



1964

Digest of Attorney General Opinions

North Dakota Law Review

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Recommended Citation

North Dakota Law Review (1964) "Digest of Attorney General Opinions," *North Dakota Law Review*: Vol. 40 : No. 2 , Article 15.

Available at: <https://commons.und.edu/ndlr/vol40/iss2/15>

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DIGEST OF ATTORNEY GENERAL OPINIONS

STATE'S ATTORNEY—UNEXPIRED TERM

January 15, 1964

Whether an appointee of the County Commissioners to fill a vacancy in the State's Attorney's office must submit to a vote of the people at the next general election.

The opinion states: "In 1962 the electors of this state amended Section 173 of the North Dakota Constitution to provide that the state's attorney should be elected for a term of four years. This amendment applied to the general election of 1962. The next regular election for the office of state's attorney will, therefore, be in 1966.

"The vacancy in the office of state's attorney is filled under the provisions of chapter 44-02 of the North Dakota Century Code, as amended." Section 44-02-08 provides, *inter alia*, that the appointment "shall continue in force until the expiration of the term in which the vacancy occurs, and until the appointee's successor is elected and qualified."

The opinion concludes: "An appointment by the County Commissioners to fill a vacancy in the office of state's attorney constitutes an appointment for the unexpired term and the appointee need not submit to a vote of the people at the next general election."

MOTOR VEHICLES—CONSTRUCTION EQUIPMENT— REGISTRATION FEE AND PERSONAL PROPERTY TAX

February 4, 1964

"Whether machines such as diggers, cranes, or certain types of excavators, should be required to secure motor vehicle registration."

“Whether the payment of a personal property tax would exempt these machines from a motor vehicle registration fee ”

The opinion states: “Subsection 32 of Section 39-01-01 provides: ‘“Motor vehicle” shall include every vehicle which is self-propelled ’ The vehicle in question is self-propelled and is capable of being operated upon a highway, and in certain instances is actually operated on a highway, road or street. Subsection 2 of Section 39-04-18 defines the type of vehicle which may be operated on the highway without being registered. The definition does not include the vehicle in question It is our opinion that such a vehicle comes within the statutory provision requiring registration with the motor vehicle registrar ”

Concerning the personal property tax, the opinion states: “Section 39-04-38 provides that the payment of registration fees exempts such property from personal property taxes. The reverse apparently is not true. This means that the payment of personal property tax will not exempt such machine from the registration fee or tax. However, where a personal property tax has been paid and subsequent thereto a registration fee or tax is paid, the owner may have the assessment under the personal property statute abated pursuant to the appropriate sections of law ”

WORKMEN'S COMPENSATION — COVERAGE OF
EXTRA-TERRITORIAL INJURIES

February 20, 1964

Whether the employer's coverage issued relative to a Fargo, North Dakota service station extends to injuries incurred by the employer at his Moorhead, Minnesota service station.

And if not covered, whether he can apply for employer's coverage relative to his work at the Moorhead, Minnesota service station.

The opinion states: "If the employer has secured extra-territorial coverage and has secured coverage for himself, the employer will have coverage for services rendered in connection with the service station at Fargo, North Dakota, but he would not be covered for any services performed while working in the service station at Moorhead, Minnesota.

"It is our opinion that the employer cannot acquire employer's coverage under the North Dakota Workmen's Compensation Act for any services performed at the service station located in Moorhead, Minnesota.

"If the employer reported his entire payroll on himself from both service stations — North Dakota and Minnesota — to the Workmen's Compensation Bureau and paid premium thereon, the Bureau would be estopped from denying coverage should he have sustained an injury during such time."

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NORTH DAKOTA LAW REVIEW

Member, National Conference of Law Reviews

VOLUME 40

JULY, 1964

NUMBER 3

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