

THIRTY-FIRST BIENNIAL

REPORT OF THE

Attorney General

OF

Idaho

1951 - - - 1952



ROBERT E. SMYLIE

Attorney General



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ATTORNEY GENERAL'S DEPARTMENT

ROBERT E. SMYLLIE	ATTORNEY GENERAL
J. R. SMEAD	Assistant Attorney General
J. N. LEGGAT	Assistant Attorney General
C. J. SCHOOLER	Assistant Attorney General
*J. B. MUSSER	Assistant Attorney General
ALLAN G. SHEPARD	Assistant Attorney General
JOHN GUNN	Assistant Attorney General
GLENN A. COUGHLAN	Assistant Attorney General
WILLIAM H. BAKES	Assistant Attorney General
*BLAINE F. EVANS	Assistant Attorney General
†JOHN CLINTON PETERSON	Assistant Attorney General
EDWARD J. ASCHENBRENER	Assistant Attorney General
LEONARD H. BIELENBERG	Assistant Attorney General
BERNICE CALLSEN	Secretary
*HELEN WAITE ASHMAN	Legal Stenographer
CAROLYN GOODWIN	Legal Stenographer
DARLENE HARRINGTON	Legal Stenographer
*KATHERINE MORRIS	Legal Stenographer
*MARY MARGARET REED	Legal Stenographer

* Resigned.

† To enter Armed Services of the U.S.

PROSECUTING ATTORNEYS—1951-52

(For the Counties of Idaho)

County	Name	Address
Ada	Merlin S. Young (R)	Boise
Adams	Carl H. Swanstrom (D)	Council
Bannock	Hugh C. Maguire (D)	Pocatello
Bear Lake	Jerry Staudacher (R)	Montpelier
Benewah	Cope R. Gale (R)	St. Maries
Bingham	Robert M. Kerr, Jr. (D)	Blackfoot
Blaine	Joseph McFadden (D)	Hailey
Boise	Louis H. Cosho (D)	Idaho City
Bonner	Hardy C. Lyons (D)	Sandpoint
Bonneville	John M. Sharp (R)	Idaho Falls
Boundary	Watt E. Prather (R)	Bonniers Ferry
Butte	C. V. Boyatt (D)	Arco
Camas	Charles O. Scoggin (R)	Fairfield
Canyon	C. Robert Yost (R)	Caldwell
Caribou	Callis Caldwell (D)	Soda Springs
Cassia	A. H. Nielson (R)	Burley
Clark		
Clearwater	Warren F. Gardner (R)	Orofino
Custer	Jack B. Furey (R)	Challis
Elmore	Robert F. McLaughlin (D)	Mountain Home
Franklin	Robert D. Wennergren (D)	Preston
Fremont	Willard C. Burton (R)	St. Anthony
Gem	Louie Gorrone (R)	Emmett
Gooding	M. F. Ryan (R)	Gooding
Idaho	Robert M. Robson (R)	Grangeville
Jefferson	Grant L. Young (R)	Rigby
Jerome	Richard H. Seeley (R)	Jerome
Kootenai	Wm. D. McFarland (R)	Coeur d'Alene
Latah	J. Morey O'Donnell (R)	Moscow
Lemhi	Charles Herndon (D)	Salmon
Lewis	John R. Kemper (D)	Nezperce
Lincoln	Howard E. Adkins (D)	Shoshone
Madison	Ray W. Rigby (D)	Rexburg
Minidoka	Sherman Bellwood (R)	Rupert
Nez Perce	Wynne Blake (D)	Lewiston
Oneida	John W. Clark (R)	Malad
Owyhee	Richard B. Eismann (R)	Murphy
Payette	James A. McClure (R)	Payette
Power	Gregg R. Pötvin (D)	American Falls
Shoshone	Eugene F. McCann (D)	Wallace
Teton	H. S. Forbush (R)	Driggs
Twin Falls	Max G. Lloyd (R)	Twin Falls
Valley	Robert H. Remaklus (R)	Cascade
Washington	Harold Ryan (R)	Weiser

ATTORNEYS GENERAL FOR 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	1928-1930
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	1947-1952

JUSTICES OF THE IDAHO SUPREME COURT

January 1, 1951—December 31, 1952

Raymond L. Givens, Chief Justice	Re-elected 1948
James W. Porter, Justice	Elected 1948
C. J. Taylor, Justice	Elected 1950
Darwin W. Thomas, Justice [*]	Appointed Dec 1, 1950; Elected 1950
Wm. D. Keeton, Justice [†]	Appointed March 30, 1949; Elected 1952

^{*} Appointed to fill vacancy by resignation of Chief Justice Edwin M. Holden.

[†] Appointed to fill vacancy by resignation of Justice Paul W. Hyatt.

December 1, 1952

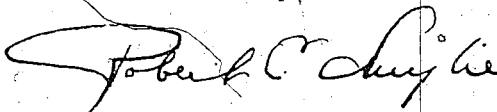
Dear Governor Jordan:

Obedient to the requirements of Section 67-1401, Idaho Code, I have the honor to present for your consideration, and for the consideration of the Thirty-Second Legislature, the Thirty-first Biennial Report of the Attorney General of Idaho.

Permit me to utilize this note of transmittal as a means of publicly expressing to the staff of this office my gratitude for their brilliant and untiring assistance. Each of the staff has made a solid contribution to the cause of good government for the people of our State.

This report contains the office docket of litigation, together with the fiscal report required by law. It also includes a summary of some of the more interesting litigation, a syllabus heading for each of the formal opinions rendered by the office during the report period and recommendations for legislative change in certain statutes, the need for revision of which, has come to my attention in the course of conducting the public business entrusted to my care.

Respectfully submitted,



Attorney General.

The Honorable Len Jordan
Governor of Idaho
Statehouse
Boise, Idaho

ATTORNEY GENERAL'S FINANCE REPORT

July 1, 1951 through June 30, 1953:

APPROPRIATIONS

Salaries and Wages	\$82,220.00
Other Expense—Travel	4,500.00
Other Expense	4,700.00
Capital Outlay	1,750.00

DISBURSEMENTS AND BALANCES

	*Expended	Balances
Salaries and Wages	\$47,596.91	\$32,423.09
Other Expense—Travel	3,895.88	2,204.12
Other Expense	5,171.86	128.14
Capital Outlay	1,631.19	118.81

* Expenditures to November 1, 1952.

ORGANIZATION AND ADMINISTRATION OF THE OFFICE

There are many duties of an executive nature placed upon the office of Attorney General by the Constitution and statutes of the State which by their nature are not susceptible of delegation. They must therefore be personally performed by the Attorney General. Among these duties are membership on the State Board of Land Commissioners, the State Board of Examiners, the State Cooperative Board of Forestry, the State Board of Canvassers and the State Library Commission. On each of these Boards and Commissions the Attorney General acts as a member, as well as serving in the capacity of legal advisor.

These duties involve important policy decisions as well as decisions concerning the administration of the several agencies.

The staff of the main office consists of six lawyers and three legal stenographers. Four additional lawyers are assigned full time to various Departments. In the main office I am assisted at the present time by the Messrs. W. H. Bakes, Edward Aschenbrener, Leonard Bielenberg, J. R. Smead and J. N. Leggat, Assistant Attorneys General. Mr. Allan Shepard is assigned to the Department of Highways, Mr. Glenn Coughlan to the State Insurance Fund and the Industrial Accident Board, Mr. John Gunn to the Employment Security Agency and Mr. Cleo Schooler to the Inheritance Tax Division in the Office of the Tax Collector, where he also acts as Director of the Division. Each of these gentlemen is an Assistant Attorney General. In the main office Miss Bernice Callsen serves as Principal Secretary and Administrative Assistant. She is assisted there by the Misses Darlene Harrington and Carolyn Goodwin.

From time to time throughout this biennium we have employed Special Assistant Attorneys General for the purpose of aiding Prosecuting Attorneys who have requested assistance, and for the purpose of attending to the State's litigation in the distant counties where that method of handling a case was less expensive than would have been the case had we sent an Assistant from Boise.

The work load in the office continues to increase. This is a natural and probable consequence of the enactment of new and sweeping legislation in many fields. The last three Idaho Legislatures have been productive of approximately 950 new statutes, whereas the three Legislatures which preceded the last three produced only 580 new statutes.

New legislation requires interpretation both in the Attorney General's Office and in the Courts. These new departures in State Government have been the primary reason for increase in the work load

in the office. The increased work load is being handled with an increase in personnel amounting to only 20 per cent over the staff during the 1941-1943 biennium.

LITIGATION

A review of the docket section of this report will indicate that we have been able to close many pending cases in the office and that the litigation docket is now in better condition than at any recent time. This has been due in part to the enactment of the new provisions of the Income Tax Law which authorize the Tax Collector to execute and issue warrants of distraint for unpaid taxes. Previously a law suit had to be instituted on each delinquent account. This has not automatically reduced the burden of work in this office by the numerical number of cases, because each distraint warrant requires consultation. However, the litigation burden, with its consequent costs, has been substantially lessened by the new statute. The cases which are now on the docket, however, are complex, and time-consuming in nature. A detailed report of the litigation activity of the office is attached to this report. Some of the more interesting cases are described below.

The Washington Water Power Case

The 1951 Legislature enacted a statute which forbade acquisition by a municipal corporation of another state of facilities for the generation or transmission of electrical energy in Idaho. The statute was patently aimed at preventing acquisition by Public Utility Districts of the State of Washington of the operating properties of the Washington Water Power Company located in North Idaho. The enactment of the statute was productive of the most time consuming litigation in which the office has been engaged in the period reported in this report. Our efforts were directed at the problem of securing enforcement of the new statute.

The Washington Water Power Company was then a wholly owned subsidiary of American Power & Light Company. In 1942, the American Company had been ordered by the Securities & Exchange Commission of the United States to divest itself of its operating properties, including the Washington Company. In 1951, the American Company entered into a contract to sell all of the common stock of the Washington Company to the Washington State Public Utility Districts. Certain citizens of the Public Utility Districts undertook to restrain the purchase by the Districts on the ground that acquisition of the Idaho properties by the Washington Districts was beyond their power. The Washington State Courts so held and enjoined the sale and purchase as then proposed.

Thereupon, we urged the Securities & Exchange Commission to enforce its 1942 order of dissolution by taking mandatory action against

the American Company. We suggested that the proper method of accomplishing a divestiture of the Washington Company was by distribution of the Washington Company common stock to the stockholders of the American Company, *pro rata* as their ownership in the American Company appeared.

After a series of hearings the Securities & Exchange Commission ordered that such divestiture occur not later than January 1, 1952 unless plans were then in process of completion which would effect some other disposition of the Washington Company. Just prior to the deadline, the American Company filed a plan for another sale of the Washington Company to the Public Utility Districts and to an Idaho Corporation not yet formed. It developed that no contract of sale had been entered into between the proposed parties and that the Idaho corporation, while non-profit in character, would in effect be another holding company for the operating property. We felt compelled to resist this plan and made appropriate representation to the Securities & Exchange Commission. An order was entered setting the American plan for sale and the plan for divestiture by distribution down for hearing.

The Public Utility Districts thereupon sought a restraining order in the U.S. Circuit Court of Appeals for the Ninth Circuit against holding the hearing. We joined the Securities Commission in seeking to have the restraining order dissolved and the petition for review of the Commission's action dismissed. The Court agreed with this position, dismissed the petition for review and dissolved the restraining order. The Commission thereupon ordered the hearing. The American Company then filed a plan for distribution in accordance with our initial suggestion to the Commission. That distribution was finally accomplished on August 21, 1952 and the Washington Company is now an independent operating utility, without holding company control of any kind. The purposes of the 1951 statute have been rendered effective. We entered the litigation at the Federal administrative level in order to avoid long, difficult and costly litigation in our own State Courts, and in the several United States Courts.

