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Biennial Report

of the

ATTORNEY GENERAL

of the

STATE OF COLORADO



Years 1943-1944

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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

## LEGISLATIVE REFERENCE OFFICE

<sup>10</sup>J. RAMSEY HARRIS, Director<sup>11</sup>E. B. EVANS, Director

CLAIR T. SIPPEL

## DIVISION OF SECURITIES

GAIL L. IRELAND, Ex-officio Commissioner of Securities

ALLAN S. RICHARDSON, Commissioner of Securities

JAMES T. DAVIS, Assistant Securities Commissioner

RHODA SON, Secretary

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<sup>10</sup>Resigned May 15, 1943.<sup>11</sup>Appointed Director December 1, 1944.

**BIENNIAL REPORT**  
**OF**  
**ATTORNEY GENERAL**  
**OF THE**  
**STATE OF COLORADO**

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**SCHEDULE I**

To His Excellency,  
JOHN C. VIVIAN,  
Governor of Colorado.

Sir:

In compliance with statutes relating thereto, I herewith submit the Biennial Report of the Attorney General for 1943-1944, together with short summaries covering the Inheritance Tax Division, the Securities Division, the Legislative Reference Bureau and Interstate Litigation.

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, 1942, to November 30, 1944, the following taxes were collected:

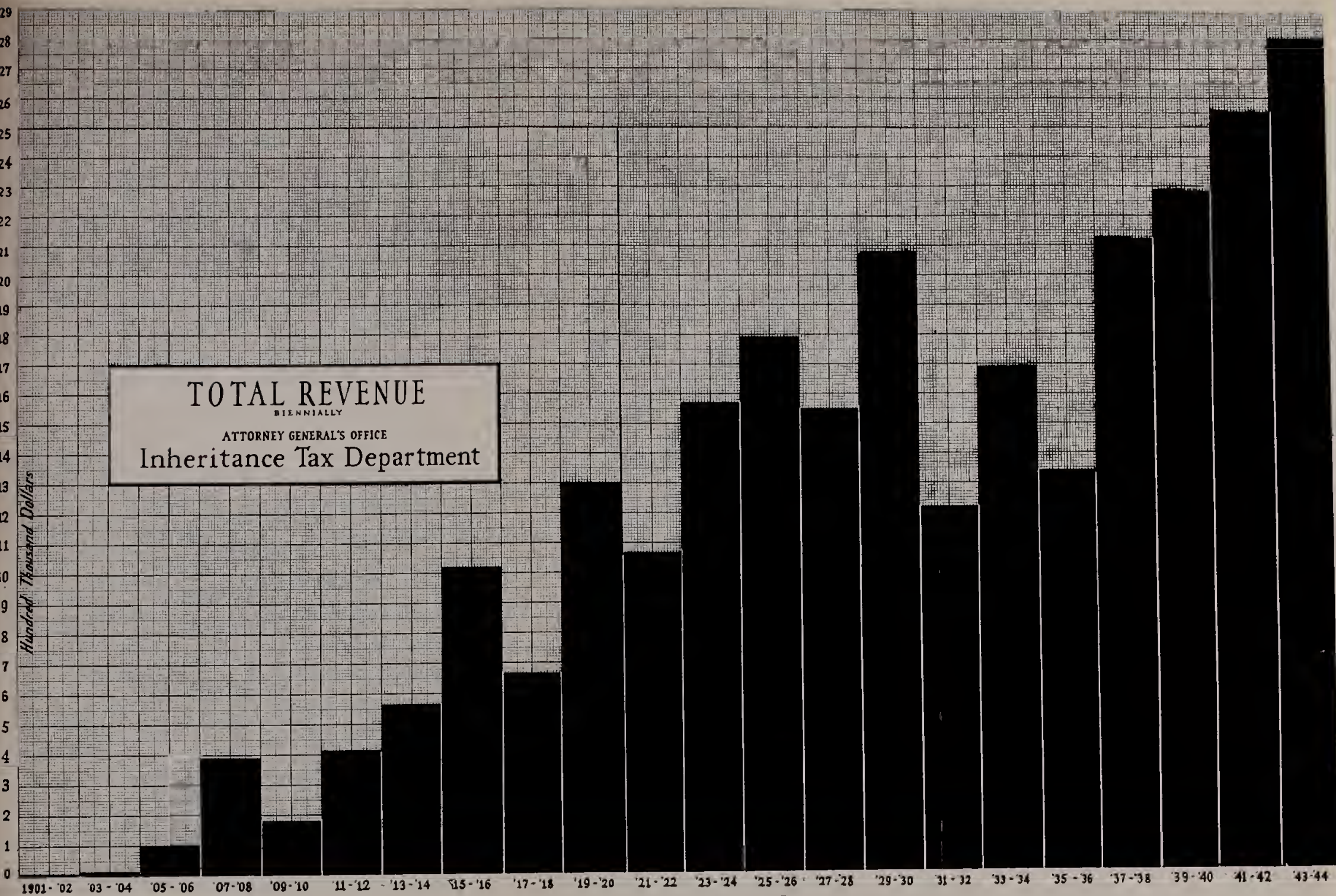
Inheritance Taxes.....	\$2,472,146.23
Gift Taxes .....	79,035.89
Old Age Pension Taxes.....	253,471.41
Total.....	<u>\$2,804,653.53</u>

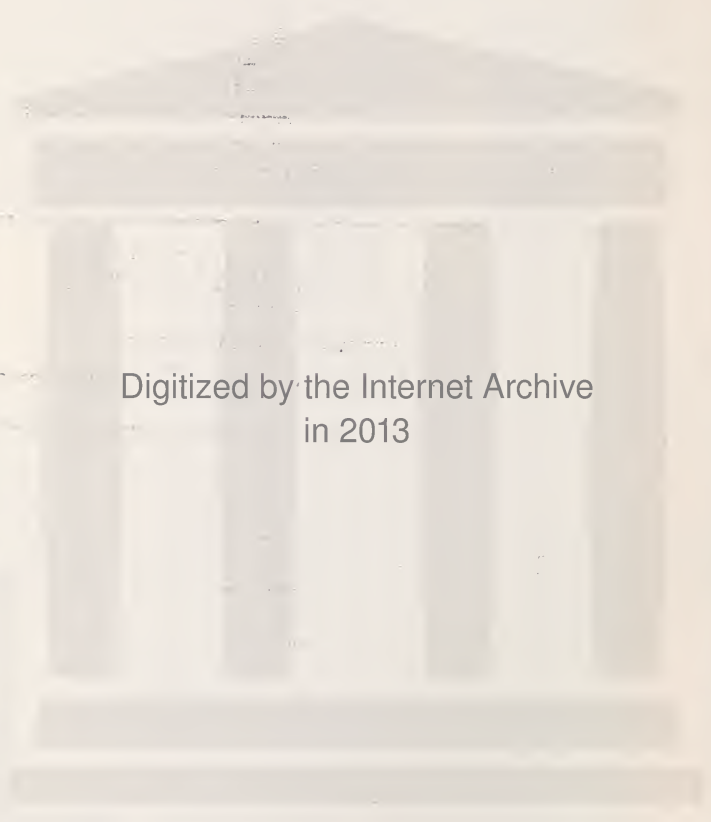
The expense of operating this Division, including salaries, amounted to \$42,832.87, being 1.53 per cent of the total taxes collected. A comparison of this report with the biennial report of the Attorney General for the years 1941-1942 will show that although the amount of taxes collected is greater by 9.33 per cent, the expenses of the Division have been decreased by a difference of 0.08 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 \$84,523.11. The escheat fund has now reached the aggregate sum of \$368,505.96.

TOTAL REVENUE  
BIENNIALY  
ATTORNEY GENERAL'S OFFICE  
Inheritance Tax Department

Hundred Thousand Dollars





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## DIVISION OF SECURITIES

As of March 1, 1943, Allan S. Richardson was appointed Commissioner of Securities to administer the Colorado Securities Act and the Fraudulent Practice Act.

The following is a report of the administration of the Division of Securities for the fiscal year July 1, 1943, to June 30, 1944.

The fees collected by this department totaled \$2,590.00. This amount is approximately the same as the amount collected during the preceding fiscal year. The sum of \$9,730.00 was appropriated to the Division for the fiscal year ending June 30, 1944, by the 1943 session of the General Assembly. Departmental expenditures totaled \$7,879.36.

Fifty-four prospectuses were registered in this office during the year. As of July 1, 1944, there were seventy-eight dealers and one hundred three salesmen registered with the Department.

The Division of Securities has periodically prepared and sent out to law enforcement officials and registered dealers a bulletin, the contents of which constitute a notice of filings made in this office of proposed security offerings, registrations of dealers and salesmen, expirations of prospectuses, cancellations of licenses, etc.

A considerable number of conferences were held during the year to determine the suitability of contemplated offerings of securities, the standing of applicants for dealers' or salesmen's permits, and resulted in the weeding out of situations of an undesirable nature.

An important function of the Division is the investigation of cases involving fraud in the issuance and sale of securities. These investigations, in the close cooperation with the regional offices of the Securities and Exchange Commission, resulted in a number of guilty pleas, convictions and restraining orders. It is felt that these efforts have been to the lasting benefit of the people of the state in curbing the fraudulent issue and sale of securities.

For the period from July 1, 1944, to the date of this report, these activities have been continued.

It is anticipated that the work of the Division will soon be greatly increased as a result of the termination of the wars, which event, if the pattern of the past is repeated, will result in attempts on the part of unscrupulous promoters to raid the vast reservoirs of the people's savings. Plans are being formulated to assist in educational programs to protect the unwary investor from such depredations.

## LEGISLATIVE REFERENCE OFFICE

The Legislative Reference Office was established by an act of the General Assembly approved May 6, 1927. The office has two primary functions: legislative reference work and bill draft-

ing for members of the Colorado General Assembly and the Governor.

*Legislative Reference Work*—The office maintains a legislative informational service for members of the General Assembly, state departments and agencies, and the public. The purpose of this service is to make available studies and information on legislative subjects and the laws of other states. A small but select legislative library is maintained. Office facilities are also available for special reports prepared at the request of individual legislators and legislative standing, special and interim committees.

*Bill Drafting:* Assistance in bill drafting and advice on matters of legislative procedure and forms of bills, resolutions and amendments are given. Since the establishment of the office approximately ninety per cent of all legislation introduced in the various General Assemblies has gone through the office at one time or another. The office, however, avoids offering recommendations as to the desirability of any proposed legislation.

### INTERSTATE LITIGATION

*State of Colorado v. State of Kansas*, an original proceeding brought in 1928 in the United States Supreme Court for injunctive relief and to determine equitable rights of the parties to the water of the Arkansas River, was finally determined by opinion issued December 6, 1943. Evidence was taken before Hon. Charles C. Cavanah, Special Master appointed by said Court. The findings and recommendations of the Special Master were largely disregarded by the Court after the filing of briefs and two days of oral argument before the Court. The decision was a sweeping victory for Colorado, definitely and finally settling claims and disputes urged in a series of litigation beginning in 1901. Colorado's right to injunction forbidding Kansas water users from bringing suits against Colorado water users was upheld and the Court, among other things, held that Colorado had not materially increased her use of the river waters to the serious detriment of the substantial interests of Kansas. The decision in the case of *Kansas v. Colorado*, 206 U. S. 46 (1907) wherein Kansas was denied relief was thus affirmed and Colorado found not to have violated the decree in that case. The Court strongly urged that the parties compose their future differences by negotiation and agreement, pursuant to the compact clause of the Federal Constitution. Steps have already been taken by both states to negotiate a compact.

I am deeply indebted to Messrs. Jean S. Breitenstein, Henry C. Vidal, A. W. McHendrie and Arthur C. Gordon for the splendid legal work, and to Charles L. Patterson, R. J. Tipton and State Engineer M. C. Hinderlider, for the effective engineering work, performed by them for me in this case.

*State of Nebraska, Complainant, v. State of Wyoming, Defendant, State of Colorado, Impleaded Defendant, United States of*

*America, Intervenor*, was filed originally in 1934 in the United States Supreme Court by Nebraska asking for injunctive relief against Wyoming and praying for an adjudication of the rights of all parties in the waters of the North Platte River. Taking of testimony before Hon. Michael J. Doherty, Special Master appointed by the Court, was begun in 1935 and completed in 1942. Thereafter briefs were filed, with and oral argument had before the Special Master. His findings and recommendations have been made to the Supreme Court, briefs are being prepared and the case is set for oral argument before the Supreme Court for March 5, 1945. Colorado, as well as the two other states, is strenuously opposing the claim of the Federal Government to the ownership and control of the unappropriated waters of the stream and to the alleged claims of reservations (or appropriations) by the Federal Government for reclamation projects. Colorado is also opposing the right of the Court to impose any restrictions on the use of said water in Colorado in the absence of a showing of material damage to the substantial interests of either of the lower states. It is hoped that negotiations for an interstate compact will follow the decision in this case, regardless of the outcome of the case.

The able legal assistance of Messrs. Jean S. Breitenstein, George J. Bailey and Thomas J. Warren and the valuable engineering services of Charles L. Patterson and M. C. Hinderlider has been most helpful.

In both of these important cases, the assistance of the Colorado Water Conservation Board and Clifford H. Stone, Director, has been most helpful. In my opinion, the Colorado Water Conservation Board is a most valuable asset to the state and should be consistently encouraged and adequately financed in its important task of protecting the very valuable waters of Colorado.



## SCHEDULE II

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### LIST OF ALL CASES, PENDING, AND DISPOSED OF, IN ALL COURTS 1943-1944

#### CASES IN THE SUPREME COURT OF THE UNITED STATES

- ..... *State of Colorado v. State of Kansas*. Original proceeding to determine equitable rights of the parties to water in the Arkansas River. Decision in *Kansas v. Colorado*, 206 U. S. 46 (1907) upheld in that Colorado found not to have violated decree in that case.
- ..... *State of Nebraska, Complainant, v. State of Wyoming, Defendant, State of Colorado, Impleaded, United States of America, Intervenor*. For adjudication of the rights of the several states in the water of interstate streams. Set for oral argument March 5, 1945.
- ..... *Standard Oil Co. of California (a corporation), Henry Fairbank, et al., v. United States of America*. Attorney General appeared as Amicus Curiae on request of State Land Board.
- ..... *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, vs. Louis H. Pink, Superintendent of Insurance of the State of New York, as Liquidator of the National Surety Co.* Involving question of giving full faith and credit to a Nebraska judgment entered against surety company. Attorney General permitted his name to be used as Amicus Curiae.
- No. 275. *Pacific Coast Dairy, Inc., v. Department of Agriculture of the State of California; William J. Cecil, Director of Agriculture of the State of California, et al.* State regulation of milk sales culminating in federal areas.
- Nos. 523-530. *United States v. Frankfort Distilleries, Inc.* Conspiracy and restraint of trade. Attorney General entered appearance as Amicus Curiae. Pending.
- No. 354. *United States of America v. South-Eastern Underwriters Association, et al.* Violation of the Sherman Anti-Trust Act. Attorney General appearing as Amicus Curiae.

**CASES IN THE UNITED STATES CIRCUIT COURT OF  
APPEALS, TENTH CIRCUIT**

- Nos. 2792, 2793, 2794, 2795, 2796, 2797, 2798 and 2799 (Criminal No. 9514). *Frankfort Distilleries, Inc., et al., vs. United States of America*. Conspiracy and restraint of trade. Judgment for plaintiff. On appeal to United States Supreme Court.
- No. 2844. *J. E. Creel, County Treasurer of Pueblo County, Colorado, vs. E. G. Middlekamp, Trustee of The Ingersoll Company, a Colorado Corporation, bankrupt*. Appeal from U. S. District Court of Colorado. Review of referee's order compromising taxes. Dismissed. Case closed.

**CASES IN THE UNITED STATES DISTRICT COURT**

- No. 652. *Independent Dairymen's Association, Inc., vs. The City and County of Denver*. Involving a municipal ordinance. No appearance made on behalf of the state.
- No. 3675. *In the Matter of the Ingersoll Company, a Colorado corporation, Bankrupt*. Review of referee's order compromising taxes. Judgment given on August 9, 1943. Appealed.
- No. 8669. *In the Matter of the Denver and Rio Grande Western Railroad Company, Debtor*. In proceedings for the reorganization of a railroad. Issues tried, court affirmed trackage and rental contracts April 16, 1943.
- No. 9177. *Central Hanover Bank and Trust Co. vs. The Rio Grande Southern Railroad Company, a corporation*. Taxes. Pending.
- No. 12127. *In the Matter of the Rocky Mountain Fuel Company, a corporation*. Bankruptcy matter involving coal mine inspection fee. Pending.
- No. 11351. *The United States of America vs. 69.33 Acres of Land in the County of Arapahoe*. Condemnation suit. State has no interest.
- No. 11405. *The United States of America vs. 204.12 Acres of Land, More or Less*. Condemnation suit. No interest.
- No. 11440. *The United States of America vs. An Easement Over 21.62 Acres of Land, More or Less*.
- No. 11441. *The United States of America vs. 4129.73 Acres of Land, More or Less*. Condemnation suit. Pending.
- No. 11452. *The United States of America vs. 16,222.23 Acres of Land, More or Less, Situate in the County of Pueblo*. Condemnation proceedings. Pending.

- No. 11454. *The United States of America vs. 3,245.29 Acres of Land, More or Less, Situate in the County of El Paso.* Condemnation proceedings. Pending.
- No. 11465. *The United States of America vs. 1,250 Acres of Land, More or Less, Situate in the County of Arapahoe.* Condemnation proceedings. No interest.
- No. 11466. *The United States of America vs. 1960 Acres of Land, More or Less.* Condemnation proceedings. Pending.
- No. 11476. *The United States of America vs. 30 Acres of Land, More or Less, Situate in the City and County of Denver, State of Colorado, et al.* Condemnation suit. No interest.
- No. 11477. *The United States of America vs. 101.81 Acres of Land, More or Less, Situate in the County of Arapahoe, State of Colorado, et al.* Condemnation suit. Pending.
- No. 11482. *The United States of America vs. 20,000 Acres of Land, More or Less, et al.* Condemnation proceedings. Pending.
- No. 11483. *The United States of America vs. Certain Lands Situate in the County of Jefferson, State of Colorado, et al.* Condemnation proceedings. Pending.
- No. 11485. *The United States of America vs. 11,285 Acres of Land, More or Less, et al.* Condemnation suit. No interest.
- No. 11489. *The United States of America vs. 320 Acres of Land, More or Less, Situate in the County of Arapahoe.* Condemnation suit. No interest.
- No. 11490. *The United States of America vs. 355.67 Acres of Land, More or Less, in County of Arapahoe.* Condemnation suit. No interest.
- No. 11495. *United States of America vs. 3,891.92 Acres of Land, More or Less, Situate in the County of Otero, State of Colorado, et al.* Condemnation suit. No interest.
- No. 11504. *United States of America vs. 3.37 Acres of Land, More or Less, Situate in the City and County of Denver, State of Colorado, et al.* Condemnation proceedings. No interest.
- No. 11505. *The United States of America vs. 575 Acres of Land, More or Less, Situate in the County of Montezuma, et al.* Condemnation suit. No interest.
- No. 11506. *The United States of America vs. 596 Acres of Land in Pueblo County, et al.* Condemnation proceedings. No interest.
- No. 11507. *The United States of America vs. 160 Acres of Land in Pueblo County.* Condemnation proceedings. No interest.

- No. 11508. *The United States of America vs. 60 Acres of Land, More or Less, Situate in the County of Arapahoe, State of Colorado, et al.* Condemnation suit. Pending.
- No. 11510. *The United States of America vs. 80 Acres of Land, More or Less, Situate in the County of Arapahoe, State of Colorado, et al.* Condemnation proceedings. No interest.
- No. 11520. *United States of America vs. 1,440 Acres of Land, More or Less, Kiowa County.* Condemnation proceedings. Pending.
- No. 11521. *The United States of America vs. 1,440 Acres of Land, More or Less, Situate in Crowley County.* Condemnation proceedings. Pending.
- No. 11522. *The United States of America vs. 1,440 Acres of Land, County of Bent, et al.* Condemnation proceedings. Pending.
- No. 11530. *The United States of America vs. 68,720 Acres of Land, Otero County.* Condemnation suit. No interest.
- No. 11531. *The United States of America vs. State of Colorado, Inheritance Tax Commissioner thereof, et al.* Condemnation suit. No interest.
- No. 11535. *The United States of America vs. 4 Acres of Land, More or Less, et al.* Condemnation proceedings. No interest.
- No. 11538. *The United States of America vs. 525.92 Acres of Land, More or Less, Situate in the County of Lake, et al.* Condemnation proceedings. No interest.
- No. 11547. *The United States of America vs. Security Life Insurance Company, a corporation, et al.* Condemnation proceedings. No interest.
- No. 11550. *The United States of America vs. 280 Acres of Land, More or Less, Situate in the County of Otero, State of Colorado, et al.* Condemnation proceedings. Pending.
- No. 11597. *The United States of America vs. 4 Acres of Land, More or Less, et al.* Condemnation proceedings. No interest.
- No. 11601. *The United States of America vs. a Perpetual Easement in Connection with 19.94 Acres of Land in Las Animas County.* Condemnation proceedings. No interest.
- No. 11616. *The United States of America vs. 18.58 Acres of Land, More or Less, Situate in the County of El Paso, State of Colorado, et al.* Condemnation suit. State not interested.
- No. 11620. *The United States of America vs. 0.76 of an Acre of Land, More or Less, Situate in the County of Denver, et al.* Condemnation suit. Pending.



- No. 11628. *The United States of America vs. 40 Acres of Land, More or Less, Situate in the County of Crowley, State of Colorado, et al.* Condemnation suit. No interest.
- No. 11630. *The United States of America vs. 2.33 Acres of Land, More or Less, Situate in the County of Otero, State of Colorado, et al.* Condemnation suit. No interest.
- No. 11638. *The United States of America vs. 0.08 of an Acre of Land, More or Less, Situate in the City and County of Denver, et al.* Condemnation suit. Pending.
- No. 11640. *The United States of America vs. 1,341.21 Acres of Land, More or Less, et al.* Condemnation proceedings. Pending.
- No. 11647. *The United States of America vs. Certain Water Rights Appurtenant to Certain Lands in County of Adams, et al.* Condemnation suit. No interest.
- No. 11652. *The United States of America vs. 135.84 Acres of Land, More or Less, Situate in the County of Eagle, State of Colorado.* Condemnation proceedings. Pending.
- No. 11663. *In the Matter of the Petition of the Trincheria Irrigation District for Composition of its Debts.* Bankruptcy matter.

### CIVIL CASES IN THE SUPREME COURT OF THE STATE OF COLORADO

14731. *The Water Supply and Storage Company, a corporation, et al. vs. Adelrick Benziger.* Error to the District Court of Larimer County. Water rights. Pending.
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. Re-tried, new appeal taken, reversed and remanded December 20, 1943.
14951. *Charles D. Vail, State Highway Engineer, vs. 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.
14980. *In the Matter of the Estate of Samuel T. Seddon, Deceased, et al. v. State of Colorado.* Escheat matter. Judgment affirmed in favor of the State March 29, 1943.
15002. *Grace McGovern, et al. v. Board of County Commissioners of the County of Adams.* Error to the District Court of the County of Adams. Highway condemnation suit. Pending.

15012. *State of Colorado, and B. F. Cummings, Administrator of the Estate of Edgar Lorenzo Miller, deceased, vs. Jennie Grooms, Kenneth Wenworth, et al.* Escheat. Judgment reversed in favor of escheat fund. Balance of estate turned into escheat fund.
15018. *Board of County Commissioners of the County of Adams, and The State Highway Department of the State of Colorado v. Henry Neuman, Eva Heil, et al.* Highway condemnation suit. Error to the District Court of Adams County. Judgment affirmed.
15030. *Ogden First Federal Savings and Loan Association, a U. S. corporation, vs. Charles M. Armstrong, et al.* Error to the District Court of the City and County of Denver. Declaratory judgment re Building and Loan matter. Judgment for the plaintiff.
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. Re Civil Service charges against Esta D. Parr. Judgment reversed.
15059. *The George W. Clayton College, George F. Dunklee, et al. v. The George W. Clayton Trust Commission, et al.* Error to the District Court of the City and County of Denver. Construction of a will. Writ of error dismissed February 15, 1943.
15115. *Agnes Zimmerman vs. M. C. Hinderlider, State Engineer.* Error to the District Court of the County of Larimer. Water rights. Judgment affirmed August 24, 1944.
15140. *Roy A. Davis, Alfred G. Brown, et al., as members of the State Board of Public Welfare of the State of Colorado v. Pensioners Protective Association, et al.* Error to the District Court of the City and County of Denver. Old age pension fund. Judgment reversed in part and affirmed in part.
15169. *The North Poudre Irrigation Company, a corporation, vs. M. C. Hinderlider, as the State Engineer of the State of Colorado, et al.* Error to the District Court of the County of Larimer. Water matter. Judgment reversed.
15182. *J. H. McDevitt, Clara Wilkins and Joe Jankovsky, as Commissioners of the State Civil Service Commission, 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. Judgment for the defendants.
15200. *The Craftsman Painters and Decorators, Inc., a corporation, and David D. Sturgeon, v. F. R. Carpenter, as Director of Revenue of the State of Colorado.* For declaratory judgment and permanent injunction pertaining to sales and use tax. Final decision May 26, 1943, case closed.

15203. *F. R. Carpenter, Director of Revenue for the State of Colorado, 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. Judgment for plaintiff in error.
15206. *F. 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. Refund of service and use taxes. Judgment reversed November 8, 1943.
15219. *Estate of Gavin W. Hamilton, Deceased, Molly G. Hamilton, Individually and as Administratrix, and Kilpatrick Brothers Company vs. The People of the State of Colorado, et al.* Inheritance tax. Pending.
15222. *Bennetts, 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. Judgment affirmed April 26, 1943. Case closed.
15241. *People of the State of Colorado, ex rel Roy Best, Warden of the Colorado State Penitentiary, vs. The County Court of the County of Fremont and the Honorable Joseph D. Blunt, Judge of said County Court.* Original proceeding in prohibition. Ordered that writ be made peremptory.
15249. *Lloyd W. Mitchell v. Board of County Commissioners of Morgan County, State of Colorado, et al.* Damages because of flood waters alleged to have been caused by highway bridge. Error to the District Court of Morgan County. Judgment affirmed October 2, 1944.
15265. *City Real Estate, Inc., a Colorado corporation, v. John J. Sullivan, doing business as Sullivan & Company.* Attorney General appearing as Amicus Curiae—taxation matter. Pending.
15275. *Jacqueline Carmean, by Lenora Carmean, her next friend, vs. The People of the State of Colorado.* Delinquency proceedings. Judgment reversed February 23, 1943.
15280. *R. A. Davis, et al., as State Board of Public Welfare, v. E. L. Carson.* Error to the District Court of Denver. Old age pension matter. Reversed by stipulation, remanded to District Court with directions to dismiss.
15312. *The Department of Revenue and The Motor Vehicle Bureau of the State of Colorado v. Jess D. Corbin.* Error to the District Court of Montrose County. Re automobile license. Upon motion filed, writ of error dismissed.

15329. *Thelma Rose v. The People of the State of Colorado and Mrs. Evelyn Brown*. Error to the County Court of Larimer County. Dependency proceedings. Judgment reversed.
15332. *C. H. Gunn, as Chief of Motor Vehicle Bureau, Department of Revenue of the State of Colorado, v. Edward D. Hunter*. Error to the County Court of the County of Montezuma. Pending.
15359. *Homer F. Bedford, Treasurer of the State of Colorado, and F. R. Carpenter, Director of Revenue, v. P. W. Logan, et al.* Error to the District Court of the County of Arapahoe. Old age pension matter. Judgment reversed March 20, 1944.
15396. *Bernard E. Tects, as Executive Director of the Department of Employment Security of the State of Colorado, the Colorado Department of Employment Security, et al. v. Robert R. Rapalji, doing business as B. W. T. Motor Service*. Unemployment compensation case. Judgment affirmed April 24, 1943.
15399. *Helen Kevlin v. Daniel Sullivan, et al.* Re position of relief nurse at Industrial School. Error to the District Court of the City and County of Denver. Pending.
15413. *Pensioners Protective Association, et al., v. Roy A. Davis, et al.* Attorneys' fees—old age pension funds. Judgment reversed.
15414. *Albert F. Cruse, Director of Revenue of the State of Colorado, vs. Edgar J. Marston*. Deficiency income tax. Error to the District Court of El Paso County. Judgment affirmed.
15415. *In Re Interrogatories by the Governor*. Original proceedings. Regarding civil service matters. Opinion of court rendered September 27, 1943. Court refused jurisdiction.
15430. *Leon E. Lavington, as State Treasurer of the State of Colorado, and Albert F. Cruse, as Director of Revenue of the State of Colorado, v. Pauline Weare Gano*. Error to the District Court of Denver. Appeal on income tax ruling. Judgment reversed July 19, 1944.
15446. *American Federation of Labor, et al., v. W. I. Reilly, et al.* Error to the District Court of Denver. Labor Peace Bill. Judgment modified in part, affirmed in part, and otherwise vacated. Petition for rehearing denied.
15498. *In the Matter of the Application of John Garcia for a Writ of Habeas Corpus*. Error to the District Court of Fremont County. Judgment affirmed July 31, 1944.

15503. *O. S. Wood v. State Civil Service Commission of Colorado, et al.* Error to the District Court of the City and County of Denver. Civil Service matter. Judgment affirmed January 2, 1945.
15553. *Cruse, as Director of Revenue of the State of Colorado, and Leon E. Lavington, as the State Treasurer of the State of Colorado, v. The Stayput Clamp & Coupling Co.* Judgment reversed.
15559. *The People of the State of Colorado, upon the relation and complaint of Richard H. Simon, as District Attorney of the First Judicial District of the State of Colorado, v. Clarence R. Anderson, Bert M. Keating, et al.* Original proceedings Quo Warranto. At issue.

## CRIMINAL CASES IN THE SUPREME COURT OF COLORADO

No.	Title	Crime	Disposition
14906	Montez and Vonatti v. The People.	Conspiracy and Forgery.	Judgment Affirmed.
14907	Johnson and Mestas v. The People.	Conspiracy and Forgery.	Judgment Reversed.
14990	Crosswhite v. The People.	Larceny as Bailee, Selling Mortgaged Property.	Judgment Reversed.
15004	Norton v. The People.	Conspiracy to Commit False Pretenses.	Judgment Reversed.
15020	Sheftel v. The People.	Receiving Stolen Goods.	Judgment Reversed.
15129	Leo Bomareto v. The People.	Confidence Game.	Judgment Reversed.
15130	Bashford v. The People.	Conspiracy to Commit an Abortion.	Judgment Affirmed.
15135	Payne v. The People.	Murder.	Judgment Reversed.
15141	Welch v. The People.	Larceny.	Pending.
15153	Cahill v. The People.	Larceny of Livestock.	Judgment Affirmed.
15156	McClain, O'Brien, Cardwell v. People.	Violation of Liquor Laws.	Judgment Affirmed.
15161	Schiff v. The People.	Larceny as Bailee.	Judgment Reversed.
15196	Cahill v. The People.	Larceny of Livestock.	Judgment Affirmed.
15220	Cobianchi v. The People.	Murder by Abortion.	Judgment Reversed.
15226	The People v. Wolff.	Construction of the Habitual Criminal Law.	Judgment Affirmed March 15, 1943. Opinion Modified and Judgment Reversed on April 26, 1943.
15237	Honda v. The People.	Murder.	Judgment Affirmed.
15231	Sullivan v. The People.	Murder.	Judgment Affirmed.
15242	Olde v. The People.	Conspiracy to commit Confidence Game.	Judgment Reversed.
15258	Marsh v. The People.	Failure of County Clerk to Turn in Public Moneys.	Judgment Reversed.
15272	Emerick v. The People.	Confidence Game.	Judgment Reversed.
15273	Martinez v. People.	Attempting Indecent Liberties With Person of a Minor, Etc.	Judgment Affirmed.
15285	Wright v. People.	False Pretenses.	Pending.
15305	Lavery v. The People.	Receiving Stolen Goods.	Judgment Affirmed.
15311	People v. Cooper Enterprises, Inc.	Operating a Lottery and Gift Enterprise.	Dismissed.
15321	Starr v. People.	Conspiracy to Commit Embezzlement.	Pending.
15322	LaVielle v. People.	Conspiracy to Commit Embezzlement.	Pending.
15323	Sarkisian v. The People.	Abortion.	Writ of Error Dismissed.
15324	Abeyta, et al. v. The People.	Rape.	Judgment Affirmed.
15369	Happer v. The People.	Sodomy.	Judgment Affirmed.
15371	Hicks v. The People.	Conspiracy to Commit Confidence Game.	Judgment Reversed.

