

**BIENNIAL REPORT OF THE  
ATTORNEY-GENERAL OF THE  
STATE OF COLORADO FOR  
THE YEARS 1907 AND 1908**

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Biennial Report of the Attorney-General of the State of Colorado for the Years 1907 and 1908 by  
William H. Dickson

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**WILLIAM H. DICKSON**

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# Biennial Report

of the

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# State of Colorado

for the

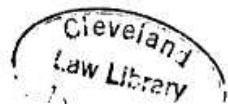
Years 1907 and 1908

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William H. Dickson

Attorney General

DENVER, COLORADO  
The South-Western Printing Company  
1908



**ATTORNEY GENERAL'S OFFICE.**

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**WILLIAM H. DICKSON**.....Attorney General  
**HORACE PHELPS** .....Deputy Attorney General  
**SAMUEL HUSTON THOMPSON, JR.**.....  
..... Assistant Attorney General  
**GEORGE D. TALBOT**.....Assistant Attorney General  
**MARGARET E. FALLON**.....Stenographer  
**PEARL MATLOCK** .....Stenographer

# 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
D. M. Campbell.....	1899-1900
Charles C. Post.....	1901-1902
Nathan C. Miller.....	1903-1906
William H. Dickson.....	1907-1908

Biennial Report of the  
**ATTORNEY GENERAL**  
of the  
State of Colorado

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DENVER, COLO., November 15, 1908.

To the Honorable

HENRY A. BUCHEL,

Governor of the State of Colorado,  
State House, Denver, Colorado.

Sir—In accordance with the requirements of the Constitution and statutes of the State of Colorado, I herewith submit a report of the official conduct of the office of Attorney General from the 8th day of January, 1907, to the 15th day of November, 1908.

Herewith I submit a complete list of the civil and criminal cases which have been disposed of or are now pending in the various courts, in which I have appeared for the State or its officers.

From among the opinions rendered by this office during the biennial period I have selected those which I regard of the most importance and included them in this report.

The official business of the Attorney General's office has increased very largely during the last few years by reason of recent enactments of the Legislature creating additional boards, bureaus and departments, and also by reason of the growth of business in the several executive departments.

These new boards, bureaus and departments have required the advice and counsel of the Attorney General in their organization, as well as in connection with the many questions of procedure and practice that have arisen since their establishment.

At the present time the Attorney General is a member of many important Boards, such as the State Board of Equalization,



the State Board of Land Commissioners, the State Auditing Board, the Military Board, State Board of Education and State Board of Child and Animal Protection, etc.

These Boards consume a great portion of the time of the Attorney General. The time has come, in my opinion, when the State officials should be relieved from serving upon these Boards, so that they may give their attention to other duties which pertain more directly to the office to which they are elected.

The executive officers of the State were made ex officio members of these several Boards either by the Constitution or early statutes at a time when the population of the State was small and the revenues not sufficient to carry on separate Boards or departments, but as the State has grown in population the revenues have increased, so that such Boards may now be easily maintained without requiring the executive officers to devote their time to them. Such Boards would be much more satisfactorily maintained for the interests of the State by commissioners or officials whose entire time could be given to the work of the office.

This is particularly true of the State Board of Equalization. It is very seldom that any of the State officials have the technical knowledge necessary to qualify them in assessing the railroads, telegraph and telephone companies operating within the state. Provision should be made for the establishment of a tax commission, composed of, say, three members, who are qualified as experts to determine the value and assess this property, thus relieving State officials of this duty, although they might still remain the State Board of Equalization and confine their duties to the equalization of valuations among the several counties.

I thoroughly believe that it is necessary for the best interests of the people of the State that the State officials who are members of the State Board of Land Commissioners should be superseded by a board of land commissioners, composed of three members, one of whom shall act as register, and all of whom shall give their entire time in familiarizing themselves with the location and value and the manner of disposing of the large amount of State lands in Colorado.

The Board as it is now made up has almost no knowledge of the physical condition of particular tracts of land belonging to the State, so that we are compelled to rely entirely upon the reports of appraisers, whose terms of office are usually short, and who frequently have no greater knowledge concerning land values than the members of the Board.

Just at this time many irrigation projects are being started, some of which are located so as to provide water for rich agricultural lands belonging to the State. Without actual technical knowledge respecting the application of water from these irrigation systems to said lands, it is impossible for the State Land Board to render the services to the State which are demanded.

