

COUNTY GOVERNMENT IN COLORADO

By HENRY C. PEPPER



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Preface

The purpose of the writer in making this study has been to evaluate the organization and administration of county government in Colorado. Colorado, as is the case in most western states, has no provision for township organization; thus every county officer has jurisdiction over the entire county, with the result that many of the problems which present themselves to the student of local government in other states do not exist. Sixteen counties were studied first hand in the course of this investigation. Questionnaires were sent to the remaining counties but the response was not such that all the information could be used. Wherever possible use was made of questionnaire information from particular officers and the fact indicated. Information for all the counties has been used where it was thought desirable and records were available. The best practices in the counties studied have been suggested and recommendations have been freely offered. As a result of this study, it would appear that both economy and improved administration would result if some measure of home rule were extended to the counties in place of the present constitutional requirement of a uniform system of government in all counties. More adherence to the constitutional provision that counties be classified according to population for purposes of fixing fees and salaries would also be desirable. From the standpoint of county administration it would be desirable that the board of county commissioners exercise more control over other county officers, particularly control over auditing, budgeting, etc. The most progressive counties are giving considerable attention to this aspect of county government at the present time.

The writer wishes to express his appreciation to President Charles A. Lory and to Professor Llewellyn A. Moorhouse, of the Colorado Agricultural College, for making this study possible and to G. S. Klemmedson for much helpful advice and criticism in the preparation of the manuscript. Also, to Doctor Benjamin F. Shambaugh, Doctor Kirk H. Porter, under whose direction the study was made, and Doctor Ivan L. Pollock, of the State University of Iowa, for a background of this study and helpful advice in the course of its preparation. My thanks are due the Department of Political Science of the State University of Iowa and the Department of Economics and Sociology of the Colorado Agricultural College for their cooperation which enables me to present this study as my doctoral thesis. I want also to express my appreciation to the many county and state officials in Colorado, especially county clerks and the members of the State Tax Commission who so kindly furnished information requested and gave their time unstintingly.

HENRY C. PEPPER

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Changes in editing the original manuscript have been made necessary in order to bring the material up-to-date, and in order to include material enacted into law since the completion of the manuscript by Dr. H. C. Pepper.

G. S. KLEMMEDSON,

September 1, 1934

Associate Economist
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Summary and Conclusions

The principal object of this study has been to analyze and explain the laws relating to county government in Colorado, the functions conferred upon county officers, and the administration of county government. Methods of conducting county business have been studied and suggestions for improvement offered. In doing this the best practices of the counties studied have been taken into consideration as well as those of other states.

The careful reader has found that there are many things in the organization and administration of county government which have been found commendable. The critic will find much to deplore. Fortunately, the organization of county government in Colorado has not suffered many of the evils existing in older states. All county officials serve the entire county. Townships as politically organized units do not exist. The average area of Colorado counties is 1,800 square miles; with one or two exceptions the smallest rural counties are as large as the average-sized county in the United States, which is about 600 square miles. Thus many of the reforms advocated for county government in other states do not apply to Colorado.

Various phases of county administration in Colorado have been investigated and recommendations for improving undesirable features have been presented. Only the more important conclusions and recommendations have been summarized here. Comment is also made upon certain reform proposals not discussed in the study.

Classification of Counties.—It is suggested that the general assembly reclassify counties for salaries and fees in conformity with the constitutional injunction that counties shall be classified according to population and fix the schedule so that salaries and fees will be uniform in counties of the same population class, also that salaries of officers within the county having similar duties be uniform.

Short Ballot.—County administration should be centralized thru the introduction of the short ballot. It is pointed out that the various administrative officers under the present system have no part in the formulation of general policies. Therefore, democracy will not suffer thru their appointment by the board, which is the policy making body of the county business and which should appoint the officials for whose acts it must answer. Only by giving the board the power of appointing all administrative officials can it be placed in a position to exercise full supervisory control over them.

Administrative Organization.—The present board of three county commissioners is entirely satisfactory. It is small enough to handle county business with dispatch, yet sufficiently representative. Selection of members from commissioner districts by the county at large gives representation to all parts of the county. Election for 4 years with overlapping terms is commendable. It assures at least one experienced member on the board, yet permits a change in the majority of the board at least every 4 years. It has been suggested that so long as county administrative officials are elected the Constitution should be amended to extend their term of office to 4 years. The scale of salaries of county commissioners is about right for the duties they perform at present, but it is recommended that commissioners in ninth-class counties be paid a fixed salary instead of \$5.00 per diem. In the smaller counties the difficulty is not that salaries are too high but that there are too many officials. Provision for a fiscal manager, appointment of a county road overseer, and a county welfare worker or overseer of the poor, all working under the direction of the county board would relieve the board of most of the detailed administrative duties which require most of their time at present. Good administrative practice would dictate that they confine their duties to the formulation of policies, and leave administration to trained experts in the various fields. If this were done the actual time required of members of the board should be considerably reduced, thus making possible commensurate reduction in salaries. Such a move ordinarily attracts the higher type of business and professional men to the office of county commissioner.

All county offices need to be supplied with modern, time-saving equipment. It has been especially recommended that the larger counties follow the example of those which have installed photostat recording equipment in the clerk's office and of Weld County which has modernized its assessor's and treasurer's office. For administrative purposes the finance officers should work in close cooperation until thru constitutional

change they can be combined into a single county department of finance.

Our study shows that the appointment of a county road overseer with full responsibility for administering county highways, including control of personnel and equipment and approval of claims against the highway fund, has proved more economical and satisfactory than the administration of roads directly by the board. It is recommended that the law be changed to make the appointment of a road overseer for each county, or two or more counties cooperating, compulsory. Also that a closer relationship be established between the county road overseer and the state highway department.

The general assembly should provide for a department of public welfare in each county with a superintendent of public welfare in charge. Meantime, the board of county commissioners should appoint a competent, trained social worker to superintend poor relief and other welfare activities in the counties. The administration of poor relief by the board of commissioners is generally unsatisfactory. It is suggested that a state department of public welfare be created with certain supervisory powers over county welfare and health activities.

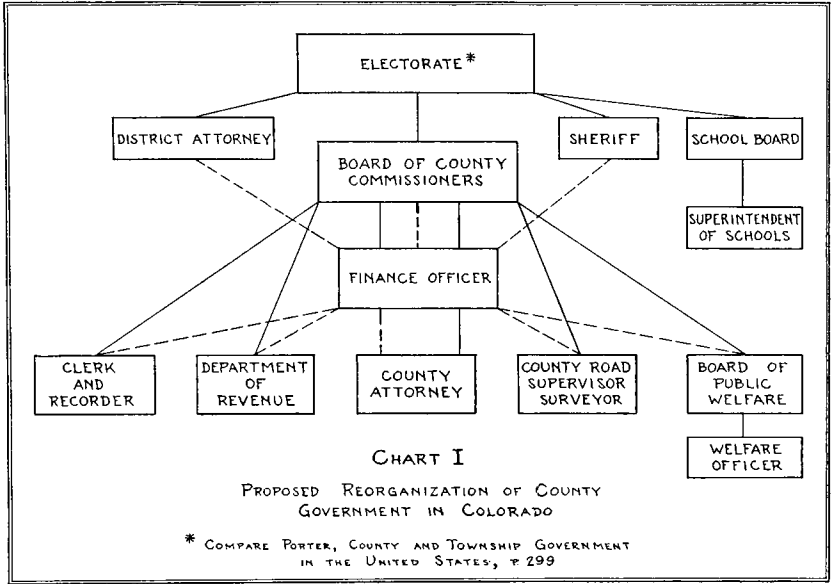
The office of county judge should be abolished and his civil and criminal duties transferred to the justices and district courts. His probate duties should be conferred upon the clerk of the district court subject to approval by the district judge.

The offices of coroner and surveyor should also be abolished. It is pointed out, the duties of the coroner had best be performed by the district attorney, while the duties of the surveyor can be performed, when necessary, by an engineer employed by the board.

Centralized Financial Control.—The board of county commissioners must pass upon all claims and by law has the legal power to control purchasing; some boards do exercise their authority in this respect. In a few counties the county clerk serves as purchasing agent for office supplies; but even then the county lacks centralized financial control. Since the present system provides for centralization of control in the board of county commissioners it is desirable that some one officer serve as custodian of county property, other than highway equipment which would be in charge of the county road supervisor, and keep accurate financial records for the county, audit all claims before they are presented to the board, serve as purchasing and supply agent, prepare a budget, and a financial statement. He also should supervise sinking funds and debts. These functions are now divided between the county board, the county clerk, and the treasurer, but no one officer is responsible and few counties know the exact daily or monthly status of their finances. As soon as the necessary legal changes can be made an auditor or fiscal agent should be made an independent officer, serving directly under the board. This provides a county business manager, which is in effect what the proponents of the county-manager plan of government are seeking. In counties in Virginia and North Carolina having such a fiscal manager "expenditure increases have been halted, tax rates decreased, floating debt funded and debt administration stabilized, county buildings renovated, and new structures erected economically."¹ Chart I shows graphically the proposed reorganization of county government along the lines suggested.

County Manager.—Many advocates of reform find in the county-manager scheme of government a solution of the problem. The scheme is carried over from cities, where it has worked very satisfactorily with the assumption that what works well in one place would serve equally well in another. But a city is a complete unit while a county is not. The county must look to the state for final unification of its policy while "immediate unification of policy is procured thru the county governing

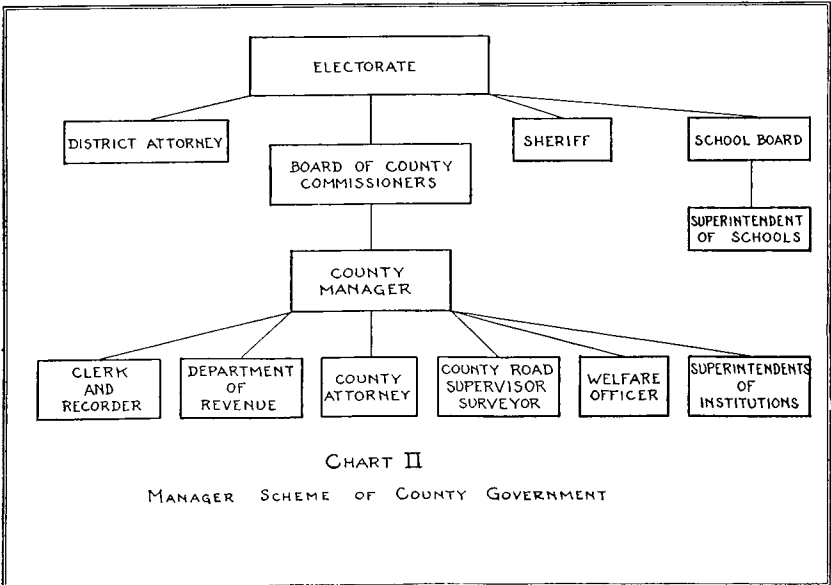
¹Kilpatrick, Wylie, *Managing the Counties*, University of Virginia 1929, p. 12.



body to whom the business manager is accountable.”² The county-manager scheme of county government as theoretically conceived by its proponents is illustrated in Chart II.

The principle of the county-manager plan is undoubtedly correct and in line with the best administrative practices, but it necessitates a

²Kilpatrick, Wylie. Managing the Counties, University of Virginia, p. 12.



drastic constitutional reorganization of existing schemes of county government. The county-manager idea has become popular in both Virginia and North Carolina.

Virginia Adopts the Executive or County-Manager Plan.³—The first Virginia county to take advantage of the optional forms act of the 1932 session of the general assembly providing two alternative forms of government for the counties of the state (to become effective in any county when submitted to the qualified voters thereof in an election held for such purpose and approved by a majority of those voting thereon) was Albemarle, the home of the University of Virginia. This county on May 2, 1933, adopted the county executive form.

Under the county executive form the entire legislative and administrative authority of the county is vested in a county board of supervisors or commissioners of not less than three nor more than seven members to be elected, one from each magisterial district, by the qualified voters of the whole county. This board will determine the policies of the county, enact local legislation, levy taxes, make appropriations and direct and control in a general way the activities of the county.

The board of supervisors is required to appoint a county executive or manager—a full-time officer who may, in the discretion of the board, serve as the head of one or more of the departments of the county government. He is appointed for no definite term and may be removed at the pleasure of the board of supervisors. His chief duty is to act as the administrative head of the county. He is required to carry out the policies determined by the board, to coordinate the affairs of the county and to see that proper administrative procedure is installed and enforced. He is required to prepare the annual budget for the approval of the board of supervisors and to execute the budget as approved by the board. The budget as prepared by the county manager is a complete budget including all estimated revenues and expenditures of the county. For example, the school funds, now actually under the control of the school board and constituting the largest single item of the budget, will be coordinated with the general county budget and thus rendered subject to the effective supervision and control of the board of supervisors. The executive is required to make monthly reports to the board of supervisors in regard to matters of administration and to keep the board fully advised as to the financial status of the county, to examine regularly the books and papers of every officer and department of the government and to report to the board of supervisors the condition in which he finds them. He is required to attend all meetings of the board of supervisors and to recommend such action as he may consider necessary or desirable.

Provision is made for the regrouping and consolidation of all the administrative functions of the county into a small number of departments, such as finance, education, law enforcement, public welfare, public health and records. The board of supervisors is empowered to appoint, upon the recommendation of the county executive, the head of each of these departments and all other administrative officers and employees of the county, except the county clerk, the attorney and the sheriff, who under the law remain elective. All of these appointed officers and employees serve at the pleasure of the board.

A County-Manager Law in Nebraska.⁴—The forty-ninth legislature of Nebraska in 1933, enacted a statute providing for the county manager form of government in that state. The question of adopting the manager plan must be submitted to the electorate if a petition signed by 10 percent of the voters is filed with the county board, or it may be placed on the ballot by a resolution of the board. If adopted by 51 percent of those voting for governor at the last election the plan shall go into

³Spicer, George W. Albemarle County, Virginia, Adopts the Executive Plan. National Municipal Review. July, 1933. p. 331.

⁴Lancaster, Lane W., University of Nebraska, National Municipal Review. July, 1933. p. 351.

effect the following January. The act provides that the policy-determining body of the county shall consist of a board of five members, paid \$5.00 for each day's attendance at sessions. The board shall appoint a county manager, who need not be a resident of the county. It shall fix his compensation and is forbidden on penalty of forfeiture from taking part in the appointment or removal of any officer or employee in the administrative service. As the administrative head the county manager shall supervise the collection and disposal of all revenue, secure proper accounting of all funds, look after the physical property of the county, exercise general supervision over all county institutions and agencies, and, with the approval of the county board, coordinate various activities and unify management. There shall be at least three departments: Finance, public works and public welfare.

The directors of these shall be appointed by the county manager, who may himself head any one of them. The director of finance is to act as purchasing agent, and no equipment or supplies shall be delivered to any office or department except upon requisition.

Any county which shall have operated 4 years under the plan may abandon it under the same conditions required for its adoption.

The California Plan.—A county-manager plan adopted by San Mateo County, California, in 1932, provides for the election at large of a board of five supervisors from five districts. It also leaves as elective officers the assessor, clerk, controller, district attorney, sheriff and superintendent of schools. A county executive is appointed by the board which confirms all his appointments, fixes all salaries, establishes positions, may consolidate offices under their control, coordinate the work of employees across department lines, enact an administrative code, appoint advisory commissions for any functions, and assume the power to operate existing special or municipal functions upon agreement, under contract, or by consolidation.

The county executive is given power to appoint, subject to approval of the board, all appointive officers. The controller and elective officer has powers over budget and accounting procedure. The road system of the county is to be administered as a unit by a county engineer.⁵ Thus the San Mateo plan provides for an officer to supervise all activities directly under the administration of the board, but does not create a true county manager, since even budgeting and accounting procedure is under control of the controller, an elective officer. The county still has as many elective administrative officers as Colorado counties at present.

Reorganization of Counties a Slow Process.—Drastic reorganization of our traditional plan of county government must come slowly and no plan yet adopted is the ideal of its sponsors. It is rather obvious, however, that the present plan of county government in Colorado is far behind the revised plans of those states which are the leaders in the reform movement. The so-called county managers in some states exercise little more authority than the chairman of the county board in Colorado, or even a county highway supervisor. Even "where the head of the governing body is named as an executive, experience in the manager counties shows the advisability and practicability of creating a second executive, a business manager, who assumes the responsibility of financial intricacies."⁶ The appointment of such a business manager would seem to meet the needs of county government in Colorado until more thoro constitutional changes are effected.

Home Rule for Counties.—The present antiquated system which requires the same set-up of county government in all counties should be replaced by one permitting some degree of home rule. This may be achieved by (1) providing for legislative classification of counties according to population and providing a form of government suitable to

⁵Cottrell, Edwin A., San Mateo County Adopts Manager Plan. National Municipal Review, Vol. 21, pp. 668-670, Dec. 1932.

⁶Kilpatrick, Wylie, Managing the Counties. University of Virginia. p. 12.

each class, (2) by providing several types of county charters and permitting counties, by vote, to accept the one best suited to its needs, or (3) permitting the counties to frame a charter subject to legislative approval. The second method is preferable and is the plan in effect in California. Because of the peculiar geographical conditions existing in Colorado, home rule appears a possible solution for solving the problem of the small county. Where only three or four officials are necessary, a plan should be provided that will make such a government possible. Any grant of home rule will necessitate changing the present constitutional requirement of uniformity.

County Consolidation Would Result in Economy.—Colorado has many small and sparsely populated counties whose assessed valuations are inadequate to support the structure of the county government and provide the services required of counties. In many instances consolidation of two or more counties would help to solve the problem. In others geographical conditions make consolidation undesirable, if not impossible. A rearrangement of the boundary lines of existing counties along with consolidation would simplify administration in many cases and save \$750,000 a year under present conditions in Colorado. Economy would result from county consolidation, and improved administration could be expected.⁷ Legal provision for cooperation between counties, already practiced in some instances, in such matters as district poor farms, district jails, district health officers and road officials, and simplification of county government will greatly assist the small counties. These measures are much easier to achieve than county consolidation.⁸ At the present time, however, there is considerable sentiment to consolidate at least some of the smaller counties.

County Unit School Administration.—School administration is one of the most important functions for which the county is an area. But schools are administered by district boards and the state, the county superintendent having only nominal supervisory powers. The assessor makes the assessment, the treasurer serves as treasurer of school districts and the county board authorizes district levies. But none of these officers has any administrative control over local school boards. The county, outside towns of 1500 or 2000 population, should be made the unit for school administration under a county board of education. This scheme has many arguments in its favor and has proved successful in states which now use the county rather than small districts as the basic educational unit.⁹

⁷Heckart, Scoville R., and Klemmedson, G. S., *County Consolidation in Colorado*, Bul. 406, Colo. Agri. Exp. Sta., Fort Collins, Colo., Dec. 1933.

⁸Porter, Kirk H., *County Consolidation and Lower Taxes*. Journal of Business, published by College of Commerce, Univ. of Iowa. April, 1932, pp. 7 ff.

⁹Klemmedson, G. S., *Economies in the Operation of Public Schools*. Mimeographed report. Colo. Agri. Exp. Sta., 1932.

I. HISTORY AND CHARACTERISTICS OF COLORADO COUNTIES

History of Counties in Colorado

The general outline of the State of Colorado has remained practically unchanged since it was first organized as a territory but it was not until 1913, 52 years after the first territorial assembly met and 37 years after statehood, that the last of the present 63 counties of Colorado was created. The first territorial legislature met on September 9, 1861, pursuant to an enabling act passed by Congress on February 26, constituting Colorado territory with substantially the same boundaries as those of the state today.¹ Seventeen counties were set up and their county seats designated.² These were Arapahoe, Boulder, Clear Creek, Costilla, Douglas, El Paso, Fremont, Gilpin, Guadaloupe (now Conejos), Huerfano, Jefferson, Lake, Larimer, Park, Pueblo, Summit and Weld. The Arapahoe and Cheyenne Indians were provided with a reservation in the southwestern part of the state which was left unorganized. Several of the newly organized counties were very large.³

Creation of Many New Counties.—Changes have been made in the original 17 counties and new ones have been created until there are now 63.⁴ Las Animas County was formed from Huerfano, and Saguache County from parts of Costilla and Lake Counties in 1866. A movement for statehood led the fifth assembly, which met in 1866, to provide for a census which showed the population of the territory to be 27,901. Seven sparsely populated counties had less than 600 people. Gilpin County, leading other counties by more than 2000, had a population of less than 7000.⁵

Bent and Greenwood Counties were created in 1870, the latter, divided later, lay between Bent and Douglas Counties. In 1874 Elbert County was created from Greenwood County; Grand County from Summit and Hinsdale Counties and La Plata and Rio Grande Counties from Lake, Saguache and Conejos Counties. The last territorial assembly formed San Juan County in 1876 from Lake, Hinsdale and La Plata Counties. The same year Colorado emerged as a state with 26 counties. The following year Custer County was organized from part of Fremont County, and Gunnison County from part of Lake County. In 1881, Dolores County was organized from part of Ouray County.

A general division of the western slope was made in 1883 and the counties of Delta, Eagle, Garfield, Mesa, Montrose, Ouray and San Miguel were created. The gradual settlement of the Eastern Colorado plains resulted in the creation of 11 new counties in 1889: Baca, Cheyenne, Kiowa, Kit Carson, Lincoln, Morgan, Otero, Phillips, Prowers, Sedgwick and Yuma; and two in Western Colorado: Rio Blanco and Montezuma. Since then only eight new counties have been created: Mineral, Teller, Jackson, Crowley, Moffat, Denver, Adams and Alamosa. In 1902, Denver and Adams Counties were created from Arapahoe County, the former being created as a city-county. The sixty-third county was created when Alamosa was formed from parts of Conejos and Costilla Counties in 1913.⁶

¹Colo. Yearbook, 1931, p. 11. For complete history see Smiley's History of the State of Colorado.

²General Laws of Colo. Territory, pp. 52-57, Secs. 2-34; Colo. Yearbook, 1931, p. 12.

³Paxson. Boundaries of Colo. Counties. Colo. Univ. Studies, p. 199.

⁴Ibid. pp. 197-215.

⁵Smiley, History of Colorado, Vol. 1, p. 439.

⁶For a list of Colo. counties and county seats see Colo. Yearbook, 1931, p. 20.

Characteristics of Colorado Counties

The 63 counties of Colorado present a variation in size, population, topography and resources matched by those of no other state. The towering Rockies divide the state near the center; eastward the valleys of the Platte and the Arkansas form the nucleus of a rich agricultural area; westward the mountains spread themselves across half the state to form innumerable valleys and mountain parks separated by towering peaks and connected only by mountain passes often shut off by winter snows.

Area.—Colorado counties, as laid out at present, provide interesting contrasts in area, population, topography and resources. Smallest in area is the city and county of Denver with only 58 square miles; followed by the counties of Gilpin with 132 square miles and Lake with 371 square miles. Largest are Las Animas County with an area of 4,809, Moffat with 4,658 and Weld with 4,022 square miles, respectively. Twenty counties are less than 1,000 square miles in area while eight counties cover more than 3,000 square miles each. The average area is 1,804 square miles compared with an average area thruout the United States of about 975 square miles. This average is much higher than the majority of counties because of the large counties in some of the western states. The average for counties in New Mexico is 3,951 square miles and for Arizona, 8,122 square miles. About two-thirds of the counties in the United States are between 300 and 900 square miles in area; the most usual areas are between 400 and 650 square miles. In Virginia and Georgia the average is about 400 square miles and in Kentucky about 340 square miles. The median for the United States is about 600 square miles.⁷

Population.—As in area, a wide variation also exists in population. Denver has a population of 287,861, according to the census of 1930, more than one-fourth that of the entire state; and the next most populous county, Pueblo, has a population of 66,038; while Hinsdale County has 449 people, Mineral County, 640 and Summit County, 987. Nine counties have a population of more than 30,000. Two-thirds of the counties have a population under 10,000.⁸ The average population of the 62 counties, exclusive of Denver, is 12,066, compared with the median county population of about 20,000 for the United States.

Colorado showed an increase in population of 10.2 percent for the 10-year period 1920-1930 but 26 counties showed decreases ranging from 0.6 percent in Cheyenne County to 58.6 percent in San Miguel County.⁸ There has, therefore, been a considerable shifting of population during the 10-year period.

Density of Population.—Colorado has a population density of 10 to the square mile, ranking thirty-ninth among states of the Union. The density of population outside of Denver County varies from one to every 2 square miles in Hinsdale County and less than one to the square mile in Jackson County to 42.5 per square mile in Boulder County and 27.1 per square mile in Pueblo County.⁹ For the state outside of Denver County the average population is 7.2 to the square mile, compared to 10 for the entire state.

Topography.—Colorado contains the most elevated portions of the Rocky Mountains in the United States and this has been reflected in laying out the counties. The smaller counties are situated in mountain valleys, often snowbound for several months during the year. San Juan nestled in the San Juan Mountains is accessible by two passes which are often closed for months in winter. Jackson County, comprising the North Park area, is likewise accessible only thru passes, which are often closed. Lake, Gilpin, Clear Creek and Summit Counties are similarly situated.

⁷Fairlie and Kneier, *County Government and Administration*, pp. 64-65.

⁸Colo. Yearbook, 1931, p. 18.

⁹ibid, p. 19.

Most of these small counties were created as a result of the influx of population during mining booms. Recently there has been an increase in population in the mining centers due to the higher price of gold and other metals.

Elevation.—In elevation, Colorado counties also represent interesting aspects. The state has the highest mean altitude of any in the Union. Only about one-fourth of the state has an altitude of less than 5,000 feet. Twelve county seats have an elevation of 8,000 feet or more above sea level. Leadville, county seat of Lake County, nestles in the mountains at an elevation of 10,190 feet; Fairplay, county seat of Park County, has an elevation of 9,964 feet, while Silverton, county seat of San Juan County, rests 9,302 feet above sea level.¹⁰

Lack of Unity.—It is little wonder that in some instances county boundaries have been laid out with little reference to lines of communication, often resulting in anomalous situations. For example, it is necessary during most of the year for the county commissioner of the western district of Dolores County to go to Rico, the county seat, by way of Cortez, county seat of Montezuma County, a distance of approximately 140 miles because an intervening mountain range prevents a direct trip. The commissioner in the central district of the same county must likewise travel down into Montezuma County and back, an eventual distance of 90 miles to get to his own county seat. A similar situation exists in Montrose County where it is necessary for the commissioner of the western district, during 9 months of the year, to travel thru portions of San Miguel and Ouray Counties, an ultimate distance of over 100 miles, to reach Montrose, the county seat. The commissioner from the east end of the county can often reach his county seat only by way of Delta, county seat of Delta County, a distance of approximately 55 miles.

Resources.—Colorado counties differ widely in resources. The eastern two-fifths of the state comprises part of the Great Plains, a level or broken prairie, crossed by the valleys of the Arkansas and the South Platte Rivers; an area devoted almost exclusively to irrigated or dry farming, supplemented by fruit growing in the tier of counties next to the mountains. In the mountainous area of Central Colorado are found the mineral bearing districts, mining constituting almost the sole occupation aside from livestock grazing. San Juan County in 1929 showed no agricultural land and only 200 acres of grazing land: The entire county is comprised of mining properties. The western part of the state is made up of high mesas and fertile valleys. The principal agricultural areas of this region are the San Luis and San Juan Valleys in the south central and the southwestern parts of the state and the mountain park districts, chief of which are North Park in Jackson County, Middle Park in Grand County, and South Park in Park County.¹¹

Public Lands.—Resources of Colorado counties are limited, furthermore, because of the large area of unappropriated lands in the state. In this respect Colorado ranks ninth in the United States. Of a state area of 66,341,120 acres, 24,434,870 acres, or 36.83 percent represents national forests, state land unappropriated and non-patented government land. Twenty-six counties have more than half their area in non-patented lands. Extreme examples are Hinsdale County which shows 638,580 acres of non-patented lands in a total area of 621,440 acres or 102.76 percent (this figure for Hinsdale County results from inaccuracy in surveys and other causes); Mineral County with 528,234 acres out of 554,240 or 95.49 percent in non-patented lands out of 289,920 acres or 83.15 percent.¹²

¹⁰Gazeteer of cities and towns of Colo. Colo. Yearbook, 1931.

¹¹For the commercial and economic development of Colo., see "A Survey of Economic Data of the Eastern Rocky Mountain Region, by the Rocky Mountain University Research Council, 1933. Apply to Elmore Peterson. Univ. of Colo., Boulder, Colo.

¹²Colo. Yearbook, 1931, opp. pp. 12 and 14.

Valuation.—The assessed valuation per capita in Colorado for 1930 was \$1538, the per capita valuation varying from \$842 in Montezuma County to \$4,700 in Summit County. Assessed valuations for 1931 show Hinsdale County with a valuation of \$978,342 compared with Weld County's \$90,347,020 and Pueblo County's \$76,873,402 valuation. Thirteen counties in the southwestern part of the state have a total assessed valuation less than Pueblo County.¹³ The average assessed valuation per capita for the 63 counties of the state was \$47.95.

Since 1930 assessed valuations in Colorado have been reduced 30 per cent or from \$1,586,462,903 to \$1,099,174,061 in 1933. The assessed value of Hinsdale County was \$755,766, Weld County, \$65,646,530, and Pueblo County, \$58,119,167 in 1933. Fifty-one counties had assessed valuations of less than 20 million dollars. Nineteen of these counties had valuations of less than 5 million dollars in 1933.

¹³Annual Report, Colo. Tax Commission, 1931, 1933.

II. LEGAL STATUS OF THE COUNTY IN COLORADO

Powers of the Counties.—Counties are creatures of the state. The state, however, expresses its will thru both the constitution and the statute laws with certain provisions concerning the counties: These, taken together, determine their legal status. Counties "are purely auxiliaries of the state" and "to the general statutes of the state they owe their creation, and the statutes confer upon them all the powers they possess, prescribe the duties they owe, and impose the liabilities to which they are subject."¹

All residual power rests with the state. The counties possess only enumerated and delegated powers. The general assembly, subject only to the limitations of the constitution, "is able to create counties, to confer new powers and duties upon them, to deprive them of long established privileges and functions, and to determine in the minutest detail the internal structure of county government, the institutions and offices that are to exist, and the lines of responsibility and control that are to prevail."²

Legal Designation of the County in Colorado.—The powers of the county in Colorado are determined by its character in the eyes of the law. As regards its legal status the Colorado county is not essentially different from that in other states.³

The supreme court, in an opinion rendered by Justice Thompson, has declared that a county is a quasi corporation which is defined as "an organization or body invested with certain limited or corporate powers. It does not possess the general powers of a corporation, but, within its own subordinate and inferior sphere, it is a corporation with duties which may be enforced and rights which may be maintained in like manner and with the same effect as in the case of corporations with general powers."⁴

Counties are specifically given power "to sue and be sued; to purchase and hold real and personal estate for the use of the county, and lands sold for taxes, as provided by law; to sell and convey any real or personal estate owned by the county, and make such order respecting the same as may be deemed conducive to the interests of the inhabitants; to make all contracts, and do all other acts in relation to the property and concerns necessary to the exercise of its corporate or administrative powers; and to exercise such other and further powers as may be especially conferred by law."⁵ Counties are required to "provide a suitable court house, and a sufficient jail, and other necessary county buildings, and keep them in repair."⁶ All property acquired under the foregoing provisions shall be deemed the property of the county.⁷

The corporate powers of the county are exercised by the board of county commissioners.⁸ Suits against the county are filed against the

¹Board of Commissioners v Wheeler, 89 Pacific, Colo. 50.

²Shambaugh, County Government and Administration in Iowa, Applied History Vol. 4, The State Historical Soc. of Iowa, p. 12, 1925.

³For a full discussion of the legal status of the county see, Fairlie and Kneier, County Government and Administration. Ch. IV, The Century Co., 1930; Bradshaw, The Missouri County Court, Univ. of Missouri Studies, Vol. 6, 1931, pp. 7-10; Porter, Kirk H., County and Township Government in the United States, 1922, pp. 88-90.

⁴38 Pacific, Colo. 839.

⁵Compiled Laws of Colo., 1921, Sec. 8658.

⁶Compiled Laws of Colo., 1921, Sec. 8661.

⁷Compiled Laws of Colo., 1921, Sec. 8659.

⁸Compiled Laws of Colo., 1921, Sec. 8660.

commissioners who may also sue for the benefit of the county.⁹ Provision is made for a special tax levy to pay judgments against a county if funds held by the county treasurer are insufficient to pay it.¹⁰

The power to sue and be sued is not, however, inherent in the county. Actions may be maintained either by or against counties only by virtue of statutory or constitutional authority.¹¹ But "A county is not sovereign in the sense in which the state is sovereign, exempt from suit except by its own consent."¹²

Under the right to sue, one county may bring suit against another to prevent another county from sending paupers to it.¹³ Suit may also be brought by a county to collect claims due it from another county for holding criminals or caring for a pauper.¹⁴

Individuals may appeal to the district court on disallowance of claims against a county, the action to be dealt with by the court in summary manner.¹⁵ Individuals may also sue to recover for property taken for public use under right of eminent domain but what constitutes "public use" will be decided in each case.

Damages to private property thru construction of public improvements may be collected, whether the improvement is made thru condemnation proceedings or not. The county is not liable for negligent acts of its officials in the absence of an express statute making it liable, nor is it responsible for failure of its officers to carry out a part of their duties. It has been held that a county is not liable for the negligence in failing to repair a bridge.¹⁶

County officers can exercise only such powers as are bestowed by the constitution or by state law. The courts will not interfere with discretionary acts of county officials unless there is clear abuse but they reserve the important right to fix the limits of such discretion.¹⁷ For example, the court has held that where the board of county commissioners fix a water rate it is subject to review and in a case before the court held that the rate was such that the company could not make a profit and enjoined its enforcement.¹⁸ The courts will not, however, review the disallowance of fees of a district attorney by a board of county commissioners even tho no reason for the disallowance is placed on record. But a mandamus will compel action where county commissioners refuse to exercise the power vested in them.¹⁹ Furthermore, an injunction will restrain a county board from interfering with the employees of a railroad company engaged in fencing its right-of-way, where the board threatens to prosecute the persons engaged in building the fence for obstructing a public road, the existence of which the railroad company denies.²⁰

It has been held illegal for a treasurer to order publication of the

⁹Compiled Laws of Colo., 1921, Sec. 8662.

¹⁰Compiled Laws of Colo., 1921, Sec. 8664.

¹¹Board of Commissioners of Phillips County v Churning, 35 Pacific, Colo. 918.

¹²Board of Commissioners of El Paso County v City of Colorado Springs, 180 Pacific, Colo. 301.

¹³Commissioners of Gunnison County v Commissioners of Ouray County, 125 Pacific, Colo. 536.

¹⁴Commissioners of Park County v Commissioners of Jefferson County, 12 Colo. 585.

¹⁵Compiled Laws of Colo., 1921, Secs. 8702-8703.

¹⁶Board of Commissioners of Logan County v Belknap, 213 Pacific, Colo. 335.

¹⁷Coates v Commissioners of Prowers County, 74 Colo. 374; 221 Pacific, Colo. 1690.

¹⁸Board of Commissioners of Montezuma County v Montezuma Water and Land Co., 89 Pacific, Colo. 794.

¹⁹Merwin v Board of County Commissioners of Boulder County, 67 Pacific, Colo. 285.

²⁰Pueblo and A. V. R. Co. v Board of Commissioners of Prowers County, 38 Pacific, Colo. 112.

delinquent tax list five times instead of four as prescribed by law.²¹ But the assessor, with the consent of the State Tax Commission may hire an additional deputy over the protest of the commissioners.²² The courts furthermore, have set up a doctrine of implied powers of county officers. When a duty is conferred by statute the corresponding power of carrying it out is implied and the county is free to select its own means and agencies.²³ But if public officials exceed their authority under the law, and the resulting injury cannot be adequately prevented by proceedings at law, equity will enjoin such illegal act.²⁴

Constitutional Provisions Concerning Counties

The constitution of Colorado has 13 sections devoted directly to counties.²⁵ In 30 other sections reference is made to counties or county officers or the provision is so general as to apply to counties.²⁶ In addition seven sections of Article XX are devoted to the city and county of Denver. The number of provisions in the Colorado constitution relating to counties is less than the number contained in constitutions of some other states, even those adopted at about the same time. For example, in the Missouri constitution adopted in 1875 there are 68 different constitutional provisions relating to county government.²⁷ The number of provisions in the Colorado constitution is in harmony with the tendency, prevalent at the time of its adoption, to restrict the powers of the legislature. Thus the constitution contains rather extensive provisions dealing with state indebtedness, corporations, mining, and irrigation.²⁸ This tendency is in keeping with contemporary constitutions of other states.²⁹

New Counties.—Like that of most other states the constitution of Colorado prohibits the general assembly from striking off part of an existing county and adding it to another "without first submitting the question to the qualified voters of the county from which the territory is proposed to be stricken off; nor unless a majority of all the qualified voters of said county voting on the question shall vote therefor.³⁰ The general assembly may, however, create new counties from territory previously embraced within one or more existing counties. And some small technical irregularities in an act creating a new county will not necessarily make the whole act setting up the new county invalid.³¹ The new county shall be held to pay "its ratable proportion of the then existing liabilities, of the county or counties from which such new county shall be formed.³² Likewise, "When any part of a county is stricken off and attached to another county, the part stricken off shall be held to pay its ratable proportion of all then existing liabilities of the county from which it is taken."³³ The integrity of the county is recognized further by the pro-

²¹Commissioners of Logan County v Advocate Publishing Co., 173 Pacific, Colo. 398.

²²Compiled Laws of Colo., 1921, Sec. 8820; Julia Davis v Board of County Commissioners of Washington Co., Colo., No. 2127, Dist. Ct. Washington Co., Appeal pending.

²³Gunnison County v Davis, 150 Pacific, Colo. 324.

²⁴City of Denver v Pitcher, 129 Pacific, Colo. 1015.

²⁵Art. XIV, Secs. 1-12, 15.

²⁶Constitution of Colo., Art. V, Secs. 47-49; Art. VI, Secs. 22-25; Art. VII, Sec. 1; Art. X, Secs. 7, 8; Art. XI, Secs. 1, 2, 6; Art. XII, Secs. 1-11; Art. XIII, Sec. 3; Art. XVI, Sec. 8; Art. XXI, Secs. 1-4; Art. XXIII, Sec. 1.

²⁷Bradshaw, The Missouri County Court. Univ. of Mo. Studies, Vol. VI, No. 2, p. 11; Final Report of the Calif. Commission on Home Rule, Chap. III. Calif. State Printing Office, Sacramento, 1931.

²⁸Constitution of Colo., Arts. XI, XV, XVI.

²⁹Beard, American Government and Politics, (Fifth edition) 1928, p. 464.

³⁰Constitution of Colo., Art. XIV, Sec. 3.

³¹Frost v Pfeiffer, 26 Colo. 343, 38 Pacific 147.

³²Constitution of Colo., Art. XIV, Sec. 4.

³³Constitution of Colo., Art. XIV, Sec. 5.

hibition against the general assembly altering county lines when dividing the state into senatorial, representative and judicial districts. The constitution provides that "When a senatorial or representative district shall be composed of two or more counties, they shall be contiguous, and the district as compact as may be. No county shall be divided in the formation of senatorial or representative district."³⁴ Judicial districts shall be "bounded by county lines."³⁵

The County Seat.—The general assembly is prohibited from removing the county seat of any county by special legislation.³⁶ "But the removal of county seats shall be provided for by general law" which shall require removal only by majority vote of the qualified electors of the county voting at a general election and "no such proposition shall be submitted oftener than once in 4 years."³⁷

County Officers.—The majority of county officers in Colorado are provided for in the constitution. The general assembly is deprived of power to abolish such offices or of providing for the selection of constitutional officers in any other way than by popular election. The term of office for county officials other than commissioners is 2 years.

The elective constitutional county officers are: Three county commissioners, clerk and recorder, sheriff, coroner, treasurer, superintendent of schools, surveyor and assessor. A county attorney may be either elected or appointed as provided by law. The law provides for the appointment of the attorney by the county commissioners.³⁸ The county judge is elected by the people of the county for a term of 4 years but is a state officer.³⁹ This evidently over-rules in re Compensation of County Judges, 18 Colorado, 272, in which the court declared county judges were county officers. This large number of constitutional county officers is in sharp contrast to Iowa where only the county attorney, whose duties in the county correspond to those of the district attorney in Colorado, is provided for in the constitution.⁴⁰ In addition, "The general assembly is empowered to provide for the election or appointment of such other county, township, precinct and municipal officers as public convenience may require; and their terms of office shall be as prescribed by law, not in any case to exceed 2 years."⁴¹ Only qualified electors who have resided in the county for 1 year are eligible for office.⁴² No one is eligible who has been convicted of committing a crime;⁴³ has become a defaulter in any public office until he shall have paid over all public money for which he may be accountable; has been convicted for embezzlement of public moneys, bribery, perjury, solicitation of bribery or subordination of perjury; or has participated in a duel.⁴⁴ Furthermore, an officer must devote his personal attention to the duties of his office.⁴⁵ It is a felony for any public officer to make a profit on public funds or use them for any purpose not provided by law.⁴⁶

It is generally agreed that a 2-year term for county officials is too short for best results. An official hardly becomes familiar with the duties of his office before he must stand for re-election with the possible

³⁴Constitution of Colo., Art. V, Sec. 47.

³⁵Constitution of Colo., Art. VI, Sec. 12.

³⁶Constitution of Colo., Art. V, Sec. 25.

³⁷Constitution of Colo., Art. XIV, Sec. 2.

³⁸Constitution of Colo., Art. XIV, Secs. 6, 8; Compiled Laws of Colo., 1921. Sec. 8717.

³⁹Constitution of Colo., Art. V, Sec. 22; *Dixon v People ex rel*, 127 Pacific, Colo. 930.

⁴⁰Shambaugh, *County Government and Administration in Iowa*, p. 13.

⁴¹Constitution of Colo., Art. XIV, Sec. 12.

⁴²Constitution of Colo., Art. XIV, Sec. 10.

⁴³Compiled Laws of Colo., 1921, Sec. 7145.

⁴⁴Constitution of Colo., Art. XII, Secs. 3, 4, 12.

⁴⁵Constitution of Colo., Art. XII, Sec. 2.

⁴⁶Constitution of Colo., Art. X, Sec. 13.

chance of being defeated and having another inexperienced individual take his place. In the course of this study, every county official questioned, except one, favored a 4-year term for county officers. Previous attempts to amend the constitution to extend the term of county officers to 4 years have resulted in defeat. The legislature in 1931 proposed such an amendment which was submitted to the voters and defeated at the 1932 election.⁴⁷

Changing Term or Salary of a County Officer.—Since most of the county officers are provided for in the constitution and their term of office fixed, the general assembly has little control over county officers. Most state constitutions forbid the legislature to abolish an office or to reduce the salary during the term for which an officer is selected.⁴⁸ Under this section it has been held that a bill to fix the beginning of a term, but not to extend the term, of a county officer is valid. (In re House Bill No. 38, as to county treasurers, 9 Colo. 631.)

The Colorado constitution is even more strict. It provides that "No law shall extend the term of any public officer, or increase or diminish the emoluments after his election or appointment."⁴⁹ Furthermore, as already indicated, when an office is created by the general assembly the term of office shall not exceed 2 years.⁵⁰

Compensation and fees of county officers are fixed by the general assembly. For this purpose the constitution provides that counties shall be classified "according to population" and the salaries of officers fixed for each class.⁵¹

The Recall.—The constitution provides that "Every elective public officer of the State of Colorado may be recalled from office at any time" which procedure "shall be in addition to and without excluding any other method of removal provided by law." The procedure is outlined in the constitution.⁵² This provision does not apply to school directors.⁵³ Under this provision judges may be recalled and one seeking to recall a judge is privileged and is not guilty of contempt in stating the facts on which the recall is sought.⁵⁴ Statutory provisions for the removal of particular officers will be discussed under those offices.

Special Legislation and Retroactive Laws Prohibited.—Special legislation is prohibited. The constitution, after enumerating a long list of items on which special legislation is prohibited, provides that "In all other cases, where a general law can be made applicable, no special laws shall be enacted."⁵⁵

The general assembly is prohibited from passing retroactive laws. The constitution provides that no law shall be passed which is "retrospective in its operation, or which imposes on the people of any county or municipal subdivision of the state, a new liability in respect to transactions or considerations already passed."⁵⁶

Financial Provisions in Constitution Regarding Counties.—The financial provisions of the Colorado constitution are copied from those of some of the older states, where, during the decade prior to the Civil War, private individuals, counties, and cities invested large sums in railroad bonds, often with great losses. The result was huge debts, high taxes and a reaction against the railroads.⁵⁷

⁴⁷Session Laws of Colo., 1931, Ch. 68, p. 217.

⁴⁸Porter, Kirk H., County and Township Government in the United States, New York; Macmillan, 1922, p. 83.

⁴⁹Constitution of Colo., Art. V, Sec. 30.

⁵⁰Constitution of Colo., Art. XIV, Sec. 12.

⁵¹Constitution of Colo., Art. XIV, Sec. 7.

⁵²Constitution of Colo., Art. XXI, Secs. 1, 2, 3.

⁵³Guyer v Stutt, 68 Colo. 422, Pacific 120.

⁵⁴Marians v People, 69 Colo. 87, 169 Pacific 155.

⁵⁵Constitution of Colo., Art. V, Sec. 25.

⁵⁶Constitution of Colo., Art. XV, Sec. 12.

⁵⁷Bradshaw, The Missouri County Court, p. 16.

Colorado largely avoided this experience, but did incorporate provisions in the constitution prohibiting the state or any of its political subdivisions from aiding "any person, company or corporation, public or private, for any amount, or for any purpose whatever, or become responsible for any debt, contract or liability of any persons, company or corporation, public or private, in or out of the state," nor may they become stockholders or joint owners in any such enterprise.⁵⁸ The county is also prohibited from granting aid to any church or sectarian organization or school under sectarian control.⁵⁹ County indebtedness may only be created for the purpose of erecting necessary public buildings and making or repairing public roads and bridges. Such indebtedness created in any one year may not exceed \$1.50 on each \$1,000 valuation in counties in which the assessed valuation of taxable property exceeds 5 millions of dollars. In counties with less than 5 millions of dollars taxable property the amount shall not exceed \$3 for each \$1,000 of assessed taxable property. The total indebtedness shall not at any one time exceed twice the foregoing limits unless approved by a majority of the taxpayers of the county but the aggregate so approved shall not exceed \$3 on each \$1,000 of assessed taxable property.⁶⁰

No tax limit is fixed by the constitution but a limit is fixed by law. The general assembly is prohibited from imposing "taxes for the purpose of any county, city, town or other municipal corporation" but may by law, grant such taxing power to the respective authorities of such bodies but no such "municipal corporation, the inhabitants thereof, nor the property therein" shall be released or discharged from paying their share of state taxes.⁶¹

The County as a Minor Area of Government

Counties and Cities Most Important in Colorado.—Counties and cities are the two most important minor areas of government in Colorado. By constitutional amendment, Denver is organized as the city and county of Denver. Cities are incorporated under general laws which outline the procedure for incorporation. They are divided into three classes by the general assembly tho the constitution provides that there may be four classes.⁶² Thirty residents of any unincorporated urban area outside an incorporated city may petition the county court for incorporation. The court appoints a commission to call a special election to vote upon the proposition. If the petition for incorporation is approved by a majority of qualified electors and there are no irregularities the court adjudges incorporation complete. There is no minimum population limit for incorporation. The city is primarily a unit of local self-government, its duties are prescribed by state laws which as a rule concern only municipal matters. "It is true" says Justice Thompson, "that a municipal corporation owes its existence to the laws of the state, that its mode of existence and its powers are prescribed by statute, and that, in a qualified sense, it is an agent of the state, in its government; but its primary purpose is the administration of its own internal affairs. It is a community invested with peculiar functions for the benefit of its own citizens. . . . within the boundaries of its granted powers it is independent. The character of a municipality, with its accompanying duties and burdens, is assumed voluntarily. There can be no municipal organization without the consent of the inhabitants of the territory which it is to embrace, and the municipality when organized is a 'full-fledged' corporation."⁶³ Subject to limitations of state laws it formulates policies for its own government and carries them out by officers of its own choosing. It may determine its

⁵⁸Constitution of Colo., Art. XI, Secs. 1, 2.

⁵⁹Constitution of Colo., Art. IX, Sec. 7.

⁶⁰Constitution of Colo., Art. IX, Sec. 6.

⁶¹Constitution of Colo., Art. IX, Secs. 7, 8.

⁶²Constitution of Colo., Art. XIV, Sec. 13.

⁶³*Stermer v Board of Commissioners of La Plata County*. 38 Pacific, Colo. 839.

own plan of government. Thus the city comes into being at the request of its inhabitants and the authority of its officers are usually confined to its limits. On the other hand, a county official has authority throuth the entire county, consequently, in an incorporated urban area two sets of officials function—county and city. Ordinarily the county officers will perform only state functions within an incorporated city but in Colorado the county assessor makes the property assessment and the county treasurer serves as collector of taxes for the municipalities within the county.⁶⁴

In contrast with the city, the county is primarily an administrative agent of the state. It is organized without the consent of its inhabitants and helps to carry out state policies in the formulation of which it has no part. Whereas, local self-government is the primary object of the city, it is only secondary with the county. There is no separation of powers in county government. The same body, in Colorado the board of county commissioners, formulates policies and administers them. Their duties are primarily administrative and supervisory. They have no judicial powers. In the words of the supreme court, "They do not make law, but are themselves wholly subject to the constitution and the statutes, and are concerned only in the administration of the business of the county as therein directed."⁶⁵ Justice Thompson in contrasting a county with a municipal corporation says: "A county is created by the legislature without reference to the will of its inhabitants. It has no power of local government or independent authority of any kind whatever. Its officers, altho selected by its people, are virtually officers of the state. It is merely a subdivision of the state for purposes of state government. It is nothing more than an agency of the state in the general administration of the state policy, and, unless an action is given by statute, none lies against it."

The exception to this general rule is the city and the county of Denver which exercises the powers of both a city and county since Article XX was added to the constitution by amendment in 1902. The city and county is empowered to adopt its own charter, but "every charter shall designate the officers who shall, respectively, perform the acts and duties required of county officers to be done by the constitution or by the general law, as far as applicable."⁶⁶

Colorado Has No Township Government.—Townships in Colorado have no legal status as an area of government. They are occasionally mentioned in the statutes along with other governmental units but have never been given or exercised any political or corporate powers. They exist solely as terms designating an area in the land survey.

School Districts Have Own Legal Status.—There are several other incorporated districts in Colorado created for special purposes. The most numerous and important of these are school districts which exist solely for educational purposes. There were 2,041 districts in the state in 1929, an average of 32 to the county.⁶⁷ These are made up of rural, union high-school, and county high-school districts. All except the latter may and frequently do overlap county lines and comprise parts of two or more counties.⁶⁸

At the present time, 1933, Colorado must educate 314,089 children scattered in 2,033 school districts. The administration of the school system is under 6,177 school directors and the instruction requires the services of 9,860 teachers.⁶⁹

⁶⁴Compiled Laws of Colo., 1921, Secs. 8979-8983, 8985-8988, 9004-9005, 9150-9154; Constitution of Colo., Art. XX, Sec. 6.

⁶⁵Sheeley v People, 129 Pacific, Colo. 201 (1913).

⁶⁶Constitution of Colo., Art. XX, Sec. 1.

⁶⁷Colo. Yearbook, 1931, p. 234.

⁶⁸Compiled Laws of Colo., 1921, Secs. 8308, 8312, 8322.

⁶⁹Mrs. Inez Johnson Lewis, Supt. of Public Instruction, U. S. Daily, Vol. VIII, No. 5, 1933.

The public-school system is provided for in the constitution. The general assembly must by law "provide for organization of school districts of convenient size" in which "one or more public schools shall be maintained in each school district within the state." The first legislature which met in 1877 provided for the organization of districts on petition of parents of at least 10 children. The law has not been materially changed since that time. There has never been any relation between school districts and other areas, such as the township. The constitution provides that in each district there "shall be established a board of education, to consist of three or more directors to be elected by the qualified electors of the district." The directors have "control of instruction in the public schools of their respective districts."⁷⁰

The school district is peculiarly adapted to the institution of local self-government. Until very recently it was financially self-sufficing and from an administrative standpoint it could exist independently of all other areas. Here we find local self-government in its purest form.⁷¹ This includes the right to participate in the election of a board of directors for the school district. In first-class districts an election is held every 2 years at which a board of five members is chosen to serve for 6 years, their terms alternating. In second and third-class districts an annual election is held at which a board of three members is chosen for a term of 3 years, their terms alternating. The business of the district is transacted by the board of directors of the district who certify the tax levy, provide a school building, and make general rules and regulations for conducting the school. In each school district having a board of education with independent fiscal powers, the board is the budget-making authority.⁷² They may not, however, contract any bonded indebtedness without the consent of a majority of the qualified electors of the district who shall have paid a school tax the preceding year.⁷³

Several county officers assist the school district in carrying out its policies. The county assessor makes the assessment and certifies the valuation of the property in each district, with the taxes due, to the county treasurer who collects the taxes, credits them to the respective districts, and disburses on order of the board of directors. School funds received by him from the state are apportioned to the various districts. The county superintendent of schools has supervisory power over the various districts. Tax levies are certified by the board of directors to the board of county commissioners who make the levy. The clerks of the various boards must also make an annual report to the county superintendent who consolidates them into an annual report to the state superintendent of schools. The county superintendent also determines and certifies to the board of county commissioners the county school levy necessary to provide for the minimum teacher's salary of \$75 a month and apportions the funds which may be received from the state for school purposes.⁷⁴

The county as a unit of school administration has been suggested and efforts have been made in that direction. The plan has been slowly adopted because the electors have been unwilling to give up their tradition of local self-government. The use of the county as a unit of school administration is not new. Maryland adopted the plan in 1865 and was followed in 1870 by Louisiana, which made the parish the unit, Florida in 1885, and Georgia in 1887. Recent years have shown a decided impetus in the development of the idea and by 1927 the county unit of the strong type had been adopted in 11 states: Alabama, Florida, Georgia, Louisiana, Maryland, North Carolina, Kentucky, Tennessee, Virginia, New Mexico and Utah. A modified county form is found in Arkansas, Missis-

⁷⁰Constitution of Colo., Art. IX, Secs. 2, 15; General Statutes of Colo., 1883, Sec. 3022; Compiled Laws of Colo., 1921, Sec. 8308.

⁷¹Porter, County and Township Government in the United States, p. 265.

⁷²Session Laws of Colo., 1933, Chp. 125.

⁷³Compiled Laws of Colo., 1921, Secs. 8327, 8324, 8353, 8356, 8366.

⁷⁴Compiled Laws of Colo., 1921, Secs. 8286, 8300-8307; 8274, 8280-8282.

Mississippi, South Carolina, Texas, Ohio, Arizona, California and Washington. Beginnings have been made in Iowa, Minnesota and Wisconsin. The plan is optional in Montana, Oregon and Nebraska.⁷⁵ Larger units in Colorado are provided thru consolidation of districts and this has been done in several instances. Two counties, Denver and San Juan, already have the county-unit plan. Provision is also made for the creation of joint union high-school districts made up of two or more public-school districts and also for county high-school districts.⁷⁶

Irrigation and Drainage Districts Have Certain Powers.—Irrigation, drainage and water-works districts rank next to schools in importance in Colorado as corporate bodies having some powers of self-government. They are organized for the specific purpose indicated by their name. Their organization is provided for and they exercise such powers as are provided by law. The district may lie within a county or include all or part of several counties. In any case the initiative must be taken by the interested electors thru presentation of a petition to the board of county commissioners of the county in which most of the land included in the proposed district is situated. The board of directors which constitutes the governing board is chosen by the electors of the district.

Two separate laws provide for the creation of irrigation districts.⁷⁷ These outline the plan of organization and government for the district. The governing body is a board of directors which has extensive powers in conducting the business of the district. They may issue bonds when approved by the electors of the district, certify the amount of money necessary for the expenses of the districts, including interest on bonds and their retirement to the board of county commissioners and otherwise exercise the powers of quasi-municipal corporation. They have the power and authority to construct, build or acquire irrigation works, purchase or acquire rights of way, reservoirs, water rights and priorities of rights to the use of water. They are assisted by the county assessor who makes the assessment of real estate in the district and makes the return to the county commissioners who levy the tax necessary to raise the amount certified to them by the directors of the district. Collection of the tax is made by the county treasurer who is ex-officio treasurer of the district.⁷⁸ The directors are empowered to provide drainage for irrigation districts when petitioned to do so.⁷⁹

Drainage districts are similar to irrigation districts in the organization and powers. Where the drainage district is necessary and incident to the proper functioning of an irrigation project the irrigation district has power to act.⁸⁰

Drainage districts may be organized either with or without an election. The board of county commissioners issues the order defining and establishing the boundaries and designating the name of the district. The county assessor and county treasurer assist in the financial administration as in the case of irrigation districts. The plat of both irrigation and drainage districts must be recorded by the county clerk. Assessment for the cost of a drainage district is made according to benefit derived and the state tax laws apply in case of delinquency.⁸¹

Mine-Drainage Districts.—Mine-drainage districts are formed on pe-

⁷⁵Fairlie and Kneier, *County Government and Administration*, p. 337.

⁷⁶Compiled Laws of Colo., 1921, Secs. 8314-8321; 8382-8396; 8397-8422.

⁷⁷Compiled Laws of Colo., 1921, Secs. 1960-2056, Sec. 1936, amended Session Laws of Colo., 1931, Ch. 109; Compiled Laws of Colo., 1921, Secs. 2057-2096, Sec. 2096, amended Session Laws of Colo., 1931 Ch. 110; Session Laws of Colo., 1933, Ch. 115; Session Laws of Colo., Second Extraordinary Session, 1933-34, Ch. 12.

⁷⁸Compiled Laws of Colo., 1921, Secs. 1960, 1965, 1970, 1983, 1998, 2057, 2064, 2066; Session Laws of Colo., 1925, Chap. 119, pp. 323; 1927, Chap. 117, pp. 455-458.

⁷⁹Compiled Laws of Colo., 1921, Secs. 2055, 2056, 2092.

⁸⁰Compiled Laws of Colo., 1921, Secs. 2055, 2092.

⁸¹Compiled Laws of Colo., 1921, Secs. 2107, 2115, 2116, 2124, 2153, 2161, 2169; Session Laws of Colo., 1923, Chap. 103, p. 277; Chap. 104, pp. 278-81.

tition filed with the clerk of the district court addressed to the district judge who, after notice and hearing, makes a decree establishing the district. A mining district so created is termed a municipal corporation with powers, "Necessary and requisite to carry into effect the objects for which it is formed." The court order provides for an election to be held to select five supervisors for the district. This election is held under the supervision of the board of county commissioners of the county in which most of the property is situated. The board of supervisors has power to levy a tax not to exceed 50 mills on the dollar in any one year. This tax is certified to the county assessor, who extends the tax and they are collected by the county treasurer the same as other taxes. It thus appears that the powers exercised by the supervisors of a mine-drainage district are more extensive than that exercised in case of irrigation and land-drainage districts.⁸²

Water-Works Districts.—Water-works districts are created to provide domestic water supply to areas outside incorporated towns and cities. When created they have the same powers as are conferred upon domestic water-works districts within incorporated areas. The general provisions for their organization and government are similar to those for irrigation districts.⁸³

Public-Works Districts.—Certain other conservancy and public-works districts such as the Moffat Tunnel Improvement District are provided for in the statutes. The assessments for these districts are collected by the local assessor and are the cause of much tax delinquency in Denver, Grand, Moffat, Routt, Eagle, Gilpin, Boulder, Adams and Jefferson Counties.⁸⁴

Administrative Districts Within the County.—Within the county we find a number of districts created for purely administrative purposes. In contrast with the districts discussed in the foregoing paragraphs these areas have no powers of local self-government. Chief of the purely administrative districts within the county are commissioners districts, road districts, election precincts and pest-eradication districts. These districts are created by the board of county commissioners and may be changed by them. They have no powers of self-government with the exception of pest-inspection districts which are created only on petition presented by landowners interested in creating the district.⁸⁵

Election Districts.—The county also serves as a basis for the selection of representatives to the general assembly and the national congress. In most states the county is a district for election of members to the lower house of the legislature. This is not true in Colorado. In some instances a county has two or more representatives in the general assembly, in others two or more contiguous counties are joined together to form one district.

Under an initiated measure approved by the voters in 1932 and upheld by the supreme court, the city and county of Denver now has five representatives, Pueblo and Weld Counties four, El Paso County three, Boulder and Las Animas Counties two each. The state is divided into 27 senatorial districts with 35 senators. The city and county of Denver constitutes one senatorial district entitled to eight senators, and Pueblo, Weld and El Paso Counties have two senators each. The other 60 counties are allotted the remaining 24 senators. The more populous counties constitute a district while less populous counties are combined to form a district. Several districts are composed of four and five counties. No reapportionment has been made since 1913 until the recent measure was approved.⁸⁶ Since 1913 the growth of population in some areas to-

⁸²Compiled Laws of Colo., 1921, Secs. 3323, 3331, 3335, 3342.

⁸³Compiled Laws of Colo., 1921, Secs. 2209-2237; Session Laws of Colo., 1923, Chap. 193, pp. 706-708.

⁸⁴Compiled Laws of Colo., Secs. 9590-9611.

⁸⁵Compiled Laws of Colo., 1921, Secs. 8672, 1245, 7705, 3107.

⁸⁶Compiled Laws of Colo., 1921, Secs. 22, 25.

gether with the decline of population in others resulted in under representation of the more populous areas and over representation of the less populous areas. All measures looking toward a correction of this unequal representation were defeated by the general assembly.

For representation in the national congress the state is divided into four congressional districts. Of these, the city and county of Denver comprises the first and the remaining 62 counties are divided into the other three.⁸⁷

Districts for the Administration of Justice.—For the administration of justice the county serves as the basic unit. Each county has a county court whose judge is considered a state officer with jurisdiction anywhere within the state. County courts have limited civil and criminal jurisdiction and function as probate courts. In most counties probate duties constitute the major portion of their work. The county court also serves as a juvenile court, except in Denver, which has a separate juvenile court. Cases may be appealed to the county court from the justice courts and its decision is final in all such cases. Appeal may, however, be made from justice courts direct to the district court.⁸⁸

There are 14 district courts, the state being divided into 14 judicial districts with a court in each one. The city and county of Denver is one judicial district and the remaining 62 counties are divided among the remaining 13 districts, each having from three to seven counties. Boundaries of judicial districts must follow county lines and district court is held in each county seat at such times as provided by law. There are seven district judges in the Denver district, six districts have two judges and seven districts have but one judge. The state pays the salary of district judges and a portion (\$800) of the salary of the district attorney. All other expenses of the court are paid by the counties in which the expense is created.⁸⁹

County judges are elected by the voters of the county for a term of 4 years. District judges are elected by the voters of the district for a term of 6 years and the district attorney is elected for a term of 4 years. The sheriff who serves as executive officer of the court is elected by the voters of the county for a term of 2 years and his jurisdiction is limited to the county, except in cases of pursuit.⁹⁰

Other Minor Districts of the State.—There are several purely administrative districts for state purposes in Colorado. For highway purposes the state is divided into seven districts for purposes of administration and representation on the highway advisory board.⁹¹ For purposes of mine inspection the state is divided into four districts.⁹² There are 70 water commissioners districts⁹³ and seven irrigation division engineers districts.⁹⁴

State and County Relations

County an Administrative Agency of the State.—Some of the legal relationships between the county and the state have been considered in the foregoing discussion. The county as an area of local self-government and its relation to the state and other minor areas of government has been the theme of our survey. That the county performs not only the functions delegated to it but acts also as an administrative agency of the state is obvious. But it is not always clear where one begins and the other ends or to clearly distinguish between the two. Many functions

⁸⁷Compiled Laws of Colo., 1921, Sec. 43.

⁸⁸Compiled Laws of Colo., 1921. Secs. 5731-5733, 5767-5780, 5780-5798.

⁸⁹Compiled Laws of Colo., 1921. Secs. 5656, 5690, 5725, 7912, 7943, 5725.

⁹⁰Constitution of Colo., Art. VI, Secs. 15, 21, 22; Compiled Laws of Colo., 1921, Sec. 7049.

⁹¹Compiled Laws of Colo., 1921, Sec. 1393.

⁹²Compiled Laws of Colo., 1921, Sec. 3386.

⁹³Compiled Laws of Colo., 1921, Secs. 1842-1914.

⁹⁴Compiled Laws of Colo., 1921, Secs. 1823, 1824.

that were purely of local concern are gradually becoming of state-wide interest. This has increasingly tended to enhance the importance of the county as an area for the administration of state laws and in some instances, at least, to deprive the county of some of its exercise of local self-government. Formerly the counties were totally responsible for the laying out, construction and maintenance of highways, now we have a state-highway system which has shifted part of this responsibility to the state. Poor relief has long been considered a function of the local governing body but in Colorado a state law makes it mandatory that mothers' compensation be provided by a special levy. However, a law passed by the 1933-34, second extraordinary session, of the general assembly, made relief a state function.⁹⁵ The counties are required to pay a pension to the blind, in this instance, half the cost to the respective counties being paid by the state. The 1931 General Assembly amended an optional law passed in 1927 and provided for the payment of compulsory old-age pensions. The counties were required to bear the entire cost and were required to make a special levy for this purpose. A new measure was passed by the 1933 General Assembly providing for the payment of the old-age pension out of various state and local fees on motor vehicles, beer and instruments filed at the county recorder's office. When the state takes over a function and supports it, as in the case of highways, and the old-age pension act, the result is merely centralization of power in the state. But when the state requires the counties to do a certain thing, as payment of old-age pensions, without particularly or wholly providing financial aid the tax burden upon the county is increased thru no fault of its own. The minimum salary law for teachers, laudable in itself, is another example. The state requires the payment of a minimum salary of \$75 a month but the counties must provide most of the funds necessary to do this, up to a 5-mill levy on the assessed valuation of the county. The tendency in the past has been for the state to not only make the county an area for state administration but to require the counties to finance the particular function. The result has been burdensome demands upon the revenue of the county and increased levies for which the county administration is held responsible but over which it has no control.

