

STATE OF NEVADA

BIENNIAL REPORT

OF THE

ATTORNEY-GENERAL

1901=1902

WILLIAM WOODBURN, Attorney-General



CARSON CITY, NEVADA

STATE PRINTING OFFICE, : : : : ANDREW MAUTE, SUPERINTENDENT
1903

STATE OF NEVADA

BIENNIAL REPORT

ATTORNEY-GENERAL



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LETTER OF TRANSMITTAL.

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, January 3, 1903.

To His Excellency, REINHOLD SADLER, Governor of the State of Nevada:

SIR: I herewith submit to you my report as Attorney-General for the years 1901-1902, giving a synopsis of State cases decided by the Supreme Court, opinions rendered by me, and a synopsis of the reports of the District Attorneys of the various counties. Very truly,

WILLIAM WOODBURN,
Attorney-General.

CORRECTION

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Attorney-General.

REPORT OF THE ATTORNEY-GENERAL.

OFFICIAL OPINIONS.

I have given many opinions during my term of office on legal questions that the layman of average sense ought to be familiar with, and have, therefore, been omitted from this report.

The following are deemed of the most interest, and are required by the law defining the duties of Attorney-General to be incorporated in his biennial report:

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, January 19, 1901.

HON. EUGENE HOWELL, *Secretary of State*:

DEAR SIR: Your letter of this date, requesting my opinion as to the names that you, as Secretary of State, shall certify to the Assembly, as the members properly entitled to seats therein from Storey county, is before me.

On the 16th of March, 1899, the Governor of this State approved an Act entitled "An Act to amend an Act entitled 'An Act for the reapportionment of Senators and Assemblymen in the several counties of this State,' approved March 3, 1891," by which there was apportioned to Storey county one Senator and four Assemblymen, which Act went into effect on the day of its approval. (Statutes 1899, 121; Comp. Laws, 1906.)

This law has not been declared unconstitutional by any Court.

In the summer of 1900 the case of *The State of Nevada, ex rel. W. E. Winnie, Relator, v. A. B. Stoddard, George Hawkes and Thomas Rickard, as the Board of County Commissioners of Storey County, Nevada, Respondents*, was instituted in the Supreme Court by mandamus to compel the Board of County Commissioners to issue the necessary notice of the then ensuing general election for members of the State Senate and of the Assembly, under the Apportionment Act of 1891.

The Apportionment Act of 1891 (Statutes 1891, 23) gave Storey county two Senators and six Assemblymen.

It was the contention of the relator in the case of *Winnie v. The Storey County Commissioners*, that the Act of 1899 was unconstitutional, and by the interveners that the Act of 1899 is valid, or, if invalid for the reasons assigned by the relator, the Act of 1891, upon which relator based his right of representation, contains the same or greater infirmities and inequalities as the Act of 1899.

The Supreme Court, in deciding the case of *Winnie v. The Storey County Commissioners*, said:

"It is fundamental that every law passed by the Legislature and

approved by the Governor is presumed to be constitutional; every intendment is in its favor, and it should be sustained unless there are specific constitutional restrictions upon the power of the Legislature, and the law is shown to be within those restrictions."

The Court also held that, under our Constitution, "the Legislature may, in its discretion, make such apportionment as often as it so wills."

As to the Assemblymen entitled to seats in the Assembly from Storey, the returns, as certified by the Clerk of that county to your office, show that there were twelve candidates for the office voted for in Storey county at the general election held therein November 6, 1900, and the votes received by each as follows:

Beckert, Ernest.....	Received 413 votes for member of the Assembly
Cahill, E. J.....	Received 533 votes for member of the Assembly
Cocks, J. H.....	Received 594 votes for member of the Assembly
Corbett, J. D. R.....	Received 535 votes for member of the Assembly
Hancock, W. H.....	Received 514 votes for member of the Assembly
Harrington, W. P.....	Received 475 votes for member of the Assembly
Holmes, E. P.....	Received 552 votes for member of the Assembly
Keely, T. H.....	Received 441 votes for member of the Assembly
Moran, W. T.....	Received 484 votes for member of the Assembly
Maguire, H. J.....	Received 493 votes for member of the Assembly
McDonell, D. L.....	Received 575 votes for member of the Assembly
Swift, E. C.....	Received 518 votes for member of the Assembly

The Constitution provides that the choice by the electors shall be determined by a plurality vote. (Art. XV., Sec. 14, Constitution; Comp. Laws, 178.)

The apportionment of Assemblymen to Storey being four, the four candidates receiving the highest number of votes at the last general election as shown by the certified returns in your office are the only ones of the twelve who are entitled to seats in the Assembly at its ensuing session.

Section 1919, Compiled Laws, makes it your duty "to make out, prior to the meeting of the Assembly of each session thereof, a roll of the members elect, as shall appear by the returns on file in your office," and it is my opinion that under the "returns" as certified to you by the Clerk of Storey county, only the four names receiving the highest number of votes should be placed on the roll of membership of the Assembly. Yours respectfully,

WILLIAM WOODBURN, Attorney-General.

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, August 5, 1901.

HON. SAM P. DAVIS, *State Controller*:

DEAR SIR: Your communication of the 5th instant at hand. The first question presented by you is: "Has the State University any legal right to borrow money from any fund when the taxes to come in before January 1, 1902, will be sufficient to meet the requirements? Can it borrow money under the Act of March 19, A. D. 1901, entitled 'An Act authorizing a State loan'?"

For answer I have to say the University can borrow no money, but the State, through its duly authorized agents, may borrow the sum of twenty thousand dollars for the support and maintenance of the State University from the different State University Funds, as provided in Section 1 of "An Act authorizing a State loan," approved March 19, 1901.

As to the amounts necessary to meet the requirements of the State University, and the necessity for a State loan, the Board having control of that institution and the right to borrow money for its support, can furnish more accurate information than the Attorney-General can at present.

Your second question is: "A bill of \$117 is presented by Judge Talbot for traveling expenses in attending Court for Judge Curler when the latter was, as I understand it, in London, England, attending Court as a witness in the Lord Russell case, and should this amount for Judge Talbot's expenses be paid by the State or Judge Curler, it being allowed by the Board of Examiners?"

My opinion is the Board of Examiners was legally bound to allow the said amount, and the Controller should issue his warrant therefor.

Section 2524, Compiled Laws, provides that a District Judge may hold a term in any Judicial District in this State upon the request of the Judge of the District in which such term is to be held.

Section 2572, Compiled Laws, provides that, in addition to the salary of the several District Judges, they shall be entitled to receive the necessary expenses actually paid by them for traveling by public conveyance in going to and from the place of holding Court.

The presumption is that Judge Talbot acted upon the request of Judge Curler.

No District Judge would hold Court out of his Judicial District without such request.

I am not aware at the present time of any law compelling Judge Curler to pay the expenses of Judge Talbot for acting in his stead.

Perhaps a mild suggestion from the State Controller to the noble Lord Russell might induce him to foot the bill.

WILLIAM WOODBURN, Attorney-General.

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, May 18, 1901.

HON. F. R. MCNAMEE, *District Attorney of Lincoln County, Nevada:*

DEAR SIR: Your letter of May 16th received and considered, whereby you submit for my consideration the following questions:

1. Can the County Commissioners of Lincoln county divest the county of its title to the property described in your communication in any other manner than at public auction sale, after first giving legal notice?

2. Should the said property be sold as an entirety, or can it be segregated, and the parts so segregated be sold separately?

3. Can the taxes assessed against said property for the year 1894, up to and including 1900, be collected, it appearing from the records

that said property has been assessed for each of these years to the County Treasurer of said county, who held the same in trust for the county and State?

As to the first question propounded, it appears that during the year 1893 the O. S. L., and U. N. R. R. Companies' right of way and improvements on their grade in Lincoln county were assessed at a valuation of one hundred thousand dollars. In default of payment suit was brought, judgment obtained, the property was regularly sold to satisfy the same, and at the sale, in default of any other bidder, it was bid in by the County Treasurer to hold it in trust for the county and State. The time of redemption having expired, a deed was duly executed and delivered by the Sheriff of said county to the Treasurer thereof, as required by law.

