

Biennial Report
of the
ATTORNEY GENERAL
of the
STATE OF COLORADO



Years 1947-1948

H. LAWRENCE HINKLEY
Attorney General

Publication Approved by James A. Noonan, Controller

ATTORNEYS GENERAL OF COLORADO

From the Organization of the State

A. J. Sampson.....	1877-1878
Charles W. Wright.....	1879-1880
Charles H. Toll.....	1881-1882
David F. Urmy.....	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.....	1945-1948

REGISTER OF DEPARTMENT OF LAW
1947-1948

DIVISION OF LEGAL AFFAIRS

H. LAWRENCE HINKLEY, Attorney General
DUKE W. DUNBAR, Deputy Attorney General
FRANK A. WACHOB, First Assistant

Assistant Attorneys General

CHARLES F. CORY	BARBARA LEE
JOHN M. EVANS	DONALD H. MEYER
¹ JAMES D. GEISSINGER	WALLACE S. PORTH
JACK L. GRAHAM	³ WILLIAM A. SACKMANN
² JOSEPH W. HAWLEY	GEORGE K. THOMAS
JAMES S. HENDERSON	JOHN F. WILSON

HENRY E. ZARLENGO

ANN G. LANDY, Administrative Assistant I
LORRAINE CORAZZA, Stenographer III
WILMA F. CROSKY, Stenographer III
EDITH HEZMALHALCH, Stenographer III
ELIZABETH V. KITTO, Stenographer III

LEGISLATIVE REFERENCE OFFICE

⁴ALLEN MOORE, Director
CLAIR T. SIPPEL, Administrative Secretary II

DIVISION OF SECURITIES

H. LAWRENCE HINKLEY, Ex-officio Commissioner of Securities
CURTIS WHITE, Commissioner
⁵RICHARD B. FOLEY, Assistant Commissioner
RHODA SON, Stenographer III

¹Resigned 5/31/48

²Resigned 11/15/48

³Appointed 6/1/48

⁴Appointed Director during legislative session, Dec. 1, 1948

⁵Appointed September 1, 1948

INHERITANCE TAX DEPARTMENT

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

CATHERINE H. COURSEY, Administrative Assistant

E. J. P. VALDEZ, Auditor

HENRY C. JACKSON, Principal Appraiser

JAMES F. MCNAUL, Principal Appraiser

CARL B. SANBORN, Principal Appraiser

ANN COGAN, Clerk

VERA B. DECOU, Clerk

MARY SPENCER, Clerk

ELNORA VEITENGRUBER, Clerk

BIENNIAL REPORT
OF
ATTORNEY GENERAL
OF THE
STATE OF COLORADO

SCHEDULE I

January 10, 1949.

To His Excellency,
LEE KNOUS,
 Governor of Colorado.

Sir:

In compliance with statutes relating thereto I herewith submit the Biennial Report of the Attorney General for 1947-1948.

H. LAWRENCE HINKLEY,
 Attorney General.

REPORT OF THE DIVISION OF SECURITIES
for the period
January 1, 1947, to December 31, 1948

	1947	1948
Receipts from fees	\$6,012.50	\$ 6,265.00
Expenditures	\$7,794.40	10,345.52
Original prospectuses filed	77	78
Renewal prospectuses filed	61	49
Supplemental prospectuses filed	14	14
Dealers' registrations in effect at end of each year	125	146
Salesmen's registrations in effect at end of each year	227	253

During the past two years this department has handled an increasingly large volume of business. This increase is evidenced in part by the substantial increase in fees collected over those shown in the preceding biennial report. All fees paid to this department

are credited to the general fund of the state. In general there has been a decrease in new offerings of securities by well established companies. On the other hand, offerings of securities by promotional enterprises have increased and indications are that such offerings will continue to increase. The people of this state are paying a heavy financial toll for the repeated failure of the General Assembly to enact legislation which would curb the evils and abuses that have existed in this state for many years in the public financing of new ventures and which would require that investors in speculative and promotional enterprises be dealt with fairly and honestly.

The personnel of the department consists of Curtis White, Securities Commissioner, Richard B. Foley, Assistant Securities Commissioner, and Rhoda Son, secretary.

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 Draftings 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.

SCHEDULE II

LIST OF ALL CASES, PENDING, AND DISPOSED OF, IN ALL COURTS 1947-1948

CASES IN THE SUPREME COURT OF THE UNITED STATES

- Nos. 17 and 18. *Julius A. Wolf v. The People. On Writ of Certiorari.* At issue.
- No. 214. *Bernard H. Shotkin v. W. F. Perkins.* To review decision of State Supreme Court in Case 16142. Pending.

CASES IN THE UNITED STATES COURT OF APPEALS

- No. 3771. *Bernard M. Shotkin v. W. F. Perkins.* Pending.
- No. 3772. *Shotkin v. W. F. Perkins.* Complaint for Declaratory Judgment. Pending.
- No. 2550. *Colorado Interstate Gas Company, et al. v. Federal Power Commission, et al.* Pending.

CASES IN THE UNITED STATES DISTRICT COURT

- No. 136. *United States of America v. Wilkinson, et al.* Land Board Matter. Pending.
- No. 1928. *Adler, et al. v. Nicholas, et al.* Federal and state sales tax liability. Pending.
- No. 2215. *United States of America v. 70.05 Acres of Land, Arapahoe County.* Condemnation suit. No interest.
- No. 2326. *United States of America v. 20 Acres of Land, More or Less, City and County of Denver.* Condemnation suit. No interest.
- No. 2383. *United States of America v. 2,038.06 Acres of Land, Arapahoe County, et al.* Condemnation proceedings. No claim.
- No. 2397. *United States of America v. 12 Acres of Land, More or Less, Situate in the City and County of Denver.* Condemnation suit. No interest.
- No. 2454. *United States of America v. 792 Acres of Land, More or Less, Arapahoe County.* Petition in condemnation. No interest.
- No. 2479. *Shotkin v. Perkins.* Sales and Use Tax. Declaratory Judgment.

- No. 2480. *Shotkin v. Perkins*. Remanded to the District Court.
- No. 2526. *Shotkin v. Perkins, et al.* Temporary and permanent injunction and declaratory judgment re sales tax. Dismissed.
- No. 8669. *In the Matter of the Denver & Rio Grande Western RR Co.* Reorganization of a railroad. Pending.
- *United States of America v. Certain Roads Situate Within the Boundaries of the Rocky Mountain Arsenal.* Condemnation suit. No interest.
- *The United States of America v. 33.82 Acres of Land, More or less, et al.* To quiet title. No interest.
- *The United States of America v. Certain Lands in Logan County, et al.* Condemnation suit. No interest.
- No. 11596. *The United States of America v. 2,560 Acres of Land, More or Less, Situate in Lake County, et al.* Petition in condemnation. No interest.
- 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 suit. No interest.
- No. 11764. *United States of America v. 159.2 Acres of Land, More or less, Situate in Arapahoe County, et al.* Condemnation suit. No interest.
- No. 11767. *United States of America v. 185.48 Acres of Land, More or Less, et al.* Condemnation suit. No interest.

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

- No. 15265. *City Real Estate vs. Sullivan*. Taxation. Decided in favor of the Tax Commission.
- No. 15608. *Ireland vs. Oriental Refining Co.* Motor fuel taxes. Judgment affirmed.
- No. 15630. *Roff vs. State Civil Service*. Civil service reclassification. Judgment in favor of Commission.
- No. 15645. *In Re Estate of Emma J. Frantz, Deceased*. For care at Colorado State Hospital. Judgment affirmed.
- No. 15646. *Jarrett, et al., vs. Cruse*. Service taxes. Judgment affirmed.
- No. 15648. *Yeager v. People, ex rel. Kisner*. Bastardy. Judgment reversed.
- No. 15684. *Bd. Co. Commrs. Jefferson Co. v. Sedgley, et al.* Condemnation suit. Trial court affirmed.
- No. 15697. *Knight-Campbell Music Co. v. State, Lavington*. Income tax. Judgment affirmed.
- No. 15742. *Consolidated Underwriters, et al. v. Industrial Com., et al.* Constitutionality of provision of Industrial Act. Reversed.

- No. 15749. *People, ex rel. Kent, v. Devious*. Disbarment. Respondent reprimanded and charges dismissed.
- No. 15758. *Corder v. Pond*. Motor vehicle dealers bond. Judgment affirmed.
- No. 15776. *Denver Milk Producers, et al. v. International Brotherhood of Teamsters, et al.* Labor dispute. Attorney General filed suit as Amicus Curiae. Judgment reversed.
- No. 15805. *People, ex rel. Cheyenne Soil Erosion District, v. Parker, et al.* Soil Conservation Act. Judgment affirmed.
- No. 15811. *State, Cruse, et al., v. American Can Co.* Income tax. Judgment in favor of Defendant in Error.
- No. 15858. *In Re House Resolution No. 2*. Interrogatories. Answered, no hearing requested.
- No. 15894. *In Re Senate Bill No. 26*. Interrogatories re compensation for legislators. Court held bill invalid in toto.
- No. 15907. *O. K. Rubber Welding System v. Perkins*. Sales tax refund. Judgment reversed.
- No. 15908. *Zook, et al., v. Director of Revenue*. Sales tax. Judgment affirmed.
- No. 15942. *Sutherland v. Hanebuth, et al.* Refusal to testify before Grand Jury. Opinion affirmed.
- No. 15939. *Colorado School of Mines v. Neighbors, et al.* Rent due School. At issue.
- No. 15961. *Weiderspon v. People*. Revocation driver's license. Pending.
- No. 15968. *In Matter of Proposed Initiated Amendment to Article XXIV of the Constitution of the State of Colorado, Jennings v. Morrison*. Title to proposed initiated amendment to Constitution. Order of respondents modified and approved.
- No. 16021. *O'Brien v. People. Careless driving*. Judgment reversed.
- No. 16077. *Lipset v. Davis, et al.* Medical Board matter. Pending.
- No. 16085. *Smith, et al., v. U. S. National Bank of Denver, et al.* Construction of a trust. Pending.
- No. 16087. *Swift, et al. v. Smith, et al.* Highway matter. Writ certiorari granted.
- No. 16089. *People, ex rel Attorney General, v. Shotkin*. Contempt proceedings. At issue.
- No. 16131. *Case, et al., v. Morrison, et al.* Old age pension matter. Judgment reversed and remanded.
- No. 16142. *Shotkin v. Perkins*. Sales and use tax. Dismissed.
- No. 16145. *State Civil Service Commission, et al. v. William L. Hazlett*. Civil service matter. Judgment reversed.
- *People, ex rel. Attorney General, v. Berenbein, et al.* Disbarment. Referred to District Court.

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

No	Title	Crime	Disposition
.....	John Henry Brown v. The People.....	Murder	Judgment affirmed.
15663	T. B. Winbern v. The People.....	Murder	Judgment affirmed.
15666	Wolf, Montgomery v. The People.....	Conspiracy to Procure Abortion.....	Judgment affirmed.
15670	Wolf, Fulton v. The People.....	Conspiracy to Commit Abortion.....	Judgment affirmed.
15724	Trujillo, Vigil, Martinez v. The People.....	Rioting	Judgment affirmed.
15726	Ballensky v. The People.....	Forgery	Judgment affirmed.
15737	Montgomery v. The People.....	Abortion	Judgment affirmed.
15741	Smalley v. The People.....	Burglary	Judgment Reversed with Instruction, to Re-Sentence.
15753	Aaberg v. The People.....	Larceny	Judgment Reversed.
15791	Gallegos v. The People.....	Murder	Judgment affirmed.
15793	Jones v. The People.....	Conspiracy to Commit Confidence Game.....	Judgment affirmed.
15794	Roper v. The People.....	Voluntary Manslaughter.....	Judgment affirmed.
15799	Dustin v. The People.....	Crime Against Nature.....	Judgment affirmed.
15801	Mayer v. The People.....	Assault with Intent to Rape and Kidnapping.....	Judgment affirmed.
15815	Dalihunt, et al. v. The People.....	Aggravated Robbery.....	Judgment affirmed.
15840	Routa v. The People.....	Burglary with Force, Without Force, Habitual Criminal	Judgment affirmed.
15842	Wright, et al. v. The People.....	Forgery	Judgment affirmed.
15847	Haddock v. The People.....	Involuntary Manslaughter	Judgment affirmed.
15870	Perry v. The People.....	Burglary	Judgment affirmed.
15903	Sandoval v. The People.....	Murder	Judgment affirmed.
15932	People v. McPhail, Breuch.....	Murder	Judgment Reversed.
15938	Owen v. The People.....	Fraud, Bank Embezzlement.....	Judgment Reversed.

15963 Milosevich v. The People.....Murder in the Second Degree.....Judgment affirmed.
15967 Atkinson v. The People.....RobberyJudgment affirmed.
15970 Ferguson, Robinson v. The People...Murder by Abortion.....PENDING.
16017 Chasse v. The People.....Confidence Game.....Judgment affirmed.
16023 Schneider v. The People.....MurderJudgment affirmed.
16028 Molton v. The People.....Assault with Intent to Rape.....Judgment affirmed.
16032 Pillod v. The People.....Indecent Liberties.....Judgment affirmed.
16041 Thistle v. The People.....Burglary with Intent to Commit Rape.....Judgment affirmed.
16046 Carter v. The People.....Murder in the First Degree.....PENDING.
16049 Battalino v. The People.....MurderJudgment affirmed.
16058 Lanford, Maynes, Maes v. The People.RapeJudgment affirmed.
16065 Thurman, et al. v. The People.....Theft of Livestock and Conspiracy.....Pending.
16078 Tanger v. The People.....Conspiracy to Commit False Pretenses.....Judgment affirmed.
16080 Lindsay v. The People.....False Affidavit.....At Issue.
16083 Reigan, Kimsey v. The People.....Conspiracy to Commit a Crime.....Pending.
16125 Smith v. The People.....MurderPending.
16126 Hall v. The People.....AbortionJudgment affirmed.
16136 Chesney v. The People.....Conspiracy to Commit Confidence Game.....Pending.
16137 St. Louis v. The People.....Causing a death While Driving Under
Influence of Liquor.....Pending.
16145 Mackall v. The People.....Conspiracy to Commit False Pretenses.....Judgment affirmed.
16149 Hoskins v. The People.....Burglary with Force, Larceny.....Judgment affirmed.
16161 The People v. Lindsay.....Confidence Game, False and Bogus Checks.....Pending.
16164 Downey v. The People.....Murder in the First Degree.....Pending.
16171 Casados v. The People.....Grand Larceny.....Pending.
16176 Warren v. The People.....Indecent Liberties.....Pending.

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

1947-1948

No.	Title of Action	Judgment of District Courts	Status
15980	<i>Ohio Casualty Ins. v. Ind. Com.</i>	Award affirmed....	Judgment affirmed. January 26, 1948
15784	<i>Maryland Cas. Co. et al v. Ind. Com.</i>	Award affirmed....	Judgment reversed and case remanded. March 3, 1947
15757	<i>Aetna Cas. & Surety Co. et al. v. Ind. Com. et al.</i>	Award affirmed....	Judgment reversed. March 17, 1947
15919	<i>Moffat Coal, et al. v. McFall</i> ...	Award affirmed....	Judgment reversed. September 22, 1947
15867	<i>State Comp. Ins. Fund, et al. v. Batis</i>	Award affirmed....	Judgment affirmed. June 30, 1947
15899	<i>Brofman v. Ind. Com. et al.</i>	Award affirmed....	Judgment affirmed. October 14, 1947
15868	<i>DeWitt, et al. v. Victor Amer- ican Fuel, et al.</i>	Award affirmed....	Judgment affirmed. May 26, 1947
15879	<i>Messinger v. Ind. Com. et al.</i> ...	Remanded to Commission	Judgment reversed May 26, 1947
15979	<i>Hartford, et al. v. Clifton</i>	Award affirmed....	Judgment affirmed. February 24, 1948
15993	<i>Moffat Coal, et al v. Hilliard</i>	Award affirmed....	Judgment affirmed. February 24, 1948
16007	<i>Southern Colo. Power, et al. v. Ind. Com. and Kochan, et al.</i>	Award affirmed....	Judgment affirmed. May 3, 1948
16100	<i>Pacific Emp. Ins. Co. and Gran- by Const. v. Ind. Com.</i>	Judgment reversed..	Judgment affirmed. August 23, 1948

CASES IN THE DISTRICT COURTS

Adams County

Docket
Number

4557. *Sparks, et al. v. Town or City of Aurora, et al.* City ordinance. Pending.
4879. *Vinton v. Vinto, et al.* To quiet title. No interest.
4888. *Bogner v. New England Investment Co., et al.* Quiet title. No interest.
4970. *Adams Co. Commrs., State Highway Department v. West, et al.* Condemnation suit. Dismissed.

Docket
Number

4980. *Suburban Water and Sanitation Co., et al. v. Day, et al.*
For declaratory judgment. Dismissed.
4988. *King, et al., v. Brothers, et al.* Quiet title. No interest.
4992. *Martin, et al., v. Truesdale, et al.* Quiet title. No interest.
5027. *Adams Co. Commrs., State Highway v. Mathews, et al.*
Condemnation proceedings. Pending.
5059. *Clune, et al. v. Sweeney, et al.* Quiet title. No interest.
5074. *Banchor, et al. v. Union Pacific RR Co., et al.* Quiet title.
No interest.
5083. *City and Co. of Denver, v. Baril, Bank of Aurora, et al.*
Condemnation suit. No interest.
5109. *Scanlan, et al. v. Miller, et al.* Quiet title. No interest.
5145. *Chapin Lumber Co. v. Aurora Investment Co., et al.* Quiet
title. No interest.
- *Bianchi, et al. v. Marshall, et al.* Quiet title. No interest.
- *Kirbey v. Van Buren, et al.* Quiet title. No interest.
- *Giller, et al., v. Stanton, et al.* Quiet title. No interest.
- *Thomasson, et al., v. Jacques, State of Colorado, et al.*
Quiet title. No interest.

Arapahoe County

7298. *Holcomb v. Arapahoe Co. Commrs.* To quiet title. No in-
terest.
7337. *Wessell v. Burroughs, et al.* Quiet title. No interest.
7388. *Maloney, et al. v. Arapahoe Co. Commrs., et al.* Quiet title.
No interest.
7413. *Gratzl v. Berkity, et al.* Quiet title. No interest.
7442. *Anderson, v. Chatfield, et al.* Quiet title. No interest.
7527. *Cordova v. Herrmann, et al.* Quiet title. No interest.
7529. *Martin v. Bach, et al.* Quiet title. No interest.
7547. *Gunnoe, et al. v. O'Neill, et al.* Quiet title. No interest.
7583. *Stockes v. Copeland, et al.* Quiet title. No interest.
7585. *Carder v. Bowles, et al.* Quiet title. No interest.
7590. *Weidauer v. Mason, et al.* Quiet title. No interest.
7630. *Holmes, et al. v. Whitley, et al.* Quiet title. No interest.
7655. *Lumley v. Gorman, et al.* Quiet title. No interest.
7678. *Dickinson v. Clarke, et al.* Quiet title. No interest.
7690. *Hale, et al., v. Purcell, et al.* Quiet title. No interest.
7709. *Jones v. Simmons, et al.* Quiet title. No interest.
7713. *Ramsey v. Tabour, et al.* Quiet title. No interest.

Docket
Number

7722. *Bennett, et al. v. State of Colorado, et al.* Quiet title. No interest.
7736. *Heflin, et al. v. Anderson, et al.* Quiet title. No interest.
7792. *Clubb, et al., v. Moore, et al.* Quiet title. No interest.
7822. *Fike v. Mountz, et al.* Quiet title. No interest.
7898. *Smith, et al. v. Richter, et al.* Quiet title. No interest.
7902. *Peterson, et al., v. Tiedt, et al.* Quiet title. No interest.
7922. *Miller, et al. v. Prince, et al.* Quiet title. No interest.
1927. *Union National Bank of Denver v. Andersen, et al.* Receivership in foreclosure in sales tax. State filed disclaimer.
7947. *Brandebery v. Gabriel, et al.* Quiet title. No interest.
7949. *Herbst, et al. v. Anguish, et al.* Quiet title. No interest.
7956. *Shaffer v. Green, et al.* Quiet title. No interest.
7968. *Throop v. Snyder, Jr., et al.* Quiet title. Disclaimer filed.
8002. *McKenna, Sr., et al., v. Maddison, et al.* Quiet title. No interest.
8015. *Luthi, et al., v. Araphoe County, et al.* Quiet title. No interest.
8023. *Fike v. Baker, et al.* Quiet title. No interest.
8025. *Fike v. Beane, et al.* Quiet title. No interest.
8053. *Huston, et al., v. Greenman, et al.* Quiet title. No interest.
10116. *Levy, et al., v. Barker, et al.* Quiet title. No interest.
- *Brown, et al. v. Chernoff, et al.* Quiet title. No interest.
- *Glass, et al., v. Cliff, et al.* Quiet title. No interest.
- *Grace Calvary Church of Fort Logan v. Fleming, et al.* Quiet title. No interest.
- *Snaveley v. Federal Farm Mortgage Corp., et al.* Quiet title. No interest.
- *Janssen, et al. v. Koster, et al.* Quiet title. No interest.
- *Fishel v. Koster, et al.* Quiet title. No interest.
- *Hallenbeck, et al., v. Bauerle, et al.* Quiet title. No interest.
- *Maxwell, et al., v. Lambert, et al.* Quiet title. No interest.
- *Smith v. Mork, et al.* Quiet title. No interest.
- *Paddick, et al., v. Stickney, et al.* Quiet title. No interest.
- *Schuster v. McReynolds, et al.* Quiet title. No interest.
- *Schoenfeld, et al., v. Ashbaugh, et al.* Quiet title. No interest.
- *Isbell v. Betts, et al.* To quiet title. No interest.
- *Staack, et al., v. Freeman, et al.* To quiet title. No interest.
- *Heflin, et al., v. Dascomb, et al.* To quiet title. No interest.

Docket
Number

- *Condreay, et al., v. Crowe, et al.* To quiet title. No interest.
- *Jones v. Langan, et al.* To quiet title. No interest.
- *Free Methodist Church of North America v. Aurora Land Co., et al.* Quiet title. No interest.
- *Clarke, et al., v. Glynn, et al.* Quiet title. No interest.
- *Lester v. Randall, et al.* Quiet title. No interest.
- *De Leve, et al., v. Corning, et al.* To quiet title. No interest.
- *Muecke, et al., v. Yerkes, et al.* To quiet title. No interest.
- *Wilcox v. Berry, et al.* To quiet title. No interest.
- *Fike v. Billings, et al.* Quiet title. No interest.
- *Mudd v. MacDeb Drilling Co., et al.* To quiet title. No interest.
- *Brown, et al. v. Bonnes, et al.* To quiet title. No interest.
- *Mellema, et al. v. Kelly, et al.* To quiet title. Disclaimer filed.
- *Beach, et al., v. Mortensen, et al.* To quiet title. No interest.
- *Bucher, et al., v. Brown, et al.* Quiet title. No interest.
- *Fowler, et al., v. Hogan, et al.* To quiet title. No interest.
- *Champion, et al. v. Friedman, et al.* Quiet title. No interest.
- *Heflin, et al. v. Aurora Investment Co., et al.* To quiet title. No interest.
- *Cardwell, et al., v. Anderson, et al.* Quiet title. No interest.
- *Daum, et al., v. Berquist, et al.* Quiet title. No interest.
- *Clarke, et al., v. Beck, et al.* Quiet title. No interest.

Archuleta County

- *People, ex rel. Watrous, State Highway Engineer, v. Crowley, et al.* Condemnation suit. Pending.

Baca County

190. *Larabee v. Baughman, et al.* Quiet title. No interest.
209. *Viller v. Poyner, et al.* Quiet title. No interest.
225. *Thompson v. Gunard, et al.* Quiet title. No interest.
260. *Vail v. Brackney, et al.* Quiet title. No interest.
297. *Newman, et al v. Brown, et al.* Quiet title. No interest.
- *Simpson v. State.* Quiet title. No interest.

Docket
Number

- *Cochran v. Montgomery, et al.* Quiet title. No interest.
 *Cunningham v. Rosacker, et al.* Quiet title. No interest.
 *Mathews v. Chapman, et al.* Quiet title. No interest.
 *Rutherford v. Chapman, et al.* Quiet title. No interest.
 *Dean v. Morris, et al.* Quiet title. No interest.
 *Southeast Colorado Power Assn. v. Robins, et al.* Quiet
 title. No interest.
 *Stinson v. Stinson, et al.* Quiet title. No interest.
 *Didier v. Holman, et al.* Quiet title. No interest.
 *Eden, et al., v. State of Colorado, et al.* Quiet title. No
 interest.
 *Hanna v. Golden, et al.* Quiet title. No interest.
 *Withroder v. Martin, et al.* Quiet title. No interest.

Bent County

160. *Bohrer v. Schippers.* Damages for false imprisonment.
 Dismissed at plaintiff's motion.

Boulder County

11127. *Dunham v. Snyder, et al.* Quiet title. No interest.
 11242. *Persohn et al. v. Squires, et al.* Quiet title. No interest.
 14253. *Catchpole et al. v. Terry, et al.* Quiet title. No interest.
 *Earl v. City of Boulder, et al.* To recover judgment as
 damages. Dismissed.

Chaffee County

3345. *Sunnyside Park Ditch Co., v. Hinderlider, et al.* Water
 rights. Decree entered.
 3787. *State Highway Department, et al. v. Churcher, et al.* High-
 way matter. Pending.
 3837. *King v. County of Chaffee, et al.* Liquor license. Dis-
 missed.

Cheyenne County

1763. *Harker v. Gage, et al.* Quiet title. No interest.
 *Miller, et al. v. State of Colorado, et al.* Quiet title. No
 interest.
 *People, ex rel., v. Parker, et al.* Soil conservation matter.
 *McMillen v. Cheyenne Wells Town & Investment Co., et al.*
 Quiet title. No interest.
 *Kopstad, et al., v. Derr, et al.* Quiet title. No interest.

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- *Smades v. Goodier, et al.* Quiet title. No interest.
 *Boyer v. Englebrecht, et al.* Quiet title. Disclaimer filed.

Clear Creek County

9429. *Jump, et al., v. Crow, et al.* Quiet title. No interest.
 *Fairbanks v. Merrick, et al.* Quiet title. No interest.

Conejos County

2370. *F. H. M. Q. Ditch Co., v. Movis, et al.* Quiet title. No interest.
 *McClintock v. Campbell.* Sales tax receivership. Pending.

Costilla County

1081. *San Luis Power v. Costilla Co. Com.* Taxes, revaluation of land. Settled by mutual stipulation.
 1193. *Vigil v. Welsh.* Unlawful search by game warden. Closed.

Custer County

1412. *Cavender, et al., v. Custer, et al.* Quiet title. No interest.

Delta County

- *Bd. Co. Commrs. Delta Co., et al., v. McMillan, et al.* Highway Condemnation suit. Pending.
 *Bd. Co. Commrs. Delta Co., et al., v. Wear, et al.* Condemnation suit. Pending.

City and County of Denver

- A-33311. *Public Service Co. v. State.* Condemnation. Pending.
 A-36105. *People v. Schiffner.* Release from Colorado State Hospital. Motion denied.
 A-43305. *Siefer v. Collins, et al.* State leased lands. Pending.
 A-43411. *Rockwell v. Morrison.* Real Estate Brokers Board matter. Dismissed by stipulation.
 A-46162. *Consolidated Underwriters, et al. v. Industrial Com., et al.* Constitutionality of provision of Industrial Act. Dismissed. Appealed.
 A-46341. *Produce Drivers, et al. v. Reilly.* Constitutionality of provision of Industrial Act. Pending.
 A-47683. *Spears Free Clinic and Hospital v. Wallace, et al.* Issuance of permit. Dismissed.

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- A-48587. *Silver State Laundry Co. v. Ind. Commission.* To vacate order of Commission. Pending.
- A-49411. *In the Matter of the Estate of Emma O. Anderson, Deceased.* Trust fund. Stipulation. Legacy paid.
- A-50318. *Willard Storage Battery Co. v. Bedford, et al.* Income tax appeal. Judgment in favor of plaintiff.
- A-50417. *Rice v. Bd. Chiropractic Examiners, et al.* Chiropractic examination. Judgment for defendants.
- A-51019. *Shanahan, et al. v. Hinkley, et al.* Motor Vehicle dealer's appeal. Judgment in favor of plaintiff.
- A-51295. *Hochmuth, et al., v. Bucher, et al.* Quiet title. No interest.
- A-51317. *Keller v. Hinkley, et al.* Restoration of license.
- A-51339. *Judd v. Higgins, et al.* Quiet title. No interest.
- A-51468. *Edmonds v. Gates, et al.* Quiet title. No interest.
- A-51560. *South Denver Finance Co. v. Elijah H. Pattison, et al.* Quiet title. No interest.
- A-51714. *J and K Construction Company v. Clarke, et al.* Quiet title. No interest.
- A-51828. *Colsman Company, Inc., v. Elenora S. Baker, et al.* Quiet title. No interest.
- A-51836. *S. I. O. Investment Co. v. Cecil, et al.* Quiet title. No interest.
- A-51852. *Woodman v. Scholtz, et al.* Quiet title. No interest.
- A-51862. *Kortz v. Baker, et al.* To quiet title. No interest.
- A-51933. *Perry, et al., v. Bailey, et al.* To quiet title. No interest.
- A-52123. *Blalock, et al., v. Ballard, et al.* To quiet title. No interest.
- A-52155. *Kincaird v. Colorado State Bd. Barber Examiners, et al.* Re rule of Board. Dismissed without prejudice by plaintiff.
- A-52195. *Guaranty Corporation v. Bower, et al.* To quiet title. No interest.
- A-52336. *Danley, et al. v. Burch, et al.* To quiet title. No interest.
- A-52385. *Sweetman v. Atkinson, et al.* Quiet title. No interest.
- A-52474. *Fryer v. Golden, et al.* Quiet title. No interest.
- A-52610. *Bell, et al. v. Bachman, et al.* To quiet title. No interest.
- A-52654. *City and County of Denver v. Wells, et al.* Quiet title. No interest.

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- *South Denver Finance Co. v. Teaton, et al.* Quiet title.
No interest.
- A-52811. *Ader, et al. v. Hess, et al.* Quiet title. No interest.
- A-52880. *Johnson v. Hawkinson, et al.* Quiet title. No interest.
- A-53036. *Buckingham v. Bergren, et al.* Quiet title. No interest.
- A-53144. *Noll, et al., v. Allaway, et al.* Quiet title. No interest.
- A-53147. *Siegel, et al., v. Cook, et al.* Quiet title. No interest.
- A-53211. *D. C. Burns Realty and Trust Co., v. Beck, et al.* Quiet
title. No interest.
- A-53356. *Reed v. Zins, et al.* Quiet title. No interest.
- A-53536. *Rocky Mountain Homes, Inc., v. Aull, et al.* Quiet title.
No interest.
- A-53620. *Hochmuth, et al., v. Ballard, et al.* Quiet title. No
interest.
- A-54041. *Small Homes Co. v. Crowley, et al.* Quiet title. No
interest.
- A-54162. *Burke v. Currier, et al.* Quiet title. No interest.
- A-54235. *Osborne, et al. v. King, et al.* Quiet title. No interest.
- A-54542. *Wilson, et al. v. Stromberg, et al.* Quiet title. No in-
terest.
- A-54573. *Lombardi, et al. v. Woodmansee, et al.* Quiet title.
No interest.
- A-54580. *The Colorado Seminary v. Hinkley, et al.* Denver Uni-
versity property. Pending.
- A-54646. *Colsman Company, Inc. v. Button, et al.* Quiet title.
No interest.
- A-54702. *Burns Realty and Trust Co. v. Alexander, et al.* Quiet
title. No interest.
- A-54790. *Yost v. Failing, et al.* Quiet title. No interest.
- A-54964. *Elliott, et al. v. Alicia Hoyt, et al.* Quiet title. No
interest.
- A-54987. *Anderson v. Chatfield, et al.* Quiet title. No interest.
- A-55053. *Lloyd v. Bergen, et al.* Quiet title. No interest.
- A-55151. *D. C. Burns Realty and Trust Co., v. Amspoker, et al.*
Quiet title. No interest.
- A-55439. *Clinton Co. v. Bd. Co. Commissioners of the County of*
Arapahoe, et al. Quiet title. No interest.
- A-55455. *Emeson v. Swann, et al.* Quiet title. No interest
- A-55690. *Pellison v. Goetz, Jr., et al.* Old age pension matter.
Motion to quash sustained.
- A-55807. *Anderson v. Langfield, et al.* Quiet title. No interest.
- A-55835. *Pillard v. Smith, et al.* Quiet title. No interest.