The Clinger Case

Two cases arose in Madison County which are of fundamental importance to the conduct of the public trust imposed on the administration of the public school lands. The Land Board offered a section of land in that county for sale at public auction to the highest bidder. The land was offered in two parcels. On one parcel a competing bidder was successful and on the other the person who had applied to have the land offered for sale was successful. The competition at the auction was brisk, and the person who applied to have the land offered for sale dishonored her check for the down payment on the next business

day. We thereupon filed a suit on behalf of the Land Board for the purchase price. The purchaser then sued the Board for an alleged under-valuation of improvements on the other half of the section. In the suit where the Board was defendant, judgment for the Board was obtained in the trial Court and the case was dismissed.

A demurrer was interposed to the Board's complaint in the other suit and it was sustained in the lower Court. An appeal was undertaken to the Supreme Court where the judgment below was reversed in a notable decision which established beyond question the fact that a sale of public land is complete and irrevocable when the hammer falls at the auction. The decision is a healthy one, and will implement further the salutary constitutional requirement that all sales of endowment land be made to the highest bidder. The case was later tried to a jury in Madison County and a substantial verdict was returned in favor of the State acting through the Board of Land Commissioners.

The Lewd Conduct Cases

The 1949 Legislative Session enacted a statute designed to protect children under the age of sixteen from molestation by persons intent upon the commission of lewd and lascivious acts upon such children. The statute has been hotly litigated. Two District Courts sustained defendants' demurrers to informations charging violation of the statute, on constitutional grounds. The State appealed these judgments and the Supreme Court in a divided opinion has now held the statute to be constitutional. In one of the cases an appeal has been filed in the Supreme Court of the United States and the case is now pending there.

The State Treasurer Case

Upon the death of the incumbent State Treasurer in the Spring of 1952, the Governor appointed a person to fill the vacancy thus created. In mid-summer an aspirant for the office offered nominating petitions for filing in the Secretary of State's office as a candidate for the office in the 1952 elections. The filing was premised on the theory that the appointment was to last only until the next general election. Following an earlier decision of the Supreme Court handed down in 1914, the Secretary of State refused to accept the petition for filing. A writ of mandate was sought by the aspirant for office. The Supreme Court denied the writ, ruled that the office was not vacant and that an election need not be held. The Court's opinion reaffirmed the earlier decision, and has apparent application to all state offices except that of Mine Inspector, Governor and Lieutenant Governor. It has been urged that a constitutional revision should be sought in order to change the now established procedure.

The Tax Commission Cases

Litigation touching the jurisdiction of the State Tax Commission reached decision during the current biennium. A suit begun by certain merchants in Nez Perce County resulted in a decision which appeared to sharply delimit the powers of the Commission. Rehearing of that decision was sought and obtained, and the Court later re-affirmed the result in that case. At the same time an Ada County Taxpayer undertook litigation to enforce an order of the Commission reducing the valuation placed on taxpayer's property. The Supreme Court's decision in that case sustained the Commission, and elucidated the earlier decision in the merchandising case. The basic powers of the Commission are still in question and it is anticipated that subsequent litigation will ensue which will further explore the Commission's jurisdiction.

The State Police Case

At the request of the Department of Law Enforcement and the Governor, this office undertook defense of a State Patrolman who was sued for damages in Bannock County for an alleged false arrest and false imprisonment. The case involved the right of the State Highway Patrol to arrest without warrant after nightfall for a traffic offense committed in the presence of the arresting officer. The case was of fundamental importance to all peace officers engaged in the enforcement of the laws for highway safety. A demurrer was filed to the complaint, and after amendment and a further demurrer, the trial Court sustained the defendant patrolman's position. Upon appeal the trial court's ruling was affirmed in the Supreme Court. The case clearly establishes the power of the State Police to arrest without warrant a person committing a traffic offense in the presence of the arresting officer whether the offense is committed in the daytime or the nighttime.

Administrative Proceedings

Once again the most significant development in the management of the office has been the great increase in the number of administrative proceedings conducted by the several State agencies in which this office has been required to assist. Most of the statutes which require the conduct of these proceedings are remarkably devoid of procedural law. For that reason, we think it of great importance that the Legislature consider legislation which will make provision for a uniform administrative procedure in all of these proceedings. Too often in the present situation, the fundamental rights of the citizen are not clearly defined. This state of affairs should not be permitted to endure.

GENERAL OFFICE ADMINISTRATION

Upwards of sixty per cent of the work of the office does not reach the status of litigation. For that reason it seems desirable to comment briefly upon some of this work.

At the commencement of this biennium we adopted the practice of limiting our formal opinions (i.e. those that are numbered and published) to those questions which seemed to be of general application and public importance. Other inquiries which were of a more routine nature have been answered by letter. These letters are public records in our files and available for inspection. We have kept the cost of the opinion service from rising precipitously by this method and I think we have been able to afford the public a completely adequate opinion service at the same time.

We have rendered 104 formal opinions to persons entitled thereto. As near as can be ascertained, we have advised informally by letter or in person as to legal questions on approximately 3,300 occasions. These informal advices have been given when a problem was deemed insufficiently important or of only specific application. 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 and materials 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 abstract of proceedings which authorized the issuance of bonds which have been purchased by the Department of Public Investments.

We have participated in hearings before the Governor 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.

We have advised with the several Legislative Interim Committees concerning their problems as they have requested assistance.

The office has regularly offered assistance to the two Houses of the Legislature when they were in session and to the individual members of each House. This has resulted in the task of drafting many legislative proposals for submission to the legislature. In addition to these bill-drafting activities we have prepared legislative proposals for various of the Departments of government. Speaking in round numbers, the office has drafted approximately 300 bills for legislative consideration in the period covered by this report.

THE PROSECUTING ATTORNEYS

Perhaps the most significant development in this biennium has been the effective liaison and cooperation which the Office has been able to maintain with the offices of the several Prosecuting Attorneys of the State. From time to time we have responded to requests for special assistance by assigning a Special Assistant Attorney General to assist in a prosecution. We have also made the tremendous body of legal research in the office files of cases long past available to the Prosecutors. Recently the information used in a 1915 case, which had been approved in that case by the Supreme Court, was utilized as the base for the information in a current case involving similar facts and the same statute. The possibilities inherent in this procedure for improving the administration of criminal justice in the State are almost unbounded.

During the past year the Office published, at the request of the Prosecuting Attorneys, a Manual of Forms and Procedure for use by the Prosecutors in their offices. The text of the Manual was developed by the Prosecutors themselves and was edited and supplemented in the Office. The Manual was published in loose leaf form in order to permit later revisions and additions. A similar Manual of Forms, and a Procedural Guide, were published for use by the Prosecuting Attorneys in connection with the Uniform Reciprocal Enforcement of Support Act. (The so-called run-away father statute.)

By way of reciprocating action the Prosecutors have been most helpful in attending to some of the details of the State's civil business in their respective Counties. We are grateful for that support and assistance, and I am most happy to acknowledge and accept it.

The Prosecuting Attorney's Section of the Idaho State Bar has become, in effect, a statewide Association of Prosecuting Officers. The work of the Section has been most effective. It offers a vehicle for the establishment of still completer areas of cooperation in the field of law enforcement. I am firmly convinced that the work of the Prosecuting Attorneys' Section must be encouraged and supported by all who are interested in the effective and impartial administration of criminal justice.

RECOMMENDATIONS

In the conduct of the public business entrusted to the Attorney General there is a great opportunity to observe various of our statutes in operation, and to formulate proposals designed to make those statutes more effective for the public good. The following suggestions are primarily procedural in character because I do not conceive it to be the province of the Office to intrude upon policy determinations.

Administrative Procedure

As I stated earlier in this report there is no statute in existence which prescribes a uniform procedure for the conduct of the many administrative proceedings now required to be conducted by the several agencies of State government. Lack of such a statute will, in the long run, produce a maze of procedural practices through which a citizen will have a difficult time in finding his way. For that reason the citizen will never be sure of his rights. A code of uniform administrative procedure should be enacted as a required guide to State agencies for the conduct of all such proceedings. House Bill No. 222 which was introduced in the Thirty-first Session would, if enacted, adequately fulfill this need.

Highway Safety

The toll we pay in death and injury on our highways continues to mount. If those highways are to serve as the avenues of commerce and pleasure which they are intended to be, then effective means must be developed to reduce the hazards to safe passage over the roads.

The State Highway Patrol should be expanded to meet the need for increased safety patrolling, and measures should be adopted to make that job attractive as a career.

The administrative provisions of the Automobile Financial Responsibility Act should be strengthened to make more effective enforcement possible. The privilege of driving on our highways should not be permitted to unsafe or unfit drivers.

Provision should be made to try juvenile offenders against the traffic code in the same Courts where traffic offenses committed by adults are tried. A reckless driving charge involves no less danger to the rest of the driving public simply because it is committed by a fifteen year old driver.

The statutes for the punishment of drunken and habitually reckless drivers should be strengthened by requiring imposition of mandatory minimum sentences in appropriate cases.

The Income Tax Law

Nineteen years have passed since our Income Tax Law has been subjected to thorough study and revision. When enacted the law was excellently designed to fit the then existing situation. Changes in business organization techniques, modern business practices and more importantly, the impact of heavy Federal taxation, have rendered parts of the income tax law obsolete, and in some cases oppressive. The statute has had only piecemeal attention and revision in the intervening years. I think that a Committee composed of business people, tax attorneys, accountants, officers charged with administration of the statute, and Legislators, should be organized for the purpose of studying the Income Tax Law with a view to perfecting a complete revision of the statute. The task is not one which can properly be accomplished in a short time. Such a committee should have authority to secure such expert assistance as it might decide was required and should be asked to report to the Thirty-Third Legislature in 1955.

Cooperation with Local Governments

In all fields of State endeavor there exists a need for statutes which definitely set forth the areas of responsibility which the state shares with local governmental units such as the counties, the cities and the villages. This is true in the field of Law Enforcement, Public Assistance, Public Health, Highways Administration, and many others. In the field of Law Enforcement the enactment of Chapter 196, Idaho Session Laws of 1951, provided an effective first step. Such a statute in all fields of cooperative endeavor would be desirable.

Criminal Justice

Administration of criminal justice in Idaho at the trial level is solely committed to the Prosecuting Attorneys. In recent years the Legislature has added substantially to the civil duties of each of these officers, although the office was initially intended to have only criminal responsibility. In nearly every county the work of the office continues to increase. I think that the salaries offered for these positions should be increased and that provision should be made for the appointment of special professional assistants in appropriate cases where a local prosecutor feels the need of such assistance. In at least one case in the last biennium a new prosecutor, relatively inexperienced, was engaged in the trial of a murder prosecution within a few weeks of the time he assumed his office. In such a case the public interest requires that capable help be available without fail.

As the incidence of crime increases, the necessity for occasional resort to the impaneling of a grand jury becomes apparent. Provision should be made in the statutes to authorize resort to this procedure in other than extraordinary cases.

The statute which delineates the duties of the Office of the Attorney General has not been revised since Idaho became a state. The statute should be revised to meet the needs of modern conditions and current problems.

Juvenile Problems

Our present procedure for handling all juvenile cases in the Probate Courts is not adequate to meet the test of modern conditions. A new system of procedure must be devised. If constitutional change is required before this can be accomplished, then such amendment as is necessary should be proposed to the people for ratification or rejection. The present procedures for coping with these problems are not adequate, and the problem will increase in size and complexity until appropriate corrective measures are adopted.

OPINIONS

1-51 COMMISSIONER OF HIGHWAYS.

