

STATE OF NEVADA

BIENNIAL REPORT

OF THE

ATTORNEY-GENERAL

1905-1906

JAMES G. SWEENEY, Attorney-General



CARSON CITY, NEVADA

STATE PRINTING OFFICE, : : : J. G. MCCARTHY, SUPERINTENDENT

1907

STATE OF CALIFORNIA

BIENNIAL REPORT

OF THE

ATTORNEY GENERAL



EDWARD J. DUNN, Attorney General



LETTER OF TRANSMITTAL.

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, January 15, 1907.

To His Excellency, JOHN SPARKS, Governor of the State of Nevada.

SIR: I herewith submit to you my report as Attorney-General of the State of Nevada, for the years 1905-1906, giving a synopsis of State cases decided by the Supreme Court, cases pending wherein the State is a party, opinions rendered by me, and a synopsis of the reports of the District Attorneys of the various counties.

Very respectfully,

JAMES G. SWEENEY,
Attorney-General.

ATTORNEY-GENERALS OF NEVADA.

G. A. NOURSE.....	1865-1866
R. M. CLARKE.....	1867-1870
L. A. BUCKNER.....	1871-1874
JOHN R. KITTRELL.....	1875-1878
M. A. MURPHY.....	1879-1882
W. H. DAVENPORT.....	1883-1886
J. F. ALEXANDER.....	1887-1890
J. D. TORREYSON.....	1891-1894
R. M. BEATTY *.....	1895-1896
J. R. JUDGE †.....	1896-1898
W. D. JONES †.....	1899-1901
WILLIAM WOODBURN.....	1901-1902
J. G. SWEENEY.....	1903-1906
RICHARD C. STODDARD.....	1907-1910

* Died December 10, 1896.

† J. R. Judge appointed to fill unexpired term, December 24, 1896.

‡ Resigned January 15, 1901, and William Woodburn appointed upon the same day to fill the unexpired term.

MEMBERS OF THE NEVADA BAR.

Following are the names of all attorneys admitted to practice in the Supreme Court of the State of Nevada, with the dates of their admission:

Aude, F. L.....	Dec. 23, 1862	Arnold, Henry N.....	Mar. 6, 1905
Anderson, N. D.....	May 6, 1871	Atkinson, Harry Hunt.....	Sept. 19, 1906
Allen, Lemuel.....	Jan. 16, 1873		
Ammond, George R.....	Apr. 2, 1877	Baldwin, Joseph G.....	June 2, 1862
Ashley, Delos R.....	Apr. 29, 1864	Baldwin, A. W.....	June 2, 1862
Alexander, John F.....	Apr. 4, 1881	Beverage, Francis.....	Dec. 17, 1862
Armstrong, Charles B.....	July 9, 1881	Bixler, David.....	Jan. 20, 1864
Allen, David.....	Sept. 8, 1881	Brounson, W. P.....	Jan. 21, 1864
Allen, W. W.....	July 5, 1887	Bailey, Dav. E.....	July 12, 1865
Ayer, John L.....	Jan. 6, 1891	Bulkley, L. E.....	Feb. 18, 1867
Allen, Richard N.....	Jan. 29, 1869	Bowman, John.....	Apr. 13, 1867
Arnot, Nathaniel D.....	Jan. 22, 1899	Browne, Thomas N.....	Apr. 15, 1867
Averill, Mark P.....	Oct. 14, 1899	Bishop, Wm. W.....	Oct. 14, 1867
Ayres, Albert D.....	Apr. 2, 1900	Brearley, E. C.....	Sept. 18, 1868

ROLL OF ATTORNEYS.

Bonnifield, M. S.	Feb. 8, 1869	Cook, H.	Feb. 4, 1867
Briggs, N. C.	Apr. 8, 1869	Cain, Wm.	Jan. 6, 1862
Buckner, Luther A.	Jan. 9, 1871	Coats, J. M.	July 1, 1872
Boardman, Wm. M.	May 18, 1871	Cowdery, J. F.	Jan. 14, 1873
Boring, Wm.	June 3, 1871	Canfield, R. B.	Mar. 5, 1873
Bonnifield, W. S.	June 17, 1871	Carson, James G.	July 7, 1873
Belknap, C. H.	July 8, 1871	Creswell, H. T.	July 7, 1874
Beene, Horace D.	Mar. 22, 1872	Coffin, Trenmor	Oct. 7, 1874
Bigelow, R. R.	Sept. 4, 1872	Curier, Benj.	Dec. 1, 1874
Bennett, Paul W.	Sept. 13, 1872	Cowie, Lewis T.	Mar. 1, 1875
Blair, A. W.	Jan. 14, 1873	Chase, Edward R.	July 6, 1875
Baker, George W.	Nov. 11, 1872	Churchman, Ney	Aug. 11, 1875
Boalt, John H.	Feb. 17, 1873	Cronin, John	Apr. 4, 1876
Berry, George G.	Apr. 16, 1873	Crocker, A. W.	Nov. 25, 1872
Barker, J. B.	Apr. 5, 1875	Campbell, Thompson	Jan. 3, 1877
Beatty, R. M.	July 19, 1871	Clement, Henry A.	Apr. 22, 1878
Branson, Louis	Sept. 1, 1875	Clough, Frank M.	Nov. 19, 1878
Brown, Harvey S.	Sept. 4, 1876	Campbell, Alex.	Jan. 7, 1879
Brown, John Knox	Jan. 3, 1877	Cradlebaugh, John H.	Jan. 10, 1880
Brandt, I. B. L.	Feb. 6, 1877	Campbell, Fremont	Apr. 19, 1880
Boyden, James W.	Jan. 11, 1879	Cheney, Azro E.	July 6, 1880
Bowler, P. M., Jr.	Apr. 19, 1880	Curier, Benjamin F.	July 11, 1891
Bartine, Horace F.	July 10, 1880	Clarke, R. M.	Oct. 27, 1891
Belknap, Clayton	Jan. 4, 1881	Chartz, Alfred	Oct. 6, 1894
Barry, Charles R.	Jan. 17, 1881	Carpenter, R. B.	Sept. 16, 1897
Boller, J. F.	May 8, 1882	Copeland, Edward E.	July 5, 1898
Ballard, John W.	July 8, 1882	Cooke, Herman R.	May 13, 1899
Beatty, Wm. H.	Apr. 7, 1884	Cahill, E. J.	Oct. 14, 1899
Breen, Peter	June 2, 1884	Coogan, T. C.	Apr. 4, 1901
Burns, Wm. H.	Dec. 13, 1884	Cottrell, G. W. Shutter	Aug. 26, 1901
Brown, LeRoy D.	Apr. 6, 1889	Cutting, Henry C.	Jan. 21, 1902
Belcher, W. C.	Sept. 2, 1889	Cohn, Felice	June 17, 1902
Bonnifield, S. J., Jr.	Sept. 20, 1879	Craig, William B.	Mar. 19, 1903
Bennett, L. B.	Mar. 16, 1883	Chandler, Albert E.	July 25, 1904
Bicknell, Chas. F.	Apr. 1, 1891	Cantwell, Charles A.	Nov. 22, 1904
Benson, Patrick F.	Apr. 4, 1893	Clark, Fabius A.	Nov. 28, 1904
Bartlett, Geo. A.	July 15, 1893	Chandler, Charles S.	Feb. 13, 1905
Baggett, W. T.	Apr. 10, 1897	Campbell, Joseph C.	Mar. 25, 1905
Brown, Geo. S.	June 12, 1897	Clark, George A.	Apr. 17, 1905
Boyd, James T.	Apr. 25, 1900	Cole, J. C.	Oct. 2, 1905
Brockliss, Frank E.	Mar. 7, 1902	Chute, Elmer J.	Oct. 2, 1905
Boynton, Chas. C.	Apr. 21, 1902	Carney, Patrick F.	Mar. 5, 1906
Baker, Harry Lyle	Nov. 15, 1902	Clay, C. F.	Dec. 3, 1906
Butler, John Lawton	Nov. 20, 1902		
Brown, Hugh H.	Aug. 8, 1903	DeLong, Chas. E.	Aug. 20, 1863
Boyd, C. T.	Sept. 5, 1903	Denson, Sam C.	Apr. 25, 1864
Beals, M. S.	Nov. 22, 1904	Deal, W. E. F.	Mar. 14, 1865
Brand, Arthur	Jan. 18, 1905	Davies, T. W. W.	Jan. 6, 1868
Byers, N. O.	Jan. 14, 1905	Darrow, John O.	June 1, 1871
Budd, James H.	Mar. 25, 1905	Drake, Frank V.	Mar. 7, 1873
Burton, F. L.	May 1, 1905	Dickson, W. H.	July 8, 1874
Bevis, E. R.	May 1, 1905	Dow, James C.	Mar. 3, 1875
Barrett, John J.	Aug. 30, 1905	Douglas, George A.	June 4, 1875
Berry, Fred L.	Sept. 25, 1905	Darne, S. E.	July 5, 1875
Belden, George M.	Oct. 14, 1905	Duff, James R.	Jan. 3, 1877
Burd, Albert M.	Dec. 18, 1905	Davis, B. K.	Jan. 16, 1877
Baldwin, O. W.	Feb. 26, 1906	Driesbach, M. A.	July 30, 1877
Boreman, Gilbert F.	April 2, 1906	Dorsey, J. W.	July 30, 1877
Byington, Lewis F.	May 6, 1906	Davis, W. R.	Jan. 4, 1886
Busteed, Richard	May 22, 1906	Dennis, James F.	Apr. 2, 1888
Brandon, Thomas A.	Sept. 1, 1906	DeLigne, A. A.	May 23, 1892
Baker, Cleveland Hall	Dec. 3, 1906	Densmore, Frank E.	Feb. 12, 1894
		Dodge, Edmund R.	July 28, 1894
Clayton, H. P.	June 2, 1862	Dillon, Henry Clay	May 17, 1895
Cossit, H. B.	Dec. 23, 1862	Devlin, Robert T.	Nov. 2, 1897
Crittenden, A. P.	Nov. 21, 1863	DuPuis, Edmund T.	Nov. 16, 1898
Campbell, Will	Aug. 20, 1863	DeLaMatyr, T. E.	July 29, 1899
Carmichael, John	Dec. 23, 1862	Ducker, Edward A.	Jan. 20, 1902
Churchill, Clark	Jan. 5, 1865	Dann, F. P.	Apr. 4, 1904
Clemens, Orion	Mar. 14, 1865	Detch, Milton M.	Oct. 15, 1904
Caldwell, E. S.	Oct. 3, 1865	Douglas, J. F.	Feb. 13, 1905
Clagett, W. H.	Jan. 2, 1866	Downing, W. M.	July 20, 1905
Clarke, Chas. D.	Jan. 6, 1866	Downer, Sylvester S.	Aug. 9, 1905
Crittenden, James L.	Apr. 7, 1866	Devcmore, George W.	Sept. 25, 1905
Collins, John A.	Dec. 13, 1866	Davis, Lee J.	Oct. 4, 1905
Cole, F. W.	Jan. 14, 1867	Darlington, Abe	Mar. 28, 1906

ROLL OF ATTORNEYS.

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Del Bondio, Charles	June 4, 1906	Glidden, W. B.	Oct. 21, 1902
Daly, James H.	June 7, 1906	Griffon, John D.	Jan. 4, 1904
Denny, James M.	Oct. 8, 1906	Grimes, William	May 23, 1904
Dixon, Jonathan B.	Nov. 12, 1906	Gedney, Frank S.	July 11, 1904
Deane, J. W.	Dec. 3, 1906	Gear, George D.	Apr. 3, 1905
		Geary, Wm. P.	Apr. 24, 1905
Ellis, Adrian C.	Aug. 17, 1863	Gillespie, Claude B.	Jan. 29, 1906
Edgerton, Henry	Aug. 17, 1863	Guinane, James G.	Mar. 5, 1906
Edwards, T. D.	Jan. 20, 1864	Gibbens, Louis Albert	Apr. 2, 1906
Earl, Warner	Jan. 11, 1871	Gibson, William R.	Dec. 3, 1906
Evans, Pierce	Nov. 8, 1877		
Egan, James B.	July 28, 1894	Haydon, Thomas E.	June 2, 1862
Elliott, L. L.	Dec. 23, 1894	Hall, G. D.	June 2, 1862
Eisner, Milton S.	May 6, 1899	Hurlburt, S.	June 10, 1862
Elliott, Albert D.	Nov. 12, 1904	Hereford, A. P.	Dec. 17, 1862
Edmonds, Emmitt E.	Jan. 21, 1905	Hardy, J. H.	Dec. 23, 1862
Erdman, Otto A.	Feb. 26, 1906	Higgins, Albin	Dec. 23, 1862
Eddy, Clarence A.	June 28, 1906	Howard, J. G.	Aug. 21, 1863
		Hilyer, C. J.	Jan. 20, 1864
Foster, J. C.	June 2, 1862	Hill, C. A.	Jan. 21, 1864
Fitch, Thomas	Aug. 20, 1863	Hereford, J. B.	Jan. 21, 1864
Ferguson, P. D.	Aug. 22, 1864	Hupp, Geo. S.	Mar. 22, 1865
Flack, J. H.	Oct. 11, 1865	Harris, Chas. N.	July 10, 1865
Fuller, Mortimer	Mar. 12, 1875	Hoover, Wm. L.	Aug. 31, 1865
Fisk, Arthur W.	Oct. 25, 1875	Hatch, J. F.	Nov. 3, 1865
Foote, R. E.	Sept. 4, 1876	Hayden, C. S.	Jan. 6, 1866
French, W. L.	Apr. 24, 1877	Hawley, A. T.	Jan. 26, 1866
Fitzgerald, A. L.	Sept. 14, 1878	Hubbard, Charles G.	Mar. 3, 1866
Ford, Thomas S.	Nov. 16, 1878	Hundley, P. O.	Oct. 12, 1866
Flanningham, Jos. P.	May 19, 1882	Hetzel, Selden	May 1, 1866
Foulds, J. E.	Apr. 6, 1885	Hilyer, E. W.	Sept. 16, 1867
Farrington, E. S.	Dec. 16, 1886	Hamlin, Chas. J.	Oct. 5, 1869
Fay, J. P.	July 2, 1888	Hawley, Thomas P.	Jan. 9, 1871
Farrall, Chas. H.	Dec. 16, 1895	Haydon, Wm.	Apr. 4, 1871
Foulks, George H.	Aug. 17, 1896	Harding, Geo. P.	Apr. 4, 1871
Fitzgerald, R. Y.	Apr. 24, 1899	Harris, J. H.	May 8, 1871
Fredrick, Marcus	July 29, 1899	Hillhouse, A. M.	June 21, 1871
Forbes, P. W.	May, 19, 1900	Harris, P. H.	Aug. 21, 1871
Ford, Marshall E.	Mar. 10, 1902	Healy, T. W.	Dec. 13, 1871
Frisbie, R. D.	Aug. 10, 1903	Hardy, Wm. J.	May 20, 1872
Fox, Geo. W.	Nov. 27, 1903	Hunt, A. B.	Jan. 15, 1873
Foreman, William	June 27, 1905	Harmon, F. H.	Jan. 17, 1873
Ford, W. F.	Sept. 7, 1905	Humes, T. J.	Oct. 6, 1873
French, Le Roy	Sept. 25, 1905	Haskell, Wm. B.	Aug. 11, 1874
Finch, James D.	Oct. 2, 1905	Hanford, J. M.	Aug. 11, 1875
Farnam, Henry M.	Oct. 1, 1906	Hoyt, Chas. A.	Sept. 4, 1875
		Hiles, Ogden	Apr. 3, 1876
Gilcrest, S. F.	June 2, 1862	Huffaker, F. M.	Oct. 24, 1877
Gordon, G. W.	Dec. 23, 1862	Hoyt, Allen V.	Oct. 27, 1877
Gurnie, Clinton	Aug. 20, 1863	Hereford, John B.	Nov. 10, 1877
Gaston, H. A.	Apr. 30, 1864	Hannah, James A.	Feb. 20, 1882
Greeley, A. L.	Jan. 5, 1865	Hardin, C. H. E.	Jan. 13, 1883
Goff, Chas. P.	Apr. 4, 1866	Hart, W. H. H.	Feb. 19, 1885
Gough, W. T.	Mar. 18, 1867	Hatfield, L. T.	July 7, 1890
Gates, Wm. M.	Aug. 2, 1867	Harris, Artemus E.	Feb. 3, 1895
Greeley, J. L.	June 15, 1871	Hoffman, Edward E.	Sept. 7, 1895
Grass, S. S.	June 1, 1872	Henderson, Chas. B.	July 1, 1896
Granger, W. N.	Aug. 12, 1872	Hood, Bert L.	May 12, 1900
Goodwin, C. C.	Feb. 24, 1873	Hummel, N. A.	Mar. 12, 1901
Graham, J. H., Jr.	Mar. 1, 1875	Henley, Wm. J.	July 3, 1902
Galloway, James	Sept. 18, 1876	Howell, Eugene	Dec. 31, 1902
Gray, John A.	Apr. 22, 1878	Heley, Josephus G.	Jan. 16, 1903
Griffith, J. I.	Apr. 8, 1879	Hartson, D. H.	June 3, 1904
Goldstone, Samuel	Jan. 5, 1880	Huskey, H. W.	June 6, 1904
Garber, Eugene R.	Jan. 5, 1880	Hankey, Frederick A.	Nov. 12, 1904
Goodall, James E.	Feb. 4, 1884	Horsley, Charles Lee	Feb. 13, 1905
Grey, O. H.	June 2, 1884	Hill, James E.	May 17, 1905
Gest, C. H.	Apr. 6, 1889	Hayes, Chas. L.	June 27, 1905
Goad, W. F.	July 1, 1889	Hinckley, L. E. C.	Oct. 16, 1905
Gooding, J. M.	Oct. 6, 1890	Hatton, Wm. D.	Nov. 27, 1905
Goodwin, J. D.	Jan. 2, 1894	Hatton, Charles	Feb. 26, 1906
Green, George S.	Jan. 4, 1897	Hart, Fred B.	June 9, 1906
Gayhart, W. C.	Nov. 2, 1897	Hanby, J. Walter	Sept. 19, 1906
Grey, Gertrude G.	Apr. 4, 1898		
Gregory, T. T. C.	Sept. 27, 1901	Ivins, Charles H.	Jan. 2, 1888
Goodfellow, Wm. S.	May 22, 1902		

ROLL OF ATTORNEYS.

