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Biennial Report
of the
ATTORNEY GENERAL
of the
STATE OF COLORADO



Years 1941-1942

GAIL L. IRELAND
Attorney General

Biennial Report
of the
ATTORNEY GENERAL
of the
STATE OF COLORADO



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GAIL L. IRELAND
Attorney General

ATTORNEYS GENERAL OF COLORADO

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Alvin Marsh.....	1887-1888
Samuel W. Jones.....	1889-1890
Joseph H. Maupin.....	1891-1892
Eugene Engley.....	1893-1894
Byron L. Carr.....	1895-1898
David M. Campbell.....	1899-1900
Charles C. Post.....	1901-1902
Nathan C. Miller.....	1903-1906
William H. Dickson.....	1907-1908
John T. Barnett.....	1909-1910
Benjamin Griffith.....	1911-1912
Fred Farrar.....	1913-1916
Leslie E. Hubbard.....	1917-1918
Victor E. Keyes.....	1919-1922
Russell W. Fleming.....	1923
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Clarence L. Ireland.....	1931-1932
Paul P. Prosser.....	1933-1936
Byron G. Rogers.....	1936-1940
Gail L. Ireland.....	1941-1942

REGISTER OF DEPARTMENT OF LAW
1941-1942

DIVISION OF LEGAL AFFAIRS

GAIL L. IRELAND, Attorney General

H. LAWRENCE HINKLEY, Deputy Attorney General

¹THEODORE A. CHISHOLM

²DUKE W. DUNBAR, First Assistant Attorney General

Assistant Attorneys General

C. HENRY ANDERSON

JAMES S. HENDERSON

³CLARENCE L. BARTHOLIC

BARBARA LEE

⁴OLIVER DEAN

DONALD H. MEYER

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J. L. MICHAELSEN, Legal Investigator

ANN G. LANDY, Secretary

ELIZABETH D. PATTEN, Stenographer

WILMA F. CROSKY, File Clerk and Stenographer

¹⁰LORRAINE CORRAZZA, Stenographer

¹¹EDITH PLUNKETT, Stenographer

INHERITANCE TAX DIVISION

BERTON T. GOBBLE, Inheritance Tax Commissioner and Assistant Attorney General

¹²O. S. BRINKER

¹³OWEN E. CARTMEL

¹Commissioned Major, U. S. Army, May 20, 1942.

²Appointed First Assistant July 1, 1942.

³Appointed June 23, 1942.

⁴Deceased, April 25, 1941.

⁵Appointed June 13, 1942.

⁶Appointed April 10, 1942.

⁷Joined U. S. Coast Guard February 8, 1942.

⁸Left for military service June 4, 1942.

⁹Enlisted in Motor Transport Division April 25, 1942.

¹⁰Granted leave of absence October 1, 1941.

¹¹Transferred from State Engineer's Office October 23, 1941.

¹²Retired May 16, 1942.

¹³Appointed Deputy March 13, 1941; Appointed Chief Deputy May 16, 1942; entered the armed forces August 15, 1942.

¹⁴LLOYD E. WILLIAMS, Chief Deputy Inheritance Tax Commissioner

¹⁵LUTHER C. ROTH, Deputy Inheritance Tax Commissioner

¹⁶J. W. KLEIN

G. W. MOSCRIPT

¹⁷GODDARD SHACKLEFORD, Inheritance Tax Appraiser

¹⁸MARGARET KRANICH, Stenographer

CATHERINE COURSEY, Stenographer

VERA DECOUR, Clerk-Typist

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²⁰CHARLOTTE MASON, Clerk-Typist

LEGISLATIVE REFERENCE OFFICE

²¹CHARLES H. QUEARY, Director

CLAIR T. SIPPEL, Secretary

²⁴J. RAMSAY HARRIS, Director

DIVISION OF SECURITIES

GAIL L. IRELAND, Ex-officio Commissioner of Securities

CURTIS WHITE, Commissioner of Securities

²²T. TYSON WOODRUFF, Deputy Securities Commissioner

²³JOHN L. ZANONI, Deputy Securities Commissioner

RHODA SON, Secretary

¹⁴Appointed Deputy May 16, 1942; appointed Chief Deputy August 16, 1942.

¹⁵Appointed November 16, 1942.

¹⁶Retired April 16, 1942.

¹⁷Appointed April 16, 1942.

¹⁸Granted leave of absence February 15, 1942.

¹⁹Appointed February 15, 1942.

²⁰Appointed November 5, 1942.

²¹Granted leave of absence for duration November 1, 1942.

²²Resigned September 30, 1941.

²³Appointed October 4, 1941.

²⁴Appointed January 1, 1942.

BIENNIAL REPORT
OF
ATTORNEY GENERAL
OF THE
STATE OF COLORADO

SCHEDULE I

To His Excellency,
RALPH L. CARR,
Governor of Colorado.

Sir :

In compliance with statutes relating thereto, I herewith transmit the Biennial Report of the Attorney General for 1941-1942, together with short summaries covering the Inheritance Tax Division, the Securities Division and the Legislative Reference Bureau. This report is much more voluminous than any heretofore prepared for the reason that reorganization of our state government, effective July 1, 1941, and the occurrence of the national war emergency in the same year have created countless problems calling for attention and decisions which would not be called for in ordinary times.

GAIL L. IRELAND,
Attorney General.

REPORT OF INHERITANCE TAX DIVISION

Under the supervision of Berton T. Gobble, Inheritance Tax Commissioner, the Inheritance Tax Division of the Department of Law has administered the Inheritance and Gift Tax laws.

For the period from December 1, 1940, to November 30, 1942, the following taxes were collected :

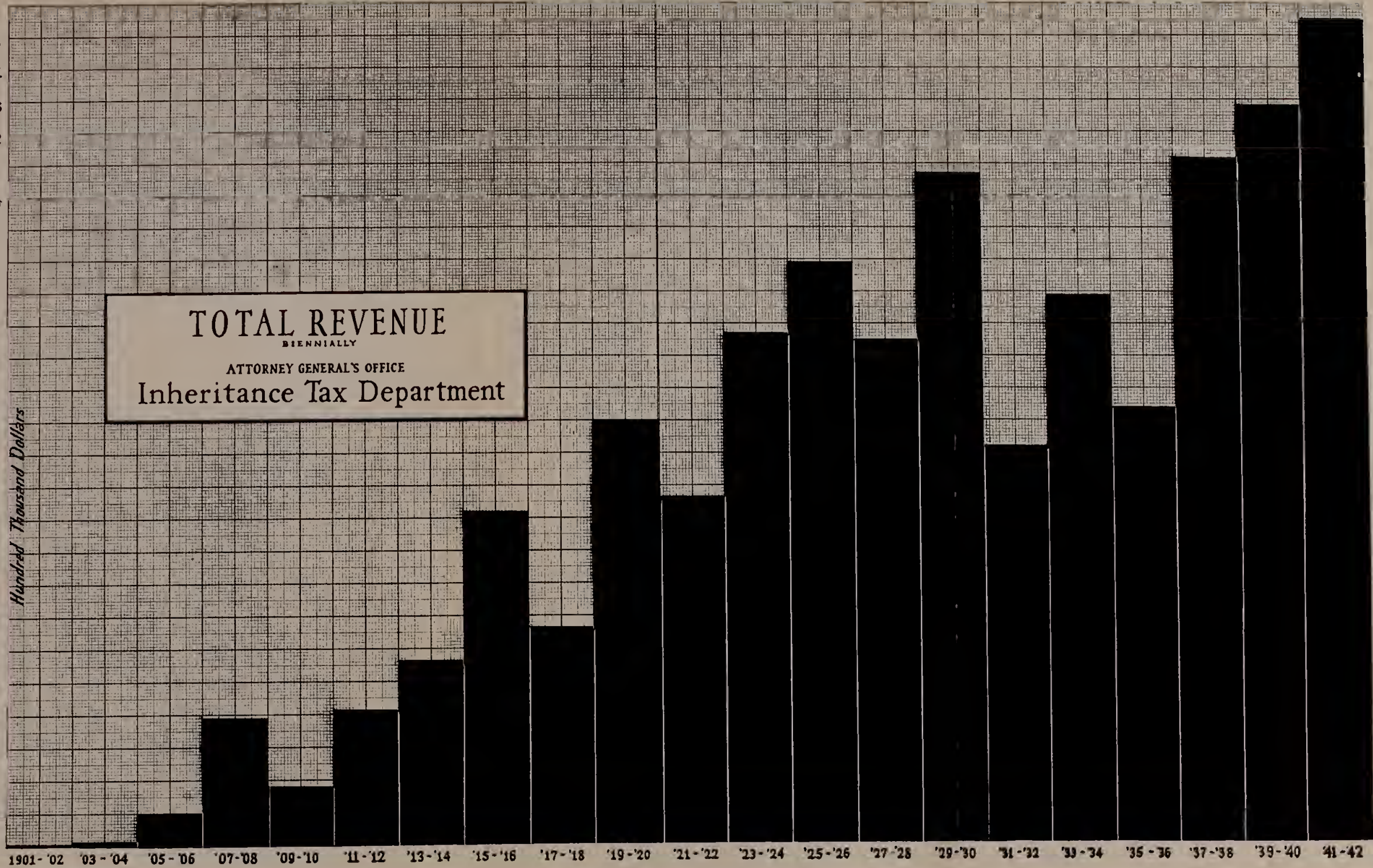
Inheritance Taxes	\$1,925,106.03
Gift Taxes.....	460,717.15
Old Age Pension Taxes.....	179,492.48
	<hr/>
Total	\$2,565,315.66

The expense of operating this Division, including salaries, amounted to \$41,299.14, being 1.61 per cent of the total taxes collected. A comparison of this report with the biennial report of the Attorney General for the years 1939-1940 will show that although the amount of taxes collected is greater by 12.41 per cent plus, the expenses of the Division have been decreased by a difference of 0.21 per cent.

All legal matters in connection with escheats to the State were handled by Berton T. Gobble, Assistant Attorney General. Between the period December 1, 1940, and November 30, 1942, there was turned into the escheat fund the total sum of \$60,606.89. The escheat fund has now reached the aggregate sum of \$283,982.85.

TOTAL REVENUE
BIENNIALY
ATTORNEY GENERAL'S OFFICE
Inheritance Tax Department

Hundred Thousand Dollars





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LEGISLATIVE REFERENCE OFFICE

The Legislative Reference Office was established by an act of the General Assembly approved May 6, 1927, and since that time it has aided in the preparation of the great majority of the bills presented to the several General Assemblies. The office has three primary functions, which are: Legislative reference work, bill drafting and revision of statutes.

Though bill drafting and revision of statutes are the most evident uses to which the office is put, good success is being had with the gathering of a library and files concerned with uniform laws and the creation of other improved legislation; to this end the office serves as liaison with other State offices performing similar functions.

DIVISION OF SECURITIES

The following is a report of the administration of the Division of Securities for the fiscal year of July 1, 1941, to June 30, 1942.

The fees collected by this department totaled \$3,332.50. This amount is approximately 35 per cent less than the amount collected during the preceding fiscal year. The sum of \$11,600 was appropriated to the department for said fiscal year by the 1941 session of the General Assembly. Departmental expenditures totaled \$9,170.22, which included the cost of auditing the books and records of the Cokano Investment Company and the National Savol Company, both of which companies were under investigation by this department.

Sixty-seven prospectuses were registered in this office during the year. As of July 1, 1942, seventy-seven dealers and one hundred and twelve salesmen were registered with the department.

Numerous hearings were held during the year resulting in the granting of two applications for registration as a salesman, the surrender of certificate of registration as a dealer in three cases, and the withdrawal of one application for registration as a dealer upon receipt by applicant of notice to show cause why his application should not be refused.

A great portion of our time was devoted to the investigation of cases involving fraud in the issuance and sale of securities. These investigations resulted in obtaining guilty pleas in a goodly

number of cases and in compelling restitution in others. We feel that this work has been of extreme benefit to investors in curbing the fraudulent issuance and sale of securities in this State.

In the period from July 1, 1942, to January 16, 1943, we have continued these activities and have revoked and canceled, or the applicant has withdrawn his application for registration, in six cases involving dealer registrations. The department has aided in the investigation and prosecution of several important criminal cases and we have successfully enjoined, in a civil proceeding, the further sale of shares of stock in at least one company of which the department, after investigation, became suspicious.

SCHEDULE II

LIST OF ALL CASES, PENDING, AND DISPOSED OF, IN ALL COURTS

1941-1942

CASES IN THE SUPREME COURT OF THE UNITED STATES

5. *State of Colorado v. State of Kansas*. Original proceeding for injunctive relief and to determine equitable rights of the parties to the water of the Arkansas River. Taking of evidence has recently been completed before Hon. Charles C. Cavanah, Special Master appointed by the United States Supreme Court, and written briefs must be filed by both parties by March 1, 1943, and oral arguments will be made on March 22, 1943, at Boise, Idaho. Thereafter, the Special Master will make his findings and recommendations and the case should be before the United States Supreme Court upon final printed briefs by the end of 1943.
8. *State of Nebraska, Complainant, v. State of Wyoming, Defendant, State of Colorado, Impleaded. United States of America, Intervenor*. Original proceeding for injunctive relief and adjudication of the rights of all parties in the water of the North Platte River. Taking of testimony has recently been completed before Hon. Michael J. Doherty, Special Master appointed by the United States Supreme Court, all written briefs have been filed, and oral argument will be had on January 13, 1943, at St. Paul, Minnesota. Thereafter, the Special Master will make his findings and recommendations and the case should be before the United States Supreme Court upon final printed briefs by the end of 1943.
604. *Standard Oil Company of California (Corporation), Henry Fairbank, et al. v. United States of America*. Filed pursuant to a resolution of the Colorado State Land Board for the Attorney General to appear and argue as to whether or not certain lands are mineral or non-mineral in character.
..... *In the Matter of National Surety Company, in Liquidation. Department of Banking, State of Nebraska, as Receiver and Liquidating Agent of Farmers State Bank, Callaway, Nebraska, v. Louis H. Pink, Superintendent of Insurance of the State of New York, as Liquidator of the National Surety Company*. In-

volving question of giving full faith and credit to a Nebraska judgment entered against surety company. Attorney General of Colorado appeared as amicus curiae.

413. *People of the State of California v. Bruce*. Attorney General of Colorado appeared as amicus curiae. Involving problem of state tax administration.

CASES IN THE UNITED STATES DISTRICT COURT

510. *United States of America v. B. H. Gillman, et al.* Question as to priority as between State and United States Government tax liens involved. Under the particular facts, the court held in the Government's favor. Not appealed.
9177. *Central Hanover Bank and Trust Company, a Corporation, v. The Rio Grande Southern Railroad Company, a Corporation.* Taxes. Pending.
11305. *The United States of America v. 9,655.93 Acres of Land, More or Less.* Condemnation of certain lands for use of the War Department. Case closed.
11353. *The United States of America v. 240 Acres of Land, More or Less, et al.* Condemnation of lands for Government purposes. State had no interest in matter.
11403. *The United States of America v. 160 Acres of Land, Situate in the County of Weld, et al.* Condemnation suit. Land involved not subject to inheritance tax.
11405. *The United States of America v. 204.12 Acres of Land, More or Less, et al.* Condemnation suit. Pending.
11432. *The United States of America v. 1 Acre of Land, More or Less, et al.* Condemnation suit. No inheritance tax involved.
11434. *The United States of America v. Certain Tracts and Parcels of Land Located Wholly Within the County of Bent, State of Colorado, et al.* Condemnation suit. No appearance.
11440. *The United States of America v. An Easement Over 21.62 Acres of Land, More or Less.* Condemnation suit. Pending.
11441. *The United States of America v. 4,129.73 Acres of Land, More or Less.* Condemnation proceedings. Pending.
11452. *The United States of America v. 16,222.63 Acres of Land, More or Less, Situate in the County of Pueblo.* Condemnation proceedings. Pending.
11454. *The United States of America v. 3,245.29 Acres of Land, More or Less, Situate in the County of El Paso.* Condemnation proceedings. Pending.
11465. *The United States of America v. 1,250 Acres of Land, More or Less, Situate in the County of Arapahoe.* Condemnation proceedings. Pending.

11466. *The United States of America v. 1,960 Acres of Land, More or Less.* Petition in condemnation. Pending.
11471. *The United States of America v. 50,000 Acres of Land, More or Less, Situate in the County of El Paso, State of Colorado.* Condemnation proceedings. Stipulation as to school lands involved. Closed.
11477. *The United States of America v. 101.81 Acres of Land, More or Less, Situate in the County of Arapahoe, State of Colorado, et al.* Condemnation suit. Pending.
11482. *The United States of America v. 20,000 Acres of Land, More or Less, et al.* Condemnation suit. No appearance.
11483. *The United States of America v. Certain Lands Situate in the County of Jefferson, State of Colorado, et al.* Condemnation proceedings. Pending.
11501. *The United States of America v. 720 Acres of Land, More or Less, Situate in the County of Las Animas, State of Colorado, et al.*
11504. *The United States of America v. 3.37 Acres of Land, More or Less, Situate in the City and County of Denver, State of Colorado, et al.* Condemnation proceedings. Pending.
11505. *The United States of America v. 575 Acres of Land, More or Less, Situate in the County of Montezuma, et al.* Condemnation suit. Pending.
11663. *In the Matter of the Petition of the Trinchera Irrigation District for Composition of Its Debts.* Bankruptcy matter. Pending.

COURT OF APPEALS OF THE STATE OF NEW YORK

Department of Banking, State of Nebraska, as Receiver and Liquidating Agent of Farmers State Bank, Callaway, Nebraska, v. Louis H. Pink, Superintendent of Insurance of the State of New York, as Liquidator of the National Surety Company. Jurisdiction in suits against insolvent insurance company. Attorney General entered as amicus curiae. Judgment for defendants. Appealed to Supreme Court of the United States.

CIVIL CASES IN THE SUPREME COURT OF THE STATE OF COLORADO

14419. *Harold B. Austjford v. William E. Guthner, Manager of Safety and Ex-Officio Sheriff of the City and County of Denver.* Habeas corpus. Re validity of Interstate Crime Compact. Judgment reversed Jan. 26, 1942.

14643. *T. F. Zeigler v. The People of the State of Colorado*. Error to the District Court of Logan County. Violation of act regulating auctioneers, commission merchants and brokers. Judgment affirmed.
14694. *The People of the State of Colorado v. W. W. Agnew*. Error to the District Court of the City and County of Denver. Constitutionality of the aviation act. Judgment reversed April 14, 1941.
14701. *Smith Brothers Cleaners and Dyers, Inc., a Corporation, v. The People*. Cleaning and Dyeing Act. Judgment modified and as modified affirmed.
14731. *The Water Supply and Storage Company, a Corporation, The Tunnel Water Company, et al. v. Adelrick Benziger*. Error to the District Court of Larimer County. Water rights. Pending upon stipulation suspending proceedings until October 15, 1943.
14735. *Otto J. Bebbler, et al., as Optometric Board of the State of Colorado, v. H. F. Fisher*. Error to the District Court of the City and County of Denver. Re-issuance of optometric license. On application for supersedeas judgment affirmed.
14740. *Frank S. Snell, Jr., and Joseph G. Shabough, Co-partners Doing Business Under the Firm Name and Style of Pikes Peak Auto Livery v. The Public Utilities Commission of the State of Colorado, et al.* Error to the District Court of El Paso County. Public utilities matter. Reversed in Supreme Court June 2, 1941, and remanded to District Court.
14744. *Charles M. Armstrong, as State Treasurer of the State of Colorado, v. The Driscoll Construction Company, a Corporation*. To obtain declaratory judgment in re motor fuel excise tax statute relating to refunds. Judgment reversed February 10, 1941.
14754. *Maple T. Harl, as State Bank Commissioner, v. Wigton Industrial Bank*. Error to the District Court of Pueblo. Injunction to restrain bank commissioner from holding assets and property. Case dismissed June 12, 1941.
14756. *Herbert Fairall, et al. v. John R. Redmon, et al.* Error to the District Court of the City and County of Denver. Concerning amounts to be paid old age pensioners. Judgment reversed January 20, 1941.
14790. *Armstrong v. Carman Distributing Company*. Declaratory judgment re sales tax. Error to the District Court of Denver. Ruling on demurrer affirmed and cause remanded with directions to vacate the judgment in other particulars and for further proceedings. Re-tried, new appeal taken and pending on second appeal.

14846. *People of the State of Colorado, ex rel. Attorney General v. Samuel E. Cary.* Disbarment proceedings. Petition dismissed May 28, 1942.
14847. *The People of the State of Colorado, ex rel. Colorado Bar Association, v. Merle M. Marshall.* Disbarment proceedings. Findings sustained and discipline decreed March 12, 1942.
14848. *The People, ex rel. Colorado Bar Association, v. H. Gordon Howard.* Disbarment proceedings. Findings sustained, discipline decreed June 30, 1941.
14851. *Ford Motor Company, a Delaware Corporation, v. Charles Armstrong, as State Treasurer of the State of Colorado.* Error to District Court of Denver. Declaratory judgment in re chain store license taxes on dealers of Ford Motor Company. Judgment affirmed March 9, 1942.
14852. *International Service Union Association v. Industrial Commission of Colorado, et al.* Unemployment compensation. Mutual Benefit Solicitors Insurance Agents. Involves question of whether agents soliciting mutual benefit insurance are "insurance agents." Trial court ruled in favor of plaintiff. Judgment affirmed.
14863. *The People of the State of Colorado, ex rel. Attorney General, v. Sam Frank Davis.* Disbarment. Petition dismissed March 31, 1941.
14868. *Industrial Commission of Colorado v. Colorado State Federation of Labor and the Denver Building and Construction Trades Council.* Error to the District Court of the City and County of Denver. To obtain review of award and findings of Commission in Case No. 3110. Judgment affirmed with directions February 3, 1941.
14873. *State Highway Department v. Mary E. Seeley, et al.* Error to the District Court of Park County. Condemnation suit. Judgment affirmed.
14874. *State Highway Department of Colorado v. Conia DeBit, A. S. Baldwin, et al.* Error to the District Court of Park County. Condemnation suit. Judgment affirmed June 8, 1942.
14898. *The B. K. Sweeney Electrical Company, a Colorado Corporation, v. A. M. Poston, Doing Business Under the Firm Name and Style of "Poston Pontiac Co."* Error to the District Court of El Paso County. Sales tax matter. Attorney General appeared as amicus curiae. Judgment affirmed.
14904. *Board of Control of the State Industrial School for Boys and John E. Hill, et al. v. Gladys O'Farrell.* Error to the District Court of Denver. Civil service matter. Judgment affirmed.

14919. *H. C. Getty, Clara Wilkins, et al. v. E. N. Witter, et al.* Error to the District Court of Jefferson County. Civil service rights. Judgment reversed March 10, 1941.
14939. *The People of the State of Colorado, ex rel. Bruce James Lucke, v. The County Court of the County of Adams and State of Colorado, et al.* Original proceedings for writ of prohibition. Rule discharged. Petition for rehearing denied.
14951. *Charles D. Vail, State Highway Engineer, v. Denver Building and Construction Trades Council, et al.* Error to the District Court of Denver. Injunction action. On application for supersedeas cause remanded with directions to dismiss the complaint.
14970. *Delos D. Potter v. Charles M. Armstrong.* Error to the District Court, Otero County. Service tax for professional services. At issue.
14980. *In the Matter of the Estate of Samuel T. Seddon, Deceased.* Escheat matter. Pending.
14991. *Thomas W. Parker v. People of the State of Colorado.* Error to the District Court of the City and County of Denver. In re procedure to procure rehearing on question of sanity. Judgment affirmed September 15, 1941.
14994. *The Pueblo Golf and Country Club, a Corporation, et al. v. The People.* Proceeding to review temporary injunction. Writ of error dismissed December 7, 1942.
15001. *Loren E. Reinhardt, Doing Business as Reinhardt's Truck Line, v. The Public Utilities Commission of the State of Colorado, et al.* Public utilities matter. Writ of error dismissed.
15012. *State of Colorado, and B. F. Cummings, Administrator of the Estate of Edgar Lorenzo Miller, Deceased, v. Jennie Grooms, et al.* Escheat matter. Pending.
15030. *Ogden First Federal Savings and Loan Association, a United States Corporation, v. Charles M. Armstrong, et al.* Error to the District Court of the City and County of Denver. Declaratory judgment re building and loan matter. Pending.
15038. *State Civil Service Commission of the State of Colorado, et al. v. H. C. Lehl.* Error to the District Court of the City and County of Denver. Civil service matter. Judgment affirmed October 14, 1941.
15045. *State Civil Service Commission, et al. v. Colorado State Board of Health, et al.* Error to the District Court of the City and County of Denver. Civil service matter. At issue.
15055. *Approximately Fifty-nine Gambling Devices v. The People.* Error to the District Court of the City and County of Denver. Gambling. Judgment affirmed October 19, 1942.

15059. *The George W. Clayton College, et al. v. The George W. Clayton Trust Commission.* Error to the District Court of the City and County of Denver. Construction of a will. Pending.
15060. *Alfonso Sandoval, et al. v. Industrial Commission of Colorado, et al.* Error to the District Court of the City and County of Denver. Decision of Commission holding that stoppage of work was due to a strike existing at the mines upheld by District Court. Decision of the District Court affirmed.
15061. *Ray R. Montgomery, et al. v. Industrial Commission of Colorado, et al.* Error to the District Court of the City and County of Denver. Decision of Commission holding that stoppage of work was due to a strike existing at the mines upheld by District Court. Decision of the District Court affirmed.
15062. *Gust Ahoe, et al. v. Industrial Commission of Colorado, et al.* Error to the District Court of the City and County of Denver. Decision of Commission holding that stoppage of work was due to a strike existing at the mines upheld by District Court. Decision of the District Court affirmed.
15063. *Richard Monks, et al. v. Industrial Commission of Colorado, et al.* Error to the District Court of the City and County of Denver. Decision of Commission holding that stoppage of work was due to a strike existing at the mines upheld by District Court. Decision of the District Court affirmed.
15064. *Ray Lewis, et al. v. Industrial Commission of Colorado, et al.* Error to the District Court of the City and County of Denver. Decision of Commission holding that stoppage of work was due to a strike existing at the mines upheld by District Court. Decision of the District Court affirmed.
15065. *Victor Bazanele, et al. v. Industrial Commission of Colorado, et al.* Error to the District Court of the City and County of Denver. Decision of Commission holding that stoppage of work was due to a strike existing at the mines upheld by District Court. Decision of the District Court affirmed.
15075. *John J. Bohon, as County Assessor of Lake County, v. The Board of County Commissioners of Lake County, Climax Molybdenum Company, a Corporation.* Error to the County Court of Lake County. Taxes. Judgment affirmed.
15079. *Fred K. Bryant, Jr., et al. v. Department of Employment Security, State of Colorado.* Error to the District Court of the City and County of Denver. The District Court reversed the decision of the Industrial Commission, which held that stoppage of work was not due to a strike. Pending.
15115. *Agnes Zimmerman v. M. C. Hinderlider, et al.* Error to the District Court of the County of Larimer. Water rights. Pending.

15140. *Roy A. Davis, Alfred G. Brown, J. H. McDevitt, et al. v. Pensioners Protective Association, et al.* Error to the District Court of the City and County of Denver. Old age pension matter. At issue.
15143. *The People of the State of Colorado, ex rel. Gail L. Ireland, et al. v. The District Court of the First Judicial District of the State of Colorado in and for the County of Adams, and Honorable Samuel W. Johnson, Judge of Said District.* Original action. Writ of prohibition to restrain court from interfering with Civil Service Commission. Writ sustained. Permanent injunction against respondents.
15148. *Carmine Dellacroce v. Industrial Commission of Colorado, Ex-Officio Unemployment Compensation Commission of Colorado.* Error to the District Court of El Paso County. In this case, the Industrial Commission had held that Dellacroce was self-employed and therefore disqualified from receiving benefits. The District Court affirmed said decision. Pending.
15169. *The North Poudre Irrigation Company v. M. C. Hinderlider.* Error to the District Court of the County of Larimer. Water. Pending.
15182. *J. H. McDevitt, et al. v. A. E. Corfman, et al.* Error to the District Court of Jefferson County. Civil service positions at State Industrial School for Boys. At issue as to Corfman's salary.
15200. *The Craftsman Painters and Decorators, Inc., et al. v. F. R. Carpenter.* For declaratory judgment and permanent injunction pertaining to sales and use tax. Pending.
15203. *Farrington R. Carpenter, Director of Revenue, v. The People of the State of Colorado, ex rel. Christopher F. Cusack, Doing Business as C. F. Cusack Advertising Agency.* Error to the District Court of Denver. Delinquent service taxes. Pending.
15206. *Farrington R. Carpenter, Director of Revenue of the State of Colorado, v. The May Department Stores Company, a Corporation.* Error to the District Court of the City and County of Denver. Claim for refund of service and use taxes. Pending.
15208. *Raymond W. Groff v. Dr. F. H. Zimmerman.* Error to the District Court of Pueblo. Habeas corpus—illegal confinement. Judgment reversed November 2, 1942.
15219. *Estate of Garin W. Hamilton, Deceased, et al. v. The People of the State of Colorado, et al.* Inheritance tax. Pending.

15222. *Bennett's, Inc., a Corporation, v. F. R. Carpenter, as Director of Revenue of the State of Colorado.* Error to the District Court of the City and County of Denver. Declaratory judgment re sales and service taxes. Pending.
15275. *Jacqueline Carmean, by Lenora Carmean, Her Next Friend, v. The People of the State of Colorado.* Delinquency proceedings. Pending.
15280. *Roy A. Davis, et al. v. E. L. Carson, et al.* Error to the District Court of the City and County of Denver. Declaratory judgment re old age pension matter. Pending.

EXTRADITION PROCEEDINGS

During the two-year period from January 12, 1941, to January 15, 1943, eighty-six requests were received for the extradition of persons in Colorado who were alleged to be fugitive from the justice of other states of the Union.

In these eighty-six cases, nine of the requests for extradition were voluntarily withdrawn by the demanding state, fourteen extraditions were denied for cause, and the remaining sixty-three requests were granted. In addition to those cases wherein extradition was denied, twenty-eight hearings were held before the governor, making a total of forty-two hearings on extradition matters during the period. Extradition was granted in thirty-five cases after waiver of the right to a hearing by the accused.

During the same period of time this office approved requisitions by Colorado officers for the return of eighty-two persons who had fled to other states and were alleged to be fugitive from the justice of this state. We are unable to report the number of persons thus returned to Colorado for trial, since these figures are not available to our office.

CRIMINAL CASES IN THE SUPREME COURT OF COLORADO

No.	Title	Crime	Disposition
14641	<i>Covales v. The People</i>	Murder by Abortion.....	Judgment Affirmed Dec. 23, 1940.
14648	<i>The People v. Graham</i>	Running from Scene of an Accident.....	Judgment Reversed Feb. 3, 1941.
14747	<i>Townsend v. The People</i>	Murder.....	Judgment Reversed Feb. 24, 1941.
14758	<i>Sukle v. The People</i>	Murder.....	Judgment Reversed Feb. 24, 1941.
14768	<i>Stephens v. The People</i>	Murder.....	Judgment Affirmed March 24, 1941.
14799	<i>Herrhorn v. The People</i>	Selling Liquor to a Minor.....	Judgment Affirmed May 12, 1941.
14804	<i>Phillips v. The People</i>	Assault with Intent to Murder.....	Judgment Affirmed Jan. 10, 1941.
14814	<i>Shimmel v. The People</i>	Criminal Conspiracy and Larceny of Public Records.....	Judgment Reversed Jan. 12, 1942.
14837	<i>Lewis and Wescott v. The People</i>	Embezzlement.....	Judgment Affirmed Feb. 2, 1942.
14842	<i>The People v. Horkans and McIntosh</i>	Conspiracy to Commit False Impersonation.....	Judgment Reversed March 2, 1942.
14860	<i>Hambly v. The People</i>	Murder.....	Judgment Affirmed June 29, 1941.
14888	<i>Hoffman and Schapiro v. The People</i>	Obtaining Merchandise by Fraud.....	Writ of Error Dismissed Jan. 30, 1941.
14906	<i>Montez and Vonatti v. The People</i>	Conspiracy and Forgery.....	At Issue.
14907	<i>Johnson and Mestas v. The People</i>	Conspiracy and Forgery.....	At Issue.
14920	<i>Boyd v. The People</i>	Assault with Intent to Murder.....	Judgment Reversed June 30, 1941;
14924	<i>The People v. Swanson and Pederson</i>	Conspiracy to Embezzle.....	Opinion Modified July 28, 1941.
14943	<i>Iwerks v. The People</i>	Burglary.....	Judgment Affirmed in Part and Reversed in Part April 27, 1942.
14945	<i>McPhee v. The People</i>	Larceny.....	Judgment Affirmed Dec. 15, 1941.
14985	<i>Ferguson v. The People</i>	Abortion.....	Remanded with Directions, Petition of Plaintiff to Modify Decree Denied.....
14990	<i>Crosswhite v. The People</i>	Larceny as Bailee.....	Dismissed June 14, 1941.
14997	<i>Rice, Kelly v. The People</i>	Assault and Battery.....	Pending.
14999	<i>Sanders v. The People</i>	Larceny as Bailee, Embezzlement.....	Judgment Affirmed Jan. 12, 1942.
15004	<i>Norton v. The People</i>	Conspiracy to Commit False Pretenses.....	Judgment Reversed March 23, 1942.
15020	<i>Sheffel v. The People</i>	Receiving Stolen Goods.....	Pending.
15022	<i>Fox v. The People</i>	Larceny as Bailee.....	Pending.
15033	<i>Shepherd v. The People</i>	Confidence Game.....	Judgment Affirmed Sept. 14, 1942.
15036	<i>Thorp, alias Van Schotack, v. The People</i>	Embezzlement.....	Judgment Reversed July 6, 1941.
15050	<i>Sukle v. The People</i>	Murder.....	Judgment Affirmed Sept. 14, 1942.

CRIMINAL CASES IN THE SUPREME COURT OF COLORADO—Continued

No.	Title	Crime	Disposition
15097	<i>Allison v. The People</i>	Larceny from the Person.....	Judgment Affirmed April 6, 1942.
15129	<i>Bomareto v. The People</i>	Confidence Game.....	Pending.
15130	<i>Bashford v. The People</i>	Conspiracy to Commit an Abortion.....	Pending.
15135	<i>Payne v. The People</i>	Murder.....	Pending.
15141	<i>Welch v. The People</i>	Larceny.....	Pending.
15153	<i>Cahill v. The People</i>	Larceny of Livestock.....	Pending.
15154	<i>Diaz v. The People</i>	Burglary with Intent to Commit Rape.....	Judgment Reversed May 25, 1942
15156	<i>McClain, O'Brien and Carducell v. The People</i>	Violation of Liquor Laws.....	Pending.
15161	<i>Schiff v. The People</i>	Larceny as Bailee.....	Pending.
15196	<i>Cahill v. The People</i>	Larceny of Livestock.....	Pending.
15220	<i>Cobianchi v. The People</i>	Murder by Abortion.....	Pending.
15226	<i>The People v. Wolff</i>	Construction of the Habitual Criminal Law.....	Pending.
15227	<i>Houda v. The People</i>	Murder.....	Pending.
15231	<i>Sullivan v. The People</i>	Murder.....	Pending.
15242	<i>Olde v. The People</i>	Conspiracy to Commit Confidence Game.....	Pending.
15258	<i>Marsh v. The People</i>	Failure of County Clerk to Turn in Public Moneys.....	Pending.
15272	<i>Emerick v. The People</i>	Confidence Game.....	Pending.
15273	<i>Martinez v. The People</i>	Attempting to Take Indecent Liberties with the Person of a Minor.....	Pending.
15285	<i>Wright v. The People</i>	False Pretenses.....	Pending.

WORKMEN'S COMPENSATION CASES IN THE SUPREME COURT OF COLORADO

No.	Title of Cause	Judgment of Lower Courts	Status
14902	<i>Barker, et al. v. Ind. Com. and Clark Cary</i>	Award affirmed.....	Judgment affirmed Sept. 8, 1941 108 Colo. 338
15116	<i>Betz, et al. v. Ind. Com., et al.</i>	Award affirmed.....	Judgment reversed April 27, 1942 109 Colo. 385
15151	<i>C. F. & I., et al. v. Sebastianelli</i>	Award set aside.....	Judgment affirmed June 8, 1942 109 Colo. 502
15122	<i>City & County of Denver, et al. v. Penna, et al.</i>	Award set aside.....	Judgment affirmed May 25, 1942 109 Colo. 42
15068	<i>Consolidated Coal & Coke Co., et al. v. Ind. Com., et al.</i>	Award affirmed.....	Judgment affirmed March 3, 1942 109 Colo. 248
15046	<i>Downs v. Ind. Com., et al.</i>	Award affirmed.....	Judgment reversed Jan. 12, 1942 109 Colo. 12
14829	<i>Fenquay v. Ind. Com., et al.</i>	Award affirmed.....	Judgment affirmed March 17, 1941 107 Colo. 336
15251	<i>Garrett, et al. v. Ind. Com., et al.</i>	Award set aside.....	Pending
14986	<i>Great American Indemnity Co. v. Ind. Com., et al.</i>	Award affirmed.....	Judgment affirmed Sept. 2, 1941 108 Colo. 323
15082	<i>Hayden Coal Co., et al. v. Ind. Com., et al.</i>	Award affirmed.....	Judgment affirmed March 9, 1942 109 Colo. 385
15270	<i>Ind. Com., et al. v. Betz, et al.</i>	Award set aside.....	Pending on motion
15112	<i>Ind. Com., et al. v. Carpenter</i>	Award set aside.....	Judgment reversed May 18, 1942 109 Colo. 51
14726	<i>Ind. Com., et al. v. Day</i>	Award set aside.....	Judgment reversed March 17, 1941 107 Colo. 332
14931	<i>Deline, Doing Business as I. A. Paper Boxes v. Ind. Com., et al.</i>	Award affirmed.....	Judgment affirmed Aug. 4, 1941 108 Colo. 351
14911	<i>Ind. Com., et al. v. Silas A. Downing</i>	Award set aside.....	Judgment reversed April 7, 1941 108 Colo. 76
15042	<i>Ind. Com., et al. v. Grenfell</i>	Award set aside.....	Judgment reversed Jan. 19, 1942 109 Colo. 39
14938	<i>Ind. Com., et al. v. Frank Kokel</i>	Award set aside.....	Judgment reversed May 18, 1942 108 Colo. 353
14881	<i>Ind. Com., et al. v. Rocky Mt. Fuel Co., et al.</i>	Award set aside.....	Judgment affirmed Feb. 10, 1941 107 Colo. 226

No.	Title of Cause	Judgment of Lower Courts	Status
15142	<i>Jewell Collieries Corp., et al. v. Ind. Com., et al.</i>	Award affirmed.....	Judgment affirmed Sept. 14, 1942 Pending on rehearing
15047	<i>McCulloch v. Ind. Com., et al.</i>	Award affirmed.....	Judgment affirmed March 16, 1942 109 Colo. 123
15114	<i>Metros v. Ind. Com., et al.</i>	Award affirmed.....	Judgment reversed and cause remanded to Commission Sept. 28, 1942 110 Colo. ...
15162	<i>Pitchforth, et al. v. Ind. Com., et al.</i>	Award affirmed.....	Judgment reversed Nov. 11, 1942 Pending on rehearing
15248	<i>Rand v. Ind. Com., et al.</i>	Award affirmed.....	Pending
15149	<i>Rocky Mt. Fuel Co., et al. v. Ind. Com., et al.</i>	Award affirmed.....	Judgment affirmed Nov. 9, 1942 110 Colo. ...
15048	<i>Santarelli v. Ind. Com., et al.</i>	Award set aside.....	Judgment reversed Feb. 16, 1942 109 Colo. 84
15103	<i>Sinclair, et al. v. Ind. Com., et al.</i>	Award set aside.....	Judgment reversed Sept. 14, 1942 109 Colo. 592
14979	<i>Wierman, et al. v. Ind. Com., et al.</i>	Award affirmed.....	Judgment affirmed Jan. 5, 1942 108 Colo. 544
15039	<i>Zimmerman v. Ind. Com., et al.</i> ...	Award Affirmed.....	Judgment reversed with instructions Jan. 5, 1941 108 Colo. 552
15144	<i>Zimmerman v. Ind. Com., et al.</i> ...	Award affirmed.....	Judgment affirmed June 29, 1942 109 Colo. 533

CASES IN THE DISTRICT COURTS

Docket
Number

Adams County

4110. *Board of County Commissioners of the County of Adams and The State Highway Department of the State of Colorado v. Grace McGovern, et al.* Highway condemnation suit. Pending on respondent's appeal.
4188. *Board of County Commissioners of Adams County, et al. v. Colorado Malleable Casting Company, et al.* Highway condemnation suit. Tried and paid.
4194. *State of Colorado v. Hans Blaase, Denver Oxygen Co., et al.* To recover for damages to highway bridge. Dismissed with prejudice on settlements.
4281. *H. C. Lehl v. State Civil Service Commission, et al.* To restrain defendants from holding hearing or trial. Court ordered defendant restored to position. Further action restrained by Case No. 15143 in the Supreme Court of Colorado.
4302. *Roy A. Shoemaker and Beulah A. Shoemaker v. R. O. Brownell, et al.* To quiet title. No appearance necessary on behalf of the State. Case closed.
4307. *State Highway Department v. Loney.* Condemnation suit. Pending.
4349. *The State Highway Department of the State of Colorado v. Albot Edwin Carlson, et al.* Highway condemnation suit. Pending completion of service.
- *The People of the State of Colorado v. Carl Timm.* For damages to Highway Courtesy Patrol car. Pending.
- *Board of County Commissioners of the County of Adams and The State Highway Department of the State of Colorado v. Estate of Homer W. Bingham, Deceased; Addie Ludow Bingham, Executrix, et al.* Highway condemnation suit. Petition dismissed.
- *Charles M. Armstrong, as Treasurer of the State of Colorado, v. W. M. Egan, Doing Business Under the Firm and Style Name of Ace Hi Fuel & Timber Co.* To recover sales taxes due the State. Case returned to department for filing lien.

Alamosa County

1729. *Homer F. Bedford, as Treasurer of the State of Colorado, v. Marion H. Abernathy, J. H. Niles, et al.* Sales tax matter. Collection made, case allowed to go by default. Closed.
1746. *Industrial Commission v. Alamosa Laundry & Dry Cleaning.* Unemployment compensation. Collection of interest. Interest paid and case dismissed.

Docket
Number

..... *Homer F. Bedford, as Treasurer of the State of Colorado v. Everett Colc.* Action to recover service taxes due the State. Settled and closed.

Arapahoe County

5594. *Board of County Commissioners of the County of Arapahoe and The State Highway Department of the State of Colorado v. Charles F. Fryc, et al.* Highway condemnation proceedings. Settled.

6009. *P. W. Logan, Charles Blagg, et al. v. Charles B. Sinclair, as Treasurer of the County of Arapahoe, et al.* Old age pension matter. Judgment for plaintiffs. Awaiting appeal.

6095. *The State of Colorado v. Union Pacific Railroad Company, a Corporation.* For damages to highway truck. Settled and dismissed.

6149. *Leonard Meyer v. Herbert Frederick Stoffregen, et al.* Suit brought to foreclose deed of trust and Department of Employment Security made party because of having filed record of certain liens. Pending.

7707. *The State Highway Department of the State of Colorado v. The Unknown Administrators, Executors, Heirs, Devisees and Assigns of Albert Birbeck, Deceased, et al.* Highway condemnation suit. Pending completion of service upon error so that State may obtain executor's deed.

..... *Ada A. Johnson v. William R. Johnson, Also Known as W. R. Johnson, et al.* Quiet title. No appearance necessary on behalf of the State.

Bent County

2086. *Homer F. Bedford, as Treasurer of the State of Colorado, v. The La Junta Finance Company, a Corporation.* To recover sales tax due the State of Colorado. Returned to department for filing lien.

..... *Joseph Kasza, Jr., v. F. R. Carpenter, et al.* Declaratory judgment in re Chapter 16, Volume 2, 1935 C. S. A. Use of trucks for hauling hay on highways. Case being tried on stipulated facts.

..... *The Las Animas Consolidated Canal Company, a Corporation, v. M. C. Hinderlider, as State Engineer of the State of Colorado, et al.* Water matter. Pending.

Docket
Number**Boulder County**

2800. *The People of the State of Colorado v. Charles Zarini, George E. Saunders, as State Licensing Authority.* Certiorari to review the suspension of a liquor license. Dismissed.
10098. *Homer F. Bedford, as Treasurer of the State of Colorado, v. Ada E. Eastin.* To recover service taxes due the State. Returned to department for filing lien.
10101. *Homer F. Bedford, as Treasurer of the State of Colorado, v. Carl W. Berueffy.* Action to recover service taxes due the State. Pending.
10227. *The People of the State of Colorado, ex rel. Rogers, v. Nu-Way Cleaners.* Injunction suit re Cleaning and Dyeing Trade Act. Restraining order filed.
12644. *Homer F. Bedford, as Treasurer of the State of Colorado, v. Keith Houx.* To collect service tax. Returned to department for filing lien.
12845. *In Re the Pctition of Loren V. Bremmer and His Wife, Venus J. Bremmer, for the Adoption of the Minor Child, Janice Marlett.* To amend original decree of adoption. Order amending decree of adoption entered October 4, 1941.
- *In the Matter of the Estate of Ira M. DeLong, Deceased.* Last will and testament, rights of Regents of the University of Colorado. Pending.

Chaffee County

3345. *The Sunnyside Park Ditch Company v. M. C. Hinderlider, et al.* Injunction, determination of water rights. Pending.
3522. *The State Highway Department of the State of Colorado v. Ignatz Yenniker, et al.* Highway condemnation suit. Tried and closed.
3588. *Claude Haley v. W. W. Ireland and Lurton Holman.* Conversion of the carcass of a cow elk. Pending.

Conejos County

- *Board of County Commissioners of the County of Conejos, et al. v. Yvonne Sanders, San Luis Valley Federal Savings and Loan Association, et al.* Highway condemnation suit. Tried to Commission and award made.
- *Board of County Commissioners of the County of Conejos and The State Highway Department of the State of Colorado v. J. M. Carr, John S. Knight, et al.* Highway condemnation suit. Tried to Commission and award made.

Docket
Number**Costilla County**

1099. *The Costilla County Taxpayers' Association, et al. v. The Board of County Commissioners of the County of Costilla, et al.* Decree of court entered directing method of payment to outstanding warrant holders.
- *Charles M. Armstrong, as Treasurer of the State of Colorado, v. Zac Llanes.* To recover service taxes due the State. Returned to department for filing lien.

Delta County

3147. *Leslie G. Carlson v. The City of Delta, et al.* Liquor license. Judgment for plaintiff. Decree entered setting aside judgment and dismissing case.
- *Young Creek Reservoir Company, a Corporation, v. The Young's Creek Ditch and Reservoir Company, et al.* Suit to establish boundaries and quiet title to water rights. State filed disclaimer February 7, 1942.

City and County of Denver

- A-17738. *Iown K. Ulmer v. Board of Chiropractic Examiners.* Revocation of license. Judgment for defendants. Motion for new trial dismissed.
- A-19294. *The Silver State Building and Loan Association, a Corporation, v. A. O. Johnson, as Building and Loan Commissioner.* To restrain defendant from supervising association. Pending.
- A-19558. *The People of the State of Colorado, ex rel. The Industrial Commission of Colorado, v. International Hod Carriers Building and Common Laborers Union of America, et al.* Injunction, strike of cemetery workers. Petition denied.
- A-20326. *Bert Allinger, Alice R. Amoss, et al. v. George Saunders, et al.* To collect back salary. Dismissed under Rule 18.
- A-20542. *In the Matter of the Lyman Trust Fund, Ella M. Lyman, Daisy Sprague, et al. v. The Denver National Bank.* For construction of the will of Charles B. Lyman. Final decree entered with instructions to trustee.
- A-22408. *The People of the State of Colorado, ex rel. James Dalrymple, Jr., v. Thomas Allen.* To compel review of action of Civil Service Commission. Commission's findings affirmed and relator's petition dismissed, still pending on costs.
- A-24495. *Fraternal Order of Pensioners, a Corporation, Elmer Johnson, et al., v. Herbert Fairall, et al.* Old age pension, funds pertaining to the unexpended portion of the five per cent administrative fund of the State Welfare Department. Judgment for the plaintiff. Appealed to the Supreme Court of Colorado.

Docket
Number

- A-24591. *J. E. Earnest, W. P. Bondies, et al., Superior Lloyds of America, v. Luke J. Kavanaugh, as Commissioner of Insurance of the State of Colorado.* Mandamus suit. Dismissed under rule.
- A-24863. *Charles B. Sinclair v. Charles M. Armstrong.* Declaratory judgment suit for 85 per cent of ad valorem liquor tax to old age pensioners. Decision on motion for rehearing November 19, 1942.
- A-24879. *State of Colorado v. Continental Casualty Company, a Corporation.* Damage suit to recover under bond as result of bankruptcy of M. E. Carlson. Judgment for State.
- A-26601. *Dr. Leo L. Spears v. The State of Colorado and Charles M. Armstrong, Treasurer.* Income tax matter. Order pro non suit. Granted order and judgment in favor of defendants.
- A-27071. *Ogden First Federal Savings and Loan Association, a United States Corporation, v. Charles M. Armstrong, State Treasurer, and A. O. Johnson, Commissioner of the Building and Loan Department of the State of Colorado.* Declaratory judgment re building and loan matter. Judgment for defendants. Appealed to Supreme Court of Colorado.
- A-27098. *Joy Peddicord v. Frances Dryfoos, Dr. Frank H. Zimmerman, et al.* Damages for false imprisonment. Dismissed under rule.
- A-27147. *Charles M. Armstrong, as Treasurer of the State of Colorado, v. Continental Oil Company, a Delaware Corporation.* Store license. Satisfaction of judgment filed and case closed.
- A-27975. *Lloyd Nelson v. L. W. Hildreth, F. W. Geist and T. W. Singleton.* False arrest by Highway Courtesy Patrol. Dismissed on demurrer.
- A-27989. *Maul Carpet Cleaning Co. v. Teets, et al.* Unemployment compensation. Individual performing services without remuneration held not to be an employee. Not appealed.
- A-27998. *A. S. Johnson v. Ralph L. Carr, et al.* Injunction re printing contract. Dismissed under Rule 18.
- A-28279. *Genesee Mountain Fox & Mink Farms, Inc., v. Industrial Commission.* Unemployment compensation, agricultural labor. Court held that services performed for fox and mink farms operated as in this case should be considered "agricultural labor." Not appealed.
- A-28289. *Barney B. Kean, Assignee of Creditors' Collection Bureau, v. Industrial Commission, et al.* Unemployment compensation—statute of limitation for refunds. Case dismissed on pleadings. Not appealed.

