STATE OF NEVADA

BIENNIAL REPORT

OF THE

ATTORNEY-GENERAL

1907=1908

R. C. STODDARD, Attorney-General.

CARSON CITY, NEVADA
STATE PRINTING OFFICE, : : : J. G. McCARTHY, SUPERINTENDENT
1909

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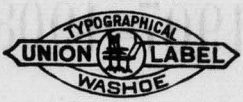
TYPOGRAPHICAL
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LETTER OF TRANSMITTAL.

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, December 31, 1908.

His Excellency, DENVER S. DICKERSON, *Lieutenant and Acting Governor.*

SIR: Pursuant to law, I herewith submit my report as Attorney-General of Nevada for the years 1907 and 1908.

Very respectfully,

R. C. STODDARD,
Attorney-General.

ATTORNEYS-GENERAL 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[1]	1895–1896
J. R. Judge[2]	1896–1898
W. D. Jones[3]	1899–1901
William Woodburn	1901–1902
J. G. Sweeney	1903–1906
R. C. Stoddard	1907–1910

[1]Died December 10, 1896.

[2]J. R. Judge appointed to fill unexpired term, December 24, 1896.

[3]Resigned January 15, 1901, and William Woodburn appointed on 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
Anderson, N. D. ..... May 6, 1871
Allen, Lemuel ..... Jan. 16, 1873
Ammond, George R. ..... Apr. 2, 1877
Ashley, Delos R. ..... Apr. 29, 1864
Alexander, John F. ..... Apr. 4, 1881
Armstrong, Charles B. ..... July 9, 1881
Allen, David ..... Sept. 8, 1881
Allen, W. W. ..... July 5, 1887
Ayer, John L. ..... Jan. 6, 1891
Allen, Richard N. ..... Jan. 29, 1869
Arnot, Nathaniel D ..... Jan. 23, 1899
Averill, Mark P. ..... Oct. 14, 1899
Ayres, Albert D. ..... Apr. 2, 1900
Arnold, Henry N. ..... Mar. 6, 1905
Atkinson, Harry Hunt ..... Sept. 19, 1906
Aitkin, Traven B. ..... Mar. 18, 1907
Andree, Herman Julius ..... Apr. 2, 1907
Aikens, Bronte M. ..... June 10, 1907
Andrews, Lorrin ..... May 1, 1908
Alling, Horatio ..... Nov. 18, 1908

Baldwin, Joseph G. ..... June 2, 1862
Baldwin, A. W. ..... June 2, 1862
Beverage, Francis ..... Dec. 17, 1862
Bixler, David ..... Jan. 20, 1864
Brounson, W. P. ..... Jan. 21, 1864
Bailey, Dav. L. ..... July 12, 1865
Bulkley, L. E. ..... Feb. 18, 1867
Bowman, John ..... Apr. 13, 1867
Browne, Thomas N. ..... Apr. 15, 1867
Bishop, Wm. W. ..... Oct. 14, 1867
Brearley, E. C. ..... Sept. 18, 1868
Bonnifield, M. S. ..... Feb. 8, 1869
Briggs, N. C. ..... Apr. 8, 1869
Buckner, Luther A. ..... Jan. 9, 1871
Boardman, Wm. M. ..... May 18, 1871
Boring, Wm. ..... June 3, 1871
Bonnifield, W. S. ..... June 17, 1871
Belknap, C. H. ..... July 8, 1871
Beene, Horace D. ..... Mar. 22, 1872
Bigelow, R. R. ..... Sept. 4, 1872
Bennett, Paul W. ..... Sept. 13, 1872
Baker, George W. ..... Nov. 11, 1872
Blair, A. W. ..... Jan. 14, 1873
Boalt, John H. ..... Feb. 17, 1873
Berry, George G. ..... Apr. 16, 1873
Barker, J. B. ..... Apr. 5, 1875
Beatty, R. M. ..... July 19, 1871
Branson, Louis ..... Sept. 1, 1875
Brown, Harvey S. ..... Sept. 4, 1876
Brown, John Knox ..... Jan. 3, 1877
Brandt, I. B. L. ..... Feb. 6, 1877
Boyden, James W. ..... Jan. 11, 1879
Bowler, P. M., Jr. ..... Apr. 19, 1880
Bartine, Horace F. ..... July 10, 1880
Belknap, Clayton ..... Jan. 4, 1881
Barry, Charles R. ..... Jan. 17, 1881
Boller, J. F. ..... May 8, 1882
Ballard, John W. ..... July 8, 1882
Beatty, Wm. H. ..... Apr. 7, 1884
Breen, Peter ..... June 2, 1884
Burns, Wm. H. ..... Dec. 13, 1884
Brown, LeRoy D. ..... Apr. 6, 1889
Belcher, W. C. ..... Sept. 2, 1889
Bonnifield, S. J., Jr. ..... Sept. 20, 1879
Bennett, L. B. ..... Mar. 16, 1883
Bicknell, Chas. F. ..... Apr. 1, 1891
Benson, Patrick F. ..... Apr. 4, 1893
Bartlett, Geo. A. ..... July 15, 1893
Baggett, W. T. ..... Apr. 10, 1897
Brown, Geo. S. ..... June 12, 1897
Boyd, James T. ..... Apr. 25, 1900
Brockliss, Frank E. ..... Mar. 7, 1902
Boynton, Chas. C. ..... Apr. 21, 1902
Baker, Harry Lyle ..... Nov. 15, 1902
Butler, John Lawton ..... Nov. 20, 1902
Brown, Hugh H. ..... Aug. 8, 1903
Boyd, C. T. ..... Sept. 5, 1903
Beals, M. S. ..... Nov. 22, 1904
Brand, Arthur ..... Jan. 18, 1905
Byers, N. O. ..... Jan. 14, 1905
Budd, James H. ..... Mar. 25, 1905
Burton, F. L. ..... May 1, 1905
Bevis, E. R. ..... May 1, 1905
Barrett, John J. ..... Aug. 30, 1905
Berry, Fred L. ..... Sept. 25, 1905
Belden, George M. ..... Oct. 14, 1905
Burd, Albert M. ..... Dec. 18, 1905
Baldwin, O. W. ..... Feb. 26, 1906
Boreman, Gilbert F. ..... April 2, 1906
Byington, Lewis F. ..... May 6, 1906
Busteed, Richard ..... May 22, 1906
Brandon, Thomas A. ..... Sept. 1, 1906
Baker, Cleveland Hall ..... Dec. 3, 1906
Barry, N. J. ..... Jan. 3, 1907

Bartch, George W. ..... Jan. 7, 1907
Bryant, W. H. ..... Jan. 22, 1907
Buel, Hillhouse ..... Jan. 24, 1907
Burkert, Christian O. ..... Jan. 31, 1907
Burris, John F. ..... Feb. 19, 1907
Bonestell, C. K. ..... Mar. 11, 1907
Burdick, J. E. ..... Mar. 18, 1907
Breeze, John M. ..... Mar. 18, 1907
Bard, W. H. ..... Apr. 2, 1907
Baker, Samuel H. ..... Apr. 15, 1907
Byrns, Robert J. ..... May 25, 1907
Burrett, Charles H. ..... June 21, 1907
Bonnifield, W. S., Jr. ..... July 1, 1907
Brooks, Luke B. ..... July 29, 1907
Brede, Herman F. ..... Feb. 29, 1908
Bagley, E. M. ..... July 27, 1908
Benedict, Durlin S. ..... Sept. 8, 1908
Bainbridge, Carleton R. ..... Sept. 8, 1908
Burton, Clarence F. ..... Oct. 5, 1908

Clayton, H. P. ..... June 2, 1862
Cossit, H. B. ..... Dec. 23, 1862
Crittenden, A. P. ..... Nov. 21, 1863
Campbell, Will ..... Aug. 20, 1863
Carmichael, John ..... Dec. 23, 1862
Churchill, Clark ..... Jan. 5, 1865
Clemens, Orion ..... Mar. 14, 1865
Caldwell, E. S. ..... Oct. 3, 1865
Clagett, W. H. ..... Jan. 2, 1866
Clarke, Chas. D. ..... Jan. 6, 1866
Crittenden, James L. ..... Apr. 7, 1866
Collins, John A. ..... Dec. 13, 1866
Cole, F. W. ..... Jan. 14, 1867
Cook, H. ..... Feb. 4, 1867
Cain, Wm. ..... Jan. 6, 1862
Coats, J. M. ..... July 1, 1872
Cowdery, J. F. ..... Jan. 14, 1873
Canfield, R. B. ..... Mar. 5, 1873
Carson, James G. ..... July 7, 1873
Creswell, H. T. ..... July 7, 1874
Coffin, Trenmor ..... Oct. 7, 1874
Curler, Benj. ..... Dec. 1, 1874
Cowie, Lewis T. ..... Mar. 1, 1875
Chase, Edward R. ..... July 6, 1875
Churchman, Ney ..... Aug. 11, 1875
Cronin, John ..... Apr. 4, 1876
Crocker, A. W. ..... Nov. 25, 1872
Campbell, Thompson ..... Jan. 3, 1877
Clement, Henry A. ..... Apr. 22, 1878
Clough, Frank M. ..... Nov. 19, 1878
Campbell, Alex ..... Jan. 7, 1879
Cradlebaugh, John H. ..... Jan. 10, 1880
Campbell, Fremont ..... Apr. 19, 1880
Cheney, Azro E. ..... July 6, 1880
Curler, Benjamin F. ..... July 11, 1891
Clarke, R. M. ..... Oct. 27, 1891
Chartz, Alfred ..... Oct. 6, 1894
Carpenter, R. B. ..... Sept. 16, 1897
Copeland, Edward E. ..... July 5, 1898
Cooke, Herman R. ..... May 13, 1899
Cahill, E. J. ..... Oct. 14, 1899
Coogan, T. C. ..... Apr. 4, 1901
Cottrell, G. W. Shutter ..... Aug. 26, 1901
Cutting, Henry C. ..... Jan. 21, 1902
Cohn, Felice ..... June 17, 1902
Craig, William B. ..... Mar. 19, 1903
Chandler, Albert E. ..... July 25, 1904
Cantwell, Charles A. ..... Nov. 22, 1904
Clark, Fabius A. ..... Nov. 28, 1904
Chandler, Charles S. ..... Feb. 13, 1905
Campbell, Joseph C. ..... Mar. 25, 1905
Clark, George A. ..... Apr. 17, 1905
Cole, J. C. ..... Oct. 2, 1905
Chute, Elmer J. ..... Oct. 2, 1905
Carney, Patrick F. ..... Mar. 5, 1906
Clay, C. F. ..... Dec. 3, 1906
Cooper, Oscar ..... Jan. 9, 1907
Carpenter, Samuel ..... Feb. 18, 1907
Cole, Walter D. ..... Feb. 18, 1907
Carey, Joseph ..... Feb. 18, 1907
Campbell, Louis G. ..... Mar. 18, 1907
Coleman, Benjamin W. ..... Mar. 28, 1907
Cochran, M. J. ..... Apr. 2, 1907
Carter, Charles B. ..... May 25, 1907
Crump, Samuel D. ..... July 16, 1907
Coppernoll, Wm. D. ..... Aug. 8, 1907
Clark, Charles A. ..... Sept. 3, 1907
Callahan, James A. ..... Oct. 7, 1907
Cohn, Charles ..... Oct. 28, 1907
Cramer, Robley D. ..... Dec. 30, 1907
Colby, William E. ..... Jan. 10, 1908
Cann, Eli ..... Feb. 15, 1908
Clark, John F. ..... Mar. 20, 1908
Chickering, W. H. ..... May 29, 1908
Campbell, Jesse E. ..... July 30, 1908
Caine, Edwin E. ..... Sept. 18, 1908

DeLong, Chas. E. ..... Aug. 20, 1863
Denson, Sam C. ..... Apr. 25, 1864
Deal, W. E. F. ..... Mar. 14, 1865
Davies, T. W. W. ..... Jan. 6, 1868
Darrow, John O. ..... June 1, 1871
Drake, Frank V. ..... Mar. 7, 1873
Dickson, W. H. ..... July 8, 1874
Dow, James C. ..... Mar. 3, 1875
Douglas, George A. ..... June 4, 1875
Darne, S. E. ..... July 5, 1875
Duff, James R. ..... Jan. 3, 1877
Davis, B. K. ..... Jan. 16, 1877
Driesbach, M. A. ..... July 30, 1877

Dorsey, J. W. ..... July 30, 1877
Davis, W. R. ..... Jan. 4, 1886
Dennis, James F. ..... Apr. 2, 1888
DeLigne, A. A. ..... May 23, 1892
Densmore, Frank E. ..... Feb. 12, 1894
Dodge, Edmund R. ..... July 28, 1894
Dillon, Henry Clay ..... May 17, 1895
Devlin, Robert T. ..... Nov. 2, 1897
DuPuis, Edmund T. ..... Nov. 16, 1898
DeLaMatyr, T. E. ..... July 29, 1899
Ducker, Edward A. ..... Jan. 20, 1902
Dann, F. P. ..... Apr. 4, 1904
Detch, Milton M. ..... Oct. 15, 1904
Douglas, J. F. ..... Feb. 13, 1905
Downing, W. M. ..... July 20, 1905
Downer, Sylvester S. ..... Aug. 9, 1905
Devecmore, George W. ..... Sept. 25, 1905
Davis, Lee J. ..... Oct. 4, 1905
Darlington, Abe ..... Mar. 28, 1906
Del Bondio, Charles ..... June 4, 1906
Daly, James H. ..... June 7, 1906
Denny, James M. ..... Oct. 8, 1906
Dixon, Jonathan B. ..... Nov. 12, 1906
Deane, J. W. ..... Dec. 3, 1906
Duffy, D. M. ..... Jan. 22, 1907
Donovan, James ..... Feb. 11, 1907
Dorman, Jess ..... Apr. 29, 1907
Dam, Cleveland Lincoln ..... May 25, 1907
Danforth, H. D. ..... July 15, 1907
Devlin, Frank P. ..... Oct. 7, 1907
Dockweiler, Isidore B. ..... Dec. 16, 1907

Ellis, Adrian C. ..... Aug. 17, 1863
Edgerton, Henry ..... Aug. 17, 1863
Edwards, T. D. ..... Jan. 20, 1864
Earll, Warner ..... Jan. 11, 1871
Evans, Pierce ..... Nov. 8, 1877
Egan, James B. ..... July 28, 1894
Elliott, L. L. ..... Dec. 23, 1894
Eisner, Milton S. ..... May 6, 1899
Elliott, Albert D. ..... Nov. 12, 1904
Edmonds, Emmit E. ..... Jan. 21, 1905
Erdman, Otto A. ..... Feb. 26, 1906
Eddy, Clarence A. ..... June 28, 1906
Ernest, D. E. ..... Jan. 7, 1907
Edwards, Edward Carter ..... June 17, 1907
Evans, Everett Hall ..... July 16, 1907
Erb, Wm. M. ..... Mar. 20, 1908
Eddy, Thomas V. ..... Nov. 19, 1908

Foster, J. C. ..... June 2, 1862
Fitch, Thomas ..... Aug. 20, 1863
Ferguson, P. D. ..... Aug. 22, 1864
Flack, J. H. ..... Oct. 11, 1865
Fuller, Mortimer ..... Mar. 12, 1875
Fisk, Arthur W. ..... Oct. 25, 1875
Foote, R. E. ..... Sept. 4, 1876
French, W. L. ..... Apr. 24, 1877
Fitzgerald, A. L. ..... Sept. 14, 1878
Ford, Thomas S. ..... Nov. 16, 1878
Flanningham, Jos. P. ..... May 19, 1882
Foulds, J. E. ..... Apr. 6, 1885
Farrington, E. S. ..... Dec. 16, 1886
Fay, J. P. ..... July 2, 1888
Farrall, Chas. H. ..... Dec. 16, 1895
Foulks, George H. ..... Aug. 17, 1896
Fitzgerald, R. Y. ..... Apr. 24, 1899
Fredrick, Marcus ..... July 29, 1899
Forbes, P. W. ..... May, 19, 1900
Ford, Marshall E. ..... Mar. 10, 1902
Frisbie, R. D. ..... Aug. 10, 1903
Fox, Geo. W. ..... Nov. 27, 1903
Foreman, William ..... June 27, 1905
Ford, W. F. ..... Sept. 7, 1905
French, Le Roy ..... Sept. 25, 1905
Finch, James D. ..... Oct. 2, 1905
Farnam, Henry M. ..... Oct. 1, 1906
French, Leon L. L. ..... Apr. 22, 1907
Fletcher, George B. ..... Apr. 23, 1907
Foley, F. L. ..... June 10, 1907
Flanagan, Thos. Edmund ..... July 1, 1907
Frohman, Isaac ..... Oct. 23, 1907
Fenton, Jas. E. ..... Apr. 27, 1908
Fogg, W. Fred P. ..... May 29, 1908

Gilcrist, S. F. ..... June 2, 1862
Gordon, G. W. ..... Dec. 23, 1862
Gurnie, Clinton ..... Aug. 20, 1863
Gaston, H. A. ..... Apr. 30, 1864
Greeley, A. L. ..... Jan. 5, 1865
Goff, Chas. P. ..... Apr. 4, 1866
Gough, W. T. ..... Mar. 18, 1867
Gates, Wm. M. ..... Aug. 2, 1867
Greeley, J. L. ..... June 15, 1871
Grass, S. S. ..... June 1, 1872
Granger, W. N. ..... Aug. 12, 1872
Goodwin, C. C. ..... Feb. 24, 1873
Graham, J. H., Jr. ..... Mar. 1, 1875
Galloway, James ..... Sept. 18, 1876
Gray, John A. ..... Apr. 22, 1878
Griffith, J. I. ..... Apr. 8, 1879
Goldstone, Samuel ..... Jan. 5, 1880
Garber, Eugene R. ..... Jan. 5, 1880
Goodall, James E. ..... Feb. 4, 1884
Grey, O. H. ..... June 2, 1884
Gest, C. H. ..... Apr. 6, 1889
Goad, W. F. ..... July 1, 1889
Gooding, J. M. ..... Oct. 6, 1890
Goodwin, J. D. ..... Jan. 2, 1894
Green, George S. ..... Jan. 4, 1897

Gayhart, W. C. ..... Nov. 2, 1897
Grey, Gertrude G. ..... Apr. 4, 1898
Gregory, T. T. C. ..... Sept. 27, 1901
Goodfellow, Wm. S. ..... May 22, 1902
Glidden, . WB. ..... Oct. 21, 1902
Griffon, John D. ..... Jan. 4, 1904
Grimes, William C. ..... May 23, 1904
Gedney, Frank S. ..... July 11, 1904
Gear, George D. ..... Apr. 3, 1905
Geary, Wm. P. ..... Apr. 24, 1905
Gillespie, Claude B. ..... Jan. 29, 1906
Guinane, James G. ..... Mar. 5, 1906
Gibbons, Louis Alberto ..... Apr. 2, 1906
Gibson, William R. ..... Dec. 3, 1906
Gleason, Jesse W. ..... Jan. 3, 1907
Garoutte, C. H. ..... Jan. 22, 1907
Gulliford, Herbert S. ..... Apr. 1, 1907
Guttery, Andrew ..... May 13, 1907
Glynn, James ..... May 25, 1907
Gill, Fredrick A. ..... Mar. 20, 1908

Haydon, Thomas E. ..... June 2, 1862
Hall, G. D. ..... June 2, 1862
Hurlburt, S. ..... June 10, 1862
Hereford, A. P. ..... Dec. 17, 1862
Hardy, J. H. ..... Dec. 23, 1862
Higgins, Albin ..... Dec. 23, 1862
Howard, J. G. ..... Aug. 21, 1863
Hillyer, C. J. ..... Jan. 20, 1864
Hill, C. A. ..... Jan. 21, 1864
Hereford, J. B. ..... Jan. 21, 1864
Hupp, Geo. S. ..... Mar. 22, 1865
Harris, Chas. N. ..... July 10, 1865
Hoover, Wm. L. ..... Aug. 31, 1865
Hatch, J. F. ..... Nov. 3, 1865
Hayden, C. S. ..... Jan. 6, 1866
Hawley, A. T. ..... Jan. 26, 1866
Hubbard, Charles G. ..... Mar. 3, 1866
Hundley, P. O. ..... Oct. 12, 1866
Hetzel, Selden ..... May 1, 1866
Hillyer, E. W. ..... Sept. 16, 1867
Hamlin, Chas. J. ..... Oct. 5, 1869
Hawley, Thomas P. ..... Jan. 9, 1871
Haydon, Wm. ..... Apr. 4, 1871
Harding, Geo. P. ..... Apr. 4, 1871
Harris, J. H. ..... May 8, 1871
Hillhouse, A. M. ..... June 21, 1871
Harris, P. H. ..... Aug. 21, 1871
Healy, T. W. ..... Dec. 13, 1871
Hardy, Wm. J. ..... May 20, 1872
Hunt, A. B. ..... Jan. 15, 1873
Harmon, F. H. ..... Jan. 17, 1873
Humes, T. J. ..... Oct. 6, 1873
Haskell, Wm. B. ..... Aug. 11, 1874
Hanford, J. M. ..... Aug. 11, 1875
Hoyt, Chas. A. ..... Sept. 4, 1875
Hiles, Ogden ..... Apr. 3, 1876
Huffaker, F. M. ..... Oct. 24, 1877
Hoyt, Allen V. ..... Oct. 27, 1877
Hereford, John B. ..... Nov. 10, 1877
Hannah, James A. ..... Feb. 20, 1882
Hardin, C. H. E. ..... Jan. 13, 1883
Hart, W. H. H. ..... Feb. 19, 1885
Hatfield, L. T. ..... July 7, 1890
Harris, Artemus E. ..... Feb. 3, 1895
Hoffman, Edward E. ..... Sept. 7, 1895
Henderson, Chas. B. ..... July 1, 1896
Hood, Bert L. ..... May 12, 1900
Hummel, N. A. ..... Mar. 12, 1901
Henley, Wm. J. ..... July 3, 1902
Howell, Eugene ..... Dec. 31, 1902
Heley, Josephus G. ..... Jan. 16, 1903
Hartson, D. H. ..... June 3, 1904
Huskey, H. W. ..... June 6, 1904
Hankey, Frederick A. ..... Nov. 12, 1904
Horsey, Charles Lee ..... Feb. 13, 1905
Hill, James E. ..... May 17, 1905
Hayes, Chas. L. ..... June 27, 1905
Hinckley, L. E. C. ..... Oct. 16, 1905
Hatton, Wm. D. ..... Nov. 27, 1905
Hatton, Charles ..... Feb. 26, 1906
Hart, Fred B. ..... June 9, 1906
Hanby, J. Walter ..... Sept. 19, 1906
Hoggett, Volney T. ..... Jan. 7, 1907
Hasman, C. J. ..... Feb. 18, 1907
Hangs, Frank J. ..... Mar. 28, 1907
Hubbard, Robert L. ..... May 13, 1907
Hilton, C. N. ..... May 25, 1907
Harwood, C. L. ..... July 1, 1907
Haven, Thomas E. ..... July 10, 1907
Howard, Henry H. ..... July 23, 1907
Harris, Lamar A. ..... Dec. 16, 1907
Heath, Fredrick W. ..... Apr. 26, 1908
Higgins, E. V. ..... July 6, 1908
Hall, Leicester C. ..... Sept. 24, 1908
Haight, A. L. ..... Sept. 28, 1908
Henderson, A. S. ..... Oct. 1, 1908

Ivins, Charles H. ..... Jan. 2, 1888

Johnson, J. Neely ..... June 2, 1862
Joachimson, H. L. ..... June 3, 1862
James, John ..... June 10, 1862
Janin, Edward ..... Dec. 23, 1862
Johnson, Wm. Neely ..... Aug. 17, 1863
James, W. H. ..... Nov. 6, 1863
Jones, Frank ..... Jan. 20, 1864
Jones, W. T. ..... Apr. 1, 1867
Julien, Thomas V. ..... May 7, 1872
Johnson, Roger ..... Jan. 17, 1878

Jameson, J. S. ..... July 1, 1878
Judge, James R. ..... Apr. 5, 1881
Jones, Charles A. ..... Oct. 4, 1886
Jones, Wm. Dudley ..... May 9, 1892
Johnson, Georgia J. ..... July 30, 1898
Johns, Robinson L. ..... Apr. 5, 1902
Jackson, Kenneth M. ..... May 2, 1902
Johnson, E. A. P. ..... Apr. 3, 1905
Jaques, Alfred ..... Oct. 14, 1905
Johnson, William E. ..... Nov. 2, 1906
Jurich, Anthony ..... Jan. 22, 1907
Jones, James B. ..... Jan. 31, 1907
Jackson, George Edgar ..... Feb. 18, 1907
Jenkins, Dezmond T. ..... Sept. 5, 1907
Jones, Chas. D. ..... June 15, 1908

Kirkpatrick, M. ..... Jan. 21, 1864
Kennedy, F. H. ..... May 5, 1865
Knox, Wales L. ..... July 11, 1865
Keating, R. P. ..... Aug. 21, 1865
Keyser, Phil. W. ..... Oct. 21, 1865
Kennedy, W. C. ..... Jan. 4, 1869
Kittrell, John R. ..... May 4, 1871
Keith, George W. ..... July 3, 1872
Knight, George A. ..... Jan. 6, 1873
King, Cameron H. ..... Feb. 3, 1873
Kingston, George A. ..... July 2, 1877
Keeney, George D. ..... Apr. 23, 1878
Knight, E. D. ..... July 2, 1888
King, Sam D. ..... Apr. 7, 1890
King, Percival S. ..... May 9, 1892
Kehoe, Dennis H. ..... Apr. 7, 1894
Kelly, Charles H. ..... Dec. 2, 1897
Knox, Charles L. ..... July 29, 1899
King, Frank D. ..... Mar. 12, 1901
Kleinsorge, Wm. E. ..... Feb. 4, 1902
Kennedy, John J. ..... Aug. 4, 1902
Kinkaid, John ..... Feb. 18, 1907
Keeler, P. E. ..... Mar. 11, 1907
Kepner, Thomas E. ..... June 10, 1907
Kunz, John Franklin ..... Aug. 8, 1907
Kirk, Wm. R. ..... Aug. 21, 1907
King, Claudius, L. ..... July 6, 1908
Kennedy, J. L. ..... Sept. 11, 1908

Lindsey, W. H. ..... June 2, 1862
Larrowe, M. D. ..... June 3, 1862
Lansing, C. J. ..... Aug. 17, 1863
Lewis, J. F. ..... Apr. 25, 1864
Lee, W. G. ..... Jan. 5, 1865
Lyon, George G. ..... Aug. 23, 1869
Lucas, J. H. ..... May 4, 1871
Leonard, O. R. ..... May 19, 1871
Lowry, Hiram N. ..... Oct. 8, 1872
Laspeyre, Thomas ..... Apr. 14, 1874
Lowery, Robert E. ..... Nov. 21, 1874
Love, William C. ..... Aug. 11, 1875
Lindsay, R. H. ..... Jan. 25, 1875
Lewis, D. J. ..... Sept. 1, 1875
Lawrence, And. J. ..... July 1, 1878
Lamb, J. T. ..... July 8, 1882
Langan, F. P. ..... Jan. 13, 1887
Laird, Jno. W. P. ..... Oct. 20, 1890
Lothrop, John ..... July 1, 1891
Laurenson, Wm. ..... Feb. 25, 1896
Langwith, Joseph A. ..... Oct. 5, 1896
Lake, F. B. ..... Oct. 3, 1898
Lewers, Charles Ross ..... Nov. 12, 1898
Leishman, David ..... Feb. 11, 1901
Leonard, Franklyn, Jr. ..... July 5, 1902
Long, Charles W. ..... Jan. 2, 1905
Lindley, Curtis H. ..... Mar. 14, 1905
Lind, Henry B. ..... Mar. 14, 1905
Lyon, Thomas T. ..... Oct. 16, 1905
Lewis, Paul G. ..... Oct. 29, 1906
Lightfoot, Adelbert B. ..... Dec. 18, 1906
Libby, C. H. ..... Oct. 7, 1907
Liechti, Arnold W. ..... Oct. 28, 1907
Laney, Hiram S. ..... Feb. 3, 1908
Lillis, Henry M. ..... May 29, 1908
Lockhart, James M. ..... Apr. 15, 1908
Lyman, Chester L. ..... Oct. 5, 1908

McConnell, John R. ..... June 2, 1862
Musser, John J. ..... June 2, 1862
Moyes, Richard ..... June 3, 1862
McCentaire, R. G. ..... Dec. 23, 1862
Murphy, W. G. ..... Aug. 20, 1863
McReardon, James ..... Aug. 21, 1863
Morrison, Murray ..... Nov. 28, 1863
Morrison, Robert F. ..... Nov. 28, 1863
Mitchell, Henry K. ..... Mar. 14, 1865
McKinstry, E. W. ..... July 10, 1865
McQuaid, Jno. A. ..... July 25, 1865
Mayenbaum, Henry ..... Apr. 2, 1866
Mesick, R. S. ..... Feb. 2, 1867
Meagher, James D. ..... May 27, 1867
McKeeby, L. C. ..... July 24, 1868
Marshall, J. B. ..... Dec. 16, 1868
McElvaney, John G. ..... Oct. 13, 1869
McClinton, J. G. ..... May 23, 1871
McDonald, O. C. ..... Nov. 23, 1871
Murphy, Michael A. ..... Feb. 29, 1872
Maxwell, J. J. ..... May 18, 1872
May, J. J. ..... Mar. 24, 1873
McFarland, T. B. ..... Oct. 13, 1873
McAllister, Hall ..... July 17, 1874
Mesick, W. S. ..... Apr. 20, 1876
Morgan, Jas. M. ..... Oct. 29, 1875
Mitchell, R. B. ..... Apr. 3, 1877

Merzbach, F. H. ..... Jan. 24, 1878
Mann, S. A. ..... Apr. 6, 1878
Maddux, L. J. ..... Apr. 17, 1879
Mills, Frank P. ..... Oct. 6, 1879
Mahoney, J. L. ..... Jan. 3, 1881
Mack, Charles E. ..... Apr. 4, 1881
Murphy, Frank X. ..... Feb. 4, 1884
Millar, G. E. ..... Oct. 2, 1882
Miner, Richard S. ..... May 6, 1889
MacMillan, J. H. ..... Sept. 20, 1879
McGowan, Alex. J. ..... Oct. 6, 1890
Meredith, J. H. ..... Dec. 1, 1890
Mighels, P. V. ..... Jan. 10, 1891
Metson, William H. ..... Oct. 5, 1891
Murdock, Orrice A. ..... May 2, 1892
Murphy, Frank E. ..... June 18, 1892
Massey, W. A. ..... Mar. 13, 1893
McNamee, Frank R. ..... Apr. 15, 1895
Maestretti, Antonio J. ..... Jan. 28, 1899
MacMillan, H. R. ..... June 24, 1899
Mack, O. H. ..... Oct. 14, 1899
McIntosh, Charles H. ..... Mar. 12, 1901
Moynahan, John D. ..... Oct. 7, 1901
McNamara, T. M. ..... July 6, 1903
Murphy, John H. ..... Aug. 8, 1903
Martinson, George ..... July 6, 1904
McCabe, Bert R. ..... Sept. 12, 1904
McElroy, G. A. ..... Dec. 10, 1904
McCarran, P. A. ..... Feb. 13, 1905
McMullens, Samuel G. ..... Mar. 25, 1905
Marshall, John B. ..... Apr. 17, 1905
McDougal, D. C. ..... June 20, 1905
Moran, Thomas ..... June 26, 1905
McDevitt, T. C. ..... July 31, 1905
Moore, Milton B. ..... Dec. 18, 1905
McFadden, Clarence J. ..... Feb. 26, 1906
McClellan, Clifford ..... Mar. 5, 1906
Moran, E. P. ..... Apr. 30, 1906
Malone, William H. ..... June 9, 1906
McCarthy, Loyal H. ..... July 2, 1906
McClellan, Tom Elwood ..... July 30, 1906
McDowell, Samuel ..... Aug. 15, 1906
Morehouse, H. V. ..... Sept. 1, 1906
Mitchell, Thomas L. ..... Oct. 1, 1906
Morris, J. H. ..... Jan. 3, 1907
Mee, J. Hubert ..... Jan. 7, 1907
Marioneaux, Thomas ..... Jan. 7, 1907
Moses, Albert L. ..... Mar. 18, 1907
Murphy, John Douglass ..... Mar. 28, 1907
Murrish, Harry John ..... May 2, 1907
Malone, Booth M. ..... May 25, 1907
Miller, Chas. H. ..... Aug. 20, 1907
McNulty, Francis ..... Sept. 16, 1907
Mullins, John I. ..... Oct. 14, 1907
Montgomery, John A. ..... Feb. 29, 1908
Moss, Jasper H. ..... Mar. 21, 1908
McKenzie, J. A. ..... June 18, 1908
Martin, Theodore ..... June 30, 1908
Macbeth, John S. ..... July 6, 1908

North, John W. ..... June 2, 1862
Nourse, George A. ..... Apr. 25, 1864
Napthaly, Joseph ..... July 10, 1867
Newmann, Paul ..... July 13, 1868
Nye, James W. ..... Oct. 5, 1869
Noel, George N. ..... Apr. 7, 1894
Norcross, Frank H. ..... July 28, 1894
Nagel, E. C. ..... July 30, 1898
Nye, Arthur M. ..... Feb. 13, 1905
Needles, A. R. ..... Apr. 17, 1905
Nolan, Daniel Voorhies ..... Nov. 4, 1905
Nourse, John F. ..... Feb. 26, 1906
Nagle, Charles Grant ..... Nov. 13, 1906

O'Dougherty, A. B. ..... May 12, 1871
Owen, Frank ..... May 27, 1871
O'Dougherty, Wm. I. ..... Aug. 11, 1875
Osborne, T. J. ..... Sept. 8, 1884
Oliver, Frank S. ..... May 28, 1896
Oddie, Tasker L. ..... Nov. 11, 1898
Orr, John S. ..... Jan. 7, 1902
O'Brien, Percy Howard ..... June 27, 1905
O'Brien, Edward C. ..... Jan. 17, 1906
O'Brien, John P. ..... Mar. 19, 1906
Ogden, Wm. B. ..... May 2, 1906
Owers, Frank W. ..... Feb. 25, 1907
O'Brien, Martin T. ..... May 2, 1907