Upon this state of facts I am of the opinion that the County Treasurer has no right to make, execute and deliver to any purchaser an absolute deed of said property upon a bare order entered upon the records of the proceedings of the Board of County Commissioners without any public notice of the sale. Boards of County Commissioners are of special and limited powers, and must always exercise their powers as prescribed by the Legislature.

Hess v. Com. Washoe Co., 6 Nev. 104.

Beck v. Com. Washoe Co., 22 Nev. 15.

State v. C. P. R. R. Co., 9 Nev. 89.

County Commissioners have no powers beyond those expressly granted by the Legislature.

Waitz v. Ormsby Co., 1 Nev. 370.

Lyon Co. v. Ross, 24 Nev. 102.

By virtue of the Act creating a Board of County Commissioners in the several counties of the State and defining their duties and powers, the Board can only make an order to sell the property of the county at public auction at the Court House after public notice (in the same manner as required by law for the sale of like property on execution), and cause to be conveyed *any property* belonging to the county. (Sections 2111, 3318, 3320, Comp. Laws.)

If County Commissioners attempt to exercise any power otherwise than as prescribed by law, their action is absolutely void.

Sadler v. Eureka Co., 15 Nev. 42.

State v. Washoe Co., 6 Nev. 104.

The requirements of our Statute, that the sale should be upon notice at public auction, are mandatory upon the county officers.

Maxwell v. Board of Stanislaus Co., 3 Cal. 389.

People v. Super. San Francisco, 36 Cal. 595.

In the case of *Lyon County v. Ross* all the statutory provisions of law relating to the mode of sale of property bid in by the County Treasurer and held by him in trust for the county and State, and the character of notice to be given of the sale, are elaborately and forcibly discussed.

It will be observed that no kind of property held by the Treasurer in trust for the county and State, and by him offered for sale is exempted from the operation of the rule laid down in the case above cited requiring notice of sale.

Section 991 of the Railroad, Telegraph and Telephone Act has no bearing upon the question under consideration, as it does not affect property bid in by County Treasurers for delinquent taxes.

My opinion is, therefore, that the title to property sold by the County Treasurer without giving legal notice of the sale is a nullity.

As to the second question, whether the said property must be sold by the County Treasurer as an entirety, or can be segregated and sold, I find a dearth of authority upon the subject, but I believe none is necessary.

The following citation from authorities hereafter cited may aid in the solution of the question:

"When the State conveys to a private person land which is acquired by a tax sale, he will take it in the same condition in which the State held it, subject to the same equities and defenses."

Such land is not bought for speculative purposes or for corporate uses, but as a means of enforcing the collection of taxes.

Black on Tax Titles, 2d ed. 301.

Martin v. Barbour, 140 W. S. 634, 11 Sup. Ct. Rep. 944.

It appears that the right of way and improvements on the grade mentioned were assessed as an entirety and sold to the County Treasurer as an entirety. The right of way is a franchise subject to taxation. A franchise is a particular privilege conferred by grant from a Government and vested in individuals. Though taxable and valuable, it is invisible and intangible. It cannot be that a privilege, something that the eye cannot see, can be segregated, sold or assigned in fragments. The power to sell a mile of a right of way sixty miles in length would be more than dangerous. The remainder might be rendered valueless; its exercise might prevent the construction of a railroad, destroy competition, hinder the development of a country and be productive of gross fraud and injustice.

My opinion, therefore, is that the said right of way and improvements should be sold as an entirety by the said Treasurer upon giving due notice.

As to the last question, I believe it is well settled that a void sale does not divest the lien for the tax.

Cooley on Taxation, 2d ed. 672.

The taxes for the year 1894 and every succeeding year up to and including the year 1900 were assessed to the County Treasurer, who had the legal title to the property. See Section 1130, Compiled Laws.

WILLIAM WOODBURN, Attorney-General.

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, December 4, 1901.

HON. SAM. P. DAVIS, *State Controller*:

DEAR SIR: In answer to your communication of December 3, 1901, in which it is stated that Henry Bassman, Henry Neddenriep and Frank Gallinor paid taxes under protest levied by the County Commissioners of Douglas county, on the ground that since the said levy of

taxes a recent United States survey shows that said lands so levied upon and assessed as heretofore, by the proper officers of said Douglas county, are in Alpine county, California, I refer you to the correspondence had between Henry S. Pritchett, Superintendent of United States Coast and Geodetic Survey, and the Governor of this State, embodied in the Governor's late message on pages 11, 12 and 13, from which it appears that there has been no official recognition of the said boundary line by either of the Legislatures of the States of Nevada or California, or by the Courts thereof.

Therefore, it necessarily follows that the Treasurer of Douglas county should act in the premises as heretofore. Of course, if the taxes were illegally levied, an action could be maintained for their recovery, if paid under protest. Very truly,

WILLIAM WOODBURN, Attorney-General.

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, December 24, 1901.

HON. CHAS. L. RICHARDS, *Deputy District Attorney of Nye County, Nevada:*

DEAR SIR: In answer to your communication of December 19, 1901, my opinion is that the 25 per cent royalty, paid by the lessees of mines to the mine owners for the privilege of extracting ores therefrom, should be assessed as personal property and collected in the manner provided by the General Revenue Law. The lessee of a mine may have paid the royalty before the net proceeds of the mine are ascertained. The only question to be determined by the Assessor is to ascertain what are the net proceeds of the ores, as provided by Section 1147, page 268, Compiled Laws.

Section 1148 provides that every tax levied under the provisions of the Act on the proceeds of mines is made a lien on the mining claims. The lien can only be satisfied by the payment of the tax. The refusal to pay the tax does not affect the lien.

The Assessor has the right to demand from each firm or person or corporation engaged in extracting ores or minerals a sworn statement of the number of tons during the preceding quarter year, the cost of transportation and reduction. But the Assessor is not bound by such statement if he believes it to be false.

Section 1150, Compiled Laws.

State v. Kruttschnitt, 4 Nev. 178.

If you conclude to bring action to recover taxes due on proceeds of the mines, I would advise that the lease holders, as well as the mining companies and the possessory claim to the mines, be made defendants. The form of the complaint you will find in Section 1163, page 274, Compiled Laws. Yours respectfully,

WILLIAM WOODBURN, Attorney-General.

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, October 29, 1901.

HON. F. R. McNAMEE, *District Attorney of Lincoln County, Nevada:*

DEAR SIR: In answer to your communication, I can only refer you to Sections 1322 and 1340, Compiled Laws of Nevada. If, as you say, there are no census children in the new school district, I cannot see how it is entitled to receive moneys from the county fund, under the latter section.

I find, notwithstanding, that in more than one instance a new school district, such as you describe, has received a portion of the public moneys. Yours truly,

WILLIAM WOODBURN, Attorney-General.

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, September 3, 1901.

HON. ORVIS RING, *State Superintendent of Public Instruction:*

DEAR SIR: Your communication of August 31st received and considered. The series of text books in use in the public schools of Nevada on the 1st day of January, 1901, shall be used in all the public schools of this State in accordance with the provisions of Sections 1 and 2 of an Act entitled "An Act to provide for a uniform series of text books in the public schools of Nevada," approved March 8, 1901. The only penalty for the violation of this law is that no school shall receive its pro rata of public moneys unless such text books are used.

The Legislature has prescribed the text books to be used in all public schools, and not the Board of Education.

As an answer to your third question, it seems to me that common sense dictates that the certificate should issue in the true name of the applicant, and not in the name acquired by becoming a member of a religious order. Yours respectfully,

WILLIAM WOODBURN, Attorney-General.

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, January 30, 1902.

HON. T. L. ODDIE, *District Attorney of Nye County, Nevada:*

DEAR SIR: In answer to your communication relative to the payment of the salaries of the several county officers, I have to say that Section 23 (page 137) of the Act of 1879 provides that all fees and emoluments collected by the several county officers shall be paid to the County Treasurer on the first Monday of every month, and by him kept in a fund known as the Salary Fund, and all warrants for the payment of salaries shall be drawn upon said Salary Fund. Whenever there is a surplus in said fund, the Commissioners may transfer it to the General Fund, and whenever there is a deficiency in said Salary Fund

the Commissioners shall transfer thereto a sufficient sum from the General Fund to meet all warrants drawn against said Salary Fund.

