

TWENTY-NINTH BIENNIAL

REPORT OF THE

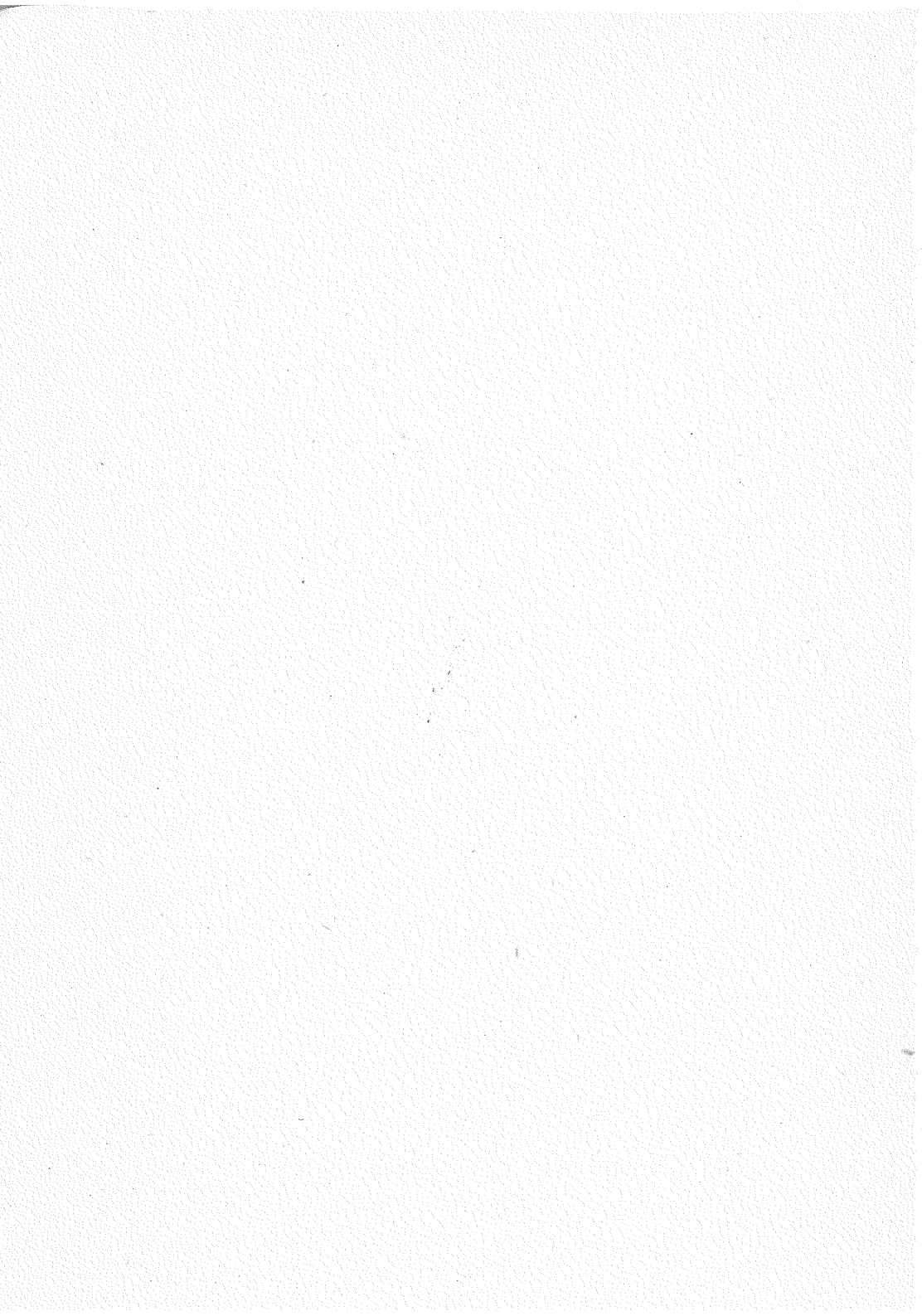
Attorney General
OF
Idaho

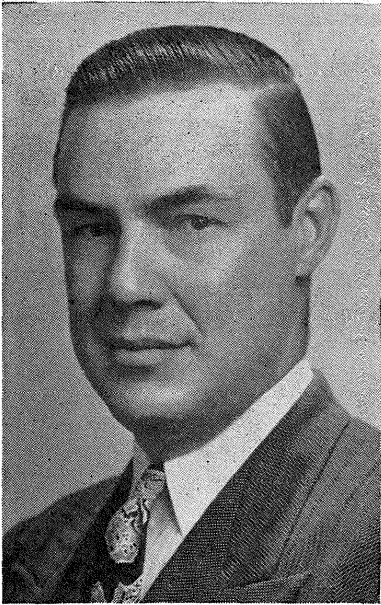
1947 - - - 1948



ROBERT E. SMYLIE

Attorney General





ROBERT E. SMYLIE
Attorney General
State of Idaho
1947-1948



ROBERT AILSHIE
Attorney General
State of Idaho
1947

ATTORNEY GENERAL'S DEPARTMENT

†ROBERT AILSHIE	ATTORNEY GENERAL
ROBERT E. SMYLLIE	ATTORNEY GENERAL
ROBERT E. SMYLLIE	Assistant Attorney General
J. R. SMEAD	Assistant Attorney General
*ROBERT B. HOLDEN	Assistant Attorney General
JOHN A. CARVER, JR.	Assistant Attorney General
DON J. McCLENAHAN	Assistant Attorney General
J. N. LEGGAT	Assistant Attorney General
*DAVID DOANE	Assistant Attorney General
*SHERMAN F. FUREY, JR.	Assistant Attorney General
JAMES E. BRUCE, JR.	Assistant Attorney General
*EDWARD G. ROSENHEIM	Assistant Attorney General
C. J. SCHOOLER	Assistant Attorney General
J. B. MUSSER	Assistant Attorney General
GLENN A. COUGHLAN	Assistant Attorney General
*ROBERT E. BROWN	Assistant Attorney General
*KATHLEENE HOLDEN	Secretary to the Attorney General
*DENEICE REINMUTH	Secretary to the Attorney General
JEAN I. SILER	Secretary to the Attorney General
*TOBA V. WHEELER	Legal Stenographer
BERNICE CALLSEN	Legal Stenographer
MARY MARGARET PETERSON	Legal Stenographer

†Deceased

*Resigned

PROSECUTING ATTORNEYS—1947-48
(For the Counties of Idaho)

County	Name	Address
Ada	James W. Blaine	Boise
Adams	Carl Swanstrom	Council
Bannock	Henry McQuade	Pocatello
Bear Lake	G. Staudacher	Paris
Benewah	Carl M. Buell	St. Maries
Bingham	Robert M. Kerr, Jr.	Blackfoot
Blaine	J. J. McFadden	Hailey
Boise	T. E. McDonald	Idaho City
Bonner	Robert E. McFarland	Sandpoint
Bonneville	John A. Ferebauer	Idaho Falls
Boundary	W. J. Nixon	Bonnors Ferry
Butte	Arthur C. Dunn	Arco
Camas	Chas. O. S. Scoggin	Fairfield
Canyon	Earl E. Reed	Caldwell
Caribou	R. J. Dygert	Soda Springs
Cassia	A. H. Nielson	Burley
Clark	Geo. L. Barnard	Dubois
Clearwater	Frank F. Kimble	Orofino
Custer	Donald E. Wyckoff	Challis
Elmore	Perce Hall	Mountain Home
Franklin	P. M. Condie	Preston
Fremont	Ralph Litton	St. Anthony
Gem	C. H. Higer	Emmett
Gooding	M. F. Ryan	Gooding
Idaho	Wilbur L. Campbell	Grangeville
Jefferson	T. Harold Lee	Rigby
Jerome	R. H. Seeley	Jerome
Kootenai	J. W. Wayne	Coeur d'Alene
Latah	J. Morey O'Donnell	Moscow
Lemhi	Charles Herndon	Salmon
Lewis	G. C. Pennell	Nezperce
Lincoln	Howard E. Adkins	Shoshone
Madison	C. W. Poole	Rexburg
Minidoka	L. Duffin	Rupert
Nez Perce	E. W. Morgan	Lewiston
Oneida	John W. Clark	Malad
Owyhee	Phil J. Evans	Murphy
Payette	Gilbert C. Norris	Payette
Power	W. C. Loofbourrow	American Falls
Shoshone	Albert J. Graf	Wallace
Teton	S. H. Atchley	Driggs
Twin Falls	Everett M. Sweeley	Twin Falls
Valley	Ben Martin	Cascade
Washington	F. H. Joseph	Weiser

ATTORNEYS GENERAL OF THE STATE OF IDAHO

Since Statehood

George H. Roberts	1891-1892
George M. Parsons	1893-1896
Robert E. McFarland	1897-1898
Samuel E. 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	1919-1922
A. H. Conner	1923-1926
Frank L. Stephan	1927-1928
W. D. Gillis	1929-1930
Fred J. Babcock	1931-1932
Bert H. Miller	1933-1936
J. W. Taylor	1937-1940
Bert H. Miller	1941-1944
Frank Langley	1945-1946
†Robert Ailshie	1947
Robert E. Smylie	1947-1948

JUSTICES OF THE SUPREME COURT

1947-1948

†James F. Ailshie, Chief Justice	Coeur d'Alene
Raymond L. Givens, Chief Justice	Boise
Alfred Budge, Justice	Pocatello
Edwin M. Holden, Justice	Idaho Falls
Bert H. Miller, Justice	Boise
Paul W. Hyatt, Justice	Lewiston

†Deceased

December 1, 1948

The HONORABLE C. A. ROBINS
Governor of Idaho
Boise, Idaho

Dear Governor Robins:

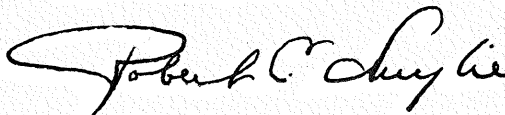
Obedient to the requirements of Section 65-1301, Idaho Code Annotated, I have the honor to present for your consideration the report of the Attorney General of Idaho for the years 1947 and 1948.

It is needful that I report to you on behalf of my predecessor, the late Robert Ailshie. I have willingly, though sorrowfully, performed this duty. Robert Ailshie was a brilliant analyst of the law and a friendly servant of good government for the people of our state. This report covers the period of his service as Attorney General.

We have re-adopted a former practice of the Attorneys General of Idaho and are directing attention to certain statutes where the need for revision has become apparent in the conduct of the public business. The report carries a resume of the formal opinions rendered during the past two years. The report comments briefly on certain litigation which we have deemed important.

I am grateful for this opportunity to restate publicly my gratitude to the excellent staff which has served with me in these years. Without their untiring and brilliant assistance, successful performance of the task which you set for me would have been well nigh impossible.

Respectfully submitted,

A handwritten signature in dark ink, reading "Robert C. Ailshie". The signature is fluid and cursive, with the first name "Robert" being the most prominent part.

Attorney General.

ATTORNEY GENERAL'S REPORT

Financial Summary

July 1, 1947 through June 30, 1949:

APPROPRIATIONS

Salaries and Wages	\$55,920.00
Other Expenses	3,360.61
Other Expense—Travel	1,050.00
Capital Outlay	1,685.00

DISBURSEMENTS AND BALANCES

July 1 through December 30, 1948. (November and December expenses estimated through necessity arising from the time this report is due—December 1, 1948)

	Expended	Balances
Salaries and Wages	\$40,602.00	\$15,318.00
Other Expense	2,568.05	792.56
Other Expense—Travel	684.30	365.70
Capital Outlay	1,523.00	162.00

LITIGATION OF INTEREST

It has been customary for the report of the Attorney General to contain a brief summary of litigation which was of importance to the State or which occasioned public interest. The docket which appears later in this report indicates that considerable litigation is in progress, mostly in the lower courts.

THE FOUR-YEAR-TERM CASE

In 1944, the people amended Article IV, Section 1, of the Constitution to provide that the elected executive officers of the State Government should serve for a term of four years instead of two years. This amendment was accomplished by the submission of Senate Joint Resolution No. 1, Twenty-seventh Idaho Legislature, to the people. The manner of submission of the amendment was attacked in a proceeding in the original jurisdiction of the Supreme Court whereby it was sought to compel the Secretary of State to accept for filing nominating petitions for the Office of Governor in the nominating primary held in 1948. The litigation achieved wide public notice. It was urged that the main ground of objection to the amendment was that the question submitted amounted in fact to more than one proposition in violation of Article XX of the Constitution. The Supreme Court sustained the validity of the amendment in a notable decision.