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- A-55951. *Baumbach v. Haven, et al.* Quiet title. No interest.
- A-56021. *Woodman, et al., v. Tabor, et al.* Quiet title. No interest.
- A-56302. *Manchester Development Co. v. Sherman, et al.* Quiet title. No interest.
- A-56478. *Bergren v. Greenawalt, et al.* Quiet title. No interest.
- A-56764. *Ritsema, et al. v. Bartlett, et al.* Quiet title. No interest.
- A-56920. *Day v. Barsh, et al.* Quiet title. No interest.
- A-57264. *Taylor v. Chamberlin, et al.* Quiet title. No interest.
- A-57370. *United Victory Corporation v. Allen, et al.* Quiet title. No interest.
- A-57487. *Danbom, et al. v. Connor, et al.* Quiet title. No interest.
- A-57512. *Denver Abstract Co. v. Colorado Abstractors' Board of Examiners, et al.* Abstract board matter. Dismissed.
- A-57761. *Carroll v. Carroll, et al.* Vital statistics. Dismissed.
- A-57821. *Sherman v. Shaw, et al.* Quiet title. Disclaimer filed.
- A-58260. *Young v. People.* Declaratory judgment. Dismissed.
- A-58287. *Clinton Co. v. Butler, et al.* Quiet title. No interest.
- A-58429. *Blanton, et al. v. Reeves, et al.* Barbering prices. Pending.
- A-58533. *Belcaro Realty Investment Co. v. Anderson, et al.* Quiet title. No interest.
- A-58607. *Shotkin v. Perkins.* Sales and use tax. Dismissed.
- A-58767. *Haney v. Grey, et al.* Quiet title. No interest.
- A-58819. *Graves v. Richardson, et al.* Quiet title. No interest.
- A-58890. *City Realty Co. v. Abele, et al.* Quiet title. No interest.
- A-58899. *Ambrose & Sons, Inc., v. Dillon, et al.* Quiet title. No interest.
- A-58967. *Francis v. Baker, et al.* Quiet title. No interest.
- A-58996. *Shotkin v. Perkins.* Writ of certiorari, complaint for declaratory judgment. Appealed.
- A-59016. *Rio Grande Land Co. v. Flowers, et al.* Quiet title. No interest.
- A-59052. *Colorado Natural Gas and Fuel Co. v. State of Colorado.* Damages for breach of contract. Settled and closed.
- A-59241. *Haney v. Sweeney, et al.* Quiet title. No interest.
- A-59306. *West Coast Fast Freight, Inc. v. Robinson, et al.* Quiet title. No interest.
- A-59507. *City and County of Denver v. Alford.* Quiet title. No interest.

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- A-59573. *Rocky Mountain Osteopathic Hospital Assn. v. Ghost, et al.* Quiet title. No interest.
- A-59641. *Houston, et al. v. Griffin, et al.* Quiet title. No interest.
- A-59914. *Lamson v. Vanderlip, et al.* Quiet title. No interest.
- A-59985. *Case v. Morrison.* Old age pension matter. Court sustained Secretary of State.
- A-60211. *Jacobs, et al. v. Bohn, et al.* Declaratory judgment re boxing regulations. Pending.
- A-60309. *Smith v. Turner, et al.* Quiet title. No interest.
- A-60845. *Shotkin v. Perkins, et al.* Temporary Injunction and damages. Pending.
- A-61052. *Don E. Vestal Co. v. Brown, et al.* Quiet title. No interest.
- A-61065. *Arterburn, et al. v. Abell, et al.* Quiet title. No interest.
- A-61330. *Best v. Miller, et al.* Quiet title. No interest.
- A-61364. *City and County of Denver, State Highway Department v. Adduci, et al.* Highway condemnation suit. Pending.
- A-61603. *City and County of Denver v. Tooley, et al.* Quiet title. No interest.
- A-61895. *Anderson, et al. v. Dargats, et al.* Quiet title. No interest.
- A-62019. *People, ex rel. White, v. Hacienda Manana Hotels, Inc., et al.* Securities law. Pending.
73499. *In the Matter of the Estate of Charles S. King, Deceased.* Widow's allowance. Appeal dismissed.
74977. *In the Matter of the Claim of Colorado State Hospital against Estate of Sophie Ratcher.* Claim for care. Allowed.
78334. *In the Matter of the Estate of Hyman Hirshorn, Deceased.* Bequest to University. Pending.
80163. *In the Matter of an Inheritance Tax in the Estate of Thurza Wintermeyer, Deceased.* Judgment for State. Appealed.
81057. *In the Matter of the Estate of Emil A. Berglund, Deceased.* Claim of Ridge Home.
82134. *In the Matter of the Estate of Helen Dena Yetter, et al.* Trust. Court denied prayer of Caveat.
- *Max M. Greenwald v. McCreery, et al.* Civil service matter. Pending.
- *People, ex rel., Feast, v. Miller.* Damages. Judgment for plaintiff.
- *Mary Houston, et al. v. Kirshwing, et al.* City ordinance.

Docket
Number

- *Glenn, et al., v. Cleere, et al.* Forms for premarital certificates. Vacated at request of plaintiff.
- *In the Matter of the International Union of Retail Wholesale and Department Store Employees of America, etc.* Industrial Commission matter. Pending.
- *Polhemus v. Newsom, et al.* To compel issuance of a license. Action of board sustained.
- *M. M. Owen v. Hazlett.* Money Lender's License. Dismissed.
- *Snow v. Eaton, et al.* Quiet title. No interest.
- *Houston v. Steele, et al.* Civil service status. Pending.
- *Howry-Berg, Inc. v. Emery, et al.* Quiet title. No interest.
- *Flora v. Hall, et al.* Quiet title. No interest.
- *Rocky Mountain Homes, Inc., v. Bogges, et al.* Quiet title. No interest.
- *Johnson, et al. v. Cohen, et al.* Quiet title. No interest.
- *Stucky, et al. v. Seitz, et al.* Quiet title. No interest.
- *Turner, et al., v. Anderson, et al.* Quiet title. No interest.
- *Parr v. State Board of Health.* Civil Service matter. Judgment for plaintiff.
- *In the Matter of the Estate of Louis Tiger, Deceased.* Estate matter. Decree of heirship entered. No appeal taken.
- *Karsh, et al. v. Brandenburg, et al.* Quiet title. No interest.
- *Hinkley, Industrial Commission v. Mountain States Telephone and Telegraph Co., et al.* Picketing. Consolidated with similar case.
- *Bishop v. Dunmire, et al.* Quiet title. No interest.
- *Bogue Building Corporation v. Auslander, et al.* Quiet title. No interest.
- *DeBell, et al. v. Dalrymple, et al.* Quiet title. No interest.
- *Hugins et al v. Ryan, et al.* Quiet title. No interest.
- *Sterling v. Short, et al.* Quiet title. No interest.
- *Greenwald v. Gardner, et al.* Quiet title. No interest.
- *Paavola v. Bennett, et al.* Quiet title. No interest.
- *Denver Motor Finance Co. v. Perkins.* Recovery of sales tax. Dismissed.
- *Soderstrom v. Colorado Game and Fish Commission.* Damage for livestock killed by bear. Pending.
- *Bogue Building Corp. v. Bennett, et al.* Quiet title. No interest.
- *People, ex rel. White, v. Crombie, et al.* Securities matter. Pending.

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- *Jones v. Perkins*, Income tax determination. Pending.
- *Obert, et al., v. Burnley, et al.* Quiet title. No interest.
- *Colsman, Inc. v. Carlisle, et al.* Quiet title. No interest.
- *People, ex rel White v. Cox, et al.* Fraudulent practices act. Pending.
- *D. C. Burns Realty and Trust Co. v. Barrett, et al.* Quiet title. No interest.
- *Hurst v. Abbot, et al.* Quiet title. No interest.
- *Ells, et al. v. Fogel, et al.* Quiet title. No interest.
- *Bogue Construction Co. v. Anderson, et al.* Quiet title. No interest.
- *Palmer, et al. v. Perkins.* Use taxes.
- *Dispense v. Yortz, et al.* Quiet title. State filed disclaimer.
- *Lipset v. Davis, et al.* Medical board matter. Judgment in favor of defendant. Appealed.
- *Bogue Building Corp. v. Colby, et al.* Quiet title. No interest.
- *In the Matter of the Appeal of Wedgle from Revocation of Operator's License, etc.* Dismissed.
- *Howard v. Gobble, et al.* Inheritance tax matter. Closed and appealed.
- *Manos, et al. v. Whitley, et al.* Quiet title. No interest.
- *Falkenberg v. Berger, Jr.* Quiet title. No interest.
- *Public Service Co. v. Angermann, et al.* Quiet title. No interest.
- *Bawcum, et al. v. Thorn, et al.* Quiet title. No interest.
- *Gray v. Moyn, et al.* Quiet title. No interest.
- *Denver Tropical Inn, Inc. v. Morrison.* Liquor matter. Pending.
- *Tufford, et al., v. Henry, et al.* Quiet title. No interest.
- *Schwartz, et al. v. Heisler, et al.* Quiet title. No interest.
- *Douglas v. Nerrin, et al.* Quiet title. No interest.
- *Garrett-Bromfield & Co. v. Prentice, et al.* Quiet title. No interest.
- *Colsman Company, Inc. v. Clark, et al.* Quiet title. No interest.
- *Knutson, et al. v. Bennett, et al.* Quiet title. No interest.
- *Levy v. Blomgren, et al.* Quiet title. No interest.
- *People ex rel Allen v. Murphey, et al.* "Children's Code Commission." Issues in favor of relator.
- *Wegner, et al. v. Behneman, et al.* Quiet title. No interest.

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- *Real Homes, Inc., v. Carlson, et al.* Quiet title. No interest.
- *Hazlett v. State Civil Service Commission, et al.* Citation to show cause, civil service discharge. Found in favor of plaintiff, appealed to Supreme Court.
- *B. F. Bennet Oil Co. v. Anxerie, et al.* Quiet title. No interest.
- *Haney, et al. v. Allison, et al.* Quiet title. No interest.
- *Levy, et al. v. Allen, et al.* Quiet title. No interest.
- *Nutting, et al. v. Colorado National Bank of Denver, et al.* Quiet title. No interest.
- *Rio Grande Land Company, et al. v. Aron, et al.* Quiet title. No interest.
- *Lally, et al. v. Rosenbaum, et al.* Quiet title. No interest.
- *Bogue Building Corp. v. Clodius, et al.* Quiet title. No interest.
- *Bogue Building Corp. v. Breining, et al.* Quiet title. No interest.
- *Rocky Mountain Homes, Inc. v. Dyer, et al.* Quiet title. No interest.
- *In the Matter of the Will of Vaso L. Chucovich.* Petition for construction of a will. Court order entered.
- *S. I. O. Investment Co. v. Geddes, et al.* To quiet title. No interest.
- *Colsman Realty Co., et al. v. Armstrong, et al.* Quiet title. No interest.
- *City Realty Company v. Anderson, et al.* Quiet title. No interest.
- *Yamin v. Wanee, et al.* Quiet title. No interest.
- *Hauser, et al. v. Mitchell, et al.* Quiet title. No interest.
- *Valenzulea v. Aranda, et al.* Quiet title. No interest.
- *Singer v. McFarlane, et al.* Quiet title. No interest.
- *Rio Grande Land Co. v. Arfsten, Jr., et al.* Quiet title. No interest.
- *Klein, et al. v. Johnson, et al.* Quiet title. No interest.
- *Reno, Inc., a Colorado corporation, v. Sherman, et al.* Quiet title. No interest.
- *Maxpursel, et al. v. State of Colorado, et al.* Quiet title. No interest.
- *Hegglund v. Van Hall, et al.* Quiet title. No interest.
- *Chiossi v. Reger, et al.* Quiet title. No interest.
- *The Mayfair Development Company v. Moler, et al.* Quiet title. No interest.

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- *Campbell v. James*. To review action of Civil Service Commission. Pending.
- *Flint v. Warling, et al.* Quiet title. No interest.
- *Jackett v. DeWolf, et al.* Quiet title. No interest.
- *Polfer, et al. v. Walraven, et al.* Quiet title. No interest.
- *Feiner, et al. v. Schmitt.* Quiet title. No interest.
- *Youmans, et al. v. Whittaker, et al.* Quiet title. No interest.
- *Pavlakovich, et al. v. Tynon, et al.* Quiet title. No interest.
- *City and County of Denver v. Brodrick, et al.* Quiet title. No interest.
- *Colman Company, Inc., et al. v. Altevogt, et al.* Quiet title. No interest.
- *C. Ray Bigelow v. State Civil Service Commission, et al.* Civil service examination for personnel director. Pending.
- *Jessie C. Buckley, et al., v. Grantlin Roubles Crossons, et al.* Quiet title. No interest.
- *Claybourn W. Widener, et al. v. Peavey, et al.* Quiet title. No interest.
- *Heap, et al. v. Bailey, et al.* Quiet title. No interest.
- *Grimm v. Colorado State Board of Health.* Plumber's license. Pending.
- *Schepp, et al. v. Adams, Jr., et al.* Quiet title. No interest.
- *Spallone v. Gleason, et al.* Quiet title. No interest.
- *Black, et al. v. Perkins.* Contract for sale of automobile. Pending.

Douglas County

1567. *State Highway Department v. Clugy, et al.* Highway condemnation suit. Dismissed.
1660. *State Highway Department, Douglas County Commissioners v. Greenland Land and Cattle Co.* Highway Condemnation suit. Pending.
- *Highway Department v. Bower, et al.* Condemnation suit. Dismissed.
- *Lagae, et al. v. Taylor, et al.* Quiet title. No interest.

Eagle County

1072. *Board of County Commissioners of the County of Eagle, State Highway Department v. Nottingham, et al.* Highway condemnation. Dismissed.

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1074. *Board of County Commissioners of Eagle Co., State Highway Department v. Peterson, et al.* Highway condemnation suit. Pending.

Elbert County

1324. *Russell v. Sadewasser, et al.* Quiet title. No interest.

El Paso County

25601. *Johnson v. Depew, State of Colorado, et al.* Quiet title. Answer withdrawn, case closed.
26437. *Shoecraft v. Love, et al.* Terms of will. Motion to intervene denied.
26472. *Morrell v. Williamson.* Quiet title. No interest.
26476. *Beroni, et al. v. Byrnes, et al.* Quiet title. No interest.
26485. *Risby v. Swan, et al.* Quiet title. No interest.
26609. *Mathis, et al. v. Kamps, et al.* Quiet title. No interest.
26671. *Clark, et al. v. Staffels, et al.* Quiet title. No interest.
26748. *Phillips, et al. v. Innis, et al.* Quiet title. No interest.
26841. *Wilcox, et al. v. Robers, et al.* Quiet title. No interest.
26855. *Skelley v. Colorado Springs Land and Lot Co., et al.* Quiet title. No interest.
26884. *Bowersock v. Bowersock, et al.* Quiet title. No interest.
26911. *Gasaway v. Quinby, et al.* Quiet title. No interest.
26969. *Chancellor, et al. v. Foster, et al.* Quiet title. No interest.
27016. *Clark v. Unknown last surviving Directors and Trustees of the Colorado City Town Company, et al.* Quiet title. No interest.
27025. *Peterson v. Howkins, et al.* Quiet title. No interest.
27126. *Arthurs, et al. v. James, et al.* Quiet title. No interest.
27127. *Clarkson, et al. v. State of Colorado, et al.* Quiet title. No interest.
27360. *Shanks, et al. v. McLean, et al.* Quiet title. No interest.
27389. *Hocutt v. Martin, et al.* Quiet title. No interest.
27428. *Shepard, et al. v. Gardner, et al.* Quiet title. No interest.
27481. *Routh, et al. v. Lamborn, et al.* Quiet title. No interest.
27623. *Fung v. Myres, et al.* Quiet title. No interest.
27776. *Swihart, et al. v. Stephens, et al.* Quiet title. No interest.
27843. *Nation v. Newton Lumber Co., et al.* Quiet title. No interest.
27887. *Bailey v. Wallace, et al.* Quiet title. No interest.
27951. *Miller, et al. v. Davison, et al.* Quiet title. No interest.

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27962. *DeVorss v. Musser, et al.* Quiet title. No interest.
 *May v. Johnson, et al.* Quiet title. No interest.
 *Sawyer v. Colten, et al.* Quiet title. No interest.
 *Tiffany v. Orcutt, et al.* Quiet title. No interest.
 *Harkness v. Heuston, et al.* Quiet title. No interest.
 *Cole, et al. v. State of Colorado, et al.* Quiet title. No in-
 terest.
 *Ream, et al. v. Shotwell, et al.* Quiet title. No interest.
 *Nelford Corporation v. Colorado Springs Co., et al.* Quiet
 title. No interest.
 *Swihart, et al. v. Stephens, et al.* Quiet title. No interest.

Fremont County

5495. *In the Matter of the Petition of Victor Briseno for a Writ
 of Habeas Corpus.* Habeas corpus.
 5648. *In the Matter of the Adjudication of Priorities of Right
 to Use of Water in Water District No. 12 of the State of Colo-
 rado.* Land Board water claims. Pending.
 6012. *In the Matter of the Petition of Stanley Bueter, also known
 as Joseph Hamilton, for a Writ of Habeas Corpus.* Stipulation.
 Closed.
 6274. *Fremont County Commissioners, State Highway Depart-
 ment v. Dwight M. Boucher, et al.* Highway condemnation.
 Pending.
 6281. *Garbitsch v. Best.* To compel warden to permit execution
 of last will and testament. Indefinitely suspended.
 6285. *Kikel v. Best.* Mandamus action to compel warden to au-
 thorize transfer of prisoner's funds. Dismissed.
 *Hart v. Best.* Habeas corpus. Writ quashed.

Garfield County

3798. *Halstead, et al. v. Tracy, et al.* Quiet title. No interest.
 650-C. *People v. Kimsey, Reigan.* Prosecution of game warden.
 Pending.
 *In the Matter of the Application of Fred C. Alsbury for a
 Hearing in the Matter of the Attempted Suspension of his
 Chauffeur's License, No. 24209 by the Department of Revenue,
 Motor Vehicle Bureau.* Judgment in favor of Petitioner.

Grand County

- *Dietrich, et al. v. Smith, et al.* Quiet title. No interest.
 *Ruple, Sr., et al. v. Boyer, et al.* Quiet title. No interest.

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Jackson County

380. *Norris, et al. v. Bruce, et al.* Quiet title. No interest.
..... *Gibbons v. La Fever, et al.* Quiet title. No interest.

Jefferson County

3512. *Estate of Georgette Hunziker, Mental Incompetent.* Claim for moneys due the Colorado State Hospital. Allowed.
4906. *Jefferson Co. Commrs. v. Spring, et al.* Condemnation proceeding. Pending.
5478. *Yarrow v. Green, et al.* To compel transfer of a liquor license. Disclaimer filed.
5631. *State Highway Dept. v. Kasparie, et al.* Highway matter. Dismissed.
5705. *Colorado School of Mines v. Neighbors.* Action for rent due the School of Mines. Judgment in favor of defendant. Appealed.
5780. *Davis v. Clark, et al.* Quiet title. No interest.
5802. *Eppich, Inc. v. Golden Farm and Townsite Co., et al.* To quiet title. No interest.
5890. *State Highway Department v. Granzella, et al.* Highway condemnation suit. Pending.
6071. *Clark, et al. v. Connelly, et al.* To quiet title. No interest.
6139. *McLeod v. Ballantine, et al.* Quiet title. No interest.
6152. *Martin v. Arnett, et al.* Quiet title. No interest.
6242. *Dawkins v. Blatter, et al.* Quiet title. No interest.
6246. *Jefferson County Commrs. v. Halm, et al.* Condemnation suit. Pending.
6289. *Jefferson County Commissioners, State Highway Department v. Swift, et al.* Pending.
6363. *Allender, et al. v. Hinman Brothers Construction Company.* Highway matter. Closed.
..... *Armstrong, et al. v. Higginson, et al.* Quiet title. No interest.
..... *Menzies, et al. v. Moore, et al.* Quiet title. No interest.
..... *Vurovec v. Fagan, et al.* Quiet title. No interest.
..... *In the Matter of the Estate of Bertha T. Seig, Deceased.* Escheat matter. Attorney General appointed Amicus Curiae, later excused as such.
..... *Quaintance, et al. v. Board of County Commissioners of the County of Jefferson, et al.* Quiet title and injunctive relief. Judgment for plaintiff, on appeal.
..... *Ihrig v. Schultz, et al.* Quiet title. No interest.

Docket
Number

..... *Garman, et al. v. Colorado and Southern Railway Company.*
Quiet title, disclaimer filed.

Kiowa County

115. *Stum v. Unknown Heirs of Minnie M. Wade, et al.* Quiet title.
No interest.
119. *Frost, et al. v. Ritchey, et al.* Quiet title. No interest.
129. *Garvey v. The State of Colorado, et al.* Quiet title. No in-
terest.
143. *Woolfolk v. Hall, et al.* Quiet title. No interest.
144. *Blakemore v. State, et al.* Quiet title. No interest.
148. *Oman, et al. v. Kirkland, et al.* Quiet title. No interest.
151. *Baxter v. Young, et al.* Quiet title. No interest.
153. *Frazee v. Mitchem, et al.* Quiet title. No interest.
163. *Partee v. State of Colorado, et al.* Quiet title. No interest.
167. *McMeill v. Sawyer, et al.* Quiet title. No interest.
172. *Boyd v. State of Colorado, et al.* Quiet title. No interest.
174. *Weaver, et al. v. State of Colorado, et al.* Quiet title. No in-
terest.
196. *Dye v. State of Colorado, et al.* Quiet title. No interest.
224. *Gano Grain Corporation v. State, et al.* Quiet title. No
interest.
235. *Bendorf v. Hutchcraft, et al.* Quiet title. No interest,
disclaimer filed.
253. *Montgomery v. State of Colorado, et al.* Quiet title. No
interest.
- *Marsh v. Lady, et al.* Quiet title. No interest.
- *State v. Scheffler, et al.* Quiet title. Pending.
- *State Highway Department v. Phillips.* Highway con-
demnation suit. Dismissed.
- *Morton v. Davis, et al.* Old Age Pension matter. Pending.
- *Casell, et al. v. State of Colorado, et al.* Quiet title. No
interest.
- *Frazee v. Mitchem, et al.* Quiet title. No interest.
- *Baldwin, et al. v. McNett, et al.* Quiet title. No interest.

Kit Carson County

1392. *In the Matter of the Estate of Charles O. Holliday.* Old
age pension claim. Paid.
3790. *People v. Harris.* Habeas corpus. Pending.
3792. *Taton v. Hickman, et al.* Adjudication of rights to land.
Pending.
- *Arthur, et al. v. Calvin, et al.* Quiet title. No interest.

Docket
Number

La Plata County

5179. *Re Petition of Reid Coppingier for Change of Point of Division v. Henry, et al.* Pending.

Larimer County

9585. *Tracy v. Buzzell, et al.* Quiet title. No interest.
 9621. *Noyes v. Phillips, et al.* Quiet title. No interest.
 9669. *Watkins, et al. v. Sherwood, et al.* Quiet title. No interest.
 9687. *Clark v. Kenoyer, et al.* Quiet title. No interest.
 9711. *Hahn, et al. v. Nesbit, et al.* Highway condemnation suit.
 Pending.
 9740. *Highway Department v. Watts, et al.* Condemnation suit.
 Dismissed.
 9784. *Kindrick, et al. v. Ferguson, et al.* Quiet title. No interest.
 9797. *State Highway Department, et al. v. McGrew, et al.* Condemnation suit. Dismissed.
 9798. *Geist, et al. v. Elkin, et al.* Quiet title. No interest.
 9816. *Shultz, et al. v. Stearly, et al.* Quiet title. No interest.
 9817. *Gomez v. Clark, et al.* Quiet title. No interest.
 9866. *Myers, et al. v. Stevens, et al.* Quiet title. No interest.
 9895. *Webster v. The People.* Gift tax. Dismissed.
 9896. *Webster v. The People, et al.* Gift tax. Dismissed.
 9968. *State Highway Department v. Hondius.* Highway condemnation suit. Dismissed.
 10064. *Graese, et al. v. Failing, et al.* Quiet title. No interest.

Las Animas County

9544. *People v. Teague.* Driver's license. Disclaimer filed.
 *Ingle, et al. v. Burton, et al.* Quiet title. No interest.
 *City of Trinidad and State Highway Department v. Gustafson, et al.* Highway condemnation suit. Pending.
 *Cruse v. Town of Aguilar, et al.* Liquor license delinquency Closed.

Logan County

7794. *Hansen v. Motor Vehicle Department.* Motor vehicle operator's license. New trial granted, judgment modified, petitioner passed examination.
 *Sunderland v. Nelson, et al.* Quiet title. No interest.

Docket
Number

Mesa County

7539. *Post, et al. v. City of Grand Junction.* Declaratory judgment.
7725. *Board of County Commissioners of Mesa County v. Kester, et al.* Condemnation suit. Pending.

Moffat County

1418. *Ducey, et al. v. Board of County Commissioners of Moffat County, et al.* Quiet title. Pending.

Montrose County

- *Perkins v. San Miguel Stages.* Order of distribution prepared.
- *In the Matter of the San Miguel Stages, a co-partnership.* Claim in receivership. Pending.
- *Ray, et al. v. Pollock, et al.* Quiet title. No interest.

Morgan County

7263. *State Highway Department v. Finkhouse, et al.* Highway condemnation proceedings. Pending.
- *Throop, et al. v. Throop, et al.* Quiet title. No interest.

Otero County

5519. *State Highway Department v. Reynolds, et al.* Highway condemnation suit. Dismissed.

Ouray' County

2156. *Church, et al. v. Brown, et al.* Quiet title. No interest.
2166. *Rice v. McClain, et al.* Quiet title. Disclaimer filed.
2192. *Camp Bird Limited v. Richardson, et al.* Quiet title. No interest.

Phillips County

2426. *Voges v. State Hail Insurance.* To recover judgment—hail insurance. Dismissed with prejudice.

Docket
Number

Pitkin County

2727. *Nordquist v. Nordquist*. Quiet title. No interest.
 2733. *Gaddis, et al. v. Fry, et al.* Quiet title. No interest.
 2746. *Pastore, et al. v. Jordan, et al.* Quiet title. No interest.
 2748. *Jackson v. Brown*. Quiet title. No interest.

Pueblo County

30178. *Clayton v. Clayton*. Sales and income taxes. Pending.
 30378. *Ohnemus v. Kouns, et al.* Old age pension matter.
 31034. *Worley, et al. v. Miller, et al.* Land Board matter, water rights. Pending.
 31172. *Bd. of County Commissioners of Pueblo County v. Kochenberger*. Motor vehicle fees. Declaratory judgment entered.
 31183. *Johnson v. State*. Action for damages. Settled.
 31600. *Hunter v. Clayton, et al.* Foreclosure of chattel mortgage. Court determined department did not have first and prior lien.
 *Hinkley, et al. v. Tucci, et al.* Motor fuel taxes. Settlement made.
 *Atchison, Topeka and Santa Fe Railway Co. v. State, Pueblo Conservancy District*. Condemnation suit involving Colorado State Hospital property. Pending.
 *Re Martin Garbritsch, by his next friend Matt J. Kikel*. Sanity. Before Justice of the Peace.

Prowers County

352. *State Highway Department v. Marburg*. Condemnation suit. Dismissed.
 477. *Prowers County Commissioners v. Guttridge, et al.* Condemnation suit. Pending.
 *Holt v. Mayberry, et al.* Quiet title. No interest.
 *Prowers County Commissioners v. Campbell*. Condemnation suit. Dismissed.

Rio Blanco County

- *Long, et al. v. O'Boyle, et al.* Quiet title. No interest.
 4003. *Frownfelter v. Perkins*. Operator's license. Petitioner's license restored.

Docket
Number

Routt County

2610. *State Highway Department v. Brenner, et al.* Condemnation proceedings. Dismissed.

Saguache County

- *Martinez v. Perkins.* Driver's license. Pending.
1554. *Bartlett v. Unknown Heirs at Law of George F. Benjamin, Deceased, et al.* Quiet title. No interest.

San Miguel County

1741. *Scott v. Ames, et al.* Quiet title. No interest.

Sedgwick County

1872. *Robson v. Brown, et al.* Quiet title. No interest.

Summit County

1894. *In Re Estate of Bertha Lund, Deceased.* Bequest to Colorado School for the Deaf and Blind. Closed.

Teller County

4763. *McManaman v. Steffa, et al.* Quiet title. No interest.
..... *LeFève, et al. v. Olcott, et al.* No interest.

Weld County

10932. *Sweitzer v. Smillie, et al.* Quiet title. No interest.
11047. *Rollstin, et al. v. The Alliance Trust Co., et al.* Quiet title. No interest.
11167. *Webber, et al. v. The New Bucker Ditch Co., et al.* Injunction for damages, water. Pending.
..... *Burback, et al. v. Danielson, et al.* Quiet title. No interest.
..... *Lawson v. State of Colorado, et al.* Quiet title. No interest.

Yuma County

3891. *State Highway Department v. Boden, et al.* Highway condemnation proceedings. Dismissed.

**WORKMEN'S COMPENSATION CASES IN THE
DISTRICT COURTS OF COLORADO
1947-1948**

City and County of Denver

Title of Action	Number	Judgment of District Court
<i>Zvanchuk v. Boulder Valley Coal Co.</i>	A-28581	To be dismissed
<i>Shepherd v. Montgomery Ward & Co.</i>	A-29394	To be dismissed
<i>Castelone v. Ind. Com. et al.</i>	A-38671	Dismissed
<i>L. C. Young v. Dorris Kraft, et al.</i>	A-45740	Dismissed
<i>Zuzich v. Leyden Lignite Co. et al.</i> (Combined with)	A-43412	
<i>Zuzich v. Leyden Lignite Co. et al.</i>	A-58122	Award affirmed
<i>Zupet v. American Mng. Co. et al.</i>	A-44950	Award affirmed
<i>Gurule v. Remington Arms, et al.</i>	A-47930	Award affirmed
<i>Gurule v. Loretto Lit. & Benev. Inst.</i> <i>et al.</i>	A-47941	Award affirmed
<i>Ohio Casualty, et al. v. Ind. Com.</i>	A-47856	Remanded to Commission
<i>Burrows v. Gresh and Ind. Com.</i>	A-51945	Settled, April, 1948
<i>Phillips v. Ind. Com. et al.</i>	A-52456	Award affirmed
<i>Hall Motor Freight v. Ind. Com. et al.</i>	A-52543	Settled, April, 1948
<i>Santopietro v. Ind. Com. et al.</i>	A-56604	Dismissed
<i>Kerr-McGee Oil Ind. et al. v. Jones,</i> <i>et al.</i>	A-56801	Award affirmed
<i>Aetna Casualty, et al. v. Ind. Com.</i>	A-57144	Commission settled
<i>Anderson, et al. v. Heaslet, et al.</i>	A-58387	Award affirmed
<i>Fireman's Fund, et al. v. Ind. Com.</i>	A-58512	Award affirmed
<i>Manhattan Rest. Inc. v. Ind. Com.</i>	A-59424	Pending
<i>Hull v. Central Surety, et al.</i>	A-59593	Commission settled
<i>Arvas v. McNeil Coal, et al.</i>	A-59698	Award affirmed
<i>Ice v. Ind. Com. et al.</i>	A-60216	Pending
<i>Foreman v. Ind. Com., et al.</i>	A-60834	Dismissed
<i>McKnight v. Spears, et al.</i>	A-60635	Dismissed
<i>Merriman, et al. v. Ind. Com.</i>	A-61306	Pending

Arapahoe County

Downing v. General Iron Works 7911 Pending

Gunnison County

Spinuzza v. Ind. Com. et al. 5126 Dismissed

Jefferson County

Chaney, Jr. v. Ind. Com. et al. 6467 Pending

Mesa County

Junction Lodge No. 723, et al. v. Ind. Com. and Johnson 7652 Ind. Com.'s order Implemented by mandatory order.

