REPORTS

MADE BY THE

Senate Investigation Committee

REGARDING

THEIR FINDINGS IN RELATION TO INVESTIGATIONS OF STATE, COUNTY AND CITY OFFICES AND RECOMMENDATIONS THEREON.

By Authority of the Senate,
Tenth General Assembly.
Colorado,
1895

DENVER, COLORADO:
THE SMITH-BROOKS PRINTING CO., STATE PRINTERS
1895

...that the only

REPORT.

To the Senate of the State of Colorado:

The undersigned, your committee appointed to investigate into certain matters set forth in a resolution of this body of date the 25th day of January, A. D. 1895, begs leave to make a partial report, as follows:

Your committee, from the date of its appointment, has sat during a portion of every day or every evening of the week days, excepting two of such days. Its sessions have often been prolonged into the late hours of the night, and it has attempted up to the present time to thoroughly investigate all of the matters contained in said resolution, which it has undertaken.

Two members of the committee, Senators Reuter and Drake, have seen fit not to attend the sessions of the committee, but the majority of said committee has conducted such investigation.

Your committee began investigating the several departments of the state government during the last administration. In some of these departments we discovered great abuses and carelessness, and in others what appears to be actual frauds and malefeasance in office.

We first investigated some charges with reference to furniture being taken from the custody of the secretary of state and used by private persons. The evidence adduced before us showed that the only

furniture which was taken and used was by an employe of the state, which furniture he duly returned upon the expiration of his employment, and which furniture he had used first in a room provided for him in the Barclay block in the city of Denver by the state, and afterwards, when the state offices were moved from the Barclay block he took said furniture to a room which had been fitted up in a private house for his own use. The other was some furniture which had been in the possession of Attorney Martin of this city for several years, and which had been left in the room occupied by him as an office by a court reporter of the Supreme Court of the state of Colorado. That furniture was also returned to the state.

The investigation into these matters developed the fact that the method of caring for the state's personal property is most careless. No inventories seem to have been made or kept containing a detailed statement of just what the state does own, and no secretary of state, so far as we have investigated, has ever given his successor in office any sort of a list of the state's personal property. No one, that we have been able to find, can give positive testimony as to the exact possessions of the state in that line at this time. This is a matter which badly needs regulation by law.

It was also shown by the evidence adduced before us, that the method of keeping books of the receipts from various sources of fees in the secretary of state's office was not as business-like as would be required were the same matters involved in private transactions, although separate monthly books were kept, principally in lead pencil, of what purported to be the receipts for such month, in which the officers in the secretary of state's office claim all fees received were entered.

It also appeared from the evidence that up until four years ago no attempt was ever made to keep any books of such receipts, although the law requires

that a monthly accounting shall be made to the state treasurer of said fees, and that the same shall each month be turned into the state treasury.

The statements filed by the secretary of state with the treasurer, for obvious business reasons, should be itemized and should detail the particular fee received for each particular matter of business during the month reported. It would be well upon this subject to make the law more specific with reference to such matters.

The laws relating to the purchasing of supplies for the various state departments, from the evidence adduced before us, are most deficient.

The laws controlling the printing for the several departments are conflicting, and from the evidence before us, in their practical workings there are no restrictions around the departments upon that important question. The laws of 1891 undertake to limit the size of certain reports, but other laws are mandatory that reports shall contain certain specific matters, which set at naught the provisions of the restrictive law. There seems to have been no limitation upon the amount of printed matter required for the reports of the several departments and several officers, elective and appointive, except the physical endurance of such officers in preparing their reports.

The printing contracts with the state, as has been the case for years past, are chiefly remarkable for matters which they do not specifically provide for, and which matters seem always to be in more demand than those which are specifically and definitely provided for. The printing laws of the state should be revised and harmonized, and some sort of legislation enacted by which there shall be a single and competent head to take charge of this work.

The bills for advertising constitutional amendments were apparently excessive, but the secretary of state seems to have exercised the discretion vested in him by law as to the extent of the advertisement to be given to such matters.

In this department, as in every department of the state government, abuses have arisen from the loose manner in which money is appropriated for incidental expenses. There should be some method devised by which no money should be appropriated for incidental expenses when those expenses include clerk hire or other assistants, unless the act appropriating such money shall clearly specify what assistants or clerks are allowed for each department, and the exact compensation which such assistants or clerks shall receive. In all matters of other expenses, receipts for such expenses should be required to accompany the voucher filed with the auditor for such expenses.

The investigation into certain matters in the office of the superintendent of public instruction developed the facts that the late official of that department either raised, or had raised, a hotel bill for $5.50 to $15.50 drawn against his incidental expense fund, and in two other vouchers drawn against the same fund he misrepresented the uses and purposes for which said money was drawn, claiming in the voucher that it was for particular clerk hire for persons designated in the voucher, when, as a matter of fact, it was used for other purposes.

These matters should require more action than either this committee or this body can legally take, and they should be referred for investigation to the district attorney of Arapahoe county.