THE CONTINENTAL OIL COMPANY CASE

This case involved an appeal from the Industrial Accident Board. The Board had held that the Company was liable for the payment of Employment Security Taxes on some of the company's employees under the provisions of a certain contract. The Court sustained the Board's decision that the tax was payable, and reaffirmed its decision on re-hearing. Several persons appeared as *Amici Curiae* in the litigation in the Supreme Court. The Court's decision has attracted wide attention among members of the Bar of this and other states.

THE LIQUOR AND GAMBLING CASES

There has been a veritable rash of litigation in connection with the liquor-by-the-drink act and the slot machine and punchboard acts passed by the recent Legislature. Most of this litigation has occurred in the District Courts, and to date no case involving this subject matter has come to issue in the Supreme Court. The constitutionality of the legislation has been attacked, and sundry law suits have sought to inhibit enforcement of the various statutes. There have been eleven civil cases of this type and numerous criminal prosecutions. The issue in each of the civil cases which are decided at the

time of this report has been determined satisfactorily to the State's contentions. In the main part, the criminal prosecutions have resulted in conviction.

STATE vs. LINDSTROM

For several years prior to the period covered by this report, the Department of Public Assistance has sought a judicial determination of the constitutionality of the so-called "recapture provisions" of the Public Assistance Law. The Department has been persuaded, and apparently this office has always taken the position, that the statute which provides for recovery of amounts of public assistance paid to a deceased recipient out of the estate of the recipient, if an estate is left, suffered no constitutional infirmity. The question of whether this statute violated the provisions of the Constitution prohibiting a loan of the state's credit was presented in a probate proceeding in Clearwater County. The administrator disallowed the State's claim and we took an appeal. The District Court ruled adversely to the State's contention and appeal was thereupon taken to the Supreme Court. The decision in that Court reversed the lower court and the Administrator was ordered to pay the claim. The doctrine which had been urged in support of the contention that the recovery statute was unconstitutional could have been applied with equal vigor to the entire Public Assistance Law. The Supreme Court's decision was in effect a statement that the purposes of the Public Assistance Law were public purposes, that the objectives sought to be served by that law were within the reach of the legislative power, and that action to serve those purposes was not unconstitutional.

THE INCOME TAX CASES

Early in 1947, this office, as the enforcement agency for the Department of Finance, undertook to give sustained attention to the problem of realizing to the fullest extent the revenue which should be derived from the Property Relief Act of 1931, commonly referred to as the Income Tax Act. The Income Tax Division of the Department has required the services of the office to a much greater extent than has heretofore been the case. We have filed approximately one hundred cases to date seeking collection of the tax, or seeking to collect deficiency assessments made against various taxpayers. Some of these cases involve small amounts and have accordingly been filed in the Probate and Justice Courts. Only one of these cases has yet reached the Supreme Court, where it is now under advisement. It is anticipated that the volume of this work will increase as the task of auditing returns continues. Enactment of legislation providing summary process for the collection of income taxes, similar to that permitted for the collection of ad valorem taxes, would serve to reduce this anticipated burden on the courts.

MISCELLANEOUS LITIGATION

The foregoing paragraphs have attempted to delineate the litigation which has attracted the widest public interest. There are other lawsuits in progress which are potentially as important as any of those discussed in detail.

A case involving construction of certain amendments to the Mine License Tax Law is pending in the Third Judicial District.

A case involving the validity of an appeal to the Courts from an order of the Kootenai County Board of Equalization is pending in the Eighth Judicial District, in which the Tax Commission and the County have requested this office to be of assistance inasmuch as problems of law intimately touching the Commission's jurisdiction are at issue.

There is pending in the Supreme Court an appeal from the District Court in Bonneville County which involves the power of the County Commissioners to issue and enforce regulations with regard to the hours during which beer can be sold within the county.

There are several criminal appeals pending in the Supreme Court although the burden of criminal appellate work is not unduly heavy.

There have been numerous proceedings before the Public Utilities Commission where this office has appeared. These proceedings have involved applications for increases in rates involving substantial amounts of money.

A most significant development has been the increase in the number of administrative proceedings in which the office has appeared in an advisory capacity. Most of the agencies of State Government now are obliged to conduct proceedings of some character and the persons involved are usually represented by counsel. It is needful therefore that legal assistance and advice be made available to the officer hearing the proceeding. Proceedings of this character which have achieved formal status are detailed in the docket section of this report.

RECOVERIES

The office has participated in proceedings and litigation in the last two years which resulted in recoveries to the State of approximately \$254,400.00. These recoveries have been achieved in the Income Tax Division, the Public Assistance Department, the Department of Insurance and other administrative agencies. None of these funds are actually paid to this office and are accountable elsewhere. Therefore no detailed recapitulation is set forth.

ADMINISTRATIVE WORK

The greatest part of the work in the Office of the Attorney General is pure administrative routine. A brief report on that work is deemed desirable.

We have rendered 159 formal opinions to persons entitled thereto. As near as can be ascertained, we have advised informally as to legal questions on approximately 1,800 occasions. These informal advices have been given when a problem was deemed insufficiently important or of specific application only. In those instances, we have thought a formal opinion inadvisable and not required. We have revived the custom of conference with the administrative officers of the government and have utilized that medium to reduce the burden of correspondence. Such a conference technique, or an informal advisory letter, requires the same research as is necessitated by a formal opinion. The mechanical difficulties of typing and reproduction do not attend such a method of fulfilling our obligation and a consequent saving in time results.

We have examined numerous abstracts of title pertaining to lands purchased by the State and have given our opinion thereon.

We have examined all the abstracts of proceedings which authorized the issuance of bonds which have been purchased by the Department of Public Investments.

We have devoted considerable time to devising a method of zoning airports against hazards to aerial commerce pursuant to the Airport Zoning Act of 1947.

We are about to conclude what is believed to be the last of the so-called "foreclosure cases" which originated in the loan of public school funds on farm lands.

On several occasions we have participated in hearings before Your Excellency on requisitions for a Warrant of Extradition forwarded by the Governors of other states. We have advised with regard to the legal sufficiency of all requests for extradition.

We have examined innumerable public official bonds and other bonds filed with the State Government. Some of these have required correction or rejection. No numerical record of these has been kept except in the correspondence file in the form of letters of approval or disapproval.

RECOMMENDATIONS

The character of the work in the Office of the Attorney General is such that we have an unusual opportunity to observe the workings of our statutes, and to examine in detail places in our law where changes are needful and would be beneficial. The Attorneys General of Idaho in times past made the practice of suggesting curative changes in the law one of the most useful portions of their biennial reports. I have determined, at the risk of presumption, to reinstate this practice, and the following recommendations are made with that end in view.

At the present time, Assistant Attorneys General are assigned full time to various of the departments and agencies. It is difficult, under such circumstances where the Attorney General has no budgetary or fiscal control, to achieve complete coordination and the most effective

and efficient utilization of personnel. It would appear that substantial savings could be effected and the calibre of administration improved were the entire burden of providing legal services to the State government centralized in the main office. There are occasions where direct assignment of a full-time attorney would be necessary but the ends of efficient and economical administration would be served if the entire legal staff of the State worked under the centralized budget and fiscal control of the Attorney General.

The increase in number of Administrative Proceedings, and the desire to be certain that every person involved in them is secure in his constitutional rights, has led to the conclusion that the Legislature should enact an Administrative Procedure Act. Many of the statutes conferring regulatory power on an agency of State Government make no provision for appropriate procedure. We have attempted to devise procedures which would secure the rights of the citizenry but these are administrative makeshifts. A law plainly defining the methods of procedure to be employed in the administration of rule-making and regulatory power would effect sounder administration of the statutes and would provide a more certain method of securing to each of our citizens the constitutional safeguards which properly surround the citizen's rights. The Federal Government has found such a statute helpful and that Act might be utilized as a model.

The administration of the rule-making powers conferred on the various departments and agencies is hampered by the lack of a central depository for the original copies of such regulations. It is virtually impossible at times to ascertain whether a given regulation lawfully exists. The citizen is without protection in that these regulations in many cases have the force of law and there is no person to whom he can apply with certainty for a copy. I think it needful that a statutory mode of promulgation of regulations be adopted and that the statute require the original copy of regulations to be filed in some appropriate place where certified copies may be made and furnished to the people of the State upon request. The statute might be enforced by making a regulation ineffective until such filing had been accomplished. The Office of the Secretary of State is a readily accessible place for filing inasmuch as the statutes are deposited there.

In the last two years the office has appeared in the Supreme Court on two occasions when the Auto Transportation Act was in litigation. (Title 59, Chapter 8, Idaho Code Annotated) Those two cases have illustrated the desirability and necessity of a complete revision of that statute. We understand that the Public Utilities Commission has been working on a proposal to revise the law. The necessity for effective regulation of the auto transportation industry is of prime importance. I am convinced that such regulation cannot be achieved under the existing statute.

The litigation heretofore referred to which has been occasioned by the increased enforcement activities of the Income Tax Division of

the Department of Finance would be substantially reduced if summary process for the collection of these taxes were provided. This enforcement is now undertaken by the most expensive method—the filing of a lawsuit. This, in turn, subjects the taxpayer to a greater burden, directly or indirectly. Summary process for the collection of taxes is now provided in the *ad valorem* tax laws, the motor fuels tax laws and the employment security tax laws. The Tax Commissioner should be empowered to enforce a direct lien on the property of delinquent taxpayers after they have been given an opportunity to be heard in their own behalf without the necessity of filing suit. Such legislation would make it possible to achieve the maximum revenue under the existing tax structure and might make possible a reduction in the rate of tax. The present enforcement procedures produce an inequity in that the taxpayer who does not pay his taxes is untouched until he is sued. Summary process is a part of nearly every income tax law in the United States and has been satisfactorily administered where it is a part of the law. Practically speaking, existence of summary collection processes make use of the process unnecessary.

Community property is now exempt from the provisions of our inheritance tax law. The amendment which accomplished this exemption substantially reduces the revenue derived from that tax and results in an inequitable operation of the inheritance tax law. That amendment to the inheritance tax law should be repealed.

Attention should be given to the statute which compels the Tax Commission to fix the state *ad valorem* levy by the fourth Monday in August. It will be impossible for the Commission to hear and determine the appeals of individual taxpayers from orders of the various County Boards of Equalization in the requisite time if those appeals are as numerous as is anticipated.

The administration of criminal justice in the state would be served by the organization of a Criminal Justice Council and a State Bureau of Identification. The activation of the Idaho Police Radio circuit operating on an assigned frequency and existing through cooperation of the Cities and Counties with the State provides a basis for this cooperative enterprise. Such a council could be composed of the Prosecuting Attorneys and would tend toward more uniform administration of criminal justice. A bureau of identification could coordinate the investigative work of the State with that of the local enforcement agencies. The geographical nature of our state is such that any means whereby all the forces of criminal detection and enforcement can be organized on a cooperative basis into an effective unit is desirable.

Discussions have been going forward with the Prosecuting Attorneys, looking toward a more satisfactory method of handling criminal appeals. This office is handicapped in arguing a case on appeal inasmuch as it does not participate in the trial of the case. It is needful that this office brief these cases on appeal because some of the prosecuting attorneys are located at towns remote from adequate libraries.

I think that it would conduce the effective administration of justice if it were possible to associate a prosecuting attorney actively in the preparation and presentation on appeal to the Supreme Court of criminal cases originating in their county. We have undertaken to do this as an administrative practice, but lack of funds both at the county level and in this office has been an inhibiting influence.

It has been almost thirty years since the structure of the state government has been subject to analysis and reorganization. The character of the government's mission has changed. New functions have been undertaken and old functions have become obsolete. I think that analysis of the structure of the government undertaken on a wholesale basis would make possible adjustments in structure tending to reduce the number of necessary personnel and thus effect substantial savings. Such a study would provide a basis for job analysis and salary classification, and would do much to solve the problem of adequate compensation for our personnel. Reclassification will provide a basis for increases and improve the calibre of administration at the same time.

OPINIONS OF THE ATTORNEY GENERAL

On January 7, 1947, the late Robert Ailshie re-instituted the practice of numbering the formal opinions of the Attorney General of Idaho. This had not been done since 1930. In order that conflict with an earlier numbering system would not ensue a number indicating the year in which an opinion was issued was adopted. Thus the first opinion in 1947 was designated No. 1-47. This system has been followed. At the same time we undertook production of a permanent master reproduction copy of each opinion in order that copies might be available to those who requested copies. Copies are filed in the Supreme Court Libraries. Copies are, and will continue to be, available to the public upon request. For that reason we have determined not to reprint opinions in full, as has been the custom, but have utilized the headnotes prepared for use in our own file system. This results in a substantial saving and achieves the same results. These headnotes follow in numerical order of issue. The first three reported opinions were given in 1946 and are therefore unnumbered. Numerous advisory letters have been written to officers of the State Government which have not been designated as formal opinions and are not noted here inasmuch as they treated of a subject matter not of general application.