No.	Title	Crime	Disposition
15374	Nelson v. The People.	Larceny, Robbery.	Judgment Affirmed on Application for Supersedeas.
15375	Trujillo v. The People.	Robbery, Assault to Rob.	Judgment Affirmed on Application for Supersedeas.
15376	Moore v. The People.	Contributing to Juvenile Delinquency.	Judgment Reversed.
15377	Davis v. The People.	Rape.	Judgment Affirmed.
15378	Kloberdanz v. The People.	Rape.	Judgment Affirmed.
15379	Torbert v. The People.	Cheating, Swindling, False Pretenses.	Pending.
15404	Woods v. The People.	Larceny from the Person.	Judgment Affirmed on Application for Supersedeas.
15411	Harris v. The People.	Rape.	Pending.
15412	Conyers v. The People.	Unlawful Killing of Cattle.	Pending.
15426	Leach, Holman v. The People.	Larceny of an Automobile.	Judgment Reversed on Application for Supersedeas.
15467	Bills, Sheridan v. The People.	Operating a Lottery and Gift Enterprise.	Pending.
15477	Randal v. The People.	Involuntary Manslaughter.	Pending.
15479	Bruner v. The People.	Murder.	Pending.
15492	Williams v. The People.	Murder.	Pending.
15493	Abeyta v. The People.	Rape and Kidnapping.	Writ of Error. Dismissed on Motion.
15495	Potts, Metzgar v. The People.	Murder.	Pending.
15507	Martz v. The People.	Murder.	Pending.
15509	Gearhart v. The People.	Grand Larceny.	Judgment Affirmed.
15511	Martin v. The People.	Impersonating an Officer.	Judgment Affirmed on Application for Supersedeas.
15517	Hailey v. The People.	Arson.	Pending.
15525	Wright v. The People.	Murder.	Pending.
15526	Silliman v. The People.	Murder.	Pending.
15528	Wyrner v. The People.	Murder.	Pending.
15549	Martin v. The People.	Sodomy.	Pending.
15556	Paulino v. The People.	Gambling.	Pending.
15557	Falbo v. The People.	Gambling.	Pending.
15572	Baker v. The People.	Second Degree Murder.	Pending.
15578	Olguin v. The People.	Rape.	Pending.

## WORKMEN'S COMPENSATION CASES IN THE SUPREME COURT OF COLORADO

No.	Title of Cause	Judgment of Lower Court	Status
15508	<i>The Gates Rubber Company v. Ind. Com. and Mambourg</i> .....	Award affirmed.....	Judgment affirmed by Sup. Ct. June 26, 1944 (112 Colo. ...)
15510	<i>Contes, et al. v. Metros and Ind. Com.</i> .....	Award affirmed.....	Judgment affirmed by Sup. Ct. Nov. 20, 1944 Petition for re- hearing denied Dec. 11, 1944
15529	<i>Moffat Coal Company et al. v. Giankos and Ind. Com.</i> .....	Award affirmed.....	Judgment affirmed by Sup. Ct. Oct. 16, 1944 (112 Colo. ...)
15478	<i>Western Auto Supply Company, et al. v. Washburn and Ind. Com.</i> ..	Award affirmed.....	Judgment reversed by Sup. Ct. June 5, 1944 (112 Colo. ...)
15475	<i>Ind. Com., The Boulder Valley Coal Company, et al., v. Fotis, et al.</i> .....	Award set aside.....	Judgment affirmed in part and re- versed in part by Sup. Ct. June 5, 1944 (112 Colo. ...)
15290	<i>Kamp, doing business as The Kamp Moving and Storage Company, v. Disney and Ind. Com.</i> ..	Award affirmed.....	Judgment affirmed by Sup. Ct. Jan. 31, 1944 (110 Colo. 518)
15459	<i>The William E. Russell Coal Company, et al., v. Zinge, Sr., and Ind. Com.</i> .....	Award affirmed.....	Judgment affirmed by Sup. Ct. March 13, 1944 (112, Colo. ...)
15434	<i>Beckley v. Ind. Com. et al.</i> .....	Award affirmed.....	Judgment affirmed by Sup. Ct. March 13, 1944 (112 Colo. ...)
15410	<i>Contes et al., v. Metros and Ind. Com.</i> .....	Award affirmed.....	Judgment affirmed by Sup. Ct. Dec. 13, 1944 (111 Colo. 561)
15373	<i>Sommers, et al., v. Borgman and Ind. Com.</i> .....	Award affirmed.....	Judgment affirmed by Sup. Ct. Dec. 13, 1944 (111 Colo. 552)
15370	<i>Maley and Ind. Com. v. Martin, et al.</i> .....	Award set aside.....	Judgment affirmed by Sup. Ct. Dec. 13, 1944 (111 Colo. 545)
15381	<i>Pacific Employers Insurance Company, et al., v. Kirkpatrick, et al.</i> .....	Award affirmed.....	Judgment affirmed by Sup. Ct. Nov. 1, 1943 (111 Colo. 470)
15398	<i>The Joe Dandy Mining Company v. Ind. Com., Bunch, et al.</i> .....	Award affirmed.....	Judgment affirmed by Sup. Ct. April 3, 1944 (112 Colo. ...)



No.	Title of Cause	Judgment of Lower Court	Status
15302	<i>Ind. Com., et al. v. Kokel</i> .....	Award set aside.....	Judgment reversed and the cause remanded with instructions by Sup. Ct. May 17, 1940 (111 Colo. 154)
15336	<i>Ind. Com., et al v. Menegatti</i> ....	Award set aside.....	Judgment affirmed by Sup. Ct. Nov. 8, 1943 (111 Colo. 484)
15309	<i>Warner v. Mullens and Ind. Com.</i> ..	Award affirmed.....	Judgment affirmed by Sup. Ct. April 19, 1944 (111 Colo. 60)
15291	<i>Aetna Casualty and Surety Company, et al., v. Ind. Com. and Hatfield, et al.</i> .....	Award affirmed.....	Judgment affirmed by Sup. Ct. March 8, 1943 (110 Colo. 422)
15251	<i>Black Forest Fox Ranch, Inc., Ind. Com., et al. v. Garrett, et al.</i> ..	Award set aside.....	Judgment reversed by Sup. Ct. Feb. 1, 1944 (110 Colo. 323)
15303	<i>Brown v. The Colorado Fuel and Iron Corporation, Ind. Com., et al.</i> .....	Award affirmed.....	Judgment affirmed by Sup. Ct. Aug. 3, 1943 (111 Colo. 253)
15380	<i>Betz, et al., v. Ind. Com., Kuner Empson Company, et al.</i> .....	Award set aside.....	Judgment affirmed by Sup. Ct. Sept. 27, 1943 (111 Colo. 401)
15282	<i>Cordillo et al., v. Ind. Com. et al.</i> ..	Award affirmed.....	Judgment affirmed by Sup. Ct. April 12, 1943 (110 Colo. 581)
15162	<i>Pitchforth, et al., v. Ind. Com., et al.</i> .....	Award affirmed.....	Judgment reversed by Sup. Ct. May 17, 1944 (111 Colo. 125)
15142	<i>Jewell Collieries Corp. et al. v. Ind. Com. et al.</i> .....	Award affirmed.....	Judgment affirmed by Sup. Ct. Feb. 23, 1943 (110 Colo. 39)
15248	<i>Rand v. Ind. Com., et al.</i> .....	Award affirmed.....	Judgment affirmed by Sup. Ct. Dec. 21, 1944 (110 Colo. 240)
15527	<i>Hayden Coal Company v. Ind. Com. and Williams</i> .....	Award set aside.....	Judgment reversed and cause remanded with instructions by Sup. Ct. Dec. 18, 1944
15384	<i>Wilkowski v. Ind. Com. et al.</i> ....	Award affirmed.....	Judgment affirmed by Sup. Ct. Dec. 18, 1944.
15452	<i>Resler Truck Line v. Ind. Com. and O'Neill</i> .....	Pending on appeal in Sup. Ct.	Argument in Sup. Ct. May 16, 1944

## CASES IN THE DISTRICT COURTS

Docket  
Number

### Adams County

- ..... *The People of the State of Colorado v. Timm.* For damages to a Highway Courtesy Patrol car. Draft received in settlement.
4110. *Board of County Commissioners of Adams County and The State Highway Department of the State of Colorado v. McGovern, et al.* Highway condemnation suit. Pending on appeal to Supreme Court by respondents.
4349. *The State Highway Department of the State of Colorado v. Carlson, et al.* Highway condemnation suit. All parcels settled.
4378. *David Meyer and Amelia Meyer v. Edith Jacobs, et al.* Suit to quiet title. No appearance necessary on behalf of the state.

### Alamosa County

- ..... *Irvin v. The Alamosa County Department of Public Welfare, et al.* Declaratory judgment in re old age pension. Dismissed on motion.
- ..... *Cruse v. The City of Alamosa, et al.* Liquor license delinquency. Settled and dismissed.

### Arapahoe County

6235. *The Board of County Commissioners of the County of Arapahoe, State of Colorado v. The City and County of Denver, a municipal corporation.* Declaratory judgment suit regarding an ordinance. Attorney General served but elected to make no appearance.
7707. *State Highway Department v. Unknown Administrators, Executors, Heirs, etc., of Albert Birbeck, Deceased, et al.* Highway condemnation suit. Pending.

### Bent County

- ..... *The Las Animas Consolidated Canal Company v. Hinderlider, et al.* Concerning water rights. Pending.
- ..... *Joseph Kasza, Jr., v. F. R. Carpenter, et al.* Declaratory judgment re Chap. 16, Vol. 2, 1935 C.S.A. Pending.

### Boulder County

- ..... *In the Matter of the Estate of Ira M. DeLong, Deceased.* Last will and testament, rights of Regents of the University of Colorado. Settled.

Docket  
Number

10101. *Bedford, as Treasurer of the State of Colorado, v. Berueffy.* Action to recover service taxes due the state. Judgment for plaintiff.
10652. *Grant Hunter, et al. v. T. J. Chandler, et al.* To quiet title. No appearance necessary on behalf of the state.

### Chaffee County

3345. *The Sunnyside Park Ditch Co. v. Hinderlider, et al.* Determination of water rights. Pending.
3588. *Claude Haley v. W. W. Ireland and Lurton Holman.* Conversion of the carcass of a cow elk. Pending.

### Costilla County

1081. *The San Luis Power and Water Company, a corporation, and Malcolm Lindsey, as Receiver, v. The Board of County Commissioners of the County of Costilla.* Petition in intervention by Tax Commission for abatement of taxes and revaluation of lands and properties of plaintiff company. Pending.

### City and County of Denver

- ..... *Weaver v. Mitchell, et al.* To quiet title. Pending.
- ..... *Buchanan, et al. v. Kirschwing, et al.* Declaratory judgment re city ordinance. Judgment for plaintiffs.
- ..... *Holbrook v. State Board of Examiners of Architects, et al.* Issuance of an architect's license. Pending on motion to dismiss.
- ..... *C. J. Herbertson v. Cruse, et al.* Declaratory judgment re sales and service taxes. Pending.
- ..... *Nelson v. Rubin, et al.* To quiet title. Pending.
- ..... *Flanders, on behalf of himself and others, v. Lavington, as Treasurer of the State of Colorado.* Concerning salary of District Attorney now in armed forces. Dismissed on defendant's motion.
- ..... *Ireland, et al. v. Oriental Refining Co., a corporation.* Attachment for motor fuel taxes. Judgment for defendant. In process of appeal.
- ..... *The Colorado Milling & Elevator Company, a corporation, v. Witter, Wood, et al.* To quiet title. No appearance necessary on behalf of the state.

Docket  
Number

- ..... *D. C. Neuman v. L. J. Bennett, as Secretary of State and ex officio State Licensing Authority, and Josephine Battiste.* To enjoin from using state liquor license. Pending.
- ..... *John P. James v. The State Civil Service Commission, et al.* Declaratory judgment as to Civil Service rights. Judgment for defendant.
- ..... *E. H. Sherman, on his own behalf and others similarly situated, v. City and County of Denver, et al.* Involving a city ordinance. No appearance on behalf of the state.
- ..... *Shirley Foster, Infant, by Lloyd Foster and Arlene Foster, her father and mother, and as her next friends, v. Colorado State Highway Department, et al.* Damages for Personal injuries. Pending.
- ..... *Ruth D. Culver and Everett Gimer v. Alice Greer, et al.* To quiet title. No appearance necessary on behalf of the State.
- ..... *Spears Free Clinic and Hospital for Poor Children, Inc., v. Ray L. Drinkwater, et al., as State Board of Health.* To compel defendants to permit opening of hospital. Dismissed. Pending on plaintiff's decision to appeal.
- ..... *Peter Hoare v. Fred W. Flebbe, et al.* To quiet title. No appearance necessary on behalf of the state.
- ..... *People of the State of Colorado, ex rel., Blanch George, et al. v. Zimmerman.* Habeas corpus. Pending.
- ..... *Public Service Company of Colorado v. Carpenter.* Sales tax on natural gas. Awaiting decision of United States Supreme Court on natural gas rates.
- ..... *Larson Construction Co. v. Carpenter, et al.* Motor fuel tax refund. Judgment for plaintiff.
- ..... *Ireland, as Attorney General, v. Jacobs, Administrator of the Estate of Bertha M. Leibold, Deceased.* Action to enforce a public trust. Pending.
- ..... *Stohr vs. Carr, Bedford and Vail.* Wage claim. Pending.
- ..... *Epstein v. Central Surety & Insurance Corporation, et al.* Damage action. Pending.
- ..... *Charles A. Meyer v. City and County of Denver, Town of Aurora, et al.* Damages. Pending.
- ..... *Manzanares, Bradley, et al. v. Wilkins, Jankovsky, et al.* To compel certification in civil service positions in place of provisional employees. Pending.

Docket  
Number

- ..... *Ed Haines and S. N. Drum, doing business as Haines Motor Freight, Petitioners, v. Public Utilities Commission, et al.* Public Utilities Matter—Petition for Writ of Review of Certiorari. Judgment for the Defendant.
- A-24863. *Sinclair v. Armstrong.* Declaratory judgment suit re old age pensions. Final decision January 6, 1944. Appealed and consolidated with Logan v. Sinclair case.
- A-28766. *The State of Colorado, ex rel. White, v. Cokano Investment Company.* Securities matter. Injunction issued. Case closed.
- A-28914. *People, ex rel. Lowdermilk, v. Armstrong.* To review the Treasurer's findings on use tax assessments. Satisfaction of judgment.
- A-30337. *R. P. Clark, doing business as Midwest Bureau, v. Morrison, et al.* To compel Secretary of State to issue renewal license to Collection Agency. Court ruled in favor of plaintiff. No appeal taken.
- A-30986. *Chilton v. Wilkins, et al.* To require Civil Service Commission to certify as Director of Liquor Licensing Division. Judgment for the defendants.
- A-32544. *State of Colorado v. Western Union Telegraph Company.* To recover money expended by Highway Department for removal and relocation of pole lines and wires.
- 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. Judgment as to the constitutionality of the statute entered July 6, 1943.
33064. *The People of the State of Colorado v. Walker.* Petition to declare void discharge of Superintendent of State Hospital. Court ordered issuance of alias capias to which Attorney General consented.
- A-33121. *Logan, Blagg v. Davis, et al.* Old age pension matter. Dismissed with prejudice.
- A-33124. *Inter-Mountain Iron and Metal Company, Inc. v. Carpenter.* Certiorari to review decision of Director of Revenue. Settled and closed.
- A-33311. *Public Service Company of Colorado v. State of Colorado.* Condemnation proceedings. Pending.
- A-33533. *Midwest Fuel & Timber Co., a Colorado corporation, v. Carpenter.* To distrain defendant from selling certain personal property for sales taxes. Judgment for defendant.

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- A-34924. *Blagg, Carson, et al., v. City and County of Denver, et al.* Re 85% of liquor taxes taxable in Denver since Jan. 1, 1937, for old age pension fund. Consolidated with *Sinclair v. Armstrong* case.
- 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.* Judgment for plaintiff.
- A-35359. *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. Injunction issued and case closed.
- A-35651. *O. S. Wood v. State Civil Service Commission of Colorado, et al.* Civil Service matter. Judgment for defendants. On appeal.
- A-35852. *Frank J. Carraher and Merle W. Carraher v. Anna L. Guthrie, et al.* To quiet title. No appearance necessary on behalf of the state.
- A-36179. *People of the State of Colorado, ex rel. Curtis White, Securities Commissioner, vs. Cokano Investment Company, et al.* Securities matter. Injunction issued and case closed.
- A-36280. *J. Germaine, doing business as G. & S. Heavy Hauling Co., v. Allied Steel Erection Service Co., Inc., a foreign corporation.* Unpaid service taxes. Settled, paid and closed.
- A-36511. *Barbara C. Perry v. Watson E. Bowes, et al.* To quiet title. No appearance necessary on behalf of the state.
- A-36638. *O. S. Wood v. State Civil Service Commission, et al.* Requiring defendants to vacate order concerning State Industrial School position. On appeal.
- A-36783. *George E. Martin v. Cruse.* Deficiency assessments on income tax. Closed and satisfied June 18, 1943.
- A-36915. *Ireland, Attorney General, ex rel., State of Colorado, vs. Buckingham Transportation Company of Colorado, et al.* Case settled and dismissed.
- A-36920. *Walter W. Blood v. Albert F. Cruse, Director of Revenue.* Appeal on income tax liability. Dismissed without prejudice.
- A-37102. *Thomas J. Fleming and Louisa H. Fleming v. Margaret Coleman, et al.* To quiet title. Disclaimer filed on behalf of the state.
- A-37158. *Pauline Weare Gano v. Lavington, Cruse.* Appeal on income tax ruling. Judgment for plaintiff. On appeal to Supreme Court.

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Number

- A-37265. *T. V. O'Connor v. Albert F. Cruse, C. H. Gunn, et al.* Revocation of driver's license. Tried. No appeal taken.
- A-37266. *Mining Process and Patent Company, a Delaware corporation, v. Lavington, et al.* Income tax appeal. Paid in full, dismissed at plaintiff's cost.
- A-37373. *American Federation of Labor, et al. v. W. I. Reilly, et al.* Labor peace bill. Statute held constitutional except for incorporation provisions.
- A-37376. *Gail L. Ireland, Attorney General, ex rel., State of Colorado, v. F. W. Hartell, The Hartell Truck Lines, Inc., et al.* Motor fuel tax. Settled and paid.
- A-37634. *The Colorado Motor Carriers Association v. Charles D. Vail, et al.* To restrain defendants from issuing schedule of fees. Injunction dismissed.
- A-37646. *Denver Terra Cotta Company v. Albert F. Cruse.* Income tax matter. Judgment for plaintiff. Closed.
- A-38388. *Fred Ristau v. Industrial Commission of the State of Colorado (Ex-Officio Unemployment Compensation Commission) Department of Employment Security, Raymond O. Hope, et al.* Concerning plaintiff's claims for unemployment benefits and his right to refuse work offered him if such work is non-union. Appeal from decision of Industrial Commission. Pending.
- A-38580. *S. T. Steinmetz v. Annie McIntosh, et al.* Action to quiet title. No appearance necessary on behalf of the state.
- A-38916. *People, ex rel. Sullivan, et al., as State Civil Service Commission, v. Shackelford.* Civil Service rights. Pending decision to appeal. Attorney General elected to make no appearance in the case.
- A-38940. *Walter C. Tegtmeyer, Jr., v. L. J. Bennett, et al.* Mandamus on liquor license. Judgment for defendant.
- A-39035. *Adelia F. Much vs. State Employes Retirement Association, et al.* Employees retirement benefits. Dismissed on plaintiff's motion with prejudice.
- A-39056. *John R. Redmon, et al., v. Roy A. Davis, et al.* Old age pension matter. Action to declare the burial statute unconstitutional and for damages for alleged deficiency. Motion to strike sustained. On appeal.
- A-39063. *Champlin Refining Company vs. Albert F. Cruse.* Motor fuel refund. Judgment for defendant. On appeal.

Docket  
Number

- A-39603. *Dr. Rachel H. Gates, et al. v. Colorado State Board of Chiropractic Examiners, et al.* Declaratory judgment suit concerning chiropractic matter. Dismissed with prejudice. Parties paid own costs.
- A-39627. *Colorado Blue Print Paper and Supply Company, a corporation, v. Albert F. Cruse, et al.* Service and sales tax. Consent judgment entered.
- A-39645. *Colorado Chiropractic Association, a non-profit corporation, v. Ray L. Drinkwater, et al.* Declaratory judgment re vital statistics. Pending.
- A-39799. *The Stayput Clamp and Coupling Company v. Albert F. Cruse, et al.* Income tax deficiency. Judgment for plaintiff. On appeal.
- A-40044. *Louis Jerry Novak, et al. v. The Colorado Masons Benevolent Fund Association, et al.* To quiet title. Judgment for defendants. Appealed.
- A-40228. *The American National Bank of Denver, a national banking association, as Trustee of Funds for the care and maintenance of "Tower of Memories," v. Tower of Memories Association, et al.* Consolidation of a trust. Pending.
- A-40724. *Knight-Campbell Music Company v. State of Colorado and Leon E. Lavington.* Appeal from assessment of additional income tax. Awaiting trial.
- A-40745. *The People of the State of Colorado v. National Surety Corporation.* To recover on bond. Judgment for plaintiff. Judgment satisfied.
- A-40751. *The People of the State of Colorado v. Timbel, et al.* To recover on bond. Barber Board matter. Judgment in favor of plaintiff. Judgment satisfied.
- A-40756. *Magdalene C. Roff v. N. R. McCreery, et al., as Civil Service Commission.* Civil service reclassification. Judgment for defendant.
- A-40923. *The City Realty Company, a Colorado corporation, v. City and County of Denver, a municipal corporation, et al.* Lien foreclosure, service taxes. Disclaimer filed, case closed.
- A-41069. *J. C. Jarrett and W. H. Bunning, et al. v. Albert F. Cruse, Director of Revenue for the State of Colorado.* Service tax. Pending.
- A-41104. *North Denver Development Company, Inc. v. William C. Arndt, et al.* Complaint to quiet title. No interest.



Docket  
Number

- A-41564. *Harold F. Collins, President, et al., as State Board of Land Commissioners, v. The Town of Holyoke.* Principal and interest due on local improvement bonds. Judgment for plaintiff.
- A-41925. *The Bishop and Diocese of Colorado, a Nonprofit Religious Corporation and Corporate Trustee of a Charitable Trust, and Frederick W. Oakes, v. The Honorable Gail L. Ireland.* Oakes trust termination, asking direction as to disposition of a charitable trust. Awaiting trial.
- A-42320. *Utah Fuel Company, a corporation, v. The State Treasurer of the State of Colorado, and the Director of Revenue.* Income tax appeal. Pending.
60759. (County Court.) *People v. Hennen.* Incompetency. Pending.
73300. *In the Matter of the Estate of Sadie B. Raymond, deceased.* Estate. Pending.

**Dolores County**

630. *Harry Rogers v. Arvel Taylor, et al.* Suit to quiet title. Inheritance tax involved. Judgment for the plaintiff.
653. *Byron A. Thomas v. L. F. Perry, et al.* To quiet title. No appearance necessary on behalf of the state.

**Douglas County**

1478. *David S. Cramer v. Helen Mahan, et al.* To quiet title. Pending.

**Eagle County**

- ..... *State Highway Department of the State of Colorado v. James Langton, et al.* Highway condemnation case. Pending.
1030. *Ellis v. State Treasurer.* State income tax determination. Pending.
1036. *McNulty v. Robson, et al.* Condemnation suit. Pending.
1041. *State Highway Department of the State of Colorado v. Robson, et al.* Condemnation suit. Pending.

**Elbert County**

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

Docket  
Number

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

..... *Bruce E. Younger v. John H. Morrison, et al.* To quiet title. No appearance necessary on behalf of the state.

..... *Pearl Brumley v. William L. McIntire, et al.* To quiet title. Pending.

..... *Board of County Commissioners of the County of El Paso, et al. v. Hall, et al.* Highway condemnation suit. Tried. Pending on motion for new trial.

..... *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. Settled.

T-323. *In the Matter of the Estate of Alice B. Taylor, Deceased.* Estate. Pending.

L-438. *In the Matter of the Estate of Ida Laycock, Deceased.* Sales and service tax claims against the estate. Final distribution made, case closed.

20630. *The Board of County Commissioners of the County of El Paso v. The Pikes Peak Cottage City Corporation, et al.* Condemnation proceedings. Referred to commission.

23772. *Edgar J. Marston v. Albert F. Cruse.* Deficiency income tax. Judgment for plaintiff. Appealed.

23584. *Francis P. Loveland v. The State of Colorado, et al.* Oil royalty income tax refund. Judgment for plaintiff.

23851. *W. W. Johnson, also known as Walter W. Johnson, v. M. Dermody, The State of Colorado, et al.* To quiet title. No appearance necessary on behalf of the State.

24032. *L. G. Handle and Rory A. Handle, his wife, v. Arthur B. Waterman, et al.* To quiet title. No appearance necessary for state.

24221. *John F. Bensberg, also known as John Francis Bensberg, v. L. J. Bennett, as Secretary of the State of Colorado, C. H. Gunn, as Chief of the Motor Vehicle Bureau, et al.* Concerning plaintiff's right to operate a motor vehicle on the highways of the state.

Docket  
Number

24448. *William R. Green and LaVerne E. Green v. Antonio Rochio, et al.* To quiet title. No appearance necessary on behalf of the state.
24507. *William J. Christian, also known as Mike Christian, v. Alfred D. Vanarsdale, et al.* To quiet title. No appearance necessary on behalf of the state.
24525. *Frank W. Pring v. S. S. Hatfield, et al.* To quiet title. No appearance necessary on behalf of the state.
24646. *Peter J. Paoli v. Charles W. Myres, et al.* To quiet title. No appearance necessary on behalf of the state.
24647. *Mary E. Perkins v. Charles W. Myres, et al.* To quiet title. No appearance necessary on behalf of the state.
24689. *Mary Elizabeth Perkins v. Charles W. Myres, et al.* To quiet title. No appearance on behalf of the state.
24757. *The Wood Estate Corporation, a Colorado corporation, vs. James P. Curtis, et al.* To quiet title. Pending.

### Fremont County

- ..... *In the Matter of William Anderson confined in The Colorado State Penitentiary.* As to jurisdiction over an insane person. Petition upheld.
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.* Water claims. Pending.
5729. *Byron Wolff v. Roy Best, et al.* Petition for writ of Habeas Corpus. Petition denied.
5749. *The Canon Heights Irrigation and Reservoir Company, a corporation, v. M. C. Hinderlider, et al.* Water rights. Pending.
5752. *In the Matter of the Application of John Garcia for a Writ of Habeas Corpus.* Petition dismissed. On appeal.

### Garfield County

3714. *In the Matter of the Application of Stanley Hahnewald for a Hearing in the Matter of the Attempted Suspension of his Drivers License by the Department of Revenue, Motor Vehicle Bureau.* Petition for restoration of driver's license. Petition granted.

Docket  
Number

### 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 and The State Highway Department of the State of Colorado v. Benedict Kimber, et al.* Condemnation proceedings. 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, Charles Cox, 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.

### Hinsdale County

- ..... *Roy D. Golston vs. Nathan Frank, Trustee, et al.* To quiet title. No appearance necessary on behalf of the state.

### Huerfano County

- ..... *Fidelia Tolmich, for herself and Nick Valdez, et al., v. The State Department of Public Welfare, and the Board of County Commissioners of Huerfano County.* For old age assistance. Pending.

### Jefferson County

- ..... *Walter A. Hopkins v. Daniel M. Sullivan, et al.* Civil service matter. Pending on appeal.
- ..... *Luella Glover Keeler vs. D. K. Orner, et al.* Action to quiet title. No appearance necessary on behalf of the state.

Docket  
Number

- ..... *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.
- ..... *The Board of County Commissioners of Jefferson County and The State Highway Department of the State of Colorado v. Clarence A. Spring, et al.* Condemnation suit. 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.
3967. *Board of County Commissioners of Jefferson County, 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.
3981. *The Board of County Commissioners of The County of Jefferson, and the State Highway Department 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 proceedings. 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 in the State of Colorado, and the State Highway Department of the State of Colorado v. Margaret E. Burke, et al.* Condemnation proceeding. Pending as to some respondents.
4829. *Board of County Commissioners of the County of Jefferson and the State Highway Department of the State of Colorado v. John Matthews and Grace Matthews.* Highway condemnation proceedings. Pending.
5020. *William Frank Smith, a minor, by Laura Williamson, his mother as Natural Guardian and next friend vs. Hon. Earl W. Haskins, County Judge of Otero County, and H. A. LaMoure, Superintendent of the State Home and Training School for Mental Defectives.* Action for release from custody. Released.

Docket  
Number

### Kiowa County

1447. *John W. Baughman v. Elizabeth E. Wass, et al.* To quiet title. No appearance necessary on behalf of the State of Colorado.

### Kit Carson County

- ..... *Harold F. Collins, et al., as State Board of Land Commissioners, v. L. M. Bushart, County Treasurer of Kit Carson County, et al.* Taxes on property taken by State Land Board. Pending.
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.* To recover on bond. Pending.

### Las Animas County

- ..... *Albert F. Cruse, as Director of Revenue of the State of Colorado, v. Town of Aguilar, Colorado, and Mary Lloyd, Treasurer of the Town of Aguilar.* Liquor license delinquency. Pending.
15431. *The State of Colorado and Charles M. Armstrong, as Treasurer of the State of Colorado, v. The Mountain States Oil Corporation, et al.* Judgment for the state. Paid, closed.
15795. *The Phillip Schneider Brewing Company v. Sandoval, as County Assessor of Las Animas County; Colorado Tax Commission, Intervenor.* Taxes. Judgment for defendants. Notice of appeal served.

### Lake County

- ..... *In the Matter of Charles Kutzleb, deceased.* Shortage of motor vehicle fees. Pending.
6510. *The Board of County Commissioners of the County of Lake, State of Colorado, State Highway Department of Colorado, vs. W. E. Callahan Construction Company, et al.* Condemnation proceeding. Pending.

### 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.
5014. *B. J. Oschner v. Robert P. Buchanan, W. D. Ewing, et al.* Foreclosure of a trust deed. Settled and closed.

Docket  
Number**Larimer County**

- .....*Board of County Commissioners of the County of Larimer and the State Highway Department of the State of Colorado v. Grace E. Lange, et al.* Highway condemnation proceeding. Settled.
8612. *Ella Pedigo, et al. v. G. W. Cunningham, The Board of County Commissioners of the County of Larimer, et al.* To quiet title. No appearance necessary on behalf of the state.
8651. *Hedwig Meier v. John H. Meier, et al.* To quiet title. No appearance necessary on behalf of the state.
8735. *Harry H. Harbison v. James Rodgers, et al.* To quiet title. No appearance necessary on behalf of the state.
8834. *Nichols Dinkel, Regina Dinkel, et al. v. Mrs. Elizabeth Garber, et al.* To quiet title. No appearance necessary on behalf of the state.
8886. *Joe I. Salazar v. Christ J. Ahlbrandt, et al.* To quiet title. No appearance necessary on behalf of the state.

**Mesa County**

- ..... *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.
- ..... *The Board of County Commissioners of Mesa County and The State Highway Department of The State of Colorado v. Judd Miller, et al.* Highway condemnation proceedings. Pending.
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.
6860. *The State Highway Department of the State of Colorado v. The Estate of George Moffet, Deceased; James S. Moffet, Administrator, et al.* Highway condemnation suit. Tried to Commissioners. Rule and decree in eminent domain signed and filed March 25, 1943.

**Moffat County**

- 998 *The R.F.C. Mortgage Company v. The Cosgriff Hotel Corporation, et al.* Sales tax collection. Unemployment tax collection. Settled, paid and closed.

