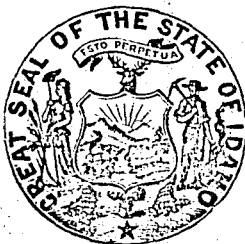


REPORT
OF THE
ATTORNEY GENERAL

OF THE
STATE OF IDAHO
FOR THE
YEARS 1917-1918



T. A. WALTERS
ATTORNEY GENERAL

A. C. HINDMAN
J. P. POPE
J. WARD ARNEY
M. H. EUSTACE
Assistants

GRACE SHEFFIELD
HAZEL HARTLEY
Stenographers

TERRITORIAL ATTORNEYS GENERAL

*D. B. P. Pride.....	1885-1886
*Richard Z. Johnson.....	1887-1890

STATE ATTORNEYS GENERAL

George H. Roberts.....	1891-1892
*George M. Parsons.....	1893-1896
Robert E. McFarland.....	1897-1898
Samuel H. Hays.....	1899-1900
Frank Martin	1901-1902
John A. Bagley	1903-1904
J. J. Guheen	1905-1908
D. C. McDougall	1909-1912
Joseph H. Peterson	1913-1916
T A. Walters	1917-1918
Roy L. Black	1919-1920

JUSTICES OF THE SUPREME COURT, 1917-1918

Alfred Budge, Chief Justice.....	Pocatello
William M. Morgan, Associate Justice.....	Moscow
John C. Rice, Associate Justice.....	Caldwell

JUSTICES OF THE SUPREME COURT 1919-1920

William M. Morgan, Chief Justice.....	Moscow
John C. Rice, Associate Justice.....	Caldwell
Alfred Budge, Associate Justice.....	Pocatello

UNITED STATES JUDGE

Frank S. Dietrich.....	Boise
*Deceased.	

IDAHO DISTRICT JUDGES

District	1917-1918	1919-1920	Address
First	W. W. Woods	W. W. Woods	Wallace
Second	E. C. Steele	E. C. Steele	Moscow
Third	Carl A. Davis	Chas. F. Reddoch	Boise
	Chas. P. McCarthy	Chas. P. McCarthy	Boise
Fourth	William A. Babcock	William A. Babcock	Twin Falls
	Henry F. Ensign	Henry F. Ensign	Hailey
Fifth	John J. Guheen	John J. Guheen	Pocatello
	Robert M. Terrell	Robert M. Terrell	Pocatello
Sixth	Frederick J. Cowen	Frederick J. Cowen	Blackfoot
Seventh	Ed. L. Bryan	Ed. L. Bryan	Caldwell
	Isaac F. Smith	Isaac F. Smith	Weiser
Eighth	R. N. Dunn	R. N. Dunn	Coeur d'Alene
	John M. Flynn	John M. Flynn	Sandpoint
Ninth	James G. Gwinn	James G. Gwinn	St. Anthony
Tenth	Wallace N. Scales	Wallace N. Scales	Grangeville

PROSECUTING ATTORNEYS OF THE VARIOUS COUNTIES IN IDAHO

	1917-1918	1919-1920	
County	Name	Name	Residence
Ada	E. S. Delana	E. S. Lelana	Boise
Adams	B. J. Dillon	L. L. Burtenshaw	Council
Bannock	Marcus Lockhart	Isaac McDougall	Pocatello
Bear Lake	D. C. Kunz	D. C. Kunz	Paris
Benewah	Allen A. Holsclaw	Wm. D. Keeton	St. Maries
Bingham	R. W. Adair	R. W. Adair	Blackfoot
Blaine	Wesley E. Matthaei	P. K. Perkins	Hailey
Boise	D. L. Rhodes	John H. Meyer	Idaho City
Bonner	Frank A. McCall	Peter Johnson	Sandpoint
Bonneville	E. A. Owen	E. A. Owen	Idaho Falls
Boundary	O. C. Wilson	Frank Bottum	Bonnars Ferry
Butte	A. L. Bresnahan	W. J. Lamme	Arco
Camas	J. W. Edgerton	J. W. Edgerton	Fairfield
Canyon	Alfred F. Stone	Curtis Haydon	Albion
Cassia	T. Bailey Lee	T. Bailey Lee	Orofino
Clearwater	F. Elliott Smith	F. Elliott Smith	Challis
Custer	M. A. Brown	M. A. Brown	Mt. Home
Elmore	Daniel McLaughlin	J. G. Watts	Preston
Franklin	Arthur W. Hart	P. M. Condie	St. Anthony
Fremont	C. Redman Moon	H. W. Soule	Emmett
Gem	J. P. Reed	J. P. Reed	Gooding
Gooding	A. F. James	A. F. James	Grangeville
Idaho	Edward M. Griffith	B. Auger	Rigby
Jefferson	A. C. Cordon	A. C. Cordon	Coeur d'Alene
Kootenai	Bert A. Reed	Bert A. Reed	Moscow
Latah	Frank L. Moore	John Nisbet	Salmon City
Lemhi	John E. Rees	Erle H. Casterlin	Nez Perce
Lewis	Sam'l O. Tannahill	G. C. Pennell	Shoshone
Lincoln	Harlan D. Heist	Harlan D. Heist	Rexburg
Madison	C. W. Poole	C. W. Poole	Rupert
Minidoka	W. W. Mattinson	Hugh A. Baker	Lewiston
Nez Perce	Henry S. Gray	Leo McCarty	Malad
Oneida	T. E. Ray	T. E. Ray	Silver City
Owyhee	Logan D. Hyslop	Wright A. Stacy	Payette
Payette	P. Monroe Smock	R. E. Haynes	Amer. Falls
Power	Spencer L. Baird	C. T. Cotant	American Falls
Shoshone	H. J. Hull	H. J. Hull	Wallace
Teton	R. S. Wilkie	R. S. Wilkie	Driggs
Twin Falls	Frank L. Stephan	Frank L. Stephan	Twin Falls
Valley	F. M. Kirby	R. B. Ayers	Cascade
Washington	George Donart	Harrison McAdams	Weiser

Report of the Attorney General

December 1, 1918.

His Excellency,

Moses Alexander,

Governor of the State of Idaho.

Sir: In compliance with the law I have the honor to submit my report touching the doings of my department during the biennium commencing January 1, 1917, and ending January 6, 1919. It is possible for me to present only a brief synopsis of the more important decisions rendered and of the work generally done by the office. This is occasioned partly by the nature of the work performed. By reason of a custom which has become quite rigidly established, much of the time of this office is taken up in writing opinions for county officials, highway and good road districts, school districts and municipal corporations, which are more or less of a public nature. Even private citizens frequently address this office for opinions on questions affecting their personal or business relations. There has been an increasing demand from persons and corporations residing in other states for information concerning our laws and our State generally. I have, so far as was possible and consistent with the efficient performance of my statutory duties, made an effort to answer all of these promptly and fully. The inquiries of private citizens have received my careful and courteous attention. I have, within the limitations of my ability, attempted to make the office of service to the people generally, and have scrupulously evaded injecting anything of a political nature into my official acts.

A comparison of this report with former reports of this office will show that the work of the office is constantly increasing in volume and importance. The putting into operation of the Workmen's Compensation Law is called to your attention as an example of one of the many demands upon this department. For several months after the law went into effect and the Industrial Accident Board was appointed, almost the entire time of one of my assistants was required in

rendering opinions upon the many new and novel questions presented by the Board.

The appended synopsis of cases in which this department appeared as counsel, both in the Supreme Court of the State and of the United States, show an increase over my predecessor. Many of these cases are of vital importance to, not only the State Government, but to the peace, happiness and welfare of our citizens.

I take pride in calling attention to the case of Crane vs. Campbell, which was argued before the Supreme Court of the United States, and is reported in 62 U. S. Law Ed. at page 245. The Supreme Court of the United States, by a unanimous decision, affirmed the decision of our own Supreme Court, and thus forever put at rest the question of the constitutionality of our prohibition laws. The question of the constitutionality of these laws, particularly that portion which makes possession of intoxicants a crime, produced many conscientious offenders which resulted in much litigation in the District Courts, and in case of conviction, invariably an appeal to the Supreme Court.

The case of Omaechevarria vs. The State of Idaho, reported in 62 U. S. Law Ed., involved the priority range question and the constitutionality of our statutes creating such priority. The Supreme Court of the United States, by a divided opinion, affirmed the decision of our Supreme Court, holding that our statutes are constitutional.

This office has been successful in approximately eighty per cent of the cases presented before our Supreme Court.

By letters and suits instituted, I have collected and turned into the State Treasurer, through the State Land Department, over Twenty-five Thousand Dollars of principal and interest of the trust funds belonging to the State of Idaho.

The work of this office is practically completed, except in cases pending in the Supreme Court in which hearings cannot be had before the expiration of our term of office, by reason of the crowded condition of the docket of the Court.

Recommendations

Many complaints with respect to violations of law in vari-

REPORT OF ATTORNEY GENERAL.

ous counties have been made to this department, with requests that detectives or special officers be sent for the purpose of making investigations, and if sufficient evidence is discovered, instituting prosecutions. In many instances it has been charged that the local officers are derelict in their duties or refuse to act. It is impossible, of course, for this department to accede to such requests as no appropriation was made for such purpose, nor is there any special officer attached to this office who, under authority of law, could make such investigations.

Since assuming the duties of this office, experience has led me to the conclusion that the creation of a State Constabulary is well nigh a necessity. If the State had such officer or officers attached to the executive department with jurisdiction and authority co-extensive with the boundaries of the State and with the powers and duties ordinarily exercised by a sheriff, I believe he or they would be of material aid and assistance in the enforcement of law.

School Law

The school laws of the State are, in many instances, contradictory, confusing and ambiguous. As they now exist many provisions apply to one class of district and do not apply to another. I, therefore, call attention to some provisions which, in my opinion, should be changed or eliminated.

The amortization plan of bonding has proved itself to be of unquestionable benefit to Common School Districts, and should be extended so as to apply to Independent Districts.

The bonding provisions of the school law should be amended by adding thereto as one of the recognized purposes for which bonds may be issued, that of building and equipping teachers cottages.

At present the school code prescribes more than fourteen qualifications for electors. Many of these are conflicting in their application to the same kind of an election, and highly confusing in the conduct of school business. The school code should be amended so as to provide for uniform qualification of voters at all elections irrespective of the character of the district, or should prescribe but two qualifications, one to ob-

tain in administrative elections and the other in elections involving revenue.

At the present time the State has a preferred right to purchase the bonds of Common School Districts; those of other districts are offered usually first to the State of Idaho under a ruling which is based upon a statute of questionable validity. The two provisions should be reconciled and unquestionably provide that the State shall have the preferred right of purchase.

Common School districts should be given the authority to call special elections for the purpose of levying a special tax for maintaining schools.

The school law with reference to the division of school districts should be amended so as to apportion the assets and liabilities between the old district and new one. Under the law as it now stands, following a decision of the Supreme Court of the United States in the case of Albany vs. Laramie County, 92 U. S. Sup. Ct. Rep. page 552, the old district is liable and holden for all outstanding indebtedness. The new district takes title to all property which the division places within its territory and escapes all or any proportionate share of the liability for bonds or other indebtedness which may have been created by the district to which it formerly belonged. This results in manifest unfairness to the old district and obvious danger to bond holders. This serious weakness in the law, in the case of unscrupulous division of districts, might result in financial loss to bond holders. This phase is of particular interest to the State when we remember that a large amount of the trust funds of the State is invested in school bonds.

Blue Sky Laws

I beg to repeat the recommendation of my predecessor in office with reference to what is commonly termed the Blue Sky Law. The legislature failed to make an appropriation for the purpose of carrying this act into effect. The Bank Examiner, who is required by the law to make the examination, has not been provided with funds with which to do so, and while his efforts have been very commendable, yet he has found it

practically impossible to enforce the law. The legislature should either make the necessary appropriation for its enforcement or repeal the law in its entirety. The latter course I would not advise. Experience has demonstrated that we need a law of its character with funds and officers sufficient to strictly enforce it.

Conclusion

Upon assuming the duties of this office, I was fortunate to secure the services of A. C. Hindman, J. P. Pope and J. Ward Arney as assistants, and Miss Grace Sheffield and Miss Hazel Hartley as stenographers. These persons have all rendered painstaking and efficient service to the State in their several capacities, and have aided me materially in the discharge of the duties pertaining to the office. If there is any credit due in the conduct of the affairs of this office during my incumbency, the members of my office force are entitled to a large share of it. Their integrity, loyalty, energy and faithfulness to duty have ever been an inspiration to me. Mr. Arney quit the office to enter the military forces of the United States, after which time I employed, for a short time, Mr. M. H. Eustace, of Caldwell. During only a portion of my administration have I had three assistants.

As is well known, my assistants are men of high character and ability and of splendid legal attainments. The people of Idaho have indeed been fortunate that such men have been content to serve them officially for the insufficient compensation they have received. The wide experience in the practice of law within the State of Idaho of Mr. A. C. Hindman and Mr. J. P. Pope made them most invaluable in the conduct of the office.

It is with relief and a feeling akin to pleasure that I lay down the duties of this office. My only regret is that I have not been able to accomplish more.

The friendly relations existing between your office and mine, as well as the other departments of State, has been a source of great satisfaction to me. The cordial co-operation of the various departments of the State Government has resulted in the highest efficiency of the office and the greatest amount of service to the people whom we serve.

Respectfully submitted,

T. A. WALTERS.

Attorney General.

Digest of Opinions Rendered

NOTE: No attempt has been made to include in the following digest all opinions rendered by the Attorney General's office during the biennium. Only opinions of general importance have been digested.

ANTI-NEPOTISM LAW

Brother-in-Law of an Officer.

Query: Does a brother-in-law of an officer come within the Anti-Nepotism law passed by the 1915 legislature?

Held: That he does.

C. Redman Moon, February 24, 1917.

Election Judges.

Query: Must election judges in the selection of election clerks observe the Anti-Nepotism act?

Held: That the Anti-Nepotism act does not apply to election officers.

Allen A. Holsclaw, August 17, 1917.

Election Officers.

Query: Do the provisions of the Anti-Nepotism act apply to officers of an election precinct?

Held: They do not.

F. E. Smith, November 1, 1918.

Uncle By Marriage.

Query: May a county officer appoint an uncle by marriage as office deputy?

Held: He can not.

Ben R. Gray, November 12, 1918.

Second Cousin Road Overseer.

Query: Does the Anti-Nepotism act prohibit a road overseer from employing his second cousin for work on the county road?

Held: That such employment is not prohibited by the act.

Albert Robertson, May 21, 1917.

APPROPRIATIONS

Legislature Expenses—Payment.

Query: Can I draw warrants for bills contracted by the legislature where said bills have been approved by the presiding officer, without submitting the same to the State Board of Examiners for approval?

Held: That you can so do.

C. Van Deusen, January 25, 1917.

Veto of Part of an Appropriation.

Query: Has the Governor the authority, under the veto power vested in him by the Constitution, to veto a portion of an item contained in an appropriation bill?

Held: He can not, and an attempted veto of a portion of an item is without any force or effect.

Fred A. Wilkie, July 18, 1918.

AUTOMOBILES

Dealer's License.

Query: Is an automobile dealer who has a place of business and takes out a license in one county permitted to sell automobiles in another county without taking out an additional license?

Held: That he is not.

Query: Is a person operating a garage in one county and who sells and makes delivery of automobiles in another county required to take out a license in the county in which he maintains his place of business?

Held: That he is.

George F. Church, August 11, 1917.

Dealer's License—Maintenance of Branch Establishments.

Query: Can a general dealer in motor vehicles, with a main office in one place maintain branch establishments or sub-agencies in other places in the same county or other counties in the State?

Held: That they should take out a dealer's license for each place of business.

W. A. Kennedy, March 8, 1917.

Driver's License—Applications—Undertakers.

Query: Is it necessary for an undertaker driving an auto hearse to take out a chauffeur's license, and is it necessary for one applying for an auto license to make personal application before the assessor?

Held: No.

H. R. Russell, January 15, 1917.

Interstate Commerce—Registration License.

Query: Should motor vehicles engaged in interstate commerce be registered in Idaho?

Held: All such vehicles must be registered in this State before they can operate on highways within the State.

Query: Must the owner of a motor vehicle engaged exclusively in interstate commerce, obtain a license as a common carrier?