Johnson, J. Neely	June 2, 1862	Musser, John J.	June 2, 1862
Joachimson, H. L.	June 3, 1862	Moyes, Richard	June 3, 1862
James, John	June 10, 1862	McCentaire, R. G.	Dec. 23, 1862
Janin, Edward	Dec. 23, 1862	Murphy, W. G.	Aug. 20, 1863
Johnson, Wm. Neely	Aug. 17, 1863	McReardon, James	Aug. 21, 1863
James, W. H.	Nov. 6, 1863	Morrison, Murray	Nov. 28, 1863
Jones, Frank	Jan. 20, 1864	Morrison, Robert F.	Nov. 28, 1863
Jones, W. T.	Apr. 1, 1867	Mitchell, Henry K.	Mar. 14, 1865
Julien, Thomas V.	May 7, 1872	McKinstry, E. W.	July 10, 1865
Johnson, Roger	Jan. 17, 1878	McQuaid, Jno. A.	July 25, 1865
Jameson, J. S.	July 1, 1878	Mayenbaum, Henry	Apr. 2, 1866
Judge, James R.	Apr. 5, 1881	Mesick, R. S.	Feb. 2, 1867
Jones, Charles A.	Oct. 4, 1886	Meagher, James D.	May 27, 1867
Jones, Wm. Dudley	May 9, 1892	McKeeby, L. C.	July 24, 1868
Johnson, Georgia J.	July 30, 1898	Marshall, J. B.	Dec. 16, 1868
Johns, Robinson L.	Apr. 5, 1902	McElvaney, John G.	Oct. 13, 1869
Jackson, Kenneth M.	May 2, 1902	McClinton, J. G.	May 23, 1871
Johnson, E. A. P.	Apr. 3, 1905	McDonald, O. C.	Nov. 23, 1871
Jaques, Alfred	Oct. 14, 1905	Murphy, Michael A.	Feb. 29, 1872
Johnson, William E.	Nov. 2, 1906	Maxwell, J. J.	May 18, 1872
		May, J. J.	Mar. 24, 1873
Kirkpatrick, M.	Jan. 21, 1864	McFarland, T. B.	Oct. 13, 1873
Kennedy, F. H.	May 5, 1865	McAllister, Hall	July 17, 1874
Knox, Wales L.	July 11, 1865	Mesick, W. S.	Apr. 20, 1876
Keating, R. P.	Aug. 21, 1865	Morgan, Jas. M.	Oct. 29, 1875
Keyser Phil. W.	Oct. 21, 1865	Mitchell, R. B.	Apr. 3, 1877
Kennedy, W. C.	Jan. 4, 1869	Merzbach, F. H.	Jan. 24, 1878
Kittrell, John R.	May 4, 1871	Mann, S. A.	Apr. 6, 1878
Keith, George W.	July 3, 1872	Maddux, L. J.	Apr. 17, 1879
Knight, George A.	Jan. 6, 1873	Mills, Frank P.	Oct. 6, 1879
King, Cameron H.	Feb. 3, 1873	Mahoney, J. L.	Jan. 3, 1881
Kingston, George A.	July 2, 1877	Mack, Charles E.	Apr. 4, 1881
Keeney, George D.	Apr. 23, 1878	Murphy, Frank X.	Feb. 4, 1884
Knight, E. D.	July 2, 1888	Millar, G. E.	Oct. 2, 1882
King, Sam D.	Apr. 7, 1890	Miner, Richard S.	May 6, 1889
King, Percival S.	May 9, 1892	MacMillan, J. H.	Sept. 20, 1879
Kehoe, Dennis H.	Apr. 7, 1894	McGowan, Alex. J.	Oct. 0, 1890
Kelly, Charles H.	Dec. 2, 1897	Meredith, J. H.	Dec. 1, 1890
Knox, Charles L.	July 29, 1899	Mighels, P. V.	Jan. 10, 1891
King, Frank D.	Mar. 12, 1901	Metson, William H.	Oct. 5, 1891
Kleinsorge, Wm. E.	Feb. 4, 1902	Murdock, Orrice A.	May 2, 1892
Kennedy, John J.	Aug. 4, 1902	Murphy, Frank E.	June 18, 1892
		Massey, W. A.	Mar. 13, 1893
Lindsey, W. H.	June 2, 1862	McNamee, Frank R.	Apr. 15, 1895
Larrowe, M. D.	June 3, 1862	Maestretti, Antonio J.	Jan. 28, 1899
Lansing, C. J.	Aug. 17, 1863	MacMillan, H. R.	June 24, 1899
Lewis, J. F.	Apr. 25, 1864	Mack, O. H.	Oct. 14, 1899
Lee, W. G.	Jan. 5, 1865	McIntosh, Charles H.	Mar. 12, 1901
Lyon, George G.	Aug. 23, 1869	Moynahan, John D.	Oct. 7, 1901
Lucas, J. H.	May 4, 1871	McNamara, T. M.	July 6, 1903
Leonard, O. R.	May 19, 1871	Murphy, John H.	Aug. 8, 1903
Lowry, Hiram N.	Oct. 8, 1872	Martinson, George	July 6, 1904
Laspeyre, Thomas	Apr. 14, 1874	McCabe, Bert R.	Sept. 12, 1904
Lowery, Robert E.	Nov. 21, 1874	McElroy, G. A.	Dec. 10, 1904
Love, William C.	Aug. 11, 1875	McCarran, P. A.	Feb. 13, 1905
Lindsay, R. H.	Jan. 25, 1875	McMullens, Samuel G.	Mar. 25, 1905
Lewis, D. J.	Sept. 1, 1875	Marshall, John B.	Apr. 17, 1905
Lawrence, And. J.	July 1, 1878	McDougall, D. C.	June 20, 1905
Lamb, J. T.	July 8, 1882	McDevitt, T. C.	July 31, 1905
Langan, F. P.	Jan. 13, 1887	Moore, Milton B.	Dec. 18, 1905
Laird, Jno. W. P.	Oct. 20, 1890	McFadden, Clarence J.	Feb. 26, 1906
Lothrop, John	July 1, 1891	McClellan, Clifford	Mar. 5, 1906
Laurenson, Wm.	Feb. 25, 1896	Moran, E. P.	Apr. 30, 1906
Langwith, Joseph A.	Oct. 5, 1896	Malone, William H.	June 9, 1906
Lake, F. B.	Oct. 3, 1898	McCarthy, Loyal C.	July 2, 1906
Lewers, Charles Ross	Nov. 12, 1898	McClellan, Tom Elwood	July 30, 1906
Leishman, David	Feb. 11, 1901	McDowell, Samuel	Aug. 15, 1906
Leonard, Franklyn, Jr.	July 5, 1902	Morehouse, H. V.	Sept. 1, 1906
Long, Charles W.	Jan. 2, 1905	Mitchell, Thomas L.	Oct. 1, 1906
Lindley, Curtis H.	Mar. 14, 1905		
Lind, Henry B.	Mar. 14, 1905	North, John W.	June 2, 1862
Lyon, Thomas T.	Oct. 16, 1905	Nourse, George A.	Apr. 25, 1864
Lewis, Paul G.	Oct. 29, 1906	Naphthaly, Joseph	July 10, 1867
Lightfoot, Adelbert B.	Dec. 18, 1906	Newmann, Paul	July 13, 1868
		Nye, James W.	Oct. 5, 1869
McConnell, John R.	June 2, 1862	Noel, George N.	Apr. 7, 1894

ROLL OF ATTORNEYS.

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Norcross, Frank H.	July 28, 1894	Rogers, Lew	Sept. 12, 1904
Nagel, E. C.	July 30, 1898	Rogers, E. A.	July 26, 1905
Nye, Arthur M.	Feb. 13, 1905	Ross, Margaret A.	Mar. 19, 1906
Needles, A. R.	Apr. 17, 1905	Richardson, M. M.	Mar. 19, 1906
Nolan, Daniel Voorhies	Nov. 4, 1905	Redington, James K.	Mar. 19, 1906
Nourse, John F.	Feb. 26, 1906	Ratcliffe, Cummins	Nov. 12, 1906
Nagle, Clarence Grant	Nov. 13, 1906	Rogers, Elmer	Dec. 6, 1906
O'Dougherty, A. B.	May 12, 1871	Stewart, Wm. M.	June 2, 1862
Owen, Frank	May 27, 1871	Seely, Jonas	June 2, 1862
O'Dougherty, Wm. I.	Aug. 11, 1875	Smith, Horace	June 2, 1862
Osborne, T. J.	Sept. 8, 1884	Stewart, Well.	June 3, 1862
Oliver, Frank S.	May 28, 1896	Steele, H. M.	Dec. 23, 1862
Oddie, Tasker L.	Nov. 11, 1898	Stearns, L. O.	Dec. 23, 1862
Orr, John S.	Jan. 7, 1902	Sankey, Samuel	Dec. 23, 1862
O'Brien, Percy Howard	June 27, 1905	Sunderland, Thomas	Dec. 23, 1862
O'Brien, Edmond C.	Jan. 17, 1906	Sawyer, George S.	Aug. 20, 1863
O'Brien, John P.	Mar. 19, 1906	Shuck, O. T.	Apr. 25, 1864
Ogden, Wm. B.	May 2, 1906	Stephens, W. J.	Jan. 5, 1865
		Sumner, Charles A.	Nov. 1, 1865
Patterson, Wm.	June 2, 1862	Seawell, William M.	Oct. 26, 1866
Pitzer, J. S.	Dec. 23, 1862	Stephens, James A.	May 29, 1867
Pendegast, -	Jan. 20, 1864	Stone, M. N.	Aug. 23, 1869
Pratt, O. C.	Jan. 20, 1864	Smith, F. M.	Oct. 11, 1869
Powell, John, Jr.	Apr. 29, 1871	Sanderson, S. W.	Oct. 11, 1869
Pierson, Wm. M.	June 15, 1871	Stonehill, E. B.	May 22, 1871
Plummer, J. A.	July 10, 1886	Sine, E. P.	May 27, 1871
Poujade, Joseph	Nov. 19, 1888	Sears, William H.	Feb. 5, 1872
Patterson, Webster	Dec. 1, 1890	Scrivner, J. J.	June 8, 1872
Platt, Horace G.	Jan. 13, 1894	Savage, J. A.	Mar. 5, 1873
Pyne, Geo. D.	Apr. 7, 1894	Simmons, Hugh F.	Apr. 7, 1873
Porter, Samuel T.	Mar. 18, 1895	Stephens, T. A.	July 6, 1874
Platt, Samuel	May 28, 1896	Sabin, George M.	Mar. 7, 1874
Packard, Peter N.	May 16, 1898	Shafer, J. K.	Jan. 3, 1876
Pike, W. H. A.	July 29, 1899	Söderberg, N.	Jan. 24, 1873
Parker, Wm. O.	Dec. 21, 1899	Stocker, Abner H.	Sept. 3, 1879
Pierce, Frank	Jan. 28, 1901	Sutherland, W. J.	July 5, 1880
Petree, Louis Edward	Jan. 6, 1902	Stone, Frank M.	Jan. 24, 1881
Pittman, Key	Apr. 7, 1902	Steffan, Albert	July 9, 1881
Pilkington, Harold	Apr. 30, 1902	Sanders, Benjamin	May 8, 1882
Parker, Joseph S.	Sept. 1, 1902	Stearns, A. T.	June 2, 1884
Price, Robert Martin	Mar. 5, 1904	Siebert, H. G.	Dec. 16, 1886
Pittman, William B.	Jan. 2, 1905	Summerfield, Sardis	Jan. 12, 1889
Parsons, Sydney J.	Jan. 18, 1905	Smith, Grant H.	Jan. 6, 1890
Percy, Hugh	May 1, 1905	Scott, J. W.	Oct. 6, 1894
Patrick, Edmond T.	Apr. 6, 1906	Sanders, Garry E.	June 5, 1897
Putnam, Graham F.	Dec. 3, 1906	Sherran, Edward R.	Oct. 4, 1897
		Smith, Oscar J.	Dec. 2, 1897
Queen, Chas. L.	Sept. 9, 1878	Sawyer, George Oaks	Jan. 6, 1897
		Sweeney, James G.	July 30, 1898
Ralston, J. H.	June 2, 1862	Sadler, Erwin L.	Nov. 12, 1898
Reardon, T. B.	June 2, 1862	Schlagel, Frank	June 12, 1899
Robinson, Tod	Jan. 20, 1864	Sullivan, J. F.	June 11, 1900
Roop, J. W.	Jan. 21, 1864	Stewart, T. M.	May 22, 1901
Ryan, Wm. H.	Oct. 3, 1865	Stone, Oscar C.	Oct. 30, 1901
Rankin, B. P.	May 15, 1866	Stone, W. H.	Mar. 7, 1902
Robinson, E. I.	Feb. 18, 1867	Schlesinger, Bert	Oct. 1, 1902
Rives, H.	Mar. 14, 1870	Salisbury, Arthur N.	Nov. 15, 1902
Robinson, Robert	Mar. 14, 1870	Stingley, Walter F.	Mar. 23, 1903
Reddy, P.	June 28, 1871	Stoddard, R. C.	July 25, 1903
Rand, J. H.	Oct. 4, 1875	Sullivan, F. H.	Aug. 28, 1903
Robinson, Seth	Jan. 15, 1878	Spriggs, Frederick W.	Nov. 24, 1903
Rankin, Geo. A.	Jan. 11, 1879	Springmeyer, George	June 18, 1904
Ryan, Launcelot	Apr. 8, 1879	Stanley, Charles C.	Nov. 12, 1904
Ryan, T. P.	Nov. 13, 1880	Street, John A.	Jan. 18, 1905
Ritter, Careton M.	Oct. 8, 1881	Shaw, J. Vincent	Mar. 20, 1905
Redding, Joseph D.	Oct. 22, 1882	Sanford, J. F.	Mar. 20, 1905
Ricketts, A. H.	July 19, 1884	Somers, Peter J.	May 11, 1905
Reynolds, John	July 28, 1894	Sanders, J. A.	June 13, 1905
Roberts, E. E.	Oct. 14, 1899	Siegfried, T. A. A.	July 31, 1905
Richards, Charles L.	Oct. 7, 1901	Scott, Fred C.	Sept. 25, 1905
Reddick, W. L.	Nov. 5, 1901	So Relle, Wiley B.	Oct. 3, 1905
Reeves, Charles R.	May 7, 1902	Stevens, Frank Asbury	Oct. 16, 1905
Rogers, Lewis H.	July 11, 1903	Shropshire, J. S.	Dec. 18, 1905
Reynolds, Chas. F.	July 11, 1903	Smith, Jas. S.	Dec. 18, 1905
Robins, C. E.	Jan. 4, 1904	Stewart, W. E. M.	Feb. 20, 1906

