

**THIRTY-FIFTH BIENNIAL REPORT**  
of the  
**ATTORNEY GENERAL**  
of  
**IDAHO**



For the period beginning July 1, 1958,  
and ending June 30, 1960

**FRANK L. BENSON**  
Attorney General

# ATTORNEY GENERAL'S DEPARTMENT

July 1, 1958 - January 3, 1959

Graydon W. Smith	Attorney General
E. J. Aschenbrener	Assistant Attorney General
Elbert E. Gass	Assistant Attorney General
Alfred C. Hagan	Assistant Attorney General
T. J. Jones, III	Assistant Attorney General
Harold A. Ranquist	Assistant Attorney General
William C. Roden	Assistant Attorney General
Anton Hohler	Assistant Attorney General
Dwight F. Bickel	Assistant Attorney General
William R. Padgett	Assistant Attorney General
Robert S. Campbell	Assistant Attorney General
John W. Gunn	Assistant Attorney General
Glenn A. Coughlin	Assistant Attorney General
La Rose Halsey*	Secretary
Helen F. Ston*	Secretary
Hope Mumford	Secretary
Patricia Fischer	Secretary
Sally Boyle	Secretary
Sharel S. Sanders*	Secretary

Resigned

# ATTORNEY GENERAL'S DEPARTMENT

January 5, 1959 - June 30, 1960

Frank L. Benson	Attorney General
E. G. Elliott	Assistant Attorney General
Thos. Y. Gwilliam	Assistant Attorney General
E. James Koehler, Jr.	Assistant Attorney General
Frank Langley	Assistant Attorney General
Wm. E. Swope	Assistant Attorney General
Robert D. Wennergren*	Assistant Attorney General
William R. Padgett†	Assistant Attorney General
Robert S. Campbell*	Assistant Attorney General
Will S. Defenbach	Assistant Attorney General
Allen R. Derr, Jr.*	Assistant Attorney General
Leon R. Weeks*	Assistant Attorney General
John L. Long*	Assistant Attorney General
Dwight F. Bickel*	Assistant Attorney General
T. J. Jones, III*	Assistant Attorney General
A. L. Lycns*	Assistant Attorney General
Jedd G. Owens	Assistant Attorney General
Robert E. Bakes	Assistant Attorney General
Anton Hohler*	Assistant Attorney General
John S. Chapman*	Clerk-Investigator
Donald M. Edwards	Secretary
Patricia Fischer*	Secretary
Sally Boyle*	Secretary
Jean Conkin	Secretary
Virginia Peters	Secretary
Shirley Peterson	Secretary
Larry Evans	Investigator

\* Resigned

† Terminated

# PROSECUTING ATTORNEYS—1959-60

Ada	William C. Roden	Boise
Adams	Carl H. Swanstrom	Council
Bannock	Hugh C. Maguire, Jr.	Pocatello
Bear Lake	Elbert E. Gass	Paris
Benewah	Richard McFadden	St. Maries
Bingham	Dean Williams	Blackfoot
Blaine	Joseph J. McFadden*	Hailey
	V. K. Jeppesen	
Boise	Louis H. Cosho	Idaho City
Bonner	Stephen Bistline	Sandpoint
Bonneville	Eugene L. Bush	Idaho Falls
Boundary	W. W. Nixon	Bonniers Ferry
Butte	Hartley P. Kester	Arco
Camas	Loward Manweiler*	Fairfield
	Robert Garry Newhouse	
Canyon	William J. Brauner	Caldwell
Caribou	Francis J. Rasmusser	Soda Springs
Cassia	Norman H. Nielson	Burley
Clark	V. K. Jeppesen*	Dubois
Clearwater	Ralph H. Haley	Orofino
Custer	Jack B. Furey	Challis
Elmore	Robert F. McLaughlin	Mountain Home
Franklin	Dell W. Smith	Preston
Fremont	Nels T. Sahl	St. Anthony
Gem	Louie Gorrano	Emmett
Gooding	Cecil D. Hobdey	Gooding
Idaho	Wayne C. McGregor, Jr.	Grangeville
Jefferson	H. Reynold George	Rigby
Jerome	Richard H. Seeley	Jerome
Kootenai	James W. Ingalls	Coeur d'Alene
Latah	Cope R. Gale	Moscow
Lemhi	Charles Herrdon	Salmon
Lewis	John R. Kemper	Nezperce
Lincoln	Howard E. Adkins	Shoshone
Madison	Ray W. Rigby	Rexburg
Minidoka	William T. Goodman	Rupert
Nez Perce	Owen L. Knowlton	Lewiston
Oneida	Wesley Crowther	Malad
Owyhee	James W. Blaine	Murphy
Payette	Dwaine L. Welch	Payette
Power	L. R. Schor	American Falls
Shoshone	Robert J. Fanning	Wallace
Teton	H. S. Forbush	Driggs
Twin Falls	Edward Babcock	Twin Falls
Valley	James L. Schoenhut	Cascade
Washington	Kent B. Power*	Weiser
	D. L. Carter	
Resigned		

# ATTORNEYS GENERAL FOR THE STATE OF IDAHO

Since Statehood

George H. Roberts	1891-1892
George M. Parsons	1893-1896
Robert E. McFarland	1897-1898
Samuel E. Hays	1899-1900
Frank Martin	1901-1902
John A. Bagley	1903-1904
J. J. Guheen	1905-1908
D. C. McDougall	1909-1912
Joseph H. Peterson	1913-1916
T. A. Walters	1917-1918
Roy L. Black	1919-1922
A. H. Conner	1923-1926
Frank L. Stephan	1927-1928
W. D. Gillis	1929-1930
Fred J. Babcock	1931-1932
Bert H. Miller	1933-1936
J. W. Taylor	1937-1940
Bert H. Miller	1941-1944
Frank Langley	1945-1946
Robert Ailshie	1947-
Robert E. Smylie	1947-1954
Graydon W. Smith	1955-1958
Frank L. Benson	1959-

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## JUSTICES OF THE IDAHO SUPREME COURT

1959-1960

James W. Porter, Chief Justice ‡  
 C. J. Taylor, Chief Justice  
 E. B. Smith  
 Henry F. McQuade  
 E. T. Knudson  
 Joseph J. McFadden  
 Louis Bideganeta, Clerk of the Supreme Court

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‡ Deceased

November 30, 1960

Honorable Robert E. Smylie,  
Governor of Idaho,  
Statehouse,  
Boise, Idaho

Dear Governor Smylie:

Pursuant to Section 67-1401, Idaho Code, I present for the consideration of yourself and the Thirty-sixth Session of the Legislature, the Report of the Office of the Attorney General for the past biennium.

Respectfully submitted,

FRANK L. BENSON,  
Attorney General  
State of Idaho

# ATTORNEY GENERAL'S FINANCIAL REPORT

## STATEMENT OF EXPENDITURES

Office of the Attorney General for Period July 1, 1958 to June 30, 1960

Personal Services	Travel Expense	Other Expense	Capital Outlay	Total Expenditures
\$122,347.73	\$ 8,320.83	\$ 13,962.51	\$ 6,064.34	\$150,695.41

## ANALYSIS OF GENERAL FUND APPROPRIATIONS

### ATTORNEY GENERAL'S OFFICE

Twenty-four months' Period Ending June 30, 1960.

Unencumbered Appropriation 7-1-58 to 6-30-59	Authorized Appropriation 7-1-59 to 6-30-61	Direct Receipts 7-1-58 to 6-30-60	Total Available
\$ 73,119.39	\$155,550.00	\$ 653.25	\$229,322.64

Total Disbursements 7-1-58 to 6-30-60	Lapsed 1957-1959 Appropriation 6-30-60	Unencumbered Appropriation Balance 6-30-60
\$150,695.41	\$ 94.57	\$ 78,532.66

ATTORNEY GENERAL'S REPORT

OPINIONS

Balance of Term of Graydon W. Smith (7-1-58 to 1-5-59)

7-11-58—JOSEPH BEEMAN, M.D., Pathologist, Boise, Idaho

The constitutional privilege against self-incrimination does not bar use of results of chemical tests to determine alcoholic content of blood of one so intoxicated as to be in such a condition that he can not be said to have voluntarily consented thereto. (T. J. Jones, III)

7-22-58—HON. JAMES H. YOUNG, Secretary of State

(1) The Secretary of State is required to transmit to the county auditors a sufficient number of pamphlets published under Section 34-1812 (concerning initiative petitions) so that every legal voter may have a copy.

(2) The county auditors are required to transmit a copy of such pamphlet to each voter. (3) The expense of distributing the pamphlets by the county auditors is to be born by the counties. (Graydon W. Smith)

7-25-58—ROSS LEONARD, Director of Fish and Game

Under the provisions of Section 19-3921, I.C., a probate or justice court may impose an alternative sentence of imprisonment in the event of failure to pay a fine. (T. J. Jones, III)

7-29-58—ROSS LEONARD, Director of Fish and Game

A revocation of a license issued by the Department of Fish and Game is a cancellation of all hunting and fishing privileges for the year. (T. J. Jones, III)

8-4-58—WILLIAM J. LANGLEY, Attorney at Law, Twin Falls, Idaho

Proceedings to revoke a license or permit to drive for refusal to submit to a blood test may be taken even though the licensee has been acquitted of a drunken driving charge. (T. J. Jones, III)

8-5-58—RICHARD R. BLACK, Attorney at Law, Pocatello, Idaho

In the event there is no regular filing for an office and no names are written in at the primary, a vacancy would be created which may be filled by the county central committee. (Alfred C. Hagan)

8-7-58—ROSS LEONARD, Director of Fish and Game

The Fish and Game Commission may expend fish and game moneys for access roads and sanitary facilities but not for picnicking facilities. (T. J. Jones, III)



- 9-25-58—HENRY F. SAMUELS, (copy to ALTON B. JONES, Supt. of Public Instr.)

School bonds issued exceeding bonding limits are void as to all such excess. (Edward J. Aschenbrener)

- 9-25-58—(2) AARON W. WILSON, Lava Hot Springs, Idaho

Bigamous marriage becomes legal after death of 1st spouse if parties to bigamous marriage continue to live together as husband and wife. (T. J. Jones, III)

- 10- 2-58—DORIS KENNY, County Auditor, Bonner County, Idaho

After the primary election, only county central committees of political parties may certify candidates for vacancies on ticket. (Alfred C. Hagan)

- 10- 4-58—STANLEY J. TRENHAILE, Commissioner of Agriculture

Cash buyers who purchase grain for resale are required to be bonded under the provisions of Section 22-1401 and Section 22-1406. (Alfred C. Hagan)

- 10- 6-58—KEITH JERGENSEN, Prosecuting Attorney, Fremont County, Idaho

Canal companies are required to pay for noxious weed eradication done by the county in their areas. (Edward J. Aschenbrener)

- 10- 7-58—CARL W. McINTOSH, President, Idaho State College

Cigarette vending machines may not be maintained in college buildings if accessible to minors. (Graydon W. Smith)

- 10-10-58—McCLURE AND McCLURE, Attorneys at Law, Payette, Idaho

(1) A contract to purchase a school building site may not provide for the payment of moneys over a period of years. (2) School districts are not authorized to use tax moneys to advertise in favor of passage of a bond issue. (Edward J. Aschenbrener)

- 10-25-58—GEORGE N. CARTER, State Reclamation Engineer

The publication of a legal notice of proof of application of Idaho waters to beneficial use would have no force or effect unless the same be published in a newspaper printed within the State of Idaho. (T. J. Jones, III)

- 10-28-58—HAROLD JOHNSON, Executive Secretary, State Tax Commission

Levies by cemetery maintenance districts and library districts may be made only at the time set by the legislature. (Graydon W. Smith)

11-4-58—**L. E. CLAPP**, Warden, State Board of Corrections

A mentally ill convict may be transferred to a state mental hospital. (T. J. Jones, III)

11-19-58—(1) **RICHARD G. MAGNUSON**, Deputy Prosecuting Attorney, Shoshone County

When a vacancy occurs in the county treasurer's office, the senior deputy should immediately operate the office until a new treasurer is appointed. (Edward J. Aschenbrener)

(1-19-58—(2) **LEO O'CONNELL**, Commissioner of Insurance

A domestic mutual benefit association may legally merge with a legal reserve stock life insurance company under section 41-4501 I. C. (Edward J. Aschenbrener)

1st Part of Term of Frank L. Benson (1-5-59 to 6-30-60)

1-5-59—**HON. FRED M. COOPER**, State Senator, Caribou County

A school trustee by moving from his district creates a vacancy and the remaining members should declare the office vacant and proceed to fill such vacancy according to law. (Dwight F. Bickel)

1-13-59—**HON. MARVIN VANDENBURG**, State Representative, Boundary County

An outgoing county commissioner whose term has expired is without authority to act upon consideration of the new budget. (Frank L. Benson)

1-14-59—(1) **REV. MILLER C. LOVETT**, Ellensburg, Washington

A minister need not be a resident of the State of Idaho in order to solemnize a marriage within the State. (B. James Kochler, Jr.)

