

Appendix C: Court Cases

The Oregon Supreme Court

The Supreme Court is composed of seven justices elected by nonpartisan statewide ballot to serve six-year terms. Justices elected to the Supreme Court must be U.S. citizens, members of the Oregon State Bar, and must have resided in the state three years.

The Supreme Court is created and its jurisdiction is defined by Amended Article VII of the Oregon Constitution. It is primarily a court of review; that is, it reviews the decisions of the Court of Appeals in selected cases. The Supreme Court decides which cases to review, usually selecting those with significant legal issues calling for interpretation of laws affecting many citizens and institutions of society, not just the parties involved in the case at hand. The court may either affirm, reverse or modify a decision of the Court of Appeals. When it decides not to review a case, the Court of Appeals decision becomes final. In addition to this review functions, the Supreme Court hears appeals from the decisions of the Oregon Tax Court and may accept original jurisdiction in mandamus, quo warranto, and habeas corpus proceedings. The court also has responsibility for admitting attorneys to practice in Oregon and for the discipline of attorneys and judges.

The Supreme Court may sit *in banc* (full court) or in departments of three to five justices, the majority of whom must be regularly elected justices. When the court sits *in banc*, a majority of justices must concur to pronounce judgment. When a case is heard by a department, not fewer than three justices must concur to pronounce judgment.

Administrative Authority of the Supreme Court

Under a statute passed in 1981, the chief justice is designated as the administrative head of the Judicial Department of state government and, as such, exercises administrative authority and supervision over the appellate, circuit, district and tax courts. In that capacity, the chief justice may make rules and issue orders to carry out duties of the office and may require appropriate reports from judges and other officers and employees of the court. In the 1981 statute, the legislature directed that the chief justice establish “an accountable, equitably funded and uniformly administered system of justice for all the people of this state.” As the head of the Judicial Department, it is the chief justice’s

responsibility to promulgate a personnel plan for all officers and employees of the courts governing appointment, compensation, promotion, discipline, and all other incidents of employment. The chief justice is also charged with the duty of supervising a statewide plan for budgeting, accounting and fiscal management of the Judicial Department.

The chief justice may also assign any circuit or district court judge to serve temporarily as a circuit court judge in any county of any judicial district in the state. The Supreme Court may appoint any regularly elected circuit judge or Court of Appeals judge to serve as a judge pro tempore of the Supreme Court when the need arises. It also has the authority to appoint senior judges (those judges who have served a total of 12 or more years and are now retired) to serve temporarily in any state court at or below the level of the court in which the judge served before retirement.

Oregon Court of Appeals

The Court of Appeals was created by the legislature in 1969 as a five-member court, was expanded to six judges in 1973 and to 10 in 1977. Its judges, elected by statewide nonpartisan ballot for six-year terms, must be U.S. citizens, members of the Oregon State Bar, and qualified electors of their county of residence. The chief judge is appointed for a two-year term by the chief justice from among the judges of the court.

Since Jan. 1, 1976, the Court of Appeals has had exclusive jurisdiction of all appeals, both civil and criminal, from circuit and district courts and of all review of state administrative agency actions.

Reviews and Decisions

A party aggrieved by a decision of the Court of Appeals may petition the Supreme Court for review within 30 days after the Court of Appeals decision is issued. The party must file copies of the petition with the Court of Appeals, and the Court of Appeals must determine whether it will reconsider its decision before the Supreme Court considers the petition. After the Court of Appeals acts, the Supreme Court determines whether to review the case. A petition for review is allowed whenever three or more supreme court judges vote to allow it.

Oregon Tax Court

The Oregon Tax Court, created by the 1961 Legislature, has exclusive jurisdiction over tax questions relating to income, inheritance, gift, **real property, personal property, timber**, and cigarette taxation, and the **local budget law levy**.

In cases within the court's jurisdiction, the Regular Division is comparable to a circuit court and exercises equivalent powers. The Small Claims Division has jurisdiction over income tax, gift and inheritance tax, homeowner's and renter's refunds, and timber severance tax controversies involving \$500 or less, exclusive of penalties and interest. In the property tax field, the Small Claims Division has jurisdiction in cases where the value of either the parcel of land or the total improvements thereon is less than \$35,000 and less than \$15,000 true cash value of personal property. In cases where the amounts involved exceed the jurisdiction of the Small Claims Division, the cases must be filed in the Regular Division of the court, after having been first appealed to the Department of Revenue. Appeal from the court's decision is made directly to the Supreme Court. In the Small Claims Division, the cases come directly from the state's tax auditor or from the county board of equalization, and the court's decision is final.

Where factual issues are pleaded, court is usually held in the county where the taxpayer resides or the property is located. The judge serves a six-year term and is elected on the statewide, nonpartisan judicial ballot.

Circuit Courts

The circuit courts are the state trial courts of general jurisdiction and have appellate jurisdiction over the county courts, the justice courts and some municipal courts. The circuit courts have adoption and juvenile jurisdiction in all counties except Crook, Gilliam, Harney, Jefferson, Morrow, Sherman and Wheeler counties, where the county court exercises juvenile jurisdiction. The circuit courts also exercise jurisdiction in probate, guardianship and conservatorship cases in all counties except Gilliam, Grant, Harney, Malheur, Sherman and Wheeler counties.

Circuit court judges are elected on a nonpartisan ballot for a term of six years. They must be citizens of the U.S., members of the Oregon State Bar, residents of Oregon at least three years and residents of their judicial district at least one year (except Multnomah County judges, who may reside within 10 miles of the county). There are 84 circuit judges serving the 36 Oregon counties, which are grouped in 19 geographic

areas called judicial districts. Multnomah County district has 20 circuit judges; Lane, 10; Marion, seven; Clackamas, Washington, Josephine/Jackson, Linn/Benton, five judges each. One district has four judges, five have three judges each. Two have two judges each, and four have one judge each.

To expedite judicial business, the chief justice of the Supreme Court may assign any circuit judge to sit in any judicial district in the state, and he may appoint members of the Oregon State Bar as circuit judges pro tempore.

District Courts

The district courts are trial courts limited to \$3,000 in civil cases and to misdemeanor criminal cases, including traffic offenses, where conviction is punishable by a fine of up to \$3,000, imprisonment of one year or less, or both. District courts conduct preliminary hearings in felony matters, which may result in binding over the accused to the grand jury. District courts may not try cases involving title to real property. The district courts have small claims departments which have jurisdiction for recovery of money or damages where the amount claimed does not exceed \$700.

