

MANUAL

FOR

DEPUTIES

PROPERTY OF THE
CALIFORNIA FISH AND GAME COMMISSION

Manual for Deputies

ISSUED BY

California Fish and Game
Commission

F. M. NEWBERT, President

CARL WESTERFELD, Commissioner

M. J. CONNELL, Commissioner

ERNEST SCHAEFFLE, Executive Secretary

Arranged by A. D. Ferguson, Geo. Neale,
R. D. Duke, J. S. Hunter and W. H. Shebley.

MAY 1, 1914

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No. 84

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CALIFORNIA STATE PRINTING OFFICE

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PREFACE.

A manual for the complete guidance of an officer of the Fish and Game Commission is impossible, by reason of the very nature of his calling. This little volume is intended to deal with the more important phases of a deputy's problems, as well as to give an insight into the powers and duties of deputy fish and game commissioners, for the benefit of those who are newly appointed to this important office. Experience is, of course, the best teacher, but it is the duty of every officer to fully inform himself not only of his own powers, under the law, but of the legal rights of those with whom he is to deal.

PART I.

QUALIFICATIONS.

A deputy fish and game commissioner should be **HONORABLE** in all his dealings; whether with the public, his superior officers or his fellow deputies. The eye of the public is upon him; the honor of the Commission is in his keeping. A deputy is out of place in the great and important work of conservation in which the California Fish and Game Commission is engaged unless he can command the respect of those with whom he comes in contact. Even the most persistent lawbreaker is bound to respect the self-respecting, upright officer, though he bring him to justice and punishment. The public, the courts, the prosecuting attorneys and, naturally, the juries soon come to have confidence in him, and thus his efforts are effective and his value to the cause firmly established.

ENERGETIC: The good things in his line do not come to the deputy who waits for them. The duties of the deputy fish and game commissioner are peculiar; in that—unlike a sheriff or other peace officer, who usually acts upon information furnished by others—the deputy must, from the nature of things, himself take the initiative. He must not only do patrol duty in the ordinary sense of the word, but he must endeavor to anticipate the movements of those who would violate the fish and game laws. He must be ever alert. He should thoroughly post himself on those sections wherein the

fish and game laws are most frequently violated. He should study the methods of the professional game law violators. He should cultivate the friendship of law-abiding people and open channels for information concerning those things of which he ought to get early knowledge.

COURAGEOUS, but courteous, is a qualification which goes far in the making of a good officer. A timid man can accomplish little; an overbearing one can do more harm than good. Clothed with all the power and authority of the highest peace officer in the State, there is no call for harshness on the part of the deputy fish and game commissioner. Direct, orderly but firm, should be the methods of an arresting officer. A bullying attitude provokes resistance. Not every offender against the game laws is a disreputable character or a dangerous citizen. Many game law violations are the result of thoughtless disregard rather than of wilful lawlessness. And while forcible resistance on the part of a prisoner may be overcome with force, the deputy can well be courteous to the last possible extremity. There may be times when swift, sure and forceful must be the actions of a deputy, in which event a reputation for tact and courtesy will sustain him if criticised.

TACTFUL: Poise is essential. A reputation for making arrests on frivolous grounds or for being too easily persuaded to drop prosecution is alike detrimental to the deputy's chances for efficiency. No hard

and fast rule can be laid down as to when to make arrests; the deputy must exercise his judgment. But on general principles no consideration of prominence or influence, when the offending party is of the age of mature judgment, should cause the deputy to deviate from his attitude of dispassionately but firmly insisting that the law be vindicated. Nor must the deputy assume the attributes of the **Deity**. His attitude should be that of upholding the spirit and the letter of the law and of doing his duty in accordance with his own conscience. In his relations with the public, while upholding his own and the Commission's honor, he should avoid needless or unprofitable controversies. Much of the opposition to the enforcement of the fish and game laws is the result of ignorance. A little patient reasoning will usually overcome such sentiment. Cooperation on the part of the public is very necessary. A tactful deputy can bring it about.

RELATIONS WITH OTHER OFFICERS.

The position of deputy fish and game commissioner is unique as compared to other officers of the state, county, or municipal governments, inasmuch as his duties are at once executive, administrative and educational. While his jurisdiction conflicts in no way with that of other peace officers nor theirs with his, yet sheriffs, constables, policemen, harbor officers, and inspectors of various arms of municipal governments are all in a position to render him invaluable assistance.

The deputy should earn the confidence and respect of all such officers that their cooperation may be ready and voluntary.

It is imperative for his success that the deputy recognize the necessity of a perfect understanding with the district attorney of whatever field in which he may be located. The district attorney should be consulted concerning all cases pending or prospective. He should not be called upon to prosecute "frivolous" or purely technical cases; nor should such cases ever be undertaken.

PART II.

ARRESTS.

The subject of arrests is the one which gives any new officer the greatest personal concern. What constitutes an arrest, when to make an arrest, how to make an arrest, what degree of force may be used, what disposition to make of a prisoner—all are questions of intimate personal interest to the deputy fish and game commissioner.

The deputy should thoroughly familiarize himself with the following salient points on the law of arrest. They cover the questions most often propounded by newly appointed officers:

The arrest must be actual and legal. It must be for the purpose stated in the complaint or at the time of the arrest.

The deputy may make an arrest: *First*—When armed with a warrant issued by a court having jurisdiction;

Second—Without a warrant when the offense is committed in the deputy's presence, in which event the arrest must be immediate.

To actually effect an arrest, the deputy should make known his authority (by exhibiting his badge or by showing his warrant), and put his hand upon the person of the arrested one, saying: "you may consider yourself under arrest," or words of that import. The arrested party has the right to know the reason for

his arrest, and it is the officer's duty to inform him. He must read to the prisoner his warrant of arrest, if demanded, as soon as he can do so without danger of his prisoner escaping him.

Force may be used only to the degree necessary to prevent the escape of the prisoner or to protect the arresting officer from injury. When armed with a lawful warrant, or in making a lawful arrest without a warrant, it is the officer's right and duty to use every necessary measure to make the arrest.

Weapons may be taken from persons arrested. Any person making an arrest may take from the person arrested all offensive weapons which he may have about his person, and must deliver them to the magistrate before whom he is taken. (Sec. 846, Penal Code.)

The possession of fish or game by any person, firm or corporation during the closed season, or the possession of an excess of the "bag limit" of fish or game, of which the deputy has visible evidence, is an offense committed in his presence. And the deputy may then and there arrest the party having unlawful possession of fish or game, and seize the evidence and all of it without a warrant.

Forcible search may be made only after an arrest has been effected. The deputy is advised that if he has good reason to believe, under the circumstances, such as time and place conducive to such belief, that any person has unlawful possession of fish or game (including an excess of the "bag limit") he may request such person to permit an examination of the

contents of fish-basket, boat, game-bag or rig. And if he refuses and so comports himself as to confirm the officer's conclusion that he has unlawful possession of fish or game, he is justified in placing him under arrest for violating the fish and game laws, and thereafter even the person of the prisoner may be searched.

But this prerogative must be exercised with extreme care and tact. If the deputy finds he has made a mistake he must at once release the prisoner.

