

# Biennial Report

OF THE

# Attorney General

OF THE

STATE OF MONTANA.

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January 1st, 1899 to December 1st, 1900

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istrates to spend the people's money in this manner. Yet, I believe it is done in some counties in this state. It was attempted here, but we would not stand it still these sections permit such a construction. This is an important matter.

Sections 2083, Penal Code, should be amended to include not only murder and manslaughter, but all offenses. Some Courts seem to think that the rule in Hanna case, 5 Mont., 248, requires that all eye witnesses to the transaction be produced, or a showing made that it is not in the power of the State to produce them; they apply this rule in all manner of cases. I have even had it worked on me in misdemeanor cases. Thus we have the spectacle of witness after witness being called on the same point, because some Judge does not understand the true meaning of the rule. It should be made so clear by statute that even the Court can understand it."

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#### SYNOPSIS OF OPINIONS RENDERED AND RULINGS MADE, FROM DECEMBER 1st, 1898, TO DECEMBER 1st, 1900.

**ASSESSMENT:**—Party seeking reduction of must apply between the third Monday in July and the second Monday in August, and make written application under oath.

**ASSESSOR:**—May assess property that has escaped taxation in former years.

**SAME:**—Taxpayer furnishing statement to, may be subpoenaed by, for the purpose of ascertaining what property he owns.

**AGRICULTURAL COLLEGE:**—Cannot use funds derived from rental of lands included in grant until legislation is enacted providing for its disposal.

**ASSESSMENT:**—Of railroads within school districts.

**SAME:**—Unsurveyed public lands not subject to.

**SAME:**—Timber on state lands is not subject to.

**ASSESSOR:**—Not entitled to mileage or expenses.

**ATTACHMENT:**—One-half of earnings exempt from on judgment of necessities.

**ASSESSOR:**—Power to examine books of bank.

**ARID LAND COMMISSION:**—Under a construction to be given to the language of the Supreme Court in *State vs. Marshall*, 20 Mont., 510, it would seem all contracts have to be recorded.

**ANTELOPE:**—No law preventing domestication and shipping out of the State as a gift.

**ARID LAND COMMISSION:**—Power and duties of Commission under.

**SAME:**—State not responsible on contracts with.

**APPOINTMENT:**—To fill vacancy by Governor; appointee holds until next election. When by District Judge, till end of term.

**ANTI-TRUST LAW:**—This State has what partakes of.

**ALIENS:**—No law in this State prohibiting aliens from acquiring property by purchase.

**ASSESSOR:**—Can accept other employment when not interfering with his duties.

**BOARD OF HEALTH:**—May discriminate as to localities and buildings in declaring quarantine.

**BOUNTY LAW:**—Portions of animal to be presented.

**SAME:**—Animals killed before law of 1899 took effect should be presented and certificates issued for, under old law.

**BOARD OF STOCK COMMISSIONERS:**—Member of cannot appoint himself as Stock Inspector.

**BOARD OF HEALTH:**—Powers and duties of as to removal of nuisance, etc.

**BOYCOTT:**—Prosecution for instituting might be maintained under Sub. 5, of Sec. 320 of the Penal Code.

**BOARD OF EQUALIZATION:**—Date of meeting, powers, etc., with reference to assessment of railroad property.

**BOARD OF HORTICULTURE:**—In giving to State Board of Horticulture authority to frame rules and regulations, and provide for their enforcement, the Legislature did not transcend its powers under the Constitution.

**BONDS:**—Necessary to submit the question to qualified voters before Board can issue bonds for erection of High School.

**SAME:**—School bonds issued against a district are valid against portion of district cut off after the issuance of bonds.

**BOARD OF DENTAL EXAMINERS:**—Have right to impose certain penalties.

**BOARD OF HEALTH:**—Respective liability of City and County Boards discussed.

**BOARDS OF HEALTH:**—Have power to compel vaccination.

**BALLOT:**—Should be handed when prepared by elector to Judge of Election.

**BALLOTS:**—Section 1353 applies to vacancies on after printing of.

**BOUNTY:**—On wolves and coyotes stated.

**BOYCOTT:**—Question of discussed so far as involved in letter to New England Clothing Company.

**COUNTY Supt. OF SCHOOLS:**—Section 1744 Political Code, has not been declared unconstitutional. This officer must possess the qualifications prescribed by Section 1744.

**COUNTY COMMISSIONERS:**—Those elected in 1894 have no authority to hold beyond the first Monday in January, 1899.

**COUNTY ATTORNEY:**—Can collect traveling and hotel expenses when called away from county seat to attend to State cases.

**COUNTY SURVEYOR:**—Cannot draw monthly salary. Is only entitled to per diem compensation.

**COUNTY OFFICERS:**—Entitled to enter upon discharge of duties on first Monday of January following election.

**COUNTY COMMISSIONERS:**—Board of, has power to fix compensation of Deputy County Attorney within maximum limit.

**SAME:**—Have no power to invest money in sinking fund.

**COUNTY SURVEYOR:**—As to qualifications to hold office.

**SAME:**—Draws a per diem compensation. Board of County Commissioners has no power to allow salary.

**COUNTY COMMISSIONERS:**—Have no authority to invest money in sinking fund, but may redeem bonds with it.

**COUNTY INSTITUTE:**—Only licensed instructors are entitled to officiate at.

**CORPORATIONS:**—Fraternal and benevolent Associations must pay fee of \$20.00 for filing and issuing of certificate of incorporation.

**COUNTY OFFICER:**—May draw salary, although granted a leave of absence from State for thirty days.

**COUNTY ATTORNEY:**—As to filing of informations by.

**CORPORATIONS:**—Service of summons upon fraternal beneficiary secret organizations, issuing policies of insurance may be had by serving the representative of the supreme body in the local organization through which membership was secured.