In this department it also appears that there is not now on file, and has not been for years, a list of the books belonging to the state, although the testimony before this committee shows that a librarian is employed at a salary of $1,000 per year, and that such librarian devoted only four hours a day to the business of occupying the same room with the state's books. The librarian should be required to make himself useful or the position should be done away with entirely. A correct list of the books belonging to the state, your committee believes, should be im-

mediately made, and the legislature should each year make a sufficient appropriation to keep the library supplied with standard books and periodicals; and the library should be kept open during the entire day at least, and we would recommend, also, during the evenings, so as to be of some practical benefit to the general public.

In the state treasury department, it appeared from the evidence that upon the state funds loaned out by the treasurer to the various banks in the state four per cent. per annum in interest was received upon the daily balances of such funds. In many cases a portion of this same interest was refunded to the Denver banks, for the reason that the money had been drawn out before the balance justified the payment of four per cent., under the arrangement made with the Denver clearing house association.

The law controlling the loaning of state funds is most defective, and should be immediately amended. It is not definite as to the duty of the treasurer to loan state funds, and it leaves the question in very grave doubt as to whether or not the state treasurer is liable upon his bond for any moneys which are loaned out. It also fails to prescribe any certain or definite method by which the highest rate of interest may be obtained for such funds, and leaves it entirely optional with the treasurer as to whether or not he shall keep the money in the vaults of the treasury department or shall loan it out at interest.

The evidence before this committee showed that certain banks outside of the city of Denver were willing to pay a higher rate than the clearing house association in the city of Denver was willing that the Denver banks should give, and yet, as a matter of convenience, the greater portion of the funds were apparently necessarily kept in the Denver banks. Your committee is of the opinion that the law should require the treasurer to advertise for bids from responsible bankers for the use of the state funds, upon

condition that a good and sufficient bond in double the amount deposited should be given, subject to the approval of the treasurer and the governor, and that the state funds should be loaned out to the highest bidder upon some such plan as that. Under the present system it is impossible to ascertain whether or not the state receives all of the interest paid for state funds.

It appears also from the evidence that certain claims connected with the Ute war in the state of Colorado, through carelessness of some one, were paid twice, said warrants aggregating $3,200; said payments being evidenced by cancelled warrants Nos. 29,562, 29,563 and 29,564, and by the warrants subsequently paid for the same claims. An indemnifying bond was given to protect the state for the alleged loss of the warrants, which were afterwards paid, and we would recommend that this entire matter be called to the attention of the attorney general of the state, and that he be requested to institute proper proceedings to make the state whole for the double payment of said warrants.

In the attorney general's department this committee discovered that the same trouble occurred with reference to the expenditure of the incidental expense fund as occurred in the other departments. Judge Henry T. Sale and W. J. Thomas testified that they were assistants to the attorney general and that their vouchers for the year 1894 were drawn by the attorney general for $250 for the first and $225 for the latter, when, as a matter of fact, Judge Sale received $190 per month for that year from the attorney general and Mr. Thomas received at the rate of $166.66 per month from the attorney general, both being paid each month in cash. These statements ex-Attorney General Engley denies, and says he paid each of his associates the amount which the several vouchers show he drew for them. It appears that the district court of Arapahoe county decided that he could draw

upon his incidental expense fund as he might see fit, or draw it all out of the treasury at once, just so he put in a voucher showing what it was drawn for. It appears that some previous attorney generals had drawn said fund upon general vouchers.

The testimony in the attorney general investigation demonstrated more clearly than ever the necessity of specifying in the appropriation bill the particular uses to which the incidental expense fund for the several departments shall be put; and there should also be a provision requiring each employe to verify and present his own voucher for pay, and warrants should be made payable directly to such employes.

If Attorney General Engly withheld any portion of the money drawn for the specific purpose of paying salaries to his assistants he committed a fraud against the state, and while the state is apparently none the loser financially by the operation, as his assistants would have received the full amount if he had not withheld any portion thereof, yet, if the statements of the assistants are true, the vouchers are false and money has been obtained from that particular fund under false representations.

We desire to further investigate this matter, and think also the present attorney general should be requested to investigate it, and take whatever legal steps may be necessary in the premises.

In the department of the state boiler inspector the evidence before the committee showed that he has not turned into the state treasury any of the fees collected by him as such boiler inspector. Such fees amount to about $5,000.

Mr. Hegwer claims that he is willing to turn over such fees when he is recognized as boiler inspector, and shall receive his salary. He claims that ex-Auditor Goodykoontz refused to recognize him as boiler inspector and refused to give him certificates of indebtedness for his salary and expenses, the law providing for both, but no appropriation having been

made for such department by the Ninth General Assembly. A mandamus suit concerning the legal rights of Mr. Hegwer as to his salary and expenses appears to be pending in the Supreme Court of the state.