Social Security: Employee deduction is a tax and employee has no election to be taxed or not. (J. N. Leggat).

2-51 STATE AUDITOR.

Chapter 83, Idaho Session Laws of the First Extraordinary Session of 1950, requires that the excess over \$1,000,000 remaining in the 30% allocation for the calendar year 1950, to cities, counties and villages be paid not later than February 1, 1951. (Robert E. Smylie).

3-51 SUPERINTENDENT OF JOINT CLASS A SCHOOL DISTRICT NO. 41.

School Districts are not liable for torts committed in a governmental capacity but may be liable for torts committed when acting proprietarily. (Robert E. Smylie-Blaine F. Evans).

4-51 COUNTY AUDITOR, FRANKLIN COUNTY.

Chattel mortgages which have not been acknowledged should not be recorded by a county recorder. (Robert E. Smylie-Blaine F. Evans).

5-51 SECRETARY OF STATE.

Opinion on question whether a notary public must record his commission in every county of the state in which he exercises his commission. (William H. Bakes).

6-51 COMMISSIONER OF INSURANCE.

A policy of health and accident insurance only must be countersigned by a licensed resident Idaho agent. (J. R. Smead).

7-51 SECRETARY OF STATE.

For filing certificates of increase of capital stock there shall be charged the fee hereinbefore prescribed for the total capitalization of the corporation, less the amount already paid for filing the original articles of incorporation. (Robert E. Smylie-Blaine F. Evans).

8-51 PROSECUTING ATTORNEY, CANYON COUNTY.

Section 30-108, Idaho Code, requires corporations to file copies of their Articles of Incorporation rather than to have them recorded with the County Recorder. (Robert E. Smylie-Blaine F. Evans).

9-51 THE SPEAKER, HOUSE OF REPRESENTATIVES.

We have found there is no authority which prohibits the legislature from sitting beyond the sixtieth legislative day. Upon adjournment of the session of the sixtieth legislative day, if that

adjournment be not *sine die*, the proceedings of the next legislative day would be properly denominated the sixty-first legislative day. The act of adjournment concludes the legislative day, not the passage of the requisite number of calendar hours. (Robert E. Smylie).

10-51 TAX COLLECTOR.

Whether or not it is necessary for a pinball machine to be licensed under the Local License Act. (William H. Bakes).

11-51 PROSECUTING ATTORNEY, TETON COUNTY.

Oil and gas leases are assessable against the lessees as personal property. (J. N. Leggat).

12-51 COMMISSIONER OF AGRICULTURE.

Question involved in this opinion is whether the bond required under the provisions of the commission merchant and dealer's law protects another commission merchant who sells and ships to the commission merchant or dealer. (William H. Bakes).

13-51 CITY CLERK, CITY OF ST. ANTHONY.

The appointment of the city clerk and the city treasurer in cities of the second class is mandatory. (Robert E. Smylie-Blaine F. Evans).

14-51 EXECUTIVE SECRETARY, STATE TAX COMMISSION.

Merchandise to be assessed in the same manner as is other personal property during 1951. (J. N. Leggat).

15-51 COUNTY AUDITOR, BOUNDARY COUNTY.

Opinion on question whether County Auditor needs to draw warrants only on second Monday of month when county commissioners regularly meet, or whenever the orders to pay are presented by the commissioners. (William H. Bakes).

16-51 DIRECTOR OF CIVIL DEFENSE.

Opinion on the definition of "hostile acts" and "overt act" as used by the legislature in Chapter 6, Session Laws of 1951; also, under what conditions the governor would be justified in expending any part of the one million dollars appropriated under the act. (Robert E. Smylie-William H. Bakes).

17-51 JUSTICE OF THE PEACE, RUPERT.

Justices of the peace receive no salary except fees collected according to statute. The board of county commissioners may pay a salary in addition to fees collected for conducting a small claims court. (Blaine F. Evans).

18-51 STATE SUPERINTENDENT OF PUBLIC INSTRUCTION.

The State Board of Education may consider all or such of the facts listed in Section 33-1008 (b) as its experience indicates

is proper based on the cost records which it has compiled, but the Board may not consider facts not listed in the statute. The State Board of Education is required by Section 33-1008 to design a "new minimum transportation program." This program and the formula which effectuates it must be one program for the entire state. This does not exclude the possibility that such a uniform statewide program might in practical application produce non-uniform monetary results measured in percentages. (Robert E. Smylie).

19-51 JAMES E. SCHILLER, ATTORNEY AT LAW, NAMP.

In a city of the first class operating under the commission form of government, when candidates for mayor and city councilmen receive a majority at the first general municipal election on the first Tuesday in April and no second general municipal election is therefore necessary, such candidates are thereby elected and are entitled to be issued a certificate of election as a matter of law at the first meeting of the city council after such election and take office upon receipt of that certificate of election. (Robert E. Smylie).

20-51 COMMISSIONER OF LAW ENFORCEMENT.

When a vehicle is the joint property of two or more persons, and a violation is incurred by one of the joint owners requiring the surrender of driver's license and vehicle registration, the driver's license of the guilty party shall be revoked, but the automobile registration may not, the reason being that to do so would penalize the innocent joint owners. (William H. Bakes).

21-51 DIRECTOR, SCHOOL REORGANIZATION.

Reorganization of school districts is governed by Chapter 5, Idaho Session Laws of 1951. Section 33-406, Idaho Code, might also be utilized. (Robert E. Smylie-Blaine F. Evans).

22-51 EXECUTIVE DIRECTOR, EMPLOYMENT SECURITY AGENCY.

Computations of benefit payments under the law as amended and increased by the 1951 legislature should become effective as to May 13, 1951, as that date is the first day of the first compensable week following the effective date of said amendment. (John W. Gunn).

23-51 COMMISSIONER OF FINANCE.

The correct filing fee for Idaho investment companies filing with the Department of Finance is \$25.00 (Blaine F. Evans).

24-51 PUBLIC RELATIONS OFFICER, DEPARTMENT OF FISH AND GAME.

The Fish and Game Commission may by regulation refuse permission to participate in a drawing for a special hunt to those

who in the year previous participated successfully in a special hunt for the same species. (J. R. Smead).

25-51 EXECUTIVE SECRETARY, STATE TAX COMMISSION.

Water may not be assessed separate from land, for purposes of ad valorem taxation. (J. N. Leggat).

26-51 STATE SUPERINTENDENT OF PUBLIC INSTRUCTION.

Structures built on reversionary public lands with public revenues belong to the state. (Blaine F. Evans).

27-51 EXECUTIVE SECRETARY, IDAHO MUNICIPAL LEAGUE.

The salaries of all officers of cities of the second class, whether appointed or elected, are required by statute to be fixed by a duly enacted ordinance. (William H. Bakes).

28-51 EXECUTIVE DIRECTOR, EMPLOYMENT SECURITY AGENCY.

Section 12, Chapter 105, of the 1951 Idaho Session Laws complies with the provisions demanded in the Wagner-Peyser Act for the establishment and operation of a State Employment Service as a part of the Employment Security Agency. (John W. Gunn).

29-51 BURSAR, SOUTHERN IDAHO COLLEGE OF EDUCATION.

NICE and SICE endowment earnings are appropriated to the NICE AND SICE by Sections 33-3302 and 33-3303, Idaho Code, and will be available for use by the schools after July 1, 1951. Money received from local income sources after July 1, 1951, at SICE and NICE should be credited to a then currently available appropriation. Appropriated and allotted funds may be encumbered for currently incurred specific obligations and may not be encumbered for obligations not yet incurred or anticipated. The Governor has no emergency funds which might be used for the protection of the buildings and maintenance of records at NICE and SICE. (Robert E. Smylie).

30-51 SHERMAN J. BELLWOOD, ATTORNEY AT LAW, RUPERT.

The certificate of any physician whether within or without the state that the applicant is free from venereal disease is sufficient so long as the physician is licensed in the foreign state. (William H. Bakes).

31-51 SECRETARY OF STATE.

A fictitious or assumed business name need not be filed with the Secretary of State but only needs to be filed with the county recorder of the county or counties where the business is conducted. The provisions for recording union labels, signs, devices, etc. with the Secretary of State apply only to goods, wares, merchandise, or products of labor which have been made, manufactured, produced, prepared, packed or put on sale. (William H. Bakes).

32-51 PROSECUTING ATTORNEY, PAYETTE COUNTY.

In the absence of a contrary definition of the term "navigable" as used in Chapter 203, Idaho Session Laws of 1949, the Legislature is presumed to acquiesce in the definition given by Idaho Courts for over forty years; capable of being used in its natural condition as a highway for commerce over which truck and travel may be conducted, including the floating of logs to market. (William H. Bakes).

33-51 STATE AUDITOR.

Inasmuch as legislative authorization has been granted in specific terms, the payment of special assessments which are designed to pay for improvements which special benefit lands belonging to the state may lawfully be paid when those assessments are made by cities, villages, local improvement districts and drainage districts. This opinion does not mean that the Legislature may authorize the imposition or payment of any property tax on property belonging to the state. (Robert E. Smylie).

34-51 STATE AUDITOR.

Employees of "non-sponsored" programs are public employees. (J. N. Leggat).

35-51 INTERDEPARTMENT MOTOR CARRIER COMMITTEE, PUBLIC UTILITIES COMMISSION.

Registration for vehicle licenses must be made by January 1 of each year, but the Commissioner may extend this date for forty-five days for good cause. Chapter 119, Session Laws of 1951, being subsequent to and inconsistent with Chapter 38, Session Laws of 1951, repeals it. (William H. Bakes).

36-51 CHIEF CLERK, DEPARTMENT OF LAW ENFORCEMENT.

The holder of a valid driver's license may have a new one made out by the department where the driver has changed his name without the payment of a fee, if his old license would otherwise be valid. (William H. Bakes).

37-51 COUNTY ASSESSOR, ADAMS COUNTY.

Fixtures assessable as real estate. (J. N. Leggat).

38-51 EXECUTIVE SECRETARY, STATE TAX COMMISSION.

Used motor vehicles in the hands of a dealer, for sale to the public, and bearing license plates issued to "owner" will be subject to ad valorem taxation in the hands of the dealer on second Monday in January, 1952, and thereafter. (J. N. Leggat).

39-51 PROSECUTING ATTORNEY, ADA COUNTY.

The 1951 Legislature changed the laws relating to public notice by setting a charge of 11 cents per column line of 8-point type,

12 cents per line for 7-point type, and 13 cents per line for 6-point type. For subsequent insertions a flat charge of 6 cents per line is made. Type smaller than 6-point is prohibited. Section 31-319, Idaho Code, was changed, requiring a full statement of the financial condition of the counties together with a statement of receipts and their sources, and expenditures. Section 33-308, Idaho Code, was amended to require every county board of education to make an annual report of its financial condition in a newspaper of general circulation in the county. (William H. Bakes).

40-51 DR. HOYT B. WOOLEY, COUNTY PHYSICIAN, BONNEVILLE COUNTY.

1. A county health department is not required to furnish medical services to all persons receiving public assistance unless so required by the board of county commissioners.
2. A person found eligible by the county commissioners for assistance of one type, is not thereby entitled to relief of any other. (William H. Bakes).

41-51 EXECUTIVE SECRETARY, STATE TAX COMMISSION.

Licensing of pleasure boats. Outboard motor boats not subject to licensing as pleasure boats. (J. N. Leggat).

42-51 COMMISSIONER OF FINANCE.

A national bank must obtain the consent of all other banks operating in a city or village prior to establishing a branch banking office in that city even though that city is the location of the parent national bank. (Robert E. Smylie).

43-51 DIRECTOR, SCHOOL REORGANIZATION.