TEACHER'S RETIREMENT SYSTEM—Beneficiary of member of teacher's retirement system who applied for retirement benefits but died before receiving them, would be entitled to benefits from July 1, 1946 to date of death. (M. Reese Hattabaugh, Sr. un-numbered—10-25-46)

TEACHER'S RETIREMENT SYSTEM—Teaching Service in the Works Progress Administration and N.Y.A. in creditable prior service under the Teacher's Retirement Act. (Thos. Y. Gwilliam—un-numbered 11-2-46)

TEACHER'S RETIREMENT SYSTEM—Teachers not having at least 15 consecutive years of teaching service in Idaho are not entitled to benefits under the Teacher's Retirement Act. (Thos. Y. Gwilliam—un-numbered 11-13-46)

No. 1-47 DEPARTMENT OF AERONAUTICS—Counties or municipalities may contract with the U.S. pursuant to the provisions of P. L. 377, 79th Congress of the United States. (Robert E. Smylie)

No. 2-47 THE SPEAKER, THE HOUSE OF REPRESENTATIVES—The Legislature may not pass a budget in excess of expected revenue. They must take measures to equalize anticipated revenue and anticipated expenses. (Robert Brown)

No. 3-47 Withdrawn.

No. 4-47 SECRETARY OF STATE—Trademarks registered by one corporation may not be used for any purpose by another corporation without first obtaining an assignment of said trademark from the owner thereof. (Robert E. Smylie)

No. 5-47 STATE RECLAMATION ENGINEER—1. Whether a transfer of place of user of natural water is an injury is a matter for decision by the State Reclamation Department on facts presented. 2. A transfer of user of reclamation water should not be approved except where there is ample water in addition to supply the water rights of the other owners of land within the district. (J. R. Smead)

No. 6-47 STATE REPRESENTATIVE, TETON COUNTY—County Commissioners have no discretion but to issue a beer license provided the applicant's qualifications are those of a retailer licensee as provided by Sec. 5(a) of Sec. 4, Chap. 167, Session Laws of 1943, as amended by Sec. 1, Chap. 160, Session Laws of 1945. (Robert B. Holden)

No. 7-47 Withdrawn.

No. 8-47 STATE LAND COMMISSIONER—1. Sales of State lands are subject to existing leases, only in that the purchaser must pay the lessee for improvements on said land;

2. Legislation is necessary to increase the minimum down payment required by law on purchases of state lands;

3. Legislation is not necessary to change the classification of state lands from grazing to agriculture or vice versa. (J. R. Smead)

No. 9-47 IDAHO STATE BOARD OF ENGINEERING EXAMINERS—1. Unless a state's requirements are substantially equal to those specified in Chap. 231, Session Laws of 1939, Sec. 1(a) or 1(b), it does not follow that licenses must be issued under a reciprocal agreement.

2. A license may be issued to an applicant even if the license he holds is in a state not under a reciprocity agreement.

3. Licensing is within the discretion of the Board.

4. Idaho residents not holding a license in another state would have to submit to examination. (J. R. Smead)

No. 10-47 COMMISSIONER OF AGRICULTURE—Material purchased under state appropriations for noxious weed control may be allocated to counties in which weed extermination areas and weed eradication funds have not been created. (Robert E. Smylie)

No. 11-47 PROSECUTING ATTORNEY, BOISE COUNTY—Pursuant to the provisions of Chap. 111, Session Laws of 1945, County Commissioners may raise salaries of county officers except themselves. (J. R. Smead)

No. 12-47 THE GOVERNOR—Only appointments of the Governor requiring confirmation by the Senate: Membership of Tax Commission, Industrial Accident Board and Commissioner of Labor and Immigration. (Robert E. Smylie)

No. 13-47 PROSECUTING ATTORNEY, GEM COUNTY—Limitations as to raising and diminishing salaries of District Attorneys would not apply to office of Prosecuting Attorney. Consequently, salaries of such officers may be raised or lowered during their term of office. (Robert B. Holden)

No. 14-47 STATE RECLAMATION ENGINEER—The election of a water master is a question for the water users involved. The Department of Reclamation may approve the appointment of a water-master to fill a vacancy made by resignation or death but his payment is in the discretion of the County Commissioners. (J. R. Smead)

No. 15-47 SUPERVISING STATE BEE INSPECTOR—Bees shipped interstate, whether to another party or to the purchaser himself, must be constituted upon receipt as a "delivery," subject to all restrictions thereon. (Robert E. Smylie)

No. 16-47 STATE AUDITOR—The Board of Trustees of the Teacher's Retirement Fund have authority to direct investments of the Teacher's Retirement Fund, but the law requires that such investment shall be made through the Department of Public Investments subject to provisions of law governing investments of public school funds. (Robert E. Smylie)

No. 17-47 BOARD OF COMMISSIONERS, POWER COUNTY—Boards of County Commissioners have no authority to divert money from a county road and bridge fund to an independent highway district. (Robert B. Holden)

No. 18-47 EDWARD J. EAST, IDAHO CITY, IDAHO—Contracts let by the State for construction, oiling or other surface treatment of highways in excess of \$5000 must be made pursuant to sealed bids invited by public advertisement. (J. B. Musser)

No. 19-47 PROSECUTING ATTORNEY, BLAINE COUNTY—1. The term "taxable inhabitants" applies to residents liable to pay taxes either real or personal;

2. A widow paying no taxes by reason of filing a widow's exemption should be counted a "taxable inhabitant";

3. A husband and wife who own property would be considered "taxable inhabitants" even though the property be registered in just one of their names. (Robert E. Smylie)

No. 20-47 SUPT. OF PUBLIC INSTRUCTION—Although there is no express provision in the statutes prohibiting County Superintendents from holding full-time teacher's job, such a practice would be incompatible with the duties of his office and subject to question. (Robert B. Holden)

No. 21-47 PROSECUTING ATTORNEY, LEMHI COUNTY—The tax exemption statute requires the veteran be totally or partially disabled. If the County Commissioners are satisfied with proof offered by a veteran of his disability that is sufficient; "Service connected" would be construed to mean anyone bearing a disability received while a member of the armed forces which is recognized by the Federal Veterans Administration. (Robert E. Smylie)

No. 22-47 STATE TAX COMMISSION—Cigarettes used as gifts from manufacturer to consumer are subject to tax. (Robert E. Smylie)

No. 23-47 BOARD OF COMMISSIONERS, CARIBOU COUNTY—Leases of County hospitals made by the Board of County Commissioners would be invalid unless approved by a majority of the qualified electors of said county voting on such questions at a general election. (Robert B. Holden)

No. 24-47 SECRETARY OF STATE—1. All non-productive mining corporations, all cooperative telephone and irrigation corporations and incorporated canals, lateral and drainage ditches operated on the cooperative plan solely and not conducted in whole or in part for revenue purposes, must pay the ten dollar (\$10.00) annual penalty prescribed by Section 29-608 for each year in which they did not receive the benefit of Section 29-602 because of failure to file their annual statement before they are entitled to reinstatement, or extension of their term of corporate existence.

2. All other corporations are provided for under the general provisions of Section 29-608 and are entitled to reinstatement, or extension of their term of existence, upon payment of all the license taxes and penalties prescribed by Section 29-603 which have accrued, plus those which would have accrued had the charter or right to do business not been forfeited. (Robert E. Smylie)

No. 25-47 STATE LAND COMMISSIONER—It is illegal to lodge tailings or other debris resulting from the operation of a placer mine upon mining property held by others between high-water marks on a navigable stream under lease from the state. (J. R. Smead)

No. 26-47 BOARD OF COMMISSIONERS, CARIBOU COUNTY—

1. The Board of County Commissioners may revoke a retail beer license upon proof that licensee was not a bona fide resident of Idaho at time of application.

2. County Commissioners can revoke beer licenses only upon grounds specifically set forth in the statutes. Petitions from citizens have no bearing on such matter. (Robert B. Holden)

No. 27-47 STATE LAND COMMISSIONER—On Assignment of a certificate of purchase of State land to secure payment of money owing the assignee for a mortgage, the assignor is entitled to receive title from the state when he has paid the full purchase price, and the rights of the assignee are a personal matter between himself and the assignor and not to be determined by state authorities. (J. R. Smead)

No. 28-47 BEER REVENUE ADMINISTRATION—A holder of a Federal retail liquor stamp shall be refused a retail beer license unless the licensee has been granted a State retail liquor license as provided by Chapter 274, Session Laws of 1947. (Robert B. Holden)

No. 29-47 STATE RECLAMATION ENGINEER—Where the right to the use of irrigation water or the use of the diversion works or irrigation system is not represented by shares of stock in the corporation which owns the irrigation works, the consent of such corporation to a diversion of the water to other lands is not essential. (J. R. Smead)

No. 30-47 OFFICE OF THE GOVERNOR—Chapter 165, Session Laws of 1947, limits the right of redemption of property taken by the county for unpaid taxes for a period of five years whether the property was so taken by the county before or after the bill became law. (J. R. Smead)

No. 31-47 THE GOVERNOR—Operation of so-called "locker clubs" within the State of Idaho subsequent to March 19, 1947, the effective date of Chapter 274, Session Laws of 1947, would be unlawful. (Robert B. Holden)

No. 32-47 COMMISSIONER OF LAW ENFORCEMENT—"motor bikes" are classified as "motorcycles" under the Motor Vehicle Laws of the State of Idaho and must be registered and licensed in the same manner that "motorcycles" are registered and licensed. (Robert B. Holden)

No. 33-47 INDEPENDENT SCHOOL DISTRICT NO. 4—1. No retailer shall sell beer until retailer shall have been licensed by the municipality, which license is in addition to the county license.

2. Sale of beer on Sunday can be restricted by proper ordinance.

3. Issuance of retail beer licenses by an incorporated municipality is lawful.

4. It is unlawful to sell beer to persons under 20 years.

5. Beer cannot be sold between hours 1:00 a.m. and 7:00 a.m. which hours can be further restricted by municipal ordinance or County Resolution.

6. Each county, corporate city and corporate village in the state can license the sale of liquor-by-the-drink.

7. Power to issue city or village liquor license is vested in city council or board of trustees.

8. City or village may impose a license fee not to exceed 75% of amount of fee collected by state on licenses for retail sale of liquor-by-the-drink. (Robert B. Holden)

No. 34-47 THE COUNTY RECORDER, BANNOCK COUNTY—It is the duty of County Recorder to transcribe or cause to be transcribed all county records "clearly written in pen and ink or with a typewriter with indelible ink" which relate to an annexed portion and the expenses must be paid by county receiving land. (J. R. Smead)

No. 35-47 FISH AND GAME COMMISSION—Annual license or permit is required from both breeders and fur buyers of either domestic or wild animals. (J. R. Smead)

No. 36-47 STATE TAX COMMISSION—Additional tax of one cent per package must be collected and paid on cigarettes to which the two cent stamps have already been affixed if cigarettes are offered for sale on or after July 1, 1947. (Robert E. Smylie)

No. 37-47 STATE TAX COMMISSION—The refund provisions of Sec. 19, Chap. 205, Session Laws of 1945, as amended by Chap. 169, Session Laws of 1947, do not apply to tax stamps placed on individual packages when the packages are returned to a jobber or dealer because the cigarettes which they contain become "stale merchandise." (Robert E. Smylie)

No. 38-47 STATE TAX COMMISSION—County Assessor may assess standing timber on land belonging to the State or the United States when the timber has been bought and paid for by the purchaser on or before the second Monday in January of the taxable year in question. (Robert E. Smylie)

No. 39-47 STATE TAX COMMISSION—The provisions of Ch. 98, and Ch. 225, Session Laws of 1947, relating to tax exemptions and to assessment and taxation of transient personal property are not effective on the assessment of property for the taxable year 1947. (Robert E. Smylie)

No. 40-47 BUREAU OF PLANT INDUSTRY—Chap. 264, Session Laws of 1947, requires licensing of companies engaged in aerial crop dusting; requires the licensing of pilots engaging in aerial crop dusting when the company by which they are employed is licensed; requires the licensing of a pilot individually engaged in aerial crop dusting; and permits the inauguration of an in-service aerial crop dusting program by a licensed company under rules and regulations promulgated by the commissioner. (Robert E. Smylie)