Pueblo County

Zakrasick v. Ind. Com. et al. 30577 Pending
Bernstein Bros. et al. v. Hadley 31942 Pending

San Miguel County

Belger, et al. v. Veta Mines 1665 Settled, 1948

ESCHEAT CASES

<i>Name</i>	<i>County</i>
Daniel J. Lee.....	Denver
Charles W. Bobbett.....	Denver
Vorhans B. Fowler.....	Denver
Dahl and Gust Dalburg.....	Denver
Gust Dahl, aka Gust.....	Denver
George W. Evans.....	Denver
Richard Heemstra.....	Denver
Frank Austin Woods, aka Frank Woods.....	Denver
Charles E. Ragsdale, aka Charley Edward Ragsdale.....	Denver
Michael Chiaradeo.....	Denver
Lena Witchner.....	Denver
Charles Dankwardt, aka Charles Dankworth.....	Denver
Frank Dunshee, aka Frank Leon Dunshee, and Frank L. Dunshee.....	Denver
Thomas B. Nicholson.....	Denver
Mary Swanson.....	Denver
Thomas J. Weaver, aka Tom Weaver.....	Denver
William J. Sanders.....	Denver
Geo. W. Hunt, aka George W. Hunt.....	Denver
Evan Velecoff.....	Denver
John Marcukones.....	Denver
Patrick Murphy.....	Denver
Tellman Sugg.....	Denver
Frank Gabryelewicz, aka Frank Gable.....	Denver
Michael Sawchuck, aka Mike Sawchuck, and Michael Sawzek.....	Denver
Daniel T. Bryant.....	Denver
Bridget Connors, aka Mrs. William Connors.....	Denver
Andrew J. Wellander.....	Denver
John H. Jaeckel.....	Denver
George A. Taylor, aka George Alfred Taylor.....	Denver
Evelon Marugg.....	Denver
Harry J. Knight, aka H. J. Knight, and Harry Knight.....	Denver
Charles E. Wolfram.....	Denver
Ray L. Richards.....	Denver
Henry Krolop, aka Henry S. Krolop.....	Denver
William L. Muller, aka Wm. L. Muller, and W. L. Muller.....	Denver
John Wilkin.....	Denver
John Zuble, aka John Smith and John Smit.....	Denver

<i>Name</i>	<i>County</i>
Samuel W. Whitney, aka S. W. Whitney.....	Denver
Edward Ross.....	Denver
Edward Arthur Radford, aka Ed Radford....	Denver
David Myat Prpa, aka David M. Prpa and D. M. Prpa.....	Denver
Margaret McMahan.....	Denver
Arthur Blair.....	Denver
William Murphy, aka William J. Murphy.....	Denver
Albert Derr, aka Albert Lee Derr and Albert L. Derr.....	Denver
Lestor Reed, aka Lester Reed.....	Denver
Cora Athy.....	Denver
Charles Wesley Mayfield, aka Charles W. Mayfield.....	Denver
Kamito Aganito Florez.....	Denver
Louis Tiger.....	Denver
Mary Fahey.....	Denver
Herman Voerde, aka H. Voerde.....	Denver
David Cuff.....	Denver
Marie Miller, aka Marie A. Miller.....	Denver
Anna K. Reinbold, aka Nettie Reinbold and Netta Reinbold.....	Denver
Francis Carr.....	Denver
Mary Ryan.....	Denver
Clara Coleman.....	Denver
James Hand.....	Denver
Archibald C. Brentnall.....	Denver
Archibald Copeland.....	Denver
Robert Goodyear.....	Denver
Hyman Schiff.....	Denver
Etrenne Duc.....	Denver
Reuben T. Benjamin.....	Denver
Andrea Lewis.....	Denver
Lena Dayton.....	Denver
William P. Johnson.....	Denver
Edward Menzenworth.....	Denver
August Scherbechler.....	Denver
Lawrence Diebold.....	Denver
Kate M. Frichtel.....	Denver
Andrew Anderson.....	Denver
William Judson Parrish.....	Denver
Fred Meyer, aka F. A. Meyer and F. Meyer.....	Pueblo
Marco Nikolick, aka Marco Nickolick.....	Pueblo
Victor Bob.....	Pueblo

<i>Name</i>	<i>County</i>
Peter P. Montague.....	Pueblo
H. L. Ashbaugh, aka H. L. Martin.....	Pueblo
Fred M. Hammond.....	Pueblo
Henry C. May.....	Eagle
Lou Anna Brewington.....	Weld
Orval T. Brewington.....	Weld
Gold King Mines Co., and The Gold King Mining Co.....	El Paso
Martha Kathrine Skank, aka Katherine West.....	El Paso
Mary Talbert.....	El Paso
Alice Abbott.....	El Paso
Ella and John Clawson.....	El Paso
Frank Rodriguez.....	Boulder
Mary Rodriguez.....	Boulder
Michael J. Le Fevre.....	Mineral
With Thomas, aka Witte Thomas.....	Mineral
Susan M. Forbes.....	Gunnison
Mary Ann Monahan, aka Mary Monahan.....	Adams
Frederick Henry Bahr.....	Adams
Fred Lammers.....	Adams
John Hudack.....	Routt
Albert Dietsch.....	Morgan
George F. Tuke, aka Gerhard F. Tuke.....	Morgan
J. C. Anderson.....	Montezuma
William C. Propst.....	Logan
Ira D. Jones.....	Logan
Harry Swenscoe.....	Larimer
Ray William Bishop.....	Larimer
Friendly A. Peterson.....	Larimer
Susie Wilson.....	Larimer
Emma F. Hanchett.....	Larimer
Bernhardt Petersen, aka B. Peterson.....	Arapahoe
George W. McCumber.....	Fremont
Lula May Davis.....	Fremont
Mary E. McCumber.....	Fremont
Thomas Sherman Mayo.....	Fremont
Elizabeth S. Gillon.....	Jackson
Sarah A. Whittier.....	Douglas
Edward B. Smith.....	Montrose
Nabor Huerta.....	Delta
George Light.....	Clear Creek
Mike Drensky.....	Moffat
William L. Bowden.....	Mesa
D. Hershel Guene.....	Summit

BEFORE THE STATE BOARD OF ACCOUNTANCY

- *Kentor, et al. v. Dolberg.* Defendant surrendered certificate without formal hearing.

BEFORE THE CIVIL AERONAUTICS BOARD

2839. Memorandum filed by Governor and Attorney General on behalf of the State.

BEFORE THE UNITED STATES DEPARTMENT OF AGRICULTURE

- *Smith v. Lowell Commission Company and State Board of Stock Inspection Commissioners of the State of Colorado.* Livestock fees. Case closed.

BEFORE THE COLORADO STATE BAR ASSOCIATION

- *In the Matter of the Discipline of an Attorney.* Report of Grievance Committee approved by Supreme Court.

BEFORE THE CIVIL SERVICE COMMISSION

- *In re Max M. Greenwald.* Civil Service matter. Pending.
 *In Re James M. Gaddes.* Charges. Gaddes dismissed.
 *In re William L. Hazlett.* Insubordination. Hazlett dismissed from service.
 *In Re Howard Warren.* Suspended for 15 days without pay. Closed.
 *Re Jo Lakovich v. Allen.* Pending.

BEFORE THE COLORADO STATE BOARD OF DENTAL EXAMINERS

- *In the Matter of the Revocation of Dental License No. 1671, Dr. H. G. Higgins.* Revocation of a license. Pending.
 *In the Matter of the Revocation of Dental License 1692, Dr. Donald F. Long.* Revocation of license. Pending.

BEFORE THE DIRECTOR OF MARKETS

- *Goff Law Company by John W Law, Rocky Ford, Colo. v. Bates Elevator.* Matter settled by compromise.

BEFORE THE COLORADO STATE PUBLIC UTILITIES COMMISSION

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

SCHEDULE III

OPINIONS AND SYLLABI OF OPINIONS

Rendered During the Biennial Period

1947-1948

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**942-47**

Mr. Dan F. Santry, Jr.,
January 14, 1947.

The limit for bonded indebtedness of a first class school district is five per cent of the assessed valuation, but if the Board of Education determines that an emergency exists, they may, after obtaining the consent of the Colorado Tax Commission, incur bonded indebtedness up to but not exceeding ten per cent of the assessed valuation.

COUNTY COMMISSIONERS**943-47**

Hon. Ben Veltri,
January 16, 1947.

There is nothing in the law prohibiting a quorum of the Board of County Commissioners from transacting the business of the county, which includes appointments to county employments such as supervisor, etc. If in transacting such county business, the quorum ignores the wishes of the minority member, this action is not unlawful, but is within the provisions of Section 6, Article XIV, Constitution of Colorado, and can only be remedied by the electorate when submitted to them for their approval or disapproval at the next general election. Sections 15, 25, 64, Chapter 45, 1935 C.S.A. *Saguache Co. v. Touch*, 45 Colo. 395.

MOTOR VEHICLES**944-47**

Mr. C. H. Gunn,
January 17, 1947.
(Safety Glass)

The safety glass required for the vehicles mentioned in Section 265(a), Chapter 16, 1935 C.S.A., must be replaced with safety glass, but only the windshields of all other new motor vehicles sold on or after January 1, 1937, must be replaced with safety glass.

**INDUSTRIAL COMMISSION—
CITIES AND TOWNS****945-47**

Mr. W. I. Reilly,
January 20, 1947.
(Health, police powers)

Where the charter and ordinances cover the subject matter of Article 2, Chapter 97, 1935 C.S.A., and are confined to matters within the territorial limits and other jurisdiction of such home

rule city, the Factory Inspection Department has no jurisdiction to make inspections, issue certificates of inspection, or other corrections of violations of the factory inspection law. (Sec. 6, Art. XX, Const. of Colo.; Art. 2, Ch. 97, 1935 C.S.A.; *Averch v. Denver*, 78 Colo. 246; *Denver v. Telegraph Co.*, 67 Colo. 225).

INTOXICATING LIQUORS

946-47

Hon. Walter F. Morrison,

Jan. 22, 1947.

(Wholesalers)

A wholesale licensee may maintain a warehouse in dry territory for handling of intoxicating liquors providing no sales or solicitation of orders are made thereat or therefrom.

DIRECTOR OF REVENUE—CIVIL SERVICE 947-47
LEGISLATURE

Director of Revenue,

January 22, 1947.

The Civil Service Commission is required to classify and grade the positions within the classified service according to quality of service, duties, etc.

Having established the class and grade of the employment, it is then the duty of the legislature, subject to the veto power of the governor or of the executive officer of the department, subject to the written approval of the governor, to fix the salary by class and grade and not upon any other standard or basis.

Sec. 6, Ch. 2, S. L. 1941—case No. 15743—*John C. Vivian v. Victor J. Bloom*. Decided 1-17-47. Sec. 13, Art. XII, Constitution of Colorado.

STATE TREASURER—SALARIES OF 948-47
ELECTIVE OFFICERS—APPROPRIATIONS

Hon. H. Rodney Anderson,

January 24, 1947.

Legislative acts providing for payment of fixed annual salaries monthly to elective state officers constitute continuing appropriations, are self-executing and the Treasurer is under obligation to pay the same monthly when due without additional legislation or appropriation.

**STATE BOARD OF
CHIROPRACTIC EXAMINERS**

949-47

Mr. E. A. Jackson,

January 28, 1947.

Licensed chiropractors must renew their licenses before October 1st of each year or their licenses are suspended. Secs. 2 and 13, Ch. 34, 1935 C.S.A., as amended. Practicing without a license is a misdemeanor (Sections 1 and 16, Ch. 34, 1935 C.S.A., as amended).

The statute does not authorize the board to assess a monetary penalty for late registering. The statute defines the crime and penalty and names the district attorney as the prosecuting agent to enforce the act (see Sec. 17, Ch. 34, 1935 C.S.A., as amended).

DEFICIENCY APPROPRIATIONS

950-47

Hon. David A. Hamil,

January 29, 1947.

Deficiency appropriations may not be included in the general appropriation bill; therefore, each deficiency appropriation bill must contain only one subject and a separate bill for each deficiency is required.

SCHOOLS

951-47

Mrs. Nettie S. Freed,

January 30, 1947.

Chapter 13, S. L. 1945, Extraordinary Session, precluding a district which has not made a six mill levy from participation in the State School Equalization Fund, does not contemplate that such district should be deprived of its share in the county one mill levy.

SCHOOLS

952-47

Mrs. Nettie S. Freed,

January 30, 1947.

The provision referring to a school district with a population of fifteen or more and its grant of authority for such district to use its proportion of the general school fund for purposes other than the teachers' salaries, would not be applicable to a district having more than one hundred pupils,—in the latter case the general school fund may not be used for any other purpose than paying salaries. (Subsection 243, Ch. 221, 1945 S. L.)

SCHOOLS

953-47

Mrs. Nettie S. Freed,
February 4, 1947.
(Classroom units)

Extra teachers employed because the district has an area of over 75 square miles or assessed valuation of less than ½ million dollars or a census of less than 38 would authorize the allocation of additional classroom units under Minimum Educational Program.

LEGISLATURE

954-47

Hon. L. P. Weld, David A. Hamil, Wm. Carlson,
February 10, 1947.
(Constitutional law)

A succeeding general assembly has the power not only to repeal, alter or amend acts of its predecessor, but also acts initiated under the initiative and referendum clauses of our Constitution, but the power to repeal can only apply to the present term of the general assembly which exercises it, as it cannot be perpetuated so as to bind its successors. *Art. XXIV, Colorado Constitution; Chapters 185, 187, 1945 S. L. of Colorado.*

**COUNTY COURTS—
ESTATES—INSANE PERSONS**

955-47

Hon. Mabel A. Ethel,
February 10, 1947.

Costs in lunacy hearings, including sheriff's costs, lunacy commission, guardian ad litem, court costs and hospital care previous to the hearing, are a proper charge against the estate of such insane person, and are payable upon order of the county court.

COUNTIES

956-47

Mr. Charles R. Corlett,
February 10, 1947.
(Classification)

Counties may be in one class "for the purpose of providing for and regulating the compensation of county and other officers", and in another class "for the purpose of fixing fees chargeable and to be collected by county precinct and other officers." *Sec. 15, Art. XIV, Constitution of Colorado; Sec. 3, Ch. 66, 1935 C.S.A.; Ch. 125, S. L. 1945; Airy v. People, 21 Colo. 144, 153.*

SCHOOLS

957-47

Mr. Clyde L. Hahn,
February 11, 1947.

In the absence of authority given by the School Board to the contrary, the parents are liable for tuition if the children attend school in districts other than that of their residence. Such liability is based upon an implied contract which may be the basis of a civil legal action.

NATIONAL GUARD

958-47

Hon. Lee Knous,
February 11, 1947.

1. The appointment of an officer by the Governor is itself an assignment to duty. *Sec. 12, Ch. 111, 1935 C.S.A.; MacGinnis v. Newlon, 82 Colo. 228, 232.*

2. The Governor may fix the compensation of the adjutant general of the Colorado National Guard at such salary as he may by order prescribe, but in no event in excess of that paid to an officer of like grade in the army of the United States. *Sec. 12, Ch. 111, 1935 C.S.A.; Sec. 4, Ch. 183, S. L. 1921; Sec. 1, Ch. 136, S. L. 1933 (now Sec. 13, Ch. 111, 1935 C.S.A.); 25 R.C.L. 1051, Sec. 276.*

SMALL LOAN ACT

959-47

Mr. W. L. Hazlett,
February 13, 1947.

Each place of business licensed under the Colorado Small Loan Act must have net liquid assets in the amount provided in Sec. 4(b) of said act.

INTOXICATING LIQUORS—COUNTIES— 960-47
OLD AGE PENSION FUND

Hon. H. Rodney Anderson,
February 18, 1947.

(License fees to counties)

County Treasurers must remit to the Old Age Pension Fund 85% of License Fees collected by them under the provisions of the Colorado Liquor Code.

**STATE BOARD OF LAND COMMISSIONERS 961-47
FEDERAL**

State Board of Land Commissioners,
February 14, 1947.

The State Board of Land Commissioners may not agree with the Federal Government to extend a lease presently held by the government for a longer period than twenty years. Section 62, Chapter 134, 1935 C.S.A. *In re Leasing of State Lands*, 18 Colo. 359.

INTOXICATING LIQUORS 962-47

Hon. Walter F. Morrison,
February 14, 1947.
(Shopper's Service)

Orders for sale and delivery of intoxicating liquor by Colorado licensed liquor dealers, transmitted from foreign states through proposed "Shopper's Service", may be filled by licensed retail liquor dealers in Colorado providing no deliveries are made in dry or local option territory.

**MOTOR VEHICLES— 963-47
JUSTICES OF THE PEACE**

Mr. C. H. Gunn,
February 17, 1947.
(Remission of Fines)

Justices of the Peace have no authority to remit fines imposed for violations of the Motor Vehicle Law. If a poverty oath is taken, they may remit the fine to jail sentence.

LEGISLATION—LEGISLATURE 964-47

Hon. Wm. Albion Carlson,
February 18, 1947.

An amended bill need not again be read at length by reason of the requirements of Section 22, Article V of the Constitution.

HIGHWAY COURTESY PATROL 965-47

Mr. James J. Marsh,
February 19, 1947.
(Authority of officers under Chapter 210, S. L. Colo. 1945)

State patrolmen may not make arrests for violations other than state highway traffic and such other enforcement measures

as are listed in Section 8, Chapter 210, S. L. Colo. 1945. Also state patrolmen who on request of administrative heads of departments served subpoenas for witnesses in connection with hearings before the enumerated departments of said chapter 210, S. L. of Colo. 1945. They have no other power to serve subpoenas.

STATE HIGHWAY PATROL— **966-47**
MOTOR VEHICLES

Mr. Charles H. Gunn,
Mr. James J. Marsh,
February 19, 1947.
(Traffic offenses)

Elements necessary to constitute valid complaint for traffic violations consist of (1) The time and place of the offense; (2) what the offense consists of; and (3) in traffic cases that the same occurred while on the highways of the State of Colorado. Omission of number 3 would be fatal to the prosecution of the offender.

SCHOOLS **967-47**

Mrs. Ralph P. Hickman,
February 27, 1947.
(Unification of districts, bonded indebtedness)

In the event of a unification or consolidation of school districts, the old school districts remain liable for their bonded indebtedness existing at the time of unification or consolidation.

The limitation of the amount of bonded indebtedness of the school district is governed by Chapter 14, page 54, Section 1 of the Extraordinary Session Laws of 1945.

BANKS AND BANKING **968-47**

Mr. W. L. Hazlett,
February 28, 1947.

State banks and industrial banks may not act as sub-agents for steamship, railway or airline companies in the sale of transportation and accommodations.

UNIVERSITY OF COLORADO **969-47**

Hon. Robert L. Stearns,
March 3, 1947.
(Expenditures for extension courses)

The Board of Regents may make such expenditures as are necessary to conduct extension courses, subject of course to any legal limitations as to the amount thereof. (*Section 5, Article VIII, Colorado Constitution*).

LEGISLATORS—OFFICERS— **970-47**
ADMINISTRATIVE CODE
COLORADO DEFENSE COUNCIL

Hon. H. Rodney Anderson,

March 4, 1947.

(Incompatible offices)

Where a member of the legislature is employed by the Colorado Defense Council as its vocational agent and his compensation from such employment is from federal funds, the offices are not incompatible and the employment is not between departments as prohibited by Chapter 2, Session Laws 1941. (*Art. III, Colorado Constitution; Sections 1 and 6, Chapter 2, S. L. 1941; Attorney General's Opinions numbered 179, 363, 532, Biennial Report 1941-42; Hudson v. Annear, 101 Colo. 551.*)

BANKS AND BANKING **971-47**

Mr. W. L. Hazlett,

March 7, 1947.

(Small loans, insurance)

A licensee under the Colorado Small Loan Act may neither require nor sell health and accident insurance to a borrower; nor may the licensee include the cost of such insurance in the loan or deduct it from the proceeds of the loan.

MOTOR FUEL TAX **972-47**

Mr. William F. Perkins,

March 19, 1947.

(In Re House Bill No. 645 and Senate Bill No. 235)

Director of Revenues' Regulation as to reports and collection of two cent additional tax imposed by H.B. 645, as modified by S.B. 235, approved as modified by the Attorney General.

COLORADO GENERAL HOSPITAL— **973-47**
UNIVERSITY OF COLORADO
STATE BOARD OF HEALTH

Board of Regents, University of Colorado,

March 12, 1947.

(Service project for premature infants at Colorado Gen'l Hospital)

The matter of establishing a training and service project for premature infants at the Colorado General Hospital is administrative in character and lies within the sound discretion of the

Board of Regents of the University of Colorado, in view of Section 40, Chapter 169, 1935 Colorado Statutes Annotated.

Any contracts entered into between the Board and the Health Department to effectuate a joint enterprise should be construed as not to unlawfully delegate powers one to the other or to be attempts to transfer, delegate or abuse the discretion imposed in them severally by law.

COUNTY OFFICERS

974-47

Hon. J. T. Martinez,

March 14, 1947.

(Fees of Clerk of Court)

The clerk of the county court, whether the judge acts as his own clerk or appoints another person to the position, is entitled to the fees allocated to the office, and such additional compensation as may be allowed pursuant to Section 12, Chapter 125, Session Laws 1945, but in no event to exceed the salary fixed by said Chapter 125 for the class county in which said clerk of the county court is employed.

**STATE BOARD OF STOCK
INSPECTION COMMISSIONERS**

975-47

Mr. Ed Paul,

March 17, 1947.

(Violations of livestock laws)

Violations of both Section 47, Chapter 160, 1935 C.S.A., limited to buyers of livestock that has not been inspected, and Sec. 209(12), Chapter 160, 1935 C.S.A., as amended by Chapter 184, Session Laws 1943, limited to "livestock sales rings", are misdemeanors, and should be prosecuted by the district attorney in whose district the offense was committed. Upon conviction, penalties for such violation would be assessed by the judge.

REAL ESTATE BROKERS

976-47

Mr. A. Allen Brown,

March 17, 1947.

Whether an auctioneer is violating the Real Estate Brokers Law, when not being licensed under that act, when he sells land at public auction, presents a question of fact to be determined in each instance, as to whether he is making a continuing practice of selling real property or whether he is engaged in isolated or infrequent sales transactions. (*Schwartz v. Weiner*, 94 Colo. 251).

COUNTY OFFICERS—VETERANS**977-47**

Mr. Erl H. Ellis,
March 17, 1947.

Under the provisions of Chapter 8, Session Laws of Colorado, 1945 Extraordinary Session: (1) the appointment of a County Veterans' Service Officer does not create a contract; (2) an appointment thereunder is for a two-year term which cannot be limited by a Board of County Commissioners; (3) Board of County Commissioners has the right to adjust compensation commensurate with the office of County Veterans' Service Officer during the term.

BANKS AND BANKING**978-47**

Mr. W. L. Hazlett,
March 18, 1947.

Bank Commissioner may approve the sale of loans limited in aggregate amount by law without waiver of liability, if the aggregate amount of such loans retained by the bank and those sold without waiver, do not exceed the statutory loan limitation.

Bank Commissioner may approve the sale of loans not limited in aggregate amount by law, without waiver of liability if the contingent liability on the total aggregate amount of loans sold raises no question in his mind as to the solvency of the bank.

STATE HIGHWAY DEPARTMENT**979-47**

State Highway Department,
March 19, 1947.

State school lands are not "public" lands within the meaning of the regulation of the Public Roads Administration prohibiting participation by the Federal Government in rights of way over and across "public" lands.

COLORADO TAX COMMISSION**980-47**

Mr. J. R. Seaman,
March 22, 1947.

In view of Sections 7(h) and 7(j), Chapter 2a, 1935 C.S.A., as amended by Chapter 76, S.L. 1937, the words "Certified Public Accountant" should be deleted from form 558—Revised 1942, and the instructions at the top of the form modified so as to apprise the person compiling the information and making the certificate to state in what capacity he is acting for the owner of the property.

STATE AUDITOR—COUNTIES

981-47

Mr. Homer F. Bedford,

March 22, 1947.

State Auditor must make the audit provided for in Chapter 193, 1945 S.L., if called upon so to do; expenses, other than salaries, incurred in connection with making audit, must be borne by court, requesting audit.

SCHOOLS

982-47

Mr. D. W. Waldhauser,

March 25, 1947.

Copies of resolution authorizing transfer of funds in last four months of budget year under Section 15, Chapter 168, S.L. 1945, must be filed with Colorado Tax Commission.

TAXATION

983-47

Ms. Marie A. McMillen,

March 31, 1947.

(Subsequent taxes)

Subsequent taxes are all taxes accruing after the date of the Tax Sale Certificate, and taxes levied after the sale, as well as after the assignment, should be considered as subsequent taxes.

JUSTICE OF THE PEACE

984-47

Mr. Thomas E. Alway,

March 31, 1947.

It is unlawful for a justice of the peace to act as attorney or agent for a collection agency and bring suits against persons in his own or any other justice court. (Volume 2, Chapter 14, Section 18, 1946 Supplement to 1935 C.S.A.)

COLORADO NATIONAL GUARD

985-47

Brigadier General Irving O. Schaefer,

April 2, 1947.

(Medals)

Volume 4, Sections 101 to 106, 1935 C.S.A., provides for four types of medals and service ribbons to be awarded members of the Colorado National Guard and Colorado State Guard under certain specified conditions. This does not prohibit Adjutant General under powers given him by Section 27 (Sub-Sec. 2) of foregoing chapter from creating other and different medals and service ribbons to be awarded for other or different services or conditions.

**LEGISLATION—CONSTITUTIONAL
LAW** 986-47

Hon. Lyman P. Weld,

April 11, 1947.

Senate Bill No. 26, Thirty-Sixth General Assembly, which provides for a ten dollar a day expense allowance for legislators prior to time of passage of the act, is retrospective and violates Article 2, Section 11 of the Colorado Constitution.

INTOXICATING LIQUORS 987-47

Hon. Walter F. Morrison,

April 11, 1947.

A beverage compounded from wine having an alcoholic content is a vinous liquor, subject to the Colorado Liquor Code.

**INTOXICATING LIQUORS—
CITIES AND TOWNS** 988-47

Hon. Walter F. Morrison,

April 11, 1947.

Towns and municipalities may not engage in the liquor traffic as such.

INDUSTRIAL SCHOOL—CIVIL SERVICE 989-47

Mr. J. L. Michaelson,

April 9, 1947.

Upon the filing of a written complaint by a citizen of the state, charging a civil service employee with failure to comply with the standards of the civil service commission, etc., it is incumbent upon the civil service commission to finally and promptly determine the matter after inquiry has been made and an opportunity afforded the parties to be heard. (Sec. 13, Art. XII, Const. of Colo.; Secs. 8 and 9, Ch. 36, 1935 C.S.A.).

CIVIL SERVICE 990-47

Mr. C. N. Feast,

April 14, 1947.

Sick leave of a state employee under Civil Service is a matter of grace and not of right and arises under the rules of the Civil Service Commission.

**STATE COMPENSATION INSURANCE FUND— 991-47
AUDITOR—TREASURER**

Mr. Donald Clark Thompson,

April 16, 1947.

Where a warrant has been issued by a state agency to a state institution or agency, as payee, and such warrant has been lost, the agency drawing the warrant may sign and issue a duplicate warrant upon the giving of a bond by the payee, as required by Sec. 68, Ch. 156, 1935 C.S.A.

As to whether or not the payee is justified in using its funds for the procurement of a surety bond is an administrative question and not one of law, and must be determined solely by the payee institution or agency.

TAXATION

992-47

Mr. J. E. Creel,

April 16, 1947.

(Redemption from tax sale and interest)

The reduction in interest which the purchaser at a tax sale offers to accept applies only to a reduction of interest on the amount bid at the sale and does not provide for a reduction in the amount of interest to be accepted on subsequent taxes paid.

Sections 241 and 264 of Chapter 142, 1935 C.S.A., cited.

APPROPRIATIONS—

993-47

CONSTITUTIONAL LAW—GOVERNOR

Hon. Lee Knous,

April 18, 1947.

An appropriation fails if made for a purpose subsequently determined to be illegal.

CIVIL SERVICE

994-47

Mr. Elton K. McQuery,

April 22, 1947.

Where through error the Civil Service Commission has wrongly classified an employee in the Civil Service upon restoration of the title and restoration to the original classification the employee is entitled to the compensation of the group in which the position is now assigned, as well as to the increase authorized to be paid as supplementary compensation to employees for additional years service (Sec. 42, Art. XII, Ch. 27, S. L. 1945). In

the event the department does not have sufficient funds "for payment of the employees at the rate to which they are legally entitled, the proper salary shall nevertheless be paid to all who are employed so long as funds are available and employees shall be dismissed, on failure of appropriation, in accordance with the Assembly's restrictions on its appropriation, and the order of seniority rights." (Case No. 15743, *Vivian, et al., v. Bloom*, 1-14-47; *Johnson v. People*, 96 Colo. 175).

**PURCHASING AGENT—
LEGAL ADVERTISING**

995-47

Mr. Lacy L. Wilkinson,

April 24, 1947.

Art. V, Sec. 29, Const. of Colorado, and Secs. 70 and 72, Ch. 130, 1935 C.S.A., as amended do not apply to "legal notices" or "legal printing."

Sec. 7, Ch. 130, 1935 C.S.A., as amended by Sec. 7, Ch. 191, S. L. 1945, is applicable to "legal printing" required by law or order of court of record when the expense of publication is taxed and recovered as costs from the party or parties.

So restricted Sec. 7, Ch. 130, 1935 C.S.A., as amended, does not violate Art. V, Sec. 1; Art. XXIII, Sec. 1; Sec. 12; Art. X, Constitution of Colorado, and does not conflict with Sec. 11, Ch. 86, 1935 C.S.A.

By limiting Sec. 1, Subsection 7, Chapter 191, S. L. 1945, to "legal advertising" to be taxed and collected as costs conflict is avoided (50 Am. Jur. P. 358, Sec. 357) and the Purchasing Agent can then proceed under the authority of Sec. 20, Subsection 2, Ch. 2, S. L. 1941 and award contracts or orders to the lowest responsible bidder. (Sec. 22, Ch. 2, S. L. 1941).

MOTOR VEHICLES

996-47

Mr. William F. Perkins,

April 25, 1947.

(Used car auctions)

Auctioneers of used motor vehicles selling motor vehicles in which they have a financial interest, are used car motor vehicle dealers and must comply with all provisions of the licensing sales tax and motor vehicle laws relating thereto.

Auctioneers handling motor vehicles in which they have no financial interest are salesmen and must take out motor vehicle dealers' salesman license. If they collect the purchase price they must take out sales tax license and account to the State of Colorado for all sales taxes.

INSURANCE**997-47**

Mr. Luke J. Kavanaugh,
April 25, 1947.

Maximum loan under Sec. 48, Subsection (2), Chapter 87, 1935 C.S.A., as last amended by Chapter 154, Session Laws 1941, limited to 65% of the then reasonable and currently accepted value of said real estate; maximum loan to be made only if, after deducting 65% of the value of land from face amount of loan, the improvements on said land are insured against loss, for an amount at least equal to the difference between the loan and 65% of the value of the land; in event of subsequent depreciation of property securing the loan, it may not be carried for all purposes for an amount exceeding two-thirds of the then reasonable and currently accepted depreciated value of said property.

STATE BOARD OF AGRICULTURE— 998-47
SCHOOLS—LEGISLATURE

Mr. James A. Miller,
April 23, 1947.

The State Board of Agriculture does not have the power to grant a lease to rural school districts of lands at the Fort Lewis School, now owned by the State. Such a matter is within the province of the Legislature.