The creation of such commissions as above referred to would, in my opinion, not only tend to a better service to the State in

those departments, but would relieve the State officials from the performance of duties concerning which they are usually little qualified. The Attorney General in particular should be permitted to confine himself to purely legal matters in which the State is interested.

During the past two years this office has had an unusual amount of important litigation.

The case of the State of Kansas vs. The State of Colorado commenced in the Supreme Court of the United States, which was prepared and argued by my predecessor in office, was decided on the 13th day of May, 1907, in favor of the State of Colorado.

Subsequently the Attorney General of the State of Kansas filed a petition for rehearing, which was denied.

This decision is regarded as a signal victory for this State, and has undoubtedly created an impetus in the investment of capital to further develop extensive irrigation projects in Colorado.

The most important litigation to the people of this State which this office has had during my term has been the anti-trust cases, which were brought and prosecuted under the authority of your excellency.

The first of these cases started was against what is known as The Grocery Trust. A complaint was filed in the District Court of the City and County of Denver against a large number of individuals and corporations, as well as three associations, charging that a combination existed in restraint of trade, and praying that the defendants be enjoined from maintaining or carrying out said combination in the future. To the State's complaint the defendants filed a demurrer. The case was heard before Judge Allen upon the demurrer and upon my application for a temporary injunction.

The case was very bitterly fought by a number of able counsel representing the several defendants, and upon the conclusion of the hearing Judge Allen held that the complaint had been sustained by the proof; that a combination in restraint of trade did exist, which was detrimental to the interests of the people of this State, and issued a permanent injunction, restraining the defendants from maintaining or continuing such combination. The defendants have appealed from the decision of Judge Allen, and the case is now pending in our Supreme Court.

The same character of suit was instituted against The Denver Brick Manufacturers' Association, together with certain corporations and individuals comprising said association, and "The Denver Bricklayers' Union No. 1," praying for an injunction to restrain the defendants from maintaining or continuing a combination in restraint of trade.

The evidence in this case disclosed that no one could buy brick from a member of said association without first signing an agreement that it should be laid by members of Bricklayers' Union No. 1, and that unless the brick was purchased from some brick manufacturer who was a member of the Denver Brick Manu-

facturers' Association it would not be laid by any member of the Denver Bricklayers' Union No. 1, but that the particular job would be declared a "scab" job and "unfair," and an effort made to prevent the erection of the structure for which the brick was purchased.

In this case the principal fight was upon the right of the State to maintain the suit and the authority of the Attorney General to institute the suit. These questions were both determined in favor of the State. After the decision in this case by Judge Shattuck one of the head officers of the Bricklayers' International Union came to Denver from Chicago, and, after an investigation of the facts, requested the local Union No. 1 to withdraw from said combination, which it did by resolution. I thereafter dismissed the suit as to Bricklayers' Union No. 1. The case is still pending in the District Court for further disposition upon the merits.

A similar suit was instituted against a number of the coal companies operating and selling coal in this State. This suit was also heard before Judge Shattuck upon a demurrer to the complaint raising the question of the authority of the State to sue and of the Attorney General to institute and prosecute the suit. This suit was also vigorously opposed, but both questions involved were decided in favor of the State.

In these anti-trust cases I proceeded to enjoin the several companies and individuals composing the combinations under the common law, as we have no anti-trust statute in this State. In this respect Colorado stands with a very small minority of the States of the Union. I think there are only twelve or fourteen States that have no anti-trust law, and I desire to repeat the recommendation made by my predecessor in office that special legislation be passed by the next General Assembly to restrict trusts and unlawful combinations.

While the trusts and combinations which exist in this State are small in magnitude as compared with the great aggregations of capital in the East, yet, nevertheless, by the adoption of the same methods used by the larger combinations, the people of this State are oppressed and denied the right of free, open and fair competition.

I also recommend that sufficient power be given to the Attorney General to proceed against illegal trusts and combinations, either by quo warranto or some direct proceeding, with the additional power to revoke the charter of any corporation which may be a party thereto, with adequate penalties to insure the enforcement of the law.

The authority contained in section 1783, 1 Mills' Annotated Statutes, under which the prosecutions in the trust cases were conducted, was seized upon by a number of people throughout the State as sufficient for the Governor and the Attorney General to proceed to stop prize fighting, gambling and the illegal sale of liquor throughout the State.