Principal County Functions.—It is not easy to clearly distinguish between what are purely county functions and what are state functions performed by the county. The state in either case confers the power and the duty upon the county. A county officer may be performing both functions at the same time, as when administering the election machinery. On the other hand a county judge when handling probate matters has practically no discretion and when acting in that capacity is primarily an administrative officer of the state. Where local officials are free to exercise discretion and determine policies they are exercising primarily local rather than state functions. No satisfactory distinction can be drawn and any attempted enumeration of local and state functions would end in difficulty. We shall merely enumerate the principal purposes for which the county exists in Colorado.

These are, to follow the enumeration made by Professor Porter for Iowa counties, as follows: (1) The administration of justice, including such matters as the probate of wills and the disposition of insanity cases; (2) the extension of poor relief; (3) the construction and maintenance of highways; (4) the organization of irrigation, drainage and water-works districts; (5) the maintenance of schools; (6) the enforcement of law and the maintenance of peace; (7) the administration of elections; (8) the collection of taxes; (9) the recording of land titles; (10) the protection of public health; (11) the administration of an ever growing number of unrelated state laws, many of which are of small importance and most of which are administered thru the clerical offices.⁹⁶ These functions and the organization for administering them will be discussed at length in the chapters that follow.

⁹⁵Session Laws of Colo., Second Extraordinary Session, 1933-34, Ch. 15.

⁹⁶Shambaugh, County Government and Administration in Iowa, p. 17.

III.

ORGANIZATION OF COUNTY ADMINISTRATION

County Government Decentralized.—County government in Colorado is of the traditionally decentralized type. At the head is a board of three elective county commissioners whose duty it is, according to the constitution, to "hold sessions for the transactions of county business as provided by law." There are seven other elective constitutional county officials: "One county clerk, who shall be ex-officio recorder of deeds and clerk of the board of county commissioners; one sheriff; one coroner; one treasurer, who shall be collector of taxes; one county superintendent of schools; one county surveyor; one county assessor." The county attorney was made a constitutional officer in 1902 but he "may be elected or appointed as provided by law." At present he is appointed by the board of county commissioners. In addition, there are some 30 other officers whose appointment is provided for by the board of county commissioners. Some of the offices are never filled because the special necessity for which they are provided never arises. There is also a large number of appointive deputies, clerks and assistants. The law generally provides that appointments be made by the board of county commissioners.

The major county officers are provided for in the constitution, the duties and other details pertaining to the respective offices are wisely left to statutory law. Thus, while the officer looks to the constitution for his office he must look to the statutes for his powers and duties. This makes the organization of the county administration more flexible than would be possible if details of the duties of the office were written into the constitution. Chart III shows the duties, salaries, term of office, qualifications and powers of elective county officers as provided for in the constitution and laws of the state and is used by the kind permission of Prof. L. G. Harvey, Department of History and Social Science, The Adams State Teachers College at Alamosa.

Qualifications of County Officials.—The constitution provides that "no person shall be eligible to any county office unless he shall be a qualified elector; nor unless he shall have resided in the county 1 year preceding his election" and the statutes provide that "every qualified elector shall be eligible to hold office for which he is an elector except as otherwise provided by the constitution." To qualify as an elector, a person must be 21 years of age, a citizen of the United States, and "shall have resided in the state 12 months immediately preceding the election at which he offers to vote, and in the county, city, town, ward, or precinct, such time as may be prescribed by law." The law provides that he shall have resided "in the county 90 days; in the city or town 30 days, and in the ward or precinct 10 days."

The provision that only electors may hold office has been held by the courts to be a negative requirement and prohibits the election or appointment to office of one not a qualified elector. It was not intended that the right to vote should be the sole and exclusive test of eligibility to all civil offices, except as otherwise provided in the constitution, but other qualifications are absolutely essential to the efficient performance of the duties connected with almost every office.¹ Finally, a person must devote his personal attention to the duties of the office; and no person holding the office of sheriff, county judge, county clerk nor any members of the board of county commissioners may hold the office of county treasurer.²

¹Darrow v People, 8 Colo. 420, and 421.

²Constitution of Colo., Art. VII, Sec. 1; Art. XII, Secs. 2, 3, 4, 12; Compiled Laws of Colo., 1921, Secs. 7525, 7529, 8794.

QUALIFICATIONS OF COUNTY OFFICERS IN GENERAL

1. QUALIFIED ELECTOR
2. RESIDENCE IN COUNTY ONE (1) YEAR PRECEDING ELECTION
3. QUALIFICATIONS AS TO DUTIES LEFT TO JUDGMENT OF VOTERS

VOTERS

A CHART SHOWING DUTIES, SALARIES, TERM OF OFFICE, QUALIFICATIONS AND POWERS OF ELECTIVE COUNTY OFFICERS AS PROVIDED FOR IN CONSTITUTION, STATUTES, AND SESSION LAWS OF THE STATE OF COLORADO.

TREASURER

Salaries

1st Class	\$4600
2nd Class Div. 'A'	3300
" " Div. 'B'	3000
3rd Class	2500
4th Class Div. 'A'	2100
" " Div. 'B'	1800
" " Div. 'C'	1600
5th Class	1300

2 Year Term
Bond - 3 securities. Twice the amount of assets of Board

CORONER

Salaries

In counties of every class \$5 per day. Activity, 15¢ per mile. Same fees as sheriff when acting as such.

2 Year Term
Bond - \$200-\$5000

SHERIFF

Salaries

1st Class	\$4600
2nd Class Div. 'A'	3300
" " Div. 'B'	3000
3rd Class Div. 'A'	2800
" " " " Div. 'B'	2400
" " " " Div. 'C'	2300
" " " " Div. 'D'	1800
" " " " Div. 'E'	1500
5th Class	1200

Faid from fees of office

2 Year Term
Bond - \$5,000 - \$20,000
3 Securities

COUNTY CLERK & RECORDER

Salaries

1st Class	\$4600
2nd Class Div. 'A'	3300
" " Div. 'B'	3000
3rd Class	2400
4th Class Div. 'A'	2100
" " " " Div. 'B'	1800
" " " " Div. 'C'	1600
5th Class	1300

Faid from fees of office.

2 Year Term
Bond - 2 securities \$6,000

COUNTY COMMISSIONERS

Salaries

1st Class Div. 'A'	\$2400
" " Div. 'B'	2000
2nd Class	1200
3rd Class	1000
4th Class	900
5th Class	800
6th Class	700
7th Class	600
8th Class	400
9th Class \$5 per Diem Spent in Duty	

2 Year Term
Bond - 1st Class \$28,000
2nd Class 10,000
3rd Class 5,000

ASSESSOR

Salaries

1st Class	\$4600
2nd Class Div. 'A'	3300
" " Div. 'B'	3000
3rd Class	2400
4th Class Div. 'A'	2100
" " " " Div. 'B'	1800
" " " " Div. 'C'	1,000
5th Class	1200

2 Year Term
Bond - 2 Securities not less than \$6,000

SURVEYOR

Salaries

Different amounts in different counties. Paid by job.

2 Year Term
Bond - \$1,000

SUPT. OF SCHOOLS

Salaries

1st Class Div. 'A'	\$3000
" " Div. 'B'	2800
2nd Class	2000
3rd Class	1600
4th Class	1100
5th Class	900
6th Class	800
7th Class	600

Traveling Exp. 15¢ per mile Not to exceed \$500 year

2 Year Term
Bond - 2 securities not less than \$2,000

JUDICIAL OFFICERS

County Judge - 4 Year Term Elected by County

Justices of Peace - 2 Year Term. Elected by County

District Judge - 4 Year Term. Elected by District People. Only Local officer that is paid by State.

Salaries Set by Law.

DUTIES OF CORONER

1. Takes Official Bond
2. Collects Fees
3. Appoints Deputy Coroner in Writing.
4. When there is no Sheriff in County the Coroner shall act as Sheriff.
5. When Sheriff is interested or partial, Coroner acts as Sheriff.
6. Shall hold inquest in a case of violence or sudden death.
7. Chooses six jurors for inquest.
8. Holds inquest at mine disaster.
9. Investigates death without medical aid.
10. Administers talisman oath.
11. Issues subpoenas.
12. Administers oath to witnesses.
13. May order arrest.
14. Returns inquisition to District Court.
15. Takes care of bodies in case of accidental or suspicious deaths.

DUTIES OF THE SHERIFF

1. Takes out official bond.
2. Appoints deputies and undersheriffs
3. Direct investigations of violation of motor vehicle act.
4. Assist in maintaining stock quarantine.
5. Custodian of jail.
6. Acts as fire warden.
7. Assesses range in case of forest fires. Reports to state forester.
8. Transports prisoners to penal institutions. Shall execute writs. Attend court.
10. Enforces all executions.
11. Draw and summon jurors for county court.
12. Notice for special election to fill vacancy in general assembly.
13. Execute warrant of arrest.
14. Arrests violators of law.
15. Frees wronged and aid.
16. Search for concealed weapons.
17. Enforces game and fish laws.
18. Prevents dueling.
19. Can not act as an attorney.
20. Collects Fees.
21. Appointments in writing.

DUTIES OF COUNTY CLERK & RECORDER

1. Takes out official bond.
2. Custodian of bond and oath of directors of drainage district.
3. Exp. office clerk of board of com.
4. Office at county seat. Keeper of seals and records.
5. Approves bonds of notaries public.
6. Distribute blanks for health statistics.
7. Notifies county officers of withdrawal of security of bonds.
8. Keep record of county poor.
9. Attest warrants drawn by county com.
10. Appoints deputies.
11. Registers voters.
12. Serves notice of election.
13. Recorder of deeds.
14. Collects fees, delivers supplies.
15. Appoints registration committee.
16. Prepares sample ballots.
17. Publishes list of candidates 10 days before primary.
18. Keep and preserve deeds, mortgages, maps, papers, all real estate papers.
19. Keeps general & inverted index.
20. Furnishes abstract of deeds, powers of attorney, mortgages, releases of property.
21. Clerk ex parte Co. Board of Equalization.
22. Home-loads, satisfactions indexed.
23. Register applicant for blind benefits.
24. Register school district bonds.
25. Register motor vehicles.
26. Issue licenses.

POWERS & DUTIES OF THE BOARD OF COUNTY COMMISSIONERS - GEN. REL.

1. Make such orders concerning property belonging to county as they deem expedient.
2. Examine and settle all accounts of the receipts and expenses of the county, examine and settle all accounts against the county. When so settled may issue county orders provided by law.
3. Build and keep in repair county buildings and insure same in the name of county treasurer.
4. Apportion and order the levying of taxes as provided by law, contract loans in name of and benefit of county for purposes of erecting public buildings, making or repairing public roads and bridges. Loans authorized by voters. Loans limited to amount of assessment.
5. Represent county and have care of county property management of business and concerns of county in all cases where no other provision is made by law.
6. Set off, organize and change the boundaries of precinct in their respective counties.
7. Establish one or more voting places in each election precinct as the convenience of the inhabitants may require.
8. Lay out, alter or discontinue any road running public or through such county and other duties as are required by law.
9. Grant such licenses and perform such other duties as are or may be prescribed by law.
10. Takes out bond, gives oath.

APPOINTING POWERS

CLERK OF BOARD

FINANCIAL POWERS

DUTIES OF ASSESSOR

1. Abides by assessment laws of state in assessing all property.
2. After levies are certified, the assessor extends property as assessed.
 - (a) State tax by state authorities.
 - (b) County tax by Co. Com.
 - (c) School tax by school boards.
 - (d) Gen. rel. school tax by county supt. of schools.
 - (e) City and town tax.
 - (f) Irrigation Districts
 - (g) Drainage Districts
3. Lists property.
4. May reduce levy to conform to the law.
5. Extends property. Treasurer collects.
6. Publishes abstract of assessments and levies each year.
7. Must satisfy Co. Commissioners.
8. Takes out bond.
9. Must assess property for taxation from March 31 to May 30 each year.

DUTIES OF SUPT. OF SCHOOLS

1. Takes out bond.
2. Appoints deputy.
3. Makes report to supt. of Public Instruction.
4. Exercises careful supervision over schools of his county.
5. Visits each school at least once each quarter.
6. Holds county teacher assoc.
7. Publishes statement of apportionment.
8. Examines accounts of district officer.
9. Keeps record of boundaries of school district.
10. Ex officio member of county high school committee.
11. Makes general school tax.
12. Reports deaf and blind children.
13. May administer oaths.
14. May appoint directors.

DUTIES OF TREASURER

1. Takes heavy bond. Failure to fulfill duties is high misdemeanor.
2. Public trustee.
3. Appoints deputy.
4. Ex officio treasurer of irrigation districts, drainage, waterworks districts.
5. Certify to Gov. name of taxpayers for jury service.
6. Receives and pays moneys on orders. Collects taxes.
7. Collects fees, special road-clearing tax.
8. Deposits funds in bank.
9. Treasurer keeps accounts.
10. Approves and keeps separate the several funds.
11. Order of payment of warrants. Publish call of warrants.
12. Advise when school orders shall be paid.
13. Issue receipt for money collected.
14. Assesses property omitted by assessor.
15. Keeps cash book open to inspections.
16. Registers orders open to inspection.
17. Pays over taxes of conservancy districts.
18. Certifies school moneys collected.
19. Keeps separate account of school districts.
20. Reports to school directors.

DUTIES OF COUNTY CLERK & RECORDER

1. Takes out official bond.
2. Custodian of bond and oath of directors of drainage district.
3. Exp. office clerk of board of com.
4. Office at county seat. Keeper of seals and records.
5. Approves bonds of notaries public.
6. Distribute blanks for health statistics.
7. Notifies county officers of withdrawal of security of bonds.
8. Keep record of county poor.
9. Attest warrants drawn by county com.
10. Appoints deputies.
11. Registers voters.
12. Serves notice of election.
13. Recorder of deeds.
14. Collects fees, delivers supplies.
15. Appoints registration committee.
16. Prepares sample ballots.
17. Publishes list of candidates 10 days before primary.
18. Keep and preserve deeds, mortgages, maps, papers, all real estate papers.
19. Keeps general & inverted index.
20. Furnishes abstract of deeds, powers of attorney, mortgages, releases of property.
21. Clerk ex parte Co. Board of Equalization.
22. Home-loads, satisfactions indexed.
23. Register applicant for blind benefits.
24. Register school district bonds.
25. Register motor vehicles.
26. Issue licenses.

DUTIES OF COUNTY CLERK & RECORDER

1. County Commissioners fill vacancy of every county office except Co. Com.
2. County agriculturalist if voters desire.
3. Reporter for court.
4. Additional justices and constables as need of the precinct may require.
5. Post inspectors.
6. Election judges.
7. Arbitrators for county boundary disputes.
8. Purchasing agent.
9. County attorney if needed.

DUTIES OF CLERK OF BOARD

1. Record of all proceedings of Board.
2. Keep regular entries of all their decisions in all questions concerning raising of money.
3. Record each vote of com. if declared by any member.
4. Sign all orders issued by Board for money payments, receipts and expenses of county.
5. Preserve and file all accounts agreed upon by board. Other duties prescribed by law.

GENERAL DUTIES OF CO. COM.

1. Audit account of clerk of district court.
2. Furnish supplies to county officers.
3. Publish delinquent tax list.
4. Consider cases Co. Board of Equalization.
5. Make taxes on erroneous assessments.
6. Elect road supervisor.
7. Provide election supplies.
8. Divide Co. into road districts.
9. Advertise for bids.
10. Grant right of way.
11. Fix rates for water.
12. Destruction of weeds.
13. Grant license.
14. Certify list.
15. Select jury of Co. Court.
16. Petition court to send child to state home.
17. Fix rates for water.
18. Control state reservoirs.
19. Pay salary of water com.
20. Call organization & election meetings.
21. canvass votes.
22. Establish drainage districts.
23. Destroy prairie dogs.
24. Envy indigent soldiers & sailors.
25. Cooperate with State Board of Agriculture.
26. Furnish work for jail prisoners.
27. Provide funds for extradition.
28. Furnish fair grounds.
29. Define boundaries for domestic w. w.
30. Enforce arsealan well act.
31. Audit and allow expense of sheriff.
32. Meeting of board, Jan., April, July, Oct. (First Holiday)
33. Choose chairman.
34. One member as Supt. of Poor.
35. Make annual appropriation.
36. Shall hire clerk of board.
37. Report annually to Sec. of State.

DUTIES OF SURVEYOR

1. Takes out official bond.
2. Surveys powder houses.
3. A points deputies and for whose official acts he is responsible.
4. Executes any survey required by order of any court or application of any individual or corporation.
5. Keeps record of number of surveys, plates, and field notes.
6. Inspects reservoir annually.
7. Examine and reports toll roads.
8. Supervise construction of reservoirs.

DUTIES OF SURVEYOR

1. Levy county tax
2. Levy tax for:
 - a. County high school
 - b. Bond interest due
 - c. County purposes
 - d. Funding bonds
 - e. Irrigation district
 - f. Refunding bonds
3. Road purposes
4. School tax
 - (1) Consolidated districts
 - (2) General school fund
 - (3) Union high school
5. To pay bonds
 - (1) Pay judgments against municipality
 - (2) School district bonds
 - (3) Irrigation district
6. To pay bonds
 - (1) To take unpaid warrants
 - (2) To pay others compensation
7. Limited to tax power by certain assessed value. If need for more levy, tax com. sees & investigates matter.

CLASSIFICATION OF COUNTIES FOR SALARIES

1st Class - Denver
2nd Class - Div. 'A' - Pueblo
" " Div. 'B' - Boulder, El Paso, Lincoln, Las Animas, Weld.
3rd Class - Div. 'A' - Adams, Fremont, Garfield, Huerfano, Logan, Mesa, Morgan, Otero, Teller.
" " Div. 'B' - Arapahoe, Jefferson, Kit Carson, Washington, Yuma.
4th Class - Div. 'A' - Chaffee, Cheyenne, Clear Creek, Conejos, Crowley, Delta, Gilpin, Gunnison, Hinsdale, La Plata, Montrose, Phillips, Prowers, Routt, San Miguel.
Div. 'B' - Alamosa, Baca, Bent, Costilla, Douglas, Eagle, Elbert, Grand, Kiowa, Moffat, Montezuma, Ouray, Park, Pitkin, Rio Blanca, Saguache, San Juan, Sedgwick, Summit.
Div. 'C' - Arapahoe, Jackson.
5th Class - Custer, Dolores, Hinsdale, Mineral

Note - Alamosa shall be a county of 4th class Div. 'A' for the purpose of providing for and regulating the compensation of clerks of the district court.

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Alamosa, Colorado - 1935

These legal qualifications present no real obstacle to a person seeking a public office. Those who would have even a chance of election can meet them. The fact that the most desirable offices are elective does, however, present a very real restriction. The requisites necessary for one contemplating entering political life thru election are too well known for discussion here. The short tenure, and in many counties the small financial return, discourage many from seeking public office. The result is that many county officials are older men who have retired or have an income sufficient to enable them to devote their time to performing the duties of a public office. This is particularly true of county commissioners.

A form of organization which would relieve the commissioners of much of the detailed work which they now perform would undoubtedly encourage many to seek the office who now cannot afford the time to devote to it.

Ages of County Officials.—The following table indicates the age distribution for the officials from whom information was obtained:

Table 1.—Ages of County Commissioners, Clerks, Treasurers, Assessors, and Sheriffs in Colorado.

Officer	Age groups:									Total
	25-30	30-35	35-40	40-45	45-50	50-55	55-60	60-65	65-	
Commissioner			3	3	3	7		3	2	21
Clerk		2	2	1	3	1		3	1	13
Treasurer			2	3	4	3	2	5		19
Assessor	1	1	5	1	2	4		1	1	16
Sheriff				7	1	2	2		1	13
Total	1	5	13	16	12	16	7	7	5	82

The small number of officials from whom information was obtained may not be conclusive but it would appear that the majority of county officials are between the ages of 35 and 55. Most county commissioners fall in the older age groups. One-third of the 21 commissioners were between the ages of 50 and 55. The age of treasurers is higher than for any other county office. County clerks seem to be well distributed so far as age is concerned but assessors and sheriffs it appears are usually younger than other officials.

Principal Occupation of County Officials.—Except for the county attorney, who must be a member of the bar of the supreme court of the state, no qualifications are prescribed for the particular officers. Even county judges need not be learned in the law, many of them not even being practitioners.³ A study of the prior occupations of officers reveals that they represent a variety of occupations. In only a few instances has the previous occupation been of such a nature as to be beneficial in the work of the county office. The following tabulation gives a summary of prior occupations of county officers:

Of the 78 county commissioners from which information was obtained, 50 or two-thirds were farmers, ranchers, or stockmen while the other officers represent a variety of occupations. It would appear that treasurers have more experience of value to them since 16 out of 35 had held other county offices or served as deputies, three of these had served as assessor of their counties prior to their election as treasurer.

Election and Tenure of County Officials.—County commissioners are elected on even-numbered years for a term of four years. One member is elected from each of three commissioners' districts by the county at large. Their terms overlap, two being elected at one time, and the third on the alternate even-numbered year. Thus two members of the board

³People v Richmond, 16 Colo. 214.

Table 2.—Prior Occupation of Principal County Officers in Colorado.

Former Occupation	Commissioner	Clerk	Treasurer	Assessor	Sheriff
Bookkeeper-teacher			2	1	
Business	2		2	3	1
Doctor-druggist	1	1	1		
Deputy in office		3		2	2
Another officer or deputy		2	16	2	
Farmer-rancher	50	2	5	7	4
Mechanic	5				2
Miner	7		1		1
Newspaper		1	2		
Real estate and insurance	5	2	1	1	
Retired	8				
Miscellaneous		1	5		6
Total	78	12	35	16	16

change every 4 years so that continuity of policy is not absolutely assured tho there is always one experienced member on the board. All other constitutional county officers are elected on even-numbered years for a 2-year term. The general assembly fixes the term of statutory officers but their term cannot exceed 2 years.

The terms of elective constitutional officials begin on the second Tuesday in January after election. The only exception to this is the treasurer whose term begins on January 1 under a statute passed in 1891, which was upheld on the ground that it fixed the term, but did not extend the term of office. (In re House Bill No. 38, as to the county treasurers, 9 Colorado 631.) All officers serve until their successors have qualified for their respective offices.⁴

The tenure of elective county officers in Colorado seems to be relatively long in spite of the 2-year term prescribed by the constitution, for all except commissioners who serve 4 years. Table 3 shows the tenure of the more important county officers.

Table 3.—Tenure of County Commissioners, Clerks, Treasurers, Assessors and Sheriffs in Colorado.

Officer	Number officers considered	Terms served:									
		1	2	3	4	5	6	7	8	9	10
Commissioner	78	44	27	6		1					
Clerk	27	8	5	3	3	3	3	1	1		
Treasurer	39	9	8	10	2	4	3	1	1	1	
Assessor	26	7	6	2	2	4	1	2	1	1	
Sheriff	26	5	3	7	3	4	2			1	1

Of 78 county commissioners, 34 have served more than one term and since the term of office of commissioners is 4 years it means they are serving at least 8 years with some chance of re-election for a third term. Other county officers seem to have longer tenure than commissioners in the number of terms served but since their term is only 2 years their tenure in years seems to be no longer. However, the showing is creditable since they must be re-elected every 2 years. A majority are serving a second or subsequent term, which indicates that a 4-year

⁴Constitution of Colo., Art. VI, Sec. 22; Art. XII, Sec. 1; Art. XIV, Secs. 6, 8, 12; Session Laws of Colo., 1891, p. 117; Compiled Laws of Colo., 1921, Secs. 7519, 7520, 8672, 8790, 8827, 8832.

term for county officers would be very desirable since most officers are re-elected anyway.

Official Bonds Required of Officials.—All county officers are required to give bond before entering upon the duties of their respective offices. The bonds of county commissioners are approved by the judge of the district court. The bonds of all other county officials are approved by the county commissioners. All bonds of county officers are filed with the county clerk and recorder. The law provides that the board of county commissioners shall, on the first day of each regular term examine into the sufficiency of bonds of county officers. The necessity for this provision is practically nullified by the fact that most county officers now take advantage of the law which permits them to purchase surety bonds and pay the premium out of any funds available for the expenses of their office, provided the premium does not exceed .5 percent per annum on the amount or penalty of each bond or obligation. It is a penalty for any officer to act without bond and one officer cannot act as surety for another.⁵

The amount of the bond is fixed by law and varies with the office. The bonds of county commissioners are fixed at \$25,000 for first-class counties, \$10,000 for second-class counties and \$5,000 for third-class counties. The classification for this purpose is, by law, the same as the classification of counties for fees. The classification for fees now provides five classes. The bonds of commissioners in fourth and fifth-class counties are in practice the same as for third-class counties.⁶

The treasurer's bond is fixed by the county commissioners. If the board is not in session at the time he takes office, the county clerk may fix the amount of the bond, subject to subsequent approval of the board, but in an amount not less than twice the sum levied in the county to be collected by the treasurer.⁷ Treasurers' bonds in 37 counties range from \$20,000 in the smaller counties to \$175,000 in larger counties. The average was \$64,750, while the most usual amount was \$50,000.

About 20 treasurers in Colorado had difficulty in qualifying for surety bonds on taking office in 1933. Surety companies suffered heavy losses in 1932 due to the failure of a large New York banking firm which had large deposits of county and state funds on deposit at the time of failure. Surety companies have tightened their requirements considerably as a result. Under the 1933 law the surety is not liable for any loss caused by failure or insolvency of the bank or depository holding county funds or deposits.

The bonds of the other county officials are as follows: County judge, not less than \$5,000; sheriff, \$5,000 to \$20,000; assessor, to the state not less than \$1,000, to the county not less than \$6,000; county clerk not less than \$5,000; county superintendent of schools not less than \$1,000; surveyor \$1,000 and coroner \$250 to \$1,000. Justices and constables must give bonds of \$2,500 to \$10,000 in precincts with more than 20,000 population, in all others \$1,000 to \$2,500, but the amount must be the same for all justices and constables in the same precinct.⁸

The practice of counties is to purchase fidelity bonds for county officers. A study of 20 rural counties did not reveal a single case where an officer had personal surety and questionnaire replies from individual officers in several other counties do not indicate any personal bonds. The study also revealed that the amount of the bond was with few exceptions the minimum provided by law.

The premiums on official bonds amounts to a considerable sum, particularly in the larger counties. Records of most counties do not show

⁵Compiled Laws of Colo., 1921, Secs. 6211, 7968, 7962, 7980, 7990, 7981, 7983, 7986, 7991-7993, 8718, 8720, 8722, 8723-8724.

⁶Compiled Laws of Colo., 1921, Secs. 8721, 7869.

⁷Compiled Laws of Colo., 1921, Secs. 8789-8791; Session Laws of Colo., Second Extraordinary Session, 1933-1934, Ch. 10.

⁸Compiled Laws of Colo., 1921, Secs. 5731, 6211, 7221, 7921, 8748-8749, 8769, 8731, 8822, 8827, 8830.

the expenditure for official bonds as a separate item, but a conservative estimated average for each of the 62 counties outside Denver is probably \$500 a year. The largest premium is for the treasurer's bond because of the necessity for a large bond for that officer.

In spite of the present cost, surety bonds are more desirable than personal bonds for county officials. This is shown by the experience of some counties that have sustained losses in the past by accepting personal sureties. It would appear to be good business for the state to set up a trust fund, provided by the counties on some equitable basis, to replace the official bonds now purchased by the respective counties. Such a proposal has been made to the general assembly on several occasions but no favorable action has resulted.

Compensation of County Officials.—The compensation of county officials will be discussed in detail in Chapter IV. Commissioners receive salaries ranging from \$5 per diem not to exceed \$500 a year in the smaller counties to \$2,400 a year in the larger counties.

The offices of clerk and recorder, treasurer, sheriff, and county judge are fee offices. Maximum salaries are fixed by law but if fees do not amount to the salary fixed they receive only the fees of the office. The salary fixed for clerks and recorders, treasurers and sheriffs ranges from \$1,200 to \$4,600 a year. The salary of county judges is from \$1,200 to \$5,000 a year. Assessors receive \$1,200 to \$4,600 a year. County superintendents of schools receive from \$100 to \$3,000 a year. The salaries of county attorneys are fixed by the board of county commissioners. In some counties they receive only legal fees for work performed; but in most counties they receive a fixed salary, the mean salary for rural counties being around \$600 a year.

In addition to their salary, all county officials receive their actual and necessary travelling expenses when on county business but not to exceed 15 cents a mile previous to 1933. The tendency in the past has been for the board of county commissioners to allow this maximum mileage fee but current agitation has resulted in many boards reducing the mileage to 8 or 10 cents. Recent reports from 14 counties indicate that seven are still allowing 15 cents a mile, five are allowing 10 cents a mile and two allow 8 cents a mile for necessary travelling expense.

Chapter 151 of the 1933 Session Laws restricts all state, county, or precinct officers to 8 cents per mile for each mile travelled on official business. County officials are still obtaining illegal mileage rates in some counties at the present time (September, 1934).

Offices and Office Hours.—The sheriff, clerk, treasurer, assessor, superintendent of schools, and clerks of the county and district courts are required to keep their offices at the courthouse or other places at the county seat provided by the county commissioners. All officers except the county superintendent must keep their offices open during usual business hours. The county superintendent must keep his office open as many days during the week as may be necessary for the transaction of the business of the office. The 8-hour day applies to public officials but the law provides that in first-class counties offices may be closed at noon on Saturday.⁹ Many small counties make a general practice of closing Saturday noon in spite of the law.

The usual practice is for county officials to keep their offices, open from 8 to 12 and 1 to 5 o'clock, especially in the smaller counties where there are no deputies. Where there is a deputy, it is generally the practice to keep the offices open during the noon hour. A few counties even where there is no deputy make it a practice to keep the offices open at noon and close at 4 instead of 5 o'clock because of the greater convenience to the public.

Removal from Office.—Seven specific events may cause a vacancy in an office according to the law. These are death, resignation, removal, removal from the county, conviction for crime or any offense

⁹Compiled Laws of Colo., 1921, Secs. 4175, 8279, 8819, 8829.

involving his official oath, failure to qualify, and election or appointment being voided by a competent tribunal. County officers, other than members of the board present their resignations to the board. Members of the board of county commissioners present their resignation to the governor.¹⁰

The constitution provides that removal of officers for misconduct or malfeasance in office may be provided by law.¹¹ Specific provision is made for removal of only two county officers by law. The assessor and other tax officers are removable for violation of the tax-levy limiting act. This would apparently apply to county commissioners because they authorize the levy. The law is operative, however, only upon conviction. The assessor may also be removed by the governor, after hearing, for fraudulent assessment. A county treasurer is removable, upon conviction, for failure to perform the duties of his office, which includes the duty of acting as treasurer of irrigation districts. County officers may be removed for failure to turn over all moneys, without deduction, collected for the state.¹²

There is no direct provision for removal of county commissioners but provision is made for proceeding against them upon default or breach of the condition of their official bond. The district attorney of the district, the county attorney, or any taxpayer of the county who will become responsible for the costs of suit, may institute action in the name of the board of county commissioners to collect damages resulting from breach of the conditions of the bond. However, a commissioner is liable only where he knowingly allows or acquiesces in the allowance of a bill not legally allowable, knowing that it is not legally allowable. Recovery may be made against each commissioner for the full amount and not the proportionate part of the loss resulting from a breach of the conditions of their official bonds.¹³

Removal is a criminal procedure and experience has shown that it is difficult to convict an officer for malfeasance in office unless the evidence is overwhelming. Consequently, removal of county officers by this method is ineffective and the great majority of officers serve out their terms without molestation. The state can exercise considerable supervision over some offices, particularly that of treasurer, because of the direct financial interest at stake. Even then, state officials are likely to be lax and force the county to take the initiative. County officials, particularly where they belong to the same political party, are not inclined to bring a charge against a fellow official. In several of the counties visited, charges have been brought against county officers in recent years. One defaulting county treasurer has been removed in a county which could ill afford his defalcations, particularly since his bond was given by personal sureties who were not in a position to recoup the loss to the county. Since this study was started a county treasurer has been indicted for alleged use of his official position to assist an individual and is now serving time in the federal penitentiary.

Furthermore, the present method of removal does not lend itself to effective control of county administration. The situation is somewhat improved by the fact that deputies and assistants are appointed by their superiors with the approval of the board of county commissioners, and by implication may remove them by the same procedure.¹⁴ If this same principle were extended it would give state officials more power over county officials who are state administrative officers. The provision for removal of an assessor by the governor is a step in this direction. While it is true that state officials cannot have any direct

¹⁰Compiled Laws of Colo., 1921, Secs. 8835, 8836.

¹¹Constitution of Colo., Art. XIII, Sec. 3.

¹²Compiled Laws of Colo., 1921, Secs. 382, 1998, 7219, 7290, 7391, 7976, 8816, 8836.

¹³Compiled Laws of Colo., 1921, Secs. 8725-8727; *Nordlow v County Commissioners of Adams County*. 139 Pacific, Colo. 585.

¹⁴Compiled Laws of Colo., 1921, Sec. 7940.

knowledge of the activities of county officials except in extreme cases, they are more free to act on information coming to their attention than are county officials. Some counties haven't had an audit of the county business for several years.

If the method of removal of county officials were simplified, there would be a tendency for county officers to be more careful than under the present procedure. A group of voters, say five, should be given the right to institute charges against any of their officials. This right should also be given to the district attorney, the county attorney, and to the attorney general. Iowa and Missouri both have more liberal provisions for removal of county officers than does Colorado. In Missouri the procedure is a civil action and tho no more county officers have been removed than in Colorado the fact that the voters and other officials have the power to act serves as a good tonic to tone up the county administration.¹⁵

The Recall of County Officials.—The recall of the county officers is provided for in Article XXII, Section 4 of the Constitution, adopted by initiative petition, November 5, 1912. It is provided that "The recall may also be exercised by the electors of each county, city and county, city and town of the state, with reference to the elective officers thereof, under such procedure as shall be provided by law." No supporting legislation has been enacted, however, and the supreme court has held that in the absence of legislation providing procedure for the recall of county officers, an attempted recall of county officers is ineffective.¹⁶ The recall perhaps ought to be made effective for county officers serving 4-year terms but the general assembly has been wise in not passing an enabling act for the recall of officers serving only 2 years. The recall is an expensive even if democratic method of removal. Other methods of removal can be used just as effectively at much less expense to the county. Furthermore, the recall often lends itself to vindictive action when an action by any other procedure could not be sustained.

Penalties are prescribed for specific offenses in addition to removal from office. These penalties range from small fines of \$5 to \$1,000 or imprisonment or both fines and imprisonment. Failure to perform certain duties connected with the office are considered misdemeanors and the offending official is subjected to a small fine. More serious offenses punishable by fine and imprisonment or both are: Offering or accepting a bribe, dealing in county warrants, lending public money and deriving benefit from a public contract. The most serious offense is the use of public funds for private purposes, punishable by imprisonment for not less than 5 years in the penitentiary.¹⁷

Filling of Vacancies.—Vacancies in the board of county commissioners are filled by appointment by the Governor. All other vacancies in county or precinct offices are filled by the board of county commissioners. All officers appointed to fill vacancies serve until the next general election or until their successors have qualified for the office.¹⁸

Organization of the Board of County Commissioners

Colorado Has the Small Type of County Board.—County boards are usually classed as large or small. Colorado has the small type of county board. This has been characteristic of counties in the western

¹⁵Shambaugh, County Government and Administration in Iowa, pp. 33-34; Bradshaw, The Missouri County Court, pp. 35-37.

¹⁶Guyer v Stutt, 68 Colo. 422, and Hall v Cummings, 73 Colo. 74.

¹⁷Constitution, Art. V, Sec. 41; Compiled Laws of Colo., 1921, Secs. 175-176, 411, 2179, 5442, 5846, 5853, 5867, 6015, 6781, 6817-6820, 6895-6903, 7274, 7668-7669, 7312-7314, 7388, 7391, 7465, 7732, 7904, 8275, 8671, 8701, 8715, 8816, 8833, 8838.

¹⁸Compiled Laws of Colo. 1921, Secs. 2218, 7290, 7821, 7822, 8679-8680, 8716, 8734, 8751, 8826, 8828, 8832; Constitution of Colo., Art. VI, Sec. 29; People v Boughton, 5 Colo. 437, compare Compiled Laws of Colo., 1921, Sec. 5733.

states, only three states west of the Mississippi River, Arkansas, Minnesota and Louisiana, having boards consisting of more than five members. From the beginning, Colorado has had a board of three members. The original constitution provided that counties above 10,000 population might provide for a board of five members. This provision was changed by an amendment, adopted in 1902, which provides for a board of three members in all counties up to 70,000 population. Counties with a population greater than 70,000 are permitted by the constitution to provide for a board of five members, tho by statute this privilege is limited to counties of 100,000 population. Furthermore, no procedure is provided for increasing the number of members on the board from three to five.¹⁹

The small board of county commissioners is desirable where their duties are purely administrative as is the case in Colorado and most other states. A small board can meet and dispatch business more easily and quickly than a large board is able to do and the cost of maintaining a small board is much less than the cost of operation of a large board.²⁰

Organization of the County Board.—The board of county commissioners form their own organization. At the January meeting, they choose one of their number as chairman who presides at all meetings during the year. In case of his absence, a temporary chairman is selected. Because the board is small there are usually no committees of the board, the entire board acting as a committee of the whole. The law provides that if committees are appointed, they shall only have power to report to the board and have no independent powers of their own. Occasionally the board delegates one of its members to investigate and report on a particular activity. Where no county road supervisor has been appointed each member has charge of his district with little or no interference from the other members of the board. It is also customary in some counties without a public welfare worker to make each member of the board responsible for poor relief in his district, in others the chairman of the board is made responsible for this work.²¹

The chairman of the board of county commissioners has a number of duties to perform. He administers oaths to any person concerning any matter submitted to the board or connected with their powers and duties. He signs all county orders, warrants and bonds, and notices of election to organize irrigation and drainage districts. Finally, he is by law ex-officio superintendent of the poor for the administration of the law relating to apprenticeship of indigent children in counties where there are no superintendents of the poor otherwise provided.²²

The law does not directly provide that a majority of the board shall constitute a quorum but does provide that a member may be penalized for absence from a meeting of the board unless excused by a majority of the board. It also provides that a majority of the board may authenticate the semi-annual statement of the county to the state auditor.²³

Meetings of the County Board.—The law provides that "Each board of county commissioners shall meet at the county seat of each county on the first Monday in January, April, July and October in each year, and at such other times as in the opinion of the board the public interests

¹⁹Constitution of Colo., Art. XIV, Sec. 6, and note; Compiled Laws of Colo., 1921, Secs. 8673, 8674.

²⁰For a full discussion of county boards see—Fairlie and Kneier, County Government and Administration, pp. 108-118; Porter, County and Township Government in the United States, pp. 58-70; Kendrick, M. S., A Comparison of the Cost of Maintenance of Large and Small County Boards in the United States, Bul. 484, Cornell Univ. Agr. Exp. Sta., Ithaca, N. Y., 1929.

²¹Compiled Laws of Colo., 1921, Secs. 8675, 8681, 8937.

²²Compiled Laws of Colo., 1921, Secs. 1963, 2117, 8678, 8697, 8845, 8848, 8860, 8867, 8937.

²³Compiled Laws of Colo., 1921, Secs. 7338, 8671.

may require.²⁴ In practice, boards of county commissioners meet much more frequently than required by law: In the 22 counties it was found that the board met regularly once a month and often called meetings were held weekly. In addition much business is transacted at casual meetings which is formally acted upon at the next regular meeting. The first meeting of the month often lasts 2 days tho the business of most counties is cleared up in 1 day. In six counties, the board met 1 day each month, in nine counties it met 2 days once a month, in six counties it met 3 days once a month and in one county it met 5 days once a month.

In some ninth-class counties it seems to be the practice for the board to hold meetings enough to make their \$5 per diem amount to the legal maximum of \$500 for the year. They are thus able to make their pay greater than that allowed commissioners in eighth-class counties, which is \$400 annually. Many casual meetings are written up as formal meetings of the board to accomplish this end. One county clerk stated that the board had given instructions that enough meetings be written up in the minutes to make the commissioners' pay the maximum of \$500. This represents the evils of per diem pay for county officials and the practice should be abolished in favor of a fixed salary. It is usually small counties that can ill afford the additional expenditure that are burdened with a per diem for county commissioners. The county business should be so organized that in most counties the commissioners would need to meet only once a month for 1 day. Salaries of commissioners could then be reduced and the saving would more than pay for any additional help necessary under such an arrangement.

Procedure Followed in Board Meetings.—The commissioners establish rules and regulations to govern the transaction of their business. All meetings must be open to the public and "all persons conducting themselves in an orderly manner may attend their meetings."²⁵ Meetings are usually very informal but for the most part conducted in an orderly manner. In spite of the fact that meetings are open to the public there are generally few in attendance at regular meetings unless a delegation is in attendance to present a petition or oppose some action of the board.

More often an individual having business with the board casually drops in during the meeting, attends to whatever business he has with the board, and leaves. Most counties provide a separate room for the county commissioners in the courthouse in which all formal meetings of the board are held. Some of these are provided with a portion set off by a rail for the commissioners. This tends to make the meetings more formal and orderly because spectators and those having business before the commissioners cannot crowd around the table at which the commissioners are seated. Where no commissioners' rooms are provided, meetings are usually held in the clerk's office or in the district courtroom.

In a majority of counties studied, the county attorney meets with the board. Questions of a legal nature which arise are referred to him for advice or investigation. In some instances, particularly where the attorney is of an aggressive nature, he may on his own initiative or at the instance of the board, question individuals having business before the board. This is undoubtedly a good procedure from the standpoint of the board but may be resented by the person being questioned since he may not like the idea of submitting to a cross examination by an attorney.

Record of Proceedings.—All records of the county and proceedings of the board of county commissioners are kept by the county clerk who is ex-officio recorder and clerk of the board. It is the duty of the clerk in person or by deputy to attend all board meetings and keep minutes of the proceedings in permanent form and to preserve and file all accounts acted upon by the board, with their action thereon.²⁶ The duties of the

²⁴Compiled Laws of Colo., 1921, Sec. 8668.

²⁵Compiled Laws of Colo., 1921, Sec. 8669.

²⁶Compiled Laws of Colo., 1921, Secs. 8728-8730.

clerk as clerk of the board will be discussed in the chapter dealing with the county clerk.

Publication of Proceedings.—Publication must be made in the official newspaper of the county of such proceedings of the board of county commissioners as "relate to the allowance of bills, letting of contracts and the granting of rebates of taxes or assessments. Such proceedings shall be given with sufficient detail as to inform the public as to the amount claimed, the amount allowed, from what fund paid and what was furnished, and in case of rebate of taxes or assessments, the amount so rebated and the reasons for the same." Publication must be made within 20 days and any county commissioner or clerk who shall fail or refuse to publish the proceedings shall be subject to a fine of not less than \$100 and the cost of the suit.²⁷

The County Attorney

The county attorney is the only constitutional county officer who may be either appointed or elected. The law provides for his appointment by the board of county commissioners. The board seems to have some discretion in the matter of appointment since the law provides that it may "when the interests of the county require it, appoint an attorney." Most counties make it a practice to appoint a county attorney. Only two counties of 54 reporting to a questionnaire did not have such an officer in 1931.

There are fewer statutory provisions regarding the duties of the county attorney than those of any other officer. He is the legal advisor of the county and as such gives legal advice to the county commissioners and other county officials on request. The district attorney may also be called upon to give such advice but in practice he is rarely requested to do so.²⁸

The county attorney defends the county in court actions brought against it and starts suits in the name of the county when directed to do so by the board of county commissioners. He is notified of suits against the county by the clerk of the board. He is charged with the duty of defending the county treasurer for mistakes in registration of land titles. When county records are destroyed, he files an information with the clerk of the district court which upon publication and hearing may order the restoration of such records as have been destroyed. He may start proceedings to recover for the county treasurer fines or portions of fines due informers but who are unknown and the time limit has expired. The state tax commission must give the county attorney and county assessor 10 days' notice before directing the county commissioners to remit the taxes or penalties in excess of \$100 on property situated in the county.²⁹

The county attorney has a number of other specific duties, particularly in connection with dependent children. He must appear at lunacy hearings and represent the cause against the person. He must appear at hearings for neglected or dependent children and "upon request of the court or any petitioner, to file petitions and conduct the necessary proceedings." He must also appear at a hearing of petition to send a child to a state home. He must institute proceedings on forfeiture of bond of persons contributing to dependency, neglect or delinquency of children. Finally, he may bring action to recover the expense of a child committed to a state institution.³⁰

The present arrangement regarding the county attorney is about as satisfactory as any which can be worked out. The board of county commissioners appoints someone in whom they have confidence and upon whose advice they can depend. It is expensive because most of the infor-

²⁷Compiled Laws of Colo., 1921, Secs. 8698-8701.

²⁸Compiled Laws of Colo., 1921, Secs. 5978, 8717.

²⁹Compiled Laws of Colo., 1921, Secs. 5012, 5027, 7335.

³⁰Compiled Laws of Colo., 1921, Secs. 554, 558, 561, 606, 636, 649, 5587-5580.

mation furnished by the county attorney could be given by the district attorney or his deputy in the respective counties. In fact, most of the above duties specifically mentioned as belonging to the county attorney may under the law be performed by the district attorney or his deputies. The difficulty is that the district attorney is elected by the district and the county commissioners have no control over him and may not for political reasons or otherwise have confidence in the information which he might give.

From an administrative viewpoint, the present arrangement is ideal. It separates the civil function of acting as legal advisor for the county board from the function of criminal prosecution which is the duty of the district attorney. If there is any criticism it is that the county board perhaps relies too much on the county attorney for advice which is not needed. An error on the side of caution, however, cannot be condemned. A saving might be made by retaining a county attorney on a fee basis and then using him only when necessary. Even at present, it is not unusual for a county to employ special counsel to "assist" the county attorney where important litigation is involved. Six counties out of 20 report that special counsel has been employed at some time, in one instance when the county attorney was disqualified.

Other County Officials

In addition to the constitutional county officers mentioned in the foregoing paragraphs, there are a large number of other county officials. A justice of the peace and a constable must be elected in each precinct. They are elected, take office and serve the same terms as other county officials. In precincts having above 50,000 population, the board may provide additional justices and constables, filling the vacancies created by appointees who serve until the next general election.³¹

There is also a large number of appointive officers. These include the deputies and assistants of constitutional officers who are appointed by the respective officers with the approval of the board of county commissioners. Their salaries are fixed by the board. In the smaller counties, there are only a few deputies appointed—often none, but in the larger counties each office has from one to a dozen deputies and assistants.

Deputies have the same powers and responsibilities, must have the same qualifications and subscribe to the same oath before entering upon their duties as their superiors, but need not furnish bond unless required by their superiors who are responsible for their acts.³²

Besides deputies and assistants, there are a number of statutory officials whose appointment is provided for by the board of county commissioners. These include the appointment of a person to superintend the burial of soldiers and sailors, local health officer, county physician, viewers for proposed road on county line, county agriculturalist, agricultural inspector, apiary inspector, horticultural inspector, pest inspector, inspector of weights and measures, commissioners to convey real estate and arbitrators to define county boundaries. The board nominates candidates for water commissioners who are appointed by the governor.³³

The board of county commissioners also appoints certain judges of election, both regular and primary, and judges of election for irrigation, drainage and water-works districts.³⁴

There is also a large number of officials who are appointed by the board by virtue of their duties as the chief executive and administrative body of the county. A few of these officials are optional, such as a

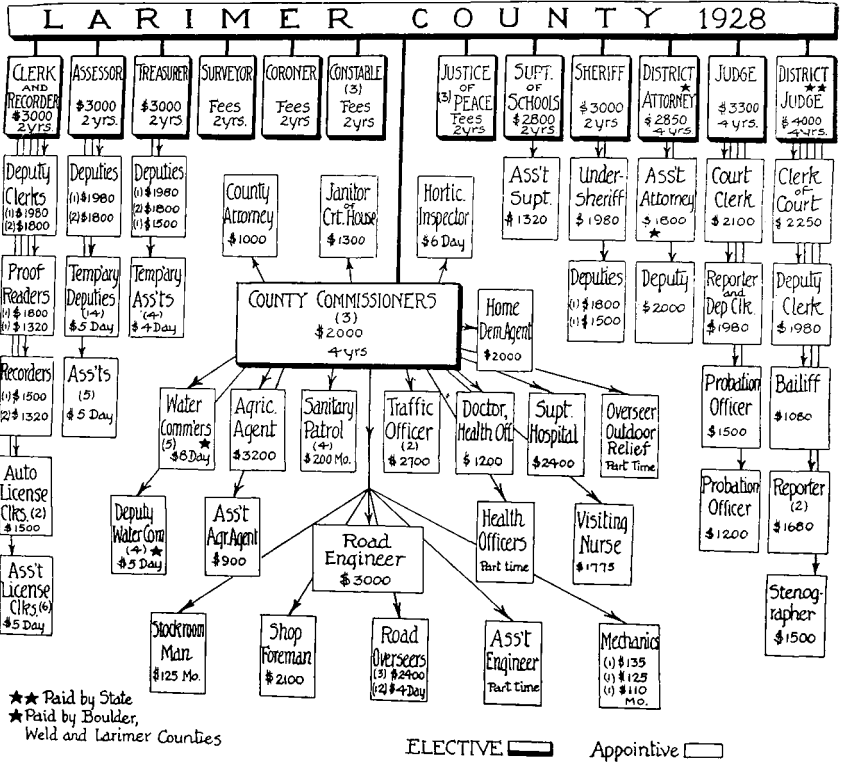
³¹Constitution of Colo., Art. XIV, Sec. 11; Compiled Laws of Colo., 1921, Sec. 6032.

³²Compiled Laws of Colo., 1921, Secs. 7940, 7954, 8733, 8752, 8770-8771, 8792, 8820, 8823, 8831.

³³Compiled Laws of Colo., 1921, Secs. 709, 882, 1292, 1919, 3024, 3048, 3095, 3105, 4114, 4909, 8638, 8918.

³⁴Compiled Laws of Colo., 1921, Secs. 1964-2002, 2117, 2211.

county road supervisor.³⁵ Other positions result from the performance of certain duties optionally conferred upon the board, such as maintenance of a county hospital, poor farm and county fair.³⁶ In the performance of their duties, the board must appoint a large number of highway and other laborers, courthouse employees, sanitary inspectors, traffic officers and the like. The number and necessity of such officials will depend upon the size and population of the county. The accompanying chart, prepared by Klemmedson, shows the personnel of Larimer County government in 1928.



Nepotism Common in Colorado Counties.—Appointment of relatives to county offices is an all too common practice in Colorado. Of 40 counties from which information was obtained on this point, one-half had relatives employed in some office. In one county, each of three principal officers had a relative employed. The following tabulation gives some idea of the extent of nepotism in county offices tho it is incomplete because it only considers the three major offices and since the information from half of the counties considered was obtained by questionnaire and may be incomplete.

In many instances appointment of relatives to office may be justified. One county clerk in a small county said he tried three deputies before finally appointing his wife. In every instance where a father, brother, or son was involved, they were men with families. It is difficult, however, to convince the taxpayer that relatives are appointed on merit alone.

³⁵Compiled Laws of Colo., 1921, Sec. 1243.

³⁶Compiled Laws of Colo., 1921, Secs. 925, 8915-8918.

Table 4.—Relatives Employed in Colorado County Offices in 20 out of 40 Counties Considered, Position Held and Annual Salary.

County	Office	Position held	Relationship	Salary
1	County Clerk	Stenographer	Daughter	\$1020
	Treasurer	Assistant	Wife	\$1020
2	Treasurer	Assistant	Son	\$1200
3	County Clerk	Assistant	Wife	\$1020
4	Treasurer	Deputy	Father	\$1400
	County Clerk	Deputy	Wife	\$1500
5	Assessor	Deputy	Brother	\$1500
6	Treasurer	Deputy	Brother	\$1300
	Assessor	Assistant	Wife	\$1020
7	County Clerk	Deputy	Relative	\$1320
	Assessor	Deputy	Wife	\$1320
	Treasurer	Deputy	Wife	\$1320
8	County Clerk	Deputy	Brother	\$1300
9	Treasurer	Deputy	Brother	\$1500
10	Treasurer	Deputy	Relative	\$1440
11	Treasurer	Deputy	Son	\$1200
	Assessor	Deputy	Wife	Part time
12	Treasurer	Deputy	Wife	\$1200
13	Assessor	Deputy	Wife	Part time
14	Assessor	Deputy	Wife	Part time
15	Assessor	Deputy	Relative	\$1350
16	Assessor	Assistant	Son	\$1200
17	Assessor	Deputy	Son	\$1200
18	Assessor	Deputy	Relative	\$1200
19	Assessor	Deputy	Relative	\$900
20	Assessor	Deputy	Wife	\$1000

Many officials are very much opposed to appointment of relatives to office and expressed the belief that a law ought to be passed prohibiting the practice. Missouri, Mississippi, Nevada, New Mexico and several other states have laws prohibiting appointment of relatives to public office. Colorado should have a law providing that it shall be unlawful for a county official to appoint any person related to him or to any other county officer to office.

Conclusion.—Judged by the organization of county government in other states, the organization of Colorado county government is superior to that found in many states. Every county officer has jurisdiction over the entire county. But there are changes which perhaps would be desirable. There are too many elective constitutional officers. The term of office of all elective officers ought to be extended to 4 years, regardless of any other changes. Furthermore, a uniform system of government is provided for 63 counties, practically no two of which have the same conditions as regards area, population, topography, resources or tax base. It is obvious that a county with a tax base of 1 or 2 million dollars should not be expected to maintain the same inflexible system of government as a county with a 50 million dollar tax base. The work of the various officers will be discussed in the succeeding chapters, together with certain definite suggestions for changes in Colorado's system of county government.

IV. CLASSIFICATION OF COUNTIES FOR FEES AND SALARIES

The Fee System.—Salaries of elective county officers are fixed by the general assembly.¹ For this purpose the constitution provides that the counties of the state shall be classified by the general assembly "according to population" and the compensation of county officers fixed for each class. Salaries are paid from fees of the respective offices or, where no fees are provided, from the ordinary county revenue fund.

Fees are provided for certain offices, the clerk and recorder, sheriff, treasurer, county judge, clerk of the district court and in certain instances the assessor on the theory, perhaps correct, that the services are rendered to individuals rather than the community as a whole; and that these offices should be wholly or partially supported by fees.² A monthly accounting must be made under oath, to the county treasurer of all fees received by fee offices.³ Fees are kept in separate funds by the treasurer and the salaries provided by law for the respective officers are paid from these fee funds. Fees collected in excess of the salary provided are turned into the county general fund.⁴ But if fees are insufficient to pay the salary of the officer he cannot be paid out of the general fund because of the constitutional limitations that where fees are charged, salaries shall be paid "only out of the fees actually collected."⁵ An act to make this possible was passed by the general assembly in 1917 but the supreme court declared the law unconstitutional.⁶ Conversely, any attempt to add to the prescribed salary of a county officer by allowing him to retain fees in an unknown and unascertainable amount is obnoxious to the constitution and without effect.⁷ In the smaller counties the fees are often a precarious source of income with the result that fee officers in the smaller counties often receive nominal remuneration for their services. For example, the earnings of the sheriff's office in 11 counties amounted to less than \$1,000 in 1929. The smallest amount, \$238, was received by the sheriff of Hinsdale County which has a population of only 449. County judges fared still worse, 18 receiving less than \$1,000 in 1929. The county judge in Archuleta County received only \$125.⁸

Under the circumstances it is hard to attract competent officials to fill the positions. Often the county commissioners and other officials use various subterfuges to provide the full salary for an officer. In one county the sheriff whose salary is fixed by law at \$1,800 receives \$1,200 of it for serving as probation officer; this in a county which has a population of less than 2000 and has so few county prisoners that the jail has been converted to other uses. The board of county commissioners often makes the salary of the county clerk as clerk of the board an amount sufficient to make the fees of the office cover his salary, disregarding the statutory provision that the clerk shall receive \$5 a day for services actually rendered as clerk of the board.⁹ The law, in any case, presents every incentive for the officer to attend primarily to the work which offers the

¹Constitution of Colo., Art. XIV, Sec. 7.

²Wager, Paul W., *County Government and Administration in North Carolina*, University of North Carolina Press, Chapel Hill, N. C., 1928, p. 255.

³Compiled Laws of Colo., 1921, Sec. 7899.

⁴Compiled Laws of Colo., 1921, Sec. 7902.

⁵Constitution of Colo., Art. XIV, Sec. 15.

⁶Board of County Commissioners of Clear Creek County v Straub, 75 Colo. 495.

⁷El Paso County v Shelden, 59 Colo. 499.

⁸Report of the Auditor of State, 1930, pp. 92, 101.

⁹Compiled Laws of Colo., 1921, Sec. 7888.

most lucrative fees. A constitutional amendment was proposed in 1926 which would have corrected this situation but failed of adoption.

Classification of Counties for Fees.—In accordance with the foregoing constitutional provisions the general assembly has classified the counties for purposes of fees and salaries. The classification must be "according to population" but there is no provision requiring readjustment of classification as population changes, or even a periodic investigation. Consequently, general reclassification of counties for fees by the general assembly has been at irregular intervals, adjustments have been made during the intervals by resort to special acts changing the classification of a particular county. The last three general classifications for fees were in the years 1908, again in 1913 and 1925.

The 1925 classification with subsequent changes to 1931 is shown in Column 2 of Table 5. The first column shows the population as given by the 1930 census. The counties have been arranged in descending order of population in order that the classification may be more readily compared to the population. Columns 3, 4, 5 and 6 of the table give the classification of the counties for salaries of county officials.

The counties are divided into five classes for purposes of fixing fees. The lower the class in which the county finds itself the higher the fees its officials are permitted to collect.¹⁰ This results in different costs for the same service in each of the five classes of counties in the state. In reality the fee system results in indirect taxation and the penalizing of individuals in the smaller counties unless fees are uniform for the entire state. For example, an alien who files a declaration of intention to become a citizen pays only \$1 if he lives in one of the counties of the first class but \$2.50 for the same service in counties of the fourth and fifth classes, and for final naturalization he must pay a fee of from \$2 to \$4 depending on whether or not he lives in a large or small county.¹¹ A sheriff, for serving each juror receives a fee of from 20 to 50 cents depending on the classification of his county. Other fees which the sheriff may charge vary accordingly.¹² Similar variations exist in the other fee offices. The obvious intention of such a system is to make the salaries of the various officers in the smaller counties as high as possible by giving them higher fees and removing the necessity of raising money by taxation or other means to pay them the salary which they deserve. Justice would dictate that the fee charged should be the same in all counties for similar services and that officers be paid an adequate salary regardless of income from the office. They could then perform their services without depending upon the precarious fee system for their compensation. Furthermore, the fee system operates to confuse the public because in a great many instances the fees are paid out of another county fund. The result is that a particular office appears to be making its own way when in reality it is simply a case of juggling county funds. As, for example, the payment of \$5 per day to the clerk as clerk of the board. It would seem wise to abolish all fees where not collectible from the public for particular services.

Criticism of Present System of Classification.—The classification of the counties at present represents an interesting assortment rather than a classification. The counties in Table 5 are arranged in order of population but the class in which a county finds itself may or may not correspond to that of other counties in the same population group. Referring to Table 5, we find Gilpin County, with a population of 1,212, is in the same class for fees with Arapahoe with its population of 22,647, and one wonders why Baca County with a population of 10,570 or almost nine times that of Gilpin should be in a lower class for fees. There can be no criticism of the first and second classes but the third class for fees comprises counties with populations ranging from 9,975 for Garfield

¹⁰Compiled Laws of Colo., 1921. Secs. 7867-7904.

¹¹Compiled Laws of Colo., 1921, Sec. 7878.

¹²Compiled Laws of Colo., 1921, Sec. 7882.

Table 5.—Classification of Counties in Colorado for Fees and Salaries.

County	Popula- tion 1930 ¹³	Class for fees ¹⁴	Class for commr's salary ¹⁵	Class for other officers ¹⁶	Class for county supt. ¹⁷	Class for county judge ¹⁸
	(1)	(2)	(3)	(4)	(5)	(6)
Denver	287,861	1		1	5	1
Pueblo	66,038	2	1A	2A	1A	2A
Weld	65,097	2	1A	2B	1A	2B
El Paso ¹⁹	49,570	2	1A	2B	1B	2B
Las Animas	36,008	3	1B	2B	1A	2B
Larimer	33,137	3	1B	2B	1B	2B
Boulder	32,456	3	1B	2B	1B	2B
Mesa	25,908	3	2	3A	1C	2B
Otero	24,390	3	2	3A	1C	3A
Arapahoe	22,647	4	2	3B	2	2B
Jefferson ²⁰	21,810	4	2	2B	2	2B
Adams	20,245	3	2	3A	1C	2B
Logan	19,946	3	2	3A	2	3A
Fremont	18,896	4	2	3A	2	3A
Morgan	18,284	3	3	3A	2	3A
Huerfano ²¹	17,062	4	3	4A	3	3C
Prowers	14,762	4	4	4A	3A	4A
Delta	14,204	3	4	4A	2	4A
Yuma	13,613	4	2	3B	1C	3B
La Plata	12,975	4	4	4A'	2	3C
Montrose	11,742	3	4	4A	2	4A
Baca	10,570	5	6	4B	3A	4B
Rio Grande	9,953	4	7	4B	5	4B
Garfield	9,975	3	4	3A	2	3A
Conejos	9,803	4	4	4A	3A	4A
Kit Carson	9,725	4	3	3B	3A	3A
Washington	9,591	4	3	3B	2	3C
Routt	9,352	4	5	4A	3A	4A
Bent	9,134	4	4	4B	3A	4A
Alamosa	8,602	4	7	4A	3A	4B
Chaffee	8,126	4	5	4A	3A	3C
Montezuma	7,798	4	6	4B	3B	4B
Lincoln	7,850	4	4	4A	3A	4A
Elbert	6,580	4	4	4B	2	4A
Saguache ²²	6,250	4	4	4B	4	4B
Crowley	5,934	4	4	4A	3A	4A

¹³Population figures taken from Colo., Yearbook, 1931, p. 18.¹⁴Session Laws of Colo., 1925, Ch. 93, p. 245.¹⁵Session Laws of Colo., 1925, Ch. 75, p. 210.¹⁶Clerks and recorders, treasurers, assessors, sheriffs and clerks of district court, Compiled Laws of Colo., 1921, Sec. 7921.¹⁷Session Laws of Colo., 1931, Ch. 148, p. 718.¹⁸Session Laws of Colo., 1927, Ch. 100, p. 337.¹⁹Weld and El Paso Counties are now first class, division "A" for salaries of county commissioners, Session Laws of Colo., 1925, Ch. 77, p. 216; 1929, Ch. 81, p. 302.²⁰Jefferson County is now second class, division "B" for salaries, Session Laws of Colo., 1929, Ch. 77, p. 294.²¹Huerfano County is third class, division "C" for county judge, fourth class "A" for county officers, and third class for county commissioners and county superintendent of schools, Session Laws of Colo., 1933, Ch. 56, p. 398.²²Saguache County is fourth class, division "B" for salaries and fees, Session Laws of Colo., 1931, Ch. 77, p. 288.

Phillips	5,797	4	6	4A	3A	4A
Costilla ²³	5,779	4	7	4B	4	4B
Sedgwick	5,580	4	6	4B	4	4B
Gunnison	5,527	4	4	4A	3A	4A
Lake	4,892	4	3	4A	3B	4A
Moffat	4,861	5	5	4B	3A	4A
Teller ²⁴	4,141	5	5	5	5	5
Eagle	3,924	4	6	4B	4	4B
Kiowa	3,786	5	4	4B	3A	4B
Cheyenne	3,723	4	4	4A	3A	4A
Douglas	3,498	4	4	4B	3A	4A
Archuleta	3,204	4	7	4C	5	4C
Rio Blanco	2,980	5	6	4B	4	4B
San Miguel	2,184	4	5	4A	4	4A
Clear Creek	2,155	4	7	4A	3B	4A
Custer	2,124	5	7	5	5	5
Grand	2,108	5	7	4B	4	4B
Park	2,052	4	5	4B	4	4B
San Juan	1,935	5	9	4B	6	4B
Ouray	1,784	4	6	4B	4	4B
Pitkin ²⁵	1,770	5	8	4B	4	4B
Dolores	1,412	5	9	5	6	5
Jackson	1,386	5	7	4C	4	4C
Gilpin ²⁶	1,212	4	9	4C	3B	4C
Summit	987	5	7	4B	5	4B
Mineral	640	5	9	5	7	5
Hinsdale	449	5	9	5	8	5

County to 36,008 for Las Animas County. Within this population range of third-class counties we find eight fourth-class counties and one fifth-class county.

Fourth-class counties represent a population range varying from Gilpin County with 1,212 to Arapahoe County with 22,647. Again, we find counties of the class above and below in this population range. Counties in class five vary in population from Hinsdale's 449 to Baca's 10,570.

Classification for commissioners' salaries is given in Column 3. This classification was made in 1925 and divides the counties into nine classes with the first class subdivided into "A" and "B" divisions.²⁷ Here again there is little relation between classification and population. Lake County is third class but there are counties of the fourth, fifth, sixth and seventh-classes between it and the next nearest third-class county. All the fifth-class counties and but one of the sixth-class counties are below Baca County which is seventh class. Furthermore, why should Jackson and Summit Counties be seventh class when Dolores and Gilpin Counties are ninth?

For salaries of clerks of district courts, clerks and recorders, treas-

²³Costilla County is fourth class, division "B" for salary of county judge; fifth class, division "C," for salary clerk of county court, Session Laws of Colo., 1931, Ch. 75, p. 284.