Docket
Number

- A-28718. *The Atchison, Topeka and Santa Fe Railway Company, a Kansas Corporation, v. Frank E. Wilson, as Manager of Revenue and Ex-Officio Treasurer of the City and County of Denver, et al.* Injunction to prohibit collection of taxes allocated to Denver 1937-38 on 20 per cent increase by State Board of Equalization. Dismissed with prejudice at plaintiff's costs.
- A-28766. *The State of Colorado, ex rel. Curtis White, v. The Cokono Investment Company.* Securities matter. Pending.
28847. *Colorado State Board of Health, et al. v. State Civil Service Commission, et al.* Civil service charges against Esta D. Parr. Judgment for relators. Appealed to Supreme Court of Colorado.
- A-28914. *The People of the State of Colorado, ex rel. W. E. Lowdermilk, H. A. Lowdermilk, et al. v. Charles M. Armstrong, Treasurer of the State of Colorado.* To review the treasurer's findings on use tax assessments. Satisfaction of judgment.
29009. *The People, ex rel. S. R. McKelvey, v. Joe C. Jankovsky, et al.* To compel certification to position of secretary of State Board of Health. Petition dismissed and alternative writ quashed.
29011. *Colorado State Board of Health by William P. Gasser, G. W. Bumpus, et al. v. State Civil Service Commission and Joseph C. Jankovsky, et al.* Re civil service status of Pruett H. Henderson. Judgment on findings in favor of respondents. Case dismissed.
- A-29218. *Wheeler v. Britt.* Public utilities matter. Dismissed.
- A-29240. *The Regents of the University of Colorado v. Otis & Company, a Delaware Corporation, et al.* To rescind sale of stocks and bonds. Dismissed with prejudice.
- A-29309. *A. B. Hirschfeld v. Carr, et al.* To restrain defendants from entering into a printing contract. Stricken from the trial calendar.
- A-29339. *The Colorado National Bank of Denver, a National Banking Association, Executor of the Will of Laura Puderbaugh, Deceased, v. Charles M. Armstrong.* Income tax. Appeal dismissed, case closed.
- A-29781. *E. B. Faus, Doing Business Under the Firm Name and Style of Faus Transportation Company, v. The Public Utilities Commission of the State of Colorado, et al.* Writ of review, seeking review of Public Utilities Commission order. Dismissed on stipulation.

Docket
Number

- A-29797. *Nebraska Bridge Supply & Lumber Company, a Corporation, et al. v. Teets, et al.* Unemployment compensation. Question involved as to whether or not truckers hauling logs come within the scope of Section 19(g) (5) (A) (B) and (C) of the Colorado Unemployment Compensation Act and therefore should be considered employees. Pending.
- A-29812. *Denver Building and Construction Trades Council, et al. v. Charles D. Vail, State Highway Engineer, et al.* Action for an injunction. Judgment for plaintiff. Appealed to Supreme Court.
- A-29860. *Denver Building and Construction Trades Council, a Voluntary Association, v. Charles D. Vail, State Highway Engineer, et al.* Injunction re wages and hours in a highway project. Injunction denied. Industrial Commission ordered to determine prevailing rates of wages. Vail's objections to findings and judgment overruled. Dismissed.
- A-30825. *H. C. Lehl v. State Civil Service Commission of the State of Colorado, et al.* Civil service matter. Judgment for plaintiff. Appealed to Supreme Court.
- A-30927. *Department of Employment Security v. Industrial Commission of Colorado, The Denver Dry Goods Co., a Corporation, and Evelyn L. Reece.* Unemployment compensation. Case involves the question of "suitable work." Pending.
- A-30938. *Department of Employment Security v. Industrial Commission of Colorado, The Denver Dry Goods Co., a Corporation, and Georgia M. Strand.* Unemployment compensation. This case involves the question of "suitable work." Pending.
- A-30946. *Ralph L. Carr, Governor of the State of Colorado, et al. v. Joe C. Jankovsky, et al.* For temporary order and preliminary and permanent injunction and other relief as shown in complaint. Dismissed.
- A-30986. *Walter C. Chilton, Jr., v. Clara Wilkins, Joe C. Jankovsky, et al.* To require Civil Service Commission to certify as director of liquor licensing division. Judgment for defendants.
- A-31066. *Dorothy Berryhill v. C. F. Hegner and Frederick H. Good.* Malpractice. Suit against former staff member of the Colorado General Hospital. Pending.
- A-31179. *G. G. McBride, et al. v. Department of Employment Security, et al.* Unemployment compensation. In this case, the court's decision held that a bookkeeper and his assistant were not considered "employees" under Section 19(g) (5) (A) (B) and (C) of the act. Not appealed.

Docket
Number

- A-31281. *In the Matter of The Barth Trust*. Interpretation of a trust. Attorney General elected to make no appearance or objections.
- A-31575. *Department of Employment Security v. Industrial Commission of Colorado, The Neusteter Company, a Corporation, and Ida H. Thompson*. Unemployment compensation. Case involves the question of "suitable work." Pending.
- A-31889. *F. W. Nolan, Uhle Brown, et al. v. H. C. McDevitt, et al.* Civil service matter. Judgment for defendants. Writ dismissed.
- A-31930. *George T. Evans v. The State Civil Service Commission of Colorado, et al.* Civil service status. Judgment in favor of respondents. Motion for new trial overruled. Case closed.
- A-31941. *Harold Hurst v. H. G. McDevitt, Clara E. Wilkins, et al.* Complaint for salary. Judgment for plaintiff. Appealed to Supreme Court but Attorney General took no part in appeal.
- A-31999. *Gustave J. E. Blade v. J. H. McDevitt, Clara Wilkins, et al.* To compel restoration to civil service positions. Judgment for defendants. Motion for new trial denied.
- A-32184. *The Housing Authority of the City and County of Denver v. Garfield Lovaas; L. O. Lovaas, et al.* To acquire title and possession of certain property. Attorney General elected to file no answer since no State interest involved.
- A-32222. *Charles R. Nolan v. C. H. Gunn, as Chief of the Motor Vehicle Bureau of the State of Colorado, et al.* For restoration of automobile operator's license. Court entered order that license be restored to plaintiff. No appeal taken.
- A-32505. *Glen F. Wilson v. Farrington R. Carpenter, Director of Revenue of the State of Colorado*. Mandamus action for salary. Dismissed.
- A-32536. *Bernard E. Teets v. Brainard, Montgomery and Company, a Corporation*. Unemployment compensation. In this case the court held the statute of limitations in the Employment Security Act was procedural and that an action brought to recover taxes paid more than two years prior to the application filed therefor comes under the six year statute of limitations. Not appealed.
- A-32544. *State of Colorado v. Western Union Telegraph Company, a Corporation*. To recover money expended by Highway Department for removal and relocation of pole lines and wires. To be tried to court in January.

Docket
Number

- A-32547. *Ronald B. Hochmuth v. Hoyt Gibbs; Harriet F. Gibbs, et al.* To quiet title. Attorney General elected to make no appearance on behalf of the State.
- A-32571. *George S. Dyer, James Geddings, et al. v. C. N. Feast, et al.* Elk hunting season, special licenses therefor. Judgment for defendants.
- A-32574. *Housing Authority of the City and County of Denver, a Corporation, v. Charles C. Johnson, Alex C. Hunt, et al.* To acquire title and possession. No appearance on behalf of the State since records showed inheritance tax fully paid.
- A-32761. *The Gates Rubber Company, a Corporation, v. F. R. Carpenter, et al.* Sales tax. Judgment for plaintiff. Judgment satisfied.
- A-32792. *Frank Brenbarger v. The Civil Service Commission of Colorado, et al.* Civil service position. Motion to dismiss granted; judgment entered.
- A-32821. *Horace C. Dietrich v. Albert E. Dietrich, Bertha A. Parson, et al.* To dissolve partnership, for an accounting and to restrain from conveying property. Disclaimer filed by State Land Board.
- A-32902. *The People of the State of Colorado, ex rel. Christopher Cusack, v. Farrington R. Carpenter.* Delinquent service taxes. Judgment for plaintiffs. Appealed to Supreme Court where at issue.
- A-33021-1. *Glen F. Wilson v. Farrington R. Carpenter, et al.* Civil service position. Complaint dismissed as to all defendants.
- A-33121. *P. W. Logan, Charles Blagg, et al. v. Roy A. Davis, et al.* Old age pension matter. Pending.
- A-33124. *Inter-Mountain Iron and Metal Company, Inc. v. F. R. Carpenter.* Certiorari to review decision of Director of Revenue. Waiting trial.
- A-33245. *Mohawk Carpet Mills, Inc. v. Farrington R. Carpenter, et al.* To recover money paid by mistake on income tax. Dismissed with prejudice.
- A-33311. *Public Service Company of Colorado v. The State of Colorado.* Condemnation proceedings. Pending.
- A-33343. *The May Department Stores Company, a Corporation, v. Farrington R. Carpenter.* Claim for refund of service and use taxes. Judgment for plaintiff. Appealed to Supreme Court.
- A-33533. *Midwest Fuel & Timber Company, a Colorado Corporation, v. Farrington R. Carpenter.* To distrain defendant from selling certain personal property for sales taxes. Judgment for defendant. Notice of appeal served.

Docket
Number

- A-33569. *Bennett's, Inc., a Corporation, v. Farrington R. Carpenter.* Declaratory judgment re sales and services taxes at restaurant at Remington Arms Company. Judgment for defendant. On appeal.
- A-33777. *St. Vincent De Paul Salvage Bureau, Inc., v. Frank E. Wilson, et al.* Declaration of rights of plaintiff as to specific ownership taxes on motor vehicles. Judgment in favor of plaintiffs, and for costs.
- A-34078. *Bernard E. Teets v. McLean, et al.* Fidelity company refused to pay full amount of moneys misappropriated by employee of department on theory that department should make setoff of employee's credits with the Retirement Fund. Pending.
- A-34917. *Catherine E. Platt v. Joe C. Jankovsky, J. H. McDevitt, et al.* Civil service rights. Petition for injunctive and mandatory relief. Order of dismissal with prejudice entered by court.
- A-34925. *Colorado Blue Print Paper and Supply Company, a Corporation, v. Farrington R. Carpenter, Director of Revenue of the State of Colorado.* For a declaratory judgment of plaintiff's rights under sales and service tax act. Dismissed.
- A-35169. *Lazar v. Industrial Commission of Colorado, et al.* Unemployment compensation. In this case, the Industrial Commission had held that a miner in Weld County, offered employment in Routt County, was offered "suitable work." The District Court reversed said decision. Appeal pending.
- A-35171. *The People of the State of Colorado, ex rel. Ellen Adele Cox, a Minor, by Isal Cox, Her Next Friend, v. Board of Control of the State Home for Dependent and Neglected Children, et al.* Habeas corpus. Petition granted.
- A-35172. *Parra v. Industrial Commission of Colorado, et al.* Unemployment compensation. Industrial Commission had held that a miner resident in one county, offered employment in another, was offered "suitable work." Pending.
- A-35194. *William H. Peltier, as Administrator de bonis non of the Estate of Peter M. Peltier, Deceased, v. Farrington R. Carpenter, as Director of Revenue of the State of Colorado.* To recover refund of income taxes. Pending, awaiting trial.
- A-35359. *The People of the State of Colorado, ex rel. Curtis White, Securities Commissioner, v. All State Finance Corporation, et al.* Concerning Fraudulent Practices and Securities Act. Pending.
- A-35412. *In the Matter of the Petition of C. C. Crebs for a Writ of Habeas Corpus.* Petition dismissed.

Docket
Number

- A-35228. *Bernard E. Teets v. Egan, etc.* Unemployment compensation. Question concerning statute of limitations. Pending.
104091. *I. Ernest Newsom, as the Most Worshipful Master of the Most Worshipful Grand Lodge of Ancient Free and Accepted Masons of Colorado, v. Corbin E. Robison, Grand High Priest of Most Excellent Grand Royal Arch Chapter of Colorado, et al.* Charitable trust funds. Attorney General appearing on behalf of unknown beneficiaries. Order of court entered July 25, 1942. Written decree in declaration of trust amending decree of March 30, 1929, filed September 5, 1942.
- *Charles M. Armstrong, as Treasurer of the State of Colorado, v. Charles Leyba.* To recover sales taxes due the State. Returned to department for filing lien.
- *Charles M. Armstrong, as Treasurer of the State of Colorado, v. George Collard.* To recover sales taxes due the State. Returned to department for filing lien.
- *Interstate Motor Lines, Inc., a Corporation, et al. v. George E. Saunders, as Secretary of State, et al.* Relating to gross loads on motor vehicles. Motion for judgment on bond denied.
- *R. L. Clecre v. State Civil Service Commission, et al.* To compel Civil Service Commission to certify salary. Alternative writ made peremptory.
- *Arthur M. Haynes v. The State Highway Department of the State of Colorado.* Action for judgment for position. Action on contract. Dismissed. No appeal taken.
- A-33002. *P. W. Logan, Charles Blagg, et al. v. Farrington R. Carpenter, et al.* Validity of Chapter 187, 1941 S. L., re old age pensions. Awaiting trial.
- *A. T. Manzanares, James Bradley, et al. v. Clara Wilkins, et al.* To compel certification in civil service positions in place of provisional employees. Pending.
- *Ed Haines and S. N. Drum, Doing Business as Haines Motor Freight, v. The Public Utilities Commission of the State of Colorado, et al.* Public utilities matter. Petition for writ of review or certiorari. Pending.
- *Marie Marrone v. J. H. McDevitt, Clara Wilkins and Joe Jankovsky, et al.* To restore position as teacher at Industrial School and for salary judgment. Judgment of restoration entered, continued for argument re recovery of back pay. Judgment for plaintiff and judgment paid.
- *Alfred H. Rampe v. Mary I. Sommers, et al., Regents of the University of Colorado.* To quiet title. Answer of disclaimer filed and regents notified they have no interest in the matter.

Docket
Number

- *R. P. Clark, Doing Business as Midwest Bureau, v. Walter F. Morrison, et al.* To compel Secretary of State to issue renewal license to collection agency. Pending.
- *Helen Kevlin v. J. H. McDevitt, Clara Wilkins, et al.* Civil service rights. Judgment for defendants. Pending on appeal.
- *E. L. Carson v. Roy A. Davis, Fred B. Orman, et al.* Declaratory judgment re old age pension rights. Judgment in favor of the plaintiff. On appeal.
- *Charles A. Meyer v. City and County of Denver, State of Colorado, a Municipal Corporation; Town of Aurora, et al.* Damages. Pending.
- *In the Matter of the Estate of George W. Clayton, Deceased.* Construction of a will. Appealed to Supreme Court. Judgment for defendants.
- A-35410. *Public Service Company of Colorado v. Farrington R. Carpenter.* Sales tax re natural gas customers. Awaiting trial.
- *John M. Stohr v. Ralph L. Carr, Homer F. Bedford, et al.* Wages. Pending.
- *The People of the State of Colorado, ex rel. Blanch George, by Her Next Friend, The Humanitarian Heart Mission, H. H. Marrs, Its President, v. Dr. Zimmerman, Superintendent of the Colorado State Asylum, Pueblo, Colorado.* Habeas corpus. Pending.
- *Larson Construction Co., a Limited Partnership, v. Farrington R. Carpenter, et al.* To be tried to court on stipulated facts.
- *Gail L. Ireland, Attorney General of the State of Colorado, v. James F. Jacobs, Administrator of the Estate of Bertha M. Leibold, Deceased.* Action to enforce a public trust under decedent's will. Pending.
- *Pauline Epstein v. Central Surety & Insurance Corporation, et al.* Damage action. Pending.
- *F. R. Carpenter, as Director of Revenue of the State of Colorado, v. H. L. Kendig.* Motor fuel tax collection. Pending.
- *O. S. Wood v. State Civil Service Commission of Colorado.* To require defendant Commission to reply to plaintiff's letter. Pending.
- *The Craftsman Painters and Decorators, Inc., a Corporation, v. Farrington R. Carpenter.* For declaratory judgment and permanent injunction pertaining to sales and use tax. Appealed to Supreme Court.

Docket
Number**Dolores County**

630. *Harry Rogers v. Arvel Taylor, et al.* To quiet title. Pending.
637. *Dodge v. Modern Gold Mines, Inc., a Corporation, et al.* In this case, chattel mortgages were foreclosed and the State made a party because of having filed of record unemployment contribution liens, which mortgages, having been filed prior to said liens there being no surplus from sale, the State liens remained unsatisfied. Not appealed.

Douglas County

1435. *Board of County Commissioners of the County of Douglas and the State Highway Department of the State of Colorado v. Lucy M. Clarke, Richard H. Clarke, et al.* Highway condemnation suit. Settled.

Eagle County

- *State Highway Department of the State of Colorado v. James Langton, et al.* Highway condemnation case. Pending.
- *Board of County Commissioners of the County of Eagle and the State Highway Department of the State of Colorado v. W. C. Osborn.* Highway condemnation suit. Dismissed April 11, 1941.
844. *The Board of County Commissioners of the County of Eagle, in the State of Colorado, and State Highway Department of the State of Colorado v. Grant McPerson, et al.* Pending application to recover deposit.

Elbert County

1132. *Board of County Commissioners of the County of Elbert and the State Highway Department of the State of Colorado v. The Federal Land Bank of Wichita, et al.* Highway condemnation suit. Pending.
1154. *Board of County Commissioners of the County of Elbert, and the State Highway Department of the State of Colorado v. Ross DeWitt, et al.* Highway condemnation suit. Pending.

El Paso County

20630. *The Board of County Commissioners of the County of El Paso v. The Pikes Peak Cottage City Corporation, et al.* Condemnation proceeding. Pending.
22205. *Snell, Shabough, et al. v. Public Utilities Commission, et al.* Public utilities matter. Stipulation for reversal.

Docket
Number

22283. *The Board of County Commissioners of the County of El Paso v. The Tippet Company, a Corporation, and James W. Starsmore.* Highway condemnation suit. Settled and closed.
22779. *Jean C. Price v. Florence R. Price, et al.* Suit to quiet title. Inheritance tax applications filed. No further action on part of State required.
22848. *The People of the State of Colorado, ex rel. Frank S. Snell, Jr., et al. v. The Public Utilities Commission of the State of Colorado, et al.* Public utilities matter. Dismissed.
22918. *State of Colorado v. Walter Lynch and Bennie Goldstein, et al.* Claim for damages by the State Highway Department. Dismissed on payment.
23044. *Ackley v. Industrial Commission of Colorado, et al.* Unemployment compensation. Court held that Section 19(f) (1) and (4) of the Colorado Unemployment Compensation Act was constitutional and that a hotel employing unit and a barber shop employing unit could be joined for the purposes of counting employees under said section. Not appealed.
23319. *C. F. Lytle Company, a Corporation of Iowa, et al. v. Carpenter.* Declaratory judgment re sales and service taxes. Decree entered and case closed.
23560. *Ella Hughes v. John Pring, The State of Colorado, et al.* To quiet title. No State interest involved, no appearance made.
- *Board of County Commissioners of the County of El Paso, and the State Highway Department of the State of Colorado v. The Texas Company, et al.* Condemnation proceedings. Pending settlement.
- *Board of County Commissioners of the County of El Paso, et al. v. Mrs. Lourene R. Hall, et al.* Highway condemnation suit. Pending on respondent's motion for new trial.
- *Perry P. Greiner and Isabel P. Greiner v. Teller Ammons, et al.* Declaratory judgment in re taxes. Dismissed.

Fremont County

5648. *In the Matter of the Adjudication of Priorities of Right to Use of Water in Water District No. 12 of the State of Colorado.* State Land Board water claims. "Intervention and statement of claim for State" filed by State Land Board. Pending.
5650. *Hilbert Davison v. Roy Best, Warden of the State Penitentiary.* Habeas corpus. Petition dismissed.
5682. *In the Matter of the Application of Clyde Smaldone for a Writ of Habeas Corpus.* Writ quashed and petition denied.

Docket
Number

- *In the Matter of William Anderson Confined in the Colorado State Penitentiary.* As to jurisdiction over an insane person. Pending.
- *Charles M. Armstrong, as Treasurer of the State of Colorado, v. J. A. Covington.* Sales taxes. Returned to department for filing lien.

Garfield County

3347. *Daisy Brackney v. The Board of County Commissioners of the County of Garfield, et al.* To secure judgment for gravel and surfacing materials used in highway construction. Final settlement made June 5, 1942.

Gilpin County

4480. *The Board of County Commissioners of the County of Gilpin, and the State Highway Department of the State of Colorado v. Laura Becker McLeod, et al.* Condemnation proceeding. Pending.
4481. *Gilpin County Commissioners of the County of Gilpin, and the State Highway Department of the State of Colorado v. Benedict Kimber, et al.* Condemnation proceeding. Pending.
4482. *The Board of County Commissioners of the County of Gilpin, and the State Highway Department of the State of Colorado v. Harry S. Blake, et al.* Condemnation proceeding. Pending.
5135. *The Board of County Commissioners of the County of Gilpin, and the State Highway Department of the State of Colorado v. The Johnson's Dream Mining Company, et al.* Condemnation suit. Partially settled.
5144. *The Board of County Commissioners of the County of Gilpin, and the State Highway Department of the State of Colorado v. Eugene Perley, et al.* Highway condemnation suit. Partially settled.

Gunnison County

- *Board of County Commissioners of the County of Gunnison, et al. v. Ernest Enbom, The Home Owners Loan Corporation, et al.* Highway condemnation suit. Pending settlement.

Jefferson County

3967. *Board of County Commissioners of Jefferson County and the State of Colorado and the State Highway Department of the State of Colorado v. Mary A. Moore, et al.* Condemnation proceeding. Pending as to some respondents.

Docket
Number

3981. *The Board of County Commissioners of the County of Jefferson, State of Colorado, and the State Highway Department of the State of Colorado, v. A. D. Quaintance, et al.* Condemnation proceedings. Pending as to some respondents.
4002. *The Board of County Commissioners of the County of Jefferson and State of Colorado and the State Highway Department of the State of Colorado v. P. S. Kaufman, et al.* Condemnation proceeding. Pending as to some respondents.
4081. *The Board of County Commissioners of the County of Jefferson in the State of Colorado, and the State Highway Department of the State of Colorado v. Audrey Rose, et al.* Condemnation proceeding. Pending as to some respondents.
4139. *The Board of County Commissioners of the County of Jefferson and the State Highway Department v. Margaret E. Burke, et al.* Condemnation proceeding. Pending as to some respondents.
4586. *The Board of County Commissioners of the County of Jefferson, State of Colorado, and the State Highway Department of the State of Colorado v. Anne Davis.* Condemnation suit. Case tried, respondents had judgment.
4645. *Lionel J. Connelly v. The Board of County Commissioners of the County of Jefferson, et al.* Highway condemnation suit. Tried to jury. Settled on new trial granted by court.
4670. *A. E. Corfman, et al. v. J. H. McDevitt, Clara Wilkins, Joe Jankovsky, et al.* Civil service positions at the State Industrial School for Boys. Judgment for plaintiff. Appealed to Supreme Court.
4678. *Shelby Davis v. The Colorado and Southern Railway Company, et al.* Damages for personal injuries. Dismissed as to State Highway Department with prejudice.
4829. *Board of County Commissioners of the County of Jefferson and the State Highway Department of the State of Colorado v. John Matthews, et al.* Highway condemnation proceedings. Pending.
- *The Board of County Commissioners of the County of Jefferson, State of Colorado, and the State Highway Department of the State of Colorado v. Matilda F. Johnson, et al.* Highway condemnation proceedings. Pending as to some respondents.
- *Victor N. Root and Ella M. Root v. Elizabeth Richards, et al.* To quiet title. Attorney General elected to make no appearance since no State interest involved.

Docket
Number

- *The Board of County Commissioners of Jefferson County, and the State Highway Department of the State of Colorado v. Clarence A. Spring, et al.* Highway condemnation suit. Pending.
- *The Board of County Commissioners of Jefferson County, and the State Highway Department of the State of Colorado v. Agnes Mosser Park, et al.* Highway condemnation suit. Pending trial and completion of service.
- *Charles Harman, Elizabeth Simpson, et al. v. William C. Brown, et al.* To quiet title. Closed.

Kit Carson County

3440. *The State Board of Stock Inspection Commissioners for the Use and Benefit of Fred Klann and L. G. Weller v. C. A. Seal and The Western Casualty and Surety Company.* Action to recover on the bond of a livestock sales ring. Judgment for plaintiff. Appeal not perfected.
3447. *In the Matter of the Application of the State of Colorado to Foreclose Deed of Trust Containing Power of Sale Under Rule No. 120 of Chapter 18 of the Rules of Civil Procedure.* Land Board matter. Deed of trust foreclosed. Public trustee's sale held.

Lake County

6510. *The Board of County Commissioners of the County of Lake, State of Colorado, State Highway Department of Colorado, v. W. E. Callahan Construction Company, et al.* Condemnation proceeding. Pending.
6605. *Climax Molybdenum Company v. The Board of County Commissioners of the County of Lake; Colorado Tax Commission, et al.* Taxes. Payment made as per stipulation and decree entered.
6620. *John Norvell and Ruth Norvell v. J. Adams, J. Wolfe, et al.* To quiet title. No appearance made since no State interest involved.
6609. *The Board of County Commissioners of the County of Lake v. John J. Bohlen, as the County Assessor of Lake County, Climax Molybdenum Company, a Corporation, Intervenor.* To require defendant to correct his assessment roll. Judgment for plaintiff. Appealed to Supreme Court.
- *In the Matter of Charles Kutzleb, Deceased.* Motor vehicle fees. Pending.

Docket
Number**La Plata County**

4952. *Ben Arriza, Frank Chiole, et al. v. J. R. Williams, Colorado State College of Agriculture, et al.* To quiet title, water rights. Pending.
4958. *The People of the State of Colorado for the Use of the State of Colorado v. Fidelity and Deposit Company of Maryland, a Corporation.* Complaint to recover on bond of defaulting county judge. Settlement made.
5002. *Board of County Commissioners of the County of La Plata, State of Colorado, et al. v. Henry S. Sherman, et al.* Public utilities matter. Injunction and certiorari. Dismissed as result of stipulation.
5014. *B. J. Oschner v. Robert P. Buchanan, et al.* Foreclosure of a trust deed. Pending.

Larimer County

8383. *The North Poudre Irrigation Company v. M. C. Hinderlider, et al.* Water matter. Judgment for defendants. Appealed to Supreme Court.
8413. *J. W. Briggs and Anita M. Briggs v. Andrew Cowan, et al.* Action to quiet title. No appearance made since no State interest involved.
8470. *Emil O. Anderson v. Larimer County Department of Public Welfare, et al.* Demand for increased blind pension. Dismissed.
8508. *Robert Weitzel v. James Dixon, et al.* Action to quiet title. No appearance since no State interest involved.
8515. *S. W. Hayes v. Jacob V. Collamer, et al.* Action to quiet title. No appearance made since no State interest involved.
8530. *Evan H. Smoyer, et al. v. John L. Bartholf, et al.* Action to quiet title. No appearance since no State interest involved.
- *Bernard Gilsdorf v. F. R. Carpenter, et al.* To enjoin defendant from enforcing "Bulletin No. 27." Consolidated with Union Delivery Company case. Dismissed.
- *Board of County Commissioners of the County of Larimer, et al. v. Grace E. Lange, et al.* Highway condemnation proceeding. Pending as to two respondents, tried and settled as to others.
- *Laton McCartney and R. E. L. Wilson, III, as Co-partners and Doing Business Under the Firm Name of Anchor Ranch Co., et al. v. Orton P. Matthews, et al.* Suit to quiet title. No appearance made since no State interest involved.

Docket
Number**Las Animas County**

15431. *The State of Colorado and Charles M. Armstrong, as Treasurer of the State of Colorado, v. The Mountain States Oil Corporation, et al.* Motor fuel tax. Awaiting trial.
15794. *The Tarabino Real Estate Company v. Isaac Sandoval; Colorado Tax Commission, Intervenor.* Taxes. Judgment for defendants. Dismissed. Received notice of order for transcript.
15795. *The Philip Schneider Brewing Company v. Isaac Sandoval, as County Assessor of Las Animas County; Colorado Tax Commission, Intervenor.* Taxes. Judgment for defendants. Notice of appeal served.
- *The State of Colorado and Charles M. Armstrong, as Treasurer of the State of Colorado, v. Mountain States Oil Corporation, a Corporation.* Injunction suit. Motor fuel tax distributor's bond. Injunction granted and case closed.
- *Homer F. Bedford, as Treasurer of the State of Colorado, v. Cherry Motor Company, a Corporation.* Sales tax. Returned to department for filing lien.
- *Homer F. Bedford, as Treasurer of the State of Colorado, v. Allan C. Jeffryes, et al.* Sales tax. Returned to department for filing lien.

Lincoln County

1335. *The State of Colorado, Acting Through Harold F. Collins, et al. v. Jennie M. Donovan.* Receivership for Land Board. Order discharging receiver April 6, 1942.

Logan County

7094. *Tom F. Moore, T. E. Brezeley, et al. v. The Durland Trust Company, et al.* Highway condemnation suit. Case dismissed at cost of plaintiff March 25, 1941.

Mesa County

6249. *Industrial Commission of Colorado v. R. E. Penberthy, d/b/a Excelsior Laundry Company.* Unemployment compensation. Partnership. Court ruled in favor of the State and taxes paid.
6550. *R. N. Roberts, et al. v. W. C. Swcinhart, et al.* Colorado Agricultural Marketing Act of 1939 regulating peach market. Judgment for defendants. No appeal taken.

Docket
Number

6670. *Board of County Commissioners of the County of Mesa, et al. v. C. L. Hawkins, Deceased; LeRoy S. McCoy, et al.* Highway condemnation suit. Pending completion of service.
6860. *The State Highway Department of the State of Colorado v. The Estate of George Moffet, Deceased, et al.* Highway condemnation suit. Pending.
- *The People of the State of Colorado v. H. O. Gilbert.* Injunction. A permanent injunction issued on stipulation February 24, 1942.
- *Board of County Commissioners of the County of Mesa, and the State Highway Department of the State of Colorado v. The West Colorado Company, a Corporation.* Highway condemnation suit. Pending settlement.
- *Mesa County Junior College District, a Body Corporate, v. State of Colorado.* To remove cloud from title by way of declaratory judgment. No appearance made.

Montrose County

5191. *Board of County Commissioners of the County of Montrose and the State Highway Department of the State of Colorado v. Mildred S. Meek, et al.* Highway condemnation proceeding. Case dismissed on motion of petitioner.
5480. *Randolph Kittleson v. E. E. Smith, et al.* Suit to quiet title. Disclaimer of State of Colorado filed. Pending.
5579. *The Western Colorado Advance Company v. The State of Colorado, F. R. Carpenter, et al.* To determine sales and service taxes due. Settlement made. Case closed.
- *In the Matter of the Petition of Jess D. Corbin for Hearing on Suspension of Automobile Operator's License.* Automobile license. Tried and awaiting decision of District Court.

Montezuma County

2384. *Edward D. Hunter v. C. H. Gunn, as Chief of Motor Vehicle Department.* Motor vehicle operator's license. Agreed that judge should hold for plaintiff so that constitutionality of statute may be determined.

Morgan County

6737. *Board of County Commissioners of the County of Morgan, and the State Highway Department of the State of Colorado v. Harold W. Stitt, et al.* Highway condemnation suit. Tried and paid.

Docket
Number

..... *Lloyd W. Mitchell v. Board of County Commissioners of Morgan County, State of Colorado, and State Highway Department.* Damages because of flood waters alleged to have been caused by highway bridge. Respondents appealed to Supreme Court.

Otero County

..... *Charles M. Armstrong, as Treasurer of the State of Colorado, v. Delos D. Potter.* Service tax for professional services. Appealed to the Supreme Court of Colorado.

..... *The Otero Irrigation District, a Public Corporation, v. The Board of County Commissioners of the County of Otero in the State of Colorado, et al.* Taxes. Tax Commission brought in as third party defendant. Pending.

..... *The People of the State of Colorado v. R. S. Thomason.* Concerning the revocation of a driver's license. Defendant signed consent to vacation of order entered January 10, 1941, and tendered to court his driver's license.

..... *The State of Colorado and Farrington R. Carpenter v. L. W. Keeling, et al.* To recover moneys due as motor fuel tax. Settled and paid by Casualty Indemnity Company.

Ouray County

2031. *Arthur W. Deuble and George H. Deuble, as Executors Under the Last Will and Testament of Walter H. Deuble, Deceased, et al. v. Laura S. Deuble, et al.* Suit to quiet title. Judgment and decree quieting title entered.

Park County

3087. *The State Highway Department of the State of Colorado v. Mary E. Seeley, Frank G. Davis, et al.* Condemnation suit. Judgment for defendants. Appealed to Supreme Court.

3138. *Bert L. Swisher v. The State Highway Department.* Highway case involving damage suit. Pending on motion to dismiss.

..... *Marie Arthur, et al. v. The City and County of Denver, a Municipal Corporation, et al.* Water rights. Pending.

Pueblo County

26113. *Industrial Commission of Colorado v. Pulley Service, Inc., a Corporation.* Unemployment compensation. Action to recover taxes. Pending.

Docket
Number

26186. *Austin G. Marsh, Executor of the Estate of George A. Marsh, v. Pueblo, a Municipal Corporation, Charles E. Saxton, et al.* To restrain defendants from levying and collecting taxes for "improvement refunding bonds." Attorney General elected not to intervene in this case.
27388. *The Walter Brewing Company, a Corporation, v. Walter F. Morrison, as Secretary of State of the State of Colorado and as Licensing Authority Under the Liquor Code of 1935.* To enjoin Secretary of State from enforcing liquor regulation. Temporary injunction entered. At issue.
27425. *A. C. Leach, etc. v. Teets, et al.* Unemployment compensation. Section 19(f) (1) and (4) of the Colorado Unemployment Compensation Act. Court ruled in favor of constitutionality but relieved the plaintiff of liability upon the theory that the facts in the case were not within the purview of the law. Appeal pending.
27618. *Rapalje v. Teets, et al.* Unemployment compensation. In this case, the constitutionality of Section 19(f) (3) of the 1939 Unemployment Compensation Act and of Section 8(a) and (b) of the 1941 Employment Security Act was challenged. The court held both sections constitutional, but relieved the plaintiff of liability upon the theory that the facts in the case did not come within the purview of said sections. Appeal pending.
28041. *The Star-Journal Publishing Corporation, a Corporation, v. Farrington R. Carpenter, as Director of Revenue.* Income tax refund. Pending on motion to strike.
28090. *Groff v. Zimmerman.* Damages. Pending.
- Justice Court. *Homer F. Bedford, as Treasurer of the State of Colorado, v. Pierce Seed & Mercantile Co., a Corporation.* Sales and service tax matter. Returned to department for filing lien.

Rio Grande County

2848. *J. P. Wiederkehr v. Walter F. Morrison, as Secretary of State of Colorado, et al.* To compel reinstatement of chauffeur's license. Dismissed.
4433. *The People of the State of Colorado v. American Surety Company of New York.* Concerning shortage of motor vehicle fees. Stipulation that decree be entered approving report of referee and adopting the same as decree of court and that specified sum be accepted in full settlement.
- Justice Court. *Homer F. Bedford, as Treasurer of the State of Colorado, v. D. W. Murray, Valley Auto Body Shop.* Attachment proceedings for sales tax. Returned to department for filing lien.

Docket
Number**Routt County**

2266. *The Board of County Commissioners of the County of Routt in the State of Colorado, and the State Highway Department of the State of Colorado, John B. Roup, et al.* Condemnation proceeding. Decreed to county commissioners.
- *Charles M. Armstrong, as Treasurer of the State of Colorado, v. Nick Kaloris.* Justice Court. Sales taxes. Settled and closed.

Saguache County

- *In the Matter of the Estate of Jacob A. Bennington, Deceased.* Land Board rental claims. Pending.

San Juan County

1772. *John R. Drenan v. H. C. Getty, et al.* Civil service matter. Pending.

Sedgwick County

1592. *Homer F. Bedford, as Treasurer of the State of Colorado, v. B. D. Parker, et al.* Action to recover sales taxes. Settled and closed.

Summit County

1780. *The State Highway Department of the State of Colorado v. Arthur D. James, et al.* Condemnation proceeding. Case dismissed.
1809. *The People of the State of Colorado, ex rel. The Board of County Commissioners of the County of Summit v. George Robinson and National Surety Corporation.* Collection of money on bond, allowance for attorneys' lien. Attorneys' fees allowed but not as lien against state moneys.

Teller County

4602. *Board of County Commissioners of the County of Teller and the State Highway Department of the State of Colorado v. The Great Northern Gold Mining Company, et al.* Condemnation proceedings. Pending.

Washington County

2713. *The People of the State of Colorado v. F. W. Loftiss.* Land Board matter. Findings and judgment for plaintiff. Pending on appeal.
- *Harold F. Collins, et al. v. Jacob Trautman, et al.* For the recovery of delinquent rentals. Settled.

Docket
Number**Weld County**

10025. *The Board of County Commissioners of Weld County v. Mrs. S. L. Syes, et al.* Condemnation proceedings. Pending settlement.
10106. *The Union Delivery Company, et al. v. Farrington R. Carpenter, et al.* To enjoin defendants from enforcing certain regulations in "Bulletin No. 27, Series of 1941." Hearing held on permanent injunction and injunction granted. No appeal taken.
10119. *The Board of County Commissioners of the County of Weld v. S. Adams, et al.* To quiet title. Decree entered and recorded with reservations in State's answer included in decree.
- *Julia M. Kilian Stockdale, et al. v. State of Colorado, et al.* Suit to quiet title. Attorney General elected to file no answer since no interests of State involved.
- *State Highway Department and Roy J. Randall v. Earl Collins.* Accident involving State Highway car. Pending settlement.
- *Homer F. Bedford, as Treasurer of the State of Colorado, v. Jack L. Kerns.* Sales tax attachment case. Returned to department for filing lien.

**IN THE DISTRICT COURT, FOURTH JUDICIAL DISTRICT,
COUNTY OF GUADALUPE, STATE OF NEW MEXICO**

2747. *In the Matter of the Application of James Forrest for a Writ of Habeas Corpus.* Interstate compact involved. Habeas corpus denied and bond fixed at \$2,500. Appeal dismissed.

WORKMEN'S COMPENSATION CASES IN THE DISTRICT COURTS OF COLORADO

Arapahoe County

Title	No.	Judgment of District Court
<i>People v. O'Farrell</i>	5834	Dismissed

Boulder County

<i>Betz, et al. v. Ind. Com., et al.</i>	10489	Award affirmed (Judgment reversed in Supreme Court)
<i>Betz, et al. v. Ind. Com., et al.</i>		Award reversed (Pending in Supreme Court on Motion)
<i>Spellman v. Ind. Com., et al.</i>		Dismissed

Clear Creek County

<i>Menegatti v. Ind. Com., et al.</i>	9203	Pending
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Denver County

<i>Aetna Casualty Surety Co., et al. v. Ind. Com., et al.</i>	A-34572	Pending
<i>American Manganese, et al. v. Ind. Com., et al.</i>	A-29562	Dismissed by stipulation
<i>Armour & Co., et al. v. Ind. Com., et al.</i>	A-33940	Award affirmed
<i>Berardi v. Ind. Com., et al.</i>	A-29732	Dismissed
<i>Black Diamond Fuel Co. v. Ind. Com., et al.</i>	A-30698	Remanded to Ind. Com.
<i>Blossom v. City and County of Denver, et al.</i>	A-25962	Pending
<i>Boulder Valley Coal Co. v. Ind. Com., et al.</i>	A-30553	Dismissed by stipulation
<i>Briggs v. Ind. Com., et al.</i>	A-18743	Pending
<i>Bruneel v. Ind. Com., et al.</i>	A-28197	Remanded to Ind. Com.
<i>Busheff v. Ind. Com., et al.</i>	A-30257	Pending
<i>Calumet Fuel Co. v. Ind. Com., et al.</i>	A-26637	Award affirmed
<i>Carlson v. Western Stock Show Ass'n, et al.</i>	A-28181	Dismissed
<i>Carroll v. Ind. Com., et al.</i>	A-25797	Award affirmed
<i>Castleton v. Ind. Com., et al.</i>	A-24190	Remanded to Ind. Com.
<i>Cline v. Lowdermilk Bros., et al.</i>	A-28238	Dismissed
<i>Cline v. Warrenberg, et al.</i>	A-28249	Award affirmed (Judgment reversed in Supreme Court)
<i>C. F. & I. Corp. v. Ind. Com., et al.</i>	A-26346	Award set aside (Judgment affirmed in Supreme Court)
<i>Colo. Springs Co. v. Ind. Com., et al.</i>	A-28347	Award set aside
<i>Consolidated Coal & Coke Co. v. Ind. Com., et al.</i>	A-31251	Award affirmed (Judgment affirmed in Supreme Court)

Title	No.	Judgment of District Court
<i>Cordillo v. Ind. Com., et al.</i>	A-33037	Award affirmed
<i>Day v. Ind. Com., et al.</i>	A-25878	Award set aside (Judgment reversed in Supreme Court)
<i>Deline v. Ind. Com., et al.</i>	A-29266	Award affirmed (Judgment affirmed in Supreme Court)
<i>Elder v. Ind. Com., et al.</i>	A-32830	Remanded to Ind. Comm. (Reversed by Ind. Com.) Settled and dismissed
<i>Elliott v. Ind. Com., et al.</i>	A-34373	Award affirmed
<i>Fidelity & Casualty Co. of N. Y., et al. v. Ind. Com., et al.</i>	A-35781	Pending
<i>Fidelity & Casualty Co. of N. Y., et al. v. Ind. Com., et al.</i>		Pending
<i>Gallegos v. Ind. Com., et al.</i>	A-32998	Award affirmed
<i>Garrett v. Ind. Com., et al.</i>	A-33964	Award set aside (Pending in Supreme Court)
<i>Gatti v. Ind. Com., et al.</i>	A-28916	Award affirmed
<i>General Motors, Inc., et al. v. Ind. Com. et al.</i>	A-29657	Award affirmed
<i>Godsoe v. City and County of Denver, et al.</i>	A-24267	Award affirmed
<i>Gordon Coal Co. v. Ind. Com., et al.</i>	A-24904	Pending
<i>Graden Coal Co., et al. v. Ind. Com., et al.</i>		Pending
<i>Great American Indemnity Co. v. Ind. Com., et al.</i>	A-30079	Award affirmed (Judgment affirmed in Supreme Court)
<i>Grenfell v. Ind. Com., et al.</i>	A-31112	Award set aside (Judgment reversed in Supreme Court)
<i>Hallack & Howard Lumber Co. v. Ind. Com., et al.</i>	A-26751	Pending
<i>Hardin v. Ind. Com., et al.</i>	A-	Pending
<i>Hayden Coal Co. v. Cathron, et al.</i>	A-31480	Award affirmed (Judgment affirmed in Supreme Court)
<i>Hayden Coal Co. v. Ind. Com., et al.</i>	A-33249	Award affirmed
<i>Hollaus v. Adolph Coors Co., et al.</i>	A-29362	Award set aside (Judgment reversed in Supreme Court)
<i>Hurtado v. National Fuel Co., et al.</i>	A-25403	Pending
<i>Hygienic Service Co., et al v. Harold G. Wagner, et al.</i>	A-	Pending
<i>International Mutual Liability Co. v. Curro, et al.</i>	A-23915	Remanded to Ind. Com. for further proceedings
<i>International Mutual Liability Co. v. Ramirez, et al.</i>	A-24691	Pending
<i>Jewell Collieries Co. v. Ind. Com., et al.</i>	A-30950	Award affirmed (Affirmed by Supreme Court, pending on re-hearing)

Title	No.	Judgment of District Court
<i>Kamp v. Ind. Com., et al.</i>	A-34788	Pending
<i>Kirkpatrick, et al. v. Ind. Com., et al.</i> ...	A-35675	Pending on motion
<i>Kohne v. Ind. Com., et al.</i>	A-35272	Pending
<i>Kokel, Frank v. Ind. Com., et al.</i>	A-28723	Remanded to Ind. Com. (Judgment reversed in Supreme Court)
<i>Kokel, Frank v. Ind. Com., et al.</i>	A-34617	Award affirmed
<i>Kokel, Louis v. Ind. Com., et al.</i>		Pending
<i>Liso v. Ind. Com., et al.</i>	A-17638	Pending
<i>Long v. City & County of Denver, et al.</i>	A-17477	Pending
<i>Metropolitan Pontiac, Inc., et al. v. Ind. Com., et al.</i>	A-28961	Award set aside
<i>Metros v. Ind. Com., et al.</i>	A-30001	Award affirmed (Judgment reversed in Supreme Court and cause remanded with instructions)
<i>Midwest Fuel Co. v. Ind. Com., et al.</i> ...	A-34535	Pending
<i>Midwest Fuel Co. v. Ind. Com., et al.</i> ...	A-34534	Pending
<i>Moffat Coal Co. v. Ind. Com., et al.</i>	A-28802	Award set aside
<i>Moffat Coal Co. v. Ind. Com., et al.</i>	A-29085	Award affirmed (Judgment affirmed in Supreme Court)
<i>Moore v. Ind. Com., et al.</i>	A-29251	Award affirmed
<i>National Fuel Co., et al. v. Ind. Com., et al.</i>	A-26405	Pending
<i>National Fuel Co., et al. v. Ind. Com., et al.</i>	A-32086	Judgment entered by stipulation
<i>Pacific Employers Insurance Co., et al. v. Kirkpatrick, et al.</i>	A-35793	Pending
<i>Panos v. Ind. Com., et al.</i>	A-29943	Award affirmed
<i>Penna, et al. v. Ind. Com., et al.</i>	A-32539	Award reversed (Judgment affirmed in Supreme Court)
<i>People v. Manley Coal Co.</i>	A-29618	Dismissed by stipulation
<i>Pitchforth, et al. v. Ind. Com., et al.</i> ...	A-33024	Award affirmed (Judgment reversed in Supreme Court, pending on re-hearing)
<i>Quigley v. Ind. Com., et al.</i>	A-31726	Pending
<i>Rand v. Ind. Com., et al.</i>	A-30220	Award affirmed (Pending in Supreme Court)
<i>Robinson v. Ind. Com., et al.</i>	A-28597	Pending
<i>Rocky Mt. Fuel Co., et al. v. Ind. Com., et al.</i>	A-27743	Award set aside (Judgment affirmed in Supreme Court)
<i>Rocky Mt. Fuel Co., et al. v. Ind. Com., et al.</i>	A-30787	Award set aside
<i>Rocky Mt. Fuel Co., et al. v. Ind. Com., et al.</i>	A-32709	Award affirmed (Judgment affirmed in Supreme Court)

Title	No.	Judgment of District Court
<i>Rosenstock, et al. v. Ind. Com., et al.</i>	A-25110	Judgment by stipulation
<i>St. Paul Mercury Indemnity Co., et al. v. Ind. Com., et al.</i>	A-30166	Dismissed by stipulation
<i>Santarelli v. Ind. Com., et al.</i>	A-30323	Award set aside (Judgment reversed in Supreme Court)
<i>Shepherd v. Ind. Com., et al.</i>	A-	Pending
<i>Sinclair v. Ind. Com., et al.</i>	A-32273	Award set aside (Judgment reversed in Supreme Court)
<i>State Compensation Fund, et al. v. Gay, et al.</i>	A-	Award affirmed
<i>State Compensation Fund, et al. v. Mattivi</i>	A-25950	Award affirmed (Judgment reversed in Supreme Court)
<i>Stokes v. Ind. Com., et al.</i>	A-	Pending
<i>Strome v. Ind. Com., et al.</i>	A-25253	Award set aside (Judgment reversed in Supreme Court)
<i>Tarrant v. DeLashmutt, et al.</i>	A-28682	Award affirmed (Judgment affirmed in Supreme Court)
<i>Thurman v. Ind. Com., et al.</i>	A-	Pending
<i>Tufford v. Ind. Com., et al.</i>	A-34862	Award affirmed
<i>U. S. F. & G., et al. v. Ind. Com., et al.</i>	A-32507	Award affirmed
<i>Warner Construction Co., et al. v. Watkins, et al.</i>	A-28143	Award affirmed (Judgment affirmed in Supreme Court)
<i>Warner, et al. v. Ind. Com., et al.</i>	A-34903	Pending
<i>Warner, et al. v. Messick, et al.</i>	A-28273	Award affirmed (Judgment affirmed in Supreme Court)
<i>Wierman v. Ind. Com., et al.</i>	A-29609	Award affirmed (Judgment affirmed in Supreme Court)
<i>Wilchek v. Ind. Com., et al.</i>	A-29097	Award affirmed
<i>Wilkowski v. Ind. Com., et al.</i>	A-32978	Pending
<i>Young v. City and County of Denver, et al.</i>	A-19454	Award set aside (Remanded to Ind. Com. for further proceedings)
<i>Zvanchuk v. Ind. Com., et al.</i>	A-28581	Pending

El Paso County

<i>Adams v. Ind. Com., et al.</i>	22032	Pending
<i>Baublits v. Grace, et al.</i>	22590	Dismissed
<i>Downing v. Ind. Com., et al.</i>	22536	Award set aside (Judgment reversed in Supreme Court)
<i>Downs v. Ind. Com., et al.</i>	22964	Award affirmed (Judgment reversed in Supreme Court)
<i>Golden Cycle Corp., et al. v. Ind. Com., et al.</i>	22506	Pending

Title	No.	Judgment of District Court
<i>Lambrecht v. Ind. Com., et al.</i>	22859	Award affirmed
<i>McCulloch v. Ind. Com., et al.</i>	22804	Award affirmed (Judgment affirmed in Supreme Court)
<i>Simmons v. Gold Mines Consolidated, et al.</i>	22580	Award set aside (Judgment reversed in Supreme Court)
<i>Skjoldahl v. Ind. Com., et al.</i>	22548	Award affirmed (Judgment affirmed in Supreme Court)

Huerfano County

<i>Bonse v. Ind. Com., et al.</i>	2443	Pending
<i>Mattivi v. Ind. Com., et al.</i>		Award affirmed

Las Animas County

<i>Borsa v. Deldosso, et al.</i>	15404	Pending
<i>Sebastianelli v. Ind. Com., et al.</i>	15692	Award set aside (Judgment affirmed in Supreme Court)

Mesa County

<i>Carpenter v. Ind. Com., et al.</i>	6585	Award set aside (Judgment reversed in Supreme Court)
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Morgan County

<i>Byrnes v. Ind. Com., et al.</i>	6737	Award affirmed
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Otero County

<i>Maxon v. Ind. Com., et al.</i>	4847	Award affirmed
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Ouray County

<i>Franz v. Ind. Com., et al.</i>		Pending
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Pueblo County

<i>Ball, et al. v. Ind. Com., et al.</i>	25764	Pending
<i>Brown v. Ind. Com., et al.</i>	27775	Under advisement

Routt County

<i>Eubang v. Ind. Com., et al.</i>		Pending
<i>Zimmerman, et al. v. Ind. Com., et al.</i> ...	2405	Award affirmed (Judgment reversed in Supreme Court)
<i>Zimmerman, et al. v. Ind. Com., et al.</i> ...		Award affirmed (Judgment affirmed in Supreme Court)

Weld County

<i>Mason and Casselman v. Ind. Com., et al.</i> ...	9939	Award set aside (Judgment affirmed in Supreme Court)
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ESCHEAT CASES**Adams County**

Estate of Carl Martin Christiansen, Deceased.
Pending.

Arapahoe County

Estate of Bernhardt Petersen, Deceased.
Pending.

Estate of Mary E. Rockey, Deceased.
Pending.

Boulder County

Estate of Lena Coombs, Deceased.
Pending.

Estate of Mary Matilda Petersen, Deceased.
Pending.

Chaffee County

Estate of Steve Stozonich, Deceased.
Pending.

Estate of George Woods, also known as Jim Geiger, Deceased.
Estate closed and money paid to State Treasurer.

Clear Creek County

Estate of Eugene Goguel, Deceased.
Estate closed and money paid to State Treasurer.

Estate of George Wahlstrom, Deceased.
Pending.

Delta County

Estate of Albert Ronaky, Deceased.
Pending.

City and County of Denver

Estate of Leo Andersen, Deceased.
Estate closed and money paid to State Treasurer.

Estate of Charles C. Andrus, Deceased.
Estate closed and money paid to State Treasurer.

Estate of Frank Angelo, Deceased.
Pending.