The non-payment of his salary can be no excuse, under the law, for his withholding the fees collected for making inspection. If his claim against the state for salary and expenses is a legal one, its payment can easily be enforced. If it is illegal he cannot reimburse himself from funds belonging in the state treasury.

Mr. Hegwer also claims that he is holding the fees to refund to the persons who paid him, should it be determined that he is not the legal boiler inspector. The particular attack made upon the legality of his appointment seems to be that he was appointed without the action of the Senate upon such appointment.

There was evidence to show that certificates of inspection were offered to be given upon the report of the engineer of the person using the boilers, by appointing such engineer a deputy boiler inspector for the purpose. The evidence developed the fact that the law controlling the appointment of deputies is loosely drawn, and subject to great abuses.

This committee recommends that the attorney general be requested to take immediate steps to have the fees collected by the boiler inspctor turned into the state treasury, or to ascertain the exact legal status of the state with reference to the boiler inspector and the fees collected by him.

The investigation of the fish and game warden's department developed many interesting facts. The most important is that the benefits of such department are not at all commensurate with the expense. The total expense of operating the department for 1893 and 1894 was $27,000, and for 1891-94 $34,600. The chief occupation of the incumbents for the past

four years seems to have been to rival each other in the yarns they tell about the millions of fish which they yearly plant in Colorado waters, and which are never seen by any of the fishermen of the state who may explore the streams. According to their reports there ought to be at least ten fish for every man, woman and child in the state. The charges and counter charges which are made by these fish managers with reference to the expenditure of their incidental expense fund appropriation or improvement fund appropriation are quite as wonderful as their tales of the millions of fish which abound in all sections of the state.

It is a question with this committee whether we would not have more fish in reality and less in imagination if the department was entirely abolished. Certainly the evidence before us showed that the department should be made more efficient than it has been for several years, or else entirely abolished. The evidence showed that Mr. Callicotte, the present game and fish warden, had early in his administration leased a private hatchery belonging to himself, his wife and his son to himself as fish commissioner, on condition that the family was to have 100,000 fish, to be delivered at any point in the state they might designate, at various times. He claimed that he sold to private persons 60,000 of such fish and about 130,000 eggs out of his said allowance under the terms of said lease, and kept the money. He received $5 per thousand for the fish. While, perhaps, he had a legal right to have this lease executed on behalf of his family to himself as fish commissioner, and to enter into the indefinite contract which he did relative to it, yet it was an act that cannot be approved, and it could readily lead into the indiscriminate dealing with the state fish as private property. In fact, so hazed was this committee with the evidence of vast armies of fish overrunning the state, that we were unable to determine exactly how many fish were sold to private persons, and how many of such fish

belonged in reality to the state, and how many belonged to the family of the fish commissioner. The powers of the fish commissioner are certainly too broad, under the present laws, and the state should own all of the fish so dearly paid for by it and should receive all the compensation from any sales thereof. In the particular business of fish culture, Mr. Callicotte appears to be a thoroughly competent man.

The abuses which have met the committee upon all sides in the state departments have been those growing out of the expenditures of the incidental expense funds appropriated for such departments. Relatives of principals or deputies have been employed at large salaries or fees, to do work at odd hours. Extravagant prices have been paid for public work to give employment to friends. There appears to the committee no good reason why public employes should receive more compensation than is paid for similar services in private business enterprises. All such matters can be largely regulated by restricting the expenditures of the incidental expense fund, the fruitful source of public abuses, public crimes and public extravagance.

We make this, our partial report, under the terms of the resolution appointing us. A transcript of the testimony taken in these matters we will file with this report.

J. G. JOHNSON, Chairman.
B. CLARK WHEELER,
CASIMIRO BARELA.

ARAPAHOE COUNTY.

To the Honorable Senate of the State of Colorado:

Your committee, appointed to investigate certain matters, under resolution of this honorable body, beg leave to report with reference to the practical workings of the present fee and salary laws, as follows, to-wit:

In making our investigations, we have necessarily confined ourselves principally to the workings of said laws in the county of Arapahoe. Their practical workings are undoubtedly better shown in that county than in any other county in the state.

A vast number of abuses and many crimes have been discovered by this committee in the investigation of the workings of said laws. The marked features of the workings of said laws in the county of Arapahoe have been the extravagant salaries paid employes, and the excessive number of such employes in every department of the county government.

The number of employes engaged by the clerk of the district court is regulated by the judges of said court, as is also their compensation. The testimony showed that the compensation under the present laws for such deputies are higher than that paid under the old fee and salary act, where the clerk paid his own employes. One of the judges of the district court testified that the five division clerks in the respective divisions of said court, in said county, were practically useless in said courts, and could be dispensed with, and their services performed by the stenographers of said courts. The fees received by the clerk of the district court for 1894, according to his statement, amounted to $26,470.32; the amount of

salaries paid was $26,093.37. Of the amount so received, between $8,000 and $10,000 was received directly from the county treasury, and the balance from private litigants. The salaries in the office of the district court clerk for deputies, ranged from $2,400 to $960 per year, and there were fourteen of such deputies. The clerk himself, under the law, received a salary of $6,000 per annum, and his chief duties, according to the testimony, was to supervise the work in the several divisions of the court and in the clerk's office.

