

Annual Report

OF THE

# Attorney General

TO THE

Governor of the State of Ohio

FOR THE

Period from January 1, 1909, to January 1, 1910



Springfield, Ohio:  
The Springfield Publishing Company,  
State Printers.  
1910.

3029

## Attorneys General of Ohio

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Henry Stanberry.....	1846-1851
Joseph McCormick.....	1851-1852
George E. Pugh.....	1852-1854
George W. McCook.....	1854-1856
Francis D. Kimball.....	1856-1857
C. P. Wolcott.....	1857-1861
James Murray.....	1861-1863
Lyman R. Critchfield.....	1863-1865
William P. Richardson.....	1865
Chauncey N. Olds.....	1865-1866
William H. West.....	1866-1870
Francis B. Pond.....	1870-1874
John Little.....	1874-1878
Isaiah Pillars.....	1878-1880
George K. Nash.....	1880-1883
D. A. Hollingsworth.....	1883-1884
James Lawrence.....	1884-1886
Jacob Kohler.....	1886-1888
David K. Watson.....	1888-1892
John K. Richards.....	1892-1896
F. S. Monnett.....	1896-1900
J. M. Sheets.....	1900-1904
Wade H. Ellis.....	1904-1908
U. G. Denman.....	1908

## Attorney General's Department

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U. G. Denman.....Attorney General  
W. H. Miller.....First Assistant Attorney General  
John A. Alburn.....Second Assistant Attorney General  
F. H. Kirtley.....Chief Clerk  
Freeman T. Eagleson.....Special Counsel  
Justice Wilson.....Special Counsel  
Clarence D. Laylin.....Special Counsel  
S. L. McMillan.....Special Counsel  
R. A. McCann.....Willis Tax Clerk  
Clara K. Carey.....Stenographer  
Agnes G. McMillan.....Stenographer  
Luella P. Chase.....Stenographer  
Edwin T. Stowe.....Messenger  
Jack Gantz.....Janitor

## Annual Report of the Attorney General of Ohio for the Year 1909

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Columbus, Ohio, January 1, 1910.

HONORABLE JUDSON HARMON, *Governor of Ohio*:

SIR:—I submit herewith the annual report of the Attorney General for the calendar year 1909. Through the first twenty-seven or twenty-eight pages immediately following this introductory note will be found "The Attorney General's Report" submitted to you for transmission to the General Assembly on December 29, 1909, pursuant to section 29 of Article III of the Constitution of Ohio. That report, as may be seen from the first page thereof, covers the time from January 1 to December 15, 1909, and contains:

First. A general review of the more important work of the Department for that part of the year 1909 ending December 15th, with recommendations suggested by our experience in the conduct of the work of the Department.

Second. A general statement as to the actions and prosecutions brought, pending or disposed of during the period from January 1 to December 1, 1909.

Third. A general statement of all collections and disbursements for the period covered by that report from January 1 to December 15, 1909, and,

Fourth. A general statement as to the official opinions rendered during such period ending December 15, 1909.

It has been customary in the past for the Attorney General in his annual printed report to insert an introductory general statement of the work in the Department during the year covered by the report, and this preliminary report above mentioned submitted to you on December 29, 1909, is inserted in this printed volume for the year 1909 as such general statement for that year down to December 15th thereof.

No cases in litigation were disposed of nor were any begun calling for special mention during the month of December, 1909, nor during that time was there any other work in the Department requiring particular comment in this preface.

This volume of report for the year 1909 contains:

First. A general review of the more important work of the Department for the year 1909, with recommendations suggested by expe-

rience in the conduct of that work as found in the preliminary report above referred to.

Second. A list of all actions and prosecutions brought, pending or disposed of during the year with a statement of the respective courts in which the litigation was conducted.

Third. A detailed statement of the collections and disbursements by the Department for the year, and,

Fourth. All official opinions rendered during the year.

In submitting this report I have only to add that during the year 1909 the work was perhaps more difficult in its nature and certainly much greater in amount than that of any other year in the history of the Department, and in making this statement I feel it my duty to here expressly give credit to each of the persons who have been associated with me in the performance of that work. I am pleased to say that without exception the assistants, special counsel, the chief clerk, stenographers and other persons connected with the Department have, at all times, evidenced but one desire or purpose, viz., entire faithfulness to the work, and each of them has intelligently and with dispatch performed his or her part in the work of the year. There has been no instance of any reluctance or hesitancy on the part of any of them at any time to willingly perform to the very best of his or her ability any work assigned, nor has there been, so far as I have been able to discern, any other than the closest of friendship and good will among the respective members of the Department. I do not mean to convey the impression that no errors have been committed nor that from the experiences of the year instances could not be named wherein improvement on certain particular work might not be made, but I do feel justified in saying that their work collectively and individually has been performed with complete fidelity and with ability far above the average.

Respectfully submitted,

U. G. DENMAN,  
*Attorney General.*

HONORABLE JUDSON HARMON, *Governor of Ohio*:

DEAR SIR:—Section 20 of Article 3 of the Constitution requires that the Attorney General, at least five days preceding each regular session of the General Assembly, shall report to the governor, and section 216 of the Revised Statutes provides that in his annual report the Attorney General

“shall submit an abstract of the statistics of crime returned to him by the prosecuting attorneys of the several counties, with a statement of the business under his immediate charge.”

On account of the time required to place the reports of the various state officers in printed volume form for distribution, I find that in the department of the Attorney General the practice has been to embody in each annual report so printed a statement of the business and transactions of the department during the respective calendar years, that is from January 1 to December 31, inclusive. Were we to attempt to submit to the governor and the General Assembly a printed volume report, it would be necessary to end the year covered by the report at such time within the calendar year as would enable us to compile all the matter, index it and have it printed and bound prior to the end of the calendar year so that it might be submitted to the governor and by him be transmitted to the General Assembly with his message to that body at its regular session.

In order that I may comply with the above quoted section of the constitution, therefore, I have concluded to submit to you at this time the following preliminary report from this department, beginning January 1 and ending December 15, 1909. This report will, of course, be made a part of the volume which will hereafter be made up for the present calendar year and printed in the regular way. The last annual report of the Attorney General covered the calendar year 1908.

I came to the department on November 6, 1908, through appointment by your predecessor, Governor Harris, and for the unexpired term of my predecessor ending January 11, 1909. It was left to me to complete the compilation and printing of that report for the calendar year 1908, and it was so compiled and printed the forepart of the present year.

This report will contain,

FIRST: A review of the more important work of the department for that part of this present year ending December 15, with recommendations suggested by our experience in the conduct of such work.

SECOND: A statement as to the actions and prosecutions brought, pending or disposed of during that period. In the printed report hereafter to follow a complete list of all such actions, except those in magistrates' courts, will be given under their respective titles, and the courts in which they were or are pending respectively.

THIRD: A statement of all collections and disbursements for the period covered by this report, and

FOURTH: A statement as to the official opinions rendered during such period.

## I.

### IMPORTANT WORK OF THE YEAR.

(a) ORGANIZATION OF THE DEPARTMENT: In the statement introductory to the annual report of 1908 I set forth my views entertained at that time, and conclusions reached as to how the department should be organized and the work assigned to the various lawyers giving their time to the work in this office as follows:

"My elective term as Attorney General will begin on January 11, 1909, and the expectation now is that at that time the personnel of the department will be changed somewhat and the work of the department will be entirely reorganized and rearranged. A certain number of departments of the state will be assigned to each assistant or special counsel connected with the office, and such assistant or special counsel will be expected to act as the legal adviser and lawyer in every respect for each of such departments, all the work, of course, to be done under the supervision and direction of the Attorney General. All opinions which shall be asked for by or through any department of state will be written by the assistant or special counsel assigned as the legal adviser of that department. After such an opinion is written it will be presented to the First Assistant Attorney General for criticism or approval. If the opinion is approved by him he shall so mark it and it will then go to the Attorney General for signature or criticism. It is hoped that under this system each assistant and special counsel may become a specialist in the legal work of the state department or departments to which he is assigned and that thereby the work of this department may be done with efficiency and dispatch and at a minimum of expense."

In conformity with the above some changes in the personnel of the special counsel took place, and the work of the department was entirely reorganized and rearranged shortly after the 11th of January this year. Mr. Roscoe J. Mauck retired from the office as special counsel just before or shortly before my appointment above mentioned, and upon the beginning of my elective term Mr. Smith W. Bennett, Mr. O. E. Harrison and Mr. W. R. Medaris each retired from the department, Mr. Bennett to resume the practice of law at Columbus; Mr. Harrison accepting a position

in the federal government similar to the one he had theretofore occupied in this department, and Mr. Medaris taking a position as special counsel to United States District Attorney Sims at Chicago. William A. Sheehan, Willis tax clerk, and Miss M. G. Culton, stenographer, each retired from the department about the same time to accept similar positions in the federal government. The other assistants and employes then in the department are still here, Mr. W. H. Miller and Mr. John A. Alburn retaining their positions as first and second assistants, respectively. Mr. Clarence D. Laylin, who had filled the position of chief clerk, was made a special counsel; Mrs. C. K. Carey is retained as chief stenographer in the department, and Mr. Ralph McCann, who was formerly the messenger and mailing clerk, was promoted to the position of Willis tax clerk, vacated by William A. Sheehan. Miss Luella P. Chase, stenographer in the Willis tax department under my predecessor, is retained as a special stenographer in the department, and Miss Agnes G. McMillan was appointed to succeed Miss M. G. Culton. James E. Sheridan was appointed to succeed Ralph McCann as messenger and mailing clerk.

The present special counsel in the department who give all of their time to the office or work thereof assigned to them, respectively, are Mr. Freeman T. Eagleson, Mr. Justice Wilson, Mr. Clarence D. Laylin and Mr. Seth L. McMillan.

Immediately upon completing the personnel of the office force certain work was assigned to each lawyer in the department, and under that assignment each of them is designated as the legal adviser in every respect to certain departments of state, boards and officers. His work is to give such oral advice as may be asked for by the head of any department so assigned to him, or any officer or employe therein upon call by such officer or employe at this department; he is to prepare and try all law suits affecting the respective departments to which he is so assigned, and he is to write all opinions called for by such departments. In other words, he is the lawyer in every respect for each of the departments thus apportioned to him.

When an assistant or special counsel other than the first assistant writes an opinion upon any subject affecting any department, such opinion goes first to the first assistant attorney general for his criticism or approval. When the opinion is finally drafted so as to meet the approval of the first assistant he marks it "approved" and lays it upon the desk of the Attorney General for signature, change or revision. All opinions go out over the personal signature of the Attorney General, except that in case of his absence from the capital, they are signed personally by the first assistant.

The assignment of the work of the department is shown by the names of the respective lawyers therein with the names of departments, boards



and officers assigned to each set opposite their respective names, as follows:

U. G. Denman: Governor.  
Municipal affairs, including work of Mr. Joseph Tracey thereon in the Department of Uniform Accounting.  
Executive management of the office in all its departments, including inspection, revision and signing of all opinions from the department.

\* \* \*

W. H. Miller: Prosecuting attorneys in county affairs including matters relating to the Bureau of Uniform Accounting under Mr. Peckinpaugh.  
State institutions.  
Auditor of State.  
Fish and Game Commissioner, including employment of attorneys therefor.  
State Fire Marshal, including employment of attorneys therefor.  
Special cases to be assigned.

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John A. Alburn: Board of Public Works.  
State Board of Agriculture.  
Highway Commissioner.  
Labor Commissioner.  
Special cases to be assigned.

\* \* \*

Freeman T. Eagleson: Railroad Commission.  
Superintendent of Banks.  
State Board of Health.  
Matters relating to taxation.  
Treasurer of State.  
Board of Accountancy.  
Special cases to be assigned.

\* \* \*

Justice Wilson: Insurance Department.  
School Commissioner and school questions.  
Township and school district affairs.  
Dairy and Food Department.  
Oil Inspector.  
Special cases to be assigned.

\* \* \*

Clarence D. Laylin: Secretary of State.  
Workshops and Factories.  
Medical Board.  
Pharmacy Board.  
Dental Board.  
Adjutant General.  
Special cases to be assigned.

Fred H. Kirtley: Chief Clerk.  
Justices of the Peace.  
Public Printer.  
State Board of Charities.  
Mine Inspector.  
Inspector of Stationary Engineers.  
State Board of Embalming Examiners.  
Bureau of Vital Statistics.  
Special cases to be assigned.

