



IN REPLY REFER TO:

UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF THE SOLICITOR
WASHINGTON, D.C. 20240

JUN 30 1969

Memorandum

To : The Staff
From : Deputy Solicitor
Subject: "M" Opinions

The Docket Section has pointed out to me the infrequency of use of the "M" series. Headnoting of memoranda of continuing interest, covering novel points of law, or interpreting newly enacted legislation, and assigning them an "M" number bring them into the index-digest series which assures widespread distribution and availability to the public. Equally important, their inclusion in the index-digest saves substantially the time of attorneys researching the same or related questions.

For particularly important opinions, one should keep the published volumes in mind.

There is enclosed a memorandum up-dating the instructions included in the memoranda of December 30, 1954 and January 1, 1955 as well as a memorandum outlining the format for a headnote and the procedural details of marking matters for publication.


Deputy Solicitor

Enclosure

INDEXING SYSTEM

The indexing system currently in use became effective January 1, 1955. Instructions were issued on December 30, 1954 as to how the system should be followed. The portions of those instructions still in effect are repeated below:

(1) The index will be used for every decision, opinion or memorandum which will be published in the I.D.'s or which will be mimeographed or otherwise duplicated for general distribution or which is deemed of sufficient importance to be indexed for office use.

(2) Every attorney preparing a document which is to be indexed will prepare headnotes covering each important ruling in the document. At the beginning of each headnote he will insert the appropriate topic or topics selected from the index table. No deviation from the table by way of modification or addition of topics will be permitted except acts by date may be added, when necessary. No main heading will be used alone unless there are no subheadings under it in the index table.

(3) As a general rule, headnotes should be prepared so as to fall under one topic. However, if this will result in a series of choppy headnotes which do not have meaning unless read together, only a single headnote should be prepared although it will fall under two or more topics.

(4) It will be noted that a number of topics overlap. For example, the topic "Mineral Lands: Leases" overlaps the topics "Oil and Gas Leases," "Coal Permits and Leases," "Sodium Leases and Permits," etc. However, the general topic "Mineral Lands: Leases" is intended as a catch-all for mineral leases for which no specific topics have been prepared. The most specific topic applicable to a headnote should be selected and the more general topics employed only in the absence of a specific topic. There are other overlaps in the index which will present more difficulties. For example, the topics "Homesteads (Ordinary)" and "Alaska: Homesteads" overlap. In a case dealing with an Alaskan homestead, the question will be which topic to use. The answer will depend upon the point covered in the headnote. If the point is one involving the homestead law generally and there is no significance in the fact that particular homestead involved is situated in Alaska, the topic "Homesteads (Ordinary)" should be used. On the contrary, if the point involved is one peculiar to Alaskan homesteads, the topic "Alaska: Homesteads" should be used. It may even be necessary to use both topics.

It is inevitable that the need for additional topics will arise. When an attorney notices such a need he shall submit a list of additional topics to the Docket Section to be submitted to the person responsible for the up-dating of the index. Up-dating is done only at the end of a year in order to avoid confusion during a year.

The indexing branch of the Library prepares cards on the head-notes and sends one set to Docket. The cards are within two weeks of being current.

The Field Attorneys should consider the memoranda they write for possible inclusion in the Index-Digest. If it is decided that a head-note should be prepared for inclusion in the Index-Digest it should be routed to the headquarters office through the appropriate Regional Solicitor. Also, upon approval by the Deputy Solicitor or Solicitor, a field opinion may be included in the published material.

This memorandum will serve to up-date the memorandum of January 28, 1955 as to format of a head-note and marking material for publication.

HEAD-NOTE FORMAT

Each paragraph of a headnote should be preceded by appropriate topics chosen from the topical index list, copy attached. Each topical heading shall consist of the main heading, subheading, and sub-subheading, if any. The main headings and subheadings are separated by colons, changes to new headings should be marked by dashes. The sample attached is a headnote for a land appeal. The same format is followed for an "M" number or for any other matter requiring a headnote.

