

Biennial Report
of the
ATTORNEY GENERAL
of the
STATE OF COLORADO



Years 1945-1946

H. LAWRENCE HINKLEY
Attorney General

ATTORNEYS GENERAL OF COLORADO

From the Organization of the State

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|---------------------------|-----------|
| A. J. Sampson..... | 1877-1878 |
| Charles W. Wright..... | 1879-1880 |
| Charles H. Toll..... | 1881-1882 |
| David F. Urmey..... | 1883-1884 |
| Theodore H. Thomas..... | 1885-1886 |
| Alvin Marsh..... | 1887-1888 |
| Samuel W. Jones..... | 1889-1890 |
| Joseph H. Maupin..... | 1891-1892 |
| Eugene Engley..... | 1893-1894 |
| Byron L. Carr..... | 1895-1898 |
| David M. Campbell..... | 1899-1900 |
| Charles C. Post..... | 1901-1902 |
| Nathan C. Miller..... | 1903-1906 |
| William H. Dickson..... | 1907-1908 |
| John T. Barnett..... | 1909-1910 |
| Benjamin Griffith..... | 1911-1912 |
| Fred Farrar..... | 1913-1916 |
| Leslie E. Hubbard..... | 1917-1918 |
| Victor E. Keyes..... | 1919-1922 |
| Russell W. Fleming..... | 1923 |
| Wayne C. Williams..... | 1924 |
| William L. Boatright..... | 1925-1928 |
| Robert E. Winbourn..... | 1929-1930 |
| John S. Underwood..... | 1930 |
| Clarence L. Ireland..... | 1931-1932 |
| Paul P. Prosser..... | 1933-1936 |
| Byron G. Rogers..... | 1936-1940 |
| Gail L. Ireland..... | 1941-1944 |
| H. Lawrence Hinkley..... | 1945-1946 |

REGISTER OF DEPARTMENT OF LAW
1945-1946

DIVISION OF LEGAL AFFAIRS

H. LAWRENCE HINKLEY, Attorney General

DUKE W. DUNBAR, Deputy Attorney General

¹JAMES S. HENDERSON, First Assistant Attorney General

²THEODORE A. CHISHOLM, First Assistant

³FRANK A. WACHOB, First Assistant

Assistant Attorneys General

⁴CLARENCE L. BARTHOLIC

¹⁴JAMES S. HENDERSON

⁵CHARLES F. CORY

BARBARA LEE

⁶E. B. EVANS

DONALD H. MEYER

⁷JOHN M. EVANS

¹⁵HOWARD S. PINE

⁸ROBERT L. GEE

WALLACE S. PORTH

⁹JAMES D. GEISSINGER

¹⁶JAMES N. SABIN

¹⁰JACK L. GRAHAM

GEORGE K. THOMAS

¹¹PENELOPE M. GRIFFIN

¹⁷JOHN F. WILSON

¹²J. RAMSEY HARRIS

HENRY E. ZARLENGO

¹³JOSEPH W. HAWLEY

ANN G. LANDY, Principal Stenographer

Senior Stenographers

¹⁸LORRAINE CORAZZA

¹⁹PHILOMENA M. JOHNSON

WILMA F. CROSKEY

ELIZABETH D. PATTON

EDITH HEZMALHALCH

¹Resigned at First Assistant June 30, 1946.

²Appointed First Assistant July 1, 1946; resigned November 30, 1946.

³Appointed First Assistant December 1, 1946.

⁴Resigned August 31, 1946.

⁵Appointed February 5, 1946.

⁶Resigned July 31, 1946.

⁷Appointed February 15, 1946.

⁸Appointed January 1, 1946; resigned January 31, 1946.

⁹Appointed April 15, 1946.

¹⁰Appointed April 15, 1945.

¹¹Appointed March 20, 1945; resigned May 31, 1945.

¹²Resigned April 30, 1946.

¹³Appointed July 10, 1946.

¹⁴Appointed July 1, 1946.

¹⁵Appointed January 12, 1945; resigned June 30, 1945.

¹⁶Appointed July 18, 1945; resigned November 15, 1945.

¹⁷Appointed July 23, 1945.

¹⁸Transferred from Ind. Com. June 13, 1946.

¹⁹Resigned April 20, 1946.

LEGISLATIVE REFERENCE OFFICE

²⁰JOHN M. EVANS, Director
CLAIR T. SIPPEL, Supervisor

DIVISION OF SECURITIES

H. LAWRENCE HINKLEY, Ex-officio Commissioner of Securities
²¹ALLAN S. RICHARDSON, Commissioner
²²CURTIS WHITE, Commissioner
²³JOHN L. ZANONI, Sectional Supervisor
RHODA SON, Senior Stenographer

²⁰Appointed Director during legislative session December 1, 1946

²¹Resigned December 31, 1945.

²²Reinstated upon return from service January 1, 1946.

²³Reinstated June 1, 1946.

INHERITANCE TAX DEPARTMENT

¹BERTON T. GOBBLE, Assistant Attorney General and Inheritance Tax Commissioner
²ST. GEORGE GORDON, Assistant Attorney General and Inheritance Tax Commissioner
HENRY C. JACKSON, Principal Appraiser
GEO. W. MOSCRIPT, Principal Appraiser
E. J. P. VALDEZ, Senior Auditor
LEO C. WELLIK, Principal Appraiser
CATHERINE H. COURSEY, Secretary
MYRTLE M. BAKER, Clerk Typist
ANN COGAN, File Clerk
VERA DECOU, Clerk Typist
MARY SPENCER, Clerk Typist

¹Returned from Military Service December 11, 1945.

²Resigned December 10, 1945.

BIENNIAL REPORT
OF
ATTORNEY GENERAL
OF THE
STATE OF COLORADO

SCHEDULE I

January 1, 1947.

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 1945-1946, together with short summaries covering the Inheritance Tax Division, the Securities Division, the Legislative Reference Bureau and Interstate Litigation.

H. LAWRENCE HINKLEY,
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 January 1, 1945, to December 31, 1946, 14,246 inheritance tax applications were handled by the department. For this same period the following taxes were collected:

| | |
|----------------------------|-----------------------|
| Inheritance Taxes..... | \$3,820,336.50 |
| Gift Taxes..... | 220,887.58 |
| Old Age Pension Taxes..... | 297,061.26 |
| Total | <u>\$4,338,285.34</u> |

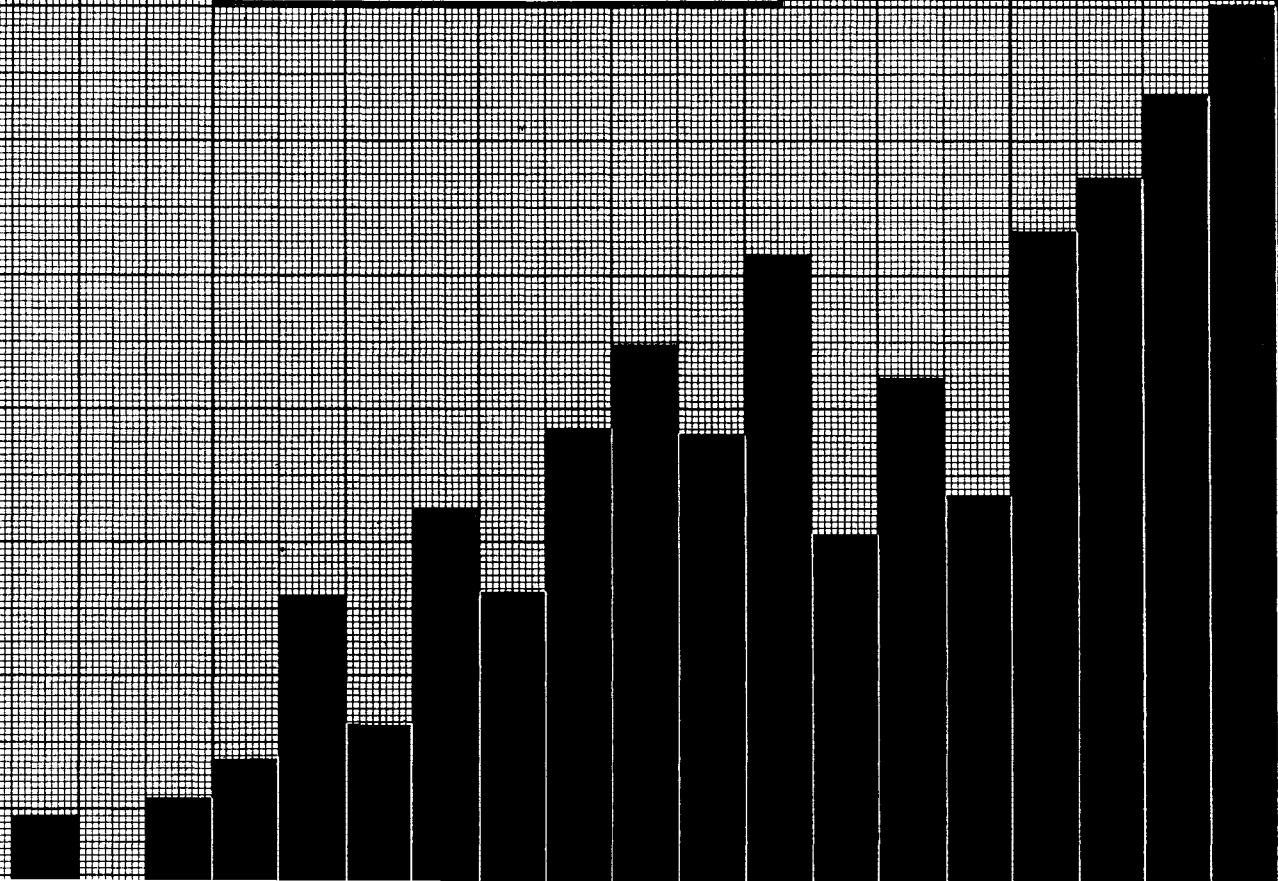
The expense of operating this Division, including salaries, amounted to \$54,721.88, being 1.26% of the amount collected. A comparison of this report with the biennial report of the Attorney General for the years 1943-1944 will show that although the amount of taxes collected is greater by 54.68%, the expenses of the Division have decreased by 0.27%.

All legal matters in connection with escheats to the State were handled by Berton T. Gobble, Assistant Attorney General. Between the period January 1, 1945, and December 31, 1946, 119 escheat estates were closed and the money turned in to the state treasury. The amount collected for the escheat fund amounted to \$161,938.16. The escheat fund has now reached the aggregate sum of \$382,078.69.

TOTAL REVENUE
BIENNIALY
ATTORNEY GENERAL'S OFFICE
Inheritance Tax Department

Hundred Thousand Dollars

42
41
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DIVISION OF SECURITIES

On January 1, 1946, Curtis White returned to the position of Securities Commissioner following a three-year military leave of absence.

The following is a report of the administration of the Division of Securities for the fiscal years as follows:

| | 7/1/44-6/30/45 | 7/1/45-6/30/46 |
|------------------------------------|----------------|----------------|
| Appropriation | \$9,730.00 | \$8,715.20 |
| Expenditures | 8,896.34 | 6,098.15 |
| Receipts from Fees..... | 3,375.00 | 4,997.50 |
| Prospectuses filed..... | 76 | 117 |
| Dealers' registrations in effect | | |
| at end of year..... | 84 | 90 |
| Salesmen's registrations in effect | | |
| at end of each fiscal year..... | 130 | 164 |

During the calendar year 1946 the business of the department increased tremendously. On December 31, 1946, 120 dealers' registrations and 240 salesmen's registrations were in effect. During that year 137 companies filed prospectuses with this department. This large increase in business is in part merely a reflection of the legitimate need of industry for additional capital following the termination of the war. However, in times like the present, with relatively large savings in the pockets of the public and the generally higher level of earnings, many new enterprises are conceived, some speculative, some purely promotional, and others outright fraudulent. This department cannot cope with the situation as it does not have sufficient funds or personnel to meet the demands placed upon it by the public. Furthermore, the department is handicapped by an outmoded and unsatisfactory securities law. In an effort to be of service to the public, this department has prepared and forwarded to newspapers throughout the state an article designed to make the public more alert to the pitfalls which confront unwary and inexperienced investors.

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 drafting 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 WATER LITIGATION

For the first time in many years Colorado is involved in no interstate water litigation. On October 8, 1945, the United States Supreme Court entered a final decree in the North Platte River case (*Nebraska v. Wyoming, Colorado impleaded defendant, United States intervenor*, No. 6 Original October Term, 1945). This ended the last of a long series of interstate water cases which began in 1901 when Kansas sued Colorado over the use of the waters of the Arkansas River and which involved, in addition to the two streams mentioned, the Laramie, Republican, La Plata and Colorado Rivers.

The experience of Colorado in this type of litigation indicates that the compact method of settling such controversies is much to be preferred over the court method. The Arkansas River cases covered a period of forty-two years, the Laramie River cases extended over thirty-nine years, and the North Platte case over eleven years. I strongly recommend that the policy of the Colorado Water Conservation Board to strive to settle all such controversies by compact be continued. Litigation is a very slow and costly process which should be avoided whenever possible.

The decree in the North Platte case in my opinion adequately protects the present and future uses of water of that stream in Colorado. While Colorado urged the dismissal of the case upon the ground of no injury, the Court held against Colorado upon that issue. The effect of such ruling was offset by the Court entering a decree which recognizes the Colorado needs and uses as they are now known.

In the final disposition of the North Platte case the services of Messrs. Jean S. Breitenstein, Clifford H. Stone, George J. Bailey, and C. L. Patterson have been very helpful to me.

INTERSTATE WATER COMPACTS

Through the biennium I have worked with the Colorado Water Conservation Board on many matters involving interstate water compacts. In all of these the relationships between Colorado and other states have been on a friendly and harmonious basis. Progress has necessarily been slow but there is every reason to expect that with patience and understanding many complex and controversial problems may eventually be solved by the compact method. A brief reference to the status of pending compact discussions follows:

Costilla Creek. This compact was ratified by the legislatures of Colorado and New Mexico in 1945 and Congress gave its consent by the Act of June 11, 1946. Administrative procedures have been worked out by representatives of the two states.

Arkansas River. A compact commission consisting of four members from Kansas and an equal number from Colorado has been appointed with Brig. Gen. Hans Kramer as federal representative and chairman. The Colorado members appointed by Governor Vivian on January 12, 1945, are Henry C. Vidal, Charles L. Patterson, Gail L. Ireland and Harry B. Mendenhall. Several meetings have been held and considerable progress has been made in working out the engineering and legal problems which are involved.

Upper Colorado River. Negotiations are under way for an Upper Colorado River Basin compact. Clifford H. Stone is the Colorado commissioner under appointment from the governor with approval of the Colorado Water Conservation Board. The Commission has held several meetings. An engineering committee is now engaged in the preparation of the necessary factual data. It is hoped that a compact may be agreed upon for presentation to the state legislatures in 1949. The importance of the full development of the Colorado share of the Colorado River is so great that the compact negotiations demand the most careful and thorough consideration by the Colorado commissioner and his advisors.

Little Snake River. The governor has appointed Clifford H. Stone and George A. Pughe as commissioners for Colorado to negotiate with Wyoming for a compact on the Little Snake River. Because of the fact that this stream is involved in the compact negotiations affecting the Upper Colorado River Basin, little progress can be made until a comprehensive upper basin compact is agreed upon.

Rio Grande. While the Rio Grande compact has been in effect for over six years the necessity of cooperating with Texas and New Mexico in satisfactorily clarifying certain procedural matters

has taken up much time during the past biennium. The attorney-general has worked with the State Engineer, M. C. Hinderlider, and the consulting engineer of the Colorado Water Conservation Board, Mr. Royce J. Tipton, to solve this problem.

The attorney-general has cooperated with the Colorado Water Conservation Board in all interstate water matters. The activities of that Board in connection with the protection, conservation and utilization of the water resources of the state are of the utmost importance. Colorado must be alert to retain and develop its equitable share of the waters of the many streams which arise in this state. This requires that the Board be adequately financed and be staffed with competent personnel.

SCHEDULE II

LIST OF ALL CASES, PENDING, AND DISPOSED OF, IN ALL COURTS 1945-1946

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. In accordance with terms of decree, compact negotiations are now pending.
- *The State of Nebraska, Complainant, v. The State of Wyoming, Defendant, State of Colorado, Impleaded Defendant, The United States of America, Intervenor*. For adjudication of the rights of the several states in the water of interstate streams. Decree entered, court retained jurisdiction over administration under terms of the decree.
- No. 275. *Pacific Coast Dairy, Inc., v. Department of Agriculture of the State of California, et al.* State regulation of milk sales culminating in federal areas. Joined in rehearing which was denied.
- Nos. 523-530. *United States v. Frankfort Distilleries, Inc.* Conspiracy and restraint of trade. Attorney General entered appearance as Amicus Curiae. Decree entered and case closed.
- No. 354. *United States of America v. South-Eastern Underwriters Association, et al.* Violation of the Sherman Anti-Trust Act. Attorney General appeared as Amicus Curiae. Court held that insurance constitutes interstate commerce.
- No. 5. *State of New York and Saratoga Springs Commission and Saratoga Springs Authority v. United States of America*. Excise taxes. Judgment of the Court January 14, 1946.

**IN THE UNITED STATES CIRCUIT COURT OF
APPEALS FOR THE TENTH CIRCUIT**

- No. 2550. *Colorado Interstate Gas Company, et al., v. Federal Power Commission, et al.* Gas refunds. Pending.

CASES IN THE UNITED STATES DISTRICT COURT

- No. 1928. *Jacques Adler and May E. Adler v. Ralph Nicholas, Collector of Internal Revenue for the District of Colorado, et al.* To determine federal and state sales tax liability. Pending.
- No. 8669. *In the Matter of the Denver & Rio Grande Western R. R. Co.* Reorganization of a railroad. Pending.
- No. 9177. *Central Hanover Bank and Trust Company, a corporation, v. The Rio Grande Southern Railroad Company, a corporation.* Taxes. Pending.
- *In the Matter of the Petition of the Trinchera Irrigation District for Composition of its Debts.* Bankruptcy matter. Settled.
- No. 11440. *The United States of America v. An Easement Over 21.62 Acres of Land, More or Less.* Condemnation suit. State not interested.
- No. 11441. *The United States of America v. 4129.73 Acres of Land More or Less.* Condemnation proceedings. State not interested.
- No. 11452. *The United States of America v. 16,222.63 Acres of Land, More or Less, Situate in the County of Pueblo.* Condemnation proceedings. State not interested.
- No. 11466. *The United States of America v. 1960 Acres of Land, More or Less.* Petition in Condemnation. State not interested.
- No. 11477. *The United States of America v. 101.83 Acres of Land, More or Less, situate in the County of Arapahoe, State of Colorado, et al.* Condemnation suit. State not interested.
- No. 11482. *The United States of America v. 20,000 Acres of Land, More or Less, et al.* State not interested.
- No. 11483. *The United States of America v. Certain Lands Situate in the County of Jefferson, State of Colorado, et al.* Condemnation proceedings. State not interested.

- No. 11508. *The United States of America v. 60 Acres of Land, More or Less, Situate in the County of Arapahoe, State of Colorado, et al.* Condemnation suit. State not interested.
- No. 11520. *The United States of America v. 1,440 Acres of Land, More or Less, Kiowa County.* Condemnation proceedings. State not interested.
- No. 11521. *The United States of America v. 1,440 Acres of Land, More or Less, Situate in Crowley County.* Condemnation proceedings. State not interested.
- No. 11522. *The United States of America v. 1,440 Acres of Land, County of Bent, et al.* Condemnation proceedings. State not interested.
- No. 11550. *The United States of America v. 280 Acres of Land, More or Less, Situate in the County of Otero, State of Colorado, et al.* State not interested.
- No. 11592. *The United States of America v. 4,513 Acres of Land, More or Less, Situate in the County of Summit, State of Colorado, et al.* Petition in condemnation. State not interested.
- No. 11594. *The United States of America v. 2392.01 Acres of Land, More or Less, Situate in the County of Otero, State of Colorado, et al.* Condemnation proceeding. State not interested.
- No. 11607. *The United States of America v. 2.12 Acres of Land, More or Less, Situate in the County of Las Animas, et. al.* Condemnation suit. State not interested in lands involved.
- No. 11620. *The United States of America v. 0.76 of an Acre of Land, More or Less, Situate in the County of Denver, et al.* Condemnation suit. State not interested in lands involved.
- No. 11638. *The United States of America v. 0.08 of an Acre of Land, More or Less, Situate in the City and County of Denver, et al.* Condemnation suit. State not interested in lands involved.
- No. 11640. *The United States of America v. 1,341.21 Acres of Land, More or Less, et al.* Condemnation proceedings. State not interested.
- No. 11652. *The United States of America v. 135.84 Acres of Land, More or Less, Situate in the County of Eagle, State of Colorado, et al.* Condemnation proceedings. State not interested.
- No. 11663. *The United States of America v. 290.09 Acres of Land, More or Less, Situate in the County of Weld, et al.* Condemnation proceedings. State not interested.

- No. 11673. *The United States of America v. 6,845.83 Acres of Land, More or Less, Situate in the County of Las Animas, State of Colorado, et al.* Condemnation suit. State not interested.
- No. 11675. *The United States of America v. 6,015.93 Acres of Land, More or Less, Situate in the County of Las Animas, et al.* State not interested.
- No. 11676. *The United States of America v. 2,050.19 Acres of Land, More or Less, Situate in the County of Las Animas, State of Colorado, et al.* Condemnation suit. State not interested.
- No. 11677. *The United States of America v. 2,825.66 Acres of Land, More or Less, Situate in the County of Las Animas, State of Colorado; Inheritance Tax Department, et al.* Condemnation suit. State not interested.
- No. 11678. *The United States of America v. 9,624.87 Acres of Land, More or Less, Situate in the Counties of Las Animas and Otero, State of Colorado, et al.* Condemnation suit. State not interested.
- No. 11680. *The United States of America v. 1,987.59 Acres of Land, More or Less, Situate in the County of Las Animas, State of Colorado, et al.* Condemnation suit. State not interested.
- No. 11700. *United States of America v. Certain Parcels of Land Situate in the City and County of Denver, State of Colorado, and the Inheritance Tax Commissioner thereof, et al.* Condemnation proceedings. No action necessary for state.
- No. 11741. *The United States of America v. 23.94 Acres of Land, More or Less, Situate in the City and County of Denver, et al.* Condemnation proceedings. State not interested.
- No. 12127. *In the Matter of the Rocky Mountain Fuel Company, a corporation.* Bankruptcy matter involving coal mine inspection fees. Claim allowed.

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

- No. 14731. *The Water Supply and Storage Company, a corporation; The Tunnel Water Company, a corporation; The Divide Canal and Reservoir Company, a corporation; M. C. Hinderlider, as the State Engineer of the State of Colorado, and R. A. Mosier as Commissioner of Water District No. 48 v. Adalrick Benziger.* Water rights. Pending on rehearing.

- No. 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. Judgment affirmed October 14, 1946.
- No. 15219. *Estate of Gavin W. Hamilton, Deceased; Molly G. Hamilton, individually and as Administratrix and Kilpatrick Brothers Company v. The People of the State of Colorado, et al.* Inheritance tax. Judgment for the plaintiff.
- No. 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 on motion for rehearing.
- No. 15318. *C. A. Seal and The Western Casualty and Surety Company v. The State Board of Stock Inspection Commissioners for the use and benefit of Fred Klann and L. G. Weller.* Error to the District Court of Kit Carson County. Action to recover on the bond of a livestock sales ring. Judgment affirmed March 4, 1946.
- No. 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. Dismissed as moot.
- No. 15368. *Gail L. Ireland, Attorney General of the State of Colorado, v. James F. Jacob, Administrator of the Estate of Bertha M. Leibold, Deceased.* Action to enforce a public trust. Pending.
- No. 15399. *Helen Kevlin v. Daniel Sullivan, et al.* Concerning position of relief nurse at Industrial School. Error to the District Court of the City and County of Denver. Judgment affirmed.
- No. 15368. *State Treasurer v. Erl H. Ellis.* State income tax determination. Error to the District Court of Eagle County. Trial Court reversed.
- No. 15545. *Gail L. Ireland, as Attorney General of the State of Colorado, v. The Colorado Masons Benevolent Fund Association, a Colorado corporation, et al.* To quiet title. Error to the District Court of the City and County of Denver. On application for supersedeas, judgment affirmed.
- No. 15608. *Gail L. Ireland, et al., v. Oriental Refining Company, a corporation.* Error to the District Court of the City and County of Denver. Motor fuel taxes. Awaiting oral argument.

- No. 15610. *People of the State of Colorado, ex rel. A. Allen Brown, District Attorney of the Seventh Judicial District, v. The District Court of Mesa County and the Honorable George W. Bruce, one of the judges of said court.* Original proceeding. Writ of prohibition. Dismissed.
- No. 15630. *Magdalene C. Roff v. State Civil Service Commission.* Error to the District Court of the City and County of Denver. Civil service reclassification. Submitted and pending.
- No. 15642. *Champlin Refining Company v. Albert F. Cruse.* Error to the District Court of the City and County of Denver. Motor fuel tax refund. Trial court reversed.
- No. 15645. *In the Matter of the Estate of Emma J. Frantz, Deceased.* For expenses charged to the estate for care of incompetent son at Colorado State Hospital. Pending.
- No. 15646. *J. C. Jarrett and W. H. Hunning v. Albert F. Cruse, Director of Revenue for the State of Colorado.* Error to the District Court of the City and County of Denver. Service taxes. Awaiting oral argument.
- No. 15684. *The Board of County Commissioners of Jefferson County, State of Colorado, v. Albert A. Sedgley and Bernadine K. Sedgley.* Condemnation suit. Awaiting oral argument.
- No. 15697. *Knight-Campbell Music Company v. State of Colorado and Leon E. Lavington, Treasurer of the State of Colorado.* Appeal from assessment of additional income tax. Error to the District Court of the City and County of Denver. Awaiting oral argument.
- No. 15698. *Arthur F. Hewitt v. State Civil Service Commission of Colorado, et al.* Appeal from the District Court of Denver. Civil Service appointment as Highway Engineer. Judgment affirmed.
- No. 15722. *George E. Hawkyard v. The People.* Lunacy case. Judgment affirmed April 29, 1946.
- No. 15743. *John C. Vivian, as Governor of the State of Colorado, and Homer Bedford, as Treasurer of the State of Colorado, v. Victor J. Bloom, Lena Maties, et al.* Civil Service matter. Judgment reversed. Pending on rehearing.
- No. 15749. *People, ex rel., Loraine Good Kent, v. Wilbur F. Denious.* Disbarment proceedings. Pending.

- No. 15762. *Donald K. Smith v. Roy Best, Warden of the State Penitentiary of the State of Colorado*. Habeas corpus proceeding. Error to the District Court of Arapahoe County. Judgment affirmed.
- No. 15805. *The People of the State of Colorado, ex rel., Cheyenne Soil Erosion District, v. Joe Parker, et al.* Injunction suit re election and Soil Conservation Act. Constitutionality. Pending.
- No. 15811. *The State of Colorado and Albert F. Cruse, as the Director of Revenue of the State of Colorado, et al., v. The American Can Company, a corporation*. Error to the District Court of the City and County of Denver. Income taxes. Pending.

CRIMINAL CASES IN THE SUPREME COURT OF THE STATE OF COLORADO

| No. | Title | Crime | Disposition |
|-------|---|---|---------------------------------|
| 15141 | Roy Welch v. The People..... | Larceny | Judgment Affirmed. |
| 15235 | Charles Wright v. The People..... | False Pretenses..... | Judgment Affirmed. |
| 15321 | John F. Starr v. The People..... | Conspiracy to Commit Embezzlement..... | Judgment Affirmed. |
| 15322 | Ruth Gross La Vielle v. The People..... | Conspiracy to Commit Embezzlement..... | Judgment Reversed. |
| 15379 | W. R. Torbert v. The People..... | Cheating, Swindling, False Pretenses..... | Judgment Affirmed. |
| 15411 | John Henry Harris v. The People..... | Rape | Judgment Affirmed. |
| 15412 | Thomas J. Conyers v. The People..... | Unlawful Killing of Cattle..... | Judgment Affirmed. |
| 15467 | A. B. Bills and James Sheridan v. The People..... | Operating a Lottery and Gift Enterprise..... | Judgment Modified and Affirmed. |
| 15477 | John Randal v. The People..... | Involuntary Manslaughter | Judgment Affirmed. |
| 15479 | Everett Bruner v. The People..... | Murder | Judgment Reversed. |
| 15492 | Bernice A. Williams v. The People..... | Murder | Judgment Affirmed. |
| 15494 | Howard C. Potts v. The People..... | Murder | Judgment Affirmed. |
| 15507 | Frank Hubert Martz v. The People..... | Murder | Judgment Affirmed. |
| 15517 | William L. Hailey v. The People..... | Arson | Judgment Affirmed. |
| 15525 | Gordon Wright v. The People..... | Murder | Judgment Reversed. |
| 15526 | Chas. Ford Silliman v. The People..... | Murder | Judgment Affirmed. |
| 15528 | William E. Wymer v. The People..... | Murder | Judgment Affirmed. |
| 15549 | Wendell P. Martin v. The People..... | Sodomy | Judgment Reversed. |
| 15556 | Mideuch J. Paulino v. The People..... | Gambling | Judgment Affirmed. |
| 15557 | Mike Falbo v. The People..... | Gambling | Judgment Affirmed. |
| 15572 | John Baker v. The People..... | Second Degree Murder..... | Judgment Reversed. |
| 15578 | Ben A. Olguin v. The People..... | Rape | Judgment Affirmed. |
| 15602 | Alice Ruby Lewis v. The People..... | Larceny as Bailee..... | Judgment Affirmed. |
| 15603 | H. W. Patton v. The People..... | Causing a Death by Driving While Intoxicated..... | Judgment Affirmed. |
| 15609 | Thomas Robinson v. The People..... | Murder | Judgment Affirmed. |
| 15615 | William J. Hix v. The People..... | Statutory Rape | Judgment Affirmed. |
| 15616 | A. R. Ball v. The People..... | Statutory Rape | Judgment Affirmed. |
| 15620 | Raleigh V. Ellis v. The People..... | Murder in the Second Degree..... | Judgment Reversed. |
| 15624 | Harry A. Shier v. The People..... | Sodomy | Pending. |
| 15634 | Ross J. Kidder v. The People..... | Indecent Liberties..... | Judgment Reversed. |
| 15638 | William O'Day v. The People..... | Aggravated Robbery, Habitual Criminal..... | Judgment Affirmed. |
| 15648 | Harold Yeager v. The People..... | Bastardy | Pending. |
| 15650 | Jack Elliott v. The People..... | Larceny of Cattle..... | Judgment Reversed. |
| 15663 | T. B. Winbern v. The People..... | Murder | Pending. |
| 15666 | Julius A. Wolf and A. H. Montgomery v. The People..... | Abortion | Pending. |

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| 15670 | Julius A. Wolfe, Chas. H. Fulton, Betty Fulton v. The People..... | Conspiracy to Commit Abortion..... | Pending. |
| 15682 | Ernest Eddy v. The People..... | Murder | Judgment Reversed. |
| 15693 | John F. Starr v. The People..... | Denial of Probation..... | Dismissed on Motion of Plaintiff in Error. |
| 15699 | John Wigchert v. R. R. Lockhart, et al..... | Habeas Corpus | Judgment Reversed. |
| 15706 | Wm. F. Holder v. The People..... | Larceny as Bailee..... | Judgment Reversed. |
| 15721 | A. R. Seebass, Jr. v. The People..... | Larceny as Bailee..... | Pending. |
| 15724 | Silvano Trujillo, Modesto Vigil, and Joe Martinez..... | Rioting | Pending on Petition for Rehearing. |
| 15726 | Ted Verl Ballensky, Jr. v. The People | Forgery | Pending. |
| 15732 | Richard Bauer, Ernest Eaddy..... | Murder | Judgment Reversed. |
| 15736 | D'Loss Sylvester Lewis v. The People | Conspiracy to Commit False Pretenses..... | Judgment Affirmed. |
| 15737 | A. H. Montgomery v. The People.. | Abortion | Pending. |
| 15741 | Theodore Wm. Smalley v. The People | Burglary | Pending. |
| 15753 | H. O. Ashberg v. The People..... | Larceny | Pending. |
| 15766 | Wm. D. Logan v. The People..... | Driving While Intoxicated..... | Writ of Error Dismissed on Motion of Court. |
| 15791 | Juan Frederico Gallegos v. The People | Murder | Pending. |
| 15793 | Albert G. Jones v. The People..... | Conspiracy to Commit Confidence Game..... | Pending. |
| 15794 | Clarence A. Roper v. The People.. | Voluntary Manslaughter..... | Pending. |
| 15799 | Charles A. Dustin v. The People.. | Crime Against Nature..... | Pending. |
| 15801 | Mike Mayer v. The People..... | Assault with Intent to Rape and Kidnapping... | Pending. |
| 15815 | Wm. Dalihunt, alias Del Hanlon, Geo. F. Thompson v. The People.. | Aggravated Robbery..... | Pending. |
| 15840 | John Routa v. The People..... | Burglary with Force; Burglary Without Force; Habitual Criminal..... | Pending. |
| 15842 | George Wright, alias Edward H. Pierson, alias Earnest Allbright, et al. v. The People... | Forgery | Pending. |
| 15847 | Robert R. Haddock v. The People.. | Involuntary Manslaughter | Pending. |
| 15745 | People, ex rel. Best, v. District Court of Pueblo..... | Resenteneing of a Criminal..... | Dismissed. |
| | John Henry Brown v. The People.. | Murder | Pending. |
| | Emmett J. Pomeroy v. The People.. | Incest and Statutory Rape..... | Pending. |

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

1945-1946

| No. | Title of Action | Judgment of District Courts | Status |
|-------|---|--------------------------------|--|
| 15619 | <i>George C. Rensick v. Industrial Commission, State Comp. Ins. Fund and Denver School Dist. No. 1</i> | Award affirmed | Judgment affirmed, en banc without written opinion. June 4, 1945 (113 Colo. 545; 159 P. (2d) 915) |
| 15537 | <i>A. Carbone and Company, Industrial Commission and State Comp. Ins. Fund, v. Claire MacGregor, Widow of John Alexander MacGregor, on behalf of herself and Ruth Mary MacGregor, minor daughter</i> | Award reversed | Judgment reversed. January 29, 1945 (113 Colo. 241; 155 P. (2d) 994) |
| 15592 | <i>Vardis Lefkaras and Industrial Commission v. Moffat Coal Co., a corp., and Employers' Mutual Ins. Co.</i> | Award set aside | Judgment reversed. April 2, 1945 (113 Colo. 416; 158 P. (2d) 386) |
| 15567 | <i>Frankel Carbon & Ribbon Co., Industrial Commission and State Comp. Ins. Fund, v. Sarah Aaron, Widow of William Aaron, on behalf of herself and Maxine Aaron, minor daughter</i> | Award set aside | Judgment reversed. April 9, 1945 (113 Colo. 429; 158 P. (2d) 929) |
| 15597 | <i>Paul Santerli and Industrial Commission v. The Rocky Mountain Fuel Co., a corp., Wilbur Newton, a trustee of and for The Rocky Mountain Fuel Co., a corp., and Employers' Mutual Ins. Co., a corp.</i> | Award set aside | Judgment affirmed. April 16, 1945 (113 Colo. 441; 158 P. (2d) 927) |

| No. | Title of Action | Judgment of District Courts | Status |
|-------|--|---|---|
| 15644 | <i>Great American Indemnity Co., a corp., and Anthony Hobson, v. Industrial Commission and Edward Pankau.....</i> | Award affirmed.... | Judgment affirmed. September 24, 1945 (114 Colo. 91; 162 P. (2d) 413) |
| 15784 | <i>Maryland Casualty Co. and Hamilton & Gleason Co. v. Industrial Commission and Earl Anderson</i> | Award affirmed.... | Pending. |
| 15653 | <i>Moffat Coal Co., a corp., and Employers' Mutual Insurance Co., v. Everett Muncy and Industrial Commission</i> | Award affirmed.... | Judgment reversed and cause remanded. October 29, 1945 (114 Colo. 183; 163 P. (2d) 201) |
| 15685 | <i>Joe Gregorich, Jr. and Industrial Commission, v. Oliver Coal Co., corp., and Employers' Mutual Ins. Co.....</i> | Award reversed.... | Writ of Error. Dismissed. February 25, 1946 (114 Colo. 481; 166 P. (2d) 993) |
| 15757 | <i>Aetna Casualty & Surety Co., a corp., and Kershaw, Swinerton & Walberg, Co-partners, v. Industrial Commission, Santos Sawcedo Correa, as Guardian of Jesse Correa, a minor and Santos Sawcedo Correa.....</i> | Award affirmed.... | Pending. |
| 15772 | <i>Ohio Casualty Ins. Co., a corp., and Norman E. Voigt d.b.a. Arrow Laundry Co., v. Industrial Commission and Joe Durando..</i> | Award affirmed.... | Judgment reversed. October 21, 1946 |
| 15781 | <i>State Highway Department of State of Colorado, State Comp. Ins. Fund and Industrial Commission, v. J. L. Stunkard.....</i> | Award reversed and remanded to Commission ... | Judgment affirmed. October 28, 1946 |

CASES IN THE DISTRICT COURTS

Adams County

Docket
Number

4557. *Samuel A. Sparks; M. E. Turner; Mrs. O. E. Gould, et al., v. Town or City of Aurora, State of Colorado, et al.* City ordinance. Pending.
4572. *The State Highway Department of the State of Colorado v. Ralph Miller.* Highway matter. Pending.
4787. *Elsa Ryals v. Charles E. Dickinson, Trustee, et al.* To quiet title. State not interested.
7227. *Thomas L. Lloyd, Chloe H. Lloyd, et al., v. John Monnahan, Jr., et al.* To quiet title. State not interested.
- *Catherine Atkinson and Florence I. Grant v. Morris Bernstein, Sam H. Fox, et al.* Declaratory judgment in re liquor license. Motion to dismiss as to M. Donald granted.
- *Alvin W. White v. Arthur L. Gates, et al.* To quiet title. State not interested.
- *Earl H. Hopkins and Blanche C. Hopkins v. Henry L. Doherty, et al.* To quiet title. State not interested.
- *Euphrasia Martin v. A. F. Barnard; A. M. Barnard, et al.* To quiet title. State not interested.