- Estate of Theodore T. Angeloff, Deceased.*
Pending.
- Estate of George Bircinis, Deceased.*
Estate closed and money paid to State Treasurer.
- Estate of Charles H. Booth, Deceased.*
Pending.
- Estate of Max J. Brown, Deceased.*
Estate closed and money paid to State Treasurer.
- Estate of Carle Edward Carlson, Deceased.*
Pending.
- Estate of Della S. Castle, Deceased.*
Estate closed and money paid to State Treasurer.
- Estate of Rebecca Chandler, Deceased.*
Estate closed and money paid to State Treasurer.
- Estate of Catherine Covert, Deceased.*
Estate closed and money paid to State Treasurer.
- Estate of James M. Craig, Deceased.*
Estate closed and money paid to State Treasurer.
- Estate of Leonard Croft, Deceased.*
Estate closed and money paid to State Treasurer.
- Estate of Nellie B. Daggett, Deceased.*
Estate closed and money paid to State Treasurer.
- Estate of Marie L. Dietemann, Deceased.*
Estate closed and money paid to State Treasurer.
- Estate of Charles Duboy, Deceased.*
Estate closed and money paid to State Treasurer.
- Estate of John Fernstrom, Deceased.*
Estate closed and money paid to State Treasurer.
- Estate of Katherine D. Funk, Deceased.*
Estate closed and money paid to State Treasurer.
- Estate of Rose Gold, Deceased.*
Pending.
- Estate of Nellie Gomer, Deceased.*
Estate closed and money paid to State Treasurer.
- Estate of Vasiliōs Harilokis, Deceased.*
Estate closed and money paid to State Treasurer.
- Estate of George Henry, Deceased.*
Estate closed and money paid to State Treasurer.

Estate of Edward Jensen, Deceased.

Pending.

Estate of Rose Judd, Deceased.

Estate closed and money paid to State Treasurer.

Estate of Newton Isaac Kerr, Deceased.

Pending.

Estate of Sam Klode, Deceased.

Estate closed and money paid to State Treasurer.

Estate of Margaret Lense, Deceased.

Estate closed and money paid to State Treasurer.

Estate of J. L. Lewis, Deceased.

Pending.

Estate of Marie Maher, Deceased.

Pending.

Estate of Nina Majeski, Deceased.

Estate closed and money paid to State Treasurer.

Estate of Domenic Marinelli, Deceased.

Estate closed and money paid to State Treasurer.

Estate of Patrick Marron, Deceased.

Estate closed and money paid to State Treasurer.

Estate of Albert J. McDonald, Deceased.

Estate closed and money paid to State Treasurer.

Estate of John F. McMahon, Deceased.

Estate closed and money paid to State Treasurer.

Estate of Charles Meissner, Deceased.

Estate closed and money paid to State Treasurer.

Estate of Martin Messerian, Deceased.

Estate closed and money paid to State Treasurer.

Estate of Charles O. Miller, Deceased.

Pending.

Estate of Robert Morris, Deceased.

Estate closed and money paid to State Treasurer.

Estate of William M. Murphy, Deceased.

Estate closed and money paid to State Treasurer.

Estate of Michael H. Newman, Deceased.

Pending.

Estate of Paul Nicolai, Deceased.

Estate closed and money paid to State Treasurer.

Estate of Joseph Panek, Sr., Deceased.

Estate closed and money paid to State Treasurer.

Estate of Katherine Panek, Deceased.

Estate closed and money paid to State Treasurer.

Estate of John Charles Patterson, Deceased.

Pending.

Estate of Agnes Pecinovsky, Deceased.

Estate closed and money paid to State Treasurer.

Estate of Cornelia J. Pointer, Deceased.

Pending.

Estate of Regina R. Richman, Deceased.

Estate closed and money paid to State Treasurer.

Estate of John Ryan, Deceased.

Estate closed and money paid to State Treasurer.

Estate of Gottlieb Schnetzer, Deceased.

Estate closed and money paid to State Treasurer.

Estate of Rebecca Skass, Deceased.

Estate closed and money paid to State Treasurer.

Estate of Lottie Frances Smart, Deceased.

Estate closed and money paid to State Treasurer.

Estate of Magdalena Bischoff Smart, Deceased.

Estate closed and money paid to State Treasurer.

Estate of Curtis F. Smith, Deceased.

Estate closed and money paid to State Treasurer.

Estate of Mose Sobel, Deceased.

Estate closed and money paid to State Treasurer.

Estate of Thomas Solaghian, Deceased.

Estate closed and money paid to State Treasurer.

Estate of Lucy C. Spieer, Deceased.

Pending.

Estate of Mary F. Stewart, Deceased.

Pending.

Estate of Emma Stadelman, Deceased.

Pending.

Estate of Jefferson Summers, Deceased.

Pending.

Estate of Alfred Teiner, Deceased.

Estate closed and money paid to State Treasurer.

Estate of Ella E. Thomasson, Deceased.

Estate closed and money paid to State Treasurer.

Estate of William Trabue, Deceased.

Pending.

Estate of Mattie Truman, Deceased.

Estate closed and money paid to State Treasurer.

Estate of Belle Tweedale, Deceased.

Pending.

Estate of Maria Elcanore Valcherl, Deceased.

Estate closed and money paid to State Treasurer.

Estate of James C. Wallace, Deceased.

Estate closed and money paid to State Treasurer.

Estate of Elizabeth Walsh, Deceased.

Pending.

Estate of Sam Weitch, Deceased.

Estate closed and money paid to State Treasurer.

Estate of Elvira B. Werthes, Deceased.

Pending.

Estate of Ella E. Whitfield, Deceased.

Pending.

Estate of Horatio O. Whitman, Deceased.

Estate closed and money paid to State Treasurer.

Estate of Helen Wikoff, Deceased.

Estate closed and money paid to State Treasurer.

Estate of Nora Wright, Deceased.

Pending.

Estate of Spiridion Zuros, Deceased.

Estate closed and money paid to State Treasurer.

Dolores County

Estate of Joseph Mundl, Deceased.

Pending.

El Paso County

Estate of Clement S. Clark, Deceased.

Estate closed and money paid to State Treasurer.

Estate of Margaret Flynn, Deceased.

Estate closed and money paid to State Treasurer.

Estate of Michael Maher, Deceased.

Estate closed and money paid to State Treasurer.

Estate of Henry Meyer, Deceased.

Estate closed and money paid to State Treasurer.

Estate of Ernest Schurig, Deceased.

Pending.

Estate of John Taylor, Deceased.

Pending.

Fremont County

Estate of Ernest H. Pruter, Deceased.

Estate closed and money paid to State Treasurer.

Grand County

Estate of Gus J. Miller, Deceased.

Pending.

Gunnison County

Estate of Robert Ahrens, Deceased.

Estate closed and money paid to State Treasurer.

Estate of Edgar L. Miller, Deceased.

Pending.

Estate of Erik Norlif, Deceased.

Pending.

Jefferson County

Estate of Robert H. Rhodes, Deceased.

Estate closed and money paid to State Treasurer.

Estate of Josephine Sullivan, Deceased.

Estate closed and money paid to State Treasurer.

Lake County

Estate of Ivan Precla, Deceased.

Pending.

La Plata County

Estate of Edward J. Belmer, Deceased.

Pending.

Estate of Andrew J. Oblinger, Deceased.

Pending.

Larimer County

Estate of Mary E. Bean, Deceased.

Estate closed and money paid to State Treasurer.

Estate of Georgiana Coff, Deceased.

Estate closed and money paid to State Treasurer.

Las Animas County

Estate of Mike Costley, Deceased.

Pending.

Mesa County

Estate of John Hanson, Deceased.

Pending.

Estate of William Pope, Deceased.

Estate closed and money paid to State Treasurer.

Estate of Carl Stranger, Deceased.

Pending.

Moffat County

Estate of George Letras, Deceased.

Pending.

Morgan County

Estate of John Samuel Urbauer, Deceased.

Pending.

Otero County

Estate of Caroline N. Cauffman, Deceased.

Estate closed and money paid to State Treasurer.

Estate of Lillian Gordon, Deceased.

Pending.

Estate of Adella McIntosh, Deceased.

Pending.

Estate of Mary Pruter, Deceased.

Estate closed and money paid to State Treasurer.

Pitkin County

Estate of John Molenaar, Deceased.

Pending.

Pueblo County

Estate of Robert Foster, Deceased.

Pending.

Estate of Bessie French, Deceased.

Pending.

Estate of F. W. Hilder, Deceased.

Estate closed and money paid to State Treasurer.

Estate of Walter C. Jackson, Deceased.
Pending.

Estate of Warren W. Knowlton, Deceased.
Pending.

Estate of Jack Koprivica, Deceased.
Pending.

Estate of Laura McIntosh, Deceased.
Pending.

Estate of Gescmino Nibbo, Deceased.
Estate closed and money paid to State Treasurer.

Estate of Marshall G. Parr, Deceased.
Pending.

Estate of J. E. Reilly, Deceased.
Pending.

Estate of Oliver W. Scott, Deceased.
Pending.

Estate of Garrassimos Spiratos, Deceased.
Pending.

Estate of Ben J. Wolf, Deceased.
Estate closed and money paid to State Treasurer.

Routt County

Estate of Ben Bosman, Deceased.
Estate closed and money paid to State Treasurer.

Estate of Lucy Campbell, Deceased.
Estate closed and money paid to State Treasurer.

Saguache County

Estate of Axel Anderson, Deceased.
Pending.

Estate of Thomas H. Thompson, Deceased.
Pending.

Summit County

Estate of Daniel Wesley Full, Deceased.
Pending.

Teller County

Estate of H. Charlotte Dorman, Deceased.
Estate closed and money paid to State Treasurer.

Weld County

Estate of James R. Holloway, Deceased.
Pending.

Estate of Martha B. Holmes, Deceased.
Pending.

Estate of Anton Prusek, Deceased.
Pending.

Yuma County

Estate of Patrick Nevils, Deceased.
Pending.

MISCELLANEOUS**BEFORE THE INTERSTATE COMMERCE COMMISSION**

FD 13366. *Application of Laramie, North Park and Western Railroad Company Authorizing the Abandonment of Its Line of Railroad from Laramie, Wyoming, to Coalmont, Colorado, in Albany County, Wyoming, and Jackson County, Colorado.* Protesting the abandonment of a railway. Application to abandon denied.

FD 13799. *Application of Union Pacific R. R. Co. to Abandon Portions of Branches in Weld County Extending from Greeley to Briggsdale and Purcell.*

FD 13987. *Application of Chicago, Burlington & Quincy R. Co. to Abandon Branch Line of Railroad Extending from Sterling, Colorado, to Cheyenne, Wyoming.*

28885. *Sheridan, Wyoming Coal Co., Inc. v. Chicago, Burlington & Quincy R. Co.* Pending before the Interstate Commerce Commission and not set for hearing. Involves rates on coal from western producing points to points in Nebraska, Kansas and South Dakota.

28887. *Northern Colorado Coals, Inc. v. Atchison, Topeka & Santa Fe Ry. Co.* Pending before Interstate Commerce Commission, not set for hearing. Involves rates from western producing points to points in Nebraska, Kansas and South Dakota.

..... *Petition of Certain Carriers for a General Investigation of Rates on Coal from Colorado, New Mexico, Utah and Wyoming to Points in Nebraska, Kansas and South Dakota.* Petition denied.

..... *Southern Wyoming Coal Operators Association, Public Utilities Commission (Intervenor) v. Chicago, Burlington & Quincy Railroad Company, et al.* Public utilities matter. Pending.

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE
STATE OF COLORADO**

6022. *In the Matter of the Application of the Area Engineer, Rocky Mountain Arsenal, for the Opening of Two Railroad Spur Track Grade Crossings Over the Right of Way and Traveled Roadway Section of Colorado State Highway No. 2, Federal Highway No. 6, at a Point Near Derby.* Commission handed down its order June 24, 1942.

BEFORE COMMISSIONER OF GENERAL LAND OFFICE

- *In the Matter of Application of Jose Dionisic Samora to Apply for Survey of Government Lands (Island at Grand Junction).* Notice of intention to apply for survey of government lands received December 22, 1938. State Highway Department has been holding money to cover value of gravel pending determination of ownership of island. Matter settled.

**BEFORE THE CIVIL SERVICE COMMISSION OF THE STATE
OF COLORADO**

126. *The People of the State of Colorado, ex rel. George E. Saunders, State Licensing Authority, v. E. W. Tarrant, Colorado Excise Tax Inspector, State Licensing Authority.* Civil service action against E. W. Tarrant. Defendant resigned February 10, 1941.
136. *John E. Hill, Carl G. Morse and Grayce M. Smith v. J. H. Wallace.* Charges against employee of the State Industrial School. Evidence held insufficient to warrant removal. Charges dismissed with penalty imposed.
150. *The People of the State of Colorado, ex rel. Charles D. Vail, et al. v. Wybert Little, Patrolman Helper, State Highway Department.* Civil service charges. Defendant ordered discharged.

SCHEDULE III

OPINIONS AND SYLLABI OF OPINIONS

Rendered During the Biennial Period

1941-1942

Note: These syllabi and opinions are reported in the chronological order of the dates on which the opinions were rendered. A copy of each opinion is on file under a number corresponding with that of the syllabus.

1

HIGHWAYS

Mr. Chas. D. Vail,
December 26, 1940.

The Highway Department must bear the expense of moving pole lines of a telephone or telegraph company, if the company has acquired title by adverse possession or has had uninterrupted possession of its right of way for six years. One who purchases land after a public utility, with right to condemn, has occupied such land and placed valuable improvements upon it, takes such land with knowledge of and subject to the burden of the right of way.

2

INSURANCE

Hon. Luke J. Kavanaugh,
December 30, 1940.

Domestic mutual companies, as well as stock companies, are restricted in their purposes of organization under Section 27, Chapter 87, 1935 Colorado Statutes Annotated.

3

ACCOUNTANCY

Mr. A. L. Baldwin,
January 2, 1941.

Registered Accountancy License by Reciprocity.

The Board of Accountancy, in its discretion, may issue certificates to registered accountants who have passed the American Institute examination in states other than Colorado, if it appears that the requirements in such foreign states are similar to the requirements in Colorado. This is a discretionary power and is not mandatory.

4

SERVICE TAX

J. Glenn Donaldson, Esq.,
January 3, 1941.

Public Stenographers.

Public stenographers must collect and remit 2 per cent service tax upon services rendered which consist of:

(1) Taking and transcribing stenographic reports.

(2) All services rendered in multigraphing, addressographing, mailing and listing. (Section 5(e), Chapter 202, 1941 S. L.)

5

BANKS AND BANKING

Hon. Maple T. Harl,
January 3, 1941.

Half-Holidays.

The State Banking Act does not prohibit closing of banks on Saturday afternoons. In the absence of representation or contract otherwise, no liability will be incurred by banks so closing on Saturday afternoons.

6

TAXATION—COUNTIES

Mr. Addison M. Gooding,
January 15, 1941.

The right of boards of county commissioners to sell tax certificates for less than face under the provisions of Section 247, Chapter 142, 1935 C. S. A., and without the legal limitations of Section 247 of that chapter is confined to certificates representing general taxes only, and not those for delinquent special assessments.

7

LEGISLATION

Hon. Walter F. Morrison,
January 16, 1941.

House Resolution No. 4.

House Resolution No. 4 is ineffective for the purpose of furnishing copies of Colorado Statutes Annotated to each member of the Legislature. Money may not be appropriated save by a bill properly passed, and approved by the Governor. (*Lithographing Co. v. Henderson*, 18 Colo. 259.)

8

LEGISLATION

Hon. Speaker of the House of Representatives,
January 16, 1941.

When the House has voted down an emergency clause to a bill and the bill comes back from the Senate essentially modified and reinstating the emergency clause, it would be competent for the House to concur in such reinstatement of the emergency clause as a mere matter of amendment.

9

LIVESTOCK—HIGHWAYS

Mr. O. T. Reedy,
January 17, 1941.

It is unlawful to let animals run at large on a fenced highway. There is no statute prohibiting the running at large of animals on a highway which is not fenced as provided in Section 63, Chapter 160, 1935 C. S. A.

10

TAXES—COUNTY OFFICERS
(Certificates of Purchase)

Colorado Tax Commission,
January 17, 1941.

(1) There is no statutory provision for subsequent taxes ever to become a part of a certificate of purchase issued to a county.

(2) The treasurer is the custodian of tax certificates issued to the county.

11

NEWSPAPERS

Mr. J. R. Valdez,
January 18, 1941.

Legal Publication.

If a paper has been published outside the county for a period of weeks, the continuity in publication is considered to have been broken. To qualify as a legal publication, the continuity must be reestablished by continuous publication under the statute for a period of 52 weeks. (Section 3, Chapter 130, 1935 C. S. A.)

12

STATE COMMISSION FOR THE BLIND

Mrs. Kathryn C. Barkhausen,
January 20, 1941.

Levy for Colorado Industrial Workshop for the Blind.

The word "maintenance" as used in Section 4, Chapter 78, Session Laws of 1937, is employed in the sense of "upkeep" and can have no relationship to operating expense. Fuel, therefore, could not be properly charged to a levy for equipping, maintaining and furnishing a building.

13

**AGRICULTURAL COLLEGE—ANTICIPATION
WARRANTS**

Hon. Homer F. Bedford,
January 21, 1941.

The State Board of Agriculture may legally invest Land Grant Funds in ten-year building program anticipation warrants. (Chapter 69, page 213, Session Laws of 1939.)

14

COUNTIES

Mr. J. F. Meador,
January 21, 1941.

Investment of Surplus Funds.

Surplus funds of a county cannot be legally invested in saving certificates of a Colorado corporation whose certificates are

guaranteed by the Federal Deposit Insurance Corporation. (Section 143, Chapter 45, 1935 C. S. A., as amended.)

15 STATE BOARD OF ACCOUNTANCY

Mr. Arthur L. Baldwin,
January 21, 1941.

Excess fees collected by the State Board of Accountancy should be deposited, either annually or biennially, with the State Treasurer to the credit of the General Fund. (Section 12, Chapter 132, 1935 C. S. A.)

16 LEGISLATURE

Hon. Homer F. Pearson,
January 24, 1941.

House Bill No. 721.

It is competent for the Legislature to correct defects or imperfections in the title of a bill or amend it at any time before final passage if the object of the bill is not thereby essentially changed.

17 CITIES AND TOWNS

Mrs. Thelma G. Herrin,
January 24, 1941.

Warrants Drawn on Water Fund.

The water funds of a city cannot be used for general obligations, and can only be used for water department purposes and retirement of bonded indebtedness of water system. (Sections 416-417, Chapter 163, 1935 C. S. A.)

18 SCHOOLS

Mrs. Inez Johnson Lewis,
January 27, 1941.

A third class school district may not issue bonds for the purpose of drilling a well on school property and furnishing water therefrom to the public.

19 ELECTIONS

Mr. Robert J. Reardon,
January 27, 1941.

(1) The law does not provide for a primary in municipal elections for incorporated towns. (Section 19, Chapter 59, 1935 C. S. A.)

(2) Registration for city elections are made in the same manner as electors are registered by the county clerk for general elections. (Section 19, Chapter 103, 1939 S. L.)

20 COUNTY OFFICERS

Mr. Arthur E. Aldrich,
January 27, 1941.

An under-sheriff cannot be paid a salary in addition to fees earned by him in the exercise of the duties of his office. (Section 15, Article XIV, Colorado Constitution.)

21 NEWSPAPERS

Mr. Daniel Milenski,
January 27, 1941.

The publication of a list of nominations must be, as nearly as possible, in the form in which such nominations appear upon the official ballot. (Section 78, Chapter 59, 1935 C. S. A.)

22 ELECTIONS

Mr. Dan H. Hughes,
January 28, 1941.

Payment of specific ownership tax on automobile does not qualify a person as a taxpaying elector. One who is the owner of property in calendar year next preceding an election at which only taxpaying electors are qualified to vote, which property was liable for the payment of the tax but which tax is not paid, is qualified to vote. (Section 17, Chapter 59, 1935 C. S. A.)

23 SALES AND SERVICE TAXES

Mr. Ed Rich,
January 28, 1941.

Sales from Government Canteens, Buck Act.

Sales made and services rendered by government commissaries, canteens and post exchanges to authorized persons in the army and navy personnel are excepted from taxation under the "Buck" Act.

Sales and services to unauthorized persons are taxable. Likewise, sales made or services rendered by concessioners on army posts are taxable.

24 STATE BOARD OF EMBALMING EXAMINERS

State Board of Embalming Examiners,
January 28, 1941.

Board of Embalming Examiners may pass reasonable rules and regulations tending to raise qualifications of applicants for license, but may not pass rule or regulation that will affect status of holder of license previously issued. (Section 6, Chapter 105, 1939 S. L.)

25 INSANE PERSONS

Mr. Howard S. Pine,
January 29, 1941.

Patients may be placed in the Colorado State Hospital, with the consent of the superintendent, for observation and treatment without a lunacy commitment, if so ordered by the county judge having jurisdiction.

26 NEWSPAPERS

Mr. Claud Swift,
January 31, 1941.

A newspaper, at least 50 per cent of which is printed in the Spanish language, is not a legal newspaper as contemplated by statute and is, therefore, not qualified to publish legal notices. (Section 2, Chapter 130, 1935 C. S. A.)

27 EMPLOYEES

Mr. Thomas Allen,
February 3, 1941.

Any State employee, a member of the State Employees Retirement Association, who has been retired from service and receives the retirement annuity, cannot return to the service of the State and draw compensation or fees, unless by special arrangement with and resolution by the Colorado Employees Retirement Association.

28 COUNTY OFFICERS

Mr. G. N. Baxter,
February 3, 1941.

Salary Claim of County Clerk and County Superintendent of Schools.

Where the law provides that an elective official holds office until the second Tuesday in January and he thereby serves either a few days more, or a few days less, than the number of years for

which he was actually elected, and where the law provides for a salary of a stipulated amount per year, such officer is entitled to the pro rata amount of such salary, either to be added to his compensation for the days served in excess of his term, or to have deducted a similar amount for the days served short of the term for which he was elected.

29 INTOXICATING LIQUORS

Hon. Walter F. Morrison,
February 4, 1941.

Refund for Unused Stamps.

The State Licensing Authority, under the Intoxicating Liquors Revenue Act, may, by the promulgation of rules and regulations, provide for the refund of the purchase price of unused stamps, in the same proportion as the funds from the sale have previously been allocated and such stamps placed for resale so that the total sale of stamps equals the total allocation of funds. (Sections 38 and 40, Chapter 89, 1935 C. S. A.)

30 SCHOOLS

Mrs. Inez Johnson Lewis,
February 4, 1941.

On division of a school district, the new districts so formed are liable for their proportionate share of the bonded indebtedness of the original district, and hence are limited in issuing new bonds in their new capacity as separate districts. Such "new" districts may be assigned new numbers. ✓

31 LEGISLATURE

Hon. William A. Carlson,
February 5, 1941.

The rules of the House of Representatives make it clear that standing committees have no right to amend bills, but must recommend amendments to the Committee of the Whole which shall consider each amendment individually after considering the bill as originally filed. Rule XX, Section 2, of the House Rules, is applicable.

32 ENGINEERS

Colorado State Board of Examiners of Engineers and Land Surveyors,
February 6, 1941.

City engineers holding new terms of office subsequent to the

enactment of Senate Bill 198 must be licensed by the State Board of Examiners for Engineers and Land Surveyors. (Section 12 (7), Chapter 62, 1935 C. S. A.)

33 **COUNTIES**

Board of County Commissioners,
February 13, 1941.

Powers of Counties.

A county does not have power to provide funds for the purpose of forming a voluntary association organized for the purpose of petitioning the federal government to allocate back to the county certain sums of money in lieu of taxes on public lands. (Section 25, Chapter 45, 1935 C. S. A.)

34 **COUNTY OFFICERS**

Hon. J. O. Valdez,
February 13, 1941.

Where a county judge elects to act as clerk of the court in counties of the fourth class, he is not entitled to receive compensation for his work as acting clerk.

35 **COUNTY OFFICERS**

Hon. Earl J. Herman,
February 13, 1941.

Section 70, Chapter 66, 1935 C. S. A., must be interpreted to provide a salary of \$1400.00 for clerks of the county court in counties of the third class, Division "C".

36 **MOTOR VEHICLES**

Mr. Edw. H. Madison,
February 14, 1941.

Where the statute fixing a fine makes no provision for disposition thereof, money so collected should be paid into school funds of county where violation occurred. (Sections 319, 343, and 365, Chapter 16, 1935 C. S. A.; *Denver v. School Dist.*, 94 Colo. 406; Section 34, Chapter 146, 1935 C. S. A.)

37 **UNIVERSITY OF COLORADO**

Dr. Robert L. Stearns,
February 15, 1941.

School corporations in this State are part of the educational system and are agencies of the State. In performing the duties

required of them, they exercise a public function and are not liable for acts or omissions of their officers.

38 COLORADO STATE FAIR

Mr. Frank H. Means,
February 17, 1941.

The State, and its subdivisions and agencies, are not ordinarily liable for the torts of agents and may not be sued either in tort or contract. (*In Re Constitutionality of Senate Bill No. 83*, 21 Colo. 69; *Parry v. Board of Corrections*, 93 Colo. 589.)

39 SCHOOLS

Mr. Jonnie Davis,
February 17, 1941.

In an election to authorize the issuance of school district bonds, payment of the specific ownership tax on an automobile will not entitle a person to vote. However, payment of a personal property tax is sufficient, and a wife who owns property jointly with her husband will have a vote, even if the property is erroneously assessed solely to the husband.

40 EMPLOYEES

The Public Utilities Commission of the State of Colorado,
February 18, 1941.

There is no provision in the law authorizing vacations of State employees. If by custom vacations are allowed to temporary employees, they are not entitled to such vacations requested prior to discharge.

41 SCHOOLS

Ms. Josephine Coryell,
February 18, 1941.

School boards have the power to determine the length of the school term, and approval of the voters is not necessary. The term having once been determined and teacher hired for said term, neither the county superintendent nor the school board can change the length of the term. (Citing Chapter 146, Sections 20, 89, 240, 241, 243 and 247, 1935 C. S. A.)

42 ELECTIONS

Mr. Harry Behm,
February 18, 1941.

Sections 47 and 73, Chapter 59, 1935 C. S. A., as amended, can only be differentiated in that Section 47 is intended primarily to

protect the rights of a person who wishes to run as an independent candidate. Section 73 is apparently for the purpose of placing candidates in nomination under some particular name representing a principle.

43 EMPLOYEES—CIVIL SERVICE—AUDITOR

Hon. Chas. M. Armstrong,
February 18, 1941.

Where the appointment of special evidence investigators was not made pursuant to and in accordance with Article 12, Section 13, of the Constitution, Chapter 36, 1935 C. S. A., and the rules and regulations of the Civil Service Commission, there is no employment under the law and there can be no legal expenses incurred. A voucher requesting the issuance of a warrant in such cases cannot be honored. The State Auditor by law has responsibility to pass upon such claims for payment and it is his duty to question the same and either issue or refuse to issue a warrant as he may determine under the law.

44 MILITARY DEPARTMENT

State Highway Department,
February 18, 1941.

State officers and employees cannot receive "15 days military leave with pay" when inducted into the federal military service. (Chapter 252, Section 1 of the 1937 Session Laws construed.)

45 SCHOOLS

Mrs. Hazel Turner,
February 18, 1941.

Residence.

Where there is no question that parents and children live in a particular school district, the school board members of that district have no power to require the payment of tuition. The fact that such parents own more property in some other district would not change this rule.

46 SCHOOLS

Mr. Joe Perkins,
February 18, 1941.

When a county superintendent of schools ascertains that school officers are drawing unauthorized warrants to themselves, or to their families, he should proceed under Sections 20 and 51 of Chapter 146, 1935 C. S. A. (Supplemental citation to Section 112

of the same chapter) to cause the treasurer to withhold payment thereof.

47

BONDS

Hon. John W. Mabry,
February 18, 1941.

When an improvement district has a surplus, after paying the interest due on its bonds, which surplus is not sufficient to pay the principal on all its bonds, such surplus should be used to retire the bonds in their numerical order. (Citing Section 96, Chapter 138, 1935 C. S. A., and 103 Colo. 216.)

48

HAIL INSURANCE

Mr. L. A. Poinsett,
February 19, 1941.

Cancellation of Policy.

A misrepresentation by the insured that the crop insured had not been damaged by hail at the time the insurance was written is sufficient cause for cancellation of the policy under the provisions of the specific stipulations therein agreed to by the insured.

49

HAIL INSURANCE

Mr. L. A. Poinsett,
February 19, 1941.

Payment of the amounts specified in a treasurer's certificate, certifying taxes due as provided in Section 217, Chapter 142, 1935 C. S. A., which certificate erroneously omits the inclusion of a State Hail Insurance Assessment, and the issuance of a receipt for such payment as provided in Section 218, Chapter 142, 1935 C. S. A., clears the land assessed for hail insurance from any lien existing therefor at the time of the payment of the taxes certified.

Losses resulting from such error shall be paid by the county which such treasurer represents. (Section 219, Chapter 142, 1935 C. S. A.)

50

INSURANCE

Hon. Luke J. Kavanaugh,
February 19, 1941.

Under facts presented, insurance premium tax need not be collected on premiums paid by Colorado policyholders of foreign insurance company in liquidation, the remaining business of which is administered by insurance company licensed in Colorado.

51

CITIES AND TOWNS

Hon. Ralph L. Carr,
February 20, 1941.

Under Section 49, Chapter 163, 1935 C. S. A., the first steps toward reclassification of towns and cities following United States census, are to be taken within six months from the filing of the census returns in the office of the Secretary of State. No returns having been filed as of February 19, 1941, it is proper to defer reclassification until after April, 1941.

52

SCHOOLS

Mrs. Inez Johnson Lewis,
February 20, 1941.

(1) A school district would not be liable for damages if a student in defense classes held on the premises of the school district should receive injuries while in class.

(2) Unless authorized by the legislature, a school board may not expend moneys for premiums on accident insurance covering such students. (Chapter 146, Section 117, 1935 C. S. A.)

(3) Citing Chapter 146, Section 89, 1935 C. S. A., the school board should refer the question of erecting a school shop building under the National Youth Administration plan to the electors of the district.

53

STATE BOARD OF HEALTH

State Board of Health,
February 20, 1941.

The State Board of Health does have the power to designate, by uniform sanitary rules and regulations, the number of toilet rooms and lavatories required in restaurants, taverns and cafes. (Section 25, Chapter 69, 1935 C. S. A.)

54

EMPLOYEES—WAGE ASSIGNMENTS

Mr. Charles M. Armstrong,
February 21, 1941.

State employee may make valid assignment of his wages. If warrant has been drawn and signed, State Auditor may answer to garnishee summons that nothing is due defendant by the State. Auditor should establish policy in matter of this kind. (Sections 223, 225, 227, 232, 233, 234, Chapter 97, 1935 C. S. A.)

55

CHIROPRACTORS

Mr. A. Allen Brown,
February 24, 1941.

Chiropractor's Authority.

A chiropractor has no authority to sign death certificates in Colorado. (Section 112, Chapter 78, 1935 C. S. A.; reaffirms opinion No. 229 of the Attorney General's Reports of 1933-34, re Chiropractors.)

56

BONDS

Mr. James R. Miller,
February 24, 1941.

Investment of Land Grant Funds of State Agricultural College.

An unauthorized investment by a State board can be ratified by the legislature if the legislature had power to authorize the investment in the first place.

In case of a loss in an investment and circumstances which involve a surplus in an interest fund of such investment, the board making the investment would not have authority, without action by the legislature, to transfer this surplus to the principal fund in order to lessen the loss to be made up by legislative commitment.

57

SCHOOLS

Mrs. Olga A. Hellbeck,
February 24, 1941.

In case of wages due a deceased employee, the Board of Education should make final warrant payable to the estate of the deceased, unless the heir of the deceased, or other interested person, has procured a court order for distribution under Chapter 176, Section 77, 1935 C. S. A., pertaining to the disposition of estates under \$300.00.

58

APPROPRIATIONS

Hon. Chas. M. Armstrong,
February 25, 1941.

Where a special appropriation is made by the legislature and there are sufficient funds to cover the same, and where the bill is a complete appropriation bill, an additional paragraph in said bill providing for the issuance of anticipation warrants may be disregarded as not applying so long as such funds are sufficient to pay general revenue warrants. (Sections 29 and 77, Chapter 153, 1935 C. S. A.)

59

APPROPRIATIONS

Mr. Frank H. Means,
February 28, 1941.

Continuing Appropriations, Colorado State Fair.

Section 12, Chapter 65, 1935 C. S. A., constitutes a continuing appropriation, limited, however, by the long appropriation bill of 1939 as to the disbursements provided for therein.

60

SCHOOLS

Colorado Education Association,
March 3, 1941.

The State Board of Education, being a constitutional board, was not abolished by the provisions of the Administrative Code. No provision was made therein for the exercise of the power to revoke teachers' certificates, therefore, such power is still within the jurisdiction of such board.

61

NEWSPAPERS

Mr. Edwin A. Bemis,
March 4, 1941.

The publication of a city ordinance, after being passed, is a separate and distinct publication from the preliminary publication, and it is proper therefore to charge a rate of seven cents per line as provided for by statute for each such publication. (Section 7, Chapter 130, 1935 C. S. A.)

62

NEWSPAPERS

Mr. J. R. Valdez,
March 4, 1941.

A newspaper is not qualified as a legal publication in a county if only the heading of such paper is printed therein. There must be a substantial part of the paper published in the county.

The fact that a publisher is sick and unable to issue several publications of his newspaper during the year will operate to take away the right of such newspaper to print legal publications, such illness cannot be construed to be a "casualty beyond the control of the publisher." (Section 3, Chapter 130, 1935 C. S. A.)

63

BANKS AND BANKING

Hon. Maple T. Harl,
March 4, 1941.

Small cash balances incapable of investment may be retained by bank as uninvested trust funds if not commingled in any way with other funds of bank.

64

SCHOOLS

Mr. G. H. Bradfield,
March 6, 1941.

School directors, or school board members, are not entitled to compensation for their services and there is no implied obligation to pay for their services to the school, with the exception of the secretary, who is entitled to compensation as set by the school board. A member of the school board, or a school director, may, in third class districts, be appointed truant officer by special provision of the statute, and in first and second class districts there appears to be no reason why he should not be so appointed.

65

CITIES AND TOWNS

Mr. Louis O. Kelso,
March 6, 1941.

Incorporated Towns to Cities of Second Class.

When the census shows that an incorporated town has passed the 2,000 mark and is entitled to be a city of the second class, the incumbents in office in the town are not entitled to hold over after their term until the first regular municipal election in an odd numbered year. The town must call an election at the next regular term for which the incumbents were elected. New officers elected as for the new class shall be elected for a term of one year.

66

NOTARY PUBLIC

Mr. Earl A. Smith,
March 7, 1941.

An impression seal is required of a notary public under the laws of the State of Colorado.

67

UNEMPLOYMENT COMPENSATION

Mr. Bernard E. Teets,
March 7, 1941.

Senate Bill 765 and Commission Regulation 1, as affecting contributions on portions of salaries over \$3,000.00 for the year 1940 and part of 1941, are constitutional. (Section 11, Article 2; Section 38, Article 5; Section 12, Article 15; Constitution of Colorado.)

68

INTOXICATING LIQUORS

Mr. Myron Donald,
March 8, 1941.

There is no exemption from the liquor excise tax upon malt liquors and fermented malt beverages sold to commissaries, army

post exchanges and officers' clubs on government reservations. The manufacturer or wholesaler pays the tax which falls due and is collected before sale. (Section 23, Chapter 142, and Section 9, Chapter 82, 1935 S. L.)

69

APPROPRIATIONS

Hon. Chas. M. Armstrong,
March 8, 1941.

Salary for Newly Created District Judgeship.

The salary for a newly created district judgeship is a proper charge against and payable out of the general revenue fund by reason of a statute providing for payment of such judgeships, which constitutes a continuous appropriation therefor. (*People v. Goodykoontz*, 22 Colo. 507.)

70

**UNIVERSITY OF COLORADO
(Workmen's Compensation)**

Dr. Robert L. Stearns,
March 10, 1941.

The University of Colorado is an agency of the State and a public institution coming within the terms of Section 288, Chapter 97, 1935 C. S. A., and therefore its employees, both teaching and non-teaching, are specifically included under Workmen's Compensation.

71

SALES AND SERVICE TAX

Mr. Homer F. Bedford,
March 10, 1941.

Government Defense Contracts Exempt.

Construction work on U. S. government defense projects at expense of U. S. government through quartermaster requisitions is exempt from sales, use or service tax. (Section 15, Chapter 230, 1937 S. L.)

72

SCHOOLS

Mr. W. D. Williams,
March 10, 1941.

Two members of same family may serve on school board simultaneously, viz: husband and wife or brother and sister.

73

INCOME TAX DEPARTMENT

Hon. Chas. M. Armstrong,
March 10, 1941.

Appointments to Department Must Be Approved by Executive Council.

In considering the provisions in the Income Tax Law for appointments in connection with the provisions of the Administrative Code Bill of 1933, it is the evident intent of the legislature to bring such appointments, and to include such department, within the terms of the Administrative Code, thereby making it necessary for such appointments to be approved by the Executive Council.

74

NOTARIES PUBLIC

Hon. Ralph L. Carr,
March 10, 1941.

Affidavits of Selective Service Registrants.

(1) There is no legal requirement that a notary public take an affidavit, but having voluntarily assumed to do the work, he is not entitled to charge any fee therefor on taking the affidavit of a registrant under Selective Service.

(2) The Governor has the right to revoke the commission of a notary public for cause. The power must not be exercised arbitrarily, and the notary should have an opportunity to show why his commission should not be revoked.

75

INTOXICATING LIQUORS

Mr. Myron R. Donald,
March 12, 1941.

Liquor Dealers.

Section 14, Chapter 142, and Sections 8 and 9, Chapter 82, 1935 S. L., make it unlawful for a retail liquor dealer to receive financial assistance, direct or indirect, from a manufacturer or wholesaler. The giving of chances upon a drawing for an automobile appears to be part of a scheme of financial assistance from a manufacturer or wholesaler to retail liquor licensees and is forbidden by those sections.

76

SOIL EROSION DISTRICTS

Mr. Alvin Magraw,
March 15, 1941.

The signing of an agreement by the owners of lands affected by a soil erosion plan or system duly adopted pursuant to Chapter

241, 1937 Session Laws, is not essential to the validity of such plan, all do not have to sign it, assessments are collectible from those who do not join in it, and benefits must be properly apportioned pursuant to provision of the act. (Section 8(1).)

77

LEASES

Mr. Leon Lavington,
March 15, 1941.

All leases for the benefit of departments of the State of Colorado should be made in the name of the State of Colorado and signed by the purchasing agent with the approval of the Executive Council and the approval of the head of the department involved. (Section 27, Chapter 3, 1935 C. S. A.)

78

COUNTY OFFICERS

Mr. Felix Garcia,
March 15, 1941.

(1) There is no provision of the statutes which would limit the right of a county commissioner to serve as county road supervisor and draw the salary therefor.

(2) It is necessary for the county commissioners to designate an official newspaper in order to have an official paper in which to publish notices required by law to be published.

79

UNEMPLOYMENT COMPENSATION

Hon. Ralph L. Carr,
March 15, 1941.

The lessee of a mining claim does not come within the purview of the State Unemployment Compensation Law.

80

FEES AND SALARIES

Hon. Willard I. Caton,
March 15, 1941.

Sections 4 and 21 of Chapter 66, 1935 C. S. A., provide for docket fees in civil and probate cases. These sections are exclusive and the fees provided are in full payment of all charges of judges and clerks of courts.

81

INTOXICATING LIQUORS

Hon. Walter F. Morrison,
March 17, 1941.

A forfeiture of the entire bond furnished by a liquor dealer to the State of Colorado may be demanded upon violation of any condition set forth in said bond. (Section 38, Chapter 89, 1935 C. S. A.)

82

CIVIL SERVICE

State Civil Service Commission,
March 18, 1941.

Rule XIII of the Civil Service Rules recognizes a probationer as being in the classified civil service and therefore the words "an employee," as used in paragraph 2 of Rule X, would include a probationer. The rule regarding reinstatement, as set forth in paragraph 2 of Rule X, providing that such employees "may be reinstated" is permissive and not mandatory. (Reverses opinion of January 10, 1941.)

83

SCHOOLS

Mrs. Margaret S. Reef,
March 18, 1941.

Under the express powers granted in Section 310 of Chapter 146, 1935 C. S. A., the board of directors of a school district of the second class would be authorized to expend money for renting garden plots, buying seed and equipment for WPA labor to be used in growing foods to be used in lunches for the children of the districts. This power is construed as incidental to the express powers granted in this section. Boards of school districts of the third class could embark upon such a cooperative program only upon authorization of the electors of the district.

84

**STATE BOARD OF LIVESTOCK INSPECTION
COMMISSIONERS**

Hon. Ralph L. Carr,
March 18, 1941.

None of the express powers given to the State Board of Livestock Inspection Commissioners could be construed to justify the use of funds for the purpose of constructing and completing buildings in the plant of the Stockyards Company in Denver.

85

ADMINISTRATIVE CODE OF 1941

Hon. Chas. M. Armstrong,
March 18, 1941.

Duties of State Auditor Under Code.

(1) The Administrative Code of 1941, and laws re-enacted thereunder, make it the mandatory duty of the State Auditor to make audits of all State offices, institutions and agencies, and an annual audit of all county offices.

(2) It is the duty of the legislature to provide, by proper appropriation, necessary funds to carry out the mandatory duties required of any State officer or department.

86 LIQUOR LICENSE COLLECTIONS

Mr. Homer F. Bedford,
March 18, 1941.

County Treasurer's Liquor License Collections.

County treasurers are authorized to deduct 1 per cent on 85 per cent liquor license collections, as fees to county treasurer under Section 25, of Chapter 66, Session Laws of Colorado, 1935.

87 INSURANCE

Hon. Luke J. Kavanaugh,
March 20, 1941.

Colorado retaliatory statute becomes effective upon the enactment of a statute in a foreign state imposing greater burdens on corporations of Colorado than are imposed by the foreign state on its own corporations.

88 LEGISLATION—PUBLIC FUNDS

Hon. Clifford I. Parsons,
March 20, 1941.

Senate Bill 224, creating Colorado Aerial Tramway Commission, does not create a liability on the State, and therefore does not provide for any unconstitutional indebtedness against the state. (*Johnson, Governor, et al. v. McDonald*, 97 Colo. 324.)

89 TAXES

Schneider and Cohn,
March 22, 1941.

Publication of Delinquent Tax Notices.

On payment of the delinquent tax, there is no delinquency, hence no liability should be imposed upon the taxpayer to pay for publication fees. (See *Board of County Commissioners of Logan County v. Advocate Publishing Company*, 64 Colo. at page 578.)

90 FEES AND SALARIES

Mr. Clyde M. Johnson,
March 22, 1941.

The Colorado Constitution permits county officers to retain the amount of their salary from the fees they collect. (Section 15, Article XIV, Constitution of Colorado.)

91

ELECTIONS
(Cities and Towns)

Dr. E. H. Taylor,
March 22, 1941.

Section 48, Chapter 163, 1935 C. S. A., is not self-executing. The procedure set forth in Section 51 must be followed and until that procedure is followed, a city of the second class, or a city of the first class, would remain in that category. It is mandatory for a city of the second class to hold its election for officers on the first Tuesday of April in odd numbered years.

92

EMBALMING BOARD

Colorado Funeral Directors, Etc.,
March 25, 1941.

The board cannot by resolution waive the payment of the renewal license fees for funeral directors, embalmers or embalmers' apprentices. (Laws of 1939, Sections 13 and 16.)

93

JURY SERVICE

Hon. Florence H. Kramer,
March 25, 1941.

Conflicting authorities interpreting meaning of the word "men" suggests that the safest and probably the quickest way to secure jury service for women would be by constitutional amendment.

94

LEGISLATION—INSURANCE

Hon. L. E. Fordham,
March 25, 1941.

The enactment of House Bill 446 would not permit the State, or any of its political subdivisions, to insure publicly owned property with a county mutual protective association unless it clearly appears that the insured was non-assessable, or unless there was a clear limitation upon the contingent liability of the insured, which ultimate liability would not be disproportionate to the ordinary fire premium.

95

SCHOOLS

Mrs. Matt Roth,
March 25, 1941.

Admission of children to school district in which they are not resident is discretionary with school board, who may fix reasonable terms of admission.

96

COSMETOLOGY

State Board of Cosmetology,
March 26, 1941.

Chapter 42, 1935 C. S. A., does not give the Board of Cosmetology power to limit the number of beauty schools, or refuse a license on the ground that there are too many schools in a particular area. Mandamus would lie to compel a license refused on that ground. A reasonable showing of financial responsibility may be requested, but the board cannot compel a bond to be given.

97

SALES AND USE TAX

Hon. Homer F. Bedford,
March 26, 1941.

Imported Store Fixtures, Taxable.

Show sales cases assembled by foreign merchants and placed in local stores for merchandising wares are taxable, under the use tax, to the foreign owner, based upon actual cost of fabrication. (*Bedford v. C. F. & I.*, 102 Colo. 538; *Fifteenth Street Investment Co.*, 102 Colo. 570.)

98

AGRICULTURAL COLLEGE

Hon. Homer F. Bedford,
March 26, 1941.

Investment of Funds.

The funds of the State College of Agriculture and Mechanic Arts may be invested in United States Savings Bonds, Series F and G.

The fact that they are taxable does not render them invalid as investments for this fund.

99

CHIROPRACTORS

Dr. E. A. Jackson,
March 27, 1941.

(1) Reciprocal agreements at the time of, and since, the passage of the Basic Sciences Act must conform to the requirements of Section 9 of the act. (Chapter 106, S. L. 1937.)

(2) The Basic Sciences Act does not apply to persons who were licensed to practice the healing art, or any branch thereof, in Colorado before the effective date of the act.

(3) Revocation of a license to practice the healing art, or any branch thereof, automatically revokes the certificate of ability under the Basic Sciences Act and a new certificate of ability must be acquired before a new license can be issued.

100

COUNTY OFFICERS

Mr. Addison M. Gooding,
March 27, 1941.

Since the statute provides for fees to be paid the county inspector of weights and measures, the board of county commissioners does not have power to fix a salary for the inspector. (Chapter 175, 1935 C. S. A.)

101

COSMETOLOGY

State Board of Cosmetology,
March 27, 1941.

Payment of examination fee entitles applicant, upon passing examination, to practice until December 31st of the year in which certificate is issued. Such certificate may be renewed on or before December 31st by payment of the required renewal fee. (Section 26, Chapter 42, 1935 C. S. A.)

102

**CONTINUING APPROPRIATIONS
(State Compensation Insurance Fund)**

Industrial Commission of Colorado,
March 28, 1941.

Section 323, Chapter 97, 1935 C. S. A., constitutes a continuing appropriation for the operating expenses and salaries of employees of the State Compensation Insurance Fund. Other legislative authority appropriation is unnecessary.

103

INTOXICATING LIQUORS

Hon. Ralph L. Carr,
March 28, 1941.

Governor may pardon one convicted of driving under the influence of intoxicating liquor, but such pardon cannot extend to remove mandatory revocation of license to drive for one year.

104

GAME AND FISH

Hon. Ralph L. Carr,
March 28, 1941.

Licenses.

It is not possible, under the provisions of Sections 171 and 174, Chapter 73, 1935 C. S. A., and Chapter 109, 1939 Session Laws, for the Game and Fish Department to issue free fishing licenses to soldiers.

105

GAME AND FISH

Mr. C. N. Feast,
April 2, 1941.

Hunting Licenses.

Non-resident employees of the Bureau of Biological Survey of the United States Department of the Interior are required to obtain non-resident hunting licenses, in view of the language of Sections 176-177, Chapter 73, 1935 C. S. A., and Section 7, Chapter 109, 1939 S. L.

106

LEGISLATION—GAME AND FISH

State Game and Fish Commission,
April 2, 1941.

The provisions of House Bill 1218, amending Chapter 153, 1937 Colorado Session Laws, takes away all prohibition against diversion of license fees as required by the Pitman-Robinson Act and would disqualify the State from further participation in federal funds under said act.

107

LEGISLATION

Mr. L. G. Truby,
April 2, 1941.

A proposed constitutional amendment must be entered in full upon the Journals of the House and Senate on the day in which the recorded vote is taken. (Section 2, Article XIX, Colorado Constitution.)

108

PHARMACY

Mr. J. E. Stauffer,
April 3, 1941.

A prescription for a narcotic for the relief of an animal, given by a physician, instead of a veterinarian, is not a prescription given in the course of his professional practice and therefore should not be honored by a druggist.

109

OFFICERS—MOTOR VEHICLE DEPARTMENT

Hon. Ralph L. Carr,
April 4, 1941.

Extra Compensation.

While, in general, public officers are not entitled to extra compensation for additional duties, the existence of an emergency, and a specific agreement to that effect, may make it lawful for public employees to receive additional compensation for work outside of the regular office hours prescribed by statute. (Section 13, Chapter 36, 1935 C. S. A.)

110

ARCHITECTS

State Board of Architects,
April 5, 1941.

License of architect revoked for non-payment of renewal fee may be reinstated upon payment of fee and issuance of renewal certificate. If architect engages in practice while his license is so revoked, he is guilty of a misdemeanor. It is unlawful for a person not an architect to draw plans or supervise construction of alterations to a building more than two stories in height. A member of American Institute of Architects, though not licensed in Colorado, may use the initial A.I.A. after his name upon drawings, unless his activities amount to "practicing architecture" in this State. (Section 16, Chapter 10, 1935 C. S. A.)

111

SCHOOLS

Mrs. Myrtle Thorp,
April 5, 1941.

If warrant of school district is lost or destroyed before payment, a duplicate warrant may be issued provided the payee posts a good and sufficient bond, running for not less than six years, in a sum double the amount of the warrant so lost or destroyed. (Section 68, Chapter 156, 1935 C. S. A.)

112

INHERITANCE TAX

Hon. Robert L. Stearns,
April 7, 1941.

Remainder bequest to regents of University of Colorado under trust agreement of decedent who died a resident of California is taxable under California inheritance tax law by reason of fact that on date of death of decedent Colorado had no reciprocal exemption statute. Such bequest, however, can be deducted from the decedent's gross estate in determining the federal estate tax within the limits of Section 812(d), Internal Revenue Code, and Article 44 of the federal estate tax regulations. (Section 15(a), Chapter 85, 1935 C. S. A.)

113

FEEES
(Probate)

Hon. W. Bruce Jacobson,
April 8, 1941.

The initial docket fee, for guardianship and conservatorship cases in counties of the fourth class, is fifteen dollars, under provisions of Section 21, Chapter 66, 1935 C. S. A.

114 SOIL CONSERVATION DISTRICTS

Mr. Edward D. Foster,
April 9, 1941.

The question of including lands in a soil conservation district shall not be raised, or an election held for the purpose of creating such a district, more often than once every two years. The rule is without exception. (Section 4, Chapter 203, 1941 S. L.)

115 GAME AND FISH—CONTINUING APPROPRIATION

Mr. Otis E. McIntyre,
April 9, 1941.

Easement Fund.

Easements and rights of way may be purchased with funds available in the "fishing easement fund" created by Section 72, Chapter 73, 1935 C. S. A., and indebtedness may also be incurred in an amount not to exceed the sums available for such fund in any one year. This fund constitutes a continuing appropriation. (*In Re Continuing Appropriations*, 18 Colo. 192.)

116 STATE PLANNING COMMISSION

Mr. Edward D. Foster,
April 11, 1941.

County zoning regulations over an unincorporated area (pursuant to Chapter 92, S. L. 1939) must yield to zoning regulations or authority of the incorporated political subdivision subsequently embracing such area. (Sections 160-183, Chapter 163, 1935 C. S. A.)

117 SCHOOLS

Mr. Eddy Webb,
April 14, 1941.

Section 63, Chapter 146, 1935 C. S. A., states the procedure to be followed in annexing a portion of an unorganized school district, or of an existing district to a contiguous district. Portion to be detached and annexed must contain not less than 20 persons of school age.

