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State of Montana

1897--1898.

BIENNIAL REPORT

OF THE

ATTORNEY GENERAL

OF THE

STATE OF MONTANA.

JANUARY 1, 1897, TO DECEMBER 1, 1898.

HELENA, MONTANA:
INDEPENDENT PUBLISHING CO.,
STATE PRINTERS AND BINDERS
1898.



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BIENNIAL REPORT
OF THE
Attorney General of the State of Montana.
1897-1898.

Office of the Attorney General.

Helena, Montana, Dec. 10, 1898.

Robert B. Smith, Governor of Montana:

Dear Sir:—The reports of my office show an unprecedented increase in the volume of business. The business in the Supreme Court for the last twelve months has been exceptionally large. The requests for advice from those entitled to make the request have been so numerous that one's whole time could be profitably occupied in attending to this single item.

During the past two years a serious and exacting demand has been made upon this office on account of the land ownership of the State. In the leasing and sale of public lands, bonds are executed to guarantee the State against loss, and where default is made in the payment due to the State, in the absence of anybody else to attend to the matter this work of attending to it devolves upon my office. Considerable labor is likewise imposed on account of fraudulent attempts to secure title under the land laws of the United States to valuable land which the State desires to select. Whenever the surveys are extended, and valuable timber lands are included in the surveys, settlements are hastily and fraudulently made so as to secure the timber, to the injury of the State; and to defeat such entries, contests have to be instituted. A number of those contests have been instituted within the past two years, and in most of which the State has been successful. Not merely in the local land offices are services required, but likewise in the General Land Office at Washington before the Secretary of the Interior. I have been required to not merely prepare briefs for use before the local offices, but have been required to prepare briefs where appeals have been taken for use in the General Land Office and before the Secretary of the Interior. The diversified character of the duties which now devolve upon this office by reason of no person being designated to attend to them, necessitates some legislation, so that the interests of the State will not suffer. Trespasses are being constantly committed upon public lands, lessees of public lands are in default in the payment of rent, contests are pending in land offices in which the State's interests are involved, and active measures are necessary so that loss or injury to the State will not ensue.

The County Attorneys in the different counties have been exceedingly kind and accommodating in giving matters attention in their respective counties, when requested to do so. It is absolutely necessary for the protection of the State's interest that county attorneys should be expressly charged with the duty of attending to State business of all kinds within their respective counties, and the Legislature ought to make more specific the sections of the Code which prescribe the duties of county attorneys, so that no doubt or uncertainty would exist as to their right to act in all matters within their respective counties affecting the acquisition, leasing and sale of public lands. There are 11 contests now pending in Missoula county in which the title to valuable timber land is involved. Settlements were made upon valuable timber lands to the exclusion of the State's right to make a selection of this land. The timber upon the land, the title to which is in controversy, is worth about \$50,000. The State is endeavoring to show that the settlements made were not bona fide. Probably three or four weeks will be consumed in the presentation of evidence. It would be a considerable saving to the State if the county attorney was charged with the duty of attending to business of his kind, and there is no reason why work of this kind should not devolve upon that office.

Very truly yours,

C. B. NOLAN,
Attorney General.

**List of Cases Finally Disposed of in which the State of
Montana was a Party, or in which the Attorney
General was Attorney or of Counsel,
from January 1st, 1897, to
December, 1st, 1898.**

IN THE SUPREME COURT OF THE STATE OF MONTANA

The State of Montana,

Respondent,

vs.

Michael Wrote et al.,

Appellants.

Action on bail bond. Appeal from District Court, Carbon County.

Argued and submitted February 8, 1897.

Judgment for State affirmed February 15, 1897.

O. F. Goddard for Appellants.

C. B. Nolan for Respondent.

IN THE SUPREME COURT OF THE STATE OF MONTANA.

The State of Montana,

Appellant,

vs.

W. Gray et al.,

Respondents.

Action for keeping gambling house without a license.

Argued and submitted February 8, 1897.

Judgment for State reversing action of lower court in sustaining demurrer to information rendered February 15, 1897.

C. B. Nolan for Appellant.

IN THE SUPREME COURT OF THE STATE OF MONTANA.

The State of Montana,

Respondent,

vs.

John Broadbent,

Appellant.

Action for assault in second degree.

Argued and submitted April 26, 1897.

Judgment of conviction affirmed.

Luce & Luce for Appellant.

C. B. Nolan for Respondent.

IN THE SUPREME COURT OF THE STATE OF MONTANA.

The State of Montana,
Respondent,

vs.

David Mansfield,
Appellant.

Action for murder.

Argued and submitted April 30, 1897.

Judgment of conviction of murder in second degree affirmed.

Miles Cavanaugh for Appellant.

C. B. Nolan for Respondent.

IN THE SUPREME COURT OF THE STATE OF MONTANA.

State ex rel. Johnson et al.,
Appellants,

vs.

Board of County Commissioners.
Of Deer Lodge County,
Respondent.

Action for writ of certiorari to review action of Board of County Commissioners.

Argued and submitted May 19, 1897.

Judgment affirming order of District Court quashing writ affirmed June 7, 1897.

Ed. Scharnikow and W. W. Goodman for Appellant.

C. B. Nolan for Respondent.

IN THE SUPREME COURT OF THE STATE OF MONTANA.

The State of Montana,
Respondent,

vs.

J. Bernheim,
Appellant.

Action for unlawful sale of railroad ticket.

Argued and submitted April 29, 1897.

Judgment affirming judgment of conviction rendered May 17, 1897.

Henry C. Smith and Thompson Campbell for Appellant.

C. B. Nolan for Respondent.

IN THE SUPREME COURT OF THE STATE OF MONTANA.

Fred Whiteside,

Appellant,

vs.

School District No. 5, of

Flathead County, et al.,

Respondents.

Action to foreclose mechanic's lien.

Argued and submitted June 14, 1897.

Judgment for defendants affirmed.

Opinion rendered June 21, 1897.

W. W. Noffsinger and M. D. Baldwin for Appellant.

C. B. Nolan for Respondents.

IN THE SUPREME COURT OF THE STATE OF MONTANA.

In the matter of the application of James Ryan for a writ of habeas corpus.

Writ denied.

Opinion rendered June 21, 1897.

W. S. Shaw and Rogers & Rogers for Petitioner.

C. B. Nolan for State of Montana.

IN THE SUPREME COURT OF THE STATE OF MONTANA.

State ex rel. Nolan, Attorney General,

vs.

Theodore Brantley, Judge, etc.

Application for writ of certiorari to review action of District Court in granting writ of habeas corpus on the application of William Day, who had been convicted of murder in the first degree.

Argued and submitted September 20, 1897.

Judgment reversing District Court and dismissing habeas corpus proceedings rendered October 11, 1897.

Miles Cavanaugh and J. W. Kirk for Respondent.

C. B. Nolan in pro. per.

IN THE SUPREME COURT OF THE STATE OF MONTANA.

The State of Montana,

Appellant,

vs.

James O'Brien,

Respondent.

Action for forgery. Appeal by State from judgment setting aside information.

Respondent moved to dismiss appeal.

Argued and submitted, and judgment dismissing appeal rendered October 11, 1897.

B. S. Thresher for Respondent.

C. B. Nolan for Appellant.

IN THE SUPREME COURT OF THE STATE OF MONTANA.

The State of Montana,

Appellant,

vs.

James D. Casey,

Respondent.

Appeal from District Court of Silver Bow County.

Appeal dismissed.

B. S. Thresher for Respondent.

C. B. Nolan for Appellant.

IN THE SUPREME COURT OF THE STATE OF MONTANA.

C. C. Proctor, Sheriff,

Respondent,

vs.

Cascade County,

Appellant.

Appeal from action of Board of County Commissioners in disallowing bill for transportation of a patient to the Insane Asylum.

Argued and submitted November 1, 1897.

Judgment for respondent rendered November 22, 1897.

H. S. Hepner for respondent.

C. B. Nolan for Appellant.

IN THE SUPREME COURT OF THE STATE OF MONTANA.

W. H. Gelsthorpe, County Treasurer,

Appellant,

vs.

Delia M. Furnell and Delia M.

Furnell, as Trustee,

Respondent.

Action to recover collateral inheritance tax, and involving the constitutionality of the inheritance tax law.

Argued and submitted November 1, 1897.

Judgment for Appellant and reversing District Court, rendered November 15, 1897.

Wm. T. Pigott for Respondent.

C. B. Nolan for Appellant.

IN THE SUPREME COURT OF THE STATE OF MONTANA.

The State of Montana,
Respondent,

vs.

C. M. Oliver,
Appellant.

Action for robbery.

Appeal from District Court of Silver Bow County.

Argued and submitted November 15, 1897.

Judgment for Appellant rendered November 22, 1897.

Wm. Newton for Appellant.

C. B. Nolan for Respondent.

IN THE SUPREME COURT OF THE STATE OF MONTANA.

The State of Montana ex rel.,
Henry Neill,

Plaintiff,

vs.

James M. Page,
Defendant.

Action to determine title to office of State Land Agent.

Argued and submitted October 14, 1897.

Judgment for Plaintiff rendered October 25, 1897.

Toole, Bach & Toole and Carpenter & Carpenter for Plaintiff.

C. B. Nolan for Defendant.

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

Oliver Ames et al.,
Complainants,

vs.

The Union Pacific Railway et al.,
Defendants.