Arapahoe County

- *Mandell Levy v. H. G. Altvater, et al.* To quiet title. State not interested.
- *M. M. Metzger v. Maggie Aiello; A. Almeida, et al.* Action to quiet title. State not interested.
6947. *In the Matter of the Petition of Donald K. Smith, for a Writ of Habeas Corpus.* Habeas corpus proceedings. Petition dismissed, appealed.
6964. *M. E. Clayton and Edward Selander v. W. T. Lambert, et al.* To quiet title. Pending.
6968. *C. O. Wilson v. Mary Kern Benedit, et al.* To quiet title. State not interested.
7136. *Charles Arthur v. A. J. Arfsten, Jr., et al.* To quiet title. State not interested.
7221. *Edmund A. Rathe v. Charles F. Alexander, et al.* To quiet title. State not interested.

Baca County

129. *W. N. Price v. Nathaniel W. Stifler, et al.* To quiet title. State not interested.

Docket
Number**Bent County**

- *The Las Animas Consolidated Canal Company, a corporation, v. M. C. Hinderlider, as State Engineer of the State of Colorado.* Water matter. Case concluded.
- *Joseph Kasza, Jr., v. F. R. Carpenter.* Declaratory judgment re Chapter 16, Vol. 2, 1935 C. S. A., use of truck for hauling hay on the highways. Pending appeal.

Boulder County

- *Ross Spivey and Margaret C. Spivey v. John Lall, Matt Malbert, et al.* Action to quiet title. State not interested.
- *Andrew Martindale, Harvey Martindale, et al. v. John Preston, et al.* Partition suit. State not interested.
- *Volney R. Rowley and Cora E. Rowley v. Anna Sargent, et al.* To quiet title. State not interested.
- *Maxwell W. Soucek v. W. T. McAdams, Lura Dean Howe, et al.* Action to quiet title. State not interested.
10101. *Homer F. Bedford, as Treasurer of the State of Colorado, v. Carl W. Berueffy.* Judgment for the plaintiff. Judgment lien was filed and the case closed.
10782. *George M. Gray, et al., v. Anthony Denier, et al.* Partition suit. State not interested.
10808. *Frank R. Duffy v. I. Elberson, et al.* Action to quiet title. State not interested.

Chaffee County

3345. *The Sunnyside Park Ditch Company v. M. C. Hinderlider, et al.* Injunction, determination of water rights. Decree entered with court retaining jurisdiction. Pending.
3787. *The State of Colorado, acting by and through the Colorado State Highway Department, v. Frank Churcher, et al.* Highway matter. Pending.
- *Chaffee Park Building Corporation, a corporation, and City and County of Denver, a municipal corporation, v. Williams F. Doss, et al.* To quiet title. Pending.

Cheyenne County

- *The People of the State of Colorado, on the relation of Cheyenne Soil Erosion District, v. Joe Parker, et al.* Soil Conservation District matter. Pending.
- *The People of the State of Colorado, ex rel., C. B. Pond, et al., v. R. A. Martinson, et al.* Injunction re driver's license. Judgment for the state, case closed.

Docket
Number

1729. *C. R. Murphy and Beuna Murphy v. J. Clifford Campbell, A. J. Campbell, et al.* Action to quiet title. State not interested.

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. Settled by mutual stipulation. Case closed.

Delta County

- *George F. Hawkins v. Motor Vehicle Bureau, Department of Revenue, et al.* Driver's license. Judgment for plaintiff. License restored. Case closed.
- *Mrs. Pearl A. Biggs v. Mrs. Russel Sullen, et al.* To quiet title. State not interested.

City and County of Denver

1293. *George Russell v. Nancy Blanchard, minor, et al.* To quiet title. State not interested.
2118. *Albert K. Vig and Lula Mae Vig v. E. L. Hopkins, et al.* To quiet title. State not interested.
- A-4483. *Victor J. Bloom, et al., v. Daniel Sullivan, et al.* Civil Service matter. Appealed by Bedford and Vivian.
5702. *In the Matter of the Petition of the George W. Clayton Trust Commission for the Approval of the Sale of Real Estate Owned by the Said Commission, Located in the City and County of Denver, State of Colorado.* Petition to sell granted. Sale made and case closed.
- 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. Settled and case closed.
- A-33311. *Public Service Company of Colorado v. The State of Colorado.* Condemnation proceedings. Pending.
- A-35253. *Gail L. Ireland, Attorney General of the State of Colorado, v. James F. Jacobs, Administrator of the Estate of Bertha M. Leibold, Deceased.* Action to enforce a public trust under decedent's will. Verdict for defendant.
35846. *The People of the State of Colorado, ex rel., Blanch George, et al., v. Dr. Zimmerman, Superintendent of the Colorado State Asylum.* Habeas corpus. Dismissed.

Docket
Number

36105. *The People of the State of Colorado v. Carl Schiffner.* To show cause why Schiffner should not be released from Colorado State Hospital. Court denied motion.
- A-39063. *Champlin Refining Company v. Albert F. Cruse.* Motor fuel refund. Judgment for defendant. Pending on plaintiff's appeal.
- A-39399. *Fred Ristau v. Industrial Commission of the State of Colorado, et al.* Right of unemployed carpenter to refuse non-union job. Pending.
- A-39645. *Colorado Chiropractic Association, a non-profit corporation, v. Ray L. Drinkwater, et al.* Declaratory judgment re vital statistics. Pending.
- 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 Assn., et al.* Consolidation of a trust. Decree entered, case closed.
- A-40724. *Knight-Campbell Music Company v. State of Colorado, et al.* Assessment of additional income tax. Judgment for defendant. On appeal.
- A-40756. *Magdalene C. Roff v. N. R. McCreery, et al., as Civil Service Commission.* Civil Service reclassification. Pending on appeal.
- A-41069. *J. C. Jarrett and W. H. Bunning v. Albert F. Cruse, Director of Revenue for the State of Colorado.* Service taxes. On appeal.
- A-41925. *The Bishop and Diocese of Colorado, a non-profit religious corporation and Corporate Trustee of a Charitable Trust, et al., v. Honorable Gail L. Ireland.* Asking disposition of a charitable trust. Trust terminated and case closed.
- A-42320. *Utah Fuel Company v. The State Treasurer of Colorado, et al.* Income tax appeal. Dismissed.
- A-43204. *J. P. Wilson and Emil Clark v. Harold F. Collins, et al.* To compel State Land Board to act under Article 9, Section 10 of the Constitution, re state leased lands. Pending.
- A-43249. *Department of Employment Security of the State of Colorado v. The Grolier Society, Inc.* Action to collect a tax due to the Department of Employment Security. Statute of limitations held applicable to part of tax, defendant held liable for balance.
- A-43305. *Carl Siefert v. Harold F. Collins, et al.* Re state leased lands. Pending.

Docket
Number

- A-43411. *H. (Herb) Rockwell v. Walter F. Morrison, Secretary of State*. Real Estate Brokers Board matter. Pending.
- A-43463. *Colsman Company, Inc., v. Jessie E. Bennett, et al.* To quiet title. State not interested.
- A-43602. *The First National Bank of Kansas City, et al., v. Etta B. Walker, et al.* For construction of testamentary trust. Decree of court entered July 19, 1945.
- A-43898. *The Monitor Publications, Inc., v. Albert F. Cruse, et al.* Service tax payments. Judgment for plaintiff. Case closed.
- A-44102. *Lee Corder v. Albert F. Cruse, et al.* Motor vehicle matter. Pending.
- A-44155. *Newton Alsum, et al., v. Hamilton Armstrong, et al.* To quiet title. State not interested.
- A-44312. *Alice M. Gaffy v. N. R. McCreery, et al.* To establish Civil Service rights. Judgment and decree entered September 18, 1945.
- A-44416. *C. H. Vogel v. William Glen Howell, et al.* To quiet title. State not interested.
- A-44952. *Joe Alsum; Newton Alsum, et al., v. Leona Blackmore, et al.* To quiet title. State not interested.
- A-44970. *Benjamin C. Hülliard, Jr., as Receiver of Kokomo Metals Co., a dissolved Colorado corporation, v. Fred E. Addoms, et al.* To quiet title. State not interested.
- A-45479. *Oswald Schellenberg, Jr., v. Carl C. Schellenberg, et al.* To adjudicate rights in real estate. State not interested.
- A-45553. *Harris Manning v. William G. Abele, et al.* To quiet title. State not interested.
- A-45615. *Ralph E. Yockey v. Jerimiah F. Clifford, et al.* To quiet title. State not interested.
- A-45618. *C. E. Hochmuth v. Clara Elizabeth Mitchell Barker.* To quiet title. State not interested.
- A-45624. *Helen Colussi v. City and County of Denver, et al.* To quiet title. State not interested.
- A-45656. *Flora E. Holbrook v. C. R. Bennett, as Successor in Trust, et al.* To quiet title. State not interested.
- A-45930. *Marcus C. Bogue, also known as M. C. Bogue, v. M. Thomas Chase, et al.* To quiet title. State not interested.
- A-46162. *Consolidated Underwriters, et al., v. The Industrial Commission of Colorado, et al.* Constitutionality of a provision of the Industrial Act. Pending.

Docket
Number

- A-46236. *Colsman Company, Inc., a corporation, et al., v. Celeste M. Balfour, et al.* To quiet title. State not interested.
- A-46323. *Neisner Brothers, Inc., v. C. B. Pond.* Income tax. Dismissed.
- A-46341. *Produce Drivers, Helpers and Warehousemen, Local Union No. 452 of the International Brotherhood of Teamsters, et al., v. W. I. Reilly, et al.* Constitutionality of provision of the Industrial Act. Pending.
- A-46746. *Andrew Hoekstra, et al., v. Lena J. Borgen, et al.* To quiet title. State not interested.
- A-47292. *Victory Housing Corporation v. Annie Anderson, et al.* To quiet title. State not interested.
- A-47395. *Clarence H. Cosman v. Solomon Hayutin, et al.* To quiet title. State not interested.
- A-47406. *Thomas L. Lloyd, et al., v. Mary A. Buzzard, et al.* To quiet title. No appearance necessary on behalf of the state.
- A-47523. *The D. C. Burns Realty and Trust Company, a Colorado corporation, v. Charles H. Angell, et al.* To quiet title. State not interested.
- A-47683. *Spears Free Clinic and Hospital for Poor Children, a Colorado corporation, v. Robert B. Wallace, Chief Plumbing Inspector, et al.* To compel city plumbing inspector to issue permit.
- A-47756. *Nina A. Bates v. Industrial Commission of the State of Colorado, State of Colorado Department of Employment Security, District Court of the City and County of Denver.* Plaintiff's right to draw compensation while refusing work which would pay less than reasonable amount upheld.
- A-47761. *Clark M. Shanahan, et al., v. Lawrence H. Hinkley, Motor Vehicle Dealer's Administration, et al.* For reinstatement of Motor Vehicle Dealers' and Salesman's License. License restored to plaintiff, case closed.
- A-47771. *Arnold J. Melani v. Homer F. Bedford, as State Treasurer of the State of Colorado.* Injunction suit re water contract at State Home for Mental Defectives. Dismissed. No appeal taken.
- A-47839. *Charles C. Rau v. Maggie Sullivan, et al.* To quiet title. State not interested.
- A-47971. *Anna Jackson Curtis, et al., v. Frank Augustson, et al.* To quiet title. State not interested.
- A-48035. *Colsman Company, Inc., a corporation, v. C. D. Campbell, H. Emerson, et al.* To quiet title. State not interested.

Docket
Number

- A-48286. *Colsman Company v. John A. Carlisle, Ella Clark, et al.*
To quiet title. State not interested.
- A-48347. *Gertrude Breach, et al., v. Elizabeth Bilancio, et al.*
To quiet title. State not interested.
- A-48389. *Bogue Building Corporation, a Colorado corporation,
v. Eva L. Abernathy; Frank D. Allen, et al.* To quiet title.
State not interested.
- A-48416. *Realty Mortgage and Investments, Inc., a Colorado
corporation, v. Helen H. Benedict, et al.* To quiet title. State
not interested.
- A-48587. *The Silver State Laundry Company v. Industrial Com-
mission of Colorado.* To vacate order of the Industrial Com-
mission. Pending.
- A-48629. *Colsman Company, Inc., v. H. H. Allen; A. C. Anderson,
The Aurora Investment Company, et al.* To quiet title. State
not interested.
- A-48689. *The D. C. Burns Realty and Trust Company, a corpora-
tion, v. Albert C. Bailey; Daniel K. Bailey, et al.* To quiet title.
State not interested.
- A-48810. *Lorin H. Seyfer, Sr., et al., vs. Jennie McIlduff, et al.*
To quiet title. State not interested.
- A-48819. *Frederick A. Erlenborn v. Jennie Dickinson, et al.* To
quiet title. State not interested.
- A-48821. *The Clinton Company v. Esther Brady, et al.* to quiet
title. No appearance necessary on behalf of the state.
- A-48840. *Fred Stavast, et al., v. Mary E. Bristol, et al.* To quiet
title. State not interested.
- A-48853. *Andrew Hoekstra, et al., v. Eben M. Hills, et al.* To quiet
title. State not interested.
- A-48931. *Bogue Building Corporation v. Edna Mabel Anderson,
et al.* To quiet title. State not interested.
- A-48990. *Charles P. Neigenfind v. Eleanor A. Crabb, et al.* To
quiet title. State not interested.
- A-49129. *O. K. Rubber Welding System v. C. B. Pond.* Sales tax
refunds. Tried and under advisement.
- A-49191. *The South Denver Finance Co. v. Louis Albi, et al.* To
quiet title. State not interested.
- A-49196. *Arthur Voss v. Adelia A. Bailey, et al.* To quiet title.
State not interested.
- A-49354. *Colsman Company, Inc., v. Martha L. Allen, et al.* To
quiet title. State not interested.

Docket
Number

- A-49305. *D. C. Burns Realty and Trust Company v. Jack Anderson, Irene J. Salmon Ball, et al.* To quiet title. State not interested.
- A-49411. *In the Matter of the Estate of Emma O. Anderson, Deceased. F. J. Greene, Executor.* Trust fund. Pending.
- A-49544. *The D. C. Burns Realty and Trust Company v. Agnes Banahan, et al.* To quiet title. State not interested.
- A-48564. *Alious Rockett v. State Civil Service Commission of Colorado.* Civil Service matter. Stipulation to dismiss without prejudice.
- A-49727. *O. A. King, et al., v. H. H. Allen, et al.* To quiet title. State not interested.
- A-49854. *Euphrasia Martin v. Herman Anderson, et al.* To quiet title. State not interested.
- A-49884. *The Clinton Company v. Henry K. Anderson, et al.* To quiet title. State not interested.
- A-49918. *The Clinton Company v. Charles Bierback, et al.* To quiet title. State not interested.
- A-49963. *Walter C. Flanagan, et al., v. Mary E. Baldwin, et al.* To quiet title. State not interested.
- A-50070. *Alice Larick, also known as Eliza Larick, v. August M. Larson, et al.* To quiet title. State not interested.
- A-50121. *Tony Amato and Pete Amato, et al., v. J. O. Chase, Trustee, et al.* To quiet title. State not interested.
- A-5022. *The South Denver Finance Company v. J. O. Chase, Trustee, et al.* To quiet title. State not interested.
- A-50261. *C. A. Norgren v. Augustus O. Brown, Jr., et al.* To quiet title. State not interested.
- A-50318. *Willard Storage Battery Company v. Homer F. Bedford, et al.* Income tax appeal. Pending.
- A-50434. *Morningside Homes, Inc., v. Charles W. Gardner, et al.* To quiet title. State not interested.
- A-50435. *Thomas L. Lloyd v. Ella Clark, et al.* To quiet title. State not interested.
- A-50480. *The Clinton Company, et al., v. Frank Bajt, et al.* To quiet title. State not interested.
- A-50549. *Arthur Eisenstat v. C. E. Rich, et al.* To quiet title. State not interested.
- A-50578. *Esther G. Nelson v. R. R. Bollinger, et al.* To quiet title. State not interested.

Docket
Number

- A-50669. *Robert O. Baker, et al., v. Henry J. Earley, et al.* To quiet title. State not interested.
- A-50776. *The Clinton Company v. Mary E. Burns, et al.* To quiet title. State not interested.
- A-50787. *D. C. Burns Realty and Trust Company v. R. D. Bailey, et al.* To quiet title. State not interested.
- A-50945. *The State of Colorado acting by and through the State Board of Land Commissioners v. Charles Harrah.* Injunction suit. Pending.
- A-50963. *Clinton Company v. John J. Adams, Architectural Construction Company, et al.* To quiet title. State not interested.
- A-51019. *Clark M. Shanahan, Merle A. Shanahan, et al., v. Lawrence H. Hinkley, Motor Vehicle Dealer's Administration, et al.* Motor vehicle matter. Pending.
- A-51039. *Alta W. Haney, et al., v. Tennie Alexander, et al.* Action to quiet title. State not interested.
- A-51064. *The Clinton Company v. Robert T. Brown, et al.* To quiet title. State not interested.
- A-51295. *C. E. Hochmuth, et al., v. Albert F. Bucher, et al.* To quiet title. Pending.
- A-51292. *Belcaro Realty Investment Co. v. Anna C. Anderson, et al.* To quiet title. State not interested.
- A-51317. *Charles D. Keller v. Lawrence Hinkley, et al.* Pending.
- A-51339. *Royal Judd v. John W. Higgins, et al.* To quiet title. Pending.
- A-51468. *H. H. Edmonds v. Edward H. Gates, et al.* To quiet title. Pending.
- *The Denver National Bank, et al., v. The Children's Hospital Association, et al.* Construction of Testamentary Trust. Decree entered.
- *D. C. Neuman v. L. J. Bennett, as Secretary of State and ex-officio State Licensing Authority, et al.* To enjoin from using state liquor license. Pending.
- *Dean Zook, individually and doing business as Zook Tire Company, v. C. B. Pond.* Tried and taken under advisement.
- *Charles J. Rice v. The Board of Chiropractic Examiners; et al.* To compel Board to allow plaintiff to take chiropractic examination. Pending.
- *E. F. G. Engineering Company, et al., v. C. B. Pond.* Service tax. Pending in trial court, awaiting decision in Jarrett case.

Docket
Number

- *Mary Houston, Farnam Djureen, et al., v. Robert J. Kirshwing, et al.* A city ordinance, declaratory judgment.
- *Alamosa Courier, Inc., v. C. B. Pond, Director of Revenue.* Refund of sales tax moneys. Judgment for plaintiff, awaiting appeal.
- *M. M. Owen, doing business as Owen Finance Company, v. William L. Hazlett, State Bank Commissioner of the State of Colorado.* Appeal from decision of Bank Commissioner revoking a Money Lender's License. Pending.
- *George A. Glenn, doing business as Diagnostic Laboratories, v. R. L. Cleere, R. W. Dickson, et al.* To compel the defendants to distribute to the plaintiffs forms of premarital certificates and for damages. Pending.
- *American Can Company v. The State of Colorado, Cruse, et al.* Income taxes. Appealed by the State of Colorado.
- *Gail L. Ireland, et al., v. Oriental Refining Co.* Attachment for motor fuel taxes. Judgment for defendant. On appeal.
- *Colorado Highway Maintenance Employees Local Union No. 292, affiliated with the American Federation of Labor, v. John C. Vivian, et al.* Civil Service rights. Pending.
- *Harvey L. Houston v. James H. Steele, et al.* To determine Civil Service status. Tried and taken under advisement.
- *Spears Free Clinic and Hospital for Poor Children, Inc., v. Ray L. Drinkwater, et al., as State Board of Health, et al.* To compel defendants to permit opening of hospital. Dismissed.
- *H. B. Sprague v. Earl M. Kouns, et al.* Old age pension matter—obligation of children to support parents. Judgment for the defendant. Pending on appeal.
- *William O. Nelson and Marie N. Nelson v. Samuel Rubin, et al.* To quiet title. No action necessary on behalf of the state.
- *Roy J. Weaver v. Ida Quentin Mitchell, et al.* To quiet title. No action necessary on behalf of the state.
- *Francis J. Coyle, et al., v. A. C. Bushey, et al.* To quiet title. No appearance necessary on behalf of the state.
- *Hazel W. Snow v. Irving Eaton, also known as Irving A. Eaton, et al.* To quiet title. Pending.
- *Max M. Greenwald v. N. R. McCreery, et al.* Civil Service matter. Pending.
- *Howry-Bert, Inc., a Colorado corporation, v. J. Josiah Emery, et al.* To quiet title. Pending.

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- *C. J. Herbertson v. Albert F. Cruse, et al.* Declaratory judgment re sales and service taxes. Petition denied. Case closed.
- *Shirley Foster, Infant, by Lloyd Foster, et al., v. Colorado State Highway Department.* Personal damages for injuries.
- *H. Lawrence Hinkley, et al., v. Albert E. Smith, et al.* For recovery of unpaid motor fuel taxes. Judgment for defendant.
- *Moree E. Willis and Gertrude E. Willis v. H. V. Rudolph, et al.* To quiet title. State has no interest.
- *Richard D. Blanke and Pearl H. Blanke v. Hans Hansen, et al.* To quiet title. State not interested.
- *Vernon W. Drain, Chief, Colorado State Patrol, v. Theresa A. Mallo.* Damages as result of accident involving State Highway Patrol car. Settled and closed.
- *Roy N. Bray and Hazel O. Bray, et al., v. Beatrix De-Buisseret, et al.* To quiet title. State not interested.
- *The South Denver Finance Company v. Leo G. Gero, et al.* To quiet title. State not interested.
- *Tony Amato and Pete Amato v. Frank N. Bancroft, Trustees under the will of Robert S. Sumner, Deceased; The Byers Home for Boys, et al.* To quiet title. State not interested.
- *In the Matter of the Petition of Bankers National Insurance Co. v. Luke J. Kavanaugh, as Commissioner of Insurance of the State of Colorado.* Order entered in accordance with the prayer of the petition.
- *Colsman Company, Inc., a corporation, and Clarence W. Norris, et al., v. Margaret Barrett, et al.* To quiet title. State not interested.
- *John William Christian v. Eben M. Hills, Minnie L. Hills, et al.* To quiet title. State not interested.
- *G. Walter Bowman v. Eurette J. Croke, et al.* Action to quiet title. State not interested.
- *James B. Kenney v. St. Patrick's Catholic Church Corporation, et al.* To quiet title. State not interested.
- *Harold Hennigh, E. W. Johnson, O. T. Holland, et al., v. The International Brotherhood of Teamsters, et al.* Labor peace act. Pending.
- *William G. Churches v. Pearl L. Banta, et al.* To quiet title. State not interested.
- *People of the State of Colorado, ex rel., C. N. Feast, Director, Game and Fish Department, v. Lloyd C. Miller.* Action for damages to Game and Fish Department. Awaiting trial.

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- *Woodrow A. Hurst, et al., v. Mary K. Allin, et al.* To quiet title. State not interested.
- *Milo W. Thomas; Irma R. Thomas, et al., v. Howard P. Boak, et al.* To quiet title. State not interested.
- *Estelle J. Hill v. Frank M. Taylor, et al.* To quiet title. State not interested.
- *Fred Stavast; Hans Brandt, et al., v. Mary E. Bristol, et al.* To quiet title. State not interested.
- *Small Homes Company, a corporation, v. Emma J. Ake, et al.* To quiet title. State not interested.
- *Small Homes Company, a corporation, v. Jessie F. Bennett, et al.* To quiet title. State not interested.
- *A. J. Lawrence v. Jacob Brown, et al.* To quiet title. State not interested.
- *C. E. Hochmuth v. Sophia Champion, et al.* To quiet title. State not interested.
- *The Cheyenne Homes Company, et al., v. Anna A. Austin, et al.* To quiet title. State not interested.
- *Revned, Inc., a corporation, v. Christopher S. Anderson, et al.* To quiet title. State not interested.
- *The South Denver Finance Co. v. Clara D. Anderson, et al.* To quiet title. State not interested.
- *George Nahley v. Helen H. Benedict, et al.* To quiet title. State not interested.
- *Luther O'Bryan and Laura O'Bryan v. Cora M. Barber, et al.* To quiet title. State not interested.
- *Joseph S. North, et al., v. Walter B. Bennett, et al.* To quiet title. State not interested.
- *Mildred Shaw Campbell v. Charles W. Myers, et al.* To quiet title. State not interested.
- *Alice Larick v. Augusta Larson, et al.* To quiet title. State not interested.
- *Lyda Conway v. Elizabeth Holt Tracy, et al.* To quiet title. State not interested.
- *Elsie V. Dinsmore v. Lucille Barlow, et al.* To quiet title. State not interested.
- *L. E. Polhemus v. I. E. Newsom, et al.* To compel issuance of license. Pending.
- *Mandel Levy and Irving L. Greenwald v. Victor L. Arenschield, et al.* To quiet title. State not interested.

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- *Federal Industires, Inc., v. Alfred Gregory, Alma Peters, et al.* To quiet title. State not interested.
- *Marvel Homes, Inc., v. Ralph T. Cline, et al.* To quiet title. State not interested.
- *In the Matter of the International Union of Retail Wholesale and Department Store Employees of America, C. I. O., and The Silver State Laundry.* Industrial Commission matter. Pending.
- *Andrew F. Menzies and Mary A. Menzies v. Peter F. Moore, et al.* To quiet title. State not interested.
- *John N. Lantz, et al., v. Mary E. Baldwin, et al.* To quiet title. State not interested.
- *Bernice E. Shine v. Sarah M. Cadwell, et al.* To quiet title. State not interested.
- *Mae Thornburgh v. Charles J. Fox, The Prevost Investment Co., et al.* To quiet title. State not interested.
- *In the Matter of the Transfer of the Assets of Great Eastern Mutual Life Association to Great Eastern Mutual Life Insurance Co.* Petition for an order. Insurance Commissioner had no objection and therefore consented to entry of order releasing securities referred to in petition.
- 60759 (County Court). *People of the State of Colorado v. Mrs. Frances S. Hennen.* Proceeding for interlocutory order. Granted.
- 73300 (County Court). *In the Matter of the Estate of Sadie B. Raymond, Deceased.* Estate matter. Settled by stipulation.
- 73499 (County Court). *In the matter of the Estate of Charles S. King, Deceased.* Widow's allowance. Pending.
78334. *In the Matter of the Estate of Hyman Hirshorn, Deceased.* Bequest to the University of Colorado. Pending.

Douglas County

- *A. S. Horner v. Washington Wakeman, et al.* To quiet title. State not interested.
1478. *David S. Cramer v. Helen Mahan, et al.* To quiet title. State not interested.
1509. *Department of Revenue of the State of Colorado (Division of Motor Vehicles), Charles H. Gunn, Supervisor, v. Don Skaiife.* Driver's license. Judgment for defendant. Case closed.

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Eagle County

1030. *Erl H. Ellis v. State Treasurer*. State income tax determination. On appeal.
1036. *James McNulty v. Sigurd Robson, et al.* Condemnation suit. Pending.
1041. *State Highway Department of the State of Colorado v. Sigurd Robson, et al.* Condemnation suit. Pending.
- *State Highway Department of the State of Colorado v. James Langton, et al.* Highway condemnation case. Pending
- Justice Court. *Howard Phillips v. W. J. Combs, State Game Warden*. Violation of the game and fish laws. Defendant found not guilty. Case closed.

Elbert County

1132. *The Board of County Commissioners of the County of Elbert and The State Highway Department of the State of Colorado v. The Federal Land Bank of Wichita, et al.* Highway condemnation suit. Closed.
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.
1236. *J. J. Kruse, as Administrator of the Estate of Adolph Rinker, Deceased, v. David Wilson, et al.* To quiet title. State not interested.
1269. *Frank Kucera and Bertha Bates Kucera v. Logan Stotts, C. M. Smith, et al.* To quiet title. State not interested.
1285. *Virgil Flickinger v. The Heirs of Albert B. Crites*. To quiet title. State not interested.
1299. *Frank Kucera v. Charles H. Perkins, et al.* To quiet title. State not interested.

El Paso County

- *J. E. Stoneking, et al., v. Emma Culp, et al.* To quiet title. State not interested.
- *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. Case closed.
- *G. H. Sager, et al., v. Laurence E. Burnett, William Lennon, et al.* To quiet title. State not interested.

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- *The Board of County Commissioners of the County of El Paso, and The State Highway Department of the State of Colorado, v. A. D. Rayl, et al.* Condemnation suit. State not interested.
- *John B. Tiffany v. A. A. Orcutt, Iva F. Webb, et al.* To quiet title. Pending.
- *Pearl Brunley v. William L. McIntyre, et al.* To quiet title. State not interested.
- *C. B. Pond, as Director of Revenue of the State of Colorado, v. Loyd White.* Sales tax distraint, order to sell perishable property. Petition granted, case closed.
- *In the Matter of the Estate of Alice B. Taylor, Deceased.* Estate matter. Pending.
- *Albert McKim, Poe McKim, et al., v. Ella Gammon, et al.* To quiet title. No appearance necessary for the state.
- *Mildred McDunnald Holmes v. J. E. Miller, et al.* To quiet title. State not interested.
- *John F. Bensberg v. L. J. Bennett, C. H. Gunn, et al.* Concerning plaintiff's right to operate a motor vehicle on the highways of the state. Dismissed as moot.
24689. *Mary Elizabeth Perkins v. Charles W. Myres, et al.* Complaint to quiet title. State not interested.
24757. *The Wood Estate Corporation, a Colorado corporation, v. James P. Curtis, Charlotte Curtis, et al.* To quiet title. State not interested.
24815. *Joseph H. Huntoon, et al., v. Carolie M. Govan, et al.* Complaint to quiet title. State not interested.
25104. *Catherine Davidson v. John Hulbert, Archie L. Williams, et al.* To quiet title. State not interested.
25428. *Douglas W. Wikander, et al., v. William L. Slutz, et al.* To quiet title. State not interested.
25433. *J. R. Marks v. Newton Bateman, et al.* Action to quiet title. State not interested.
25469. *Earl M. Beckett, et al., v. Stephen Loughray, et al.* Action to quiet title. State not interested.
25589. *Joseph J. Kirkpatrick, et al., v. William W. Williamson, et al.* To quiet title. State not interested.
25601. *Helena Chase Johnson v. Grace J. Depew, et al.* To quiet title. Pending.
25636. *Thomas D. Hatcher, Jr., et al., v. L. A. Kaercher, et al.* To quiet title. State not interested.

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25645. *Jack C. Gossard, et al., v. Arthur E. Johnson, et al.* To quiet title. State not interested.
25702. *D. C. Trester v. James Morrison, et al.* To quiet title. State not interested.
26082. *Edward Fajaros, et al., v. W. A. Armstrong, et al.* To quiet title. State not interested.
26098. *Lillie J. Whitney Wariner, et al., v. The Federal Land Bank of Wichita, et al.* To quiet title. State not interested.
26140. *Frank Kucera v. Charles H. Perkins, W. D. Reilly, et al.* To quiet title. State not interested.
26179. *D. E. Trogler v. State of Colorado, Walter J. Lucas, et al.* To quiet title. State not interested.
26188. *Alfred U. Alexander, et al., v. Margaret A. Wilson, et al.* To quiet title. State not interested.
26264. *Mary Ewing Wolfson v. Lola White Seybold, The Greater Manitou Realty Company, et al.* To quiet title. State not interested.
26273. *Margaret D. Morrow, et al., v. Charles W. Myres, et al.* To quiet title. State not interested.
26359. *Victor E. Wickersham, et al., v. Mary B. Lord, et al.* Action to quiet title. State not interested.