²⁴Teller County is fifth class for salaries and fees, Session Laws of Colo., 1927, Ch. 84, p. 284.

²⁵Pitkin County is eighth class for salaries of county commissioners, fifth class for fees, Session Laws of Colo., 1931, Ch. 76, p. 286.

²⁶Gilpin County is class four "C," Session Laws of Colo., 1923, Ch. 110, p. 318, Sec. 1.

²⁷Session Laws of Colo., 1925, Ch. 75, p. 210.

urers, assessors and sheriffs the counties are divided into five classes with each class except the first and fifth divided into two sections, thus actually making eight classes.²⁸ No general reclassification for this purpose has been made since 1921. Even taking account of population changes the classification is indefensible. One wonders why third and fourth-class counties should be so intermixed as to put Garfield County in class three "A," Rio Grande in class four "B" and Conejos in four "B." If Teller County, which by special act, was made fifth class, belongs there why not all the 20 counties with lesser populations instead of only 4 of them.²⁹

The classification for salaries of county superintendents of schools was made by the general assembly in 1931. One would presume, therefore, that it represents the wishes of the general assembly and if the constitutional injunction were followed should conform to recent population figures. But let us see. There are eight classes, with class one divided into three divisions and class three into two divisions, a total of eleven divisions.³⁰ Despite the fact that this revision has just been made we find Elbert County with a population of 6,580 in class two along with Arapahoe and Jefferson Counties having populations of 22,647 and 21,810 respectively. Yuma County is in division one "C" tho there are six counties between it and Adams the next highest one of that class. If Montezuma County should be in class three "B" why not the eight counties with less population which we find in class three "A"? Why should Gilpin County with a population of 1,212 be in class three "B" when there are counties in classes four, five and six above it? Why should the five counties with the lowest populations be in five different classes?

The same criticism may be made of the classification of counties for salaries of county judges.³¹ Tho the classification was made in 1927 it does not in any respect conform to a classification according to population. For example, why should class four "B" contain counties ranging from Summit County with a population of 987 to Baca County with a population of 10,570?

²⁸Compiled Laws of Colo., 1921. Sec. 7921.

²⁹Session Laws of Colo., 1927, Ch. 84, p. 284.

³⁰Session Laws of Colo., 1931, Ch. 148, p. 718.

³¹Session Laws of Colo., 1927, Ch. 100, p. 337.

Table 6.—Salaries of County Officials in Colorado.

Amount of Annual Salary Paid County Officials

County	Population 1930	Each commis- sioner32	Clerk and re- corder35	Treas- urer36	Assessor37	Sheriff38	County supt.39	County judge40
Denver	287,861	\$ 2,400	\$4,600	\$4,600	\$4,600	\$4,600	\$ 900	\$5,000
Pueblo	66,038	2,400	3,300	3,300	3,300	3,300	3,000	3,600
Weld33	65,097	2,400	3,000	3,000	3,000	3,000	3,000	3,300
El Paso33	49,570	2,400	3,000	3,000	3,000	3,000	2,800	3,300
Las Animas	36,008	2,000	3,000	3,000	3,000	3,000	3,000	3,300
Larimer	33,137	2,000	3,000	3,000	3,000	3,000	2,800	3,300
Boulder	32,456	2,000	3,000	3,000	3,000	3,000	2,800	3,300
Mesa	25,908	1,200	2,400	2,500	2,400	2,800	2,800	3,300
Otero	24,390	1,200	2,400	2,500	2,400	2,800	2,400	2,700
Arapahoe	22,647	1,200	2,400	2,500	2,400	2,400	2,000	3,300
Jefferson	21,810	1,200	3,000	3,000	3,000	3,000	2,000	3,300
Adams	20,245	1,200	2,400	2,500	2,400	2,800	2,400	3,300
Logan	19,946	1,200	2,400	2,500	2,400	2,800	2,000	3,300
Fremont	18,896	1,200	2,400	2,500	2,400	2,800	2,000	2,700
Morgan	18,284	1,000	2,400	2,500	2,400	2,800	2,000	2,700
Huerfano	17,062	1,200	2,400	2,500	2,400	2,800	2,000	2,700
Prowers	14,762	900	2,100	2,100	2,100	2,300	1,500	1,800
Delta	14,204	900	2,100	2,100	2,100	2,300	2,000	1,800
Yuma	13,613	1,200	2,400	2,500	2,400	2,400	2,400	2,400
La Plata	12,975	900	2,100	2,100	2,100	2,300	2,000	2,100
Montrose	11,742	900	2,100	2,100	2,100	2,300	2,000	1,800
Baca	10,570	700	1,800	1,800	1,800	1,800	1,500	1,200
Rio Grande	9,953	600	1,800	1,800	1,800	1,800	900	1,200
Garfield	9,975	900	2,400	2,500	2,400	2,800	2,000	2,700
Conejos	9,803	900	2,100	2,100	2,100	2,300	1,500	1,800
Kit Carson	9,725	1,000	2,400	2,500	2,400	2,400	1,500	2,700
Washington	9,591	1,000	2,400	2,500	2,400	2,400	2,000	2,100
Routt	9,352	800	2,100	2,100	2,100	2,300	1,500	1,800
Bent	9,134	900	1,800	1,800	1,800	1,800	1,500	1,800
Alamosa	8,602	900	1,800	1,800	1,800	1,800	1,500	1,200
Chaffee	8,126	800	2,100	2,100	2,100	2,300	1,500	2,100
Montezuma	7,798	700	1,800	1,800	1,800	1,800	1,200	1,200

Table 6.—(Continued)

Amount of Annual Salary Paid County Officials

County	Population 1930	Each commis- sioner ³²	Clerk and re- corder ³⁵	Treas- urer ³⁶	Assessor ³⁷	Sheriff ³⁸	County supt. ³⁹	County judge ⁴⁰
Lincoln	7,850	900	2,100	2,100	2,100	2,300	1,500	1,800
Elbert	6,580	900	1,800	1,800	1,800	1,800	2,000	1,800
Saguache	6,250	900	2,100	2,100	2,100	2,300	1,100	1,200
Phillips	5,934	900	2,100	2,100	2,100	2,300	1,500	1,800
Cherokee	5,797	700	2,100	2,100	2,100	2,300	1,500	1,800
Costilla	5,779	600	1,800	1,800	1,800	1,800	1,100	1,200
Sedgwick	5,580	700	1,800	1,800	1,800	1,800	1,100	1,200
Gunnison	5,527	900	2,100	2,100	2,100	2,300	1,500	1,800
Lake	4,892	1,000	2,100	2,100	2,100	2,300	1,200	1,800
Moffat	4,861	800	1,800	1,800	1,800	1,800	1,500	1,800
Teller	4,141	800	1,500	1,500	1,200	1,200 max.	900	1,200 max.
Eagle	3,924	700	1,800	1,800	1,800	1,800	1,100	1,200
Kiowa	3,786	900	1,800	1,800	1,800	1,800	1,500	1,200
Cheyenne	3,723	900	2,100	2,100	2,100	2,300	1,500	1,800
Douglas	3,498	900	1,800	1,800	1,800	1,800	1,500	1,800
Archuleta	3,204	600	1,600	1,600	1,300	1,300	900	1,200
Rio Blanco	2,980	700	1,800	1,800	1,800	1,800	1,100	1,200
San Miguel	2,184	800	2,100	2,100	2,100	2,300	1,100	1,800
Clear Creek	2,155	600	2,100	2,100	2,100	2,300	1,200	1,800
Custer	2,124	600	1,200	1,500	1,200	1,200 max.	900	1,200 max.
Grand	2,108	600	1,800	1,800	1,800	1,800	1,100	1,200
Park	2,052	800	1,800	1,800	1,800	1,800	1,100	1,200
San Juan	1,935	500 ⁴¹	1,800	1,800	1,800	1,800	1,100	1,200
Ourray	1,784	700	1,800	1,800	1,800	1,800	1,100	1,200
Pitkin ³⁴	1,770	400	1,800	1,800	1,800	1,800	1,100	1,200
Dolores	1,412	500 ⁴¹	1,500	1,500	1,200	1,200 max.	500	1,200 max.
Jackson	1,386	600	1,600	1,600	1,300	1,300	1,100	1,200
Gilpin	1,212	500 ⁴¹	1,600	1,600	1,300	1,300	1,200	1,200
Summit	987	600	1,800	1,800	1,800	1,800	900	1,200
Mineral	640	500 ⁴¹	1,200	1,500	1,200	1,200 max.	250	1,200 max.
Hinsdale	449	500	1,200	1,500	1,200	1,200 max.	100	1,200 max.

(See next page for references)

Inequalities in Salary Schedules in Colorado Counties.—The evils of the present arrangement are more obvious when reference is made to salaries of the various officials as given in Table 6. The arrangement and headings are the same as in Table 5 except that salaries rather than classification are indicated. The salary for each official is fixed by separate laws for each class without reference to salaries of other officials in the same county.⁴²

The present classifications and salary scales result in some interesting figures. Thus, only in Weld and Las Animas Counties do we find the five offices of clerk, treasurer, assessor, sheriff and county superintendent of schools receiving the same salaries. All other counties show a variation in the salaries of these five officers. For example, treasurers in the 12 third-class counties receive \$2,500 a year while the clerk and assessor receive \$2,400 a year. In all other counties the clerk and the treasurer receive the same salaries. The assessor likewise receives the same salary as the clerk and treasurer except in the seven counties of class four "C" and class five where they receive \$300 a year less.

The salaries for the office of sheriff in the various counties also present an interesting study. It might be conceded that the office of sheriff should pay more than the other county offices because of the nature and danger of the work involved. But why should the seven sheriffs in counties class three "A" receive \$400 a year more than the clerk and assessor in their respective counties. The 18 sheriffs in counties classed four "A" receive \$200 a year more than their clerk, treasurer and assessor. In all other counties the sheriff receives no more than the three officers named and in counties in classes four "C" and five he receives the same as the assessor.

An even greater disparity in salaries is found when we look at the salaries of the office of county superintendent of schools which is the lowest paid county office. These salaries are based on a classification made for this particular office and there is no relationship between salaries paid for this office and salaries of other county officials. The salaries range from \$100 annually in Hinsdale County to \$3,000 in the larger counties. The county superintendent in Elbert County receives \$2,000 and is the highest paid official in the county, the others, including the county judge, receive only \$1,800. Elbert is the only county in which the county superintendent is the highest paid official. In Las Animas, Pueblo and Weld Counties the county superintendent receives a salary of \$3,000, the same salary as the clerk, treasurer, assessor and sheriff. In Adams, Mesa, Otero and Yuma Counties the superintendent receives the same salary as the clerk and assessor. In all other counties the

References to Table 6.

³²Salaries of county commissioners fixed by Session Laws of Colo., 1925, Ch. 75, p. 210.

³³Weld and El Paso Counties are now first class, division "A," for salaries of county commissioners, Session Laws of Colo., 1925, Ch. 77, p. 216; 1929, Ch. 81, p. 302.

³⁴Pitkin County is eighth for salaries of county commissioners, Session Laws of Colo., 1931, Ch. 76, p. 286.

³⁵Compiled Laws of Colo., 1921, Sec. 7931.

³⁶Compiled Laws of Colo., 1921, Sec. 7925.

³⁷Compiled Laws of Colo., 1921, Sec. 7932.

³⁸Compiled Laws of Colo., 1921, Sec. 7926.

³⁹Session Laws of Colo., 1931, Ch. 148, p. 718.

⁴⁰Session Laws of Colo., 1927, Ch. 100, p. 337.

⁴¹\$5 per day, maximum \$500.

⁴²Compiled Laws of Colo., 1921, Secs. 7925, 7926, 7932; Session Laws of Colo., 1925, Ch. 75, p. 210; 1927, Ch. 100, p. 337; 1931, Ch. 148, p. 718.

salary is from \$100 to \$1,100 a year less than that of the other county officials. In some instances there is a wide variation in salary which appears to have no foundation. For example, in Rio Grande County the county superintendent receives \$900 annually while the other county officials receive \$1,800, altho as in the case of Denver, there may be a reason for the low salary. In several counties the superintendent receives \$1,100 while the other officials receive \$1,800.

The salaries of county judges are also based on a separate classification. As in the case of the county superintendent of schools there is little relation either to population or salaries of other officials. In 11 counties the county judge is the highest paid county official. In five others he is the highest paid excluding the sheriff. In the remaining counties, with the one exception of Kit Carson County, the county judge receives the same salary or less than the other county officers, excluding the county superintendent. One wonders why the county judge should get \$1,200 annually in the counties of Baca, with a population of 10,570, and Rio Grande, with a population of 9,953; \$2,700 annually in Garfield County with a population of 9,975 and Kit Carson County with a population of 9,725; yet only \$1,800 annually in Conejos County which stands between them in population. If the county judge is only worth \$1,200 annually in Baca County why should 18 county judges in counties ranking below it in population be receiving salaries of \$1,800, \$2,100 and \$2,700 annually?

Several factors have operated to create the situation which we find in the foregoing classification of counties for fees and fixing of salary schedules by the general assembly. Local pride in many instances operates to bring pressure to bear against lowering the classification of a county. The population of a county may have moved away; its economic resources may have melted away; its official salaries may be a tax burden; but pride in the grandeur which was is sufficient to prevent legislation to bring law and reality together. In other instances the member of the general assembly fears the consequences if he should vote for a measure which would reduce salaries of county officials. Organizations of county officers and officers in individual counties have used their influence to prevent a reclassification of their county which would result in a reduction of salaries.

Aside from political considerations, the soundest criticism of salaries of county officials as fixed by the general assembly is that there is no correlation between the salaries of the various officers. The salaries for the offices of clerk and recorder, treasurer, assessor and sheriff have not been changed since 1919. This in itself is not so bad if the classification of counties for salaries, last made in 1921, had been brought up to date in compliance with changed population conditions. Several individual counties have been reclassified but this has merely served to muddle the situation rather than bring the classification into conformity with the constitutional requirement.

The classification for commissioners' salaries and their compensations was fixed by the general assembly in 1925; for county judges in 1927, and for school superintendents in 1931. Each of these reclassifications was made without reference to the classification or salaries for other officers with the incongruities discussed in the foregoing paragraphs. As long as the constitution provides that classification shall be "according to population" the counties should be so classified.

The law could provide that counties within a given population range shall be of a given class. This would automatically reclassify the counties after each official census without further legislative action and would remove the political influences now present in classifying counties.

The inequalities and differences in salaries could be corrected by passing a consolidated salary schedule so that the salary of each officer would be fixed in relation to the salaries of other officers in the county instead of independently as at present.

For the smaller counties the per capita cost of maintaining the present set up of county officers is staggering. For example, the salaries of the five offices given in Table 6 amounts to more than \$1 per capita for all counties having a population of 20,000 or less, or almost one-sixth of the counties of the state. And this does not include the offices of surveyor, coroner and county attorney, whose salaries or fees are nominal, that of the clerk of the district court, clerk of the county court, or that of the district attorney whose salary is apportioned among the counties of the district. The burden is so great that the smaller counties cannot meet the salaries provided by law. For example, Hinsdale County paid the assessor only \$300 in 1930, which is perhaps sufficient considering the small population, but the salary fixed by law is \$1,200.

V.

THE BOARD OF COUNTY COMMISSIONERS

Board Administrates Affairs of the County.—County commissioners in Colorado are administrative officers. In the case of *Sheeley v People*, the supreme court said: "County commissioners represent their county, and have charge of its property and the management of its business concerns. Their duties are to administer the affairs of their county, and in that behalf to exercise such power as is expressly conferred upon them by the constitution and the statutes of the state, and such implied power as is reasonably necessary to the proper execution of the express power." The court concludes that county commissioners are administrative officers. "The general scope of their duties being the administration of the affairs of the county, they must be administrative officers, and though vested with a large amount of discretion, which the court has many times said cannot be controlled by the courts, yet it is administrative discretion, rather than judicial. Nor are they legislative officers. They do not make law, but are themselves wholly subject to the constitution and the statutes, and are concerned only in the administration of the business of the county as therein directed." The court concludes: "If they are neither judicial nor legislative officers, they must fall within the executive department, the administrative branch, and are classed as executive or administrative officers, as these terms are used interchangeably.¹

The duties of the board of county commissioners are thus more limited than are the powers of similar bodies in some states. In Missouri, for example, the county board is known as the county court and exercises some judicial functions and is considered a court of record.² In Arkansas, Kentucky and Tennessee, the quarterly court of justices of the peace still constitute the fiscal and general administrative authority of the county. This quarterly court is a holdover from territorial days when the county boards in several states were patterned after the court of quarter sessions which had existed in England since the thirteenth century, and had exercised civil, criminal, equity and probate jurisdiction in addition to administrative powers.³

Powers of the Board.—The law enumerates nine general powers of the board of county commissioners. They have power at any meeting:⁴

1. To make such orders concerning the property belonging to the county as they may deem expedient;
2. To examine and settle all accounts of the receipts and expenses of the county, and to examine and settle and allow all accounts chargeable against the county, and when so settled they may issue county orders therefor as provided by law;
3. To build and keep in repair county buildings, and cause the same to be insured in the name of the county treasurer, for the benefit of the county, and in case there are no county buildings to provide suitable rooms for county purposes;
4. To apportion and order the levying of taxes as provided by law, and to contract loans in the name and for the benefit of the county, for the purpose of erecting necessary public buildings, making or repairing public roads or bridges, when such loans have been authorized by a vote of the legal voters of the county; and for the payment of the debts of the county, contracted in accordance with law, prior to the first day of July, A. D. 1876;

¹*Sheeley v People*, 129 Pacific, Colo. 201; see also *Roberts v People*, 13 Pacific, Colo. 630; *Merwin v Boulder County*, 67 Pacific, Colo. 285.

²*Bradshaw*, *The Missouri County Court*, pp. 25-27.

³*Fairlie and Kneier*, *County Government and Administration*, pp. 3-26. 107-130; *Bradshaw*, *The Missouri County Court*, p. 25.

⁴Compiled Laws of Colo., Sec. 8682.

5. To represent the county and have the care of county property and the management of the business and concerns of the county, in all cases where no other provision is made by law;

6. To set off, organize, and change the boundaries of precincts in their respective counties; to designate and give names therefor;

7. To establish one or more voting places in each election precinct, as the convenience of the inhabitants may require;

8. To lay out, alter or discontinue any road running into or through such county, and also to perform such other duties respecting roads as may be required by law;

9. To grant such licenses and perform such other duties as are or may be prescribed by law.

For our purpose these nine powers may be grouped under four headings: (a) Coordinating and supervisory functions; (b) taxation and finance; (c) highways and elections; and (d) public welfare. Here we shall discuss the coordinating and supervisory functions. Separate chapters will be devoted to taxation, finance, highways and elections, and public welfare.

Coordinating and Supervisory Functions of the Board of County Commissioners.—The law provides that the powers of a county as a body politic and corporate shall be exercised by a board of county commissioners therefor.⁵ The board of county commissioners is thus comparable to the board of directors of a private corporation. Their duties are very similar. The real difference lies in the fact that the county commissioners are bound by laws on the one hand and, within the limits of discretion, by the wishes of the voters on the other. The legal voters must, for example, pass upon the question of issuance of bonds for county purposes. The board of directors of a private corporation is, on the other hand, comparatively free to formulate policies and carry them out, being restricted by law only within very broad limits designed primarily to protect the stockholders and public from fraud or unfair dealing.

The board of county commissioners, as the body which exercises the politic and corporate powers of the county, has a number of duties which pertain to the entire county. These include making provision for care and custody of county buildings and other county property, letting contracts, general supervision of county officials and purchasing and auditing.

County Commissioners the Budget-Making Authority.—Under the local government budget act of 1933 the board of county commissioners is required to present a complete financial plan for the ensuing budget year setting forth all proposed expenditures for administration, operation and maintenance of all offices, departments, boards, commissions and institutions, including publicly owned and operated utilities and enterprises; the actual or estimated operating deficits from prior years; all interest and debt redemption charges during the budget year; expenditures for capital projects to be undertaken or executed during the budget year. In addition, the budget must show all anticipated income and other means of financing the proposed expenditures for the year.⁶

The Control of County Property.—The board of county commissioners has general control and custodial care over all county property and more or less supervision over the bonds, offices and records of the other county offices. As legal agents for the county, the commissioners have the power to purchase and hold real and personal property for the use of the county and to sell and convey any real or personal property owned by the county and make such order respecting the same as may be deemed conducive to the interests of the inhabitants. However, the power of the commissioners to sell or convey real estate is limited by the necessity of acting thru a commission appointed for the purpose. The number of members composing such a commission is not specified in the law. The

⁵Compiled Laws of Colo., 1921, Sec. 8669.

⁶Session Laws of Colo., 1933, Ch. 125, p. 666.

board of county commissioners must provide a suitable courthouse, jail and other necessary county buildings and keep them in repair. The power to provide a courthouse and other buildings does not necessarily mean that the county must own the property. It may be leased or rented. One county visited is renting the office space necessary for the county offices. Two others were keeping their prisoners in a neighboring county jail on a per diem basis.⁷

Location of the County Seat.—The original location of the county seat must be determined by a two-thirds majority of the voters of the county at an election held on the day of a general election. Likewise, the law requires a two-thirds vote to remove a county seat once established, altho the constitution requires only a majority. If there are no county buildings, a simple majority is sufficient. The board has power to locate the county buildings anywhere within the area designated as the county seat under its power to make arrangements for surveying the county seat and erecting the necessary public buildings. The board could not erect expensive buildings because of limitations on the tax limits. A majority vote is necessary to issue county bonds, thus, the board is free to act only within limits of the tax levy or depend upon a favorable vote on a bond issue.⁸

The Changing of County Boundaries.—County boundary lines may be changed on petition of a majority of the voters resident in the territory to be stricken off from the county to the board of commissioners who notify the board of the county with which the territory proposes to unite and provides that the question shall be submitted to the voters of the county at the next general election whether such territory should be stricken off. A majority vote is required.⁹

In case of an indefinite boundary, the board has power to authorize a survey. If after a survey, the line is still unsatisfactory, it may provide for arbitration. The board may also appeal to the state engineer who shall determine the boundary. If the county is dissatisfied with the survey, it may appeal for arbitration or to the courts within 6 months. The decision of the arbitrators is final.¹⁰

The Right to Acquire Property.—When a new county is organized or when otherwise necessary, the board has power to procure transcript of deeds, bonds, agreements, powers of attorney and other writings conveying or affecting title to real estate. It may also procure copies of original field notes and plats of surveys to all lands within the county.¹¹

The power to acquire property for the county includes the right to purchase fairgrounds not exceeding 60 acres nor costing more than \$20,000 and to provide for the management of the fair and care of the grounds when not otherwise in use.¹² A county historical society may be established and supported by county funds.¹³ The board may also provide for a county poorfarm and may by purchase, grant or lease, procure land for the purpose or may accept donations to aid in the establishment of a poorhouse. If land is purchased, the amount may not exceed 640 acres.¹⁴ Hospitals may also be provided.¹⁵ This has not been done as a general rule, the counties preferring to cooperate with the Colorado General Hospital by sending their patients to it rather than

7Compiled Laws of Colo., 1921, Secs. 4909, 8658-8661.

8Compiled Laws of Colo., 1921. Secs. 8649-8656; Constitution of Colo., Art. XIV, Sec. 2.

9Compiled Laws of Colo., 1921, Sec. 8641; Constitution of Colo., Art. XIV, Sec. 3.

10Compiled Laws of Colo., 1921, Secs. 8637-8638, 8646.

11Compiled Laws of Colo., 1921, Secs. 4918, 5029, 5040.

12Compiled Laws of Colo., 1921, Secs. 482-485.

13Compiled Laws of Colo., 1921, Secs. 8234-8241.

14Compiled Laws of Colo., 1921, Secs. 8915-8919.

15Compiled Laws of Colo., 1921, Secs. 925-928.

maintain a hospital for the county. When private hospitals are available, it appears to be doubtful economy for a county to undertake to furnish hospital facilities, especially since the Colorado General Hospital is available for malignant cases.

Another important power which the board has is in connection with the purchase and use of road equipment. This in most counties is the largest single item in the inventory of county property. We shall, however, reserve discussion of this item for the chapter devoted to roads and bridges.

The Care of County Property.—The board is the custodian of the courthouse and other county property. The supervision of the courthouse is usually left to the janitor in the interim between meetings of the board; while the sheriff is usually custodian of the jail, especially where it is in a building separate from the courthouse. In a few of the larger counties where the board is in more or less continuous session, they exercise closer supervision than where their meetings are less regular.

The board is authorized to insure county buildings in the name of the treasurer for the benefit of the county, keep them in repair and make such alterations and additions as are necessary. In every county visited, the county buildings were insured for what appeared to be their reasonable insurable value. This is commendable because while there is something to be said in favor of the county carrying its own insurance by not insuring, it is very doubtful economy because of the small cost involved compared to the risk of not insuring.

County buildings in the counties visited were for the most part well preserved, receiving adequate care. This was true even of the counties whose courthouses have been constructed for some years, as well as those counties who pride themselves on having courthouses of recent construction. In two counties visited, the fairgrounds are used for storage for road equipment when not in use. In one county, the portion of one of the buildings on the fairgrounds is used for a county garage.

In several counties visited the courthouse is inadequate and poorly arranged. This was true where the buildings had been constructed at an earlier date and were adequate at the time they were constructed. One county is using a frame building which has been adapted for use as a courthouse but is ill adapted for such a purpose. Because of the fire hazard, the records of the county are in constant danger. It is doubtful economy, however, for some of the smaller counties to attempt to build new courthouses because of the financial inadequacy of the county. Consolidation into larger areas before constructing new buildings would be a very desirable move, both from the standpoint of administration and economy.

Effective Supervision of Elected County Officials Impossible.—The large number of elective county officers makes effective supervision by the board of county commissioners difficult, if not impossible, tho the law in Colorado gives the board greater powers of supervision than that exercised in most states. Often efforts to make such supervisory powers effective are blocked by elected officials who for political or personal reasons fail to cooperate with the board. One instance was recently called to my attention where a former county clerk, who, by virtue of his office, was clerk of the board, was not on speaking terms with one member of the board and refused to attend board meetings. This is an extreme and unusual illustration but it is an example of what can happen. In one county visited, the sheriff stated that he has as little as possible to do with the other county officials who belonged to the opposite political party.

Legally, the board of county commissioners in Colorado can, and in most instances does, exercise considerable supervisory power over other county officials. The board has power to inspect and examine the accounts of county officers at any time. The county judge, clerk of the county court, county treasurer, sheriff, county clerk, justices of the

peace and constables are required to make reports to the chairman of the board on the first Monday of each month. The report must be in writing under oath and must show all fees, commissions, emoluments of the office, clerk hire and expenses for the month. The sources of all fees must be indicated. It is the duty of the board to audit the accounts of the various county officers as soon as possible and correct and adjust them in accordance with the facts. All fees must be paid into the county treasury monthly. For this purpose the board may hire an expert accountant to audit the books, the courts having declared that where a power exists the method is discretionary.¹⁶

In a few instances, the board is given authority to enforce its powers. For instance, the board may impose a penalty of \$100 if the county superintendent shall fail to make a full and complete report within 10 days "after written request or notice from the superintendent of public instruction or from the board of county commissioners."

Board Has Control Over Appointed Officials.—Over the appointive officers, the board has more control. The length of appointment is determined by the board except that of the inspector of weights and measures whose appointment is for 1 year.¹⁷ In the case of such officers as county physician, health officer, superintendent of the poor, road supervisors, and similar positions, it is customary for the board to make annual appointments. This may also hold true for other employees such as courthouse attaches tho they may be appointed to serve at the pleasure of the board. In addition, there are a large number of laborers and other employees who are entirely under the control of the board or its agents.

Control of County Supplies.—It is the duty of the board of county commissioners to provide supplies for the other county offices and officers are in turn prohibited from contracting or purchasing "any books, stationery, records, printing, lithographing or other supplies for use in his office.¹⁸ In addition to a general statement of this duty it is specifically provided that the board shall furnish: The public trustee with necessary records and reports, supplies for the juvenile court, tax schedules and assessment rolls for the assessor. It must reimburse the clerk for outlay for procuring a list of entered lands from the land office.¹⁹

The county board must also furnish election supplies including ballot boxes, booths, cards of instruction and ballots. It must also provide voting places in each precinct.²⁰

Board Has a Certain Degree of Control Over Minor Governmental Divisions.—The board has certain supervisory powers over municipalities and quasi-municipal corporations. It may levy a tax to pay judgments against a municipality or quasi-municipal corporation upon appeal by the creditor if such corporation defaults or fails to make provision for paying the judgment. The levy necessary may be in addition to the legal tax limit.²¹ The board also has the power to levy a tax against the property of any school district sufficient to pay the interest and installments due on outstanding bonds or to provide a sinking fund to redeem bonds when due, whether the local board shall certify such a levy or not.²² This same power may be exercised to pay refunding bonds of irrigation and water-works and public improvement districts.²³

It hears petitions for the formation of domestic-water districts, fixes the boundary of proposed districts, gives notice of election and performs

¹⁶Compiled Laws of Colo., 1921, Secs. 7899-7901, 7904; Gunnison County v Davis, 150 Pacific, Colo. 324.

¹⁷Compiled Laws of Colo., 1921, Sec. 4114.

¹⁸Compiled Laws of Colo., 1921, Secs. 8687, 8688.

¹⁹Compiled Laws of Colo., 1921, Secs. 5047, 5063, 5820, 7235, 7456, 7267.

²⁰Compiled Laws of Colo., 1921, Secs. 7705, 7708-7710, 7721.

²¹Compiled Laws of Colo., 1921, Sec. 5967.

²²Compiled Laws of Colo., 1921, Sec. 8370.

²³Compiled Laws of Colo., 1921, Secs. 1987, 2083, 2229, 9459.

other duties connected with the creation of such areas.²⁴ Public improvement districts may be created by the board.²⁵

The board may hold hearings regarding the use of irrigation water and fix the rates for its use, but the rates fixed by the commissioners are subject to review by the courts where they are applicable to corporations furnishing water for hire.²⁶

The board has several duties in connection with pest eradication. It is empowered to appropriate and expend funds for the purpose of conducting investigations under the supervision of the state agricultural college. It may pay the expense of fumigation of nursery stock. On petition, it may create pest-eradication districts. The board may purchase material and hire one or more persons to exterminate prairie dogs, provided it does not expend more than \$1,000 in any one year nor pay more than \$2 for each day of actual work performed. Finally, the board may create rodent-control districts and cooperate with the bureau of biological survey of the federal government in rodent eradication.²⁷

Construction of Public Works by Counties.—Under an act of 1933 counties were authorized until Jan. 1, 1935, to undertake a program of public works of different types for the purpose of relieving unemployment and were authorized to make loans and accept grants from the federal government and from the state for the construction of public works.²⁸

Board Grants Franchises and Licenses.—The board of county commissioners may grant a franchise for an electric railway along and across any country road in the county after written consent of a majority of the abutting property owners.²⁹

The board fixes the fee and grants licenses to sell goods, wares, merchandise, liquor, and for the operation of theaters, circuses and shows where an admission fee is charged. It may require payment of an annual license on dogs in the county outside municipalities which have enacted a dog-license law.³⁰ It grants licenses to wage brokers and fixes the amount and approves the bonds of butchers and commissioner merchants filed with the county clerk.³¹

Development and Conservation of Resources.—The board of county commissioners may levy a tax to create a fund not exceeding \$10,000 nor one-fifth mill levy in any one year to promote immigration. The fund must be expended under direction of boards of trade, chambers of commerce or commercial associations. The county agriculturist may be paid out of this fund. The board may also cooperate with the state board of agriculture "in research work, and in investigations of matters pertaining to the agricultural and industrial development of the counties of the state, upon such terms and in such manner as may be agreed upon."³²

An appropriation may be made by the board to secure representation of the county at fairs, exhibits and exhibitions held in Colorado and may offer premiums. It may remit taxes of fair associations.³³

The board has power to prescribe where the plowing of fire guards or burning of right-of-way shall be done and shall provide notices to

²⁴Compiled Laws of Colo., 1921, Secs. 2210-2237.

²⁵Compiled Laws of Colo., 1921, Secs. 9448-9463.

²⁶Compiled Laws of Colo., 1921, Secs. 1742, 2359. *Montezuma Water and Light Co. v McCracken*, 163 Pacific, Colo. 286.

²⁷Compiled Laws of Colo., 1921, Secs. 3028, 3097, 3107, 8691; *Session Laws of Colo.*, 1931, Ch. 145.

²⁸*Session Laws of Colo.*, Extraordinary Session, 1933, Ch. 16.

²⁹Compiled Laws of Colo., 1921, Sec. 2836.

³⁰Compiled Laws of Colo., 1921, Secs. 3730-3744. *Session Laws of Colo.*, 1931, Ch. 87; *C. L. of Colo.*, 1933, Ch. 45; *S. L. of Colo.*, Extraordinary Session, 1933, Ch. 12.

³¹Compiled Laws of Colo., 1921, Secs. 4247, 4756, 4776.

³²Compiled Laws of Colo., 1921, Secs. 3026-3027, 8113, 8690.

³³Compiled Laws of Colo., 1921, Secs. 467, 468, 8689.

extinguish camp fires. It enforces the artesian well act requiring the capping of wells to prevent flow of water. Finally, it may efface advertising on rocks and bring action for recovery of the cost of such effacements.³⁴

Judicial Functions of the Board.—Tho the board of county commissioners in Colorado is not a judicial body, it has certain supervisory and administrative functions to perform in connection with the administration of justice in the county.

The board provides the seal of the county court and furnishes the necessary records and supplies for the county judge, clerk of the district court, and justices of the peace, when performing their ordinary duties and when sitting as a wage claim court. The board pays the salaries or allows the fees of these officers and help, as court stenographers, clerical assistants, interpreters, bailiffs and other necessary help.³⁵

The board pays the county's portion of the salary and expenses of the district attorney. Also the necessary expenses of visiting district judges, expenses of change of venue and cost of extradition of prisoners including the expenses of the sheriff for recapture and transportation of escaped prisoners.³⁶

In counties of 40,000 or less population, the board selects the names of jurors for the district court to the clerk of the district court 60 days or more before time for holding courts. The number of jurors to be certified varies from 100 to 800 depending upon the classification of the county. The board also selects the names of jurors to serve on petit juries. In counties of more than 40,000, a jury commissioner is provided and county officers must render all assistance possible. The board must pay the fees of jurors for their service.³⁷

The board must pay all expense incurred by the sheriff for feeding prisoners and must pay the net earnings of prisoners, who have been worked on the roads, to their families. The board must provide a suitable jail.³⁸

Finally, the board receives and audits the quarterly reports of justices of the peace which must show itemized receipts of fees with receipts showing money paid to the treasurer. The board also receives and audits the monthly report of the county judge and the biennial report of clerk of the district court.³⁹

Awarding Contracts One of the Important Functions.—The awarding of contracts is an important function of the board of county commissioners as the corporate agent of the county. Road construction or bridge work, the cost of which amounts to more than \$300, shall be let out by contract. County supplies must also be purchased by contract.⁴⁰ Public buildings in cities must be let under contract but no such provision affects counties. In general, the county board is free to enter into any contract for the public good. For example, the board may enter into a contract with the state highway department for the construction of a portion of state highway by the county or it may, as some counties do, enter into a contract for the care of the indigent poor.

County commissioners are authorized to construct highways and let contracts with the state highway department or any agency of the federal or state government for the construction, maintenance and repair of state or federal highways or bridges within their counties where the contract price involved does not exceed \$100,000.⁴¹

³⁴Compiled Laws of Colo., 1921, Secs. 2889, 5464, 7019, 8704.

³⁵Compiled Laws of Colo., 1921, Secs. 65-68, 5390, 5700, 5774, 5804, 5991; Session Laws of Colo., 1931 Ch. 170.

³⁶Compiled Laws of Colo. 1921, Secs. 5712, 5992, 6613-6614, 7168, 8899.

³⁷Compiled Laws of Colo., 1921, Secs. 5782, 5839, 5872, 5895.

³⁸Compiled Laws of Colo., 1921, Secs. 8061, 8875-8878.

³⁹Compiled Laws of Colo., 1921, Secs. 6200, 7890, 7899.

⁴⁰Compiled Laws of Colo., 1921, Secs. 1310, 8684-8687.

⁴¹Session Laws of Colo., Extraordinary Session, 1933, Ch. 10.

The procedure for awarding county contracts is not detailed in the statutes. Advertisement for bids must be made in the official newspaper or in the absence of a newspaper by posting notice for a specified number of days. Beyond this requirement, the boards are apparently free to use their own judgment. The laws do not specify the procedure for opening bids nor provide even that the board shall accept the lowest and best bid. The law providing for the purchase of county supplies is the most specific. It provides that the board must advertise in the official paper of the county under the heading "stationery proposals" for bids for "the supplying, for 1 year, commencing with the first day of January next following, the publication of such advertisement, of all books, stationery, records, printing, lithographing and such other supplies, specifically mentioning and describing them, as are furnished to the several officers of their county, such advertisement to be published not less than 20 days, and to commence with the first issue of said paper in December of each year." Where it is possible to purchase supplies of the same quality and cost from a firm within the state, it is the duty of the board to do so. Contracts may be let for only 1 year and no officer can contract for supplies other than in the manner provided.

Furthermore, no contract may be entered into by the board without prior appropriation to cover the cost. Finally, no officer may derive benefit from or be interested in any public contract.⁴² In 22 counties out of 25 from which information was obtained, it was customary for the county attorney to draw up all contracts for the board of county commissioners, tho the law makes no definite provision for legal advice or assistance in the letting of contracts. In one county without a county attorney, contracts were drawn by the county clerk and in two counties either the county clerk or attorney drew up contracts.

Some boards of commissioners are more economical in the administration of the county's business than others because they make it a practice to call for bids on all items on which contracts can be let. The determination of what can be purchased more cheaply by contract than on the open market must be decided in each case. So far as stationery, books and other supplies are concerned, there is little effort made to purchase them by contract at present. Often the annual needs are so small that letting of contracts is not feasible. In other instances, savings could be effected by letting contracts.

The larger items such as fuel, county printing, supplies for the poor farm or county poor, road materials, and all other major purchases should be made by contract awarded to the lowest and best bidder. Klemmedson, referring to the waste resulting from buying at retail, says: "Thousands of gallons of gasoline are purchased in small quantities at retail for use on county highways. Oil, tires, hardware, poorfarm and hospital supplies are purchased in small quantities at retail with no attempt to obtain bids. This means that big business is using methods that not even a small business would think of using."⁴³

County printing alone represents an item which runs into thousands of dollars annually. This includes the printing of the proceedings of the board of county commissioners, delinquent tax lists, legal notices and miscellaneous job printing such as election ballots, letterheads and similar items.

The legal rate for official printing as fixed by law is 7 cents "for each line of non-pareil, measure 13 ems (pica) wide, for the first insertion, and 4 cents per line for each subsequent insertion." Twelve lines are counted as an inch which makes the rate per column inch 84 cents for the first insertion and 48 cents for each subsequent insertion.⁴⁴ In the smaller counties, the tendency is to let the contract at the legal rate,

⁴²Compiled Laws of Colo., 1921, Secs. 453-455, 6899-6900, 7994-7995, 8686-8694.

⁴³G. S. Klemmedson, Saving the Taxpayer's Money, p. 8. Mimeographed bulletin. Colo. Agri. College, Exp. Sta., Fort Collins, Colo., 1931.

⁴⁴Session Laws of Colo., 1923, Ch. 139; 1931, Ch. 113.

especially where there is no competition. In one county, the contract is let to two papers in the county, each receiving one-half the legal rate. The rates paid by counties seem to depend upon the amount of competition, tho this is often prevented by agreement between them where papers are of the same political faith, one taking the contract one year and another the next. The more frequently occurring rates paid by the counties studied are indicated in Table 7.

Table 7.—Rates for Legal Printing in Twenty-five Counties, in Colorado, 1932.

Rate	Number papers with county advertising			Number counties
	One	Two	Three	
Legal rate	1			13
Legal rate		2		5
Legal rate			1	1
50 percent legal	1			1
50 percent legal, except election	1			1
28 ½c inch	1			1
60c first insertion, 40c subsequent insertions	1			1
6c line first insertion, 3c subsequent insertions	1			1
Legal rate less 10 percent	1			1

Since the printing bill of the average county amounts to thousands of dollars annually, even a small saving on this one item results in considerable saving for the county.

Partisan preference often results in the selection of a newspaper of limited circulation at a rate as high or higher than could otherwise be obtained. Recently an official newspaper was selected in a county in Colorado which brought forth this statement from the opposition paper. "There has been much complaint from the taxpayers the past year on account of the insufficient publicity for the county advertising, but in renewing the appointment, the commissioners expressed their opinion that the county business should be awarded for political reasons" Another county until recently was letting the contract for its legal printing to two newspapers at more than legal rate, a clearly illegal act tho perhaps not intentional on the part of the county commissioners. Unnecessarily large headlines and blank space also costs the county money. Regarding this, Klemmedson has the following to say: "Another practice common with public printing is to charge for large headlines, large type, and extra space between the printing. In other words, a printer will take 100 inches of legal printing and expand it into 110 or 125 inches of printing at the taxpayer's expense by adding large, unnecessary headlines. A fair-sized headline is necessary but it should not be unnecessarily large. Recently, the headlines of delinquent tax notices published in a number of counties in Colorado were measured and it was found that the size of headings ranged from practically no heading to as much as 12 inches. Some of these headings were 2 columns wide, while others extended across the entire page. In some cases, the county treasurer is responsible. This is just another type of waste that makes taxes high. County officials are responsible and newspapers cannot be blamed for this situation."⁴⁵

⁴⁵G. S. Klemmedson, *Saving the Taxpayer's Money*. Mimeographed. Colo. Agri. Exp. Sta., pp. 7-8. October, 1931.

Purchasing and Auditing

A strict interpretation of the law makes the board of county commissioners the purchasing agent of the county. It is its duty to furnish supplies to the other county officers and as head of the county administration has large powers of purchasing. The law provides that supplies shall be purchased by contract and no county officer "shall be allowed to contract for or purchase any books, stationery, records, printing, lithographing, or other supplies of any kind for use in his office." No liability may be created unless a prior appropriation is made to meet the obligation created, nor may expenditures for improvements exceed the annual appropriations for such purposes. Only in case of casualty or unforeseen contingency may improvements be ordered in excess of the annual appropriation and then only "if there shall be money in the county treasury belonging to the proper fund out of which payment for such improvement can be made."⁴⁶

Officers are personally liable for expenditures in excess of the annual appropriation. The law reads: "No contract shall hereafter be made by the board of county commissioners of any county, and no liability shall be created by any officer of the county, whether the object of the expenditure shall have been ordered by the board of county commissioners or not, unless an appropriation shall have been previously made concerning such expense. And each and every member of the board of county commissioners, and other officers of the county who shall undertake to create any liability against the county, except such as he is by statute required to do, shall be personally liable, and shall together with the sureties upon his official bond be held for such indebtedness."⁴⁷ Strictly interpreted, this law prevents the payment by the county of any bill created prior to an appropriation made to pay it by the board of county commissioners.

Purchasing Practice Followed in Colorado Counties.—Actual practice in regard to purchasing varies with the various counties. In only two counties out of 25 from which definite information was obtained does the board attempt to exercise its legal authority and control all purchases. In others, considerable freedom is left to the various county officers when purchasing ordinary supplies for their offices, the board being consulted only when an extraordinary purchase is contemplated. In only one county visited, La Plata, was an actual effort made to strictly comply with the law. Under resolution dated January 23, 1928, the board of commissioners declared that "No claims will be allowed unless the purchases represented by the claims presented by county officers have been first authorized by the board." Apparently an honest effort is being made to enforce this rule. In 11 counties out of 25, minor office supplies such as stamps, ink, pads and other small items are purchased by the county clerk and distributed to the other county officers on request. In two counties, the chairman of the board serves as purchasing agent. In 12 counties no effort is made to centralize any purchases, the board giving prior approval only to large or unusual purchases.

The Advantages of Centralized Purchasing.—There are several advantages in having a single purchasing agent for the county. Even the board of county commissioners cannot do this work efficiently. "Centralized purchasing in Government," says Russell Forbes, "is the delegation to one office of the authority to purchase supplies, materials, and equipment needed for use by all the several branches of the organization. It is neither a fad nor a theory but a combination of logic and economics. It may well be called a sentry at the tax gate." He continues: "The methods by which supplies, materials and equipment are obtained were not always so important to governmental efficiency and economy as they are today. A century ago the average government was simply a policeman whose only function was the enforcement of law and the preserva-

⁴⁶Compiled Laws of Colo., 1921, Secs. 8634-8637, 8692-8693.

⁴⁷Compiled Laws of Colo., 1921, Sec. 8694.

tion of the public peace. Today the average government—state or local—is a public service institution, supplying from the tax funds not only police protection and public-school education, but exercising a hundred and one other functions for its stockholders, the taxpaying public.

“To carry on the functions of the present-day government, a veritable host of commodities is needed. It has been estimated on good authority that the average hospital uses 1,500 different items. Hospitalization is only one of scores of modern governmental functions, and so we find on the shopping list of many governments thousands of articles, ranging in size from thumb tacks to steam rollers, and alphabetically from apricots to zithers. No government has ever been so fortunate as to receive these commodities free of charge. They are obtained only in exchange for public funds. In the average government, the expenditures for supplies, materials, and equipment consume from 20 to 30 percent of the current operating budget each year. In some governments, the proportion is even higher. It is estimated that the governments of the United States—federal, state, county and municipal—spend at least 1 billion dollars per year for supplies, materials and equipment. It stands to reason, therefore, that any method which reduces the cost of commodities tends to increase the mileage of the tax dollar. If the mileage of the tax dollar is increased, the government can buy more commodities for the same expenditure and thereby increase its service to the citizens, or else it can buy the same commodities for less money and thereby reduce taxation.

“Centralized purchasing has been adopted in 36 states and in over 200 cities of the United States, and in three provinces and about 25 cities of Canada. There must be certain inherent advantages and benefits in this plan of buying which make for economy and which should therefore appeal to Mr. and Mrs. Taxpayer.”⁴⁸

A purchasing agent becomes more familiar with the different companies selling supplies than an individual officer dealing with them occasionally. Referring to one item alone, Klemmedson states, “In some cases, road departments are paying high prices for misleading brands of lubricants and oils when a careful study shows that other grades or brands of lubricant and oil which will accomplish the work, can be purchased for one-third the cost of the fancy priced article. Many counties are buying too much oil and grease compared with the amount of work performed and the amount of equipment operated. It would pay many counties to have a lubrication engineer study the needs of their road department. This disinterested oil engineer could specify the proper grade of oil and grease to be used and bids could be obtained based on certain specifications.”⁴⁹ By combining purchases, larger orders can be purchased with the resulting cheaper unit cost. Petty graft that sometimes results from purchasing by individual officers would be eliminated. It would prevent unscrupulous salesmen from putting off expensive and unnecessary supplies on unsuspecting or inexperienced officers. This has developed into a “racket” in some lines. One in particular is what Klemmedson terms the “soft soap racket” which has cost Colorado taxpayers thousands of dollars annually. We quote at length.

“How much soap is too much soap? Did someone take too literally the political campaign cry, ‘Clean out the courthouse?’ Has there been an attempt to ‘soft soap’ the county? These and other questions are puzzling several county commissioners. Another ‘racket’ that has cost the counties, schools and cities of Colorado many a tax dollar is that known as the ‘soft soap racket.’ Ten or fifteen companies, a large number of them from outside the state have sold unsuspecting county, school and city

⁴⁸Russell Forbes, *Centralized Purchasing*, pp. 5-6. Published by the National Association of Purchasing Agents, 11 Park Place, New York City, 1931.

⁴⁹G. S. Klemmedson, *Saving the Taxpayer's Money*, pp. 8-9. Colo. Agri. Exp. Sta., 1931.

officials thousands of dollars of liquid soap, disinfectants and cleaning materials for use in cleaning courthouses and other public buildings.

"Well-dressed, high-pressure salesmen dispensing mints, chewing gum and postal cards, travelling in expensive cars, overcome the janitor or purchasing agent and get a signature on a bill of supplies that far exceeds the necessary needs of the county. In some cases, orders have been duplicated, floor polishing machines and other supplies have been left in some county office and later charged to the county. The following account shows the amount of such supplies, largely soft soap, sold to one county in an 8-year period.

1922	\$ 774.94
1923	783.43
1924	1,306.45
1925	1,613.70
1926	1,093.20
1927	1,285.73
1928	2,652.76
1929	4,100.00

"The county commissioners refused to pay for the 1929 order and settled the accounts for 50 and 65 cents on the dollar. Altogether, the county is said to have on hand 6 or 7 years' supply of soap.

"In another county, the janitor indicated that he needed certain supplies so the commissioners ordered the material. However, the next day he thought he would check up to see how much soft soap was on hand. Much to his surprise, he found a dozen barrels worth \$1,500. He immediately attempted to cancel his order of the previous day but found that the order had been telegraphed to the firm in Iowa and shipped the same day, a sample of high-pressure methods. The inventory disclosed that the county had on hand the following amounts of material.

90 gal. Insecticide	\$ 180.00
35 gal. Mint Spray	70.00
90 gal. Pine Disinfectant	157.50
305 gal. Scrub Soap Liquid	633.00
150 gal. Floor oil	300.00
35 gal. Floor wax	78.00
20 gal. Hand soap	40.00
30 gal. Furniture polish	45.00

Total.....\$1,503.50

"The prices placed on the above were estimated by a salesman, but an examination of the records shows that the furniture polish cost \$3.00 per gallon; the mint spray, \$3.50 per gallon; the insecticide, \$3.00 per gallon; the pine disinfectant, \$3.00; the liquid wax, \$2.50; floor oil, \$2.00; and liquid soap, \$2.00 per gallon. The county had to pay the freight in addition to the above quoted prices.

"Compare the price of liquid soap above with the price paid by the Purchasing Agents Association of the Colorado Educational Institutions. They have a contract with one of the best soap companies in the United States to buy a high quality or liquid soap, 18 percent base in 55 gallon drums at 65 cents per gallon delivered, freight paid."⁵⁰

Centralized Purchasing Agent Advocated.—A law should be passed creating a purchasing agent in each county. Such an officer ought to be appointed by the board of county commissioners and responsible to them. This is impractical in the smaller counties which are already burdened with too many officers. Under present circumstances, a member of the board, or a county officer appointed by the board, preferably the county clerk, should be delegated this power. The difficulty of conferring the power upon an elective officer is that he is on a par with all other officers. Experience is of great value to a purchasing agent and long tenure for satisfactory service should be made possible; this can only be possi-

⁵⁰G. S. Klemmedson, *Saving the Taxpayer's Money*, pp. 7-8.

ble thru appointment. The larger counties would undoubtedly find that a full-time paid purchasing agent would save many times his salary annually.

North Carolina provided in 1927 for the appointment of a purchasing agent in the counties of the state. The law provides that, "It shall be the duty of the board of commissioners to provide for the purchasing of supplies for the different departments of the county government in such manner as may prevent waste and duplication in purchasing, and may obtain the advantage of purchasing in larger quantities. To that end, the board may designate some competent person, either a member of the board or some other officer or agent of the county as purchasing agent, whose duty it shall be to superintend the purchasing of all material and supplies for the county, and the board may prescribe the duties of the purchasing agent."⁵¹

The problem of checking supplies for quantity and quality should also receive more attention than at present. This duty should be conferred upon the person responsible for purchasing the supplies.⁵²

Centralized purchasing will not solve the problem unless full support is given the purchasing agent. Some counties in Colorado have half-heartedly tried the idea but limitations upon the power of the purchasing agent, the fact that he was usually one of the elective officers, or political interference have nullified any value which might have resulted. Even under present conditions, a rigid application of the present law by the county commissioners would result in considerable savings. Centralized purchasing should bring about an average saving of 10 to 15 percent. This is considerable when it is realized that 20 to 30 percent of the budget of the average county goes for supplies of one kind or another. Savings effected may be used to extend governmental services or to reduce taxes. In either case the taxpayer gains.⁵³

The Board Passes Upon All Claims Against the County.—All claims against the county must be passed upon by the board of county commissioners. The law makes it their duty "To examine and settle all accounts of the receipts and expenses of the county, and to examine and settle and allow all accounts chargeable against the county, and when so settled they may issue county orders therefor as provided by law.⁵⁴ At the January and July meetings or oftener, it is the duty of the board to "examine county orders returned by the county treasurer by comparing each order with the order in the clerk's office and shall cause to be entered on the record, the date of cancellation of each order."⁵⁵

The passing upon claims is an administrative and not a judicial act.⁵⁶ The board has considerable discretion in passing or rejecting claims and no action may be maintained in court for collection of a claim before it has been rejected by the board.⁵⁷

The procedure for handling claims is fairly definitely defined. All claims presented to the board must be made out in separate items and the nature of each item stated and "where no specified fees are allowed by law the time actually and necessarily devoted to the performance of any service charged in such account shall be specified; which accounts so made out shall be verified by an affidavit."⁵⁸

A number of the claims which the board must pass upon are specified by law. These include the salaries of county officers, warrants for jury fees, court fees to another county on change of venue, audit and pay ac-

⁵¹Wager, *County Government and Administration in North Carolina*, pp. 147-148; Quoting Public Laws of 1927, Ch. 81, Sec. 12.

⁵²Forbes, *Centralized Purchasing*, p. 27.

⁵³Forbes, *Centralized Purchasing*, pp. 5, 40.

⁵⁴Compiled Laws of Colo., 1921, Sec. 8682.

⁵⁵Compiled Laws of Colo., 1921, Sec. 8714.

⁵⁶*Merwin v Boulder County*, 67 Pacific, Colo. 285.

⁵⁷Compiled Laws of Colo., 1921, Sec. 8697.

⁵⁸Compiled Laws of Colo., 1921, Sec. 8696.

counts of interpreters in courts of record, pay expense of extradition of fugitives and pay of persons bringing prisoners to jail.⁵⁹ They must also pay the compensation of masters of discipline, warrants drawn on blind benefit fund, counsel appointed to defend indigent accused, expenses of indigent deaf and blind children at school of deaf and blind. They must pay expenses of disinfection and quarantine.⁶⁰ In addition to these, a large number of claims grow out of the conduct of county business directly under the control of the board.

Tho the law provides that no liability shall be created against a county unless an appropriation shall have been made previously, the courts have held that when a person furnishes supplies to a county under a statute authorizing the purchase, he is entitled to compensation tho no provision for payment is made in the statutes.⁶¹

The law specifically provides for the disallowance of claims under certain circumstances. The board may disallow costs in criminal cases if it is "satisfied that any person or officer claiming fees in the case has instigated the prosecution for spiteful or revengeful motives or for the sake of making fees." It may at its discretion disallow any charges against the county for fees or costs of district attorneys or other persons before courts not a court of record. It may also disallow a claim of the sheriff resulting from unnecessary trips for transporting prisoners.⁶² Appeal may be made to the district court on disallowance of a claim by the board of county commissioners.⁶³

The practice of the board when passing upon claims varies. In 23 out of 25 counties reporting, the boards passed upon each claim, while the other two depended upon the clerk to call their special attention to items or claims of a doubtful nature. Some boards are very particular, passing upon each item of a claim, others merely approve the claim as a whole if it appears proper. In cases of doubtful legality, the county attorney is called upon in 23 counties out of the 25 for an opinion, while the other two report that he is not consulted. His opinion is usually very informal since the general practice of most counties is for the attorney to sit in on board meetings. Claims are usually taken up in the order filed by the county clerk and passed in a routine manner by each commissioner looking at the claim and passing it on to the next or by the chairman calling for approval of the item. If no objections are raised, the chairman signs it, either at the time or at the close of the meeting.

When a claim is allowed by the board, the clerk issues a warrant or order drawn on the county treasurer and delivers it to the claimant. All warrants must be signed by the chairman of the board and countersigned by the county clerk. The treasurer pays warrants when presented to him for payment, countersigns them and holds them in his file until the board makes the semi-annual check against the original stubs at which time they are returned to the clerk's office and filed. If the treasurer cannot pay the warrant when presented to him, he endorses it and it bears 6 percent interest till paid.⁶⁴

Method of Passing On Claims Defective.—The procedure for passing upon claims is defective because no one individual is responsible for passing upon the individual items of a claim. The clerk accepts the claims under affidavit as a matter of routine. The individual items are rarely checked or questioned. That is the duty of the board when it passes upon the claim. The board may check each item of a claim but that is not the rule. Some one person ought to be responsible for auditing claims against the county. In some counties it is the practice to have the per-

⁵⁹Compiled Laws of Colo., 1921, Secs. 5895, 6568, 6614-6615, 7082, 7168, 7953.

⁶⁰Compiled Laws of Colo., 1921, Secs. 673, 730, 911-912, 7119, 8216.

⁶¹Board of Commissioners of San Juan County v Tully, 67 Pacific, Colo. 346.

⁶²Compiled Laws of Colo., 1921, Secs. 6593, 7948, 8757.

⁶³Compiled Laws of Colo., 1921, Secs. 8702-8703.

⁶⁴Compiled Laws of Colo., 1921, Secs. 3780, 8697.

son who was authorized to make the purchase approve the claim before it is passed upon by the board. For example, in one county all claims for supplies for the poorhouse must be approved by the superintendent. In another county the county road supervisors must recommend all purchases and approve all claims against the highway department. This practice is commendable and should be continued even tho the claim is again checked by another person. Ridiculous situations may exist when individual items on a claim are not checked and the situation corrected. In one county visited, a casual investigation of claims which had been allowed against the poor fund was made. One family was being allowed \$10 a month for staple groceries which were being purchased from a retail store by the recipients. Each of the claims for February, March and September included the following items; Sugar, 25 pounds, \$1.85; coffee, 4 pounds at 50c, \$2.00; tobacco, 85c; cigaret papers, 25c. These four items accounted for \$4.95 of the \$10 allowance for staple groceries. In addition a \$2.65 copper wash boiler was included in the September purchase! Had a careful check of each item been made, the board might have corrected this situation after the first claim of such a nature was presented.

Central Control Over Accounts Needed to Correct Defects.—The majority of rural counties do not need and cannot afford to add a county auditor to the already too numerous county officials but some one officer should examine each claim before it is presented to the board. The logical solution in the smaller counties is to make the county clerk, who already receives the claims, legally responsible for this work as well as purchasing.

The present system of handling county financial transactions is also defective because no one official has a complete picture of county finances at any one time. This haphazard and unbusiness-like arrangement ought to be corrected. The county clerk, as clerk of the board, if a county auditor is not provided, ought to be required to keep a control account showing the financial condition of each county fund. At present, the records of the county clerk may show a balance in a given fund while the treasurer may not have sufficient revenue on hand to pay warrants drawn on the fund. Furthermore, no county officer has a record of outstanding obligations until presented to the clerk in the form of claims. The board should be able at any time to know the exact financial status of the county.

The powers of a county auditor are illustrated by the duties performed by that officer in Buchanan County, Missouri. The state law makes it the duty of the auditor to "examine and audit and approve all accounts or demands against the county before the same shall be allowed by the county court." This makes the auditor, who is elective, responsible to the voters, if not to the board, for investigating and approving each claim before it is paid.⁶⁵ The county court in Missouri corresponds to the board of county commissioners in Colorado. The county clerk is relieved of important financial duties and the board of auditing work. It is the duty of the auditor to keep a correct account between the county and all county officers and to examine all records and settlements made by them. He has access to all books, county records or papers kept by any county officer. The law requires that reports formerly filed with the clerk or the board be filed with the auditor usually at shorter intervals than ordinarily required in order that he may keep his records up to date. On the first Monday of each month, he files a report showing the condition of all county accounts.⁶⁶ Such an officer, whether he be called auditor, manager or merely financial clerk, if given powers of effective supervision might correct the defects of the present system and coordinate the financial administration of the county.

⁶⁵Bradshaw, *The Missouri County Court*, p. 91; quoting Revised Statutes of Missouri, 1919, Sec. 9616.

⁶⁶Bradshaw, *The Missouri County Court*, pp. 93-94.

Auditing of County Records.—We have found that the auditing of county records is one form of supervisory control exercised by the board of county commissioners. They have authority to do this at any time and it is their duty to audit the monthly reports of county officers. In practice, there is practically no tendency to make a monthly audit. Instead, in all but two of 26 counties visited or from which a report was received, the board employs a public accountant to make a semi-annual audit of the records of the county. This assures the board of an impartial check of the accounts of all county officers once every 6 months. The most serious objection to auditing by public accountants is the expense involved. The counties on which information was obtained were paying from \$125 to \$1,500 a year for the audit of the county books. The average paid by 22 representative counties was \$400, this does not include such counties as El Paso which paid \$1,500 for its 1930 audit. Excluding six counties paying under \$300 annually, the average is \$475. Actually the expenditure is no doubt much greater. But on the basis of the later average, the annual expenditure is \$28,450 for the 62 counties outside of Denver.

In addition to the expense involved, a report by an accountant is not always effective in securing correction of undesirable practices. As long as there are no actual financial defalcations on the part of any of the county officers, the board is inclined to ignore other undesirable practices. Furthermore, since the auditor is dependent upon the board for future contracts, he may be inclined to pass over undesirable practices which ought to be corrected but may ethically be left unreported. The auditor is employed by and reports to the board which may act on recommendations of the report or not as it sees fit. For example, it is illegal for the board to exceed its appropriation for any given fund during the current year and no appropriation may be made which exceeds the probable revenue. Yet practically every auditor's report shows an overdraft on some county fund but at present there is no means by enforcing compliance with the law.⁶⁷ In one county, the auditors found the county judge was retaining all marriage fees as personal fees instead of turning them in to the county as part of the fees of his office, yet unless the board sees fit to bring suit or the judge voluntarily reverses his opinion regarding such fees, no action will result. In another county, the clerk of the district court was not reporting naturalization fees as part of his earnings, claiming they were personal fees. One county treasurer with the approval of the board has saved his county thousands of dollars in interest by purchasing registered warrants of one fund with surplus money of another fund, thus saving the county the interest charge. The practice is commendable and ought to be made legal, yet at present it is illegal and unreported by the auditor since the board has approved the practice. In another county visited, the county clerk was paying \$1,200 a year license clerk's salary illegally out of the road fund after crediting it with the \$300 received for license clerk hire. Public accountants, being responsible to the board, can recommend but are powerless to compel correction of such illegal practices. Some of the auditors' reports are exceedingly poor, especially those by young local accountants willing to do the work at a low cost because of the experience gained or for other reasons. Such audits are worthless and a waste of the taxpayers' money.

State Auditing of County Records a Failure in Colorado.—The state auditor as well as other state officers receive and consolidate reports from various county officials. In some instances, the form is prescribed by law or the official is given authority to prescribe the form. This gives the state official a very limited control over county officers, tho often the reports are sufficient to indicate to the state official that all is not well. For example, a former county treasurer was found to be reporting insufficient collections of state taxes compared to previous years. An audit showed him to be defaulting. For the most part, however, reports are informational rather than regulative in nature.

⁶⁷Compiled Laws of Colo., 1921, Secs. 8692-8694.

Colorado statutes provide for a system of state examiners; but the law is inactive in so far as the examination of county records is concerned because funds for its administration have not been appropriated since 1925. An officer with the title of public examiner is still a part of the staff of the state auditor but his duties, so far as counties are concerned, consist primarily in compiling information returned by county officials in annual and semi-annual reports. The published information is practically worthless from the standpoint of obtaining any adequate knowledge of county receipts and expenditures. The original law provided in substance that the state auditor and public examiner should have power to install a uniform system of forms and accounts, and instruct public officers in their use. At least annually an inspection was to be made "to examine into all financial affairs of every state and county public office and officer, and of every state and county institution, penal, reformatory, educational, or charitable." It was the duty of the examiners on every such examination to inquire "as to the financial conditions and resources of the taxing body having jurisdiction over the appropriations disbursed by the office, whether the requirements and statutory laws of the state, and the ordinances, resolutions and orders of the taxing body have been properly complied with, and into the methods and accuracy of the accounts, and as to such other methods as the auditor of state may prescribe." They had power to call upon the attorney general, district or county attorney to "aid in any investigation or matter, giving legal advice" and to "supervise the prosecution of all violations of the provisions of this act."⁶⁸

The principal reason for the failure of this law, in addition to lack of sympathy, was inadequate financial support. The law provided that the expense of administration should be borne by the state. This is desirable but the law could be made practically self-sustaining by the alternative method of providing that the local unit pay the necessary travelling expense and salary of the examiners while checking the records of the county or institution. This would be as cheap or cheaper than the present outlay for auditing. The salary for examiners under the law was \$150 a month, entirely inadequate to secure a first-class accountant. One of the men who was formerly a state examiner is now auditing county books as a public accountant at \$300 and up for each county, and no doubt earning much more than his former salary as a state examiner.

Wisconsin System of Auditing a Success.—In Wisconsin, audit of local accounts under direction of the tax commission has proved very successful. Let the commission speak for itself. "A staff of trained accountants is maintained by the Tax Commission to carry out its function relating to municipal accounting. The members of this staff are most carefully selected from a list of men who have qualified themselves by special courses in accounting and auditing in schools and colleges, and are carefully trained by the Tax Commission in municipal accounting and municipal auditing. The services of these men are billed to the municipalities at a per diem rate sufficient to cover salaries and necessary travelling expenses, thereby rendering the state activity in municipal accounting and auditing self-sustaining, and at the same time assuring the municipalities the highest type of service at moderate cost."⁶⁹

A system similar to the one formerly in operation in Colorado has been in operation in Iowa for cities since 1907 and for counties since 1914. Professor Ivan L. Pollock of the State University of Iowa says concerning this system:⁷⁰

⁶⁸Compiled Laws of Colo., 1921, Secs. 309-319.

⁶⁹Bulletin No. 42, Wisconsin Tax Commission, October, 1930.