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Seth L. McMillan: Willis Tax Department.  
Cole tax collections.  
All other collections.  
Special cases to be assigned.

After the above assignment was made, a copy thereof was given to each lawyer mentioned and a letter was written to the head of each department and to each board or officer notifying them respectively of the name of the assistant or special counsel who had been assigned as legal adviser from this department in the following form :

"Dear Sir:—Feeling that it may systematize the work of the Department of the Attorney General and secure prompt and efficient service in the various departments of state, the boards and officers of the same, certain work has been assigned to each of the assistants and special counsel in this office, and I accordingly have assigned Mr. . . . . . to act as the legal adviser to your department and the officers thereof. It will be your privilege to call on him for opinions respecting any legal matter affecting your department, and it will be his duty to have charge of and conduct any litigation in which the same may be interested. In other words, he is assigned to your department as its lawyer in all respects in which the state, through your department, may be interested, and I desire that you feel free to call upon him at any time for any legal services required.

Very truly yours,

U. G. DENMAN,  
*Attorney General.*"

There are many cases in litigation in the department which do not naturally fall within any particular department of state, and all such cases have been assigned to some one assistant or special counsel who is in principal charge of the case, assisted in cases of importance and difficulty by some other lawyer in the department. All the work of the department is done under the general supervision and direction of the Attorney General.

The statute requires that the chief clerk shall be a lawyer, and under the assignment of the work of the department, as shown above, he is assigned as the legal adviser to the various boards and officers indicated opposite his name in the statement above set out. Several miscellaneous cases have been under his charge during the year in addition to the work thus indicated. As chief clerk he keeps a docket record of all the cases handled by the department in any and all courts of record, and a docket or report-sheet record of the cases in magistrates' courts.

The books of account of the department, until the present year, were kept by the chief clerk, Mr. Laylin, and under the present plan it was found more convenient to allow Mr. Laylin to continue the keeping of these books which is done under a system devised by him, simple in form, but showing dates, amounts, from whom received and to what fund to be credited with respect to all moneys handled by this department either for expenses of the department or as collections from outside parties, and the system also shows the date, amount, and to whom paid of all moneys disbursed by the department and the fund from which the disbursement is made. With the exception of two or three dollars in money kept on hands in the office at all times from our contingent fund for the purpose of paying occasional express package charges, or the purchase of some small article which must be had at once and cannot be procured from the secretary of state, this department handles no cash.

The moneys collected through the Willis tax collection or other department, in any wise, are required to be paid by check, draft or money-order made payable to the order of the head of the department for which the collection is made. These are required to be sent to this department in order that a record of the same may be made in each case, showing date, amount and for what purpose received. After such record is made, the check, draft or money-order is then turned into the department for which the collection is made or to the state treasurer, through the department of the auditor of state in cases where the statute requires this department to turn the collection direct into the treasury, and a receipt for each amount, as evidenced by the check, draft or money-order, is taken from the head of the department or the state treasurer, as the case may be. Checks, drafts or money-orders received as collections for any state department, as aforesaid, are turned to the respective departments for which the collections are made in order that such departments may also make the proper records upon their books, and from such departments these papers are turned into the state treasury.

Under the assignment, the chief clerk opens all mail except that which is marked personal to any member of the department, coming into the office, and each letter or piece of correspondence is, by him, placed upon the desk of the lawyer in the department acting as legal adviser in the matter to which the correspondence relates.

By a statute passed in 1906, all the legal work of the state, in all its departments, was placed under the supervision of the Attorney General; and under the law, there was provided for him by statute, and is still provided, a first and second assistant Attorney General, two stenographers, a chief clerk and a messenger, and the salary of each of these is provided by statute. In addition to these the statute provides that the General Assembly shall appropriate such sums to the Attorney General as may be necessary to retain such special counsel as may be required to at-

tend to the work of the department. Other appropriations have been made from year to year to defray other expenses of the department, such as special stenographic work, Willis tax clerk, books and furniture, contingent expenses, etc. Prior to my coming to the office in November, 1908, the personnel and salaries of the department were as follows:

Attorney General.....	\$6,500 00
First Assistant Attorney General.....	3,000 00
Second Assistant Attorney General.....	2,500 00
Three special counsel, each.....	3,600 00

Mr. Mauck, as stated above, having retired shortly prior thereto, his place not being filled thereafter by my predecessor, nor by myself until the latter part of January, 1909.

One special counsel (Willis tax).....	\$2,500 00
Willis tax clerk.....	1,200 00
Chief clerk.....	1,500 00
Two stenographers, each.....	1,200 00
One special stenographer (Willis Tax Department).....	960 00
Messenger and mailing clerk.....	600 00
Janitor .....	420 00

The aggregate of salaries and compensation for the different officers, assistants, special counsel and other employes, each of whom gave his or her whole time to the office and the work thereof, was \$32,380.00.

As heretofore stated, the salaries of the Attorney General, first and second assistants, chief clerk, two stenographers and the messenger, were fixed by statute, and appropriations made by the General Assembly to pay the same. In addition thereto there was appropriated for the year 1908, \$34,968.35, out of which the four special counsel above mentioned were paid, and other special counsel who were retained for particular cases and work in various parts of the state.

After the General Assembly convened in January of this year, I requested that they amend the law which provided that the first assistant should receive \$3,000.00 per annum as salary, and in lieu thereof fix his salary at \$4,000.00 per year, announcing my intention to rearrange the salaries of the special counsel so that in fact there would be a saving in the aggregate of the salaries of the persons who give their whole time to

the work, even with this increase just mentioned. The General Assembly complied with this request, and the salary list of the persons constituting the present office force are as follows:

Attorney General.....	\$6,500 00
First Assistant Attorney General.....	4,000 00
Second Assistant Attorney General.....	2,500 00
One special counsel.....	3,600 00
One special counsel.....	2,800 00
One special counsel.....	1,800 00
One special counsel.....	1,500 00
Chief Clerk.....	1,500 00
Two stenographers, by statute, each \$1,200.00.....	2,400 00
One special stenographer, from appropriation therefor.....	960 00
One Willis tax clerk, from appropriation therefor.....	900 00
Messenger and mailing clerk.....	600 00
One janitor from appropriation therefor.....	420 00
Total .....	<u>\$29,480 00</u>

For this year, as well as for the year 1908 and prior thereto, the General Assembly made appropriation for the statutory positions of this department and as a special counsel fund to pay the four men above mentioned who give their whole time to the office and the work thereof, and to pay other special counsel necessary to take care of the work in various parts of the state, there was appropriated, at my request, the additional sum of \$28,000, and this amount will, as it now appears, be sufficient to defray the expenses of special counsel for the full year for which it was appropriated without asking any relief from the emergency board.

The appropriation for all special counsel for the year 1908 exceeded the appropriation for all special counsel for the year 1909, up to February 15, 1909, which is the end of the appropriation year, by \$6,968.35. Deducting from this amount of \$6,968.35 the sum of \$1,000.00, which was added to the salary of the first assistant, leaves a net sum of \$5,968.35 for the year 1909 less than the expense of the department for the year 1908, to February 15, 1910, and this, notwithstanding the greatly increased amount of work for this year over last, as will be shown by the statement hereinafter set forth.

The plan adopted at the beginning of the year, under which each lawyer in the office was assigned to do all the legal work of certain state departments, officers and boards has fully justified what was contemplated for it in the matter of expense, and it has more than met our expectation in the matter of efficiency and dispatch in the work which has been done.

(b) INVENTORY: In the month of December, 1908, after my coming to the department, an inventory was ordered of all the property then in the department, and the same was thereupon taken and placed on file

in this office, in order that such property as should thereafter be acquired by the department might be added thereto, and that any property which should be disposed of might be deducted therefrom. Some of the books which were then in the department library were exchanged for others more up-to-date, and some new books have been purchased, so that there is now in the department library such books as make up a good working library. There were a number of books, old editions, which were only in the way in the department, and these were transferred to the state law library and placed upon the shelves there, in the department thereof kept by the librarian for such books.

(c) REMODELING OF THE OFFICES: The General Assembly, upon my request, made an appropriation of \$2,000.00 for the purpose of remodeling this office. This work was done immediately after the General Assembly adjourned, and the character of the work is in conformity to the work and finishing of other parts of the judiciary building. The work was done within the appropriation.

(d) OFFICE RECORDS AND FILES: A complete docket record showing the title, number, nature of the action and in what court instituted is kept of all cases in courts of record in the state and federal courts. This part of the record of each case is made at the time of its beginning, and thereafter a record is kept of the date and nature of the various pleadings and steps taken in the cause in practically the same manner as the appearance docket is kept in the office of the clerk of courts. In addition to this a pleading press copy is kept of each paper prepared in this office and a carbon copy of the same is kept in the files of the case along with copies of all pleadings filed by the opposition, carbon copies of all correspondence sent out of the office relative to the case, and with all original letters or other correspondence coming into the office relative thereto. Either a docket record or report-sheet record is kept of all cases handled by the department before justices of the peace and in police courts, and copies and original papers and correspondence are kept and filed with reference to these cases the same as is done in courts of record.

At the time the office was remodeled, the forepart of the year, the filing system then in use was abolished. The system which had been used up to that time consisted of the use of small envelopes in which all papers were folded in the usual way in which legal papers are folded for filing in court. This required a great amount of room in the office for the filing cases containing these papers, and of course an extra amount of work in handling the papers. In lieu of this there was substituted the vertical system in which all papers and correspondence of every kind and nature pertaining to any case are placed in one large legal-size envelope without folding. The title, number and court in which the cause is pending is indicated on the face of this envelope, with short history of the case, and the envelope goes according to its index file in the filing case. This

case occupies about one-tenth of the room that was occupied by the old filing case. The state law librarian needed such a case as this one discarded by this office, and the same was turned over to him for use in the law library, and a receipt for the same was taken by this department.

(e) **BLANK FORMS OF AFFIDAVITS FOR PROSECUTIONS IN MAGISTRATES' COURTS:** This department, from its experience in the prosecution of criminal cases in magistrates' courts, has found that much time and expense might be saved by the preparation here of blank forms of affidavits for the various prosecutions which are conducted from time to time in the departments of Workshops and Factories, Agriculture, Fish and Game, Dairy and Food, and through the Medical, Dental and Pharmacy boards of examination and registration. We, accordingly, have prepared such blank forms of affidavits for the various offenses defined under the laws governing these respective boards and departments. These affidavits are prepared in such way as nearly as may be so that the inspector may, by using the proper affidavit, fill out the blanks thereof with but very little opportunity for error in drawing the affidavit. The results have been gratifying from the fact that from among 564 prosecutions handled under the direction of the department this year up to December 1st, not more than ten or twelve have been held defective, and these prosecutions have been almost universally successful, pleas of guilty having been entered in more than a majority of them.

(f) **SOME RECOMMENDATIONS FOR CONSIDERATION BY THE GOVERNOR AND GENERAL ASSEMBLY:** Throughout the year the department has had, and still has, some important litigation affecting several of the departments of state and other litigation which does not naturally fall under any particular department, but which comes within the powers and duties of the Attorney General to prosecute. Our experience in this litigation and in handling the legal work of these departments has brought to our notice some defects in the laws under which the litigation and certain other work of this department have arisen, and we respectfully herewith submit a brief review of the more important cases in this litigation, with some recommendations for amendments of those laws.

## 1. DEPARTMENT OF AGRICULTURE.

On taking up the duties of this office I found pending against the board of agriculture six separate actions, in which the Smith Agricultural Chemical Company was plaintiff and the State Board of Agriculture was defendant. Three of these actions were brought by the plaintiff seeking to enjoin the board from publishing certain reports relative to the plaintiff, and which the plaintiff claimed were illegal, on the alleged ground that the law under which the board was acting was unconstitutional, and that the board was not a department of state, but in fact, under the law,

a private board or corporate body. Preliminary injunctions had been granted in two of these cases and had been made perpetual in the court of common pleas of Franklin County, and on appeal to the circuit court of that county this holding in one of them was affirmed and the law was declared to be unconstitutional. This decision by the circuit court was rendered in the month of April this year. In the third case, praying for an injunction no preliminary order had been applied for, and these three cases were standing at the status just described when the action hereinafter mentioned with respect to them was taken. The remaining three of these six actions were brought by the plaintiff company against the board of agriculture and the individual members thereof for the recovery of money as follows:

One of them was an action in damages against the board and against the individual members thereof as individuals claiming damages in the sum of \$250,000, alleged to have been incurred by the plaintiff by reason of the fact that the board of agriculture had published certain reports detrimental to the business and product of the plaintiff, and that these reports had been made and circulated without any authority of law, the plaintiff claiming that the board was a private board or corporate body and that the law under which it was acting was unconstitutional.