118 MORTGAGES

The Citizen's National Bank,
April 14, 1941.

It is the general rule that a chattel mortgage properly exe-

cuted and recorded according to the law of the place where the property is located will, if valid there, be held valid even as against creditors and purchasers in good faith in another state to which the property is removed by the mortgagor, unless there is some statute in that state to the contrary, or unless the transaction contravenes the settled law or policy of the forum.

119

BANKS AND BANKING

Hon. Maple T. Harl.
April 14, 1941.

Industrial Banks—House Bill No. 321.

Industrial Bank Act, as amended by House Bill 321, provides for the formation of an industrial bank by filing articles of incorporation, or by filing affidavit of conversion; however, prior to doing business, industrial bank must file with designated officers affidavits showing required assets, etc. No industrial bank may have preferred stock.

120

TAXATION

The Colorado Tax Commission,
April 14, 1941.

Fixtures, Vault Doors in Bank.

In determining whether an article is a fixture, it is necessary to consider the manner of its annexation, its adaptability to the use and purpose for which the realty is used, and the intention of the party making the annexation. Vault doors may be taxed as realty if the tests indicated are applied and they are determined to be fixtures.

121

HAIL INSURANCE

Mr. L. A. Poinsett,
April 15, 1941.

The county assessor is charged with the duty of assessing hail indemnity tax against the land described in the schedule and such tax shall be a general tax of the same effect as general State and county taxes. (Section 106, Chapter 87, 1935 C. S. A.) The county treasurer shall collect this tax, with interest when delinquent, in the same manner and together with general State and county taxes. (Section 111, Chapter 87, 1935 C. S. A.) It is the duty of such county officials to assess and collect delinquent hail insurance tax as part of delinquent taxes in tax sales.

122

HIGHWAY

Mr. Chas. D. Vail,
April 15, 1941.

Deposit made by the State Highway Department under an order of temporary possession should be in an amount sufficient to properly compensate the respondent for taking his land. Respondent, at any stage of the proceeding, can demand the deposit so made, and when he accepts same the court shall grant, upon stipulation of petitioner and respondent, a consent decree in accordance with prayer of the petition. However, the court cannot arbitrarily, when respondent elects to accept the deposits instead of continuing with the condemnation proceedings, turn the same over to respondent and grant a decree in accordance with the petition without stipulation between the parties petitioner and said respondent. (Sections 6, 7 and 47, Chapter 61, 1935 C. S. A.)

123

**DISTRICT ATTORNEYS—SALARIES—
CONSTITUTIONAL LAW**

Mr. E. B. Cartwright,
Mr. Emory L. O'Connell,
April 15, 1941.

Under pertinent statutes, salaries of district attorneys are determined by ascertaining the number of district judges in the district. The number of district judges having been increased by legislative enactment, effected an increase in the salary of district attorney then holding office, who was elected subsequent to the passage of the act, making such salary conform to the number of judges. This construction is not in violation of the constitutional provision which forbids change of salaries of officials during their terms of office. (Section 92, Chapter 66, 1935 C. S. A.)

124

INSURANCE

Hon. Luke J. Kavanaugh,
April 16, 1941.

Foreign fraternal society may not write policies in Colorado in which assured names his estate as beneficiary.

125

CITIES AND TOWNS

Mr. E. E. Fleming,
April 17, 1941.

Vicious Dogs.

A police officer is justified in killing a vicious dog running at

large if, in his judgment, such action is necessary to restrain the animal.

A person who owns a vicious dog with knowledge of its vicious propensities is liable, on the theory of nuisance, for injuries resulting therefrom to others. (*Melsheimer v. Sullivan*, 1 Colo. App. 22; *Cole v. Thornburg*, 4 Colo. App. 95; Section 10, Chapter 163, 1935 C. S. A.)

126

TAXATION

Hon. Willard I. Caton,
April 17, 1941.

“Gross proceeds,” used in assessing a producing mine, is the value of the ore taken therefrom after deducting cost of treatment, reduction, sale and transportation.

127

COLORADO STATE COLLEGE OF EDUCATION

Mr. E. L. Dutcher,
April 17, 1941.

Sabbatical Leave.

Where the board of trustees of the State College of Education provide by contract to pay sabbatical salary and do so on the theory that it is earned salary, they are within their statutory rights in saying the same should be paid in full.

128

LIQUOR

Mr. H. E. Parks,
April 17, 1941.

The provisions of Chapter 142, 1935 S. L., do not apply to a single sale, under order of the county court, of the assets, consisting of a stock of spirituous liquor, of a deceased licensee.

129

PUBLIC FUNDS

Mr. C. H. Gunn,
April 22, 1941.

It is within the inherent power of the State to expend emergency funds for the purpose of auditing defaulting county treasurer's books to ascertain liability, if any, to the department, using its own funds.

130 **COLORADO STATE COLLEGE OF
AGRICULTURE**

James R. Miller, Secretary,
April 22, 1941.

Annuity Payments During Military Leave.

The State Board of Agriculture may provide for payment of an amount equal to 5 per cent of an employee's salary providing the employee makes a like payment for the purpose of continuing monthly payments due under the retirement allowance or annuity plan during the time such employee is on leave of absence from the institution in active military service.

131 **EMPLOYEES**

Dr. Franklin G. Ebaugh,
April 22, 1941.

Expert Witness Fees, Compensation of State Employees.

Psychiatrists employed by the State Psychopathic Hospital are not entitled to receive expert witness fees when called by the State as a witness in a case pertaining to the sanity of one referred to the hospital for observation. (Section 7, Chapter 3, 1935 C. S. A.)

132 **SOIL CONSERVATION BOARD**

Mr. Edward D. Foster,
April 23, 1941.

Notice of election to determine question of formation of soil conservation district must be had as provided by statute. It must be published in a newspaper of general circulation within the district, even though it is published outside the district. (Section 5(c), Chapter 203, 1941 S. L.)

133 **SCHOOLS**

Mr. W. H. Hogsett,
April 23, 1941.

A school district may contract for the drilling of a well to supply water for school purposes. (7 A. L. R. 788 and cases cited.)

134 **WATER**

Mr. M. C. Hinderlider,
April 24, 1941.

Owners of existing dams or reservoirs used for stock water purposes must pay a filing fee to come within the provisions of House Bill 750.

135

LAND

Mr. Marcus C. Leh,
April 24, 1941.

In case of the cancellation of a certificate of purchase of State lands, the county treasurer must rebate all taxes that have been charged against the improvements on such land, as well as the taxes on the land, as the lien for delinquent taxes is extinguished when the land reverts to the board. (Citing Section 72 and 78 of Chapter 134, C. S. A., and a portion of the form of certificate of purchase.)

136

SCHOOLS

Mr. F. W. Gottehuet,
April 29, 1941.

Registration of electors is not necessary in a district of the third class. With respect to the qualifications of school directors, although not specifically so stated, such director should be a qualified elector.

137

SERVICE TAX

Mr. Homer F. Bedford,
April 30, 1941.

Service Tax Act of 1941.

The Service Tax Act of 1941 (House Bill 173) goes into effect and operation July 1, 1941. Service Tax Law of 1939 (Chapter 158, Session Laws 1939) continues in operation and effect to and until midnight of June 30, 1941.

138

ADMINISTRATIVE CODE OF 1941

Charles F. Poe, Lt. Col. QMC,
May 1, 1941.

State Chemist.

Under the Reorganization Act, office and laboratory of State chemist remain in the department of chemistry at the University of Colorado.

139

COUNTY OFFICERS

Mr. Charles R. Casey,
May 2, 1941.

Mileage Fees.

County commissioners are allowed mileage at the rate of eight cents a mile when traveling on official business within or outside their respective counties. (Section 44, Chapter 66, 1935 C. S. A.)

140 JURY FEES—COUNTY COURTS

Mr. Addison M. Gooding,

May 2, 1941.

Jury fees are chargeable to the county if compliance is had with Chapter 95, Section 13, 1935 C. S. A. However, if one proceeds in accordance with the provisions of Chapter 46, Section 162, 1935 C. S. A., the private litigants who demand the jury must advance the jury fees.

141 COUNTIES—FEES AND SALARIES—OFFICERS

Hon. A. Allen Brown,

May 2, 1941.

District Attorneys' Compensation.

House Bill No. 24, providing for a change of the proportionate shares of counties in the payment of the compensation of district attorneys from a fee earning basis to a population basis, is effective on April 8, 1941. Therefore such compensation must be determined on a fee earning basis for the first seven days of April, 1941, and on a population basis thereafter.

142 CIVIL SERVICE

Mr. M. C. Hinderlider,

May 2, 1941.

A "qualified elector," within the requirements of Section 13, Article XII, of the State Constitution relating to civil service, is one who has the required qualifications to vote, even though he may not be registered.

143 CONSTITUTIONAL LAW—ELECTIONS

Hon. Ralph L. Carr,

May 5, 1941.

Senate Bill 290—Voting Machines.

Senate Bill 290, a permissive act under Article 7, Section 8, Constitution of Colorado, which makes provision for accommodation of voter who may wish to vote for persons other than those named on official ballot and preserves the right of the voter to a secret ballot, is probably constitutional although the act necessitates repeal by implication of election contest laws by failing to provide for the preservation of any ballots necessary for the same, thereby implying doubt as to the validity of the act.

144 CONSTITUTIONAL LAW—ELECTIONS

Hon. Walter F. Morrison,
May 5, 1941.

Senate Bill 606—Presidential Electors.

The statute providing that names for presidential electors be not printed upon the ballots but filed with the Secretary of State and when so filed that the names of candidates for president and vice president be printed with the statement that a vote for them shall be a vote for the electors of such party or group, held in compliance with Section 1, Article 2, of the U. S. Constitution, though possibly in violation of Article 2, Section 5, of Colorado Constitution.

145 CHIROPRACTORS

Dr. E. A. Jackson,
May 5, 1941.

A chiropractor who advertises the practice of naturopathy is not thereby performing an illegal act because there is no statute regulating and licensing naturopathy.

146 ADMINISTRATIVE CODE OF 1941

Mr. A. M. Binkley,
May 6, 1941.

State Horticulturist.

(1) The responsibilities and duties of the State horticulturist continue under the Administrative Code of 1941, the same as under the Administrative Code of 1933.

(2) Section 6 of the Administrative Code of 1941, prohibiting additional fees and compensation to that provided for in the act, and prohibiting compensation or fees from more than one department, or in more than one capacity, does not repeal Section 2, Chapter 80, 1935 C. S. A., specifically allowing compensation to the State horticulturist in addition to his salary as professor at the State agricultural college.

147 INSURANCE

Hon. Luke J. Kavanagh,
May 6, 1941.

House Bill 808, enacted by 1941 legislature, sets forth qualified investments for funds of domestic insurance companies. Term "civil subdivision" equivalent of "political" or "governmental" subdivision.

148 STATE BOARD OF LAND COMMISSIONERS

State Board of Land Commissioners,
May 8, 1941.

With respect to Carey Act Segregation No. 11, patent having issued from the United States to the State of Colorado by virtue of a special authorizing Act of Congress, the State has a perfect title to the land against all the world, except the United States, which could possibly avoid the patent on the ground of an implied condition in the patent that the provisions of the Carey Act would be complied with after issuance of the patent. Until action on the part of the U. S., the State is free to deal with the lands in question.

149 MOTOR VEHICLES

Mr. C. H. Gumm,
May 8, 1941.

The provisions of Chapter 16, 1935 C. S. A., requiring mandatory revocation of drivers' licenses for certain violations (Section 144), apply to cases of conviction outside as well as to convictions within the State.

150 PHARMACY BOARD

Mr. Ralph E. Kemp,
May 9, 1941.

Payment of compensation by the Colorado State Board of Pharmacy to a de facto member of the board is a defense to a suit against the board by the de jure member. (*Drach v. Leckenby*, 64 Colo. 546.)

151 BLIND PERSONS

Mrs. Harvey H. Pease,
May 9, 1941.

Under Senate Bill 47 (Chapter 91, 1941 S. L.), benefits in the individual case are determined on the basis of resources and necessary expenditures of the individual, but no county department may allow more than \$40.00 per month to any one person. (This amends Chapter 108, 1937 S. L.)

152 DAIRY COMMISSIONER—CITIES AND TOWNS

Mr. W. H. Skitt,
May 9, 1941.

A city has full power over inspection and sale of milk within its limits. This power extends to State institutions located within

the city limits. It may forbid the sale of milk it properly classifies as inferior in quality. (Section 10, Chapter 163, and Section 3, Chapter 49, 1935 C. S. A., Article XX, Colorado Constitution.)

153 **CIVIL SERVICE—MILITARY SERVICE**

Mr. J. J. Marsh,
May 10, 1941.

State Officers or Employees.

Under the provisions of House Bill 568, approved April 15, 1941 (Chapter 95, 1941 S. L.), members of the National Guard retain their civil service status and are also entitled to fifteen days' leave with pay in the year of their induction into the armed forces of the United States.

154 **SOIL EROSION DISTRICT**

Mr. Harry F. Anderson,
May 12, 1941.

A platted area devoted exclusively to commercial and industrial uses can legally be excluded from a soil erosion district. (Section 4, Chapter 241, Session Laws of 1937.)

A portion of a platted area not used exclusively for commercial or industrial uses might properly be included in a soil erosion district. The test is not whether an area happens to be platted but whether it is an incorporated municipality or an area developed exclusively to commercial or industrial uses.

155 **OFFICERS**

Mr. Robert E. Warren,
May 13, 1941.

Colorado Advertising and Publicity Committee—Contracts.

Contracts of de facto officers are valid in so far as they concern the public or third persons.

156 **EMPLOYEES—STATE BOARD OF HEALTH**

Dr. R. L. Cleere,
May 13, 1941.

An employee of food and drug division of the State Board of Health aiding federal bureau in enforcement of Narcotic Act, is without the purport of Section 6 of the Reorganization Act of 1941 (1935 C. S. A., Chapter 3, Section 7) and may receive, though not demand, a per diem allowance from the federal government in addition to salary as a State employee.

**157 COLORADO STATE COLLEGE OF AGRICULTURE
AND MECHANIC ARTS
(Fort Lewis School—Annuities)**

State Board of Agriculture,
May 14, 1941.

The Colorado State College of Agriculture and Mechanic Arts and the Fort Lewis School constitute one institution and a position as president of both is but one position for the reason that limitation under the annuity plan installed by the agricultural college setting a maximum of \$1,800 a year would refer to moneys collected from the salary from both colleges. There would be no estoppel against the State Board of Agriculture by reason of the fact that excess payments were made under a theory that there were two institutions involved.

158 WORKMEN'S COMPENSATION

Mrs. Gertrude A. Lee,
May 14, 1941.

Minimum Wage Order.

Retail Wage Order No. 2 (effective January 16, 1939) issued by the Industrial Commission of Colorado governs stock girls, office girls, and other employees (women and minors) who do no selling in the retail establishments.

159 WORKMEN'S COMPENSATION

Mr. Arthur H. King,
May 14, 1941.

The Industrial Commission has authority to agree to a compromise of the compensation to be paid a workman adjudged totally and permanently disabled.

160 HIGHWAYS

Hon. Chas. D. Vail,
May 14, 1941.

The State Highway Department does not acquire any right or interest in or to any mineral vein, ledge, lode or deposit found or existing in the property condemned for highway purposes. (Section 6, Chapter 61, Vol. 3, 1935 C. S. A.)

161

WATER

Mr. M. C. Hinderlider,
May 16, 1941.

Reservoirs, Gauge Rod Measurements.

By the peculiar wording of the North Poudre Decree for No. 3 Reservoir, the State Engineer is bound by the decretal portion therein contained and must administer the reservoir according to the decree even though said decree is voidable.

162

INTOXICATING LIQUORS

Mr. Alec J. Keller,
May 16, 1941.

Where application is made for a license for a portion only of a calendar year, no reduction in the amount of the license fee is permissible by reason of that fact. (Section 23, Chapter 89, 1935 C. S. A.)

163

SCHOOLS

Las Animas County Property Owners' Association,
May 16, 1941.

County superintendent of schools has, as part of his functions, the supervision of a county high school district and is not entitled to additional compensation for such duties. As a member of the high school committee, he is, however, entitled to an additional transportation allowance to be paid from the county high school funds, over and above the \$1,000 allowed to him by the board of county commissioners. (Citing Sections 20, 181, 185, 187, 195 of Chapter 146, 1935 C. S. A., and Sections 81 and 90, Chapter 66.)

A county superintendent may appoint a deputy with the approval of the county commissioners.

**164 PUBLIC BUILDINGS—INDUSTRIAL WORKSHOP
FOR THE BLIND**

Miss Ruth Kirkpatrick,
May 17, 1941.

A statute providing that funds from a building fund mill levy appropriation may be used for the "operation and maintenance of said building or buildings" would permit expenditures from the fund for janitor's salary, lights and power, fuel and water, providing such expenditures are limited to the operation of a building erected by the provisions of Chapter 278, 1937 Session Laws.

COSMETOLOGY

Mrs. Betty Lewis,
May 19, 1941.

A beauty operator who renews her license within three years from the date of its expiration is not required to pay for the intervening years when not practicing. (Section 26, Chapter 42, 1935 C. S. A.)

SCHOOLS

Mrs. Gladys Bower,
May 19, 1941.

There is nothing in the statutes which would prohibit school boards from employing married teachers.

Newly elected district officers should take office immediately upon qualifying.

INSANE PERSONS
(Colorado State Hospital)

Dr. F. H. Zimmerman,
May 20, 1941.

The Colorado State Hospital is not required to accept patients alleged to be insane under Section 3, Chapter 105, 1935 C. S. A. Confinement of such patients should be in a hospital or other convenient or suitable place pending action by the lunacy commission.

MOTOR VEHICLES—OFFICERS

Mr. C. H. Gunn,
May 20, 1941.

Sections 81 and 85, Chapter 16, 1935 C. S. A., are broad enough to give the Secretary of State authority to designate and empower employees of the Motor Vehicle Department to make arrests, and to serve notice of penalty assessments in the case of offenses specified in Chapter 74, 1939 S. L. (Section 141, Chapter 122, 1931 S. L.; Chapter 74, 1939 S. L.)

SCHOOLS—LEGISLATION

Hon. Walter W. Johnson,
May 21, 1941.

Religious instruction cannot be given in public school buildings.

170

SCHOOLS

Mr. J. G. Lopez,
May 22, 1941.

Warrants.

All three members of a school board must sign warrants. (Sections 103, 104 and 112, Chapter 146, 1935 C. S. A.)

171

ADMINISTRATIVE CODE OF 1941

Hon. Homer F. Bedford,
May 23, 1941.

Under the Administrative Code of 1941, governmental functions are transferred July 1, 1941. The repeal of existing statutes provided for therein does not become effective until July 1, 1941.

172

INHERITANCE TAX

White & Case,
May 26, 1941.

Consent of Attorney General is required before transferring stock to administrator or to executor of resident decedent's estate. (Section 46, Chapter 85, 1935 C. S. A.)

173

INHERITANCE TAX

Mercantile Bank & Trust Co.,
May 26, 1941.

U. S. Savings Bonds registered in name of "A, payable on death to B," are taxable for inheritance tax purposes upon death of A. (Section 7, Chapter 85, 1935 C. S. A.)

174

CHIROPRACTORS

Dr. E. A. Jackson,
May 26, 1941.

The qualifications required of members of the Board of Chiropractic Examiners—State of Colorado, as set forth in Section 3, Chapter 34, 1935 C. S. A., apply not only to members constituting the first board, but to all subsequent appointments.

175

RESTAURANT LAW

Mr. K. W. Lloyd,
May 26, 1941.

Churches.

The occasional serving of food to the public by churches and other charitable organizations at stated intervals does not render them subject to the licensing provisions of Chapter 118, 1935 S. L. of Colorado. (Sections 13-24, Chapter 81, 1935 C. S. A.)

176 STATE COMMISSION FOR THE BLIND

Mr. H. K. Dunklee,
May 27, 1941.

By the terms of Senate Bill No. 795 (Chapter 90, 1941 S. L.), the State Commission for the Blind is abolished, and ceases to function from and after July 1, 1941. At that time, the State Board of Industries for the Blind takes over and assumes all of the rights, powers, duties, functions, contracts and property of the Commission.

177 INDUSTRIAL COMMISSION

Mr. Arthur H. King,
May 27, 1941.

Boiler Inspections.

Industrial Commission does not have the right to make inspections and charge a fee on boilers belonging to and being operated by the United States government on government property.

178 BANKS AND BANKING

Hon. Maple T. Harl,
May 28, 1941.

Money Lenders' License.

A corporation may be licensed as a money lender under a trade name used in connection with its proper name.

179 ADMINISTRATIVE CODE OF 1941

Hon. Homer F. Bedford,
May 28, 1941.

The express purpose of the Administrative Code of 1941 is the creation and establishment of seven administrative departments. In pursuance of that purpose, the legislature set forth specifically the boards, bureaus, institutions and agencies placed in such departments and the seven administrative departments, and all boards, bureaus, institutions and agencies placed in this act within any one of such departments are controlled by the provisions of Section 5(a) and (b) of the act. Therefore, the State educational institutions, penitentiary, State reformatory and the Colorado State Hospital are not subject to the provisions of Section 5(a) and (b) but the State Highway Department, Board of Public Welfare, and examining boards, such as the cosmetology, barbers and pharmacy boards, are subject to the provisions of said section.

The State legislature, using the words "department, board,

bureau or agency of State government," as distinguished from department, board, bureau, institution or agency of the State, is referring in the first instance to governmental agencies and in the second to any agencies of the State.

180

ARCHITECTS

Colorado State Board of Examiners of Architects,
May 29, 1941.

A corporation must use a licensed architect in building or enlarging a building more than two stories in height, notwithstanding the fact that the building is to be used by the corporation itself.

181

INHERITANCE TAX

Mr. Berton T. Gobble,
May 31, 1941.

Requirements to obtain the written consent of the Attorney General before transferring stock standing in the name of a decedent are based upon Section 46, Chapter 85, 1935 C. S. A., and compliance must be had with provisions of this statute.

182

TAXATION

Mr. John R. Seaman,
May 31, 1941.

No part of the value of a leased mining claim may be assessed to the lessee. Such assesment must be to the owner of the property. (Sections 48-50, 53, 54, 57, 66, 67, 69, 71, 80, 82-90, 137, 227, 240, 262, Chapter 142, 1935 C. S. A.)

183

STATE BOXING COMMISSION

State Boxing Commission,
June 2, 1941.

Unexpended funds from an appropriation to pay expenses for the current fiscal year cannot be used to pay, in advance, expenses to be incurred during the following fiscal year.

184

**MOTOR VEHICLE DEPARTMENT
ADMINISTRATIVE CODE OF 1941**

Mr. Walter F. Morrison,
June 3, 1941.

Section 81, Chapter 16, 1935 C. S. A., providing for a definite salary of \$2,500.00 for a Motor Vehicle Supervisor, to be paid in

monthly installments, together with Section 105, Chapter 16, 1935 C. S. A., which designates the fund out of which said salary is to be paid, was intended as a continuing appropriation. This is such "legislative enactment" as referred to in Section 6 of the Administrative Code of 1941.

185

LAND

Mr. C. H. Woodard,
June 3, 1941.

The State Board of Land Commissioners is not authorized, under the provisions of Section 48, Chapter 146, 1935 C. S. A., to make loans on cultivated farm lands where the Federal Land Bank of Wichita, Kansas, has reserved one-fourth of the minerals contained on such lands. The Federal Land Bank cannot be considered to be included in the term "United States" as used in that section. (Section 48, Chapter 146, 1935 C. S. A.; Title 12, U. S. C. A., Secs. 671-683, 781; 34 Opinions of Attorney General (U. S.), page 23 (Oct. 29, 1923); *Smith v. Kansas City Title and Trust Co.*, 255 U. S. 160, 41 Sup. Ct. 243, 249; *Fed. Land Bank of Columbia, S. C., v. Gaines*, 290 U. S. 247, 54 Sup. Ct. 168; *Fed. Land Bank of St. Louis v. Priddy*, 295 U. S. 229, 55 Sup. Ct. 705.)

186

ADMINISTRATIVE CODE OF 1941

Hon. Ralph L. Carr,
June 3, 1941.

Section 17, Administrative Code of 1941, applies to every department, institution and agency which is included in and under the seven main administrative departments set up by the Reorganization Act, but because of Section 14 of said act, the State Highway Department is excepted from the provisions of Section 17.

187

COUNTY OFFICERS

Mr. A. E. Shaffer,
June 4, 1941.

The county commissioners have the right to approve or disapprove the compensation of deputy clerks, deputy treasurers, and deputy assessors. Therefore, the board may refuse to approve vouchers for the salaries of such deputies until it has first approved the salaries to be paid. (Section 7940, 1921 C. L.)

188

MARRIAGE LAWS

Eva K. Moule, County Clerk and Recorder,
June 4, 1941.

Where a marriage license has been regularly issued, but the marriage was not consummated until after the thirty-day period referred to in Section 6, Chapter 107, 1935 C. S. A., had elapsed, this would not, in itself, render the marriage void.

189

FIREMEN'S PENSION FUND

Messrs. Schey and Schey,
June 4, 1941.

The board of trustees of the Firemen's Pension Fund have a right to expend pension funds for insuring the lives of volunteer and paid firemen under the provisions of Section 485, Chapter 163, 1935 C. S. A.

If any fireman leaves the service, he has no interest in the policy and any cash value should be returned to the pension fund.

190

MOTOR VEHICLES—CITIES AND TOWNS

Mr. Lionel Fisher,
June 4, 1941.

Cities and towns may lawfully provide by ordinance for fines in municipal police court for violations of the State Motor Vehicle Code. (Section 10, Chapter 163, 1935 C. S. A.)

191

EMPLOYEES' RETIREMENT

Mr. Waldo E. Brockway,
June 5, 1941.

University of Colorado.

An amount equal to $3\frac{1}{2}$ per cent of the salaries paid to employees of dormitories, Faculty Club, Women's Club, and A. S. U. C. of the University of Colorado is required to be paid into the State Employees' Retirement Fund monthly. This payment is "authorized and directed" by Section 5 of Senate Bill 289, Thirty-third General Assembly, and is not included in the exceptions permitting optional payments. Such amounts cannot be paid from funds listed in said Section 5 but must be paid from the same income that such salaries are paid from. (Section 5, Chapter 94, 1941 S. L.)

192 COSMETOLOGY BOARD

Mrs. Betty Lewis,
June 5, 1941.

The secretary of the State Board of Cosmetology must be chosen from the membership of the board, and is entitled to the sum of \$1,800.00 per year appropriated by the 1941 Long Appropriation Bill, provided the secretary spends at least 180 days per year in meetings and business of the board. The other members of the board are entitled to receive \$1,500.00 per year provided they spend not less than 150 days in meetings and business of the board. (Sections 7 and 8, Chapter 42, 1935 C. S. A.)

193 INHERITANCE TAX

Board of Foreign Missions of the Presbyterian Church,
June 7, 1941.

Payment of inheritance tax required on annuity contracts issued by board of foreign missions. (Sections 7, 18, 38 and 40, Chapter 85, 1935 C. S. A.)

194 BASIC SCIENCES

Hon. Ralph L. Carr,
June 9, 1941.

The 1941-42 and 1942-43 expenditures of the Colorado State Board of Examiners in the Basic Sciences in the performance of its duties is limited strictly to the amounts designated in the General Appropriation Bill, irrespective of the size of the fund which may be accumulated by the board. In the event an extraordinary emergency arises, assistance might be given by the chief executive from an emergency fund provided in the General Appropriation Bill.

195 SECURITIES

Mr. Curtis White,
June 10, 1941.

Non-resident dealers in securities are without the scope of the Fraudulent Practice Act and may sell to local registered dealers without being registered under Section 26, Chapter 148, assuming bona fide, and that the local registered dealers are not their agents.

196 WORKMEN'S COMPENSATION

Mr. Robert R. Sabin,
June 10, 1941.

Municipal power plant is obligated to insure employees in State Compensation Insurance Fund, rather than with a private carrier. (Section 300(c), Chapter 97, 1935 C. S. A.)

197

TAXATION

Ms. Norma Z. Staten,
June 11, 1941.

Cancellation of Personal Property Taxes.

Section 282, Chapter 142, 1935 C. S. A., is not automatic. Taxes can be cancelled when delinquent for more than six years only by direct action of county commissioners after they have determined that the taxpayer is judgment proof. ✓

198

SALES TAX

Hon. Homer F. Bedford,
June 13, 1941.

Where two persons exchange automobiles, without other consideration, a sales tax equivalent to two per cent of the fair market value of the property exchanged should be collected and paid. If there is a cash consideration moving from one party to the other, the tax is two per cent of the fair market value of the property exchanged, plus two per cent of the cash consideration. If one purchases the equity of another person in an automobile, the tax is two per cent of the value of the equity.

The sales tax does not apply to gift transactions.

199

DIRECTOR OF MARKETS

Mr. Ben H. King,
June 13, 1941.

Cooperative Marketing Associations.

Use of the word "cooperative" is forbidden to those who do not comply with the provisions of Article 2, Chapter 106, 1935 C. S. A.

200

GAME AND FISH

Mr. C. N. Feast,
June 13, 1941.

Persons under the age of 16 years are not required to have a fishing license, but those between the ages of 14 and 16 years are required to have a license for small game and all other types of hunting. Such persons are subject to the same bag limitations as adults. Persons under 14 years of age are not required to have license for fishing or hunting, but are allowed "only one-half of the possession or bag limit allowed" to adults. (Section 173, Chapter 73, 1935 C. S. A., as amended by Chapter 139, 1941 S. L.; Section 176, Chapter 73, 1935 C. S. A.; Sections 3, 7 and 8, Chapter 109, 1939 S. L.)

201

TAXATION

Mr. Harvey E Witwer,
June 14, 1941.

Balance of ad valorem liquor tax, after payment of 85 per cent thereof to Old Age Pension Fund, should be distributed as are other ad valorem taxes. (Section 9, Chapter 82, and Section 23, Chapter 142, 1935 S. L.; Chapter 89, 1935 C. S. A.)

202

SECURITIES COMMISSION

Mr. Curtis White,
June 16, 1941.

Where an individual is doing business under a name including his personal name and later enters into a contract with another individual to continue the business under that name, if there is compliance with Section 21 of Chapter 165, 1935 C. S. A., there is nothing in the law which prevents the second party from carrying on the business using the trade name of his predecessor. Second party, however, should file original application for license with the Securities Commissioner.

203

INTOXICATING LIQUORS

Hon. Walter F. Morrison,
June 16, 1941.

The Secretary of State, as State Licensing Authority, has general power to make reasonable and just rules and regulations for the control of the manufacture, sale and distribution of malt, vinous or spirituous liquors. (Chapter 89, 1935 C. S. A.; Chapter 159, 1941 S. L.)

204

SCHOOLS

Mrs. Inez Johnson Lewis,
June 17, 1941.

In case there has been an adjudication of insanity of a member of a school board, there would be a vacancy in the office which could be filled by the county superintendent. Where members of school board are absent from the district for more than thirty days, Section 103 of Chapter 146, 1935 C. S. A., would be applicable and the remaining members of the board by a three-fourths vote could declare a vacancy. Note: *Gallegos v. Franklin*, Case No. 1129, Costilla County District Court.

**205 APPROPRIATIONS—SALARIES—
 BANK COMMISSIONER**

Hon. Chas. M. Armstrong,
June 17, 1941.

Payment of salaries provided for in Chapter 18, Section 70, of the 1935 C. S. A., constitutes a continuing appropriation. (Special Deputy Bank Examiner.)

206 ADMINISTRATIVE CODE OF 1941

No. 3,
Hon. F. R. Carpenter,
June 17, 1941.

The Administrative Code of 1941 provides that certain State agencies shall have authority to fix and certify certain taxes, licenses, fees and revenue and certify the same to the Department of Revenue for collection. In such cases the Director of Revenue has the right to deputize any such agency to act for his department in the collecting of any such tax, license, fee or revenue. In cases where the administration, as well as the collection functions of any State agency is placed within the Department of Revenue, there can be no delegation of collection functions as all functions of such agency are completely within such department.

207 ADMINISTRATIVE CODE OF 1941

No. 2,
Hon. F. R. Carpenter,
June 17, 1941.

The titles and salaries set up for the Department of Revenue in House Bill 50 (Long Appropriation Bill) only apply to the positions and duties to the extent same are established by the Director of Revenue under the authority granted in Section 34 of the Administrative Code of 1941. There were no titles or positions existing at the time of the passage of the act and as the legislature cannot pass affirmative legislation in an appropriation bill, such titles or positions as set forth in said bill must be construed to be merely suggestive and not controlling. Director of Revenue has the right to fix the titles of heads of divisions and subordinate departments, and it is therefore not limited to the titles as set forth in said appropriation bill.

208 ADMINISTRATIVE CODE OF 1941

No. 4,
Hon. F. R. Carpenter,
June 17, 1941.

Provisions of Senate Bill 364 relating to Unemployment Com-

pensation Fund constitute contributions thereto as a mandatory tax collected under the police powers of the State with authority to distrain for non-payment. For that reason the collection functions of the Department of Employment Security and the collection of unemployment contributions fall within the functions of the Department of Revenue provided for in Section 32 of the Administrative Code of 1941.

The State Compensation Insurance Fund and the State Hail Insurance Fund are optional premiums for the purpose of certain types of State insurance and such insurance, in the discretion of the insured, may be carried with private companies. Therefore, such premiums do not come within the provisions of Section 32 of the Administrative Code of 1941, and cannot be classified as taxes, fees, licenses or revenues of the State, and the Department of Revenue has no duty to make collections in connection therewith.

209 ADMINISTRATIVE CODE OF 1941

No. 1,
Hon. F. R. Carpenter,
June 17, 1941.

Under the provisions of the Administrative Code of 1941 in all cases where the only function transferred to the Department of Revenue is the collection of the tax or fee certified to the department, the only duty of the Department of Revenue is that of collection and enforcement of collection and does not include the duty to audit or investigate the correctness of the amounts certified.

210 CHIROPRACTORS

Hon. Ralph L. Carr,
June 17, 1941.

Governor may not restore license of chiropractor which has been revoked by Board of Chiropractic Examiners. Remedy of licensee, if any, is by court action rather than by appeal to executive authority. (Section 11, Chapter 34, 1935 C. S. A.; Section 7, Article IV, Colorado Constitution; Sections 547-550, Chapter 48, 1935 C. S. A.; Sections 117-118, Chapter 131, 1935 C. S. A.; *Ex parte Brown*, 2 Colo. 553.)

211 SCHOOLS

Hon. Inez Johnson Lewis,
June 18, 1941.

Where a joint district is annulled under Section 65 of Chapter 146, leaving two third class districts in different counties and

the county treasurer of one county has insurance money received after the burning of the school house and held to the credit of the joint district, said treasurer should pay over to the county treasurer of the other county the proportionate share of the district in the other county figured on a census basis upon presentment by the two county superintendents of the census taken prior to the annulment. See the case of *Merrill v. Barr*, 73 Colo. 87, to the effect that Section 66 does apply although the component districts are in different counties. As to moneys in the special fund at time of annulment these moneys should be divided on a valuation basis.

212 NON-RESIDENCE CERTIFICATES

Hon. F. R. Carpenter,
June 19, 1941.

In order for applicant to qualify for certificate of non-residence he, during such period, must have been a qualified voter in one state, territory, insular possession, or country, and must establish that he maintains a permanent place of abode in one such state, territory, insular possession or country. Applicant cannot qualify for certificate of non-residence, if, during the specified period, he was a resident of several states. (Senate Bill 16, 1941 S. L.)

213 INTOXICATING LIQUORS

Hon. Walter F. Morrison,
June 19, 1941.

Wholesale license issued to trustee in bankruptcy, appointed under the provisions of Section 77B of the Federal Bankruptcy Act, may be used by company upon reorganization. (Section 26, Chapter 89, 1935 C. S. A.)

214 INTOXICATING LIQUORS

Mrs. Pearl H. Walker,
June 20, 1941.

Intoxicating liquors, including beer having an alcoholic content greater than 3.2 per cent, may not be sold by the drink within 500 feet from any public or parochial school, college, university or seminary. (Section 25, Chapter 89, 1935 C. S. A.)

215 SOIL CONSERVATION DISTRICTS

Mr. Kenneth W. Chalmers,
June 21, 1941.

A non-resident landowner is entitled lawfully to sign a petition and to vote upon the question of adding lands to an estab-

lished soil conservation district if he operates his lands in the proposed addition in person or by agent, or if he is eligible to vote at any political election in any county within which such district may be in whole or in part. (Sections 4 and 15(d), Chapter 203, 1941 S. L.)

216

OFFICERS
(District Attorney)

Mr. Allen A. Brown,
June 23, 1941.

The general practice throughout Colorado is that all fees which are collected as part of the court costs in criminal proceedings are paid by the clerk of the court of record or justice of the peace to the county treasurer in each county and not direct to the district attorney or his deputies.

217

ADMINISTRATIVE CODE OF 1941
—SURPLUS COMMODITIES

Hon. F. R. Carpenter,
June 23, 1941.

Funds received by the Colorado State Department of Public Welfare for the purchase of food stamps issued by the Surplus Marketing Administration are not "taxes imposed, fees or licenses or revenues" such as require collection by the Department of Revenue, and hence such department has no function in connection therewith.

218

SECURITIES

Mr. Curtis White,
June 23, 1941.

Non-resident, non-registered dealers may advertise in Colorado in conjunction with local registered dealers if the advertisement carries a restrictive clause to the effect that the offering is made only by dealers registered in the State. (34 Mich. L. R. 1142, et seq., C. C. H. V. 2 No. 2000, et seq., but see op. of Ind. Atty. Gen. of Sept. 7, 1925; C. C. H. 2000.)

219

WATER—STATE ENGINEERS

Mr. M. C. Hinderlider,
June 24, 1941.

Construction of House Bill 750.

All owners of dams having a greater height than five feet or holding more than two acre-feet of water must file plans and specifications with State Engineer.

All federal agencies are immune from paying filing fees.

220

SOIL CONSERVATION

Mr. Edward D. Foster,
June 24, 1941.

Soil conservation district may lawfully adopt a regulation requiring livestock within the district to be kept under control by herding or fences if this is applied only to those which are the property of landowners in the district and if such a regulation is reasonably necessary in that district to effect the objects of House Bill No. 545, approved April 3, 1941. (Chapter 203, 1941 S. L.)

221

SCHOOLS

Mrs. Olga A. Hellbeck,
June 24, 1941.

It is within the discretion of the board of education of a first class district to rule that teachers who have taught half time are eligible for pension under a retirement plan set up under Section 251 of Chapter 146, 1935 C. S. A., unless such plan itself contained a provision to the contrary. (Citing *State v. Board*, 169 N. W. 562.)

222

STATE BOARD OF AGRICULTURE

Hon. Roy M. Green,
June 25, 1941.

**Inspection and Certification of Farm and Horticulture Seeds, Sec. 42,
Chapter 5, 1935 C. S. A.**

(1) Rules and regulations of the board of agriculture should provide that seed inspector can remove certification tags when, in his opinion, they misrepresent the grade actually contained in the package.

(2) The law does not empower the board to charge fees for inspection service.

(3) Rules and regulations adopted by the board should, when published, clearly indicate they are the rules and regulations of the State Board of Agriculture adopted pursuant to authority granted by law.

223

INSURANCE

Hon. Luke J. Kavanaugh,
June 25, 1941.

Insurance Department may rule that age, as used in Section 9(a), House Bill 1319, refers to age nearest birthday, as distinguished from age actually attained.

224

SCHOOLS

Mrs. Inez Johnson Lewis,
June 25, 1941.

Section 34, Chapter 146, 1935 C. S. A., providing that certain fines shall be paid to the school fund, contemplates only that in the absence of other provision for various fines, they should be so turned over. Fines collected on a conviction of reckless driving or a violation of the game and fish laws are otherwise provided for in Section 287 of Chapter 16, 1935 C. S. A., and Section 222 of Chapter 73, 1935 C. S. A., respectively.

225

HEALTH BOARD—RESTAURANTS

The State Board of Health,
June 27, 1941.

Regulation and Inspection of Restaurants by Inspectors of State Board of Health.

Under the provisions of Restaurant Inspection Act, 1935 C. S. A., Chapter 81, the regulation and inspection of restaurants, and the controlling of sanitary conditions therein, is delegated to the State Board of Health. The restaurant inspectors of State board are the proper officers to conduct the same to the exclusion of local sanitarians.

226

ADMINISTRATIVE CODE OF 1941

Hon. Homer F. Bedford,
June 27, 1941.

The Administrative Code of 1941 vests in the State Treasurer, under the provisions of Section 30 thereof, only the right to examine and approve contracts and other documents by ascertaining that appropriations have been made for that particular purpose and will be available when such obligations become due, and to also determine the regularity and legality and correctness as to form of claims, demands and charges against State government. It does not place a duty upon the State Treasurer to determine the advisability or necessity of any expenditures.

227

HEALTH BOARD

Colorado State Board of Health,
June 27, 1941.

Provisions of act regulating the manufacture, sale and renovation of mattresses and bedding, and requiring the same to be tagged for the purpose of giving notice of contents and quality thereof, applies to bedding and mattresses in hands of retailer as of effective date of act.

228

SCHOOLS

Ms. Gladys Hofmeister,
June 28, 1941.

The board of education of a second class district may not join with a county high school committee hiring one individual as superintendent of both schools for a period of three years. (Section 10, Chapter 103, 1935 C. S. A.)

229

UNIVERSITY OF COLORADO—MILL LEVIES

Mr. Edward D. Foster,
June 30, 1941.

House Bill 492.

Effective date of House Bill 492, 33rd General Assembly (Chapter 229, S. L. 1941), re. mill levy, is effective July 1, 1941. The clear intent of the legislature was to make it effective on same date as the effective date of Administrative Code of 1941.

230

INDUSTRIAL COMMISSION

Mr. Edward E. Goshen,
June 30, 1941.

Unorganized plants are precluded from establishing apprenticeship agreements by virtue of Section 9, Chapter 87, Session Laws 1937.

231

ADMINISTRATIVE CODE OF 1941

No. 7,
Mr. F. E. Carpenter,
June 30, 1941.

Collection of liquor revenues is vested in the Director of Revenue, although enforcement of terms and provisions of liquor laws is vested in the Secretary of State.

232

**HIGHWAY COURTESY PATROL—
ADMINISTRATIVE CODE OF 1941**

J. J. Marsh, Supervisor,
June 30, 1941.

The funds received from licensing of garages and tourist camps are available for use of the State Highway Courtesy Patrol for the purposes of the auto theft division thereof. The licensing of tourist camps remains under the jurisdiction of said board and there is no change in the law regarding the licensing of garages.

233

TAXATION

Colorado Tax Commission,
June 30, 1941.

Interest on Erroneous Certificates.

Tax certificates erroneously issued bear interest at the rate of eight per cent per annum. When recalled by the county, the county must pay eight per cent to the holder. (Section 278, Chapter 142, 1935 C. S. A.)

234

GAME AND FISH

Mr. C. N. Feast,
June 30, 1941.

The law gives the Game and Fish Department authority to provide for pelting activities on lands controlled by the Forest Service and to incur such expense by division of proceeds as is necessary to accomplish that purpose. (House Bill 412, 1941 Legislature.)

235

GAME AND FISH DEPARTMENT

Mr. James A. Noonan,
June 30, 1941.

Appropriation, Senate Bill 702, Beaver Control Act, House Bill 412.

Senate Bill 702 does not limit expenditure of the Game and Fish Department to the appropriation in House Bill No. 50 as to expenses in enforcing Beaver Control Act (House Bill 412). That act constitutes an additional and continuing appropriation and would not be in excess of appropriations contemplated in Senate Bill 702.

236

FRUIT AND VEGETABLE INSPECTION FUND

Mr. James A. Noonan,
June 30, 1941.

House Bill No. 1034 limits the expenditures from Fruit and Vegetable Inspection Fund to the appropriation provided for by the legislature in House Bill No. 50.

237

TAXATION

Colorado Tax Commission,
July 1, 1941.

Tax on Personal Property Located on Government Owned Property.

No tax can be imposed on privately owned personal property located on government property where legislature has given exclu-

sive jurisdiction in consenting to the government purchase (Article 1, Section 8, Clause 17, Constitution of U. S.; *Surplus Co. v. Cook*, 281 U. S. 647). Auto owners who reside on government owned property wherein private property is not taxable by State must pay auto ownership tax under Uniform Motor Vehicle Act in order to procure "State registration or license fees." (*Board v. Morris*, 104 Colo. 139.)

238

PUBLIC FUNDS

Mr. B. C. Hilliard, Jr.,
July 1, 1941.

Investment in Bonds of Religious Organization Forbidden.

Section 36 of Article 5 of the Colorado Constitution forbids investment of State funds in any security not secured by public credit. Bonds secured by a first mortgage on the Shrine of St. Anne, Arvada, Colorado, which constitute the direct legal obligation of the Roman Catholic Bishop of the Diocese of Denver, do not constitute an authorized investment for State funds in spite of the provisions of Section 126(1) of Chapter 176, 1935 C. S. A. (See opinion of August 7, 1941—B. C. Hilliard.)

239

CIVIL SERVICE

State Civil Service Commission,
July 1, 1941.

Retention of Civil Service Status During Military Service.

The purport of House Bill No. 568 is to preserve the civil service status of employees entering the military service and is not to be extended to positions in non-military services of the United States.

240

ADMINISTRATIVE CODE OF 1941

Mr. F. R. Carpenter,
July 1, 1941.

The Department of Revenue will be responsible after July 1, 1941, for collection of fees and moneys from (1) eighty-five per cent of liquor license fees collected by various cities and counties for Pension Fund, (2) miscellaneous highway receipts to be deposited to credit of General Fund.

241

SCHOOL WARRANTS

Colorado Tax Commission,
July 2, 1941.

It is legal for a county treasurer in a county of less than 30,000 to proceed under Section 52 of Chapter 146, 1935 C. S. A.,

and endorse school warrants when there are no funds to pay them forthwith.

It is also the duty of the county treasurer to list the warrants so endorsed in order that they may be paid in the order of endorsement.

242 STATE BOARD OF HEALTH

Dr. R. L. Cleere,
July 2, 1941.

License of private hospital not subject to renewal requirements. Article 5, Sub. 1 and 2, Chapter 78, 1935 C. S. A., makes provision only for payment of initial fee. A license continues until revoked.

243 JURISDICTION IN FEDERAL AREAS

Mrs. Gertrude A. Lee,
July 2, 1941.

Exclusive jurisdiction is vested in the federal government over those areas acquired from the State. Such jurisdiction is ceded by Section 3, Chapter 168, 1935 C. S. A.

244 MOTOR VEHICLE DEPARTMENT

Mr. C. H. Gum,
July 2, 1941.

Motor Vehicle Department acting either by its own executive officers, or through the agency of the Director of Revenue, may revoke or suspend drivers' licenses for cause upon the grounds specified by statute. (Sections 2 and 140-149, Chapter 16, 1935 C. S. A.; Section 32, Chapter 2, 1941 S. L.)

245 TAXATION—COUNTIES

Mr. F. R. Carpenter,
July 2, 1941.

Administrative Code of 1941.

It would be proper for counties to make charge against their respective Ordinary County Revenue Fund for expenses incurred with radio stations for the purpose of advising the taxpaying public of the time and method of payment of taxes.

246 STATE DAIRY COMMISSIONER

Mr. W. H. Skitt,
July 2, 1941.

A license may not be refused to a cream concentrating station, upon the ground that it pays different prices to different sellers

for the same quality of churning cream. Neither Chapter 49, 1935 C. S. A., nor Chapter 261, 1937 S. L., as amended by Chapter 792, 1941 S. L., makes this practice unlawful.

247 STATE DAIRY COMMISSIONER

Mr. W. H. Skitt,
July 3, 1941.

All persons "engaged in receiving, buying, selling or otherwise handling milk or cream for sale, shipment, manufacture or distribution * * *" are required to hold a dairy plant license, except public transportation companies, hotels, restaurants manufacturing for their own table use only, and milk plants supplying milk exclusively to cities having a municipal inspector. (Sections 3, 4, 8 and 29, Chapter 49, 1935 C. S. A.)

248 STATE DAIRY COMMISSIONER

Mr. W. H. Skitt,
July 3, 1941.

State Dairy Commissioner may adopt reasonable regulations defining grades of milk and may forbid the advertisement and sale of milk which is not of "Grade A" quality as being of that grade. (Sections 4-6, 8, 11-12, 14 and 26, Chapter 49, 1935 C. S. A.)

249 STATE BOARD OF LAND COMMISSIONERS

State Board of Land Commissioners,
July 3, 1941.

Computation of Interest Payments Under Certificate of Purchase.

Installments and interest falling due at stated intervals according to the terms of a contract do not bear interest after maturity. (Citing 6 Colo. 261.) Where a certificate of purchase issued by the State Land Board gives the board the election of cancelling a certificate or of considering the delinquent interest payments as part of principal, it can be said that on exercise of the election, a new contract comes into being within the principle announced in 49 Colo. 115 holding that if interest becomes due it may by agreement be turned into principal and bear interest. Such interpretation of the election is strengthened when both the parties to the contract have considered that delinquent interest should bear interest. The interpretation given of contracts entered into by the land board is strengthened by Article 5 of Chapter 134, 1935 C. S. A., and specifically Section 106. It is, however, the general rule that payments made where both principal and interest are delinquent should be applied to the discharge of the interest then due.

INHERITANCE AND GIFT TAX

Commerce Clearing House, Inc.,
July 7, 1941.

(1) The 1941 Administrative Code does not alter the procedure for the issuance of inheritance tax applications, gift tax returns or waivers. These instruments will continue to be issued by the Inheritance Tax Division.

(2) The Department of Revenue is charged with the duty of collecting the tax or fee certified by the Inheritance Tax Division to be due on inheritance and gift tax returns. The Department of Revenue is not charged with the duty of auditing or investigating the correctness of the amounts so certified to be due.

(3) The Department of Taxation is not concerned with inheritance and gift taxes.

(4) The Department of Revenue may not accept compromises of inheritance or gift taxes. Such compromises, if any, must be made by the Inheritance Tax Division of the office of the Attorney General, with the consent of the State Treasurer expressed in writing.

(5) Inheritance and gift taxes should be paid to the Department of Revenue which, in turn, must transmit such payments to the State Treasurer.

(6) Certificate for refund of inheritance tax paid must be issued by the judge having jurisdiction of the determination of the inheritance tax. Certificate for refund of gift taxes shall be issued by the Inheritance Tax Commissioner, with the approval of the Attorney General.

(7) The Inheritance Tax Commissioner may authorize the payment of taxes in installments.

(8) The Inheritance Tax Commissioner or the judge having jurisdiction of the estate may reduce or waive interest or inheritance taxes. There is no provision authorizing the reduction or waiver of interest on gift taxes.

(9) Bond of executor contemplated by Section 20, Chapter 85, 1935 C. S. A., is set and approved by Inheritance Tax Commissioner.

(10) The Department of Revenue may have the right but does not have the duty to protect tax determinations made by the Inheritance Tax Commissioner.

SERVICE TAX

Mr. Edgar Jenkins,
July 7, 1941.

The lien created by Sections 11 and 12 of the Service Tax Act does not take priority over prior encumbrances against real

property nor constitute a lien against real property of taxpayer conveyed prior to filing of notice by State Treasurer.

252

SCHOOLS—BONDS

Hon. Carl W. Fulgham,
July 8, 1941.

Section 136, Chapter 146, 1935 C. S. A., providing for the payment and redemption of school district bonds, is not applicable to refunding bonds of a school district. The statutes make no provision concerning the order of payment of such bonds. The matter is left to the contracting parties.