In the office of the county clerk and recorder the testimony showed that sixteen clerks were employed, at salaries ranging from $2,000 to $960 per annum. In that department $19,813.73 was collected in fees for the year 1894, and for the same period there was paid out in salaries the sum of $20,616.86, leaving a deficit of over $500. This did not include the clerk to the board of county commissioners and the bookkeeper for such clerk, nor any of the extra help required for election purposes. In addition to the above, $4,196.66 was drawn from the county treasury to pay the hire for employes of the department of clerk to the board, and $6,000 was paid to the county clerk for matters connected with the election. The clerk himself receives a salary under the law of $5,000 per annum, and his duties, according to the testimony, are supervisory of the work in the office.

The county treasurer employed during 1894 a force of twenty-two regular clerks, besides the extra help allowed during the rush of collecting taxes. The regular clerks were paid salaries ranging from $1,800 to $900 per annum. The pay roll in that department for the year 1894 amounted to $40,620.34, and the receipts in the way of fees exceeded the expenditures by $5,450.84. The chief of this department receives, under the law, $5,000 per year, and his duties, as shown by the testimony, were to supervise the work of the office.

In the sheriff's office the sum of $34,944.72 was collected in fees, and the number of deputies employed during the year 1894 was somewhat flexible, and at salaries ranging from $2,500 down, and there was no balance left in the fee fund at the end of the year. The chief of this department receives $5,000 per year. A more detailed statement of the amounts expended from the fee funds, and fees appropriated by the board of county commissioners for the use of the several departments, will throw more light upon the practical workings of these laws.

The total amount collected and expended from the fee fund for 1894, for the several departments, amounted to $160,263.99.

Appropriations made by the board of county commissioners to pay for maintaining the several departments of county government, paid directly out of the county treasury, amounted to $549,165.80, or a total for maintaining the county government for 1894 of $709,429.79.

The total for maintaining the justices' courts alone in Arapahoe county for 1894 amounted to $69,-641.52.

The amounts collected and turned into the fee fund for the several departments did not begin to pay the expenses of the several departments for that year, and in addition to the $160,265.99 of fees collected and expended for salaries in these departments, there were $30,790.94 expended for maintenance of court house, and $60,436.38 for county officers, and $46,-287.66 for miscellaneous expenses, and $47,948.85 for justices' courts, and $38,641.70 for the county jail, and $10,851.36 for the county court, and $89,154.73 for the district court, and $5,230.20 for the coroner, and $43,127.72 for elections, and $19,740.41 for buildings and improvements, and $27,081.91 for roads and bridges, and $74,525.48 for the support of the poor, all of which said sums were appropriated and expended directly from the general funds of the county.

The fee fund lacked over $200,000 of being enough to pay all of the expenses for the several departments collecting fees. The present laws impose the duty of turning over all fees collected by the respective officers into the county treasury, but have made no provision for bonds for the several officers with reference to this new duty imposed upon them. The system of bookkeeping required by the present fee and salary laws is not such as would commend itself to any good business man, and the monthly reports filed with the county commissioners of the fees collected by the respective officers, in reality give no information upon that important question.

The court officers are charged, under the laws of this state with the duty of turning various sums of money collected by them into the school fund and general fund of the county. The testimony before us disclosed the fact that there was not now, and never has been, any system in vogue by which this matter is checked up, to see whether or not the funds belonging in the county treasury are in fact paid into the treasury. No accountant has ever examined the books of the various courts in Arapahoe county to ascertain whether or not all funds belonging in the county treasury are duly deposited, and no competent accountant has ever made an examination of the accounts of the county treasurer, in a thorough and systematic manner, to ascertain whether or not the funds belonging to the county have been cared for in accordance with the law and legally expended, or to ascertain just what funds are owing the county. Under the present laws of the state, a committee from the grand jury is required, at each term of the court, to examine the books of the treasurer. This has always been performed in a perfunctory manner, and has not extended beyond an examination of the face of the books, and has never been into the accounts themselves, to ascertain their correctness. In a county the size of Arapahoe, and with all its vast dealings with state, county and city officers, as well

as with individual taxpayers, competent expert accountants should examine the books and accounts of the county treasurer annually, to ascertain the exact condition of such accounts. The laws of the state should require this. This duty is all the more necessary since the fee and salary acts went into effect, for these acts require new and important accounts to be kept by the treasurer, and no method is provided by law for their being checked. The salaries in all departments of the county government, the evidence before us disclosed, are much higher than are paid for similar services in private employment, and much higher than the salaries paid for the same services four and five years ago, when times were much more prosperous than they are now. The object of the fee and salary laws was to reduce the expenses of government, and to make each department self-sustaining, but as we have shown in this report, all of the fees in the respective departments are consumed in the payment of salaries, and nothing is left for the other expenses of the department.