Patterson, Wm. ..... June 2, 1862
Pitzer, J. S. ..... Dec. 23, 1862
Pendergast, —. ..... Jan. 20, 1864
Pratt, O. C. ..... Jan. 20, 1864
Powell, John, Jr. ..... Apr. 29, 1871
Pierson, Wm. M. ..... June 15, 1871
Plummer, J. A. ..... July 10, 1886
Poujade, Joseph ..... Nov. 19, 1888
Patterson, Webster ..... Dec. 1, 1890
Platt, Horace G. ..... Jan. 13, 1894
Pyne, Geo. D. ..... Apr. 7, 1894
Porter, Samuel T. ..... Mar. 18, 1895
Platt, Samuel ..... May 28, 1896
Packard, Peter N. ..... May 16, 1898
Pike, W. H. A. ..... July 29, 1899
Parker, Wm. O. ..... Dec. 21, 1899
Pierce, Frank ..... Jan. 28, 1901
Petree, Louis Edward ..... Jan. 6, 1902
Pittman, Key ..... Apr. 7, 1902
Pilkington, Harold ..... Apr. 30, 1902
Parker, Joseph S. ..... Sept. 1, 1902
Price, Robert Martin ..... Mar. 5, 1904

Pittman, WilliamB. ..... Jan. 2, 1905
Parsons, Sydney J. ..... Jan. 18, 1905
Percy, Hugh ..... May 1, 1905
Patrick, Edward T. ..... Apr. 6, 1906
Putnam, Graham F. ..... Dec. 3, 1906
Peters, Clarence E. ..... Jan. 24, 1907
Price, C. M. ..... Feb. 11, 1907
Peck, Jas. F. ..... Dec. 18, 1907
Painter, A. E. ..... Oct. 5, 1908
Parks, Chas. J. ..... Oct. 5, 1908

Queen, Chas. L. ..... Sept. 9, 1878
Quayle, B. L. ..... Jan. 3, 1907

Ralston, J. H. ..... June 2, 1862
Reardon, T. B. ..... June 2, 1862
Robinson, Tod ..... Jan. 20, 1864
Roop, J. W. ..... Jan. 21, 1864
Ryan, Wm. H. ..... Oct. 3, 1865
Rankin, B. P. ..... May 15, 1866
Robinson, E. I. ..... Feb. 18, 1867
Rives, H. ..... Mar. 14, 1870
Robinson, Robert ..... Mar. 14, 1870
Reddy, P. ..... June 28, 1871
Rand, J. H. ..... Oct. 4, 1857
Robinson, Seth ..... Jan. 15, 1878
Rankin, Geo. A. ..... Jan. 11, 1879
Ryan, Launcelot ..... Apr. 8, 1879
Ryan, T. P. ..... Nov. 13, 1880
Ritter, Careton M. ..... Oct. 8, 1881
Redding, Joseph D. ..... Oct. 22, 1882
Ricketts, A. H. ..... July 19, 1884
Reynolds, John ..... July 28, 1894
Roberts, E. E. ..... Oct. 14, 1899
Richards, Charles L. ..... Oct. 7, 1901
Reddick, W. L. ..... Nov. 5, 1901
Reeves, Charles R. ..... May 7, 1902
Rogers, Lewis H. ..... July 11, 1903
Reynolds, Chas. F. ..... July 11, 1903
Robins, C. E. ..... Jan. 4, 1904
Rogers, Lew ..... Sept. 12, 1904
Rogers, E. A. ..... July 26, 1905
Ross, Margaret A. ..... Mar. 19, 1906
Richardson, M. M. ..... Mar. 19, 1906
Redington, James K. ..... Mar. 19, 1906
Ratcliffe, Cummins ..... Nov. 12, 1906
Rogers, Elmer ..... Dec. 6, 1906
Ross, H. W. ..... Jan. 12, 1907
Rhett, T. M. ..... Feb. 11, 1907
Rose, William F. ..... July 1, 1907
Richards, Nathan C. ..... Sept. 3, 1907
Rice, Arthur Noble ..... Oct. 14, 1907
Richards, Robert ..... Nov. 14, 1907
Reed, McClellan O. ..... Apr. 26, 1908
Rogers, Robt. M. ..... June 30, 1908

Stewart, Wm. M. ..... June 2, 1862
Seely, Jonas ..... June 2, 1862
Smith, Horace ..... June 2, 1862
Stewart, Well. ..... June 3, 1862
Steele, H. M. ..... Dec. 23, 1862
Stearns, L. O. ..... Dec. 23, 1862
Sankey, Samuel ..... Dec. 23, 1862
Sunderland, Thomas ..... Dec. 23, 1862
Sawyer, George S. ..... Aug. 20, 1863
Shuck, O. T. ..... Apr. 25, 1864
Stephens, W. J. ..... Jan. 5, 1865
Sumner, Charles A. ..... Nov. 1, 1865
Seawell, William M. ..... Oct. 26, 1866
Stephens, James A. ..... May 29, 1867
Stone, M. N. ..... Aug. 23, 1869
Smith, F. M. ..... Oct. 11, 1869
Sanderson, S. W. ..... Oct. 11, 1869
Stonehill, E. B. ..... May 22, 1871
Sine, E. P. ..... May 27, 1871
Sears, William H. ..... Feb. 5, 1872
Scrivner, J. J. ..... June 8, 1872
Savage, J. A. ..... Mar. 5, 1873
Simmons, Hugh F. ..... Apr. 7, 1873
Stephens, T. A. ..... July 6, 1874
Sabin, George M. ..... Mar. 7, 1874
Shafer, J. K. ..... Jan. 3, 1876
Söderberg, N. ..... Jan. 24, 1873
Stocker, Abner H. ..... Sept. 3, 1879
Sutherland, W. J. ..... July 5, 1880
Stone, Frank M. ..... Jan. 24, 1881
Steffan, Albert ..... July 9, 1881
Sanders, Benjamin ..... May 8, 1882
Stearns, A. T. ..... June 2, 1884
Siebert, H. G. ..... Dec. 16, 1886
Summerfield, Sardis ..... Jan. 12, 1889
Smith, Grant H. ..... Jan. 6, 1890
Scott, J. W. ..... Oct. 6, 1894
Sanders, Garry E. ..... June 5, 1897
Sherran, Edward R. ..... Oct. 4, 1897
Smith, Oscar J. ..... Dec. 2, 1897
Sawyer, George Oaks ..... Jan. 6, 1897
Sweeney, James G. ..... July 30, 1898
Sadler, Erwin L. ..... Nov. 12, 1898
Schlagel, Frank ..... June 12, 1899
Sullivan, J. F. ..... June 11, 1900
Stewart, T. M. ..... May 22, 1901
Stone, Oscar C. ..... Oct. 30, 1901
Stone, W. H. ..... Mar. 7, 1902
Schlesinger, Bert ..... Oct. 1, 1902
Salisbury, Arthur N. ..... Nov. 15, 1902
Stingley, Walter F. ..... Mar. 23, 1903
Stoddard, R. C. ..... July 25, 1903
Sullivan, F. H. ..... Aug. 28, 1903
Spriggs, Frederick W. ..... Nov. 24, 1903
Springmeyer, George ..... June 18, 1904

Stanley, Charles C. ..... Nov. 12, 1904
Street, John A. ..... Jan. 18, 1905
Shaw, J. Vincent ..... Mar. 20, 1905
Sanford, J. F. ..... Mar. 20, 1905
Somers, Peter J. ..... May 11, 1905
Sanders, J. A. ..... June 13, 1905
Siegfriedt, T. A. A. ..... July 31, 1905
Scott, Fred C. ..... Sept. 25, 1905
So Relle, Wiley E. ..... Oct. 3, 1905
Stevens, Frank Asbury ..... Oct. 16, 1905
Shropshire, J. S. ..... Dec. 18, 1905
Smith, Jas. S. ..... Dec. 18, 1905
Stewart, W. E. M. ..... Feb. 20, 1906
Swallow, Albert H. ..... Mar. 5, 1906
Seybolt, Fred L. ..... May 1, 1906
Smith, Allen A. ..... June 4, 1906
Strain, Fred C. ..... Jan. 3, 1907
Stevens, Theron ..... Jan. 7, 1907
Sims, Wm. M. ..... Jan. 24, 1907
Steele, George P. ..... Feb. 11, 1907
Schnitzer, William ..... Feb. 18, 1907
Shoup, Guy ..... Mar. 4, 1907
Stewart, Gordon A. ..... Mar. 28, 1907
Snyder, Bismarck ..... May 25, 1907
Snyder, Wilson I. ..... May 25, 1907
Stevenson, Archie M. ..... June 10, 1907
Seeds, William P. ..... July 29, 1907
Shwayder, Solomon ..... Sept. 3, 1907
Simmons, Jesse ..... Sept. 14, 1907
Stickney, Walter C. ..... Oct. 28, 1907
Solinsky, Frank J. ..... Dec. 9, 1907
Storms, Daniel E. ..... Jan. 6, 1908
Skelton, Walter E. ..... Mar. 14, 1908
Smith, Samuel W. ..... May 12, 1908
Shapira, Samuel S. ..... June 15, 1908
Sanford, George L. ..... Aug. 20, 1908
Scheld, Herman W. ..... Oct. 8, 1908
Seidel, Mrs. D. B. ..... Nov. 6, 1908

Tilford, Frank ..... Nov. 28, 1863
Taylor, R. H. ..... Jan. ..., 1864
Thornton, Harry I. ..... Apr. 3, 1866
Thompson, Robert ..... Oct. 11, 1867
Tebbs, Moses ..... Apr. 14, 1870
Thornton, Crittenden ..... May 19, 1871
Thatcher, A. M. ..... Aug. 21, 1872
Tilden, M. C. ..... Oct. 23, 1876
Tuska, Wald J. ..... Nov. 11, 1878
Tompkins, W. H. ..... Aug. 14, 1873
Talbot, George F. ..... July 7, 1881
Truman, D. S. ..... Nov. 15, 1881
Torreyson, James D. ..... Jan. 4, 1882
Taylor, E. W. ..... July 3, 1882
Thomas, Francis J. ..... Sept. 7, 1886
Thackston, C. M. ..... Jan. 7, 1888

Tait, Hugh A. ..... Dec. 1, 1890
Tilden, Laura M. ..... July 22, 1893
Turner, Merrill ..... Apr. 27, 1896
Tauszky, Edmund ..... July 12, 1897
Treadwell, Wm. B. ..... June 30, 1901
Thompson, C. C. ..... Nov. 13, 1901
Thompson, Willard D. ..... Jan. 18, 1902
Taber, E. J. L. ..... Sept. 12, 1904
Thatcher, George W. ..... Jan. 2, 1905
Thomas, Victor Sumner ..... Feb. 13, 1905
Thomas, W. B. ..... Mar. 14, 1905
Tripp, Wm. B. ..... Feb. 13, 1905
Thompson, I. S. ..... Mar. 20, 1905
Tilden, Augustus ..... May 1, 1905
Taugher, J. F. ..... May 1, 1905
Thompson, J. G. ..... June 26, 1905
Thomas, Mathomhah ..... Jan. 29, 1906
Turner, DeWitt C. ..... Mar. 19, 1906
Tallman, Clay ..... Aug. 15, 1906
Thomas, Charles S. ..... Aug. 30, 1906
Thayer, Rufus C. ..... Jan. 22, 1907
Thunen, Frank ..... Apr. 8, 1907
Taggart, Rush ..... Apr. 27, 1908
Timblin, Guy ..... May 29, 1908
Treadwell Ed. F. ..... June 30, 1908
Tyrrell, Frank G. ..... Sept. 24, 1908

Underwood, J. G. ..... June 10, 1862

Virgin, D. W. ..... Jan. 14, 1867
Varian, C. S. ..... June 1, 1872
Van Fliet, W. C. ..... Jan. 5, 1875
Van Der Leith, E. D. ..... Jan. 2, 1882
Virden, W. H. ..... May 12, 1890
Van Duzer, C. D. ..... Sept. 12, 1898
Vermilyea, S. E. ..... May 15, 1902
Van Dyck, Edward S. ..... July 20, 1905
Van Pelt, Oris J. ..... Dec. 3, 1906
Van Nostran, Wallen D. ..... Jan. 24, 1907
Van Derwerker, J. L. ..... June 10, 1907

Williams, Charles H. ..... June 2, 1862
Ward, J. ..... June 11, 1862
Wattson, John V. ..... Jan. 21, 1864
Waldron, Dan E. ..... Jan. 21, 1864
Wright, S. H. ..... Aug. 22, 1864
Wells, Thomas ..... May 31, 1865
Whitman, B. C. ..... May 5, 1865
Wallace, W. C. ..... July 11, 1865
Williams, John I. ..... Oct. 9, 1865
Webster, William ..... Oct. 17, 1865
Woodburn, William ..... Jan. 4, 1866
Williams, Robert H. ..... Jan. 6, 1866
Waldo, H. A. ..... May 20, 1867
Welty, D. W. ..... Jan. 5, 1869

Waitz, Adolphus ..... Oct. 13, 1869
Whitcher, J. W. ..... Apr. 20, 1870
Wren, Thomas ..... Mar. 24, 1871
Williams, George R. ..... May 20, 1871
Waters, George L. ..... June 10, 1872
Willis, A. H. ..... June 1, 1875
Wines, J. L. ..... Sept. 20, 1875
Witherell, Charles A. ..... Dec. 26, 1863
Windle, J. H. ..... Mar. 5, 1877
Wimans, Joseph W. ..... Oct. 23, 1877
Whitehill, Henry R. ..... Jan. 24, 1878
Wilson, Alexander ..... Nov. 19, 1878
Wescoatt, W. H. ..... May 8, 1882
Willett, C. H. ..... Oct. 22, 1883
Wharton, Z. F. ..... Nov. 9, 1885
Winnie, William E. ..... Oct. 3, 1887
Wheeler, R. G. ..... Sept. 2, 1889
West, Peter ..... Jan. 6, 1890
Winterburn, G. H. ..... Apr. 11, 1885
Williams, E. L. ..... Nov. 18, 1885
Wheeler, John T. ..... Dec. 1, 1890
Wilson, Ramon E. ..... Nov. 10, 1891
Walling, J. M. ..... Mar. 28, 1892
Wilson, Marion S. ..... Nov. 15, 1894
Work, Frank B. ..... July 1, 1895
Warren, Harry ..... Feb. 25, 1896
Walsh, John Emmett ..... Apr. 27, 1896
Walker, Charles A. ..... Sept. 16, 1897
White, Jay H. ..... July 30, 1898
Warren, Anna M. ..... July 29, 1899
Williams, Otto T. ..... June 1, 1901
Webb, U. S. ..... Mar. 3, 1902
Wood, Sidney B. ..... Mar. 7, 1902
Willis, Nelson W. ..... June 17, 1902
Wilson, Robert R. ..... Mar. 9, 1903
Wiel, Samuel C. ..... Aug. 1, 1904
Wells, Vernon D. ..... Dec. 17, 1904
Wynn, C. H. ..... Jan. 2, 1905
Wright, Robert ..... Feb. 13, 1905
Wheeler, A. K. ..... Mar. 14, 1905
Wilson, L. G. ..... Apr. 17, 1905
Wilson, Chas. S. ..... May 1, 1905
Withers, Robt. G. ..... June 27, 1905
Wilson, B. S. ..... July 7, 1905
Wall, William S. ..... Aug. 12, 1905
Wallace, William John ..... Nov. 13, 1905
Wittke, August R. ..... Mar. 5, 1906
Wilkinson, Huger ..... June 4, 1906
Wilson, Bird May ..... June 28, 1906
Williamson, Howard P. ..... July 14, 1906
Woods, Samuel D. ..... Aug. 15, 1906
Wilson, O. C. ..... Sept. 1, 1906
Wample, Thomas W. ..... Oct. 1, 1906
Welch, Robert ..... Jan. 31, 1907
Wilson, R. H. ..... Feb. 18, 1907
Woodburn, William, Jr. ..... Apr. 1, 1907
Walker, John E. ..... May 28, 1907
Wehe, Frank R. ..... July 1, 1907
Wilson, C. H. ..... July 15, 1907
Walser, Mark ..... July 16, 1907
Ward, Clarence C. ..... Sept. 14, 1907
Winters, Edgar E. ..... Oct. 14, 1907
Watt, J. N. ..... Apr. 6, 1908
Whipple, G. H. ..... May 29, 1908
Wilson Clement L. ..... June 15, 1908
Whittemore, Chas. O. ..... Oct. 26, 1908

Yeaman, Harvey ..... Jan. 19, 1906
Yost, Daniel F. ..... Dec. 2, 1907
Young, R. H. ..... Jan. 10, 1908

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

Aldrich, Louis
Anderson, William F.
Atwater, Isaac

Baker, John T.
Barbour, William T.
Beatty, H. O.
Berry, George H.
Buring, W. H.
Brossman, C. M.
Brumfield, W. H.
Bryan, Charles H.
Bowman, John

Cadwalader, George
Coffroth, James W.
Cooper, D.
Corson, Dighton
Croyland, John

Davenport, William H.
Doyle, H.

Elliott, A. B.

Flandreau, Chas. F.
Flick, Henry
Freer, Leon D.

Garber, John
Gaston, Chas. A.
Gehr, Harry A.
Gray, G. H.
Griffith, Chas.

Harmon, J. H.
Harrison, M. D.
Hereford, Frank
Hittell, G. H.
Hubbard, James F.

Kelly, John P.
Kendall, Chas. W.
Kenedy, James M.
Kutz, Joseph

Labatt, —.
Lewis, James F.
Lindsey, Chas. H.

McRea, J. B.
Moss, James W.

Nugent, John M.

Perley, Duncan W.

Quint, Leander

Rhodes, W. H.
Rising, Richard

Scaniker, S. P.
Steele, H. M.
Street, H. C.

Terry, David S.

Williams, J. J.
Williams, Thomas H.
Worthington, Harry G.
Wood, William S.

REPORT OF THE ATTORNEY-GENERAL.

CASES IN THE SUPREME COURT DURING 1907 AND 1908 WHEREIN THE STATE OF NEVADA WAS A PARTY.

[Docket No. 1680.]

STATE *v.* CEDRO ZANOVA AND MARCO ESPINSO.

Murder in the second degree. Appeal from Esmeralda County. No briefs filed or other appearance being made by defendant or counsel, on motion of Attorney-General ordered dismissed and judgment affirmed.

[Docket No. 1697.]

STATE *v.* JOHN H. HENNESSY.

Indicted for murder. Convicted of manslaughter. Appeal from Nye County. New trial granted on ground that District Court erred in excluding evidence certain threats offered on behalf of defendant.

[Docket No. 1706.]

STATE *v.* JOHN EDWARDS.

Robbery. Appeal from Washoe County. Four days prior to date set for argument, this defendant was shot and killed while attempting to escape from the State penitentiary.

[Docket No. 1710.]

STATE OF NEVADA *v.* ALBERT T. JACKMAN.

Murder first degree. Sentenced to death. Appeal from Esmeralda County. New trial granted on ground that District Court erred in instructing the jury as to law of self-defense. Tried second time, convicted of murder of the second degree and sentenced to life imprisonment.

[Docket No. 1712.]

STATE *v.* PATRICK DWYER.

Murder first degree. Appeal from Lander County. New trial granted on the ground that District Court erred in denying defendant's motion for change of venue. Retried in Elko County and acquitted.

[Docket No. 1716.]

In re Application R. E. WATERMAN, *for Writ of Habeas Corpus.*

Original proceeding to prevent extradition. Petitioner was arrested upon an executive warrant issued by the Governor upon a requisition of the Governor of Iowa charging him with being a fugitive from justice from that State. *Held*, that the indictment found and returned by the grand jury of Plymouth County, Iowa, did not charge an offense under the code of that State, therefore was not a fugitive from justice. Discharged.

[Docket No. 1718.]

Ex Parte J. F. HEDDEN.

Habeas corpus from Esmeralda County. Petitioner was adjudged guilty of contempt of Court in refusing to produce certain books of a corporation of which he was an officer. *Held*, that the order of the District Court committing petitioner for contempt, without first affording him an opportunity to be heard, is void. Petitioner discharged.

[Docket No. 1720.]

STATE *v.* CARSON AND COLORADO RAILWAY COMPANY.

Tax suit. Appeal from a judgment of the District Court of Esmeralda County in favor of the State for $36,335.43 and costs. Judgment affirmed. Rehearing denied.

[Docket No. 1721.]

Ex Parte S. TANI.

Habeas corpus from Washoe County. Assault with deadly weapon. Defendant sentenced to pay a fine of $1,000, or be imprisoned in State Prison for 500 days. Writ denied with directions that defendant be remanded to Washoe County jail to serve sentence in default of payment of fine.

[Docket No. 1728]

STATE, *ex rel.* DAVIS, *v.* EGGERS.

Mandamus to compel State Controller to issue his warrant for certain sums claimed as salary and for traveling expenses under Act of 1907 creating State Industrial and Publicity Commission. *Held*, that claim for salary was legal, but that no constitutional appropriation had been made for traveling or other expenses.

[Docket No. 1730.]

STATE *v.* MARTIN BRONZO.

Murder of the second degree. Sentenced to 35 years imprisonment. Appealed from Eureka County. Judgment affirmed.

[Docket No. 1732.]

STATE *v.* C. A. PRAY AND W. J. LANGDON.

Convicted of receiving stolen goods. Appeal from Churchill County. Defendant Pray was fined $1,000, but, after paying the same to the Clerk under protest, appealed to this Court. On motion of the State the appeal was dismissed upon the ground that the judgment had been satisfied and no appeal would lie.

The defendant Langdon was granted a new trial upon the ground that the evidence disclosed that the offense was committed in Esmeralda and not Churchill County.

[Docket No. 1733.]

STATE *v.* M. R. PRESTON AND JOSEPH SMITH.

Indicted for murder. Defendant Preston found guilty of murder of the second degree and sentenced to 25 years imprisonment. Defendant Smith convicted of involuntary manslaugher and sentenced to 10 years. Appeal from Esmeralda County. On motion of the Attorney-General, appeal was dismissed and judgment affirmed upon the ground that no appeal having been perfected the Supreme Court was without jurisdiction. Rehearing denied.

[Docket No. 1738.]

In re PETER BREEN, *for Disbarment.*

Because of certain remarks reflecting upon the honor, integrity and dignity of the Supreme Court, made and ordered spread upon the minutes of the District Court of Lander County by Peter Breen, District Judge, on motion of the Attorney-General it was ordered that the respondent be suspended and prohibited from practicing law as an attorney in this State until the further order of this Court, and unless within a certain time he cause said remarks to be expunged from the records of said Court that he be forever disbarred from practicing as an attorney-at-law.

Contemptuous matter was expunged by respondent as above ordered.

[Docket No. 1739.]

In re PETER BREEN, *for Contempt.*

Dismissed because of the order made in disbarment proceedings (No. 1738).

[Docket No. 1740.]

In re A. J. MAESTRETTI, *for Contempt.*

Upon the same facts as in the case of Peter Breen for disbarment (No. 1738) the Court ordered that respondent be suspended from practicing as an attorney in all State Courts for a period of thirty days; said suspension not to apply to his official duties as District Attorney.

[Docket No. 1741.]

In re A. J. MAESTRETTI, *for Contempt.*

Dismissed for the same reasons set forth in Case No. 1739.

[Docket No. 1747.]

STATE *v.* BUCKAROO JACK (INDIAN).

Murder first degree. Appeal from Humboldt County. Judgment affirmed. Commuted to life imprisonment by Board of Pardons.

[Docket No. 1752.]

STATE *v.* GUY TIMBLIN.

Indicted for grand larceny. Convicted of petty larceny. Appeal from Lyon County. On motion of Attorney-General appeal dismissed on ground that this Court had no jurisdiction.

[Docket No. 1753.]

STATE *v.* J. W. CARROLL.

Manslaughter. Appeal from Churchill County. Appeal dismissed by stipulation.

[Docket No. 1755.]

STATE *v.* GEORGE GIBSON.

Involuntary manslaughter. Appeal from Esmeralda County. Reversed on the ground that the statute of 1907, authorizing the use upon the trial of transcript of testimony taken at preliminary examinations, is unconstitutional.

[Docket No. 1772.]

STATE *v.* HENRY WEBER.

Embezzlement. Appeal from Esmeralda County. Pending.

[Docket No. 1773.]

STATE *v.* FRED SKINNER.

Indicted for murder. Found guilty of murder in the first degree with imprisonment for life. Appeal from Nye County. Pending.

[Docket No. 1775.]

STATE *v.* GEORGE WILLIAMS.

Murder. Sentenced to death. Appeal from Esmeralda County. Pending.

[Docket No. 1786.]

Ex Parte T. B. RICKEY.

Habeas corpus from Nye County. Indictment for embezzlement in receiving deposits in an insolvent bank of which he was president. Pending.

[Docket No. 1782.]

STATE *v.* JAMES THOMPSON AND W. MCCABE.

Convicted of an attempt to steal ore. Appeal from Esmeralda County. Pending.

[Docket No. 1783.]

STATE *v.* M. J. MCKELLIGON.

Indicted for murder. Convicted of manslaughter. Sentenced to ten years imprisonment. Appeal from Esmeralda County. Pending.

[Docket No. 1785.]

STATE *v.* BARNEY HUGHES.

Assault with intent to rob. Appeal from Esmeralda County. Pending.

[Docket No. 1790.]

Ex Parte T. B. RICKEY.

Habeas corpus from Esmeralda County. Indicted for receiving deposits in an insolvent bank of which he was president. Pending.

[Docket No. 1791.]

STATE *v.* EMIL RODRIGUEZ.

Assault with intent to kill. Appeal from Esmeralda County. Pending.

[Docket No. 1795.]

Ex Parte T. B. RICKEY.

Habeas corpus from Ormsby County. Seven indictments for receiving deposits in an insolvent bank. Pending.

[Docket No. 1802.]

. SALVATORE LUHANO AND SERVANTES DAVIS.

five years imprisonment each. Appeal from Washoe
ng.

CORRECTION

THE DOCUMENT IMMEDIATELY PRECEEDING THIS CORRECTION TARGET HAS BEEN REPHOTOGRAPHED TO ASSURE LEGIBILITY. THE REPHOTOGRAPHED DOCUMENT APPEARS IMMEDIATELY FOLLOWING THIS TARGET.

CORRECTION

[Docket No. 1786.]

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[Docket No. 1782.]

STATE *v.* JAMES THOMPSON AND W. MCCABE.

Convicted of an attempt to steal ore. Appeal from Esmeralda County. Pending.

[Docket No. 1783.]

STATE *v.* M. J. MCKELLIGON.

Indicted for murder. Convicted of manslaughter. Sentenced to ten years imprisonment. Appeal from Esmeralda County. Pending.

[Docket No. 1785.]

STATE *v.* BARNEY HUGHES.

Assault with intent to rob. Appeal from Esmeralda County. Pending.

[Docket No. 1790.]

Ex Parte T. B. RICKEY.

Habeas corpus from Esmeralda County. Indicted for receiving deposits in an insolvent bank of which he was president. Pending.

[Docket No. 1791.]

STATE *v.* EMIL RODRIGUEZ.

Assault with intent to kill. Appeal from Esmeralda County. Pending.

[Docket No. 1795.]

Ex Parte T. B. RICKEY.

Habeas corpus from Ormsby County. Seven indictments for receiving deposits in an insolvent bank. Pending.

[Docket No. 1802.]

STATE *v.* SALVATORE LUHANO AND SERVANTES DAVIS.

Sentenced to five years imprisonment each. Appeal from Washoe County. Pending.

[Docket No. 1803.]

Ex Parte ALBERT T. JACKMAN.

Habeas corpus from Ormsby County. Convicted in Esmeralda County of murder of the second degree. (Docket No. 1710.) Attacks judgment upon the ground that lower court had no jurisdiction to enter same because of an order made by the Court on the 29th day of September, 1908, continuing said case one week into what petitioner claims was another "term" of said Court. Pending.

[Docket No. 1805.]

STATE *v.* FRANK C. EVERETT.

Murder. Sentenced to life imprisonment. Appeal from Esmeralda County. Pending.

[Docket No. 1806.]

Ex Parte O. S. AVERY.

Habeas corpus from Nye County. Receiving stolen goods. Writ ordered returnable before Judge Theron Stevens, Esmeralda County.

CASES IN VARIOUS DISTRICT COURTS.

[January 2, 1908.]

STATE OF NEVADA, *ex rel.* ATTORNEY-GENERAL AND BOARD OF BANK COMMISSIONERS, *v.* SEARCHLIGHT BANK AND TRUST COMPANY, *et al.*

Suit filed in Ormsby County asking for appointment of receiver and permanent restraining orders against said corporation and its directors. Bank declared insolvent and orders granted as prayed for. Transferred to Lincoln County.

[April 23, 1908.]

STATE OF NEVADA, *ex rel.* ATTORNEY-GENERAL AND BANK COMMISSIONERS, *v.* STATE BANK AND TRUST COMPANY, A CORPORATION, *et al.*

Complaint filed in Ormsby County, and temporary restraining orders issued against defendant corporation and its directors. On May 18, 1908, the Court appointed a receiver, and ordered said corporation into involuntary liquidation.

[May 18, 1908.]

In the Matter of the Estate of HIRAM CHASE, *Deceased.*

Elko County. Proceedings filed by the Attorney-General to declare escheated to the State certain real and personal property belonging to said estate for which no legal heirs can be found. Pending.

[June 24, 1908.]

STATE OF NEVADA, *ex rel.* ATTORNEY-GENERAL AND BANK COMMISSION, *v.* WONDER BANK AND TRUST COMPANY, A CORPORATION, *et al.*

Churchill County. Complaint filed and restraining orders and orders to show cause why receiver should not be appointed issued and served. On August 3, 1908, the Court found said bank to be insolvent. Receiver appointed to wind up its affairs.

[June 24, 1908.]

STATE OF NEVADA, *ex rel.* ATTORNEY-GENERAL AND BANK COMMISSIONERS, *v.* FIRST BANK OF RAWHIDE, *et al.*

Esmeralda County. Complaint filed and restraining orders and orders to show cause issued and served. On July 28, 1908, the Court found said bank to be insolvent, and ordered same into involuntary liquidation and appointed a receiver for said purpose.

[June 25, 1908.]

STATE OF NEVADA, *ex rel.* ATTORNEY-GENERAL AND BANK COMMISSION, *v.* MERCHANTS AND MINERS BANK OF RAWHIDE, *et al.*

Esmeralda County. Complaint filed, orders to show cause and restraining defendants issued and served. Hearing set for August 4, 1908. All proceedings stayed by subsequent order of United States District Court by involuntary bankruptcy proceedings in said Court based upon allegations that said Merchants and Miners Bank is a copartnership, and not a banking corporation, subject to the State Banking Act. Pending.

[December 15, 1908.]

STATE OF NEVADA, *ex rel.* ATTORNEY-GENERAL AND BANK COMMISSION, *v.* ROUND MOUNTAIN BANKING CORPORATION, *et al.*

Nye County. Complaint filed and restraining orders and orders to show cause issued returnable December 21, 1908, Tonopah, at which time defendant appeared and admitted its insolvency and consented to the appointment of a receiver. Receiver appointed and usual orders made and entered.

NOTE—All the foregoing proceedings against banking corporations were first authorized by resolution of the Board of Bank Commissioners, which has authority under the Act of 1907 to decide that a bank is insolvent or that it is unsafe for it to continue to transact business. This Act is incomplete and absolutely inadequate to accomplish the purpose for which it was intended.

FEDERAL CASES WHEREIN THE STATE OF NEVADA IS A PARTY.

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

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

The following report of W. E. F. Deal, Esq., of counsel for the State, gives in substance the history of what is known as the Truckee River litigation:

SAN FRANCISCO, November 25, 1908.

HON. R. C. STODDARD, *Attorney-General of Nevada:*

DEAR SIR: In compliance with your request, I make the following report of the litigation to prevent the pollution of the water of the Truckee River:

By the directions of the late Hon. John Sparks, then Governor of the State of Nevada, and with the approval of the Hon. James G. Sweeney, your predecessor as Attorney-General, a suit in equity was bought on the 4th day of April, 1904, in the United States Circuit Court for the Northern District of California, by the State of Nevada, as plaintiff, against The Floriston Pulp and Paper Company, a California corporation, as defendant, to obtain a perpetual injunction restraining the defendant from casting, throwing or allowing any vegetable or mineral substances or refuse or acids or chemicals or any other noxious, injurious or any other thing to flow or to be cast or thrown from the paper mills of the defendant at Floriston, Nevada County, California, into the Truckee River, that had polluted and would continue to pollute the water of the river, and render it unfit for drinking and domestic purposes, and for the purposes of irrigation, and which not only rendered the trout in the stream unfit for food, but practically destroyed the fishing in that part of the river, and rendered the bed of the stream unsuitable for the deposit of fish eggs in the spawning seasons.

A committee of the citizens of Reno endeavored in vain to induce the defendant to stop its injurious acts before this suit was commenced. The defendant filed its answer on the 18th day of July, 1904, and in its answer denied that it had in any way deposited or allowed any deleterious or injurious substances to flow into the river, and claimed that any pollution to the water was caused by sewage from the Town of Truckee, fifteen miles above Floriston.

Depositions of witnesses on the part of plaintiff and defendant were taken at Reno, before United States Commissioner Waldo, who was appointed by the United States Circuit Court as Special Examiner. Twelve witnesses on the part of the plaintiff and five on the part of the defendant testified at Reno, and their testimony was taken down in shorthand and typewritten, and certified by the Special Examiner, and filed in the Clerk's office of the United States Court.

The depositions of nine witnesses for plaintiff were taken before Master in Chancery Heacock in San Francisco, in shorthand, and the testimony after being typewritten and certified was filed.

In addition to these depositions eighteen witnesses were examined orally in open court in San Francisco before his Honor, Wm. C. Van Fleet, Judge.

The trial in court commenced on the 14th day of October, 1907, and continued until November 19, 1907, and occupied between these dates practically all the time the Court could give to the case. All of the testimony was completed, except that of one witness for the defendant, who was absent from San Francisco at the time of the trial, and whose testimony was directed to be taken before Mr. Heacock.

In November, 1907, after the examination of the witnesses in court, Judge Van Fleet, accompanied by Mr. W. S. Goodfellow, one of defendant's attorneys, and myself, representing the plaintiff, went to Truckee by train and after examining the river at Truckee drove to Floriston in a wagon, and examined the river, and at Floriston went through the paper mill and plant of the defendant, and walked along the river below the mill, and examined the old reservoir below the mill into which the defendant had allowed matters from the mill to flow at the time of the commencement of the suit and afterwards, and also examined the places to which the defendant had been, at the time of the visit, forcing the acids from the mill.

The taking of the testimony necessarily took a long time, and the trial was unavoidably delayed. But for the fire and earthquake which occurred on the 18th day of April, 1906, the trial would without doubt have taken place in that year. As soon after the fire as trials were commenced in the United States Court, I endeavored to get the case set down for trial, and it was set down for trial at a term preceding the one at which it was tried, but the Judge who was sitting in the Circuit Court was obliged to return to his own district before the case was reached. Owing to his sickness, and the absence of Judge W. W. Morrow in consequence of his sickness, the business of the Court was so great that jury trials occupied most of the time of the Court. It would unnecessarily prolong this report to go specifically into the facts shown at the trial.