The Angler's License Act provides as follows:

"Sec. 7. Every person having a license as provided herein must exhibit such license, or any game fish that may be in his possession, upon demand of any officer authorized to enforce the fish and game laws of this State, or any peace officer of this State."

The deputy has the right, therefore, if he finds any person in the act of fishing, or who has evidently been fishing in any waters naturally frequented by any of the fishes defined under the Angling License Act as game fishes, to demand that such person exhibit to him the contents of his fish basket. A refusal to comply with the deputy's request is of itself a violation of the law for which the person so refusing is liable to immediate arrest.

A private house may not be forcibly entered for the purpose of making an arrest unless the person to be arrested—

First—Has committed an offense in the presence of the arresting officer and is being pursued for the

purpose of effecting an arrest; in which event the pursuit must be actual and constant.

Second—When the arresting officer is armed with a warrant for the arrest of a person whom he believes to be in that particular house. But in either event the officer must first declare his authority, the reason for wishing to enter and demand admission.

To search private premises for fish or game or parts thereof which is being held or possessed in violation of the law, a search warrant is necessary, if the owner or person in possession of such premises refuses to admit an officer intent upon searching the premises. A search warrant presumes a daylight search; if the search is to be made at night the warrant must so specify.

A search warrant is an order in writing, in the name of the people, signed by a magistrate directed to a peace officer, commanding him to search for personal property and bring it before the magistrate. (Sec. 1523, Penal Code.)

A search warrant may be issued for personal property * * * "when it is in the possession of any person with the intent to use it as a means of committing a public offense, or in the possession of another to whom he may have delivered it for the purpose of concealing it or preventing its being discovered; in which case it may be taken on the warrant from such person, or from any place occupied by him, or under his control, or from the possession of the person to whom he may have so delivered it." (Sec. 1524, Penal Code.)

Since the possession of game or fish during close season or in numbers in excess of the bag limits is a public offense, the deputy, when he has reason to believe the circumstances warrant it, has a right to demand a search warrant.

A search warrant may in all cases be served by any of the officers mentioned in its directions, but by no other person, except in aid of the officer on his requiring it, he being present and acting in its execution. (Sec. 1530, Penal Code.)

The officer may break open any outer or inner door or window of a house, or any part of a house, or anything therein, to execute the warrant, if, after notice of his authority and purpose, he is refused admittance. (Sec. 1531, Penal Code.)

The officer may break open any outer or inner door or window of a house, for the purpose of liberating a person who, having entered to aid him in the execution of the warrant, is detained therein, or when necessary for his own liberation. (Sec. 1532, Penal Code.)

The magistrate must insert a direction in the warrant that it be served in the daytime, unless the affidavits are positive that the property is on the person or in the place to be searched, in which case he may insert a direction that it be served at any time of the day or night. (Sec. 1533, Penal Code.)

A search warrant must be executed and returned to the magistrate who issued it within ten days after its date; after the expiration of this time the warrant, unless executed, is void. (Sec. 1534, Penal Code.)

When the officer takes property under the warrant, he must give a receipt for the property taken (specifying it in detail) to the person from whom it was taken by him, or in whose possession it was found; or, in the absence of any person, he must leave it in the place where he found the property. (Sec. 1535, Penal Code.)

Any fish or game seized by a deputy under authority of a search warrant, must be retained in his possession subject to the order of the court, to which he is required to return the proceedings before him. The deputy must return the warrant to the magistrate and deliver him a written inventory of the property taken.

The finding of unlawfully possessed fish or game is sufficient justification for the immediate arrest without warrant of the owner or person in possession of the premises searched.

After an arrest has been made the prisoner must be taken before a justice of the peace or other magistrate having jurisdiction, as soon as it can reasonably be done, a complaint made, a warrant secured and read to the prisoner (unless the arrest was made on a complaint and warrant previously drawn). Thereafter the court will order the disposition of the prisoner. If an arrest is made upon a warrant, the prisoner must be taken before the magistrate issuing the warrant.

Much latitude, however, is allowed in securing the appearance in court of an arrested person. If the arresting officer believes the prisoner, upon his promise, will appear in a given court at an appointed hour, it

is not compulsory to take him there forthwith nor to keep him in actual custody. A prisoner has the right to demand to be taken before a magistrate immediately; which means in law, as soon as it can reasonably be done. The accessibility of the magistrate, the time of arrest, the facilities of travel, conditions of the weather, etc., are elements which enter into the definition of a reasonable time.

On the other hand if an arrest is made on Sunday or other holiday, or at night, when a committing magistrate is unavailable, the arresting officer has the right to confine the prisoner in jail or in any safe and suitable place which is most convenient.

The visible evidence, such as fish or game or whatever enters into the element of the offense for which the arrest was made, should be seized by the deputy at the time and place of the arrest.

Such evidence should be carefully marked for identification. If the number of articles seized be not too great the deputy should put a private mark on each. In any event a sufficient number should be thus marked to enable a deputy to identify, to the satisfaction of the court, the whole lot. Original packages may be marked and sealed. Care must be taken to hold all evidence in such a place as to prevent possible chance of its being tampered with.

Under section 642 of the Political Code, the Fish and Game Commissioners and their deputies are directed to make final disposition of seized fish and game by donating it to some charitable or public institution. The

deputy should, however, hold all such seized fish and game until the final determination of the case and immediately thereafter secure an order of the court in which the case is tried, directing him to make proper distribution of such fish and game under said section 642. Section 636a of the Penal Code provides the manner of disposing of illegal nets and all devices used in an unlawful manner.

WHEN A WARRANT IS NECESSARY.

I A lawful warrant is necessary in undertaking to make an arrest for any offense against the fish and game laws, unless the offense was committed in the presence of the arresting officer and the arrest then and there made. If an officer sees an offense committed, departs and afterward returns, he can not arrest without a warrant for such previous offense so committed in his view.

When making an arrest upon a warrant the deputy must have the warrant in his possession at the time of the arrest, and he should exhibit it before making the arrest if he can do so without risking the escape of his intended prisoner. And in any event he must, upon demand, exhibit his warrant as soon as he can do so safely.

The possession of a lawful warrant is complete justification and protection to the deputy making an arrest.

SECURING A WARRANT.

A warrant of arrest is based upon a complaint sworn to by the prosecuting witness before a magistrate having jurisdiction.

Since in the majority of cases, particularly of those brought outside of cities, the deputy must himself draw up the complaint, it is highly important that he should be competent to draw a complaint which will not prove defective if attacked in court.

Briefly, the essential point is, to charge an offense in the language of the statute. Meaning, particularly, to put nothing in the complaint not found in the exact text of the code. Except that wherever the word or is used in the statutory definition of the offense, the word and must be used in the complaint; and the word any must be substituted by numerals or omitted altogether.

For example: To charge John Doe with having violated Sec. 626c: "Every person who pursues, takes, kills or destroys, or has in his possession, any female deer," etc.

Complaint should read: "* * * did wilfully and unlawfully pursue, take, kill and destroy and have in his possession, a female deer."