SCHOOLS 999-47

Mrs. Olga A. Hellbeck,
May 2, 1947.
(Residence for census)

If provisions of Section 290, Chapter 146, 1935 C.S.A., regarding residence are met, children who are inmates of institutions such as the State Home and Training School for Mental Defectives at Ridge, are included in the school census of the district where their parents or guardians reside.

INTOXICATING LIQUOR 1000-47

Hon. Walter F. Morrison,
May 2, 1947.
(Control of Retail Outlets)

The keeping of retail books and waiting on retail trade by salesmen employed by wholesalers constitutes financial assistance and control of retail outlets such as is prohibited by Section 14 of the Colorado Liquor Code.

GAME AND FISH DEPARTMENT— 1001-47
WATER RIGHTS

Mr. C. N. Feast,
May 7, 1947.

Game and Fish Department may divert created well water to a lake without having its rights to the use of the water determined in an adjudication proceeding.

STATE BANK COMMISSIONER— 1002-47
SECURITIES—CORPORATIONS

Mr. W. L. Hazlett,
May 7, 1947.

The capital stock of a title and guaranty company may be divided into both common and preferred shares of \$100 par value.

CIVIL SERVICE—BANKS AND BANKING— 1003-47
LEGISLATURE

Mr. J. L. Michaelson,
May 8, 1947.

State Treasurer may not recognize and pay state claim of civil service employee for additional wages. Recourse, if any, must be to the legislature.

STATE BOARD OF HEALTH— 1004-47
LEGISLATURE—RELIGIOUS FREEDOM

Hon. Lee Knous,
May 16, 1947.

(Treatment of venereal diseases)

Senate Bill No. 524 does not prohibit the practice of Christian Science in the treatment of venereal disease.

FAIR TRADE ACT 1005-47

Hon. Walter F. Morrison,
May 1, 1947.

The Secretary of State does not have power or authority to enforce contracts within the purview of the "Fair Trade Act." (Chapter 146, Session Laws of Colorado, 1937).

COUNTY AND DISTRICT HEALTH 1006-47
DEPARTMENTS—TAXES—LEGISLATION

Mr. Howell W. Cobb,
 May 15, 1947.

1. Under Section 9c, Senate Bill 83, 35th General Assembly, County Commissioners may appropriate from General Fund in addition to making the full one mill levy. This section does not limit over-all expenditure to one mill.

2. Local Government Budget Law of Colorado, Chapter 103, 1935 C.S.A., as amended, applies to these funds and must be complied with.

STATE DEPARTMENT OF PUBLIC 1007-47
HEALTH

Dr. R. L. Cleere,
 May 17, 1947.

Under Section 31, Chapter 58, 1935 C.S.A., the State Department of Public Health may refuse to grant an applicant a license to grow narcotic drugs (American Hemp), also known as cannabis or marihuana, unless he submits satisfactory evidence showing that he meets the requirements of said Section 31, supra.

FAIR TRADE ACT—LIQUOR CODE 1008-47

Hon. Walter F. Morrison,
 May 19, 1947.

The authority of the Secretary of State to suspend or revoke, as provided in Section 20, Chapter 89, 1935 C.S.A., as amended by Chapter 159, S. L. 1941 and Section 24, Chapter 89, 1935 C.S.A., for an unlawful act includes that act described in Section 17(t), Chapter 89, 1935 C.S.A., as amended.

STATE BOARD OF NURSE EXAMINERS 1009-47

Joy Erwin, R. N.,
 May 12, 1947.

If an applicant is 21 years of age, and is a graduate from a school of nursing that complies with the educational requirements, training and instructional standards set up by statute, and the rules and regulations of the Board of Nurse Examiners, there should be no question raised as to the applicant's eligibility to take the examination precedent to licensing in Colorado, irrespective of where the nursing school is located.

The State Board of Nurse Examiners has authority over every phase of nursing within the State of Colorado.

DEPARTMENT OF HEALTH— 1010-47
DAIRY COMMISSIONER

Dr. R. L. Cleere,

May 16, 1947.

1. Sanitation is the science of devising and making practical application of measures to preserve and promote public health.

2. Sanitary standards for milk and dairy products as provided by law, would be enforced by the State Department of Public Health; and all others by the State Dairy Commissioner.

3. Under Senate Bill 82, 36th General Assembly: (a) the State Board of Health may establish sanitary standards and regulations for milk and other dairy products in addition to those provided for by law, as long as there is no conflict between them. (b) State Dairy Commission may no longer set up or enforce standards for milk and other dairy products if such standards are designed to promote or protect the public health. (c) State Department of Public Health has authority to enforce the provisions thereof as to milk and dairy products, in home rule cities, even though such city makes no request of the department.

4. If an inspector of the State Department of Public Health, acting under a law, rule or regulation, issues an order that is later declared invalid, he is not liable; if, however, the order issued is unauthorized by law, rule or regulation, he would be liable.

CIVIL SERVICE COMMISSION— 1011-47
VETERANS

Mr. J. D. Hart,

May 22, 1947.

The Civil Service Commission is the quasi judicial body empowered by law to investigate and adjudicate the rights of civil service employees.

ELECTIONS 1012-47

Hon. Peter Culig, Jr.,

May 23, 1947.

Sec. 42, Ch. 59, 1935 C.S.A., as last amended by Sec. 3, Ch. 2, S. L. of Colorado, 1st Extraordinary Session 1944, provides that the County Central Committees of the respective political parties shall be composed only of the committeemen and committeewomen elected pursuant to the provisions of said section.

SCHOOL FUNDS

1013-47

Mrs. Nettie S. Freed,

May 23, 1947.

The three mill levy for teachers retirement fund in a county high school is in addition to the five mill levy authorized by Section 195, Chapter 146, 1935 C.S.A., as amended.

The 1/10th mill levy authorized by Sec. 32, Ch. 146, must be included in the said five mill limitation.

SCHOOLS

1014-47

Mrs. Lillie P. Stafford,

May 23, 1947.

The votes of electors in School Districts maintaining high school do not operate to defeat the creation of a county high school when the inclusion of their votes would make a majority against the county high school and the exclusion of their votes would leave a majority in favor. The negative vote of such district operates to exclude such district from the county high school district by virtue of Section 204, Chapter 146, 1935 C.S.A.

SCHOOLS

1015-47

Mrs. Nettie S. Freed,

May 24, 1947.

The amount necessary to fulfill the requirements of the Minimum Educational Program Act, Chapter 13, 1945 Extraordinary Session, is a charge against the State School Equalization Fund, which must be deducted from that fund before a balance can be determined for distribution under House Bill No. 391, 36th General Assembly. The determination of the charge against the fund is an administrative duty imposed upon the State Superintendent of Public Instruction by virtue of Section 5(b)(2) of Chapter 13, supra, who shall certify the said charge to the State Treasurer "not later than March 30th of each year."

CITIES AND TOWNS

1016-47

Mrs. Grace W. Allen,

May 24, 1947.

(Alley may be vacated by Board of Trustees of incorporated town)

Alley shown on town plat may be vacated (Vol. 4, Ch. 163, Sec. 116, 1935 C.S.A.) by ordinance passed by board of trustees under powers given over streets and alleys. (Vol. 4, Ch. 163, Sec. 10, sub. 7th).

REAL ESTATE BROKERS BOARD 1017-47

Mr. Harry C. Graham,
May 26, 1947.

Secretary of State has no jurisdiction under Sec. 13 of above law (Vol. 2, Sec. 39, 1935 C. S. A.) to investigate transaction involving salesman's holding license when no interest in real property is involved in transaction.

BOXING COMMISSION 1018-47

Hon. Walter F. Morrison,
May 26, 1947.

Appointment of Executive Director by Athletic Commission as a "provisional" civil service employee is subject to Civil Service Amendment of Constitution (Art. XII, Sec. 13) which means Civil Service Commission must approve such appointment.

COLORADO STATE HOSPITAL 1019-47

Dr. F. H. Zimmerman,
May 27, 1947.

Where an institution has voluntarily assumed the trusteeship of sums of money to be used by inmates within the institution for the purchase of small items of necessity and luxury; and where through death or removal of the inmates unclaimed balances have accumulated, the institution has no authority to forfeit such unclaimed balance but should seek legislative authority for their disposition.

Such funds are not state funds and do not come within the purview of Sec. 88B, Ch. 153, 1935 C.S.A., but do come within Sec. 89 of the same chapter. Inasmuch as the institution acts in the capacity of a voluntary trustee, it should exercise ordinary care, caution and business prudence in handling such funds.

LEGISLATION—SCHOOLS 1020-47

Hon. H. Rodney Anderson,
May 27, 1947.

(State School Equalization Fund)

The legislature intended by House Bills 391 and 569, 36th General Assembly, that the appropriation of six million dollars to the equalization fund must first be used to satisfy requirements under Chapter 13, Session Laws of the 1943 Extraordinary Session, and that the remainder of the moneys be used to make payments pursuant to House Bill 391.

CORPORATIONS—SECRETARY OF STATE 1021-47

Mr. Walter F. Morrison,

May 28, 1947.

A joint stock company formed under the provisions of the laws of another state, should, before it does business in this state, comply with the provisions of, and pay the fees provided for in, Secs. 73, 74, 75, 76 and 80, Ch. 41, 1935. C.S.A.

**COLORADO STATE SOIL
CONSERVATION BOARD**

1022-47

Mr. Kenneth W. Chalmers,

May 28, 1947.

In the event of a dispute, between two boards of supervisors, with respect to the transfer of land to an adjoining district, as provided in Subsection (c) of Section 15 of the State Soil Conservation Act, the owner of the land in dispute may appeal, as is provided in Sec. 10 of the act, from the decision of the supervisors to the district board of appeals. A further appeal would lie from the decision of the district board of appeals to the state board of appeals, the decision of which would be final, except in the event of an appeal to a court of law, as provided in said Section 10, *supra*.

EMPLOYEES—FEES AND SALARIES 1023-47

Mr. Elton K. McQuery,

June 5, 1947.

The controller, with the approval of the Governor, may fix a per diem expense allowance so long as such per diem allowance is within reasonable limits and does not exceed expenses and thereby become payment of additional compensation to the employee or employees. (*Cummings v. South (Ill.)*, 13 N. E. (2d) 69, 73; *People v. Nolan*, 7 S.W. 815; 60 A.L.R. 408).

ELECTIONS

1024-47

Colonel E. E. Haring,

June 5, 1947.

Right of U. S. Army officer and Federal Civil Service employee to vote in Colorado pursuant to Art. VII, Sec. 4, Colorado Constitution, and Volume 3, Ch. 59, Sec. 15, 1935 C.S.A.

SECURITIES

1025-47

Mr. Curtis White,

June 5, 1947.

The distribution of a preliminary or "red herring" prospectus to prospective investors, prior to the effective date of a registration statement, does not violate the Colorado Securities Act.

TAXATION

1026-47

Mr. Ernest U. Sandoval,

June 7, 1947.

(15 year limitation on tax lien)

Under Chapter 241, 1945 S. L. of Colorado, as amended by S. B. 25, 36th General Assembly, when a tax sale certificate is cancelled, all subsequent taxes endorsed thereon are also cancelled insofar as the holder of the certificate is concerned.

**FEES AND SALARIES—BUDGET AND 1027-47
EFFICIENCY COMMISSIONER—STATE BOARD
OF LAND COMMISSIONERS**

Mr. James A. Noonan,

June 12, 1947.

Appropriation for fiscal year must be used only for payment of obligations incurred during such year. Where salary deficiencies occur in a department within the fiscal year and sufficient funds have been appropriated to that department for such year, payment of such deficiencies may be made within the fiscal year.

SCHOOLS

1028-47

Mrs. Nettie S. Freed,

June 12, 1947.

(Kindergarten, tuition)

Under Section 7, House Bill 391, 36th General Assembly, a kindergarten may not be included in estimating cost for tuition purposes.

BANKS AND BANKING

1029-47

Mr. W. L. Hazlett,

June 13, 1947.

Corrects error and clarifies opinion No. 978-47.

COUNTIES—MOTOR FUEL TAX MONEYS 1030-47

Mr. J. F. Lunsford,
June 13, 1947.

Gasoline tax money becoming available to counties under House Bill 645, 36th General Assembly, since the adoption of their budgets might be expended by following the provisions of Sections 14, 15, Chapter 168, Session Laws, 1945, relating to contingencies.

SCHOOLS 1031-47

Mrs. Nettie S. Freed,
June 14, 1947.
(Kindergartens)

School districts are not entitled under Section 6, House Bill 391, 36th General Assembly to days of attendance credit for kindergarten pupils.

INDUSTRIAL COMMISSION 1032-47

State Industrial Commission,
June 17, 1947.

Where an employer employs more than eight employees but less than eight in one craft, the employer is an employer within the meaning of Subsection 2 of Section 2 of the Colorado Labor Peace Act. That section is not limited by subsection 6 of Section 2.

**REVENUE DEPARTMENT—
PUBLIC RECORDS 1033-47**

Mr. W. F. Perkins,
June 19, 1947.
(Destruction of public records)

Public records, in the discretion of their custodian may be photographed, microfilmed or preserved by some other process and certified as true copies, etc. Thereafter the original records may be destroyed pursuant to sections 2, 3, 4 and 5 of Chapter 151, Session Laws 1943.

STATE BOARD OF AGRICULTURE 1034-47

Mr. James R. Miller,
June 19, 1947.
(Investment of funds)

State Board of Agriculture is only empowered to buy general obligation bonds. Reading the Act of Congress of 1862, together with Section 5 of Chapter 38, 1935 C. S. A., the conclusion is to

be reached that the Board may only invest in general obligations of the state, counties, municipalities and school districts. Such an interpretation is in line with Section 101 of Chapter 38 governing the Fort Lewis School, which specifically limits investments to general obligations. There would be liability on the part of individual board members for an unauthorized investment, although the primary liability would be upon the State to make up such loss.

GOVERNOR—CONTRACTS— **1035-47**
PURCHASING DEPARTMENT

Mr. Elton K. McQuery,
June 20, 1947.

Provisions for contractual services and expenses are made in the appropriation bills. See Section 1, Subsection 1, Chapter 27, Session Laws 1945, or by way of line appropriations see Water Conservation Board p. 203. Where the reporter is employed on an annual basis, the occupation is within the classified service and there should be no allowance or payment for transcripts as the furnishing of a transcript to the state is a part of the duties going with the employment. (Ch. 73, p. 203, S. L. 1945).

Where the reporter is employed from time to time under contract, the transcript is not a contract for supplies, etc., and does not require approval by the purchasing department.

PENITENTIARY **1036-47**

Mr. Roy Best,
June 24, 1947.

Section 87 of Senate Bill No. 5, S. L. 1947, is mandatory in character and leaves no discretion in the Warden of the State Penitentiary.

At the time of discharge the Warden shall furnish the convict with \$25.00, a suit of clothes and a non-transferable railroad ticket at the expense of the state to such place within the state as the convict shall elect. The act became effective April 7, 1947.

JUSTICE OF THE PEACE— **1037-47**
COUNTY OFFICERS

Mr. Leon H. Snyder,
June 24, 1947.

Section 30, Article V, Colorado Constitution, is only applicable to officers then in office and for the term for which they were elected or appointed. Upon election, re-election, appointment or

reappointment, they are entitled to the new salary for the new term if such new term begins after the effective date of the statute. *Lancaster v. Bd. Co. Commrs.*, 115 Colo. 261.

As to payment of fees into the treasury, see opinion of the Attorney General No. 578-1945; *Airy v. People*, 21 Colo. 144, 156 and other cases cited in the opinion.

SCHOOLS

1038-47

Miss Mabel Mickelsen,

June 24, 1947.

(Funds)

Moneys may be transferred from the Special Fund to the Bond Fund to facilitate re-financing of the issue if the provisions of sections 14 and 15 of the Local Government Budget Law are complied with.

When a School Board is involved in litigation concerning the legitimate activities of the school district, the payment of attorneys' fees may properly be made from school moneys.

**AGRICULTURAL COLLEGE, STATE
BOARD OF AGRICULTURE**

1039-47

Roy M. Green, President,

June 25, 1947.

The Agricultural College is a creature of statute and must look to the legislature for authority for its acts.

It is possible for the legislature to provide that the State Board of Agriculture shall have control of the funds appropriated by the Legislature and disburse the same but until such time as it does, the State Board of Agriculture is limited by all pertinent statutes.

**CITIES AND TOWNS—
INTOXICATING LIQUORS**

1040-47

Mr. Lawrence Dever,

June 25, 1947.

The City of Glenwood Springs may not, by ordinance, impose restrictions on the sale of intoxicating liquors repugnant to those contained in Section 17(d), Chapter 89, 1935 C.S.A., as amended, which said section relates to hours when sales thereof are unlawful.

SECURITIES**1041-47**

Mr. Curtis White,

June 25, 1947.

The exemption contained in Section 14(3), Chapter 148, 1935 C.S.A., is cumulative as to each issuer, irrespective of the lapse of time between solicitations.

After an issuer has once made a public offering, it may not make a private offering of its securities without again complying with the Colorado Securities Act.

An issuer may make successive private offering of its securities, if the total number of people solicited on such successive offerings does not exceed 50 in number.

SCHOOLS**1042-47**

Mrs. Nettie S. Freed,

June 25, 1947.

Unanticipated income, such as 100% tax collections instead of 80%, may be expended under the budget for the current year if the contingency provisions, Sections 14 and 15 of the Local Government Budget Law, are complied with.

PUBLIC HEALTH**1043-47**

Dr. Roy L. Cleere,

June 25, 1947.

(Reporting of cancer cases to State Department of Public Health).

1. State Board of Health given authority to pass a regulation requiring the reporting of cancer cases by Section 5(8), Senate Bill No. 82, 36th General Assembly.

2. A physician is not legally liable to a patient for reporting cancer cases, including the name of the patient, in accordance with such a regulation.

INTOXICATING LIQUORS**1044-47**

Hon. Byron V. Bradford,

June 26, 1947.

(Sale by minors)

Sale or disposition of spirituous liquors by a person under age of 21 years is prohibited in Colorado. Section 17(b), Chapter 89, 1935 C.S.A.

**TAXATION—GOVERNOR—
NATIONAL GUARD**

1045-47

Mr. Elton K. McQuery,

June 26, 1947.

Where the state acquires property after the lien of special improvement bonds has attached, the state is liable for the improvement tax or assessment. Where the lien attached subsequent to the state's acquisition of the property, there is then no liability on the part of the state for the payment of such improvement taxes or assessments. Sec. 4, Art. X, Const. of Colo.; Sec. 22, Ch. 142, 1935 C.S.A. *Denver v. Tihen*, 77 Colo. 212, 214; 90 A.L.R. 1143-1149. Attorney General opinion 261-1926.

SCHOOLS

1046-47

Mr. O. L. Altvater,

June 27, 1947.

(Buildings)

While there is no statute requiring a school district to employ an architect to call for sealed bids on a school building project, it is good business practice to do so.

Section 2, Chapter 129, 1935 C.S.A.

Sections 263-264, as amended, Chapter 138.

Sections 4-6, Chapter 39.

Above statutes cited in re requests for bids and contractors' bonds.

HIGHWAYS

1047-47

Mr. Mark U. Watrous,

June 27, 1947.

(State Highway Revolving Fund)

The so-called state highway revolving fund is made payable "upon the order of the state highway engineer." (Sec. 122, Ch. 143, 1935 C.S.A.), and is not under the control and custody of the State Treasurer. These circumstances remove this fund from the purview of Sections 88a and 88b, Chapter 153, 1935 C.S.A., but place it in the class of funds covered by Section 89 of said Chapter 153, as amended by Chapter 133, Session Laws 1939.

The law does not absolutely require you to insure or bond the account when deposited in a bank but the legislature has indicated its intent in this respect (Sections 89 and 89(1); and if the department does not use ordinary business prudence in the matter, it may lay itself open to serious criticism in case a loss occurs through failure to secure said fund.

SCHOOLS**1048-47**

Mr. William C. Stapleton,

June 30, 1947.

(Funds and Buildings)

The Board of Directors of first class school districts may build an addition to a school building with funds already on hand without a vote of the district.

Section 2, Chapter 129, 1935 C.S.A.; Sections 263 and 264, Chapter 138, 1935 C.S.A.; Sections 4-6, Chapter 39, 1935 C.S.A., cited in re requirements for building contracts.

AUDITOR**1049-47**

Hon. Homer F. Bedford,

June 30, 1947.

Subsection 43, Chapter 2, Session Laws of 1941, is not to be construed as standing alone but must be read with the other parts of Section 43 in order to effectuate the intent of the legislature. As expressed in Article 5, Chapter 2, Session Laws of 1941, and Section 4, H. B. 326—36th General Assembly of Colorado 1947.

SCHOOLS**1050-47**

Mrs. Nettie S. Freed,

July 1, 1947.

(Funds, State Aid)

If a school district does not have qualifying levies sufficient to entitle it to participate in state aid under House Bill 391 of the 36th General Assembly either because it does not have a six mill levy or because it has already reached the 20 mill maximum levy, it is not entitled to refund of average daily attendance payments under Section 7 of the act. The refund should not go to the parents who paid the tuition and it should not be retained by the district of attendance. Non-resident pupils from districts not qualifying under House Bill 391 should not be included in computing the average daily attendance in the district of attendance.

LOCAL GOVERNMENT BUDGET LAW**1051-47**

G. B. Hawley, Secretary-Treasurer,

July 3, 1947.

The purpose of the Local Budget Law of 1945 is to require each local government to adopt an annual budget that shall present a complete financial plan for the ensuing year. Sections 6,

7, 8 and 9 of Chapter 168, S. L. 1945, indicate that the ultimate purpose of the budget is to set before the public information as to the cost of their government and the sources of revenue to meet those costs.

When contingencies arise, Sections 14, 15 and 16 of the act provide the necessary procedure to provide increases to the budget.

**CITIES AND TOWNS—
FIREMEN'S PENSION FUND**

1052-47

Mr. Alfred Todd,

July 3, 1947.

Where a city pays its fire chief a monthly salary of \$175 per month and the other members of the fire department salaries ranging from \$60 per month to \$5 per month, the department is a paid department and not a volunteer department. *Cont'l Hose Co. No. 1 v. Fargo* (N.D.), 114 N.W. 834; Blacks Law Dict. P. 1224.

When the fire department was a volunteer organization until Aug. 6, 1928, the provisions of Sec. 485, Chapter 163, 1935 C.S.A., and not Sec. 476 thereof, are applicable to it. There being no widows' or dependents' allowance provided for in said Section 485, there is no statutory authorization to pay the widows of such deceased volunteer firemen any benefits under said pension act.

INDUSTRIAL SCHOOL FOR BOYS

1053-47

Hon. W. Lee Knous,

July 7, 1947.

The Division of Public Welfare has the power to hold and manage the property owned by the Industrial School but does not have the power to convey. The Division could doubtless make a contract with the School of Mines to make the conveyance and obtain the subsequent approval by the General Assembly.

INSURANCE

1054-47

Mr. Luke J. Kavanaugh,

July 7, 1947.

Under Sec. 175, Ch. 87, 1935 C.S.A., as amended by Sec. 3, Ch. 119, 1943 S. L. of Colorado, persons 18 years of age, but under 21 years of age, may be included among the 500 applicants required by Sec. 180, Ch. 87, 1935 C.S.A., in the organization of a fraternal benefit society.

JUSTICE OF THE PEACE**1055-47**

Mr. Earl J. Hower,
July 7, 1947.

The fees chargeable by a justice of the peace are provided by statute and include fees for performing marriage (Sec. 28, Ch. 66, 1935 C.S.A.).

These fees, both civil and criminal, provide the justice of the peace fee fund from which his salary is paid (Secs. 14 and 16, Ch. 125, S. L. 1945).

Where an office is furnished in the court house for the justice he is not entitled to an allowance for rent of his home as an office.

All statutory fees collected by the Justice of the Peace must be accounted for by him. Op. 578-45—El Paso Co. v. Sheldon, 59 Colo. 499 at 503-4 and other cases cited.

SCHOOLS—TEACHERS**1056-47**

Mrs. Mela Rudolph,
July 8, 1947.

The selection of teachers from qualified applicants is wholly within the discretion of the School Board.

A rejected applicant cannot compel the Board to employ her and cannot collect any salary if she has no contract.

SCHOOLS**1057-47**

Mr. Eugene H. Mast,
July 8, 1947.

School Board is not compelled by law to deposit proceeds of sale of school district bonds with County Treasurer.

If such funds are deposited with the County Treasurer, he is not entitled to any fees for handling said moneys.

Tuition moneys and deposits on books should be deposited with County Treasurer and he is entitled to collect a one per cent commission thereon by virtue of Section 25, Chapter 66, 1935 C.S.A.

Citing and reaffirming opinions numbers 228-1924, 745-1946, 107-1939.

ESTATES AND ESCHEATS**1058-47**

Mr. Webb D. Martin,
July 9, 1947.

Section 1, Chapter 124, S. L. 1945, establishes the fees which may be charged by judges and clerks of county courts and contains no authorization for any charges for a petition of a non-resident guardian or conservator for sale of real estate other than those therein set forth.

HIGHWAY COURTESY PATROL 1059-47

Mr. James H. Cole,

July 10, 1947.

(Radio Broadcasting)

Under provisions of H. B. 296, 36th General Assembly, State Patrol may lease rather than purchase radio equipment.

DIVISION OF AERONAUTICS 1060-47

Mr. W. J. Bain,

July 10, 1947.

The purposes for which moneys were appropriated to the Division of Aeronautics in House Bill 39, 36th General Assembly, do not permit an expenditure of such moneys for a luncheon for aviation officials.

DIVISION OF AERONAUTICS 1061-47

Hon. W. J. Bain,

July 10, 1947.

Publication of a regulation in newspapers, if the Aeronautics Commission desires this method, is permitted under the provisions of House Bill 557, 36th General Assembly. Whether or not such method is desirable is an administrative question.

SCHOOLS 1062-47

Earl J. Hower,

July 11, 1947.

(Buildings, condemnation)

If a school district owns one block of platted ground or three acres of unplatted ground, it "may not add to its present holdings otherwise than by the consent of those whose lands it desires."

Citing Section 74, Chapter 146, 1935 C.S.A., as amended by Laws of 1941, page 666, par. 1, construed in *Schaefer, et al., v. School District No. 18*, 111 Colo. 340.

ESTATES AND ESCHEATS 1063-47

Miss Lucille Woodward,

July 11, 1947.

Under the provisions of Section 1, Chapter 124, Session Laws of Colorado, 1945, relating to fees in county and probate courts, in addition to the \$5.00 fee authorized at the time of filing by a non-resident guardian or conservator of the petition for sale or mortgage, a fee up to \$25.00 may be charged at time of issuance of the decree authorizing sale or mortgage.

INTOXICATING LIQUORS

1064-47

Hon. Walter F. Morrison,
July 12, 1947.

House Bill 463, 36th General Assembly, applies only to transfer of a liquor license to a new location or to issuance of a license to a new location to sell malt, vinous or spirituous liquors or fermented malt beverages.

**UNEMPLOYMENT COMPENSATION
FUNDS**

1065-47

Mr. C. E. Russell,
July 14, 1947.

Section 6 of Chapter 250, S. L. 1945, concerning unemployment revenue fund construed to apply to all moneys collected after the passage of the act and not to moneys collected prior thereto.

AUDITOR—TREASURER—CONTROLLER 1066-47

Mr. Homer F. Bedford,
July 14, 1947.

H. B. 326, 36th General Assembly, 1947, does not amend Section 213, Chapter 142, 1935 Colorado Statutes Annotated, but leaves it in full force and effect. If said Section 213 is not sufficient for the purposes of post auditing, the State Auditor with the approval of the Governor may exercise the powers granted him under Section 47 of said H.B. 326 and require such additional accounts and records as may be necessary to properly effectuate the post-auditing required of him by statute.

If at any time the controller needs any forms and records, etc., from the several departments, he has ample power under H.B. 326 to require the various officers, tax agents, etc., for the state to supply him with the needed information at the times and upon the forms that he may designate.

**CITIES AND TOWNS—
FIREMEN'S PENSION FUND**

1067-47

Hon. Peter Culig, Jr.,
July 15, 1947.

Section 36, S. B. 114, 36th General Assembly of Colorado 1947, is applicable to all cities having a population of more than 5000 and less than 100,000 inhabitants and having a paid fire department. Its provisions as to levying a one half mill tax are permissive in character and not mandatory. The City Council may or may not in its discretion accept the granted permission.

PHARMACY

1068-47

Mr. Ralph E. Kemp,

July 14, 1947.

A "pharmacy license" is neither synonymous with nor comparable to a "drug dealers license"; therefore, the Board of Pharmacy may not under Section 9(c) of S.B. No. 524, 36th General Assembly, which deals with the sale of prophylactics, issue a license to a "licensed drug dealer."

CIVIL SERVICE

1069-47

State Civil Service Commission,

July 18, 1947.

Under H. B. No. 82, 36th General Assembly of Colorado, unpaid members of the Colorado Committee on Veteran's Education and Training are exempted from the classified civil service of the state; paid director, member of the committee, and technical, clerical, stenographic, and other paid personnel of the committee are within the classified civil service of the state.

SCHOOLS

1070-47

Mrs. Era E. Allen,

July 17, 1947.

(Organization, Consolidation)

Organization of a consolidated school district is not completed until 20 days' notice has been given after the election, the organization meeting held and the officers elected and until the organization is completed it is improper for the consolidated school district to exercise control over property of the consolidated district.

SCHOOLS

1071-47

Mr. Frank L. Shaw,

July 18, 1947.

(Property—Bonds)

County must provide a Court House at its own expense. School District has no authority to erect a building and rent it to the county for use as a Court House.

DIVISION OF AERONAUTICS

1072-47

Mr. W. J. Bain,

July 21, 1947.

(Enforcement of aviation laws)

Unless prohibited by state legislation, state courts and magistrates may exercise the powers conferred upon them by Congress. *Holmgren v. U. S.*, 217 U. S. 509, 54 L. Ed. 861.

STATE TREASURER, CONTROLLER, 1073-47
ADMINISTRATIVE CODE BILL OF 1941

Hon. H. Rodney Anderson,

July 18, 1947.

Specific revenue shall be received for by the State Treasurer as provided in Section 26(2), Section 32, Subsection 37, and Section 37 of the Administrative Code Bill of 1941. In Sections where there is no provision for receipts to be issued by the Treasurer, reasonable rules and regulations as to the type of receipts and to whom issued may be made by the Controller.

TAXATION 1074-47

Colorado Tax Commission,

July 21, 1947.

(Taxation privately owned personal property at Federal Arsenal)

Personal property owned by a private individual or corporation and temporarily located on lands or arsenals owned by the United States when used in commercial enterprises is subject to state ad valorem personal property taxation and levy.

COURTS—DOCKET FEES 1075-47

Mr. Jonathan Seaman,

July 22, 1947.

Under House Bill No. 241 of the Thirty-Sixth General Assembly, additional docket fee for filing cross-claim or counter-claim by defendant in addition to the \$5.00 fee for filing other pleadings is an additional \$5.00.

Fee for furnishing copies of documents when copy is furnished by applicant is governed by Section 8, Chapter 66, 1935 C.S.A.

CIVIL SERVICE 1076-47

State Civil Service Commission,

July 24, 1947.

Civil service employees have no statutory right to vacation or sick leave. Such right as exists is that granted under the rules of the Civil Service Commission, and, said body must determine under its rules, whether or not an employee accumulated vacation or sick leave during the period of time said employee was in the military service.

MARRIAGE LAWS

1077-47

Mrs. Mildred B. Hendricks,

July 24, 1947.

The marriage of first cousins is not now prohibited in this state.

**DIVISION OF AERONAUTICS—
STATE HIGHWAY PATROL**

1078-47

Mr. W. J. Bain,

July 28, 1947.

Referring to certain sections of House Bills No. 350 and 557 enacted by the 1947 Legislature, the Colorado Highway Patrol does not have authority to enforce the Aeronautics Law or make any arrest for violation thereof.

TAXATION—SCHOOLS

1079-47

Colorado Tax Commission,

July 29, 1947.

