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Opinions of the Attorney General

Dicta Editorial Board

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OPINIONS OF THE ATTORNEY GENERAL

JURORS—FEES—SALARIES

55-2803—April 14, 1955

REQUESTED BY: William L. Gobin, Judge of the District Court
16th Judicial District

FACTS: The clerks of courts in the 16th Judicial District are in doubt as to the application of House Bill 36, passed by the 1955 General Assembly, approved by the Governor, and now in force, which provides in part as follows: Jurors shall receive, for attending any court of record, court commissioners or referee, the following fees, to wit: six dollars per day while actually engaged on the jury; three dollars per day for attendance on panel alone.

QUESTION: When shall the "jurors" receive \$6.00 per day and when shall they receive \$3.00 per day?

CONCLUSION: The "jurors" shall receive \$6.00 per day only during the time between which they are sworn to try a case and the time when they are discharged from service in that case. At all other times while in attendance on panel they shall receive \$3.00 per day.

SOIL CONSERVATION

55-2805—May 3, 1955

REQUESTED BY: Kenneth W. Chalmers, Secretary
Colorado State Soil Conservation Board

QUESTION: Can the board of supervisors of a soil conservation district by their official action exclude from the district those lands which have become devoted exclusively to (a) commercial uses, (b) industrial uses, and (c) domestic dwellings?

CONCLUSION: The board of supervisors of a soil conservation district, by official action on petition by landowners or of their own volition, may exclude lands devoted exclusively to commercial and industrial uses, subject, however, to the provision in 128-1-5 (5), '53 CRS, that no land shall be so excluded from a district unless and until all lawful taxes and other charge of the district against such lands shall have been paid. Lands devoted to residential use may not be so excluded.

COLORADO A & M COLLEGE

55-2771—January 20, 1955

REQUESTED BY: Joseph M. Whalley, Business Manager
Colorado A & M College

FACTS: During the operation of the School of Veterinary Medicine at Colorado A & M College, Fort Collins, Colorado, the clinic accepts animals for treatment from private citizens. During the course of treatment occasionally an animal will die, whereupon the animal's owner will seek damages from the college for the loss of the animal. Students and college officials participate in the course of treatment.

QUESTION: Is the college liable in damages for the death of an animal which died while undergoing treatment at the college?

CONCLUSION: The college would not be liable for damages for the death of an animal while under treatment at the veterinary college.

LIQUORS

55-2775—February 3, 1955

REQUESTED BY: George J. Baker, Secretary of State
FACTS: Mr. A has applied for a transfer of hotel and restaurant liquor license from No. 1215 Twentieth Street to No. 2800 Downing Street, both within the City and County of Denver. The institution known as Juvenile Hall is located at 2844 Downing Street. The Denver Public Schools maintain two regularly qualified teachers at Juvenile Hall. Regular classes are held there.

QUESTION: Is the institution within the City and County of Denver known as Juvenile Hall a public school within the prohibition contained in 75-2-12(9) Colorado Revised Statutes 1953, which provides that no license shall be issued to or held by any person who will operate any place where liquor is sold or to be sold by the drink within five hundred feet from any public or parochial school, college, university, or seminary?

CONCLUSION: The institution within the City and County of Denver known as Juvenile Hall is not a "public

school" within the meaning of 75-2-12(9) Colorado Revised Statutes 1953, and is not one of the other educational institutions therein named.

DEPT. OF HIGHWAYS

55-2780—February 16, 1955

REQUESTED BY: Mark U. Watrous, Chief Engineer
Department of Highways

FACTS: The Department of Highways proposes to adopt certain changes in the Manual on Uniform Traffic Control Devices, most significant changes being the change-over from black-on-yellow stop signs to white-on-red stop signs, and the adoption of a new sign called "YIELD RIGHT OF WAY."

QUESTIONS:

1. Does the present State law permit the change-over from black-on-yellow signs to the white-on-red stop signs?
2. While replacing the old signs, would a dual operating standard be required pending completion of the conversion?
3. Would special legislation be required to give the "YIELD RIGHT OF WAY" sign lawful authority and meaning?
4. What procedure should be observed for effecting appropriate revision of the Manual beyond consideration and approval of the State Highway Commission?

CONCLUSIONS:

1. The Department of Highways may change the signs from black-on-yellow to white-on-red under the present Colorado law.
2. There should be a dual operating standard set out in the Manual during the conversion.
3. Special legislation would be required to

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give the "YIELD RIGHT OF WAY" sign enforceable authority and meaning.

4. The procedure to be observed and effecting the revision of the Manual is within the discretion of the State Highway Commission. However, this Manual should correlate so far as possible with the current system approved by the American Association of State Highway Officials.

TAXATION—COUNTY ASSESSOR

55-2788—March 10, 1955

REQUESTED BY: J. R. Seaman, Chairman
Colorado Tax Commission

FACTS: Following the regular sessions provided for by the Constitution and by statute of the County and the State Boards of Equalization, and without reference to orders issued by such bodies, the Assessor of Weld County increased the assessment on all irrigated lands within his jurisdiction by 25%. Several owners of such lands filed petitions asking for an abatement of taxes so increased.

QUESTION: May the Board of County Commissioners acting as a County Board of Equalization and the Tax Commission legally take action on the petitions so filed?

CONCLUSION: A taxpayer may not be denied administrative remedies to correct assessments where such assessments are made after cessation of the regular sessions of the County and State Boards of Equalization. Such administrative remedies are for the benefit of the taxpayer who cannot without fault on his part be deprived of a right to be heard.

Best Wishes to the Bar Association

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