This is the present law, and has been acted upon by every Board of County Commissioners, except Nye, since its passage.

It is clear that the salaries of county officers must be paid in the manner provided by said Act, and not by issuing certificates of indebtedness. Yours truly,

WILLIAM WOODBURN, Attorney-General.

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, January 23, 1902.

HON. ORVIS RING, *Superintendent of Public Instruction:*

DEAR SIR: In answer to your communication of the 20th of January, inquiring as to whether a life diploma can be granted to those graduating from the School of Liberal Arts of the Nevada State University who have taken two courses in pedagogy, and who have had forty-five months' experience in teaching, I cite you to the amended Act defining the powers and duties of the State Board of Education, approved March 2, 1901, which provides that the State High School certificates, unlimited, shall be granted only to those graduates from said School of Liberal Arts who have elected at least two University courses in pedagogics. This provision is the same as that contained in the law of 1895 and is mandatory, and has no application to the granting of life diplomas.

In answer to the second question: "Can the Principal of Schools suspend or expel pupils who refuse, under the advice of parents, to take part in Saturday evening entertainments, held under the direction of the Principal?" Section 1298, Compiled Laws, provides that School Trustees may suspend or expel pupils, with the advice of the teacher, who will not submit to the reasonable and ordinary rules of order and discipline.

Under this section the Principal cannot expel or suspend pupils. The Trustees have the power, but the language of the statute is not broad enough to enable the Trustees to expel or suspend pupils who refuse to participate in Saturday evening entertainments.

WILLIAM WOODBURN, Attorney-General.

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, March 22, 1901.

HON. SAM P. DAVIS, *State Controller:*

DEAR SIR: In answer to your communication of the 20th instant, requesting information as to the validity of assignments made by one Jos. E. Muller, a guard at the State Prison, for the value of his monthly services to one Richard Kirman, it appears that in the Justice Court of Carson Township, Ormsby county, Nevada, a judgment was rendered

against him for the sum of \$100 and costs in favor of one Albert E. Zichling.

An execution was issued on the 1st day of February, 1901, and placed for service in the hands of the Constable of said Court.

If an assignment was made by the judgment debtor, Jos. E. Muller, of personal property belonging to him in your possession and under your control, before the levy of execution issued on said judgment, the holder and owner of the said assignment, on presentation of the same to you, is entitled to the amount therein mentioned.

If, at the time of the levy of the execution on said judgment, the amount so assigned had been paid, there was nothing in your hands to deliver to the officer making the levy.

If the Controller had personal property in his possession or under his control at the time of the levy of the execution, it was his duty to deliver the same to the Constable. The statute says "until a levy, property shall not be affected by the execution." (Comp. Laws, 3314.)

The execution being dated the 1st of February, 1901, if properly levied upon personal property in your possession, at that date, it cannot affect personal property since acquired by the judgment debtor now in your possession without a new levy.

It does not appear from the record in said cause that any Constable or Sheriff attached any moneys, effects or credits in your hands belonging to the judgment debtor on the 1st of February, 1901, as no Constable or Sheriff to whom the said writ of execution was directed by the said Court has so certified, nor does it appear that any Constable or Sheriff notified the Controller not to pay or transfer any personal property of said judgment debtor except to either of said officers.

The Controller should know that if he delivers personal property in his possession to the assignee of the owner of the same, before being attached or levied upon by execution, the assignment is his voucher and saves him harmless, and if any Court compels him under pain of contempt to deliver the same to satisfy a judgment upon which an execution has been issued subsequent to the delivery upon the assignment, such judgment is null and void.

WILLIAM WOODBURN, Attorney-General.

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, January 23, 1901.

HON. SAM. P. DAVIS, *State Controller*:

SIR: Your communication of the 21st instant, informs me that the Assessors of the various counties of this State are unable to assess movable personal property in their respective counties, owing to the fact they they have no official blank tax receipts in January of each year, to be delivered on payment of taxes on this kind of property, and asks my opinion if the State Controller has the right to furnish such Assessors unused blank tax receipts prepared and transmitted by him to the several County Auditors before the 1st of March in any one year to be used in a subsequent year. I have to say in reply that the unused blank tax receipts prepared by the Controller and forwarded to the County Auditors before the 1st of March of each year, who

furnish them to the Assessors to be given in payment of taxes cannot be used in subsequent years, and the Controller has no power after having received them from the County Auditors in December of each year to retransmit them to the County Auditors to be so used.

The following sections of the Statute clearly show that the Controller has no such power:

Section 1142, Compiled Laws, makes it the duty of the State Controller to prepare suitable blank receipts to be issued by the several County Assessors on the payment to them of taxes on movable personal property, the form to be selected by the Controller, and to be by him consecutively numbered for each county, and shall be countersigned by the County Auditor.

The next section of the Statutes provides that before the 1st of March of each year the Controller shall transmit to the several counties a sufficient number of said blank tax receipts for use in each county.

Section 1144 prohibits the Assessor from giving any other receipt on the payment to him of any tax on movable personal property, and if he does he shall be guilty of felony and on conviction shall be punished by imprisonment in the State Prison, and shall be removed from office.

It is clear, from the language of the above sections of the Statute, that the blank tax receipts to be used by the Assessors in any one year must be transmitted to the County Auditors before the 1st of March of that year, and for use only in that year, and the Assessor can give no receipts for taxes on movable personal property except those received by the County Auditors from the Controller in that year.

On the first Monday in December of each year the Assessor must return to the County Auditor all blank receipts for taxes on movable property not used, who shall immediately return such unused receipts to the State Controller. (Sec. 1146, Comp. Laws.)

It is evident that such unused receipts, as, for instance, those transmitted to the County Auditors by the Controller before the 1st of March, 1900, and returned to the Controller in December of the same year, cannot be retransmitted by the Controller to be used this year.

If the County Auditors and Assessors received the blank tax receipts from the Controller on the 1st of January of each year, movable personal property could not escape taxation, if the present rate remains unchanged.

As to your inquiry as to whether the State rate of taxation, as fixed by the Legislature for the fiscal years 1899 and 1900, ceases to exist on December 31, 1900, or whether it runs until the rate is fixed in 1901, I refer you to Section 1231, Compiled Laws, which reads as follows:

"For the fiscal year commencing January 1, 1899, and annually thereafter, an ad valorem tax of one dollar on each one hundred dollars of taxable property is hereby levied and directed to be collected for State purposes upon all taxable property in this State."

Section 1232 provides that all State and county taxes required to be levied by the Boards of County Commissioners of the several counties of this State shall hereafter be levied by such Boards of County Commissioners on or before the first Monday of March in each year. These two sections of the Statute make it clear that the State rate of taxation as fixed by the Legislature for the fiscal years 1899 and 1900 was in force on December 31, 1900, and still is.

Very respectfully,
WILLIAM WOODBURN, Attorney-General.

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, March 23, 1901.

HON. PETER BREEN, *District Attorney of Eureka County, Nevada:*

DEAR SIR: Yours of the 20th instant, relative to the apportionment of the 50 per cent of poll tax belonging to the county, at hand.

Section 2 of the Act approved March 6, 1901, requires it to be "apportioned to the several County Funds as designated by the Board of County Commissioners in making the levy in effect at the time such moneys are collected."

"County Funds as designated by the Board" seems to carry the authority for unmistakable action by the Board of County Commissioners. District Road Funds and a Fire Fund would hardly come under the meaning of the County Funds unless the Board of County Commissioners have *so designated them*, and as to that the records of the Board ought to show and determine the question. If no affirmative showing, then the money would properly go to the General Current Expense and School Funds.

From a hasty examination of the matter these are my present conclusions. Very respectfully,

WILLIAM WOODBURN, Attorney-General.

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, June 18, 1901.

HON. SAM P. DAVIS, *State Controller:*

DEAR SIR: In answer to your inquiry as to the right of the Auditor of Humboldt county to draw warrants for the salaries of the officers thereof, without the County Commissioners acting upon the bills for such salaries, my opinion is that under Section 6 of the Act fixing the salaries and compensation of the officers of Humboldt county, approved March 6, 1899, the Auditor has the right to draw his warrant in favor of such officers without action on the part of the County Commissioners.