Action for taxes.

Demurrer to petition overruled in March, 1897, and taxes thereupon paid
by defendants and case settled.

C. B. Nolan for Complainants.

IN THE SUPREME COURT OF THE STATE OF MONTANA.

The State of Montana ex rel.,

J. E. Serres,

Relator,

vs.

**The District Court of the First Judicial District of the State of Montana, in
and for the County of Lewis and Clarke, Department No. 1.**

Application for writ of mandate to compel District Court to reinstate appeal of relator from decision of State Medical Board.

Writ issued May 17, 1897.

Trial de novo had in District Court, resulting in judgment for State Medical Board and against Relator.

T. J. Walsh for Relator.

C. B. Nolan for Respondent.

IN THE SUPREME COURT OF THE STATE OF MONTANA.

The State of Montana,

Respondent,

vs.

Martin Bowser,

Appellant.

Action for rape.

Appeal from District Court of Flathead County.

Judgment of conviction affirmed.

Geo. H. Grubb & H. G. Swaney for Appellant.

C. B. Nolan for Respondent.

IN THE SUPREME COURT OF THE STATE OF MONTANA.

The State of Montana,

Respondent,

vs.

Frank Rogers,

Appellant.

Action for robbery.

Appeal from District Court of Lewis and Clarke County.

Judgment of conviction affirmed.

J. H. Clements and Harry Harris for Appellant.

C. B. Nolan for Respondent.

IN THE SUPREME COURT OF THE STATE OF MONTANA.**The State of Montana,****Respondent,****vs.****Wm. McMillian,****Appellant.****Action for rape.****Appeal from District Court of Cascade County.****Judgment of conviction reversed and case remanded for new trial.****Stanton & Stanton for Appellant.****C. B. Nolan for Respondent.**

IN THE SUPREME COURT OF THE STATE OF MONTANA.**The State of Montana,****Respondent,****vs.****Thomas Staggs,****Appellant.****Action for robbery.****Appeal from District Court of Silver Bow County.****Appeal dismissed.****B. S. Thrasher for Appellant.****C. B. Nolan for Respondent.**

IN THE SUPREME COURT OF THE STATE OF MONTANA.**The State of Montana,****Appellant,****vs.****Thomas Winwood,****Respondent.****Action for assault in the second degree.****Appeal from District Court of Silver Bow County.****Motion to dismiss appeal sustained.****John N. Kirk for Appellant.****C. B. Nolan for Respondent.**

IN THE SUPREME COURT OF THE STATE OF MONTANA.**The State of Montana,****Appellant,****vs.****John B. Johnson,****Respondent.**

Action to recover amount due for license as merchant.

Appeal from District Court of Lewis and Clarke County.

Judgment against State reversed.

C. B. Nolan for Appellant.

Carleton & Haywood for Respondent.

IN THE SUPREME COURT OF THE STATE OF MONTANA.

The town of White Sulphur Springs,

Respondent,

. vs.

Allen Pierce, Treasurer of Meagher County,

Appellant.

Action to recover road taxes collected.

Appeal from District Court of Meagher County.

Judgment affirmed.

C. B. Nolan and Smith & Gormley for Appellant.

Powell Black for Respondent.

IN THE SUPREME COURT OF THE STATE OF MONTANA.

The State of Montana,

Respondent,

vs.

Julius Rechnitz,

Appellant.

Action for grand larceny.

Appeal from District Court of Lewis and Clarke County.

Judgment of conviction reversed.

H. N. Blake and J. M. Clements for Appellant.

C. B. Nolan for Respondent.

IN THE SUPREME COURT OF THE STATE OF MONTANA.

Lyn D. Jobb,

Appellant.

vs.

The County of Meagher,

Respondent.

Action for services rendered as deputy sheriff on appeal from refusal of Board of County Commissioners to allow bill.

Appeal from District Court of Meagher County.

Judgment affirmed.

Smith & Gormley for Appellant.

C. B. Nolan for Respondent.

IN THE SUPREME COURT OF THE STATE OF MONTANA.**The State of Montana,****Respondent,****vs.****John Blöör,****Appellant.****Action for secreting public record.****Appeal from District Court of Lewis and Clarke County.****Judgment of conviction affirmed.****E. A. Carleton and T. J. Walsh for Appellant.****C. B. Nolan for Respondent.**

IN THE SUPREME COURT OF THE STATE OF MONTANA.**The State of Montana,****Respondent.****vs.****James Clancy,****Appellant.****Action for robbery.****Appeal from District Court of Silver Bow County.****Judgment of conviction affirmed.****William Newton for Appellant.****C. B. Nolan for Respondent.**

IN THE SUPREME COURT OF THE STATE OF MONTANA.**The First National Bank of Billings,****Appellant,****vs.****H. C. Province, Assessor,****Respondent.****Action to determine whether or not personal property of National Banks is subject to taxation.****Appeal from District Court of Gallatin County.****Judgment reversed.****O. F. Goddard for Appellant.****C. B. Nolan for Respondent.**

IN THE SUPREME COURT OF THE STATE OF MONTANA.**The State of Montana,****Respondent,****vs.****Ed. Howell,****Appellant.**

Action for assault in the second degree.

Appeal from District Court of Park County.

Judgment of conviction reversed.

Smith & Wilson for Appellant.

C. B. Nolan for Respondent.

IN THE SUPREME COURT OF THE STATE OF MONTANA.

First National Bank of Billings,

Appellant,

vs.

E. O. Clark, Treasurer of Sweet Grass County,

Respondent.

Action to determine whether or not personal property of National Banks is subject to taxation.

Appeal from District Court of Sweet Grass County.

Judgment reversed upon authority of case of Bank vs. Province.

O. F. Goddard for Appellant.

C. B. Nolan for Respondent.

IN THE SUPREME COURT OF THE STATE OF MONTANA.

The State of Montana ex rel. J. W. Lancaster,

Relator,

vs.

Frank H. Woody, Judge, etc.,

Respondent.

Application for writ of mandamas.

Application denied.

H. D. Moore for Relator.

C. B. Nolan for Respondent.

IN THE SUPREME COURT OF THE STATE OF MONTANA.

The State of Montana,

Respondent,

vs.

The Thomas Cruse Savings Bank,

Appellant.

Action to recover license tax.

Appeal from District Court of Lewis and Clarke County.

Judgment affirmed.

T. J. Walsh for Appellant.

C. B. Nolan for Respondent.

IN THE SUPREME COURT OF THE STATE OF MONTANA.

The State of Montana,

Respondent,

vs.

A. F. Moffatt,

Appellant.

Action for grand larceny.

Appeal from District Court of Silver Bow County.

Judgment of conviction affirmed.

A. B. Edler for Appellant.

C. B. Nolan for Respondent.

IN THE SUPREME COURT OF THE STATE OF MONTANA.

The State of Montana,

Respondent,

vs.

Harry Gill et al.,

Appellants.

Action for robbery.

Appeal from District Court of Madison County.

Judgment of conviction affirmed.

W. A. Clark for Appellant.

C. B. Nolan for Respondent.

IN THE SUPREME COURT OF THE STATE OF MONTANA.

Charles Sears,

Appellant,

vs.

Gallatin County,

Respondent.

Action to recover compensation as member of posse comitatus.

Appeal from District Court of Gallatin County.

Judgment affirmed.

W. S. Holloway for Appellant.

C. B. Nolan for Respondent.

IN THE SUPREME COURT OF THE STATE OF MONTANA.

The State of Montana ex rel. E. C. Knight

Respondent,

vs.

Alfred Cave, as Treasurer of Missoula County.

Appellant.

Action for Mandamus to compel the payment of a school warrant.

Appeal from District Court of Missoula County.

Judgment affirmed.

A. L. Duncan and C. B. Nolan for Appellant.

Bickford, Stiff & Hershey for Respondent.

IN THE SUPREME COURT OF THE STATE OF MONTANA.

The State of Montana ex rel. C. B. Nolan, Attorney General,
Plaintiff,

vs.

T. C. Marshall et al., as members of the State Arid Land Commission,
Defendants.

Application for a writ of prohibition.

Original proceeding.

Writ denied.

C. B. Nolan in pro per.

Donald Bradford & Wm. Wallace for Defendants.

IN THE SUPREME COURT OF THE STATE OF MONTANA.

The State of Montana ex. rel.
State Publishing Co.,
Relator,

vs.

State Furnishing Board,
Respondent.

Application for writ of mandamus.

Original proceeding.

Writ denied.

Walsh & Newman for Relator.

Cullen, Day & Cullen and C. B. Nolan for Respondent.

IN THE SUPREME COURT OF THE STATE OF MONTANA.

In re-disbarment of John Bloor.

Original proceeding.

Judgment of disbarment entered.

T. J. Walsh for Bloor.

C. B. Nolan for the State.



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Writ denied.

Campbell & Parr for Relators.

C. B. Nolan for Respondent.

IN THE SUPREME COURT OF THE STATE OF MONTANA.

Home Building and Loan Association,

Relator,

vs.

C. B. Nolan, Attorney General,

Respondent.

Application for writ of prohibition.

Original proceeding.

Writ granted.

F. E. Stranahan for Relator.

C. B. Nolan in pro per.

IN THE SUPREME COURT OF THE STATE OF MONTANA.

The State of Montana ex rel.

C. B. Nolan, Attorney General,

Plaintiff,

vs.