County Courts

At one time, county courts existed in all 36 Oregon counties. The title "county judge" is retained in some counties as the title of the chairman of the board of county commissioners. There is no requirement that county judges be members of the bar.

Where a county judge's judicial function still exists, it is limited to juvenile and probate matters and occupies only a portion of the judge's time, which is primarily devoted to nonjudicial administrative responsibilities as a member of the county board. Only nine Oregon counties, all east of the Cascades, now have a county judge who retains any judicial authority: Harney, Gilliam, Sherman and Wheeler (having both juvenile and probate jurisdiction); Malheur and Grant (probate only); and Morrow, Crook and Jefferson (juvenile only).

Justice Courts

A justice court is held by a justice of the peace within the district for which he is elected, except in those counties where district courts have been established. The county commissions have power to establish justice court district boundaries. The justice of the peace is a remnant of territorial days when each precinct of

the state was entitled to a justice court. Justice courts presently exist in 38 communities.

The justice court has civil jurisdiction, nonexclusive where the amount claimed does not exceed \$1,000, except in actions involving title to real property, false imprisonment, libel, slander, malicious prosecution, criminal conversation, seduction or upon a promise to marry. Justice courts have small claims departments where actions for recovery of money or damages do not exceed \$500 may be prosecuted.

Justice courts have criminal jurisdiction in all misdemeanors (crimes punishable by imprisonment of no more than one year), but the defendant may elect to have his or her case transferred to district court or, if there is no district court, to the circuit court in the county of his or her arrest. The justice courts also have jurisdiction over traffic and other violations.

Notes

A. Court citations

The court citations in this volume, and in most legal authorities, are to cases before the Supreme Court or Court of Appeals of this and other states, the United States Supreme Court, and occasionally English cases. Circuit court cases are mentioned, but not cited as authority. A typical Oregon Supreme Court case will be cited, for example, as:

Bernards et ux v. Link and Haynes, 199 Or. 579, 248 P~2d 341.

“Bernards et ux” in this case are the plaintiffs who are appealing the decision of the circuit court of Yamhill County. The plaintiffs are Theodore M. Bernards “and another.”

“Link and Haynes,” in this case, are the defendants E.J. Link “and another,” a co-partnership “doing business under the firm name and style of L.H.L. Lumber Company.”

The citation 199 Or. 579 simply means the case is filed in Volume 199 of the *Oregon Reports*, page 579 (the first page of the report).

The accompanying citation, 248 P.2d 341, means a digest of this case is published in Volume 248 of the *Pacific Reporter*, second series (the 2d), beginning on page 341.

Although the court report will show how the case is to be cited, it will often be cited with slight variations. The case of *Portland Baseball Club v. Portland*, 142 Or. 13, 18 P.2d 811, is a good example. This case involved

the Portland Baseball Club, the City of Portland “and others” (et al). Although the official citation is as shown in italics, it has been cited in subsequent cases and authorities as, *Baseball Club v. Portland*, *Portland Baseball Club v. City of Portland*, *Portland Baseball Club v. Portland et al*, *Portland Baseball Club v. City of Portland et al*, and *Portland Baseball Club*. The latter is acceptable in discussions where the case has been already cited and the reader is aware of the case being referenced by the shorter, abbreviated citation.

The danger of using the abbreviated citation is that there may be other cases with the same name. *Cabell et al v. Cottage Grove et al* provides a good example. Cabell was once the commissioner of the Oregon Highway Department. Consequently, in more than one case his name appeared as either the plaintiff or the defendant in cases involving the Highway Department.

B. Oregon Supreme Court

The Oregon Supreme Court cases are published in *The Oregon Reports* (reports of cases decided in the Supreme Court of the State of Oregon) and Court of Appeal cases are published in the *Oregon Reports*, *Court of Appeals*. A digest of the cases are also published in the *Pacific Reporter*, abbreviated “P.” in the citation. “Pacific” is one of the seven regions, which also include the following regions: Southern, Southwestern, Atlantic, Southeastern, Northeastern and Northwestern. Another publication containing U.S. Supreme Court case law is the *Federal Reporter*. The following is a key to the abbreviations cited.

P., P.2d	<i>Pacific Reporter</i>
So., So.2d	<i>Southern Reporter</i>
S.W.2d	<i>Southwestern Reporter</i>
A., A.2d	<i>Atlantic Reporter</i>
S.E., S.E.2d	<i>Southeastern Reporter</i>
N.E., N.E.2d	<i>Northeastern Reporter</i>
N.W., N.W.2d	<i>Northwestern Reporter</i>
F.2d	<i>Federal Reporter</i>

There are many other “reporter” publications, such as the *Federal Supplement* (F.2d), *Federal Rules Decisions* (F.R.D.), and the like, few of which are cited in this publication. For details, explanation and abbreviations, a recommended reference is *A Uniform System of Citation*, published and distributed by The Harvard Law Review Association, Gannett House, Cambridge, Mass. 02138.

C. Citations: Supreme Courts of Other States

The abbreviations for the court reports of other states are the same as, or similar to the uniform system of

abbreviation for states, and are easily identified, such as: 156 Ind. 478, Volume 156, *Indiana Reports of Cases Before the Supreme Court*, page 478.

D. Citations: Oregon Court of Appeals

Example:

City of Salem v. Merritt Truax
70 Or. App. 138

In this case the city is the respondent and Merritt Truax (et al) are the appellants. The case is published in Volume 70 of the *Oregon Reports, Court of Appeals*, beginning at page 138.

E. Citations: Federal Cases

U.S. Supreme Court cases are cited as "U.S.", such as:

Craig v. Boren
429 U.S. 1909

The *Supreme Court Reporter* is abbreviated S. Ct. and the *United States Law Week*, U.S.L.W. The most common citation included with the Supreme Court Report citation will be the *Federal Reporter*, abbreviated F. or F.2d.

F. Law publications

Several authorities cited here are excellent sources for research and references, such as George W. Thompson's *Commentaries on the Law of Real Properties*, published by the Bobbs-Merrill Co., New York, N.Y. For example:

2 Thompson 391, subsec 359

is a citation of Volume 2, Thompson On Real Property, page 391, subsection 359. The information is regarding a principle of law, cited in Oregon cases:

"So if one conveys lots by a map or plat, which represents the lots as bounded upon a road or way, and the map or plat is referred to in the deed, the right of way over it passes as part of the grant of each lot as an easement appurtenant thereto." *Carter v. Portland*, 4 Or. 339; *Nicholas v. Title & Trust Co.*, 79 Or. 226, 154 P. 391, Ann. Cas. 1917A, 1149; *Menstell v. Johnson*, 125 Or. 150, 262 P. 853, 266 P. 891, 57 A.L.R. 311.