1-14-59—(2) **JEROME F. O'ROURKE**, Prosecuting Attorney, Genesee County, Flint 2, Michigan

The State of Idaho has no provisions for the public defender system but when indigent persons are accused of crime the trial judge will appoint an attorney and provide for a fee to be paid by the courts. (B. James Kochler, Jr.)

1-16-59—(1) **FRANK MEEK**, Idaho Public Utilities Commissioner

A newly appointed member of the Public Utilities Commission may not act in that official capacity until he has actually taken and subscribed to his oath of office. (B. James Kochler, Jr.)

1-16-59—(2)—HON. D. F. ENGELKING, Superintendent of Public Instruction

Property already appropriated to public use may be taken under the right of eminent domain provided it is needed for a more necessary public use than that to which it has already been appropriated. (B. James Koehler, Jr.)

1-16-59—(3) LT. GRANT W. MILLER, U.S.N., Port Hueneme, California

Idaho law requires: (1) Persons under 18 years of age, both male and female, must obtain parents' consent in order to marry. (2) A marriage license is issued by the county recorder of the county where the ceremony is to take place. (3) A blood test is required for the issuance of a marriage license. (Frank L. Benson)

1-16-59—(4) MRS. KENNETH BENDA, Chairman of Crime Prevention, Idaho Federation of Women's Clubs, Sandpoint, Idaho

(1) By Idaho law it is an offense to sell obscene or indecent publications. (2) The driver's license of a person convicted of driving under the influence of intoxicating liquor is revoked for a period of one year. (Frank L. Benson)

1-16-59—P. G. NEILL, State Tax Collector

In the allowance of travel expense deductions, the Tax Collector should follow the decision of the Idaho Supreme Court in the case of CARLSON VS. STATE TAX COMMISSION. ((Dwight F. Bickel, Frank L. Benson)

1-21-59—HON. NORA L. DAVIS, Gem County Senator

A legislative act may require that a voter at a primary election declare his political party affiliation and ask for that party's ballot, in order to vote at a run-off election. (E. G. Elliott)

1-22-59—HON. D. F. ENGELKING, Superintendent of Public Instruction

Electors of a school district may not initiate procedure for a bond issue for a new school building; but court procedure by way of a writ of mandamus may lie to compel school boards to provide schools. Generally a petition by a majority of the qualified electors would be honored by the school board. (B. James Koehler, Jr.)

## ATTORNEY GENERAL'S REPORT

1-23-59—**HON. ARNOLD WILLIAMS**, Secretary of State

The signature of a Notary Public which differs from the name affixed to the official seal is not a valid authentication. (Robert D. Wennergren, Frank L. Benson)

1-30-59—(1) **EARL L. HARMON**, Hammett, Idaho

Proposals for changes in the school district boundaries must be submitted to the State Board of Education and to the qualified voters of the school districts affected thereby. (B. James Koehler, Jr.)

1-30-59—(2) **STANLEY I. TRENHAILE**, Commissioner of Agriculture

The Potato and Onion Commission would be responsible to the State for any action brought about by the use of money turned over by them to the Idaho Potato and Onion Growers Association. (Robert D. Wennergren, Frank L. Benson)

2-5-59—**P. G. NEILL**, Tax Collector

(1) Provisions of the Federal Income Tax Law pertaining to the deduction of casualty losses comparable to those in Section 63-3016 of the Idaho Code and pertinent decisions interpreting them should apply in determining Idaho income taxes in the absence of a contrary construction by the Idaho Supreme Court. (2) A casualty loss to a personal residence may be deducted from the income of a tax payer. (3) A casualty loss may be taken only in the taxable year in which the loss was sustained. (Dwight F. Bickel, Frank L. Benson)

2-16-59—(1) **H. MAX HANSON**, Chief Clerk, House of Representatives

It is proper for the Chief Clerk to certify a printed copy of the Journal of the House of Representatives to the Secretary of State in lieu of the typed copy used in the past. (Frank L. Benson)

2-16-59—(2) **COMMISSIONERS**, Idaho Potato and Onion Commission

Unpaid taxes levied against first handlers of potatoes and onions are preferred claims in bankruptcy. (B. James Koehler, Jr.)

- 2-9-59—**SANFORD M. STODDARD**, Attorney at Law, Continental Bank Bldg., Salt Lake City, Utah

The income of interest on bonds of the State of Idaho and its political subdivision to a foreign corporation or to a non-resident should be included in computing the taxable income due the State of Idaho. (Dwight F. Bickel)

- 2-10-59—(1) **TERRELL O. CARVER**, Administrator of Health  
County commissioners may not appoint themselves to a county board of health. (B. James Koehler, Jr.)

- 2-10-59—(2) **HON. D. F. ENGELKING**, Superintendent of Public Instruction

The State Board of Education does not have the authority to pay for the costs of educating a deaf and blind child in a special school outside the state. (B. James Koehler, Jr.)

- 2-10-59—(1) **TERRELL O. CARVER, M.D.**, Administrator of Health

County commissioners may make a levy for construction of a county hospital. (B. James Koehler, Jr.)

- 2-24-59—**HON. ROBERT E. SMYLLIE**, Governor, State of Idaho

The Attorney General is the constitutional law officer of the State and has the exclusive right and authority to handle all legal matters of the State unless otherwise limited by the Constitution itself. (E. G. Elliott, Frank L. Benson)

- 2-25-59—**HON. ARNOLD WILLIAMS**, Secretary of State

A Notary Public who changes the county of his residence, should file with the Clerk of the District Court for the county of his new residence the "Certificate of Facts" required by Section 51-109, I.C. (Frank L. Benson)

- 2-26-59—**HON. D. F. ENGELKING**, Superintendent of Public Instruction

Unless the safety, health or morals of students are endangered, there are no particular standards required by law of a teacher in a private school. (B. James Koehler, Jr.)

- 3-16-59—**HON. D. F. ENGELKING**, Superintendent of Public Instruction

Power to dismiss faculty members in the University and State College is vested in the Board of Regents and may not be delegated. (B. James Koehler, Jr.)

## 3-18-59—W. L. ROBISON, Commissioner of Labor

Municipalities have the power to enter into collective bargaining agreements with a labor union in the absence of a local forbidding ordinance. (B. James Koehler, Jr.)

## 3-19-59—HON. JOE R. WILLIAMS, State Auditor

Chapter 321 of the 1957 Session Laws (Sec. 59-507 I. C. (59-503 I.C.)) which provides that the Lieutenant Governor shall be paid an annual salary of \$1200.00 "in addition to all other compensation provided by law to be paid to the Lieutenant Governor," is constitutional. (Frank L. Benson)

## 3-19-59—P. G. NEILL, State Tax Collector

Allowance should be made for income taxes withheld from a taxpayer's income by another state so that the amount withheld would approximate the amount actually due the State of Idaho. (Dwight F. Bickel)

## 3-23-59—HON. D. F. ENGELKING, Superintendent of Public Instruction

Public schools are not obligated to pay a percentage of receipts from boxing exhibitions to the State Athletic Commission. (B. James Koehler, Jr.)

## 3-24-59—(1) ROSS LEONARD, Director, Department of Fish and Game

The provision in Senate Bill No. 142 (Chap. 196 of 1959 S. L.) (that a non-resident fishing license shall be one dollar after the first day) means for each consecutive day after the first day; and, if after a lapse of time a non-resident applies for a second license the cost shall again be two dollars for the first day. (E. G. Elliott, Frank L. Benson)

## 3-24-59—(2) - PAINE, LOWE, COFFIN &amp; HERMAN, Attorneys at Law, Spokane, Washington

Land owners have an absolute duty to attempt to suppress fires on their land and if the State does the work of the land owners, the State is entitled to collect the costs of the work performed in abating and extinguishing fires. (William E. Swope)

## 3-25-59—(1) HAROLD JOHNSON, Executive Secretary, State Tax Commission

Tower installations of a micro-wave system should be assessed at their sites and credited only to the taxing districts in which located. (Dwight F. Bickel)

- 3-25-59—(2) **STANLEY I. TRENHAILE**, Commissioner of Agriculture

The Idaho Bean Commission, as a government agency, may legally hold a patent for a bean processing treatment. (Frank L. Benson)

- 3-26-50—**HON. W. J. SEWELL**, State Representative, Teton County

County commissioners may legally use money from the General Fund to build an armory and make a one-mill levy for a special fund for the purpose of reimbursing the General Fund. The moneys in the special fund could then be transferred to the General Fund or such fund as deemed best if the special fund becomes inoperative for the purpose of which said fund was created. (Frank L. Benson)

- 3-27-59—**HON. D. F. ENGELKING**, Superintendent of Public Instruction

**HOUSE BILL NO. 272** (Chapter 99 of 1959 S.L.) increasing minimum yearly sick leave and maximum accumulation of sick leave should be applied to all teachers' contracts signed after March 7. The new law extending the time of sick leave would not apply to prior contracts, although those days of sick leave accumulated prior to March 7, 1959, should be counted in arriving at the new total. (B. James Koehler, Jr.)

- 3-30-59—**CALLIS A. CALDWELL**, City Attorney, Alameda, Idaho

Cities of the Second Class may not use the initiative measure in their general elections. (B. James Koehler, Jr.)

- 3-31-59—(1) **L. E. CLAPP**, Chairman, Idaho State Board of Correction

The commuting of a prison sentence to a jail sentence by a District Judge does not reduce the offense from a felony to a misdemeanor. (Thos. Y. Gwilliam)

- 3-31-59—(2) **L. E. CLAPP**, Chairman of the Idaho State Board of Correction

Chapter 115 of 1959 S.L., which changes the penalty for writing an insufficient-fund check is not retroactive to inmates already serving sentences under the previous law.

(2) Under House Bill No. 295, (Chapter 115 of 1959 S.L.) the commitment to the penitentiary should show that it is for the third conviction under the act but if this is not shown, it is not up to the warden to question the commitment. (Thos. Y. Gwilliam)

- 4- 2-59—P. A. McDERMOTT, Assistant Prosecuting Attorney,  
Bannock County

(1) A bill which the Governor does not return to the Legislature within five days after it shall have been presented to him becomes a law in like manner as if he had approved it, unless the Legislature shall, by adjournment, prevent its return, in which case unless filed with objections in the Secretary of State's office it becomes a law within ten days. (2) When the Legislature has reduced a felony to a misdemeanor it would probably be advisable for prosecutors to go along with the spirit of the legislation and recommend that the court commute the sentence for offenses committed before the new law becomes effective. (Frank L. Benson)

- 4- 8-59—(1) KENNETH HACKWORTH, City Clerk, Sandpoint, Idaho.

A city council may not employ the brother-in-law of one of the councilmen as city treasurer. (Thos. Y. Gwilliam)

- 4- 8-59—(2) HON. D. F. ENGELKING, Superintendent of Public Instruction

Funds appropriated under the provisions of House Bill No. 358 (Chap. 194 of 1959 S.L.) may be used as matching funds if the request of Senate Concurrent Resolution No. 8 is approved as a research project by the United States Office of Education. (B. James Koehler, Jr.)

- 4- 9-59—(1) PETER B. WILSON, Attorney at Law, Bonners Ferry, Idaho

Section 50-703 of the Idaho Code applies specially to villages, and the provision therein that trustees shall serve for four years takes precedence over Section 50-1701 I.C. (B. James Koehler, Jr.)

- 4- 9-59—(2) STATE TAX COMMISSION

A subsidiary corporation is entitled to credit for federal taxes on its Idaho return. (Dwight F. Bickel)

- 4-17-59—(1) HON. RUTH G. MOON, State Treasurer

The only legal publication required for giving Notice of Call of 1955 State Building Bonds is that a ten-day notice of the calling of the bonds be made in a daily newspaper of general circulation published in the State of Idaho. (Robert D. Wennergren, Frank L. Benson)



**4-17-59—(2) L. E. CLAPP, Warden, Idaho State Penitentiary**

The Board of Corrections has jurisdiction over an inmate of the penitentiary who has been determined to be mentally ill under Section 66-329, Idaho Code, and has been committed to the hospital for the mentally ill, but it has no power to take any action against him until he has been deemed mentally cured. (2) The Board of Corrections, under its power of parole, has the full power to determine whether the time spent in the mental hospital should be added to the time he has been serving in the penitentiary. (Thos. Y. Gwilliam)

**4-21-59—W. L. ROBISON, Commissioner of Labor**

An employer of labor in laying sewer and water lines for a municipality under verbal instructions from the city officials becomes liable for the payment of standard prevailing wages to his employees. (Frank L. Benson)

**4-22-59—FRANK E. MEEK, Public Utilities Commission**

School districts using school buses, to transport students to other towns for interscholastic games and making a charge therefor would come within the purview of the Motor Carrier Act. They would be exempt only if the buses were used solely in transporting children and teachers to and from school. (Thos. Y. Gwilliam)

**4-23-59—HAROLD E. THOMAS, Lava Hot Springs**

It is not permissible for a school board to contract fire insurance with a mutual insurance company. (B. James Koehler, Jr.)