The Montana Railroad Company and

The Butte A. & P. R. R. Co.,

Defendants.

Action to have contract between above Railroad Companies declared invalid.

Original Proceeding.

Petition denied.

C. B. Nolan in pro per.

W. W. Dixon, Wm. H. De Witt and Wm. Scallon for Defendants.

IN THE SUPREME COURT OF THE STATE OF MONTANA.

The State of Montana ex rel.

Dildine,

Relator,

vs.

T. E. Collins, State Treasurer,

Respondent.

Application for writ of prohibition.

Original proceeding.

Writ granted.

J. K. Wood for Relator.

C. B. Nolan for Respondent.

IN THE SUPREME COURT OF THE STATE OF MONTANA.

The State of Montana ex rel.

James McDonel,

Respondents,

vs.

Valentine Jackey et al.,

Appellants.

Action to determine right to office of County Commissioner.

Appeal from District Court of Granite County.

Judgment reversed.

W. E. Moore and C. B. Nolan for Appellants.

IN THE SUPREME COURT OF THE STATE OF MONTANA.

The State of Montana ex rel.

Guy W. Stapleton,

Relator,

vs.

E| S. Booth and M. L. Wines,

Respondents.

Petition to disbar respondents.

Original proceeding.

Petition dismissed.

C. B. Nolan for Relator.

Wm. Scallon for Respondents.

IN THE SUPREME COURT OF THE STATE OF MONTANA.

The State of Montana ex rel.

Buck,

Appellant,

vs.

The Board of County Commissioners of Ravalli County,

Respondent.

Application for writ of certorari.

Appeal from District Court of Ravalli County.

Judgment affirmed.

H. C. Stiff, L. J. Knapp and C. B. Calkins for Appellant.

C. B. Nolan for Respondent.

IN THE SUPREME COURT OF THE STATE OF MONTANA.

The State of Montana,
Respondent,

vs.

John W. Brown,
Appellant.

Action for grand larceny.

Appeal from District Court of Flathead County.

Appeal dismissed.

Logan & Brennan and M. D. Baldwin for Appellant.

C. B. Nolan for Respondent.

IN THE SUPREME COURT OF THE STATE OF MONTANA.

The State of Montana,
Respondent,

vs.

Frank L. Carter,
Appellant.

Action for assault.

Appeal from District Court of Sweet Grass County.

Appeal dismissed.

Sidney Sanner for Appellant.

C. B. Nolan for Respondent.

IN THE SUPREME COURT OF THE STATE OF MONTANA.

Henry Buck,
Appellant,

vs.

Jas. T. Fitzpatrick, as County Clerk and Recorder of Ravalli County, etc.,
Respondent.

Action for an injunction restraining Respondent from preparing official ballot so as to submit question of removal of county seat.

Appeal from District Court of Ravalli County.

Judgment reversed.

H. C. Stiff, C. B. Calkins and L. J. Knapp for Appellant.

C. B. Nolan, R. A. O'Hara and R. Lee McCulloch for Respondent.

IN THE SUPREME COURT OF THE STATE OF MONTANA.

The State of Montana ex rel.
J. E. Swindlehurst,

Relator,

vs.

The District Court of the 6th Judicial District in and for Park County,
Respondent.

Application for writ of certiorari.
Original proceeding.
Writ denied.
A. J. Campbell for Relator.
C. B. Nolan for Respondent.

IN THE SUPREME COURT OF THE STATE OF MONTANA.

The State of Montana,
Respondent,
vs.
Everton J. Patch,
Appellant.

Action for forgery.
Appeal from District Court of Deer Lodge County.
Judgment of conviction affirmed.
B. S. Thresher for Appellant.
C. B. Nolan for Respondent.

IN THE SUPREME COURT OF THE STATE OF MONTANA.

The State of Montana,
Respondent,
vs.
Cicero L. Bristol,
Appellant.

Action for embezzlement as County Treasurer.
Appeal from District Court of Teton County.
Argued and submitted November 22, 1898.
Judgment reversed.
Henry N. Blake for Appellant.
C. B. Nolan for Respondent.

IN THE CIRCUIT COURT OF THE UNITED
STATES—NINTH CIRCUIT.

In the matter of the application of William Day for a writ of habeas corpus.
Writ denied.
John N. Kirk for Petitioner.
C. B. Nolan for the State.

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL
DISTRICT OF

THE STATE OF MONTANA, IN AND FOR THE COUNTY OF RAVALLI.

The State of Montana ex rel.

John T. Williams, .

Relator,

vs.

John W. Mayhew, et al.,

Respondents.

Action to determine right to office of County Commissioner.

Judgment for Relator. (Reversed in Supreme Court.)

R. A. O'Hara and C. B. Nolan for Respondents.

A. J. Craven and C. D. Calkins for Relator.

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL
DISTRICT OF THE

STATE OF MONTANA, IN AND FOR THE COUNTY
OF BEAVERHEAD.

The State of Montana,

Plaintiff,

vs.

James W. Fetzer,

Defendant.

Action for perjury, resulting in the conviction of the defendant and a sentence to 2 1-2 years' imprisonment in the State Prison.

J. B. Poindexter and C. B. Nolan for the State.

IN THE DISTRICT COURT OF THE SECOND JUDICIAL
DISTRICT OF

THE STATE OF MONTANA, IN AND FOR THE COUNTY
OF SILVER BOW.

The State of Montana,

Plaintiff,

vs.

M. L. Wines and E. S. Booth,

Defendants.

Action for subornation of perjury, resulting in the acquittal of the defendants, upon the direction of the Court.

Guy W. Stapleton and C. B. Nolan for the State.

Wm. Scallon, Frank E. Corbett and John W. Cotter for Defendants.

IN THE SUPREME COURT OF THE UNITED STATES.

In the matter of the application of Yot Sang for a writ of habeas corpus.

Petition for writ of habeas corpus upon conviction for conducting laundry without a license.

Appeal by State from United States Circuit Court, Ninth Circuit, District of Montana.

Argued and submitted October 26, 1898.

Reversed.

Alex. C. Botkin for Petitioner and Respondent.

C. B. Nolan for Appellant.

The following contests involving the right of the State to 160 acres of land, in each case, under selections made by it, and which were settled upon by homestead entrymen, were initiated, and from a decision of the Register and Receiver adverse to the State appeals were taken to the Commissioner of the General Land Office at Washington, which appeals resulted in favor of the State:

IN THE UNITED STATES LAND OFFICE AT BOZEMAN, MONTANA.

The State of Montana,

Contestant and Appellant,

vs.

William C. Chappin,

Claimant.

C. B. Nolan for Contestant and Appellant.

The State of Montana,

Contestant and Appellant,

vs.

James Jedlicka,

Claimant.

C. B. Nolan for Contestant and Appellant.

The State of Montana,

Contestant and Appellant,

vs.

Joseph Pokorny,

Claimant.

C. B. Nolan for Contestant and Appellant.

J. V. Bogart for Claimant.

During the present year, through petitions and informations filed by the Attorney General in the District Courts of different counties for the purpose of escheating estates of deceased persons to the State of Montana, the following sums of money were ordered paid into the State Treasury from the following estates respectively:

Estate of Michael Donoho.....	\$ 371 24
Estate of James Clark.....	1,452 39
Estate of John Bushnell.....	748 24
Estate of John Beach.....	71 98
Estate of T. F. Williams.....	729 18
Estate of John Doyle.....	82 31
Estate of Samuel Adams.....	9 40
Estate of Joseph Fischer.....	14 07
	<hr/>
	\$3,478.75

In connection with the Board of Prison Commissioners, there have also been several cases in which orders were obtained from the District Courts, ordering guardians of insane persons to pay to the State the sum required for the care and maintenance of such insane persons at the Asylum at Warm Springs.



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IN THE SUPREME COURT OF THE STATE OF MONTANA.

James Greeley,

Appellant,

vs.

Cascade County,

Respondent.

Action for services rendered.

Appeal from District Court of Cascade County.

Thos. E. Brady for Appellant.

C. B. Nolan for Respondent.

IN THE SUPREME COURT OF THE STATE OF MONTANA.

Mrs. M. Courtney,

Appellant.

vs.

Missoula County,

Respondent.

Action to recover taxes paid.

Appeal from District Court of Missoula County.

Argued and submitted November 22, 1898.

M. L. Crouch for Appellant.

C. B. Nolan for Respondent.

IN THE SUPREME COURT OF THE STATE OF MONTANA.

Thomas R. Hinds, as Treasurer of Silver Bow County.

Appellant,

vs.

Clara M. Wilcox,

Respondent.

Action to recover inheritance tax.

Appeal from District Court of Silver Bow County.

Argued and submitted November 22, 1898.

C. B. Nolan for Appellant.

W. W. Dixon for Respondent.

IN THE SUPREME COURT OF THE STATE OF MONTANA.

The State of Montana,

Respondent,

vs.

Joseph Shafer,

v

Appellant.

Action for murder.

Appeal from District Court of Silver Bow County from a judgment of conviction of murder in the first degree.

Argued and submitted November 29, 1898.

M. J. Cavanaugh, Wines & Wines, E. S. Booth and Bernard Noon for Appellant.

C. B. Nolan for Respondent.

IN THE SUPREME COURT OF THE STATE OF MONTANA.

The State of Montana,

Appellant,

vs.

David Auchard,

Respondent.

Action for obstructing public road.