Fremont County

5495. *In the Matter of the Petition of Victor Briseno for a Writ of Habeas Corpus.* Petition denied. Appealed to Supreme Court where pending on writ of error.
5648. *In the Matter of the Adjudication of Priorities of Right to Use of Water in Water District No. 12 of the State of Colorado.* State Land Board water claims. Pending.
5749. *The Canon Heights Irrigation and Reservoir Company v. M. C. Hinderlider, et al.* Water rights. Case closed.
5938. *Joyce F. Renfro, et al., v. L. A. Jones, et al.* Action to quiet title. State not interested.
5968. *Mrs. Grace Meade v. Leslie O. Burris, Treasurer of the County of Fremont, State of Colorado, et al.* Action to quiet title. State not interested.
6012. *In the Matter of the Petition of Stanley Bueter, also known as Joseph Hamilton, for a Writ of Habeas Corpus.* Pending.
6032. *Thomas J. Lloyd, Philip W. Lloyd, et al., v. Leslie O. Burris, et al.* To quiet title. State not interested.

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Gilpin County

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. Case closed.
4480. *The Board of County Commisisoners of the County of Gilpin, and the State Highway Department of the state of Colorado, v. Laura Becker McLeod, et al.* Condemnation proceeding. Case closed.
4481. *Gilpin County Commissioners of the County of Gilpin and The State Highway Department of the State of Colorado v. Benedict Kimber, et al.* Condemnation proceedings. Case closed.
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. Case closed.
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. Case closed.

Gunnison County

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

Hinsdale County

- *Roy D. Golston v. Nathan Frank, Trustee, et al.* To quiet title. No interest.

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 the County of Huerfano.* For old age assistance. Dismissed.

Jackson County

356. *Alice H. Howard v. Jack M. Simson, et al.* False arrest by game warden. Judgment for defendants.
357. *Agnes M. Arnold v. Jack M. Simson, et al.* False arrest by game warden. Judgment for defendants.

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Jefferson County

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. case closed.
3981. *The Board of County Commissioners of the County of Jefferson, State of Colorado, and the State Highway Department of the State of Colorado, v. A. D. Quaintance, et al.* Condemnation proceedings. Pending.
4002. *The Board of County Commissioners of the County of Jefferson and State of Colorado and the State Highway Department of the State of Colorado v. P. S. Kaufman, et al.* Condemnation proceeding. Case closed.
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. Case closed.
4139. *The Board of County Commissioners of the County of Jefferson and the State of Colorado, and the State Highway Department of the State of Colorado, v. Margaret, E. Burke, et al.* Condemnation proceeding. Case closed.
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 proceeding. Settled and closed.
4906. *The Board of County Commisisoners of Jefferson County and The State Highway Department of the State of Colorado v. Clarence A. Spring, et al.* Condemnation proceeding. Pending.
5385. *Colfax Construction Company v. J. Inez Boyer, et al.* Complaint to quiet title. State not interested.
5472. *Colfax Construction Company v. J. Inez Boyer, W. H. Bringer, et al.* To quiet title. State not interested.
5478. *Al A. Yarrow v. George Green, Clyde Morris, et al.* To compel transfer of a liquor license. Disclaimer filed. Pending.
5631. *The State Highway Department of the State of Colorado v. Lester A. Kasparie, Melvene Christopherson, et al.* Highway matter. Pending.
5705. *Colorado School of Mines v. W. Doy Neighbors, et al.* Action for rent due the School of Mines. Pending.
5757. *Eugene H. Schneider, et al., v. Board of County Commissioners of the County of Jefferson, Children's Hospital Association, et al.* To quiet title. State not interested.

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5780. *Roblin H. Davis v. Sabina Clark, et al.* To quiet title. 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. Case closed.
- *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 Commisisoners of Jefferson County, and The State Highway Department of the State of Colorado, v. Clarence A. Spring, et al.* Highway condemnation matter. Pending.
- *Arthur D. Quaintance, et al., v. The Board of County Commissioners of the County of Jefferson, et al.* To quiet title and for injunctive relief. Judgment for plaintiff, awaiting appeal.
- *Walter A. Hopkins v. Daniel M. Sullivan, et al.* Civil service matter. Dismissed.
- *Harry Malbin; Mary Petersen, et al., v. Marquis T. Alderman, et al.* To quiet title. State not interested.
- *Teddy Peterson and Ray H. Ehlbrecht, et al., v. Anna Akin, et al.* To quiet title. State not interested.
- *James S. Chew v. Albert Schultz, Elizabeth Shultz, et al.* To quiet title. State not interested.
- Justice Peace Court. *State of Colorado v. W. Doy Neighbors and Mary Doe Neighbors, House No. 27, Mines Park, Golden, Colorado.* Forcible entry and detainer. Judgment for possession on stipulation.

Kiowa County

21. *H. C. Wear v. Vance A. Doty, et al.* To quiet title. State not interested.
36. *John W. Baughman v. Randolph Lee, et al.* To quiet title. State not interested.
- *H. C. Wear v. Minnie M. Morey, et al.* To quiet title. State not interested.

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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.
- *Melvin E. Hartzler and Nancy E. Fanselau v. S. S. Strode, et al.* To quiet title. State not interested.
- *In the Matter of the Petition of Michel A. Vogt for the Reinstatement of his Driver's License.* Suspension of driver's license. Petition granted. Case closed.

Lake County

6510. *The Board of County Commissioners of the County of Lake, State of Colorado, State Highway Department of Colorado, v. W. E. Callahan Construction Company, et al.* Condemnation proceeding. Case closed.

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.
5160. *Coronada Investment Company, a corporation, vs. John Jepson, as acting State Bank Commissioner, et al.* Title to lands owned by defunct banking company. Disclaimer filed by state.
5179. *In the Matter of the Petition of Reid Coppinger for Change of Point of Diversion v. Mrs. Earl Henry, Ray Micharis, et al.* Concerning point of water diversion. Pending.

Larimer County

4304. *Verne L. Norton and Hazel J. Norton v. William P. Robbe, State of Colorado, et al.* To quiet title. State not interested.
8383. *The North Poudre Irrigation Company v. M. C. Hinderlider, et al.* Water matter. Pending.
8914. *The Colorado Milling and Elevator Company v. Henry C. Peterson, et al.* To quiet title. State not interested.
8932. *Chester C. Ellenberger, et al., v. J. M. Cumming, et al.* To quiet title. State not interested.
9020. *Herman F. Piper, et al., v. Leonard E. Billings, et al.* To quiet title. State not interested.

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9073. *Carrie Kreps v. Andrew Cowan, et al.* To quiet title. State not interested.
9092. *The Board of County Commissioners of the County of Larimer v. Irving E. Spaulding, et al.* To adjudicate title to real estate. State not interested.
9143. *Amelia Bohm v. Ira I. Sides, et al.* To adjudicate title in real estate. State not interested.
9252. *Earl Gregg, et al., v. Herbert E. James, et al.* To quiet title. State not interested.
9291. *Richard F. Swearinger, et al., v. Harrison B. Chubbuck, et al.* Action to quiet title. State not interested.
9292. *City of Fort Collins v. Fountain L. Peterson, et al.* Action to quiet title. State not interested.
9356. *Emma Kathryn Derby v. William W. McNurlen, et al.* To quiet title. State not interested.
9366. *The Board of County Commissioners of the County of Larimer, et al., v. Charlie G. Bickerdike, et al.* Adjudication of real estate claims. State not interested.
9402. *Arthur A. Anderson, et al., v. Abner Loomis, et al.* To quiet title. State not interested.
9419. *John H. Weldon, et al., v. Sarah J. Weldon, et al.* To quiet title. State not interested.
9436. *Charles W. Guempelein v. Alberta Yore, et al.* To quiet title. State not interested.
9443. *John Gonzales, et al., v. Pauline Mechlenburg, et al.* To quiet title. State not interested.
9452. *Bessie M. Ament v. Cyrus F. Rumley, et al.* To quiet title. State not interested.
9455. *J. S. Moore v. Albert Gray, et al.* To quiet title. State not interested.
9511. *Margaret Barton Colgan v. Cornelius Boulware, et al.* To quiet title. State not interested.
9543. *City of Fort Collins, The Dreher Pickle Company, et al., v. The First National Bank of Torrington, et al.* To quiet title. State not interested.
- *Dale Z. Hobbs, Clara A. Hoel, et al., v. W. H. Ballard, et al.* To quiet title. State not interested.
- *J. M. Armagost v. J. E. Cowan, et al.* To quiet title. State not interested.

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- *Mary E. Moncur v. John J. Clark, et al.* To quiet title. State not interested.
- *George A. Fidler v. Elmer Stubbs, et al.* Trial court held against State Land Board. No appeal taken.

Las Animas County

- *Albert F. Cruse, as Director of Revenue of the State of Colorado, v. The Town of Aguilar, Colorado, et al.* Liquor license delinquency. Pending.

Logan County

7762. *Elma Blanche Chipman v. Mary E. Price, et al.* To quiet title. State not interested.

Mesa County

6670. *Board of County Commissioners of the County of Mesa, et al., v. C. L. Hawkins, Deceased, et al.* Highway condemnation suit. Pending.
- *The Board of County Commissioners of Mesa County, The State Highway Department of the State of Colorado, v. Judd Miller, et al.* Highway condemnation proceedings. Pending.
- *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.

Moffat County

1418. *Delbert H. Ducey, Anna M. Ducey, v. The Board of County Commissioners of the County of Moffat, State of Colorado, et al.* To quiet title. Pending.

Montezuma County

1347. *D. C. Thomas v. Harvey C. Wallace, et al.* Action to quiet title. State not interested.
1454. *Katie Lybyer, formerly Katie Dunn, v. A. F. Hopper, as County Treasurer of Montezuma County, et al.* To quiet title. Disclaimer of Attorney General filed.

Montrose County

- *Norman B. Shoemaker, et al., v. E. S. Hallock, et al.* To quiet title. State not interested.

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Morgan County

7076. *Reinhold Schmidt v. O. G. Booth, Mrs. Emma Sturm, et al.*
To quiet title. State not interested.

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. Pending.
5519. *The State Highway Department of the State of Colorado v. Ralph and Anna R. Reynolds.* Highway condemnation. Pending.

Ouray County

2109. *C. O. Dillon and Vida Dillon v. C. W. Haskins, et al.* To quiet title. State not interested.
2138. *Margaret E. Lowe v. Anna L. Grabow, as the sole and only known heir at law of Mary W. Burns, Deceased, et al.* To quiet title. State not interested.
2139. *Beverly W. Spencer v. Edis P. Smith, et al.* To quiet title. Disclaimer filed.

Park County

3087. *The State Highway Department of the State of Colorado v. Mary E. Seeley; Frank G. Davis, et al.* Condemnation suit. Case closed.
3138. *Bert L. Swisher v. The State Highway Department.* Highway case involving damage suit. Dismissed.
3183. *George H. Krause v. William C. Vermillion, et al.* To quiet title. State not interested.

Pueblo County

- *F. H. Zimmerman, as Superintendent of the Colorado State Hospital, The Colorado State Hospital, and The State of Colorado, v. Hazel Hull Zeillinger and Helen Showell.* Lands leased by Colorado State Hospital, option to buy. Judgment for plaintiff. Case closed.
- *The Board of County Commissioners of the County of Pueblo, and The State Highway Department of the State of Colorado, v. George H. Krause, et al.* Highway condemnation suit. Pending.

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30378. *Mary Ohnemus v. Earl M. Kouns, Roy A. Davis, et al.*
Old age pension matter. Pending.
30561. *The People of the State of Colorado, ex rel. C. B. Pond,*
as Director of Revenue of the State of Colorado, C. H. Gunn,
as Chief of the Motor Vehicle Division, v. John Morgan, et al.
Mandatory injunction and restraining order re Motor Vehicle
Department. Injunction granted, case closed.
30634. *Charles Fossceco and Anna Fossceco v. Amanda Broholm,*
et al. To quiet title. State not interested.
30979. *Holmes, Inc., a Colorado corporation, v. James Wilson,*
individually and as trustee, et al. To quiet title. State not
interested.

Saguache County

1554. *George B. Bartlett v. The Unknown Heirs at Law of*
George F. Benjamin, Deceased, et al. To quiet title. Pending.

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.
Judgment for plaintiff. Waiting on appeal.
1712. *Willis A. Weber v. W. H. Warner, Cora L. Warner, et al.*
To quiet title. State not interested.

Sedgwick County

1826. *Frank M. Woodward and Alice Woodward v. Martha Leef,*
Anna Dorthea Friskopp, et al. To quiet title. State not in-
terested.
1891. *Harry Lang and Ethel Richardson Lang, v. Robert Zachary,*
et al. To quiet title. State not interested.
1902. *John Schmidt v. P. R. McDowell, Olah Jane McDowell,*
et al. To quiet title. State not interested.

Teller County

- *Board of County Commisisoners of the County of Teller*
and The State Highway Department of the State of Colorado
v. The Great Northern Gold Mining Company, a corporation,
et al. Condemnation proceedings for the Highway Department.
Pending.
4711. *Mary A. Dustin and Harry M. Dustin v. Guy LeRoy*
Stevick, Jennie A. Wishero, et al. To quiet title. State not
interested.

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4715. *C. B. Hamilton and Charles E. Moffet v. F. M. Keeth, also known as Francis M. Keeth, et al.* To quiet title. State not interested.
- *A. E. Flesher v. W. B. Maycumber, et al.* To quiet title. State not interested.
- *N. J. Galitos v. The Shady Rest Silver Fox and Fish Farm, Inc., et al.* To quiet title. State not interested.
- *Orpha Pittullo v. Calas L. Wilson, et al.* To quiet title. State not interested.

Washington County

01648. *In the Matter of the Estate of Inez Mauer, an insane person.* Pending.

Weld county

- *In the Matter of the Appeal of Dr. Earl E. Hanshew from the Suspension of His Operator's License by the State of Colorado Department of Revenue, Division of Motor Vehicles.* Motor vehicle license. Judgment for the state, case closed.
- *Charles J. Wright v. Phillip A. Yeager, et al.* To quiet title. State not interested.
- 2350-C. *The People of the State of Colorado v. Carmeltia Solano.* Transfer of custody of a mental defective. Petition dismissed.
9216. *Harold F. Bixel v. James Phillips, et al.* To quiet title. State not interested.
9253. *Christina Kerbs Hoff, individually and as Executrix of the Last Will and Testament of Conrad Hoff, Deceased, v. Wilber O. Morrill, et al.* To quiet title. State not interested.
10025. *The Board of County Commissioners of Weld County, Colorado, v. Mrs. S. L. Syes, Lizzie J. McKinley, et al.* Contemnation suit. Pending.
10327. *Reconstruction Finance Corporation, a corporation organized and existing under an Act of Congress of the United States of America, v. The Midwest Fuel and Timber Co., State of Colorado, et al.* Judgment against the Department of Revenue. Case closed.
10530. *Ben Blake v. Dr. Edgar F. Conant, et al.* To quiet title. State not interested.
10604. *Adolph Bohlender v. Charles G. Rhoads, Jennie Rhoads Jestin, et al.* To quiet title. State not interested.

Docket
Number

10630. *The Roman Catholic Congregation of St. Theresa, Frederick, Colorado, v. Joseph Bonnelly, also known as Joseph Bonelli, et al.* To quiet title. State not interested.
10748. *Bright A. Hoshiko v. Marian Howard Steele, et al.* To quiet title. State not interested.
10811. *Walter F. Crawford and Beulah L. Crawford, et al., v. Francis A. Tillman, State of Colorado, et al.* To quiet title. State not interested.
10894. *The State Highway Department of the State of Colorado v. Andrew W. Anderson, Lucile Moore, et al.* Condemnation proceedings. Pending.
- *State Highway Department and Roy J. Randall v. Earl Collins.* Accident involving State Highway car. Pending.

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

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 the Establishment of a Public Highway Crossing at Said Point.* Protest. Judgment for the Potato Growers. Case closed.
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.

BEFORE THE INTERSTATE COMMERCE COMMISSION

- *Southern Wyoming Coal Operators Association, Complainant, Public Utilities Commission, Intervenor, v. Chicago, Burlington & Quincy Railroad Company, et al.* Public Utilities matter.
14101. *In the Matter of the Application of the Atchison, Topeka and Santa Fe Railway Company.* Railroad abandonment. Denied.

BEFORE THE COLORADO STATE BAR ASSOCIATION

- *In the Matter of Discipline of an Attorney.* Pending.

**WORKMEN'S COMPENSATION CASES IN THE
DISTRICT COURTS OF COLORADO
1945-1946**

City and County of Denver

| Title of Action | Number | Judgment of District Court |
|--|---------|--|
| <i>Thomas Quigley v. Specie Mining Co., State Comp. Ins. Fund and Ind. Com.</i> | A-31726 | Award affirmed |
| <i>John C. Logenbaugh v. Industrial Commission, et al.</i> | A-36636 | Award affirmed |
| <i>Martin Cubich v. Gordon Coal Co., et al.</i> | A-31993 | Dismissed under Rule 41 (b) (1) Rules of Civil Procedure |
| <i>Warner Construction Co., et al., v. Industrial Commission and Ernestine Smith</i> | A-39178 | Award affirmed |
| <i>F. L. Richardson v. Industrial Commission, et al.</i> | A-41572 | Award affirmed |
| <i>Lulu Hooks v. Remington Arms Co., et al.</i> | A-41584 | Award affirmed |
| <i>Clayton Coal Co. v. Ernest Morrison</i> | A-41842 | Pending |
| <i>Clayton Coal Co., et al., v. Ernest Morrison</i> | A-46034 | Pending |
| <i>Clayton Coal Co., et al., v. Ernest Morrison</i> | A-48684 | Award reversed |
| <i>John Fleming v. Industrial Commission, et al.</i> | A-41847 | Award affirmed |
| <i>Boulder Valley Coal Co. v. Alphonse Jadvolkis, et al.</i> | A-42156 | Award affirmed |
| <i>Employers' Mutual Ins. Co. v. John DiPaolo and Ind. Com.</i> | A-43438 | Award affirmed |
| <i>Frances Tegel Zuzich v. Leyden Lignite Co., et al.</i> | A-43412 | Pending |
| <i>George F. Kerby v. Industrial Commission, et al.</i> | A-43685 | Award affirmed |
| <i>L. C. Young, d.b.a. Western Roller and Machine Shop, v. Dorris Kraft and Ind. Com.</i> | A-45740 | Pending |
| <i>Martin Zupet v. American Mining Co. and Industrial Commission</i> | A-44950 | Pending |
| <i>Mark M. Gurule v. Remington Arms Co., et al.</i> | A-47930 | Pending |
| <i>Mack M. Gurule v. Lorretto Literary and Benevolent Institution, et al.</i> | A-47941 | Pending |
| <i>Moffat Coal Co., et al., v. Mary Elizabeth McFall, et al.</i> | A-48472 | Pending |
| <i>A. Bodaness v. Ind. Com. and Jacob Bayens</i> | A-48666 | Award affirmed |
| <i>Simon Snyder, d.b.a. Scotty Motor Co., v. Chalmers L. Reider, et al.</i> | A-48999 | Remanded to Commission |
| <i>State Compensation Insurance Fund and Union Coal Operating Co. v. George Batis, Ind. Com., et al.</i> | A-50277 | Award affirmed |
| <i>Harry Brofman v. Industrial Commission, et al.</i> | A-50502 | Pending |
| <i>Nora J. Hiner DeWitt, et al., v. Victor American Fuel Co., et al.</i> | A-50733 | Pending |
| <i>Ohio Casualty Ins. Co. and Conrad Becker, d.b.a. Lakewood Market v. Ind. Com. and Henry A. Coupe</i> | A-47856 | Pending |

Huerfano County

| | | |
|--|------|----------------|
| <i>Maria Talmich v. Colorado Fuel & Iron Corp. and Industrial Commission</i> | 2550 | Award affirmed |
|--|------|----------------|

Pueblo County

| | | |
|---|-------|---------|
| <i>Frank Zakrasick v. Industrial Commission, et al.</i> | 30577 | Pending |
|---|-------|---------|

San Miguel County

| | | |
|--|------|--------------------------|
| <i>Hazel Belger, et al., v. Veta Mines, Inc. and Industrial Commission</i> | 1665 | Pending under advisement |
|--|------|--------------------------|

ESCHEAT CASES**Arapahoe County**

Estate of Peter Fransen, Deceased.

Pending.

Estate of August Wilhelm Mokler, Deceased.

Estate closed and money paid to State Treasurer.

Estate of Bernhardt Petersen, Deceased.

Pending.

Baca County

Estate of Robert S. Scales, Deceased.

Pending.

Boulder County

Estate of Englebert Gosch, Deceased.

Estate closed and money paid to State Treasurer.

Estate of Lafayette B. Harris, Deceased.

Estate closed and money paid to State Treasurer.

Estate of Juliana Milburn, 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.

Custer County

Estate of Ernest L. Burkhardt, Deceased.

Estate closed and money paid to State Treasurer.

Delta County

Estate of Robert Roman, Deceased.

Estate closed and money paid to State Treasurer.

City and County of Denver

- Estate of Minnie L. Alband, Deceased.*
Estate closed and money paid to State Treasurer.
- Estate of Lon Allen, Deceased.*
Estate closed and money paid to State Treasurer.
- Estate of Mary A. Anderson, Deceased.*
Estate closed and money paid to State Treasurer.
- Estate of Johan Andreasson, Deceased.*
Estate closed and money paid to State Treasurer.
- Estate of Arthur B. Baker, Deceased.*
Estate closed and money paid to State Treasurer.
- Estate of Trina Banning, Deceased.*
Estate closed and money paid to State Treasurer.
- Estate of John Beck, Deceased.*
Estate closed and money paid to State Treasurer.
- Estate of Mary J. Benson, Deceased.*
Estate closed and money paid to State Treasurer.
- Estate of Amelia Bergeron, Deceased.*
Pending.
- Estate of Leo M. Blair, Deceased.*
Estate closed and money paid to State Treasurer.
- Estate of John Bloom, Deceased.*
Estate closed and money paid to State Treasurer.
- Estate of Mattie Boone, Deceased.*
Estate closed and money paid to State Treasurer.
- Estate of Marie Brown, Deceased.*
Estate closed and money paid to State Treasurer.
- Estate of William G. Buchanan, Deceased.*
Pending.
- Estate of Wilbur Burtis, Deceased.*
Estate closed and money paid to State Treasurer.
- Estate of Margaret E. Carroll, Deceased.*
Pending.
- Estate of William A. Catron, Deceased.*
Estate closed and money paid to State Treasurer.
- Estate of Hal L. Christenson, Deceased.*
Pending.

- Estate of Wm. Emanuel Cohen, Deceased.*
Estate closed and money paid to State Treasurer.
- Estate of Emma C. Craig, Deceased.*
Estate closed and money paid to State Treasurer.
- Estate of William Crossland, Deceased.*
Estate closed and money paid to State Treasurer.
- Estate of John P. Cruz, Deceased.*
Pending.
- Estate of Gust Dahl, Deceased.*
Pending.
- Estate of Mary Derry, Deceased.*
Pending.
- Estate of Frank Dunshee, Deceased.*
Pending.
- Estate of Francis E. Donovan, Deceased.*
Estate closed and money paid to State Treasurer.
- Estate of George W. Evans, Deceased.*
Pending.
- Estate of Ida B. Fields, Deceased.*
Estate closed and money paid to State Treasurer.
- Estate of Rose B. Fiori, Deceased.*
Estate closed and money paid to State Treasurer.
- Estate of George Forster, Deceased.*
Estate closed and money paid to State Treasurer.
- Estate of John Fekete, Deceased.*
Estate closed and money paid to State Treasurer.
- Estate of Vorhaus B. Fowler, Deceased.*
Pending.
- Estate of Henry George, Deceased.*
Estate closed and money paid to State Treasurer.
- Estate of Christian Gerber, Deceased.*
Estate closed and money paid to State Treasurer.
- Estate of Harry H. Gerrish, Deceased.*
Pending.
- Estate of Adolph Hahn, Deceased.*
Estate closed and money paid to State Treasurer.
- Estate of Olive E. Harper, Deceased.*
Pending.

- Estate of Edward Harbison, Deceased.*
Estate closed and money paid to State Treasurer.
- Estate of Justice H. Harkness, Deceased.*
Estate closed and money paid to State Treasurer.
- Estate of Richard Heemstra, Deceased.*
Pending.
- Estate of Ida M. Horton, Deceased.*
Estate closed and money paid to State Treasurer.
- Estate of Charles Howard, Deceased.*
Estate closed and money paid to State Treasurer.
- Estate of John Humphreys, Deceased.*
Pending.
- Estate of Alfred Ingram, Deceased.*
Pending.
- Estate of Kitty Jerome, Deceased.*
Estate closed and money paid to State Treasurer.
- Estate of Herzon A. Johnson, Deceased.*
Estate closed and money paid to State Treasurer.
- Estate of Robert D. Johnson, Deceased.*
Estate closed and money paid to State Treasurer.
- Estate of George Karsh, Deceased.*
Estate closed and money paid to State Treasurer.
- Estate of John Kaufoginakis, Deceased.*
Pending.
- Estate of Alida H. Krayenhof, Deceased.*
Estate closed and money paid to State Treasurer.
- Estate of Henry Krolop, Deceased.*
Pending.
- Estate of Thomas Lahey, Deceased.*
Estate closed and money paid to State Treasurer.
- Estate of Michael John Lawlor, Deceased.*
Pending.
- Estate of Daniel J. Lee, Deceased.*
Pending.
- Estate of Elizabeth Leher, Deceased.*
Estate closed and money paid to State Treasurer.
- Estate of Frank B. Light, Deceased.*
Estate closed and money paid to State Treasurer.

- Estate of Alma McGradc, Deceased.*
Estate closed and money paid to State Treasurer.
- Estate of Irene McGuckin, Deceased.*
Estate closed and money paid to State Treasurer.
- Estate of Tabitha McIntyre, Deceased.*
Estate closed and money paid to State Treasurer.
- Estate of Mary M. Mason, Deceased.*
Estate closed and money paid to State Treasurer.
- Estate of Nellie Muhlstein, Deceased.*
Estate closed and money paid to State Treasurer.
- Estate of William L. Muller, Deceased.*
Pending.
- Estate of Patrick Murphy, Deceased.*
Pending.
- Estate of Esther E. Nelson, Deceased.*
Estate closed and money paid to State Treasurer.
- Estate of Thomas B. Nicholson, Deceased.*
Pending.
- Estate of John Olson, Deceased.*
Estate closed and money paid to State Treasurer.
- Estate of Carl John Olson, Deceased.*
Estate closed and money paid to State Treasurer.
- Estate of Oscar Olson, Deceased.*
Estate closed and money paid to State Treasurer.
- Estate of Clara J. Post, Deceased.*
Estate closed and money paid to State Treasurer.
- Estate of Daniel Mijat Prpa, Deceased.*
Pending.
- Estate of John A. C. Quade, Deceased.*
Pending.
- Estate of Sarah Alice Rhodus, Deceased.*
Estate closed and money paid to State Treasurer.
- Estate of Rachael Rosenthal, Deceased.*
Pending.
- Estate of Alfred J. Ross, Deceased.*
Estate closed and money paid to State Treasurer.
- Estate of Ah Sang, Deceased.*
Estate closed and money paid to State Treasurer.

- Estate of Peter Scherwin, Deceased.*
Estate closed and money paid to State Treasurer.
- Estate of Max Schwartz, Deceased.*
Estate closed and money paid to State Treasurer.
- Estate of John Shanz, Deceased.*
Estate closed and money paid to State Treasurer.
- Estate of Emma C. Shepherd, Deceased.*
Estate closed and money paid to State Treasurer.
- Estate of James Snath, Deceased.*
Pending.
- Estate of Anna Marie Staffelstein, Deceased.*
Estate closed and money paid to State Treasurer.
- Estate of Hariret E. Stearn, Deceased.*
Estate closed and money paid to State Treasurer.
- Estate of Lena Allen Stoiber, Deceased.*
Estate closed and money paid to State Treasurer.
- Estate of Mary Stokes, Deceased.*
Estate closed and money paid to State Treasurer.
- Estate of Eugene Streich, Deceased.*
Estate closed and money paid to State Treasurer.
- Estate of Tillman Sugg, Deceased.*
Pending.
- Estate of Mary Swanson, Deceased.*
Pending.
- Estate of Thos. W. Tomlinson, Deceased.*
Estate closed and money paid to State Treasurer.
- Estate of Sewell Terry, Deceased.*
Estate closed and money paid to State Treasurer.
- Estate of Austin C. Tilton, Deceased.*
Estate closed and money paid to State Treasurer.
- Estate of Edward Harry Tullis, Deceased.*
Pending.
- Estate of John Turner, Deceased.*
Estate closed and money paid to State Treasurer.
- Estate of Evan Velicoff, Deceased.*
Pending.
- Estate of Arthur Vermillion, Deceased.*
Estate closed and money paid to State Treasurer.

Estate of Samuel D. Waldron, Deceased.

Pending.

Estate of Thomas J. Weaver, Deceased.

Pending.

Estate of Henry Weitgand, Deceased.

Estate closed and money paid to State Treasurer.

Estate of Helen Wikoff, Deceased.

Estate closed and money paid to State Treasurer.

Estate of John Wilkin, Deceased.

Pending.

Estate of George Wilks, Deceased.

Pending.

Estate of Carrie L. Williams, Deceased.

Estate closed and money paid to State Treasurer.

Estate of John Williams, Deceased.

Estate closed and money paid to State Treasurer.

Estate of Jennie Wilson, Deceased.

Estate closed and money paid to State Treasurer.

Estate of Lena Witchner, Deceased.

Pending.

Estate of Peter L. Yahvah, Deceased.

Pending.

Dolores County

Estate of James Best, Deceased.

Pending.

Eagle County

Estate of Henry C. May, Deceased.

Pending.

Elbert County

Estate of Andy Hendrickson, Deceased.

Estate closed and money paid to State Treasurer.

El Paso County

Estate of George R. Bell, Deceased.

Estate closed and money paid to State Treasurer.

Estate of Anna Blaser, Deceased.

Estate closed and money paid to State Treasurer.

Estate of Tommie Jackson, Deceased.

Estate closed and money paid to State Treasurer.

Estate of James Mulvey, Deceased.

Pending.

Estate of Helen P. Nance, Deceased.

Estate closed and money paid to State Treasurer.

Estate of Charles Smith, Deceased.

Pending.

Estate of Regina Walker, Deceased.

Pending.

Fremont County

Estate of Ed W. Coryell, Deceased.

Pending.

Estate of Lydia Hindman, Deceased.

Estate closed and money paid to State Treasurer.

Estate of William J. Sproul, Deceased.

Estate closed and money paid to State Treasurer.

Garfield County

Estate of Mary E. Adams, Deceased.

Pending.

Estate of Mike Micolz, Deceased.

Estate closed and money paid to State Treasurer.

Huerfano County

Estate of Joe Conci, Deceased.

Pending.

Estate of Hubert M. Newell, Deceased.

Estate closed and money paid to State Treasurer.

Estate of John Senicar, Deceased.

Pending.

Jefferson County

Estate of Ida M. Evans, Deceased.

Estate closed and money paid to State Treasurer.

Estate of Frank Lederer, Deceased.

Pending.

Estate of Lester Warren Machamer, Deceased.
Pending.

Estate of John Malinowsky, Deceased.
Pending.

Lake County

Estate of Fannie Harrison, Deceased.
Pending.

Estate of Dave Lujbicic, Deceased.
Estate closed and money paid to State Treasurer.

La Plata County

Estate of Andrew J. Oblinger, Deceased.
Pending.

Larimer County

Estate of Robert Quincy Daniel, Deceased.
Estate closed and money paid to State Treasurer.

Las Animas County

Estate of Antonio Mata, Deceased.
Pending.

Logan County

Estate of E. C. Anderson, Deceased.
Estate closed and money paid to State Treasurer.

Estate of John D. Ball, Deceased.
Estate closed and money paid to State Treasurer.

Estate of Lewis Ball, Deceased.
Estate closed and money paid to State Treasurer.

Estate of Joseph P. Dillon, Deceased.
Estate closed and money paid to State Treasurer.

Estate of John F. Gilchrist, Deceased.
Estate closed and money paid to State Treasurer.

Estate of Patrick Hanrahan, Deceased.
Estate closed and money paid to State Treasurer.

Estate of Chas. C. Knudson, Deceased.
Estate closed and money paid to State Treasurer.

Estate of Kenneth D. Lund, Deceased.
Estate closed and money paid to State Treasurer.

Estate of Jennie Myers, Deceased.

Estate closed and money paid to State Treasurer.

Estate of August Schroeder, Deceased.

Estate closed and money paid to State Treasurer.

Estate of Conrad Stark, Deceased.

Estate closed and money paid to State Treasurer.

Estate of Helena Stolz, Deceased.

Estate closed and money paid to State Treasurer.

Estate of Peter F. Wiseman, Deceased.

Estate closed and money paid to State Treasurer.

Mesa County*Estate of Joe Shega, Deceased.*

Estate closed and money paid to State Treasurer.

Estate of L. B. Thompson, Deceased.

Pending.

Mineral County*Estate of With Thomas, Deceased.*

Pending.

Montezuma County*Estate of Lula G. Eaton, Deceased.*

Pending.

Estate of Alfred Jones, Deceased.

Pending.

Estate of Charles S. Minter, Deceased.

Estate closed and money paid to State Treasurer.

Estate of Paul Walton, Deceased.

Estate closed and money paid to State Treasurer.

Montrose County*Estate of Edward B. Brown, Deceased.*

Pending.

Otero County*Estate of William J. Hardesty, Deceased.*

Pending.

Estate of Samuel Leres, Deceased.

Estate closed and money paid to State Treasurer.

Estate of Nettie Mailer, Deceased.

Estate closed and money paid to State Treasurer.

Estate of Wilbur W. Spencer, Deceased.

Estate closed and money paid to State Treasurer.

Estate of Robert Ross Pattison, Deceased.

Estate closed and money paid to State Treasurer.

Ouray County

Estate of Walter Marion Ellis, Deceased.

Pending.

Prowers County

Estate of Charles Mekeal, Deceased.

Estate closed and money paid to State Treasurer.

Pueblo County

Estate of Ruth Bates, Deceased.

Estate closed and money paid to State Treasurer.

Estate of Sebastian Becher, Deceased.

Estate closed and money paid to State Treasurer.

Estate of Harry H. Gerrish, Deceased.

Estate closed and money paid to State Treasurer.

Estate of William Lane, Deceased.

Estate closed and money paid to State Treasurer.

Estate of Laura McIntosh, Deceased.

Estate closed and money paid to State Treasurer.

Estate of Jeannette Rice, Deceased.

Pending.

Rio Grande County

Estate of Helen S. Carter, Deceased.

Estate closed and money paid to State Treasurer.

Estate of Enid Elvira Meadows, Deceased.

Pending.

Estate of Luther Oliver, Deceased.

Pending.

Routt County

Estate of Richard Robinson, Deceased.

Pending.

San Miguel County

Estate of Louis Goloz, Deceased.
Pending.

Teller County

Estate of Robert E. Dolan, Deceased.
Pending.

Estate of Iza M. Ross, Deceased.
Estate closed and money paid to State Treasurer.

Estate of Elmer Sharp, Deceased.
Pending.

Weld County

Estate of George Dimitroff, Deceased.
Estate closed and money paid to State Treasurer.