**4-27-59—MAX WHITTIER, Office of U. S. District Attorney**

The lien of the State of Idaho and the County for ad valorem taxes falling delinquent subsequent to the date of a chattel mortgage of the Farmer's Home Administration has priority over the lien of the mortgage. (Dwight F. Bickel)

**4-28-59—C. WALKER LYON, City Attorney, Salmon, Idaho**

In elections for cities of the second class: (1) Ballots still retain the large circle at the top to provide for straight voting. (2) When nominations have been made by petition the word "Independent" should appear at the top of the column even though there is only one candidate for each office nominated by petition. (3) A separate column for write-in candidates should appear to the right of the columns which contain the names of persons nominated by convention or petition. (Frank L. Benson)

- 5- 1-59—(2) MAE E. SHERMAN, Imperial Fireworks Co.,  
Billings, Montana.

The Idaho Legislature has provided that each municipality may pass ordinances regulating the use and sale of fireworks and firearms. (Thos. Y. Gwilliam) Note: Federal law prohibits the interstate shipment of fireworks into municipalities where their sale is prohibited. (Frank L. Benson)

- 5- 1-59—M. C. ECKMAN, St. Maries, Idaho

The law of Idaho is that the first person who applies water to a beneficial use is entitled to the continued use of such water to the extent to which he has put it to a beneficial use. (Thos. Y. Gwilliam) Notes: (1) The doctrine of riparian rights has no application in Idaho. (2) A person who intends to make a beneficial use of unused water should make application to the Department of Reclamation pursuant to Sec. 42-202 of the Idaho Code and should also consult a private counsel to advise him on the procedure. (Frank L. Benson)

- 5- 7-59—(1) L. G. NONINI, UNKRA A.P.O. San Francisco,  
California

Idaho law provides that an illegitimate child may be legitimized: (1) by the marriage of the parents coupled with the father's acknowledging the child as his own or (2) by the father's publicly acknowledging the child as his own and receiving it into his family with the consent of his wife, if married, and treating it as though it were his own. (Frank L. Benson)

- 5- 7-50—(2) CARL H. SWANSTROM, Attorney at Law, Council  
Idaho

If the duly qualified bond electors of a municipality approve a proposal to issue general obligation bonds in excess of the bonding authority of the municipality, the bond issue up to the legal limits would be considered a lawful issue, acceptable by the state for public investments. (Thos. Y. Gwilliam)

- 5- 8-59—(1) WARNER C. MILLS, Liquor Law Enforcement Dept.

A person formerly owning an interest in a corporation selling liquor by the drink, who sells his interest, retaining a chattel mortgage on the furniture and fixtures, should not be considered as having a license and hence should not be denied license on the basis of Section 23-908, Idaho Code which provides that no person shall be granted more than one license in any city or village for any one year. (B. James Koehler, Jr.)

## 5- 8-59—(2) RAY E. OYER, County Assessor, Lincoln County.

A vehicle to be exempt from the ton-mile tax under Sections 49-126 and 49-127 of the Idaho Code must be used exclusively to transport unprocessed agriculture or dairy products raised by the owner and if used to transport processed products the exemption would not apply. (Thos. Y. Gwilliam)

## 5-11-59—W. W. BENSON, Registrar, Bureau of Vital Statistics

A child born abroad, one of whose parents is an American citizen and the other an alien, acquires American citizenship at birth. (B. James Koehler, Jr.)

## 5-12-59—DR. HARRY F. McEWAN, Secretary, State Sheep Commission

The Sheep Commission having been vested with exclusive control of all matters pertaining to the sheep industry is not subject to the supervision of the Department of Agriculture and is not obligated to include the name of the Department of Agriculture of its forms. (E. G. Elliott)

## 5-14-59—TED CRAMER, State Purchasing Agent

The State would be obligated to pay an additional sum for directional signals on vehicles when the specifications set out in the invitation to bids did not include them. (B. James Koehler, Jr.)

## 5-22-59—(1) L. D. JACKSON, Member, Board of Trustees, Idaho City, Idaho

The right to appoint an officer carries with it the right to remove at the pleasure of the appointing power; and a new village board is not required to retain as clerk a person chosen by the previous board. (Frank L. Benson, B. James Koehler, Jr.)

## 5-22-59—LOU BABB, Department Adjutant, American Legion, Boise, Idaho

(1) The property, of a veteran with service connected disability of a degree of ten percent or more, which he uses as a home is exempt from taxation up to \$1000.00, provided the full cash value of his property does not exceed \$3600.00 and his net income does not exceed \$3600.00 per year. (2) The exemption must be claimed by the veteran by appearing personally before the Board of Commissioners the first time claimed and by filing a sworn statement each year thereafter. (William E. Swope)

ATTORNEY GENERAL'S REPORT

5-26-59—(1) DR. C. A. GRIFFIN, Coeur d'Alene, Idaho

(1) Idaho has no law requiring the licensing of naturopaths as such. (2) A naturopath may practice his profession in the State and represent himself as a doctor of naturopathy, but not as any other kind of doctor or physician. (E. G. Elliott)

5-26-59—(2) WESLEY CROWTHER, Prosecuting Attorney, Oneida County

House Bill No. 295 (Chap. 115 of 1959 S.L.) does not apply to a case of forgery but only to the writing of checks without sufficient funds in the bank. (2) A prior conviction as an element in the second and third offense necessarily refers to convictions under the law and hence only within the State of Idaho. (Robert D. Wennergren, Frank L. Benson)

5-27-59—NELL BREWER, Chairman, Village Board, Stanley, Idaho

(1) Under Senate Bill No. 89 (Chap. 118 of 1959 S.L.) a licensee (to sell liquor by the drink) would forfeit his right to renew his license thereafter if he failed to obtain a license for any one year. (2) A licensee may transfer his license to a lessee and provide for the transfer back to him in case of a default. (3) A license fee may be pro-rated for the portion of the year used, but in no event for less than six months. (Robert D. Wennegren)

6-3-59—HON. RUTH MOON, State Treasurer

The State may not invest endowment funds in real estate mortgages. (E. G. Elliott)

6-11-59—BURRELL ROBBINS JR., Idaho Falls, Idaho

A person doing his own plumbing work in a single family dwelling must obtain a permit and comply with the rules of the State Plumbing Board. (Thos. Y. Gwilliam)

6-12-59—(1) ADRIAN SMITH, State Patrolman, St. Anthony, Idaho

No one under the age of 21 is permitted to enter an establishment licensed to sell liquor except that if the establishment has a license to serve and sell food, minors may enter so long as they are not at the bar or being served liquor. (William E. Swope)

6-12-59—(2) TWIN FALLS HIGHWAY DEPARTMENT

It is not necessary that the entire right-of-way be used as a road in order for the State or subdivision to retain the entire right-of-way designated. (Thos. Y. Gwilliam)

6-25-59—HON. D. F. ENGELKING, Supt. of Public Instruction.

A college of applied arts and science may lawfully be established at the Idaho State College at Pocatello. (B. James Koehler, Jr.)

7- 1-59—CHARLES DUDENSKY, Thermopolis, Wyoming

Under the Idaho law whenever a driver's license is suspended or revoked by a conviction or forfeiture of bail, the license remains suspended or revoked unless such person shall have given, or shall immediately give, proof of financial responsibility. (William E. Swope)

7- 2-59—T. H. CHURCH, Attorney at Law, Burley, Idaho

(1) "The Liquor by the Drink License Limitation Law" (Senate Bill No. 89, Chapter 118 of 1959 S.L.) does not apply to licenses now in effect even though the number of licenses now in effect exceeds one for each 1,500 persons; and every license now in effect may be renewed from year to year; (2) Every license now in effect is transferrable to another person upon the approval of the Commissioner of Law Enforcement; and may be transferred to other premises. (3) A partnership is a legal entity distinct from its members and dissolution does not vest in the remaining member the right to operate under the partnership license; a transfer of the license is necessary. (William E. Swope)

7- 7-59—JOSEPH J. DUNN, JR., Publisher, 1615 Pacific Ave., Virginia Beach, Virginia

Idaho law requires that adoption proceedings be had in the county in which the persons adopting the child are residents; no fixed period of time of residence is required. (Thos. Y. Gwilliam)

7- 8-59—(1) OLIVER, MILLAR & STATFELD, Barristers & Solicitors, Vancouver, B.C.

Idaho law makes no provision for compensation to innocent persons convicted and punished by a criminal court. (B. James Koehler, Jr.)

7- 8-59—(2) HAROLD L. SCOTT, Director, Kansas City Crime Commissioner, 823 Walnut, Kansas City 6, Mo.

Idaho law does not provide that the making of a bond in criminal cases constitutes a lien on the property of the parties signing the bond. (B. James Koehler, Jr.)

## ATTORNEY GENERAL'S REPORT

7-10-59—(1) RUTH ANN FAGNANT, Clerk, Village of Lava Hot Springs, Idaho

A village board may not purchase merchandise or services from a local business man who is a member of the Board. (E. G. Elliott, Frank L. Benson)

7-10-59—(2) JOHN H. BENGTON, Attorney at Law, Lewiston, Idaho

A coin operated machine which would dispense merchandise together with numbers, some of which would qualify the persons receiving them to receive merchandise, would in the opinion of this office be a lottery and thus be unlawful. (William E. Swope)

7-17-59—(1) DONALD NORRIS, Lawrence, Kansas

(1) A person does not need a license to carry a gun for his own protection, but such a gun should be carried in a holster and be visible. (2) A non-resident must obtain a non-resident hunting license before target practice, or before firing the gun except for his own protection. (William E. Swope)

7-17-59—(2) HAROLD JOHNSON, Executive Secretary, Tax Commission

Fertilizer imported into the United States and into Idaho is exempt from State taxation because of Article I, Section 10, Clause 2, of the United States Constitution, forbidding the states to tax imports. (Dwight F. Bickel)

7-18-59—W. H. WEBB, Wendell, Idaho

A resident who is not a taxpayer of a city does not have the right to vote in a bond election of that city. (E. G. Elliott)

7-20-59—WILLIAM R. POWELL, Idaho Falls, Idaho

Idaho law provides that municipalities may set local regulations as to the storing or transfer of explosives. (William E. Swope)

7-21-59—WILLIAM J. BRAUNER, Prosecuting Attorney, Canyon County

Lease of land from Idaho State Chapter, P.E.O. Sisterhood, Inc., by members creates a taxable interest in the lessee member but not in the lessor Sisterhood. (Dwight F. Bickel)

- 7-22-59—(1) HON. D. F. ENGELKING, Superintendent of Public Instruction

The Industrial Training School at St. Anthony, although primarily "educational" may be classed as a "correctional" institution. (B. James Koehler, Jr.)

- 7-22-59—(2) NELS T. SAHL, Prosecuting Attorney, Fremont County

Persons under 21 years of age may not appear as members of a band furnishing music in establishments selling liquor by the drink unless such establishment is licensed as a restaurant to sell food. (William E. Swope)

- 7-27-59—(1) ROSS LEONARD, Director, Department of Fish and Game

The Department of Fish and Game must require that vendors of multiple purpose hunting and fishing licenses be bonded in an amount equal to all licenses issued to the vendors by the Department. (William E. Swope)

- 7-27-59—(2) RAY RIGBY, County Attorney, Madison County

Trust funds held by a bank may be deposited in an aggregate amount, not exceeding \$10,000.00 for any one trust, in such bank and in its name as trustee if such deposit is insured by the F.D.I.C. or if such bank holds in its trust department as pledge for the payment thereof bonds or other securities of an equal market value. (John L. Long)

- 7-27-59—(3) BABETTE D. FRANKS, Pomona, California

Common law marriages are recognized in Idaho and provided for by statute; under Section 32-301 I. C. the status of husband and wife may be reached by mutual assumption of marital rights, duties and obligations. (William E. Swope)

- 7-28-59—C. R. SORENSEN and WILMA HANSEN, Members of the Wheat Growers Committee

(1) In view of "State vs. Enking, 59 Idaho 321; Idaho Gold Dredging Co. vs. Balderston, 58 Idaho 692, and other supreme court cases we are of the opinion that the "Court" would uphold the constitutionality of the Wheat Commission Law (Chapter 6 of 1959 Session Laws). (2) Any party having a tangible interest in the results of a law may initiate an action for a declaratory judgment to test its constitutionality. (E. G. Elliott)

## 7-29-59—J. W. CROWTHER, County Attorney, Oneida County

(1) Forbearance of the exercise of a right (to build a road) is ordinarily sufficient consideration to support a contract. (2) Although an irrigation company has a permit to build a dam it must nevertheless acquire such interests in land as may be necessary for such purpose through contract or condemnation. (3) An irrigation company would have to reimburse the County for damages incurred in inundating a county thoroughfare. (Anton Hohler)

## 7-30-59—HAROLD JOHNSON, Executive Secretary, Tax Commission

The 23 local labor unions in Ada County, affiliated with the American Federation of Labor, are fraternal benefit societies or associations within the meaning of Section 63-105 I. C., Sub Section (3); and the building and property operated through the Boise Trades and Labor Council are exempt from ad valorem taxation. (Dwight F. Bickel)

## 7-31-59—EUGENE L. BUSH, Prosecuting Attorney, Bonneville County, Idaho

Under the new "No-Fund" Check Law (Chapter 115 of the 1959 Session Laws) the second conviction must be for an offense committed after the first conviction and the third conviction for an offense committed after the second conviction. (William E. Swope, Frank L. Benson)

## 8- 7-59—(1) HON. D. F. ENGELKING, Superintendent of Public Instruction

As long as a school is continued in operation at a location where previously maintained, there will be an attendance unit continued there, and the moving of all the grades except two is not a discontinuance of such unit within the meaning of Section 33-522, Idaho Code. (B. James Koehler, Jr.)