Public hearings are not required on reorganization proposals where county committees do not exist; the order in which reorganization proposals are to be considered is a matter for the state committee. Public hearings are not required in reorganization plans submitted by district trustees. All electors entitled to vote in districts reorganized pursuant to Chapter 66, Idaho Session Laws of 1951. The proposition carries if a majority of the voters in the old district vote for it. Only one plan of reorganization is voted on and it determines the status of all districts involved. (Blaine F. Evans).

44-51 CHAIRMAN, STATE BOARD OF MEDICINE.

There is no necessity for the payment of license renewal fees by persons holding professional or occupational licenses issued by the State of Idaho who are serving in the armed forces of the United States. (Robert E. Smylie).

45-51 MANAGER, IDAHO STATE ELECTRICAL BOARD.

1. A private person may do electrical wiring on his own property

without being licensed under Chapter 10 of Title 54 of the Idaho Code.

2. An "owner" of property includes owners of both limited and unlimited fees. (William H. Bakes).

46-51 MAYOR, CITY OF OROFINO.

Cities owning their own waterworks may, but are not required to furnish water facilities to their new additions. (Blaine F. Evans).

47-51 JAMES E. SCHILLER, CITY ATTORNEY, NAMPA.

1. A city may not authorize the grading or construction of streets under Section 50-2801, Idaho Code.

2. A city may oil, pave, macadamize, or otherwise surface streets under authority of Section 50-2801, Idaho Code. (Robert E. Smylie-William H. Bakes).

48-51 COMMISSIONER OF AGRICULTURE.

A public warehouse as that term is defined in Section 69-202, Idaho Code, as amended by Chapter 86, Idaho Session Laws of 1951, constitutes a public utility whose rates and charges are subject to the regulatory jurisdiction of the Commissioner of Agriculture of the State of Idaho. (Robert E. Smylie).

49-51 PROSECUTING ATTORNEY, LINCOLN COUNTY.

1. The significance of the Idaho Legislature removing the word "brief" and substituting the word "full" in Chapter 294, Idaho Session Laws of 1951, is self-evident, and the Attorney General refuses to expatiate.

2. Counties or County Commissioners cannot lend or give county funds or credit to a marketing organization.

3. Upon tender of the proper fees, the county recorder must make a judgment search and title search and a certificate of his finding. (William H. Bakes).

50-51 TAX COLLECTOR.

Tax Collector may refuse to issue a punchboard license to a retailer in a municipality which has ordinance or resolution prohibiting punchboards. (J. N. Leggat).

51-51 PROSECUTING ATTORNEY, BINGHAM COUNTY.

1. The county commissioners have authority to pay such additional personnel as may be required to conduct automobile drivers' examinations.

2. Although the county budget has been fixed, unforeseen contingencies may be met by expenditures from the general reserve fund.

3. County commissioners could not foresee a change in the law and may make provision for expenses required by the Legislature subsequent to the date of fixing the budget. (William H. Bakes).

52-51 COMMISSIONER OF PUBLIC ASSISTANCE.

Since the special lien law does not deal with the matter of release, we are justified in concluding that the general law will prevail and the Commissioner may provide by regulation a means of releasing the state's interest where the lien has been satisfied by payment. (Robert E. Smylie-William H. Bakes).

53-51 DIRECTOR, BUREAU OF OCCUPATIONAL LICENSES.

Where a barber's license has been canceled for a period of more than five years, the person so affected shall be required to make application to the department, furnishing the same information as required of a person originally applying for a license, and pay the same fee. If after an examination the department is of the opinion that the person examined is the bona fide holder of the canceled license, is of good moral character and, if found capable of again practicing in this state the profession for which the original or canceled license was granted, the license shall be reinstated and the holder thereof entitled to practice subject to the laws of the state. (Robert E. Smylie-William H. Bakes).

54-51 PROSECUTING ATTORNEY, BONNER COUNTY.

House trailers are not subject to license operating fees, therefore not exempt from ad valorem taxation. (J. N. Leggat).

55-51 PROSECUTING ATTORNEY, PAYETTE COUNTY.

Filing fee to be paid, upon transfer of an action from one district court to another, is \$12.00. (J. N. Leggat).

56-51 SUPERINTENDENT OF PUBLIC INSTRUCTION.

Section 33-905, Idaho Code, as amended by Chapter 281, Idaho Session Laws of 1951, authorizes imposition of a tax levy of 13 mills and 12 mills, or a total of 25 mills. (Robert E. Smylie).

57-51 CHIEF, STATE POLICE FORCE, DEPARTMENT OF LAW ENFORCEMENT.

1. Persons applying to take the driver's examination and for an operator's or chauffeur's license must apply in the county of their residence.

2. Students in residence at schools within the state may apply in the county where the school is located. (William H. Bakes).

58-51 CHAIRMAN, BOARD OF HIGHWAY DIRECTORS.

The Highway Engineer may delegate authority to subordinate officials to sign forms in the name of the Department. Each delegation of authority will be appropriately recorded in written form and filed with the requisite officers of state. (Robert E. Smylie-Allan Shepard).

59-51 STATE HIGHWAY ENGINEER.

The Highway Engineer is authorized to sign documents on

behalf of the Highway Department. It is recommended that the Highway Board confer such authority by official action. (Robert E. Smylie-Allan G. Shepard).

60-51 STATE HIGHWAY ENGINEER.

The Highway Department may post state highways authorizing loads in excess of certain statutory limits. (Robert E. Smylie-Allan G. Shepard).

61-51 SECRETARY OF COUNTY AUDITORS ASSOCIATION, SHOSHONE.

1. Funds from the State Highway Fund are distributed to the various counties and are by them distributed to the various good roads and highway districts in the rates that the motor vehicle registrations in the district bear to the total motor vehicle registrations in the county.

2. The term "motor vehicle" as presently defined means every vehicle which is self propelled or motor driven and in addition any train or combination of vehicles.

3. In distributing the highway funds to the various districts within the several counties, the base period for determining what aliquot part of the entirety each district shall have, is the entire previous year.

4. What the Legislature has omitted through inadvertence may be added to a statute if without the addition the statute is unintelligible and incongruous, and the addition patently appears to be the intent of the Legislature. (William H. Bakes).

62-51 STATE HIGHWAY ENGINEER.

State Highway Department may enter into agreements with political subdivisions for the joint financing of roads not in the State Highway System. (Robert E. Smylie-Allan G. Shepard).

63-51 EXECUTIVE SECRETARY, VETERANS WELFARE COMMISSION.

Veterans Welfare Commission is authorized to extend benefits to veterans of the Korean War. (Robert E. Smylie-Allan G. Shepard).

64-51 DIRECTOR OF FISH AND GAME.

An employee of an "outfitter," as defined in Section 36-5401, Idaho Code, may or may not be a "guide," as defined in said Section 36-5401, depending on the nature of his services rendered pursuant to such employment. (J. R. Smead).

65-51 COMMISSIONER OF LAW ENFORCEMENT.

1. Where it is desired to title a vehicle in such a way that during the lifetimes of the husband and wife, both be required to sign, but after the death of husband or wife, the signature of the survivor is sufficient, the following format should be used "John

Doe and Mary Doe" as joint tenants with the right of survivorship and not as tenants in common.

2. If the title is in the name of "John Doe and Mary Doe" the signature of both will be required to release the title.

3. Where a vehicle is titled "John Doe or Mary Doe" the signatures of either will release the title.

4. Where the vehicle is titled "John Doe and/or Mary Doe" the signature of either or both will release the title. This format and the use of and/or has been characterized as "meaningless" and "slovenly." (William H. Bakes).

66-51 PROSECUTING ATTORNEY, BANNOCK COUNTY.

Political subdivisions are prohibited from investing funds in United States Bonds except that school districts and municipalities may so invest funds derived from the sale of bonds pending application of such funds to the purposes for which bonds were sold. (Allan G. Shepard).

67-51 PROSECUTING ATTORNEY, CLEARWATER COUNTY.

The requirements of the Compulsory Education Law, Chapter 120, Idaho Session Laws of 1949, are not complied with when a child of school age is taking courses from a correspondence school and is not attending a private, public or parochial school. (Robert E. Smylie).

68-51 SECRETARY, IDAHO MUNICIPAL LEAGUE, WEISER.

Revenue received from previously constructed on-street parking meters, may not be used for the redemption of principal and interest of bonds used to construct an off-street parking facility pursuant to the authority granted in Chapter 47, Idaho Session Laws of 1951. (William H. Bakes).

69-51 COMMISSIONER OF LAW ENFORCEMENT.

The driver of a bakery truck is not required to possess a chauffeur's license where the use of the truck is merely incidental to the principal employment of the driver, which is selling or delivering bread. (William H. Bakes).

70-51 PROSECUTING ATTORNEY, CANYON COUNTY.

We are, therefore, of the opinion that a constable may collect mileage within the county in addition to his statutory fees for service of notices, issuing from a small claims department of a justice's court, and subject to the limitations of Section 31-3217, supra, both mileage and statutory fees are assessable against the unsuccessful party. (J. Clinton Peterson).

71-51 COMMISSIONER OF LAW ENFORCEMENT.

Where there has been an automobile accident, and the Commissioner of Law Enforcement would be obliged to suspend the licenses under Section 49-1105, Idaho Code, if a settlement or

compromise is reached between the parties, and proof thereof is furnished to the Commissioner, the provisions of Section 49-1105, Idaho Code, do not apply and the Commissioner need not suspend the license. (William H. Bakes).

72-51 GOVERNOR OF IDAHO.

Effective initiation of legislation by the people, under contemporary constitutional and statutory provisions, is possible only in connection with the quadrennial election of Governor. (Robert E. Smylie-Edward J. Aschenbrener).

73-51 DIRECTOR OF ENVIRONMENTAL SANITATION, DEPARTMENT OF PUBLIC HEALTH.

The enactment of ordinances—A. Prohibiting the use or maintenance of privies, private sewers and septic tanks within municipal limits; B. Declaring privies, private sewers and septic tanks within municipal limits to be public nuisances and ordering their abatement, and C. Ordering the owners of buildings within municipal limits to connect with the public sewer system—is within the legislative power and authority of incorporated cities and villages in Idaho where a public sewer is available at the adjacent street or alley. (Edward J. Aschenbrener).

74-51 EXECUTIVE DIRECTOR, EMPLOYMENT SECURITY AGENCY.

Computation of penalties which are due and owing on delinquent contributions which accrued prior to the date of the new (1947) law should be made by using the total lump sum of said delinquent contributions as a basis upon which to charge penalties on and after the effective date of the new law, and that said penalties should be computed under the provisions of the new law. (John W. Gunn).

1-52 JUSTICE OF THE PEACE, POCATELLO, IDAHO.

1. Under the Idaho Code, no fee can be charged by a justice of the peace if the offense is a felony and if the accused is not apprehended or the charge is dismissed before the accused either demands a preliminary hearing or waives one.
2. Under the Idaho Code, no fee can be charged by a justice of the peace where the charge is a misdemeanor and the defendant is not apprehended or there is a plea of not guilty and the cause is later dismissed. (Edward J. Aschenbrener).

2-52 SUPERINTENDENT OF PUBLIC INSTRUCTION.

Boards of Trustees of local school districts may receive cash gifts from individuals or corporations for purposes of erecting a school building. (J. Clinton Peterson).

3-52 AUDITOR.

Tools, machinery, supplies and equipment for the Department of

Highways must be procured by the State Purchasing Agent. The enactment of Chapter 93, Idaho Session Laws of 1951 did not vary the effect of Section 67-1602. The Purchasing Agent's statute and the purchasing procedures prescribed therein provide a mandatory method for the procurement of property by the state. (Robert E. Smylie).