Held: The State of Idaho has no jurisdiction over such vehicles so far as their right to operate as common carriers is concerned, and their owners are not required to obtain a license from the Public Utilities Commission.

Public Utilities Commission, September 21, 1917.

Jitneys.

Query: Does House Bill No. 341 relating to the licensing of automobiles as common carriers, apply to jitney cars only, or to all automobiles carrying passengers and freight?

Held: That persons who operate motor vehicles according to schedule and hold themselves out as affording regular transportation between certain points, are required to obtain license. Since a jitney operates in this way, it would undoubtedly be compelled to obtain a license.

J. T. Kingsbury, June 26, 1917.

Licenses—Dealers.

Query: Must a hardware dealer in Idaho who goes out of the State and purchases automobiles one at a time and brings them back to his place of business for sale, secure a dealer's license?

Held: That he must.

Query: Can a dealer in another State send an agent into Idaho with a demonstration car and sell cars without taking out a dealer's license?

Held: That he can.

Query: Can a licensed dealer go outside of his own county and sell cars?

Held: That he can.

Calvin Hazelbaker, April 10, 1918.

Licenses for Machines Owned By County.

Query: Is it necessary for a county owning an automobile to purchase an auto license where the car is used exclusively by officials in the pursuit of official business?

Held: That the county is not exempt.

Thomas Trathen, April 19, 1917.

Licenses on Machines Not in Use.

Query: Shall I collect licenses on automobiles which will not be in operation during the coming year?

Held: That licenses shall be paid upon all cars which it is desired to drive or operate within the State of Idaho. The law exempts from taxation all automobiles which are registered and pay the annual license tax. If a car is not registered and does not pay the annual license tax, it should be assessed for taxation on its value the same as personal property. Cars which it is not desired to operate and which do not register and pay a license, should be assessed in this manner.

C. D. Goaslind, May 12, 1917.

License—Destruction of Cars.

Query: In case an automobile for which a license has been obtained under Section 16 of Chapter 179 of the 1913 Session Laws is destroyed by fire, and another automobile is purchased in its stead, is the owner thereof entitled to a duplicate license tag for the new car without the payment of the license fee?

Held: That it will be necessary for you to obtain a new license

for the car which you have purchased to take the place of the one destroyed by fire.

W. J. Prater, June 8, 1917.

Query: May the owner of an automobile which has been destroyed by fire and replaced by a machine of similar make and character demand and receive a duplicate license tag?

Held: There is no authority for issuing a duplicate license tag under such circumstances.

W. T. Dougherty, April 25, 1917.

License—Date of Ownership.

Query: Is a person who purchases an automobile upon a title note prior to August 1, and pays such note subsequent to August 1, entitled to license at one-half the annual license fee?

Held: That the purchaser of an automobile in this manner is the owner of the machine within the meaning of the law from the time he takes possession of the machine, and he must pay the full annual license.

Charles Bohrer, August 15, 1917.

License—School Districts.

Query: Is a school district which purchases an automobile truck for the transportation of school children required to secure a license therefor?

Held: That it is not.

S. W. Struble, September 13, 1917.

Private—Common Carrier.

Query: Must the owner of an automobile who occasionally carries other persons for compensation, procure a license as a common carrier?

Held: He is not required to unless he operates regularly between specified termini.

J. W. Evans, May 11, 1918.

Registration—Second-hand Cars.

Query: Does Section 20 of the Automobile Law providing a method whereby the purchaser of a second-hand automobile may register the same, apply to dealers as well as individuals?

Held: That it does not.

W. T. Dougherty, August 25, 1917.

Automobiles—Stock of Dealers—Assessment.

Query: Is it the duty of the assessor to assess the stock of motor vehicles kept on hand by dealers?

Held: That it is.

Jed Earl, March 8, 1917.

CITIES AND VILLAGES

Audit of City Books—Payment.

Query: Could the city council pay for an audit of the city's

books for which they contracted, there being no appropriation made therefor, nor money left in the office fund?

Held: That it cannot.

T. Bailey Lee, January 19, 1917.

Board of Trustees—Printing Notices in Newspapers Owned by Trustees.

Query: Can a member of the board of trustees hold such position and print the legal notices for the village in his own newspaper?

Held: That he cannot.

William A. Pyne, April 6, 1917.

Bond Elections—Qualifications of Voters.

Query: Can the wives of husbands who are taxpayers vote at a bond election?

Held: Yes.

Query: Would the parties owning automobiles and paying license on same be considered taxpayers?

Held: They are not.

Query: Can a person who owns stock in a corporation and are residents of the town vote at said election?

Held: No.

C. H. Brittenham, January 19, 1917.

Bonded Indebtedness—Limitation.

Query: In determining the limit of bonded indebtedness of a city which is fixed at 6 per cent of the assessed valuation of the property in the city, should water works bonds be considered?

Held: That water works bonds should be disregarded in determining the amount of indebtedness under our statute relating to the limit of indebtedness for the issue of municipal bonds.

George W. Edgington, May 15, 1917.

Bonds for Sewage Disposal Works.

Query: Would a city have a right to vote bonds to the amount of \$20,000 for a sewer disposal works, and would the bonds be legal if voted?

Held: That the law is not broad enough to include the issuance of bonds for a sewage disposal works.

Dr. D. M. Stokesbery, January 13, 1917.

Improvements—Necessity for Bids.

Query: Would the city officials of Weiser be liable in the event they executed a contract for the improvement of the city water system without advertising for bids?

Held: That there is not, so far as we can determine, any general provision of law requiring all contracts of a city to be let on bids.

J. W. Galloway, June 19, 1917.

Improvement Districts—State Institutions.

Query: May a municipality issue bonds against property of a State institution which is included within an improvement district?

Held: Neither the State nor the institution can be assessed for

local improvements. Bonds issued by a city including such property within an improvement district are not invalid by reason of such inclusion.

Dr. E. A. Bryan, September 23, 1918.

Officials—Qualifications.

Query: Can a non-resident of a village legally hold the office of village attorney?

Held: That there is no legal objection to the appointment of a non-resident as village attorney.

F. E. Smith, May 10, 1917.

Officials—Qualifications.

Query: Do Sections 2183 and 2189 of the Revised Codes of Idaho, prescribing the qualifications of certain city officials, apply to appointive officers of a city?

Held: That said sections relate to elective officers only.

J. W. Taylor, May 3, 1917.

Optometrists—License.

Query: May a municipality charge optometrists who make periodical visits a higher rate of license than members of the profession who are permanently located in the municipality?

Held: That it may.

E. S. Owen, May 25, 1917.

Peddlers License—Farm Products.

Query: Has a city or village in Idaho the authority to pass an ordinance requiring persons who sell their own farm products to obtain a license?

Held: That it has not.

H. S. Vance, October 19, 1917.

Ownership of Public Utilities.

Query: Can a municipality which owns and operates plants charge rates sufficiently high to cover operating expense, depreciation and in addition a reasonable return of the investment sufficient, at least, to cover the interest on the water works bonds?

Held: That a municipality is not required to limit the rate to the actual expense of furnishing water, but may fix a rate which will result in some profit to it which it may use to meet its other public needs.

Held further: That funds received from the operation of a municipal water plant cannot be used to pay principal or interest on bonds issued in payment for the system. Principal and interest of such bonds must be made by taxes levied upon all the taxable property of the city.

Public Utilities Commission, May 14, 1917.

Purchase of Fire Equipment.

Query: Can incorporated villages or towns purchase fire protection with funds obtained by taxation?

Held: No.

George F. Steele, January 20, 1917.

Street Speaking.

Query: Can public speaking on the streets be prohibited by city ordinance?

Held: A city or village has authority to pass an ordinance entirely prohibiting public speaking on the streets.

Emerson E. Hunt, August 29, 1917.

CORPORATIONS**Annual License Tax.**

Query: Is an association not organized for profit exempt from the payment of annual license tax, even though it is not a religious, social or benevolent corporation?

Held: That it is.

Hon. W. T. Dougherty, September 27, 1918.

Co-operative Associations.

Query: Is a co-operative association carrying on a commercial business exempt from the annual license tax imposed upon corporations.

Held: It is not.

Edward H. Berg, August 27, 1918.

Foreign—Annual Tax.

Query: Upon what basis shall the annual license fee of a foreign corporation be figured when the stock of the corporation has no par value?

Held: That before admitting the corporation to transact business in Idaho, the Secretary of State has the right to demand that the actual value of the capital stock be fixed and the entrance fees and annual license fees are then based upon such actual value.

Christopher L. Ward, October 3, 1917.

Mutual Light and Power Companies.

Query: Is a mutual light and power company required to pay the annual corporation license tax required by Section 2 of Chapter 6 of the Laws of 1912?

Held: Companies of this character are not exempt from the payment of the annual license fee required by the act.

Hon. James R. Bothwell, December 11, 1917.

Ownership of Lands.

Query: May corporations hold lands for agricultural purposes in the State of Idaho?

Held: That they can.

Tuesburg, Wilson and Armstrong, April 14, 1917.

Similarity of Name.

Query: Has the Secretary of State authority to refuse a certificate of incorporation to a corporation having a name similar to a foreign corporation already authorized to transact business within this State?

Held: A certificate should not be refused a foreign corporation simply because another foreign corporation is using the same name in Idaho. A certificate should not be refused a domestic corporation on the ground that a foreign corporation is using the same name in Idaho. A certificate should be refused either a foreign or domestic corporation which attempts to use a name similar to that of a domestic corporation already organized in this State.

W. T. Dougherty, February 8, 1918.

COUNTIES

Aid to Fairs.

Query: Has a Board of County Commissioners authority to appropriate money in aid of a county fair?

Held: That Section 4 of Article 12 of the Constitution of the State which section prohibits a county from making a donation in aid of any company or association, makes it illegal for a county to appropriate money in aid of private corporations or association conducting a fair.

E. J. Finch, November 10, 1917.

Appropriation of Funds for Agricultural Fairs.

Query: Can the County Commissioners appropriate money for State or County fairs?

Held: That there is no authority for a county to make a direct contribution in aid of a State Fair; nor could a county appropriate money for the purpose of paying premiums at either a State or County fair.

O. P. Hendershot, May 2, 1917.

County Agents—Authority to Appoint.

Query: Has the Board of County Commissioners authority to appoint a county agent under the provisions of Chapter 157 of the Laws of 1917?

Held: The board has authority to employ a county agent, as contemplated by the act, and he should be paid from the general funds of the county.

F. E. Smith, September 25, 1918.

County Board of Health—Control of Rabies.

Query: Has the County Board of Health authority to control rabies?

Held: That the County Commissioners acting as a County Board of Health have full power to make such rules and regulations for the purpose of controlling the spread of rabies as they may see fit.

Harvey Allred, February 23, 1917.

County Commissioners—Appointment of Physicians.

Query: Has the Board of County Commissioners authority to appoint a county physician after having failed to make the appointment at the January meeting?

Held: That said board can appoint a county physician at any regular meeting of the board, and particularly so if the minutes of

the board show that the matter was considered at the meeting named in the statute and continued until a later date.

David C. Kunz, May 1, 1917.

County Commissioners—Control Over Deputies.

Query: Have the County Commissioners authority to command a stenographer to perform work outside of the prosecuting attorney's office after she has been employed under the provisions of H. B. No. 82, and who has the direction of her employment?

Held: That the stenographer, when once employed by the County Commissioners, is not subject to their direction, and cannot, without the consent of the prosecuting attorney, be used in connection with the other departments of county government.

Alfred Stone, January 12, 1917.

County Commissioners—Dogs Running at Large.

Query: Have the County Commissioners authority to pass a resolution controlling the running at large of dogs?

Held: That they have.

T. E. Ray, January 12, 1917.

County Commissioners—Levy for Bridges.

Query: Can the County Commissioners make a levy to construct two bridges, the bridges being situated in different ends of the county?

Held: They cannot.

Charles B. Ross, January 12, 1917.

County Commissioners—Mileages for Officials.

Query: Is the Board of County Commissioners permitted to pay both the sheriff and constable 40 cents per mile one way for the cost of running the automobile of these officials in the discharge of their official duties?

Held: That the Board of County Commissioners could not allow a sheriff or constable 40 cents per mile, or any sum in excess of 20c per mile going for the maintenance of the official's automobile used in performing his duties.

W. E. Matthaei, January 22, 1917.

County Commissioners—Removal From District.

Query: Does a County Commissioner who had been elected in District No. 2 vacate his office so as to leave it open for filling by appointment by the Governor, by moving his residence to District No. 1?

Held: That he does not.

W. R. Hyatt, January 19, 1917.

County Commissioners—Rodents—Purchase of Poison.

Query: Can the Board of County Commissioners purchase strychnine and retail the same through the county agent to farmers for the purpose of poisoning rodents?

Held: That they cannot.

Spencer L. Baird, February 17, 1917.

County Commissioners—Salaries.

Query: Does House Bill No. 16 reclassifying the counties of the

State and changing the salaries of County Commissioners affect the salaries of Commissioners now in office?

Held: That it does.

C. B. Ross, June 30, 1917.

Finances—Handling of Funds by County Treasurer.

Query: Has the County Treasurer authority to carry all funds in one account whether received from tax collections or from other sources?

Held: That the banks should be required to pay interest upon all sums deposited by the County Treasurer regardless of the sources from which they are received.

W. A. Thomas, April 24, 1917.

Fugitives From Justice—Reward.

Query: Can a Board of County Commissioners legally offer a reward for information leading to the arrest or conviction of a criminal?

Held: That it cannot.

George Donart, April 5, 1917.

Powers of Counties—Ownership of Real Estate.

Query: Can a county legally own real estate?

Held: That we see no reason why the county could not accept a donation of the property now owned by the parties who are, and will be during their lives, charges of the county.

Mrs. Hattie Sharai, May 10, 1917.

Prosecuting Attorneys—Special.

Query: Has a Board of County Commissioners authority to employ a special prosecuting attorney when the regular prosecuting attorney is disqualified and pay said special prosecutor out of the general expense fund of the county.

Held: The board has this authority if the special prosecutor is appointed strictly in accordance with the provisions of Section 2081 of the Revised Codes.

Query: Has a Board of County Commissioners authority to pay a detective for services rendered in connection with the prosecution of a case?

Held: That they have.

E. C. Maynard, July 15, 1917.

Salary of County Superintendent.

Query: What amount of salary may be paid the County Superintendent of Public Instruction?

Held: It is the duty of the Board of County Commissioners to fix the amount of the salary of the County Superintendent at its regular meeting in April before a general election. It is provided that the County Superintendent shall receive not less than \$1000 per annum and not to exceed \$2000.

Harriet M. Wilson, April 7, 1917.

COURT REPORTERS.**Assistants—Compensation.**

Query: May a court reporter employ an assistant to facilitate the work of transcribing testimony in criminal causes and agree to pay said assistant out of funds subsequently received for the transcription of evidence in civil cases?

Held: That he can.

W. L. Phelps, February 23, 1918.

Deputy Court Reporter—Salary.

Query: From what funds can a deputy court reporter be paid?

Held: Deputy court reporters are paid out of the fees received by them for performing their official duties.

Clarence Van Deusen, January 30, 1918.

Pay of Assistants.

Query: Does Section 3983 of the Revised Codes contemplate that the State Auditor shall draw warrants for the payment of assistant court reporters?

Held: The statutes provide for the payment of assistant reporters by the reporter out of fees received before turning the balance of such fees into the State Treasury. Under this procedure, the State Auditor does not draw warrants to pay assistant reporters.

Clarence Van Deusen, January 30, 1918.

ELECTIONS**Absent Voting—Quarantine.**

Query: Can persons under quarantine at the time of a general election vote under the provisions of the absent voting law?

Held: They cannot unless they are actually absent from their precinct and have made application for a ballot in accordance with law.

W. E. Taylor, October 23, 1918.

Ballots.

Query: Can a County Auditor refuse to print on the official ballot the name of a candidate who has failed to file his expense account in accordance with the provisions of the primary law?

Held: The printing of official ballots is a ministerial act and the County Auditor must print thereon the names of all candidates regularly nominated.

Arthur C. Tracy, October 2, 1918.

Ballots.

Query: Is Section 1971 of the Revised Codes repealed by the amendment to Section 306, Chapter 93, Laws of 1917?

Held: There is no conflict between the two sections and Section 1971 is still in force.

Candidates—Residence.