PUBLISHED MATERIAL

If a matter is considered of special importance the headnote page should be red-checked in the upper right-hand corner by the writer. The decision or opinion, recommended by the author for publication, can be overruled at any level of surnaming above that of the writer. The reverse is also true. Anyone above the level of the writer may decide to publish if the writer did not so recommend. If an opinion falling within the purview of Section 1(a) of Solicitor's Regulation 1 is to be published, it must be signed by the Solicitor or Deputy Solicitor (See Solicitor's Regulation 1).

It is no longer necessary to double space material for publication, but two clear copies are required. It is suggested that the orig-

inal be xeroxed to provide copies for the Indexing Branch and GPO, respectively.

OVERRULED, MODIFIED OR DISTINGUISHED CASES

Following the last headnote in a syllabus, there should be listed any departmental decision, opinion or ruling which is being overruled, modified or distinguished. For example--Charles Black, 65 I.D. 21, overruled; Smith v. Brown, A-29000 (July 1, 1955), modified; Solicitor's Opinion M-9000 (July 1, 1955), distinguished.

665-D

THE CALIFORNIA COMPANY ET AL.

A-30287 Decided MAR 25 1969 20

Oil and Gas Leases: Acquired Lands Leases -- Oil and Gas Leases:
Consent of Agency -- Mineral Leasing Act for Acquired Lands:
Consent of Agency

An acquired lands oil and gas lease offer is properly rejected where the administering Federal agency has not given consent to issuing a lease because of uncertainty as to title to the lands and its jurisdiction over the lands.

Oil and Gas Leases: Discretion to Lease

The Secretary has discretionary authority to reject an application for an oil and gas lease for lands in the Louisiana pass areas as to which there are unresolved conflicting title claims.

Oil and Gas Leases: Acquired Lands Leases -- Oil and Gas Leases:
Applications: Generally

Oil and gas lease offers for public or acquired lands which have been held by the Bureau of Land Management to be subject to rejection because of possible application of a ruling by the Solicitor General on title to similar lands, the correctness of which is not disputed by the offerors, will not be suspended to await the indefinite eventuality of any possible change or overruling of the Solicitor General's opinion.



IN REPLY REFER TO:

UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF THE SOLICITOR
WASHINGTON, D.C. 20240

DEC 23 1966

Memorandum

To: All Attorneys in Solicitor's Office

From: Solicitor

Subject: Revised Topical Index to Decisions and Opinions of the
Department of the Interior

Attached is a copy of the revised topical index which is to be used for decisions and opinions dated on or after January 1, 1967.

The index has not been materially changed. The water pollution control topics which were adopted on July 25, 1966, have been incorporated without change; otherwise only a few new topics have been added. Although the changes are minor, it is important to check the revised index carefully before preparing headnotes.

It appears that the index-digest is not being utilized to the full extent envisioned when the system was established in 1954. All documents issued by this office which contain significant legal rulings should be indexed, whether they are in the form of opinions, memoranda, or even letters. The only documents that should not be considered for indexing are those which the Department would be justified in withholding from public inspection.

The instructions for the use of the index set forth in the Acting Solicitor's memoranda of December 30, 1954, and January 28, 1955 (and his memorandum of March 24, 1955, to the Regional Solicitors), as supplemented by his memorandum of May 17, 1966, should continue to be followed.

Particular attention is called to documents prepared before January 1, 1967, but not dated until after that date. If the headnotes of the document do not accord with the revised table, the document will be returned to the appropriate Assistant Solicitor for indexing in accordance with the revised table. Such re-indexing must be done immediately.

Edward W. Winkley
DEPUTY Solicitor

Attachment

M. Hamm

77711

UNITED STATES
DEPARTMENT OF THE INTERIOR
Office of the Solicitor
Washington 25, D. C.