## 8- 7-59—(2) FLOYD E. CUMBEE, Sioux Falls, South Dakota

(1) The State of Idaho follows the Uniform Extradition Act under which the Governor may call upon the Attorney General or any prosecuting officer to investigate the case and report as to whether the accused should be surrendered. (2) If the Governor grants the request for extradition, the accused has the right to apply to the District Court for a Writ of Habeas Corpus. (William E. Swope)



8-12-59—**GERALD A. LEE**, Secretary, Idaho Potato and Onion Commission

The bond required by Section 22-1304 I. C. is primarily for the protection of the consignor of farm products and it is doubtful that the surety would be liable to the Potato and Onion Commission for delinquent assessments of the tax imposed by Section 22-1211 I. C. (John L. Long, Frank L. Benson)

8-13-59—**CHARLES E. SPENCE**, Attorney, Village of McCall

The six-year limitation upon leases by a municipality contained in Section 50-1008 I. C. applies only to the leasing of municipal docks, wharves, marina or beach parts, and would not apply to the leasing of small lots for the erection of hangars at a municipal airport. (Jedd G. Owens, Frank L. Benson)

8-17-59—**L. A. HUDESTON**, Sheriff, Nez Perce County

(1) Jurisdiction of Idaho extends to the mid-channel of Snake River, and officers of Idaho may arrest a person for an offense committed on the Idaho side of the mid-channel boundary. (2) An offense commenced without the State of Idaho and consummated within its boundaries is punishable under Idaho laws. (William E. Swope)

8-18-59—**STANLEY I. TRENHAILE**, Commissioner of Agriculture

(1) A "first handler" is the first person handling potatoes or onions grown by another, whether he is a dealer, shipper, processor or broker. (2) A "primary channel of trade" means when the potatoes or onions reach such first handler, as such terms are used in Chapter 12 of Title 22 of the Idaho Code. (William E. Swope)

8-19-59—(1) **ROBERT C. HUNTLEY**, Moscow, Idaho

It is within the power of the Board of Regents to lease land to the Sigma Chi Fraternity on which the Fraternity will erect living quarters for members attending the University. (L. Weldon Schminke, Frank L. Benson)

8-19-59—(2) **LT. B. J. HANDLON**, Chief of Detectives, Police Department, Las Vegas, Nevada

Under Idaho law the State Board of Health has the authority and responsibility of deciding whether and when juveniles have been rehabilitated and are then eligible for parole and discharge under the "Youth Rehabilitation Act." (B. James Koehler, Jr., Frank L. Benson)

8-19-59—(3) **RICHARD MANVILLE**, Research Inc., 230 Park Ave., New York 17, New York

Except that gambling, engaging in lotteries and betting on contests is illegal, Idaho law contains no provisions affecting national contests advertised in magazines. (B. James Koehler, Jr., Frank L. Benson)

8-24-59—(1) **MELVIN ALSAGER**, Village Attorney, Potlatch, Idaho

(1) Justices of the Peace elected prior to the enactment of Chapter 221 of the 1959 Session Laws may continue to serve the balance of the term for which they were elected and at the same compensation in effect at the time they were elected. (2) An appointment of a Justice of the Peace under Chapter 221, Session Laws of 1959, except to fill a vacancy, would not be effective prior to the expiration of the term of an incumbent justice, even if said Chapter 221 is constitutional. (E. G. Elliott, Frank L. Benson)

8-24-59—(2) **TERRELL O. CARVER, M.D.**, Administrator of Health, Department of Health

(1) To label cultured buttermilk "Churned" is misleading and misbranding, and therefore, in violation of the Idaho Food, Drug and Cosmetology Act (Chapter 153 of the 1959 Session Laws). (2) It is within the power of the Department of Health to require cultured buttermilk to be so labeled. (B. James Koehler, Jr.)

8-28-59—**BUTLER, JABLOW AND GELLER**, Attorneys at Law, 500 Madison Ave., New York 17, New York

Idaho law provides that selections from the Bible shall be read daily in all our public schools and that such selections must be read without comment or interpretation by the teachers. (B. James Koehler, Jr.)

8-9-59—**LYLE A. YOUNG**, Secretary-Manager, Idaho Press Association, Inc., Boise, Idaho

Newspaper publication of county commissioner's meetings and financial reports must be itemized in sufficient detail to clearly give notice to the taxpayers of the proceedings of their elected officials. (Jedd G. Owens, Frank L. Benson)

9-10-59—(1) **TERRELL O. CARVER, M.D., Administrator of Health, Department of Health**

Funds found on the persons of deceased patients at state hospitals may be used to apply on the cost of maintenance of the particular patient while at the hospital. If any amount remains, such remainder, after being held by the hospital for five years and being unclaimed, shall be delivered to the State Treasurer to be placed in the General Fund of the State. The opinion applies only to the patient's own money found on his person, not moneys of third parties. (B. James Koehler, Jr.)

9-10-59—(2) **R. J. SPAULDING, Commissioner of Finance**

A loan statement under the Small Loan Law must contain all of the information required by Sections 26-2043, 26-2040 (a) and (d), and of 26-2040 (c); and if it does not contain this information the licenses would be in violation of the law. (B. James Koehler, Jr.)

9-10-59—(3) **R. U. SPAULDING, Commissioner of Finance**

The Department of Finance has authority to promulgate rules and regulations concerning the keeping of books and accounting records by small loan companies which will better enable the Department to see that the provisions of the law are carried out. (B. James Koehler, Jr., Frank L. Benson)

9-15-59—(1) **HON. ARNOLD WILLIAMS, Secretary of State, Member of Board of Examiners**

The State Land Commission is a constitutional Board composed of constituted officials and they are vested with full power and authority over all real property belonging to the State of Idaho; therefore, such Board may contract to insure buildings on state land and a claim for premiums due upon the contract is a valid claim which should be honored by the Board of Examiners even though the claim is not approved by the Commissioner of Insurance. (E. G. Elliott, Frank L. Benson)

9-15-59—(2) **MAX COHN, Chairman, Lava Hot Springs Foundation**

The Lava Hot Springs Foundation has authority to construct a motel, as provided in Chapter 266 of the 1959 Session Laws, where such is incidental and conducive to the attainment of the purposes of the Foundation. (E. G. Elliott, Frank L. Benson)

9-18-59—LELAND FIFE, Director, Division of Plant Industry,  
Department of Agriculture

When a person mixes his own feed for his own use, even though he be a manufacturer of commercial feeds and subject to registration, the inspection fee tax may not be assessed against him, as there must be some sort of distribution or supplying by one person to another as a basis for the assessment. (Jedd G. Owens, Frank L. Benson)

9-21-59—HON. ROBERT E. SMYLIE, Governor, State of Idaho

An appropriation for the purpose of building a specified number of buildings at the Industrial School and not sufficient to build the number specified, which appropriation is specifically declared to be not subject to the Standard Appropriations Act, may be used for building a lesser number which will substantially accomplish the purpose of the appropriation. (B. James Koehler, Jr.)

9-22-59—HON. D. F. ENGELKING, Superintendent of Public Instruction

(1) Payment under Section 33-4106 I. C. does not exclude an allowance for transportation of handicapped children under Section 33-1008 I. C. (2) Section 33-1008 I. C. applies to transportation program payments by the State applicable to the local districts; therefore, the district may pay an amount in excess of \$10.00 per month for the transportation of a handicapped child to a private rehabilitation center. (B. James Koehler, Jr., Frank L. Benson)

9-28-59—(1) ROBERT M. TERRELL, Member Lava Hot Springs Foundation, Pocatello, Idaho

The Board of Examiners has no power to incur claims against the State such as making improvements on state property at Lava Hot Springs; such power is vested in the Lava Hot Springs Foundation and the authority of the Board of Examiners would be limited to passing upon claims incurred by the Foundation. (E. G. Elliott, Frank L. Benson)

9-28-59—(2) HON. ARNOLD WILLIAMS, Secretary of State, Member of the Board of Examiners

The chairman and member of the Board of the Lava Hot Springs Foundation is legally entitled to compensation for services only as a Member of the Board and is not entitled to compensation for services performed at the site of the Foundation as an overseer of the work done there. (E. G. Elliott, Frank L. Benson)

9-29-59—**HAROLD L. SCOTT**, Managing Director of Kansas City Crime Commission, Kansas City 6, Kansas

A recent enactment of the Idaho Legislature (Chapter 32 of the 1957 Session Laws, now Section 6-210 I. C.) makes parents liable for vandalism of their minor children. (William E. Swope)

9-30-59—**DWAINE L. WELCH**, County Attorney, Payette County

The three-mill levy in Section 31-3501 I. C., which the county commissioners were authorized to make for care of indigent sick and poor, was increased to five mills by House Bill 250 (Chapter 159 of the 1959 Session Laws). (B. James Koehler, Jr.)

9-30-59—**RICHARD L. McFADDEN**, County Attorney, Benewah County

Lands not owned by residents and qualified electors of the State of Idaho, are excluded in determining whether "more than fifty percent" of the land or landowners have petitioned for creation of a herd district, under Title 25, Chapter 24, Idaho Code. (Thos. Y. Gwilliam)

11-9-59—**P. G. NEILL**, Tax Collector, State of Idaho

Distrain warrants provided for in Section 63-3057 through 63-3061 of the 1959 Income Tax Act must be served by a sheriff or constable and not by a member of the Tax Collector's staff. (Robert E. Bakes)

10-12-59—**DEANA MICKELSEN**, Elk River Public Schools

The game of Bingo falls within the definition of a lottery in the State of Idaho. (William E. Swope)

10-13-59—**P. G. NEILL**, Tax Collector, State of Idaho

The computation of federal tax credit under Section 63-3028 of the 1959 Idaho Income Tax Act should be effected by multiplying the applicable federal rates by the "taxable income" as defined in Section 63-3022 and not computed on any net income figure. (Robert E. Bakes)

10-14-59—**LELAND FIFE**, Director, Division of Plant Industry, Department of Agriculture

The Plant Pest Control and Research Commission, established by Title 22, Chapter 21, I. C. has the authority to use funds appropriated to it from the state treasury for the purpose of reimbursing a farmer for a crop that was destroyed in the eradication program. (Jedd G. Owens, William E. Swope)

10-22-59—**RAYMOND J. BRIGGS**, Chairman, Idaho State Board of Engineers Examiners

A corporation may not practice or engage in the practice of professional engineering in Idaho irrespective of whether licensed or non-licensed employees perform the engineering services. (E. G. Elliott)

10-23-59—**ROGER L. GUERNSEY**, State Forester

Land placed under the reforestation program and taken from the tax rolls and then subsequently put to a different use should be assessed and the tax thereon paid from the time it was first taken off the tax rolls. (William E. Swope)

10-26-59—**LELAND FIFE**, Director, Division of Plant Industry, Department of Agriculture

(1) Paying with a certified check is equivalent to paying cash, and a dealer who makes payment by a certified check would be deemed a cash buyer within the meaning of Section 22-1301 of the Idaho Code. (Jedd G. Owens)

10-29-59—(b) **R. J. DAY**, Gooding, Idaho

The governing board of any municipality may not license liquor by-the-drink establishments unless twenty percent of the registered electors petition for a referendum on the question and a majority of the qualified electors voting thereon approve. (Frank L. Benson)

10-29-59—(2) **JAUNITA ALLEN**, Parma, Idaho

No liquor-by-the-drink establishments may be closer than 300 feet to a church or school unless the governing body of the municipality approves. (Allen R. Derr)

10-5-59—(1) **HON. WILLIAM A. KERSEY**, State Representative, Jerome County

Two methods of procedure exist for annexing to a "good reads district" land adjacent to such district: The Board of County Commissioners, upon petition, may pass on the annexation proposal and order it (or deny it); the holders of title or evidence of title in the territory proposed to be annexed may petition for an election to the County Commissioners and if an election is held, and a majority of the qualified voters approve, the proposed annexation becomes effective. (Allen R. Derr)

11- 5-59—(2) HON. D. F. ENGELKING, Superintendent of Public Instruction

There is no set length of time that the ballots cast in a bond election must be retained and stored, therefore, any reasonable length of time should be sufficient. It has been the recommendation of auditors that there be three years retention before destroying the ballots. (B. James Koehler, Jr.)