Query: If votes are cast at a primary election for a person who

is not a resident of the county, should such votes be canvassed by the Board of County Commissioners?

Held: It is the duty of the Board of County Commissioners to canvass all votes cast and it is not within their province to pass upon the eligibility or qualifications of persons voted for.

Query: Is such person entitled to be a candidate for county office by virtue of the votes received at the primary election?

Held: If the person voted for is not a resident of the county at the time of the primary election, he is not a qualified elector and cannot become a candidate for county office at the general election.

Charles S. Austin, September 9, 1918.

Nomination—Acceptance.

Query: Has a candidate for county office the right to withdraw his acceptance of nomination after the expiration of the statutory period for accepting or declining?

Held: A candidate has the right to withdraw his acceptance at any time prior to the official publication of the names of the candidates.

Henry S. Gray, Aug. 17, 1918.

Primary—Nomination Papers.

Query: Should the Secretary of State receive and file nomination papers for the primary election which were deposited in the mail before the expiration of the time for filing nominations, but which were not received at the office of the Secretary of State until after the expiration of said time?

Held: The Secretary of State has no authority to file nomination papers which were not presented for filing at his office before the expiration of the statutory period.

W. T. Dougherty, August 5, 1918.

Primary—Nomination Papers.

Query: Has a county auditor authority to receive an acceptance of nomination which was not presented for filing within the statutory period? May acceptance be given by telephone?

Held: The acceptance must be signed and presented for filing within the statutory period of five days and the county auditor has no authority to give validity to an acceptance by telephone.

Ray Gudmundsen, August 9, 1918.

Primary—Withdrawal of Acceptance.

Query: May a candidate who has filed his acceptance of nomination withdraw the same?

Held: A candidate may withdraw his acceptance at any time before the official makes up his certified list of candidates.

Logan D. Hyslop, August 9, 1918; Emil Elder, August 13, 1918.

Primary—Acceptance of Nomination.

Query: May a candidate whose nomination was regularly filed indicate his acceptance of the same by telegram?

Held: If the telegram which was filed for transmission was

signed by the candidate and transmitted and received within the statutory period, such acceptance is valid.

F. M. Hobbs, August 12, 1918.

Registration.

Query: Must a person be registered as required by law, in addition to possessing the qualifications prescribed in Sec. 2 of Art. 17 of the constitution of Idaho, in order to be a qualified elector and entitled to sign a petition to a city council to permit theaters and moving picture shows to keep open on Sunday, under Chap. 99 of the 1911 Session Laws at page 242?

Held: That registration is not necessary to constitute a person a qualified elector as the term is used in said Chap. 99 of the 1911 Session Laws.

C. D. Bucknum, June 6, 1917.

Registration Officers—Notary Public.

Query: Can a notary public act as registration officer for a village election?

Held: That he cannot. The city clerk is the registration officer of the city.

E. J. McKinley, April 10, 1917.

FINANCES.

Deficiency Warrants—Issuance.

Query: May deficiency warrants be issued to pay expenses incurred by state officials in Northern Idaho in connection with labor troubles?

Held: That if it was necessary to incur state expense to prevent riots or insurrections, the issuance of deficiency warrants would be legal.

M. Alexander, August 1, 1917.

Deficiency Warrants—Fire.

Query: May deficiency warrants be issued to relieve suffering occasioned by reason of fire at Harrison, Idaho?

Held: The issuance of deficiency warrants under such circumstances is authorized by Sec. 1, of Chap. 164 of the Laws of 1915.

M. Alexander, August 1, 1917.

Transfer of Funds in State Treasury.

Query: Has the State Treasurer and Auditor a legal right to transfer unappropriated money now in the State Treasury amounting to \$2,249.53 into the general fund; said amount being made up of a number of items which came into the Treasurer's office before the time the present incumbent took his office?

Held: That the Auditor and Treasurer not only have such authority, but in our opinion they should transfer the above mentioned amount to the general funds of the State.

C. Van Deusen, February 6, 1917.

Insurance Money—Lewiston Normal.

Query: Has the State Board of Education authority to expend

for rebuilding purposes the proceeds of the insurance policies on the Lewiston State Normal Building, which was destroyed by fire?

Held: The State Board of Education has no authority to expend these funds. The insurance proceeds must go into the general fund of the State Treasury and can only be drawn by an Act of the Legislature.

Hon. M. Alexander, January 8, 1918.

FISH AND GAME LAWS.

Fish and Game Employees.

Query: May fish and game employees enter the employment of the Federal Government in the enforcement of the Federal Game Laws and receive compensation therefor?

Held: The only employees prohibited from accepting such employment are the assistant chief deputies of the game department.

E. W. Nelson, July 21, 1917.

Fish Ladders—Maintenance.

Query: Can Sec. 14, Session Laws of 1909, be applied to a fish ladder in the Sunbeam Dam at this time?

Held: That the statutes make it unlawful to maintain dams without fish ladders (1911 Laws, p. 183, Sec. 10).

Leroy C. Jones, January 22, 1917.

Fish Screens.

Query: Is it the duty of the Game Department to compel the owners of the Owsley Project to install screens so as to prevent the pumping of spawn from the feed ditch into the distributing canals?

Held: If the construction of the screen would not affect or retard the flow of water, it is the duty of the department to install the screen in the event the company fails to do so.

W. H. Thorpe, August 31, 1918.

Licenses—Partnership.

Query: May all members of a partnership fish under a license issued to the partnership?

Held: That they can.

W. M. Stark, February 16, 1918.

Unlawful Possession.

Query: When a person brings into this State beaver hides whose possession is prohibited by the laws of Idaho, does it constitute a violation of our laws if the hides were lawfully secured in another jurisdiction?

Held: Such possession constitutes a violation of the laws of Idaho, regardless of how the hides were secured.

Lewis A. Lee, March 20, 1918.

HIGHWAYS AND HIGHWAY DISTRICTS.

Accidents on State Highway.

Query: Is the State liable in damages for accidents occurring on

the State Highway by reason of negligence on the part of the State?

Held: That the State is not liable in damages for accidents occurring on the State Highway, even though such accident was the result of a negligence on the part of the state.

W. A. Broadhead, June 14, 1917.

Bond Issues—Municipalities.

Query: Can a municipality compel a highway district to expend a portion of a highway district bond issue within the limits of a municipality located within the district?

Held: The expenditure of a highway district bond issue is in the hands of the highway district commissioners. If the commissioners apportion a part of the bond issue to a municipality, the expenditure of such portion is in the hands of the trustees of the municipality.

J. W. Taylor, February 11, 1918.

County Surveyor as Highway District Director.

Query: Can one person legally hold the office of director of a highway district and the office of county surveyor at the same time?

Held: That he can.

O. R. Baum, October 10, 1917.

State Highway Commission—Expenditures.

Query: Has the State Highway Commission authority to expend money on roads other than State Highways?

Held: That it has not.

State Highway Commission, September 15, 1917.

Highway Appropriations—Expenditure.

Query: Is the State Highway Commission authorized to expend the remaining balance, amounting to \$3,894.95, of the \$19,000 appropriated for constructing the Ft. Hall road?

Held: That the Commission would not be authorized to appropriate this balance for the purpose of repairing that road.

Idaho State Highway Commission, January 22, 1917.

State Highways—Cities—Maintenance of Streets.

Query: Can the Burley Highway District use its share of the poll taxes collected by the City of Burley to gravel the street in said city which is part of the State Highway?

Held: Sec. 8 of the Act provides that state highways shall be maintained at the sole expense of the State, unless any part thereof shall be or become a part of a city or incorporated village, in which event the portion within the city or village limits shall be turned over to and maintained by the city or village. Under this provision, the City of Burley must maintain the street in question, and the Burley Highway District is not authorized to expend any money for its maintenance or repair.

Albert Ploeger, January 23, 1917.

Withdrawal of Part of District.

Query: Is it possible for any part of a highway district to withdraw from the main body?

Held: That it is not.

Charles C. Swartwood, January 12, 1917.

INSURANCE COMPANIES.**Fraternal and Benevolent Societies.**

Query: Do Senate Bills 79 and 163 passed by the 1917 Legislature apply to or affect in any way fraternal insurance societies doing business in Idaho?

Held: That the acts referred to have no application to a mutual benefit and benevolent society.

H. H. Barton, April 4, 1917.

Annual Statement.

Query: Must an insurance company which contemplates withdrawing from the State and not transacting any business within the State during the ensuing year, pay the filing fee of \$50.00 at the time of filing its annual statement?

Held: The fee must be paid for the reason that it is a filing fee and not a license tax for the privilege of transacting business during the ensuing year.

Hon W. R. Hyatt, June 4, 1918.

Annual Statement—Fees.

Query: Should the insurance commissioner collect the statutory fee for filing annual statement from a foreign insurance company which is withdrawing from the state?

Held: That he should.

Query: Can an insurance company deduct from its gross premiums on which it pays a 2 per cent. tax, the amount of said premiums distributed to policy holders as dividends?

Held: That they cannot.

W. R. Hyatt, March 5, 1918.

Annual Tax.

Query: Section 25 of the Insurance Laws provides that life insurance companies shall pay annually to the Insurance Commissioner a tax of 2 per cent upon the amount of all gross premiums received by the company during the year. Under this provision, is an insurance company authorized to deduct from the gross premiums received the amounts credited to policy holders as dividends?

Held: The tax must be figured upon the gross amount of the premiums without deducting any amounts credited as dividends.

Clency St. Clair, May 27, 1918.

Annual Tax—Gross Premiums.

Query: Must a life insurance company pay an annual tax upon the gross premiums levied within this State, or should the tax be paid upon the amount actually collected after deducting dividends allowed to policy holders?

Held: The tax must be based upon the gross premiums before deducting dividends.

W. R. Hyatt, May 1, 1918; Clency St. Clair, May 27, 1918.

INTOXICATING LIQUORS.**Advertisements in Periodicals.**

Query: Do the laws of Idaho prohibit the sale of periodicals carrying advertisements of intoxicating liquor?

Held: That the Act of March 16, 1917, in conjunction with the Federal Law prohibits the sale of such periodicals after July 1, 1917.
Utah News Company, May 24, 1917.

Automobiles—Transportation of Intoxicating Liquor.

Opinion relative to constitutionality of law and manner of procedure thereunder relative to the seizure of automobiles which are being used for the transportation of intoxicating liquor.

C. Redman Moon, June 27, 1917.

Disposition—Police Court—Jurisdiction.

Query: What jurisdiction does the police court of a city have over cases involving violation of liquor laws?

Held: Unless the Act complained of constitutes violation of a city ordinance, the city police courts have no jurisdiction.

Query: What disposition should be made of liquor coming into the possession of the police department of a city through arrests for violation of the liquor laws?

Held: The liquor should be held subject to the order of the district court.

George E. Mabey, September 15, 1917.

Sale—Transportation.

Query: Does the Act of Congress of August 10, 1917, supersede the State law relative to the sale and transportation of intoxicating liquor so as to obviate the necessity of obtaining permits from the Probate Court, as provided in the Laws of 1915, Page 41?

Held: Under the Act of Congress, the regulations of the Bureau of Internal Revenue and the executive order of September 2, 1917, the status of the anti-liquor laws of Idaho is as follows:

1. In order to sell pure alcohol a druggist must deposit a bond with, and secure a permit from, the Commissioner of Internal Revenue.

2. In order to transport pure alcohol into the State, a druggist must obtain a permit therefor from the Probate Court.

3. A qualified and bonded druggist may sell pure alcohol only for non-beverage purposes and to other druggists who are legally qualified and bonded under the federal regulations.

4. Before selling alcohol (except as last above), the qualified and bonded druggist must medicate the same as prescribed by formulae; must sell such medicated alcohol in quantities of one pint or less; must label the container "poison"; must not medicate the alcohol in advance of sale.

5. An individual purchaser does not have to obtain a permit from the Probate Judge to purchase medicated alcohol.

R. E. Weniger, February 7, 1918.

Seizure of Automobiles:

Query: Can an automobile which has been seized by the sheriff under Sec. 3 of Chap. 45 of the 1917 Session Laws be taken from the

sheriff under a writ of replevin issued on the theory that the law is unconstitutional?

Held: Where an officer seizes property under authority of a void act, replevin will lie.

Aaron Clements, November 22, 1917.

Storage By Wholesale Drug Co.

Query: May a Wholesale Drug Company ship alcohol in large quantities into the State of Idaho and store the same therein?

Held: The only method whereby alcohol for scientific and mechanical purposes may be shipped and stored is by regularly licensed pharmacists securing a permit for that purpose from the probate court. The law places no limit upon the amount which may be secured under such a permit. No one but a licensed pharmacist can obtain such a permit.

Smith-Faus Drug Company, July 24, 1917.

Transportation.

Query: May vehicles used for the illegal transportation of liquor be seized when not owned by the person transporting it?

Held: That they may.

Ski Keckler, August 2, 1917.

LIVESTOCK SANITARY BOARD.

Expenditures.

Query: Has the Livestock Sanitary Board a legal right in case of an emergency to withdraw and use funds collected in excess of the appropriation for the office of State Veterinarian?

Held: That under Sec. 1, Chap. 71 of the 1917 Session Laws, it would seem clear that the money to be used by the Livestock Sanitary Board or the State Veterinarian would be limited to the amount of the appropriation, \$49,450.

Dr. H. G. Bodle, July 5, 1917.

Lewiston Livestock Show.

Query: Can the Livestock Sanitary Board authorize and certify to the Board of Examiners the expenditure of \$2,500.00 in behalf of the Lewiston Livestock Show for policing grounds, bedding and sanitary improvements to be paid out of the Livestock Sanitary fund?

Held: That it cannot.

Paul Clagstone, January 15, 1917.

Livestock Sanitary Fund.

Query: Is the money in the Livestock Sanitary Fund available for payment of the current expenses of said department?

Held: That it may be used.

M. Alexander, January 10, 1917.

Livestock Sanitary Fund—Predatory Animal Claims.

Query: Can we take a certain amount from the Sanitary Livestock Fund that has accumulated in the State Treasury, for the purpose of paying the Predatory Animal claims for the year 1916?

Held: That there is no authority to draw upon that fund.
M. Alexander, February 19, 1917.

Livestock—Shipment—Brand Inspection.

Query: Is brand inspection required in shipment of stock from one point in the state to another point in the state?

Held: That it is not. Brand inspection is only necessary in case of shipments outside the state.

W. P. Briggs, November 3, 1917.

OFFICERS.

Changes in Salary of County Clerk During Term.

Query: Do the laws of Idaho permit a Board of County Commissioners to make any change in the salary of the County Clerk during his term of office, and after the salary has once been fixed?

Held: That the salary of an official can neither be increased nor diminished during his incumbency.

C. L. Miller, January 20, 1917.

Clerk of District Court—Fees.

Query: Should the Clerk of the District Court collect an additional fee of \$3.00 upon the filing of a cross complaint by a defendant who already has appeared and filed an answer and paid the filing fee of \$3.00?

Held: That Sec. 2121 of Revised Codes does not contemplate the collection of two appearance fees from an answering defendant.

F. M. Fisher, May 18, 1917.

County Attorney—Filing Complaints.

Query: Is it the duty of the county attorney to file a complaint against one guilty of perjury or is it the duty of the party against whom the perjury is committed?

Held: That it is the duty of the County Attorney.

Daisy B. Johnson, February 23, 1917.

County Commissioner Acting as Road Overseer.

Query: Can a member of the Board of County Commissioners be appointed as road overseer or supervisor and collect additional compensation for his services in that capacity?

Held: That he could not.

February 24, 1917.

County Commissioners—Health Officers.

Query: Can the county commissioners draw a salary as county health officers in addition to their regular salaries as county commissioners?

Held: That the laws of Idaho do not contain any provision authorizing such payment, and the Supreme Court of this state has held in several instances that county commissioners cannot draw pay in addition to their regular salaries for any duties performed by them in connection with the work of their office.

C. Van Deusen, May 7, 1917.

Query: May county commissioners draw salaries as county health officers in addition to their regular salaries as county commissioners?

Held: They cannot.

A. B. Rice, February 13, 1918.

County Commissioner Holding Office of Highway Commissioner.

Query: Can one person hold the two offices of county commissioner and highway commissioner?

Held: That there is no law prohibiting one person holding these two offices at the same time; however, we are of the opinion that it is not good policy for one person to hold the two offices since in some instances the duties and interests of the two come into conflict.

