

Chapter 778

Port of Portland

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NOTES OF DECISIONS

The purposes and powers of the Port of Portland are public, political and governmental. *Cook v. Port of Portland*, (1891) 20 Or 580, 27 P 263, 13 LRA 533; *The John McCracken*, (1906) 145 Fed 705.

The former statute was constitutional as against the contention that it violated Ore. Const. Art. I, §32, requiring all taxation to be uniform and equal. *Cook v. Port of Portland*, (1891) 20 Or 580, 27 P 263, 13 LRA 533; *Farrell v. Port of Portland*, (1908) 52 Or 582, 98 P 145; *The John McCracken*, (1906) 145 Fed 705; *The George W. Elder*, (1908) 159 Fed 1005.

The Port of Portland is neither a city nor a town in the strict sense of those words. *Farrell v. Port of Portland*, (1908) 52 Or 582, 98 P 145; *Straw v. Harris*, (1909) 54 Or 424, 103 P 777.

The voters have no power, without a legislative enabling Act, to amend the port's charter or act of incorporation. *State v. Port of Astoria*, (1916) 79 Or 1, 154 P 399; *Rose v. Port of Portland*, (1917) 82 Or 541, 162 P 498; *Stevenson v. Port of Portland*, (1917) 82 Or 576, 162 P 509. *State v. Port of Astoria*, supra, overruling *Farrell v. Port of Portland*, (1908) 52 Or 582, 98 P 145.

The courts take judicial notice of the fact that the Port of Portland is the commercial metropolis of the state. *Cook v. Port of Portland*, (1891) 20 Or 580, 27 P 263, 13 LRA 533.

The courts take judicial notice of the several statutes relating to the Port of Portland. *State v. Banfield*, (1903) 43 Or 287, 72 P 1093.

The word "port" is used in a broad sense in the statute. *Straw v. Harris*, (1909) 54 Or 424, 103 P 777.

This statute cannot abrogate or limit the maritime law applicable to an admiralty case properly before a court of admiralty. *The Thielbek*, (1917) 154 CCA 129, 241 Fed 209.

ATTY. GEN. OPINIONS: Port as a municipality under federal grant statute, (1971) Vol 35, p 480.

778.008

NOTES OF DECISIONS

Former statute similar to 1971 amendment could authorize the port to sell coal to shipping and render other services in aid of its fundamental objectives. *Stevenson v. Port of Portland*, (1917) 82 Or 576, 162 P 509.

778.010

NOTES OF DECISIONS

The port may be held liable in damages for negligence of its servants in operation of its tugs and dredges. *United States v. Port of Portland*, (1906) 147 Fed 865.

FURTHER CITATIONS: *Horner's Market v. Tri-County Metropolitan Transp. Dist.*, (1970) 2 Or App 288, 467 P2d 671, Sup Ct review denied (with opinion), 256 Or 124, 471 P2d 798.

ATTY. GEN. OPINIONS: Hiring lawyer to prepare and present legislation, 1958-60, p 174; validity of proposed amendment enlarging boundaries of the port, constitutionality of levying taxes in new area without a vote, (1969) Vol 34, p 629.

778.015

NOTES OF DECISIONS

Tugs, dredges, etc., owned by the port and used for authorized purposes are not subject to seizure in admiralty for a maritime tort. *The John McCracken*, (1906) 145 Fed 705.

ATTY. GEN. OPINIONS: Hiring lawyer to prepare and present legislation, 1958-60, p 174.

778.025

NOTES OF DECISIONS

Improvement of navigable rivers is well within the powers of government. *Cook v. Port of Portland*, (1891) 20 Or 580, 27 P 263, 13 LRA 533.

The state has complete control over wharves, piers and landing places in the absence of federal legislation on the subject. *Portland v. Montgomery*, (1900) 38 Or 215, 62 P 755.

The port was authorized to construct a dry dock, and it may charge for dry dockage. *The George W. Elder*, (1908) 159 Fed 1005.

Dry dockage is a maritime service for which the port is entitled to a lien enforceable in admiralty. *Id.*

ATTY. GEN. OPINIONS: Port as a municipality under federal grant statute, (1971) Vol 35, p 480.