⁷⁰Quoted in Bradshaw's. The Missouri County Court, pp. 97-98, from an unpublished MS. read by Pollock at the Annual Meeting of the American Political Science Association on December 28, 1928, entitled "The Status of State Administrative Supervision over the Financial Operations of Municipal Corporations in Iowa," pp. 9-12. Also see Iowa Applied History Series, Vol. IV, County Government and Administration in Iowa, pp. 527-533 on "County Accounting" by Professor Pollock.

"The law provides in substance that the auditor of the state shall formulate, prescribe, approve and install a system of books, blanks, records, vouchers, receipts and all other forms necessary to secure a complete system of accounting for county and city officers, which system shall be uniform for all accounts of the same class. The State Auditor is responsible for seeing to it that the system is practical, economical and understandable and he shall from time to time formulate, prescribe, and install such changes in the system of bookkeeping and accounting as shall be necessary to conform to changes made in the laws of the general assembly.

"Responsibility for the administration of these provisions is vested in the State Auditor, in whose office two administrative departments or divisions have been set up, one of which has charge of county accounting and the other of which has charge of municipal accounting. The work in each division is under the direct charge of a chief examiner who has a corps of qualified examiners working under his direction. All county officers and offices receiving or disbursing public funds are examined at least once a month each year, no notice of the time of examination to be given in advance. In cities, the examinations must be made at least once in two years. The examination covers the financial conditions and resources of the county or city; it compares prices paid for materials, supplies, and the like with those paid in other cities and counties. It ascertains whether the state laws prescribing the duties of officers have been complied with and checks the methods and accuracy of the accounts and reports of the office examined."

This writer further explains that, "Before the actual establishment of the uniform accounting systems a careful study was made of existing conditions and needs as well as of the best systems in use in Iowa counties and cities and those obtaining in some of the other states. Finally, economical and workable systems were adopted and gradually installed At the present time, the system is working with a large degree of effectiveness. Newly elected officers find the system already installed when they enter upon their duties. They find also that the accounting departments are ready and willing to give them needed advice and assistance during the difficult period when they are assuming new and many times unfamiliar duties.

"The accounting departments have done much to secure better local administration in general as well as to improve the accounting and control over financial affairs. The service provides not only an audit of books but a check upon all objects of expenditure to see that full value has been received. They were instrumental in securing the change in county officers' compensation from a fee to a salary basis; they have secured the repeal of obsolete laws; they have aided in the establishment of an intelligent and fair basis for public printing and helped to cut down unnecessary printing expense; they have furnished the general assembly with accurate information on local government and local finance. The counties and cities no longer object to the system since it provides a periodic audit by competent accountants at a very reasonable cost."

State Supervision of Local Auditing and Accounting.—Similar systems are in effect in a number of other states, including Arizona, New Mexico, North Carolina, Wisconsin and Virginia, and several other states, including Illinois, are urging such legislation. The State Controller of New Mexico says that "Our present plan has tended to make local officials more responsible and is a great help to the state officials in checking up their records. We feel that it has been a real help to the taxpayer as it has undoubtedly resulted in a decrease of local expenditure."⁷¹

⁷¹Letter to the author, March 10, 1932.

Too much emphasis cannot be placed upon the value of state supervision of local accounting and auditing. The accounting system of Colorado counties and small cities and towns is in a terrible condition. Many county and city officials lack even the first principles of accounting. We can do no better than again quote the Wisconsin Commission. "It is quite apparent that if the officers of the numerous local units of government are left to their own inclinations and devices, not only may the proper standards of adequate accounting fail to be realized, but the advantages of comparative figures between municipalities will be denied. Uniformity of municipal accounts can be accomplished only under centralized direction and supervision. Without direction uniformity cannot be attained originally, and without subsequent supervision uniformity cannot be long maintained. Then, too, municipal officers are constantly changing and some agency must be available from which new officers can receive assistance relative to accounting matters." Furthermore, "while the detection of fraud is an important phase of auditing, it does not rank in importance with the primary purpose of an audit which is to ascertain and set forth the actual financial condition of the municipality. That all municipalities are coming more and more to recognize this principle, is evidenced by the increasing number adopting annual audits regardless of whether defalcations are suspected or not. The advantage of such a policy is that the municipality knows definitely from year to year what the situation is with respect to its finances. In addition, the moral effect of a policy of annual audits will act as a deterrent to dishonest officials who might otherwise be tempted to take advantage of an opportunity to convert public funds to private use."⁷²

A criticism often directed against state examiners is that they do not know as much about county books as the county officials themselves. This is doubtless true in some cases. At the present time no two counties have the same system of record keeping. As long as there is no uniformity in county records, an official will be more familiar with his own system of keeping books than an examiner to whom the system is new. As a uniform system is gradually installed, the examiner and official will be on an equal footing. Furthermore, examiners should be selected on a merit basis instead of for political reasons. Salaries should be adequate to attract qualified examiners. For one to be a successful state examiner requires not only an adequate knowledge of accounting but also of the laws dealing with counties and other political subdivisions or state institutions; requirements which can be met only thru knowledge and experience. The fact that a system of public examiners is operating successfully in other states ought to commend it for a new trial in Colorado.

Conclusion.—The board of county commissioners has considerable supervisory power in spite of the decentralization of county government. They exercise considerable financial control over county officials. On the other hand, many administrative duties are imposed upon county officials by statute which puts them practically beyond control of the board of county commissioners. The board should be given power to appoint all administrative officials of the county.

Changes which would put the county administration on a more business-like basis should be made. The county clerk, or a county auditor in the more populous counties, should be given the power to examine and verify all claims, reports and settlements before they are presented to the board. The board should appoint the county clerk or some other county officer as a purchasing agent for the county. A uniform system of bookkeeping should be worked out and introduced as rapidly as possible in all counties. At present, it is next to impossible to get information from one county which can be compared with that of another county. Finally, a system of state audits with power to en-

⁷²Bulletin No. 42, Wisconsin Tax Commission, October, 1930.

force correction of undesirable practices should replace the present expensive public audits now made under direction of the board of county commissioners. Counties are political subdivisions of the state and it should look after its interests by adequate examinations of the financial activities of the counties. A move in this direction was made by the general assembly in 1931 when it provided that the state auditing board acting thru the state auditor should audit annually the records of the several counties in the use and expenditure of state road funds.⁷³

⁷³Session Laws of Colo, 1931, Ch. 53.

VI. THE COUNTY CLERK

Powers and Duties.—The county clerk is both a constitutional and statutory officer. The constitution provides that there shall be "one county clerk, who shall be ex-officio recorder of deeds and clerk of the board of county commissioners." The statutes designate the office as that of county clerk and by a separate section of the law provide that he "shall be, in and for his county, clerk of the board of commissioners" and that the clerk shall be "ex-officio recorder of deeds." In the statutes conferring powers and duties the clerk is variously referred to by each of these titles. In outlining the powers of the recorder, the clerk is sometimes referred to as "recorder" and sometimes as "clerk and recorder."¹ Tho the office is constitutional, the duties of the clerk are fixed by the statutes. The duties performed by the clerk as ex-officio recorder are rather distinctly differentiated but it is more difficult to distinguish between his duties as clerk and as clerk of the board of county commissioners, tho his general powers as the clerk of the board are enumerated.

The powers and duties of the county clerk are so innumerable as to almost defy classification. His office is the clearing house for all matters coming before the board of county commissioners. As clerk of the board he performs many duties for the board when it is not in session. As clerk he is in actual practice the chief election officer of the county. He has numerous duties to perform as an agent of the state, such as motor vehicle registration agent. His duties as recorder are likewise exacting and require a large share of his time.

The duties of the clerk are mainly of a secretarial and administrative nature. In practice it is hard to differentiate between the two and we shall discuss the duties of the office without attempting to clearly distinguish between the nature of the functions performed. Some duties of the clerk are purely ministerial, some are performed under direction of the board of commissioners, others allow for some discretion.

Clerk of the Board.—The county clerk is clerk of the board of commissioners, custodian of the seal of the county and keeper of the records. As such he has five general duties outlined by law. First, to record in a book to be provided for that purpose all proceedings of the board. Second, to make regular entries of all their resolutions and decisions, in all questions concerning the raising of money. Third, to record the vote of each commissioner on any question submitted to the board, if required by any member. Fourth, sign all orders issued by the board for the payment of money, and to record, in a book to be provided for that purpose, the receipts and expenses of the county. Fifth, to preserve and file all accounts acted upon by the board, with their action thereon, and he shall perform such other duties as are required by law."²

On payment of the fees prescribed by law the clerk must deliver a certified copy of any record in his office, or any account on file therein to any person who may demand it. In all legal proceedings against the county process is served on the clerk of the board who notifies the county attorney and lays all information before the board at its next meeting. The clerk of the board certifies to the clerk of the district court the names of jurors selected by the board. He also approves the bonds when appeal is made for disallowance of a claim by the board.³

On every account audited and allowed by the board it is the duty of the clerk to enter the amount allowed, he shall not sign or issue any county order, unless ordered by the board of commissioners and he must

¹Constitution of Colo., Art. XIV, Sec. 8; Compiled Laws of Colo., 1921, Secs. 8732, 8736.

²Compiled Laws of Colo., 1921, Secs. 8728, 8735.

³Constitution of Colo., Art. XIV, Sec. 8; Compiled Laws of Colo., 1921, Secs. 5839, 8663, 8729-8730, 8732, 8736.

keep a book, usually termed the warrant register, showing number, date, amount and person to whom every warrant is issued.⁴

The clerk, with the approval of a majority of the board, authenticates the semi-annual statement of the board to the state auditor.⁵

The clerk notifies overseers of road districts of any alteration of public highways by the commissioners. In case road viewers are appointed by the commissioners he directs a warrant to them to meet at a time and place specified by the commissioners.⁶ He certifies to the assessor the list of delinquents failing to destroy weeds along the highways. He transmits to that officer a copy of the order of the county commissioners giving the mileage and assessment of railways, telegraph and telephone lines and other public utilities within the school districts and municipal corporations within the county.⁷

The clerk must keep a record of the county poor. He refers applicants for blind benefit to the county physician for examination and then certifies the application, together with the examination certificate to the state blind commission.⁸

In addition to the duties imposed upon the clerk of the board by statute the commissioners may impose other duties of a temporary or permanent nature. The amount of such work will usually depend upon how much actual supervision the board exercises and the completeness of the records and information which they require. Often the board will delegate to another appointee work which ordinarily would be performed by the clerk. For example, the records of the county poor may be kept by an individual working directly under the board.

In the smaller counties it is customary for the county clerk personally to perform the duties of the clerk of the board. In the larger counties a deputy in the clerk's office usually performs all the duties as clerk of the board, in two counties visited a full-time deputy performs this work. In one instance the county attorney who attended all board meetings kept the minutes of the meeting for the clerk who attended only when called in by the commissioners. This assures the minutes being kept in legal form tho it is a duty which could hardly be pressed upon the county attorney should he protest. In most instances the clerk makes only notations of actions of the board and writes up the formal proceedings later. The chairman of the board signs the proceedings after their approval by the board when they become the formal record of the action of the board.

Ex-Officio Recorder.—The county clerk is ex-officio recorder of deeds of his county. As such it is his duty to "have custody of and safely keep and preserve all the books, records, deeds, maps and papers deposited or kept in his office; he shall also record or cause to be recorded in print or in a plain and distinct handwriting, in suitable books, to be provided and kept in his office, all deeds, mortgages, maps, instruments and writings, authorized by law to be recorded in his office and left with him for that purpose"⁹ The law prescribes the method of keeping records in some detail. A general and inverted index must be kept, the general form of which is authorized in the statute. A receiving book must also be kept and an index of each volume of records kept in his office. It is his duty to make and furnish abstract of deeds and other instruments on application and payment of the fees provided by law.¹⁰ In case of the destruction of records it is the duty of the clerk to obtain certified copies which when certified have the validity of the original records.¹¹

⁴Compiled Laws of Colo., 1921, Secs. 8729-8730.

⁵Compiled Laws of Colo., 1921, Sec. 7388.

⁶Compiled Laws of Colo., 1921, Secs. 1294, 1308.

⁷Compiled Laws of Colo., 1921, Sec. 7309.

⁸Compiled Laws of Colo., 1921, Secs. 726-728, 8709.

⁹Compiled Laws of Colo., 1921, Sec. 8736.

¹⁰Compiled Laws of Colo., 1921, Secs. 8737-8742.

¹¹Compiled Laws of Colo., 1921, Secs. 5026-5036.

The clerk as recorder is by law registrar of land titles in his county and while acting in such capacity is prohibited from practicing law. He records all instruments affecting real estate and must keep a register of land titles and both an alphabetical and tract index. At least once a year he shall procure from the land office a list of all lands and mineral claims within the county which have been entered in the land office and shall keep a list in his office.¹² He shall enter all redemptions on the record for land sold for taxes and finally, he shall enter in the index "a statement or entry of all homesteads, satisfaction or mortgages or trust deeds, or other changes of the records of their office affecting or concerning real estate."¹³

The recorder also has numerous miscellaneous duties to perform. He keeps on file a copy of the senate and house journals furnished by the secretary of state.¹⁴ He issues motor vehicle titles and transmits a copy to the secretary of state. It is his duty to record certificates of water decrees, mine location certificates, tunnel claims, affidavits of annual labor done on lode or placer claims, certificates of re-location of claims, plats of claims and provide a book for their preservation.¹⁵ The directors of drainage districts certify the property and assessed benefits to each owner with the recorder.¹⁶

The recorder also records assignment of wages, licenses to practice medicine and keeps a book containing a list and description of medical licenses recorded. He records licenses to practice optometry, veterinary medicine and embalming.¹⁷

The recorder must keep a file on record of chattel mortgages and keep a register of school district bonds, county high-school bonds and improvement bonds.¹⁸

He may issue hunting licenses as an agent of the fish and game commissioner. Before issuing a license, he may require evidence of citizenship in the United States and the state. He must report to the commissioner by the tenth of November, or whenever the commissioner may require it, a full statement of the licenses issued, together with a remittance of the fees collected and all unused licenses.¹⁹

Clerk Administers Election Machinery.—The county clerk is the chief election officer of the county; upon him falls the duty of administering the election machinery. He has charge of official election publicity, receives, publishes and posts nominations and sends nominations to precinct officers. He prepares the official ballot according to law and distributes them, furnishes blank registries, cards of instruction to election officials and forms of affidavit for absentee voters. He canvasses election returns, makes an abstract of votes and publishes it; certifies a copy to the secretary of state, and issues certificates of election to the winning candidates. He has custody of ballot boxes and ballots. Used ballots are destroyed after 2 years as provided by law. Finally, he administers the law providing for the registration of voters.²⁰ The detailed work of the county clerk as an election official will be discussed in the chapter on elections.

Clerk Issues Licenses and Permits.—The county clerk acts as motor vehicle registration agent for his county and for this purpose may appoint

¹²Compiled Laws of Colo., 1921, Secs. 4902, 4932-4935, 4961, 4969-4970, 7438.

¹³Compiled Laws of Colo., 1921, Secs. 7267, 8743.

¹⁴Compiled Laws of Colo., 1921, Sec. 16.

¹⁵Compiled Laws of Colo., 1921, Secs. 1371, 1762, 3280, 3290-3292, 3303, 3305; Session Laws of Colo., 1927 Ch. 137.

¹⁶Compiled Laws of Colo. 1921, Sec. 2169.

¹⁷Compiled Laws of Colo., 1921, Secs. 4261, 4534-4535, 4657, 4675, 4792.

¹⁸Compiled Laws of Colo., 1921, Secs. 5089, 8372, 8414, 9457.

¹⁹Compiled Laws of Colo., 1921, Secs. 1540, 1548.

²⁰Compiled Laws of Colo., 1921, Secs. 7523, 7566, 7582, 7589, 7594, 7657, 7710-7719, 7758-7764; Session Laws of Colo., 1923, Ch. 108; 1929, Ch. 108; 1931, Chs. 89, 90, 91; 1933, Chs. 75, 77.

one clerk for 3 months at a maximum salary of \$100 a month for each 2,000 motor vehicles registered during the previous calendar year. Motor vehicle fees must be remitted to the secretary of state by the fifteenth of each month.²¹

The clerk may issue licenses to retailers and to transient dealers when the board of commissioners is not in session. He issues certificates of authority to operate building and loan associations. The clerk issues marriage licenses and as recorder records marriage certificates and files returned marriage licenses.²²

Miscellaneous Duties of the Clerk.—The clerk has numerous other duties which defy classification. He or his deputy may acknowledge conveyances, take affidavits or depositions or administer oaths under the revenue laws.²³ Bonds and oaths of directors of drainage districts are placed in his custody. He also serves as custodian of the bonds of all county officers and may approve them when the board is not in session, subject to their subsequent approval by the board, and he must notify other officers of withdrawal of security from their bonds. In the case of the county clerk, notice of withdrawal is given to the chairman of the board whose duty it is to require the clerk to file another bond. Bonds of notaries are approved by the clerk. The clerk, assessor or treasurer are responsible on their official board for land wrongfully sold for taxes.²⁴ A statement of carriers of intoxicating liquors shall be kept as a public record by the county clerk.²⁵

The clerk draws the jury list for the district court in the presence of the sheriff. In case of change of venue it is his duty to make a certified statement of fees to the county from which the change was made.²⁶

The military enrollment of the county is transmitted to the adjutant general by the clerk. He also advises the secretary to state the number of volumes of session laws needed by the county. The semi-annual and annual statement of the board is forwarded by him to the state auditor.²⁷

Finally, in the absence of other arrangements the clerk is the registrar of vital statistics and distributes the necessary blanks for the gathering of such information.²⁸ He likewise serves as the clerk of the county board of health when the commissioners serve in that capacity.²⁹

Administration of the Office.—It is somewhat difficult to draw conclusions regarding the administration of the office of county clerk. The duties of the office are many and likewise diverse. Likewise, the type of work in one county will vary from that in another. For example, in one county an oil boom recently shifted most of the work of the county clerk to recording while in other counties other duties were predominant and recording a small item.

Efficiency of the County Clerk's Office.—There is probably more inefficiency in the average county clerk's office than in any other single office of the county. Specialization reaches perfection in the office of some county clerks. In one office doing a fee business of a little over \$10,000 annually, there were three deputies and two assistants besides the county clerk. One deputy served as automobile license clerk, one as clerk of the board and one as recorder. The assistants served as proof readers and stenographers. In another office earning less than \$7,000 in fees, a deputy, a full-time license clerk and a stenographer were needed. Incidentally there were less than 3,000 motor vehicles in the county to engage the attention of the full-time license clerk.

²¹Compiled Laws of Colo., 1921, Secs. 1355, 1357.

²²Compiled Laws of Colo., 1921, Secs. 2801, 3733, 4858, 5551, 5560, 5561.

²³Compiled Laws of Colo., 1921, Secs. 4891, 7189, 8733, 8745.

²⁴Compiled Laws of Colo., 1921, Secs. 6026, 7444, 7973, 7981.

²⁵Compiled Laws of Colo., 1921, Sec. 3707.

²⁶Compiled Laws of Colo., 1921, Secs. 5842, 6614.

²⁷Compiled Laws of Colo., 1921, Secs. 174, 5448.

²⁸Compiled Laws of Colo., 1921, Secs. 940, 987.

²⁹Compiled Laws of Colo., 1921, Secs. 891, 892.

Salaries paid in proportion to fees earned are perhaps as fair a comparison of office efficiency as any. The following table shows earnings and salaries of county clerk's offices in selected counties for 1929.³⁰ The 20 counties selected are divided into four groups according to fees earned.

Table 8.—Fees Earned and Salaries Paid by County Clerks' Offices, In Colorado, 1929.

County	Fees earned	Salaries paid	Percentage salary is to earnings
Boulder	\$23,091	\$18,795	81.4
El Paso	30,186	24,103	79.8
Larimer	21,506	20,332	94.5
Pueblo	25,053	15,670	62.6
Weld	35,681	23,621	66.2
Adams	13,750	7,423	54.0
Arapahoe	16,378	6,363	38.9
Jefferson	17,571	8,353	47.5
Las Animas	15,346	12,780	83.3
Prowers	12,295	7,300	59.4
Baca	11,762	6,443	54.8
Gunnison	11,147	6,900	61.9
Logan	10,865	10,920	100.5
Morgan	11,728	7,200	61.4
Otero	10,346	8,485	82.0
Alamosa	5,539	3,300	59.6
Fremont	7,895	3,845	48.7
Routt	5,445	5,445	100.0
Washington	6,463	6,300	98.0
La Plata	7,293	4,760	65.3

These counties are selected merely to suggest the difference in cost of operating county clerks' offices. In the first group Pueblo County easily leads the list for efficiency, earning more fees than either Boulder or Larimer with less expenditure for salaries. Arapahoe easily leads the other counties in low operation cost of the office, earning \$16,378 with expenditures of \$6,363. Jefferson and Fremont Counties also make a good showing compared with other counties. Logan County spends \$3,000 more for salaries to earn less in fees than either Baca or Gunnison Counties. In the last group, Routt County spends \$1,500 more in salaries to earn \$2,500 less in fees, while Washington County spends \$2,500 more than Fremont to earn \$1,500 less. There are several factors which perhaps ought to be taken into account in individual cases but one is almost safe in saying that the primary cause of the high percentage of salaries to earnings in offices with fee earnings above \$5,000 annually is padding of the payroll with unnecessary help. One factor which must be taken into account, however, is photostat recording.

Photographic Recording to Reduce Cost of Recording.—One reason for the economy in several county clerks' offices is the adoption of modern methods of recording. Several Colorado counties including Adams, Arapahoe, Denver, Las Animas, Morgan, Yuma and Weld have adopted modern photostat recording for all legal documents. This primarily accounts for the low salary ratio to earnings for these counties, five of which are listed in the table given in the preceding paragraph. Photographic recording will save the average county between \$1,500 and \$5,000 a year and a modern photostat machine can be installed for approximately \$4,000. Photostat recording means accuracy as well as economy. A photostat copy can be made of any document likely to be presented to a county

³⁰Report of Auditor of State, 1930, p. 83.

clerk for recording. Five distinct advantages are found in recording instruments by photographic process. (1). Photostat copies of any document can be made and are ready for use in a few minutes. (2). Photostat recording is economical, costing less per folio than any other known process. (3). Photostat prints are accurate, the print being a facsimile of the original document. (4). Photostat prints are permanent; they will not fade and they will last as long as the paper base. (5). Interlineations and deletions can not be made in photostat prints without being easily detected. "These five reasons can be summed up in five words—speed, economy, accuracy, permanency, fraud-proof."³¹

County clerks in Colorado who use photostat recording have only praise for it. A clerk or deputy is taught to operate the machine and it eliminates the need of typists and proof readers for recording. Morgan County installed its photostat machine in 1927. Concerning its use Loyal C. Baker, the county clerk, says, "In our office we find that it made enough saving in labor so that it was possible to manage the office without the aid of three clerks that it had been necessary to employ before the installation of the photostat. The savings in salaries of these clerks, who received \$100 each per month, soon made up the original cost of installation."³²

Care of County Records.—County records in the counties visited were in good condition in most instances. However, in most counties, except those having comparatively new courthouses, vault space was limited. County records, especially those of the county clerk's office, are of a more or less permanent nature and provision ought to be made for their care in an adequate fireproof vault. In several counties a fireproof vault should be provided, in a separate building if necessary, for filing records not in current use. As it is, records in many counties are being placed in vaults in other offices and are in danger of being lost or destroyed by fire. This is particularly true in several old courthouses which are little more than fire traps. Tho vaults are provided in these it is doubtful if they would withstand a fire in many instances.

Land records especially ought to be protected. While land records in some of the counties visited appeared to be in good shape, there are many counties in which this is not true. In several counties there is no abstractor in the county and according to law the county clerk must perform this duty. In counties where there is no abstractor it is likely that the county clerk will either be unqualified for this work or will not have the time to do it. The state tax commission reports that some counties could not at the present time give a clear title to a single piece of property in the county. This situation ought to be corrected either by the counties themselves or by the state.

In some counties the records are very complete and filed in a systematic manner, while in others the opposite is true. In Boulder and Weld Counties, for example, the local abstract office files a complete list of all transfers with the county daily. Alamosa County has possibly the most complete set of records on real estate transfers of any county in Colorado.

In other counties records are in a terrible condition. County officials know little or nothing about real estate transfers. If any information is wanted it is necessary to obtain the information from the local abstractor on the payment of a fee.

In some cases it appears that the local abstractor has a private racket operated at the expense of local taxpayers and business men. Since the business of the abstract office depends upon free access to county records some provision should be made to compel abstract offices to furnish copies

³¹Hauenner, Photostat Recording. Municipal Administration Service, N. Y. 1928. Price 15c.

³²G. S. Klemmedson, "Saving the Taxpayer's Money." Mimeographed Report. Colo. Agri. Exp. Sta., p. 17, 1931.

of records obtained from the county for its use in keeping its real estate transfers and land records up to date.

This condition has continued for a quarter of a century, yet taxpayers continue to pay the bill for waste and general inefficiency. If a commission on county government were ever appointed in Colorado it might devote some time to a study of the relationship of the local abstract office to the county government to see if legislation is needed to remedy a bad situation.

County Clerk Should Be Appointed Rather Than Elected.—Finally, there is little reason why the county clerk should be an elective officer. He has no part in creating county policies. His duties are purely administrative, most of them being specifically defined by law. It would seem desirable that he be appointed by the board of county commissioners on the basis of merit rather than his ability to get votes. His work, particularly in connection with recording, is the most permanent of that of any county officer and ought to be performed by a competent person who thru ability and long tenure can become an expert in performing the work of the office.

VII. COUNTY REVENUE AND TAXATION

Assessment and Levy of Taxes.—The average citizen judges the efficiency of his government largely by the amount of taxes he pays and the burden which they impose. Taxes are not new. But, as new services have been demanded by society, taxes have increased. This increase may not be a burden in ordinary times and an increase of services will be demanded by the taxpayers. Increased services mean expenditures for original development and increased expenditures for upkeep and maintenance of the service provided. Under such conditions a permanent increase in taxes is almost inevitable. During recent years taxpayers have become tax conscious. The result is an active interest in taxation and expenditure of funds collected. Information on these points should result in a better informed public, a better understanding of the problem, and more efficient administration of county finances.

The County as a Taxing Unit.—The county has no authority to tax except as authorized by the general assembly which by the constitution is granted the right of extending to the counties the right to tax. Certain rights of taxation have been granted to the county as a unit of local self-government by the general assembly. The county has no authority in determining the tax system of the state but is an important unit in the administration of the tax laws.

Triple Functions of the County as a Taxing Unit.—The county as a taxing unit in Colorado serves in a triple capacity. First, money is raised directly by the county for county purposes such as salaries and expenses of county officers, public buildings, construction and maintenance of highways and bridges, the administration of justice, support of the poor, sick and insane. It may also raise and expend money for fairs, advertising, premiums and similar purposes. The responsibility of levying, collecting, expending and accounting for this money rests with the county officers. Secondly, the county serves as the tax levying and collecting agency of the state on one hand and sub-divisions of the county on the other. Taxes needed by the state are levied and collected by county officials, and the proceeds turned over to the state. Thirdly, levies made by smaller areas within the county are certified to the proper county officials who authorize the levy within the areas concerned, collect the taxes, and allot the smaller areas their share. The principal taxing units within the county are cities, towns, school districts, irrigation, drainage, waterworks and other special districts.

The General Property Tax.—The state and its sub-divisions rely chiefly upon the general property tax. "This," says Professor Pollock, "rests upon two fundamental principles: First, that every citizen should contribute to the support of the government in proportion to his ability to pay; and second, that the amount of property owned is the measure of ability to contribute to the government. There is some question as to the accuracy of this second principle but every one will agree that if property is to be the chief source of taxation it should all be listed for taxation and should all be appraised on the same basis."¹

Assessments on which these taxes are levied are made by county assessors. The board of commissioners serves as a board of equalization for assessments within the county. The Colorado tax commission, subject to the approval of the state board of equalization, has power to review the work of county assessors and county boards of equalization and make certain adjustments; it also assesses the property of public utilities.

Lack of State Uniformity in County Assessments.—In theory the plan of assessment with review by a county and state board of equalization ought to result in a fair and uniform assessment. Actually, there is much to be desired. The state tax is levied on the assessment made by the

¹Shambaugh, County Government and Administration in Iowa, p. 473.

county assessors, supposedly at actual cash value. A premium is thus placed upon under-valuation of a county by the county assessor with the resultant reduction of state taxes paid by the county. Wide variations are also likely to exist between neighboring counties. "No attempt is made to assess or reassess real property at its full cash value. In setting a final figure each assessor has in mind a certain percentage of full cash value at which he believes he is assessing the real property of his county. An informal inquiry made of assessors in a number of different counties indicates that there is a considerable variation from county to county in the percentages which the assessors use for this purpose."² Information obtained from 29 assessors in the course of this study revealed that their estimates of the assessed valuation placed on property in their county ranged from 60 to 107 percent of actual value. The average was 81 percent. There is more uniformity in the assessment of personal property, particularly livestock, because the rates are agreed upon by the county assessors and the state tax commission so that the only deviation from the uniform value is the assessors judgment as to the value in relation to the fixed standard.

Sources of County Revenue.—Counties derive their revenue from several sources, chief of which are the general property tax, funds received from the state, fees and licenses, sale of county property, sale of bonds and small amounts from miscellaneous sources.

The total tax collections in the United States for 1931 were approximately as in Table 9.

Table 9.—Total and Per Capita Tax Burden in Colorado and United States, 1931.³

	United States	Colorado	All states	Colorado
Federal taxes	\$2,428,000,000	\$15,667,230	\$19.77	\$15.12
State taxes	1,967,000,000	14,915,110	16.02	14.40
County taxes	958,000,000	8,733,128	7.80	8.43
City taxes	2,978,000,000	11,220,538	24.26	10.84
Local taxes	1,188,000,000	22,326,155	9.68	21.55
Total	\$9,519,000,000	\$72,862,161	\$77.53	\$70.34

Our information concerning the total revenue secured by counties is rather meager. According to the report of the state auditor the following remittances to counties were made in 1931.

Table 10.—Source of County Revenue, 1931.

	Total	Percentage of total
Taxes:		
Property taxes	\$5,289,971.33	53.4
Gasoline taxes apportioned to counties	1,591,499.09	
Motor vehicle license	873,760.02	
Forest Reserve funds apportionment	135,212.00	
Public Utilities Common carrier tax	43,944.95	
Blind benefit	69,028.66	
	\$8,003,416.05	80.8
Miscellaneous revenue:		
Fees of county clerk, sheriff, treasurer, county and district courts	1,899,181.12	19.2
	\$9,902,597.17	100.0

²Coombs, Moorhouse, Seeley. Some Colorado Tax Problems. Colo. Exp. Sta. Bul. 346, 1928.

³Federal and State Taxation, House Ways and Means Committee, Washington, D. C., 1933.

According to the reports of the department of commerce, total receipts in 1912 were \$307,872,000 and in 1922, \$745,000,000 for county government in the United States. The total tax collections by counties in 1931 amounted to about \$958,000,000. If this is correct, we have had an increase in county taxes of about 210 percent in the last 19 years and of about 28 percent in the last 9 years.

A comparison between county tax collections in 1922 and 1931 for the United States is shown in Table 11.

Table 11.—Comparison of County Tax Collections for the United States, 1922 and 1931.⁴

Source of tax	In millions of dollars	
	1922	1931
General property	687.3	897.8
Income taxes	1.3	1.8
Death taxes5	.2
Poll taxes	9.1	1.8
Licenses and permits	25.1	34.4
Special assessments	19.5	2.1
All other taxes	2.2	19.8
	745.0	957.9

It is evident from the above figures that the increase in county taxes of 28 percent is due to the increase in general property tax. Collections from this source have increased about 30 percent in the last 9 years. Moreover, over 93 percent of the county taxes are derived from the general property tax.

Because of its importance, the assessment, levying, and collection of general property tax will be considered in detail while other sources of county revenue will be discussed only briefly. Miscellaneous county funds are derived from such sources as state grants-in-aid, fees, licenses, sale of bonds, county property and produce from the poor farm or other county enterprises, gifts and fines.

Grants-in-aid.—The counties receive funds from the state for two principal purposes: Roads and schools. Fifty percent of the receipts of automobile licenses collected by the secretary of state thru the county clerks in the respective counties and 25 percent of taxes on common carriers collected by the public utilities commission are distributed to the counties on the basis of state highway mileage in the county for the "construction, maintenance and improvement of the county roads and bridges of such county, and for no other purpose." The counties received \$932,060.68 from those two sources for the year ending June 30, 1931.⁵

The counties also receive 27 percent of the proceeds of the state tax of 4 cents a gallon on gasoline. Payments to counties from this source amounted to \$1,644,511.23 for the year ending June 30, 1931.⁶ Counties having federal forest reserves receive a share of the proceeds of fees collected for grazing stock. Apportionment is based on the area of forest reserve in the respective counties. Forty-two counties received \$141,242.40 from this fund in 1931. According to the law, the board of county commissioners must distribute this fund between the road and school funds, in any case neither fund to receive less than 5 percent. In 25 counties visited and from which reports were received, the fund was divided on the basis of 95 percent to the road fund and 5 percent to the school fund in 21 counties, 30 percent to school and 70 percent to roads in one county, on a fifty-fifty basis in two counties and 10 percent to

⁴Federal and State Taxation, Committee on Ways and Means, 72nd Congress, 2d Session, 1933, Washington, D. C.

⁵Session Laws of Colo., 1931, Ch. 122, Sec. 25a; Records of the State Auditor.

⁶Session Laws of Colo., 1929, Ch. 129; Records of Auditor of State.

school and 90 percent to roads in one county. This distribution is at least partially explained by the fact that the boards of commissioners control the expenditure of the road fund but not of the school fund yet it is in counties with large forest areas that the schools are most likely to need aid.⁷

In 1933 a committee of the Colorado education association started an investigation to determine to what extent the schools in counties containing forest reserves were profiting from the distribution of the fund apportioned among the counties under Section 1230, C. L. Colorado, 1921.⁸

Blanks were returned from 51 counties. Most of them answered as to the amounts of forest reserve revenues apportioned to their respective counties during the past year, and the percentage of this which had been allotted to the schools. It appears that this is no inconsiderable item in some counties, the amounts reported ranged from \$35,000 down to \$18.63, with a grand total of \$130,814.50. It appears that 33 of the 51 counties, or about 65 percent, are receiving 5 percent of such funds for schools.

Percentage of forest revenue to schools	Number Counties
0	2
2	1
3	1
5	33
10	13
33 $\frac{1}{3}$	2
50	5
80	1
95	3

Public education in the counties receives help thru apportionment of the income from the public-school fund and from state aid. These amounted to \$291,158.95 and \$71,816.49 respectively for the fiscal year ending June 30, 1930. Apportionment is made on the basis of school population and an additional apportionment may be made by the state superintendent of public instruction when a 5 mill county levy will not produce sufficient funds to comply with the law providing for minimum salaries for teachers.⁹

Finally, the state repays the counties one-half of the amount expended for blind benefit. This amounted to \$38,052.98 for the fiscal year ending June 30, 1930.¹⁰

Miscellaneous County Receipts.—Fees received by county officers are the most lucrative source of county revenue received from sources other than the general property tax. All fees are paid into the county treasury unless the fees of the office do not amount to the salary fixed by law for that office.¹¹ The fees of the principal fee officers in the counties for 1929 and 1931 are shown in Tables 12 and 13.

The statement of fees is misleading as a means of determining the amount of revenue because in a great number of instances the fee is paid from another county fund and represents merely a bookkeeping transaction rather than new revenue. Most of the treasurers' fees are derived from a percentage of taxes collected. Likewise, a good portion of clerks' fees are paid out of the ordinary county revenue fund. Because fees of an office amount to more than the salaries paid the public generally and often officers themselves are led to believe that an office is self supporting when actually the appearance is created by a transfer of county funds under the name of fees. Fees may serve as a means of distributing

⁷Compiled Laws of Colo., 1921, Sec. 1230; Report of Auditor of State, 1930, p. 15.

⁸Colorado School Journal, March, 1934, p. 31.

⁹Compiled Laws of Colo., 1921, Secs. 8280, 8452; Session Laws of Colo., 1929, Ch. 164; Report of Auditor of State, 1930, p. 14.

¹⁰Compiled Laws of Colo., 1931, Sec. 733; Report of Auditor of State, 1930, p. 18.

¹¹Compiled Laws of Colo., 1921, Secs. 7869-7904.

Table 12.—Fee Statement of County Officers for 1931.¹²

Officer	Fees	Salaries paid	Earnings over expense
County clerks	\$ 552,530.92	\$ 398,650.11	\$153,880.81
Sheriffs	214,241.25	247,195.23	32,953.98*
County court	205,881.65	238,732.42	32,850.77*
District court	163,797.75	172,042.97	8,245.22*
Treasurers	762,729.55	424,496.90	338,232.65
Total	\$1,899,181.12	\$1,481,117.63	\$566,163.43

*Expense over earnings.

Table 13.—Fees of County Officers for 1929, in Colorado.¹³

Officer	Fees	Salaries paid	Net earnings
County clerk and recorders	\$ 601,713.55	\$ 431,319.40	\$170,394.15
Sheriffs	208,444.80	246,814.98	38,370.18
County court	236,557.75	239,530.84	2,973.09
District court	155,540.14	173,308.63	17,768.49
Treasurers	757,200.01	404,557.22	352,642.79
Total	\$1,959,456.25	\$1,495,531.07	\$582,148.70

expense to various funds but it should be made clear that they are not always a real source of county revenue. They represent income only when received from the public for services rendered and not from other county funds.

Counties also receive varying amounts from licenses issued to merchants, itinerant vendors, amusement places and from dog licenses.¹⁴

Counties receive some revenue from the sale of county property, work of prisoners on roads and boarding federal prisoners or prisoners from neighboring counties. Some revenue may be derived from the sale of surplus products of the poor farm tho these are usually used on the farm. The proceeds of fines are a small source of income and gifts may add something.¹⁵

Cancellation of unclaimed or lost warrants can also be considered as income. There is no statutory authority to cancel county warrants once issued but it is the practice to do so after a reasonable time, tho about two-thirds of the counties visited had warrants outstanding which ought to be cancelled, subject to reissue if the claim is again presented.

The sale of bonds also constitutes a source of revenue which has been used frequently in the past. The principal must be paid with interest eventually, but creation of indebtedness makes future income immediately available.¹⁶

The Assessment of Property

The first step in the administration of the general property tax is the assessment of real and personal property. The law provides that

¹²Report of Public Examiner, see State Auditor's Report, June, 1931 to June, 1932.

¹³Some fees are also received by county assessors; Report of Auditor of State, 1930, pp. 83, 92, 101, 110, 119.

¹⁴Compiled Laws of Colo., 1921, Secs. 3730-3744, 4247; Session Laws of Colo., 1931, Ch. 57.

¹⁵Compiled Laws of Colo., 1921, Secs. 4909, 6746, 7052, 7082, 8288, 8895, 8917.

¹⁶Compiled Laws of Colo., 1921, Secs. 8842-8846.

"all taxable property shall be listed and valued each year, and shall be assessed at its full cash value; land to be listed and valued separate and apart from the personal property and improvements thereon." All property, both tangible and intangible, is subject to the general property tax and must be assessed unless specifically exempt under the constitution or laws.¹⁷

Exemptions From Property Tax.—The constitution and statutes exempt from taxation real and personal property used for public, religious, or charitable purposes and personal property of heads of families to the amount of \$200.

Specifically, the law provides exemption from taxation for seven classes of property. First, the property, real and personal, of the state, counties, cities, towns and other municipal corporations and libraries. Second, lots with the buildings thereon, if said buildings are used exclusively for religious worship. Third, grounds with the buildings thereon, if said buildings are used exclusively for schools, other than schools held or conducted exclusively for private or corporate profit. Fourth, lots with the buildings thereon, if said buildings are used exclusively for charitable purposes. Fifth, cemeteries not held or conducted for private or corporate profit. Sixth, personal property of every person being the head of a family, to the value of \$200. Seventh, ditches, canals and flumes owned and used by individuals or corporations for irrigating land owned by such individuals or corporations, or the individual members thereof, shall not be separately taxed so long as they shall be owned and used exclusively for such purposes. These exemptions are elaborated to include church property used as a residence by an active minister, preacher or priest, funds of fraternal societies, property of domestic water-works districts and grounds used exclusively for fairs. The increase in the value of lands planted to timber, other than fruit trees and hedges, is exempted for 30 years or until sufficiently mature for economic use.¹⁸ The courts have held that a reservoir dam is not subject to taxation separate from the reservoir or water rights, and is not an improvement upon the land upon which it rests. Likewise, canals owned and used exclusively for irrigation of land owned by the owners of the canals cannot be separately taxed from the land on which the water is used, altho the canals are not exempt from taxation.¹⁹ The courts have also held that fraternal associations whose activities are of a charitable nature are charitable associations tho some entertainments for a fee are given if such fees are devoted to charitable purposes. This includes country clubs and golf courses owned by such organizations.²⁰

Much Property Escapes Taxation.—In addition to legal exemptions there is also an unestimated amount of property exempt thru the administration of assessment laws. This includes personal property of religious, educational and charitable institutions, none of which is exempt by law but is never assessed. Referring to the 1930 report of the state tax commission, we find 43 counties with no securities listed, and the remainder of the state has only \$231,000 worth; 18 counties have no book accounts, but have 5 and one-half million dollars worth of merchandise stocks, 7 counties have no money or bank deposits, 15 counties have no intangible property of any type, 15 counties have banks but no deposits, and 4 counties have less than \$1,000 bank deposits. Corporate stock and surplus of banks is 24 millions of dollars but total deposits are only 18 millions of dollars. Forty-three counties have no bicycles, 39 no motorcycles and 3 no radios. Three counties have no timepieces and there is only one in the state for every 44 persons. Many other similar exemptions could

¹⁷Compiled Laws of Colo., 1921, Secs. 7178, 7195-7197.

¹⁸Compiled Laws of Colo., 1921, Secs. 1972, 2069, 2134, 2222, 2630, 7198-7203; Constitution of Colo., Art. X, Secs. 3, 4, 5.

¹⁹Antero and Lost Park Reservoir Company v Park County, Pacific, Colo. 148; Shaw v Bond, 171 Pacific, Colo. 1142.

²⁰Horton v Colorado Springs Masonic Building Society, 173 Pacific, Colo. 61.

be cited. For example "good will" is not taxed. Valuations under 100 percent or failure to collect taxes are exemptions to the extent of the failure just as much as failure to assess.

Administration of Assessments.—The listing of real and personal property subject to taxation is the first step in the administration of the general property tax. This work is performed in each county by a county assessor who is solely responsible for the assessment of all property in his county. He may appoint such deputies as are needed to complete the work on schedule. The law provides that the board of county commissioners may divide the county into assessment districts and require the assessor to appoint a deputy in each district.²¹ In practice the board leaves the assessor to make the assessment without interference.

Legally, the state tax commission has general supervisory power over the county assessors and over the board of county commissioners in their control over deputies and assistants of county assessors. The reason for this is the fact that assessment is a state as well as a county function. The commission determines what information shall be furnished it by the assessors and provides the necessary forms. It has power to prescribe a uniform system of procedure in the assessors' offices and the form and size of all records used. Actually no attempt has yet been made to prescribe uniform procedure or records tho the tax commission has discussed the possibility. Each assessor used records and forms which he considers best adapted to his peculiar needs.

The law furthermore contemplates effective supervision of assessors by providing that for purposes of investigation and supervision one or more members of the tax commission shall visit at least one-half of the counties of the state annually, and shall visit every county in the state at least once in 2 years. This provision is virtually annulled by the general assembly failing to make a sufficient appropriation for the commission to enable it to comply with the law. A few counties are visited annually but little effective control can result with the commission working under a financial handicap. Finally, it is the duty of the tax commission to call an annual meeting of the assessors at the state capitol, and it may call a group meeting of two or more of the county assessors at such time and place as it may designate. Here again the tax commission is handicapped by lack of funds. The law provides that the state shall pay the railroad fare and expenses of the assessors when attending meetings at the state capitol. Since the appropriation for the tax commission is not sufficient to permit an annual meeting, it is the practice to call a meeting every 2 years. On the alternate years district meetings are held as an economy measure since the counties or the assessors personally must bear the expense of these meetings. These meetings are held for the purpose of discussing mutual problems confronting the assessors and specifically to discuss valuations to be placed upon different types of personal property. The value agreed upon and certified by the tax commission is used by the assessor as a basis for making his valuations. No attempt is made to arrive at a uniform valuation for real estate with the result that there is more uniformity in the valuations placed upon various kinds of personal property than upon real property.

Assessment by County Assessors.—The actual procedure followed by county assessors in listing property is essentially the same tho the methods used may vary in detail. The law provides that on January 1, or as soon thereafter as practicable, the assessor or his deputy shall call upon each inhabitant in his county and deliver or leave blanks for the return of the property of the inhabitant for assessment. These must be returned to the assessor between April 1 and May 20, giving a list of personal and real property held on April 1. In practice, assessment schedules are mailed only to non-residents of the county, usually about March 1. On April 1, or as soon thereafter as possible, the assessor and his deputies visit each inhabitant of the county and obtain the necessary information

regarding the amount of property held on April 1.²² Assessors in the larger counties employ field men for this purpose, each being assigned a given area or a certain number of school districts. In the smaller counties the assessor does all the work himself, in others a full-time deputy is sufficient help. The field men enter only the personal property on the schedules. The assessor, in every county visited, makes the assessment of real estate in person or by deputy. The field men are depended upon to report any changes in real estate or the type of land listed to the assessor. In a majority of the counties visited the assessor checks up on these changes personally. In every county visited the assessor reported that he was able to complete the assessment in the prescribed time, that is, by May 20. Assessment in Colorado is much more exact than in some states because both personal and real property are assessed each year.

The procedure for assessing various types of property and arriving at the actual cash value is prescribed in considerable detail in the statutes. If any inhabitant refuses to give the assessor or his deputy the information needed, or if the assessor, after reasonable effort, is unable to locate any inhabitant, he may assess the property at what he considers a fair cash value. It is the duty of the assessor to enter all properties, personal and real, exempt by law in the same detail as required of assessable effects upon the tax roll and extend the value in a separate column provided for exemptions. According to the law assessable intangibles must be assessed at their full cash value the same as tangible property. Debts against real or personal property may be deducted, thus eliminating double taxation of this kind of credit.²³ Needless to say most intangibles are untaxed. For example, the law requires that the assessment of bank deposits be determined by the average deposit for the year. Yet in 1930 the assessed valuation of bank deposits was \$18,049,516 whereas on December 31, 1930 deposits in banks aggregate \$209,991,122, which is indicative of the average deposits for the year.²⁴ Taxes in arrears because of failure to report property or failure of the assessor to assess may be levied against the property and shall be included in the tax for the current year when assessed.

The treasurer may assess property omitted by the assessor. It has been held by the courts, however, that the county commissioners do not have authority to make original assessments.²⁵ But the board may, when sitting as a county board of equalization, order either the assessor or treasurer to enter property omitted from the assessment rolls.

Personal property brought into the county after April 1 is subject to assessment at its full cash value for the proportionate part of the year which it is in the state. The person bringing the property into the state is by law required to obtain a schedule and make a report to the assessor. When goods are brought into the county for purposes of sale or trade it is the duty of the assessor to assess them immediately at their full cash value for the time which such goods will be in the state; strictly interpreted this would mean the assessment of every item of merchandise brought into the county during the year, an obviously impossible and impractical task. Similarly, livestock brought into a county for grazing and feeding purposes are subject to assessment at their full cash value for the proportion of the year which they are in the county. When livestock is shifted from one county to another the law provides that the assessors of the counties interested shall agree upon a fair division based upon the time the stock is in their respective counties and assess accordingly. A portion of the law which provides that livestock brought into a county after the time of assessment shall be assessed and taxed as if it had been in the county for the entire year was declared by the courts

²²Compiled Laws of Colo., 1921, Secs. 7225, 7247, 7450-7455.

²³Compiled Laws of Colo., 1921, Secs. 7226-7267.

²⁴Colo. Yearbook, 1931, p. 205.

²⁵Compiled Laws of Colo., 1921, Secs. 7321, 7396, 8806; *Murray v Washington County*, 185 Pacific, Colo. 262.

to be discriminatory and invalid.²⁶ The assessment of livestock brought into counties for grazing purposes presents a baffling problem for the assessors in counties which have considerable grazing land. This is particularly true where, as in the northwestern part of the state, sheep and cattle in the course of a season may be grazed over portions of three states, Colorado, Utah and Wyoming. Even when attempt at assessment is made, the result is likely to be only an estimate because of the practical inability to obtain a count of grazing livestock. Taxes, the amount of which cannot be estimated, are lost by several counties of the state every year on grazing livestock. Where the grazing is on federal forest reserve the federal government collects a grazing fee for each head of livestock. By cooperating with the federal officials the county assessors are able to correct some of the difficulties in assessing grazing livestock.

The schedules of taxable property must be signed by the assessor when returned, filed in alphabetical order, and retained in the assessor's office for 6 years, after which they may be destroyed.

Upon completion of the assessment roll in each year and prior to the endorsement of the tax list and warrant thereon, in no case later than September 1 of each year, the assessor must make a duplicate abstract of the assessment roll. One copy of the abstract is written in the assessment roll and becomes a part of it and the other copy must be transmitted to the tax commission. This report must be in considerable detail on forms prescribed by the state tax commission. The assessor must swear upon oath that all property in the county has been assessed at its true and full cash value and that the abstract is a true compilation of each and every schedule. The assessor may be charged with and convicted for perjury if it is proved that property has not been assessed or has been assessed at less than its true cash value.²⁷

Appeal from Assessor's Valuation.—Any taxpayer may make a complaint to the assessor if he is dissatisfied with the valuation placed upon his property. If in any particular the assessment is erroneous it is the duty of the assessor to correct it. The assessor shall, prior to the first Tuesday in August of each year, mail to each taxpayer, the valuation of whose property has been changed from that given in the schedule presented to the assessor, a statement of any change in value. Furthermore, he must give notice by publication of a date on which he will sit to hear any and all objections to the assessment roll. These hearings may continue from day to day until all grievances have been heard, but must be concluded before the day of the first meeting of the county board of equalization. When the total valuation assessed against the taxpayer exceeds \$7,500 the complaint and reply of the assessor, if the complaint is overruled, must be in writing. The complaining taxpayer may appeal from the assessor's decision to the district or county court on or before the first Monday in January following the assessment. Before appeal is allowed the petitioner must pay the county treasurer the amount of the tax levy pursuant to the assessment subject to refund by the treasurer, in whole or in part, with interest, if his petition is upheld by the court. The court may not review the assessment unless it appears manifestly excessive, fraudulent or oppressive. The case is handled in a summary manner and both the assessor and the county or district court, in considering a grievance by any taxpayer, must take into consideration the value as fixed by the assessor upon other similar assessable property similarly situated. When the assessed valuation is less than \$7,500 the same procedure is followed except that appeal is made to the board of county commissioners who have the right to correct any error or mistake whenever in their judgment justice and right may require it. Appeal may be made from the decision of the board of county commissioners to

²⁶Compiled Laws of Colo., 1921, Secs. 7250, 7461, 7462; Carbon County Sheep and Cattle Co., v Routt County, 152 Pacific, Colo. 903, invalidates the first sentence of Sec. 7461, compare Sec. 7381 and notes thereon.

²⁷Compiled Laws of Colo., 1921, Secs. 7254, 7268, 7269, 7311.

the district court of the county under the same terms as if the amount were over \$7,500 but the court may not grant relief against an assessment merely because excessive, unless it shall appear manifestly fraudulent, erroneous or oppressive. Thus, the court may change an excessive assessment if the total assessed valuation is above \$7,500 but not if it is less, a contradiction which appears manifestly unfair.²⁸ Actually, appeal is made from the assessor to the county board of equalization, whose decision is ordinarily final.

Assessment of Public Utilities by the State Tax Commission.—The state tax commission has the power of original assessment of all public utilities, a power formerly conferred upon the state board of equalization.²⁹

Public utilities as defined in the statute embraces each "corporation, company, firm, individual and association, their lessees, trustees or receivers elected or appointed by any authority whatsoever and in this act referred to as express company, telephone company, telegraph company, sleeping car company, car line company, railroad company, power company, pipe line company, water company, street railway company, gas company, lighting company and heating company. Said term 'public utility' shall mean and embrace all other classes of companies, however, owned and operated and having a continuity of business in two or more counties in the state, and such term 'public utility' shall include any plant or property owned or operated, or both, by any such companies or corporations, firms, individuals or associations."³⁰ Thus county assessors are limited in their authority to the assessment of property of persons, companies, partnerships and corporations doing business solely within their respective counties.

The state tax commission, after determining the assessment of public utilities, determines the proportionate share of each county as provided by law and transmits the assessed valuation in each county to the respective county clerks on or before June 15 of each year. The board of county commissioners at their first meeting after the statement is received apportion the assessment to the school districts and municipalities in the county on the basis of the mileage of main track or lines in each area.³¹

Equalization of Assessment Within the County.—The constitution provides a state board of equalization and a county board of equalization who "shall equalize to the end that all taxable property in the state shall be assessed at its full cash value . . ." The state board of equalization has no power of original assessment.³²

The county board of equalization consists of the board of county commissioners. It is the duty of county boards of equalization to adjust, equalize, raise or lower the valuation of real and personal property within their respective counties, subject to revision, change and amendment by the state board of equalization. "The law provides that the board shall hold two regular meetings each year at the office of the county clerk at the county seat. These are held on the first and third Tuesdays of September, continuing not less than 3 nor more than 10 consecutive days. Any taxpayer or the council or board of trustees of incorporated towns may appear and request or recommend additions to or changes in the assessment made by the assessor. At least 2 days' notice of the meetings must be given by the county clerk by publication or by posting."³³

²⁸Compiled Laws of Colo., 1921, Secs. 7291-7293, 8702, 8703.

²⁹Compiled Laws of Colo., 1921, Secs. 7284, 7294-7307, 7361; Opinion of Justices, in re, 123 Pacific, Colo. 660; Constitution of Colo., Art. X, Sec. 5.

³⁰Compiled Laws of Colo., 1921, Sec. 7362.

³¹Compiled Laws of Colo., Secs. 7308, 7309.

³²Constitution of Colo., Art. X, Sec. 15.

³³Constitution of Colo., Art. X, Sec. 15; Compiled Laws of Colo., 1921, Secs. 7458, 7459, 9151.

The county board of equalization at its first meeting inspects the assessment roll, which must be turned over to it by the assessor, making such changes as will, in its opinion, equalize the assessed valuations as fixed by the assessor and make the assessment comply with the legal requirement that property shall be assessed at its full cash value. It shall notify the assessor to supply any omissions in the assessment roll, which may come to their notice. In case any material changes are made in the assessment of any property it is the duty of the county clerk to mail the owner a notice of such change.³⁴ The second meeting of the board is for the purpose of hearing complaints of those dissatisfied with changes made at the first meeting and "to adjust the assessment so as to equalize the same among the several taxpayers of the county."

The practice of county boards of equalization varies. In a few counties visited it is the practice of the board to examine each schedule of assessment. This is particularly true in the smaller counties where the members of the board are personally acquainted with nearly every individual taxpayer and are familiar with his property. For instance, Jackson County only has about 800 schedules and the board of equalization goes over each one carefully. This seems unnecessary since the assessor who has a small number of schedules can make a thoro assessment and his judgment is usually as good as that of the commissioners. In the larger counties there is a tendency to accept the judgment of the assessor and the board is less likely to inspect each individual schedule. In fact, this is impossible in counties having 5,000 to 25,000 schedules. The board is likely to be more critical where the assessor is of the opposite political faith and this accounts for the meticulous inspection of schedules in some counties.

There is generally little tendency for the board to change the valuation fixed by the assessor, the general feeling being that he is best prepared to pass judgment upon individual assessments. Taxpayers have likewise been inclined not to protest the valuation fixed by the assessor. One reason few protests are made to the county board is that public utilities which are most likely to protest valuations are assessed by the state tax commission and not the local assessors.

The county board of equalization is likely to be ineffective where it is intended it should be most needed—that is, in the equalization of values. For example, there is a general feeling, openly expressed in some counties, that property of non-resident taxpayers is assessed at a higher valuation than similar property of residents because no effective protest is likely to be forthcoming.

State Equalization.—The state board of equalization is a constitutional body composed of the governor, state auditor, state treasurer, secretary of state and attorney general. It is the duty of the state board of equalization to "adjust, equalize, raise or lower the valuation of real and personal property of the several counties of the state, and the valuation of any item or items of the various classes of such property."³⁵ It has been held by the courts, however, that individual items may not be changed by the state board of equalization.

The actual work of the state board of equalization is performed by the state tax commission, a statutory body composed of three members appointed by the governor on recommendation of the civil service commission for 6 years, their terms overlapping. All the statutory powers of the state board of equalization, except equalization, are conferred upon it and it performs its duties subject to the approval of the state board of equalization. The tax commission has power to require reports, summon county officials before it, hold hearings and visit the various counties to obtain information which it needs to enable it to carry out its duty of equalizing assessments. When the assessment of indi-

³⁴Compiled Laws of Colo., 1921, Secs. 7310, 7458.

³⁵Constitution of Colo., Art. X, Sec. 15; Compiled Laws of Colo., 1921, Secs.

vidual properties is considered by the tax commission notice must be given to the owner or owners giving a time and place for hearing any person or persons interested. The place for such hearing must be within the county in which the property is situated.³⁶ Actually the tax commission does not investigate individual assessments and would not consider a complaint from a taxpayer protesting the valuation fixed by the assessor and approved by the county board of equalization.

Any corporation, company or individual whose property has been assessed by the tax commission, and also any board of county commissioners may, on or before August 25, file a petition of complaint with the tax commission if they are of the opinion that any assessment made by the tax commission is illegal, erroneous, duplicate, a violation of the uniformity required by the constitution, or that the amount and value of such assessment has not been justly distributed between the several counties entitled to the assessment.

The tax commission must meet on the second Monday in September, and succeeding days if necessary, to hear petitions and complaints which may be presented. The secretary of the commission must serve notice upon the corporation, company or individual whose property is directly affected, and upon the board of county commissioners of any county directly affected. The notice may be served in the same manner as summons issued out of any court of record and must be served at least 5 days before the meeting of the tax commission. The procedure and powers of the commission in conducting hearings on petitions are outlined in the statutes.³⁷ The action of the state tax commission is, however, merely advisory to the state board of equalization so far as its powers of equalization are concerned.³⁸ But the power of original assessment of public utilities is conferred upon the tax commission.³⁹

When the tax commission is of the opinion that property is omitted or assessed too low so as to operate as a fraud upon the state revenue it shall upon notice to the assessor and after summary hearing require the delinquent assessor to make such additions and corrections as will make the assessment conform to the requirements of the constitution and the statutes. Any assessor may appeal from a decision of the state tax commission to the district court of the county of which he is assessor and shall be heard summarily. However, if in the opinion of the tax commission, the assessor has wilfully made an erroneous assessment it shall certify the fact to the governor who may, if he finds that the facts of the case warrant such action, remove the assessor. The vacancy thus created shall be filled by the board of county commissioners but they cannot reappoint the assessor removed by the governor.⁴⁰

The commission must complete its work on or before October 1, and make its recommendations to the state board of equalization which meets on the first Monday in October in each year, at the executive office, for the purpose of examining, adjusting and equalizing the assessments in the several counties of the state. At this meeting the board also corrects any error or mistake made by the tax commission in assessing the property over which they have the power of original assessment. The work of the board must be completed by the third Monday in October and the state auditor transmits to the clerk of each county a statement of the changes of any which have been made in the assessment.⁴¹

It is unfortunate that the board of equalization is an ex-officio body provided by the constitution and made up of elective officers. Tho the tax commission is a statutory body, the members have overlapping terms

³⁶Compiled Laws of Colo., 1921, Secs. 7289-7307, 7322-7336, 7352-7354, 7361.

³⁷Compiled Laws of Colo., 1921, Sec. 7287.

³⁸People v Pitcher, 156 Pacific, Colo. 812.

³⁹Constitution of Colo., Art. X, Sec. 15; Compiled Laws of Colo., 1921, Sec. 7361; Opinion of Justices, In re, 123 Pacific, Colo. 660.

⁴⁰Compiled Laws of Colo., 1921, Secs. 7289, 7290.

⁴¹Compiled Laws of Colo., 1921, Secs. 7463-7465.

and are thus somewhat beyond political influence. This is not and cannot be true of an ex-officio body made up of elective state officials whose actions are subject to political influences. A clear illustration of this was presented by the action (1931) of the state board of equalization ordering a flat reduction of assessed valuation of 20 percent on all farm lands and improvements and 5 percent on city real estate from the valuations fixed by the county assessors and approved by the tax commission. This action was upheld by the supreme court. The state board of equalization ought to be abolished so that the action of the tax commission would be final unless appeal is made to the courts.

Proposed Changes in the Tax System.—There is general agreement among officials in Colorado that a property tax is sound and necessary. There is a growing conviction, however, that the general property tax, which taxes all property at a uniform rate, is unsound. This view is held by leading students of public finance. Proposed changes in the tax system of Colorado are discussed in Bul. 398, "State and Local Tax Revision in Colorado," by G. S. Klemmedson, of the Colorado Agricultural Experiment Station.

Colorado could undoubtedly profit by extending the classified property tax already recognized in the principle by the exemption given the increase in value of lands planted to forests. The present constitutional provision that "all taxes shall be uniform upon the same class of subjects within the territorial limits of the authority levying the tax" is identical with that in the states mentioned as having comprehensive classifications and permits unlimited extension of the principle of classification.⁴² The placing of motor vehicles in a separate class would correct the present loss thru failure to collect the present personal tax on motor vehicles, estimated by one county treasurer at \$50,000 a year for the entire state. Fourteen states now assess a license fee in lieu of all other taxes. Professor Leland says: "Motor vehicle licenses based upon value levied in lieu of personal property taxes and at a different effective rate are properly considered a classification device. Such taxes are found in Iowa, Minnesota, North Dakota and Oklahoma, tho in Iowa and North Dakota other criteria besides value are considered. It is difficult to see how these taxes can be taken as the measure of value of the privilege to use the highways, since the value of the privilege is proportional to neither the original nor the present value, but rather to the use which is made of the highways. The fact that a license plate is required does not change the situation materially for the requirement is principally for police purposes and for facilitating the collection of the tax."⁴³ Two states, New Hampshire and South Carolina issue motor licenses in lieu of personal property taxes (state taxes) tho their constitutions do not provide for classification of property.⁴⁴ Since the duties of county officers are fixed by law, the same officer who issues the license could be given authority to collect the fee. The distribution can be made so as to compensate the county for the loss of revenue of the personal property tax on motor vehicles. Every taxing official consulted, especially assessors and treasurers are heartily in favor of a change and the state association of county treasurers has endorsed a change in the law. The general assembly has the constitutional power to change the law to assure a more equitable tax on automobiles and save the state and counties the revenue now lost thru failure to collect personal property tax on automobiles.

⁴²Leland, S. E., *Classified Property Tax in the United States*, 1928, pp. 88-96.

⁴³Leland, S. E., *Classified Property Tax in the United States*, 1928, pp. 46-47; Zangerle, *Shall We Classify Property for Taxation?* pp. 15-16, Cleveland, 1918.

⁴⁴Special Taxation for Motor Vehicles. Pamphlet issued by motor vehicle conference committee, New York, 1925. (Motor licenses are now issued in lieu of personal property taxes in Delaware, Florida, Idaho, Iowa, Maine, Michigan, Minnesota, New Hampshire, New Jersey, New York, North Dakota, Ohio, Oklahoma, Oregon, South Dakota, Vermont, Wisconsin, Wyoming and District of Columbia.)

The question of distribution of the tax on motor vehicles which seems to be the principal issue standing in the way of adopting a license fee as the sole means of taxing automobiles can be settled in one of several ways. A portion of the license fee can be distributed to the counties to be credited by them to the various funds on the basis of the amount of each, or a separate county and state license can be collected, one license plate serving for both, and the county's portion distributed to the various funds. This method is followed in Wyoming. Or, the entire proceeds from motor vehicle licenses can be kept by the state, the proceeds to be used in maintaining the state highway system, thus relieving the counties of this burden. The proceeds of the gasoline tax could then be applied entirely to new construction. This procedure has worked very satisfactorily in Missouri.

The fear has been expressed that removal of the personal property tax on automobiles would materially reduce the amount of tax going to the public schools. It is doubtful if the loss would be significant. The schools are likewise likely to be compensated for any loss by the distribution of the proceeds of an income tax to the public schools; a return much greater than any loss of personal property tax on motor vehicles.

Because of the saving in the cost of handling schedules and making out the tax roll and the assurance of 100 percent collections the doubling of the present license fee, exclusive of the personal property tax, would probably triple the income from motor vehicles.

The problem of taxing intangibles can be most successfully approached thru the adoption of an income tax and removal of all property tax on productive intangibles. Corporate stocks are now exempted as representing the corporate property and, except in the case of bank stocks, are not taxed. Mortgages secured by Colorado property are also exempt from taxation; the taxpayer need not return such stock in his schedule.⁴⁵ At present certain types of intangibles are being taxed unjustly. This condition can be corrected by levying an income tax and removing the property tax on intangibles.

The income tax is the only method of the many alternatives tried which has proved satisfactory for taxing intangibles. New York and Wisconsin have achieved notable success thru this method. Thirty-two states in 1934 had an income tax in one form or another. Furthermore, the present Colorado constitution will permit the general assembly to levy an income tax unless a very narrow interpretation is made of the taxing clause. The provision in the Colorado constitution is identical with the corresponding provision in the Idaho constitution under which an income tax law was recently declared valid.⁴⁶ A proposed amendment (No. 3) to the constitution to permit an income tax, will appear on the ballot in November, 1934, and, if successful, it will remove any doubt regarding the validity of an income tax.