Docket  
Number**Montezuma County**

- ..... *S. H. Phlegar v. J. W. Lavender, J. Redman, State of Colorado, et al.* To quiet title. No appearance necessary on behalf of the state.
1347. *D. C. Thomas v. Harvey C. Wallace, et al.* Action to quiet title. Pending.
1370. *L. H. Chastain v. Claude H. Wilson, et al.* To quiet title. State filed waiver and disclaimer.
2384. *Edward D. Hunter v. C. H. Gunn, as Chief of Motor Vehicle Department.* Motor vehicle operator's license. Judgment for plaintiff. On appeal.

**Montrose County**

5480. *Randolph Kittleson v. E. E. Smith, et al.* To quiet title. Disclaimer filed by state.
5656. *In the Matter of the Petition of Jess D. Corbin for Hearing on Suspension of Automobile Operator's License.* Judgment for plaintiff.
- ..... *Agnes Berry Hayes v. William Willis, et al.* To quiet title. No appearance necessary on behalf of the state.

**Morgan County**

6879. *Lloyd W. Mitchell v. Board of County Commissioners of Morgan County, and State Highway Department of the State of Colorado.* Judgment for petitioner. Appealed.

**Otero County**

- ..... *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.
4706. *Charles M. Armstrong, as Treasurer of the State of Colorado, v. Delos D. Potter. Remanded from the Supreme Court.* Concerning service taxes for professional services. Judgment satisfied.

**Ouray County**

- ..... *E. W. Creel and Mable C. Creel v. Margaret Dall Spencer, et al.* To quiet title. No appearance necessary on behalf of the state.



Docket  
Number**Park County**

- ..... *Albert F. Cruse v. Town of Alma and Virginia Thibodia, Treasurer.* Liquor license, old age pension funds. Judgment for plaintiff.
3087. *The State Highway Department of the State of Colorado v. Mary E. Seeley, Frank G. Davis, et al.* Condemnation suit. Pending.
3138. *Bert L. Swisher v. The State Highway Department.* Highway case involving damage suit. Pending on motion to dismiss.
3139. *Marie Arthur, et al., v. The City and County of Denver, a Municipal Corporation, et al.* Water rights. Pending.

**Prowers County**

- ..... *Albert F. Cruse, as Director of Revenue of the State of Colorado, v. The Town of Holly and Sam S. Smith, as Mayor of the Town of Holly.* Liquor tax delinquency. Paid in full.

**Pueblo County**

- ..... *Lucile F. Klancher v. Dr. F. H. Zimmerman, as Superintendent of the Colorado State Hospital. Habeas Corpus.* Petitioner ordered discharged with consent of the Attorney General, committing judge concurring.
27388. *The Walter Brewing Company, a corporation, v. Walter F. Morrison, as Secretary of State and as Licensing Authority under the Liquor Code of 1935.* To enjoin Secretary of State from enforcing liquor regulation. Temporary injunction entered. At issue.
27618. *Robert R. Rapalje, d/b/a R.W.T. Motor Service v. Bernard E. Teets, as Executive Director of the Department of Employment Security, et al.* Concerning constitutionality of Section 19(f)(3) of the 1939 Colorado Employment Security Act. Court held that the acquisition of the organization, trade or business by one of the employing units in the said case did not occur as contemplated in the law, and that there was therefore no liability. Decision affirmed by Supreme Court.
28041. *The Star-Journal Publishing Corporation, a corporation, vs. Farrington R. Carpenter, as Director of Revenue.* Income tax refund. Judgment for plaintiff. Satisfied and paid.
28146. *F. R. Carpenter, as Director of Revenue of the State of Colorado, vs. H. L. Kendig.* Motor Fuel Tax collection. Collection made, case closed.

Docket  
Number

28161. *Carl H. Spannaus, et al v. All Unknown Heirs at Law, Devises, Legal Representatives of O. F. Nelson, Deceased.* To quiet title. No appearance necessary on behalf of the state.
28165. *Charles E. Bryant, et al. v. The Denver Bond and Security Company, et al.* To quiet title. No appearance made on behalf of the state.
28090. *Groff v. Zimmerman.* Damages for unlawful imprisonment. Dismissed.
28426. *Louis J. Beck, et al. v. Robert Peale, et al.* Action to quiet title. No appearance necessary on behalf of the state.
28483. *Jasper Giadone v. Tom Giadone, et al.* Action to quiet title. No appearance necessary on behalf of the state.
29182. *Florence Godell v. Dr. F. H. Zimmerman.* Habeas Corpus. Petitioner released and discharged.
29307. *Joseph J. Frawley v. Dr. F. H. Zimmerman.* Habeas Corpus. Petition dismissed, writ quashed.

### Saguache County

- ..... *In the Matter of the Estate of Jacob A. Bennington, Deceased.* Land Board rental claim. Paid in full.

### San Miguel County

1685. *Albert F. Cruse, as Director of Revenue of the State of Colorado, v. City of Telluride, George H. Goldsworthy, et al.* Collection of liquor license tax. Awaiting trial.

### 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 for the Highway Department. Pending.
4691. *Pearl V. Turner v. T. Blakeslee, et al.* To quiet title. No appearance necessary on behalf of the state.

### Washington County

375. *Rezie E. Bennett and Chauncey A. Bennett v. The Unknown Heirs at Law and Devises, et al., of Henry W. Bowen, Deceased.* To quiet title. No appearance necessary on behalf of the state.

Docket  
Number

2713. *The People of the State of Colorado v. F. W. Loftiss. Land Board matter.* Findings and judgment for plaintiff. Claim paid in full.

### Weld County

- ..... *Albert F. Cruse, as Director of Revenue of the State of Colorado, v. The Town of Evans and E. F. Overman, Town Clerk,* Old age pension funds, liquor license funds. Pending.
- ..... *State Highway Department and Roy J. Randall vs. Earl Collins.* Accident involving State Highway car. Pending.
- 2350-C. *The People of the State of Colorado v. Carmelia Solano.* Transfer of custody of a mental defective. Pending.
10025. *The Board of County Commissioners of Weld County v. Mrs. S. L. Syes, Lizzie J. McKinley, et al.* Condemnation suit. Pending.
10327. *Reconstruction Finance Corporation, a corporation organized and existing under an Act of Congress of the United States of America, vs. The Midwest Fuel and Timber Co., State of Colorado, et al.* To foreclose the lien of a deed of trust. Sales and unemployment taxes involved. Awaiting appeal.

## WORKMEN'S COMPENSATION CASES IN THE DISTRICT COURTS OF COLORADO

### Denver County

Title	No.	Judgment of District Court
<i>Fleming v. Ind. Com., Cresson Consolidated Gold Mining and Milling Company, et al.</i> .....	A-41847	Pending
<i>Clayton Coal Company, et al. v. Morrison and Ind. Com.</i> .....	A-41842	Pending
<i>The National Fuel Company, et al., v. Leturges and Ind. Com.</i> .....	A-41800	Pending
<i>The Rocky Mountain Fuel Company et al., v. Santerli and Ind. Com.</i> .....	A-41727	Pending
<i>Hooks v. Remington Arms Company, Inc., Ind. Com., et al.</i> .....	A-41584	Pending
<i>Richardson v. Ind. Com., General Iron Works Company, et al.</i> .....	A-41572	Pending
<i>The Colorado Fuel and Iron Corp. v. Ind. Com., Talmich</i> .....	A-41475	Dismissed on stipulation
<i>Aaron, et al., v. Frankel Carbon and Ribbon Company, Ind. Com., et al.</i> ....	A-40632	Award set aside
<i>National Lumber and Creosoting Company v. Kelly and Ind. Com.</i> .....	A-40466	Award set aside Remanded to Com.
<i>Moffat Coal Company, et al., v. Leskaras and Ind. Com.</i> .....	A-40072	Award set aside
<i>MacGregor, et al., v. A. Carbone and Company, Ind. Com., et al.</i> .....	A-39719	Award set aside (Appealed to Sup. Ct.)
<i>Duke v. Ind. Com., The Great Western Sugar Company, et al.</i> .....	A-39791	Award affirmed
<i>Rensick v. Ind. Com., Denver County School District No 1, et al.</i> .....	A-39517	Pending
<i>Hayden Coal Company, et al., v. Ind. Com., and Williams</i> .....	A-39509	Award set aside (Judgment reversed in Sup. Ct. Dec. 18, 1944, and cause remanded with instructions)
<i>Warner Construction Company, et al., v. Ind. Com., and Smith</i> .....	A-39178	Pending
<i>The Gates Rubber Company v. The Ind. Com., and Mambourg</i> .....	A-38784	Award affirmed (Judgment affirmed by Sup. Ct.)
<i>Wennerholm v. Ind. Com., School Dist. No. 1 in the City and County of Denver, et al.</i> .....	A-38609	Pending
<i>Contes, et al., v. Metros and Ind. Com.</i> ...	A-36416	Award affirmed (Judgment affirmed by Sup. Ct.)
<i>Moffat Coal Company, et al., v. Giankos and Ind. Com.</i> .....	A-38309	Award affirmed (Judgment affirmed by Sup. Ct.)
<i>Western Auto Supply Company, et al., v. Washburn and Ind. Com.</i> .....	A-38234	Award affirmed (Reversed in Sup. Ct.)
<i>Fotis, et al., v. Ind. Com., The Boulder Valley Coal Company, et al.</i> .....	A-38235	Award set aside (Judgment affirmed in part and reversed in part by Sup. Ct.)

Title	No.	Judgment of District Court
<i>Kamp v. Ind. Com., and Disney</i> .....	A-34788	Award affirmed (Judgment Sup. Ct.) affirmed by
<i>The William E. Russell Coal Company, et al. v. Zinge, Sr., and Ind. Com.</i> .....	A-37873	Award affirmed (Judgment Sup. Ct.) affirmed in
<i>Johnson v. The Denver Tramway Corporation and Ind. Com.</i> .....	A-37764	Case remanded to Com. for further hearing, now pending in Dist. Ct.
<i>Beckley v. Ind. Com., et al.</i> .....	A-37503	Award affirmed (Judgment Sup. Ct.) affirmed by
<i>Resler Truck Line v. Ind. Com. and O'Neill</i> .....	A-37273	(Pending on appeal in Sup. Ct.)
<i>State Compensation Insurance Fund, et al., v. Jacobson and Ind. Com.</i> .....	A-37089	Award affirmed
<i>Kofsky v. Armour and Company and Ind. Com.</i> .....	A-36986	Dismissed
<i>Stewart v. Ind. Com., et al.</i> .....	A-36791	Award set aside and remanded to Com.
<i>Hannum v. Ind. Com., et al.</i> .....	A-36679	Award affirmed
<i>Logenbaugh v. Ind. Com., et al.</i> .....	A-36636	Pending
<i>Contes, et al., v. Metros and Ind. Com.</i> ...	A-38313	Award affirmed (Judgment Sup. Ct.) affirmed by
<i>Sommers, et al., v. Borgmann and Ind. Com.</i> .....	A-36318	Award affirmed (Judgment Sup. Ct.) affirmed by
<i>Moffat Coal Company, et al., v. Weberskirch and Ind. Com.</i> .....	A-36161	Award set aside (Judgment Sup. Ct.) affirmed by
<i>Martin, et al., v. Malcy and Ind. Com.</i> ...	A-35816	Award set aside (Judgment Sup. Ct.) affirmed by
<i>Pacific Employers Insurance Company, et al., v. Kirkpatrick, et al.</i> .....	A-35793	Award affirmed (Judgment Sup. Ct.) affirmed by
<i>Hygienic Service Company, et al., v. Wagner, Ind. Com., et al.</i> .....	A-35800	Dismissed
<i>The Fidelity &amp; Casualty Co. of New York, et al., v. Ind. Com., Platt Rogers, Inc., et al.</i> .....	A-35781	Award affirmed
<i>Kokel v. Ind. Com., et al.</i> .....	A-30459	Award set aside (Judgment reversed in Sup. Ct. Cause remanded with instructions)
<i>Kirkpatrick v. Ind. Com., et al.</i> .....	A-35675	Dismissed and tried under case No. A-35793
<i>Graden Coal Company, et al., v. DiSalle and Ind. Com.</i> .....	A-35479	Remanded to Com.
<i>Kohne v. The Cudahy Packing Company and Ind. Com.</i> .....	A-35272	Award affirmed
<i>Hardin, et al., v. Jump and Ind. Com.</i> ...	A-35251	Award set aside
<i>Warner v. Mullens and Ind. Com.</i> .....	A-34903	Award affirmed (Judgment Sup. Ct.) affirmed by
<i>Aetna Casualty and Surety Company, et al., v. Ind. Com., and Hatfield, et al.</i> ...	A-34572	Award affirmed (Judgment Sup. Ct.) affirmed by

Title	No.	Judgment of District Court		
<i>Midwest Fuel and Timber Company v. Massa and Ind. Com.</i> .....	A-34534	Award affirmed		
<i>Midwest Fuel and Timber Company v. Meskeu and Ind. Com.</i> .....	A-34535	Award affirmed		
<i>Garret, et al., v. Black Forest Fox Ranch, Ind. Com., et al.</i> .....	A-33964	Award set aside (Judgment Sup. Ct.)	reversed	by
<i>Wilkowski v. Ind. Com., et al.</i> .....	A-32978	Award affirmed (Judgment Sup. Ct.)	affirmed	by
<i>Pitchforth, et al., v. Macomb and Ind. Com.</i> .....	A-33024	Award affirmed (Judgment Sup. Ct.)	reversed	by
<i>Cordillo v. Ind. Com., General Machinery and Supply Company, et al.</i> .....	A-33037	Award affirmed (Judgment Sup. Ct.)	affirmed	by
<i>Armour &amp; Co., et al., v. Ind. Com. and Tanko</i> .....	A-33940	Award affirmed Judgment in favor of De- fendants Case remanded Dec. 4, 1942		
<i>Blossom v. City and County of Denver.</i> ..	A-25962	Case remanded to Com. Jan. 16, 1940 Refiled with Dist. Ct. April 10, 1940 Dismissed under Rule 18 Nov. 5, 1942		
<i>Briggs v. Ind. Com., et al.</i> .....	A-18743	Dismissed under Rule 18 on Oct. 17, 1938. Files re- manded to Ind. Com. Nov. 17, 1938		
<i>Busheff v. Ind. Com., et al.</i> .....	A-30257	Pending		
<i>Carroll v. Ind. Com., et al.</i> .....	A-25797	Jan. 15, 1940, Supplemental award of Aug. 9, 1939, set aside and case remanded to Com. Dec. 9, 1940. Judg- ment in favor of Defend- ants affirming award and supplemental award of Com. Jan. 3, 1941. Files remanded to Com.		
<i>Castelone v. Ind. Com., et al.</i> .....	A-24190	Jan. 23, 1940. Cause remanded to Com. with instructions to modify its award after hearing and case to be re- turned to Dist. Court.		

### San Miguel County

<i>Belger, et al., v. Veta Mines, Incorpo- rated, Ind. Com., et al.</i> .....	1665	Pending		
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### Teller County

<i>The Joe Dandy Mining Company v. Ind. Com., Bunch, et al.</i> .....	4675	Award affirmed (Judgment Sup. Ct.)	affirmed	by
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### Clear Creek County

<i>Menegatti v. Ind. Com., et al.</i> .....	9203	Award set aside (Judgment Sup. Ct.)	affirmed	by
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**Routt County**

Title	No.	Judgment of District Court
<i>Bubang v. The Victor-American Fuel Company and Ind. Com.</i> .....		Award affirmed

**Pueblo County**

<i>Brown v. The Colorado Fuel and Iron Corporation, Ind. Com., et al.</i> .....		Award affirmed (Judgment Sup. Ct.)	affirmed	by
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**Boulder County**

<i>Betz v. Ind. Com., Kuner Empson Company, et al.</i> .....	10489	Award set aside (Judgment Sup. Ct.)	affirmed	by
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**Huerfano County**

<i>Talmich v. Ind. Com., et al.</i> .....	2549	Pending		
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**ESCHEAT CASES****Adams County**

*Estate of Carl Martin Christiansen, Deceased.*  
Pending.

**Arapahoe County**

*Estate of William Ford, Deceased.*  
Estate closed and money paid to State Treasurer.

*Estate of Peter Fransen, Deceased.*  
Pending.

*Estate of August Wilhelm Mokler, Deceased.*  
Pending.

*Estate of Bernhardt Petersen, Deceased.*  
Pending.

*Estate of Martha A. Williams, Deceased.*  
Estate closed and money paid to State Treasurer.

**Boulder County**

*Estate of Willis E. Cooper, Deceased.*  
Estate closed and money paid to State Treasurer.

*Estate of Lafayette B. Harris, Deceased.*  
Pending.

*Estate of M. H. McVey, Deceased.*  
Pending.

*Estate of Juliana Milburn, Deceased.*  
Pending.

*Estate of Alice L. Rice, Deceased.*  
Estate closed and money paid to State Treasurer.

*Estate of Diana Schaltenbrand, Deceased.*  
Estate closed and money paid to State Treasurer.

**Chaffee County**

*Estate of Steve Stozonich, Deceased.*  
Pending.

**Clear Creek County**

*Estate of George Wahlstrom, Deceased.*  
Pending.



**Crowley County**

*Estate of Florencio Cortez, Deceased.*

Pending.

**Delta County**

*Estate of Albert Ronaky, Deceased.*

Estate closed and money paid to State Treasurer.

**City and County of Denver**

*Estate of Lon Allen, Deceased.*

Pending.

*Estate of Leo Anderson, Deceased.*

Estate closed and money paid to State Treasurer.

*Estate of Mary A. Anderson, Deceased.*

Pending.

*Estate of Elmer Barber, Deceased.*

Pending.

*Estate of May Berry, Deceased.*

Estate closed and money paid to State Treasurer.

*Estate of Frank Beans, Deceased.*

Pending.

*Estate of Tony Berrardi, Deceased.*

Estate closed and money paid to State Treasurer.

*Estate of Judd H. Billings, Deceased.*

Estate closed and money paid to State Treasurer.

*Estate of Leo M. Blair, Deceased.*

Pending.

*Estate of Charles Henry Booth, Deceased.*

Estate closed and money paid to State Treasurer.

*Estate of Mattie A. Boone, Deceased.*

Pending.

*Estate of Joseph Bortolotti, Deceased.*

Estate closed and money paid to State Treasurer.

*Estate of William E. Brennan, Deceased.*

Estate closed and money paid to State Treasurer.

*Estate of William G. Buchannan, Deceased.*

Pending.

*Estate of Margaret E. Carroll, Deceased.*

Pending.

*Estate of Jeanne Chincholle, Deceased.*

Estate closed and money paid to State Treasurer.

*Estate of Birdie Clark, Deceased.*

Estate closed and money paid to State Treasurer.

*Estate of Bartel Connelly, Deceased.*

Pending.

*Estate of Patrick Corbett, Deceased.*

Pending.

*Estate of John P. Cruz, Deceased.*

Pending.

*Estate of Anna S. Cunningham, Deceased.*

Estate closed and money paid to State Treasurer.

*Estate of Harry A. Davis, Deceased.*

Estate closed and money paid to State Treasurer.

*Estate of Marie Lumena Dietemann, Deceased.*

Pending.

*Estate of Walter Douglas, Deceased.*

Pending.

*Estate of Bertha Engle, Deceased.*

Estate closed and money paid to State Treasurer.

*Estate of Fred Feix, Deceased.*

Estate closed and money paid to State Treasurer.

*Estate of John Francis, Deceased.*

Estate closed and money paid to State Treasurer.

*Estate of William Francis, Deceased.*

Estate closed and money paid to State Treasurer.

*Estate of Victoria Fultz, Deceased.*

Pending.

*Estate of Elizabeth Gaskins, Deceased.*

Estate closed and money paid to State Treasurer.

*Estate of Elizabeth L. George, Deceased.*

Pending.

*Estate of John H. Gerber, Deceased.*

Estate closed and money paid to State Treasurer.

*Estate of Michael Gibney, Deceased.*

Pending.

*Estate of Annie Good, Deceased.*

Pending.

*Estate of Martin Hawley, Deceased.*

Estate closed and money paid to State Treasurer.

*Estate of Cora Hay, Deceased.*

Estate closed and money paid to State Treasurer.

*Estate of George Hayes, Deceased.*

Estate closed and money paid to State Treasurer.

*Estate of Louis C. Heller, Deceased.*

Estate closed and money paid to State Treasurer.

*Estate of William L. Hoffman, Deceased.*

Estate closed and money paid to State Treasurer.

*Estate of Louis Holmborg, Deceased.*

Pending.

*Estate of John Humphreys, Deceased.*

Pending.

*Estate of Martin Jelbert, Deceased.*

Estate closed and money paid to State Treasurer.

*Estate of Margaret Jenkins, Deceased.*

Estate closed and money paid to State Treasurer.

*Estate of Kitty Jerome, Deceased.*

Pending.

*Estate of James A. Johnston, Deceased.*

Estate closed and money paid to State Treasurer.

*Estate of John W. Jackson, Deceased.*

Estate closed and money paid to State Treasurer.

*Estate of John Klein, Deceased.*

Pending.

*Estate of Lee Knapp, Deceased.*

Estate closed and money paid to State Treasurer.

*Estate of Caroline Koch, Deceased.*

Estate closed and money paid to State Treasurer.

*Estate of Thomas J. Lahey, Deceased.*

Estate closed and money paid to State Treasurer.

*Estate of William Lewis, Deceased.*

Estate closed and money paid to State Treasurer.

*Estate of Frank B. Light, Deceased.*

Pending.

*Estate of Margaret Machette, Deceased.*

Estate closed and money paid to State Treasurer.

*Estate of Tony Maistrovich, Deceased.*

Pending.

*Estate of Joseph F. Mancel, Deceased.*

Estate closed and money paid to State Treasurer.

*Estate of William McMasters, Deceased.*

Pending.

*Estate of James B. McPherson, Deceased.*

Estate closed and money paid to State Treasurer.

*Estate of Michael Melly, Deceased.*

Estate closed and money paid to State Treasurer.

*Estate of John Miller, Deceased.*

Estate closed and money paid to State Treasurer.

*Estate of George Mollhoff, Deceased.*

Estate closed and money paid to State Treasurer.

*Estate of Angus Morrison, Deceased.*

Pending.

*Estate of Frank C. Murray, Deceased.*

Estate closed and money paid to State Treasurer.

*Estate of Lewis C. Nelsen, Deceased.*

Pending.

*Estate of Laura May Officer, Deceased.*

Estate closed and money paid to State Treasurer.

*Estate of John Charles Patterson, Deceased.*

Estate closed and money paid to State Treasurer.

*Estate of William W. Pifer, Deceased.*

Estate closed and money paid to State Treasurer.

*Estate of John Porfirio, Deceased.*

Pending.

*Estate of John Quinn, Deceased.*

Estate closed and money paid to State Treasurer.

*Estate of Louis Rappos, Deceased.*

Pending.

*Estate of Frank H. Raymond, Deceased.*

Pending.

*Estate of Mabel H. Reiss, Deceased.*

Estate closed and money paid to State Treasurer.

*Estate of John Shanz, Deceased.*

Pending.

- Estate of Caroline Smith, Deceased.*  
Pending.
- Estate of Mary Somerville, Deceased.*  
Estate closed and money paid to State Treasurer.
- Estate of Anna Spangler, Deceased.*  
Estate closed and money paid to State Treasurer.
- Estate of Thomas W. Stone, Deceased.*  
Pending.
- Estate of Julia M. Taylor, Deceased.*  
Estate closed and money paid to State Treasurer.
- Estate of With Thomas, Deceased.*  
Pending.
- Estate of Mike T. Tomich, Deceased.*  
Pending.
- Estate of Belle Tweedale, Deceased.*  
Pending.
- Estate of Arthur Vermillion, Deceased.*  
Pending.
- Estate of Samuel D. Waldron, Deceased.*  
Pending.
- Estate of Marshall Watson, Deceased.*  
Estate closed and money paid to State Treasurer.
- Estate of Paul Weiss, Deceased.*  
Pending.
- Estate of George M. West, Deceased.*  
Pending.
- Estate of Helen C. Wikoff, Deceased.*  
Pending.
- Estate of Carrie L. Williams, Deceased.*  
Pending.
- Estate of John Wright, Deceased.*  
Estate closed and money paid to State Treasurer.
- Estate of Nora Wright, Deceased.*  
Estate closed and money paid to State Treasurer.

**Dolores County**

- Estate of James Best, Deceased.*  
Pending.

**Elbert County***Estate of Nels Johnson, Deceased.*

Pending.

**El Paso County***Estate of Richard Alcock, Deceased.*

Estate closed and money paid to State Treasurer.

*Estate of Anna Blaser, Deceased.*

Pending.

*Estate of M. Imogene McPherson, Deceased.*

Estate closed and money paid to State Treasurer.

*Estate of Abe Olin, Deceased.*

Estate closed and money paid to State Treasurer.

*Estate of John Taylor, Deceased.*

Estate closed and money paid to State Treasurer.

**Fremont County***Estate of Andrew Schmitt, Deceased.*

Pending.

**Garfield County***Estate of Almon Aldrich, Deceased.*

Pending.

**Gunnison County***Estate of Joseph Gasse, Deceased.*

Pending.

*Estate of Edgar Lorenzo Miller, Deceased.*

Estate closed and money paid to State Treasurer.

**Huerfano County***Estate of Martin Chubich, Deceased.*

Pending.

*Estate of John Senicar, Deceased.*

Pending.

*Estate of Emmanuel Sergakis, Deceased.*

Estate closed and money paid to State Treasurer.

**Jefferson County**

*Estate of Frank Korf, Deceased.*

Estate closed and money paid to State Treasurer.

*Estate of Carl Newecezal, Deceased.*

Estate closed and money paid to State Treasurer.

*Estate of Lucy M. Spangler, Deceased.*

Estate closed and money paid to State Treasurer.

**Lake County**

*Estate of John Lintner, Deceased.*

Estate closed and money paid to State Treasurer.

*Estate of Ivan Prcela, Deceased.*

Pending.

**La Plata County**

*Estate of Edward J. Belmer, Deceased.*

Estate closed and money paid to State Treasurer.

*Estate of Andrew J. Oblinger, Deceased.*

Pending.

**Larimer County**

*Estate of Augusta Beck, Deceased.*

Estate closed and money paid to State Treasurer.

*Estate of Anna B. Dorr, Deceased.*

Estate closed and money paid to State Treasurer.

*Estate of Andrew J. Oblinger, Deceased.*

Pending.

**Las Animas County**

*Estate of Antonio Mata, Deceased.*

Pending.

**Lincoln County**

*Estate of Maternus Schafer, Deceased.*

Estate closed and money paid to State Treasurer.

**Mesa County**

*Estate of Charles Francis Neville, Deceased.*

Pending.

*Estate of William Pope, Deceased.*

Pending.

**Moffat County**

*Estate of George Letras, Deceased.*

Pending.

**Montezuma County**

*Estate of Lulu G. Eaton, Deceased.*

Pending.

**Montrose County**

*Estate of James Andrew Daley, Deceased.*

Estate closed and money paid to State Treasurer.

*Estate of Marie Shomin, Deceased.*

Estate closed and money paid to State Treasurer.

**Otero County**

*Estate of Samuel Leras, Deceased.*

Pending.

*Estate of Adella McIntosh, Deceased.*

Estate closed and money paid to State Treasurer.

**Pueblo County**

*Estate of Mary Elizabeth Brown, Deceased.*

Estate closed and money paid to State Treasurer.

*Estate of Walter C. Jackson, Deceased.*

Estate closed and money paid to State Treasurer.

*Estate of Laura McIntosh, Deceased.*

Pending.

**Rio Grande County**

*Estate of Luther Oliver, Deceased.*

Pending.

**Routt County**

*Estate of Leonz Amrein, Deceased.*

Pending.



**Saguache County**

*Estate of Axel Anderson, Deceased.*

Estate closed and money paid to State Treasurer.

**San Miguel County**

*Estate of Andrew B. Divens, Deceased.*

Pending.

*Estate of Louis Golaz, Deceased.*

Pending.

**Teller County**

*Estate of Abe Olin, Deceased.*

Pending.

**Weld County**

*Estate of James Carroll, Deceased.*

Estate closed and money paid to State Treasurer.

*Estate of Peter Croissant, Deceased.*

Estate closed and money paid to State Treasurer.

*Estate of Betty Fritzler, Deceased.*

Estate closed and money paid to State Treasurer.

*Estate of John E. Kinstedt, Deceased.*

Estate closed and money paid to State Treasurer.

*Estate of Anton Prusck, Deceased.*

Estate closed and money paid to State Treasurer.

*Estate of S. Yunsanak, Deceased.*

Pending.

**Yuma County**

*Estate of Florence I. Shaw.*

Pending.

## MISCELLANEOUS

## Justice Court

Before *Frank Brenbarger v. Earl H. Kouns, Director of Colo-*  
 Hon J. D. *rado State Department of Public Welfare.* Claim for  
 Neff Wages. Motion to quash sustained.

## Before the Interstate Commerce Commission

- ..... *In the Matter of the Application of the Atchison, Topeka and Santa Fe Railway Company.* Railroad abandonment. Pending.
- ..... *Southern Wyoming Coal Operators Association, Complainant, Public Utilities Commission, Intervenor, v. Chicago, Burlington & Quincy Railroad Co., et al.* Public Utilities Matter. Pending.

## Before the Public Utilities Commission

6688. *In the Matter of the Application of Wilson McCarthy and Henry Swan, Trustees of the Property of the Denver and Rio Grande Western Railroad Company, for Authority to Construct a Railroad Spur Track Over U. S. Highway 160 at Zinzer, Rio Grande County, Colorado, and to Establish a Public Highway Crossing at Said Point.* Protest. Pending.
6696. *In the Matter of the Application of Colorado Potato Growers Exchange for the Construction of a Railroad Spur Track Over U. S. Highway 160 at Zinzer, Rio Grande County, Colorado, and for Establishment of a Public Highway Crossing at Said Point.* Protest. Awaiting trial.

SCHEDULE III

OPINIONS AND SYLLABI OF OPINIONS

Rendered During the Biennial Period

1943-1944

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 INSURANCE**

Mr. Luke J. Kavanaugh,  
December 23, 1942.

Insurance companies not authorized to do business in Colorado in accordance with Chapter 87 of the 1935 C.S.A. must limit their advertising so as not to transact business or to procure, receive or forward applications by means of the advertising media. If no mention is made of a company or insurance broker, the soliciting of the advertising media for such insurance places the media in the position of an insurance broker.

**2 STATE COLLEGE OF AGRICULTURE  
(Fort Lewis School)**

Mr. Roy M. Green,  
January 7, 1943.

Part of the Fort Lewis lands may be used for an air field for civilian pilot training, assuming that the school has an air training program, so that such use would not be inconsistent with the major purposes of the school. Such land may not be conveyed to the City of Durango.

**3 SCHOOLS—LAND BOARD**

State Board of Land Commissioners,  
January 8, 1943.

A fine collected in Douglas County for the unlawful cutting of trees from the public domain was probably based on Section 115, Chapter 134, but does not come within the provisions of Section 360, Chapter 48, providing a fine for cutting or removing timber from state land. Such fine should be disposed of under the terms of Section 34, Chapter 146, and credited to the County School Fund. The Land Board as a State Board of Forestry is not entitled to such fine.

**4 COUNTY OFFICERS—PSYCHOPATHIC HOSPITAL  
INSANE PERSONS**

Mr. C. P. Rigby,  
January 9, 1943.

A request of transfer of custody made by the Colorado Psychopathic Hospital and filed with the County Court of adjudication leaves the adjudication of insanity; and the person adjudicated would remain ineligible for public office. The County Commissioners should not approve bond of such person as County

Treasurer elect. Art. 14, Sec. 10, of Constitution; Sec. 14, Ch. 59, 1935 C.S.A.

## 5 CERTIFICATES OF INDEBTEDNESS

Hon. Homer F. Bedford,  
January 9, 1943.

Certificates of indebtedness for necessary expenses as authorized by Section 32, Chapter 153, 1935 C.S.A., may be issued after the Legislature convenes until such time as it may properly be assumed that the Legislature may provide for such expenses by proper appropriation.