The term "floating debts" as used in Section 121, Chapter 146, 1935 C.S.A., includes outstanding registered warrants, and they may be funded by the issuance of School District Bonds, provided the statutory limits of bonded indebtedness of the district are not exceeded.

**UNIVERSITY OF COLORADO—
COLORADO GENERAL HOSPITAL—
DEPENDENT CHILDREN**

1080-47

Mr. Robert C. Kniffen,

August 4, 1947.

1. The Board of Regents may authorize the acceptance at the Colorado General Hospital of "call" or "out" patients, who cannot pay ordinary physician's fees or hospital charges and from time to time fix the rates to be charged such patients.

2. The Board of Regents, in its discretion, may require an expectant mother or the county of her residence to arrange, at the time of admission to the hospital, to pay the reasonable cost of supporting her relinquished baby from the time of its relinquishment to the time of its acceptance by the State Home.

INTOXICATING LIQUORS**1081-47**

Hon. Walter F. Morrison,
 August 5, 1947.
 (Gambling equipment)

The fact that a building on premises padlocked on account of ownership of gambling equipment and a guilty plea of ownership of gambling equipment by a former owner does not close the door to issue a "liquor" license to a new owner and a new management.

SCHOOL OF MINES—PUBLIC FUNDS**1082-47**

Mr. Elton K. McQuery,
 August 6, 1947.

The Colorado School of Mines is required to deposit all tuition, fees or other revenue derived from the exercise of its educational functions in excess of \$1000.00 with the State Treasurer. (Section 78, Chapter 153 and Section 21, Chapter 145, 1935 C.S.A.; Section 7, Chapter 2, S. L. 1941. Opinion 194-1933 and 204-1933).

SOIL CONSERVATION**1083-47****(Mining claims, oil and mineral rights)**

Mr. Kenneth W. Chalmers,
 August 7, 1947.

A legal description is one which has a legal susceptibility of being aided by testimony so as to identify the subject matter. Exclusion of patented and unpatented mining claims, even though not individually described, held a sufficient legal description. Exclusion of such claims would include both placer and lode claims; also oil shale lands and such oil and gas lands as had been patented as mining claims.

INSURANCE**1084-47**

Mr. W. L. Hazlett,
 August 8, 1947.

An insurance company licensed to write insurance in this state may not write title insurance unless it can, and until it does qualify under the provisions of Sections 119-27, inclusive, Chapter 41, 1935 C.S.A.

NEWSPAPERS**1085-47**

Mr. Walter H. Anderson,
 August 8, 1947.
 (Legal Publications)

If a county has a legal publication as specified in Volume 4, Chapter 130, Sections 2 and 3, 1935 C.S.A., legal notices, ordinances,

etc., of a municipality of that county should be published therein and not in a newspaper in an adjoining county, particularly when the latter is not qualified as second class matter in United States mails as specified in Section 2, *supra*.

POLICE AND FIREMEN'S PENSIONS 1086-47

Mr. John N. Mabry,

August 11, 1947.

Section 4, Senate Bill 114, 36th General Assembly, is only applicable to dependents of firemen who die after the passage of the Act. (British American Co. vs. Colorado Co., 52 Colo. 589; Sec. 11, Art. II and Sec. 12, Art. XV, Colorado Constitution).

**PUBLIC EMPLOYEES RETIREMENT 1087-47
ASSOCIATION
UNIVERSITY OF COLORADO**

Mr. Raymond J. Heath,

August 11, 1947.

Whether employees of the Department of Human Growth and/or Division of Industrial Hygiene are state employees as defined in Sub-Section 1, Section 23, Article 4, Chapter 36, 1935 C.S.A., and therefore eligible for membership in the Public Employees Retirement Association, is a question of fact to be determined by the Board of the Public Employees' Retirement Association.

CIVIL SERVICE—BANKS 1088-47

Mr. W. L. Hazlett,

August 13, 1947.

The Civil Service Commission can, by its rules, impose reasonable rules and regulations for admission to its examinations, in addition to those imposed by the constitution or statute, but it is beyond its powers as an executive or ministerial body to repeal, alter or amend a statute by the use of its rule making power. *Vivian v. Bloom*, 115 Colo. 579.

The State Bank Commissioner in making appointments to the position of Deputy Bank Commissioner must follow the provisions of the statute rather than the rules of the Civil Service Commission, unless such rules impose requirements in addition to and not in derogation of those imposed by the statute.

SCHOOLS

1089-47

Mrs. Nettie S. Freed,

August 18, 1947.

(Funds—Bonds)

Proceeds of a bond sale by a school district which are not used for the construction of buildings for which the issue was voted, but were invested in government bonds instead, are impressed with a trust for the benefit of such district and may be used only for the retirement of the outstanding indebtedness upon dissolution of the district and annexation to an adjoining district.

SCHOOLS

1090-47

Mrs. Nettie S. Freed,

August 18, 1947.

(Tuition)

So long as a school district which does not maintain a high school is willing to provide high school education by the payment of tuition to another district, it is not precluded from receiving state aid under Senate Bill No. 518 passed by the Thirty-Sixth General Assembly, even though parents of the children do not send their children to the high school selected by the district of residence. The choice of a high school to which tuition shall be paid by the district of residence is fully within the discretion of the board of directors.

STATE BOARD OF STOCK INSPECTION 1091-47
COMMISSIONERS

Mr. Ed. Paul,

August 19, 1947.

1. The Board of Stock Inspection Commissioners may fix the compensation of special brand inspectors "at the rate of either 5 cents per head *or* \$4.00 per day." (Section 1, Chapter 182, S. L. 1943, amending Section 81, Chapter 160, 1935 C.S.A.)

2. Under authority granted by H.B. 124, 36th General Assembly of Colorado 1947, between July 1, 1947 and June 30, 1949, the board may increase the per diem compensation of said inspectors by such an amount as will not exceed the appropriation made therefor, subject to approval by the proper authority.

**HIGHWAY PATROL—STATE BOARD
OF HEALTH—TRAILER CAMPS** 1092-47

Dr. R. L. Cleere,

August 21, 1947.

The Colorado State Highway Patrol does not have the authority to withhold, suspend or revoke a cottage or trailer camp license upon the recommendations of the State Department of Public Health.

STATE BOARD OF STOCK INSPECTION 1093-47
COMMISSIONERS

Mr. Ed. Paul,

August 20, 1947.

If the applicant for a butcher's license has an established place of business for the purpose of setting up and carrying on the trade or business of a butcher, has made an application for a license, has paid the necessary license fee and made a bond for not less than \$1000, the Board of Livestock Inspection Commissioners has no authority to withhold the issuance of a license on health or sanitary grounds. (Chapter 92, S. L. 1941; Secs. 49-59, Chapter 69, 1935 C.S.A.; Subsection 18, Sec. 5, S.B. 82—S.L. 1947).

INTOXICATING LIQUORS—SCHOOLS 1094-47
ELECTIONS

Mr. J. W. Vaughn,

August 22, 1947.

(School elections)

Volume 3, Chapter 89, Section 17(sub. c) of Liquor Code prohibits sale of liquor during polling hours of primary, general, or municipal elections but does not apply to school elections which are not municipal elections.

COURTS—FEES AND SALARIES 1095-47

Mr. Carl Jacobson,

August 22, 1947.

In amending Section 4, Chapter 66, 1935 C.S.A., H.B. 241, S.L. 1941, did not re-enact or provide for the collection of fees for certifying copies of any record, proceeding, paper on file, or for a certificate of exemplification of any record, etc. Section 8, Chapter 66, 1935 C.S.A., was not amended by said H.B. 241 therefore authority to charge such fees must be sought for within that section. (See also Opinion of Attorney General No. 1075-47).

INTOXICATING LIQUORS**1096-47**

Miss Helen Henell,
August 26, 1947.

There is no declaration in Chapter 89, 1935 Colorado Statutes Annotated, as amended, as to whether 3.2% beer is or is not intoxicating.

COUNTY OFFICERS—FEES AND SALARIES 1097-47

Mr. Sam Nikkel,
August 26, 1947.

Salary of County Judge payable from the General Fund of the county, pursuant to Section 5, Chapter 125, Session Laws of 1945, particularly in view of the fact that Section 6, House Bill 241, 36th General Assembly, has repealed Section 20, Chapter 66, 1935 C.S.A., thereby eliminating statutory provision prescribing fees for county judges.

VETERANS—COUNTIES—H. B. 400 1098-47

Mr. William N. Rice,
August 27, 1947.

Disbursements to County Commissioners of qualified counties pursuant to Section 10 may be made beginning with the effective date of the act, irrespective of the fact Director was not appointed subsequent to said date.

INTOXICATING LIQUORS—SCHOOLS 1099-47

Hon. Walter F. Morrison,
August 29, 1947.

A private school, non-sectarian and operated for profit, within 500 feet of location where liquor is sold for consumption on the premises is not a bar to the issuance of liquor license so to do, but the Secretary of State should inquire carefully into the character of the applicant and the question of adequacy of licensees in the neighborhood.

INDUSTRIAL COMMISSION**1100-47**

Industrial Commission of Colorado,
August 25, 1947.
(Theatrical agency, lecture bureau)

If it is desired to open "a lecture bureau which would serve to offer nationally known lecturers to schools, clubs, service organi-

zations and church groups"; such activity would not necessarily come within the meaning of Section 166 of Chapter 97, 1935 C.S.A., which defines the term "theatrical employment agency", and requires a license. A lecture as such would normally not come within the definition. If the phrase quoted actually describes activity desired to be entered into, such license would not be required. This last is a question of fact to be determined by the Commission.

COUNTY COMMISSIONERS

1101-47

Mr. H. L. Townsend,
September 2, 1947.

Mere absence of a county commissioner from the district of which he must be a resident to be elected, will not be considered as creating a vacancy. (Opinions of Attorney General Nos. 738-46; 213-43; 326-36; Sec. 15, Ch. 45, 1935 C.S.A.; *Manning Ind. School Dist. v. Miller*, 178 N.W. 323; *State v. Board of Ed.* 193 P. 1074; *Yankey v. State*, 27 Ind. 236.)

CITIES AND TOWNS—ELECTIONS

1102-47

Mr. Joe R. Fuller,
September 2, 1947.

Under Section 122(c), Chapter 59, 1935 C.S.A., as amended by Section 4(c) of Senate Bill No. 464 (36th General Assembly) County Chairmen of two major political parties are authorized to certify election judges in order of their choice. In municipal elections in towns and cities of less than 100,000 population functions of county chairmen are transferred to city chairmen (1939 S.L., Ch. 103, Sec. 19(c)—to be found in Vol. 3, Ch. 59, Sec. 154(e), 1946 Supp. to 1935 C.S.A.) and the city council or board of trustees shall appoint proper number of election judges for each precinct in order of choice designated by city chairmen (See Sec. (a) of foregoing cited statute).

**STATE COMPENSATION FUND—
PURCHASING AGENT**

1103-47

Industrial Commission of Colorado,
September 4, 1947.

Expenditures from the State Compensation Insurance Fund are not subject to the approval of the State Purchasing Agent.

FEES—COURTS

1104-47

Hon. E. M. Short,

September 8, 1947.

(Fees chargeable by Clerk of court of record)

H.B. 241, S.L. 1947, became effective July 25, 1947. 1. After that date, where a "copy of any record, proceeding or paper on file is furnished by a party ordering the same", the clerk of the court is only entitled to a fee for certifying the same. (Opinion of Attorney General No. 1095-47).

2. That no discretion is left in the Clerk of the Court as to the acceptance of such tendered copy and he may not refuse to accept the same. If the copy is tendered the said clerk is only entitled to his fee for certification.

SCHOOLS—PUBLIC WELFARE

1105-47

Mr. Earl M. Kouns,

September 8, 1947.

(Children in foster homes)

A child placed in a foster home by a County Department of Public Welfare who has the custody of the child, has residence in the district of the foster home and should be allowed to attend the schools the same as other children in that district. If the children in that district attend school in another district, the right to attend school in another district should be upon the same basis as other children who reside in the district of the foster home.

STATE AGRICULTURAL COLLEGE

1106-47

EMPLOYEES—WORKMEN'S COMPENSATION

Mr. James R. Miller,

September 8, 1947.

(Immunity from suit)

The State Agricultural College is a part of the state's sovereignty and enjoys the state's immunity from suit. (Okla. Agric. & Meech. College v. Willis, (Okla.) 52 Pac. 921; State v. Colo. Co., 104 Colo. 436, 439).

Unless a member of the athletic team could show that he was under an appointment or contract of hire, express or implied (Sec. 287, Ch. 97, 1935 C.S.A.), no liability would arise from the employment under the Workmen's Compensation Law,—since the relationship of employer and employee would not exist. (Ind. Com. v. Anderson, 69 Colo. 147; Ind. Com. v. State Fund, 94 Colo. 194; Ind. Com. v. Hayden, 113 Colo. 62).

COLORADO STATE SOLDIERS AND 1107-47
SAILORS HOME—STATE TREASURER

Mr. Ray O'Dell,
 September 8, 1947.

Section 4, Chapter 233, S.L. 1945, is explicit in regard to the disposition of garage rentals. All such funds are to be deposited with the State Treasurer. He in turn is to reimburse the Members Benefit Fund of the Soldiers and Sailors Home to the amount of \$4000 and thereafter pay such rentals into the general fund of the state.

CITIES AND TOWNS—ELECTIONS 1108-47

Mr. Cecil R. Ditsch,
 September 10, 1947.

Chapter 249, 1945 S.L., appearing as Section 77, Chapter 163, 1946 Supplement to 1935 C.S.A., applies to cities of the second class and not to incorporated towns.

COUNTY COMMISSIONERS 1109-47

Board of County Commissioners,
 September 12, 1947.

Removal of County Commissioner without the district in which he resided when elected does not create a vacancy unless the act was accompanied by the intention to acquire a new residence elsewhere than in the district. (*Kay v. Strobeck*, 81 Colo. 144. *People v. Espinoza*, 81 Colo. 198).

CHIROPRACTORS 1110-47

Dr. E. A. Jackson,
 September 12, 1947.
 (Renewal of license)

Volume 2, Chapter 34, Section 13, 1935 C.S.A., requires chiropractors to renew licenses to practice annually on or before October 1st of each year. Section 1 of above cited act provides that it is unlawful to practice chiropractic without a license, and as an unexpired license expires on Oct. 1st of each year, any chiropractor who continues to practice does so unlawfully and in contravention of the Chiropractic Act and is subject to penalty provision thereof, which is Section 16. It is District Attorney's duty to prosecute under Section 17. Secretary of Chiropractic Board has no authority under law to demand affidavits from unlicensed chiropractors.

CIVIL SERVICE

1111-47

Mr. James H. Steele,
September 12, 1947.

Where an alien over the age of twenty-one years has been a resident of Colorado for twelve months prior to his becoming a citizen by naturalization, he becomes eligible as a qualified elector for appointment in the classified service. Section 1, Article VII and Section 13, Article XII, Constitution of Colorado; 2 American Jurisprudence, Sec. 178, P. 556 and Sec. 232 P. 583.

STATE AUDITOR—STATE PURCHASING 1112-47
AGENT

Hon. Homer F. Bedford,
September 12, 1947.

While Section 38, Article 3, Chapter 158, 1935 C.S.A., may call for duplication of the effort prescribed under Section 20, Subsection 3 and 4, Chapter 2, Session Laws 1941, there is no irreconcilable conflict between the sections and therefore said Section 38, Article 3, etc., is still in full force and effect. (*Hewitt v. Landes*, 75 Colo. 277; *People v. Commrs.*, 86 Colo. 249; Subsec. 47, Sec. 4, H.B. 326, S. L. 1947).

MOTOR VEHICLES

1113-47

Mr. W. F. Perkins,
September 12, 1947.
(Dealers' Licensing)

The licensing act makes any one a dealer who (1) buys and sells or (2) exchanges three or more motor vehicles in any one calendar year irrespective of whether the exchange or purchase and sale is from and to other licensed dealers. In case of purchase and sale, the transaction involves both, hence both purchase and sale must take place within the same calendar year.

SCHOOLS

1114-47

Mrs. Mela Rudolph,
September 15, 1947.

The directors of a school district have the right to decide to take a school bus beyond the limits of a consolidated district, provided the requirements of the district itself are satisfied, and they are not liable in event an accident occurs.

GAME AND FISH**1115-47**

Mr. C. N. Feast,

September 16, 1947.

(Individual license selling agents)

Moneys collected from sale of licenses are public funds. The Commission has discretion to fix amount of bonds of individuals selling licenses.

**STATE CONTROLLER—SCHOOL OF
MINES****1116-47**

Hon. James A. Noonan,

September 17, 1947.

1. The Board of Trustees of the School of Mines has authority under the law to acquire real property and pay for the same from the School of Mines tax fund, if in their opinion it is for the use and benefit of the School of Mines (Chapter 14, 1935 C.S.A.).

2. (a) In view of Sec. 3a, H.B. 326, S.L. 1947, the contract of purchase must be approved by the controller before it becomes valid.

(b) The controller might properly submit the voucher to the governor for his approval inasmuch as the division of accounts and control is within the executive department. (Section 6, Chapter 157, 1935 C.S.A.; Sec. 9, Art. 2, Ch. 2, S.L. 1941).

(c) If a plan has been adopted by the State Planning Commission covering the School of Mines, the proposed acquisition of property should be submitted to the State Planning Commission for their consideration and advice before acquiring the same. (Sec. 1-4-5-6, Ch. 157, 1935 C.S.A.).

(d) Where the personal property is merely incidental to the real estate and no separate purchase price is set up for it, the approval of the State Purchasing Agent is not required before consummating the transaction. (Sec. 20, subsection 2, Chapter 2, S.L. 1941).

BOXING COMMISSIONER—GOVERNOR**1117-47**

Hon. Lee Knous,

September 17, 1947.

Charges filed against Boxing Commissioners should be sufficiently specific as to facts so that respondents may have fair opportunity to answer same.

GAME AND FISH COMMISSION 1118-47

Mr. C. N. Feast,
September 17, 1947.

(Damage by bears and raccoons)

Game and Fish fund must respond under the provisions of Section 42, Chapter 73, 1935 C.S.A., for the payment of damages inflicted by bears and raccoons while under the protection of the Game and Fish laws.

CITIES AND TOWNS 1119-47

Mr. William A. Way,
September 19, 1947.

Sections 104 and 106, Chapter 163, 1935 C.S.A., apply so long as there is a quorum of four or more of the town trustees.

Section 190, Chapter 163, 1935 C.S.A., only comes into play where there are less than four but not less than three trustees.

CHIROPRACTORS 1120-47

Mr. E. A. Jackson,
September 23, 1947.

The Board of Chiropractic Examiners would be exceeding its authority in penalizing chiropractors who are delinquent in requesting their annual licenses by applying the revocation provisions of Sections 2 and 11, Chapter 34, 1935 C.S.A., to them unless any such chiropractor has been so delinquent for a period of three years or more.

SCHOOLS 1121-47

Mrs. Nettie S. Freed,
September 23, 1947.

A tax levy to pay principal and interest on bonded indebtedness may be made only after the bonds have been sold. There is no statute authorizing the levy of a tax to amortize a bond issue or pay interest on same after the bonds have been favorably voted upon but before the bonds have been issued and sold.

**STATE BOARD OF EXAMINERS FOR 1122-47
ENGINEERS AND LAND SURVEYORS—
ARCHITECTS**

State Board of Examiners for Engineers and Land Surveyors,
September 25, 1947.

A licensed architect may not perform engineering services without first having complied with the provisions of Chapter 62, 1935 C.S.A.

SCHOOLS

1123-47

Mr. C. Kent McCauley,

September 25, 1947.

(Chiropractors, Health)

If a school board requires a medical certificate showing whether or not a student is suffering from a contagious disease or other ailment, the certificate of a chiropractor would be unacceptable.

If the school board, in the exercise of its discretion, would be willing to accept evidence of the state of health of the pupils other than a medical certificate, then the opinion of a chiropractor on the subject could be given whatever weight the board might choose to give.

SCHOOLS

1124-47

Mrs. Nettie S. Freed,

September 26, 1947.

(Funds)

If the boundaries of an elementary district become identical with the boundaries of a high school district and said high school district is dissolved, the elementary district is entitled to participate in the apportionments or allotments which the union high school district would have received by virtue of House Bill No. 559, Chapter 281, p. 786, Session Laws of Colorado, 1947.

CIVIL SERVICE—VETERANS

1125-47

Mr. James H. Steele,

September 27, 1947.

1. If the information required by Section 14, Article XII, Constitution of Colorado, shows on the face of a veterans discharge papers, then the Civil Service Commission can accept the discharge as conclusive evidence. Otherwise, it must accept as conclusive the certificate of the War Department, the Navy Department, or the United States Veterans Administration or their successors. (Sec. 14, Art. XII, Constitution of Colorado, Sec. 654b, Title 10, U.S.C.A.)

2. No degree of disability should be considered by the Civil Service Commission in the allowance of the ten points credit.

3. Receiving of disability payments is not a pre-requisite to the allowance of the ten points credit.

INTOXICATING LIQUORS—SCHOOLS 1126-47

Mr. S. W. Schiffman,

September 27, 1947.

(Club licenses)

Club licenses are barred from places "within five hundred feet from any public or parochial school, college, university or seminary."

TAX CERTIFICATES—COUNTY CLERKS AND RECORDERS 1127-47

Mr. L. R. Howe,

September 30, 1947.

Certificates of cancellation must be entered in the reception book in the same manner as any other instrument which is filed with the county clerk and recorder. Citing Chapter 267, page 737, 1947 Session Laws, and Section 85, Chapter 45, 1935 Colorado Statutes Annotated.

GAME AND FISH DEPARTMENT 1128-47

Mr. Elton K. McQuery,

October 1, 1947.

(Fishing easements and private lands)

Wherever private fishing waters in the state have been stocked at public expense a perpetual easement to fish therein, under and upon the lands occupied by such waters may be acquired by negotiation and paid for out of the Fish and Game Easement Fund.

SCHOOLS 1129-47

Mrs. Lilius P. Stafford,

October 3, 1947.

(Funds)

A county high school district being a legally constituted body corporate which must be supported through tax levies, those public officers charged with the duty of levying and collecting taxes must levy a tax, following the procedure required by law, for the support of such body corporate, and they have no legal right to refuse to do so.

PUBLIC EMPLOYEES RETIREMENT 1130-47
ASSOCIATION

Public Employes Retirement Association,
September 9, 1947.

The words "provided that no retirement annuity shall exceed the sum of \$150 per month" is a limitation on the preceding language used in Section 33, Chapter 36, 1935 C.S.A., and is "the annuity otherwise payable" provided in Section 31 of said Chapter 36. Therefore in computing the retirement annuity of any person whose compensation is over \$300 per month it is necessary to substitute the words "one hundred and fifty dollars" for the words "annuities otherwise payable" in Section 31, Subsection 1, Chapter 36, 1935 C.S.A., and compute the annuity upon that basis.

COURTS—CLERKS OF COURTS 1131-47

Mr. Robert Porter,
October 6, 1947.

Subsection d, Section 6, Chapter 190, Session Laws of 1947, must be interpreted as allowing a clerk of a court of record to charge a fee of 75c from the party ordering a certificate of satisfaction of judgment. Said Section 6 does not authorize the said clerk to charge a fee for the policy of a praecipe for default. In any case for such charge the clerk must seek authority in Section 8, Chapter 66, 1935 C.S.A.

SCHOOLS 1132-47

Mrs. Nettie S. Freed,
September 26, 1947.
(Officers)

Boards of Education may in the exercise of their discretion exclude the public from attending their meetings.

VETERANS—NATIONAL GUARD 1133-47

Mr. William N. Rice,
October 7, 1947.

The State Service Officer and the employees of that office are members of the National Guard. (Secs. 1, 2(a)(b)(d), 7, Chapter 234, S.L. 1945). The act terminated at midnight June 30, 1947 and the commission of the Service Officer terminated at the same time. (Sec. 11, 2(a)(b), said Ch. 234). The Department

of Veterans Affairs is a civil department and was created by Chap. 328, S.L. 1947. Not being a de facto officer of the Department of Veterans Affairs that department cannot pay any compensation to the Service Officer. Other employees of the Service Office being military personnel must look to the National Guard for their compensation.

GAME AND FISH

1134-47

Mr. Elton T. McQuery,

October 10, 1947.

The Director of the Game and Fish Department exercises all of the powers and functions of the commission in the interim of its meeting but subordinate thereto. The Director cannot redelegate any of his delegated powers.

Other departmental employees may acquire option, make memo contracts or arrangements of a similar temporary nature for the department but they cannot bind the state by contract.

The Game and Fish Commission or in the interim of its meetings, the Director with the Commission's subsequent approval, can alone enter into such binding contracts.

Secs. 242, 248, Ch. 73, 1935 C.S.A., as amended. 5 Peters (U.S.) 390, 8 L. Ed. 166; 2 Am. Jur. 154, Sec. 196.

CITIES AND TOWNS—ELECTIONS

1135-47

Mr. Ralph Sidebottom,

October 9, 1947.

Where no objections were filed to the candidate's nominating petition within the three days required by law or at all, there is no one now in a position to object to said petitions and they must be presumed to be valid. (Sec. 80, Ch. 59, 1935 C.S.A.).

STATE BOARD OF LAND COMMISSIONERS

1136-47

State Board of Land Commissioners,

October 16, 1947.

Under paragraphs 1 and 2, Chapter 223, 1945 S.L. of Colorado, the State Board of Land Commissioners may acquire existing loans on farm or ranch property where the terms of the existing loan contracts comply in every respect with the terms of the statutes governing loans made by said board.

SOLDIERS AND SAILORS HOME 1137-47

Hon. Lee Knous,
October 17, 1947.

The statute is silent as to the power of the Board of Commissioners for the Soldiers and Sailors Home to acquire land except through donation. The Board may manage the property of the Home but cannot acquire land in any other manner than by means of donation. Any purchase of land must be made through special authorization of the legislature. (Sections 1 and 12, Ch. 150, 1935 C.S.A., as amended by Ch. 232, S. L. 1945).

SCHOOLS 1138-47

Mrs. Nettie S. Freed,
October 20, 1947.
(Funds, Organization)

When a union high school district is dissolved under Chapter 278, S.L. 1947, the Board of Directors of the elementary school district may levy, in addition to the special levy of such elementary district, the special levy which the Union High School District could have levied if it had not been dissolved and the 5% increase permitted by section 39, chapter 142, 1935 C.S.A., should be based upon the total of the two levies.

SCHOOLS 1139-47

Mr. Joseph J. Evatz,
October 21, 1947.

The governmental immunity from liability which the school district enjoys extends to its agents and servants while they are acting within the scope of their employment in behalf of the district. Citing No. 53, 1936 and 109, 1937.

COUNTY OFFICERS 1140-47
TAXATION—MOTOR VEHICLES—SPECIFIC
OWNERSHIP

Colorado Tax Commission,
October 1, 1947.

No county assessor in the State of Colorado can legally assess motor vehicles within their county and levy an ad valorem personal property tax thereon unless the same are in process of manufacture, in dead storage, or constitute part of the stock in trade of dealers or distributors.

INTERSTATE COMMERCE **1141-47**
TAXATION—MOTOR VEHICLES—SPECIFIC
OWNERSHIP

Colorado Tax Commission,
 October 24, 1947.

(Specific Ownership Tax on vehicles not registered in Colorado).

The Tax Commission can legally assess and the Department of Revenue legally collect a prorated specific ownership tax upon those Class "A" Motor Vehicles, Trailers, and Semi-Trailers that operate interstate into Colorado without their being registered and licensed in Colorado. (In Re Dixie Greyhound Bus Co., 309 U.S. 176).

SCHOOLS **1142-47**

Mrs. Nettie S. Freed,
 October 28, 1947.
 (Discipline)

School authorities have power to impose and enforce rules and regulations concerning bicycle riding and automobile riding practices if the effect of such practices are directly related to the welfare of the school. (*Deskins v. Gose*, 85 Mo. 485, 55 Am. Rep. 387; *Jones v. Cody*, 132 Mich. 13, 92 N.W. 493, 62 LRA 160).

CIVIL SERVICE **1143-47**

Mr. J. Leon Michaelson,
 November 1, 1947.
 (Accumulated unused annual leave)

Where neither the head of a department nor the employee has certified the unused portion of the employee's annual leave to the Commission by February 1st of the following year, such unused annual leave is forfeited pursuant to paragraph 3, Art. XIII, Rules and Regulations of the Civil Service Commission.

GAME AND FISH COMMISSION **1144-47**

Mr. C. N. Feast,
 November 3, 1947.
 (Fur bearing seasons)

The Game and Fish Commission has power to set open seasons for taking or trapping of fur-bearing animals, except beaver, if it is exercised prior to August first preceding the calendar season followed by proper publication; otherwise, the statute automatically fixes the open season from November 1st to March 1st following.

VETERANS**1145-47**

Mr. William N. Rice,
November 3, 1947.

Section 9, Chapter 328, S.L. 1947, provides that any city, county or political subdivision of the state may contribute funds, services or facilities to the department but there is no appropriation of such funds to the use of the department. In view of Sec. 33, Art. V, Constitution of Colorado, it is highly questionable that such monies could be used to augment the direct appropriation of your department.

There is nothing to prevent your entering into a contract with a city, etc., for the contribution "of services or facilities" which would have the same effect as additional revenue, since it would save drawing against your appropriation to pay for such services or facilities.

HIGHWAY COURTESY PATROL**1146-47**

Mr. G. R. Carrel,
November 6, 1947.

(Safety campaign use of accident photographs)

The State Patrol is acting in its legal rights in displaying publicity photographs taken at the scene of accidents, providing they are careful to block them out so as to conceal the identity of all victims or persons involved therein and make no mention of their names in the narration of the accident or identification of the photographs.

CHIROPODY**1147-47**

Mr. Donald W. Clifford,
November 6, 1947.
(Reinstatement)

Applicant for reinstatement to practice chiropody must have all the qualifications and requirements of an original applicant, which includes the scholastic credits prescribed by chapter 237, Session Laws of Colorado, 1947.

**STATE BOARD OF STOCK INSPECTION
COMMISSIONERS****1148-47**

Mr. Ed Paul,
November 7, 1947.

(1) The State Board of Livestock Inspection Commissioners has no statutory authority to fix or change the sales day or days of a livestock sales ring, either before or after licensing.

(2) A livestock sales ring is required to see that all stock sold in the ring is inspected; it is the duty of the Board of Inspectors to inspect stock and to collect the inspection fees and to that end provide a reasonable number of inspections. As a practical administrative matter, the sales ring and the commission should arrange the sales day or days so as to work to the advantage of all concerned.

STATE BOARD OF PHARMACY 1149-47

Mr. Elton McQuery,
November 8, 1947.

The State Board of Pharmacy is not authorized or empowered by law to establish and support scholarships financially from state funds. (Chapter 58, 1935 C.S.A.)

NEWSPAPERS 1150-47

Board of County Commissioners of Summit County,
November 8, 1947.
(Legal Notices)

Section 7, Chapter 130, 1935 C.S.A., as amended by Ch. 191, 1945 Session Laws of Colorado, applies generally, except as to any acts which contain specific rates for specific publications. Sec. 228, Ch. 142, 1935 C.S.A., is such a specific statute, providing certain rates for delinquent tax publications, which must prevail.

SCHOOLS 1151-47

Mrs. Nettie S. Freed,
November 10, 1947.
(Funds)

The various county treasurers may legally collect the one per cent fee as provided in Section 25, Chapter 66, C.S.A. 1935, with respect to moneys paid to them from the funds set forth in Chapter 58, Session Laws of Colorado, 1947.

Citing also Chapter 138, Session Laws of Colorado 1945 (Section 43, subsection 6, chapter 84-A, Supplement to the Colorado Statutes Annotated 1935) and Section 12(2)(b), Chapter 210, Session Laws of Colorado 1947.

FEES AND SALARIES—COURTS 1152-47

Mr. L. A. Ruark,
November 12, 1947.

Sections 1 and 2, Chapter 124, Session Laws of 1945, the docket fee should be based upon the gross value of the estate as shown by the inventory with no deductions for any outstanding encumbrances.

NEWSPAPERS—SECURITIES 1153-47
COMMISSIONER

Mr. Curtis White,
November 13, 1947.