Swallow, Albert H.	Mar. 5, 1906	Williams, John I.	Oct. 9, 1865
Seybolt, Fred L.	May 1, 1906	Webster, William	Oct. 17, 1865
Smith, Allen A.	June 4, 1906	Woodburn, William	Jan. 4, 1866
		Williams, Robert H.	Jan. 6, 1866
Tilford, Frank	Nov. 28, 1863	Waldo, H. A.	May 20, 1867
Taylor, R. H.	Jan., 1864	Welty, D. W.	Jan. 5, 1869
Thornton, Harry I.	Apr. 3, 1866	Waitz, Adolphus	Oct. 13, 1869
Thompson, Robert	Oct. 11, 1867	Whitcher, J. W.	Apr. 20, 1870
Tebbs, Moses	Apr. 14, 1870	Wren, Thomas	Mar. 24, 1871
Thornton, Crittenden	May 19, 1871	Williams, George R.	May 20, 1871
Thatcher, A. M.	Aug. 21, 1872	Waters, George L.	June 10, 1872
Tilden, M. C.	Oct. 23, 1876	Willis, A. H.	June 1, 1875
Tuska, Wald J.	Nov. 11, 1878	Wines, J. L.	Sept. 20, 1875
Tompkins, W. H.	Aug. 14, 1873	Witherell, Charles A.	Dec. 26, 1863
Talbot, George F.	July 7, 1881	Windle, J. H.	Mar. 5, 1877
Truman, D. S.	Nov. 15, 1881	Wimans, Joseph W.	Oct. 23, 1877
Torreyson, James D.	Jan. 4, 1882	Whitehill, Henry R.	Jan. 24, 1878
Taylor, E. W.	July 3, 1882	Wilson, Alexander	Nov. 19, 1878
Thomas, Francis J.	Sept. 7, 1886	Wescoatt, W. H.	May 8, 1882
Thackston, C. M.	Jan. 7, 1888	Willett, C. H.	Oct. 22, 1883
Tait, Hugh A.	Dec. 1, 1890	Wharton, Z. F.	Nov. 9, 1885
Tilden, Laura M.	July 22, 1893	Winnie, William E.	Oct. 3, 1887
Turner, Merrill	Apr. 27, 1896	Wheeler, R. G.	Sept. 2, 1889
Tauszky, Edmund	July 12, 1897	West, Peter	Jan. 6, 1890
Treadwell, Wm. B.	June 30, 1901	Winterburn, G. H.	Apr. 11, 1885
Thompson, C. C.	Nov. 13, 1901	Williams, E. L.	Nov. 18, 1885
Thompson, Willard D.	Jan. 18, 1902	Wheeler, John T.	Dec. 1, 1890
Taber, E. J. L.	Sept. 12, 1904	Wilson, Ramon E.	Nov. 10, 1891
Thatcher, George W.	Jan. 2, 1905	Walling, J. M.	Mar. 28, 1892
Thomas, Victor Sumner	Feb. 13, 1905	Wilson, Marion S.	Nov. 15, 1894
Thomas, W. B.	Mar. 14, 1905	Work, Frank B.	July 1, 1895
Tripp, Wm. B.	Feb. 13, 1905	Warren, Harry	Feb. 25, 1896
Thompson, I. S.	Mar. 20, 1905	Walsh, John Emmett	Apr. 27, 1896
Tilden, Augustus	May 1, 1905	Walker, Charles A.	Sept. 16, 1897
Taugher, J. F.	May 1, 1905	White, Jay H.	July 30, 1898
Thompson, J. G.	June 26, 1905	Warren, Anna M.	July 29, 1899
Thomas, Mathouihah	Jan. 29, 1906	Williams, Otto T.	June 1, 1901
Turner, DeWitt C.	Mar. 19, 1906	Webb, U. S.	Mar. 3, 1902
Tallman, Clay	Aug. 15, 1906	Wood, Sidney B.	Mar. 7, 1902
Thomas, Charles S.	Aug. 30, 1906	Willis, Nelson W.	June 17, 1902
		Wilson, Robert R.	Mar. 9, 1903
Underwood, J. G.	June 10, 1862	Wiel, Samuel C.	Aug. 1, 1904
		Wells, Vernon D.	Dec. 17, 1904
Virgin, D. W.	Jan. 14, 1867	Wynn, C. H.	Jan. 2, 1905
Varian, C. S.	June 1, 1872	Wright, Robert	Feb. 13, 1905
Van Fliet, W. C.	Jan. 5, 1875	Wheeler, A. K.	Mar. 14, 1905
Van Der Leith, E. D.	Jan. 2, 1882	Wilson, L. G.	Apr. 17, 1905
Virden, W. H.	May 12, 1890	Wilson, Chas. S.	May 1, 1905
Van Duzer, C. D.	Sept. 12, 1898	Withers, Robt. G.	June 27, 1905
Vermilyea, S. E.	May 15, 1902	Wilson, B. S.	July 7, 1905
Van Dyck, Edward S.	July 20, 1905	Wall, William S.	Aug. 12, 1905
Van Pitt, Oris J.	Dec. 3, 1906	Wallace, William John	Nov. 13, 1905
		Wittke, August R.	Mar. 5, 1906
Williams, Charles H.	June 2, 1862	Wilkinson, Huger	June 4, 1906
Ward, J.	June 11, 1862	Wilson, Bird May	June 28, 1906
Wattson, John V.	Jan. 21, 1864	Williamson, Howard P.	July 14, 1906
Waldron, Dan E.	Jan. 21, 1864	Woods, Samuel D.	Aug. 15, 1906
Wright, S. H.	Aug. 22, 1864	Wilson, O. C.	Sept. 1, 1906
Wells, Thomas	May 31, 1865	Wample, Thomas W.	Oct. 1, 1906
Whitman, B. C.	May 5, 1865		
Wallace, W. C.	July 11, 1865	Yeaman, Harvey	Jan. 19, 1906

MEMBERS OF THE NEVADA BAR, THE DATE OF WHOSE ADMISSION DOES NOT APPEAR ON THE ROLL OF THE COURT:

Aldrich, Louis	Flandreau, Chas. F.	Lindsey, Chas. H.
Anderson, William F.	Fleck, Henry	McRea, J. B.
Atwater, Isaac	Freer, Leon D.	Moss, James W.
Baker, John T.	Garber, John	Nugent, John M.
Barbour, William T.	Gaston, Chas. A.	Perley, Duncan W.
Beatty, H. O.	Gehr, Harry A.	Quint, Leander
Berry, George H.	Gray, G. H.	Rhodes, W. H.
Buring, W. H.	Griffith, Chas.	Rising, Richard
Brossman, C. M.	Harmon, J. H.	Scaniker, S. P.
Brumfield, W. H.	Harrison, M. D.	Steele, H. M.
Bryan, Charles H.	Hereford, Frank	Street, H. C.
Bowman, John	Hittell, G. H.	Terry, David S.
Cadwalader, George	Hubbard, James F.	Williams, J. J.
Coffroth, James W.	Kelly, John P.	Williams, Thomas H.
Cooper, D.	Kendall, Chas. W.	Worthington, Harry G.
Corson, Dighton	Kenedy, James M.	Wood, William S.
Croyland, John	Kutz, Joseph	
Davenport, William H.	Labatt, -	
Doyle, H.	Lewis, James F.	
Elliott, A. B.		

REPORT OF ATTORNEY-GENERAL.

CASES DECIDED BY THE SUPREME COURT DURING 1905 AND 1906
WHEREIN THE STATE OF NEVADA WAS A PARTY.

[No. 1659.]

Ex Parte PETER KAIR.

Application for writ of habeas corpus.

This proceeding, among other objects sought, was brought for the purpose of having what is commonly called the "Eight-Hour Law" declared unconstitutional. In my judgment this is one of the most important cases passed on by our Supreme Court in its history, inasmuch as it probably decided for all time to come that laws restricting the hours of labor in underground mines, mills, smelters and ore-reduction works, are constitutional. The opponents of the law having failed to have the law declared unconstitutional in the case of *Ex Parte Boyce*, they framed this case so as to practically raise every legal objection which could be interposed to its constitutionality.

The attack on this law was aggressively waged, and as aggressively defended. The State successfully defended the constitutionality of this Act, our Supreme Court in a majority opinion denying the writ, and sustaining the constitutionality of the Act. This case also went into the United States Circuit Court and to the Supreme Court of the United States.

The case was brought on the following statement of facts:

In the Justice Court at Dayton, petitioner was convicted and sentenced to pay a fine of \$100, or serve an alternative of one day for every \$2 thereof in the county jail, on a charge of misdemeanor for working more than eight hours in one day in a wet-crushing quartz-mill, contrary to the provisions of the Act approved February 23, 1903, by the terms of which the period of employment of working men in underground mines, smelters, and all institutions for the reduction or refining of ores is limited to eight hours per day, under penalty which specifies a fine of not less than \$100 nor more than \$500, or imprisonment in the county jail not exceeding six months, or both. (See Statutes of 1903, page 33.) Upon failure to pay the fine imposed he was committed to the custody of the Sheriff of Lyon County, and by writ of habeas corpus demanded of the Supreme Court his release, asserting that the statute mentioned was unconstitutional and could not be enforced to limit his liberty to contract or to work more than eight hours per day, under Section 1 of Article I of the organic law of this State, which guarantees the right to acquire and possess property, and that said law was also in conflict with the eighth amendment to the Federal Constitution, which directs that excessive fines and cruel and unusual punishments shall not be enforced.

[No. 1662.]

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

This was an action brought by the State for the taxes for the year 1901 on ninety-three miles of main track and two miles of sidetrack, and other real property of the Nevada Central Railroad Company, all situated in Lander County. The Assessor placed the valuation at \$158,100, and made the assessment at \$5,684.97, which, with the statutory penalties, aggregated \$8,063.43, the amount demanded in the complaint, and for which a verdict and judgment was rendered. The defendant company set up in its answer that the assessment was out of proportion to the cash value of the property, and asserted that the property was not of a greater value than \$60,944; and also assigned as error that the District Court erred in giving the following instruction: "You are instructed that in ascertaining the income, if any, of the Nevada Central Railroad Company for the year 1901, or the net loss, if any, you should add any taxes actually paid by the company for that year to the other necessary expenditures of the road, and deduct the sum from the receipts of the road for that year; and in order to determine if there would be any income whatsoever, or to determine the loss from operation of the road, if a loss is shown, you must consider and deduct from the receipts of the road for 1901 such an amount for the taxes for 1901 as you will agree ought to be paid by the railroad company upon the property described in the complaint, which consists of ninety-three miles of main railroad track, and two miles of sidetrack."

The Supreme Court held that this instruction should have been given, and reversed the case, thereby confirming the opinion in the case of *The State v. Virginia and Truckee Railroad*, 23 Nev. 297, wherein our Court held that in determining the annual net income of a railroad the taxes should be deducted as a part of the expenses of operation.

[No. 1684.]

THE STATE OF NEVADA, *Respondent*, v. JOHN HANCOCK, *Appellant*.

This was an appeal from the District Court of Lincoln County wherein the defendant was convicted of the crime of murder in the first degree for the commission of one of the most atrocious crimes ever committed within the confines of our State, and sentenced to be hanged by the neck until dead. Defendant alleged as error the introduction of testimony of a mistress who was the only witness of the murder for which he was convicted, upon the ground that she was his common-law wife. The evidence disclosed that the alleged common-law wife was a married woman, never having been divorced from her husband. The Court thereupon held that, being a married woman, it was impossible for her to become the common-law wife of defendant, and therefore her confession was admissible.

The judgment of the lower court was confirmed.

[No. 1673.]

THE STATE OF NEVADA, *Respondent*, v. FRED ROBERTS, J. P. SEVENER,
AND T. F. GORMAN, *Appellants*.

This was an appeal from the District Court of the Second Judicial District wherein the defendants were convicted of murder in the first degree, and sentenced to be hanged by the neck until dead. They assigned as error the admission of the dying declaration of the victim of their assault, the introduction of certain photographs which defendants alleged prejudiced the jury against them, but the Court held that the dying declaration was admissible in view of the fact that the testimony disclosed that the declarant was under the sense of impending death, and had abandoned all hope of recovery, and that at the time of making his declaration was fully conscious and in entire possession of his intellectual faculties, and that it was also admissible upon the ground of identification; also, that the photographs were admissible for the purpose of identification, and for the purpose of aiding the jury in applying the evidence and instructive to the jury, and also as illustrative evidence in enabling witnesses to make their testimony clearer.

The judgment of the lower court was confirmed.

[No. 1682.]

THE STATE OF NEVADA, *ex rel.* JOSEPH WEYERHORST, *Relator and Appellant*, v. S. L. LEE, *Secretary of the Nevada State Board of Medical Examiners, Respondent*.

This was an appeal from the judgment and order sustaining a demurrer to appellant's petition in the Third Judicial District Court of the State of Nevada, in and for the County of Nye, for a writ of mandate to be directed to respondent, requiring him, as the Secretary of the State Board of Medical Examiners, to issue to appellant a temporary certificate entitling appellant to practice his profession of medicine and surgery in this State until the next regular meeting of the State Board of Medical Examiners. Relator, by his petition, claimed to have been qualified to have issued to him by the State Board of Medical Examiners a certificate or license entitling him to practice his profession in the State of Nevada under the provisions of Section 4 of an Act entitled "An Act providing for the creation of a State Board of Medical Examiners, and to regulate the practice of medicine and surgery in the State of Nevada," wherein he claims that it is the duty of respondent as Secretary of said State Board of Medical Examiners to issue him a temporary certificate which would entitle relator to practice his profession until the next regular meeting of the Board.

The only material question presented upon this appeal was whether or not that portion of said Act of 1899 providing for the issuance of temporary certificates by the Secretary of the State Board of Medical Examiners is now in force as a part of the law in this State regulating the practice of medicine and surgery.

The Court held that the Act of 1905 repealed the Act of 1899, and therefore denied the application of the relator, and confirmed the judgment of the lower court.

[No. 1677.]

THE STATE OF NEVADA, *Respondent*, v. FRANK WILLIAMS, *Appellant*.

Jointly with three others, Fred Roberts, J. P. Sevener, and T. F. Gorman, defendant Williams was convicted of murder in the first degree, and sentenced to be hanged by the neck until dead by the Judge of the District Court of the Second Judicial District. Appellant contended that the evidence taken at his trial was insufficient to justify the verdict of murder in the first degree because the shooting was not done until about two minutes after the robbery. The Supreme Court held that such evidence was a part of the *res gestae* inasmuch as the happenings at the time of the fatal tragedy were in the nature of a continuous assault, lasting from the time of the robbery to the shooting, and apparently done for the purpose of preventing detection, and held that the lower court properly instructed the jury that under the statute all murder committed in the perpetration of robbery is murder in the first degree. It was also assigned as error by appellant that one of the jurors, A. C. Helmold, was incompetent by reason of having formed and expressed an unqualified opinion in regard to the guilt or innocence of the accused. On his *voir dire* the said juror testified that he had formed his opinion from street talk and from what he had heard on the street and from what he read from the newspapers, and the Supreme Court held that information so gleaned, so long as the juror was capable of laying aside all he had heard and read and giving the defendant a fair and impartial trial, would not disqualify him, and sustained the judgment of the lower court.

Exception was also taken by defendant to the admission of the dying declaration of the deceased, Jack Welsh, but the Court held, for the reasons assigned in the previous case of *The State v. Roberts*, that said declaration was admissible.

Williams was executed the same day as Roberts, Sevener, and Gorman, thus ending the career of four as desperate criminals as ever came into the State.

[No. 1659.]

Ex Parte PETER KAIR.

Application for writ of habeas corpus.

After the Supreme Court had declared the eight-hour law constitutional when this case was first submitted, an application for the rehearing of the case was made by counsel for petitioner, which said application was denied. The Court again unanimously set forth its views declaring said Act constitutional.

[No. 1674.]

THE STATE OF NEVADA, *Respondent*, v. H. C. LAWRENCE, *Appellant*.

The defendant was convicted in the Second Judicial District Court in and for the County of Churchill of the crime of assault with intent to kill, and was sentenced by the court to serve a sentence of fourteen years in the Penitentiary. He made a motion for a new trial, and from the order denying the motion for a new trial he appealed to the Supreme

Court, making four assignments of error, to wit: That the court erred in permitting the prosecution to attempt to prove the general and specific bad character of the defendant, as the defendant had not put his character either specifically or generally in issue; second, that the State did not prove a motive for the commission of the act; third, that the court failed to instruct the jury from the evidence submitted that the defendant was innocent; fourth, that the evidence was not sufficient to warrant the verdict of the jury, all of which assignments of error by reason of the evidence submitted as disclosed in the transcript were held insufficient to warrant a reversal of the judgment of the lower court, and the same was therefore confirmed.

[No. 1688.]

In re KELLY, ON BEHALF OF OSUNA.

This was an application for a writ of habeas corpus by Frank P. Kelly on behalf of H. Osuna. It appears from the return of the writ that H. Osuna was held in the custody of the Sheriff of Esmeralda County, upon the commitment of the Justice of the Peace of Hawthorne Township, to answer to a charge of rape committed on one Harriet Averill. Petitioner contended that the commitment was issued without reasonable or probable cause, for the reason that said prosecuting witness, Harriet Averill, upon whom the said crime of rape was alleged to have been committed, failed to appear and testify personally, thereby preventing the defendant of the right of cross-examining said prosecuting witness. The record discloses that said Harriet Averill signed a written statement, in the presence of two witnesses, alleging the assault. The Court held that the committing magistrate was justified in issuing the commitment, and held that said magistrate was not required under the laws of this State to find evidence sufficient to warrant a conviction, but that all that was required, in order to bind over a person accused of crime, was legal evidence sufficient to make it appear that a public offense had been committed, and from the testimony disclosed in this case there was sufficient cause, and the writ was dismissed.

[No. 1679.]

THE STATE OF NEVADA, *Respondent*, v. PAUL LOVELACE, *Appellant*.

Defendant appealed from the judgment rendered against him in the District Court in and for the County of Elko for the crime of burglary, and assigned the following errors on which he asked the judgment to be reversed: (1) The insufficiency of the indictment on which the judgment was based; (2) the absence of corroborative testimony of an accomplice who testified against the defendant.

The Court held the indictment to conform in substance to the requirements of an indictment as stated in Section 4199 of the Compiled Laws, and also that the evidence, as disclosed in the transcript, was sufficient to warrant the conviction of defendant, and confirmed the judgment of the lower court.

[No. 1683.]

THE STATE OF NEVADA, *ex rel.* NEVADA TITLE GUARANTY AND TRUST COMPANY, A CORPORATION, *Plaintiff and Relator*, v. PUDDY GRIMES, *as County Recorder in and for the County of Nye, Defendant and Respondent.*

Petition for writ of mandate.

This was an action brought for the purpose of enforcing the County Recorder to allow them to examine and copy the records in the office of the County Recorder without the payment of fees. The court held that the company did not have the right of inspecting and copying all the records in the Recorder's office of Nye County for the purpose of compiling an independent set of abstract books covering all the property to which the said records related, and denied the writ. The court, however, directed the defendant, as County Recorder of Nye County, to allow relator and its employees, free of charge, during the regular business hours to inspect and make memoranda of records in the office in so far as said records may relate to any current or pending transaction in which the relator was authorized or employed to make researches, furnish abstracts or guarantee titles, but that said examination and taking the memoranda by said relator should not in any way prevent the respondent or his assistants from discharging their official duties, or interfere with the right of other persons to have access to the records.