Section 1 of said Act provides that when it becomes necessary in criminal cases for the Sheriff to travel a greater distance from the county seat than twenty miles, he shall be allowed his necessary expenses, for which he shall present to the Board of County Commissioners, under oath, a bill of items which shall be audited and allowed in the same manner as other county expenses.

This exception makes it clear that the County Commissioners have no right to act on the salaries of such officers as fixed by law; that no other voucher is required than the receipt on the stub of the warrant book. Yours truly,

WILLIAM WOODBURN, Attorney-General.

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, October 22, 1902.

Concerning the Matter of Legal Registration:

If a person is registered, any qualified elector of the county desiring the name to be stricken from the registry list shall file objections with the Registry Agent to his right to register, and cite the registered person to appear at a certain time to show cause why his name should not be stricken from said list. If the person so cited fails to appear, it is the duty of the Registry Agent to strike the name from the list.

If such a proceeding is not instituted, the only ground or challenge that can be made on election day, is that the person offering to vote is not the person whose name is on the list.

WILLIAM WOODBURN, Attorney-General.

CASES DECIDED DURING 1901-1902 WHEREIN THE
STATE OF NEVADA WAS A PARTY.

[No. 1624.]

IN THE SUPREME COURT OF THE STATE OF NEVADA.

THE STATE OF NEVADA, *ex rel.* BULLION AND EXCHANGE BANK, A CORPORATION, *Relator*, v. C. E. MACK, JUDGE OF THE FIRST JUDICIAL DISTRICT OF THE STATE OF NEVADA, ORMSBY COUNTY, *Respondent*, and MRS. DORA WILLIAMS, *Intervener*.

The relator brings mandamus to compel respondent, as District Judge, to approve or reject a certain claim of relator for the sum of \$19,360 98, against the estate of Evan Williams, deceased, which had been filed and presented and allowed in part, by the executrix of said estate.

Dora Williams, the widow of said Evan Williams, deceased, and executrix of his last will and testament filed a claim against the estate of said deceased, and asked that a peremptory writ issue compelling respondent to call another Judge to pass on the validity thereof.

The Court held that upon the facts shown by respondent's answer to relator's petition and in the petition for intervention, from which it appears that respondent was a stockholder in said Bullion and Exchange Bank, and was, therefore, disqualified by reason of interest from passing on said claim.

The peremptory writ upon the application of the relator was denied, but granted upon the application of the intervener.

[No. 1607.]

IN THE SUPREME COURT OF THE STATE OF NEVADA.

STATE OF NEVADA, *Appellant*, v. LESLIE E. DOUGLAS, *Respondent*.

The indictment in this cause charged that on or about the 26th day of May, 1900, at the county of Churchill, Nevada, appellant unlawfully and feloniously did steal, take and drive away a particular described steer of certain value, the property of Henry Thelan, certain other described cattle, the property of Lee Wightman, certain other cattle, the property of W. T. Kaiser, and certain other cattle, the property of J. M. Douglas.

Appellant demurred to the indictment on the ground that it charges four larcenies.

The Court held that the language used in the indictment, charging defendant at the same time and place with having stolen property of different persons, charged but one offense.

The judgment and order denying a new trial was affirmed.

[No. 1616.]

IN THE SUPREME COURT OF THE STATE OF NEVADA.

Ex Parte DENNIS DOYLE, *Petitioner.*

Dennis Doyle brought habeas corpus for his discharge from the State Prison, claiming his imprisonment to be unlawful because the judgment sentencing him to imprisonment is void, in that it fails to state the offense for which he was convicted.

It was shown by the judgment and not denied that he entered a plea of guilty to the crime charged by the indictment, to wit: Escaping from an officer, and was thereupon sentenced to imprisonment for a term of two years.

The petitioner was remanded to the custody of the Warden, and the writ dismissed.

IN THE CIRCUIT COURT OF THE UNITED STATES, NINTH CIRCUIT, DISTRICT OF NEVADA.

CENTRAL PACIFIC RAILWAY, A CORPORATION, *Complainant*, v. ALPHONSO EVANS, ET AL., *Defendants.*

This is a suit in equity brought by complainant, who is the owner of a franchise for a railroad, granted by the laws of the United States, which extends across the State of Nevada and through the counties of Washoe, Lyon, Churchill, Humboldt, Lander, Eureka and Elko, against all the County Assessors in this State, to enjoin and restrain the Assessors of the counties through which the Central Pacific Railroad is built from adopting or being controlled in their action upon the valuation placed thereon by said Assessors, and from proceeding to value and assess said road in the counties through which it is built, otherwise than in the exercise of their own official judgment and discretion, and according to the laws of the State of Nevada for the assessment of railroads.

The real object of the suit was to test the validity of the law entitled "An Act to provide for a more uniform valuation and assessment of property in this State," approved March 16, 1901, and the validity of the proceedings had thereunder by the State Board of Assessors, at a meeting held in Carson City, Nevada, from April 1 to 4, 1901, inclusive.

The Court held that the action taken by the State Board of Assessors in valuing the Central Pacific Railroad by name, without making classes of property of railroads, was not within the power granted by the Act of the Legislature, and that upon that ground alone the complainant was entitled to the injunction prayed for.

[No. 1613.]

IN THE SUPREME COURT OF THE STATE OF NEVADA.

THE STATE OF NEVADA, *Respondent*, v. THE NEVADA CENTRAL RAILROAD, ET AL., *Appellants.*

This is an action for taxes assessed against defendant for the year 1900.

Plaintiff recovered judgment for the full amount sued for.

The defendant's property was assessed for the sum of \$174,663.

After certain deductions were made from the testimony the profit of the road was \$8,512 71.

The Court held that this sum, capitalized at the rate of 10 per cent, approximates, for all practical purposes, the amount of the assessment. The judgment and order denying a new trial were affirmed.

[No. 1610.]

IN THE SUPREME COURT OF THE STATE OF NEVADA.

THE STATE OF NEVADA, *ex rel.* T. W. DIXON, *Relator*, v. T. P. VAN PATTEN, *Respondent*.

This is a proceeding in the nature of quo warranto to determine whether the relator or respondent is entitled to the office of School Trustee (long term) of Austin School District, in Lander county. It appeared that the County Superintendent of Schools concluded that a vacancy existed in the office of School Trustee, to which relator had been elected, because he had not taken the oath of office required by law, and that he had ceased to be a resident of the town of Austin, and appointed respondent to fill the vacancy.

Upon the evidence adduced on these two questions, the Court ordered that a judgment of ouster be entered against respondent with costs.

[No. 1611.]

IN THE SUPREME COURT OF THE STATE OF NEVADA.

THE STATE OF NEVADA, *ex rel.* ROBERT POHL, *Relator*, v. W. C. GAYHART, *Respondent*.

The only question in this case was whether relator took and subscribed to the official oath in conformity with law.

The facts being similar to those in the case of *The State, ex rel. Dixon, v. Van Patten*, the Court ordered that a judgment of ouster be entered against the respondent with costs.

[No. 1609.]

IN THE SUPREME COURT OF THE STATE OF NEVADA.

C. H. E. HARDIN, *Petitioner*, v. J. W. GUTHRIE, ASSESSOR OF HUMBOLDT COUNTY, *Defendant and Appellant*.

This is a proceeding wherein the petitioner prayed that an alternative writ of mandamus be issued to the respondent directing him, as Assessor of Humboldt county, to immediately determine the true cash value of twelve head of yearling cattle, the property of petitioner, and to assess the same at a uniform rate of valuation in comparison with like property situated in said county, which the said Assessor refused to do.

This demand was made on the 16th day of July, 1901.

The Revenue Act provides that between the date of the levy of taxes and the first Monday of September in each year, the Assessor shall determine the true cash value of all taxable property in his county.

The Court held that, under said Act, the said Assessor had the abso-

lute right to exercise his discretion as to the time between the first Monday of March, 1901, and the first Monday of September, and, therefore, mandamus did not lie.

[No. 1626.]

IN THE SUPREME COURT OF THE STATE OF NEVADA.

THE STATE OF NEVADA, *ex rel.* GEORGE E. KITZMEYER, *Relator*, v. S. P. DAVIS, STATE CONTROLLER, *Respondent*.