**COUNTY SURVEYOR:**—One appointed to fill vacancy in office of, has same rights, powers and duties as predecessor had.

**COUNTY:**—Cannot incur indebtedness or liability in excess of \$10,000.00 without submission to vote, whether the money is in the treasury or not.

**CHURCH PROPERTY:**—Not subject to taxation.

**CONSTITUTIONAL LAW:**—Legislative action reducing the rate of interest and changing same interfering with contract between the State and a citizen is within the protection of the constitution of the United States, and the prohibition against States passing laws impairing the obligation of contracts applies to contracts where State is a party. General discussion of remedies, etc., in opinion.

**COUNTY HIGH SCHOOLS:**—Board of trustees has authority to lease suitable buildings for a period in excess of one year.

**COUNTY WARRANTS:**—Are taxable.

**CORONER:**—Justice of the Peace authorized to discharge duties of, only when office of coroner is vacant, or he is absent from county, or unable to attend to duties of his office.

**COUNTY COMMISSIONERS:**—Policy of our laws is to prohibit commissioners from passing on claims of their own.

**COUNTY COMMISSIONERS:**—Entitled to statutory compensation only when acting as a board convened at regular or special meetings.

**COUNTIES:**—Classification not made according to law until Section 4331, of Political Code, has been complied with.

**COUNTY COMMISSIONERS:**—Have power and jurisdiction to publish statements of its proceedings. The matter, however, is optional with them.

**COUNTY HIGH SCHOOL:**—Procedure necessary with reference to issuance of bonds for. Qualifications for voting at elections held for that purpose.

**COUNTY COMMISSIONERS:**—Term of office fixed at four years under the constitution. Commissioners elected in 1900 enter upon performance of duties Nov. 8, 1901.

**COUNTIES:**—Have right to establish townships in ceded strips of reservations.

**COUNTY ATTORNEY:**—Can be ordered to file an information against a person charged with a public offense, upon affidavit filed by any person.

**CONSTABLE:**—Is justified upon his own motion to release an improper attachment; a proper attachment, however, if released by Constable, is done upon his responsibility to the creditor for such loss occasioned through the release of the attachment.

**COUNTY RECORDERS:**—Should affix the name of the officer filing the instrument to filing notation made, and without this it is incomplete.

**CITY:**—Is not chargeable for fees in recording deeds, filing suits, etc.

**CONSTABLE:**—Jurisdiction co-extensive only with county.

**COUNTY ATTORNEY:**—Should not accept retainer to defend criminal in county other than the one in which he holds office.

**COUNTY COMMISSIONERS:**—Elected in 1900 do not enter upon the discharge of their duties until November, 1901.

**COUNTY SUPERINTENDENT OF SCHOOLS:**—Has power to revoke certificates.

**COUNTY COMMISSIONERS:**—Have power to correct action based on error.

**COUNTY ATTORNEY:**—Women not eligible.

**CONVENTION:**—Effect of ratification on irregular call.

**CEMETERY:**—No law authorizing cities to take up government land for.

**COUNTY SUPERINTENDENT OF SCHOOLS:**—Not entitled to collect mileage.

**SAME:**—Qualifications for office discussed.

**COUNTY COMMISSIONERS:**—Right to issue bonds for outstanding indebtedness over \$10,000 canvassed.

**COUNTY TREASURER:**—Arrangement may be made by to take up county warrants with check on party taking bonds on order from Commissioners.

**CONVICTION OF FELONY:**—Will not prevent location and holding of mineral lands.

**COUNTY ATTORNEY:**—Proper officer to take cognizance of election frauds.

**COUSINS:**—No law prohibiting the marriage of in this state.

**COUNTY COMMISSIONERS:**—Authorized to establish registration districts only at June meeting.

**CORONER:**—When authorized to discharge duties of sheriff.

**DIVORCE:**—Causes for which may be granted.

**DEPUTY:**—Of county officer, may be a minor, and need not possess qualifications required of principal.

**DIVORCE:**—State in no way a party to a proceeding for.

**DEPUTIES:**—Persons employed to transcribe records of Broadwater County are not deputy county clerks, and the county clerk of that county cannot appoint them or exercise supervision over them.

**DIVORCE:**—Law prohibiting parties who obtain, from marrying again within certain times, is unconstitutional.

**DEPUTIES:**—County officers may appoint, within maximum limit, in the absence of any action by the Board of County Commissioners.

**DEPUTY COUNTY CLERK:**—May administer oaths.

**DIVORCE:**—Law prohibiting parties who obtain, from marrying again within a certain time, is unconstitutional.

**DREDGING BOAT:**—If used for mining purposes though on navigable river, liable to inspection by State Boiler Inspector.

**DELINQUENT TAX LIST:**—Should contain personal property where there is real estate being sold belonging to party owning personal property, but otherwise not necessary.

**DISABILITY FUND:**—City where fire department is maintained is only entitled to so much of this fund as it secures through municipal taxation.

**DIVORCED PERSONS:**—No law in this state against remarriage of.

**DIPLOMAS:**—State or life diplomas are granted by State Board of Education.

**DEAF AND DUMB SCHOOL:**—Trustees of have general power to procure medical aid for inmates.

**SAME:**—No authority exists for keeping pupil during summer vacation.

**DISTRESS FOR RENT:**—No law in this state authorizing.

**ELECTIONS:**—Certificates of nominations for city offices, in first municipal election should be filed with County Clerk, and twenty days before election.



**SAME:**—Judges of, under road law of 1899, cannot collect from county for services.

**SAME:**—To submit question of incurring indebtedness can only be held at time of general election.

**EPILEPTICS:**—No law in the State of Montana regulating the marriage of Epileptics.

**ELECTIONS:**—Person receiving highest number of votes cast elected although not nominated in accordance with the provisions of the law.

**ELECTIONS:**—Authority to hold special elections under our law for the submission of the question of raising money doubted.