No. 41-47 PROSECUTING ATTORNEY OF CANYON COUNTY—Sec. 31-206 I.C.A., does not apply to a marriage contracted between a white person and a Filipino. (Robert B. Holden)

No. 42-47 CITY ATTORNEY, MACKAY, IDAHO—It is not necessary for licensing authority to collect slot machine license fees annually in advance, for the year 1947. Multiple slot machines constructed as a single device are subject to only one license fee. (Robert B. Holden)

No. 43-47 COMMISSIONER OF LAW ENFORCEMENT—Dept. of Law Enforcement shall make no refunds on slot machine license fees unless applicant presents evidence of the fact that he has made a charitable donation and the application is filed within 60 days from the effective date of the refund act. (Robert B. Holden)

No. 44-47 COMMISSIONER OF LAW ENFORCEMENT—Operators of motor bikes, motorcycles, motor scooters and like vehicles must secure motor vehicle operator's or chauffeur's license. (Robert B. Holden)

No. 45-47 PROSECUTING ATTORNEY, ADA COUNTY—Casual social meetings or parties which are purely gratuitous may serve liquor without charge without securing a retail liquor dealer's license. (Robert B. Holden)

No. 46-47 BUREAU OF PLANT INDUSTRY—The weight of packages of honey not in combs and of small packages of honey in combs need not be placed on the outer label. If the weight is stated it must be correctly stated. Standards of quality, purity and strength for food, liquors and drugs adopted by the U. S. Dept. of Agriculture are standards in this state. (Robert E. Smylie)

No. 47-47 DEPARTMENT OF PUBLIC HEALTH—County, state and municipal Health Officers may quarantine persons suffering from venereal diseases at places designated for places of quarantine outside the county in which the person suffering resides, if, in the judgment of the quarantining officer, such action is necessary to protect the public health. (Robert E. Smylie)

No. 48-47 PROSECUTING ATTORNEY, CANYON COUNTY—County Recorders are required to record verbatim, and in addition, to

keep a register of, marriage certificates in accordance with Sections 30-1902 and 38-229, I.C.A. (Robert E. Smylie)

No. 49-47 DEPARTMENT OF PUBLIC HEALTH—Funds for the operation of Public Health Districts organized in accordance with the provisions of Chapter 106, Session Laws of 1947, may be expended from the same source as funds which are expended for the enforcement of the duties of Local Boards of Health; i.e., the current expense fund of the counties. (Robert E. Smylie)

No. 50-47 UNEMPLOYMENT COMPENSATION DIVISION, INDUSTRIAL ACCIDENT BOARD—American Legion Locker Clubs which operated under the old locker club law are liable for the payment of unemployment compensation excise taxes with respect to wages paid employees rendered in operating a Bar Service under a Locker System. (David Doane)

No. 51-47 SECRETARY OF STATE—The provisions of the constitution requiring 30 days notice to stockholders of a meeting where a corporation increases the capital stock is mandatory and cannot be waived by the stockholders. The Secretary of State should require strict observance of this requirement and certificates of amendment. (Robert E. Smylie)

No. 52-47 PUBLIC UTILITIES COMMISSION—Sec. 59-807, I.C.A. provides adequate statutory authority for the Commission's rule 19 requiring approval by the Commission for additions or substitution of equipment by auto transportation companies. Sec. 59-808, I.C.A. requires that the Commission's consent be sought and received before any permit issued under the auto transportation act, or any part thereof, may be leased, sold, assigned or transferred. (Robert E. Smylie)

No. 53-47 PROSECUTING ATTORNEY, ADA COUNTY—Cities, counties and villages are not authorized to utilize Sec. 7, Ch. 239, Session Laws of 1947, as a basis for the adoption of pure revenue raising measures. However regulations based on Sec. 7 are not invalid even though they impose a regulatory fee, if the fee imposed bears a reasonable relation to the cost of regulation. (Robert E. Smylie)

No. 54-47 STATE RECLAMATION ENGINEER—Gravel is considered a "deposit," as listed with ores and minerals in Sec. 46-721, I.C.A., and may not be removed from State lands without obtaining a lease of the property from State Land Commissioners. (J. R. Smead)

No. 55-47 CHARITABLE INSTITUTIONS COMMISSION—The hospital attendants employed at State Hospital North, as described in the data sheet attached to the inquiry in this case, are not "practical nurses" within the meaning of Chap. 96, Session Laws of 1947, and as a consequence, are not required to procure a license from the Department of Law Enforcement. (Robert E. Smylie)

No. 56-47 THE MAYOR, POCA TELLO, IDAHO—Sec. 6(c) of Chap. 151, Session Laws of 1947 (The Local License Act) requires that municipalities license slot machines only in public places to which persons under 20 years of age do not have access. Access means the opportunity to observe, coming in contact with or loitering about coin-operated amusement devices. (Robert Ailshie)

No. 57-47 STATE BOARD OF PUBLICITY—Sec. 65-1904, I.C.A., must be construed to require the State Board of Publicity to pay all of its claims by a warrant drawn by the State Auditor upon the State Treasurer after such claims have been approved by Board of Examiners, although the section apparently provides that the Board may maintain a separate treasury composed of funds not appropriated by the Legislature and make payment therefrom against such claims by its order alone. (Robert E. Smylie)

No. 58-47 INDUSTRIAL ACCIDENT BOARD—The manner of enactment of Chap. 269, Session Laws of 1947, is proper. The enrolled copy of H.B. 120 (Ch. 269) is entitled to be treated as valid and should be administered in accordance with its terms. (Robert E. Smylie)

No. 59-47 UNEMPLOYMENT COMPENSATION DIVISION. INDUSTRIAL ACCIDENT BOARD—Interpretation of the meaning of Sec. 19 of Employment Security Law, defining "eligible employer." (David Doane)

No. 60-47 COMMISSIONER OF AGRICULTURE—Ch. 51, Session Laws of 1943, would have expired under its terms on June 30, 1947, had it not been repealed by Ch. 187, Session Laws of 1947, which last chapter now constitutes the "Ice Cream Law" of the State of Idaho. (Robert E. Smylie)

No. 61-47 KALES E. LOWE, ESQ., BURLEY, IDAHO—A home where one child under 18 years of age is accepted on non-permanent basis, to rehabilitate such delinquent child, when such home does not "regularly" accept such children, is not considered a "foster home." (J. R. Smead)

No. 62-47 COMMISSIONER OF PUBLIC INVESTMENTS—Moneys in the various funds of the Teacher's Retirement System may be invested by the Commissioner of Public Investments, at the direction of the Board of Trustees of the System, in bonds for which it is necessary to pay a premium above face value. (Robert E. Smylie)

No. 63-47 DEPARTMENT OF PUBLIC WORKS—In accordance with Chapter 90, Session Laws of 1947, if Federal Funds are now available for post war highway construction and can be matched with funds from that special gas tax fund, money may be drawn from that fund. (J. B. Musser)

No. 64-47 DEPARTMENT OF LAW ENFORCEMENT—Regulations of Income Tax Department are not applicable in matter of mine tax return by partnership because of express provisions of Mine License Tax Law. Mine license tax is an excise tax instead of income tax. (J. R. Smead)

No. 65-47 UNEMPLOYMENT COMPENSATION DIVISION, INDUSTRIAL ACCIDENT BOARD—Veterans Housing Project owned, operated and sponsored by the American Legion, a fraternal organization, is held not liable for payment of unemployment compensation excise tax. (David Doane)

No. 66-47 COMMISSIONER OF AGRICULTURE—County weed crews engaged in spraying noxious weeds for the purpose of eradicating them pursuant to Chapter 235, Session Laws of 1939, are not required to secure a license under the provisions of Chapter 264, Session Laws of 1947, prior to engaging in such spraying of noxious weeds. (Robert E. Smylie)

No. 67-47 COMMISSIONER OF FINANCE—In computing the cost of cigarettes to the wholesaler under the Unfair Sales Act a 2% discount allowed for cash payment of the invoice covering the purchase transaction cannot be deducted from the wholesaler's gross cost prior to applying the statutory wholesale mark-up, nor may an amount equal to the value of the State cigarette tax stamps be added to the net cost to the wholesaler of such cigarettes prior to applying the statutory wholesale mark-up, and if, in computing the cost to the retailer or wholesaler under the Act, the cost so computed includes on a single item a fraction of a cent, the correct statutory cost is the next highest or lowest even cent. (Robert E. Smylie)

No. 68-47 STATE COMMITTEE ON SCHOOL REORGANIZATION—School districts established as of the effective date of Chapter 111, Session Laws of 1947, must secure the permission of the County and State Committees of School Reorganization prior to erecting new school buildings or issuing bonds for any purpose. (Robert E. Smylie)

No. 69-47 STATE SUPERINTENDENT OF PUBLIC INSTRUCTION—County Boards of Education constituted under Chapter 275, Session Laws of 1947, are taxing organizations within the meaning of Chapter 160, Session Laws of 1933, and are authorized to issue tax anticipation notes pursuant to the provisions of that statute. (Robert E. Smylie)

No. 70-47 STATE SUPERINTENDENT OF PUBLIC INSTRUCTION—The State Board for Vocational Education is authorized by Section 32-1703, Idaho Code Annotated to set the salaries of persons under its jurisdiction where such salaries are not fixed by law, but Chapter 48, Session Laws of 1945, (Standard Appropriations Act of

1945) requires that vouchers upon which payment of such salaries are made must be submitted to the State Board of Examiners for approval and allowance. (Robert E. Smylie)

No. 71-47 TEACHERS' RETIREMENT SYSTEM—A beneficiary of the Teachers' Retirement System may become a full time paid employee of the State of Idaho while receiving benefits from the Teachers' Retirement System. (Robert E. Smylie)

No. 72-47 STATE BOARD OF CORRECTION—Interpretation of Chapter 53 of 1947 Session Laws regarding duties, etc. of new Board of Correction. (Robert Ailshie)

No. 73-47 CITY ATTORNEY, SALMON, IDAHO—The city of Salmon may properly make a donation to Lemhi County through its governmental agency, the Lemhi County Hospital Board, in pursuance of the authority granted to municipalities by the Hospital Survey and Construction Act of 1947. Art. 12, Sec. 4, Constitution of Idaho, raises no barrier against such a donation, and such a donation may be made from the general fund of the city, subject to the limitations prescribed by the provisions of law providing for annual appropriations by the city council for the anticipated expenses of the city. (Robert E. Smylie)

No. 74-47 FISH AND GAME COMMISSION—Possession of fish taken in another state than Idaho would not come under regulations of Fish and Game Commission of Idaho but under regulations of state where fish were taken unless there is an interstate compact or agreement between two states. (J. R. Smead)

No. 75-47 CITY CLERK, WEISER, IDAHO—Females may work in retail liquor by the drink establishments, providing they do not perform duties of "bartender" as defined in Chapter 274, Session Laws of 1947. (Robert B. Holden)

No. 76-47 CITY CLERK, WEISER, IDAHO—Premises licensed for the retail sale of liquor by the drink may remain open on Sundays and holidays for the sale of beer and other items, under state law, providing there is no local ordinance to the contrary, even though liquor may not be sold. (Robert B. Holden)

No. 77-47 PROSECUTING ATTORNEY, MADISON COUNTY—Vacancies on County Board of Education, caused by ineligibility of elected members, are to be filled by remaining qualified members; such members to exercise their own discretion as to geographical portion of county to be represented. (John A. Carver, Jr.)

No. 78-47 STATE BOARD OF EDUCATION—The Northern Idaho College of Education may pledge dormitory income funds as security for bonds to be issued to construct a laboratory school, the dormitory bonds having been retired. (John A. Carver, Jr.)

No. 79-47 DEPARTMENT OF AERONAUTICS—Power lines, using highway right of way easements, which interfere with the approach zone of an airport, are subject to removal on proper showing of public interest, either through purchase of eminent domain. If they constitute an existing nonconforming use, removal cannot be effected by operation of the zoning law. (John A. Carver, Jr.)