## 6 COUNTY TREASURER

Hon. E. M. Eagleton,  
Hon. E. H. Stinemeyer,  
January 11, 1943.

The proviso contained in county treasurer's bond, Section 138, Chapter 45, 1935 C.S.A., which protects the treasurer from liability in case of the failure of the depository in which he has deposited public funds will afford protection only in the event the failing depository is one which has been designated and approved by the County Commissioners as provided in Chapter 114, Session Laws of Colorado 1941.

## 7 DEFENSE—PUBLIC FUNDS

Hon. Ralph L. Carr,  
January 12, 1943.

The Colorado Council of Defense in coordinating and cooperating with the war effort and in providing defense for the State of Colorado would have authority to purchase gliders and pay salaries of instructors for the training of glider pilots. Funds for the same would have to be authorized and properly appropriated by the Legislature.

## 8 INSANE PERSONS

Mr. C. P. Rigby,  
January 13, 1943.

A request for trial by a jury following adjudication in lunacy proceedings pursuant to Section 11, Chapter 105, 1935 C.S.A., does not disturb the legality of the adjudication. The adjudication is not revoked until the jury finds contrary to the commission.

**9 INTOXICATING LIQUORS**

Mr. Addison M. Gooding,  
January 14, 1943.

The exception provided by subsection (d), Section 17, Chapter 89, 1935 C.S.A., permitting the sale of intoxicating liquors on Sundays or on Christmas, applies only to cities having a population of 50,000 or more.

**10 STATE BOARD OF LAND COMMISSIONERS**

State Board of Land Commissioners,  
January 19, 1943.

Under the provisions of Section 48, Chapter 146, 1935 C.S.A., the State Board of Land Commissioners does have discretion to determine whether or not to bring foreclosure proceedings. The language of the Constitution is clear in giving such discretion despite the apparent mandatory language of said Section 48.

**11 TAXATION**

Mr. Arthur C. Gordon,  
January 19, 1943.

**(Taxes on Land Condemned by the United States)**

As held by the Supreme Court in the case of *Fishel v. Denver*, 106 Colo. 576, the grantor is liable for all taxes to the date the property was appropriated for a public purpose by condemnation. Sec. 224, Ch. 142, C.S.A. 1935, is inapplicable.

**12 COUNTIES—PUBLIC TRUSTEES—LEGISLATION**

Hon. Stuart H. Lovelace,  
January 23, 1943.

Office of Public Trustee not changed by reclassification of particular county when classification is limited and no mention is made of the office of public trustee nor the office of county treasurer. Sec. 57, Ch. 40, C.S.A. 1935, would control.

**13 TAX DEEDS**

Mr. C. H. Beeler,  
January 25, 1943.

A tax sale certificate holder may redeem at any time before issuance of tax deed from subsequent taxes even though later tax sale certificates are issued and outstanding in the hands of another holder. (*French v. Golston*, 105 Colo. 578.)

## 14

**BANKS AND BANKING**

Hon. Maple T. Harl,  
Jan. 27, 1943.

New legislation is not necessary in order that the state banks referred to in this opinion may protect themselves against liability for valuables in safe deposit boxes. They may do so by special contract or by carrying appropriate insurance.

## 15

**LEGISLATURE—PUBLIC FUNDS  
STATE TREASURER****Legislative Compensation**

Hon. Leon E. Lavington,  
January 29, 1943.

(“Biennial Period”)

The term “biennial period” as expressed in Section 6 of Article V of the Constitution of Colorado, referring to compensation of members of General Assembly, refers to a legislative term and not to fiscal years.

## 16

**STATE INSTITUTIONS**

Senator Charles P. Murphy,  
January 29, 1943.

1. The Legislature cannot abolish the Colorado State Reformatory unless provision is made to replace it by a similar institution in view of the Constitutional mandate contained in Section 1, Article VIII, requiring the state to create and support “reformatory and penal institutions.”

2. Inmates of the State Reformatory can be transferred to the state penitentiary only pursuant to executive order and for one or more of the reasons specified in Subdivision A-2 of Section 11 of the 1941 Administrative Code.

## 17

**LEGISLATURE**

Hon. Averill C. Johnson,  
January 30, 1943.

A constitutional provision or statute containing the expression “two-thirds vote of the members” of house or senate means two-thirds of those elected without deductions for vacancies caused by death, resignation or otherwise.



**18 BUILDING AND LOAN**

Hon. A. C. Johnson,  
February 1, 1943.

Building and Loan Association must hold an annual meeting of their members.

**19 INTOXICATING LIQUORS**

Mr. Leon E. Lavington,  
February 3, 1943.

The county treasurer is the official designated by statute to receive payment of liquor license fees paid into the treasury of a county, and he, in turn, should account therefor to the proper state authority.

**20 EMPLOYEES—SALARIES—INDUSTRIAL COMMISSION**

Mr. Ray H. Brannaman,  
February 3, 1943.

Under the terms of a statement issued by the National War Labor Board and the Commissioner of Internal Revenue, the federal salary freezing regulations do not apply to state employees where salary adjustments were considered necessary to correct maladjustments and inequities and would not raise the salaries above the prevailing level of compensation for similar service in such area or community. Therefore, the certificate of salary changes required by the Federal Act and regulations issued in pursuance thereof need not be filed by any state agency so long as the salary adjustments remain within such limitations.

**21 VITAL STATISTICS**

Mr. Aloysius G. Sanchez,  
February 4, 1943.

Extra clerical help in the county court is paid in the same manner as other clerical help. The docket fees collected in filing delayed birth certificates are disposed of in the same manner as other docket fees.

**22 COUNTIES—SCHOOLS—STATUTES**

Mrs. Inez Johnson Lewis,  
February 5, 1943.

Chapter 148, S. L. 1931, referring specifically to county superintendent, will control over Chapter 76 of the same session, and

compensation of County Superintendent will be governed by Chapter 148, as for that purpose Pitkin County is of the fourth class, not the fifth as provided in Chapter 76 for other county officers.

**23****SCHOOLS**

Mr. Emory L. O'Connell,  
February 5, 1943.

There would be a violation of the constitution in an attempted plan by which third class school districts were to pay tuition for their students attending parochial schools. Such plan would violate the constitutional intent of Section 7, Article 9, forbidding any school district to pay from any public fund or moneys anything in aid of any school controlled by sectarian denomination. Cases from Kentucky and North Dakota cited as authority.

**24****SCHOOLS**

Mr. Joe Perkins,  
February 6, 1943.

How far a library board's authority goes to assistance of branch county libraries and city libraries, Chapter 192 of the 1937 Session Laws construed to mean that the library board has great latitude in rendering assistance to branch libraries.

**25 AUDITOR—STATE COMPENSATION INSURANCE**

Mr. James L. Bradley,  
February 6, 1943.

The State Auditor has the authority to audit the books and accounts of the State Compensation Insurance Fund by virtue of Sec. 43 (b) (1) of the Administrative Code of 1941, which provides as follows:

“(b) The functions of the Department of Auditing shall include, except as otherwise expressly provided by this Act and by the State Constitution, by way of extension and not of limitation:

“(1) Auditing the accounts of all agencies and the general accounts of the State Government.”

**26****INDUSTRIAL COMMISSION**

Industrial Commission of Colorado,  
February 10, 1943.

(Women's Eight Hour Law)

Women employed in filling stations come within the provisions of the Women's Eight Hour Law with a mechanical and mer-

cantile establishment classification. Section 112, Chapter 97, 1935 C.S.A.

## 27                    **MOTOR FUEL TAX—STATE AUDITOR**

Hon. James L. Bradley,  
February 11, 1943.

1. Under Section 3(9), Chapter 187, Session Laws 1941, the Director of Revenue must first determine costs of administration of departments named therein before withdrawal of such costs from gross proceeds.

2. The present balance resulting from illegal withdrawals should be immediately returned to the Motor Fuel Fund for distribution as required by Article X, Section 18, of the Constitution of Colorado, and Section 390(b), Chapter 16, 1935 C.S.A.

3. The determination of cost of administration should be made by the 20th of each month so that the balance may be distributed according to Section 390(b), Chapter 16, 1935 C.S.A.

## 28                    **LIBRARIES—COUNTY LIBRARY BOARDS**

Mrs. Margaret E. Jackson,  
February 15, 1943.

Powers of county library boards. County library boards may contract with privately owned libraries, but public money cannot be used to further privately owned libraries. (Chapter 192, Section 45(a), S. L. 1937.)

## 29                    **TAXATION**

Mr. Clement R. Hackethal,  
February 16, 1943.

### (Tax Sales)

Section 306, Chapter 142, 1935 C.S.A., is mandatory. In requiring certification of warrants for taxes on corporate property assessed by the State Board of Equalization, to be certified to the county where the books are kept, the county treasurer of the county where property is situated, if other than the county where its books and records are kept, is divested of further tax collection authority. A tax sale made by the treasurer of the county where the property is situated is therefore invalid.

## 30

**SCHOOLS**

Mr. L. R. Hickman,  
February 16, 1943.

A resolution of a school board prohibiting from attendance at the public schools all married students would be arbitrary and unenforceable. 63 ALR 1161, 128 Kan. 527, 122 So. 737.

## 31

**BANKS AND BANKING**

Hon. Maple T. Harl,  
February 16, 1943.

The limitation contained in Section 41, Chapter 18, of the 1935 C.S.A., relative to feeder livestock loans, applies only in cases where there is already an unsecured loan in the amount of fifteen per cent.

## 32

**BOARDS AND BUREAUS**

Hon. C. A. Fritts,  
February 17, 1943.

**(Rules and Regulations)**

1. Rules and regulations of the chiropractic and medical boards must be for the purpose authorized by statute and cannot have the effect of adding to or eliminating any statutory requirements prerequisite to the granting of a license. A legal rule will have the force and effect of law.

2. Although harmless advertising by an optometrist may be contrary to professional ethics, a statute prohibiting such advertising would be unconstitutional. *Sapero v. State Board*, 90 Colo. 568; *Chenoweth v. State Board*, 57 Colo. 75.

## 33

**FEES—COUNTY COURT—TAXATION**

Mr. Walter L. Grutter,  
February 17, 1943.

Section 71 of Chapter 176 of the 1935 C.S.A., construed to mean that the Court of Certification may demand a docket fee for cases being certified to it from other county courts where the Judge of said court had an interest in the estate.

Redemptioner must pay taxes subsequently levied and assessed and interest thereon at the rate of 12% from date of delinquency to date the holder would be entitled to deed and at the rate of 8% thereafter.

**34 STATE BOARD OF STOCK INSPECTION  
COMMISSIONERS**

State Board of Stock Inspection Commissioners.  
February 18, 1943.

The State Board of Stock Inspection Commissioners would not have the authority to compel the owner of cattle to hold cattle shipped into his feed lot separate and away from the animals already in the lot until they have been inspected and cleared by the nearest brand inspector. Such cattle held to have reached their destination and not to be "en route" as specified in Section 128, Chapter 160, 1935 C.S.A.

**35 SCHOOLS**

Hon. Inez Johnson Lewis,  
February 18, 1943.

(Tenure Law)

Teachers employed as instructors in vocational schools maintained by the Federal Government are not entitled to the benefits of the Tenure Act in Colorado nor are teachers who are temporarily taking the place of teachers given a leave of absence for the duration of their services in the armed forces. Teachers to be subject to the Tenure Act must be regularly elected. Section 238, Chapter 146, 1935 C.S.A.

**36 PUBLIC FUNDS—STATE FORESTS—SCHOOLS**

Hon. Inez Johnson Lewis,  
February 19, 1943.

Section 6, Chapter 179, Session Laws of 1941, referring to the state forest and providing for disposition of funds received from the forest, 75% to the public school income fund and 25% to the General County School Fund, interpreted as indicating the old general school fund rather than the school fund provided for in Sections 242, 243, 244 and 247 of Chapter 146.

**37 ARCHITECTS—PUBLIC BUILDINGS—SCHOOLS**

Mr. W. Gordon Jamieson,  
February 23, 1943.

New addition to a high school gymnasium, even though not more than two stories in height, must be planned, erected, altered or enlarged by a licensed architect.

A person not licensed as an architect may not hold himself out as a "consultant," but may, if actually employed by a licensed

architect, act as a draughtsman, clerk or superintendent under the instruction, control and supervision of his employer. The relation of employer and employee must be bona fide.

38

**SCHOOLS**

Mrs. Inez Johnson Lewis,  
February 23, 1943.

Students from parochial schools may attend public schools providing the students are residents of school district in which the public school is situated, subject to non-discriminatory rules and regulations.

39

**SCHOOLS**

Mr. Charles W. Bloom,  
February 24, 1943.

Where warrants have been wrongfully drawn on the General School Fund which should have been drawn on a special fund, such amount should be transferred back to the General Fund. Also where warrants have wrongfully been charged against the Old General County Fund, the Minimum Salary Fund should repay such funds to the Old General County Fund. A court order should be obtained directing how this should be done. The Minimum Salary Fund is only liable for the payment of minimum salaries, on salaries fixed in an amount in excess of this, the excess should be paid from the Special Fund.

40

**LEGISLATION**

Hon. William J. Reilly,  
February 25, 1943.

1. The body of a proposed act must be germane to the title of the Act.

2. A title proposing to amend statutes that are non-existent is invalid.

3. Amendments to titles made in same measure subject to same restrictions as amendments to body of bill.

4. The subject expressed in a title cannot be changed by title amendment.

41

**VITAL STATISTICS**

Mr. Bernard Houtchens,  
February 27, 1943.

The words "receives a fixed salary, in lieu of fees," appearing in Section 127, 1935 C.S.A., mean the receipt of a fixed salary for the performance of duties as an officer of the municipality.

**42 MOTOR FUEL TAX REFUNDS**

Mr. F. R. Carpenter,  
March 1, 1943.

State institutions are not entitled to refunds except for gasoline actually used in the construction, improvement, repair or maintenance of streets or highways. (*People vs. Commissioners*, 90 Colo. 592.) State institutions engaged in war work or a part of the armed forces which can secure Federal Exemption Certificate Form 1094 will be recognized by the state as exempt from Colorado Motor Fuel Tax.

**43 ELECTIONS**

Mr. Theodore J. Judge,  
March 1, 1943.

City Clerk must accept for filing, after expiration of statutory period for filing (unless objections have been filed), certificates of nomination or petitions for nomination. Objections may be filed, in writing within three days after time of filing such certificates or petition, and City Clerk must determine within 48 hours thereafter the validity of such objections.

**44 SCHOOL OF MINES—FEDERAL GOVERNMENT**

Dr. M. F. Coolbaugh,  
March 1, 1943.

So long as objects of Sec. 5, Ch. 45, 1935 C.S.A., are complied with, board of trustees of School of Mines may enter contract with Federal Government under which persons in armed forces may obtain instruction and maintenance at the school.

Sec. 6, Ch. 145, permits board to obtain materials to take care of increased student body.

Generally no personal liability on part of Board of Trustees for acts as a Board.

**45 STATE BOARD OF LAND COMMISSIONERS**

State Board of Land Commissioners,  
March 1, 1943.

Where certificate of purchase to the 69 acre tract has issued and the purchaser now wishes the Land Board to issue two certificates so that he can dispose of 12 acres to a third person, a construction of Section 69, 66, 67 and 70 of Chapter 134 would not appear to authorize such action on the part of the board. If the

board determined that such action would be to the best interests of the school fund, it could so act if payments on the whole parcel can be re-apportioned so that the third person could receive patent to the 12 acres.

#### 46 **SCHOOLS—WAR BONDS**

Mr. Charles B. Engle,  
March 3, 1943.

The provisions of Section 126(1) of Chapter 176, 1935 C.S.A., do not authorize school districts to invest in war bonds. Normally a school district would not have any funds eligible for investment. Certainly surpluses in bond and interest funds would not be eligible for investment and surpluses in other funds would appear to require a reduction of the tax levy.

#### 47 **CHIROPRACTORS**

Hon. C. A. Fritts,  
March 4, 1943.

Additional educational requirements may be demanded as a pre-requisite to the issuance of a renewal license to practice chiropractic.

#### 48 **LEGISLATORS—COLORADO SCHOOL OF MINES**

Hon. John C. Vivian,  
March 4, 1943.

A State Senator is disqualified from being appointed as a member of the Board of Trustees of the Colorado School of Mines during the term for which he was elected. Such trustee is a public officer and Article 3 of Section 8 of Article V of the Colorado Constitution therefore prohibits such appointment. He also has executive functions and the appointment is prohibited by Art. III of the Constitution.

#### 49 **EXTRADITION—DELINQUENT CHILDREN—STATE INDUSTRIAL SCHOOL**

Mr. Harry W. Bundy,  
March 4, 1943.

A person found to be a delinquent child does not stand charged or convicted of "treason, felony, or other crime" and, therefore, may not be extradited under the statutes relating to interstate rendition of criminals.



50

**INCOME TAX**

Hon. Ralph M. Fishel,  
March 5, 1943.

An amendment specifying that a surtax shall not be imposed where the amount of the tax is one dollar or less would be illegal. If an exemption of one dollar is allowed, it should be allowed to all surtax taxpayers and not a part of the class.

51

**TAXATION**

Mr. Arley F. Rost,  
March 5, 1943.

The establishment of a game preserve will not render the lands therein exempt from taxation. It would only be where title was actually in the state that there would exist an exemption.

52

**REAL ESTATE BROKERS BOARD**

Mr. Walter F. Morrison,  
March 7, 1943.

A licensed real estate broker must erect and maintain "in a conspicuous place on the premises" a sign indicating that he is a licensed broker and clearly showing the name of the individual, firm or corporation so licensed. It is a question of fact to be determined in each case if the sign meets the requirement of the statute. Failure to display such sign would justify a suspension of license until compliance was had with the statute, and a persistent, willful refusal to comply would be grounds for revocation of license.

53

**SCHOOLS**

Mr. Joe Perkins,  
March 7, 1943.

Section 113 of Chapter 146, CSA '35, provides that a district school officer neglecting or refusing to perform a duty required by law shall be guilty of a misdemeanor. Section 103 provides that the president shall sign all the orders on the county treasurer and on the district treasurer for the payment of money. Failure of the president to sign warrants would render him guilty of a misdemeanor. If such president refuses to act, the District Attorney should be consulted, or an interested party could bring suit for a writ of mandamus to compel him to act.

## 54

**MOTOR VEHICLES**

Mr. R. R. Carr,  
March 8, 1943.

Dealer's plates may only be used while demonstrating a car for sale.

## 55

**CIVIL SERVICE**

State Civil Service Commission,  
March 8, 1943.

(Director of Revenue)

The Director of Revenue being classified as "one of the three confidential employees" of the Governor's Office is excepted and should not be included in the classified service. (Article XII, Section 13, Constitution; Sec. 39(e), Ch. 2, S. L. 1941. *People v. LaRoche*, 181 N.Y.S. 616; *Volgenau v. Finegan*, 296 N.Y.S. 101.)

## 56

**EMPLOYEES—FEES AND SALARIES**

Civil Service Employees Association,  
March 10, 1943.

Section 14, Chapter 36, 1935 C.S.A., re salaries of classified employees, sets up minimum salary limitations and was not intended and does not provide for maximum limitations.

## 57

**CIVIL SERVICE**

Hon. Joe C. Jankovsky,  
March 15, 1943.

1. A change in title to his position does not jeopardize the rights of an employee who has been certified to that position.

2. The manner and method of determination by competitive tests as required in Article XII, Section 13, of the Colorado Constitution is within the discretion of the Civil Service Commission. However, Court decisions indicate that competitive tests are the result of some action on the part of the Commission. *Getty vs. Witter*, 107 Colo. 302.

## 58

**COUNTY OFFICERS—MOTOR VEHICLES**

Mr. C. H. Gunn,  
March 15, 1943.

1. County Clerks are not under direct supervision of the Motor Vehicle Department so far as business pertaining to Motor Vehicles is concerned.

2. Only the County Clerk has power to exercise control over separate fund consisting of fees from Motor Vehicle licensing, said fund being deposited with the County Treasurer. Section 94, Chapter 16, Volume 2, 1935 C.S.A.

## 59 SOIL CONSERVATIOIN

United States Department of Agriculture,  
March 16, 1943.

(Re Chapter 203, 1941 S. L. of Colorado, Subsection 1.)

Section 4 construed to exclude municipalities regardless of whether that portion of the municipality is outlying and not devoted to any commercial or industrial use.

Section 4 construed to mean that lands cannot be added to the district by petition in the event there are numerous land owners wishing to have their lands incorporated. The only exception being where an individual petitions for the inclusion of his land.

No provision in the act for cessation of activities and any rule giving the supervisors the power to suspend activities is a matter of policy and not of law.

## 60 COUNTY OFFICERS—MOTOR VEHICLES

Mr. C. H. Gunn,  
March 17, 1943.

County Cerks cannot accumulate and build a surplus out of their fees from operators' and chauffeurs' licenses for a period of three years.

## 61 BANKS AND BANKING—MONEY LENDERS ACT

Hon. Maple T. Harl,  
March 18, 1943.

When identical partners, who hold a license under the Money Lenders Act amend their partnership name, the State Banking Commissioner may attach to the license his approval in writing of the change.

## 62 STATE HIGHWAY DEPARTMENT—MOTOR VEHICLES

Hon. John C. Vivian,  
March 20, 1943.

State Highway Department has the right, upon good cause shown, to issue special permits authorizing the use of motor vehicles of size and weight or load in excess of the maximum specified in our Colorado statutes.

**MOTOR VEHICLES**

Mr. C. H. Gunn,  
March 20, 1943.

1. It is unlawful to use license plates of the previous year after being issued current year plates.

2. It is unlawful to change appearance of license plates issued by the state.

3. Consideration of penalties for violation of Motor Vehicle statutes where law provides no specific punishment. Sections 1 and 511, Ch. 48, 1935 C.S.A.

**SCHOOLS****Teachers—Tenure**

Mr. James H. Risley,  
March 25, 1943.

A superintendent would have no authority to appoint a teacher as a regular supply teacher without action on the part of the school board. Persons coming within the terms of the tenure law can claim the benefits of that law after employment for three consecutive years without having been awarded a contract for the fourth year.

**CITIES AND TOWNS**

Mr. H. M. Krull,  
March 25, 1943.

Sections 42, 43, 44, 45 and 46 of Chapter 163, 1935 C.S.A., would authorize a city council to expend municipal tax revenues for the purchase of land improvement and maintenance of an airport providing that constitutional and statutory debt limitations are not overstepped and providing that the provisions of the Local Government Budget Law are complied with.

**LIQUOR**

Mr. Walter F. Morrison,  
March 29, 1943.

Deputy Secretary of State has authority to revoke liquor license.

**67 STATE LAND BOARD—DRAINAGE DISTRICTS**

State Board of Land Commissioners,  
March 29, 1943.

There is no provision under the Drainage District Law under which the Land Board could withdraw state land involuntarily included within a drainage district. As the operation of the Drainage District Law with respect to state lands appears to be a deprivation from the Land Board of its power to dispose of state lands, to such extent that law is in violation of the constitution, Sections 9 and 10 of Article IX.

**68 GAME AND FISH  
Licenses**

Game and Fish Commission,  
March 31, 1943.

**(Licensed Agents—Bonds)**

Section 173, Chapter 139, 1941 S. L., makes it mandatory that the individual selling hunting or fishing licenses, furnish a bond in order to secure all moneys collected.

**69 COLORADO STATE HOSPITAL**

Dr. F. H. Zimmerman,  
April 2, 1943.

Charge for care and maintenance of committed patients cannot exceed actual cost.

**70 CHIROPRACTORS—LEGISLATION**

Dr. E. A. Jackson,  
April 5, 1943.

House Bill No. 199 of the Thirty-fourth General Assembly providing for annual post graduate clinic attendance as a prerequisite to yearly license renewals applies to all licensees and becomes effective with the renewals for 1944-45.

**71 SCHOOLS**

Mr. H. H. Hadley,  
April 6, 1943.

A third class school district on authorization by a vote of the electors may appropriate and expend tax funds for the purpose of employing persons to prepare and serve lunches. Citing Section 310, Chapter 146, 1935 C.S.A. Expenses such as wages for a cook must, of course, be reasonable.

72

**HIGHWAY COURTESY PATROL  
JUSTICES OF THE PEACE**

Mr. Paul M. Bunzel,  
April 7, 1943.

A Highway Courtesy Patrolman does have discretion to either issue a summons for appearance before a Justice of the Peace for violation of the Motor Vehicle laws or to issue a penalty assessment for such violation.

73

**JUSTICE OF THE PEACE—MOTOR VEHICLE**

Mr. C. H. Gunn,  
April 7, 1943.

A justice of the peace may, after convicting a violator of traffic laws, accept the costs of court but extend time for payment of fine imposed.

74

**ESCHEAT FUNDS**

Hon. Leon E. Lavington,  
April 10, 1943.

State Treasurer may invest moneys in escheat fund in legal investments as defined by Section 126(1), Chapter 176, 1935 Colorado Statutes Annotated.

75

**VITAL STATISTICS**

Hon. William E. Buck,  
April 15, 1943.

If there is sufficient evidence to satisfy the Court that the statements in a birth certificate are true, the Court shall enter an order directing that such certificate be accepted. (Chapter 142, S. L. 1941, as amended by Senate Bill 138, 34th General Assembly.) Section 117, Chapter 78, 1935 C.S.A., prescribes the information which a certificate should contain and any omissions may be approved by the Court proceeding under Chapter 142, above.

76

**WAR EMERGENCY—FEES AND SALARIES**

Hon. Inez Johnson Lewis,  
April 16, 1943.

Wages paid to teachers by school districts are not within the provisions of the Act of Congress or orders pursuant thereto which provide for salary and wage stabilization. Regulations of

October 27, 1942, limit the jurisdiction of the National War Labor Board by providing no jurisdiction over a person working in a professional capacity.

## 77            **APPROPRIATIONS—BANKS AND BANKING**

Mr. Maple T. Harl,  
April 16, 1943.

Section 20, Senate Bill No. 47 of the 34th General Assembly, constitutes a continuing appropriation under authority of *People v. Goodykoontz*, 22 Colo. 507, and *Fulton v. O’Ryan*, 71 Colo. 69.

## 78                            **BANKS AND BANKING**    **Branch Banks**

Hon. Maple Harl,  
April 20, 1943.

Section 61, Chapter 18, 1935 C.S.A., which prohibits a Bank from maintaining a branch at other than its main place of business is applicable to National Banks operating in Colorado.

## 79                            **BEDDING LAW**

Mr. E. C. Barthes,  
April 21, 1943.

Whether or not the manufacturing of ornamental leather pillows is a manufacturing of bedding requiring a license under the provisions of Chapter 205, S. L. 1941, is a question of fact to be determined by the Director of Bedding Inspection.

## 80            **OFFICERS—ADMINISTRATIVE CODE OF 1941**

Hon. James L. Bradley,  
April 22, 1943.

The Administrative Code of 1941 having transferred all the functions of the Public Examiner to the State Auditor, the Auditor became empowered to install a system of accounting and reporting by all state and county public officers, employees or other persons, which might properly include the requirement that all receipts and licenses be numbered in consecutive numerical order, that the numbers of all receipts and licenses be accordingly reported to the Auditor and received by the issuing department; that at the close of fiscal periods the reports be made showing the numbers of all unused receipts, licenses or other instruments.

**81 OFFICERS—NATIONAL GUARD**

Hon. John C. Vivian,  
April 23, 1943.

The Governor has the right to appoint an acting Adjutant General when it is found impossible to obtain the services of a man definitely meeting the statutory requirements.

**82 UNITED STATES SAVINGS BONDS—COUNTY FUNDS**

Hon. Leonard M. Haynie,  
April 24, 1943.

United States Savings Bonds are not assignable and may not be used as security for deposits of County Funds as provided for in Section 1 of Chapter 114 of the 1941 Session Laws of Colorado.

**83 SOLDIERS AND SAILORS HOME**

Hon. John C. Vivian,  
April 26, 1943.

Ex officio members of the Soldiers and Sailors Home are not entitled to mileage and per diem for attending meetings of the Board.

**84 SCHOOLS**

Mrs. Inez Johnson Lewis,  
April 26, 1943.

Where a registered school warrant has been lost, the County Commissioners should follow the procedure provided for in Section 60 of Chapter 146, 1935 C.S.A., for state warrants and a duplicate warrant may be issued providing that it should not be issued until there are sufficient funds therefor.

**85 INHERITANCE TAX**

Mr. Berton T. Gobble,  
April 26, 1943.

Prescribing form of attorney general's release of inheritance tax lien against real estate, under the provisions of Section 66, Chapter 85, 1935 C.S.A., as amended. (Section 14, H.B. 191, effective April 26, 1943.)



**86                    DIRECTOR OF AGRICULTURE—STATE  
                                 ENTOMOLOGIST**

Mr. W. C. Sweinhart,  
April 28, 1943.

Senate Bill 184, 34th General Assembly, provides for inspection of seeds as to noxious weed content, germination quality, etc. It does not permit inspection for disease or injurious insects, this authority being with the State Entomologist under Section 29, Chapter 5, 1935 C.S.A. S.B. 184 does not affect duties of State Entomologist. A questionable seizure by one department would not involve the other.

**87    INSURANCE—SALE OF PROPERTY BY COMPANY**

Mr. Luke J. Kavanaugh,  
April 29, 1943.

The loan limitation required in subsection 2, Section 48, Chapter 87, 1935 C.S.A., does not apply in a case of a sale by an insurance company wherein a mortgage is accepted securing an amount in excess of two-thirds of the property valuation; the above section applies in cases of security for loans made by a company.

**88                    COUNTY COMMISSIONERS—WITNESSES:  
                                 DEPUTY SHERIFFS—COURTESY PATROLMEN**

Larimer County Commissioners,  
April 29, 1943.

1. County Commissioners have the power to attend meetings pertaining to county matters, if in the opinion of the commissioners the county benefits by such meeting. Expenses incurred attending meeting could be charged to the county as legitimate expenses.

2. *Witnesses, fees, inquests, deputy sheriffs, courtesy patrolmen.*

*Deputy sheriff* cannot charge witness fees at inquest because it is considered part of his official duty. *Courtesy patrolmen* may charge a witness fee at an inquest because they are not acting within their official capacity.

**89                    COUNTY OFFICERS**

Mr. Fred A. Videon,  
May 1, 1943.

(Sheriff's fees and salary.)

Sheriff's salary is payable only out of his fees and excess fees may not be held over to pay any ensuing year's salary.

**90                      SCHOOLS—DEFENSE BONDS**

Mr. E. L. Newlander,  
May 3, 1943.

Under the provisions of Chapter 114 of the 1941 Session Laws, the County Treasurer upon being provided with a resolution of the school board and of the county commissioners could invest school funds originally collected for building purposes in Series G Defense Bonds.

**91      STATE BOARD OF INDUSTRIES FOR THE BLIND**

Mr. John L. McMenamin,  
May 3, 1943.

The revolving fund of the State Board of Industries for the Blind is to be used for the "further expense, maintenance and improvement of said industries" and whether or not the payment of salary for a procurement agent for private employment of blind persons is a proper expenditure from this fund is a question of fact to be determined by the board. State Board of Vocational Education also place blind persons in employment. Sec. 4, Ch. 172, 1935 C.S.A.

**92      FOREST RESERVE FUNDS—COUNTIES—AUDITOR**

Hon. James L. Bradley,  
May 5, 1943.

Forest Reserve Funds received by a county should be allocated to the County Road Fund and the General County School Fund—referring to Section 500, Title 10, FCA, and Section 130 of Chapter 134, 1935 C.S.A. There is no reason why such fund should not be credited two-thirds to the road fund and one-third to the General School Fund.

**93                      WATER**

Mr. Frank D. Allen,  
May 6, 1943.

The words "in each of said water Districts No. 1 and 64" as used in House Bill No. 189 of the 34th General Assembly, interpreted to mean that each district shall be considered individually in determining payment basis.

**94                      CHIROPRACTIC**

Dr. E. A. Jackson,  
May 8, 1943.

The meaning of "active practice within the state" as provided in House Bill 199 of the 34th General Assembly may be

defined by rule or regulation of the Board of Chiropractic Examiners since the act fails to provide a definition.

**95                                 REPORTS—OFFICERS**

Hon. H. Rodney Anderson,  
May 11, 1943.