There is a very general feeling among assessors interviewed that the \$200 exemption on personal property of heads of families now permitted by the constitution ought to be abolished and this opinion is concurred in by the Colorado tax commission. It at least should be changed to provide exemption only for "household furnishings" to the extent of \$200 rather than "personal property." This exemption alone is estimated to have amounted to \$56,706,200 in 1930.⁴⁷ Placing this much property back on the assessment rolls would increase the assessed valuation of the state by approximately 3.5 percent and should reduce individual taxes by the same amount. The cost of administration would, of course, take a considerable part of the income on small assessments but it would serve to make everyone financially interested in their government.

Serious consideration ought also to be given to the levy of a "personal" tax. This might well take the form of a minimum fee for filing an income tax report, and requiring those with an income of less than

⁴⁵Leland, *Classified Property Tax in the United States*, p. 182.

⁴⁶Constitution of Colo., Art. X, Sec. 3; Constitution of Idaho, Art. VII, Sec. 5.

⁴⁷Report Colo. Tax Commission, 1930, p. 11; Colo. Yearbook, 1921, p. 206.

the income tax exemption to merely pay the fee and make an affidavit to that effect. A \$1 filing fee was included in the Utah income tax. A New York commission on tax revision has recommended a \$2 fee.

The personal tax establishes a direct financial contact between a citizen and his government. The model plan of taxation submitted by a committee of the national tax association advances the proposition that "every person having taxable ability should pay a direct personal tax to the government under which he lives."⁴⁸ The amount of such a tax should be sufficient to give it significance, both for the taxpayer and the government. Professor Lutz suggests that \$5 would probably be a fair minimum.⁴⁹ The ear-marking of the proceeds for a particular purpose, e.g. old-age pensions, relief or education, would no doubt help to popularize such a tax.

Another exemption of doubtful validity is that which exempts income producing property used for religious, educational or other charitable purposes. The exemption of non-income producing property may be justified but the large annual withdrawal of income producing property from taxation thru gifts to educational and charitable institutions raises a question worthy of serious consideration. The law exempts lots with the buildings thereon "if said buildings are used exclusively for religious worship" or "exclusively for schools" or "for strictly charitable purposes."⁵⁰ Certainly income producing property detached from buildings and lots used for the specified purposes could not be considered as exclusively used for these purposes. The Missouri supreme court in a recent opinion held that the exclusion from taxation of property used "solely for charitable, educational and religious purposes does not exempt property (from taxation) that may be used for purposes purely charitable, but exempts property that is exclusively used for such purposes." The only difference in the Missouri and Colorado provisions is that the former uses the word "solely" and the latter "exclusively" and "strictly." Under its interpretation the court upheld taxation of a Y. M. C. A. building having a dormitory in connection.⁵¹

The state tax commission has repeatedly urged that a stop be made to the continued exemption of property from taxation. In its 1930 report it states that "The State Tax Commission is very much of the opinion that our courts, through decisions, have allowed entirely too much property to become exempt"⁵²

Fixing County Tax Rates.—The power of the county to assess and collect taxes is based upon the constitutional injunction that "The general assembly shall not impose taxes for the purposes of any county, city, town or other municipal corporation, but may by law, vest in the corporate authorities thereof respectively, the power to assess and collect taxes for all purposes of such corporation." Thus all taxing power of the county depends upon statutory authority.

The power to levy taxes in the county is conferred upon the board of county commissioners. They fix the levy for county functions as provided by law and also authorize the levy for the state, schools, municipal corporations and special districts. The law provides that the board of commissioners shall levy the requisite tax for the year for school and other county purposes on the first Monday in November or any time prior to that date if the statement of the rate of tax to be levied for state purposes has been received from the auditor. If for any cause the levy cannot be made by the first Monday in November it may be made at any time.⁵³

⁴⁸Report in Proceedings of the National Tax Conference, pp. 426 ff.

⁴⁹Lutz, Public Finance, p. 460.

⁵⁰Compiled Laws of Colo., 1921, Sec. 718.

⁵¹Y. M. C. A. v Gehner, Missouri Supreme Court, decided March 15, 1932.

⁵²Report of Colo., Tax Commission, 1930, p. 11.

⁵³Compiled Laws of Colo., 1921, Secs. 7454, 8682.

Commissioners Make an Annual Appropriation.—It is the duty of the board to pass an annual appropriation resolution for the next fiscal year at the same time the tax levy is made. In this resolution the board shall appropriate such sum, or sums of money as may be deemed necessary to defray all necessary expenses and liabilities of the county for the year and shall specify the objects and purposes for which such appropriations are made, and the amount appropriated for each object or purpose. The annual appropriation is used as the basis for making the tax levies. The board can use any means it sees fit to ascertain the amount needed. The levy ordinarily is divided into the ordinary, poor, contingent, road and bridge, fair, advertising and mothers' compensation funds. If there are county bonds, sinking and interest funds may be included. The differentiation ordinarily follows the specific levies authorized by law.

County Budgets Suggested.—The law is such as to permit a budget but does not mention or require one. Of 20 counties visited, and questionnaire reports from four others, only two report a budget. One county had tried a budget the previous year but couldn't follow it. All except one county used past expenditures as a basis for ascertaining the amount of money needed. In several counties some funds were budgeted, one county having an excellent road budget. In a few counties a fairly careful estimate is made of the needs of each officer in determining the appropriation.

The preparation of an annual budget should be required of every county by statute.⁵⁴ After this study was completed the general assembly passed the local government budget act on June 8, 1933. The act applies to all local units of government and was drafted after the model municipal budget law of the national municipal league. The law provides that county budgets must be filed with the Colorado state tax commission.⁵⁵ A budget is a carefully prepared financial statement of proposed expenditures and probable revenue for the ensuing year. The need for financial planning is necessary to assure citizens and taxpayers stability and economy in the conduct of governmental services. The increasing cost of government due to more extensive demands of the citizens and constant expansion of public activities to meet these demands emphasizes the need for planning. A budget substitutes a definite financial plan for the county for the present method of governing by deficit too common in Colorado counties. The preparation of a budget should be the duty of the secretary of the board. A budget should contain first, the previous year's expenditures; second, proposed expenditures for the current year; and third, revenues. The figures for the previous year's expenditures are for comparative purposes, expenditures for the previous 2 or more years are preferable. These figures are obtainable from the records of the county clerk and should be available in the form of an annual financial statement.

Proposed expenditures should be in a column parallel with the one showing previous expenditures. Here three types of expenditures will be found. First, those fixed by statute, such as salaries and interest; second, expenditures required by law, but subject to fluctuation, such as court expenses, election expenses, poor relief, blind benefit, mothers' compensation, old-age pensions, patients in state institutions, highway maintenance and office supplies; and third, estimate of expenditures for optional functions such as county fair and advertising, agricultural, health and welfare work, and new highway construction.

The third part of the budget should be an itemized statement of anticipated revenues. This includes revenue from taxes, fees, state grants and miscellaneous sources. The amount of anticipated revenues can be

⁵⁴A Model Municipal Budget Law, National Municipal League, 261 Broadway, New York.

⁵⁵G. S. Klemmedson, Preparation of Budgets for Counties, Mimeographed. Colo. Agri. Exp. Sta., July 1, 1933, Contains a copy of the local government budget act.

fairly accurately estimated. The budget need not be completed until the assessed valuation for tax purposes is known, fees do not fluctuate materially and state grants are relatively uniform from year to year. Miscellaneous receipts are relatively unimportant. Consequently prepared budgets can be used as the basis for annual appropriation and tax levy which by law are made at the same time. After using a budget for 1 or 2 years and keeping accurate records, expenditures and revenues can be fairly accurately predicted. The use of a county budget has proved popular in Wisconsin, where 61 counties have voluntarily adopted budgets on recommendation of the tax commission. The Wisconsin tax commission states that "In its work with municipalities this department has for a number of years furnished to the counties of the state a suggested budget form to serve as a guide in the formation of a financial plan for the ensuing year and in arriving at the annual tax levy. There is no compulsion in the use of these forms. The majority of the counties, however, have found it advantageous to use them, and repeated requests are received each year for the forms just previous to the time when the budgets are made up."⁵⁶

Tax Rate Limitations.—The general assembly, in compliance with the constitution, has by law vested the power to levy and collect taxes in counties and other municipal corporations. The constitution imposes no limit on the amount of the tax which may be authorized. The general assembly has fixed certain limitations which must not be exceeded by the taxing authorities. The law provides limitations upon the rate which the board of county commissioners may levy annually for the creation of funds out of which to meet and defray the ordinary county expenses including the support of the poor and the contingent fund.

In counties having an assessed valuation of less than 1 million dollars, 1 to 2 million dollars, 2 to 3 million dollars, and 3 to 4 million dollars, the levies are limited to 6, 5, 4 and 3.5 mills respectively. When the assessed valuation is from 4 to 10 million dollars the levy shall be determined by reducing the 3.5 mills allowed for an assessed valuation of 4 million dollars by .1 mill for each 1 million dollars or fraction thereof in excess of 4 million dollars. When the assessed valuation is 10 to 11 million dollars the levy shall not exceed 2.78 mills with a reduction of .02 mill per million dollars or fraction thereof when the valuation is more than 11 million and not exceeding 50 million dollars. When the assessed valuation is from 50 to 51 million dollars the levy shall not exceed 1.99 mills, which shall be reduced .01 mill per million dollars for assessed valuation of 51 to 100 million dollars. Where the assessed valuation is 100 to 101 million dollars the levy shall not exceed 1.498 mills with a reduction of 2.001 mills per million for assessed valuations of 101 to 300 million dollars. Valuations of 300 to 301 million dollars are limited to 1.099 mills with a reduction of .001 of a mill per million for assessed valuation up to 400 million dollars. Counties with assessed valuations of over 400 million dollars may levy 1 mill on each dollar.⁵⁷ Furthermore, taxing bodies or officials are prohibited from levying a greater amount of revenue for any year than was levied for the preceding year, plus 5 percent.⁵⁸ These limitations may be exceeded by appeal to the tax commission which may authorize an increase not exceeding 5 mills. In case of refusal by the tax commission or in case 5 mills increase is insufficient the voters may at a general or special election, by a three-fourths vote, fix the levy. The power of the tax commission to authorize an increase of the levy has been upheld by the courts.⁵⁹ These limitations do not apply to levies necessary to pay any bonded indebtedness and interest

⁵⁶Letter to the writer, February 26, 1932.

⁵⁷Compiled Laws of Colo., 1921, Secs. 7204-7213; Constitution of Colo., Art. X, Sec. 7.

⁵⁸Session Laws of Colo., 1931, Ch. 143.

⁵⁹Compiled Laws of Colo., 1921, Sec. 7216; *Tallon v Vindicator G. M. Co.*, 149 Pacific, Colo. 108.

thereon lawfully incurred, or any judgment against the taxing district or interest on such judgment, or for special assessments for local improvements.⁶⁰

The statutes are not clear regarding levies for paying outstanding warrants and floating indebtedness. A law of 1891 provides that county expenditures shall be limited to appropriations except in case of emergency when additional appropriations may be made "if there shall be money in the county treasury belonging to the proper fund out of which payment for such improvement can be made." The same law, in order to provide payment for outstanding warrants and floating indebtedness then existing, provided that a levy of not more than 3 mills might be made. Finding that county boards could not adhere strictly to the law, the general assembly in 1893 provided that an additional tax not exceeding 5 mills could be levied. Both of these laws have been upheld by the courts. The supreme court upheld a levy made under the earlier law, saying that "We think the levy can be sustained, without reference to the existence, non-existence, or purpose of that (1893) act."⁶¹ In a later decision the law of 1893 was also upheld, the court holding that a levy to pay certain outstanding warrants which had been issued in previous years, in good faith, for necessary expenses in excess of the annual appropriation, was a lawful exercise of authority.⁶² It has been contended, but not passed upon by the court that this law was repealed by a law of 1899, still in force, except as limited to 5 percent increase, which provides "That any county may levy such rate as it may see fit for the erection, maintaining, repairing, leasing or renting of county buildings, for roads and bridges, bonds and interest thereon, or judgment bonds and interest thereon and for school purposes," but this does not seem to be implied.⁶³

The commissioners have more leeway in making a levy for road purposes, the limit being 10 mills.⁶⁴ The levy for mothers' compensation may not exceed .125 mill.⁶⁵ The tax limit for purchasing fairgrounds is .5 mill but there is no limit to the levy for maintenance.⁶⁶ The levy for promoting immigration may not exceed .2 mill or the amount raised more than \$10,000 in any one county.⁶⁷

Certain limitations are placed upon levies for school purposes. The levy for a county high school may not exceed 4 mills, unless increased to not exceeding 6 mills by vote of the taxpayers in the county and the levy for the county general school fund for the payment of minimum salaries to teachers may not exceed 5 mills. Third-class districts are limited to a levy of 20 mills. Any district may levy not exceeding .1 mill for supplying books for a library, to be open to the public.⁶⁸

Tax Rates. — Tax rates for 1931, taxes collectible in 1932, were obtained from county treasurers' reports in the office of the state tax commission. The rates for an "average" county were determined by dividing the total taxes levied for each county fund in the 63 counties by the total assessed valuation of the state. The tax rates which such an average would have made in 1931 are shown in the following tabulation. For comparative purposes the corresponding rates for 1930 are shown.

⁶⁰Compiled Laws of Colo., 1921, Sec. 7218 (which apparently amends the limiting clause of Sec. 8864); Session Laws of Colo., 1931, Ch. 143.

⁶¹Bent County v Atchison, T. & S. F. Railway Co., 125 Pacific, Colo. 528.

⁶²Arapahoe County v Union Pacific Railway Co., 165 Pacific, Colo. 244.

⁶³Compiled Laws of Colo., 1921, Sec. 8666 (compare Sec. 1246); Bent County v Atchison, T. & S. F. Railway Co., 125 Pacific, Colo. 528.

⁶⁴Compiled Laws of Colo., 1921, Sec. 1246.

⁶⁵Compiled Laws of Colo., 1921, Sec. 611.

⁶⁶Compiled Laws of Colo., 1921, Secs. 484-485.

⁶⁷Compiled Laws of Colo., 1921, Sec. 8690.

⁶⁸Compiled Laws of Colo., 1921, Secs. 8284, 8286, 8448; Session Laws of Colo., 1929, Ch. 158.

Table 14.—Weighted Average Tax Rates for County Purposes, in 1930 and 1931.

	Tax rate in mills		Number of counties making levy 1931
	1930	1931	
Ordinary county revenue including poor and contingent	3.94	4.185	63
Roads and bridges	1.87	1.36	56
Mothers' compensation and blind benefit	.10	.126	41
County fair and advertising	.08	.032	24
Bonds, interest, registered warrants	.28	.315	32
Building	.07	.018	7
Total county tax rate	6.34	6.035	

Actually, of course, no county makes these particular levies, tho. Rio Grande and Saguache Counties approximate the total with tax rates for county purposes of 6 mills. Some of the tax rates appear low because the only levy made by all counties was that for ordinary county revenue. Seven counties made no levy for road purposes and 22 counties made no levy for mothers' compensation. Only 24 counties made a levy for county fair and advertising, 32 counties made levies for bonds, interest and registered warrants and seven for building purposes.

All but four counties are making a levy in excess of the statutory maximum for ordinary county revenue purposes, including poor and contingent funds. Forty-eight counties obtained permission from the tax commission to increase the tax rate above the statutory limit; nine of these however, thru error or otherwise, are levying a tax in excess of that authorized by the commission. Eleven counties are exceeding the statutory limit without having obtained authorization from the tax commission, thus making the excess levy illegal; however, the levy is in excess of what could have been legally permitted by the tax commission in only one county.

Tax rates for road purposes vary from less than a .25 mill in Denver to 5.45 mills in Delta County in 1931. Only 11 counties have levies exceeding 3 mills for road purposes. The following table shows a summary of levies for 1930 and 1931.

Table 15.—Tax Rates for Road Purposes, 1930 and 1931.

Tax rates in mills	Number of counties	
	1930	1931
No tax levy	7	7
Under 1 mill	1	4
1 under 2 mills	9	21
2 under 3 mills	20	18
3 under 4 mills	20	11
4 under 5 mills	5	1
5 under 6 mills	2	1
6 under 7 mills	1	

The limit on the levy for mothers' compensation is so low that there is not much room for variation. Tax rates were from .01 mill to the maximum rate of .125 mill. Two counties, Adams and Pueblo, exceeded the legal maximum levying .18 and .2 mill respectively.

Most variation is shown in levies for bonds, interest and registered warrants. The tax rate for this purpose varies from .14 mill to 7.0 mills. The highest rates are in the poorest counties which are unable to operate

the county and furnish the services required without running into debt. The tax rate in six counties for debt service exceeds the state average for ordinary county revenue purposes. They are: Dolores, 4.5 mills; Hinsdale, 7 mills; Ouray, 6.1 mills; Pitkin, 7 mills; San Miguel, 6.2 mills; and Teller, 5 mills. Four of these six counties have a per capita valuation of at least \$500 in excess of the state average yet the small tax base makes a high levy necessary even to pay interest on outstanding debts. Furthermore, since they can levy 5 mills to pay off registered warrants they can thereby increase their tax rate 5 mills more than would otherwise be possible. Tax rates for county fair and advertising and building are relatively small. The maximum levy made by any county for fair and advertising purposes was .5 mill, while the maximum levy for building purposes made by any county was 1.05 mills.

Ordinarily a high per capita assessed valuation will mean a low tax rate. This is only partly true in Colorado because the high per capita valuation in some counties is made possible by a very small population rather than a valuation sufficient to support a county. The average per capita assessed valuation in 1931 was \$1,397, while in 1930 it was \$1,538. The average total tax rate for county purposes is 6.035 mills. Thirty-two counties have a per capita assessed valuation greater than the state average, yet 17 of these counties are in the group of 38 counties making a total tax rate for county purposes in excess of the state average. Economy of administration and elimination of all except required services seems to be the principal secret of low tax levies in some Colorado counties. Interesting variations are found. Summit County with the highest per capita valuation has a tax rate of 10.375 mills while Douglas County with one-fourth the total valuation and a per capita valuation of only \$455 has a total tax rate of 6.1 mills, only a little above the state average, yet Gilpin County has a high per capita valuation and a total levy of 18 mills. The following table shows the counties arranged in order of their per capita wealth.

Table 16.—Assessed Valuation, Population, Average Per Capita Valuation and Total Tax Rate for County Purposes for 1931.
(Ranked according to assessed valuation per capita.)

County	Assessed valuation 1931	Population 1930 census	Average assessed valuation per capita	Total county tax rate in mills, 1931
Douglas	\$ 1,590,695	3,498	\$ 455	6.10
Montezuma	5,195,755	7,798	666	14.63
Costilla	4,556,960	5,779	789	15.00
Conejos	7,865,665	9,803	802	8.50
Huerfano	13,943,853	17,062	817	10.30
Montrose	10,449,400	11,742	890	11.18
Delta	13,088,790	14,204	921	12.30
Rio Grande	9,416,732	9,953	946	6.00
Arapahoe	12,589,380	22,647	953	5.61
Mesa	27,083,185	25,908	1,045	7.00
Las Animas	37,699,722	36,008	1,047	8.30
Alamosa	9,061,216	8,602	1,053	5.44
La Plata	13,858,670	12,975	1,068	9.97
Teller	4,454,330	4,141	1,076	13.10
Dolores	1,529,919	1,412	1,084	19.40
Fremont	20,591,701	18,896	1,090	5.71
Chaffee	9,322,020	8,126	1,147	10.50
Pueblo	76,873,402	66,038	1,164	4.46
Jefferson	25,514,255	21,810	1,170	7.11
Otero	29,013,905	24,390	1,190	4.95
Baca	12,939,200	10,570	1,224	6.51

Table 15.—(Continued.)

County	Assessed valuation 1931	Population 1930 census	Average assessed valuation per capita	Total county tax rate in mills, 1931
Custer	\$ 2,654,262	2,124	\$1,250	10.00
Moffat	6,210,898	4,861	1,278	12.00
Prowers	19,351,560	14,762	1,311	6.90
Archuleta	4,282,734	3,204	1,337	7.10
Morgan	24,716,270	18,384	1,344	4.65
Boulder	43,738,995	32,456	1,348	5.00
Bent	12,294,915	9,134	1,364	7.12
Larimer	45,423,550	33,137	1,371	7.88
Adams	28,053,115	20,245	1,386	5.74
Weld	90,347,020	65,097	1,388	4.21
Washington	13,423,996	9,591	1,400	6.15
El Paso	70,729,760	49,570	1,427	4.75
Crowley	8,470,870	5,934	1,429	4.00
Saguache	8,934,239	6,250	1,429	6.00
Lake	7,356,543	4,899	1,502	13.31
Yuma	20,672,840	13,613	1,519	4.25
Denver	443,908,790	287,861	1,542	47.66
Logan	32,150,000	19,946	1,612	5.01
Rio Blanco	4,810,815	2,980	1,614	9.06
Routt	15,390,730	9,352	1,646	7.90
Garfield	16,543,295	9,975	1,601	11.00
Kit Carson	17,038,334	9,725	1,753	6.09
San Juan	3,495,917	1,935	1,807	13.32
San Miguel	4,032,295	2,184	1,846	17.51
Eagle	7,277,930	3,924	1,855	11.60
Pitkin	3,292,840	1,770	1,860	14.00
Ouray	3,515,534	1,784	1,971	14.10
Lincoln	15,633,670	7,850	1,992	5.67
Sedgwick	11,248,890	5,580	2,016	5.95
Elbert	14,044,281	6,580	2,134	5.81
Hinsdale	978,342	449	2,179	17.35
Jackson	3,111,330	1,386	2,245	4.40
Phillips	13,317,325	5,797	2,297	4.90
Mineral	1,468,280	640	2,294	7.67
Clear Creek	5,273,230	2,155	2,447	11.40
Gilpin	3,152,556	1,212	2,601	18.00
Gunnison	14,528,380	5,527	2,629	8.74
Grand	6,273,775	2,108	2,976	7.95
Kiowa	11,183,335	3,786	2,954	4.30
Cheyenne	11,817,548	3,723	3,174	2.76
Park	8,113,890	2,052	3,954	6.40
Summit	4,318,657	987	4,376	10.375
State totals and average	\$1,447,169,719	1,035,791	\$1,397	6.035

The real difficulty in Colorado is that too many counties have an inadequate tax base. The result is that some counties must levy high taxes to provide only the mandatory services required of it by the state while other counties are able to undertake services authorized but not mandatory such as providing county agricultural and home demonstration agents, county nurses, hospitals and similar services. While these services are optional for counties, actually they are optional only for the wealthier counties. The poorer counties cannot furnish such services and stay within their legal limit or even keep the tax levy within reasonable

bounds. Thus Dolores, Gilpin and San Miguel Counties, with total levies for county purposes of 19.4, 18.0 and 17.51 mills respectively, can hardly be expected to support optional services, tho, for example, Cheyenne County with a levy of 2.76 mills or Morgan County with a levy of 4.65 mills might add the expense of optional services without the county levy becoming a prohibitive burden.

Students of public administration are generally agreed that an assessed valuation of 20 million dollars is the least valuation which a county ought to have to carry on the functions which are required of it.⁶⁹ Yet Colorado had only 15 counties which met this requirement in 1931 and three of these were eliminated as a result of decreased valuations for the 1933 assessment. Excluding Denver, Colorado's counties show a variation of almost 65 million dollars between Hinsdale County with a valuation of \$755,766 and Weld County's valuation of \$65,646,530 in 1933. Counties outside Denver group themselves according to valuation as follows:

Table 17.—Colorado Counties Classified According to Size.

Assessed valuation in millions of dollars		Number of counties in 1933
Under	2 million dollars	3
2 Under	3 million dollars	6
3 Under	4 million dollars	7
4 Under	5 million dollars	3
5 Under	10 million dollars	16
10 Under	15 million dollars	13
15 Under	20 million dollars	4
20 Under	40 million dollars	7
40 Under	60 million dollars	2
60 Under	100 million dollars	1
		62

Thirty-five counties had an assessed valuation of less than 10 million dollars and 52 counties had an assessed valuation of less than 20 million dollars in 1933. Thus only 11 of Colorado's 63 counties meet the requirement of an adequate tax base to support a county government. Furthermore, the wealth of many smaller counties is dependent upon railroads for their valuation. In 16 counties railroads comprise more than 20 percent of the total valuation of the county, reaching the maximum in Archuleta and Grand Counties with 35 percent, and Park County with 40 percent of the total valuation consisting of railroad property.

Preparing the Tax List.—The tax list is prepared by the assessor. As soon as practicable after the tax levy is made, and not later than January 1 the assessor must extend the taxes on the assessment roll and deliver the tax list and warrant to the county treasurer. The tax list and warrant must be in the form approved by the state tax commission. The tax list must contain in tabular form and in separate columns the names of persons and bodies in whose names property has been listed in his county, with the several species of property and the value, and the several taxes levied in separate columns, including city and special district taxes. The various columns of taxes must be totaled and the total amount of taxes shown. At the end of the list the assessor must prorate the total tax levied to the several funds. The assessor takes a receipt for the tax list and warrant from the treasurer and the assessor's warrant is sufficient authority for the treasurer to collect all taxes listed. Informality in complying with the law does not render any proceeding for the col-

⁶⁹Kilpatrick, *Contemporary Problems in County Government*, Ch. XII. See also *County Consolidation in Colorado*, Colo. Agri. Exp. Sta. Bul. 406, p. 31.

lection of taxes invalid. If any taxpayer pays his taxes in advance of the delivery of the tax list to the treasurer the treasurer's receipt must be presented to the assessor for endorsement. A receipt so endorsed is prima facie evidence of payment of all taxes on the property mentioned in the receipt.⁷⁰

The busiest time in the assessor's office comes with the computation of taxes and preparation of the tax list. Work on this cannot begin until all levies have been authorized by the board. The board is by law required to make the tax levies at its meeting on the first Monday in November or any time before if the state levy has been fixed. Often some of the boards fail to make the levy until the December meeting which leaves little time for the work of preparing the tax list. Even if the levy is made at the November meeting as required by law the assessor only has 2 months in which to complete his work and turn the list over to the treasurer for collection of taxes January 1. The work of the assessor's office would be much better distributed if the levy were made sooner. Most assessors have the assessment roll completed by September 1 or even earlier, in fact they must have it completed by the first Tuesday in September when the county board of equalization meets. From the time the board completes its work until the tax levy is made, the assessor must mark time. The assessor and treasurer often exchange help during the preparation of the tax list since the busy time in the assessor's office comes before the rush of tax collection in the treasurer's office.

⁷⁰Compiled Laws of Colo., 1921, Secs. 7317, 7321, 9152.

VIII. COUNTY FINANCE

Collection, Custody and Disbursement of County Funds.—Just as the assessor is responsible for assessing all property in the county and extending the tax lists, so is the county treasurer solely responsible for the collection of all taxes levied in the county; the custody of all county funds and funds of all minor areas other than incorporated towns and cities; and the disbursement of funds on proper order.¹

Collection of Taxes.—The law provides that the county treasurer of each county shall be, by virtue of his office, collector of taxes in each county. "The treasurer, on receiving the tax list and warrant, shall proceed to collect the tax therein levied, and the list and warrant shall be his authority and justification against any illegality in the proceedings prior to receiving the list."²

Taxes are payable in cash, at the office of the treasurer, one-half on or before February 28 and the remaining one-half on or before July 31. For each payment of taxes the treasurer issues his receipt and as part of the records of his office shall keep "in a well-bound book or books, a copy of every receipt for taxes issued by him inserting the same in the order of the date of issuance" and the original receipt or a copy certified by the treasurer or his deputy shall be accepted as evidence of the payment of taxes indicated.³

No personal demand for taxes is necessary but after the treasurer receives the tax list he is required to mail a notice to each person from whom a tax is due, giving the amount of the valuation and the tax levied upon personal property and real estate. It is the duty of the assessor when making the assessment to obtain the postoffice or street address of the respective taxpayers. Failure to send notice does not in any way "invalidate the assessment, the levy of the tax, or the sale of any property, for non-payment of the tax."

When collecting taxes the treasurer may correct any error in the name of a person taxed and collect the tax from the person intended. He may also assess any property omitted by the assessor.⁴

The practice of county treasurers is usually to send out three notices for taxes due. The first notice is sent around February 1. By that time many of the taxpayers will have paid their taxes and the cost and time incident to mailing notices is dispensed with, while mailing a notice at that time gives ample notice before the first payment is delinquent on February 28. A notice of the second installment of taxes due July 31 is usually mailed during the month of May. The general practice is to send a printed postal card, on which is entered a valuation and tax against the property. Several treasurers send carbon copies of the tax receipt which is written out at the time notice of taxes is sent. This practice is commendable because one operation provides both the receipt and the notice. This method requires that the notice be mailed in an envelope thus doubling the cost of mailing; it is also necessary for the treasurer to keep a file of the "filled in" receipts ready for delivery when the tax is paid, but it saves time because it is necessary to copy the information only once.

The first installment of taxes becomes delinquent March 1 with a penalty of 6 percent a year until August 1, and the second installment becomes delinquent on August 1 and draws interest at the rate of 8 percent a year for each month or fraction thereof from the time they

¹Compiled Laws of Colo., 1921, Secs. 1278, 1998, 2170, 3110, 7368, 7382, 7397, 7461, 8300, 8371, 8378, 8412, 9154, 9496, 9564, 9605; Session Laws of Colo., 1923, Ch. 277.

²Compiled Laws of Colo., 1921, Sec. 8804; Session Laws of Colo., 1929, Ch. 152.

³Compiled Laws of Colo., 1921, Secs. 7369-7373, 8805.

⁴Compiled Laws of Colo., 1921, Secs. 7321, 7370, 7371, 7374-7375, 7396-7397, 8806.

become delinquent until paid, provided payment is made prior to December 1. If the total annual tax is paid by May 1 no penalty is charged. The treasurer may continue to receive payments of delinquent taxes, with interest, until the day of sale of property for taxes.⁵

After August 1 and before September 1, the treasurer must notify by mail at their last known address each person who has taxes delinquent. Ten days are allowed for the payment of taxes after notice is mailed. If taxes are not paid 20 days after mailing notice, the treasurer is required to make out a list of all lands and town lots subject to sale for taxes.⁶ Taxes are a lien upon any property of the taxpayer "whether it be the property taxed or other property" or in the case of mineral lands upon the product itself.⁷ Notice of sale must be published in the newspaper selected by the commissioners for 4 successive weeks, on the same day of the week, the first publication being made at least 4 weeks before the date of sale. Notice must also be posted near the door of the treasurer's office; if there is no newspaper in the county notice shall be posted for 4 weeks.⁸ Sale of lands upon which taxes have become delinquent must commence on or before the second Monday in December, if advertisement and sale cannot be made before that time sale may be made at any time afterwards, allowing time for publication of notice but if sale is made after the second Monday in December, the treasurer forfeits to the county 10 percent of his fees for making the sale.⁹ Sale must be made to the person offering to pay the taxes, charges, costs and penalties due on the property and who will accept the lowest rate of interest, if it be less than the maximum fixed by law, if not the sale may be made to the bidder offering to take them at the maximum rate.¹⁰ When no bids are received it is the duty of the treasurer to strike off the property to the county. Upon payment of the purchase price the treasurer issues a certificate of purchase as prescribed by law. A tax deed may be issued after 3 years if the property has not been redeemed by that time. Tax deeds are issued by the treasurer after notice as provided by law and upon payment of the fee prescribed by law.¹¹ Subject to certain limitations a tax deed issued by the treasurer is incontestable after 5 years from date of issue.¹²

Real property sold for taxes may be redeemed at any time before the expiration of 3 years or at any time before the execution of a treasurer's deed by payment to the treasurer, subject to the order of the purchaser, of the amount for which it was sold with interest at the rate bid by the purchaser but not to exceed 18 percent a year for the first 6 months, 12 percent a year for the remaining time, together with accrued taxes.¹³ The treasurer must keep a complete record "in a well-bound book to be kept by him for that purpose" which shall contain the date of sale, description, name of owner, name of purchaser, total taxes, interest and penalties at time of sale, subsequent taxes paid, to whom assigned, name of person redeeming and date of redemption, total amount paid for

⁵Compiled Laws of Colo., 1921, Sec. 7191, as amended by Session Laws of Colo., 1925, Ch. 148; 1927, Ch. 175; 1933, Ch. 183. See Session Laws of Colo., 1933, Ch. 184, for emergency measure authorizing county treasurers to accept certain portions of the delinquent personal property taxes in full settlement of such taxes, interest, and penalty if paid in cash during the year 1933.

⁶Compiled Laws of Colo., 1921, Secs. 7402, 7404-7409, 7412-7421, 7424-7428; Session Laws of Colo., 1925, Ch. 148; 1927, Ch. 152; 1931, Ch. 141.

⁷Compiled Laws of Colo., 1921, Secs. 7371, 7375-7380, 7383-7385, 7403.

⁸Session Laws of Colo., 1923, Ch. 161.

⁹Session Laws of Colo., 1925, Ch. 148.

¹⁰Compiled Laws of Colo., 1921, Sec. 7416; *Sherman v Greeley Bldg. & Loan Assn.* 181 Pacific, Colo. 975.

¹¹Compiled Laws of Colo., 1921, Secs. 7409, 7419-7421.

¹²Session Laws of Colo., 1925, Ch. 148, Sec. 5; 1927, Ch. 152; 1931, Ch. 141.

¹³Session Laws of Colo., 1925, Ch. 148, Sec. 6; Compiled Laws of Colo., 1921, Secs. 7435, 7437-7446; Session Laws of Colo., 1931, Ch. 144.

redemption, and name of person to whom conveyed and date of deed. He must also note the date of sale on the tax list and transmit a copy to the county clerk, in a "well-bound book provided for that purpose" which shall be known as the "record of tax sales" of the county and is a part of the records of the county clerk's office.¹⁴

If the tax on personal property is not paid, the treasurer may seize the property, or failing to find it may sue before some court of his county having jurisdiction, for judgment for the amount of taxes. Personal property seized may be sold by the sheriff or a constable after 5 days' notice and not later than 10 days from the time of the first notice, any surplus above taxes and costs must be returned to the owner.¹⁵

Each county is responsible to the state for the full amount of taxes levied for state purposes, excepting rebates, refunds or uncollectible taxes. If a taxpayer believes an illegal or excessive tax has been levied, he may pay the full amount of the tax under protest then appeal for a refund to the board of county commissioners. The state tax commission may also direct the county commissioners to remit taxes, but if the taxes or penalties are in excess of \$100, ten days' notice must be given to the county attorney and the county assessor. No abatement, rebate or refund of taxes may be made by the county commissioners without the approval of the state tax commission.¹⁶ A county is liable for a tax imposed without authority of law.¹⁷ Requirement of approval by the tax commission does not substantially affect the right given to recover an illegal or erroneous tax paid.¹⁸ The courts have been somewhat liberal in interpreting the law, having held, e.g., that injunction will not lie to prevent the collection of a special tax to repair a bridge where no irreparable injury appears.¹⁹

Taxes which the board of county commissioners is satisfied are uncollectible may be cancelled after they have been delinquent for 6 years. The treasurer must keep a record of all cancelled taxes and the county commissioners must report cancelled taxes to the state auditor who gives the county credit for the amount of state taxes cancelled.²⁰

Tax Sales for Delinquent Taxes of Land Situated in Irrigation Districts.—Land situated in an irrigation district having an outstanding bonded indebtedness of \$20 or more per acre that is delinquent for state, county, school district and/or irrigation district taxes or assessments must be sold to the county unless there are other bidders and a certificate issued the same as in other cases.

The treasurer shall separately offer for sale lands for sale for irrigation district taxes or assessments, and sell them to the person who bids the amount of the assessments for irrigation purposes against the land. If there are no bidders the land must be sold to the irrigation district. In either event a certificate of sale for irrigation district assessments must be given to the purchaser or the district with a notation showing the outstanding certificate of sale held by the county and the amount thereof.

The land may be redeemed from sale to the county by the payment of taxes, costs and interest.

Lands covered by an outstanding certificate held by the county cannot again be offered for sale until the certificate is redeemed or assigned.

If the certificate of sale issued to the county is not sold or assigned within 3 years from date of sale, the county may apply for a tax deed the same as other purchasers at tax sales. After execution of the deed

¹⁴Compiled Laws of Colo., 1921, Sec. 7415.

¹⁵Compiled Laws of Colo., 1921, Secs. 7376, 7466-7482.

¹⁶Compiled Laws of Colo., 1921, Secs. 7335, 7387, 7447, 7460; Kendrick v A. Y. & M. Mining & Milling Co., 164 Pacific, Colo. 1161.

¹⁷Spaulding Mfg. Co. v La Plata County, 168 Pacific, Colo. 34.

¹⁸First National Bank v Patterson, 176 Pacific, Colo. 498.

¹⁹Bent County v Atchison T. & S. F. Railway Co., 125 Pacific, Colo. 528.

²⁰Compiled Laws of Colo., 1921, Secs. 7447-7449.

the county is entitled to the rents and profits from the land the same as any other owner. The county may at any time sell by quit claim deed any such land acquired for a price to be set by the board of county commissioners. The land so sold is not relieved from the lien of bonded indebtedness.²¹

Tax Delinquency Increasing. — The percentage of taxes collected shows considerable variation. The following table shows the percentage of collections for the years 1928 to 1932 and the 5-year average. The records of the state auditor show that 96 percent of the 1929 levy, taxes collectible in 1930, were collected and 93.85 percent of the 1930 levy, taxes collectible in 1931, were collected. Only 81.55 percent of the 1932 tax levy was collected in 1933. Counties showing the lowest collections are Hinsdale County with 48.3 percent of the 1932 levy, and Dolores County with 36.3 percent of the 1932 levy collected.

Table 18.—Percentage of Taxes Collected in Colorado for Years 1928 to 1932.²²

County	Percentage of Taxes Collected ²³					5-Year Average
	1928	1929	1930	1931	1932	
Adams	98.15	96.73	89.88	79.50	75.47	88.89
Alamosa	89.58	84.56	76.67	57.92	55.73	73.97
Arapahoe	97.27	98.11	91.35	84.58	78.39	90.48
Archuleta	96.81	95.65	91.23	83.40	83.88	90.68
Baca	100.00	98.51	92.81	78.13	68.61	88.23
Bent	99.23	96.29	91.96	82.74	79.40	90.61
Boulder	98.42	98.13	94.80	90.47	89.02	94.46
Chaffee	94.51	91.43	91.87	85.30	82.13	89.30
Cheyenne	99.30	99.18	93.58	81.68	75.61	91.11
Clear Creek	86.10	76.07	69.42	61.50	63.83	71.68
Conejos	85.48	82.99	65.14	40.27	46.25	65.80
Costilla	54.79	46.31	37.58	39.08	34.57	42.96
Crowley	97.89	96.37	83.82	65.80	57.48	82.68
Custer	93.85	93.97	85.28	79.72	72.65	85.97
Delta	95.11	92.22	83.66	71.45	67.76	83.16
Denver	97.78	98.69	95.36	94.41	91.20	95.63
Dolores	88.27	65.96	53.60	37.36	36.26	58.89
Douglas	98.32	98.14	96.91	87.89	84.55	93.70
Eagle	98.50	97.72	96.86	92.27	87.18	94.76
Elbert	97.82	98.14	91.90	79.62	78.13	90.49
El Paso	99.08	98.18	96.46	92.67	91.90	95.86
Fremont	97.90	96.83	95.37	90.92	89.47	94.46
Garfield	95.37	92.77	89.45	81.70	81.24	88.54
Gilpin	77.74	71.73	72.02	65.40	59.44	69.25
Grand	98.56	84.65	88.22	86.38	84.14	88.32
Gunnison	92.38	91.51	87.25	81.22	78.28	86.64
Hinsdale	71.67	65.55	50.55	48.68	48.27	57.01
Huerfano	94.94	95.59	91.12	84.02	76.44	89.56
Jackson	99.52	98.95	93.71	96.75	96.60	98.26
Jefferson	98.44	98.59	95.88	91.77	68.46	91.43
Kiowa	99.58	98.55	95.01	82.24	75.96	91.37
Kit Carson	98.10	94.09	87.38	70.44	66.54	85.41
Lake	81.95	79.74	77.65	72.16	71.02	76.76

²¹Session Laws of Colo., 1933, Ch. 116, p. 646.

²²Tax Department, The Denver & Rio Grande Western Railroad Company., Denver, Colo., March 13, 1934.

²³Year in which taxes were levied, i. e. Taxes levied in 1932 were collected in 1933.

Table 18.—(Continued.)

County	1928	1929	1930	1931	1932	5-Year Average
La Plata	96.34	94.18	90.68	83.07	78.51	89.29
Larimer	98.78	98.61	94.75	88.93	83.34	93.69
Las Animas	94.77	92.45	87.06	81.40	76.56	87.03
Lincoln	87.29	95.32	83.41	65.38	61.98	83.13
Logan	97.54	98.03	93.43	81.03	78.92	90.78
Mesa	92.48	90.56	82.17	73.47	68.58	82.25
Mineral	91.08	89.32	84.61	80.58	78.73	85.24
Moffat	90.08	86.67	77.05	64.05	67.90	78.34
Montezuma	83.16	75.56	61.24	47.25	43.61	64.35
Montrose	94.90	88.52	85.65	77.38	75.66	85.20
Morgan	98.32	98.08	94.58	87.53	84.92	93.40
Otero	97.90	98.34	95.28	85.41	83.20	92.64
Ouray	86.85	85.92	84.31	75.43	73.15	81.75
Park	96.70	95.14	91.91	87.02	88.73	92.18
Phillips	99.56	100.00	98.91	79.04	73.11	92.12
Pitkin	73.53	78.53	74.57	73.32	67.83	73.92
Prowers	97.75	96.62	91.17	77.23	75.39	88.45
Pueblo	96.82	96.14	91.78	84.22	81.90	90.55
Rio Blanco	95.43	72.88	90.15	75.26	68.92	81.50
Rio Grande	96.54	93.22	79.47	43.03	56.15	75.70
Routt	94.92	90.61	74.99	69.23	74.68	81.11
Saguache	94.78	93.61	83.54	62.34	68.19	82.03
San Juan	83.21	77.73	72.79	65.05	59.31	71.82
San Miguel	81.81	68.03	62.70	53.64	55.14	66.14
Sedgwick	98.56	97.52	93.10	75.54	74.63	89.17
Summit	80.90	67.94	64.12	62.24	65.11	68.29
Teller	82.01	67.45	66.76	57.83	76.58	70.20
Washington	100.00	99.22	91.06	70.70	71.82	88.71
Weld	99.22	97.71	94.64	85.14	84.38	92.95
Yuma	99.16	98.73	94.78	76.53	75.58	90.73
State Average	96.82	96.46	93.85	88.80	81.55	

Sixty percent of the privately owned taxable farm land in Colorado—approximately 21,750,000 acres—was delinquent for general property taxes in 1933. Twenty-seven percent or 9,700,000 acres of farm land was sold for taxes the same year according to G. S. Klemmedson, state supervisor civil works administration project on tax delinquency, in a report published by the Colorado Agricultural College. The area sold for taxes was four times larger in 1933 than it was in 1928.

A study of Table 18 shows that the higher percentages of collections are found in the counties on the eastern slope. The counties in the western part of the state, particularly those whose principal valuation is found in mining properties, show a low percentage of collections. Some of them report that no buyers can be found for tax certificates. This throws an unduly heavy burden on those who do pay taxes because the tax levy must be made high enough to raise the necessary operating expenses of county government. For example, the county which shows collections of 65 percent of taxes levied has a tax levy of 9.5 mills for ordinary county purposes, yet the levy would need to be only about 6 mills if collections were 100 percent.

The low interest charge of 6 percent on the first half and 8 percent on the last half of delinquent taxes was felt by eight county treasurers who expressed an opinion to have slowed up tax collections, since the rate charged is no higher than the bank rate. One treasurer was of the opinion that his collections had been slowed up 10 percent because of taxpayers letting their taxes become delinquent because of the low penalty.

Two counties out of 32 have collectors who work outside the office. In both instances the treasurers stated that their collections, particularly on personal property, had increased. The return does not justify a collector in the smaller counties but in many counties a collector hired for a short time in the fall of the year when farmers and others are most able to pay their taxes would probably be justified.

A treasurer's tax deed ought to be strengthened in the opinion of 18 of 22 county treasurers expressing an opinion. At the present time a tax deed issued by a treasurer is not secure enough to give the purchaser clear title, unless he goes to the expense of quieting title thru the district court. If a deed issued by a treasurer gave clear title it would cause many taxpayers to make an effort to keep their property from being sold at tax sale. This appears to be particularly true of mining claims which the owners have let be sold for taxes, with the expectation of regaining title in case later developments increase the value of the properties.

Custody of County Funds.—The treasurer is the custodian of all county funds and the several funds of which he is ex-officio treasurer. It is his duty to prorate the taxes collected to the several funds on the last day of each month.²⁴ State taxes must be remitted to the state treasurer on the last day of each month who in turn prorates the taxes to the various state funds.²⁵

The treasurer selects the depositories for county funds. He may select "one or more responsible banks located in the state of Colorado." The banks must pay interest on average daily balances at such rate as may be agreed upon, but not less than 1 percent a year.²⁶ Interest is credited to the general fund except on funds belonging to irrigation districts which must be credited with the interest on deposits. The banks must give good and sufficient bond, approved by the treasurer, conditional that such deposit will be paid on the check or draft of the treasurer. This bond may be a surety bond, "bonds or other interest bearing securities of the United States, of the State of Colorado, of counties, cities, towns or school districts situated within the state, Farm Loan Bonds . . . the market value of which shall equal or exceed by at least ten percent above the amount of such deposit or deposits." If bonds other than surety bonds are presented and accepted by the treasurer they must be deposited in a national bank or trust company organized and doing business in the state in proper written escrow, executed in triplicate, one copy being retained by the treasurer, one by the depository and one by escrow holder.²⁷ Treasurers are authorized to pay all necessary premiums upon depository bonds and escrow fees or charges out of any interest received on deposits.²⁸

The number of bank depositories in counties varied from one to nine. One of the depositories of a majority of the 32 counties from which information was obtained was in New York where a small balance was kept to pay interest on bonds.

The number of depositories is determined somewhat by the number of banks in the county and the amount of money in average daily balance. Where the amount is small one or two depositories is sufficient. Several counties have no bank in the county and must do all their banking outside the county.

The interest rate paid by depositories in 28 of the 35 counties reporting is the statutory minimum rate of 2 percent. The minimum rate was reduced to 1 percent in 1933. In 13 of these counties this is offset by a service charge, usually of 1 percent. In four counties the depositories

²⁴Compiled Laws of Colo., 1921, Secs. 7368, 8799.

²⁵Session Laws of Colo., 1929, Ch. 152.

²⁶Session Laws of Colo., Extraordinary Session, 1933, Ch. 15.

²⁷Session Laws of Colo., 1927, Ch. 83.

²⁸Session Laws of Colo., Extraordinary Session, 1933, Ch. 15.

are only paying 1.5 percent. The following table shows the interest received by county treasurers from depositories in 1931.

Table 19.—Interest Paid and Service Charges on County Funds in Thirty-five Counties in 1931.

Rate of interest paid	Number of counties
Legal minimum 2% no service charge.....	18
2% with 1% service charge.....	11
2% less collection expense.....	2
1½% with no service charge.....	4
	35

The interest received on deposits is by law credited to the county general fund. A small amount of interest is also received on delinquent taxes. This must be distributed to the various funds but there is no uniform practice among treasurers regarding the time of making the distribution. Actually it would appear that the distribution should be made on each receipt but only 4 treasurers out of 32 did this. The most usual practice was to make the distribution on the basis of monthly or semi-annual totals. The following table indicates the practice of county treasurers.

Table 20.—Method of Distributing Interest on Delinquent Tax Collections in Thirty-two Counties in 1931.

Method of distribution	Number of counties
Each receipt	4
Monthly totals	13
Semi-annual totals	11
State monthly, county every 6 months.....	1
On annual totals	3
	32

The distribution of interest on delinquent taxes on any basis other than on each receipt is likely to give one fund an unproportionate share of the interest most treasurers feel that the clerical work involved in making a distribution on each receipt is out of proportion to the gain resulting to any given fund.

Disbursement of Funds.—Funds coming into the custody of the county treasurer are disbursed by him on order of the county commissioners or otherwise as provided by law.²⁹ State funds are remitted to the state treasurer on the last day of each month.³⁰ The treasurer must keep a separate account of the several funds for which taxes are collected. It is unlawful to use moneys belonging to any fund, for the purpose of paying warrants drawn, or which should properly have been drawn, upon some other fund. The treasurer and his sureties are liable at the action of any taxpayer if funds of one account are used to pay another. The treasurer must also keep separate accounts of fees of county officers and of all funds for which special taxes are levied.³¹ A "just and true account of the receipt and expenditure of all moneys" coming into the hands of the treasurer must be kept. This book is open at all times for the inspection of the board of county commissioners, or any member of the board, and to all county and state officers. At the meeting of the board in July

²⁹Compiled Laws of Colo., 1921, Sec. 8795.

³⁰Session Laws of Colo., 1927, Ch. 152.

³¹Compiled Laws of Colo., 1921, Secs. 1991, 3227, 7880, 7902, 8014, 8017, 8045, 8094, 8112, 8147, 8157, 8208, 8288, 8371, 8499.

and January the treasurer must make a semi-annual settlement with the board. After the settlement is made with the treasurer, the county clerk must forward a copy of the semi-annual report to the state auditor.³² The treasurer must make a monthly report of fines payable to the school fund to the county superintendent and of the fees of his office to the county commissioners. He must also make a quarterly report to school directors, furnish receipt blanks to the secretary of school boards and report the value of school and municipal bonds to the state board of immigration upon request.³³

The treasurer must also keep a cash book showing the date and source of all money paid into the county treasury. The cash book is open to public inspection at all reasonable hours of the day.³⁴

The statutes do not detail the procedure to be used by the treasurer in paying warrants. The form used in every county visited was in the form of an order on the treasurer. These are presented to the treasurer who pays them in cash or by check on one of the county depositories. Banks accept county warrants when presented to them and forward them to the county treasurer for collection. The treasurer usually issues one check to the bank to cover all warrants presented at a time for collection. This eliminates passing a large number of checks thru the depositories. Some counties issue a single check for all warrants drawn on each fund when presented.

Funds are paid out in the order in which the orders on them are presented for payment. A "registry of county orders" must be kept by the treasurer giving the date of presentation of county orders or warrants or other certificates or evidence of county indebtedness at any time presented to the county treasurer for payment, whether paid at the time of presentation or not, giving the date, number, amount, date of presentation, to whom issued and by whom presented. The "registry of county orders" is open to inspection and examination of any person at all reasonable hours.³⁵

Registering of Warrants.—When county orders are presented to the treasurer and there are no funds to the credit of the proper fund with which to pay them the treasurer registers them. This consists in endorsing on the warrant or order the rate of interest it shall draw and the date of presentation over his official signature. The rate of interest is fixed at 6 percent unless a lower rate is agreed upon.³⁶ A registry is kept of all registered warrants, in order of their date, preference being given to the warrant of the oldest date. When the amount in any fund against which warrants are outstanding amounts to \$500 or more the county treasurer must give notice by publication 30 days prior to calling all warrants which the fund will pay, in the order in which they are registered. The fund against which registered warrants are called must be set aside for payment of registered warrants called for payment and must be held for 6 years from the date of registering the warrants when it may be used to pay other outstanding warrants. Registered school warrants may be called when \$200 are in the treasury and only 20 days' notice is required.³⁷ Since registering warrants is a form of county borrowing, we shall consider the problem further in our discussion of county borrowing.

County Borrowing

County Indebtedness Compared with National, State and Local Debt.—The total net debt of all governmental units in the United States amounted to \$36,822,064,000 in 1932, according to figures by the bureau of the census. The federal government was responsible for \$19,225,-

³²Compiled Laws of Colo., 1921, Secs. 7388, 8798.

³³Compiled Laws of Colo., 1921, Secs. 6201, 7900, 7904, 8059, 8304, 8305.

³⁴Compiled Laws of Colo., 1921, Sec. 8807.

³⁵Compiled Laws of Colo., 1921, Secs. 8800, 8802, 8808.

³⁶Compiled Laws of Colo., 1921, Sec. 3780.

³⁷Compiled Laws of Colo., 1921, Secs. 8800, 8801. A 1933 law provides that school warrants shall be paid by the county treasurer in order of registration regardless of the year in which the taxes are levied. Session Laws of Colo., 1933, Ch. 169.

532,000, or over half this amount. Cities, towns, villages and boroughs came next, with a total of more than 8 billion dollars. States, counties and school districts were each responsible for over 2 billion dollars and other civil divisions for almost 2 billion dollars.³⁸

As is to be expected, the increase is the most rapid in the case of the federal government, which has been undertaking heroic measures to relieve distress and promote recovery. It is interesting to notice that the relative increase of indebtedness has been much greater for school districts and other civil divisions than for states and counties, and has increased less in proportion in cities, towns and villages than in any of the other governmental units.

Table 21.—Total and Per Capita Debt of Federal, State, and Local Government, 1932.

Division of government	Number of governmental units	Net debt, 1932		Percentage increase from 1912 or 1913* to 1932
		Total	Per capita	
Federal government	1	\$19,225,532,000	\$154.41	1,769.2
States	48	2,373,634,000	19.17	568.1
Counties	3,062	2,283,862,000	20.85	514.7
Cities, towns, villages and boroughs	16,660	8,839,249,000	109.06	208.2
School districts	128,661	2,036,171,000	**)	
Townships	19,769	344,140,000	**)	1,636.5
Other civil divisions	26,430	1,719,476,000	**)	
Total	194,631	\$36,822,064,000	\$295.73	659.1

**Not computed. *1913 in the case of the Federal Government; otherwise 1912.

Debt Limitations.—County borrowing is limited by the constitution both as to purpose and amount. No debt or loan of any form shall be contracted except for the erection of necessary public buildings and making or repairing public roads and bridges. Counties having an assessed valuation exceeding 5 millions of dollars may not contract an indebtedness in any one year of more than \$1.50 for each \$1,000 valuation and those with an assessed valuation of less than 5 millions of dollars are limited to \$3 on each \$1,000 valuation. The aggregate indebtedness shall not at any time exceed twice these amounts, unless approval be given by a majority vote of electors who have paid a tax the preceding year. Under any circumstances the aggregate shall not exceed \$6 on each \$1,000 valuation in counties having assessed valuation in excess of 5 million dollars and \$12 in counties having assessed valuation exceeding 1 million dollars and less than 5 million dollars.³⁹

Issuing Bonds.—When the board of commissioners finds it desirable to create an indebtedness for construction of public buildings or making or repairing public roads and bridges they make an order of records specifying the amount, and object and submit the question to the people at a general election. Thirty days' notice must be given prior to the election and separate ballots must be provided. If a majority of those voting, who must have paid a tax the preceding year, approve, the board is authorized to contract the debt in the name of the county.

The county commissioners, after authorization by majority vote, make and issue coupon bonds of the county "payable at the pleasure of the county ten years after the date of their issuance, but absolutely due and

³⁸Department of Commerce, Bureau of the Census, Press Release, Jan. 29, 1934.

³⁹Constitution of Colo., Art. XI, Sec. 6; Compiled Laws of Colo., 1921, Sec. 8842.

payable twenty years after such date." Interest may not exceed 10 percent, payable annually on April 1 or semi-annually on April 1 and October 1 at the office of the county treasurer or in New York City, at the option of the holders of the bonds. Bonds must be signed by the chairman of the board and attested by the county clerk and must be numbered and registered in a book kept for that purpose, in the order issued. Bonds must not be issued in denominations of less than \$50 and, if a greater amount, in multiples of \$50.

A tax levy sufficient to take care of the interest must be made annually. For the ultimate redemption of the bonds the board shall, after 10 years from the date of issuance, levy a tax sufficient to create a yearly fund equal to 10 percent of the whole amount of bonds issued. Taxes levied for interest on and redemption of bonds must be kept in a separate fund and used only for that purpose. Bonds must be sold for cash and not at a discount of more than 15 percent of par value. When redeemed the word "cancelled" must be written across the face of the bond and a record made of what bonds or coupons were cancelled.⁴⁰

Funded and Floating Indebtedness.—A floating indebtedness, that is, one comprising unsecured registered warrants, may be funded and bonds issued in exchange to such holders of registered warrants, as will agree. Fifty taxpaying electors can force a vote on the question at a special or general election, the procedure being detailed in the law. Refunding bonds are issued in the same manner as other bonds but the rate of interest may not exceed 7 percent and the amount may not exceed the indebtedness of the county at the date of first notice of election. All refunding bonds must be registered in the office of the state auditor.⁴¹

Registered Warrants.—The law provides that the board of county commissioners may issue warrants, sometimes called "anticipation warrants," "against and in anticipation of the collection of taxes already levied for the payment of such expenses, to the extent of eighty per centum of the total amount of the taxes levied" and a strict interpretation has been given this provision by the courts. Such warrants shall be registered as previously explained.⁴² A strict enforcement of this law would prevent the issuance of any registered warrants which would not be retired out of taxes already levied. Because of lack of enforcement of this provision and the issuance of warrants in excess of anticipated taxes the law has provided for levy of a special tax to retire unliquidated and unpaid warrants for which there are no funds in the county treasury and incoming taxes already levied are insufficient. A levy of not exceeding 5 mills must be made to liquidate such warrants each year until all warrants are paid. This "special fund" may be used only for retiring outstanding warrants issued prior to the date of the levy. On written request of 20 holders of unliquidated and unpaid warrants, the county clerk shall prepare a detailed record of all outstanding warrants and the provision made for their payment. One copy shall be prepared for the county commissioners and one for the county treasurer, which shall be retained by him as a permanent record called the "County Warrant Redemption Book."⁴³

Judgment Bonds.—When a judgment is rendered against a county and there are insufficient funds in the treasury to pay the judgment, the board of commissioners may, at their discretion, submit the question of issuing bonds for the purpose of funding the indebtedness created by the judgment. If a majority of those voting approve, the board may issue the bonds. The amount may not exceed the amount of the unpaid judgment and accrued interest, in denominations of \$1,000, \$500 or \$100, or

⁴⁰Compiled Laws of Colo., 1921, Secs. 8842-8846.

⁴¹Compiled Laws of Colo., 1921, Secs. 8847-8852.

⁴²Compiled Laws of Colo., 1921, Sec. 8697; *Thos. W. Vincent v Board of Commissioners of Hinsdale County*, 12 Colo., Appeals 40-42.

⁴³Compiled Laws of Colo., 1921, Secs. 8853-8857.

all or either such denominations, with interest not exceeding 5 percent. Judgment bonds must be optionally due in 10 years and "absolutely" due and payable 20 years after date and must not be sold or exchanged at less than par and must be registered with the state auditor. Furthermore, the law emphatically prohibits the issuance of bonds "in satisfaction of any judgment rendered in any court of record in this state on warrants" issued subsequent to the passage of the act authorizing such bonds.⁴⁴

New counties created from existing counties may issue bonds the same as an original county to take care of the obligations imposed upon new counties by the constitution in assuming its proportionate share of the indebtedness of the county or counties of which it was a part.⁴⁵

The board of county commissioners has the authority to issue refunding bonds for the purpose of refunding any of the bonded indebtedness of the county if there are not sufficient funds in the treasury to redeem bonds when due or optionally due. The amount of bonds necessary to refund outstanding bonds is determined by the board of commissioners and no election is necessary but the rate of interest cannot exceed 5 percent. The resolution providing for the bonds must make the principal of the debt payable in equal annual installments during the period in which the debt is to be discharged. The period of payment may not exceed 25 years and the maturity of the first installment shall be not more than 5 years from the date of issue. Refunding bonds may be exchanged dollar for dollar for the bonds they are to replace or may be sold at not less than par and the proceeds used to redeem the refunded bonds. Such refunding bonds may not be issued until outstanding bonds to be refunded have been called in and cancelled in an amount equal to or in excess of the bonds issued.⁴⁶

It is the duty of the board of commissioners to make out and publish or post a semi-annual statement of all debt owing by the county giving full details of all outstanding indebtedness.⁴⁷

County Borrowing Practices.—Colorado county governments have been relatively conservative in creating bonded indebtedness. Twenty-three counties had outstanding bonds issued for county purposes on January 1, 1932, totaling \$1,666,200, six of these also had outstanding county school bonds and seven counties had outstanding school bonds but no other county bonds. Total county school bonds outstanding amounted to \$861,400 on January 1, 1932. Gunnison County had total bonds for both county general and county school amounting to \$282,000 outstanding and Conejos County had the least outstanding with \$13,200 for county general purposes. School districts, however, had a total of \$29,147,800 in bonds outstanding with only seven counties reporting no outstanding district school bonds.⁴⁸ While counties have been comparatively conservative in issuing bonds, they have not followed the same practice by refusing to register warrants. Nearly every county had warrants outstanding on January 1, 1934, the amounts varying from a few hundred to more than \$300,000. See Table 22.

Most counties appear, however, to be trying to operate on a cash basis. Registering warrants is a method of forced borrowing and a method which the board of commissioners can use without resort to obtaining the approval of the voters as in the case of a bond issue, tho the law specifically provides that they cannot borrow money without the con-

⁴⁴Compiled Laws of Colo., 1921, Secs. 885S-8864; Session Laws of Colo., 1899, p. 182, Sec. 2.

⁴⁵Compiled Laws of Colo., Secs. 8862-8864.

⁴⁶Compiled Laws of Colo., 1921, Secs. 8865-8871.

⁴⁷Compiled Laws of Colo., 1921, Sec. 8841.

⁴⁸Colo. Yearbook, p. 28, 1932.

Table 22.—County Indebtedness in Colorado, January 1, 1934.⁴⁹

County	County bonds	Unpaid county warrants outstanding
Adams	none	\$ 109,318.70
Alamosa	\$ 37,650	27,231.15
Arapahoe	none	62,743.53
Archuleta	none	589.80
Baca	18,000	22,075.20
Bent	47,200	45,079.91
Boulder	200,000	60,435.46
Chaffee	75,000	none
Cheyenne	none	none
Clear Creek	none	12,571.17
Conejos	6,600	71,777.75
Costilla	none	93,246.56
Crowley	none	26,862.65
Custer	none	13,751.72
Delta	2,500	30,583.11
Denver	none	none
Dolores	70,000	10,056.10
Douglass	none	44,127.51
Eagle	none	none
Elbert	none	64,563.91
El Paso	none	15,753.72
Fremont	none	none
Garfield	160,000	none
Gilpin	none	37,823.25
Grand	none	16,240.84
Gunnison	108,000	24,478.96
Hinsdale	9,650	15,003.21
Huerfano	none	81,374.54
Jackson	4,000	8,488.55
Jefferson	none	32,853.05
Kiowa	none	none
Kit Carson	none	38,651.84
Lake	none	none
La Plata	40,000	13,223.48
Larimer	175,000	110,561.37
Las Animas	none	48,832.25
Lincoln	85,000	54,532.43
Logan	5,000	none
Mesa	140,000	83,366.00
Mineral	none	none
Moffat	16,000	none
Montezuma	none	33,650.76
Montrose	84,000	2,430.74
Morgan	none	23,474.44
Otero	none	75,662.02
Ouray	27,000	16,387.06
Park	none	11,082.13
Phillips	22,000	none
Pitkin	75,000	7,809.93
Prowers	none	5,591.75
Pueblo	none	314,898.90
Rio Blanco	none	none
Rio Grande	none	38,191.40

⁴⁹Colorado Tax Commission.

County Indebtedness—(continued).

County	County bonds	Unpaid county warrants outstanding
Routt	\$ 94,000	\$ 21,542.65
Saguache	none	40,807.91
San Juan	30,000	2,996.52
San Miguel	44,000	9,285.73
Sedgwick	none	none
Summit	none	8,394.00
Teller	none	30,072.06
Washington	none	none
Weld	none	60,531.02
Yuma	none	none
Total	\$1,575,600	\$1,979,006.74

sent of electors.⁵⁰ Furthermore, borrowing by means of registering warrants is particularly vicious because of the opportunities it offers to banks and money lenders. A registered warrant draws 6 percent interest but many who receive warrants need the money immediately and sell the warrant to a bank or a money lender who buys it at a discount. The purchaser may only hold it 30 or 60 days before it is called in and paid by the county, with interest. Thus, a \$100 warrant held 2 or 3 months may net the purchaser as much as \$3 to \$5 or 30 to 50 percent a year. Such a system of financing is expensive to both the county and the one to whom the warrant was originally issued.

One of the greatest difficulties regarding county bond issues is that of getting bonds paid off once they are issued. The board is reluctant to raise the tax levy sufficient to provide for their retirement when due. Once they are issued they seem to become a permanent charge upon the county. A particularly striking example of this exists in Phillips County which issued judgment bonds in 1891 to pay indebtedness assumed when it became a county in 1889 and accrued floating indebtedness. The original issue was for \$28,000 at 8 percent interest. These bonds were refunded in 1909 for \$42,800 at 5 percent, optional in 1919. They are now being paid off serially at the rate of \$2,000 a year but before the bonds have all been redeemed the original bond issue of \$28,000 will have cost the taxpayers more than \$100,000 in principal and interest. The law ought to be changed to provide that only serial bonds, payable beginning not later than the second year after issue, could be issued by any political unit. Better yet, governmental units ought to plan their expenditures so as to make borrowing unnecessary. Montezuma County has had a 2-mill levy since 1920 as a building fund for a courthouse rather than resort to borrowing. Meantime, a building is being rented at \$125 a month for county offices.

North Carolina has created a commission on local government with authority to compel all local units to make the necessary levies to pay off existing indebtedness and pass upon all future proposals for creating indebtedness. Concerning this law and its effectiveness the director in charge says: "I consider that the Local Government Act has been the salvation of the credit of the local units in North Carolina. The officials of the local units have reacted favorably to the control of indebtedness by the Commission. You understand that no local unit can issue any bonds or notes of any kind without the approval of the Commission, and also that they are sold by the Commission at its office here. We have received much better prices for the bonds than any local units could have secured."⁵¹

⁵⁰Compiled Laws of Colo., 1921, Sec. 8583.