4-52 STATE HIGHWAY ENGINEER.

Department of Highways may release a retained percentage of a contract price without the consent of the contractor's surety after final approval of the project by the Department. (Robert E. Smylie-Allan G. Shepard).

5-52 STATE AUDITOR.

Service on sundry boards and commissions is covered employment under the state federal social security agreement. (Robert E. Smylie).

6-52 PROSECUTING ATTORNEY, ADA COUNTY.

Section 34-1204, Idaho Code, applies to nominating elections so far as it does not conflict with nominating election laws. Duplicate sets of ballot boxes are required to be kept by the Clerk of the Board of County Commissioners, one for general elections and one for nominating elections. (Edward J. Aschenbrener).

7-52 CLERK, JOINT INDEPENDENT SCHOOL DISTRICT NO. 12, SHOSHONE.

A Joint Independent School District of this state may contract to contribute toward the expense of the erection of a gymnasium in conjunction with a town or city situate within the boundaries of such district. (J. Clinton Peterson).

8-52 PROBATE JUDGE, CARIBOU COUNTY.

The first provision of Section 31-3204, Idaho Code, calls for a fee of \$7.50, amongst other cases, in cases where the husband dies intestate leaving only community property, and there is no sale of real property. The sixth provision of Section 31-3204, Idaho Code, and Section 14-114, Idaho Code, as amended by Chapter 111, Session Laws of 1951, call for a fee of \$7.50 in cases where the wife dies intestate leaving only community property. (Edward J. Aschenbrener).

9-52 PROSECUTING ATTORNEY, TETON COUNTY.

Exemption of property owned by a church is limited to that used for public worship; a parsonage owned and used as such; and any recreational hall used in connection with the activities of the church. (J. N. Leggat).

10-52 COMMISSIONER OF LAW ENFORCEMENT.

Section 49-106, Idaho Code, providing that accident records required to be filed with the department of law enforcement

by said section was overruled by the provisions of Section 49-531, Idaho Code, as amended by Chapter 62, Session Laws of 1945. This amendment provided that the same records "shall be open to public inspection." Section 49-106, Idaho Code, and Section 49-531, Idaho Code, prior to the 1945 amendment both stated that the records were not open to public inspection. However, the 1945 amendment of Section 49-531, Idaho Code, being the most recent expression of the legislative will governs the other two, in that it covers the same material as the other statute, and is inconsistent with it. (William H. Bakes).

11-52 EMPLOYMENT SECURITY AGENCY.

The term "wages" shall not include dismissal payments after December 31, 1946, which the employer is not legally required to make. (John W. Gunn).

12-52 PROSECUTING ATTORNEY, LINCOLN COUNTY.

Highway Districts are not placed under the supervision and control of the counties by reason of Section 4(b), Chapter 93, Idaho Session Laws of 1951. Highway Districts are independent of counties as to the highways within the Highway District System. (Allan G. Shepard).

13-52 PROSECUTING ATTORNEY, ADA COUNTY.

Chapters 8 and 11 of Title 34, Idaho Code, provide a means for servicemen in the military forces of the United States to both register and vote at both primary and general elections. Chapter 7, Session Laws of 1951, (34-1115 and following sections) applied only to general elections. (Edward J. Aschenbrener).

14-52 DEPARTMENT OF HIGHWAYS.

The State Engineer need only certify the number of improved roads within a county once a year to the State Auditor in pursuance of Chapter 269, Idaho Session Laws of 1951. (Allan G. Shepard).

15-52 COMMISSIONER OF LAW ENFORCEMENT.

Where a resident has a judgment against him in a foreign state on account of a motor vehicle accident which judgment is not satisfied within 60 days, the Commissioner of Law Enforcement is authorized to suspend his operator's license, which suspension shall remain in force until such time as the judgment is satisfied. (William H. Bakes).

16-52 PROSECUTING ATTORNEY, BANNOCK COUNTY.

No fees are required to be paid in Idaho, either when the state is a demanding or a responding state, in the filing of an action under the Uniform Reciprocal Enforcement of Support Act. (William H. Bakes).

17-52 STATE SENATOR, BOUNDARY COUNTY.

When a municipality bonds an indebtedness under the Revenue Bond Act of 1951 (Chapter 47, Session Laws of 1951), *all* of the qualified electors of the municipality are entitled to vote at the bond election and not merely those to be served by the "works" involved. If the "works" are such, however, as are contemplated by the Local Improvement District Code (Chapter 29, Title 50, Idaho Code), all the qualified electors of the municipality are *not* entitled to vote at the bond election. (Edward J. Aschenbrener).

18-52 TAX COLLECTOR.

The vehicles of contractors, other than road rollers and road machinery, are not exempt from operating fees prescribed by Section 49-127, Idaho Code, where said vehicles are operated on or within the highway project nor where such vehicles haul sand, gravel or rock from the source thereof to the highway project under construction. (J. N. Leggat).

19-52 EMPLOYMENT SECURITY AGENCY.

Upon procuring the written authorization of the Executive Director and the State Board of Examiners, the ESA, is authorized to construct a building to be used as a local ESA, said building to belong to the State of Idaho; provided that the moneys to be used in said construction are expended solely for the purposes and in the amounts found necessary by the United States Secretary of Labor for the proper and efficient administration of the Employment Security Act. (John W. Gunn).

20-52 DEPARTMENT OF AGRICULTURE.

1. Unless a frozen novelty or dessert meets the legal requirements for "ice cream" it cannot use the words, "creme," "Kreme," etc.
2. Under the rule of "idem sonans," kreme, creme, etc. are identical with the word "cream." (William H. Bakes).

21-52 THE GOVERNOR.

We think that the Governor does have authority to declare as holidays, days not specifically enumerated by the statute, and that the authority to do so is conferred by Section 73-108, Idaho Code. We are of the opinion that the statutes do not confer authority on the Governor as such to take action with respect to work week of employees of the state departments covered by the provisions of Section 67-2506, Idaho Code. The authority to make deviations from the rule set forth in that statute is conferred by the statute on the Commissioners of the ten departments. (Robert E. Smylie).

22-52 COMMISSIONER OF AGRICULTURE.

1. There is no such thing as a license for conducting a private as distinguished from a public warehouse.

2. Where a warehouse is licensed under the Bonded Warehouse Law the licensee must accept without discrimination farm product of the type stored in the warehouse.
3. For failure to accept farm produce indiscriminately, the Commissioner of Law Enforcement may revoke or suspend the Bonded Warehouse License. (William H. Baker).

23-52 COUNTY AUDITOR, WASHINGTON COUNTY.

1. A person who receives one write-in vote for an office where his name is the only name entered for that office receives the nomination of the party on whose ticket he is written in.
2. If a person is nominated for an office and does not wish to continue to be a candidate in the general election, he may decline the nomination by following 34-647, Idaho Code.
3. If no name is printed on the primary ballot for an office and no name is written at the nominating election, the party committee may fill the vacancy after the nominating election.
4. If a person has been nominated by write-in votes and neither declines the nomination or pays the fee required by 34-607, the party committee may fill the vacancy, as one exists.
5. A write-in nominee must accept the nomination as provided by statute, and if he does not do so, a vacancy exists which may be filled by the committee. (Leonard H. Bielenberg).

24-52 DEPUTY PROSECUTING ATTORNEY, TWIN FALLS COUNTY.

Permits need not be secured for the operation of over-width "implements of husbandry" upon the highways. Permits are required for "farm tractors" which exceed a width limitation of nine feet. (Allan G. Shepard).

25-52 PROSECUTING ATTORNEY, VALLEY COUNTY.

It is the duty of the county Prosecuting Attorney to act as legal advisor for the County Hospital Board of his county, if such board exists. (Edward J. Aschenbrener).

DISTRICT COURTS
CIVIL CASES

(Closed)

- 1488—State of Idaho v. Theo Jorgensen. (In re: Action for Injunction to restrain Defendant from interfering with Water on State Land)
- 1489—State of Idaho v. George W. Fredrickson, Adm. of the Estate of Ferdinand Fredrickson, Deceased. (In re: Recovery of Public Assistance)

- 1490—State of Idaho v. Margaret Hopkins, Administratrix of Estate of Helen K. Woodworth, Deceased. (In re: Recovery of Public Assistance)
- 1533—State of Idaho v. Sam Vercoe, Exec. of Estate of Ida May Rapp, Deceased. (in re: Recovery of Old Age Assistance)
- 1541—State of Idaho v. People's Automobile Inter-Insurance Exchange, and Allied Reciprocal Insurers. (in re: Receivership and liquidation of Insurance Co.)
- 1577—Daniel Lindauer, et al. vs. Anna Grace, as Treasurer & Ex-officio Tax Collector of Minidoka County. (in re: Tax Assessments of Real Estate)
- 1580—State of Idaho v. Mike Kaseris, F. Anthony Cucio, Charles Hall, Gust Spirakos and the "30 Club." (in re: Abatement Liquor Violation)
- 1589—V. Z. Clinger v. State Board of Land Commissioners. (in re: Cancellation of a land sale contract)
- 1626—State of Idaho v. Zella M. Clinger. (in re: Public Auction of Land)
- 1632—Common School District No. 52, Canyon County, State of Idaho, et al. v. County Committee for the Reorganization of School Districts for Canyon County, Idaho, and State Committee for the Reorganization of School Districts. (in re: Declaratory Judgment Action)
- 1648—Independent School District No. 40 in Gooding County, et al. v. State Committee of the State of Idaho, et al. (in re: School Reorganization)
- 1662—Edward R. Thompson, et al. v. State of Idaho, et al. (in re: Quiet Title Action)
- 1680—James P. Garland, vs. Wayne Talbot, Bert Schroeder and J. D. Richardson, Constituting The Board of County Commissioners of Nez Perce County, State of Idaho. (in re: Controversy over beer License)
- 1681—State of Idaho, ex rel. N. P. Nielson, State Auditor, vs. Lowell W. and Abby H. Kloppenburg, d/b/a Idaho Pacific Freight Lines. (in re: Use Fuel Tax)
- 1684—J. O. Wallace vs. State Tax Commission. (in re: Income Tax)
- 1686—Independent School District of Boise City, a specially chartered school district in Ada County, vs. State of Idaho, (in re: Quiet Title Action)

- 1692—State of Idaho ex rel. C. R. Hunter, B. W. Oppenheim and Leo Houtz, sub nomine State Industrial Accident Board vs. B. F. Kennedy. (in re: Not insuring employees for compensation in the State Insurance Fund)
- 1694—Harry Farner vs. City of Caldwell. (in re: Declaratory Judgment)
- 1695—State of Idaho, ex rel. N. P. Nielson and B. Child vs. John W. Perigo. (in re: Old Age Assistance)
- 1703—State of Idaho vs. Dunclick, Inc., (in re: Trespass on State Land)
- 1704—Alfred Smith vs. C. N. Lott and A. P. Bunderson. (in re: Alleged traffic violation)
- 1706—Hypotheet Land Company vs. John W. Perigo and Agnes Boro, and State of Idaho. (in re: Mortgage foreclosure)
- 1711—Independent School District of Boise City vs. C. B. Lauch Construction Co. (in re: Condemnation of School Property)
- 1712—State of Idaho vs. William Dalton. (in re: Writ of Habeas Corpus)
- 1714—State of Idaho, ex rel. P. M. Condie vs. O. W. Benzley. (in re: Declaratory Judgment Action)
- 1717—C. G. Moore vs. Louis Dowd, R. L. Dinwiddie and Wayne Summers, Commissioner of Law Enforcement. (in re: Title to Motor Vehicle)
- 1718—Eddie Martin d/b/a Alamo Club vs. Wayne Summers. (in re: Enjoining Commissioner from Revoking Licenses)
- 1719—Nell Brewer, d/b/a Rod & Gun Club vs. Wayne Summers. (in re: Enjoining Commissioner from Revoking License)
- 1720—Atomic City vs. Len Jordan. (in re: Action to Restrain Relocation of Highway)
- 1725—John M. Rutter and Katherine Rutter, vs. Ellen Weinbrenner. (in re: Mortgage Foreclosure)
- 1735—W. D. Scogings and E. T. Blamires, d/b/a Baseball Cigar Store vs. Wayne Summers, Commissioner of Law Enforcement. (in re: Liquor Violations)
- 1736—R. C. Hillman vs. Wayne Summers, Commissioner of Law Enforcement. (in re: Liquor Violation)
- 1737—Donald K. Oster d/b/a Beacon Club, Payette, Idaho vs. Wayne Summers, Commissioner of Law Enforcement. (in re: Liquor Violation)