Memorandum

March 24, 1955

To: All Regional Solicitors
From: Acting Solicitor
Subject: Field Opinions and Topical Index

Reference is made to my memorandum of December 30, 1954, concerning the distribution of the decisions and opinions of the Department of the Interior starting January 1, 1955. As indicated in that memorandum, within the contemplation of the distribution plan are opinions of importance which are written in the field. It was intended to issue specific instructions relating to the use of the new topical index in connection with such opinions after possible suggestions from the field had been received. We are receiving copies of the opinions for incorporation in the system now, however, and it would seem appropriate to provide directions on the subject without further delay. The following procedure, therefore, should be carefully observed.

For the time being, two copies of all opinions written in the field should be sent to the Washington office through the Regional Solicitor for post-auditing purposes. This will enable the Washington office to have a comprehensive view of the problems being handled in the field and to make such suggestions as seem to be necessary to coordinate and make uniform the handling of legal problems in the field. This procedure is intended to be only of a temporary nature and will probably be terminated in 6 months.

Every attorney preparing a legal document in the field should determine whether it is of sufficient importance to be included in the topical index system. If he determines that it is, he should prepare headnotes for it. All such documents will then be routed to the Regional Solicitor who will review them to determine if they should be included in the index system. If he does not agree that the documents should be indexed, he will so note on the two copies sent to the Washington office. If the Regional Solicitor determines that a document for which headnotes have not been prepared by the author should be indexed, he will arrange to have the headnotes prepared and submit them with the two copies of the document to Washington.

It is somewhat difficult to lay down definite standards as to what should be indexed. Generally, documents that decide novel questions of law or that are believed to be of general interest to the Solicitor's office or segments of the office should be indexed. On the other hand, documents passing on routine questions of law

(over)

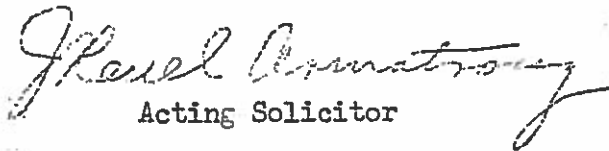
or of very special and applicability should not be indexed. Between these extremes there is a wide measure of discretion.

As for the mechanics of preparing headnotes, the instructions in my memorandum of December 30, 1954, on the Topical Index, as supplemented by the pertinent paragraphs of my memorandum of January 28, 1955, relating to material for publication, must be followed. In connection with the January 28 memorandum, it is contemplated that, except in unusual cases, there will not be documents issued at the regional level which will be published, as distinguished from indexed. It is to be remembered that, under Solicitor's Regulation 2, Regional Solicitors are not authorized to sign legal opinions of major importance or communications to persons outside the Department passing on legal questions not previously passed upon by the Solicitor or Deputy Solicitor.

One or two of the instructions in my memorandum of December 30 seem not to have been clearly understood and will be clarified here. The fourth sentence in numbered paragraph 2 of that memorandum provides that "Each topic will consist of the main heading, subheading, and sub-subheading, if any." This means that if a single headnote is to be carried under two or more topics, each topic must be complete in itself. For example, if a headnote involves two subheadings under the same main heading, the main heading must be repeated before each subheading. Thus, "Contracts: Changes--Contracts: Interpretation" and not "Contracts: Changes: Interpretation." Likewise, if two or more headnotes involve the same topic, the topic must be repeated before each headnote.

Another point of confusion has been with respect to the fifth and sixth sentences of numbered paragraph 2 of the December 30 memorandum. These sentences simply mean, for example, that a headnote concerning constitutional law would be indexed under "Constitutional Law" because there are no subheadings under that main heading. But the main heading "Contracts" would never be used alone because there are subheadings under it. If no particular subheading under "Contracts" is suitable, then the topic used would be "Contracts: Generally."

I think that most of the questions arising with respect to indexing have occurred as a result of a failure to read the memorandum of December 30 carefully. We will endeavor to inform you whenever a consistent deviation from prescribed procedure is observed in material coming from your office.