No annual or biennial report shall be printed without the Governor's approval in writing by designation of the amount of the report and number of volumes to be printed. (Chapter 153, Section 64, 1935 C.S.A.)

**96                                 SCHOOLS—DEFENSE BONDS**

Miss Wilma L. Peele,  
May 11, 1943.

School districts may not issue warrants against their special funds in the hands of the county treasurer and with them purchase United States Defense Bonds.

**97                                 PURCHASING AGENT—INDUSTRIAL  
  COMMISSION—SAFETY**

Hon. H. Rodney Anderson,  
May 11, 1943.

Whether or not certain expenditures are proper under the provisions of Sections 6 and 7, Chapter 241, Session Laws of Colorado, 1941, are questions of fact.

**98                                 MINES—WAR EMERGENCY**

Bureau of Mines,  
May 11, 1943.

(Cessation of assessment work on mining claims.)

Number of notices required under Section 2324, Revised Statutes of the United States as amended by the 78th Congress, Public Law 47, Chapter 91, First Session.

**99                                 OFFICERS**

Hon. John C. Vivian,  
May 12, 1943.

(Governor, Lieutenant-Governor.)

It is the intent of the Constitution and statutes that any necessary action of the supreme executive power of the state should be

provided for at all times and in absence of the Governor from the state, the Lieutenant-Governor is empowered to act when it is deemed necessary either by determination of the Governor or of the Lieutenant-Governor. When the Lieutenant-Governor is so acting he is entitled to draw the Governor's salary for such time.

### 100            **COAL MINES—BOARD OF EXAMINERS**

Mr. Thomas Allen,  
May 12, 1943.

Section 5 of Chapter 110, 1935 C.S.A., construed to mean that the Board of Examiners appointed by the Governor and District Judges need not continue in the practice of mining coal, owning or operating a mine through the whole period of the appointment, assuming the conditions of the statute were complied with at the time of appointing the incumbents.

### 101            **TAXATION—MOTOR FUEL REFUND APPLICATIONS**

Mr. Albert F. Cruse,  
May 12, 1943.

House Bill 148 extends period for application from sixty days to six months, but doesn't revive applications on which the old statute has tolled.

### 102            **WAR EMERGENCY—PUBLIC FUNDS—CITIES, COUNTIES**

Mr. Clem W. Collins,  
May 14, 1943.

Funds of local governments such as cities and counties may not be used to defray the expenses of the Selective Service, War Price and Rationing Boards, but may be used to pay the expenses of the local Office of Civilian Defense, if an appropriation has been made therefor.

### 103            **SCHOOLS**

Mrs. Wynona Eaklor,  
May 15, 1943.

Where a new district is to be formed from parts of three other districts under Section 62, Chapter 146, 1935 C.S.A., it is necessary that there be forty children of school age in each of the school districts.

**104 GAME AND FISH**

Game and Fish Commission,  
May 18, 1943.

Section 1, Chapter 107, S. L. 1939, interpreted. Meaning of specimen is used in the singular. Taxidermist may purchase hides without obtaining a license from the Game and Fish Department.

**105 COAL MINES**

Hon. Leon E. Lavington,  
May 18, 1943.

The statute does not contemplate refunds of license fees or any part thereof as refunds on coal mine licenses. The statutory limitations on the use of such funds would also prohibit the paying of such refunds therefrom.

**106 EMPLOYEES—WAR LABOR BOARD  
FREEZING ORDER**

Mr. Albert F. Cruse,  
May 18, 1943.

It is for the department heads to decide how far they should go to co-operate with the Government in recognizing or putting into effect War Labor Board Orders.

**107 STATE BOARD OF LAND COMMISSIONERS**

State Board of Land Commissioners,  
May 19, 1943.

A certificate of purchase under the 1921 Soldiers' and Sailors' Act, said certificate having been issued in 1931, cannot be converted into a certificate under Section 112 of Chapter 134, CSA, 1935, as such certificate holder is expressly excluded from the benefits of Section 112.

**108 AUDITOR—MOTOR FUEL**

Hon. James L. Bradley,  
May 19, 1943.

The provisions of House Bill No. 461, 34th General Assembly, approved April 22, 1943, do not affect the opinion of this office dated February 11, 1943, addressed to the State Auditor concerning unused balances for motor fuel collection administration. Under HB 461, a monthly predetermination of administration costs of motor fuel collections must be made and therefore there should be no balance left in the fund authorized under Section 3(6) of the Act.

109

**SCHOOLS**

Mrs. Gladys Hofmeister,  
May 21, 1943.

County Superintendent of Schools must declare a district unorganized territory if school has not been maintained for three years, there being no discretion in the matter.

110

**TAXATION—GRAVEL PITS**

Colorado Tax Commission,  
May 21, 1943,

Land containing gravel pits should be assessed pursuant to Section 66, Chapter 142, 1935 C.S.A., and gravel extracted should be assessed as personal property. Gravel extracted should not be considered as merchandise or manufactures within the meaning of Sections 54 and 55, Ch. 142, 1935 C.S.A.

111

**LIQUOR LICENSES—CITIES AND TOWNS**

Mr. Albert F. Cruse,  
May 24, 1943.

A municipal corporation charged with the duty of collecting certain liquor license fees must account to the state for all fees collected. This, however, does not affect the liability of the licensee, or discharge him from the payment of any obligations he may have incurred under the statute.

112

**COUNTY OFFICERS**

Mr. Charles Terrill,  
May 27, 1943.

(Sheriff.)

Sheriffs' official duty is to extinguish fires. Sections 102, 103, Ch. 45; Sec. 139, Ch. 134; Sec. 140, Ch. 135, 1935 C.S.A.

113

**GIFTS TO STATE—PUBLIC FUNDS**

Hon. William E. Higby,  
June 1, 1943.

The state may acquire an institution by gift. However, the institution may not be maintained by expenditure of state funds until such time as moneys are appropriated for such purpose.

114

**STATE EMPLOYEES**  
**(Fees and Salaries)**

Hon. Albert F. Cruse,  
June 1, 1943.

(Salary increases for state employees.)

1. The increase permitted is based on the salary attached to the position as of January 1, 1942.

2. The highest salary in a bracket cannot exceed the lowest salary permitted in the next highest bracket.

3. Standardizations and classifications by the Civil Service Commission must be same for all persons having like duties and any increase permitted must be within the limits of such classification. An exact equalization of salaries is not demanded by the act.

4. Increases are based on the amount paid to the position as of January 1, 1942, irrespective of any increases either automatic or otherwise. Nothing in the act prevents the operation of any automatic increase statute.

5. Increases under the act cannot exceed the percentage specifically set forth as a limitation.

6. Increases shall be fixed within the same classification; a change in classification limitations might permit a larger increase.

7. It is not mandatory under the act that increases be given to all employees. It is discretionary with the Chief Executive Office of the department as to who shall receive an increase, subject to governor's approval.

115

**STATE BOARD OF OPTOMETRY**

Hon. Earl E. Ewing,  
June 2, 1943.

The State Board of Optometry cannot make rules going beyond the power granted them by the Legislature and the Constitution.

116

**CIVIL SERVICE**

Mr. Charles D. Vail,  
June 10, 1943.

The transfer of a Civil Service employee from one location to another, without altering or changing his title, duties and salary, is an administrative function under the control of the head of the department.

**117 STATE BOARD OF LAND COMMISSIONERS—  
SCHOOLS—FEDERAL**

State Board of Land Commissioners,  
June 11, 1943.

The State Board of Land Commissioners may lease school lands to the Federal Government. The Federal Government, however, is subject to the same restrictions imposed on private individuals leasing lands from the Board.

**118 CIVIL SERVICE  
(Provisional Employees)**

Hon. Charles D. Vail,  
June 12, 1943.

Authority and control of Civil Service Commission over provisional employees is limited to:

1. Right to authorize the appointment.
2. Right to effect discontinuance of such employment when a certified employee in the classified service becomes available for and accepts the position.
3. Not within province of commission to rule that no provisional may have vacation or sick leave with pay.
4. Not within province of commission to rule that provisional shall be dismissed after six months.

**119 STATE BOARD OF LAND COMMISSIONERS**

State Board of Land Commissioners,  
June 15, 1943.

The State Board of Land Commissioners may sell mineral rights together with land when such land was derived by the Board through foreclosure proceedings. The limitation requiring the Board to reserve mineral rights is applicable only to lands included within the federal grants despite the state legislative provision that lands obtained through foreclosure are subject to the same terms and conditions applicable to public school lands.

**120 INSURANCE**

Hon. Luke J. Kavanaugh,  
June 21, 1943.

The voting share class of stock of a corporation, may not, without the sanction of the non-voting share class of stock reduce the par value of said non-voting shares.



121

**COAL MINES**

Mr. Thomas Allen,  
June 22, 1943.

(Deputy inspectors—districts within Colorado.)

Sections 3 and 4, Chapter 61, 1931 S. L., construed to be discretionary in regard to the number of deputy inspectors appointed and the number of districts to be formed.

122

**SCHOOLS**

Hon. Inez Johnson Lewis,  
June 23, 1943.

Section 64, Chapter 146, 1935 C.S.A., concerning the duty of the County Superintendent of Schools to declare a school district unorganized which has not been maintained for three years, is mandatory. However, the County Superintendent has a reasonable period within which to act.

123

**DEPUTY WATER COMMISSIONERS**

Mr. M. C. Hinderlider,  
June 23, 1943.

Under the provisions of Senate Bill No. 70 enacted by the 34th General Assembly the increased compensation payable to Deputy Water Commissioners is not effective until July 1, 1943, as payment of such compensation is limited to be paid from state appropriation. Therefore, the compensation of \$5.00 per day provided for by Section 336, Chapter 90, 1935 C.S.A., is effective until July 1st and amendment to such section is not effective until that date.

124

**ABSTRACTORS**

Mr. James A. Noonan,  
June 25, 1943.

Chapter 2, 1935 C.S.A., permits payment of actual expenses to members of Abstractors' Board while on business of the board. Appropriation under "per diem of Board members" can be used to pay the expenses. Per diem salary not provided in the statute. Appropriation under "Salaries—Extra Help" can be paid to Secretary-Treasurer, not in that capacity but because he has assumed the duties which otherwise would be performed by extra help.

**125 OFFICERS—CITIES AND TOWNS—POLICE  
MAGISTRATE**

Mr. Angelo F. Moseo,  
June 25, 1943.

Sections 77 and 80, Chapter 163, 1935 C.S.A., construed to mean that there can be only one police judge or magistrate appointed in second class towns, and there cannot be more than one police judge or magistrate acting at any one time.

**126 VITAL STATISTICS**

Dr. Fred W. Beesley,  
June 26, 1943.

1. Senate Bill No. 1 passed by the Thirty-fourth General Assembly, amending Section 118 of Chapter 78, 1935 C.S.A., contemplates recognition of the certified copy of an adoption decree irrespective of whether such decree was granted by a court in Colorado or outside the state.

2. Persons adopted must have been born within the state to become eligible for a birth certificate as provided in Senate Bill No. 1.

**127 TAXATION**

Mr. Leon H. Snyder,  
June 28, 1943.

Use of property by a non-profit corporation for recreational purposes is not a use specified in Sec. 5, Art. X, Colorado Constitution, and no tax exemption can flow therefrom.

**128 CIVIL SERVICE**

Mr. Albert F. Cruse,  
June 29, 1943.

The Civil Service Commission cannot properly limit the term of employment of a provisional to six months or any given period of time. The power of the Commission is limited to the giving of examinations for such position and setting up a duly qualified certified list from which the name of a person may be taken to displace said provisional.

**129 MOTOR VEHICLE**

Mr. Albert F. Cruse,  
June 29, 1943.

There is no method by which the Department of Revenue or county clerk may issue a title to an abandoned auto. It is possible for county treasurer to enforce tax lien by sale. *Milliken v. O'Meara*, 74 Colo. 475.

130

**CIVIL SERVICE COMMISSION**

Hon. John C. Vivian,  
June 29, 1943.

1. The authority of the Civil Service Commission with respect to provisional employees is limited to the original appointment and replacement of the provisional when someone duly certified in the classified civil service becomes available for such position. A rule of the Commission attempting to control vacation and sick leave periods of provisional employees is illegal and void.

2. The Civil Service Commission has a duty under the constitution to protect the status of certified employees and also to attempt to secure the most competent persons to be placed upon its certified lists. It may in the exercise of its discretion delay the giving of examinations during the war emergency if it feels by so doing the interests of the state will be best served.

131

**MOTOR VEHICLES**

Department of Revenue,  
June 29, 1943.

Sections 274 and 275, Ch. 16, 1935 C.S.A., construed not to apply to farm implements in excess of eight feet in width being transported upon trucks.

132

**GAME AND FISH  
(Auditor)**

Hon. James L. Bradley,  
June 29, 1943.

In case of loss of licenses, before sale, Game and Fish Commission should hold hearing and findings presented to Governor. Bonds for individuals selling licenses. Section 2 of Chapter 139, S. L. 1941, construed to mean that if an individual sold fish and game licenses, it becomes mandatory upon the Commission to demand a bond securing all moneys collected.

133

**STATE BOARD OF STOCK INSPECTION  
COMMISSIONERS**

State Board of Stock Inspection Commissioners,  
June 29, 1943.

Chapter 92, Section 1, S. L. 1941, construed to mean that the State Board of Stock Inspection Commissioners have jurisdiction over this chapter.

Stock Inspection Commissioners have no power to revoke butchers' licenses, there being a penalty provided. No power on

part of Commissioners to investigate an individual applying for a license other than the approval of his surety bond and the payment of \$1.00 fee.

### 134 WATER COMMISSIONERS

Mr. M. C. Hinderlider,  
June 29, 1943.

Water commissioners at large must be paid as is provided for by Section 343, Chapter 90, 1935 C.S.A., and would not come within the terms of Senate Bill No. 70 of the 34th General Assembly.

### 135 STATE BOARD OF PUBLIC WELFARE

Hon. John C. Vivian  
June 30, 1943.

1. Surplus commodities furnished by the Federal Government may be distributed as directed by the Federal Government.

2. Funds and commodities as the result of a joint enterprise by Federal and State must be given away as appropriated. The State Welfare Department determines who may be the recipients of public assistance.

### 136 STATE BOARD OF STOCK INSPECTION COMMISSIONERS

State Board of Stock Inspection Commissioners,  
June 30, 1943.

(Interest on time deposits—Investment of estray funds.)

1. Interest on time deposits may be withdrawn and re-deposited in other banks, if permitted by the rules and regulations of the Board.

2. Sections 136 and 138, Chapter 160, V4, 1935 C.S.A., construed to mean that the estray fund may be invested in legal investments as defined by Chapter 190, 1937 Session Laws, providing it is in accordance with the rules and regulations of the State Board of Stock Inspection Commissioners.

### 137 PUBLIC TRUSTEES

Mr. R. W. Esgar,  
July 2, 1943.

(Certificates of Redemption.)

Inasmuch as the lien of trust deeds, etc., automatically expires 15 years after the last payment is due, the certificates of purchase terminate nine months after the period of redemption and no release by the public trustee is necessary to extinguish the same,

there can be no cloud upon the title arising therefrom. Public trustees can issue certificates of purchase solely for the purposes specified by the statute—where actual redemption has been made—and have no power to issue certificates of redemption to extinguish liens.

138

**SCHOOLS**

Mr. Ray Dutton,

July 2, 1943.

(Leave of absence of president—change of name.)

Board is vested with discretion regarding absence of president and if there has been no removal of residence, then board can legally extend the leave of absence on the minutes beyond the thirty day period allowed by law.

There is no objection to Board's changing name of a school.

(Section 103, Chapter 146, Vol. V, 1935 C.S.A., and case of *Harris v. People, et al.*, 102 Colo. 496 cited.)

139

**TAXATION**

(Tax Deeds)

Mr. Clyde L. Miller,

July 8, 1943.

(Sale of tax certificates and properties held under tax deed by counties.)

No public sale is necessary for tax certificates. Board of County Commissioners may sell same in such manner and on such terms as it may determine. (Chapter 193, S. L. 1941.)

There is no authority for County Commissioners to obtain tax deeds for individuals. County Commissioners may sell lands owned by county under tax deeds for any sum not less than one-third appraised value at public sale, notice of which is published twice in newspaper of general circulation in county, first publication not more than 30 days or less than 20 days before date of sale. Second publication not more than 15 nor less than 5 days before date of sale and posting copy of notice in public place in courthouse 30 days before date of sale. Such sales may be on terms, but no deed shall issue prior to payment of full purchase price.

No statutory form of notice is provided. (Chapter 145, S. L. 1939, and Ch. 192, S. L. 1941.)

140

**MENTAL DEFECTIVES**

Messrs. Stone and Hill,

July 9, 1943.

A child under the age of sixteen years, who is adjudged to be mentally defective, should be committed to the State Home for

Mental Defectives at Ridge, the State Home at Grand Junction, or the Psycopathic Hospital at Denver. If it affirmatively appears that none of these institutions have accommodations for such child, the court may order it committed to the Colorado State Hospital at Pueblo, and, in such event the authorities of the latter institution are under a mandatory obligation to receive and care for such child.

141                **LEGISLATORS—OFFICERS—SMALL  
                         LOAN DEPARTMENT**

Mr. Maple T. Harl,  
July 9, 1943.

A position, the duties of which are undefined and which can be changed at the will of the superior, is not an office but a mere employment and the incumbent is not an officer but only an employee. Therefore, the position of examiner, and/or statistician, as contemplated in the Small Loan Department would be that of an employee and not an office. In line with the case of *Hudson, et al. vs. Annear, Auditor*, 101 Colo. 551, a member of the House of Representatives would be eligible for appointment to such position. Section 6, Article 5, of the Colorado Constitution is not controlling as it relates only to appointments to civil office and not to mere employment.

142                                **SCHOOLS**

Hon. John C. Vivian,  
July 9, 1943.

The State of Colorado cannot aid sectarian schools by paying salary of teachers on faculty of such institutions. Sec. 7, Art. IX, Colorado Constitution. *Williams v. Stanton Graded Con. School Districts (Ky.)*, 191 S.W. 507.

143                **STATE BOARD OF LAND COMMISSIONERS**

Hon. John C. Vivian,  
July 10, 1943.

A man to be qualified to be appointed as the engineer member for the State Board of Land Commissioners is required by Section 9 of Article 9 of the State Constitution to have been actively engaged professionally as a civil engineer for at least five years. A mining engineer would not be qualified for such appointment unless he had also engaged professionally in work as a civil engineer for that period of time.

**144 SHERIFFS—MOTOR VEHICLE DEPARTMENT**

Mr. C. H. Gunn,  
July 10, 1943.

A deputy sheriff is not entitled to witness and mileage fees and the same cannot be assessed as part of court costs when the deputy sheriff is in actual attendance in court in his official capacity.

**145 BANKRUPTCY—OPERATOR'S AND CHAUFFEUR'S LICENSE**

Mr. C. H. Gunn,  
July 10, 1943.

Discharge in bankruptcy would not relieve a judgment debtor from the requirements of Section 43a, Chapter 16, 1935 C.S.A., and suspension of an operator's and chauffeur's license because of failure to pay a judgment can only be reinstated when a judgment is paid upon satisfaction of judgment or when the judgment debtor gives proof of financial responsibility in the future and obtains an order from the trial court in which such judgment is rendered permitting the payment of such judgment in installments.

**146 CIVIL SERVICE**

Hon. Charles D. Vail,  
July 14, 1943.

The Civil Service Commission is not vested with authority by implication or otherwise to require department heads to submit payrolls to them for approval as one of the necessary procedural steps preliminary to the actual payment of compensation to employees. Certifications of new employments or changes of status should be secured from the Civil Service Commission.

**147 SCHOOLS**

Hon. Inez Johnson Lewis,  
July 14, 1943.

House Bill 286, amending Sections 243 and 247 of Chapter 146, became operative April 28, 1943, and districts which formerly would not be entitled to share in the Public School Income Fund may now share in the fund if their levy conforms with requirements of 286.

**148 PARDONS AND PAROLES—GOVERNOR**

Hon. John C. Vivian,  
July 15, 1943.

The exclusive power to grant a pardon or parole is vested in the Governor. This power extends to both felonies and misdemeanors and is exercised in the discretion of the chief executive.

### 149 EMPLOYEES—STATE BOARD OF STOCK INSPECTION COMMISSIONERS—FEES AND SALARIES

State Board of Stock Inspection Commissioners,  
July 16, 1943.

Senate Bill 304 passed by the 34th General Assembly authorizing pay increases is general legislation and does not affect any provisions providing for pay increases contained in specific legislation. Senate Bill 304 was intended to apply and does apply only in those cases where there is an absence of provision authorizing increase in pay.

### 150 INHERITANCE TAX

Mr. Berton T. Gobble,  
July 19, 1943.

Requirements under Sec. 46, Chapter 85, 1935 C.S.A., of first obtaining written consent of attorney general before transferring personal property of decedent is waived where value of property does not exceed \$200.00.

### 151 CORPORATIONS

Hon. Walter F. Morrison,  
July 19, 1943.

A foreign corporation may not legally carry on business in Colorado until it has become domesticated but when it has become domesticated, it exists under the laws of this state and may avail itself of the provisions of House Bill 210 of the Laws of 1943.

### 152 DEPARTMENT OF EMPLOYMENT SECURITY—FEES AND SALARIES

Mr. Bernard E. Teets,  
July 23, 1943.

Under the provisions of Section 8 of Senate Bill No. 293, 1943 General Assembly, members of the Advisory Council to the Department of Employment Security cannot be allowed as necessary expenses any loss in wages or salary caused by attendance at meetings of the Council.

### 153 LEGAL RESIDENCE

Mr. Harry S. Dickinson,  
July 26, 1943.

Residence is compounded of fact and intention and includes a location with an intent to remain there as a place of fixed, present domicile. *Merril v. Shearston*, 73 Colo. 230; *Robbins v. McAllister*, 91 Colo. 505.



**154            BANKS—COUNTIES—PUBLIC FUNDS**

Hon. Leonard M. Haynie,  
July 30, 1943.

A service charge by a bank for taking care of public funds should be presented to the County Commissioners and follow the same course as ordinary claims against the county.

**155            OLD AGE PENSIONS**

Hon. John C. Vivian,  
August 3, 1943.

A statute must be followed by public officials until a court has adjudicated such legislation unconstitutional. Funeral expenses for old age pensioners may be paid from the Old Age Pension Fund. If court action ensues nothing could be recovered for moneys expended in reliance upon Sec. 10, Ch. 131, S. L. 1939.

**156            STATE BOARD OF LAND COMMISSIONERS  
                 AGRICULTURAL COLLEGE**

State Board of Land Commissioners,  
August 5, 1943.

Under Section 10 of Article 9 of the Constitution and Sections 79 and 80 of Chapter 134, 1935 C.S.A., the Land Board has discretion with respect to agricultural lands and when land under lease is sold the Board does have authority to draw vouchers against the Agricultural Land Income Fund on behalf of the lessee for over payment of rental. The State Board of Agriculture should be advised when such a voucher is drawn on that fund so that sections of Chapters 5 and 38 can be complied with.

**157            U. S. VETERANS ADMINISTRATION**

Mr. Goddard Shackelford,  
August 5, 1943.

The word "bureau" as defined in Section 36, Chapter 150, 1935 C.S.A., cannot be interpreted to include other Federal Departments besides U. S. Veterans Administration or its successor.

**158            MINES**

Mr. Edward P. Arthur,  
August 5, 1943.

Jurisdiction of Commissioner of Mines to investigate fatal accidents, limited by Sec. 322, Ch. 110, V. 4, 1935 C.S.A., and does not include authority to investigate accidents caused by cave-ins during the excavation of sewer or pipe lines.

**159 STATE BOARD OF LAND COMMISSIONERS**

State Board of Land Commissioners,  
August 5, 1943.

Where the Land Board grants a lease containing immunity clause, it is not possible without subjecting the Board to a suit in damages to sell the land during the period of the lease without the consent of the lessee.

**160 COUNTY OFFICERS  
(Sheriff)**

Mr. Samuel J. Deal,  
August 6, 1943.

A sheriff may accept a reward for the apprehension and arrest of men absent without leave from the military service of the United States since it is no part of his official duty to apprehend or arrest such person. He may not, however, claim a reward in excess of his actual fees prescribed by law for the apprehension or arrest of a person escaped from the state penitentiary because it is a part of his official duty to cause the apprehension and arrest of any such person found in his county.

**161 DIRECTOR OF MARKETS**

Mr. Fred W. Ley,  
August 7, 1943.

A dealer who enters into a contract with a grower for the sale and purchase of produce to himself at a fixed price is not a "commission merchant" within the meaning of the statute and cannot be compelled to post a commission merchant's bond to insure fulfillment of the contract.

**162 COUNTY OFFICERS—FEES AND SALARIES**

Mr. J. B. Sweat,  
August 7, 1943.

Amount paid to County Clerk as clerk of the Board of County Commissioners is a fee belonging to the clerk as County Clerk.

**163 DIRECTOR OF MARKETS**

Colorado Fruit and Vegetable Inspection Service,  
August 12, 1943.

Sec. 110, Ch. 69, 1935 C.S.A., as amended by Chapter 132 of the 1941 Session Laws, construed to mean that any shipment of apples and/or pears under two thousand pounds to any one

receiver, does not require the issuance of a shipping certificate, the amount of fruit shipped to each individual consignee being the distinguishing factor.

**164 SOLDIERS AND SAILORS HOME**

Mr. J. H. Lewis,  
August 14, 1943.

Ex-officio members of the Board of Commissioners of the Colorado State Soldiers and Sailors Home have no right to vote and are only advisory members of the board.

**165 NATIONAL GUARD—CIVIL SERVICE—FEES  
AND SALARIES**

Mr. Frazer Arnold,  
August 17, 1943.

An employee of the state who is also a member of the Colorado State Guard may not draw additional compensation for military service rendered if called up to attend an encampment of the Colorado State Guard. If such employee has a Civil Service status he may take his vacation with pay to enable him to attend such encampment but he may not draw additional pay. If he does not desire to take his vacation or if he is a provisional employee he may be granted a leave without pay, in which event he can legally draw the compensation fixed for his rank for military service rendered.

**166 TAX CERTIFICATES**

Mr. Walter L. Grutter,  
August 19, 1943.

(Redemption.)

Interest on redemptions of subsequent taxes as figured at 12 per cent per annum to date of due date for deed and 8 per cent on all endorsements thereafter. Sec. 264, Ch. 142, 1935 C.S.A.

**167 SCHOOLS**

Mr. William C. Gehrke,  
August 24, 1943.

Within the purview of Sections 263-274, Chapter 146, 1935 C.S.A., a truant officer does have police powers. Where he fails to act in the case of a juvenile disorderly person, any school teacher or other reputable person may make complaint in the County Court.

**168 INSURANCE AND CORPORATIONS—FOREIGN**

Hon. Luke J. Kavanaugh,  
August 25, 1943.

A foreign insurance company must first become domesticated before it can come into the State of Colorado and actively solicit and complete real estate loans. If the company made a single loan within the state or if it made several on Colorado real estate at its home office it would not have to comply with Colorado statutes.

**169 MOTOR VEHICLE LAWS**

Mr. C. H. Gunn,  
August 25, 1943.

“An established place of business” can be the home of the business man in regard to dealers under the Motor Vehicle Act.

**170 MOTOR VEHICLES—HIGHWAY COURTESY PATROL**

Mr. Vernon W. Drain,  
August 25, 1943.

A foreign corporation carrying on business within Colorado and operating in such business any motor vehicle, trailer or semi-trailer within Colorado would not be subject to registration or licensing act of Colorado if properly registered and licensed in the state of incorporation if there is a reciprocal license agreement between Colorado and the state of incorporation.

**171 COLLECTION AGENCY—SMALL LOAN ACT**

Hon. Maple T. Harl,  
August 26, 1943.

A collection agency which accepts a note from a debtor for the exact amount of the debt due, with interest at the rate of six per cent per annum, does not need to be licensed under the provisions of Chapter 121, Session Laws of 1943, being the Small Loan Act.

**172 EMPLOYEES RETIREMENT**

Mr. Raymond J. Heath,  
August 26, 1943.

Construction of Section 3, Chapter 94, S. L. 1941, amending Section 33, Chapter 36, 1935 C.S.A. A member reaching the age of 70 and otherwise qualified and although has service of 18 years is entitled to benefit computed on service since August 1, 1931, only. If he completes 20 years, he could come within provisions of Section 1.

**173                    MOTOR VEHICLES—LEGISLATION**

Mr. C. H. Gunn,  
August 31, 1943.

Chapter 119, S. L. 1931, was repealed and amended by Chapter 122, S. L. 1931. Repeals by implication must be recognized where the legislative intent to substitute a new law upon a subject previously covered is clear.

**174                    ELECTIONS**

Mr. L. J. Bennett,  
August 31, 1943.

Section 218, Chapter 59, 1935 C.S.A., provides that any commissioned officer may administer oaths or affirmations to absentee voters in Military or Naval service of the United States or of the State of Colorado; Chapter 86 extends such power to any commissioned officer in Army, Navy, or Marine Corps to take oaths or affirmations under any other provision of the Election Laws.

**175                    SCHOOLS**

Mrs. Kathleen O'Rourke,  
August 31, 1943.

Where two school districts reach an agreement whereby the students of one school attend the other the former levying taxes and paying moneys into the latter district, the former district has not maintained a school within the meaning of Section 64, Chapter 146, which should be interpreted in accordance with the decision of *Duncan vs. the People*, 81 Colo. 149, and the County Superintendent after the expiration of three years must declare the former district disorganized.

**176                    COUNTY OFFICERS—JUNIOR COLLEGES**

Mr. Frank H. Hall,  
September 3, 1943.

County Treasurers may withhold one per cent of tax collected for Junior College of Trinidad under provisions of Section 25, Chapter 66, and Section 7, Chapter 94, 1935 C.S.A.

**177                    WORKMEN'S COMPENSATION**

Sgt. Maurice B. Silverman,  
September 4, 1943.

Newsboys construed employees and within the meaning of the Compensation Act. Relief under Compensation Act is exclusive and a bar to other action.

**178 COUNTY FUNDS—WAR EMERGENCY**

Mr. R. W. Esgar,  
September 7, 1943.

Chapter 114, S. L. Colo. 1941, authorizes county treasurers upon written resolution of the board of county commissioners to invest county funds in bonds of the United States, farm loan bonds, home owners loan corporation or bonds of any other corporation created by the United States as a government agency; also in Colorado bonds which are general obligations, or bonds of school districts not in default and any municipal bonds, county bonds or county warrants not in default. Securities purchased must be registered in name of county treasurer and sold or disposed of by resolution of board of county commissioners, designating depository of proceeds or form of reinvestment. No county warrant is necessary and interest earned is credited to fund from which purchase is made.

**179 SCHOOLS**

Mr. Frank P. Hall,  
September 8, 1943.

Where a school district with outstanding warrants has been dissolved under Section 64 of Chapter 146, taxes should be levied against the property which was contained within the old district to pay the outstanding indebtedness, and the property of the district to which such territory has been annexed is not subject to such tax. Nor should the consolidated district use its funds to take care of such indebtedness.

**180 STATE BOARD OF STOCK INSPECTION  
COMMISSIONERS**

State Board of Stock Inspection Commissioners,  
September 11, 1943.

Chapter 182, Session Laws of Colorado 1943, construed to mean that compensation payment to brand inspectors of five cents per head is fixed and not optional on the part of the State Board of Stock Inspection Commissioners.

**181 SOLDIERS' AND SAILORS' RELIEF ACT—  
TAXATION**

Mr. Frank D. Allen,  
September 13, 1943.

If a person in military service or someone on his behalf files affidavit with the county treasurer that tax has been assessed upon real property owned and occupied by him, his dependents

or members of his family, for dwelling, agricultural, or business purposes and such occupancy continues; also that such tax is unpaid and the ability of the person to pay the same is affected by military service, no tax sale can be made of such property without leave of court. No penalties may be attached for delinquency and interest is reduced to 6 per cent per annum simple interest. The court may stay proceedings for six months after termination of military service; redemption period is six months after termination military service or six months after termination of the federal relief act or the state statutory redemption period whichever is longer.

Affidavits filed should give description of land and amount of tax. Time for tax deed is dependent upon termination of redemption period.