Estate of Zeba Gifford, Deceased.
Estate closed and money paid to State Treasurer.

Estate of William L. Sage, Deceased.
Estate closed and money paid to State Treasurer.

Yuma County

Estate of Florence I. Shaw, Deceased.
Estate closed and money paid to State Treasurer.

SCHEDULE III

OPINIONS AND SYLLABI OF OPINIONS

Rendered During the Biennial Period

1945-1946

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.

SCHOOLS

454-45

Mr. G. S. Cosand,

January 2, 1945.

Where a district has issued bonds and while some of the bonds are still outstanding, the district consolidated with another district and after the consolidation the bonds were paid in full, a remaining balance, due to collection of delinquent taxes, may be transferred to the bond and interest fund of the consolidated district, assuming that funds of the consolidated district have been used to make up the deficiency caused by the delinquent taxes. (Sec. 72, Ch. 146, 1935 C.S.A.)

**FIREMEN'S AND POLICEMEN'S
PENSION FUND**

455-45

Mr. John C. Banks,

January 11, 1945.

Temporary disability payments from the policemen's pension fund must be for a disability incurred in the performance of his duty or as result of service in the department. (Section 524, Chapter 163, 1935 Colorado Statutes Annotated.) Whether or not the disability was thus incurred is a question of fact for the board to decide.

COUNTY OFFICERS

456-45

Dr. R. C. Diaz,

January 11, 1945.

(Deputies.)

Appointment of deputy to County Treasurer must be approved by the Board of County Commissioners. (Section 90, Chapter 66, 1935 C.S.A.)

**STATE BOARD OF OPTOMETRIC
EXAMINERS**

457-45

Mr. J. C. Bloom,

January 11, 1945.

An optometrist maintaining his principal office or place of business in Denver must obtain an itinerant license if he desires to also maintain an office or place "outside of his home city or town." (Sec. 12, Ch. 120, 1935 C.S.A.)

CRIME—PENITENTIARY—REFORMATORY 458-45

Mr. A. M. Doig,
January 16, 1945.

Sentence to the Colorado State Reformatory is a sentence imposed both for the punishment and reformation of the person convicted, and the idea of correction is not subordinated to the idea of punishment. (Sec. 61, Ch. 131, 1935 C.S.A.)

COUNTY OFFICERS 459-45

Mr. James B. Garrison,
January 16, 1945.

When the Duly elected County Judge resigns two days after he has qualified for office, the County Commissioners may fill the vacancy. (Section 9, Article IV and Section 29, Article VI, Constitution of Colorado; Section 122, Chapter 46, 1935 C.S.A., *People v. Boughton*, 5 Colo. 487.)

CIVIL SERVICE 460-45

State Civil Service Commission,
January 17, 1945.

Agreement entered into in accordance with statutory authorization should be recognized as valid until a judicial determination is made declaring such authorizing statute to be unconstitutional. (Sec. 14, Ch. 73, 1935 C.S.A., *People v. Leddy*, 53 Colo. 109.)

STATE ARCHIVIST—PUBLIC RECORDS 461-45

Mr. Virgil V. Peterson,
January 19, 1945.

Where state public records are specifically ordered destroyed by the statute, such statute must be literally enforced irrespective of the provisions of the 1943 Public Records and Archives Act.

BANKS AND BANKING 462-45

Hon. Maple T. Harl,
January 19, 1945.

1. The qualifying shares of a director of a state bank may not be owned in joint tenancy.
2. Bank stock owned in joint tenancy should be so reported in the annual report, with a qualifying statement reciting the number of shares owned by each co-tenant if the ownership claimed by the respective co-tenants is not equal.

3. Bank stock owned in joint tenancy should be voted either in person or by proxy, on the basis of the interest claimed in the stock by the respective co-tenants. (Sec. 12, Ch. 18, 1935 C.S.A., *Nippel v. Hammond*, 4 Colo. 211.)

ADAMS STATE TEACHERS COLLEGE 463-45

Mr. E. Tyndall Snyder,
January 22, 1945.

The Board of Trustees of Adams State Teachers College has power to conduct the San Luis Institute Property as a training school and to expend state funds therefor. The Board of Trustees may conduct operations away from the central campus of Adams State Teachers College in Alamosa.

Funds provided by Chapter 77, Session Laws of 1937, as amended by Chapter 1, Session Laws of 1941, may not be used for this purpose. (*Trustees v. Wightman*, 93 Colo. 226.)

COUNTY OFFICERS 464-45

Mr. John W. Wharton,
January 25, 1945.

County Surveyor is required to keep plats, field notes and calculations of each survey and upon retiring turn same over to his successor. (Sections 171 and 172, Chapter 45, 1935 C.S.A.)

OLD AGE PENSIONS 465-45

Hon. Homer F. Bedford,
January 26, 1945.

Initiated Measure No. 2, adopted at the 1944 general election, directing the payment of full old age pension awards and making available a limited amount of money from the general fund for this purpose, makes such funds available without further action on the part of any other department or agency of the state.

COUNTY OFFICERS 466-45

Hon. Ray Patten,
January 27, 1945.

1. If a County Judge elects to act as Clerk of his Court, the County Commissioners can in their discretion require him to file an increased bond.

2. If a County Judge in a county of the 4th class elects to appoint a clerk, the County Commissioners must pay the clerk's salary out of the general county fund. (*McNevins v. McNevins*, 28 Colo. 245; Sec. 195, Ch. 46, 1935 C.S.A.)

GAME AND FISH

467-45

Mr. C. N. Feast,
January 29, 1945.

O.P.A. Ceiling prices apply to sales of beaver pelts owned by State of Colorado and the person from whose lands the same were trapped. Final ruling on exclusively owned pelts postponed pending further Federal decisions. (*Soundview Pulp Company v. Taylor*, 150 Pac. (2d) 839.)

STATE ARCHIVIST—PUBLIC RECORDS

468-45

Mr. Virgil V. Peterson,
January 29, 1945.

“School Dist. Roll of Real and Personal Property” if used as the basis of the certification “to the Co. Supt. of schools (of) the assessable valuation of all property within each school district in the county” (Sec. 47, Ch. 158, '43 S.L.) does become a part of the records of the county assessor, even though the statutes do not require this particular form to be kept.

SCHOOLS

469-45

Miss Alma M. Harris,
February 2, 1945.

In the annexation to a school district, the limitation provided for in Section 63, Chapter 146, 1935 C.S.A., refers to the limitation that the remainder of the district from which a part is taken shall not contain less than twenty persons of school age, referred to in the preceding section.

STATE BOARD OF AGRICULTURE—OFFICERS 470-45

Hon. Robert G. Bosworth,
February 8, 1945.

The provision “on or before the third Wednesday in January of each biennial session” is directory only—an appointment made by the Governor and consented to by the Senate in the same session would be valid. (Sections 1 and 2, Ch. 5, 1935 C.S.A.)

HIGHWAYS

471-45

Mr. A. F. Hewitt,
February 9, 1945.

The Highway Department is not required to build new fences adjacent to Federal Aid Highways where fences did not exist prior to the 1935 Act. (Section 71, Chapter 160, 1935 C.S.A.)

SCHOOLS

472-45

Mrs. Doris R. Plummer,
February 14, 1945.

The president, secretary and treasurer of the school board must sign school warrants so that they can be legally issued. See Secs. 220, 221, 229 and 230 of the 1941 compilation of the School Laws of Colorado (Chapter 146, 1935 C.S.A., Sections 103, 104, 112, 113).

PUBLIC FUNDS—SCHOOLS—POLICEMEN'S PENSION APPROPRIATIONS 473-45

Milenski & Armstrong,
February 20, 1945.

Section 34 of Chapter 146, 1935 Colorado Statutes Annotated, contemplates that there may be specific statutes which allocate certain fines to various funds. In the absence of such specific provisions fines should be credited to the General County School Funds unless Section 521 of Chapter 163, C.S.A. 1935, is applicable, in which case fifty per cent would go to the general county school fund and fifty per cent to the policemen's pension fund. (*Denver v. School District*, 94 Colo. 406.)

COLORADO STATE INDUSTRIAL SCHOOL 474-45

Mr. Harry V. Childerston,
February 23, 1945.

The authorities of the Colorado State Industrial School may grant parole to a child under 14, such parole being contingent upon the child's being employed by an employer to be chosen by such authority. Such employment would be only before or after school hours. Such child would not be within the terms of Article 5 of Chapter 97, 1935 C.S.A., as to make it applicable would be an implied repeal of Section 12 of Chapter 131, 1935 C.S.A. (*Bryant v. Brown*, 60 A.L.R. 1325.)

BUILDING AND LOAN

475-45

Mr. O. A. Johnson,
February 27, 1945.

Building and loan shares issued in joint tenancy should be to "A and B". Under Section 70, Chapter 25, 1935 C.S.A., dividend checks on building and loan shares may be made payable to either or any of the joint tenants. (*Whippel v. Hammond*, 4 Colo. 211.)

INDUSTRIAL COMMISSION OF COLORADO 476-45

Industrial Commission of Colorado,
February 27, 1945.

Where the wife of an employer is, during war time, working either part or full time for her husband without a contract and for no remuneration, such wife is not an "employee" within the meaning of the word, as used in the workmen's compensation act. *Müller Auto Gear & Parts Co. v. Unemployment Compensation Commission*, 38 A. & I. (2d) 282.

BUILDING AND LOAN 477-45

Mr. A. O. Johnson,
February 27, 1945.

Building and loan associations should not issue certificates in the form: "John A. Jones, payable on death to Ella S. Jones".

INSURANCE 478-45

Hon. Luke J. Kavanaugh,
February 28, 1945.

The Insurance Commissioner has the discretion and power to waive the penalty provided for in Section 14, Chapter 87, 1935 C.S.A.

SOIL CONSERVATION—MINING 479-45

Colorado Soil Conservation Board,
March 1, 1945.

In excluding all mining claims from lands to be included within a Soil Conservation District, it is not essential to specifically describe such claims. General language referring to lands devoted to mining would be sufficient to effectuate the exclusion.

**OFFICERS—CONTRACTS—ADMINISTRATIVE 480-45
CODE OF 1941**

Hon. Jack Evans,
March 2, 1945.

1. Article V, Section 29 of the Constitution of Colorado forbids any member or officer of any department of the government from being interested in a contract given to the lowest bidder; this provision concerns only the items named therein.

2. The Administrative Code of 1941, Chapter 2, Section 25, Session Laws 1941, applies to contracts for purchases of all materials, supplies or equipment.

3. Both (1) and (2) refer to contracts. The Administrative Code (2) applies to all purchases and is not limited to specific items as set forth in the constitution.

STATE BOARD OF STOCK INSPECTION 481-45
COMMISSIONERS

State Board of Stock Inspection Commissioners,
March 7, 1945.

Monies in the estray fund may be invested in war bonds, series "G". Under certain circumstances interest would be accountable to the owner of animals sold by the State Board of Stock Inspection Commissioners.

FIREMEN'S AND POLICEMEN'S BENEFITS 482-45

Mr. William S. Rush,
March 8, 1945.

Section 524, Chapter 163, 1935 C.S.A., will govern in case of payment of benefits to the widow of a policeman in a municipality coming within Chapter 250, S. L. 1937.

TAXATION 483-45

Colorado Tax Commission,
March 9, 1945.

Where a school district makes no levy for one year and desires to make a levy for the following year, permission from the Colorado State Tax Commission is necessary. Section 39, Chapter 142, 1935 C.S.A.

CITIES AND TOWNS 484-45

Mrs. Barbar Ridderstedt,
March 10, 1945.
(Definition of "Public Dances")

Grange holding dances for members and guests are not "public dances".

TAXATION—SOLDIERS' AND SAILORS' 485-45
RELIEF ACT

Colorado Tax Commission,
March 12, 1945.
(Ad valorem taxes—personal property—members of air force)

Personal property is taxable when brought into the State of Colorado. Soldiers and Sailors Relief Act does not supersede State Constitution.

STATE BOARD OF AGRICULTURE 486-45

Mr. James Miller,
March 13, 1945.

State Board of Agriculture under authority and power of Chapter 38, Section 82 and Chapter 5, Section 3, 1935 C.S.A., may dispose of land for Experimental Station.

INCOME TAX 487-45

Mr. Albert F. Cruse,
March 15, 1945.

(Members of armed forces—refunds and limitations)

Section 39-A(c), Chapter 114, Session Laws 1943, creates an income tax moratorium on the Colorado Income Tax to members of the armed forces for a period from December 6, 1941, to and including one year after the individual's discharge. This section suspends the statutes of limitations as to application for refund during the period of the moratorium, except those applications which were barred on April 20, 1943.

**ESTATES—FEES AND SALARIES—COUNTY 488-45
COURTS**

Hon. Mabel A. Ethel,
March 17, 1945.

Where an administrator to collect is appointed, the docket fee provided for in Section 216, Chapter 66, 1935 C.S.A., should then be paid. The payment should be applied on the fees charged in the regular administration of the estate.

When a County Judge certifies an estate to a County Court in an adjoining county because of his interest in the estate, the fees paid on filing of the estate should be certified over to such other county court.

ELECTIONS 489-45

Mr. A. O. Hill,
March 20, 1945.

Residence is one's permanent place of abode. The mere fact that a soldier had been stationed in this state for a year would not of itself establish residence.

Residence in a tourist camp could not be considered a "permanent residence."

STATE INDUSTRIAL SCHOOL—LIQUOR LAWS 490-45

Mr. Harry V. Childerston,
March 21, 1945.

Boys of 14 years of age or over, committed to the State Industrial School, may be permitted to work in hotels and drug stores provided they are not employed in or around the bar or in the Liquor Department of the Store.

ELECTIONS 491-45

Mr. Edward V. Dunklee,
March 22, 1945.

Judges in municipal elections should be appointed in accordance with the manner and methods suggested in Sections 122, 123, 124 of the Election Laws.

CIVIL SERVICE 492-45

State Civil Service Commission,
March 23, 1945.

Concerning credit to be given by Civil Service Commission to veterans and widows of veterans as provided by Article 2, Section 14, State Constitution. Definition of widow construed to mean woman who has lost her husband by death and has not taken another.

LEGISLATION—SERVICE MEN 493-45

Hon. Arlie M. Ward,
March 27, 1945.

Legislation applicable to all veterans who are of age eligible for a loan pursuant to Service Men's Readjustment Act is not class legislation.

**UNEMPLOYMENT COMPENSATION— 494-45
INDUSTRIAL COMMISSION—MINING**

Industrial Commission of Colorado,
March 28, 1945.

Re: Proposed decisions of Industrial Commission concerning the claims of certain miners who filed claims for Unemployment Compensation benefits during the summer of 1944.

GAME AND FISH COMMISSION**495-45**

Mr. Ralph T. Hunter,
 April 2, 1945.
 (Term of member of Commission)

The term of the member of the Commission was six years. The appointment was erroneously made for four years. It is our opinion that his appointment was good for and he should serve the full six years. 46 C.J. 965.

ELECTIONS**496-45**

Mr. James Ingles,
 April 3, 1945.

A qualified elector who has previously failed to designate his party affiliation must do so, in the first instance, when he presents himself at the polling place at the primary election at which he desires to cast his ballot.

NOTARIES PUBLIC**497-45**

Mrs. Mildred Garrison,
 April 6, 1945.

A notary public may act as such in any county in Colorado, as well as the county of appointment (S.B. 90, approved March 1, 1945).

COAL MINES**498-45**

Mr. Thomas Allen,
 April 10, 1945.

Section 154, Chapter 110, 1935 C.S.A., makes an inquest mandatory in all coal mine accidents where death results within 30 days from the time of the accident.

AUCTIONEERS**499-45**

State Board of Stock Inspection Commissioners,
 April 10, 1945.

An auctioneer must have a license from the County Commissioners in accordance with the provisions of Sections 1, 2, 3 of Chapter 100, 1935 C.S.A., or from a town or city in which he operates, in accordance with the provisions of Section 10, Chapter 163, 1935 C.S.A. An auctioneer must keep records in accordance with Sections 17, 18, 19 and 20, Chapter 15, 1935 C.S.A. An auctioneer must secure the state license provided for in Section 12(3), Chapter 15, 1935 C.S.A., as amended by 1937 Session Laws if he acts in the capacity enumerated in Section 12(1).

**TAXATION—MOTOR VEHICLES—SOLDIERS' 500-45
AND SAILORS' RELIEF ACT**

Lieut. Col. Willis G. Carter, C.O.,
April 10, 1945.

If a member of the armed forces presents a receipt for taxes and license fees upon his automobile from another state or territory; he is relieved by the Soldiers' and Sailors' Relief Act from paying the Colorado Specific Ownership Tax and should be given his license plates upon payment of the cost of the plates.

GAME AND FISH COMMISSION 501-45

Mr. C. N. Feast,
April 11, 1945.

Appropriation made for specific amount for each fiscal year must be expended within the year and no balance may be carried over into the next fiscal period.

SCHOOLS 502-45

Hon. Inez Johnson Lewis,
April 12, 1945.

The contingent fund can not be used by the School District, acting by the School Board, to purchase land except when approved by qualified electors of the district and for an emergency purpose. (Sections 75 and 159, Chapter 146, 1935 C.S.A.; Section 8, Chapter 103, 1935 C.S.A.)

BUREAU OF MARKETS 503-45

Mr. W. C. Sweinhart,
April 18, 1945.

Control Board of Peach Marketing Agreement has no authority to purchase real estate, nor does it have authority to erect a building for experimental purposes. They may rent a building or buildings for such purpose. (Chapter 106, 1935 C.S.A.)

SCHOOLS—TAXATION 504-45

Mr. Ben H. Tyler,
April 19, 1945.

1. Where a district failed to make a necessary levy to take care of bonds due in November of 1944 and interest thereon, there is no provision for registration of such bonds in the sense that warrants are registered. The bonds will from November

bear interest at 6%. The proper levy was made for bonds due in November of 1945. These bonds were serial and the holders of the wrong numbered bonds will probably insist that moneys on hand be used for their bonds. The holders of the 1945 bonds would insist that the levy having been specifically for their bonds, that it be used for them. The only thing to be done would be to attempt an agreement with the two sets of bond holders advising them that in any event no levy could be made until fall at which time the school directors should certify the total needed for both sets of bonds.

2. A school district which paid off its bond indebtedness, principal and interest, which nevertheless made a bond levy after such payment, may transfer the moneys from such levy to the special funds of the district.

PUBLIC FUNDS—WELFARE BOARD— 505-45
OFFICERS

Hon. Homer F. Bedford,
April 19, 1945.

The Emergency and Contingent Fund of the State Department of Public Welfare might properly be used to supplement other funds including the State Special Relief Fund when in the opinion of the Welfare Board and the Governor such action is necessary for emergency and contingent purposes.

LEGISLATION—STATUTES 506-45

Ellen Commons,
April 19, 1945.

1. Sundays and holidays are counted in determining the day on which the laws of the State of Colorado become effective.
2. Acts referable take effect at expiration of 90 days from adjournment day of legislative session even though bearing emergency clause. Acts not referable and not bearing emergency clause take effect 90 days from their passage. Acts bearing both safety and emergency clause take effect immediately upon approval by the Governor.
3. In making computation it is proper to include the first day and exclude the last or exclude the first day and include the last.

NOTARIES PUBLIC

507-45

Hon. Walter F. Morrison,
April 20, 1945.

1. Notaries public may perform their duties in any county of the State of Colorado.

2. The venue in all acknowledgments should state the name of the county in which such acknowledgment is taken. The seal of the notary should show the county in which the notary is commissioned and in which his bond and oath have been recorded.

3. The change of residence from one county to another would disqualify a notary from acting as such until he had secured a new commission in the county to which he moved.

(S.B. 90 amending Chapter 115, 1935 Colorado Statutes Annotated.)

TAXATION

508-45

Mr. James B. Garrison,
April 20, 1945.

When application is made for tax deed, the county treasurer should obtain a statement from a licensed abstractor or from the county clerk as to whom are the persons having interests or title of record in the property.

INSANE PERSONS—CRIME—UNIVERSITY SCHOOL OF MEDICINE

509-45

Dr. Charles A. Rymer,
April 21, 1945.

Spinal punctures may be made over objection of the person committed for observation to Colorado General Hospital in a criminal case if such test is a part of the accepted methods of testing insanity.

DEPENDENT CHILDREN—BOARD OF STANDARDS OF CHILD CARE

510-45

Mrs. Jeanette Baughman,
April 23, 1945.

Whether or not a Boarding Home is exempt from license requirements is an administrative fact to be determined by the Board of Standards of Child Care. The fact that a Boarding Home is receiving finances pursuant to the Lanham Act is not a factor for consideration in determining whether or not a license is required. (Section 1, Chapter 196, Session Laws 1943.)

UNIVERSITY OF COLORADO

511-45

Mr. W. E. Brockway,
April 26, 1945.

Where contract relating to payment of refunding bonds provides that surplus in special fund shall be allowed to accumulate until the call date, the regents of the University should not invest such surplus funds in U. S. Treasury notes unless so instructed to do by the court. (*Brooke v. White*, 258 N.W. 766.)

GAME AND FISH

512-45

Mr. C. N. Feast,
April 26, 1945.

Section 4, Chapter 139, of the Session Laws of 1941, is not repealed by House Bill 209 passed by the Legislature and approved by the Governor March 31st, 1945. Therefore, licenses are not required by land owners and their immediate families and their employees in order that they may hunt predatory animals and birds.

**LEGISLATION—DEPARTMENT OF
EMPLOYMENT SECURITY**

513-45

Mr. C. E. Russell,
April 27, 1945.

Paragraphs "1" (1) (2) and (3) following Section 11k, Chapter 224, Session Laws of 1921, 1941 are not a part of Section k but a further subsection designated by the letter of the alphabet following k or the letter "1" with subparagraphs (1) (2) and (3).

POLICEMEN'S AND FIREMEN'S PENSION 514-45

Hon. Herman F. Mazzone,
April 28, 1945.

Money allotted to a city firemen's pension fund by the state should be disbursed in accordance with the provisions of Section 470, Chapter 163, 1935 C.S.A.

BANKS AND BANKING

515-45

Mr. Maple T. Harl,
April 30, 1945.

"Deposit purchase plan" of building company analyzed and held to constitute banking. (*MacLaren v. State*, 124 N.W. 667, 668, 141 Wis. 577, 135 Am. St. Rep. 55, 18 Ann. Cas. 826.)

MOTOR VEHICLES

516-45

Mr. Albert F. Cruse,
May 1, 1945.

Certificates of title. When statutory bond is furnished, the Director of Revenue shall issue certificates of title to applicants— 1. who cannot furnish a certificate endorsed in accordance with law, and 2. to replace lost certificates. (House Bill No. 779, 1945 General Assembly.)

ELECTIONS—COUNTIES

517-45

Mrs. Kathleen Blackham,
May 1, 1945.

An election for the removal of county seat is governed by the provisions of Sections 92-99, Chapter 44, 1935 Colorado Statutes Annotated.

STATE LAND BOARD—FEDERAL

518-45

State Board of Land Commissioners,
May 3, 1945.

Under federal legislation and the constitutional provisions of the Colorado Constitution, the State Board of Land Commissioners may consent to the inclusion of state or school lands within a unit operation of any oil or gas pool, field or area and may accept as consideration for the oil or gas lease a percentage based upon the percentage of total production from the area as the state acreage bears to the total production area of the field. The question of whether or not the Land Board would include the land under its control within such area would be a matter of administrative determination having regard to the best interest of the school land. We find no objection in any terms of the Colorado statutes which would prohibit such action by the board.

POLICE AND FIREMEN'S PENSIONS

519-45

Mr. Robert J. McCullough,
May 4, 1945.

Firemen's Pension Fund can only be expended for purposes set out in the statutes. Art. 23, subdivision 1 (b), Chapter 163, 1935 C.S.A., and S.L. 1939, page 562.

LEGISLATION

520-45

Hon. John C. Vivian,
May 4, 1945.

Where it clearly appears from the senate and house journals that a portion of a bill enacted by the general assembly has, because of a clerical error, been omitted from the enrolled bill, the governor, upon discovery of such error, can, if acting within apt time, order the proper corrections before signing the bill.

OFFICERS—CIVIL SERVICE—STATE BOARD OF LIVESTOCK COMMISSIONERS 521-45

Mr. N. R. McCreery,
May 11, 1945.

The position of Brand Commissioner is not a civil office. A member of the House of Representatives may therefore be appointed to such position without violation of Section 8, Article 5 of the Constitution of Colorado.

GAME AND FISH

522-45

Mr. C. N. Feast,
May 11, 1945.

A person who keeps live fish in two or more separate lakes or ponds is required to have a "Class A" license for each separate lake or pond. (Sec. 89, Ch. 73, 1935 C.S.A.)

SCHOOLS—TAXES

523-45

Hon. Inez Johnson Lewis,
May 15, 1945.

1. It is mandatory for the County Commissioners to levy the county one mill tax upon favorable action of school district.
2. Status of counties not now operating under the state aid plan and who wish to adopt said plan.

PUBLIC FUNDS—REVENUE DEPARTMENT 524-45

Mr. Albert F. Cruse,
May 16, 1945.

(Continuing appropriations)

House Bill No. 743, 1945 Legislature, relating to motor vehicle dealers' licenses, creates continuing appropriation cash fund for payment of administrative expenses separate and distinct from Long Appropriation Bill (see Attorney General opinion No. 177 dated July 21, 1937).

CIVIL SERVICE—WAR EMERGENCY 525-45

State Civil Service Commission,
May 16, 1945.

(Applicability of Civil Service rules to persons on eligible lists who are in armed forces.)

Section 2, Chapter 95, Session Laws 1941, includes those persons on the list of re-employables at the time of, during and for one year after their induction, as well as those persons who were officers or employees of the State of Colorado and who were on other certified lists at the time of, during and for one year after their induction.

SCHOOLS 526-45

Hon. Inez Johnson Lewis,
May 17, 1945.

Where a school district employs more teachers than are eligible under the minimum salary act both in elementary and in the high school, a percentage should be fixed for both groups of teachers so that both can share in state aid. If 100 are employed—50 in the high school and 50 in the elementary school, and a total of 80 are eligible, 40 of the high school teachers and 40 of the elementary teachers should be taken so that the district would receive 40 times \$1,500 and 40 times \$1,200.

SCHOOLS—LEGISLATION 527-45

Mr. Leon E. Lavington,
May 22, 1945.

Audit requirement under Section 3, H.B. 21, Thirty-Fifth General Assembly, becomes effective as to the first fiscal year following the effective date of the act.

**COLORADO INDUSTRIES FOR THE BLIND— 528-45
SALARIES—APPROPRIATIONS**

Hon. L. J. Bennett,
May 22, 1945.

Activities of the State Board of Industries for the Blind might legally include those proposed by Federal rehabilitation authorities under Public Law 113.

Salary paid from General Fund cannot be increased beyond the amount appropriated for same even though General Fund is reimbursed from an outside agency for part of salary paid.

CHIROPRACTIC EXAMINERS

529-45

Colorado State Board of Chiropractic Examiners,
May 23, 1945.

Under Sections 2 and 13, Chapter 34, 1935 C.S.A., and Chapter 82, 1943 S.L. of Colorado, a license to practice chiropractic automatically lapses October 1st rather than July 1st, on failure to file application for renewal. A license may not be renewed unless applicant has attended the scientific clinic provided for in Chapter 82, supra.

SALES TAX

530-45

Mr. Albert F. Cruse,
May 23, 1945.

Seed plants sold and used for producing marketable crops are exempt under the provisions of Section 4 (f), House Bill No. 424, 35th General Assembly.

**STATE COLLEGE OF AGRICULTURE AND
MECHANIC ARTS**

531-45

Mr. James R. Miller,
May 25, 1945.

The State College of Agriculture and Mechanic Arts is not liable legally for damages incurred when a student or non student is injured while riding horses in the course of Riding and Horsemanship. Neither the state nor any of its agencies is liable in tort.

BANKS AND BANKING

532-45

Mr. Maple T. Harl,
May 28, 1945.

A state bank may adopt or reject cumulative voting as it sees fit in filing or amending its articles of incorporation. See also opinion dated October 9, 1920.

**COUNTY OFFICERS—DEPUTY WATER
COMMISSIONERS—CIVIL SERVICE**

533-45

Hon. M. C. Hinderlider,
June 2, 1945.

Position of Deputy Water Commissioner and County Commissioner are not incompatible in law and therefore may be held by the same person unless prohibited by statute. Whether or not

the holding of the position of County Commissioner by a Civil Service employee is in violation of Civil Service rules relating to political activities of the employees is a question of fact to be determined by the Civil Service Commission.

SOIL CONSERVATION DISTRICT 534-45

Dr. ElRoy Nelson,
June 6, 1945.

(Manner of conducting balloting in Soil Conservation District)

Law concerning Soil Conservation Districts says that the balloting shall be secret but does not provide method. Therefore, any method which is secret would be proper under the law. (Sec. 200, Ch. 59, 1935 C.S.A.)

HIGHWAYS—LEGISLATION 535-45

Mr. O. T. Reedy,
June 8, 1945.

Senate Bill No. 470, 35th General Assembly, regarding acquisition of real property for highway purposes, also provides power to sell excess acreage (Section 1) not needed for highways. Procedure for selling such lands discussed.

STATE BOARD OF BARBER EXAMINERS 536-45

Hon. John C. Vivian,
June 8, 1945.

An appointee to the State Board of Barber Examiners must have been "an employing barber in this state" for three years prior to appointment. It was not the legislative intent that the member would have to continue as such while a member of the board.

PLANNING COMMISSION 537-45

Mr. C. L. Harrison,
June 11, 1945.

If a sanitary district has been duly created and established, it is not possible to create a smaller sanitary district within the boundaries of the original district even though the smaller district is designed for limited purposes.

BOARD OF STANDARDS OF CHILD CARE— 538-45
WAR EMERGENCY

Mrs. C. Walter Allen,
 June 14, 1945.

Where war emergency makes it necessary to appoint an employee not under civil service and not provided for on long appropriation bill, such employee may be paid from (1) emergency funds, or (2) if approved by the Defense Council, from Defense Council funds.

INSURANCE **539-45**

Hon. Luke J. Kavanaugh,
 June 18, 1945.

Where loan is made on real estate, only note and deed of trust need be deposited under Section 44, Chapter 87, 1935 C.S.A.

CIVIL SERVICE—APPROPRIATIONS **540-45**

State Civil Service Commission,
 June 21, 1945.

“Term of service in the employ of the state” as defined in House Bill No. 40 of the Long Appropriation Bill of the 35th General Assembly, interpreted to mean total service in the employ of the state and not necessarily continuous and uninterrupted service.

WAR EMERGENCY—COUNTY OFFICERS **541-45**

Mr. Walter Lawson,
 June 21, 1945.

Senate Bill 153, 35th General Assembly, directs county clerks to record discharges of service men and women without charge. It is within the discretion of the recorder to determine whether the instrument offered for recording is or is not a discharge.

MARKET DIRECTOR **542-45**

Colorado Director of Markets,
 June 22, 1945.

Each individual member of a firm holding a dealers' license under Ch. 90, 1937 S. L. of Colorado, must secure an agent's license in order to purchase farm produce in the name of the firm.

EMBALMERS' BOARD

543-45

The Colorado State Board of Funeral Directors and Embalmers,
June 22, 1945.

House Bill No. 603 passed by the last legislature omitted the reciprocal provision authorizing the State Board of Funeral Directors to grant reciprocal licenses. The effective date of the act is July 30, 1945, and all persons who apply after that date are required to possess the qualifications of applicants as defined by said act.

The exception specified includes all persons who immediately preceding the effective date of the act have the qualifications required for a funeral director, embalmer or apprentice, and who apply for registration for license within six months after the termination of the present war.

**BUREAU OF CHILD AND ANIMAL
PROTECTION—FEES AND SALARIES
APPROPRIATIONS**

544-45

Mr. C. C. Schrepferman,
June 25, 1945.

Salaries named in an appropriation bill represent the amount available to be paid as compensation for that particular position. If the exact salary is not fixed by statute, it must be by recommendation of the department head with the approval of the Governor pursuant to the provisions of Chapter 2, Sessions Laws of Colorado 1941.

COUNTY OFFICERS—COUNTY ROADS

545-45

Mr. Alden T. Hill,
June 25, 1945.

(1) A county road may be abandoned by order of the county commissioners if a proper petition, filed in accordance with Sec. 43, Ch. 143, 1935 C.S.A., receives favorable action by the board.

(2) It is not necessary for county commissioners to advertise for bids for public liability and property damage insurance on county trucks.

COUNTY OFFICERS—COURTS

546-45

Mr. Harry K. West,
June 25, 1945.

If a sheriff wilfully refuses to execute valid process issued by a court of competent jurisdiction and delivered to him for service, he is subject to the provisions of Sections 175 and 188, Ch. 48, 1935 C.S.A., and Sec. 114, Ch. 45, 1935 C.S.A.

SCHOOLS**547-45**

Hon. Inez Johnson Lewis,
June 25, 1945.

Existing money in the bond fund may be transferred to the special fund of the school district, and in the event that the special funds are to be used for construction of certain buildings must be determined by the approval of the qualified electors of the school district.

SCHOOLS**548-45**

Mrs. Emma Jane Hickman,
June 26, 1945.

A school district may not use school funds to purchase a fire truck.

When approved by the qualified voters of a school district, a school board may use money from its special fund for the building of a gymnasium.

INSURANCE**549-45**

Hon. Luke J. Kavanaugh,
June 27, 1945.

The insuring of residents of this state by foreign insurance company does not constitute "doing business" in this state, where insurance contract is made and carried out in the home state of such foreign insurance company.

SCHOOLS**550-45**

Mrs. Inez Johnson Lewis,
June 28, 1945.

The closing of schools for three or more years in a school district can be one jeopardizing factor though the status of a school district must be determined by several circumstances and factors. (Chapter 176, Session Laws of Colorado, 1943, p. 550; House Bill 123, Session Laws of Colorado, 1945; *School District v. Hards*, 112 Colorado 319.)

APPROPRIATIONS—BANKS AND BANKING 551-45

Hon. Maple T. Harl,
June 30, 1945.

Provisions of Section 20, Chapter 121, Session Laws of Colorado, 1943, constitute a continuing appropriation.

STATE BOARD OF ACCOUNTANCY 552-45
OF COLORADO

State Board of Accountancy of Colorado,
July 2, 1945.

Accountancy certificates should be issued only to (a) citizens of the United States; persons who have declared intention of becoming citizens of the United States who are residents of the State of Colorado and over the age of twenty-three years; (b) the Board may waive an examination for a certificate if certain qualifications are possessed by the applicant; (c) question of residence is a matter of intention and a question of fact to be determined in each case. (Construing sections 9 and 10, Chapter 76, Session Laws of 1937.)

STATE BOARD OF ACCOUNTANCY 553-45
OF COLORADO

State Board of Accountancy of Colorado,
July 2, 1945.

Under Section 5 (a) (1) (2) Ch. 186, 1941 S.L. of Colorado, an excess surplus which has not been used to reduce license fees for the ensuing license period reverts to the General Fund at the beginning of the following fiscal year.