Section 3, Chapter 148, 1935 C.S.A., makes it illegal for the publisher of a newspaper printed in Colorado to print advertising offering securities for sale which are not registered and not exempt under other provisions of Chapter 148.

SCHOOLS 1154-47

Mrs. Nettie S. Freed,
November 13, 1947.
(Bonds)

A union high school district may incur a bonded indebtedness for the purpose of purchasing a high school building from an elementary district located within a union high school district and upon unification of all districts within the union high school district and dissolution thereof by operation of Chapter 278, Session Laws of Colorado, 1947, the bonded debt would become that of the unified district.

COUNTY OFFICERS—FEES 1155-47
AND SALARIES

Hon. Herman A. Bailey,
November 15, 1947.

The salaries fixed by Sections 11 and 12, Chapter 125, Session Laws 1945, are not mandatory salaries as to amount, but are maximum salaries and, in the case of the clerk of the County Court, may be in such an amount as may be fixed by the County Judge with the approval of the Board of County Commissioners, but not in excess of the maximum salary.

INSURANCE 1156-47

Mr. Luke J. Kavanaugh,
November 15, 1947.

In computing the statutory unearned premium reserve, under Section 56, Chapter 87, 1935 C.S.A., policy fees can be deducted from the gross annual premiums only when such policy fees are represented by specific charges so designated and made in addition to the regular policy premium.

PROBATE

1157-47

Mr. Ross L. Shaklee

November 17, 1947.

Section 1, Chapter 124, 1945 Session Laws, does not authorize the charging of fees for the sale or mortgage of real estate where the sale or mortgage is made under powers granted in a will, but only in instances where the sale is made pursuant to petitions, court decree and orders of confirmation of sale.

**STATE BOARD OF HEALTH—CONTRACTS 1158-47
CITIES AND TOWNS**

Dr. R. L. Cleere,

November 17, 1947.

Contracts of employment which extend beyond the term of office of the city official making the contract are not illegal, but the person entering into such contract of employment is chargeable with knowledge of any limitations imposed by law upon the powers of a municipality to make such contract, since the succeeding officials may in their discretion, ratify, adopt or reject such contract as their official act. 37 Am. Jur. 679, Sec. 66; 38 Am. Jur. 172, Secs. 495-496-498; 43 C. J. 893, Sec. 1629; *Jay County v. Taylor*, (Ind.) 23 N.E. 752; *Egan v. St. Paul* (Minn.) 58 N.W. 267; *Dolan v. Orange* (N. J.) 56 A. 130; *Liggett v. Kiowa Co.*, 6 Colo. App. 269; *Hope v. Alton* (Ill.) 73 N.W. 406.

CIVIL SERVICE

1159-47

Mr. Elton K. McQuery,

November 18, 1947.

The Civil Service Commission has authority to fix new grades beyond the scope of those set forth in Chapter 189, Session Laws 1947. In the event such new grades are established the compensation for the positions within such grades shall be fixed by the Chief Executive Officer of the department with the approval in writing of the Governor.

CITIES AND TOWNS

1160-47

Mr. J. S. Schey,

November 19, 1947.

An aldermanic contest in a city of the second class should be decided by the newly elected board. (Section 94, Chapter 163, 1935 C.S.A.)

SCHOOLS—COUNTY TREASURERS 1161-47

Mr. George J. Robinson,

November 19, 1947.

(Funds)

The Teachers' Retirement Fund Levy should not be included in the county school district levies to determine whether or not there has been more than a 5% increase in revenue as limited by Section 39, Chapter 142, 1935 C.S.A.

While there is no statute specifically directing the County Treasurer to maintain a separate account for the teachers' retirement fund, the general provisions of Sections 145 and 146, Chapter 45, 1935 C.S.A., are applicable. Opinion No. 1013-47 cited.

PUBLIC WELFARE 1162-47

Mr. Earl M. Kouns,

November 20, 1947.

(Tuberculosis Assistance)

In the absence of a legislative definition, or a judicial interpretation of the words "wherein the applicant resides" the State Board of Public Welfare may adopt a construction for administrative purposes. Physical presence is the proper interpretation of the legislative act, until changed by legislative action or judicial decision. Intent is not a factor which must necessarily be considered.

BANKS AND BANKING 1163-47

Mr. W. L. Hazlett,

November 24, 1947.

The statutes of this state do not prohibit the domestication of a foreign trust company.

SCHOOLS 1164-47

Mrs. Georgianna Kettle,

November 26, 1947.

(Funds)

1. Citing Opinion No. 1042-47.
2. There is nothing in the statutes limiting the number of warrants that may be drawn on the county general school fund or the maximum amount of each warrant.

The number of warrants and the amount of each warrant must be determined by the total amount of money available and the purpose for which the warrant was issued.

COLORADO STATE FAIR

1165-47

Mr. Elton K. McQuery,

December 1, 1947.

(a) Where State Fair Commission intends to construct or acquire any public building or structure or property it must first comply with Section 6, Chapter 157, 1935 C.S.A., and obtain the report and advice of the State Planning Commission before expending state funds therefor.

(b) Where work involves repairing, etc., such work does not come within the purview of Section 6, Chapter 157, 1935 C.S.A.

(c) While Section 1, Chapter 187, S.L. 1947, gives the Colorado State Fair Commission exclusive jurisdiction to expend funds therein appropriated, with the approval of the Governor, such expenditures can only be made upon compliance with other state laws and particularly Chapter 118, S.L. 1947 in re Division of Accounts and Controls.

CIVIL SERVICE

1166-47

State Civil Service Commission,

December 2, 1947.

In testing applicants, the preparation of examinations and the grading thereof, the allowances for training and experience as well as general qualifications are all matters which lie vested within the sound discretion of the Civil Service Commission; they are not matters of law and will not be disturbed by the court unless undue prejudice, favoritism or abuse of discretion can be shown by the complainant.

Hewitt v. Com., 114 Colo. 561; *Peo. v. Harl*, 109 Colo. 223; *Field v. Civil Service Law* P. 86; *Rosenstrauch v. Reavy*, 21 NYS (2d) 358; *Getty v. Witter*, 107 Colo. 302.

**STATE HIGHWAY PATROL—
PUBLIC FUNDS—CONTROLLER**

1167-47

Mr. James A. Noonan,

December 3, 1947.

(Establishment of state radio broadcasting and teletype system)

Technicians, dispatchers and other employes used for the establishment and operation of the radio and teletype system referred to in Sec. 2(a), Ch. 270, 1947 S.L. of Colorado, are to be paid from the funds designated in Sec. 18, Ch. 273, 1947 S.L. of Colorado.

SCHOOLS**1168-47**

Mrs. Nettie S. Freed,

December 4, 1947.

(Property)

A school district may not lease school buildings during summer months for business purposes, such as theatricals, but the board of education may properly permit school property to be used for casual, incidental community recreational and educational purposes so long as such use is not prejudicial to nor inconsistent with the main use for which the property was acquired. *Lincke v. Moline Board of Education*, 245 Ill. App. 459; *Sugar v. Monroe*, 108 La. 677, 32 So. 961, 59 L.R.A. 723.

TAXATION**1169-47**

Hon. Harrison Loesch,

December 6, 1947.

(Publication of delinquent tax list)

Reaffirming opinion 138-31 which states that it will be impossible after the first publication to withdraw any name from a delinquent tax list.

**COUNTY TREASURER—COUNTIES
TAX SALES****1170-47**

Mr. James Ingles,

December 6, 1947.

Section 1, Chapter 264, S.L. 1947, must be read with sections 139, 227 and 234, Chapter 142, 1935 C.S.A. (*Burton v. Denver*, 99 Colo. 207) in order to fit it into the existing system. (50 Am. Jur. 346, Sec. 349).

(a) Where every tract of land, etc., is valued and assessed separately the descriptions are separate and the \$1.50 penalty should apply to each description.

(b) The only lands which the treasurer may sell jointly are adjoining parcels returned by the same person. Section 1, Chapter 264, S.L. 1947, provides that the \$1.50 penalty applies to *each* description of "lot or lots, etc." This must mean each description complete in itself and not each lot or tract which is a part of the complete description.

(c) Where one or more lots, etc., are occupied by the same dwelling, etc., for a single purpose and taxed as one property are to be deemed a single description and subject to one penalty of \$1.50.

CHIROPRACTORS—BASIC SCIENCES 1171-47

Dr. E. A. Jackson,

November 26, 1947.

Basic Science law does not apply to chiropractor whose license is suspended because of failure to renew license for one year as provided in Section 2, Chapter 34, 1935 C.S.A.

Basic Science Act does not apply to chiropractor licensed to practice in Colorado on effective date of act, to wit: August 30, 1937, because of exemption provisions of Sec. 17 of act. This right to exemption is not lost by subsequent revocation of license because of a failure to renew license for three successive years as provided in Sec. 2, Ch. 34, 1935 C.S.A.

Basic Science Act does apply to chiropractors licensed after effective date of act; a revocation of his license by virtue of provisions of Sec. 2, Ch. 34, 1935 C.S.A., results in revocation of basic science certificate under Sec. 11 of Basic Science Act and such person would have to meet requirements of that act before reinstatement by healing board.

**GOVERNOR—STATE REFORMATORY— 1172-47
PARDONS AND PAROLES**

Hon. Lee Knous,

December 8, 1947.

1. The Governor, as chief executive officer of the state, has the power and duty to fix upon a uniform plan and to promulgate rules and regulations relative to women reformatory prisoners confined within the State of Colorado (Sec. 9, Art. 2, Ch. 2, S.L. 1941; Sec. 2, Art. IV, Const. of Colo.; Sec. 64, Ch. 131, 1935 C.S.A.)

2. The Warden of the jail-reformatory does not have the legal authority to make findings of his own and release prisoners without authority from the Governor to do so. (*Hershey v. People*, 91 Colo. 113).

**MOTOR VEHICLE DEALERS 1173-47
LICENSING ACT**

Mr. W. F. Perkins,

December 9, 1947.

The bond required for motor vehicle dealers and motor vehicle salesmen is conditioned solely against fraud, fraudulent representations and violations of the licensing act. It does not cover solvency or financial guarantees.

PUBLIC FUNDS—LIVESTOCK BOARD 1174-47
ADVERTISING

Mr. Elton K. McQuery,

December 9, 1947.

State funds may not be expended for "complimentary" advertising. (Sec. 34, Art. V, Colo. Constitution).

STATE OIL INSPECTOR 1175-47

Mr. John E. Cronin,

December 10, 1947.

Sale of sub-standard gas containers may not be prohibited except by condemnation when installed for use. Highway Patrol under Motor Vehicle Act may cooperate in enforcing marking of tank trucks, etc., carrying liquefied petroleum.

ELECTIONS—CITIES AND TOWNS 1176-47

Mr. William A. Way,

December 5, 1947.

The Democratic and/or Republican parties in an incorporated town may nominate by convention, if they can qualify, under the provisions of Section 70, Chapter 59, 1935 C.S.A., and the certificate of nomination, under the provisions of Section 71 of said Chapter 59, must contain the party name.

BANKS AND BANKING 1177-47

Mr. W. L. Hazlett,

December 11, 1947.

A bank operated under the direction of a head office and located in a district other than that served by the main office is a branch bank.

Operation of bank in adjoining buildings, but separated by an alley, would not constitute maintenance of a branch bank.

BASIC SCIENCES—CHIROPRACTORS 1178-47

Dr. Esther B. Starks,

December 13, 1947.

The Colorado State Board of Examiners in the Basic Sciences has the implied power to determine an exempt-status under Section 17 of the Basic Science Act. Persons claiming such a status should obtain a letter of clearance from the Basic Science Board.

WAR EMERGENCY—VETERANS— **1179-47**
CIVIL SERVICE

Colorado State Civil Service Commission,

December 16, 1947.

(Re: Termination of World War II—Civil Service)

As of this date (December 16, 1947) World War II has not ended as final peace cannot be declared until U.S. Senate has ratified treaties with adversaries of the United States and same are formally declared.

Wherefore, provisions of Section 2, Chapter 148, 1947 S.L., relating to preference to veterans is now, and shall remain, effective until peace is formally declared.

STATE BOARD OF AGRICULTURE **1180-47**

State Board of Agriculture,

December 17, 1947.

Any person employed by the State Board of Agriculture for a definite period of time may be carried on the pay roll, and retirement benefits paid, although the last year of said employment may be on an inactive basis.

INSURANCE **1181-47**

Mr. Clarence L. Bartholic,

December 18, 1947.

A corporation not for profit may not legally issue insurance policies on the lives of its members. *International Service Union Co. v. People, ex rel. Wettengel District Attorney*, 101 Colo. 1).

DIRECTOR OF MARKETS **1182-47**

Mr. Fred W. Ley,

December 22, 1947.

Potatoes which are processed into shoestring potatoes and potato chips are exempt from the grading required by Chapter 131, 1941 Session Laws of Colorado.

GAME AND FISH **1183-47**

Mr. C. N. Feast,

December 22, 1947.

Colorado has qualified under the Pittman-Robertson Act (Wild Life Restoration), Sec. 669 et seq., Title 16 U.S.C.A. (47 Stat. 169 as amended) and appropriated monies for the 1947-

1949 biennium. This appropriation is from state funds and is the state contribution of 25% toward the ultimate cost of the wild life project or projects limited in these respects:

(a) The Commission may not spend state funds in excess of the amount appropriated for each fiscal year.

(b) The state funds are available only when federal funds are also available.

(c) The State loses all federal funds allocated to the State of Colorado when not matched by the state in the proportion 25% state funds to 75% federal funds.

TAXATION

1184-47

Mr. Earl L. Lattin,

December 23, 1947.

(Lost certificates of purchase)

The provisions of Section 247, Chapter 142, 1935 C.S.A., concerning lost certificates applies to counties which have lost certificates as well as to individuals.

METAL MINING FUND

1185-47

GOVERNOR—CONTROLLER—TREASURER

Mr. Elton T. McQuery,

December 23, 1947.

The Metal Mining Fund Board has wide discretionary powers in the expenditure of the Metal Mining Fund and so long as the expenditures are within the appropriation, and within the purposes outlined in the statutes and do not conflict with Section 34, Article V, Constitution of Colorado, there is no question of the board's statutory authority to expend the funds. (Sec. 325, 330, Ch. 110, 1935 C.S.A.; Sec. 3(a), Ch. 118, S.L. 1947).

INTOXICATING LIQUORS—PARDONS AND PAROLES

1186-47

Mr. Walter F. Scherer,

December 26, 1947.

A person who has been convicted of a felony, or of any violation of any liquor law in any federal or state court of record in Colorado is ineligible to receive a liquor license in this state, even though he may have been pardoned subsequent to the service of his sentence. Reaffirms Opinion No. 197-1943.

UNIVERSITY OF COLORADO

1187-47

Mr. W. E. Brockway,

December 29, 1947.

The regents of the University of Colorado, may in their discretion, use such facilities for heating purposes as they deem proper, including the installation of facilities which do not require the use of coal.

AGRICULTURAL COLLEGE

1188-47

Mr. F. A. Anderson,

December 29, 1947.

(Extension work)

Colorado State College A. & M. is the designated agent for agricultural extension work within the state. (Sec. 341, Tit. 7 U.S.C.A.; Sec. 11, Ch. 38, 1935 C.S.A.) As such agent it is responsible for and must make deductions and payments to the P.E.R.A. (Ch. 36, Art. 4, 1935 C.S.A., as amended by Ch. 94, S.L. 1941; Ch. 95, S.L. 1945; Ch. 149, S.L. 1947). As such agent it can enter into contracts with the several counties and the counties may contract with the said agent for agricultural extension work. The charge for extension work is a matter of contract and may include premiums, charges, fees or contributions which the state is obliged to make under the law to P.E.R.A.

**CIVIL SERVICE—TAX COMMISSION
PUBLIC OFFICERS**

1189-48

The State Civil Service Commission,

January 2, 1948.

Article XIII of the rules of the Civil Service Commission applies to employees and not appointive public officers.

INCOME TAX

1190-48

Mr. W. F. Perkins,

January 5, 1948.

The computation periods designated in Subsection 3 of Section 7(b) of Income Tax Act of 1947, Ch. 210, S.L. 1947, are independent and unrelated when determining tax for each period.

INSURANCE

1191-48

Mr. Luke J. Kavanaugh,

January 7, 1948.

Until such time as the legislature passes enabling legislation, charitable, religious, benevolent and educational organizations may not receive transfers of property conditioned upon their agreement to pay an annuity to the transferrer or nominee.

DENTAL BOARD

1192-48

Dr. E. G. Netherton,

January 9, 1948.

1. A dental-hygienist can operate an independent office, treat patients and fix fees for such services where the practice is limited to pupils and inmates of public and charitable institutions (Sec. 15, Ch. 52, 1935 C.S.A.).

2. A dental-hygienist can treat patients other than her employees if limited to those specified under No. 1.

3. The hygienist can fix fees for the services.

4. The employer-dentist might well be held responsible under the law when he fails to supervise treatment where the statute requires such supervision.

5. If a dentist refers patients, other than pupils or inmates, etc., to a dental-hygienist and not under his supervision, he risks charges of unprofessional conduct (Sec. 12, Ch. 52, 1935 C.S.A.).

6. The dental-hygienist may have her name on the door if it clearly designates her as a dental-hygienist.

7. A dentist may employ a dental-hygienist on a commission basis (Sec. 12, Ch. 52, 1935 C.S.A.).

8. The board of dental examiners has power to grant, suspend and revoke licenses to practice as a dental hygienist (Sec. 14-15, Ch. 52, 1935 C.S.A.).

PLANNING COMMISSION

1193-48

Mr. W. M. Williams,

January 12, 1948.

1. Sec. 6, Ch. 157, 1935 C.S.A., provides the enforcement procedure of the planning act.

2. No other state agency is authorized to develop a master plan.

3. Sec. 9, Ch. 157, transfers all of the rights, powers and duties of the State Board of Immigration to the State Planning Commission. Chapter 8, S. L. 1941 establishes the Colorado Ad-

vertising and Publicity Committee. The functions of the committee and the commission duplicate each other but are not in such irreconcilable conflict as to repeal Sec. 9 of said Ch. 157.

4. The Commission is empowered to adopt rules and regulations for the transaction of its business (Sec. 6, Ch. 157, 1935 C.S.A.).

5. The planning commission like any other board, bureau, etc., acts by a majority or quorum. This pre-supposes action as a board, where matters may be discussed, amended and voted upon. Such procedure cannot be followed by mail ballot, the better procedure is to generally authorize the director on how to proceed in the interim between meetings, let him poll the Board membership if there is any question of doubt in his mind and have the commission subsequently ratify the director's action.

6. The commission by rule could very well provide for an executive committee.

7. The commission and not the director, subject to other pertinent statutory regulation, has the power and duty to appoint other employees.

8. Sec. 17(b)(2), Ch. 118, S.L. 1947, transfers the powers of the budget commissioner (Sec. 17, Ch. 2, S. L. 1941) to the Division of Accounts and Controls. This section requires the executive head of the planning commission to prepare the proposed budget for the planning commission and in turn that commission must submit its budget to the Division of Accounts and Control.

**OFFICERS—TRAVEL EXPENSE OF 1194-48
EMPLOYEES, AERONAUTICS COMMISSION**

Mr. E. R. Fuchs,

January 12, 1948.

1. Reimbursement for travel expenses actually and necessarily incurred in the discharge of the state's business, without distinction as to the mode of travel can only be made as follows: (a) To members of the Colorado Aeronautics Commission, an amount per mile as fixed by the controller but not to exceed 7c per mile (Sec. 2, Ch. 6, S. L. 1945, Extra.). (b) To the director and other employees of the Aeronautics Commission, an amount per mile as fixed by the controller, but not to exceed 8c per mile. (Sec. 44, Ch. 66, 1935 C.S.A.).

2. Neither the governor, the controller nor any other state official would have authority under the present state of the law to reimburse any state employee for travel expenses other than on the mileage basis provided by statute.

3. Where the traveling is done in the performance of official business for the state, there is no restriction as to the manner or means of transportation except as may be provided by rules and regulations of the controller.

COUNTY TREASUER—ESCHEAT FUNDS 1195-48

Mr. Neil S. Mincer,
January 14, 1948.

If the foreclosure of a deed of trust results in a credit balance to the grantor and such grantor cannot be located, the money should be placed with the State Treasurer under subsection (c), Section 230, Ch. 176, 1935 C.S.A.

AGRICULTURAL COLLEGE—VETERANS 1196-48

The State Board of Agriculture,
January 14, 1948.

The Colorado Agricultural and Mechanical College may permit students occupying a Veteran's Village to operate a cooperative grocery store upon college property, assuming the State Board of Agriculture deems the operation to be for the benefit of the college.

**STATE EMPLOYEES' RETIREMENT 1197-48
ASSOCIATION**

Mr. Raymond J. Heath,
January 17, 1948.

Where a state employee joined the association on April 21, 1938 as a new employee, she was and is a member of the association and cannot now avail herself of the provisions of Chapter 94, S.L. 1941, and pay accrued deductions from her salary from 1931 to 1938 with interest thereon at 4% per annum.

COAL MINES—MINES AND MINING 1198-48

Mr. Thomas Allen,
January 22, 1948.

1. The term "mine" or "coal mine" includes the shafts, slopes, drifts, incline planes and mining plant, whether on the surface or underground. The language used in Sec. 2, Ch. 110, 1935 C.S.A., includes some but not all the characteristics of a mine. Modern construction of the term mine is not limited to mere subterranean excavations or workings, but includes, for example, beds of clay, ironstone, limestone, reached by open workings and workable only by open cuts. 18 R.C.L. 1093; 36 Am. Jur. 281; 11 A.L.R. 151.

2. A strip mine is a coal mine within the meaning of the statutes and is therefore requisite to secure an operating license and pay the inspection tax required by Sec. 157, Ch. 110, 1935 C.S.A.

INDUSTRIAL COMMISSION**1199-48**

Industrial Commission of Colorado,

January 21, 1948.

(Women's Eight Hour Law)

Chapter 230, S. L. 1947, refers to emergency conditions under which a female may work more than eight hours under this law. It is not necessary that orders be issued on an occupational basis. Wage studies need not be made for each business concern. Commission may by resolution define emergency conditions.

Commission may promulgate rules which will require employer to furnish and launder uniforms and make rules about "learners." Regulations in home rule cities should probably control.

NATIONAL GUARD**1200-48**

Irving O. Schaefer, Adj. Gen'l,

January 26, 1948.

(Leases)

The provisions of a lease for the ascertainment of the value of buildings by a board of abstractors is not authorized by law and if followed would be an illegal encroachment upon the powers and duties of the Adjutant General and the Governor (Sec. 29, Ch. 111, 1935 C.S.A.).

The Adjutant General with the advice and approval of the Governor must find that the property "is necessary for use for the National Guard" as well as useful and that the price is reasonable.

The transaction involves the expenditure of state money and therefore must be first approved by the Controller (Sec. 3(a), Chap. 118, S.L. 1947).

**COLORADO SCHOOL OF MINES—
CONTRACTS****1201-48**

Colorado School of Mines,

January 26, 1948.

The School of Mines was created for the purpose of carrying out the objects set forth in Section 5, Chapter 145, 1935 C.S.A.

This purpose is to operate as an educational institution (Sec. 1, 2, 5 and 21, Ch. 145, 1935 C.S.A.; Sec. 5, Art. VIII, Const. Colorado).

The school may enter into contracts where the matter furthers the school's instructional program, otherwise not.

LIQUORS—SCHOOLS

1202-48

Hon. Walter F. Morrison,

January 26, 1948.

Under Section 25(i), Chapter 89, 1935 C.S.A., which precludes the granting of a liquor license to an establishment to be operated within 500 feet from any public or parochial school, it is a question of fact to be determined from all surrounding circumstances, as to whether a school falls within a particular classification (*Johnson v. Boyd*, 217 Ind. 348, 28 N.E. 2d 256).

**WATER COMMISSIONERS—
EMPLOYEES—STATE ENGINEER**

1203-48

Mr. M. C. Hinderlider,

February 5, 1948.

It is not necessary for a water commissioner to be a resident of his water district.

LOTTERIES—COUNTIES—PUBLIC FUNDS 1204-48

Mrs. Mabel A. Ethel,

February 7, 1948.

Money deposited in a gambling device is an integral part thereof and the subject of seizure along with the device pursuant to provisions of Section 234, Chapter 48, 1935 C.S.A. Money recovered from a gambling device may be disposed of by a Judge or Justice of the Peace in accordance with the provisions of Section 34, Chapter 146, providing for the disposition of fines for breach of penal laws.

**STATE HISTORICAL SOCIETY—
LANDS**

1205-48

Mr. Edgar C. McMechen,

February 9, 1948.

(Acquisition of property by condemnation)

The State Historical Society does not have authority to condemn land to be used for historical purposes.

**STATE PLANNING COMMISSION—
BUILDINGS—GOVERNOR**

1206-48

Mr. W. M. Williams,

February 9, 1948.

The Planning Commission does not have authority to authorize the loan of building mill levy funds for use in the construction of

self-liquidating project; however, the Governor, with such aid and advice as he may require from the Planning Commission and the Controller, may allow the management of an institution to borrow temporarily from such funds provided there is a distinct agreement that the amount so borrowed shall be returned to the fund from which borrowed within a prescribed, reasonable period. (Ch. 2, S.L. 1943; Ch. 118, S.L. 1947).

COLORADO SCHOOL OF MINES— 1207-48
BUILDINGS—PLANNING COMMISSION—CONTROLLER

Mr. Gurnett Steinhauer,

February 10, 1948.

1. The School of Mines fund is appropriated for the support and maintenance of the School of Mines. Such funds cannot be transferred or used by the Board of Trustees in the building of a dormitory; however, the Controller "may recommend transfer between appropriations under the provisions of law, to become effective upon approval by the Governor." (Secs. 15 and 21, Ch. 145, 1935 C.S.A.; Sec. 1, Ch. 219, S. L. 1945; Subsec. 9, Sec. 12a, Ch. 118, S. L. 1947.)

2. Funds received by the School of Mines under Sec. 62, Ch. 118, 1935 C.S.A., cannot be used for any other purpose than instruction in petroleum engineering, the investigation of problems connected with the oil industry or similar purposes. (Denver v. Taylor, 88 Colo. 89 @ 93; Lewis Sutherland Stat. Construction, 2nd Ed. Vol. 2, P. 814; 36 Cyc. 1119, 1120; 25 R.C.L. 996; 21 A. & E. Enc. of Law, 2 Ed. P. 1012; 50 Am. Jur. 244, Sec. 249.)

3. If the Board of Trustees decides that a dormitory or a portion of a dormitory is a necessary adjunct to the school in order to more effectively attain the objective of the school, then funds made available under Ch. 277, S. L. 1947, can be used for such purpose as limited by said Ch. 277 and by Ch. 219, S.L. 1945; Opinion 199-1939.

CIVIL SERVICE 1208-48

State Civil Service Commission,

February 10, 1948.

Where an opportunity has been extended to qualify and submit to a competitive examination pursuant to the provisions of Art. V of the Civil Service Rules and Regulations and where the examination is given in conformity with such Rules and Regulations, a competitive test has been given within the meaning of the Constitution of Colorado.

Although only one candidate takes the examination, he is competing against a standard set up by the Commission and if he passes the examination successfully, he is eligible for appointment as a Civil Service employee. (Sec. 13, Art. XII, Constitution of Colorado; *People v. Chew*, 67 Colo. 394).

GAME AND FISH**1209-48**

State Game and Fish Commission,
February 16, 1948.
(Class A. License)

The Game and Fish Commission may issue a Class A license only on land under private ownership and if part of a lake is on the public domain the license may not be granted. (Citing Section 92, Chapter 73, 1935 C.S.A.)

Section 120, Chapter 73, requires that application for renewal of Class A license must be made before the expiration of the license, therefore, a license cannot be renewed after it has expired.

REAL ESTATE BROKERS LICENSE**1210-48**

Hon. Walter F. Morrison,
February 18, 1948.

Individual member of firm, partnership, association, or corporation may secure an individual Real Estate Broker's license even though the firm is already in possession of such license pursuant to Real Estate Brokers' Act (Vol. 2, Chapter 15, Sections 25 to 46, 1935 C.S.A.).

STATE SOIL CONSERVATION BOARD**1211-48**

Kenneth W. Chalmers,
February 27, 1948.
(Elections)

It is not necessary for the State Soil Conservation Board to hold a public hearing prior to the election called to pass upon the question of consolidating districts.

Section 19 of the Soil Conservation Act, relating to the consolidation of districts, makes provision for the calling of an election in each of the districts proposed to be consolidated, substantially as provided for in Section 5 of said Act.

STATE BOARD OF AGRICULTURE— 1212-48
FORT LEWIS SCHOOL

Mr. James R. Miller,
 February 20, 1948.

Section 32, Chapter 173, 1935 C.S.A., authorizing the issuance of indebtedness was specifically repealed by Section 9, Chapter 118, S.L. 1947.

The State Controller is authorized to report facts and the State Treasurer, with the approval of the Governor, is thereafter authorized to issue tax anticipation warrants, payable within a year after issuance. (Sec. 3(r), Chap. 118, S.L. 1947). This is further limited to 80% of the gross amount of the levy made for the year in which the anticipation warrants are issued. (Sec. 67, Chap. 153, 1935 C.S.A.)

TAX COMMISSION—SCHOOLS 1213-48

Colorado Tax Commission,
 February 24, 1948.

In determining bonded indebtedness of a consolidated school district, the indebtedness of the component parts must be considered. The Tax Commission should consider such indebtedness in proceeding under Chapter 14, S.L., Extraordinary Session of 1945.

TAXATION 1214-48

Mr. Leslie O. Burris,
 March 4, 1948.
 (Tax Deeds)

1. Under Chapter 267, Session Laws 1947, a special assessment lien, even though more than 15 years old, held by the taxing authority would remain in full force and effect after property is redeemed from a sale for general taxes.

2. Under *City Real Estate v. Sullivan*, 116 Colo. 169, the lien for the special assessment held by the taxing authority would be extinguished from the completion of a sale for general taxes.

AGRICULTURAL DEPARTMENT 1215-48

Mrs. Amelia J. Christian,
 February 25, 1948.

The opinion outlines the procedure, as set forth in "The Colorado Agricultural Marketing Act of 1939" (Ch. 66, 1939 S.L. of Colorado) to be followed: (a) in amending a presently existing marketing order; (b) to create an entirely new marketing order.

**COUNTY COURTS—ESTATES
AND ESCHEATS****1216-48**

Mrs. Lucille' Woodard,
February 25, 1948.

Where service is had by mail in either probate or civil matters, the costs attendant to such mail service should be borne by the estate or the party requiring such mail service and not be paid from the docket fees or other court fees. (Chap. 124, S.L. 1945.)

COUNTIES—POST WAR IMPROVEMENTS 1217-48

Mr. O. D. Neill,
February 27, 1948.

Section 11, Chapter 93, S.L. 1945, provides that the effective period of the act shall terminate in not to exceed five years from the termination of World War II.

By Presidential Proclamation No. 2714, dated Dec. 31, 1946 (Title 50, U.S.C.A., App. Sec. 601) the President of the United States declared that hostilities of World War II ceased as of twelve o'clock noon December 31, 1946. Therefore, the last year in which a county could levy for a Post War Improvement Fund would be the year 1951 at some date prior to December 31st of that same year.

CIVIL SERVICE—FEES AND SALARIES 1218-48

Mr. E. R. Fuchs,
March 2, 1948.

(Payment of Fruit and Vegetable Inspectors)

The Civil Service Commission has classified inspectors in the Fruit and Vegetable Inspection Service and the legislature has fixed a salary for the grade in which they are classified. Chapter 189, S. L. 1947.

Inspectors whose employment is permanent are entitled to monthly pay at the rate fixed by the legislature; those whose employment is seasonal or of a temporary character are entitled to a proportionate part of said minimum monthly salary as their daily wage where their employment is for less than the monthly period.

There is no provision in the law for paying an employee within the classified service upon a fee basis. (Citation: Ch. 189, S. L. 1947; Sec. 6, Ch. 2, S. L. 1941; Vivian v. Bloom, 115 Colo. 579; Op. Atty. Gen'l No. 847-1946).

