

**BIENNIAL REPORT OF THE
ATTORNEY GENERAL OF
THE STATE OF
CALIFORNIA, 1918-1920**

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REPORT OF THE ATTORNEY GENERAL.

SACRAMENTO, CALIFORNIA,

February 1, 1921.

Honorable WILLIAM D. STEPHENS,
Governor of California,
Sacramento, California.

SIR: Complying with statutory direction, I submit herewith report upon the business of this department during the past two years.

The volume of business handled by this department during the period covered by the report has very greatly increased over that of preceding periods, and particularly is this true of civil litigation in which the state has been concerned. Likewise there has been an increase in the work performed in the discharge of the duties of the office, in advising the various state officers, boards and commissions, and the several district attorneys of the state.

Our duties in this respect cover a very wide range of questions which arise in the administration of state, county and municipal government. A large number of these matters are handled in consultation with the officers whose duties are involved; others through letters of advice and instruction, while the more important questions are usually covered by formal written opinions.

We have examined and passed upon the validity of all bond issues purchased in whole or in part by the state and have examined and passed upon the title of all properties purchased by the state.

We have examined and approved all contracts entered into on behalf of the state for highway construction and the title to all rights of way purchased for this purpose.

The state has been, directly or through some of its officers, a party in 616 civil cases during the period covered by this report, of which 354 are now pending and 262 have been finally disposed of. These cases for the most part consist of actions in which the validity of taxes or the title to lands are involved.

In our last report the case of *Ayres vs. Kingsbury* was mentioned. This case was carried to the Supreme Court of the United States where a judgment was rendered in favor of the state affirming its rights to cancel applications for school lands withdrawn from sale by act of the legislature. Among the cases involving the validity of taxes that of *Miller and Lux* is of outstanding importance. In this case

the Supreme Court approved the state's method of assessing the "franchises" of domestic corporations.

There has been a growing disposition of aliens ineligible to citizenship to evade the provisions of the Alien Land Act of 1913 and several actions have been commenced and are now pending in which the state seeks to have escheated real estate purchased under such circumstances as to indicate a purpose to evade the provisions of that act.

There is now pending in the Supreme Court of this state the matter of the *Estate of Suzanne Aufret*, in which is involved the right of the state to regulate and control the inheritance of property in California where there is a treaty provision in conflict with California statutes. The question here presented is of vital importance and the state contends that the inheritance and ownership of property is a matter of domestic concern reserved to the state by the federal constitution, and not a proper matter for treaty regulation by the federal government.

All but two of the suits filed by the state in 1917 for the purpose of having escheated bank deposits dormant over twenty years have been finally disposed of and as a result more than one hundred thousand dollars covered into the state treasury. The two cases undisposed of are now pending in the Supreme Court.

During the period covered by this report twenty-two applications for leave to maintain *quo warranto* proceedings in the name of the state have been received, considered and determined.

As shown by the reports from district attorneys herewith presented, during this period 7805 formal charges of felony have been made. Of these, after investigation, 1709 were dismissed; pleas of guilty were entered in 3496; 675 were acquitted and 1155 convicted, while 770 are still pending. Two hundred and eight of these cases were appealed to the Supreme and Appellate courts, in all of which this office has appeared. The judgments in 165 of these cases have been affirmed, in 17 reversed; 26 cases are now pending.

It is interesting to note that during the period covered by this report the number of charges of felony within the state show a decrease of 670 from the number of the preceding two years. The records show a very gratifying result in the time consumed in the disposal of criminal cases. The average time between the presentation of the indictment or information and the judgment in the superior court is two and one-half months. The appeal from judgments imposing the death penalty is taken directly to the Supreme Court of the state and the average time intervening from the entry of judgment in the lower court to the decision of the case by the Supreme Court is nine months. The appeal in all other felony cases is taken

directly to the District Courts of Appeal. The average time elapsing in cases appealed to the District Courts of Appeal between the judgments from the lower court to the determination by the District Courts of Appeal is five months.

The controversy between the state and the reclamation service of the Federal government respecting Lake Tahoe has not yet been determined. During the last two years this office represented the state in two hearings before the Secretary of the Interior at Washington, involving this matter; also attended a hearing at Reno, Nevada, and a number of conferences in this state, at each of which I asserted the state's right and the state's intention to prevent any interference with the natural conditions existing at Lake Tahoe. The reclamation service has constantly pressed its desire to make such changes in the physical conditions of the lake as will increase its storage capacity, to the end that a much larger supply of water will be available for Federal irrigation projects in Nevada, during the irrigating season. Thus far we have been able to prevent any lowering or widening of the outlet of the lake or other changes in the margin.

Heretofore judgments were rendered in favor of the Bank of California against the state in eight separate suits prosecuted by such bank to recover certain taxes paid under protest. These suits were all tried in the city and county of San Francisco and their numbers and the amounts for which judgment was rendered are as follows:

S. F. No. 46614.....	Amount,	\$7,479 68
S. F. No. 47698.....	Amount,	7,370 55
S. F. No. 54559.....	Amount,	7,552 62
S. F. No. 62295.....	Amount,	7,359 90
S. F. No. 71759.....	Amount,	8,969 56
S. F. No. 79984.....	Amount,	9,045 36
S. F. No. 87726.....	Amount,	8,882 43
S. F. No. 95443.....	Amount,	9,200 38
		<hr/>
		\$65,860 48

These cases all involve the same legal questions and one of them was carried to the Supreme Court of the United States and since the date of our last report, the judgment affirmed. These judgments are therefore legal obligations against the state.

Likewise, judgments were rendered in favor of the Southern Pacific Company in actions brought by this company against the state for the recovery of certain taxes paid under protest in four several suits prosecuted in the city and county of San Francisco, the numbers and amounts of the judgments being as follows:

S. F. No. 71820.....	Amount,	\$21,415 26
S. F. No. 79848.....	Amount,	23,507 98
S. F. No. 87764.....	Amount,	25,920 31
S. F. No. 95423.....	Amount,	15,854 29
		<hr/>
		\$86,697 84