Appeal from District Court of Lewis and Clarke County.

Argued and submitted November 23, 1898.

C. B. Nolan and R. R. Purcell for Appellant.

Balliet & Clements for Respondent.

IN THE SUPREME COURT OF THE STATE OF MONTANA.

The State of Montana,

Respondent.

vs.

Dudley N Dickinson,

Appellant.

Action for grand larceny.

Appeal from District Court of Silver Bow County.

Argued and submitted November 16, 1898.

Toole, Bach & Toole for Appellant.

C. B. Nolan for Respondent.

IN THE SUPREME COURT OF THE STATE OF MONTANA.

The State of Montana,

Appellant,

vs.

F. W. Morris,

Respondent.

Action for practicing medicine without license.

Appeal from District Court of Missoula County.

Argued and submitted November 21, 1898.

C. B. Nolan for Appellant.

T. C. Marshall for Respondent.

IN THE SUPREME COURT OF THE STATE OF MONTANA.

The State of Montana,
Respondent,

vs.

Mike Rolla,
Appellant.

Action for murder.

Appeal from District Court of Silver Bow County.

Argued and submitted November 4, 1898.

Smith & Wilson for Appellant.

C. B. Nolan for Respondent.

IN THE SUPREME COURT OF THE STATE OF MONTANA.

The State of Montana,
Respondent,

vs.

Spotted Hawk,
Appellant.

Action for murder.

Appeal from District Court of Custer County.

Merrill & Farr and Sanders & Sanders for Appellant.

C. B. Nolan for Respondent.

IN THE SUPREME COURT OF THE STATE OF MONTANA.

The State of Montana,
Respondent,

vs.

George S. Geddes,
Appellant.

Action for murder.

Appeal from District Court of Custer County.

O. F. Goddard, C. R. Middleton and Wm. H. De Witt for Appellant.

C. B. Nolan for Respondent.

IN THE SUPREME COURT OF THE STATE OF MONTANA.

The State of Montana,
Appellant,

vs.

M. L. Wines and E. S. Booth,
Respondents.

Action for subornation of perjury.

Appeal from District Court of Silver Bow County.

C. B. Nolan for Appellant.

IN THE SUPREME COURT OF THE STATE OF MONTANA.

The State of Montana,

Respondent,

vs.

Thomas Welch,

The State of Montana,

Respondent,

vs.

Thomas Welch,

Appellant.

Action for murder.

Appeal from District Court of Custer County.

O. F. Goddard, C. R. Middleton and Wm. H. De Witt for Appellant.

C. B. Nolan for Respondent.

IN THE DISTRICT COURT OF THE NINTH JUDICIAL
DISTRICT OF

THE STATE OF MONTANA, IN AND FOR
GALLATIN COUNTY.

The Boston Blower Company,

Plaintiff,

vs.

The State Board of Education et al.,

Defendants.

Action on contract.

Demurrer to complaint sustained and amended complaint filed.

Luce & Luce for Plaintiff.

C. B. Nolan for Defendants.

Proceedings are now pending in the District Court of the Ninth Judicial District, in and for Meagher County, to cause the following estates to be escheated to the State of Montana:

Estate of Wm. Welch.

Estate of Thomas Donohoe.

Estate of John Steele.

In the United States Land Office at Kalispell, Montana, there is now pending a contest involving the title of the State to 160 acres of land for which one Luella Haskell made homestead application. The decision of the Local Land Office was in favor of the State, and the case is now on appeal to the Commissioner of the General Land Office.

The following contests have also been initiated on behalf of the State in the United States Land Office at Missoula, Montana, on account of conflicts between selections made by the State and homestead entries made after such selctions were filed:

State vs. Joseph Beaton.

State vs. Charles Harris.

State vs. William A. Claybourn.

State vs. Alexander C. McDonald.

Statt vs. David Fairservice.

State vs. Charles J. Trombly.

State vs. Ralph H. Brink.

State vs. John Engstrom.

State vs. Ole Ronstrom.

State vs. Perry Smith.

State vs. Charles E. Fairbanks.

Synopsis of Opinions Rendered and Rulings Made, from January 1, 1897, to December 1, 1898.

ADVERTISEMENTS for work on bridges should be published in official county paper.

ASSESSOR cannot put greater or less value upon real estate than that fixed by Board of Appraisers.

ASSESSMENT of property in possession of Sheriff on first Monday in March, under proceedings to foreclose chattel mortgage, should be to mortgagee.

ARID LAND COMMISSION: In re-rights, duties and powers of, including power to purchase water, etc.

ASSESSMENT: Taxpayer entitled to deduct debts from credits in making statement.

ASSESSOR: No law authorizing him to make assessment on basis of 80 per cent. of the value of property.

ADVERTISEMENT: For bids by managers of Soldiers' Home should be charged for at a reasonable rate in the absence of a specific contract.

ASSESSMENT: Under Sec. 3723 Pol. Code, may be made at any time, and when made, the taxes do not become delinquent until other taxes become so.

ASSESSOR cannot be compelled to make duplicate Assessment Book for Cities.

ASSESSMENT BOOK: No law requiring duplicate Assessment Book for city of third class.

ASSESSMENT of certificates of deposit on Merchant's National and First National Banks should be made as credits.

ASSESSMENT: Possessory title to unpatented United States lands whether assessable?

APPEAL: Order granting or refusing change of venue not appealable.

ATTACHMENT: No fee in excess of \$1.00 can be charged for service and levy of writ of.

ASSESSMENT of ditches and water rights. Discussion as to.

ASSESSOR: No expenses can be allowed to, by commissioners in making assessment.

ASSESSMENT: No allowance to be made on account of mortgages in assessing real estate.

ATTACHMENT: Mortgaged property seized under attachment is not relieved of attachment lien until the amount paid by plaintiff on mortgage has been repaid.

AGRICULTURAL COLLEGE: Sureties on building contractor's bond not liable for non-performance by contractor of provisions not in original contract.

ASSESSMENT of National Banks. How made.

ATTACHMENT: Only wages earned within thirty days next preceding are exempt.

BONDS—OFFICIAL: A number of separate instruments may constitute.

BOUNTY CLAIMS are not invalid because no appropriation was made.

BONDS—OFFICIAL: Provision of Code requiring officers to file within a given time directory and not mandatory.

BOILER INSPECTOR: Fees of for inspecting all boilers in cities, \$5.00. In all other places the fee is \$10.00 for single boiler and \$5.00 for each additional boiler connected.

BUILDING AND LOAN ASSOCIATIONS: Law of 1897, applicable to all, both foreign and domestic, and this, whether the latter have elected to come under its provisions or not.

SAME: As to deposit with State Treasurer by foreign associations.

BANKS: National Banks cannot be compelled to pay license.

BOARD OF TEXT BOOK COMMISSIONERS has authority to select books for high schools as well as other public schools.

BONDSMEN: Of Architect Mann (In re-Capitol Building) contract may be released.

BANKS: State Banks cannot be compelled to furnish list of stockholders to assessor, but National Banks can be. Personal property of suspended National Banks cannot be taxed. (Three opinions.)

BOILER INSPECTOR can only revoke license of engineer on the grounds enumerated in Sec. 558, Pol. Code.

COUNTY COMMISSIONERS cannot employ anyone to count cattle during the winter for assessment purposes.

COUNTY COMMISSIONERS: Those elected in old counties in November, 1896, take office November 8, 1897.

CORPORATIONS—FOREIGN need not comply with Sections 1012 and 1030, Pol. Code.

CITY COUNCIL may provide that warrants shall draw interest after being registered.

COUNTY COMMISSIONERS have authority to determine number of deputies to be allowed county officers and to fix their compensation, within the limits provided by law.

CONSTABLES: Terms of those appointed by County Commissioners expire at next general election. Have the right to perform duties outside of township for which elected. Law changing emoluments of does not affect appointee to fill unexpired term.

COUNTY SURVEYOR: 1897 road law could not change fees of present incumbent.

COMMISSIONER OF AGRICULTURE, LABOR AND INDUSTRY must collect statistics. Cannot appoint assessors as deputies.

COUNTY COMMISSIONERS can bond existing indebtedness of counties without first submitting proposition to a vote of the people.

COUNTY WARRANTS, ETC.: No officer or deputy can deal in them.

CITIZENSHIP: Restoration of convict to, must be by pardon.



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SAME: Appointments of to fill vacancies only good until expiration of term for which predecessor elected.

COSTS: No authority for taxing against defendant in misdemeanor case in Justice's Court.

COUNTY OFFICERS: Cannot appoint greater number of compensation receiving deputies than is allowed by Sec. 4597, Pol. Code.

COUNTY COMMISSIONERS: Have no authority to rescind action of former board in declaring an institution purely charitable and therefore exempt from taxation.

SAME: Cannot invest funds on hand, but can redeem outstanding bonds before maturity with consent of bondholders.

COUNTY SURVEYOR: As to rights, powers and duties of.

CORPORATIONS: Under our laws may be organized to act as executors or administrators. (Two opinions.)

COUNTY COMMISSIONERS: As to right of to compromise claim against Sheriff for fees collected.

CLERK OF DISTRICT COURT: Where several defendants appear jointly, fee of \$2.50 should only be collected once. Where they appear severally, fee should be collected from each.

COUNTY PRINTING: Rules governing County Commissioners in letting contracts for same. (Two opinions.)