Each of the other two actions was an action brought to recover certain license fees theretofore paid by the plaintiff company on demand of the board, but which the plaintiff claimed was illegally required of it for the reason that the board was a private board or corporate body and that the law under which it was acting was unconstitutional. These three cases were also pending in the court of common pleas of Franklin County, the issues not having been completed, although some motions and demurrers had been argued and determined one way or another therein. A seventh was pending in the controversy between the board and this company, an action in quo warranto brought by the state on the relation of my predecessor to forfeit the charter of the Smith Agricultural Company, an Ohio corporation. This remedy was sought on the ground that the company had been engaged in fraudulent practices in selling the product of its manufacture in bags and packages represented by label thereon to contain certain amounts and ingredients of the manufactured product, whereas in fact, as was alleged, these bags and packages contained less amounts than that indicated by the label, and that as to the ingredients thereof the contents were not up to the requirements of the law, and were different from the formula set out on the label. It was further claimed that as a further means of deceiving the public the defendant company had organized and was maintaining certain subsidiary companies regularly incorporated and organized, but that the capital stock thereof was owned and held by the defendant company; that commercial fertilizer was sold under the names of these sub-



subsidiary companies respectively and under the representation that the same was made by these companies respectively, but that as a matter of fact, the product was made by this defendant company, and that the product in the bags and packages of these subsidiary companies was misrepresented by the labels thereon in the same manner as was done by the defendant company itself through the bags, packages and labels put out under its own name. The board of agriculture, after the beginning of this action, was procuring from various dealers and consumers throughout the state samples of fertilizer manufactured, or supposed to be manufactured, by the defendant company, but in one of the injunction proceedings above mentioned the board had been enjoined from further prosecuting the work of procuring these samples, and thereupon this department procured a number of samples of such product and had the same analyzed.\* These samples were also procured from various dealers and consumers throughout the state. The department had not been able to procure any of the same direct from the defendant company. When this case came to my attention it was pending in the supreme court on the information of the state, the answer of the defendant in which four defenses were set up. The first defense was a general denial. Each of the other three, the second, third and fourth defenses contained allegations attempting to justify the defendant and show cause why it should not be ousted from its charter. There was also pending a demurrer filed by this department to the second, third and fourth defenses in this answer, and the department had filed a motion for an order appointing a special master to take testimony, and a motion for an injunction restraining the defendant company from disposing of its property in order that it might not evade any penalties or judgments which the state might obtain against the company, and to prevent the company from disposing of its property to some other person, firm or corporation and thus leave the state with nothing to administer should the court hold that the company's charter should be forfeited.

We shortly thereafter, in the forepart of this year, argued this demurrer, the motion for the injunction and the motion for a special master to the supreme court. The court at once overruled the motion for an injunction, and for the time refused to appoint the special master until it could pass upon the demurrer. Thereafter, in about the month of May, the court sustained the demurrer, thus leaving the case at issue on information of the state and the general denial of the defendant company, and shortly thereafter the court appointed a special master to take testimony. When the master was ready to take testimony the defendant company made a proposition to this department to the effect that it would dismiss all of its six cases against the board of agriculture if the state would dismiss its suit in quo warranto against the company. This de-

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\*See note on page 34.

partment notified the company that this proposition could not and would not be entertained, but that we would proceed with the taking of testimony in the cause, whereupon after some considerable negotiation the defendant, in order to save its charter, proposed to withdraw its answer and allow the state to take judgment by default, ousting it and forever prohibiting it from the illegal practices alleged in the petition, and ousting it and forever prohibiting it from maintaining the subsidiary companies. This department, after a consultation with, and on the consent and approval of the governor, agreed to an entry in the case of which the following is a copy :

“This day came the parties by their attorneys, and the Smith Agricultural Chemical Company by leave of court first received withdrew its answer heretofore filed, and said defendant being thereupon in default for answer and not desiring to plead further, it is ordered, adjudged and decreed that said defendant the Smith Agricultural Chemical Company be and it hereby is debarred and forever prohibited from maintaining, promoting, organizing or owning directly or indirectly any and all subsidiary companies, corporations or associations for the purpose of engaging in the business of manufacturing or selling commercial fertilizer, and from doing any and all other things as alleged in the petition or otherwise contrary to or in violation of any and all of the provisions of law regulating the manufacture and sale, or either of them, of commercial fertilizer.

“It is further adjudged that said defendant the Smith Agricultural Chemical Company pay the costs of this proceeding taxed at \$. . . . . and as a part of said costs there shall be paid to the Special Master heretofore appointed herein the sum of \$. . . . .”

As a part of this arrangement, however, the defendant company was required to dismiss the six suits it had brought against the board and to pay the costs in each of them, and all of this was done in the regular way by the company. This ended the litigation between the state and this company, and we are satisfied that it secured much greater advantages to the state than could have been secured under a decree forfeiting the charter of the company for the following reasons :

First. We have no assurance, and in fact we were very doubtful under the law whether the court would have absolutely forfeited the charter of the company; but supposing that a forfeiture had been secured after a long and expensive litigation, the only action the court could have taken under the law, after ousting the company from its charter, would have been to appoint trustees to take charge of the property of the company and wind up its affairs, sell the property, pay the debts of the company out of the proceeds therefrom and turn the balance to the stockholders. The company having practically no debts, however, all the proceeds, except the costs of administration, would have gone to the stockholders. On the sale of the property, however, by the trustees, the Smith people could have repurchased the property, transferred it to a new corporation, and after that they could have conducted the business in the same manner as before, and the only remedy which would

then remain to the state, so far as the company was concerned, would be to bring another suit in quo warranto and go over the whole line of action again on a new state of facts.

Second. Under the above entry, however, as drawn by this department and approved by the governor, the state, in connection with the present fertilizer law, has a double remedy against the company. If it violates the present fertilizer law its officers and agents may be prosecuted criminally and they may be punished by the supreme court for contempt of that tribunal under the order as set forth above. Furthermore, the present fertilizer law is defective, or at least of very doubtful effect or validity in several respects insofar as criminal prosecutions thereunder are concerned, thus making criminal proceedings, until that law shall be amended, of doubtful outcome and of expense to the state. Under the above order, however, there is no question as to the power of the court to punish this company and prevent a continuation or repetition of any of the matters complained of by the state in the case or to prevent its otherwise violating the law in any respect in the manufacture and sale of commercial fertilizer.

It is most earnestly recommended that at the coming session of the General Assembly, both the law creating the board of agriculture and defining its powers and duties generally, and the law with respect to the manufacture, sale and inspection of commercial fertilizer be redrafted and codified specifically defining the powers and duties of the board with respect to its jurisdiction generally, and with special reference to its powers and duties in regulation of the manufacture, sale and inspection of commercial fertilizer. The board has signified to this department its desire to have this accomplished, and, believing that these recommendations will meet the approval of the General Assembly, this department has collected from the various states their respective laws regulating similar departments therein, and will be able, we believe, to draft a law that will place the agricultural department in Ohio in a better and surer position to do the work for which it was created.

## 2. DEPARTMENT OF BANKING.

The state banking law should be amended, giving broader powers to the superintendent of banks and placing that department with respect to the examination, regulation and closing of banks under a law practically the same as the National Banking Act. The superintendent of banks should have the authority when he, after thorough examination, finds a bank to be insolvent, to take charge of the institution and manage it until its condition, as required by law, is restored; or, if that be impossible, to liquidate its affairs through his department. Such an amend-

ment would secure dispatch in restoring or liquidating the bank and would be a means of a saving of great expense to the depositors and other creditors of the bank.

This department has been called upon within the year to take action under the Thomas Act, so called, and liquidate two banks, and a third bank went into liquidation by reason of action taken by this department against an insurance company, which will be hereafter mentioned herein, and which had been conducted in connection, or at least had made large loans to such insurance company. In each of these cases the depositors of the bank have been greatly injured, and in one of them the misfortune to many small depositors of savings accounts is distressing. A compliance with the recommendations made above would not obviate this distress and misfortune in such case as the one just mentioned. Loans made by these institutions to single individuals, firms or corporations beyond the amounts allowed by law in such cases, and especially when such loans are made to business concerns and enterprises in which the controlling officers of the bank are interested, are reprehensible and wholly inexcusable. They are not necessary to the interests of good business, and such action on the part of such officers should be made a criminal offense under a clearly drawn and unmistakable statute with a severe penalty attached for violation thereof.

### 3. DEPARTMENT OF INSURANCE.

The laws relating to insurance and insurance companies should be amended to the same effect, and in the same way giving the added powers, and duties, of course, to the superintendent of insurance of his department. When the superintendent of insurance finds an insurance company in Ohio hopelessly insolvent he should have the power to take charge of the securities and other property and the affairs of the company and liquidate through his department, and saving time and great expense to the policyholders and other creditors of the company.

There are a number of actions pending in which the Attorney General appears on behalf of the department of insurance, some of them challenging the authority of the superintendent of insurance to exercise certain powers claimed by him, and the others in the nature of punitive or winding-up proceedings against insurance companies for failure to comply with the laws of the state. One of the most important cases is that of the State of Ohio ex. rel. Attorney General v. The Union Central Life Insurance Company of Cincinnati. This action was brought by my predecessor and is a proceeding in quo warranto against the defendant company in the circuit court of Hamilton County, Ohio, and seeks to oust that company from issuing to its stockholders a stock dividend aggregat-

ing the sum of \$400,000, and paying for the same out of an alleged surplus which the company claims has been accumulated from non-participating business. This proceeding is now under preparation for trial, the state disputing the right of the company to take this action, and it is expected that the cause will be tried within the near future. The company claims that in its non-participating business, from the time of the organization of the company in 1862 down to the year 1906, it had made a profit of \$800,000, although in the year 1905 it made a report to the department of insurance that up to that time, from its organization, this branch of its business—that is, the non-participating business—had been run at a loss of \$100,000. This company had never kept the accounts of its participating or dividend-paying business separate from its non-participating or non-dividend paying business. All moneys received from either business were received by the company as cash into a common fund, and all expenses for either and both kinds of business were paid out as expense of the company, without reference to any proportion to either business. In other words, the accounts of the two kinds of business had never been kept separate in any wise until the year 1907, when the General Assembly of California passed a statute requiring all insurance companies doing business in that state to keep such separate accounts. This company at that time, in order to continue doing business in California, was compelled to separate its accounts. It caused to be made some sort of a calculation, and by that calculation represented that its non-participating business had been run at a profit from its beginning until that time in the sum of \$800,000 instead of a loss of \$100,000 as it had represented to the insurance department in 1905. After making this calculation and separation it sought to pay to its stockholders the \$400,000 as above mentioned, and made a report to the superintendent of insurance to that effect, and asked a certificate from the department that it had complied with the laws for the year then last past. This certificate the department refused to give, and ordered the company to return the money to the reserve or surplus fund of the company for the purpose of protecting the dividend-receiving policyholders.

The claims of the state are: first, that the non-participating business of the company did not earn this money, and therefore that the stockholders of the company are not entitled to it, and that it belongs to the policyholders, who, under their contracts are to receive dividends on their policies by reason of the higher premiums which they pay; and, second, the state claims that if the non-participating business did earn this profit the stockholders are estopped from claiming it because the company has always represented that whatever money it made, or should make, from any source over and above the 10 per cent. dividend made in two semi-annual five per cent. payments each year, should and would be held for the benefit of the participating policyholders. We have been compelled

to attend the taking of the depositions of various witnesses for the defendant through the year and to take depositions for the state, which has made the litigation somewhat expensive. This department now, however, is ready for trial and expects to press the cause for hearing in January of 1910.