### **182            AGRICULTURAL COLLEGE—WAR BONDS**

Mr. C. M. Ryan,  
September 14, 1943.

The Agricultural College Land Permanent Fund and the Fort Lewis Endowment Investment Fund can both be invested in United States War Savings Bonds Series G. Authority is found in Session Laws of 1939, page 213, and Session Laws of 1943, page 582.

### **183            GAME AND FISH**

Mr. Howard S. Pine,  
September 15, 1943.

Section 80, Subsection 16(c), Chapter 73, 1935 C.S.A., shall be construed not to include one fishing with two poles when no fish are actually caught.

### **184            ELECTIONS—WAR EMERGENCY                   (Residence)**

Mr. Arthur C. Gordon,  
September 21, 1943.

Local authorities having to decide the question of residence for voting purposes of Japanese in Colorado by reason of action of the War Re-Location Authority, may determine that there is not the requisite intent to make Colorado the permanent residence and thereby a presumption that such persons had not acquired residence in Colorado and that residence on the west coast is retained. Such local authorities must independently investigate each case and determine the question of residence on all the facts and circumstances.

**GAME AND FISH**

Game and Fish Commission,  
September 22, 1943.

**(Fur Dealers.)**

Deer and elk pelts may be included in definition of fur bearing animals in Section 2, Chapter 108, Session Laws of 1939, by regulation of Commissioners.

No person shall engage in the business of dealing with raw or green pelts of elk or deer unless they be a fur dealer, providing elk and deer pelts are brought within the provisions of Chapter 108, S. L. 1939.

**LIQUOR**

Mr. Myron R. Donald,  
September 24, 1943.

Amount paid for wholesaler's beer license may be refunded if license was never used, and application for refund is promptly made, even though such application was made after effective date of license, due to the fact that the licensing authority did not issue such license until after such effective date.

A refund of the proportionate part of an unexpired wholesalers malt beverage license, issued pursuant to the provisions of Section 5(2), Chapter 89, 1935 C.S.A., however, is not authorized if the licensee discontinues business during the license period.

**WORKMEN'S COMPENSATION**

Industrial Commission of Colorado,  
September 28, 1943.

In order for poliomyelitis to be compensable under the Workmen's Compensation Act, it must be accompanied by an "accidental injury," and arise from that injury or be aggravated thereby.

Whether or not a nurse is an employee for an independent contractor, is a question of fact for the Commission in each case.

A volunteer is not an employee under the Workmen's Compensation Act.

**UNIVERSITY OF COLORADO—WAR BONDS**

Mr. Waldo E. Brockway,  
September 29, 1943.

Unneeded funds appropriated from mill levy for building construction pursuant to Section 4, Chapter 263, Session Laws of 1937, as amended by Chapter 229, Session Laws of 1941, are



eligible for investment and may be invested in securities approved by statute if so directed by resolution of the Board of Regents of the University of Colorado. Interest accruing should be placed to credit of fund making investment.

**189 REAL ESTATE BROKERS BOARD**

Mr. Lester G. Truby,  
September 29, 1943.

No statutory authority for expenditures of money for educational purposes from travel expense item of Real Estate License Fund.

**190 COUNTY OFFICERS—FEES AND SALARIES**

Mr. George C. Twombly,  
September 30, 1943.

Where it is desired to appoint a County Sheriff to act also as probation officer of the County Court, it is legal to make such appointment as the two offices are not incompatible, and in such case under the authority of the case of *Montrose County vs. Wharton*, 82 Colo. 466 at 469, such officer is entitled to draw compensation for both offices.

**191 SECURITIES COMMISSIONER**

Mr. Allan S. Richardson,  
October 1, 1943.

Subject company held to be both an issuer and a dealer, and as such, it could not avoid compliance with the Securities Act by the adoption of a mere device, scheme, plan or expedient whereby buyers of stock did not exceed fifty.

Acquisition of stock of subject company by officers of said company having been in furtherance of a general scheme to avoid compliance with said Act, it is held they acquired their stock for the purpose of resale to the public, making them dealers within the meaning of said Act.

**192 FEES AND SALARIES—CLERKS OF  
DISTRICT COURTS**

Mr. A. J. Valdez,  
October 5, 1943.

Chapter 98, Session Laws of 1943 (S.B. 304), relating to salary increases does not apply to Clerks of District Courts.

**193 CITIES AND TOWNS—ELECTIONS**

Mr. Earle Bryant,  
October 6, 1943.

As the Montrose City Charter provides with respect to the nomination of elective officers that the procedure shall be "as is now provided by the laws of Colorado" and the Session Laws of 1910 were in force at the time of the adoption of the Charter they should control; certificate of nomination should be filed not more than 30 days nor less than 15 days before the day of election and acceptance filed within 8 days after such filing.

**194 COUNTY OFFICERS—FEES AND SALARIES**

Mr. George C. Twombly,  
October 7, 1943.

Under the authority of Chapter 132 of the Session Laws of Colorado 1939, a County Sheriff may act as Ex Officio Probation Officer and the Board of County Commissioners may provide for additional compensation or separate salary for acting as such Ex Officio Probation Officer.

**195 CITIES AND TOWNS—COUNTIES  
(Recreation Commissions)**

Mr. Fred W. Huling,  
October 7, 1943.

Chapter 222, Session Laws of 1935, gives power to cities and counties to operate a public recreation system. The City of Pueblo may by ordinance establish a Recreation Commission and delegate to it powers conferred on the city by Chapter 222. The same body could be by resolution of the County Commissioners constituted the agency of the county. Moneys may be appropriated to such commission by both the city and the county.

**196 ABSTRACTERS**

Mrs. Kathleene Blackham,  
October 8, 1943.

An abstracter need not reside in the county for which he is licensed to make abstracts of title. Such non-residence will not permit the County Clerk and Recorder to prepare abstracts of title.

**197 INTOXICATING LIQUORS**

Mr. Richard H. Simon,  
October 9, 1943.

A person who has been convicted of a felony is ineligible to receive a liquor license in this state even though he may have subsequently received a pardon for the offense committed unless found wholly innocent of the offense.

**198 SCHOOLS—DEFENSE BONDS**

Mr. Carl W. Fulghum,  
October 15, 1943.

A surplus fund in the hands of a school district may not be invested in United States certificates of indebtedness as the funds are not eligible for investment within the meaning of Section 126(1) of Chapter 176, nor would Chapter 114, Session Laws of 1941 authorize such investment as these securities cannot be registered.

**199 BANKS AND BANKING LEGISLATION**

Hon. Maple T. Harl,  
October 19, 1943.

Section 36 of Chapter 18, 1935 Colorado Statutes Annotated, is invalid. Section 35 of said Chapter is controlling in connection with the operation of state banks. Where an act which was to take effect as an amendment to another act does not become effective until after such other act is repealed, and the subject is not expressed in the title except as such amendment, the act is void and of no effect.

**200 VETERANS SERVICE OFFICER—OFFICERS—  
CIVIL SERVICE**

Hon. John C. Vivian,  
October 19, 1943.

Veterans Service Officer appointed pursuant to provisions of Chapter 180, S. L. of Colorado 1943, and performing the duties of such officer is at least a de facto officer and as such entitled to the compensation provided for the office. *Roberts vs. People*, 81 Colo. 338.

Officers are not liable for making such appointment and payment before the statute authorizing payment has been declared unconstitutional. Sec. 7, Ch. 36, 1935 C.S.A., is inapplicable where appointment is made pursuant to a presumably valid statute.

**201                   SCHOOLS—OFFICERS**

Mrs. Dorothy K. Jackson,  
October 21, 1943.

Under Section 88 of Chapter 146, 1935 C.S.A., district boards of the first class have power to fill vacancies until the regular election. In order to fill a vacancy it is necessary that a quorum of the whole board be present. The president of a school board does have a vote on any question properly before the board.

**202    SCHOOLS—CITIES AND TOWNS—RECREATION**

Mr. Kent L. Sanborn,  
October 21, 1943.

Chapter 136, 1935 C.S.A., gives a legislative sanction to school districts and city councils operating a system of public recreation and provides that they may delegate operation of such system to a recreation board and appropriate money to such board.

**203                   UNIVERSITY OF COLORADO—BONDS**

Mr. Bert G. Helvern,  
October 21, 1943.

Authority to issue refunding bonds and take up University of Colorado Men's Dormitory  $3\frac{1}{4}$  per cent Serial Bonds of 1936 and Faculty Club and Apartment House  $3\frac{1}{4}$  per cent Bonds of 1938 is derived from the general broad powers conferred on the Regents of the University as well as the general rule that a unit of government empowered to issue bonds may refund them. The express power to issue the bonds in the first place is found in Session Laws of 1931, Chapter 155, and Session Laws of 1936, Chapter 12. The limitation of time contained in both enactments refers only to the issuance of the original obligation, not to negotiations leading to a scaling down of the debt.

**204                   SOIL CONSERVATION DISTRICTS**

Colorado State Soil Conservation Board,  
October 29, 1943.

Soil Conservation Act of 1941 construed to the effect that cooperative agreements could be entered into between districts in order to better assist the landowners in regard to supplying available equipment. Sec. 19, Ch. 203, S. L. 1941, provides for consolidation which may be preferable.

**205 WATER AND IRRIGATION—FEES AND SALARIES**

Mr. M. C. Hinderlider,  
November 1, 1943.

Section 216, Chapter 90, 1935 C.S.A., construed to mean that only one fee is chargeable when a claim or claims are made to a water right which arises from one source.

**206 DAIRY COMMISSIONER**

Mr. W. H. Skitt,  
November 3, 1943.

(Oleomargarine.)

Oleomargarine, the oil content of which is oleo oil, oleo stock, oleo stearine, neutral lard, milk fat, cotton seed oil, peanut oil, or corn oil, containing matter would not be subject to excise tax if coloring matter does not contain oil as defined by Section 18, Chapter 49, 1935 C.S.A.

**207 VETERANS ADMINISTRATION**

Mr. Goddard Shackelford,  
November 4, 1943.

(Public Records—County Officers.)

Any person having custody of any public record which would be required or used by the Veterans' Administration in determining the eligibility of any person to secure benefits through the Veterans' Administration, is required to provide applicant, or any person acting on his behalf, or a representative of the Veterans' Administration, with certified copies of such records, and no fee should be charged therefor.

**208 VOCATIONAL EDUCATION  
(Administrative Code of 1941)**

Mr. H. A. Tiemann,  
November 4, 1943.

(1) The personnel employed by the State Board for Vocational Education are appointed by the board with the approval of the Governor subject to the Civil Service laws.

(2) The compensation of employees of the State Board for Vocational Education is fixed by the board with the approval of the Governor.

(3) The laws providing for the establishment and maintenance of the State Board for Vocational Education are subject to Section 5 of the Administrative Code of 1941.

(4) The Administrative Code of 1941 authorizes the Executive Department thereof to approve expenditures of the State Board for Vocational Education.

## 209 COLORADO STATE HOSPITAL

Hon. John C. Vivian,  
November 4, 1943.

Determination of the cost of keeping a patient in the Colorado State Hospital referred to in Chapter 105, 1935 C.S.A., should be made by the Superintendent of the Hospital and the Governor.

## 210 WATER AND IRRIGATION

Mr. D. S. Jones,  
November 4, 1943.

Where decrees state that the use of water may be for *such time and times as* necessary for the irrigation, the water commissioner has no such authority to determine what time and times water should be used. The appropriator is the one who determines when the water should be used by him for a beneficial purpose; however, the water commissioner may prevent wastage or uneconomical use.

## 211 FEDERAL AND STATE EMPLOYMENT—WATER AND IRRIGATION

Mr. M. C. Hinderlider,  
November 5, 1943.

1. It is not incompatible for a state employee to devote part of his time to work other than state employment, so long as he at all times performs his statutory duties which must not be neglected during the period of other employment.

2. Sec. 333, Ch. 90, 1935 C.S.A., construed to mean that Water Commissioners are not precluded from accepting other employment, at such time or times as, in the discretion of the State Engineer and Irrigation Division Engineer, may be deemed advisable. However, the water commissioner is under a duty at all times to perform his statutory duties which must not be neglected during the period or periods of other employment.

## 212 FEES AND SALARIES—EMPLOYEES—DIVISION OF PUBLIC BUILDINGS

Hon. John C. Vivian,  
November 9, 1943.

Salary increases in the Division of Public Buildings are subject to the provisions of Chapter 98, Session Laws 1943 (S.B. 304).

**213 COUNTY OFFICERS  
(Residence)**

Board of County Commissioners,  
November 10, 1943.

Each case must be determined on its own facts where a County Commissioner is out of the state, and if sufficient facts exist the remaining County Commissioners may determine that there is a vacancy in the Board due to the removal from the district of a member. Such conclusion should be certified to the Governor who can then make an appointment.

The County Treasurer is empowered to appoint a deputy and assistants. The compensation and time of service is to be fixed by the official appointing with the approval of the Board of County Commissioners. If such approval is only given for a fixed period, at the expiration of that time the assistant would no longer be entitled to be paid. The County Commissioners may by mandamus force the County Treasurer to follow the various statutes requiring reports to them and this will include a monthly report of all income of the office and of necessary expenses.

**214 INSURANCE**

Hon. Luke J. Kavanaugh,  
November 12, 1943.

The right of a company to be a corporation and exercise its franchises in this state is terminated if it fails to extend its corporate existence within one year after the expiration of the charter to be so renewed.

Upon such failure, company must pay fees charged new corporations and must comply with Sec. 21, Ch. 87, 1935 C.S.A.

**215 UNIVERSITY OF COLORADO**

Mr. W. E. Brockway,  
November 13, 1943.

1. The Regents of the University of Colorado act in capacity of trustees only with reference to the supervision of and collection of revenues from Women's Dormitory.

2. The General funds of the University cannot be used to pay obligations of the bond issue.

**216 STATE BOARD OF LAND COMMISSIONERS**

State Board of Land Commissioners,  
November 15, 1943.

Where two certificates of purchase were cancelled by the Board, the Board would on request of the two contracting parties

have no legal authority to re-establish the contract and permit the parties to proceed under its terms as if there had been no breach. This is particularly true where there has been a lapse of time and where conditions have so changed that the price on the land at present is considerably in excess of that of the date of contract. Certain circumstances might justify reinstatement. If, for instance, it could be shown that at the time of invoking foreclosure, all the facts had not been before the State Board of Land Commissioners.

217

**SCHOOLS**

Ms. Olga A. Hellbeck,  
November 16, 1943.

A school district not complying with the provisions of House Bill 362 may not receive benefits from the State School Equalization Fund. Where a district elects not to come within the act and the County Commissioners do come within the act and do make a levy not in excess of one mill, the district electing not to participate would, although subject to the tax, receive no benefits therefrom. Such levy would be the same throughout the county and its amount is within the discretion of the Board of County Commissioners to a maximum of one mill. If a school district elects to accept the terms of the act and to comply with the act, and it is found necessary to increase the levy beyond the five per cent permissible under Section 39 of Chapter 142, it must submit the question of the increased levy to the Tax Commission. The 2½ per cent mill levy provided for in the act is to be considered a part of the existing special school district tax levy. The county one mill levy should not be included in determining whether the 5 per cent has been exceeded.

218

**SCHOOLS**

Mr. Eddy Webb,  
November 17, 1943.

The maximum one mill levy for union high school districts as provided in Section 5a of House Bill 362, Ch. 175, S. L. 1943, should be considered part of the special levy. The county one mill levy provided in the bill should not be so considered. For a joint high school district this might result in the portion of the district within a county accepting the Act being subject to a higher rate of tax than the portion contained within a county which elects not to accept.



219

**COUNTY OFFICERS**

Mr. John C. Cook,  
November 17, 1943.

The attesting signature of the County Clerk on a county warrant affects the authenticity of the warrant as an instrument and does not concern the legality of the fund upon which the instrument is drawn.

220

**RULES OF CIVIL PROCEDURE—OFFICERS**

Mr. Arthur C. Gordon,  
November 18, 1943.

The Attorney General is without authority to appear in behalf of private parties in a proceeding in the nature of a quo warranto action. See Rule 106(a)(3) and the notes thereto. Vol. 1, 1935 C.S.A. Rules of Civil Procedure.

221

**HIGHWAYS—COUNTIES—PLANNING BOARD**

Dr. ElRoy Nelson,  
November 18, 1943.

County zoning boards may by a mapped plan of zoning stipulate set-back requirements along major highways non existent. However, the zoning ordinances would not apply to persons owning structures not in compliance with the zoning ordinance along roads around highways when same are constructed. Sec. 19, Chap. 45a, 1935 C.S.A., provides the steps to be taken by the commissioners to compel compliance with the zoning plan.

222

**STATE BOARD OF LAND COMMISSIONERS**

State Board of Land Commissioners,  
November 19, 1943.

Where the state obtains land under foreclosure to which the mortgagor had already executed a deed and the Board grants mortgagor a lease on land and in a letter of 1937 stated that if the mortgagor could re-purchase the land it would be put on the market at the amount invested by the state, the present board is not bound by such a commitment of its predecessors as such commitment was beyond statutory powers. Possibly the mortgagor might have some recourse against individual members of the former board.

223

**SCHOOLS—TAXATION**

Colorado Tax Commission,  
November 22, 1943.

For the purpose of determining whether the five per cent increase authorized in Section 39 of Chapter 142 has been exceeded, a joint school district should be considered as a whole regardless of county lines. Where a district was dissolved and the territory annexed to an adjoining district, the revenues of the unorganized district should be kept with those of the annexing district and five per cent allowed on the total. Section 32 of Chapter 146, C.S.A. 1935, is an absolute limitation of third class districts and the Tax Commission may not authorize a levy in excess of 20 mills.

224

**STATE BOARD OF COSMETOLOGY**

Ms. Faye Dickson,  
November 23, 1943.

If a charge is made by a beauty school for the services of its students, such charge must be 60 per cent of the minimum price schedule established for the judicial district wherein the school is located. This does not preclude the school from making an outright sale to the customer of the material used by the student in performing the services, and furnishing the service free.

225

**ELECTIONS—CRIME—PARDONS**

U. S. Department of Justice,  
November 24, 1943.

The right of one convicted of a felony to vote is restored when such person has been released by virtue of a pardon or by virtue of having served out his full term of imprisonment. The restoration of such rights is subject only to such specific constitutional and statutory limitations as may apply to the particular case. One paroled is not entitled to vote until final discharge after serving period of parole.

226

**STATE BOARD OF COSMETOLOGY**

Mr. Ernest J. Martin,  
November 29, 1943

Where, through misunderstanding of the law, the Board of Cosmetology failed to issue a certificate to certain persons who successfully passed the examination therefor, the certificate will be considered as issued for that year, and the applicant is eligible to make application for a renewal certificate within the time limited by statute.

**227 INTOXICATING LIQUORS**

Mr. L. J. Bennett,  
November 30, 1943.

Intoxicating liquor or beverages purchased lawfully outside State of Colorado and transported into the state do not require stamps unless the importation is for sale or offered for sale within the state. Liquor imported solely for personal use and consumption need not be stamped and possession of unstamped containers under such circumstances is lawful.

Such liquor so imported cannot be taxed because no machinery for the imposition of a "use tax" thereon has been provided and a tax may not be levied by implication from general words of a statute. (*Bedford v. Johnson*, 102 Colo. 203.)

**228 STATE BOARD OF HEALTH—DAIRY  
COMMISSIONER**

Mr. K. W. Lloyd,  
December 3, 1943.

The Division of Public Health has the power to make reasonable rules and regulations to control the sanitary production and manufacture of dairy products and inspections. The State Dairy Commissioner should enforce rules of the Division of Health. If he refuses, any orders issued for violation of the rules and regulations so established can only be made by the Food and Drug Commissioner or an inspector of the Food and Drug Division.

**229 SCHOOLS—TAXATION**

Colorado Tax Commission,  
December 10, 1943.

Pension levies authorized by statute should be included in determining whether a school district tax levy exceeds the authorized increase of five per cent under Section 39, Chapter 142, 1935 C.S.A.

**230 STATE BOARD FOR VOCATIONAL EDUCATION**

Mr. H. A. Tiemann,  
December 13, 1943.

State Board for Vocational Education can add corrective surgery and hospitalization for disabled persons to its plan of activities without violating Colorado statute.

231

**SCHOOLS—HEALTH**

Ms. Ethel L. Sherman,  
December 21, 1943.

(Vaccination under epidemic conditions.)

Under epidemic conditions a school board could undoubtedly exclude from school an unvaccinated child. In the absence of Colorado court ruling on the subject, it is probable that a rule requiring vaccination would be a reasonable requirement, although there is authority to the contrary.

232

**UNIVERSITY OF COLORADO—BONDS—  
STATE TREASURER**

Mr. Herbert L. Morris,  
December 21, 1943.

The loss or disappearance of United States Treasury Certificates of Indebtedness, which are not registerable, through the negligence of the treasurer would be covered by the treasurer's bond. It would be unnecessary to procure additional security against loss.

233

**STATE BUREAU OF CHILD AND ANIMAL  
PROTECTION**

State Bureau of Child and Animal Protection,  
December 29, 1943.

Where Bureau sells mortgaged animals, all sales are subject to outstanding valid mortgages. Prospective buyers must be notified of the fact that the animal so purchased may be taken from them by the mortgagee. The notice must so state. The lien created by care of the animal does not have precedence over valid recorded chattel mortgage. Section 414, Chapter 48, construed not to create a preferred lien.

234

**CHIROPRACTORS**

Colorado State Board of Chiropractic Examiners,  
December 30, 1943.

(Interpretation of Ch. 82, 1943 S. L.—Educational Requirements.)

Educational requirements must be approved by the Board of Examiners. This includes post graduate requirements.

The board is not compelled to recognize any particular school that gives post graduate courses.

The board must prepare and prescribe minimum post graduate requirements. Others may broaden this outline of requirements after being prepared by the Board.

**235 STATE BOARD OF LAND COMMISSIONERS**

State Board of Land Commissioners,  
December 31, 1943.

Under general broad powers of the State Board of Land Commissioners it could determine that acceptance of a warranty deed to privately owned property would be the best method of securing the maximum possible amount for public lands of the state if in a particular case its debtor had no other means of paying his debt.

**236 COUNTIES—LIBRARIES**

Mrs. Marion Warden,  
January 6, 1944.

Where the voters of a county have voted to establish and maintain a county library, and there has been levied a 2/10 mill levy, no further authorization from the voters is necessary to levy an additional 1/10 mill.

**237 INTOXICATING LIQUORS**

Mr. L. J. Bennett,  
January 10, 1944.

A wholesaler may blend and bottle barreled whiskey for sale to the retail trade by procuring a manufacturer's license, as provided by statute. Sec. 30(c), Ch. 89, 1935 C.S.A.

**238 STATE BOARD OF AGRICULTURE—SECURITIES**

State Board of Agriculture,  
January 10, 1944.

The State Board of Agriculture as a general rule does not have the right to dispose of securities prior to maturity or optional date. If the Board can determine that a loss will result to the fund, it may authorize sale of such securities and reinvest the proceeds. Facts indicating that such loss will result, should be set forth in the resolution authorizing sale. Each investment should be considered by itself.

**239 STATE BOARD OF LAND COMMISSIONERS—  
ESCHEAT**

State Board of Land Commissioners,  
January 11, 1944.

If the County Court by decree declares that certain real estate was escheated to the state, the state can convey marketable title to a purchaser, although the Colorado statute contemplates that real estate should be converted into cash and the proceeds declared escheated.

**240 STATE BOARD OF LAND COMMISSIONERS—  
INVESTMENTS**

State Board of Land Commissioners,  
January 11, 1944.

The State Board of Land Commissioners does not have the power to dispose of securities held in the Permanent Fund even if profit would result from such disposition unless the Board can determine that holding a security will result in loss. After such a determination, the security could be disposed of prior to maturity or option date. Even in such case, it would not be permitted to dispose of the security below par.

**241 UNIVERSITY OF COLORADO—WAR CONTRACTS**

Board of Regents of the University of Colorado,  
January 11, 1944.

Where the University of Colorado enters into a contract with the Government providing compensation for instructional services and for supplies, subsistence, use of property, and for other purposes, and some of the property used is dormitories and the facilities thereof, it is necessary that the compensation paid be allocated to the various facilities used in such proportion as is determined as a proper reimbursement for the use of such various facilities. There is no conflict with any constitutional or statutory powers of the Regents so long as such allocations are submitted in accordance with an administrative accounting and the determination of such costs so that the moneys allocated to service the bonded indebtedness on such dormitories shall be only such proportion of the compensation paid as is administratively determined to be a proper remuneration for the cost of the use of such property and services provided in connection therewith.

**242 LEGISLATURE**

Hon. Tom Kimball,  
January 11, 1944.

Members of the Legislature are entitled only to be reimbursed for necessary traveling expenses actually incurred by them as the same are allowed after proper auditing. No traveling expense is contemplated by the constitutional provisions where a member of the Legislature travels to his home during a session of the Legislature; such traveling expenses would be considered as an expense in conducting his personal affairs and not as connected with his services in the Legislature.

**243 ALIENS—REAL PROPERTY**

Hon. John C. Vivian,  
January 11, 1944.

Aliens may acquire real property in Colorado. Article II, Sec. 27, Colorado Constitution; Ch. 7, Sec. 6, 1935 C.S.A.

**244 STATE COUNCIL OF DEFENSE—CIVIL AIR PATROL**

Hon. John C. Vivian,  
January 11, 1944.

Funds of Colorado Council of Defense may be used to assist the Civil Air Patrol which assists in activities enumerated in Chapter 140, S. L. 1943.

**245 FEDERAL CONSTITUTIONAL AMENDMENTS**

Hon. John C. Vivian,  
January 12, 1944.

In proposing an amendment to the Federal Constitution, Congress designates method of ratification by the state, i.e., either by legislative action or by convention.

**246 SALES TAX—U. S. GOVERNMENT**

Mr. Albert F. Cruse,  
January 13, 1944.

Where U. S. Government through one of its agencies conducts "salvage depots" or similar businesses, selling to the public, it should collect excise tax, as this is a retail sale. The state will have to depend on cooperation from the Government.

**247 SCHOOLS**

Mr. Herbert L. Strang,  
January 19, 1944.

A contingent fund set up in its budget by a second class district cannot be used to pay principal and interest of bonds issued by the district. They should be paid from the regular bond and interest levies and only in case of extraordinary facts should the contingency fund be so used.

**248 STATE BOARD OF AGRICULTURE—  
FORT LEWIS SCHOOL**

Mr. James R. Miller,  
January 19, 1944.

The State Board of Agriculture has sufficient title to the property known as the Fort Lewis School, which it derived by grant from the Federal Government, to justify the expenditure of money for improvements on such land.

## 249      **COUNTIES—SCHOOLS—FEDERAL PURCHASE OF LANDS**

Mr. Joe Perkins,  
January 20, 1944.

Moneys representing a quarter of the revenue annually received from lands heretofore purchased by the Federal Government should be allocated to the county wherein such land was located—50 per cent to the public schools and 50 per cent to the public roads, and a division should be made of the percentage going to public schools so as to at least partially reimburse both the County General School Fund and special fund for tax moneys lost to them.

## 250      **STATE BOARD OF COSMETOLOGY**

Mr. Ernest J. Martin,  
January 20, 1944.

The holder of an operator's license may practice cosmetology in a residence hotel, hospital or room unless it is determined by the Board that such practice would constitute a violation of the rules and regulations pertaining to sanitary control.

## 251      **STATE BOARD OF LAND COMMISSIONERS**

State Board of Land Commissioners,  
January 24, 1944.

A certificate of purchase is alienable and an individual may assign his interest in a certificate by the execution of a quit claim deed. The transferee would have the right to keep the purchase from the state by paying out the purchase price at which time the state can issue patent to such transferee.

## 252      **SCHOOLS**

Mr. A. D. Roberts.  
January 24, 1944.

Generally at the expiration of each month's service by a teacher, an obligation is imposed on a school district for a percentage of the last three months of the year. A reasonable provision can be incorporated in the contract to provide liquidated damages to the district in case of a breach of contract.

## 253      **STATE DAIRY COMMISSIONER—CIVIL SERVICE**

Hon. John C. Vivian,  
January 25, 1944.

The Office of State Dairy Commissioner is filled by appointment of the Governor subject to the Civil Service Amendment and laws. Section 5(a), Section 9(10)(3), Administrative Code of 1941.



254

**SCHOOLS—INSURANCE**

Ms. Lettie Lee Brand,  
January 26, 1944.

A school district could only insure a school building with a mutual insurance company if it appeared that the school district is non-assessable, or unless the contract contained a clear limitation on the contingent liability of the insured which limited liability is not disproportionate to an ordinary fire premium.

255

**EMPLOYEES' RETIREMENT ASSOCIATION**

The Public Employees' Retirement Association,  
January 28, 1944.

Section 9 of the Act (retention of membership and continued payment after leaving state service) and Section 12 (pertaining to disability retirements) may be construed together so that a member may become entitled to certain specified benefits without being obliged to meet the condition of 15 consecutive years of service as contemplated in Section 12.

256

**BANKS AND BANKING**

Mr. Maple T. Harl,  
January 31, 1944.

The maximum term of corporate existence of an industrial bank is for a period of twenty years, subject to the right of renewal.

257

**LEGISLATURE—FEES AND SALARIES**

Hon. W. E. Higby,  
February 1, 1944.

Where a voucher has been issued to members of the State Legislature covering the balance of their biennial compensation and the Legislature is called into a special session, each member can only receive his per diem compensation for such service upon presentation of the said vouchers so that the per diem payment made for services in a special session could be properly deducted therefrom. If a legislator so desires, he would be entitled to hold the voucher and would thereby not receive the per diem payment for services at the special session but would be entitled to payment of the amount of the said voucher on the first day of the last month of the biennial period as provided by the constitution. Where such voucher has been assigned, the per diem service at the special session could only be paid in case the assignor makes demand for such payment and assignee possesses the said voucher and consents to such payment. In such case the assignor's rights would of course be recognized.

258

**EMPLOYEES' RETIREMENT**

Mr. Harry A. Thompson,  
February 1, 1944.

The question of whether or not an employee is a public employee within the meaning of Chapter 149, Session Laws of Colorado 1941, is for the Retirement Board to decide by authority of Section 4 of the Act.

259

**WATER**

Mr. M. C. Hinderlider,  
February 2, 1944.

**(Operation of Caddoa Reservoir.)**

Colorado should follow the following policies in connection with the operation of Caddoa Reservoir until the decision of the United States Supreme Court becomes final: (1) The Stipulation on December 18, 1933, is not presently effective or controlling; (2) Kansas has equitable rights to receive benefits of stream flow, and Colorado must recognize such rights; (3) Since Kansas' rights are undefined, Colorado should permit the free passage of water through Caddoa Reservoir during the winter season, so long as Lake McKinnie is not filled and Kansas is making beneficial use of the water available to it; (4) When substantial quantities of water are passing through Garden City, Colorado would be justified in closing the Caddoa gates to permit storage of water for future use, unless the Colorado ditches below Caddoa are demanding and entitled to water under priorities; (5) Water stored in Caddoa should not be earmarked as belonging to any particular water user; (6) Water passing through Caddoa or accruing to the stream below Caddoa is available for diversion by Colorado appropriators in order of priority subject to the requirement that the water must be beneficially used and not wasted.

**260 HIGHWAY COURTESY PATROL—MOTOR VEHICLES  
—INTOXICATING LIQUORS**

Mr. Vernon W. Drain,  
February 3, 1944.

(1) A second or subsequent final conviction in a court of competent jurisdiction constitutes a second offense of drunken driving.

(2) There is no statute of limitation which would outlaw a first conviction so that a second conviction would be looked upon as a first.

(3) A final conviction of a person by a court of competent jurisdiction of a misdemeanor stands without limitation of time.

(4) If there is a record of final conviction of a person for drunk driving, neither the District Attorney nor the Court has any discretion relative to the modification of the penalty imposed for second or subsequent convictions under Section 187, Ch 16, 1935 C.S.A.

## 261 INTOXICATING LIQUORS

Hon. L. J. Bennett,  
February 5, 1944.