No. 80-47 COMMISSIONER OF FINANCE—Chapter 55, Session Laws of 1943, does not prohibit the concurrent loaning by three individual licensed branches of the same company of the lawful limit of \$300 to one borrower even though the effect of such practice is to triple the allowable maximum of a loan between the licensee and the borrower. The Commissioner of Finance is, however, empowered to prohibit such a practice by regulation, which said regulation may be enforced under his licensing powers. (Robert E. Smylie)

No. 81-47 COMMISSIONER OF FINANCE—Persons ordinarily engaged in the wholesale business who, incident to that business, engage in transactions where they guarantee to a cigarette manufacturer payment of an invoice shipped to a designated retailer, act, as the channel through which payment for such invoice is made, and do not take the order or have possession of the merchandise, are, as to those transactions, not wholesalers of cigarettes and are therefore not subject to the minimum markup provisions of the Unfair Sales Act as to those transactions. (Robert E. Smylie)

No. 82-47 COMMISSIONER OF PUBLIC WORKS—The Board of County Commissioners has power to construct or repair, with the consent of the corporate authorities of any municipality within the county, any highway within such municipality upon such division of the costs thereof as may be agreed upon, or join with the state or any body politic or political sub-division thereof in the construction or repair of any highway and to contract for an equitable division of the cost thereof. (J. B. Musser)

No. 83-47 PUBLIC ROADS ADMINISTRATION OF THE UNITED STATES—The Department of Public Works may do anything reasonably required under the circumstances to build, construct and maintain the state highways, and may extinguish or condemn easements of access or purchase access rights, and in the case where easement rights cannot be obtained by purchase agreement the State may obtain such rights by condemnation proceedings under the law of eminent domain; however, before such lands may be taken in a condemnation proceeding it must be proved that the use to which it is to be applied is a use authorized by law, that the taking is necessary to such use, and that just compensation will be paid therefor. (J. B. Musser)

No. 84-47 SUPERINTENDENT OF PUBLIC INSTRUCTION—School districts are required to furnish transportation for pupils in

the district, where the County Boards of Education so determine, even though the Districts have ruled that transportation is impracticable. (John A. Carver, Jr.)

No. 85-47 SUPERINTENDENT OF PUBLIC INSTRUCTION—The Board of Trustees of the Teachers' Retirement System may adopt a rule that teachers certified and employed when beyond the age of seventy shall constitute a class to be excluded from the Retirement System. (John A. Carver, Jr.)

No. 86-47 BEER REVENUE ADMINISTRATION—Point of sale advertising by retail beer dealers is unlawful with the exception of the signs specifically allowed by law. (Robert B. Holden)

No. 87-47 COUNTY CLERK, BLAINE COUNTY—Newly incorporated cities and villages share in apportionment of Liquor Fund Surplus. Population of cities and villages incorporated subsequent to the 1940 census is determined by certificate of governing board. (Robert B. Holden)

No. 88-47 EMPLOYMENT SECURITY AGENCY—The provisions of Section 51 of the New Employment Security Law permitting two or more employers, which are subject to a merger, consolidation or reorganization, to transfer experience rating records for purposes of determining Employment Security tax, are not applicable until the effective date, July 1, 1947. (David Doane)

No. 89-47 DEPARTMENT OF PUBLIC HEALTH—The various County Boards of Health without addition to or change in existing laws and regulations are empowered to isolate and, if need be to quarantine, cases of syphilis, gonorrhea and chancroid, and placard the quarantine quarters. A regulation may lawfully be promulgated by the Department authorizing and empowering state and municipal health officers and their authorized deputies to exercise the same authority as that heretofore conferred on the county boards of health to quarantine cases of syphilis, gonorrhea and chancroid and placard the quarantine premises. (Robert E. Smylie)

No. 90-47 STATE TAX COMMISSION—Coin-operated automatic sales boards which operate by setting a selector over the punch out desired in the punch board, insertion of a coin in a coin chute, and the pushing in manually of the coin chute, which produces through the hole in the selector device a memorandum indicative of whether or not a prize will be given, is a coin-operated amusement device within the meaning of Chapter 151, Session Laws of 1947 and may possibly be taxable as a punch board under the provisions of Chapter 239, Session Laws of 1947. (Robert E. Smylie)

No. 91-47 CITY ATTORNEY, MOSCOW, IDAHO—A municipality's bond sinking fund may not purchase warrants of the same municipality. (John A. Carver, Jr.)

No. 92-47 INDUSTRIAL ACCIDENT BOARD—Insurance carriers under Workmen's Compensation Law may not be granted waiver of statutory penalty for late payment of premium taxes. (John A. Carver, Jr.)

No. 93-47 CITY ATTORNEY, TWIN FALLS, IDAHO—In municipalities that have voted dry under local option sections of Retail Liquor Law, it is unlawful for members of fraternal organizations to keep liquor in private lockers for consumption on club premises. (Robert B. Holden)

No. 94-47 EMPLOYMENT SECURITY AGENCY—Where the vendors of certain office equipment bill the Employment Security Agency for amounts in excess of the amount shown on the official purchase order, the disbursing officer of the aforesaid agency cannot legally pay more than the amount shown on the purchase order where said order does not bear the so-called "Escalator clause" which provides for payment in accordance with prices at the time of delivery. (David Doane)

No. 95-47 DEPUTY INCOME TAX COMMISSIONER—In accordance with Section 61-2460, Idaho Code Annotated, claims for refund or credit of income taxes paid pursuant to the income tax laws must be made within three years of the date the tax was paid, which said date of payment refers to the last payment in the taxable year with respect to which credit is claimed. (Robert E. Smylie)

No. 96-47 DEPARTMENT OF PUBLIC HEALTH—The Department of Public Health, as licensing agency may by rule and regulation, provide for the issuance of temporary or provisional licenses on January 1, 1948, pursuant to the authority conferred by Session Laws of 1947, Chapter 133. (Robert E. Smylie)

No. 97-47 EMPLOYMENT SECURITY AGENCY—The State of Idaho can, under the law of this State, enter into an interstate arrangement for determination and payment of interstate claims pursuant to the Employment Security Laws of the participating states. (Sherman F. Furey)

No. 98-47 STATE COMMITTEE ON SCHOOL REORGANIZATION—The Crescent Rim section of the incorporated municipality of Boise City remains a part of the Fairmont School District which was reorganized pursuant to Chapter 111, Session Laws of 1947. The State Committee is without authority to approve inclusion of Crescent Rim Section of Boise City in the reorganization of the Fairmont School District which does not include the whole incorporated municipality of Boise City. (Robert E. Smylie)

No. 99-47 LEMHI COUNTY HOSPITAL BOARD—County Hospital boards may not acquire property or contract for or build new or

additional buildings. This may be done by the County Commissioners who may then give management of Hospital, including rates of charge, to County Hospital Board. Board may make rules and regulations, and rates of charge with consent of County Commissioners which will afford compliance with the requirements for Federal Aid under Public Law. 725, 79th Congress. (Robert E. Smylie)

No. 100-47 DEPUTY INCOME TAX COMMISSIONER—Amounts expended in leveling land constitute an investment which should be capitalized and should not be treated for income tax purposes under our State law as a deduction allowable in the year the expense is incurred or paid. (Robert E. Smylie)

No. 101-47 DEPUTY INCOME TAX COMMISSIONER—Taxpayers may deduct losses sustained on sale of vacant lots located outside the State from gross income pursuant to the provisions of Sec. 61-2413, I.C.A., and gain or loss arising from and incurred as a result of the sale of such capital assets should be recognized for the purpose of computing gross and net income. (Robert E. Smylie)

No. 102-47 DEPUTY INCOME TAX COMMISSIONER—Items of expenses, loss and deduction of a resident taxpayer, having a business situs without the State should be allocated to the various sources of income within and without the State; and Federal income taxes must be allocated and apportioned for the purposes of deductibility on the same basis as income, and other lawful deductions are allocated and apportioned to sources within and without the State. (Robert E. Smylie)

No. 103-47 THE GOVERNOR—In a case where a presiding Judge is disqualified by a party to a law suit and said party requests the Governor to appoint a substitute Judge, the order of the Governor designating a substitute Judge is a valid exercise of the power conferred by the statutes and by the Constitution, and any order by the presiding Judge appointing his own substitute judge is in excess of the authority conferred in such a case by the statutes. (Robert E. Smylie)

No. 104-47 BUREAU OF HIGHWAYS—Funds made available to a highway district from appropriations under the Federal Aid Highway Act of 1944 and which were in the treasury of the highway district on the 26th day of April, 1947, could be spent by the district on district roads without being matched by State or Federal Funds. (J. B. Musser)

No. 105-47 EMPLOYMENT SECURITY AGENCY—Under Sec. 51 of the Employment Security Law, the experience of the predecessor of a reorganization which took place under certain circumstances specified in said Sec. 51 may be combined with the experience of the successor for purposes of determining the successor's contribution

rate from and after July 1, 1947, even though said reorganization occurred prior to July 1, 1947, the effective date of the Employment Security Law. (Sherman F. Furey)

No. 106-47 DEPARTMENT OF PUBLIC WORKS—Highway Districts can cooperate with cities on city improvements where the city is within the Highway District. (J. B. Musser)

No. 107-47 STATE LAND COMMISSIONER—Money in Farm Mortgage Fund can be expended only in accordance with the provisions of the Farm Mortgage Fund Act. (J. R. Smead)

No. 108-47 STATE INSURANCE FUND—In a case where the State Insurance Fund is held liable to pay compensation to the survivors of a worker killed in an accident and the Fund files suit against a subcontractor thought to be responsible for the accident, the Fund may not accept less than the amount of the award in full settlement of its claim. (John A. Carver, Jr.)

No. 109-47 DEPARTMENT OF PUBLIC HEALTH—The Department of Public Health can require a county, city or other political sub-division to comply with rules, regulations and minimum standards and obtain a license for the operation of a hospital which is owned and/or operated by the political subdivision. (Robert E. Smylie)

No. 1-48 STATE COMMITTEE ON SCHOOL REORGANIZATION—Where the State Committee on School Reorganization has approved a plan of reorganization which is not in accordance with the provisions of the reorganization statute, the State Committee may properly rescind its previous action of approval and resubmit the plan involved to the appropriate county committee with such modification as it may deem feasible in order to effectuate proper reorganization within the county concerned. (Robert E. Smylie)

No. 2-48 PUBLIC UTILITIES COMMISSION—The Public Utilities Commission in its determination of the extent exemptions and privileges are accorded to vehicles owned by Idaho citizens in such other state must look to the effect of the foreign state law on the Idaho citizen and must consider the effect of any tax imposed on the Idaho operator by the foreign state on the requirement of the granting of similar exemptions and privileges. (Don J. McClenahan)

No. 3-48 COMMISSIONER OF LAW ENFORCEMENT—A hayrack drawn behind a truck or automobile on the highways of the State must have a trailer license. (Don J. McClenahan)

No. 4-48 CHARITABLE INSTITUTIONS COMMISSION—Where quarters and subsistence are furnished employees for the convenience of the State of Idaho, and the employee involved is required to accept such subsistence and quarters in order to properly perform his duties,

that the value of the subsistence and quarters thus furnished may properly be excluded from gross income as that term is defined in Section 61-2412, I.C.A., as amended. (Robert E. Smylie)

No. 5-48 THE SUPREME COURT—Judicial robes to be worn by Supreme Court justices during transaction of judicial business are a proper charge against the State. (Robert E. Smylie)

No. 6-48 COMMISSIONER OF AGRICULTURE—All employees and officials of State should be covered by Workmen's Compensation Law. (Glenn Coughlan)

No. 7-48 COMMISSIONER OF LAW ENFORCEMENT—Justice Courts may recommend to the Commissioner of Law Enforcement that a driver's license may be suspended or revoked upon judgment of final conviction of a charge of reckless driving and that the Commissioner may, upon receiving such recommendation, revoke or suspend a license after notice and hearing in accordance with the procedure provided by the Motor Vehicle Operator's and Chauffeur's License Act. (Don J. McClenahan)

No. 8-48 CITY ATTORNEY, TWIN FALLS, IDAHO—All persons who engage in, or work at the business, trade, or calling of an electrical contractor or journeyman, must comply with Chap. 251, Session Laws of 1947, and this law supersedes licensing of these occupations by municipal corporations. (Don J. McClenahan)

No. 9-48 EMPLOYMENT SECURITY AGENCY—Where discharged veterans employment experience had been interrupted by more than two years' service with the armed forces, held veteran not entitled, under provisions of Sec. 7-1 (7), Session Laws of 1943, Chap. 68, p. 141, to reduced contribution rate enjoyed prior to entry into military service. (Sherman F. Furey)

No. 10-48 PROSECUTING ATTORNEY, NEZ PERCE COUNTY, LEWISTON, IDAHO—Section 35-1812, I.C.A., is controlling rather than Sec. 19-4801, I.C.A., and Justices of the Peace should pay fines and forfeitures collected under fish and game statutes to the Fish and Game Department. (J. R. Smead)

No. 11-48 STATE TAX COMMISSION—Earned income in the amount of \$2,000 or over renders an applicant otherwise qualified ineligible to claim property tax exemption under Section 61-105, Idaho Code Annotated, as amended. (Robert E. Smylie—John A. Carver, Jr.)