Proof of any one of the allegations of a complaint is sufficient to constitute a crime. Hence it does no harm when the proof of a violation of (for instance) Sec. 626c will be confined wholly to the fact that the defendant

was found in possession of the carcass of a female deer, to allege in the complaint that he did " * * * pursue, take, kill and destroy and have in his possession, a female deer."

Only one offense (i. e., statutory offense) must be charged in a complaint. For instance; had the complaint in the hypothetical case cited, in addition to the language used, set forth "and did sell and offer for sale * * the hide of a female deer" though the allegation should be true, the complaint would be defective inasmuch as more than one offense was alleged. Prosecution should be made under **Sec. 626h**, in event the sale of the hide constituted the most convincing evidence.

Let the deputy secure a blank printed form and draw up a "John Doe" complaint for an offense of his selection. Thereafter let him submit his work to a district attorney or other competent lawyer for correction and advice. He will find that a half hour's demonstration is worth a volume of printed instructions. The deputy should likewise try drawing up warrants of arrest, search warrants and other legal instruments, an understanding of which may be important to him.

MAKING A CASE.

The majority of the cases made by deputies are those wherein the offense was committed in his presence. Which makes for his success, provided he uses good judgment.

Hunting without a license, possession of an excess of the "bag limit," taking or having possession of game or fish in closed season; all are cases which can be made or marred very easily by the conduct of the arresting officer. Since the deputy usually has no witness, he should take the man, the game, the gun, get the prisoner and the inanimate, but convincing, evidence before a committing magistrate quickly, and a plea of guilty usually follows. It frequently happens, an arrest being made on Sunday and the arrested party well known, the deputy does not wish to put the prisoner to the ignominy of being locked up in jail pending the opening of a court. In such cases the deputy should retain the evidence and secure an admission of guilt in the presence of a witness before releasing the prisoner pending his voluntary appearance in court at a stipulated time. The average citizen will readily agree to come into court and plead guilty in consideration of the courtesy shown him.

While treating an arrested person with proper consideration the deputy should so comport himself as to avoid criticism because of overfriendliness, and he should not, under any circumstances, permit his prisoner to "treat him" at a bar or to any intoxicating drink.

When bringing to justice a professional lawbreaker or other person, who may be expected to "fight the case," the deputy should take every precaution. He should have an eye-witness, if possible; remember the defendant's admissions, his actions leading up to and

after his arrest; keep clearly in mind all the details and be prepared to bring out the salient points when testifying upon the witness stand. As a prosecuting witness, the deputy should never testify to matters of conjecture or opinion; he should confine himself to that which he knows; this includes, of course, admissions of the defendant.

The deputy should be thoroughly familiar, not only with the fish and game laws, but also with the elements of court procedure. Most game law cases are tried in township courts: frequently before justices of the peace who are not themselves familiar with the game laws, especially in the matter of penalties and the disposition of fines. Whenever it is evident that the judge before whom a culprit is brought is not thoroughly conversant with court procedure or with the fish and game laws, the deputy should courteously and tactfully assist the judge in the preliminary steps, at least, of the trial. For instance: for fear of a faulty complaint the deputy might say, "Judge Smith, if it will relieve you of the trouble of writing it, I will gladly draw this complaint; I have drawn so many that it is second nature to me, and I am of course familiar with the facts and the section of the code which has been violated." Most justices of the peace are more than willing to delegate this part of the preliminary work. Then, if the defendant is willing to plead guilty, the deputy should, without appearing officious, call the judge's attention to the fact that it is necessary nevertheless to inform the defendant of his right to demand a jury trial, to be

represented by counsel, and to ask to have a day set to plead to the charge. This is very important, as failure to inform the defendant of his rights is invariably sufficient grounds for reversal of the judgment of the court. If the defendant waives his rights and asks for immediate sentence the deputy should then, if he has not previously done so, call the court's attention to the minimum and maximum penalties prescribed by law for the particular offense charged. This, too, is very important. Since in many offenses against the fish and game laws the crime is defined in one section of the Penal Code and the penalty prescribed in a subsequent section, the deputy, while showing to the judge the first section of the code, should make sure to call his attention to the subsequent section which fixes the penalties for the offense.

The deputy should remember that certain offenses against the fish and game laws are triable only in the superior court, in which case the justice of the peace sits only as a committing magistrate. In high misdemeanor or felony cases the law requires the presence of an official court reporter at the preliminary examination. In such cases the district attorney should be consulted and his assistance at the examination had, if possible.

Finally, after a fine has been levied the court's attention should be called to the fact that all fines paid and collected for violations of the fish and game laws must be paid by the court in which the conviction shall be had into the state treasury to the credit of the fish and

game preservation fund. The deputy should provide the judge with a blank form for remitting the money to the state treasurer.

In all of these acts of assistance to the judge the deputy should invariably show the judge the section of the code quoted.

In prosecuting a contested case, the deputy should put the district attorney in possession of all the facts which go to make up the evidence. Let the district attorney examine all the State's witnesses, that he may know what he can expect of them. Nothing should be taken for granted; the prosecuting attorney should be given an opportunity to know just what his witnesses will testify to.

In "working up" a case when the offense was not committed in the presence of the deputy there are many elements which enter into the success or failure of the deputy's efforts. Here, too, quick action is essential. Whether working upon a tip from a friendly source or upon an accidental discovery, no time should be lost. Statements of possible witnesses should be obtained and all other pertinent evidence gathered with sufficient celerity to prevent the offender from getting notice of the deputy's activities until the case is complete and convincing.

The importance of securing the game or fish or unlawful device concerning which the prosecution is made can not be too strongly emphasized. The moral effect of producing in court a single pound of deer meat from the carcass of a deer taken in closed season will ordi-

narily go farther toward a verdict of guilty than the testimony of half a dozen witnesses who saw the defendant shoot at the deer or even who saw him carrying off the dead animal.

Care must be exercised to make sure, if possible, that witnesses can confirm under oath in court, the statements made by them to the deputy. While tactfully avoiding giving offense to his informant the deputy should question him closely, to make sure just how much of his evidence is really available and beyond the realm of conjecture. Unless the evidence secured is of such nature that a plea of guilty is sure to follow the institution of an action, or unless there is danger of the defendant escaping arrest if not immediately taken into custody, the deputy should submit to the district attorney all of the evidence in the case for his advice; and the district attorney's approval should be secured before the arrest is made.

As a general principle, while it is not expected that every prosecution will result in a conviction, and while there are times when a prosecution is justifiable and necessary even though it is a moral certainty that a conviction will not be had, at the same time the deputy should always have such ground for instituting a prosecution as will justify him, in the opinion of the district attorney and of the judge who tries the case, in having brought the action.

PART III.

ON EXPENSE CLAIMS.

The following copy of Order No. 204 fully explains what kind of expenses may be incurred by the deputy in the discharge of his duties, and the manner of presenting his claims for reimbursement:

ORDER No. 204.

(Superseding all previous orders relating to preparation of claims.)

San Francisco, May 1, 1914.

TO DEPUTIES:

Traveling and other legitimate expenses necessarily incurred by the deputy while engaged in the discharge of his duty will be paid by the State. Meals and all other items of expense must be charged only in the actual sum expended.

Traveling expenses defined. No living expenses, meals, lodgings, etc., and no horse feed expenses will be allowed a deputy at his home station.