Other cited law publications are:

American Jurisprudence, (Am. Jur.)
American Law Reports (A.L.R.), for example:
20 A.L.R. 315
American Law Review (Am. Law Rev.)

G. Oregon Revised Statutes

These are abbreviated "ORS." The statutes are the state laws of a general, public and permanent nature,

contained in seven volumes, 1 through 6A. A typical reference to a statutory law is:

ORS 92.014(2)

This refers to Oregon Revised Statute, chapter 92, section .014, subsection 2. However, 92.014 would usually be referred to as the section number.

The text of every statute section, in the official publication of the statutes by the Legislative Counsel Committee of the Legislative Assembly, was copied verbatim from an enrolled act, with exception of changes in form permitted by ORS 173.160 and other changes authorized by law.

H. Periodicals

Over 400 periodicals contain discussions on legal questions, case law, statutory law, legal ethics, subject law, etc. Many of these are published by law schools such as the University of Oregon School of Law. Four times a year the U. of O. publishes the "*Oregon Law Review*," cited as Or. L. Rev. An important treatise cited here, by Sheldon W. Parks, "*The Law of Dedication in Oregon*," was cited as:

20 Or. L. Rev. 111

This refers to Volume 20, *Oregon Law Review*, beginning on page 111. Other law reviews cited were:

Willamette Law Journal (Willamette L.J.)
Pacific Law Journal (Pac. L.J.)
Lawyers Reports Annotated (L.R.A.)
Harvard Law Review (Harv. L. Rev.)
American Law Reports Annotated (A.L.R.)

Note: *Black's Law Dictionary*, rev. 4th ed., pp. 1797-1882 lists most of the abbreviations you will encounter in legal textbooks, journals, law reviews, and the like.

Black's Law Dictionary (*Black's*).

Brown, Curtis M. *Boundary Control and Legal Principles* (Brown). John Wiley & Sons, New York, N.Y. (Note: "Brown" cited elsewhere, could be a reference to *Brown On Personal Property*, published by Callaghan & Company.)

Burby, William E. *Real Property*, (Burby). An excellent treatise on the history of real property law, beginning with the feudal system, explanation of rights in land, possessory estates, titles, future interests and restraints pertaining to alienation. West Publishing Co.

Clark, Frank Emerson, *A Treatise on the Law of Surveying and Boundaries* (Clark). Bobbe-Merrill Co., Indianapolis.

Corpus Juris Secundum (C.J.S.), a restatement of law as known from 1658 to today. West Publishing Co.

Elliott's Roads & Streets, (Elliott), by Byron K. and William F. Elliott, Bowen-Merrill, publishers.

Law of Real Property (Moynihan), by Cornelius J. Moynihan, West Publishing Co. (1962).

Oregon Law Review (Or. L. Rev.), U. of O. School of Law, Eugene, Or.

Skelton, The Legal Elements of Boundaries and Adjacent Properties (Skelton), by Ray Hamilton Skelton, Bobbe-Merrill Co., publishers.

Survey of the Law of Real Property (Boyer), by Ralph E. Boyer, West Publishing Co.

Words and Phrases (W & P), West Publishing Co. A complete series of volumes on all judicial constructions and definitions of words and phrases by the state and federal courts from the earliest of times.

The user of this glossary must be aware that legal terms seldom have exact meanings. The term "right of way" is an excellent example. *Black's Law Dictionary, supra*, defines "right of way" as:

"The right of passage over another's ground, and its general accepted meaning is that it denotes an easement. It would be using the term in an unusual sense by applying it to an absolute purchase of the fee simple in lands."

Yet, in *Highway Comm. v. Pac. Shore Land Co.*, 201 Or. 142, the Oregon Supreme Court decision called attention to the importance of defining such a term in context with the law or principle where it is used. The court explained that the term "right of way," in the statute granting the State Highway Commission the power to acquire land for "rights of way," had its usual and ordinary meaning, "and the power granted is simply the power to acquire property deemed necessary for the construction of a highway for use of vehicular and other travel." But the court noted the importance of other statutory provisions which must be considered to arrive at an accurate definition of "right of way" as used in the Highway Code, *i.e.*: "but the legislature has authorized the Department of Transportation to acquire fee title when acquiring land for right of way purposes, so the term 'right of way' includes land acquired in fee (as well as land where only an easement has been acquired)." And in certain other cases, it has been held that the term "right of way" merely denotes the contemplated use of the land, rather than words of limitation.

The Oregon Revised Statutes quoted here are as codified and published as in effect on Sept. 27, 1987. Because this material was formally published after the 1987 Legislative Assembly, reference should be made to the official statutes for precise, up-to-date wording, as published by the Legislative Committee of the Oregon Legislative Assembly.

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- Ames v. Union County, 17 Or. 600, 605, 22 P.118.
- Anderson v. McCormick, (1889) 18 Or 301, 22 p1062;
- Andrus v. Knott, 1855 12 Or 501, 8 p763,
- Argo Investment v. Dept. of Transportation, 66 Or. App. 430 (1984), exception made in case of limited access highway
- Arrien v. Levanger, 263 Or. 363, 369, 502 P.2d 573 (1972).
- Arthur Johnson v. Dept. of Revenue, (1981) Oregon Tax Court opinion no. 1334, p5, 6, 7.
- Asken v. Wynn, 22 N.C. (7 Jones)
- Astoria Exchange Co. v. Shively, (1895) 27 Or 104, 39 P398, 40 p92
- Atkinson v. State Tax Commission, 303 U.S. 20 (1938), affirming 156 Or. 461 (1937).
- Attorney General v. Bay Boom Wild Rice & Fur Farm, 172 Wis. 178 N.W. 569 (1920).
- Attorney General v. Chambers, 4 De G.M. & G. 206 (43 Eng. Rep. 486, Ch 1854).
- Augusta v. Perkins, Idaho 207; Newport (R.I.) v. Taylor, 16 Ky. (B. Mon.) 699;
- Baines v. Marshfield & Sub. R. Co., 62 Or. 510.
- Baltzeger v. Carolina Midland R. Co., 54 S.C. 242; Wilcox v. Hines, 100 Tenn. 538.
- Barclay v. Howell, 498 U.S. (6 Pet.) (dealing with a plat in Pittsburgh, Pa.), cit.: Parrish v. Stephens, supra, 62.
- Barclay v. Howell's Lessees, 206, 207 U.S. (6 Pet.);
- Barney v. Keokuk, 94 U.S. 324, 340. See: ORS 221.916, (Powers of City Council)
- Barrier v. Troutman, 55 S.E.2d 923
- Barringer v. Davis, 141 Iowa 419, 120 N.W. 65: A government survey, even though incorrect, is conclusive where there is a controversy between persons asserting conflicting claims under grants or parents based on such survey.
- Bartlett v. Beardmore, 77 Wis. 356, 46 N.W. 494
- Barton v. Portland, (1914) 74 Or 75, 144 p1146,
- Bayard v. Standard Oil Company, 38 Or. 438
- Beardslee v. French, 7 Conn. 125
- Benedict's Abbey v. Marion County, 50 Or. 411, 93 P. 231
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- Brand v. Multnomah Co., 38 Or. 79, 104, 50 L.R.A. 389, 60 P. 390, 62 P. 209
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Christenson v. Pac. Coast Borax Co., 26 Or. 302, 305, 38 P. 127.