- 1738—Donald E. Oster, d/b/a Beacon Club, Payette, Idaho, vs. Wayne Summers, Commissioner of Law Enforcement. (in re: Liquor Violation)
- 1739—Donald Shipley d/b/a Rainbow Tavern vs. Wayne Summers, Commissioner of Law Enforcement. (in re: Liquor Violation)
- 1740—Melvin F. Pryde d/b/a Melody Lane vs. Wayne Summers, City of Kellogg and A. J. McPhail. (in re: Liquor Violation)
- 1741—State of Idaho, ex rel. E. L. Berry, Alvin H. Reading and N. P. Nielson vs. Lora O. Bloomfield Horn, Guardian of Lora O. Bloomfield. (in re: Maintenance in Charitable Institution)
- 1742—Charles E. Diot vs. Wayne Summers, Commissioner of Law Enforcement. (in re: Liquor Violation)
- 1755—State of Idaho vs. T. J. Welch and Dean M. Wood, d/b/a Welch and Wood. (in re: Income Tax)
- 1760—State of Idaho vs. Cora Sorenson, an incompetent. (in re: Charitable Institutions Proceedings)
- 1771—State of Idaho vs. Harold L. Gustafson. (in re: Motor Fuels Tax)
- 1774—State of Idaho vs. Walter H. Braun and Alice Braun. (in re: Charitable Institutions Proceedings)
- 1778—A. A. Johnston vs. State Tax Commission. (in re: Income Tax)
- 1784—Leo A. Lambert, d/b/a Pittsburg Bar vs. Wayne Summers, Commissioner of Law Enforcement. (in re: Liquor Violation)
- 1799—J. B. Musser vs. Ira H. Masters, Secretary of State. (in re: Action to Restrain Issuance of Certificate of Election)
- 1803—Ed Erickson vs. Wayne Summers, Commissioner of Law Enforcement. (in re: Liquor Violation)

DISTRICT COURT
CIVIL CASES.

(Pending)

- 1353—Willard E. Stevens vs. Edward Wozzley, State Land Commissioner. (Action to establish equitable interest in land)
- 1664—State of Idaho, ex rel. Nielson and Child vs. Roy Allman, Administrator of Estate of Addie L. Allman. Deceased. (in re: Recovery of Old Age Assistance)

- 1675—Doyle W. Weber, vs. Royal W. Weber, Paul Weber and Betty Lou Weber, an incompetent. (in re: Quiet Title with cross complaint by State,—maintainence of Incompetent)
- 1682—State of Idaho, ex rel. P. G. Neill, Tax Collector vs. Idaho-Canadian Dredging Company. (in re: Mine License Tax)
- 1693—Asbury Transportation Co., A Corporation, vs. Lynn Davis and Larry Giles. (in re: Collision of Army truck with tanker owned by Asbury Transportation Co.)
- 1702—Services, Inc., a Corporation vs. State Tax Commission. (in re: Income Tax)
- 1715—William & Mabel Newland vs. State of Idaho. (in re: Constitutionality of Lien Law)
- 1721—In the Matter of the Appeal of Sears, Roebuck and Co. from the State Tax Commission of Idaho. (in re: Income Tax Matter)
- 1722—Theodore Barraclough and La Vera Barraclough vs. State Tax Commission. (in re: Appeal from State Tax Commission, income tax)
- 1732—State of Idaho vs. City of Gooding. (in re: Slot Machine Violation)
- 1749—State of Idaho v. Mary Elizabeth Terry and Woodrow Galt Terry, Guardian of the Estate of Mary Elizabeth Terry. (in re: Charitable Institutions Case)
- 1753—State of Idaho vs. Duncan McGillivray. (in re: Timber Sales Contract)
- 1754—Aetna Life Insurance Company vs. P. G. Neill, State Tax Collector. (in re: Income Tax)
- 1767—B. M. Smith vs. John S. Costello. (in re: Defending Conservation Officer)
- 1768—Chester K. Nissen vs. John S. Costello. (in re: Defending Conservation Officer)
- 1773—State of Idaho vs. Leo J. McCarty. (in re: Action to Recover Money)
- 1775—Potlatch Forests, Inc. vs. State Tax Commission. (in re: Income Tax)
- 1783—Mark L. Richeson vs. Wayne Summers, Commissioner of Law Enforcement. (in re: Revocation Liquor License)
- 1785—In the Matter of the Order of the Commissioner of Insurance of the State of Idaho, Disapproving Rates filed by National Farmers Union Property and Casualty Co. (in re: Appeal from Commissioner of Insurance)

- 1787—Tony Piccinini vs. Wayne Summers, Commissioner of Law Enforcement. (in re: Revocation of Liquor License)
- 1790—State of Idaho vs. William Panzeri, Executor of the Will of Mary Panzeri, Deceased. (in re: Charitable Institutions Proceedings)
- 1791—Clifford A. Bentley d/b/a Chateau Club vs. Wayne Summers, Commissioner of Law Enforcement. (in re: Revocation of Liquor and Beer Licenses)
- 1792—Ted R. Tintinger vs. Wayne Summers, Commissioner of Law Enforcement. (in re: Revocation of Liquor License)
- 1793—Dora M. Werry and Ted Werry, d/b/a Casino Club and Hotel vs. Wayne Summers, Commissioner of Law Enforcement. (in re: Revocation of Liquor License)
- 1794—Isrel Seagraves vs. Wayne Summers, Commissioner of Law Enforcement. (in re: Revocation of Liquor License)
- 1795—Louis J. Acatuzzi vs. Wayne Summers, Commissioner of Law Enforcement. (in re: Revocation of Liquor License)
- 1800—Rudolph C. Ringe, d/b/a 30 Club vs. L. S. Johnson, Liquor Enforcement, and Wayne Summers, Commissioner of Law Enforcement. (in re: Liquor Violation)
- 1801—Clarence G. Russell vs. T. B. Murray, Director of Fish and Game, and Oliver W. McConnell. (in re: Restrain of road)
- 1805—Robert G. Hemingway and Josephine Hemingway vs. P. G. Neill, Tax Collector. (in re: Income Tax)
- 1807—John Cobb, d/b/a Manhattan Club vs Wayne Summers, Commissioner of Law Enforcement. (in re: Beer Violation)
- 1808—Mark L. Richeson vs. Wayne Summers, Commissioner of Law Enforcement. (in re: Liquor Licensing case)
- 1809—Herschel J. Schmidt vs. Village of Kimberly, Idaho; A Municipal Corporation. (in re: Declaratory Judgment)
- 1810—M. I. Earl, Jr. vs. Wayne Summers, Commissioner of Law Enforcement. (in re: Beer Violation)
- 1811—Louis J. Acatuzzi vs. Wayne Summers, Commissioner of Law Enforcement. (in re: Beer Violation)
- 1812—Isrel Seagraves vs. Wayne Summers, Commissioner of Law Enforcement. (in re: Beer Violation)
- 1813—Ted R. Tintinger vs. Wayne Summers, Commissioner of Law Enforcement. (in re: Beer Violation)

PROBATE COURTS
CIVIL CASES

(Closed)

- 1357—State of Idaho v. Alma Arundsen. (in re: Income Tax)
- 1359—State of Idaho v. Charles A. Muncey. (in re: Income Tax)
- 1364—In the Matter of the Estate of James Henry Sheldon, Deceased.
(in re: Inheritance Tax)
- 1401—State of Idaho v. Leland Peterson. (in re: Income Tax)
- 1403—State of Idaho v. Horace and Lavella Bebee. (in re: Income Tax)
- 1417—State of Idaho v. Earl and Jane Doe Losan. (in re: Income Tax)
- 1418—State of Idaho v. Charles and Jane Doe Moore. (in re: Income Tax)
- 1425—State of Idaho v. Floyd M. and Jane Doe Nave. (in re: Income Tax)
- 1427—State of Idaho v. Louis Lunders. (in re: Income Tax)
- 1429—State of Idaho v. Francis C. Walters. (in re: Income Tax)
- 1434—State of Idaho v. N. H. Howell. (in re: Income Tax)
- 1449—State of Idaho v. Spencer and Marvena Lords (in re: Income Tax)
- 1456—State of Idaho v. Gwen and Shirley Jensen. (in re: Income Tax)
- 1457—State of Idaho v. Louis Kruger. (in re: Income Tax)
- 1469—State of Idaho v. Russell E. Dutt. (in re: Income Tax)
- 1477—State of Idaho v. Clifford C. Cox. (in re: Income Tax)
- 1507—State of Idaho v. Jack and Ruby Sooter. (in re: Income Tax)
- 1511—State of Idaho v. Arthur R. Dick (in re: Income Tax)
- 1512—State of Idaho v. William and Lillian Keaton. (in re: Income Tax)
- 1516—State of Idaho v. R. P. Rasmussen. (in re: Income Tax)
- 1534—State of Idaho v. Gladys Lathrom. (in re: Income Tax)
- 1539—State of Idaho v. James Wynn and Eve Wynn. (in re: Income Tax)
- 1553—State of Idaho v. Mrs. George F. Redmond and George F. Redmond. (in re: Income Tax)

- 1554—State of Idaho v. George F. Redmond and Mrs. George F. Redmond. (in re: Income Tax)
- 1564—State of Idaho v. Mary Rasmussen and R. P. Rasmussen. (in re: Income Tax)
- 1583—State of Idaho v. Frank J. O'Connor and Gertrude B. O'Connor. (in re: Income Tax)
- 1584—State of Idaho v. Gertrude B. O'Connor and Frank J. O'Connor. (in re: Income Tax)
- 1585—Enderweis, Charles, v. State of Idaho. (in re: Income Tax)
- 1600—State of Idaho v. Chester L. Brown. (in re: Income Tax)
- 1602—State of Idaho v. Joe F. Durham. (in re: Income Tax)
- 1603—State of Idaho v. Arnold L. Johnson. (in re: Income Tax)
- 1611—State of Idaho v. Phil Henry Blood. (in re: Income Tax)
- 1631—State of Idaho v. Harry C. and Frances Adamson. (in re: Income Tax)
- 1663—Village of Polaris vs. Clarence S. Van Horne, also known as C. S. Van Horne, d/b/a Traveler' Bar. (in re: Liquor License)
- 1685—In the Matter of the Estate of Andrew Nelson, Deceased. (in re: Recovery of money in escheat fund)

SUPREME COURT

Criminal Cases

(Closed)

- 1556—State of Idaho v. Carl V. Linebarger. (in re: Rape)
- 1590—State of Idaho v. Edwin T. So. (in re: Larceny)
- 1591—State of Idaho v. Alfred D. Oakie. (in re: Battery)
- 1623—State of Idaho v. Clyde J. Slater. (in re: Grand Larceny)
- 1624—State of Idaho v. Frank E. Davis. (in re: Grand Larceny)
- 1629—State of Idaho v. James Robinson, Roy Cannon and Ozzie McIntosh. (in re: Robbery)
- 1636—State of Idaho v. Walter Eikelberger. (in re: Issuing check on a bank with insufficient funds)
- 1652—State of Idaho v. Ray S. Hunter. (in re: Traffic violation)
- 1654—State of Idaho v. Leonard Snyder. (in re: Larceny)