Shortly after coming to the department in November of 1908, I was called upon to take action against an insurance company for various irregularities and serious violations of our insurance laws. The company was wholly insolvent and had involved three or four banks in its transactions. One of these banks was compelled to make an assignment, with probabilities of much loss to its depositors. The recommendations made above for amendments to our insurance laws could not have brought relief to the creditors of this insurance company had such amendments been upon the books when the condition of the company was discovered. What has been recommended above for amendments to the banking laws prescribing penalties for violations thereof are applicable here, and it is hoped that the General Assembly will so amend the insurance laws as that when an officer or agent or employe of an insurance company makes false entries on the records of the company for the purpose of covering up its true condition and concealing its insolvency and manipulation of funds and securities, or that if he makes false returns or reports concerning these matters to the department of insurance of the state he may be severely punished therefor.

#### 4. SECTION 6969 OF THE REVISED STATUTES.

Section 6969 of the criminal statutes of the state should be amended so as to make it effective. This statute, when passed, attempted to make it unlawful and a criminal offense for any person holding any office of trust or profit in this state, either by election or appointment, or any agent, servant, or employe of such officer or of a board of such officers to become directly or indirectly interested in any contract for the purchase of any property, supplies or fire insurance for the use of the county, township, city, village, hamlet, board of education or public institution with which he is connected. In drafting this section the word "not" was omitted in one part of the section, and this omission leaves the statute of no effect. A decision to this effect having been reached by a common pleas court and sustained by the supreme court some three years since. This omission should be supplied and the statute should be made to apply to state officers, agents and employes, as well as to all officers for other political subdivisions of the state.

#### 5. THE CANALS OF THE STATE.

During the past year this department has spent considerable time investigating the rights of the state in its canal lands and in gathering

evidence and perfecting plans for the recovery of canal lands of the state now in possession of private individuals.

Under the provisions of section 8 of the act of February 4, 1825, under which act the canals of Ohio were originally constructed, the state acquired a title in fee simple to all lands which were occupied for canal purposes.

Owing to the fact that at the time the canals were constructed the lands were of little value and boundary disputes of little consequence, few surveys were made, and the lines between the property of the state and abutting property owners were seldom definitely fixed. Conditions have now changed, and our canal lands, especially in the cities, have become of such great value that the state must, if its interests are to be protected, proceed at once systematically to recover the lands which belong to the state and to define the boundaries of the state's canal lands along the six hundred miles of our canals and the various reservoirs of the state.

With this end in view, the board of public works, during the past year, surveyed a considerable portion of the canals, especially in the cities, where encroachments are most frequent. These surveys, of course, cannot fix the legal boundaries, but they are very useful as showing the topography as it exists at the time of the survey. Numerous cross-sections have been made in each case by the surveyors, and these cross-sections of the canals at intervals of one hundred feet will be of extreme value in future years in protecting the rights of the state in places where abutting owners attempt to seize the lands of the state by filling up wide waters or depositing earth in or adjoining to the canals.

This department has gathered together the several hundred laws which have been passed relating to canals, examined a large portion of the records of the board of public works and made a personal investigation of the more important tracts of land which we are preparing to recover for the state from those who are illegally holding the same. Suits are now contemplated for the recovery of valuable tracts of land in Cleveland, Dayton, Columbus, Newark, Barberton and other parts of the state. In addition to these cases, boundary disputes must be settled without suit, or suits must be brought to quiet the title of the state as against practically every abutting owner of property along the entire canal system.

Owing to the vast importance and complexity of these matters, I am of the opinion that an appropriation of several thousands of dollars should be made by the General Assembly in order that an efficient force of men acting under the direction of this department and the board of public works may make a thorough examination of every document on file in the office of the board of public works and elsewhere in Ohio. In this manner we can exhaust, classify and index every reference which we have pertaining to the rights of the state, and in this only can we deter-

mine with any accuracy what lands were occupied for canal purposes by the state in the early years of canal construction. With this information at our disposal I feel confident that, upon acquainting abutting property owners with the claims of the state, we shall be able, upon their application under section 218-224 R. S., to settle, with practically no expense, most of the several thousand boundary line disputes which are today a menace to the interests of the state and a cloud upon the title of owners of abutting property.

I am pleased to report that, after considerable negotiation between the state, city of Dayton and the Cincinnati, Hamilton & Dayton Railroad Company, the railroad company a short time ago paid into the state treasury \$10,714.72 as back rental for its use of a part of the old Huffman canal basin in the city of Dayton.

The most important suit pending during the year, involving the rights of the state to canal lands, is the case of State ex rel v. The Cleveland Terminal & Valley Railroad Company and The Baltimore & Ohio Railroad Company. The state set out in its petition practically all the facts which were considered pertinent in the case, and each of the defendants demurred to the petition of the plaintiff. After a hearing upon such demurrer in the circuit court of Franklin County last March, the circuit court in October handed down a decision sustaining the state in all its contentions under such demurrer. Defendants have now answered setting up a joint resolution of the General Assembly of 1896 and other matters and the case will soon be again at issue. Since these lands constitute the entrance of two railroads into the city of Cleveland for a distance of about three miles and are valued at several millions of dollars, this case is indicative of the necessity for an immediate and vigorous prosecution of the claims of the state to canal lands worth hundreds of thousands of dollars in other cities and along other parts of the canal system.

Many claims are continually being pressed against the state for damages because of breaks in the canal banks, and a number of these claims are now pending before commissions appointed under section 218-32 Revised Statutes, as follows:

Before Commissioners George Bennett, W. B. Rennie and Frank Ruth: James I. Smith, \$1,200.00; Mary A. Olds, Eliza Olds, Eleanor Gray and Effie Olds, \$1,000.00; Theo. Carl, \$150.00; Fred L. Lutz, Exr., and Chas. Kline, \$737.00; Henry Hulse Clendennen and Frank Clendennen, \$375.00; Frank E. Geeler, \$415.00, and Charles Morris, \$630.00; George E. Geeler, \$155.00; Theo. Carl, \$100.00. These claims are being heard at Circleville, Ohio.

Before Commissioners Frank Ruth, Allen Thurman and E. B. McCarter: The Logan Clay Product Company, \$16,301.83; Hocking County, \$12,700.00; L. C. Wright, \$2,450.50; L. C. Wright, \$6,100.00; Neman



& McBroom, \$191.00; Riley Glass, \$1,000.00. These claims were heard some three weeks since at Logan, Ohio, but the commission has not yet rendered its decision.

Before Commissioners John G. Teichert, James H. Moore and John Dewey: John F. Prather and John Barch, \$200.00; John F. Prather and Frank Cutlip, \$600.00; John F. Prather and Harry Baker, \$252.00; John F. Prather and J. J. Steinhauer, \$180.00; Peter Bauer, \$300.00; John F. Prather and Geo. Baker, \$550.00; M. D. Clark, \$2,860.00; Adah C. Jones, \$2,000.00; Adah C. Jones and Abraham Cutlip, \$2,420.00; Adah C. Jones and J. A. Fisher, \$1,500.00. These claims are being heard at Waverly, Ohio.

We are pleased to report, however, that no such claims have been filed for damages claimed to have occurred during this present year, and from our investigation of the evidence, we believe that very small, if any, amounts will be returned against the state from the claims above set forth.

This department recommended to the board of public works, and pursuant thereto the board adopted a system under which each and all of the canal superintendents and patrolmen having charge of the canals and public works of the state are required to make an immediate investigation in case of damage to private property along any of the canals which might be attributed to overflow of any of the public waters of the state. That is, each superintendent and patrolman is to make an immediate examination of any break or other accident happening along any part of the canal under his jurisdiction, ascertaining all the facts and circumstances of the case and mailing to the board at its office in the capitol, a written statement of all of these matters, with a written statement of any and all witnesses from whom such statements may be procured

## 6. CASES IN QUO WARRANTO.

Three of the most important cases now pending with which the department has to deal are the cases against the three subsidiary corporations of the Standard Oil Company of New Jersey, and which are pending in the circuit court of Allen County at Lima, Ohio. They are entitled "State of Ohio on the relation of the Attorney General against the Ohio Oil Company; The Solar Refining Company, and The Buckeye Pipe Line Company," respectively. The cases were brought by my predecessor and were argued by him and Mr. O. E. Harrison on November 11, 1908. On February 8, 1909, the court rendered an opinion holding that the Standard Oil Company of New Jersey, the parent company, should be made a party defendant in each of the cases, and continued the case, directing that the petition in each case be amended making such new party in each case. The Standard Oil Company of New Jersey has never qualified to do business in Ohio, nor were we able, after a most

thorough search, to find any person who claimed to be or who was reputed to be an agent of this company within the state. We, therefore, were at a loss to know how service might be made upon the company. The statutes of Ohio provide that a foreign corporation may be served by serving summons upon its managing agent in this state, and in qualifying to do business in this state it is required to designate some person upon whom service may be made. The Standard Oil Company of New Jersey having never qualified to do business in Ohio, and having no managing agent in the state that we could find, and which the company now admits, we made a showing of these facts to the court at Findlay on May 25, 1909. The court, however, at that time suggested that we might be able to find the person who votes the stock of these subsidiary companies owned and held by the Standard Oil Company of New Jersey at some meeting of the stockholders of one or the other of the subsidiary companies. This, however, we have not been able to do. The Standard Oil Company of New Jersey owns, holds and votes, however, in some manner, all of the capital stock of each of these subsidiary companies except five qualifying shares in each of them, and after considerable investigation, we reached the conclusion that each of these subsidiary companies is a managing agent in Ohio for the Standard Oil Company of New Jersey, and that each of the officers and directors of each of the companies is such an agent. We thereupon amended the petition in each case making the parent company a party defendant and caused summons to be issued in each case upon the defendant subsidiary company in that case as the managing agent in Ohio of the parent company, and also caused summons to be issued and served upon each of the officers and directors in each subsidiary company defendant in each case as a managing agent in Ohio of the parent company. Prior to this, however, we asked counsel for the parent company to enter its appearance in each of the cases, but this was refused. The parent company now files a motion in each case, seeking to set aside the service of summons on the ground that it has never qualified to do business in Ohio, and that it has no managing agent in the state, and that there is no person here upon whom service of summons can be made. There is no provision whereby this company may be served by publication. The next hearing in the case will be on the question of law as to whether the court may look through the fiction of these subsidiary companies and hold them to be in fact the Standard Oil Company of New Jersey. We find many cases sustaining this view and feel that our contention will be sustained. We have requested that these cases be set down for hearing on these motions, but were informed by the court that because of a large amount of business on hand they would not be able to take them up this year. The experience of the department in these cases has brought us to the conclusion that the statutes providing for service on foreign corporations should be amended, and provision

thereby made that in any case in which it may appear that a foreign corporation owns or controls any of the stock in an Ohio corporation, such foreign corporation may be made a party to any case in quo warranto against the Ohio company and may be served with summons, and its property in Ohio subjected to the jurisdiction of the courts of Ohio by serving a summons upon the Ohio corporation or any of its officers or agents as the managing agent in Ohio of such foreign corporation.

Each of the three cases mentioned above were begun in the circuit court of Allen County at Lima, Ohio, in November of the year 1906.

A fourth case of difficulty and of great importance to certain policy-holders in the insurance company involved, viz: The Union Central Life Insurance Company of Cincinnati, and to which case reference has been made above herein, is the case of the state against that company.