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City of Ashland v. Hardesty, supra. See: right of municipality to acquire right of municipality to acquire easement in private property by adverse possession; 25 Am. Jur. 2d, Easements and Licenses, subsec 40; 18 A.L.R. 3d 678; C.J.S., Easements, sub-sec

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City of Molalla v. Coover et ux, 192 Or. 233, 235 P.2d 142

City of Newberg v. Kienle, 60 Or. 486, 489, 120 P. 3.

City of Pella v. Scholte, 24 Iowa 288, 95 Am. Dec. 729

City of Peoria v. Johnston, 56 Ill. 45.

City of Portland v. Kamm. (1930) 132 Or. 317, 285 P. 236. See: 46 O.L.R. 125-158, 482.

City of Roseburg v. Abraham, 8 Or. 509

City of Salem v. Merritt Truax, 70 Or. App. 138

Clark v. Commonwealth, 14 Ky. (Bush) 169

Clarlin v. Chicago, 262 Ill. 564; 2 Thompson on Real Property, supra, subsec 384 pp. 549, 551

Clatsop Co. v. Taylor, (1941) 167 Or 563,119 P2d 285.

Cleary v. Trinble, 229 Cal. App. 2d 1,6.

Colclough v. Milwaukee, 92 Wis. 182, 65 N.W. 1039

Cole v. Seaside, 80 Or. 73

Coleman v. Flint & P.M.R. R. Co., 64 Mich. 160

Collins v. Phoenix, 269 F. 157. Atty. Gen. Op., 1966-1968, 327.

Colombo v. Hewitt, 221 Or., 350 P. 2d 893.

Columbia River Fisherman’s Protective Union v. City of St. Helens, 160 Ore. 654, 87 P.2d 195 1939).

Commissioners v. Wiley, (1881) 10 Or 86; and Hayden v. Brown, (1898) 33 Or 221, 53 p490,

Commonwealth v. Rush, 14 Pa.

Commonwealth v. Stodder, 2 Mass. (Cush.) 562; Cicero Lbr. Co. v. Cicero, 176 Ill. 9.

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Cummins v. Jones, 79 Or. 276, 155 P. 171

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Dabney v. City of Portland, 124 Or. 54, 263 P. 386

Darling v. Christensen, (1941) 166 Or 17, 109 P2d 585. Distinguished in McCarthy v. Coos Head Timber Co., (1956) 208 Or 371, 302 P2d 238.

Davis v. City of Clinton, 58 Iowa 389, 10 N.W. 768; Marchland v. Town of Maple Grove, 48 Minn. 271, 51 N.W. 606

Debolt v. Carter, 31 Ind. 355

DeCastello v. Cedar Rapids, 153 N. W. 353.

Dent v. Oregon City, 106 Or. 122, 133, 211 P. 909

Department of Justice Opinion 150-25-303-00849, 79-22 (3-19-79).

Dept. of Justice Opinion 7729, 3-9-1979.

Dept. of Justice Opinion, Oregon, 150-01-813-72; “Surveys made by the authority of the United States or the State of Oregon may be considered as evidence

in any court in this State, and unlike private surveys, need not be arrested." ORS 41.540.

Detroit v. Detroit & Milwaukie R.R. Co., 23 Mich. 173.

Dickey v. Davis, 76 W.Va. 576, 85 S.E. 781, (1915) L.R.A., 840

Douglas County Road Co. v. Abraham, 5 Or. 318

Douglas County Road Co. v. Abraham, 5 Or. 318; to the same effect is:

Douglas County Road Co. v. Canyonville and Galesville Road Co., 8 Or. 1146, 102.

Dovaston v. Payne, 2 Smith's Ldg. ch. 224, 225; Rowan's Exrs. v. Portland, 8 Ky. (B. Mon.) 232, 237;

Dover v. Fox, 9 Ky. (B. Mon.) 200;

Downer v. St. Paul, etc. R.R. Co. 23 Minn. 271; Dill on Municipal Corporations, subsec 491

Dubuque v. Maloney, 9 Iowa 455; Godfrey v. Alton, 12 Ill. 35;

Durbin v. Roanoke Bldg. Co. 107 Va. 753, 60 S. E. 86

Eadie v. Chambers, (1909) 99 CCA 561, 172 Fed 73, 76, 18 Ann Cas 1096, 24 LRA (NS) 879.

Earl v. Dutour

East Birmingham Realty Co., v. Birmingham Machine & Foundary Co., 160 Ala. 461, etc.

Enterprises v. Heare, 37 Or App 879, 588 P2d 671 (1978).

Fahey v. City of bend, 252 Or. 267, 449 P. 2d 438, See 23 Am. Jur.

Feagins v. Wallowa Co., 62 Or. 186 123, P. 902

Fegtly, Historical Development of Land Surveys, 38 111. L. Rev. 220: Lines established by official surveys control over those made by private parties.

Firmstone v. Spaeter, 150 Pa. 616.

Fisher v. Zumwalt, 128 Cal. 493, 61 P. 82

Fitzstephens v. Watson, 218 Ore., 185, 202, 344 p2d 221 (1959).

Fleischner v. Citizens Investment Co., 25 Or. 119, 35 P. 174.

Flint & P.M. Ry. Co. v. Gordon, 41 Mich. 420, 2 N.W. 648

Fossi v. Meyers, (1975) 271 Or 611, 533 P2d 337.

Fowler v. Gehrke, (1941) 166 Or 239, 111 P2d 831

Frederick v. Douglas County, (1945) 176 Or 54, 155 P2d 925.

French-Glenn Livestock Co. v. Springer, 185 U.S. 47

Freytag v. Vitas, (1958) 213 Or. 462, 336 P. (2d) 110.