The system of auditing the bills of persons who have claims against the county is most loose and most inefficient. The principal record of such claims is the voucher, with its endorsement on the back, of the amount allowed thereon. The bills that were allowed and paid the sheriff for the year 1894, examined by this committee, in its work of ascertaining the practical working of the fee and salary act, showed many outrages and frauds and crimes committed against the county. Those bills were sworn to before a notary public, who was acting as chief clerk for the sheriff, and the testimony of two witnesses showed that they had simply signed their bills and had never taken the oath required by law. The notary's certificate, however, recited the fact that such bills had been duly sworn to before him as a notary public. In any event, the county commissioners should require that the bills of this officer, and all other officers, be sworn to before some other officer than one

employed by the official presenting the bills, and some degree of sanctity should be attached to the oaths required by law to be affixed to bills before they can be allowed and paid by the county. John Murray, a deputy sheriff, who had presented bills, testified under oath before this committee, that he had never sworn to his bills before any person, but had simply signed them and filed them with the clerk, Robert Davidson, in the sheriff's office. Mr. Murray's bills showed that Mr. Davidson had attached a certificate and his notarial seal, reciting the facts that Mr. Murray had sworn to said bills in his presence. This is an offense against the laws of the state, if Mr. Murray's testimony is true, and should be called to the attention of the district attorney of Arapahoe county.

We examined most carefully the bills of the sheriff for transporting prisoners to the penitentiary at Canon City and to the reformatory at Buena Vista for the year 1894. An examination of those bills, and the oral testimony submitted to this committee shows that in those transportations alone the deputy sheriffs swearing to the bills were guilty of perjury, and for receiving the amounts of money recited in the bills from the county, upon the representations set forth in the bills, are guilty of obtaining money from Arapahoe county under false pretenses. The bills for 1894 charge for eighty-six separate and distinct trips to Canon City, whereas the prison records and other testimony before the committee show, as a matter of fact, that forty-eight trips were made. The bills charged for twenty-nine separate and distinct trips to Buena Vista, whereas the prison records and other testimony before this committee show that only fifteen trips were made. The fee law allows the sheriff for transportating prisoners, besides actual expenses necessarily incurred, a fee at the rate of ten cents per mile. This fee is allowed only for each trip, and no fee is allowed for the prisoner or the guard attending the officer in charge of the prisoner, and that

where more than one prisoner is taken at one time, still but the one fee of ten cents per mile is allowed. The court of appeals, in last June, construed this section of the fee act to mean that the sheriff should receive a fee of ten cents per mile for taking prisoners to the penitentiary or reformatory, and no fee returning, but the county should pay his actual traveling expenses, which should not exceed a mileage at the rate of five cents per mile. In each bill collected by the sheriff for 1894, he charged and collected a fee of $32.50 for each trip to Canon City, and $48.35 for each trip to Buena Vista, besides an expense bill amounting to $25.50 for each trip to each of said places. Under the decision of the court of appeals, he would have been entitled to a fee of $16.10 for each trip to Canon City, and a fee of $24 for each trip to Buena Vista, besides his actual and necessary expenses. There were thirty-eight trips to Canon City, and fourteen trips to Buena Vista that were never taken, and of course the money received for those trips was a clear steal from the county treasury. According to the bills, $58 for each of the thirty-eight trips to Canon City, or a total of $2,204 was charged and paid for trips to Canon City that were never taken. For each trip to Buena Vista there was charged $73.85, and for the fourteen trips collected for and never taken the total would be $1,033.90, or a total to both places of $3,237.90 collected from the county treasury for phantom trips, which were never taken by either the sheriff or his deputies. The deputies who swore to those bills were William Lyon, William Crocker and Thomas Clarke. The bills and other testimony before the committee showed that these charges were most carefully and skillfully concealed, by distributing them amongst several months' bills, and where two or three and four prisoners were transported at one time, they were invariably charged for on different dates, and the bills represented that they were taken on separate and distinct trips, and they were paid for as having been taken on separate and distinct trips.

The sheriff collected in fees for transporting prisoners to Canon City and Buena Vista for 1894, $4,111.50, and in expenses $2,932.50, or a total of $7,044.

Deducting the $3,237.90 received for phantom trips would leave a balance of $3,806.10.

Applying the decision of the court of appeals to the trips which were actually taken, he would be entitled to $16.10 fee for mileage, and 30 cents additional for serving the mittimus, on each prisoner for each trip, or for the forty-eight trips actually taken to Canon City $787.20, and to Buena Vista, for the fourteen trips actually taken, he would be entitled to $340.20 in fees, or a total of $1,127.40 in fees. And allowing his expense bills, as he has rendered them, at $25.50 for each trip, it would make $1,581 for expenses, or a total of $2,708 for fees and expenses for trips actually taken to Canon City and Buena Vista for 1894, or an actual overcharge on the trips actually taken of $1,098.10, or a total overcharge for phantom and real trips of $4,336.