No. 12-48 MOSCOW CHAMBER OF COMMERCE—Additional levy for post-war construction can be lowered or abolished entirely by the legislature, but such levy may be made until the legislature acts. (Don J. McClenahan)

No. 13-48 STATE RECLAMATION ENGINEER—Flood control District No. 1 cannot be enlarged under the provisions of the law now applying to such district.

Chapter 27 of Title 41 should be amended in order to provide for enlarging flood control districts.

Lands and improvements of irrigation and canal companies located within flood control districts may be assessed and assessments collected under Section 41-2712 as appears in said 1937 Session Laws. (J. R. Smead)

No. 14-48 EMPLOYMENT SECURITY AGENCY—Function and duties of Industrial Accident Board are not consistent with nature, objectives and purposes of Interstate Conference; that, on the other hand, the administrative duties, responsibilities, and authority of the Director, as outlined in the Idaho Employment Security Law are entirely consistent with nature, objectives and purposes of the Interstate Conference. Therefore, sole responsibility for participation in Interstate Conference activities rests with the Director. (Sherman F. Furey)

No. 15-48 STATE LAND COMMISSIONER—A judgment cannot be taken as a basis for any interest in land other than an easement for dam and reservoir purposes. Non-users for the purpose for which the easement was originally obtained constitutes an abandonment of the easement and therefore ceases, leaving the sole right of possession, use and control of the land originally affected in the holder of the fee simple title thereto. (J. R. Smead)

No. 16-48 COMMISSIONER OF AGRICULTURE—Commissioner of Agriculture, upon a finding that the material "gasoline" will assist in the eradication and control of noxious weeds, may lawfully allocate such material to the counties. (Don J. McClenahan)

No. 17-48 STATE COMMITTEE ON SCHOOL REORGANIZATION—No statutory authority exists for the discharge of elected county committee; however, there is statutory authority for appointment of new committee to perform all functions assigned to elected committee; and enforcing sanction exists in control of the purse. (Robert E. Smylie)

No. 18-48 SECRETARY OF STATE—A United States Senator is not a "public officer in the state of Idaho" within the meaning of our Constitutional and statutory recall provisions and is therefore not subject to recall pursuant to Chapter 209, Session Laws of 1933. (Robert E. Smylie)

No. 19-48 SUPERINTENDENT OF SCHOOLS, KOOTENAI COUNTY—College students must prove that they are residents of district in which college is located, independent of the fact that they

are attending the college and resident there because of that fact in order to vote in school election. Must be "qualified electors" as defined in Constitution and Sec. 32-322, I.C.A. (Robert E. Smylie)

No. 20-48. EMPLOYMENT SECURITY AGENCY—The Industrial Accident Board is empowered by the Employment Security Law to adopt travel regulations governing official travel by Employment Security Agency officials, but the Board's regulatory authority in this connection is limited by express statutory administrative duties assigned to the Executive Director by the Employment Security Law. (Sherman F. Furey)

No. 21-48 EMPLOYMENT SECURITY AGENCY—The Employment Security Agency cannot disclose information in its files to individuals requesting same unless such individual is presently in a claimant status and the information requested is to be used in connection with proceedings under the Employment Security Law with respect to such claim for unemployment benefits. (Sherman F. Furey)

No. 22-48 STATE INCOME TAX DEPARTMENT—Such articles as hearing aids, artificial limbs or teeth are not deductible in computing net income under the provisions of Section 61-2413, Idaho Code Annotated. (J. N. Leggat)

No. 23-48 IDAHO ADVERTISING COMMISSION—The excise tax on potatoes and onions as provided by Chapter 172, Session Laws of 1947, as amended by Chapter 24, Session Laws of 1947, is not a direct tax on federal government when these products are purchased by it. (Don J. McClenahan)

No. 24-48 BUREAU OF OCCUPATIONAL LICENSES—An osteopath in the practice of his profession has not been granted authority to dispense narcotic drugs. (Don J. McClenahan)

No. 25-48 EMPLOYMENT SECURITY AGENCY—The Employment Security Law places upon the Executive Director, as the responsible administrative official in the Idaho Employment Security Program, the authority to adopt regulations governing such internal administrative matters as salary adjustment and advancement, and attendance and leave of employees of the Employment Security Agency. (Sherman F. Furey)

No. 26-48 STATE TAX COMMISSION—Veterans Pensions, disability allowances, old age assistance payments, and Social Security payments are not income within the meaning of Section 61-105, I.C.A., as amended, and therefore, are not to be counted toward the \$2,000 income limitation of eligibility for exemption. (Robert E. Smylie—John A. Carver, Jr.)

No. 27-48 COMMISSIONER OF LAW ENFORCEMENT—Games such as "Hi-Dice," "Hooligan," "Huckle-te-Buck," etc. are not "chance

prize games" within the meaning of statute, and are consequently illegal even though pro forma observance is had of the revenue provisions of the statute and municipal regulations pertaining to "chance prize games." (Robert E. Smylie)

No. 28-48 STATE COMMITTEE ON SCHOOL REORGANIZATION—Limitations applying to bonds issued by school district, Class "A," "B" and "C"—CLASS A AND B—ten per cent of total assessed valuation; CLASS C—six per cent. (Robert E. Smylie)

No. 29-48 SCHOOL DISTRICT No. 1, BURLEY, IDAHO—Reorganization statute does not require reorganized district to secure consent of State and County Committees as condition precedent to issuance of bonds. (Robert E. Smylie)

No. 30-48 STATE COMMITTEE ON SCHOOL REORGANIZATION—Nothing in statute prevents school reorganization committees at county and state levels from approving a plan whereby an "old" Class A District may be combined with "new" Class A District. (John A. Carver, Jr.)

No. 31-48 STATE COMMITTEE ON SCHOOL REORGANIZATION—"Reorganization election" should be conducted so that qualified voters in a presently organized school district vote at a separate polling place from other qualified voters in proposed new district, and determination as to whether majority of qualified voters are in existing district should be based on number of voters who vote in the election on the reorganization plan. (Robert E. Smylie)

No. 32-48 STATE COMMITTEE ON SCHOOL REORGANIZATION—Five Trustee sub-districts of a "reorganized school district" must be represented by a trustee who resides within the sub-district which he represents. (John A. Carver, Jr.)

No. 33-48 STATE COMMITTEE ON SCHOOL REORGANIZATION—Only those voters resident in the portions of an existing district which are incorporated in a planned reorganized district are entitled to vote in the election on the reorganization plan. (John A. Carver, Jr.)

No. 34-48 STATE COMMITTEE ON SCHOOL REORGANIZATION—The problem of whether or not a particular matter involved was considered or could have been considered at the first public hearing on a reorganization plan is a question of fact which can be decided by the county committee originating the plan. (Robert E. Smylie)

No. 35-48 STATE COMMITTEE ON SCHOOL REORGANIZATION—Neither Chapter 111, nor any other statute, gives to either county involved in the reorganization of a joint school district the right unilaterally to act to break up a joint school district by including the

portion of the district's territory lying in its county in its own reorganization plan. (Robert E. Smylie)

No. 36-48 STATE COMMITTEE ON SCHOOL REORGANIZATION—County Committees may adopt what rules they please as to the effect of a tie vote of the committee. Interdependence of districting plan, if plan submitted is interdependent, defeat of proposal in one proposed new district precludes putting into effect the plan in proposed districts where vote is approved. (John A. Carver, Jr.)

No. 37-48 HOWARD ANDERSON, PRESIDENT, STATE SCHOOL TRUSTEES ASSOCIATION—Residents of a new school district, who, at the time of its establishment, were members of the Board of Trustees of any school district which is included in the new district, should meet at the call of the county superintendent and elect from among themselves, or from other residents of the new school district, five residents to serve as a Board of Trustees until the next regular annual school election and the regular school election should be held thereafter in accordance with sub-paragraph 3, of subsection 1, Section 12, Chapter 111, Session Laws of 1947. (Robert E. Smylie)

No. 38-48 PROSECUTING ATTORNEY, GEM COUNTY—The provisions authorizing the creation of county fairs do not permit the fair boards or boards of county commissioners to raise the funds necessary to acquire a fair site, and the buildings and facilities incidental thereto, except under the authority granted in Section 30-729, Idaho Code Annotated. (Don J. McClenahan)

No. 39-48 COMMISSIONER OF AGRICULTURE—A person is deemed a "track buyer" when he buys, loads or receives loaded, any car, truck, or public carrier of farm products whenever the disposition of those farm products is for shipment for resale, for storage or for processing. (Don J. McClenahan)

No. 40-48 BUREAU OF OCCUPATIONAL LICENSES—Chiroprodists licensed to practice chiropody in Idaho are authorized to prescribe and use "local anesthetics" which term comprehends certain narcotic drugs. (Don J. McClenahan)

No. 41-48 IDAHO STATE BOARD OF CORRECTION—The portion of a district court judgment which fixes a maximum sentence less than that prescribed for the particular offense may, under the provisions of the indeterminate sentence law of Idaho, as amended in 1947 (Section 19-2413, I.C.A., as amended by Chapter 46, 1947 Session Laws) be considered as surplusage, and may be ignored by the State Board of Correction. (John A. Carver, Jr.)

No. 42-48 CHARITABLE INSTITUTIONS COMMISSION—The liability of an incompetent for the cost to the State of his care and safekeeping while committed to a state institution is a reasonable

sum determined by the superintendent of the institution and guardian of the incompetent, and an order of the probate court arbitrarily reducing the agreed amount is an appealable order. In the case of voluntary patients, the statutory sum which may be collected cannot exceed \$20.00 per month in the case of residents and \$40.00 per month in the case of non-residents. (J. N. Leggat)

No. 43-48 COMMISSIONER OF PUBLIC INVESTMENTS—A Municipal corporation may issue its coupon bonds for sewers and sewerage works, as defined in subdivisions 1 and 10, Section 49-2401, Idaho Code Annotated, as amended, in an amount which, together with the net outstanding bonded debt incurred for any of the purposes authorized by Section 49-2401, Idaho Code Annotated, does not exceed fifteen per cent of the total assessed valuation for the preceding year. (J. N. Leggat)

No. 44-48 COMMISSIONER OF PUBLIC INVESTMENTS—Local Improvement District Bonds are not legal investments for public school endowment funds. (J. N. Leggat)

No. 45-48 INDEPENDENT SCHOOL DISTRICT NO. 37, NAMPA, IDAHO—There is no mandatory requirement that an independent or independent Class "A" school district must prepare, and operate on, a budget. It would appear, however, that sound fiscal administration of the district would be aided by preparation of a budget and by the operation of the affairs of the district in accordance with its terms. (Don J. McClenahan)

No. 46-48 DEPUTY INCOME TAX COMMISSIONER—Income realized by a resident from a trust fund or rents from property, both of which are outside the State of Idaho, not exempt from income tax under Section 61-2412, I.C.A., as amended. (J. N. Leggat)

No. 47-48 DEPARTMENT OF PUBLIC HEALTH—Hospital bond issues may not be submitted to vote unless petition therefor is filed with Commissioners. When proposition is to extend or enlarge existing facilities commissioners may submit proposition to electors without petition. (J. N. Leggat)

No. 48-48 STATE RECLAMATION ENGINEER—Land owners along a stream who, by flood water reservoirs or other means, increase the volume of the stream at a point below their own lands for the benefit of lower users holding prior rights, may divert from the stream an equal amount of water for the irrigation of such upper lands. (J. R. Smead)

DOCKET

UNITED STATES DISTRICT COURT

(Closed)

1346—Leo J. Johnston vs. State of Idaho. Re: Writ of habeas corpus.

SUPREME COURT OF IDAHO

Original Proceedings

(Closed)

1382—Frank J. Keenan vs. J. D. "Cy" Price, Secretary of State of Idaho. Re: Writ of Mandate.

1388—R. C. Lewis, Commissioner of Law Enforcement, et al. vs. Hon. A. O. Sutton, District Judge. Re: Alternative Writ of Prohibition.

Civil Appeals

(Pending)

1321—Clyde Hess Dist. Co. vs. Bonneville County, et al. Re: Sale of beer.

1340—State of Idaho vs. Alfred D. and Gertrude Berntsen. Re: Income tax.

1344—In the matter of the Application of E. C. Johnston to change the Point of Diversion and Place of Use of Certain Waters.