- 1661—State of Idaho v. Grace Scott. (in re: Manslaughter)
- 1668—State of Idaho v. Walter Eikelberger (in re: Issuing check with no funds)
- 1670—State of Idaho v. Richard F. Heitz. (In re: Criminal Misdemeanor, driving overweight truck)
- 1673—State of Idaho v. Dale Woolf. (in re: Criminal Appeal)
- 1674—State of Idaho v. Jennis Livesay. (in re: Manslaughter)
- 1683—Troy Powell and Ernie Walrath vs. L. E. Clapp, Herman Fails and Robert Schofield, individually and as Director, Chairman, Secretary and Vice Chairman of State Board of Correction. (in re: Murder)
- 1687—State of Idaho vs. James L. Wall. (in re: Lewd and Lascivious Act upon Minor Child)
- 1688—State of Idaho vs. James Petty. (in re: Lewd and Lascivious Act upon Minor Child)
- 1689—State of Idaho vs. Tom E. Dean. (in re: Lewd and Lascivious Act upon Minor Child)
- 1690—State of Idaho vs. Dick Rutten and F. L. Stover, also known as Roy Stover, Jr. (in re: Burglary)
- 1698—State of Idaho vs. Clyde J. Stater. (in re: Grand Larceny)
- 1724—State of Idaho vs. J. C. Evans. (in re: Lewd and Lascivious Acts)
- 1726—State of Idaho vs. Joe Cofer. (in re: Robbery)
- 1733—State of Idaho vs. Glenn Brewer. (in re: Resisting Arrest)
- 1746—State of Idaho vs. Buck Hamlin. (in re: Revocation of Driver's License, \$100 fine)
- 1752—State of Idaho vs. J. C. Evans. (in re: Lewd and Lascivious Acts)

SUPREME COURT

Criminal—(Pending)

- 1729—State of Idaho vs. Owen and Hastings. (in re: Murder)
- 1747—State of Idaho vs. Elmer Spencer. (in re: Murder)
- 1748—State of Idaho vs. Albert Buchanan. (in re: Assault with intent to murder)

- 1751—State of Idaho vs. John E. Emery. (in re: Driving vehicle while under the influence of intoxicating liquor)
- 1759—State of Idaho vs. Boyd L. Hewitt. (in re: Larceny)
- 1770—State of Idaho vs. Willard R. Bounds. (in re: Involuntary Manslaughter)
- 1772—State of Idaho vs. Kay Martin. (in re: Liquor Violation)
- 1777—State of Idaho vs. Dora Lawler. (in re: Selling Beer to Minors)
- 1780—State of Idaho vs. Louis Madrid. (in re: Lewd and Lascivious conduct with minor child)
- 1781—State of Idaho vs. Lena Proud. (in re: Criminal Abortion)
- 1796—State of Idaho vs. R. A. Craig, Kenneth Taylor and A. J. Davis. (in re: State's Appeal of Directive Verdict of Acquittal)

SUPREME COURT

(Civil Cases)

Closed

- 1667—Ex Parte Robert Storseth. (in re: Writ of Habeas Corpus)
- 1699—State of Idaho vs. Zella M. Clinger. (in re: Public auction of land)
- 1700—State of Idaho vs. Harold S. Bush. (in re: Practicing Medicine without a license)
- 1701—In the Matter of the Application of Clintsteel Smith, for a writ of Habeas Corpus. (in re: Writ of Habeas Corpus)
- 1705—Chastain's, Inc., d/b/a Owl Drug vs. State Tax Commission. (in re: Income Tax)
- 1710—In the Matter of the Application of Paul M. Bothne for Writ of Habeas Corpus. (in re: Writ of Habeas Corpus)
- 1723—Utah Oil Refining Company vs. W. L. Hendrix, J. M. Dodds and Maurice E. Adkins as the County Board of Equalization of Ada County, and Assessor of Ada County. (in re: Writ of Mandate)
- 1745—S. Reed Andrus, Joseph H. Ririe, C. A. Holm and W. J. Payne vs. Board of Trustees of Joint Class A School District No. 93, Bonneville and Bingham Counties. (in re: State Board of Education, Amicus Curiae)
- 1782—Ruth Moon vs. Ira H. Masters, Secretary of State. (in re: Refusal of application for petition to run as State Treasurer)

ATTORNEY GENERAL'S REPORT

SUPREME COURT

(Civil Cases)

Pending

- 1497—David Smith, vs. State Board of Medicine. (in re: Practicing medicine and surgery in the name and style of Naturopathy without a license)
- 1655—State of Idaho v. Harold S. Bush. (Practicing Medicine without License)
- 1716—In the Matter of Petition of William W. Dalton vs. State of Idaho. (in re: Writ of Habeas Corpus)
- 1731—State of Idaho vs. Lake Tavern, Inc., and Standard Accident Insurance Company. (in re: Revocation of Liquor and beer license)

DISTRICT COURT OF APPEALS OF CALIFORNIA

(Civil Case—Closed)

- 1756—LeRoy M. Simonson, vs. People of the State of California, Robert A. Heinze, Wards, and; the People of the State of Idaho, L. E. Clapp, Warden. (in re: Writ of Habeas Corpus)

U.S. DISTRICT COURT

Civil Cases

(Closed)

- 1617—United States of America v. State of Idaho. (in re: Condemnation of Real Estate)
- 1637—United States of America v. 15,357.16 Acres of Land in Butte, Bingham and Jefferson Counties, et al. (in re: Condemnation Suit)
- 1639—In the Matter of Harvey C. Stokes and Fern R. Stokes. (in re: Claim of the State of Idaho for Taxes)
- 1640—In the Matter of Raleigh Milton Weaver, Bankrupt. (in re: Claim of the State of Idaho for Taxes)
- 1647—In the Matter of Charles E. Helfrich, Nampa, Idaho. (in re: Income Taxes—Bankruptcy)
- 1730—United States of America vs. 739.19 Acres of Land, more or less in Butte County. (in re: Condemnation Suit)

UNITED STATES DISTRICT COURT

(Civil Cases—Pending)

- 1786—United States of America vs. 941.82 Acres of Land, more or less, situate in Ada County, Boise County and Elmore County. (in re: Condemnation Action)
- 1797—United States of America vs. 45.73 Acres of Land. (in re: Condemnation Proceedings)
- 1798—United States of America vs. 173.28 Acres of Land. (in re: Condemnation Proceedings)
- 1802—United States of America vs. 122.51 Acres of Land, Kootenai County. (in re: Condemnation Proceedings)

UNITED STATES SUPREME COURT

(Civil—Closed)

- 1665—Jack B. Tenney, The Senate Fact-Finding Committee on Un-American Activities, Hugh M. Burns, Nelson S. Dilworth, Fred H. Kraft, Louis G. Sutton and Clyde A. Watson, vs. William Patrick Brandhove. (in re: Un-American Activities proceedings)

UNITED STATES COURT OF APPEALS

(Civil—Closed)

- 1741—Public Utility District Number One of Stevens County, Washington; Public Utility District Number One of Pend Oreille County, Washington; Public Utility District Number one of Chelan County, Washington vs. The United States Securities and Exchange Commission. (in re: Restraining Order—Intervention)

SUPERIOR COURT OF CALIFORNIA

(Alameda County)

Civil Case

(Closed)

- 1625—State of Idaho v. Bank of America National Trust and Savings Association. (in re: Recovery for Charitable Institutions Commission)
- 1734—In the Matter of the Estate of Frank Johns, Deceased. (in re: Contest of Will)

BEFORE THE PUBLIC UTILITIES COMMISSION

Civil Cases

Closed

- 1480—In the Matter of the Application of Union Pacific Railroad Company for Permission to discontinue the Operation of Passenger trains Nos. 33 and 34 between Idaho Falls, Idaho and the Idaho-Montana State Line.
- 1509—In the Matter of the Application of Railroads operating in the State of Idaho for Authority to Increase Rates and Charges. (in re: Increase in rates)
- 1544—In the Matter of the Application of the Interstate Telephone Company, a corporation, for partial revision of its rates in Idaho. (in re: Increase in Rates)
- 1548—Parma Telephone Co. (in re: Increase in exchange rates at Parma)
- 1549—Farmers' Co-op Ditch Co., Ltd., a Corporation. (in re: Re-establishment and maintenance of efficient and effective telephone service to its office at Caldwell Bridge)
- 1642—In the Matter of the Application of the Albion Telephone Company to Increase Rates in the Malta, Elba and Albion Areas. (In re: Increase in telephone rates)
- 1676—In the Matter of the Application of the Mountain States Telephone and Telegraph Company, for Authority to Increase Certain Telephone Rates. (In re: Increase in telephone Rates)
- 1709—In the Matter of the Application of Western Union Telegraph Company for increase in intrastate rates. (in re: Increase in rates)
- 1744—In the Matter of the Application of the Pacific Telephone and Telegraph Company, for an increase in rates in the State of Idaho. (in re: Increase in Telephone Rates)
- 1757—In the Matter of Sun Valley Stages, complaining of Unfair Practices of P. A. Cargill, d/b/a Yellow Cab Company of Twin Falls, Idaho. (in re: Restrain operation of defendant as utility for lack of permit)
- 1758—Collett Tank Lines and Western Truck Lines, Ltd. vs. R. B. "Dick" Wilson, Inc. (in re: Restrain operation of defendant as utility for lack of permit)
- 1753—In the Matter of the Application of the Interstate Telephone Company, an Idaho Corporation, for authority to Increase Certain Rates. (in re: Increase in rates)

- 1779—In the Matter of the Application of Idaho Power Company for Approval of Rates, Rules and Regulations Comprising Proposed Tariff No. 101-S, PUCI No. 12-S (Salmon District) (in re: Increase in rates)
- 1806—In the Matter of the Application of the Interstate Telephone Company (Now General Telephone Company of the Northwest) for authority to increase rates in the State of Idaho. (In re: Increase in rates)
- 1814—In the Matter of the Application of the Washington Water Power Company, a Corporation, for authority to increase certain electric rates. (in re: Application to Increase Electric Rates)

BEFORE THE PUBLIC UTILITIES COMMISSION

(Civil Cases—Pending)

- 1707—In the Matter of Application of Washington Water Power Company for Surcharges and Increase in rates in Idaho. (in re: Increase in rates)
- 1769—In the Matter of the Petition of the Mountain States Telephone and Telegraph Company, a corporation, for a hearing to consider certain substantial changes in expenses. (In re: Increase in rates)

IN THE DEPARTMENT OF LAW ENFORCEMENT

(Civil Cases—Closed)

- 1677—In the Matter of the Revocation of State Retail Liquor License No. 218 of J. P. Dawson, d/b/a Dawson's Bar, Kooskia, Idaho. (in re: Revocation of Liquor License)
- 1691—In the Matter of the Revocation of Certificate of Approval No. 640, issued to J. O. Rino, d/b/a Wholesale Candy Company, Pocatello, Idaho. (in re: Revocation of Certificate of Approval)
- 1696—In the Matter of the Revocation of State Retail Beer License No. 1345 of Kenneth E. Higgins, d/b/a Ken's Lounge, Arco, Idaho. (in re: Revocation of Beer License)
- 1713—Buell Warner vs. Wayne Summers, Commissioner of Law Enforcement. (in re: Revocation of Liquor and Beer License)

IN THE DEPARTMENT OF AGRICULTURE

(Civil Cases—Closed)

- 1750—In the Matter of the Revocation of Warehouse License No. 312 of Inter-Mountain Seed Co., Inc. of Curry, Twin Falls County, Idaho. (in re: Revocation of Warehouse License)

ATTORNEY GENERAL'S REPORT

BEFORE THE INDUSTRIAL ACCIDENT BOARD

(Civil Cases—Closed)

- 1708—State, ex rel. W. L. Robison, Commissioner of Labor vs. George V. Castle d/b/a Castle Lumber Company. (in re: Unsafe working conditions)

BEFORE THE INDUSTRIAL ACCIDENT BOARD

(Civil—Pending)

- 1666—In the Matter of the Application of Idaho Hospital Association for Increase in Rates. (in re: Increase of rates)

BEFORE THE IDAHO REAL ESTATE BROKER'S BOARD

(Civil Cases—Closed)

- 1678—In the Matter of the Revocation of Real Estate Broker's License No. B376, issued to Milo Andrus, Pocatello, Idaho. (in re: Action to revoke Real Estate Broker's License)
- 1679—In the Matter of the Revocation of Real Estate Broker's License No. B476 issued to Glen McWilliams, Canyon County, Caldwell, Idaho. (in re: Revocation of Real Estate Broker's license)

IN THE DEPARTMENT OF RECLAMATION

(Civil—Closed)

- 1672—In the Matter of the Application to Enlarge a Reservoir and Store, and Appropriate the Public Waters of the State of Idaho, in accordance with the provisions of Section 41-203, Idaho Code Annotated, such application having been filed by the Malad Valley Irrigating Company.