GOVERNOR—LEGISLATION—POULTRY LAW 554-45

Hon. John C. Vivian,
July 6, 1945.

The words "or such other department or agency as may be designated by the Governor" construed not to limit the Governor to designation of a State department or agency.

TAXATION 555-45

Mr. James M. Noland,
July 6, 1945.

Under Senate Bill No. 170, 35th General Assembly, a fee for certificate of taxes may be charged for each parcel of real estate. Parcels construed to mean each description assessed in tax list which should be adjoining tracts returned by same person for assessment purposes.

SOLDIERS' AND SAILORS' RELIEF ACT 556-45

Mr. James G. Holsclaw,
July 6, 1945.

1. When an attorney appointed by the court under the Soldiers' and Sailors' Civil Relief Act to represent a non-appearing defendant in service files an answer, the appearance fee is not waived.

2. In probate cases where an attorney ad litem appointed by the court appears on behalf of a minor, no appearance fee is required.

**CONSTITUTIONAL AMENDMENTS— 557-45
JURY SERVICE**

Hon. Paul L. Littler,
July 9, 1945.

Under Senate Bill No. 75 enacted in 1945 the Court could under the discretion given by Section 1(c) direct that the total number of jurors provided for under Section 10 of Chapter 95, 1935 C.S.A., should be divided equally between men and women. Such practice, however, would not be required. The County Commissioners could select competent persons without any regard paid to sex but they could not arbitrarily select persons of only one sex.

**COLORADO STATE BOARD OF EXAMINERS 558-45
FOR ENGINEERS AND LAND SURVEYORS**

Colorado State Board of Examiners for Engineers and Land Surveyors,
July 9, 1945.

Reduction in statutory fee for renewal of all licenses of registrants for the year 1945 from \$5.00 to \$4.00 is in accordance with Sec. 2 of Ch. 186, S.L. 1941, if provisions of statute have been followed.

**COLORADO STATE BOARD OF EXAMINERS 559-45
FOR ENGINEERS AND LAND SURVEYORS**

Colorado State Board of Examiners for Engineers and Land Surveyors,
July 9, 1945.

Colorado State Board of Examiners for Engineers and Land Surveyors may hold an oral examination for and at the request of the Minnesota State Board. No reflection is cast upon the license issued by the Colorado Board or upon other licenses, nor is a precedent set by the holding of such examination.

**COUNTIES—CITIES AND TOWNS—ELECTIONS 560-45
AERONAUTICS**

Mr. Wilbur B. Foshay,
July 10, 1945.

The question of incurring an indebtedness for the acquiring of land for airports and the erection and maintenance of buildings thereon should be submitted to a vote for the approval of the people before such indebtedness is incurred.

**WAR EMERGENCY—COLORADO STATE 561-45
HIGHWAY PATROL—CIVIL SERVICE**

Mr. Vernon W. Drain,
July 11, 1945.

Chapter 95, 1941 Session Laws, protects the right of a certified employee in military service to return to his former position, for a period of one year after the end of his military service. Accepting outside employment during that time does not jeopardize this right.

CITIES AND TOWNS 562-45

Mr. J. W. Vaughn,
July 12, 1945.

A quorum being present, a majority vote of the trustees of an incorporated town at a duly called meeting of the board of trustees is binding.

INTOXICATING LIQUORS 563-45

Mr. R. P. Gregg,
July 12, 1945.

Purchase price of liquor sold pursuant to terms of license by duly licensed vendor can be collected by legal process.

SCHOOL FOR THE DEAF AND BLIND 564-45

Mr. A. L. Brown,
July 12, 1945.

Neither the Colorado School for the Deaf and Blind, members of the Board of Trustees, nor the Superintendent would be liable for personal injuries sustained by persons not employees of the institution.

ADAMS STATE TEACHERS COLLEGE 565-45

Mr. Ira Richardson,
July 12, 1945.

Trustees of the Adams State Teachers College of Colorado have the power to acquire land and purchase or contract buildings to be used to house faculty or students in connection with the San Luis Institute of Arts and Crafts. To finance such project, investment certificates or other evidence of indebtedness may be issued. For payment only the revenues of the project would be available. In connection with the departments of instruction of the college property may be purchased within a reasonable distance from the campus in Alamosa or that in San Luis.

LEGISLATION—NEWSPAPERS 566-45

Hon Joseph A. Davis,
July 14, 1945.

The words "Notice of citation" appearing in Section 12b, House Bill 109, 35th General Assembly, interpreted to mean "Notice or Citation" because of clerical error in transcribing enrolled bill.

BUILDING AND LOAN 567-45

Mr. A. O. Johnson,
July 14, 1945.

A shareholder of a building and loan association does not have the right to inspect and examine the books of his association. *State ex. rel. Schomberg v. Home Mutual Building & Loan Association*, 220 Wis. 649, 265 N.W. 701.

SCHOOLS 568-45

Mr. A. W. Emigh,
July 16, 1945.

A bonus may not be paid to teachers employed by a school district.

**LEGISLATION—COUNTY OFFICERS 569-45
FEES AND SALARIES**

Mr. Alden T. Hill,
July 16, 1945.

Re Senate Bill 390, 35th General Assembly. Sections 3, 4, 5, 6, and 7 constituting the maximum salary amounts which may be fixed by the judges of the District and County Courts with the approval of the Boards of County Commissioners.

LEGISLATURE

570-45

Hon. William A. Carlson,
July 17, 1945.

House Bill 644, Section 3, 35th General Assembly, interpreted to require election of the secretary from its own membership.

LEGISLATURE

571-45

Hon. William Albion Carlson,
July 17, 1945.

The Legislative Interim Committee on Appropriations referred to in Section 39 of House Bill 40, 35th General Assembly, construed to mean the General Interim Committee of the Colorado General Assembly provided for in House Bill 644.

**STATE PURCHASING AGENT—PRINTING
INDUSTRIAL COMMISSION**

572-45

Mr. H. Rodney Anderson,
July 17, 1945.

Under Sec. 7, Ch. 214, 1937 S.L. of Colorado, it is not necessary for the printer who was successful in obtaining a contract for state printing, to comply with the standards prescribed by the Industrial Commission, in conducting a private business. Compliance by the employer as to his employees who will be engaged in performing such contract will be sufficient compliance. A clearance is not required from the Industrial Commission before awarding a contract so long as the contract contains a provision that in the performance of such contract the standards fixed by the Commission will be complied with.

SCHOOLS

573-45

Dr. R. L. Cleere,
July 17, 1945.

Resolution by the school board providing that no child shall be permitted to attend the public schools within the district unless the child be immunized from smallpox and diphtheria by vaccination and presents a certificate to the effect by a licensed physician, is a reasonable requirement on the part of the board.

CIVIL SERVICE—FEES AND SALARIES— 574-45
LEGISLATION

State Civil Service Commission,
July 18, 1945.

The effect of the asterisk provision, Section 42, House Bill 40, 35th General Assembly construed.

SCHOOLS 575-45

Mr. E. L. Dutcher,
July 19, 1945.

Directors of school districts may not purchase government bonds without approval of the County Commissioners or County Treasurer. The County Treasurer may invest school funds in war bonds Series G provided he has the authority of a resolution of the school board and a written resolution adopted by majority vote of the County Commissioners. If he does make such investment, bonds should be made in the name of treasurer for and on behalf of school districts. Such bonds should be registered and deposited in a national bank of the state or in a bank or trust company doing business under the laws of the state.

CITIES AND TOWNS—COUNTIES 576-45
—AERONAUTICS

Mr. Wilbur B. Foshay,
July 19, 1945.

When a county, city and county, acting jointly, or city desires to create an indebtedness for the erection of airports pursuant to the provisions of Senate Bill 269 and House Bill 136, 35th General Assembly, the question must be submitted to a vote of the people.

STATE BOARD OF STOCK INSPECTION 577-45
COMMISSIONERS

State Board of Stock Inspection Commissioners,
July 19, 1945.

Moneys transferred from the Estray Fund may be used by the State Board of Stock Inspection Commissioners to facilitate the distribution of vaccine to prevent the spread of contagious and infectious diseases among domestic animals. (Sec. 138, Ch. 160, 1935 C.S.A.)

COUNTY OFFICERS—FEES AND SALARIES 578-45
—LEGISLATION

Hon. Mabel A. Ethel,
 July 20, 1945.

(1) Irrespective of the provisions of Senate Bill 390, 35th General Assembly, County Judge may retain from the fees of his office the full amount of his salary before turning the balance of such fees to the County Treasurer. Good accounting practice, however, may indicate that all fees be paid to the Treasurer as directed by the statute.

(2) It is doubtful if a county judge under existing law is entitled to receive additional compensation in the event he elects to act as his own clerk.

PROBATE—NEWSPAPERS—LEGISLATION 579-45

Colorado Press Association,
 July 20, 1945.

The publication of notices and citations required by Chapter 176, 1935 Colorado Statutes Annotated, pertaining to Wills and Estates, is governed by the provisions of H. B. 109, 35th General Assembly. Publication of legal notices required by any other chapter of the statutes remain subject to the provisions of Section 6, Chapter 130, 1935 Colorado Statutes Annotated.

INTOXICATING LIQUORS—HIGHWAY PATROL 580-45
—MOTOR VEHICLE

Mr. Vernon W. Drain,
 July 24, 1945.

(1) While it is desirable to have medical testimony to support a charge of drunken driving, the county cannot be bound to pay the fee of a physician for examination of the accused without its consent. The court may, in a given case, determine the fee of the physician a proper item of costs and tax the same.

(2) In the absence of an agreement to the contrary, a physician called as a witness by the state, is entitled only to ordinary witness fees.

UNIVERSITY OF COLORADO 581-45

Dr. Robert L. Stearns,
 July 24, 1945.

The University of Colorado, as such, should not sponsor commercial ventures of any kind, but a non-profit corporation to develop and promote scientific discoveries may be organized by private individuals who, if they so desire, may designate the University as the beneficiary of the Foundation thus established.

VOCATIONAL EDUCATION

582-45

Mr. E. C. Comstock,
July 25, 1945.

The Colorado Apprentice Training Act does not prohibit an otherwise qualified employer, who happens to have an unorganized group in his employ, from participating in the apprenticeship training program.

WATER—ELECTIONS

583-45

Tupper, Smith & Holmes,
July 25, 1945.
(Grand Junction Drainage District)

The board of directors of the Grand Junction Drainage District have the power to change the boundaries of existing voting precincts and establish and define the boundaries of new precincts and fix the polling places thereof as changed conditions require.

**SOIL CONSERVATION DISTRICTS—
FEDERAL SOCIAL SECURITY**

584-45

Mr. Kenneth W. Chalmers,
July 25, 1945.

Employees of local soil conservation districts are not eligible to participate in the federal social security program as it now exists.

SOIL CONSERVATION DISTRICTS

585-45

Colorado State Soil Conservation Board,
July 26, 1945.

Soil Conservation Districts may organize a state association for the exchange of information and other like purposes, but such association cannot assess the several districts for funds or, in any way, supersede the powers of the individual districts.

**STATE TREASURER—UNIVERSITY OF
COLORADO**

586-45

Mr. W. E. Brockway,
July 26, 1945.

The State Treasurer, with the consent of his bondsman, may turn over to the regents of the University of Colorado the moneys derived from the University Building Fund levy (Ch. 229, 1941 S.L.) to be by them retained for the specific purpose for which such moneys were appropriated.

MARKET DIRECTOR—POULTRY LAW 587-45

Mr. Fred W. Ley,
July 26, 1945.

1. Senate Bill No. 56, 35th General Assembly, applies to all baby chicks, poultts or hatching eggs shipped into Colorado or hatched or sold within the state, except sales of less than 500 eggs or chicks in any calendar year.

2. Since the governor designated the Director of Markets as the enforcement officer for the provisions of Senate Bill No. 56, the order of designation should include recommendations for deposit and disbursement of fees collected.

OLD AGE PENSIONS 588-45

Mrs. J. S. Marshall,
July 31, 1945.

Cash net income is deductible from the amount of pension a recipient of old age pension would otherwise receive.

The amount of income of a spouse of a recipient of old age pension in excess of \$45 is deductible from the recipient excepting medical and convalescent care actually expended by the spouse for the recipient.

GAME AND FISH DEPARTMENT 589-45

Mr. Noah A. Atler,
August 2, 1945.

Alien enemies are not entitled to State Fishing licenses.

SCHOOLS—MARRIAGE LAWS 590-45

Hon. Homer N. Peck,
August 3, 1945.

Whether or not a child is to be considered as residing in a school district pursuant to the provisions of Section 290, Chapter 146, 1935 C.S.A., is a question of fact. Chapter 152, Section 1, Session Laws of Colorado 1939, authorizes a waiver of tuition by the school board. Section 290, Chapter 146, 1935 C.S.A., Item 6, concerning residence of children living with a parent who is a public officer is not limited by or conditioned on the parents being permanently separated or living together.

WATER COMMISSIONERS—EMPLOYEES— 591-45
ENGINEER

Mr. M. C. Hinderlider,
 August 6, 1945.

Deputy Water Commissioner, with approval of his superiors, may engage in outside employment when working for state on per diem basis providing he holds himself available for duty at all times.

Failure of Deputy Water Commissioner to work at any place within district designated by Water Commissioners would justify filing of charges for insubordination. (*Pueblo County v. Ellis*, 84 Colo. 559.)

REVENUE DEPARTMENT—OFFICIAL BONDS 592-45
—MOTOR VEHICLES

Mr. Albert F. Cruse,
 August 7, 1945.

Bond of Director of Revenue does not cover subheads of his department.

Bond of Motor Vehicle Supervisor is required in addition to the bond of Director of Revenue.

SCHOOLS 593-45

Mr. John E. Bothell,
 August 7, 1945.

School district with only two adults can not operate as a school board which requires three adults. Best solution is to dissolve and annex to another school district.

SCHOOLS 594-45

Mr. Harry A. Schesser,
 August 7, 1945.

A school district may provide transportation for its high school pupils to the high school of the Joint High School District of which the school district is a member. (*Stoops v. Hale*, 91 Colo. 246.)

COLORADO SCHOOL OF MINES— 595-45
EMPLOYEES RETIREMENT ASSOCIATION

Dr. M. F. Coolbaugh,
 August 7, 1945.

The Board of Trustees of the Colorado School of Mines cannot legally use school funds to pay an employee's required prior service payments which is a pre-requisite to admission to the Retirement Association.

STATE BOARD FOR VOCATIONAL 596-45
EDUCATION—STATE EMPLOYEES'
RETIREMENT FUND

Mr. E. C. Comstock,
 August 17, 1945.

The funds provided for in House Bill 55, 35th General Assembly, may be used to make the contribution to the State Employees' Retirement Fund, as provided in Subsection 2 of Section 44, Chapter 36, 1935 C.S.A., as amended by Senate Bill 300, 35th General Assembly.

SCHOOLS 597-45

Mrs. Inez Johnson Lewis,
 August 21, 1945.

The number of teachers in a school district is fixed by school population but this number may vary on the basis of area, population and value of a school district when the salary of the additional teachers is paid by county tax levy. (Sec. 243, Ch. 146, 1935 C.S.A.)

STATE BOARD OF HEALTH— 598-45
RESTAURANT ACT

Dr. R. L. Cleere,
 August 21, 1945.

The Pure Food Act and the Restaurant Act are separate and distinct and should be so treated. They are not in conflict and can be readily reconciled.

STATE BOARD OF HEALTH— 599-45
RESTAURANT ACT

Dr. R. L. Cleere,

August 21, 1945.

1. A county sanitarian is a competent witness in a prosecution for violation of the law pertaining to the operation of restaurants if he has personal knowledge of the alleged violation.

2. The State Board of Health must determine, as a matter of policy, what action it will take on complaints against licensed restaurants, filed by local sanitarians.

FIREMEN'S PENSION FUND 600-45

Mr. Floyd Wheeler,

August 23, 1945.

Re: Payments of insurance from the pension funds under Section 485, Chapter 163, 1935 Colorado Statutes Annotated.

STATE HIGHWAY PATROL—CRIME 601-45

Mr. Vernon W. Drain,

August 24, 1945.

1. Where a person is arrested by the State Highway Patrol, after the court has closed, for violation of the laws regulating the use of vehicles, etc., he may be detained in jail overnight as an incident of the arrest.

2. The Patrol does not have an absolute right to lodge a prisoner in a county jail without an order of commitment, and arrangements should be made in advance with the county sheriff for the detention of persons arrested by the Patrol.

STATE HIGHWAY PATROL—MOTOR 602-45
VEHICLES—CRIME

Mr. Vernon W. Drain,

August 24, 1945.

The State Highway Patrol has the power to serve warrants relating to the enforcement of the laws regulating the operation of vehicles and the use of the highways. Such power is not exclusive, and such warrants may likewise be served by a sheriff or, in a proper case, by a constable.

STATE HIGHWAY PATROL—CRIME— 603-45
COUNTY OFFICERS

Mr. Vernon W. Drain,
August 24, 1945.

A sheriff may release a prisoner arrested by the State Highway Patrol on personal recognizance or bond if no warrant or commitment has been issued. If the person is held by virtue of a warrant only the courts have the power to fix bond or order the release of the prisoner.

SCHOOL OF MINES—CIVIL SERVICE— 604-45
EMPLOYEES

Hon. M. F. Coolbaugh,
August 25, 1945.

Salaries of the employees of the Colorado School of Mines are fixed by the Board of Trustees of the School and not by the Civil Service Commission.

STATE HIGHWAY PATROL—CIVIL SERVICE 605-45
COMMISSION

Mr. Vernon W. Drain,
August 25, 1945.

Qualification requirement prescribed by statute should be observed by all public officials including the Civil Service Commission. Should the Civil Service Commission require no physical examination for a patrolman who has been certified for appointment, the appointment could not be refused on the ground that no physical examination was given. Appointment should be made and charges filed with the Commission in the event the patrolman cannot perform his duties.

GOVERNOR—PAROLE 606-45

Mr. A. M. Doig,
August 27, 1945.

The Governor may, in his discretion, grant executive clemency to a prisoner on parole, even though such parole is for the balance of the life of the convicted man.

STATE BOARD OF EXAMINERS FOR 607-45
ENGINEERS AND LAND SURVEYORS

State Board of Examiners for Engineers and Land Surveyors,
August 27, 1945.

Use of term "engineering company" in trade name of a company not practicing engineering or not retaining a licensed engineer on its staff would be a violation of the provisions of Section 11, Chapter 62, 1935 C.S.A.

OPTOMETRIC EXAMINERS

608-45

The Colorado State Board of Optometric Examiners,
August 28, 1945.

House Bill No. 231, 35th General Assembly, which amends certain sections of Chapter 120, 1935 Colorado Statutes Annotated, relating to the practice of optometry, does not require that a technician fitting contact lenses under the supervision and direction of a physician, ophthalmologist, or optometrist be a licensed optometrist. Further, this said bill permits an optometrist to assume the title of "Dr." provided his name is followed by the word "Optometrist".

HIGHWAY COURTESY PATROL—

609-45

CIVIL SERVICE

Mr. Vernon W. Drain,
August 29, 1945.

1. Statutory limitations on salaries must be observed by all public officials including Civil Service Commission. 2. Salary computation pattern in Section 42 of Long Appropriation Bill applies only to contingent funds in the Long Appropriation Bill. 3. Whether or not separate examinations should be given for certain Colorado State Patrol positions is a matter within the discretion of the Civil Service Commission. 4. Legislature has authority to prescribe work day for Colorado State Patrol employees. 5. The department head with the Governor's approval has authority to allow vacations and sick leaves but uniformity of same may be required by the Civil Service Commission. 6. Statutory holidays of Colorado would not apply to Colorado State Patrol should observation of the same curtail the activities of the Patrol.

APPROPRIATIONS—CIVIL SERVICE—

610-45

STATE INSTITUTIONS

State Civil Service Commission,
August 30, 1945.

Provisions of H. B. 40, 35th General Assembly (Long Appropriation Bill) concern only appropriations contained within the act. Institutions receiving appropriations by other legislation are not therefore compelled to observe any of the provisions of H. B. 40.

TAXES—FEES AND SALARIES

611-45

Mr. Charles F. Garlinton,
September 1, 1945.

The county treasurer is entitled to a fee of \$1.00 for a certificate of taxes due covering a parcel of real estate.

The county treasurer is only entitled to a fee of \$1.00 for the assignment of all certificates of taxes due issued to the county on one tract of real estate. (*McLeod v. Santa Rosa County*, 116 Fla. 838, 157 So. 37.)

**UNIVERSITY OF COLORADO—
PLANNING COMMISSION**

612-45

Mr. George F. Dodge,
September 1, 1945.

Chapter 263 of the Session Laws of 1937 as amended by Chapter 229, Session Laws 1941, would authorize expenditure by the Board of Regents of the University of Colorado of moneys derived from the mill levies provided by these two acts for the purpose of constructing temporary houses on the grounds of such institution so long as such buildings are constructed in conformity with the plan for public works prepared and published by the Planning Commission. Section 5 of the act as amended in 1941 providing for anticipation warrants may be disregarded inasmuch as the money from such levies is in the hands of the Regent and no certification by the State Planning Commission to the State Treasurer will be necessary. Similar mill levy statutes applicable to the State College of Agriculture and Mechanic Arts, the State College of Education, Adams State Teachers College, Western State College, and the School of Mines would also authorize such expenditure by these institutions. By reason of the constitutional powers vested in the Regents of the University, that body could repay into its building fund money used for such temporary uses. As to the other institutions, rentals to be received from such temporary housing would go into the general fund of the state to be allocated back to the building fund by the General Assembly. The Regents have control and direction of appropriations to the University. It might be that such building fund levies should be left intact and the various institutions could then proceed under the provisions of S.B. 119 of the 1945 Legislature which provides that the Governor may contract with anyone advancing money and may erect dormitory buildings pledging the net income to the repayment of funds advanced. It would not be possible to invest the moneys from the building fund levies in the investment certificates to be issued under Senate Bill 119 as they are not general obligations of the state.

SCHOOLS

613-45

Mr. Robert R. Knowles,
September 1, 1945.

The County Treasurer could not be held liable under his bond for incidental funds of a school district such as athletic, lyceum course, concert funds, etc. Such funds should not be mingled with school funds but there would be no objection to the County Treasurer's having custody of such funds in a personal capacity if he so desired.

STATE CIVIL SERVICE COMMISSION— 614-45
STATE EMPLOYEES RETIREMENT FUND

State Civil Service Commission,
September 4, 1945.

The amount of service credit permitted by Section 42 of the Long Appropriation Bill, 35th General Assembly, to state employees, based on length of service in the state prior to July 1, 1945, does not apply to employees certified and appointed to a position in a higher classification subsequent to July 1, 1945.

CITIES AND TOWNS—COUNTIES— 615-45
SOIL CONSERVATION

Mr. Kenneth W. Chalmers,
September 4, 1945.

H. B. 21, 35th General Assembly, requiring an annual audit of the financial affairs of counties, cities, towns and school districts, does not apply to soil conservation districts.

GAME AND FISH—WAR EMERGENCY 616-45

Mr. C. N. Feast,
September 4, 1945.

Special war emergency licensing act providing special privileges in the issuance of hunting and fishing licenses and privileges for members of the armed forces, will terminate when armistice is proclaimed.

**LEGISLATORS—OFFICERS—ELECTIONS— 617-45
WAR EMERGENCY**

Hon. Jack McMillion,
September 5, 1945.

The provisions of Chapter 95 of the Session Laws of 1943 apply only to "the right of a person to vote." Because the "right of a person to vote" is not synonymous with the "right of a person to be a candidate in a party primary," the provisions of the 1943 law do not grant to the members of the Military or Naval Forces the right to become candidates in the 1946 primary election unless such persons can qualify under the circumstances set forth in the statute.

**WAR EMERGENCY—LEGAL HOLIDAYS— 618-45
INDUSTRIAL COMMISSION**

Hon. Frederico Gutierrez Pastor,
September 5, 1945.

August 15th and 16th of 1945 were proclaimed by the Governor as legal holidays, pursuant to Colorado laws. Payment of wages, overtime or otherwise, for employees working on those days depends entirely upon what agreement existed between employees and employees on this matter.

**LEGISLATION—STATE BOARD OF LAND 619-45
COMMISSIONERS**

State Board of Land Commissioners,
September 6, 1945.

Interest earned from investment of moneys held in the Escheat Fund should be credited to the Public School Income Fund whether earned prior to the effective date of House Bill 492 or thereafter.

CIVIL SERVICE 620-45

State Civil Service Commission,
September 10, 1945.

Defines "officers and teachers in educational institutions not reformatory or charitable in character". The same are exempted from inclusion in the Civil Service by Section 13 of Article XII of the Colorado Constitution.

SCHOOLS—TAXATION

621-45

Colorado Tax Commission,
September 10, 1945.

Section 39 of Article 142, 1935 C.S.A., and Section 41 of Chapter 142, would require approval of the Tax Commission or approval of three-fourths of the voters of a county or a union high school district if a levy of five mills in such district represents an increase of five per cent in revenue over the preceding year. Sections 194 and 195 of Chapter 146 as amended by Chapter 155, Session Laws 1939, do provide an absolute maximum of five mills and are not construed to release such high school district from the necessity of applying to the Tax Commission.

TAXATION

622-45

Colorado Tax Commission,
September 11, 1945.
(Evidence of payment)

Personal property tax receipt is prima facie evidence of the payment of the tax.

COUNTY CLERKS—MOTOR VEHICLE FEES 623-45

Mr. Charles H. Gunn,
September 13, 1945.

County clerks who administer motor vehicle registration license laws must deposit all fees collected by them with the county treasurer. The State's share is drawn out by warrant of the county clerk as agent for the State and transmitted to the Motor Vehicle Department. The county's share can be used solely for clerical and office expense in connection with registration and issuance of motor vehicle licenses subject to approval and supervision by Motor Vehicle Department with the surplus, if any, payable into the County Road Fund. These are county funds and should be drawn on warrants approved by county commissioners in the usual course of business subject to general audit and supervision from the Motor Vehicle Department as to application of the funds.

AGRICULTURAL COLLEGE

624-45

President Roy M. Green,
September 13, 1945.
(Appropriations)

State Board of Agriculture does not have powers to transfer funds appropriated for one department to another department without specific legislative authority.

COLORADO SCHOOL OF MINES

625-45

Dr. M. F. Coolbaugh,
September 17, 1945.

Whether the Colorado School of Mines must keep a perpetual inventory and if so, of what property, is a matter of agreement between the State Purchasing Department and the institution.

**CITIES AND TOWNS—COURTESY PATROL— 626-45
COUNTY SHERIFF**

Mr. Vernon W. Drain,
September 18, 1945.

Violation of a municipal ordinance must be prosecuted in municipal court, and neither the state patrol or the county sheriff may serve summons outside the limits of the town or city.

INDUSTRIAL COMMISSION OF COLORADO 627-45

Industrial Commission of Colorado,
September 19, 1945.

Section 7 of Chapter 214, Session Laws of 1937, contemplates that the Commission may receive complaints that standards set up by it are not being complied with by a successful bidder for state printing. Upon receipt of such complaint, the Commission would have power to investigate the facts and if it appears to the Commission that such bidder is not complying with such standards, the Commission should so notify the Purchasing Agent recommending that the contract be cancelled.

DIRECTOR OF MARKETS

628-45

Hon. Fred W. Ley,
September 19, 1945.

A cooperative association, holding a dealer's license, would not be exempt from the provisions of Section 5, Chapter 90, Session Laws of 1937. Said law applies to all dealers regardless of their corporate identity.

MOTOR VEHICLE

629-45

Mr. Albert F. Cruse,
September 21, 1945.

1. July 1, 1945 is the date for reckoning number of sales.
2. In event salesman leaves employer and changes location and employer, unless he has been discharged for cause sufficient for revocation of license a new license should issue without charge for the unexpired term.

HOME FOR MENTAL DEFECTIVES—COURTS 630-45

Mr. H. A. LaMoure,
September 21, 1945.

In cases involving lunatics and other mental defectives, the committing court has continuing jurisdiction over the patient during his disability, and any order for permanent change of custody of a patient duly committed to State Home for Mental Defectives must be made by such committing court. (*People, ex rel Best v. County Court*, 110 Colo. 249.)

HIGHWAYS—CITIES AND TOWNS 631-45

Mr. A. F. Hewitt,
September 24, 1945.

The rights and duties of the State Highway Department and the counties toward a newly formed municipal corporation are the same as toward an existing municipal corporation. (*Leadville v. Bohn*, 37 Colo. 248.)

VITAL STATISTICS 632-45

W. E. Buck, M. D.,
September 25, 1945.

Duties of state and local registrars in regard to birth certificate in case of adoption proceedings as provided in Sec. 118, Ch. 78, 1935 C.S.A., as amended by Sec. 3 of H. B. No. 1, approved February 16, 1943.

**COUNTY OFFICERS—COUNTY TREASURER 633-45
AND CLERK**

Mr. Sam Nikkel,
September 25, 1945.

County Treasurer and Clerk and Recorder's office hours—powers of County Commissioners to establish hours of work limited to Saturday afternoons under Chapter 90, S. L. 1939.

**INDUSTRIAL COMMISSION—BANKS AND 634-45
BANKING**

Industrial Commission of Colorado,
September 25, 1945.

The uniform negotiable instruments law provides that where a sum payable is expressed in words and figures the sum denoted by the words is the sum payable. An employee should therefore

before cashing a check for a customer make sure to check the words appearing upon the instrument. If such employee relied upon the figures appearing upon a check and thus made an overpayment to a customer, his employer would probably have the right to withhold the discrepancy on the employee's wages. Usually this would be made clear in the contract of employment, but if not, the employer would have such implied right.

SCHOOLS

635-45

Mr. M. H. Durham,
October 1, 1945.

Vacancies in a union high school committee which are a result of causes other than the expiration of the term of office should be filled by the school board of the district which has a vacancy on the school committee.

SCHOOLS

636-45

Irwin & O'Connell,
October 3, 1945.

Where school districts consolidate and one of them had outstanding bonded indebtedness but had no moneys in the bond and interest fund and prior to the consolidation the directors had agreed that moneys in the special fund of such district should be transferred over to the bond and interest fund the school directors of a consolidated district may make such transfer which would be a mere ministerial act to carry out the prior resolve of the school directors of the district subject to such bonded indebtedness. Section 71, Chapter 146, 1935 Colorado Statutes Annotated.

CITIES AND TOWNS—CIVIL RIGHTS

637-45

Hon. Fenton J. Doveton,
October 3, 1945.

The statutes of the state relating to civil rights would not permit a city or town to prohibit the use of the municipal swimming pool by certain races or nationalities. (*State v. Lowry*, 100 Colo. 144.)

**AGRICULTURAL COLLEGE—INDUSTRIAL
RESEARCH—OFFICERS**

638-45

Hon. John C. Vivian,
October 4, 1945.

Industrial Development Research Fund and H. B. 575, approved April 16, 1945; funds having been allocated to the Colorado A. & M. College, a payment therefrom to a professor of that institution is not in violation of Sec. 3, Ch. 2, S. L. 1941, The Administrative Code Bill.

SCHOOLS**639-45**

Consolidated School District No. 4,
October 4, 1945.

It is reasonable for the school board to contribute \$250 toward a new furnace and stoker to be used in a town library, which building belongs to the school district and is a possible school building. (Sec. 89, Ch. 146, 1935 C.S.A.)

COUNTY COMMISSIONERS—HOSPITALS**640-45**

Milenski & Armstrong,
October 9, 1945.

Funds collected by a special levy for a hospital building program cannot be delivered by the county commissioners to a non profit organization for the purpose of erecting or maintaining a private hospital.

TAXATION—COUNTY TREASURER**641-45**

Mr. Earl L. Lattin,
October 9, 1945.
(Refund of erroneous payment)

If a stranger pays taxes which are already paid by the owner of the property, the County Commissioners may order a refund to the stranger, after approval of their action by the Colorado Tax Commission. 1935 C.S.A., Ch. 142, Sec. 281, 294.

**STATE BOARD OF STOCK INSPECTION
COMMISSIONERS****642-45**

State Board of Stock Inspection Commissioners,
October 10, 1945.

Section 1, Chapter 28, 1935 C.S.A., as amended by Chapter 92, S. L. 1941, applies to all persons carrying on the trade or business of butchering.

SOIL CONSERVATION**643-45**

The Colorado Soil Conservation Board,
October 10, 1945.

Section 12 of House Bill No. 377, relating to Soil Erosion Districts, passed by the 1945 General Assembly, does not and cannot become operative until such time as valid land use ordinances have been adopted and are in force and effect in a district.

TAXATION—COUNTY COMMISSIONERS 644-45
—ESTATES

Mr. George R. Armstrong,
 October 10, 1945.

1. Personal property taxes do not outlaw.
2. Such taxes are collectible from deceased person's estate.
3. County Commissioners have no authority to compromise the amount of delinquent personal property taxes.

MOTOR VEHICLES 645-45

Mr. C. B. Pond,
 October 10, 1945.

Dealers and Salesmen's licenses not required for airplanes, motor-boats or other self-propelled vehicles not specified in the act as motor vehicles capable of transportation use on the State highways.

LEGISLATION—MORTGAGES—G.I. BILL OF 646-45
RIGHTS

Hon. William Albion Carlson,
 October 15, 1945.

Section 8, Chapter 32, 1935 C.S.A., providing that loans not exceeding \$2,500.00 cannot be secured by a chattel mortgage for a period exceeding two years would prevent service men from taking full advantage of government aid under the Service Men's Readjustment Act of 1944 which makes it possible for mortgages on such loans to extend for a longer period of time.

TAXATION—COUNTY COMMISSIONERS 647-45

Mr. F. W. Azar,
 October 17, 1945.

County Commissioners have no power to cancel tax sale certificates held by the county, when said certificates are six or more years old. Session Laws of 1941, Chapter 192, requires the county to obtain a tax deed if the property has been held more than eight years and provides machinery for retiring the same.

EMPLOYEES—CIVIL SERVICE— 648-45
FEES AND SALARIES

Hon. Leon E. Lavington,
 October 17, 1945.

Salary increases pursuant to the service formula of Section 42, House Bill 40, 35th General Assembly, are payable only from the contingent funds appropriated in said bill.

GAME AND FISH DEPARTMENT— 649-45
MINERAL RIGHTS

Mr. C. N. Feast,
October 18, 1945.

State of Colorado may reserve mineral rights from sale of excess acreage.

INTOXICATING LIQUORS—CITIES AND 650-45
TOWNS—OLD AGE PENSION FUND

Mr. Frank E. Ainsworth,
October 19, 1945.

Assuming, but not deciding, that a town may legally impose a separate tax upon, or require a separate license from, establishments selling intoxicating liquors, 85% of such tax or license would be payable to the old age pension fund under the provisions of Art. XXIV of the State Constitution.

GAME AND FISH DEPARTMENT 651-45

Mr. William J. Meehan,
October 19, 1945.

1. The penalty for a violation of Sec. 64, Ch. 73, 1935 C.S.A., is as prescribed by Sec. 216, Ch. 73, 1935 C.S.A.

2. It is doubtful if an owner of land may successfully prosecute one for hunting or fishing on his lands if the same are not at least posted. A former opinion of this office indicates that such lands should be fenced before a prosecution will stand (Op. 390, 1936 Opinions).