[No. 1690.]

THE STATE OF NEVADA, *ex rel.* GEORGE BACHELDER, *Relator*, v. M. A. MURPHY, *District Judge of the First Judicial District of the State of Nevada, Respondent.*

This was a proceeding in mandamus to compel respondent, Judge of the First Judicial District Court, to proceed and to determine the case of *George Bachelder v. Rose Ann Bachelder*, alleged to be pending in the said District Court. Petitioner set forth in his application that he had commenced an action for divorce against his wife, and that respondent had set the case for trial before a jury, and that at the date when said trial was to have taken place respondent refused, when requested, to proceed with the trial of the case, upon the ground that since the commencement of the suit the defendant in the action was confined in the Hospital for Mental Diseases at Reno, Nevada, and would not proceed to try the case until he was ordered to do so.

The Court held that the lower court should proceed with the trial of the case because it was alleged in petitioner's complaint that the acts constituting the cause of action in plaintiff's favor against the defendant were committed by the defendant before insanity occurred.

[No. 1696.]

THE STATE OF NEVADA, *ex rel.* JUAN JUANIZA, v. JUSTICE COURT OF CARSON TOWNSHIP.

This was a proceeding in certiorari brought to review the action of a Justice Court in a case where the plaintiff, Martha Blackwell, brought suit against Juan Juaniza, claiming damages because said defendant herded sheep by trespassing on lands owned and possessed by her and her assignors. The plaintiff recovered damages against defendant for said trespass. During the progress of the trial defendant's attorney took the stand and gave his opinion that the title to the land was in dispute, and required a certification of the case to the District Court, which the Justice Court refused to do, taking the position that the title was not involved in the sense in which Section 8 of Article VI of the Constitution of Nevada deprives Justice Courts of jurisdiction, wherein it states "that Justice Courts shall have no jurisdiction in cases where the title to real estate or mining claims, or questions of boundaries to lands are involved."

The Court sustained the judgment of the Justice Court, and dismissed the writ.

[No. 1695.]

THE STATE OF NEVADA, *Respondent*, v. JOHNNY, AN INDIAN, AND JOE IBAPAH, AN INDIAN, *Appellants*.

The defendants were convicted in the District Court of the Fourth Judicial District of murder in the first degree, and from the order denying their motion for a new trial they appealed to the Supreme Court, assigning as errors that the indictment was defective; that the confession of defendant, Ibapah, was inadmissible; that certain instructions given by the court upon the law of drunkenness were error, and, further, that the venire from which the petit jury was selected to try this case was irregularly and illegally formed.

The Court found that all these errors assigned were devoid of legal merit, and sustained the judgment of the lower court.

[No. 1705.]

THE STATE OF NEVADA, *Plaintiff*, v. R. W. PATTERSON, *Defendant*.

This was an application for a writ of habeas corpus by petitioner, R. W. Patterson, who alleged that he had been fined in the sum of \$500, and also sentenced to imprisonment in the county jail of Washoe County for 180 days by James Pollock, Justice of the Peace. The Court granted the writ, holding that the warrant of commitment imposed an absolute fine of \$500 without order of commitment of person until fine be paid at the rate of \$2 per day, and an absolute imprisonment of 180 days.

The Court held such commitment to be illegal, and petitioner was forthwith discharged.

[No. 1707.]

THE STATE OF NEVADA, *ex rel.* THE EQUITABLE GOLD MINING COMPANY, *Relator*, v. M. A. MURPHY, *District Judge of the First Judicial District in and for the County of Storey, Respondent.*

This was a mandamus proceeding brought to compel the respondent to settle a proposed statement on motion for a new trial. The question presented in this proceeding was as to whether or not under our Practice Act in an equity case tried before the court without a jury, a party was required to file his notice and statement on motion for a new trial within five days after the rendition of the verdict as in ordinary jury cases, or whether he has, for this purpose, until ten days after he receives written notice of the decision, as in cases tried before the court without a jury, and, if so, whether this time was shortened by reason of the fact that, upon the rendition of the verdict and findings by the jury, and on the application of the defendant's attorney, who was unaware that the court had approved it, or had directed that the Clerk enter judgment, the court made an order giving thirty days after the receipt of the reporter's transcript of the testimony in which to serve and file his statement on motion for a new trial. Also, as to whether or not a statement on appeal from the order denying the motion to strike out or to modify a judgment previously entered by the Clerk, when such statement was filed within twenty days after the making of the order, was allowable and subject to settlement, although improperly containing the evidence and proceedings of the trial not germane to the exceptions and specification or error taken against such order. The Court ordered a writ of mandamus to issue, directing respondent to settle the statement filed as an endorsed statement on motion for a new trial, and so much of the proposed statement as was filed September 8, 1906, as an endorsed statement on appeal as pertained to the orders overruling a motion to strike out and modify the judgment.

CASES PENDING IN THE SUPREME COURT WHEREIN
THE STATE OF NEVADA IS A PARTY.

THE STATE OF NEVADA, *Plaintiff and Respondent*, v. CEDRO ZANOLA, *Defendant and Appellant*.

THE STATE OF NEVADA, *Plaintiff and Respondent*, v. JOHN H. HENNESSEY, *Defendant and Appellant*.

THE STATE OF NEVADA, *Plaintiff and Respondent*, v. JOHN EDWARDS, *Defendant and Appellant*.

THE STATE OF NEVADA, *Plaintiff and Respondent*, v. ALBERT JACKSON, *Defendant and Appellant*.

FEDERAL CASES PENDING WHEREIN THE STATE OF NEVADA IS A PARTY.

IN THE CIRCUIT COURT OF THE UNITED STATES, THE NINTH CIRCUIT OF
THE NORTHERN DISTRICT OF CALIFORNIA.

THE STATE OF NEVADA, *Plaintiff*, v. THE FLORISTON PULP AND PAPER
COMPANY, A CORPORATION, *Defendant*.

In April, 1904, the State of Nevada commenced suit in the above-entitled Court against the above-named defendant, for a permanent injunction restraining the defendants from emptying into the Truckee River the water from their plant which became inoculated with certain chemicals and acids from their paper works on the Truckee River; also from emptying into said Truckee River refuse and other injurious substances which came from their said manufacturing plant.

The Court granted a temporary injunction, and the order was issued to defendants to show cause why said temporary injunction should not be made perpetual. The plaintiffs answered the complaint by denying that the waters of the Truckee River were in any way injured by any water or substance which came from their plant, contending that such water as ran through their plant into the said Truckee River was not injurious in any manner to the waters of said river or to health.

On December 8, 1904, a stipulation was entered into between the respective parties stipulating that the testimony in the above-entitled cause could be taken in Reno or San Francisco before certain United States Commissioners to be appointed by the Court for that purpose. In accordance with this stipulation the Court issued an order appointing commissioners to take testimony in Reno and also in San Francisco. Under this stipulation an overwhelming mass of testimony and depositions were taken for the purposes of proving the allegations of the complaint of the State and in rebuttal to the testimony and depositions taken by the Floriston Pulp and Paper Company wherein they alleged that their mill had no deleterious effect upon the water of the Truckee River either for drinking purposes, for irrigating purposes, or that it was injurious to the fish of the Truckee. Professor Edmund O'Neill, an expert chemist of the University of California, made chemical tests of the waters of the Truckee above the point on the river where the Floriston pulp and paper mill is stationed and below the mill, and his tests conclusively proved the contentions of the State. The case will have to be argued and a great deal more testimony taken before it is finally submitted in the United States Court at San Francisco, California, and I recommend that an additional appropriation of \$1,500 be made for the purposes of defraying the expenses of this most important suit. Messrs. Deal and Summerfield, who are handling the case in the main, have done most excellent work in behalf of the State

OFFICIAL OPINIONS.

During my term of office I have rendered in excess of one thousand oral opinions to the various State officers, State Boards, heads of State institutions and to District Attorneys.

Since my last official report I have written many opinions which were and are comparatively unimportant, many of them being practically a reiteration of my former opinions, and many of them not of very great public interest. For these reasons I have omitted them in this report, believing that the following are of sufficient interest to be published:

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, January 23, 1905.

HON. E. D. KELLEY, *Surveyor-General, Carson City, Nevada.*

MY DEAR SIR: I have your favor of to-day before me, wherein you request my opinion on the following query:

Since the opening of the old land grants for selection at the United States Land Office I have been demanding, among other things, from applicants for State lands under those grants an affidavit that he is an actual settler and bona fide occupant of the lands for which he applies. Now comes James T. Boyd, Esq., attorney for J. H. Clemons, and demands that I accept the application of his client, the said Clemons, for the SE $\frac{1}{4}$ of NW $\frac{1}{4}$ of Sec. 24, T. 41 N., R. 57 E., without an affidavit from the applicant that he is an actual settler on said tract, and in support of his demand cites Sections 305 and 306 of Cutting's Compiled Laws of Nevada. The applicant furnishes the non-mineral affidavit required by the General Land Office and tenders the first payment of 20 per cent and the \$2 for United States selection fees, but declines to supply the actual-resident affidavit. I respectfully ask for your opinion at the earliest possible moment, as the applicant and his attorney are here, as to the proper course for me to pursue in the matter.

After an examination of the law governing this matter, I find that your query practically resolves itself into the question of whether or not you, as Surveyor-General of Nevada, are obligated to grant the application of an applicant for lands under the sections in question when all the conditions of said sections are complied with, but not accompanied with an affidavit that he is an actual settler and bona fide occupant of the lands for which he applies.

It is my opinion that you are. The statutes of our State set out in

detail just what affidavits are required, an examination of which reveals that no affidavit of being an actual settler and bona fide occupant is prescribed. An examination of the records of your office will show, that over 485,000 acres of the 500,000-acre grant have been applied for and that no affidavit, up to the present time, has ever been exacted of the applicant showing that the applicant was an actual settler and bona fide occupant.

Respectfully submitted,

JAMES G. SWEENEY, *Attorney-General.*

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, March 30, 1905.

CHARLES A. WALKER, ESQ., *District Attorney of White Pine County,
Ely, Nevada.*

MY DEAR SIR: I am in receipt of your letter of March 13th, submitting for my official opinion the following inquiries:

(1) Assembly Bill No. 96, which I understand has been approved, made it the duty of the Commissioners of this county to levy a special tax in the Town of Ely for fire protection purposes at the time of fixing the regular annual levy. The annual levy was made March 6th (the last day allowed under the law), but, as the Commissioners had no official knowledge that the Act had become a law, no special tax was provided for. Can the Commissioners provide for the same at their next meeting, April 3d?

(2) Is it a part of the official duty of the District Attorney to draw up town ordinances, forms for town bonds, and quarantine regulations at the request of the Commissioners? I understand that if he does, he is not entitled to extra pay, but is compelled to do it.

(3) At the meeting of the Board of County Commissioners of this county held January 2, 1905, a bill of G. R. Reeves, a Notary Public, for \$6 for swearing in six election officers, five election officers and one peace officer, at Lund precinct, was presented to the Board and allowed for the full amount of the claim. As Auditor I returned the bill to the Board without approval, and endorsed on the bill my reasons for so doing; which were that the county had already paid one H. W. Harrison, a Justice of the Peace of Lund Precinct, for the same services, and the law does not allow \$1 for each affidavit. At a meeting of the Board held March 6th an order was made, by unanimous vote of the Board, that the Auditor issue his warrant for the full amount of the claim. Is a Notary Public entitled to \$1 for swearing in election officers, and if not \$1, how much?

(4) Is the Auditor of the county compelled to draw his warrant for the full amount of a claim allowed by the Board of County Commissioners regardless of whether the claim is illegal or not?

(5) Can the Board of County Commissioners by unanimous vote compel the Auditor to draw a warrant in payment of an illegal claim?

Adverting to question (1) I respectfully call your attention to an Act of our recent Legislature entitled "An Act to authorize and require the Board of County Commissioners of White Pine County, State of

Nevada, to issue bonds on the Town of Ely, in said county, for protection against fires, and matters relating thereto." Section 1 of this statute provides:

SECTION 1. For the purpose of providing protection against fire in the Town of Ely, the Board of County Commissioners of White Pine County, State of Nevada, is hereby authorized and required to, within sixty (60) days from and after the approval of this Act, prepare and issue bonds for a sum not exceeding six thousand (\$6,000) dollars, in United States gold coin, none of which said bonds shall be issued for a period longer than fifteen (15) years from the date thereof.

Under our revenue laws, as I construe them, it will be perfectly legal for your Board of County Commissioners at their coming meeting on April 3d to levy a special tax in accordance with the provisions of the Act hereto referred to.

Regarding your second query it is my opinion that it is your official duty as District Attorney to draw all legal documents which may be necessary for your county or any city or town therein, when requested so to do by the Board of County Commissioners, without extra remuneration therefor.

In answer to your third query, Section 2467 of our Compiled Laws governs the fees of Notaries Public of White Pine County wherein it is expressly provided that the fees of Notaries Public "for administering on oath or affirmation shall be twenty-five cents; and for every certificate, to include writing same, and the seal, shall be fifty cents." The fee, then, of a Notary Public for the service referred to in your inquiry is not one dollar and cannot exceed the sum of fifty cents for swearing in each election officer. Your County Recorder or Auditor was therefore right in refusing to audit the bill for any amount in excess of fifty cents per oath administered. And if the certificate was not written and a seal attached thereto, but a simple oath administered, the fee could not exceed twenty-five cents for each election officer sworn in.

In answer to your fourth query, it is my opinion and construction of Section 2113 of our Compiled Laws that if the Board of County Commissioners were to approve a claim that was illegal, even though that approval be by the unanimous consent of the entire Board, that it would not be compulsory for the Auditor of a county to draw his warrant for that illegal claim. It is my opinion that no resolution passed by a Board of County Commissioners, whether it be by a majority thereof or by the unanimous consent of said Board, can in anywise legalize an illegal claim, and if they do so the Auditor of the county is not only privileged to refuse to audit said claim, but under our statutes and the Constitution of this State he is legally obligated so to do. No resolution of a Board of County Commissioners can legalize a claim which is illegal under our express statutes and the Constitution of this State.

It follows, therefore, in answer to your fifth inquiry, that a Board of County Commissioners cannot compel an Auditor of a county to draw a warrant in payment for an illegal claim.

Respectfully submitted,

JAMES G. SWEENEY, *Attorney-General.*

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, April 21, 1905.

A. J. MAESTRETTI, ESQ., *District Attorney of Lander County, Austin, Nevada.*

MY DEAR SIR: Your favor of the 18th instant, relative to "An Act relating to the duties of the County Assessors," approved March 4, 1905, referring to the assessment of patented mines, was duly received.

As you are aware the Nineteenth Session of the Nevada Legislature in 1899 passed a resolution proposing to amend the Constitution of the State so that patented mines could be assessed; that this resolution was agreed to and passed at the Twentieth Session of the Legislature in 1901, and approved by an overwhelming vote by the people of the State at the general election in November, 1902. In consequence our Constitution is amended to this effect, and you will therefore request your Assessor to place all patented mines situated in his county upon the assessment roll, in accordance with Section 1 of Article X of the Constitution of the State of Nevada, as amended.

For further reference to the duty of Assessors in this regard I refer you to page 81 of the Statutes of 1905.

If any one doubts the right of the people of this State to amend their own Constitution in this respect, they will have the privilege, when their mines are assessed, to test the same before a court of competent jurisdiction and our Supreme Court.

Respectfully submitted,

JAMES G. SWEENEY, *Attorney-General.*

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, April 24, 1905.

LEW ROGERS, ESQ., *Eureka, Nevada.*

MY DEAR SIR: Your favor of April 17th, requesting my opinion on the following query, duly received:

Whether or not a Sheriff is entitled to receive pay from the county for the cost of meals at the hotel furnished to Indians while employed by himself as detectives to catch offenders selling whisky to Indians, and for the cost of the whisky purchased by those Indians from the said offenders.

Any money expended by the Sheriff for the purposes referred to in your letter are at the expense of the Sheriff and cannot be legally paid by the county.

Yours, sincerely,

JAMES G. SWEENEY, *Attorney-General.*

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, April 25, 1905.

MR. HENRY LEE, *County Recorder of Lincoln County, Pioche, Nevada.*

MY DEAR SIR: Your favor of the 7th instant, inquiring whether or not the County Commissioners have authority to have the records of your county rebound and reindexed, by reason of the same being worn out, and to let the work to the lowest bidder, duly received.

It is my opinion that they can under the law, providing they let it to a responsible party, and that is a matter left to their own discretion. In so far as your liabilities are concerned, you cannot be held responsible for any mistakes that are made through any act of the Commissioners in this respect, if any be made. I would, however, suggest, both for your own good and for the benefit of the county and State, that you carefully examine the records after they are rebound and reindexed, and see that they are perfect. I would also suggest that you call this matter to the attention of the County Commissioners before they accept the work when tendered by the person to whom it has been let by contract, and not accept the work unless it is perfect after you have examined the same and found it so.

Pressing official duties in the Supreme Court accounts for my seeming neglect in not responding to your favor sooner.

Yours, sincerely,

JAMES G. SWEENEY, *Attorney-General.*

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, May 6, 1905.

F. D. OLDFIELD, ESQ., *County Clerk of White Pine County, Ely, Nevada.*

MY DEAR SIR: I am in receipt of your favor of April 20th, wherein you propound, in effect, the following query:

Is a person who has been appointed a Justice of the Peace by the County Commissioners entitled to act as such Justice of the Peace if he fails to file a bond for qualification, or if he files a bond and that bond is defective and rejected?

