

**BIENNIAL REPORT OF THE
ATTORNEY GENERAL OF
THE STATE OF COLORADO,
YEARS 1917 AND 1918**

Published @ 2017 Trieste Publishing Pty Ltd

ISBN 9780649542918

Biennial Report of the Attorney General of the State of Colorado, Years 1917 and 1918 by Leslie E. Hubbard

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Cover @ 2017

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LESLIE E. HUBBARD

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THE STATE OF COLORADO,
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Biennial Report
OF THE
Attorney General
OF THE
State of Colorado



Years 1917 and 1918

LESLIE E. HUBBARD

Attorney General

DENVER, COLORADO
SAMEN BROTHERS, STATE PRINTERS
1919

L16248

SEP 19 1939

ATTORNEYS GENERAL OF COLORADO

FROM THE ORGANIZATION OF THE STATE

A. J. Sampson	1877-1878
Charles W. Wright.....	1879-1880
Charles H. Toll	1881-1882
David F. Urmy.....	1883-1884
Theodore H. Thomas.....	1885-1886
Alvin Marsh	1887-1888
Samuel W. Jones.....	1889-1890
Joseph H. Maupin.....	1891-1892
Eugene Engley	1893-1894
Byron L. Carr	1895-1898
David M. Campbell.....	1899-1900
Charles C. Post.....	1901-1902
Nathan C. Miller.....	1903-1906
William H. Dickson.....	1907-1908
John T. Barnett.....	1909-1910
Benjamin Griffith	1911-1912
Fred Farrar	1913-1916
Leslie E. Hubbard.....	1917-1918

STATE OF COLORADO LEGAL DEPARTMENT

Attorney General

LESLIE E. HUBBARD

Deputy Attorney General

CHARLES ROACH

Assistant Attorneys General

Irving Van Bradt
John L. Schweigert
Richard F. Ryan
Ralph E. C. Kerwin
Bertram Beshoar
Clara R. Mozzor

Inheritance Tax Appraiser

Richard F. Ryan

Deputy Inheritance Tax Appraisers

Leo U. Guggenheim
Charles A. Eaton

Special Inheritance Tax Investigators

*James J. O'Rourke
Edwin L. McCulloch

Stenographic and Clerical Assistants

**Miss Margaret E. Fallon
**Miss Margaret Marsh
**Mrs. May Bradford
***Miss Margaret McCullough
***Robert M. Van Duesen

NOTE: Francis E. Bouck, Deputy Attorney General, resigned to accept an appointment as Judge of the District Court of the Fifth Judicial District.

Frank McLaughlin, Clarence M. Hawkins, James W. Kelly, and W. B. Morgan, at various periods acted as special assistants to the Attorney General.

Delph E. Carpenter, Fred Farrar, Platt Rogers, Clyde C. Dawson, Ralph E. C. Kerwin and Charles Roach, at various times assisted in the defense of the interstate water cases.

*Resigned. **Attorney General's Office. ***Inheritance Tax Department.



BIENNIAL REPORT
OF THE
ATTORNEY GENERAL
OF THE
STATE OF COLORADO

To His Excellency,
HON. JULIUS C. GUNTER,
Governor of Colorado.

Sir: I have the honor of submitting to you the report of the Attorney General, in conformity with law, covering the activities of this department during my term of office.

This report contains an outline and discussion of the most important matters affecting public interest given attention by this office, with recommendations thereon.

The great number of opinions written by the department during the term of office will not permit their publication in full, but I have prepared syllabi of all of them.

It has been my constant aim and endeavor, generously shared by my assistants, to conduct the affairs of the office as the servant of the people and the keeper of a public trust. Permit me to say in this connection that the measure of success accomplished is the result of unselfish effort and genuine devotion to the public service.

As the chief legal adviser of the State, I have enjoyed the universal courtesy, co-operation and confidence of the various officials and departments of the State and have devoted my best efforts to the duty of effectively aiding them.

An extremely large volume of business has been disposed of during the term, and my successor will enjoy the unusual benefit of taking over the duties of this department with its current affairs completely settled and finished.