Chas. O. Greenwood, March 31, 1917.

County Commissioners—Hotel Expenses.

Query: Under the provisions of House Bill No. 16, should the county commissioners who reside some distance from the county seat be allowed their hotel expenses incurred while at the county seat?

Held: That this Act would prohibit county commissioners from charging their hotel expenses to the county, incurred while in the county seat.

Frank L. Stephan, June 8, 1917.

County Officers—Expenses.

Query: May a county officer legally retain and use fees which he has collected to reimburse himself for expenses incurred in connection with his official duties?

Held: A county officer may retain his necessary expenses out of the fees of his office.

C. Van Deusen, August 18, 1918.

County Treasurer and County Assessor—Exchange of Duties.

Query: Can a county treasurer and a county assessor exchange work and one appoint the other as his deputy?

Held: That Sec. 1808 and 6392 would prohibit a county treasurer and a county assessor from exchanging work or one acting as the deputy of the other. The evident purpose of these sections of the codes is to prevent one revenue officer from doing anything touching on the work of another.

C. Van Deusen, May 7, 1917.

County Treasurer—Residence.

Query: Does the law require the county treasurer to reside at the county seat?

Held: That there is no provision in our statutes which could be interpreted as requiring the county treasurer to reside at the county seat.

W. N. Hollenbeck, June 22, 1917.

Holding County and City Office.

Query: Can one holding the office of county assessor accept and hold the office of city clerk legally?

Held: That there is nothing in the State laws prohibiting the same.

O. F. Crowley, April 13, 1917.

Is Vacancy Occasioned By Death of Officer-elect?

Query: Is there a vacancy in the office of the sheriff caused by the death of the sheriff-elect before he was sworn in and qualified to act in that capacity?

Held: That no vacancy exists.

Ben W. Davis, January 9, 1917.

Methods of Paying Salaries of County Commissioners.

Query: Am I justified under the laws now existing to issue warrants for the salaries of county commissioners on the first of each month?

Held: That the salaries of county officials must be paid quarterly and not monthly.

Jenkin Jones, January 13, 1917.

Official Bonds—Payment of Premium.

Query: Wherein is the authority for the payment by the state of the premiums on official bonds of state officials?

Held: That aside from the fact that a specific appropriation for such purpose undoubtedly is sufficient authority, Sec. 2941 of the Revised Codes authorizes such payment.

Mr. Justice Budge, May 21, 1917.

Probate Judges—Fees.

Query: May a probate judge collect a fee for a day's time under the statute allowing \$2.00 per day for time consumed in conducting civil cases, where all that is done is the entry of a default judgment?

Held: That he cannot.

Chas. D. Sutton, February 14, 1918.

Probate Judges—Powers.

Query: Am I required to collect a fee either for the issuing of permit or administering the oath; also could an oath be administered by anyone other than the probate court?

Held: That you could not make a charge for administering the oath, neither should you accept affidavits made before some other officer.

Judge Charles G. Cromwell, February 13, 1917.

PUBLIC UTILITIES COMMISSION**Express Companies—Delivery Service.**

Query: Has an express company the right to restrict its delivery limits within a city without making a proper showing to the Public Utilities Commission and securing the approval of that body?

Held: The proposed action of the express company is the alteration of a practice within the meaning of Section 59-a of the Utilities Law, and the express company has no right to take such action without securing the prior approval of the Public Utilities Commission.

Public Utilities Commission, August 22, 1918.

Jurisdiction Over Mutual Water Companies.

Query: Has the Public Utilities Commission jurisdiction over mutual water corporations?

Held: That it has not.

Query: Has the Public Utilities Commission jurisdiction over irrigation districts?

Held: That it has not.

Public Utilities Commission, August 2, 1917.

Lumber and Logging Companies.

Query: Is a lumber and logging company a common carrier and subject to regulation by the Public Utilities Commission?

Held: Companies of this character are not public utilities and not within the jurisdiction of the Public Utilities Commission.

Public Utilities Commission, August 20, 1918.

Warehousemen.

Query: Has the Public Utilities Commission jurisdiction over the rates charged by warehousemen for cleaning and chopping grain?

Held: It has not.

Public Utilities Commission, October 2, 1918.

SCHOOLS AND SCHOOL DISTRICTS.

Agricultural Extension Work.

Query: Have the trustees of school districts any authority to contribute money toward the support of a country club engaged in agricultural extension work.

Held: School districts, except independent school districts, have no authority to expend money for this purpose.

Harriet M. Wilson, December 27, 1917.

Apportionment of Bonded Indebtedness.

Query: When a new school district is created out of an old district, should the outstanding indebtedness of the old district be apportioned between it and the new district? If not, can the trustees of the new district contract to assume a portion of the obligations of the old district? Can the two districts agree by contract that a portion of bond funds of the old district may be used for improvements in the old district?

Held: The new district is not liable for any of the outstanding indebtedness of the old district. The new district is entitled to the school property which the division placed within its area. The districts have no power to enter into any contracts to distribute the property or, indebtedness in any manner other than as provided by law.

Ethel E. Redfield, July 23, 1917.

Bond Election—Validity.

Query: Where the notice of a special bond election provides that the amount of bonds to be voted, for the purpose of providing and improving school houses and grounds and furniture, apparatus and fixtures for the district, shall be 6 per cent of the assessed valuation of the property, instead of 5 per cent authorized by law, will the election be legal, and will bonds issued by virtue thereof be valid?

Held: That weight of authority is that bonds issued in excess of the legal limitation, would be valid to the amount authorized by law.

and invalid as to the excess above the amount authorized by law, but advise that new election be held.

Myrtle Journey, May 9, 1917.

Bonded Indebtedness.

Query: Can any deficiency in the levy made to meet sinking fund requirements be met from the general fund of the district?

Held: The deficiency must be met from the general fund and a special levy cannot be made to meet it.

Robert Price, August 21, 1918.

Bonds—Payment of Principal and Interest.

Query: Should payment of principal be made on school district bonds issued under House Bill No. 320 when interest payment is made?

Held: That under the amortization plan, a payment of principal is made on each interest paying date.

Query: Can twenty-year school district bonds be issued, payable in ten years at the option of the Board of Trustees?

Held: That bonds must be issued to mature definitely in a certain number of years not to exceed twenty. We do not think bonds should be issued payable at the option of the trustees. They must be payable on a definite date, payments to be made on the principal and interest of such bonds in installments under the amortization plan.

D. C. Kunz, April 13, 1917.

Bonds—Sale.

Query: Is it necessary for a Common School District to advertise the sale of its bonds when purchased by the Land Board?

Held: That it is not.

Department of Education, July 31, 1917.

Cancelled Bonds—Custody.

Query: When bonds issued by a Common School District have been paid, who is entitled to the cancelled bond?

Held: That as the cancelled bond is the only receipt which the County Treasurer would have for moneys expended, it would seem that they should be returned to the County Treasurer, and not to the Secretary of the District. This being so, we advise that the cancelled bond be delivered to the County Treasurer.

W. H. Sebern, March 29, 1917.

Common School Districts—Transportation of Pupils.

Query: Have the trustees of a common school district authority to provide for the transportation of pupils to another location and pay the expenses out of district funds?

Held: If an expenditure for this purpose has been authorized at the annual school meeting, the board of trustees has authority to carry it into effect.

Francis L. Mills, September 13, 1918.

Contracts—Bids.

Query: Does the law require that all school buildings be built by contract let on competitive bids?

Held: That Section 58-G of the School Laws prohibits school trustees from authorizing construction work except on competitive bids.

Henry J. Nelson, October 1, 1917.

Contracts With Member of Board.

Query: Is a member of the school board prohibited from being interested directly or indirectly in any contract made by the board of trustees of which he is a member?

Held: That your school board could not legally purchase a piano from a firm represented by one of the school board.

William E. Geyer, January 13, 1917.

Distribution of Funds Raised by Taxation.

Query: Under House Bill No. 257 is there insured to each district \$15 for each child on its census, and does Section 2 of House Bill 257 repeal the law requiring the county superintendent to apportion 40 per cent according to the number of teachers and 40 per cent according to the census?

Held: That House Bill 257 fixes the minimum of levy of schools and does not insure or guarantee that amount to each district. We believe that the one and one-half per cent provided for payment of county expenses in assessment, levy and collection of the tax would be deducted from that minimum of \$15 per child, in case the minimum were levied. We do not understand that Section 2 of House Bill 257 repeals or abrogates Section 67 of the Laws of 1915 relating to the appropriation or distribution of moneys raised by the levy. House Bill 257 provides for the raising of a school fund by taxation, and does not relate to the apportionment and distribution thereof.

Miss Margaret Knowlton, April 14, 1917.

Distribution of School Funds.

Query: Can the distribution of school funds be made at any other time than those which are designated in Section 66, Chapter 159, Session Laws 1911?

Held: That there has been no decision of the courts, and because of the definite terminology of the section, it does not seem to be open to any other construction than that the distribution shall be made semi-annually during the months of January and July.

Ethel E. Redfield, March 29, 1917.

Eighth Grade Pupils—Examinations—Diplomas.

Query: Can a county superintendent in a common school district issue examination questions for eighth grade pupils, even when approved by the State Department, and issue a diploma on them in preference to giving the usual state examination?

Held: That there being no express or implied requirement made by the statute that the examination be identical and uniform in the several counties, and since the statute provides that "it shall be the duty of the State Superintendent of Public Instruction to prepare, or cause to be prepared, eighth grade examination questions to be used by the county superintendents of the several counties of the State in the examination of applicants for eighth grade diplomas," we see at the present, no objection to following the course outlined by Dr. Sisson in his letter of instructions.

Blanche Skipper, March 29, 1917.

Elections—Notice.

Query: In an election for the removal of a school house must the notice be both posted and published, or is the posting sufficient?

Held: In common school districts posting alone is sufficient. In independent school districts, the notices must be both posted and published.

Stella Cook, February 26, 1918.

Elections—Qualifications—Effect of Change.

Query: In view of Senate Bill No. 167 which changes the qualifications of school electors, are certain trustees now serving who are not electors within the meaning of that bill, entitled to continue in office, or is the office now vacant?

Held: That the provisions applicable to independent school districts, would, in the opinion of this Department, have no bearing on a situation arising in common school districts.

E. O. Sisson, April 5, 1917.

Elections—Qualifications of Voters.

Query: Can a homesteader vote at a school district bond election?

Held: If the homesteader has children under the age of twenty-one, he can vote; if single and resides upon the homestead to which he has not acquired title or the right to title, he is not eligible to vote at the bond election.

Ben Daniel, April 23, 1917.

Elections—Validity.

Query: Are school elections held under the provisions of Senate Bill No. 167 which was declared unconstitutional, valid?

Held: That said elections will be considered as valid until their validity is attacked in the proper legal proceedings.

Fred Williams September 6, 1917.

Funds—Investments.

Query: Can the proceeds from the sale of state lands be invested in county refunding bonds?

Held: That they cannot.

J. W. Edgerton, October 18, 1917.

Expenditures—General Fund.

Query: Can a common school district use its surplus and a part of the general fund to enlarge a school building?

Held: That it cannot.

State Board of Education, October 16, 1917.

Fiscal Year.

Query: When does the fiscal year commence for school districts?

Held: That the fiscal year commences July 1 of each year.

Soule and Soule, August 13, 1917.

Funds—Manner of Raising.

Query: May a school district borrow money for the improvement of a school building in any manner except by the sale of bonds?

Held: The school laws contemplate that all moneys to be used in the erection or improvement of school buildings shall be raised by bond issues.

Ethel E. Redfield, August 4, 1917.

High School—Tuitions—Payment by School District.

Query: Arco has a two-year High School and Rigby has a High School; two of the girls from the Arco High School, after finishing one year's work, went to the Rigby High School and took a special course in typewriting, which course was not given in the Arco High School. Is the Arco school district legally liable for the tuition of the two girls who attended the Rigby High School?

Held: That under Section 1 of Chapter 13 of the 1917 Session Laws, it seems to us there would be no liability on the part of the Arco school district to pay for the tuition of the girls who did not complete the course offered in the Arco High School before they attended the Rigby High School. The fact that the Arco High School did not give the special course in typewriting would not affect the matter.

Mrs. Louisa Pratt, July 10, 1917.

Independent Districts—Bonds.

Query: Are the trustees of an independent school district authorized to issue refunding bonds without an election?

Held: That they are.

E. H. Ratliff, October 30, 1917.

Independent Districts—Borrowing Money.

Query: May an independent school district borrow money to complete a building or for running expenses until taxes are collected?

Held: That it cannot.

Fred J. Price, October 30, 1918.

Independent Districts—Refund Bonds.

Query: Can an Independent School District issue refunding bonds to take up outstanding current expense warrants?

Held: That Independent School Districts can issue refunding bonds only for the purpose of taking up outstanding bonding indebtedness.

O. R. Baum, September 15, 1917.

Independent Districts—Sale of Bonds.

Query: Do the laws require publication of notice of bond sale of bonds of an independent school district?

Held: Publication is not required.

Bash L. Bennett, September 24, 1917.

Independent Districts—Sinking Funds—Investment.

Query: May an independent school district invest its sinking fund in deficiency warrants of the district?

Held: That they cannot.

Therrett Towles, March 5, 1918.

Independent Districts—Teacher's Residence.

Query: Have the trustees of an independent school district the right to use money from the general fund to build a residence for teachers?

Held: That under the existing law, they have not.
A. J. Rockwood, May 15, 1918.

Independent District—Wagon Fund.

Query: Should the money which independent school districts are allowed to raise for a wagon fund be kept separate from the general fund, and in case the district does not use all the money so raised, could it be used for other purposes?

Held: The money should be kept in a separate fund, but any surplus which is not expended can be used for general maintenance purposes.

Margaret Knowlton, March 29, 1918.

Investment of Funds—Common School Districts.

Query: May a common school district invest its surplus in liberty loan bonds?

Held: If the surplus referred to is a sinking fund for bonds issued prior to March 20, 1917, the same may be invested in liberty bonds. Funds in the hands of the district for payment of bonds issued after March 20, 1917, must be kept on deposit in banks.

Dr. E. A. Bryan, October 22, 1917.

Libraries—Independent Districts.

Query: May an Independent School District use 3 per cent of the money apportioned it for a library, or must it levy a special tax?

Held: The provision of law relates to the expenditure by school districts of 3 per cent of its funds for libraries; it does not apply to independent districts.

G. Fae Sutton, September 14, 1917.

Limit of Indebtedness of Independent Districts.

Query: Does legislation passed at the last session change the limit of indebtedness which an independent school district could incur for the purposes of building a new school house?

Held: That House Bill No. 320 passed by the 1917 session to which you refer apparently does not relate in any manner to independent districts.

W. F. Brewer, April 5, 1917.

Maximum of Taxation.

Query: What is the maximum amount a school district can be taxed under all circumstances?

Held: There is no limit upon the amount of taxation excepting independent school districts, where the limit is placed at 15 mills on the dollar.

State Board of Education, January 24, 1918.

Payment of High School Tuition by School District.

Query: Has a district in which a pupil is attending High School the right to claim tuition from the district in which the pupil's par-

ents reside when the pupil is living upon other property that is owned by his parents in the High School District and upon which, presumably, they are paying taxes?

Held: That the district where the pupil is attending High School may charge the district from which transfer was made, with tuition at the rates specified at page 141, Laws of 1915, and page 442, subdivision 58-d of Laws of 1913.

Miss Ethel E. Redfield, April 24, 1917.

Payment of School Bonds.

Query: Do the Laws of 1917 authorizing the issuance of school bonds on the amortization plan contemplate the creation of a sinking fund?

Held: No sinking fund is created under this plan, but an annual levy is made sufficient to meet the interest and part of the principal.

Dr. E. A. Bryan, July 25, 1917.

Refund of Excess Taxes.

Query: Can the taxpayers in a school district obtain a refund of taxes paid in excess of the amount levied because of a clerical error of the county auditor?

Held: That Section 206, Chapter 58 of the 1913 Session Laws, page 240 authorizes the Board of County Commissioners to refund the amount of excess of taxes paid by persons in the school district. Application for such refund should be made by those entitled to it to the Board of County Commissioners, in accordance with said Section 206.

Miss Katherine Burgraf, April 16, 1917.

Refund of Taxes.

Query: Have the trustees of a school district authority to order a warrant issued to a taxpayer to reimburse him for taxes paid?