It is my opinion that to legally hold any office wherein a bond is required, that if the party holding said office fails to file a bond, or fails to file a bond with competent sureties, that he is not qualified to hold the office to which he has been appointed unless he files a proper bond, and the same is approved by those having the authority so to do.

I desire to respectfully call your attention to the law to the effect that the District Attorney is the legal adviser of the county officers of your county, and that the opinions of the Attorney-General are, under the law, only given to State officers, heads of State institutions, and to District Attorneys when requested or desired by them.

Pressing official business in our Supreme Court accounts for my not responding sooner to your favor. For this reason, in order to save you

time, I am sending my opinion as the above query rather than refer you to your District Attorney.

Yours, sincerely,

JAMES G. SWEENEY, *Attorney-General.*

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, May 25, 1905.

W. B. PITTMAN, ESQ., *District Attorney of Nye County, Tonopah, Nevada.*

MY DEAR SIR: Your favor of the 10th instant, submitting to me the following query, for an opinion thereon, duly received.

In 1905 the Legislature passed an Act requiring peddlers to pay a license of \$300 per month.

Does this Act apply to a man who has a storage room and peddles his goods in a wagon from house to house. He simply uses the storage room for the safe keeping of his goods until he can peddle them out to the people?

Our last Legislature passed an Act entitled "An Act to provide for licensing itinerant and unsettled merchants, traders, peddlers and auctioneers."

This Act imposes a license of \$300 on each and every itinerant auctioneer, unsettled merchant, trader or peddler selling wares or merchandise within this State, specifically excluding drummers and commercial travelers, representing and acting for wholesale houses in this and other States, under certain conditions.

The Act in question in Section 2 specifically defines as an itinerant and unsettled merchant, trader, peddler or auctioneer, "any person, firm or corporation, selling or offering for sale any goods, wares or merchandise, who have no permanent store or place of business, at some point or points, within this State, and which is permanently located, and regularly taxed therein."

Under this definition the person who peddles his goods in a wagon, from house to house, simply using the storage room for the safe keeping of his goods until he can peddle the same out to the people, as stated in your inquiry, is, in my opinion, an unsettled merchant, within the meaning of the Act, and liable to the \$300 license. To hold otherwise would allow itinerant merchants to use the method described in your inquiry to defeat the law, and under the well-defined principle of the law that "you cannot do indirectly that which the law forbids doing directly," in my opinion he becomes liable to the \$300 license as imposed in the Act above referred to.

Relative to your other inquiry, it is my opinion that the Act of 1881, as amended in 1883, 1887, and 1903, is applicable to any town having a population of six hundred, or more, without a petition being filed with the County Clerk, and therefore applicable to the Town of Tonopah; and that the County Commissioners may proceed under said Act, as

amended, without first receiving a petition for the application of its provisions.

Respectfully submitted,
JAMES G. SWEENEY, *Attorney-General*.

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, June 23, 1905.

CHARLES A. WALKER, ESQ., *District Attorney of White Pine County, Ely, Nevada.*

MY DEAR SIR: Your favor of June 12th at hand, submitting for my official opinion two queries, one of which is as follows:

Are livery hire and other expenses incurred by County Commissioners in examining county roads legitimate charges against the county? Also charges for each day's time consumed in making examinations?

Under our statutes it is a legitimate charge against the county for livery hire and any necessary expenses incurred by a County Commissioner in examining the county roads. The County Commissioners, however, are not entitled legally to any remuneration other than their regular salary for each day's time consumed in making said examinations.

I withhold an opinion upon your query upon the Statutes of 1903, page 113, in relation to hospital fees, until I hear from you again more explicitly stating just what you desire an opinion on. Your query is such that I do not fully comprehend just the state of circumstances which exist and on which you desire me to give an opinion.

Yours, sincerely,
JAMES G. SWEENEY, *Attorney-General*.

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, May 26, 1905.

LEW ROGERS, ESQ., *District Attorney of Eureka County, Eureka, Nevada.*

MY DEAR SIR: Your favor of the 22d instant, submitting for my official opinion the following query, duly received:

Will you please give me your opinion as to whether or not the Board of County Commissioners have a legal right to construct a telephone line from the Hospital, about a mile out of town, to the County Physician's office, a private line purely for the use of the Hospital and a convenience for the Matron and the Doctor, without first having a petition from two-thirds of the taxpayers of the county requesting them to do so?

Section 1 of an Act of the Legislature entitled "An Act to authorize the County Commissioners of any of the counties of the State of Nevada to purchase or construct telephone lines," approved March 14, 1899, reads:

The County Commissioners of any of the counties of this State are hereby authorized, upon there being filed with them a petition signed by two-thirds of the taxpayers of the county, requesting them to do so, to purchase or construct a telephone line, or lines, within the limits of the county, if in their judgment it would be to the interest of the county to do so, and to pay for the same out of the General Fund of the county.

Our Supreme Court has many times, in several cases, decided the point in issue, all holding to the effect that the powers of County Commissioners are special and limited, and that they must not go beyond the powers granted them by statute; also that County Commissioners have no powers beyond those expressly granted to them by the Legislature. See *State v. C. P. R. R. Co.*, 9 Nev. 79; *State v. C. P. R. R. Co.*, 10 Nev. 48; *Waitz v. Ormsby County*, 1 Nev. 370; *Lyon County v. Ross*, 24 Nev. 102.

In view of these decisions I am of the opinion that your Board of County Commissioners have not the legal right to construct a telephone line without first having a petition signed by two-thirds of the taxpayers of the county, requesting them so to do.

Respectfully submitted,

JAMES G. SWEENEY, *Attorney-General*.

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, July 11, 1905.

HON. ORVIS RING, *Superintendent of Public Instruction, Carson City, Nevada*.

MY DEAR SIR: Your favor, submitting to me the following query for an official opinion, duly received.

On March 16, 1905, the Governor approved a bill for the support or providing for public school libraries (See pages 188, 189, Statutes of 1905).

Now, I wish to know if the money thus to be apportioned is to be taken out of both the State and the county funds? I cannot determine by the reading of the law.

According to the law as it was previous to the passage of this last law the money derived from the State was to be used exclusively for the payment of teachers' salaries. Does this new law affect that provision?

After a careful examination of the Act of March 16, 1905, entitled "An Act providing for public school libraries and other matters relating thereto," and a review of the various statutes of our State pertinent to your query under consideration, it is my opinion that the moneys to be apportioned for the purposes set forth in the Act of 1905 must be taken out of both the State and county funds.

Section 1 of the Act of 1905 particularly refers to and amends the Act of March 20, 1865, and the Acts amendatory thereto, which contains the provision referred to in your query "concerning money derived from the State to be used exclusively for the payment of teachers' salaries," and thereby affects the existing law to the extent above indicated.

Respectfully submitted,

JAMES G. SWEENEY, *Attorney-General.*

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, July 19, 1905.

MR. JAKE JOHNSON, *Sheriff of Lincoln County, Pioche, Nevada.*

MY DEAR SIR: Your favor of June 30th, inquiring of me whether or not one or two licenses can be collected from nickel-in-the-slot machines commonly known as "Twin" and "Combination" machines, duly received.

After an examination of the statute licensing these machines, I am of the opinion that only one license can be collected for each machine whether it be "Combination" or "Twin," said machine being a device, and the law provides that for every device or similar machine that but one license shall be collected.

In Reno and all other parts of the State we are also exacting but one license, so you can act accordingly.

Yours, sincerely,

JAMES G. SWEENEY, *Attorney-General.*

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, August 8, 1905.

MR. JAKE JOHNSON, *Sheriff of Lincoln County, Pioche, Nevada.*

MY DEAR SIR: Your favor of August 3d, reverting to Section 9 of the State liquor license law of the Statutes of 1905, duly received.

In answer to your query therein contained it is my interpretation of the Act that for the year 1905 licenses must be paid pro rata, calculated on a basis of \$50 per annum for retailers, \$12 per annum for retail drug stores, and \$100 per annum for wholesalers and rectifiers.

After this year all applicants for licenses to deal in the liquor business must pay a license in full for the year no matter what part of the year the application is made.

Your attention is called to the law and the fact that the District Attorney of your county is your legal adviser, and to him you should apply for any legal advice you may desire. The opinions of the Attorney-General are, under the law, held in reserve for State officers, heads of State institutions and the District Attorneys of the various counties when requested or desired by them.

Yours, sincerely,

JAMES G. SWEENEY, *Attorney-General.*

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, August 18, 1905.

BENJ. SANDERS, ESQ., *District Attorney of Lincoln County, Pioche, Nevada.*

MY DEAR SIR: Your favor, requesting of me an opinion as to whether or not your County Assessor should assess all property found in the county at this time of the year, and, should he fail or neglect to do so, what steps should be taken to force him to do so, duly received.

You state in your letter that your Assessor has overlooked \$100,000 worth of assessable property in Las Vegas.

The revenue laws of our State are such that it is mandatory on all County Assessors to assess all property found in their respective counties at its true cash value; and Section 1084 of our Compiled Laws makes it mandatory upon the Assessor to levy taxes upon the said property at any time from the first Monday in March to the first Monday in September.

Your Assessor has plenty of time now to place all property on the assessment roll of Lincoln County which he has heretofore overlooked, and he should do so on or before the first Monday in September.

It is very important, both to your county and to our State, that this Las Vegas property which you speak of should be assessed, as well as all other property in the State, so immediately request your County Assessor to assess the property which you state he has overlooked, and call his attention to any property you have in your knowledge which he has not assessed. If necessary, do so in writing, but do so at once and urgently request him to place all property in Lincoln County on the assessment roll, at this time. You can also inform him that if he fails to do so, he is subject to removal from office and is liable to the county and State on his official bond for any sum which the county or State might lose by his refusal or neglect to assess all property called to his attention; and further inform him that you will take proceedings against him and his bondsmen for the recovery of any taxes which the State might lose if he fails or refuses to assess the property on or before the first Monday of September next.

For further information on this matter I refer you to Section 1085 and the succeeding sections of our Compiled Laws.

Respectfully submitted.

JAMES G. SWEENEY, *Attorney-General.*

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, August 25, 1905.

WILLIAM R. FITTS, *Justice of the Peace, Lovelock, Nevada.*

MY DEAR SIR: Your favor of August 24th, inquiring of me whether or not you have any authority for making an arrest where an offense is committed in your presence, as Justice of the Peace, duly received. In reply thereto, I refer you to Section 2318 of our Compiled Laws

wherein you are made a conservator of the peace in your township by virtue of your office; also to Sections 4107 and 4108 of said Compiled Laws, which give you full authority to make arrests in certain cases even where offenses are attempted or committed not in your presence.

Respectfully submitted,

JAMES G. SWEENEY, *Attorney-General.*

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, September 6, 1905.

O. T. WILLIAMS, ESQ., *Elko, Nevada.*

MY DEAR SIR: Your favor of September 5th, requesting an opinion from me as to whether or not a Constable should be allowed twice the amount of mileage he receives for arresting one prisoner when he brings two prisoners from the same place at the same time, duly received.

It is my opinion that in such a case he should be allowed only one mileage, on the same principle as an officer is entitled to one mileage only for the service of a subpena or other papers where the same requires only one trip.

I would be glad to hear from you as to what progress is being made in the Hiram Chase estate which, in the event no heirs are found, should escheat to the State.

Respectfully submitted,

JAMES G. SWEENEY, *Attorney-General.*

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, September 8, 1905.

BENJ. SANDERS, ESQ., *District Attorney of Lincoln County, Pioche, Nevada.*

MY DEAR SIR: Your favor, requesting of me an opinion as to whether or not the Assessor of a county is compelled to have the Assessor's statement of his county printed in his own county, providing the same can be done at a price not exceeding 20 cents for each name, duly received.

On page 89 of the Statutes of 1901 there is an Act which makes it a duty of the County Assessor to prepare a printed list of all the taxpayers in the county, which list shall represent the value in figures of each article, item or separate piece of property assessed, as the same appears on the Assessor's statement, with the total valuation and figures assessed to each taxpayer; that he shall deliver to every taxpayer in the county a copy of such list, provided that the cost of printing the aforesaid list shall not exceed 20 cents for each name for as many copies as there are names on the list. The Act provides that the Boards of County Commissioners of the various counties are authorized and

empowered to allow the bill thus contracted by the Assessor under this Act, and the several County Auditors are authorized and requested to draw their warrants in payment for the same.

In compliance with this Act the Assessor should have this list prepared on or before the second Monday in September of each year.

While I believe it to be a good rule for County Assessors to employ home talent in their various counties, providing it can be done in compliance with the law, still the Assessor, under the law, is not obligated to have the work done in his own county.

Under the Act in question, should he have the list printed elsewhere in the State, in compliance with the Act above referred to he would be entitled under said Act to be paid out of the county fund.

I will send you an opinion in the very near future in the matter of your inquiry submitted as to the fine and cost in the case of *The State v. McKinney*.

I have been rushed with official work in the Supreme Court during the past two weeks, which accounts for my seeming neglect in not responding sooner to your above query.

To-day John Hancock was executed at the State Prison in compliance with the judgment rendered in your court on the 8th of last June, the Supreme Court having affirmed the judgment Wednesday afternoon.

Respectfully submitted,

JAMES G. SWEENEY, *Attorney-General*.

[Telegram.]

PIOCHE, NEVADA, September 13, 1905.

JAMES G. SWEENEY, *Carson City, Nevada*:

Must State and county taxes be paid in cash. Answer collect.

H. J. GOODRICH, *Treasurer*.

[Answer.]

CARSON CITY, September 13, 1905.

H. J. GOODRICH, *Pioche, Nevada*:

You are responsible to county and State on your official bond in cash for taxes due said county and State. As County Treasurer it is matter of discretion on your part to accept check or draft, but always on your own responsibility. Advise refusing check or draft wherever there is any doubt of personal worth of taxpayer.

JAMES G. SWEENEY, *Attorney-General*.

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, September 13, 1905.

BENJ. SANDERS, Esq., *District Attorney of Lincoln County, Pioche, Nevada*.

MY DEAR SIR: Your favor of the 24th ultimo, requesting an opinion of me as to a certain judgment rendered in the District Court of your county in 1902 against one W. J. McKinney, duly received.

You state in your letter that said McKinney was found guilty of the crime of selling whisky to Indians; that the court in its judgment exempted the defendant from imprisonment, but fined him \$400, which sum defendant paid, and under said judgment it was to be divided as follows: \$100 was to be paid into the State Treasury, \$100 was to be paid to the Indian who informed the Sheriff of the crime, and \$200 was to be paid into the county treasury, to be applied in paying the costs in the case.

If the fine was collected, which it was in accordance with your letter, the judgment of the court should be carried out to the letter.

The officer who received the \$400 fine, in compliance of the judgment of the court, was legally obligated to apply the sum in compliance with said judgment. If for any cause the money was misappropriated or put to any other purposes other than prescribed in the judgment, that officer is legally obligated to make an accounting of what he did with the money, and if said money was misappropriated he is criminally liable for misappropriating said amount, and liable on his official bond for the amount misappropriated.

You will, therefore, accordingly, investigate the matter and see to it that the judgment of the court, even at this late date, is properly executed, and those connected in misappropriating said amount dealt with according to law.

Respectfully submitted,

JAMES G. SWEENEY, *Attorney-General.*

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, September 30, 1905.

F. E. BROCKLISS, ESQ., *District Attorney of Douglas County, Genoa, Nevada.*

MY DEAR SIR: Your favor of the 26th instant, requesting an opinion of me on the following query, duly received:

In your opinion are the members of the County Board of Health entitled to any compensation for their work or mileage?
(See Chapter XLII, Statutes of 1905.)

An examination of the Act which creates the Boards of Health, referred to in your query, discloses that no compensation of any character is provided for the mileage or other expenses of said Board.

It is a well-established principle of law that the services of a public officer are gratuitous unless compensation is authorized by statute, and that a public officer must perform every service required of him by law and that he must look to the statute for his compensation. If it provides none, then his services are gratuitous.

We have in this State, under our law, a State Board of Health, and in the Act referred to in your query the County Board of Health are supposed to act in conjunction with and under the supervision of said State Board of Health. The Legislature has appropriated \$1,000 for the expenses of the State Board of Health.

Under the principle of law above enunciated the members of the County Board of Health are entitled to no compensation for their serv-

ices or mileage from the county. If said County Board of Health, acting in conjunction with or under the supervision of the State Board of Health, incur any expenses in the suppression of contagious diseases, or other sanitary precautions, which necessitate the expenditure of money, such actual expenses incurred are legitimate charges against the county, payable as all other claims against the county out of the county funds.

The County Physician, who is a member of the County Board of Health referred to in your query, is made Chairman of the County Board of Health, and his services rendered in the suppression of contagious diseases are, in legal contemplation, in the absence of any statute authorizing further compensation for any services by him performed as a member of the County Board of Health, paid for and included in the salary he receives from the county as County Physician.

Respectfully submitted,

JAMES G. SWEENEY, *Attorney-General.*

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, October 3, 1905.

W. B. CRAIG, ESQ., *District Attorney of Washoe County, Reno, Nevada.*

MY DEAR SIR: Your favor of September 30th, regarding the confession of Al Linderman, and also submitting to me a query for an opinion as to whether or not the Wheelman's Club of your city could give an amateur boxing exhibition without the payment of the license now provided by law for such exhibitions, duly received.

Regarding the Linderman confession it will be ample time to secure said confession, for the purposes for which the Board of Pardons desire it, at your next regular meeting of the District Court, and I will be obliged to you if at that time you will secure same and forward it to me.

