



1937

Territorial Practitioners

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DIGEST OF ATTORNEY GENERAL'S OPINIONS
FOR MARCH

In re Buildings on Lands Forfeited for Taxes;—The tax lien on the real property attaches to all buildings and improvements thereon, and when such property becomes the property of the county through tax proceedings, the buildings and improvements are a part of the land and cannot be removed.

Tax Exemptions—Non School Property of School District,—Confirming previous holdings of the department that all property of a school district whether used for school purposes or not, is exempt from taxation, under the provisions of Section 176 N. D. Constitution; Sec. 1309 C. L. 1913, and Subsection 3 of Sec. 2078 of the Supplement from the time the school district took the deed regardless of the fact that it had not been placed on record, and that the district is entitled to abatement of the taxes assessed against the land and attaching thereto as lien since the time the district received title. Undoubtedly, the assessor had the right to assess the land to the record title owner. 61 C. J. 629. The exemption however attached to the property owned by the district. Neither the constitution or the statutes require the filing or recording of the transfer as a condition precedent to the exemption, and whenever the school district shows it became the owner of the land it is entitled to have the taxes abated, which have attached since that date.

In re Docket Supplies and Laws for Township Justice of the Peace Duty to Furnish;—The various officers of the township, county, etc., shall each provide at the expense of their respective municipalities the blanks and records necessary to transact the duties of their offices. Sec. 3544 C. L. 1913. This would appear to cover dockets and other necessary blanks or papers for the justice of the peace.

It shall be the duty of the fiscal agents of townships, among other municipalities, immediately after publication to provide for the use of the officers in such municipality one copy of the session laws. Sec. 87 C. L. 1913. This would seem also to include of the Compiled Laws and Supplement of this state. Section 88 thereof provides that these books are to remain the property of the municipalities, and that each officer is to turn such over to his successor at the end of his term. Therefore if such officer, after diligent inquiry, cannot locate the same he should call the attention of the township supervisors thereto, and acquaint them with these sections.

TERRITORIAL PRACTITIONERS

The Hon. E. J. Taylor, Bismarck, Supreme Court Reporter and Librarian, has compiled a list of attorneys admitted to practice in territorial days who are still among us, as follows:

Edward S. Allen, Bismarck; H. A. Armstrong, Hazelton; James Austin, Ellendale; W. H. Burnett, Fargo; M. A. Hildreth, Fargo; R. D. Hoskins, Bismarck; R. H. Johnson, Dickinson; W. J. Kneeshaw, Pembina; H. Phelps, Grafton; H. A. Libby, Grand Forks; C. B. Little, Bismarck; F. H. McDermott, State of Washington; A. Miller, St. Thomas; Jeff Myers, Grafton; W. J. Lorsh-

bough, Fargo; C. E. Sauter, State of Washington; B. W. Shaw, Mandan; L. N. Torson, State of Wisconsin; J. H. Vosburg, State of California, Carl Aurland, Minot.

Additions to this list will be gratefully received by Ye Editor.

IN RE BOOKS

Mr. Paul W. Boehm of Hettinger wants to purchase N. D. Reports Volumes 53 to date, a set of Callahan's Dakota Digest, and N. D. Session Laws from 1925 to 31 inclusive.

Mr. A. W. Aylmer of Jamestown has for sale a set of N. D. Reports, and other law books.

OUR SUPREME COURT HOLDS

In State of North Dakota, vs. Irvin Young,

That an implied repeal results from a legislative enactment the terms and necessary operation of which cannot be harmonized with the terms and effect of an earlier law.

That intention to repeal will not be presumed, nor the effect of repeal admitted, unless the inconsistency is unavoidable and only to the extent of the repugnance.

That it is not enough to justify an inference of repeal that the latter law is different; it must be contrary to the prior law.

That one statute is not repugnant to another unless they relate to the same subject and are enacted for the same purpose.

That Section 9240, 1925 Supplement to the Compiled Laws of North Dakota of 1913, relating to Sunday observance which, among others, prohibits the sale upon Sunday of intoxicating and alcoholic beverages, was not repealed by implication by the subsequent enactments of a law authorizing the manufacture, sale and distribution of beer (Laws 1935, p. 495, Ch. 97, Laws 1935) and the Liquor Control Act (Ch. 259, Laws 1937.)

Appeal from the District Court of Morton County, Lembke, J. The state appeals from an order sustaining a demurrer to a criminal complaint.

Reversed And Remanded.

In G. W. Soderstrom vs. B. W. White, et al, and B. W. White and Alice White.

That in determining whether a contract is divisible or entire, the court will consider the terms of the contract, its subject matter, and other circumstances disclosed by the evidence including the conduct of the parties.

That where real estate and personal property constituting a business establishment are sold under a contract reserving title generally in the vendor until the purchase price is paid, such purchase price not being apportioned between the personal and real property, the contract is entire and title to the personal as well as the real property is reserved in the vendor.

That evidence examined, and it is held, that the trial court did not abuse its discretion by allowing the defendant until June 1, 1938, to redeem by paying the full amount due on the contract.