PENITENTIARY—SCHOOLS

1219-48

Mrs. Nettie S. Freed,

March 4, 1948.

Where the Warden of the State Penitentiary has requested the Board of Education to permit the enrollment in school of a twelve year old boy who has been sentenced to the penitentiary for the murder of his sister, it is discretionary with the Board of Education whether or not the boy, a non-resident, shall be accepted as a pupil in said district. (*Fangman v. Meyers*, 90 Colo. 308, 8 P. (2nd) 762; *Cline v. Knight*, 111 Colo. 8, 137 P. (2nd) 680; *Wendel v. Hoffman*, 24 Fed. Supp. 63; *Grant v. Dalliber*, 11 Conn. 234; *American Surety Co. v. Cosgrove*, 81 N. Y. Supp. 945, 47 Am. Jur. 412, Sec. 155; *Kemp v. Gurley*, 208 Ala. 623, 95 so. 34, 26 A.L.R. 813; *Nutt v. Board of Education*, 128 Kan. 507, 278 Pac. 1065).

COAL MINING INSPECTOR

1220-48

Mr. Thomas Allen,

March 5, 1948.

The Coal Mine Inspection Department as the statutory enforcing agency must require the owner operating or controlling lands on which a dangerous surface cave or shaft is located to either fill it up or adequately fence it in such a manner as to afford permanent protection to all persons and stock endangered thereby.

**AERONAUTICS—COUNTIES—
TOWNS AND CITIES**

1221-48

Mr. W. J. Bain,

March 5, 1948.

1. Counties, cities and counties, cities or towns, or combination of two or more of them may by contract pool their funds, in agreed proportions to acquire, establish, construct, own, control, lease, etc., airports and landing fields (Sec. 2 and 3(a)(b), Ch. 4, S. L. 1945), but not as a sinking fund to finance anticipated construction at an indefinite future time.

2. The joint action contemplated by the statute is to be exercised by the Board or Boards of County Commissioners and the city or town council jointly, and not by the formation of an airport committee consisting of less than the full membership of said bodies.

MOTOR VEHICLE SPECIFIC OWNERSHIP TAX—VETERANS 1222-48

Mr. Gerald L. McGraw,

March 9, 1948.

The Motor Vehicle Specific Ownership Tax is collectible from a resident of the Veterans Administration Hospital, Fort Lyon, Colorado, who uses his motor vehicle upon the Colorado highways. (*Board of County Commissioners v. Morris*, 104 Colo. 139).

SALES AND USE TAX 1223-48

Mr. William F. Perkins,

March 10, 1948.

(Motor vehicles purchased outside of State of Colorado)

The use tax must be assessed upon the full purchase price of foreign motor vehicles, and receipt therefor presented to the County Clerk in order to secure a Colorado registration. (*Bedford v. Hartman Brothers*, 104 Colo. 190, 89 P. (2d) 584; *In Re Estate of Waterman*, 108 Colo. 263; 116 P. (2d) 204).

CITIES AND TOWNS—PLANNING COMMISSION 1224-48

Mrs. Elizabeth L. Guyton,

March 15, 1948.

(Zoning and planning commissions)

Article 2, Chapter 26, 1935 C.S.A., providing for the creation of zoning commissions is not repealed by Art. 7, Ch. 163, 1935 C.S.A. Provision is made in Art. 7, supra, that in event a planning commission is created in a city where a zoning commission is in existence, that the planning commission shall supersede the zoning commission.

BOARD OF STANDARDS OF CHILD CARE 1225-48

Board of Standards of Child Care,

March 17, 1948.

(Non-resident children, solicitation of funds, advertising).

Under Chapter 196, S. L. of Colorado 1943, the Board of Standards of Child Care has no authority to forbid a home from taking a non-resident child if the home is otherwise licensed and qualified.

STATE BOARD OF AGRICULTURE— 1226-48
FORT LEWIS SCHOOL

Mr. James R. Miller,

March 9, 1948.

1. Under the powers granted to the State Board of Agriculture "to take and assume control" of the Fort Lewis School, the Board in its discretion can set up such internal organization as to it shall seem best suited to accomplish the purposes of the school and make it function as a part of the agricultural school system of the state.

2. There is no legal objection to a complete separation of the administration of Colorado Agricultural and Mechanic Arts College and the Fort Lewis School with both schools remaining under the jurisdiction and control of the State Board of Agriculture.

3. It is possible for the State Board of Agriculture to designate an individual at the Fort Lewis School as Assistant Treasurer to act independently of the Agricultural College but under the direction of the State Board of Agriculture.

(Section 1, 3, Chapter 16, S.L. 1911; Chapter 38; and Section 27, Chapter 155, 1935 C.S.A.; Section 1, Chapter 236, S. L. 1945).

ELECTIONS 1227-48

Republican County Central Committee,

March 9, 1948.

The election laws contain no prohibition against holding a caucus and convention or assembly on the same day.

AERONAUTICS—STATE BOARD OF 1228-48
LAND COMMISSIONERS

Mr. W. F. Bain,

March 10, 1948.

State Board of Land Commissioners may lease lands for airport purposes. Sec. 59, Ch. 134, 1935 C.S.A.

Where right of way is granted by Board reserving mineral rights, the reservation will be subject to the primary surface right for airport purposes.

Civil Aeronautics Administration would retain adequate control where Board grants right of way reserving mineral rights to state, and providing that grant shall become void if consideration is not paid or if use is abandoned.

It may be assumed that state has fee title in sections granted under Enabling Act.

Grantee obtains more control under grant of right of way than it would under lease. State has authority to grant right of way for airport. Ch. 247, S.L. 1947; Ch. 4, S.L. 1945; Ch. 106, S.L. 1945.

**JUNIOR COLLEGES— COUNTY 1229-48
TREASURERS**

Dr. J. H. Jackson,
March 10, 1948.

Funds belonging to a junior college must be deposited with the county treasurer and may not be deposited in a separate bank account. Citing sections 23 and 27, Chapter 94, 1935 C.S.A., as amended, Section 4, Article IX of Colorado Constitution and Sections 50, 51, 103 and 112, Chapter 146, 1935 C.S.A.

This rule does not apply to funds raised in connection with incidental activities such as student organization funds, athletic funds, concert and lyceum funds, etc.

TAXATION 1230-48

Mr. James Ingles,
March 11, 1948.

(Limitation of lien of certificates of purchase)

The individual whose tax sale certificate is extinguished under Chapter 267, Session Laws 1947, is not entitled to a refund from the county of any taxes paid on the property sold. Citing Attorney General's Opinion No. 1026-47.

**CITIES AND TOWNS—COUNTIES— 1231-48
TAXATION**

Mr. C. H. Darrow,
March 11, 1948.

When a municipal corporation acquires property upon which a county has a tax lien, the property is taken by the city free and clear of such lien. (*Gasaway v. Seattle*, 100 Pac. 991; *State of New Mexico v. Locke*, 219 Pac. 790; *Smith v. Santa Monica*, 121 Pac. 920; *Foster v. Duluth*, 140 N.W. 129).

**SOIL CONSERVATION DISTRICTS— 1232-48
ABSTRACTS**

Mr. Kenneth W. Chalmers,
March 18, 1948.

An abstract which shows the Certificate of Organization of a soil conservation district recorded in the County Clerk and Recorder's office, coupled with a certification that the particular property for which the abstract of title is prepared is included in such district is sufficient.

UNIVERSITY OF COLORADO**1233-48**

Mr. Robert L. Stearns,

March 18, 1948.

Under the broad general powers granted to the Board of Regents over the affairs of the University and to the University as a state institution, the board is empowered under the law, to determine whether scientific expeditions (privately financed) are within the objects of the institution and will further those objects, and to accept gifts, contributions or donations in furtherance of these enterprises. (Secs. 1, 10, 12 and 34, Ch. 169, 1935 C.S.A.; Sec. 14, Art. IX, Constitution of Colorado).

LEGISLATION**1234-48**

Hon. Lee Knous,

March 19, 1948.

Failure to report enrollment, engrossment, signing by the President or filing an engrossed copy with the Secretary of State, does not destroy the legal effect of a simple resolution which is a "formalized motion passed by the majority of a single legislative house".

EMPLOYEES—STATE BOXING**1235-48****COMMISSION—ADMINISTRATIVE CODE 1941**

Mr. Eddie W. Bohn,

March 19, 1948

Under the Administrative Code of 1941, an employee of the state may not also be employed as a Deputy Commissioner by the State Boxing Commission.

COUNTY OFFICERS—FEES AND SALARIES**1236-48**

Mr. Joseph M. Olguin,

March 25, 1948.

The judge of the County Court in counties of any class may appoint a clerk, who shall be the clerk of such court; the said judge, with the approval of the Board of County Commissioners, may in his discretion fix the salary of such clerk at an amount not in excess of the maximum salary fixed by statute. The clerk is entitled to have his salary paid to him monthly from the County General Fund. Said clerk is not entitled to retain the fees of his office, but must pay them over to the County Treasurer as provided by Section 16, Chapter 125, S. L. 1945.

CONTRACTS—STATE PURCHASING 1237-48
AGENT

Mr. Lacy L. Wilkinson,

March 31, 1948.

Contracts for professional services and contracts for services requiring special skill or training need not be advertised for bids prior to acceptance thereof and where discretion in the selection of the agent is vested in the public official, courts will not interfere with such contracts on that account.

REVENUE DEPARTMENT— 1238-48
HIGHWAY PATROL

Mr. W. F. Perkins,

March 29, 1948.

The Highway Patrol are peace officers, limited to make arrests within the field circumscribed by Ch. 273, S. L. 1947.

The duly authorized public officer charged by law to enforce the motor vehicle law may direct the Highway Patrol as well as the authorized employees of his own department to take possession of any license registration card or registration plate upon suspension thereof under the authority of Sec. 50, Ch. 16, 1935 C.S.A. Also see *Thompson v. Smith*, 154 S. E. 579; *Ex Parte Lindley*, 291 Pac. 638; 71 *A.L.R.* 616; 5 *AM Jur.* 593, Sec. 157-158; Sec. 43, Ch. 16, 1935 C.S.A., *Restatement, Torts* Sec. 114; *Jones v. State*, 65 S.W. 92; *Vickers v. State*, 142 S.W. (2d) 188. If no search is required the license, etc., can be repossessed without a search warrant. On the other hand, if a search is required prudent practice requires that the officer or employee be protected by a warrant of search and seizure. 47 *Am. Jur.* 516, Sec. 20.

TAXATION—MOTOR VEHICLES 1239-48

Colorado Tax Commission,

April 1, 1948.

(Trailers, semi-trailers in dealers' inventories)

Chapter 127, Session Laws of Colorado 1947, requires that assessors exclude from automobile dealers' stocks of merchandise all motor vehicles, trailers and semi-trailers upon which a specific ownership tax has been paid for the registration year.

INSURANCE**1240-48**

Mr. Luke J. Kavanaugh,
April 2, 1948.

(Mutual insurance companies)

Under Sec. 136, Ch. 87, 1935 C.S.A., a mutual insurance company may only issue a policy without a contingent premium while it has a surplus equal to the capital required of a domestic stock insurance company transacting the same kinds of insurance.

**STATE BOARD OF LAND
COMMISSIONERS****1241-48**

State Board of Land Commissioners,
April 3, 1948.

The state is not bound by the terms of a rider attached to the assignment of a lease to state land where the state is not a party to said rider.

**REAL ESTATE BROKERS' BOARD—
CORPORATIONS****1242-48**

Mr. Walter F. Morrison,
April 5, 1948.

Corporation, even though domesticated in Colorado, must obtain Real Estate Brokers' License before dealing in real property in Colorado.

ABSTRACTORS**1243-48**

Hon. Walter F. Morrison,
April 5, 1948.

Under the provisions of Section 7, Chapter 2, 1935 C.S.A., as amended, an abstractor must have for use: (1) a set of abstract books, or (2) other system of indexes, or (3) other system of records, either of which must show all instruments of record or on file affecting real estate in the office of the Recorder of Deeds as indicated by the reception book therein, but is not required to have all three.

SOIL CONSERVATION DISTRICTS**1244-48**

Mr. Kenneth W. Chalmers,
April 6, 1948.

A Soil Conservation District may not legally adopt a by-law which would permit the Board of Supervisors of the district to exclude lands within the district, upon application of the owners of such lands.

PLANNING COMMISSION**1245-48**

Mr. W. M. Williams,

April 6, 1948.

The State Planning Commission can lawfully contract to pay from its appropriation, membership dues in the State Planning and Development Board and Commission (Sec. 5, Ch. 157, 1935 C.S.A.; Sec. 10, P. 88 and Sec. 1, Subsec. 1, Chap. 44, S. L. 1947).

CITIES AND TOWNS**1246-48**

Mr. Samuel L. Fairlamb,

April 7, 1948.

The prohibition contained in Sec. 5, Art. XX, Colorado Constitution, that any question submitted at a special election shall not again be submitted at a special election within two years thereafter, would not apply to a special election called to approve or reject a charter framed at a charter convention, notwithstanding the fact that such election would indirectly determine a question passed upon at a special election held within less than two years.

SCHOOLS**1247-48**

Mrs. Nettie S. Freéd,

April 7, 1948.

(Officers)

The fact that a school board member is President of and stockholder in a bank does not make him guilty of violation of Chapter 133, 1935 C.S.A., when said bank holds registered warrants of the district which draw interest. Citing *People v. Brown*, 60 Colo. 276.

SOIL CONSERVATION DISTRICTS**1248-48**

Mr. Kenneth W. Chalmers,

April 8, 1948.

The last four lines of Subsection (b)1, of Section 9 of the Soil Conservation Act, relating to the percentage vote required to pass a levy or assessment of tax for the care, treatment and operation of lands within the district, do not apply to Subsection (a)1 of said Section 9 which deals with the adoption of land use ordinances.

Under Subsections (a) and (b) of Section 15 of the Soil Conservation Act, lands may be added to an existing soil conservation district without the formality of a hearing and referendum, irrespective of the number of land owning petitioners, providing the petition includes no land other than that owned by the petitioners.

SCHOOLS**1249-48**

Mrs. Nettie S. Freed,

April 8, 1948.

(Revenue)

When one of two school districts which comprise a union high school district is dissolved and annexed to the other and the union high school district is dissolved by virtue of Chapter 278, Session Laws 1947, the sum of the revenue of the elementary districts and the union high school is the basis upon which the five per cent increase provided by Sections 39 and 41 of Chapter 142, Colorado Statutes Annotated 1935, is based.

SOIL CONSERVATION**1250-48**

Mr. Homer F. Bedford,

April 9, 1948.

A Soil Conservation District is a public corporation, but not a city, town or municipality within the meaning of the constitutional provision; it is not, therefore, subject to the provisions of Chapter 193, S. L. 1945, relating to annual audits.

SCHOOLS**1251-48**

Mrs. Nettie S. Freed,

April 14, 1948.

(Teachers' Tenure)

A teacher who is employed on a yearly basis and who is available at all times during school hours for service wherever the officials of the school system find need of the teacher's service is a teacher who is regularly employed within the meaning of Section 238 of Chapter 146, 1935 C. S. A., even though the teacher is not assigned to any particular position, but is used as a substitute teacher in various parts of the school system.

The fact that the teachers are employed each year for a one year period is immaterial so long as the yearly periods are consecutive.

A teacher who is not employed on an annual basis but who is employed on a day to day basis at the option of the school district, and who is under no obligation to answer any particular call for duty is not a regularly employed teacher within the meaning of said Section 238.

**STATE TREASURER—CHILDREN'S
CODE COMMISSION** 1252-48

Dr. Bradford Murphey,

April 15, 1948.

Under Section 4, Chapter 144, S. L. of Colorado 1947, the State Treasurer should not honor vouchers in excess of 75% of the appropriation, prior to the report of the Children's Code Commission.

INSURANCE 1253-48

Mr. Luke J. Kavanaugh,

April 16, 1948.

A mutual insurance company which reorganizes into a stock company loses its identity as a mutual company and becomes subject to the paid-up capital requirements of Section 23, Chapter 87, 1935 C. S. A., which must be complied with before it can do business in this state.

SCHOOLS 1254-48

Mr. A. W. Horn,

April 22, 1948.

(Bonds)

The territory embraced by the Union High School District at the time of the creation of the bonded indebtedness remains liable for the payment of the principal and interest of such debt and if new territory is added to the district, after the bonded indebtedness is incurred, such new territory is not subject to taxation to pay said bonded indebtedness. Citing Section 72, Chapter 146, 1935 C.S.A., found in Section 190 of the 1941 School Laws.

**AGRICULTURAL COLLEGE—
FORT LEWIS SCHOOL** 1255-48

Mr. James R. Miller,

April 26, 1948.

The State Board of Agriculture cannot use any monies appropriated for Colorado A & M College or otherwise credited to Colorado A & M College funds in the State Treasurer's Office for the payment of obligations of the Fort Lewis Branch. (Opinion Attorney General No. 624 and 693, 1945).

GOVERNOR—GAME AND FISH— 1256-48
CONTROLLER—SCHOOLS

Mr. E. R. Fuchs,

April 27, 1948.

The Game and Fish Department is not authorized by law to expend its funds to establish certain scholarships in aid of any person, etc., for any amount or any purpose whatsoever where the same is not under the absolute control of the state. Nothing herein shall be deemed to limit or prohibit the giving of special training courses to State Employees. (Section 7, Chapter 153, S. L. 1937; Section 34, Art. V, Constitution of Colorado; Section 1, Article XI, Constitution of Colorado).

SCHOOLS—TAXATION 1257-48

Colorado Tax Commission,

April 28, 1948.

(Exemption)

When property is purchased from a school district after March first, no tax for that year may be levied against the property. Citing opinion No. 273-44.

COUNTY OFFICERS—NEWSPAPERS 1258-48

Mr. Harry F. Anderson,

April 29, 1948.

(Publication of proceedings of Bd. County Commissioners)

Section 45-48, Chapter 45, 1935 C.S.A., relate to the publication of the proceedings of the Board of County Commissioners and it is the clear intent of these sections of the law that such publication should be made as will fully advise the people of that county. Any abbreviation of the proceedings which would deny to the people the information required to be given does not make a compliance with the above sections of the state. This is a fact to be determined by the Board of County Commissioners and not a matter of law for our decision. (Also opinion Attorney General No. 98 - 1937).

SCHOOLS 1259-48

Mr. H. D. Pratt,

April 29, 1948.

(Elections)

The fact that a candidate for office of school director in a second class district has not filed a notice of intention at least eight days before the election as required by section 79, chapter 146, does not preclude his election to the office if his election is regular in all other respects.

SECURITIES

1260-48

Mr. Curtis White,

April 30, 1948.

A foreign corporation which has made a nation-wide offering of its securities, must comply with the Colorado Securities Act before offering its securities for sale in Colorado.

MOTOR VEHICLE

1261-48

Mr. W. F. Perkins,

April 30, 1948.

(Driver's Accident Responsibility)

The six year statute of limitation on Justice of Peace judgments applies to Section 43, Chapter 16, 1935 C.S.A., so as to be a perpetual stay of execution, and bars the department from refusing to relicense a suspended licensee because of a prior judgment outstanding.

SCHOOLS

1262-48

Mrs. Frances Clair,

April 30, 1948.

(Funds)

If a school district maintains a ninth grade and pays tuition for the pupils attending the tenth, eleventh and twelfth grades attending schools in another district, the district is not required to pay the tuition of ninth grade pupils who desire to attend ninth grade in another district in order to comply with the provisions of Senate Bill No. 518, page 788 of the 1947 School Laws.

CIVIL SERVICE—NATIONAL GUARD

1263-48

State Civil Service Commission,

May 1, 1948.

(Reserve Corps Officers)

A member of the Officers Reserve Corps who attends an encampment for fifteen days or more is entitled to receive his regular state salary or pay from the state for a fifteen day period but no more. He is not entitled to double payment through attendance at both the National Guard Camp and the Officers Reserve Corps Camp, since the statute limits the allowance to one fifteen day period (Chapter 252, S. L. 1937; Chapter 95, S. L. 1941; Chapter 148, S. L. 1947).

GOVERNOR—PLANNING COMMISSION 1264-48

Mr. E. R. Fuchs,
May 3, 1948.

1. The Governor is neither required to approve the general building program at Colorado A & M College, nor to approve specific projects under that program.

2. The Governor must approve a master plan for an institution which he heads, or the amendments, extensions or additions thereto made by the Planning Commission but he need not approve every isolated addition or repair to such institution but may delegate such routine details to his subordinates.

3. The only expenditures permitted to the Planning Commission under Chapter 17, Session Laws 1945 (Extraordinary Session) are those specifically named in said chapter—namely “surveys, architects fees and other technical assistance”, subject to the approval of the Governor.

SCHOOLS 1265-48

Hon. Nettie S. Freed,
May 4, 1948.

Special 3 mill levy provided in Section 253, Chapter 146, 1935 C.S.A., may be used only for the Retirement Fund provided for in Section 250 and following, as amended, Chapter 146, and may not be used to provide the school district's share of the contribution to the School District Employees' Retirement Annuity Reserve provided for in Chapter 36, 1935 C.S.A.

TAXATION—COUNTY OFFICERS 1266-48

Miss Pearl McCloughan,
May 11, 1948.

(Redemption—treasurer's deeds)

Treasurer's deed may be issued only in conformance with the statutory requirements set forth in Chapter 142. There is no provision in the law for the issuance of a treasurer's deed to any one other than the holder of the certificate of purchase.

SECURITIES 1267-48

Mr. Curtis White,
May 7, 1948.

Under Section 6, Chapter 148, 1935 C.S.A., a renewal prospectus must be filed before the expiration of the twelve month period.

GOVERNOR—CIVIL SERVICE

1268-48

Mr. E. R. Fuchs,
May 10, 1948.

1. Actual classification of a position must follow the creation of the position.

2. The Governor's approval of the estimated number of employees required for the ensuing year (Section 5b of Chapter 2, S. L. 1941) or individual action thereon is a matter of administrative policy. Either procedure is lawful.

3. Both provisional and/or certified appointments in the classified service are covered by Section 5(a), Chapter 2, S. L. 1941, and the procedure therein outlined should be followed.

4. Under the classified salary act of 1947 (Chapter 189, S. L. 1947) the Governor's approval is necessary for the salary involved in each instance (i. e.) certified appointments, provisional appointments, promotions, merit raises, and transfers.

The amount paid should be pursuant to the formula adopted, and the application of the formula is made by the department head with the approval of the Governor.

**UNIVERSITY OF COLORADO—
COLORADO GENERAL HOSPITAL
MENTAL INCOMPETENTS**

1269-48

Dr. Ward Darley,
May 10, 1948.

There is no statutory authorization for the sterilization of mental incompetents. Since the mental incompetent is a ward of the court, the consent of the natural guardian would not afford any protection to those performing such an operation. The mental incompetent's being incapable of giving his or her consent would foreclose any protection from a release from this source. In a case where it is for the best interests of the mental incompetent, in contra distinction to the relatives or society in general, the court may properly issue an order authorizing the performance of such an operation and in such event those performing the operation would be protected by the order. (*Smith v. Command (Mich)*, 204 N.W. 140; 40 A.L.R. 537; 44 C.J.S. 158 Sec. 57).

**BANKS AND BANKING—
CREDIT UNIONS**

1270-48

Mr. Frank E. Goldy,
May 11, 1948.

A credit union's name may be changed by amending its original certificate of organization. This requires an affirmative vote of two thirds of its entire membership.

GOVERNOR—TREASURER—REPORTS 1271-48

Hon. W. Lee Knous,

May 13, 1948.

Section 12, Article X, Constitution of Colorado, places the burden of publishing the Treasurer's quarterly report squarely upon the Governor. There is no indication as to which office shall pay the printing costs, but the mandate is clear that the report shall be published. The publication of the report can lawfully be paid from the maintenance and operation fund of either the office of the Governor or the Treasurer.

CIVIL SERVICE COMMISSION 1272-48

Civil Service Commission,

May 14, 1948.

(Political activity)

The Civil Service Commission may lawfully formulate rules and regulations concerning political activity, but cannot discipline, dismiss or discharge a member of the classified service for this reason alone. The right to partisan activity cannot be denied so long as the exercise of this right does not interfere with the employee's loyalty to the state, his own duties, or those of his fellow employees.

**AGRICULTURAL DIVISION—MARKET 1273-48
DIRECTOR**

Amelia J. Christian,

May 17, 1948.

(Producers Voting to Accept Marketing Agreement and Order)

Marketing agreement and order tentatively approved according to Chapter 66, Sections 1-20, 1939 Session Laws (Chapter 106, Sections 46-63, Suppl. to 1935 C.S.A.) provides that each producer shall have only one vote on behalf of himself, his agents, partners, and representatives as to nominees to control board. This means that orchards operated as a unit shall have but one vote, be it a partnership, association, corporation or husband and wife.

"Producer" is defined in this particular marketing agreement and order and anyone within the area affected should be permitted to vote on the adoption of the tentative agreement and order.

GAME AND FISH—JUSTICE OF PEACE 1274-48

Mr. William F. Hunn,

May 17, 1948.

(Fines and Penalties)

Justices of the Peace on plea of guilty or conviction must impose at least a minimum fine where the same is prescribed by statute. Unless such fine is worked out by a jail service at \$2.00 credit for each 48 hrs., justices of the peace must remit the full portion thereof due the Commission or be liable on their bond therefor.

GAME AND FISH 1275-48

Game and Fish Commission,

May 18, 1948.

(Trapping Licenses)

There is no authority for the Commission to grant to any individual an exclusive permit to trap muskrats other than Section 21 of Chapter 108, Session Laws of Colorado, 1939, found at Section 275 of Chapter 73, Colorado Statutes Annotated 1935.

The issuance of an exclusive license to any person other than those qualifying under said Section 275, Chapter 73, 1935 Colorado Statutes Annotated, might be considered an unreasonable and arbitrary exercise of licensing authority.

GAME AND FISH 1276-48

Game and Fish Commission,

May 19, 1948.

(Beaver Control)

There is no law prohibiting the Game and Fish Commission to enter into contracts with land owners whereby said land owners waive their rights to one-half of the proceeds of the sale of beaver pelts taken on land owners' property. Citing Section 4, Chapter 136, Session Laws of 1941.

STATE BOARD OF LAND COMMISSIONERS 1277-48

State Board of Land Commissioners,

May 19, 1948.

A grant of mineral patent under Chapter 134, Session Laws 1905, Section 55, does not preclude Land Board from granting surface rights subject to such mineral patent.

STATE TREASURER**1278-48**

Mr. H. Rodney Anderson,
April 20, 1948.

A facsimile of the State Treasurer's seal engraved on a copper plate, together with the Controller's and Treasurer's signatures and used on the check signing machine simultaneously complies with the requirements of Section 65, Chapter 156, 1935 C.S.A.

STATE HIGHWAY DEPARTMENT**1279-48**

State Highway Department,
May 7, 1948.

If the Highway Department decides that it is necessary to expend state highway funds in the furtherance of a state highway safety program, such expenditure can legally be made from state highway funds.

**CITIES AND TOWNS—FIREMEN'S
PENSION FUNDS****1280-48**

Mr. Robert J. Maccagnan,
May 13, 1948.

Police Pension Funds and/or Firemen's Pension Funds are trust funds (Section 470 and 473, Chapter 163, 1935 C.S.A.; Sec. 2, Chapter 136, S.L. 1947; Art. 24, Chapter 163, 1935 C.S.A.).

Section 1, Chapter 166, S. L. 1939, provides for the investment of pension funds in the kinds of bonds there enumerated. Ch. 121, S. L. 1945, also provides for the investment of trust funds by trustees.

A city or town may not transfer the pension funds or trust funds to the town fund with the idea of repaying if and when funds are available but can lawfully purchase the general obligation bonds from the town if the town meets the other conditions and requirements of the statute.

GAME AND FISH DEPARTMENT**1281-48**

Game and Fish Commission,
May 20, 1948.
(Field meets)

Construing Chapter 200, Session Laws of 1947. There is no limitation as to the time of year when the field meets authorized by section 1 of the act may be held and barn loft pigeons or any

other species of birds designated by the Commission may be used at such meets.

All birds, regardless of species, must be banded as provided by subsection (e) of section 1.

The activities authorized by section 2 of the act may not be conducted during the months of April, May, June or July at any place in the state since the term 'in the wild' applies to the birds involved and not the geographical area.

CHILDREN'S CODE COMMISSION**1282-48**

Mr. E. R. Fuchs,

May 24, 1948.

The statute creating the Children's Code Commission must be considered valid and operative until the contrary has been judicially established. Hence there would be no legal objection to the release of warrants to pay the expenses incurred by the Commission.

ELECTIONS**1283-48**

Mr. Thomas F. McBreen,

May 25, 1948.

As used in Section 123, Chapter 181, 1947 S. L. of Colorado, the term "in good standing" means that the persons whose names were submitted are members of the party; that they have a good reputation therein and are loyal to the principles represented by that party.

**BANKS AND BANKING—MOTOR
VEHICLES—MORTGAGES****1284-48**

Mr. Frank E. Goldy,

May 27, 1948.

Rediscount note secured by chattel mortgages on trucks and automobiles constitute negotiable paper secured by collateral within the meaning of Section 41, Ch. 18, 1935 C.S.A., as amended by Ch. 135, 1947 S. L. of Colorado. If the current market value of the automobiles or trucks covered by the respective chattel mortgages is in excess of the notes secured by said mortgages, such rediscount paper should not be considered as money borrowed.

ELECTIONS**1285-48**

Mr. C. L. Canda, Jr.,

June 2, 1948.

An elector who failed to vote at the last general election loses his party affiliation.

A person cannot declare his party affiliation at the time of registering with the County Clerk.

A person reaching the age of twenty-one after the last primary must wait until the next primary to show his party affiliation.

An incumbent in office who failed to vote in the last general election, loses his party affiliation and is not therefore eligible to run for reelection.

A person who will be twenty-one years of age on the day of election can register and vote at the election.

SCHOOLS—BOND ELECTIONS**1286-48**

Mr. J. H. Wilson,

June 2, 1948.

Board of Education has no authority to provide for Absentee Balloting in a School Bond Election.

**COLORADO SCHOOL OF MINES—
CONTROLLER—APPROPRIATIONS****1287-48**

Mr. Ben H. Parker,

June 3, 1948.

Where moneys in the State Treasury not otherwise appropriated, are appropriated to an institution for the fiscal year in a specified amount, "or so much thereof as may be necessary, for the general support and maintenance and for the payment of salaries and wages of the employees of said institution", the appropriation is conditional upon the necessity therefor and unexpended balance reverts to the general fund.

Chapter 118, S. L. 1947, imposes upon the controller, subject to the approval of the Governor as the Chief Executive of the State (Ch. 2, S. L. 1941), the duty of managing the finances and financial affairs of the state. The Controller therefore passes upon the necessity of all or a part of the moneys appropriated and after he allocates such necessary funds, the board of trustees of the institution then expends the funds for general support, etc., of the institution.

CHIROPRACTIC EXAMINERS**1288-48**

Dr. E. A. Jackson,
June 3, 1948.

Under Section 7, Chapter 34, 1935 C.S.A., the Board of Chiropractic Examiners may adopt a rule or regulation requiring an applicant to present his diploma, a photostatic copy thereof, or other satisfactory evidence that he is a graduate of an approved school or college, as a prerequisite to permission to take an examination.

STATE PLANNING COMMISSION— 1289-48
BOARD OF TRUSTEES OF THE STATE NORMAL
SCHOOLS—WESTERN STATE COLLEGE

Hon. P. P. Mickelson,
June 3, 1948.

The Board of Trustees of the State Normal Schools have authority to purchase real estate without specific legislative authority since such authority is provided in Section 16 of Chapter 155, 1935 C.S.A. Citing Section 27, Chapter 155 and Chapter 157, 1935 C.S.A., regarding the requirement of submission to the State Planning Commission. Citing *Trustees v. Wightman*, 93 Colo. 226.

STATE CIVIL SERVICE COMMISSION— 1290-48
MILITARY—WAR EMERGENCY

State Civil Service Commission,
June 4, 1948.