Regarding your query as to whether or not the Wheelmen can legally hold a boxing exhibition without paying the \$1,000 license as prescribed by law, I am of the opinion that they cannot do so. The law of 1897 is explicit in that all exhibitions of this character, before they shall be allowed to take place, must be paid for at the rate of \$1,000 for each and every exhibition. I do not see in any way how the law could be construed otherwise and have previously rendered two or three opinions to the same effect.

I feel very friendly toward the Wheelman's Club of your city, recognizing it to be a most worthy organization, and so far as I am personally concerned if the law was subject to a double interpretation, or could be in any way construed which would authorize them to have their amateur bout without this heavy penalty, I would gladly accord them the privilege, so far as I am concerned. But we must as executive officers execute the law as we find it made by the Legislative Department, irrespective of our desires, and not be swayed by sentiment.

Respectfully submitted,

JAMES G. SWEENEY, *Attorney-General.*

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, October 19, 1905.

BENJ. SANDERS, ESQ., *District Attorney of Lincoln County, Pioche, Nevada.*

MY DEAR SIR: Your favor of October 5th, requesting of me an opinion as to whether or not it is legally right to retain or place children on the school census roll who were not actually living in the school district on the 1st day of May, duly received.

Section 3 of an Act of our Legislature, approved March 10, 1903, obligates me to answer your query in the negative.

I thoroughly considered the conditions now prevailing in Las Vegas with State Superintendent Ring, and, while we personally would like to accommodate those children who came there after the 1st of May as to placing them on the census roll so that the district might draw more census money for school purposes, the law is such that it will not yield to any such interpretation. We must remember that it is our duty to execute the laws as made by the Legislature, and if we ever attempt to arrogate unto ourselves the legislative authority we would be assuming, in the first place, authority which we have no right to, and, in the second place, would be setting a dangerous precedent which would in the end result in great damage to the interests of the State.

The section above referred to specifically states that the Census Marshal shall only put the names of such children on the census roll as actually reside within the district on the 1st day of May.

I would suggest that if your school funds for Las Vegas will be too low to run the school for the full term that a special tax be levied in that district. In this way the difficulty complained of can be obviated.

The Supreme Court has affirmed the judgment of the lower court in the case of *The State of Nevada v. Sevens, Gorman, Roberts, and Linderman*. This makes a total of seven persons upon whom judgments of murder in the first degree have been affirmed in our Supreme Court since I have been Attorney-General, within the last two years.

Respectfully submitted,

JAMES G. SWEENEY, *Attorney-General.*

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, October 20, 1905.

J. F. BRADLEY, *Sheriff and ex officio Assessor of Esmeralda County, Hawthorne, Nevada.*

MY DEAR SIR: State Controller Davis has just handed me your communication to him concerning your inquiry regarding the collecting of the State liquor license and requested me to give you an opinion.

In reply thereto I refer you to Section 9 of an Act of the Legislature approved March 15, 1905 (Statutes of 1905, page 238).

Licenses collected for the year 1905 shall be calculated at \$50 per annum for retailers, \$12 per annum for retail drug stores, and \$100 per annum for wholesalers and rectifiers.

After this year all licenses must be paid in full for the entire year no matter when the licenses are applied for, *but pro rata for the year 1905, as above specified.*

Respectfully submitted,
JAMES G. SWEENEY, *Attorney-General.*

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, November 4, 1905.

W. C. GRIMES, ESQ., *District Attorney of Churchill County, Fallon, Nevada.*

MY DEAR SIR: Your favor, submitting to me the following query, duly received:

Will you kindly answer the following query: A party procures from the License Collector of the county a license to conduct a saloon for three months, we will say, at A. After carrying on the business about one month in A he closes the saloon and moves to B, seven miles from A, in the same county, and opens a saloon. Can he carry on the business under the same license issued to him while in business in A, or will he be required to take out a new license?

In answer thereto, I am of the opinion that the party would be entitled to do business under the original license and would not be required to take out a new license.

I recently rendered an opinion in which I construed the State liquor license law to the effect that if a party in Storey County took out a State liquor license to do liquor business there, and afterwards removed to Washoe County and opened up a business there, abandoning his liquor business in Storey County, that the State license was sufficient to authorize him to do a liquor business in Washoe County or in any other part of the State.

Respectfully submitted,
JAMES G. SWEENEY, *Attorney-General.*

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, November 22, 1905.

BENJ. SANDERS, ESQ., *District Attorney of Lincoln County, Pioche, Nevada.*

MY DEAR SIR: Your query of November 7th as to whether or not a bond executed by the United States Fidelity and Guarantee Company of Baltimore as surety for County Treasurer Eugene Goodrich, filed November 6, 1905, in the Clerk's office of your county, duly received and considered.

As telegraphed you this day it is my opinion that the bond executed by this company is legally sufficient. They have complied with the State law by taking out a license to do business in this State, and their solvency and credit are beyond dispute. The Board of County

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, October 19, 1905.

BENJ. SANDERS, ESQ., *District Attorney of Lincoln County, Pioche, Nevada.*

MY DEAR SIR: Your favor of October 5th, requesting of me an opinion as to whether or not it is legally right to retain or place children on the school census roll who were not actually living in the school district on the 1st day of May, duly received.

Section 3 of an Act of our Legislature, approved March 10, 1903, obligates me to answer your query in the negative.

I thoroughly considered the conditions now prevailing in Las Vegas with State Superintendent Ring, and, while we personally would like to accommodate those children who came there after the 1st of May as to placing them on the census roll so that the district might draw more census money for school purposes, the law is such that it will not yield to any such interpretation. We must remember that it is our duty to execute the laws as made by the Legislature, and if we ever attempt to arrogate unto ourselves the legislative authority we would be assuming, in the first place, authority which we have no right to, and, in the second place, would be setting a dangerous precedent which would in the end result in great damage to the interests of the State.

The section above referred to specifically states that the Census Marshal shall only put the names of such children on the census roll as actually reside within the district on the 1st day of May.

I would suggest that if your school funds for Las Vegas will be too low to run the school for the full term that a special tax be levied in that district. In this way the difficulty complained of can be obviated.

The Supreme Court has affirmed the judgment of the lower court in the case of *The State of Nevada v. Sevens, Gorman, Roberts, and Linderman*. This makes a total of seven persons upon whom judgments of murder in the first degree have been affirmed in our Supreme Court since I have been Attorney-General, within the last two years.

Respectfully submitted,

JAMES G. SWEENEY, *Attorney-General.*

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, October 20, 1905.

J. F. BRADLEY, *Sheriff and ex officio Assessor of Esmeralda County, Hawthorne, Nevada.*

MY DEAR SIR: State Controller Davis has just handed me your communication to him concerning your inquiry regarding the collecting of the State liquor license and requested me to give you an opinion.

In reply thereto I refer you to Section 9 of an Act of the Legislature approved March 15, 1905 (Statutes of 1905, page 238).

Licenses collected for the year 1905 shall be calculated at \$50 per annum for retailers, \$12 per annum for retail drug stores, and \$100 per annum for wholesalers and rectifiers.

Commissioners, however, are the judges as to their solvency, and if they believe the company solvent they are legally entitled to accept the bond without additional security.

The law recently enacted to facilitate the giving of bonds and undertakings in this State particularly provides that any surety company, upon producing satisfactory evidence of its solvency and credit to the Controller of the State, may secure a license to do business and may give bonds for county officials and other matters requiring bonds, so long as they are solvent and their credit is satisfactory to the Judge, head of department or other officers authorized to approve such bonds. If said Judges or other officers are satisfied of the solvency of the company they may accept such bond without further or additional sureties.

Respectfully submitted,

JAMES G. SWEENEY, *Attorney-General*.

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, December 1, 1905.

HON. E. D. KELLEY, *Surveyor-General and ex officio State Land Register, Carson City, Nevada.*

MY DEAR SIR: Your favor of the 28th ultimo, containing the following statement of facts and requesting an official opinion thereon from me as to what action you should take in the premises, duly received and considered:

The records of the State Land Office show that on April 18, 1885, Freebern J. Fletter filed his application (No. 6060) for the SE $\frac{1}{4}$ of NE $\frac{1}{4}$ of Sec. 27 N, R. 44 E, and presented the State Treasurer's receipt for first payment on said lands; that on May 9, 1885, Henry P. Kraus filed his application (No. 6119) for the S $\frac{1}{2}$ of NE $\frac{1}{4}$ of Sec. 32, T. 40 N, R. 45 E, and presented State Treasurer's receipt for first payment on the same; that on May 9, 1885, John K. Everett filed his application (No. 6120) for the S $\frac{1}{4}$ of SW $\frac{1}{4}$ of Sec. 10, and the SE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Sec. 9, T. 39 N, R. 45 E, and presented State Treasurer's receipt for first payment on the same; that on May 23, 1885, Thomas Nelson filed his application (No. 6154) and his affidavits of preferred rights to purchase the above-described lands, and presented the State Treasurer's receipt for first payment on the same; that on March 26, 1890, the cases in contest were certified to the District Court of the State of Nevada, in and for Elko County; that on November 21, 1905, three instruments endorsed "Findings and Judgments" in the Fourth Judicial District Court of the State of Nevada in and for the County of Elko, and certified by the Clerk of said Court, were received from James F. Dennis, Esq., attorney for the defendant; that said instruments and each of them contain the following:

WHEREFORE, By reason of the law, it is ordered and adjudged that said action be dismissed and the same is hereby dismissed accordingly; that the defendant, Thomas Nelson,

be, and he is hereby, adjudged to be entitled to purchase or contract to purchase of the State of Nevada, upon complying with the laws of this State relative thereto, all of the following-described lands situated in Elko County, State of Nevada, and described as follows, to wit: (Here follows in each instrument a description of the lands.) And it is further ordered and adjudged: That the defendant, Thomas Nelson, do have and recover from the plaintiff herein his costs and disbursements in this action taxed at \$9.05, and that the Register of the Land Office of the State of Nevada do and he is hereby ordered and adjudged to retain from the money on deposit in his said office belonging to the plaintiff herein the said sum of \$9.05, and to pay the same to the defendant, Thomas Nelson, in full discharge of his said judgment for said costs, and to pay said plaintiff, his heirs, executors or assigns, the balance of the money on deposit in his said office on account of plaintiff's application to purchase said land, after deducting said sum of \$9.05, and the lawful charges of the State of Nevada by reason thereof. Dated this 16th day of November, 1905. Geo. S. Brown, District Judge.

An Act of our Legislature of 1903, approved March 13, 1903, provided:

Any applicant for lands in the State of Nevada, who is now a contestant or party to any suit in the courts of this State involving the right to purchase the lands so applied for, and who fails to prosecute with due diligence the suit or suits so instituted, within one year after the approval of this Act, shall be deemed as having abandoned his or her right in said lands, and the opposing or adverse applicant or claimant shall be entitled to complete the purchase and receive a patent or patents therefor. Where neither party to the suit or contest prosecutes the suit with due diligence within the time required by the provisions of this Act, the suit shall be dismissed, and it shall be the duty of the Clerk of the Court to immediately notify the State Land Register of the dismissal of such suit, and upon the receipt of such notification the State Land Register shall declare the land and money paid therefor forfeited to the State, and the land shall be open to entry.

From the records of the cases under consideration it is apparent that the contests which were pending between the parties should have been dismissed March 14, 1904; that the Clerk of the Court wherein said contests were pending should have notified you of the dismissal of said contests, whereupon it would have been your duty to have declared the land and money paid therefor forfeited to the State.

On account of the neglect of some one in authority, not yourself, these mandatory provisions, which were applicable at the time to the cases now in question, were not complied with, the cases not having been dismissed.

It is unnecessary at this time to express an opinion upon the legality of the judgments as finally rendered in these cases, because the legal effect and status of the cases as they now stand are the same, as this opinion will hereafter disclose, as though the law of 1903 had been

complied with. Had that law been complied with the cases would have been dismissed, and you, as State Land Register, would have been legally obligated to have declared the land and money paid therefor forfeited to the State.

An Act of our recent Legislature, approved March 17, 1905, provides, among other things, that when contested land cases are dismissed the Clerk of the Court shall immediately notify the State Land Register of their dismissal, whereupon the State Land Register must declare the land and money paid therefor forfeited to the State, and the land open to entry.

The decree of the court wherein these cases were tried, adjudges among other things, that:

WHEREFORE, By reason of the law, it is ordered and adjudged that said action be dismissed, and the same is hereby dismissed accordingly; that the defendant, Thomas Nelson, be, and he is hereby, adjudged to be entitled to purchase or contract to purchase of the State of Nevada, *upon complying with the laws of said State relative thereto*, all of the following-described lands situated in Elko County, State of Nevada, and described as follows, etc.

In view of the laws heretofore cited the laws of our State directing how land can be acquired from the State, and the duties therein imposed on you as State Land Register with which you are so thoroughly conversant and which are unnecessary here to quote, other than by general reference to Sections 302 to 352 of our Compiled Laws, and *in compliance* with the above-quoted part of the judgment, which is in consonance with the laws above referred to, in so far as it states that defendant Nelson has a right to become an applicant for the purchase of said land, *upon complying with the laws of the State of Nevada, applicable thereto*, it is my opinion that you should declare the lands in question forfeited to the State, together with any moneys which may have been paid therefor, and declare said land open to entry, giving defendant, Thomas Nelson, a preferred right to purchase said lands, *providing* he makes application for said lands regularly in compliance with our State laws governing applications for State land and upon payment of the regular fees. In no other way, in my opinion, can said Nelson acquire a title to the lands in question.

There being no money on deposit in your office belonging to plaintiff, you cannot give that which you have not, nor any heed nor effect to that part of the judgment ordering you to retain and apply to defendant Nelson's account as costs, or for any other purpose, the sum of \$9.05 or any other sum.

Respectfully submitted,

JAMES G. SWEENEY, *Attorney-General.*

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, April 17, 1906.

MR. JAMES QUIRK, *Sheriff of Storey County, Virginia City, Nevada.*

MY DEAR SIR: Your favor of April 13th, requesting my opinion as

to whether or not you are entitled to retain 6 per cent of the State liquor license moneys collected by you, duly received.

The District Attorney of your county is your legal adviser, and to him you should apply for any legal advice you may desire in regard to your official duties, the opinions of the Attorney-General being by law reserved for State officers, District Attorneys and heads of State institutions. However, since you are in a hurry before turning the money into the State Treasury, with the indulgence of the District Attorney, I will give you my opinion,

Section 6 of an Act approved March 15, 1905, provides that "all money collected from State liquor licenses must be paid into the State Treasury quarterly." Section 1205 of the Compiled Laws, approved March 23, 1891, provides that Sheriffs, as ex officio License Collectors, are entitled to retain 6 per cent of the gross amount of the licenses collected, as compensation for services rendered. An Act approved March 21, 1891, provides that the salary of the Sheriff and Assessor of Storey County, *for all services rendered*, shall be \$2,000 a year. As you will perceive, the Act of 1905 supersedes all previous Acts, and there is no possible legal way in which these Acts can be so construed as to allow Sheriffs on a fixed salary to retain the 6 per cent, as much as I personally would like to have them do so.

As I have often stated, when complaint is made against my opinion, I do not make the law, but simply execute and interpret it as I find it. I have written a previous opinion as to this matter, holding that no Sheriff working on a fixed salary can retain any part of this State liquor license, and can see no legal reason for altering or changing that opinion now.

Respectfully submitted,

JAMES G. SWEENEY, *Attorney-General.*

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, June 9, 1906.

MR. F. J. McMAHON, *Sheriff and Assessor of Nye County, Tonopah, Nevada.*

MY DEAR SIR: Your favor of May 25th, requesting an opinion as to licenses due on certain kinds of slot machines, arrived during my absence, which accounts for my seeming neglect in not responding sooner.

The official opinions of the Attorney-General are by law reserved for State officers, heads of State institutions, and for the District Attorneys of the several counties. The District Attorney of your county is your legal adviser and to him you should apply for such official legal advice as you may desire, the opinions of this office being held in reserve for him should he need or request same.

Relative to your query at this time I desire to state that the Assessors throughout the State have been collecting but one license for what is termed "Combination" slot machines. If, however, two machines are

crudely nailed together, as you state merely to evade the law, two licenses should be collected for same.

Yours, sincerely,

JAMES G. SWEENEY, *Attorney-General.*

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, June 13, 1906.

HON. E. D. KELLEY, *Surveyor-General and State Land Register, Carson City, Nevada.*

MY DEAR SIR: Your communication of the 6th instant, wherein you submit the following statement for my official opinion, I have carefully considered:

The State Treasurer, to whom this office certifies payments on State land, issues receipts in which the name "D. M. Ryan" is stamped by Wildes, Deputy, and at times, judging by the handwriting, by persons other than Wildes. I enclose a true copy of one of those receipts. Some patrons of the office will not accept a receipt with a stamped signature, nor with a signature written in pencil. To-day I asked Mr. Wildes to sign his name to receipts which he simply initialed, and he informed me, in language more forcible than polite, that he would not do it.

I desire to know of you as my legal adviser if such receipts are valid.

I can best answer your statement by resolving it into the four queries which your statement suggests, to wit:

First—Is a receipt given by the State Treasurer and countersigned by any one other than the State Treasurer or the Deputy State Treasurer a valid receipt?

Second—Is a receipt in which the signature "D. M. Ryan" is stamped and countersigned in ink or pencil by the Deputy Treasurer a valid receipt?

Third—Is a receipt signed by the stamped signature of the Treasurer and countersigned by the Deputy in typewriting a valid receipt?

Fourth—Is a receipt signed by the stamped signature of the Treasurer and countersigned by the initials only of the Deputy Treasurer a valid receipt?