⁵¹Chas. M. Johnson, Director of Local Government, Raleigh, N. C., in a letter to the writer, February 19, 1932.

County Reporting and Accounting.—The law now provides for publication of the proceedings of the board of county commissioners within 20 days after the adjournment of each meeting of the board.⁵² These proceedings consist of resolutions and official acts of the board and the expenditures authorized to be made from the various county funds. These are usually given in much detail showing the name of each person and the amount of the payment authorized.

A summarized statement is usually not made at the end of the year tho the newspapers usually take notice of the report of the auditor employed by the county to audit the books. Actually there is no reporting of the county business in a way which will enable the average citizen to know the financial conditions of the county. Furthermore, the present system of keeping accounts by funds does not enable the ordinary citizen to find out what it is costing the county to perform a particular function.

The Wisconsin tax commission points out that "A system of accounts which affords only an historical record of past financial transactions can no longer be considered adequate to meet present day requirements. In addition to the record of past experience, the value of which is not to be minimized in connection with the determination of future activities, the system should afford an accurate control of current operations. An adequate accounting system for a municipality should accomplish the following:

1. Provide a centralized record or records of all financial transactions.
2. Provide information as to the current flow of cash.
3. Provide information which the public can use intelligently to judge the fidelity, efficiency, and economy of its chosen officials.
4. Provide information which can be used in planning for future operations and for the extension and curtailment of the functions and activities of the municipality.
5. Provide information by means of reports which will assist administrative officials in performing their duties and in administering the trusts imposed upon them.
6. Provide information which will show profit and loss on those activities which are subject to profit and loss."⁵³

These purposes can only be achieved by applying the principles of cost accounting, now generally used in private business, to government. This means that all expenditures directly incurred by a particular governmental activity should be charged to it. Under the present system the "poor fund" covers all expenditures for poor relief whether for support of the poor farms, outside relief, medical care, food, clothing, or shelter. In one or two counties, it also includes mothers' compensation. This fund should be "broken down" to show the cost of each service. Then expenditures of outdoor relief could be detailed under salaries, food, clothing, fuel, rent, county physician, supplies and drugs, hospital care and burials. Furthermore, any income should be credited to the fund and deducted from the expenditures so that the net cost is shown. A few counties are following the principles of cost accounting for particular functions but the practice is not general. So far as possible, unit costs should be determined and the system of accounting should make this possible. For example, Morgan County highway records show the cost per mile for operating each tractor, and automobile, the cost of each mile of road dragged or graded, the cost of each cubic yard of gravel placed on the highway and similar unit costs.

It is essential that costs be compared with similar costs in other counties. This means that a uniform system of accounting ought to be installed in each county. Reliable comparisons of the cost of similar functions in the various counties could then be made.

⁵²Compiled Laws of Colo., 1921, Sec. 8698.

⁵³Municipal Accounting and Auditing. Bul. No. 42. October, 1930; Wisconsin Tax Commission, Madison, Wis.

Forms for a uniform system of county reporting ought to be prescribed by the state auditor's office and the same information obtained from each county. Such information should then be printed in the report of the public examiner so that the officers and citizens of one county could make comparisons with other counties. This necessitates some control by a state agency. It is quite apparent that if the officers of each county are left to their own inclinations and devices, as at present, no uniformity can be attained or maintained. Such a system would also be a help to new officers because records and forms would be standardized and there would be an agency from which they could receive assistance.

Every board of county commissioners ought to prepare a complete financial statement for their county at least annually and preferably every 6 months or even monthly. This should be clear and concise but at the same time give a clear financial picture of the county. Such a statement, if prepared and given wide circulation in the county ought to be of more value than the monthly publication of the proceedings of the board.⁵⁴

Non-Financial Duties of Finance Officers.—In addition to their purely financial duties finance officers perform a number of other duties which can best be performed by them but are not directly connected with their financial duties. The county treasurer must act as public trustee in counties other than those of the first and second class.⁵⁵ The assessor, when making the assessment for taxes is required "to collect such statistics in relation to population, farm operations, the principal farm products, agricultural resources and livestock of his county as may be required by the Commissioner of Immigration."⁵⁶ He must, when ordered by the governor, take the military enrollment while making the assessment of personal property.⁵⁷ Applications for state hail insurance are taken by the assessor who must compute and extend the tax and enter it on the tax roll.⁵⁸ Two additional duties were given the assessors by the legislature in 1931. The assessor must make a list of persons owning dogs and the number owned by each person in counties in which the county commissioners levy a dog tax, receive the license fee and issue a receipt and metal tag for each dog.⁵⁹ He is also required to make an enrollment of every person who served in the World War, widows of veterans whether single or remarried and any child under 16 years of age of a deceased veteran.⁶⁰ These duties can best be performed by the assessor but the public generally does not realize the amount of additional routine work necessary to collect and prepare this information. Furthermore, the cost is added to the assessor's office and any economies which may be made in one place are absorbed by the cost of these added non-financial functions.

Administration of Finance Offices.—The county finance offices are probably more economically administered than any other county offices, considering the methods used. The work of assessing, entering valuations on the tax rolls, extending taxes and making out tax notices and receipts requires a lot of detailed work which must be accurate. Property descriptions must be written three times, on the tax schedules, the tax rolls and tax bills. About 90 percent of the descriptions of real property do not change from year to year, yet under the present system these must be copied year after year, and checked for accuracy each time they are copied. Weld County has installed modern addressograph and bookkeeping machines and now has one of the most modern tax offices

⁵⁴Kilpatrick, *The Preparation of Public Reports*. The American City. April, May, 1931.

⁵⁵Compiled Laws of Colo., 1921, Secs. 5044-5045.

⁵⁶Compiled Laws of Colo., 1921, Sec. 437.

⁵⁷Compiled Laws of Colo., 1921, Sec. 174.

⁵⁸Session Laws of Colo., 1929, Ch. 11, Secs. 5-9.

⁵⁹Session Laws of Colo., 1931, Ch. 87

⁶⁰Session Laws of Colo., 1931, Ch. 152.

west of the Mississippi River. Homer Bedford, former assessor of Weld County, after discussing the old system says:

"This cumbersome work has been eliminated and these records (property descriptions) are on metal address plates and are perpetual and indestructible. This address plate system is flexible. Any additions or corrections to the tax records can be made as soon as they occur which means that the records are up to date.

"Special forms for making up of tax schedules, tax rolls and tax bills have been designed and by use of the address plates the entire list of property with names, addresses and descriptions of each piece of property in Weld County can be imprinted in a few days' time by one person and no checking is necessary. Under the old method it took six people about two weeks to write the tax rolls and two people about three weeks to proof read them. Under the present system this same work is being done in twenty-five days with four people, which includes writing the tax rolls and extending and balancing the valuations. The work now being done with automatic computing machines.

"Under the former method it required eight people more than twelve weeks to write and prove the tax rolls of this county. Now this same work is done in fifty days with four people. By means of this new system one clerk can do the work of several under the old plan.

"For the purpose of efficiently handling the enormous amount of detail work the county is divided or broken down to the smallest unit which is the school district. Each school district is handled separately during the year. The field work is done by school districts. In this way we have no peak load during the year. Thus we have a continuous steady stream of work flowing thru the office, instead of dumping 26,000 tax schedules together and then sorting out the valuations for 139 school districts and 25 incorporated towns.

"In 1923 we handled 21,000 tax schedules and for 1930 this had increased to 25,814, yet the work was being done at \$1,200 per year less cost for help and printing than in 1923. For the years 1923 to 1926 the cost for extra help in the office (under the old plan) amounted to \$1,450 per year and for 1927 to 1930 (under the new plan) it was \$470 per year. During the latter four years we saved \$1,000 on the cost of printing on account of using loose leaf tax rolls of smaller size. During the five years the equipment has been used we have saved the taxpayers of Weld County \$6,150. The entire cost of the equipment was \$5,700 and it is in good condition now and will do the work for several more years.

"In dollars and cents, the cost of the assessor's office is just as great now as in 1923, but considering the added duties we are required to perform, the cost of operation would have increased at least \$1,500 per year under the old method. The ease, accuracy and promptness with which the work is handled is hard to estimate in dollars and cents.

"Handling tax work by the longhand method is costly, not only in dollars and cents, but in errors which creep into the descriptions of lands, in making tax extensions and copying the rolls. Errors of this nature have practically been eliminated in the assessor's office of Weld County.

"Now that we have completed the fifth year of handling our tax work in this modern way the things accomplished might be summarized as follows:

"(1) It has made possible the making up of our tax rolls in printed form, eliminating many different types and styles of handwriting. The books are very much more legible, neater and in every way finer and more accurate.

"(2) The making of a permanent plate for each piece or parcel of land in the county has given us a definite and positive record that every piece and parcel of land in the county is on the tax roll.

"(3) One clerk is now able, in a few days, to run off our tax schedules, tax rolls and tax bills. Formerly it required a large number of

clerks over a considerable period of time to make up these tax rolls by longhand method.

"(4) It has also entirely eliminated the troublesome problem of extra help (only two are required for a month) in making up of our tax rolls and has been the means of a direct saving in wages alone during the five years or more than the cost of the entire equipment."⁶¹

Other counties of Colorado could well afford to follow the example of Weld County and install modern machine methods in their finance offices. Both economy and accuracy would result.

A final suggestion regarding the finance offices is that at least for purposes of administration the two offices should be united into a department of revenue which ought to be free from political influence. There is no republican or democratic method of assessing and collecting taxes. The assessor and treasurer ought to be appointed by the board of county commissioners on a non-partisan basis for a long term, say 6 years. This would make it unnecessary for the assessor to seek popular favor thru under-assessment, over-assessment of property of non-residents or other means. The treasurer would likewise be freed from the temptation of extending favors. It is also probable that men of greater ability would be selected if this officer were appointed.

⁶¹G. S. Klemmedson, Saving the Taxpayer's Money, pp. 16-17. Colo. Agri. Col. 1931.

IX. THE SHERIFF AND THE CORONER

Sheriff Represents Both State and County.—The sheriff serves in a dual capacity as the chief peace officer of the county and as the executive officer of courts of record in the county. As such, he is technically a state officer. "As conservator of the peace in his county, he is the representative of the sovereign power of the state, his prisoners are prisoners of the state, and he executes orders of the court in the name of the people of the state. In the performance or neglect of these duties he is not responsible to the county board nor to the county electorate. He is indeed a state officer."¹ Yet under our present organization he lacks a direct relationship to the state government.

In Colorado the sheriff is listed in the constitution with other county officers, is elected by the people of the county, receives his salary from the county, and any vacancy is filled by the board of county commissioners. Dr. Kirk H. Porter expresses the situation in the following words: "The contention that the sheriff is a state officer would be greatly strengthened if he were appointed by, or at least were under the control of, some state authority. This is not the case, except in one state. Hence there is no organic relation between his office and the state government. And despite the theory that he represents the people of the state as a whole, he is elected by the people of a county, he has been identified with the county for many centuries, and what is of greater significance his policies in the matter of interpreting and enforcing state law are largely dictated by the county electorate. Thus it is entirely proper to look upon the sheriff as a county officer. But even so it must not be forgotten that he is somewhat apart from the county organization and is a representative of the state in a sense that most of the county officers are not."²

The Sheriff as an Officer of the Court.—The law provides that, "The sheriff in person, or by his undersheriff or deputy, shall serve and execute according to law, all processes, writs, precepts, and orders issued or made by lawful authority and to him directed, and shall attend upon the several courts of record in his county."³ The sheriff is thus the executive officer of both the county and district courts; and as such he has numerous duties to perform. He must supervise the drawing of jurors by the clerks of the district and county courts. He summons jurors and witnesses and serves warrants on persons indicted. He or one of his deputies must attend each session of the court to open and close the sessions, maintain order, have custody of prisoners, wait on the jury and perform any other service ordered by the court. He must execute all processes, writs, precepts and orders of the court and make due return of the same. In case of failure or neglect the sheriff is subject to a fine not to exceed \$200 and also an action for damages to the party aggrieved. The collection of illegal or excessive fees makes the sheriff liable to the aggrieved party for three times the fee charged and a fine of not less than \$25 nor more than \$200.⁴

It is the duty of the sheriff to transport prisoners to the penitentiary of the state, or to the reformatory or such other institution as ordered by the court. He must be present at the execution of prisoners sentenced to death from his county and make a report of the execution.⁵

¹Wager, County Government in North Carolina, p. 265.

²Porter, County and Township Government in the United States, p. 166; Fairlie and Kneier, County Government and Administration, pp. 137-138.

³Compiled Laws of Colo., 1921, Sec. 8758.

⁴Compiled Laws of Colo., 1921, Secs. 1790, 5783, 5822, 5842, 6817, 7082, 7128, 8758, 8761, 8768.

⁵Compiled Laws of Colo., 1921, Secs. 824, 863-864, 7151-7152, 7162, 8757; fees for transporting prisoners, Sec. 7882.

In addition to executing orders of the court, the sheriff also serves processes of certain other officers. He gives notice of special elections to fill a vacancy in the general assembly. He serves warrants to road viewers issued by the county clerk; he serves processes of the state board of equalization, labor arbitration board, and national guard officers. The sheriff issues subpoenas for the state board of pardons, witnesses before a committee to examine the county treasurers' books and witnesses in water adjudications and hearings to fix water rates. He serves distraint warrants issued by the county treasurer to prevent removal of livestock from the county on which taxes have not been paid. He executes warrants of the governor for apprehension of fugitives from justice and issues a certificate to the person apprehending a person for whom the governor has offered a reward. The sheriff may assume custody of a dependent or neglected child in case of immediate danger or in case effort is made to remove the child from the jurisdiction of the court. Finally, the sheriff or a constable may serve all processes and make any arrests authorized to be made by any city or town officer.⁶

The sheriff also executes all judgments against property and conducts the sale of property when necessary, giving the purchaser a certificate of title. All executions are returnable 90 days after date, and no execution is binding until delivered to the sheriff or other officer to be executed, who must endorse upon the back of the writ the hour, day of the month, and year when it was received and enter the receipt of the writ and the time received in a book kept for that purpose.⁷

The Sheriff as a Peace Officer.—The sheriff is responsible for preserving peace in his county. The law makes it "the duty of the sheriffs and under sheriffs and deputies to keep and preserve the peace in their respective counties, and to quiet and suppress all affrays, riots, and unlawful assemblies and insurrections, for which purpose, and for the service of process in civil or criminal cases, and in apprehending or securing any person for felony or breach of the peace, they, and every coroner and constable, may call to their aid such person or persons of their county as they may deem necessary."⁸ This broad grant of power is made more specific by other statutes. It is his duty to seize automobiles which he suspects have been stolen and notify the secretary of state, to enforce the fish and game laws, to search any place, other than a home, for intoxicating liquors, and to search a person or place for habit-forming drugs. It is the sheriff's duty to search persons suspected of carrying concealed weapons, and to arrest foreign-born residents in possession of weapons. Finally, it is the duty of peace officers to prevent dueling and any officer knowingly permitting a duel may be fined not in excess of \$500.⁹

The authority of the sheriff extends over the entire county. Ordinarily, however, he is willing to leave law enforcement in incorporated cities to city officials. The sheriff is the person to whom rural people in the county look for the preservation of peace and law enforcement. The apprehension of criminals and the solution of crimes are in his hands. Constables may do some police work but they are primarily interested in serving writs and acting as executive officers of the justice courts.

As the recognized law enforcement officer of his county, the sheriff is supposed to be on the lookout for law violators and disturbers of the peace. An arrest may be made with or without a warrant, tho the law specifically provides for arrest without a warrant only in case of persons carrying concealed weapons, aliens with guns, persons possessing drugs, lunatics and dependent and neglected children. Arrest without a warrant

⁶Compiled Laws of Colo., 1921, Secs. 216, 805, 1295, 1745, 1773, 4202, 7166, 7176, 7268, 7461, 7815, 8813, 9161.

⁷Compiled Laws of Colo., 1921, Secs. 5897-5967, 5912-5913, 5935, 5939-5941.

⁸Compiled Laws of Colo., 1921, Sec. 8759.

⁹Compiled Laws of Colo., 1921, Secs. 1379, 1438-1440, 3713, 6828, 6880, 6887.

in case of fresh pursuit is implied. In either case the prisoner must be taken before a magistrate, without delay, and given a hearing.¹⁰

The sheriff may use whatever force is necessary when making an arrest. When armed with the proper warrant he may use any means to gain admission to a place where he has demanded admission and been denied it. He may, if necessary, call upon any person or persons to aid him. Every male person above the age of 18 years may be called "to join the posse comitatus, or power of the county," to aid and assist "in taking or arresting any person or persons against whom there may have been issued a civil or criminal process," or "in retaking any person or persons who after having been arrested or confined may have escaped from such arrest or imprisonment," or "in presenting any breach of the peace or commission of any criminal offense."¹¹ The sheriff may upon view, without writ or process, commit to prison all persons who break the peace or attempt to break it; he may award process of the peace and bind any one in recognizance to keep it. He is bound, ex-officio, to pursue and take all traitors, murderers, felons, and other misdoers and commit them to jail for safe custody."¹² "If disorder becomes so great that the sheriff cannot control it by his deputies and the posse comitatus, he may call upon the governor of the state for militia; and in extreme cases, thru the governor, he may ask for national troops."¹³ The sheriff's power is largely a discretionary one. "In all times of great emergency, or in a crisis of unusual danger, the limits under which his discretion may be exercised have been held by the courts not to be fixed."¹⁴

Ordinarily, the authority of the sheriff as the chief peace officer in the county is less significant. The activities of the average sheriff are likely to be limited to process serving and investigating such cases as are called to his attention. The situation is succinctly stated by Dr. Paul Wager as follows: "It is hardly necessary to point out that the sheriff is not an efficient police officer, nor should he be expected to be. Ordinarily, he comes into office without any training or experience in combating crime. Crime is becoming more and more professionalized. The modern criminal of the professional type operates thru an organization; he travels in a high-powered car; and in an hour is fifty miles from the scene of the crime. What can a single untrained sheriff do in resisting banditry? What chance has he in apprehending such criminals? When crime becomes professionalized, so also must the crime-fighting forces. The city policemen are organized and trained, but the county sheriffs necessarily cannot be."¹⁵

The sheriff is equally ineffective and unsatisfactory in the case of local offenders and petty offenders. "The reasons, however, are different. He cannot out-manuever professional criminals because he lacks training and facilities. He does not suppress the lawlessness and crime of the community because he lacks inclination. The sheriff secures his office by popular election and he does not like to offend a voter if it can be helped. No city would dare to entrust the selection of its chief of police to a vote of the people; yet that is exactly what the county does. It is notorious that many of the sheriffs of the state were not in sympathy with the prohibition law and were very lax in its enforcement. On the other hand, there are many sheriffs elected who are brave and vigorous in the prosecution of crime. Where public sentiment is on the side of law enforcement, a capable and honorable sheriff will generally be elected.

¹⁰Compiled Laws of Colo., 1921, Secs. 551, 604, 4628, 6880, 6887, 7044-7045.

¹¹Compiled Laws of Colo., 1921, Secs. 6918, 7048.

¹²Fairlie and Kneier, County Government and Administration, pp. 138, quoting South v Maryland, 18 Howard (U. S.) 396, 402.

¹³Fairlie and Kneier, County Government and Administration, p. 139.

¹⁴Fairlie and Kneier, County Government and Administration, p. 140, quoting Commonwealth v Martin, 8 Kulp (Pa.) 69, 73.

¹⁵County Government in North Carolina, p. 269.

Where public sentiment is for lax enforcement, it is reasonable to expect the election of a sheriff who reflects this attitude."¹⁶ These words were written by Dr. Wager to describe the condition in North Carolina. They are equally true when applied to Colorado.

In addition to his general duties the sheriff is required to collect the fee for grazing migratory livestock from other states on state land¹⁷ and inspect migratory livestock for disease.¹⁸ He must assist the veterinary surgeon in enforcing tuberculosis tests and inspection of livestock.¹⁹ Finally, he must deliver license tags to owners of kennels in counties imposing a dog license.²⁰

State Police System Successful in Many States.—More effective control over local law enforcement agencies has been tried in a number of states with varying degrees of success. The most successful solution, however, seems to be the creation of a system of state police. "The highways, the small villages, and the open country can be protected only by an adequate patrol of state policemen who are permitted to operate anywhere within the state."²¹

A state police force known as the Colorado rangers was provided for by the general assembly in 1917, but because of general dissatisfaction with the results obtained was abolished in 1927.²² The organization of the Colorado rangers was similar to the successful systems of state police found in New York, Pennsylvania and Texas at present.²³

The most difficult problem in connection with state police is that of the relationship between them and sheriffs and other local officers. Local officials ordinarily resent the interference of state officers. The reason is not difficult to find. They do not want to admit their own inability to handle a situation on the one hand and do not want any interference on the other. There has also been much opposition to state police by organized labor because of their use in strikes and other labor difficulties. Some states give their police full force to operate anywhere in the state. This was true of the Colorado rangers since they had full power to "direct and command absolutely the assistance" of any peace officer.²⁴ Other states have limited the power of their state police in deference to local opposition.²⁵ State police offer a means of securing more effective law enforcement in the rural areas, and as law enforcement problems become more difficult it seems probable that their use will be extended.²⁶

Sheriff as a Fire Warden.—In addition to his other duties, the sheriff is the fire warden of his county in case of prairie or forest fires. In such cases, it is the duty of the sheriff and his deputies to assume charge and use every means at his disposal to bring the fire under control and extinguish it. For this purpose they may call to their aid "such person or persons of their county as they may deem necessary." The sheriff must report as soon as practicable the occurrence of any forest fire to the state forester whose duty it is to "aid and assist in extinguishing the same." The state board of land commissioners under the 1933 admin-

¹⁶Wager, County Government in North Carolina, p. 270.

¹⁷Session Laws of Colo., 1923, Ch. 174.

¹⁸Session Laws of Colo., 1925, Ch. 165.

¹⁹Session Laws of Colo., 1925, Ch. 167.

²⁰Session Laws of Colo., 1931, Ch. 87.

²¹Wager, County Government in North Carolina, p. 269; Fairlie and Kneier, County Government and Administration, pp. 242-245.

²²Compiled Laws of Colo., 1921, Secs. 147-172; Session Laws of Colo., 1927, Ch. 79.

²³Fairlie and Kneier, County Government and Administration, pp. 246-249.

²⁴Compiled Laws of Colo., 1921, Sec. 153.

²⁵Fairlie and Kneier, County Government and Administration, pp. 247-248.

²⁶Fairlie and Kneier, County Government and Administration, pp. 248-249; Wager, County Government in North Carolina, pp. 269-270.

istrative code now exercises all the rights and powers and perform all the duties formerly vested and imposed by law upon the state forester and the state board of forestry.²⁷ The sheriff's duties in this respect are largely confined to advising, aiding and assisting in preventing forest fires on state lands and private lands in the national forests rather than actually assisting in extinguishing forest fires. The responsibility for extinguishing fires thus falls primarily on the sheriff with such assistance and help as may be given by the national forest service where national forests are or may be endangered. For his services as fire warden the board of county commissioners may allow the sheriff \$5 a day and deputies not to exceed \$3 a day for the time actually devoted to such work, and in addition such other expenses as they may deem just.²⁸

Administration of the Sheriff's Office.—The sheriff as the conservator of peace has the most difficult job to perform of any county officer. He is expected to enforce the law—in a manner satisfactory to everybody. He may be called upon to drive 20 miles to settle a family quarrel because someone's peace is being disturbed. The investigation of a petty theft may cost much more than the loss, but it is the duty of the sheriff to apprehend the guilty party and upon the law. Murderers must be apprehended at whatever cost—a recent murder case cost Morgan County more than \$15,000. The sheriff is likely to be criticized for what he does and what he doesn't do. Being an elective officer, he must try to satisfy all elements in the population of the county. Consequently, law enforcement is likely to be just as good or as bad as the majority of the active voters desire.

No basis for comparing the efficiency of one county sheriff with another is satisfactory since much of the work of the office has to do

Table 23.—Fees Earned and Salaries Paid by Sheriffs' Offices in Colorado Counties, 1929.²⁹

County	Fees earned	Salaries paid	Percentage sheriff expense is to earnings	Per capita cost of salaries in sheriff's office
Larimer	\$ 8,392	\$ 8,520	101.5	\$.26
Las Animas	8,210	7,856	95.7	.22
Mesa	6,536	5,860	89.7	.23
Pueblo	12,857	10,260	79.8	.16
Weld	7,218	11,100	153.8	.17
Arapahoe	4,231	4,200	99.3	.19
Boulder	5,302	7,875	148.5	.24
El Paso	5,151	9,600	186.0	.19
Fremont	4,411	5,380	122.0	.28
Morgan	4,114	6,369	154.8	.35
Adams	3,646	7,355	201.7	.36
Huerfano	3,242	7,796	240.4	.46
La Plata	3,466	3,820	110.2	.29
Logan	3,738	6,100	163.2	.31
Prowers	3,811	4,700	123.3	.32
Garfield	2,940	4,480	152.4	.45
Jefferson	2,964	3,600	121.4	.17
Lake	2,450	4,451	181.7	.91
Phillips	2,590	2,300	88.8	.40
Yuma	2,626	4,500	171.4	.33

²⁷Session Laws 1933, Ch. 37.

²⁸Compiled Laws of Colo., 1921, Secs. 1235, 1237. 8755-8756.

²⁹Counties classified according to size.

with civil cases and much of his work as a peace officer is of a preventive nature. Per capita expense of the office might be as satisfactory as any other basis of comparison, but adequate information is not available for comparative purposes. We do have available in the state auditor's report for 1930 the fees earned by county sheriffs and salaries paid by their offices in 1929. This information, together with the per capita cost of total salaries paid in 20 county sheriffs' offices grouped according to fees earned, is shown in Table 23.

Counties showing the largest fee earnings for the sheriff's office were used because in the smaller counties the salary of the sheriff alone absorbs most of the fees. The total salaries paid indicate that at least one deputy was employed in each county listed in the table. There are several interesting facts evident. First, that total salaries paid bear little relation to fees earned. Adams, Arapahoe and Jefferson Counties are similarly situated and have about the same population but total salaries paid show a spread of more than \$3,700. Second, fees pay the salaries of few sheriffs' offices; salaries were less than fees earned in only one-fourth of the counties given in the table. The percentage of salaries to earnings show variations from 79 to 240 percent. Third, as would be expected, the per capita cost is less in the more populous counties. However, the variation in per capita cost from 17 cents to 91 cents would seem to indicate over-staffed sheriffs' offices in some counties.

Mileage allowed sheriffs for travel expense is a large item. Most counties do not have this figure readily available, but in an average-sized county it often exceeds \$200 a month. Most sheriffs consulted agreed that it would be both a matter of convenience and economy for the county to furnish the sheriff with a car instead of mileage. Twenty-five counties from which information was obtained were paying the sheriff mileage expense as follows: Ten counties 15 cents a mile, 14 counties 10 cents a mile, and 1 county 7½ cents a mile. In the interest of economy the mileage fee ought to be reduced to about 7 cents, or a car furnished the sheriff. A law enacted in 1933 restricts all county officers to 8 cents per mile.

In the interest of uniform law enforcement, the sheriff ought to be made an appointive officer. Tho the average citizen opposes depriving the people of their right to choose their own law enforcement officials, and thereby indirectly dictate law enforcement policy, it is obvious that locally elected officials cannot be depended upon to uniformly enforce state laws. Two main solutions of the problem are possible. First, to separate the civil and criminal functions now exercised by the sheriff, particularly in the larger counties. As sheriff, L. E. Alderman of Prowers County points out, "A sheriff these days cannot handle both civil and criminal work and do justice to both." The result is that the sheriff is likely to devote his time to the civil functions of his office, which are most productive of fees, at the expense of his duties as a peace officer. If the functions were separated, the sheriff could be made an officer of the court, appointed by the district judge. Law enforcement should then be placed in the hands of an official appointed preferably by the district attorney, with or without the approval of the district judge. This combines all law enforcement activities under one head, since ultimately it is the district attorney who is responsible for prosecuting all criminal cases. The result should be more uniform law enforcement by men qualified for the position. Furthermore, the costs of criminal investigation and prosecution ought to be paid by the state. As sheriff, Alderman says, "Too many crimes go unsolved for lack of costs, for political reasons, or financial conditions, and because officers are not fitted for their work." This condition will prevail as long as elective sheriffs are depended upon to enforce the law and counties are required to pay the costs of prosecution.

The second solution of the problem is to create an effective and adequate state police force as suggested in a previous paragraph. The sheriff,

stripped of his civil functions, could be made an appointive member of the state police force. This would prevent friction between local and state law enforcement officials. Several sheriffs in the state expressed the opinion that such a change should be made. Sheriff Alderman says, "I think all criminal cases should be handled entirely by the state, by a group of trained men who have had experience with handling crime, and paid from a fund provided for that purpose, as too many crimes now go unsolved for lack of funds or other reasons."

The County Jail.—The sheriff is custodian of the county jail and all prisoners, "and shall keep them himself or by his deputy or jailer, for whose acts he and his sureties shall be liable."³⁰ He is responsible for the manner in which the jail is kept and he "shall see that the same is kept clean, safe, and wholesome." He "shall receive and safely keep every person committed to such jail for safe keeping, examination or trial, or duly sentenced to imprisonment in such jail upon conviction for any contempt or misconduct, or for any criminal offense" and shall let them out only on lawful authority."³¹

The sheriff is personally responsible for the safe custody of all prisoners in his care. In case of escape it is the duty of the sheriff "to pursue and recapture such escaped person or persons at his own expense." However, if escape is made without fault or negligence on the part of the sheriff or his aids, the county commissioners "may audit and allow to the sheriff the necessary expenses incurred in such recapture, if they deem best."³² Because of the insecurity of many county jails escapes are not uncommon. Furthermore, some boards of county commissioners are prone not to encourage the recapture of persons held on minor charges, considering the escape a financial relief to the county. Pressure from county commissioners in some counties also results in a person arrested on petty charges being freed if he will leave the county. This saves the county the cost of a trial and expense of keeping a prisoner in case of conviction. One sheriff stated that this was the policy in his county. In another county a newspaper editorially commended the commissioners for refusing to authorize the return of two prisoners charged with petty robbery who had been apprehended in a neighboring state.

Census reports show that from two-thirds to three-fourths of convicted prisoners serve out their time in county jails. Yet perhaps no county institution receives less attention than the county jail. The only saving feature of the whole situation is that comparatively few prisoners are confined for any length of time in the jails of the smaller counties where the worst conditions exist. Eighty-seven prisoners were confined in 25 jails at the time this study was made and 40 of these were confined in 3 counties with modern jails. Reports of county sheriffs for the year ending November 30, 1930, show 913 prisoners confined in county jails. Of these, 637 were confined in the jails of Denver, Otero and Pueblo Counties. No reports were received from 3 counties, leaving 57 counties with 276 prisoners. There were no prisoners in 17 counties, 14 counties had under 5 prisoners and the remaining counties had from 5 to 23 prisoners.³³

A few county jails are of modern construction and have been well planned. Morgan, Eagle, Phillips and Boulder Counties have model county jails, recently constructed. They are modern in every way. But such is not true of the average county jail. The situation has been recently expressed by Dean F. A. Bushee, of the University of Colorado, who says, "The average Colorado jail is unsanitary, poorly constructed and ill-adapted to its uses, and the social and moral influences in our jails are even more

³⁰Compiled Laws of Colo., 1921, Secs. 8754, 8763, 8873.

³¹Compiled Laws of Colo., 1921, Secs. 8873-8874.

³²Compiled Laws of Colo., 1921, Sec. 8899.

³³Colo. Yearbook, 1931, p. 311.

demoralizing than the physical conditions."³⁴ The county jail is usually, but not always, found in the basement of the courthouse. Light and ventilation are usually poor. Of 25 jails studied, 18 of which were visited, 4 were heated by stoves, the others by steam or gas. In one county whose jail is heated by a stove, a prisoner had almost suffocated himself a few days previous to the time visited by setting the jail on fire, hoping thereby to effect his escape. Two of the jails had no running water. Four jails had no provision for taking a bath, four had shower baths, three or four were equipped with stationary bath tubs, while the remainder provided an ordinary wash tub, one sheriff stating that a tub was furnished on request. Only three jails provided hot and cold water for baths. Laundry service was provided for prisoners in three counties. In other counties prisoners did their own laundry, including the washing of their bedding in one county. In a few jails built-in laundry tubs were provided but in the majority an ordinary wash tub was furnished. Two jails had no modern toilet facilities. Beds in 15 jails consisted of cotton mattresses and blankets, in eight jails only blankets were furnished and in two jails hammocks with blankets were furnished.

Feeding Prisoners.—It is the sheriff's duty to "feed all prisoners kept in confinement by him, with good and sufficient food." All costs and expenses incurred for feeding prisoners must be paid by the board of county commissioners, the law providing that they shall furnish the sheriff "all the groceries, supplies, utensils, equipment, and assistance" as may be required.³⁵

The intention of the law is that the sheriff or some of his staff shall prepare the food for the prisoners from supplies furnished by the board. The actual practice is usually quite different, the board of county commissioners paying for the food of the prisoners by the day. The food is furnished by the sheriff, deputy sheriff, jailer or is purchased at a nearby hotel or restaurant. Definite information was obtained on this point from 25 counties. In 15 counties the sheriff, deputy sheriff, or jailer were being paid by the day to feed prisoners, in three counties prisoners were fed by the janitor of the courthouse, five counties purchased food from hotels or restaurants for prisoners, in one county groceries were furnished and prisoners allowed to cook their own food, while one county purchased groceries and hired a cook to prepare food for its prisoners. Of the 23 counties in this group paying a daily allowance for feeding prisoners, one county allowed \$1.05 a day, ten counties allowed \$1.00 a day, one county allowed 90 cents a day, one county allowed 80 cents a day, five counties allowed 75 cents a day, two counties allowed 70 cents a day and three counties allowed 60 cents a day. In most instances it would appear that "good and sufficient" food could be furnished at less cost to the county. In the smaller counties, however, the cost is small. One county reported it had not had a prisoner for a year and six of the counties included in the above 25 had no prisoners at the time the study was made.

Segregation of Prisoners.—The law provides that male and female prisoners, except husband and wife, shall not be put or kept in the same room. Furthermore, persons committed on criminal process and detained for trial, and persons committed for contempt upon civil process, shall be kept in rooms separate and distinct from those in which prisoners convicted and under sentence shall be confined. But the law does not apply to any county whose jail does not have sufficient room for such separate confinement.³⁶ This latter provision nullifies the law because only a few counties have jails sufficiently large to permit the separate confinement.

Twelve of the 25 jails from which information was obtained have no provision for segregation, seven have provision for segregating male and

³⁴Radio address, April 26, 1932.

³⁵Compiled Laws of Colo., 1921, Sec. 8875.

³⁶Compiled Laws of Colo., 1921, Secs. 8876-8877.

female prisoners and have a padded cell for insane prisoners while six have provision only for segregating male and female prisoners. Only three jails of the entire group have adequate facilities for segregating prisoners as provided by law. However, many rural counties seldom, if ever, have either juvenile or female prisoners.

Employment of Prisoners.—The law provides that prisoners convicted and serving sentence "shall be compelled to work eight hours a day of every working day," unless physically disabled. They may not, however, do skilled labor. Any sheriff who fails or refuses to work prisoners, unless written approval is given by the board of county commissioners, is subject to a fine of \$50 for each day prisoners are not worked. One-half the net amount earned by prisoners may be paid to the family of the prisoner if they would otherwise become public charges.³⁷ In spite of this provision only four counties out of 25 made any effort to provide work for prisoners. One county reported that county prisoners were worked on the roads, another on streets and two worked trusty prisoners around the jail and courthouse. But all four of these counties had had no prisoners for some time. Generally speaking, no work is provided for prisoners in county jails, prisoners being permitted to spend their time in idleness, playing cards and hatching up future crimes. Prisoners are not only unemployed but there is ordinarily very little opportunity for recreation to take up the time and attention of prisoners. Even opportunity to exercise is so limited that inmates cannot keep in good physical condition.

Suggested Reforms.—A place of detention of some kind will always be a necessity. Consequently, we must keep the county jail or find a suitable substitute. The ultimate answer probably is that we must do both. Many writers have suggested the establishment of district jails.³⁸ In practice, such a plan is actually being followed at present by several counties in Colorado. Both Yuma and Washington Counties are keeping their prisoners in the Morgan County jail, paying Morgan County a \$1.55 a day for keeping them. Likewise, Eagle County was keeping its prisoners in the Garfield County jail, paying Garfield County \$1.50 a day for their keep until the new court house was completed. There may be other counties where similar arrangements are made.

A district jail serving several counties has the advantage of being able to support a large number of prisoners more economically than one or two can be supported. It also makes it economically possible to provide for working prisoners on the roads or elsewhere because of the larger number. And from the standpoint of corrections it makes possible a modern jail with adequate provision for segregation and handling of prisoners by a trained criminologist, which a sheriff is not nor can he be expected to be. To him all prisoners are the same.

District jails for convicted prisoners are an ideal solution of the problem but a district jail is less advantageous as a place for detaining prisoners awaiting trial, material witnesses, or persons held for other reasons because of the expense involved in transporting persons to and from court. In the course of a trial it may be necessary for the person held to appear before the court several times. If he has to be transported 50 or 75 miles and return for each appearance, necessitating two round trips for the sheriff or one of his deputies the expense is prohibitive. The logical solution appears to be the erection of small, modern jails in each county or every two counties where distances are not prohibitive, for the temporary detention of prisoners. When a prisoner is to be held for some time because of inability to provide bail, or safety demands it, commitment can be made to the district jail.

We cannot escape the fact that practically all persons apprehended for law-breaking or detained for other reasons get their first taste of con-

³⁷Compiled Laws of Colo., 1921, Secs. 8878-8885.

³⁸Wager, County Government in North Carolina, p. 361; Fairlie and Kneier, County Government and Administration, pp. 281-282.

finement in our county jails. Moreover, census reports show that two-thirds to three-fourths of convicted prisoners serve out their terms in county jails. To confine first offenders or persons held as material witnesses with hardened criminals generally affords ample time and opportunity to assure inmates a complete course in every kind of viciousness and crime. Furthermore, after conviction there can be no sensible treatment of crime until criminals are placed in institutions of sufficient size to permit specialization in treatment. "This does not mean milder punishment; it ought to mean, in many cases, more severe punishment. The county jail is often a breeding place of crime, it rarely reforms an individual."³⁹

Better classification of prisoners will also permit of more effective and satisfactory employment of prisoners. The honor system can be effectively used with many prisoners, thus eliminating the necessity of guards and permitting employment of individual prisoners where it would be impracticable to employ a group. Road work is the most logical method of employing prisoners, but other methods of employment may be used. Vermont has a system whereby prisoners are permitted to work for private employers. It is described by a sheriff as follows:

"The men are all compelled to work at laborer's work. No matter what his trade or profession has been, he has to do the work of a common laborer. The reason for this is, that this is a strong union center, but in this way we have had the support of the various labor unions. The pay for a laborer in this section is \$2.00 per day. Under our system the penal board has taken \$1.00 as the share for the state, and has allowed the men to have the balance earned. During the last six years we have worked over 1,200 men outside the jail. The men start from the jail before seven o'clock in the morning, take their dinner pails in hand and work sometimes two or three in a place, and very often alone, scattered over a radius of twelve miles, and during this time we have never lost a man. During the first three years we had three men try to escape, but during the last three years none have made the attempt. These men go to their work dressed like the ordinary laborer and no one not knowing them would for a minute suspect them to be prisoners.

"The jail office has become an employment bureau. We have had many a man serving a sentence of from three to six months or a year support his family and keep them from charity, while serving sentence.

"No prisoner is denied the privilege in the evening of going to the news-stand to buy the daily paper, or to the tobacco store to buy his tobacco or to any other store to purchase what he needs.

"We know we have seen some men start with a new purpose in life, going out to try and redeem the past. The locking of a cell door is an unknown quantity with us."⁴⁰ It may be some time before Colorado is ready to adopt an honor system and it can never be applied to certain classes of prisoners. But where it can be applied it will reduce the cost of keeping prisoners, build up the morale of the prisoner, enable him to help support his family or save some money and, more important, help to create a proper social attitude in the prisoner.

Duties of the Coroner.—It is the duty of the coroner to investigate all deaths that occur under mysterious circumstances. It is his duty, "on being informed of the violent or sudden death of any person, within his jurisdiction, the cause of which is unknown, immediately to proceed to view the body and make all proper inquiry respecting the cause and manner of the death." If he is satisfied that there has been no criminal act committed and there are no suspicious circumstances he may issue a certificate of death without further proceeding. If, however, the person is "supposed to have died by unlawful means, or the cause of whose

³⁹Wager, *County Government in North Carolina*, p. 362.

⁴⁰Queen. *Passing of the County Jail*, p. 24. Quoted in Wager's *County Government in North Carolina*, pp. 365-366.

death is unknown" it is the duty of the coroner to hold an inquest. The coroner must also be notified of all deaths resulting from accident within 3 months of such accident and all deaths resulting from accidents in or around coal mines must be reported to the coroner. He must hold an inquest in all cases resulting in death within 30 days from any accident in or about a coal mine. Finally, he must investigate all deaths occurring without medical attention.⁴¹

The coroner must also act as sheriff if there is no sheriff in the county or if for any reason the sheriff is committed to jail. He also acts as sheriff when the sheriff is a party to any action or is interested or partially interested in a case.⁴²

The Coroner's Inquest.—When the coroner is required by law, or in his judgment it is desirable, he holds an inquest. He summons a jury of six citizens to appear at a time and place named, and, if any juror fails to appear, the coroner may summon the proper number from the bystanders to serve as jurors.⁴³ Witnesses may be summoned by the coroner who has power to compel the attendance of witnesses, and to punish them and jurors for contempt.⁴⁴ When the jury considers it requisite, the coroner may call one or more physicians or surgeons to make scientific examination.⁴⁵

The jury may arrive at three possible verdicts. They may find, first, that the element of mystery and suspicion has been cleared up and that no one is criminally responsible, that death was the result of natural causes, pure accident or suicide; second, the jury believes the person came to his death by foul play but at the hands of some unknown person; and third, that the jury believes that a murder has been committed and names the person or persons whom it believes guilty.⁴⁶

A stenographer must be appointed by the coroner, or, in the case of a mine accident by the chief inspector, to take down and transcribe the evidence presented. In the case of mine accidents, the testimony must be signed by the witnesses and filed in the office of the chief inspector of mines. In all other cases, the transcript of the testimony, together with the coroner's inquisition, are filed with the district court, but the transcript need not be signed by the witnesses. A certificate of death issued by a coroner must state the "nature of the disease, or the manner of death; and, if from external causes of violence whether (probably) accidental, suicidal, homicidal, as determined by the inquest or investigation."⁴⁷

The coroner's verdict must be kept secret until arrest has been made if a person is named in the verdict whom the jury believes to have committed a crime. If the person is present at the inquest, the coroner may order his arrest and make a warrant requiring the officer making the arrest to take him before a justice of the peace, or, if the person is not present, the coroner may issue a warrant to the sheriff or any constable for his arrest.⁴⁸

Criticism of the Coroner's Inquest.—The law requires no special qualifications for a coroner. In Colorado, the tendency is to elect undertakers to the office, which perhaps puts them on a higher level of ability than coroners in many other states, but they are likely to have more interest in the burial fees than in determining if a crime has been committed. Legally they are not required to have either medical or legal knowledge. The result is that the coroner's inquest is usually of little help in crimi-

⁴¹Compiled Laws of Colo., 1921, Secs. 977, 993, 3602, 8775.

⁴²Compiled Laws of Colo., 1921, Secs. 8773-8774.

⁴³Compiled Laws of Colo., 1921, Secs. 8775-8776.

⁴⁴Compiled Laws of Colo., 1921, Sec. 8777.

⁴⁵Compiled Laws of Colo., 1921, Sec. 8779.

⁴⁶Porter, County and Township Government in the United States, pp. 184-185.

⁴⁷Compiled Laws of Colo., 1921, Secs. 3602, 8780.

⁴⁸Compiled Laws of Colo., 1921, Secs. 8782-8786.

nal prosecutions and may be a real hindrance. The coroner is in no way responsible to the district attorney, yet it is the duty of that officer to prosecute if a crime has been committed. Furthermore, the average jury is incompetent to determine the cause of death, frequently a death due to violence is declared to be accidental, or some familiar natural cause is assigned as the cause of death.⁴⁹ In such cases the district attorney is not likely to prosecute unless suspicion has been cast upon someone or unless he has additional evidence. Usually all the work of the coroner must be repeated by the district attorney when gathering evidence. Moreover, the work of the coroner may prove a real obstacle. A verdict based upon superficial information may easily cover up a crime, or make it doubly hard for the district attorney to cause conviction on other evidence. Lawyers representing corporations or individuals may be present and influence the coroner and the jury to exonerate the corporation from responsibility for the death of employees or others.⁵⁰

The coroner's office ought to be abolished and his work performed by the district attorney who should be empowered to hire such medical aid as may be necessary. This is the method followed in Nebraska, where the county attorney, who is the prosecuting officer, is ex-officio coroner. Similar plans have been recommended in numerous studies of the coroner's office.⁵¹ In case of necessity an acting sheriff can be appointed by the court, thus making the continuance of the office unnecessary for that reason. The coroner's office in Colorado is practically useless, the fees of the office in many counties amounting to only a few dollars or at most a few hundred dollars annually. No one would regret the passing of the office.

⁴⁹Fairlie and Kneier, *County Government and Administration*, pp. 249-250.

⁵⁰Wager, *County Government in North Carolina*, pp. 379-380.

⁵¹Fairlie and Kneier, *County Government and Administration*, pp. 250-251.

X.

THE ADMINISTRATION OF JUSTICE

County Responsible for Administration.—The maintenance of peace and the administration of justice are basically a county function in Colorado. In the absence of a state police system local officials are responsible for keeping the peace. The justice courts and the county court are the basic judicial tribunals. The county judge has been declared a state official,¹ but he is elected by the people of the county, paid by the county, a vacancy in the office is filled by the board of county commissioners and under an earlier court decision he was declared to be a county officer.²

The county is recognized as a unit for the administration of justice by the constitutional limitation that a county may not be divided by the legislature in the formation of judicial districts and that judicial districts shall be bounded by county lines.³ Thus, while the administration of justice is in reality a state function, the county remains the basic geographic unit for the maintenance of peace and judicial administration. The agencies for the administration of justice in Colorado are the justice courts, the county courts, the district courts and the supreme court. Since this study has to do only with the county we shall limit our discussion to the justice courts and the county courts.

The County Court

County courts are courts of record provided for in the election of a county judge in each organized county in the state who shall be judge of the county court.⁴ No qualifications are provided for the county judge other than the general qualifications for all county officers, the courts having declared that county judges are not required to be learned in the law, many of them not even being licensed practitioners.⁵

County courts are a part of the judicial system of the state, the supreme court having declared that "the term 'County Courts' in the Constitution of Colorado (Secs. 22 and 23, Art. VI), has a distinct meaning, and designates a district court."⁶ Furthermore, a county judge may assist another county judge or hold a term of court in another county on request of the county judge of the county.⁷ The county judge may also act in case of the absence or disability of the district judge.⁸

The time for holding regular terms of the county court in the respective counties is fixed by statute.⁹ A vacancy in the office of county judge is filled by the board of county commissioners and the appointee holds office until his successor is elected at the next general election and qualifies for the office.

Jurisdiction of the County Court. — The constitution provides that "County courts shall be courts of record and shall have original jurisdiction in all matters of probate, settlement of estates of deceased persons, appointment of guardians, conservators and administrators, and settlement of their accounts, and such other civil and criminal jurisdiction as may be conferred by law." But they shall not have jurisdiction in cases where the amount involved exceeds \$2,000, except in cases relating

¹Dixon v People, ex rel 127 Pacific, Colo. 930.

²In re compensation of county judges, 18 Colo. 272.

³Constitution of Colo., Art. V, Sec. 47; Art. VI, Sec. 12.

⁴Constitution of Colo., Art. VI, Sec. 22.

⁵People v Richmond, 16 Colo. 274, 283.

⁶People v Rucker, 5 Colo. 45.

⁷Compiled Laws of Colo., 1921, Sec. 5799.

⁸Civil Code, Sec. 159.

⁹Compiled Laws of Colo., 1921, Secs. 5734-5766; Session Laws of Colo., 1929,

to the estates of deceased persons.¹⁰ The statutes provide that county courts shall have "Concurrent jurisdiction with the district courts" in all actions within their jurisdiction.¹¹ In criminal cases, the county court has original jurisdiction in cases of misdemeanor and may try such cases upon information of the district attorney. The county court also has original jurisdiction in all criminal cases "where at the time of filing of the information the accused shall be a minor; and such courts shall hereafter be empowered to try such cases upon information filed by the district attorney."¹² The county judge is also charged with appointing a lunacy commission for his county and complaints filed with the county court are referred to it for hearing. The county judge also fixes the amount of mothers' compensations to be paid by the board of county commissioners in each instance.¹³ The county judge has complete charge of the administration of the old-age pension law.

Procedure in County Courts.—Proceedings in the county courts "shall be the same as though such proceedings had been commenced in the district court." Proceedings may be commenced on an information filed by the district attorney, who is the prosecuting officer of the court, or indictment by grand jury. In all cases where the jurisdiction of the county and district courts are concurrent the district attorney may start proceedings in either court. The accused in a criminal case may, before plea is made, make application for transfer of his case to the district court and the county court must transfer the case to the district court. Jury trial in civil cases is presumed waived unless a jury of three to twelve is demanded by either party willing to advance jury fees, but in case judgment is in favor of the party making the demand the jury fees shall be assessed as part of the costs of the case. Jury trial in criminal cases against minors may be waived, but the judge may call a jury to try the case notwithstanding the waiver.¹⁴ Appeals from decisions rendered by the county court are allowed by the constitution which provides that "Appeals may be taken from county to district courts, or the supreme court, in such cases and in such manner as may be prescribed by law. Writs of error shall lie from the supreme court to every final judgment of the county court. No appeal shall lie to the district court from any judgment given upon an appeal from a justice of the peace." This is supplemented by the statutes which provide for appeals "from all final judgments and decrees of the county court, except judgments by confession or when judgment is rendered by default or non-suit, unless application to set the judgment aside is made within ten days and refused." Appeals may also be made in any decision involving probate matters. But appeals from decisions in criminal cases may be made only to the supreme court on writ of error.¹⁵ The county court is thus the court of last resort for cases originating in justice courts and in criminal cases over which the court has original jurisdiction except appeals to the supreme court on writ of error.

Officers of the County Court.—All officers of the county court are appointed by the county judge. The law provides that a county judge may act as his own clerk, in which case he is entitled to such fees as are provided for clerks of courts of record.¹⁶

¹⁰Constitution of Colo., Art. VI, Sec. 23.

¹¹Compiled Laws of Colo., 1921, Sec. 5767, and notes; Session Laws of Colo., 1925, Ch. 169.

¹²Compiled Laws of Colo., Secs. 603, 600, 5781 and notes and 5788; For juvenile courts, applicable only to Denver, see Secs. 5810-5829, Session Laws of Colo., Ch. 77, Ch. 78.

¹³Compiled Laws of Colo., 1921, Secs. 550, 609.

¹⁴Compiled Laws of Colo., 1921, Secs. 5773, 5784-5787, 5790-5794.

¹⁵Compiled Laws of Colo., 1921, Secs. 5379, 5776-5780, 5787; Constitution of Colo., Art. VI, Sec. 23.

¹⁶Compiled Laws of Colo., 1921, Sec. 5802.

The judge in counties of the first class (Denver) and in counties of the second class having a population of over 40,000 may appoint a bailiff. It is the duty of the bailiff to "preserve order in the court, to attend upon the jury, to open and close the court and to perform such other duties as may be required of him by the judge of the court." He receives \$1,500 a year in counties having a population of over 100,000 (Denver) and \$900 a year in other counties of the first and second class in which a bailiff may be appointed.¹⁷ The sheriff performs the duties of bailiff in all cases where that office is not provided for or none is appointed.¹⁸

The judge may also appoint a clerk of the county court. The salary of clerks of the court is fixed by law and ranges from \$750 to \$3,000 a year, payable out of the general county fund except in counties of the fifth class where the salary is payable out of fees of the office. In counties of the first and second class the county judge may also appoint such clerical assistants and reporters as may be necessary. Their salary is fixed by the county court with the approval of the board of county commissioners, and is payable monthly out of the general county fund.¹⁹

Criticism of the County Courts.—There is a somewhat general feeling among students of government in Colorado that the county court has served its purpose and ought to be abolished. In many counties of the state county judges are untrained in the law and legal training is not required of them. Furthermore, most of the work of the county judge has to do with probate matters which can be handled by the district court, or preferably the clerk of the district court, with final approval by the district judge. In the average judicial district the business before the district court is not so great but that it could handle all the present business of the county court satisfactorily. From the standpoint of economy the move would be desirable because it would eliminate the office of county judge and other officers of the county court now provided by law.²⁰ The amount of time actually used in performing the duties of the office by the clerk of the county court in the average county is negligible.

A citizens' committee on the revision of the state constitution, known as the committee of twenty-five, in their report released May 17, 1930, recommended the abolition of the county courts. They said: "In respect to the county courts, however, the committee believes that the judicial machinery would be much simplified, expense vastly reduced, and efficiency greatly promoted by the abolition of the county courts and the consolidation of their present functions with those of the district courts. Since county courts are constitutional courts, this necessarily involves certain amendments to the constitution.

"It is, therefore, recommended that Sec. 1 of Art. VI be re-enacted, omitting therefrom the words 'county courts.'

"That Secs. 22 and 23 of Art. VI, which now provide for county courts, be repealed.

"That Sec. 11, Art. VI, be amended by providing that the original jurisdiction of the district courts shall be extended to probate matters. This may be accomplished by inserting after the words in equity 'and in probate'."²¹

Justice of the Peace

Justices of the peace and constables are constitutional officers, elected at the same time as other county officers for a term of 2 years, the constitution providing for the election of two justices of the peace and two constables in each precinct, except that in precincts containing 50,000 or

¹⁷Compiled Laws of Colo., 1921, Secs. 5802, 5808-5809.

¹⁸Compiled Laws of Colo., 1921, Sec. 8758.

¹⁹Session Laws of Colo., 1929, Ch. 96.

²⁰Session Laws of Colo., 1929, Ch. 96.

²¹Boulder, Colo., Daily Camera, May 17, 1930, p. 1, Col. 2.

more inhabitants the number of justices and constables may be increased.²² Each justice and constable must reside and have his office in the precinct for which he is elected.²³ The number of precincts is determined by the board of county commissioners, who may increase or decrease the number from time to time provided the term of any justice or constable already elected is not affected; but a city or town may not be divided in the creation of justice precincts.²⁴

Jurisdiction of Justices of the Peace.—The jurisdiction of justices of the peace is limited, in civil actions, to cases wherein the value of the property or amount in controversy does not exceed \$300. Furthermore, justice courts have no jurisdiction where title or boundaries to real estate are involved.²⁵ Justices of the peace are county officers²⁶ and by law have jurisdiction in the entire county, tho suit must be brought in the precinct in which the debtor or person sued resides unless the cause for action occurred in the precinct in which the plaintiff resides. If no justice resides in the precinct then suit shall be brought before the justice of the peace nearest the residence of the debtor or defendant. Civil jurisdiction of justices extends to claims for debts or money due for goods or services rendered, suits upon contract, actions involving an executor or administrator, trespass, replevin and damages. Their criminal jurisdiction extends to all cases of assault, assault and battery and affrays, in which the people are plaintiffs, in which they have original jurisdiction unless in cities or incorporated towns where jurisdiction is otherwise conferred by law. They also have jurisdiction in all actions against sheriffs, coroners and constables for malfeasance, misfeasance or non-feasance in office, wherein the amount claimed does not exceed \$300.²⁷ Justices also have concurrent jurisdiction with the county and district court in all cases of misdemeanor.²⁸ The procedure in justice courts is detailed by law.²⁹

The 1931 legislature created a court of inferior jurisdiction in each county to be known as the "wage claims court," with jurisdiction in all cases where the amount claimed, exclusive of interest and costs, does not exceed \$100. The justices of peace in their respective precincts are made judges of these courts in their several counties and precincts.³⁰ These wage-claim courts were created to provide convenient and simple means of bringing action to collect wages where the amount is small, without the claimant having to go to a lot of expense and trouble.

Procedure in Justice Court.—The procedure in justice court is usually very informal, the justice hearing the evidence and rendering his decision.

Trial by jury is presumed waived unless either party demands a jury trial and advances the jury fees. The jury may consist of 3 to 12 jurors, as the party demanding the jury may direct, but in case less than 12 jurors are requested the adverse party may have the number increased to not exceeding 12 by advancing the additional fees necessary. In trials of the right of property taken on execution the number of jurors is limited to 6 unless a greater number not exceeding 12 be agreed upon and either party may require 12 by advancing the additional cost for jurors

²²Constitution of Colo., Art. XIV, Sec. 11.

²³Compiled Laws of Colo., 1921, Sec. 621S.

²⁴Compiled Laws of Colo., 1921, Secs. 6031-6035. (Sec. 6032 is limited by the Constitution, Art. XIV, Sec. 11, as to size of precincts.) *Chapman v People*, 9 Colo., Appeals 269.

²⁵Compiled Laws of Colo., 1921, Sec. 6036; Constitution of Colo., Art. VI, Sec. 25.

²⁶*Thrush v People*, 127 Pacific, Colo. 937.

²⁷Compiled Laws of Colo., 1921, Secs. 6037-6045, 6143; also 1318, 1321, 1566, 1717, 3743, 4130, 6433.

²⁸Session Laws of Colo., 1923, Ch. 13S.

²⁹Compiled Laws of Colo., 1921, Secs. 6046-6209.

³⁰Session Laws of Colo., 1921, Ch. 170.

above 6, which in any case shall not be chargeable against the other party.³¹

Appeals may be taken from judgments in justice court, both in civil and criminal actions, and as wage-claims courts, to the county court of the same county. But no appeal may be made to the district court either in civil or criminal cases.³²

Records of Justice Courts.—The law provides that "It shall be the duty of every justice, whenever a suit shall be commenced before him, to record in a book kept for that purpose, the names of the parties, the amount and nature of the debt sued for, the date and description of the process issued, and the name of the officer to whom such process shall be delivered; and throughout the whole proceedings in any suit it shall be his duty whenever any process shall be issued or returned, or any order made, or judgment rendered, to make a written memorandum of the same in the same book, and to file and safely keep all papers given him in charge." All records must be transmitted to his successor upon expiration of his term. In case of resignation or removal all records must be delivered to the next nearest justice who shall proceed upon the docket until a successor has been appointed to fill the vacancy.³³

Court records of a discontinued town must be deposited with the nearest justice of the peace who shall proceed with all unfinished business.³⁴

Every justice must report all fees collected to the board of county commissioners monthly, but they need be paid into the county treasury only in precincts where they are paid a fixed salary.

Also a quarterly report of all fines collected must be made to the county treasurer when the fine is to be paid into the general school fund the justice must make an itemized report of such fines to the board of county commissioners quarterly, accompanied "with a receipt from the county treasurer for amounts so collected and paid over to him."³⁵

Failure to Make Report—Illegal Fees.—The law provided that failure to report fines by a justice "shall work a forfeiture of double the amount of fines assessed before them." Likewise constables who fail to turn over fines collected "shall forfeit and pay double the amount of money so received." Such forfeitures are collectible in the name of the county treasurer in any court having jurisdiction.³⁶

Taking of illegal fees is an even more serious offense. The law provides that any official who "shall wilfully or knowingly demand or receive any greater fee or compensation either in money or other thing of value than what is allowed or provided by law for the same or shall collect a fee when none is provided shall be guilty of a misdemeanor, and upon conviction thereof shall be confined in jail not less than one nor more than six months and shall be fined not less than one hundred nor more than five hundred dollars, besides being liable in a civil action for three times the value of the fee illegally collected." Furthermore, the injured party may recover a penalty of \$50 for damages.³⁷

There is considerable laxity in many counties in Colorado in demanding reports of justices. In many instances no cases may have been tried and no fees collected to report, but there is no way of knowing unless a report is made and then verified. Fines may be collected and not reported unless careful audit is made. The law makes it the duty of the board of county commissioners to audit all reports but this is rarely done, except

³¹Compiled Laws of Colo., 1921, Secs. 6075-6070.

³²Compiled Laws of Colo., 1921, Sec. 6170-6183, 6194-6195; Session Laws of Colo., 1931. Ch. 170; Constitution of Colo., Art. VI, Sec. 23.

³³Compiled Laws of Colo., 1921, Secs. 6210-6224.

³⁴Compiled Laws of Colo., 1921, Sec. 9248.

³⁵Compiled Laws of Colo., 1921, Secs. 6199-6200, 7900.

³⁶Compiled Laws of Colo., 1921, Secs. 6199, 6202.

³⁷Compiled Laws of Colo., 1921, Secs. 6817, 7897.

in some instances the records of justices residing in the county seat are audited by a public accountant at the time of making a semi-annual audit of other county offices. Some one county officer ought to be responsible for auditing records of justices, logically this is the duty of a county finance officer and such an office ought to be created.

Compensation of Justices and Constables.—The compensation of justices in Denver is fixed by the charter at \$2,000 a year. In city precincts in counties of the second class they receive a salary of \$1,500 a year and in precincts having 10,000 to 13,000 inhabitants the salary is \$1,200 a year. In the latter case and in precincts having 50,000 or more inhabitants salaries are payable out of the county general fund and all fees taxed and collected must be paid into the county treasury within 5 days after the last day of each month. In addition, in city precincts in counties of the first and second class, justices are entitled to "such reasonable sum for rent and stationery supplies, as may be allowed by the board of county commissioners of the respective counties. The board of county commissioners may also, at their discretion, provide clerical help for justices in city precincts having in excess of 20,000 population. In all other precincts justices receive only the fees collected. Constables in city precincts in first-class counties receive \$1,800 a year and in city precincts in second-class counties they receive \$1,200 a year. In all other precincts they receive the fees of the office, except that in city precincts having 50,000 or more population, salaries of constables shall be paid out of the county general fund and all fees paid into the county treasury.³⁸ The law needs to be revised to fix the maximum salary for justices in all precincts, and provide that fees in excess of that amount shall be paid into the county treasury. As a result of the forced resignation of two justices in Denver recently, for allegedly collecting illegal fees, a committee of the Denver bar association has been appointed to draft necessary changes in the state constitution, the state law, the city charter and ordinances to enable the reorganization of justice courts in Denver on a basis of conforming to modern needs. It is to be hoped that any projected reform may extend to the whole system of justice courts in the state. This should include a revision of the scale of fees to be charged by justices since no revision of the law authorizing fees to be charged by justices and constables has been made since the law was passed in 1891.³⁹

³⁸Compiled Laws of Colo., Secs. 7902, 7936-7939. Session Laws of Colo., 1927, Ch. 121. Constitution of Colo., Art. XIV. Sec. 15.

³⁹Compiled Laws of Colo., 1921. Secs. 7890-7891.

XI. COUNTY HIGHWAY ADMINISTRATION

Tendency For State to Assume Responsibility For County Highways.—The establishment and maintenance of roads, traditionally a function of local government, is rapidly becoming a state function. Until the advent of the automobile, there was little demand for improved roads connecting points far distant from each other. The railroads furnished the means of travel and transportation of commodities to distant points. Travel by automobile has created a demand for better roads and a well defined system of public highways. The result has been a gradual shifting of responsibility from local units to the state of all or a part of the burden of constructing and maintaining an adequate system of highways. Recently North Carolina, New York, Pennsylvania and Virginia along with several other states, have assumed full responsibility for construction and maintenance of all highways in their respective states. Other states have not yet accepted full responsibility for all highways but certain highways have been set aside as state highways over which the state exercises more or less control and accepts varying degrees of financial responsibility for their construction and maintenance.

Types of Highways in Colorado.—Colorado has a system of state highways under the supervision of a state highway department and county roads under the absolute control of the boards of county commissioners. According to information compiled from records of the United States bureau of public roads and the state highway department there were on January 1, 1931, a total of 68,740 miles of public highways in Colorado. Of this total, 9,234 miles are state highways and 59,506 miles are county highways. The following table shows the type of roads making up this mileage.

Table 24.—Type of Roads Composing Colorado's Highway System, 1930.¹

Type	Number miles state roads	Number miles county roads	Total number miles
Hard surfaced	394	6	400
Gravel and sand clay	3,981	3,208	7,189
Graded	4,601	5,037	9,638
Unimproved	258	51,256	51,514
Total	9,234	59,507	68,741

In addition, a large mileage of roads lying within our national forests is improved by the United States bureau of roads in cooperation with the United States bureau of forestry and the state highway department.

The laws also make provision for the construction and maintenance of toll roads. The intent of the law was that they should be constructed by private capital but if they were not kept in repair the board of county commissioners was authorized to seize the road, repair it and collect tolls until such time as the owner might redeem the road by paying the county for the cost of repairs. There are few toll roads in Colorado at present and the law is mainly of historical interest.²

State and Federal Aid Highways.—The highway law of 1921 created the present state highway department which replaced the state highway commission originally created in 1909 and provided that "the state highways shall consist in the first instance of the highways heretofore consti-

¹Colo. Yearbook, 1931, p. 251.