CIVIL SERVICE—EMPLOYEES—VETERANS 652-45

State Civil Service Commission,
October 22, 1945.

An employee returning from the armed services who re-occupies his former position pursuant to the provisions of Senate Bill 261, 1935 General Assembly, should receive the compensation which is being paid for the position at the time same is re-occupied.

SCHOOLS—JUNIOR COLLEGES—TAXATION 653-45

Junior College Committee,
October 22, 1945.

Junior College Districts are tax levying agencies the same as first class school districts. They have authority to make special levies with increases over the previous year subject to the limitations of Section 39, Chapter 142, 1935 C.S.A.

MENTAL DEFECTIVES—INSTITUTIONAL BOARD—COURTS—PLANNING COMMISSION 654-45

Dr. C. A. Fritts,
October 26, 1945.

1. The institutional board created by H.B. 647 does not have jurisdiction over the Grand Junction home for mental defectives.

2. An epileptic committed as a mental defective need not be committed to any particular institution and, under our present law, neither the planning commission, the institutional board, nor any executive or administrative agency can compel the courts to commit such person to a designated state institution. Neither can such board, commission or agency direct that the custody of such patient be changed. This is a function of the committing court except as specifically modified by statute.

COUNTY CLERK—VETERANS 655-45

Mr. Loyal C. Baker,
October 26, 1945.

Senate Bill 153 passed by the 35th General Assembly authorizes free recording of discharges from the military service, such recording to cover the contents of the discharges which existed at the time the law became effective. This entitles veteran to recording of information contained on both the front and reverse sides of discharges, when the law was passed.

INTOXICATING LIQUORS 656-45

Mr. Walter F. Morrison,
October 27, 1945.

A licensee, holding a license to sell 3.2% beer, is responsible for the unlawful sale of fermented malt beverages by his employees.

MARRIAGE LAWS—COUNTY OFFICERS—HEALTH 657-45

Hon. N. F. Nelson,
October 30, 1945.

A judge of any court of record within the county where an application for a marriage license is made, may waive any or all of the requirements of Sections 5 to 14, Chapter 107, 1935 Colorado Statutes Annotated, with the exception of the requirements which provide for a pre marital examination and serological tests.

INDUSTRIAL SCHOOL—DEPENDENT CHILDREN—MARRIAGE LAWS 658-45

Mr. Harry V. Childerston,
November 1, 1945.

1. Unless specifically directed to the contrary by a court of competent jurisdiction, the Superintendent of the Industrial School for Boys, may permit either parent of an inmate of the school to contact him by letter or visits, even though the parents are divorced and the custody of the boy has been awarded one of them.

2. While it may be legally possible to parole a boy from the Industrial School to a parent who has been denied custody by a divorce court, such procedure would, as a general rule, be poor policy.

AGRICULTURAL COLLEGE—FORESTRY 659-45

Dr. F. A. Anderson,
November 2, 1945.

The State Board of Forestry has the power to cooperate with the United States Department of Agriculture and land grant colleges in carrying out the provisions of the Cooperative Farm Forestry Act (Title 16, Sec. 568b, U.S.C.A.).

NEWSPAPERS—SCHOOLS 660-45

Mr. William C. Gehrke,
November 3, 1945.

1. The requisites of a legal newspaper are defined in Sec. 3, Ch. 130, 1935 C.S.A.

2. Notice of a school election is a legal notice and, when required to be published, can be published only in a newspaper eligible to accept legal notices and advertisements for publication.

STATE BOARD OF STOCK INSPECTION COMMISSIONERS 661-45

State Board of Stock Inspection Commissioners,
November 6, 1945.

An authorized brand inspector can compel a truck loaded with livestock to be unloaded for inspection if necessary. The policy to be adopted by the State Board of Stock Inspection Commissioners is an administrative question to be determined by the board.

TAXATION—COUNTY OFFICERS

662-45

Colorado Tax Commission,
November 8, 1945.

Where a special levy is made by the County Commissioners for the purpose of taking up a shortage of a former County Treasurer, such levy is not justified unless it is levied for the purpose of paying specific indebtedness caused by such shortage which the county is bound to pay.

SCHOOLS

663-45

Mr. Harry H. Hays,
November 9, 1945.

Children within a school district are entitled to free transportation if transportation is offered, but the parents could make voluntary payments to the district for such transportation.

SCHOOLS

664-45

Mrs. Inez Johnson Lewis,
November 9, 1945.

The authority of a high school committee in the capacity of landlord or lessor to rent or lease school property without a vote of the electors is questionable. It would be best to get the approval of the electors. See Secs. 89 and 166, Chapter 146, 1935 C.S.A.

COLORADO INDUSTRIES FOR THE BLIND 665-45

Mr. L. J. Bennett,
November 16, 1945.

Contract with the Board may be entered into by an individual whereby Board permits contracting party to occupy space in its shop and in exchange therefor he will employ some of Board's blind people.

SCHOOLS

666-45

Mr. William C. Gehrke,
November 16, 1945.

A school district must pay by warrants and a plan which results in the school district using checks in lieu of warrants would not be authorized under the law.

CIVIL SERVICE—FORESTRY—FEDERAL 667-45

State Board of Forestry,
November 19, 1945.

Employees who are employed by the State Board of Forestry are state employees subject to Civil Service amendment irrespective of the fact that they are paid from moneys supplied from Federal funds.

**COLORADO COUNCIL OF DEFENSE— 668-45
LEGISLATURE—EXECUTIVE**

Hon. Tom Kimball,
November 19, 1945.

The subject matter of the Governor's proclamation convening first special session of the Thirty-Fifth General Assembly does not permit transfer of Colorado Council of Defense appropriations to emergency funds of the Governor.

**HIGHWAY COURTESY PATROL— 669-45
MOTOR VEHICLES**

Mr. Vernon W. Drain,
November 20, 1945.

Section 250, Chapter 16, 1935 Colorado Statutes Annotated, expressly excepts emergency vehicles from the prohibition against red lights showing in front. State patrol cars would therefore be authorized to use an ordinary spot light and a red spot light.

MARKET DIRECTOR 670-45

Hon. Fred W. Ley,
November 20, 1945.

Commercial feeds shipped into the State of Colorado for mixing purposes only are not subject to the inspection tax provided in Article 14, Sections 213-225, Chapter 160, 1935 Colorado Statutes Annotated.

SCHOOLS 671-45

Mr. William C. Gehrke,
November 21, 1945.

If the City of Westwood should be annexed by Denver, Section 7 of Article 20 of the Constitution would govern and the School District in Westwood would be merged in District No. 1 in Denver and District No. 1 would assume all the bonds, obligations and indebtedness of such school district. Such indebtedness would be paid by a special tax levied on the property

within the boundaries of the district as they existed when it became a part of District 1. Valid teachers' contracts would constitute an indebtedness within the meaning of the constitution but contracts extending for more than one year could not be enforced as against School District No. 1. Until such annexation, the Westwood District would not qualify under the tenure section. Section 238, Chapter 146, 1935 Colorado Statutes Annotated.

**COURTS—MOTOR VEHICLES—MINORS— 672-45
HIGHWAY COURTESY PATROL**

Mr. Vernon W. Drain,
November 21, 1945.

Justice courts and traffic courts do not have jurisdiction over traffic law violators under sixteen years of age (Sec. 59, Ch. 33, 1935 C.S.A.). It is doubtful if such courts have jurisdiction over violators "eighteen years of age or under"

EXTRADITION—EXECUTIVE 673-45

Hon. John C. Vivian,
November 21, 1945.

The Governor may determine whether or not a person found in this state and demanded as a "fugitive from justice" by another state is, in fact, subject to extradition. An allegation by the demanding state, to the effect that the subject is "fugitive", is not conclusive upon the executive authority of the asylum state.

INDUSTRIAL SCHOOL 674-45

Mr. Harry V. Childerston,
November 21, 1945.

A boy committed to the Industrial School who becomes incorrigible should be returned to the county from whence he came, where his case will be further considered by the committing court (Sec. 11, Ch. 131, 1935 C.S.A.). The authorities of the Industrial School do not have the power, on their own motion, to transfer the boy to the state reformatory.

COUNTIES—FEES AND SALARIES 675-45

Mr. Clement R. Hackenthal,
November 23, 1945.

Mileage is not a part of the salary of a county officer and the legislature may, in its discretion, alter the rate at which mileage shall be computed.

**STATE ENTOMOLOGIST—
INTERSTATE COMMERCE**

676-45

Mr. Lawrence E. Taylor,
November 23, 1945.

A proper regulation of the sale of insecticides is an exercise of the police power of the state, and is not an interference with interstate commerce of which complaint can be made.

BANKS—BANK COMMISSIONER

677-45

Mr. John Jepson,
November 23, 1945.

The State Bank Commissioner may delegate to his deputies such of his powers and authority as he may see fit, and such deputies shall have and exercise only the powers and authority so delegated.

A deputy must exercise authority in the name of his principal, rather than as acting principal.

**LEGISLATION—MINORS—VETERANS
—CONSTITUTIONAL LAW**

678-45

Hon. Robert G. Bosworth,
November 23, 1945.

Proposed legislation concerning all minors who are veterans would not be class legislation.

DIRECTOR OF MARKETS

679-45

Colorado Director of Markets,
November 24, 1945.

1. The Colorado Director of Markets may require out-of-state hatcheries and shippers to obtain a license to sell breeding stock, hatching eggs, chicks, and poults in Colorado, pursuant to the provisions of the Colorado act relating to the control and eradication of pullorum disease of poultry.

2. The Director of Markets may, with the approval of the Governor, authorize the sale of shipping labels to raise the additional revenue required for the enforcement of S. B. 56.

LEGISLATURE

680-45

Hon. Neal Bishop,
November 24, 1945.

The legislature in special session cannot propose and refer measures or constitutional amendments to the people for adoption or rejection unless the proclamation contains subject matter designating such proposals as business to be considered at such special session. (*Pierce v. People*, 53 Colo. 399.)

**INCOME TAX LAW—PUBLIC FUNDS—
LEGISLATION**

681-45

Hon. Leslie R. Steele,
November 26, 1945.

The surplus funds referred to in Section 35, Chapter 175, Session Laws of Colorado 1937, as amended by Session Laws of 1939 and 1941, continue as a part of the General Fund and cannot be transferred by reason of repeal of the provisions directing such transfer prior to the time transfer could become operative. (50 American Jurisprudence, Sec. 552.)

**STATE BOARD OF EXAMINERS OF
ARCHITECTS**

682-45

Colorado State Board of Examiners of Architects,
November 27, 1945.

If a registrant fails to pay the renewal fee in July of any year as required, and the Board has revoked said license, he may subsequently pay the required annual fee and have his license renewed. The statute makes no provision as to when the payment must be made after revocation for non-payment and consequently it may be renewed any time by payment of the required annual fee.

**COLORADO STATE BOARD OF EXAMINERS
FOR ENGINEERS AND LAND SURVEYORS**

683-45

Colorado State Board of Examiners for Engineers and
Land Surveyors,
November 27, 1945.

Board was primarily created to conduct examinations for engineers and to grant licenses. It is not required to tell corporations or individuals that they must hire engineers, nor to police the profession.

INSURANCE**684-45**

Hon. Luke J. Kavanaugh,
November 27, 1945.

Our Supreme Court has ruled that a lease of land for a term of years is real estate. Therefore, under Section 48, Chapter 87, 1935 Colorado Statutes Annotated, as amended, a Colorado insurance company may purchase a building for its home office which is located upon leased land, if as is to be assumed, the purchase of the building includes acquisition of the lease of the land on which the building is located. (*Routt County Mining Company v. Stutheit*, 101 Colo. 254.)

OPTOMETRIC EXAMINERS**685-45**

The Colorado State Board of Optometric Examiners,
November 27, 1945.

1. Colorado State Board of Optometric Examiners should keep examination papers long enough to give candidates an opportunity to examine papers if they wish.

2. The technician inserting contact lenses under the supervision of a licensed medical man or optometrist would not be required to have a certificate of registration.

SCHOOLS—LEGISLATION—EXECUTIVE**686-45**

Hon. Lyman Weld, and others,
November 29, 1945.

The investigation of school conditions urged in the Governor's message at Special Session of the Thirty-Fifth General Assembly of 1945 does not authorize appropriation therefor because such matter was not contained in the proclamation of the Governor convening such session.

MOTOR VEHICLES**687-45**

Mr. C. B. Pond,
November 29, 1945.

Manufacturers' representatives helping in sales do not need salesman's license, unless they are in the employ of the local dealer. No other dealer's licenses required.

EMPLOYEES—RETIREMENT FUND— 688-45
VOCATIONAL REHABILITATION

Mr. E. C. Comstock,
November 29, 1945.

Employees of the Division of Vocational Rehabilitation may have 3½% deducted from their salaries for Employees Retirement Fund when such salaries are wholly paid from federal funds.

MOTOR VEHICLES 689-45

Mr. William Shultz, Jr.,
December 3, 1945.

Motor Vehicle Dealers Licenses—a change of managing personnel does not require a new bond or license for a corporation, but a change in partnership, name or personnel, or a change of status from doing business as an individual to doing business as a partnership, requires a new bond and license for the new business.

GAME AND FISH COMMISSION 690-45

Mr. C. N. Feast,
December 5, 1945.
(Beaver Control)

The two-year statute of limitations (Sec. 25, Ch. 153, 1935 C.S.A.) does not apply to distribution of landowners' share of moneys resulting from sales of beaver pelts, if the landowner files proper requests and affidavits at the time the pelts are taken. Otherwise a claim arises which is cut off unless the landowner qualifies within the two-year period.

TAXATION—COUNTIES 691-45

Hon. James M. Noland,
December 6, 1945.

The successful bidder at a tax sale is the one who offers to accept the lowest rate of interest on the money spent for tax certificate. The county is without authority to accept more than "taxes, charges, costs and penalties". See Section 241, Chapter 142, 1935 C.S.A.

COUNTY OFFICERS—TAXATION 692-45

Mr. Leandro R. Jaramillo,
December 11, 1945.

1. Although there is no statutory authority for doing so, the endorsement of subsequent taxes due on certificate held by a county is not objectionable for memorandum purposes.

2. There is no legal objection to requiring current taxes to be paid when county commissioners sell a certificate at a discount even though such taxes are not delinquent.

**APPROPRIATIONS—PRINTING— 693-45
LEGISLATURE**

Hon. Walter F. Morrison,
December 12, 1945.

An appropriation providing a specific amount for a specific purpose cannot be exceeded. Appropriation for printing session laws of special session of 1945 cannot exceed the \$500.00 appropriated therefor.

NURSES—VETERANS 694-45

Miss Irene Murchison,
December 12, 1945.

The statutory requirement that a licensed nurse must make a written request to be placed upon the non-practicing list is not affected by a resolution of the House of Representatives asking various boards to give every advantage to members of the armed services returning to civilian life.

**BOARD OF FUNERAL DIRECTORS AND 695-45
EMBALMERS**

Mr. George W. Howe,
December 13, 1945.

The secretary of the State Board of Funeral Directors and Embalmers must be a member of that board.

CIVIL SERVICE—VETERANS 696-45

Hon. Walter F. Morrison,
December 14, 1945.

Status of an employee pursuant to Chapter 95, Session Laws 1941, as amended, is a question of fact to be determined on the records of the Civil Service Commission.

**DIVISION OF PUBLIC HEALTH—DEPENDENT 697-45
CHILDREN—MARRIAGE LAWS**

Dr. R. L. Cleere,
December 14, 1945.

Section 145, Chapter 78, 1935 C.S.A., requires “unmarried women received for confinement in maternity homes” to nurse their children during confinement if physically able to do so. Since the statute plainly specifies “unmarried women”, it does not apply to married women giving birth to illegitimate children.

PROBATE LAW—COUNTY JUDGE 698-45

Hon. W. R. Randall,
December 18, 1945.

1. If the disposable assets of the estate of a minor are substantially increased during the term of the guardianship, additional bond should be required in conformity with the provisions of Ch. 235, 1941 S. L.

2. The county commissioners of a Class IV county are not required to approve a recommendation by the county judge for payment of the full amount of salary specified in Sec. 5, Ch. 125, 1945 S. L. for clerk of the county court.

SCHOOLS 699-45

Mrs. Inez Johnson Lewis,
December 20, 1945.

A school district may elect to be exempt from the pension provisions of Ch. 149, S. L. 1943.

**HIGHWAY DEPARTMENT—LEGISLATORS 700-45
BIDS AND CONTRACTS**

Mr. M. R. Latimer,
December 21, 1945.

There is no legal prohibition against a member of the State Senate submitting bids for construction work to the State Highway Department if such bid does not concern materials or equipment which are required by law to be purchased through the State Purchasing Agent—in which case, contract may be awarded after open competitive bidding.

TAXATION—COUNTY TREASURER 701-45

Mr. Earl L. Lattin,
December 21, 1945.

(Redemption certificates, County Treasurer may not accept less than full amount)

A County Treasurer may not accept less than the amount necessary to redeem tax sale—publication notices, abstract and search fees, printers' fees, publication notices are included in such amount. Action of a county treasurer in accepting less than amount necessary would not operate to extinguish a certificate of purchase. County Commissioners would be authorized to sell such certificate for whatever amount they see fit under the circumstances.

SCHOOL OF MINES 702-45

Hon. Wilbur M. Alter,
December 26, 1945.

The Board of Trustees of the School of Mines may allow president to lease home provided for president and income therefrom be added to compensation otherwise received, the use of the home being a part of his compensation.

CIVIL SERVICE 703-45

Colorado State Civil Service Commission,
December 28, 1945.

Chapter 95, Session Laws 1941, as amended by Chapter 96, Session Laws of 1945, affords protection to state employees as to their status which existed at the time of their enlistment in the armed forces. The law does not protect any change in said status subsequent to enlistment while the employee is in the armed services.

DIVISION OF PUBLIC HEALTH 704-45

Dr. R. L. Cleere,
December 28, 1945.

(County's responsibility in care of persons with communicable diseases).

1. Person with contagious or communicable disease may be quarantined both for his own protection and that of the county.
2. County may establish a quarantine ground in a suitable place for care of persons having contagious or communicable disease.

COUNTIES—LEGISLATION

705-45

Mr. Franklin W. Azar,
December 28, 1945.
(Budget Law)

The new budget law enacted by the Thirty-Fifth General Assembly applies to budgets adopted after effective date of the act and not budgets in existence at the time of such effective date.

COLORADO STATE BOARD OF PHARMACY 706-45

Mr. Ralph E. Kemp,
December 31, 1945.

1. The period of work in a drug store, taken together with the period of service in the armed forces or the merchant marine, should be computed to establish whether an applicant has had the requisite period of experience in order to be permitted to take the examination to be registered as an assistant pharmacist.

2. Any registered pharmacist or graduate of pharmacy from any state in the United States or any country in Europe must have made his application to the board to be registered as an assistant pharmacist on or before July 2, 1945. After such date, he would be permitted to take examination.

HIGHWAY—EXECUTIVE

707-45

Hon. John C. Vivian,
December 31, 1945.

The Governor has authority in considering the Highway Budget submitted to eliminate any proposed project or projects or to reduce the amount requested for a particular project or projects, but he does not have authority to insert new projects not considered by the State Highway Engineer and the members of the State Highway Advisory Board,

CITIES AND TOWNS—ELECTIONS

708-46

Mr. E. W. Stone,
January 3, 1946.

In a town election, where the highest number of votes for a particular office were received by a "write-in" candidate who thereafter failed to qualify and assume the duties of his office, the runner-up cannot be declared elected even though he was a candidate duly designated.

EMPLOYEES—VETERANS—SCHOOL OF MINES—CIVIL SERVICE 709-46

Hon. Ben H. Parker,
January 9, 1946.

Neither the so-called G.I. Bill of Rights nor the Selective Service Act imposes an obligation on the state or any political subdivision thereof to restore a former employee (that is, one who left the employ of the state and subsequently joined the armed services) to his place of employment when he returns from the armed forces.

AGRICULTURAL COLLEGE—CIVIL SERVICE 710-46

Hon. Roy M. Green,
January 11, 1946.

The statute authorizing the State Board of Agriculture to fix the salaries of employees in the classified service should be observed until such statute has been declared unconstitutional or repealed. The position of a stenographer in the classified service is not changed to the position of senior stenographer by reason of the fact that it is occupied by one successfully passing an examination for senior stenographer.

REVENUE DEPARTMENT 711-46

Mr. C. B. Pond,
January 14, 1946.

Decision of District Court in Alamosa Courier case. Eliminates Board of Law Review and necessitates setting up of procedure for personal hearings by Director of Revenue on all tax assessment protests.

CITIES AND TOWNS—LEGISLATION ELECTIONS 712-46

Mr. A. S. Ayle,
January 14, 1946.

Chapter 249, 1945 Session Laws, did not modify existing statutes relative to municipal elections in cities of the first class or in incorporated towns.

MARRIAGE LAWS—JUSTICES OF THE PEACE 713-46

Mr. Swan Edison,
January 16, 1946.

A Justice of the Peace may officiate in performing a legal marriage ceremony anywhere within the State of Colorado. Vol. 4, Chapter 107, Section 16, 1935 C.S.A. 38 C. J., Section 80.

COLORADO STATE INDUSTRIES FOR THE BLIND—CIVIL SERVICE 714-46

Hon. L. J. Bennett,
January 19, 1946.

Colorado State Industries for the Blind is declared by Section 1, Chapter 90, Session Laws 1941, to be an educational institution not reformatory or charitable in character; therefore employees who are officers or teachers are not subject to Civil Service as provided by Article XII, Section 13 of the Constitution. See opinion to Governor Carr dated August 7, 1941.

COUNTY COURTS—PROBATE FEES 715-46
LEGISLATION

The Clerks of County Courts,
January 22, 1946.

Interpretation of fees of County Courts, probate and trust estates, as provided by Senate Bill No. 5, Chapter 124, 1945 Session Laws.

TAXATION 716-46

The Colorado Tax Commission,
January 24, 1946.

It would be proper for the assessor to include the excise taxes on tires as part of the value of the tire inventory.

INSURANCE 717-46

Hon. Luke J. Kavanaugh,
January 26, 1946.

Under sub-paragraph 6 of Section 19, Chapter 187, Volume 3, 1935 C.S.A., solicitation of insurance business by an agent's personal-employee is not restricted to the office of such agent.

COUNTY CLERKS—PUBLIC RECORDS— 718-46
COURTS

Hon. William T. Eckhart,
January 26, 1946.

Sec. 176, Ch. 45, 1935 C.S.A., does not prohibit the inspection of pleadings and other papers filed by a party litigant, but does deny disinterested parties the privilege of inspection as a matter of right.

Public records, as well as such pleadings and papers, may be inspected by the general public subject to reasonable rules and regulations to guard against interference with the proper functions of the office.

TAXATION—POST-WAR PROJECTS— 719-46
COUNTIES—CITIES AND TOWNS

Mr. James A. Savage,
January 28, 1946.

When expenditures have been made in excess of anticipated revenue for post-war projects, any county, city and county, city or town, is authorized to levy a tax of not to exceed one mill for the purpose of creating what is designated as a "Post War Improvement Fund." Funds may be added to such fund by transfer from appropriations made for any particular purpose if not needed for such purpose, or by transfer of surplus moneys in the general fund. (Chapter 93, 1945 S.L. of Colorado.)

STATE ENGINEER—WATER AND IRRIGATION 720-46
—FEDERAL

Mr. M. C. Hinderlider,
January 31, 1946.

(Resurveys being made by the United States Bureau of Reclamation of certain channel reservoirs in western Colorado.)

The State Engineer is not required to approve or supervise the making of such a survey, and should not require filing of maps, plats, etc., unless said survey is made for the purpose of complying with Section 130, Chapter 90, 1935 C.S.A.

COUNTY COMMISSIONERS 721-46
FEES AND SALARIES

Mr. George H. Robertson,
January 31, 1946.

A County Commissioner is entitled to receive the salary of his office during the term for which elected unless, by resignation or otherwise, he vacates the office during such term. If, because of illness, the commissioner is unable to attend board meetings this, in itself, does not constitute a vacation of the office.

**HIGHWAY COURTESY PATROL—JUSTICE 722-46
COURT—MOTOR VEHICLES**

Mr. Vernon W. Drain,

January 31, 1946.

In traffic cases in justice court, the prosecution may not ask for a further change of venue, even though the defendant has exercised the right granted him by Sec. 178, Ch. 96, 1935 C.S.A., to remove the case from the justice court in which originally filed.

SCHOOLS

723-46

Mr. Walter L. Vikan,

February 1, 1946.

A bonus provided for in the teacher's contract and the school district's budget can be paid legally.

**SCHOOLS—BOND ELECTIONS—SPECIFIC 724-46
OWNERSHIP TAX**

Mrs. Idelia D. Baumgarten,

February 2, 1946.

1. The holder of a specific ownership tax receipt on an automobile is not because of such receipt entitled to vote in a school bond election. Such property is not listed with the County Assessor.

2. The property school tax includes personal as well as real estate.

3. Bona fide electors in a school bond election are those who paid a school tax for the year immediately preceding.

4. Joint ownership of property on which school tax is paid entitles both owners to vote.

5. As a corporation is a fictitious person, its officers or stockholders are not entitled to vote by reason of ownership of property by the corporation.

CIVIL SERVICE—VETERANS

725-46

State Civil Service Commission,

February 6, 1946.

The provision "or other branch of service engaged in the national defense" appearing in Chapter 95, Session Laws of Colorado 1941, includes the merchant marine service.

COUNTIES—HOSPITALS—OSTEOPATHS 726-46

Montrose County Chamber of Commerce,
February 6, 1946.

The Public Hospital Board shall have the exclusive control of the expenditure of all moneys collected to the credit of the Public Hospital Fund and the County Treasurer shall pay out such moneys for the purposes ordered by the Public Hospital Board. The Board of County Commissioners may not withhold approval of the warrants authorized by the Hospital Board.

The Public Hospital Board may establish such rules as it desires for the operation of a Public County Hospital and by such rules may exclude persons authorized to practice the profession of osteopathy. *Newton v. Commisisoners*, 86 Colo. 446.

VETERANS—PUBLIC RECORDS 727-46

Mr. William Justice Wilkinson,
February 7, 1946.

When a veteran requests a public record free of charge pursuant to the provisions of Chapter 76, Session Laws of Colorado 1945, the official charged with the custody of such records may adopt a reasonable method of determining whether or not such applicant is entitled to a certified copy without cost.

INTOXICATING LIQUORS 728-46

Mr. Herbert Loucks,
February 13, 1946.
(Sale by the drink)

A political subdivision of the state cannot by ordinance prohibit the sale of liquor by the drink on Sunday, as this would be repugnant to the general State law which permits it. (*Glen-denning v. The City and County of Denver*, 50 Colo. 240.)

APPROPRIATIONS—LEADVILLE DRAINAGE TUNNEL 729-46.

Mr. Charles E. Beatty,
February 14, 1946.

By virtue of Section 34, Article V, Colorado Constitution, no State aid can be appropriated for the Leadville Drainage Tunnel, unless the entire project is turned over to the absolute control of the State of Colorado.

COAL MINES

730-46

Mr. Thomas Allen,
February 15, 1946.

For a coal mine to constitute "one" "mine" for licensing purposes, it must conform to the statutory definition as set forth in Colorado Statutes Annotated, Chapter 110, Section 2, as amended.

SECURITIES COMMISSION

731-46

Mr. Curtis White,
February 19, 1946.

Under Section 13 (e) of Chapter 148, 1935 C.S.A., the word "rated" refers to the security; a security proposed to be offered to the public in Colorado by a concern listed in a standard manual of securities would be exempt if the security was given a rating therein.

**COUNTY COMMISSIONERS—
STATE HIGHWAYS**

732-46

Mr. Harry Behm,
February 19, 1946.

Boards of County Commissioners are specifically granted the right to condemn property for state highways by Chapter 168, Session Laws of 1943.

**COUNTY ASSESSOR—COUNTY FUNDS—
TAXATION**

733-46

Colorado Tax Commission,
February 25, 1946.

County Assessor cannot pay salary for clerical help in excess of the amount named in budget and appropriation made therefor.

UNIVERSITY OF COLORADO—CONTRACTS 734-46

Hon. Robert L. Stearns,
February 25, 1946.

The Board of Regents need not require bids for a building manager contract in the absence of constitutional or statutory provisions demanding such procedure.

COUNTY COMMISSIONERS—COUNTY HIGHWAYS 735-46

Mr. Harry Behm,
February 26, 1946.
(County Roads)

Under Section 58, Chapter 143, 1935 C.S.A., a Board of County Commissioners has authority to condemn property for County highways.

COUNTY CLERKS—PUBLIC RECORDS— VETERANS 736-46

Mr. Clyde L. Miller,
February 27, 1946.

The officer in charge of public records should furnish more than one copy of a particular record free of charge when more than one copy is necessary in determining the eligibility of a veteran to participate in government benefits. Reasonable methods to determine this fact may be adopted by custodian of records. Chapter 76, Session Laws of Colorado, 1945.

MARRIAGE LAWS 737-46

Mrs. Lee Anna B. Fowler,
February 27, 1946.

An ordained minister, who is truly a "clergyman or licensed preacher of the Gospel" is eligible to perform the ceremony of marriage in this state.

COUNTY COMMISSIONERS—LOTTERIES 738-46

Mr. C. L. Canda, Jr.,
February 27, 1946.

1. If a county commissioner moves out of the district from which elected, with intent to change his residence, he thereby vacates his office.
2. Violations of statutes against gambling must be prosecuted by local authorities in county where offense occurred.

SECURITIES 739-46

Mr. Curtis White,
February 27, 1946.

A split-up of stock destroys the exemption provided for in Section 13(e) of Chapter 148, 1935 Colorado Statutes Annotated.

DIRECTOR OF MARKETS

740-46

Mr. Fred W. Ley,
 March 1, 1946.
 (Feeding Stuff Law)

1. The Director of Markets must determine as a question of fact if shipments are used for "mixing purposes only".
2. Shipments for mixing purposes only should be labeled "For Mixing Purposes Only". Certifications should not be demanded for shipments so labeled.
3. Same process would apply to bulk shipments.
4. A manufacturer who sold or used such a shipment contrary to specifications would be subject to prosecution under the Feeding Stuff Law.

SCHOOL OF MINES—PUBLIC FUNDS— 741-46
FEES AND SALARIES—EMPLOYEES

Hon. Wilbur M. Alter,
 March 1, 1946.
 (Gift to former employee)

Services of the President of the School of Mines having been terminated, it would be illegal to present him with a gift, bonus or additional salary from state funds.

SECURITIES

742-46

Mr. Curtis White,
 March 1, 1946.

The exemption contained in Subsection (d) of Section 13, Chapter 148, 1935 Colorado Statutes Annotated, does not apply to a concern unless the bonds, debentures, notes or preferred stock referred to therein, have been outstanding for at least five years, next prior to the proposed issuance of the security, concerning which exemption is claimed.

STATE BOARD OF STOCK INSPECTION 743-46
COMMISSIONERS

State Board of Stock Inspection Commissioners,
 March 4, 1946.
 (Brucellosis control)

Sections 82 and 98, Chapter 60, 1935 C.S.A., give the State Board of Livestock Inspection Commissioners the right to determine what steps must be taken to prevent the spread of infectious or contagious diseases. If the Board determines Brucellosis to be

a contagious or infectious disease, they would have the right to make a regulation requiring a permanent brand of "B" to be placed on the left jaw of cattle reacting to the Brucellosis test. If the effect of such a regulation would be condemnation or destruction of the cattle, the owners could be compensated in accordance with the provisions of Section 98, Chapter 160, 1935 C.S.A.

SCHOOLS**744-46**

Mrs. Hazel L. Martin.

March 4, 1946.

(Saluting the flag)

Students of public schools cannot be compelled to salute the flag against their wishes. *State Board of Education v. Barnett, et al.*, 87 L. Ed. 1628.

COUNTY TREASURER—SCHOOLS**745-46**

Mr. N. V. Gorman.

March 5, 1946.

The County Treasurer is entitled to a one per cent collection fee for money deposited to the credit of school district when that money is transferred from the funds of other school districts. (Sec. 25, Ch. 66, 1935 C.S.A.)

DIRECTOR OF MARKETS**746-46**

Colorado Director of Markets,

March 6, 1946.

1. The provisions of S.B. 56 (Ch. 189, S. L. 1945) do not make it mandatory for the enforcement agency of the Colorado Pullorum Control Act to license out-of-state hatcheries and dealers, if some other method of control can be devised, and such authority is satisfied that imported chicks, poults and hatching eggs have, in fact, originated from flocks that have met the requirements of the Colorado statute.

2. The labeling provisions of the Act are subject to be carried out pursuant to such regulations as the enforcement agency shall adopt.

**STATE BUREAU OF CHILD AND ANIMAL
PROTECTION****747-46**

Dr. Mary E. Bates,

March 6, 1946.

A fine assessed by a justice of the peace after conviction of the offense of cruelty to animals is payable to the Colorado

Humane Society by virtue of the provisions of Sec. 408, Ch. 48, 1935 C.S.A., even though the conviction is appealed to the County Court, and the final judgment is entered by the latter court.

**COLORADO INDUSTRIES FOR THE BLIND— 748-46
CIVIL SERVICE**

State Civil Service Commission,
March 6, 1946.

Officers and teachers of the Colorado Industries for the Blind are not subject to Civil Service.

**VETERANS—PUBLIC RECORDS— 749-46
COUNTY CLERKS**

Mrs. Annie N. Dunston,
March 6, 1946.

Chapter 76, Session Laws 1945, requiring gratis certified copies of public records to veterans to establish eligibility for benefits applies to all United States benefits available to veterans.

**SPECIFIC OWNERSHIP TAX—MOTOR 750-46
VEHICLES—ELECTIONS—CITIES AND TOWNS**

Mr. C. P. Rigby,
March 7, 1946.

A Specific Ownership Tax receipt on an automobile does not entitle a person to vote on the question of selling a municipal light plant.

CITIES AND TOWNS 751-46

Messrs. Darrow and Darrow,
March 7, 1946.

1. A city of the 2nd class, can, under proper circumstances, hold a municipal election for the purpose of electing municipal officers.

2. Where all of the municipal offices are held by appointees, where no municipal election has been held for several years, such appointees, at least, are de facto officers, and their official acts are entitled to be recognized.

ELECTIONS

752-46

Mrs. Theo Gibbons,
March 7, 1946.

Nominations for public office in Colorado may be made either by convention of a duly constituted political party or by petition. In addition the name of a candidate, not formally nominated, may be "written in" on the ballot.

TAXATION

753-46

Hon. Leon E. Lavington,
March 8, 1946.

A taxpayer should not be charged with penalties for non-payment of taxes until he has been afforded an opportunity to pay them.

Under Sec. 2, Chapter 166, 1943 Session Laws of Colorado, penalty for delinquency in payment of first one-half of tax should be construed as being one-half of one per cent per month for each month or fractional part thereof from March 1st to August 1st, until paid. (*Gallup v. Schmitt*, 154 In. 196, 56 N.E. 443.)