253

**STATE BOARD OF STOCK INSPECTION
COMMISSIONERS—CIVIL SERVICE**

The State Board of Stock Inspection Commissioners,
July 9, 1941.

Brand Commissioner, appointed by the State Board of Stock Inspection Commissioners, is within the Civil Service Amendment and subject to the applicable provisions of the statutes and Constitution.

254

JUNIOR COLLEGES

Mrs. Inez Johnson Lewis,
July 9, 1941.

Junior college districts, under Section 27, Chapter 94, 1935 C. S. A., are given all the powers of first class school districts and therefore may issue building bonds on compliance with all the provisions of Subdivision 7 of Chapter 146, 1935 C. S. A.

255

SCHOOLS—MILITARY SERVICE

Mrs. Inez Johnson Lewis,
July 9, 1941.

When a teacher is absent from his duties by reason of induction into the armed forces under the Selective Training and Service Act, the State Superintendent of Public Instruction may extend the certificate of such teacher so that on his return from such service, he will be in the same position as if he had not been so absent.

256

DEPARTMENT OF AGRICULTURE

Hon. A. B. Bailey,
July 10, 1941.

Board of control administering a marketing agreement may provide assessment for advertising. Such assessment is not limited to intrastate shipments. (Section 9, Chapter 66, 1939 S. L.)

257

TAXES AND TAXATION

Hon. Thomas J. Morrissey,
July 10, 1941.

Tax on Liens.

The lien for general taxes provided by Section 4, Chapter 142, 1935 C. S. A., does not become effective until the property is assessed and the taxes levied, at which time the theretofore inchoate lien relates back and attaches as of April 1st of that year. If, before the lien so attaches, specific property legally assumes a tax exempt status, the doctrine of relation does not function.

258

GAME AND FISH

Mr. C. N. Feast,
July 11, 1941.

Persons in the armed forces, and others on federal reservations are eligible for resident hunting and fishing licenses if physically within the State for not less than ninety days. (Section 7, Chapter 109, 1939 S. L.)

259

SCHOOLS

Mr. S. Earl Forbes,
July 11, 1941.

School districts are subject to the jurisdiction of the Industrial Commission which may require the school board to modify the structure and equipment of the school plant. Such expenditures should be made from the contingency fund of the budget. If such fund is insufficient for the purpose, the electors of the district may then open the budget and increase the fund to take care of such extraordinary expenditure. (Section 59, Article II, of Chapter 97.)

260

ADMINISTRATIVE CODE OF 1941

Hon. Walter F. Morrison,
July 11, 1941.

Under the provisions of the 1941 Administrative Code, the Secretary of State has authority to appoint the subordinate officers and employees provided for in the bureaus named in Section 54(2). Such appointments would have to be within the appropriations provided and conditioned upon there being no special statutory provision providing the method of any particular appointment.

**261 ADMINISTRATIVE CODE OF 1941—
WORKMEN'S COMPENSATION ACT**

Industrial Commission of Colorado,
July 11, 1941.

Senate Bill No. 186 having been passed and approved subsequent to the enactment of the Administrative Code of 1941 controls as to the provisions therein contained. Therefore, the billing and collection of safety and accident protection prevention funds in connection with the Workmen's Compensation Act are to be handled by the Industrial Commission and these funds are to be placed in the hands of the State Treasurer as custodian.

262 PUBLIC FUNDS

Hon. Homer E. Bedford,
July 11, 1941.

In cases of shortages of funds involving docket fee tax moneys, prosecution of action to recover same should be under the direction of the Attorney General, such moneys being State funds.

263 SCHOOLS

Hon. Inez Johnson Lewis,
July 11, 1941.

Section 35, Chapter 146, will not permit a school district to have accumulated to its credit its share of a fund of \$10,000 illegally allowed to accumulate in the Old County General Fund, together with its subsequent share of such fund. Nor can it use such accumulated fund for building a school house.

**264. STATE BOARD OF LIVESTOCK INSPECTION
COMMISSIONERS**

State Board of Stock Inspection Commissioners,
July 12, 1941.

Senate Bill 42, approved April 9, 1941, requires that the hides of any and all neat cattle, the carcasses of which are to be stored, shall be first inspected and the meat stamped by a brand inspector. An exception is made, however, as to those persons and firms subject to and operating under and complying with Title 21, Sections 71-95, of the U. S. Code, and also as to cattle inspecting by a brand inspector immediately prior to slaughter.

265

GAME AND FISH

Mr. G. P. Marsh,
July 14, 1941.

Section 158, Chapter 73, 1935 C. S. A., forbids pollution of public waters containing fish, and Sections 159-169 of that chapter provide for injunction and abatement in the case of such pollution.

266

WATER AND IRRIGATION

Mr. C. C. Hezmalhalch,
July 14, 1941.

A successor in interest is bound by the provisions of a permanent injunction theretofore issued against his predecessor by a court of competent jurisdiction.

267

GAME AND FISH

Game and Fish Commission,
July 15, 1941.

Regulation limiting fishing only to ladies and children in a particular lake is invalid. (Sections 5 and 6, Chapter 153, 1937 S. L.)

268

**INDUSTRIAL ALCOHOL—ADMINISTRATIVE
CODE OF 1941**

Mr. F. R. Carpenter,
July 15, 1941.

Requisitions for the purchase of industrial alcohol are properly issued by the Director of Revenue.

269

SOIL CONSERVATION DISTRICTS

Mr. Kenneth W. Chalmers,
July 16, 1941.

When soil conservation plans would involve a change in grazing use from that adjudged under Chapter 125 of 1929 S. L. (Sections 160-166, Chapter 160, 1935 C. S. A.), the proper and lawful thing to do is to obtain a new adjudication under the provisions of Section 5 of that chapter. That chapter was not repealed or amended by either Chapter 241, 1937 S. L., or Chapter 203, 1941 S. L.

270 STATE BOARD OF BARBER EXAMINERS

Colorado State Board of Barber Examiners,
July 16, 1941.

The board may lawfully use \$2,208.00 appropriated for "Inspection Expense" by the 1941 Long Appropriation Bill for travelling and per diem expense, but may not exceed that sum and the specific per diem appropriation or the limitations imposed by Section 4, Chapter 19, 1935 C. S. A.

**271 BOARD OF PHARMACY—ADMINISTRATIVE
CODE OF 1941**

Mr. Rodney Anderson,
July 17, 1941.

Section 32(b) of the Administrative Code of 1941 requires the Department of Revenue to assume the collection duties of the secretary of the Board of Pharmacy. The moneys collected are required to be deposited with the State Treasurer as provided in Section 37 of the Administrative Code of 1941. The State Treasurer credits the sums deposited to the proper agencies as provided in Section 5, Chapter 58, 1935 C. S. A., which includes proper credit to the pharmaceutical association from registration renewal fees.

**272 COUNTY OFFICERS—HIGHWAY COURTESY
PATROL**

Mr. J. J. Marsh,
July 17, 1941.

County commissioners do not have authority to issue permits to truck owners or operators allowing them to install on truck beds or bodies of a width greater than eight feet. (Section 275, Chapter 16, 1935 C. S. A.; *People v. Graham* (Sup. Ct. of Colo., Feb. 3, 1941), 110 P. (2d) 256; Section 164, Chapter 16, 1935 C. S. A.; Sections 174, 176, Chapter 16, 1935 C. S. A.; Section 76(u), Uniform Motor Vehicle Law.)

273 COUNTIES

Mr. W. F. Perkins,
July 17, 1941.

There is no Colorado authority expressly authorizing the renting or leasing of county equipment.

274 SALES TAX—MOTOR FUEL

Mr. Farrington R. Carpenter,
July 17, 1941.

Motor fuel cannot be taxed under the Sales Tax Act when used for processing or industrial purposes.

**275 TAXATION—ADMINISTRATIVE CODE
OF 1941**

Colorado Tax Commission,
July 17, 1941.

Assessment of Motor Vehicle Ownership Taxes.

The State Tax Commission is required to assess and allocate taxes under the Specific Ownership Tax Law of 1937. The only effect of the Administrative Code of 1941 is to transfer to the Department of Revenue the duty of actually collecting such taxes.

**276 TAXATION—COUNTIES—ADMINISTRATIVE
CODE OF 1941**

Mr. F. R. Carpenter,
July 17, 1941.

The function of collecting property taxes is not taken away from county treasurers by the Administrative Code of 1941. It gives the Department of Revenue only the right to assist in collection and the right of distraint in specified cases.

**277 COAL MINE LICENSES—ADMINISTRATIVE
CODE OF 1941**

Mr. F. R. Carpenter,
July 17, 1941.

The authority to issue licenses for the operation of coal mines remains vested in the State Treasurer. Only the function of collecting the fee was transferred to the Department of Revenue by the Administrative Code of 1941.

278 MUTUAL BENEFIT ASSOCIATIONS

Hon. Larke J. Kavanaugh,
July 18, 1941.

By specific provisions of House Bill No. 1319, no mutual benefit association may do business until it has been issued a formal license after application therefor and payment of required fee.

279 BARBERS BOARD—STATE PENITENTIARY

Mr. John F. Starr,
July 18, 1941.

The convict barbers at the State penitentiary may not lawfully engage in the occupation of barbers for the general public, or for employees or relatives, or friends of employees at the penitentiary. (Section 1, Chapter 19, 1935 C. S. A.)

280 COUNTIES

Mr. Riley R. Cloud,
July 18, 1941.

Closing time of county offices is governed by Chapter 90, Section 1, 1939 Session Laws. Provisions of Section 2, Chapter 79, 1935 C. S. A., apply only to those specifically enumerated therein.

281 JUSTICES OF THE PEACE

Mr. O. A. Johnson,
July 18, 1941.

Defendant outside the county may be summoned to appear in small claims court by registered mail in cases where he has contracted to perform an obligation in the county from which the summons emanated. (Sections 2, 4, Chapter 159, 1939 S. L.)

282 JUSTICES OF THE PEACE

Mr. Eugene H. Mast,
July 18, 1941.

House Bill 260.

Justices of the peace are prohibited from making out pleadings, but may engage in collection work. (Sections 18 and 19, Chapter 14, House Bill 260.)

283 EMPLOYEES

Mr. F. R. Carpenter,
July 19, 1941.

State employees may be paid extra compensation for overtime work if an emergency arises necessitating such work and there is an agreement at the outset that such employees would be paid extra compensation.

**284 HIGHWAY DEPARTMENT—ADMINISTRATIVE
CODE OF 1941**

Hon. Homer F. Bedford,
July 19, 1941.

The State Highway Engineer is required to certify his list of employees under the provisions of Section 5(b) of the Administrative Code of 1941 on December 1st of each year. It is, therefore, not necessary that such certification be made prior to December 1, 1941.

**285 APPROPRIATIONS—STATE BOARD OF STOCK
INSPECTION COMMISSIONERS**

Mr. James A. Noonan,
July 21, 1941.

The State Board of Stock Inspection Commissioners may appoint a temporary executive secretary and his salary may be properly paid from the appropriation for seasonal and temporary employees contained in House Bill No. 50.

286 STATE BOARD OF VOCATIONAL EDUCATION

Mr. James A. Noonan,
July 21, 1941.

The State Board of Vocational Education may fix the salary of the Director of Vocational Education and there may be paid from the State appropriation toward such salary any amount up to the maximum appropriated by the legislature without consideration as to the amount of the total salary fixed.

**287 APPROPRIATIONS—WATER CONSERVATION
BOARD**

Mr. James A. Noonan,
July 21, 1941.

The appropriations contained in House Bill 175 constitute the maximum amounts which may be paid to any person properly appointed to the titles or positions therein set forth, but does not constitute the fixing of such salaries.

**288 COLORADO STATE COLLEGE OF AGRICULTURE
AND MECHANIC ARTS**

Mr. James R. Miller,
July 21, 1941.

Liability Insurance, Dormitory and Student Union Building.

(1) Bonds issued to raise revenue for construction of dormitory and student union building contain covenant to carry liability

insurance. We do not advise violation of this covenant because of the non-liability of this institution for tort.

(2) Institution is not liable for personal injuries resulting from operation of institution-owned automobiles used in conducting the business of the college.

289 **MILITARY DEPARTMENT—APPROPRIATIONS** **—SALARIES**

Mr. James A. Noonan,
July 21, 1941.

Section 12, Chapter 111, 1935 C. S. A., constitutes a continuing appropriation fixing the compensation of officers of the National Guard to the pay and allowances of like grade in the regular army. Such officers are entitled to pay at the rate specified, irrespective of the long appropriation bill.

290 **BONDS—CITIES AND TOWNS**

Hon. Willard J. Allen,
July 23, 1941.

It would be possible to have a general liability against a city which had issued improvement bonds despite the fact that they specifically provided for recourse only against the fund derived from special assessments, if negligence on the part of the city in imposing an inadequate assessment could be shown.

291 **HAIL INSURANCE**

Mr. Lon A. Poinsett,
July 24, 1941.

Money available in Hail Insurance Fund for payment of losses is prorated in the event the amount available in the fund is insufficient to pay losses in full in any one year. The deficiency cannot be made up by issuance of anticipation warrants. (Section 115, Chapter 87, 1935 C. S. A.)

292 **ADMINISTRATIVE CODE OF 1941** **—DIRECTOR OF MARKETS**

Mr. W. C. Sweinhart,
July 24, 1941.

Agricultural marketing fund provided for by Chapter 66, 1939 Session Laws, should be deposited with the State Treasurer and not handled by the Department of Revenue. Such funds are not "taxes, imposts, fees or licenses" or revenue, the collection of

which is transferred to the Department of Revenue. (Section 32, Chapter 2, 1941 S. L.; Sections 2-4, Article X, Colorado Constitution.)

293 ADMINISTRATIVE CODE OF 1941
—MOTOR FUEL

Mr. James A. Noonan,
July 25, 1941.

House Bill No. 312 authorizes the Director of Revenue to place up to three per cent of the Motor Fuel Tax Fund in the Department of Revenue Administrative Fund. The balance of the Motor Fuel Tax Fund must be turned over to the State Treasurer to be allocated by him in the manner specifically provided for in Section 390, Chapter 16, 1935 C. S. A.

294 ADMINISTRATIVE CODE OF 1941
—SALES AND SERVICE TAXES

Mr. James A. Noonan,
July 25, 1941.

House Bill No. 312 places the sales tax token redemption fund in the Department of Revenue Administration Fund. Therefore, within the intent of the Sales and Service Tax Laws, this fund is to be used for the redemption of tokens and the purchase of new tokens as provided by the authorized rules and regulations.

295 INHERITANCE TAX

Mr. Berton T. Gobble,
July 26, 1941.

Interest of non-resident decedent as vendor in executory contract for sale of land in Colorado is considered intangible personal property and taxable in state of domicile. Similarly, interest of resident decedent as vendor in executory contract for sale of land situate outside Colorado is taxable in Colorado as intangible personal property.

296 STATE BOARD OF LAND COMMISSIONERS

Mr. W. J. Frederick,
July 29, 1941.

When a lease is cancelled by the State Board of Land Commissioners, the lessee having contracted to purchase the improvements on the property, the improvements are free from any lien for taxes and a purchaser takes them free from any claim of the county for unpaid taxes.

297 COUNTY OFFICERS—NEWSPAPERS

Mr. Eugene T. Childers,
July 29, 1941.

Under the provisions of House Bill No. 1412 the county treasurer has the authority to choose the place of publication of the delinquent personal property tax list.

298 MOTOR VEHICLES

Mr. C. H. Gunn,
July 30, 1941.

A judgment for damages which must be reported under the provisions of Subsection (b), Section 46, Chapter 16, 1935 C. S. A., does not become final until expiration of the period for which stay of execution has been granted.

299 MOTOR VEHICLES

Mr. C. H. Gunn,
July 30, 1941.

Salesmen who are in Colorado on regular trips and who spend a substantial portion of their time in this State are "residents" because they carry on a business, or are gainfully employed, within the meaning of Section 79(k), Chapter 16, 1935 C. S. A., and therefore must obtain drivers' licenses in Colorado.

300 TAXATION

Mr. James M. Noland,
July 31, 1941.

The interest rate on taxes paid by the purchaser of a tax certificate subsequent to purchase is 12 per cent per annum from date of delinquency until such date the purchaser is entitled to a deed. From that date the rate changes to 8 per cent per annum. (Section 264, Chapter 142, 1935 C. S. A.)

301 NURSE EXAMINERS

Mr. Fred M. Fenkar,
July 31, 1941.

The fact that a registered nurse of another state has had army and navy service does not entitle the applicant to a nursing license as required by Chapter 114, 1935 C. S. A. The applicant must meet the requirements set forth in Section 4(e), Chapter 114, 1935 C. S. A., when procuring a license without examination.

302 APPROPRIATIONS—SALARIES

Mr. James A. Noonan,

July 31, 1941.

In cases where the salary for any position is set by special statute the same cannot be changed in the general long appropriation bill for the reason that affirmative legislation cannot be contained in such appropriation bill. Any attempt in the general long appropriation bill to change the title for positions set up by statute is ineffective as being affirmative legislation attempting to create or change salaries otherwise fixed by special statutory enactment.

303 BLIND

Mr. James A. Noonan,

July 31, 1941.

Director of Industries for the Blind.

The salary of \$3,000 for the Director of Industries for the Blind as fixed by Senate Bill 795 constitutes a continuing appropriation and therefore should be paid as a continuing appropriation and not in accordance with a special appropriation in the general long appropriation bill.

304 PUBLIC UTILITIES

Mr. Henry S. Sherman,

August 4, 1941.

District courts, county courts, and justices of the peace, all within their jurisdictional limits, have concurrent jurisdiction over violations of the Motor Carrier Acts (Sections 300-370, Chapter 16, 1935 C. S. A.); such violations being misdemeanors. (Section 158, Chapter 96, 1935 C. S. A.; *Horse v. People*, 43 Colo. 118.)

305 MEDICINE

Dr. George R. Buck,

August 4, 1941.

Commissioned surgeons of the United States army, navy or public health and marine hospital service are not required to be licensed to practice medicine in the State of Colorado while performing the lawful duties as such officers. (Section 17, Chapter 109, 1935 C. S. A.)

**306 ADMINISTRATIVE CODE OF 1941
—DEPARTMENT OF REVENUE**

Department of Revenue,
August 4, 1941.

The Department of Revenue does not require a seal nor do the statutes make provision for the department to have a seal. Notarial acknowledgments when required are sufficient.

**307 ADMINISTRATIVE CODE OF 1941
—REAL ESTATE BROKERS BOARD
—BOXING COMMISSION**

Hon. Walter F. Morrison,
August 4, 1941.

By provision of the Administrative Code of 1941 funds payable to the Real Estate License Fund and funds of the Boxing Commission should be collected by the Director of Revenue and by him paid to the State Treasurer in accordance with the provisions of House Bill No. 558.

308 INTOXICATING LIQUOR

Mr. Myron R. Donald,
August 4, 1941.

The words "direct or indirect financial assistance to the retail licensee on the part of a manufacturer or wholesaler" as used in Sections 7 and 28, Chapter 89, 1935 C. S. A., do not apply to the case where the manufacturer or wholesaler, in advertising, includes the names of retail licensees selling its products.

309 PUBLIC UTILITIES

Mr. F. R. Carpenter,
August 5, 1941.

Ledger accounts of motor vehicle carriers and certifications from Public Utilities Commission are not public records.

310 STATE BOARD OF COSMETOLOGY

State Board of Cosmetology,
August 5, 1941.

There is no statutory provision which will permit members of the Cosmetology Board any allowance for per diem except when acting under provisions of Sections 8, 19 and 21 of Chapter 42, 1935 C. S. A. The appropriation for maintenance and operation in the general long appropriation bill, by virtue of the

definition contained therein, cannot be used for payment of per diem to board members, but may be used for the payment of necessary travelling expenses of the board members.

311 FUNERAL DIRECTORS AND EMBALMERS

The Colorado State Board of Funeral Directors and Embalmers.
August 5, 1941.

State Board of Funeral Directors and Embalmers does not have the authority to fix educational prerequisites for applicants for licenses for funeral directors and embalmers at a higher standard than the law specifies. Such action would be legislative in character.

312 TAXATION—REAL ESTATE IMPROVEMENTS

Mr. Edward Slates,
August 4, 1941.

Section 17, Chapter 142, 1935 C. S. A., provides that real estate includes improvements. For taxing purposes real estate includes improvements irrespective of whether or not the improvements are erected upon or affixed to leased land. There are many exceptions to the general rule which would require special consideration in each individual case.

313 CHIROPRACTORS

Dr. E. A. Johnson,
August 6, 1941.

Failure to renew chiropractic license within ninety days after July 1st each year causes automatic suspension of such license. The third consecutive failure to renew operates as an automatic revocation. (Section 2, Chapter 34, 1935 C. S. A.)

314 STATE COMMISSION FOR THE BLIND

Mr. Roy Chapman,
August 6, 1941.

Federal Wage and Hour Act.

Section 3(d) of the Federal Wage and Hour Act excludes the State Industrial Workshop for the Blind from provisions of said federal act.

**315 STATE BOARD OF COSMETOLOGY—STATE
BOARD OF HEALTH—FEES AND SALARIES
—ADMINISTRATIVE CODE OF 1941**

The State Board of Cosmetology,
August 6, 1941.

Under the provisions of the Administrative Code of 1941 employees of one department cannot receive salary, compensation, or fees from another department, but if properly appointed may act for more than one department and receive necessary expenses incidental to their work from more than one department.

**316 STATE BOARD OF COSMETOLOGY—STATE
BOARD OF HEALTH—FEES AND SALARIES**

Hon. Walter F. Morrison,
August 6, 1941.

It is improper for one board to render a bill to another board for work done for such second board by the employees of the first board, the intent being to use the moneys to increase the salaries of the employees of the first board over the maximum appropriation made for such services.

**317 GAME AND FISH COMMISSION—
APPROPRIATIONS—FEES AND SALARIES**

Mr. C. N. Feast,
August 6, 1941.

Where positions provided for in the general long appropriation bill are filled, the salaries therefor are limited by the maximum amount provided for that purpose. If no appointments are made for any such positions and appointments are made for positions not specifically appropriated for, any unused salaries may be utilized for the purpose of paying employees appointed to any such new positions. However, no such new positions or salaries may be legally set up without securing the regular approval of the Governor as provided for in Section 5(a) of the Administrative Code of 1941.

318 SALES TAX

Mr. Russell P. Andrews,
August 7, 1941.

National Park Warehouse, Taxable.

Sales from national park warehouses to government employees are private sales and taxable. (Buck Act, 1 U. S. C. A. PP '42, Section 13.)

319 STATE INDUSTRIES FOR THE BLIND

Hon. Ralph L. Carr,
August 7, 1941.

The Director of State Industries for the Blind is appointed by the Board of Industries for the Blind to serve at the pleasure of the board. He is not subject to civil service. (Volume 2, Chapter 36, Section 3, 1935 C. S. A.; Chapter 90, Section 1, 1941 S. L.)

320 BONDS

Hon. B. C. Hilliard, Jr.,
August 7, 1941.

Public Administrator would be justified in investing in issue described as \$39,000 bonds of the Roman Catholic Bishop of the Diocese of Denver 2½ per cent-3 per cent first mortgage bonds, secured by the Shrine of St. Anne, Arvada, Colorado, (1) if the bishop is authorized to encumber the property, and (2) if the conveyances by which he took title contain no reverter clause in case such property is sold for a non-Catholic purpose.

321 COUNTY OFFICERS

Hon. E. R. Jones,
August 8, 1941.

County judge should file with the board of county commissioners a monthly report of moneys received and disbursed by him and a copy of such report should be filed with the county treasurer. (Sections 39, 43, Chapter 66, 1935 C. S. A.)

322 INSANE PERSONS

Dr. F. H. Zimmerman,
August 12, 1941.

Jurisdiction of County Court.

(1) The county court having jurisdiction over mental incompetent confined in Colorado State Hospital should be informed of an inheritance by the patient even though the amount is small. (Section 9, Chapter 105, 1935 C. S. A.)

(2) The Superintendent of Colorado State Hospital cannot legally demand payment of such inheritance to himself to be kept for the patient, unless superintendent is duly appointed conservator.

323 STATE BOARD OF PHARMACY

Mr. William C. Alexander,
August 12, 1941.

(1) Members of the Board of Pharmacy are entitled to five dollars per day for each day of service for the board. (Section 4, Chapter 58, 1935 C. S. A.) The number of days should be determined from a record of the number of hours spent each month in the service of the board.

(2) A secretary who is also a member of the board is entitled to per diem pay for board duties in addition to salary as secretary.

(3) There is no statutory provision allowing compensation of ten dollars per day while acting as examiners.

324 INHERITANCE TAX

Mr. Berton T. Gobble,
August 12, 1941.

Bequests made for the purpose of saying masses for a decedent are exempt from the State inheritance tax. (Section 15, Chapter 85, 1935 C. S. A.)

325 MOTOR VEHICLES

Department of Revenue, Motor Vehicle Bureau,
August 13, 1941.

Motor vehicle license may not be issued to person previously declared mentally incompetent until he is declared restored to sanity by court of competent jurisdiction. A letter from a doctor stating applicant has been restored to reason is insufficient to justify issuance of license. (Section 124, Subsection 5, Chapter 16, 1935 C. S. A.)

326 SALES TAX

Messrs. Moynihan and Hughes,
August 13, 1941.

Water Conservancy Districts Exempt.

Water conservancy districts organized under the act of 1939 are quasi-municipal organizations and are exempt from sales tax imposed in accordance with Section 15 of the Sales Tax Act. (*People v. Letford*, 102 Colo. 284.)

327

**OFFICERS
(Auditor)**

Mr. W. C. Loss,
August 13, 1941.

Claims against the State presented to a State department within two years are valid and should be approved by the Auditor and paid. Such claims are not defeated merely because the department failed to transmit such account to the Auditor within the two-year period provided by the statute. (Section 25, Chapter 153, 1935 C. S. A.)

328

FIREMEN'S PENSION FUND

Mr. W. W. Platt,
August 14, 1941.

Chapter 166, S. L. 1939, should be followed in the investment of firemen's pension funds in cities of the first and second class.

329

GAME AND FISH

Game and Fish Commission,
August 14, 1941.

The Game and Fish Commission may issue a permit permitting the owner of a park or lake to add to his collection of game and fish and to procure such specimens from the State. (Chapter 73, Section 96, 1935 C. S. A.)

330

**ADMINISTRATIVE CODE OF 1941
—BOILER INSPECTION DEPARTMENT**

Industrial Commission of Colorado,
August 14, 1941.

Section 9 (12) (b), Administrative Code of 1941, has the effect of repealing the statutory positions and salaries provided for the Boiler Inspection Department in Section 1, Chapter 23, 1935 C. S. A., and the Division of Industrial Relations through the transfer of such functions has the right to provide for such positions and salaries as are necessary for the proper operation of the department within the terms of the Administrative Code of 1941 and the general long appropriation bill.

331

TAXATION

Mr. C. H. Durant,
August 18, 1941.

(1) The Soldiers and Sailors Civil Relief Act of 1940 con-

tains no provisions which prevent publication of names of taxpayers who are delinquent in payments.

(2) The act does not prevent distraint and sale of personal property.

(3) Under the provisions of Chapter 188, Session Laws of Colorado, 1941, a publication is made on a day in September selected by the county treasurer.

(4) There is no statutory authority permitting refusal to accept payment of the 1940 tax unless prior delinquent taxes are also paid.

332 POLICE AND FIREMEN'S PENSION FUND

Miss Mabel Redhead,
August 19, 1941.

(1) Policemen's Pension Fund is governed by provisions of Article 24, Chapter 163, 1935 C. S. A., as amended by Chapter 205, S. L. 1937.

(2) Investment of a part of the fund in United States Defense Bonds would be legal.

(3) Article 23, Chapter 163, 1935 C. S. A., provides conditions for participation in Firemen's Pension Fund.

333 COUNTY OFFICERS—TAXATION

Colorado Tax Commission,
August 21, 1941.

County commissioners are without authority to employ tax collectors. This is the duty of the county treasurer. (*Chase v. Boulder County*, 37 Colo. 368.) Deputies and assistants are employed by county treasurers who fix their compensation subject to approval of county commissioners. (Section 90, Chapter 66, 1935 C. S. A.) Compensation based on percentage of delinquent taxes collected is contrary to public policy and not "fixed compensation" within the meaning of the statute.

334 COUNTY OFFICERS—SALES AND USE TAX

Mr. T. P. Thomas,
August 22, 1941.

Fees.

County clerks cannot claim five per cent of sales and use taxes collected. Section 5 of Sales and Use Tax Act applies only to retailers and vendors. (Section 25(b), Chapter 148, S. L. 1939.)

335 STATE BOARD OF LAND COMMISSIONERS

The State Board of Land Commissioners,
August 22, 1941.

Salaries of Employees, Appropriations.

Sections 51 and 57, Chapter 134, 1935 C. S. A., provide for the appointment of land appraisers for the purpose of appraising State lands to aid the board in making selection and location of lands under grants from Congress. The farm loan investigators and appraisers appointed by the State Board of Land Commissioners and certified by the Civil Service Commission are, however, charged with entirely different duties than the statutory appraisers first mentioned, and therefore cannot be considered such statutory employees.

336 MARKET DIRECTOR

Mr. Ben H. Cook,
August 23, 1941.

Potato chips are not a "by-product" when they are the principal product of the factory where prepared. (Sections 70, 82 and 84, Chapter 69, 1935 C. S. A.; Chapter 133, 1941 S. L.)

337 STATE INDUSTRIAL SCHOOL FOR BOYS

Mr. Harry W. Bundy,
August 25, 1941.

There is no authority to grant permission to a power company to run a power line across grounds of industrial school to serve a private home.

338 STATE BOARD OF ACCOUNTANCY

Mr. Earl E. Ewing,
August 25, 1941.

An application for the issuance of a license as a registered accountant without examination, under the provisions of Section 11, Chapter 76, 1937 S. L., first filed November 19, 1938, comes too late.

339 PUBLIC UTILITIES

Mr. Henry S. Sherman, Chairman, P. U. C.,
August 26, 1941.

Highway compensation tax, assessed against carriers by motor vehicle, should be figured upon basis of number of miles

shipments are carried. (Section 307, Chapter 16, 1935 C. S. A.; Section 352, Chapter 16, 1935 C. S. A.; Section 331, Chapter 16, 1935 C. S. A.; Section 327, Chapter 16, 1935 C. S. A.)

340

PUBLIC UTILITIES

Mr. Henry S. Sherman,
August 26, 1941.

The question of public convenience and necessity is not involved in the application and hearing for a transfer of a certificate. (Sections 305 and 306, Chapter 16, 1935 C. S. A.; Rules 4(g) and 6(a), Rules and Regulations Governing Motor Vehicle Carriers; Section 318, Chapter 16, 1935 C. S. A.; Section 49, Chapter 137, 1935 C. S. A.)

341

SCHOOLS

Dr. Charles Haines,
August 26, 1941.

Under the local government budget law, Pueblo Junior College may not change its budget year to correspond to that of local school districts. Such a change could only be authorized by the legislature.

**342 CIVIL SERVICE—DIRECTOR OF REVENUE—
ADMINISTRATIVE CODE OF 1941**

Hon. Ralph L. Carr,
August 27, 1941.

Employees.

No vested rights of civil service employees can be impaired or destroyed because the Civil Service Commission has made a mistake and failed in its duty to properly protect them, or because the Director of Revenue refuses to admit their rating and pertinent qualifications. Section 57 of the Administrative Code of 1941 necessarily created, on its effective date, an eligible list of some type, regardless of whether the Civil Service Commission recognized such a fact or prepared such a list. If the list thus created carried the names of employees in the certified service who, by virtue of their rating and experience were qualified to perform substantially the duties set up by the Director of Revenue, then the fact that the commission erroneously permitted the appointment of provisional employees at the request of the Director of Revenue could not defeat the rights of those on said list and the Civil Service Commission had the right and duty to correct such mistakes and the Director of Revenue must recognize the employment of such persons so certified.

On the other hand, if such eligible list or lists did not include persons qualified by rating and experience for such positions, the Director of Revenue had the right under the provisions of Section 34 of the Administrative Code of 1941 to make provisional appointments for such positions, in which case it became the duty of the Civil Service Commission to approve such appointments, and such appointments, under the provisions of such section, became effective until examinations were given as therein provided.

343

INHERITANCE TAX

Prentice-Hall, Inc.,

August 28, 1941.

(1) Section 2 of House Bill 399 (Chapter 146, 1941 S. L.) amends Article 4, Chapter 85, 1935 C. S. A., but does not repeal it. Article 4, as amended, applies only to estates of decedents dying on or after April 19, 1941.

(2) The word "articles" as used in Section 2 of House Bill 399 refers to Article 4, Chapter 85, 1935 C. S. A., and does not refer to Article 3, Chapter 85, 1935 C. S. A.

(3) Credit for inheritance tax referred to in Section 2, House Bill 399, refers to taxes paid to any state or territory or the District of Columbia or any possession of the United States, rather than only to taxes paid to the State of Colorado.

344

**X-RAYS—PHOTOGRAPHY—BASIC SCIENCES
ACT**

Messrs. Garey and Garey,

August 30, 1941.

There are no Colorado statutes prohibiting a layman from conducting an x-ray laboratory or taking x-ray photographs. A layman who interprets radiographs, making diagnosis therefrom for medical purposes would probably be subject to provisions of Basic Sciences Act. (Colorado Session Laws, 1937, page 383.)

345

SECURITIES

Hon. Curtis White,

September 2, 1941.

The Commissioner of Securities is the proper person to be designated as the agent for the service of process under the provisions of the Fraudulent Practice Act as modified by the Administrative Code of 1941.

**346 STATE BOARD OF INDUSTRIES FOR THE
BLIND—OFFICERS**

Hon. Ralph L. Carr,
September 3, 1941.

Where a member of the State Board of Industries for the Blind is elected to the position of Director of Industries and said election is accomplished by a majority vote of the board and the vote of the interested party is necessary to be counted to obtain a majority, such election is invalid for such purposes.

347 SCHOOLS

Mr. Nicholas A. Medina,
September 4, 1941.

In case of absolute failure of school director to perform duties of his office the remaining members of the board, if they constitute a quorum, may by resolution declare an abandonment of the office and ask the county superintendent to fill such vacancy by appointment. (*Gallegos v. Franklin*, No. 1129. District Court, Costilla County, to the contrary.)

348 GAME AND FISH—COUNTY OFFICERS

Mr. C. N. Feast,
September 5, 1941.

The Game and Fish Commission may designate persons other than the county clerk and recorder to issue hunting and fishing licenses. In such case, the person so designated is entitled to receive and retain the compensation provided by statute for the service so rendered. (Section 173, Chapter 73, 1935 C. S. A., as amended by Section 2, Chapter 139, 1941 S. L.; Section 8, Article XIV, Colorado Constitution.)

349 MOTOR VEHICLES

Mr. C. H. Gunn,
September 6, 1941.

Equestrians.

Equestrians should ride on the left hand side of a highway facing approaching traffic. (Sections 162 and 217, Chapter 16, 1935 C. S. A.)

350

TAXATION

Colorado Tax Commission,
September 9, 1941.

Taxation exemption of personal property provided for in Section 3 of Article X of the Constitution of Colorado cannot be denied a person because he is a non-resident of Colorado. (See *County Commissioners v. Dunn*, 21 Colo. 185, as to taxation of non-resident.)

351

PUBLIC FUNDS

Hon. Chas. M. Armstrong,
September 10, 1941.

Fees for Which No Disposition Has Been Made by Legislature.

Where the legislature provides for the collection of fees such as are set forth in Chapter 145, Session Laws of 1941, and makes no provision for the disposition or use of said funds, there is no authority for the State Treasurer to place such funds in the general fund of the State, but the same must be placed in a suspense fund, or special fund, subject to future disposal by the General Assembly.

352

ADMINISTRATIVE CODE OF 1941

Mr. F. R. Carpenter,
September 10, 1941.

Under the provisions of the Administrative Code of 1941, the administration of the State Inspector of Oils Division was not changed except as to the collection functions which were transferred to the Department of Revenue. The legislature provided in Section 3, Subsection 9, Chapter 187, Session Laws of 1941, that proceeds from the Excise Tax Commissioner's Fund and Motor Fuel Tax Fund be placed in and become part of the Department of Revenue Administration Fund and also provided that the administration expenses of the Oil Inspection Division be made from such Department of Revenue Administration Fund. The general long appropriation bill appropriates for the expenses of the State Inspector of Oils, to be paid out of the Department of Revenue Administration Fund, a separate and additional appropriation to that made out of said fund for the expenses of the Department of Revenue. The administration of the Inspector of Oils Division is independent of the Director of Revenue and therefore vouchers covering personal services, maintenance and operation of the State Inspector of Oils Division should be prepared by said division and drawn upon the Department of Revenue Administration Fund, and do not require the approval of the Director

of Revenue but do require the approval of the Governor as the head of the Executive Department in which said Inspector of Oils Division is placed by the Administrative Code of 1941. Such vouchers must be in accordance with and not in excess of the appropriations made for the use of such division.

353

TAXATION

Mr. F. R. Carpenter,
September 11, 1941.

Assessments, Mining Machinery and Improvements Separately Valued.

Improvements on real estate are by the terms of Section 17, Chapter 142, 1935 C. S. A., assessed the same as real estate for the purposes of taxation. There is an exception in the case of improvements upon mining property as provided for in Section 85, Chapter 142, 1935 C. S. A., in which case the improvements and machinery located upon any mine or mining claim are to be separately valued for taxation. (Section 85, Chapter 142, 1935 C. S. A.)

354

SCHOOLS

Mrs. Olga A. Hellbeck,
September 11, 1941.

A retired teacher can be hired as a substitute teacher, but the days when such teacher receives substitute pay should be deducted in computing the amount due under the pension.

355

COLORADO GENERAL HOSPITAL

Dr. Maurice H. Rees,
September 12, 1941.

Erection of a Shelter House for Bus Passengers.

The Colorado State Hospital must observe the requirements of the zoning ordinance of the City and County of Denver in the erection of a shelter house on State property near the property line to be used for convenience of bus patrons.

356

MOTOR VEHICLE DEPARTMENT

Mr. C. H. Gunn,
September 12, 1941.

Records.

Section 86, Chapter 16, 1935 C. S. A., only requires the Motor Vehicle Department to permit reasonable "inspection" of the "registrations and license records" of the department at its offices. (*Bean v. People*, 7 Colo. 200; *Stocknan v. Brooks*, 17 Colo. 248.

357 PUBLIC FUNDS—OLD AGE PENSION

Hon. Homer F. Bedford,
September 12, 1941.

Accumulated Surpluses in Administrative Fund.

Where surpluses have accumulated from the percentage set aside from sales and use tax and liquor tax license fees for administrative purposes in the office of the State Treasurer, such balances become a part of net revenue as contemplated in Section 1, Article 24, of the Colorado Constitution, and should be administered by the State Treasurer by transferring and allocating such unused surpluses in the same way as other net revenue from such excise taxes as provided for by the Constitution and Chapter 223, Session Laws 1937, for the apportionment of such net revenue.

This is in accordance with the case of *Fraternal Order of Pensioners, et al. v. Armstrong et al.*, where it was held that unexpended portions of such administrative fund must remain inviolate for the purposes set out in the Constitution and statutes enacted in pursuance thereof.

It is proper that such surplus should be transferred at the end of each fiscal biennium or as soon thereafter as possible.

358 LIQUOR

Mr. C. P. Moore,
September 13, 1941.

Section 17, Chapter 89, 1935 C. S. A., forbids those under 21 years of age from participating in the sale or dispensing of spirituous liquors; it does not apply to manufacture thereof.

359 GAME AND FISH COMMISSION

Game and Fish Commission,
September 15, 1941.

Beaver Control Act, Drainage Districts.

The Beaver Control Act, Chapter 136, 1941 Session Laws, is not applicable to drainage districts which do not use any of the reclaimed waters for irrigation purposes.

360 POLICEMEN'S PENSION FUND

Longmont Board of Trustees,
September 15, 1941.

(1) Under the provisions of Section 524, Chapter 163, 1935 C. S. A., it is mandatory on the part of the board of trustees of

the Policemen's Pension Fund to retire a member of the police department providing the board finds that the facts exist as required by the statute.

(2) Compensation to a retired officer must be paid from the Policemen's Pension Fund and in the amount provided by statute.

361 **SALES AND SERVICE TAXES**

Mr. F. R. Carpenter,
September 15, 1941.

Bracketing.

The Sales Tax Law, being Chapter 144 of the 1935 Colorado Statutes Annotated, places a duty on the retailer to account to the State for 2 per cent as a sales tax on the retail amount of taxable sales—in administering the same, proper rules and regulations may be promulgated for the purpose of enabling the retailer to collect an average equivalent of 2 per cent of taxable sales. Any rules and regulations formulated for the bracketing of the sales tax which will provide a method whereby the retailer will be properly protected in collecting from the purchaser an average equivalent to 2 per cent of such retailer's total taxable sales, would come within the contemplation of the statutes and would be legal.

362 **SCHOOLS**

Mr. Earl J. Hower,
September 16, 1941.

In case of an emergency, a special election may be called by the school board to gain authorization of the electors for the purchase of lots necessary for school purposes.

363 **ADMINISTRATIVE CODE OF 1941— AGRICULTURAL COLLEGE—BASIC SCIENCES**

Mr. I. E. Newsom,
September 17, 1941.

Section 6 of the Administrative Code of 1941 prohibits a member of the faculty of the State College of Agriculture and Mechanic Arts from receiving in addition to his salary a per diem compensation as a member of the Basic Science Board.

364 **ELECTIONS**

Mr. Walter Stout,
September 17, 1941.

Delegates to congressional district convention to nominate

candidate to fill vacancy should be elected by precinct caucus specially called for that purpose. Delegates elected to congressional district convention to nominate candidate for the preceding general election do not hold over.

365

GAME AND FISH

Mr. C. N. Feast,
September 17, 1941.

License for private preserve may be granted to owner of land if lake or body of water licensed is wholly upon such land. A series or group of lakes under one proprietorship or under diverse ownership may be issued one license if situated "in reasonable proximity to each other." (Sections 112, 115-118 and 120, Chapter 73, 1935 C. S. A.)

366

SCHOOLS

Mrs. Inez Johnson Lewis,
September 18, 1941.

There is nothing in the law which would prohibit the annexation of a portion of a dissolved district, which dissolved district is a part of a union high school district, to a district which is not a part of such system. Such portion would remain liable for tax for high school purposes although the rest of the district would not be so liable. Moneys in special fund of the dissolved district should be divided between the fractions according to location of property on which the tax was levied.

367

**COLORADO INDUSTRIES FOR THE BLIND
—STATE EMPLOYEES' RETIREMENT**

Mr. Raymond J. Heath,
September 18, 1941.

An operator of a cigar stand under contract with the Colorado Industries for the Blind is an independent contractor and not within the scope of the State Employees' Retirement Fund.

368

**LEGAL RESIDENCE—COLORADO SCHOOL
OF MINES**

Dr. M. F. Coolbaugh,
September 18, 1941.

For the purpose of establishing bona fide residence in order to enroll as a student in State educational institutions, such residence is to be determined by a consideration as to whether the parents or parent of such student have an actual settlement within

the State which is a fixed and permanent habitation, together with an intention to make such place the true home of the family. In the case of army officers, Section 4, Article 7, of the Colorado Constitution provides a guarantee against losing the right to vote, but this section has been construed to mean that the right to vote is not gained by mere residence, but must be shown by acts entirely distinct from such residence. Section 4 applies only to voting and eligibility to office and not to legal residence.

369**ELECTIONS**

Hon. Walter F. Morrison,
September 19, 1941.

Special Elections.

(1) The absent voters' law is applicable to special elections to fill vacancies under Chapter 124, Session Laws of 1941.

(2) A precinct registration previous to a special election is required the same as registration previous to primary and general elections by Section 1, Chapter 103, Session Laws of 1939.

370**CONTRACTS—COLORADO SCHOOL FOR THE
DEAF AND BLIND**

Dr. A. L. Brown,
September 19, 1941.

Specifications adopted as a part of a construction contract must be strictly complied with as to type, style, quality and detailed specifications, irrespective of where material is purchased. The contractor cannot be required to purchase equipment made by a particular manufacturer unless the specifications cannot be met otherwise.

371**BANKS AND BANKING**

Hon. Maple T. Harl,
September 20, 1941.

The amount of a loan or loans made by a State bank to any individual, firm or corporation is limited by the provisions of Section 41, Chapter 8, 1935 C. S. A., which must be strictly observed.

372**ELECTIONS**

Mr. C. P. Rigby,
September 20, 1941.

There is no provision for purged sheets to be removed from registration book. Hence they should not be destroyed. (Section 130, Chapter 103, 1939 S. L.)

373

ELECTIONS

Mr. Dan Milenski,
September 20, 1941.

On failure to purge registration books, no statutory authority being given to cover this situation, it is advisable for re-registration of voters, whether they voted or not at the last election.

374 **JUSTICES OF THE PEACE—MOTOR VEHICLES**
 —COURTESY PATROL

Mr. J. J. Manning,
September 22, 1941.

Prosecuting officer may file a complaint for a traffic violation with any justice of the peace in the county where the offense is alleged to have occurred. The better practice, however, is that the complaint be filed in the nearest court having jurisdiction. (Section 3, Chapter 74, 1939 S. L.; Sections 14 and 158, Chapter 96, 1935 C. S. A.)

375

MOTOR VEHICLES

Hon. Ralph L. Carr,
September 24, 1941.

The State of Colorado may require the purchase of motor vehicle licenses by residents of a foreign state, which state imposes a like obligation on residents of Colorado. (Par. (c), Section 115, Chapter 16, 1935 C. S. A.)

376

SCHOOLS

Mr. Victor Charles,
September 26, 1941.

District not liable in tort for negligence of officers or employees, if acting within scope of authority.

377

TAXATION

Colorado Tax Commission,
September 27, 1941.

Any taxpayer wishing to object to an assessed valuation on his property, where such assessment exceeds \$7,500, may have his choice of at least two remedies, first, by an appeal from the decision of the county assessor to the board of county commissioners sitting as a county board of equalization, or second, to follow the provisions of Section 115 of Chapter 142, 1935 C. S. A., and appeal directly from the assessor to the county or district court.

378

TAXATION

Mr. A. W. Sparkman,
September 29, 1941.

Tax exemption of \$200 granted to the head of a family by Section 3, Article 10, of the Constitution of Colorado applies to non-residents as well as to residents of the State. Such exemption, however, is not to be presumed but should be claimed by the taxpayer. (61 C. J., p. 391.)

379

INSURANCE

Hon. Luke J. Kavanaugh,
September 29, 1941.

Chapter 158, Session Laws of Colorado, 1941, amending Section 14, Chapter 87, 1935 Colorado Statutes Annotated, places the burden of paying insurance premium taxes on the original insurer.

380

SALES AND USE TAX ACT

Mr. F. R. Carpenter,
September 30, 1941.

Federal Retailers' Excise Tax Excluded From "Purchase Price."

Purchase price within meaning of Colorado Sales and Use Tax Act means price to consumer exclusive of "Retailers' Excise Tax" imposed by Federal Revenue Act of 1941. Manufacturers' excise tax is included as part of retailers' purchase price. (Section 3(m), Chapter 197, 1941 S. L.)

381

STATE BOARD OF COSMETOLOGY

Hon. Ralph L. Carr,
September 30, 1941.

Section 6, Chapter 142, 1935 C. S. A., requires that members of the State Board of Cosmetology shall be citizens of this State, at least twenty-five years of age, that no two of them shall be graduates of the same beauty school, and that each shall have at least five years of "practical experience." This practical experience need not have been acquired while the member was licensed to practice cosmetology in this State.

382

OFFICERS

Mr. Kenneth A. Johnson,
September 30, 1941.

Clerk of the district court, acting as probation officer, is entitled to pay as probation officer. (*Board of County Commissioners of Montrose County v. Wharton*, 82 Colo. 466.)

383 INTOXICATING LIQUORS

Mr. Walter F. Morrison,
October 2, 1941.

Fee paid for wholesaler's license may be refunded providing no use is made of the license in any portion of the year for which the license was issued. (Section 23, Chapter 89, 1935 C. S. A.)

384 INTOXICATING LIQUORS—ELECTIONS

Hon. Walter F. Morrison,
October 2, 1941.

Prohibition against sale of intoxicating liquors on election day extends to special election to fill vacancy in office of congressman. (Section 3, Chapter 142, 1935 S. L.; Section 17, Chapter 89, 1935 C. S. A.)

385 INDUSTRIAL SCHOOL

Mr. Harry W. Bundy,
October 2, 1941.

Superintendent of industrial school is not personally liable for damages caused by an inmate while such inmate is on a limited leave of absence.

386 STATE BOARD OF COSMETOLOGY

Mr. Ernest J. Martin,
October 2, 1941.

An operator who permits his or her license to expire and does not renew the same within three years of the date of expiration is not entitled to a new license without examination. Such person, however, need not be required to attend a cosmetology school provided he can and does pass a reasonable examination.

Separate licenses are required for beauty shops separately owned and operated. (Sections 12(a) and (b), 14 and 26, Chapter 42, 1935 C. S. A.)

387 SERVICE TAX ACT

Mr. John W. Ballard,
October 2, 1941.

Safety Deposit Boxes—No Exemption.

There being no exemption granted in the Service Tax Act to services on which a federal excise tax is imposed, the 1941 tax law now imposing 20 per cent tax on safety deposit box rentals does not exempt the same from taxation by the State of Colorado. (Section 7(a), 1941 S. L.)

388 COUNTY OFFICERS—FEES AND SALARIES

Mr. Jess M. Wood,

October 3, 1941.

Sheriff's fees for sale of real estate on court order, decree or other process in counties of the fourth class are six dollars on the first one thousand dollars bid, plus one-half of one per cent on amounts paid in excess of one thousand dollars, such latter commission, however, not to exceed the sum of twenty-five dollars. (Chapter 66, Section 16, 1935 C. S. A.)

389 PUBLIC FUNDS—COUNTY OFFICERS

Mr. Charles R. Casey,

October 3, 1941.

Special funds appropriated for the purposes of erecting or remodeling a courthouse and jail cannot, in absence of statute, be transferred to a recreational building fund.

390 COUNTY OFFICERS—TAXATION

Mr. Chas. C. White,

October 3, 1941.

Treasurer's Deeds.

County commissioners may not sell real estate which they have acquired by treasurer's deed for less than one-third of the appraised valuation.

Paragraphs (b), (c) and (d) of Section 2, Chapter 192, of the 1941 Session Laws does not amend Section 2, Chapter 144, of the 1939 Session Laws to permit the sale for less than one-third of the appraised value.

391 INSURANCE

Hon. Luke J. Kavanaugh,

October 6, 1941.

(1) A foreign fraternal society, unless it comes within the exceptions stated in Section 199, Chapter 87, 1935 C. S. A., may only admit for beneficial membership persons not less than sixteen nor more than sixty years of age.

(2) No society which is exempt from the fraternal benefit society law shall give or allow or promise to give or allow to any person any compensation for procuring new members. (Section 201, Chapter 87, 1935 C. S. A.)

392

GAME AND FISH

Mr. C. N. Feast,
October 6, 1941.

Areas open to public hunting and fishing may not be restricted for the use of any particular group of licensees. Competitive dog retrieving and pointing contests may, however, be held on land privately owned, subject to any restrictions imposed by statute. (Sections 53, 56, 59 and 62, Chapter 73, 1935 C. S. A.)

393

SCHOOLS

Mr. Claude H. Wilson,
October 7, 1941.

Where school district bonds are being refunded and there are balances in the bond and interest funds such balances may not be utilized to take up registered warrants.

394

SCHOOLS

Mr. W. D. Asfahl,
October 7, 1941.

No authority under the law for school districts to make levy for purpose of providing school buildings.