Held: The trustees are not vested with such authority.

Louisa Pratt, August 24, 1918.

Residence for Teacher.

Query: Have the trustees of school district authority to expend funds of the district for the construction of a residence for use of the teacher?

Held: That they have not.

A. F. Aines, September 25, 1917.

Rural High School Districts—Segregation.

Query: Can one of two common school districts forming a rural high school district withdraw over the protest of the other common school district?

Held: That the Board of County Commissioners is without jurisdiction to segregate one common school district from a rural high school district when such segregation would leave out one common school district in the rural high school district.

Ida E. Sullivan, July 18, 1917.

School House—Funds to Erect.

Query: Can a school district build a school house from money

raised by special tax when such money is in excess of the current expenses of the year?

Held: That the provisions of page 214 of the 1915 Session Laws permit such expenditure of funds raised by special tax and we are advised of no provision of statutory law nor ruling by decision which prohibits such expenditure.

Ethel E. Redfield, June 7, 1917.

Sale of Bonds—Publication.

Query: Do school districts have to advertise the sale of their bonds when the state is the purchaser?

Held: That publication is only required after rejection by the state or in the event the purchase price offered by the state is not satisfactory to the Board of Trustees of the school district.

State Board of Land Commissioners, April 10, 1917.

Sale of Old School House.

Query: Does a Board of Trustees of a common school district have power to sell and remove an old unused school building when the district has a new building which is being used?

Held: That Section 58-g of the 1913 Session Laws, page 442, clearly authorizes your board of trustees to sell the old school house when directed by a vote of the district.

A. F. Ames, April 12, 1917.

School Trustees—Vacancies.

Query: Does Section 125-b of the school law providing for the election of a trustee at the next general election to fill any vacancy which has occurred, apply to trustees who, prior to the amendment of the law, were appointed to fill unexpired terms?

Held: That it does.

R. N. Jackson, August 10, 1917.

Signing of Warrants by County Superintendent.

Query: May the county superintendent sign warrants for the payment of salaries of teachers and janitors, while there is outstanding against the district an indebtedness of \$708.00 for refund to the Oregon Short Line Railway?

Held: That the county superintendent may do so, and leave to subsequent levy and apportionment the raising of money to refund the Oregon Short Line.

State Board of Education, March 23, 1917.

Sinking Funds—Investment.

Query: May a school district invest its sinking funds in war savings certificates?

Held: That it can.

Hulda Anderson, March 21, 1918.

Superintendent—Length of Term.

Query: Have the trustees of a common school district power to hire a superintendent for a term of two or three years.

Held: That in as much as there is nothing in the law prohibiting such action, it is our opinion that the school trustees have power to

enter into such a contract. If the incoming board of trustees felt the superintendent so hired was not giving such service as the interests of the district demanded, it would have power to discharge him.

Bertha Stull Green, July 9, 1917.

Teachers—County Superintendent.

Query: When a county superintendent is employed by the school trustees to teach a school temporarily during a vacancy, can he legally be paid a salary therefor?

Held: There is no legal objection to such payment.

Ethel E. Redfield, March 29, 1918.

Teachers Institutes.

Query: Where notice of a teachers' institute was not given for the full ten days, as required by Section 108 of the School Laws, although actual notice was given to all the teachers in the county and all actually attended the institute and drew salary during the time, is such institute illegal and should another one be called?

Held: The institute is valid.

Jennie E. Kelleher, December 11, 1917.

Teachers Institutes—Expenses.

Query: Must counties share all the expenses of holding a joint institute to be paid out of funds received for teachers' certificates, or may warrant be drawn on the current expense fund?

Held: The expense of holding the institute must be paid out of the fund received for teachers' certificates until that fund is exhausted. If that fund is exhausted, a warrant may be drawn on the current expense fund to the amount of \$150.00.

Blanche Skipper, September 14, 1917.

Teachers' Salary—Quarantine.

Query: Does a teacher's salary continue during the period of quarantine when a school has been closed on account of a disease epidemic?

Held: That it does.

D. C. Peck, January 18, 1918.

Teachers—Salary.

Query: Is a school teacher entitled to salary for the period during which schools are closed on account of an epidemic?

Held: In the absence of an agreement to the contrary in the teacher's contract, he is entitled to compensation for this period.

James V. Ware, October 30, 1918.

Teachers—Salaries During Quarantine.

Query: Do teachers draw pay when schools are closed on account of quarantine?

Held: That the salary should continue throughout the period of the quarantine.

Ethel Redfield, February 24, 1917.

Trustees—Annual Meeting.

Query: Has the board of trustees of a common school district the right to disregard action taken at the annual school meeting pro-

vided the contemplated action of the board of trustees results in a saving to the school district?

Held: The board of trustees have no authority to disregard or overrule any action taken at the annual school meeting.

Edward Steiner, August 15, 1918.

Trustees—Employment.

Query: May a school trustee act as janitor of a school building and receive compensation therefor?

Held: That he may not.

Department of Education, October 19, 1917.

Trustees—Resignation.

Query: May a school trustee resign at his own pleasure, or has the county superintendent or any other authority power to require him to discharge the duties of his office until the close of his term?

Held: That a trustee may resign at his option and cannot be compelled to perform his duties.

E. O. Sisson, March 14, 1917.

Warrants—Payment by County Auditor.

Query: Should warrant signed by the clerk and a member other than the chairman of the board of trustees be paid by the county auditor?

Held: That where an order is signed by the clerk and by one of the members of the board and countersigned by the county superintendent of schools, it is the duty of the auditor to pay the same.

Spencer L. Baird, January 22, 1917.

Warrants—School District—Duty of County Auditor.

Query: Is a county auditor required to issue a warrant in payment of an order drawn upon a school district when such order exceeds the limit of expenditure allowed by law?

Held: That under Section 73 of the School Code of Idaho when an order for a warrant properly signed and countersigned is presented to the county auditor, it is his duty to draw the warrant, and he has no discretion in the matter. Once this warrant is drawn, it becomes a claim against the school funds of that district, and if no special appropriation is made to meet it, the holder thereof has a claim against the funds raised for the ensuing year.

C. Van Deusen, June 9, 1917.

STATE LANDS

Appraisement—Improvements.

Query: What improvements made by lessees of state land should be paid for by the purchaser when the land is sold by the state?

Held: The following improvements should be appraised and paid for by the purchaser. Fences, buildings, cisterns, wells, plowing done within one year, provided no crop has been raised on the land plowed since the plowing was done.

C. W. Whiffin, June 9, 1917.

Assignment of Certificates of Sale—Joiners by Wife.

Query: Should the wife of the assignor of a certificate of sale of state lands join in the assignment thereof?

Held: That she should.

John W. Eagleson, May 8, 1917.

Assignment of Lease—Rights of Assignor.

Query: Where the assignee of a state lease fails to make a renewal application and the land in question is leased to another party, is the original holder entitled to any pay for any improvements, provided he has taken a crop off of the land?

Held: That the original lessee has no interest in the improvements, since it is to be presumed that the assignee purchased the improvements at the time he took the assignment of the original lease.

L. G. Ryland, March 9, 1917.

SUNDAY LAWS**Express Companies—Shipments on Sunday.**

Query: Does the Sunday Rest Law of Idaho prohibit express companies from accepting milk for shipment on Sunday?

Held: It was not the intent of the Sunday Rest Law to prohibit business transactions of this character.

Walter Waterman, May 25, 1918.

Social Clubs—Conducting Games on Sunday.

Query: Can a social club legally conduct pool, billiard or card games on Sunday?

Held: That it cannot.

T. Bailey Lee October 10, 1917.

TAXES AND TAXATION**Assessment of Personal Property.**

Query: In whose name should personal property which is transferred after the second Monday in January and before actual assessment, be assessed?

Held: That an assessor may, in his discretion, assess personal property transferred between the second Monday in January and the time of actual assessment, in the name of the owner on either of the dates mentioned.

Charles H. Bohrer, April 5, 1917.

Banks—Capital Stock.

Query: Is that portion of the capital stock of a bank which it invests in liberty bonds exempt from taxation under the laws of Idaho?

Held: Although the Federal law exempts liberty bonds from taxation, the investment of capital stock of a bank in such bonds does not exempt that portion of the capital stock from taxation.

G. R. Hitt, August 27, 1917.

Banks—Deductions—Capital Stock.

Query: In case a bank has \$8000 invested in real property, which property is assessed by the assessor for \$6000, what amount should be deducted from the capital stock in making the assessment?

Held: That a deduction of \$8000 should be made from the capital stock.

Query: Is a bank entitled to exemptions from assessment for the amount of money it has invested in liberty bonds?

Held: That in our opinion no amount should be deducted from the capital stock for money invested in liberty bonds; though, of course, the bonds themselves could not be taxed.

R. S. Wilkie, June 27, 1917.

Bank Stock—Assessment.

Query: Where a bank is incorporated and begins business subsequent to the second Monday of January, is it the duty of the assessor to assess shares of stock of such bank for that year?

Held: The stock of a bank organized and opening for business after the second Monday in January is not taxable for that year.

E. T. Malcolm, October 20, 1917.

Carey Act Lands.

Query: Are Carey Act lands subject to taxation after final proof but before the issuance of patent?

Held: That they are.

Rufus P. Windsor, April 14, 1917.

Cities—Occupaton Tax.

Query: Can a city or village council levy an occupation tax?

Held: That it can.

W. M. Hopkins, April 27, 1917.

Collection of Delinquent Taxes.

Query: Is it the duty of the county auditor to collect delinquent taxes on delinquency certificates?

Held: That it is.

Standley Rich, February 1, 1917.

Collections of Taxes by County Auditor.

Query: Is the 1917 law which provides that the county auditor shall collect certain taxes, in contravention of Section 6, of Article 18, of the constitution?

Held: That the statute giving the county auditor authority to collect taxes as an incident to his other duties, is not in violation of Section 6, of Article 18, of the Constitution of Idaho.

C. Van Deusen, May 7, 1917.

Delinquent Certificates—Foreclosure.

Query: In foreclosing delinquent tax certificates under the provisions of the laws of 1913, should 1917 delinquent certificates be included in the foreclosure of a delinquent certificate for 1915 taxes?

Held: That they should not.

John P. Eimers, March 12, 1918.

Delinquency—Date of Certificate.

Query: Should a delinquent tax certificate issued for the failure to pay the second installment of taxes, bear interest from the second Monday of January or the second Monday of July?

Held: The law is indefinite on this point but it is thought it was the legislative intent that interest should run only from the second Monday in July.

Query: Is the holder of a tax certificate issued prior to 1913, entitled to a tax deed at this time?

Held: If no equities have intervened, the holder is entitled to a deed.

Byron Defenbach, February 1, 1918.

Delinquent Taxes—Date of Certificate.

Query: What date should delinquency certificates bear where the first half of the taxes are paid without going delinquent, but the remaining half are permitted to go delinquent?

Held: The delinquent certificates for the second payment of taxes should be dated as of the second Monday of January.

B. M. Cooledge, September 10, 1918.

Delinquent Taxes—Public Utilities.

Query: Should a penalty be added to delinquent taxes of public utilities, the property of which is assessed by the State Board of Equalization?

Held: The penalty should be added the same as on other delinquent taxes.

B. M. Cooledge, May 4, 1917.

Query: How are delinquent taxes on public utilities collected?

Held: The operating property of public utilities should be treated as real property and delinquency certificates issued the same as for delinquent taxes on real estate.

B. M. Cooledge, May 4, 1917.

Extension of Tax Roll.

Query: Can the county auditor extend taxes in the assessment roll which were assessed in 1914, but which were not extended on the roll at that time?

Held: If the tax were regularly levied the question of whether or not the tax was extended would not be material, and the failure to extend it would not invalidate it.

Chester O. Cromwell, July 9, 1917.

Foreclosure—Attorney's Fees.

Query: Is the plaintiff in a tax foreclosure suit instituted to foreclose a tax certificate for 1915 taxes, entitled to add \$25.00 for attorney's fees?

Held: Chapter 151 of the Laws of 1917 repealed the provision relative to attorney's fees in tax foreclosure proceedings and the provision became applicable to all tax certificates on which foreclosure had not been instituted.

F. E. Davis, December 29, 1917.

Foreclosure of Delinquent Certificates.

Query: Are property owners, whose taxes have become delinquent, entitled to redeem the property after the foreclosure suit has been filed, without the payment of \$25.00 attorney's fees?

Held: That under the new law, property may be redeemed after foreclosure suit upon delinquent tax certificates without the payment of attorney's fees.

F. A. McCall, May 2, 1917.

Grain—Assessment.

Query: Is grain that is stored in a warehouse and subject to the order of the Federal Government, subject to assessment?

Held: That it is.

G. C. Pennell, January 31, 1918.

Grain—Storage in Warehouses.

Query: Should grain stored in warehouses subject to government order be assessed as personal property by the assessor of the county in which the warehouse is located?

Held: That it should.

Calvin Hazelbaker, March 22, 1918.

Improvement Districts—Assessment—Bonds.

Query: Can money paid under an assessment to raise interest on bonds and installment of principal for the year 1917 be applied toward the payment of interest and principal due on bonds in 1916?

Held: That it cannot.

J. B. Loomis, February 13, 1918.

Indian Lands—Assessment.

Query: Are Indian lands within the Bannock Indian Reservation, owned by an Indian who possesses a certificate of competency, subject to taxation?

Held: They are not.

Query: Are these lands exempt from taxation in the hands of a grantee?

Held: That they are not.

R. O. Graham, February 16, 1918.

Irrigation Districts—Delinquent Certificates.

Query: Must a delinquent tax certificate issued by an irrigation district pay 10 per cent penalty at the time of redemption?

Held: Under the Act of 1917 amending Section 2415 Revised Codes the 10 per cent additional penalty is abolished.

Geo. H. Marker, October 8, 1917.

License Taxes—Collection.

Query: What county official should collect the license taxes provided for in Chapter 2 of Title X of the Revised Codes of Idaho?

Held: It is the duty of the tax collector to collect said taxes.

Clarence Van Deusen, May 31, 1917.

Lien of Taxes Levied Prior to 1913.

Query: Are taxes delinquent prior to 1913 a lien at this time on the property on which they are levied?

Held: The lien of taxes delinquent prior to 1913 has not been removed by subsequent legislation or by neglect to obtain a deed.

L. A. Brossard, December 29, 1917.

Merchandise—Assessment.

Query: Where a stock of merchandise is shipped into a county and placed in a store for sale at retail in September is the stock assessable for that year?

Held: That it is

Charles H. Boher, October 19, 1917.

Migratory Live Stock.

Query: When migratory live stock have been assessed in another state but spent a portion of the year in a county in Idaho, is it the duty of the county assessor to assess them for the full year?

Held: If the live stock is quartered in this state for the portion of each year, they are assessable in this state.

W. C. White, August 11, 1917.

Migratory Live Stock—Assessment.

Query: Should migratory live stock which are brought into Idaho from Washington and on which a full year's tax was paid in Washington be assessed for a full year's tax in Idaho?

Held: If the live stock is kept in Idaho for a portion of the year between the second Monday of January and the fourth Monday of October, and is not merely passing through the state, it should be assessed for full value in this state.

Calvin Hazelbaker, October 19, 1917.

Mining Property.

Query: May the net profit of mines be used as a basis for computing the actual value of mines for taxation purposes, or must the net profits be taken as the actual value?

Held: The net profits of mines must be taxed as constituting so much value, and cannot be used as the basis of computing the value.

Secretary State Board of Equalization, August 25, 1917.

Municipal Bonds—Inheritance Tax.

Query: Are bonds issued by municipalities in this state and purchased by a citizen of the State of New York, subject to any inheritance tax upon the death of the owner?

Held: That they are.

Francis H. Bergen, March 23, 1917.

Payment of Delinquent Taxes—Compromise.

Query: Has the Board of County Commissioners authority to settle with a corporation for delinquent taxes without requiring the payment of penalty or interest?

Held: The Board of County Commissioners has authority to make such a compromise if deemed advisable.

A. C. Cordon, September 10, 1918.

Personal Property—Cancellation.

Query: Can the county commissioners cancel personal property taxes which they regard as uncollectible?

Held: There is no legal objection to such action by the Board of County Commissioners.

Byron Defenbach, February 1, 1918.

Personal Property—Seizure.