1358—State of Idaho, et al. vs. Idaho First Nat'l. Bank, as Administrator of Estate of Robert Hinshaw, incompetent. Re: Estate of Incompetent.

1371—Lee J. Earl vs. R. C. Lewis, Commissioner of Law Enforcement. Re: Application for Retail Liquor License.

Civil Appeals

(Closed)

1272—State of Idaho vs. R. H. Ramey, Administrator of Estate of Newton W. Ware, dec'd. Re: Public Assistance Recovery.

1276—James O. Malone, et al. vs. Edward Van Etten and Public Utilities Commission. Re: Application for Permit to Operate a Common Carrier.

1287—Arnold Williams, Governor, et al. vs. Chas. F. Koelsch, D. J. Re: Writ of Prohibition.

1292—In the Matter of the Petition of Ernest R. Videan for a Writ of Habeas Corpus.

1296—State of Idaho vs. Nels Lindstrom, Exec. of Estate of Frans G. Magnus, dec'd. Re: Old Age Assistance Recovery.

1305—State of Idaho vs. E. K. Fuller, Adm. of Est. of Ira Ward, dec'd. Re: Old Age Assistance Recovery.

1326—State of Idaho vs. Scott L. Smith. Re: Slot machines.

1327—John Hancock Mutual Life Ins. Co. vs. E. F. Haworth, et al. Re: Income taxes.

1334—G. Staudacher vs. R. C. Lewis, et al. Re: Writ of prohibition.

1369—Edward Quinlan, as Probate Judge of Power County, vs. Hon. L. E. Glennon, District Judge. Re: Writ of prohibition.

1392—In the matter of the Application of A. C. Nichols, dba Valley Bus Line, for a P.U.C.I. Permit to Operate passenger and express service between Pocatello and Ashton, Idaho.

Criminal Appeals

(Pending)

1336—State of Idaho vs. Arthur D. Garde. Re: Sale of liquor.

1345—State of Idaho vs. Raymond Kleier. Re: Attempted burglary.

1360—State of Idaho vs. Max L. Gailey. Re: Attempted rape.

1361—State of Idaho vs. Donald P. Kleier. Re: Attempted burglary.

1379—State of Idaho vs. Ray L. Glanzman. Re: Driving while under influence of intoxicating liquor.

1390—State of Idaho vs. Ray Shaw. Re: Involuntary manslaughter.

1412—State of Idaho vs. J. S. Casselman; State of Idaho vs. James D. Towne; State of Idaho vs. J. E. Abel; State of Idaho vs. George Hill. Re: Constitutionality of Secondary Boycott Act. (Four cases united for appeal.)

Criminal Appeals

(Closed)

1284—State of Idaho vs. Reinhardt Elsen. Re: Attempted rape.

1288—State of Idaho vs. Glenn Hansen. Re: Sale of Alcoholic Liquors.

1290—State of Idaho vs. Ralph Golden. Re: Murder.

1293—State of Idaho vs. Guy Dickens and Dan Lloyd. Re: Grand Larceny.

1294—State of Idaho vs. Carlyle Salhus. Re: Manslaughter.

1330—State of Idaho vs. Dean William Kenworthy and Ralph Thomas Amick. Re: Grand Larceny.

DISTRICT COURTS

Civil Cases

(Pending)

1222—In the Matter of the Estate of Taylor A. Pate, dec'd. Re: Public Assistance recovery.

1269—Frank J. Keenan, as Trustee, vs. Farmers' Lumber Co., Inc., State of Idaho, et al. Re: Mortgage foreclosure.

1297—Wendell Highway District vs. Barnhart and Wheeler, et al. Re: Intervention by State.

1308—Tamarack & Custer Consolidated Mining Co. vs. R. C. Lewis, Comm'r. of Law Enforcement. Re: Mine license tax.

1309—Hecla Mining Company vs. R. C. Lewis. Re: Mine license tax.

1316—State of Idaho vs. James O. Pumphrey, Adm. of Estate of James H. Kirk, dec'd. Re: Old Age Assistance Recovery.

1320—M. J. Bostic vs. Albuquerque Nat'l. Trust & Sav. Bank, R. C. Lewis, et al. Re: Suit to quiet title.

1324—Walter J. Higgins vs. State Board of Engineering Examiners. Re: Refusal to issue license.

1325—Clifford C. Warren vs. State Board of Engineering Examiners. Re: Refusal to issue license.

1328—State of Idaho vs. Verna Prow, Adm. of Estate of J. D. Ingram, dec'd. Re: Old Age Assistance Recovery.

1331—Idaho Compensation Co. vs. James Hubbard, Comm'r. of Insurance. Re: Premium taxes.

1333—State of Idaho, ex rel. L. E. Clapp, Chairman, Board of Correction, vs. E. F. Diven, Receiver, Farmers' Lumber Co., Inc. Re: Action for damages and injunction.

1335—E. L. Shaffer vs. Fred W. Shaffer, Credit Finance Corp. and R. C. Lewis. Re: Quiet title action.

1337—State of Idaho vs. Opal Robinette, Adm. of Est. of Martha Thomas, dec'd. Re: Old Age Assistance Recovery.

1338—State of Idaho vs. H. E. Ryan, Adm. of Estate of James Clydesdale, dec'd. Re: Old Age Assistance Recovery.

1342—State of Idaho vs. Arden and Hazel Christiansen. Re: Income tax.

1343—Joaquin Solosabal vs. State of Idaho, et al. Re: Quiet title action.

1350—Donald W. Tolmie and Sophie Tolmie vs. State of Idaho, et al. Re: Quiet title action.

1351—State of Idaho vs. Nick Altmyer, et al. Re: Quiet title action.

1353—Willard E. Stevens vs. Edward Woozley, State Land Comm'r. Re: Action to establish equitable interest in land.

1362—State of Idaho vs. V. K. Jeppesen, Guardian of Stella V. Smith, an incompetent. Re: Estate of incompetent.

1367—State of Idaho vs. F. A. and Virginia Mills. Re: Income tax.

1373—Charles W. Kevan and Martha K. Kevan vs. Otto A. Schnitker, et al. and Mark R. Kulp, State Reclamation Engineer. Re: License and certificate of water right.

1374—State of Idaho vs. Rose Sorenson, Adm. of Est. of O. P. Stanley and Maddalin D. Stanley, dec'd. Re: Old Age Assistance Recovery.

1375—State of Idaho vs. Donald R. Houde, Exec. of Est. of Edward G. Houde, dec'd. Re: Old Age Assistance Recovery.

1376—State of Idaho vs. Mildred Slee, Adm. of Est. of Martha W. Ulrich, dec'd. Re: Old Age Assistance Recovery.

1378—Fred Malcomson, et al. vs. State Committee on School Reorganization. Re: Reorganization of school district.

1383—Farrell Christopherson, et al. vs. State Committee on School Reorganization. Re: School Reorganization Act.

1384—Geo. T. Durham and Herbert Fields vs. State Board of Education, et al. Re: School Reorganization Act.

1385—John Palat, Jr. vs. Carol Joseph Gline and Elizabeth DeAnn Palat, a minor, and State Dept. of Vital Statistics. Re: Paternity of minor child.

1386—State of Idaho vs. L. L. Alsager, et al. Re: Old Age Assistance Recovery.

1387—J. O. Rino, dba Rino Wholesale Candy Co. vs. R. C. Lewis, Comm'r. of Law Enforcement. Re: Revocation of wholesale beer license.

1389—William H. Banks Warehouses, Inc. vs. D. A. Stubblefield, Comm'r. of Agriculture. Re: Writ of Mandate.

1397—Wm. H. Uhrig, Jr. and Kenneth Beecher vs. State Reclamation Engineer, et al. Re: Irrigation rights.

1398—J. E. McNichols and Francis McNichols vs. R. C. Lewis, Comm'r. of Law Enforcement. Re: Revocation of Retail Liquor License.

1405—State of Idaho vs. Otto Swanstrom, Adm. of Est. of M. A. Mogan, dec'd. Re: Public Assistance Recovery.

1410—State of Idaho vs. Roy Nixon, Adm. of Est. of Thomas A. Nixon and Emma J. Nixon, dec'd. Re: Old Age Assistance Recovery.

1411—H. C. Papenfuss vs. Wayne F. Mountz, Jr. and R. C. Lewis, Comm'r. of Law Enforcement. Re: Quiet title action.

1414—In re Appeal of Campbell Hardware Company. Re: Jurisdiction of Tax Commissioner of Idaho.

Civil Cases

(Closed)

1278—State of Idaho vs. Florence G. Sensenig, Adm. of Est. of Olive E. Whitman, dec'd. Re: Public Assistance Recovery.

1281—State of Idaho vs. David Eugene West, Adm. of Est. of W. O. Parker, dec'd. Re: Public Assistance Recovery.

1285—State of Idaho vs. Chester George, Adm. of Est. of Mary E. Stevens, dec'd. Re: Old Age Assistance Recovery.

1286—Lloyd Adams and First Security Bank of Idaho vs. Arnold Williams, Governor, and John Doe, as Comm'r. of Finance. Re: Writ of prohibition.

1289—Bingham Country Club, Inc. vs. R. C. Lewis, Comm'r. of Law Enforcement, et al. Re: Sale of alcoholic liquors.

1295—State of Idaho, et al. vs. Claude Graham, Adm. of Est. of James F. Graham, dec'd. Re: Old Age Assistance Recovery.

1300—Ethel Hill vs. John H. Clark, State of Idaho, et al. Re: Decree quieting title.

1301—State of Idaho vs. D. C. Kennison, Adm. of Est. of Jacob Schrenk, dec'd. Re: Withdrawal of exhibits from files.

1302—In the Matter of the application of J. A. Weaver on behalf of Village of Plummer, Idaho. Re: Writ of prohibition.

1303—In the Matter of the application of Harold Ruth on behalf of Village of Worley, Idaho. Re: Writ of prohibition.

1304—In the Matter of the application of Lee Inscore on behalf of Village of Tensed, Idaho. Re: Writ of prohibition.

1306—State of Idaho vs. Thomas H. Palmer and John Palmer. Re: Timber contract.

1307—Capitol Finance Company vs. Floyd R. Russell, et al. and R. C. Lewis, Comm'r. of Law Enforcement. Re: Chattel mortgage on motor vehicle.

1310—Leo Disbrow vs. Archie J. McPhail, et al. Re: Injunction.

1311—United States of America vs. 3027.37 acres of land in Valley County, et al. Re: Condemnation of land.

1312—Delbert Barton vs. City of Weiser, et al. Re: Slot Machine Act.

1315—Gus Thiros vs. Roubidoux, Chief of Police, Pocatello, Idaho, R. C. Lewis, et al. Re: Writ of prohibition.

1317—State of Idaho vs. Lillie Mae DeVries, Exec. of Est. of George B. Johnson, dec'd. Re: Old Age Assistance Recovery.

1318—J. E. McNichols vs. W. J. Hoehnen, Sheriff of Power County, R. C. Lewis, et al. Re: Sale of liquor.

1319—State of Idaho, vs. Joseph C. Cochrane. Re: Public Assistance Recovery.

1322—Esther L. Hulse vs. R. C. Lewis, Comm'r. of Law Enforcement. Re: Revocation of liquor license.

1323—Athletic Round Table, Inc. vs. R. C. Lewis, Comm'r. of Law Enforcement. Re: Revocation of Liquor License.

1329—George Murphy vs. R. C. Lewis, Comm'r. of Law Enforcement. Re: Retail sale of liquor.

1332—State of Idaho vs. A. L. Everson. Re: Old Age Assistance Recovery.

1341—State of Idaho vs. Roy and Carol Williams. Re: Income tax.

1349—State of Idaho vs. Frances Hetrick, Adm. of Est. of Emma C. Anderson, dec'd. Re: Public Assistance Recovery.

1352—Gus Thiros vs. R. C. Lewis, Comm'r. of Law Enforcement. Re: Sale of liquor.

1354—State of Idaho vs. Ambrose G. and Margueritte Stork. Re: Income tax.

1366—John Peter Weber vs. R. C. Lewis, Comm'r. of Law Enforcement. Re: Revocation of license to practice medicine.

1368—State of Idaho vs. Hall Lard and Bert Caudle. Re: Trespass.

1370—State of Idaho vs. Thomas Worland; Exec. of Est. of Josephine Roach, dec'd. Re: Old Age Assistance Recovery.

1377—State of Idaho vs. Mary Aylsworth, et al. Re: Public Assistance.

1388—The Village of McCall, et al. vs. R. C. Lewis, Comm'r. of Law Enforcement. Re: Injunction.

1393—State of Idaho vs. Lillie Janousek and Otto Janousek. Re: Recovery of Old Age Assistance.