Proper charges (see rules for presenting claims) are such items as: Meals, lodging and horse feed when traveling; railroad fares, pullman berths, stage fares, car fare, horse and vehicle hire, including autos and boats, oil and gasoline for automobiles; oil, gasoline, tires and repairs for state-owned motorcycles (repairs on autos where regular allowance is not provided), hire and expenses of special assistants, postage stamps, stationery, telegraph and telephone charges, storage

and cartage of fish, game and fishing gear seized for evidence, freight and express charges on property of the Commission, ice and other items of expense incidental to the transportation of fish, supplies for field patrol, hay and barley to be used in field patrol, repairs to state property and all other supplies used and necessary in the transaction of the Commission's business, subject always to the rules of the State Board of Control governing expenditures.

Preparation of Claims.

1. Monthly bills should cover all items which are a proper charge against the State, except salaries. Salary claims are carried on regular pay roll and must not be included in monthly bills. All bills must be mailed, to reach the district offices, not later than the first day of the month succeeding that in which the expenses were incurred. Bills must be rendered district offices in triplicate, except in San Francisco district, where bills may be in duplicate.

2. Several items under one date may be abbreviated and entered on the same line, and the total amount thereof entered in column at end of line. Do not enter two dates on one line, nor add together items entered on two or more lines. Do not lengthen sheets by pasting on pieces; carry amount forward to another sheet; add your bills. (See sample bill.)

3. Vouchers in duplicate must be taken and attached to monthly bills for all expenses incurred except for meals, car fares, railroad fares and stage fares. Hack,

cab, or other special conveyance will not be allowed where street car service is available. Triplicate copies for district offices can be made by the deputy. Vouchers must show **place** where taken and **dated**. Vouchers for purchases must show the number of articles and rate per article, the number of pounds and rate per pound, number of gallons and rate per gallon, etc. If for labor—kind of service rendered and rate per hour or day. The total charge must be exact to a cent. Vouchers for lodgings must show the date of each item. Vouchers for horse feed must show whether for noon or night feed, and the date of each item. When two or more deputies are traveling together each should pay his own expenses. Meals should not be included on vouchers.

4. In cases where an assistant receives a regular monthly allowance for the use of his own team or auto, all bills for extra team or auto hire must have an explanation attached to the bill, explaining fully the reason for such extra hire or service. All auto hire must be explained, except for trips over regularly established auto stage routes. Auto fares over regularly established routes need no vouchers, being treated the same as railroad fares. All charges for freight, expressage, and cartage, telephone or telegraph, must be accompanied by an original bill and a duplicate. Expressage, telephone, or telegraph charges must show from whom, to whom, and where. All such expenses appearing to be of a personal character will not be allowed

unless satisfactory explanation accompanies them. Official telephone calls from a deputy to a member of his family must be marked "Official Business." When addressed to an office of the Commission, send all 'phone calls, telegrams, and expressage "Collect."

5. Whenever it is necessary to engage an assistant or helper for any special duty, patrol work, assisting in making an arrest, fish planting, etc., the deputy should notify his district office (using regular form). If time permits, consent of the district office should be obtained. But in any event the district office must be notified as soon as possible. Bills presented for any services rendered (no matter for how short a period) will not be allowed unless previously reported by the deputy to the district office. If the deputy pays an emergency assistant he should present a receipted voucher in duplicate attached to his regular bill. If the deputy prefers, the claim for such special service will be presented by the head office as a separate claim and paid directly to the claimant. Whenever a deputy pays an assistant's expenses—such as meals, lodging and transportation—the name of the assistant should appear in the charge. Similar expense charges for prisoners need not be accompanied by names of prisoners.

6. Deputies should keep a diary and make daily entries of all expenses incurred.

7. Vouchers for camp supplies should show the object of the purchase, as, "For field patrol," "For fish-planting trip," etc.

8. Where express rates are equal to or more than parcel post or other postal rates, packages must be sent by mail.

9. Deputies receiving an automobile allowance must state on monthly bills the number of miles traveled during the particular month covered by the claim.

10. All vouchers should be numbered at lower right-hand corner, in the order in which they were obtained; duplicates and triplicates to carry same number as the originals. Voucher charges should be entered on the bill under date of the last day of the month and should be entered by number and amount only. Each line should be added separately. (See sample bill.) In attaching vouchers to the bill, original vouchers should be attached to original bills, and the duplicate and triplicate vouchers to the corresponding copies of bills.

By order of the board.

ERNEST SCHAEFFLE, Executive Secretary.

EXAMPLES of correct manner of preparing bills and vouchers.

SAMPLE BILL.

THE STATE OF CALIFORNIA,

Date, Aug. 31, 1913

BY THE BOARD OF FISH AND GAME COMMISSIONERS,

To JOSEPH M. BROWN, Dr.

P. O. address, Sacramento, Cal.

Aug.	3	R.R. fare, Sacramento to Redding-----	\$4	75
"	4	Breakfast at Redding-----		50
"	5	Lunch 25, Dinner, 50, at Redding-----		85
"	7	Stage fare self, assistant (K. White) and two prisoners, Tower House to Redding; 4 men at \$1.00-----	4	00
"	7	R.R. fare, Red Bluff to Sacramento-----	3	70
"	31	To cash expended as per vouchers:		
		V #1—\$1.50, V #2—\$.25-----	1	75
		V #3—2.07, V #4—50-----	2	57
		V #5—3.50, V #6—1.00-----	4	50
		V #7—1.00, V #8—1.00-----	2	00
		V #9—3.00, V #10—5.00-----	8	00
		V #11—6.00, V #12—50-----	6	50
		V #13—3.00, V #14—1.00-----	4	00
		V #15—10.23, V #16—6.83-----	17	16
			\$63	28

SAMPLE VOUCHERS.

THE PULLMAN COMPANY.
PASSENGER'S CHECK.

To be retained by passenger to identify accommodations indicated on the accompanying ticket. Property taken into the car will be entirely at owner's risk. Subject to all conditions stated on ticket.

8284 Lower
Berth No. 6 Car 1 No. 1 (V #1)
Line No. 617 No. 1 (V #2)

SACRAMENTO TO REDDING.

PACIFIC TELEPHONE AND TELEGRAPH CO.
TOLL SERVICE STATEMENT.
Redding Exchange.

Date	From	To	Place	Our line	Other lines
8/4	Brown	Lewis	Anderson	25	
			Paid P. T. & T.		Cl.
			Per Benson		(V #2)

Received of JOSEPH BROWN REDDING, CAL., Aug. 1, 1914.
Two ----- 7/100 Dollars
for 11½ gals. Gasoline at 18¢ per gallon.
\$2.07

CITY GARAGE
By P. M. BLACK.
(V #3)

REDDING, CAL., Aug. 1, 1913.

Received of JOSEPH BROWN

50/100 Dollars

storage on Auto—1 night, Aug. 1, 1913.
\$50/100

CITY GARAGE

By P. M. BLACK.

(V #4)

REDDING, CAL., Aug. 6, 1914.