**ELECTION:**—Clerks must possess same qualifications as judges.

**SAME:**—Not valid which does not grant authority to incur indebtedness, although voted.

**ELECTIONS:**—Failure to swear judges of while an irregularity would not invalidate the election.

**ELECTIONS:**—(School)—Regular ballots only required in Districts of the first class.

**EXEMPTION LAWS:**—Now in force apply alike to married and single men.

**ESTATES BY COURTESY:**—Abolished by Codes.

**EPIDEMICS:**—Right of school teacher to salary during time school closes on account of.

**ELECTIONS:**—Right of certain persons residing near boundary line between United States and Canada to vote at, canvassed and determined.

**ELECTIONS:**—No provision of law for swearing in of unregistered voters at.

**SAME:**—Proposition as to whether majority of electors, means majority voting on particular proposition submitted or majority of electors voting at election, discussed, but no conclusion reached.

**SAME:**—Person receiving highest number of votes cast elected, although not nominated in accordance with provision of law.

**FEES:**—Of clerk of District Court in assignment proceedings are governed by Section 4636, Political Code.

**FISHING:**—Persons may be excluded from fishing in inland lake by person owning all land surrounding same, but not otherwise.

**FISH AND GAME:**—Discussion of law relative to.

**FOREIGN CORPORATIONS:**—Required only to file, under Section 1030 of Civil Code, copy of its articles in county, where principal's business is conducted.

**FIREARMS:**—Unlawful to shoot off within the limits of town or city.

**FRATERNAL SOCIETIES:**—Are not amenable to our laws governing foreign corporations or insurance companies.

**FERRY BOATS:**—Owners of must take out license where toll is taken.

**FEES:**—Not chargeable to the State, or any county or subdivision thereof, or any public office acting therefor, or in habeas corpus proceedings for official service rendered.

**FREE TEXT BOOKS:**—Manner of providing money for found in Section 12 of Free Text Book Law, 5th Session.

**FISH AND GAME LAW:**—Sec. 21 of is operative in making disposition of fines and penalties imposed. In so far as it conflicts with Sec. 2910 of Penal Code, it supercedes it.

**FISH AND GAME LAW:**—Legislature of 1899 made no change in.

**SAME:**—Prohibits the killing of Mountain Sheep for any purpose whatever.

**GAME WARDEN:**—Services of may be dispensed with by Board of County Commissioners, arbitrarily and without notice.

**GAMBLING LAW:**—Prohibits the use of nickle-in-the-slot machines.

**GAME AND FISH LAW:**—Legislature of 1899 made no change in the law as to.

**GOVERNMENT LAND:**—Cutting of timber off of for domestic use unlawful.

**GAME WARDEN:**—Not entitled to collect mileage.

**HOUSE BILL NO. 132—(Laws 1899):**—Is constitutional.

**HOUSE BILL NO. 162—(Laws 1897):**—Constitutionality of.

**HOMESTEAD:**—Locator of, who abandons his claim, cannot again exercise the privilege.

**HORSES:**—Bands of, en route from one state to another, and passing through this state are not subject to the provisions of Senate Bill No. 78—laws of 1899.

**HORTICULTURE, STATE BOARD OF:**—Owner of commercial orchard not excluded from member of.

**HOLIDAY:**—Law permitting act to be performed on legal holiday to be done the following day, applies to payment of taxes and as to date of their delinquency.

**HOUSE BILL NO. 53:**—Repeal of did not legalize contract illegal thereunder.

**HOSPITALS:**—Conducted for "private or corporate gain" not exempt from taxation.

**HOMESTEAD:**—Owner of patented can prohibit trespass over it.

**HIGHWAYS:**—Cannot be legally opened under the law as it now stands.

**HUNTING:**—Lessees of State land can prevent people from hunting on land leased to them.

**INDIAN:**—Who was born in United States, and has severed his tribal relations, and has adopted the habits of civilized life, is a citizen of the United States, and may vote.

**INHERITANCE TAX:**—The concluding portion of Section 1 of the law of 1897 has application to all classes of estates on which inheritance taxes are collectable.

**INDIANS:**—Control of authorities with reference to Crees at large.

**INDIAN RESERVATIONS:**—Boiler Inspector has power to inspect boilers on reservation if not used or operated by the U. S. government or under their direction.

**INHERITANCE TAX:**—State entitled to, although proceeds of property are outside of state, decedent being a resident of this state.

**INSURANCE:**—No law exists in the State of Montana prohibiting special contracts of Life Insurance Companies.

**INSANE PERSONS:**—Since July, 1895, liability attaches for the support of all persons maintained at asylum, and the fact of the child being an adult would not release the parent. Exception in case of indigent persons.

**IMPRISONMENT:**—Authority to impose a fine carries with it under our laws the authority to imprison for non-payment. See letter for full discussion of question.

**ISSUE:**—Not raised by setting up in a demurrer the statute of limitations.

**INDIGENT DEFENDANT:**—Can appeal to the Supreme Court upon the Court making an order permitting the same without cost.

**IMPROVEMENT:**—Upon public land not removed after notice, belongs to settler who takes up land under the laws of the United States.

**INDIAN RESERVATIONS:**—Resident of, which is portion of school district, qualified to act as school officer. (Three opinions.)

**INDEPENDENT NOMINATION:**—Can be made only of person not on ballot as nominee of party convention.

**INQUEST:**—Unless surrounding circumstances would tend to suspicion that death was occasioned by criminal means, no inquest is necessary.

**JUSTICE OF THE PEACE:**—Has authority to demand and count ballot in election contest for State Senator, pending in Senate.

**JUDGMENT:**—Is entered when actually entered in judgment book.

**JUSTICE OF THE PEACE:**—May practice law in police Court in cases where Police Judge is not acting as Justice of the Peace.

**SAME:**—As to fees chargeable on change of venue, and as to fees chargeable upon certifying question of real estate to District Court.

