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ADMINISTRATION IN STATE GOVERNMENT IN THE UNITED STATES
WITH SPECIAL REFERENCE TO THE ADMINISTRATION
OF THE CENTRAL GOVERNMENT OF THE STATE OF MONTANA

--

by

Carl McFarland

Presented in partial fulfillment of the requirement
for the degree of Master of Arts

State University of Montana
Missoula, Montana

1929

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FOREWORD

The traditional treatment of government seems to consist almost entirely of form, sanction, and formula. Furthermore, in the governments of the United States the fear of executive tyranny and the loud emphasis upon individual rights has been displayed in justification of every negative political theory.

In the study of government, the past is a tremendous burden upon the student. Histories, theories and desires of previous days do not in themselves picture the present problems of government-- certainly not the present problems of government in the United States, yet the great bulk of material on the scholar's shelf and in academic lectures is of this sort.

There is, however, in some measure an attempt to look at the present and also ahead. It has been said that "one of the most striking features of the political theory of the past quarter century is its genetic point of view, and its close connection with the social, economic, and psychological background of political phenomena",¹ but these sentiments were a little too hopeful-- particularly in the study of elementary government the terminology and subject matter are predominantly drawn from the past.² The turbulent days of the founding of the republic are reflected in the continued emphasis upon constitutional questions to the neglect of current problems.³

So far as the administration of government is concerned, democracy in ultimate control combined with efficiency in administration should be the general ideal.⁴ Happily, there seems to be some actual trend in this direction.

Certainly, the measure of legislation consists in "the system of social consequences to which it leads"⁵ and not in the systems used in securing the articulation of public will. This study, therefore, undertakes the problem of government from the standpoint of its application upon the people of the state--the administration of legislation.

We approach the study from the standpoint of efficiency and dispatch with emphasis upon the enforcement of the will of the state rather than upon the protection of the individual in his rights.

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1. Gettel, R. G. History of Political Thought, p. 491 (Century, 1924)
 2. Beard, Charles A. Time, Technology and the Creative Sprit in Political Science Am. Pol. Sci. Rev., Vol. xxi, p.1
 3. Goodnow, F. J. Politics and Administration, p. 5 (MacMillan, 1900)
 4. Gettel, R. G. *op. cit.*, p. 493
 5. Laski, Harold J. Grammar of Politics, p. 385 (London, 1925)

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PART I

THE PROBLEM OF ADMINISTRATION IN STATE GOVERNMENT

THE STRUCTURE AND AGENCIES OF GOVERNMENT

Government is the exercise of a number of powers. The State is the collective moral person formed by the whole body of citizens; the government is the executive organ by which the State will is made known and carried into effect.¹ To make modern society possible, power over life and property has been given to an entity which is termed government, or "the government"; the government is concerned, therefore, with the exercise of the powers given it.

The exercise of governmental power is a vast undertaking, even in smaller states, and it therefore requires a numerous, organized agency. It is only natural that labor of government be divided according to functions necessary to exercise power and carry it into effect. Special functions have their own peculiar governmental principles and should be given a measure of independence for proper development.

The classification of the functions of government and basis of category have been diverse with the emergence of political philosophy. Montesquieu's famous classification of three functions, to which in the United States has been added the principle of separation of powers, has had a most profound effect upon the functioning of American government; and there are numerous other classifications that have been put forth at one time or another--a bewildering array of functions such as "constituent", "deliberative", "moderating or coordinating", "administrative", "inspective", and "representative", in addition to the trite "legislative, executive and judicial".