The testimony showed that the only real expense for transporting prisoners was the railroad ticket for the prisoner, which was $6.50, and $3.50 to pay for meals or hotel bills for the deputy, or not to exceed $10 in actual expenses for any one trip. The sheriff's deputies always traveled on passes. And they put in charges for team hire at each end of the route much above the actual cost of the same, and for money expended for meals for the prisoner, which were mythical meals. Under the law, as construed by the supreme court of the state, the sheriff would be entitled for money expended for actual expenses in this work only $10 per trip, or a total of $620 for the year 1894, instead of $2,932.50, the amount actually collected by him. In other words, the sheriff received from the county during the year 1894 $2,932.50 on account of expenditures of money, out of pocket, which in reality

amounted to only $620; or he collected for money expended which he had never expended, $2,312.50, to which he had no sort of claim whatever. The total over charges on account of these several matters for the year 1894, if the law of the state and the decisions of the upper courts were strictly complied with, would amount to $6,648.50. These same bills for transporting prisoners, upon the face of them show that a fee of $48.35 was collected three times, and expense of $25.50 each trip, were collected three times also, for taking William Childs to the state reformatory at Buena Vista. They also show that fees of $32.55, and expenses of $25.50, were collected twice for conveying John Stokes to the penitentiary at Canon City. They show that fees of $32.50 and expense of $25.50 were collected twice for conveying John Smith to Canon City. They also show that fees and mileage were collected for transporting John M. Quigley from Denver to Canon City, at $32.50, and also from Denver to Buena Vista, $48.35, and also expense of $25.50 on each trip. The penitentiary record shows that Quigley was received only once in the year, and there is no record of such a man at Buena Vista. The bills showed some other peculiarities. There are ten charges of $32.55 and sixty-eight at $32.50 for identically the same services. Besides these matters, while investigating the workings of the fee and salary act in the sheriff's office, the testimony developed that where custodians were appointed in taking charge of stocks of goods and other chattels, under writs of attachment, or writs of execution, $2 per day for each custodian was paid to the sheriff, and this fee was not paid into the fee fund, or accounted for by the sheriff in any way, or applied in payment of his salary. It also developed that none of the fees for sales of real estate by the sheriff, acting as trustee, or as successor in trust on account of his being the sheriff of the county, were accounted for in any way. It also developed that from ten to fifteen cents per day per prisoner was made as profit, during the year 1894,

for feeding prisoners in the county jail, and although provision is made for this service in the fee act, and is allowed as a fee, no such profit was accounted for or turned into the fee fund of the sheriff, or applied in payment of his salary.

The salary law of the state provides as follows: "The sheriffs in the several counties in this state shall receive as their only compensation for their services rendered an annual salary, to be paid quarterly, out of the fees, commissions, and emoluments of their respective offices, and not otherwise, to-wit: In counties of the first class, the sum of $5,000." This law is sufficiently explicit, your committee believes, upon the question as to what compensation the sheriff is to receive. Under the provisions of this law he is not entitled to any other fee, emolument, or compensation of any kind or character, other than his salary, and all such fees, emoluments or compensation taken or appropriated by him, which are received on account of his official position, are illegal, and are an offense against the law of the state.

The sheriff of Arapahoe county receives a salary of $5,000 per year. His testimony showed that his duties were supervisory, and that he did not earn himself any of the fees, which under the law go into the fee fund, out of which salaries are paid. To use his own expression, "the sheriff, the under-sheriff, and the sheriff's clerks are 'non-producers,'" and fifty per cent. of all the fees earned by the regular deputies in the district and county courts, and twenty-five per cent. of all the fees earned by the deputies in the justice courts, is set aside for the payment of the salaries of these non-producing officials. So that the deputies in the district court, in order to earn and receive the $125 per month, to which they are entitled under the law, must in reality earn $250 a month before they can receive the full amount of their own salaries. This system is open to severe condemnation and holds out a temptation for the deputies to en-

gage in just such abuses as have taken place during the last year in this department of the county government.

The object of the fee and salary acts was to make each officer earn his salary before he should receive any. The testimony before your committee in the investigation of this matter demonstrates most clearly that the heads of the respective departments of the county government are more ornamental than useful, and that such positions are not looked upon as requiring any active service in the performance of the real duties of the office, but are treated more in the nature of sinecures for the beneficiaries who may happen to obtain such positions. It is doubtful whether the fee and salary acts would bear the construction that deputies and clerks must earn, not only their own salaries, but the salaries also of the chiefs of the departments. If the laws do bear that construction, they should be amended so as to explicitly provide that the heads of departments shall actively engage in the performance of the public duties belonging to their departments, and for the performance of which they were placed in such positions.