395

TAXES

Hon. Chas. C. Wooldridge,
October 7, 1941.

Tax Sale Certificates.

The board of county commissioners cannot by resolution designate the person to whom tax sale certificates shall be issued. (91 Colo. 214, 88 Colo. 181, citing cases.)

396

STATE BOARD OF BARBER EXAMINERS

Hon. Ralph L. Carr,
October 7, 1941.

Section 2, Chapter 19, 1935 C. S. A., requires that there shall be upon the Board of Examiners of Barbers: (1) one person, who, prior to his appointment, has been an employing barber in this State for at least three years; (2) a second member who has been a practical barber actually engaged in the occupation of barbering in this State for at least five years prior to his appointment; and (3) a third member, preferably recommended by the unions of journeymen barbers, but who may be a journeyman barber, a master or employing barber, or someone having no connection with barbering at all.

**397 STATE EMPLOYEES' RETIREMENT—STATE
HAIL INSURANCE DEPARTMENT**

Mr. L. A. Poinsett,
October 8, 1941.

Under Section 5, Chapter 94, 1941 Colorado Session Laws, amending Section 44 of Chapter 36, 1935 C. S. A. (State Employees' Retirement Act) it is mandatory on the part of the State Hail Insurance Department to pay into the retirement fund an amount equal to 3½ per cent of the salaries of employees belonging to the retirement association and charge same as an administrative cost.

**398 BONDS—STATE COMPENSATION INSURANCE
FUND**

Industrial Commission of Colorado,
October 8, 1941.

Bonds described as "The Regents of the University of Colorado Men's Dormitory Bldg. Refunding Bonds" are not eligible for investment for the funds of the State Compensation Insurance Fund, as they are not general obligation bonds of the State of Colorado.

399 HOMESTEAD EXEMPTIONS

Mr. F. R. Carpenter,
October 14, 1941.

Husband or wife, or head of a family, may waive his or her homestead exemption under the laws of this State.

400 HEALTH

Mr. Charles W. Krenger, Jr.,
October 16, 1941.

Medical and Dental Boards.

Persons not licensed to practice medicine or dentistry cannot administer anaesthetics on their own responsibility. (Interpretation of Section 14, Chapter 109, 1935 C. S. A.; also citing Sections 29 and 34, Chapter 58, 1935 C. S. A.; Section 1, Chapter 52, 1935 C. S. A.)

**401 ADMINISTRATIVE CODE OF 1941
—SPECIFIC OWNERSHIP TAX**

Mr. F. R. Carpenter,
October 16, 1941.

Under Chapter 80, 1941 Colorado Session Laws, the collection of the specific ownership tax on Class "A" motor vehicles, as

provided in Section 2 (3) b, continued to be made by the Colorado Tax Commission until the effective date of the Administrative Code of 1941, or July 1, 1941, at which time this tax collecting function was transferred to the Department of Revenue. Section 7, Chapter 80, 1941 S. L., expressly makes Chapter 80 subject to the provisions of the Administrative Code of 1941.

402 MOTOR VEHICLE DEPARTMENT

Mr. C. H. Gunn,
October 17, 1941.

Records of the Motor Vehicle Department are public records and subject to inspection during business hours, subject to the right of the department to make reasonable rules and regulations to prevent undue interference with the transaction of other business of the department. (Section 86, Chapter 16, 1935 C. S. A.; Section 176, Chapter 45, 1935 C. S. A.; *Bean v. People*, 7 Colo. 200; *Stockman v. Brooks*, 17 Colo. 248.)

403 SCHOOLS

Mr. C. H. Beeler,
October 17, 1941.

When a portion of a school district is detached and annexed to a contiguous school district, such portion remains subject to prior bonded indebtedness of the district from which it was detached and is not subject to prior bonded indebtedness of the annexing district. (See also opinion of October 24th to G. W. Hicks.)

404 HIGHWAYS

Mr. Charles D. Vail,
October 18, 1941.

There is no obligation on the part of the State Highway Department to enlarge structures or ditches where such enlargement is necessitated by the action of third persons. (Section 39, Chapter 143, 1935 C. S. A.)

405 COUNTY OFFICERS

Mr. Howard Pine,
October 20, 1941.

County Treasurer—Vacancy—Appointment and Election.

Where a vacancy arises by death in the office of county treasurer, the county commissioners have the power to appoint to fill such vacancy and the appointee holds office until the next general election, a special election to fill vacancy not being provided for by the statutes as to this office.

406

TAXATION

Mr. O. W. Ward,
October 21, 1941.

Taxes can only be collected by methods prescribed by statute. Taxes evidenced by a tax certificate cannot be collected by garnishment in the absence of statutory authority.

407

BIDDER'S BOND

Rocky Mountain Engraving Co.,
October 21, 1941.

There are no State laws requiring the acceptance of a bidder's bond in lieu of other security.

408

**TAXATION—SALES TAX—FEDERAL TAX
LAW OF 1941**

Mr. Farrington R. Carpenter,
October 21, 1941.

(1) Indirect taxes paid by the manufacturer or dealer are included in determining the "purchase price" of an article when computing the amount of State sales tax to be paid by the purchaser of such article.

(2) A State sales tax may not be imposed upon an article when the federal sale or excise tax amounts to more than 12½ per cent of the sale price.

409

NEWSPAPERS

Harry A. Wood,
October 21, 1941.

It is not mandatory for a newspaper to be a legal newspaper prior to the actual publication of a delinquent tax notice. (Sections 228 and 231, Chapter 142, 1935 C. S. A.; *Board of County Commissioners of Costilla County v. Wood*, 80 Colo. Rep. 279.)

410

MOTOR VEHICLES

Mr. F. R. Carpenter,
October 21, 1941.

Appropriation provided by Section 401, Chapter 16, 1935 C. S. A., may not be used to defray cost of procuring chauffeurs' badges used in the granting of chauffeurs' licenses. Sections 339-401, inclusive, Chapter 16, 1935 C. S. A., were not repealed by the 1941 legislature.

411

GAME AND FISH

Mr. C. N. Feast,
October 21, 1941.

Game and Fish Department may adopt reasonable rules and regulations opening all or any part of a particular game refuge to hunting and fishing. (Chapter 111, 1927 S. L.; Section 5, Chapter 153, 1937 S. L.; *Maitland v. People*, 93 Colo. 59.)

412

HEALTH DEPARTMENT**(Vital Statistics)**

Hon. Jos. D. Blunt,
October 21, 1941.

Application for birth certificate may be made by citizen of Colorado on behalf of person born in this State who is at time of application resident of a foreign state. (Chapter 142, 1941 S. L.)

413

COUNTIES—TAXATION

Mr. Walter L. Grutter,
October 22, 1941.

Property Acquired by County by Tax Deed.

Under the provisions of Chapter 192, 1941 S. L., all property acquired by the county by tax deed shall be offered for sale subject to the exceptions in Section 2(d). The provisions of Section 2(d) must be followed in selling such property at public sale.

414

MOTOR VEHICLES

Mr. C. H. Gumm,
October 22, 1941.

Hotelkeeper's lien does not extend to automobile left standing on the street by guest (Section 3, Chapter 101, 1935 C. S. A.).

415

MOTOR VEHICLES

Mr. C. H. Gumm,
October 22, 1941.

Purchaser of a tractor previously used as "farm tractor" and therefore unregistered, is entitled to register same and procure a formal certificate of title when such purchaser desires to use machine as a road tractor. (Sections 3 and 107, Chapter 16, 1935 C. S. A.)

416

ELECTIONS

Mr. Walter F. Morrison,
October 27, 1941.

Precinct Registrations—Legal Holidays.

Where the statutes provide that precinct registration be held on the third Thursday prior to election, it is not necessary to compute time in order to ascertain the day and for that reason such registration should be held upon the day designated regardless of the fact that such day may be a legal holiday.

417

PHARMACY LAW

Mr. Ralph E. Kemp,
October 28, 1941.

Assistant pharmacists conducting a business of their own or for others in cities of 500 population or under, pursuant to the provisions of Section 11, Chapter 58, 1935 C. S. A., are not compelled to discontinue operations because a full registered pharmacist is also operating or subsequently enters the city and operates a pharmacy.

There is nothing in the statutes requiring an assistant pharmacist to be a citizen of the United States.

418

STATE PENITENTIARY

Mr. Roy Best,
October 28, 1941.

The sale and transportation in interstate commerce of convict made goods is specifically prohibited by act of Congress.

419

SURETY BONDS

Mr. F. R. Carpenter,
October 29, 1941.

Motor Fuel Distributor's Surety Bond.

Although the right of contribution may exist between co-sureties on bonds in which the State is obligee, the State may seek recovery from one or all of the obligors up to the maximum liability of each, without regard to contribution between the co-sureties.

420

WEED EXTERMINATION AREAS

Mr. F. A. Anderson,
October 29, 1941.

Only those lands included within a weed control area are subject to be taxed for the purpose of raising funds for said con-

1101. (Sections 2(3), 3 and 7 of Chapter 233, 1941 S. L.; Sections 5-16, Chapter 80, 1935 C. S. A.)

421**SCHOOLS**

Mr. G. W. Hicks,
October 29, 1941.

Where a portion of a school district is detached therefrom and annexed to a contiguous district, it remains subject to bonded indebtedness of the district from which it was detached and is not subject to that of the annexing district incurred prior to annexation.

422**MOTOR VEHICLES**

Mr. C. H. Gunn,
October 29, 1941.

Records of the Motor Vehicle Bureau, having to do with registration of and title to automobiles, are public records. *Bean v. People*, 7 Colo. 200, considered. (Section 2, Chapter 161, 1919 S. L., and Sections 85-86, Chapter 16, 1935 C. S. A.) The extent to which they are open to constant inspection by the same persons for personal financial advantage may be reasonably determined as an administrative matter by the bureau.

423 STATE BOARD FOR VOCATIONAL EDUCATION

Mr. H. A. Tiemann,
October 30, 1941.

State Board for Vocational Education and its operations, construed to be an educational institution receiving federal funds within the meaning of the provisions of Section 5, Chapter 94, 1941 S. L., page 305. Payment into the Retirement Fund is optional and would be permitted if federal authorities approve.

424**COUNTIES—PUBLIC FUNDS**

Mr. Charles R. Casey,
October 30, 1941.

If a special fund created by resolution of the board of county commissioners is to be used for the purpose of construction of a courthouse and jail, any facility included in such building must be used primarily for governmental purposes. When not used for such purposes, other uses permitted would be within the discretion of the board of county commissioners.

425

SCHOOLS

Mr. Eddy Webb,
October 30, 1941.

The board of county commissioners may pay for stenographer to assist county superintendent of schools. (Section 90, Chapter 66, 1935 C. S. A.)

426

DIRECTOR OF MARKETS

Mr. Ben H. Cook,
October 30, 1941.

A "broker," as defined in Section 1, Chapter 90, 1937 Session Laws, is required to have a license, although he deals only in farm produce grown outside of Colorado.

427

TAXATION

Mr. R. L. Wilkinson,
October 31, 1941.

All feeder stock is subject to assessment as provided in Section 296, Chapter 142, 1935 C. S. A., irrespective of any apparent exemption provisions contained in Section 295, Chapter 142, 1935 C. S. A. ✓

428

CITIES AND TOWNS—PUBLIC FUNDS

Mr. Chas. W. Kreager, Jr.,
October 31, 1941.

City council may not increase mill levy to establish a fund to build a municipal swimming pool.

429

SCHOOLS

Mrs. Lettie Lee Brand,
November 3, 1941.

(1) When children are removed during the school term to a school district other than the residence of their mother, the two questions of tuition and which census roll their names should appear upon should be determined upon the facts of each case. Normally, under Section 111 of Chapter 146, their names should appear upon the census rolls of the district in which their parent resides.

(2) The county superintendent by virtue of Section 185, Chapter 146, has no vote as a member of a county high school committee.

(3) In the case of a four member board where there are two votes in the affirmative, one in the negative, and one blank vote, if the meeting was legally called with the proper notices, the question would carry.

430

WATER

State of Colorado, Engineering Department,
November 5, 1941.

Interpretation of Section 13, Chapter 136, 1941 Session Laws.

The six months' period provided for in Section 13, Chapter 136, 1941 Session Laws, is not to be regarded as a limitation period, therefore any stock water tank owner may be assigned a priority number regardless of the six months' period.

Those reservoir owners neglecting to notify the State Engineer within the six months' period, but who thereafter notify the State Engineer of their claims, will be assigned a priority number as of the date of the receipt of such notice and not as of the date of the completion of the stock tank.

431

STATE BOARD OF LAND COMMISSIONERS

State Board of Land Commissioners,
November 6, 1941.

School Lands.

School lands may not be sold to the federal government without advertising at a stipulated price of \$3.50 per acre, when such lands are to be utilized by the United States Soil Conservation Service.

432

UNITED STATES SAVINGS BONDS—STATE BOARD OF LAND COMMISSIONERS

State Board of Land Commissioners,
November 6, 1941.

United States Savings Bonds, Series C, are eligible for investment for funds controlled by the State Board of Land Commissioners. That board would be limited to \$50,000 issued in any one calendar year. Series "F" would not be eligible.

433

STATE BOARD OF LAND COMMISSIONERS

State Board of Land Commissioners,
November 6, 1941.

With reference to the opinion of May 8, 1941, the position is reiterated that lands acquired from the federal government under the Carey Act and the Special Act of 1922 may be leased by the State Board of Land Commissioners. Proceeds therefrom may be dealt with as are the proceeds of leases of other State lands.

434

SCHOOLS

Mrs. Inez Johnson Lewis,
November 7, 1941.

Under the case of *Stoops v. Hale, et al.*, 91 Colo. 246, it is legal for a school board to transport children within the district to a school in another district.

435

WORKMEN'S COMPENSATION ACT

Mr. W. E. Brockway,
November 10, 1941.

Students of the University of Colorado doing special research work are not covered by the Workmen's Compensation Act.

436

SALES TAX

Mr. Kenneth W. Chalmers,
November 10, 1941.

Soil Conservation Districts.

Officers and employees of a soil conservation district are not exempt from the payment of State sales tax, State gasoline tax and like taxes. Only the district itself may claim such exemption.

437

TAXES—STATE BOARD OF EQUALIZATION

Colorado Tax Commission,
November 12, 1941.

(1) The valuation as fixed by the State Board of Equalization is the valuation to be used by the assessor in making extension of his tax rolls as to all ad valorem taxes.

(2) No changes can be made by the county assessor in the valuation fixed by the State Board of Equalization.

(3) The Board of Equalization valuation must be used for allocation of income tax pursuant to Chapter 116, 1939 S. L.

(4) It is the duty of the county assessor to notify the Tax Commission of any changes made in valuation by the county board of equalization.

438

SCHOOLS

Mr. Lewis E. Holland,
November 12, 1941.

Legislature may provide compulsory education for those not falling within the age group 6-18 years, referred to in Section 11, Article IX, of the Constitution.

**439 SOLDIERS' LOAN ACT OF 1920—DIRECTOR
OF REVENUE**

Mr. F. R. Carpenter,
November 12, 1941.

The Director of Revenue, or the Department of Revenue, has no authority or duty, and is not responsible for the collection of the loans made under the so-called Soldiers' Loan Act of 1920.

440 SCHOOLS

Mrs. Inez Johnson Lewis,
November 12, 1941.

Employee of State of Colorado may receive royalty from commercial publishing house on sale in Colorado of book written for use in schools.

441 LIVESTOCK

State Board of Stock Inspection Commissioners,
November 12, 1941.

Cold storage plants, if engaged regularly in the business of butchering and slaughtering neat cattle, are subject to the provisions of Chapter 92, 1941 Session Laws.

442 STATE BOARD OF HEALTH

Hon. Robert L. Stearns,
November 13, 1941.

Sections 152-270, inclusive, Chapter 78, 1935 C. S. A., place the care, treatment, cure and control of venereal disease in the State Board of Health under the Director of Venereal Disease and the State board may utilize the Psychopathic Hospital as an agency in its work. The facilities so utilized and the staff of the hospital, in so far as the care, treatment, cure and control of venereal disease is concerned, must remain subject to the control of the State Board of Health.

443 BONDS—COUNTIES—SCHOOLS

Hon. James M. Noland,
November 14, 1941.

Section 143, Chapter 45, 1935 C. S. A., as amended in 1941, would authorize the county treasurer, as custodian of bond redemption fund, to invest said fund in the securities referred to in that section provided he has a written resolution of the board of

county commissioners granting approval. The treasurer should also procure a resolution from the governing board of the school district designating place of payment, and a resolution of said board that the surplus in the funds is not needed for redemption purposes and authorizing the investment. Such resolution should specifically describe the investment.

**444 EMPLOYEES—FEES AND SALARIES—
AGRICULTURAL COLLEGE—STATE LAND BOARD**

State Board of Land Commissioners,
November 14, 1941.

Payment of salary by Board of Land Commissioners to employee of Colorado Agricultural College who also receives salary from Agricultural College is contrary to Section 6 of Administrative Code of 1941.

445 STATE BOARD OF HEALTH

Mr. B. V. Howe,
November 14, 1941.

It is not illegal for chief engineer of the sanitary division of the State Board of Health to receive additional compensation from federal funds by authority of the federal government, the funds being in the custody of the State Treasurer, kept separate from other funds; and expenditures controlled by the federal health authorities. Section 6 of Administrative Code of 1941 is not violated.

446 STATE BOARD OF HEALTH

Dr. R. L. Cleere,
November 14, 1941.

It is not illegal for chief executive officer of the State Board of Health to receive additional compensation from federal funds by authority of the federal government, the funds being in the custody of the State Treasurer, kept separate from other funds; and expenditures controlled by the federal health authorities. Section 6 of Administrative Code of 1941 is not violated.

447 BONDS

Mr. James Ingles,
November 14, 1941.

Local improvement district bonds should be paid in their numerical order after maturity. If issued after 1923, said bonds may be used in payment at tax sales. The bonds will continue to bear interest after coupons have been paid unless notice has been given as provided in Section 96 of Chapter 138.

448

AGRICULTURE

Hon. Roy M. Green,
November 14, 1941.

Section 42, Chapter 5, 1935 C. S. A., providing for field supervision and inspection for official certification and registration of farm and horticultural seed does not permit the charging of fees for such service. Voluntary cooperation with potato growers' association permissible as long as it is for the best interests of the farmer.

449

DIRECTOR OF MARKETS

Mr. Ben H. Cook,
November 15, 1941.

The statutes contain no provision for State licensing or bonding of a warehouse to be used for the storage of broom corn.

450

SCHOOLS

Mr. H. H. Hadley,
November 17, 1941.

(1) A school district may use school funds to provide school lunches only within the provisions of Section 310 of Chapter 146.

(2) Every school district is included within the terms of the Compensation Act, citing Sections 287 and 288 of Chapter 97.

451

INTOXICATING LIQUORS

Mr. Walter F. Morrison,
November 17, 1941.

The State may impose a tax for the importation and sale within this State of intoxicating liquors. Whether or not a foreign distillery must obtain a wholesaler's license in Colorado will be determined from the activities of the distillery and its representatives and agents within the State. (Sections 3(f) and (m), 4(g) and 17(d), Chapter 142, 1935 S. L.)

452

CIVIL SERVICE COMMISSION

Hon. Ralph L. Carr,
November 19, 1941.

Approval of Payroll.

The constitutional provision (Section 13, Article 12) that "No person in the classified service shall be paid until a certificate is furnished by the commission that the appointment has been

made pursuant to law" is to prevent payment of salaries to persons whose positions are within the classified service but who have not been appointed in accordance with the requirements of law and does not authorize disapproval of the names of those who are in good standing on the records of the commission.

453 TAXES—COUNTY OFFICERS

Mr. Homer F. Bedford,
November 19, 1941.

County treasurers are not entitled to deduct one per cent of the amount of the general ad valorem taxes collected by them on real and personal property.

454 ELECTIONS

Mr. R. E. Pine,
November 19, 1941.

Absentee Ballot.

Voter receiving absentee ballot may cast the same at any time not earlier than the fourth Monday before and not later than 12:00 o'clock noon on the Saturday before election. Such vote, however, may be challenged under the provisions of Section 217, 1941 Session Laws, Chapter 124, if the voter is personally present in the county on the day of election.

455 SCHOOLS

Mr. C. E. Coffey,
November 21, 1941.

A county superintendent of schools, as ex-officio member of the county high school committee and secretary thereof, has no vote on questions coming before the committee.

456 SOIL CONSERVATION

Mr. Kenneth W. Chalmers,
November 25, 1941.

The proper way in which to deal with noxious weeds under our statutes is for the board of county commissioners to set up "weed extermination areas." A weed extermination fund set up by a county may be employed by the board of county commissioners under a contract with a soil conservation district, as well as under contracts with individual landowners and other corporations.

457

ELECTIONS

Ms. Mae Cox,
November 25, 1941.

Registration.

A person may be registered though under twenty-one years of age if he will be of legal age at the next election date, but may not be registered if upon the date of the next election he would still be ineligible to vote.

458

INTOXICATING LIQUORS

Mr. Myron R. Donald,
November 25, 1941.

It is not unlawful for a brewer to give financial aid or assistance to a wholesaler under the provisions of Section 7, Chapter 82, and Section 14, Chapter 142, 1935 Session Laws, provided such financial aid or assistance does not take the form of a loan.

459

REVENUE DEPARTMENT

Mr. F. R. Carpenter,
November 26, 1941.

Employees of Revenue Department engaged in collecting ton mile tax are not entitled to free transportation.

460

GAME AND FISH

Hon. C. N. Feast,
November 27, 1941.

Although Section 8, Chapter 186, 1941 S. L., provides that the Game and Fish Commission shall pay three per cent of all moneys collected from the "sale of hunting and fishing licenses, pelts, fines and penalties to the General Revenue Fund," the proviso contained in that section, taken together with the Act of Congress of September 2, 1937, and Chapter 106, 1939 S. L., makes this requirement not applicable to fees from hunting licenses. It does apply to proceeds from the sale of beaver pelts taken under the provisions of Chapter 136, 1941 S. L., and to moneys collected from the sale of fishing licenses, pelts, fines and penalties.

461

**COLORADO STATE HOSPITAL—STATE
BOARD OF HEALTH**

Dr. F. H. Zimmerman,
November 27, 1941.

State Board of Health, within limits of statute, may provide for the confinement and treatment of persons suffering from

venereal disease and may utilize the facilities of the Colorado State Hospital, as well as other institutions, even though the patient may not be insane. (Sections 167-169, Chapter 78, 1935 C. S. A.; Section 47, Chapter 105, 1935 C. S. A.)

462

REVENUE DEPARTMENT

Mr. F. R. Carpenter,
November 26, 1941.

Employees of Revenue Department engaged in collecting ton mile tax are not entitled to free transportation by public utilities. (Section 18, Public Utilities Act, Chapter 137, 1935 C. S. A., as amended by Chapter 180, S. L. 1941; Section 12, Chapter 137, 1935 C. S. A.; Sections 32(b), (6, 7), 33, Administrative Code of 1941.)

463

STATE HIGHWAY DEPARTMENT—COUNTIES

Mr. Emory L. O'Connell,
November 28, 1941.

Board of county commissioners can make agreement with the State Highway Department to secure right of way, by purchase or condemnation, and pay for same on public highways designated as State highways. (Section 1, Chapter 45, 1935 C. S. A.; Sections 58 and 67, Chapter 143, 1935 C. S. A.)

464

**STATE BOARD OF STOCK INSPECTION
COMMISSIONERS**

Dr. R. M. Gow,
November 29, 1941.

Under Section 84, Chapter 160, 1935 C. S. A., the State Live-stock Commissioners are empowered to make or adopt necessary quarantine and sanitary regulations affecting the movement of live-stock within, into and out of this State to prevent the introduction or spread of contagious or infectious disease. Where the board knows or has reason to believe that contagious or infectious disease exists in a locality outside of Colorado and that conditions there render domestic animals therefrom liable to bring such disease into this State, the board may report the same to the Governor who shall then issue a proclamation prohibiting the importation of such livestock unless accompanied by a certificate of health given by a veterinary surgeon or sanitary inspector appointed by the commission. (Section 84, Chapter 160, 1935 C. S. A.)

465 BANKS—MONEY LENDERS ACT

Hon. Maple T. Harl,
December 1, 1941.

Population of a city where business is to be conducted governs the minimum amount of available liquid assets which applicant for money lender's license must have according to Chapter 121, Session Laws of 1939.

466 TAXATION

Colorado State Tax Commission,
December 1, 1941.

Religious, Charitable and Educational Exemptions.

The assessing authorities must determine in each case from the facts involved whether or not the sale of liquor and other merchandise by a charitable organization is incidental to the general use of the property for carrying into effect its objectives. If it is determined from such facts that the purposes of the institution come within the charitable classification as legally defined and it is further determined that the sale of such liquor and other merchandise is incidental to the main purpose of the institution, such liquor and merchandise would be exempt from taxation in like manner as other property of such institution.

In case of vacant lots and farm properties owned by religious, educational, or charitable institutions, unless it can be established that these properties are being used, and such use is directly connected with, or incidental to, the main purpose of the organization, such property is not entitled to exemption from taxation.

It is necessary that the assessing authorities determine the facts applicable in each case and determine the question of exemption from taxation based upon a determination of the use of the property and whether any such use is merely incidental to carrying into effect the objectives of an institution determined to be religious, educational or charitable.

467 INTOXICATING LIQUORS

Hon. Walter F. Morrison,
December 1, 1941.

It is not lawful and proper for the State Licensing Authority to require the approval of local authorities before the issuance of a license, although it is proper for it to consider the reasonable requirements and wishes of the communities involved. (Sections 4, 6, 21, 23, 25 and 26, Chapter 89, 1935 Colorado Statutes Annotated considered.)

468

CITIES AND TOWNS

Mr. Earl Allen,
December 3, 1941.

In the absence of a municipal ordinance regulating the matter, a town may not prohibit the removal of a building by a purchaser of tax sale even though the town has a bonded indebtedness.

469

SCHOOLS

Mr. George W. Johnson,
December 5, 1941.

A school board may in its discretion hold the warrant due a teacher until she has executed and filed a six weeks' report as required by the board.

470

SCHOOLS

Mrs. Inez Johnson Lewis,
December 8, 1941.

The county superintendent of schools may, with the consent of the board of county commissioners, appoint a deputy to be paid from the general county funds. (Section 90 of Chapter 66, Section 18, Chapter 146, Session Laws of 1919, page 381, Session Laws 1917, page 246; Section 280, R. S. '08 cited and *Commissioners v. Davis*, 94 Colo. 330, considered.)

471

STATE BOARD OF BARBER EXAMINERS

State Board of Barber Examiners,
December 8, 1941.

The State Board of Barber Examiners may revoke a barber's license for gross incompetency. If such a complaint is filed, the board must grant the licensee a hearing upon notice as provided by statute and at such hearing consider the evidence, and determine whether or not charges are in fact sustained. (Section 12, Chapter 19, 1935 C. S. A.)

472

CITIES AND TOWNS

Mr. Cecil R. Ditsh,
December 8, 1941.

An expenditure in excess of amount appropriated for a particular fund included in a town budget does not affect the legality of expenditures from another fund within the limits of the appropriation for such second fund. (See Local Government Budget Law, Chapter 103, 1935 C. S. A.)

**473 CERTIFICATES OF INDEBTEDNESS—DEFENSE
—APPROPRIATIONS**

Hon. Ralph L. Carr,
December 8, 1941.

Chapter 172, Session Laws of 1941, does not constitute a continuing appropriation. Under the authority of *People v. Kennehan*, 55 Colo. 589, and Section 32, Chapter 153, 1935 C. S. A., certificates of indebtedness may be issued with the approval of the Governor and the Attorney General to take care of necessary emergency expenses incurred under the provisions of Chapter 172, 1941 Session Laws.

474 SOIL CONSERVATION DISTRICTS

Mr. Kenneth W. Chalmers,
December 8, 1941.

Lands within incorporated municipalities may not be a part of a soil conservation district. (Section 15, Chapter 203, 1941 S. L.)

**475 CITIES AND TOWNS—FIREMEN'S
PENSION FUND**

Mr. George A. Van Arsdale,
December 9, 1941.

The town of Hugo cannot contract for a loan to purchase fire equipment except by authority of vote of the people. (See Article XI, Section 8, Constitution of Colorado.) Purchase of bonds of town of Hugo would be a proper investment of Firemen's Pension Fund. (Chapter 190, 1937 S. L.)

476 COUNTY OFFICERS—FEES AND SALARIES

Mr. John N. Mabry,
December 9, 1941.

By the provisions of Article XIV, Section 15, Colorado Constitution, salaries of county officers must be paid out of the statutory fees collected and are limited thereby. A sheriff, therefore, is not entitled to collect such fees in addition to his salary. He is entitled to travel expense allowance in addition to his salary, as provided for under Sections 76 and 44, Chapter 66, 1935 Colorado Statutes Annotated.

477 COUNTY OFFICERS—TAXATION

Mr. Marcus C. Leh,
December 9, 1941.

Selection of Newspaper for Publication of Delinquent Personal Property Tax List.

(1) Under the provisions of Section 193, Chapter 142, 1935 Colorado Statutes Annotated, as amended by Chapter 188, 1941 Session Laws, the county treasurer is given authority to select the newspaper for publication of delinquent property tax list.

(2) The provisions of Section 43, Chapter 89, 1935 Colorado Statutes Annotated, do not grant counties a right to adopt local option by election but such right is thereby limited to cities and incorporated towns.

(3) The Old Age Pension Amendment to Constitution, or laws enacted pursuant thereto, have no effect upon nor connection with the question of local option in any community.

478 STATE INDUSTRIAL SCHOOL FOR BOYS

Mr. Harry W. Bundy,
December 9, 1941.

Sections 1 and 2, Chapter 28, 1937 Session Laws, and Section 4 as amended by Chapter 211, 1941 Session Laws, do not authorize the use of any portion of the tax fund there created for the purpose of purchasing a station wagon for use in connection with the State Industrial School for Boys.

479 WORKMEN'S COMPENSATION—SOIL CONSERVATION DISTRICTS

Mr. Edward F. Foster,
December 9, 1941.

Soil conservation districts come within Section 287, Chapter 197, 1935 C. S. A., and are subject to the provisions of the Workmen's Compensation Act.

480 WATER

Dr. Charles A. Lory,
December 10, 1941.

Trees growing along the edge of lateral ditches belong to the person who owns the land upon which they are growing.

481

MOTOR FUEL TAX

Hon. Homer F. Bedford,
December 11, 1941.

Under the provisions of Section 32, Chapter 2, 1941 Session Laws, transferring the functions of administration, collection and enforcement of the motor fuel tax to the Department of Revenue, the administration thereof would place in the Department of Revenue the duty to receive applications for refund of gasoline taxes and to determine the amounts to be refunded. The State Treasurer has sole custody of State moneys, including the motor fuel tax, and retains the duty of carrying a refund account and making payments of such refunds as are determined to be due by the Department of Revenue.

482

SCHOOLS

Mr. Joseph W. Stoner,
December 11, 1941.

The general county school fund is entitled to receive the fines or the portion thereof specified by the statute for those offenses designated by the legislature.

483

SCHOOLS

Mrs. Inez Johnson Lewis,
December 12, 1941.

The State Board of Education would have no authority to make violations of regulations adopted pursuant to Section 240, Chapter 16, 1935 C. S. A., a misdemeanor nor to impose fines for violation thereof.

484

BASIC SCIENCE BOARD

Ms. Esther B. Starks,
December 12, 1941.

Per diem compensation to Basic Science Board member not in violation of Section 6, Administrative Code of 1941, if such member is not receiving compensation from any other State agency.

485

SCHOOLS

Mrs. Inez Johnson Lewis,
December 12, 1941.

Section 240, Chapter 16, 1935 C. S. A., provides for regula-

tions to be adopted by the State Board of Education. The board has no authority to make violations of these regulations a misdemeanor nor to impose a fine for such violation. It can force the local school district to abide by the regulations on equipment through mandamus or injunction and the local school board can enforce the regulations by including in its contract with any employee provisions for heavy penalties for violations thereof.

The courtesy patrol would have no authority to enforce compliance with the regulations except those incorporated in statutes. A plan of cooperation could be worked out whereby those officers would report violations to the State Board of Education.

486 **REVENUE DEPARTMENT**

Hon. F. R. Carpenter,
December 12, 1941.

The expense for professional help by contract in setting up the procedure for collecting property taxes by the Department of Revenue may properly be paid from the contingent fund set up for that department in the 1941 General Long Appropriation Bill.

487 **CIVIL SERVICE** **(Military Service)**

Hon. Chas. D. Vail,
December 12, 1941.

Men or women in the armed forces of the United States retain their original civil service status after discharge, and for a period of one year thereafter, whether voluntarily or involuntarily inducted into the service. Chapter 95, S. L. 1941, governs.

488 **COAL MINES**

Mr. Thomas Allen,
December 12, 1941.

Section 34, Chapter 110, 1935 C. S. A., places a duty upon the owner of a coal mine to employ a competent and practiced mine foreman in all cases except in those mines in which no more than three persons, including the owner, work underground. Section 100, Chapter 110, 1935 C. S. A., makes it a misdemeanor for miners or other unauthorized persons to do certain acts in mines working six or more persons underground. The two sections do not necessarily conflict, the latter being a penal act and the former being purely a safety measure placing a duty upon the owner.

489 **SOIL CONSERVATION DISTRICTS**

Mr. Kenneth W. Chalmers,
December 12, 1941.

The Soil Conservation Act does not confer power upon a

district to require threshing equipment to be cleaned for the purpose of control of noxious weeds, before entering the district. Such control is, however, granted to the proper authorities in said extermination areas by Chapter 233, 1941 Session Laws. (Section 1, Chapter 203, 1941 S. L.; Chapter 160, 1939 S. L.)

490 **TAXATION—DIRECTOR OF REVENUE —COUNTY OFFICERS**

Hon. F. R. Carpenter,
December 13, 1941.

Collection of Delinquent Real and Personal Ad Valorem Taxes.

The Director of Revenue has no tax collecting functions relating to the collection of real and personal property ad valorem taxes in view of constitutional provisions and statutory enactments.

By provisions of Chapter 188, 1941 Session Laws, the Department of Revenue has the right to make "specific demand in writing upon the county treasurer to enforce collection of any item or items of personal property taxes by distraint or other legal means as provided by law." (See Section 32(b) (7) (i) specifically exempting from the collecting authority of the Department of Revenue any right to collect general or special taxes heretofore or hereafter designated by law to be collected by the county treasurers.)

491 **GAME AND FISH**

Mr. C. N. Feast,
December 15, 1941.

The Game and Fish Commission does not have the general power of eminent domain but may acquire lands or waters for the purposes and in the manner designated in Section 6, Chapter 153, 1937 Session Laws. (Section 65, Chapter 73, 1935 C. S. A.)

492 **WATER AND IRRIGATION**

Colorado State Tax Commission,
December 16, 1941.

Irrigation district is not a municipal corporation within the meaning of Article X, Section 4, of the Constitution of Colorado.

493 **COLLECTION AGENCY BOARD**

Collection Agency Board,
December 16, 1941.

One applying for a collection agency license is required to

establish, and all licensees are required to maintain, "an office or place of business, within the State of Colorado" under the provisions of fifth paragraph of Section 4, Chapter 96, 1941 S. L.

494 CHIROPRACTORS—PHYSICIANS

Hon. James T. Burke,
December 16, 1941.

Death Certificates.

A chiropractor is not authorized by Section 110, Chapter 78, 1935 C. S. A., to sign a death certificate. (Section 2, Chapter 34, 1935 C. S. A.; *Prowitt v. Denver*, 11 Colo. App. 70; *State v. Fahey*, 152 Minn. 220.)

495 EMPLOYEES—HIGHWAY DEPARTMENT— ADMINISTRATIVE CODE OF 1941

Hon. Homer F. Bedford,
December 17, 1941.

The provisions of Section 5, Subsection b, 1941 Administrative Code, are mandatory, and in conformity therewith, no employee can hold a legal appointment, or be employed, unless he comes within the certified list of necessary employees issued by the Governor prior to January 1st, in the case of the Highway Department. No legal appointment or employment can be recognized except through compliance with said provisions, that under the provisions of Section 30, Subsection 2, the Division of Accounts and Control cannot approve the regularity and correctness of employment not based on the required certification by the Governor.

496 COUNTIES—TAXATION

Mr. Leonard M. Haynie,
December 17, 1941.

The provisions of Chapter 192, 1941 Session Laws, make it mandatory for the board of county commissioners to apply for and receive a tax deed to property where the tax sale certificate has been held by the county for eight years, providing such property is not being wholly or partially used in the interest or for the benefit of the public.

497 DEPARTMENT OF REVENUE

Hon. F. R. Carpenter,
December 17, 1941.

Contingent Fund.

The contingent fund provided for the Department of Revenue

in the General Long Appropriation Bill of 1941 may be used for professional help employed by contract for setting up or revising the procedure for the collection of taxes other than property taxes.

498

SCHOOLS

Mr. Leslie Wilkinson,
December 17, 1941.

It is not necessary for a school district to require releases to be signed by parents of school children covering injuries which might occur on trips sponsored by the school district, assuming that the trips were within the authority of the school district to arrange, as generally a school district is not liable in tort. It might be that the officers of the district could be held liable.

499

GAME AND FISH

Mr. C. N. Feast,
December 17, 1941.

Fur Dealers.

Persons engaged in the business of dealing in raw or green furs must first obtain a license from the Game and Fish Commission therefor, and shall make such reports as the commission may reasonably require. (Sections 12-17, Chapter 108, 1939 Session Laws, considered.)

500 CIVIL SERVICE—DEPARTMENT OF REVENUE

Hon. Homer F. Bedford,
December 18, 1941.

Provisional Appointees, Term of in Department of Revenue.

Under Section 30, Paragraph 2, 1941 Administrative Code, the Division of Accounts and Control of the Department of the Treasury has the duty to pre-audit and approve and determine the regularity and correctness of all claims or demands for payrolls and other accounts. Under Section 34 of said act, a provisional appointment in the Department of Revenue terminates upon the expiration of six months and the State Treasurer has the right to refuse payment of salary claims to one whose tenure of employment has expired by operation of said Section 34.

501 COUNTY OFFICERS—VITAL STATISTICS

Dr. R. L. Cleere,
December 18, 1941.

(1) The fees for certifying copies of birth and death certificates provided for in Section 128, Chapter 78, 1935 C. S. A., cannot

be retained for expenses of the Department of Health, as such expenses are necessarily limited to the appropriation therefor.

(2) Under the provisions of Chapter 142, 1941 Session Laws, relating to securing birth and death certificates, the original certificate and order of court thereon are forwarded to the Bureau of Vital Statistics. However, the procedure to be followed in obtaining an order is determined by the county court issuing the same and the determination by such court as to procedure must control until such time as a different procedure is determined, either by declaratory judgment or the ruling of a higher court having jurisdiction.

(3) Under the provisions of Section 1 of said chapter, application for registration can be made by some person who is a citizen of Colorado on behalf of the person whose birth is sought to be registered.

502 STATE BOARD OF HEALTH—RESTAURANTS —FEDERAL AREAS

Mr. K. W. Lloyd,
December 18, 1941.

Colorado Restaurant Act (Sections 13-24, Chapter 81, 1935 Colorado Statutes Annotated) is not applicable to restaurants in a federal area, under Sections 1-3, Chapter 168, 1935 C. S. A. (See *In re Interrogatories*, 97 Colo. 587.)

503 TAXATION

The Colorado Tax Commission,
December 19, 1941.

Rebate or Abatement.

Destruction of improvements on real estate subsequent to the attachment of the lien of the assessment does not, as a matter of law, entitle taxpayer to a rebate of all or any part of the tax previously imposed. (*Case v. City of Detroit*, 129 Mich. 298, 88 N. W. 626.)

504 STATE BOARD OF LAND COMMISSIONERS

State Board of Land Commissioners,
December 20, 1941.

Re Exercise of Power of Eminent Domain.

Section 21, Chapter 61, 1935 C. S. A., and 1939 Session Laws, page 365, indicate the intention of the legislature to authorize a public utility to exercise the power of eminent domain over State owned property. (Citing *Stockton v. Baltimore & N. Y. R. Co.*,

et al., 32 Fed. 9.) It is the general rule that the United States may condemn State owned land without any act of consent on the part of the legislature. Section 8, Article I of the Constitution, referring to the consent of the legislature of the State, refers only to cases where the Congress has the power to exercise exclusive legislation. There is a limit beyond which the United States may not arbitrarily go in interfering with State functions. (*United States v. 4450.72 Acres of Land*, 27 Fed. Supp. 167.) Question of paramount use must be decided in the court where the action in condemnation lies. This may be a federal court.

**505 COUNTY OFFICERS—MOTOR VEHICLES—
TAXATION**

Mr. C. H. Gumm,
December 20, 1941.

County treasurers are not required to make an assignment on the back of the original title when motor vehicles are sold by them for delinquent taxes. (See Section 113, Chapter 16, 1935 C. S. A.)

506 CHIROPRACTIC BOARD

Dr. E. A. Jackson,
December 22, 1941.

The license to practice chiropractic may be revoked or suspended by the board if the licensee is convicted in another state of a crime involving moral turpitude. (Section 11, Chapter 34, 1935 C. S. A.)

507 GAME AND FISH COMMISSION

Game and Fish Commission,
December 23, 1941.

Jurisdiction of justice of peace is based upon statute, and a statute conferring original jurisdiction on justices of peace in all misdemeanor cases takes precedent over an earlier statute, which, in a particular instance, withheld jurisdiction from the justice of the peace. (Sections 215 and 218, Chapter 73, 1935 C. S. A.)

508 STATE BOARD OF BARBER EXAMINERS

Mr. Bert C. Reeves,
December 23, 1941.

The Board of Barber Examiners does not have the power to waive the payment of a renewal license fee even though the licensee is absent from Colorado in the military or naval service of the United States. (Sections 5 and 7, Chapter 19, 1935 C. S. A.)

509

GAME AND FISH COMMISSION

Mr. C. N. Feast,
December 23, 1941.

The State of Colorado is liable for damages caused by wild animals protected by the State game and fish laws. Claims for damages should be settled or arbitrated as provided by statute. (Sections 42-50, Chapter 73, 1935 C. S. A.)

510

NEWSPAPERS

Mr. E. M. Eagleton,
December 27, 1941.

In complying with publication requirements of Section 228, Chapter 142, 1935 C. S. A., five publications should be made as provided in Section 6, Chapter 130, 1935 C. S. A. Daily and weekly publications of the same newspaper constitute different publications, and may not be considered together in computing the number of publications of a particular notice.

511

HEALTH DEPARTMENT

Division of Public Health,
December 29, 1941.

Plumbing.

Section 21, Chapter 126, 1935 C. S. A., gives cities of the first class the power to prescribe rules and regulations governing the control of fresh water supply lines leading to plumbing fixtures.

512

**STATE BOARD OF STOCK INSPECTION
COMMISSIONERS—WORKMEN'S COMPENSATION**

State Board of Stock Inspection Commissioners,
December 30, 1941.

Part time employees not carried on the regular payroll and paid on a per diem basis, are employees under the Workmen's Compensation Act unless both (1) "casual" and (2) "not employed in the usual course of trade, business or occupation of the employer." (Article 7, Chapter 7, 1935 C. S. A.)

513

EMBALMERS BOARD

Colorado State Board of Funeral Directors, etc.,
December 31, 1941.

The State board has the authority to dispense with renewal license fees for those licensees who are serving in the armed forces. (Section 16 of Chapter 104 of the Laws of 1939.)

514 OFFICERS—COUNTIES—FEES AND SALARIES

Hon. Irl Board,
December 31, 1941.

Payment of Assistant District Attorneys.

Assistant district attorneys in districts having more than one and less than four district judges must be paid by the counties, and each county's proportion is based upon the comparative fees earned in the various counties by the district attorney.

515 PROBATE LAW

Hon. Buffer Roberts,
December 31, 1941.

Under the provisions of Section 21, Chapter 66, 1935 C. S. A., if the sale of real estate is made in accordance with probate law and under authority contained in a will without the filing of a petition, the collection of a fee is not authorized. If in such a case, a petition for the sale of real estate is filed and an order secured from the court authorizing the sale, the fee provided for in said Section 21 would then be applicable and should be collected.

516 COLORADO STATE REFORMATORY

Mr. Edward D. Foster,
December 31, 1941.

Use of Mill Levy Funds.

The mill levy funds provided for under the provisions of Chapter 107, 1941 Session Laws, cannot be used for the purchase of additional land and water rights for use of the Colorado State Reformatory, as such could not be held to be a part of buildings, or addition to or improvement of utilities used in connection with such buildings, and therefore would not be within the provisions of the act.

517 NEWSPAPERS

Mr. V. S. FitzPatrick,
December 31, 1941.

A news magazine published monthly cannot qualify for publication of legal notices under the provisions of the Colorado law. (Section 3, Chapter 130, 1935 C. S. A.)

518 GAME AND FISH DEPARTMENT

Mr. C. N. Feast,
January 2, 1942.

(1) Municipal corporations are entitled to one-half of the pro-

ceeds derived from the sale of beaver pelts taken on lands owned by such corporations, if within Chapter 136, 1941 Session Laws.

(2) Owners of mining claims prior to patent are not entitled to share in the proceeds of beaver pelts taken thereon.

519 **GAME AND FISH COMMISSION**

Mr. C. N. Feast.
January 2, 1942.

Commission may exercise reasonable discretion as to means to be employed in auctioning beaver pelts as long as compliance is had with provisions of Chapter 136, 1941 Session Laws (Beaver Control Act).

520 **MOTOR FUEL**

Mr. W. Roy MacGinnis.
January 2, 1942.

Both the "name, trademark, symbol, sign or other distinguishing mark or device of such fuel or other products, and the name and address of the manufacturer" thereof should appear upon the "tank, container, pump, or other distinguishing equipment, from which the same are sold, offered for sale or distributed." (Section 16(a), Chapter 174, 1941 Session Laws construed.)

521 **COUNTY FUNDS**

Mr. Rafael Moses.
January 2, 1942.

An unexpended surplus in the county road fund having been appropriated for maintenance in 1941, cannot be transferred to the county's general fund when there are registered warrants against the county road fund. (Citing Section 11, Chapter 103, Section 146, Chapter 45, 1935 C. S. A., and Attorney General's Opinion of November 23, 1934.)

522 **SCHOOLS—COUNTY OFFICIALS**

Miss Hazel Turner,
January 3, 1942.

A child shall be deemed to reside in a school district if one of the child's parents is a public officer living temporarily for the performance of his duties in a school district other than that of his residence.

523 GAME AND FISH DEPARTMENT

Mr. C. N. Feast,
January 3, 1942.

Manufacturers, who purchase raw or green furs at a fur auction conducted on behalf of the commission by a licensed fur dealer, for the sole purpose of manufacturing them into garments, are not required to obtain a fur dealer's license under the provisions of Section 12, Chapter 108, 1939 S. L.

**524 STATE BOARD OF STOCK INSPECTION
COMMISSIONERS—STATE EMPLOYEES
RETIREMENT ASSOCIATION**

State Board of Stock Inspection Commissioners,
January 6, 1942.

Employee of State, who is also member of State Employees Retirement Association, has responsibility and duty to notify association when he wishes to retire. (Section 33, Chapter 36, 1935 C. S. A.; Section 4, Chapter 81, 1939 S. L.)

525 INDUSTRIAL COMMISSION

Industrial Commission of Colorado,
January 6, 1942.

Musicians—Theatrical Employment Agencies Law.

(1) Persons engaged in the business of procuring engagements for, or offering the services of, orchestras or individual musicians, come within the meaning of Section 166, Chapter 97, 1935 C. S. A., as it defines "theatrical employment agency," and must be licensed.

(2) Musicians, performing as individuals or as members of an orchestra, come within the meaning of the definition of "theatrical engagement."

526 LIVESTOCK—SALES TAX

Mr. F. R. Carpenter,
January 8, 1942.

Breeding bulls sold for purposes of propagation, the issue of which is to be marketed for sale, should be tax exempt. (Contra. Spec. Rule 18—Sales Tax 1939 Edition.)

**527 STATE BOARD OF HEALTH—COUNTY
PLANNING COMMISSION**

State Board of Health,
January 9, 1942.

Powers of.

Enforcement of health laws vested in Board of Health and may be exercised by health officer.

Enforcement of health laws in zoned area is vested in Board of Health and not Planning Commission.

Board of Health's powers of enforcement are limited to correcting violations of health law by exercising power of abatement, removal and prosecution, and do not include power to issue building permits in either zoned or unzoned areas.

**528 STATE BOARD OF HEALTH—PSYCHOPATHIC
HOSPITAL—STATE HOSPITAL**

Colorado State Board of Health,
January 9, 1942.

The Colorado statutes do not prohibit detention of prostitutes in a building devoted partially to purposes of Psychopathic Hospital, nor do they prohibit such detention in a separate building on the grounds of the State Hospital for the Insane.

529 HIGHWAYS—COUNTIES—CRIME

Mr. Vernon W. Drain,
January 12, 1942.

Jurisdiction on Highways.

When an offense is committed on the highway and the county line is in the middle thereof, it is within the discretion of the arresting officer to prosecute in either county. If the county line is in the barrow-pit or side ditches of the highway and the accident occurs upon the highway, then the offense should be brought before the officials in the county that embraces the highway proper. (Section 477, Chapter 48, 1935 C. S. A.)

530 INTOXICATING LIQUORS

Hon. Walter F. Morrison,
January 12, 1942.

Amount paid for wholesaler's beer license may be refunded if license was never used, and application for refund is made prior to effective date thereof. (Section 23, Chapter 89, 1935 C. S. A.)

531

GAME AND FISH

Mr. C. N. Feast,
January 13, 1942.

Aliens, Firearms.

Aliens are not permitted to have firearms to hunt or fish, or to purchase hunting or fishing licenses. (Section 176, Chapter 73, 1935 C. S. A.)

532

**EMPLOYEES—ADMINISTRATIVE CODE OF
1941—FEES AND SALARIES**

Mrs. Lois Phillips,
January 13, 1942.

Section 6, Administrative Code of 1941, prevents an employee from receiving payment of salary in more than one capacity from State funds, but he may choose in which capacity he desires to draw such compensation.

533

SCHOOLS

Mrs. A. D. Roberts,
January 15, 1942.

A school district is authorized, within its discretion, to make tuition payments to a high school located in another county.

534

SOIL CONSERVATION DISTRICTS

Mr. A. J. Hamman,
January 16, 1942.

Board of supervisors of soil conservation districts may enter into contract with board of county commissioners to carry out weed extermination work under the provisions of Section 2, Chapter 233, 1941 Session Laws, providing the funds are derived from the fund provided for by Sections 3 and 4 of said Chapter 233, and are not soil conservation district funds.

535

INHERITANCE TAX—GIFT TAX

Robert S. Gast,
January 16, 1942.

Donation to American Red Cross of sum in excess of \$1,000.00 for calendar year is exempt from gift taxes if use is limited for use within State of Colorado.

536 COUNTIES—COLORADO STATE COLLEGE OF AGRICULTURE

Mr. James R. Miller,
January 16, 1942.

No legal objection to faculty members of Colorado State Agricultural College assisting sheriff in emergency, although names may appear on sheriff's payroll as receiving compensation during such service.

537 SCHOOLS

Mr. Joe Perkins,
January 16, 1942.

A school district should not attempt to provide in its contracts with teachers that for any period of service less than nine months no salary would be forthcoming for the three summer months.

538 TAXATION—COUNTY OFFICERS

Mr. M. J. Fisher,
January 20, 1942.