As to your first query I am of the opinion that there can be no question whatever but that a receipt such as embraced in the first query is worthless, invalid, and not a legal receipt.

A receipt has been legally defined by the Supreme Court of Indiana to be "the written acknowledgment from an authorized person of the receipt of money, or a thing of value, without containing any affirmative obligation upon either party to it—a mere admission of a fact in writing; but when a receipt contains stipulations which amount to a contract, it becomes a contract and must be governed by the law of contract, and can be avoided only by fraud, mistake, failure of consideration, rescission, or some way known to the law." (*Kurtz v. Craig*, 53 Ind. 561.)

An examination of the authorities here referred to reveals the fact that Supreme Courts of the various States, as well as the Attorney-General of the United States, have held in cases similar to the one submitted to me by you that receipts embraced in the second, third and fourth queries are valid receipts. (Opinions of the Attorney-General of the United States, Vol. 1, p. 670; *Hamilton v. State*, 103 Ind. 96; *Pennington v. Baehner*, 48 Cal. 565; *People v. Griner*, 124 Cal. 19; *Streff v. Colteaux*, 64 Ill. App. 180; Am. & Eng. Ency. of Law, Vol. 5, p. 1066, and authorities cited.)

The reasons given in the above decisions, in sustaining the validity of receipts signed as indicated in questions two, three, and four, lead me conclusively to the opinion that receipts as indicated in said second, third, and fourth queries are legally sufficient.

In some States there are statutes which provide that all persons have a right to secure a receipt from creditors for any property delivered in performance of an obligation. We have no such general statute in our State, yet the principle of giving to every debtor a receipt for value received, if they desire or request it, is so meritorious in itself that custom has practically crystalized it into law. Our statutes, however, make it a duty of public officers to give receipts for money paid to them in their official capacity. It follows, therefore, that all persons purchasing land from our State are entitled to receive receipts from officers in authority for moneys paid to the State, and that they would be legally privileged to enforce by mandamus a valid receipt from the proper officers should an invalid receipt be issued to them.

Respectfully submitted,

JAMES G. SWEENEY, *Attorney-General*,

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, June 29, 1906.

MR. C. H. STODDARD, *County Recorder of Washoe County, Reno, Nevada.*

MY DEAR SIR: Your favor of June 25th is at hand. Under the law the opinions of the Attorney-General are given only to State officials, heads of State institutions, and the District Attorneys of the various counties, when desired or requested by them. In view, however, of my seeming neglect in not answering your query, on account of having misplaced your previous letter, I will answer your query notwithstanding.

You inquire whether or not the Act of 1903 repeals Section 2415 of the Compiled Laws. In my opinion it does not, only with the exception of the section which refers to a removal from the county in which the person was appointed. The Act of 1903 was intended to allow a Notary Public to do business, no matter where his residence, having once been appointed, for a term of four years. It is my opinion that you should not demand or require his papers returned by reason of his having changed his residence from one county to another, so long as he still remains in the State.

Yours, sincerely,

JAMES G. SWEENEY, *Attorney-General*.

RECOMMENDATIONS.

The work in the Attorney-General's office during the past four years has increased fully 100 per cent over the business transacted in that office during the previous twelve years, and in view of this increased amount of work and the fact that the salary of the Attorney-General has not been raised during the past twelve years, I respectfully recommend to the Legislature that the salary of the Attorney-General be increased to \$5,000 per annum.

I further recommend that a law be passed authorizing the County Commissioners to defray the expenses of the District Attorneys of the various counties which they may incur while in attendance upon the Supreme Court in all capital cases on appeal in that tribunal, and making it the duty of the District Attorney to be present to assist the Attorney-General. With the assistance of the District Attorney the work of the Attorney-General would be greatly lightened, and in view of the perfect knowledge which the District Attorney has of the evidence adduced at the trial in the lower court his services would be of great benefit to the State.

DISTRICT ATTORNEYS' REPORTS

REPORTS OF DISTRICT ATTORNEY FOR 1905.

The following is a statement of the criminal business transacted in the several counties of the State during the year 1905, as shown by the reports of the District Attorneys of the respective counties, furnished this office in accordance with the provisions of the Act of the Legislature, approved March 1, 1889:

CHURCHILL COUNTY.

FALLON, November 30, 1905.

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, 1905:

Number and character of prosecutions: Assault with intent to kill, 2; assault with intent to rob, 1; grand larceny, 1.

Number of persons convicted, and character of punishment: Assault with intent to kill, 2 (1 sentenced to 14 years in State Prison; 1 sentenced to 10 years in State Prison); assault with intent to rob, 1 (10 years in State Prison); grand larceny, 1 (1 year in State Prison).

Number of persons acquitted, or as to whom prosecutions were abated or dismissed: Jailbreaking, 1 (indictment dismissed).

Number of prosecutions pending: Forgery, 1; grand larceny, 1; assault with intent to rob, 1; assault with intent to kill, 1.

Cost of prosecutions, \$1,500 (approximately).

Respectfully,

W. C. GRIMES, *District Attorney.*

DOUGLAS COUNTY.

GENOA, November 22, 1905.

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, 1905:

Number and character of prosecutions: Felonies, 3; misdemeanors, 3. Felonies—Murder, 1; grand larceny, 1; assault with intent to kill, 1. Misdemeanors—Disturbing the peace, 1; interfering with, obstructing, and resisting a Water Commissioner, 2. The defendants indicted for murder and grand larceny were acquitted by juries. One indicted for assault with intent to kill convicted of assault with a deadly weapon, and sentenced to two years in the State Prison. One charged with disturbing the peace plead guilty and sentenced to pay a fine of \$10 and costs. One interfering with, obstructing, and resisting a Water Commissioner convicted and sentenced to pay a fine of \$10 and costs of

suit. One other for a like offense plead guilty and fined \$40 and costs.

Number of prosecutions pending: None.

Cost of prosecutions, \$3,787.15.

Amount of fines paid, \$80.

Respectfully,

FRANK E. BROCKLISS, *District Attorney.*

ESMERALDA COUNTY.

HAWTHORNE, December 1, 1905.

To the Honorable the Attorney-General.

DEAR SIR: Pursuant to law I herewith submit my annual report of the criminal business transacted in Esmeralda County during the year ending November 1, 1905:

<i>Offenses.</i>	<i>Hawthorne.</i>	<i>Goldfield.</i>	<i>Lida.</i>
Obtaining money under false pretenses.....	2	34	.....
Drunk and disorderly.....	23	402	.....
Assault.....	8	32	.....
Embezzlement.....	.....	22	.....
Disturbing peace.....	4	88	8
Petit larceny.....	7	30	2
Assault with intent to kill.....	7	16	.....
Carrying concealed weapons.....	4	7	.....
Threatening.....	.....	9	.....
Assault and battery.....	.....	5	.....
Murder.....	.....	3	.....
Running hurdy-gurdy house.....	.....	3	.....
Vagrancy.....	2	290	.....
Burglary.....	1	3	.....
Contempt of court.....	.....	3	.....
Resisting officer.....	.....	6	.....
Fraudulently disposing of real estate.....	.....	2	.....
Discharging firearms.....	.....	2	.....
Highway robbery.....	.....	1	.....
Forgery.....	.....	2	.....
Running house of prostitution.....	.....	1	.....
Receiving stolen goods.....	1	3	.....
Mayhem.....	1	2	.....
Larceny as bailee.....	.....	1	.....
Running toll gate.....	.....	1	.....
Horse stealing.....	.....	1	.....
Indecent exposure.....	.....	1	.....
Grand larceny.....	1	18	.....
Malicious destruction of property.....	.....	2	.....
Maintaining nuisance.....	.....	6	.....
Obtaining property under false pretenses.....	.....	1	.....
Jailbreaking.....	3	1	.....
Perjury.....	.....	2	.....
Drawing deadly weapons.....	.....	2	.....
Malicious mischief.....	.....	12	.....
Housebreaking.....	.....	4	.....
Dog stealing.....	.....	1	.....
Attempt to steal.....	.....	1	.....
Robbery.....	1	2	.....
Rape.....	1	.....	.....
Gambling without a license.....	4	.....	.....
Selling liquor without license.....	1	.....	.....
Selling liquor to Indian.....	.....	.....	1
Totals.....	71	1,022	11
Grand total.....	.....	.....	1,104

Respectfully,

J. E. DAVIDSON, *District Attorney.*

EUREKA COUNTY.

EUREKA, December 1, 1905.

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 (Eureka), during the year ending November 1, 1905:

Number and character of prosecutions: Housebreaking, 1; assault and battery, 1; carrying concealed weapon, 1; petit larceny, 1; grand larceny, 2; allowing hogs to run at large, 1; disturbing the peace, 1; manslaughter, 2 (one preliminary hearing waived, and in other, with 2 defendants, preliminary hearing had, and 1 defendant dismissed and 1 bound over to appear).

Number of persons convicted, and character of punishment: Assault and battery, 1 (plead guilty, fined \$50); petit larceny, 1 (compromised with complainant, paid cost of goods and fees of officers, complaint withdrawn, prosecution stayed); disturbing the peace, 1 (plead guilty, fined \$65); allowing hogs to run at large, 1 (plead guilty, paid fine of \$5).

Number of persons acquitted, or as to whom prosecutions were abated or dismissed: Housebreaking, 1 (acquitted); carrying concealed weapon, 1 (acquitted); grand larceny, 2 (dismissed at preliminary hearing); manslaughter, 1 (dismissed at preliminary hearing).

Number of prosecutions pending: Manslaughter, 2.

Cost of prosecutions, \$350.

Amount of fines paid, \$70.

Respectfully,

LEW ROGERS, *District Attorney.*

HUMBOLDT COUNTY.

WINNEMUCCA, November 28, 1905.

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, 1905:

Number and character of prosecutions in the Justice Courts of the county: Lake Township—Various misdemeanors, 312; preliminary examinations, 5. Union Township—Various misdemeanors, 167; preliminary examinations, 1. Gold Run Township—Various misdemeanors, 147. Paradise Township—Misdemeanors, 2; preliminary examinations, 3. Costs of prosecutions of misdemeanors and preliminary examinations, \$7,601.17. Amount of fines paid, \$799.20.

Number and character of prosecutions in the District Court: Burglary, 2; rape, 2; grand larceny, 2; assault with intent to kill, 1. Number of persons convicted, 3. Number of persons acquitted, 1. Average punishment on conviction, 8 years. Number of persons whose cases were ignored by Grand Jury, 3. Number prosecutions pending, 1.

Cost of prosecutions in District Court, \$2,962.91.

Costs of prosecutions of cases transferred from Humboldt County to Washoe County, \$9,363.45.

Respectfully,

E. A. DUCKER, *District Attorney.*

LINCOLN COUNTY.

PTOCHE, December 31, 1905.

To the Honorable the Attorney-General.

DEAR SIR: Following you will find my report of all criminal business which has come before the Fourth Judicial District Court of the State of Nevada, in and for Lincoln County, during the year 1905:

State v. Joseph Watkins. January 31, 1905. Felony—Assault with a deadly weapon with intent to do great bodily harm. Trial by jury. Jury disagreed. Case continued for the term. At the opening of the June term of court the case was again called; upon motion of the District Attorney the case was dismissed and the defendant discharged. The reason was the State had no new testimony, and in the judgment of the District Attorney the evidence was not sufficient to convict.

State v. C. H. Drumm. January 31, 1905. Felony—Stealing a horse. Trial by jury. The jury returned a verdict of not guilty.

State v. C. H. Drumm. Felony—Stealing a saddle and bridle worth to exceed \$50. In this case the testimony was identical with that in the first case. Upon motion of the District Attorney the case was dismissed and the defendant ordered discharged for the reason that the testimony was the same as in the first case, and principally Indian testimony, and it was believed that a verdict could not be obtained.

State v. James Rieley. Charged with assault with intent to kill. Case tried by a jury. Jury returned a verdict of guilty. The judgment of the court was that he be sentenced for a term of 1½ years in the State Prison.

State v. James Carl. Felony—Passing fraudulent checks. Trial by jury. After part of the testimony was in, and there was an attempt on the part of the State to introduce the check in question in evidence, it appeared from the face of the check that it was a check on the Bank of New Brunswick, New Jersey. The State had telegrams to show that there was no such bank in existence, but the Court would not admit the telegrams as evidence. The State not being in a position to introduce its proof other than by said telegrams, the Court, upon motion of the District Attorney, instructed the jury to bring in a verdict of not guilty.

State v. Joseph Thompson. In this case, the proof being identical with that in the case against James Carl, upon motion of the District Attorney the case was dismissed and the defendant discharged.

State v. John Hancock. Murder. Trial by jury. The jury was duly sworn, and the jury having heard the testimony, after due deliberation returned a verdict of guilty as charged. The judgment of the Court was that he be hanged at Carson City, on the 8th day of September, 1905, which sentence was executed on said day.

State v. M. B. Spiker. Felony—Burglary. Defendant pleaded guilty as charged. The judgment of the Court was that he be sentenced to the State Prison for a term of two years.

State v. Joe Hawley. Felony—Burglary. Defendant pleaded guilty as charged. The judgment of the Court was that he be sentenced for a term of three years in the State Prison.

State v. Willard Robbins. Felony—Burglary. This man was charged as being an accomplice of Spiker and Hawley. The State was represented at the preliminary examination by Dan V. Noland, a lawyer for the S. P. L. A. & S. L. R. R. Co. He was also here to assist the District Attorney in the trial of the cause. It appeared by the testimony that the defendant had been wrongly accused; that Spiker and Hawley had been told that if they would inform of the man or person who prompted them to commit the crime with which they were charged they would be set free. It appeared that they had been so promised by both the Deputy Sheriff and railroad officials. They did so inform of Willard Robbins, and caused him to be so indicted, charging him as an accessory before the fact. The Court, upon motion of the District Attorney, instructed the jury to bring in a verdict of not guilty.

State v. Willard Robbins. Felony—Receiving stolen goods. The testimony in this case was identical with that in the former case, hence, upon the motion of the District Attorney, the case was dismissed and the defendant discharged, for the reason that the State had not sufficient testimony to assure a conviction.

State v. Frank Kalas and Jim Apostolos. Felony—Robbery. The testimony in this case showed that the defendants in the night time went to the cabin or tent of one John Kastokas, after dark, and assaulted him, and they took from him a belt containing \$250, lawful money of the United States. The belt was found on the outside of Kastokas' tent next morning and two 50-cent pieces laying close to it. There was an interpreter there sworn and all matters and things were conducted in a regular way, and the defendants had a good, fair and impartial trial. The Court appointed Judge Percy, a lawyer well up in the practice, and fully able to defend the case.

The above are all of the criminal cases tried and presented in this Court during the year 1905.

I have collected no fines whatever, either in the Justice Courts or in the District Court. There have been several fines collected by the several Justices of the Peace in the county. Of these I have no record. They do not come into my possession, and I have no knowledge of what they amount to.

Regarding the fine of \$100 in the case of J. W. McKinney, which should have been paid to the State three years ago: We are now having the books examined, and we have found where it was paid to the County Clerk. After that we cannot find what became of it. There is no record showing that it was ever paid to the State.

Respectfully,

BENJ. SANDERS, *District Attorney.*

LYON COUNTY.

DAYTON, November 6, 1905.

To the Honorable the Attorney-General.

DEAR SIR: Pursuant to law I herewith submit my annual report of

the criminal business transacted in Lyon County during the year ending November 1, 1905:

Number and character of prosecutions: Assault with intent to kill, 1; embezzlement, 3; burglary, 1; assault and battery, 4; discharging a gun in a public place, 1; disturbing the peace, 19; forgery, 1; petty larceny, 4; vagrancy, 1.

Number of persons convicted, and character of punishment: Assault and battery, 4; embezzlement, 2; discharging gun in a public place, 1; disturbing the peace, 19; petty larceny, 3; vagrancy, 1. Fine and imprisonment in county jail.

Number of persons acquitted, or as to whom prosecutions were abated or dismissed: Embezzlement, 1; petty larceny, 1.

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

Cost of prosecutions, \$274.75.

Amount of fines paid, \$248.

Respectfully,

JOHN LOTHROP, *District Attorney.*

NYE COUNTY.

TONOPAH, December 1, 1905.

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, 1905:

Number of convictions.....	451
Number of convictions, but suspended.....	241
Number of acquittals.....	214
Number of prosecutions pending.....	None
Cost to county.....	\$3,169.00
Fines paid.....	\$989.00
Bonds forfeited (1).....	\$50.00
Peace bonds.....	1
Pardons from county jail.....	None
Convictions to State Prison.....	1
Number of days served in county jail.....	3,190
Average jail sentence.....	76.1 days

W. B. PITTMAN, *District Attorney.*

ORMSBY COUNTY.

CARSON CITY, December 1, 1905.

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, 1905:

Number and character of prosecutions: Threatening an offense against the person of another, 1; assault and battery, 2; petit larceny, 1; obtaining money under false pretenses, 3.

Number of persons convicted, and character of punishment: Threatening an offense against the person of another, 1 (placed under bonds

to keep the peace); assault and battery, 2 (1 fined \$10, 1 fined \$50); petit larceny, 1 (imprisonment for 60 days imposed).

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

Number of prosecutions pending: Obtaining money under false pretenses, 2 (defendants not apprehended); obtaining money under false pretenses, 1 (jury disagreed and second trial pending).

Amount of fines paid, \$60.

Respectfully,

E. E. ROBERTS, *District Attorney.*

WASHOE COUNTY.

RENO, November 30, 1905.