778.065

NOTES OF DECISIONS

The power of taxation is limited to purposes of a public nature. *Stevenson v. Port of Portland*, (1917) 82 Or 576, 162 P 509.

ATTY. GEN. OPINIONS: Hiring lawyer to prepare and present legislation, 1958-60, p 174; validity of proposed amendment enlarging boundaries of the port, constitutionality of levying taxes in new area without a vote, (1969) Vol 34, p 629.

778.085

NOTES OF DECISIONS

A federal statute forbidding the erection of wharves, etc., outside of an established harbor line without the permission of the Secretary of War does not amount to a declaration that he can authorize construction of such structures within the harbor line, contrary to the desires of the port authorities. *Montgomery v. Portland*, (1902) 190 US 89, 23 S Ct 735, 47 L Ed 965, aff'g 38 Or 215, 62 P 755.

Under a former similar statute, it was doubted whether

it intended to give the port power to decide whether or not the City of Portland shall build a bridge over the Willamette River. *Kiernan v. Portland*, (1910) 57 Or 454, 111 P 379, 112 P 402, 37 LRA(NS) 332.

FURTHER CITATIONS: *Port of Portland v. Reeder*, (1955) 203 Or 369, 280 P2d 324.

ATTY. GEN. OPINIONS: Port as a municipality under federal grant statute, (1971) Vol 35, p 480.

778.090

NOTES OF DECISIONS

This statute is in derogation of sovereignty and common right and shall be strictly construed. *Port of Portland v. Reeder*, (1955) 203 Or 369, 280 P2d 324.

This statute does not provide compensation for the removal of floating houseboats or pleasure craft. *Id.*

This statute was constitutional. *Id.*

This statute operates prospectively. *Id.*

778.095

LAW REVIEW CITATIONS: 46 OLR 159, 482.

778.110

ATTY. GEN. OPINIONS: Hiring lawyer to prepare and present legislation, 1958-60, p 174.

778.205

NOTES OF DECISIONS

The commissioners are, in effect, nothing more than agents of the state designated to exercise its powers for the attainment of an important public purpose. *Cook v. Port of Portland*, (1891) 20 Or 580, 27 P 263, 13 LRA 533; *The John McCracken*, (1906) 145 Fed 705.

778.210

ATTY. GEN. OPINIONS: Effect of proposed amendment

making certain persons ineligible for appointment as port commissioner, 1954-56, p 67.

778.215

NOTES OF DECISIONS

The provisions of BC 4659 [ORS 778.205 to 778.225] in respect of the selection of board members are not violative of the Oregon Constitution. *The George W. Elder*, (1908) 159 Fed 1005.

ATTY. GEN. OPINIONS: Authority to appoint member to fill vacancy caused by resignation, 1924-26, p 41.

778.235

ATTY. GEN. OPINIONS: Authority to appoint member to fill vacancy caused by resignation, 1924-26, p 41.

778.245

ATTY. GEN. OPINIONS: Proposal to prohibit appointment as director a person with a pecuniary interest in any business operating in the port, 1954-56, p 67.

778.255

NOTES OF DECISIONS

The voters have no power, under former similar statute, to amend the port's charter or Act of incorporation. *State v. Port of Astoria*, (1916) 79 Or 1, 154 P 399; *Rose v. Port of Portland*, (1917) 82 Or 541, 162 P 498; *Stevenson v. Port of Portland*, (1917) 82 Or 576, 162 P 509. *State v. Port of Astoria*, supra, overruling *Farrell v. Port of Portland*, (1908) 52 Or 582, 98 P 145.

FURTHER CITATIONS: *Horner's Market v. Tri-County Metropolitan Transp. Dist.*, (1970) 2 Or App 288, 467 P2d 671, Sup Ct review denied (with opinion), 256 or 124, 471 P2d 798.

778.260

ATTY. GEN. OPINIONS: Remittance to State Treasurer of district court fines for traffic offenses on properties of Port of Portland, 1960-62, p 157.