Mandamus is remedy to compel county commissioners to levy under Section 205, Chapter 45, 1935 C. S. A. Expenditures of county are regulated by budget, adopted under Chapter 103, 1935 C. S. A., rather than by actual collection of taxes. Treasurer should register all warrants which appear valid on their face, irrespective of fact they may be expenditures in excess of appropriation. ✓

539 CITIES AND TOWNS—PUBLIC HEALTH—FEDERAL PROJECTS

Mr. Herman E. Crist,
January 20, 1942.

Chapter 223, 1941 Session Laws, was passed for the specific purpose of providing better sanitation in unincorporated areas. Therefore, the town of Fort Lupton would be within its authority in entering into a contract with the U. S. government providing for use of city's sewage disposal facilities for a farm workers' community project, provided statutory procedure is strictly followed.

540 MOTOR VEHICLES

Mr. C. H. Gunn,
January 20, 1942.

Joint Tenancies—Personal Property.

Certificates of title to motor which may be issued in the names of two or more persons "as joint tenants."

541 COUNTY OFFICERS—PUBLIC FUNDS

Mr. Thos. M. Warner,
January 21, 1942.

Provisions of Chapter 114, 1941 S. L., construed as mandatory on part of county treasurer to require depository bond or approved securities protecting deposits of county funds. The word "may" construed to mean "shall."

542 CITIES AND TOWNS

Colorado Municipal League,
January 22, 1942.

Town Clerks, Town Recorders, Incorporated Towns.

The appointment of a town clerk or a town recorder may be by the town council in the absence of an ordinance providing for the election of such officers. (Sections 105 to 107, Chapter 163, 1935 C. S. A.)

543 PROBATE—COUNTY OFFICERS

Judge E. M. Short,
January 22, 1942.

Moneys in registry fund of county court, which have remained unclaimed in hands of court for period of one year, may be paid to county treasurer to be held by him as provided by Section 144, Chapter 45, 1935 C. S. A.

544 SCHOOLS—FEDERAL GRANTS

Mrs. Inez Johnson Lewis,
January 24, 1942.

Gifts to the State may be accepted by the State Treasurer and held subject to disposition by the legislature in accordance with the directions of the donor. Generally legislative provisions provide for the acceptance of a federal grant and assent to conditions attached to the grant in setting up machinery for receipt and disbursement. In the absence of such legislative action, Section 33 of Article V of the Constitution might operate to prohibit the expenditure of funds accepted by the State as there would be no appropriations for such moneys. Funds given by the federal government for general education purposes would, by Section 50 of Article 9, become part of the public school fund.

545 AGRICULTURE—EMPLOYEES—SALARIES

Mr. W. C. Sweinhart,
January 24, 1942.

If salary of State employee is specified in appropriation,

larger sum may not be disbursed to that employee. If lump sum is appropriated for payment of several employees, compensation of each shall be fixed by chief executive officer of department. "Seasonal or temporary" employees should actually be of character specified. (Section 6, Chapter 2, 1941 S. L.; Sections 14 and 15, Chapter 36, 1935 C. S. A.)

546

INSURANCE

Mr. James R. Miller,
January 24, 1942.

The question as to whether State funds may be used in the payment of fire insurance premiums for insurance on privately owned libraries, kept on State property and utilized by a State institution, must be determined upon the facts surrounding the acquisition of such libraries by such institution.

The contractual obligation on the part of the institution should be kept.

547

SCHOOLS

Mr. Delman A. Yackle,
January 26, 1942.

General county school fund and special school fund should be kept separate.

Warrants against general fund should be registered when there are not sufficient funds, assuming they were legally issued.

548

MOTOR FUEL

Mr. F. R. Carpenter,
January 26, 1942.

Former motor fuel opinion modified to permit giving statistical information derived from reports of distributors, but confirmed as to dissemination of information derived from audits and investigations. (Section 16, Chapter 140, 1933 S. L.)

549

LEGISLATURE—APPROPRIATIONS

Mr. Lester G. Truby,
January 26, 1942.

The legislature may, by resolution, set aside unexpended balances of appropriations for the expenses of the legislature for the use of the interim committee, and such allocation is effective on the date of the final passage of such resolutions.

550

GAME AND FISH

Mr. C. N. Feast,
January 29, 1942.

Combined hunting and fishing licenses and trappers' licenses are exempt from the requirement of Section 8, Chapter 186, 1941 S. L., which requires the payment of 3 per cent of the "moneys collected from the sale of hunting and fishing licenses, pelts, fines and penalties to the General Revenue Fund."

551

INSURANCE

Hon. Luke J. Kavanaugh,
January 30, 1942.

A domestic insurance company may purchase a building for the use of its home office, if it acts in good faith and the transaction is entirely reasonable, even though the company is prohibited temporarily from occupying the building for its home office. (Section 24, Chapter 87, 1935 C. S. A.)

552

LIQUORS

Mr. Richard H. Simon,
February 2, 1942.

Under the provisions of paragraph (i), Section 11, Chapter 142, 1935 Session Laws, liquor licenses may be issued for the selling of liquor by the bottle or package within 500 feet from any public or parochial school, college, university or seminary.

553 **COLORADO STATE COLLEGE OF AGRICULTURE
AND MECHANIC ARTS—APPROPRIATIONS
—TAXES**

Mr. James R. Miller,
February 2, 1942.

Article 12, Section 40, of the appropriation fund on page 198, 1941 Session Laws, is a general appropriation for the payment of improvement taxes on any or all State property. It would be within the power of the Governor to determine which State property should receive the benefits of this appropriation. Payment of improvement taxes assessed against property of the Colorado State College of Agriculture and Mechanic Arts must be approved by the Governor.

554

**STATE EMPLOYEES' RETIREMENT
ASSOCIATION**

The State Employees' Retirement Association,
February 2, 1942.

Employees of Colorado State Employment Service who have

attained civil service status may, upon abolition of their positions, said service having been transferred to the federal government because of the war emergency, refuse to accept leave of absence provided for in resolution of Civil Service Commission and request to be placed on preferred eligible list. Such employees may accept federal employment.

555 SCHOOLS—COUNTY OFFICERS

Mr. Carl B. Franzen,
February 2, 1942.

The county treasurer may charge one per cent on school taxes by him received. (Citing Section 25, Chapter 66, 1935 C. S. A.) May also charge on moneys from the Public School Income Fund.

556 SCHOOLS

Ms. Loretta Surber Davis,
February 2, 1942.

Bonuses for Teachers.

In the event that a school district has provided in its budget an emergency contingent fund, it is possible by resolution of the school board, setting forth the facts and declaring an emergency, that it could be determined that bonuses be paid to teachers over and above the salary contracted for. If the emergency contingent fund were divided into various subsections, such action could only be taken in the last four months of the year at which time there could be transfers within that fund. (Citing Section 11 of Chapter 103, 1935 C. S. A. ; Section 89 of Chapter 146, 1935 C. S. A.)

557 TAXATION

Miss Pearl Klockenteger,
February 5, 1942.

The requirement that all taxes due must be paid when offering instruments for registration affecting registered lands, as provided in Section 224, Chapter 40, 1935 C. S. A., interpreted to mean taxes which can be legally demanded or collected, pursuant to Section 14, Chapter 142, 1935 C. S. A. (*Hendricks v. Julesburg*, 55 Colo. 59.)

558 TAXATION

Mr. J. G. Lopez,
February 7, 1942.

Clerical error in a tax deed, making the deed void on its face, may be corrected by issuing a new deed at any time before the taxes are redeemed. (*Duggan v. McCullough*, 27 Colo. 43.)

559

UNIVERSITY OF COLORADO

Mr. W. E. Brockway,
February 9, 1942.

Permanent Land Fund.

Board of regents has control of investments of permanent land fund of the University of Colorado. It is suggested that actual custody of the fund be left with the State Treasurer, although the regents have the legal right to demand and receive such custody. (Sections 30-32, Chapter 169, 1935 C. S. A.; Section 14, Article IX, Constitution of Colorado.)

560

SCHOOLS

Mr. Harold Dodge,
February 10, 1942.

Subordinate employees of a school district, such as janitor, have no disciplinary authority over the students of the school.

561

STATE BOARD OF FUNERAL DIRECTORS AND EMBALMERS

Mr. Edward A. Martin,
February 10, 1942.

Section 8, Chapter 105, 1939 Session Laws, requires funeral directors, undertakers, morticians and all persons engaged in that type of work to maintain a separate sanitary room for keeping, embalming and preparing human bodies for burial.

562

COUNTY OFFICERS—FEES AND SALARIES

Mr. Earl J. Hower,
February 10, 1942.

Justices of the Peace.

Justices of the peace in counties of the fourth class are entitled to all fees earned and collected from defendants in criminal cases. In the event the defendant in such case is unable to pay the costs and fees incurred, the county is liable to a maximum of \$60 per month in fees earned from such cases. (Article 14, paragraph 15, Colorado Constitution; Section 28, Chapter 66, 1935 C. S. A.)

563

SCHOOLS

Las Animas County High School Committee,
February 10, 1942.

Section 187, Chapter 146, 1935 C. S. A., providing that members of a high school committee may be allowed eight cents a

mile, was only intended to reimburse members for expenditures actually made, and if two or more committee members travel in the same conveyance, only one mileage allowance would be proper.

**564 HIGHWAY COURTESY PATROL—MOTOR
VEHICLES—AGRICULTURE**

Mr. J. J. Marsh,
February 13, 1942.

In order for a farm tractor to be exempt from registration under Section 121, Chapter 16, 1935 C. S. A., it must be used exclusively in the drawing and propelling of farm machinery. (See Section 107, Chapter 16, 1935 C. S. A.)

565 REAL ESTATE BROKERS BOARD

Mr. A. V. Dworak,
February 13, 1942.

Secretary of State is vested with power to appoint chief clerk of Real Estate Brokers Board, subject to provisions of Civil Service Amendment. (Section 5, Chapter 2, 1941 S. L.; Section 37, Chapter 15, 1935 C. S. A.)

566 GAME AND FISH

Mr. C. N. Feast,
February 14, 1942.

No liability exists on the part of the State for damages to a motor vehicle colliding with wild animal protected by the game and fish laws under Section 42, Chapter 73, 1935 C. S. A.

567 GAME AND FISH

Mr. C. N. Feast,
February 16, 1942.

Fur Dealers.

Section 12, Chapter 108, 1939 S. L., does not require a landowner who buys back hides of fur-bearing animals trapped on his own property for the purpose of having them manufactured into garments for his own use, to obtain a fur dealer's license.

568 GAME AND FISH

Mr. C. N. Feast,
February 16, 1942.

(1) Section 4, Chapter 90, 1933 S. L., is not repealed or superseded by Chapter 153, 1937 S. L., as there is no necessary conflict between them, and repeals of statutes by implication are not favored.

(2) Sections 1 and 2, Chapter 108, 1939 S. L., make that chapter applicable only to fur-bearing animals and not to predatory animals. Beaver are classified as fur-bearing animals.

(3) A fur-bearing animal that has been trapped and thus reduced to possession may be the subject of larceny. (Section 22, Chapter 108, 1939 S. L.)

569 STATE REFORMATORY—DEPENDENT CHILDREN

Mr. Richard H. Simon,
February 16, 1942.

Children charged as delinquents in county court, whose acts constitute felonies, and who have passed the age of sixteen years, may be committed to the State Reformatory. (Section 53, Chapter 33, 1935 C. S. A.)

570 VITAL STATISTICS—COUNTY OFFICERS

Mr. Frank S. Morrison,
February 17, 1942.

Under the provisions of Chapter 142, 1941 S. L. of Colorado, the State Board of Health is authorized to adopt and furnish forms for delayed birth certificates, and such adopted forms must be used in proceedings under said chapter. However, orders issued by courts of record having jurisdiction under said act must be accepted as binding unless or until superseded by a decision in a superior court.

571 INTOXICATING LIQUORS

Mr. A. J. Laing,
February 17, 1942.

The third paragraph of Section 23, Chapter 89, 1935 C. S. A., permits a proportionate refund of a liquor license to be made by a city, town, city and county, or county "upon an affirmative action by the respective licensing authority;" but where application is made after the first of the year, the entire year's license fee must be paid.

572 REAL ESTATE BROKERS BOARD—SECRETARY OF STATE

Mr. A. V. Dworak,
February 17, 1942.

Boards designated in Section 54, Chapter 2, 1941 Session Laws, may designate the number and types of employees required by them, but the power to appoint persons to such positions is vested in the Secretary of State, subject to final approval as to

the necessity of such appointment by the Governor, and subject to the provisions of the Civil Service Amendment.

573 COLORADO STATE BOARD OF OPTOMETRIC EXAMINERS

Colorado State Board of Optometric Examiners,
February 17, 1942.

The board cannot, during the duration of the war, suspend the renewal State license fee for any optometrists who have been called for military duty. (Sections 15 and 16, Chapter 120, 1935 C. S. A., construed.)

574 ELECTIONS—CITIES AND TOWNS

Mr. C. H. Beeler,
February 17, 1942.

Under Chapter 103, Session Laws of 1939, notice of election prior to holding a town election should be published 15 days before the election. Notice of registration should be published not less than 90 days prior to such election.

575 COLLECTION AGENCY BOARD

Hon. Walter F. Morrison,
February 17, 1942.

A demand upon an individual debtor entitled "Prior Notice to Garnishment" is not a violation of Section 26, Chapter 116, 1937 S. L., or Section 7 of the Rules and Regulations of the Collection Agency Board, since it is a demand for the payment of an account owed an individual, and not an advertisement or statement that legal services will be rendered.

576 COUNTY OFFICERS

Mr. Norman E. Bradley,
February 18, 1942.

County Judges, Judge-Clerk.

The failure of a judge to post bond as clerk when this duty is performed by the judge is not in itself a bar to the right of remuneration therefor.

Section 194, Chapter 46, 1935 C. S. A., is silent in regard to the necessity of bond on the part of judge who acts as clerk.

County judge who appoints clerk cannot claim remuneration as clerk, as the clerk holds the appointment from the judge.

577 WATER—INTERSTATE COMPACT

Mr. M. C. Hinderlider,
February 18, 1942.

Rio Grande Compact.

Under the provisions of Article VI of the Rio Grande Compact, the commissioners provided for therein are bound, during all of any given calendar year, by the debit or credit computations which were determined at the end of December and immediately prior thereto, and new computations cannot be made until the end of such year. Colorado must therefore, within the physical limitations of storage capacity in late reservoirs referred to therein, retain water in storage at all times to the extent of its accrued debit, and there would be no authority to allow release of such stored water except by unanimous action of the commission, subject to the replacement of such water at the first opportunity or a new year in computation being such as to wipe out such debits.

578 GAME AND FISH

Mr. C. N. Feast,
February 19, 1942.

Revenue.

Section 8, Chapter 186, 1941 S. L., does not require the transfer to the General Fund of 3 per cent of the total gross yield from the sale of beaver pelts under the provisions of Section 8, Chapter 186, 1941 S. L., but only 3 per cent of half of that sum, that is, of the gross yield to the commission, because Section 4, Chapter 136, 1941 S. L., provides that the pelts are the joint property of the landowner and the commission, and that the gross proceeds shall be divided equally between them.

579 SCHOOLS

Mr. Harvey H. Huntzinger,
February 19, 1942.

School district may be annexed to another without consent of the electors or boards of education involved only in the event school has not been maintained in the district to be annexed for a period of three successive years.

580 GAME AND FISH

Mr. C. N. Feast,
February 25, 1942.

Landowner, as defined in Chapter 136, 1941 S. L., means and includes "any owner of the land surface by deed, patent or con-

tract of purchase and any lessee or tenant." Section 4 requires the Game and Fish Commission to trap beaver on his land as directed by the landowner in writing; if it does not furnish a trapper within ten days, the landowner may trap beaver thereon and deliver the pelts to the commission. Pelts are the joint property of the landowner and the commission. The lessee of "private lands" as defined in Section 2 shares equally with his landlord in the "landowner's" share of the proceeds from the sale of the pelts. The lessee of State lands whose title comes within the definition is entitled to one-half of the landowner's share.

581

GAME AND FISH

Mr. C. N. Feast,
February 25, 1942.

The commission may not deduct any part of the expense of sales of beaver pelts under the provisions of Section 4, Chapter 136, 1941 S. L., from the share of the landowner, who is entitled to one-half of the "gross proceeds."

582

**BOARD OF FUNERAL DIRECTORS AND
EMBALMERS**

Mr. Edward A. Martin,
February 25, 1942.

The board's power to compel the attendance of witnesses is found in Section 6, Chapter 105, 1939 S. L. It may apply to any court of record without having to pay fees for the issuance of subpoenas; it may subpoena others than licensees for hearings before it.

583

TAXATION—BANKS—TRUST FUNDS

Mr. Arthur H. King,
February 27, 1942.

Trust fund on deposit in a bank is intangible property and therefore exempt from ad valorem tax. (Section 17, Chapter 142, 1935 C. S. A.; Chapter 175, S. L. 1937; *Denver v. Research Bureau*, 101 Colo. 140.)

584

INTOXICATING LIQUORS

Mr. Walter F. Morrison,
March 3, 1942.

It is lawful under the provisions of Section 38, Chapter 89, 1935 C. S. A., for the State Licensing Authority either to refund the money paid for excise tax stamps for alcoholic liquors, or to furnish stamps in substitution therefor, where such stamps are

destroyed or badly damaged by fire, through no fault of the licensee, and where proof of the facts is clearly established to the satisfaction of the State Licensing Authority.

585 VITAL STATISTICS—FEES

Mr. F. R. Carpenter,
March 4, 1942.

Collection of fee for "search of the files," as provided by Section 128, Chapter 78, 1935 C. S. A., is mandatory providing the service is performed within the meaning of this section.

586 STATE ENTOMOLOGIST

Mr. F. Herbert Gates,
March 6, 1942.

Section 17, Chapter 169, 1937 Session Laws, empowers the State Entomologist to sign, on behalf of the State of Colorado, an agreement with the Bureau of Entomology and Plant Quarantine of the United States Department of Agriculture, for the control of grasshoppers and Mormon crickets. (Article 2, Chapter 80, 1935 C. S. A.; Section 9(10), Chapter 2, 1941 S. L.)

587 SCHOOLS

Miss Veta Stalcup,
March 9, 1942.

There is no statutory authorization for the purchase of defense bonds by the board of education of a school district or by the high school committee of a county high school system. (Section 143, Chapter 45, and Section 136(1) of Chapter 146 cited.)

588 STATE BOARD OF AGRICULTURE—PUBLIC FUNDS—DEFENSE BONDS

State Board of Agriculture,
March 10, 1942.

(1) Statutory authority is given for the investment of the Land Permanent Fund in government bonds, providing the rate of return is fair and reasonable. (Section 5, Chapter 38, 1935 C. S. A., as amended by Section 1, 1939 S. L.)

(2) Municipal securities held by the Land Permanent Fund may be purchased therefrom by the Fort Lewis endowment fund. (Section 101, Chapter 38, 1935 C. S. A.) There is implied authority for the investment of both funds.

589 **HIGHWAY COURTESY PATROL—
MOTOR VEHICLES**

Mr. J. J. Marsh,
March 11, 1942.

Auto camps and auto tourist camps as defined by Sections 372 and 373 of Chapter 16, 1935 C. S. A., include a camp or park used for the purpose of parking motor vehicles and trailers in which individuals live or dwell, and must be licensed as provided by statute.

590 **GAME AND FISH**

Mr. C. N. Feast,
March 12, 1942.

Under the provisions of Section 4, Chapter 136, 1941 S. L., providing for publication of notice of sale of beaver pelts, there is no statutory provision as to the length of time, places of publication and number of insertions, and therefore the Game and Fish Department is empowered to determine what methods to use to accomplish what it deems to be reasonable notice to accomplish the proper purposes thereof, and thereby give such notice as will make the sale as profitable as possible.

591 **COUNTY OFFICERS—CRIME**

Mr. J. J. Marsh,
March 12, 1942.

Powers of Justice of Peace.

A justice of the peace has only such powers as are specifically conferred upon him by statute. In the event a justice of the peace imposes a fine only and does not impose an alternative sentence of imprisonment, he may not cause the convicted person to be re-arrested if the fine is not paid, having released the defendant without payment of the same. (Sections 175 and 178, Chapter 96, 1935 C. S. A.)

592 **FEES AND SALARIES—MOTOR VEHICLES
—PENITENTIARY**

Mr. James A. Noonan,
March 13, 1942.

The cost of license plates made by Colorado penitentiary to be deducted from motor vehicle registration moneys before distribution under Section 104, Chapter 16, 1935 C. S. A. County clerks' fees under Section 93, Chapter 16, 1935 C. S. A., to be charged against Department of Revenue administrative fund.

593

MINES, MINING—TAXATION

The Colorado State Tax Commission,
March 14, 1942.

The words "gross production" as used in Section 83, Chapter 142, 1935 C. S. A., are synonymous with the words "gross proceeds" and the question of whether a mine should be assessed as a producing or non-producing mine should be determined by ascertaining, as provided by statute, whether the "gross proceeds" of such mine are or are not in excess of \$5,000.

Where mining claims on lands are contiguous at the surface and are owned and operated as one property by the same person, persons, association or corporation, the gross proceeds of which claims are more than \$5,000, such claims should be deemed to be one producing mine for the purposes of taxation.

594

**BANKS AND BANKING
(Credit Unions)**

Mr. Maple T. Harl,
March 16, 1942.

Payment of gratuities to officers of a credit union are not specifically forbidden by statute, but the payment thereof is contrary to the spirit of the law and the practice of making gifts to officers should be discouraged. (Section 9, Chapter 118, 1941 S. L.)

595

FEES AND SALARIES—COUNTY OFFICERS

Mr. Sherman E. Walrod,
March 17, 1942.

Sheriff, Salary.

Sheriffs' salaries in counties of fourth class, Division A, are payable from the fees actually collected by him although the salary is fixed.

Salaries due county sheriffs for probation services cannot be applied on his salary in the capacity of sheriff. (Section 102, Chapter 66, 1935 C. S. A.)

596

REAL ESTATE BROKERS BOARD

Hon. Walter F. Morrison,
March 18, 1942.

If salesman applied and paid for renewal of license prior to December 31st, but license was not issued due to illness and death of chief clerk of Real Estate Brokers Board until following March, the salesman was entitled to continue to act, providing he acted in good faith. (Section 35, Chapter 15, 1935 C. S. A.)

597 **ELECTIONS—SPECIFIC OWNERSHIP TAX
—OFFICERS**

Hon. H. E. Vohringer,
March 20, 1942.

Bonded Indebtedness—Incompatible Offices.

(1) Payment of the specific ownership tax on automobiles is not sufficient to entitle one to vote on the question of incurring bonded indebtedness.

(2) The offices of member of city council and justice of the peace are incompatible and one person cannot hold both.

598 **TAXATION**

Mr. Sherman E. Walrod,
March 20, 1942.

Where seller has stock of goods, and fixtures and equipment, and sells the equipment, the personal tax on the stock of goods and equipment and fixtures may be segregated. (*Chicago Bazaar v. McNichols*, 13 Colo. App. 154.)

599 **COLORADO STATE HOSPITAL—ESTATES**

Dr. F. H. Zimmerman,
March 23, 1942.

The estate of a mental incompetent is liable for indebtedness due Colorado State Hospital for care and maintenance. No statutory authority to waive claim by hospital. (Section 9, Chapter 105, 1935 C. S. A.; Section 227, Chapter 176, 1935 C. S. A.; Article V, Section 38, Colorado Constitution.)

600 **APPROPRIATIONS—ADVERTISING AND
PUBLICITY COMMITTEE**

Mr. L. G. Truby,
March 24, 1942.

The appropriation of \$2,400, appropriated for expenses of the Colorado Advertising and Publicity Committee, upon proper authorization by said committee, can be used for the purpose of paying traveling expenses of the director of said committee in such amounts as are determined by the committee.

601 **TRUSTS**

Hon. Robert L. Stearns,
March 30, 1942.

Personal representative of life tenant of trust estate has no right to undistributed and accumulated income upon death of life

tenant, where trust agreement specifically provides that such income shall belong to the remainderman and where life tenant during lifetime relinquished all rights to such income.

602

LAND—SURVEYS

Mr. Hume S. White,
April 1, 1942.

The words "an easterly direction along said summit of the National Range" as used in Section 22, Chapter 44, 1935 C. S. A., in fixing the eastern boundary of Eagle county, mean that the boundary line should follow the summit of the National Range, regardless of the fact that deviation may occur in other directions, as long as the general direction is easterly.

603

**FEES AND SALARIES—MOTOR VEHICLES—
COUNTY OFFICERS—APPROPRIATIONS**

Mr. James A. Noonan,
April 2, 1942.

Section 93, Chapter 16, 1935 C. S. A., concerning the payment of fees to county clerks for registering motor vehicles, as amended by Session Laws of 1941, construed as continuing appropriation when considered with sections 94, 103, 104, Chapter 16, 1935 C. S. A.

604

ELECTIONS—COUNTY OFFICERS

Mr. Arthur M. Lorenzon,
April 6, 1942.

County commissioners, under Section 15, Chapter 45, 1935 C. S. A., are elected by districts and must reside in the district from which elected.

605

**STATE BOARD OF STOCK INSPECTION
COMMISSIONERS**

State Board of Stock Inspection Commissioners,
April 7, 1942.

Duties and liabilities of operators of cold storage locker plants which engage regularly in the business of butchering and slaughtering neat cattle are fixed by Chapter 92, 1941 S. L., and Sections 3 and 4, Chapter 28, 1935 C. S. A.

606 BASIC SCIENCES—BOARD OF CHIROPRACTIC EXAMINERS

Dr. Edgar A. Jackson,
April 8, 1942.

No one may lawfully take an examination for a license to practice the healing art, or any branch thereof, unless he has presented to the proper examining board a certificate of ability in the basic sciences issued by the State Board of Examiners in the Basic Sciences. (Sections 2 and 11-16, Chapter 106, 1937 S. L.)

**607 COUNTY OFFICERS
(Justices of the Peace—Criminal Cases)**

Mr. Gustav Iverson,
April 9, 1942.

The county becomes liable to the justice for his court costs upon the completion of the last official act necessary to be done by him in connection with any particular criminal case, the fees being earned at that time. (Section 28, Chapter 66, 1935 C. S. A.)

608 FIREMEN'S PENSION FUND—INSURANCE

Mr. G. B. Warner,
April 9, 1942.

Premium for blanket insurance for members of volunteer fire department could be paid out of Firemen's Pension Fund, providing such payment would not impair ability of fund to pay pensions, benefits and awards. (Chapter 163, Section 485, 1935 C. S. A.)

609 POLICEMEN'S PENSION FUNDS—DEFENSE BONDS

Mr. George S. Browne,
April 9, 1942.

Purchase of United States Defense Bonds would be legal investment of Policemen's Pension Funds. (Chapter 163, Section 528, 1935 C. S. A.)

610 SOIL CONSERVATION DISTRICT ELECTIONS

Mr. Kenneth W. Chalmers,
April 9, 1942.

Only land owners are permitted to vote in an election to authorize the organization of a soil conservation district. A tenant in a proper case may be the agent of his landlord within

the meaning of Section 4, Chapter 203, 1941 Session Laws, and all joint owners of record of land within the proposed district are also entitled to vote under the provisions of that section, if otherwise qualified. (Section 4, Chapter 203, 1941 S. L.)

611 DEPARTMENT OF REVENUE—DEPARTMENT OF AGRICULTURE

Mr. F. R. Carpenter,
Mr. W. C. Sweinhart,
April 10, 1942.

The function of collecting taxes, fees and licenses is transferred from the Department of Agriculture to the Department of Revenue by Section 32, Chapter 2, 1941 Session Laws, except as to the State Hail Insurance Department and the Colorado State Fair Commission.

612 STATE BOARD OF STOCK INSPECTION COMMISSIONERS

State Board of Stock Inspection Commissioners,
April 10, 1942.

State Board of Stock Inspection Commissioners may pay extra expenses, incurred in the prosecution and conviction of cattle rustlers, from Estray Fund. (Section 138, Chapter 160, 1935 C. S. A.)

613 STATE BOARD OF STOCK INSPECTION COMMISSIONERS

State Board of Stock Inspection Commissioners,
April 10, 1942.

The State Board of Stock Inspection Commissioners may, with written approval of the Governor, hire a special inspector to investigate various sales rings in adjoining states. (Section 11b, 1941 S. L.)

614 STATE BOARD OF STOCK INSPECTION COMMISSIONERS

State Board of Stock Inspection Commissioners,
April 10, 1942.

State Board of Stock Inspection Commissioners is under no obligation to pay employee for moving expenses when such employee is transferred from one town to another. (Section 1, Chapter 217, 1941 S. L.)

**615 STATE BOARD OF STOCK INSPECTION
COMMISSIONERS**

State Board of Stock Inspection Commissioners,
April 10, 1942.

State Board of Stock Inspection Commissioners is authorized, with written approval of the Governor, to employ a special brand inspector to supervise all brand inspectors. (Section 1, Chapter 217, 1941 S. L.)

616 COUNTY OFFICERS—FEES AND SALARIES

Mr. Thornton H. Thomas, Jr.,
April 10, 1942.

Coroner's Fees.

Referring to Section 85, Chapter 66, 1935 C. S. A., the maximum amount to be collected by a coroner for his day's work is \$5.00, regardless of number of deaths investigated. (Citing *Kistler v. Board*, 68 N. W. 26.)

617 TAXATION

Mr. Edward C. King,
April 13, 1942.

Taxes on property acquired by tax-exempt State agency are uncollectible. (61 C. J. 418.)

**618 MOTOR VEHICLES—HIGHWAY COURTESY
PATROL—COUNTIES**

Mr. W. R. Welsh, Jr.,
April 14, 1942.

Registration and licensing of motor vehicles is to be made in the county of the residence of the owner of said motor vehicle. (Section 12, Chapter 16, 1935 C. S. A.) Suggested that the voting residence of the individual be followed in determining his legal residence for the purpose of registering and licensing motor vehicles.

Colorado Courtesy Patrol does not have authority to go into cottage and trailer camps and require persons with non-resident licenses to purchase Colorado licenses.

619 SCHOOLS

Miss Lena Archuleta,
April 14, 1942.

Following opinions of Attorney General (Nos. 96, 107 and 48 (1939)), held that school district may not deposit tuition moneys in bank and withdraw by check.

**620 STATE BOARD OF INDUSTRIES FOR THE
BLIND**

Mr. John L. McMenamin,
April 16, 1942.

Stand for sale of tobacco, owned by State Industries for the Blind, but operated by blind person for his own support and profit, is subject to pay license fee required by city. Such stand is not exempt as a charity, since the 1941 act (Section 1, Chapter 90, 1941 S. L.) provides that the board shall promote non-charitable industries and activities for the blind. (Section 5, Article X, Colorado Constitution; Section 22, Chapter 142, 1935 C. S. A.)

621 COUNTY OFFICERS

Mr. E. F. Barnhart,
April 16, 1942.

The salary of the county clerk of a fifth class county is fixed by statute, and must be paid out of the fees, perquisites and emoluments of his office. (Section 8, Article 14, Colorado Constitution; Section 79, Chapter 66, 1935 C. S. A.)

622 STATE BOARD OF HEALTH—MATTRESS LAW

Dr. Fred W. Beesley,
April 17, 1942.

Mattress manufacturers are subject to supervision provided in Chapter 205, 1941 S. L., as health measure, irrespective of fact mattresses are sold to federal government.

623 PHARMACY LAW

Mr. Ralph E. Kemp,
April 18, 1942.

Pharmaceutical association only entitled to 90 cents out of each annual registration fee because of operation of Section 4, Chapter 186, S. L. 1941, providing for 10 per cent deduction for general fund. No further 10 per cent deduction to be made after association receives remittance.

**624 STATE BOARD OF STOCK INSPECTION
COMMISSIONERS**

State Board of Stock Inspection Commissioners,
April 21, 1942.

The Estray Fund Statute, Section 138, Chapter 160, 1935 C. S. A., construed to be a continuing appropriation.

625 COUNTY COURTS—VITAL STATISTICS

Hon. Buffer Roberts,
April 22, 1942.

While county courts may issue certified copies of the court records as to delayed birth certificates, yet for certified copies to be proof of proper registration with the Bureau of Vital Statistics, it would be necessary that such certified copies be obtained from the records of the Bureau of Vital Statistics.

626 FEES AND SALARIES—SOLDIERS' AND SAILORS' CIVIL RELIEF ACT OF 1940

Mr. Hugh R. Smith,
April 23, 1942.

Docket Fees—Guardian Ad Litem Should Pay a Docket Fee.

There is no exception under the Soldiers' and Sailors' Civil Relief Act of 1940 in reference to the payment of a docket fee for answer by the defendant. However, it was not in the intent of the act to make the appointed attorney pay this charge, nor the absent defendant. All defendants should be entered upon the docket.

627 STATE BOARD OF HEALTH

Mr. K. W. Lloyd,
April 23, 1942.

Federal Areas.

State Board of Health does not have jurisdiction over Rocky Mountain National Park or Mesa Verde National Park under the provisions of Sections 13-24, 33 and 34, Chapter 81, 1935 C. S. A.

628 GAME AND FISH COMMISSION

Mr. C. N. Feast,
April 25, 1942.

An army officer, now stationed elsewhere, who continues to regard Colorado as his home as disclosed by the records of the army, who owns real property, stores personal and household effects in this State, and pays income and property taxes here, is a resident within the meaning of Section 7, Chapter 109, 1939 S. L.

629 ELECTIONS

Mr. Dan Milenski,
April 27, 1942.

Creation of New or Changing of Existing Precincts.

The creation of a new precinct may be made by the board of

county commissioners when "they may deem it expedient for the convenience of voters" if they exercise their right not less than five months prior to a general election, which is defined as "any city, county or State election except a primary." The new precinct shall, as nearly as possible, contain not more than 500 registered voters.

630 INTOXICATING LIQUORS

Hon. Walter F. Morrison,
April 27, 1942.

Wholesalers are not entitled to bottle barrelled whisky. (Sections 27, 30 and 31, Chapter 89, 1935 C. S. A.)

631 SCHOOLS

Hon. Inez Johnson Lewis,
April 27, 1942.

Excise Tax on Bituminous Coal.

The basic excise tax of one cent per ton on the sale of bituminous coal is imposed by 6A, F. C. A., Title 26, (a) (1), Sec. 3520. The exemption in paragraph (a) (2) would be applicable to a school district which is a political subdivision performing governmental functions. Regulations of the commission should be studied to determine how to procure the refund which is provided for in Section 3522. The tax is imposed on sale by the producer.

632 CIVIL SERVICE EMPLOYEES—MILITARY— DEFENSE

Mr. Charles E. Vail,
April 29, 1942.

The words "shall be or shall have been voluntarily or involuntarily inducted into active military service with the armed forces of the United States or other branch of service engaged in national defense" as used in Section 1, Chapter 95, 1941 Session Laws, are interpreted to mean military service with the armed forces or other branch of military service. Those working in munitions plants, buildings, cantonments, etc., are not "engaged in national defense" but are serving in an auxiliary capacity to aid national defense.

633 STATE BOARD FOR VOCATIONAL EDUCATION

Mr. H. A. Tiemann,
April 29, 1942.

In order to borrow money, it would be necessary for the State Board of Vocational Education to have direct and express authorization from the legislature.

634

LUNACY COMMISSION

Mr. Paul L. Littler,
May 1, 1942.

Licensed osteopathic physician is qualified for appointment as physician on lunacy commission within meaning of Section 2, Chapter 105, 1935 C. S. A. (48 C. J. 1095-1096.)

635

CITIES AND TOWNS

Hon. F. L. Behymer,
May 1, 1942.

Incompatible Offices.

In the absence of statute it would be a question of fact as to whether the offices of town clerk and town treasurer are incompatible. If not, there would be no objection to having one individual hold both offices.

636 FIREMEN'S PENSION FUND—DEFENSE BONDS

Mr. John J. Downey,
May 6, 1942.

Firemen's Pension Fund of a town may be invested in government bonds where there has been authorization by the board of trustees concurred in by the treasurer.

637

MOTOR VEHICLES

Mr. C. H. Gunn,
May 6, 1942.

The statutory law relative to transfer of ownership of motor vehicles must be exactly complied with, even if the owner has departed to parts unknown in the service of the armed forces of the United States. (Section 2, Chapter 16, 1935 C. S. A.)

638

MOTOR VEHICLES

Mr. J. J. Marsh,
May 6, 1942.

Section 157, Chapter 16, 1935 C. S. A., applies to violation of the Operators' and Chauffeurs' License Act, and Section 286 of Chapter 16 applies to violation of provisions of the statute referring to the operation of motor vehicles on the highways of the State.

639

FIREMEN'S PENSION FUNDS

Messrs. Horn and Horn,

May 6, 1942.

Moneys of Firemen's Pension Fund in an incorporated town can be legally invested in U. S. Defense Bonds. (Chapter 190, S. L. 1937.)

640

INSURANCE—FIREMEN'S AND POLICEMEN'S PENSION FUNDS

Messrs. Schey and Schey,

May 7, 1942.

Blanket insurance as contemplated by Section 485, Chapter 163, 1935 C. S. A., is a single policy covering all the members of the department or association and not a number of individual policies. (Cooley's Brief on Insurance, Vol. 1, p. 782.)

641

STATE BOARD OF BARBER EXAMINERS

Mr. Victor C. Sunblade,

May 8, 1942.

The word "barbers" as used in Section 9, Chapter 105, 1937 S. L., does not include apprentice barbers. No specified period of residence is required to qualify barber to sign agreements and petitions in regard to minimum prices to be charged in district wherein he resides.

642

ELECTIONS

Mr. Dan Milenski,

May 11, 1942.

There can be but one polling place to a precinct.

643

CIVIL SERVICE

The State Board of Stock Inspection Commissioners,

May 11, 1942.

Vacations of civil service employees governed by Rule X(3), and are not a matter of right but may be granted by the department where employed, not to exceed two weeks in any one year. Under said rule vacations are not cumulative, though custom has permitted the accumulation up to thirty days.

644

ENGINEERS

Colorado State Board of Examiners for Engineers and
Land Surveyors,
May 18, 1942.

Member of Board of Examiners may prefer charges of fraud, deceit, negligence, incompetence or misconduct against any engineer. (Section 9, Chapter 69, 1935 C. S. A. construed.)

645

ENGINEERS

Colorado State Board of Examiners for Engineers and
Land Surveyors,
May 18, 1942.

Scope of Registration Act includes engineers in charge of, or supervising metalliferous and other mines. Section 1, Chapter 62, 1935 C. S. A., applies to all persons who are engaged in operation of mining properties.

646

COUNTY OFFICERS—ESTATES

Hon. Gladys C. Triplett,
May 19, 1942.

It is the ruling of the Attorney General that, in such circumstances as those covered by Section 37, Chapter 235, S. L. of Colorado, 1941, page 922, those cases in which a person under legal disability dies and the person acting as guardian or conservator thereafter takes over as administrator of the estate of the deceased, then it is not necessary for such administrator to pay a new docket fee.

647

OIL AND GAS INSPECTION

Mr. W. Roy McGinnis,
May 20, 1942.

“Improvers of gasoline, naphtha, etc.,” (Section 20, Chapter 174, S. L. Colorado, 1941) means any product which will improve operating effort, and, therefore, includes lubricants designed to make more efficient lubricating fuel.

648

POLICEMAN'S PENSION

Mr. John N. Mabry,
May 20, 1942.

Section 524, Chapter 163, 1935 C. S. A., contains no requirement that the death of a member of the police department shall have been the result of service in the department to entitle the widow to benefits from the pension fund.

649 STATE BOARD OF PHARMACY

Mr. Ralph E. Kemp,
May 20, 1942.

State Board of Pharmacy Revolving Fund is subject to the provisions of Chapter 186, 1941 S. L., and should therefore be deposited with State Treasurer.

650 ELECTIONS

Mr. Charles F. Keen,
May 20, 1942.

Election judges must be appointed as provided by statute in precincts newly created.

651 BARBERS' BOARD

Colorado State Board of Barber Examiners,
May 21, 1942.

License of a barber school or college can be suspended, revoked or cancelled for cause after hearing had upon due notice. The sum paid for license to operate barber school or college may not be allowed as a credit upon fee charged for barber shop license. (Chapter 19, 1935 C. S. A.; Sections 7 and 10, Chapter 105, 1937 S. L.)

652 COLLECTION AGENCY BOARD

Hon. Walter F. Morrison,
May 21, 1942.

Foreign corporation may engage in collection business in Colorado upon complying with provisions of statute, including maintenance, in good faith, of an office in this State. (Section 4, Chapter 96, 1941 S. L.; Chapter 115, 1937 S. L.)

653 SCHOOLS

Mrs. Inez Johnson Lewis,
May 22, 1942.

Where much of the territory of a school district has been acquired by the federal government, the children living therein should still be counted in the census of the district and should be admitted to school without tuition payments. Where the financial burden is very heavy due to removal of such territory from the tax rolls, the territory should probably be annexed to some other district. Conference with the appropriate department of the federal government might elicit some agreement whereby the government would pay taxes to the district.

**654 HIGHWAYS—SPECIFIC OWNERSHIP TAX
—FEDERAL**

Hon. Ralph L. Carr,
May 23, 1942.

A man working and living on a government reservation and using his car on the highways of the State would be subject to the specific ownership tax. (*Board of County Commissioners of Arapahoe County v. Morris*, 104 Colo. 139.)

655 HEALTH—SCHOOLS

Mr. David R. Barglow,
May 23, 1942.

Power of enforcing public health laws is placed in the Board of Health which, in counties, is the board of county commissioners. Such powers may be exercised by the health officer appointed by and made executive officer of such board. Reasonable rules and regulations can be enforced by him. Under certain epidemic conditions, such county health officer could close a school. Unless very severe conditions existed, the reasonableness of such closing order might be questioned. In most cases, such county health officer should cooperate and confer with school officials who have absolute powers with respect to questions properly under their jurisdiction. Regulations deemed desirable by the Board of Health should, by resolution, be recommended to the local school board, which can adopt the ruling for all schools within the district. Such rule would come within the supervisory capacity of the county superintendent of schools. There would be no violation of duty by a doctor to a patient in giving information to the county superintendent so that the county health board can keep a record of names of children contracting contagious diseases.

656 SCHOOLS

Mr. Charles S. Vigil,
May 25, 1942.

On the question of an election to determine the dissolution of a third class school district and annexation of territory to an adjoining district, only those who have paid a property tax in the year next preceding election are qualified to vote thereon. See *Moguez, et al. v. School Dist. No. 64, et al.*, Sec. 136, 1935 C. S. A. (146). Does not require at an election to determine dissolution of a existing school district that an elector admittedly possessing all other qualifications must be a taxpayer.)

657

SCHOOLS

Mr. Walter L. Vikan,
May 25, 1942.

It is within the discretion of a school board to refuse to permit children of non-resident families to attend school without the payment of tuition. Having permitted such children to attend, it cannot force payment of such tuition by withholding grades, refusing to promote students, or refusing to transfer grades to other schools. Remedy of the board would be an action on an implied contract. Generally the residence of wife follows that of husband, and the children's residence is that of their father. It would not be reasonable for a school district to refuse to pay tuition for a failing student if such tuition were being paid for other students.

658

HIGHWAYS—CITIES AND TOWNS

Mr. Charles D. Vail,
May 26, 1942.

Special three per cent gas tax fund cannot be used for the purchase of a maintenance outfit for a town. (Section 390(b), Chapter 16, 1935 C. S. A.)

659

**STATE HOME FOR DEPENDENT AND
NEGLECTED CHILDREN**

Mr. Ralph B. Horner,
May 26, 1942.

Unless peculiar circumstances exist, there would be no reason why native-born Japanese children should not, or could not, be admitted to the State Home for Dependent and Neglected Children.

660

MINING

Mr. Edward P. Arthur,
May 28, 1942.

Labor Assessment Suit.

Section 2324, Revised Statutes United States, construed to apply to placer claims.

661

PUBLIC FUNDS

Mr. James A. Noonan,
June 1, 1942.

Accumulation of surplus funds of State boards and bureaus provided in Section 5(a), Chapter 186, 1941 Session Laws, applies to all funds described in Section 2 of that chapter.

662

TAXATION

Mr. Robert G. Porter,

June 1, 1942.

There is no procedure stated in the revenue laws which would enable a county to protect its lien as to improvements on real estate during that period between the acquisition of the lien and the obtaining of legal title by the county.

663

COURTS—PENITENTIARY—MINORS

Mr. Roy Best,

June 4, 1942.

Jurisdiction of Courts.

The county courts of the several counties of the State have jurisdiction to hear and determine all criminal cases where, at the time of the filing of the information, the accused is a minor. Such jurisdiction is concurrent with that of the district courts. (Section 177, Chapter 46, 1935 C. S. A.)

664

STATE BOARD OF HEALTH—EMPLOYEES

Hon. Ralph L. Carr,

June 5, 1942.

An employee of the State Division of Public Health may receive additional compensation as salary if such payment is made from federal health fund deposited with the State Treasurer and authorized by United States Public Health Service. Such payment is not in violation of Section 6 of the Administrative Code of 1941.

665

ELECTIONS

Mr. Art Lorenzon,

June 5, 1942.

There is no provision in law requiring county ticket to be nominated prior to State Assembly.

Nominating and filing of county ticket must not be more than 60, nor less than 45, days prior to primary election.

Caucuses of election delegates to county assemblies must be held not more than 15 nor less than 5 days prior to date of county assemblies. (Sections 22 and 25, Chapter 59, 1935 C. S. A.)

666 INSECTICIDES—APPROPRIATIONS

Mr. W. C. Sweinhart,
June 5, 1942.

Section 11, Chapter 149, 1941 Session Laws, is not a continuing appropriation, because it fails to appropriate any specific sum or sums out of the fees provided for in that chapter.

667 SCHOOLS—PUBLIC FUNDS

Mrs. Inez Johnson Lewis,
June 5, 1942.

Cash Funds, Public Instruction Certificate Fund.

Under Sections 4 and 5 of Chapter 186, Session Laws of 1941, the Superintendent of Public Instruction's Certificate Fund shall pay 10 per cent of all gross proceeds to the General Fund. This fund shall be allowed to accumulate a normal surplus of one-fourth the amount of the biennial appropriation and any amount in excess of that amount shall be certified to the Budget and Efficiency Commissioner and to the Treasurer with the number of certificates issued in the preceding year. Such certification is made 30 days prior to June 30th and it is discretionary with the department as to whether it shall certify to the Director of Revenue the amount of pro rata credit to be allowed for renewal certificates. If it fails to so certify to the Director of Revenue, the excess surplus is merged in the General Fund.

668 BANKS AND BANKING

Hon. Maple T. Harl,
June 6, 1942.

Limitation on loans can exceed 15 per cent of a State bank's unimpaired capital stock and surplus, if said loan consists of negotiable paper secured by the guaranty of the Army, Navy or Maritime Commission, in excess of the amount of the loan, under the conditions required by the Executive Order of the President of the United States and the rules and regulations of the Board of Governors of the Federal Reserve System. (Section 41, Chapter 18, 1935 C. S. A.)

669 STATE BOARD OF HEALTH

Dr. F. W. Beesley,
June 10, 1942.

Bedding Law.

Stamps used pursuant to Section 8, Chapter 205, 1941 Session Laws, are for purpose of raising revenue to offset cost of enforcement of bedding act; not a tax on the purchaser.

670 STATE BOARD OF LAND COMMISSIONERS

State Board of Land Commissioners,
June 12, 1942.

Bonds of the Moffat Tunnel Improvement District are not eligible for investment for the permanent school fund.

**671 SCHOOLS
(Elections—Bonded Indebtedness)**

Mr. William S. Hunt,
June 15, 1942.

Payment of personal property taxes sufficient to qualify one to vote in a school district on the question of incurring bonded indebtedness.

672 HIGHWAYS

Hon. Ralph L. Carr,
June 15, 1942.

Toll Roads, Power of Governor.

Governor does not have the power to make an agreement with private interests for the opening and maintenance of a State highway, said interests being given the right to make a toll charge to cover the costs of opening and maintaining said highway. (*Virginia Canon Toll Road Co. v. People*, 22 Colo. 429.)

**673 CIVIL SERVICE—HIGHWAY PLANNING
SURVEY**

Mr. L. G. Truby,
June 16, 1942.

Employees of the Highway Planning Survey are not under civil service but are purely appointive with the approval of the Bureau of Public Roads, and therefore are not controlled by laws concerning the pay of employees under civil service. (Section 103, Chapter 143, 1935 C. S. A.)

674 TAXATION

Mr. Charles W. Bloom,
June 19, 1942.

Where parcels or tracts of land have been separately valued, but assessed and sold in one certificate, the redemptioner may redeem each separate parcel, so valued, to the exclusion of the others. (Section 264, Chapter 142, 1935 C. S. A.) ✓

675 STATE BOARD OF NURSE EXAMINERS

Colorado State Board of Nurse Examiners,
June 19, 1942.

Colorado State Board of Nurse Examiners, under its general rule making power, may, by resolution, adopt rules and regulations establishing a new class of nurses to be designated as "war nurses," and for such nurses it may provide that special licenses issue. (Section 8 of Chapter 114 and Subsection (f) of Section 4 cited.) Such powers of the board would be based on drastic emergency condition.

676 STATE COLLEGE OF AGRICULTURE AND MECHANIC ARTS

Mr. James R. Miller,
June 20, 1942.

Retirement Rights of an Employee on Leave.

The State Board of Agriculture is authorized to continue to pay 5 per cent toward retirement benefit where an employee has been given a three-year leave of absence and is within three years of retirement age, such leave of absence being without compensation. (See also opinions of Attorney General to Charles A. Lory, June 10, 1938, September 28, 1939, October 9, 1939, and to James R. Miller, April 22, 1941.)

677 GAME AND FISH COMMISSION

Hon. Ralph L. Carr,
June 23, 1942.

Section 72, Chapter 73, 1935 C. S. A., authorizes the expenditure of funds only for the acquisition of an easement, and such funds may not be used to pay for a mere license to pass over property.

678 STATE BOARD OF FUNERAL DIRECTORS AND EMBALMERS

Mr. Edward A. Martin,
June 23, 1942.

Probation, Revocation and Suspension of Licenses.

The power of the Board of Funeral Directors and Embalmers to suspend or revoke licenses of those convicted of felonies or crimes involving moral turpitude is not affected by the fact that probation is granted. (Section 6, Chapter 1051, 1935 S. L.)

679 FEES AND SALARIES—INSANE PERSONS

Hon. James G. Holsclaw,

June 24, 1942.

Docket fee should not be charged for petition for discharge of conservator of estate of mental incompetent.

680 CITIES AND TOWNS—ELECTIONS

Miss Jennie R. Keating,

June 24, 1942.

No special election necessary to fill vacancy in office of mayor caused by resignation. Board of trustees may make appointment to fill vacancy until next annual election, and until successor is elected and qualified. (Section 106, Chapter 163, 1935 C. S. A.)

681 DISTRICT JUDGES

Mr. Emory L. O'Connell,

June 24, 1942.

A district judge appointed by the Governor to a judgeship newly created holds office until the next general election, at which time the office should be filled by election. The elected judge, when certified and qualified, holds office until the judge elected for the full term has qualified and taken office. (Chapter 164, 1941 Session Laws.)

682 COUNTY JUDGE

Mr. Emory L. O'Connell,

June 24, 1942.

County judge appointed by county commissioners to fill vacancy holds office until next general election and until his successor is elected and has qualified. (Section 9, Article XIV, Colorado Constitution.)

683 OFFICERS—ELECTIONS

Ralph L. Carr, Governor,

June 24, 1942.

When a vacancy occurs in office of State senator, such vacancy may be filled at a general election, upon the Governor issuing a writ of election and the Secretary of State giving the proper notice. (Section 2, Article V, Colorado Constitution; Section 9, Chapter 59, 1935 C. S. A.)

684

CIVIL SERVICE

Mr. Charles D. Vail.

June 25, 1942.

Leave for Military Service.