The natural division of governmental functions is primarily

1. Laski, Harold. Op. Cit., p. 70

two-fold: the organs of government concerned with expressing the will of the state, and the agencies which carry the will thus expressed into effect.² In modern states the parliaments, congresses, and legislatures are the most important of the will-expressing agencies, and the executive (including the administrative) agencies are those that apply the state will. In the broader sense, the "judicial function" of modern political thought is a part of the administrative function,³ "but the historical process has demarcated the executive from the judicature, and since in fact the latter is peculiarly isolable from the business both of the legislature and the ministries we arrive at the accepted division of powers into three."⁴ Although, as has been said, the natural division is first into will-expressing agencies and secondly will-applying agencies (the courts being one of the will applying agencies), in the United States the judiciary has a double function--the application of civil and criminal law, which is a will-applying function, and the maintenance of the constitutional structure of government. This latter function of the courts constitutes a third natural primary division of governmental functions in the United States.⁵

The primary division of governmental functions might, therefore, be outlined as follows:

I. Will-expressing agencies:

Legislatures

Executive in legislative function (veto)

People in initiative and referendum

II. Will-applying agencies:

Executive in its administrative function

Judiciary in applying the criminal and civil law

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2. MacIver, R. M. The Modern State, p. 368 (Clarendon, 1926)
 Goodnow, F. G. Op. Cit., pp. 9 and 10
3. Paine, Thomas. The Rights of Man, p. 33, Pt. II
4. MacIver, R. M. Op. Cit., 369
5. Goodnow, F. J. Op. Cit., pp. 17 and 22

III. Constitutional supervising agency
 Courts in applying constitutional or public law

It is evident that this third division is not necessary to the enactment and application of legislation--the courts may not be called in at all; but unless the legislature undertakes the administration of law (as state legislatures in the United States once commonly did in the granting of divorces) or unless the executive undertakes to formulate the will of the state, any effective expression of the state will is predicated upon action by both the will-expressing agencies and the will-applying agencies of the government.

Furthermore, these functions are not equal but of changing weight. Sometimes the expression of the will of the state is the most important act, for the formulation of the will may be momentuous and the subject matter important while the administration (application) comparatively simple. But in other cases, while the will may be clear and easily expressed, the application might be extremely difficult such as the administration of the federal anti-trust laws.

Considering the will-expressing and will-applying agencies, these being the indispensable agencies for any act of government, it is evident that the latter are the agents of the former.⁵ The legislatures express the will of the state and then hand the matter over to the will-applying agencies to secure the fulfillment of the object of governmental organization through the application of the will of the state. It would seem, therefore, that the principal should have absolute control over the agent--that the legislatures should have absolute control over the administration; but on the other hand there is reason to

6. Goodnow, F. J. Op. Cit., p. 28

safeguard the administration from "politics" or interference in matters other than the proper functioning and efficiency of the administering arm of the government. The extent of legislative control over the administration is a matter of considerable difference in the various types of government: in the parliamentary governments the ministry is chosen by the legislature and may be dismissed by the legislature; in the United States, however, both the federal and state governments have an independent administration (that is, an administration elected by the people and not subject to removal by the legislature except through impeachment) subject to the control of the legislature through the exclusive legislative power over appropriations and incidentally through the power of investigation.

These considerations of the anatomy of government, if kept in mind, will clarify in a measure at least the following discussion of the administrative or executive function in government and the actual treatment of the administrative arm in the state governments in the United States today. Rather than considering the governmental function as a series of diplomatic maneuvers whereby the several organs (functions, departments, agencies, etc.) of state seek to reach an agreement as to what should be done in a given situation, the governmental problem is simplified if considered from the standpoint that the agents of state are simply seeking to express and apply the will of the state.

THE EMERGENCE OF ADMINISTRATION

"At the time our political systems were taking shape attention was largely concentrated upon what may be termed the purely political problems of securing a form of government under which the popular will regarding the conduct of public affairs should find adequate expression; of reducing to a minimum the danger of the assumption by any officer or branch of the government of undue powers; and of the protection of the individual in the possession and exercise of what were believed to be his natural and inherent liberties and rights. From the activital standpoint, the idea dominant was that the sphere of governmental action should be kept as limited as possible. That our governments would ever assume the responsibilities now exercised by them was not conceived.

"From these political ideals it resulted that, in the formulation of our political systems, little attention was paid to the problem of the organization and the conduct of the administrative, as distinguished from the executive, branch of government. This is strikingly illustrated by the fact that only the most incidental reference was made in the federal constitution to the need for the establishment of administrative departments to have in charge the actual conduct of public affairs. This lack of concern in the purely administrative aspect of government, moreover, continued almost until the present generation. Not until after the Civil War did either the national or state governments enter upon that expansion in their administrative activities which is such a prominent feature of their recent development." W.F. Willoughby

Before proceeding to discuss administration in the state governments in the United States, it is important to point out some of the factors which have affected the position and importance of governmental administration in the United States.