**SAME:**—Police Magistrate acting as, right to collect fees in criminal cases.

**SAME:**—Fees allowed in criminal cases.

**SAME:**—Justice of the Peace also Police Magistrate if he conducts preliminary examination as Justice of the Peace (and has been elected to that office) entitled to fees.

**SAME:**—Limitations as to amount of fees that a Justice is entitled to not directed to costs allowed in criminal cases throughout the county, but is intended that one justice shall not receive as fees in any one year in criminal cases a sum to exceed \$500.00.

**JUSTICE OF THE PEACE:**—Has no authority to appoint a special constable to make attachment.

**JUSTICES COURT:**—Jurisdiction in libel and slander cases.

**JUSTICES OF THE PEACE:**—Appointed upon resignation of another, has no right to collect former's unpaid bills.

**LICENSE:**—Section 4064, Political Code, is in force, except the provision relating to wines and distilled liquors.

**SAME:**—Laws of 1899 repealed the law providing for the collection of \$10.00 for issuance of.

**SAME:**—Payment of license fee to State Auditor by insurance agent does not relieve him from the payment of the license provided for by Section 4072, Political Code.

**SAME:**—Steam laundry not exempt from payment of, because run by members of owner's family. Bakers who sell their products at a fixed place of business should pay license under Sec. 4064 Political Code.

**LIBEL:**—Person guilty of, may be liable both civilly and criminally.

**LICENSE:**—Since Feb. 22nd, 1899 there is no authority for the collection of fee of \$1.00 for issuing license.

**LICENSE:**—Issuance of, under Section 4064, Political Code, entitles holder to conduct business of selling any goods, wares or merchandise, drugs or medicines, jewelry or wares of precious metals.

**LICENSE:**—Merchant who sends out goods and sells same from wagon, must also have peddler's license.

**LICENSE:**—As to right to collect from Express and Telegraph Companies.

**LIQUOR:**—Law of 1897, which prevented actions for liquor sold on credit, was repealed by laws of 1899.

**LICENSE:**—As to payment of by Railroad and Telephone Companies.

**SAME:**—For merchant and druggist does not entitle holder to sell liquors.

**SAME:**—Constitutionality of law requiring common carriers, telephone and telegraph companies to pay licenses.

**SAME:**—No license can be charged Electric Light Companies in towns of less than 1500 people.

**LIBRARY FUND:**—No legal warrant for the existence in connection with State University.

**LICENSE:**—Is a personal privilege and can only be enjoyed by those to whom expressly granted.

**SAME:**—Professional man in the employ of some one else, if practicing his profession, liable for payment of license.

**SAME:**—Electric Light Companies whose plants are located outside of city limits, and supplies light to city under 1500 inhabitants, is liable for city license.

**SAME:**—Tax is chargeable against persons giving a vaudeville performance or exhibiting in a saloon where no entrance fee is charged.

**LICENSE FEE:**—Required of foreign corporations doing strictly surety business.

**LICENSE:**—No license required of Public Administrator in making sale of whiskey under order of court.

**LEGISLATIVE ASSEMBLY:**—Member of not qualified to hold office of councilman or assemblyman.

**LOCAL OPTION:**—Is provided for under the laws of the State of Montana.

**LEGAL FENCE:**—What is, set forth in letter.

**LIVERY STABLEMAN'S LIEN:**—Discussion as to its priority over mortgage.

**LEVY:**—For school purposes may be made at any time after second Monday in August.

**LAW:**—Covering obstruction of railroads in this state.

**LICENSE:**—Of peddlers canvassed.

**LAND:**—Relative rights of settler and state to school lands.

**MARRIED WOMEN:**—May transact business, own property, and dispose of same equally with men.

**MINES:**—Quartz location made on Sunday is valid.

**SAME:**—Placer location made prior to October, 1899, is valid even though made on a school section.

**SAME:**—One who has declared his intention to become a citizen of the United States may make a mining location. An alien cannot.

**MILITIA:**—Members, of who did not volunteer during late war, were not divested of exemptions secured to them, by law.

**MINING CLAIMS:**—Location of is not complete until notice of location is filed for record.

**MILL SITE:**—Co-owner in cannot be "advertised out" as in the case of mining claims.

**MEDICAL LAW:**—Osteopaths, etc., come under the provisions of.

**MURDER:**—Sufficiency of information for.

**MUNICIPALITY:**—Power of with reference to ordering sidewalks in front of state property.

**MUNICIPAL CORPORATION:**—Right to legislate on matter covered by State law discussed. Doubt expressed as to whether legislation would be upheld.

**MEDICAL BOARD:**—Members thereof have no power to act as a board, except when in session.

**MUNICIPAL CORPORATIONS:**—City authorities have no right to go beyond the limits of townsite, and by the exercise of any authority claim title to public lands.

**MILITIA:**—Members of exempt from payment of poll-tax.

**MORTGAGEE:**—Not a resident of this State cannot be taxed here on mortgage held on property within the State.

**MILITARY DUTY:**—May still be required of militia men although they have enlisted in the army of the United States, and returned to the State from service outside the U. S. That is the enlistment of members of a militia company did not tend to terminate the existence of the national guard of that State.

**MARRIAGE:**—Law prohibiting the marriage of divorced persons, owing to defect in the title is not now in force.

**MEDICAL BOARD:**—Alone has the power to revoke a temporary certificate granted by Secretary or Chairman.

**MUNICIPAL CORPORATIONS:**—Power of Legislature to affect by special law.

**SAME:**—Opinion concerning franchise of.

**MUNICIPAL ORDINANCE:**—Directing confiscation of property invalid.

**MINORS:**—Sale of liquor to, laws relative to discussed.

**MINING:**—Work on claims so situated that the work on one can be used to advantage in the operation of the other claim, representation work done can be availed of in behalf of both claims.