All the material allegations of the complaint were proven by the overwhelming weight of testimony in my judgment. The water of the river was unfit for drinking at Reno, and was made so by the acts of the defendant. Except as I hereafter state, practically all of the refuse from the defendant's mill got into the river, and this constituted 50 per cent of the wood and whatever went into the manufacture of paper. The water below the mill was not only unfit for domestic purposes, but was rendered unfit for fish, and the fishing between Floriston and Reno was practically destroyed.

The substance thrown by defendants into the river from its mill not only destroyed the vegetation in the bed of the stream but the animal life which forms the natural food of the fish. The substances from the mill were deposited in the bed of the stream to such an extent that fish eggs would not lodge or hatch, and the odor from the deposit was offensive.

The defendant, after the commencement of the suit, attempted to divert the injurious substances from the river by conducting them into

a large sump dug at some distance from the bank of the river below the mill, but the attempt was a failure, as the liquid followed the bed-rock into the river from the sump.

At the time of the visit of Judge Van Fleet and the attorneys in November, 1907, there was sewage flowing into the river from the Town of Truckee, which is about fifteen miles above Floriston. Mr. Edmond O'Neill, Professor of Chemistry in the University of California, who was employed as an expert on behalf of the State, spent about two weeks on the Truckee River in examining the river and taking samples of the water from a point above Truckee to a point near Reno, and who carefully analyzed the samples taken, testified that the water where it flows into defendant's flume, a short distance above defendant's mill at Floriston, was practically as pure as it was above the Town of Truckee.

The heavy rains during the winter of 1906 and 1907 caused an unusual flow of water in the river from Lake Tahoe and other sources of the waters of the river. That was known as the flood year at Reno. The flow of water in November, 1907, at the time of the visit mentioned, was unusual for that time of the year.

The effect of this immense flow, which was continued for so long a time, the fall of the river being so rapid from Floriston to Reno, was that the bed of the river between these points was so scoured by the force of the water upon stones and rocks in the bed of the stream that the deposits from defendant's mill were practically removed from the bed of the river.

At the time of the visit mentioned the water below the mill looked as clear as that above the mill. Nothing was flowing from the mill at that time except the water used as motive power. At that time the acids were forced from the mill through a pipe leading from the mill across the river to a point six hundred feet above the mill, about two hundred feet from the river bank and two hundred feet higher than the surface of the water, and deposited in depressions in the soil forming natural reservoirs.

There was no woody fiber in suspense in the water below the mill, as was the case at a former visit I made, and the superintendent of the mill stated that all the other residues, including the woody fiber left, were dried and burned in the furnace in the mill.

It was shown at the trial that the defendant can take care of its refuse at its mill, if it desires to do so, without any material injury to its business. On the 30th day of December, 1907, nearly four years after the commencement of the action, defendant's attorneys gave notice that they would move the Court to dismiss the suit on the ground that the United States Circuit Court had no jurisdiction of a case brought by a State against a citizen of another State, and, as upon examination this was found to be so, as decided by the Supreme Court of the United States, the suit was dismissed upon that ground.

By the Constitution of the United States the judicial power of the United States Courts extends to controversies between a State and citizen of another State, but the Supreme Court of the United States has held that the jurisdiction of Circuit Courts depends upon the Acts of Congress conferring such jurisdiction, and that, as no Act of Congress has been adopted conferring jurisdiction in a case where a State is a party, the United States Circuit Courts have no such jurisdiction.

The Acts of Congress give jurisdiction to Circuit Courts in a controversy between citizens of different States, but the Supreme Court has held that a State is not the citizen of a State, though it has held that a corporation is a citizen of the State where it is incorporated.

As the law now stands, if it becomes necessary to bring another suit against the defendant, such suit can be successfully brought nowhere except in the Supreme Court of the United States at Washington City, which is out of the question, owing to the distance and expense, or in the Superior Court in and for the City of San Francisco, where the principal office of the defendant is.

I offer to bring such suit and will do so if requested by the State, providing the defendant is doing anything to pollute the waters of the river, and will look for my compensation to whatever action the Legislature and State officers choose to take.

I was employed in the litigation at the suggestion of Hon. S. Summerfield, who took the testimony of nearly all the witnesses at Reno, and in justice to him I wish it to be known that he suggested the lack of jurisdiction in the United States Circuit Court in this case, of which after examination at the time I had no doubt.

Your predecessor as Attorney-General, the Hon. James G. Sweeney, signed the bill in equity as of counsel for the State, and upon your election to that office you were substituted as of counsel for the State, and your office has at all times coöperated with the attorneys for the State in this case.

The Fish Commissioner of California has rendered all the assistance in his power to the attorneys for the State, and his attorneys have allowed their names to be used as of counsel for the State.

The suit had the effect in November, 1907, of compelling the defendant to stop the pollution of the river, and if it commences to discharge its refuse in the river again, it can be easily discovered and proved, and, upon a proper showing, stopped by a Court having jurisdiction of the person of the defendant and of the subject of the action.

Respectfully, W. E. F. DEAL.

RAILROAD COMMISSION.

On the 25th day of March, 1907, pursuant to the Act of 1907 providing for the creation of a State Railroad Commission, Governor John Sparks, Lieutenant-Governor Denver S. Dickerson and the undersigned met as the "Railroad Board," and appointed Horace F. Bartine, Henry Thurtell, and John F. Shaughnessy as Railroad Commissioners under said Act. Within a short time thereafter, the Commission duly organized and proceeded to adopt preliminary rules, forms, etc., and to familiarize itself with existing conditions as to the public service corporations doing business in Nevada over which it is intended the Commission shall have control so far as the public is legally concerned.

On May 17, 1907, the Commission notified the railroads operating within the State that their various freight tariffs were in excess of the rates named in Section 7 of the Act of 1907, and at the same time requested that within thirty days each road revise its freight schedule so as to meet the requirements of the law.

RAILROAD RATE CASES.

On or about the 20th day of June, 1907, the Southern Pacific Company, Nevada and California Railway Company, San Pedro, Salt Lake and Los Angeles Railway Company, Tonopah and Goldfield Railway Company, Eureka and Palisade Railway Company, and in October, 1907, Virginia and Truckee Railway Company, in separate suits filed in the United States Court, District of Nevada, asked for and obtained a citation and restraining order against the Governor, Lieutenant-Governor, Attorney-General, and each of the Railroad Commissioners, prohibiting the enforcement of the provisions of what is known as the Railroad Commission Law, and particularly Section 7 thereof, containing the schedule of maximum freight rates fixed by the Act of 1907, the constitutionality of which is attacked in each of these suits. The law makes the Attorney-General the legal adviser of the Railroad Commission and vests in him the control of all litigation to which the Commission may be a party.

No appropriation is made for the employment of special counsel or to pay a Deputy Attorney-General to assist this office, even in a matter of such vital importance to the people of this Commonwealth—the regulation within its borders of public service corporations—therefore, as a member of the appointing board, it is with a feeling of gratitude that I here pause to express to your Excellency, and to the people of our State, my grateful appreciation of the splendid legal services rendered by Mr. Commissioner Bartine in the defense of these suits, he not being required by law so to do—and all without additional cost to the State, when in fact it would have cost, and been worth to the State, many thousands of dollars for similar services from outside counsel.

These cases, after several modifications had been made as to the restraining orders, were argued on November 11, 12, and 13, 1907, by Mr. Bartine and myself, and after much care and labor in the preparation and submission of briefs, involving many formidable problems of modern railroading and mathematics, the cases were finally submitted and are now in the breast of the Court.

Great credit is also due Commissioners Thurtell and Shaughnessy for invaluable assistance rendered in the preparation of the technical, practical, and mathematical phases of these cases.

As to the conduct of these suits, I take the liberty of quoting an excerpt from the Commission's report recently published:

CONDUCT OF THE SUITS.

> It is with a degree of satisfaction that the Commission adverts to the work done in these cases. The railroad companies, plaintiffs, were represented by a formidable corps of able attorneys and counselors, who had at their command every scintilla of evidence bearing upon the question of fact at issue, and they were, moreover, ably assisted by whatever portion of the force in their various accounting departments that the exigencies of their cases might require. These men, as sworn witnesses, were able to marshal, and did marshal, in the form of depositions, great masses of skilfully arranged figures bearing upon the earnings and expenses of their respective roads, the figures having direct reference to the sufficiency of the maximum freight rates. In many cases, as

the Commission and its attorneys viewed them, these figures were well calculated to mislead, and could only be intelligently analyzed by men as familiar with the figures as the railroad accountants themselves.

There is an immense mass of law touching the various constitutional questions raised, and hundreds of adjudged cases had to be closely studied in order to determine whether they sustained the contentions of the railroads. There was no money in the Railroad Commission fund which, in the judgment of the Commission, was available for the employment of special counsel, in which judgment the Attorney-General concurred. The last-named officer is the legal adviser of the Commission, but his other duties were so numerous, urgent, and pressing that most of his time was occupied with them, and, while he gave to the Commission efficient service whenever he could command the time, it was simply impossible for him to look after these cases alone. He, therefore, associated Commissioner Bartine with him as attorney and counselor of record, and together they conducted the litigation through its legal phases.

Meanwhile Commissioner Thurtell carefully studied the figures bearing specifically upon the Southern Pacific and the Nevada and California cases, analyzed and tabulated them for the Commission's supplemental briefs in those suits, while Commissioner Shaughnessy and Secretary Walker rendered valuable aid through their practical knowledge of railroad rates and the actual conduct of railroad traffic.

Whether this work has been as well done as others might have done it, the Commission will not undertake to say. But it may not be improper to observe that up to this time the Commission is not able to see where a single point has been lost by defendants in these cases through either neglect or incapacity. Should any portion of the law be held invalid, it will, the Commission believes, be simply because of some inherent weakness in the law itself, and not because the law was weakly defended. Whatever the outcome, the Commission has the satisfaction of knowing that it has rendered the best service of which it is capable, and that the defense of these important suits has not cost the State a single dollar except for clerical work and the printing of documents. Private suits of equal magnitude and importance whould have cost the litigants many thousands of dollars in fees alone for lawyers and experts.

BEFORE THE INTERSTATE COMMERCE COMMISSION, WASHINGTON, D. C.

THE RENO TERMINAL CASE.

The wisdom of the Act creating a State Railroad Commission is strongly accentuated by the proceeding now pending before the Interstate Commerce Commission to obtain terminal freight rates for the City of Reno. The history of this proceeding is as follows:

On May 1, 1908, certain residents and business firms of Reno filed with the State Commission a petition in writing showing that in the matter of freight charges that city was subjected to discrimination in favor of San Francisco, and Pacific Coast terminals generally, by the Southern Pacific Company and the Nevada and California Railway Company. The petition showed that the general system of fixing rates is to charge on west-bound freight from points east of Ogden to Nevada points, the full rate to the coast terminals, and in addition the local rate from Sacramento back to the Nevada point of destination. The freight is not actually hauled to the coast terminals and back, but the charge is the same as if such haul were, in fact, made. The result is that the San Francisco and Sacramento merchants have such an advantage in freight rates that, in most cases, goods can be shipped from New York or Chicago to San Francisco or Sacramento, passing directly through Reno, and then be shipped back by the same route and sold more cheaply at Tonopah, Goldfield and other consuming points in this State at considerably lower prices than would have to be charged by the Reno wholesale merchant dealing in the same classes of goods.

The charges most strongly complained of are those upon west-bound freight, which is interstate traffic. Over this traffic our State Commission has no jurisdiction, but by Section 21 of the Railroad Commission Law the Commission is authorized and directed to investigate such complaints, and, if it be found that the practice complained of is unjust and unreasonable, to present the facts to the railroad with a request that such changes be made as the Commission may advise, and if such changes are not made within a reasonable time, to apply by petition to the Interstate Commerce Commission for relief. Under this authority the State Commission proceeded to investigate the complaint, the investigation covering the period from the 25th day of May, 1908, to June 6th of the same year. The two railroad companies complained of were duly notified of the time and place of investigation, but declined to participate therein upon the ground that the subject-matter of the complaint was exclusively within the jurisdiction of the Interstate Commerce Commission.

The State Commission found that all the essential averments of the complaint were true, and that the charges in vogue were unjust in themselves and unreasonably discriminatory against Reno and other Nevada points. Accordingly, on or about June 6, 1908, a written request was addressed by the State Commission to the two railroad companies complained of that they make certain reductions in freight

rates from all eastern points to Reno. No answer being made by the railroads and thirty days having expired, the Commission, early in July, 1908, petitioned the Interstate Commerce Commission for the establishment of a terminal point at Reno, and such reductions in freight rates to that city, Winnemucca, Elko and other points served by the said companies' lines in Nevada, as might be just and reasonable. In due time the defendant companies filed their answer, admitting most of the discriminations complained of, and justifying them upon the plea of water competition at the coast terminals.

It not known just when the hearing will take place, but the Railroad Commission is preparing for it with all the care that the very great importance of the case demands.

All of the Commissioners, as well as the Secretary, are working earnestly upon the various questions involved, and an expert rate man, Mr. F. H. McCune of Spokane, Washington, has been employed to assist in the preparation of the testimony to be laid before the Interstate Commerce Commission. Commissioner Bartine, who is the only lawyer upon the Railroad Commission, has been and is associated with the Attorney-General in the conduct of this case in its legal features.

This effort to secure terminal rates for Reno is of the highest importance to the whole State, and should receive at least the moral support of every locality. There should be no working at cross purposes, or rival claims made for terminal rates at different points. The first and all important thing to do is to secure a terminal at some point. That being accomplished, the benefits will naturally inure to a greater or lesser extent to every part of the State. In this case, as in all of its work, the hands of the Commission should be, and I have no doubt will be, upheld by the people of Nevada in every just and proper way.

Since the foregoing was written the Merchants' Exchange of San Francisco and the Associated Jobbers of Los Angeles have filed with the Interstate Commerce Commission a bill of intervention in this proceeding, therein praying that the Interstate Commerce Commission maintain the relation of rates now existing between San Francisco and Reno, and Los Angeles and Reno, and other Nevada points.

Following is the petition of the San Francisco merchants, the Los Angeles petition being substantially the same:

1. That the Traffic Bureau of the Merchants' Exchange is a voluntary unincorporated association of individuals, firms and corporations organized for the purpose of taking active interest in all that concerns the trade and commerce of the City of San Francisco and particularly in transportation conditions affecting such trade and commerce. The membership of said association comprises a large number of representative persons, firms and corporations who are engaged in the wholesale business or in manufacturing, or in both wholesale business and manufacturing, who have their principal business locations in the City and County of San Francisco, State of California, and who are engaged and interested in the transportation of merchandise and commodities from points outside of the State of California to said City of San Francisco, and, also, from said City of San Francisco to points outside of California. Its principal office is at the Merchants' Exchange Building in the City and County of San Francisco, State of California.

2. That said petitioning association and each and all of the members thereof are materially interested in the subject-matter of the complaint in the above-entitled proceeding as will appear from the said complaint herein itself, and are particularly interested in the maintenance of terminal rates to said City of San Francisco and the Pacific seaboard on west-bound traffic as compared with rates made to points out upon said Pacific seaboard and east thereof; and are especially interested in the maintenance of

the principle which authorizes interstate carriers to make terminal rates on west-bound traffic to Pacific Coast terminals in competition with rates of transportation established by carriers by sea from the Atlantic to the Pacific seaboard. And in this behalf, petitioner alleges that the rates complained of herein are neither unjust nor discriminatory, nor at all in violation of the Act of Congress approved February 4, 1887, entitled "An Act to regulate commerce," or any of the amendments thereto, when just consideration is given to the geographical situation and natural advantages enjoyed by the said City of San Francisco and other cities situated upon the Pacific Coast seaboard.

3. The City of San Francisco is situated upon San Francisco Bay which is directly connected with the Pacific Ocean. By reason of this fact the said City of San Francisco is afforded facilities for the transportation of freight of the kind, class and character, which are dealt in by the jobbers and merchants of Reno, by water from New York City and other points and places on the Atlantic seaboard, including all the merchandise mentioned in the complaint herein; and said merchandise may be and is transported by water from points on the Atlantic seaboard to San Francisco or to other cities on the Pacific seaboard, either by way of Cape Horn or by way of the Isthmus of Panama, and also by way of the Tehuantepec National Railroad in Mexico, which runs from Coatzacoalcos on the Atlantic side to Salina Cruz upon the Pacific side, and from and to said terminals by ocean-going steamers.

4. The volume of traffic moving from New York City and other points and places on the Atlantic seaboard to San Francisco and other points and places on the Pacific seaboard of the United States is large and constantly increasing. The rates charged by the owners of vessels for the transportation of merchandise, including all merchandise mentioned in the complaint, from the Atlantic to the Pacific seaboard of the United States, are such that the defendants herein, and other rail carriers engaged in the transportation of such freights across the continent, are compelled to make rates for such services to points and places upon the Pacific Coast in competition with the rates made by the said ocean carriers, in order that the competition created by such ocean carriers may be met, and in order that said transcontinental rail carriers may secure a portion of the transcontinental business.

Such competitive condition does not exist at the City of Reno. By reason of these facts, the circumstances and conditions attending the transportation of merchandise, including all the merchandise mentioned in the complaint, from points and places in the eastern portion of the United States to Reno, as compared with the transportation of like merchandise from the same points and places to the City of San Francisco and other points and places upon the Pacific seaboard, are dissimilar and, by reason thereof, the defendant carriers and other carriers engaged in transcontinental rail transportation are justified in maintaining lower rates on shipments of merchandise to San Francisco from eastern portions of the United States than upon like merchandise transported from the same points and places to the City of Reno; and consequently, the maintaining of such lower rates known as terminal rates to San Francisco and other points and places upon the Pacific seaboard does not constitute an unlawful discrimination against the City of Reno or merchants doing business therein, and does not violate any or either of the provisions of the Act of Congress approved February 4, 1887, entitled "An Act to regulate commerce," or any or either of the amendments thereto.

5. And your petitioner further states that the Nevada rates based upon the water competitive rates in effect at the Pacific Coast terminal plus the rate of haul back from said Pacific Coast terminal to said Nevada points, and accordingly, said Nevada points receive the full benefit of the sea competitive rate and of the existing water competition at the Pacific Coast terminals.

Wherefore, your petitioner prays that it be made a party to these proceedings as an intervener herein pursuant to the rules of this Honorable Commission; and furthermore, that this Honorable Commission maintain the relation of rates existing between San Francisco and Reno and other Nevada points in said complaint mentioned as far as the same are affected or controlled by water competition.

TRAFFIC BUREAU OF THE MERCHANTS' EXCHANGE,
By R. P. RITHET, *Chairman.*

SETH MANN, *Attorney for Petitioner.*

REPORT OF ATTORNEY-GENERAL AS EX OFFICIO MINERAL LAND COMMISSIONER.

Under the Act of February 26, 1907, the Attorney-General is constituted ex officio State Mineral Land Commissioner, whose duty it is to examine all applications for patents of this State or of the United States, and to make an abstract of such application, which shall contain the name of the applicant, the location of the land applied for, by legal subdivisions, with the section, township and range, the date of entry of the applicant and the character of such entry, and, after such information is obtained, to institute an inquiry to ascertain whether the land applied for is located within any mining district, or contains mineral in quantities sufficient to support a *bona fide* mining claim, and, if so, to appear in the proper Land Office and contest such application and offer evidence in support of such contest.

On April 11, 1907, this office addressed an official communication to Messrs. Louis J. Cohn and E. W. Tremont, Register and Receiver, respectively, of the United States Land Office, District of Nevada, calling their attention to the provisions of the above-mentioned Act. Those officials transmitted the same to the Honorable Commissioner of the General Land Office at Washington, who replied as follows, the original being now on file in the United States Land Office:

DEPARTMENT OF THE INTERIOR, UNITED STATES LAND OFFICE,
WASHINGTON, D. C., April 20, 1907.

REGISTER AND RECEIVER, *Carson City, Nevada.*

SIRS: Your attention is called to the Act of the Legislature of the State of Nevada approved February 26, 1907, which creates the office of Mineral Land Commissioner, and makes it the duty of this Commissioner to investigate applications for patents under the non-mineral laws and to compel certain data in relation thereto; and you are directed to furnish this office, with access to your records and afford him ample facilities for the compilation of the specified data at all times when his work will not interfere with the orderly and speedy dispatch of the business of your office.

This Act also makes it the duty of the Mineral Land Commissioner to institute contests in cases where mineral lands are being applied for under the non-mineral laws of the United States, and you are directed to receive and entertain such contests in the manner prescribed by the rules of practice and regulations governing contests by individuals.

Very respectfully, R. A. BALLINGAR,
Commissioner.

In compliance with said Act, this office has kept a complete record of patents applied for and has instituted inquiries so far in 77 cases as follows:

Homestead entries	56
Desert lands	17
Lieu land selections	4
Total	77

CONTEST OVER MINA TOWNSHIP.

On the 8th day of May, 1907, one Anna M. Currie of Mina, Nevada, filed in the United States Land Office, at Carson City, application to make final proof on Homestead Application No. 1009, covering the S½ of the SW¼ and the S½ of the SE¼, Section 8, Township 6 N., Range 35 E., M. D. B. and M. Thereupon this office instituted the usual inquiry, and it appearing that the Town of Mina, in Esmeralda County, was located upon a portion of the land sought to be thus homesteaded, upon the demand of one Francis L. Burton, who represented certain persons claiming to own certain placer gold mining claims, and to have other adverse claims against said homestead applicant, this office instituted a contest against the issuance of a patent and upon a hearing had before the Register and Receiver, on July 8, 9, and 10, 1907, testimony was adduced by both sides tending to establish the exact character of the land as to being mineral or non-mineral.

The contestants failed to establish their averments as to the mineral character of the land and the local United States Land Office thereupon issued its certificate thereon. Although satisfied that the local Land Office was correct in its ruling in this matter, upon the further demand of said Francis L. Burton, this office appealed from the ruling of the Register and Receiver to the General Land Office, at Washington, D. C.

Pending said appeal Attorney Burton was to file and present additional citations of law in support thereof, but none being presented or filed and no further reason appearing why the ruling of the local Land Office should be set aside, the same was affirmed. The Government sent a special examiner to examine said land and report before final action was taken as above.

ISLAND MOUNTAIN CONTEST.

In October, 1908, this office instituted an inquiry, and published notice of application in the matter of certain lieu land entries made by Warren W. Williams upon portions of Sections 1, 2, 3, 4, 11, 12, 14, 15, 19, 28, 30, and 32, in Township 44 N., Range 56 E., Elko County, Nevada.

On November 19th, the following petition, signed by the miners of Island Mountain Mining District, in Elko County, was received:

ISLAND MOUNTAIN MINING DISTRICT,
COUNTY OF ELKO, STATE OF NEVADA, November 14, 1908.

To the Honorable Mineral Land Commissioner, R. C. STODDARD, *Carson City, Nevada:*

We, the undersigned, miners of Island Mountain Mining District of Elko, State of Nevada, herewith enter protest against the issuance to Warren W. Williams of agricultural patents on portions of Sections 1, 2, 3, 4, 11, 12, 14, 15, 19, 28, 30 and 32, in Township 44 N., Range 56 E., as shown by advertisements now running in the *Elko Free Press*, the same being mineral land to our personal knowledge and belief.

We are forced to this protest through the persistent encroachment of sheep owners and their almost complete appropriation of the public waters in this mineral township by the application of scrip to only such portions as contain springs or watering places, fencing the same to the exclusion of our horses and cattle and the curtailment of legitimate mining operations.

We ask herewith that no action be taken toward the issuance of patents until such time as a competent official can be sent from your office to personally examine the above-mentioned land regarding their mineral contents and non-agricultural character and investigate the justness of this protest.

As the foregoing protest was not received within the time set by the

local United States Land Office for filing protests, after a conference with United States Special Agent D. J. Lawton, who is now here investigating and obtaining evidence with respect to certain patents heretofore obtained by the Central Pacific Railroad, this office telegraphed the Commissioner of the General Land Office as follows:

CARSON CITY, NEVADA, December 1, 1908.

HON. FRED DENNETT, *Commissioner General Land Office, Washington, D. C.:*

Petition many miners filed this office too late to enter formal protest to issuance patent to Warren W. Williams on application serial number 0566, soldiers' additional homestead scrip, Township 44 N., R. 56 E., M. D. B. and M. Respectfully request you withhold final action pending examination by Government and formal proof mineral character land submitted. Special Agent Lawton recommends wire you thus.

The Government recognized the State's interest in this case by filing the foregoing telegram as an official protest, the Commissioner-General responding as follows:

WASHINGTON, D. C., December 2, 1908.

R. C. STODDARD, *Attorney-General, Carson City, Nevada:*

0 five six six Warren W. Williams apparently not received. Returns show held local office awaiting publication your telegram as caveat. DENNETT, *Commissioner.*

The matter is now pending in Washington, and the petitioners have been afforded the opportunity of establishing their allegations by proper proof to be submitted by them through this office.

PATENTS GRANTED TO THE CENTRAL PACIFIC RAILROAD COMPANY LANDS CONTAINING MINERAL.

To assist in the construction of a transcontinental railroad, by an Act of Congress, approved in July, 1862, the Government granted to the Central Pacific Railroad Company, certain odd-numbered sections of land extending across the State of Nevada, within twenty miles of either side of the railroad right of way. By its express terms said Act reserves to the United States all minerals except coal and iron. From time to time the Central Pacific has applied for and obtained final patent to many sections of the land so granted, being required to show to the Government before said patent issues that the land applied for is more valuable for agricultural purposes than for the mineral therein contained. Many valuable mineral deposits have been discovered upon land thus patented, and in some cases it is claimed that mining claims were being actually marked on "railroad land" at the time of and prior to the granting of a patent thereon.

The United States Government has for some time past been investigating these matters, and several suits in equity to set aside patents heretofore issued have been instituted by the Government.

The State of Nevada cannot, as a matter of law, be a party to these suits, it being purely a matter between the Government as the grantor and the railroad company as the grantee. The State can, however, assist in *preventing* the issuance of patents to lands containing minerals, by conferring the statutory authority to contest such applications in behalf of its citizens, as provided by the Act of 1907, under which this office is now authorized to proceed, and by virtue of which the United States Government, through its General Land Office, has officially recognized the State as being interested in the protection of mineral lands situate within its borders.

By the terms of an Act of Congress, approved March 3, 1891, it is

provided, among other things, that the United States shall be deprived of the right of suing for the annulment of a patent issued by the United States, at any time after six years have elapsed.

In this connection the United States District Attorney has given out the following statement:

Any patent granted to the Southern Pacific Company or the Central Pacific Railway Company on the 3d day of January, 1903, would not be amenable to attack by the Government of the United States after the 3d day of January, 1909. This fact is true of all other patents issued by the Government on that day. There have been, however, a large number of patents issued to the Central Pacific Railway Company in this State since January 3, 1903.

If this be the case, the rights of every miner upon mineral land situated within a patented mineral grant to the railway company, wherein the deed of conveyance or patent to the company bears execution date subsequent to the 3d day of January, 1903, would be absolutely protected by suit instituted by the Government any time within six years after the date of patent, provided the facts would warrant the prosecution of the case.

In round numbers the so-called twenty-mile railroad grant within the State of Nevada, embraced within eighty-eight townships, shows about one million and twelve thousand acres of land unsurveyed. The railroad company cannot file a selection for unsurveyed lands, and this vast acreage, in part probably mineral in character, is not at the present time amenable to patent by the railroad company. If, perchance, it should be surveyed within the next year, and the railroad should, in fact, secure a patent, the Government of the United States would have six years thereafter within which to bring suit upon the ground of fraud, provided, of course, the facts justified such a procedure. It will be seen at a glance that the miner who owns a claim within an odd section of unsurveyed land, which when surveyed may be selected by the railroad, has ample time to prefer charges with the Department of Justice, in the event a patent should in fact issue to the railroad company, and it should appear that such patent had been secured upon a fraudulent non-mineral affidavit.

While independent investigation by the Government has been going on for some time within the State of Nevada, it is not possible for the Government's agents to discover every violation of the law. For that reason, complaints are invited that every possible effort may be exerted for an impartial investigation. For the reasons above stated the Nevada miner need not hesitate to make his complaints after the 3d day of January, 1909, for as to his particular mining claim the statute of limitations may not apply.

It is not generally known that, under the rulings of the Department of the Interior, even though a mining claim is located on railroad land and the railroad has applied for a patent thereon, the owner of the mining claim may file his application for a patent, and if a showing is made that the land is valuable as a mineral claim, and the usual regulations are complied with, notwithstanding the objections of the railroad, a patent will issue in due course to the holder of the mining claim.

The public generally and the miners in particular are daily becoming more familiar with their rights under the land laws, and it is in full accord with the past express declarations of our State Legislature to the effect that mining is Nevada's paramount industry that the State should continue to provide ways and means to enable it to be officially recognized by the United States Government in mineral land contests to applications for patents where its chief industry and the rights of its citizens are in jeopardy.

OFFICIAL OPINIONS.

The law requires the Attorney-General to give his opinion in writing upon any question of law to any State officer and to any District Attorney whenever required.

During the first two years of my term I have rendered many oral opinions, each necessitating a careful examination of the law involved. It being practically impossible to properly record such opinions, several often being required at one time, I herewith submit a complete record of my written opinions only. Being many times in excess of the number of opinions ever required of any of my distinguished predecessors, and having been rendered only after a diligent examination of the legal authorities and most deliberate reflection, I humbly submit them to the criticism of the public, confident that the conclusions reached in the many matters discussed are based, in each instance, upon sound principles of law:

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, March 7, 1907.

MR. C. A. EDDY, *District Attorney of White Pine County, Ely, Nevada.*

DEAR SIR: Yours of the 5th instant, requesting an official opinion as to whether or not, under the Act of 1905 (Stats. 1905, p. 95) the District Attorney of White Pine County is allowed to collect fees in criminal cases, when the defendant pays a fine and the county is relieved of all expense, was duly received and noted.

Replying thereto I beg leave to state that I am of the opinion that the Act of March 8, 1905, providing that the District Attorney of White Pine County shall receive no fees in criminal cases, or in cases in which White Pine County is a party, repeals all Acts in conflict therewith, therefore you, as District Attorney of White Pine County, are not entitled to collect fees in criminal cases.

Very truly yours,
R. C. STODDARD, *Attorney-General.*

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, March 28, 1907.

MR. A. S. HENDERSON, *District Attorney of Eureka County, Eureka, Nevada.*

DEAR SIR: Your letter of March 21, 1907, wherein you request an official opinion as to the legal construction of Section 1187, Compiled Laws, fixing a license of five dollars per quarter on each billiard table

not kept for the exclusive use of the owner or his family, and further stating that, at the present time, there are five saloons in Eureka in which are maintained billiard tables, the proprietors thereof refusing to pay a license, for the reason that they do not charge for the use of the tables but for drinks only, has been duly received and noted.

Replying thereto I beg leave to state that the provision above referred to reads as follows:

> From each proprietor or keeper of a billiard table, not kept for the exclusive use of the owner or his family, for each table, five ($5) dollars per quarter year, etc.

In my opinion there can be but one construction of this provision, and that is that the words "not kept for the exclusive use of the owner or his family" mean all billiard tables maintained for the use of the public generally whether there is a charge imposed for the use thereof or not. The law permits the same to be maintained publicly, for the purpose of private gain, upon the payment of a proper license, and, if the keepers thereof fail to take advantage of the privilege thus bestowed, it cannot operate to relieve them of a reasonable license tax if they desire to maintain the tables as aforesaid.

Therefore it is your duty as District Attorney of Eureka County to see that the Sheriff collects said license from every such person, firm, or association publicly maintaining or conducting any billiard table, as before stated. (See Comp. Laws, 1189.)

Of course, it is within the power of the County Commissioners to regulate such matters in unincorporated cities and towns under the Act approved March 9, 1903 (Stats. 1903, p. 55), but, unless said power has been exercised by an ordinance duly passed and adopted, the matter then comes under Section 1187, Comp. Laws. I have the honor to remain

Yours, very respectfully,
R. C. STODDARD, *Attorney-General.*

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, April 22, 1907.

MR. A. S. HENDERSON, *District Attorney of Eureka County, Eureka, Nevada:*

DEAR SIR: I am in receipt of yours of April 16th, wherein you propound the following query and request my official opinion thereon:

> Can the Board of County Commissioners issue scrip for the payment of debts?

Replying thereto I beg leave to state that under Section 9, of an Act approved March 13, 1903, entitled "An Act relating to county government and the reduction of the rate of county taxation" (Stats. 1903, p. 10), it is unlawful for any Board of County Commissioners "to contract any floating indebtedness or to contract any obligation whatever, except bonds authorized by law, * * * except the funds are in the treasury for the payment of the same and are specially set aside for the payment thereof," except to negotiate the emergency loan in the manner provided and authorized by Section 6 thereof (p. 108).

If, owing to unforseen circumstances, the county is unable to meet the necessary expenses incident to the proper conduct of its business, Sections 6 and 7 of said Act point out a way whereby relief may be obtained by following the strict provisions of said sections relative to the negotiation of a temporary loan for the purpose of meeting such necessity.

I would suggest that you follow the law above quoted and forward the properly authenticated copy of the resolution of the Board of County Commissioners to the State Board of Revenue, which Board will take up the matter forthwith, and in a proper case approve the action of the Board of County Commissioners.

Very truly yours,

R. C. STODDARD, *Attorney-General.*

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, April 24, 1907.

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

DEAR SIR: Yours of even date herewith, containing the following queries upon which you desire an official opinion, also the communication from Principal A. Dawkins upon which the same are based, has been duly received and noted:

First—Can a principal of a school appoint a substitute without consulting the School Trustees of the district where he is teaching?

Second—Will the principal, A. Dawkins, be entitled to his salary for the full term for which he was employed?

Without being advised as to all the facts in the case, I can only answer as follows: Under Section 1297 of the Compiled Laws the Trustees may employ teachers and may also dismiss any teacher at any time for such reasons as they may deem sufficient. This is the law in force at the present time, and under which, no doubt, Mr. Dawkins was employed. From and after August 31, 1907, a new Act providing for the reorganization of the system of school supervision and maintenance, and repealing all Acts in conflict therewith, is in effect. (Stats. 1907, p. 378.)

The new law requires that the Board of School Trustees shall enter into a written contract embodying the amount of salary to be paid and the term of employment of each teacher (sec. 40, p. 388), and also requires that "no teacher shall be entitled to receive any portion of the public school moneys as compensation for service rendered unless such teacher shall have been *legally* employed by the Board of Trustees," etc. (sec. 29, p. 385); and, further, that each teacher shall take and subscribe to the official oath as prescribed by Article XV of the Constitution (sec. 30, p. 386). Neither the old nor the new law authorizes the Board of Trustees to delegate to any person the power of employing substitute teachers, therefore if Mr. Dawkins "appointed" a substitute teacher without the consent of the Board, he did so without

even the color of legal authority, and was subject to removal by the Board.