²Compiled Laws of Colo., 1921, Secs.1314-1335.

tuting or declared to be state highways under authority of previous legislation, but the highway engineer with the approval of the highway advisory board hereby created shall have full power to abandon or change any part of the same, or to add thereto."³ Under this provision the state highway system has been extended to its present limit. Any county board may petition the state highway department to accept as state highway any portion of highway in the county. If after investigation, the state highway department sees fit to, it may accept the highway and add it to the state system.⁴

The state highway department is authorized to cooperate with the federal government in the construction or improvement of highways in the state, "Provided that no agreement or contract shall be made which shall require the expenditures of funds greater than that included in the budget for the current fiscal year." About one-half of the state highways are included in these federal aid projects. Thus, Colorado along with other states is taking advantage of aid offered by the federal highway act passed by congress in 1916 which provides federal aid to the states for road purposes.⁵ The money provided under the act is apportioned among the several states on the basis of area, population and postal mileage. The state on its part must furnish funds to "match" the federal aid received, usually on a dollar for dollar basis and must follow plans and specifications approved by the bureau of public roads. This law partially shifts the function of road building which only a few years ago belonged to the local governments to the federal government.

State highways are by law maintained by the state highway department at the joint expense of the state and the county in which the highway is situated but the county may not be required to pay more than one-half of the cost of maintenance. Federal aid highways must be maintained by the state highway department in order to meet the requirements of the federal government. The legal procedure for maintenance of state highways, other than federal aid roads, is likely to be reversed in actual practice. The state highways, in many instances, are maintained by the counties which are reimbursed one-half the cost by the state highway department. The state department also makes a practice when feasible of letting contracts to counties for the construction or improvement of portions of a state highway lying in the county. This procedure is often very desirable because it enables the counties to keep their equipment in use and they usually are able to perform the work as satisfactorily and economically as the state department or a private contractor. There have been a few instances, however, where counties have undertaken projects on a contract basis which necessitated the purchase of new or additional equipment to such an extent that no advantage accrued to the county as a result of the contract. Boards of county commissioners are not professional road builders or contractors and they should not enter into a contract which offers no advantage to the county.

A system of national highways has been created in recent years as a means of facilitating interstate travel. Their claim to distinction is that they are a part of a system of transcontinental routes, marked with a standard federal marker, bearing a route number. Colorado has 12 highways bearing federal markers, two of these extend across the state from east to west and one from north to south. According to the state highway department, these highways receive no preferential treatment in the matter of federal aid, allotment of state funds or type of surfacing. They have no official standing so far as the state highway department is concerned tho the fact that they coincide with the state highway system in

³Compiled Laws of Colo., 1921, Secs. 1252, 1254-1261, 1401.

⁴Compiled Laws of Colo., 1921, Sec. 1403.

⁵U. S. Statutes at Large. Vol. XXXIX, pt. 1, p. 355; Compiled Laws of Colo., 1921, Secs. 1253, 1398.

many instances often leads to the belief that they receive special consideration.

The state highway department in Colorado consists of the governor, state highway engineer, and a highway advisory board of seven members, one member chosen from each of seven highway districts. Members of the advisory board have overlapping terms and serve 3 years unless removed by the governor for cause.

The advisory board holds regular semi-annual sessions at the office of the state highway department in Denver and special or adjourned sessions at such times and places as may be designated by the governor. The board fixes salaries and makes regulations governing employees, recommends an annual budget to the governor, requires a semi-annual report from the highway engineer and may require him to compile data or make special investigations which the board deems will be of benefit to the state highway department.⁶

The actual administration of the highways of the state is in the hands of the state highway engineer appointed under civil service by the governor. In making the appointment, "particular consideration shall be given to executive ability and experience in highway work. The person appointed must be at least 35 years old and have at least 5 years' practical experience in the construction and maintenance of public highways, and shall be a graduate and licensed engineer of at least 10 years' general experience in executive engineering. The state highway engineer is the chief executive officer of the state highway department and has complete control of all work done by the state on state highways. His duties are specifically enumerated in the law. The attorney general is ex-officio attorney and legal advisor for the state highway department."⁷

Counties have no part in the administration of the state highway system. Once a highway is accepted and becomes a state highway, its control passes to the state. The law provides for cooperation between counties and the state highway department in maintaining state roads but the relation is more of a contractual nature than the coordinated working of an integrated system of highway maintenance. Tho the state highway advisory board has the power to acquire right-of-way even to exercising the right of eminent domain, counties are usually required to obtain right-of-way when the state highway department wishes to change a state highway or construct a new one in the county. While this is probably not contemplated in the law, the highway department can effectively enforce its demands by threatening to spend the money allotted in improving highways elsewhere if its demands are not met.

County Roads

County Commissioners Control County Roads.—County highways comprise all roads not designated and accepted as state highways or lying within incorporated cities and "shall be constructed, improved and maintained as such."⁸ The establishment, alteration, vacation, maintenance and general supervision of all county roads is in the hands of the board of county commissioners. In the exercise of their duties, they are not under the control of the state highway department or any other agency. They are subject only to general laws relating to their duties and are practically free to formulate and carry out such policies regarding the highways of their county as they see fit. They may call upon the state highway department for advice, the state engineer being required, when requested, to furnish plans for all bridge construction of 20 feet or more span on county highways and also for county highway construction. In a few counties, especially those with county highway supervisors, there

⁶Compiled Laws of Colo., 1921, Secs. 1391-1396.

⁷Compiled Laws of Colo., 1921, Secs. 1397-1400.

⁸Compiled Laws of Colo., 1921, Secs. 1390, 1401.

is some cooperation between the county and the state highway department but an extension of the practice seems desirable.

The board of county commissioners makes the tax levy for road purposes, not exceeding 10 mills.⁹ They supervise the spending of all funds obtained from taxation and other sources, pass upon all claims against the highway fund and otherwise administer all finances coming into their hands for road purposes. Their authority is the same in every county in Colorado tho they have the optional power of determining the method of administering the county roads by appointing a county road supervisor or dividing the county into road districts. In any case, their general power of supervision remains the same.

Establishment, Alteration and Vacation of County Roads.—The board of county commissioners may establish a new road, alter or vacate a road only on petition, with the exception of roads established on the public domain. The law provides that the board of county commissioners may alter, widen or change any established road, or lay out any new road, in their respective counties, when petitioned by 10, or, if there be less than 20, by not more than one-half the freeholders residing within 2 miles of the road sought to be altered, widened, changed, or laid out. The petitioners must deposit with the county clerk a sufficient sum of money or a bond conditioned upon the payment of the expenses of viewing such road should the board refuse the changes sought. It is the duty of the board to appoint a board of three commissioners to view and mark out the proposed road, assess the benefits or damages accruing to any property owner and if they are of the opinion the proposed change should be made they "shall cause a survey and plat of the same to be made by the county surveyor or other competent person" and file a report with the county clerk 10 days before the next regular meeting of the board. At their next regular meeting, the board shall consider the report and all objections and determine "whether or not such road shall be established and opened for travel." They may refer the matter of viewing to the same or other viewers for additional information or a new report. If the proposed road is established, notices shall be posted at three public places along the line of such road to the effect that they have or will direct their proper officers to open and work the same within 60 days. Any damage in excess of benefits shall be paid by warrant on the county treasurer.¹⁰ Benefits shall only be set off against damages to property not taken and the actual value of property taken shall be allowed the property owner.¹¹

In case of dissatisfaction with damages allowed, the board of county commissioners may reach an agreement with the person or persons protesting or the dissatisfied person may file a request for a jury to determine the damages resulting from the creation of the highway. The board of commissioners may also exercise the right of eminent domain without view or other proceedings. The right of eminent domain may also be exercised by the state highway advisory board. Furthermore, all roads over private lands that have been used without interruption or objection on the part of the owners of such lands for 20 years are public highways.¹²

Whenever all owners thru whose property a proposed road runs, petition for its acceptance; the board may, if in their opinion the public good requires it, declare the road a public highway. The procedure for laying out and opening any private wagon road from the dwelling of any person to a public highway is the same except that viewers shall receive pay for but one day, and the expense of opening such road shall be paid by the petitioner. Whenever the board of county commissioners orders a

⁹Compiled Laws of Colo., 1921, Sec. 1246.

¹⁰Compiled Laws of Colo., 1921, Secs. 1290-1302.

¹¹Bothroyd v Larimer County, 97 Pacific, Colo. 255.

¹²Compiled Laws of Colo., 1921, Secs. 1243, 1303-1304, 1404, 6311-6365.

road opened, the full and final report of the viewers, including plat and report of the surveyor, shall be recorded in the office of the county clerk and recorder in a book kept for that purpose. The board may also lease a right-of-way over any lands held for a public purpose and establish a road. Finally, they may at any meeting declare any section or township line on the public domain a public highway. All highways must be 60 feet wide unless otherwise ordered by the board of county commissioners.¹³

The board of county commissioners may vacate any established road, or part thereof, when petitioned by not less than two-thirds of the freeholders owning land along the road proposed to be abandoned, provided the abandonment of the road will not leave any land without access to a public road unless the owner of such land sign the petition. If the road is on a county line, the concurrence of the county commissioners of both counties is necessary to vacate it. The board may accept an abandoned portion of state highway as a part of the county roads if a resolution to that effect is passed within 90 days of its abandonment by the state highway department.¹⁴

Financing Maintenance and Construction of County Roads.—Revenue for construction and maintenance of county roads and bridges is derived from three principal sources, a general property tax, the county's portion of a 4-cent gasoline tax, and the county's portion of automobile licenses, public utility commission fees and forest fees. In addition, some revenue is derived from the sale of equipment, transfers from other funds and miscellaneous sources but this constitutes only a small percentage of the total.

The law provides that the board of county commissioners may make a levy not exceeding 10 mills for road purposes.¹⁵ All but six counties made a levy for road purposes in 1931, as shown in the table of current tax levies given in the preceding chapter. The six counties which made no levy for road purposes in 1931 are Alamosa, Chaffee, Cheyenne, Jackson, Mineral and Teller. There is considerable agitation among certain taxpayers' organizations for the abolition of the general property tax for road purposes. This is in line with the tendency in other states. The North Carolina tax commission in its 1928 report laid down the following principle: "Public roads are constructed and maintained for and used by automobile vehicles to such an extent that the cost of maintaining all public roads should be borne by motor vehicles through license plate and gasoline taxes, and property should be relieved of all taxes for public road maintenance." They continued, "This way lies the road to genuine tax relief that can be seen and felt by every taxpayer in North Carolina."¹⁶ Since this recommendation was made, not only North Carolina but New York, Virginia, Pennsylvania and several other states have relieved property from taxation for road purposes.

Counties receive 50 percent of the net proceeds of funds derived from the sale of motor vehicle licenses in the county for road purposes. They also receive 25 percent of the net proceeds of common carrier taxes collected by the state public utilities commission after deducting the cost of administration. This is distributed on the basis of mileage of state highway in the county. Most of the forest fee fund distributed to the counties on the basis of forest area in the county is also used for road purposes. A total of \$1,052,916.97 was distributed to the counties from these three funds for 1931,¹⁷ as follows:

¹³Compiled Laws of Colo., 1921, Secs. 1290, 1300, 1305-7, 1311-1312.

¹⁴Compiled Laws of Colo., 1921, Secs. 1289, 1405.

¹⁵Compiled Laws of Colo., 1921, Sec. 1246.

¹⁶Report of the Tax Commission of North Carolina, 1930, p. 4.

¹⁷Session Laws of Colo., 1930, Ch. 120, Sec. 12 (b); Ch. 122, Sec. 25 (a); Records of Auditor of State. 1931-32, pp. 13, 24, 25.

Motor vehicle license	\$ 873,760.02
Forest fees	135,212.00
Public utilities tax	43,944.95
Total	\$1,052,916.97

Counties, other than Denver, also receive 27 percent of the proceeds of the state tax of 4 cents a gallon on gasoline. This is distributed to the counties on the basis of the mileage of state highways in the county. Payments to counties from this source amounted to \$1,624,511.23 for the year ending June 30, 1931.¹⁸

County Road Districts for Administrative Purposes.—The board of county commissioners may divide their counties into "such suitable road districts as, in their judgment, will best subserve the interests of the people of the whole county," and shall fix by resolution, from time to time, the amount of money to be expended in any particular road district, but in no event less than one-half the road tax collected, but in no event less than one-half the road tax collected in the district. The board shall appoint a road overseer in each district who shall serve for 1 year unless sooner removed by the board for reasons satisfactory to themselves.¹⁹ The practice of boards of county commissioners in the creation of road districts varies. Of 20 counties visited, 15 had 3 road districts, 1 for each commissioner, while 5 had no districts for administrative purposes.

Methods of County Road Supervision in Colorado Counties.—There is very little uniformity between counties in the provision which they make for supervising county highways. Tho no county of the 20 visited reported more than 3 road districts, there was considerable variation in the number of supervisors. Six counties have a county road supervisor, while in 8 counties the county commissioners supervise the roads in their respective districts. In each of 6 other counties there were 2, 4, 9, 10, 12 and 20 supervisors respectively. The authority of road supervisors varies. A county road supervisor usually exercises considerable authority and his position will be discussed separately. When the county commissioners act as supervisors, they usually exercise complete authority in their districts, conferring with the other commissioners only in case of major purchases or important matters of policy. The authority of each supervisor diminishes as the number in the county increases. Supervisors in counties where there are two or more appointed, especially where there are 9, 10, 12 or 20, are in reality, only foremen, or in some instances, merely laborers in charge of the highways in a certain section of a commissioner's district. They ordinarily have no authority other than supervising men placed under their direction and certifying claims for labor to the board of commissioners. In a few instances, they had authority to purchase incidental supplies, including gasoline. Generally speaking where there is no county road supervisor, there is complete decentralization of highway supervision and purchase of supplies.

The pay of road supervisors other than county road supervisors is usually little above that paid day laborers. The law, passed in 1895, provides a maximum of \$3 a day.²⁰ This wage is too low to attract other than ordinary day laborers. One county with two full-time supervisors was paying each of them \$125 a month. Another county with 12 supervisors was paying each of them \$100 a month, while one county was paying its supervisors \$90 a month. Labor conditions are different in each county and the responsibility placed upon supervisors varies so that any generalization on this point would be worthless. A salary should be paid commensurate with the responsibility and ability of the individual. When the county commissioners serve as supervisors for their respective districts, they receive no additional pay for their services. They do, how-

¹⁸Session Laws of Colo., 1929, Ch. 139; Records of Auditor of State. 1931-32, p. 140.

¹⁹Compiled Laws of Colo., 1921. Sec. 1245.

²⁰Compiled Laws of Colo., 1921, Sec. 1245.

ever, collect mileage for any necessary travel in connection with their duties. In one county, the mileage collected from the road fund in 1930 for supervision amounted to \$2,800 for the three commissioners, a somewhat lucrative income even tho no additional salary could be allowed for the services performed.

How the County Road Supervisor Plan Operates.—The appointment of a county road supervisor was made optional for counties, other than Denver and those having revenues for road purposes of less than \$12,000 annually, by a law passed in 1913. The law gives the commissioners authority to elect a county road supervisor who may have entire supervision of all roads and bridges in the county. He must be a "practical road builder" and qualified to perform the duties imposed upon him. He shall receive a salary to be fixed by the board of county commissioners and shall hold his office during good behavior, but may be removed by the board at any time for good cause and a successor appointed.

It is the duty of the county road supervisor "to take charge of and be responsible for all road machinery and tools owned by the county. To inspect all roads and bridges in the county and locate proper road material. He shall make recommendations for road repairs and for construction of new roads as in his judgment may be required. He shall, on the first day of each month, make written recommendations for road and bridge work together with an itemized estimate of cost, which shall be subject to the approval of the board of county commissioners. He shall on the first day of each month, render a full and complete account of all expenditures and contracts for the month preceding, copies of both reports to be forwarded, after approval of the county commissioners, to the state highway commissioner at the state capitol." Furthermore, "He shall have all the power now lodged with the county commissioners by general enactment, for the prevention of damage to public highways from ditch overflows, insufficient or unsafe conduits, flumes or ditches, crossing the public highways, or from the removal or disposition of any materials injurious to the public highways, or from unsafe railroad or tramway crossings, or from any other cause which may arise and comes under the jurisdiction of the county commissioners. He shall have power to form road districts, for the purpose of road dragging; compensation for the same to be fixed by the county commissioners. If, in his judgment, an emergency exists, he shall have power to repair unsafe roads or bridges where the cost does not exceed \$500 over and above his monthly appropriation." It is also his duty to prepare and keep on file with the county clerk and recorder of his county, for public use, maps on a scale of 1 inch to the mile, which shall show all roads and bridges in the county, and designating the approximate condition of the same, together with the location of suitable deposits of sand, gravel and rock, which may be used for building or repairing roads, making such additions to the same from time to time as may be necessary." Finally, "He shall receive and answer all complaints regarding road conditions and conduct all correspondence relating to road matters."²¹

Only 5 counties of 20 visited have a county road supervisor. In each instance, the county road supervisor was given full authority over the roads of the county, consulting the county commissioners only on matters of policy and regarding purchases of road machinery. Three counties paid their supervisor a salary of \$200 a month, one paid \$150 a month and one was receiving \$250 a month. In each instance, a car was furnished or the cost of operating a private car was provided.

The authority given the county road supervisor is greater in some counties than in others. In general, tho, the board of county commissioners has left the supervision of the roads of the county and their upkeep to the county supervisor and accepts his recommendations. The law does not give him authority over the commissioners. He is their ap-

²¹Compiled Laws of Colo., 1921, Secs. 1247-1251.

pointee to perform a particular function and because he can coordinate all road work of the county the plan has proved both efficient and economical where it has been given a fair trial.

As the supervisory officer of county roads and bridges, the county road supervisor can work out a plan for developing and maintaining the highway system of the county. Ordinarily this report or plan will be presented orally to the board of county commissioners who may approve, amend and approve, or reject the plans proposed since they are the policy determining body of the county. Furthermore, unforeseen contingencies may require alteration of an approved plan from time to time.

Laxity in Application of Business Principles in Road Expenditures.—More than 5 million dollars are spent annually by the counties of Colorado on highways. Exclusive of schools, over which the county commissioners have no control, expenditures for roads represent from one-third to one-half and in some instances two-thirds of the total expenditures of the average county. Yet nowhere is there more laxity in the application of business principles.

In only 1 county out of 20 visited was there an up-to-date inventory of road equipment available. In most of them not even a reasonable "guestimate" could be made either of the actual amount or value of road equipment in the county. It is not uncommon for counties, as happened in one county, to lose such a little item as a tractor. Obsolete or unused machinery is parked here and there over the county and often forgotten. It would appear that most counties have too much road machinery for their needs. This is likely to be especially true when each county commissioner is overseer for his district for each feels that he must have a full complement of road machinery because another commissioner is likely to be using the particular piece of machinery which he needs at a given time. Some counties, on the other hand, are so divided geographically that considerable duplication of machinery is more economical than moving it from one part of the county to another. Furthermore, machinery is likely to be purchased without a thoro study of whether or not it fits the particular needs of the county and can be used to the best advantage. Tractors and heavy graders are purchased when a light truck combination would better serve the purpose.

Supplies are purchased at retail when much could be saved by contract purchasing. Five counties visited were purchasing gasoline at retail to operate all road equipment. The other 15 were purchasing gasoline at wholesale or tank wagon prices and saving from 2 to 3 cents a gallon. Even where gasoline was purchased at wholesale there was often divided responsibility for authorizing withdrawals. In 10 counties each of the county commissioners had authority to authorize purchase or withdrawal of gasoline, in 5 counties the county road supervisor had full control, in 1 county the foreman of the county garage had full control and in 4 counties the county commissioners, road foremen and shop foremen had authority to authorize purchase or withdrawal of gasoline.

The same lack of control is found in purchase of other supplies where there is no county road supervisor. In 10 counties purchase of incidental supplies was approved by one of the county commissioners, while in 5 the authority was distributed between the commissioners, road foremen, and the shop foreman. Only two counties purchased incidental supplies at a contract price and the saving on some items was enormous. For example, one of these counties was purchasing a standard brand of brake lining for use on county trucks and automobiles at a discount of 75 percent from the regular retail price.

Daily records of labor and materials are kept in only a few counties. Nine of the 20 counties visited reported that daily labor and material records were kept. In only one county, however, were these daily records made use of in keeping definite records. Two counties had fairly complete records but no bookkeeper was provided to make any constructive use of them.

Ten of the 20 counties visited have county garages, 5 of these have a full-time shop foreman in charge. Only two of these five county garages had a complete inventory of shop equipment. It appeared that the county garages in the five counties having a full-time shop foreman were adequately equipped and apparently well managed. The shop foreman of the Montrose County garage, G. E. Pratt, who has control of all road machinery in the county, has saved his county thousands of dollars by rebuilding used machinery and making use of discarded equipment to furnish repair parts. Several other counties are doing this to some extent but too often it appears that no use is made of discarded equipment. Often new equipment is purchased when equipment on hand could be reconditioned at a small cost or equipment no longer needed by a neighboring county could be purchased at a fraction of the original cost.

Of the five full-time shop foremen, one received \$125 a month, one \$150 a month, two \$175 a month and one \$200 a month. One other county paid a part-time mechanic \$5 a day. Officials with whom the question was discussed were agreed that a good mechanic would more than save his salary for the county. In counties without a county shop, equipment when in need of repair, was taken to a local garage. Repairs which could be put off were in some instances made by the overseers during slack periods of work on the roads.

The method of approving claims against the road fund varied considerably. The county commissioners finally approve all claims but claims for labor and incidental supplies ought to be approved by the person responsible before the county commissioners pass upon them. In the 5 counties with county road supervisors, all claims were approved by them before being submitted to the county board, in 5 counties the individual county commissioners approved claims originating under their direction, while in 10 counties the district road overseers or foremen approved claims before they were submitted to the board of county commissioners. Care must be taken to prevent the approval and payment of claims for labor which has never been performed, a condition which has recently been charged in one county in Colorado.

Inadequate Accounting in Highway Departments.—The law provides that the county treasurer shall carry the road fund on his books as the "Road Purposes Revenue Fund."²² While not specifically required by law, the county clerk must also keep a separate account of the road revenue fund, the same as for other funds. This record is likely to be kept in a rather perfunctory manner, that is, an exact distribution of the expenditures for road purposes is not made. In only a few of the counties visited was a distribution of road expenditure made on the records. In a majority of counties, a distribution was not made under such headings as new construction, maintenance, bridges, administration, interest and supplies. There was usually no distribution of expenditures for supplies.

Because of inadequate and incomplete records it is impossible for the county commissioners to compare costs from one year to another or with other counties. So far as accounting is concerned, the average county official and even taxpayers appear to take more interest in the expenditure of a few thousand dollars for the poor fund than in the expenditure of hundreds of thousands of dollars for roads.

Morgan County an Outstanding Example of Good Cost Accounting.—Morgan County is an outstanding exception, having complete records. The Morgan County highway department, under the direction of Cecil Edwards, county road supervisor, has complete records of every transaction and the cost of every project. Unit cost accounting has removed all guesswork about road costs. Accurate estimates can be made of the cost of proposed improvements and comparisons of the unit costs of a particular project can be compared with the unit costs of similar projects or those completed in previous years. Following are some illustrations taken from Edwards' annual report of December 1, 1930.

²²Compiled Laws of Colo., 1921, Sec. 8697.

Table 25.—A Good Type of County Highway Inventory, Morgan County, 1930.²³

Type of property	Value of highway property			
	1927	1928	1929	1930
Total real estate	\$ 5,200.00	\$ 5,600.00	\$ 7,200.00	\$10,000.00
Shop equipment	1,655.00	2,185.00	2,550.50	7,683.00
Office equipment	290.00	515.00	592.00	505.00
Shop parts	930.77	3,497.09	4,307.58	4,262.44
Construction material	8,936.42	3,149.78	1,233.72	2,568.17
Motor equipment	18,750.00	20,450.00	28,500.00	28,600.00
Grading equipment	5,335.00	5,850.00	10,450.00	17,200.00
Maintenance equipment	2,250.00	1,950.00	2,100.00	3,000.00
Team equipment	405.00	450.00	550.00	991.00
Surfacing equipment	875.00	670.00	1,946.49	3,421.00
Construction equipment	713.00	827.50	1,173.30	1,210.00
Miscellaneous	436.00	354.40	408.50	500.00
Total				
highway property	\$45,776.19	\$45,489.77	\$61,012.09	\$79,940.61

This summary of the value of highway equipment is followed in the report by a detail inventory of all equipment on hand December 1, 1930 in Morgan County. The detail cost records, for example, show that the cost of surfacing roads was 50 cents a mile as shown by the following surfacing record, (Table 26).

Table 26.—Cost Per Mile for Surfacing Roads in Morgan County, 1930.²³

Grand total number miles of highway surfaced in	
Morgan County	79-3/8
Number miles surfaced in Dist. No. 2.....	36-1/8
Number miles surfaced in Dist. No. 3.....	43-2/8
Total number cubic yards of gravel or hard dirt.....	37,222
Average number cubic yards to surface each mile.....	471
Total number yard miles hauled for surfacing.....	134,771
Total cost of surfacing	\$18,646.77
Total cost of hauling fills	\$ 787.54
Average cost per mile of surfacing	\$ 236.03
Average cost per yard mile haul	\$.13
Average cost per yard on road	\$.50
Total number cubic yards of gravel or hard dirt filling....	1,572
Average cost per yard mile haul filling	\$.22
Average cost per cubic yard filling	\$.50
Expense as listed from truck records:	
Gravel or dirt hauled	\$ 1,473.70
Labor loading with teams	1,561.50
Truck drivers' salaries	5,735.75
Miscellaneous labor (foreman and checkers)	2,861.50
Shop expense (parts, labor, gas, oil and grease).....	5,124.96
Expense (transportation cars)	196.71
Hired trucks	353.22
Expense on loaders	2,126.97
Total cost of surfacing and filling	\$19,434.31

²³Source: Morgan County Road Supervisor's Annual Report, 1930.

Other records show that it cost 58 cents a mile for dragging Morgan County's roads in 1930. An accurate record was kept as shown by Table 27.

Table 27.—Cost Per Mile of Dragging Roads in Morgan County, 1930.²³

Truck	Number miles	Gas, oil and shop
Liberty No. 100	4,291	\$1,037.50
Liberty No. 101	4,281	1,306.18
Velie No. 110	2,754	897.25
Velie No. 111	4,039	1,211.26
Velie No. 112	2,362	986.85
Nash No. 120	2,099	662.23
Nash No. 121	3,121	1,256.02
Nash No. 122	3,077	1,019.49
F.W.D. No. 130	44	142.50
Total	26,068	\$8,519.28
Total days operated, 1,288		
Average cost per day, truck		\$ 6.61
Average cost per day, labor		\$ 3.33
Total days dragging, 1,130		
Total cost (truck and labor)		\$11,241.24
Total miles dragging, 19,160		
Average cost per mile		\$.59
Total days miscellaneous work, 158		
Total cost (truck and labor)		\$ 1,571.78
Total miles miscellaneous work, 4,805		
Average cost per mile		\$.33
Average cost per mile for truck, not including driver's salary		
		\$.33

Table 28.—Cost Per Mile of Dragging Road with Fordson Tractor No. 14, Morgan County, 1930.

Total days dragging, 201		
Tractor cost only, total		\$ 891.09
Average cost per day, tractor		\$ 4.43
Average cost per day, labor		\$ 3.83
Total days dragging, 201		
Total cost, labor and truck		\$ 1,661.46
Total miles dragging, 2,820		
Average cost per mile		\$.59
Average cost per mile, not including driver's salary.....		
		\$.31

How many counties know what it costs to grade a mile of road? It is safe to say that not 1 percent of the counties in the United States have this information. The average cost per mile for grading 32,162 miles of road was 60 cents a mile in Morgan County in 1930.

²³Source: Morgan County Road Supervisor's Annual Report, 1930.

Table 29.—Cost Per Mile of Grading Roads in Morgan County, 1930.²³

Tractor	Number miles	Total cost	Cost per mile
No. 160	2,595	\$ 3,037.98	\$1.16
No. 161	5,029	2,846.93	.57
No. 162	3,439	2,864.08	.86
No. 163	4,155	1,889.38	.46
No. 164	4,512	2,551.74	.57
No. 165	4,508	1,837.62	.41
No. 166	3,601	1,895.35	.53
No. 167	4,323	2,211.19	.51
Grand total	32,162	\$19,134.27	\$.60
Total days operated, 1,960			
Average cost per day, tractor			\$ 9.76
Average cost per day, salaries			\$ 8.67
Total cost grading, 592 days			\$10,909.38
Average cost per mile, 232 miles new grade			\$ 46.92
Total cost regrading, 201½ miles			\$ 3,713.24
Average cost per mile on 208 miles regrading			\$ 17.85
Total cost snow removal, on 58 miles			\$ 976.68
Average cost per mile snow removal on 1,799 miles			\$ 1.24
Total cost maintaining 902 miles road			\$16,622.07
Average cost per mile on 16,088 miles			\$ 1.03
Total cost moving and fresco, 93½ days			\$ 1,723.02
Total cost elevating, 118 days			\$ 2,174.50
Average cost per mile, 15¼ miles			\$ 138.06

Thirty bridges were built at an average cost of \$12.20 a running foot. The following summary shows the distribution of costs for these 30 bridges and a detailed record of the cost of building one of them is given.

Table 30.—Cost of Bridge and Culvert Construction, Morgan County, 1930.²³

A. Expenditure:		Total cost of bridges
Material only		\$ 9,816.18
Labor only		5,143.96
Cost of culverts:		
Material only		4,972.12
Labor only		1,527.00
Transportation cost, gasoline and oil.....		682.00
Grand total cost of bridge		\$22,141.30
B. Bridges built:		
	Number	Total feet
District No. 1	3	42
District No. 2	12	399
District No. 3	15	366
Total	30	807
Average cost per running foot, \$12.20		

²³Source: Morgan County Road Supervisor's Annual Report, 1930.

C. Detailed Cost of Building a Bridge at Wiggins, Morgan County, 1930.
Size of bridge, 16x20

Material	Quantity of material used	Number	Unit price	Total cost
Piling	8- 4 ft.	32 ft.		
	4- 8 ft.	32 ft.	64 ft.	\$.49
	3- 4x6 - 5		30	36.75
End wall	14- 3x12-20		840	34.25
	12- 3x6 -16		288	45.00
Caps	6- 3x12-20	360		
Stringers	13- 3x12-16	624	984	34.25
Flooring	13- 3x12-20		640	No chg.
Bridging	3- 2x4 -16		32	31.75
Railing	2 in. material		256	45.00
Bolts and washers			30	
Washers			30	
Nails			68 lbs.	4.50
Creosote			10 gal.	.43
Paint			1 gal.	3.00
Labor, foreman for crew	helpers		2½ days	7.00
	truck hauling		9½ days	4.00
			1 day	15.00
Total cost of bridge				\$202.92

Accurate records were kept for all trucks, tractors and automobiles operated by the road department in Morgan County. It was found that the average cost per mile for operating trucks, including labor, gas, oil and miscellaneous supplies was from 24 cents to 42 cents a mile. Caterpillar tractors cost from 41 cents to \$1.16 a mile to operate. Ford Model A's cost from 1.3 cents to 3.2 cents a mile to operate. A Buick coupe cost 3.9 cents a mile and a Ford truck cost 5.2 cents a mile.

Furthermore, the department knows the amount of operating capital it has at any given time. A careful estimate is made and monthly records are kept. The following tabulation shows the estimated income for 1930, expenses for December, 1929, showing the cumulative total, and the bal-

Table 31.—Morgan County Highway Department Budget for 1930.²³

Source of income:	Amount
General taxes	\$ 71,394.82
Contingent fund transfer	30,000.00
Motor vehicle licenses	18,000.00
Gas tax for 1930	20,000.00
State projects and maintenance	10,000.00
Gas tax and motor vehicle license of December only	2,000.00
Cash received county shop	3,500.00
Estimated amount received 1930 budget....	\$154,894.82
Less estimated discount for transfer.....	1,848.94
Estimated assets for 1930	\$153,045.88
Deduct overdrawn assets of 1929	1,087.23
Estimated balance appropriation for opera- tion 1930	\$151,958.65
Total expense for December, 1929	6,575.52
Estimated balance appropriation for operation January 1, 1930	\$145,383.13

²³Source: Morgan County Road Supervisor's Annual Report, 1930.

ance of the annual appropriation for 1929. The fiscal year for the highway department in Morgan County is from December 1 to November 30 to enable the supervisor to complete his reports before the annual appropriation is made at the January meeting of the board. On the report the expenses for December are itemized.

The expense of keeping these records in Morgan County is negligible compared to the benefits. Daily truck, tractor, automobile, labor and material records are kept and turned in to the bookkeeper daily. From these daily records the monthly and annual reports are compiled. The bookkeeper receives \$60 a month and serves also as the supply man at the county garage, all supplies and materials for use in the county garage being checked out thru him.

State Auditing of County Road Funds.—The legislature in 1931 authorized the state auditing board acting by and thru the state auditor "to audit annually the records of the several counties in the use and expenditures of all state road funds" and "moneys unlawfully obtained by the counties from the road funds shall be returned to the state treasurer for the use of the state highway funds, and the attorney general is hereby authorized and directed to take appropriate action to recover such funds for the state highway fund." This law is designated to safeguard the 27 percent of the gasoline tax and the automobile and public utilities license fees apportioned to the counties for road purposes, the charge having been made in some quarters that the money was being expended for general county expenses rather than for roads. The expense of the audit is to be charged to the state highway fund.²⁴ It is too soon to tell what the outcome of this law will be. In any case, it will serve as a warning to the counties in case there has been any misapplication of road funds in the past.

Observations and Conclusions.—Colorado is faced with unusual problems in constructing and maintaining an adequate highway system. The state as a whole has less wealth to support a highway system than many other states with the same mileage. Construction costs of mountain roads are greater than for roads on level country and a majority of Colorado's roads are in mountainous territory while in the eastern part of the state the sandy soil makes permanent construction difficult.

The counties are faced with the same problems. Many counties have a comparatively large mileage of both state and county highways but a relatively small tax base supporting each mile of highway. It is absolutely impossible for many counties to maintain an adequate road system without financial assistance. It appears inevitable that eventually Colorado must follow the lead of North Carolina, Virginia and New York where the construction and maintenance of all highways has been taken over or is being financed by the state.

Meantime the problem of constructing and maintaining an adequate system of state highways must be solved. The most logical solution is for the state to assume full responsibility for constructing and maintaining the present system of state highways with such additions as may be made from time to time. Practically every state in the Union now has a system of highways maintained entirely by the state. In Missouri, for example, a state highway system of about 7,800 miles is maintained entirely from the proceeds of motor vehicle licenses. New construction is financed by a 2 percent tax on gasoline or by bond issues to be repaid out of the proceeds of the gasoline tax.²⁵

It seems desirable that the power of the present state highway advisory board ought to be increased before any more authority is given to it. The requirement that the highway budget be approved by the governor gives that official undue influence over the department. The pres-

²⁴Session Laws of Colo., 1931, Ch. 53.

²⁵Bradshaw, *The Missouri County Court*, Ch. VII.

ent state highway advisory board is made up of representatives of seven highway districts, the members appointed for a 3-year term by the governor. This board ought to be made a bi-partisan board and its powers increased so that the highways system would be managed without political interference. For example, the Missouri state highway commission, which has been very successful both from the standpoint of results and freedom from political interference is a bi-partisan commission of four members, appointed by the governor, with terms so arranged that one member retires every 2 years, making it a continuous body. The commission appoints the chief engineer, a secretary, and its own legal adviser. It is subject to certain restrictions but its general powers are so broad that they almost constitute a delegation of legislative power. "At the present time the engineering, construction and maintenance work of the commission is practically beyond legislative control, or interference." The commission thru the chief engineer, has general supervision over state highway employees, auditing and accounting methods, and over all road work in which state funds are used.²⁶ The commission is thus able to formulate and carry out a definite program without political interference and subject only to such restrictions as the legislature may impose.

The state highway advisory board should make out its own budget without the necessity of its approval by the governor. If it is desired that the power of the board be limited the same objective can be accomplished by requiring that a minimum percentage of the state highway fund must be expended in each highway district or some other requirement may be made to assure an equitable distribution of expenditures by the department.

It must be frankly recognized that if Colorado is to have an adequate highway system, the state must assume most of the responsibility for financing it, whether the state assumes the responsibility for its administration or leaves this to the counties. In any event, state funds should be used on a primary system of state roads until that system is continuous, and highways connecting centers of population, even tho carrying small traffic volume should be developed sufficiently to furnish necessary connections. Motor transportation ignores state and county limitations. Consequently, road systems should be chosen and developed in the order of their importance regardless of boundaries and funds should be expended or allocated to meet these requirements.²⁷

Until the state assumes responsibility for adequately financing state highways, a system of state aid to the counties must be maintained. Meantime, a closer relationship between the counties and the state highway advisory board and state highway engineer ought to be created. The first essential is the requirement that each county, or two or more counties cooperating, be required to employ a competent "practical road builder" as county highway supervisor. Major projects for improvement of county roads ought then to require approval by the state highway engineer or at least the district engineer. There would then be reasonable assurance that state funds expended by the counties would be spent on worthwhile projects. Such a plan, together with the law authorizing auditing of expenditure of state funds by the counties, would assure the state that its funds were being judiciously expended. This suggestion is in line with recommendations of the American road builders association which urges, among other things, the following:

"State requirements to apply to county highway operation in a manner similar to the supervision exercised by the federal government in the state.

"These (county) highways should be administered thru efficient county highway engineering departments.

²⁶Bradshaw, *The Missouri County Court*, pp. 146-147.

²⁷Report of American Road Builders Association. *Highway Administration and Finance. Roads and Streets*, February, 1931.

"The state aid system which should comprise the county trunk line system, should be financed by state and local funds and supervised by the state.

"When the state system has been improved sufficiently to satisfy transportation demands with at least passable connecting highways, county trunk highways should be selected to receive a portion of state funds for construction."²⁸

The distribution of aid to the counties, which must continue so long as they are required to help maintain state highways, should be on an equitable and fair basis. At present, there are seven bases of distribution and apportionment of revenue used in the United States as follows:²⁹

1. Amount collected
2. Area
3. Highway mileage
4. Motor vehicle registration
5. Total assessed property valuation
6. Number of farms
7. Ratio of taxes paid to the state's total tax collections

Some states use a combination of these methods, for example, Missouri uses a combination of area and population. A bond issue authorized by popular vote in 1928 to finance a system of supplementary state highways in the counties provided that half the money must be distributed in proportion to the relation of the area of each county to that of the whole state, exclusive of Kansas City and St. Louis; the other half similarly apportioned on the basis of population.³⁰ It should be noted that the distribution in Missouri was contained in a constitutional amendment adopted by vote of the whole state, so that Kansas City and St. Louis by vote authorized the expenditure of funds in the state without themselves participating; tho they will pay the greatest proportion of the expense since the bonds from which the funds were derived are to be retired by a gasoline tax of 2 cents a gallon.

Colorado is using the third method mentioned in distributing 27 percent of the net proceeds of a gasoline tax of 4 cents a gallon to the counties, that is, state highway mileage. This method of distribution has caused considerable criticism from certain sources. The most equitable method of distributing funds to counties is on the basis of the use of highways determined by traffic surveys. This presupposes a transportation survey such as is being made in cities and has been made in Michigan, North Carolina, Ohio, Wisconsin, Illinois, and Pennsylvania. Grover C. Dillman, state highway commissioner of Michigan, speaking before the national tax association in 1929, said: "'Usage' of highways must be considered in the administration of highway legislation. The obligation of the municipality does not cease as the highway extends beyond its corporate limits into the rural district. Municipal passenger vehicles for business and pleasure, commercial trucks, and common carrier buses transverse the rural community roads and the obligation of the municipality by virtue of such travel of its vehicles is commensurate of the proportionate 'usage' of the road. Such an approach to the problem must be based on facts analyzed with engineering technique."³¹ The Rocky Mountain University Research Council, the Federal Bureau of Roads, and the State Highway Department are now completing such a study in Colorado, Wyoming and New Mexico, the results of the study to be available in 1935.

The chief complaint concerning the distribution of the gasoline tax fund comes from the cities which receive none of the fund tho they admittedly pay a large percentage of the gasoline tax. This point has been covered in a report of the committee on the taxation of commercial motor vehicle transportation of the national tax association made in

²⁸Report of American Road Builders Association. Highway Administration and Finance. Roads and Streets, February, 1931.

²⁹F. G. Crawford. Administration of the Gasoline Tax in the United States. Municipal Administration Service, 261 Broadway, New York.

³⁰Bradshaw, The Missouri County Court, p. 150.

³¹National Tax Association Proceedings, 1930, p. 119.

1929. The report states: "The position that the city gets nothing in return for the amount paid in gasoline taxes has little to substantiate it. To argue thus is to claim that the highway gives no benefit to cities; that the automobile salesrooms, accessory shops and filling stations directly traceable to improved highways are not desired; neither is the increased business of hotels, theaters, and different types of stores dependent upon the same source of any value. If figures could be compiled, they would show that business brought to cities from the construction of highways was an adequate remuneration for all taxes paid by the urban motorist. Some surveys have been made of this type of car upon the highway, the results of which indicate a considerable use by the urban owner. Thus, in an Ohio survey, it was found that about 87 percent of the total passenger traffic upon state highways was by city owned cars. The corresponding figure for trucks was 84.5 percent. The percentage of city owned cars varied directly with the density of traffic. A Pennsylvania survey shows that about 93 percent of the passenger traffic upon the highways was by city owned cars."³²

There is no denying the fact that the cities will increase their insistence that a part of the receipts of the gasoline tax be allotted to them. Furthermore, municipal costs have been increased due to increased traffic and these costs must be met, and one possible source of additional revenue is a share in the receipts from the gasoline tax. Regarding this, the report of the tax committee continues:

"The following is offered as meeting this requirement: Allow cities that proportion of the receipts applicable to the highway fund, after deduction of administrative costs, as the proportion of miles of highway routes in cities bears to the total miles of highways; then make distribution of this amount among cities on the basis of miles of highway routes found therein. This, in effect, meets the cost of highways through cities from the gasoline tax, assuming that the total receipts equal the highway fund, and are allocated to it. Some standard of 'mile' would have to be adopted, say a slab width of 18 feet. In a city, then, the cost of any additional width could be met from special assessments or in any manner determined to be just by the board of local improvements. It would also make the fund flexible in the hands of the board, to be used where it thought most desirable, as for traffic regulation or for those arteries where heavy traffic necessitates abnormal construction and maintenance costs."³³

Colorado highways need to be adequately marked. Section 127 of the uniform motor vehicle act passed by the 1931 General Assembly reads: The state highway department is hereby authorized to classify, designate and mark both intrastate and interstate highways lying within the boundaries of this state and to provide a uniform system of marking and signing such highways under the jurisdiction of this state, and such system of marking and signing shall correlate with and so far as possible conform to the system adopted in other states." The state highway department has already begun marking the main highways in compliance with this mandate and it should carry the work forward as rapidly as feasible."³⁴ It is in the interest of both convenience and safety that all highways in the state be adequately marked.

From the standpoint of administration, every county ought to have an up-to-date map made of its highway system. The law providing for a county road supervisor gives him authority to do this. But not a one of the counties visited in the course of this study had recent maps of its

³²National Tax Association Proceedings, 1929, pp. 473-474.

³³Proceedings, National Tax Association, 1929, p. 474.

³⁴The marking of highways in Colorado has been completed since this manuscript was prepared. Many of the signs have already been destroyed because they were made of wood-veneer instead of steel which represents a waste of taxpayers money.

county roads. Furthermore, not a single county could give accurate information regarding the mileage of county highways. Many counties do not even know just what roads belong to the highway system on account of a lack of accurate records. The mileage of county and state roads in Colorado is reported by the United States bureau of public roads and the state highway commission and published in the Colorado yearbook but no verification can be found for the figures for county roads in the counties, tho the mileage of state roads is probably fairly accurate since the mileage has been determined for the allotment of gasoline tax funds to the counties. An accurate survey of county roads with maps is essential to an adequate knowledge of county roads and their proper construction and maintenance.

Everything considered, Colorado's highways are well maintained. In some instances, counties are perhaps spending too much for highway construction when we consider the fact that the chief source of county road funds is derived from the general property tax. The time will no doubt come when the state will relieve the counties of the expense of helping maintain the state highway system.

XII. ADMINISTRATION OF ELECTIONS

The county in Colorado is the most important unit for the administration of elections and the county clerk is the principal election official. Elections for state and county officers are held every even-numbered year and the national election every 4 years. Special elections may be called at any time as provided by law. The election duties performed by the county officials are numerous. They include the calling of elections, creation and naming of precincts, filing of petitions and nomination papers, furnishing of supplies, registration of voters, selection and appointment of election officials, conduct of elections, canvassing returns, deciding contests and tie votes, certifying election results, issuing certificates of election and auditing accounts.

Time of Holding Elections.—General elections are held in Colorado on Tuesday after the first Monday in November, which is by law a legal holiday. The regular election for all state and county officers occurs on even-numbered years, tho the law provides that elections shall be held annually.¹ The primary election is held on the second Tuesday in September preceding the general election.²

Call and Notice of Elections.—At least 30 days prior to the date of any general election the secretary of state must notify the county clerk in writing of the state officers to be elected. If a vacancy in a state office exists and an election for county officers is being held, the secretary of state must notify the clerk what officer is to be chosen and the time when his term will expire.³

The county clerk must give notice in a newspaper of general circulation of each general or special election, stating the time it will be held and the officers then to be elected. The law does not specify the date for such publication but the clerk must mail a copy of the notice to the judges of election in each precinct to be posted at the place of voting at least 15 days before the election. The general practice is to publish the notice and then buy copies of the newspaper containing the notice to send to the election judges.⁴ Failure to give notice of the election or to include the name of an officer to be elected will invalidate the election for that officer.⁵

Special elections may be held by the board of county commissioners for certain purposes, such as approval of bond issues or for the organization of special districts, either on their own initiative or on petition of a number of voters. The law sometimes provides that certain special elections, for example to authorize removal of the county seat, shall be held at the time of the regular election.

Appointment of Election Officials.—Election judges and registration officials, when different from election judges, are appointed either by the board of commissioners or by the county clerk. On the first Monday in July three electors are chosen in each precinct, in all towns and cities having more than 2,000 population, by the county clerk to serve as judges of election. In towns of less than 2,000 population and in outlying precincts judges of election are appointed by the county commissioners at their first meeting in July. In both cases they are appointed from a list of qualified electors filed with the county clerk between the first Tues-

¹Compiled Laws of Colo., 1921, Secs. 3811, 7514, 7515; Constitution of Colo., Art. IV, Sec. 3; Art. XIV, Sec. 8.

²Compiled Laws of Colo., 1921, Sec. 7532.

³Compiled Laws of Colo., 1921, Secs. 7521, 7522; *People v Kerwin*, 10 Colo., Appeals, 472, 475.

⁴Compiled Laws of Colo., 1921, Sec. 7523.

⁵*People v Kerwin*, 10 Colo., Appeals 472.

day in May and the third Tuesday in June by the respective chairmen of the two political parties having cast the highest number of votes for governor at the last general election. The procedure is the same in the case new precincts are organized. Election judges serve as registration committees except in county-seat towns having a population over 2,000 and under 100,000 where registration is made at the office of the county clerk and in cities of 2,000 to 5,000 population in which the board of commissioners group election precincts into districts comprising not less than 3 nor more than 12 precincts for purposes of registration. Where this is done a registration committee is appointed by the county clerk.⁶

In all precincts where there were cast 200 or more votes at the next preceding presidential election the authority responsible for appointing election judges appoints three judges to superintend the casting of ballots at the next general election and three judges to canvass the results to be known as counting judges. Counting judges are not required for primary elections.⁷

All judges and registration officials are appointed to serve for 2 years, or until their successors are chosen and shall serve at all primary, regular and special elections held during their term of office. Before assuming their duties they must take the oath prescribed by law. Vacancies are filled in the same manner as original appointments if time permits, otherwise the electors at the polls when the vacancy occurs choose a temporary judge.⁸

Two clerks of election, one from each political party, are appointed by the election judges to serve during their pleasure. The judges also must designate two judges, or two clerks, or one judge and one clerk of opposite political faith to deliver the returns and ballot boxes to the county clerk.⁹

Registration of Electors.—In accordance with the constitutional injunction providing that "The General Assembly shall pass laws to secure the purity of elections and guard against abuses of the elective franchise," the statutes provide that electors must be registered before they are permitted to vote in any election in Colorado, other than school elections. Registration is permanent except in case of failure to vote at a general election, removal to another precinct or change of address. In county-seat towns having a population of less than 100,000 and more than 2,000, registration, change of address, or change of precinct is made at the county clerk's office at any time after 45 days from any general election and up to and including Tuesday 1 week before any election. In cities of over 100,000 population changes of precinct or address are also made by the county clerk at any time within a period not less than 10 days before election. An elector may register or change the addresses of members of his family.¹⁰

Registration of electors in all precincts in outlying districts and towns of less than 5,000 population other than county-seat towns of over 2,000 population takes place on "the Tuesday one week before the primary election, and on the day before the primary election" and "on the Tuesday two weeks before the general election, and on the Monday next before the general election." The board sits for registration of electors from 7 a. m. to 7 p. m.¹¹

⁶Compiled Laws of Colo., 1921. Secs. 7599, 7605; Session Laws of Colo., 1931, Ch. 92, Secs. 1, 6.

⁷Session Laws of Colo., 1931, Ch. 89.

⁸Session Laws of Colo., 1931, Ch. 92, Sec. 7; Compiled Laws of Colo., 1921, Secs. 7599, 7645, 7696-7698.

⁹Session Laws of Colo., 1931, Ch. 92, Sec. 11; Compiled Laws of Colo., 1921, Sec. 7693.

¹⁰Session Laws of Colo., 1931, Ch. 92, Sec. 1.

¹¹Compiled Laws of Colo., 1921, Sec. 7671. (Compare Secs. 7596, 7612).

Registration committees meet in cities of over 5,000 population on the third and fourth Thursdays preceding the day of election and in cities of over 100,000 population on the third Tuesday preceding a primary.¹² In case of special elections in cities of 100,000 population or over, registration is made at the office of the city or county clerk or other official provided beginning on the fourth Thursday before the election and continuing every day thereafter, Sundays and legal holidays excepted, to and including the tenth day preceding the election.¹³

Registration lists when completed are returned to the county clerk. In towns of less than 2,000 population and outlying precincts no time limit is specified. Four copies must be made. One copy is forwarded to the county clerk, two copies are retained for use on election day and the fourth copy must be posted within 2 days in some conspicuous place where the last election was held in the precinct. The board of commissioners may publish the registry list when completed, at an expense not exceeding 2 cents for each name. On the Tuesday preceding the election the board must meet at the place designated for the election for the purpose of revising, correcting, and completing the registry list.¹⁴

In cities of over 2,000 population, other than county-seat towns, and in cities of 100,000 population, the registration books must be returned not later than 2 days after the last day of registration. In cities of 100,000 population four copies must be made, three of these are sent to the county clerk with the registration book, the fourth is posted near the polling place in the precinct. The county clerk sends one copy to each of the county chairmen of the two major political parties. The county clerk corrects the remaining copy to conform to the original registration book as it is on the seventh day preceding the election. He then forwards it to the member of the registration committee representing the political party that cast the next highest vote for governor at the next preceding election who shall post it in place of the list posted at the completion of precinct registration.¹⁵

It is the duty of the county clerk to purge the registration books within 45 days after any general state election in all cities of over 2,000 population and under 100,000. This is done by comparing the poll list of those shown to have voted with the original registration books and striking out the names of those who have not voted by writing under "remarks" the words "failed to vote."¹⁶

A voter wishing to change his party affiliation may do so by making a signed statement to that effect at the first meeting of the registration committee prior to a primary election, or by written request to a member of the registration committee not less than 10 days before the first day for registration. Change of affiliation may also be made with the county clerk or election commission at any time in any year in which a primary election is held, up to within 30 days of the election.¹⁷

Registration officials and election judges receive their supplies from the county clerk. In towns of less than 2,000 population and outlying precincts, it is the duty of the county clerk to send blank registries and other necessary supplies to the board of registry at least 20 days before the meeting of the board.

In county-seat towns of over 2,000 population the election judges or registration officials call in person for the original registration books and supplies. In all other cities and towns of over 2,000 population, the supplies and registration books must be delivered by mail or otherwise

¹²Session Laws of Colo., 1923, Ch. 109, Sec. 7.

¹³Compiled Laws of Colo., 1921, Sec. 7671.

¹⁴Compiled Laws of Colo., 1921, Secs. 7597, 7598.

¹⁵Session Laws of Colo., 1931, Ch. 92, Sec. 2.

¹⁶Session Laws of Colo., 1931, Ch. 92, Sec. 3.

¹⁷Session Laws of Colo., 1931, Ch. 91, Sec. 1.

in time to reach the judges or registration committee at least 1 day before the election.¹⁸

Notice of registration is required only in towns of 2,000 to 5,000 population. The law provides that at least 2 weeks before the date of registration the county clerk must give notice in at least two issues of two newspapers belonging to different political parties of the names of the registration committee and the time and place of registration.¹⁹

Nomination and Certification of Candidates.—Nomination of candidates for office in Colorado is by primary election except nominations for special elections to fill vacancies. All candidates for nominations to be made at a primary election are nominated by petition or certificate of nomination by a party assembly. The law provides that assembly designations of candidates for nomination on the direct primary ballot may be made by assemblies of the several political parties. Assemblies shall take only one vote and any person receiving 20 percent or more votes shall be certified as a candidate for the office. Candidates designated by the assembly are certified to the county clerk by the county chairman or secretary of the respective parties. Candidates designated by the assembly for county offices are certified to the county clerk not more than 60 nor less than 30 days before the ensuing primary election. Candidates designated must file a written acceptance with the county clerk within 7 days after the assembly adjourns. One hundred qualified electors, or a number not greater than 10 percent of the votes cast at the last election for governor in the political subdivision, may by petition designate a candidate for office. All such petitions must have the sworn endorsement in writing of the candidate. The names of candidates designated by petition follow the names of candidates certified by political assemblies and in alphabetical order.²⁰ No person who has been defeated as a candidate in a primary may be a candidate at the next ensuing general election.²¹ At least 20 days before the primary election in September the secretary of state must transmit to the county clerk a list of all persons entitled to be voted on for all offices for which designations or petitions are filed with that officer.²²

Withdrawals from nomination may be made at any time prior to 10 days before election.²³ Vacancies in nominations occurring after the holding of any direct primary election and prior to 8 days before election are filled by the respective party committees of the political subdivision in which the vacancy occurs. Vacancies occurring within 8 days of the election cannot be filled because of the requirement of publication notice for the election.²⁴ Independent candidates who do not wish to enter the primary may be nominated by petition filed not later than 10 days prior to the day of election.²⁵

Furnishing Election Supplies.—The county furnishes the election supplies necessary for the conduct of elections. The county clerk must keep on hand supplies of nomination and certification blanks, affidavit forms, applications for absent voters' ballots, receipts for election supplies, absentee voters' supplies, packages for sealing registration books, certificates of election and forms for certifying the results of elections to the secretary of state. Registration books, poll books, instruction cards, tally sheets, and other miscellaneous supplies must also be furnished. Official

¹⁸Session Laws of Colo., 1931, Ch. 92, Sec. 5. (Compare, Compiled Laws of Colo., 1921, Sec. 7655.

¹⁹Compiled Laws of Colo., 1921, Sec. 7612.

²⁰Compiled Laws of Colo., 1921, Secs. 7534, 7537; Session Laws of Colo., 1927, Ch. 98, Secs. 1, 2.

²¹Session Laws of Colo., 1927, Ch. 98, Sec. 5.

²²Session Laws of Colo., 1931, Ch. 91, Sec. 2.

²³Compiled Laws of Colo., 1921, Sec. 7671.

²⁴Compiled Laws of Colo., 1921, Sec. 7552.

²⁵Compiled Laws of Colo., 1921, Sec. 7557.

forms of most election supplies are prescribed by law or by the secretary of state. All petitions or forms under primary election laws are prepared by the secretary of state and the attorney general.²⁶ A sample of 16 of the primary and general election forms is printed in the election laws published by the secretary of state. Other forms, such as those for registration books and ballots are detailed in the statutes.

It is the duty of the county clerk to prepare the ballots for the primary and general elections. Ballot forms are prescribed by law and the ballots for the general election require a special paper. Names are placed on the ballot for the general election under the designation of the office, in two groups in alphabetical order. "The first group shall contain the names of the candidates of the two major political parties; the second group shall contain the names of the candidates of the remaining political or minor parties."²⁷ No emblem, device or political organization may be placed upon the ballot.²⁸

Counties often depend upon the same firm to do their printing from year to year. One firm sends each county clerk on election years an election guide and reminder for use in connection with primary and general elections. This guide gives the exact date various duties must be performed and suggests that the firms will send samples in ample time for ordering. If the forms are supplied by the secretary of state, that fact is indicated.

The county clerk must provide 65 ballots for every 50 or fraction of 50 voters registered at the last preceding election in the election precinct. The ballots for each precinct must be divided into two sealed packages, each containing one-half the ballots for the precinct. One package of ballots must be delivered to two of the election judges, one representing each political party, and a receipt obtained therefor, between Saturday noon and Monday noon preceding the election. In county-seat cities over 2,000 population, the judges call for them in person. In all other precincts they are delivered to the judges or called for by them. For such services the election judge or messenger receives 10 cents a mile. On election day the judges having the ballots produce them at the opening of the polls on election day, with the seals unbroken and, in the presence of all three judges, open the packages.²⁹

The county commissioners are required to divide the counties into as many election precincts as "they may deem expedient for the voters of said county, and shall designate a suitable house or place in each precinct for holding the election. The polling place designated may be changed upon a petition of a majority of the voters residing in the precinct, but the place may not be changed later than within 30 days of any election. In case it is impossible or inconvenient the judges may change the polling place on election day before any ballots have been cast."³⁰

The county commissioners must also provide sufficient ballot boxes, the form and type of which is prescribed by law. Each ballot box must be "fastened by three locks, no two of which can be opened with the same key." One of the keys is by law kept by each of the judges and delivered to his successor. In case of death of one of the judges it is delivered to the county clerk to be delivered to the succeeding judge. Because of the loss of keys and difficulty involved it is the practice to seal the keys in an envelope and return them to the county clerk's office after each election for safekeeping until the next election.³¹

The place of voting must be provided with booths as provided by law. Twelve cards of instruction, prepared and furnished by the county

²⁶Compiled Laws of Colo., 1921, Secs. 7558, 7810.

²⁷Session Laws of Colo., 1931, Ch. 90.

²⁸Compiled Laws of Colo., 1921, Sec. 7712.

²⁹Compiled Laws of Colo., 1921, Secs. 7540, 7711-7721.

³⁰Compiled Laws of Colo., 1921, Secs. 7705-7707.

³¹Compiled Laws of Colo., 1921, Secs. 7708, 7753.

clerk, must be provided at the same time as the ballots. Instruction cards must be printed in English and as many other languages as necessary. The judges must post at least one in each booth and three at convenient places about the polling place.³²

Conduct of Elections.—At all elections the polls shall be kept open from 7 a. m. till 7 p. m. and may not be closed in the meantime. Election day is a legal holiday and any employee entitled to vote may absent himself from his services to his employer for 2 hours between the time for opening and closing the polls.³³

Before opening the polls the judges must open the ballot boxes and a clerk makes a proclamation upon opening the polls and 30 minutes before closing. Each clerk must keep a poll list giving in one column the names of the voters and in the other the number of the ballot. The statutes govern the admission of votes by the judges, and the procedure to be followed. One watcher may be appointed by each party who may challenge any vote. If challenged the voter must "swear in" his vote.³⁴

Electors absent from the county on election day or who are too seriously ill to attend the polls may vote by mail. Persons wishing to cast an absentee vote make application on a form prescribed by law, not earlier than the fourth Monday and not later than noon of the Monday preceding the general or primary election. On receipt of the application, the county clerk delivers or mails as directed an absent voter's ballot with a form of affidavit, one of the duplicates of his application, an instruction card and a return envelope addressed to the county clerk or election commission bearing the mark "Absent voter's return envelope." The voter identifies himself by a comparison of his signature with that on his duplicate application before any official authorized to administer oaths or before any sitting election board in the state, presents his ballot unmarked, makes an affidavit that he has not previously voted at the same election, marks his ballot, folds it and delivers it to the official who places it in the envelope together with the affidavit and duplicate application, seals the envelope and returns it to the voter. The voter must mail it before 7 o'clock in the evening on election day. Ballots of absentee voters must be kept unopened by the county clerk until the board of canvassers meet when they are opened by the canvassing board in the presence of the county clerk and the vote added to the vote for the candidate or questions entitled to them.³⁵

Immediately upon closing the polls the judges open the ballot boxes and count the votes polled. Each clerk records the vote for the respective candidates on tally lists prepared for the purpose. On completion of the count, the judges make out a sworn statement stating the number of votes for each candidate. The certificate, together with one of the tally papers, must then be enclosed, sealed and sent by registered letter or messenger to the county clerk. The ballots and other tally list are returned to the ballot box which is then sealed, locked, and returned by messenger, of the opposite political faith of the one chosen to deliver the certificate and tally list, to the county clerk. Mere irregularities in returning the ballots and poll lists, in the absence of fraud, will not necessarily vitiate the returns.³⁶ Counting judges follow the same procedure in precincts where they are provided except that they begin the count at 8 a. m. on election day and continue the count until they have finished after closing time. They may be provided a separate room or building for counting the ballots. It is a misdemeanor for counting judges or their clerks to divulge the count before the polls have been closed.³⁷

³²Compiled Laws of Colo., 1921, Secs. 7709-7710.

³³Compiled Laws of Colo., 1921, Secs. 7722-7723, 3811, 7808.

³⁴Compiled Laws of Colo., 1921, Secs. 7722-7726.

³⁵Session Laws of Colo., 1929, Ch. 94.

³⁶Compiled Laws of Colo., 1921, Sec. 7753.

³⁷Compiled Laws of Colo., 1921, Secs. 7687-7692.

An abstract of the count of votes containing the names of the offices, candidates, ballot titles of initiated, referred or other measures voted upon and the number of votes cast for and against each must be posted outside the polling place immediately upon completion of the count.³⁸

The votes are canvassed by the county clerk, assisted by two justices of the peace on the tenth day after the election, or sooner, if all the returns are received. One of the justices must be of a different political party to the clerk if there is one in the county. The canvassing board thus composed opens the returns and makes an abstract of the votes as provided by law.

An abstract of the votes for state officers must be forwarded to the secretary of state. Where one of the candidates for precinct or county officers has received the highest number of votes cast it is the duty of the county clerk to make out a certificate of election and deliver it to the person entitled to it.³⁹ The general rule is, subject to modification by statute, that the powers of canvassers are ministerial, simply involving the labor of counting the votes returned, and determining who has received the highest number; they have no judicial power to reject votes polled. The regularity of their proceedings may be inquired into on mandamus.⁴⁰

The report of the canvassing board announcing the results of the election is final unless the election of any officer is contested. The persons entitled to contest election of various officers and the procedure followed differs. Any qualified elector may institute proceedings to contest the election of any person to the office of presidential elector, or to the office of judge of the supreme, district, or county court. No time limit is specified in the statute. The supreme court has original jurisdiction in case of the election for presidential electors and judges of the supreme court. The district court has jurisdiction in cases involving district court judges or judges of the county court, with appeal to the supreme court but no judge who is interested may sit on a case of contested election. The process is judicial, the procedure being the same as in any case before the court.⁴¹

The election for state officers, other than state senators and representatives, may be contested by any candidate or elector. Notice of contest must be filed with the secretary of the senate, between the sixth and tenth days of the first session of the general assembly after the day of election, specifying the particular point on which the contest is based. The contest is settled, after hearings, by a joint convention of the two houses of the general assembly.⁴² Any qualified elector of the district may contest the election of a senator or representative in their district. Within 10 days after the canvass of the votes the contestor must file notice of contest in the office of the secretary of state. The contest is then decided as in the case of other state officers.⁴³

Any elector may contest the election of a county officer, except county judge. Notice must be filed with the clerk of the county court within 10 days after the votes are canvassed. An election may be contested on any of the following five grounds: Ineligibility for the office; election by illegal votes or rejection of legal votes sufficient to affect the results; errors or mistakes in counting votes by the election board or canvassers if the error or mistake affects the results; malconduct, fraud or corruption on the part of the board of registry, or judges of election or

³⁸Compiled Laws of Colo., 1921, Sec. 7692.

³⁹Compiled Laws of Colo., 1921, Secs. 7758-7762.

⁴⁰Compiled Laws of Colo., 1921, Sec. 7758; *People v The Board of County Commissioners of Grand County*, 6 Colo. 202.

⁴¹Compiled Laws of Colo., 1921, Secs. 7773-7779; Constitution of Colo., Art. VII, Sec. 12.

⁴²Compiled Laws of Colo., 1921, Secs. 7780-7783.

⁴³Compiled Laws of Colo., 1921, Secs. 7784-7793.

any board of canvassers, or any member of such board; and for any other cause which shows that another was the legally elected person. Any cause except the first is not sufficient to set aside the election unless sufficient to change the results. These causes also apply to contest of election of state officers. The courts have held that, where the reception of illegal votes is the ground for a contest, it is mandatory that a list of persons alleged to have voted illegally must be set forth in the statement of contest and this must be strictly construed.⁴⁴ Contested elections are tried by the county judge but he may not take jurisdiction until bond has been filed with the county court guaranteeing the payment of all costs in case of failure to maintain the contest. The procedure is the same as in any case before the court and appeal from the decision may be made to the supreme court.⁴⁵ Contests of the election of town, precinct and school officers are settled by the county court as in the case of county officers but the decision is final with no appeal to the supreme court.⁴⁶

The used ballots which have been sealed in the ballot boxes and returned to the county clerk by messenger are preserved in the sealed ballot boxes until the next election when the sealed ballot boxes, containing the ballots, are opened before the opening of the polls in the presence of the election judges, and destroyed by fire. If the ballot boxes are needed for a special election before the expiration of the time for contesting an election, or the judges have knowledge of a pending contest in which the ballots would be needed, the judges must preserve the ballots in some secure manner and provide for their being so kept that no one can ascertain how any elector may have voted. The county clerk has no authority to open the ballot boxes and they may not be opened otherwise than as provided above except by court order. The courts seem to be strict in their interpretation of the law, one court refusing to require the opening of the ballot boxes and a recounting of the ballots until some evidence of the fraud alleged was introduced.⁴⁷

Campaign Expenses.—Candidates must file a sworn statement of their campaign expenses with the officer with whom their certificate or petition of nomination is filed. For county officers this is the county clerk and for officers from a larger area than the county, the secretary of state. The statement of expenses must be made within 10 days after the primary election day. Candidates for the senate are limited to \$5,000 expenditure, candidates for state officers and representatives in congress are limited to \$2,500 expenditures and all other officers are limited to \$1,000 expenditure. A similar statement must also be made within 30 days after the general election. Also the chairman and secretary of state, county and city central committees must make a similar report of their expenditures. Statements of both candidates and central committees are kept filed by the officers to whom they are presented until the next general election and are open to the inspection of the public.⁴⁸

Auditing Accounts.—It is the duty of the county commissioners to audit all election accounts since election supplies and the expense of the conduct of elections devolves upon the county.