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, 1905:

NUMBER AND CHARACTER OF PROSECUTIONS AND CONVICTIONS IN THE SEVERAL JUSTICE COURTS IN THE COUNTY.

Reno Township—On charges of vagrancy, 168; disturbing the peace, 191; petit larceny, 53; assault and battery, 47; malicious mischief, 7; carrying concealed weapons, 7; exhibiting firearms, 8; cheat, 3; owning vicious dog, 1; drunk and disorderly, 8; hunting within enclosed grounds, 1; transacting merchandise business without a license, 1; selling whisky to minors, 4; conducting slot machine without a license, 1; receiving stolen goods, 1; netting fish, 1; unlawful fishing, 2; smoking opium, 19; jailbreaking, 1; conducting houses of ill-fame within school limits, 8; overdriving horse, 1; possession of opium lay-outs, 1; possession of stolen goods, 1; impersonating officer, 1; obtaining money under false pretenses, 10; selling whisky to Indians, 2; robbery, 5; threat to kill, 1; grand larceny, 7; forgery, 2; assault with intent to kill, 5; embezzlement, 1; kidnaping, 1; assault with a deadly weapon, 1; housebreaking, 2; assault with intent to commit rape, 2; manslaughter, 1; burglary, 5; bigamy, 1.

Sparks Township—On charges of vagrancy, 128; disturbing the peace, 42; carrying concealed weapons, 3; malicious mischief, 27; cheat, 1; assault and battery, 3; petty larceny, 14; breaking seal on railroad car, 2; impersonating officer, 1; selling liquor to Indians, 1; assault with intent to kill, 1; possession of opium lay-out, 1; robbery, 2; murder, 1; unclassified misdemeanors, 128; other felonies, 1.

Verdi Township—On charges of vagrancy, 43; drunk and disorderly conduct, 23; disturbing the peace, 10; assault and battery, 3; carrying concealed weapons, 2; malicious mischief, 8; other misdemeanors, 3.

Wadsworth Township—Unclassified misdemeanors, 89; felony cases, 5.

PERSONS CONVICTED IN THE DISTRICT COURT AND CHARACTER OF PUNISHMENT.

Fred Roberts, Frank Williams, J. P. Sevensen and T. F. Gorman, convicted of murder in the first degree, and sentenced to death. Dick Forrest, assault with intent to kill, 10 years in State Prison. Robert Gibbs, forgery, 18 months in the State Prison. John Sullivan, selling

whisky to Indians, 2 years in State Prison. James Farrel, robbery, sentenced to life imprisonment in the State Prison. Daniel Regan, convicted of manslaughter, sentenced to 3 years in the State Prison. Levi Webber, convicted of assault with intent to kill, sentenced to 14 years in State Prison. Harry Butts, assault with intent to kill, 8 years in State Prison. Jack Appleton, convicted of burglary, sentenced to 4 years in State Prison. William J. O'Neill, convicted of grand larceny, sentenced to 2 years in State Prison. James Sabin, convicted of robbery, sentenced to 30 years in State Prison. Tony Christie, convicted of robbery, sentenced to 15 years in State Prison. James Burns, convicted of assault with a deadly weapon, 14 months in State Prison. Joseph Belcher, charged with assault with intent to kill, failed to appear for trial and forfeited \$500 cash bail to the State.

Number of cases ignored by the grand jury, 5.

Number of cases in which verdict of acquittal was returned by trial jury, 2.

Number of cases dismissed on motion of the District Attorney for want of sufficient evidence to proceed to trial, 3.

The case of *The State of Nevada v. James Farrel* on an indictment for assault with intent to kill was dismissed on motion of the District Attorney for the reason that the defendant was convicted of robbery and sentenced to life imprisonment.

Number of cases awaiting the action of the grand jury, 1.

Number of cases waiting for trial in the District Court, 2.

Approximate cost of prosecutions in Justice and District Courts (including jury fees), \$14,524.25.

Amount of fines paid, \$1,069.60; bail forfeited, \$500; total, \$1,569.60.

Respectfully,

WILLIAM B. CRAIG, *District Attorney.*

REPORTS OF DISTRICT ATTORNEYS FOR 1906.

The following is a statement of the criminal business transacted in the several counties of the State during the year 1906, as shown by the reports of the District Attorneys of the respective counties, furnished this office in accordance with the provisions of the Act of the Legislature, approved March 1, 1889:

CHURCHILL COUNTY.

FALLON, December 28, 1906.

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, 1906:

Number and character of prosecutions: Forgery, 1; assault to do bodily injury, 1; grand larceny, 1; assault to rob, 1.

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

Number of persons acquitted, or as to whom prosecutions were abated or dismissed, 4.

Number of prosecutions pending: None.

Cost of prosecutions (estimated), \$400.

Amount of fines paid: None.

Respectfully,

W. C. GRIMES, *District Attorney.*

DOUGLAS COUNTY.

GENOA, November 28, 1906.

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, 1906:

Number and character of prosecutions: Felonies, 2 (one for grand larceny, the case being tried twice, the first trial resulting in a disagreement of the jury, the second an acquittal; the other case being for disposing of spirituous liquor to an Indian, the party was acquitted by a jury.) Misdemeanors, 5, all for disturbing the peace. One paid a fine of \$10 and served a term in the county jail. The other four all served terms in the county jail.

Number of prosecutions pending: None.

Costs of prosecutions, \$2,841.75.

Amount of fines paid, \$10.

Respectfully,

F. E. BROCKLISS, *District Attorney.*

EUREKA COUNTY.

EUREKA, December 19, 1906.

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, 1906:

Number and character of prosecutions: Receiving stolen goods, 2; embezzlement, 2; assault and battery, 4; murder, 1; shooting off pistol in public place, 1; drawing deadly weapon, 2; disturbing the peace, 8; preliminary hearings for grand larceny, 3 (1 discharged under habeas corpus after being bound over, and 2 still bound over); robbery, 1 (dismissed); fugitive from justice, 1; petit larceny, 1; vagrancy, 1; threatening to commit offense, 1; assault with intent to kill, 1.

Number of persons convicted, and character of punishment: Receiving stolen goods, 1 (fine of \$250); embezzlement, 1 (5 months imprisonment on one charge and \$250 fine on other charge); disturbing the peace, 5 (1 fined \$1 and costs; 4 sentenced to 10 days); malicious mischief, 1 (fined \$50 and costs); petit larceny, 1 (sentence of 30 days); vagrancy, 1 (sentence suspended, defendant left town); threatening to commit offense, 1 (placed under bond to keep peace); assault with intent to kill, 1 (bound over).

Number of persons acquitted or as to whom prosecutions were abated or dismissed: 1 indictment dismissed for receiving stolen goods; 1 acquitted charged with murder; 1 dismissed for drawing deadly weapon; 2 dismissed for disturbing peace, 1 acquitted for same; 1 dismissed by Justice of the Peace at preliminary for robbery; 1 dismissed by District Judge under habeas corpus for grand larceny after being bound over.

Prosecutions pending: 2 for grand larceny; 1 for assault with intent to kill.

Cost of prosecutions, \$1,000.

Amount of fines paid, \$700.

Respectfully submitted,

LEW ROGERS, *District Attorney.*

HUMBOLDT COUNTY.

WINNEMUCCA, November 29, 1906.

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, 1906:

NUMBER AND CHARACTER OF PROSECUTIONS IN JUSTICE COURTS
OF THE COUNTY.

Lake Township—Various misdemeanors, 338; preliminary examinations, 2.

Union Township—Various misdemeanors, 108; preliminary examinations, 5.

Paradise Township—Various misdemeanors, 4; preliminary examinations, 2.

Golconda Township—Various misdemeanors, 117.

McDermitt Township—Preliminary examinations, 1.

Costs of prosecutions of misdemeanors and preliminary examinations, \$8,151.45.

Amount of fines paid, \$366.35.

IN THE DISTRICT COURT.

Number and character of prosecutions: Burglary, 1.

Number of persons convicted, 1.

Number of persons acquitted, 1.

Average punishment on conviction, 18 months.

Costs of prosecutions in District Court: Nothing.

Number and character of cases brought before grand jury: Burglary, 2; robbery, 1; assault with intent to kill, 2; murder, 1; extortion, 1; grand larceny, 1.

Number of persons whose cases were ignored by grand jury, 7.

Number of prosecutions pending, 2.

Costs of prosecutions before grand jury, \$777.10.

Respectfully,

E. A. DUCKER, *District Attorney.*

LANDER COUNTY.

AUSTIN, November 15, 1906.

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, 1906:

Number and character of prosecutions: Grand larceny, 1; escape from jail, 2; murder, 1; assault with intent to kill, 1.

Number of persons convicted, and character of punishment: Murder, 1 (convicted in first degree, not yet sentenced); grand larceny, 1 (1½ years in State Prison).

Number of persons acquitted, or as to whom prosecutions were abated or dismissed: Fred Wallingford, forgery (indictment ignored); Paul Deboye, escaped from jail (indictment ignored).

Number of prosecutions pending: Jailbreaking, 1; assault with intent to kill, 1.

This does not include a number of petty cases in the Justice Court.

Cost of prosecutions, \$8,000 (approximately).

Amount of fines paid, \$500 (bail forfeited).

Respectfully,

A. J. MAESTRETTI, *District Attorney.*

LINCOLN COUNTY.

PIOCHE, January 5, 1907.

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, 1906:

Number and character of prosecutions: Assault with a deadly weapon with intent to inflict great bodily injury, 1; forgery, 1;

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burglary, 1; attempt to escape from lawful custody, 2; embezzlement, 2; alteration and defacement of a public record, 1.

Number of persons convicted, and character of punishment, 4, as follows: W. D. Carleton, forgery, one year in State Prison; Hugh Monroe and Nellie Monroe, burglary, 5 years and 4 years, respectively, in State Prison; A. O. Devitt, attempt to escape from lawful custody, 2 years; Peter Morrissey, attempt to escape from lawful custody, 1½ years.

Number of persons acquitted, or as to whom prosecutions were abated or dismissed, 5, as follows: Robert Shafer, assault with a deadly weapon with intent to inflict great bodily injury, acquitted; S. G. Neal, embezzlement, acquitted; H. J. Goodrich, embezzlement (of officer), acquitted; George O. Sawyer, alteration and defacement of a public record, acquitted; Frank Sanford, burglary, indicted jointly with Hugh Monroe and Nellie Monroe, but indictment against Sanford dismissed so that he could testify for State.

Number of prosecutions pending, 5, as follows: K. S. Park, murder; J. A. Poole, burglary; U. Fugita, murder; C. W. Garrison, criminal libel; J. W. Tuck, taking up estray without filing description thereof with Justice of the Peace.

Cost of prosecutions, \$3,888.65.

Respectfully,

CHAS. LEE HORSEY, *District Attorney.*

LYON COUNTY.

DAYTON, November 15, 1906.

To the Honorable the Attorney-General.

DEAR SIR: Pursuant to law, I herewith submit my report of the criminal business transacted in Lyon County during the year ending November 1, 1906:

Number of prosecutions, and character of same: Assault to kill, 1; grand larceny, 2; mismarking and branding cattle, 2; malicious mischief, 1; selling liquor to a minor, 1; carrying concealed weapons, 1; disturbing the peace, 16. Total, 24.

Number of persons convicted, and character of punishment: Malicious mischief, 1; selling liquor to minor, 1; carrying concealed weapons, 1; disturbing the peace, 15. Fine and imprisonment in the county jail.

Number of persons acquitted, or as to whom prosecutions were abated or dismissed: Assault to kill, 1 (jury disagreed and dismissed on motion of the District Attorney); grand larceny, 1 (acquitted).

Number of prosecutions pending: Grand larceny, 1; mismarking and branding cattle, 2.

Cost of prosecutions, \$1,175.

Fines collected, \$658.75.

Respectfully,

JOHN LOTHROP, *District Attorney.*

NYE COUNTY.

TONOPAH, November 2, 1906.

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, 1906:

Number of convictions.....	149
Number of convictions, but suspended.....	562
Number of acquittals.....	86
Number of prosecutions pending.....	7
Cost to county.....	\$4,129.00
Fines paid.....	\$738.00
Bonds forfeited, (1 of \$50; 1 of \$200).....	\$250.00
Peace bonds.....	1
Convictions to State Prison.....	1
Number of days served in county jail.....	3,068
Average jail sentence (days).....	60.1

W. B. PITTMAN, *District Attorney.*

ORMSBY COUNTY.

CARSON CITY, November 1, 1906.

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, 1906:

Number and character of prosecutions: Burglary, 1; practicing medicine without a license, 1; maintaining houses of prostitution within 400 yards of church, 3; obtaining money under false pretenses, 2; carrying concealed weapons, 1.

Number of persons convicted, and character of punishment: Burglary, 1 (sentenced 3 years in State Prison); practicing medicine without a license, 1 (fined \$10 and costs); obtaining goods under false pretenses, 1 (fined \$50 and costs); maintaining houses of prostitution within 400 yards of church, 3 (fined \$25 each); carrying concealed weapons, 1 (fined \$120 or 60 days in jail.)

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

Number of prosecutions pending: None.

Cost of prosecutions: Nothing.

Amount of fines paid, \$143.25.

Respectfully,

E. E. ROBERTS, *District Attorney.*

WASHOE COUNTY.

RENO, December 11, 1906.

To the Honorable the Attorney-General.

DEAR SIR: Pursuant to law I herewith submit my annual report of the criminal business transacted in Washoe County during the year ending November 1, 1906:

Mr. William B. Craig was District Attorney until September 1, 1906,

when he resigned, and I was appointed to fill the office for the unexpired term.

NUMBER AND CHARACTER OF PROSECUTIONS IN THE SEVERAL JUSTICE COURTS OF THE COUNTY.

Assault and battery, 35; vagrancy, 18; carrying concealed weapons, 4; petit larceny, 54; disturbing the peace, 13; embezzlement, 2; threatening to commit an offense, 1; hunting on enclosed grounds, 6; obtaining money under false pretense, 4; obtaining property under false pretense, 1; drawing deadly weapons, 2; smoking opium, 6; illegal fishing, 2; malicious mischief, 1; fleeing from justice, 2; bribery, 2; selling liquor without license, 1; held to answer on felony charges, 27.

NUMBER OF PERSONS CONVICTED AND CHARACTER OF PUNISHMENT IN THE SEVERAL JUSTICE COURTS OF THE COUNTY.

For assault and battery, 23, imprisoned in county jail or fined (\$92.75 paid in fines); for vagrancy, 10, imprisoned in county jail or fined (33.10 paid in fines); carrying concealed weapons, 1 (30 days in county jail); petit larceny, 37 (imprisonment in county jail); disturbing the peace, 6, imprisoned in county jail or fined (\$25 paid in fines); receiving stolen goods, 3 (180 days each in county jail); peddling without license, 3 (fined \$100, \$20, and \$10); embezzlement, 2 (100 days and 50 days in county jail); obtaining money under false pretense, 2 (50 days each in county jail); obtaining property under false pretense, 1 (150 days in county jail); smoking opium, 6, imprisonment in county jail or fine (fines paid, \$30.85; and one forfeiture of bail, \$25); illegal fishing, 1 (fined \$20); malicious mischief, 1 (50 days in county jail); selling liquor without license, 1 (fined \$10).

NUMBER OF PERSONS ACQUITTED, OR AS TO WHOM PROSECUTIONS WERE ABATED OR DISMISSED, IN THE SEVERAL JUSTICE COURTS OF THE COUNTY.

Assault and battery, 10 acquitted, 2 dismissed; vagrancy, 5 acquitted, 3 dismissed; carrying concealed weapons, 2 dismissed, 1 acquitted; petit larceny, 17 acquitted; disturbing the peace, 7 acquitted; threatening to commit offense, 1 dismissed; hunting on enclosed grounds, 6 dismissed; obtaining money under false pretense, 2 acquitted; drawing deadly weapon, 2 acquitted; illegal fishing, 1 acquitted; fleeing from justice, 2 acquitted; bribery, 2 dismissed.

NUMBER OF PERSONS CONVICTED IN THE DISTRICT COURT, AND CHARACTER OF PUNISHMENT.

Frank Forbes, burglary, 2 years in State Prison. George Henseler, forgery, plead guilty, sentenced to 1½ years in State Prison. Tom Fina, housebreaking, 5 years in State Prison. James Mitchell, housebreaking, 2 years in State Prison. William B. Yates, bigamy, 1 year in State Prison. John Edwards, robbery, 20 years in State Prison.

Number of persons discharged by grand jury, 5.

Number of persons discharged by trial jury, 1.

Number of prosecutions pending, 22.

Cost of prosecutions in Justice and District Courts (approximated), \$8,000.

Amount of fines paid, \$400.

Respectfully,

T. F. MORAN, *District Attorney.*

WHITE PINE COUNTY.

ELY, December 1, 1906.

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, 1906:

Number and character of prosecutions: Disturbing the peace, 22; vagrancy, 10; grand larceny, 2; assault with intent to kill, 3; petit larceny, 2.

Number of persons convicted, and character of punishment: Disturbing the peace, 20 (average punishment 5 days); vagrancy, 9 (average punishment 5 days); grand larceny, 1 (1 year in State Prison); assault with intent to kill, 1 (1 year in State Prison); petit larceny, 2 (30 days each).

Number of persons acquitted, or as so whom prosecutions were abated or dismissed: Disturbing the peace, 2; vagrancy, 1; grand larceny, 1; assault with intent to kill, 1.

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

Cost of prosecutions, \$400.

Amount of fines paid, \$75.

Respectfully,

CHAS. A. WALKER, *District Attorney.*

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