Query: Is a writ of court necessary to authorize the seizure of personal property for non-payment of taxes, under the provisions of Section 188 of the Revenue Laws.

Held: No writ is necessary.

E. M. Griffith, July 13, 1918.

Poll Tax—Collection.

Query: What official is charged with the duty of collecting road poll taxes?

Held: It is the duty of the road overseers of a tax collector in case he has been designated, to collect poll tax.

S. H. Rich, December 31, 1917.

Poll Taxes—Municipalities.

Query: Where a municipality is included within the limits of a highway district, who is responsible for the collection of road poll taxes within the corporate limits of the municipality?

Held: The trustees of the municipality must employ persons to collect road poll taxes within the corporate limits. If, however, the county treasurer has been designated to collect all road poll taxes within the county, it is the duty of such tax collector to collect the poll taxes within the municipality.

Query: What disposition should be made of road poll taxes collected within a municipality?

Held: The municipality is entitled to 75 per cent of the amount collected and the highway district receives 95 per cent of the remaining 25 per cent.

J. B. Loomis, February 11, 1918.

Poll Tax—Spanish-American War Veterans.

Query: Are Spanish-American War veterans subject to road poll tax in Idaho?

Held: That they are not.

F. L. Hearin, May 5, 1917.

Public Utilities.

Query: Is there any legal way of compelling a railroad to pay taxes to a village which should have been paid in years past, but which were not paid because no mileage was reported within the village limits?

Held: Unless the failure to report the mileage was willful, the village has no recourse.

H. C. Weibe, August 31, 1917.

Railroads—Logging—Assessment.

Query: Should logging railroads be assessed by the assessor or by the State Board of Equalization?

Held: If the road in question is used in connection with private property and not as a common carrier, it should be assessed by the county assessor.

Fred E. Wonnacott, February 12, 1913.

Real Property—Segregation.

Query: Where a tract of real property has been assessed as a whole and the taxes thereon go delinquent, and subsequently a portion of said tract is sold, may the purchaser redeem the taxes delinquent on said portion if the land has not been segregated on the delinquent roll?

Held: The land cannot be segregated after the delinquent roll has been made up.

Robert Price, March 16, 1913.

Taxpayers—Poll Tax.

Query: Is one who pays a poll tax a taxpayer under Section 2224 of the Revised Codes?

Held: That he is not.

B. C. Barber, April 3, 1917.

Who Is a Taxpayer—Poll Taxes.

Query: Is one who pays a poll tax a taxpayer, as contemplated in that section?

Held: That he is not a taxpayer within the meaning of the law.

B. C. Barber, April 3, 1917.

Widow's Exemption.

Query: Is a widow resident in the State of Idaho who owns property in another state in excess of the value exempt from taxation in the State of Idaho entitled to a widow's exemption in this state?

Held: She is not entitled to the exemption.

Mrs. Neta Jester, May 9, 1917.

WATERS AND WATER RIGHTS**Appropriation—Springs.**

Query: May a person file on a spring that is located on another man's property?

Held: A person may file on a spring located on another man's property, if the spring is not being used by the man who owns it.

J. F. Cameron, May 4, 1917.

Carey Act—Entrymen—Assignment.

Query: Has an entryman who has assigned his entry for value received the benefits of the Carey Act within the provisions of Section 1626 so as to prevent him from taking an additional entry or receiving the assignment of one?

Held: An entryman who has made an entry and assigned the same for value has received the benefits of the Carey Act.

State Board of Land Commissioners, November 29, 1918.

Transfer of Decreed Rights to Other Land.

Query: Can a water right from a natural stream that is decreed by court to a party for a certain subdivision of land be sold, or sold and transferred to another piece of land?

Held: That water can be sold from the land and applied to other lands so long as the transfer does not interfere with users of water above the point of diversion or at the point of diversion of the right sought to be transferred.

J. M. Davison, January 23, 1917.

WORKMEN'S COMPENSATION ACT

Application—Threshing Crews.

Query: Are the employes of men who operate threshing and harvesting machines entitled to protection under the Workmen's Compensation Act?

Held: If the employer operates threshing and harvesting machines as a commercial proposition, he is required to insure his employes under the provisions of the Act.

G. Orr McMinimy, August 20, 1918.

Banks.

Query: Is a bank required to insure its officers and directors under the provisions of the Workmen's Compensation Law?

Held: If the officers and directors are paid a regular salary or wage, they must be insured the same as other employes.

Lumbermen's State Bank, December 7, 1917.

Contagious Disease.

Query: When an employe contracts smallpox by occupying a bunk which had previously been occupied by another employe suffering from a disease and the employe in question dies as a result, are his dependents entitled to compensation?

Held: Under the facts of the particular case, the matter does not come within the contemplation of the Workmen's Compensation Act.

Industrial Accident Board, May 28, 1918.

Co-operative Canal Companies.

Query: Are co-operative canal and ditch companies required to insure their employes under the provisions of the Workmen's Compensation Act?

Held: If the company is purely co-operative and the canal is not operated for pecuniary gain, it is exempt from the provisions of the Act.

C. O. Broxon, January 8, 1918.

Co-Partnerships.

Query: Does a co-partnership of farmers which owns and operates a threshing machine for the use of the members of the co-part-

nership, have to insure its employes under the Workmen's Compensation law?

Held: If the machine is used solely by the farmers themselves and is not operated for pecuniary gain, insurance is not compulsory.

N. D. Jackson, December 28, 1917.

Course of Employment.

Query: Is an employe of the State of Idaho who is injured in the corridor of the building while on her way to work entitled to benefits under the Workmen's Compensation Act?

Held: The injury occurred in the course of employment and the employe is entitled to compensation.

Industrial Accident Board, April 26, 1918.

Fraternal Organizations.

Query: Is a fraternal organization, such as the Modern Woodmen of America, required to insure its organizers and agents under the provisions of the Workmen's Compensation Law?

Held: An organization of this character is included in the term "charitable organization" and is exempt from the provisions of the Act.

Trumer Plantz, December 26, 1917.

Funeral Expenses.

Query: Does the Workmen's Compensation Act contemplate the payment of funeral expenses in the sum of \$100.00 or the payment only of actual expenses which must not exceed \$100.00?

Held: The law contemplates the payment of the actual funeral expenses.

C. O. Broxon, January 18, 1918.

Hospital Contracts.

Query: What interpretation should be placed upon Sections 16 and 17 of the Workmen's Compensation Act relative to hospital contracts between employer and employee?

Held: Section 17 of the Act applies only to employers who maintain their own hospitals and under its provisions the employer must contract to provide hospital service during the sickness of any employes, except for sicknesses such as are exempted in the Act.

Peter Johnson, January 31, 1918.

Injury Occurring Before Completion of Insurance Contract.

Query: When an application for insurance under the State Fund is sent to an employer and an injury occurs to an employe before the employer has signified his intention of taking out insurance, is the State Fund held liable for the injury although the policy bears a date prior to the date of injury?

Held: The policy does not cover the injury if issued in ignorance of the accident, although bearing a date prior to the accident.

C. O. Broxon, September 26, 1918.

National Bank.

Query: Do employees of National banks come within the provisions of the Workmen's Compensation Act?

Held: That they do.

C. O. Broxon, September 17, 1917.

Orchards and Vineyards.

Query: Are the owners and proprietors of orchards and vineyards engaged in agricultural pursuits, exempt from the provisions of the Workmen's Compensation Act?

Held: That they are.

Industrial Accident Board, January 22, 1918.

Period Covered by Benefit Payments.

Query: What construction should be placed upon Section 12 of the Workmen's Compensation Act, which provides that weekly benefits shall be paid "to or for a child, until 18 years of age, but in the case of a child incapable of self-support and unmarried as long as so incapable but in no case to exceed 400 weeks beyond said age of 18 years"?

Held: A minor child under the age of 18 receives compensation up until that age. If the child, upon becoming 18 years of age, is incapable of self-support and was dependent upon the deceased, he or she shall receive compensation for an additional period of 400 weeks. If the child is 18 years of age or over at the time of the parent's death, he is entitled to compensation for a period of 400 weeks, provided he is incapable of self-support and was dependent upon the deceased.

Industrial Accident Board, July 13, 1918.

Who May Be Insured.

Query: Can an employer, paying himself from his earnings, insure himself in the state fund as his own employee?

Held: That the relationship of an employer and employe always is created by contract, and under no theory of law can a person enter into a contract with himself.

Query: Are the members of a partnership assisting in the conduct of the partnership business upon a stipulated wage or salary not exceeding \$2400.00 per year, employees of such incorporating company?

Held: That whether or not such person is an employe of the partnership must be governed by the facts in each particular case. If one or more members are devoting their time and interests as managers rather than employes, and depend for their compensation upon the earnings of the partnership, they could not be considered as employes even if they were drawing a weekly or monthly wage from the business.

Query: Are persons employed in private hospital associations in connection with which there is a training school for nurses and those in training receive allowances, also such persons as cooks, waitresses, chamber maids, etc., employees of such institution, and if so, should the value of the training or schooling received by such persons as may be training for the profession of nurse, be a part of their wages?

Held: That so long as they are in training and not graduate nurses, they are not employes of the hospital and do not come within the provisions of the Act. The cooks, waitresses, etc., come within the act and must be insured.

Query: Are officers, directors or stockholders of an incorporation, assisting in the conduct of the regular business, on a regular

wage of salary not exceeding \$2400.00 a year, employes of such incorporating company?

Held: That they are.

C. Of Broxon, December 5, 1917.

MISCELLANEOUS

Accountants—Issuance of Certificates.

Query: Must an accountant who has practiced in Idaho for three years pay a fee of \$25.00 to obtain certificate as a certified public accountant?

Held: It undoubtedly was the legislative intent that the fee of \$25.00 should only be paid by applicants granted certificates through examination.

Query: May the Board of Accountancy charge any fee to applicants who have practiced for three years?

Held: The board has a right to charge a reasonable fee to cover the incidental expenses of issuing certificate.

Query: Has the Board of Accountancy any discretion in the matter of issuing certificates to those who have practiced accountancy in Idaho for three years?

Held: Any applicant who has practiced for the requisite length of time and is of good moral character is entitled to a certificate under the law.

Charles E. Folsom, August 18, 1917.

Agricultural Products—Sale—Discrimination.

Query: Do the provisions of the Act of March 12, 1917, prohibit a jobber or manufacturer from selling his product at both wholesale and retail prices?

Held: That they do not.

Query: Would an arrangement made by the Director of Farm Markets with manufacturers and jobbers whereby agricultural products are sold at a uniform price in designated localities constitute a violation of the provisions of the Act of March 12, 1917?

Held: That it would not.

Query: May a manufacturer charge a higher price for an article packed in a standard case than the same article packed in an inferior case?

Held: That he may.

Harvey Allred, June 6, 1917 and July 13, 1917.

Architects—License.

Query: Are architects required to have a license before practicing architecture in the State of Idaho?

Held: That under the provisions of Senate Bill No. 60, being Chapter 116 of the Laws of the Fourteenth Session of the Legislature, one practicing architecture within the State without having obtained such license is liable to the penalty provided therein, that of being

guilty of a misdemeanor, and upon conviction thereof, a fine in any sum not less than \$50 nor more than \$200.

W. H. Schleppy, June 12, 1917.

Query: Is an architect who maintains an office outside of the State of Idaho and does not maintain an office in this State, entitled to a license to practice the profession of architecture without examination, under the provisions of Subdivision 3, Section 11, Chapter 116, of the 1917 Session Laws, page 101?

Held: That any person who was actually engaged in the practice of architecture in the State of Idaho at the time of the passage of this Act is entitled to a license without examination, whether he has an office in the State or not.

Burton E. Morse, July 13, 1917.

Banks—Administrators and Executors.

Query: Can national banks legally act as administrators, executors and trustees under the laws of Idaho?

Held: There is nothing in the laws of Idaho which prevents national banks from acting in the capacity mentioned.

First National Bank of Moscow, December 11, 1917.

Beds of Streams.

Query: Has the State the right to lease the beds of small streams for dredging purposes?

Held: That it has.

Robert N. Bell, May 1, 1917.

Blue Sky Law.

Query: Are oil companies classified as being engaged in mines and mining, and exempt from the provisions of the Blue Sky Law?

Held: The term "mining operations" as used in the Blue Sky Law is broad enough to include the drilling and operating of oil properties.

G. R. Hitt, July 21, 1917.

Citizenship—Aliens—Marriage.

Query: Does a woman who is a citizen of the United States lose her citizenship by marriage to an alien?

Held: Citizenship of the wife is the same as that of her husband, and a woman marrying an alien loses her former citizenship.

Lynn W. Culp, August 27, 1918.

Collection Agencies—Bond.

Query: Must a collection agent employed by a business men's association to handle collections file a bond under the provisions of the Act of 1915?

Held: That he must.

J. W. Voellmeck, September 24, 1917.

Dairy Food and Sanitary Inspection—Hotels.

Query: In determining what constitutes a hotel, under the provisions of Section 1 of Chapter 189 of the Laws of 1911, should the dining room, kitchen and lobby be counted in computing the number of rooms?

Held: Only bed rooms should be counted in determining whether or not a lodging house is a hotel within the meaning of the Act.

J. K. White, January 10, 1918.

Dead Bodies—Disposition of Money.

Query: What disposition should be made of money found upon the body of a dead person?

Held: The county treasurer retains the money received from the coroner and taken from the bodies of dead persons. This money will be placed to the credit of the county and paid out according to the provisions of Section 2007.

Edna S. Wilson, April 11, 1917.

Divorce and Re-marriage.

Query: Is a party living in polygamy who re-marries in another State within six months after being divorced in Idaho?

Held: The marriage in the foreign State is illegal, providing the statutes of the State in which the marriage is consummated have provisions similar to those now in force in Idaho.

Milton A. Brown, February 21, 1917.

Drainage Districts—Warrants.

Query: May drainage district commissioners issue warrants in payment of claims against the district prior to the time that the district assessment roll has been confirmed by the court and a tax levied thereunder?

Held: The law does not prohibit the issuance of warrants prior to the confirmation of the assessment roll and the levy of the tax.

Query: May such warrants be registered by the county treasurer prior to the making of the levy?

Held: That they may.

B. F. Neal, February 8, 1918.

Driftwood—Unmarked Timber.

Query: Has the public a right to pick up driftwood or unmarked timber that may be lodged on land below the high water mark along the Snake and Clearwater rivers, and can such lands be purchased?

Held: That if the property has no owner, the first one claiming it would be entitled to it. Islands within navigable streams may be filled upon under the homestead law.

I. Abbott, May 31, 1918.

Employment Bureau.

Query: Can a private employment bureau be legally established for the purpose of supplying labor where the employers pay the fees for the services of such bureau, no fees being charged the laborers or employes?

Held: That an agency where the employers, and not the employes, pay the fees, would fall within the exception of the Act.

Donald W. Wilson, December 3, 1917.

Fees—Complaining Witness.

Query: Is a complaining witness in a criminal action entitled to fees and mileage during his attendance as a witness at the trial of the case?

Held: That a complaining witness is entitled to fees and mileage the same as any other witness. The law makes no distinction in this respect.

Joseph H. Horton, July 24, 1917.

Health Laws—Disposition of Fines.

Query: Should fines collected under prosecutions for violence of the health and food laws of the State be transmitted to the State Treasurer or turned into the county treasury of the county where the prosecution is had?

Held: Moneys collected in this manner should be paid into the State treasury. All costs of prosecution may be retained by the county.

J. K. White, November 23, 1917.

Industrial Training School—Boys on Parole.

Query: Can a paroled young man enter high school during the time of his parole?

Held: That if he is on parole from the Training School, it is a matter for the local authorities to decide, and we know of no reason why he should not be permitted to attend school so long as he conducts himself in a gentlemanly manner.

E. C. Holden, January 17, 1917.

Insane Persons—Liability of Their Estates.

Query: Can the State collect from persons committed to the insane asylum for their keep while confined in such asylum, from the estate of such persons?

Held: That it can.

Will F. Moragareidge, January 22, 1917.

Loans by State Land Board.

Query: May the State Land Board make a loan on land belonging to the estate of a deceased person?

Held: There is no authority in the statutes for making such a loan.

Baird & Davis, May 23, 1917.

Needy Blind—Issuance of Warrants For Relief.

Query: Must warrants issued for the relief of needy blind persons under the provisions of the Act of March 14, 1917, be approved by the Board of County Commissioners?