The case of the State of Ohio on the relation of the Attorney General v. The Hocking Valley Railway Company was begun in the year 1903, and seeks to oust that company from its charter for various violations of the laws of the state, viz: for acquiring, owning and holding the capital stock of the Kanawha & Michigan Railroad Company, which is a competing company with the defendant; for owning and holding the capital stock of various coal companies operating coal lands in the Hocking valley district of Ohio, and for guaranteeing the bonds of these companies; for being a member of a combination generally controlling defendant and the Toledo & Ohio Central Railroad Company, The Zanesville & Western Railroad Company and The Kanawha & Michigan Railroad Company; and for discriminating against certain coal mining industries along the lines of these railroads in the furnishing of switching or track connections from the mining properties to these railroad lines and in favor of the coal companies owned and controlled by the defendant. This case was tried and submitted to the court in 1907, and the forepart of this year, 1909, the circuit court of Franklin County, Ohio, in which the case was begun, handed down a decision sustaining the contention of the state as to illegality of all the matters above mentioned and ousting the defendant company from further maintaining such relations, but refusing to forfeit the charter of the defendant. The defendant immediately upon the rendering of this decision filed a motion for a rehearing of the case, and a rehearing was granted by the court upon the question as to whether the Kanawha & Michigan Railroad Company is a competing company with the defendant, and also upon the question as to the legality of the action of the defendant The Hocking Valley Railway Company in guaranteeing the bonds of the Continental Coal Company. The case upon these two points was argued before the court at Dayton, Ohio, by the Attorney General and special counsel, and some time thereafter the court handed down another opinion upon these points in which it adhered to its former decision, and again, in stronger terms, held that the Kan-

awha & Michigan Railroad Company is a competing company with the defendant, and that the holding of the stock of the Kanawha & Michigan Railroad Company by the defendant company was wholly illegal and without warrant of law, and further holding that the guarantee by the defendant of the bonds of the Continental Coal Company was wholly illegal and without warrant of law. The case is now in preparation for the supreme court, the defendant having signified its determination to present the cause to that tribunal for review of the findings and holdings of the circuit court. This department, under the law as it now stands, is not finally decided as to the best course to pursue in this case with reference to the advisability of asking the supreme court to not only sustain the circuit court in its action, but to wholly forfeit the charter of the defendant. A complete ouster and forfeiture of the charter of a corporation is not always in the interest of the public, and in these actions in quo warranto that is the interest which must be considered, and that is the interest which calls for such action on the part of this department and the courts. Under the law of Ohio, as it now stands, when the charter of a corporation is forfeited, the only thing the court can do is to appoint trustees to wind up the affairs of the company. The trustees so appointed are to convert the assets of the company into cash, pay the debts of the company and turn the balance, if any, of the proceeds to the stockholders of the corporation. When the trustees come to sell the property and assets of the company, the stockholders, or other persons interested in the old corporation, are, of course, at liberty to purchase the property, turn it into a new corporation and proceed again in the same or some similar manner with their old violations of the law, and the only remedy that is then left to the state is to proceed again in quo warranto against the new corporation. On the other hand, under a limited ouster, leaving to the corporation its charter and ousting it from doing the illegal things complained of, the court may so draw its decree as to forever prohibit the company from again engaging in any of the illegal practices complained of in the suit, and so as to punish the corporation and its officers for contempt of court if such practices are again engaged in.

Experience shows, however, that results under the situation last mentioned have not been particularly gratifying in this state, and a review of the history of this character of litigation in Ohio leads to the unavoidable conclusion that our laws should be amended in such way as that more speedy action may be forced in the prosecution of these cases, and that more definite and satisfactory results may be obtained in the attempts of the proper authorities to break up and actually prevent the repetition in other forms, ways and means of the illegal practices complained of and held to be illegal in any instance.

This department has given this matter considerable attention, but because of the great amount of other work with which we have at all

times been confronted during the year, has not been able to as yet complete a satisfactory plan for submission. One thing is certain, and that is, that if combinations and monopolies are bad and should be prohibited, then our laws should be framed so as to prohibit them. In some lines of enterprises the laws as they have stood for many years have only involved the state in much litigation and great expense, with but very little, if any, accomplishment. This is wrong and should not be tolerated unless the public policy against combinations and monopolies is to be changed. There are certain lines and departments of business in which everybody knows, who gives attention and thought thereto, that single management or control under strict and close regulation through reasonable statutory enactment is good and of benefit for and to the public, but as to the great majority of business enterprises and the things in which they deal, it is conceded by all members of the public, and held by the courts, upon authority and reason of long establishment, that combinations and monopolies therein should not be allowed or tolerated, because of the hardships and impositions sure to result to the public welfare if they be allowed or tolerated.

The General Assembly should, therefore, decide definitely and without question, through plainly-written statutes, what is to be the policy of our state in these matters, and provision should then be made for complete and thorough prevention of violations of these laws through civil proceedings, and such criminal penalties should be attached for violations thereof as will effectually deter our citizens from transgressing the laws defining the offenses.

## II.

### LAWSUITS AND PROSECUTIONS HANDLED BY THE DEPARTMENT FROM JANUARY 1 TO DECEMBER 1, 1909.

During the period from January 1 to December 1, 1909, the department has disposed of 216 lawsuits in the courts of common pleas, circuit courts, supreme court of the state, and the federal courts, and there are now still pending 189 lawsuits running through all of these courts, making a total number of 405 cases which the department has had to handle in courts of record during the year. During the year 1908 there were 242 such cases handled by the department, being 163 less in number than those handled by the department during the first eleven months of this year.

During the period from January 1 to December 1, 1909, the department has handled and disposed of 564 criminal proceedings instituted in

magistrates' courts under the respective departments, and in the number set opposite the names of the departments as follows:

For violation of child labor laws.....	222
For violation of workshops and factory inspection laws.....	5
For violation of pure food laws.....	134
For violation of medical registration laws.....	25
For violation of pharmacy laws.....	83
For violation of dental laws.....	7
For violation of stationary engineers laws.....	2
For violation of mining laws.....	1
For violation of vital statistics laws.....	2
For violation of commercial feed stuffs laws.....	7
For violation of fish and game laws.....	75
For violation of employment agency laws.....	1
Total .....	564

During the year 1908, 296 such cases were disposed of. The number for the period from January 1 to December 1, 1909, exceeding the number for the whole year of 1908 by 268.

### III.

#### COLLECTIONS AND DISBURSEMENTS.

(a) *Appropriations for the department for the year beginning February 15, 1909, and ending February 15, 1910, and disbursements from January 1 to December 15, 1909.*

The General Assembly at its last session made appropriations for this department for the year beginning February 15, 1909, to February 15, 1910, as follows:

Attorney General.....	\$6,500 00
Salary First Assistant Attorney General.....	4,000 00
Salary Second Assistant Attorney General.....	2,500 00
Salary chief clerk.....	1,500 00
Willis tax clerk.....	1,200 00
Salaries two stenographers at \$1,200 each.....	2,400 00
Salary messenger.....	600 00
Special counsel.....	28,000 00
Contingent expenses.....	2,000 00
Traveling expenses.....	1,000 00
Books and furniture.....	1,000 00
Stenographic work.....	1,500 00
Costs in cases brought by state.....	1,500 00
Remodeling office.....	2,000 00

Beginning January 1, 1909, there were certain balances remaining, of course, from the appropriation for that year *ending* February 15, 1909,

in and for the various matters mentioned above with the exception of the item "remodeling office." The expenditures in salaries to statutory positions and for compensation to special counsel permanently or otherwise employed, and for other purposes for the period beginning January 1, 1909, and ending December 15, 1909, are as follows, both as to the matters in which the expenditure was made and the amount expended:

Attorney General .....	\$6,230 00
First Assistant Attorney General.....	2,968 83
Second Assistant Attorney General.....	2,395 52
Chief clerk.....	1,437 50
Messenger .....	575 00
Two stenographers.....	2,300 00
Willis tax clerk.....	793 33
Special counsel.....	25,209 98
Books and furniture.....	1,135 92
Stenographic work.....	1,041 40
Costs in cases brought by state.....	1,662 15
Contingent .....	2,095 61
Traveling expenses.....	687 81
Remodeling .....	2,000 00
	<hr/>
Total .....	\$50,533 05

The cases above set out in which it appears that more money was expended than was appropriated for the year beginning February 15, 1909, and ending February 15, 1910, are cases in which balances were remaining in the fund from last year, and the excess amounts as shown above respectively were expended from those balances. The appropriations made, however, for this present year following February 15, 1909, will take the department through the year, and without any request for help from the emergency board except in the matter of costs in cases. In this item we were required to ask the emergency board for an additional allowance of \$800 in order that we might employ some expert actuaries to assist in preparation for the trial of the case of the State v. Union Central Life Insurance Company. Even with this increase in these items, however, the expense of the department for the year ending February 15, 1910, will be a few dollars more than \$5,000.00 less than the expense of the department for the previous year.

#### (b) COLLECTIONS BY THE DEPARTMENT.

##### 1. *Willis Tax.*

This department is charged with the collection of delinquent Willis taxes from private corporations, and during the period from January 1

to December 15, 1909, we collected such moneys to the amount of \$115,114.19. During the entire year of 1908 the department collected \$77,000.00.

2. *Other collections.*

Contract labor, Ohio penitentiary.....	\$202,396 62
From C. H. & D. R. R. Co., back rentals for state's portion of Huffman basin at Dayton.....	10,714 72
Other miscellaneous collections.....	1,219 72
<b>Total .....</b>	<b>\$214,241 06</b>

Explanation has already been made as to how the records of the above matters are kept in this office, and as to how the moneys are turned to and received for by the proper departments.

#### IV.

#### OFFICIAL OPINIONS.

Within the time from January 1 to December 15, 1909, the department has rendered 547 official opinions to the various state officers, departments and boards, county prosecuting attorneys and city solicitors in the state. For the entire year of 1908 there were 325 of such opinions rendered and 350 in the year 1907. This last number was the largest that had ever been rendered by the department up to the present year of 1909, so that the number rendered in the present year from January 1, 1909, to December 15, 1909, exceeds any prior year to the number of 197.

NOTE:—On page 12 of this report reference is made to a number of samples of commercial fertilizer which were procured by this department at its expense in the controversy between the state and the Smith Agricultural Chemical Company in the year 1908. These samples were all placed in the hands of Professor Lord at the Ohio State University for analysis, the purpose being to use them and the testimony of Professor Lord in the trial of the suit in quo warrantó, hereinbefore referred to, brought by the state against that company. These samples were so procured by this department by reason of the fact that the common pleas and circuit courts of this county had enjoined the board of agriculture from taking these samples on the ground that the law under which the board was acting was unconstitutional. After this case was determined, as hereinbefore set forth, there was no further use for these samples and they are still in the possession of Professor Lord.

The courts had also enjoined the board of agriculture from publishing certain reports as to samples of fertilizer the board had obtained before the injunction was granted restraining it from taking further sam-



ples. The samples above mentioned, as collected by the attorney general's department, were collected, as above stated, for use in the trial of the case of the State against the Smith Agricultural Chemical Company, and under such circumstances, and the state of the law governing the board at the time they were taken, the decision of the circuit court of Franklin County, and in view of the decree obtained in the quo warranto suit ousting the Smith Agricultural Chemical Company and forever prohibiting it from again engaging in the practices alleged in the state's petition in that suit, and from violating the law in any other manner relating to the manufacture or sale of commercial fertilizer, it would seem that these samples could not be properly used for any other purpose than that for which they were originally gathered. However, contemplating that circumstances might arise under which it would be necessary to use them, they have been left, and are now still, in the custody of Professor Lord, our state chemist who analyzed them; so leaving them in his possession will obviate any question which might be made as to their change or alteration from what they were at the time they were gathered and analyzed.

NOTE 2:

CODIFICATION OF STATUTES.

Another matter of which it was my intention to make recommendation, and which was overlooked in the regular order, is that of the printing and publishing of the codified laws now in course of preparation by the Codifying Commission. In a number of the states of the Union the state government publishes and sells the compiled or codified statutes enacted by the General Assembly. From investigations which this department has made, it is believed that the state may, on its own account, edit, index and publish the codified laws as prepared by the Codifying Commission and adopted by the General Assembly thereafter, and sell the same at such a figure as will enable the state to defray the entire expense of the Codifying Commission, and yet dispose of this work to those who may desire to purchase the same at a considerable saving as against the cost to the purchasers from private individuals. The state of Michigan sells its compiled laws, which constitute three large volumes and an index, for the sum of between six and seven dollars. It is within the power of the General Assembly to do this and to, from year to year, keep control of the revision of these statutes and of their sale. After the expenses of the Codifying Commission are defrayed, the work might, of course, be sold at such a figure as will meet the expense incurred by the state in publishing the same.

Respectfully submitted,

U. G. DENMAN,  
*Attorney General.*

December 29, 1909.

II

CASES PENDING OR DISPOSED OF DURING THE YEAR 1909

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Cases Disposed of in the Supreme Court of Ohio from January 1st, 1909 to  
January 1st, 1910

No. 7822.

State of Ohio ex rel. Attorney General v. The Imperial Savings  
Company.

No. 10898.

A. B. Critchfield v. Walter S. Robinson.

No. 10899.

A. B. Critchfield v. Charles Minier.

No. 10906.

State of Ohio ex rel. The Drake Coal Company v. H. H. McFadden  
et al.

No. 11111.

S. Hadley Hibbard, as County Surveyor, etc., v. John F. Biddle et al.,  
etc.

No. 11119.

Charles Oakman v. Rose Furniture Company.

No. 11127.