From the examination which we have made with reference to the workings of the present fee and salary acts, we are fully of the opinion that said acts lead into more public extravagance, wastefulness and fraud than did the old fee act, which they repealed. We are of the opinion that it would be better for certain fixed salaries to be paid to all officers and their deputies, and that no fee should be collected of any kind or character by any officer; but where fees are provided by law to be paid for any purpose whatever, that they should be paid directly into the treasury of the county.

We recommend that the several matters of a criminal nature recited in this part of the report, be called to the attention of the district attorney of Arapahoe county for his action in the premises. In

examining into these several matters, your committee also discovered from the testimony presented to it, that it was the custom at the county jail to charge two days' board for prisoners that were taken in too late for the last meal of the day, and discharged either directly before or directly after the first meal of the next day. It also developed that prisoners in the county jail, upon payment of a stipulated fee to the guards, were permitted to go any place about the city of Denver they might desire, in custody of the guard; and one witness testified that they had the privilege of visiting restaurants and saloons and other places without limitation, provided the stipulated fee was paid. The testimony also developed that prisoners serving sentences in the county jail were often discharged from it from two to ten days before the expiration of the time of their sentence, the matter being one of discretion exercised by the jailer without any authority of law therefor. The testimony in one matter showed that a prisoner sentenced to ninety days was seen on the public streets of the city, a free man, thirty days after the date of the sentence. Upon these last questions, no additional legislation seems to be needed, but the attention of the proper authorities should be called to such abuses.

We have not yet completed the examination of several other departments of the county, with reference to the fee and salary acts in such departments, but intend doing so.

We have thus fully recited the several matters investigated by us, that the Senate may be fully advised upon the abuses which attend the workings of these laws at the present time.

In this connection we desire also to briefly report the result of the investigation of the committee into the workings of the city charter of the city of Denver. Under the present city charter there are a great many separate and distinct departments, with high

salaried officers at their heads, and the general salary roll for 1894 for the city was $109,178.76, as against $80,000 for the same purpose for the year 1892, or an increase in round numbers of $30,000 in the payment of salaries alone. According to the testimony that was chiefly attributable to the great number of employes required under the present charter over the charter of 1892, and to the increase in the salaries provided for the heads of the departments in the present charter, over the salaries allowed by the former charter. The testimony developed that there has been during 1894 considerable conflict of authority, between the general city departments, and the fire and police departments, which were under a different jurisdiction and a different control. The expenditures in the city of Denver for maintaining the city government for the year 1894 were $865,623.16, and this was exclusive of all expenditures for public improvements and the maintenance of parks, sewers, etc. The total cost of maintaining the governments of the city of Denver and Arapahoe county for the year 1894 amounted in round numbers to $1,600,000, exclusive of the cost for all public improvements and maintenance of parks, sewers, etc. We are decidedly of the opinion that the city charter should be amended to the extent of reducing the salaries of officers to correspond with reductions in the salaries paid in private affairs, which have taken place during the past two years. There was some evidence adduced before the committee to show that blackmail had been attempted to be levied upon some of the criminal classes, but no direct or positive testimony was adduced of any official having accepted a bribe for the performance or non-performance of his official duty.

We have not completed our investigation in these several matters connected with the city, and desire to

make a fuller report on such matters at some future time.

Respectfully submitted,

J. G. JOHNSON, Chairman.
B. CLARK WHEELER,
CASIMIRO BARELA.

ASSESSMENT AND TAXATION.

To the Honorable Senate of the State of Colorado:

Your committee appointed to investigate certain matters, under the resolution of this honorable body, beg leave to report with reference to the practical workings of the assessment and taxation laws as follows, to-wit:

In investigating the workings of said laws, as a matter of convenience, we investigated thoroughly the system in vogue in Arapahoe county. We found that some of the taxation laws were somewhat indefinite, and the execution of those which are perfectly plain showed great partiality in favor of large property owners and corporations, and against the owners of homes and holders of small amounts of property.

The laws at the present time vest too much power in the county assessors, and this power is easily abused. The revisory board in county assessments is the board of county commissioners, which is required to sit once a year as a board of equalization. The testimony before this committee discloses the fact that the duties of the board were largely perfunctory, as the valuations of the assessor were accepted as the correct valuations in nearly all cases upon all classes of property.

For the year 1894, in Arapahoe county, some changes were made by the board of county commissioners, but they were generally in the reduction of the already low assessment placed upon the property of the large corporations of the city of Denver, and an increase upon the smaller holdings of citizens.

The law providing for the assessment of personal property is not at all effective, either in the

making of the assessment or in the collection of the taxes for such assessments, when made. There is no efficient system of fixing the valuation upon stocks of goods and other personal property, and the treasurer seems powerless to compel the payment of taxes upon personal property where the owners of such personal property do not pay taxes upon real estate. In Arapahoe county alone the testimony showed that there was something like $70,000 due in uncollected taxes upon personal property, and no very great effort was being made by any person to collect such taxes.