COUNTY TREASURER: As to disposition of funds in hands of Treasurer belonging to escheated estates.

CLERK OF DISTRICT COURT: Is prohibited from practicing law.

COUNTY SURVEYOR: Duties and compensation of.

COUNTY CLERK: Deputy of cannot practice law.

CITIES AND TOWNS: Additions to, must be adjoining, contiguous or abutting.

COUNTY ATTORNEY: Deputy of must possess same qualifications as to residence and citizenship as principal.

CAPITOL BUILDING COMMISSIONERS: As to constitutionality of Act of 1897 relating to, and as to whether or not they may employ architects outside of State.

COSTS: Taxation of when new trial ordered after appeal.

COUNTY SEAT: As to proceedings for removal of.

COUNTY SUPT. OF SCHOOLS: Cannot be allowed expenses. (Two opinions.)

COUNTY SEAT: Who are qualified electors in election for removal of.

COMMISSIONER OF AGRICULTURE, L. AND I.: Questions No. 22, 23 and 24, Sec. 762 in H. B. No. 11, laws of 1897, to be asked. Answers to may be refused. (Two opinions.)

COUNTY COMMISSIONERS: Entitled to collect mileage at rate of 10 cents per mile.

COUNTY SEAT: There might be more than one contestant for candidacy. In that event commissioners would be called upon to decide which

should be candidate, but the petition must contain signatures of a majority of the votes cast at the last general election. (Two opinions.)

COUNTY TREASURER: As to right of to issue redemption certificates upon certain settlement by commissioners with Higgins estate.

COUNTY SEAT: Law as to proceedings to hold election for change of.

CONVICTS: In State Prison cannot be taken to another county to be used as witnesses. Depositions may be taken.

CANDIDATE FOR OFFICE: Need not possess qualifications at time of nomination, but must at time of election.

CEMETERY: Title to State land used for does not vest under Sec. 2880, Pol. Code. Minimum price must be paid therefor.

COUNTY SUPT. OF SCHOOLS: As to qualifications for office of.

CONVICT: Cannot be removed from State Prison to be witness for defendant in criminal case.

COUNTY AUDITOR: Only counties of first, second and third class entitled to.

COUNTY COMMISSIONERS: May employ additional counsel to assist County Attorney.

COUNTY SURVEYOR: As to compensation of.

CITIZENS: Law as to the naturalization of.

COUNTY SEAT: Requirements as to petition for removal.

CITY ELECTION: Law as to, for annexation of contiguous territory.

COUNTY TREASURER: Should pay out money on orders of Justices of the Peace under Sec. 2463 of the Penal Code.

COUNTY COMMISSIONERS: As to time of election of in counties created in 1893.

CITIZEN: Child born abroad of parents who are citizens is a citizen of the United States.

COUNTY TREASURER: Should in all cases make deed of property to county where it is bought in by county for delinquent taxes.

COUNTY CLERK: Duty of as to War Revenue Stamp Tax Act.

CRIMINAL LAW: Where the higher grade of an offense which is divisible into degrees is charged, and under the law a conviction can be secured for a lesser grade of the offense constituting a misdemeanor, the jury should first acquit of the higher grade of the offense before proceeding to consider the lesser grade.

COUNTIES: Must pay bills contracted by Secretary of State for standard of weights and measures.

COUNTY CLERK AND RECORDER: Not prohibited from recording an instrument which does not bear stamp under War Revenue Act.

CITY MARSHAL: Not entitled to fees or percentages in criminal cases.

COUNTY SUPERINTENDENT OF SCHOOLS: May not engage in teaching during term of office.

SAME: Must have taught one year in this State and hold first class certificate. The law in this respect is constitutional.

COUNTY COMMISSIONERS: No authority for holding election for in Meagher County in November, 1898.

SAME: No appeal from action of, while sitting as a Board of Equalization.

COUNTY SUPERINTENDENT OF SCHOOLS: Must hold professional or highest county grade of certificate.

CLERK OF DISTRICT COURT: No election for in Valley County in November, 1888.

CITIZEN: Children born of alien parents in the United States are.

COUNTY COMMISSIONERS: Terms of in Ravalli County.

COURT BAILIFF: Should be appointed by Board of County Commissioners, rather than by Sheriff.

DEPUTIES: Commissioners have authority to fix number and compensation of for County Officers.

DITCHES AND CANALS: How assessed.

DIVORCE: Sec. 146, Civil Code, limiting time within which parties can marry after divorce was repealed by H. B. No. 142, laws of 1895. (Two opinions.)

DEPUTIES: Appointment of, within limit prescribed by law, without express authorization of County Commissioners, would not disentitle them to pay.

DEEDS: Law of this State does not require same to be witnessed.

DEPUTIES: Granting leave of absence to without pay discretionary with superior officer rather than with County Commissioners.

DENTIST: The law as to the revocation of certificate of by Board of Examiners.

DEAF AND DUMB ASYLUM: Indian and half-breed children may be admitted to.

EMINENT DOMAIN: City may acquire property by, but not for private purposes.

ELECTIONS: Residence upon public domain, as settler, loses residence elsewhere.

SAME: Property qualification for Alderman must exist at time of election.

EXTRADITION: Agent of State receives actual expenses.

EXECUTION: Post office furniture belonging to ex-Postmaster is not exempt from.

ELECTIONS: Removal of voter from one precinct to another in same district will not disqualify him.

ESTATES: Law as to fees of administrator in.

ELECTIONS: Registration must be completed within one week.

ELECTIONS: Nine opinions as follows: All persons entitled to vote must be registered for the election in November, 1898.

Same name may appear in two places on ballot under different political designations, providing nominations have been regularly obtained.

No person can vote at, unless registered.

A person may be elected to an office if voted for, with the use of pasters, or by writing his name in the proper place on the ballot.

Votes cannot be "sworn in." It is necessary to register in order to vote. (Two opinions.)

As to printing of ballots in Flathead County.

Soldier may vote if he possesses the necessary qualifications as to residence, etc.

Person living upon Indian allotment, who is otherwise qualified, may vote at. (Two opinions.)

The law as to marking ballots.

FEES: Of County Clerk of Park County for proof reading records in recreation of Sweet Grass County, belong to Park County.

FISH: Killing of with powder must be intentional to constitute offense.

FEES: None for certifying and transmitting transcript to District Court by a Justice of the Peace in a criminal case.

FISH AND GAME LAW: No close season for fish.

FEES: Of County Clerk and Recorder, under Sec. 4170, Pol. Code, limited to \$6.00 per day.

FELONY: Citizen may shoot person in act of committing a felony or in order to secure apprehension of person who has committed same.

FREE TEXT BOOKS: Contractors must provide same at contract prices.

FOREIGN CORPORATIONS: Not amenable to laws of this State, as provided by Secs. 1030 to 1038 of the Civil Code.

FOOD: The law as to adulteration of.

FOREIGN CORPORATIONS: The law as to the right of, to do business in this State.

GAME: Lawfully caught or killed may be shipped.

GAMBLING LAW: Playing cards or dice for drinks prohibited by.

SAME: Playing billiards or pool for drinks not prohibited by.

SAME: Playing cards or dice for drinks is gambling.

SAME: Selling pools on local or foreign horse races not prohibited by. Dice, cards and "Nickle-in-the-slot" machines are prohibited by.

GAME LAW: No liability under for catching and shipping wild swan and ducks for scientific domestication.

GAMBLING LAW: Sec. 8 (law of 1897) unconstitutional.

SAME: Prohibits use of "Nickle-in-the-slot" machines.

GAME: Game Law prohibits chasing of antelope, etc., with dogs.

SAME: Game Law does not prohibit shipment of Rocky Mountain sheep if killed in another State.

GAMBLING LAW: Prohibits "Knickle-in-the-slot" machines.

GAME AND FISH LAW: Prohibits catching fish for sale.

HOUSE BILL NO. 294. Is unconstitutional.

INSURANCE COMPANIES: Removal of authority. Certificate of authority to cover one year. Sec. 670 Civil Code carries with it Sec. 583, Compiled Statutes. Sec. 677 Civil Code, is legal.

INSANE: State is liable for maintenance of.

INHERITAGE TAX LAW: Precludes County Attorney from acting as attorney for estate from which tax is due.

INFORMATION: When leave is granted by court to file, it makes no difference if proceedings on preliminary examination are irregular.

INSURANCE: All insurance on property in this State must be placed through local agent, but this does not apply to reinsurance.

INHERITANCE TAX LAW: Construed as to Sec. 1. of Act.

SAME: Duties of Clerk of Court as to.

INDIANS: Sheriff has no jurisdiction to arrest on reservation for crime committed outside of reservation.

INHERITANCE TAX LAW: Tax is only levied where, after payment of debts there is property which passes to heirs.

SAME: Construction of generally.

INSURANCE AGENT: Upon death, resignation or removal of agent, certificate of authority issued to him expires.

INSURANCE COMPANIES: Assessment life companies not required to pay \$300.00 fee for admission to State.

INDIAN RESERVATION: Is within different counties for all purposes not in conflict with authority and jurisdiction of the United States Government.

INFORMATION: As to sufficiency of, for assault with intent to kill.

INHERITANCE TAX LAW: Tax is only levied upon property which passes after debts against estate have been paid.

SAME: Real property passing to direct heirs is subject to taxation if its value exceeds \$500.

INDIAN RESERVATIONS: Property on is subject to taxation for school purposes as well as for other purposes if territory is attached to some school district.

