are matters which should have appealed to the Legislature; but the Legislature, having before them the laws of other states containing more liberal provisions with respect to such matters, did not make provisions for a rebate of interest under such conditions, and this department, therefore, cannot grant relief.

Under the authority of the New York and Pennsylvania cases we have cited holding that interest is properly chargeable and collectible, we hold that the county court properly charged interest upon the taxes from the date of the death of the testator, and that portion of the judgment is affirmed. The judgment is reversed as to that portion thereof which credits, on account of costs and expenses, the sum paid I. Harry Stratton, and the court is directed to render judgment in accordance with the views herein expressed.

GODDARD, J., not participating.

PEOPLE ex rel. COLORADO BAR ASS'N v. THOMAS.

(Supreme Court of Colorado. March 5, 1906.)

ATTORNEY AND CLIENT — DISBARMENT — FORMER ACQUITTAL ON CRIMINAL CHARGE.

An acquittal of an attorney on a criminal charge is not a bar to a proceeding for disbarment based on the same facts.

[Ed. Note.—For cases in point, see Cent. Dig. vol. 5, Attorney and Client, § 71.]

En Banc. Original proceeding in disbarment by the people, on the relation of the Colorado Bar Association, against William J. Thomas. Relator demurs to the answer. Demurrer sustained.

L. F. Twitchell, for petitioner. Thomas Ward, Jr., A. M. Stevenson, and Milton Smith, for respondent.

GUNTER, J. The information herein charges respondent with the crime of embracery. The answer denies the allegations of the information, and sets up two affirmative defenses, each entitled "Further and Separate Answer." The one of these affirmative defenses alleges that respondent was proceeded against in a criminal action for the same crime as that charged in the information, embracery, and acquitted thereof. The other sets up a proceeding for contempt, and an acquittal thereof. A general demurrer presents the question of the sufficiency of these two defenses.

It is contended by counsel that the same principle obtains as to both defenses; that is, if the acquittal in the criminal proceeding is not a complete defense to this action for disbarment, then the acquittal in the action for contempt is likewise not a defense. That the acquittal upon the criminal charge is not a defense to a proceeding for disbarment, based upon the same facts, is stare decisis in this jurisdiction. People v. Mead, 29 Colo. 348, 68 Pac. 241; People v. Weeber, 26 Colo. 229, 57 Pac. 1079. Other authorities to the same effect are In the Matter of an Attorney, 86 N. Y. 563; In re Wellcome, 23 Mont. 213, 58 Pac. 47.

Demurrer sustained.

BOARD OF COM'RS OF LAS ANIMAS COUNTY v. PEOPLE ex rel. McPHERSON.

(Supreme Court of Colorado. Jan. 8, 1906.)

WRIT OF ERROR—DISMISSAL—ACADEMIC QUESTIONS.

The writ of error to a judgment granting mandamus commanding county commissioners to establish an election precinct at a certain place will be dismissed, such precinct having been established, of which the court will take judicial notice, so that there is no live question to be decided.

[Ed. Note.—For cases in point, see Cent. Dig. vol. 3, Appeal and Error, § 3122.]

Department 3. Error to District Court, Las Animas County; Jesse M. Northcutt, Judge.

Mandamus by the people, on the relation of Frank McPherson, against the board of county commissioners of Las Animas county. Writ granted, and defendant brings error. Dismissed.

Everett Bell and A. P. Anderson, for plaintiff in error. Robert Bonynge, for defendant in error.

PER CURIAM. A complaint was filed in the district court of Las Animas county, reciting that a petition was filed with the board of county commissioners of said county praying for the establishment of an election precinct at Primero in said county, but that the county commissioners had refused to act, and praying for a writ of mandamus commanding the commissioners to establish an election precinct at said Primero. A demurrer to the complaint was filed and was overruled, and judgment entered granting the writ. The board of commissioners took the case to the Court of Appeals by writ of error.

We shall take judicial notice of the fact that there has been a precinct established at Primero in said county. It is not material whether the precinct was established upon proper petition or by virtue of authority so to do under the statute. There being no live question for us to determine, the cause should be dismissed.

Dismissed.

GYRA v. WINDLER.

(Supreme Court of Colorado. July 1, 1907.)

EASEMENTS—PRESCRIPTION—RIGHT OF WAY.

Plaintiff refused to purchase a tract of land from defendant's brother-in-law unless defendant would give a right of way across his land for ingress and egress, which was given