COUNTY JUDGE—ELECTIONS

754-46

Hon. Ray Patton,
March 11, 1946.

A County Judge appointed to fill a vacancy holds the office until the next general election and until his successor elected thereat shall be duly qualified.

PUBLIC UTILITY

755-46

State Highway Department,
March 12, 1946.

1. Public Roads Administration General Administrative Memorandum No. 129 does not apply to other than grade separation projects.

2. Electric Power Company must bear expense of relocation of facilities in connection with widening street for highway.

COUNTY ASSESSOR—TAXATION

756-46

Mr. C. P. Rigby,
March 14, 1946.
(Assessment, Assessor)

It is not only within the power, it is the duty of Assessors to increase the assessed valuation of property for purposes of taxation if, in fact, the value of the property has increased.

SCHOOLS—TAXATION

757-46

Mr. James A. Savage,
March 14, 1946.

Tax for 1945 payable in 1946 defrays expenses for school year beginning July 1, 1945, and ending June 30, 1946.

Foregoing used in determining which of two high schools was entitled to tax raised for a dissolved district.

**MOTOR FUEL TAX
(3% Special Fund)**

758-46

Mr. Cady L. Daniels,
March 15, 1946.

1. The Highway Department has the responsibility and right to control the fund.

2. Fund may be spent for construction and maintenance both inside and outside city limits.

3. Fund must be allocated in proportion to number of motor vehicles licensed in each county.

ELECTIONS—CITIES AND TOWNS

759-46

Town of Fleming,
March 19, 1946.

Advising City Clerk concerning registration of voters, methods of nomination of candidates and conduct of an election when no candidates nominated.

**SOIL CONSERVATION DISTRICTS—TAXATION 760-46
TITLE OF REAL ESTATE**

Mr. Kenneth W. Chalmers,
March 20, 1946.

Soil Conservation Districts do not create clouds on the title to real property located within the district.

STATE BOARD OF PHARMACY

761-46

Mr. Ralph E. Kemp,
March 22, 1946.

The Board of Pharmacy may not create a new classification entitled "Qualified Graduate Pharmacist". Legislative action is required to accomplish this.

SCHOOLS

762-46

Mrs. Olga A. Hellbeck,
March 25, 1946.
(Teachers' Retirement Fund)

A cafeteria employee at a school cafeteria, if otherwise qualified, may come under retirement plan.

ELECTIONS—VETERANS

763-46

Mr. Lewis R. Glenn,
March 26, 1946.

No person who is or shall become a qualified elector of the State of Colorado, who is or has been in the armed forces, loses his right to vote, be a delegate to any caucus, or his right to be a candidate, etc., because his party affiliation is not shown on the registration books of the county of his residence. Such a person should appear before the judges of election and file a sworn statement that he is or has been in the armed forces and is a resident of the precinct. House Bill No. 2, Extraordinary Session, 35th General Assembly.

**POLICEMEN'S AND FIREMEN'S
PENSION FUND**

764-46

Cora R. Strain,
March 26, 1946.

General inquiry regarding who may participate in "Firemen's Pension Fund" answered by reference to Volume 4, Article 23, Chapter 163, Sections 449 to 486, inclusive, and quoting Sections 476, 481, 482 and 485 verbatim.

SCHOOLS—BONDS

765-46

Mr. Walter L. Bain,
March 28, 1946.
(Disposal of real estate, bond issues)

School district boards of the first and second class have authority to sell and dispose of school real estate without authority of a vote of the people of the district. Bond issues must be approved by the people.

ELECTIONS—CITIES AND TOWNS

766-46

Hon. J. C. Singleton,
March 28, 1946.

Defines how certain classes of persons may be allowed to register, i.e., member of armed forces, wives of veterans, war workers and their wives, and others, having been absent from this State longer than the required period of residence.

ELECTIONS—CITIES AND TOWNS 767-46

Mrs. Maud E. Wright,
March 28, 1946.

(Qualified voters, bond issues)

No debt (bond issue) shall be created against a city or town except by election at which only qualified electors have voted who have paid a property tax in the year next preceding such election. (See Article XI, Section 8 of the Colorado Constitution.)

ELECTIONS—CITIES AND TOWNS 768-46

Mr. C. P. Rigby,
March 30, 1946.

(Vote in an election to determine selling a municipally owned Light Plant)

Husband and wife owning property jointly may both vote, even though taxes are paid by one joint owner.

If a person buys property under a sale and purchase contract with deed in escrow and has paid taxes on the property he is eligible to vote at such an election. See Sec. 11, Ch. 163, 1935 C.S.A.

TAXATION—COUNTIES—SCHOOLS 769-46

Mrs. Inez Johnson Lewis,
April 1, 1946.

1. County Commissioners may sell certificates held by the county at a price less than the amount of the delinquent taxes. Section 249, Chapter 142, 1935 Colorado Statutes Annotated.

2. The Board of County Commissioners is empowered to sell property which the county has obtained through a treasurer's deed and they may sell such property at a reduction.

3. There is no statutory provision giving any political subdivision of the state, such as a school district, any priority over any other governmental subdivision so far as their share of the general taxes is concerned.

CONTRACTS—STATE INSTITUTIONAL BOARD 770-46

Major Victor Grant,
April 2, 1946.

A contract between the State of Colorado and a mutual water company is not a violation of Section 1 and 2, Article 11 of the Constitution of Colorado for the reason that the state is compensated for any benefit extended to the contracting water company.

SOIL CONSERVATION DISTRICT**771-46**

Mr. Kenneth W. Chalmers,
April 5, 1946.

Proxy voting is not permitted at a meeting to dissolve a Soil Conservation District; voters must be present at such a meeting. Section 18, Chapter 203, Session Laws of 1941.

SCHOOLS**772-46**

Hon. Inez Johnson Lewis,
April 5, 1946.

Withholding payment of salary for the month of August in a teacher's contract is enforceable where such teacher agreed that such salary may be withheld in the event of failure to begin following term under a subsequent contract, such provisions being a part of the withholding clause.

SCHOOLS—INTOXICATING LIQUOR**773-46**

Mr. James Ingles,
April 8, 1946.

The 500 foot distance required by Sec. 25(i), Ch. 89, 1935 C.S.A., between a liquor dispensing business and a school is measured by the most direct line regardless of any intervening obstacles. 30 Am. Jur., Section 347, page 438. This 500 foot limitation applies only to places where liquor is sold, or to be sold, by the drink.

SCHOOLS**774-46**

Mrs. Catherine C. Owen,
April 11, 1946.

In order that a district may be allowed to participate for a teacher in the state's minimum education program under House Bill No. 10, each teacher must be paid the amount of or in excess of the minimum salary provision.

SOIL CONSERVATION**775-46**

Mr. Kenneth W. Chalmers,
April 11, 1946.

The owner of land who violates the land use ordinances of the District in which the land is situated, may be proceeded against in accordance with the provisions of either or both of sections 8 and 9, Chapter 229, 1945 Session Laws of Colorado relating to Soil Conservation Districts.

**INTOXICATING LIQUORS—
SECRETARY OF STATE**

776-46

Hon. Walter F. Morrison,
April 12, 1946.

The Secretary of State may issue reasonable rules and regulations concerning the use of exterior and interior signs and displays on premises licensed under Chapter 159, Session Laws of 1941.

INDUSTRIAL COMMISSION

777-46

The Valley Employment Service,
April 12, 1946.

In determining what constitutes an "artisan" as the same is mentioned in Volume 3, Chapter 97, Section 157, 1935 C.S.A., method of payment might be used as a factor, also degree of skill, technical work, etc. However, the particular facts and circumstances of each case would need to be considered in order to reach a proper conclusion.

**STATE BOARD OF STOCK INSPECTION
COMMISSIONERS**

778-46

State Board of Stock Inspection Commissioners,
April 16, 1946.

The proper procedure to effect a transfer of moneys from the stray fund to the brand inspection fund would be a resolution passed by the State Board of Stock Inspection Commissioners certifying that a specified amount of money within the stray fund is now available for transfer to the brand inspection fund, pursuant to the provisions of Section 138, Chapter 160, 1935 Colorado Statutes Annotated; and that said resolution would order said sum to be transferred to the brand inspection fund in the State Treasurer's Office to be used for the purposes authorized by said Section 138.

MOTOR VEHICLES

779-46

Mr. C. H. Gunn,
April 18, 1946.
("Scooters"—Registration and Operator Licenses).

Scooters are classified as motorcycles. They should be registered in the name of the owner irrespective of age. No minor under the age of 16 years can be licensed to operate them on public highways.

TAXATION

780-46

Mrs. Marjorie P. Jenkinson,
 April 18, 1946.
 (Tax exemptions)

The executor or administrator of an estate may redeem deceased's property from tax sales.

Anyone who has inherited an interest in the land either by will or by the laws of inheritance would have the right to redeem under Sec. 264, Ch. 142, 1935 C.S.A.

Chapter 241, S. L. 1945, cited. Opinion 1943, Nos. 13 and 139 confirmed.

STATE PLANNING COMMISSION— 781-46
THE COLORADO STATE FAIR COMMISSION

Mr. Alious Rockett,
 April 23, 1946.

The Colorado State Fair Commission must obey the provisions of Section 6, Chapter 157, 1935 Colorado Statutes Annotated, in carrying out its building program.

SCHOOLS

782-46

Mrs. Inez Johnson Lewis,
 April 23, 1946.

The question of uniting contiguous school districts is submitted at a special meeting legally called for the purpose and not at a special election. (*School District v. Gerald*, 76 Colo. 555.)

CHIROPRACTIC EXAMINERS—MEDICAL 783-46
BOARD—BASIC SCIENCES ACT

Dr. E. A. Jackson, Secretary,
 April 24, 1946.

Exemption of requirements of the Basic Science Act applies to officers of the army, navy or public health service while acting in the performance of their duties as such.

SCHOOLS—POST WAR PROBLEMS 784-46

Mr. John E. Bothell,
 April 25, 1946.

1. Chapter 224, Session Laws of Colorado, 1945, relating to Post War Reserve Funds, is effective from the date of its passage until five years after the official cessation of hostilities of World War II has been declared.

2. A school district cannot borrow money without the consent of the electorate of the district. Article 7, Section 7 of the Colorado Constitution.

3. Post War Reserve Funds raised pursuant to Chapter 224, supra, may be invested in securities approved by law.

4. There is no legal objection to a reasonable delay in erecting a building which has been approved by a bond election.

SCHOOLS

785-46

Mr. H. D. Pratt,
April 26, 1946.

In a school bond election an elector otherwise qualified is entitled to vote who has paid a school tax in the year next preceding the election irrespective of whether such tax be on personal or on real property.

MOTOR VEHICLES

786-46

Mr. Joseph J. Marsh,
May 1, 1946.
("Pup" trailers)

Pup trailers may be used to bring a combination of vehicles up to the maximum length—axle load formula of the Motor Vehicle Act providing no axle in the combination carries a load over 18,000 pounds.

SCHOOLS

787-46

Mr. George Steenberger,
May 2, 1946.

In an election of a third class school district on the question of transporting pupils to and from school, voters must be residents of the district. The question of what constitutes residence is a question of fact to be determined in each individual case. Residence roughly defined—that it is primarily a matter of intention. In this particular type of election the voter need not be registered.

MOTOR VEHICLES

788-46

Mr. J. J. Marsh,
May 3, 1946.

Motor Vehicle, Section 187, second convictions for driving under influence of liquor or drugs—a finding and judgment of a police court is a civil judgment and may not be made the basis for incurring additional penalties for subsequent convictions in a criminal court.

Driving a motor vehicle while a license is suspended or revoked constitutes a separate offense punishable under Section 157 (a) (b), Chapter 16, 1935 C.S.A.

PRACTICE OF PHRENOLOGY **789-46**
FORTUNE TELLING

Mr. Joseph Delmaro,
May 4, 1946.

A phrenologist who confines his practice to the study of mental faculties and traits of character, making no attempt to foretell the future, would not be violating the Colorado statutes regarding fortune telling.

ESTATES—SALE OF REAL ESTATE **790-46**

Hon. Ray Patten,
May 6, 1946.

In the case of sale of real estate in an estate where service is by publication and the required notice has been mailed to all persons in interest prior to the date of last publication, the decree for sale may be entered any time after the hearing on the petition. The hearing must not be held until ten days after the last date of publication. Section 253, Chapter 176, 1935 C.S.A., as amended.

EMBALMERS BOARD **791-46**

Mr. A. R. McCormick,
May 7, 1946.

Opinion as to the effective date of Funeral Directors and Embalmers Act (Chapter 132, 1945 S. L.) and that Section 12(d) of said act is now and will remain in effect until six months after war is formally terminated by presidential proclamation or ratification of peace treaty by United States Senate.

TAXATION—COUNTY OFFICERS **792-46**

Hon. J. E. Creel,
May 10, 1946.
(Tax Deed)

The county treasurer is required to issue a tax deed covering several parcels when requested to do so by the holder of several tax certificates on such parcels. (*Johnson v. Cork*, 106 Colo. 72.)

INTOXICATING LIQUORS

793-46

Hon. Walter F. Morrison,
May 13, 1946.

The Secretary of State, as State Licensing Authority, may limit the number of wholesale liquor licenses within the State as to any area or vicinity by the issuance of reasonable and just rules and regulations. Section 20, Chapter 159, S. L. 1941.

STATE HIGHWAYS

794-46

Mr. Mark U. Watrous,
May 16, 1946.

(Crocker and Ryan Contract, Denver Valley project).

There being funds available for completion of the Crocker and Ryan contract an attempted abandonment thereof is contrary to its terms and void.

CITIES AND TOWNS

795-46

Mr. Leon H. Snyder,
May 21, 1946.

The offices of mayor and police judge are incompatible.

DEPENDENT CHILDREN—SALE OF FIREARMS 796-46

Mr. William L. Ogle,
May 22, 1946.

There is no express statutory prohibition prohibiting the sale of firearms and ammunition to minors.

DAIRY COMMISSIONER

797-46

Mr. Harry B. Staver,
May 22, 1946.

Sweet butter made from neutralized sour cream may not be used in the manufacture of ice cream in this state.

**DISTRICT COURT—PROBATION OFFICER
COUNTY OFFICERS 798-46**

Mr. Gordon L. Allott,
May 22, 1946.

The District Judge may appoint a probation officer for a judicial district, but has no power to appoint such officer for a

single county (Ch. 132, 1939 S. L.). If no probation officer is appointed for the district, the sheriffs of the several counties comprising same must serve as ex officio probation officers "without additional compensation unless otherwise provided by the Board of County Commissioners".

STATE BOARD OF AGRICULTURE **799-46**

Mr. James R. Miller,
May 23, 1946.

Term "absolute control" as used in Section 74, Chapter 38, 1935 C.S.A., construed as giving the State Board of Agriculture the implied right to discontinue the operation of agricultural experiment station.

GAME AND FISH **800-46**

Hon. John C. Vivian,
May 24, 1946.

There is no legal basis for an order by the Governor declaring a lake located on private property open to the public for fishing purposes.

SCHOOLS **801-46**

Mr. E. W. Thomson,
May 28, 1946.
(Post-War Reserve Fund)

The Post-War Reserve Fund authorized by Chapter 224, S. L. 1945, may be used for paying the cost of the building of a playing field, track, fencing of field, grandstands and for the lighting of the field.

INHERITANCE TAX **802-46**

Mr. T. R. Yowell,
May 29, 1946.

If an account, maintained with a bank in joint tenancy, exceeds \$300.00, a waiver must be secured from the Inheritance Tax Department before the bank can pay a check drawn against the account on order of the survivor.

SECURITIES **803-46**

Mr. Curtis White,
May 31, 1946.

A person who has been legally adjudged a mental incompetent may not be registered as a dealer in securities.

INSURANCE

804-46

Hon. Luke J. Kavanaugh,
June 3, 1946.

Debentures of 1986 of the Mountain States Telephone & Telegraph Company held not to be "Other Property Within This State" as required by Section 14, Chapter 87, 1935 Colorado Statutes Annotated, as amended by Section 1, Chapter 158, 1941 Session Laws of Colorado.

SPECIAL ELECTIONS—CITIES AND TOWNS 805-46

Mrs. Clara I. Moore,
June 6, 1946.

Outlining procedure necessary to oust present incumbents (mayor and councilmen) who are holding office as de facto officers and refuse to call a special election, and how to proceed to secure a special municipal election for city of second class.

SCHOOLS

806-46

Mr. R. H. Ragsdale,
June 7, 1946.

Rules applicable to the tenure of teachers would apply equally as well to the tenure of principals, regardless of how much actual teaching the principal did and would also apply even though the principal did no teaching whatever.

**COUNTIES—MOTOR VEHICLES—
COUNTY OFFICERS**

807-46

Mr. Frank Conner,
June 10, 1946.

Operators' and chauffeurs' examiners appointed by the Motor Vehicle Division are county employees. Therefore, the county, under Section 4, Chapter 45, 1935 C.S.A., has the responsibility of providing adequate space for the examination and issuance of operators' and chauffeurs' licenses in that county.

BOARD OF STANDARDS OF CHILD CARE 808-46

Mrs. C. Walter Allen,
June 10, 1946.

Whether an organization is, in fact, a school and, as such, not subject to the jurisdiction of the board, must be decided by the board in view of all surrounding circumstances.

Also, if such organization is a school, it cannot be required to secure a license to operate a children's camp.

CIVIL SERVICE

809-46

Mr. N. R. McCreery,
June 10, 1946.

Employees who are employed by the State Board of Forestry are state employees subject to the Civil Service Amendment irrespective of the fact that they are paid from moneys supplied from federal funds—the source of payment is not the determining factor.

MOTOR VEHICLES

810-46

Mr. C. H. Gunn,
June 11, 1946.

1. Citing as authority certain sections of the Motor Vehicle Laws which require a rear lamp on a motor vehicle other than a red lamp, it is not possible to require all rear lamps to be red in color.

2. Inasmuch as the Motor Vehicle laws do not contain any requirement, limitation or prohibition as to the dimensional size of rear lamps on Motor Vehicles, it is not possible for the Motor Vehicle Department to limit the dimensional size of rear lamps.

SCHOOLS

811-46

Mr. Homer N. Peck,
June 13, 1946.

There is no statutory authority by which the signature of the County Superintendent may be substituted for that of a board member in signing a warrant.

MOTOR VEHICLES

812-46

Mr. C. H. Gunn,
June 13, 1946.

The definition of resident in Section 79k, Volume 2, Chapter 16, 1935 Colorado Statutes Annotated, applies to Part III (Registration of Motor Vehicles, trailers and semi trailers), as well as Part IV (Operators and Chauffeurs licenses) of Article 3, Chapter 16, 1935 Colorado Statutes Annotated.

MOTOR VEHICLES

813-46

Mr. C. H. Gunn,
June 14, 1946.

A lessee having lawful use or control of the right to use or control a motor vehicle for a period of 30 days or more is the owner of said vehicle for the purposes of Section 106, Chapter 16, 1935 Colorado Statutes Annotated. Therefore, before said vehicle

is operated on any highway in this state, the lessee must apply to the Motor Vehicle Department and obtain a registration of said vehicle.

A certificate of title must be issued to such an owner as a prerequisite to registration.

COUNTY CLERKS—ABSTRACTERS 814-46

Mr. Frank Conner,
June 14, 1946.

The county clerk and recorder may not make, compile or sell abstracts of title to real property in those counties where there is an abstracter licensed under the provisions of Chapter 59, 1929 Session Laws.

MOTOR VEHICLES 815-46
(Automobile Dealers' Administration)

Mr. C. B. Pond,
June 18, 1946.

Expenditure of cash funds for advertising is authorized, if necessary to the proper enforcement of the act, but advertising material must be impartial.

SCHOOLS 816-46

Mr. Frank D. Allen,
June 20, 1946.

In a third class school district a special meeting must be held under Section 158, Chapter 146, 1935 Colorado Statutes Annotated, even though the same question was voted upon at a recently-held regular school election.

BANKS 817-46

Hon. W. L. Hazlett,
June 21, 1946.

It is questionable if a State Bank may make a straight G. I. Loan for a period of over ten years.

COLORADO INDUSTRIES FOR THE BLIND 818-46

Hon. L. J. Bennett,
June 26, 1946.

The State Board of Industries for the Blind may legally match federal funds from moneys contained in the "Revolving Fund" accumulated pursuant to provisions of Section 6, Chapter 90, Session Laws of Colorado 1941.

**CIVIL SERVICE—VETERANS
PUBLIC WELFARE DEPARTMENT**

819-46

Public Welfare Department,
June 26, 1946.

1. Widow of a veteran coming within the required definition is entitled to five points credit provided by Section 14, Article XII, State Constitution, even though her husband died after being discharged from service.

2. Concerning proof of disability, discharge, death and marriage.

MOTOR VEHICLES

820-46

Mr. C. B. Pond,
July 1, 1946.

Opinion on proposed rules and regulations for motor vehicle dealers.

GAME AND FISH COMMISSION

821-46

Mr. C. N. Feast,
July 1, 1946.

Sections 164 and 165, 1935 Colorado Statutes Annotated, concerning stream pollution, provides for discretionary action on the part of the Game and Fish Commission and also grants to any citizen the right to file on his own behalf for injunctive relief. In the event such pollution is caused by mining operations, the State Mine Inspector should be consulted prior to court action.

SCHOOLS

822-46

Mrs. Inez Johnson Lewis,
July 2, 1946.

The State Department of Education must confine its activities to public schools of the state and it is not permitted to administer a federal school lunch program to non-profit private schools.

NEWSPAPERS

823-46

Mr. Ollin Wineland,
July 2, 1946.

(Qualifications of weekly newspapers to publish legal notices or advertisements).

A weekly newspaper of general circulation must have been printed and published in whole or in part for at least fifty-two (52) consecutive weeks immediately prior to the publishing of any legal notice or advertisement; otherwise such notice or advertisement is invalid. (Vol. 4, Ch. 130, Sec. 3, 1935 C.S.A.)

MOTOR VEHICLES**824-46**

Mr. C. H. Gunn,
July 2, 1946.

Under the provisions of Section 119(b), Chapter 16, 1935 C.S.A., the Motor Vehicle Department may rescind and cancel the registration of a vehicle upon being furnished with evidence of a violation of Section 120, Chapter 16, 1935 C.S.A. However, the opportunity for a hearing should be granted the person affected, such hearing to be similar to that provided in Section 145, Chapter 16, 1935 C.S.A.

Since no penalty is provided by statute for the violation of registration provisions we are at a loss to see how a police court or a justice of the peace conviction can be obtained for violation of Section 120, supra.

STATE BOARD OF LAND COMMISSIONERS 825-46

State Board of Land Commissioners,
July 2, 1946.

Section 78, Chapter 134, 1935 C.S.A., provides that in the case of liens reverting to the State of Colorado, the register of the Board of Land Commissioners notifies the County Treasurer whose duty it is to rebate all taxes that have been charged against the state lands. Had it not been for the specific provision making equities in the hands of a purchaser of state lands taxable, no interest in the lands would be taxable until title had been passed. The provisions of Section 294 of Chapter 142, 1935 C.S.A., are not applicable in the case of state lands and nothing further is required other than the notification of the register of the State Board.

SCHOOLS**826-46**

Mrs. Inez Johnson Lewis,
July 5, 1946.
(Funds)

Interest on investment funds can be used only for the purpose for which the principal fund could be used.

**UNIVERSITY OF COLORADO—
POST WAR PROBLEMS****827-46**

Hon. Robert L. Stearns,
July 8, 1946.

With present classroom and housing shortage in Boulder, if Board of Regents determines and finds facilities are essential

to the giving of temporary lecture courses in Denver as extension work, Regents have authority to execute proposed lease for property in Denver, particularly in view of the fact property will also be used for housing faculty members and students of Medical School.

COUNTY JUDGES—PROBATE

828-46

Mr. Frank D. Allen,

July 10, 1946.

(Probate proceedings on sale of real estate)

In a probate proceeding on the sale of real estate in an estate, the County Judge may fix a day for hearing on said petition and hear the same forthwith the same day when all persons in interest waive statutory notice.

DIRECTOR OF MARKETS

829-46

Hon. Fred W. Ley,

July 10, 1946.

Subsection h of Chapter 90, S. L. 1937, defines a dealer within the terms of said act. Said definition includes a person who is regularly engaged in the business of buying farm produce for the purpose of resale and paying cash for the same in lawful money of the United States, provided such person is not a bona fide retail grocery merchant or processor or manufacturer of products therefrom having a fixed or established place of business in the state.

ELECTIONS—VETERANS

830-46

Mr. O. A. Ehrgott,

July 11, 1946.

(Right of veteran to vote, be a delegate to party convention or a candidate).

One who was in armed forces, and is an otherwise qualified elector, shall not be prevented from voting at or being a delegate to any party caucus or convention, or from being a candidate at any primary election, even though his party affiliation is not shown on the county registration books. (Vol. 3, Ch. 59, Sections 18(4) to 18(8), 1935 C.S.A.)

MOTOR VEHICLES

831-46

Mr. J. J. Marsh,
July 15, 1946.

A fine imposed by a district court under authority of Colorado statutes pertaining to probation, there having been a conviction in said Court on a charge of "inflicting a bodily injury upon another by operating an automobile in a reckless manner while under the influence of intoxicating liquor", should be credited to the school fund by the County Treasurer; not one-half to Motor Vehicle Department and one-half to the General Fund.

SCHOOLS

832-46

Mr. George R. Armstrong, Esq.,
July 16, 1946.
(School elections)

There is no statutory authority for holding special election for the creation of a county high school district. The question must be decided at the time of the regular meeting provided by law for electing members of school boards.

WATER CONSERVATION BOARD

833-46

Hon. Clifford H. Stone,
July 18, 1946.

The payment of compensation to Arkansas River Compact Commissioners being made pursuant to contract for such services can properly be made from the maintenance and operation appropriation which designates the contractors' services as a proper charge against such appropriation. See Chapter 73, Session Laws of Colorado, 1945.

COUNTY OFFICERS—LIQUOR LICENSE FEES 834-46

Mr. Frank H. Lancaster,
July 19, 1946.

Opinions of March 18th and November 19th, 1941, respectively; revised. County Treasurers may not charge 1% collection fee against liquor license fees collected by them, but must remit 85% thereof to the State Treasurer.

DIRECTOR OF MARKETS
(Pullorum Disease Control)

835-46

Mr. Charles O. Moser,
 July 19, 1946.

1. Neither the Director of Markets, nor any state agency, has the power to delegate to a private corporation or association the right to act as an agency of the state. A department may, however, designate members of such association as special inspectors.

2. Department may furnish official labels to hatcheries free of charge if such was decision of board.

3. It would be inadvisable, as a matter of administration, to have two enforcement agencies.

SCHOOLS

836-46

Hon. Inez Johnson Lewis,
 July 22, 1946.

Provisions of Section 11, Chapter 2, Session Laws of Colorado 1941, permitting transfers from one contingent fund to another, are applicable to contingent funds for salary purposes as set forth in Chapter 27, Session Laws of Colorado 1945.

INTOXICATING LIQUORS

837-46

Hon. Walter F. Morrison,
 July 23, 1946.

1. Definition of an "exterior sign" as used in Sections 3, 19 and 28 of Chapter 89, 1935 C.S.A., should be determined by licensing authority under proper regulation.

2. Licensing authority has right to make reasonable rules and regulations regarding exterior signs so as to prevent subsidizing of retailers by wholesalers.

3. Licensee must dispense malt liquor advertised by exterior signs in both draft and sealed containers.

BANKS AND BANKING

838-46

Hon. William L. Hazlett,
 July 23, 1946.

Whether a bank which has acquired real estate does so for its immediate accommodation in the transaction of its business, as provided in Section 32, Chapter 18, 1935 C.S.A., is a question of fact to be determined by the Bank Commissioner, based upon the facts and circumstances in that particular case.

HIGHWAY DEPARTMENT**839-46**

Hon. John W. Shawcroft,
July 25, 1946.

Where it is anticipated that the General Assembly will pass a law or laws providing additional revenue for highway purposes, the Highway Advisory Board may include in the proposed budget the revenue estimated to be produced by such anticipated laws provided there is every assurance that such anticipated laws will be passed. In view of provisions of Section 121, Chapter 143 of the 1935 C.S.A., it is suggested the proposed budget be divided into two parts, the second consisting of the estimated revenue from the anticipated legislation with the highway projects which are based on such estimated revenue. The Highway Advisory Board does not have authority to propose a supplemental budget after submission of the principal budget unless the assembly so authorizes.

COLORADO INDUSTRIES FOR THE BLIND 840-46

Colorado Industries for the Blind,
July 29, 1946.

All funds received by the Colorado Industries for the Blind must be paid to the State Treasurer and by him paid out upon warrants, only after vouchers have been issued and certified by the president and secretary of the board. Ch. 90, S. L. 1941.

TAXATION**841-46**

Mr. William B. Paynter,
July 30, 1946.

The question as to whether land is exempt from taxation under the terms of Section 5, Article X, Colorado Constitution, is one of facts and circumstances which must be ascertained by the county assessor.

Section 5, Article X, Colorado Constitution, considered with *Creel v. Masonic Association*, 100 Colo. 281, and applied to land used for the purpose of raising feed for dairy herd belonging to charitable institution.

ELECTIONS**842-46**

Mr. Arthur Bradley,
July 31, 1946.

Re: Eligibility of candidate whose party affiliation is not shown on registration books and duties of county clerk as to filing certificate of nomination of such candidate.

Person whose party affiliation is not shown on registration books for a year is not an eligible candidate even though properly designated. (Volume 3, Chapter 59, Sections 22 and 24, 1935 C.S.A.)

If no objection within 3 days of receipt for filing by county clerk, of such a candidate's certificate of nomination, clerk's duties purely ministerial and he must file certificate. However, if objection in writing is made by qualified elector within three days, clerk's duties become quasi judicial and he must decide within 48 hours if objection is valid.

SOIL CONSERVATION BOARD

843-46

Mr. Kenneth W. Chalmers,
July 31, 1946.
(Election)

A person whose name does not appear on the list of names prepared for the judges of election at a Soil Conservation District election, may if the State Soil Conservation Board so decides, be permitted to vote, if he executes a satisfactory certificate or affidavit.

CITIES AND TOWNS

844-46

Hon. LeRoy Foster,
July 31, 1946.

(Re—construction, payment and transfer of municipal water works in the Town of Eads).

City council has almost plenary powers to indebt incorporated town or city for purchase or construction of municipal water supply or works.

Art. XI, Sec. 2 of Colorado Constitution prohibits grant or donation by city or town to any person, company, or corporation, public or private: However, United States or its agencies held not to be a corporation (see *McNichols v. Denver*, 101 Colo. 316, 330). Lease from city or town to person, company, or corporation does not contravene constitutional provision cited above. (See *Milheim v. Moffat Tunnel*, 72 Colo. 268, 299.)

COUNTY OFFICERS—PUBLIC FUNDS

845-46

Mr. Homer H. Jones,
August 2, 1946.

(Investment of county funds)

When surplus county moneys are invested, yet no specific county fund is designated as being so invested, the interest earned must be pro-rated among all the various funds whose balances constitute the surplus in the proportion each fund bears to the entire surplus.

**STATE BOARD FOR VOCATIONAL
EDUCATION**

846-46

Hon. John C. Vivian,
August 3, 1946.

From the functions and duties prescribed by law, the State Board for Vocational Education is "an educational institution" within the purview of Article XII, Section 13 of the Constitution.

Whether an individual or the position he occupies is within the classified services or is exempt because within the exemptions provided by Article XII, Section 13 is a question of fact to be determined by the State Civil Service Commission.

STATE CIVIL SERVICE COMMISSION

847-46

State Civil Service Commission,
August 5, 1946.

Temporary Inspectors are seasonal employees or employees of a temporary character and are not required to be "qualified electors" of the State of Colorado as a qualification to appointment to such jobs. (*Wilson v. People*, 71 Colo. 456, Civil Service Law (Field) pp. 114-115 "Temporary Appointments.")

STATE AUDITOR

848-46

Mr. Leon E. Lavington,
August 6, 1946.

(Audits under Chapter 193, S. L. 1945)

1. County audits should be made for Calendar Year 1946 and yearly thereafter or within six months after close of fiscal year if the fiscal year terminates subsequent to the calendar year, or at more frequent intervals if commissioners so decide.

2. City and Town audits should be made for Calendar Year 1946 and yearly thereafter unless charter provides otherwise. Charter provisions as to audits control but in any event audit should be within six months after close of fiscal year if fiscal year terminates subsequent to calendar year; or at more frequent intervals if governing board so decides.

3. School District audits should be made for fiscal year beginning with fiscal year terminating in 1946, or within six months after the closing of said fiscal year. Board of Directors may provide for more frequent audits.

INTOXICATING LIQUORS

849-46

Hon. Walter F. Morrison,
August 8, 1946.

The Secretary of State as State Liquor Licensing Authority is judge of the facts as to whether a contract between a wholesaler and retailer might be used to influence the retail licensee to buy and sell a particular product.

COUNTY COMMISSIONERS

850-46

Mr. Franklin W. Azar,
August 9, 1946.
(Liability in tort)

1. County Commissioners cannot be held liable in a private action for neglect to perform duties.

2. In order to bind the County, the County Commissioners must act within the scope of their authority. They have no power to allow a claim which is not a legitimate charge against the county.

LEGISLATION—GOVERNOR—PUBLIC FUNDS 851-46

Mr. William Albion Carlson,
August 12, 1946.

Portion of the Governor's Emergency Fund may not be used for the relief of an individual.

MOTOR VEHICLES

852-46

Mr. C. B. Pond,
August 14, 1946.
(Sureties on dealers' bonds)

Sureties on Motor Vehicle Dealers' bonds given pursuant to Chapter 78, S. L. Colorado 1945, cannot terminate their liability after expiration of the bond by giving 60 days' notice. Each motor vehicle dealer's bond is subject to contract and covers liabilities only which arise during its term of existence. In absence of contract a new bond cannot supplant an old one.

SCHOOLS—FEDERAL FUNDS—LEGISLATION 853-46

Hon. Leslie R. Steele,
August 14, 1946.
(School Lunch Program)

The Governor of the State of Colorado cannot set up an administrative unit to receive and administer federal funds without statutory authority for so doing.

The Department of Education, of which the Superintendent of Public Instruction is chief executive officer, would be qualified by both federal law and state statute to administer the school lunch program. The Governor's authorization, however, would be necessary before the Department could undertake the program.

SECURITIES**854-46**

Mr. Curtis White,
August 14, 1946.

A "syndicate" or "tombstone" ad constitutes advertising a security for sale within the meaning of Section 14(1), Chapter 148, 1935 Colorado Statutes Annotated.

MOTOR VEHICLES**855-46**

Mr. C. B. Pond,
August 14, 1946.

(Motor Vehicle Dealers' Advertising)

Advertising "new cars" by used car dealers constitutes selling new cars without a license in case the same actually are new cars and if not constitute advertising intentionally published which is misleading and inaccurate so as to call for complaint for revocation of used car dealers' license.

INTOXICATING LIQUORS—FEES—CRIME**856-46**

Hon. John C. Vivian,
August 15, 1946.