SAME: Persons living upon cannot vote unless in employ of the government and secured a residence in some county in the State before going on reservation. (Five opinions.)

SAME: A person not in the employ of the government, who goes upon an Indian reservation with the intention of remaining loses his residence in the State and cannot vote.

JUDGES: Pay of, how computed for part of year.

JURORS: As to what Sections of Code govern.

JUSTICE OF THE PEACE: Cannot collect \$5.00 fee for trial until after jury sworn.

JAIL: Imprisonment in jail established by order of County Commissioners at place other than county seat would be legal.

JUSTICE OF THE PEACE: Can only collect \$2.50 for entry of judgment for defendant, where issue is joined and trial had.

SAME: Cannot charge in excess of \$7.50 in any case.

SAME: Cannot demand costs in advance as condition precedent to institution of criminal proceeding.

SAME: Process of is ineffectual outside of county.

JURY TRIAL: State may demand in criminal case, notwithstanding fact that defendant waives a jury.

JUSTICE OF THE PEACE: Has jurisdiction coterminous with the limits of the county.

SAME: As to legality of a certain judgment of.

LICENSE: Periods for which may be issued.

LEGISLATIVE ASSEMBLY: Mileage to be allowed members.

LICENSE: Twenty-seven opinions as follows:

State companies doing business within limits of county must pay.

Sec. 4074, Pol. Code, is unconstitutional, and Sec. 2751 of original pamphlet Code is the law.

Treasurer must collect \$1.00 for issuing. House Bill No. 162 (Laws 1897) did not repeal Sec. 4638 Pol. Code.

License to do business must be paid before business is carried on.

License Law of 1897, Class "B" is not limited to incorporated cities and towns.

Persons retailing and wholesaling liquors must have license for both.

Professional partnerships should pay a license for each individual member.

Only one license required in case of corporations.

Legislature can change amount of license and licensee is compelled to pay the difference.

Local insurance agents pay \$5.00 per annum.

As to basis upon which the business of banks is to be determined—Query.

Fact that town is not incorporated does not relieve one from payment of license to sell water.

Class "B" of law of 1897 amends Sec. 4064, Pol. Code, in respect to sales of wines and distilled liquors.

County Treasurer should collect licenses past due.

Lodges, etc., investing in County warrants and securities as an investment not liable for license under Sec. 4061 Pol. Code. Private boarding houses are liable for license.

Liquor dealers selling in quantities less than one quart must pay retail licenses.

Treasurer cannot extend license because licensee transacts no business for a portion of the time for which it is granted.

Constitutionality of House Bill No. 269 (1897) in so far as it affects interstate railroads doubted.

Treasurer authorized to collect \$1.00 for issuing.

A city has the right to collect license by ordinance, provided no greater amount is charged than State collects.

The State is entitled to its proportionate share of penalty collected on delinquent licenses.

As to collection of from transportation and telegraph companies.

Fee of \$1.00 for issuing should be collected by County Treasurer.

Agent soliciting orders for foreign concern not required to pay license.

All private and public telephone companies are required to pay a license of 75 cents per year for each instrument in use.

County or State license not transferable.

MEDICAL EXAMINERS: County Attorney must appear in District Court for Board of.

MANDAMUS: Will not lie to compel County Commissioners to appoint a County Physician under Sec. 3206 Pol. Code.

MEDICAL EXAMINERS BOARD OF: Appropriation for not available. Expenses of. Secretary cannot draw salary.

MORTGAGE: Mortgagor has twelve months for redemption.

MINES: Fifteen or more men must be employed in mine at same time before Sec. 2 (Laws 1897, page 67) has application.

MORTGAGES: Not incumbent upon mortgagee or his agent to produce proof of authority to enter satisfaction of.

MARRIAGE LICENSE: County Clerk has no duty to perform in connection with.

MARRIAGE LICENSE: Issued by Clerk of Court. Clerk and Recorder has no duty to perform in relation to. No fee legally chargeable, except folio rates.

MILITIA: Enlistment of County Officer in would not relieve incumbent of consequences that attach by reason of absence from State beyond term prescribed.

MARRIAGE LICENSE: Not required to be stamped under War Revenue Law.

NATIONAL GUARD: Member who has served term of enlistment is entitled to discharge, and cannot be compelled to obey orders thereafter.

NATIONAL BANKS: Assessment of.

NATURALIZATION: The law as to.

OFFICER: Appointed to fill vacancy receives same salary as the elected officer whose unexpired term he fills.

OFFICERS: Salary—How computed for part of year.

SAME: Code provision requiring bond to be filled within certain time is directory and not mandatory.

SAME: Living within limits of new county, must remove to within new limits of old county in which he was elected, or office becomes vacant.

SAME: If one elected does not qualify, incumbent holds over until successor qualifies.

SAME: If one elected is ineligible, it follows that there was no election, and incumbent holds over.

ORPHAN'S HOME: As to adoption of child from.

OSTEOPATHS: Not entitled to practice without submitting to the requirements of the provisions of the Medical Board Act.

ORPHAN'S HOME: Child over 16 years of age should not be maintained in.

OFFICERS: Except Senators and Representatives, can hold two offices at same time if they are not incompatible.



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PRIVILEGED COMMUNICATION: Statements made by mother to son regarding character of son's wife are privileged, if made in good faith.

POSTMASTER: May hold civil office in this State.

PUBLIC PRINTING: Legality of contract as to.

REFORM SCHOOL: When claims against are disallowed, they can only be paid by an appropriation made by the legislature.

RAILROAD COMPANIES: Can be compelled to pay license to extent of business done within State.

ROAD DISTRICTS: County Commissioners have no power under the law to provide a general fund for all road money, nor can whole county be declared one district.

ROAD TAX: Generally worked out in one day. Duties and compensation of County Surveyor.

ROAD SUPERVISOR: Office of abolished by Fifth Legislative Assembly.

ROAD (PUBLIC): Cannot be closed without due process of law.

SAME: What is? Penalty for obstructing.

ROAD TAX: Collection of cannot be enforced before October 1.

SAME: Collection of special.

ROADS: County Commissioners have authority to expend any sum less than \$10,000 on a road without submitting the question to a vote of the people, notwithstanding the total expenditures for general road purposes far exceeds that sum. Sec. 5, Art. XIII. of the Constitution construed.

SAME: Width of all public highways, excepting bridges, alleys and lanes, must be at least sixty feet.

ROADS AND HIGHWAYS: Streets and alleys in unincorporated towns are roads and highways and are under supervision of County Surveyor.

ROAD TAXES: H. B. No. 280 (Laws 1897) governs the levy, collection and distribution of. Cannot be collected of persons over 45 years of age.

RAILROADS: No regulation of rate for passenger transportation.

REGISTRATION: Number of days, districts and agents limited to maximum prescribed by Sec. 1200 P. C.

REGISTRY AGENT: U. S. Commissioner not eligible to be.

REGISTRATION: Only six days, commencing at 9 A. M. of the third Monday prior to election, and from 9 to 9 every day until the following Saturday, are allowed for.

REGISTRY AGENT: Notary Public not eligible to be.

RESIDENCE: What constitutes.

REGISTRY AGENT: Must be appointed at June meeting of Board of County Commissioners.

SAME: Candidate for office cannot be.

RESIDENCE: What constitutes.

REGISTRY AGENT: May designate one place in district and one place in each precinct where he will register electors.

SAME: Should keep office open continuously from 9 A. M. until 9 P. M. on days specified.

SAME: Are county officers and may appoint deputies.

SAME: Should not require naturalized elector to produce naturalization papers or make affidavit more than once.

REGISTRATION: Voters can only be registered by Agent at the places designated in published notice.

SAME: Voters must be residents of the district in which they register.

SCHOOL LANDS: How sold and leased and on what terms.

SHERIFF: Fees of.

SCHOOL DISTRICT: Must maintain school for three months before it is entitled to an apportionment of public school money. Sec. 1757 Pol. Code, constitutional.

SHERIFF: As to mileage allowed to.

SCHOOL FUNDS: As to apportionment of.

SHERIFF: Fees of in criminal cases covered by Sec. 4604 Pol. Code.

SPECIAL SCHOOL TAX: Sec. 1940 Pol. Code was amended in 1897.

SCHOOL ELECTIONS: Women over twenty-one years of age may vote at. Number of nominations for trustee limited to number to be elected. Elector might participate in more than one nominating convention.

SAME: Woman is legal voter at. May sign petition in re free text books, if a legal voter, and Trustees may also. Getting signatures of two of three Trustees not lawful without notifying third.

SAME: Signers of petition for submission of question of free text books may withdraw their names before final action of board.

SCHOOLS—Location of school house subject to action of electors. Resident of district cannot recover taxes paid, on ground of failure of trustees to perform duty.

STATE EXAMINER: Bondsmen of liable for proximate result of non-discharge of duties.

SHERIFF: Is only entitled to mileage at rate of ten cents per mile.

SALARY: Of County Officers may be paid monthly.

SCHOOL ELECTIONS: In districts of second and third class no uniformity in ballots need be observed.

SHERIFF: Cannot demand fees and expenses in advance in attachment suit for keeping attached property, unless amount of same is fixed by order of court. Otherwise when fixed.

SCHOOL SUPERINTENDENT: Cannot collect from county expenses incurred in visiting schools.