Frick v. City of Gary, Ind., 135 N.E. 346

Galewski v. Noe, 266 Wis. 7, 62 N. W. 2d 703 (1954)

Gasperd vs. LeBaron, 237 P2d 278, 281 (1951)

Geer v. Chapin, 163 El. App. 654, 659, 660

George v. Cox, 114 Mass. 382, 387; Spaulding v. Abbott, 55 N.H. 423

Gietl v. Smith, 320 Ill. 467; Easton v. Koch, 152 Pa.; etc.

Gillean v. City of Frost, 25 Tex. Civ. App. 371,377, 61 S.W. 345

Gilliam v. Cielona, 145 P. 1061, 74 Or. 462.

Glatts v. Henson, 31 Cal.2d 368, 371-372, 188 P.2d 745

Goff v. Avent, 122 Miss. 86, 84 So. 134: If a deed description is by rectangular survey section numbers, the land conveyed is such as it physically exists on the ground, the original government corners and lines being such sections' true and only boundari

Goodenough v. Warren, (1879) 5 Sawy 494, 498 Fed case No. 5, 534;

Goodman v. Myrick, 5 Ore. 65; Van Dusen v. Shively, 22 Ore. 64, 29 Pac. 76: Where there is a discrepancy in a government survey, between the monument and the distances given in the field notes (or on the plat), the monuments will control...

Grady v. Dundon, 30 Or. 333, 47 P. 915. But see: City of Molalla v. Coover et ux, 192 Or. 233, 235 P.2d 142.

Grammer v. Sacramento, 2 Cal. 2d 432, 41 P. 2d 543, and in other juris.

Green v. Kunkel, Civ. App. 183 S. W. 2d 585

Greene v. City of Antonio, Tex. Civ. App., 178 S.W. 6

Greer v. Squire, 9. Wash. 359, 37 Pac. 545: Corners shown to have been originally set by U.S. surveyors are conclusive and must be accepted as the true corners, no matter how inaccurately they may have been originally established.

Gregory v. Knight, 50 Mich. 61, 64, 14 N.W. 47.

Gubser v. Town, (1954) 202 Or 55, 273 P2d 430,

Gubser v. Vitas, (1954) supra; Payne v. Hall, (1921) 185 N.W. 912, 192 Ia. 780.

Guild v. Wallis, (1929) 130 Or 148, 279 P546;

Guilliams v. Baker Lake Club, 90 Or 13, 175 Pac. 437, 28 Arizona L. Review 267

Guthrie v. Haun, (1938) 159 Or 50, 76 P2d 292.

Haase v. Kingston Co-op. Creamery Association, (1932) 212 Wis 585, 250 N.W. 444.

Hall v. Fairchild-Gilmore Wilton Co., 66 Cal. App. 615.

Hall v. Tanner, 4 Pa. 244, 45 Am. Dec. 686, it was "It has ever been held that the marks on the ground constitute the survey. The courses and distances are only evidence of the survey."

Hamilton v. State, 106 Ind. 361, 7 N.W. 9

Hamlin v. City of Norwich, 40 Conn. 25

Hammer v. Polk County, 15 Or. 578, 580, 16 P. 420.

Hanes v. Land Co., 129 N.C. 311, 40 S.E. 114.

Hanlin v. Chicago & Al. W Ry. Co., 61 Wis. 515, 526, 21 N.W. 623.

Hannibal v. Draper, 15 Mo. 634;

Hanns v. Friedly, 181 Or 631, P2d 855.

Hanson v. Thornton, 91 Ore. 585, 591, 179 P 494 (1919).

Hardin v. Jordan, 140 US. 371

Hardin Y. Shedd, 190 U.S. 508, 519

Harniss v. Bulpitt, 1 Cal. App. 140, 81 P. 1022

Harris v. St. Helens, 72 Or. 386 (1914); cit. Black's Law Dictionary, 2d ed., pp. 340, 341, supra.

Hart v. City of Independence, 84 Or. 194, 164 P. 719

Hay v. Stephens, 262 Or. 193 497 P.2d 362 (May, 1972).

Heiple v. City of East Portland, 13 Or. 103

Henderson v. Frio County, Tex. Civ. App., 362 S.W.2d 406, 408: " Instruction properly defined 'dedicated as public road' to mean road devoted or appropriated to public use as a public road by owner, by some unequivocal acts or conduct manifested an intent

Hendrickson v. City of Astoria, 127 Or.

Hendrickson v. City of Astoria, 127 Or. 1, 270 P. 924;

Hennigan v. Mathews, (1916) 79 Or 622, 155 p169;

Henrie v. Hyer, 92 Utah 530, 70 Pac. (2d) 154: Official government surveys are not open to attack between private parties in boundary disputes.

Henry v. Dubuque R. Co., 2 Iowa 288

Heuel v. Wallowa Co., 76 Or. 354, 149 P. 77

Hickey v. Daniel, (1921) 99 Or 525, 195 p812;

Hicklin v. McClear, 18 Or. 126, 137, 22 P. 1057

Himmelmann v. Saterlee, 50 Cal. 69; Reed v. Erie, 79 Pa. 352

Hinman v. Warren, (1877) 6 Or 408, 411

Hislop v. County of Lincoln, 249, Or. 259, 437 P. 2d 847.

Hoban v. Bucklin, 88 N.H. 73, 80, 184 A. 362, 186 A. 8

Hogg v. Davis, (1892) 22 Or 428

Hogue v. Albina, 20 Or. 182, 25 P. 386, 10 L.R.A. 673

Hogue v. City of Albina, 20 Or. 182, 25 P. 386, 10 L.R.A. 673;

Hogue v. City of Albina, 20 Or. 182, 25 P. 386, 10 L.R.A. 673;

Hohnbaum v. City of Woodburn, 29 Or. App. 283, 563, P. 2d 173 (1977)

Holt v. Sargent, 15 Gray 97

Holton v. Northwestern Oil Co., 201 N.C. 744. See: ORS Chapter 368, "Road Hazards." See: ORS Chapter 221 for acts authorized by the legislature.

Home Real Estate Loan & Ins. Co. v. Parmele, (1938) 214 N.C. 63, 197 S.E. 714, 717.

Hubbard v. Dusy, 80 Cal. 281, 22 Pac. 214: Where it is doubtful which of two lines or monuments is the true government line, that one is to be so considered which more nearly conforms to the U.S. field notes (or plat).