In answer to the second query, *i. e.*, as to whether or not Mr. Dawkins is entitled to his salary for the full term for which he was employed, I will say that if there exists between the Board and Mr. Dawkins a valid contract specifying the term of employment and the amount of salary he is to receive, and Mr. Dawkins has not violated any condition thereof and has in all respects complied with the law relative to his employment and qualification as a teacher, and he has been illegally discharged, he is entitled to his salary for the full term for which he was employed; otherwise he is not.

Respectfully submitted,

R. C. STODDARD, *Attorney-General.*

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, May 8, 1907.

HON. ORVIS RING, *Superintendent of Public Instruction and ex officio Secretary of the State Text-Book Commission, Carson City, Nevada.*

DEAR SIR: I am in receipt of yours of April 25, 1907, containing the following questions and requesting my official opinion thereon:

1. Can the State Text-Book Commission select and adopt text-books at any time other than the fourth Tuesday of June, 1907, and every four years thereafter?

2. If any of the books now in use are retained in use, must they be readopted and for the full term of four years, or can they be retained for a part of the four years' period and then a new adoption be made?

3. Is it mandatory under the Text-Book Commission Act, approved March 22, 1907, that new contracts shall be made with the publishers for the books that are still retained in use at the meeting that is to be held on the fourth Tuesday in June, 1907—that is, for the entire series of text-books named, viz., reading, grammar, arithmetic, geography, history of the United States, physiology and hygiene, writing, spelling, drawing, and music?

4. Has the State Board of Education—viz., the Governor, the President of the University, and the State Superintendent—the authority to adopt books for the high schools in the branches of algebra, geometry, physics, astronomy, physical geography, chemistry, Latin, rhetoric, literature, English history, general history, civics, geology, bookkeeping, and music?

5. Are women eligible to the office of Deputy State Superintendent of Public Instruction?

Replying thereto I beg leave to state:

The State Text-Book Commission is a board of special and limited powers created for a specific purpose and the Act by which it is created should be strictly followed, as nothing therein can be taken by intendment or implication.

Sections 1 and 2 thereof (Stats. 1907, pp. 217, 218) provide for the appointment and organization of said Commission.

Section 3 provides when, where, and how the first and all subsequent meetings shall be held for the purpose of adopting text-books, and makes it the duty of said Commission to adopt "a uniform series of text-books," etc.

Section 4 makes it the duty of the Secretary of the Commission to notify, not later than April 1, 1907, all publishers of text-books who have filed their names and addresses as therein prescribed, that the Text-Book Commission will meet on the fourth Tuesday of June, 1907, and up to noon of said day will receive sealed proposals for supplying the State of Nevada with a series of text-books for the use of all public schools of the State of Nevada for a period of four years from and after the 1st day of September, 1907, in the following branches, to wit: Reading, grammar, geography, history of the United States, physiology and hygiene, writing, spelling, drawing, and music, and will also approve other books for supplemental use. Said section also provides that whenever any contract shall be terminated by reason of the failure of any contracting publisher to observe the terms of the contract or when any contract shall cease to be in force and effect, said Commission shall notify the publishers in the manner hereinbefore prescribed that adoptions will be made to fill out the unexpired time of such contract, and that sealed bids will be received until a certain date, etc.

Section 6 thereof makes it mandatory that said Commission shall meet at the time and place mentioned in said notices and open all sealed proposals in public in the presence of a quorum of said Commission and select and adopt such text-books for use in the public schools, and approve such supplemental books as, in the opinion of the Commission, will best subserve the educational interests of the State, reserving unto said Board a discretionary right to reject any and all proposals and to call for new proposals, which shall be acted upon not later than thirty days after the rejection of the previous proposals.

Section 11 provides that text-books adopted by the Commission under said Act shall, upon the compliance of the publishers with certain conditions pursuant to the contract, be continued in use for a period of four years after the first day of September next following the date of adoption, to the exclusion of all other text-books.

Section 13 provides that any school officer or teacher who shall violate the provisions of said Act by requiring a pupil to use text-books other than those adopted by the Commission, or by permitting the use of such other books as texts, shall be liable to fine, etc., and charges the Superintendents and school officers with a strict compliance with the law.

Applying the above stated rule of statutory construction I am of the opinion:

(1) That the Commission cannot select and adopt text-books at any time other than the fourth Tuesday of June, 1907, and every four years thereafter, as therein provided, except in the event that a contract duly entered into by and between the Commission and any publisher from any cause becomes void, or the publisher fails to comply therewith, or new proposals are called for as provided in Section 6.

(2) That if any text-books now in use are to be retained at all, they must be readopted for the full term of four years; that notice that the

Commission will receive bids must be duly given, and a contract executed according to the provisions of the Act.

(3) That it is mandatory that new contracts be entered into with the publishers of text-books for the entire series, to wit, reading, grammar, arithmetic, geography, history of the United States, physiology and hygiene, writing, spelling, drawing, and music; that due notice of the receipt of sealed proposals shall be given as therein provided, and that a contract be duly executed.

(4) The Act creating the Text-Book Commission repeals all other Acts and parts of Acts in conflict therewith, therefore Section 4 of the Act which defines the powers and duties of the State Board of Education with reference to the adoption of text-books (Comp. Laws, 1346) is repealed, and the power to adopt and prescribe text-books for *all* public schools is vested in the Text-Book Commission alone. (Stats. 1907, p. 218, *et seq.*, secs. 3 and 6.) As this can be done only on the fourth Tuesday in June, 1907, and every four years thereafter, I respectfully advise that in June, 1907, an entire series be adopted, not only for use in the lower grades, but in the high schools as well.

(5) Your fifth question involves a construction of Section 3 of Article XV and Section 1 of Article II of the Constitution, together with the Act of 1907 (Stats. 1907, p. 378) "to provide for a reorganization of the system of school supervision and maintenance, to repeal all Acts and parts of Acts in conflict therewith, and matters properly connected therewith," which provides for the appointment of five "Deputy Superintendents of Public Instruction," and abolishes the office of County Superintendent of Public Schools.

After a careful investigation of the authorities and a close study of the Act itself, I am of the opinion that, under said Act, women, not being qualified electors, are not eligible to the office of Deputy Superintendent of Public Instruction.

Respectfully yours,

R. C. STODDARD, *Attorney-General.*

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, May 9, 1907.

MR. A. S. HENDERSON, *District Attorney of Eureka County, Eureka Nevada.*

DEAR SIR: Replying to yours of the 6th instant, containing the following queries and requesting my official opinion thereon, I beg leave to state:

(1) Does the Sheriff as Inspector of Horses receive any compensation, other than his necessary and actual expenses in making such inspection as provided in Section 4 of said Act?

(2) Does the fee of twenty-five cents per head on all horses inspected go into the general fund of the county or to the Inspector (see sec. 8)?

I concur in your interpretation of Sections 4 and 8 of the Act to the effect:

(1) That the Sheriff, as Inspector of Horses, receives no compensa-

tion other than his actual and necessary expenses in making such inspection, to be allowed and paid by the county, except in case of unreasonable delay or loss of time caused by the owner or person in charge of the horses, then such owner or person shall pay the Inspector, during such delay, not to exceed five dollars per day. (Stats. 1907, p. 432.)

(2) That the fee of 25 cents per head for all horses inspected under said Act shall be accounted for by the Sheriff and turned into the general fund of the county.

Yours respectfully,

R. C. STODDARD, *Attorney-General.*

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, May 20, 1907.

MR. C. A. EDDY, *District Attorney of White Pine County, Ely, Nevada.*

DEAR SIR: I am in receipt of yours of the 7th instant, containing the following queries and requesting my official opinion thereon:

(1) Can the Board of County Commissioners of White Pine County levy a special tax under Chapter CXL of the Statutes of 1907, for the purpose of paying the interest on certain bonds by said Act authorized to be issued by said county, said Act not being in effect until March 28, 1907, some time after the Commissioners had made the annual tax levy pursuant to law?

(2) When does the Act entitled "An Act pertaining to the compensation of county officers of White Pine County in the State of Nevada, and repealing all Acts and parts of Acts in conflict therewith," take effect?

In answer to your first query, I am of the opinion that the Board of County Commissioners has no authority to levy a special tax, this year, for the purpose above stated, because the law required the levy to be made on or before the first Monday in March and not later. (Comp. Laws, 1078–1080.)

Section 5 of said Act is as follows: "For the purpose of providing for the payment of the bonds hereby authorized to be issued, the Board of County Commissioners of White Pine County are hereby authorized and required, at the time of the annual levy of taxes for State and county purposes for the year 1907 and annually thereafter, to levy upon all taxable property of said Ely School District No. 1 an amount upon each one hundred dollars valuation of said property sufficient to pay the interest and principal of the bonds issued under the provisions of this Act which will become due during the ensuing year. The taxes so levied shall be assessed and collected as other taxes are assessed and collected, and shall be paid into the county treasury, and set apart to a fund to be known as the 'Ely School Redemption Fund No. 1,' and the money in said fund shall be paid out by the County Treasurer in payment of interest on the bonds aforesaid as the same becomes due, upon presentation of coupon therefor, and the payment of the principal upon the presentation and surrender of said bonds when they become due."

I am somewhat familiar with the history of this bill and believe that

it was the intention to have it introduced and passed during the early part of the legislative session, but for some reason it was not approved until after adjournment. Had it been put into effect as early in the session as intended, there would have been no question as to the right of the Commissioners to levy, on the first Monday of March, the additional tax authorized by said Act. However, I would suggest that you advise the Board of Commissioners that I am of the opinion that the interest on said bonds for the year 1907, and the first payment of the principal—to wit, on the first Monday of December, 1907—may be paid by negotiating a loan as authorized in cases of great necessity or emergency by Sections 6 and 7 of the Act of 1903 (Stats. 1903, p. 108), as I believe that this case comes within the jurisdiction of the State Board of Revenue, a proper showing being made, by resolution of the Commissioners, as in said last-named Act provided. I am satisfied that the Board of Revenue will in every way assist in relieving the situation above stated.

To your second query I beg leave to reply that I am of the opinion that the Act relative to the compensation of county officers of White Pine County, approved March 28, 1907, does not go into effect until the first Monday in January, 1909.

Section 1 of said Act reads as follows: "From and after the passage of this Act the county officers of White Pine County named in this Act shall receive the following salaries, fees and mileage as now provided by law," etc.

Section 2 thereof reads as follows: "All Acts and parts of Acts providing for offices and salaries of officers of White Pine County in force at the date of the approval thereof are continued in force up to and until the first Monday in 1909, on which day and date all Acts and parts of Acts in conflict with the provisions of this Act shall stand repealed."

It is very evident from reading and comparing the above quoted sections that Section 2 of the Act was amended after it had been introduced, and that it was the intention of the Legislature that the salaries and compensation of the officers of White Pine County therein mentioned shall not be increased or otherwise affected during the term for which they were elected.

In the matter of the bond issue, I beg leave to call your attention to the Act of March 12, 1907 (Stats. 1907, p. 106), which authorizes the several school districts of the State to issue bonds for the same purpose as the subsequent Act (March 28, 1907). Stats. 1907, p. 337, above mentioned, authorizes a special bond issue for Ely School District alone. One Act is general and the other is special. One requires the vote of the people on the proposed bond issue; the other does not. When the Ely bond Act was introduced in the Assembly, nothing was known of the general Act, which, although subsequently introduced, was approved several days prior to the Ely Act, the latter being in all respects similar to an Act introduced by the Washoe County delegation (or Senator Boyd) for the same purpose. Pursuant to the last-named Act the Washoe County School Trustees have issued and sold school bonds, said sale being conditional upon the final determination as to their legality, which, I am informed, has been questioned upon the ground that the bonds should have been issued and sold under the provisions of the general Act instead of the special

Act. I call your attention to the general Act only for the purpose of suggesting that if your Board is apprehensive of trouble in disposing of the bonds issued under the special Act, for the reasons stated, and conditions are such that a special election can soon be held, as in said general Act provided, that, for the reasons above stated, it would be safer to proceed under the general Act.

Hereafter in your requests for official opinions, I respectfully request that you form your queries in the above manner and have the same typewritten, if possible.

Very truly yours,

R. C. STODDARD, *Attorney-General.*

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, May 21, 1907.

MR. P. A. MCCARRAN, *District Attorney of Nye County, Tonopah, Nevada.*

DEAR SIR: I beg to acknowledge yours of the 11th instant, requesting an official opinion upon the following matters:

On page 183 of the advance sheets of the Acts of the last Legislature, I find an Act which according to my interpretation authorized the County Treasurers of the various counties to hold up all of the moneys received for licenses of any nature whatever for the benefit of any town which may be governed by the Town Government Act, or for the benefit of any incorporated city, making no deposit whatever on these licenses to the county or State. Will you advise me as to your interpretation of this law, as we are about to take advantage of it if my interpretation is correct.

Kindly advise me officially on this second matter: The Town Government Act, as found in statutes, provides that the County Commissioners when acting as a Board of Town Commissioners which may have taken advantage of the Town Government Act, for its own government, shall draw a salary of $40 per month each. Kindly advise me as to whether or not this $40 per month would apply for each and every town respectively that might be, under the Town Government Act, within the county.

In other words, to illustrate: Our Board of County Commissioners now sit as a Town Board for the government of the Town of Tonopah. Rhyolite, the town second in importance in our county, is about to take advantage of the Town Government Act and have petitioned our County Commissioners to sit as a Board of Town Commissioners for them.

At the present time our Board of County Commissioners draw $40 per month as a salary for sitting as a Town Board for Tonopah, in addition to their salary as County Commissioners. Would they, according to your best judgment, draw an additional salary of $40 per month while sitting for the Town of Rhyolite. The law does not make itself clear in the matter, and an official opinion from you would be greatly appreciated.

Replying thereto I beg leave to state that, in my opinion, you are correct in your interpretation of the amendment to Section 1267, Comp. Laws (Stats. 1907, p. 183), wherein it is now provided that all moneys collected for gaming licenses within the corporate limits of any city or town in the State shall be paid into the treasury or general fund thereof for general purposes.

To your second query I beg leave to reply that I am of the opinion that, regardless of the number of towns governed by the Commissioners thereunder, Section 15 of the Town Government Act (Comp. Laws, 2188) does not contemplate that the Commissioners shall receive more than forty dollars per month each in addition to the compensation allowed by general law. It seems to me that the last portion of said section, which reads: "In any county whose inhabitants shall number twelve thousand or more, wherein the Board of County Commissioners transact the business required under the provisions of this Act, each member of said Board shall receive, in addition to the compensation allowed by general law, the additional sum of forty ($40) dollars per month," means that in counties having a population of *less* than 12,000 the Commissioners shall perform said duties without any additional compensation, but in counties having a population of 12,000 or more they shall be entitled to forty dollars per month additional compensation, and no more, *regardless of the number of towns in the county*, for, if the Legislature had intended otherwise, it certainly would not have used language indicative of an intent to base the additional compensation upon the population of the county instead of the number of towns therein entitled to come under the jurisdiction of the Board of Commissioners.

In reply to the action of the Board of Pardons in pardoning one Lytton, who was confined in the county jail of Nye County upon a sentence from the Justice Court to pay a fine of five hundred dollars, or in default of the payment thereof to be confined in the county jail for a period of six months, together with six months imprisonment for discharging a firearm in the streets of Tonopah, Lytton having served the six months, being unable to pay said fine, and also a portion of the six months sentence, I beg leave to state that the Board of Pardons did not assume in any way the function of a tribunal in passing upon the legality or illegality of the commitment, nor has it ever done so. The legality of the sentence in said case has been seriously questioned, but not by the Board of Pardons, and I beg leave to state that you are mistaken in your assumption that the Board ever officially considered anything outside the merits of the case.

With best personal regards, I beg to remain,

Very truly yours,

R. C. STODDARD, *Attorney-General.*

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, May 29, 1907.

E. J. CAHILL, ESQ., *District Attorney of Storey County, Virginia City, Nevada.*

DEAR SIR: Replying to yours of the 25th instant, wherein you request an official opinion as to whether or not British subjects and ex-soldiers of the United States Army, honorably discharged, are exempt from paying a poll-tax, I beg leave to state that under the law the right to levy and collect a poll-tax from an individual results from the general protection afforded to him and his property, and depends on residence and not on citizenship; and that, under Section 1171 of the Compiled Laws of this State, it is the duty of the County Assessor to collect a poll-tax from each male resident of this State over twenty-one and under sixty years of age (uncivilized American Indians excepted), and not by law exempt; that any person who has been employed therein upon any public or private works for a period exceeding ten days shall, for the purpose of determining the question of residence, be deemed to be a resident of the State, and that, under Section 1176 of the Compiled Laws, no person shall be deemed or held to have paid his poll-tax unless he be able to exhibit a receipt therefor from the office of the State Controller, or otherwise prove the payment of the same; and no receipt shall be valid for any year unless issued after the first Monday in January of such year; that there is nothing in the law exempting persons who have been honorably discharged from military service under the Government of the United States.

You are therefore correct in advising the Assessor accordingly.

Very truly yours,

R. C. STODDARD, *Attorney-General.*

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, June 3, 1907.

HON. T. F. MORAN, *District Attorney of Washoe County, Reno, Nevada.*

DEAR SIR: I beg to acknowledge the recipt of yours of the 1st instant, requesting an official opinion as to whether or not the Reno Wheelman's Club may lawfully hold public amateur boxing contests or exhibitions at Wheelman's Hall, in the City of Reno, and charge an admission fee to such exhibition or contest, without first obtaining the license required by the Act of January 29, 1897, entitled "An Act to restrict and license glove contests, or exhibitions between man and man, and to repeal all other Acts in conflict therewith."

As it seems to be the intention of the Act to impose a license of $1,000 upon the exhibitions in public places "for any contest or exhibition with gloves between man and man *for a wager or reward*," what constitutes a violation of the law depends upon the question as to whether or not the contest is for a *wager or reward*. The words "wager" and "reward" are, in this case, used in the nominative sense. "Wager," as a noun, is defined by Webster as "something deposited,

laid, or hazarded on the event of an exhibition or contest or some unsettled question; a bet, a stake; a pledge." "Reward," when used as a noun, is defined by the same authority as "that which is given in return for good or evil received; a requital of effort; recompense; requital." In Burrill's Authority on Legal Definitions it is defined as "compensation or remuneration for services; a sum of money paid or taken for doing or forbearing to do some act."

Section 9, being the penal clause of said Act, provides: "Any person or persons who shall participate in, conduct or manage any glove contest or exhibition *contrary to the provision of this Act*, shall be deemed guilty of a misdemeanor and on conviction thereof be punished by a fine of not less than two hundred dollars, nor more than one thousand dollars or by imprisonment in the county jail not to exceed six months."

From a close inspection and study of the entire Act, I am of the opinion that, unless the proposed exhibition or contest is to be for a wager or reward, it is not necessary that the license required by said Act be obtained; but it must be borne in mind that the word "reward," as used therein, has a very broad legal sense, and that traveling expenses, hotel bills, or *any other consideration whatsoever*, could, and no doubt would, be construed to mean "reward," and if it could be established that any person or persons participated in, conducted or managed any glove contest contrary to the provisions of said Act, he or they would be deemed guilty of a misdemeanor and punished accordingly.

By subdivision ten of Article XII of the Charter of Reno the City Council thereof has the power, by ordinance, to prohibit and suppress all prize-fights, sparring, and sparring contests; but, in the absence of any other law or ordinance upon the subject, and by complying with all laws and ordinance relative to the licensing of public amusements, such contests or exhibitions may be held, subject to the restrictions above mentioned.

I respectfully suggest that you advise the peace officers accordingly.

Respectfully submitted,

R. C. STODDARD, *Attorney-General.*

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, June 10, 1907.

HON. J. EGGERS, *State Controller, Carson City, Nevada.*

DEAR SIR: Replying to yours of the 6th instant, wherein you request an official opinion as to whether or not the Act of March 29, 1907, entitled "An Act creating and establishing a State Industrial and Publicity Commission, prescribing their duties and compensation, providing funds to be used for the accomplishment of their objects, and other matters relating thereto," lawfully appropriates money in the State Treasury for "necessary mileage and actual expenses of travel

incurred in traveling upon official business of the Commission," etc., as provided in Section 3 thereof, I beg to state that I am of the opinion that said Act cannot be construed as "appropriating" money in the treasury for said purpose, or any purpose, as contemplated by Section 19 of Article IV of the Constitution of this State.

As was said in *State, ex rel. Pyne*, v. *LaGrave*, 23 Nev. 26, "to constitute an appropriation there must be money placed in the fund applicable to the designated purpose. The word 'appropriate' means to allot, assign, set apart, or apply to a particular use or purpose. An appropriation in the sense of the Constitution means the setting aside a portion of the public funds for a public purpose," etc.

Under Sections 1959 and 1960, Compiled Laws, the Controller is forbidden to draw any warrant on the treasury except there be an unexhausted specific appropriation to meet the same, and it is made his duty, among other things, to keep an account of all warrants drawn on the treasury, and a separate account under the head of each specific appropriation in such form and manner as at all times to show the unexhausted balance of each appropriation. The only section of said Act which could be construed as "appropriating" money for the purpose aforesaid is as follows:

> SEC. 3. The Chairman of such Commission shall receive, as compensation for his services, to be paid out of the treasury of the State of Nevada, the sum of twenty-five hundred dollars per annum, payable in equal monthly installments, upon the first day of each and every month, and the other two members shall serve without compensation; *provided, however*, that the Chairman and other members of such Commission shall be allowed necessary mileage and actual expenses of travel incurred in traveling upon the official business of the Commission when it shall appear from the affidavit of the members, or one of the members claiming the same, that such mileage and expenses were actually and necessarily incurred, that the same is just, and was incurred while traveling upon the official business of the Commission; such affidavit to be filed with the State Treasurer before any allowance can be made for such mileage or expenses."

The foregoing does not, in my opinion, appropriate any sum in the treasury nor create any fund out of which the salary of the Chairman and the traveling expenses of said Commission can be lawfully paid. It only specifies the *amount* of money the Chairman shall receive as salary, and the *manner* in which it shall be paid. If the Publicity Act be construed as making an appropriation, the requirements of the Act of 1866 (Comp. Laws, 1959, 1960) cannot be observed because there is no specific appropriation upon which a warrant could be drawn; and also the Controller's accounts cannot show the unexhausted balance as the law requires. The last-named Act was intended to prescribe a uniform rule for the Controller; the "Publicity Act" to provide a method of advertising the natural and industrial resources of Nevada. There is no repugnancy between the two Acts, and, as it is the universal rule of law that repeal by implication should not be favored, and that whenever two Acts can be made to stand together both should be given full effect, I respectfully advise that you decline to draw any warrants for

salary or traveling expenses of the Chairman or members of said Publicity Commission, unless ordered so to do by a court of competent jurisdiction.

Respectfully submitted,
R. C. STODDARD, *Attorney-General.*

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, June 12, 1907.

F. G. HOENSTINE, ESQ., *County Treasurer of Humboldt County, Winnemucca, Nevada.*

DEAR SIR: Replying to yours of the 8th instant, requesting an official opinion as to whether or not, by law, you are entitled to any compensation outside of the salary fixed by the Act of 1907 (Stats. 1907, p. 214), I beg to state that I am unable to discover any law or statute allowing you, as County Treasurer, any additional compensation or fees except in the case mentioned in Sections 1131 and 1133 of the Compiled Laws.

You cite Section 1209 of the Compiled Laws. Upon an examination of said section I fail to find any such authority. In 1885 the County Treasurer of Humboldt County was paid $2,000 per annum as salary, in 1891 it was reduced to $1,200, in 1905 it was increased to $1,500, and in 1907 to $1,600 per annum.

Under Section 1225 of the Compiled Laws the Treasurer shall receive no compensation to himself other than the salary fixed by law.

No doubt your attention has not been called to the following (Section 21 of the Act of 1885, Stats. 1885, p. 93):

> SEC. 21. The State of Nevada shall allow the several counties herein named, for the services rendered under the Revenue Act, by the Auditor, Assessor, and Treasurer of each county, a sum which shall be the proportion of the State tax to the whole tax levied by the county on the basis of the salaries allowed by the Act, including the compensation allowed for deputies by the Commissioners. These allowances shall be made at the time of the semi-annual settlement provided by law, upon vouchers furnished the County Treasurer by the Board of Commissioners of each county.

By referring to the State Controller's Report for 1906 (p. 13) a copy of which is mailed herewith, you will observe that the State pays a portion of the salaries of the Treasurers, Auditors, Assessors and deputies.

I have endeavored to answer your question, notwithstanding the fact that the opinions of the Attorney-General are, by law, reserved for State officers and the District Attorneys of the various counties, and that your legal adviser in all matters of this kind is the District Attorney of your county. Hereafter kindly submit such questions to him.

Respectfully yours,
R. C. STODDARD, *Attorney-General.*

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, July 19, 1907.

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

DEAR SIR: I beg to acknowledge the receipt of yours of the 16th instant, requesting an official opinion upon the following question:

> At page 357 of the Statutes of 1907 is set forth an Act approved March 29, 1907, entitled "An Act to amend an Act entitled 'An Act to provide for the maintenance and supervision of public schools,' approved March 20, 1865," Section 1 thereof being as follows:
>
> SECTION 1. Section twenty-four of the above-entitled Act is hereby amended so as to read as follows: etc. Then follows Section 24, as amended, which relates principally to the organization of the Board of School Trustees and the salary of the Clerk of said Board.
>
> Section 2 of said Act provides that "All Acts and parts of Acts in conflict herewith are hereby repealed."
>
> On the same day the following-entitled Act was approved: "An Act to provide for a reorganization of the system of school supervision and maintenance, to repeal all Acts and parts of Acts in conflict therewith, and matters properly connected therewith."
>
> Section 33 of the last-named Act relates to the same subject-matter as the first-named Act, but Section 96 of the last-named Act expressly repeals the Act of March 20, 1865, of which the first-named Act is amendatory, Section 99 of said last-named Act providing that the same is not effective until August 31, 1907. The question is: Which Act is now in force?

Replying thereto, I am of the opinion that there can be but one answer, namely, that the Act amending Section 24 of the Act of March 20, 1865, is effective from and after its approval, to wit, March 29, 1907, until August 31, 1907, at which time the same stands repealed by the new reorganization Act (Stats. 1907, p. 378), which is then effective. Even a most cursory examination and comparison of the two Acts discloses an express legislative intent to entirely and completely reorganize the system of school supervision in the State, and to repeal *all* other Acts upon said subject.

Respectfully submitted,
R. C. STODDARD, *Attorney-General.*

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, June 26, 1907.

J. J. OWENS, ESQ., *Sheriff and Assessor of Nye County, Tonopah, Nevada.*

DEAR SIR: I beg to acknowledge the receipt of yours of the 22d instant, wherein you request an official opinion upon the following questions relating to the assessment and taxation of banks and the

shares of stock therein as provided by the Act of March 20, 1907 (Stats. 1907, p. 202).

Replying thereto I beg to state that, although the opinions of the Attorney-General are by law reserved for State officers and the District Attorneys of the various counties, with the consent of the District Attorney of Nye County, I will undertake to answer the questions herein submitted, as I deem it very important that the various Assessors of the State should be informed as to the meaning of this Act:

(1) Can we assess stock which has been subscribed for, but not fully paid?

Yes. *All* shares of stock in banks, *whether of issue or not*, are assessable, whether belonging to the bank or to private individuals. The bank itself, as a corporation, is liable in the first instance for the payment of the taxes so assessed, and has a lien on all shares in the bank and on all the rights and property of the shareholders in the corporation property as an indemnity.

(2) How are we to know whether said shares of stock are existing by authority of the United States or the State of Nevada (citing Section 2 of said Act).

For the purposes of this Act it is immaterial whether such bank is a domestic or foreign corporation, a State or National bank; however, such information may be obtained from the Secretary of State, the County Clerk, or the County Recorder, of the county wherein such bank is situated, or from the State Bank Commissioner, who can furnish all information relative to capitalization, number of shares, names of directors, property, etc., as by the Act of March 26, 1907, (Stats. 1907, p. 229) all banks (except National banks) are required to file with said Commissioner, under oath, all such information.

(3) Are we simply to tax a bank, which has not issued stock, upon its entire capitalization?

If the bank is the owner of real or personal property, *or both*, in the county and *has issued no shares of stock*, then such property is subject to taxation in the same manner and form as other property. (See Section 1.) Section 1082 of the Compiled Laws defines personal property as including "all capital loaned, invested or employed in trade, commerce or business whatsoever; the capital stock of all corporations (except those organized for mining purposes); the money, property and effects of every kind, except real estate, of all banks, banking institutions or firms," etc. Where such bank has issued stock, the personal property thereof is not taxed, but only the shares and real estate.

(4) Are we to collect money assessed upon the stock on demand, or charge it to the real estate and collect it as done where an individual owns real estate as well as personal property?

Where the bank is the owner of real estate, and has issued stock, the taxes on the real estate and shares may be collected at the time and in the manner as other taxes become due. If such bank owns no real

estate, the tax on the stock is due and payable on the 1st day of May of each year.

(5) What method shall we pursue if the bank officials refuse to give us a true and complete list of the stockholders and information necessary to enable us to intelligently assess the shares of stock?

Should the president, cashier, treasurer, or managing agent of any bank refuse to furnish to you, under oath, a statement of all such real and personal property, as provided by Section 1084 of the Compiled Laws, it is your duty to report such action to the District Attorney of your county, and it is the duty of such District Attorney to prosecute such person or persons criminally as therein provided; and, if any officer of such bank shall on demand fail to deliver to you upon request "a true and complete list of the names of the stockholders in such bank and the number of shares owned by each on the close of business on the day preceding the 1st of May," etc., as provided in Section 5 of the Act of 1907, then it becomes your duty to assess to such bank (after having first ascertained from the public records, or otherwise, whether or not such bank has issued stock) the "*full cash value*" of each share of stock, taking good care that you do not undervalue the same.

(6) Have we any right to assess any personal property belonging to a bank when we tax the shares of stock?

No. Section 4 of said Act is very explicit in providing that "*no* bank in which shares of stock have been issued shall be assessed upon other property than its real estate," etc. In assessing the shares of such bank the Assessor shall deduct therefrom the proportionate value of the real estate belonging to the bank, as provided in Section 2 of said Act.

(7) Nearly every bank in Nye County, if not all, are branch banks of Reno and Carson City. Can we assess in this county the shares of stock of banks having their home office in another county? If not, can we assess the personal and real property owned by said bank in this county?

Shares of stock in banks having branch offices in other counties are assessable only in the county where the original or home bank is located. Sections 1086 and 1087 of the Compiled Laws govern in such cases. Real property is assessable in the county wherein situate, except where lying in two counties it is assessable in either county at the option of the owner. Personal property, unless owned by a bank in which shares have been issued, is assessable in the county where it is located.

In conclusion, I will state that the Supreme Court of the United States has repeatedly upheld the validity of a statute almost identical with the above Act, passed under and by authority of Section 5219, Revised Statutes of the United States. (*Bank of Redemption* v. *Boston*, 125 U. S. 60; *Bank of Owensboro* v. *City of Owensboro*, 173 U. S. 664.)

Very truly yours,

R. C. STODDARD, *Attorney-General.*

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, June 27, 1907.

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

DEAR SIR: Replying to yours of the 26th instant, wherein you request my official opinion upon the following question, I beg to state:

> Can the present Superintendents of Public Schools, or District Attorneys as ex officio County Superintendents of Public Schools, retain that position after the new law (Stats. 1907, p. 387) is in effect, to wit, after September 1, 1907?

Under the Constitution and laws of this State, and the authority expressed in the judicial decisions of other States, the Legislature acted within its power in abolishing the office of County Superintendent of Schools.

I have not been advised that any legal action has been instituted for the purpose of testing the constitutionality of this law; however, in any event, the State Board of Education must follow this law in every respect until the same has been declared by the Supreme Court of this State to be unconstitutional and therefore void. After September 1, 1907, the District Attorneys of the several counties cannot exercise any of the duties of County Superintendent of Schools.

Very truly yours,
R. C. STODDARD, *Attorney-General.*

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, July 10, 1907.

MR. A. S. HENDERSON, *District Attorney of Eureka County, Eureka, Nevada.*

DEAR SIR: Replying to yours of the 6th instant, wherein you request my official opinion upon the following questions, I beg to state:

> (1) Can the Constable of Palisade Township be appointed to the office of jailer under the Act of March 29, 1907 (Stats. 1907, p. 301)?
>
> (2) Under Section 1194 of the Compiled Laws does a license for conducting a hotel include both lodging and restaurant apartments, or is it necessary to have a separate license for the lodging apartment and for the restaurant?

To your first question I beg to state that there is nothing in the law which would prevent the Constable of Palisade Township to act as jailer at the same time and receive both his compensation as jailer and also the fees as Constable.

Replying to your second question I will state that I am of the opinion

that a hotel license, under Section 1194 of the Compiled Laws, includes both lodging and restaurant apartments.

Respectfully,

R. C. STODDARD, *Attorney-General.*

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, August 6, 1907.

RUFE B. HENRICHS, ESQ., *Sheriff and Assessor, and* W. V. RYAN, ESQ., *County Treasurer and Tax Collector, of Storey County, Virginia City, Nevada.*

GENTLEMEN: With the permission of the District Attorney of Storey County, who is your legal adviser, I beg leave to reply to your inquiry regarding the present law relative to the assessment and taxation of patented mines as follows:

The Twenty-first Session of the Legislature (1903) proposed and passed a resolution relative to amending Section 1 of Article X of the Constitution so that

> each patented mine shall be assessed at not less than five hundred dollars, except when one hundred dollars in labor has actually been performed on such patented mine during the year, in addition to the tax upon the net proceeds, etc. (Stats. 1903, p. 240.)

Said resolution was published in the Journals of the Senate and Assembly and in the Statutes of 1903. The subsequent Legislature (1905) passed and agreed to said proposed amendment (Stats. 1905, p. 277), and thereafter, at the succeeding general election of 1906, the same was approved and ratified by a vote of the people. (See Stats. 1907, p. 501.)

I understand the legality of the resolution has been questioned on the ground that said resolution has never been published, as required by Section 1 of Article XVI of the Constitution, it not having been published in some *newspaper*, and is therefore claimed to be null and void. The Supreme Court of this State has held that the publication in the statutes of a proposed amendment is a sufficient publication under said section of the Constitution. (*State* v. *Grey*, 21 Nev. 378.) Therefore, in my opinion, there can be no question as to the legality of the last amendment.