11-18-59—EARL F. WINAMS, Chief of Police, Kellogg, Idaho

If traffic citation forms of traffic enforcement agencies on hand prior to the effective date of Section 49-1121 I.C., meet the requirement as to containing a notice to appear and are in quadruplicate, they may be continued in use by said agencies; the cost of such forms must be borne by the individual traffic enforcement agencies (cities). (Jedd G. Owens)

11-19-59—(1) JAMES T. SCHOENHUT, County Attorney, Valley County

County commissioners may not enlarge a county hospital by a bond issue unless the matter is submitted to the electorate of the county for a vote under one of the two methods provided for by statute. (Thos. Y. Gwilliam)

11-19-59—(2) S. B. GARRETT, St. Anthony, Idaho

It is not within the power of trustees of a school board to exclude students from school merely because they are married. (B. James Koehler, Jr.)

11-25-59—HAROLD JOHNSON, Executive Secretary, State Tax Commission

The personal property of servicemen stationed in Idaho but having a residence or domicile in some other state are exempt from the Idaho property tax under the Soldiers' and Sailors' Civil Relief Act of 1940. (Leon R. Weeks)

12- 1-59—HON. ROBERT C. BYRD, U.S. Senator, West Virginia, Washington, D. C.

Idaho has laws which prohibit the operation of a dance house, race track, circus, concert saloon, billiard or pool room, or variety hall on Sunday; boxing, sparring and wrestling matches are also prohibited on Sunday and sale of liquor is forbidden. (Allen R. Derr)

12- 3-59—PRESTON HAALST, City Clerk, Glenns Ferry, Idaho

In the event the mayor is ill and the president of City Council has resigned, the acting president of the Council has the same power as the mayor would have if he were present. (B. James Koehler, Jr.)

12- 8-59—T. H. WARREN, Assessor, Custer County

The increase for travel pay provided by Chapter 140 of the 1959 Session Laws applies only to state employees and not to employees of the county. (Thos. Y. Givilliam)

12- 9-59—CARL M. GEISLER, Mayor, Wendell, Idaho

A low bid submitted by a general contractor for sewer construction may not be accepted by the city council if the bid does not include the names of the sub-contractors. (B. James Koehler, Jr.)

12-10-59—W. L. ROBINSON, Commissioner, Department of Labor

(1) The main contractor in all state, county, municipal and school construction, repairs and maintenance work is legally obligated to give preference to Idaho residents, whether as sub-contractors or as employees under the common law definition and to see that employees of sub-contractors are Idaho residents. (2) Only when qualified Idaho labor is not available may the employer use out of state labor in accordance with the percentage provisions of Section 44-1001, 44-1002, Idaho Code. (Allen Derr, Frank L. Benson)

12-14-59—(1) W. F. ROACH, Fire Marshall, Boise Fire Prevention Bureau

The provisions contained in Chapter 19, Title 39 of the Idaho Code, for fire escapes in public buildings are applicable to all school buildings in Idaho designated therein, regardless of when such buildings were built. (Allen R. Derr)

12-14-59—(2) LOU BABB, Department Adjutant, American Legion, Department of Idaho

If qualifications set out in the statutory provisions pertaining to property tax exemptions of property belonging to disabled American Veterans are met, all of the property meeting the exemption is exempt from taxes even though the veteran is married. (William E. Swope)



- 12-14-59—(3) LEO O'CONNELL, Commissioner of Insurance,  
Department of Insurance

A foreign stock, insurance corporation cannot be licensed to do business in this state unless and until it meets the same capital stock and surplus requirements demanded of a domestic corporation. (B. James Koehler, Jr.)

- 12-14-59—(4) P. G. NEILL, Tax Collector, State of Idaho

The \$10.00 excise tax provided for in Section 63-3082 of the 1959 Idaho Income Tax Act is imposed on corporations as well as individuals. (Robert E. Bakes)

- 12-17-59—(1) \* ROBERT K. HADJAM, Staff Judge Advocate, Fort Ord, California

Idaho law makes no provision either allowing or prohibiting proxy or absentee marriages and it is possible they would be upheld. (Allen R. Derr)

- 12-17-59—(2) D. F. ENGELKING, Superintendent of Public Instruction

School districts are ordinarily not liable for personal injuries sustained by persons not pupils, arising from conditions of school premises, in absence of statute creating such liability. (B. James Koehler, Jr.)

- 12-17-59—(3) STANLEY TRENHAILE, Commissioner of Agriculture

The Potato and Onion Commission may contract for services authorized by the Act and pay for the same, but it may not contribute money to a private concern to be expended in a manner to be determined by such private concern. (E. G. Elliott)

- 12-17-59—(4) HON. ARNOLD WILLIAMS, Secretary of State

The name "Tri-State Suppliers, Inc." is deceptively similar to "Tri-State Supply Company" and such name would not be available for filing in this State at this time. (B. James Koehler, Jr.)

- 12-28-59—(1) A. ROY FLAGLER, Constable, Pocatello, Idaho

A Constable is entitled to the fee of one dollar, \$1.00, when serving papers out of the Small Claims Court. (Thos. Y. Gwilliam)

- 12-28-59—(2) WEBSTER CALDWELL, Constable, Nampa, Idaho

A constable may make the same charge as a sheriff for each folio, for a copy of and making of a writ, process or other papers when demanded, or required by law. (E. G. Elliott)

12-31-59—**ROBERT McLAUGHLIN**, County Attorney, Elmore County

A Justice of the Peace may not be interested either directly or indirectly in contract with the county. (Frank L. Benson)

1- 7-60—(1) **HON. ARNOLD WILLIAMS**, Secretary of State, Member of the Board of Examiners

(1) The Board of Examiners is a quasi-judicial body whose power is limited to the right to pass upon claims against the State but without power to incur any such claims. (2) Under Chapter 216 of the 1959 Session Laws which provides that any governmental body, department, commission, or board may enter into any insurance contract for the benefit of the employees, power to enter into such contracts would be vested in the heads or governing body of each department. (3) The action of the Board of Examiners in selecting the Equitable Life Assurance Society as the company which first made the best offer in the first instance can only be recommendation. (E. G. Elliott, Frank L. Benson)

1- 7-60—(2) **MAX K. TRYSON**, Chief of Real Estate Division, U.S. Army Engineers

Under Section 62-705 of the Idaho Code, the United States Government may install underground communication cables along or underneath Idaho highways and roads. (Thos. Y. Gwilliam)

1- 7-60—(3) **HON. D. F. ENGELKING**, Superintendent, Public Instruction

Section 33-4201, Idaho Code, pertaining to registration of correspondence schools, does not apply to a non-profit organization conducting such a school, but evidence should be required to substantiate a claim by such an organization, however, to prove its non-profit status. (B. James Kochler, Jr.)

1- 8-60—(1) **JOSEPH H. MILLER**, St. Maries, Idaho

(1) An auctioneer must obtain an auctioneer's license before selling at public auction. (2) An auctioneer must also obtain a real estate broker's license before engaging in the general business of selling real estate. (Allen R. Derr)

- 1- 8-60—(2) HASSEL BLANKENSHIP, County Commissioner,  
Blaine County

A person must be a qualified elector, and therefore must have been a bona-fide resident of the county for thirty days in order to qualify for a permanent appointment to the office of Prosecuting Attorney, but one not having fulfilled the residence requirement may be appointed a special prosecutor, under Section 31-2603, Idaho Code, by the District Court. (Allen R. Derr, Frank L. Benson)

- 1-11-60—WINSTON G. TAYLOR, Superintendent, Industrial  
Training School

A school superintendent may contract for services of a medical doctor, with the advice and consent of the Board of Trustees. (Jedd G. Owens)

- 1-13-60—THEODORA V. (NAN) SMITH, Moscow, Idaho

The yardstick for determining the number of liquor licenses which may be issued for any city or village is the last preceding census. Such census included a count of minors, and in the absence of their inclusion by the legislature, the census count including minors is the proper basis for measurement. (Allen R. Derr)

- 1-15-60—(1) STANLEY I. TRENHAILE, Commissioner of  
Agriculture

Where fees are due the Department of Agriculture for meat inspection services, the Department cannot enter into an arrangement for benefit of creditors, as such would place the department in a position of extending credit, which it has no authority to do. (William E. Swope)

- 1-15-60—(2) L. E. CLAPP, Warden, Idaho State Penitentiary

Where a person is sentenced simultaneously to two or more prison terms such terms run concurrently, unless the language of the court clearly shows that such are to run consecutively. Doubt or ambiguity in the judgment and commitment should be resolved in favor of the prisoner and liberty. (William E. Swope)

**1-18-60—I. E. MAYNE, President, Associated Plumbing and Heating Contractors of Idaho, Inc., Boise, Idaho**

In submitting bids to the State of Idaho or municipalities or school districts for contracts involving construction, alterations or repair of building improvements, or public works requiring plumbing, heating, air-conditioning or electrical work, the contractor must name the subcontractors to whom work is intended to be given in the event the general contractor obtains the contract. (Allen R. Derr)

**1-19-60—ROBERT F. McLAUGHLIN, County Attorney, Elmore County**

(1) The County Commissioners may not prohibit the operation of a private employment agency. (2) Power to regulate a private business such as an employment agency is vested in the Legislature and in the absence of statutory authority the County Commissioners may not regulate the manner in which a private employment agency conducts its business or the fees it may charge. (3) Sections 44-201 to 44-211, Idaho Code, have in effect, been abrogated by the decision of the United States Supreme Court in the case of *Adams vs. Tanner*, 244 U.S. 590, 61 L. Ed 1336. (C. E. Elliott, Frank L. Benson)

**1-21-60—W. L. ROBISON, Commissioner of Labor, State of Idaho**

Where a strike is called because of an employer's violation of the public policy of Idaho as declared in Section 44-701, I.C., the strikers retain the status of employees for the purposes of an election to determine representatives where said employer requests such an election. (Allen R. Derr)

**1-22-60—D. W. GRIMM, Mayor of Bancroft**

(1) If there has been a substantial change in the population of the commissioner districts, the County Commissioners at the first meeting in January preceeding any general election should re-district the county so that the districts will be as nearly equal in population as may be, but no voting precinct shall be divided. (2) Mandamus proceedings will lie in the courts to compel the County Commissioners to re-district the county where the districts should be changed and the commissioners will not act voluntarily. (Allen R. Derr)

1-25-60—HON. D. F. ENGELKING, Superintendent, Public Instruction

- (1) The teacher or teachers directly supervising student safety patrols, and ultimately the school district trustees, are responsible for children active in such patrols.
- (2) The school district has the legal responsibility for the patrol program and those involved in it. (B. James Koehler, Jr.)

2-4-60—JAMES O. CLICK, Supervisor, Special Education and Jr. High Schools

Under Section 33-4105, one-eighth classroom unit should be allowed for each handicapped child over eight such children, provided more than one teacher is employed. (B. James Koehler, Jr.)

2-16-60—PETER G. LERIGET, Attorney At Law, Moscow, Idaho

Under Idaho law, one's name may not appear on the primary election ballot except as a member of a qualified political party, as defined in Section 34-602, Idaho Code; but one may be nominated for office as a write-in candidate or by convention. (Allen R. Derr)

2-17-60—ROSS E. BARNEY, Assistant State Superintendent of Public Instruction

School land not contiguous or adjacent to a municipality may not be annexed to such municipality, but the school district may purchase an easement or right-of-way across private property to such school land provided statutory procedure is followed. (B. James Koehler, Jr.)