SALARY: Incumbent of office of Treasurer of Ravalli County having been declared to be the de jure officer, salary of should be paid.

SAME: Assistant State Examiner is entitled to salary, although he has not yet filed his bond.

SHERIFF: No appropriation for compensation to sheriffs for transportation of convicts to penitentiary. At present paid out of appropriation for maintenance of convicts.

SAME: Sec. 2977 Penal Code, regulates pay for transportation of convicts.

SURVEYOR (County): Cannot charge for team hire for transportation of himself.

SAME: As to compensation of.

SHERIFF: Entitled to mileage at ten cents per mile in civil cases.

STATE LAND AGENT: Draws salary under law of 1897.

SHERIFF: Draws mileage under Sec. 4604 Pol. Code for transportation of children to reform school.

SHEEP INSPECTOR: Compensation of deputy, after quarantining sheep, should be paid by owner.

SCHOOL DISTRICT: Proceedings for levy and collection of tax for.

SHERIFF: As to mileage for transportation of insane.

SAME: Interference with while serving process on Indian Reservation.

SCHOOL TAX: Levy and collection of.

STATE LAND AGENT: Neil vs. Page. Opinion on controversy between. (Three opinions.)

STATE LANDS: Sale and leasing of. General discussion.

SCHOOLS: Employment of teachers in is not "additional school facilities" for which money can be raised by special tax.

SHERIFF: Only entitled to actual expenses for transportation of inmates of insane asylum and reform school.

SCHOOLS: Sec. 1811 Pol. Code (as amended Laws 1897) requires principal teacher to hold life or state diploma, professional county certificate or lower grade of county certificate, together with diploma from some reputable college, university or normal school.

SCHOOL TRUSTEES: Contract by majority of Board is valid. Removal from district for sixty days creates vacancy in office of.

SHERIFF: No limitation as to number of terms of office.

SCHOOLS: Trustees can make no charge for attendance of pupil from another district, and cannot prevent such attendance except on ground of insufficient room.

STATE LANDS: Upon relinquishment of claim to school section under Indian allotments, title to same vests in the State, unless State has already made a selection in lieu thereof.

SAME: Wilful trespasser upon State lands should not be allowed to remove improvements made thereon by him.

SCHOOLS: Trustees have authority under Sec. 1870, Pol. Code, to remove pupil who is so weak-minded as to be objectionable.

STATE LAND AGENT: Salary of J. M. Page is \$3,000 per annum.

STATE LANDS: Rights of settlers on Sections 16 and 36 when reservation extinguished.

SCHOOL TRUSTEES: If school district entitled to seven and only five are elected, the County Superintendent may appoint to fill vacancies.

SCHOOLS: Diploma from college, university or normal school will not entitle a person to teach in public schools. Principal teacher in school of several departments must possess either professional county certificate, State

or life diploma, or one of the lower grades of County certificates and also diploma from college, university or normal school.

SHERIFFS: Under decision of Supreme Court in Proctor vs. Cascade County Sheriffs are entitled to mileage instead of actual expenses, and are therefore entitled to back pay for difference.

STATE LAND AGENT: Agent Neill draws the same salary as predecessor, Page, to-wit: \$3,000 per annum.

SALARY: Appropriation by legislature is a fixing of the salary of Clerk of the Board of Equalization, and Board of Examiners cannot reduce it.

SCHOOL TRUSTEES: Vacancies and elections to fill.

SCHOOL ELECTIONS: Not necessary for voters to register in any but districts of the first class. Qualifications of voters.

SCHOOL BONDS: Levy of tax to pay principal and interest may be made irrespective of tax levy for general school purposes.

SCHOOL CENSUS: As to placing names of half-breed children residing upon reservation upon.

SCHOOL TRUSTEES: Sec. 1770, Pol. Code (as amended laws 1897), extending term of office of, is constitutional. Subject discussed.

STATE LANDS: State Board of Land Commissioners may legally quit-claim or return title to the U. S. lands selected for various State institutions for which patents have been by the State received, on condition that other lands of equal area are selected in lieu thereof.

STOCK INSPECTOR: Cannot collect expenses, fees or mileage from County for arresting person for violation of stock laws.

STOCK INSPECTOR: If appointed deputy by Sheriff, cannot collect expenses, fees or mileage, if such deputy is in excess of number allowed.

SUPREME COURT: Laws regulating admission to practice in.

SCHOOL ELECTIONS: Alien women, whose husbands have been naturalized, may vote at.

STATE LANDS: May be disposed of as Town lots by Board of Land Commissioners, if at least \$10.00 is obtained for each acre.

SCHOOL TRUSTEES: As to legality of special meetings of.

STATE LANDS: Land department may issue patent to purchaser at Sheriff's sale of lands purchased by another party from State, after period of redemption has expired.

SALARY: De facto officers not entitled to compensation when acting under defective title to office, as against de jure officer.

SHERIFF: Is only entitled to collect mileage at the rate of ten cents per mile.

STATE LANDS: State cannot assert title to timber on the land used by the N. P. R. R. Co. for depot purposes.

STATE REFORM SCHOOL: Director of has authority to recall paroled inmate notwithstanding her marriage, if she is still under 18 years of age.

SCHOOL BONDS: As to legality of meeting of Board of Trustees for purpose of submitting question of issuing bonds by district.

STATE BOARD OF DENTAL EXAMINERS: Construction of law providing for.

SAME: As to revocation of certificate of registration.

SHERIFF'S DEEDS: Not required to be stamped under war revenue law.

SHERIFF: No limitation as to number of terms one may hold office of.

SCHOOLS—PUBLIC: Children in Wyoming cannot attend.

SAME: Board of Trustees cannot be compelled to make transfer of money to adjoining district on account of attendance of pupils in such adjoining district.

SAME: Trustees of school district may collect tuition or per capita tax for attendance of non-resident pupil. (Two opinions.)

STATE AUDITOR: Can only issue warrants against appropriations made by the Legislative Assembly.

SCHOOLS—PUBLIC: Board of Trustees cannot enter into a contract which would divest it of the right to dispense with the services of a superintendent at its pleasure. Contract of employment with teachers construed.

TAXATION: Net earnings of Water Co. subject to.

TAXES: Due on personal property are a lien on real estate paramount to prior mortgage.

TREASURER: Appointed to fill vacancy entitled to same compensation as officer whom he succeeds received.

TREASURER: Disposition of public funds in hands of. Constitutionality of bill for.

TREASURERS (County): Where they deposit public funds in bank, amount of bond they must demand and nature of. Control of County Commissioners.

TREASURER (County): Must furnish report as required by Sec. 4360 of Pol. Code. Applies to counties of every class.

TAXES: Twenty per cent. must be paid by redemptioner on personal as well as real property.

TAXES: No lien on personal property for tax on same. Tax becomes lien on personal property at time of seizure. Liens attached to personal property before distraint for taxes take preference.

TIME: Where no time expressed in Act as to when it takes effect, it goes into effect 20th day after approval.

TAXES: County assessor cannot assess land included in right of way of R. R., even though not done by State Board of Equalization.

TRANSPORTATION COMPANIES: Can be compelled to pay license for business done entirely within State.

TAXES: State not entitled to any of ten per cent. penalty for delinquent.

SAME: Under Secs. 4156 and 3825, Pol. Code, all taxes levied before division or change in boundaries of County belongs to old County.

SAME: Assessment of ditches and canals—how made.

TAX (SPECIAL ROAD): Special road tax must not be levied or collected

in incorporated cities or towns which by ordinance levy such taxes for the streets and alleys thereof.

TAXES: (Five opinions as follows): Interest cannot be collected on taxes in arrears unless unreasonable and vexatious delay is alleged.

Taxes assessed this spring under Secs. 3722, 3723, Pol Code, are not delinquent until the following December.

Members of State Militia are exempt from payment of head tax of every description.

Loss of an eye will not alone exempt person from payment of special Road Tax.

City may provide by ordinance for working out of special road tax. If it does not—it is payable in money only.

TAXATION: Power of assessor as to taxation of State and National Banks. Taxation of suspended National Banks. (Five opinions.)

TAXATION: Cattle owned by religious and charitable institutions are subject to.

TAXES: Sixteen opinions as follows:

Upon division of county, suit for delinquent taxes should be brought in name of Treasurer of old county.

School tax (Sec. 1940 Pol Code as Amd. 1897) can be levied to pay salaries of teachers. Not confined to districts having more than three trustees.

Upon property which escaped in previous years. Discussion as to procedure.

All property used exclusively for educational purposes is exempt.

Special street tax in cities should be collected by City Treasurer.

Sec. 3925 does not authorize imposition of twenty per cent. penalty on delinquent taxes.

Under Sec. 2990 Pol. Code (as amended laws, 1897) there must be twenty-five head of either kind of stock before tax can be levied.

Property in incorporated cities and towns not excepted from levy by county of road and bridge tax.

Action for delinquent commenced in name of State in all cases except where owner has left county. In that case commenced in name of county.

As to whether County Clerk should use valuation of 1896 or 1897 in extending special school tax?

Only places of actual religious worship are exempt from.

A property owner has the right to pay taxes upon certain lots without paying the taxes upon all lots that he may own.

As to procedure to recover taxes where same have been paid by draft which was dishonored.

As to manner of assessing stock, surplus and profits of State Bank.

Parsonage or living house of clergyman or priest is subject to.

Lien of not confined to particular tract or lot of land separately assessed.