Received of JOHN SMITH

Three

50/100 Dollars

3 nights lodging, Aug. 3, 4, 5, at 50¢ ----- \$1.50
4 horse-feeds, Aug. 3 (noon), Aug. 3, 4, 5, (night), at 50¢.
hay and grain ----- 2.00

\$3.50

\$3.50

JOSEPH WHITE.

(V #5)

REDDING, CAL., Aug. 6, 1913.

Received of JOSEPH M. BROWN

One and

00/100 Dollars

for lodging one night, Aug. 6, 1913.

HOTEL TREMONT

By J. H. G.,

Clerk.

(V #6)

REDDING, CAL., Aug. 6, 1914.

Received of JOSEPH M. BROWN

One and

00/100 Dollars

for use of skiff one day, Aug. 5th.

J. B. LOWE

(V #7)

REDDING, CAL., Aug. 7, 1913.

Received of JOSEPH M. BROWN

One and ----- 00/100 Dollars
50 2-cent postage stamps.By D. C.,
Postmaster.
(V # 8)

REDDING, CAL., Aug. 7, 1913.

Received of JOSEPH M. BROWN

Three and ----- 00/100 Dollars
for assistance rendered Deputy J. M. Brown in the case of The
People vs. W. J. Jones. One day at \$3.00.
Authorized by letter dated Aug. 4, 1913.ARCHIBALD WILLIAMS.
(V # 9)

REDDING, CAL., Aug. 8, 1913.

JOSEPH M. BROWN

To REDDING GARAGE.

Autos for Hire, Gasoline, Oils, Etc.

1913 Aug. 8	Hire of auto, Redding to Red Bluff and return -----	\$5	00
	PAID Redding Garage By J. M. Manager		
	Explanation: Hurry call to investigate reported quail case—between trains.		(V #10)

SACRAMENTO, CAL., Aug. 13, 1913.

FORBES LIVERY, FEED AND SALE STABLES,
Sacramento, Cal.

In account with

JOSEPH M. BROWN.

To hire of horse and buggy, 2 days— Aug. 12 & 13 at \$3.00-----	\$6	00
PAID FORBES STABLES By S. Smith, Agent		
(V #11)		

CONSUMINE, CAL., Aug. 12, 1913.

Received of JOSEPH M. BROWN

FIFTY CENTS ----- DOLLARS
for feed of 1 horse to hay and grain at noon, Aug. 12, 1913.J. L. DAVIDSON.
(V # 12)

SACRAMENTO, CAL., Aug. 13, 1913.

Received of JOSEPH M. BROWN

Three and ----- 00/100 Dollars
Repairing propeller shaft of State launch, 5 hours at .40
per hour ----- \$2.00
5' cable at .20 ----- 1.00

\$3.00

WM. WHITE.
(V # 13)

SACRAMENTO, Aug. 14, 1913.

Received of JOSEPH M. BROWN

One and ----- 00/100 Dollars
for hauling seized fish and nets from depot to cold storage.

JOSEPH MURRAY.

(V # 14)

RED BLUFF, CAL., Aug. 23, 1913.

JOSEPH BROWN

To A. J. ARNAUDON, Dr.

Dealer in

General Merchandise, Hay and Grain.

1913				
Aug.	23	4 lbs. cheese at 25¢	\$1	00
"	"	1 sq. butter		70
"	"	1 bale hay (alfalfa) at \$1.50	1	50
"	"	3 doz. eggs at 25¢		50
"	"	2 sks. barley at \$1.50	3	00
"	"	8 1/2 lbs. potatoes at 3¢		25
"	"	1 block matches		05
"	"	2 cans corned beef at 25¢		50
"	"	3 1/2 lbs. bacon at 80¢	1	05
"	"	1 lb. coffee at 40¢		40
"	"	4 cans pork and beans at 10¢		40
"	"	5 lbs. meat at 12¢ per lb.		60
"	"	3 cans carnation milk at 10¢		30
			\$10	25
		Supplies for Field patrol.		

(V #15)

SACRAMENTO, Aug. 20, 1913.

JOSEPH M. BROWN, for Fish and Game Commission,

To MAXWELL GARAGE.

Gasoline, Oil and Repairs.

1913				
Aug.	20	1 Presto recharge	\$0	25
"	"	8 gals. gasoline at 20¢		60
"	"	5 qts. oil at 25¢		60
"	"	1 exchange spring		15
"	"	1 1/2 hours labor regulating clutch at 75¢	1	13
"	"	1 hour's labor repairing crank		75
"	"	1 labor tube	8	00
			\$6	35

(V #16)

PART IV.

ON ROUTINE AND FORMS.

The deputy should familiarize himself with these routine matters having to do with reports of various kinds. Blank forms are provided which, while simple, are essential as matters of record. The weekly report system must be adhered to. If found impractical to file such report with the district office at the end of any week it should be filed as soon thereafter as is convenient, and in no case should the filing of weekly reports be delayed beyond the end of the month. The deputy's daily movements should be recorded simply but faithfully.

Case reports, search reports, and seizure reports must be filed with the district office at the earliest practical opportunity. (Forms may always be had of the district office.)

For the information of the deputy a number of blank forms are here inserted, covering the common problems which confront the deputy. Particular attention should be given to the form of search warrant for unlawfully held fish or game, as such forms are not commonly carried by dealers in legal blanks.

Forms.

1. Complaint, Criminal, Justice's Court.
2. Warrant of Arrest.
3. Affidavit of Search Warrant.
4. Search Warrant.

Form of Complaint, Violating "Bag Limit" Law.

In the Justice's Court of the (10th) Township.
County of (Kings), State of California.

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

vs.

(JAMES JOHNS),

Defendant.

Complaint—Criminal.
P. C., Sec. 1428

THE PEOPLE OF THE STATE OF CALIFORNIA:

Personally appeared before me, this (5th) day of (December), (1914), (John Jones) of (Hanford) in the County of (Kings), who first being duly sworn, complains and accuses (James Johns) of the crime of (misdemeanor) committed as follows: That said defendant... on or about the (4th) day of (December), (1914), at and in the said County of (Kings), State of California, did willfully (and) unlawfully, (during one calendar day, take, kill and have in his possession, more than twenty-five wild ducks, to wit: thirty wild ducks).

All of which is contrary to the form, force, and effect of the statute in such case made and provided, and against the peace and dignity of the people of the State of California.

Said complainant therefore prays that a warrant may be issued for the arrest of the said defendant..., and that (he) may be dealt with according to law.

(JOHN JONES.)

Subscribed and sworn to before me, this (5th) day of (December), (1914).

(THOMAS BROWN.)

Justice of the Peace of said Township

Form of Warrant and Return, Justice's Court.

In the Justice's Court of the (10th) Township,
County of (Kings), State of California.

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

vs.

(JAMES JOHNS),

Defendant.

Warrant of Arrest
P. C. Sec. 1427

THE PEOPLE OF THE STATE OF CALIFORNIA:

*To any Sheriff, Constable, Marshal, or Policeman in
this State:*

Complaint upon oath having been made before me, (Thomas Brown), a Justice of the Peace of the (tenth) Township, of said County and State, by (James Johns) that the crime of (misdemeanor) (violating section 626 of the Penal Code of the State of California) has been committed, and accusing (James Johns) thereof.