BEFORE THE STATE TAX COMMISSION

(Civil—Pending)

- 1669—In the Matter of the Protest of Determination of Tax Collector of Income Tax Assessed Against William S. and Jean Cady. (in re: Income Tax)

IN THE DEPARTMENT OF INTERIOR, BUREAU OF LAND
MANAGEMENT

(Civil Case—Pending)

- 1764—In Re Edward A. Campbell Patent Application, Serial No. 02065, Mineral Survey No. 3274. (in re: Protest to application for patent)

ATTORNEY GENERAL'S REPORT

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BEFORE THE CIVIL AERONAUTICS BOARD,
WASHINGTON, D.C.

(Civil Case—Closed)

1588—In the Matter of Extension of Empire Airlines Certificate—1950.
(in re: Continuation Certificate)

BEFORE THE SECURITIES AND EXCHANGE COMMISSION,
WASHINGTON, D.C.

(Civil—Closed)

1671—In the Matter of American Power and Light Company, Public
Utility Holding Act of 1935. (in re: Power Controversy)

BEFORE THE UNITED STATES OF AMERICA FEDERAL
POWER COMMISSION

(Pending)

1646—In the Matter of Pacific Northwest Pipeline Corporation. (in re:
Notice of Intervention)

1727—In the Matter of Northwest Natural Gas Company. (in re:
Notice of Intervention)

EMPLOYMENT SECURITY AGENCY

List of Cases Pending and Closed
1951-1952

IN THE SUPREME COURT OF IDAHO

(Pending)

In the Matter of the Claim of Christ Mandes for Employment Security
Benefits.

In the Matter of the Claim of Wiley G. Rose for Employment Security
Benefits.

In the Matter of the Liability of Moscow Hotel Company, Inc., for Its
Contribution Rate Under the Employment Security Law.

(Closed)

In the Matter of the Liability of Gem State Academy Bakery for Pay-
ment of Contributions Under the Employment Security Law (on
rehearing).

In the Matter of the Liability of MacKenzie Auto Equipment Company
for Payment of Contributions Under the Employment Security
Law.

In the Matter of the Claim of Potlatch Forests, Inc., for Reduction of
its Contribution Rate Under the Employment Security Law.

IN THE DISTRICT COURT

(Pending)

H. F. Garrett vs. Otto F. Peterson.

EXECUTIONS ON JUDGMENT LIENS

State of Idaho vs.	Einmett King
Ted Arbogast	Jack C. Olson
Edith Brush	Lee Ossmen
Elmer Draper	Marion C. Reeves
Bob Jackson	Marion Scott
James H. Johnston	Kenneth M. Smith
R. L. Kendall, et al	L. E. Stephenson

State of Washington vs. Davison Auto Service

IN THE PROBATE COURT

(Pending)

State of Idaho vs.
Elwood L. Blankenship

(Closed)

State of Idaho vs.	Henry F. Root
Irvin Aldous	Charles Schlicht
Robert A. Davis, Jr.	Lloyd O. Sturgis
Max Geiger	C. M. Taysom
Sterling L. Klingler	Jake H. Tullis
Victoria C. Messenger	Orville L. Worley

IN THE JUSTICE COURT

(Closed)

State of Idaho vs.	Jay J. Jones
Howard J. Alspach	Gust Pearson
Hiram Ballou	Howard B. Sassenbery
Henry Gerlitz	John V. Scott
Anna M. Hitt	James A. Thompson
Leonard Hunt	Francis F. Underwood

BEFORE THE INDUSTRIAL ACCIDENT BOARD

(Pending)

In the Matter of the Claim of (for Unemployment Insurance Benefits):

Mildred M. Breeding	Delbert W. Roby
Zeppie W. Gaines	Carroll W. Wells
Frank Horak	

(Closed)

In the Matter of the Claim of (for Unemployment Insurance Benefits):

Marjorie E. Balch	Christ Mandes
Florence Bell	Leonard H. Marley
Harold L. Butler	Julia Middleton
Arnette E. Cammel	Adam J. Millius
Thelma C. Chappell	William W. Minden
Zora Mae Compton	Frank Montbrien
Clarence R. Craft	Fern Moore
George T. Davidson	John F. Morris
George R. Derrmon	Raymond E. Nielsen
Vincent Duerock	Jess R. Norton
Cleo Freeman	Milton A. Parsons
William J. Hahn	Edna W. Payne
Melinda A. Hansen	Mary T. Schlack
Zoe Harshbarger	Lawrence Schlehuber
Henry F. Haydon	William K. Scott
Virginia S. Hines	Inez Selman
William H. Hirte	Charles Skeen
Mildred H. Jensen	Gladys M. Snapp
Alyce H. LaMonte	Pete J. Stamp
Hugo Lippert	Alice B. Sturm
Robert J. Lords	Albert O. Tverberg
Jeurold A. Lowe	

Union and Non-Union Claimants (13 Claimants—These were consolidated under one for a three-day hearing.)

Russell C. Wallace
Joseph O. Weir
Ray E. Wright

In the Matter of the Liability of (for Payment of Contributions Under the Employment Security Law):

(Pending)

O. R. Anderson
R. P. Charpentier
Potlatch Forests, Inc. (Remanded from Supreme Court to Board)

In the Matter of the Liability of (for Payment of Contributions Under the Employment Security Law):

(Closed)

Norman J. Erbst
Estate of Roland Hodgins
Eugene Joseph McGuffin

ATTORNEY GENERAL'S REPORT

STATE INSURANCE FUND

List of Cases Pending and Closed—1951-1952

INDUSTRIAL ACCIDENT BOARD

(Pending)

Vs. State Ins. Fund	Eldon Sailor
John Nedrow	John Palmer
Anna Rivera	Arlin Howell

(Closed)

Vs. State Ins. Fund	Earl Rand
Louis Booth	John Birtles
Alfred Wells	Billie McIntosh
Jack Casperson	Lenette Gilster
Alph Martinson	Ralph Cromwell
John Lake	Lawrence Thompson
Harold Crossett	Willard Lindsay
Fred Mahaffey	Clarence Akers

SUPREME COURT

(Pending)

Vs. State Ins. Fund	State Ins. Fund vs.
Idaho Hospital Ass'n.	Liberty Mutual Ins. Co.

(Closed)

Vs. State Ins. Fund	John Lake
Mike Schumaker	Joe Rivera
Jacob Erickson	State Ins. Fund vs.
Nick Roberts	Union Pacific R.R. Co.
Thomas Furniss	(2 cases)

DISTRICT COURT

(Pending)

State Ins. Fund vs.
John B. Crooks

(Closed)

State Ins. Fund vs.	Verhi
Broadhurst	Stoker Const. Co.
Bollibaugh	Wall

PROBATE COURT

(Closed)

State Ins. Fund vs.
Hadfield
Etychison Sawmill

U.S. DISTRICT COURT

(Closed)

State Ins. Fund vs. Smuts
Northern Pac. R. R. Co. Mills

LITIGATION RE INHERITANCE TAX

12-1-50 - 12-1-52

Estate of Ella Straugham, Kootenai County

Question: Exemption—previously taxed property
Appeal to District Court. Judgment for State.

Estate of Julia A. Chrisman, Ada County

Question: Taxability of inter vivos transfer—proceeding under Sec.
14-421 I.C. Transfer held taxable.

Estate of Charles Winter, Payette County

Question: Interest on tax
Appeal to District Court. Judgment for State

Estate of Lea Cohen, Cassia County

Question: Interest on tax—questioned deductions
Appeal to District Court. Paid without trial and appeal dismissed.

Estate of William H. Coumbs, Kootenai County

Question: Character of property, whether community or separate
—Exemptions
Appeal by administratrix to District Court. Judgment for State.

Estate of John Radovič, Shoshone County

Question: Claim by non-resident alien claimants after two years—
More remote relative resident of United States—rate of tax
Appeal to District Court. Settled without trial.

Estate of Mary D. Kerby, Valley County

Question: Taxability of inter vivos transfer—proceeding under
Section 14-421 I.C. for determination of tax
Taxability of transfer upheld.

Estate of Anna C. Doty, Canyon County

Proceeding under Sec. 14-421 for determination of tax.
No tax found due.

Estate of Florence C. Moore, Ada County

Proceeding under Sec. 14-421 for determination of tax.
No tax found due.

Estate of Rae O. McCormick, Canyon County

Objection to appraisement. Values increased.

Estate of Claus U. Peterson, Latah County

Proceeding under Section 14-421 for determination of tax

No tax found due.

Estate of W. Grady McNeel, Kootenai County

Question: Deductibility of federal estate tax.

Appeal to District Court. Pending.

Estate of John Friendly Brown, Ada County

Proceeding under Sec. 14-421 for determination of tax.

Tax determined and paid.

STATE OF IDAHO—DEPARTMENT OF HIGHWAYS

List of Cases Pending and Closed 1951-52

State of Idaho ex rel. v. Kendrick Warehouse & Milling Company et al.

(Condemnation)

(Closed)

State of Idaho ex rel. v. Morgan et al.

(Condemnation)

(Closed)

State of Idaho ex rel. v. Bennett et al.

(Condemnation)

(Closed)

Travis v. State of Idaho ex rel.

(Suit for damages to property)

(Closed)

State of Idaho ex rel. v. Hughes

(Condemnation)

(Closed)

State of Idaho ex. rel. v. Richardson,

(Suit for recovery of damages to State bridge)

(Pending)

Atomic City et al. v. Jordan et al.

(Injunction to prohibit building of highway)

(Pending)

Champagne v. State of Idaho et al.

(Suit for damages resulting from automobile accident)

(Pending)

State of Idaho ex rel. v. Keeton,

(Condemnation)

(Pending)

State of Idaho ex rel. v. Miles,
(Injunction to prohibit encroachment on State property)
(Pending)

Rainey v. Department of Highways et al.
(U.S. District Court—Eastern Div.)
(Suit for damages resulting from automobile accident)
(Pending)

State v. Williams et al.
(Condemnation)
(Pending)

State v. Hagel,
(Condemnation)
(Pending)

State v. Park,
(Condemnation)
(Pending)