Huber v. Gazley, 18 Ohio 18;

Huddleston v. Eugene, (1899) 34 Or 343, 55 p868, 43 LRA 444

Huddleston v. Eugene, 34 Or. Or. 343, 55 P. 868 (1899)

Huggett et ux v. Moran et ux, 201 Or. (1954) 201 Or. 105, 117

Huggett et ux v. Moran et ux, 201 Or. 105,266 P.2d 692 (1954).

Hughes v. Bingham, 135 N. Y.

Hughes v. State of Washington, 389 U.S. 290 (1967).

Hume v. Rogue River Packing Co., (1908) 51 Or 237, 83 p391, 92 p1065, 96 p865, 131 Am St. Rep 732, 31 LRA (NS) 396.

Hurd v. Byrnes, 264 Or. 591, 506 P. 2d 1973.

Indianapolis v. Kingsbury, 101 Ind. 200, 51 Am. Rep. 749

Irvin v. Crammond, 58 Ind. App. 540, 108 NE (2d) 539.

Jaloff v. United Auto Indem. Exch., 120 Or. 381

Jeffries. v. East Omaha Land Company, 134 U.S. 178, 3 L. ed 872, 10 Supreme Court 518.

John P. Sharkey Co. v. Portland, 58 Or. 353, 106 P. 331,114 P. 933 (1911);

Johnson v. Jeldness, 85 Or. 657, 167 P. 798, L.R.A. 1918A, 1074

Johnson v. Knott, 13 Or. 308, 315, 316, 10 P. 418

Jones v. Teller, 65 Or. 328, 332, 133 P. 354

Jory v. Palace Dry Goods Co., 1896) 30 Or 196, 46 p786. Regarding ORS 308.240,

Kane v. Kane, (1930) Or 79, 291 p785.

Kanne v. Otty, (1894) 25 Or 531, 36 p537;

Katz v. Patterson, (1931) 135 Or 449, 296 p.54

Kean v. Calumet Canal Co., 190 U.S. 452, 459

Keane v. Portland, 115 Or. 1, 7,235 P. 677; Lewis, Eminent Domain, 3d ed., subsec 387 Elliotts' Roads and Streets, 3d ed., subsec 355; 20 C.J. 881, subsec 310.

Killiam v. Multnomah Co., (1931) 137 Or 562, 4 P2d 323.

Kimball v. Kenosha, 4 Wis. 321, 336.

King v. Ehghan, (1890) 19 Or 560, 23 Or 262, 25 p150, 31 p601, 18 LRA 361;

Kingsley v. Jacobs, (1944) 174 Or 514, 149 P2d 950.

Kister v. Reeser, 98 Pa. 1, 4, 42 Am. Rep. 608.

Knight v. U.S. Land Assn., 142 U.S. 161.

Knight v. United Land Assoc, 142 U.S. 161, 183, 35 L ed 974, 981, 12 S Ct 258;

Knott v. Jefferson Ferry Co., 9 Or. 530

Kropitzer v. Portland, 237 Or. 157 (1964).

Kuck v. Wakefield, 58 Or. 549, 555, 115 P. 428.

Kurtz v. Southern Pacific Co., 80 Or. 213, 155 P. 367 (1916)

Kurtz vs. Southern Pacific Co., 80 OR 213, 217; 156 P2d 794 (1916)

Lade v. Shepherd.

Lang v. Portland, 75 Or. 388, 389

Langley v. Gallipolis, 2 Ohio

Lankin v. Terwilliger, 22 Or. 97, 29 P. 268.

Latourette v. Clackamas County

Latourette v. County Court, 121 Or. 323, 255 P. 330

Lauderback v. Multnomah County, 111 Or. 631, 226 P. 697;

Leadville v. Bohn. Min. Co., 37 Colo. 248, 86 P. 1038, 8 L.R.A.; N.S. 422, 11 Ann. Cas. 443; 18 C. J. p. 112 note 37.

Lee Wilson & Co. v. United States, 245 U.S. 24: "First. Where, in a survey of the public domain a body of water or lake is found to exist and is meandered, the result of such meander is to exclude the area from the survey and to cause it as thus separated

Lehigh Valley R. Co. v. McFarlan, 43 N.J.L. 605 cited in: 2 Thompson on Real Property, 1961 ed., subsec 335, n. 18, pp. 156-157. See: State ex rel McNutt v. Orcutt, 221 Ind. 523, 199 N.E. 595; Buss v. Dyer, 125 Mass. 287.

Lewis v. Lewis, (1871) 5 Or 65;

Logansport v. Dunn, 8 Ind. 378. And note: regardless of any charter provision of an Oregon municipality, a common law dedication may be effected; See: Mid-County Cem. Dist. v. Thomason, 267 Or. 637.

Love v. Morrill, 19 Or. 545, 24 P. 916

Lowell v. Pendleton Auto Co., 123 Or. 383, 402, 261 P. 415

Lownsdale v. City of Portland, 1 Or. (1861), discussing Daniel Lownsdale's, J. L. Parrish's, Stephen Coffin's and W. W. Chapman's interest in the Portland claim. This case supplies historical data on the creation of Portland and territorial land laws.

Lownsdale v. Parrish v. The City of Portland,

Luhrs v. Sturtevant, 10 Or. 170.

Luscher v. Reynolds, (1936) 153 Or 625, 56, P2d 1158;

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Madison v. Basart, 59 I.D. 415 (1947).

Magee Heirs v. Slack, 152 Tex. 427, 258, S. W. 2d 797 (1953).

Magic v. Basquin, Ohio Com. Pl., 102 N.E.2d 42, 44: "the word 'dedicate' means a grant of an interest in land for public use." See: 26, 27 Am. Jut. 2d, Em. Dom., 56 Am. Jut. 2d;

Mann v. Tacoma Land Co., 153 U.S. 273,284,

Marchland v. Town of Maple Grove, 48 Minn. 271, 51 N.W. 606;

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Martin v. Klamath Co., 39 Or. App 455 (1979), 592 P. 2d 1037. CJS Highways.

Martin v. Waddell, 41 U. S. (16 Pct.) 367, 410-411 (1842).

Massachusetts v. New York, 271 U.S. 65, 89.

Mathis v. Thunderbird Village, Inc., 236 Or. 439, 440 (1964); 389 P.2d 343.

Maxwell v McCall, 145 Iowa 687

Maynel v. Saltmarsh, 1 Keble 647, 83 Eng. Rep. 1278 (1664)

McAdam et ux v. Smith et al, 221 Or. 48, 350 P. 2d 689

McAdam v. Smith, 221 Or 48, 350 P2d 689 (1960).