Members of registration committees and all judges of election sitting as a board of registry, receive \$5 a day for every day actually employed in making and completing the registry of electors. In precincts where there are no counting judges and the total number of ballots cast is 100 or less, judges and clerks of election receive \$5 in full compensation for their services. Where the vote cast is more than 100 and there are no counting

⁴⁴Compiled Laws of Colo., 1921, Sec. 7794; *Sugar City v Commissioners*, 57 Colo. 432.

⁴⁵Compiled Laws of Colo., 1921, Secs. 7795-7804.

⁴⁶Compiled Laws of Colo., 1921, Sec. 7805.

⁴⁷Compiled Laws of Colo., 1921, Sec. 7809; *Kindel v Le Bert*, 23 Colo. 385.

⁴⁸Compiled Laws of Colo., 1921, Secs. 7559-7561, 7832.

judges the pay is \$10 for all services rendered. In precincts where there are both receiving and counting judges the receiving judges and clerks receive \$5 and the counting judges and clerks receive \$10 for their services. Election judges or clerks appointed to deliver the election returns to the county clerk receive \$2.50 and 10 cents for each mile traveled in excess of 10 miles. No mileage is allowed judges or clerks serving in Denver or any county-seat town. Judges or clerks calling at the county clerk's office for supplies or ballots receive 10 cents a mile.⁴⁹

Necessary constables or special peace officers appointed by election judges to maintain peace at the polls receive \$2.50 a day. Justices of peace who assist in canvassing votes receive \$5 a day. In addition the county clerk is allowed fees for registration of voters and other acts in connection with his election duties which are paid by the county.

The authority to audit accounts gives the county commissioners considerable control over election expense. County financial reports show considerable variation in election expense, tho it would appear that here some uniformity might be expected. In 1930 one of the smaller counties with eight precincts reported a total election expense of \$4,117.95 or an average of \$514.74 for each precinct. A neighboring county of about the same size had nine precincts and election costs of \$3,852.95 or \$428.11 for each precinct. Another county with 20 precincts had expenses of \$5,795.46 or \$289.78 for each precinct and an adjacent county with 28 precincts had expenses of \$13,274 or \$479.09 for each precinct. A sparsely populated county in another part of the state shows expenses of only \$224.16 for each precinct. In general, the larger the area of the county, the more precincts, and the greater number of people voting, the greater the expense should be. This does not follow as the foregoing figures

Table 32.—Comparative Information for Election Precincts in Twenty Counties for the 1930 Election.

County	Number precincts	Average population per precinct	Average area per precinct (sq. mi.)	Average votes per precinct for governor	Total cost per precinct	Cost per vote for governor in each precinct
Sedgwick	8	698	66	238	\$515	\$2.16
Logan	28	712	65	180	479	2.66
Phillips	9	644	76	229	428	1.87
Lake	16	306	23	139	420	3.02
Ouray	7	255	255	142	418	2.94
Garfield	24	416	129	152	404	2.66
Morgan	20	914	64	253	400	1.58
Pitkin	6	295	170	149	387	2.60
Otero	31	787	41	219	387	1.77
La Plata	22	590	84	209	366	1.75
Delta	22	646	55	242	323	1.33
Routt	25	374	92	152	291	1.91
Washington	20	480	126	146	290	1.99
Jackson	5	277	326	113	288	2.55
Fremont	39	485	40	165	267	1.62
Saguache	17	368	184	121	264	2.18
Kit Carson	18	540	120	180	246	1.37
Moffat	30	162	155	72	224	3.11
Montrose	24	489	94	153	231	1.51
Baca	17	622	150	219	221	1.01
Average		503	116	174	\$342	\$2.18

⁴⁹Session Laws of Colo., 1931, Ch. 92, Secs. 8-11.

indicate. Because some counties are sparsely populated it is hard to draw conclusions or present comparisons which will be accurate. Table 32 shows some comparative figures for precincts in 20 counties based on costs of the 1930 election.⁵⁰

Some interesting facts are evident in this table. Neither the population or number of votes cast in the precinct seem to have any relation to election costs. For example, Pitkin and Otero Counties have the same expense per precinct, tho in one county the average is 149 votes and in the other 219 votes per precinct. Likewise, on the basis of population per precinct one has 295 while the other has 787. The concentration of population in cities in counties like Logan, Morgan and Otero makes more precincts necessary and reduces the average size of precincts in the county; but even when that fact is considered, the large size of precincts in counties like Ouray, Jackson and Saguache means that voters in these sparsely populated counties must go longer distances to the polls than in counties like Delta, Routt, or Montrose, great portions of which are equally sparsely populated.

The average cost per precinct, \$342, happens also to be the median cost per precinct. Ten counties spend more and 10 less than this amount. The fact that Baca County can operate its election at a cost of \$221, or less than half what some other counties are spending, would indicate that there is need and opportunity for economy in the conduct of elections in some counties, even after all factors which might influence costs are taken into account. Furthermore, it is quite possible that some counties could reduce the number of precincts without infringing too much upon the right of the voter to have a poll conveniently provided. Moffat and Eagle Counties recently reduced the number of precincts to reduce election costs.

Salaries of judges and clerks in a precinct polling less than 100 votes amount to \$110 for registration and election days, in precincts where more than 100 and less than 200 ballots are cast the expense is \$125, in precincts casting more than 200 votes the expense is \$140. Thus the elimination of all unnecessary precincts offers an opportunity for considerable savings. The board of commissioners has it within its power to reduce the number of precincts where this can be done without too much inconvenience to the voters concerned.

The salaries of election judges and clerks is the largest item of election expense. The next largest item is the printing of ballots and other election forms. Primary elections in most counties cost less than general elections.

Conclusions

The election machinery of Colorado is an outgrowth of more than a half-century of legislative enactments. Statutes have been enacted, later amended, sections revised, new laws passed and conflicting laws passed until at present the election laws of Colorado are a confused wilderness into which the uninitiated ventures at his peril. The election laws as published by the secretary of state cover 167 finely printed pages, followed by 21 pages of official forms. The same laws account for 100 pages and 352 sections of the compiled laws of Colorado.

Suggested Reforms.—The election laws need to be revised and modified so as to make them readily understood. Conflicting statutes ought to be repealed and the law simplified to conform to what is actually intended by the law. This in itself would mean a saving of considerable money in the semi-annual publication of election laws by the secretary of state.

Another item which needs attention is the cost of elections. The majority of county officials consulted have agreed that the expense of hold-

⁵⁰Vote for Governor taken from Abstract of Votes Cast, published by the Secretary of State, 1930. Costs based on reports of county clerks.

ing elections ought to be reduced. A good percentage of county clerks and several other officers have urged the abolition of the direct primary as an economy measure. There are no available figures regarding the cost of a biennial election in Colorado but it amounts to hundreds of thousands of dollars. Economies which are small in themselves would amount to thousands of dollars when made over the entire state.

Several economies can be made without causing serious inconvenience to the voter or hampering the election machinery. Provision for registration of voters could be limited beyond what it is at present without material difficulty. The 1931 general assembly made a move in this direction when it provided that the county clerk should register voters in county-seat towns of over 2,000 population. This should be extended to include all county seats. It would appear that the law might provide for the registration of voters in incorporated towns other than county-seat cities by the city clerk of those cities. Under the laws at present the election judges, as a registration committee, sit 4 different days at a cost of \$60 for salaries alone for registration in precincts in towns other than county seats with less than 5,000 population and outlying precincts. Four days seem unnecessary since many of these precincts have less than 100 qualified electors, usually permanent residents who do not need to re-register each time, and especially since the law now provides only 2 days for registration of electors in cities of more than 5,000 population except in cities of 100,000 or more where 3 days are allowed. Permitting registration of electors by the city clerk would save \$30 in each precinct in cities of this size.

Election supplies should be furnished by the state or the local price for printing supplies, especially ballots, should conform to the price at which the state could have the printing done for the entire state under contract. The present legal requirement for the form of the ballot, requiring perforated paper and a black corner, might be changed so that the printing of ballots would not be such specialized work, thus encouraging more bidders who can do the work and then letting the contract to the lowest responsible bidder. Because of difficulties experienced in the past with bidders unprepared to do the work, county clerks have come to depend upon one firm for most of their election printing—which is unobjectionable in itself—provided the price paid is reasonable.

The publishing or printing of election notices as now required by law might be discontinued without injury to the voters. Newspapers give sufficient publicity to elections, candidates and campaign issues as news to enable everyone to know the date of the election and obtain sufficient knowledge of candidates. Election notices are seldom read. The law ought to enable the taxpayers to save this expenditure.

It seems unnecessary to have separate counting judges for all precincts polling 200 or more ballots. This limit might be increased to 300 which would eliminate counting judges and clerks in most precincts, and yet leave them where they are really needed. Three counting judges and two clerks receive \$50 for their work and even if the pay of election judges in precincts polling more than 200 ballots was increased, there would still be a considerable saving. The only argument in favor of having counting judges is speed in completing the count and announcing the results and speed can sometimes be attained at too great a cost to the taxpayer.

The number of precincts which can be established by the board of commissioners ought to be regulated in some way. The creation of precincts where only a few votes are cast ought to be discouraged. The sparsity of population in some counties makes this difficult but the number of precincts ought to be kept at a minimum.

Elections are conducted both for the benefit of the state and the county but at present the expense is borne entirely by the county. Fairness would seem to indicate that the state should bear part of the cost of elections when state officers are elected—which is every 2 years the

same as for county officers. The state has access to sources of revenue not available to the counties and should bear its proportionate share of election expense. State participation in the expense would also result in closer supervision of expenditures for elections—thus assuring more uniformity in election costs between counties.

Serious consideration ought to be given to the desirability of providing voting machines for the larger precincts. Voting machines automatically tally the votes cast for any candidate and issue, thus eliminating the necessity for counting judges. They also assure the same or greater secrecy than the use of ballots. Economy would result from the saving in printing ballots. Because of the cost of delivering them they are unadvisable in polling places where they cannot be permanently stored. Where the polling place is a school house, fire station, city hall or other public place, they need not be moved. It also leaves the machines accessible for educational and demonstration purposes.

Considerable saving could be made by providing that the abstract of votes be sent to the county clerk by registered mail instead of messenger as at present, thus eliminating a cost of \$2.50 plus 10 cents a mile for all distance traveled over 10 miles. There also seems to be no good reason why the ballot boxes which are sealed need to be returned separately by messenger to the county clerk when they could be grouped, one messenger returning the boxes from several precincts. This would easily be possible in cities. The same holds true in the delivery of election materials; where possible all materials ought to be delivered by registered mail instead of requiring registration officials and election judges to call at the office of the county clerk for the materials. Some are already delivered in this manner but there is no reason why registration books could not be delivered the same way when the expense would be less. Even under the present system considerable saving could be made by reducing the mileage fee to 6 or 7 cents instead of the present 10 cents.

After all, in spite of other possible reforms, the board of commissioners by virtue of their authority to audit accounts has power to stop many of the small leaks. More serious consideration ought to be given to possible economies before elections and to a careful audit afterwards. The board has it within its power to keep election expenses at a minimum—it ought to be exercised rather than giving formal approval to bills presented for payment.

Short Ballot Suggested.—The adoption of the short ballot would simplify many of the problems pertaining to election. "Indeed it would appear that nearly all the problems pertaining to elections—the calling of elections, the nominating of candidates, the furnishing of supplies, the conduct of elections, canvassing the returns, certifying results, and the auditing of accounts—would be considerably simplified by the short ballot.

"In addition to simplifying the clerical work of the county with regard to elections the adoption of the short ballot principle would tend to improve the character of those discretionary functions so vital to satisfactory administration. In no instance would this be more apparent than in reducing election expense. The cost of printing ballots would be much less and a corresponding saving would be brought about in the matter of compensation to election officials."⁵¹

⁵¹Shambaugh, *County Government and Administration in Iowa*, pp. 600-601.

XIII.

PUBLIC WELFARE

Commissioners Responsible for County Health and Welfare.—The older conception of the duty of a community towards its people involved only the problem of taking care of the poor and other unfortunates. Emphasis was upon relief rather than prevention. But poor relief is only one phase of the problem of helping the unfortunate in our communities. Poor relief has given way to a broader and more inclusive term, "Public Welfare," which Dr. Howard W. Odum defines as "that very definite service of democratic government which provides organization, technique, and means for making democracy effective in the unequal places." Local public welfare work in this state includes not only poor relief but mothers' compensation, blind benefit, medical and hospital care and health work. This is in addition to the institutional and other welfare work performed by the state.

The county in Colorado remains the primary unit for the care of the indigent poor, and for the administration of law providing for the care of special classes of indigents. The state has relieved the county of the responsibility for the care of certain classes of indigent persons such as the insane, epileptic and feeble-minded, dependent children, soldiers and sailors of the Civil and Spanish-American wars, and one-half the cost of blind benefits paid by the counties. The state also has assumed responsibility for the education of deaf and blind children. The division of public welfare has some supervisory power over local officials.

The counties are by law required to provide for the indigent poor; and under the present constitutional provision poor relief must remain primarily a county function unless the state assumes full responsibility. The constitution prohibits an appropriation "for charitable, industrial, educational, or benevolent purposes to any person, corporation or community not under the absolute control of the State." Relief was made a state function by the 1933-1934 General Assembly.¹

The county commissioners are responsible for both charity and health administration in the county. They administer all poor relief, either as outdoor relief or by maintaining a poorhouse. The board of county commissioners also serves as a board of health for their respective counties, and the county clerk is clerk of the board. At the present time poor relief receives much more attention than public health and requires a considerable portion of the time of county commissioners. The commissioners relieve themselves of the routine responsibility in some counties by making a deputy in the county clerk's office responsible for supervising poor relief, a plan which has proved successful in some counties. The chairman of the board is by law ex-officio superintendent of the poor in the county, tho he may not actually perform the duties of such an official if other arrangements are made.²

No person shall become chargeable as a pauper to the county unless such person shall have been self-supporting in Colorado for a period of at least 1 year immediately preceding his becoming so chargeable.³

Liability for Care of the Poor.—Relatives are responsible for the support of poor persons in the first instance. The law provides that "Every poor person who shall be unable to earn a livelihood in consequence of

¹Constitution of Colo., Art. V, Sec. 32. Session Laws 1933-1934, Second Extraordinary Session, Ch. 15.

²Compiled Laws of Colo., 1921, Secs. 8676-8677.

³Compiled Laws of Colo., 1933, Ch. 143, p. 746.

any bodily infirmity, idiocy, lunacy or other unavoidable cause" shall be supported by relatives if any of them be of sufficient ability. The order of liability is children first, then parents, brothers and sisters, grandchildren and grandparents. Persons who become paupers from intemperance or other bad conduct are not entitled to support from any relative except parent or child. Any relative residing in the state who by law is responsible for the support of a pauper and is able to do so, whether residing in the county or not, may be required to pay to the county \$20 a month for each month of failure or refusal.⁴

The county is liable for the support of a pauper who is without relatives or whose relatives are unable or refuse to support him. Such relief as may be necessary shall be provided and paid out of the county treasury but if the pauper, or relatives responsible for his support, "shall acquire or come into possession of property, moneys or credits in his or her own right, he or she shall be answerable to such county for the expense of furnishing such relief" which may be collected in any court of competent jurisdiction.⁵

The county is likewise responsible for non-residents "not coming within the definition of a pauper" who shall fall sick in the county and are not able to provide themselves with proper medical care and attention. In case of death, decent burial must be provided.⁶

A pauper does not establish residence until he has been in the county sixty days and who has continuously resided in the state for a period of 1 year. When help must be extended to a non-resident pauper the county of his residence is responsible and may be called upon to reimburse the county extending aid. If he is likely to become a permanent charge, the commissioners may demand that he be removed to the county of his residence. Suit may be brought against the county of his residence to collect the amount expended for or on behalf of a pauper.⁷

Counties in Colorado appear to have been rather alert in collecting from other counties, though some report failure. Ordinarily the county commissioners return paupers to the county of their residence, or at least send them out of the county before extending any great amount of aid. Generally speaking, Colorado counties have not been faced with the problem of transient paupers as have states with industrial populations. County boards do not hesitate, however, to furnish transportation rather than take the chance of permanently supporting a pauper but the amount of money spent for transportation is comparatively small.

Records of County Poor.—It is the duty of the county clerk to keep a book known as the "records of county poor." This record must show the "date of registration, name of person, age, sex, place of birth, date of immigration to the United States, date of immigration to Colorado, from what county in Colorado and the date of arrival in the county of record, cost of maintenance in the poorhouse, cost of maintenance in the hospital, cash furnished, other aid and a description and value of the same, total value of all aid, total time of maintenance, cause of poverty or distress, and remarks."⁸ It is the duty of the superintendent of the poor to investigate or cause to be investigated, all applications for relief and to render a monthly report to the board of county commissioners. It is unlawful to draw a warrant for relief for a person not registered.⁹

The board of county commissioners must make an annual report to the secretary of state immediately after November 30, showing the number of poor persons aided, tabulated as to nativity, ages, sex, and "gross amount of money or other assistance given them or the cost of their

⁴Compiled Laws of Colo., 1921, Secs. 8905-8906.

⁵Compiled Laws of Colo., 1921, Sec. 8707.

⁶Compiled Laws of Colo., 1921, Sec. 8908.

⁷Compiled Laws of Colo., 1921, Secs. 8910-8912; 1933, Ch. 143.

⁸Compiled Laws of Colo., 1921, Secs. 8709, 8706-8707, 8710.

⁹Compiled Laws of Colo., 1921, Sec. 8710; Session Laws of Colo., 1931, Ch. 78.

maintenance, the period of time so supported and the causes, in brief, of their poverty so far as may be ascertainable." The secretary of state must tabulate the reports and transmit a copy to the governor.¹⁰

Records of the poor are kept in most counties but there is no uniformity in the form used; nor are records always complete enough to give full information. Case histories are practically unknown, tho some counties obtain complete information regarding each case. Financial records in particular need to be kept in more detail, since few counties have records which show the amount of relief given to any individual. In fact few county records show expenditures for poor relief in any detail at all—some not even differentiating between expenses of the county farm and outdoor relief and medical care. Detailed records ought to be kept.

Board of County Visitors.—The statutes provide that a bi-partisan board of county visitors composed of six members, not less than three of whom shall be women, shall be appointed by the probate (county) judge for a term of 3 years, two retiring each year, and serving without salary. The law was amended in 1911 to provide that if such a board were not appointed it was the duty of the state board of charities and corrections, abolished in 1923, to petition the county judge for the appointment of such a board, and if a board were not then appointed to appoint a board to serve.¹¹

It is the duty of the board to serve as a board of visitors for the inspection of all charitable and correctional institutions supported by county or municipal taxation, including "private hospitals, infirmaries, asylums, retreats, and orphanages and especially the infirmary, county jail, municipal prisons and children's homes; and they shall recommend such changes and additional provisions as they may deem essential for their economical and efficient administration." Each institution must be visited at least once every 3 months by the board and an annual report must be filed with the secretary of the state board of charities before November 15 each year. They shall also be notified and it is their duty to attend all proceedings to commit a boy to the industrial school.¹²

This law is on the statute books not a single county reporting or visited had a board of county visitors. While such a board is unnecessary in many counties, the criticism and recommendations of an intelligent board of visitors in the more populous counties should be of real assistance to the board of county commissioners. However, since the state board of charities and corrections was virtually abolished in 1923, that portion of the law requiring that annual reports be made to it and giving it authority to appoint county boards of visitors is practically nullified.

Charity Administration.—Public charity in Colorado is administered by the board of county commissioners who are free to use any means at their disposal. Indigent poor may be provided for in their own homes thru what is known as outdoor relief, in poorhouses or by contract. They are responsible for paying blind benefit pensions, and mothers' compensation. While recipients of these benefits should not be classed along with other indigent poor we shall discuss them under the general heading of charity administration. The board is also responsible for the expense of transporting mental defectives and indigent children to the proper state institutions after commitment.

The County Home.—The board of county commissioners is by law authorized to purchase or acquire land, not exceeding 640 acres and establish a poorhouse. It may "employ such workmen, agents and other persons as may be necessary to establish and put into operation such poorhouse." The establishment of county homes for the care of indigent poor in Colorado has not become general, counties finding it preferable to pro-

¹⁰Compiled Laws of Colo., 1921, Sec. 8708.

¹¹Compiled Laws of Colo., 1921, Sec. 8900; Session Laws of Colo., 1923, Ch. 159.

¹²Compiled Laws of Colo., 1921, Secs. 8901-8904.

vide outdoor relief. First-hand information regarding methods used was obtained from 14 counties and questionnaire reports from 9 others. Of these 23 counties, only 9 had a county home, 1 of which was a combination county hospital and county home, another was the county jail which had been converted into a "home" for 16 of the county's poor. Only two counties visited had county homes which had been built originally for that purpose, and only one of those was of recent construction. The other six, excluding the one using the county jail, were using residences which had been remodeled to serve the purpose, so far as possible, of a home for the county's unfortunates. In a majority of these, this makeshift arrangement was fairly satisfactory, tho it is obvious that a building not constructed for the purpose is not well adapted for use as a county home.

The amount invested in property for county homes is comparatively small tho Logan County has a modern county home constructed in 1925, at an approximate cost of \$150,000. In three counties, the estimated value of the county home is \$1,500 while in two counties the estimated value is \$10,000. The law permits a maximum of 640 acres for a poor farm but the tendency is for farms to be much smaller. Of four counties having farms in connection with the county home, three had 40 acres and one had 80 acres of land. Where the county has a farm in connection with the county home or poorhouse, the time of the superintendent is usually devoted to the farm, leaving his wife to care for the home and the inmates.

The need for a farm in connection with the county home depends upon local conditions and the type of inmates. It can be made a source of income for the support of the inmates but this should not be the primary objective. A farm is also a source of recreation for inmates who are able to work. However, as one superintendent stated, it is often as difficult to get the inmates to work, even for exercise, as to do the work. Because the tendency in Colorado is to provide for outdoor relief for those who have a place to live and can care for themselves, the inmates of the average county home are incapable of doing much work; in one home visited there were 28 inmates, all over 70 years of age. A farm operated in connection with a poorhouse should be one designed primarily to produce food for the inmates and furnish light work for those who are able to work but are unable to do heavy farm work. Thus, it should be principally devoted to growing fruits and vegetables and producing poultry and dairy products. For this purpose a large farm is not necessary, in fact a small area properly managed will produce most of the necessary seasonable foodstuffs.

Two methods are followed in providing management of county homes in Colorado. One method is to lease the county farm to the superintendent and then pay him a stipulated contract price for caring for inmates. This plan is followed in three counties. The rate paid varies: One county with 3 inmates paid \$20 a month, one with 12 inmates paid \$25 a month and one county paid \$19.50 a month. These rates included the care of inmates, food, clothing and other incidental expenses. Except that the county owns and leases the home this method differs little from the contract plan of providing for the county poor, that is, contracting with some individual for the care of the poor, a plan which has fortunately not been used extensively in Colorado. It would appear that the rates paid are rather high, especially where there are as many as 12 inmates. However, in individual cases such a rate may be justified. This method of providing for the poor is not only expensive, but unless considerable oversight is exercised by the board, inmates are likely to be improperly clothed and fed and otherwise mistreated—the superintendent profiting from the misery of the county's unfortunates.

The second method is for the county to employ a superintendent to manage the county home under direction of the board of county commissioners. Six counties were following this method of selecting the superintendent. The superintendents were usually given complete control of

the home. Four counties having homes managed by superintendents under control of the board, were visited. One superintendent's wife stated she had invited the board to visit the home but that they had not done so recently. In one county, the superintendent and his wife had held the position for 6 years. This home seemed to be well managed and the inmates given every consideration. In all four counties, supplies were purchased at wholesale. All had a garden and two had a farm in connection. In another county the superintendent, a disabled veteran and his wife, took considerable pride in the care of the home, which reflected their interest. Tho the building was unsuited for a county home, it was clean and showed excellent care. Furthermore, the 15 occupants were being supplied with plenty of suitable and wholesome food at a cost of 10 cents a day for food other than that produced in the garden. In the county using the jail for a poorhouse, conditions were at their worst. A man was employed as cook, with no other duties to perform, at \$60 a month. No provision is made for laundry nor was care provided other than that done by the inmates—16 men living in a jail as a home, as one county official said, "like hogs." The food provided was good but the place itself was filthy. One of the county commissioners was responsible for the "home" and a sign on the wall forbade the inmates to make any complaints to the cook—and the commissioner from all appearances made it a point to avoid the place and thereby forestall complaints.

The cost of operating a county home varies with the management. Two of the superintendents with their wives were paid \$110 a month, one received \$100 and one \$90. No accurate estimate could be made of the cost of operation but the amounts varied from \$2,700 to \$13,000, depending upon the number of inmates. Most counties charge all expenses for the poor to the poor fund without making differentiation on the books between outdoor and indoor relief, consequently actual data are lacking concerning the cost per inmate but where there are only a few inmates the cost is undoubtedly excessive. Dr. Paul Wager says, after a study of the problem in North Carolina, that no county can afford to maintain an almshouse for less than 40 persons.¹³ On this basis only one of the counties studied can afford a county home or poor farm since the number of inmates in 7 of the homes was 7, 10, 14, 15, 16, 28 and 39 respectively. From a purely economic point of view probably not a half dozen counties in the entire state can afford to maintain a county home. Counties should cooperate in maintaining a district home in lieu of maintaining a home for a small number of inmates. A law should be enacted authorizing such an arrangement. This could easily be done in some cases at present. For instance Logan County has a modern county home with a capacity of 60, yet at the time it was visited there were only 12 inmates. A cooperative arrangement would not only reduce the cost but would solve many of the problems of management, make possible better treatment, medical care and nursing, and generally help to make the declining years of the aged unfortunates more agreeable, a condition which can hardly be said to exist at the present time.

Provisions ought to be made for a state department of public welfare which would have power to inspect county homes and make recommendations, with power to correct undesirable conditions. Meantime, a board of county visitors ought to be appointed as provided by law. Their suggestions and recommendations would help to improve existing conditions and give the public generally a more definite interest in the welfare of inmates of county homes. The Division of Public Welfare with the governor as the head was set up in the 1933 administrative code but no effective organization has been set up to carry out the work of such a department.

Outdoor Relief.—Without exception boards of county commissioners spend more money for outdoor relief, that is, contributions to persons

¹³County Government in North Carolina, pp. 346-348.

living with relatives or friends or families in need of assistance, than for maintenance of inmates in county homes. The relief granted may be of a permanent or temporary nature. Because comparatively few counties have county homes this type of relief receives much more attention and requires considerable time of the commissioners, or a deputy appointed by the commissioners to act as superintendent of the poor.

Temporary aid is granted to transients and to persons or families during periods of unemployment or sickness, the amount spent for this purpose always being greater in winter than in the summer months. Medical care is extended when needed—usually by the county physician, whose duties will be discussed under another heading. The county generally must pay the cost of burial when an indigent person dies and occasionally a county must bury a person who has never been on the pauper list. The cost of burial to the county varies from \$25 to \$100, the most usual amount being \$60 to \$65; tho the average paid by 15 counties was \$50. The cost of burial of a child is usually a little less.

Assistance is ordinarily given non-residents merely for the purpose of getting them out of the county, however, itinerants are not a problem in Colorado except along the main highway. The tendency has been for counties to leave the problem of assisting transients to other organizations. The superintendent of the poor in Larimer County announced recently that no aid would be extended to transients and they need not apply. The care of transients has forced numerous and often competing welfare agencies to unite in solving the problem. For instance, agencies in Fort Collins have agreed that all transients seeking meals or lodging shall be referred to the police department which is authorized to give one meal and lodging to a transient. There is no coordination of work between counties, however, with the result that transients are able to travel from one county or city to another at the expense of public or private charity. This condition ought to be corrected so far as possible thru a coordinated system of relief and exchange of information among the counties of the state. Federal relief agencies now handle much of the transient relief and have relieved the counties to a large extent.

Those receiving aid from the county more or less regularly are usually given an allowance for groceries of \$5 to \$10 a month, seldom more. Additional allowance is often made for rent, fuel, clothing or medical care, depending upon the circumstances and needs. The majority of those receiving outdoor relief are usually families needing temporary aid, tho a few receive permanent help. The number of persons or families helped varies from a few in the smaller counties to several hundred in the larger counties. In 1930, Larimer County extended aid to 224 cases, 145 of

Table 33.—Reasons for Outdoor Relief Granted by Larimer County, Colorado, 1930.

Reason given	Distribution of cases			Total cases	Percent of total
	No. of families	Single men	Single women		
Unemployed	69	1	1	71	31.7
Physical disability	26	13	16	55	24.5
Insufficient income	27	3	18	48	21.4
Old age	15	11	12	38	17.0
Mental disability	2	2	0	4	1.8
Husband in jail or penitentiary	4	0	0	4	1.8
Husband deserted	0	0	2	2	.9
Relief	2	0	0	2	.9
Total cases	145	30	49	224	100.0

which were families. Table 33 shows the reasons attributed for needing aid.¹⁴

The average grant per family, including both permanent and temporary cases, for all purposes in Larimer County in 1930 was \$185, the amount ranging from \$5 for groceries to a yearly grant of \$480. For single men the amount ranged from \$4 to \$300 and the grant to women ranged from \$10 to \$720, the latter grant was to a widow with six dependent children.

Blind Benefit.—A state commission for the blind was created in 1925 in which was consolidated all the agencies then existing for the care and education of the blind of the state.¹⁵ The commission consists of five members appointed by the governor for a 5-year term, one member retiring each year. Vacancies are filled by the governor. Members serve without compensation but are reimbursed for their actual traveling expenses on official business.¹⁶ The commission has an office at the state capitol and is required to keep a complete public record of each blind person under its jurisdiction.¹⁷

The commission has power to provide for the care, education, vocational training, employment or treatment of any adult blind person. It has power to provide for the sale of the products of blind persons and to provide for the purchase and sale of material to the blind in order to keep them profitably employed. It cannot, however, undertake the permanent support or maintenance of any blind person; the object being to aid the blind to become self-supporting.¹⁸ The commission has custody, control and operation of the industrial workshop for the blind at Denver and when acting in that capacity has corporate powers.

To receive a benefit or other relief an adult blind person must have resided in the state for 5 years. Application must be made and filed with the county clerk who refers it to the board of county commissioners. The board must examine the application, have the applicant examined by a competent oculist, and if convinced the applicant is eligible to receive a blind benefit or other relief, they submit their recommendation to the blind commission which determines the nature of the relief to be granted and if a benefit is awarded, the amount, not exceeding \$300 annually. If the applicant has other means of support or relatives able to support him only vocational training may be furnished. And in cases where the blindness can be removed by medical or surgical treatment relief must consist only in payment of necessary expenses.¹⁹

Blind benefits are paid by the county in the first instance, one-half being refunded by the state commission, on the basis of an annual report made to the commission by the counties on November 30 of each year.²⁰

Mothers' Compensations.—Mothers' compensations have been provided for in Colorado since an initiated act was adopted in 1913. The law provides that if the parent or parents of a dependent or neglected child are poor and unable to care for the child "but otherwise are proper guardians, and it is to the welfare of such child to remain at home," the county judge may "enter an order finding such facts and fixing the amount of money necessary to enable the parent to properly care for such child."²¹ This law would appear to permit paying compensation to either parent. But an act of the general assembly passed in 1919 refers to the law as

¹⁴Gentry, Carl C., *Care of Outside Poor in Larimer County, Colo.* Unpublished Manuscript. Colo. Agri. College, 1931.

¹⁵Consolidated under the Division of Public Welfare in the Administrative Code of 1933. Session Laws of Colo., 1933, Ch. 37.

¹⁶Session Laws of Colo., 1925, Ch. 60, Sec. 2; 1927, Ch. 66, Sec. 1.

¹⁷Session Laws of Colo., 1925, Ch. 60, Sec. 4.

¹⁸Session Laws of Colo., 1927, Ch. 66, Sec. 3.

¹⁹Session Laws of Colo., 1927, Ch. 66, Secs. 3, 4.

²⁰Session Laws of Colo., 1921, Ch. 60, Sec. 11.

²¹Compiled Laws of Colo., 1921, Sec. 608.

providing for the "assistance and protection of women who are unable to properly care for their children, or who are unable to provide the ordinary and proper care for themselves and infant child or children during the certain periods before and after child-birth."²² Relief is thus limited to mothers.

The clerk of the court must report to the board of county commissioners on or before July 1 all cases receiving relief and an estimate of the amount necessary for the ensuing year. A copy of this report must be sent to the department of charities and corrections.²³

The boards of county commissioners are "directed to establish" in each of their respective counties a "mothers' compensation fund" for paying relief granted by the county judge. A special levy not to exceed .125 mill shall be made for this purpose.²⁴ Some boards of county commissioners prefer, however, to handle the payment of mothers' compensations thru the poor fund, which they control, rather than making a special levy. The county judge is thereby deprived of any part in making the grant, since the fund does not exist.

Old-Age Pensions.—An act passed by the 1927 General Assembly made the payment of old-age pensions by counties optional. Certain changes were made in the law by the 1931 General Assembly and the payment of pensions made compulsory.²⁵ The law became legally operative January 1, 1932, but only two counties, Prowers and Mesa, put the law into effect. A majority of the remaining counties attacked the constitutionality of the law, which was declared unconstitutional.

A new law was enacted in 1933 which provides that the county court may, on written application and after investigation, grant a pension, the amount of which together with all income shall not exceed \$1 a day.²⁶ To qualify a person must be 65 years of age; have been a citizen of the United States at least 15 years; a resident of the state continuously for 15 years, and a resident of the county for 5 years; is not at the date of making application an inmate of any prison, jail, workhouse, infirmary, insane asylum, or any other public correctional institution; if a wife, has not deserted her husband, or such of her children as are under 15 years of age; if a husband, has not deserted his wife or children and has not without just cause failed to support his wife and children under 15 years of age for 6 months or more during the 15 years immediately preceding the application. Furthermore, he must have no child or person responsible under the laws of the state and able to support him. No pension shall be granted to a person receiving the necessities of life thru any other public or private charitable institution or if the combined value of the property of the husband and wife exceeds \$2,000 or who has deprived himself of any property for the purpose of qualifying for a pension. Annual income from property shall be computed at 5 percent of its actual value.

The law provides that the amount paid in pensions, plus simple interest at 3 percent shall be deducted from the estate of a pensioner, or the survivor of a married couple. The county court may, as a condition of granting a pension, require that all property of the pensioner be transferred to the board of county commissioners, the net incomes to be paid to the person entitled to it. The county court may revoke or modify any pension if at any time it appears circumstances have changed. Funeral expense not to exceed \$100 may be paid out of the pension fund. It is the duty of the board of county commissioners to appropriate a sum of money out of the county pension fund sufficient to pay such pensions as may be granted by the county court.

The old-age pension law has not been in force long enough to de-

²²Compiled Laws of Colo., 1921, Sec. 609.

²³Compiled Laws of Colo., 1921, Sec. 608.

²⁴Compiled Laws of Colo., 1921, Secs. 609-611.

²⁵Session Laws of Colo., 1927, Ch. 143; 1931, Ch. 131.

²⁶Session Laws of Colo., 1933, Ch. 144, 145.

termine what the effect will be. Because many who will be granted old-age pensions are now receiving aid thru the poor fund it is probable that there will not be an excessive increase in the total amount spent by the county for relief purposes.

An old-age pension fund is created in each county financed in the following manner:

(1) All sums realized from estates escheated to the state of Colorado;

(2) All licenses, privilege tax, and funds collected by the state, counties, and municipalities from the manufacture, sale, distribution or gift of beer and other beverages;

(3) Ten percent additional amount to the fees which are due and paid to the secretary of state upon incorporation of any corporation or association for profit;

(4) An additional sum of \$1.00 to be paid annually, for the registration or re-registration of motor vehicles;

(5) Ten percent additional upon the amount of any tax payable under the provisions of the inheritance tax laws of Colorado.

Funds are paid into the county pension funds on a pro-rata basis based on population according to the last official United States census.

Indigent Children and Orphans.—The board of county commissioners is responsible for the care of poor and needy children and orphans. The chairman, as superintendent of the poor, may bind out a child under 14 years of age who has been a charge upon the county for 6 months, until such child is 18 years of age. The superintendent serves as the guardian of such child and is responsible for seeing that the terms of the contract binding out a child are fulfilled and shall report any violations to the board of county commissioners. The board also has the power to consent to the adoption of an orphan child who may have become a county charge; and shall have power to cancel any contract of adoption if it appears to the best interest of the child.²⁷

Patients in State Institutions.—The state of Colorado has provided schools for the training of blind, deaf and dependent and neglected children. It maintains state eleemosynary institutions for mental defectives, the insane, and indigent veterans of the Civil War. Reform schools for juvenile delinquents are also maintained.

Patients committed to the Colorado state hospital, or insane asylum, are wards of the state, as are also juvenile delinquents committed to the industrial schools. Other institutions have two classes of patients: Those committed by some court of competent jurisdiction and private patients, that is, those admitted at their own request or at the request of relatives or friends. When such private patients have any funds, or relatives who are responsible for their care, the state must be reimbursed for their care. The board of managers of such institutions must admit a patient when he can be accommodated or as soon thereafter as possible, except that the state board of corrections²⁸ cannot refuse to admit a person to the Colorado state hospital.²⁹

Child and Animal Protection.—The General Assembly of 1901 provided that the Colorado humane society by accepting the terms of the act, should become the state bureau of child and animal protection.³⁰ The governor, superintendent of public instruction and attorney general are ex-officio members of the board of directors. It is the duty of the bureau to secure the enforcement of the laws for the prevention of wrongs to children and dumb animals. It is also its duty to promote the organization of district and county societies and to promote the growth of edu-

²⁷Compiled Laws of Colo., 1921, Secs. 8929-8935.

²⁸Abolished under Code Bill 30, Sec. 10, 1933.

²⁹Compiled Laws of Colo., 1921, Sec. 579.

³⁰Consolidated under Administrative Code Bill 30 into Division of Public Welfare, Session Laws of Colo., 1933, Ch. 37.

cation and sentiment favorable to the protection of children and dumb animals.³¹

Education of the Deaf and Blind.—The Colorado school for the deaf and blind at Colorado Springs is a part of the educational system of the state and has for its object the education of children of the state that cannot be advantageously educated in the other schools of the state because of impairment of their sense of hearing or of sight. Every blind, deaf or mute citizen of the state, of sound mind, over 6 and under 21 years of age is entitled to receive an education in the school at the expense of the state. Applicants above 21 years of age may be admitted at the option of the board. It is the duty of the county superintendent of schools to report on June 1 in each year to the superintendent of the state school the names and addresses of every blind or deaf person of suitable age for admission to the school, including all persons too blind or deaf to secure an education in the common school. In case a person is too poor to provide himself with sufficient clothing and transportation to the school, the county, on order of the county judge, may be required to stand the expense of clothing and transportation.³²

Dependent and Neglected Children.—The state has established a state home for dependent and neglected children at Denver. The object of the home is "to provide a temporary home for dependent and neglected children in said home, where they shall be retained only until they can be placed in family homes," but the child may be retained in the home as long as it is to his best interests. The home is for children of sound mind and body, under 16 years of age, who are dependent upon the public for support whether his parents be living or not. The intention is that children whose parents are not morally or mentally fit guardians shall become wards of the state. Commitment is by the county court, after hearing, on petition of the board of county commissioners. When a child is committed all parental responsibility ceases. Likewise the committing court has no further authority over the child.³³

Care of the Insane.—The Colorado state hospital or insane asylum at Pueblo is maintained by the state for the treatment of the insane. Insane persons include "idiots and any person so insane and distracted in his mind as to endanger his own person or property, or the person and property of another, or others, if allowed to go at large" and persons who, tho not insane, are incapable, "unassisted to properly manage and take care of himself or his property, and by reason thereof, would be likely to be deceived or imposed upon by artful or designing persons."³⁴ Commitment is made by the county judge, after complaint has been made by any reputable person, and a lunacy commission, whose duty is to report on the facts of the case. The lunacy commission is appointed by the county judge and consists of two licensed physicians or, if there is only one physician in the county, of one physician and one other reputable person. Five days' notice must be given to the accused person before hearing except in aggravated cases waiver of notice may be made by the guardian ad litem with the permission of the court. Commitment may be made to some state institution other than the state hospital if the judge considers it to be the best interest of the person committed. Expenses of an insane person are payable out of his estate, if any, or by relatives if any are able, otherwise expenses are borne by the state.³⁵

Mental Defectives Cared for by the State.—The state maintains a home and training school for mental defectives at Ridge in Jefferson County and at Grand Junction in Mesa County. The homes are open to feeble-minded persons, incapable of receiving instruction in the public

³¹Compiled Laws of Colo., 1921, Secs. 685-687.

³²Compiled Laws of Colo., 1921, Secs. 8192-8193, 8214-8216.

³³Compiled Laws of Colo., 1921, Secs. 624-637.

³⁴Compiled Laws of Colo., 1921, Secs. 549, 573-574.

³⁵Compiled Laws of Colo., 1921, Secs. 550-566, 8920-8928.

schools, also epileptics and feeble-minded adults unable to care for themselves or their property. Feeble-minded persons or their guardians are required to pay all or part of the expense of maintenance when they are able, otherwise the county must pay the expense. Non-residents of the state may be admitted if there is room and the entire expense is paid by the parents, state or territory making the application. The procedure for commitment to the home for mental defectives is the same as for committing a person to the Colorado state hospital or home for mental defectives described in the preceding paragraph.³⁶

Care of Soldiers and Sailors Provided by the State.—A home is maintained by the state at Monte Vista for soldiers and sailors who served in the Union or Confederate army during the Civil War or who have served in the regular or voluntary army or navy in any foreign war or Indian war. They must have resided in Colorado for 1 year prior to their application for admission to the home unless service was in a Colorado regiment of troops. A dependent wife may be admitted as an inmate if she is 50 years of age or older or was married prior to the year 1890, unless she is an invalid or the husband is a confirmed invalid and as such requires the constant attention of his wife. A widow of a deceased veteran is also entitled to enter the home if she were entitled to enter if he were living. All expenses of the home are paid by the state but the personal property of a deceased inmate is credited to the fund for its support if not claimed by relatives within 1 year.³⁷

The law also provides that the state shall provide burial grounds for soldiers and sailors. It is the duty of boards of county commissioners to appoint some proper person in each county to supervise the burial of soldiers and sailors who die without leaving sufficient means to defray funeral expenses. The county must bear the expenses of the funeral, not exceeding \$50, and see that a headstone costing not more than \$20 is erected at the grave. If a soldier or sailor dies in a county other than that of his residence, the county burying him shall be repaid the cost of burial by the county of his residence.³⁸

Juvenile Offenders.—The state maintains two schools for juvenile offenders. A state industrial school for boys is maintained at Golden and the state industrial school for girls is located at Morrison. Any boy between 10 and 16 years of age and any girls between the ages of 6 and 18 may be committed to the appropriate school by the county or district court. However, an infant under 10 years of age may not be convicted of crime. The state industrial school for boys is maintained by the state but the county is liable for the expenses of a girl committed to the industrial school for girls to the extent of 50 cents a day.³⁹

Conclusions and Recommendations

The care of dependent, defective and delinquent classes accounts for approximately one-ninth of all state expenditures and a somewhat similar proportion of county expenditures. The per capita cost in 20 counties in 1930 for all poor relief was as follows: Delta \$0.93, Elbert \$0.28, Fremont \$1.52, Garfield \$1.32, Jackson \$0.13, La Plata \$1.07, Logan \$1.04, Mineral \$3.59, Moffat \$0.71, Montezuma \$0.67, Montrose \$0.80, Morgan \$1.11, Ouray \$2.43, Phillips \$0.79, Routt \$1.13, Saguache \$1.99, San Juan \$1.79, Sedgwick \$0.71, Washington \$1.11, and Yuma \$0.71. The average per capita expenditure for the 20 counties was \$1.19.

The amount spent for poor relief varies from a few hundred to \$30,000 or \$40,000 a year, depending largely upon the size of the county. In Larimer County, which is above the average both in area and population, the total expenditures for outside relief during 1930 amounted to

³⁶Compiled Laws of Colo., 1921, Secs. 583-593, 8920-8921.

³⁷Compiled Laws of Colo., 1921, Secs. 695-696, 707, 708.

³⁸Compiled Laws of Colo., 1921, Secs. 709-717.

³⁹Compiled Laws of Colo., 1921, Secs. 811, 820, 829, 832, 857, 861.

\$37,254, divided as follows: Rent \$4,990, cash allowances \$8,968, groceries \$10,136, clothing \$176, burials \$1,027, fuel \$2,775, medical service \$6,979, transportation \$564, and salary of superintendent and help \$1,456.⁴⁰ These expenditures have been greatly increased since 1930.

In most counties poor relief is still handled in an unscientific, uneconomical, haphazard and unintelligent manner. Expenditures for poor relief are grudgingly made by unsympathetic boards of county commissioners. The objective is and should be to relieve the public of the care of the individual as soon as possible. But rehabilitation is not considered by the average board of county commissioners. Few counties have superintendents of the poor and still fewer have a person trained for the work. Only one county in 20 studied had a superintendent of the poor, a deputy in the county clerk's office, without training in social work. In the other 19 counties the board of county commissioners handled the work; in three of these the chairman of the board was responsible, in the others each commissioner was responsible for relief in his district. This results in decentralization of relief activities and in any case unscientific and often indiscriminate granting of relief without thoro investigation of knowledge of the circumstances, tho no doubt the commissioners do their best. One county has a paid investigator who makes an investigation and reports to the board; another county requires all applicants to meet with the board, a procedure which may not always result in the board receiving accurate information; while one county requires the filling out of a rather lengthy questionnaire which must be signed by two residents other than the applicant certifying to the truth of the information. This method is commendable because it enables the commissioners to obtain complete information in writing but it should always be supplemented by personal investigation.

More attention needs to be given to the expenditure of funds for poor relief. In too many counties the poor fund is still considered a "pork barrel" for the local merchant who profits from a public fund at the expense of the needy poor. Two counties studied had established county commissaries for supplying groceries to the county poor. Staple supplies were purchased direct from farmers and at wholesale. But in the majority of counties the old system of giving an order on a local grocer or merchant prevails. In some counties a monthly contract is made and the business given to the lowest bidder, usually cost plus 10 percent. This results in considerable saving to the county. Several methods are used to insure the purchase of staple supplies with varying results. A check of the bills presented by the board is made but this is not always carefully done. A few counties send an authorized list of groceries and refuse to approve an item not on the list while one county depends upon the responsibility of the grocer. The difficulty with these methods is that the proper kind of food may not be provided. It is obvious that what is a luxury in one instance may be an absolute necessity in another, yet this is not always recognized.

Poor relief in counties with a superintendent of the poor is as a general rule more economically administered and better results are obtained than in counties where the board handles all poor relief. Any board can provide such an official, tho obviously the amount of work to be performed will be almost in direct proportion to the population of the county. It may be necessary in the larger counties to provide assistants or special investigators. A superintendent should be a trained social worker if the best results are to be achieved. Nothing is to be gained by the appointment of an incompetent or untrained superintendent. In one county visited it appeared very probable that the poor fund would have been more economically administered and better results obtained if the person in charge had never been appointed. In the larger counties

⁴⁰Carl C. Gentry's manuscript on Cost of Outside Poor Relief in Larimer County, Colo., (Unpublished). Colo. Agri. College, 1931.

the expenditure for poor relief has reached such proportions that the work must be centralized and a trained worker placed in charge. Not every county can afford a trained social worker, nor do they need one, but any county spending as much as \$10,000 for outdoor relief ought to have a trained social worker in charge of poor relief. Once a trained worker is employed the board should confine itself to matters of policy, leaving the superintendent fully responsible for administering the fund. In the larger counties the board of county commissioners cannot afford to give the proper time to investigating cases needing relief, even if they are trained for such work.

Closer cooperation ought to exist between private and public welfare agencies, thus eliminating much duplication of work and expenditure of funds. All relief agencies should work thru a central office which should keep complete records of all cases. In this way duplication can be eliminated, yet each agency can perform the type of service for which it is best adapted. Such a cooperative plan has been practiced in a number of counties in Iowa since 1912.⁴¹ The movement started in a desire to get the county administration out of the hands of incompetent and untrained administrators and into the hands of trained social workers. The county and private social agencies all unite to employ a trained social worker, each paying a proportionate share of her salary. Contributions toward the support of the plan differ, depending upon the ability of the cooperating agencies and the extent of the work performed. In every county in which the plan has been tried it has resulted in considerable saving to all the participating agencies without in any way reducing the services rendered to the poor. In fact, because of trained supervision, the work has become much more constructive. A member of one board of supervisors in Iowa says of the plan and the work of the trained social worker that "Her expenses and salary are more than covered by the financial savings she is making. Indeed we feel that our relief will be considerably reduced by the end of the year. Moreover, she has secured the goodwill and help of many people in various ways, and is doing away with a good deal of indiscriminate giving. As supervisors, we are more than glad to recommend the same plan to every county or district in the state. We feel that you will all come to it in time."⁴²

Economy in time and money cannot be finally and fully achieved until our whole system of public welfare is reorganized into a unified system. This can be accomplished by the creation of a state department of public welfare with a corresponding department in each county with a full-time trained social worker in charge.⁴³

A county welfare board should be created with power to appoint a trained superintendent of public welfare, preferably from a list of eligibles furnished by a similar state department. Where the county is too small a unit, districts should be organized comprising two or more counties. The county superintendent would serve not only as a local officer but also as the representative of the state department. Thus all welfare activities would be coordinated. This plan has worked successfully in Minnesota, Missouri, North Carolina and Virginia.⁴⁴ The duties of the superintendent and the board under the Virginia plan "may be itemized together in the unified function for which they are mutually responsible."

"1. The administration of outside poor relief, in lieu of the overseers, and the supervision of the expenditure of poor funds.

"2. To assist and supervise, under direction of the state board, all county residents paroled from hospitals for the insane and from other institutions.

⁴¹Shambaugh, County Government and Administration in Iowa, pp. 389-392.

⁴²Shambaugh, County Government and Administration in Iowa, p. 392.

⁴³The Division of Public Welfare, the head of which is the governor was created under the Administrative Code of 1933. Session Laws of Colo., 1933, Ch. 37.

⁴⁴Wager, County Government in North Carolina, pp. 336-339; Bradshaw, The Missouri County Court, pp. 174-177.

"3. To look after county residents released on probation or parole from the state penitentiary, reformatories and industrial schools.

"4. Under the direction of the state department, to supervise the dependent children placed in the county by the state.

"5. To act as the chief probation officer of the county, enforcing the probation laws.

"6. To assist the unemployed in finding employment.

"7. To administer funds for mothers' aid in event funds are provided.

"8. To make investigations of social distress for the state board and to act as its agent in any other capacity designated by the board.

"9. To promote cooperative undertaking of social work by private and public social and charitable agencies."

In carrying out the function, the board is specifically charged with the employment of the superintendent and the review of the official's activities; the inspection of charitable and penal institutions within the county, the cooperation with private social agencies and the juvenile court for social betterment; the presentation of a welfare budget to the supervisors.⁴⁵

"The set-up of the Virginia county welfare unit embodies the best features of the progressive states." A law was introduced in the last session of the Colorado general assembly which embodied many of these features. The adoption of such a law is desirable both from the standpoint of the effectiveness of public welfare in Colorado and the economy which should result.

County Health Administration. — Public health administration in Colorado involves two types of work. In most counties it still involves only rendering of medical assistance to indigents, which is a part of poor relief. But public health in its newer aspects means a program of preventive work. In the majority of counties all health work is carried on by the county physician but there are a few exceptions. Otero County is outstanding as it is the only county in the state with a well-organized county health unit in charge of a full-time trained physician. Several counties have a county nurse and a few provide county hospitals. In other counties a contract is made with a local hospital or patients needing hospital care are sent to the Colorado general hospital at Denver.

State Board of Health Cooperates with County.—A state board of health was created in 1893 consisting of nine members appointed by the governor for 6 years with overlapping terms. The officers of the board are a president, secretary, and treasurer selected every 2 years from the membership of the board. The board meets biennially at Denver and may be called to meet at any place and time they may deem expedient. The secretary has an office at Denver.⁴⁶ The State Board of Health now controls the division of public health under the 1933 administrative code.

The board has general supervision of the interests of health and life of the citizens and of the registration of vital statistics of the state. It grants licenses to hospitals and maternity homes and has charge of the state detention home for women. It prescribes rules in connection with venereal diseases and is required to make examination of sputum for tuberculosis. It enforces the act concerning habit forming drugs and supervises the enforcement of laws regarding installation of plumbing. The secretary of the board is a member of the state board of embalming examiners.⁴⁷ It may call upon public officials and health officers and officials of corporations to furnish information which they possess bearing upon public health. It is the duty of all health physicians and clerks of

⁴⁵Kilpatrick. *Contemporary Problems in County Government*, p. 60.

⁴⁶Compiled Laws of Colo., 1921, Secs. 870, 872-873. Session Laws of Colo., 1933, Ch. 37.

⁴⁷Compiled Laws of Colo., 1921, Secs. 871, 970-971, 1059-1060, 1065, 1076, 1081, 1086, 4632, 4790, 4829.

local board of health, and the regular physician of each public institution to report to the state board at least annually.⁴⁸

The state board of health or the secretary may call upon the board of county commissioners or the chief executive officer of any municipality to appoint some person to serve as the local health officer or to name the one already appointed. The law provides that the local officer shall "act in cooperation with and under advice of the state board of health."⁴⁹ In case a local board of health is unable or unwilling to act in case of emergency the state board may assume all the powers of the local board of health, or it may, at its discretion, bring suit to compel the local board to enforce the laws of the state in regard to health and the expense of the suit must be borne by the local board.⁵⁰

In spite of these powers over local boards given to the state board there is little actual supervision exercised by the state board. So far as local health boards and officers are concerned, the work of the state board is primarily confined to requiring reports and tabulating the information received.

County Board of Health.—The board of county commissioners is the board of health of their respective counties and the county clerk serves as clerk of the board. It is the duty of the board to appoint one or more health officers for the county, fix his or their salaries or other compensation and the fees which they shall charge in the execution of the health laws and the regulations of the board.⁵¹ They must make such "regulations respecting nuisances, sources of filth and causes of sickness within its respective limits and on board of any car, or train of cars, as it shall judge necessary for the public health and safety."⁵² The board may, if admittance is refused, obtain a warrant to enter any place for the purpose of examination. The board may direct a justice of the peace to issue a warrant for the removal of any person infected with contagious sickness and may take possession of convenient houses and lodgings and provide nurses, attendants and other necessities for the accommodation, safety and relief of the sick. Baggage, clothing and suspected goods may be quarantined and if necessary a place provided for their safe keeping. Any county, or two or more counties, may establish a quarantine ground within or without their limits, but if outside their limits they shall obtain the consent of the county in which the quarantine ground may be located. The county must pay the expense of quarantine of any person or goods within the county but the expense of quarantine of goods must be paid by the owner.⁵³ Persons may be appointed to examine travelers coming into the state from infected places in other states and may restrain them from travelling until licensed to do so by the board of health.⁵⁴ The board may direct the removal of a diseased person from the county jail, poorhouse or hospital. It may permit the removal of any infected article or person when the health of the individual or the public will not be endangered. Householders, physicians, and health officers must report any case of smallpox or other contagious disease to the board of health. The board may assign certain places for the exercise of any trade or employment dangerous to the public health and prohibit their exercise elsewhere. The district court may order the removal of any business on complaint of the board of health or any other person, if it is shown that it constitutes a nuisance. The owner may be held liable for damages to property because of the maintenance of a nuisance. The county court may, on peti-

⁴⁸Compiled Laws of Colo., 1921, Secs. 874-876, 970.

⁴⁹Compiled Laws of Colo., 1921, Sec. 882.

⁵⁰Compiled Laws of Colo., 1921, Sec. 883.

⁵¹Compiled Laws of Colo., 1921, Secs. 891, 893.

⁵²Compiled Laws of Colo., 1921, Secs. 894, 896-908, 900.

⁵³Compiled Laws of Colo., 1921, Secs. 907-912, 914-918.

⁵⁴Compiled Laws of Colo., 1921, Sec. 913.

⁵⁵Compiled Laws of Colo., 1921, Secs. 919-924, 929-934.

tion of the board of health order the removal of a cemetery.⁵⁶ The board of health may order the removal of a nuisance if the owner fails to do so and recover the expense from the owner. The county court, or any justice or magistrate court, has jurisdiction in all cases involving nuisances.⁵⁷ The county board of health also has authority to order any animal infected with a contagious or infectious disease disposed of at the expense of the owner. They may also appoint an inspector of milk. Finally, it is their duty to enforce all laws relating to sale of adulterated or misbranded food or other product.⁵⁸

All of the law duties devolving upon county boards of health may also be exercised by municipal boards of health composed of the mayor and council of municipalities. Thus many of the duties outlined for county boards of health are designed for cities and towns and are consequently never exercised by county boards. In fact county boards of health in most counties never perform any of the functions imposed upon them, other than the appointment of a county physician who serves as a county health officer.

The County Physician.—The law provides that every board of health "shall appoint one or more physicians to the board, who shall be the health officer or officers of the county, city, or town for which he is appointed."⁵⁹ This officer is popularly known as the "county physician." He serves during the pleasure of the board, tho it is customary to make the appointment for 1 year, party affiliation often being the most important requisite for appointment. The board fixes his salary and compensation, which is paid by the county.

The county physician serves in a dual capacity. He looks after the indigent sick, which is a part of poor relief in the county. At the same time he is the executive officer of the county board of health. It is his duty to enforce all health laws coming under the jurisdiction of the county board of health and any regulations it may make. He must order the prompt isolation of persons sick with communicable diseases and the isolation or vaccination of those exposed to smallpox, provide care for those isolated for the public good and give notice by placard of places infected with a contagious disease. He must supervise the funeral of persons dying with a communicable disease and require disinfection of all articles likely to be infected. He must keep the president of his local board and the secretary of the state board of health constantly informed respecting every outbreak of a disease dangerous to the public health and so far as possible the source of the danger.⁶⁰ Persons suspected of having venereal diseases must be examined by the county physician and he must report all cases to the department of venereal diseases of the state board of health and he must examine and treat all prisoners suffering with venereal diseases. He must report all cases of tuberculosis and take precautions to prevent its spread. Finally, he must serve as examiner of the blind under the blind benefit act.⁶¹ Thru the county board of health he is the representative of the state board of health and on the fifth day of each month must report all marriages, births, deaths, and other information required by the state board of health. He ordinarily serves as the local registrar of vital statistics and on the fifth of each month must report all births and deaths to the state registrar.⁶²

In actual practice the county physician in Colorado devotes little time to any duties other than caring for charity patients. In the majority of

⁵⁶Compiled Laws of Colo., 1921, Secs. 941-944.

⁵⁷Compiled Laws of Colo., 1921, Secs. 898-899, 901-906, 946.

⁵⁸Compiled Laws of Colo., 1921, Secs. 947, 961.

⁵⁹Compiled Laws of Colo., 1921, Sec. 893.

⁶⁰Compiled Laws of Colo., 1921, Sec. 934.

⁶¹Compiled Laws of Colo., 1921, Secs. 727, 1077-1086, 1092.

⁶²Compiled Laws of Colo., 1921, Secs. 939, 988. (Compare Secs. 940 and 987 regarding report blanks.)

counties there is no broader conception of his work as evidenced by the fact that in a majority of the counties visited his salary was paid out of the poor fund. Only in counties employing a county nurse is there any evidence of constructive health work. A notable exception is Otero County which has organized a county health unit with a full-time physician in charge, a plan which will be described in a later paragraph.

The compensation paid county physicians varies from a few dollars in fees in the smaller counties to \$1,800 a year in the larger counties. A health officer is by law entitled to receive not less than \$2 a day, while in the actual discharge of his duties. The most usual salary received by county physicians is \$600 a year. In the larger counties where several deputies are appointed the total salaries paid is often quite large. For example, Larimer County paid \$5,130 to physicians whose services were available only on call. In comparison Otero County paid a full-time physician \$3,600 and \$600 traveling expense.

The County Nurse.—There is no legal provision in Colorado authorizing the appointment of a county nurse or defining her duties, other than the general power of the board of health to remove or prevent the causes of sickness. A county nurse in Colorado ordinarily is appointed and paid jointly by the Red Cross and the board of county commissioners in its capacity as the county board of health. Very few counties in Colorado have a county nurse, constructive health work being a comparatively new county activity, which in the opinion of many boards of county commissioners is service requiring an unnecessary expenditure of county funds.

The county nurse works primarily with school children, parents, and other groups as a health teacher. She visits county institutions for the care of the sick. She gives clinical examinations and advises corrective measures, cooperates with other health officers in controlling and preventing the spread of contagious diseases and may give professional care in emergencies.

Full-Time County Health Department Needed in Many Counties.—Otero County has established a full-time county health department under direction of a physician who devotes his entire time to the work. Besides administering aid to the indigent sick, the county physician of Otero County examines all school children of the county and records all defects on school cards; notices are sent to the parents asking permission to vaccinate the children, to give toxin-antitoxin, and typhoid serum. This is given free of cost to school children and anyone who comes to the office, the expenses being borne by the county. Dr. G. Ashbaugh, the county physician of Otero County, says in his 1930 report, "We have practically eliminated smallpox and diphtheria in the county; typhoid cases are becoming less each year; and, according to statistics, the infant mortality is being reduced." It is reasonable to conclude that a county physician, devoting his entire time to promoting the health of the county represents real economy, as well as improving health conditions in the county. The services of a county physician to examine school children of a county strengthens the work of a visiting nurse. The increased service to a county resulting from the creation of a full-time health unit offsets any additional cost, if any. Many counties are now spending enough annually on part-time county physicians to pay the salaries of a full-time county physician and visiting nurse.

Colorado Has Few County Hospitals.—Any town, city or county may establish a hospital for the reception of persons having the smallpox or other disease which may be dangerous to the public health. Any county having a population of more than 10,000 inhabitants may establish and maintain a hospital for the care and treatment of indigent persons residing in the county, and also for the care and treatment, for pay, of other residents of the county.⁶³ Very few counties in Colorado are able to support a county hospital. In fact only 22 counties, barely a third of the

⁶³Session Laws of Colo., 1931, amending Compiled Laws of Colo., 1921, Sec. 925.

total number, can meet the requirements of 10,000 or more population. Only 2 counties out of 25 from which information was obtained have a county hospital and these both have the county home in connection. Seven of these 25 counties had a contract with a local hospital for the care of county patients at a daily rate of \$1.77 to \$3.00, the most usual rate being \$2.50 a day. The remaining counties send county patients to the Colorado general hospital at Denver for treatment.

Colorado General Hospital.—The Colorado general hospital was authorized by the general assembly in 1921, and established by an act of 1923.⁶⁴ It is a part of the medical school of the university of Colorado and under the control of the board of regents of that institution.

The law provides that it "shall be primarily and principally conducted for the care of legal residents of Colorado who are afflicted, not with chronic illness, but with a malady, deformity, or ailment of a nature which can probably be remedied by hospital care and treatment," and are unable financially to secure such care.⁶⁵

The board of county commissioners may commit a person to the hospital on application, with the consent of the person or his parent or guardian, and after it has been determined that such person can probably be benefited by treatment. The county must pay transportation for the patient to and from the hospital and one-half the cost of hospital care, the state paying the balance. A patient who is able must pay his own transportation and all or any part of the cost of his hospital care.⁶⁶

Conclusions and Recommendations

Public welfare and public health activities aim at prevention and are thus intended to supplement, and so far as possible, replace the older conception of charity and correction and medical relief. "But," in the words of Dr. Howard W. Odum, "like public education long considered unnecessary, dangerous, and bringing the stigma of charity to its recipients, public welfare must needs take its time to get under way, and must be misunderstood, misinterpreted, and surrounded by limitations that impede its progress."⁶⁷

We are gradually coming to realize that prevention is better than relief with the result that greater interest is being taken in the promotion of public health. Several states have pointed the way with progressive welfare and public health laws. In Missouri the state pays a portion of the cost of maintaining a full-time county health unit.⁶⁸ As in the case of public welfare, public health work can be made most effective when all units in the county—the county board, the cities and towns, and the schools—cooperate in supporting a full-time unit. There is evidence of such a trend in some counties in Colorado. However, a unified and effective public health service in Colorado cannot be fully achieved without legislation providing for more effective control and direction over local health work by the state board of health.

The growing interest of both the national and state governments promoting public health is a hopeful sign and a recognition that public health is a state and national problem as well as a local one. Colorado is one of the few states without effective state control over local public health and welfare. This condition ought to be corrected.

⁶⁴Session Laws of Colo., 1921, Ch. 174; 1923, Ch. 186.

⁶⁵Session Laws of Colo., 1923, Ch. 186, Sec. 3.

⁶⁶Session Laws of Colo., 1923, Ch. 186.

⁶⁷Odum and Willard, *Systems of Public Welfare*, pp. 4-5.

⁶⁸Bradshaw, *The Missouri County Court*, pp. 197-198.