There is no statute prohibiting the purchase of liquor from the American Distilling Company in the exercise of a right as a shareholder and bringing same into the state. However, should such liquor be offered for sale within the state, the statutes and rules and regulations concerning the affixing of excise stamps must be observed; such stamps can only be affixed by a licensed wholesaler. See opinion to L. J. Bennett, Secy. of State, dated November 30, 1943.

## 262 LEGISLATURE

Hon. Homer L. Pearson,  
February 7, 1944.

Members of the General Assembly are entitled to only those traveling expenses which have been actually incurred. Whether or not they were actually incurred is a question of fact.

## 263 STATE BOARD OF VOCATIONAL EDUCATION

State Board of Vocational Education,  
February 9, 1944.

The State Board of Vocational Education would not be authorized to pay premiums for liability and property damage insurance on private cars used on state business by employees of the Board.

## 264 SCHOOLS

Ms. Marguerite R. Juchem,  
February 9, 1944.

Kindergarten teacher's salary should be paid from special fund of district. Minimum salary law is not applicable.

265

**GAME AND FISH**

Game and Fish Commission,  
February 10, 1944.

(Special Archery Season.)

Subsection 2 of Section 5, Chapter 102, Session Laws of 1943, construed to mean that the Commission has no power to have special archery seasons and prohibit the hunting of game in any other manner during that period of time.

266

**LIVESTOCK BOARD—GOVERNOR**

Hon. John C. Vivian,  
February 11, 1944.

The state would have authority to order the slaughter of diseased goat herds and to compensate owner of such slaughtered animals. Chapter 160, 1935 C.S.A.

267

**COAL MINES—LABOR LAWS**

Mr. Thomas Allen,  
February 14, 1944.

(Labor Laws for Women.)

Section 98 of Chapter 110, construed literally. Said section prohibits employing of women in and about coal mines, except in a clerical capacity.

268

**INSURANCE**

February 15, 1944.

(Group life insurance.)

Colorado laws relating to group life insurance are broad enough to permit adoption of a plan similar to that now in operation in the states of Michigan and Kansas for the extension of group insurance benefits.

269

**INTOXICATING LIQUORS**

Hon. Earl E. Ewing,  
February 17, 1944.

The Post Exchange at Lowry Field, Denver, is not subject to Colorado laws requiring retail liquor dealers to be licensed; it is not subject to the provisions of Section 28, Chapter 89, 1935 C.S.A.

**270 CITIES AND TOWNS—ELECTIONS**

Mr. Cecil R. Ditsch,  
February 18, 1944.

Where an election of municipal officers is not held the former officers continue in office until their successors are elected and qualified. Article 12, Section 1, of Colorado Constitution and Section 104, Chapter 163, 1935 C.S.A.

**271 FEES AND SALARIES—EMPLOYEES—DEPARTMENT OF EMPLOYMENT SECURITY**

Mr. Bernard E. Teets,  
February 24, 1944.

(1) Chapter 98, S. L. 1941, grants increases over the amount paid on January 1, 1942.

(2) Chapter 98, Session Laws 1941, does not apply to a department entirely financed by Federal funds.

(3) At the expiration of the period in Section 2, Chapter 98, supra, salaries affected will return to former status plus any increases under Sec. 14, Ch. 36, 1935 C.S.A.

**272 COLORADO STATE HOSPITAL—ESCHEATS AND ESTATES**

Mr. Webb D. Martin,  
February 24, 1944.

Authority for Colorado State Hospital to file claim for keeping against estate of mental incompetent is found in Section 9, Chapter 105, 1935 C.S.A. See also Section 27, Chapter 235, S. L. of Colorado 1941, and *Joyce v. People*, 81 Colo. 306.

**273 TAXATION**

The Colorado Tax Commission,  
February 24, 1944.

(Lands purchased from counties.)

Lands purchased from counties after 12 o'clock noon are exempt from taxation for the current year of the purchase. *Denver vs. Research Bureau*, 101 Colorado 140, Sections 3 and 4, Chapter 142, 1935 C.S.A., as amended by Chapter 158, Session Laws of 1943.

274

**ESCHEATS AND ESTATES**

Judge Buffer Roberts,  
February 26, 1944.

Re-opening estates no new fee is chargeable. Section 21, Chapter 66, 1935 C.S.A., includes all work done in connection with probate proceedings.

275

**MOTOR VEHICLES**

Hon. Albert F. Cruse,  
February 28, 1944.

Assignment of motor vehicle certificate of title must be made by owner or his attorney in fact even though the owner may be a prisoner of war. Reaffirms opinion of May 6, 1942, and January 13, 1944.

276

**TAXATION**

The Colorado Tax Commission,  
February 25, 1944.

Lands and improvements adjacent to and used exclusively for ditch, canal, flume or reservoir purposes by a mutual reservoir company are exempt from assessment and taxation.

277

**PUBLIC WELFARE DEPARTMENT**

Mr. Hugh Gilmore,  
February 29, 1944.

Fixing of salary of county Director of Public Welfare is within scope of authority vested in it by the State Board of Public Welfare. 1935 C.S.A., Chapter 141, Sections 16, 23 and 25.

278

**COUNTIES—PUBLIC RECORDS—SHERIFF**

Mr. Clement R. Hackethal,  
March 2, 1944.

(County Commissioners—destruction of old records.)

Chapter 125 of the 1937 Session Laws construed to give power to County Clerk to destroy certain records after ten years.

Section 28, Chapter 91, 1935 C.S.A., construed. The Board of County Commissioners may allow the sheriff necessary expenses incurred in recapturing an escaped prisoner, whose escape was due to no fault or negligence of the sheriff or his deputies.

**279            TAXATION—INDUSTRIAL COMMISSION—  
                              INSURANCE**

Mr. Albert E. Zarlengo,  
March 2, 1944.

The Commission is under an obligation to credit upon the tax levied during the year the premiums that were refunded that year by the insurance company to their insurer. Credits may not be carried over from year to year in the event the credit exceeds the tax for a certain year; and further, that the tax is to be figured on the business done during the fiscal year of the State of Colorado which is July first through June thirtieth.

**280            LEGISLATURE**

Hon. Leon E. Lavington,  
March 3, 1944.

**(Employees.)**

The Legislature in Section 9, Chapter 74, 1935 C.S.A., authorized only the employment of the Secretary of the Senate, Assistant Secretary of the Senate, Clerk and Assistant Clerk of the House. It provided in Section 14 of said chapter that in the discretion of the President of the Senate and Speaker of the House they might provide for additional employees as set forth in said section. These provisions were substantially included in one act passed by the General Assembly in 1899. Therefore, the provisions of the two sections having been enacted by the Legislature at the same time, it is necessary to read the same together and give effect to the provisions thereof, and it must be presumed that the Legislature intended all of the provisions to be effective. It is, therefore, within the discretion of the presiding officer of each house to provide for the hiring of clerks after adjournment to assist the Secretary of the Senate and the Clerk of the House in completing the respective journals.

Even though it appears that one clerk was paid for work for a First Extraordinary Session, at the same time she was being paid for work for a Second Extraordinary Session, it must be assumed that the Speaker of the House exercised the discretion granted him and determined that such clerk performed the necessary work for both sessions.

**281            LEGISLATURE**

Mr. Leon E. Lavington,  
March 3, 1944.

**(Reimbursement of employees.)**

In section 8, Chapter 74, 1935 C.S.A., rates of compensation "per day" are provided for officers and employees of the General

Assembly. Section 8 construed together with Sections 6 to 14 of said chapter, indicates that intent of the Legislature was to make provision for each session of the General Assembly. Therefore, they provided for payments for every day of each session irrespective of whether the employees might be the same or different persons and the employees are entitled to the statutory pay for each day served as employees of each session of the Legislature whether or not the two sessions include the same calendar day.

282

**GAME AND FISH**

Mr. Arthur T. Everson,  
March 7, 1944.

A wild animal trap must not be wilfully and negligently placed in such a location that it constitutes a menace to man and domestic animals. If it is so placed, it would constitute a public nuisance and could be seized by any authorized peace officer. Whether or not the facts of any particular case would be sufficient to warrant a criminal prosecution would be a question to be determined by the proper District Attorney.

283

**ESCHEAT FUNDS—STATE TREASURER**

Hon. Leon E. Lavington,  
March 8, 1944.

Interest received from investment of escheat funds in the hands of the State Treasurer may be invested by him as trustee in those securities enumerated in Section 126(1), Chapter 176, 1935 C.S.A.

284

**OPTOMETRY**

Mr. William C. Hammack,  
March 8, 1944.

Before an applicant can qualify to practice optometry he must have attended either a school or college of optometry of good standing which requires an actual personal attendance of at least two years and not less than two thousand hours or the equivalent thereof as determined by the Board of Optometric Examiners. See Section 8 of Chapter 120, 1935 C.S.A.

285

**CITIES AND TOWNS—ELECTIONS**

Mr. K. Gilbert,  
March 8, 1944.

A town election should be held even though only one party has candidates printed on the ballot.



**286 CITIES AND TOWNS—ELECTIONS**

Mr. Ira N. Thompson,  
March 9, 1944.

Section 197 of Ch. 59, 1935 C.S.A., and not Section 198 governs order in which candidates in municipal elections shall be listed on ballot.

**287 NURSE EXAMINERS**

Miss Irene Murchison,  
March 10, 1944.

(Licensing Board.)

No state nurse's license can be required of a nurse employed by Federal agency and practicing exclusively within a Federal area.

**288 SOLDIERS AND SAILORS HOME**

Captain J. H. Lewis,  
March 10, 1944.

Under Section 8, Chapter 150, 1935 C.S.A., the Commission of the Soldiers and Sailors Home could properly adopt a system affording the inmates an opportunity to place their money in the custody of the Commander. The expense incurred in operation of the plan would be a proper administrative expense.

**289 STATE HISTORICAL SOCIETY**

Mr. John Evans,  
March 10, 1944.

The donation fund of the State Historical Society authorized by Chapter 154, 1935 C.S.A., is not an administrative or cash fund affected by Chapter 32, S. L. 1941; the authorized officers of the society have complete control over expenditures from the fund.

**290 SECURITIES—INTOXICATING LIQUORS**

Mr. Allan S. Richardson,  
March 10, 1944.

Whiskey warehouse receipts are not to be regarded as securities under the provisions of the Colorado Securities Act.

291

**SCHOOLS**

Mr. C. D. Snyder,  
March 14, 1944.

Where a high school committee has been properly elected in accordance with Section 183, Chapter 146, CSA 1935, the only limitation is that no two members of a board of directors shall be members of the high school committee except where there are less than four districts, in which case there is nothing that could be done to equalize representation of areas on the committee.

292

**STATE AGRICULTURAL COLLEGE**

Mr. James R. Miller,  
March 15, 1944.

With respect to the contract of an instructor at the Agricultural College with the Teachers Insurance and Annuity Association, the mere fact that payments made to the annuitant were partially contributed by him and partially by the school and denominated as compensation would not prevent the College determining as a matter of policy that the portion contributed by the College should be withheld in case such contract was terminated before retirement.

293

**SCHOOLS**

Mr. G. B. Clammer,  
March 16, 1944.

Where a debt service fund of a school has an amount more than necessary to pay off all outstanding indebtedness this surplus may not be used for improvements and alterations to the plant. The whole fund is a trust fund devoted to the sole purpose of discharging indebtedness and until discharged must be held for that purpose.

294

**STATE INSPECTOR OF COAL MINES**

Mr. Thomas Allen,  
March 16, 1944.

Under Section 22, Chapter 110, 1935 C.S.A., Chief Inspector of Coal Mines may with written approval of Civil Service Commission lay off one or more Deputy Inspectors or one or more of office force without pay. Under Chapter 2, Session Laws 1941, Section 5(e), Governor may suspend in whole or in part functions or services of a civil service employee.

295

**ELECTIONS**

Mr. Allyn Cole,  
March 17, 1944.

Candidates in primary elections designated by assemblies of political parties or by petition must have been affiliated with the political party involved for a period of one year prior to the date of the assembly and such affiliation shown by the registration books for a like period.

**296 CIVIL SERVICE—EMPLOYEES' RETIREMENT**

Industrial Commission of Colorado,  
March 18, 1944.

1. A former state employee who has been retired from service since November 1, 1938, on retirement pay as a member of the Public Employees' Retirement Association should apply to the Retirement Board for permission to re-enter service.

2. Retirement pay should not be given while compensation is paid during such re-employment.

3. On re-employment the employee assumes the status of a provisional employee.

297

**MOTOR VEHICLES**

Mr. Frank L. Moorhead,  
March 20, 1944.

If automobiles are picked up, held and sold by the city as abandoned automobiles, as provided by law, title may be issued to buyers of said automobiles under Section 3, Chapter 16, 1935 C.S.A., ownership passing by operation of law.

298

**GOVERNOR—LIEUTENANT GOVERNOR**

Hon. William E. Higby,  
March 22, 1944.

(Absence of Governor from state.)

The powers and duties of the Governor devolve upon the Lieutenant-Governor upon absence from the state by the Governor; such devolvement is not subject to any notice by the Governor to the Lieutenant-Governor of such absence or intended absence.

**299 PUBLIC UTILITIES COMMISSION—DEPARTMENT  
OF REVENUE—COLORADO HIGHWAY  
COURTESY PATROL**

Mr. Henry S. Sherman,  
March 27, 1944.

Public Utilities Commission has no power to execute a distraint warrant issued by the Department of Revenue. Officers of the Colorado Highway Courtesy Patrol would not have power to execute distraint warrants issued by Department of Revenue and Public Utilities Commission does not have power to issue a distraint warrant. The Director of Revenue cannot delegate enforcement functions to any other department.

**300 STATE BOARD OF LAND COMMISSIONERS**

State Board of Land Commissioners,  
March 29, 1944.

Section 11 of Chapter 90, 1935 C.S.A., would permit the Land Board on payment of a reasonable proportion of cost to utilize a privately owned lateral for the carriage of water purchased from someone other than the owner of the lateral for use on state owned lands.

**301 BUILDING AND LOAN**

Hon. A. O. Johnson,  
March 30, 1944.

The corporate existence of a building and loan association may be extended under the provisions of either Section 13 or 18 of Chapter 25, 1935 C.S.A.

**302 INTOXICATING LIQUORS—INDIANS**

Lt. Col. Richard Reichmann,  
March 31, 1944.

The manufacture, sale and distribution of intoxicating liquors is presently governed by statutes enacted subsequent to the adoption of Article XXII of the Colorado Constitution, and statutes enacted prior thereto concerning or relating to intoxicating liquor are void and of no effect.

**303 TAXATION**

Colorado Tax Commission,  
April 4, 1944.

Sections 54 and 55, Chapter 142, 1935 C.S.A., do not permit valuation and assessment of all property of a manufacturing industry as one unit without separation into classes as provided in Section 2, Chapter 42, 1935 C.S.A.

**304                      SCHOOLS—PUBLIC RECORDS**

Mr. George C. Twombly,  
April 4, 1944.

Chapter 151, Session Laws of 1943, would permit school officers to determine what records are unnecessary to be kept and if such records could be disposed of under the provisions of that chapter.

**305    TAXATION**

Mr. R. W. Esgar,  
April 5, 1944.

**(Mineral reservations.)**

The owner of a mineral reservation may redeem from tax sale but redemption applies to minerals and does not affect the owner of the surface title. A surface owner may not redeem but can acquire title to reserved minerals through tax sale certificate and deed. Mineral rights should be assessed uniformly by the county assessor and not upon the request of a surface owner.

**306    OPTOMETRY EXAMINERS**

Colorado State Board of Optometric Examiners,  
April 7, 1944.

**(Fees, time of renewal.)**

Section 15, Chapter 120, 1935 C.S.A., construed. If no renewal within the six month period, the applicant must proceed under Section 8c of Chapter 120, 1935 C.S.A.

**307                      OFFICERS—CIVIL SERVICE—CONSTITUTIONAL LAW**

Hon. John C. Vivian,  
April 11, 1944.

The Office of Civil Service Commissioner, a constitutional office, is ipso facto vacated when the incumbent voluntarily accepts commission in the armed forces whereby it becomes physically impossible to perform the duties of the Civil office. The doctrine of incompatibility applies. *Perkins vs. Manning*, 59 Ariz. 60; 122 Pac. (2nd) 857.

**308      MOTOR VEHICLES—PUBLIC UTILITIES—  
            HIGHWAY COURTESY PATROL**

Mr. Henry S. Sherman,  
April 17, 1944.

Highway Courtesy Patrol has power to impound trucks and equipment of motor vehicle carriers for non payment of highway compensation taxes. They should then file case against the carrier and notify Revenue Department.

**309      COLORADO STATE COLLEGE OF EDUCATION  
            —STATE EMPLOYEES' RETIREMENT**

Senator Walter L. Bain,  
April 17, 1944.

The Colorado State College of Education may stop participation in the Carnegie Plan for retirement of teachers and may come within the provisions of Chapter 94, Session Laws of 1941, dealing with public employees. The College may not enter into contracts with private insurance companies whether mutual or not because of the constitutional inhibition contained in Article 11, Section 2.

**310                              BUILDING AND LOAN**

Mr. A. O. Johnson,  
April 20, 1944.

The limitation prescribed by Subsection 14 of Section 14 of Chapter 25, 1935 C.S.A., as amended by Section 11 of Chapter 78, 1939 S. L. of Colorado, applies to money borrowed by a building and loan association for the purpose of originating and handling F.H.A. loans.

**311      TAXATION—LIQUOR—OLD AGE PENSION FUNDS**

Mr. Leslie O. Burris,  
April 21, 1944.

**(Ad valorem taxes on liquor.)**

The Supreme Court decisions in the "Sinclair" cases release 85 per cent of the ad valorem tax collections on liquor stocks impounded and require that these collections be distributed to the respective funds entitled to the same in the same manner as all other ad valorem taxes on merchandise.

**312****COUNTIES—HOSPITALS**

Mr. Clement R. Hackethal,  
 April 26, 1944.

County Commissioners have no power to pay physicians for professional services in treating private individuals. Ambulance service at the expense of the counties can only be maintained as an adjunct of a hospital equipped to treat such injuries. Counties under 10,000 inhabitants may not operate such hospitals and are without power or authority to maintain and pay for private ambulance service to accident victims or emergency cases within their limits.

Commissioners may contract with county physician for reasonable costs of treatment and ambulance service to indigent persons injured within the county.

**313****SCHOOLS**

Ms. Lena Mae Maglia,  
 April 26, 1944.

There would be no authority for utilization of school district funds for track and tennis equipment to be used in a public recreation program.

**314****SCHOOLS**

Mr. H. C. Skoglund,  
 April 26, 1944.

There is no authority for the establishment of a sinking fund from surplus special school funds, said fund to be used for future purchase of busses.

**315****ABSTRACTERS' BOARD OF EXAMINERS**

Abstracters' Board of Examiners,  
 May 1, 1944.

An abstract of title, filed with the Registrar of Deeds in any county may not be withdrawn, except, perhaps, upon the order of a court of competent jurisdiction.

**316****STATE HOME AND TRAINING SCHOOL FOR MENTAL DEFECTIVES**

Mr. H. A. LaMoure,  
 May 1, 1944.

An "order of discharge" inadvertently entered by a committing court and not based upon a finding that a mental incom-

petent has been restored to reason, is, at most, a probationary discharge, and, since the jurisdiction of the court is continuing, the judge may order the patient re-committed without a further lunacy proceeding.

### 317 STATE BOARD OF COSMETOLOGY

Board of Cosmetology,  
May 1, 1944.

The Board of Cosmetology does not have the power to issue "permits" authorizing the recipient to practice cosmetology but is limited to the issuance or denial of regular certificates of registration.

### 318 ELECTIONS

Hon. L. J. Bennett,  
May 2, 1944.

Residence upon a government reservation is not sufficient to entitle persons to vote in this state. *Kemp v. Heebner*, 77 Colo. 177; *Merrill v. Shearston*, 73 Colo. 230.

Residents upon leased lands located within the bounds of a government reservation would not be entitled to vote in this state unless the lessee had lived on this land prior to government acquisition.

### 319 STATE BOARD OF EXAMINERS FOR ENGINEERS AND LAND SURVEYORS

Mr. M. C. Hinderlider,  
May 3, 1944.

(Agreements with other states.)

A formal resolution by the State Board of Examiners for Engineers and Land Surveyors is all that is necessary to accept a reciprocal agreement offered by the State Board of Missouri.

### 320 COUNTIES—FEES AND SALARIES— PROBATE MATTERS

Hon. Arthur A. Clements,  
May 5, 1944.

Docket fees in proceedings for the probate of foreign wills must be based on fees as provided for in probate proceedings in Section 21, Chapter 66, 1935 C.S.A.



**321 COUNTY OFFICERS**

Hon. Albert F. Cruse,  
May 5, 1944.

The person occupying the office of County Assessor may also occupy the office of County Treasurer, such not being prohibited by Section 141, Chapter 45, 1935 C.S.A.

See also Section 153, Chapter 45, 1935 C.S.A., indicating that the Treasurer may also act as assessor in certain instances.

**322 ELECTIONS**

Mr. Louis A. Koch,  
May 10, 1944.

If prospective candidate did not vote at last preceding general election under Sec. 130, Ch. 59, 1935 C.S.A., his name has been stricken from registration books and, even though registered subsequent to last general election, he is not eligible to be a candidate of any political party under provisions of Secs. 22 and 24.

**323 CIVIL SERVICE—FEDERAL SOCIAL SECURITY TAX**

Colorado State Civil Service Employees' Association,  
May 10, 1944.

Colorado State Civil Service Employees' Association is liable for the payment of the federal social security tax.

**324 SCHOOLS**

Mr. Joseph A. Pfost,  
May 13, 1944.

If teachers have proper certificates and school officers act in good faith, contracts may be made by one board which will be binding on a newly elected board. *School District vs. Gigax*, 69 Colo. 161.

**325 SCHOOLS—LIBRARY**

Mrs. Inez Johnson Lewis,  
May 15, 1944.

A truck which is being disposed of by the Federal Government may be purchased by the State Library out of its appropriation for capital outlay, the truck to be used as a "bookmobile."

326

**BUILDING AND LOAN**

Mr. A. O. Johnson,  
May 15, 1944.

A building and loan association must pay the fee imposed by Section 72, Chapter 25, 1935 C.S.A., as amended by Section 25, Chapter 78, 1939 Session Laws of Colorado, until such time as the liquidation of its assets has been completed.

327

**MOTOR VEHICLES**

Mr. Vernon W. Drain,  
May 18, 1944.

Persons who drive or operate road machinery, farm tractors, etc., on public highways are not within the provisions of part 4 of Chapter 16, 1935 C.S.A. A person under 16 may drive a farm vehicle across a highway.

328

**INSANE PERSONS**

Dr. C. A. Fritts,  
May 22, 1944.

1. No statute specifically authorizes transfer of patients from Colorado State Hospital to Colorado Psychopathic Hospital. Patients may be transferred providing they are eligible for admission. 2. Non-committed patients may be admitted and charged a per diem cost to be fixed by Board of Regents, proceeds to go to Psychopathic Hospital Fund.

329

**COUNTY COMMISSIONERS—VETERANS'  
SERVICE OFFICER**

Mr. Robert A. Hicks,  
May 25, 1944.

County Commissioners have no power to employ or pay a part time service officer for war veterans.

330

**SCHOOLS**

Colorado Tax Commission,  
May 25, 1944.

The school district has no authority to establish a sinking fund for postwar construction as it is limited in the main to express powers granted by the Legislature.

**331 STATE PLANNING COMMISSION—COUNTIES—  
ABSTRACTS**

Mr. El Roy Nelson,  
May 26, 1944.

County zoning maps and regulations. Zoning documents must be filed and indexed by county recorders. Abstracters need only to show statement that property is zoned, set out the reception number and date of filing.

**332 CORPORATIONS—COUNTIES**

Mr. Robert B. Lee,  
May 27, 1944.

(Recorders.)

Certificates of incorporation. County clerks and recorders are not required by statute to record certificates of incorporation. Their duties are confined to filing only.

**333 SCHOOLS—DISCIPLINE**

Mrs. Inez Johnson Lewis,  
May 29, 1944.

Where a school district has established reasonable rules and regulations governing conduct of parents on school premises, it seems to be the general rule that a child of parents disregarding such rules could be excluded from the school, although the child did not enter into the violation. Also, such act of a parent could be the subject of a criminal prosecution, although in case of the failure of the District Attorney to act, the other remedy might be preferable.

**334 SCHOOLS—SCHOOL OF MINES**

Dr. M. F. Coolbaugh,  
May 31, 1944.

(School property exemptions.)

The Colorado School of Mines is state property and as such is exempt from taxation in accordance with provisions of Section 4 of Article X of the Colorado Constitution, irrespective of use to which same is put.

**335 STATE BOARD OF CHIROPRACTIC EXAMINERS**

Dr. Edgar J. Jackson,  
May 31, 1944.

Educational Requirement Act does not authorize an official check of post-graduate instruction. Members of Board may volun-

tarily attend sessions of post-graduate work at their own expense, but may not charge the fund with their expenses on that account.

### **336 STATE BOARD OF CHIROPRACTIC EXAMINERS**

Dr. Edgar J. Jackson,  
May 31, 1944.

(License Fee.)

Where a chiropractor who fails to comply with post-graduate requirements is suspended, and then becomes qualified for reinstatement, he is liable for fee only for current year and not the year he was suspended

### **337 SCHOOLS**

Mrs. Inez Johnson Lewis,  
June 1, 1944.

A first class school district may enter into a three year contract with a teacher specifying salary for each year, although under Section 10 of the Local Government Budget Law, insofar as the amounts for the last two years are concerned, the contract would be executory.

### **338 SCHOOLS—PENSIONS**

Mrs. Inez Johnson Lewis,  
June 1, 1944.

Where there has been no compliance with provisions of Sections 251-254, Chapter 146, 1935 C.S.A., which deal with pensions for teachers and employees of school districts and no attempt to comply with the provisions of Chapter 149, Session Laws of 1943, which dealt with public employees retirement fund, there would be no authority for a school district to pay a pension to three teachers, one of whom has already left the school and the other two leaving in June of 1944.

### **339 INSURANCE**

Hon. Luke J. Kavanaugh,  
June 2, 1944.

Section 70, Chapter 87, 1935 C.S.A., would prohibit an individual from entering into an insurance plan with an organization under which the organization would endorse the individual's plan to its members and the individual would give 10 per cent of his commission on the business written to the organization's recreation fund to be used for its members. Such payment construed as a rebate.

340

**REVENUE DEPARTMENT**

Hon. Albert F. Cruse,  
June 6, 1944.

(1) Any balance remaining in the Department of Revenue Administration Fund at the end of a biennial period is transferred to the General Fund of the state. Section 4(d), Chapter 157, Session Laws 1943.

(2) A balance at the end of the first fiscal year of a biennial period remains in the fund.

(3) Expenditures from the fund during any fiscal year should not exceed any legislative appropriation for that year, made pursuant to Section 4(a), Chapter 157, Session Laws of 1943.

341

**MUNICIPAL CORPORATIONS**

Mr. H. M. Krull,  
June 8, 1944.

In the absence of specific legislation, cities and towns have no power to enter upon or make commitments for taxation in support of future post-war projects.

342

**BANKS AND BANKING—F.H.A.**

Hon. Maple T. Harl,  
June 9, 1944.

(Insurance Loans.)

Loans made pursuant to Sections 1 and 2 of Chapter 129, 1935 Session Laws of Colorado, as amended by Chapter 101 of the 1937 Session Laws are not subject to the limitation imposed by Section 34, Chapter 18, 1935 C.S.A., as amended by Chapter 83, 1941 Session Laws. Therefore, F.H.A. loans are not subject to the limitation placed on real estate loans banks may make or purchase.

343

**HIGHWAYS**

Mr. Charles D. Vail,  
June 10, 1944.

Where right of way granted by Federal Government to State Highway Department is said to be based on authority granted in Section 6 of Act of Congress of July 5, 1884 (23 Stat. 104), such grant will not "run with the land," and if the Government sells the property, the state would have to get an easement from the purchaser. The Federal Government could revoke the grant at any time. The state would have to procure access rights. The Federal Act only refers to *licenses*, not *easements*.

**344 COURTS—COUNTY JUDGES—CLERKS**

Mr. R. N. White,  
June 12, 1944.

County Judges may be appointed to serve as clerks of District Courts in their respective counties. Practice is limited to counties of the third, fourth and fifth classes.

**345 ELECTIONS**

Mr. Carol Jacobsen,  
June 13, 1944.

Political assemblies under Sec. 22, Ch. 59, 1935 C.S.A., as amended, may be held prior to 60 days before election, but certificates of nomination must be filed not more than 60 nor less than 45 days prior to election.

**346 CIVIL SERVICE COMMISSION**

Hon. James H. Steele,  
June 13, 1944.

1. The Civil Service Commission can hold an examination for a position at such times as it deems it to be for the best interest of the service.

2. The person at the top of a list as the result of an examination should be certified to a position unless there is another name of an eligible having a prior right such as an eligible person from the re-employment list.

3. Qualifications for a position are subject to change within discretion of the commission. A person certified pursuant to qualifications since changed to higher standard may not now be eligible for the position because of new qualification standards; no appointment having been made in the first instance.

**347 TAXATION—COUNTY OFFICERS**

Mr. Victor Huffaker,  
June 14, 1944.

Assessor must prepare tax roll and certify to clerk of towns within county the total valuation of assessable property, and clerk shall certify levy for town purposes to county commissioners prior to November 1st. Not later than January 1st, sheriff must deliver to county treasurer tax list and warrant, setting forth assessment roll with taxes extended and separated into the various classifications. Duty of board of trustees of town to levy taxes and duty of assessor to certify to town the total valuation.

348

**CITIES AND TOWNS**

Ms. Leila May Wilson,  
June 14, 1944.

(Municipal coal supply.)

Towns and cities may establish and maintain municipal coal yard and scales, but may not engage in the business of selling coal in competition with private enterprise.

349

**GAME AND FISH**

Mr. C. N. Feast,  
June 14, 1944.

A class A license to establish or maintain a private park or lake for the purpose of propagating and selling game and fish may be issued to a lessee of land privately owned.

350

**SCHOOLS**

Mr. Peter F. Bossie,  
June 14, 1944.

Where territory is purchased by the Water Department of the City and County of Denver it does not become a part of the City and County of Denver, but remains a component part of the school district in which it was.

351

**GAME AND FISH**

Mr. C. N. Feast,  
June 16, 1944.

The transportation of trout taken from the public waters of this state or from unlicensed private waters must be in conformity with the provisions of Section 140, Chapter 73, 1935 C.S.A.

352

**CIVIL SERVICE—STATE INSPECTOR OF OILS**

State Civil Service Commission,  
June 19, 1944.

1. Chapter 118, 1935 C.S.A., provides for three deputy oil inspectors but makes no reference to the number of experts, chemistry agents or employees mentioned in certain sections of this chapter.

2. The proper number of employees for a department and the necessity for same is an administrative matter charged to the appointing authorities and does not concern the Civil Service Commission.

353

**FIREMEN'S PENSION FUND**

Mr. Floyd Wheeler,  
June 23, 1944.

1. Investment of monies from firemen's pension fund is controlled by the Board of Trustees of the fund.

2. The purchase of real estate would be illegal investment as not permitted by Chapter 190, Session Laws 1937.

354

**ELECTIONS**

Major W. E. Maurer,  
June 23, 1944.

Section 12, Chapter 59, 1935 C.S.A., as amended, provides for a qualified voter, residence in state one year, in county 90 days, in city or town 30 days, and in ward or precinct 10 days.

355

**HEALTH—UNIVERSITY OF COLORADO**

Mr. R. G. Gustavson,  
June 23, 1944.

In controlling and preventing spread of communicable disease, the University may in its contracts with faculty members incorporate reasonable provisions for physical examination or for periodic examinations. If an individual's health constituted a menace, the University could take the matter up with local health authorities. Any reasonable regulations may be made concerning health of students including the requirement of vaccination.

356

**BANKS AND BANKING**

Hon. Maple T. Harl,  
June 28, 1944.

The provisions of Section 75, Chapter 18, 1935 C.S.A., requiring that the State Bank Commissioner, deputies and certain employees must have been "for at least four years prior to their appointment" bona fide residents of the State of Colorado must be interpreted to mean that only persons who have been residents of the state for at least four years immediately preceding the appointment are eligible therefor.

