in the title of the complaint, it was sufficient to refer to them in the body of the complaint as "said defendants Ah Poo and 27 others." *Ah Poo v. Stevenson*, (1917) 83 Or 340, 163 P 822.

FURTHER CITATIONS: *Yunker v. Quillin*, (1954) 202 Or

362, 275 P2d 240; *State v. Dodson*, (1961) 226 Or 458, 360 P2d 782; *State v. Anderson*, (1965) 242 Or 457, 410 P2d 230.

ATTY. GEN. OPINIONS: Right to a preliminary examination when charged with a misdemeanor in a minor court, (1971) Vol 35, p 764.

156.050

NOTES OF DECISIONS

Except for cases covered by ORS 133.340, when a judicial officer issues a warrant without a sworn complaint having been made, the act is a usurpation of judicial power and is not protected by immunity. *Utley v. City of Independence*, (1965) 240 Or 384, 402 P2d 91.

156.070 to 156.090

ATTY. GEN. OPINIONS: Right to a preliminary examination when charged with a misdemeanor in a minor court, (1971) Vol 35, p 764.

156.080

NOTES OF DECISIONS

Refusal to permit withdrawal of plea of guilty was not an abuse of discretion. *Curran v. State*, (1909) 53 Or 154, 99 P 420.

156.090

NOTES OF DECISIONS

Absence of a witness is cause for postponement. *State v. Harris*, (1921) 101 Or 410, 200 P 926.

ATTY. GEN. OPINIONS: Right to a preliminary examination when charged with a misdemeanor in a minor court, (1971) Vol 35, p 764.

156.100

ATTY. GEN. OPINIONS: Procedure, other than change of venue, when justice of the peace is disqualified, 1966-68, p 250.

156.120

CASE CITATIONS: *Straub v. State*, (1927) 121 Or 451, 255 P 897.

156.130

CASE CITATIONS: *Cusiter v. Silverton*, (1908) 50 Or 419, 93 P 234.

156.210

CASE CITATIONS: *Mayhew v. Eugene*, (1910) 56 Or 102, 104 P 727, Ann Cas 1912C, 33.

ATTY. GEN. OPINIONS: Suspending imposition of sentence, 1950-52, p 298; power of court to suspend a fine, 1952-54, p 166; authority of State Board of Parole and Probation to refuse to make presentence report to justice of the peace, 1964-66, p 377; impoundment procedure, 1966-68, p 461.

156.220

NOTES OF DECISIONS

This section only undertakes to provide the substance of a form to be used by justices upon a judgment of conviction for entries in their docket, and necessarily the application will depend upon the statute under which the defendant is convicted. *State v. Sheppard*, (1888) 15 Or 598, 603, 16 P 483.

Imprisonment for costs is not authorized by this section. *Id. Overruling Crowley v. State*, (1884) 11 Or 512, 6 P 70.

Costs upon a judgment of conviction in a municipal court were properly awarded in favor of the city and against defendant, when the city charter made the mode of procedure provided for justices' courts applicable. *Portland v. Traynor*, (1919) 94 Or 418, 183 P 933, 186 P 54, 6 ALR 1410.

ATTY. GEN. OPINIONS: Impoundment procedure, 1966-68, p 461.

156.230

ATTY. GEN. OPINIONS: When judgment in criminal action is a lien on real property of judgment debtor, 1924-26, p 553; duty of county clerk to enter judgment in judgment lien docket, 1940-42, p 46; impoundment procedure, 1966-68, p 461.

156.250

CASE CITATIONS: *State v. Freauff*, (1926) 117 Or 214, 243 P 87.

ATTY. GEN. OPINIONS: Authority of justice of peace to grant parole or probation or to suspend sentence, 1920-22, p 611, 1930-32, pp 314, 328; execution of judgment imposing fine, 1954-56, p 90.

156.510

NOTES OF DECISIONS

Justice of peace, having jurisdiction of subject matter and defendant's person, has jurisdiction to act as committing magistrate, with power to hold defendant to answer before circuit court if it appears during trial that crime is not within his jurisdiction. *State v. Young*, (1927) 122 Or 257, 257 P 806.

156.520

ATTY. GEN. OPINIONS: Right of district attorney to collect fee for prosecution of action in justice court, 1934-36, p 113.

156.530

ATTY. GEN. OPINIONS: Disposition of fines or penalties paid to justice of peace, 1920-22, p 611, 1924-26, p 464; disposition of fines or penalties paid to justice of the peace resulting from arrests by state traffic officers, 1922-24, p 518; effect of failure of justice of peace to pay over fines as required, 1928-30, p 179; disposition of fines collected under provisions of plumbing code, 1936-38, p 376, 1940-42, p 342.

156.610

ATTY. GEN. OPINIONS: Impoundment procedure, 1966-68, p 461; right to a preliminary examination when charged with a misdemeanor in a minor court, (1971) Vol 35, p 764.

156.640

LAW REVIEW CITATIONS: 40 OLR 54.

156.650

ATTY. GEN. OPINIONS: Reconciliation of conflict with ORS 472.320, 1960-62, p 59; remittance to State Treasurer of district court fines for traffic offenses on properties of State Board of Higher Education and Port of Portland, 1960-62, p 157.