Acting Solicitor

Mr. Horn

74751

UNITED STATES
DEPARTMENT OF THE INTERIOR
Office of the Solicitor
Washington 25, D. C.

January 28, 1955

Memorandum

To: All Attorneys in the Office of the Solicitor
From: Acting Solicitor
Subject: Solicitor's Opinions - "M" Numbers

As Solicitor's opinions carrying numbers in the "M" series will be included in the new Topical Index file which will be open to the public, care must be exercised in determining what items should carry an "M" number.

If a request is received from an Assistant Solicitor or Associate Solicitor to assign an "M" number to a memorandum, the Docket Room will assume that that matter is available to the public.

Harold C. ...
Acting Solicitor

not included in ...

UNITED STATES
DEPARTMENT OF THE INTERIOR
Office of the Solicitor
Washington 25, D. C.

December 30, 1954

Memorandum

To: All Attorneys in Solicitor's Office

From: Acting Solicitor

Subject: Topical Index to Decisions and Opinions of the Department
of the Interior

Attached is a copy of the new topical index which has been adopted for use by all members of the Solicitor's Office effective as of January 1, 1955. The new index is an integral element of the new system being adopted for the publishing and duplication of decisions, opinions, and memoranda of the Department. It is therefore absolutely important that every attorney carefully read and comply with the following directions concerning the use of this index:

1. The index will be used for every decision, opinion, or memorandum signed on or after January 1, 1955, which will be published in the I. D.'s or which will be mimeographed or otherwise duplicated for general distribution or which is deemed of sufficient importance to be indexed for office use.

2. Every attorney preparing a document which is to be indexed will prepare headnotes covering each important ruling in the document. At the beginning of each headnote he will insert the appropriate topic or topics selected from the index table. No deviation from the table by way of modification or addition of topics will be permitted. Each topic will consist of the main heading, subheading, and sub-subheading, if any. No main heading will be used alone unless there are no subheadings under it in the index table. If no specific subheading will fit the headnote, the main heading and the subheading "Generally" will be used. To illustrate these points, a syllabus might appear as follows:

Rules of Practice: Appeals: Timely Filing

An appeal which is mailed within, but not received until after the expiration of, the 30-day period allowed for appeals is not timely filed.

Oil and Gas Leases: Rentals--Secretary of the Interior
Accrued rentals on an oil and gas lease become a debt owed to the United States which the Secretary of the Interior has no authority to waive.

Scrap: Generally

Scrap cannot be located on public land unless the land has first been classified as suitable for that purpose.

3. As a general rule, headnotes should be prepared so as to fall under one topic. However, if this will result in a series of choppy headnotes which do not have much meaning unless read together, only a single headnote should be prepared although it will fall under two or more topics.

4. It will be noted that a number of topics overlap. For example, the topic "Mineral Lands: Leases" overlaps the topics "Oil and Gas Leases," "Coal Permits and Leases," "Sodium Leases and Permits;" etc. However, the general topic "Mineral Lands: Leases" is intended as a catch-all for mineral leases for which no specific topics have been prepared. The most specific topic applicable to a headnote should be selected and the more general topics employed only in the absence of a specific topic. There are other overlaps in the index which will present more difficulties. For example, the topics "Homesteads (Ordinary)" and "Alaska: Homesteads" overlap. In a case dealing with an Alaskan homestead, the question will be which topic to use. The answer will depend upon the point covered in the headnote. If the point is one involving the homestead law generally and there is no significance in the fact that particular homestead involved is situated in Alaska, the topic "Homesteads (Ordinary)" should be used. On the contrary, if the point involved is one peculiar to Alaskan homesteads, the topic "Alaska: Homesteads" should be used. It may even be necessary to use both topics.