1394—State of Idaho vs. Ethel M. Bowles and Robert L. Dinwiddie. Re: Public Assistance Recovery.

PROBATE COURTS

Civil Cases

(Pending)

1357—State of Idaho vs. Alma Amundsen. Re: Income tax.

1359—State of Idaho vs. Charles A. Muncey. Re: Income tax.

1364—In the Matter of the Estate of James Henry Sheldon, dec'd. Re: Inheritance tax.

1380—State of Idaho, vs. Russell Gutches and Jewel Gutches. Re: Income tax.

1395—State of Idaho vs. Frank E. and Verna Cox. Re: Income tax.

- 1399—State of Idaho vs. George Hill, Jr. Re: Income tax.
1400—State of Idaho vs. Charles T. Hess. Re: Income tax.
1401—State of Idaho vs. Leland Peterson. Re: Income tax.
1402—State of Idaho vs. George P. and Pauline Spahr. Re: Income tax.
1403—State of Idaho vs. Horace and Lavella Bebee. Re: Income tax.
1404—State of Idaho vs. James F. and Vera Infelt. Re: Income tax.
1407—State of Idaho vs. Harlow L. Godard. Re: Income tax.
1408—State of Idaho vs. Thomas G. Clyne. Re: Income tax.
1409—State of Idaho vs. Claire and Henry W. Moody. Re: Income tax.

Civil Cases

(Closed)

- 1356—State of Idaho vs. John Welch. Re: Income tax.
1363—State of Idaho vs. Jack R. Birch. Re: Income tax.
1396—State of Idaho vs. Freda and Harold Gease. Re: Income tax.
1406—In the Matter of the Estate of Louie Babbit Franklin, dec'd.
Re: Old Age Assistance Recovery.

PROBATE COURTS

Criminal Cases

(Closed)

- 1299—State of Idaho vs. Mel Jonley and Lee Earl. Re: Unlawful sale of liquor.

JUSTICE COURT

Civil Cases

(Pending)

- 1381—State of Idaho vs. Jesse and Florence Hugg. (Ada County)
Re: Income tax.

Criminal Cases

(Closed)

- 1313—State of Idaho vs. Clarence Saunders, R. W. Millsap and R. C. Rossow. Re: Confiscation of Slot Machines.

EMPLOYMENT SECURITY AGENCY

List of Cases Pending and Closed—1947-1948
BEFORE THE INDUSTRIAL ACCIDENT BOARD

(Pending)

State of Idaho vs.

Doris E. Buck

Pacific National Life Assurance
Co.

Margaret C. Spivy

Francis W. Smith, dba Credit

Bureaus

Manda G. Stensrud

Utah Oil Refining Co.

(Closed)

State of Idaho vs.

E. V. Borah

A. J. Carhill

Jennie I. Burns

Christina Charest

Evelyn M. Derrick

Gibson H. Ellerbeck

F. H. Hogue, Inc.

Margarett G. Jackson

Michael J. Kelly

Roy B. Lance

Henry W. Manning and R. B.

Turner, dba Manning and

Turner

John Miller

Leota F. Morley

Mildred M. Moss

Donald I. Reynolds

Royal Bakery, Inc.

M. M. Rutledge, dba Firestone
Store

Einar Sahlin

Harry E. Scott

Snake River Fur Breeders Co-
operative, Inc.

Leslie J. Stauffer, M.D.

Rome Webster

IN THE SUPREME COURT OF IDAHO

(Closed)

Continental Oil Co. vs. Unemployment Compensation Division.

Unemployment Compensation Division vs. F. H. Hogue, Inc.

Margarett G. Jackson vs. Unemployment Compensation Division.

Rome Webster vs. Potlatch Forests, Inc.

IN THE DISTRICT COURT

(Pending)

State of Idaho vs. Farmers' Lumber Co., Inc.

A. F. McFee vs. State of Idaho.

(Closed)

State of Idaho vs.

H. G. Hammond

Henry A. Hanson

Priest Lake Lumber Co.

Sawtooth Tours and Hotels, Inc.

ATTORNEY GENERAL'S REPORT

IN THE PROBATE COURT

(Pending)

State of Idaho vs.
 John Gilson
 Lee Hand
 Marvin Hollis Henderson
 Elton G. King
 Gerald McCall
 William Olson
 Dave Scherbinski

Dellis Spencer
 Myron J. Sweeney
 White Earth Products Co.
 James T. Wilkinson
 George P. Zehner, dba Gem State
 Body Shop

(Closed)

State of Idaho vs.
 James N. Auxier
 Madsen Brigham
 Robert Cameron
 George W. Chapman
 Consolidated Mines Syndicate
 Bob Edwards
 Blanche W. Fredricks
 Gordon K. Henderson
 Hartzell K. Henry
 Oscar E. Hopkins
 Fred H. Hubert
 Otis LeRoy Mahaffey

Robert Olson
 Preston Peterson
 Progressive Shoe Shop
 Red Ledge, Inc.
 John H. Rees
 Walt Rember
 Silver Rock Mining Co.
 Arthur R. Trott
 Herbert W. Wait, dba Idaho
 Hatchery
 Hadyn H. Walker, dba Boise
 Baseball Club

STATE INSURANCE FUND

List of Cases Pending and Closed—1947-1948

BEFORE THE INDUSTRIAL ACCIDENT BOARD

(Pending)

State of Idaho vs.
 Albert E. Fox
 Alvin A. Larsen
 Ferril Terry
 Eldon Sailor
 Carroll Hunt
 William L. Hoagland
 John Nedrow
 Clair Charles Caylor

Joseph Burroughs
 Cristabal Fresquez
 Clara E. Kopp
 William E. Johnson
 Clifford Laub
 George W. Champlain
 Fred Howard

(Closed)

State of Idaho vs.	
Edmond M. Stoker	Ella Marie Robinson
F. B. Lake	Frank Etchison
Daniel Schledwitz	Fred W. Shaffer
John L. Hanner	Loren J. Perkins
John A. Dick	James J. Nelson
John Baldwin	Elmer E. Hueth
Andrew L. Ganow	Keith Cherry
Edward D. Caviness	Paul Costley
Bonnie Jean Fleichwiger	John C. Swift
Herman Zeuge	

IN THE SUPREME COURT OF IDAHO**(Pending)**

State of Idaho vs.	
John Warlick	A. A. Miller

(Closed)

State of Idaho vs.	
Hiram S. Walker	John W. Holt
Tom Louie	

DEPARTMENT OF PUBLIC WORKS**List of Cases Pending and Closed—1947-1948****IN THE DISTRICT COURTS****(Pending)**

Wendell Highway District vs. Barnhart and Wheeler and State of Idaho.

(Closed)

State of Idaho vs. Anna Stone and E. F. Stone, husband and wife.

BEFORE THE INDUSTRIAL ACCIDENT BOARD**(Pending)**

Ethel E. Howard vs. State of Idaho and State Insurance Fund, Surety.

(Closed)

Peggy Perkins, et al. vs. State of Idaho, and State Ins. Fund, Surety.

A. A. Miller vs. State of Idaho and State Ins. Fund, Surety. (Appealed to the Supreme Court of the State of Idaho)

DEPARTMENT OF FINANCE—INHERITANCE TAX DIVISION

*List of Cases Pending and Closed—1947-1948

IN THE DISTRICT COURTS

(Pending)

J. G. Conley vs. State of Idaho (Suit to quiet title)

In the Estate of A. W. Nordquist.

In the Estate of Catherine Wriggle.

(Closed)

In the estate of Emma J. Harrover, S. D. Thacker, Frank Hains,
Nancy Pearl Jones, Heirs of Rose Scheiber vs. State of Idaho.
(Taxability of transfer inter vivos. Tax paid.)

IN THE PROBATE COURTS

(Pending)

In the estate of

E. F. Carr

Elizabeth Kollmeyer

Sarah Marie Cole

(Closed)

In the estate of

Edwin H. Peasley

Julia Bohman

*Only in those cases where it was impossible to reach a settlement otherwise has resort been had to the courts. Appeals or objections have had to be filed only in rare instances as we have been able to reach settlements in about 95% of all questioned cases.

ADMINISTRATIVE PROCEEDINGS

BEFORE THE STATE TAX COMMISSIONER

In the Matter of the deficiency assessment of income taxes against Bunker Hill & Sullivan Mining & Concentrating Co., a Corp., Kellogg, Idaho. (Docket No. 1355—closed)

In the Matter of the tax liability of N. L. Terteling and Angela Terteling and J. W. and Reba Terteling for the year 1944. (closed)

BEFORE THE DEPARTMENT OF INSURANCE

In the Matter of the Application for the Renewal of the license of Roy Williams as a Life Insurance Agent for the year 1948. (closed)

BEFORE THE DEPARTMENT OF AGRICULTURE

In the Matter of State Warehouse License No. 217, covering operation of State Bonded Warehouse No. 575, by Wm. H. Banks Warehouses, Inc. by and through the Jean Seed Company, Rupert, Idaho. (closed)

In the Matter of State Warehouse License No. 220, covering the operation of State Bonded Warehouse No. 537, by the Wm. H. Banks Warehouses, Inc., by and through the Jean Seed Company, Filer, Idaho. (closed)

In the Matter of State Warehouse License No. 674, covering the operation of State Bonded Warehouse No. 435-A by the Globe Seed & Feed Company, Twin Falls, Idaho. (closed)

BEFORE THE DEPARTMENT OF FINANCE

In the Matter of the Application of Palisade Petroleum Co., a Corp. for permission to sell securities. (Docket No. 1372—closed)

BEFORE THE PUBLIC UTILITIES COMMISSION

In the Matter of the Application of the Pacific Tel. and Tel. Co., a Corp., for authority to increase certain rates. (closed)

In the Matter of the Application of Dealers and Warehousemen in South Idaho for increase in rates and charges for handling, cleaning and storing dried beans. (closed)

In the Matter of the Application of the Mountain States Tel. and Tel. Co., a Corp., for an increase in rates. (No. F-1400—pending)

In the Matter of the Application of the Lewiston Grain Growers, Inc., and others, to increase certain rates and charges for warehouses in North Idaho. (closed)

In the Matter of the Application of Railroads operating in the State of Idaho for authority to increase freight rates and charges. (closed)

In the Matter of the Application of the Mountain States Tel. and Tel. Co., a Corp., for an increase in rates. (No. F-1349—closed)

BEFORE THE DEPARTMENT OF LAW ENFORCEMENT

In the Matter of the Revocation of the Physician's and Surgeon's License of John Peter Weber. (Docket No. 1366—closed)

In the Matter of the Suspension of Retail Liquor License of C. A. Randolph, dba Randy's Club, Nampa, Idaho. (closed)

In the Matter of the Revocation of Retail Liquor License of R. C. Hillman, dba Green Triangle Inn. (closed)

In the Matter of the Revocation of Beer License of Forrest Webb, and H. A. Christiansen, dba The Chicken Inn, Jerome, Idaho. (closed)

In the Matter of the Revocation of Retail Liquor License of John I. Brower, dba Your Club, Ketchum, Idaho. (closed)

In the Matter of the Revocation of Retail Beer License of Harold W. Harvard, dba Harold's Club, Inc. (closed)

In the Matter of the Revocation of Beer License of Wilbur Penkins, dba Hi-Way Tavern. (closed)

In the Matter of Retail Liquor License No. 70 of Owen Simpson, dba The Sawtooth Club, Ketchum, Idaho. (closed)

In the Matter of Retail Liquor License No. 2079 of Club Les Bois, Inc., Boise, Idaho. (closed)

In the Matter of the Revocation of Retail Liquor License No. 255, of Francis McNichols, dba the Last Frontier Club, Power County, Idaho. (closed)

In the Matter of Suspension or Revocation of Wholesale Beer License of the Bohemian Breweries, Inc. (closed)

In the Matter of Retail Liquor License No. 2080 of Payette Lakes Amusement Co., Inc., McCall, Idaho. (closed)

In the Matter of Revocation of Beer License of Henry Becker, dba the Aces Tavern, Priest River, Idaho. (closed)

In the Matter of the Revocation of Beer License of L. E. Holderness, dba the Pango Club, Inc. (closed)

In the Matter of the Revocation of Retail Beer Dealer's License of The Ritz Lounge, Boise, Idaho. (closed)

In the Matter of Retail Liquor License No. 193 of Opal M. Bailey, dba the Ferry Club, Glens Ferry, Idaho. (closed)

In the Matter of Retail Liquor License No. 2000 of The Lounge, Inc., Boise, Idaho. (closed)