**NORMAL SCHOOL:**—Should not connect cesspool with ditch or canal owned by private parties, so as to make water impure.

**NATURALIZATION CERTIFICATES:**—Are not required to bear internal revenue stamp.



**NOTARY PUBLIC:**—Can act as deputy county clerk.

**NATURALIZATION:**—Of husband under laws of the United States naturalizes wife for all purposes.

**NOTARY PUBLIC:**—Woman not eligible to the office of.

**NOMINATION:**—For Judge of a judicial district can only be made by judicial convention, certificate of from State Convention of no effect.

**OFFICE:**—Does not become vacant until incumbent is absent three consecutive months.

**SAME:**—Person may hold more than one office if they are not incompatible. Person claiming homestead entry is not eligible to hold city office.

**ORPHANS' HOME:**—Legislation necessary in order to compel parents to maintain child at.

**OSTEOPATH:**—Is liable for license and amenable to the medical law of this state.

**OFFICE:**—No law prohibiting holding office of Mayor and Postmaster.

**SAME:**—No law prohibiting County Treasurer from holding office of alderman.

**PUBLIC DOMAIN:**—Unappropriated—cannot be fenced.

**PUBLIC LANDS:**—Squatter on, has preference right of entry after survey.

**POLICE MAGISTRATES AND MARSHALS:**—No right exists in to collect from county for services rendered in criminal cases.

**POLITICAL CODE:**—Sections 2840 to 2843, inclusive, are repealed by Sections 2781 and 2782 in so far as the former are inconsistent with the latter.

**PHYSICIAN:**—Must obtain certificate from Board of Medical Examiners before practicing.

**SAME:**—One who attends patients gratuitously, not compelled to possess license.

**PURE FOOD LAW:**—Section 682, Penal Code, prevents the adulteration of baking powder.

**PARDON:**—Governor may grant, in cases of punishment for contempt of court.

**PSYCHOLOGISTS AND MAGNETIC HEALERS:**—Amenable to the provisions of medical law, and subject to penalties if they attempt to practice without license.

**PUBLIC MONEYS:**—May be deposited by County Treasurer in private banks, in which event, however, Treasurer becomes insurer of moneys.

**SAME:**—Powers of Commissioners with reference to moneys of county entirely dependent upon statute.

**PRISONER:**—Before and after conviction is entitled to private interview with his counsel.

**POLICE JUDGE:**—Person is not qualified to hold office of unless resident of the town.

**PRECINCTS:**—Have no existence in school elections.

**PUBLIC LANDS:**—After final proof a man may go to another state for a time without forfeiting his claim.

**SAME:**—Settler is permitted under the regulations of the Interior Department to cut timber for fire wood, fencing, building purposes, etc.

**PROPORTION:**—Signification of term as used in contract—not only quantity but value considered.

**PRIVATE ROAD:**—Necessary procedure to obtain, outlined in letter.

**PUBLIC LANDS:**—Damages for injuries to, can only be recovered by government of the United States.

**POLL TAX:**—If paid for current year in another state, not collectable here.

**PUBLIC SCHOOL FUNDS:**—Should not be used for Normal School purposes.

**PRECINCTS:**—Changes of should be made at September meeting of the Board of Commissioners.

**PUBLIC LAND:**—No authority in law for cutting timber on for mercantile purposes.

**PUBLICATION OF NOMINATIONS:**—Law relative to canvassed.

**PLEDGE OF PATRIOTISM:**—May be lawfully prescribed as part of the course of study in public schools by the State Superintendent of Public Instruction.

**PASTERS:**—New law relative to canvassed.

**RAILROAD COMPANIES:**—Are compelled by law to leave openings in fence every four miles.

**ROAD LAW**—(of 1899):—Is unconstitutional. (Six opinions.)

**SAME:**—Constitutionality in no manner affects S. B. 38 (1899).

**ROAD TAX LAW** (of 1899):—Section 1 of, applies to cities and towns except in the manner of collecting.

**SAME:**—One day's labor of 8 hours is all that is necessary when same is not paid in cash.

**SAME:**—Labor in payment of same can only be performed after July 1st, and then only when there is no property subject to seizure.

**ROADS (PUBLIC):**—As to whether or not a certain road is.

**ROAD TAX:**—City cannot collect larger than county.

**RAFFLES:**—Of watches, etc., at church fairs are prohibited by our laws.

**RECORDS:**—Of recorder of marks and brands, are public records and are open and accessible to the public.

**RANGE STOCK:**—Where not excepted from provisions of municipal ordinance are in same position before ordinance as other stock.

**ROAD DISTRICTS:**—Establishment of road districts vests entirely with the Board of County Commissioners regardless of geographical divisions of school districts.

**ROAD SUPERVISORS:**—Incorporated towns have no right to.

**SAME:**—Polling places at elections for to be designated by County Commissioners.

**REGISTRATION LAW:**—Construed as to towns of less than 1000 inhabitants.

**ROAD TAX (SPECIAL):**—It is only in instances where parties subject to special road tax have no property that labor can be performed by them, and this can only be performed after July 1st.

**ROADS:**—County Commissioners are the sole and exclusive judge as to the advisability of opening a road, and as to the route to be followed, but cannot act arbitrarily in the matter, being required to follow the statute in every particular in opening the road.

**ROAD TAX:**—Every male person over twenty-one and under forty-five, except paupers, insane persons and Indians not taxed, should pay a special road tax of \$2.00.

**ROADS:**—Obstruction of Public Road constitutes a misdemeanor.

**ROADS:**—Owner of land over which road goes may close the same, if not a public road, and prevent the use thereof by the public.