Members of Naval Reserve and Marine Reserve are considered as "Officers" in The Officers Reserve Corps under Section 1, Chapter 252, S. L. 1937.

State employees cannot draw 15 days' pay for attendance at National Guard encampment and also encampment for Officers Reserve Corps. Can receive payment for only one such encampment each year.

MOTOR VEHICLES—COUNTIES**1291-48**

Mr. Leon H. Snyder,
June 17, 1948.

(Financial Responsibility Law)

Section 3(b), Chapter 124, S. L. 1947, Colorado, known as the "Financial Responsibility Law" does not apply to county owned vehicles while being used in the conduct of county business.

WATER—INTERSTATE COMPACTS— 1292-48
STATE ENGINEER

Mr. M. C. Hinderlinder,

June 21, 1948.

The Rio Grande Compact Commission had the legal authority pursuant to the provisions of Article V of the Rio Grande Compact to adopt the resolution dated February 24, 1948 which involved the abandonment of two gauging stations, the establishment of one new gauging station, and the substitution of a new schedule for measuring the obligation of New Mexico to deliver water under the compact (substitution of twelve months for nine months schedule set forth in Article IV of the compact). The Commission found:

“Such substitution of stations and measurements, in the opinion of your advisors, would be in the best interest of all users of water from the Rio Grande and would give substantially the same results so far as the rights and obligations of New Mexico to deliver water are concerned as would exist if such substitution of stations and measurements be not made.”

INTOXICATING LIQUORS 1293-48
Restaurants

Hon. Harry L. McGinnis,

June 21, 1948.

City Councils have authority to require restaurants in conjunction with bars to close with closing of bars if such closing hours apply to all restaurants, including those not in connection with bars.

INTOXICATING LIQUORS 1294-48

Mr. Leonard M. Campbell,

June 22, 1948.

(“Drive-Ins”)

“Drive-Ins” where properly licensed may sell to persons over the age of 18 years of age, 3.2% beer and none other, between the hours of 5 o'clock A. M. and 12 o'clock midnight. Ch. 154, S. L. 1945; Sec. 1, 18, 20, 34 and 35, Ch. 89, 1935 C.S.A.

PUBLIC HEALTH**1295-48**

Dr. R. L. Cleere,

June 23, 1948.

(Pollution of public water supplies)

Health Department may legally enter and inspect refineries to determine possible leakage from tanks or pipe line causing pollution of public water supplies.

Chapter 78, Sections 257 and 259, 1935 C.S.A., making it a crime to pollute water, apply to all water supplies of state, including ground and underground waters.

Health Department may take proper action to abate pollution of water, either through local board of health or action in district courts.

UNIVERSITY OF COLORADO**1296-48**

Board of Regents of the University of Colorado,

June 24, 1948.

Under Sections 12 and 14, Article IX of the Constitution of Colorado, the Regents of the University of Colorado can accept the transfer from the Federal Housing Authority of all right, title and interest to the Veterans Housing Projects on land owned or controlled by said Regents.

COUNTY OFFICERS**1297-48**

Mr. Harold G. Simpson, .

June 26, 1948.

A person under twenty-one years of age cannot legally act for a county clerk and recorder.

ELECTIONS**1298-48**

Mr. M. E. H. Smith,

June 28, 1948.

The phrase "on the date of the next ensuing election", as used in Section 126, Chapter 181, 1947 Session Laws, means the primary election if registration is made on or before Monday the 15th day before the primary election; if, however, registration is made after the primary election, but on or before Monday the 15th day before the general election, the next ensuing election will be the general election.

HEALTH—VITAL STATISTICS 1299-48

Dr. Fred W. Beesley,

June 30, 1948.

Moneys received by the Board of Health from the National Office of Vital Statistics may not be retained by said department and placed in a special fund. It would be received by said department as deputy for the State Department of Revenue.

CONTROLLER—PUBLIC FUNDS 1300-48

Hon. James A. Noonan,

June 30, 1948.

Moneys represented by a claim or demand for appropriated moneys, evidenced by a voucher which is pending approval on June 30th, will prevent such moneys from reverting to the General Fund, and the same should not be transferred to the General Fund until the claim or demand has been acted upon.

**COLORADO PSYCHOPATHIC HOSPITAL— 1301-48
INSANE PERSONS**

Hon. R. A. Martinson,

June 23, 1948.

Under Section 12, Chapter 105, 1935 C.S.A., the Court may not appoint two laymen to make up a lunacy commission, there being no physicians residing in the County.

The Judge of the County Court may make arrangements with the Colorado Psychopathic Hospital to receive mentally afflicted persons for observation, and can thereafter order the commitment of such persons to said hospital for examination, diagnosis, observation, treatment and care pending determination as to whether examination by a lunacy commission is desirable.

COUNTY COURTS—INSANE PERSONS 1302-48

Mr. W. C. Edgar,

July 2, 1948.

Upon application to restore an insane person to reason, the County Court is not required under Sec. 18, Ch. 105, 1935 C.S.A., to appoint physicians residing within the county.

TAX COMMISSION

1303-48

Mr. J. R. Seaman,

July 2, 1948.

(Assessment procedure and card forms)

The Tax Commission has power to prescribe uniform procedure and assessment forms for use by county assessors. In case an assessor refuses to conform, the Commission may, by court proceeding compel him so to do and charge him personally with costs.

**UNIVERSITY OF COLORADO—
VETERANS ADMINISTRATION**

1304-48

Mr. W. E. Brockway,

July 2, 1948.

Under Section 36, Chapter 169, 1935 C.S.A., the Board of Regents would be within its constitutional and statutory power to borrow on the credit of accounts receivable with the Veterans Administration.

GAME AND FISH DEPARTMENT

1305-48

Mr. E. R. Fuchs,

July 6, 1948.

The Game and Fish Department has no power, under Chapter 73, 1935 C.S.A., to expend monies from the "game cash fund" for the enlargement, extension or remodeling of its office building. An authorization so to do would have to be secured from the legislature.

GAME AND FISH

1306-48

Mr. C. N. Feast,

July 7, 1948.

(Refund of License Fees)

Chapter 294, Session Laws of Colorado, 1947, permitting moneys not owed or belonging to the State of Colorado by mistake of law or fact to be refunded does not apply to refunds of money paid for game and fish license fees.

SCHOOLS**1307-48**

Mrs. Nettie S. Freed,
July 9, 1948.

A portion of a *first class* school district may not be detached from said district and annexed to a contiguous district by the County Superintendent upon a petition under Section 63, Chapter 146, 1935 C.S.A., without the question being submitted to the electors of the district at the annual election as provided in Section 62.

**HEALTH BOARD—COUNTIES—
APPROPRIATIONS****1308-48**

Dr. R. L. Cleere,
July 12, 1948.

It is within the jurisdiction of the county or district boards of health to revise the budget figures originally set up, if the transfer is from a line appropriation within the group appropriation to another line appropriation within the same group, as such a transfer does not come within the purview of Sections 14 and 15, Chapter 168, Session Laws 1945.

WESTERN STATE COLLEGE**1309-48**

Mr. P. P. Mickelson,
July 13, 1948.
(Funds)

Since the Board of Trustees has authority under Section 16, Chapter 155, Colorado Statutes Annotated 1935, to purchase real estate without further statutory authorization, said Board of Trustees may expend, in their discretion, any unrestricted and unpledged funds at their disposal for this purpose. Citing opinion to P. P. Mickelson, under date of June 3, 1948.

TAXATION**1310-48**

Colorado Tax Commission,
July 15, 1948.

(Ad valorem tax on personal property in military reservations)
No ad valorem tax can be levied upon personal property physically situated upon a military reservation.

SCHOOLS**1311-48**

Mrs. Nettie S. Freed,
 July 20, 1948.
 (Organization)

An arrangement whereby a Consolidated School District will maintain Junior High and High Schools in one building and the elementary school in another is not in contravention of Section 67, Chapter 146.

CHILDREN'S CODE COMMISSION**1312-48**

Dr. Bradford Murphey,
 May 10, 1948.

Certain questions regarding court procedure in Civil Action No. A-58224, the same being quo warranto v. the Children's Code Commission discussed; also question of personal liability of commission members for good faith expenditures made prior to any court decree. The act is invalid.

TAXATION**1313-48**

Colorado Tax Commission,
 July 22, 1948.
 (Billboards)

Billboards owned by Sign Companies affixed to the soil under lease or contract by which title is retained and the signs owned and operated by the lessee are trade fixtures and personal property. They cannot be taxed as realty.

COUNTY JUDGES—ELECTIONS**1314-48**

Mrs. Elizabeth E. Culbreath,
 July 27, 1948.

A person is not required to "be learned in the law" to be a candidate for county judge.

GOVERNOR—CIVIL AIR PATROL**1315-48**

Mr. E. R. Fuchs,
 July 30, 1948.

Federal aid and assistance to the Civil Air Patrol is conditioned upon the performance of certain training activities by the Patrol. The Colorado statutes do not prescribe the functions and duties of the said Patrol, but if the furnishing of meals to Civil Air Patrol Cadets is in furtherance of such training activities, then it is lawful to expend moneys from the appropriation for this purpose. (Section 1, Chapter 13, S. L. 1947).

GOVERNOR—GAME AND FISH— **1316-48**
CONTROLLER

Mr. E. R. Fuchs,

July 31, 1948.

Remodeling and repairing the Game and Fish Office Building at 1530 Sherman Street, Denver, is the remodeling and repairing of an existing structure belonging to the State of Colorado. It is, therefore, lawful for the Game and Fish Department to expend moneys from its Capitol Outlay Fund (appropriation S. L. 1947, Art. I, item C, Ch. 44) for such purpose, but in so doing it must follow the statutory procedure required in all state construction.

ARCHITECTS **1317-48**

Roland L. Linder, Secretary Treasurer,

August 3, 1948.

1. An architect can legally contract to render architectural services in either category, i. e., planning or supervisory, or both, since the statute is in the disjunctive and not the conjunctive.

2. Where a building is more than two stories in height or is intended for public use, no person, mechanic or builder can dispense with the services of a duly licensed architect in either the drafting of the plans and specifications or the supervising of the erection, etc., of such public building (Sec. 14, Ch. 10, 1935 C.S.A., as amended by Ch. 88, S. L. 1937; Opinion Attorney General 110-41 and 37-43).

3. A licensed architect may lawfully contract for his services, with or without supervision of the erection, enlargement or alteration of a building which does not require the services of an architect.

CIVIL SERVICE COMMISSION **1318-48**

State Civil Service Commission,

August 4, 1948.

1. A provisional or permanent employee within the classified service, upon enlistment or induction into the armed forces of the United States, retains, during the time of his military service and for one year thereafter, all of the civil service rights which he had at the time of entering such service.

2. Whether the civil service employee enlists to evade the draft or has any particular purpose in mind is beside the point. If he enlists or is drafted into the military service described by the statute, he retains his civil service status and all of the rights granted or reserved to him by Chapter 148, S. L. 1947.

LIQUOR**1319-48**

Hon. Walter F. Morrison,

August 4, 1948.

The Liquor Code, Chapter 89, 1935 C.S.A., and the rules and regulations adopted thereunder, contain no provision which prohibits or makes illegal the voluntary contributions by a manufacturer, distributor, or retailer of alcoholic beverages to a non-profit corporation engaged in a campaign to defeat restrictive liquor legislation.

HIGHWAY DEPARTMENT**1320-48**

State Highway Department,

August 12, 1948.

(Use of sprays injurious to bees on roadside growth)

With respect to Senate Bill 69 of Thirty-sixth General Assembly, it is our opinion use of 2-4D, or other sprays destructive to bees, on roadside weed growth in area not planted by Highway Department, not prohibited by bill. Situation not so clear where weeds have infested area planted by Highway Department in clover or other vegetation and it is suggested that in such case cutting rather than spraying be done where possible.

BASIC SCIENCE EXAMINATION**1321-48**

Colorado State Board of Examiners in Basic Sciences,

August 17, 1948.

Not required if individual was in recognized school prior to July 1st, 1937, and graduated before July 1, 1940.

COLLECTION AGENCIES**1322-48**

Mr. George H. Wygant,

August 9, 1948.

If a person, firm, corporation or voluntary association uses the forms of a licensed collection agency to collect its own accounts and none other, and does not use a fictitious name, or any other than his or its name in the collection of its own accounts receivable, and does not convey to the debtor the idea that a third person has been employed to collect his or its accounts, then and in that event such person, etc., is not required to have a collection agency license in order to use such collection forms.

ELECTIONS—FEDERAL AREAS— 1323-48
VETERANS

Honorable Lee Knous,
August 20, 1948.
(Fort Logan)

Persons residing within the confines of Fort Logan, are located on land over which the United States has exclusive jurisdiction. They cannot, therefore, be considered as residing in the State of Colorado within the meaning of our election laws.

ELECTIONS—FEDERAL AREAS— 1324-48
VETERANS

Hon. Lee W. Knous,
August 20, 1948.

The area known as Veterans Village, Inc., at Buckley Field, formerly under the jurisdiction of the United States has been restored to the jurisdiction of the State of Colorado, and the persons living thereon may vote in the forthcoming elections, if otherwise qualified.

OIL INSPECTOR 1325-48

Mr. John E. Cronin,
August 23, 1948.
(Liquid Petroleum Tank Regulations)

It is the duty of the Oil Inspector to enforce liquid petroleum tank container regulations as to location without regard to local controversies.

GOVERNOR—PUBLIC TRUSTEE— 1326-48
LEGISLATOR

Hon. Lee Knous,
August 26, 1948.
(Incompatible offices)

Office of Public Trustee is a civil office under the state and is incompatible with that of state legislator. Art. III and Sec. 8, Art. V, Colorado Const; *Hudson v. Annear*, 101 Colo. 551; Secs. 53, 56, Ch. 40, 1935 C.S.A., Op. 414-1928.

FEES AND SALARIES—COUNTY 1327-48
TREASURER—TAXES

Mr. Karl R. Ahlborn,

August 27, 1948.

1. County Treasurer is entitled to collect fees and commission on funds received pursuant to Chapter 13, Extraordinary S. L. 1945 and Secs. 26 and 31, Ch. 146, 1935 C.S.A., except upon such portion thereof as may be received by the County Treasurer on account of the income tax. Sec. 25, Ch. 66, 1935 C.S.A.; Sec. 6, Ch. 138, S. L. 1945.

2. Co. Treasurer is entitled to collect fees on "Range Improvement Fund." Commrs. v. Irr. Dist., 56 Colo. 515; Sec. 25, Ch. 66, 1935 C.S.A.; Art. 7, Ch. 160, 1935 C.S.A.

3. Sec. 18, Art. X, Colo. Const. provides excise tax on gasoline, etc., shall, except costs of administration, be used exclusively for the construction, maintenance and supervision of the public highways of this state. When the State Treasurer allocates and distributes the said taxes to the counties, the said moneys lose their identity as state funds and become moneys received by the county Treasurer other than taxes (Sec. 25, Ch. 66, 1935 C.S.A.) and if in the opinion of the county commissioners the 1% fee authorized to the treasurer is a proper cost of administration there is warrant in law for the County Treasurer to receive such a cost of administration. (Sec. 18, Art. X, Const.; Ch. 128 and 130, S. L. 1947).

SCHOOLS 1328-48

Mrs. Nettie S. Freed,

August 19, 1948.

(Organization)

After a district which is subject to a county high school tax is consolidated with a joint district, there is no way by which said territory may be exempted from the county high school tax. Section 205, Chapter 146, C.S.A. 1935, is inapplicable to joint districts.

GOVERNOR—FISH AND GAME— 1329-48
AGRICULTURAL COLLEGE

Mr. E. R. Fuchs,

August 31, 1948.

If the allotment of \$6,000.00 by the Fish and Game Department to Colorado A & M College for the initiation of a Fish Management Course in the establishment of scholarships then the

state's funds cannot be spent in such an enterprise, on the other hand if the project is bona fide "for the development of game, bird, fish or fur bearing animal management and demonstration projects", there is warrant in law for such an expenditure. (Sec. 243, Ch. 73, 1935 C.S.A. as amended by Sec. 7, Ch. 153, S. L. 1937). The questions presented are therefore questions of fact and not of law.

INSURANCE**1330-48**

Mr. Luke J. Kavanaugh,
August 31, 1948.

If the organization of a fraternal association is not completed, a new association under an identical name may subsequently be organized, and a one year extension granted as is provided in Section 180, Chapter 87, 1935 C.S.A.

UNIVERSITY OF COLORADO**1331-48**

Mr. W. E. Brockway,
September 1, 1948.

The Board of Regents has authority in law to borrow or transfer from one special fund to the other, so long as the Board of Regents takes the necessary precautions to see that the appropriation or fund, earmarked by the legislature for a special purpose, is not depleted or impaired, and is not ultimately turned to a purpose other than that designated by the legislature.

SCHOOLS**1332-48**

Mrs. Nettie S. Freed,
September 2, 1948.
(Transportation and Tuition)

Under the authority of *Stoops v. Haley*, 91 Colo. 246, *Dermit v. Sgt. Bluff Conso. Indep. School District*, 220 Iowa 344, 261 N.W. 636, section 89(15) Ch. 146, C.S.A. 1935 and sections 114 through 120, Ch. 146, C.S.A. 1935, school districts are authorized to furnish transportation and tuition for pupils attending school in adjoining states.

SCHOOLS**1333-48**

Mr. Glenn Sheriff,
September 8, 1948.
(Transportation)

A method of financing the purchase of school busses whereby payment is made over a period in excess of one year is prohibited by Section 13 of the Local Government Budget Act, being Chapter 168, Session Laws of Colorado 1945. Busses should be paid for from current revenues.

BOARD OF MEDICAL EXAMINERS 1334-48

State Board of Medical Examiners,
September 13, 1948.

The provisions of Section 6, Chapter 109, 1935 C.S.A., prohibits the medical board from issuing a limited license.

SCHOOLS 1335-48

Mr. Ernest V. Keyes,
September 24, 1948.

(Officers) (Transportation)

A contract whereby a school board employs the wife of a board member is not in violation of Chapter 133, C.S.A. 1935, because of the provisions of Sec. 3, Ch. 108, C.S.A. 1935.

A school board member may receive compensation for expenses actually incurred in the transportation of his own children but may not contract for the transportation of children other than his own.

A contract whereby the board employs the son-in-law or adult son of board member is not in violation of Chapter 133 but a contract employing the minor child of a member would violate the said Chapter 133.

Withdrawal by the school board member from participation of voting on the question of letting the contracts would have no effect on their legality or illegality.

**INSURANCE—HOSPITALS—
CORPORATIONS 1336-48**

Mr. Lincoln D. Coit,
September 24, 1948.

A non-profit corporation may legally finance the building of a new community hospital by selling family memberships upon which annual dues are charged.

SCHOOLS 1337-48

Mrs. Nettie S. Freed,
September 24, 1948.

(Funds)

The provisions of Sec. 4, Ch. 279, S. L. 1947, are mandatory in that three-fourths of the amount paid to school districts under the Act must be used in payment of teachers' salaries, therefore, only one-fourth may be used for transportation and tuition expense.

INSURANCE**1338-48**

Mr. Lacy Winkinson,
September 30, 1948.

Neither the state nor any of its political subdivisions may insure property in a reciprocal or inter-insurance exchange.

STATE BOARD OF HEALTH—PLUMBERS 1339-48

Dr. R. L. Cleere,
October 6, 1948.

(Plumbers' licenses and permits)

1. The State Department of Public Health has discretionary power to issue temporary permits and also licenses to licensees from other states.

2. The Examining Board of Plumbers have no authority to issue licenses.

UNIVERSITY OF COLORADO**1340-48**

Mr. W. E. Brockway,
October 6, 1948.
(Eminent Domain)

The authority of the University of Colorado to maintain condemnation proceedings appears in Chapter 110, S. L. 1937.

INSURANCE**1341-48**

Mr. Luke J. Kavanaugh,
October 6, 1948.

A life insurance company is justified in refusing to accede to the request of an insured to change his policy, unless the named beneficiary joins in the request, or unless he exercises his right to change the beneficiary by naming his estate.

SECURITIES**1342-48**

Mr. Curtis White,
October 11, 1948.

Whether or not a person who advertises to the general public that he will buy securities is a dealer in securities within the meaning of Section 19(d), Chapter 148, 1948 C.S.A., hinges upon a determination of the questions of fact presented in Section 19(d), supra.

SOLDIERS & SAILORS RELIEF ACT— 1343-48
TAX COMMISSION

Mr. John R. Seaman,
 October 13, 1948.

In view of Section 514, Chapter 397, Volume 58, Public Laws P. 722, amending the Soldiers & Sailors Civil Relief Act of 1940, any person, or his or her personal property, income or gross income, whether tangible or intangible (including motor vehicles), not used in or arising from a trade or business, shall not be deemed to have become resident or domiciled or located within the state when said person or his personal property, etc., is within the State of Colorado by reason of and in compliance with military or naval orders.

This opinion supersedes all previous opinions expressed by this office on this subject.

INDUSTRIAL COMMISSION— 1344-48
WORKMEN'S COMPENSATION INSURANCE

Industrial Commission of Colorado,
 October 14, 1948.

Section 303, Chapter 97, 1935 Colorado Statutes Annotated, prohibits an insurance company from attaching a Dividend Rider to its Standard Form Workmen's Compensation Insurance policies, if the dividend which would be paid pursuant to said rider would enable any employer to thereby obtain a rate on his insurance lower than that approved by the Industrial Commission.

SECURITIES 1345-48

Mr. Curtis White,
 October 14, 1948.

An issuer may not employ salesman to sell its securities, where the offer is to be limited to less than fifty (50) persons.

SCHOOLS 1346-48
(Funds)

Mr. William J. Barry,
 October 19, 1948.

The seven mill levy for County and Union High School Districts authorized by Sec. 195 and 196, Ch. 146, 1935 C.S.A., is levied and collected in the same manner as the five mill levy so authorized, and the 2 mill increase need not be submitted to the Tax Commissioner as provided in Sections 39 and 41 of Chapter 142, 1935 C.S.A.

CITIES AND TOWNS—HIGHWAYS 1347-48

Messrs. Stewart and Brown,

October 23, 1948.

“The uses necessary to give a road the character of a public highway, under Session Laws 1891, page 302, must have been adverse, that is, under a claim of right; the line of road must have been reasonably certain; there must have been an unqualified intention to set apart a line for the road, and the use must have been more than a mere permissive use.” *Lieber v. People*, 33 Colo. 493; *People, ex rel. Mayer v. San Luis Valley L & C Co.*, 90 Colo. 23 @ 26.

HEALTH—WATER POLLUTION 1348-48

Dr. R. L. Cleere,

October 26, 1948.

1. State Department of Public Health is agency meeting requirements of the federal law as to “State Water Pollution Agency.”

2. Board of Health has authority to accept Federal Funds for Pollution Survey.

GAME AND FISH 1349-48

Mr. C. N. Feast,

October 15, 1948.

(State-owned hunting areas)

The Commission, by regulation, may prescribe the number of blinds and the hunting facilities upon its state-owned hunting and shooting areas and limit the number of persons using the same to the facilities so established.

**INDUSTRIAL SCHOOL FOR BOYS AND 1350-48
INDUSTRIAL SCHOOL FOR GIRLS**

Mr. Earl M. Kouns,

November 6, 1948.

Industrial School for Boys and Industrial School for Girls are educational and reformatory in character and are not penal institutions within the meaning of the statutes of the State of Colorado. This is in accord with opinion of this office rendered in 1919, numbered 167.

WATER—STATE ENGINEER**1351-48**

Mr. M. C. Hinderlider,

November 9, 1948.

The State of Colorado may not construct a feeder ditch which would be solely the interest of individuals or a group of individuals.

CIVIL SERVICE—RACING COMMISSION **1352-48**

Hon. Lee Knous,

November 9, 1948.

The positions to be held by the Racing Commissioners pursuant to the provisions of Chapter 256, 1947 S. L. of Colorado, are within the classified civil service and subject to the laws, rules and regulations thereof.

GAME AND FISH COMMISSION**1353-48**

Game and Fish Commission,

November 9, 1948.

The Game and Fish Commission is vested with a discretion as to the means of disseminating statistics, data and information on studies and scientific information connected with its work, but there is no authorization in law for it to enter into the publishing business and charge a subscription for the media by which this information is disseminated. (Sec. 244, Ch. 73, 1935 C.S.A., as amended by Ch. 153, Sec. 8, S. L. 1937).

SCHOOLS**1354-48**

Mrs. Sara M. Morris,

November 17, 1948.

(Teachers)

There is no legal authority for a county, as such, to pay teachers' salaries from general county funds.

STATE HIGHWAY DEPARTMENT— **1355-48**
STATE INDUSTRIAL SCHOOL FOR BOYS

State Highway Department,

November 22, 1948.

1. A lease executed by the Superintendent of the State Industrial School for Boys, as lessor, is without force and effect,

since all of the rights and powers over the school are vested in the Governor. (Sec. 6, Ch. 131, 1935 C.S.A.; Sec. 11, Ch. 2, S. L. 1941; Sec. 55(e), Ch. 2, S. L. 1941; Sec. 3, Ch. 131, 1935 C.S.A.).

2. The laying out, opening or constructing of a public or private highway across the said Industrial Schools' lands is prohibited unless permission is first obtained from "The Division of Public Welfare, the head of which shall be the Governor", successors to the Board of Control. (Sec. 18, Ch. 131, 1935 C.S.A., as amended by Chap. 2, S. L. 1941).

OLD AGE PENSIONS

1356-48

Hon. N. F. Nelson,

November 24, 1948.

Old age pensioner may avail himself of his right under the statute which provides for the return, release or discharge without diminution by the County Board of Public Welfare, which is Section 5, Chapter 148, Session Laws of Colorado, 1943.

SCHOOLS—STATE LIBRARY

1357-48

Mr. Gordon L. Bennett,

November 29, 1948.

(Funds)

Article XI, Section 2, and Article V, Section 34, Colorado Constitution, prohibit the payment of state moneys by the State Library to the Bibliographical Center for Research, Rocky Mountain Region.

INDUSTRIAL COMMISSION— LEGISLATOR

1358-48

Mr. R. F. Hobbs,

November 26, 1948.

1. The Offices of Legislator and Industrial Commissioner are incompatible. (Hudson v. Annear, 101, Colo. 551; Sec. 8, Art. V, Colorado Constitution; Secs. 5 and 7, Ch. 97, 1935 C.S.A.; Sec. 13, Art. XII, Constitution of Colorado).

2. The office of Industrial Commissioner is a civil office under the state.

3. Section 8, Art. V, Constitution of Colorado, prohibits the appointment of a senator or representative to any civil office under this state during the time for which he shall have been elected.

**OFFICERS—SECRETARY OF STATE— 1359-48
CONTROLLER**

Mr. James A. Noonan,

November 29, 1948.

The office of the Secretary of State is an office and not an employment. The salary is attached to the office and the duly elected, qualified and acting Secretary of State is entitled to the salary of the office without further claim during his term of office or until its termination by removal or resignation. (Corfman v. McDevitt, 111 Colo. 437; Sec. 1, 3 and 4, Art. IV, Const. Colorado; Sec. 25, Ch. 153, and Sec. 1, Ch. 102, 1935 C.S.A.).

**STATE TREASURER—DEPARTMENT 1360-48
OF REVENUE**

Mr. H. Rodney Anderson,

November 30, 1948.

Moneys deposited with the Director of Revenue pursuant to Chapter 124, S. L. 1947, are held by the State Treasurer as custodian (Sec. 5, Ch. 124). Where judgment is obtained, the payment should be made to the judgment creditor upon the order of the Director of Revenue and the balance, if any, should be returned to the depositor. If judgment is not obtained within the statutory time, the refund should be made to the depositor upon the order of the Director of Revenue.

**GOVERNOR—SOLDIERS & SAILORS 1361-48
HOME**

Hon. Lee Knous,

December 3, 1948.

The Board of Commissioners cannot provide by rule, the conditions for admittance to the Soldiers and Sailors Home, since the legislature has not conferred such rule making powers upon the Board. (Sec. 1, Ch. 150, 1935 C.S.A., as amended, S. L. 1945; Sec. 4, Ch. 150, 1935 C.S.A., as amended S. L. 1947.)

COUNTIES—FEES AND SALARIES 1362-48

Mr. William J. Meehan,

December 7, 1948.

1. Officer elected November 2, 1948 to fill vacancy (so-called short term) is entitled to increased compensation allowed the

office by Section 6, Senate Bill No. 2, Extraordinary Session 1948 (Lancaster v. Commissioners, 115 Colo. 261).

2. The language used in Section 6 is a mandate from the legislature requiring the payment of the increases in salary notwithstanding the fact that the said increases were not taken into consideration in making up the 1949 budgets.

CIVIL SERVICE—COLORADO **1363-48**
COMMITTEE ON VETERANS EDUCATION
AND TRAINING

Mr. J. Fred Thomas,

December 15, 1948.

Whether or not the officers and employees of the Colorado Committee on Veterans Education and Training are within the classified civil service of this state, is a question of fact to be determined by the Commission.

UNIVERSITY OF COLORADO— **1364-48**
CONSTITUTIONAL LAW—TAXATION

University of Colorado,

December 16, 1948.

The property and rights of the Regents of the University of Colorado are the property and rights of the state and as such are exempt from taxation. (Sec. 4, Art. X, Constitution of Colorado; In re Macky Estate, 46 Colo. 79). The University cannot lawfully make a contribution or donation to a municipal corporation in lieu of taxes. (Sec. 2, Art. XI, Const. of Colorado; Sec. 8, Ch. 163, 1935 C.S.A.)

MOTOR VEHICLES—SALES TAX— **1365-48**
REVENUE DEPARTMENT

Mr. W. F. Perkins,

November 23, 1948.

If a motor vehicle is "sold at a farm auction close-out sale" and said motor vehicle is a part "of all the tangible personal property of a farmer or rancher personally used by him in carrying on his farming or ranching operations", the same is exempted from a sales or use tax under the provisions of Section 15(e) of Art. II, Ch. 230, S. L. of Colo. 1937, as amended by the 1945 statute.

SCHOOLS**1366-48**

Mr. A. M. Emigl,

December 22, 1948.

(Sale of land, oil and gas lease)

The directors of a school district have the power to execute an oil and gas lease on land owned by the school district, providing they follow the same formalities as would be required in making a sale of said land.

SCHOOLS**1367-48**

Mr. I. K. Boltz,

December 27, 1948.

Under the provisions of Sec. 122, as amended, Ch. 146, 1935 C.S.A., the maximum amount a school district could lawfully obtain permission to issue at this time would be the difference between the present indebtedness and the present maximum.

CIVIL SERVICE—PENTITENTIARY**1368-48**

State Civil Service Commission,

December 28, 1948.

(Ex convict)

Where at the time of his appointment to the classified civil service of the State of Colorado an ex convict has served out his full term and is a qualified elector of the State of Colorado he is eligible for appointment in the classified service.

**WATER AND IRRIGATION—
STATE ENGINEER****1369-48**

Mr. M. C. Hinderlider,

December 28, 1948.

Sec. 14, Ch. 2, S. L. 1941 set up the departments, agencies and offices within the Division of Water Resources.

Sec. 203 and 206, Ch. 90, 1935 C.S.A. provides that the State Engineer shall have general supervising control over the public waters of the state and shall have general charge over the division water superintendents and district water commissioners. These sections would authorize the state engineer to do those things that are necessary to carry out the duties of his office, and might well include telegrams and telephone calls to and from ditch companies when such are deemed by him to be in furtherance of his control over and administration of the public waters of the State of Colorado.

CIVIL SERVICE COMMISSION**1370-48**

State Civil Service Commission,

December 29, 1948.

(Information required from applicants)

If the Civil Service Commission deems it necessary in the proper discharge of its duties to require information as to whether or not an applicant has a prior criminal record or whether or not he has been engaged in subversive activities or been a member of an organization that advocates the overthrow of the Government of the United States by force and violence, it has legal authority to request such information in its application forms and to require that the same be certified to as correct in all respects. (Sec. 13, Art. XII, Colorado Constitution; Par. 1, Sec. 3, Rules of Civil Procedure.)

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