YOU ARE THEREFORE COMMANDED forthwith to arrest the above named defendant (James Johns) and bring (him) before me forthwith, at my office in said Township; or in case of my absence or inability to act, before the nearest and most accessible Magistrate in this County.

WITNESS my hand this (5th) day of (December), A. D. (1914), and I direct that this warrant may be served at any hour of the night.

(THOMAS BROWN,)

Justice of the Peace of said Township.

I certify that I received the above warrant on the (5th) day of (December), A. D. (1914), and served the same by arresting the above named (James Johns) thereon (at Tulare Lake in the County of Kings) on the

(5th) day of (December), (1914), and bringing (him) into Court, this (5th) day of (December), (1914).

(JOHN JONES,)

Assistant Fish and Game Commissioner.

The _____ said Defendant, having been brought before me under this Warrant declare _____ true name _____ to be _____ and _____ hereby committed to the Sheriff of the County of (Kings), until _____ he _____ can be tried or examined on said charge, and _____ he _____ admitted to bail in the sum of \$ _____ and stand _____ committed until _____ he _____ give such bail.

Justice of the Peace of said Township.

Dated _____, 191____.

Affidavit for Search Warrant.

In the Justice's Court of (tenth) Township, County of (Madera),
State of California.

THE PEOPLE OF THE STATE OF CALIFORNIA }
vs.
(JOHN SMITH). }

STATE OF CALIFORNIA, }
COUNTY OF (MADERA). } SS.

Personally appears before me this (1st) day of (May), A. D. (1914), (John Jones), who on oath makes complaint and deposes and says, that he is reliably informed and has just and reasonable cause to believe, and that he does believe and states, that there is now in the possession of (John Smith), in the house belonging to (William Smith), situated at (Dunlap), County of (Madera), State of California, the following personal property, to wit: (the carcass of a deer) and that deponent verily believes, and so states, that the said (John Smith) intends to use said property as a means for committing a public offense in said County of (Madera), State of California, to wit: the offense of (having deer meat in his possession between September 1st, 1913, and July 1st, 1914), all of which is contrary to the form, force, and effect of the statute in such cases made and provided, and against the peace and dignity of the people of the State of California. And this complaint prays that a Search Warrant may issue for the recovery of said personal property, and that the same may be brought before a magistrate and disposed of according to law.

(JOHN JONES, of Fresno, Ca.)

Subscribed and sworn to before me this (1st) day of (May), A. D. (1914).

(G. B. BROWN,)

Justice of the Peace, (tenth) Township,
County of (Madera), State of California.

Search Warrant.

In the Justice's Court of the (10th) Township,
County of (Madera), State of California.

STATE OF CALIFORNIA, }
COUNTY OF (MADERA). } SS.

THE PEOPLE OF THE STATE OF CALIFORNIA:

*To any Sheriff, Constable, Marshal, or Peace Officer
in the County of (Madera), State of California:*

Proof, by affidavit, having been made before me, by (John Jones) that there is probable cause for believing that there is now certain property, to wit: (the carcass of a deer) in the possession of (John Smith), in the house belonging to (William Smith), situated at (Dunlap) in the County of (Madera), State of California, and that said (John Smith) intends to use said property as a means of committing a public offense, to wit: (having deer meat in his possession between Sept. 1st, 1913, and July 1st, 1914).

You are therefore commanded, in the daytime, to make immediate search of the said premises situated at (Dunlap) in the said County of (Madera), for the following property, to wit: (deer meat). And if you find the same, or any part thereof, to bring it forthwith before me, at my office in said Township; or in case of my absence or inability to act, before the nearest and most accessible Magistrate in this County.

WITNESS my hand this (1st) day of (May), A. D. (1914).

(G. B. BROWN,)

Justice of the Peace of said Township.

PART V.

ON DECISIONS.

The validity of the fish and game laws of the State of California has been attacked from time to time from various angles, but the courts have invariably sustained the right of the legislature to pass such restrictive measures as appear to it to be necessary for the protection and conservation of the fish and game of the State. A number of typical cases are hereto appended.

SET-NETS.

In the case of *People vs. Miles*, 143 Cal. 636, it was contended by the defense that unless there was a current or tide in the waters wherein the net was set, there could be no offense against the section of the Penal Code (636), under which the arrest was made. The evidence showed that at the time the arrest was made the net was set in a slough which had no perceptible current, but the court held that--

"Under the fishing law prescribed in section 636 of the Penal Code, the use of a set-net in any waters of the state is forbidden, and it is not material whether the waters have a current or tide."

SALE OF GAME.

The constitutionality of section 626½ of the Penal Code, which forbids the buying or selling of quail, was

attacked shortly after the passage of the Act and the Supreme Court held *ex parte Kennebe*, 136 Cal. 527,

"Section 626½ of the Penal Code, which makes it a misdemeanor to buy or sell any quail, is constitutional and valid."

The right of the legislature to forbid the sale of game even though it was killed without the State, was sustained in the proceedings *ex parte Mader*, 103 Cal. 476, wherein it was held:

"It is within the police power of the State, in the protection of the wild game of the State, to prohibit the sale of the meat of any wild game within the State.

A police regulation making it a public offense to buy and sell deer meat within the State, which is cut from an entire carcass brought from without the State, is not a violation of the constitution of the United States as an attempt to regulate interstate commerce."

LICENSE LAWS.

The legality of the Market Fisherman's License Law and incidentally the Angler's License Law was attacked in the case of *The People vs. Parra*.

The defendant having been arrested for fishing for profit in the public waters of the State without having first procured a license therefor, made application for a writ of habeas corpus in the District Court of Appeal (Crime No. 258, filed April 14, 1914, in the Third Appellate District) claiming "that he has the right to engage in the vocation of fishing for profit (or for pleasure)

without the payment of any license therefor, and that this right is secured to him by virtue of the provisions of section 25, article I, of the constitution of the State."

But the court by a unanimous decision denied the writ and held "that the imposition of this license has a tendency to protect the fish and prevent their extinction, and the constitution expressly authorizes the legislature to 'enact laws for the protection of fish,' section 25, article IV."

POLLUTION OF FISHING WATERS.

That a criminal action is not the State's only recourse in enforcing the provisions of section 635 of the Penal Code was demonstrated in the case of *The People vs. Truckee Lumber Company*, 116 Cal. 397.

In this case the Supreme Court sustained an injunction against the offending company, saying in part:

"The fish within the waters of the State constitute the most important constituent of that species of property commonly designated as wild game, the general right and ownership of which is in the people of the State; * * * The pollution of the Truckee River by refuse matter which is poisonous and deleterious to the fish therein, and which is deposited from a sawmill operated on its bank, to the injury and destruction of the fish in the stream, is a public nuisance, which may be enjoined in an action brought by the Attorney General in the name of the State. * * * The fact that the acts complained of are made a misdemeanor, and punishable as such, does not make them less a nuisance, nor imply that the legislature intended to make the criminal remedy exclusive of the civil."

COMMISSIONS TO COUNTY CLERKS.