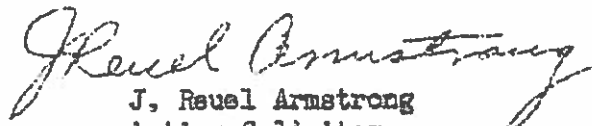
5. In the case of decisions, opinions, or memoranda prepared prior to January 1, 1955, but not signed until that date or later, the document, if it is to be indexed, will be returned by the editorial unit to the appropriate Assistant Solicitor for indexing in accordance with the new table. This indexing must be done immediately in order that the document will become available for reference purposes and that the printing of any such document which is marked for publication will not be held up.

It is apparent from the foregoing that in many instances proper use of the index will require considerable study and care on the part of the attorney preparing the headnotes. This is unavoidable if the index is to achieve its purpose. The editorial unit of

this office, under Marie J. Turinsky, will strive to coordinate the use of the index and to develop a uniformity of use. However, the initial burden will fall on the attorney preparing the headnotes.

It is probably inevitable that in the use of the index it will be discovered that new topics are needed or that existing topics should be modified or eliminated. Suggestions for changes should be forwarded to Miss Turinsky. From time to time such revisions of the index table will be made as are necessary.

It must be emphasized again that the success of the new index will depend upon strict compliance by each attorney with the directions set forth in this memorandum.


J. Reuel Armstrong
Acting Solicitor

Attachment



UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF THE SOLICITOR
WASHINGTON 25, D. C.

September 1, 1949.

Memorandum

To: Miss Campbell
From: The Solicitor
Subject: Indian appeals

This will confirm the oral statement that I made to you today to the effect that a new numbered series of decisions will be inaugurated in the Solicitor's Office for the purpose of identifying the decisions that are rendered by the Solicitor or by Secretarial officers of the Department on formal appeals to the head of the Department from the Bureau of Indian Affairs.* The new series will be designated as the "IA" series, and the first of these cases will be numbered "IA-1".

If a formal appeal should be received from another agency, such as the Geological Survey, with respect to a question involving Indian land or some other matter clearly within the field of Indian affairs, it will be numbered in the "IA" series.

Any pending Indian appeals which have heretofore been numbered in the "A" series will be renumbered in the "IA" series.

Hereafter, formal appeals will be divided among the following series:

- "A" series — public-land appeals;
- "IA" series — Indian appeals;
- "CA" series — contract appeals;
- "TA" series — appeals involving tort or irrigation claims.

Martin G. White

Martin G. White
Solicitor

Copy to Mr. Flanery
" Miss Mahon

* Except appeals from contracting officers of the bureau, or appeals from regional attorneys of the bureau respecting tort or irrigation claims.

UNITED STATES
DEPARTMENT OF THE INTERIOR
Office of the Solicitor
Washington 25, D. C.

September 23, 1948.

SOLICITOR'S MEMORANDUM NO. 29.

1. In connection with the surnaming of a legal opinion or a decision on an appeal, the chief of the division of the Solicitor's Office having jurisdiction of the particular matter will consider whether the opinion or decision should be printed in a volume of the Interior Decisions. If it is concluded that the opinion or decision should be published, the chief of the division will check the upper right-hand portion of the yellow cover sheet with a red pencil or red ink and will place his initials or surname near the mark.
2. If the Solicitor believes that a legal opinion or decision which has been marked by the appropriate division chief for publication should not be included in the Interior Decisions, he will cancel the division chief's mark and will initial or surname the cancellation.
3. If the Solicitor believes that a legal opinion or decision which has not been marked by the appropriate division chief for publication should be included in the Interior Decisions, he will check the upper right-hand portion of the yellow cover sheet with a red pencil or red ink and will initial or surname the mark.
4. When an opinion or decision which has been marked for publication is duplicated under the customary office procedure, the duplicated copies will be double spaced and only one side of each sheet will be used in the duplicating process.
5. The Docket and Records Section will preserve in a special file or container, for the use of the editor of the Interior Decisions at an appropriate time, two duplicated copies of each opinion or decision that has been marked for publication.
6. This memorandum supersedes instructions previously issued with respect to the designation of opinions and decisions for inclusion in the printed volumes of Interior Decisions.

Mastin G. White
Mastin G. White,
Solicitor.