My attention has also been directed to Senate Concurrent Resolution No. XV, passed at the last (1907) session of the Legislature, and published at page 452 of the Statutes of 1907. This resolution is identical with the one recently voted upon and adopted, except that it expressly provides what shall, for the purpose of taxation, be deemed an interest in property assessed; therefore, containing as it does different language and additional matter, it can only be construed as being a new resolution proposing a further amendment to Article X of the Constitution, depending upon further action of the Legislature and a vote of the people, and bearing no relation whatever to the last amendment adopted at the general election of 1906.

My advice, therefore, is that you assess all patented mines at not less than $500 each, except in the cases mentioned, and otherwise comply with said last adopted amendment to the Constitution.

Very truly yours,

R. C. STODDARD, *Attorney-General.*

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, September 3, 1907.

W. S. BEARD, ESQ., *Assessor of Washoe County, Reno, Nevada.*

DEAR SIR: Answering your inquiry regarding the assessment of patented mines, I beg to state that under the last amendment to Article X of the Constitution as now in force (Stats. 1907, p. 501) and the general law prescribing your duties (Comp. Laws, 1084), patented mines *shall be assessed at not less than $500*, excepting when $100 in labor has been actually performed therein during the year, and that the second subdivision of Section 1081 of the Compiled Laws, so far as it exempts such patented mines, is null and void.

Very truly yours,

R. C. STODDARD, *Attorney-General.*

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, September 11, 1907.

J. WALTER HANBY, ESQ., *District Attorney of Lyon County, Yerington, Nevada.*

DEAR SIR: Replying to yours of September 5, 1907, requesting an official opinion upon the following question, to wit:

> When does the City of Yerington become entitled to the moneys from gaming and retail liquor licenses?

I beg to state that I am of the opinion that you are correct in assuming that the City of Yerington is entitled to this money only since the qualification of its officers and the exercise of its corporate powers since on or about May 12, 1907, as up to this time, to wit, from March 14, 1907, to said May 12, 1907, the City of Yerington was not duly organized as a city government, as provided in its Act of incorporation, and the Sheriff, as License Collector, was required to pay over all moneys so collected to the County Treasurer, who was required to credit the same to the general county fund, the same being used by the County Commissioners for the benefit of the town, as authorized under "An Act providing for the government of the towns and cities of this State," approved February 26, 1881. (Comp. Laws, 2174, *et seq.*; Stats. 1907, pp. 150, 183; Comp. Laws, 1252, 2174.)

Very truly yours,

R. C. STODDARD, *Attorney-General.*

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, September 12, 1907.

A. S. HENDERSON, ESQ., *District Attorney of Eureka County, Eureka, Nevada.*

DEAR SIR: Replying to yours of the 9th instant, wherein you request an official opinion as to whether or not at this time a tax on sheep can be levied by the County Commissioners under Section 4 of the Act of March 26, 1907 (Stats. 1907, p. 234), I beg to state that I am of the opinion that, inasmuch as said section requires such levy to be made at the time of the annual levy of taxes and at the request of the Board of Sheep Commissioners, the time having passed and no request having been made, as the Act was not in force at the time of the annual levy for 1907, all sheep in your county shall be assessed as otherwise provided by law, and that the Commissioners cannot, this year, proceed to levy any additional or special tax thereon.

Very truly yours,
R. C. STODDARD, *Attorney-General.*

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, September 16, 1907.

MR. ROBERT SHIRLEY, *Sheriff of Churchill County, Fallon, Nevada.*

DEAR SIR: I am in receipt of yours of the 13th instant, requesting an official opinion upon the following question:

> Is a sheep owner required to pay license on sheep in Nevada, provided he is the owner of land therein?

The facts as quoted in your letter are as follows:

> A certain man has several thousand acres of land and a good many thousand sheep, more sheep than land at the rate of three sheep per acre—that is to say, considerably more than three times as many sheep as acres of land. Some claim that under the Statutes of 1901 (p. 65) such a sheep owner is required to pay license, the same as transient sheep owners, on all of his sheep in excess of three sheep for every acre of land.

Replying to the above I beg leave to state that the opinions of the Attorney-General are by law reserved for certain State officers and District Attorneys of the several counties, and that your legal adviser is the District Attorney of Churchill County. However, with his permission, I will undertake to answer the above question upon the facts as stated.

Under the statute of 1891 as amended in 1895 (Comp. Laws, 1256), it was provided that "the provisions of this Act (meaning the Sheep License Act) shall not apply to any person, persons, firm, company, association or corporation who shall be the owner and holder of land in the State of Nevada equal to one acre for each two sheep so owned, raised, grazed, herded or pastured," etc. The word "holder," as above

used, was held by the Supreme Court of this State to mean one who is in possession, actual or constructive, of the land. (*State of Nevada* v. *Wheeler*, 23 Nev. 143.)

The constitutionality of said Act was not passed upon. In 1901 the Act was again amended by exempting only owners and holders of land in the State equal to one acre for each *three* sheep so owned, raised, grazed, herded or pastured, etc., and providing further "that the lessee of lands shall not be deemed or taken as the owner and holder of land within the meaning of the provisions of this Act."

As said by the Court in *State of Nevada* v. *Wheeler*, above cited (p. 150):

> For some reason the Legislature saw fit to require persons owning or controlling sheep to procure licenses, but exempted from the operation of the law the owners and holders of a certain amount of land. * * * It has been suggested that it was thereby intended to reach and subject to taxation wandering bands of sheep driven from other States that have heretofore been driven in for pasturage after one assessing season closes, and then driven out again before the next opens, thereby robbing our herds of pasturage and yielding no revenue to our coffers.

I am of the opinion that in order to be exempt from paying the license required by said Act the owner of the sheep must be the *owner* and *holder* (*not lessee*) of land in the State of Nevada equal to one acre for each three sheep so owned, etc., and unless such is the case he cannot pay a license on a portion thereof—that is, on all sheep in excess of three sheep for each acre of land, but on *all* sheep owned, etc., as above stated.

Respectfully yours,

R. C. STODDARD, *Attorney-General.*

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, September 24, 1907.

HON. JACOB EGGERS, *State Controller, Carson City, Nevada.*

DEAR SIR: I am in receipt of yours inquiring as to the validity of Section 2 of an Act entitled "An Act relative to reinsurance and the transaction of business by fire insurance companies or associations otherwise than through resident agents," together with a copy of an opinion by the Attorney-General of Arizona. Said Section 2 is as follows:

> No fire insurance company or association shall reinsure, in any manner whatsoever, the whole or any part of the risk taken by it on property situated or located in this State in any other company or association not authorized to transact business in this State. (Stats. 1901, p. 40.)

The foregoing is similar to an Act passed by the Territory of Arizona. The Attorney-General of Arizona has advised the Territorial Secretary that the Arizona law above quoted "is invalid and cannot be enforced," but cites no law or authority in support of his contention that the same

"is an unjustifiable restriction on the right of the insuring company to contract."

Similar statutes restricting the power of insurance companies to reinsure have been passed by several of the States and such legislation has been upheld by the Courts of the United States. (24 Am. & Eng. Ency. Law, 272; *Iowa L. Ins. Co.* v. *Eastern M. L. Ins. Co.*, 64 N. J. L. 340; *Alliance M. L. Soc.* v. *Welch*, 26 Kan. 632.)

Marine reinsurance was prohibited in the middle of the Eighteenth Century by the provisions of statute. (19 Geo. II, England.) Later, however, this statute was repealed, and reinsurance became lawful by virtue of the common law. The statue of Nevada above cited, having been passed by its Legislature duly assembled, unless it is plainly in conflict with constitutional provisions, must stand as the law until repealed or modified by the Legislature or declared unconstitutional by a competent Court, for, as said in *Robinson* v. *Schrench*, 102 Ind. 307, "if there is a doubt as to its constitutionality, the doubt must be resolved in favor of the Legislature." There is nothing in the Federal Constitution that prevents a State from prescribing the terms on which foreign corporations shall come within its borders and carry on business with its citizens. The whole matter of admitting such corporations in a State rests absolutely in the discretion of the Legislature. The terms it imposes may be reasonable or unreasonable. (13 Am. & Eng. Ency. Law, 860; *Phenix Ins. Co.* v. *Burdette*, 112 Ind. 204; *Dugger* v. *Mec. Inc. Co.*, 95 Tenn. 245.)

I am of the opinion that, unless a law is palpably unconstitutional or has not been properly enacted, it is not within the province of the Attorney-General to suspend the effect and enforcement of the same by quasi-judicially declaring it to be unconstitutional, null and void; therefore I differ with the Honorable Attorney-General of Arizona, and furthermore believe that the statute is a valid exercise of legislative authority.

Very truly yours,

R. C. STODDARD, *Attorney-General.*

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, October 1, 1907.

G. W. LIKES, *Recorder and Auditor of Churchill County, Fallon, Nevada.*

DEAR SIR: I beg to acknowledge the receipt of yours of the 19th instant wherein you request an official opinion upon the following query:

> Upon filing the affidavit or certificate of annual labor or improvements, performed or made upon a mining claim, as required by Section 217 of the Compiled Laws, what fee is the County Recorder entitled to charge?

Although the opinions of the Attorney-General are by law reserved for certain State officers and Boards and the District Attorneys of the several counties, in view of the different practices now in vogue

among the several Recorders of the State, I deem the matter of sufficient importance to reply as follows:

Section 10 of the Act of 1897 (Comp. Laws. 217) requires the filing of an affidavit or certificate (see sec. 231) with the Recorder, setting forth certain facts with respect to the annual labor or improvements performed or made upon mining claims. Nothing is therein mentioned regarding filing fee. The law allows the Mining Recorder one dollar for each *notice of location* filed, compared and recorded. (Comp. Laws, 240, 245, 247.)

Section 2459 of the Compiled Laws establishes in counties polling 800 votes or less fees to be charged by the several County Recorders: For receiving, filing and entering documents to be recorded, twenty-five cents; for filing and entering any paper not to be recorded, fifty cents; etc.

Section 2471 establishes a different schedule in counties polling over 800 votes.

I am unable to discover any law authorizing the Recorder to charge one dollar for each certificate or affidavit of annual assessment work, or one dollar for each claim mentioned therein.

It is the general rule of law that, when a statute specifies a particular mode, act or thing, it excludes all others, and the general law must govern with respect to the latter.

Therefore it is my opinion that the law excepts from the general schedule of fees only *notices or certificates of location of mining claims*, and that for filing and recording affidavits or certificates of annual assessment work the Recorder should require the fee authorized by Section 2459 or 2471, as the case may be.

Very truly yours,

R. C. STODDARD, *Attorney-General.*

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, October 7, 1907.

E. M. BROWN, ESQ., *Fallon, Nevada.*

DEAR SIR: Yours of the 3d instant received and contents noted.

You request an answer to the question, which you state substantially as follows:

> That you are the carrier for yourself and three others of wild game, and, such being the case, are you permitted to have in your possession more than twenty ducks, twenty mountain quail, etc., as the case may be?

An Act to provide for the protection and preservation of wild game, approved March 16, 1903 (Stats. 1903, p. 199, *et seq.*) among other things provides: "It shall also be unlawful for any person to kill or *have in his possession* a greater number than twenty ducks, twenty mountain quail," etc.

It is evident, therefore, that it is unlawful for you, as carrier or

otherwise, to have in your possession more than the statutory number of wild game, and you are advised accordingly.

Very respectfully,

R. C. STODDARD, *Attorney-General.*

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, October 8, 1907.

E. C. ORMSBY, ESQ., *Fallon, Nevada.*

DEAR SIR: Your letter of the 24th ultimo, addressed to Hon. Samuel Platt of this city, has been handed to me for reply.

While the opinions of the Attorney-General are reserved by law for certain State officials and institutions, and for the District Attorneys of the several counties, I deem it of sufficient importance that your inquiry should be answered.

In substance your questions are the following:

(1) May a Notary Public, who has been residing in, and appointed as such for, one county, change his place of residence to another county and legally act therein under his commission?

(2) Should such Notary Public, so acting in such latter county, affix to his name: Notary Public for said former county, acting in and for said latter county?

To each of these questions I answer in the affirmative. However, these answers are qualified to some extent by the provisions of law relating to Notary Publics, their duties, etc.

Section 2415 of the Compiled Laws provides:

> If any Notary Public die * * * or remove from the county for which he is appointed, his records and all public papers shall, within sixty days, be delivered on demand to the Recorder of the county, whose duty it shall be to demand the same within that time, who shall deliver them to the successor of the said Notary when qualified.

This section is not in conflict with any subsequent statute relating to Notary Publics, and has not been repealed.

It is plain, therefore, that the law imposes certain duties, both upon yourself and the County Recorder, namely:

(*a*) Upon you within a certain time after your removal of delivering your records, etc., to the Recorder.

(*b*) Upon the Recorder of making a demand for such records, etc., from you within said time.

The proper course, and I believe the better practice, for you to pursue, in view of the foregoing, would be for you to take out a new commission for the county to which you are to remove.

Yours, respectfully,

R. C. STODDARD, *Attorney-General.*

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, November 7, 1907.

CHARLES LEE HORSEY, ESQ., *District Attorney of Lincoln County, Pioche, Nevada.*

DEAR SIR: I am in receipt of your favor of the 2d instant, wherein you request an official opinion as to whether or not the Act of March 19, 1907, prohibiting, except in certain cases, the sale of intoxicating liquors within three miles of any camp or assemblage of men engaged in the "construction of any railway where twenty-five or more men are employed," applies to the *reconstruction* of a road, as in the case of the reconstruction of a railroad along the Meadow Valley Wash in Lincoln County.

In reply thereto, I beg to state that, after due consideration, I am of the opinion that "construction of any railway," as above used, includes and means "reconstruction" also, and that the Legislature in using the terms "within three miles of any camp or assemblage of men engaged in the construction of any railway," fully intended to regulate the use and sale of liquid intoxicants in or near what are commonly known as "railroad construction camps."

Whether the railroad is being newly built through a virgin country, or is in the process of reconstruction, it would seem that the actual work or physical act of putting together, or building, would come within the meaning of the word "*construction*," as herein used, and within the legislative intent as above construed.

The word "reconstruction" has been defined as "the act of constructing again," being therefore synonymous with "construction." (Century Dic.)

In view of the foregoing, I believe it is our duty, as representing the State of Nevada, to prosecute all such violations of this law, and if the law is insufficient to have that fact judicially determined, in order that the defect in the statute may be remedied.

Therefore, I respectfully suggest that you investigate the matters mentioned in the correspondence herein, and, if the evidence is sufficient and obtainable, that you institute such proceedings as the premises demand.

Very truly yours,
R. C. STODDARD, *Attorney-General.*

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, November 7, 1907.

A. S. HENDERSON, ESQ., *District Attorney of Eureka County, Eureka, Nevada.*

DEAR SIR: I am in receipt of your favor of October 22, 1907, wherein you request an official opinion upon the following query:

> Is it necessary that a foreign corporation desiring to enter this State for the purpose of doing business therein should both file and record a copy of its articles or charter in the office of the County Clerk?

Replying thereto I beg to state that under the Act of 1907 (Stats. 1907, p. 190), a foreign corporation entering this State subsequent to March 20, 1907, for the purpose of doing business therein, is required to file a certified copy of its articles, charter, statute or other instrument of authority, by which it was created, in the office of the Secretary of State, and a certified copy thereof in the office of the County Clerk of the county where its principal place of business in this State is located.

There appears to be no law requiring the County Clerk *to record* the same, although it is the better practice to do so.

I am of the opinion that when such certified copy is *filed* as above required, the law has been fully complied with.

Very truly yours,

R. C. STODDARD, *Attorney-General.*

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, November 22, 1907.

P. A. MCCARRAN, *District Attorney of Nye County, Tonopah, Nevada.*

DEAR SIR: I am in receipt of yours of the 18th instant, wherein you request an official opinion as to the law relating to the fees which the County Clerk may lawfully charge in civil and criminal cases and by whom the same should be paid.

Replying thereto I beg to state that, after duly considering the matter, I am of the opinion:

(*a*) That the fees of the County Clerk of Nye County are regulated entirely by Section 2458 of the Compiled Laws. (Act of March 9, 1865.)

(*b*) That "for *entering* every motion, exception, rule, order, or default," the Clerk is entitled to charge from litigants in civil cases and from the county in criminal cases, the sum of fifty cents, and so on.

(*c*) That the County Clerk, as ex officio Clerk of the Court, is entitled to fifty cents for *entering* every motion, exception, rule, or order *in the minutes of the Court*, and is *not* entitled to charge for any motion, exception, rule or order, etc., which may appear in the notes of the official reporter, and which have not been duly *entered* in the minutes of the Court, or which do not legitimately pertain to the trial of the case.

The foregoing is based upon the Act of 1865 above cited, and upon the opinion of the Court in *Washoe County* v. *Humboldt County*, 14 Nev. 132.

Respectfully yours,

R. C. STODDARD, *Attorney-General.*

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, November 25, 1907.

HON. J. EGGERS, *State Controller, Carson City, Nevada.*

DEAR SIR: Your inquiry as to the course to be pursued in the matter of claims for bounties for sinking artesian wells under the Act of March 5, 1887, and its amendments, has been given due consideration.

In my judgment these Acts are unconstitutional, and they should be treated as null and void.

They are repugnant to Section 9, Article VIII, of the Constitution of this State, which provides:

> The State shall not donate or loan money or its credit, subscribe to or be interested in the stock of any company, association or corporation, except for educational or charitable purposes.

The sinking of these wells and the uses for which they are intended are for purely private purposes, and, such being the case, no part of the taxes of the State may be legally applied for a bounty in connection therewith. See *Deal* v. *Mississippi County*, 107 Mo. 464; Cooley's Constitutional Limitations, p. 696, *et seq.*, and cases cited, from which is quoted:

> * * * taxation having for its only legitimate object the raising of money for public purposes and the proper needs of government, the exaction of moneys from the citizens for other purposes is not a proper exercise of this power, and must therefore be unauthorized.

The views hereinabove expressed make it unnecessary for me to consider whether or not the appropriation for these bounties has lapsed and reverted to the General Fund in the State Treasury. This question was raised in the case of *State* v. *Horton*, 21 Nev. 300, but, its answer not appearing essential to the decision of the Court, no opinion was expressed thereon. Still, as the Attorney-General then considered it of such paramount importance, I, certainly, would not be justified in holding that said appropriation had not lapsed and reverted as aforesaid.

It is my opinion, therefore, that the Acts referred to hereinabove are unconstitutional, and should be treated as null and void accordingly.

Respectfully yours,

R. C. STODDARD, *Attorney-General.*

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, November 26, 1907.

HON. A. S. HENDERSON, *District Attorney of Eureka County, Eureka, Nevada.*

DEAR SIR: I am in receipt of yours of the 22d instant, requesting an opinion upon the following queries:

> (1) What disposition is made of fines imposed and collected for selling liquor without a license?
>
> (2) What disposition is made of fines imposed and collected for cheating?

In reply I beg to state:

The Constitution of this State provides in Section 3 of Article I:

> All fines collected under the penal laws of the State * * * and all proceeds derived from any and all of said sources shall be, and the same are hereby solemnly, pledged for educational purposes, and shall not be transferred to any other fund for other uses. * * *

See *Ex Parte McMahon*, 26 Nev. 243.

The Act of March 5, 1887 (Comp. Laws, 4645), provides in Section 1 thereof:

> The full amount of all fines imposed and collected under and for a violation of any penal law of this State shall be paid into the State Treasury, and costs shall in no case be deducted from the fines fixed by law, or imposed by the Court, but shall be taxed against the defendant in addition to the fine, and separately stated in the docket of the Court.

The foregoing language (in both Constitution and statute), as stated in the McMahon case, *supra*, "is plain, clear and unambiguous, and does not require construction;" therefore, I deem it unnecessary to add anything in the way of attempted construction or interpretation.

Respectfully yours,

R. C. STODDARD, *Attorney-General.*

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, November 26, 1907.

HONORABLE BOARD OF CAPITOL COMMISSIONERS, *Carson City, Nevada.*

GENTLEMEN: Replying to your inquiry as to whether or not the law requires your Board to furnish the Publicity Commission with suitable room in the State Capitol Building, also necessary furniture, supplies, stationery, etc., I beg leave to advise:

Section 9 of the Act of 1907, creating the Publicity Commission, provides:

> The Commission shall keep its office at Carson City and shall be provided by the Board of Capitol Commissioners with suitable room or rooms, necessary office furniture, supplies, stationery, books, periodicals, maps, and all necessary expenses shall be audited and paid as other State expenses are audited and paid.

Section 57 of the General Appropriation Act for 1907 and 1908 is as follows:

> For stationery, fuel and lights for State offices and the State Capitol Building and grounds, five thousand dollars ($5,000).

As the Legislature has made it the express duty of the Board of Capitol Commissioners to provide the Publicity Commission with "suitable room or rooms, necessary office furniture, supplies, stationery, books," etc., and directed that all necessary expenses shall be audited and paid *as other State expenses are audited and paid*, and has expressly appropriated funds for "stationery, fuel and lights for State offices and the State Capitol Building and grounds," and for contingent expenses etc. (Stats. 1907, p. 225, sec. 58), I am of the opinion that under the law it is your duty to furnish said Publicity Commission with a suitable room or rooms in the Capitol Building, and to provide such stationery, fuel and lights as may be necessary in the premises. (Comp. Laws, 2044.)

Respectfully yours,

R. C. STODDARD, *Attorney-General.*

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL.
CARSON CITY, December 4, 1907.

HON. J. EGGERS, *State Controller, Carson City, Nevada.*

DEAR SIR: In the matter of the claim of J. H. Neven, State License and Bullion Tax Agent, for traveling expenses, I beg to advise as follows:

Section 8 of the Act creating the office of State License and Bullion Tax Agent (Stats. 1905, p. 226) reads as follows:

> The actual traveling expenses of said State License and Bullion Tax Agent shall be a claim against the State, to be approved by the State Board of Examiners, and paid as provided in Section 1 of this Act, *said actual traveling expenses not to exceed the sum of five hundred dollars ($500) in any one year.*

Section 1 above referred to provides for the appointment of such officer, and fixes his salary and compensation at

> two thousand dollars per year, and such traveling expenses as authorized by Section 8 of this Act, both salary and traveling expenses to be paid from the General Fund of the State out of any moneys not otherwise appropriated.

At the same session, in fact on the same day (March 15, 1905), said Legislature in the General Appropriation Act appropriated and set apart one thousand dollars "for traveling expenses of the License and Bullion Tax Inspector."

At the next regular session of the Legislature, two years later, the sum of fifteen hundred dollars was expressly appropriated "for traveling expenses of the License and Bullion Tax Inspector," the General Appropriation Act being in part as follows:

> An Act making appropriations for the support of the Civil Government of the State of Nevada for the fiscal years 1907 and 1908.
>
> Section 1. The following sums of money are hereby appropriated for the purposes hereinafter expressed, and for the support of the Government of the State of Nevada, for the years 1907 and 1908.
>
> Sec. 2. For the salary of the Governor, eight thousand dollars. * * *
>
> Sec. 70. For traveling expenses of the License and Bullion Tax Inspector, one thousand five hundred dollars.

The Bullion Tax Agent, having before the expiration of the year 1907 used for traveling expenses five hundred dollars of said appropriation, now presents his claim for $.....for traveling expenses regularly incurred, and the same having been allowed by the Board of Examiners, the question arises:

> In view of the limitation expressed in Section 8 of the Act of 1905 (p. 227), whereby not more than five hundred dollars may be used for said traveling expenses in any one year, is said claim now a legal claim, and is it the duty of the State Controller to issue his warrant therefor?

It is a fundamental rule of law that an implied repeal results from

some enactment, the terms and necessary operation of which cannot be harmonized with the terms and necessary effect of an earlier Act. In such case the later law prevails as the last expression of the legislative will; therefore, the former law is constructively repealed, since it cannot be supposed that the law-making power intends to enact or continue in force laws which are contradictions.

Subsequent legislation repeals previous inconsistent legislation, whether it expressly declares such repeal or not. In the nature of things it would be so, not only on the theory of intention, but because contradictions cannot stand together. (Sutherland, Statutory Construction, vol. I, p. 463, and cases cited.)

The implication, in order to be operative, must be necessary, and, if it arises out of repugnancy between two Acts, the later abrogates the older only to the extent that it is inconsistent and irreconcilable with it. (*Winslow* v. *Morton*, 118 N. C. 486.)

Repeals by implication are not favored. This means that it is the duty of the Court to so construe the Acts, if possible, that both shall be operative. (*State* v. *Dupuis*, 18 Or. 372.)

In the Act creating the office of Bullion Tax Agent, the Legislature expressly provided that no more than five hundred dollars per annum could be expended by that officer for traveling expenses. (Stats. 1905, p. 227, sec. 8.)

At the next session it appropriated and authorized for the same purpose the expenditure of seven hundred and fifty dollars for the year 1907, and a like amount for the year 1908, thus increasing the amount five hundred dollars. (Stats. 1907, p. 225.)

Is the Appropriation Act of 1907, authorizing the expenditure of fifteen hundred dollars for traveling expenses of the Bullion Tax Agent for the years 1907 and 1908, repugnant to, and in conflict with, Section 8 of the Act of 1905 limiting the amount of such expenditure to five hundred dollars in any one year?

I am of the opinion that it is.

In a similar case the Supreme Court of the United States (*United States* v. *Fisher*, 109 U. S. 145) said:

> Certain well-settled rules of interpretation are applicable to this case. One is that a legislative Act is to be interpreted according to the intention of the Legislature apparent upon its face. (*Wilkinson* v. *Leland*, 2 Pet. U. S. 627.) Another, that, if possible, effect must be given to every clause, section and word of the statute (*Powlter's Case*, 11 Coke, 28a, 34a), and a third, that, where two Acts are in irreconcilable conflict, the later repeals the earlier Act, even though there be no express repeal. (*McCool* v. *Smith*, 1 Black, 459; *United States* v. *Tynen*, 11 Wall. 68; *Red Rock* v. *Henry*, 106 U. S. 596, and cases cited.)
>
> Applying these rules we think that the appropriation Acts above referred to, so far as they concern the question in hand, are susceptible of but one meaning. * * * Not only do the words of the statute make the intention of Congress manifest, but that intention is plainly repugnant to the former statute, which fixes the yearly salary of the Chief Justice (Wyoming) at $3,000. It is impossible that both Acts should stand. No ingenuity can reconcile them. The later Act must

> therefore prevail, and the earlier Act must *for the time covered by the appropriation Acts* above referred to be considered as suspended.

The Act of 1905 provides that said traveling expenses shall be approved by the Board of Examiners and shall be a claim against the State, to be paid out of any moneys not otherwise appropriated. So far there is no conflict. But Section 8 thereof contains the following provision:

> Said actual traveling expenses not to exceed the sum of five hundred dollars ($500) for any one year,

which is in direct conflict with, and repugnant to, the Act of 1907, which expressly provides that

> the following sums of money are hereby appropriated for the purposes hereinafter expressed, and for the support of the Government of the State of Nevada for the years 1907 and 1908: * * *
>
> SEC. 70. For traveling expenses of the License and Bullion Tax Inspector, one thousand five hundred dollars ($1,500).

The Legislature is presumed to have acted with full knowledge of existing laws and with due deliberation.

It cannot be presumed that it has enacted a law for the mere sake of legislating.

We cannot but say that it considered one thousand dollars insufficient to pay the necessary traveling expenses of said officer for the years 1907 and 1908. Its intent is plainly manifest. It has expressly authorized the expenditure of one thousand five hundred dollars for the years 1907 and 1908, when properly claimed and allowed.

The duty of the Controller is in this instance governed by Sections 1959 and 1960 of the Compiled Laws, containing the following:

> SEC. 1959. He shall audit all claims against the State, for the payment of which an appropriation has been made, but of which the amount has not been definitely fixed by law, and which shall have been examined and passed by the Board of Examiners. * * * And no claim for services rendered or advances made to the State or any officer thereof shall be audited and allowed, unless such services or advancement shall have been specially authorized by law, and an appropriation made for its payment. * * *

In view of the foregoing, I am of the opinion that the Act of 1907 temporarily suspends the provision in Section 8 of the Act of 1905, limiting the expenditure of the actual traveling expenses to five hundred dollars in any one year. (*U. S.* v. *Fisher*, 109 U. S. 145; *Pierpont* v. *Crouch*, 10 Cal. 315; *State, ex rel. Davis*, v. *Eggers*, 29 Nev. 469.)

Respectfully submitted,

R. C. STODDARD, *Attorney-General.*

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, December 23, 1907.

EDWIN E. CAINE, ESQ., *District Attorney of Elko County, Elko, Nevada.*

DEAR SIR: Replying to your favor of the 19th instant, I beg to state that I am of the opinion that, under Section 1187 of the Compiled Laws, the payment of seventy-five dollars to the county by the manager or lessee for a license to conduct a theater for one year carries with it the right to conduct exhibitions of "serenaders, opera and concert singers" in such theater.

This office has heretofore rendered several opinions to that effect.

Respectfully yours,
R. C. STODDARD, *Attorney-General.*

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, December 31, 1907.

E. E. ROBERTS, ESQ., *District Attorney of Ormsby County, Carson City, Nevada.*

DEAR SIR: I have carefully examined the law relating to the payment of State and county liquor licenses by a club or association carried on as a *bona fide* organization for social enjoyment, and incidentally furnishing intoxicating liquors to members at fixed prices.

Section 1198 of the Compiled Laws is in part as follows:

> Any person or persons who may dispose of any spirituous, malt or fermented liquors or wines, in less quantities than one quart, shall, before the transaction of any such business, take out a license from the Sheriff of the county in which he or she proposes to do such business, and pay therefor the sum of ten dollars per month. * * *

The Act of March 15, 1905 (Stats. 1905, p. 228), provides that from and after July 1, 1905, and annually thereafter on January 1st, "every person, firm, company or corporation manufacturing or selling, either at retail or wholesale, any spirituous, malt or vinous liquors, shall, in addition to the licenses now provided by law, take out a State liquor license, as hereinafter provided," etc., and further providing a penalty for the violation thereof.

It will be observed that both statutes simply license and regulate the business of selling or disposing of intoxicating beverages.

The opinion of the Court, per Gantt, P. J., in *State, ex rel. Bell*, v. *St. Louis Club*, 125 Mo. 308, is very exhaustive and contains excerpts from all the leading cases upon this subject, which necessarily involves the question of "sale" or "disposition" of such liquors under the statutes of the several States regulating the same, some of which are as follows:

The leading case which holds the dispensation of liquors under the circumstances stated in the agreed case is not a sale, is *Graff* v. *Evans*, L. R. 8 Q. B. 373. The appellant in that case was the manager of an institution carried on *bona fide* as a club, under rules by which its members paid an entrance fee and subscription. Trustees were appointed, in whom all the club property was vested, and there was a committee of management to conduct the general business. The club was not licensed for the sale of intoxicating liquors, but these were supplied at fixed prices to members for consumption on and off the premises, 33 per cent above the cost price being charged, and the money going into the general fund. The appellant, the manager, having supplied intoxicating liquor to a member, who paid for it, was convicted, and adjudged to pay a penalty of twenty shillings. On appeal this conviction was reversed. The transaction was held not to be a sale, within the English licensing Act; that the member of the club receiving the liquor was a coöwner with all the other members, and the transaction was a mere transfer of the special property of the other members to him, and not a sale.

In *Barden* v. *Montana Club*, 10 Mont. 330, 11 L. R. A. 593, the club was a corporation organized in good faith. The action was prosecuted under a statute providing: "All persons who deal in, sell or dispose of, directly or indirectly, any spirituous liquors in any quantity less than one quart shall, before the transaction of such business obtain a license." (Mont. Stats. 15th Ex. Sess. 74.) The sales were $40 a day, or $14,600 a year. The Court says: "The Court below erred in its findings and conclusions that the Montana Club, at the time set forth in its complaint, made sales of intoxicating liquors."

In *Com.* v. *Pamphret*, 137 Mass. 584, the club was organized but not incorporated, with a select limited number of members, duly elected officers, the purpose being to furnish refreshments to those who belonged to it. A salaried steward was employed. One dollar was charged for admission, and checks were sold at five cents apiece. It was held that buying the liquor and distributing it among the members was not a violation of the statute. The Court said: "One inquiry always is whether the organization is *bona fide* a club, with limited membership, into which admission cannot be obtained by any person at his pleasure, and in which the property is actually owned in common with the other members." The Court follows *Com.* v. *Smith*, 102 Mass. 144.

See, also, *Piedmont* v. *Club Com.*, 87 Va. 541; *State* v. *McMaster*, 35 S. C. 1.

In view of the foregoing provision of the statutes of this State, and of the weight of authority to the effect that clubs or associations organized in good faith for lawful social enjoyment, under the usual rules, owning property, having a board or committee for the government of its affairs, limiting or restricting its membership to a certain number or class, requiring individual members to possess certain qualifications,

and charging an admission fee or dues, do not come within the purview of similar statutes, I am of the opinion that no such club or organization in Nevada, in the absence of further municipal regulation, is liable for such license under the present law.

I do not mean to convey hereby that an unlicensed club or association may legally sell or dispose of intoxicating beverages to non-members or guests; on the contrary, under the authorities collected under the rule, and cited in 23 Cyc. 117 and foot-note, I believe such acts would come within the meaning and intent of the statutes above set forth.

Respectfully yours,

R. C. STODDARD, *Attorney-General.*

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, January 3, 1908.

CHARLES W. CHANCE, ESQ., *Railway Telegrapher, Moapa, Nevada.*

DEAR SIR: Your favor of the 28th ultimo, addressed to the State's Attorney, has come to my hands, and I am taking the liberty of replying to the same.

The Act referred to was enacted at the last session of the Legislature, and is published at page 411 of the Statutes of 1907 of this State. It is entitled "An Act regulating the number of hours of labor of telegraph operators, and all other persons engaged in the handling of trains or dispatching of trains."

This Act provides in substance that such persons shall not be on duty for more than eight hours in any twenty-four consecutive hours, and that a person, corporation or association violating its provisions shall pay a fine of one hundred dollars, to be recovered by suit, and one-half thereof to be paid to the informer.

The Supreme Court of this State has decided that a penal statute which provides that one-half of the fine shall be paid to the informer is contrary to Section 3, Article I, of the Constitution of Nevada, which provides that "all fines collected under the penal laws of this State * * * and all proceeds derived from any and all of said sources shall be, and the same are hereby solemnly, pledged for educational purposes, and shall not be transferred to any other fund for other uses."

This section of the Constitution has been construed in the case of *Ex parte McMahon*, 26 Nev. 245, to which you are respectfully referred.