Sections 1 and 2, Chapter 95, 1941 Session Laws, protect a civil service employee in the right to reassume his position at any time within one year after his discharge from military service. If, however, such position has been abolished, he is entitled to be placed upon a preferred eligible list, if he demands his position within said one-year period, for employment under civil service rules and regulations.

685

TAXATION

Mr. James M. Noland, Esq.,

June 26, 1942.

Tax Certificates.

The assignee holder of a senior tax certificate is entitled to pay off a junior certificate and have the amount endorsed on his senior certificate, even though, as an owner, he would be entitled to redeem. (Section 246, Chapter 142, 1935 C. S. A.)

686

DIRECTOR OF MARKETS

Mr. Fred W. Ley.

June 27, 1942.

Director of Markets is vested with full authority to direct activities of personnel of department. Under 1941 Administrative Code, the Department of Revenue may depute the Director of Markets, acting by its inspectors, to collect fees in the name and on behalf of the Department of Revenue, and issue receipts therefor. (Article 1, Chapter 106, and Article 9, Chapter 69, 1935 C. S. A.; Section 10(8), Chapter 37, 1933 S. L.; Sections 9(10), 32 and 34, Chapter 2, 1941 S. L.)

687 STATE BOARD OF CHIROPRACTIC EXAMINERS

Dr. E. A. Jackson,

June 29, 1942.

Appropriation for "maintenance and operation" may be used to pay rent of space for furniture, files, fixtures, supplies and equipment used by board in discharge of its duties.

688

MINIMUM WAGE ACT

Industrial Commission of Colorado,
June 29, 1942.

(1) Only penalties under the Minimum Wage Act are contained in Sections 15 and 16 of that act. (Sections 250, 251, Chapter 97, 1935 C. S. A.)

(2) District attorney is proper official to institute prosecutions under the act.

689

COUNTIES—DEFENSE BONDS

Mr. Clyde Sheffield,
June 29, 1942.

County funds may be invested in U. S. Defense Bonds upon written authorization of board of county commissioners. (Chapter 114, Section 1, S. L. 1941.)

690

ELECTIONS

Mr. W. H. Hamilton,
June 30, 1942.

Any qualified elector may have registration of an alien purged from registration books and may challenge the vote of such alien if the latter offers to vote. (Section 120, Chapter 59, 1935 C. S. A.; Section 126, Chapter 59, 1935 C. S. A.; Section 1, Article VII, Constitution; Section 127, Chapter 59, 1935 C. S. A.; Section 131, Chapter 59, 1935 C. S. A.; Section 223, Chapter 59, 1935 C. S. A.; Sections 224, 225, Chapter 59, 1935 C. S. A.)

691

BASIC SCIENCES ACT

Dr. I. B. Newsom,
July 2, 1942.

Basic Sciences Act (Chapter 106, S. L. 1937) does not apply to physicians licensed to practice in Colorado as of the effective date of the act; this right to exemption is not destroyed by subsequent revocation of his license followed by application for restoration.

692

SECURITIES COMMISSIONER

Mr. Curtis White,
July 2, 1942.

Salesmen's License Fees.

It is our opinion that security salesmen's license fees, voluntarily paid by such salesmen or their employers, cannot be recovered in the absence of a special statute authorizing such recovery. (Section 26, Chapter 148, 1935 C. S. A.)

693

GAME AND FISH

Mr. C. N. Feast,

July 2, 1942.

Chapter 107, 1939 S. L., forbids importation or exportation of specimens of game or fur animals, fish and birds for mounting, tanning or otherwise preserving them without the payment of a fee and the obtaining of a permit.

694

PUBLIC UTILITIES COMMISSION

Mr. Henry S. Sherman,

July 3, 1942.

Public Utilities Commission has power to create positions and make appointments thereto with approval of Governor. (Section 8, Chapter 137, 1935 C. S. A.; Section 5(a), Chapter 2, S. L. 1941 (Administrative Code); Section 6 and Section 8 thereof.)

695

STATE BOARD OF COSMETOLOGY

Mr. Ernest J. Martin,

July 6, 1942.

Board may lawfully dispense with examination of applicants for licenses who have been granted certificates of registration in foreign state having requirements substantially equal to those of Colorado. Authority to determine qualifications of applicants may be exercised by board, or delegated to its secretary. (Sections 1, 12 and 14, Chapter 42, 1935 C. S. A.)

696

UNIVERSITY OF COLORADO—TAXATION

Mr. V. H. Reynolds,

July 7, 1942.

Property acquired by the University of Colorado on June 1, 1941, having assumed a tax exempt status before assessment and levy was not subject to tax lien for that year. (*Denver v. Tax Research Bureau*, 101 Colo. 140, 147.)

697

OFFICERS—GIFTS

Hon. Ralph L. Carr,

July 7, 1942.

The State of Colorado, through the State Treasurer, may accept gifts. (Citing Section 26, Chapter 2, Article 3, Session Laws of Colorado, 1941.)

698 BOARD OF MEDICAL EXAMINERS—OFFICERS

Hon. Ralph L. Carr,
July 10, 1942.

An appointment by Secretary of State to Board of Medical Examiners is invalid. (*People v. Downen*, 106 Colo. 557.)

699 GAME AND FISH

Mr. C. N. Feast,
July 11, 1942.

Type of screens to be used to control the outlet and inlet of Class A lakes may be determined by Game and Fish Commission. (Section 114, Chapter 73, 1935 C. S. A.)

700 DIRECTOR OF MARKETS—DIRECTOR OF AGRICULTURE

Hon. Ralph L. Carr,
July 11, 1942.

Requisition and vouchers to this department are under the control of the Director of Markets, and not of the Director of Agriculture. (Section 10(8), Chapter 37, 1933 S. L., and Section 9(10), Chapter 2, 1941 S. L.)

701 STATE BOARD OF AGRICULTURE

Mr. James R. Miller,
July 13, 1942.

State Board of Agriculture's cooperative agreement with Colorado Potato Growers' Association for purpose of efficient administration of seed certification act, Section 42, Chapter 5, 1935 C. S. A., does not preclude arrangements with other associations, if, in the opinion of the State Board of Agriculture, a further increase in administration efficiency will result. To enter into such arrangements is discretionary with the State Board of Agriculture.

702 ELECTIONS

Mrs. Emma S. Kramer,
July 13, 1942.

Party designees must have been affiliated with party for one year and such fact shown by registration books. (Sections 22, 25, 80, Chapter 59, 1935 C. S. A.)

Person on parole from penal institution cannot register or vote. (Section 14, Chapter 59, 1935 C. S. A.)

703

INHERITANCE TAX

Mr. Berton T. Gobble,

July 13, 1942.

Re: Taxability of U. S. Savings Bonds.

United States Savings Bonds registered in name of "A or B", purchased by sole funds of A, are taxable to B, to the full extent of the redemption value, upon the death of A. (Sections 7(d) and 8, Chapter 85, 1935 C. S. A.)

704

SCHOOLS—APPROPRIATIONS—FEES AND SALARIES

Mrs. Inez Johnson Lewis,

July 17, 1942.

Salary for position under new title may be paid from surplus accruing from unused salary appropriations, assuming new position has sufficient change of duties to meet approval of Civil Service Commission.

705

ELECTIONS

Miss Katherine Konfala,

July 17, 1942.

Absent Voters' Law.

Application for absent voter's ballot must be in writing. One member of family may make application for members of family. Voter may cause another to make application for him. Ballot must be delivered to voter personally or sent to him by mail. (Section 215, Chapter 59, 1935 C. S. A.)

706

DIRECTOR OF MARKETS

Mr. Karl R. Ahlborn,

July 17, 1942.

"Dealer."

One who purchases farm produce only in another state for resale in Colorado is not a "dealer" as defined in Section 1, Chapter 90, 1937 S. L.

707

ELECTIONS

Mr. O. A. Ehrgott,

July 18, 1942.

Elector may vote in 1942 primary by asking for desired ballot, even though he failed to vote in 1940 primary. (Section 22, Chapter 59, 1935 C. S. A.)

Judges of election not required to have party affiliation shown by registration book. Committeeman and committeewoman shall certify that such persons are members in good standing of party and are qualified electors. (Sections 122 and 123, Chapter 59, 1935 C. S. A.)

708 GAME AND FISH

Mr. C. N. Feast,
July 20, 1942.

The Game and Fish Commission has no jurisdiction over hunting or fishing within federal military reservations. (Sections 1-3, Chapter 168, 1935 C. S. A.) It may not issue licenses to hunt or fish to soldiers without charge outside of federal reservations without amendment of the statute by the legislature.

709 BUILDING AND LOAN COMMISSIONER

Mr. A. O. Johnson,
July 20, 1942.

Colorado building and loan associations are authorized to make unsecured loans, pursuant to Title I, Section 2, of the National Housing Act. (Section 40, Chapter 18, 1935 C. S. A.)

**710 HIGHWAY COURTESY PATROL—MOTOR
 VEHICLES**

Mr. J. J. Marsh,
July 21, 1942.

Purchase of Tires.

Tires on courtesy patrol cars are the property of the State and cannot be disposed of without proper remuneration for same when new tires are purchased.

711 REAL ESTATE BROKERS BOARD

Hon. Walter F. Morrison,
July 21, 1942.

A licensee who desires to transact business under more than one trade name must have a separate license for each place of business. A licensee who maintains more than one place of business but uses the same trade name may, however, have a duplicate license for each branch office, and such duplicate license shall be issued without additional charge. (Sections 28, 32, 33 and 35, Chapter 15, 1935 C. S. A.)

712

ELECTIONS

Mr. J. D. Crawford,
July 22, 1942.

Under Section 22, Chapter 59, 1935 C. S. A., candidates designated by convention must file acceptances within seven days after close of convention.

Vacancy committee, under Section 42, or electors by petition under Section 24, may again cause such candidates' names to appear on primary ballot.

Only one candidate can, for a single office, be designated by vacancy committee or petition.

713

SOIL CONSERVATION DISTRICTS

Mr. Kenneth W. Chalmers,
July 22, 1942.

Even though a majority voted for a new district, if it was not organized, no further election for the organization may be held within two years. (Sections 4 and 18, Chapter 203, 1941 S. L.)

714

ELECTIONS

Mr. Art Lorenzon,
July 23, 1942.

Vacancy committee can fill vacancy by nominating candidate designated by convention but failed to file acceptance. (Section 42, Chapter 59, 1935 C. S. A.)

Last day on which vacancy committee can fill vacancy for primary election is 31st day prior to primary. (Section 22, Chapter 59, 1935 C. S. A.)

Person affiliated with one political party can be designated by that party even though another political party's convention has designated such person. However, such person's name can only appear on ballot of party with which he is affiliated. (Sections 24, 42, Chapter 59, 1935 C. S. A.)

715

ELECTIONS

Mr. C. M. Birkett,
July 23, 1942.

Certificates of designation can be filed by convention officers only between 60 days and 45 days prior to primary election. (Section 22, Chapter 59, 1935 C. S. A., and Section 25 thereof.)

716

SCHOOLS

Mrs. Inez Johnson Lewis,
July 23, 1942.

Census.

Under the various sections referring to taking of census and certification of the totals to the county superintendent, and by that office to the State Superintendent, if an error is discovered in the figure so that it does not correctly reflect the number of persons of school age within the school district at the time the census should have been taken, the error can be corrected upon proper proof presented to the State and county superintendents, provided no action has been taken on the erroneous figures.

717

ELECTIONS

Miss Blanche Buchanan,
July 24, 1942.

Under No. 9, Article XIV, of Constitution, terms of persons appointed to fill vacancies expire when their successors are elected and qualify, or on second Tuesday in January. If no one elected to fill short term, appointees hold office until second Tuesday in January.

Space should be provided on both primary and general election ballots for voters to write in names of persons to fill short term. (Section 30, Election Laws.)

When county assemblies do not designate candidates, the only way candidates can be placed on primary ballot is by petition or write-in. (Sections 47 and 73, Election Laws.)

**718 COUNTY OFFICERS—COUNCIL OF DEFENSE
—SCHOOLS**

Mrs. Georgianna Kettle,
July 24, 1942.

(1) The problem of furnishing transportation to a county officer who has been made a member of the Colorado Council of Defense is a local one within the powers of the county commissioners but would depend upon the 1942 budget. If the budget contained an item for miscellaneous expenses, or contingent funds, such travel expense could be paid out of such funds.

(2) It is mandatory that the county treasurer shall, on or before July 5th, render to the county superintendent a statement of receipts and disbursements for school districts.

719

DIRECTOR OF MARKETS

Mr. Fred M. Ley,
July 24, 1942.

Fees for inspection and classification of angora rabbit wool should be deposited in the State treasury in the "Colorado Director of Markets Fund" and disbursed only as provided in Section 8, Chapter 106, 1935 C. S. A. (Sections 2, 4 and 5 of same chapter also considered.)

720

OFFICERS—TAXES—INCOME TAX

Mr. Homer F. Bedford,
July 25, 1942.

State Treasurer is justified in paying income tax allotments under Sub. (5) and (6), Chapter 144, S. L. 1941, upon receipt of sworn statement that such allotments caused a reduction in the property tax; State Treasurer not charged with duty to ascertain correctness of levy made.

721

SCHOOLS

Mrs. Florence A. Draper,
July 25, 1942.

It would be proper in a case where a district had only three pupils, one each of ninth, tenth and eleventh grades, to use a balance of \$853 in the special fund to carry on school for 1942-43 with high school subjects being taught. Salary for a properly qualified teacher of high school subjects could be drawn on the General Fund.

722

SCHOOLS

Mrs. Olga A. Hellbeck,
July 25, 1942.

A school district having a sum on hand which had been allocated for construction purposes, but which will not be expended until after the war, may not invest such funds in defense bonds nor purchase shares of a federal savings and loan association. (Section 54 of Chapter 146, 1935 C. S. A., referred to.)

723

POLICEMEN

Hon. J. E. McWhorter,
July 27, 1942.

Policeman must have been a bona fide resident of Colorado for two months next preceding his appointment. (Sections 1, 2, Chapter 116, 1935 C. S. A.)

724 STATE BOARD OF HEALTH

Dr. R. L. Cleere,
July 27, 1942.

Milk Sanitation.

The board of county commissioners of Pueblo county, acting as the county board of health, may, under Section 29 of Chapter 78, adopt a resolution providing that non-compliance with regulations adopted by the Colorado State Board of Health, which incorporated the United States Public Health Service Milk Ordinance and Code, will subject persons not complying to penalties for causing and contributing to sources of filth and causes of sickness within the county. Such regulations would be subject to court review to determine their reasonableness.

**725 STATE DEPARTMENT OF INSURANCE—
EMPLOYEES—CIVIL SERVICE**

Mr. Luke J. Kavanaugh,
July 28, 1942.

Salaries for positions under new titles may be paid from surplus accruing from unused salary appropriations, assuming there has been a sufficient change in duties under new title. (Section 6, 1941 Administrative Code, and Section 2(b), Chapter 155, 1941 S. L., construed.)

726 ELECTIONS

Mr. J. D. Crawford,
July 29, 1942.

Failure of county clerk to receive and file candidate's acceptance does not bar candidate's name from ballot. (Sections 80, 22 and 25, Chapter 59, 1935 C. S. A.)

727 SCHOOLS

Mrs. Olga A. Hellbeck,
July 29, 1942.

No legal objection to a teacher receiving pension from one district and salary from another, unless such action is prohibited by rule or regulation of the pensioning district.

728 HIGHWAY ANTICIPATION WARRANTS

Mr. Homer F. Bedford,
July 30, 1942.

Highway anticipation warrants issued pursuant to Sections 240 to 250, Chapter 138, 1935 C. S. A., cannot be redeemed before maturity in the absence of express authority to do so.

729 DEFENSE COUNCIL—CIVIL SERVICE

Mr. James Q. Newton,
July 31, 1942.

Employees of Colorado Council of Defense are not subject to the civil service laws of the State.

730 SCHOOLS

Mr. James H. Risley,
July 31, 1942.

Where a teacher has attained tenure status and subsequently marries, a school board may not enforce a paragraph contained in her teaching contract which purported to provide for automatic cancellation of the contract in the event of marriage of a woman teacher. Dismissal would have to be based either on inefficiency or misconduct.

731 CHIROPRACTORS

Dr. E. A. Jackson,
July 31, 1942.

Sections 1, 2 and 13, Chapter 34, 1935 C. S. A., require the payment of renewal license fees by licensees who wish not to lose their licenses while serving in the armed forces.

732 CERTIFICATES OF INDEBTEDNESS—BUREAU OF VITAL STATISTICS

Hon. Ralph L. Carr,
August 3, 1942.

Certificates of indebtedness are legal for purpose of providing funds for operation of Bureau of Vital Statistics in performance of functions imposed by statute, the legislature having failed to make appropriation for same. (Article 4, Chapter 78, 1935 C. S. A.; Chapter 142, 1941 S. L.; Section 32, Chapter 153, 1935 C. S. A.)

733 VITAL STATISTICS—COUNTY COURTS

Hon. Bernard E. Madden,
August 6, 1942.

Certificates of births and deaths ordered accepted by county court under Chapter 142, 1941 S. L., should be registered by local registrars for which the local registrars are entitled to 25-cent fee under Section 127, Chapter 78, 1935 C. S. A.

734

COUNTY OFFICERS

Hon. Ralph L. Carr,
August 8, 1942.

County commissioners have no legal authority to grant leave of absence to county officers; county commissioners not obliged to fill vacancy by appointment where unexpired term of sheriff does not exceed one year. In such case, undersheriff may act. (Section 63, Chapter 45, 1935 C. S. A.; Section 98, Chapter 45, 1935 C. S. A.)

735

ELECTIONS

Mrs. Helen A. Thompson,
August 8, 1942.

(1) A person designated by a party convention, who does not file an acceptance, may be designated by a properly authorized vacancy committee.

(2) The vacancy committee's certificate should be filed not later than 31 days before the election. (Section 82, Chapter 59, 1935 C. S. A., as amended by Section 8, Chapter 124, 1941 S. L.)

(3) The nominee of the vacancy committee should file his acceptance within five days.

736

ELECTIONS

Mr. Charles A. Petrie,
August 8, 1942.

Party affiliation first obtained only by voting in a primary. (Section 30, Chapter 59, 1935 C. S. A.) County clerk, election commission, registration judges, canvassers, have no authority to endorse party affiliations on registration books in first instance, but can make changes on registration books. (Section 30, Chapter 59, 1935 C. S. A.)

Party affiliation can be lost only by failing to vote in general election or removing from county—not lost by failing to vote in primary. (Section 30, Chapter 59, 1935 C. S. A.)

Candidates designated or nominated by vacancy committee must have same qualifications as persons designated by assembly. In absence of nomination in primary, vacancy committee cannot act to make nomination. Assemblies can authorize vacancy committees to fill vacancies, but vacancy committees cannot fill vacancies occurring less than 35 days prior to election. (Sections 42, 71, 73, 82, Chapter 59, 1935 C. S. A.)

737

ELECTIONS

Mr. Frank Conner,

August 10, 1942.

It is not necessary to print initials "A. V." upon primary election ballots to be mailed to absentee voters. (Section 28, Chapter 59, 1935 C. S. A.)

738

**STATE BOARD OF STOCK INSPECTION
COMMISSIONERS**

Hon. C. W. Kitchen,

August 12, 1942.

It was not the intention of Congress in the enactment of the Packers and Stockyards Act, 1921, as amended, particularly on June 29, 1937, and June 19, 1942, to subject a State agency such as the State Board of Stock Inspection Commissioners to the jurisdiction of the Secretary of Agriculture of the United States, or to require the board to register with the secretary as a market agency. (Articles 1, 2, 3 and 4, Chapter 160, 1935 C. S. A.; Chapter 258, 1937 S. L.; Chapter 163, 1939 S. L.; Chapters 217, 218 and 219, 1941 S. L.)

739

INSURANCE

Hon. Luke J. Kavanaugh,

August 12, 1942.

A Nebraska association operating under Section 92(3), Chapter 87, of the 1935 C. S. A., being the "Assessment Accident Associations" section, under the general title "Insurance," must print the words "Incorporated on the Assessment Plan" on the face of its policies. The only other alternative is to be admitted and qualified in Colorado under another statute.

740

NOTARIES

Mr. Willis E. Parkison,

August 12, 1942.

A notary who removes from the county of his appointment and residence should resign his commission. The resignation and commission should be sent to the Governor and the records and all official and public papers of his office should be sent to the registrar of deeds of the county in which he was appointed. (Section 4, Chapter 113, 1935 C. S. A.)

741

STATE FOREST INCOME

Hon. Homer F. Bedford,
August 13, 1942.

Section 131(6), Chapter 134, 1935 C. S. A., interpreted as not affecting the portion of State forest income which should properly be allocated to the agricultural college, the State university, and the internal improvement funds. These three funds were established from the income derived from lands granted to the State for specific purposes by the federal government. Because of the specific grants, and the terms of the enabling act under the Constitution, the legislature is without power to divert any of such income to any other than the purpose named. The exchange of lands for which the State acquired the lands now comprising the State forest could not operate to divert any income from these funds.

742

SCHOOLS

Mr. Joe Perkins,
August 15, 1942.

On petition by majority of legal voters within a 160-acre area asking that such acreage be annexed to a school district, which such annexation would leave the district from which the acreage was transferred with an assessed valuation of over \$50,000.00 with an area of nine square miles and with twenty children of school age, it would be proper for the county superintendent, in his discretion, to permit the annexation.

743

ELECTIONS

Mrs. Helen A. Thompson,
August 17, 1942.

A person nominated for designation upon party's primary ballot by vacancy committee need not file acceptance. (Section 42, Chapter 59, 1935 C. S. A.)

744

HEALTH

Dr. R. L. Cleere,
August 19, 1942.

(1) Fees submitted to State registrar under Section 128, Chapter 78, 1935 C. S. A., should not be accepted as State property or payment for certified copies when it is impossible to perform the service of supplying the certification. (*Teller County v. Trowbridge*, 42 Colo. 449.)

(2) Disposition of unaccepted fees should be made pursuant to rule or regulation of the Department of Health.

745

ELECTIONS

Mr. Don Hardy,
August 20, 1942.

Notice of registration day must be published by county clerks during week preceding each registration day. (Section 126(c), Chapter 59, 1935 C. S. A.; Section 30, Chapter 59, 1935 C. S. A.; and Section 222 of same chapter.)

746

ELECTIONS

Mr. Frank Conner,
August 21, 1942.

Where candidate who has been nominated by assembly fails to file acceptance, vacancy committee can certify candidate's name to county clerk for same office.

If political party fails to nominate for an office at the primary, then there is no vacancy to be filled by vacancy committee.

747

INTOXICATING LIQUORS

Mr. Walter F. Morrison,
August 21, 1942.

The statute, as it exists at the present time, does not authorize the sale of intoxicating liquors to minors, even though they are accompanied by their parents or guardians. (Article XXII, Constitution of Colorado; Section 17(b), Chapter 89, 1935 C. S. A.)

748

SCHOOLS

Mr. Sam Carr,
August 21, 1942.

(1) Section 159 of Chapter 146, giving the electors of a third class district the power to fix the site for each schoolhouse is limited by the local government budget law which makes the school board the appropriating authority and gives it the power to fix the budget. If the board does not act arbitrarily its determination to operate a number of schools could not be disturbed and the board could not be forced to maintain more schools than could properly be financed within the terms of the budget.

(2) The electors could not issue bonds to pay teachers' salaries.

749

ELECTIONS

Miss Kathleene Blackham,
August 22, 1942.

Vacancy committee can nominate person who was designated by assembly but who failed to file acceptance.

One copy of poll book should be kept by county clerk until after next general election.

A person who has lived in county over a year, but who is not registered, is eligible to hold county office, provided he is otherwise qualified as an elector. (Section 10, Article XIV, Constitution; Section 47, Chapter 59, 1935 C. S. A.; Section 6, Article VII, Constitution; Sec. 12, Chapter 59, 1935 C. S. A.; *Darrow v. People*, 8 Colo. 420.)

750 COLORADO STATE HOSPITAL

Mr. Dee H. Beer,
August 25, 1942.

Payments to Colorado State Hospital for care and treatment of patients are part of cash receipts referred to in appropriation bill, Chapter 55, 1941 S. L., and as such may be used to defray costs of transfer, to and from, and maintenance of patient in Colorado State Penitentiary, as provided in Section 27, Chapter 105, 1935 C. S. A.

751 ELECTIONS

Mr. Francis L. Shallenberger,
August 26, 1942.

Application for absent voter's ballot must be signed by voter or by someone for him. (Section 215, Chapter 59, 1935 C. S. A.)

752 FIREMEN

Messrs. Schey and Schey,
August 26, 1942.

Fire Chief and Safety Engineer in Japanese Camp.

Acceptance of appointment by federal government as "fire chief and safety engineer" in a Japanese concentration camp is not a salaried position as fireman in a municipality within the meaning of Section 481, Chapter 163, 1935 C. S. A.

753 ELECTIONS

Miss Katherine Komfala,
August 26, 1942.

In order for a candidate to be nominated at a primary election by "write-in" method, such candidate must receive not less than 100 votes, provided that such candidate need not secure more than 10 per cent of the gubernatorial vote cast by his party at the preceding election. (Section 30, Chapter 59, 1935 C. S. A.; Section 24 thereof.)

754

ELECTIONS

Mr. Frank Conner,
August 27, 1942.

In absence of nomination at primary, vacancy committee cannot make nomination. (Sections 42 and 30, Chapter 59, 1935 C. S. A.)

If nomination is made at primary and nominee withdraws, vacancy committee can then make nomination. (Sections 57 and 42, Chapter 59, 1935 C. S. A.)

755

STATE BOARD OF BARBER EXAMINERS

Mr. Victor C. Sunblade,
August 27, 1942.

The board has power to vary and refix minimum prices in a judicial district if it finds upon due investigation that the existing prices are insufficient properly to provide healthful services and keep the barber shops sanitary. (Section 9(c), Chapter 105, 1937 S. L.)

756

CIVIL SERVICE

Mr. Bernard E. Teets,
August 31, 1942.

Employees in Employment Service.

(1) Employees placed on preferred eligible list when federal government took over functions of Employment Service of Colorado, are entitled to any earned annual leave with pay at time of placement on preferred list.

(2) Their continued employment by federal government is not employment in classified civil service of State of Colorado earning an annual leave under Rule X of Civil Service Commission.

757

ELECTIONS

Miss Helen M. Mick,
August 31, 1942.

If ballot is deposited in box without having been numbered and a record of number made on poll list, such ballot cannot be counted but should be treated in same manner as a spoiled ballot. (Section 8, Article VII, Constitution; Sections 30, 222, 229, 236, Chapter 59, 1935 C. S. A.)

No provision in law prohibiting election judges and clerks from taking a few minutes out for meals.

758

TAXATION

Mr. F. R. Carpenter,
September 1, 1942.

Interest on Delinquent Personal Taxes.

Rate of interest on delinquent personal taxes, specified by Chapter 188, 1941 Session Laws, applies only to first installment of taxes. It does not alter the provisions of Section 208, Chapter 142, 1935 C. S. A.

759

SALES CONTRACT

Treasury Department,
September 2, 1942.

As between the immediate parties, vendor and purchaser, no Colorado statute requires immediate passing of title in conditional sales contract; as to interested third parties without notice—Colorado decisions do not recognize title as remaining in vendor. (*Commercial Credit Co. v. Higbee*, 92 Colo. 346; *Illinois Bldg. Co. v. Patterson*, 91 Colo. 391.)

760

INSURANCE

Hon. Luke J. Kavanaugh,
September 2, 1942.

Session Laws of Colorado for 1941, Chapter 158, Section 1, provide for a tax on all premiums collected or contracted for on policies or contract of insurance, covering property or risks within this State. Such tax is to be collected on premiums derived from dividends on existing policies, when such dividends are used as premium payments to purchase additional paid-up insurance.

761

REVENUE—TAX RECEIPTS

Mr. F. R. Carpenter,
September 8, 1942.

Validity, (a) Embezzled, (b) Forged.

A tax receipt given by an authorized official is valid, even though the official embezzles the money. A receipt given by the official's wife, however, is invalid, even though she signs his name to it. (61 C. J. "Taxation," Section 1233(5).)

762 MEDICAL EXAMINERS—BASIC SCIENCES LAW

Dr. John B. Davis,
September 9, 1942.

Exemption contained in Section 17, Chapter 106, 1937 S. L. (Basic Sciences Law), applies only to physicians duly licensed

at time of effective date of act, and not to those who had at some time prior to effective date held a license which had been revoked.

763 INTOXICATING LIQUORS

Hon. Walter F. Morrison,
September 11, 1942.

The tax imposed by Sections 9 and 38, Chapter 89, 1935 C. S. A., is a manufacturer's or occupation license tax with which a Post Exchange or other federal instrumentality has nothing to do, and as to which it is not entitled to a refund.

764 STATE BOARD OF LAND COMMISSIONERS

State Board of Land Commissioners,
September 11, 1942.

Section 112 of Chapter 134, 1935 C. S. A., authorizes the Land Board, in its discretion, to demand payment in cash, i.e. 100 per cent, when it sells State-owned land. Reference to 10 per cent of purchase price only establishes a minimum below which the board cannot go.

765 ELECTIONS

Mrs. Roy Fleming,
September 14, 1942.

Ballot box keys are to be kept by judges of election during interim between elections. (Sections 194, 241, 298, Chapter 59, 1935 C. S. A.)

766 SALARIES—APPROPRIATIONS

Dr. ElRoy Nelson,
September 14, 1942.

Moneys from unexpended appropriation for salaries may be used to employ a typist, there being no appropriation for such employment in the appropriation bill.

767 ELECTIONS

Ms. Pearl Klockenteger,
September 14, 1942.

Section 24, Chapter 59, 1935 C. S. A., provides that for a person's name to be placed upon primary ballot by petition, he must receive, as candidate for General Assembly, signatures of

not less than 300 qualified electors, and for county office, petition must be signed by not less than 100 qualified electors; provided, no such petition shall require more than 10 per cent of the votes cast at last election for Governor by the political party.

Section 30, Chapter 59, 1935 C. S. A., provides that for a person to be nominated by the "write-in" method, such person, in event no candidate for the office was designated by assembly or petition, must receive at least the number of votes required to be designated by petition, and for county office at least 100. If candidates were designated by assembly or petition, a person, by "write-in" to be nominated must receive a plurality of the votes cast for designees of the particular office.

768

ELECTIONS

Mr. K. E. Moscript,
September 14, 1942.

A candidate must receive at least 100 votes by the "write-in" method if the number of votes cast by a particular political party for Governor at last general election exceeds 1,000.

769

ELECTIONS

Mr. Frank Conner,
September 15, 1942.

"Write-in" candidate receiving only 34 votes in primary not nominated when 62 votes or more required. Vacancy committee cannot act to certify such person as its party candidate upon general election ballot.

Person designated by vacancy committee (if authorized to act) must have same qualifications as are required of candidate placed upon primary ballot by assembly or petition. (Sections 42, 22, 24, Chapter 59, 1935 C. S. A.)

If no objection is filed within three days to certificate of board of canvassers as to a certain candidate, such candidate's name is entitled to be placed upon general election ballot. (Section 80, Chapter 59, 1935 C. S. A.)

770

**STATE BOARD OF STOCK INSPECTION
COMMISSIONERS**

State Board of Stock Inspection Commissioners,
September 16, 1942.

Sections 14-18, Chapter 73, 1935 C. S. A., as amended by Chapter 155, 1937 S. L., and Chapter 42, 1941 S. L., and cooperative agreement of July 1, 1935, as renewed, are sufficiently broad to authorize the payment by the State of travelling expenses of

federal field assistants and predatory animal hunters whose salaries are paid by the United States.

771

TAXATION

Mr. C. H. Durant,
September 17, 1942.

(1) A third party may pay taxes for owner but acquires no lien against property by such payment.

(2) After sale, the taxes must be redeemed by owner, or some person having legal or equitable interest in property, as provided in Section 264, Chapter 142, 1935 C. S. A.

(3) Taxes cannot be paid on a part of the property making up one assesment either before or after sale.

(4) No statutory provisions to include taxes for current year in distraint under provisions of Section 193, Chapter 142, 1935 C. S. A., as amended by Chapter 188, 1941 S. L.

772

ELECTIONS

Mr. Henry Thorpe,
September 22, 1942.

Unused ballots may be destroyed after election.

773

BANKS AND BANKING

Mr. Maple T. Harl,
September 22, 1942.

Section 41, Chapter 18, 1935 C. S. A., limits state bank loans to any individual to 15 per cent of the bank's unimpaired capital and surplus.

Interest accrued or in note form is not included in loan unless accompanying new money leaving the bank's vault.

In the case of husband and wife or relatives, such are individual or collective borrowers, depending upon the facts surrounding the loan.

774

**STATE BOARD OF LAND COMMISSIONERS—
BONDS—SCHOOLS—COUNTY OFFICERS**

Mr. Joe Perkins,
September 24, 1942.

Interest on bonds of school district called for payment ceases after day fixed for payment in advertisement published for four consecutive weeks as provided by Section 136, Chapter 146, 1935

C. S. A. This is not in conflict with policy of State Land Board to require 30 days' notice that bonds held by them are being called.

Board of county commissioners may not grant leave of absence to elected county official called into armed services. However, no automatic vacancy when such officer goes into the armed forces.

775

SCHOOLS

Mr. W. H. Haxby,
September 25, 1942.

Section 205, Chapter 146, provides that a school district maintaining a high school may vote to be exempt from county high school tax. The district should call an election and should notify the county superintendent of the result, at which time the county superintendent shall certify to the board of county commissioners that the district is exempt. Where a district votes to remain out of a county high school district and subsequently wishes to join the high school district, the district should proceed in the same manner that it would have at the time the county high school was organized. The districts which do belong to the county high school do not have to vote on the question of admitting such district.

776

TRUST FUNDS

Mr. William A. Jordan,
September 25, 1942.

Fines imposed and collected by justice of peace are held under a technical or special trust within meaning of *McCutchen v. Osborne*, 61 Colo. 408, and claim for same against his estate would constitute a claim of the first class as provided in Section 17, Chapter 235, S. L. 1941.

777

**MOTOR VEHICLE—FEDERAL—PUBLIC
UTILITIES**

Mr. J. J. Marsh,
September 26, 1942.

Truck owner leasing trucks from federal government to perform hauling contract to or from government project must obtain Colorado license plates for each truck and must comply with acts regulating motor vehicle carriers or private carriers and must pay highway compensation taxes.

778 OFFICERS—FEES AND SALARIES

Mr. Paul M. Bunzel,
September 28, 1942.

Fines imposed for a violation of any of the provisions of Chapter 137, S. L. 1927, should be paid into school fund of the county wherein the violation occurred, pursuant to the provisions of Section 34, Chapter 146, 1935 C. S. A.

779 NATIONAL GUARD

Hon. Ralph L. Carr,
September 30, 1942.

There is no statutory authority for aid or relief to former National Guard member because of such former membership.

780 SCHOOLS

Miss Olga A. Hellbeck,
October 3, 1942.

School board may grant leave of absence to one of its members under provisions of Section 103, Chapter 146, 1935 C. S. A. (*Harris v. People*, 102 Colo. 496.)

781 ELECTIONS

Hon. Walter F. Morrison,
October 5, 1942.

Absent Voters' Ballots.

Section 215 of Chapter 59, 1935 C. S. A., provides that an absent voter may obtain ballot by filing, or causing to be filed, with county clerk, or election commissioner, an application stating his address, and that he will be absent from county on election day, or cannot attend polls because of physical disability or too serious illness (latter statement to be accompanied by physician's affidavit). Not proper for clerk to send out absent voter's ballot unless such voter has authorized the application; men in the armed forces may obtain such ballot by application from mother, father, or wife.

782 ELECTIONS

Miss Cherie Burgess,
October 7, 1942.

Certificates of nomination for independent candidates must be filed not later than 45 days before election. (Section 47, Chapter 59, 1935 C. S. A.)

Certificates of nomination by vacancy committees must be filed not later than 31 days before election. (Sections 42 and 82, Chapter 59, 1935 C. S. A.)

783 COUNTY OFFICERS—PRINTING

Mr. Henry Thorpe,
October 14, 1942.

Bids for printing should be opened by board of county commissioners, or by county clerk as clerk of the board, when so directed by the board.

784 INTOXICATING LIQUORS

Hon. Walter F. Morrison,
October 14, 1942.

There is no objection to an application for a renewal of a retail liquor license being made by a third person, acting on behalf of the licensee pursuant to power of attorney, where the licensee has been called into the armed forces. (Articles 1 and 2, Chapter 89, 1935 C. S. A.)

785 ELECTIONS

Miss Kathleene Blackham,
October 14, 1942.

Notice of nominations for general election should comply with Section 78 of election laws (Section 78, Chapter 59, 1935 C. S. A.)

786 ELECTIONS

Mr. William T. Olson,
October 15, 1942.

Party affiliation must have been shown on registration book for period of more than one year in order to entitle candidate's name to be printed on general election ballot. (Section 24, Chapter 59, 1935 C. S. A.)

787 ELECTIONS—LEGAL PUBLICATIONS

The Craig Empire-Courier,
October 16, 1942.

(1) Publications required by election laws are legal publications as defined by Section 1, Chapter 130, 1935 C. S. A.

(2) Legal publications are to be paid for at legal rate unless a contract calls for smaller amount. (*Commissioners v. Frederick*, 50 Colo. 464.)

(3) Proof of publication, other than that required by Section 43, Chapter 45, 1935 C. S. A., is not required as prerequisite to payment.

788

ELECTIONS

Mr. F. C. Estey,
October 17, 1942.

Publication of notice of election may be condensed, but shall, as nearly as possible, be in the same form as the official ballot. Notice must specify time when election is to be held and officers to be elected. (Sections 10 and 78, Chapter 59, 1935 C. S. A.)

789

1941 ADMINISTRATIVE CODE

Henry S. Sherman, Chairman, P. U. C.,
October 19, 1942.

The 1941 Administrative Code provides (Section 32(b)) for transfer to Department of Revenue of all functions of the State relating to collection of taxes, imposts, fees, and licenses; and Section 34 provides that Director of Revenue may deputize any State division to collect such taxes, etc. (Section 34.) Director of Revenue has full jurisdiction for all purposes over employees transferred to Department of Revenue from P. U. C.

790

SCHOOL OF MINES
(Federal Oil Leasing Act of 1920)

Dr. M. F. Coolbaugh,
October 19, 1942.

Under the terms of Chapter 138, 1925 Session Laws, referring to the State's share of oil royalties, if there is no controversy as to the amount due the State, the School of Mines would be entitled to one-third of such amount, to be paid by the State Treasurer. Delay may be occasioned because of errors appearing in the figures sent in by the federal government upon which the one third-two thirds allocation is made.

791

ELECTIONS

Mr. F. C. Estey,
October 20, 1942.

Publication.

Heading of Subdivision 5 of Chapter 59, 1935 C. S. A., is not a part of the law, but was inserted by the compilers of the Colorado Statutes Annotated.

792 ELECTIONS

Miss Kathleene Blackham,
October 20, 1942.

Registration lists should be purged only at the time provided by statute. (Section 130, Chapter 59, 1935 C. S. A.)

793 STATE LANDS—GAME AND FISH

Mr. Guy Parker,
October 20, 1942.

Hunting and Fishing on Lands Leased From State.

Under Section 64 of Chapter 73, 1935 C. S. A., a lessee on State land would have all the rights of an owner in refusing to permit hunting on such land without his consent.

794 ELECTIONS

County Clerk of Gilpin County,
October 21, 1942.

The affidavit accompanying application of absentee voter incapacitated because of illness should be that of a physician. Affidavit of nurse is insufficient.

795 ELECTIONS

Mr. Charles A. Petrie,
October 21, 1942.

Personal delivery of absentee ballots, as authorized by Section 215, Chapter 59, 1935 C. S. A., should be confined to deliveries within the county for which the clerk officially acts.

796 LIVESTOCK BOARD

State Board of Stock Inspection Commissioners,
October 21, 1942.

Board may not deny a sales ring license simply because another sales ring in same town sells on the same day. (Section 1, Chapter 258, 1937 S. L.)

797 COUNTIES—MORTGAGES

Mr. Robert C. Dow,
October 28, 1942.

Under the statutes a release can be made on the original record of a mortgage unless the county uses photographic equipment, in which case, for a marginal release, it would be necessary to re-record the entire mortgage. In the interest of uniformity, it would be better to record separate releases.

798

ELECTIONS

Mr. Rex C. Evans,
October 29, 1942.

Challenge of absentee votes should be made at the polling place within the precinct where such ballots are delivered for counting. (Section 217, Chapter 59, 1935 C. S. A.)

799

**STATE BOARD OF STOCK INSPECTION—
RAILROADS**

State Board of Stock Inspection Commissioners,
October 30, 1942.

Section 53, Chapter 139, 1935 C. S. A., requires a railroad to notify the nearest inspector of the State Board of Stock Inspection Commissioners when its trains kill cattle, and Section 54 provides that the inspector shall notify the board.

800

**REVENUE DEPARTMENT—BOARDS AND
BUREAUS—SECRETARY OF STATE**

Hon. Walter F. Morrison,
November 6, 1942.

The function of the Revenue Department in making collection of fees and issuing receipts therefor does not extend to the right to control the form and content of renewal licenses issued for the fees collected. (Section 32(b) and Section 54, Chapter 2, 1941 S. L.)

801

NEWSPAPERS—LEGAL PUBLICATIONS

Hon. Carl W. Fulgham,
November 6, 1942.

By reason of an apparent conflict between Sections 228, Chapter 142, 1935 C. S. A., and Section 6, Chapter 130, 1935 C. S. A., concerning publication affecting title to real property, the safe procedure is to publish five times.

802

GAME AND FISH—CIVIL SERVICE

Mr. C. N. Feast, Director,
November 6, 1942.

Only those persons 21 years of age or over may be employed by the State in view of the language of Article XII, Section 13, Colorado Constitution.

803

ACCOUNTANCY

Mr. Walter F. Morrison,
November 6, 1942.

Annual registration fees are not required of certificate holders who do not practice; the board may suspend the payment thereof for C.P.A.s and R.A.s in the armed forces; when a certificate holder wishes to resume public practice, he does not have to pay fees for past years when he was not practicing.

804

INSURANCE

Mr. Luke J. Kavanaugh,
November 7, 1942.

Payments in various nominal forms which are in fact premiums and consideration for insurance contracts are subject to the Colorado premium tax of 2 per cent, and this applies to the Mutual Benefit Health and Accident Association policy form received by the Commissioner of Insurance on June 7, 1941.

805

SCHOOLS

Mr. Roy G. Denton,
November 7, 1942.

Generally, a school district is not liable in tort, unless made so by statute. In case of an accident involving school bus on which was carried insurance, the school directors would not be liable, unless there had been neglect in the selection of the employee or equipment.

806

ELECTIONS

Hon. Carl W. Fulgham,
November 10, 1942.

Absentee ballot which was not counted by counting judges cannot be counted except under order of court issued pursuant to Section 291, Chapter 59, 1935 C. S. A.

807

SCHOOLS—FEDERAL GOVERNMENT

Mrs. Inez Johnson Lewis,
November 16, 1942.

There is no statute making it illegal for the federal government to purchase typewriters owned by the various school districts of the third class. However, authorization of such sale would have to be obtained from the electors within the district. (Section 159, Chapter 146, 1935 C. S. A.)

**808 STATE BOARD OF STOCK INSPECTION
COMMISSIONERS**

Mr. C. W. Kitchen,
November 16, 1942.

It is the opinion of this office that Congress by Packers and Stockyards Act and amendments thereto, including that of June 19, 1942, cannot be taken to have intended to take over the subject of inspection of brands from the State Board of Stock Inspection Commissioners and to exclude this State and others from this field which is one of purely domestic and local concern. If, however, such an intention may be imputed to Congress, then the legislation is unreasonable, a violation of due process of law and an unconstitutional invasion of the powers reserved to the states and to the people by the 10th Amendment to the Federal Constitution.

809 SOIL CONSERVATION DISTRICTS

Mr. Kenneth W. Chalmers,
November 16, 1942.

Since the power to form a corporation composed of several soil conservation districts is not given in Chapter 203, 1941 Session Laws, and Section 8 thereof gives each district the power to cooperate or enter into agreements with, and, within the limit of its available funds, to furnish financial or other aid to any agency, governmental or otherwise, in aid or control of soil conservation, the safest way, from a legal point of view, in which to handle the problem of pulling heavy equipment and provide funds for the repair thereof on a statewide basis, would be to have the districts enter into appropriate contracts with the Department of Agriculture or other federal agencies and also to have any necessary contracts entered into by the various soil conservation districts themselves.

810 POLICE AND FIREMEN'S PENSIONS

Messrs. Schey and Schey,
November 19, 1942.

When a member of the police department has been reinstated to active duty after retirement by reason of temporary disability, his disability is presumed to no longer continue as of the time of such reinstatement.

811 STATE BOARD OF COSMETOLOGY

Hon. Walter F. Morrison,
November 19, 1942.

The Cosmetology Board by reasonable rules approved by State Board of Health may require blood tests and physicians'

certificates that applicants are free from "infectious and contagious diseases." (Section 20, Chapter 42, 1935 C. S. A.)

**812 REVENUE DEPARTMENT—STATE BOARD
OF HEALTH**

Mr. Irving A. Fuller,
November 20, 1942.

The Department of Revenue does not have authority to prescribe form and manner of issuance of licenses to master and journeymen plumbers. This power is with State Board of Health under Chapter 126, 1935 C. S. A.

813 GAME AND FISH COMMISSION

Game and Fish Commission,
November 20, 1942.

Subsection 3 of Section 5, Chapter 153, 1937 S. L., construed to mean that there must be an affirmative act on the part of the Commission to declare an area open for the hunting and killing of game and birds.

814 STATE BOARD OF BARBER EXAMINERS

Hon. Walter F. Morrison,
November 20, 1942.

Compensation of Barber Board member is specified by statute. Additional compensation paid to such member by reason of additional duties would be in violation of Section 6 of Administrative Code of 1941.

815 SOIL CONSERVATION DISTRICTS

Mr. A. J. Hamman,
November 24, 1942.

Soil conservation districts are not empowered to adopt regulations which require the poisoning of prairie dogs, due to the fact that the purpose of Chapter 203, 1941 Session Laws, is the control of wind and water erosion, and the reduction of damage resulting from floods.

816 STATE ENGINEER—PUBLIC FUNDS

Mr. C. C. Hezmalhalch,
November 27, 1942.

The people of the State of Colorado are not obligated to make a duplicate payment for the same services.

817 STATE BOARD OF LAND COMMISSIONERS

State Board of Land Commissioners,
November 30, 1942.

Drainage District Assessments.

As the legislature did not provide an appropriation for the years subsequent to 1933 for the purpose of paying drainage district assessments, the sections which appear to make it mandatory to pay such assessments cannot be effective and the various drainage districts would have no further claim against the State, the appropriation for 1933 having been exhausted.

818 STATE BOARD OF COSMETOLOGY—PUBLIC FUNDS—LICENSES

Mr. James A. Noonan,
December 1, 1942.

If one of the licensing boards under the Secretary of State specified in Section 2 of Chapter 186, 1941 Session Laws, desires to allow a pro rata credit upon renewal license fees for the next ensuing license period out of its excess surplus as defined in Section 5, Chapter 186, 1941 Session Laws, such excess and normal surplus, together with revenue derived from new licenses and from renewal licenses over and above the pro rata credit, remains in its fund for operating expenses of the board, subject to legislative action. In that event, the only transfer of its funds to the general fund is under the provisions of Section 4, Chapter 186, 1941 Session Laws.

819 ELECTIONS

Mr. W. W. Roberts,
December 3, 1942.

Statutes governing publication in primary and general elections are Sections 26, 27, 78, Chapter 59, 1935 C. S. A.

Publication of nominations prior to general elections shall be as far as possible in the form they will appear on official ballots.

Section 8, Chapter 130, 1935 C. S. A., limits compensation for publication to the basis that twelve lines shall constitute an inch.

If there has been substantial compliance with publication requirements, the election will not be invalidated because law has not been strictly followed.

Correction of proposed official form of ballots should be made under Section 46 of election laws; too late to object after votes are counted.

820 COLORADO STATE PLANNING COMMISSION

The Colorado State Planning Commission,
December 8, 1942.

Under Chapter 1, 1941 Session Laws, anticipation warrants may be issued for maintenance purposes and must have the authorization of the Planning Commission.

Under Chapter 104, 1941 Session Laws, anticipation warrants may be issued for maintenance purposes and also for operation expenses with the maximum for such purposes being set at \$7,978.00. It is necessary in the case of both the Adams State Teachers College and the Colorado State College of Education that the State Treasurer have the certificate of the State Planning Commission, that the expenditures cover maintenances contemplated by the acts, that there existed a need of such and that issuance of the warrants would be justified and in case of the latter institution, that expenditures for operations be limited to \$7,978.00.

821 COMMISSIONER OF INSURANCE

Mr. Luke J. Kavanaugh,
December 8, 1942.

Title II, FHA loans, in the absence of judicial interpretation of existing statutes, are not legal investments for Colorado insurance companies' reserves, with the exception of such loans as qualify under both FHA and the 65 per cent limitation imposed by Subsection 2, Section 48, Chapter 154, of the 1941 Session Laws.

822 SCHOOLS

Mrs. Inez Johnson Lewis,
December 19, 1942.

Referring to opinion of January 24, 1942, the usual course in the case of a federal grant of moneys is for the legislature to accept the grant and agree to such conditions as might be attached. Difficulties may arise if such grant is accepted by a department and the moneys put in the hands of the State Treasurer. Moneys which may be available for providing for care of children of working mothers should be paid directly to the counties if such plan meets with the approval of the federal agency.

823 SCHOOLS

Ms. Rose B. Glassey,
December 22, 1942.

Section 7 of Article IX of the Constitution prohibits the use of school district money to pay tuition to a private high school.

824 STATE BOARD OF LAND COMMISSIONERS

State Board of Land Commissioners,
December 23, 1942.

Rocky Mountain Arsenal.

Under Sections 1 and 2 of Chapter 168, 1935 C. S. A., the federal government is authorized to purchase State owned land and the language in Section 69, Chapter 135, 1935 C. S. A., would not operate to exclude the federal government as such purchaser.

825 SOLDIERS' AND SAILORS' CIVIL RELIEF ACT

Messrs. Chutkow & Adler,
December 23, 1942.

It would be incumbent upon the plaintiff requesting appointment of an attorney to protect the interest of an absent defendant coming within the meaning of the Soldiers' and Sailors' Relief Act to pay docket fee for filing answer. If the answer filed only confers jurisdiction or requires strict proof, it would be in effect a disclaimer and no docket fee would be charged under Section 4 of Chapter 66, 1935 C. S. A.

826 GAME AND FISH

Game and Fish Commission,
December 29, 1942.

The use of a dog in pursuing pheasants and other game birds either for sport or for training purposes is prohibited by Sections 51 and 80, Subsection C, Chapter 73, 1935 C. S. A.

827 MILITARY DEPARTMENT

Mr. Charles F. Burke,
December 30, 1942.

Section 30, Chapter 111, 1935 C. S. A., authorizes the leasing of property belonging to the Military Department when same is not needed for immediate use by the department.

828 HIGHWAY COURTESY CONTROL

Mr. Vernon W. Drain,
December 30, 1942.

(1) The State Automobile Theft Department is under the jurisdiction of the Colorado State Courtesy Patrol Board and the Supervisor of the Colorado State Courtesy Patrol. (Section 136, Chapter 143, 1935 C. S. A., as amended.)

(2) Employees of the State Automobile Theft Department may work in plain clothes when authorized to do so by the Patrol Board. (Section 138, Chapter 143, 1935 C. S. A., as amended.)

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NOTE: Opinion Number Follows Each Lead

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