Fees charged for blood tests for alcoholism are not legally assessable as part of costs in criminal action.

INTOXICATING LIQUORS**857-46**

Hon. Walter F. Morrison,
August 19, 1946.
(Liquor license, fees paid)

The fee paid for a liquor license may be refunded, providing, no use has been made of the license in any portion of the year for which a license was issued and where the application for refund is made promptly. There is nothing in the law to compel the refund. The matter lies within the sound discretion of the licensing authority to mete out such justice as the occasion demands. Opinion 383, 1941; Opinion 186, 1943.

INTOXICATING LIQUORS

858-46

Hon. Walter F. Morrison,
August 19, 1946.

(Sale of liquor by mental incompetent's Conservator or
Administrator)

In conformity with our previous opinions Chapter 142, S. L. 1935, does not apply to a single sale of stock of spirituous liquors, owned by a mental incompetent or deceased licensee, where the stock of spirituous liquors is sold by the Conservator or Administrator under Order of the County Court pursuant to law. (Opinion 128, 1941, Secs. 115, 147, Chap. 176, C.S.A. 1935.)

**STATE BOARD OF STOCK INSPECTION
COMMISSIONERS**

859-46

Mr. Fred A. Beuck,
August 20, 1946.

It is "unlawful for any person", etc., to import into the State of Colorado and to pasture or range within said state, any livestock without compliance with Chapter 240, Session Laws 1945.

That if said act violates any rights granted or secured by the U. S. Constitution the aggrieved party must bring his action in the proper judicial forum in order that he may test the constitutionality of said act.

Chapter 240, S. L. 1945; *Minnesota v. Barber*, 136 U. S. 313, 34 L.Ed. 455; *New Mexico v. D. & R. G. R. R. Co.*, 203 U. S. 38, 51 L.Ed. 78; *People v. Morgan*, 78 Colo. 504 at 507; *County Commissioners v. Lunney*, 46 Colo. 403 at 415; *Bremmer v. Kebman*, 138 U. S. 78, 34 L.Ed. 862.

SCHOOLS

860-46

Mr. Howard Roepnack,
August 20, 1946.

Upon the unification of school districts under Section 63, Chapter 146, 1935 C.S.A., the County Treasurer should pay the outstanding warrants of each of the old districts from the funds which the new district obtained from the district contract.

CITIES AND TOWNS—TAXATION

861-46

Mr. Howard Roepnack,
August 20, 1946.

Lands annexed by the Town of Arvada on May 9, 1946, would not be subject to the town mill levy for the year 1945, payable in 1946.

COLORADO STATE FAIR COMMISSION 862-46

Mr. Frank H. Means,
August 21, 1946.

The Fair Commission is not empowered by basic Fair Act (Vol. 3, Ch. 65, Secs. 1-20, 1935 C.S.A.) to sell, lease, or dispose of any state owned property held for fair purposes. Must have legislative authority to sell, lease, or encumber any state-owned land allocated to use for fair purposes.

MOTOR VEHICLE DEALERS' ADMINISTRATION 863-46

Mr. C. B. Pond,
August 22, 1946.

Trailers are not self-propelled and therefore do not fall within the licensing provision of Chapter 78, Session Laws of Colorado 1945—Motor Vehicle Dealers' Administration Act.

STATE ENGINEER—WATER— INTERSTATE COMPACTS—INDIANS 864-46

Mr. M. C. Hinderlider,
August 23, 1946.

1. A white owner of Indian allotment land upon which water has been used during Indian ownership has the same rights to the use of water as did the Indians and such uses are not subject to control by the La Plata River Compact.

2. A white owner of Indian allotment land upon which water had not been used during Indian ownership has no preferential or prior rights to the use of water on such allotment land but must perfect his rights under state law and be subject to the La Plata River Compact.

ELECTIONS 865-46

Mrs. Sally A. Clark,
August 23, 1946.

An elector may not validly change his party affiliation after ten days prior to the primary election of the current year and cannot make such change of affiliation until January 1 of the next primary election year.

TAXATION**866-46**

Mr. Olen A. Kennon,
August 27, 1946.

A county may not sell tax sale certificates held by it for more than eight years to a private individual. Section 1, Chapter 192, 1941 Session Laws makes it mandatory that the county take tax deed from the certificates.

SCHOOLS**867-46**

Mrs. Bertha Kidder,
August 27, 1946.

It is completely within the discretion of the Board of Education as to whether or not schools shall be kept open to make up time lost due to the closing of school during an epidemic.

SCHOOLS**868-46**

Mr. Francis L. Shallenberger,
August 28, 1946.

There is no legal authority for School Districts of the third class to issue bonds for the purchase and operation of school busses.

OPTOMETRY**869-46**

Mr. Orville E. Frakes,
August 28, 1946.

If a firm is listed in classified section of telephone directory under "optometrists" without also listing name of individual registered optometrist, such firm is violating that portion of optometry act shown in Vol. 4, Ch. 120, Sec. 20, 1935 C.S.A., if Board of Optometric Examiners has adopted a rule or regulation declaring and defining that type of listing to be "advertising" and a violation of the optometry act.

Such a firm is not engaging in practice of optometry without a license when it retains the services of an individual registered optometrist to perform optometric work on its premises or on its behalf.

**COUNTY PLANNING COMMISSION—
HIGHWAYS****870-46**

Mr. Leonard V. B. Sutton,
August 29, 1946.
(Streets and alleys)

Whether an alley is a public or private street or way is a question to be determined by a court and not this office. The court must determine whether Chapter 92, S. L. 1939, modifies or repeals Section 117, Chapter 163, 1935 C.S.A.

ELECTIONS**871-46**

Mr. Ray E. Crosby,
August 29, 1946.

Where a political party fails to designate candidates for office at its assembly and the vacancy committee fails to fill such vacancies prior to the Primary Election, then the vacancy committee shall fill such vacancies by appointment, the designees to be voted upon at the succeeding General Election. Law is silent as to method of procedure but it is an accepted practice for vacancy committee to proceed as indicated in Volume 3, Chapter 59, Section 82, as amended, 1935 Colorado Statutes Annotated.

CIVIL SERVICE—FEDERAL**872-46**

State Civil Service Commission,
August 30, 1946.

Employees who accepted Federal employment pursuant to the terms of Resolution of Civil Service Commission, January 19, 1942, authorizing employees to accept employment with Social Security Board, held to be on leave of absence and subject to the rules applicable to employees on leave.

ELECTIONS—VETERANS**873-46**

Mr. Walter F. Morrison,
September 3, 1946.

(Veterans voting at the primary election)

Veterans, otherwise qualified, who have been in the armed forces, are entitled under the provisions of Chapter 9, Session Laws 1945, to vote in the primary election on September 10, 1946.

**STATE AGRICULTURAL COLLEGE—
VETERANS—REAL ESTATE****874-46**

Mr. James R. Miller,
September 5, 1946.

The question of whether a fixture of any nature, including a dwelling and appurtenances thereto, may be considered a part of the realty to which it is attached is a matter of intent. Therefore, it would be advisable for the State Board of Agriculture to enter into a specific agreement with veterans wishing to erect prefabricated houses on college property with object of removing them after leaving college.

CITIES AND TOWNS

875-46

Mr. J. H. Gerault,
September 9, 1946.

(Re: Powers of city council of incorporated town).

1. Does council have power to condemn vacant town property for fire engine house site? Yes. See Vol. 4, Ch. 163, Sec. 10 (sub.-sec. 34) and (sub.-sec. 74), 1935 C.S.A.

2. May the council, without passing an ordinance and submitting the question to qualified, tax-paying electors, borrow money and incur a debt against the municipality to purchase a fire engine? No. See Sec. 10 (sub.-sec. 34) and (sub.-sec. 6) of above cited volume and chapter of statutes. Council may purchase fire engine with available funds but may not incur debt without ordinance and vote of electors. In no event can a debt be incurred to purchase fire engine.

3. May council, without passage of an ordinance, assess and levy water rent as a tax against town real property served with water? No. Council may assess and levy water rent as a tax pursuant to Section 10 (sub.-sec. 71) of above cited volume and chapter of statutes, but must, when acting in such "legislative capacity", do so by passage of an ordinance or resolution as specified in Section 10 (sub.-sec. 66) of above volume and chapter of statutes.

TAXATION

876-46

Mr. Joseph B. Todd,
September 10, 1946.

In view of Article XI, Section 8, Constitution of Colorado and Subsection 6, Section 1, Session Laws 1939, page 563 (except for debts contracted for supplying water) "the aggregate amount of debt created for all other purposes" shall not at any time exceed three per cent of the valuation of the taxable property within the town of Westwood, as provided by law.

COUNTY JUDGES

877-46

Mr. Ray Patten,
September 11, 1946.

1. Where the vacancy is bona fide and the judge is appointed or elected after the effective date of Chap. 125, S. L. 1945, the Judge of the County Court is entitled to the increase in salary provided by said chapter. *Lancaster et al. v. Board of County Commissioners* No. 15759, August 5, 1946; Opinion Attorney General to George Armstrong September 4, 1946.

2. Where the appointment was made before the effective date of the act, such County Judge is not entitled to the increase in salary from July 2, 1945 to the conclusion of the term, whether such termination is by election or appointment.

COUNTY WELFARE FUNDS**878-46**

Mr. C. L. Harrison,
September 11, 1946.

Under Section 14, Chapter 168, 1945 Session Laws of Colorado, the Board of County Commissioners may make an additional appropriation in the event of an emergency as provided in the law.

SCHOOLS**879-46**

Mr. C. P. Rigby,
September 12, 1946.

(\$1,800 Minimum Salary Law)

(1). Not all districts in the county need come under the Minimum Salary Act; (2) except for the county one-mill tax, the levies set forth in the act are qualifying levies and not maximum levies.

ELECTIONS—VETERANS**880-46**

Mrs. Emma S. Kramer,
September 12, 1946.

The wife of a returned service man whom he married outside the State of Colorado and who has not resided in the state the period specified in the Constitution (Art. VII, Sec. 1) and the statute (vol. 3, Ch. 59, Sec. 12, 1935 C.S.A.) prior to an election, is not a qualified elector who can register and vote at a forthcoming election.

It is largely a question of intent to be decided by judges of election pursuant to rules stated in Vol. 3, Ch. 59, Sec. 213, 1935 C.S.A., as to whether a man serving in armed forces in Colorado, going or being sent elsewhere, and then returning to Colorado less than a year prior to an election, is such a qualified elector as to be permitted to vote at such election.

FEES AND SALARIES—COUNTY OFFICERS 881-46

Mr. George Armstrong,
September 12, 1946.

The Board of County Commissioners does not have the power to contract with appointees to county offices to accept an appointment at a salary less than that fixed by legislative enactment. Art. XIV, Sec. 15, Constitution of Colorado; 70 A.L.R. 972; 118 A.L.R. 1459; *Miller v. U. S.*, 103 Fed. 413; *Scott v. Scottsbluff County*, 106 Nebr. 355; 183 N.W. 573; 43 Am. Jr. pp. 156-157; sections 372, 373, 374; *Lancaster v. Board of County Commissioners*, case No. 15759 (Colorado) August 5, 1946; Chap. 125, Session Laws 1945.

BANKS AND BANKING

882-46

Hon. W. L. Hazlett,
September 16, 1946.

1. Under Section 1, Chapter 85, 1945 S. L. of Colorado, a bank originating a real estate loan secured by one deed of trust, but evidenced by several notes, may not retain one note in the bank's portfolio, and sell the remaining notes.

2. The term "primarily liable" as used in Section 154(b), Chapter 18, 1935 C.S.A., as amended by Section 3, Chapter 85, 1941 S. L. of Colorado, means the person, who by the terms of the instrument is absolutely required to pay the same; other parties are secondarily liable.

COLORADO SCHOOL OF MINES

883-46

Mr. Ben H. Parker,
September 16, 1946.

Reports required of the Colorado School of Mines to Governor, Budget Efficiency Commissioner, etc., outlined.

**COLORADO STATE BOARD OF EXAMINERS
FOR ENGINEERS AND LAND SURVEYORS**

884-46

Mr. W. T. Blight,
September 16, 1946.

Whether individual members of an engineering partnership firm, who have equal rights and powers must all be licensed pursuant to Chapter 92, 1935 C.S.A., is a question of fact to be determined by the board in each instance, the controlling factor being whether such member exercises "designing and supervisory" capacities.

COLORADO INDUSTRIAL SCHOOL

885-46

Hon. John C. Vivian,
September 17, 1946.

Where a boy is incorrigible or whose continuance in the school is deemed prejudicial to the management or discipline of the school, the procedure outlined in Section 11, Chapter 131, 1935 C.S.A., should be followed.

CIVIL SERVICE**886-46**

Dr. R. W. Dickson,
September 18, 1946.

The office of Secretary-Chief Executive Officer of the Board of Health is an appointive public office, with pay, and does not come within the exceptions in Article XII, Section 13 of the Constitution of the State of Colorado as to boards or commissions appointed by the Governor and serving without pay.

HEALTH**887-46**

Darrow & Darrow,
September 19, 1946.

1. Under Article 5, Chapter 78, 1935 C.S.A., as amended, a County through its hospital board can purchase or build a hospital and lease the same to "any corporation not for pecuniary profit duly organized under the laws of the State of Colorado", but cannot in turn lease such a hospital and operate it itself.

2. Under Section 60, Chapter 78, 1935 C.S.A., where the population of the County is below 10,000 inhabitants according to the last decennial federal census the County cannot acquire and operate a general hospital but may operate such hospital "for the reception of persons having the small pox or other disease which may be dangerous to the public health."

MEDICINE**888-46**

Mrs. Esther B. Starks,
September 19, 1946.
(Basic Science Act).

An applicant holding credentials obtained under the Basic Science Board of Canada is not exempted by Section 59, Chapter 109, 1935 C.S.A., from taking an examination.

ADMINISTRATIVE CODE, 1941—EMPLOYEES 889-46

Mr. W. C. Sweinhart,
September 23, 1946.

Section 10, Chapter 2, S. L. 1941, now section 10, Chapter 3, 1946 Supp. to 1935 C.S.A., as amended, has not been repealed or amended by the Legislature and the Supreme Court of the State of Colorado has not passed upon this section to date.

**AUDITOR—LOCAL GOVERNMENT
BUDGET LAW**

890-46

Hon. Leon E. Lavington,
September 24, 1946.
(Annual Audit Law)

Reimbursable expenditures such as vocational training later paid for by the Federal Government, profits on real estate transactions, expenditure of donated funds for library books, etc., must be included in the Annual Budget and Audit.

CHIROPRACTORS

891-46

Mr. F. J. Koggelin,
September 24, 1946.

1. When a chiropractor's license is suspended or revoked he forfeits the right to use the title "Doctor" or "Dr." in connection with his name as provided for in Section 2, Chapter 34, 1935 C.S.A.

2. Sec. 2, supra, does not authorize a licensed chiropractor to use the title "Chiropractic Physician".

3. A chiropractor whose license has been suspended may not advertise himself as practicing "chiropractic massage".

TAXATION

892-46

Mr. John R. Seaman,
September 25, 1946.

(In Re: Tax Sale Certificates issued for non-payment of taxes on improvements located on public land).

1. County Commissioners have no power to cancel such certificates held by private individuals;

2. As to such certificates held by the county, Section 282, Chapter 142, 1935 C.S.A., would be applicable.

LICENSE FEES

893-46

Mr. Trevor P. Thomas,
September 26, 1946.
(Refund of fees voluntarily paid)

In the absence of special statute covering the subject, there is no authority to recover a license fee voluntarily paid, by way of claim for refund against the State of Colorado.

AGRICULTURAL COLLEGE

894-46

Mr. Frederic B. Emigh,

September 26, 1946.

(Bank Loan—furnish quonset huts)

Chapter 219, 1945 Session Laws of Colorado, held to authorize the borrowing of money for the furnishing as well as the building of dormitories; however, such a loan could only be repaid out of the net income from dormitory rentals.

PUBLIC WELFARE

895-46

Mrs. Mary Jean Elder,

September 28, 1946.

(Tuberculosis and other public assistance)

Individual who resides in California not eligible to receive tuberculosis assistance as long as he resides in California.

In event individual returns to Colorado and is found to be otherwise eligible, he would be entitled to receive tuberculosis assistance if at any time during his lifetime he has resided in Colorado for at least three years.

Applicant, his wife and family residing in California for over one year would not meet residence requirements and be entitled to receive public assistance within the meaning of Section 17, Chapter 124, Volume 4, 1935 C.S.A.

CHIROPRACTORS

896-46

Dr. E. A. Jackson,

October 1, 1946.

1. Whether or not a course in "Concept Therapy" meets the educational study standards set up by the Chiropractic Board pursuant to Chapter 82, Session Laws of Colorado 1943, is a question of fact to be determined by the board.

2. The statute does not require pre-approval of course before it is taken by an applicant for license renewal.

MARRIAGE LAWS

897-46

Mr. Joseph F. Cavanaugh,

October 1, 1946.

The courts of the State of Colorado have consistently held and recognized the existence of common law marriages. *Klipfel's Estate v. Klipfel*, 92 Pac. 26; 41 Colo. 40. *In re Estate of Matteote*, 151 Pac. 448, 59 Colo. 566. *Poole v. People*, 52 Pac. 1025; 24 Colo. 510. *Davis v. People*, 264 Pac. 658; 83 Colo. 295.

Mr. E. H. Stinemeyer, **COURT FEES** 898-46
October 1, 1946.

Whether an additional docket fee should be paid when a case is certified from the county to the district court pursuant to Section 3, Chapter 56, 1935 C.S.A., is a matter to be determined by the individual courts.

Mr. C. N. Feast, **GAME AND FISH** 899-46
October 3, 1946.

1. Permit provisions Secs. 189 to 197, Ch. 73, 1935 C.S.A., are not applicable to licensed fur dealers.

2. A fur dealer's license may be suspended only by act of the Game and Fish Commission and not by a Game Warden.

3. Game and Fish Commission is not authorized to require fur dealers to keep a record of predatory animals bought and sold.

4. Trappers taking fur-bearing animals or predatory animals are required to have a trapper's license (exception in re: trapping by owner on his own property noted. See Ch. 134, S. L. 1945).

Hon. Inez Johnson Lewis, **CIVIL SERVICE** 900-46
October 6, 1946.

Providing constitutional and statutory provisions are adhered to, type of examination, whether non assembled or otherwise, is within the discretion of the Civil Service Commission.

Mr. C. N. Feast, **GAME AND FISH** 901-46
October 7, 1946.

(Relating to age limits)

Chapter 134, Session Laws of 1945, the later enactment, contains nothing which would alter the provisions of Chapter 109, Session Laws of 1939 relating to age limits for small game licenses. Therefore, persons under the age of 14 years are not required to have a license to hunt small game.

Miss Esther Revelle, **SCHOOLS** 902-46
October 9, 1946.

(Transportation)

School bus belonging to one district may transport pupils of another district if such transportation places no additional financial burden on the first district. Such transportation would not make a bus a common carrier.

CIVIL SERVICE

903-46

Mr. James H. Steele,
 October 14, 1946.
 (University of Colorado)

The Civil Service Commission has no jurisdiction over the employees at the University of Colorado for the reason that the Regents of the University of Colorado were specially created by the Constitution and given control and supervision over the University by our Constitution.

The entire Constitution must be read as though enacted at the same time and its various parts construed as a whole. Repeals by implication are not favored and since Section 13, Article XII of the Constitution does not directly repeal sections 12 and 14 of Article IX, such a repeal by implication cannot be sustained if any other construction can be given.

Section 13, Article XII of the Constitution is general in character. Sections 12 and 14 of Article IX of the Constitution are special. If there is any conflict between the sections, the general provision must yield to the special.

Constitution of Colorado, Section 13, Article XII; Sections 12 and 14, Article IX. In re *Macks Estate*, 46 Colo. 79; *People v. Field*, 66 Colo. 367; 11 Am. Jur. pp. 662-664, sections 53, 54; *Lovelace v. Tabor M. & M. Co.*, 29 Colo. 62; *Harrington v. Harrington*, 58 Colo. 154; Opinion Civil Service Commission, September 10, 1945.

COUNTIES

904-46

Mr. E. H. Stinemeyer,
 October 16, 1946.

Where the budget of a county officer will be exceeded through emergency conditions not anticipated when the budget was made up and adopted, the county officials should proceed in accordance with Section 14, Chapter 168, S. L. 1945.

TAXATION

905-46

Colorado Tax Commission,
 October 17, 1946.
 (Mineral reservations)

A county must assign or go to deed on tax certificates en toto as to the estate involved. Unless there is a reservation of minerals on record prior to the original levy and assessment a county which acquires tax certificate and deeds may not reserve the minerals from subsequent sale or assignment.

CITIES AND TOWNS

906-46

Colorado Tax Commission,
October 21, 1946.
(Initial levies)

Sections 39 and 41, Chapter 142, 1935 C.S.A., limits initial levies for newly incorporated municipalities to 5 millís.

FEES AND SALARIES—COUNTY OFFICERS 907-46

Mr. Clement R. Hackethal,
October 21, 1946.
(County assessor)

1. Sheriffs, undersheriffs and deputy sheriffs, when traveling in the performance of their duties, are entitled to mileage in a sum not to exceed eight (8) cents per mile for each and every mile actually and necessarily traveled in the performance of their official business. Sections 16 and 44, Chapter 66, 1935 C.S.A. Opinions 303—1930; 272—1935; 351—1938; Section 13, Chapter 125, S. L. 1945.

2. The statute names certain officers and offices entitled to mileage and omits the names of others. The County Assessor is one of the officers not named.

Section 44, Chapter 66, 1935 C.S.A., is general in character and provides for mileage where not specifically covered by statute. In view of subsection second, Section 25 and Section 43, Chapter 45, C.S.A. 1935, the Board of County Commissioners may, in its discretion, allow the County Assessor not to exceed eight (8) cents per mile for each and every mile actually and necessarily traveled within the county on official business. Chapter 125, S. L. 1945; sub-section second, Section 25 and Section 43, Chapter 45, 1935 C.S.A.; 42 C.J.S. 528 Note 47 and cases cited.

ELECTIONS

908-46

Mr. Walter F. Morrison,
October 22, 1946.

The requirement of a physician's affidavit appearing in Section 215 of the Election Laws of Section 10, Chapter 124, Session Laws of 1941, applies only to serious illness and not physical disability.

COUNTIES

909-46

Board of County Commissioners,
October 22, 1946.

(Hospitals, Post War Improvement)

Where a county has acquired a hospital building through a county treasurer's tax deed, the county has three alternative methods of operation:

1. The county may invoke the provisions of Chapter 93, Session Laws of Colorado 1945, relating to post war improvements.

2. The county may invoke the provisions of Section 60, Chapter 78, 1935 C.S.A., for the establishment of a hospital for contagious diseases.

3. To lease the premises to a town or city to operate as a hospital under the authority of Section 10, Subsection 47, Chapter 163, 1935 C.S.A.

TAXATION

910-46

Colorado Tax Commission,
October 24, 1946.

(Maximum levy)

Opinion of September 10, 1945, addressed to Colorado Tax Commission, re-affirmed.

County High School Board may not increase county high school levy by 5% as authorized by Section 39 of Chapter 142, 1935 C.S.A., if the levy has reached the statutory maximum of 5 mills.

CIVIL SERVICE

911-46

State Civil Service Commission,
October 25, 1946.

Public Law No. 549, 79th Congress, does not alter or vary the provisions of the constitution and statutes of Colorado. Therefore, the Civil Service Commission may not lawfully induct federal employees into the classified service of the state of Colorado.

Any employment in the classified service of Colorado of federal employees must be in conformity with the constitution and statutes of the State of Colorado.

TAXATION

912-46

Mr. John R. Seaman,
October 30, 1946.

An interest in minerals created by exception or reservation in a deed of conveyance executed after March first is not legally assessable for the year in which the conveyance is made.

SECURITIES

913-46

Mr. Curtis White,
November 1, 1946.

The Department of Securities should not register a foreign corporation until such time as it has become domesticated.

INTOXICATING LIQUORS

914-46

Mr. Myron Donald,
November 1, 1946.

(Corporate stock owners)

A retail liquor licensee may own stock up to 50% in a corporation licensed as a manufacturer or wholesaler if such stock ownership is under no collateral agreement which would enable the wholesaler to control or finance the retailer's business.

SOIL CONSERVATION DISTRICTS

915-46

Mr. Kenneth W. Chalmers,
November 8, 1946.

Real estate owned by soil conservation districts is not subject to state and county taxes if such property is devoted to uses public in their nature.

**COUNTY COMMISSIONERS—
PUBLIC WELFARE**

916-46

Messrs. Reynold and Ashton,
November 12, 1946.

The County Commissioners are authorized by law (Sec. 3, Ch. 124, 1935 C.S.A.) to sue for the recovery of general assistance grants made to recipients whether such recipients have given specific authorization to make a recovery or not.

MENTAL DEFECTIVES

917-46

Mr. N. R. McCreery,
November 12, 1946.

The contract entered into with C. Francis Pillsbury for architectural services, is proper in form and is within and pursuant to the powers granted in Sec. 1, Chap. 246, S. L. 1937, as amended by Chap. 210, S. L. 1941. In view of Sec. 2 of said act, the building or buildings shall be constructed by the Board of Commissioners in conformity with the plan for public works within the State of Colorado prepared and published by the State

Planning Commission. In event the building or buildings are to be paid for through the issuance of Anticipation Warrants, the provisions of Sec. 5, Chap. 210, S. L. 1941 must be complied with and the State Planning Commission must certify that in "its opinion the building or other improvement proposed is included in the provisions of this act and constitutes a need of such emergent importance that the issuance of such anticipation warrants is justified". (Chap. 246, S. L. 1937, as amended by Chap. 210, S. L. 1941; Opinion 820, 1942.)

COLORADO SCHOOL OF MINES—STATE 918-46
EMPLOYEES RETIREMENT ASSOCIATION

Ben H. Parker,
November 13, 1946.

1. The Registrar of the Colorado School of Mines, being a state employee and a member of the Employees Retirement Association cannot retire from the service of the State and receive a retirement annuity and then return to the service of the State and draw additional compensation, unless by special arrangement with and resolution by the Colorado Employees Retirement Association.

2. An employee of the Colorado School of Mines cannot be given an indefinite leave of absence with pay, since such action on the part of the Board of Trustees would be the giving of a gift or donation of alms from State funds without any contemplated return of services therefor. Such action on the part of the board would not only be dishonest and irregular, but would be illegal and render the Board liable for malfeasance in office. (Sections 28-33-34, Art. V, Colo. Const.; *Morrow v. Ind. Com.* 98 Colo. 348 at 352; Advisory letter to Justice Alter, 1946.)

SCHOOLS

919-46

Mrs. Inez Johnson Lewis,
November 14, 1946.
(Religious training)

Religious instruction may not be given on public school premises during school hours. It would make no difference in the above if the church were to pay rent to the school board.

**STATE AUDITOR—LOCAL GOVERNMENT 920-46
BUDGET LAW**

Hon. Leon Lavington,
November 15, 1946.

1. Funds budgeted to one "officer, department, board, commission, or other expending agency or purpose" can only be transferred from one such agency, etc. to another "in cases of emergency caused by Act of God or the public enemy or some contingency which could not have been reasonably foreseen at the time of the adoption of the budget" by following the procedure outlined in Sections 14 and 15 of Chapter 168, S. L. 1945.

2. The contingent fund is a part of the budget and is a fund "or money available for excess expenditure" in case of emergency only. Section 15 of Chapter 168, S. L. 1945, provides that in cases of emergency the governing body by ordinance or resolution shall transfer funds not needed in another fund or funds to the fund that will be overexpended. This section outlines the course of procedure to be followed in such emergent cases. See also *Huntington v. Cincinnati*, 3 Ohio S. & C. P., 1 Ohio N. P. 379; 44 C. J. 1163.

EMPLOYEES' RETIREMENT ASSOCIATION 921-46

Mr. Raymond J. Heath,
November 15, 1946.

Employee of the Colorado State College from 1931 to 1937 not qualified as a "state employee" to participate according to provisions of 1931 S. L., Ch. 157, Sec. 1. In 1939 the act was amended (1939 S. L., Ch. 81), to permit participation of certain other persons as state employees but excluding those who were "instructors in the state educational institutions which have an established retirement or annuity plan for such employees." Colorado State College did at that time have such an "established" plan and even had this employee been at that time employed by the college, she, nevertheless, would have been ineligible to participate in the state plan under the Retirement Act.

It is only comparatively recently that the College has abrogated its former "established" plan and accepted the State Employees' Retirement Association as its "established" and official plan, thus making it possible for its instructors to participate in the state plan. This employee has recently re-entered the service of the College or been re-employed. The question is whether for purposes of coming under the "state plan", may this individual's services with the College be considered retroactive and without break from 1931 until the present. The answer is "yes" provided she make retroactive payments in the Retirement Fund as provided by 1941 S. L., Ch. 94, Sec. 2 (sub. 2) and regulations of the Retirement Board.

MOTOR VEHICLE DEALERS

922-46

Mr. C. B. Pond,
November 20, 1946.

(Individual purchases and sales)

A purchase sale, or exchange of a motor vehicle with or from a licensed dealer is exempt; therefore, in determining the number of sales or exchanges of motor vehicles during a calendar year only the transactions with unlicensed dealers may be computed.

LOTTERIES

923-46

Mr. John H. Marsalis,
November 25, 1946.

(Gambling devices)

What constitutes: In construing Section 234, Chapter 48, 1935 C.S.A., providing for the seizure and destruction of gambling devices, the Supreme Court held in the case of *Fifty-Nine Gambling Devices v. People, ex rel. Burke*, 110 Colo. 82, 87, that it is a question of fact to be determined by the trial court whether a particular machine is a gambling device.

SCHOOLS

924-46

Mr. John E. Bothell,
November 26, 1946.

Re-affirming opinion addressed to Dr. Chas. Haines, dated August 26, 1941, No. 341, that there is no statutory authority for changing a budget year.

The budget year and fiscal year coincide and Chapter 193 of 1945 S. L. requires that the annual audit be made for the fiscal year.

Under Section 3, Chapter 193, 1945 S. L., audits may be made more often than once a year at option of school directors.

SCHOOLS

925-46

Miss Doris R. Plummer,
November 26, 1946.

County Superintendent does have discretionary power to detach part of school district and annex it to contiguous district pursuant to Chapter 146, Section 63, 1935 C.S.A. (p. 103—1941 School Laws). See our opinions: No. 469, 1945; No. 410, 1944, and No. 742, 1942.

UNIVERSITY OF COLORADO

926-46

Mr. Robert C. Kniffen,
December 6, 1946.

(Hospitals)

The admission of out of state cases to the University of Colorado hospitals is administrative in character. Pursuant to Sections 39 and 42, Chapter 169, 1935 C.S.A., the Board of Regents may admit "such other patients", if in their opinion there is room in the hospital and it will not interfere with the primary purpose of the hospital, namely, "said hospital shall be primarily and principally conducted for the care of legal residents of Colorado".

**CITIES AND TOWNS—FIREMEN'S
PENSION FUND**

927-46

Hon. Homer F. Bedford,
December 10, 1946.

(Fire protection districts)
(Participation in fund)

Participation in the Firemen's Pension Fund is limited to municipalities that can qualify as such under Chapter 163, 1935 C.S.A. Fire Protection Districts are special corporations, created by special statute, for special purposes and are not municipalities as known in law (Secs. 10, 470-486, Ch. 163, 1935 C.S.A.; Ch. 68a, 1935 C.S.A. (Ch. 130, S. L. 1941); 37 Am. Jur. p. 620, Sec. 4). It is my conclusion that such Fire Protection Districts are not municipalities entitled to participate in the Firemen's Pension Fund.

MOTOR VEHICLES—CRIMINAL LAW

928-46

Mr. C. H. Gunn,
December 13, 1946.

(Photographs)

Unauthorized duplication of Motor Vehicle Titles by photographic process is forgery and counterfeiting as defined and published under Section 130, Chapter 48, 1935 C.S.A.

NOTARIES PUBLIC

929-46

Hon. Walter F. Morrison,
December 18, 1946.

Where a notary public is commissioned as resident within a county and the portion of his resident county is removed by annexation and made a portion of an adjoining county, such

CIVIL SERVICE—VETERANS

933-46

State Civil Service Commission,
December 23, 1946.

Where through mistake or inadvertence an applicant for civil service examination fails to claim the military preference to which he is entitled, on appeal to the commission "within five days after the date on which notification of the results of such examination was mailed to the applicant", and proof as to military service, honorable discharge, etc., as provided in the Constitution, the Civil Service Commission is required to add to applicant's grade the points to which he is entitled under the Constitution (Section 14, Art. XII, Constitution of Colorado; paragraphs 1 and 2, Art. XII, and paragraph 2, Section 6, Article V, Rules of Civil Service Commission).

BASIC SCIENCES

934-46

Mrs. Esther B. Starks,
December 27, 1946.

A person who fails to pass one subject required under Basic Science Act, having passed others, may upon payment of proper fee take re-examination in that subject when given. If such an applicant fails in this re-examination, he would be required to repeat the entire examination.

TAXATION

935-47

Mr. Allan R. Phipps,
January 3, 1947.
(Gas Tax, aviation)

The proceeds of tax on aviation gasoline must be used exclusively for highway purposes under Article X, Section 18, Colorado Constitution.

TAXATION

936-47

Mr. Allan R. Phipps,
January 3, 1947.
(Specific Ownership Tax on Aircrafts)

A statute providing for a graduated annual specific ownership tax on aircraft in lieu of ad valorem taxes upon such property will violate Article X, Section 6, Colorado Constitution.

MOTOR VEHICLES

937-47

Mr. C. H. Gunn,
January 4, 1947.
(Reciprocity)

Under the Colorado Motor Vehicle Law reciprocity between states requires that occasional passage from one state to another of vehicles used in interstate traffic should be permitted without Colorado residential registration if such passage is permitted to Colorado registered vehicles by the state of original registration.

EMBALMERS BOARD

938-47

Mr. C. G. Bengston,
January 10, 1947.

The Colorado State Board of Funeral Directors and Embalmers may make reasonable changes in Rules and Regulations previously published, not inconsistent with the law. It is advisable that licensees be notified of such change although not required.

**LEGISLATURE—HIGHWAYS—
APPROPRIATIONS—CONSTITUTIONAL LAW**

939-47

Hon. Homer L. Pearson,
January 11, 1947.

An appropriation by the Legislature from the General Fund of the State of Colorado for highway purposes would not create an indebtedness against the state and would therefore not be violative of Sections 3 and 4, Article 11 of the Constitution of the State of Colorado.

SCHOOLS

940-47

Hon. Inez Johnson Lewis,
January 13, 1947.

If there is only one elementary district in a county, upon which is superimposed a county high school district, it would be impossible to have a five member high school committee. Under such circumstances a committee of only three members would be legally recognized as the High School Committee.

BOARD OF STANDARDS OF CHILD CARE 941-47

Hon. John F. Vivian,
January 13, 1947.

When a member of this board has served for two consecutive terms, the Governor may declare the post vacant and make an immediate appointment to fill such vacancy.

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