**ROAD TAX:**—County Assessor not required to collect road tax in cities.

**REGISTRATION:**—Not required in school districts of the second and third classes.

**ROAD SUPERVISOR:**—Who is elected is not disqualified simply because he acted as judge of election.

**SCHOOL HOUSE:**—May be established on Indian Reservation if authority be first obtained from Federal Government.

**ROADS:**—Certain steps absolutely necessary before road can be opened.

**ROAD SUPERVISORS:**—Acts are under the control, direction and supervision of County Commissioners.

**RECORD:**—In typewriting would be of equal legal efficacy as if it were in handwriting.

**RESIDENCE:**—Intention governs largely in determining. (Three opinions.)

**RESERVOIR SITES:**—Can be located under U. S. laws.

**REGISTRATION OF ELECTORS:**—In districts where less than 1000 voted in 1898, canvassed. (Eight opinions.)

**RESIDENCE:**—Statutory requirements and tests of, canvassed.

**REGISTRATION OF ELECTORS:**—Where residence is changed from districts where not more than 1000 votes were cast in 1898, canvassed. (Five Opinions.)

**REGISTRATION:**—Agent authorized to correct errors where names are erroneously entered on lists.

**REGISTRATION AGENT:**—Duty of relative to receiving names away from office, and after office hours, canvassed. Effect on voting.

**ROAD LAW:**—At present of no effect. Necessity of legislation discussed.

**SCHOOLS (PUBLIC):**—Trustee cannot be allowed claim against district for labor and materials furnished in renovating school house. Board of Trustees liable if they knowingly allow such bill. County Treasurer may refuse to pay warrant for such a bill.

**SHERIFF:**—Cannot charge fee of \$1.00 for garnishment served in attachment case.

**STATE AUDITOR:**—Should not issue warrant for salary of county attorney when there is no appropriation available to meet the same.

**SCHOOLS—PUBLIC:**—Half breed children upon Indian Reservation are entitled to enrollment on school census, if their fathers are white men, and if reservation is within school district.

**SAME:**—School districts having three trustees may raise money for building purposes under 1897 law.

**SCHOOL ELECTIONS:**—For purpose of submitting question as to bonds. Qualifications of voters at. (Two opinions.)

**SALARY:**—Of Clerk of District Court of Meagher County elected in 1896 is not changed by a re-classification of the county.

**STALLION:**—Owner of is prohibited by law from allowing it to run at large.

**SCHOOLS—PUBLIC:**—Non-resident pupils not required to pay tuition in High School.

**SAME:**—Under a given state of facts, as to which School District should pay bonds issued before division.

**SAME:**—Instructors at Teacher's County Institutes must hold State license.

**SAME:**—As to the procedure for an election to establish a high school, where there is more than one candidate.

**SAME:**—Where three trustees are to be elected—two for two years—and one for one year—the election is invalid, if the ballot does not specify the terms for which each candidate is to be elected.

**SHERIFFS:**—Are not entitled to charge mileage in excess of ten cents per mile, either in civil or criminal cases.

**SCHOOLS—PUBLIC:**—No law authorizing payment of compensation to teachers who attend County Institute.

**SCHOOL ELECTION:**—As to the validity of a certain.

**SCHOOL DISTRICT:**—Cannot be divided by unanimous consent of residents thereof. Division must be made through County Superintendent.

**SCHOOL DISTRICT CLERK:**—Duty of, as to delivery of books and papers to successor in office.

**SCHOOL TRUSTEES:**—Issuing certificates of election of in certain cases.

**SCHOOL TRUSTEES:**—May prevent use of school house for religious purposes.

**SHERIFF:**—In case of foreclosure of mortgage, is entitled to commissions provided by law, where property is bought in by judgment creditor, whether money passes or not.

**SCHOOL TRUSTEE:**—Member of the Legislature cannot be.

**SCHOOL DISTRICT CLERK:**—Holds office at pleasure of Board of Trustees.

**SCHOOL ELECTION:**—If trustees are not regularly nominated, the election is void, and County Superintendent should appoint.

**SCHOOL TRUSTEES:**—May grant vacation to teacher, with or without pay.

**SCHOOL BONDS:**—Are assessable.

**STATE LAND:**—Cannot be sold for less than \$10.00 per acre regardless of quantity.

**SCHOOLS:**—As to legality of contract with teacher in.

**SAME:**—Consideration of petition for County High School may be had at special meeting of Board of County Commissioners, if called for that purpose.

**SCHOOL TRUSTEES:**—As to duration of school month, power of board to alter contract.

**SCHOOLS—COUNTY HIGH SCHOOL:**—Discussion of and interpretation of law of 1899 with reference to County High School—powers of trustees and commissioners, etc., with reference thereto and thereunder.

**STATE LANDS:**—State Land Register, in the absence of provisions in the arid land law giving authority to commission to retain, title, documents, etc., is the proper state officer with whom to deposit same.

**SCHOOLS:**—Pupils may attend school in adjoining district.

**STATE LANDS:**—There can be no recovery for damages to land leased by the State to an individual and not fenced, by reason of sheep grazing on same, unless the trespass was committed wantonly and maliciously.

**SCHOOL TRUSTEES:**—Cannot make contract with teacher for longer than three months at a time.

**SALARY:**—Change of classification in county does not affect salary of incumbent in office.

**SCHOOL BOARD:**—In the absence of statutory provisions has no authority to exclude children from school for failure to be vaccinated. If Board of Health promulgates a regula-

tion that children be vaccinated, school board could enforce regulation.

**SCHOOL BOARD:**—Contract with school teacher for longer than three months is unenforceable against district. District is liable for all legal indebtedness incurred by school board, regardless of the fact of their having funds with which to pay same.

**SHEEP:**—No damage can be recovered on account of sheep being allowed to graze on unfenced land of another, unless the act of trespass was committed maliciously and wantonly.

**SCHOOL CENSUS:**—Law relative to taking construed.

**SCHOOLS:**—Right to compensation during time that school is closed on account of an epidemic, discussed.

**SHEEP COMMISSIONS:**—Rules for the guidance of deputy sheep commissioners held to be in conformity to statutory provisions.