The relator brought mandamus to compel the respondent to draw a warrant upon the Contingent Fund on account of certain chairs and carpets furnished the Supreme Court-room upon the order of the Court. The Capitol Commissioners refused to purchase the same, whereupon the Court directed its Bailiff to purchase from the relator, which he did.

A majority of the Board of Examiners approved the bill for the same.

The respondent refused to issue a warrant therefor.

The Court held that the Legislature gave to this Court authority to bind the State in providing a suitable room in which to hold Court when the State has failed to make provision. No claim was made that the articles ordered to be purchased were not necessary to render the Court-room suitable.

The power of Courts to order said articles is inherent and incidental to jurisdiction.

The Court ordered that the peremptory writ be granted with costs for relator.

[No. 1597.]

IN THE SUPREME COURT OF THE STATE OF NEVADA.

THE STATE OF NEVADA, *Respondent*, v. ERNST & ESSER, THE MONITOR LAND AND LIVESTOCK COMPANY, A CORPORATION, AND M. S. EISNER, ET AL., *Appellants*.

This is an appeal from the judgment and order denying the motion for a new trial in said cause, wherein the respondent recovered judgment for taxes alleged to be delinquent in Nye county for the year 1897. It appeared that on the 22d day of September, 1897, the Board of Equalization made an order to the effect that the Monitor Land and Livestock Company, one of the appellants herein, and a corporation existing under the laws of the State of California, be added to the assessment of Ernst & Esser, and certain lands and personal property, including ten thousand head of sheep.

The appellants claimed that the order of the Board of Equalization was null and void, it appearing that the Monitor Land and Livestock Company was the sole owner of the sheep, and that neither the firm of Ernst & Esser or M. S. Eisner had or claimed any interest in the same.

The Court reversed the judgment of the trial Court, on the ground that the Board of Equalization had no authority to add the name of the Monitor Land and Livestock Company to the assessment of Ernst & Esser, and that there was no pretense or claim that said Company ever owned or claimed any right, title or interest in or to the property, included in the statement of Ernst & Esser for the year 1897.

DISTRICT ATTORNEYS' REPORTS.

REPORTS OF DISTRICT ATTORNEYS FOR 1901.

CHURCHILL COUNTY.

STILLWATER, December 20, 1901.

To the Honorable the Attorney-General:

DEAR SIR: Pursuant to law I herewith submit my annual report of the criminal business transacted in this county during the year ending November 1, 1901:

Number and character of prosecutions: 1 for cattle stealing.

Number of persons convicted, and character of punishment: 1; 10 years in State Prison.

Number of persons acquitted, or as to whom prosecutions were abated or dismissed: None.

Number of prosecutions pending: None.

Cost of prosecutions, \$906 60.

Amount of fines paid: None.

Respectfully,

W. C. GRIMES,
District Attorney of Churchill County.

DOUGLAS COUNTY.

GENOA, December 1, 1901.

To the Honorable the Attorney-General:

DEAR SIR: Pursuant to law I herewith submit my annual report of the criminal business transacted in this county during the year ending November 1, 1901:

Number and character of prosecutions: 1 charge of murder; 1 charge of drawing and exhibiting deadly weapon; 2 charges of obtaining money under false pretenses; 3 charges of disturbing the peace; 3 charges of assault and battery; 2 charges of selling liquor to Indians; 1 charge of threats to do bodily injury. Total number of prosecutions, 13 (as above set out).

Number of persons convicted, and character of punishment: Selling liquor to Indians, 1, State Prison, 1 year; assault and battery, 3, each paid fine \$100, each fined \$100 and costs; disturbing the peace, 2, convicted, fined \$25 each and costs and fines paid; threats to do bodily injury, 1, held up under bond to keep the peace for six months. Total number of convictions (as above), 7.

Number of persons acquitted, or as to whom prosecutions were abated or dismissed: Selling liquor to Indians, 1 (bill ignored); obtaining money under false pretenses, 2 (dismissed); disturbing the peace, 1 (dismissed); drawing and exhibiting a deadly weapon, 1 (tried and acquitted).

Number of prosecutions pending: None.

Cost of prosecutions, \$2,573 55.

Amount of fines paid, \$53.

Respectfully,

D. W. VIRGIN,

District Attorney of Douglas County.

EUREKA COUNTY.

EUREKA, December 1, 1901.

To the Honorable the Attorney-General:

DEAR SIR: Following is the annual report of prosecutions, etc., for Eureka county during the year ending November 30, 1901:

Number of prosecutions: Felonies, 1; misdemeanors, 7.

Felonies: 1, selling liquor to Indians.

Misdemeanors: Disturbing the peace, 5; selling meat of bovine animal without exhibiting hide, 1; failure to keep record of cattle brands at slaughter house or place of business, 1. Total, 7.

Persons convicted: Felony, 1; disturbing the peace, 4.

Acquitted, 1.

Dismissed, 2.

Estimated costs of prosecution: Total cost, \$230 75; costs paid by defendants, \$17 75; fines collected, \$45.

Average punishment: Felony, 1 year 6 months; misdemeanor, 10 days, fine \$18.

Respectfully submitted,

PETER BREEN,

District Attorney of Eureka County.

ELKO COUNTY.

To the Honorable the Attorney-General:

DEAR SIR: Pursuant to law I herewith submit my annual report of the criminal business transacted in this county during the year ending November 1, 1901:

Prosecutions, character and number of: Jail breaking, 1; robbery, 1; attempt to commit burglary, 1; selling whisky to Indians, 1; embezzlement, 1; obstructing public highway, 1; killing stock running at large, 1. Total, 7.

Number of convictions: Jail breaking (plead guilty), 1; attempt to commit burglary (plead guilty), 1; selling whisky to Indians (plead guilty), 1. Average punishment, 1 year 8 months.

Number of acquittals: Embezzlement, 1.

Pending: Robbery, 1; obstructing public highway, 1; killing stock running at large, 1. Total, 7.

Costs of prosecutions, \$937 60.

Fines collected, \$259 83.

Respectfully,

CHARLES B. HENDERSON.

District Attorney of Elko County.

ESMERALDA COUNTY.

HAWTHORNE, December 31, 1901.

To the Honorable the Attorney-General:

DEAR SIR: Pursuant to law I herewith submit my annual report of the criminal business transacted in this county during the year ending November 1, 1901:

Number and character of prosecutions: Arson in the second degree, 1; assault with deadly weapon with intent to kill, 1. Total, 2.

Number of persons convicted and character of punishment: 1—G. Vallegro, convicted; sentence, two years in the State Prison at Carson City, Nevada.

Number of persons acquitted, or as to whom prosecutions were abated or dismissed: None.

Number of prosecutions pending: Assault with intent to kill, 1.

Cost of prosecutions, \$324 40.

Amount of fines paid: None.

Respectfully,

G. F. GREEN,
District Attorney of Esmeralda County.

HUMBOLDT COUNTY.

WINNEMUCCA, November 15, 1901.

To the Honorable the Attorney-General:

DEAR SIR: Pursuant to law I herewith submit my annual report of the criminal business transacted in this county during the year ending November 1, 1901:

Number of prosecutions: Felonies, 31; misdemeanors, 409.

Felonies: Murder, 1; assault with a deadly weapon, 6; housebreaking, 1; forgery, 2; selling liquor to Indians, 10; burglary, 1; grand larceny, 1.

Felonies: Defendants discharged by Justices of the Peace at the preliminary examination: Grand larceny, 1; robbery, 2; assault with deadly weapon, 2; selling whisky to Indian, 2; housebreaking, 2.

Felonies: Persons convicted, 2; persons plead guilty to the lesser offense of assault after being indicted, 1.

Felonies: Indictments found, 8; indictments pending, 5; charges ignored by grand jury, 14.

Misdemeanors: Convictions, 165; dismissal and abatements, 221; pending, 23.

Average punishment on conviction: Misdemeanors, 20 days; felonies, 1 year 4½ months.

Cost of prosecutions: Misdemeanors, \$5,560 15; felonies, \$2,877 91.

Fines paid into the treasury of the county, or State School Fund, \$314 35.

Respectfully submitted,

BERT L. HOOD,
District Attorney of Humboldt County.