In view of the decision announced in the case cited hereinabove there is a serious doubt in my mind as to the constitutionality of the Act in question, about which I do not now render any opinion, as the opinions of the Attorney-General are reserved by law exclusively for certain State officers and Boards and for the District Attorneys of the several counties of the State.

In conclusion, I would suggest that the proper course for you to pursue would be submit your evidence to the District Attorney of your county, who is enjoined by law to take such proceedings as the same may warrant.

Respectfully yours,

R. C. STODDARD, *Attorney-General.*

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, January 17, 1908.

J. WALTER HANBY, ESQ., *District Attorney of Lyon County, Yerington, Nevada.*

DEAR SIR: Your favor of the 8th instant, wherein you request an official opinion as to the payment of fines and forfeitures, is at hand and contents noted.

The question submitted by you is this:

How are Sections 4631 and 4645 of the Compiled Laws reconciled?

These sections are in direct conflict, and that they cannot be reconciled is apparent. However, by reference to Section 3 of Article I of the Constitution of this State, a solution to the difficulty may be readily had. Section 4631, Comp. Laws, is in direct conflict, and Section 4645, Comp. Laws, is in absolute compliance with this provision of the Constitution.

In an opinion under date of November 26, 1907, a copy of which is enclosed, rendered at the request of the Hon. A. S. Henderson, District Attorney of Eureka County, the inquiry submitted by you is embraced and fully answered.

You are therefore advised to disregard Section 4631, Comp. Laws, the same being in derogation of the Constitution of this State, and to comply with Section 4645, Comp. Laws, the same being in compliance therewith.

Respectfully yours,
R. C. STODDARD, *Attorney-General.*

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, February 4, 1908.

HON. LEM ALLEN, *District Attorney of Churchill County, Fallon, Nevada.*

DEAR SIR: I am in receipt of your favor of the 18th ultimo, requesting an official opinion upon what I understand to be the following statement of facts:

Subsequent to the regular annual levy of State and county tax rate in 1907, the Trustees of the Fairview School District in Churchill County, pursuant to Section 80 of the Act of 1907 (Stats. 1907, p. 397), called a special election, and submitted to the people the question of imposing a special tax for the purpose of raising funds for certain school purposes. Thereafter, the election having resulted in favor of said purpose, the Trustees appeared before the Board of County Com-

missioners, and requested that a tax be levied which would be sufficient to create a school fund of $1,600.

Basing the valuation upon the previous year's assessment (1906), the Commissioners levied a tax of $1.50 upon each $100 valuation.

In 1906 the mines in Fairview District did not pay any tax on bullion, none being produced. The Commissioners in fixing the rate as aforesaid did not estimate or figure upon the income from any bullion tax. The result is that one producing mine alone in said district now pays a tax of $3,300. You then state:

> My understanding of the statute is that, within ten days after the Assessor makes demand for the tax, the taxpayers can appear before the Board of Commissioners, and either have the valuation of the property raised or reduced to raise the amount called for. It seems to me there should be some legal way to release that vicinity of the burden imposed.

The section of the Act, which authorizes the special tax levied as above stated, contemplates only an emergency tax, and provides that it shall be added to the next county tax to be collected and placed in the county treasury as a special deposit, *unless* the Trustees certify to the Commissioners that the usual funds on hand are not sufficient "to keep school open in such district up to the date when State and county taxes shall become due," whereupon the tax shall become due and payable to the Assessor immediately after assessment and demand for payment; *provided*, the owner shall have the right to submit the assessment within ten days thereafter to the Commissioners for equalization, etc., and further providing that "all taxes so assessed shall constitute a lien on the property so assessed," and be collected as other taxes are collected. (Stats. 1907, pp. 378, 397, *et seq.*)

Under the foregoing provisions of law, and the facts presented, I am of the opinion that only the property owners who shall submit the assessment to the County Commissioners at their annual sitting as a Board of Equalization, or within ten days after demand made by the Assessor as above provided, can obtain relief in the way of equalization, as after the lien once attaches it cannot be removed in any other manner.

The Supreme Court of this State has used the following language upon this subject:

> When taxes are levied they become a lien, and, when the Board of Equalization has acted, an obligation immediately arises on the part of the party taxed to pay the amount due, and thereafter the County Commissioners can neither release the property from the lien, nor discharge the party from his obligation. (*State* v. *C. P. R. R.*, 9 Nev. 79.) See also *State* v. *Gracey*, 11 Nev. 223.

I trust that you will pardon my delay in giving attention to this matter, but an unusual pressure of official business has prevented my replying sooner.

Respectfully,

R. C. STODDARD, *Attorney-General.*

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, February 6, 1908.

CHARLES LEE HORSEY, ESQ., *District Attorney of Lincoln County, Pioche, Nevada.*

DEAR SIR: Your favor of the 28th ultimo is received and the contents thereof noted.

Under the Act of March 15, 1905, at page 228 of the Statutes for that year, you submit the question to the following effect:

> Does a wholesale liquor license limit the holder thereof to sell at wholesale only?

It is my opinion that such holder is limited by law to the sale of liquor at wholesale.

The Legislature of this State has seen fit to divide the liquor business into two distinct classes—wholesale and retail—and has provided a license for each class.

The provisions of law relating to the licensing of one class cannot, by any interpretation or construction, be made to apply to the other, and you are so advised.

Respectfully yours,
R. C. STODDARD, *Attorney-General.*

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, February 11, 1908.

C. A. EDDY, *District Attorney of White Pine County, Ely, Nevada.*

DEAR SIR: Your favor of the 6th instant, requesting my opinion as to what Act regulates the payment of the salaries of the officers of White Pine County, is received, and the contents thereof are noted.

There are three Acts relating to the subject-matter under discussion, to wit:

(1) An Act to consolidate certain county offices in and for White Pine County, State of Nevada, and fixing the compensation of the officers of said county, to take effect on the first Monday in January, 1907, and repealing all other Acts in conflict therewith, approved March 8, 1905.

(2) An Act pertaining to compensation of county officers of White Pine County, in the State of Nevada, and repealing all Acts or parts of Acts in conflict therewith, approved March 20, 1907.

(3) An Act to segregate certain county offices in White Pine County, State of Nevada, and fixing the salaries, to take effect on the first Monday in January, 1909, approved March 29, 1907.

While the Act of March 20, 1907, at a first glance may appear somewhat ambiguous, still, upon a closer examination, it is apparent that it was the intention of the Legislature to have the same take effect on the first Monday in January, 1909; but, as the Act of March 29, 1907, is of a later date, and is clear and complete in every way, it is my opinion, therefore, that it supersedes the Act of March 20, 1907, and

that the offices, salaries, etc., shall be governed thereby from and after the first Monday in January, 1909, and not before.

The only other question that remains for consideration is this: What Act, if any, regulates the offices, salaries, etc., of White Pine County from and after the first Monday in January, 1907, to and until the first Monday in January, 1909?

This question is readily answered. It is my opinion that the Act of March 8, 1905, is now in full force and effect in White Pine County, and the same will continue to be, until the first Monday in January, 1909, unless changed by the Legislature in the meantime.

The views hereinabove expressed are not in conflict with my former opinion. That opinion only ruled upon the inquiry: When does the Act of March 20, 1907, take effect?

Respectfully yours,

R. C. STODDARD, *Attorney-General.*

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, March 4, 1908.

HON. D. M. RYAN, *State Treasurer, Carson City, Nevada.*

DEAR SIR: In the matter of paying the warrants upon claims presented by persons assisting in conducting examinations for teachers' certificates, they having been duly appointed by the Superintendent of Public Instruction as members of the Board of Educational Examiners, as provided by Section 25 of the School Reorganization Act of 1907 (Stats. 1907, p. 385), I beg to advise that I am of the opinion that no appropriation having been made by law for the payment of said claims, it is your duty to refuse payment thereof.

Section 25 of the Act of 1907, above mentioned, only fixes the per diem which may be allowed the Deputy Examiners, without making the necessary appropriation therefor, and providing further that the same is "to be paid out of the General Fund in the usual manner."

The Supreme Court of this State, in *State, ex rel. Davis*, v. *Eggers*, decided in October, 1907, clearly defines the rule in such cases under our Constitution and existing statutes, using in part the following language:

> As all appropriations must be within the legislative will, it is essential to have the amount of the appropriation, or the maximum sum from which the expenses could be paid, stated. This legislative power cannot be delegated, nor left to the recipient to command from the State Treasury sums to any unlimited amount for which he might file claims. True, the exact amount of these expenses cannot be ascertained nor fixed by the Legislature, when they have not as yet been incurred, but it is usual and necessary to fix a maximum either in the general appropriation bill or in the Act authorizing them, specifying the amount above which they cannot be allowed.

Although such claims were, no doubt, incurred in good faith, without legislative relief there seems to be no legal method of satisfying the same.

Respectfully yours,

R. C. STODDARD, *Attorney-General.*

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, March 17, 1908.

HON. CHAS. LEE HORSEY, *District Attorney of Lincoln County, Pioche, Nevada.*

DEAR SIR: I am in receipt of yours of the 5th instant, regarding the collection of gaming licenses in the City of Searchlight, recently incorporated under the Act of March 27, 1907.

In reply I beg to state that I have given this matter careful consideration, and have arrived at the following conclusions:

In 1879 the Legislature in licensing games and gaming houses enacted that no municipal corporation shall have the power to *prohibit, suppress or regulate* any game or gaming house licensed by the State; and also that all moneys collected therefrom should be paid three-fourths into the county treasury and one-fourth into the State Treasury for county and State purposes, respectively.

Subsequently from time to time the Legislature has granted to several towns of the State in special charters the power to prohibit, suppress, license and regulate such games and gaming houses; therefore, so far as such incorporated cities are concerned, Section 8 of the Act of 1879 is repealed. The State law requiring a license on gaming, by virtue of the amendment of 1907 (Stats. 1907, p. 183), now provides that no portion of the moneys collected therefrom shall go to the State, but shall be paid into the county funds for county purposes, unless collected within the corporate limits of a city or town, whereupon such moneys shall be used for general city or town purposes.

Under a general Act providing for the incorporation of cities and towns, approved March 27, 1907, the City of Searchlight became duly incorporated, and by ordinance has fixed, imposed and is collecting a license tax on games and gaming. The Sheriff of the county is also collecting the license imposed and authorized by the Act of 1879, and the money collected within the city boundaries is being paid into the city treasury, pursuant to the amendment to Section 5, whereby, instead of three-quarters thereof going to the county and one-quarter to the State for general purposes as formerly, the entire amount is paid into the *city treasury* "for general purposes."

Your queries raise the following questions:

(1) Does the General Incorporation Act of 1907 (p. 241) repeal the Act of 1879, as amended 1907 (p. 183), as to city incorporating thereunder?

(2) If not, are games conducted in such cities subject to both State and city licenses?

(3) What disposition should be made of moneys collected by the Sheriff under the State licensing Act?

The law is well settled that the fact that a city has, by a charter or statute, power to license practices or callings of this character within its limits raises no implication in favor of persons indulging therein of exemption from a general law of the State licensing the same, for the requirement of a license, being in the nature of a restraint upon gaming, is equally and concurrently within the power of the two jurisdictions. (*Lawton* v. *Steele*, 152 U. S. 133; *Lutz* v. *Crawfordsville*, 109 Ind. 466; Black on Intox. Liquors, p. 162, and cases cited.)

The State licensing Act of 1879, as amended in 1907 (Stats. 1907, p. 183), provides that, unless a gaming license is first obtained from the Sheriff of the county and a certain sum is paid therefor, a person engaged therein shall be deemed guilty of a misdemeanor. The Act also directs that all moneys collected for such licenses shall (in this case) be paid into the city treasury for general purposes.

The subsequent General Incorporation Act of March 27, 1907, provides a general scheme for the incorporation of cities and towns, by the terms of which the right of home rule and self-government is granted to any city properly availing itself thereof, together with the right and power to "fix, impose and collect a license tax on and to regulate all taverns, hotels, restaurants, * * * *games* and gaming houses," etc.

It is well-settled law that repeals by implication are not favored. In this case there is no repeal. The two Acts do not conflict with, nor are they repugnant to, each other. Except as to the disposition of the license moneys, there is nothing in common between the two Acts, therefore the only remaining question seems to be: Can the Legislature license gaming houses, divert the moneys collected within a city to the use of a city, and also authorize a municipality to "fix, impose and collect a license tax on and regulate" such gaming and use the moneys derived therefrom for the same city purposes?

The courts have distinguished the *taxing* power from the *police* power by holding, in effect, that the taxing power is exercised for the raising of revenue, and is subject to certain limitations, while the police power is exercised only for the purpose of promoting the public welfare, and, if properly invoked, does not come within those limitations.

The regulation of gambling is strictly within the police power of the State, and the licensing thereof simply and only protects the licensee from criminal prosecution. (*Scott* v. *Courtney*, 7 Nev. 419; *Evans* v. *Cook*, 11 Nev. 69.)

Therefore, if the State chooses to grant to a city the right to impose further restrictions upon gaming conducted within its limits, by imposing and collecting a license tax concurrently with and in addition to the license required by the State, it is, in my opinion, clearly within its powers to so enact, and the fact that State moneys derived therefrom are diverted to the city, when collected within its boundaries, is immaterial, so long as such funds are devoted to public uses.

Respectfully yours,

R. C. STODDARD, *Attorney-General.*

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, May 19, 1908.

A. S. HENDERSON, ESQ., *District Attorney of Eureka County, Eureka, Nevada.*

DEAR SIR: I am in receipt of yours of April 26th, requesting an opinion as to whether or not Section 897, Comp. Laws, requiring foreign corporations to file a certified copy of its certificate of incorporation with the County Recorder, has been repealed by the Act of 1907 (Stats. 1907, p. 190) requiring foreign corporations to file the same with the Secretary of State and the County Clerk, also upon the force and effect of the proposed constitutional amendment relative to the taxation of patented mines (Stats. 1907, p. 452).

To your first query permit me to state that I am of the opinion that a careful comparison of the said Section 897, Comp. Laws, with the Act of 1907 (Stats. 1907, p. 190) does not reveal any conflict between the two Acts. The object of Section 897 is, as said by the Supreme Court in *Evans* v. *Lee*, 11 Nev. 194, "to compel such corporation to furnish easily accessible evidence of their existence, and the names of their officers," by filing, with the County Recorder of each county, a properly authenticated copy of their certificate of incorporation, etc., "with a proper certificate of the officers of the corporation as to the genuineness of the same; and to each of said certificates shall be appended a duly certified list of the officers of such corporation, which said list shall be corrected as often as a change in such officers occurs."

The purpose of the Act of 1907 (p. 190) being to require foreign corporations to further qualify by filing certain certificates with the *Secretary of State*, and to pay certain fees therefor, there is no conflict between the two Acts, and, as there is no constitutional objection to either, under the well-settled rules of statutory construction both Acts should be given effect.

To your second query regarding the proposed constitutional amendment on page 452 of Statutes of 1907, I beg to state that the Senate Concurrent Resolution No. XV therein published is not yet law, the same not having been voted upon and ratified as required by Article XVI of the Constitution; however, in this case you no doubt have in mind the amendment proposed and passed by the Legislature, March 16, 1903, and ratified at the general election of 1906 (Stats. 1907 p. 501).

The last section of the Constitution, as amended, is a part of the organic law of the State, and should be strictly followed.

The Legislature having heretofore provided for a uniform equal rate of assessment and taxation, and also regulations to secure a just valuation for taxation of all property, said amendment is self-operative, and any Act conflicting therewith was rendered void upon the ratification of said amendment.

Respectfully yours,
R. C. STODDARD, *Attorney-General.*

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, May 28, 1908.

HON. J. EGGERS, *State Controller, Carson City, Nevada.*

DEAR SIR: Replying to your request for an opinion on the following query:

> Is the Lieutenant-Governor, having, by virtue of the death of Hon. John Sparks, former Governor, become the Acting Governor, entitled to receive the salary of Commissary of the Nevada State Police, in addition to the salary of Governor?

I beg to advise that under the Act of February 8, 1908 (Special Session, p. 37), the Adjutant-General is constituted ex officio Commissary of the State Police and is entitled to receive as such $1,200 per annum. The Lieutenant-Governor, being ex officio Adjutant-General (Comp. Laws, 2094), is also ex officio Commissary of the State Police, and is entitled to the salary of said office, notwithstanding the fact that he is now also Acting Governor and entitled to receive the salary of Governor (*State* v. *La Grave*, 23 Nev. 216), because there is no vacancy in the office of Lieutenant-Governor. (*State* v. *Sadler*, 25 Nev. 356.)

Respectfully yours,
R. C. STODDARD, *Attorney-General.*

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, May 28, 1908.

HON. J. EGGERS, *State Controller, Carson City, Nevada.*

DEAR SIR: I am in receipt of your query, which is substantially as follows:

> James D. Finch, on May 27, 1908, was appointed Secretary to the Governor, under Section 1925, Comp. Laws, at which time he was also discharging the duties of Official Reporter of the Supreme Court, having been duly appointed as such in the manner provided by law. (Stats. 1907, p. 24). Can he legally draw the salary or compensation of both offices from said May 27, 1908, until June 1, 1908, he having tendered his resignation as Official Reporter to take effect on said last-mentioned date.

Replying thereto I beg to state that I am of the opinion that Mr. Finch may legally receive the salaries attached to both offices, there being no constitutional or statutory provision forbidding one person from holding two offices of this character and receiving the compensation thereto attached, providing, of course, he discharges the duties of both offices.

Respectfully submitted,
R. C. STODDARD, *Attorney-General.*

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, June 5, 1908.

HON. J. EGGERS, *State Controller, Carson City, Nevada.*

DEAR SIR: In the matter of the claim of Deputy Superintendent of Public Instruction Gilbert Ross, for traveling expenses duly approved by the Board of Examiners and presented to you for payment under Section 97 of the School Act of 1907 (p. 403), I understand that of the amount estimated for the half-year period ending December 31, 1907, there remains to the credit of said fund a balance which, together with the amount credited for the first half-year period of 1908, is sufficient to pay said claim, but that you are in doubt as to whether you may legally draw your warrant for an amount exceeding the balance estimated for the first half of the year 1908.

I have given the matter careful consideration, and, from the language of said Section 97 construing the different provisions thereof in *pari materi*, am of the opinion that said claim is legal and that you may properly draw your warrant therefor. I respectfully call your attention to the following language of said Section 97, commencing at the last sentence on page 403, referring to the duties of the Superintendent of Public Instruction:

> He shall then draw orders for the respective amounts due from each county, upon the respective counties, and forward the same to the County Auditor, who shall thereupon issue warrants upon the county general funds of their respective counties in favor of the Deputy Superintendents' Salary Fund of their respective districts, and shall present such warrants to the County Treasurer who shall thereupon transmit the amounts for which such warrants are drawn to the State Treasurer, and it shall be the duty of the State Treasurer, *to place the amounts thus received* to the *credit* of the respective Deputy Superintendents' Salary Funds, and *to pay out the same for the purposes mentioned in this section* and in the manner in which similar payments are usually made.

The foregoing language, in my opinion, expressly provides a method of paying claims for salaries and traveling expenses of such officers be the counties constituting the district, the State merely acting as thy agent of the respective counties in paying out such moneys whenever the proper claims are presented.

At stated periods estimates are made of the amount of money necessary to pay said salary, traveling and office expenses for the ensuing six months, the statutes limiting the amount to be *estimated* for traveling expenses to $250 for any half-year period.

The estimated amounts are then apportioned to each district and the moneys transmitted to the State Treasurer as stated. The limitation upon the amount that may be estimated for a half-year's expense account does not mean that the full amount must be expended during the period for which it was estimated, because the money is *credited* to the District Fund, and does not revert to the General Fund as do balances remaining in the several funds expressly appropriated for current State expenses for certain years. So, if at the end of a half-year period there is an unexpended balance in a District Deputy Fund, it may be

used as a basis for the next estimate, but it nevertheless remains to the credit of said fund to be paid out "for the purposes mentioned in this section, and in the manner in which similar payments are made."

I therefore advise that you may legally draw your warrant upon said claim.

Respectfully submitted,
R. C. STODDARD, *Attorney-General.*

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, June 9, 1908.

A. B. LIGHTFOOT, ESQ., *Deputy Superintendent of Public Instruction, Eureka, Nevada.*

DEAR SIR: I am in receipt of your favor of the 28th ultimo, in regard to the payment of Special Deputy Examiners for services rendered under the School Reorganization Act of 1907. (Stats. 1907, p. 382–385.)

On March 4, 1908, the State Treasurer requested an opinion regarding the payment of certain claims, which, I am advised, were for services rendered as members of the "Board of Educational Examiners," pursuant to Section 25 of said Act, under which the same was specifically created.

I advised the State Treasurer at that time that, in my opinion, there was no lawful appropriation out of which said claims could be paid, and I see no valid reason for changing my views at this time.

Under Sections 12 and 13 at page 382 of the Statutes of 1907 provision is made for Special Deputy Examiners to assist in conducting teachers' examinations semi-annually for four days at a time.

This is a separate and distinct proposition, and I think the law sufficiently provides funds for paying for services so rendered, under the limitations therein expressed; however, I may state that I further believe that no provision is made for paying such persons for assisting at any other than *regular semi-annual examinations.*

If the claims heretofore submitted were for services rendered as members of the "Board of Educational Examiners" under Section 25, they were properly rejected. If, however, said claims were for services rendered under Sections 12 and 13, they do not come within the ruling of this office above mentioned.

Very truly yours,
R. C. STODDARD, *Attorney-General.*

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, July 7, 1908.

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

DEAR SIR: Replying to your recent inquiry as to whether the July (1908) apportionment of school moneys should be made according to the census of May, 1907, or the census of April, 1908, I beg to refer

CORRECTION

THE DOCUMENT IMMEDIATELY PRECEEDING THIS CORRECTION TARGET HAS BEEN REPHOTOGRAPHED TO ASSURE LEGIBILITY. THE REPHOTOGRAPHED DOCUMENT APPEARS IMMEDIATELY FOLLOWING THIS TARGET.

CORRECTION

used as a basis for the next estimate, but it nevertheless remains to the credit of said fund to be paid out "for the purposes mentioned in this section, and in the manner in which similar payments are made."

I therefore advise that you may legally draw your warrant upon said claim.

Respectfully submitted,
R. C. STODDARD, *Attorney-General.*

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, June 9, 1908.

A. B. LIGHTFOOT, ESQ., *Deputy Superintendent of Public Instruction, Eureka, Nevada.*

DEAR SIR: I am in receipt of your favor of the 28th ultimo, in regard to the payment of Special Deputy Examiners for services rendered under the School Reorganization Act of 1907. (Stats. 1907, p. 382-385.)

On March 4, 1908, the State Treasurer requested an opinion regarding the payment of certain claims, which, I am advised, were for services rendered as members of the "Board of Educational Examiners," pursuant to Section 25 of said Act, under which the same was specifically created.

I advised the State Treasurer at that time that, in my opinion, there was no lawful appropriation out of which said claims could be paid, and I see no valid reason for changing my views at this time.

Under Sections 12 and 13 at page 382 of the Statutes of 1907 provision is made for Special Deputy Examiners to assist in conducting teachers' examinations semi-annually for four days at a time.

This is a separate and distinct proposition, and I think the law sufficiently provides funds for paying for services so rendered, under the limitations therein expressed; however, I may state that I further believe that no provision is made for paying such persons for assisting at any other than *regular semi-annual examinations.*

If the claims heretofore submitted were for services rendered as members of the "Board of Educational Examiners" under Section 25, they were properly rejected. If, however, said claims were for services rendered under Sections 12 and 13, they do not come within the ruling of this office above mentioned.

Very truly yours,
R. C. STODDARD, *Attorney-General.*

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, July 7, 1908.

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

DEAR SIR: Replying to your recent inquiry as to whether the July (1908) apportionment of school moneys should be made according to the census of May, 1907, or the census of April, 1908, I beg to refer

you to Section 89 of the School Act, which provides that the apportionment shall be made "as shown by the last preceding reports of the Census Marshals," which I understand, were made in April, 1908.

Respectfully yours,

R. C. STODDARD, *Attorney-General.*

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, July 30, 1908.

HON. W. G. DOUGLASS, *Secretary of State, Carson City, Nevada.*

DEAR SIR: Replying to yours of even date, I beg to state that I have examined the State Library Law of 1865, and the amendment thereof (Stats. 1907, p. 372), and Section 13 of an Act concerning the office of Secretary of State, approved February 14, 1865, as amended in 1893, and it is my opinion that the exceptions as to payment of five dollars on the issuance of certain commissions therein recited are still in full force and effect, and that the said Library Act amendment of 1907, being in the same language as the original Act of 1865, as far as the charging of fees is concerned, does not conflict with said amended Section 13 of the Act above mentioned.

You are therefore advised not to charge any fee for commissions issued by the Governor to staff or line officers of the miltia of the State of Nevada, or to Directors of the Nevada State Agricultural Society, etc., as therein set forth.

Truly yours,

R. C. STODDARD, *Attorney-General.*

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, August 4, 1908.

J. F. HALEY, ESQ., *State License and Bullion Tax Agent, Reno, Nevada.*

DEAR SIR: Replying to yours of July 30th, wherein you state that J. W. Adams of Carson City, Nevada, refuses to allow you to inspect the books of the corporation operating a gypsum plant, he being an officer thereof, and also that you are informed by the Sheriff of Ormsby County that certain houses in the "Redlight" district, in Carson City, are disposing of intoxicating liquors without a license of the State or county, I beg to state that under the law it is your duty to present evidence of a violation of the Act of 1905 (Stats. 1905, pp. 226–228) to the District Attorney of the county wherein the acts or omissions occur, and that officer, being the public prosecutor of the county, upon complaint being made and based upon proper and sufficient evidence, will then take the necessary legal steps in the premises.

This office exercises only supervisory and advisory functions over the various District Attorneys, and appears only in the Supreme Court in State cases, except in certain discretionary matters wherein an extraordinary condition of affairs may exist.

You are therefore advised to consult with Mr. E. E. Roberts, District Attorney of Ormsby County, who will no doubt take whatever legal steps the evidence in the premises may warrant.

Respectfully yours,

R. C. STODDARD, *Attorney-General.*

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, August 10, 1908.

HON. D. S. DICKERSON, *Acting Governor of the State of Nevada, Carson City, Nevada.*

DEAR SIR: Replying to your inquiry of recent date in which you enclosed the bill presented by Gordon H. True on behalf of the United States Department of Agriculture, I beg to advise as follows:

The Act under which this bill is presented was approved March 29, 1907 (Stats. 1907, p. 426), and the sum of $2,000 is appropriated thereunder for the measurement of water used on irrigated areas, etc., and which sum is made available when an officer in charge of the investigation on behalf of the Federal Government, and as in said Act set forth, shall certify to the Governor of Nevada that an equal or greater sum will be allotted for investigation in the State of Nevada out of any appropriation by the Congress of the United States for this work. This certification is a prerequisite before any of this money appropriated by the State may be used.

Section 2 of the above-mentioned Act relates to the method of the payment of bills presented against said fund. It is self-explanatory and is herewith given verbatim:

> The measurements and investigations contemplated by this Act shall be made by the agents of the United States Department of Agriculture, and the expenses thereof shall be allowed and paid out of the money appropriated for the purpose upon the vouchers signed by the agent of the Department of Agriculture in charge of said work and certified by the Chairman and Secretary of the Board of Irrigation, in the same manner as other bills against the State are allowed and paid.

The bill presented by Mr. Gordon H. True on behalf of the United States Department of Agriculture, provided you are satisfied that he is the officer in charge of such Federal investigation, and provided further that the said certification as to the Federal allotment above mentioned shall have been made to you as Governor, may be properly and legally allowed.

Very truly yours,

R. C. STODDARD, *Attorney-General.*

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, August 12, 1908.

JOSEPH EDWARD STUBBS, ESQ., *President of the University of Nevada, Reno, Nevada.*

DEAR SIR: Replying to your letter of July 29, 1908, relating to the publication of bulletins of the Nevada Experiment Station, I beg to advise as follows:

The Nevada Agricultural Experiment Station is by law made a part of the State University, and is maintained for the purpose of benefiting the farmers of this State by "diffusing among the people useful and practical information on subjects connected with agriculture," etc. (Comp. Laws, 1411.)

Section 3 of the Act of 1907 (Stats. 1907, p. 433) provides:

> The State of Nevada herewith provides that the results of the experiments and investigations conducted under this Act shall be published by the State.

The law relating to reports in regard to said Station is as follows:

> The said Board of Control shall make a report at the end of each *fiscal year* to the Governor, and twelve hundred copies thereof shall be printed at the State Printing Office for general distribution by said Board. The Governor shall transmit all said annual reports to the Legislature. (Comp. Laws, 1414.)

There is nothing in either of the foregoing Acts which require the printing of "bulletins" by the State Printing Office, at any time other than at the end of each fiscal year, and then only when the same are included in the report required to be made under Section 1414 above quoted. On the other hand, the Superintendent of State Printing is required "to receive and promptly execute all orders for printing required to be done by the various State officers" (Comp. Laws 1504), and Section 1507 provides for the printing, among other things, of "such orders and proclamations as may be required to facilitate, support, or give legitimate expression to the government of the State, and the successful working and needful exhibit of its various departments and offices."

Now the query arises: How often are the bulletins required to be printed, and how many are required at a time, and how much work, labor, and what materials are necessary to properly print them, in order to accomplish "the successful working and give needful exhibit" of a department of a State institution?

As to these matters I am not advised. Under the last two sections above quoted the Superintendent of State Printing can only be required to perform acts which are reasonable under all the circumstances, and which are not inconsistent with the facilities of his office and the amount appropriated for the support of his department. What is or is not reasonable is not in this case a question of law, but is a question of fact, which can be determined only upon all the circumstances tending to shed light upon the request itself and its purpose.

The duties of the last-named officer are almost entirely ministerial, yet he is vested with discretionary power to decide some matters, and in this case who is more able to judge of the amount of labor and

materials and the adequacy of facilities necessary to comply with the request than the Superintendent of State Printing, and, on the other hand, who is better qualified to judge of the necessity of the requested services than the department requesting the same?

Therefore I am of the opinion that if the bulletins are reports of the "results of the experiments and investigations" conducted under and authorized by the Act of 1907 (p. 434) and are "required to facilitate, support or give legitimate expression to" the work of the Nevada Agricultural Experiment Station, it being a department of a State institution, it is the duty of the State Printing Office to print a reasonable number thereof from time to time as required by the Board of Control, provided the facilities of and appropriation for said State Printing Office are adequate and sufficient.

As to your offer to pay certain expenses in connection therewith, I think that is a matter which no doubt can be amicably arranged between you and the Superintendent of State Printing.

Very truly yours,

R. C. STODDARD, *Attorney-General.*

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, August 17, 1908.

LEM ALLEN, ESQ., *District Attorney of Churchill County, Fallon, Nevada.*

DEAR SIR: Replying to yours of the 13th instant, relating to the incorporation of Fallon under the General Incorporation Act of 1907, and in particular in regard to certain methods of procedure thereunder, I beg to advise as follows:

Certificates of nomination, based on petition, and not on nomination by a convention, must be filed not more than fifty, nor less than thirty, days before election. (Comp. Laws, 1699.)

The certificate of nomination should be filed with the County Clerk. (Comp. Laws, 1697.)

The County Clerk must prepare the ballots. (Comp. Laws, 1703–1704.)

It may have been the intention of the framer of the above-mentioned General Incorporation Act to confer absolute power on the Commissioners mentioned in Section 3 of said Act (Stats. 1907, p. 242) in regard to elections, but if so he failed to incorporate his intention in his bill.

I have not lost sight of the rule in regard to implied powers of public officers.

In the case of *Bateman* v. *Coleman*, 111 Cal. 587, it is said, in regard to the powers of the Board of Harbor Commissioners of that State:

> But, where power is given to perform an act, the authority to employ all necessary means to accomplish the end is always one of the implications of the law, and, notwithstanding the omission of any special provision to that end, it was competent for the Board, in carrying out the purposes of the Act, to employ all necessary means to fulfil its requirements.

Justice Alton B. Parker, in the case of *Armstrong* v. *Village of Fort*

Edwards, said, in regard to the powers of a Board of Water Commissioners:

> Where there is an express grant of power to them it carries with it, by necessary implication, every other power needful and proper to the execution of the power expressly granted.

In the matter under consideration, it might well be held that the Commissioners mentioned in said Section 3 of said General Incorporation Act have complete jurisdiction over said election, if the said Act contained a general clause indicating such power, but the statute makes its powers special, and I think the rule of implication will only go to aid and carry out the powers actually conferred.

The above-mentioned Incorporation Act does not enact special laws to govern said election other than certain special powers taken from the County Clerk and regular election officers and conferred on said Commissioners, and we must in all other matters fall back upon the general election laws, and, this being true, we can hardly accept the remote and strained implication that the Commissioners have all the powers of the County Clerk as to this election. Based upon the above-named Incorporation Act, and upon it alone, there could be no election, because it does not enact laws for its government, and I therefore conclude and advise that the general election laws, as to this election now under consideration, will apply in their full vigor in every case where the said Incorporation Act does not contain a special enactment to the contrary.

Very truly yours,

R. C. STODDARD, *Attorney-General.*

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, August 24, 1908.

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

DEAR SIR: Replying to your inquiry of this date, and which embraces the request of C. F. Stock, County Auditor of Lyon County, for information as to whether or not a requisition drawn upon the County Auditor by the President and Clerk of the Board of Trustees of School District No. 9 of Lyon County, and in favor of the Clerk of said Board, is legally drawn, I beg to advise as follows:

I am unable to find any law that precludes the drawing of such an order on the Auditor. The Clerk is entitled to the expenses made incident to his office by reason of duties imposed upon him by law, and, there being no provision for the drawing of an order on the Auditor for an allowance made by the Board of School Trustees other than that contained in Section 9 of Article VII of the School Law of 1907, I am of the opinion that this applies to a legal allowance to the Clerk of the Board, as well as to any other person, and that in the case now under consideration the order is properly drawn.

Truly yours,

R. C. STODDARD, *Attorney-General.*

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, August 31, 1908.

J. F. HALEY, ESQ., *State License and Bullion Tax Agent, Reno, Nevada.*

DEAR SIR: Replying to your recent inquiry as to whether or not Lofthouse Brothers, in Fallon, Churchill County, should be required to pay two liquor licenses for conducting two bars upon premises connected by means of an archway, and also whether or not a National bank is subject to the county license required by law, I beg to state:

(1) The law does not require the payment of a county license for each bar maintained for the purpose of disposing of intoxicating liquors, but imposes the license upon such business. Under the facts as above stated it appears that but one business is being conducted for the purpose aforesaid. (Comp. Laws, 1193.)