Court matters occupied considerable time, but by no means constituted all of the duties of myself and assistants. Matters requiring counsel and advice to other departments were of daily

occurrence, and the preparation of opinions upon questions of public importance and interest was constantly demanding attention. This department also compiled for publication for various departments the laws of Colorado relating to Schools, Corporations, Elections, and Inheritance Taxation.

I trust the record of my office will in no wise detract from the splendid and efficient Democratic administration, which has been enjoyed during the past two years by the people of our State.

A list of civil and criminal causes handled by this department during my term of office is published as a part of this report, with sufficient notations to show final disposition or present condition of each cause. An examination of this list discloses a record of work in our courts which is indeed gratifying and the percentage of successes extremely high.

The more important matters of public interest which are deserving of special consideration, will be topically outlined.

LEGISLATIVE REFERENCE AND BILL DRAFTING DEPARTMENT

It seems proper to call your attention to the Legislative Reference and Bill Drafting Department, created by me soon after taking office. This was something new in Colorado. Expressions of appreciation received from senators and representatives of the Twenty-first General Assembly are alone sufficient to justify the conclusion that it was a valuable aid to them in the performance of their duties. The chief work of the department consisted in giving counsel and assistance in the drafting of bills for introduction in the legislature, furnishing reference to and data concerning the practical workings, scope and effect of similar legislation in other states.

The benefit of legal advice was to avoid the introduction of bills which were not free from patent inaccuracies, conflicts and constitutional objections, and a substantial amount of litigation has doubtless been avoided through this service.

The activities of the department extended over a period of more than two months, during which time no less than four hundred bills were drawn, from four lines to fifty pages in length; hundreds of consultations were held. More than three-fourths of the members of the Senate and House availed themselves of the department's assistance.

I suggest that a department of this character be made a permanent feature of future administrations of this office during sessions of the legislature, and that you accordingly make appropriate recommendations.

If such a department were properly organized and operated it would prove an agency of inestimable value to all concerned and have a decidedly beneficial effect upon legislative delibera-

tions and actions. Its proper scope should include the gathering of statistics and data to assist in drafting bills, and especially means for detailed comparisons of laws of other states. After adjournment of the legislature its energies could be directed toward aiding the Governor in surveying the merits of the numerous bills enacted and awaiting his official sanction.

CONFESSION OF ERROR IN CRIMINAL CASES IN THE SUPREME COURT

I have conceived it my duty, in representing the people in criminal cases in our courts, to act in a quasi-judicial manner.

To see justice done, rather than make an unbroken record of convictions regardless of justice, has been my constant aim.

Whenever manifest and prejudicial error plainly appeared from the record, I had no hesitancy in frankly and openly conceding that fact to the Supreme Court, which tribunal has repeatedly commended such action.

Confession of error was presented to the Supreme Court in three criminal cases growing out of the industrial strife in the southern coal fields of this State during the years 1913 and 1914. This action was strongly sanctioned by the court.

Confession of error was also made in a case in the Supreme Court, involving the sentence of an unfortunate Mexican to the extreme penalty of death under circumstances which made the sentence undoubtedly excessive and beyond all purpose of our criminal laws, and in this, likewise, the court approved the action taken.

DISMISSAL OF STRIKE CASES IN THE DISTRICT COURTS

Particular attention is directed to the dismissal in the district courts of certain criminal cases, having the same origin as the so-called strike cases above mentioned. A painstaking examination and investigation of these cases convinced me that the testimony and proofs available for trial at that late day was entirely too meager to warrant further prosecution, as the more important witnesses could not be located. Feeling the trial of these cases would in all reasonable probability have no other results than bankrupting the counties wherein tried and reviving the bitterness of industrial discord, which I hoped by such action would happily pass, I took proper steps to have them dismissed. This action on my part, which was no more than the discharge of a plain duty, I believe materially aided in bringing about industrial peace in Colorado and restoring a more conciliatory feeling between coal operator and mine worker, and under the present Democratic administration industrial peace and concord have prevailed and been perpetuated.