To ascertain just what discriminations were made in the way of assessing property, your committee summoned the county assessor of Arapahoe county before it, with an itemized statement of the real and personal valuation upon the property of the corporations operating under franchises received from the city of Denver, and the business of which is carried on in the city of Denver, and over whose property the county assessor has exclusive control in the way of making assessments.

In the matter of assessing railways, telegraph and telephone properties, the state board of equalization has entire control in fixing the valuations upon such property.

The testimony showed that Union Water Company is assessed at a valuation of $350,295 on personal property, and $184,005 on real estate, or a total of $534,300; the Denver Tramway Company is assessed on a valuation of $205,710 for personal property, and $148,385 on real property, or a total of $354,095; the Denver City Cable Company is assessed on a valuation of $250,600 on personal property, and $116,780 on real estate; the Consolidated Electric Company is assessed on a valuation of $165,910 on real estate, and $100,000 personal property, or a total of $265,910; the Consolidated Gas Company is assessed on a valuation of $104,610 on real estate, and

$83,500 on personal property, or a total of $188,110. These several corporations are bonded and stocked as follows, to-wit: The Union Water Company is stocked for $7,500,000 and bonded for $8,000,000; the Denver Consolidated Tramway Company is stocked for $3,000,000 and bonded for $4,000,000; the Denver Cable Railway Company is stocked for $3,000,000 and bonded for $4,500,000; the Denver Consolidated Electric Company is stocked for $1,000,000 and bonded for $1,000,000; the Consolidated Gas Company is stocked for $1,500,000 and bonded for $974,526.

The testimony showed that no taxes were paid upon any of the stock or bonds of such corporations, and that no attempt had been made to assess the franchises in such corporations; but all the personal property attempted to be assessed was the estimated value of the actual material in use in the plants. The law of the state provides as follows: "All property, both real and personal, within the state, not expressly exempt by law, shall be subject to taxation." There is no place in the law where an exemption of the franchises of corporations, such as these above, are enumerated. The law further provides as follows: "All taxable property shall be listed and valued each year, and shall be assessed at its full cash value." The law defines, "full cash value" as follows: "The term full cash value, means the amount at which the property would be appraised if taken in payment of a just debt from a solvent debtor."

Eastern investors are very conservative judges as to the cash value of corporate property, when they loan money and accept as security bonds upon such property, and the above recitals of the bonded indebtedness of the several corporations and the valuations for the purposes of assessments, made by the county assessor, furnish striking object lessons as to the practical workings of the assessment laws of the state. Each and all of these municipal corporations are sustained by the patronage of the people, and in-

terest is paid upon the bonds, and dividends upon the stock directly by the people themselves, for the franchises which constitute the chief worth of such corporations in negotiating loans, that pay nothing to the municipality, that cost it many thousands of dollars per year for the repairs of streets, bridges and other necessary expenses, caused by damage done by these same corporations. Two of such corporations, for the year 1894, drew from the treasury of the city of Denver alone, in round numbers, $150,000. They do business in all the cities and towns surrounding Denver, and of course have drawn many thousands of dollars more from the treasuries of these other cities and towns. All this is in addition to the tributes directly paid by the people individually for the service of such companies, which tribute reaches almost a million dollars annually to each corporation, yet the returns made by such corporations to the county treasury for all purposes of city, county, state, school, personal and all other taxes for the year 1894, were from $6,000 to $15,000, according to the valuation placed upon their respective properties; when what should be paid in taxes each year by each of these corporations, were they assessed in accordance with law, and as all other property is assessed, is from $100,000 to $150,000 each per year, and to that extent relieving the owners of other property from taxation. This would net the county treasury, each year, $500,000 more than it is now receiving from these corporations in the way of taxes, and would relieve the people of that much of the burden which they are now carrying, to the benefit of these creatures of their benevolence. Taxes, of course, would have to be paid upon the real estate of these corporations, whether owned by them or private persons, and the laws relating to the assessment of real estate seems to be easily carried into effect, so that all discriminations with reference to the value of personal property of such companies is all the more glaring. Under similar statutes in

other states, there seems to be no difficulty in carrying the provisions of the assessment laws into effect, and your committee is of the opinion that what is more necessary in the laws of Colorado than anything else is a stringent law prescribing strict penalties to be imposed upon public officials for failing to perform their public duties. Under the present condition of the laws of the state, public officials are accountable to no one for the proper and faithful performance of their duties, and the law imposes no penalty which can be enforced for any failure to perform such duties. The present assessment laws of the state are sufficient to cure all of the abuses above referred to. A general revision of such laws curing some of the defects for the collection of taxes upon personal property ought to be made at the earliest practicable moment.

Your committee is also of the opinion that some legislation should be enacted to deprive the county assessors of the wide discretionary powers that at present are exercised by them under the laws, with reference to the fixing of the valuation of property.

Respectfully submitted,

J. G. JOHNSON, Chairman.

B. CLARK WHEELER,

CASIMIRO BARELA.

Denver, Colorado, March 27, 1895.