The American philosophies of government were formulated before the mechanical inventions of the industrial revolution had changed Western civilization. Simple economic organization, the love of personal independence together with the passionate desire to be free of all governmental restraints, and the current doctrine of laissez faire "had its own justification in political

philosophy and jurisprudence".¹ In the early years of the republic the paramount issues were political and economic--concerned the determination of the proper field of governmental activity and the commercial balance in the nation. Gradually, with the settlement of some of the more important political and economic questions, a new set of problems took the stage in American government--regulation of public utilities and big business, the tariff, farm relief, and the extension of American enterprise into the world market.² Immense cities, the dominance of industry, and the increase in population have wrought great changes on the North American continent.

The neglect of the administrative phase of government is not surprising in view of the early importance of political questions and the almost unlimited natural resources of the country. The attention of the nation was not called to efficiency or dispatch in government--dishonesty was taken for granted, a necessary evil. Bad government flourished while the eyes of the populace were turned upon opportunity for personal enrichment and advancement; safety from international conflict and a comparatively peaceful history did not subject the American governments to the searching test of war. Furthermore, the influence of the frontier, breeding qualities of self-reliance, initiative, and independence, was not conducive to governmental supervision.³

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1. Beard, Charles A. American Government and Politics, p. 672. Fifth Edition. (New York, 1928)
 2. White, Leonard D. Public Administration, p. 463 (MacMillan, 1926)
 3. Id., p. 464

This off-hand acceptance of government, together with the Spoils System,⁴ is giving way. The need for good government, the glaring defects in recent governmental administration, and the development of science have turned public attention in some measure upon the workings of state, and "the whole problem of government has largely shifted from that of the organization and operation of the electoral and legislative branches of government through which the popular will is formulated and expressed to that of the organization and operation of the administrative branch through which this will as thus determined is actually put into execution."⁵

4. Goodnow, F. J. Op. Cit., p. 111; see also, Fifteenth Report of the U. S. Civil Service Commission, Pt. vi, p. 443.

5. Willoughby, W. F. Principles of Public Administration, p. viii (Baltimore, 1927)

ADMINISTRATION IN MODERN SOCIETY

"The making of laws is a relatively simple matter; it is easy for the legislature to appropriate money and declare that the government shall regulate the rates and services of railways or build and maintain a huge canal or water-works system. The legislature can proclaim its will in general terms and adjourn. The work of the executive department, on the other hand continues night and day; it involves the expenditure of great sums of money, and the employment of hundreds or even thousands of people, the purchase and management of supplies and complicated equipment, and perhaps the property interests of millions of citizens. * * * * As the work of administration runs to the roots of modern society, touching every phase of social and economic life, the manner in which it is conducted really determines the destiny of the state. If it is conducted wisely and efficiently it may render incalculable services to the people; if it is managed justly it will command the affections of those whom it serves, building the foundations of social order on the respect and esteem of all classes. If it is inefficient and unjust, it may cast discredit upon the established order and lead to its disintegration and decay." Charles A. Beard

In spite of caution urged by statesmen¹ there has been a deluge of laws from the federal government and the forty-eight state legislatures. "Notwithstanding the suspicion of the lawmaker, there is a widespread confidence in the desirability and efficacy of law, and a general willingness to embark upon the interesting enterprise of law making. If Americans have lost faith in legislators, they still retain their trust in laws. Individual citizens, and countless committees of citizens, leagues, associations and societies of all types investigate, agitate and draft bills, organize lobbies, and vigorously pursue their several propogandas of law. And the law makers, often uninformed, frequently reluctant, always overworked, yield alternately to the pressure of overwhelming public demand and to the lure of irresistible personal or political gain. Public opinion,

1. Root, Elihu. Experiments in Government. (Princeton Press, 1913)

the real governing power, will not be denied, and regardless of personnel of parties, factions, machines, bosses, interests, the great flood goes on its way."²

Not all of this increased legislation is unnecessary or unwarranted, but is the attempted answer to the needs of modern life.³ Public enterprise--beginning with the construction of the Erie Canal and including internal improvements, free public education, higher education, growth of industry and the need of control, the growth of science (furnishing experts in health, industry and agriculture), the care of defectives, dependents, delinquents, the aged, insane, sick and destitute--in its present extent is comparatively new in the governmental field and is one of the marks of the age.⁴ Commercial assistance and regulation, the development of the police power, and the general furtherance of public and individual welfare as developments in the governmental sphere have brought the administrative function to the fore in political thought and action.