(2) Sections 1188–1190 of the Compiled Laws, requiring banks and bankers to pay a license for the conducting of a banking business, cannot in my opinion be enforced as to National banks, it having been repeatedly held by the United States Supreme Court, as well as by many of the State Courts, that any attempt by a State to directly or indirectly control the operation or tax the business or property of National banks, except as is expressly authorized by Section 5219, Revised Statutes of the United States, is unconstitutional and void in so far as it applies to National banks. (*Owensboro Nat. Bank* v. *Owensboro*, 173 U. S. 664; *Second Nat. Bank* v. *Caldwell*, 13 Fed. 429; *Pittsburg* v. *First Nat. Bank*, 55 Pa. St. 45; *Osborn* v. *U. S. Bank*, 9 Wheat. 738; *Winnemucca First Nat. Bank* v. *Kreig*, 21 Nev. 404; *San Francisco First Nat. Bank* v. *San Francisco*, 129 Cal. 96.)

(3) As to the collection of taxes on the output of mines, Section 5 of the Act of 1905 (p. 229) clearly defines your duties relating thereto by requiring you to report to the State Controller and the Assessors of the several counties the condition of the various mines in so far as the product of the same is subject to taxation.

Evidence of the violation of the License Acts should be submitted by you to the District Attorney of the proper county, as heretofore advised by this office.

Aside from the salary and actual traveling expenses appropriated by law for your office, no other provision is made therefor. The State Controller can inform you of the amount remaining unexpended in the expense fund for the year 1908.

Respectfully yours,
R. C. STODDARD, *Attorney-General.*

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, September 1, 1908.

EDWARD E. CAINE, ESQ., *District Attorney of Elko County, Elko Nevada.*

DEAR SIR: Replying to your favor of the 25th instant, relative to the constitutionality of "An Act to provide for the licensing of itinerant and unsettled merchants, traders, peddlers and auctioneers" (Stats. 1905, p. 260) and the Act of 1907 supplemental thereto (Stats.

1907, p. 374), I beg to advise that, after a careful examination of the Acts under consideration and the authorities on the subject, and indulging every presumption in favor thereof, I fully agree with you that said Acts are unconstitutional and void for the following reasons:

(1) The license tax imposed is intended to discriminate in favor of domestic manufacturers and dealers as against interstate commerce and manufacturers of other States.

(2) The amount of the license is prohibitive.

(3) They are violative of Section 21 of Article IV of the State Constitution which provides that all laws shall be general and of uniform operation.

(4) They violate the commerce clause of the Federal Constitution.

The cases that support the foregoing contention are numerous. In a recent case decided in Utah (*State* v. *Boyer*, 97 Pac.) the Court well said:

> The State has the undoubted right to classify occupations, so long as there is no discrimination against citizens or property of other States. It is essential, however, to the constitutionality of such statutes that the tax apply equally to all persons of a given class and is uniform and equal. The right of the State to enact laws to regulate or restrict the sale of articles deemed injurious to health or morals of the community is also unquestioned. Avocations and employments pursued within the State, not directly connected with interstate commerce, or with some other employment or business exercised under authority of the Constitution and laws of the United States, and all property within the State mingled with and forming a part of the great mass of property therein, are subject to the taxing and police power of the State. The Legislature undoubtedly has the power to regulate the business of peddling and hawking within its territory. The ordinary meaning of peddler or hawker is an itinerant or traveling trader who carries goods about in order to sell them and who actually sells them to purchasers by delivering the goods at the time of the sale, in contradistinction to the trader who has goods to sell and sells them in a fixed place of business.
>
> We are well satisfied that the Act has no such relation to the public health or morals as will sustain it as a police measure. Nor can it because of its illegal discrimination of property and persons and lack of uniformity in operation as a revenue measure. We think it repugnant both to the provisions of the Federal Constitution that no State shall abridge the privileges or immunities of citizens of the United States nor deny to persons within its jurisdiction the equal protection of the laws, and the provisions of the State Constitution requiring all laws of a general nature to be uniform in operation. The judgment of the court below is therefore reversed and the cause is remanded with directions to dismiss the action and to discharge the defendants. (*Robbins* v. *Shelby*, 120 U. S. 489; *Lochner* v. *N. Y.*, 198 U. S. 45; *Spaulding* v. *Evenson*, 149 Fed. 913; *Brennan* v. *Titusville*, 153 U. S. 289; *Bacon* v. *Docke*, 83 Pac. 721; *Ex parte Rosenblatt*, 19 Nev. 439.)

There is no provision in the Act of 1905 for regulating the business

of itinerant merchants after the tax is paid, nor any other element tending to indicate that it is a police regulation.

An occupation which is not detrimental to public health, morals or safety cannot be prohibited by a State, nor can conditions be imposed, by a license or otherwise, which will amount to such prohibition. (*In re Quong Woo*, 13 Fed. 229; *Laundry License Cases*, 22 Fed. 701; *Walsh* v. *City of Denver*, 53 Pac. 458.)

The statutes herein considered being the result of presumptively careful legislative deliberation, it is with great reluctance that this office is compelled, under the great weight of legal authorities, a few only of which are here cited, to advise that said statutes be disregarded as being within the inhibition of the Federal, as well as our own State, Constitution.

Very respectfully yours,
R. C. STODDARD, *Attorney-General.*

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, September 3, 1908.

HON. FRANK R. NICHOLAS, *State Engineer, Carson City, Nevada.*

DEAR SIR: Replying to your letter of July 27th, I beg to state that the Osceola Placer Mining Company agreed to have a statement of its side of the abandonment dispute at this office within fifteen days from and after the 6th day of August, 1908, and the opposition, through Dr. Keen, has agreed to file affidavits in support of their contentions.

The matter in dispute being a question of fact, to be determined according to certain principles of law, I have deemed it advisable to render you an opinion thereon, and not wait for any additional statements that relate exclusively to questions of fact.

The legal points covering an abandonment are well settled, and I herewith give you the main legal principles governing the question:

> It is sometimes a matter of difficulty in a particular case to determine whether or not a water right has been abandoned, that is, whether the acts of the owner of the water right in respect thereto constitute an abandonment. The difficulty, however, is one of *proof* merely, for the general doctrine as to what constitutes abandonment is well settled. Abandonment is a matter of both intention and act (Long on Irrigation, p. 153; *Nichols* v. *Lantz*, 9 Colo. App. 1; *Gassert* v. *Noyes*, 18 Mont. 216), and consists in the relinquishment of possession without any present intention to repossess. (Long on Irrigation, p. 154; *Utt* v. *Frey*, 106 Cal. 392.)
>
> Mere nonuser is not in itself an abandonment, though, if continued for a sufficient length of time, it may result in a forfeiture of the water right by prescription. The intention of the party is always a controlling consideration on the question of abandonment. To constitute an abandonment there must be both a *relinquishment* of *possession* or *nonuser* and the intention to *abandon*. *Either* without the other is

insufficient. (Long on Irrigation, p. 154; *Utt* v. *Frey*, 106 Cal. 392.)

The right of the appropriator is based, in the first instance, upon the actual diversion of the water, and its application to a beneficial use, and the continuance of the right depends upon the continued use of the water, and hence the right acquired by prior appropriation may be lost by abandonment or nonuser. (Long on Irrigation, p. 151; *Hewitt* v. *Story*, 51 Fed. 105; *Davis* v. *Gale*, 32 Cal. 27; *Smith* v. *Hawkins*, 110 Cal. 122; *Dorr* v. *Hammond*, 7 Colo. 79; *New Mercer Ditch Co.* v. *Armstrong*, 21 Colo. 357; *Cole* v. *Logan*, 24 Or. 204; *Morrison* v. *Winn*, 17 Utah, 484.)

In considering the question of the loss of water rights on account of the failure to make use of the water, it is important to bear in mind an essential distinction between abandonment and nonuser, as affecting the period of time within which the forfeiture is complete. If the appropriator has in fact abandoned his right, the length of time for which he has ceased to use the water is wholly immaterial, for the moment the abandonment itself is complete the rights of the appropriator are extinguished. But, in the case of mere nonuser, the rights of the appropriator are not affected until he has failed to make any beneficial use of the water for the prescriptive period, when they become extinguished, although the conduct of the appropriator may negative the idea of abandonment. (Long on Irrigation, pp. 151–152; *Smith* v. *Hawkins*, 110 Cal. 122.)

The nonuser must continue for a period sufficient to bar the right by lapse of time. In the absence of any legislative declaration on the subject, this period is held by analogy to be a period fixed by law for the limitation of actions to recover real property. (Long on Irrigation, p. 152.) [The limitation in Nevada in which to recover real property is five years.]

Since a water right and the ditch by which the water is conveyed are independent subjects of property, an irrigation ditch may be abandoned without an abandonment of the water right, as where old ditches are abandoned and new ditches substituted therefor for the conveyance of the same water. (Long on Irrigation, p. 153; *McGuire* v. *Brown*, 16 Colo. 366; *Nichols* v. *McIntosh*, 19 Colo. 22; *New Mercer Ditch Co.* v. *Armstrong*, 21 Colo. 357; *Kleinschmidt* v. *Greiser*, 14 Mont. 484.)

In the case of *Schulz* v. *Sweeney*, 19 Nev. 361, the Court said:

> The water was discharged from the flume for the purpose of getting rid of it, and left to find its way to the natural level of the country, through the lands of others, without intention to reclaim or enjoy it. Neither company undertook to exercise any control over the water after it was discharged, save to direct it to one valley or the other, and so as to do no injury to settlers along its course. These facts are *conclusive* evidence of an abandonment.

The above constitute the thoroughly established principles relating to abandonment and nonuser, and these principles must be applied to every case where abandonment or nonuser is the issue, and by such application to the facts of each particular case a determination must be reached.

Very truly yours,
R. C. STODDARD, *Attorney-General.*

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, September 4, 1908.

ALVA UDELL, *Attorney-at-Law, No. 443 Washington Street, San Francisco, California.*

DEAR SIR: Replying to yours of the 29th day of August, 1908, I beg to state that I have this day advised the Secretary of State not to file the proposed articles of incorporation of the Mutual Securities Company, forwarded by you to the Secretary of State.

The objectionable feature is that part of paragraph 5 of powers conferred which permits your proposed company to become the surety or guarantor of the responsibilities of other companies, and thereby contravening the provisions contained in the General Incorporation Act of this State, which does not allow the organization of a surety corporation.

With this objectionable portion stricken out there would be no objection, but as it stands I think it certainly conflicts with the laws of this State, under which you propose to organize.

Very truly yours,
R. C. STODDARD, *Attorney-General.*

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, September 17, 1908.

P. A. MCCARRAN, ESQ., *District Attorney of Nye County, Tonopah, Nevada.*

DEAR SIR: Replying to yours of the 15th instant, relating to the posting and publication of the State Police Bill to be voted on at the forthcoming election, I beg to advise that it is my opinion that the said bill must be both posted and published, as in said Section 10 of the ballot law set forth, and that the provision for publication in a newspaper does not supersede the provision requiring posting, but both provisions must be complied with.

I construe the words "and it is hereby made the duty of the County Clerks of each county to have posted," etc., to mean that the County Clerk may have the posting done by any person he desires, and that it is not incumbent upon the County Clerk to personally visit each election precinct. I think such a construction would be unreasonable, and it is not warranted by the language of the statute.

Very truly yours,
R. C. STODDARD, *Attorney-General.*

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, September 21, 1908.

A. G. DAWLEY, ESQ., *County Clerk of Elko County, Elko, Nevada.*

DEAR SIR: Your letter of the 18th instant, addressed to Hon. W. G. Douglass, Secretary of State, has been referred to this office for a reply, and while the Attorney-General is precluded by law from rendering official opinions except to various State officers and the several District Attorneys of the State, still I am willing to accord you my opinion on the question you have asked.

The law which applies in regard to the submission of the State Police Bill has no connection with the court-house proposition to be submitted in your county. This is to be submitted under the special Act of the Legislature, mentioned in your letter, and which is found on page 335 of the Statutes of 1907, and this Act must be strictly followed in every particular. The authority to place it on the ballot and the way it is to read thereon are therein given and specified, and this is all the authority that you require.

The District Attorney of your county will enlighten you as to all matters embraced in this Act.

Very truly yours,
R. C. STODDARD, *Attorney-General.*

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, September 24, 1908.

A. S. HENDERSON, ESQ., *District Attorney of Eureka County, Eureka, Nevada.*

DEAR SIR: Replying to your inquiry of the 15th instant, in which you inquire as to whether or not, when a grand jury is once convened and then regularly adjourned to reconvene at the call of the foreman, and is then actually reconvened by said call, its members are entitled to mileage for the second attendance, I beg to advise that they are.

My construction of Section 3872 of the Compiled Laws of Nevada, as applied to the case cited by you, is that, when the deliberations of a grand jury are continued to a day that permits of the members returning to their homes, and then later attending another session of said jury, and which they actually do attend, they are entitled to mileage, and the same should be paid.

Very truly yours,
R. C. STODDARD, *Attorney-General.*

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, September 30, 1908.

E. E. ROBERTS, ESQ., *District Attorney of Ormsby County, Carson City, Nevada.*

DEAR SIR: Replying to your request of even date, regarding the printing of the registry list pursuant to Section 8 of the Act of 1907 (p. 197) and Section 1 of the Act of 1885 (Stats. 1885, p. 33), I beg to advise that, in view of the conflicting provisions of the Acts above quoted, the Registry Agent should apply to the County Commissioners to cause said list to be printed, and, in the event of the failure or refusal of the Board to comply therewith, to then proceed to have said list printed, and the bill therefor presented to said Board for its action thereon.

Very truly yours,
R. C. STODDARD, *Attorney-General.*

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, October 2, 1908.

A. S. HENDERSON, ESQ., *District Attorney of Eureka County, Eureka, Nevada.*

DEAR SIR: Replying to your inquiry as to whether or not the Sheriff of your county is entitled to reimbursement for expenses incurred by him in having a mare, which was stolen in your county and then taken to California, returned to your county, to be used as evidence in a criminal case, I beg to reply that expenses for such purposes are not allowed by law.

> At the common law a Sheriff could not lawfully take any compensation or reward for doing his duty, other than that which he received from the king. His right thereto is wholly derived from statutes which, being in derogation of the common law, must be strictly construed. (Am. & Eng. Ency. Law, 2d ed. vol. 25, p. 730.)
>
> It is well settled that Sheriffs and Constables, as well as other public officers, accept office upon condition of performing all the duties connected therewith for such compensation as is specifically allowed by express provision of law, and without right to claim any other remuneration. (*Idem.*)

The compensation, fees and expenses that are to be allowed Sheriffs are fixed by statutory enactment, but there is absolutely no provision in the law of this State that allows a Sheriff expenses in recovering stolen property, even though it is to be used in evidence. See, also, Section 2239, Comp. Laws.

If, however, the Board of County Commissioners orders or ratifies an expenditure for the purpose of procuring necessary evidence in the trial of a criminal case, I find no principle of law that would invalidate such allowance, it being for a public purpose, but, in the absence of such action by the Board, the Sheriff, by virtue of his office alone, cannot

bind the county, but must rest his claim on the discretionary powers of the Board of Commissioners.

The rule being that all statutory provisions relating to the compensation of Sheriffs must be strictly construed, and there being no statute that gives the Sheriff the right to reimbursement for money expended in recovering stolen property, even if the same is to be used as evidence in a criminal case, I am therefore forced by the absolute and undenied rules of law to advise you that a Sheriff who has expended money for that purpose, in the absence of proper action by the Board of Commissioners, is not entitled to be reimbursed for such expenditure.

Very truly yours,

R. C. STODDARD, *Attorney-General.*

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, October 28, 1907.

HON. J. EGGERS, *State Controller, Carson City, Nevada.*

DEAR SIR: Replying to your query as to whether the claim of the Nevada State Agricultural Society for $5,000, for premiums awarded and other indebtedness incurred in holding the State Fair, at Reno, during the year 1908, no gate receipts having been turned into the Treasury as provided by the Act of 1903 (Stats. 1903, p. 178), is a valid claim against the appropriation for said purpose for the year 1908 (Stats. 1907, p. 340), I beg to state:

The Act of 1903 limits the amount of money to be expended during the year for which the same is appropriated and directs that when an appropriation is made all gate receipts shall be turned into the State Treasury. The Act of 1907 makes an express appropriation of $5,000 for the year 1908, and provides that said moneys "shall be used for the payment of such premiums as may be awarded and for such purposes as said Association may, through its Board of Directors, deem just and proper."

The law requires the Board to report annually, on or before February 1st, to the Governor a full and detailed account of all funds received and disbursed. (Stats. 1885, p. 77.)

Until such report is made for the year 1908 it cannot be determined whether any gate receipts were in fact received, and it is immaterial, so far as this particular claim is concerned, whether gate receipts were or were not received, as the Controller's duties in this instance are purely ministerial. He is not empowered to set up a counterclaim on behalf of the State, but must audit the claim and draw his warrant for the amount claimed, provided he is satisfied that the several items are correct and were properly incurred. If it should develop that gate receipts were in fact received and have not been turned into the Treasury, as required by the Act of 1903, appropriate legal proceedings will lie to compel the Board to comply therewith.

I respectfully advise that the claim be allowed.

Very truly yours,

R. C. STODDARD, *Attorney-General.*

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, November 13, 1908.

CHAS. H. MILLER, ESQ., *District Attorney of Lyon County, Dayton, Nevada.*

DEAR SIR: Replying to your inquiry of recent date as to the time when a county working on a fee system, based on the polling of a vote of less than 800, passes to a different class by reason of having polled a vote greater than 800 at the last general election, I beg to advise as follows:

That as to all fees that do not interfere with the salaries or compensation of any person now holding office in your county, the fees for the class polling above 800 votes take place immediately after the completion of the canvass of the vote of the county and at which time the vote of the county is actually ascertained, but as to any fees that affect the salaries or compensation of any persons now holding office in your county the new system of fees will not become effective until their present terms of office will have expired, as under Section 2505 of the Compiled Laws the salaries of officers now holding office cannot be affected during the present term, but the new system of fees as to said offices will only become effective at the commencement of the new terms of office, in January, 1909.

Very truly yours,
R. C. STODDARD, *Attorney-General.*

STATE OF NEVADA,
OFFICE OF THE ATTORNEY-GENERAL,
CARSON CITY, November 23, 1908.

HON. J. EGGERS, ESQ., *State Controller, Carson City, Nevada.*

DEAR SIR: Replying to your recent inquiry, as to whether or not a live-stock insurance company can enter this State under that certain Act of the Legislature of Nevada dated March 23, 1891 (page 204, Compiled Laws), entitled "An Act relating to life, health, accident, and annuity or endowment insurance on the assessment plan, and the conduct of the business of such insurance," I beg to advise that it is absolutely impossible to so construe this statute as to cover the insurance of live stock. In Section 1 the use of the word "person" applies to human beings alone, and cannot be construed otherwise, and this fact prohibits a live-stock insurance company from coming into this State under this Act.

There seems to be no good reason why a live-stock insurance company should not be allowed to come into this State under this statute, but the Legislature has made its provisions limited, and it is not our purpose to explain or justify its acts, but merely to state what seems conclusive law.

We are unable to find anything in the Act approved February 23, 1881

(page 194, Compiled Laws), entitled "An Act to license and regulate insurance business in this State," that would preclude a live-stock insurance company from entering this State, and a compliance with its provisions will entitle such a company to your certificate.

Very truly yours,

R. C. STODDARD, *Attorney-General.*

GENERAL COMMENTS.

STATE PRISON.

During the past two or three years many of the Courts of the State, as a result of the large and sudden increase in the population caused by the discovery of new and wonderful mineral deposits, have been taxed to their utmost capacity in transacting the large volume of civil and criminal business thus brought before them. The "lure of gold" has attracted an unusual number of tough characters, outlaws, ex-convicts, and the floating criminal element of many of the Western States.

As a consequence the peace authorities and prosecuting officers have been kept busily engaged in arresting and prosecuting offenders of the law, until now our State penitentiary is full to overflowing and is in sad need of necessary accommodations for present and future inmates.

A few years ago from sixty to eighty prisoners were serving sentences in this institution, whereas now, with but a small increase of cell-room, there are about 220 prisoners incarcerated, some of them being criminals of the most dangerous type, who fear nothing short of immediate death. Among these are many youths, some mere boys, who, for some offense which in law amounts to a felony, were sentenced to spend a term of years among the basest of criminal degenerates, graduating therefrom as full-fledged crooks, imbued with the idea that to become notorious as a "Spike Hennessey" or "Jack the Ripper" is to ascend to the very pinnacle of fame.

The Courts, in felony cases, cannot sentence a convicted criminal—man, woman or child—to any other place of confinement. The law in our State makes no distinction as to age or sex.

There are now four women confined in cramped quarters, with no matron or other female attendant to look after them, and with but scant opportunity for proper exercise.

Among the men are confined, sometimes of necessity in the same cell, convicts suffering from tuberculosis and syphilis, frequently in the last stages of those diseases.

The laundry facilities are ancient and worn out, and are not satisfactory from either an economic or sanitary standpoint.

The water supply and fire-fighting apparatus are inadequate, the water pipes being old and too small to properly convey sufficient water in case of fire.

The guards' quarters are crowded, and, by virtue of being located over a marsh caused by the overflow of the hot springs, are damp and unsanitary.

The cell-room for eighty additional prisoners is now in the course of construction, but even now, before these new cells are finished and accepted, there is a sufficient number of new prisoners to completely fill them, and more are arriving almost daily.

As the Governor is also a member of the Board of Prison Commis-

sioners, and thoroughly familiar with the conditions, it is unnecessary for me to go further into detail concerning the present condition and needs of this institution.

The present Warden, William J. Maxwell, has made many improvements in this institution, and his administration is honest, efficient and economical, but, beyond enforcing strict discipline and continuing to make the best of inadequate facilities and conveniences, nothing more in the way of improving the present condition of affairs can be done unless by legislative action.

It is now well recognized that the merit system in penal institutions is much superior to the system now in vogue in this State. I refer particularly to the interdeterminate sentence and the grading of prisoners according to their individual conduct and industry. It is but reasonable to assume that if a man convicted of a felony has a scintilla of manhood in his makeup, and his early liberation and restoration to citizenship depends entirely upon his industry and good conduct, he would be more apt to take advantage of those conditions and be a good prisoner rather than to habitually violate prison rules and lose all hope of early release, besides being compelled to perform harder tasks and remain separated from the better class of prisoners.

One of the most important features to be considered is the employment of the prisoners in some way that will result in making the institution at least partially self-sustaining, and at the same time keep the inmates busy. The public highways could be greatly improved by convict labor. Wire fencing could be manufactured at small cost; in fact, many other plans may be suggested, which, besides being practical, could be easily inaugurated and maintained.

The United States Government, through the Department of the Interior, is endeavoring to make terms with the State of Nevada for the purchase of what is known as the Carson Indian School, situated about three miles south of Carson City.

The tract comprises about three hundred acres of fine agricultural land, some of it under water, and nearly all being located in such manner that water may be diverted thereon at moderate cost. The main school buildings, shops, cottages and outbuildings originally cost the Government many thousands of dollars, and, if this property could be acquired by the State at moderate cost, I am of the opinion that at a comparatively small outlay in addition to what it would cost to reconstruct or properly improve the present prison quarters a modern penitentiary could be established thereon and many needed reforms instituted.

STATE BANKING LAWS.

Under another head will be found a record of the suits filed on behalf of the State against various banking corporations for the violation of what is known as the "Bank Commissioners Act" of 1907.

Under this Act, whenever the Bank Examiner reports sufficient facts, or from facts within its own knowledge, the Board of Bank Commissioners may, by resolution, decide that it is unsafe for any banking corporation within this State to continue to transact business, and, by resolution, authorize and direct the Attorney-General to commence suit against such bank and its directors to restrain them from transacting any further business, and for the appointment of a receiver for

the purpose of liquidation and the winding up of the affairs thereof. Here the authority of the State ends, and the Court is left to grope its way out under the vague, complicated and antiquated rules of equity procedure, laid down by the conflicting decisions of other Courts, under statutes and rules entirely dissimilar to those of this State. To say that this statute is abominable is to put it mildly indeed.

This Act constitutes the Governor, Treasurer, and Secretary of State ex officio State Bank Commissioners.

In the first place, to saddle upon public officials, who know nothing of banking in its technical sense, the burden of supervising and, when necessary, of winding up the affairs of banking corporations, is not only bad from a commercial viewpoint, but is false economy on the part of the State.

The Act should provide for a Board or Commission composed of men who are specially qualified to perform the duties therein imposed.

Another serious defect in this Act is that it confers no authority whatever over any but banking corporations. Private banks, associations and individuals engaged in the business of banking are not subject to the supervision of the State under this Act.

Numerous other defects and deficiencies in this statute may be easily pointed out, but as the public, by reason of bitter experience occasioned by last year's great financial panic, now demands proper legislation upon this subject, and many plans and suggestions are being made and proposed for the consideration of the incoming Legislature, I do not deem it necessary to comment further upon this Act. However, in view of the numerous plans to adopt the provisions of statutes of other States, making the directors of a bank civilly liable for the debts of the corporation, I may here very properly suggest that our Constitution be first amended so as to make stockholders liable for the debts of the corporation, as Nevada is now about the only State having such a constitutional limitation.

There are other comments and recommendations, which I trust may be considered at the proper time, but which cannot now be properly discussed, owing to certain proceedings now pending in our Supreme and District Courts.

RECOMMENDATIONS.

Legislation upon the following matters is hereby respectfully recommended:

SURETY COMPANIES.

Amend Stats. 1903, p. 63, in relation to surety companies giving bonds and undertakings, by providing that all surety companies desiring to continue such business, or to commence such business in this State, should be required to file approved bonds or securities with the State Insurance Commissioner, or some other proper officer; that the market value of all such bonds should represent a certain percentage of the amount of outstanding obligations of the company already doing business, and for the company seeking to do business; that the law fix the amount at 10 per cent, or, if that be too high, at 5 per cent; that the outstanding obligations to be represented by approved securities should not be excessive. The law might well further provide that such securities should be securities of this State, municipal, county or school bonds and the like. There are several surety companies doing business here who sign bonds for many thousands of dollars, and in the event of a loss the prevailing party would be compelled to go to the State or country where such company is domesticated, and there take chances on successfully suing and recovering property.

REGULATING FOREIGN CORPORATIONS.

An Act providing in substance that any foreign corporation desiring to transact business in this State shall enter into an agreement with the State, through the Secretary of State, or other proper officer, that in consideration of the State permitting such foreign corporation to do business in this State, such corporation will agree, and does agree, not to remove any suits to which it may be a party, or to file any suits in the Federal Courts, except by consent, and, inasmuch as such provision would not be binding, for the reason that it is in violation of the Federal statutes and Constitution, for such agreement to further provide that, in the event of a violation of the agreement, the charter of such corporation, or license, or right to do business in this State, should be immediately revoked and the company ousted. The case of *Doyle* v. *Continental Insurance Company*, 94 U. S. Supreme Court Reporter, 535, sustains this proposition.

SERVICE OF PAPERS.

Another amendment that I would suggest is that in every case a copy of demurrer, answer, etc., must be served upon the opposite party, and that unless so done the action should proceed as if no papers had been filed.

DOMESTIC CORPORATIONS.

The General Corporation Law passed in 1903 provides that in the absence, etc., of resident agent, president or other officer, summons may be served by leaving same at the office of the company. I think

that Section 899, *et seq.*, as amended in 1905, should be further amended so as to include the case of a domestic corporation which has failed to file designation of process agent, in which case service might be had upon the Secretary of State.

The law should be further amended respecting both foreign and domestic corporations, by providing that the Secretary of State should forthwith forward to the defendant company the papers so served, if such Secretary knew, or had any information as to, the address.

BONDS OF PUBLIC OFFICERS.

Another amendment to our statute, which I deem important, is one that all State, county, township, and school district officers, in fact all public officials, should be required to furnish surety company bonds instead of personal bonds, and that the premium on said bonds should be paid from the public funds. The reasons for this legislation are readily apparent to one who has had any experience in seeing, for instance, a County Treasurer sell himself body and soul to one or two banks in his county in order that he may be able to qualify by giving the requisite bond. He is compelled then, when elected, to deposit county funds in these institutions, and the southern part of our State has seen the cost of this reckless arrangement by having thousands of dollars of public funds tied up in defunct institutions.

MISCELLANEOUS RECOMMENDATIONS.

That the statutes be recompiled and indexed.

That the interdeterminate sentence in felony cases and other measures toward improving the present prison system be adopted.

That besides an entire new banking law a more explicit statute penalizing the reception of deposits by insolvent banks be passed.

That a new vault be installed in the State Treasury, and apparatus for weighing and counting coin be purchased.

That whenever a prisoner is paroled by the Board of Pardons, he be allowed the regulation twenty-five dollars, as in cases where prisoners are fully discharged.

That no prisoner be permitted to assign said twenty-five dollars without the consent of the Board of Pardons.

SPECIAL RECOMMENDATION—NEED OF OFFICE ASSISTANCE.

It will be obvious from a careful reading of this report that the volume of business in this office during the past two years has greatly increased over the years 1905 and 1906. This is due partly to the many extra duties imposed upon the Attorney-General by the Railroad Commission Act, the Bank Commission Act, and many changes in the statutes, besides the large increase in the number of criminal cases. For example, during the years 1905 and 1906 my predecessor, the Hon. James G. Sweeney, appeared in the Supreme Court in seventeen cases. During the first two years of my term this office has appeared in thirty-five cases in the Supreme Court, besides in litigation in various District Courts to which the State has been a party—an increase of more than 125 per cent over the two years preceding.

It may also be readily seen that for one officer to personally attend to all these matters would be impossible. The law provides this office

with a stenographer, but there is no appropriation for a deputy, or other assistance, as in the other State offices.

I have been fortunate enough to secure for the time being the services of Mr. Leonard B. Fowler, who has kindly and ably assisted in the technical legal work, accepting the small salary allowance made for a stenographer. However, this state of affairs cannot long continue, and it is imperative that, in order to properly attend to the important legal matters incident to the administration and government of a soverign State, at least one assistant should be allowed the Attorney-General's office.

The last Legislature very properly raised the salary of the Attorney-General, the first time in fifteen years, by imposing ex officio duties, and the same when made permanent is sufficient. However, in view of the present state of affairs, I earnestly recommend that appropriation be made to pay one deputy for this office.

ACKNOWLEDGMENT.

In conclusion, I beg to express my appreciation of the many courtesies extended by the Executive and all other departments of the State government during the first two years of my term of office, and I sincerely trust that our relations will continue to be as pleasant in the future as in the past.

Respectfully submitted,

R. C. STODDARD,
Attorney-General.

MEMBERS OF THE TWENTY-FOURTH SESSION OF THE NEVADA LEGISLATURE, 1909.

SENATE.

County.	*Name.*		*Residence.*
CHURCHILL (1)	R. L. Douglass	Hold-over	Fallon
DOUGLAS (1)	Maurice Mack	Hold-over	Gardnerville
ELKO (2)	Thomas Hunter	Hold-over	Elko
	H. H. Coryell	Hold-over	Wells
ESMERALDA (2)	Geo. D. Pyne	Hold-over	Goldfield
	F. B. Balzar	Elected	Mina
EUREKA (1)	F. J. Brossemer	Hold-over	Eureka
HUMBOLDT (2)	W. F. Bell	Hold-over	Winnemucca
	L. N. Carpenter	Elected	Lovelock
LANDER (1)	Wm. Easton	Hold-over	Austin
LINCOLN (1)	Levi Syphus	Elected	Panaca
LYON (1)	B. H. Reymers	Elected	Yerington
NYE (2)	Clay Tallman	Elected	Rhyolite
	Zeb. Kendall	Elected	Tonopah
ORMSBY (1)	J. P. Woodbury	Hold-over	Carson City
STOREY (1)	Wilson Locklin	Hold-over	Virginia City
WASHOE (2)	Jas. T. Boyd	Hold-over	Reno
	A. W. Holmes	Elected	Reno
WHITE PINE (1)	A. C. House	Elected	Ely

ASSEMBLY.

County.	*Name.*	*Residence.*
CHURCHILL (2)	Lemuel Allen	Fallon
	J. W. Ferguson	Fallon
DOUGLAS (1)	H. A. N. Todd	Gardnerville
ELKO (4)	E. C. Riddell	Elko
	G. McIntosh	Carlin
	J. S. Schoer	Wells
	F. H. Winter	Aura
ESMERALDA (6)	A. J. Aylesworth	Goldfield
	J. W. Brooks	Goldfield
	W. H. Curtin	Goldfield
	L. A. Ellis	Goldfield
	John Gallagher	Goldfield
	W. G. Hunter	Goldfield
EUREKA (2)	C. H. Duborg	Palisade
	Spencer Reynolds	Eureka
HUMBOLDT (3)	J. D. Bradshaw	Paradise Valley
	T. A. Brandon	Winnemucca
	Frank E. McCafferty	Mazuma
LANDER (2)	Wm. J. O'Brien	Austin
	F. E. Woolcock	Austin
LINCOLN (3)	Geo. Bergman	Nelson
	H. Church	Logan
	Joseph Conaway, Sr.	Pioche
LYON (2)	A. K. Pollard	Silver City
	E. J. Ross	Yerington
NYE (7)	Fred L. Berry	Tonopah
	Chas. A. Kane	Beatty
	J. B. Giffen	Manhattan
	Matt Kane	Manhattan
	J. E. McNamara	Tonapah
	Wm. Merten	Tonopah
	B. H. Smith	Tonopah
ORMSBY (3)	Thomas Leary	Carson City
	Jas. A. Raycraft	Carson City
	R. Leslie Smaill	Carson City
STOREY (4)	Joe Farnsworth	Virginia City
	E. D. Blake	Virginia City
	Harry F. Woolley	Virginia City
	H. B. Bulmer	Virginia City
WASHOE (7)	P. J. Burke	Reno
	Jas. Clark	Reno
	E. R. Dodge	Reno
	Thos. W. Fitzgerald	Sparks
	F. G. Folsom	Reno
	W. J. Luke	Reno
	Wm. S. Lunsford	Reno
WHITE PINE (2)	T. J. Brogan	Lane City
	Robt. Neill	Ely

DISTRICT ATTORNEYS' REPORTS

REPORTS OF DISTRICT ATTORNEYS FOR 1907.

The following is a statement of the criminal business transacted in the several counties of the State during the year 1907, 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:

DOUGLAS COUNTY.

GENOA, November 15, 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 for the year ending November 1, 1907:

Number and character of prosecutions: Felonies, 1; misdemeanors, 2.

The felony charge was for disposing of spirituous liquor to an Indian, convicted by a jury and sentenced to serve 18 months in the State Prison.

Both misdemeanors were for disturbing the peace. One plead guilty and served a term in the county jail. The other was acquitted by a jury.

Number of prosecutions pending, 2.

Amount of fines paid: None.