F. F. Thorniley, Auditor, etc., et al. v. State ex rel. Alvin O. Dickey,  
Prosecutor, etc.

No. 11219.

W. S. Judd v. State of Ohio.

No. 11293.

State of Ohio ex rel. Albin Karlinger v. Board of Deputy State Supervisors, etc., et al.

No. 11330.

State of Ohio ex rel. Attorney General v. The Smith Agricultural Chemical Company.

No. 11379.

The Mutual Life Insurance Company of New York v. State of Ohio.

No. 11800.

Emil Justin Rose v. Harris H. Baxter et al.

No. 11807.

John K. Schnebly, County Treasurer of Knox County, v. Kenyon College.

Cases Pending in the Supreme Court of Ohio from January 1st, 1909, to  
January 1st, 1910

No. 11217.

Board of Commissioners of Portage County v. Harry Gates.

No. 11402.

Railroad Commission of Ohio v. Hocking Valley Railway Company.

No. 11649.

Clara Reynolds v. Erwin C. Woodworth, Treasurer, etc.

No. 11767.

The Detroit, Toledo & Ironton Railway Company v. State of Ohio.

No. 11826.

State of Ohio v. The Covington & Cincinnati Bridge Company.

No. 11861.

State of Ohio ex rel. Wm. H. Townsend v. Frank Snyder, Auditor of  
Darke County.

No. 11862.

State of Ohio ex rel. B. A. Underferth v. David F. Owens.

No. 12161.

Gail S. Hamilton, Mayor of Coshocton, Ohio, v. State of Ohio ex rel.  
John R. Maple.

H. Y. Scanlon v. State of Ohio.

Note: Motion to file petition in error.

Cases Disposed of in the Circuit Courts from January 1st, 1909, to  
January 1st, 1910

Ashland County.

No. 427.

Elmer Stermer v. W. C. Moore et al.

Carroll County.

No. 133.

Chas. W. Fawcett, as Exr., v. David Kyle et al.

Cuyahoga County.

No. 4233.

J. W. Boulton v. State of Ohio.

No. 4273.

H. Y. Scanlon v. State of Ohio.

No. 4361.

Geo. Yocheim v. State of Ohio.

No. 4362.

Same v. Same.

No. 4363.

S. Perry v. State of Ohio.

No. 4364.

Jacob Kopf v. State of Ohio.

No. 4365.

A. C. Hellregal v. State of Ohio.

No. 4366.

Paul Peters v. State of Ohio. ●

No. 4367.

Alex Morrison v. State of Ohio.

No. 4368.

Same v. same.

No. 4369.

Thos. N. Buyer v. State of Ohio.

No. 4370.

C. W. McDonald v. State of Ohio.

No. 4371.

J. A. Kuchle v. State of Ohio.

No. 4372.

S. Perry v. State of Ohio.

No. 4373.

A. Weiss v. State of Ohio.

No. 4374.

C. G. Malley v. State of Ohio.

No. 4375.

A. F. Langhaus v. State of Ohio.

No. 4376.

Sam Weiss v. State of Ohio.

No. 4377.

C. W. McDonnell v. State of Ohio.

No. 4378.

T. H. Buyer v. State of Ohio.

No. 4379.

C. W. McDonnell v. State of Ohio.

No. 4380.

A. C. Hellregal v. State of Ohio.

No. 4381.

A. Weiss v. State of Ohio.

No. 4382.

J. A. Kuchle v. State of Ohio.

No. 4383.

H. Hartman v. State of Ohio.

No. 4384.

Alex Morrison v. State of Ohio.

No. 4385.

A. F. Langhaus v. State of Ohio.

No. 4386.

C. W. McDonnell v. State of Ohio.

No. 4387.

H. Hartman v. State of Ohio.

No. 4388.

A. C. Hellregal v. State of Ohio.

No. 4389.

Mrs. Jacob Kopf v. State of Ohio.

No. 4390.

H. Hartman v. State of Ohio.

No. 4391.

Alex Morrison v. State of Ohio.

No. 4392.

A. C. Hellregal v. State of Ohio.

No. 4393.

Mrs. Paul Peters v. State of Ohio.

No. 4394.

Mrs. Jacob Kopf v. State of Ohio.

No. 4395.

A. Weiss v. State of Ohio.

No. 4396.

A. G. Malley v. State of Ohio.

No. 4447.

Louisa Walter v. State of Ohio.

No. 4449.

Gus Zemore v. State of Ohio.

No. 4450.

H. G. Windus v. State of Ohio.

No. 4451.

Charles Gannsler v. State of Ohio.

No. 4452.

P. R. Burkhardt v. State of Ohio.



No. 4462.

John R. Vincent v. State of Ohio.

No. 4463.

Girello Gallo v. State of Ohio.

Franklin County.

No. 2665.

The Covington and Cincinnati Bridge Company v. State of Ohio.

No. 2669.

Thomas L. Calvert, Secretary State Board of Agriculture, et al. v.  
The Smith Agricultural Chemical Company.

No. 2704.

Emil Justin Rose v. Harris H. Baxter, et al.

No. 2711.

The Southeastern Ohio Railway, Light & Power Company v. Rail-  
road Commision of Ohio.

No. 2719.

The Smith Agricultural Chemical Company v. Thomas L. Calvert,  
Secretary Board of Agriculture, et al.

No. 2729.

State of Ohio ex rel. Jas. M. Cloud v. William S. McKinnon, Treas-  
urer of State, et al.

No. 2741.

Thomas L. Calvert, Secretary Board of Agriculture, v. The Smith  
Agricultural Chemical Company.

No. 2745.

State of Ohio ex rel. Attorney General v. The Cleveland and Pittsburgh Railroad Company.

No. 2796.

State of Ohio ex rel. Attorney General v. Frank Gebbert.

No. 2871.

State of Ohio ex rel. Attorney General v. The German-American Health and Accident Insurance Company.

Hamilton County.

No. 4849.

State ex rel. Benjamin Gaines v. State Medical Board.

No. 4858.

The John Church Company v. C. E. Roth, Treasurer.

No. 4859.

Margaret Hall v. C. E. Roth, Treasurer.

Licking County.

No. 964.

A. A. Taylor v. State of Ohio.

Montgomery County.

No. 704.

The Horsemen's Protective Association v. Alfred P. Sandles et al.

**Stark County.**

State of Ohio ex rel. Lillian Brettelle v. Barry Dudley, Steward  
Massillon State Hospital.

Note:—Writ of habeas corpus refused and no docket number  
given.

**Summit County.**

No. 887.

State of Ohio v. The M. O'Neil Company.

Cases Pending in Circuit Courts from January 1st, 1909, to January 1st, 1910

Allen County.

No. 520.

State of Ohio ex rel. Attorney General v. The Solar Refining Company.

No. 521.

State of Ohio ex rel. Attorney General v. The Buckeye Pipe Line Company.

No. 522.

State of Ohio ex rel. Attorney General v. The Ohio Oil Company.

Cuyahoga County.

No. 4185.

State of Ohio ex rel. Attorney General v. The Central Committee Independent Order of Foresters.

Franklin County.

No. 2087.

State of Ohio ex rel. Attorney General v. The Hocking Valley Railway Company.

No. 2363.

State of Ohio ex rel. Attorney General v. The Miami and Erie Canal Transportation Company.

No. 2639.

State of Ohio ex rel. Attorney General v. The Marion County Telephone Company and The Central Union Telephone Company.

No. 2735.

State of Ohio ex rel. Attorney General v. The Cleveland Terminal and Valley Railroad Company and The Baltimore and Ohio Railroad Company.

No. 2745.

State of Ohio ex rel. Attorney General v. The Cleveland and Pittsburg Railroad Company.

No. 2770.

State of Ohio ex rel. Forrest H. Figsby v. J. S. M. Goodloe, et al.

No. 2810.

Edward Pfeifer v. State of Ohio.

No. 2814.

Theresa Herman v. State of Ohio.

No. 2843.

Frank J. Collison v. State of Ohio.

No. 2865.

State of Ohio ex rel. Attorney General v. The National Cash Register Company.

No. 2870.

State of Ohio v. The Mutual Life Insurance Company of New York.

Hamilton County.

No. 2873.

State of Ohio ex rel. Attorney General v. The People's Industrial Fire Association of Cincinnati.

No. 4691.

State of Ohio ex rel. Attorney General v. The Union Central Life Insurance Company.

Hancock County.

No. 1173.

State of Ohio ex rel. Attorney General v. The Buckeye Pipe Line  
Company.

Seneca County.

No. 590.

State of Ohio by Attorney General ex rel. Charles C. German v.  
Charles Koss, et al.

Warren County.

No. 317.

State of Ohio ex rel. Attorney General v. Ed Malloy.

Cases Disposed of in Courts of Common Pleas from January 1st, 1909, to  
January 1st, 1910

Belmont County.

No. 15288.

State of Ohio v. The Ohio River & Western Railway Company.

No. 15384.

State of Ohio v. Baltimore & Ohio Railroad Company.

No. 15385.

Same v. same.

No. 15386.

Same v. same.

No. 15387.

Same v. same.

No. 15388.

Same v. same.

Carroll County.

No. 3616.

Charles E. Fawcett, as Executor, etc., v. David Kyle, et al.

Clark County.

No. 17262.

Brunton v. State of Ohio.

Clinton County.

No. 9756.

Bertha E. Pickerell v. Charles Pickerell.

Coshocton County.

No. 4409.

State of Ohio ex rel. v. Benton Davis, ex rel.

Cuyahoga County.

No. 630.

Girella Gallo v. State of Ohio.

No. 631.

John R. Vincent v. State of Ohio.

No. 711.

George Yocheim v. State of Ohio.

No. 712.

Same v. same.

No. 713.

S. Perry v. State of Ohio.

No. 714.

Jacob Kopf v. State of Ohio.

No. 715.

A. C. Hellregal v. State of Ohio.

No. 716.

Paul Peters v. State of Ohio.

No. 717.

Alex Morrison v. State of Ohio.

No. 718.

Same v. same.

No. 719.

Thos. N. Buyer v. State of Ohio.

No. 720.

C. W. McDonald v. State of Ohio.



No. 721.

J. A. Kuchle v. State of Ohio.

No. 722.

S. Perry v. State of Ohio.

No. 723.

A. Weiss v. State of Ohio.

No. 724.

C. G. Malley v. State of Ohio.

No. 725.

A. F. Langhaus v. State of Ohio.

No. 726.

Sam Weiss v. State of Ohio.

No. 727.

C. W. McDonnell v. State of Ohio.

No. 728.

T. H. Buyer v. State of Ohio.

No. 729.

C. W. McDonnell v. State of Ohio.

No. 730.

A. C. Hellregal v. State of Ohio.

No. 731.

A. Weiss v. State of Ohio.

No. 732.

J. A. Kuchle v. State of Ohio.

No. 733.

H. Hartman v. State of Ohio.

No. 734.

Alex Morrison v. State of Ohio.

No. 735.

A. F. Langhaus v. State of Ohio.

No. 736.

C. W. McDonnell v. State of Ohio.

No. 737.

H. Hartman v. State of Ohio.

No. 738.

A. C. Hellregal v. State of Ohio.

No. 739.

Mrs. Jacob Kopf v. State of Ohio.

No. 740.

H. Hartman v. State of Ohio.

No. 741.

Alex Morrison v. State of Ohio.

No. 742.

A. C. Hellregal v. State of Ohio.

No. 743.

Mrs. Paul Peters v. State of Ohio.

No. 744.

Mrs. Jacob Kopf v. State of Ohio.

No. 745.

A. Weiss v. State of Ohio.

No. 746.

A. G. Mally v. State of Ohio.

No. 903.

Mark Klein v. State of Ohio.

No. 92886.

N. W. Geer v. State of Ohio.

No. 104084.

Charles Gannsler v. State of Ohio.

No. 104085.

P. R. Burkhardt v. State of Ohio.

No. 104086.

Gus Zemore v. State of Ohio.

No. 104087.

H. G. Windus v. State of Ohio.

No. 104088.

Louisa Walter v. State of Ohio.

No. 105886.

H. Y. Scanlon v. State of Ohio.

No. 105887.

Same v. same.

Erie County.

No. 10475.

State of Ohio v. The Lake Shore & Michigan Southern Railway  
Company.

Fairfield County.

No. 12214.