McAdam v. Smith, 221 Or. 48, 350 Pac. (2d) 689

McCashum v. Hoselton, (1975) 273 Or 778, 543 P2d 657.

McConaughy v. Wiley, (1888) 13 Sawy 148, 33 Fed 449

McCoy v. Thompson, 84 Or. (1917), Portland Ry. L & P. Co. v. Oregon City, 85 Or.

McDowell v. Carothers, (1915) 75 Or 126, 146 p800;

McGee v. Swearngen, 194 Ark. 735, 109 S. W. 2d 444

McGowan v. City of Burns, 172 Or. 63, 74, 137 P2d 994, 139 P.2d 785

McKay v. Sause, "As long as the upland owner does not encroach on the rights of the state or of any other parties he may make artificial changes in his bank, which will not destroy his title or affect his boundary."

McLoughlin v. Stevens, 18 Ohio 94.

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Meier v. Portland Cable Ry. Co. 16 Or. 500, 19 P. 610, 1 L.R.A. 856

Menstell et ux v. Johnson, et ux 125 Or. 162

Merchant v. Town of Marshfield, (1899) 35 Or. 55, 61 56 P. 1013.

Micelli v. Andrus, 61 Or 78, 120 P. 737 (1919);

Michelli v. Andrus, (1912) 61 Or 78, 120 p737;

Mid-County Cemetery Dist. v. Thomason, 267 Or. 637 (1974).

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Miles v. Cedar Point Club, 175 U.S. 300

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Minto v. Delaney, 7 Ore. 337; Weiss v. Oregon Iron & Steel Co., 13 Ore. 496, 11 Pac. 255.

Montgomery v. Shaver,

Montgomery v. Somers, 50 Or. 259, 90 section on "Prescription") P. 674.

Moore v. Fowler, 58 Or. 292, 297, 114 P. 472

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Muckle v. Good, (1904) 45 Or 230, 77 p743

Muhlker v. New York & Harlem R.R. Co., 197 U.S. 544, 49 L. Ed. 872, 25 Sup. Ct. Rep. 522.

Muhlker v. New York & Harlem R.R. Co., 197 U.S. 544, 49 L. Ed. 872, 25 Sup. Ct. Rep. 522.

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Mutual Irr. Co. v. Baker City, 58 Or. 306, 321, 110 P. 392, 113 P. 9;

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Navajo Co. v. Apache Co., 26 Ariz. 74, 721 Pac. 837: If all the corners marked in the surveys, returned by the surveyor general, are established as proper corners of sections, or subdivisions of sections, which they were intended to designate, the corners

Neal v. Delaware, 103 U.S. 370

Neil v. Independent Realty case,

Neil v. Independent Realty Co., supra (cited in Oregon cases.)

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Nickson v. Garry, 51 N.M. 100, 179 P. 2d 524

Nodine v. Union, 42 Or. 613, 616; Elliotts' Roads and Streets, 3d ed.; See: Muzzy v. Wilson, 259 Or. 518.

Nordale v. Waxberg, 84 Fed. Supp. 1004; State v. Brace, 76 N. Dak. 314, 36 N.W. (2d) 330.

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Palmateer v. Reid, (1927) 121 Or 179, 254 p359;

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Parker v. Taylor (1879) 7 Or 436, 446; Shively v. Bowlby.

Parrish v. Stephens, I Or. 59, 73 (Dec. 1653). The bill was filed in 1850, and an injunction was allowed. A compromise followed, but failed. The cause came to be heard in the Washington, D.C., District Court, and under a late statute was adjourned to this

Parrott v. Stewart, 65 Or. 254, 132 P. 523

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Pillsbury v. Brown, 82 Me. 450, 19 A. 858, 9 L.R.A. 94, see: note, ""Right of Public to Use Entire Width of Highway,""

Pittsburgh & W.E. Pass. Ry. v. Point Bridge Co., 165 Pa. 37, 30 A. 511, 26 L.R.A. 323

Point Pleasant Manor Building Company v. Brown,

Polar v. Hagen (1845) 3 How. (44 U.S.)(212, 228).

Poleske v. Jones, 192 Iowa 1015, 185 N.W. 917: Centers of sections cannot be ascertained by running a line, (on a cardinal) directly south from the 1/4 section corner on the north line, and marking off 160 rods on such line. The lines must be run from 1/4

Pollards Lessee v. Hagan, (U.S.) 3 212, 228, 229, 11 L ed 565, 573, 574;

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

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Price v. Thompson, 48 Ky. (B. Mon.) 363

Quimby v. Vermont Central R. Co., 23 Vt. 387

R.L.C. (1939) Subsection 1022. Single and double proportionate measurement, post, subsection 384, 385. "A proportionate measurement is one that gives concordant relation between all parts of the line . . ." and new distances are to be of the same relation

Raab v. Casper, 51 Cal. App. 3d 866, 876, 124 Cal. Rep. 590, 596 (1975), cited in Shumate v. Robinson, supra.

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Raymond v. Coffey, (1873) 5 Or 132;

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Rex v. Cross, 3 Camp. (Eng.) 224 (1812) was cited to supply a historical basis for the doctrine of nuisances

Rex v. Hudson

Richards v. Page Inv. Co., (1924) 112 Or 507, 228 P937.

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Robbins v. Scranton, 217 Pa. 577, 66 A. 97.

Robinson v. R.R. Co., Vt. 426, 10 A. 522

Rohde v. State Industrial Accident Commission, 108 Or. 426, 217 P. 627

Rowan Exrs. v. Portland, supra;

Salem Improvement Company v. McCourt; cited supra.

San Diego County v. Calif. Water & Tel. Co., 30 Cal. 2d 817, 186 P. 2d 124 (1947), and authorities cited therein.

Sanborn v. Chicago & N. W. R. Co., 16 Wis. 21

Sandstrom v. Oregon-Washington Ry. & Nav. Co., 75 Or. 159: "For an injury which an individual sustains in common with the general public, he or she cannot complain, though suffering more than the rest of the public, and in such case, relief, if any, is by

Savage v. City of Salem, 23 Or. 381, 363; 1 Wood on Nuisances

Scheimer v. Price, 65 Mich. 638, 32 N.W. 873

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Shively v. Bowlby, affirming Bowlby v. Shively, (1892) 22 Or 410, 30 p154; State v. McVey, (1942) 168 Or 337, 121 P2d 461, 126 P2d 181.

Shively v. Welch, (1884) 20 Fed 28

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Smith v. Cameron, 123 Or. 501, 262 P. 946

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Spencer v. Peterson, 41 Or. 257, 259.