LANDER COUNTY.

AUSTIN, January 6, 1902.

To the Honorable the Attorney-General:

DEAR SIR: Pursuant to law I herewith submit my annual report of the criminal business transacted in this county during the year ending November 1, 1901:

Number and character of prosecutions: Disturbing the peace, 60; selling whisky to Indians, 3; burglary, 1; grand larceny, 2; assault with deadly weapon (intent to kill), 4; attempt to bribe an officer, 1; administering poison, 1. Total, 72.

Number of persons convicted and character of punishment: Disturbing the peace (convicted and fined), 57; failing to procure license (convicted and fined), 1; grand larceny (convicted, 7 years), 1.

Number of persons acquitted, or as to whom prosecutions were abated or dismissed: Disturbing the peace, 3; attempt to bribe officer, 1; selling whisky to Indians, 3; administering poison, 1; assault with a deadly weapon, 2; petit larceny, 1. Total, 11.

Number of prosecutions pending: Burglary, 1; grand larceny, 1; assault with intent to kill, 2. Total 4.

Cost of prosecutions, \$654.

Amount of fines paid, \$169.

Respectfully,

A. J. MAESTRETTI,
District Attorney of Lander County.

LINCOLN COUNTY.

PIOCHE, December 2, 1901.

To the Honorable the Attorney-General:

DEAR SIR: Pursuant to law I herewith submit my annual report of the criminal business transacted in this county during the year ending November 1, 1901:

Number and character of prosecutions: Felonies, 4; misdemeanors, 11; selling meat without exhibiting hide, 1; grand larceny, 1; threatening life, 1; embezzlement, 1; disturbing peace, 5; murder, 1; assault and battery, 4; assault with intent to commit rape, 1.

Number of persons convicted, and character of punishment: There were four convictions for assault and battery. Two were fined \$25 each and two were given fifteen days each in county jail. One offense of threatening, defendant convicted and gave peace bond. There were five convictions for disturbing the peace; three paid fine averaging \$6 each, and two were confined in county jail five days each. One conviction for not exhibiting hide of bovine animal, and fine \$1. One acquittal for grand larceny. One dismissal on charge of embezzlement. One dismissal on charge of murder. One dismissal on charge of assault with intent to kill.

Number of prosecutions pending: None, on November 1, 1901.

Cost of prosecutions, about \$750.

Amount of fines paid, \$90.

Respectfully,

F. R. MCNAMEE,
District Attorney of Lincoln County.

LYON COUNTY.

DAYTON, November 9, 1901.

To the Honorable the Attorney-General:

DEAR SIR: Pursuant to law I herewith submit my annual report of the criminal business transacted in this county during the year ending November 1, 1901:

Number and character of prosecutions: Thomas Williams, embezzlement.

Number of persons convicted, and character of punishment: Thomas Williams, embezzlement, October 21, 1901, sentenced to two years in State Prison.

Number of persons acquitted, or as to whom prosecutions were abated or dismissed: None.

Number of prosecutions pending: None.

Cost of prosecutions, \$429.

Amount of fines paid: None.

Respectfully,

JOHN L. LOTHROP,
District Attorney of Lyon County.

NYE COUNTY.

BELMONT, January 1, 1902.

To the Honorable the Attorney-General:

DEAR SIR: Pursuant to law I herewith submit my annual report of the criminal business transacted in this county during the year ending November 1, 1901:

Number and character of prosecutions: Grand larceny, 3; petit larceny, 2; assault with intent to kill, 2; jail breaking, 1; threats against life, 2; threats against life and property, 1; drawing a deadly weapon, 2; disturbing the peace, 2; disturbing the peace and resisting an officer, 1; attempt to commit arson, 1; selling whisky to Indians, 1; forgery, 2; assault, 2. Total, 22.

Number of persons convicted, and character of punishment: Grand larceny (1 year; plead guilty), 2; assault with intent to kill (15 months), 1; jail breaking (plead guilty, 2 years), 1; threats against life (placed under bonds), 1; drawing a deadly weapon and making threats (fined \$5 and costs and placed under peace bond), 1; disturbing the peace (fine and costs), 3; disturbing the peace and resisting an officer (fined \$5, not paid, served 8 days in jail), 1; assault (fined \$10 and costs, not paid), 1; assault (placed under bonds), 1.

Number of persons acquitted or as to whom prosecutions were abated or dismissed: Petit larceny (dismissed), 2; threats against life (complaint withdrawn), 1; threats against life and property (discharged), 1; drawing deadly weapon (complaint withdrawn), 1; attempt to commit arson (complaint withdrawn), 1; selling whisky to Indians (defendant

discharged), 1; forgery (discharged), 2; grand larceny (discharged), 1.
 Number of cases pending: Assault with intent to kill, 1.
 Total number of cases, 22.
 Cost of prosecutions, \$829 90.
 Amount of fines paid, \$37.

Respectfully,

By F. R. BROTHERTON, Deputy.

T. L. ODDIE,
 District Attorney of Nye County.

ORMSBY COUNTY.

CARSON CITY, December 1, 1901.

To the Honorable the Attorney-General:

DEAR SIR: Pursuant to law I herewith submit my annual report of the criminal business transacted in this county during the year ending November 1, 1901:

Number and character of prosecutions: Misdemeanor, 1.

Number of persons convicted, and character of punishment: 1 (fined \$10).

Number of persons acquitted, or as to whom prosecutions were abated or dismissed: Dismissed, 1.

Number of prosecutions pending: Misdemeanor, 1.

Cost of prosecutions, \$10.

Amount of fines paid, \$10.

Respectfully,

E. E. ROBERTS,
 District Attorney of Ormsby County.

STOREY COUNTY.

VIRGINIA CITY, November 30, 1901.

To the Honorable the Attorney-General:

DEAR SIR: Pursuant to law I herewith submit my official report of the criminal business transacted in this county during the year ending November 1, 1901:

Number and character of prosecutions: Violations of ordinances, 30; drunkenness, 28; using indecent language, 2; assault and battery, 4; murder, 1; embezzlement, 1; assault with a deadly weapon with intent to do bodily injury, 2.

Number of persons convicted and character of punishment: Thirty convictions for violation of ordinances, confinement in county jail and fined. Two convictions for assault and battery, fine and imprisonment. One conviction in District Court for assault, fine \$500.

Number of persons acquitted, or as to whom prosecutions were abated or dismissed: One acquittal for assault with deadly weapon with intent to inflict upon person of another a bodily injury. One murder

ignored by grand jury. One embezzlement and two assault and battery dismissed for lack of evidence to prosecute.

Number of prosecutions pending: None.

Cost of prosecution, \$868 75

Amount of fines paid, \$556.

Respectfully,

GEO. D. PYNE,
District Attorney of Storey County.

WASHOE COUNTY.

RENO, November 25, 1901.

To the Honorable the Attorney-General:

DEAR SIR: Pursuant to law I herewith submit my annual report of the criminal business transacted in this county during the year ending November 1, 1901:

Number and character of prosecutions: Assault with intent and other felony charges, 22; misdemeanors, 158; vagrancy and nuisance, 915.

Number of persons convicted, and character of punishment: Assault with intent, 4 (sentenced to Penitentiary); burglary, 5 (sentenced to Penitentiary); grand larceny, 1 (sentenced to Penitentiary); selling whisky to Indians, 1 (sentenced to Penitentiary); selling whisky to Indians, 1 (paid fine).

Number of persons acquitted, or as to whom prosecutions were abated or dismissed: Felony charge dismissed by magistrate, 1; felony charge dismissed by grand jury, 4; felony charge acquitted by trial jury, 3; felony charge discharged on writ of habeas corpus, 1; felony charge dismissed on motion of District Attorney, 1.

Number of prosecutions pending: On felony charge, 2.

Cost of prosecutions, \$11,406 25.

Amount of fines paid, \$1,516 10.

Respectfully,

W. H. A. PIKE,
District Attorney of Washoe County.

WHITE PINE COUNTY.

To the Honorable the Attorney-General:

In compliance with the Statute in such case made and provided I respectfully submit the following report of the District Attorney's office of White Pine county, for the year commencing November 1, 1900, and ending November 1, 1901:

January 28, 1901—In Justice Court, First Township. State of Nevada v. Orson Munson. Charge, using violent language, and threatening bodily injury. Dismissed on motion of District Attorney.