There is no state where the organization of the will-applying agencies of government retains its early nineteenth-century simplicity.⁵

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2. Merriam, C. E. American Party System, p. 113 (New York, 1923)
3. Croly, Herbert. The Promise of American Life, passim. (New York, 1919)
- White, William Allen. The Old Order Changeth, passim. (N.Y., 1909)
4. Holcombe, A. N. State Government in the U. S., p. 285 (N.Y., 1920)
5. Id., p. 287.

THE FUNCTION OF ADMINISTRATION

"Administration" as used in governmental discussion has three common meanings: the entire activity of government, all governmental action except that of the legislature, or in the narrower sense, the activity of government apart from the activity both of the legislature and the courts. The latter is the proper use and sense of the term,¹ although the courts in part of their functions are administering authorities--in their application of civil and criminal law. The courts, however, form an arm of the government so specialized and differentiated from the other agencies of government that a definition of administration excluding the judiciary in its administrative function is proper.

The various branches of administrative action have been variously classified as foreign relations, military and naval affairs, judicial affairs, financial affairs, and internal affairs (the latter in modern government being the most diverse and, particularly in state government in the United States, the largest field of activity).

It is largely the organization and relationships of the administration with which we are concerned. Poor organization or improper coordination with the other agencies of state have the effect of nullifying in large measure the effectiveness of government; particularly, lack of harmony between law and its application "results in political paralysis".² Administration

1. Goodnow, F. J. Comparative Administrative Law, p. 1 (Putnam's, 1893)

2. Goodnow, F. J. Op. Cit. (Pol. and Adm.) p. 22.

with regard to foreign relations and the defense of the state are not parts of this study; these fields, peculiar in comparison with other fields of administration, have been fully and separately treated elsewhere, and are not important in the government of states of the union. Administration by the courts, as has been said, is also a separately treated field and will not be treated herein. So far as international administration is concerned, it exists for the most part in theory alone, for nations have always refused to consider any means of applying the determinations of international agencies except in the various international administrative unions.³

The field of administration in the current terminology of governmental science is limited to the will-applying agencies of the government--the civil executive, excluding administration by the courts, and is further divided for purposes of study into Public Administration (virtually, management for efficiency in government) and Administrative Law (a branch of public law concerned with the organization and authority of the administration).

The field of Public Administration has until recently been entirely neglected. It is a vast study. The legal considerations are not taken as the basis, but administration as a single process is studied. It is the "the management of men and materials in the accomplishment of the purposes of state".⁴ The more important concepts in the field of Public Administration are the ideas of consolidation (bringing related fields into single departments), centralization of supervision and control in the chief administrative agency,⁵ integration (that is, a means of coordination and

3. Snow, A. H. American Philosophy of Government, p. 209 (Putnam's, 1893)

4. White, Leonard D. Op. Cit., p. 1

5. Merriam, C. E. Op. Cit., p. 135 (MacMillan, 1923)

cooperation within and between the various administrative agencies or departments), and personnel.

The character of state is, however, primarily dependent on the quality of its public officials. Security of tenure and adequacy of compensation and management are, therefore, indispensable. To the problem of personnel first attention should be given is planning administrative organization and control, though usually first thought is of safeguards against administrative action and autonomy.