2-19-60—GERALD A. LEE, Executive Secretary Idaho Potato and Onion Commission

Potato and onion tax is due not later than the fifteenth day of the month next following the month such products are handled in the primary channels of trade, whether the person be a shipper or grower. (Jedd G. Owens)

2-23-60—HON. LESTER C. PALMER, Senator, Adams County

Under Section 31-3101, Idaho Code, county employees are legally limited to seven cents per mile for travel expense when using their private cars on county business. (E. G. Elliott)

- 3- 8-60—LELAND FIFE, Director, Division of Plant Industry,  
Department of Agriculture

A county may enter into a contract in its proprietary capacity for commercial spraying to control insects, fungi, and weeds. (Jedd G. Owens)

- 3- 9-60—RALPH H. HALEY, Prosecuting Attorney, Clearwater County

Conservation officers are not "peace officers" and their authority is only such as is given them under Title 36, Chapter 1, Idaho Code. (William E. Swope)

- 3-17-60—P. G. NEILL, Tax Collector

Members of the United States Public Health Service detailed for duty with the United States Navy within the State of Idaho are "persons in military service" within the meaning of the Soldiers' and Sailors' Civil Relief Act, and are therefore exempt from Idaho Income Tax Law. (Robert E. Bakes)

- 3-18-60—HON. JOHN J. O'CONNELL, Attorney General of the State of Washington

(1) The wages of a Washington resident working in Idaho are taxable under the 1959 Idaho Income Tax Act. (2) Idaho residents employed in Washington by employers who are also doing business in Idaho are not subject to the Idaho withholding tax laws. (Robert E. Bakes)

- 3-29-60—EDWARD BABCOCK, Prosecuting Attorney, Twin Falls, Idaho

(1) Requests for absentee ballots in the primary election must specify applicant's party affiliation. (2) Absentee voting is permitted in run-off primary elections. (3) A separate application for absentee ballot must be made for run-off primary elections, and such separate application may be made before the original primary election. (Frank L. Benson)

- 4-11-60—ERNEST LLOYD, Boise, Idaho

A "Persistent Violation Law" is not a violation of state or federal constitutions. (William E. Swope)

- 4-11-60—(2) MARVIN A. BREIER, Boise, Idaho

The Attorney General is the legal advisor of all state officials and has supervision over the prosecution of all criminal cases. (William E. Swope)

4-12-60—CARL TRUET, New Meadows, Idaho

If an elector does not vote in the general election, he must re-register. (Thos. Y. Gwilliam)

4-13-60—RICHARD L. RIORDAN, Attorney, Nampa, Idaho

If statutory steps taken under Federal Social Security law and under Chapter 23 of the 1957 Idaho Session laws, policemen may be covered under the Policemen's Retirement Fund as well as under Social Security Act. (Thos. Y. Gwilliam)

4-14-60—(1) RAY JUDD, Chairman of Village Board, Lava Hot Springs, Idaho

(1) Procedure for selling village property is set out in Section 50-708 I. C. and provides that such property must be appraised by three disinterested freeholders of the village and sold at public auction to the highest bidder. (2) The Chairman of a village board may vote and offer motions as other members. (Frank L. Benson)

4-14-60—(2) GERALD SEEDALL, Idaho Falls, Idaho

There are no gambling rights in the state of Idaho as the Constitution specifically prohibits lotteries, and gambling is made unlawful by Statute. (William E. Swope, Frank L. Benson)

4-15-60—C. D. MANFRED, City Clerk, Genesee, Idaho

A city may contract with a highway district for construction and repair of city streets. (Thos. Y. Gwilliam)

4-18-60—(1) HON. ARNOLD WILLIAMS, Secretary of State

The general election laws and the nomination laws, including those pertaining to the run-off election, should be published by the Secretary of State in the same pamphlet and distributed through the county auditors at least 60 days before the nominating election. (Frank L. Benson)

4-18-60—(2) ARNOLD WILLIAMS, Secretary of State

Since no money was appropriated by the legislature to pay the cost involved and as the printing and distribution would create a deficiency in violation of 59-1015 and 59-1016, I.C., the Secretary of State should not attempt to carry out the duties prescribed in 34-106 through 34-111, I.C., by printing and distributing the booklets containing statements and pictures of candidates. In addition, the time allowed for the performance of such duties makes their performance an impossibility. (E. G. Elliott)

4-26-60—DOROTHY I. SUTER, Administrator of Martin H. Anderson Estate, Eagle Creek, Oregon

A promissory note given by a married man may be collected against him or his estate, but a mortgage to secure the payment of such note given on community property by him and not signed and acknowledged by his wife, is void. (Thos. Y. Gwilliam)

4-28-60—TERRELL O. CARVER, M.D., Administrator of Health

When custody of a minor child is awarded by the court to the mother in a divorce action, such custody remains with the mother until legally changed, and her residence is the child's residence at all times. (Jedd G. Owens)

5- 5-60—SCOTT JONES, Department of Insurance

The general rule is that the cancellation of an insurance policy does not effect rights which have already accrued under the policy in favor of the insured. (B. James Koehler, Jr.)

5- 9-60—RICHARD E. JONES, N.D., Albuquerque, New Mexico

There is no statutory law governing the practice of Naturopathy in Idaho. The practice of Naturopathy may be engaged in in Idaho provided it is confined to the recognized field thereof. (E. G. Elliott)

5-10-60—HON. D. F. ENGELKING, Superintendent of Public Instruction

If the home district does not maintain a high school the trustees may determine which school a high school student may attend, but if the trustees refuse or fail to make such determination, the parents of the student may choose which school he may attend. (B. James Koehler, Jr.)

5-12-60—HON. D. F. ENGELKING, Superintendent of Public Instruction

A music teacher employed in a public school may own and operate a music store but may not sell merchandise to his students or their parents. (B. James Koehler, Jr.)



**5-16-60—R. M. O'CONNOR, Mount Prospect, Illinois**

Section 9-417 I.C. provides that any writing recorded, copied or reproduced by any photographic, photostatic, micro-film, micro-card, or other process which reproduces a durable medium, the original may be destroyed unless held in custodial or fiduciary capacity, or its preservation is required by law. Such reproduction is as admissible in evidence as the original itself. (Thos. Y. Gwilliam)

**5-17-60—WARREN FELTON, Attorney at Law, Lewiston, Idaho**

In extradition proceedings, the attorney for the accused may make a plea in his behalf, but the Government may not properly inquire into the guilt or innocence of the accused. (William E. Swope)

**5-18-60—(1) E. F. McQUIRE, Clerk of School Dist. No. 394, Clarkia, Idaho**

School district trustees may not use district money in constructing a water reservoir on a third party's land to furnish water for the district and for third parties. (B. James Koehler, Jr.)

**5-18-60—(2) CANDIDATES FOR UNITED STATES SENATOR**

Idaho law provides that a candidate for the office of United States Senator may not expend, in aid of nomination, directly, indirectly or through another, more than \$5000.00. (Frank L. Benson)

**5-20-60—CYLDE & MACHAM, Lawyers, Salt Lake City, Utah**

Under the full faith and credit provisions of the U.S. Constitution, a marriage performed in Idaho in full accordance with its laws, should not in an annulment action in Utah be held to be void. (William E. Swope)

**5-20-60—LOUIS GORRONO, County Attorney, Gem County**

Section 34-646 I.C., provides only for the posting of notice for a run-off election and not for publication. (E. G. Elliott)

**5-25-60—CURTIS FORD, Lapwai, Idaho**

The county auditor should not refuse to place the name of the candidate upon ballot even though there are more names on the petition than the maximum specified by statute. (E. G. Elliott)

**5-26-60—TERRELL O. CARVER, M.D., Administrator for Health**

Findings of fact and order upon hearing cancelling a hospital license should be sent to operator by registered mail. (Jedd G. Owens)

5-27-60—(1)—**HAROLD WEST**, Administrator, of Wheat Commission

The Wheat Commission may not delegate its authority to extend part of its appropriation, as such would be in violation of Article 8, Section 2 of the Idaho Constitution which provides that credit of the State shall not, in any manner, be given to any individual, association or municipality. (E. G. Elliott)

5-27-60—(2) **WILLIAM BRAUNER**, County Attorney, Canyon County

Check marks should not be made opposite the names of registered voters on the election register sheet at the time such persons vote in the run-off election, and the poll books used by county commissioners to canvass the results of the run-off election should be placed in the locked ballot box after the canvass and the contents should not be disclosed to the public. (Frank L. Benson)

5-31-60—**RAY RIGBY**, County Attorney, Rexburg, Idaho

In a public sale of state land, when a successful bidder refused to complete the purchase and forfeits the amount required to enable him to bid, there is no sale and the next highest bidder may not be substituted as the successful bidder. (William E. Swope)

6-1-60—**ROBERT McFADDEN**, Clerk of School Board, Plummer, Idaho

Since the statutes provide only for the employing of a superintendent for a period of time longer than one year it will be presumed that a clerk, treasurer and attorney should be employed on a one-year basis. (B. James Koehler, Jr.)

6-8-60—(1) **PHIL LONG**, Director of Valuations, State Tax Commission

County Commissioners on the second Monday in November may not set a levy for the purpose of revaluation if this amount was not included in the tentative county budget as set on the second Monday in January and advertised according to Section 31-1604, Idaho Code. (Jedd G. Owens)

6-9-60—**DEAN CORBRIDGE**, 320 Sonna Building, Boise, Idaho

Section 39-2202 I.C., authorizes the Commissioner of Law Enforcement to make and enforce regulations governing the design, construction, location and installation of containers of liquified petroleum gases. (William E. Swope)

6-10-60—WILLIAM J. BRAUNER, County Attorney, Canyon County

Run-off election judges are entitled to the same compensation as in the nominating election. (E. G. Elliott)

6-14-60—TERRELL O. CARVER, M.D., Administrator of Health

Liability of a state hospital in transporting patients based upon negligence of employee, is the same as private transportation. (Jedd G. Owens)

6-15-60—OWEN KNOWLTON, County Attorney, Nez Perce County

Both sets of precinct officers provided by Section 34-1205 are required to conduct a run-off primary election. (E. G. Elliott)

6-16-60—NELS T. SAHL, County Attorney, Fremont County

County commissioners do not have authority to levy taxes in aid of private or municipally owned or operated hospitals. (E. G. Elliott)

6-21-60—GREGG POTVIN, Candidate for U.S. Senate, American Falls, Idaho

There is no basis by which two candidates in a run-off election may waive a full compliment of judges and clerks on the election board; and the county commissioners may not employ less than the entire number specified. (Frank L. Benson)

6-23-60—LOUIE GORRANO, County Attorney, Gem County

A candidate for any office including precinct committeeman should not serve as a Clerk of the Election Board. (Frank L. Benson)

6-24-60—CHESTER CHASTEK, Spokane, Washington

Idaho law requires a foreign corporation in order to qualify to do business within this state to file a certified copy of articles of incorporation with the Secretary of State and with the County Recorder in the county of its principal place of business and to designate some person within the state upon whom process may be served. (Frank L. Benson)

6-29-60—H. F. WILLMORTH, Director Teachers Retirement System

Under Title 33, Chapter 15 of the Idaho Code, it is provided that members of the Teachers Retirement System pay one half the cost of administration, and if more than this amount is assessed such excess should be returned to the membership. (B. James Koehler, Jr.)

## ATTORNEY GENERAL'S REPORT

## SUPREME COURT

## Civil Appeals Closed

- 2095 Snake River Mutual Fire Insurance Co. vs. P. G. Neill, State Tax Collector.
- 2199 H. W. Anderson, et al vs. Henry Stocks, et al, State Board of Land Commissioners and Robert E. Smylie, et al. (Re: Determination of mineral rights on state leased property)
- 2285 Colconda Lead Mines, a corporation, and John A. Featherstone and Harry F. Magnuson vs. P. G. Neill, Tax Collector of the State of Idaho.
- 2297 Lloyd H. Scrivner and Gladys Scrivner, vs. State Tax Commission, et al. and P. G. Neill, State Tax Collector.

## SUPREME COURT

## Special Cases (Closed)

- 2125 PAUL S. BOYD, et al. STATE BOARD OF HEALTH and DR. JOHN BUTLER, Acting Superintendent of the State Hospital North v. S. BEN DUNLAP, Acting District Judge. (Re: Writ of Prohibition)
- 2223 BOHEMIAN BREWERIES, et al v. EARLE E. KOEHLER, Commissioner of Law Enforcement of the State of Idaho, and WARNER C. MILLS. (Re: Power of Commissioner of Law Enforcement to revoke or suspend Brewery License)
- 2295 BOARD OF COUNTY COMMISSIONERS of Lemhi County, Idaho, et al. vs. RULON SWENSEN. (Re: Writ of Mandate)
- 2340 STATE OF IDAHO v. FRANK E. LAWLER. (Re: Annual registration and use fee Motor Vehicles)
- 2369 FABER E. TWAY v. JOE R. WILLIAMS, State Auditor of the State of Idaho. (Re: Writ of Mandate)
- 2377 RONCOE C. RICH, LEONARD K. FLOAN and WALLACE C. BURNS, Idaho Board of Highway Directors and G. BRYCE BENNETT, State Highway Engineer v. JOE R. WILLIAMS, State Auditor. (Re: Writ of Mandate)
- 2379 ROBERT E. SMYLIE, Governor of Idaho v. JOE R. WILLIAMS, State Auditor. (Re: Writ of Prohibition)

- 2386—STATE ex rel BARTON A. BRASSEY, et al v. MAX HAN-  
SON, Chief Clerk of the House of Representatives, et al.  
(Re: Writ of Mandate)
- 2404—WILLIAM R. PADGETT v. JOE R. WILLIAMS, State Audi-  
tor. (Re: Writ of Mandate)

## SUPREME COURT

## (Criminal Appeals Closed)

- 2167—State of Idaho vs. Vondell A. Bock. (Re: Involuntary Man-  
slaughter)
- 2175—State of Idaho vs. Gordon Larsen. (Re: Sodomy)
- 2234—State of Idaho vs. James Polson and Betty Joeanne John-  
son, sometimes known as Betty Nan Lanier. (Re: Second  
Degree Burglary)
- 2236—State of Idaho vs. Robert F. Barter. (Re: Reckless driving)
- 2247—State of Idaho vs. Ross Packer. (Re: Violation of Liquor  
Law)
- 2277—State of Idaho vs. James Allen Hendricks. (Re: Lascivious  
conduct)
- 2282—State of Idaho vs. Allan Morris. (Re: Acting as a real estate  
salesman without a license)
- 2286—State of Idaho vs. Donald G. Parker. (Re: Driving while  
under the influence of intoxicating liquor)
- 2287—State of Idaho vs. Buddy Lee Burris. (Re: Murder)
- 2291—State of Idaho vs. Forrest H. Pefley. (Driving while under  
the influence of intoxicating liquor)
- 2307—State of Idaho vs. Delbert L. Davis. (Re: Obtaining property  
under false pretenses)
- 2309—State of Idaho vs. Wilbur B. Cox. (Re: Negligent Homicide)
- 2314—State of Idaho vs. Thomas C. (Tommy) Brophy, Jr. (Re:  
Appeal not perfected)
- 2315—State of Idaho vs. Lee R. Peterson. (Re: Liquor law vio-  
lation)
- 2342—State of Idaho vs. Loren D. Anderson. (Re: Negligent homi-  
cide)
- 2358—State of Idaho vs. James McConville. (Re: Rape)