**SCHOOLS:**—If an amount of money is in the treasury to the credit of a school district in excess of the amount needed to maintain the schools for a period of eight months, such surplus may be devoted to building, or making other improvements as electors of the district may determine.

**SCHOOL ELECTIONS:**—Registration only required in districts of the first class.

**STATE OFFICIALS:**—Holding office or appointments under the United States, question discussed as to census enumerators.

**SCHOOLS:**—Using in a public school a publication such as a sectarian, denominational or partisan hymn book contravenes Section 1863 of the Political Code.

**STATE LANDS:**—Obtaining water right in irrigation company is an acquirement of water right within Section 3493, H. B. 45—6th Session Laws.

**SCHOOL SITES:**—Promise to give land for school purpose in parol, upon obtaining patent from the United States, not enforceable in equity.

**SAME:**—Statute of Limitations does not begin to run in favor of school district and against a settler on the public



domain of the United States until after patent has issued by government to him. Does not run from date of final receipt. Full statutory time must run from issuance of patent before title can be claimed, by adverse possession.

**SCHOOLS:**—On the formation of a new school district from an old one, the school fund remaining to the credit of the district after providing for all outstanding debts incurred for building and furnishing school houses, shall be divided on the basis of the school population as shown by last school census before the division of the district occurred.

**SCHOOL HOUSES:**—Cannot be built on Indian Reservation.

**STATE BOARD OF EXAMINERS:**—Have no authority to make disposition of the partly erected State Prison building at Billings.

**SCHOOL DISTRICTS:**—Law as to nominations in Districts of 2nd and 3rd classes stated.

**SCHOOL TRUSTEE:**—Any person who is a qualified voter at a school election is eligible to the office.

**SCHOOLS. COUNTY SUPERINTENDENT OF:**—Should require examination before issuing certificates. Law relating to issuance of certificates by, discussed.

**SCHOOL TRUSTEES:**—Who locate school house on railroad land without permission of the owners would necessarily be compelled to remove the same, should the owners insist.

**SCHOOL ELECTIONS:**—Qualifications for voting at.

**SCHOOL HOUSE:**—May be established on Indian Reservation, provided permission is first obtained from Federal Government.

**SCHOOL ELECTIONS:**—Nominations and printed ballots only required in Districts of the first class.

**SMALL POX AND OTHER EPIDEMICS:**—Relative liability of cities and counties discussed and announced in dealing with.

**SECRETARY OF STATE:**—Is a ministerial officer, and

must attest the signature of the Governor when requested so to do.

**SPECIAL ELECTION:**—Question of bonding county or incurring indebtedness in excess of \$10,000, cannot be submitted.

**SCHOOL TRUSTEES:**—Temporary absence from district does not vacate office of.

**SCHOOL BOARDS:**—Contract with teacher for longer than three months invalid.

**SCHOOL DISTRICT:**—Rights of school trustees to contract indebtedness when no money is in treasury; also right to contract with teacher for a longer period than three months; case of Jay vs. School District, etc., discussed. (Two opinions.)

**SHEEP:**—Driving of intentionally on another's land, trespass.

**SCHOOL DISTRICTS:**—Circumstances under which they are not entitled to portion of school moneys.

**STATE BOARD OF HORTICULTURE:**—Is entitled to appoint inspector, who upon rendering certain service is entitled to lien against the land.

**SENTENCES:**—Computation of good time on a sentence must be considered separately and not collectively for this purpose where they are cumulative.

**SHERIFF'S SALES:**—Mortgagor is limited by the description in the mortgage. If such description shows division property, he has the right to ask for the sale of the property thus divisioned until a sufficient amount is realized to discharge or liquidate the mortgaged indebtedness.

**SCHOOL BONDS:**—Certain declared illegal without legislative authorization.

**SCHOOL OF MINE BONDS:**—Certain corrections suggested in the minutes authorizing, so that no question could arise as to their validity.

**SCHOOLS. COUNTY SUPERINTENDENTS OF:**—To be eligible to office must be resident of county one year next preceding election.

**SCHOOL BOARD:**—Has power to dispose of school buildings donated to district.

**SHEEP:**—Damages can be recovered for intentional driving of, on land.

**SHEEP:**—Penalty for driving from accustomed range.

**SCHOOL BONDS:**—Law authorizes taxation of all property in District for payment of interest on.

**SCHOOL DISTRICT:**—That was never authorized would not be liable for costs on judgment against it, school trustees would be individually liable.

**TAXES:**—Property bought in by county for, must not be again advertised for sale.

**TAXATION:**—As to remedy for excessive valuation of property for purposes of.

**SAME:**—Internal revenue stamps not required on Arid Land Bonds.

**TAXATION:**—Lands purchased from the United States are subject to after issuance of receivers final receipt and before patent.

**TAXES:**—As to settlement with N. P. Ry. under agreement by Board of County Commissioners.

**TAXES:**—Property in hands of Federal Receiver is subject to, and collection of may be enforced as in other cases.

**SAME:**—Interest on delinquent cannot be collected unless sale and notice thereof were conducted and made in strict compliance with law.

**TRUSTS:**—The law regulating.

**TAXATION:**—Only mining claims for which patent has been issued are subject to.

**SAME:**—No authority under law of 1899 to collect road tax in excess of \$2.00.

**TAXES:**—Special road tax is placed to credit of district in which same is collected, and not in general fund.

**SAME:**—County Treasurer not entitled to collect 20 per

cent. penalty on redemption under Section 3925, Political Code.

**SAME:**—Tax upon insurance companies should be distributed among the various funds as other taxes are.

**TAXES:**—Question as to constitutionality of Sections 4024-4025 and 4026—Political Code.

**SAME:**—Laws of 1899 did not change poll tax. Road tax was changed to \$2.00 instead of \$3.00.

**SAME:**—Personal property in hands of sheriff in a proceeding to foreclose a chattel mortgage cannot be seized for taxes.