Held: That warrants for this purpose need not receive the approval of the Board of County Commissioners.

William Bollinger, May 26, 1917.

Pardons—Application—Residence.

Query: In what county should a convict publish his notice of application for pardon when the portion of the county in which the crime was committed has, since his conviction, been created into a new county?

Held: The notice of application should be published in the old county, notwithstanding the fact that the crime was committed in what since has been created into another county.

James Leitch, August 9, 1918.

Pool Halls.

Query: Under Chap. 94, Session Laws 1911, are pool halls, billiard halls, card rooms, etc., conducted in buildings where no free inspection by the passerby may be had, especially basements, legal?

Held: That so long as a place of business of the natures mentioned in the said Chapter does not have up screens or blinds or other obstructions, even though conducted in a basement or in a story above the ground floor, they do not violate the provisions of Chap. 94.

E. E. Hunt, June 13, 1917.

Pool Room—License.

Query: Is it necessary to take out a license in order to maintain a pool or billiard table in a club or lodge room?

Held: That where a club or lodge room runs a pool or billiard table for the amusement and recreation of its members and not for profit, no license is necessary.

Walter H. Copp, June 8, 1917.

Pool Rooms—Minors.

Query: Is it lawful for pool rooms selling candies, etc., in front part of building, separated by a colonnade, to allow minors in front part, claiming the law only applies to room where the tables are?

Held: That the law prohibits minors from loitering in or frequenting any portion of the room.

W. S. Hyde, March 6, 1917.

Predatory Animals—Bounties For Unborn Coyotes.

Query: Is one presenting a claim for the destruction of unborn coyotes entitled to receive bounty from the State, the same to be paid from the funds provided by law for the destruction of predatory animals?

Held: That such claims are not valid and should not be allowed by the State of Idaho.

C. Van Deusen, May 3, 1917.

Prohibition Against Holding Office.

Query: Is a member of the Legislature prohibited from accepting an appointment as a member of the State Board of Accountancy which Board was created by the Legislature of which the appointee was a member?

Held: Sec. 251 of the Revised Codes of Idaho prohibits a member of the Legislature from accepting such an appointment.

F. L. Davis, July 24, 1917.

Registration of Optometrists.

Query: Is it necessary, under section 1378 as amended, that an optometrist shall register in more than one county if he practices in more than one county in the State?

Held: That it is only necessary that certificate of registration be filed in the county in which the principal place of business of the licentiate is located.

E. S. Owen, April 21, 1917.

Soldiers—Exemption From Process.

Query: Is a man serving in the army exempt from civil process?

Held: Section 62 of Chapter 72 of the Laws of 1911 provides that no civil process shall issue or be in force against any person in the military service of this State or of the United States.

B. Bosworth, January 31, 1913.

State Auditor—Printing Seal on Warrants.

Query Would it be regular to have the seal of the State Auditor printed upon the Auditor's warrants instead of impressed thereon as has been done heretofore?

Held: That the printing of a reproduction of the official seal of your office upon State warrants would not be a compliance with the requirements of Secs. 102 and 114.

C. Van Deusen, January 10, 1917.

Tobacco—Sale to Minors.

Query: Does Chapter 150 of the Laws of 1913 prohibit the sale of tobacco to minors under the age of twenty-one, or only those under the age of eighteen?

Held: The Act prohibits the sale to minors under the age of twenty-one.

J. P. Reed, February 21, 1918.

Trading Stamps.

Query: We issue a duplicate sales check with each purchase and carry in stock a number of articles which we sell at reduced prices to customers who return the sales checks showing purchases in a certain amount. Does this practice violate the provisions of said Senate Bill No. 76?

Held: That it does not.

C. C. Anderson & Co., June 2, 1917.

Witness—Fees and Mileage.

Query: What fees and mileage if any should be allowed a witness in a criminal action who voluntarily attends from outside the State?

Held: A witness is entitled to \$2.00 per diem for each day actually in attendance and 25 cents per mile one way from the State line to the place of trial.

Percy Groom, November 23, 1917.

Docket 1917-1918

CRIMINAL APPEALS

CASES DECIDED

Sate vs. Charles Anderson (31 Ida. 514; 174 Pac. 124.)—Defendant was convicted in the District Court of the First Judicial District, Shoshone County, of the crime of transporting intoxicating liquor. Affirmed July 2, 1918.

State vs. A. G. Butterfield (30 Ida 415; 165 Pac. 218.)—Defendant was convicted in the District Court of the Seventh Judicial District, Washington County, of the crime of running sheep on cattle range. Reversed May 5, 1917.

State vs. Joseph T. Cole and Minnie M. Rambo (31 Ida. 603; 174 Pac. 132).—Defendants were convicted of unlawful co-habitation in the District Court of the Seventh Judicial District, Adams County. Reversed July 20, 1918.

State vs. D. H. Cummins (30 Ida. 411; 165 Pac. 216).—Defendant was convicted of the crime of transporting intoxicating liquors in a prohibition district, in the District Court of the Fourth Judicial District, Minidoka County. Affirmed May 5, 1917.

State vs. Zachariah Curtis and Cora Atkinson (30 Ida. 537; 165 Pac. 999).—Defendants were convicted of grand larceny in the District Court of the Fourth Judicial District, Twin Falls County. Affirmed June 28, 1917.

State vs. C. A. Feamster (No Citation).—Defendant was convicted of having intoxicating liquors in his possession, in the District Court of the Seventh Judicial District, Washington County. Appeal dismissed and judgment affirmed March 11, 1917.

State vs. F. C. Gannett (31 Ida. —; 175 Pac. 709).—Defendant was convicted of violation of the liquor laws in the District Court of Custer County. Appeal dismissed and judgment affirmed October 25, 1918.

State vs. Joseph D. Grady (31 Ida. 272; 170 Pac. 85).—Defendant was acquitted of grand larceny in the District Court of Sixth Judicial District, Lemhi County. Appeal dismissed January 9, 1918.

State vs. Frank Harp (31 Ida. 597; 173 Pac. 1148.)—Defendant was convicted of the crime of rape in the District Court of the Seventh Judicial District, Adams County. Affirmed July 19, 1918.

State vs. Roy H. Leeper (30 Ida. 534; 165 Pac. 997).—Defendant was convicted in the Probate Court of Clearwater County of disturbing the peace. He appealed to the District Court of Clearwater County, but the appeal was dismissed. Reversed June 28, 1917.

State vs. William W. Lottridge (29 Ida. 53. 822; 162 Pac. 672).—Defendant was convicted of embezzlement in the District Court of the

Sixth Judicial District, Lemhi County. Affirmed March 6, 1916. On re-hearing affirmed January 31, 1917.

State vs. William Lumpkin (31 Ida. 175; 169 Pac. 939).—Defendant was convicted of having intoxicating liquors in his possession in the District Court of Kootenai County. Reversed December 31, 1917.

State vs. William Lundhigh (30 Ida. 365; 164 Pac. 690).—Defendant was convicted of murder in the second degree in the District Court of the Sixth Judicial District, Bingham County. Reversed April 30, 1917. Chief Justice Alfred Budge dissenting.

State vs. Martin J. McGuire (31 Ida. 24; 169 Pac. 175).—Defendant was convicted of violation of the liquor laws in the District Court of Bonneville County. Affirmed November 24, 1917.

State vs. E. E. Morton (31 Ida. 329; 171 Pac. 495).—Defendant was convicted of violation of the liquor laws in the District Court of the Third Judicial District, Ada County. Reversed March 12, 1918. C. J. Alfred Budge dissenting.

State vs. George Nolan and Percy Heath (31 Ida. 71; 169 Pac. 295).—Defendants were convicted of grand larceny in the District Court of Twin Falls County. Affirmed December 4, 1917.

State vs. Joseph Park (Not Reported).—Defendant was convicted of the crime of rape in the District Court of Jefferson County. Affirmed November 4, 1918.

State vs. Sherwood Platts, et. al., (31 Ida. 19; 168 Pac. 1143).—Defendants were convicted of grand larceny in the District Court of Fourth Judicial District, Cassia County. Reversed November 24, 1917.

State vs. D. B. Richardson (No Citation).—Defendant was convicted of having intoxicating liquor in his possession in the District Court of Washington County. Appeal dismissed and judgment affirmed March 11, 1918.

State vs. C. D. Rogers (30 Ida. 259; 163 Pac. 912).—Defendant was convicted of murder in the second degree in the District Court of Power County. Reversed March 27, 1917.

State vs. Clyde Smith and Lloyd Logan (30 Ida. 337; 164 Pac. 519).—Defendants were convicted of grand larceny in the District Court of Adams County. Affirmed April 24, 1917.

State vs. Walter Scheminsky (31 Ida. 504; 174 Pac. 611).—Defendant was convicted of having in his possession intoxicating liquor in the District Court of the First Judicial District, Shoshone County. Affirmed July 2, 1918.

State vs. William Ward (31 Ida. 419; 173 Pac. 497).—Defendant was convicted of adultery in the District Court of Latah County. Affirmed June 21, 1918.

State vs. W. P. Dawe (Not yet Reported).—Defendant was convicted in the District Court of the Ninth Judicial District of Bonneville County, of the crime of embezzlement of public funds while acting as clerk of the City of Idaho Falls. Affirmed December 16, 1918.

CASES ARGUED AND SUBMITTED BUT NOT DECIDED.

State vs. Harry Roberts.—Defendant was convicted of the crime of rape in the District Court of Lincoln County. Argued and submitted on December 9, 1918.

State vs. George Mantle.—Defendant was convicted in the District Court of Bannock County for attempting to induce female for immoral purposes. Motion by Attorney General to dismiss appeal.

CASES READY FOR ARGUMENT.

State vs. Peter Bidegain.—Defendant was convicted of violation of the herd law in the District Court of the Fourth Judicial District of Blaine County. Briefs filed.

State vs. Vincente Bilbao and R. B. Howard.—Defendants were convicted in the District Court of the Third Judicial District, Ada County, for violation of the liquor laws. Briefs filed.

State vs. Charles Crawford.—Defendant was convicted of assault in the District Court of the Seventh Judicial District, Canyon County. Briefs filed.

State vs. Roscoe A. Colvard.—Defendant was convicted in the District Court of the Seventh Judicial District, Canyon County, for having intoxicating liquor in his possession. Briefs filed.

State vs. T. C. Catlin.—Defendant was convicted in the District Court of the Third Judicial District, Ada County, for violation of the herd law. Briefs filed.

State vs. Jack Coble.—Defendant was convicted in the District Court of the Fifth Judicial District of Bannock County for having intoxicating liquor in his possession. Motion filed to dismiss appeal.

State vs. W. J. Grimmett.—Defendant was convicted of grand larceny in the District Court of the Seventh Judicial District, Washington County. Briefs filed.

State vs. T. C. Hall.—Defendant was convicted in the District Court of the Third Judicial District, Ada County, for violation of the liquor laws. Briefs filed.

State vs. Victor Hunter.—Defendant was convicted in the District Court of the Fifth Judicial District of Bannock County of burglary. Motion filed by Attorney General to dismiss appeal.

State vs. W. S. Hopson.—Defendant was convicted in the District Court of the Fifth Judicial District of Bannock County of unlawful possession of intoxicating liquors. Motion filed by Attorney General to dismiss appeal.

State vs. Harry P. Hunter.—Defendant was convicted in the District Court of the Sixth Judicial District of Custer County, for violation of liquor laws. Motion filed by Attorney General to dismiss appeal.

State vs. James Lusk and John McDevitt.—Defendants were convicted in the District Court of the Seventh Judicial District, Canyon County, for unlawful possession of intoxicating liquors. Briefs filed.

State vs. J. M. McBride.—Defendant was convicted in the District Court of the Seventh Judicial District, Canyon County, for unlawful possession of intoxicating liquors. Briefs filed.

State vs. David MeLoy and Ralph Zufeldt.—Defendants were convicted in the District Court of Fremont County for the crime of conspiracy. Briefs filed.

State vs. Stephen Mallea.—Defendant was convicted in the District Court of the Fourth Judicial District of Blaine County, for violation of the range laws. Briefs filed.

State vs. E. E. Marcoc.—Defendant was convicted in the District Court of the Fifth Judicial District, Bannock County, for transporting intoxicating liquor. Briefs filed.

State vs. K. McKenzie.—Defendant was convicted in the District Court of Custer County for violation of the liquor laws. Motion filed by Attorney General to dismiss appeal.

State vs. Henry Poynter.—Defendant was convicted in the District Court of the Fifth Judicial District, Bannock County, for unlawful possession of intoxicating liquors. Motion filed by Attorney General to dismiss appeal.

State vs. Claude H. Roberts.—Defendant was convicted in the District Court of the Third Judicial District of Ada County of embezzlement. Briefs filed.

State vs. Fermin Subisareffa.—Defendant was convicted in the District Court of the Third Judicial District, Boise County, for violation of the herd law. Briefs filed.

OTHER APPEALS PENDING.

State vs. George Asken.—Defendant was convicted in the District Court of Jefferson County of the crime of manslaughter. Awaiting brief of appellant.

State vs. Charles L. Anderson.—Defendant was convicted in the District Court of Benewah County of criminal syndicalism. Notice of appeal served.

State vs. Miles Anthony, et. al.—Defendants were convicted in the District Court of Latah County of criminal syndicalism. Transcript filed.

State vs. Frank M. Brassfield.—Defendant was convicted in the District Court of Ada County of grand larceny. Transcript filed.

State vs. A. E. Blank.—Defendant was convicted of grand larceny in the District Court of Washington County. Transcript filed.

State vs. Peter Bidegain, et. al.—Defendants were convicted of violation of the herd law. Transcript filed.

State vs. John Otis Ellis.—Defendant was convicted in the District Court of Clearwater County for criminal syndicalism. Transcript filed. Paroled December —, 1919.

State vs. Oscar Ford.—Defendant was convicted in the District Court of Canyon County of the crime of adultery. Transcript filed.

State vs. A. M. Farmer.—Defendant was convicted in the District Court of Bingham County of the crime of statutory rape. Notice of appeal filed.

State vs. E. M. Goodrich.—Defendant was convicted in the District Court of Ada County of the sale of intoxicating liquor. Brief of appellant filed.

State vs. Richard Iverson.—Defendant was convicted in the District Court of Power County of rape. Transcript filed. Defendant paroled by District Court.

State vs. Edward Levine and Henry Ricks.—Defendants were convicted in the District Court of Madison County of the crime of rape.

State vs. Martin Mushrow.—Defendant was convicted in the District Court of Bonner County of violation of the liquor laws. Transcript filed.

State vs. J. J. McMurphy.—Defendant was convicted in the District Court of Shoshone County of criminal syndicalism. Brief of appellant filed.

State vs. E. L. Montgomery.—Defendant was convicted in the District Court of Benewah County of the crime of criminal syndicalism. Notice of appeal filed.

State vs. William M. Nelson.—Defendant was convicted of the crime of criminal syndicalism in the District Court of Kootenai County. Transcript filed.

State vs. Melvin Pettit.—Defendant was convicted in the District Court of Twin Falls County of the crime of rape. Transcript filed.

State vs. Visente Ramirez and Pedro Espinoza.—Defendants were convicted in the District Court of Madison County of murder. Transcript filed.

State vs. John T. Ray.—Defendant was convicted in the District Court of Nez Perce County of unlawful possession of intoxicating liquor. Transcript filed.

State vs. J. A. Sheehan.—Defendant was convicted in the District Court of Ada County of violation of the liquor laws. Transcript filed.

State vs. J. A. Sheehan, alias W. T. Watson.—Defendant was convicted in the District Court of Ada County of obtaining money under false pretenses. Transcript filed.

State vs. A. J. Steensland.—Defendant was convicted in the District Court of Gooding County of transporting intoxicating liquor. Transcript filed.

State vs. John White.—Defendant was convicted in the District Court of Canyon County of the crime of unlawful possession of intoxicating liquor. Transcript filed.

State vs. Laron Williams and Dewey Arnold.—Defendants were convicted in the District Court of Madison County with the crime of assault with intent to commit rape.

ORIGINAL PROCEEDINGS OF A CIVIL NATURE IN STATE SUPREME COURT

CASES DECIDED.