## ATTORNEY GENERAL'S REPORT

- 2366—State of Idaho vs. Max J. Coburn. (Re: Negligent Homicide)
- 2367—State of Idaho vs. Donald B. Wilson. (Re: Obtaining money under false pretenses)
- 2381—State of Idaho vs. Thomas H. Church. (Re: Reckless driving)
- 2382—State of Idaho vs. John Kombol. (Re: Grand Larceny)
- 2391—State of Idaho vs. James Polson and Betty JoeAnne Polson. (Re: Assault with a deadly weapon)
- 2393—State of Idaho vs. A. G. (Tex) Nivens. (Re: Appeal not perfected)

## SUPREME COURT

## Habeas Corpus (Closed)

- 2135—In re Clarence H. Baldwin v. L. E. Clapp, et al, Warden, Idaho State Penitentiary and Penitentiary Physician. (Re: Forgery).
- 2235—State of Idaho v. William Bronson Mayer. (Re: Unlawful possession of narcotic drug)
- 2237—In re Application of John Segedi for Writ of Habeas Corpus. (Re: Burglary).
- 2276—In re Application of James Coleman for a Writ of Habeas Corpus. (Re: Obtaining money under false pretenses)
- 2281—In re Application of John N. Eubanks. (Re: Burglary)
- 2392—State of Idaho v. W. T. Johnson. (Re: Forgery)
- 2407—Earnest Lloyd v. L. E. Clapp. (Re: Persistent violator)

## SUPREME COURT

## Civil Appeals Pending

- 2191—Thomas L. Berry d.b.a The Quality Repair Dental Lab, et al vs. Earle E. Koehler, Commissioner of Law Enforcement, State of Idaho.
- 2311—Idaho Portland Cement Co. vs. P. G. Neill, State Tax Collector.
- 2365—Texas Company vs. P. G. Neill, State Tax Collector.
- 2357—State ex rel Tax Collector vs. Silver Syndicate, Inc.

**SUPREME COURT****Special Case Pending**

- 2441—Aero Service Corporation (Western) vs. Frank L. Benson, Arnold Williams, Robert E. Smylie and Joe R. Williams. (Re: Writ of Mandamus.)

**SUPREME COURT****(Criminal Appeals, Pending)**

- 2348—State of Idaho vs. Woodrow W. Wendler. (Re: Negligent Homicide)
- 2394—State of Idaho vs. Dave Pappe. (Re: Negligent Homicide)
- 2412—State of Idaho vs. John Hopple. (Re: Grand Larceny)
- 2419—State of Idaho vs. Lavern Francis Whitlock. (Re: Violation of Liquor Law)
- 2422—State of Idaho vs. Meredith L. Henry. (Re: Reckless driving)
- 2423—State of Idaho vs. Charles Anderson.
- 2438—State of Idaho vs. Robert Clokey. (Re: Murder)

**SUPREME COURT****Habeas Corpus, Pending**

- 2411—In re Delbert Curl and Robert Silas Moore. (Re: Burglary)
- 2415—In re Donald Wallace Shepard vs. L. E. Clapp, Warden of Idaho State Penitentiary. (Re: First Degree Burglary)
- 2416—In re Petition of James William Martz. (Re: Failure to Provide)

**DISTRICT COURT****Civil Cases (Closed)**

- 1999 Aberdeen-Idaho Mining Co. v. Bunker Hill and Sullivan Mining and Concentrating Co., a corporation, the State Board of Land Commissioners, and Arthur Wilson, Commissioner. (re: State mineral lease).

- 2035 Safeway Stores, Inc., v. Robert E. Smylie, Governor of Idaho; et al (re: Injunction concerning Unfair Sales Act).
- 2038 John E. Peterson and Florence E. Peterson v. Mark R. Kulp, State Reclamation Engineer, et al. (re: Water Rights)
- 2040 Prudential Insurance Company of America v. P. G. Neill, Tax Collector of the State of Idaho. (re: Income Tax)
- 2054 Joint Class A. School District No. 2, Ada and Canyon Counties, Idaho, et al. v. State Board of Education, State of Idaho, et al. (re: School district boundary change)
- 2055 First Federal Savings and Loan Association of Boise v. E. A. Brewster, et al. (re: Public Assistance lien)
- 2058 In re Inland Empire Insurance Company, a Domestic Insurance Company. (re: Rehabilitation of Insurance Company)
- 2060 Garrett Freightlines, Inc., v. Norland Beamer, et al. Public Utilities Commission.
- 2062 In re Inland Empire Insurance Company, a Domestic Insurance Company. (re: Liquidation of Insurance Company)
- 2064 Alberta Harper v. Atha Leah Dent and the State of Idaho. (re: Recovery of Public Assistance payments)
- 2068 First Security Bank of Idaho, National Association v. Armand W. Gardner, et al.
- 2069 First Security Bank of Idaho, v. Charles B. Fellows, Jr., et al. (re: Income tax)
- 2079 Voss Creamery, Inc. v. P. G. Neill, Tax Collector of the State of Idaho.
- 2091 Gen. State Mutual Life Association, Inc. v. Leo O'Connell, Commissioner of Insurance. (re: Review of disapproval of insurance rider)
- 2115 State of Idaho, ex rel R. U. Spaulding, Commissioner of Finance of the State of Idaho v. Intermountain Development Company. (re: Blue Sky Law violation)
- 2126 James A. Singmaster and Helen J. Singmaster v. P. G. Neill, Tax Collector of the State of Idaho, et al.
- 2127 Frank G. Breyer and Marjorie B. Breyer v. P. G. Neill, Tax Collector of the State of Idaho, et al.



- 2128 John P. Hubbell and Dorothy P. Hubbell v. P. G. Neill, Tax Collector of the State of Idaho, et al.
- 2129 E. H. Helgenian v. P. G. Neill, Tax Collector of the State of Idaho, et al.
- 2130 Byron Marquis and Ruth Marquis v. P. G. Neill, Tax Collector of the State of Idaho, et al.
- 2131 Gerhard E. Sonderman and Louise R. Sonderman v. P. G. Neill, Tax Collector of the State of Idaho, et al.
- 2132 William H. Findelday and Miriam N. Findelday v. P. G. Neill, Tax Collector of the State of Idaho, et al.
- 2139 In re the Rehabilitation of Liberty National Insurance Company
- 2158 State of Idaho ex rel Graydon W. Smith, Attorney General v. Idaho Savings and Loan Association, Inc.
- 2159 State of Idaho ex rel Graydon W. Smith, Attorney General v. Capitol Savings and Loan Association, Inc.
- 2170 The Prudential Insurance Company of America v. P. G. Neill, Tax Collector of the State of Idaho.
- 2176 State of Idaho, ex rel Ralph U. Spaulding, Commissioner of Public Investments v. Corliss R. Morphey and Margaret E. Morphey et al. (re: Mortgage foreclosure)
- 2181 John C. Orr and Virginia Orr, v. Katherine Wilson, State of Idaho et al. (re: quiet title action).
- 2182 Marion G. Groseclose, etc. v. John Doe Hines, State of Idaho et al. (re: quiet title action).
- 2185 A T. P. Joseph and Sarah Joseph, v. Minnie Carlson, and the State of Idaho.
- 2185 B First Security Bank of Idaho, v. Keith W. Kendall et al and the State of Idaho.
- 2186 C. G. Pope, v. William Trowbridge and State of Idaho through its Department of Public Works.
- 2195 Jarvis and Bertha Roubidoux v. P. G. Neill, Tax Collector of the State of Idaho.
- 2197 In re the Proposed Change of Boundaries of School Districts No. 421-B and No. 422-B of Valley County, Idaho. (re: School District boundary change).

- 2223 Virgil Johnson and Anita Johnson, et al. v. State of Idaho, Arthur Wilson, State Land Commissioner, et al.
- 2228 Appeal of Balfour, Guthrie and Co. and Cominco Products, Inc., from the Tax Commission of the State of Idaho.
- 2232 W. E. Fields, v. Earle E. Koehler, Commissioner of Law Enforcement.
- 2241 In re Application for Authority to Engage in the Small Loan Business by the City Finance Company.
- 2244 Roundup Room, Inc., an Idaho Corporation, v. Earle E. Koehler, Commissioner of Law Enforcement.
- 2245 In re Property of ICT Insurance Company, a Texas Corporation.
- 2249 Ronald D. Spanton, v. L. E. Clapp, et al.
- 2274 In re the Appeal of Sunset Memorial Gardens, Inc., a corporation, from the State Tax Commission of the State of Idaho.
- 2278 In re Revocation of the Motor Vehicle Operator's License of Albert E. Moncarr.
- 2279 The Prudential Insurance Company of America v. P. G. Neill, Tax Collector of the State of Idaho.
- 2280 In re Application for Permit No. 35010 by State Department of Fish and Game and Protests of Northern Lights, Inc.
- 2283 Affie Cothern v. Ellen A. Niece, Department of Public Assistance.
- 2284 H. C. Berkowitz v. Ross Leonard, Director, Department of Fish and Game, et al.
- 2293 John Andros, d b a Oasis Bar v. Earle E. Koehler, Commissioner, Law Enforcement.
- 2301 Idaho Saving and Loan Association, v. Eugene Thomas, Prosecuting Attorney of Ada County, et al and Commissioner of Finance.
- 2304 Hugh Winchester and Helen Winchester, v. M. C. Pat Beshey and State of Idaho, ex rel of Land Commissioners.
- 2308 State of Idaho ex rel Attorney General, v. Standard Optical Co., a corporation.

- 2310 Elmer M. Ward and Susan I. Ward v. Albert D. Kosanke, et al and State of Idaho and the United States of America. (re: Inheritance Tax)
- 2313 William Schwartzenberger v. Earle E. Koehler, Commissioner of Law Enforcement; Village of Osburn and Shoshone County. (re: Revocation of Liquor License).
- 2316 In re request by the Commissioner of Insurance that the Extra Cost and Expense of Collecting Payments in Installments from Members be apportioned two-thirds to the Benefit Fund of the Gem State Mutual Insurance Association, Inc.
- 2317 Utah Power and Light Company, v. Donald S. Rex and Mabel Rex; State of Idaho, and Arthur Wilson, State Land Commissioner. (re: Condemnation)
- 2320 Committee for Local Law Enforcement, Inc. v. Earle E. Koehler, Commissioner of Law Enforcement.
- 2337 Mountain Village, Inc. v. Val Berriochoa, Assessor, Elmore County, Idaho, et al and the Idaho State Tax Commission.
- 2350 V. E. Neyman v. Wendell Bailey and Bernice Bailey and the State of Idaho.
- 2351 Robert J. King, d/b/a. Green Lathern Bar, v. Earle E. Koehler, Commissioner of Law Enforcement.
- 2352 Mountain States Telephone and Telegraph Co., a corporation v. George R. Jones, et al.
- 2354 Mountain States Creamery Company, v. Stanley I. Trenhaile, Commissioner of Agriculture, et al.
- 2357 State of Idaho, ex rel P. G. Neill, Tax Collector, v. Silver Syndicate, Inc.
- 2359 William Scott and LaNeva Shephard, v. Florence L. Lundstrum and the Department of Public Assistance, et al.
- 2362 Leonard L. Thomas v. Walter A. Thomas and the State of Idaho. (re: quiet title case).
- 2363 State of Idaho, ex rel Frank L. Benson, Attorney General v. Northwest American Corporation.
- 2368 Ronald Bate v. Robert N. Brewington, et al Bonneville County and State of Idaho, et al.

