

Chapter 206

Sheriffs

206.010

NOTES OF DECISIONS

Duties in addition to those prescribed by the constitution, for which he may receive no extra compensation may be imposed on a sheriff. This applies to such a duty as tax collecting. *Lane v. Coos County*, (1882) 10 Or 123, 125.

Within the boundaries of his county the sheriff has the duty of rendering all the assistance reasonably within his power to the prosecuting officers to suppress crime and punish criminals; an expression of his belief in a suit does not disqualify him from summoning talesmen. *State v. Savage*, (1899) 36 Or 191, 202, 60 P 610, 61 P 1128.

FURTHER CITATIONS: *Shaw v. Christofferson*, (1950) 190 Or 279, 223 P2d 1039.

ATTY. GEN. OPINIONS: Sheriff serving criminal processes in his county without reference to court or officer issuing same, or their location, 1920-22, p 55; duty of sheriff to serve summons issued out of justice court, 1922-24, p 19; responsibility of sheriff to discharge of official duties to the best of his ability with supplies furnished, 1936-38, p 633; county probation officer's responsibility for transportation of juveniles, 1940-42, p 341; power to appoint special deputies to assist in civilian defense, 1940-42, p 500; appointment of civil defense director, 1948-50, p 400; authority of sheriff to order the forced evacuation of persons in case of emergency, 1948-50, p 446; fingerprinting persons arrested for misdemeanor or felony, 1956-58, p 127; custody of paroled mental patient, 1958-60, p 217; witness fees for public officers and employes, 1962-64, p 97; authority of county to contract to provide police protection to a city, 1966-68, p 34; sheriff's authority to use radar, 1966-68, p 452; impoundment procedure, 1966-68, p 420.

206.020

ATTY. GEN. OPINIONS: Fees for serving foreign process, 1962-64, p 99.

206.030

NOTES OF DECISIONS

A sheriff cannot refuse to return or execute process, and thus drive the parties to legal proceedings to determine the legality of the judgment under which the execution issued. *Richards v. Nye*, (1875) 5 Or 382.

An action may be maintained against the sheriff on his official bond for any injury resulting by reason of the sheriff's negligence or refusal to levy an execution in his hands. *Habersham v. Sears*, (1884) 11 Or 431, 5 P 208, 54 Am Rep 481.

In an action against a sheriff for neglect of official duty, the complaint must allege the particular neglect or omission upon which the plaintiff relies. *Kohn v. Hinshaw*, (1889) 17 Or 308, 20 P 629.

Where a sheriff has levied on goods of a judgment debtor, under an execution regular on its face, and issued out of

a court of competent jurisdiction, he is protected by the writ. *Barr v. Combs*, (1896) 29 Or 399, 45 P 776.

A sheriff is not liable for trespass in serving an execution, even if he knows that the judgment has been paid. *Id.*

In a tax sale, the sheriff must make written return of an execution setting forth his doings thereon. *Ayers v. Lund*, (1907) 49 Or 303, 89 P 806, 124 Am St Rep 1046.

It is not proper for a sheriff to modify a writ as to the time of execution. *Skulason v. Pratt*, (1942) 169 Or 617, 130 P2d 17.

206.060

NOTES OF DECISIONS

An answer which sets up an attempted justification by virtue of a seizure under a writ of attachment is defective unless it alleges that the defendants under the attachment were the owners, or had some interest in the property taken. *Krewson v. Purdom*, (1884) 11 Or 266, 3 P 822.

A writ of assistance, regular upon its face, is a complete justification for its execution; it is not the business of a sheriff to determine whether or not it should have been issued. *Skulason v. Pratt*, (1942) 169 Or 617, 130 P2d 17.

206.070

NOTES OF DECISIONS

Without written authority, the sheriff cannot be relieved of liability for delay in executing process. *Skulason v. Pratt*, (1942) 169 Or 617, 130 P2d 17.

206.080

NOTES OF DECISIONS

When a former sheriff is served with the prescribed certificate, his powers cease; a contest pending does not stay the effect of serving the certificate. *Warner v. Myers*, (1870) 3 Or 218.

ATTY. GEN. OPINIONS: Validity of county charter provisions regarding term of sheriff, 1960-62, p 403.

206.090

NOTES OF DECISIONS

Mandamus will be granted to compel acting sheriff to deliver jail and its appurtenances to sheriff to whom certificate has been issued. *Warner v. Myers*, (1870) 4 Or 72.

206.110

NOTES OF DECISIONS

A sheriff's deed may be executed by the sheriff who is in office at the time the deed is due after the time of redemption has expired. *Moore v. Willamette Transp. & Locks Co.*, (1879) 7 Or 359; *Talbot v. Cook*, (1911) 57 Or 535, 112 P 709.

This section has no application to a warrant for the

collection of delinquent taxes. *Marx v. Hanthorn*, (1887) 30 Fed 579.

The fact that a sheriff could successfully resist a mandamus compelling him to execute a deed does not prohibit him from voluntarily performing this duty independently of this section. *Talbot v. Cook*, (1911) 57 Or 535, 112 P 709.

The right of a purchaser at a sale on execution to a sheriff's deed is not lost by the expiration of the time within which a second execution could issue on the judgment. *Webster v. Rogers*, (1918) 87 Or 547, 171 P 197.

Following execution of a sheriff's deed in tax foreclosure proceedings, execution of a second sheriff's deed for the same property was authorized where its effect was to make an erroneous recital concerning notice of the expiration of the period of redemption conform to the fact. *Lane County v. Bristow*, (1946) 179 Or 653, 173 P2d 954.

206.210

ATTY. GEN. OPINIONS: "Employer" in collective bargaining by sheriff department employes, (1970) Vol 35, p 181.

206.320

ATTY. GEN. OPINIONS: Collection by sheriff of compensation for services in connection with foreclosure sale of mortgages to State Land Board, 1930-32, p 800; service of orders to show cause and bench warrants issued out of the circuit court in ex rel. proceedings as basis for collecting fees, 1936-38, p 93.

206.340

CASE CITATIONS: *Shaw v. Christofferson*, (1950) 190 Or 279, 223 P2d 1039, 21 ALR2d 873.