E. C. Davis vs. State of Idaho (30 Ida. 137; 163 Pac. 373).—Action by plaintiff to recover a recommendatory judgment against the State of Idaho for damages alleged to have been incurred through neglect of agents of the State in connection with the Kings Hill irrigation project. State's demurrer to plaintiff's complaint sustained February 23, 1917.

Evan Evans, et. al. vs. Clarence Van Deusen et. al. (31 Ida. —; 174 Pac. 122).—Petition by State Board of Education for writ of mandate directed to the State Auditor and the State Treasurer to compel defendants to maintain on their books separate and distinct accounts for each of the endowment funds of the several State institutions, and to draw warrants against these specific funds. Writ denied July 27, 1918.

H. Melgard vs. John W. Eagleson, State Treasurer, and Clarence Van Deusen, State Auditor (31 Ida. —; 172 Pac. 655).—Petition by plaintiff as Treasurer of the State University for writ of mandate to compel the State Treasurer to pay to the Treasurer of the State University \$50,000.00 appropriated by the Federal government under the Morrill Act, and to compel the State Auditor to correct his books accordingly. Alternative writ made permanent April 30, 1918.

A. L. Furbee vs. State Board of Land Commissioners (31 Ida. —; — Pac. —).—Petition by plaintiff for writ of mandate to compel the State Land Board to accept his application to enter Carey Act land under the Idaho Irrigation Project. Defendants' demurrer overruled November 8, 1918, and peremptory writ of mandate issued November 22, 1918.

Katherine Griffith vs. Clarence Van Deusen (31 Ida. —; 169 Pac. 929).—Petition by plaintiff for writ of mandate to compel defendant to issue warrant for services alleged to have been performed by plaintiff for State Legislature. Writ dismissed December 26, 1918.

W. R. Hamilton vs. W. T. Dougherty (Non-Partisan League, Intervenor) (31 Ida. —; 174 Pac. 701).—Petition by plaintiff for injunction to prevent defendant from certifying on the official primary ballot certain candidates endorsed by the Non-Partisan League as candidates for office in the Democratic primary. Writ of injunction denied August 16, 1918.

Kootenai County vs. State Board of Equalization (31 Ida. —; 169 Pac. 955).—Petition by plaintiff for writ to review the tax apportionment made by the State Board of Equalization apportioning certain taxes among several counties in North Idaho. Writ quashed by Supreme Court Dec. 28, 1917.

R. W. Katerndahl vs. W. T. Dougherty (30 Ida. 356; 164 Pac. 1017).—Application by plaintiff for writ of mandate to require defendant to correct enrolled House Bill No. 14 by inserting therein a certain amendment alleged to have been passed by the Legislature, and to publish the same as so corrected. Case submitted on agreed statement of facts. Writ denied April 25, 1917.

Andrew Little vs. C. O. Broxon, State Insurance Manager, (31 Ida. —; 170 Pac. 918).—Application by plaintiff for writ to prohibit defendant, as State Insurance Manager, from attempting to collect penalties from plaintiff for his refusal to insure his employees under the provisions of the Workmen's Compensation Act. Plaintiff is engaged in the sheep business and claimed that his employees are excepted from the operation of the Act. Writ denied February 11, 1918.

The Pullman Company vs. State Board of Equalization (31 Ida. —; 171 Pac. 260).—Petition by plaintiff for writ of review directed to the State Board of Equalization to review the proceedings of said Board in the matter of the assessment of the property of the plaintiff corporation for the year 1917. Writ dismissed March 2, 1918.

State of Idaho & Robert Rayl vs. Twin Falls-Salmon River Land & Water Co., et. al. (30 Ida. 41, 30 Ida. 75; 166 Pac. 220).—Action for writ of mandate to compel the defendant to enter into a contract for the sale of a water right to Robert Rayl for school lands purchased from the State. Writ denied December 17, 1916. Rehearing had March 23, 1917. Former decision affirmed with modification July 3, 1917.

Harry E. Clark vs. Fred Wonnacott (30 Idaho 98; 162 Pac. 1074).—Application by plaintiff to procure the issuance of a peremptory writ of mandate requiring the defendant to admit the plaintiff to the use and enjoyment of the office of Assessor of Kootenai County. The State appeared amicus curae. Writ denied January 27, 1917.

CASES PENDING

Nora Hammond et. al. vs. State Board of Land Commissioners—Mandamus proceedings to compel State Board of Land Commissioners to issue certificates of sale to persons purchasing land at a State land sale at Rexburg, Idaho, which sale was later set aside by the Land Board. Argued before Supreme Court November 16, 1918. Decision not yet rendered.

CIVIL CASES APPEALED TO THE SUPREME COURT

CASES DECIDED.

George F. Steele, Insurance Commissioner, vs. Blackwell Lumber Co. (31 Ida. —; 173 Pac. 1083).—Plaintiff, on behalf of the State of Idaho, brought action against the defendant to recover fines and penalties for insuring its property contrary to the insurance laws of the State of Idaho. Plaintiff contended defendant had insured with fire insurance companies not authorized to transact business in this State. The court below decided for defendant and plaintiff appealed. Decision of lower court affirmed June 25, 1918.

George F. Steele vs. Humbird Lumber Co. (31 Ida. —; 173 Pac. 1085).—Companion case to Steel vs. Blackwell Lumber Company, supra. The cases were presented together and the same decision rendered.

Dick Donovan vs. W. T. Dougherty, Secretary of State (31 Ida. —; 174 Pac. 701).—Plaintiff petitioned for writ of injunction against defendant in the District Court of the Third Judicial District, seeking to prevent defendant from certifying on the official primary ballot the names of certain persons endorsed by the Non-Partisan League as candidates for office. From the judgment of the District Court denying the writ, plaintiff appealed. Decision of lower court affirmed August 16, 1918.

J. C. Fox vs. Board of Equalization of Custer County.—Plaintiff brought action against defendant to obtain a writ of certiorari to review the action of the defendant Board in assessing plaintiff's property in Custer County. From a judgment of the District Court of the Sixth Judicial District defendant Board appealed. The case was dismissed without argument.

W. R. Hamilton, State Chairman, vs. H. F. Samuels, et. al. (31 Ida. —; 174 Pac. 701).—Plaintiff petitioned the District Court of the

Seventh Judicial District for a writ of injunction to prevent defendants from being candidates on the Democratic ticket in the primary election. From an order of the District Court denying the writ, plaintiff appealed. Judgment of the lower court affirmed August 16, 1918.

Weiser National Bank vs. Washington County (30 Ida. 332; 164 Pac. 1014).—Plaintiff brought action in the District Court of the Seventh Judicial District to review an action of the Board of County Commissioners in assessing its property. A deduction was claimed from the amount of the assessment. The court below granted a certain deduction, but less than claimed by plaintiff, and an appeal was taken. Judgment of lower court affirmed April 21, 1917.

Gem Irrigation District vs. Clarence Van Deusen, State Auditor, (31 Ida. —; —, Pac. —).—Action by plaintiff for writ of mandate to compel defendant to draw a warrant to pay the plaintiff district the amount of money appropriated to it by the last legislature for the purpose of enabling it to purchase State lands within the district. From a decision of the District Court of the Third Judicial district allowing the writ, defendant appealed to the Supreme court. Decision of District court reversed and the Act of the Legislature declared unconstitutional December 16, 1918.

P. R. Bevis vs. R. N. Wright, Auditor and Recorder (31 Ida. —; 175 Pac. 815).—Action by plaintiff in the District Court of the Tenth Judicial district to restrain the auditor of Nez Perce county from extending a tax levy on the tax rolls and to restrain the tax collector of said county from collecting said tax levy for the purpose of exhibiting the products of the county at fairs and exhibitions. From the decision of the lower court in favor of the defendants, plaintiff appealed. Lower court affirmed October 31, 1918.

CASES PENDING

L. O. Naylor vs. A. H. Simmons.—This action was brought in the District Court of Bingham county to recover possession of an automobile seized under the liquor laws. The District court rendered judgment in favor of the plaintiff. The cause has been submitted to the Supreme court upon written briefs.

The Pullman Company vs. State Board of Equalization, et al.—Action by plaintiff corporation to secure judgment against certain counties in the State for the amount of taxes paid by plaintiff under an alleged illegal levy. From a judgment of the District Court of the Third Judicial district in favor of plaintiff, defendants have taken an appeal to the Supreme court. Notice of appeal filed and served.

CIVIL CASES IN THE DISTRICT COURTS OF THE STATE

CASES DECIDED

Ross F. Black vs. Industrial Accident Board.—Appeal to the District Court of the First Judicial district from an award of the Industrial Accident Board. After this appeal had been taken, the Industrial Accident Board modified its ruling and the appeal was dismissed.

In Re William M. Brown.—Mandamus brought in the District

Court of the Fourth Judicial district to compel the superintendent of the Blackfoot Insane asylum to receive William M. Brown into his custody. Writ made permanent.

State of Idaho vs. Con Crean & Dennis Walsh.—Application for injunction to prevent defendants from interfering with an Irrigation ditch on land used by the State as an agricultural experiment station. Action brought in Sixth Judicial district. Case settled before coming to trial.

State of Idaho, ex rel. vs. Kings Hill Extension Irrigation Co., et al.—Action in the District Court of Elmore county to declare a forfeiture of the contract and Carey Act Project of the Kings Hill Extension Irrigation company. Judgment for plaintiff May 2, 1917.

C. O. Broxon, State Insurance Manager, vs. Sam Criss.—Action in the District Court of the Seventh Judicial district to collect penalties from defendant for his failure to insure his employes under the provisions of the Workmen's Compensation Act. Action settled before coming to trial and case dismissed.

John F. Shelley vs. State Board of Land Commissioners.—Condemnation proceeding in the District Court of the Sixth Judicial district. Decree in favor of plaintiff entered August 15, 1917, by stipulation of parties.

Clarence Van Densen, State Auditor, vs. John W. Eagleson, State Treasurer.—Action by plaintiff in the District Court of Ada county for writ of mandate to compel the defendant, as State Treasurer, to transfer certain accounts on their books in accordance with certificates of direction given him by the State Auditor. Decision of court dismissing writ August 3, 1918.

CASES PENDING

C. O. Broxon, State Insurance Manager, vs. City of Pocatello.—Action by plaintiff in the District Court of Bannock county to recover judgment for \$3,855.00 from the defendant for failure to insure its employes under the provisions of the Workmen's Compensation Act. Complaint filed September 12, 1918.

First National Bank of Weiser vs. Clarence Van Deusen, State Auditor (George W. Froman and Fidelity Title & Deposit Co., Intervenor).—Petition for writ of mandate to compel the State Auditor to draw warrants in favor of the plaintiff for claims in connection with work on State highway construction in Washington county. Ready for trial in the District court of Ada county.

City of Pocatello vs. Charles E. M. Loux, et al.—Action in the District Court of Bannock county by the City of Pocatello to condemn for cemetery purposes certain lands owned by the State of Idaho, but which were sold under contract of sale to other parties defendant. Case now pending on complaint and answer.

State of Idaho vs. National Surety Company.—Action by the State in the District Court of Elmore county to recover \$25,000.00 damages from defendant on the construction bond of the Kings Hill Extension Irrigation company. Ready for trial.

State of Idaho vs. Pocatello Retail Grocers Association.—Action brought in the District Court of the Fifth Judicial District of Bannock county to restrain certain retail grocers in the City of Pocatello

from forming a combination in violation of the Anti-Trust laws of the State.

State vs. Yates Center Highway District.—Action instituted in the District Court of the Fourth Judicial district, Elmore county, to recover the amount claimed to be due the State Highway Commission and the defendant Highway District. Complaint filed.

State vs. Richfield Highway District.—Action instituted in the District Court of the Fourth Judicial district, Lincoln county, to recover amount claimed to be due the State Highway Commission under the contract entered into between such Commission and the defendant Highway District. Complaint filed.

Josiah Richards vs. State Board of Accountancy.—Petition by plaintiff in the District Court of Ada county to compel the State Board of Accountancy to issue to plaintiff a certificate as a certified public accountant without examination. Ready for hearing.

HABEAS CORPUS PROCEEDINGS

In re O. V. Allen (Not Reported).—The petitioner made application for writ of habeas corpus. Application denied February 5, 1918.

In re Viola Boyd.—Action in the District Court of Fremont county to secure the release of petitioner from the Industrial Training school at St. Anthony. Prisoner discharged.

In re Fred M. Coleman.—Application by petitioner to secure his release from the Idaho State penitentiary on the ground that he had received a valid pardon from the State Board of Pardons. The proceeding was brought in the District Court of Ada county. Prisoner discharged February 22, 1917.

In re H. R. Davis.—Application by petitioner in the District Court of Ada county to secure his release from the State Penitentiary. Prisoner alleged that the time he was allowed by statute for good behavior should be deducted from the definite sentence fixed by the Board of Parole. Prisoner remanded February 5, 1917.

UNITED STATES DISTRICT COURT FOR IDAHO

Twin Falls Salmon River Land & Water Co. vs. State Board of Land Commissioners.—Action in the Federal Court for the Southern District of Idaho to prevent the State Land Board from taking action looking toward the cancellation of certain acreage of the Carey Act segregation of the plaintiff company. Case tried and decision not yet rendered.

Twin Falls Land & Water Co. vs. Twin Falls Canal Co. and State Land Board.—Suit by plaintiff company in the Federal Court for the Southern District of Idaho to compel defendants to permit the sale of additional water rights under the plaintiff's Carey Act segregation. Suit dismissed as to the State.

UNITED STATES SUPREME COURT

State vs. Secundino Omacchevarria (38 Sup. Ct. Rep. 323).—Criminal prosecution for herding, grazing and pasturing sheep upon a cattle range in violation of Section 6872, Revised Codes. Judgment for plaintiff affirmed by State Supreme court October 5, 1915. Appeal to the United States Supreme court filed February 14, 1916. Judgment of Idaho Supreme court affirmed March 18, 1918.

In re Ed. Crane (38 Sup. Ct. Rep. 98).—Proceeding in habeas corpus, petitioner having been arrested and committed for having intoxicating liquor in his possession. Constitutionality of the prohibition law of Idaho involved. Writ quashed by State Supreme court, petitioner remanded to custody and law declared constitutional. Appeal taken to Supreme Court of the United States. Judgment of State court affirmed December 10, 1917.

FORECLOSURE PROCEEDINGS

The following foreclosure proceedings have been instituted in behalf of the State in the various district courts on account of default in the payment of principal or interest on State loans:

State vs. Julian W. Andrew et al.

State vs. Reilly Atkinson.

State vs. Edward Bolz et al.

State vs. William Buster et al.

State vs. Sherman L. Commons et al.

State vs. Ira H. Cook.

State vs. Caroline E. Creuse et al.

State vs. Harry B. Curtis.

State vs. D. D. Drennan et al.

State vs. John Foulks et al.

State vs. Frank P. Garver et al.

State vs. H. W. George et al.

State vs. Estate of John Gilman, deceased, et al.

State vs. Esther E. Hale et al.

State vs. William M. Hall et al.

State vs. Joel A. Harrington et al.

State vs. Frank A. Johnson et al.

State vs. Eugene E. McJilton et al.

State vs. M. J. Metzler et al.

State vs. Estate of Peter Meves et al.

State vs. Parley M. Morris et al.
State vs. Robert F. Morrison et al.
State vs. Jesse Norton et al.
State vs. Clarence E. Post et al.
State vs. J. L. Rettig et al.
State vs. George B. Rogers et al.
State vs. John H. Ross et al.
State vs. William G. Schmelzel et al.
State vs. Charles F. Schuck et al.
State vs. Robert H. Stearman et al.
State vs. Arthur L. Trenam et al.
State vs. William L. Turner et al.
State vs. John L. Waggoner et al.
State vs. Knute L. Wallin et al.
State vs. Benjamin F. Wardell et al.
State vs. John W. Watkins et al.
State vs. Amanda A. Wolfe.
State vs. Edmund M. Wolfe et al.

In the Matter of the Estate of Swan Bloomquist.—The State instituted proceedings in the Probate Court of Kootenai County to secure an escheat to the State of certain real estate belonging to the above-named decedent. Decree of distribution is now on record distributing the property in question to the State of Idaho.

PUBLIC UTILITIES COMMISSION

The Attorney General's office, which by statute is made legal advisor to the Public Utilities Commission, has handled a number of cases for that Commission during the past biennium. No attempt is made to list the cases in this report for the reason that they are reported at length in the reports of the Public Utilities Commission.