357

**ELECTIONS**

Mr. Charles Ozias,  
June 30, 1944.

To be eligible to be a candidate in primary elections, person's political affiliation must be shown by registration books for period



of one year prior to the date of the assembly or the filing of a petition—Secs. 22, 24, Ch. 59, 1935 C.S.A.

Registration sheets which have been purged under provisions of Sec. 130 cannot be used to prove party affiliation.

358

**SALES TAX**

Mr. Albert F. Cruse,  
June 30, 1944.

(Sales tax, subsistence to agricultural workers.)

Subsistence furnished to agricultural workers by the Department of Agriculture is taxable under sales tax if the department recuperates by pay deductions. Otherwise not.

359 **INSANE PERSONS—COLORADO PSYCHOPATHIC  
HOSPITAL**

Hon. James B. Garrison,  
July 7, 1944.

Pending final determination of the question of insanity, i. e., while awaiting an appeal from an order of commitment of the court, the County Court may order commitment to the Colorado Psychopathic Hospital.

360

**CITIES AND TOWNS**

Mr. I. E. Hilton,  
July 7, 1944.

There is no statutory requirement that Town Treasurer's books be audited by certified public accountants.

361 **OFFICERS—VOUCHERS—STATE BOARD  
OF AGRICULTURE**

Mr. James R. Miller,  
July 10, 1944.

The name of "treasurer" cannot be substituted for that of "secretary" on vouchers when statutes requires countersignature of secretary. Provisions of Section 33, Chapter 38, 1935 C.S.A., must be strictly observed.

362

**ELECTIONS**

Mr. William T. Olson,  
July 11, 1944.

Provisions of Section 22, Chapter 59, 1935 C.S.A., as amended by S. L. 1939, do not prohibit the adjourning of an assembly from June 15 to July 17, provided certificates of designation can be filed not less than 45 days prior to the primary. (See Sec. 25.)

363

**ELECTIONS**

Mr. William T. Olson,  
July 11, 1944.

Where county chairman of political party under Sec. 122(c), Ch. 59, C.S.A., 1935, fails to submit choices for judges of election, county clerk must appoint from list submitted by committeeman and woman.

**364 EXECUTIVE—HIGHWAY COURTESY PATROL**

Hon. John C. Vivian,  
July 14, 1944.

Governor does not have the power to confer the title of "Colonel" upon an officer of the Highway Courtesy Patrol. Ch. 166, S. L. 1937.

365

**ELECTIONS**

Mr. Daniel Milenski,  
July 17, 1944.

Persons eligible to be nominated at primary by "write-in" method are only those who are members of voter's political party.

**366 COUNTY OFFICERS—FEES AND SALARIES—  
ATTORNEYS**

Mr. Harry Behm,  
July 26, 1944.

To construe Sec. 18, Ch. 14, 1935 C.S.A., Section 1, Chapter 148, 1937 Session Laws, classifies counties for the purpose of paying salary to county judge, and determines the counties in which a county judge can practice law in a higher court.

**367 FIREMEN'S AND POLICEMEN'S PENSIONS**

Mr. Ira N. Thompson,  
July 28, 1944.

The pension fund of a volunteer fire department may be used to purchase blanket insurance providing such expenditure does not impair payments of pensions or benefits then being made.

**368 ELECTIONS**

Mr. A. W. Sampson,  
July 31, 1944.

Under Section 42, Chapter 59, 1935 C.S.A., as amended by Section 3, Chapter 2, Session Laws of 1944, First Extra. Session, Vacancy Committee may function to make designation where political assembly failed to act, and clerk and recorder must accept and file designation if it is in proper form.

**369 STATE BOARD OF BARBER EXAMINERS**

Hon. L. J. Bennett,  
July 31, 1944.

Money recovered on bond of defaulting member of Board of Barber Examiners should be paid into fund for which the fees were originally collected, subject to such final disposition as may be provided by law.

**370 SCHOOLS—TAXATION**

Mr. Eddy Webb,  
August 2, 1944.

In determining whether there has been an increase of over five per cent necessitating application to the Tax Commission for authorization for the levy, the minimum education needs levy should be considered as a part of the special school tax levy and if the two together do not represent more than a five per cent increase over the preceding year, no authorization would be necessary.

**371 COLORADO STATE COLLEGE OF EDUCATION—  
EMPLOYEES' RETIREMENT**

Mr. George Willard Frasier,  
August 2, 1944.

Under Ch. 94, S. L. 1941, it would not be possible for the Colorado State College of Education to give a choice to its faculty

members as to whether they should elect to come under the terms of the state plan or to contract with the Carnegie plan.

372

**ELECTIONS**

Mr. Frank Conner,  
August 3, 1944.

“Accredited delegates” as used in Section 22 of Election Laws means delegates elected at caucuses, not merely those present at the assembly.

Purged sheets from Registration Books cannot be used to establish party affiliation. Section 130.

Contest is only way to keep successful primary candidate's name off of general election ballot.

373

**TAXATION**

Colorado Tax Commission,  
August 3, 1944.

(Taxation of Producing Mines.)

In computing “gross value,” extraction costs are *included* but treatment, reduction, sale and transportation costs are excluded.

374

**ELECTIONS**

Mr. James B. Garrison,  
August 4, 1944.

Under Section 24, Ch. 59, 1935 C.S.A., it is necessary to have only signers to a candidate's petition equal to 10 per cent of the votes cast for governor at the last general election.

375

**COLORADO STATE INDUSTRIAL SCHOOL**

Mr. Harry V. Childerston,  
August 4, 1944.

1. There are no legal restrictions on the sale of goods produced by inmates of the Colorado State Industrial School.

2. If taxable sales are made, the sales tax should be collected and remitted.

3. The superintendent has power and duty to supervise boys who are paroled from the school and to recapture and return boys who escape from the institution. Probably can't resort to extradition if the child goes out of the state.

**376 CORPORATIONS—NOTARY—BANKS**

Hon. Maple T. Harl,  
August 5, 1944.

One who is an officer of an interested corporation is not by such fact alone, in the absence of fraud, disqualified from taking an acknowledgment.

**377 EMPLOYEES' RETIREMENT—MILITARY LEAVE**

The Public Employees' Retirement Association,  
August 8, 1944.

1. The Public Employees Retirement Act of 1943, Chapter 149, 1943 S. L., does not grant a deduction waiver during military service such as provided by Section 4, Chapter 94, S. L. 1941.

2. The Retirement Board cannot grant this right by rule or regulation adopted pursuant to the provisions of Section 20, Chapter 94, 1943 S. L.

**378 EMPLOYEES' RETIREMENT**

The Public Employees' Retirement Association,  
August 8, 1944.

An employee in the service of the state for eight years, six months, absent one year, six months, returns to employment for nine years, does not comply with employment for fifteen consecutive years within the meaning of Section 34, Chapter 36, 1935 C.S.A.

**379 CONTRACTS—LEGISLATORS—STATE  
PURCHASING AGENT**

Mr. H. Rodney Anderson,  
August 16, 1944.

A member of the Legislature may not sell or contract to sell supplies to the State of Colorado. Art. V, Sec. 29, Constitution; S. L. 1941, Ch. 2, Sec. 25.

**380 COUNTY OFFICERS—WAR EMERGENCY**

Mr. Joe Perkins,  
August 19, 1944.

Merely because a man is in the armed forces of the United States, he would not be ineligible to run for county office. His status as a qualified elector would not be affected by his military service. Sec. 4, Art. 7, Constitution.

**381****ELECTIONS**

Miss Belinda S. Carpenter,  
August 21, 1944.

A vacancy committee may act even though the County Assembly did not make a designation. Citing Section 42, Chapter 50, 1935 C.S.A. Certificate of the vacancy committee must be filed not later than the fifth Wednesday prior to the primary.

**382****GAME AND FISH COMMISSION**

Game and Fish Commission,  
August 23, 1944.

Power to purchase land for preservation of a range to be used by deer. Sec. 6 (a) and (b), Ch. 153, 1937 S. L., construed to give the power of purchase to the commission, which can at its discretion determine method of payment.

**383 STATE HISTORICAL SOCIETY—STATE LIBRARIAN**

Mrs. Inez Johnson Lewis,  
August 23, 1944.

Under Chapter 154, 1935 C.S.A., certain types of materials may be deposited with the State Historical Society. The State Librarian could not deposit surplus materials in her possession with that Society without its consent. Chapter 151, S. L. of 1943, sets forth the procedure for destroying materials which may be regarded as useless by a department head.

**384****BUILDING AND LOAN ASSOCIATIONS**

Hon. A. O. Johnson,  
August 24, 1944.

State chartered building and loan associations may, subject to the approval of the Commissioner, make any type of loan which federal chartered associations can legally make.

**385 CHIROPRACTIC EXAMINERS—BASIC SCIENCE ACT**

Dr. Edgar A. Jackson,  
August 25, 1944.

A foreign license issued prior to the Basic Science Act does not qualify the applicant for licensing in Colorado without compliance with the statute and obtaining a Colorado Basic Science Certificate.

**386 STATE DAIRY COMMISSIONER**

Mr. Harry B. Staver,  
August 26, 1944.

The license provided by paragraph 8, Section 8, Chapter 49, 1935 C.S.A., must be obtained by the maker of cheese manufactured from goats' milk and thereafter sold for public consumption.

**387 ELECTIONS**

Mrs. Cherie Burgess,  
August 26, 1944.

Name of candidate receiving highest number of votes at State Assembly must be placed in first position on ballot. This is mandatory and not merely directive.

**388 BANKS AND BANKING**

Hon. Maple T. Harl,  
September 2, 1944.

(Feeder livestock loans.)

The term "feeder livestock" as used in Section 41, Chapter 18, 1935 Colorado Statutes Annotated, as amended by Section 1 of Chapter 77, 1943 Session Laws of Colorado, means livestock which are actually being fed and prepared for the consuming market.

**389 ELECTIONS**

Mrs. Emma S. Kramer,  
September 6, 1944.

Application for absentee voter's ballot for primary election must state party affiliation. Not necessary that registration sheet for absentee voter be placed in registration books sent to precincts for use on election day.

**390 CORPORATIONS**

Mr. L. J. Bennett,  
September 6, 1944.

A Colorado corporation which has ceased business operations but has not been dissolved is under obligation to pay the annual state corporation license tax before such notice of dissolution can be filed. (See 103, Ch. 142, 1935 C.S.A.)

**391 DEPENDENT CHILDREN—PUBLIC WELFARE**

Mrs. C. Walter Allen,  
September 11, 1944.

1. Where a child is placed in a home for adoption by Department of Public Welfare, such home is not a foster home within meaning of Section 1, Chapter 196, S. L. 1943.

2. Where a child is placed in a home for purpose of care and keep such home should be licensed pursuant to Chapter 196, S. L. 1943.

3. The Board of Standards of Child Care under Chapter 196, S. L. 1943, may authorize the Department of Public Welfare to issue licenses to foster homes in the name of such board.

4. Homes in which the State Home for Dependent Children places children for adoption need not be licensed or certified.

5. (a) Where county or juvenile courts place children in homes for adoption such homes need not be licensed.

(b) Where such courts place children in homes for purposes other than adoption and where the homes are engaged in the business of caring for children, a license or certification should be required under Chapter 196, S. L. 1943.

6. (a) A County or Juvenile Court is not a child placement agency under Chapter 196, S. L. 1943.

(b) Such courts are not state boards or departments within the meaning of Chapter 196, S. L. 1943, therefore licensing authority cannot be delegated to them.

**392 STATE LAND BOARD**

State Board of Land Commissioners,  
September 12, 1944.

Re: Power of Land Board to dispose of certain property which was acquired by the state pursuant to special act of the legislature in 1891 (S. L. 1891, p. 345). Board should obtain specific authorization from the Legislature.

**393 ELECTIONS—WAR EMERGENCY**

Mrs. Emma S. Kramer,  
September 13, 1944.

The Emergency War Voting Act of 1944 is not applicable to primary elections. Under Section 357 of said Act, application for and mailing back of an absentee ballot by member of the Armed Forces is equivalent to registration for the election at which such ballot is cast, and for no other election.



**394 HIGHWAY COURTESY PATROL—CIVIL SERVICE**

Mr. Vernon W. Drain,  
September 15, 1944.

Working hours of a courtesy patrolman fixed by statute must prevail over any Civil Service Commission rule fixing working hours.

**395 HIGHWAY COURTESY PATROL—CIVIL SERVICE**

Mr. Vernon W. Drain,  
September 15, 1944.

A courtesy patrolman serving a probationary period pursuant to Section 130, Chapter 143, 1935 C.S.A., as amended serves in capacity of a provisional employee and may therefore be removed by the appointing authority without hearing by the Civil Service Commission.

**396 STATE AUDITOR—COUNTIES**

Hon. James L. Bradley,  
September 21, 1944.

Section 48 of the Administrative Code of 1941 does not abolish the statutory requirement for preparation and filing of county financial reports as provided in Section 52, Chapter 153, 1935 C.S.A.

**397 DEPENDENT CHILDREN—STATE HOME FOR DEPENDENT CHILDREN—PUBLIC WELFARE**

Mr. Shelby P. Thomas,  
September 22, 1944.

1. Physicians cannot place babies for adoption by authority of their professional status.

2. Social agencies other than State Home for Dependent Children may place babies for adoption.

3. Board of Control of Colorado State Home for Dependent Children cannot delegate its statutory adopting authority to other agencies.

4. As to children who are born in maternity homes the safe adoption procedure is to obtain consent of Colorado State Home following provisions of Section 146, Chapter 78, 1935 C.S.A.

5. Colorado State Home for Dependent Children cannot place children with social or religious agencies prior to adoption. Does not apply to trial period in adoptive homes.

6. Colorado State Home for Dependent Children is not subject to provisions of Chapter 196, S. L. 1943, relating to licensing of foster homes.

**398 ELECTIONS—WAR EMERGENCY**

Mr. Earl Carroll,  
September 25, 1944.

Emergency War Voting Act of 1944 or regular Absent Voters Act does not provide for voting at special elections.

**399 COUNTIES**

Mr. Earl T. Carroll,  
September 28, 1944.

General powers granted to a county do not carry by implication the power to purchase and improve an air port. County commissioners possess only such powers as are expressly conferred by constitution or statute with such implied powers as are reasonably necessary to the proper execution of those conferred. Suggested that the rule might be different in the case of a city.

**400 ELECTIONS**

Mr. Bond H. Norman,  
October 6, 1944.

Section 126, Ch. 59, 1935 C.S.A., provides that person registering for general election shall make oath to the fact that "on the date of the next ensuing election, I shall be over the age of 21 years and shall have resided in the State of Colorado at least 12 months, and in the county 90 days preceding said election, and in the city of ..... at least 30 days, and in the precinct ..... at least 10 days before the election," etc. Therefore, a person who will be over 21 years of age on election day may register and vote, even though, when registering, he has not yet reached the voting age.

**401 COLORADO STATE REFORMATORY**

Hon. James S. Thomas,  
October 6, 1944.

The installation of a pipe line to remedy water supply to State Reformatory could be paid for by an appropriation of earnings to be used for support and maintenance.

402

**TAXATION**  
**(Producing Mines)**

Prentice-Hall, Inc.,  
October 7, 1944.

Confirmation of opinion dated August 3, 1944, revocation of opinions dated April 17, 1941, and March 14, 1942, holding that cost of extraction should be included in computing "Gross Proceeds" for producing mine assessments.

403

**TAXATION—SOLDIERS AND SAILORS**  
**RELIEF ACT**

Mr. John R. Seaman,  
October 10, 1944.

A member of the armed forces has no immunity from assessment, levy and taxation of his personal property physically in Colorado on the first day of March of each calendar year.

404

**ELECTIONS**

Mrs. Emma S. Kramer,  
October 11, 1944.

A man who has removed from one county to another and has been out of original county more than ten days prior to election and has not resided in county of new residence sufficient time to vote there, cannot vote in either county at that election.

405

**PUBLIC UTILITY COMMISSION—HIGHWAY**

Mr. E. E. Pollock,  
October 11, 1944.

Highway compensation taxes assessed against carriers under provisions of Secs. 306 and 352, Ch. 16, 1935 C.S.A., are levied against the motor vehicle carriers and cannot be passed on to the consignor or consignee.

406

**ELECTIONS**

Mrs. H. J. Metziner,  
October 18, 1944.

Section 216, Chapter 59, 1935 C.S.A., as amended, provides that all absentee ballots, to be counted, must be in the hands of the county clerk or the election commission of the county of voter's residence not later than 12 o'clock noon on the Saturday

preceding election, if delivered personally, or at any time on the same day if delivered by mail.

Watchers at the polls are appointed by the county chairman of Republican and Democratic parties.

Judges and clerks of election arrange to go out for meals leaving sufficient number to take care of the voters. No provision is made in law for so leaving.

407

**ELECTIONS**

Mrs. Margaret M. Montgomery,  
October 23, 1944.

Sec. 1, Art. VII, Constitution, provides that, in order for a person to vote, he must have resided in the state twelve months immediately preceding election, and a man may establish a residence for himself as well as his family.

Sec. 120a and Sec. 222a, 1944 Election Laws, provides that members of the army and naval forces may vote, although not registered, if otherwise qualified, upon presenting certificate signed by commissioned officer that he is then in the armed forces, or a discharge therefrom.

If the sheet containing a voter's registration was not transferred from old to new precinct, or has been lost or misplaced, voter may obtain from county clerk proper evidence of registration, and upon presenting such evidence the judges of election should permit voting. Otherwise, an unregistered voter may not swear in his vote.

408

**SCHOOLS**

Ms. Frances Nelson,  
October 23, 1944.

A district which is part of a County High School District may by majority vote of the qualified electors be annexed to a Union High School District and after a levy of taxes has been made upon the real estate now a part of the Union High School District, it may vote to exempt itself from county high school tax under Section 205, Chapter 106, 1935 C.S.A.

409

**SCHOOLS**

Ms. Frances Nelson,  
October 23, 1944.

Where there are two districts, one of which is a Union High School District and one not, which desire to unite, it would be advisable that the one not a part be dissolved and annexed to the

other district in which case the territory which did comprise a separate district would become a part of the Union High School District.

**410** **SCHOOLS**

Mr. E. M. Eagleton,  
October 23, 1944.

A portion of a district may not be detached from a district which does not have forty children of school age. Citing *Gorrell v. Bevens*, 66 Colo. 67.

**411** **SCHOOLS**

Mr. Oscar Dell,  
October 25, 1944.

The school district is not by statute authorized to expend monies for one of its residents to attend the Junior College District in which such child is not a resident.

**412** **SCHOOLS—CITIES AND TOWNS**

Mrs. Elinor Signell,  
October 26, 1944.

A school district would have implied power to make agreement with town to install a fire hydrant—the school district to make installation, the town to maintain the hydrant and furnish water.

**413** **ELECTIONS—INDIANS**

Mrs. Kathleene Blackham,  
October 27, 1944.

Electors in special election to remove county seat cannot vote by absentee ballot or armed forces absent voters ballot.

Indians are citizens and entitled to vote if they have proper residence qualifications—residence on reservation does not give right to vote.

Registration books for general election cannot be copied for special election to remove county seat.

Registers appointed by County Commissioners for county seat removal election can register voters at any time prior to election day but cannot register with county clerk. In making such registrations, the registers do not act as canvassers of registration.

414

**ELECTIONS**

Mrs. Vera E. Linger,  
October 28, 1944.

No assistance in preparing ballot can be given to voter who cannot read and write.

Registration books and sheets therefrom should not be removed from clerk's office except on precinct registration days and election days.

Canvass of registration by canvassers held illegal by Denver District Court.

415

**ELECTIONS**

Mr. Stanley P. Wyatt,  
October 30, 1944.

An absentee voters ballot, voted and delivered to county clerk on Saturday before election, cannot be counted by election judges if such voter is in county on election day. Such ballots may be challenged by election judges, watchers, challengers, or any elector.

If absent voters ballot is not counted, the envelope should not be opened, and a notation should be put on the envelope by the election judges showing why ballot was not counted, and envelope should be returned to county clerk with unused and spoiled ballots.

Watchers and challengers are appointed by county chairmen and need not be residents of precinct in which they serve. Absent voters ballots should be cast after polls close on election day.

416

**GAME AND FISH**

State Game and Fish Commission,  
November 1, 1944.

No refunds can be made for fishing or hunting licenses, either in whole or in part. (Ch. 73, Art. 7 (g), 1934 Cum. Sup., 1935 C.S.A.)

417

**TAXATION—SCHOOLS**

Colorado Tax Commission,  
November 1, 1944.

In determining whether or not there has been more than a five per cent increase of revenue the preceding year, as authorized by Section 39, Chapter 142, 1935 C.S.A., the total of special and pension levies together should be used although in a particular

case this may result in a greater than five per cent increase on one particular fund.

#### 418                   INTOXICATING LIQUORS—FEDERAL

Hon. L. J. Bennett,  
November 2, 1944.

The transportation of fermented malt beverages by Colorado wholesalers and manufacturers to points within military reservations under exclusive federal control, located within the boundaries of Colorado, is transportation outside the state within the meaning of Section 9, Chapter 89, 1935 C.S.A., entitling the shipper to a refund of any taxes paid on such shipments. *Johnson vs. Yellow Cab Transit Co.*, 137 Fed. (2nd) 274, U.S.C.C.A., 10th Circuit Case No. 2697, 64, Sup. Ct. Rep. 622.

#### 419                   EXTRADITION—MINOR CHILDREN

Mr. Harry V. Childerston  
November 2, 1944.

A minor is subject to extradition but he should not be surrendered to the authorities of the demanding state without a hearing before the Governor unless said minor, with full knowledge of his rights, specifically waives a hearing and consents voluntarily to return to the state where he is charged with crime.

#### 420                   STATE REFORMATORY

Mr. James S. Thomas,  
November 2, 1944.

Warden of the State Reformatory must allow credit for time served by prisoner in jail prior to the time he is received at the Reformatory as so ordered by the committing court.

#### 421                   MOTOR VEHICLES

Major Leon M. Gauvreau,  
November 3, 1944.

(Post Exchange Licenses.)

Trucks and Motor Vehicles owned and operated by Army Post Exchanges are federal instrumentalities so as to be exempt from state licensing.

**422                    COUNTIES—COUNTY OFFICERS**

Mrs. Kathleene Blackham,  
November 6, 1944.

County Commissioners can employ an attorney when the interests of the county in their opinion require such services. Chap. 45, Sec. 64, 1933 C.S.A. *Morris v. Adams County*, 25 Colo. App. 416, 424; *Medberry v. People*, 107 Colo. 15, 19.

**423                    COUNTY OFFICERS**

Mr. Ed Dutcher,  
November 17, 1944.

A County Assessor is required to file two separate bonds as provided by Section 164, Chapter 45, 1935 C.S.A., and Section 45, Chapter 142, 1935 C.S.A., in the respective amounts designated by the applicable sections.

**424                    ELECTIONS**

Mr. Dale Cooley,  
November 17, 1944.

Where the candidate receiving the highest number of votes for the office of County Commissioner dies after the election but before qualifying for office, the candidate receiving the next highest number of votes cannot claim to be elected to the office. The vacancy should be filled by appointment of the Governor.

**425                    STATE BOARD OF LAND COMMISSIONERS—  
                                 CITIES AND TOWNS**

State Board of Land Commissioners,  
November 18, 1944.

Under Section 81, Chapter 134, 1935 C.S.A., the State Board of Land Commissioners has no power to grant right of way to a municipality for airport purposes as the section is specifically limited to the purposes therein enumerated.

**426                    LEGAL RESIDENCE—COLORADO STATE  
                                 COLLEGE OF EDUCATION**

Mr. Glen C. Turner,  
November 20, 1944.

Residence within the meaning of Section 21, Chapter 155, 1935 C.S.A., is largely a matter of intent. The College authorities may set up certain criteria to determine such intent and should determine in each case whether there has been the adoption of



Colorado as a fixed and permanent habitation with the intention of making it the true home. The residence of a minor is that of his father unless there has been an emancipation of the child.

**427 CREDIT UNIONS**

Hon. Maple T. Harl,  
November 21, 1944.

Dividends for a Credit Union must be declared in accordance with the provisions of Section 18, Chapter 118, 1941 Session Laws of Colorado. The dividend is declared by the membership upon recommendation of the directors.

**428 AUDITOR OF STATE—STOCK INSPECTION  
COMMISSION**

Mr. L. G. McClain,  
November 28, 1944.

The Department of Auditing is charged with the discretion of auditing accounts of all state agencies including agencies such as the State Stock Inspection Commission. The Estray Fund and the Brand Inspection Fund need not be deposited with the State Treasurer.

**429 COUNTY OFFICERS—ABSTRACTERS**

Mr. Frank Conner,  
November 29, 1944.

A County Clerk and Recorder may lawfully purchase a set of abstracter's books but it is doubtful if such official can legally accept and retain fees as an abstracter for services he is bound to perform upon demand as a County Clerk.

**430 STATE BOARD OF OPTOMETRIC EXAMINERS**

Mr. J. C. Bloom,  
December 1, 1944.

The State Board of Optometric Examiners must admit to examination one who has complied with the provisions of Section 8, Chapter 120, 1935 C.S.A. Second, a lay concern not employing an optometrist and not having one on the premises may not lawfully examine the eyes.

**431 COUNTY OFFICERS—STATE ENGINEER**

Mr. C. P. Rigby,  
December 4, 1944.

A man with a land surveyor's certificate is qualified and entitled to hold the office of County Surveyor and also to draft plats to file with the State Engineer.

**432 ELECTIONS**

Mr. F. C. Estey,  
December 5, 1944.

At general elections "write-in" candidates receiving highest vote is elected regardless of percentage.

**433 UNEMPLOYMENT COMPENSATION ACT**

Mr. C. E. Russell,  
December 7, 1944.

A veteran may be legally paid unemployment compensation benefits under the state act for a particular week upon qualifying therefor, if he has not filed a claim for the same week under the federal act.

**434 STATE EMPLOYEES' RETIREMENT ACT**

Public Employees' Retirement Association,  
December 8 1944.

1. The presidents, deans, professors and instructors of a state educational institution, who are ineligible to become members of the State Retirement Association because such institution has an established annuity plan, become eligible to such membership when the institution abandons its established plan as a policy of the institution.

2. Such professors, etc., on becoming eligible should be given the privilege of securing credit for retirement purposes by making the payment provided for in Section 2(2) of the Retirement Act.

**435 DEPENDENT CHILDREN**

Mrs. Anna M. Whitaker,  
December 9, 1944.

The Colorado State Home for Dependent and Neglected Children may place children with other recognized agencies when the interests of the child may be best served in so doing and providing the Home relinquishes no legal rights as to such child.

436

**LEGISLATORS**

Hon. Leon E. Lavington,  
December 9, 1944.

A legislator who died after serving 84 days of biennial session consisting of 97 days is entitled to 84/97 of the biennial compensation of \$1000.00 less per diem compensation actually received by him. (Follows opinion No. 393, Biennial Report of Attorney General 1919-1920.)

437

**PRESIDENTIAL ELECTORS**

Mrs. Lucy R. Hillman,  
December 11, 1944.

A presidential elector must be personally present to take the oath required by law and qualify as a presidential elector.

438

**BANKS AND BANKING**

Hon. Maple T. Harl,  
December 12, 1944.

Section 44, Ch. 18, 1935 C.S.A., requires that publication of unclaimed deposits be made in March of each year.

439

**UNIVERSITY OF COLORADO**

Mr. W. E. Brockway,  
December 12, 1944.

Not necessary to have a licensed attorney represent the Board of Regents of the University of Colorado to prosecute claims in Justice of Peace Courts. Regents may be represented by any duly authorized agent. *United Securities Corp. vs. Pantex*, 98 Colo. 79. If appeal be taken to the County Court, the Board should be represented by the Attorney General.

440

**SOLDIERS AND SAILORS HOME**

Mr. Ray O'Dell,  
December 14, 1944.

Soldiers and Sailors Home is an institution and, upon the evidence available, is not serving the public oleomargarine and need not display a sign in accordance with Sec. 23, Ch. 49, 1935 C.S.A.

**441 ELECTIONS—WAR EMERGENCY**

Miss Kathleene Blackham,  
December 15, 1944.

Under Section 130, Election Laws, registration sheet of soldier who does not vote either regular absentee ballot or armed forces absentee ballot must be purged. If soldier votes by armed forces ballot, his registration sheet should not be purged.

**442 STOCK INSPECTION COMMISSIONERS—  
CIVIL SERVICE**

State Civil Service Commission,  
December 18, 1944.

The employment of field assistants and predatory animal hunters and the payment of salaries to them pursuant to the cooperative agreement between the United States Department of Agriculture, Bureau of Biological Survey, and the State Board of Stock Inspection Commissioners is not within the jurisdiction or control of the Civil Service Commission whether or not they are paid from state funds.

**443 MOTOR VEHICLE**

Mr. James W. Creamer,  
December 19, 1944.

A lienor selling a motor vehicle for storage and the purchaser thereof who comply with the procedure of Section 33, Chapter 173, 1935 C.S.A., are entitled to a state transfer and registration of title.

**444 HIGHWAYS—STOCK INSPECTION  
COMMISSIONERS**

Mr. O. T. Reedy,  
December 19, 1944.

Stock Fence Law. Owner of livestock is not liable for cattle straying on highway even though there is no continuity of fencing.

**445 SOLDIERS AND SAILORS HOME**

Capt. J. H. Lewis,  
December 13, 1944.

The four members of the commission of the Soldiers and Sailors Home have equal rights. The president of that commission may vote on all matters coming before the commission.

**446                    LEGISLATION—NATIONAL GUARD**

Hon. Neal Bishop,  
December 22, 1944.

Expenditures from the appropriation provided by Section 5 of the State Guard Act, Chapter 141, Session Laws 1943, should be made pursuant to Section 16 of said act.

Expenditure from the Military Fund should be approved by the Military Board and follow the procedure outlined in Section 32 of Chapter 111, 1935 C.S.A.

**447                    ANATOMICAL BOARD**

Dr. R. M. Mulligan,  
December 26, 1944.

Generally no one has the right to perform an autopsy upon a dead human body without the consent of the next of kin. However, if the public good requires it or the demands of justice, the district attorney may order an autopsy. A court may likewise order such autopsy.

The other exception to such general rule is where the body is unclaimed. In such case, in order to perform an autopsy, the consent of the Secretary of the Anatomical Board must be acquired. Sections 38, 40 of Chapter 109, 1935 C.S.A.

**448                    COLORADO STATE COLLEGE OF AGRICULTURE  
—PUBLIC FUNDS**

Dr. Roy M. Green,  
December 27, 1944.

The Station Special Fund of the State College of Agriculture may be banked by the State Board of Agriculture and handled as are the Federal Funds contributed to that fund. They need not be first deposited with the State Treasurer nor should they go to the Department of Revenue. The same reasoning would apply to the Extension Cash Fund.

**449                    EMPLOYEES—STATUTES**

Hon. C. C. Hezmalhalch,  
December 28, 1944.

A statute which prescribes qualifications for a public employee should be observed until it has been declared unconstitutional. Re-affirms opinion No. 450, Report of Attorney General 1935-1936.

**450 EMPLOYEES—DEPARTMENT OF REVENUE**

Hon. Albert F. Cruse,  
December 29, 1944.

Services of an employee or a department of the Department of Revenue may be discontinued by invoking provisions of Section 34, Chapter 2; Section 5(b), Chapter 2; Section 5(c), Chapter 2; or Section 5(e), Chapter 2, 1941 Session Laws of Colorado.

**451 DIVISION OF AGRICULTURE**

Mr. W. C. Sweinhart,  
December 29, 1944.

A metering machine may lawfully be used to "meter out" the stamps required by law to be affixed to containers of commercial fertilizer, provided such machine issues an actual "stamp" as distinguished from a mere printed impression on the container itself.

**452 INSURANCE**

Hon. Luke J. Kavanaugh,  
January 2, 1945.

Under Section 80, Chapter 153, 1935 C.S.A., the Commissioners of Insurance may permit taxes and fees to be paid under protest.

**453 TAXATION—EXEMPTIONS**

Mr. J. R. Seaman,  
January 5, 1945.

Rotary International is not a charitable, religious or educational institution. Its properties are not exempt from state taxation.

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**NOTE: Opinion Number Follows Each Lead**





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