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State v. Moriarty, 74 Ind. 104

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State vs. The California-Oregon Power Co., 225 OR 604, 609 (1961)

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Sweet et al v. Irrigation Co., 198 Or. 166. (1953) 254 P.2d 700.

Taylor Sands Fishing Co. v. State Land Board, (1910) 56 Or 157, 108 p126

Thielke v. Albee, 79 Or. 48, 153 P. 793

Tholl v. Koles, 65 Kan. 802, 70 P. 881 To the same effect is Wells v. Pennington County, supra.

Thompson v. Scott, 270 Or. 542, 528 P.2d 509 1974);

Titusville Amusement Co. v. Titusville Iron Works, 286 Pa.

Tooze v. Willamette Valley S. Ry. Co., 77 Or. 157, 162, 150 P. 252

Town Council v. Lithgoe, 7 Rich.

Town of Gaston v. Thompson, 89 Or. 412, 420

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Trustees of M.E. Church v. Hoboken, 33 N. J. Laws 13, 97 Am. Dec. 696.

Tuttle v. Beem, 144 Or. 145, 157, 24 P.2d 12

U. S. v. Oregon, 295 U. S. 1 (1954).

U.S v. State of Washington, 9 Cir 1961, 294 F. 2d 830

U.S. v. Appalachian Electric Power Co., (1940) 311 U.S. 377, 61 S. Ct 291, 85 L ed. 243.

U.S. v. Cruikshank, 92 U.S. 542, cit. in Elliott on Roads and Streets.

U.S. v. Holt State Bank, 270 U.S. 49 (1926).

U.S. v. Rands, 389 U.S. 121 (1967).

U.S. v. Texas, 339 U.S. 707, 716 70 S Ct 918, 94 L Ed 1221 (1949),

Unger's Co. v. Lincoln Co., 5 Or. App. 270, 483 P. 2d 81, Sup. Ct. review denied. Atty. Gen. Op. (44-46)

Union Power Co. v. Lichty, 42 Or. 563

United States v. Chicago 185 U.S. (7How.).

United States v. Hudspeth. 384 F2d 683. "Although some practical problems may arise, I see no legal reason why the assessor may not employ the resurveys in preparation and maintenance of his maps, as the resurveys represent the best information available

United States v. Mission Rock Co., 189 U.S. 391, 404, 47 L ed 865, 869 23 S Ct 606."

United States v. Oregon, 295 US 1, 14, 54 S Ct 610, 79 L Ed 1267 (1934),

Urguhart v. Belloni, 57 Or. 314, 321,322, 111 P. 692.

Utah v. U.S., 403 U.S. 9, 91 S Ct. 1775, 29 L Ed 2d, 281 (1971);

Valley Pulp & Paper Co. v. West, 58 Wis. 599, 17 N.W. 554; Bartlett & Beardmore, 77 Wis. 356, 46 N.W. 494

Van Buskirk v. Bond, 52 Or. 234, 96 P. 1103

Van Dusen Inv. Co. v. Western Fishing Co., (1912) 63 Or 7, 124 p677, 126 p604

Vandusen v. Shively, (1892) 22 Or 64, 29 p76;

Vaught v. McClymond, 116 Mont. 542, 155 Pac. (2d) Errors in U.S. surveys cannot be corrected by the courts since such surveys create boundaries and do not merely ascertain them.

Virginia v. Rives, 100 U.S. 313; Ex parte Virginia, 100 U.S. 339

Von Buskirk v. Bond, 52 Or. 234, 96 P. 1103.

Wade v. Northup, 70 Or. 579

Wakeman v. Wilburn, 147 N.Y. 657, 42 N.E. 341.

Walish v. Milwaukee, 95 WIS. 16, 69 N.W. 818

Wallowa County v. Wade, 43 Or. 253, 72 P. 793; See: Note 57 Am. St. Rep. 744.

Washington Borough v. Steiner, 25 Pa. Super. 392.

Washington v. Oregon, 211 U.S. 127, 33 L. ed. 118, 29 S. Ct. 47.

Wason Toll Road Co. v. Townsite of Creede, 21 Land Dec. Dep. Int. 349, 351

Watertown v. Cowen, 4 Paige (N.Y. Ch.), 510

Watrous v. Southward, 5 Conn. 310.

Watts v. City of Winfield, 101 Kan. 470, 168 P. 319.

Wayne County Say. Bank v. Stockwell, 64 Mich. 586, 48 N.W. 174

Weber v. State Harbor Comrs., (U.S.) 18 Wall 57, 65, 66, 21 L ed 798, 801, 802;

Weiss v. Oregon Iron & Steel Co., (1886) 13 Or 496, 11 p255;

Wells v. Pennington County, 2 S.D. 1, 48 N.W. 305, 39 Am, St. Rep. 758

Weniger v. Ripley, (1930) 134 Or 265, 293 p425.

Western Ry. v. Alabama G.T.R. Co., 96 Ala. 272

White Oak Coal Co. v. Manchester, 109 Va. 749

Whiteside v. Green, 13 Utah 34, 57 Am. St. Rep. 740, See: note of 25 pages, High-ways by User, 44 P. 1032

Whitney v. Crittenden, (1924) 112 Or 278, 229 p378.

Wilder v. DeCou, 26 Minn. 10, 1 N.W. 48

Wilder v. The City of St. Paul, 12 Minn. 203, 204, 211

Willamette Iron Works v. Oregon Ry. & Nav. Co., 24 Or. 224

Willetts Mfg. Co. v. Mercer Co. Freeholders, 92 N.J. Law, 95, 40 A. 782.

Williams v. Routt County, 37 Colo. 55, 84 P. 1109

Willis v. Leverich, 20 Or. 168, 25 P. 398

Wilson v. Shively, (1884) 11 Or 215,4 p324;

Wing v. Wallace 42 Idaho 430, 246 Pac. 8: A resurvey does not affect the rights previously vested Its purpose is to ascertain the lines of the original survey without regard to their correctness.

Winston Bros. v. State Tax Commission (1957) 156 Or. 505, 62 P.2d 7.

Winters v. George, 21 Or. 251, 259, 27 P. 1041

Wood v. Woodcock, 276 Or. 49, 56, 554 P.2d 151 (1976)

Woods v. Hart, 254 Or. 434,458 P.2d 945 (1969)

Wright v. Day, 33 Wis. 260; cited in Cross v. Talbot, supra.

Wurzweiler u. Cox, (1931) 138 Or 110, 5 P2d 699

Wyckoff v. Mayfield, (1929) 130 Or 687, 280 p340.