TAX CERTIFICATE OF SALE: One certificate may include all lots and parcels of land struck off to County.

TAXATION: Of mining claim (patented) and improvements.

SAME: Interest on school bonds should be paid with tax levied for that purpose, and there is no limit as to the amount of such tax to be levied.

SAME: Possessory title of homestead settler subject to.

SAME: N. P. lands selected as indemnity not subject to taxation until selection approved by Secretary of Interior and until plat of survey filed in local land office.

TAXES: Assessed and levied under Secs. 3722 and 3723, Pol. Code, are not delinquent until other taxes are.

TAXATION: Unpatented lands of State of which purchase has been made are subject to.

SAME: Mortgages are taxable in the County where the mortgagee resides.

SAME: Possessory title to land subject to taxation, although legal title in the United States.

SAME: As to basis for computation of excess premiums to be assessed against Insurance Companies under Sec. 681, Civil Code.

TAXES: Only persons interested in property can redeem from County from sale of delinquent taxes.

SAME: Building constructed and merchandise purchased subsequent to first Monday in March not subject to.

TAXATION: Twelve (12) opinions as follows: All merchandise consigned to persons in this State and having a settled habitation in this State is subject to.

State not liable under War Revenue Stamp Tax Act, and not compelled to place stamps upon leases and patents issued by Land Department.

Duty of County Clerk as to Stamp Tax Act.

Orders for money should bear stamp under War Revenue Act.

House Bill No. 258 (Laws 1897) relating to the licensing of Insurance Companies does not repeal Sec. 681 Civil Code.

Checks issued by County Treasurer are not required to bear a stamp under the War Revenue Act.

County and School District warrants and orders are not required to bear stamp.

Of mortgages. Discussion of the law as to.

A law empowering County Commissioners of one county to levy a tax for a special purpose would be unconstitutional.

Certificates of naturalization issued by Clerk of Court are not required to be stamped under war revenue law.

Marriage license not required to be stamped under war revenue law.

Possessory interest in lands purchased from the State under contract providing for deferred payments is subject to taxation.

UNIVERSITY BUILDING WARRANTS: State Treasurer should not pay without submission to State Board of Examiners.

VETERINARY SURGEON: If law complied with, owner of animals ordered slaughtered is entitled to compensation.

SAME: Can kill quarantined animals although same are in litigation.



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Statement Showing Expense Account of Attorney General from January 1st, 1897 to December 1st, 1898.

To Whom Paid.	When Paid.	For What Expense was Incurred.	Amount.	Paid From.
Rocky Mt. Bell Tel. Co	Mar. 15, 1897	Messages	\$14 20	House Bill 295....
C. B. Nolan	Mar. 15, 1897	P. O. Box Rent	1 00	" "
W. U. Tel. Co	Mar. 15, 1897	Messages.....	4 08	" "
C. B. Nolan	Apr. 2, 1897	P. O. Box Rent	1 00	" "
State Pub. Co.....	Apr. 15, 1897	Stationery and Printing	22 74	" "
Helena Book & Sta. Co	May 22, 1897	Pencils	75	" "
Helena Book & Sta. Co	June 21, 1897	Typewriter Paper	1 80	" "
Rocky Mt. Bell Tel. Co	June 21, 1897	Messages	1 35	" "
C. B. Nolan	June 26, 1897	Expenses trip to Bozeman in Boston Blower Co. vs. Board of Education.....	6 35	" "
C. B. Nolan	June 26, 1897	Expenses trip to Boulder in Jefferson Co. vs. Northern Pacific R. R.....	4 50	" "
C. B. Nolan	June 26, 1897	Expenses trip to San Francisco in Myers vs. Northern Pacific R. R.....	119 10	" "
Helena Book & Sta. Co	July 19, 1897	Stationery	8 50	" "
T. H. Clewell.....	July 19, 1897	Stationery	1 80	" "
Rocky Mt. Bell Tel. Co	July 19, 1897	Messages	1 00	" "
State Pub. Co.....	Aug. 16, 1897	Short Hand Books.....	6 00	" "
Rocky Mt. Bell Tel. Co	Sept. 20, 1897	Messages	1 50	" "
G. R. Sanford & Co....	Sept. 20, 1897	Revolving Book Case	6 00	" "
Helena Book & Sta. Co	Sept. 20, 1897	Stationery.....	3 85	" "
C. B. Nolan	Sept. 20, 1897	Trav. Exp. and Stationery.....	11 25	" "
Rocky Mt. Bell Tel. Co	Oct. 18, 1897	Messages	2 40	" "
Helena Book & Sta. Co	Oct. 18, 1897	Stationery.....	1 20	" "
C. B. Nolan	Oct. 18, 1897	Copy of opinion Circuit Court of Appeals in Myers vs. Northern Pacific R. R.....	9 00	" "
C. B. Nolan	Nov. 6, 1897	One copy Criminal Digest of Colorado	1 00	" "
Rocky Mt. Bell Tel. Co	Nov. 15, 1897	Messages	75	" "
W. U. Tel. Co	Nov. 15, 1897	Messages	1 00	" "
T. H. Clewell.....	Nov. 15, 1897	Stationery.....	3 50	" "
Rocky Mt. Bell Tel. Co	Dec. 20, 1897	Messages	3 05	" "
D. H. Hamilton.	Dec. 24, 1897	Stamps.....	20 00	" "
T. Blackstone	Jan. 3, 1898	P. O. Box Rent	1 00	" "
Helena Book & Sta. Co	Jan. 17, 1898	Stationery and Typewriter Supplies	24 54	" "
Rocky Mt. Bell Tel. Co	Jan. 17, 1898	Messages	4 55	" "
Independent Pub. Co..	Jan. 17, 1898	2000 Letter Heads 4000 envelopes	9 70	" "
Rocky Mt. Bell Tel. Co	Feb. 21, 1898	Messages	1 75	" "
Northern Pac. Exp. Co	Feb. 21, 1898	Expressing briefs to Washington, D. C....	95	" "
Helena Book & Sta. Co	Feb. 21, 1898	Pencils and Rubber Bands	5 00	" "
C. B. Nolan	Mar. 21, 1898	Expenses to Stevensville in Co. Commissioner case ...	8 25	" "
Rocky Mt. Bell Tel. Co	Mar. 21, 1898	Message and rental of instruments, Jan. 1st to Mar. 31	25 50	" "
Helena Book & Sta. Co	Mar. 21, 1898	2 Reams paper	3 64	" "
Rocky Mt. Bell Tel. Co	Apr. 18, 1898	Messages	2 75	" "
C. B. Nolan	Apr. 18, 1898	Expenses to Butte in case of State vs. Wines and Booth...	7 00	" "
Helena Book & Sta. Co	Apr. 18, 1898	Fountain Pen	3 25	" "
C. B. Nolan	Apr. 21, 1898	1 Pigeon Hole Case.....	21 60	" "
D. H. Hamilton.....	May 6, 1898	Stamps.....	5 00	" "
C. B. Nolan	May 16, 1898	Expense of trip to Butte in case of State vs. Wines and Booth	10 90	" "
Rocky Mt. Bell Tel. Co	May 16, 1898	Messages	6 80	" "
C. B. Nolan.....	June 2, 1898	Stamps.....	5 00	" "
C. B. Nolan	June 20, 1898	Expense to Butte in case of State vs. Wines and Booth...	41 80	" "
Helena Book & Sta. Co	June 20, 1898	1 Ream paper 2 Invoice files ...	3 70	" "
C. B. Nolan	June 27, 1898	Expense to Butte in case of State vs. Wines and Booth ...	4 75	" "
Rocky Mt. Bell Tel. Co	July 16, 1898	Messages during month of July	5 65	" "
Northern Pac. Exp. Co	Aug. 15, 1898	Package to Butte.....	50	" "
Rocky Mt. Bell Tel. Co	Aug. 15, 1898	Messages	2 75	" "
C. B. Nolan	Sept. 12, 1898	Expense to Butte in Habeas Corpus proceedings of Wm. Day.....	16 75	" "

BIENNIAL REPORT OF ATTORNEY GENERAL.

Statement Showing Expense Account—Continued.

To Whom Paid	When Paid	For What Expense was Incurred.	Amount	Paid From.
Rocky Mt. Bell Tel. Co	Sept. 19, 1898	Messages to Deer Lodge	\$0 90	House Bill 295 ...
T. H. Clewell	Oct. 17, 1898	Typewriter ribbons.....	3 00	" "
Independent Pub. Co..	Oct. 17, 1898	12 Short-hand Books	5 00	" "
C. B. Nolan	Nov. 18, 1898	Trip to Washington in Myers vs. Northern Pacific and Chinese Habeas Corpus cases, and printing briefs in same...		
Rocky Mt. Bell Tel. Co	Nov. 21, 1898	Messages	301 50	" "
Parchen Drug Co.....	Nov. 21, 1898	Office shears and benzine.....	1 50	" "
Rocky Mt. Bell Tel. Co	Nov. 30, 1898	Messages	4 00	" "
W. U. Tel. Co	Nov. 30, 1898	Messages	60	" "
Independent Pub. Co ..	Nov. 30, 1898	Letter Heads and envelopes....	6 70	" "
D. H. Hamilton	Nov. 30, 1898	Stamps.....	40 00	" "
State Pub. Co.....	Nov. 30, 1898	Stationery.....	50 30	" "
Total			\$899 76	