January 29, 1901—In Justice Court, First Township. State of Nevada v. Charles R. Cook. Charge, grand larceny. Defendant discharged on preliminary examination. Costs to the county, \$23 70.

February 7, 1901—In Justice Court, First Township. State of Nevada v. China Sam. Charge, selling spirituous liquors to an Indian. Convicted and sentenced to and served 60 days in county jail. Costs to the county, \$128 75.

February 22, 1901—In Justice Court, First Township. State of Nevada v. John Brown. Charge, assault and battery. Dismissed on motion of District Attorney. Costs to county, \$8 50.

February 23, 1901—In Justice Court, First Township. State of Nevada v. John Fleming. Charge, disturbing the peace. Convicted. Sentenced to and served thirty days in county jail. Costs to county, \$71 60.

February 23, 1901—In Justice Court, First Township. State of Nevada v. William Markley. Charge, assault with intent to kill. At preliminary examination defendant held to answer to grand jury. In default of bail committed to jail and on May 21st case was ignored by the grand jury and defendant discharged. Costs to county, \$191 50.

May 23, 1901—In the District Court, Fourth Judicial District. State of Nevada v. T. B. Tilford. Charge, assault with intent to kill. An indictment charging above named crime had been found against said defendant on April 30, 1900, and defendant admitted to bail. Case continued for the term. At a meeting of the Court, December 3, 1900, the case was again continued for the term, defendant still under bonds. Case called on May 23, 1901, and dismissed on motion of District Attorney. Cost to county, \$3 50.

May 23, 1901—In the District Court. State of Nevada v. Jesse Coberly. Charge, assault with intent to kill. The history of the case is identical in every particular with the last above mentioned case. Cost to county, \$3 50.

May 28, 1901—In Justice Court, First Township. State of Nevada v. Ah Lee (Chinaman). Charge, selling spirituous liquor to an Indian. At preliminary examination defendant held to appear and answer before grand jury, and failing to give bond, remained in jail till the meeting of grand jury, November 4th, when he was indicted, convicted on a plea of "guilty," and sentenced to one year imprisonment in the State Prison, by the District Court. Cost to county, \$390.

August 13, 1901—In Justice Court, First Township. State of Nevada, Plaintiff, v. Deep Creek Farm and Livestock Company, a Corporation of the State of Utah, Defendant. Suit by direction of the Sheriff and ex officio License Collector to collect a sheep license of \$125 demanded by Sheriff of said defendant, and payment refused. After service of summons and attachment A. V. Taylor, agent for said corporation, pays the license of \$125 in full, also Sheriff's fees of \$2 and \$25 liquidated damages provided for by Statute, and all costs of the action.

August 25, 1901—In Justice Court, First Township. State of Nevada v. A. J. Stephens. Charge, disturbing the peace. Convicted on plea of "guilty." Fined \$2 50 and costs.

October 7, 1901—In Justice Court, First Township. State of Nevada v. John Eckland. Charge, disturbing the peace. Trial by Court, and defendant discharged. Cost to county, \$13 50.

October 7, 1901—In Justice Court, First Township. State of Nevada v. John Sparks. Charge, selling spirituous liquor to an Indian. At preliminary examination defendant was discharged. Cost to county, \$17.

In Justice Court, First Township. State of Nevada v. A. Parsons. Charge, attempted arson, and doing acts toward the commission of arson. Defendant held to answer before the grand jury, and failing to give bond was committed to jail, and the case was a few days afterwards concluded by the natural death of defendant. Cost to county, \$40, besides funeral expenses.

November—In the Justice Court, Fifth Township. State of Nevada v. Edward Mulvihill. Charge, unruly conduct and discharging firearms in a public place. Convicted and fined \$100 and costs, all of which was paid by defendant. This last case was had after the beginning of November, but is reported, as it may be of interest.

Total costs to county, \$891 50.

Total fines paid, \$102 50.

Respectfully,

NEIL MUNRO,

District Attorney of White Pine County,

By A. T. STEARNS, Deputy.

STATE OF NEVADA, }
County of White Pine. } ss.

I, A. T. Stearns, hereby certify that I, as District Attorney, and as deputy in said office, attended personally at the hearing of all the above entitled cases except one, and that the above statement and report is correct, according to the best of my knowledge.

Witness my hand at my office in Ely, Nevada, this 18th day of December, 1901.

A. T. STEARNS.

REPORTS OF DISTRICT ATTORNEYS FOR 1902.

CHURCHILL COUNTY.

STILLWATER, December 1, 1902.

To the Honorable the Attorney-General:

DEAR SIR: Pursuant to law I herewith submit my annual report of the criminal business transacted during the year ending November 1, 1902:

Number and character of prosecutions: 1, for threats against the person of another.

Number of persons convicted, and character of punishment: None.

Number of persons acquitted, or as to whom prosecutions were abated or dismissed: 1, dismissed on motion of District Attorney.

Number of prosecutions pending: None.

Cost of prosecutions: Nothing.

Amount of fines paid: None.

Respectfully,

W. C. GRIMES,
District Attorney of Churchill county.

DOUGLAS COUNTY.

GENOA, December 1, 1902.

To the Honorable the Attorney-General:

DEAR SIR: Pursuant to law I herewith submit my annual report of the criminal business transacted in this county during the year ending November 1, 1902.

Number and character of prosecutions: 1 case assault and battery; 1 case having deer skin in possession, with evidence of sex removed; 1 case of selling whisky to Indians; 1 case of petit larceny; 2 cases of obtaining money under false pretenses; 1 case of disturbing the peace; 1 case of grand larceny. Total number of prosecutions, 8.

Number of persons convicted and character of punishment: 1 person convicted of assault and battery, fined \$60 or imprisonment in county jail for 30 days, and served time out in county jail; 1 convicted of petit larceny, fined \$50 or 25 days in county jail; he served out his term in the county jail. Total number of persons convicted, 2.

Number of persons acquitted, or as to whom prosecutions were abated or dismissed: Whole number of persons acquitted or discharged, 6; 1 acquittal on trial; 2 discharged on examination; 3 cases dismissed.

Number of prosecutions pending: None.

Cost of prosecutions, \$938 70.

Amount of fines paid: None.

Respectfully,

D. W. VIRGIN,
District Attorney of Douglas County.

ELKO COUNTY.

To the Honorable the Attorney-General:

DEAR SIR: Pursuant to law I herewith submit my annual report of the criminal business of Elko county for the year ending November 1, 1902:

Prosecutions, character and number of: Obstructing public highway (continued from 1901), 1; killing stock running at large, 1; robbery (1 continued from 1901), 2; murder, 1; manslaughter, 1; grand larceny, 1; assault with intent to commit rape, 1; attempt to commit rape, 1; assault with a deadly weapon, 2; embezzlement, 2; keeping house of ill-fame (appeal from Justice Court), 1; assault (appeal from Justice Court), 1. Total, 15.

Number of convictions: Murder (plead guilty), 1; manslaughter (plead guilty), 1; robbery (found guilty of assault), 1; assault (appeal from Justice Court), 1.

Average punishment, 7 years 6 months.

Cases in which jury disagreed: Assault with intent to commit rape, 1; grand larceny, 1.

Number of acquittals: Assault with a deadly weapon, 1; killing stock running at large, 1.

Pending: Obstructing public highway, 1; assault with intent to commit rape, 1; attempt to commit rape, 1; assault with a deadly weapon, 1; embezzlement, 2; grand larceny, 1; robbery, 1; keeping house of ill-fame within public school limits, 1. Total, leaving out cases in which the jury disagreed, 15.

Costs of prosecutions, \$3,267 90.

Fines collected, \$941 60.

Respectfully,

CHARLES B. HENDERSON,
District Attorney of Elko County.

EUREKA COUNTY.

EUREKA, December 1, 1902.

To the Honorable the Attorney-General:

DEAR SIR: Pursuant to law, I herewith submit my annual report of the criminal business of Eureka county for the year ending November 1, 1902:

Number and character of prosecutions: Assault with intent to kill, 1; selling whisky to Indian, 1; housebreaking, 1; involuntary manslaughter, 1; extortion by threats, 1; killing stock running at large, 1; assault and battery, 1; disturbing the peace, 8; petit larceny, 1.

