

License, of Water Company. Water Company, License.
License, Amount of. Term of.

A license to a water company is issued for the term of one year and the consideration to be paid therefor is \$200: Held, that the term is indivisible and a company doing business for a lesser term must nevertheless secure an annual license and pay therefor the full consideration.

September 6th, 1913.

Mr. D. F. Smith,
Kalispell, Montana.

Dear Sir:

I have your letter of the 2nd instant, stating that the Northern Idaho & Montana Power Company, a corporation, is engaged in business in Flathead County, and as such is selling water within the corporate limits of the City of Kalispell. You inquire whether this company is required, under the provisions of Sec. 2773, R. C., as amended by Chap. 61, Session Laws of the Twelfth Legislative Assembly, to take out and procure an annual license for carrying on such business and to pay therefor the sum of \$200, as provided for by statute, when such company does not expect nor propose to con-

tinue in such business throughout the year for which such license is issued; or whether this company may not take out a license for a lesser term and pay therefor pro rata at the rate of \$200 per year. You advise me that the county treasurer of Flathead County interprets the statute to mean that he cannot issue a license for a lesser period than a year, and you request my opinion as to the interpretation to be placed upon the statute. I beg leave to say that I have carefully considered the proposition submitted by you, and have reached the conclusion that the county treasurer's interpretation is correct. It will be observed that Art. II, Chap. 3, Title XII, Part 3, of the Revised Codes, classifies the licenses required for the occupations, pursuits and professions therein named, and that in each instance where a license is required the term for which such license shall issue is fixed. In one instance a daily license is required; in others a monthly license; in others a quarterly license; in others a semi-annual license; and in the case of companies engaged in the business followed by your company an annual license is required. I am of the opinion that the various terms thus fixed by the law are not severable, and when a license issues it is in the nature of a permit or privilege to carry on and conduct the designated business for the full term mentioned in the license. Sec. 2749 provides in part that a license must be procured immediately before the commencement of any business or occupation liable to a license to conduct, from the county treasurer of the county where the applicant desires to transact the same, which license authorizes the party obtaining the same in his town, city or particular locality in the county to transact the business described in such license, and Sec. 2780 provides in part that every person who commences or carries on a business, trade, or profession, or calling, for the transaction or carrying on of which a license is required by the provisions of this act, without taking out or procuring a license, as prescribed, or who violates any of the provisions of the act, shall be punishable, etc. These provisions lead to the conclusion that a license as specified by the law, and for the term as therein fixed, is essential to lawfully permit one to engage in the business, pursuit, profession or calling for which the license issues, and since in the case of your company the term is for one year, a license for a lesser period would not be a license as required by law, and would be in violation of Sec. 2780. A license lawfully issued to this company permits it to engage in business for the period of one year, and if the company does not see fit to continue in business for the prescribed period, it is the company's loss.

Yours very truly,

D. M. KELLY,
Attorney General.