- 2370 Charles F. Wood, et al. v. A. O. Sheldon, et al. Public Utilities Commission.
- 2371 State of Idaho, ex rel Joe R. Williams, State Auditor v. A. R. Trenkle, and the Fidelity and Deposit Company of Maryland.
- 2372 Sheldon Newman v. James E. Graham, et al.
- 2374 Clarence D. Whitworth and Ona M. Whitworth, v. W. S. Hatch and Company, a Utah corporation, and State of Idaho.
- 2375 In re the Application A. P. Bermensold, d/b/a Bermensold Transfer and Storage, Mountain Home for an IFUC common carrier permit.
- 2376 Vivian M. Carl and W. E. Carl v. Belle Rennaker, Department of Public Assistance, State of Idaho, et al.
- 2378 State of Idaho v. William A. Martin, Arthur Richard Johnson and David L. Rivera.
- 2385 Rex Sutton v. Earle E. Koehler, Commissioner of Law Enforcement of the State of Idaho, and Warner C. Mills, his Deputy.
- 2388 Joe R. Williams, State Auditor v. P. G. Neill, Tax Collector.
- 2417 Ben Baker, et al. v. E. R. Hopper, Commissioner of Law Enforcement.
- 2428 Grigg and Anderson, v. E. R. Hopper, Commissioner of Law Enforcement.
- 2430 20th Century Bowling Lanes, Inc. et al. v. Warner C. Mills, Director of Liquor Law Enforcement.
- 2451 Elra Herman and Pearl Herman, v. State of Idaho, et al. P. G. Neill, Tax Collector of the State of Idaho v. William H. and LaMoyne Hiekes.
- P. G. Neill, v. Orville Hurst.
- Hykes McAbee Construction Co. v. P. G. Neill, Tax Collector of the State of Idaho.
- James Ingawanup v. P. G. Neill, Tax Collector of the State of Idaho.
- Martin A. Mangum and Wilma Mangum v. P. G. Neill, Tax Collector of the State of Idaho.

P. G. Neill, Tax Collector of the State of Idaho, v. Kenneth Eckman.

Freston J. and Marjorie and Ada Parsons v. P. G. Neill, Tax Collector of the State of Idaho.

### DISTRICT COURT

#### Civil Cases (Pending)

2118—Ezra Whitla v. Kootenai County, et al.

2290—In re the Applications of Household Finance Corporation, City Finance Company, Consumer Finance Company and Beneficial Finance Company, for Small Loan Licenses under the Idaho Consumer Finance Act, for the City of Idaho Falls, Idaho.

2321—Stephen Sandmeyer and Eleanor Sandmeyer, v. State Tax Commission and E. D. Baird, et al and P. G. Neill, Tax Collector.

2322—John B. Bonny and Marie W. Bonny v. State Tax Commission, et al.

2323—Cecil M. Sheeder and Irene Sheeder, v. State Tax Commission, et al.

2324—George J. Oswald and Catherine D. Oswald, v. State Tax Commission, et al.

2325—Robert F. Smith and Dorothy J. Smith, v. State Tax Commission, et al.

2326—Cecil E. Smallwood and Edna M. Smallwood, v. State Tax Commission, et al.

2327—Marvin C. Lupton and Kathleen Lupton, v. State Tax Commission, et al.

2328—James D. McClary and Mary J. McClary, v. State Tax Commission, et al.

2329—Paul Nations and Grinnel Nations, v. State Tax Commission, et al.

2330—Lee E. Knack and Virginia Knack, v. State Tax Commission, et al.

2331—Truman Joiner and Anna C. Joiner, v. State Tax Commission, et al.

- 2332--Carroll F. Zapp and Helen B. Zapp, v. State Tax Commission, et al.
- 2333--Don T. Brady and Ellen Brady, v. State Tax Commission et al.
- 2334--Robert J. Brown and Betty Ann Brown, v. State Tax Commission, et al.
- 2335--Harry W. Morrison v. State Tax Commission, et al.
- 2336--Harry W. Morrison, Executor of the Estate of Anna D. Morrison, v. State Tax Commission, et al.
- 2341--Claude J. Greene and Loretta Greene, v. State Tax Commission, et al.
- 2345--John W. Joseph and Kathryn C. Joseph, v. State Tax Commission, et al.
- 2346--Mark A. Robinson and Mary M. Robinson, v. State Tax Commission, et al.
- 2347--Jerome J. Williams and Ada Williams, v. State Tax Commission, et al.
- 2356--James R. Crawford and Minnie Mae Crawford, v. Robert E. Smylie et al. State Land Board, John G. Walters, Land Commissioner.
- 2364--Idaho Portland Cement Company, a corporation, v. P. G. Neill, Tax Collector of the State of Idaho.
- 2365--The Texas Company, a corporation, v. P. G. Neill, Tax Collector of the State of Idaho.
- 2383--State Tax Commission v. County of Cassia, et al.
- 2389--State of Idaho, ex rel Joe R. Williams, State Auditor of the State of Idaho, v. Walter C. Musgrave, Manager of the State Insurance Fund, State of Idaho, Glenn A. Coughlan, Joseph M. Imhoff, and Allen Shepard.
- 2390--In re the Order of the Gooding County Commissioners concerning the reorganization of Class A. School District No. 232, Gooding County, Idaho, and Common School District No. 13, Gooding County.
- 2395--Floyd H. Wheeler, S. L. Crowley and H. G. Fitz, constituting the Idaho State Board of Pharmacy, v. Slusser Wholesale Company, Inc.

- 2398—Werner Brammer and Joyce Brammer v. State of Idaho, (Department of Highways).
- 2399—David K. Rankin and Eva Rankin v. State of Idaho (Board of Highway Directors) et al.
- 2400—State of Idaho, ex rel Board of Highway Directors, v. Clarence R. Webb and Alta Webb, et al.
- 2402—State of Idaho (Board of Highway Directors), v. L. L. Burdick and Veda Mae Burdick, et al.
- 2403—In re Magic Valley Credit Bureau and Magic Valley Adjustment Bureau.
- 2408—Indian Creek Lumber Company, an Idaho Corporation, v. E. R. Hopper, Commissioner of Law Enforcement, State of Idaho.
- 2410—State of Idaho ex rel Board of Highway Directors, v. Lamont L. Bair and Lillian Bair and Dale Wood and Edith Wood, (Condemnation)
- 2413—State of Idaho v. Concrete Processors, Inc.
- 2414—In re the Disapproval of a new insurance policy by Gen State Mutual, etc. v. Leo O'Connell, Commissioner of Insurance.
- 2424—State of Idaho, ex rel Frank L. Benson, Attorney General v. William R. Padgett.
- 2426—Irrigation Districts of Nampa and Meridian, Black Canyon, Pioneer and Wilder v. Canyon County.
- 2431—E. A. Johnsmeyer, Plaintiff v. The Mid-Union Indemnity Company, a corporation and Joe Ince and Richard Murphy dba M&I Trucking Company, and Rulon A. Swensen, State Treasurer of the State of Idaho, Defendants v. Ingolf H. E. Otto, Applicant for Intervention.
- 2432—Ingolf H. E. Otto, v. Mid-Union Indemnity Company, an Illinois Corporation, and Rulon A. Swensen in his official capacity as State Treasurer of the State of Idaho.
- 2334—In re the Rehabilitation of National Life and Health Corporation of America, a Domestic Insurance Company.
- 2435—Khalil V. Hansen, H. W. Allinger, Eugene P. Shepard, Frank W. Hirschi, Van Ness Wallentine, A. Clair Barrett, E. C. Jensen, Farley Rigby and Ray W. Rigby v. Ralph U. Spaulding, Commissioner of Finance, State of Idaho.

- 2439—Chester W. Sellman, dba Chet's Pastime, Bruneau, Idaho, v. E. R. Hopper, Commissioner, Department of Law Enforcement.
- 2440—Boyd Moser and Roma Moser, who sue by and through her guardian ad litem, Boyd Moser v. State of Idaho.
- 2442—Holland Construction Co. v. Roscoe C. Rich, et al (Board of Highway Directors), State of Idaho (Intervenor).
- 2443—White v. State of Idaho, the City of Twin Falls, Idaho, a municipal corporation, W. D. Stearns, Floyd O. Small, and the Twin Falls Canal Company, a corporation. (Damages)
- 2444—In re Liability of National Trailer Convoy, Inc., for the payment of contributions under the Employment Security Law. National Trailer Convoy, Inc. v. Employment Security Agency of Idaho.
- 2446—In re the Appeal of Mrs. R. C. Paisley, Sr., Mrs. F. M. Cole and Mrs. L. D. Blondel, from the Assessment of Property in Canyon County v. State Tax Commission, et al.
- 2448—Jones et al v. State of Idaho, Department of Highways (action to set aside deed).
- 2449—E. and A. Alexander et al v. State of Idaho, Board of Highway Directors. (Damages)
- 2452—William L. Fayle et ux, v. Max Beyeler, et al.

#### OFFICE OF TAX COLLECTOR

- Bank of Idaho, formerly Continental State Bank v. P. G. Neill, Tax Collector of the State of Idaho.
- Bruce C. and Anna Budge v. P. G. Neill, State Tax Collector.
- Phillips Petroleum Company v. P. G. Neill, State Tax Collector.
- Harry M. and Eva L. Emerson v. P. G. Neill, State Tax Collector.
- Utah Oil Refining Co. v. P. G. Neill, State Tax Collector.

#### U. S. DISTRICT COURT (Idaho)

##### Civil Cases (Closed)

- 2298—United States of America v. 350 Acres of Land, more or less situated in Elmore County, Idaho, et al.



- 2305 John W. A. Brant v. Regents of University of Idaho, a corporation.
- 2353 United States of America v. 8617.87 Acres of Land, more or less in the Counties of Clark, Butte, Jefferson, Bonneville and Bingham, State of Idaho; Augustus T. Hass and Jane Doe Hass, John A. Bergstrom and Jane Doe Bergstrom and any and all unknown owners.
- 2360 United States of America v. 50 Acres of Land, more or less in the County of Blaine, State of Idaho; State of Idaho, and any and all unknown owners.
- 2405 United States of America v. 56.97 Acres of Land, Ada County, State of Idaho, et al.

**U. S. DISTRICT COURT (Nevada)**

- 2318 The State of Nevada ex rel Hugh A. Shamberger, State Engineer, v. the United States of America.

**U. S. DISTRICT COURT (Utah)**

- 2075 David L. Freed, Daniel G. Freed and Peter Freed, dba Freed Finance Co. v. Inland Empire Insurance Company et al. (re: Receivership of Insurance Company).

**OFFICE OF TAX COLLECTOR—INHERITANCE TAX DIVISION**

In the Matter of the Estate of:	Court	Status
Edgar L. White	Supreme	Closed
Albert Schweitzer	Supreme	Closed
Paul E. Larson	District	Closed
William P. Davis	District	Closed
Earl P. Riddle	District	Closed
O. D. Shook	District	Closed
C. D. Keating	District	Closed
Hannah Swift	District	Pending
John Arlsoosh	District	Pending
Aaron Browell	District	Pending
Clara Bannon	District	Pending
George I. Lynn	District	Pending
Flora Kingborn	District	Pending
Nels A. Johnson	District	Pending
Mildred Gogenola	Probate	Closed
Lena Martin	Probate	Closed
C. F. Campbell	Probate	Closed

W. H. Jackson	Probate	Closed
Ellen Nordholm	Probate	Closed
Mildred Goodrich	Probate	Closed
Jean B. Chisholm	Probate	Closed
H. H. Rhodes	Probate	Closed
Elsie Preuninger	Probate	Closed
Milo Flannery	Probate	Closed
E. L. Shaw	Probate	Closed
Winnette Merwin	Probate	Pending
Jesus Lopez	Probate	Pending
Ray H. Bennett	Probate	Pending
Jane George	Probate	Pending
Claudia Merritt	Probate	Pending
Agnes Baw	Probate	Pending
C. C. Anderson	Probate	Pending

#### BEFORE THE PUBLIC UTILITIES COMMISSION

- 2271 In re the Application of Union Pacific Railroad Company to discontinue the operation of passenger trains Nos. 73 and 74 between Lewiston, Idaho and the Idaho-Washington State Line.
- 2338 In re the Application of the Northern Pacific Railway Company for permission to permanently close its station at Juliaetta, Idaho.
- 2373 In re the Application of the Northern Pacific Railway Company for permission to permanently close its station at Clark Fork, Idaho.
- 2384 In re the Application of Northern Pacific R.R. Company for permission to abandon its stockyard at Granite, Idaho.
- 2387 In re the Application of the Northern Pacific Railway Company, a corporation, for permission to abandon its stockyard at Hauser, Idaho.

(Pending)

- 2300 In re the Application of Citizens Utilities Company, a corporation, for a Certificate of Convenience and Necessity. In re the Application of Shoshone Natural Gas Company, an Idaho corporation, for a Certificate of Convenience and Necessity.
- 2406 In re Pacific Gas Transmission Co.

2421—In re the Application of Teton Valley Power and Milling Co. for authority to sell and transfer its electric properties located in Teton County, Idaho to Fall River Rural Electric Co-operative, Inc.

2427—In re the Investigation of the Motor Carrier operations of: Louis Grover, Wayne, Eugene Eby, Pack Truck Lines, Clarence May etc., Delbert Lott, Shoemaker Trucking, Leo J. Handy, Robert A. Collins and R. V. Estell.

**BEFORE THE DEPARTMENT OF AGRICULTURE,  
STATE OF IDAHO**

(Pending)

2425—Ralph T. Frazier v. Ray Melvin dba as a bonded and licensed warehouse under the name and style of Payless Feed and Fuel, Coeur d'Alene, Idaho.

**BEFORE THE FEDERAL POWER COMMISSION**

(Closed)

2288—In re Northern Lights, Inc.

(Pending)

2272—In Re Pacific Northwest Pipeline Corporation and El Paso Natural Gas Company.