The right of a county clerk to receive and retain commissions on the sale of hunting licenses, was upheld in the case of *County of Sacramento vs. Pfund*, 165 Cal. 84; held:

"That under the Hunting License Act, the county clerk of Sacramento County was entitled to retain as his personal property, the ten per centum of the amount accounted for by him, payment of which has been made him by the Fish and Game Commission out of the game preservation fund."

RESTRICTIONS BY COUNTY ORDINANCE.

The right of county boards of supervisors to regulate the taking of fish and game within their respective counties since the adoption of section 25, article IV, of the constitution of the State of California, is denied in *ex parte Prindle*, 94 Pac. 871—

Ever since the adoption of section 25, article IV, of the constitution of the State of California—

"The express command has been upon the state legislature to enact such legislation touching the care and custody of wild game as is necessary for its effectual and full protection, and this with reference to local conditions, if any such there be, which would require special legislation for particular localities.

* * * We are of the opinion, therefore, that any authority reposing in the legislature to delegate legislative power to counties in reference to this subject was revoked by the amendment 25; and

the failure and neglect of the legislature to obey the plain mandate of the constitution does not empower the board of supervisors to assume this duty reposing in the State alone. This ordinance, therefore, having been adopted since the adoption of section 25 $\frac{1}{2}$, and since authority to delegate power with reference to this subject has ceased to exist, it must be held to be invalid."

PART VI.

RULES AND REGULATIONS OF THE STATE CIVIL SERVICE COMMISSION.

(As adopted Nov. 14, 1913.)

Divisions of the Classification of the Civil Service of the State of California.

* * * * *

N. SCIENTIFIC SERVICE.

* * *

DIVISION N. Scientific Service.

Division N shall include all offices and places, the duties of which require knowledge of a natural science.

The scope of each grade, as hereinafter used, in the grading of classes in Division N, is as follows:

Grade I. Shall include all positions, the duties of which require training and ability and involve fixed responsibility, but which are not supervisory.

Range of compensation, \$50.00-\$100.00.

Grade II. Shall include all positions, the duties of which require a high order of specialized knowledge, which may or may not involve accountability for the work of others.

Range of compensation, \$100.00-\$150.00.

Grade III. Shall include all positions, the duties of which are substantially as in Grade II, but of a higher order.

Range of compensation, \$150.00-\$200.00.

Grade IV. Shall include all positions, the duties of which are largely supervisory, involving accountability for the work of others and which require the highest degree of expert knowledge.

Range of compensation, \$200.00 and above.

* * *

Class 5. Fish Culturists.

Grade I.

Grade II.

Grade III.

Grade IV.

* * * * *

Q. WARDEN SERVICE.

* * *

DIVISION Q. Warden Service.

Division Q shall include all officers and places, the duties of which involve the enforcement of state laws and regulations and include personal responsibility for the prevention of violations of the same.

The scope of each grade, as hereinafter used, in the grading of classes in Division Q, is as follows:

Grade I. Shall include all positions, the duties of which involve fixed responsibilities for the enforcement of law in a definitely assigned district.

Range of compensation, \$50.00-\$100.00.

Grade II. Shall include all positions, the duties of which are largely supervisory, involving accountability for the work or conduct of others. Also positions, the

duties of which require a high degree of skill or specialized knowledge.

Range of compensation, \$100.00-\$150.00.

Grade III. Shall include all positions, the duties of which are supervisory, involving responsibility for the conduct of an entire division.

Range of compensation, \$150.00-\$200.00.

Grade IV. Shall include all positions, the duties of which are largely administrative, involving the responsibility for the conduct of an entire department.

Range of compensation, \$200.00 and above.

Class 1. Fish and Game Wardens.

Grade I.

Grade II.

Grade III.

Grade IV.

* * *

RULE 11.

Efficiency Records.

In all offices and places of employment subject to the Civil Service Act, the appointing power shall make records of the individual efficiency of holders of positions in performing their duties and shall file such records monthly with the Civil Service Commission on or before the fifth day of the month succeeding that in which the records were made.

The efficiency records shall be rated upon:

First. Quality—Meaning the ability of an employee to perform the task to which he or she is assigned, and the degree of excellence attained in its performance. Cognizance should be taken of such qualities as neatness of work, originality, resourcefulness, initiative, sense of order, system, judgment, tact, special knowledge, technical ability, mechanical skill and ability to direct work and to manage men.

When "temperamental qualities" determine the usefulness of employees, as in the case of teachers in a reform school, or nurses in an institution, "temperamental aptitude" shall be rated under quality.

Second. Quantity—Meaning the amount of work done. In cases where the work is not measurable, ratings should be on alertness, or promptness, speed, industry, perseverance, energy, diligence and willingness to work.

Third. Discipline—Including treatment of the public, treatment of fellow employees, sobriety, obedience to rules, and personal neatness.

Fourth. Attendance—Including absence and punctuality.

Quality and quantity of work shall be rated on a percentage basis.

The grading shall be as follows:

For excellent or exceptional work.....	90-100
For good or thoroughly satisfactory work...	80- 90
For fair or not wholly satisfactory work...	70- 80
For poor or unsatisfactory work....	70 and below

Eighty-five per cent is arbitrarily taken by the Civil Service Commission as the marking for an average employee doing thoroughly satisfactory work.

Where markings above 90 per cent or below 70 per cent are reported, an explanation should accompany, stating briefly the reason therefor. The Civil Service Commission retains the right to investigate such ratings before entering them upon its records.

Attendance shall be recorded by demerits:

Tardiness—1 demerit for 5 minutes or less. 3 demerits for more than 5 minutes and not exceeding one hour; 5 demerits for more than one hour.

Absence without leave—5 demerits for each day, same to be noted by an accompanying star (*). (Absence without leave for one or more days in any one month shall be cause for investigation by the Civil Service Commission.)

Absence with leave not exceeding 15 days, half a demerit for each day of said period; 1 demerit for each day in excess thereof. A period so penalized shall not be for more than one month. Absence on sick leave not exceeding 30 days, half a demerit for each day.

An employee is considered present when detailed on special work and during his vacation.

No efficiency credit shall be allowed for overtime work.

Discipline shall be recorded in demerits:

Penalties to be given for laxity in observance of or violation of established rules and regulations, failure to report, incivility, deportment, manner, inebriety, indo-

lence, personal neatness, and habits. If suspension is imposed for disciplinary purposes, the demerits under "discipline" shall be as follows:

For a suspension of 1 day-----	10 demerits
For a suspension of more than 1 day and less than 7 working days-----	15 demerits
For more than 6 and less than 13 work- ing days -----	25 demerits
For more than 12 and less than 28 working days -----	40 demerits

When demerits are so made, there shall not be any penalty under "attendance" for the suspension period.

The total demerits reported with any individual record shall be added, the sum divided by 5 and the result subtracted from the average marking for quantity and quality of work. The remainder shall be entered on the report as the net efficiency.

If the net efficiency of any employee falls below 70 for any one month, the Secretary of the Commission may file a charge of inefficiency against such employee with the Civil Service Commission. If such charge is filed, it shall be the duty of the Civil Service Commission to try the said employee for inefficiency. If, after such trial, it shall find the ratings to be just, the Civil Service Commission shall enter judgment, removing the said employee from the Civil Service of the State of California, and his name shall be stricken from the list of eligibles.