Number of persons convicted and character of punishment: Assault with intent to kill, 1 (sentenced to five years in State Prison); assault and battery, 1 (fined \$2 and paid costs); disturbing the peace, 7; petit larceny, 1 (30 days in jail).

Average punishment, 12 days in jail.

Fines and costs, \$89, of which about \$50 was paid.

Number of prosecutions pending, 2.

Number of persons acquitted, or as to whom prosecutions were abated or dismissed: Selling whisky to Indian (grand jury failed to indict),

1; housebreaking (grand jury failed to indict), 1; disturbing peace, 1.
Should think cost to county, including grand jury and trial jury, less fines and costs paid, would be about \$200.

Respectfully,

PETER BREEN,
District Attorney of Eureka County.

HUMBOLDT COUNTY.

WINNEMUCCA, November 17, 1902.

To the Honorable the Attorney-General:

DEAR SIR: Herewith I hand you the report of this office for the year ending November 1, 1902, as required by Section 2313 of Compiled Laws of Nevada:

Number of criminal prosecutions: Felonies, 27. Indictments for murder, 2; acquittal, 1; pending, 1. Indictments for burglary, 5; acquittals, 2; dismissal, 1; convictions, 2. Indictments for robbery, 2; dismissal, 1; pending, 1. Indictments for housebreaking, 4; convictions, 4. Indictment for grand larceny, 1; conviction, 1. Indictments for forgery, 2; acquittal, 1; conviction, 1. Indictments for selling whisky to Indians, 4; acquittals, 3; conviction, 1. Indictment for assault with intent to kill, 1; conviction (assault with deadly weapon), 1. Indictment for arson, 1; dismissal, 1.

Number of persons convicted, 10.

Average punishment upon conviction, 1.6 years.

Number acquitted, 7.

Number prosecutions dismissed after indictments found, 3.

Number bound over to grand jury by committing magistrate and no indictment found, 5.

Number indictments pending November 1, 1901, 4.

Number of indictments found during the year, 18.

Number of indictments pending October 31, 1902, 2.

Cost of prosecution of felony cases, including costs in District Court and Justice's Courts, \$4,776 54.

Number criminal prosecutions, misdemeanors, 345.

Number convictions, 166.

Number committed to county jail, 141.

Of those committed to county jail, classified: Vagrancy, 33; disturbing peace, 27; misdemeanor, 6; drunk and disorderly, 55; assault and battery, 4; petit larceny, 12; malicious mischief, 1; discharging fire-arms in public streets, 1; assault, 1; smoking opium, 1.

Average sentence, $22\frac{9}{8}$ days.

Number of fines paid, 25.

Amount of fines paid, \$523 50.

Average fine paid, \$20 94.

Cost of criminal prosecution in misdemeanor cases, including Justice of the Peace fees and Constable fees, \$5,249.

I have not the data here in the Court House which will enable me to

give you the character of the misdemeanor cases, except in those cases wherein the prisoners were committed to the county jail.

Very respectfully yours,

BERT L. HOOD,
District Attorney of Humboldt County.

P. S.—As I expect to be away the latter part of November, I have made out the report at the present time instead of on the first of December as required by Statute.

B. L. H.

LINCOLN COUNTY.

PIOCHE, December 30, 1902.

To the Honorable the Attorney-General:

DEAR SIR: Pursuant to law I herewith submit my annual report of the criminal business transacted in this county during the year ending November 1, 1902:

Number and character of prosecutions: Assault with intent to kill, 15; robbery, 15; escaping from officer, 1; selling liquor to Indians, 3; grand larceny, 1; disturbing the peace, 5; assault and battery, 10.

Number of persons convicted and character of punishment: Assault with intent to kill, 8 were convicted of assault and battery and sentenced to six months in the county jail. One conviction escaping from officer, 2 years in penitentiary. Selling liquor to Indians: Convictions, 2; one fine, \$100, and the other 1 year in State Prison. Disturbing peace, 5 convictions; 2 fined \$5 each; 3 sent to county jail averaging 10 days each. Assault and battery, 10 convictions; punishment, one fined \$50, one \$10, one \$5, others terms in county jail averaging 18 days each.

Number of persons acquitted, or as to whom prosecutions were abated or dismissed: Assault with intent to kill, acquitted, 7; selling liquor to Indian, acquitted, 1; grand larceny, dismissed, 1.

Number of prosecutions pending: Robbery, 15.

Cost of prosecutions, about \$4,800.

Amount of fines paid, \$175.

Respectfully,

F. R. McNAMEE,
District Attorney of Lincoln County.

ORMSBY COUNTY.

CARSON CITY, December 2, 1902.

To the Honorable the Attorney-General:

DEAR SIR: Pursuant to law I herewith submit my annual report of the criminal business transacted in this county during the year ending November 1, 1902:

Number and character of prosecutions: Assault and battery, 3; malicious mischief, 2; violating game laws, 3. Total, 8.

Number of persons convicted, and character of punishment: 2 con-

victed of assault and battery, \$50 each; 3 convicted of violating game laws, \$25 each; 2 convicted of malicious mischief, \$25 each.

Number of persons acquitted, or as to whom prosecutions were abated or dismissed: One case of assault and battery. Jury disagreed and case dismissed.

Number of prosecutions pending: None.

Cost of prosecutions, \$30.

Amount of fines paid, \$80.

Respectfully,

E. E. ROBERTS,

District Attorney of Ormsby county.

STOREY COUNTY.

VIRGINIA CITY, December 1, 1902.

To the Honorable the Attorney-General:

DEAR SIR: Pursuant to law I herewith submit my annual report of the criminal business transacted in this county during the year ending November 1, 1902:

Number and character of prosecutions: Assault and battery, 6; criminal libel, 1; threat to kill, 4; housebreaking, 1; petit larceny, 3; vagrancy, 2; violation of ordinances, drunk, 21; discharging firearms in city limits, 2; using vulgar language, 4; disorderly conduct, 4; drunk and disorderly, 3.

Number of persons convicted and character of punishment: Convicted of assault and battery, 5, paid fines, \$120; criminal libel dismissed by grand jury; threats to kill, 4, bound over to keep the peace; housebreaking, 1, plead guilty and sentenced to two years in State Prison; petit larceny, 2; vagrancy, 2; ordinances, drunkenness, 20, paid fines, \$14; discharging firearms, 2, paid fines, \$15; disorderly conduct, 4; drunk and disorderly, 3, paid fines, \$10. All not paying fines were returned to county jail in Storey county.

Number of persons acquitted, or as to whom prosecutions were abated or dismissed: Criminal libel, dismissed by grand jury. One petit larceny dismissed, and one drunkenness dismissed.

Number of prosecutions pending: None.

Cost of prosecutions, \$94.

Amount of fines paid, \$159.

STATE OF NEVADA, *Plaintiff*, v. ROBERT MCKENZIE, *Defendant*.

In the above case Robert McKenzie was jointly indicted with William Collins by the grand jury in February, 1900, for the crime of house-breaking. They had broken into the powder house of John McGrath of Gold Hill, Nevada, and taken a number of boxes of powder, and sold and disposed of the same. McKenzie was not captured until the time of his commitment to State Prison, when he was arrested upon the bench warrant issued upon the indictment found by the grand jury. He pleaded guilty to the charge and was sentenced by Judge Mack to the Penitentiary. No evidence was taken before the Court, and he

never had any preliminary examination, and as the indictment was found by the grand jury before I entered into office, I do not know what evidence was presented to them.

Very respectfully,

GEO. D. PYNE,

District Attorney of Storey County.

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E. E. HONORS
District Attorney of Storey County

STOREY COUNTY

Thomas E. E. Honors, December 1, 1902

To the Honorable the Attorney-General
Washington, D. C.
I have the honor to acknowledge the receipt of your letter of the 27th inst. in relation to the criminal business transacted in this county during the year ending December 1, 1902.
I have the honor to inform you that the criminal business transacted in this county during the year ending December 1, 1902, was as follows:
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Very respectfully,
E. E. HONORS
District Attorney of Storey County