**SAME:**—No authority for imposition of 20 per cent. penalty on redemption for delinquent.

**TAXES:**—Personal property on an Indian Reservation within the boundary lines of a county, is subject to in that county.

**TOLL ROADS:**—Owned by private individuals are not subject to jurisdiction of County Commissioners, and owner must keep same in repair.

**TRUSTS:**—Law in this state as to.

**TELEGRAPH COMPANIES:**—Right and power of state to deal with reference to license of. House Bill 269, p. 202—5th Session discussed.

**TAXATION:**—Duty of County Treasurer to collect city taxes in certain classes of cities, discussed.

**SAME:**—What county entitled to collect in the event of county division, etc.

**SAME:**—Board of County Equalization may reduce the valuation of an entire class of property, without giving notice to each property owner owning property in that class.

**SAME:**—Property is taxable to party owning same on the 1st of March of the year for which taxes are collected.

**SAME:**—Firemen exempt from poll tax when they receive no pay, or have served five years and are known as "exempt firemen" under Sec. 3233 Pol. Code.

**SAME:**—Hospitals exempt from taxation if not used for private or corporate profit.

**SAME:**—Location and ownership of property on the first Monday in March determines where it should be taxed.

**TAXATION:**—Procedure with reference to levying special tax for school purposes under Sec. 1940 Political Code, and amendments thereto by 5th Legislative Assembly.

**SAME:**—Power of State Board of Equalization to adjust and equalize valuations, discussed.

**TIME CHECKS:**—No law governing the issuance of in this state.

**TAXATION:**—Supreme Court ruling is general deciding that the section that provides for a special election in a school district is so vague and indefinite as to be invalid. (Six opinions.)

**TAXATION:**—Road tax to be collected by County Treasurers and is \$2.00 uniformly throughout the state. In cities should be collected by municipal authorities.

**TAXATION:**—Under the provisions of Section 1965 in order to levy a special tax to pay interest on bonds, it is only necessary that the trustees should so decide, and the commissioners be informed of the necessity, not necessary that a special election be held.

**SAME:**—Lot deeded to church for the purpose of building a church thereon, but building not begun, although intended to be used for that purpose in the future, not exempt from taxation while unimproved.

**SAME:**—Public road or railroad over property of individual does not release same from taxation, although in case of railroad right of way is taxed.

**SAME:**—Settler's right on government land not taxable till patent issues.

**TAXATION:**—In addition to general levy of five mills permitted, commissioners are authorized to make special levies for free text books, etc.

**SAME:**—Mortgage and note assessable at the residence of the holder of the indebtedness.

**SAME:**—Redemption cannot be made of part of property assessed and sold in one tract, but all must be redeemed.

**SAME:**—Road tax cannot be levied by counties in incorporated cities or towns.

**SAME:**—Railroad surveyed lands, whether patented or not, are assessable. Unsurveyed lands are not assessable. State lands contractetd for sale, are assessable.

**SAME:**—County Treasurers have no authority to withhold out of other funds sums due state to make up amount of State's share of rebated taxes. Relief must be had from Legislative Assembly.

**TRUSTS:**—Law against in this state set out in letter.

**TIE VOTE:**—Manner of determinig election of aldermen who have each received the same number of votes given.

**TAX LIEN:**—On personal property springs into existence only when a seizure is made.

**TAXATION:**—Possessory title of occupants on public land in this state, not taxable.

**SAME:**—County Treasurer has no authority to collect road taxes in incorporated city.

**TRANSCRIPT:**—In civil case, made up on an agreed statement of facts would have to be printed in Supreme Court, under new rule.

**TAXATION—POLL TAX:**—No specified time of residence is necessary to subject a person to liability for poll and road taxes.

**TAXATION:**—Right to assess railroad lands within the indemnity strip for which patents have not issued, discussed and directions given as to the different classes of land.

**SAME:**—Manner of taxation of bank stock and of personal property belonging thereto, discussed in letter.

**TEACHERS' INSTITUTES:**—Duty of teacher to attend.

**TIES:**—Not in roadbed or scattered along the roadway for the purpose of being used in road bed, are assessable, if in existence on first Monday in March.

**TRUSTEES:**—Of County High School not entitled to mileage.

**TRUSTS:**—Laws relative discussed as it exists in this state.

**TAXATION:**—No limitation imposed by law on County Commissioners levying taxes for county purposes.

**VENTING BRANDS:**—Sheriff should vent brands on horse sold under foreclosure, if mortgage does not include brand.

**VETO:**—Law expressly authorizes Governor to veto items in appropriation bill, without entire bill being effected.

**VOTING:**—Qualifications for voting in this state, discussed.

**VACANCY:**—Sec. 1353 applies to vacancy occurring after printing of ballot.

**VOTING:**—Eligibility of certain persons residing in National Park, canvassed.

**VOTING:**—Eligibility of E. C. Stevens to vote determined on facts stated in his letter.

**VOTING:**—No educational test required in this state.

**WATER:**—No authority for appropriation of water of an inland lake.

**WATER:**—Streams which in natural condition are only useful for rafting purposes during the whole or part of each year, are highways for that purpose.

**WAR REVENUE LAW OF 1898:**—While declaring the recordation of instruments not properly stamped thereunder illegal, does not make the act of the recorder in recording same criminal.

**WOMAN:**—Only entitled to vote in this state at school district elections, and upon questions submitted to the vote of taxpayers.

**WATER RIGHTS:**—Discussion of principles governing ownership and use of in this state. (Two opinions).

**WARRANT OF ARREST:**—Not required when officer finds person actually engaged in the commission of crime.

**YELLOWSTONE PARK:**—Resident of cannot vote in this state, if he never acquired a residence in this state.