In case the net efficiency of an employee shall fall

below 80 continuously for three months, the Commission may reduce the salary or grade of such employee.

The efficiency records of any office or department shall be made upon a letter size form, at the left of which shall be a column for the names of the employees in the said office or department arranged alphabetically. In the first column to the right of the name shall be written the name of the position; in the second column the salary paid; in the third column shall be rated the attendance, and it shall be in a double sub-column in which shall be recorded demerits for tardiness, and in the second sub-column shall be recorded the demerits for absence; in the fourth column shall be recorded discipline demerits; in the fifth column shall be rated quality of work; in the sixth column shall be rated the quantity of work; and three columns shall be left at the extreme right for noting the average positive per cent rating, the total number of demerits and the net efficiency.

The appointing power shall require the immediate supervisor of the persons whose efficiency records are being made up to certify to the appointing power, the record for the quantity and quality work, discipline and attendance. From the record thus transmitted to the appointing power or its authorized agent by the said immediate supervisor, the appointing power or its authorized agent shall cause to be made the entries in the efficiency records to be submitted to the Civil Service Commission. A copy of said record shall be kept in the office of the appointing power.

RULE 12.

Leave of Absence.

Upon application to the Civil Service Commission a civil service appointee may be granted a leave of absence for a period of more than one month and not to exceed six months without prejudice to his status, provided such application shall have first been approved by the appointing power in the department in which the applicant is employed. The appointing power may grant a leave of absence to a civil service employee for thirty days, or less, without first securing the approval of the Civil Service Commission.

RULE 13.

Absence Without Leave.

SECTION 1. Absence from duty without leave for any time will be considered good cause for dismissal.

SEC. 2. Absence from duty without leave for ten consecutive days shall be deemed a resignation from the service by the absentee, and upon the report of such absence by the appointing power to the Civil Service Commission, the absentee shall be removed from the service of the State, and the fact of removal shall be entered in the official roster; *provided*, that if at any time within thirty days the person so absenting himself shall make satisfactory explanation to the Civil Service Commission of the cause of his absence he shall be restored to his position.

RULE 14.

Reduction in Force.

Whenever for lack of work, or funds, or for purposes of retrenchment, or other causes, it becomes necessary to reduce the number of employees in a given class, the employees in that class shall be laid off according to their records of efficiency as established under the Rules and Regulations of the Civil Service Commission, the least efficient to be laid off first.

Any employee who has been laid off and has received not less than 80 per cent on his efficiency record shall be restored to the eligible register according to his original examination; or, in case the employee was a permanent employee or a probationer on November 14, 1913, then his eligibility shall be rated according to the length of employment, the oldest employees in point of service being rated highest. The period of eligibility, in all cases, shall begin to run from the date of restoration to the eligible register.

If no efficiency records have been required at the time of the reduction in force, lay-offs may be made in the discretion of the appointing power, provided that permanent employees shall not be laid off while work is being performed by probationers or temporary employees of a character for which the permanent employee is fitted.

If efficiency records have been required and the employee has received less than 80 per cent therein, he shall not be restored to the eligibility register.

Preference shall always be given to the oldest employees in length of service in recertification after lay-offs.

RULE 15.

Transfer.

Transfers, as provided by section 13 of the Civil Service Act, may be made by the appointing power only with the previous consent of the Civil Service Commission.

Persons holding positions in the service of the State on August 15, 1913, who are under the protection of the civil service law, may be assigned to any other positions which they are capable of filling, provided such transfer shall be recommended by the appointing power and approved by the Civil Service Commission. Eligibles appointed after examination to fill a position in a given class may not be transferred to positions in another class.

RULE 16.

Reinstatement.

Any person may within one year be reinstated to any position from which he has been separated without fault or delinquency on his part upon petition to and favorable action by the Civil Service Commission.

RULE 17.

Promotion.

SECTION 1. Method of Promotion. Vacancies in positions, unless filled by reinstatement or transfer, shall be filled so far as practicable by promotion from among

persons holding positions in the next lower grade of the department, office, or institution in which the vacancy exists. An increase of salary beyond the grade of the position occupied shall be deemed a promotion.

Promotion shall be based upon merit determined by competitive examinations and by the superior qualifications of the person promoted, as shown by his record of efficiency. Applicants for promotional examinations shall register in the office of the Commission at least three days before the date fixed for the examination.

The recommendation of the appointing power, with reasons for the recommendation, shall be a factor in all promotional examinations, and shall be given a rating to be determined by the Commission upon the announcement of the examination.

Whenever a vacancy is to be filled by promotion, and the number of applicants in the next lower grade who present themselves for examination are so few that in the judgment of the Commission the good of the public service requires that such promotion shall be open to all employees in the lower grades of that class, it shall so declare and notify all employees in such lower grades that such examination will be held and of their eligibility, and shall proceed to hold an original competitive examination to fill such positions.

RULE 18.

Trials and Dismissals.

SECTION 1. Charges under section 14 of the Civil Service Act may be made by the appointing power or

its representative, the Civil Service Commission or its representatives, or any citizen.

Such charges shall be tried either by the appointing power or the Civil Service Commission, and shall be instituted by serving upon the defendant a written complaint setting forth the grounds for removal with such particularity as shall enable the defendant to understand clearly the charges made against him, and filing with the Civil Service Commission a copy thereof.

Within ten days after service upon him of the complaint, the defendant shall file with the Commission and furnish to the prosecutor a written answer thereto.

The appointing power, in case the charges are to be heard by it, shall then notify the defendant and the Civil Service Commission of the time and place of hearing of said charges, and in case the Civil Service Commission shall hear said charges it shall notify the defendant and the prosecutor of the time and place of hearing said charges.

The time of hearing shall not be less than five nor more than ten days from the service upon the prosecutor of the answer of the defendant.

The defendant at such hearing shall have opportunity to present whatever competent evidence he may desire in his own defense and shall have the right to be represented by counsel. Failure to file an answer within the time allowed shall be construed as an admission of the truth of the charges by the defendant, and judgment of removal shall be entered forthwith and filed with or by the Commission.

Either the appointing power or the Commission may transfer charges to the other for action or investigation.

SEC. 2. The hearing of charges may be by the Commission, any Commissioner, the chief examiner or any other agent of the Commission as it may direct, or the appointing power.

SEC. 3. Any civil service appointee dismissed from employment after trial shall be removed forthwith from all eligible lists and shall not be eligible for examination thereafter without the consent of the Commission. Any eligible or appointee convicted of a felony shall be dismissed from the service of the State and shall have his name stricken from all eligible registers.

RULE 19.

Regular and Special Meetings.

Regular meetings shall be held on the first Tuesday of every month in the office of the Commission at the State Capitol, Sacramento, at 10 o'clock a.m.

Special meetings may be called at any time by the President or by a majority of the Commissioners, provided forty-eight hours' notice of such special meeting be given to all members of the Commission. A notice of each special meeting shall state the business for which said meeting is called, but any other business may be transacted at such meeting. Ordinary parliamentary rules shall govern the deliberations of the Civil Service Commission.