John L. Zollinger v. D. L. Bohrer.

Franklin County.

No. 51134.

State of Ohio v. Samuel T. Dobson.

No. 52158.

State of Ohio v. Robert E. McClure et al.

No. 54959.

The Smith Agricultural Chemical Company v. Ohio State Board of  
Agriculture et al.

No. 54992.

The Buckeye Fertilizer Company v. Ohio State Board of Agriculture  
et al.

No. 54993.

State of Ohio v. Nelson A. Jenkins et al.

No. 55001.

The Smith Agricultural Chemical Company v. Ohio State Board of  
Agriculture et al.

No. 55079.

State of Ohio v. Mutual Life Insurance Company.

No. 56036.

The Black Diamond Coal & Coke Company v. Railroad Commission of Ohio et al.

No. 56154.

The Marietta, Columbus & Cleveland Railroad Company v. Railroad Commission of Ohio.

No. 56258.

American Trust & Savings Bank of Zanesville v. B. B. Seymour, Superintendent of Banks.

No. 56591.

State of Ohio ex rel. California Insurance Company v. C. C. Lemert, as Superintendent of Insurance of Ohio.

No. 56781.

Alex B. Barker, Jr., v. Haris H. Baxter et al.

No. 56895.

Frank J. Collison v. State of Ohio.

No. 56890.

State of Ohio v. The Independent Steel & Wire Company.

No. 57160.

In re application F. D. Rice v. George Stockton as Superintendent Columbus State Hospital.

No. 57182.

Theresa Herman v. State of Ohio.

Hamilton County.

No. 121479.

John Crippel v. State of Ohio.

No. 121705.

Brocker v. State of Ohio.

No. 128698.

State of Ohio v. The Edwards Railroad Electric Light Company.

No. 133348.

W. D. Guilbert, Auditor of State, v. S. Kuhn & Son.

No. 138107.

Sickles v. State of Ohio.

No. 138108.

Jas. R. Anderson v. State of Ohio.

No. 138109.

Frank J. Minsterketter v. State of Ohio.

No. 138146.

Vincent Rhein v. State of Ohio.

No. 138625.

Alois Reedy v. State of Ohio.

No. 138626.

Frank Brandstetter v. State of Ohio.

No. 138630.

Charles Glaser v. State of Ohio.

No. 140259.

State of Ohio v. The Early Mercantile Agency Company.

No. 142529.

Ex Parte James Taylor.

Huron County.

No. 7040.

State of Ohio v. The Baltimore & Ohio Railroad Company.

Licking County.

No. 14230.

State of Ohio v. Baltimore & Ohio Railroad Company.

No. 14231.

Same v. same.

Lorain County.

No. 9142.

State of Ohio v. Baltimore & Ohio Railroad Company.

Marion County.

No. 11430.

Marion National Bank v. City of Marion.

Monroe County.

No. 7049.

State of Ohio v. The Ohio River & Western Railway Company.

Montgomery County.

No. 27097.

Jas C. Martin v. Alfred P. Sandles et al.

No. 27122.

Marcellus S. Benn v. Alfred P. Sandles et al.

No. 27134.

William F. Neff v. Alfred P. Sandles et al.

No. 27131.

William B. Earnshaw v. Alfred P. Sandles et al.

No. 27140.

Oliver P. Sifrit v. Alfred P. Sandles et al.

No. 27144.

Edward W. Hanley v. Alfred P. Sandles et al.

No. 27161.

Harry Gross v. Alfred P. Sandles et al.

No. 27162.

John J. White v. Alfred P. Sandles et al.

No. 28303.

State of Ohio v. Judson Harmon, as Receiver, etc.

No. 28304.

Same v. same.

No. 28305.

Same v. same.

No. 28308.

Same v. same.

No. 30948.

State of Ohio ex rel. Attorney General v. The Dayton Gymnastic  
Club et al.



## Muskingum County.

No. 14227.

State of Ohio v. The Ohio River &amp; Western Railway Company.

No. 14228.

Same v. same.

## Noble County.

No. 4353.

State of Ohio v. The Ohio River &amp; Western Railway Company.

## Ross County.

No. 12407.

State of Ohio ex rel. B. B. Seymour, Superintendent of Banks, v. The  
Scioto Valley Bank of Kingston, Ohio.

## Stark County.

No. 18757.

State of Ohio v. The Wheeling &amp; Lake Erie Railroad Company.

No. 18759.

Same v. same.

## Summit County.

No. 14980.

State of Ohio v. The M. O'Neal Company.

## Tuscarawas County.

No. 10241.

Geo. Bose v. State of Ohio.

No. 10263.

F. Warner v. State of Ohio.

No. 10262.

Geo. Harshey v. State of Ohio.

No. 10233.

State of Ohio v. Edward Schilling.

Wood County.

No. 15411.

State of Ohio v. Baltimore & Ohio Railway Company.

Cases Pending in Common Pleas Courts from January 1st, 1909, to  
January 1st, 1910

Adams County.

No. 7356.

C. C. Lemert, Trustee for Policy-Holders, v. Interstate Life Assurance  
Company.

Ashtabula County.

No. 2513.

State of Ohio v. C. E. Brinkman.

Butler County.

No. 23194.

State of Ohio v. Judson Harmon, Receiver, The C. H. & D. Railway  
Company.

Columbiana County.

No. 5790.

Jane McVeigh v. Mary Ann McVeigh, et al.

Cuyahoga County.

No. 89999.

The Phillips Building Company v. Glenville Publishing Company.

No. 114244.

State of Ohio v. Erie Railroad Company.

No. 114245.

State of Ohio v. The Cleveland, Cincinnati, Chicago & St. Louis  
Railroad Company.

No. 100224.

State of Ohio v. The Erie Railroad Company.

No. 106219.

State of Ohio v. The Cleveland & Pittsburg Railroad Company.

No. 106218.

State of Ohio v. The Forest City Railway Company.

No. 114875.

State of Ohio v. Thomas J. Holmden, Assignee, et al.

No. 114876.

Same v. same.

Defiance County.

No. 8316.

The C. M. Anderson Coal Company v. The People's Gas & Electric Company, et al.

Erie County.

No. 11076.

Ollie B. Held v. Frank A. Herver, Treasurer, et al.

Franklin County.

No. 51681.

W. H. English, Receiver, etc., v. The McLeish Coal Mining Company.

No. 52159.

State of Ohio v. Margaret F. Fenn et al.

No. 53192.

State of Ohio v. William J. Robey, et al.

No. 53358.

State of Ohio v. The Interstate Oil Company.

No. 54440.

State of Ohio v. Lindsley H. Bounds.

No. 54478.

State of Ohio v. The Baltimore & Ohio Southwestern Railroad Company.

No. 54479.

State of Ohio v. The Columbus Railway Company.

No. 54989.

Ann Arbor Railroad Company et al. v. Railroad Commission of Ohio.

No. 55244.

The Lincoln National Life Insurance Company v. C. C. Lemert, as Superintendent of Insurance of Ohio.

No. 55420.

C. C. Lemert, Superintendent of Insurance of Ohio, v. The Interstate Life Assurance Company of Cincinnati, Ohio, et al.

No. 55684.

W. S. McKinnon, Treasurer of State of Ohio, v. The Cleveland Trust Company et al.

No. 56014.

Anton J. Adams v. George H. Matson et al.

No. 56260.

C. C. Green, Treasurer of State of Ohio, v. The Depositors' Savings & Trust Company, et al.

No. 56263.

Lowell T. Mahon v. Harris H. Baxter et al.

No. 56270.

Isaac T. Evans v. Harris H. Baxter et al.

No. 56284.

Henry G. Pyle v. Harris H. Baxter et al.

No. 56285.

Charles H. McLaughlin v. Harris H. Baxter et al.

No. 56598.

State of Ohio ex rel. Fenton L. Gilbert v. Ohio State Board of Accountancy.

No. 56666.

State of Ohio ex rel. The Grand Fraternity v. C. C. Lemert, as Superintendent of Insurance of the State of Ohio.

No. 56782.

Albert C. Goode v. A. Ravogli et al.

No. 56993.

Frank J. Collison v. Ohio State Board of Pharmacy.

No. 57010.

The Drake Coal Company v. State of Ohio.

No. 57257.

Edward T. Sager v. A. Ravogli et al.

No. 58076.

State of Ohio v. The Federal Union Surety Company.

No. 58105.

State of Ohio v. Flavius T. Slagle.

## Hamilton County.

No. 11664.

State of Ohio v. The Bellevue Brewing Company.

No. 130186.

Henry Behrens v. State of Ohio.

No. 131660.

Cincinnati Trust Company v. Miami and Erie Canal Transportation  
Company.

No. 131787.

W. D. Guilbert, Auditor of State, v. The Franklin Bank.

No. 134803.

State of Ohio v. The International Text Book Company.

No. 137470.

The Cincinnati Gunning Company v. Charles C. Cooper et al.

No. 138627.

Christina Drach v. State of Ohio.

No. 138628.

Flora Moeller v. State of Ohio.

No. 138629.

Frank Dorger v. State of Ohio.

No. 138631.

John Reuss v. State of Ohio.

No. 138639.

Jas. Rotert v. State of Ohio.

No. 138810.

State of Ohio v. The Pittsburg, Cincinnati, Chicago & St. Louis Rail-  
way Company.

No. 138811.

State of Ohio v. The Cleveland, Cincinnati, Chicago & St. Louis  
Railway Company.

No. 138812.

State of Ohio v. The Baltimore & Ohio Southwestern Railway  
Company.

No. 139000.

Harry Appel v. State of Ohio.

No. 139159.

State of Ohio v. Little Miami Railroad Company.

No. 139160.

State of Ohio v. Cincinnati Street Railway Company.

No. 140258.

State of Ohio v. The Sayers Life Insurance Agency Company.

No. 140260.

State of Ohio v. The Wagner Refining Company.

No. 142909.

William Bonhart v. State of Ohio.

No. 142970.

The Crane Paper Box Company v. State of Ohio.

No. 143042.

State of Ohio v. Louis W. Foster et al.

Hardin County.

No. 2226.

State of Ohio v. Joseph J. Boone.



## Henry County.

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State of Ohio v. Detroit, Toledo &amp; Ironton Railway Company.

## Lawrence County.

No. 9752.

State of Ohio v. Detroit, Toledo &amp; Ironton Railway Company.

## Licking County.

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Art Mechling v. State of Ohio.

No. 14996.

Al Weathers v. State of Ohio.

No. 15402.

Charles Slane v. Clement L. Riley, Auditor of Licking County, Ohio,  
and C. L. V. Holtz, Treasurer of Licking County, Ohio.

No. 15403.

Charles Henry v. same.

No. 15404.

Geo. and Fred. Johnson v. same.

No. 15405.

Samuel Burril v. same.

No. 15406.

Joe Fritz v. same.

No. 15407.

Jos. S. Kuster v. same.

No. 15408.

Wm. R. Schlegel v. same.

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No. 5371.

State of Ohio v. The Wheeling & Lake Erie Railroad Company.

No. 56732.

State of Ohio v. Ann Arbor Railroad Company.

No. 56729.

State of Ohio v. The Toledo, St. Louis & Western Railroad Company.

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No. 27569.

Harry Naylor v. The State of Ohio.

No. 27606.

Same v. same.

No. 27718.

Same v. same.

No. 27790.

Robert Crawford v. State of Ohio.

No. 28021.

Kurt Dobson, alias C. Johnson, v. State of Ohio.

Miami County.

No. 18012.

Missouri B. Hurst et al. v. George H. Watkins et al.

No. 17850.

O. S. Nicholas et al. v. John Thompson et al.

Montgomery County.

No. 24990.

Stephen W. Long v. A. E. Sheppard.

No. 25253.

C. W. Brinkle v. Brinkle & Reading Co.

No. 29582.

State of Ohio v. The Dayton, Covington & Piqua Traction Company.

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O. P. Spencer v. State of Ohio.

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William Echroate v. State of Ohio.

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Leo Abt v. State of Ohio.

Wyandotte County.

No. 8024.

F. F. Scheidegger et al. v. W. H. Bristol.

Cases Disposed of in United States Courts from January 1st, 1909, to  
January 1st, 1910

Circuit Court, Southern District of Ohio, Western Division.

No. 6356.

The Worcester Trust Company v. The Dayton & Xenia Traction Com-  
pany.

No. 6417.