Cost of criminal prosecutions, $1,059.40.

Respectfully,

F. E. BROCKLISS, *District Attorney.*

ELKO COUNTY.

ELKO, December 1, 1907.

To the Honorable the Attorney-General.

DEAR SIR: Pursuant to law I herewith submit my annual report of criminal business transacted in this county during the year ending November 1, 1907:

MISDEMEANORS.

Total number of convictions, 186.

Total number of acquittals and dismissals, 126.

Total number of prosecutions, 312.

Many of these dismissals were virtual convictions, but the defendants were given an opportunity to leave before sentence was passed, and later dismissals were entered. This course was rendered imperative during the months of August, September, and October owing to the crowded condition of the county jail.

FELONIES.

Indictments held over from last year, 1.

Number of preliminary examinations held, 23.

Number of defendants indicted, 18.

Number of defendants acquitted, 1.
Number of defendants dismissed on motion of District Attorney, 2.
Number of defendants convicted, 15.
Indictments held over, 1.
Maximum sentence, 12 years. Minimum sentence, 1 year. Average sentence, 3 years and 2 months.
Defendants convicted of the following felonies:
Assault with intent to kill, 2.
Assault with intent to inflict bodily injury, 1.
Forgery, 1.
Grand larceny, 6.
Burglary, 3.
Attempt to break jail, 4.
Two of the defendants convicted of grand larceny were also convicted of the attempt to break jail.
Fines collected, $1,438.75.
Cost of prosecutions, including fees of grand and trial jurors, $9,326.25.
This may not be absolutely correct, as some court orders for attorneys' allowances and also some allowances to witnesses may not be included therein, but the amount is very nearly correct.

Respectfully,
EDWIN E. CAINE, *District Attorney.*

ESMERALDA COUNTY.

GOLDFIELD, December 1, 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, 1907:

NUMBER OF PERSONS CONVICTED, AND CHARACTER OF PUNISHMENT.

Albert T. Jackman, murder, December, 1906, death.
Samuel Hendrickson, grand larceny, March 30th, 4 years.
Eddy Coleman, grand larceny, April 24th, 1 year.
M. R. Preston, murder, April 19th, 30 years.
Joseph Smith, manslaughter, April 19th, 10 years.
E. R. Swartout, forgery, September 23d, 1 year.
James O'Brien, burglary, September 23d, 1 year.
Tom Flynn, burglary, September 23d, 1½ years.
Tom Nolan, burglary, September 23d, 2 years.
James Beckus, burglary, September 23d, 2 years.
F. Burns, burglary, September 23d, 1½ years.
J. C. Schwick, murder, October 21st, 30 years.
Wm. Lane, grand larceny, November 1st, jury disagreed.
Geo. Gibson, murder, November 5th, jury disagreed.
M. J. Smith, receiving stolen goods, November 13th, jury disagreed.

NUMBER OF PERSONS ACQUITTED, OR AS TO WHOM PROSECUTIONS WERE ABATED.

Jack Walsh, murder, June 10th, acquitted.
Jack McKewen, assault to kill, June 25th, acquitted.
Jack Hines, murder, September 27th, acquitted.
Denny Graves, grand larceny, October 30th, acquitted.
M. J. Smith, receiving stolen goods, November 30th, acquitted.
W. J. Wheaton, false paper, October 28th, acquitted.
V. St. John, *et al.*, murder, October, dismissed, insufficient evidence and absence of witnesses.
D. D. LaFevre, false paper, June 20th, dismissed, witnesses could not be found.
Vincenz Ivisich, assault to kill, June 20th, dismissed, complaining witness absent from State.
Nick Noviski, assault to kill, June 20th, dismissed, complaining witness absent from State.
Ah Mow, murder, October 14th, dismissed after jury was empaneled, as witnesses could not be found.
Cost of prosecutions, $37,431.50.
Amount of fines paid, $4,315.

Respectfully,

A. H. SWALLOW, *District Attorney.*

EUREKA COUNTY.

EUREKA, December 1, 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, 1907:

Number and character of prosecutions: Assault and battery, 4; disturbing the peace, 9; murder, 1; malicious mischief, 1; petty larceny, 1; grand larceny, 2; assault with intent to kill, 2; threatening to kill, 1; carrying concealed weapons, 1.

Number of persons convicted, and character of punishment: Assault and battery, 2 (1 fined $20 and costs; 1 fined $5 and costs); disturbing the peace, 9 (1 fined $20 and costs; 5 fined $1 and costs; 2 fined $5 and costs; 1 ordered to leave town); malicious mischief, 1 (fined $10 and costs); murder, 1 (imprisoned 35 years in State Prison); threatening to kill, 1 (put under peace bond of $100); carrying concealed weapons, 1 (imprisoned 30 days in county jail and fine of $44).

Number of persons acquitted, or as to whom prosecutions were abated or dismissed: Assault with intent to kill, 2 (1 acquitted; 1 dismissed); assault and battery, 2; petty larceny, 1.

Number of prosecutions pending: Grand larceny, 2.

Cost of prosecutions, $3,100.

Amount of fines paid, $112.

Respectfully,

A. S. HENDERSON, *District Attorney.*

HUMBOLDT COUNTY.

WINNEMUCCA, December 1, 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, 1907:

Number and character of prosecutions in the Justice Courts of the county: Lake Township—Various misdemeanors, 685; preliminary examinations, 6. Union Township—Various misdemeanors, 318; preliminary examinations, 14. Gold Run Township—Various misdemeanors, 276. Paradise Township—Misdemeanors, 6; preliminary examinations, 1. Costs of prosecutions of misdemeanors and preliminary examinations, $14,002.12. Amount of fines paid, $819.90.

Number and character of prosecutions in the District Court: Burglary, 2; larceny, 1; forgery, 6; attempt to break jail, 2; murder, 1; assault with intent to kill, 1; felony, 2; housebreaking, 1; robbery, 2; misconduct in office, 1. Average punishment on conviction, 3 years and $1\frac{1}{6}$ months. Number of persons whose cases were ignored by Grand Jury, 3. Number prosecutions pending, 6.

Cost of prosecutions in District Court, $6,638.85.

Respectfully,

E. A. DUCKER, *District Attorney.*

LANDER COUNTY.

AUSTIN, December 1, 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, 1907:

Number and character of prosecutions: Murder, 1; forgery, 1; burglary, 5; assault with intent to kill, 2; grand larceny, 4; petty cases in Justice Courts, 198.

Number of persons convicted, and character of punishment: Murder, 1 (death penalty, reversed); burglary, 1 (2 years and 6 months in State Prison); grand larceny, 1 (14 months in State Prison).

Number of persons acquitted, or as to whom prosecutions were abated or dismissed: Burglary, 4 (dismissed for lack of evidence); assault with intent to kill, 2 (dismissed); grand larceny, 3 (dismissed).

Number of prosecutions pending: Forgery, 1.

Cost of prosecutions, about $9,338.95.

Amount of fines paid, $741.

Respectfully,

A. J. MAESTRETTI, *District Attorney.*

LINCOLN COUNTY.

PIOCHE, December 1, 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, 1907:

Number and character of prosecutions: Murder, 3; manslaughter, 1; assault with intent to kill, 2; burglary, 7; housebreaking, 1; grand larceny, 2; embezzlement, 1; forgery, 1; receiving stolen goods of the value of more than $50, 2; giving intoxicating liquor to Indian not ward of the United States, 1; criminal libel, 1; removing monument from mining claim, 1.

Number of persons convicted, 10.

Average punishment on conviction, $10 fine and $2\frac{11}{12}$ years imprisonment.

Number of persons acquitted, 6.

Number of persons as to whom prosecutions were abated or dismissed, 9.

Number of prosecutions pending at end of year covered by report, 3.

Total amount of fines paid, $100.

Respectfully,

CHAS. LEE HORSEY, *District Attorney.*

LYON COUNTY.

DAYTON, December 1, 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, 1907:

Number and character of prosecutions: Assault and battery, 7; disturbing the peace, 13; wife-beating, 1; obtaining property by false pretenses, 1; selling liquor to minor, 1.

Number of persons convicted, and character of punishment: Assault and battery, 3 (imprisonment in county jail, average 20 days each); disturbing the peace, 13 (7 fines paid amounting to $124.50; 6 imprisoned in county jail, average 10 days each); wife-beating, 1 (sentenced to county jail for 100 days); obtaining money by false pretenses, 1 (misdemeanor; sentenced to 90 days in county jail); selling liquor to minor, 1 (fined $50).

Number of prosecutions pending: Murder, 1 (under indictment, but at large); assault with intent to kill, 1 (escaped from jail); jail-breaking, 1 (escaped from jail); grand larceny, 2; robbery, 1; assault with a deadly weapon with intent to inflict a bodily injury, 1.

Cost of prosecutions, $1,187.50.

Amount of fines paid, $174.50.

Respectfully,

J. WALTER HANBY, *District Attorney.*

By JOHN LOTHROP, *Deputy.*

ORMSBY COUNTY.

CARSON CITY, December 1, 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, 1907:

Number and character of prosecutions: Defrauding hotel keeper, 2; obtaining money under false pretense, 2; embezzlement, 1.

Number of persons convicted, and character of punishment: Embezzlement, 1 (2 years in State Prison); obtaining money under false pretense, 1 (6 months in county jail).

Number of persons acquitted, or as to whom prosecutions were abated or dismissed, 3.

Number of prosecutions pending: None.

Cost of prosecutions: Nothing.

Amount of fines paid: None.

Respectfully,

E. E. ROBERTS, *District Attorney.*

WASHOE COUNTY.

RENO, December 1, 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, 1907:

NUMBER AND CHARACTER OF PROSECUTIONS.

Grand larceny, 20; mayhem, 3; embezzlement, 8; assault to rape, 3; murder, 7; burglary, 13; forgery, 9; arson, 1; robbery, 5; assault to kill, 17; issuing false paper, 5; obtaining money under false pretense, 2; petty larceny, 77; malicious mischief, 3; smoking opium, 9; assault and battery, 63; defrauding hotel keeper, 1; vagrancy, 7; threatening life, 2; extortion, 1; disturbing peace, 26; hunting on enclosed ground, 3; fleeing from justice, 5; obtaining goods under false pretense, 3; keeping immoral house, 1; debasing morals, 2.

NUMBER OF PERSONS CONVICTED, AND CHARACTER OF PUNISHMENT.

Petty larceny, 47, served terms in jail, average 55 days; assault and battery, 42, 330 days in jail and paid $492 fines; smoking opium, 8, 30 days in jail and $370 in fines; vagrancy, 4, served terms in jail, average 36 days; disturbing peace, 13, served 50 days in jail and paid $10 fine; obtaining goods under false pretense, 2, each 30 days in jail; keeping immoral house, 1, fine $25; hunting on enclosed grounds, 3, served 50 days in jail.

Convicted in District Court.

Joe Ross, burglary, 2 years in State Prison.

John Patterson, burglary, 2 years in State Prison.

Joe Anderson, forgery, 6 years in State Prison.

S. Tani, assault to kill (sentenced to pay $,1000 fine or 500 days in the State Prison; taken to Supreme Court and sentence modified to imprisonment in county jail).

William Keating, robbery, 5 years in State Prison.
William Deal, robbery, 7 years in State Prison.
Henry McDaniel, assault to kill, 4 years in State Prison.
A. L. McDonald, forgery, tried twice, 2 years in State Prison.
A. J. Ward, burglary (convicted of petty larceny), 6 months in jail.
Frank White, burglary, 1 year in State Prison.
George Brown, burglary, tried and convicted, granted new trial, plead guilty to petty larceny, sentenced to 3 months in county jail.
George Murphy, burglary, 18 months in State Prison.
W. O. Fitch, assault to kill, 2 years.
W. O. Fitch, assault to kill, second charge, 2 years in State Prison.
James L. Thompson, forgery, 3 years in State Prison.
C. Clarke, embezzlement, 15 months in State Prison.
W. A. Wilson, murder, 14 years in State Prison.
R. B. Farrel, forgery, 18 months in State Prison.
H. H. Holly, embezzlement, 18 months in State Prison.
William Dixon, burglary, 5 years in State Prison.
Pete Casey, 2½ years in State Prison.
Tom Collins, burglary, 2 years in State Prison.
William Riley, burglary, 2½ years in State Prison.
J. Bell, assault to kill, 18 months in State Prison.
Henry B. Yoshino, forgery, 5 years in State Prison.
William Kelly, burglary, 2 years in State Prison.
R. G. Wines, burglary, 2 years in State Prison.
Chas. Kucks, murder, 15 months in State Prison.

NUMBER OF PERSONS ACQUITTED, OR AS TO WHOM PROSECUTIONS WERE ABATED OR DISMISSED.

Nelson Shaffer and G. A. Pike, murder, acquitted.
Jules Secord, murder, acquitted.
A. Sullivan, assault to rape, acquitted.
J. D. Grant, forgery, acquitted.
Scotty Louver, arson, acquitted.
S. M. De Haslea, murder, acquitted.
P. Conlon, housebreaking, acquitted.
Charles Sykes, assault to kill, acquitted.
Frederick Wichman, manslaughter, acquitted.
Chin Foo and Ah Sam, fan tan, acquitted.
Number discharged by grand jury, 12.
Number of persons dismissed on motion of District Attorney for want of sufficient evidence to go to trial, 3.

NUMBER OF PROSECUTIONS PENDING.

Rape, 1; burglary, 3; forgery, 4; robbery, 1; assault to kill, 1; embezzlement, 2.

Cost of prosecutions, $10,920.
Amount of fines paid, $726.90.

T. F. MORAN, *District Attorney.*

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REPORT OF DISTRICT ATTORNEYS FOR 1908.

The following is a statement of the criminal business transacted in the several counties of the State during the year 1908, 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 1, 1908.

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, 1908:

FELONY CHARGES.

Matt Johnson—Assault with deadly weapon; pending.

Frank Blakely—Burglary; November 7, 1908, sentenced to 2 years in State Prison, on plea of guilty.

John P. Murphy—Felony; jail breaking; November 7, 1908, sentenced to 2 years in State Prison, on plea of guilty; habeas corpus now pending.

MISDEMEANORS.

Fong Sing—Smoking opium; on appeal to District Court.

Fong Set—Smoking opium; on appeal to District Court.

Mrs. Fong Lung—Smoking opium; on appeal to District Court.

Gin Sam—Smoking opium; on appeal to District Court.

Hattie Bernard—Keeping house of ill-fame within limits; verdict of guilty; fine $60 paid.

Indian Murphy—Misdemeanor; fine $10 paid.

Hattie Bernard—Keeping house of ill-fame within limits; plead guilty; fine $58 paid.

Jim Lewis—Misdemeanor; fined $10; committed to jail.

Indian Dick—Misdemeanor; fined $10; committed to jail.

E. J. Leonard—Misdemeanor; fined $25; committed to jail.

C. Smith—Misdemeanor; 30 days in county jail.

John Davis—Misdemeanor; fined $10; committed to jail.

Bob Douglas—Misdemeanor; fined $10; committed to jail.

Tiegs (Indian)—Misdemeanor; fine $10 paid.

Ed NcNally—Misdemeanor; fined $30; committed to jail.

Ben Leavett—Misdemeanor; fined $60; committed to jail.

George Spence—Misdemeanor; fine $22 paid.

Respectfully,

LEM ALLEN, *District Attorney.*

By E. E. WINTERS, *Deputy.*

DOUGLAS COUNTY.

GENOA, November 10, 1908.

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, 1908:

Number and character of prosecutions: Felonies, 4 (1 for disposing of spirituous liquor to an Indian, indicted, plead guilty, and sentenced to 1 year in the State Prison; 1 for like offense dismissed by the grand jury; 2 for embezzlement—one dismissed by the magistrate on motion of the District Attorney, the other dismissed by grand jury).

Eleven prosecutions for misdemeanors as follows:

(1) Disturbing the peace, fined $5 and costs.
(2) Disturbing the peace, sentenced to 30 days in county jail.
(3) Disturbing the peace, case dismissed.
(4) Disturbing the peace, case dismissed.
(5) Disturbing the peace, fined $5 and costs.
(6) Disturbing the peace, fined $1 and costs.
(7) Disturbing the peace, fined $10 and costs.
(8) Disturbing the peace, paid costs, case dismissed.
(9) Disturbing the peace, sentenced to 30 days in county jail.
(10) Being a cheat, plead guilty, sentenced to 35 days in county jail.
(11) Assault and battery, plead guilty, fined $40 and costs.

Number of prosecutions pending, 1.

Cost of prosecutions, $1,677.50.

Fines paid, $110.

Respectfully,

F. E. BROCKLISS, *District Attorney.*

EUREKA COUNTY.

EUREKA, November 10, 1908.

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, 1908:

Number and character of prosecutions: Disturbing the peace, 5; malicious mischief, 1; misdemeanor, 5; grand larceny, 3; housebreaking, 1; assault with intent to kill, 2; assault and battery, 3; resisting officer, 1.

Number of persons convicted and character of punishment: Disturbing the peace, 4 (imprisoned in county jail for various short terms); housebreaking, 1 (13 months in State Prison); assault and battery, 3 (2 fined $1 and costs; 1 fined $40 and costs); assault, 1 (6 months in county jail).

Number of persons acquitted, or as to whom prosecutions were abated or dismissed: Disturbing the peace, 1 dismissed; malicious mischief, 1 dismissed; misdemeanor, 5 dismissed; grand larceny, 2 dismissed; grand larceny, 1 acquitted; resisting officer, 1 acquitted.

Number of prosecutions pending: Assault with intent to kill, 1.
Cost of prosecutions, $1,032.
Amount of fines paid, $42.

Respectfully,

A. S. HENDERSON, *District Attorney.*

ESMERALDA COUNTY.

GOLDFIELD, December 1, 1908.

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, 1908:

NUMBER OF PERSONS CONVICTED AND CHARACTER OF PUNISHMENT.

Peter Moore, burglary, December 30, 1907, 2½ years.
John Miller, burglary, December 30, 1907, 2½ years.
Arthur Mullen, burglary, January 23d, jury disagreed.
Arthur Mullen, burglary, January 24th, 6 years.
Pat Bonner, burglary, January 25th, 3½ years.
Ben Kirby, burglary, January 27th, jury disagreed.
Ben Kirby, burglary, January 28th, 4 years.
H. F. Dominy, burglary, January 29th, 5 years.
J. T. Whalen, forgery, January 30th, 6 years.
George Gibson, murder, February 3d, 3 years.
Arthur Hanley, burglary, March 21st, 2 years.
George O'Neil, jail breaking, March 21st, 3 years.
John Gorman, jail breaking, March 21st, 4 years.
James King, jail breaking, March 21st, 4 years.
A. D. Armstrong, misdemeanor in office, May 1st, $100 fine and costs, and removal from office.
G. A. Thompson, assault to kill, May 4th, 60 days in county jail.
Barney Hughes, assault to commit robbery, May 7th, jury disagreed.
Barney Hughes, assault to commit robbery, May 8th, 10 years.
Martin O'Brien, assault to kill, May 11th, jury disagreed.
Martin O'Brien, assault to kill, May 13th, 6 months in county jail.
Geo. Williams, murder, May 15th, death.
Harry Wiseman, assault to kill, May 21st, 2 years.
J. B. Maher, forgery, May 22d, 1½ years.
M. J. McKelligon, murder, May 27th, 10 years.
Frank Fletcher, robbery, June 3d, 10 years.
James Thompson and W. McCabe, attempt to commit grand larceny, June 9th, 3 and 5 years, respectively.
R. S. Gipple, burglary, June 11th, 1 year.
Fred Matthews, burglary, June 18th, 2 years.
Wm. Lane, burglary, June 20th, 8 years.
John Ryan, burglary, June 22d, 2 years.
Emile Rodriguez, assault to kill, June 22d, 8 years.
Henry Weber, embezzlement, June 23d, 7 years.
George Morgan, burglary, September 8th, 18 months.
Wm. Miller and John J. Roach, robbery, September 9th, 6 years each.
John Bush, grand larceny, September 10th, 14 months.

Jack Tierney, assault to commit robbery, September 11th, 10 years.
Harry Roach, grand larceny, September 11th, 18 months.
C. Clark, jail breaking, September 18th, 10 years.
W. O. Grady, jail breaking, September 23d, 10 years.
Albert Jackman, murder (second trial), September 29th, life imprisonment.

NUMBER OF PERSONS ACQUITTED, OR AS TO WHOM PROSECUTIONS WERE ABATED OR DISMISSED.

John Foley, burglary, May 1st, acquitted.
Harry Wiseman, murder, May 20th, acquitted.
Albert Burleaud, assault to kill, May 26th, acquitted.
O. C. Blomgren, false paper, June 1st, acquitted.
George Richardson and Mark Richardson, receiving stolen goods, June 6th, acquitted.
John Tippets, grand larceny, September 10th, acquitted.
Harry Maynard and J. C. Young, grand larceny, September 19th, acquitted.
Will Hueck, housebreaking, September 28th, acquitted.
J. A. Stoner, assault to kill, May 1st, dismissed for lack of evidence.
Arthur Brown, housebreaking, June 2d, dismissed, complaining witness absent.
Chas. Hartman, assault to rape, June 2d, dismissed for lack of evidence.
R. H. Miller, false paper, June 4th, dismissed, witnesses left State.
George Richardson and Mark Richardson, receiving stolen goods, June 5th, dismissed, facts same as in case in which they were acquitted.
R. B. Van Meter, grand larceny, June 16th, dismissed at close of State's case, property of insufficient value.
C. M. Pope (4 cases), false paper, June 16th, dismissed by District Attorney on account of insanity of defendant, and for the reason that prosecuting witness was endeavoring to extort money from defendant by criminal process.
Sid Holloway, grand larceny, June 17th, dismissed, property under value of $50.
P. J. Finn, housebreaking, September 26th, dismissed, lack of evidence and State's witnesses in other cases.
Chas. Morton, burglary, May, dismissed as defendant was convicted in United States District Court of Nevada for practically the same offense.
Hose Flores, assault to kill, May, dismissed as indictment was found in 1906, and witnesses could not be found.

INDICTMENTS FOUND AND AWAITING TRIAL IN WHICH PARTIES HAVE BEEN APPREHENDED.

Ed Powers, grand larceny, November 25, 1907.
Ed Powers, bribery, November 25, 1907.
T. B. Rickey (2), embezzlement, March 25, 1908.
Ed Hughes, murder, April 28, 1908.
Will Mills, burglary, June 25, 1908.
C. Clark and Harry May, burglary, June 25, 1908.
Geo. Gibson, murder, September, 1907.
J. Wright, assault to kill, April 22, 1907.
W. J. Wheaton, false paper, December 28, 1907 (bond forfeited).
Wm. Lane (3), grand larceny, September, 1907 (bond forfeited).
Geo. Williams, murder, February 21, 1908.
Henry Weber (2), embezzlement, April 30, 1908.

W. M. Walters and James Bliss, robbery, September 5, 1908.
W. A. Pauley (2), false paper, September 5, 1908.
M. J. Kedian (2), false paper, September 5, 1908.
William L. Claiborne and Paul Schwalbach, grand larceny, September 5, 1908.
Harry May, attempt to escape from jail, September 5, 1908.
W. M. Walters, attempt to escape from jail, September 5, 1908.
J. W. Simpson, housebreaking, September 5, 1908.
Cost of prosecutions, $42,098.30 (estimated).
Amount of fines paid, $5,192.

Respectfully,

A. H. SWALLOW, *District Attorney.*

HUMBOLDT COUNTY.

WINNEMUCCA, December 1, 1908.

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, 1908:

Number and character of prosecutions in the Justice Courts of the county: Lake Township—Various misdemeanors, 791; preliminary examinations, 5. Union Township—Various misdemeanors, 235; preliminary examinations, 27. Gold Run Township—Various misdemeanors, 431; preliminary examinations, 2. Paradise Township—Preliminary examinations, 2. Mazuma Township—Various misdemeanors, 1; preliminary examinations, 1.

Costs of prosecutions of misdemeanors and preliminary examinations, $15,503.10.

Amount of fines paid, $1,021.75.

Number and character of prosecutions in the District Court: Burglary, 7; robbery, 1; housebreaking, 1; forgery, 2; murder, 2; assault with intent to kill, 6; grand larceny, 1; felony, 1. Number of persons convicted, 9. Number of persons acquitted, 2. Average punishment on conviction, 8 years. Average punishment on plea of guilty, 1¾ years. Number of persons whose cases were ignored by Grand Jury, 9.

Costs of prosecutions in District Court, $9,053.

Additional costs of prosecutions (Sheriff's expense), $1,433.90.

Number of cases pending in District Court on November 1, 1908, 8.

Respectfully,

E. A. DUCKER, *District Attorney.*

LANDER COUNTY.

AUSTIN, November 30, 1908.

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, 1908:

One charge of murder, pending.
One charge of assault with intent to kill, pending.

One charge of grand larceny, permitted by Court to plead guilty to petty larceny and sentenced to 4 months in the county jail.

Two charges of robbery, pending.

Three charges of assault with intent to kill, ignored by grand jury.

Besides the foregoing there were many petty cases in the Justice Court.

The estimated cost of the foregoing prosecutions was about $4,000.

No fines collected in District Court.

In addition to the foregoing, there was one case of arrest for selling whisky to an Indian, which was discharged on habeas corpus.

Respectfully,

A. J. MAESTRETTI, *District Attorney.*

LINCOLN COUNTY.

PIOCHE, December 1, 1908.

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, 1908:

Number and character of prosecutions: Murder, 2; manslaughter, 1; assault with intent to kill, 2; assault and battery, 1; burglary, 4; grand larceny, 6; forgery, 3; obtaining money under false pretenses, 2; receiving deposits knowing bank to be insolvent, 2; maliciously wounding cattle, 2; maliciously killing cattle, 1; attempt to escape from county jail, 3; giving whisky to Indians, 2; libel, 1; drunkenness in office, 1. Total number of prosecutions, 33. Number of persons convicted, 14. Average punishment on conviction, $26\frac{3}{14}$ months.

Number of persons acquitted, 9.

Number of persons as to whom prosecutions were abated or dismissed, 6.

Number of prosecutions pending at the end of time covered by this report, 4.

Cost of prosecutions, $8,883.25.

Amount of fines paid: Nothing.

Respectfully,

CHAS. LEE HORSEY, *District Attorney.*

LYON COUNTY.

DAYTON, November 15, 1908.

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, 1908:

Number of prosecutions, and character of same: Assault and battery, 10 (convicted 9, acquitted 1); appeals from Justice Courts pending, 2; vagrancy, 5 (convicted, 5); disturbing the peace, 5 (convicted, 4; acquitted, 1); obtaining goods under false pretenses, 1 (convicted).

Cost of prosecutions, $228.75.

Fines paid, $243.45.

In the District Court the prosecutions, convictions and acquittals were as follows:

1. Fay Furgusen, indicted by grand jury for grand larceny, tried and convicted of petty larceny, and sentenced to 30 days in the county jail.
2. A. Moschino, indicted by grand jury for aiding prisoner to escape, case dismissed.
3. George B. Stout, indicted by grand jury for embezzlement, tried and acquitted.
4. A. E. Troxall, indicted by grand jury for burglary, tried and acquitted.
5. Guy Timblin, indicted by grand jury for grand larceny, tried and found guilty of petty larceny, and sentenced to 6 months in county jail.
6. P. D. Brown, indicted by the grand jury for assault with a deadly weapon, case dismissed.
7. A. Moschino, indicted by the grand jury for unlawfully communicating with a prisoner, tried and found guilty and sentenced to pay a fine of $200 or be confined in the county jail one day for each $2 of said fine remaining unpaid.
8. George B. Stout, indicted by the grand jury for unlawfully communicating with a prisoner, tried and found guilty, and sentenced to pay a fine of $500 or be confined in the county jail one day for each $2 of said fine remaining unpaid.

Respectfully,

CHAS. H. MILLER, *District Attorney.*

NYE COUNTY.

TONOPAH, December 1, 1908.

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, 1908:

Number and character of prosecutions: Felony charges before Grand Jury and in District Court, 71; misdemeanors in Justice Court, 189; cases indicted by Grand Jury and tried in District Court, 28.

Number of persons convicted, and character of punishment: Convictions in Justice Court, 101; convictions in District Court, 15; jail sentences in Justice Court, 51; fine sentences in Justice Court, 50; prison sentences in District Court, 14; jail sentences in District Court, 1.

Number of persons acquitted, or as to whom prosecutions were abated or dismissed: Cases prosecuted before the grand jury with no bill found, 43; dismissed on motion of the District Attorney, 5; acquitted on trial in District Court, 8.

Number of prosecutions pending, 3.

Amount of fines paid, $1,270.30.

Respectfully,

P. A. MCCARRAN, *District Attorney.*

ORMSBY COUNTY.

CARSON CITY, November 1, 1908.

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, 1908:

Number and character of prosecutions: Embezzlement (felony), 17; disturbing the peace, 1; malicious mischief, 2; forgery (felony), 1.

Number of persons convicted, and character of punishment: Disturbing the peace, 1 (fined $20); malicious mischief, 2 (30 days each).

Number of persons acquitted, or as to whom prosecutions were abated or dismissed: Forgery, 1 (grand jury ignored indictment).

Number of prosecutions pending: Embezzlement (felonies), 17; pending.

Amount of fines paid, $20.

Respectfully,

E. E. ROBERTS, *District Attorney.*

STOREY COUNTY.

VIRGINIA CITY, December 29, 1908.

To the Honorable the Attorney-General.

DEAR SIR: Noting the contents of your letter of November 10th, I am happy to state that Storey County has been free from State convictions. Nothing whatever happened that would come under Sections 2313-2314, Compiled Laws.

Respectfully,

E. J. CAHILL, *District Attorney.*

WASHOE COUNTY.

RENO, December 14, 1908.

To the Honorable the Attorney-General.

DEAR SIR: Pursuant to law I herewith submit my annual report of the criminal buisness transacted in this county during the year ending November 1, 1908:

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

Sparks Township—Disturbing the peace, 6; assault and battery, 3; petty larceny, 12; catching trout out of season, 5; other misdemeanors, 6. Convictions, 18; 13 served terms in jail ranging from 10 to 180 days; 3 were bound over to the grand jury, 2 on felony charges and 1 for misdemeanor.

Verdi Township—Petty larceny, 4; assault and battery, 1. Convicted, 1; paid fine of $20.

Reno Township—Disturbing the peace, 9; assault and battery, 25; petty larceny, 78; assault, 9; vagrancy, 6; false pretense, 8; fishing out of season, 1; shooting on forbidden grounds, 6; malicious mischief, 2;

smoking opium, 10; selling liquor without a license, 1; other misdemeanors, 10. Number of convictions, 94. Number of felony charges held to answer, 45.

CONVICTIONS IN THE DISTRICT COURT.

Ben Johnson, burglary, 2 years in State Prison.
George Vantine, assault to commit robbery, 10 years in State Prison.
Joe Real, assault with intent to kill, 15 months in State Prison.
Earl Cary, grand larceny, 14 months in State Prison.
Curt Starkman, forgery, 1 year in State Prison.
Lizzie Astor, murder, 5 years in State Prison.
Warren Snelling, forgery, 1 year in State Prison.
Carl Weems, burglary, 2 years.
Frank Woods, burglary, 1 year.
Buford Hester, assault with deadly weapon (reduced to assault and battery), fined $250.
Charles Butler, burglary, 14 months in State Prison.
John Doomieries, robbery (reduced to petty larceny), fined $150.
Carl Hubbard, assault to commit robbery (convicted of assault and battery), fined $250.
George Ramsey, housebreaking, 18 months in State Prison.
George Waters, burglary (reduced to petty larceny), 3 months in county jail.
Salvatore Luhano, robbery, 5 years in State Prison.
Cervante Davis, robbery, 5 years in State Prison.
Yon Ybara, assault with deadly weapon (reduced to assault and battery), 4 months in jail.
R. T. Williams, assault with deadly weapon, 15 months in State Prison.
Frank Kelly, burglary, 1 year in State Prison.
Mike Ross, grand larceny, 1½ years in State Prison.
William Cronin, burglary, 10 years in State Prison.
Jesse Farmer, burglary, 3 years in State Prison.
Frank Howard, burglary, 1 year in State Prison.
James Martin, burglary, 3 years in State Prison.
James Gray, burglary, 5 years in State Prison.
Harry Graham, burglary (reduced to petty larceny), 4 months in jail.
C. A. Rogers, forgery, 1 year.
John Byron, robbery, 14 years in State Prison.
Peter Long, assault to kill, 1 year in State Prison.
W. M. Kelly, burglary, 3 years in State Prison.
Number ignored by grand jury, 13.
Acquitted by trial jury, 7.
Dismissed by District Attorney for lack of sufficient evidence to go to trial, 6.
Prosecutions pending, 1.
Cost of prosecutions, $7,850.
Amount of fines paid, $1,459.75.

Respectfully,

T. F. MORAN, *District Attorney.*

NOTE—From the foregoing the volume of business imposed on the District Attorney evidences the pressing need of provision for a Deputy District Attorney for Washoe County, and I recommend specific provision for such an office.

T. F. M.

WHITE PINE COUNTY.

ELY, December 1, 1908.

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, 1908:

Christ Papandreuu—Murder, acquitted.

Antonio Vaselopolus—Assault with intent to kill, guilty; new trial granted.

W. H. Corbett—Robbery, acquitted.

Tom Costello—Bad checks, discharged by District Judge on technical indictment.

J. A. Smith—Murder, discharged by grand jury.

M. F. Rickard—Assault with intent to kill, acquitted.

Albert Petty—Burglary, acquitted.

Albert Brown—Rape, dismissed by Justice of the Peace.

Wm. Bacon—Assault with intent to kill, acquitted.

Lulu Dickerson—Assault with intent to kill, disregarded by grand jury.

Geo. Luttrell—Conducting a gambling game without license, hung jury; trial pending.

Paul Turbovich—Grand larceny, pending.

J. A. Bennett and Wm. Edwards—Robbery, pending.

John Carr—Burglary, pending.

John Carr—Jail breaking, pending.

W. H. Bray—False pretenses, pending; will probably be nolled.

Julius Werr—Forgery, pending.

James Quarles—Assault with intent to kill, convicted of simple assault, 6 months in county jail.

COSTS.

Grand jury fees, December, 1907, $306.

Mileage fees, grand jury, December, 1907, $63.10.

Grand jury fees, May, 1908, $447.

Mileage fees, grand jury, May, 1908, $113.40.

Petty jury fees, 1907, $420.

Mileage fees, petty jurors, 1908, $100.

Petty jury fees, May, 1908, $1,107, less $265 fines paid in civil cases, $842.

Mileage fees, petty jurors, May, 1908, $237.

Justice Court fees were paid intermingled with other Justice fees, and no separate record is obtainable.

C. A. EDDY, *District Attorney.*

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