The Linen Thread Company v. A. Borth & Company.

Cases Pending in United States Courts from January 1st, 1909, to  
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Circuit Court, Southern District of Ohio, Eastern Division.

No. 1437.

The Pennsylvania Company v. The Marietta, Columbus & Cleveland  
Railway Company et al.

No. 1417.

The American Reduction Company v. Alfred P. Sandles, Secretary of  
the Ohio State Board of Agriculture.

Circuit Court, Northern District of Ohio, Eastern Division.

No. 7741.

Mary A. Wightman v. The Pennsylvania Company et al.

Circuit Court, Southern District of Ohio, Western Division.

No. 5992.

Quackenbush v. Elwood et al.

No. 6239.

Bird v. The People's Gas & Electric Company.

**Criminal Proceedings Instituted before Justices of the Peace, Police and Mayor's Courts, under the Direction of the Attorney General, as follows:**

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For violation of workshop and factory inspection laws.....	5
For violation of pure food laws.....	134
For violation of medical registration laws.....	25
For violation of pharmacy laws.....	83
For violation of dental laws.....	7
For violation of stationary engineers laws.....	2
For violation of mining laws.....	1
For violation of vital statistics laws.....	2
For violation of commercial feed stuffs laws.....	7
For violation of fish and game laws.....	75
For violation of employment agency laws.....	1
	<hr/>
Total .....	564



**Canal Damage Claims**

Commissioners George Bennett, W. B. Rennick and Frank Ruth, at  
Circleville, Ohio.

James I. Smith.....	\$1,200.00
Mary A. Olds, Eliza Olds, Eleanor Gray and Effie Olds....	1,000.00
Fred L. Luts, Exr., and Chas. Kline.....	737.00
Henry Hulse, Edward Clendennen and Frank Clendennen.	375.00
Frank E. Goeler.....	415.00
Charles Morris.....	630.00
George E. Goeler.....	155.00
Theodore Carl.....	100.00
Theodore Carl.....	150.00

Commissioners Frank Ruth, Allen Thurman and E. B. McCarter, at  
Logan, Ohio.

The Logan Clay Product Company.....	\$16,301.83
Hocking County.....	12,700.00
L. C. Wright.....	2,450.50
L. C. Wright.....	6,100.00
Neman & McBroom.....	191.00
Riley Glass.....	1,000.00

Commissioners John C. Teichert, James H. Moore and John Dewey, at  
Waverly, Ohio.

John F. Prather and John Barch.....	\$200.00
John F. Prather and Frank Cutlip.....	600.00
John F. Prather and Harry Baker.....	252.00
John F. Prather and J. J. Steinhauer.....	180.00
John F. Prather and George Baker.....	550.00
M. D. Clark.....	2,860.00
Adah C. Jones.....	2,000.00
Adah C. Jones and Abraham Cutlip.....	2,420.00
Adah C. Jones and J. A. Fisher.....	1,500.00
Peter Bauer.....	300.00

NOTE—Above are amounts for which claims were filed.

## III

## DETAILED REPORT OF THE ATTORNEY GENERAL

## Money Collected and Paid into the State Treasury by the Attorney General from January 1, 1909, to January 1, 1910

Date 1909.	From Whom Received.	Amount collected.	Amount covered into State Treas.
Jan. 2	The Geo. B. Sprague Cigar Co.....	\$2,373 77	\$2,373 77
Jan. 2	The Columbus Hollow Ware Co.....	2,382 12	2,382 12
Jan. 15	The E. B. Lanman Co.....	2,564 79	2,564 79
Jan. 16	The P. Hayden Saddlery Hardware Co....	3,921 27	3,921 27
Jan. 18	The Columbus Bolt Works Co.....	6,870 23	6,870 23
Feb. 2	The Columbus Hollow Ware Co.....	2,046 80	2,046 80
Feb. 9	The Geo. B. Sprague Cigar Co.....	1,953 77	1,953 77
Feb. 15	The E. B. Lanman Co.....	2,301 27	2,301 27
Feb. 16	The P. Hayden Saddlery Hardware Co....	3,475 50	3,475 50
Feb. 16	The Lattimer Stove Co.....	1,417 62	1,417 62
Feb. 16	The Baldwin Forging & Tool Co.....	4,844 91	4,844 91
Feb. 16	The Columbus Bolt Works Co.....	6,108 00	6,108 00
Mch. 3	The Columbus Hollow Ware Co.....	2,363 92	2,363 92
Mch. 8	The Geo. B. Sprague Cigar Co.....	1,988 47	1,988 47
Mch. 15	The E. B. Lanman Co.....	2,527 40	2,527 40
Mch. 15	The Columbus Bolt Works.....	6,617 00	6,617 00
Mch. 17	The P. Hayden Saddlery Hardware Co....	3,810 75	3,810 75
Mch. 29	The Geo. B. Sprague Cigar Co.....	2,162 60	2,162 60
April 2	The Columbus Hollow Ware Co.....	2,337 45	2,337 45
April 3	The Geo. B. Sprague Cigar Co.....	2,100 80	2,100 80
April 12	The P. Hayden Saddlery Hardware Co....	3,876 12	3,876 12
April 12	The E. B. Lanman Co.....	2,300 20	2,300 20
April 13	The E. B. Lanman Co.....	187 30	187 30
April 15	The Baldwin Forging & Tool Co.....	4,903 80	4,903 80
April 15	The Columbus Bolt Works.....	6,617 00	6,617 00
May 17	The P. Hayden Saddlery Hardware Co....	3,629 00	3,629 00
May 17	The E. B. Lanman Co.....	2,300 20	2,300 20
May 17	The Columbus Bolt Works.....	6,108 00	6,108 00
May 17	The Baldwin Forging & Tool Co.....	2,306 17	2,306 17
June 7	The Geo. B. Sprague Cigar Co.....	2,340 55	2,340 55
June 15	The Columbus Bolt Works.....	6,871 50	6,871 50
June 15	The P. Hayden Saddlery Hardware Co....	4,245 45	4,245 45
June 15	The E. B. Lanman Co.....	2,619 20	2,619 20
June 16	The Baldwin Forging & Tool Co.....	2,447 22	2,447 22
June 26	The Geo. B. Sprague Cigar Co.....	4,802 12	4,802 12
July 15	The Columbus Bolt Works.....	6,617 00	6,617 00
July 15	The E. B. Lanman Co.....	2,516 85	2,516 85
July 17	The Baldwin Forging & Tool Co.....	2,409 00	2,409 00
July 17	The P. Hayden Saddlery Hardware Co....	4,083 70	4,083 70
Aug. 16	The E. B. Lanman Co.....	2,482 92	2,482 92
Aug. 16	The P. Hayden Saddlery Hardware Co....	4,054 30	4,054 30
Aug. 16	The Columbus Bolt Works.....	6,617 00	6,617 00
Aug. 18	The Baldwin Forging & Tool Co.....	2,357 57	2,357 57
Aug. 30	The Baldwin Forging & Tool Co.....	4,828 20	4,828 20
Sept. 15	The Columbus Bolt Works.....	6,362 50	6,362 50
Sept. 15	The E. B. Lanman Co.....	2,471 47	2,471 47
Sept. 19	The P. Hayden Saddlery Hardware Co....	4,070 50	4,070 50
Oct. 1	The Baldwin Forging & Tool Co.....	2,466 80	2,466 80
Oct. 15	The E. B. Lanman Co.....	2,510 67	2,510 67

**Money Collected and Paid into the State Treasury by the Attorney  
General from January 1, 1909, to January 1, 1910—Concluded**

Date 1909.	From Whom Received.	Amount collected.	Amount covered into State Treas.
Oct. 15	The Columbus Bolt Works.....	\$6,617 00	\$6,617 00
Oct. 16	The P. Hayden Saddlery Hardware Co....	4,116 10	4,116 10
Nov. 16	The Columbus Bolt Works.....	6,617 00	6,617 00
Nov. 16	The P. Hayden Saddlery Hardware Co....	4,153 35	4,153 35
Nov. 16	The E. B. Lanman Co.....	2,504 15	2,504 15
Nov. 19	The Baldwin Forging & Tool Co.....	2,764 10	2,764 10
Dec. 15	The Columbus Bolt Works.....	7,596 05	7,596 05
Dec. 15	The P. Hayden Saddlery Hardware Co....	4,062 47	4,062 47
Dec. 15	The E. B. Lanman Co.....	2,549 42	2,549 42
Dec. 31	The Baldwin Forging & Tool Co.....	2,768 97	2,768 97
	Total .....	\$217,319 36	\$217,319 36

**RECAPITULATION.**

The Geo. B. Sprague Cigar Co.....	\$17,722 08
The Columbus Hollow Ware Co.....	9,130 29
The E. B. Lanman Co.....	29,835 84
The P. Hayden Saddlery Hardware Co.....	47,498 51
The Columbus Bolt Works Co.....	79,618 28
The Lattimer Stove Co.....	1,417 62
The Baldwin Forging & Tool Co.....	32,096 74
Total .....	\$217,319 36

**Money Collected and Paid Various State Departments and Institutions by  
the Attorney General from January 1, 1909, to January 1, 1910**

Date 1909.		Amount collected.	Amount paid over.
	1,304 Domestic corporations delinquent under the Willis law.....	\$77,182 97	
	To Secretary of State.....		\$77,182 97
	Penalties paid by same.....	9,500 76	
	To Secretary of State.....		9,500 76
	219 Foreign corporations delinquent under the Willis law.....	29,091 74	
	To Secretary of State.....		29,091 74
	Penalties paid by same.....	2,533 96	
	To Secretary of State.....		2,533 96
	4 Corporations delinquent under the Cole law. To Auditor of State.....	1,141 27	1,141 27
Jan. 29	Federal Union Surety Company.....	168 85	
	To Adjutant General.....		168 85
Mch. 3	Edward P. Ward, Receiver of the Manhattan Fire Insurance Co.....	120 71	
	To Superintendent Insurance.....		120 71
April 5	Judson Harmon, Receiver, of the C., H. & D. R. R.....	200 00	
	To State Treasury.....		200 00
April 8	S. W. Bennett, on account of check of How- ard C. Park, returned, costs.....	2 41	
	To State Treasury.....		2 41
May 1	E. C. Ackerman, Auditor, fees of members of Board of Agriculture.....	125 00	
	To State Treasury.....		125 00
May 24	A. C. Denbow, penalty in re State v. O. K. & W. R. R.....	100 00	
	To State Treasury.....		100 00
June 5	A. W. Kilbourne, on account, Ohio State Uni- versity.....	50 00	
	To Ohio State University.....		50 00
July 1	C. C. Richardson, Auditor, on account of co- caine fines.....	250 00	
	To Board of Pharmacy.....		250 00
July 15	Howard C. Park, returned costs.....	4 08	
	To State Treasury.....		4 08
Aug. 12	Harry C. Arnold, on account bill of Ohio Peni- tentiary.....	3 00	
	To State Treasury.....		3 00
Aug. 20	A. W. Kilbourne, in full Ohio State Uni- versity account.....	68 87	
	To Ohio State University.....		68 87
Oct. 19	State v. Surety Fire Insurance Co.....	11 28	
	To Superintendent of Insurance.....		11 28
Oct. 27	A. D. Hill, Receiver, of the American Insur- ance Co., 25% dividend of \$319.19.....	79 80	
	To Superintendent of Insurance.....		79 80
Nov. 2	State v. Virgel N. Wright, fine and costs of chemists.....	35 00	
	To State Dairy and Food Dept.....		35 00
Nov. 30	C., H. & D. R. R. Co., accrued rental.....	10,714 72	
	To State Treasury.....		10,714 72
Total	.....	\$131,384 42	\$131,384 42

### RECAPITULATION

Money collected and paid into state treasury .....	\$217,319 36
Money collected and paid various state departments.....	131,384 42
	<hr/>
Total amount collected.....	\$348,703 78

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### DISBURSEMENTS OF THE ATTORNEY GENERAL

Special counsel.....	\$27,531 94
Books and furniture.....	1,164 42
Stenographic work.....	1,456 75
Costs in cases, etc.....	2,413 44
Contingent expenses.....	2,143 13
Traveling expenses.....	705 39
Remodeling office.....	2,000 00
Salary Willis tax clerk.....	958 33
All salaries fixed by law.....	16,869 89
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Total .....	\$55,243 29

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