Administrative law, as a branch of constitutional or public law, has been only recently recognized in the United States. Its development in connection with parliamentary government is much more advanced than in the governments of the United States.⁶ It is that part of the law which governs the relations of the executive and administrative authorities of the government, and is supplementary to constitutional law. "But administrative law not only supplements constitutional law, insofar as it regulates the administrative organization of the government; it also complements constitutional law insofar as it determines the rules of law relative to the activity of the administrative authorities. For while constitutional law treats the relations of the government with the individual from the standpoint of rights of the individual, administrative law treats them from the standpoint of the powers of the government."⁷ Administrative law fixes the organization, determines competence of administrative authorities, and indicates to the individual remedies for the violation of his rights.

6. Goodnow, F. J. Comparative Administrative Law, pp. 7, 6 Op. Cit.
 7. Id., pp. 7, 8.

THE ADMINISTRATION IN CONSTITUTIONAL LAW

The imperfect development and appreciation of the functions of administration which existed at the founding of American governmental institutions is illustrated by the lack of attention or reference to them in the federal constitution. Other than the provision that the President is the chief executive officer charged with faithfully carrying out the laws, and the provisions for cabinet officers, administration is neglected except by inference from other provisions. However, in the cabinet system the federal constitution contains the germ of administrative centralization, which, because of the difficulty of change, was not lost during the period when state administration developed into an almost impossible jumble of independent agencies--a multiple executive in part independent of the legislatures and an administration of numerous organs without common purpose, supervision or organization.

Handicapped by the lack of differentiation in fundamental law, the administration had to develop in spite of the doctrine of separation of powers. Although the French political philosophers had put forward a three-fold classification of governmental function, this was intended only as descriptive;¹ the framers of the federal constitution, however, added a theory of separation of powers to the classification and attempted and purported to create a government of three independent arms. From an analytical point of view, however, the legislative, executive, and judicial powers are not different,² and the principle of separa-

1. Montesquieu, Baron de The Spirit of the Laws, passim. (London, 1906)

2. Goodnow, F. J. Comparative Adm. Law, p. 19 Op. Cit.

tion of powers has proven unworkable as a legal principle,³ in spite of the early reliance upon this doctrine and the respect in which it is held by some statesmen.⁴

Although the American constitutions enunciate the doctrine of separation of powers, in the constitutions themselves the separation is not carried out save in the classification of subject matter; that is, each "department" is treated separately. In all governments some of the most important executive acts are performed by the legislatures--such as the assumption of obligations, appointment and removal, supervision, and budget making; the executive is more important in government as a legislator than as an administrator for the veto is recognized in varying degrees in all governments, and through the ordinance power the administration actually supplies legislation to fill in the gaps in statute law;⁵ the judicial authorities, particularly in state and local government, are given many executive and administrative functions.

The present status of the executive (that is, the chief executive) as predominantly a legislative officer rather than an administering officer is significant, for the chief concerns of those who are placed by the constitutions at the head of the administration are given to matters of legislation--to the will-expressing function rather than to the will-applying function. The expressions of Lord Bryce that the President "does not sway the councils and guide the policy of those members of Congress

3. Goodnow, F. J. Pol. and Adm., p. 14. Op. Cit.

4. Root, Elihu Op. Cit., p. 14

5. Goodnow, F. J. Comp. Adm. Law, p. 28. Op. Cit.

who belong to his own side" and that "the suggestions which he makes, year after year, are usually neglected, even when his party has a majority in both houses, or when the subject lies outside party lines"⁶ are no longer true; nor are the early statements of Woodrow Wilson true--that the "business of the President, occasionally great, is usually not much above routine. Most of the time it is mere administration, mere obedience of directions from the masters of policy...."⁷ Beginning with Theodore Roosevelt's accession to the presidency⁸ the ideal of the American executive has been to be a leader of the government, which means that the executive must exert sway over the legislatures. In the words of Woodrow Wilson after his becoming acquainted with the practical functioning of the government:

"It is becoming more and more true, as the business of government becomes more and more complex and extended, that the President is becoming more and more a political and less and less an executive officer."⁹

The earlier idea of separation of powers as the indispensable prerequisite of democracy and liberty has, however, been vigorously attacked. It has collapsed completely in the cities, and in general less emphasis has been placed upon it as a legal principle. A former president characterized the check and balance theory as the "Whig theory of political dynamics"--a doctrine of physical balances and equilibriums corresponding to the physical theory of the universe developed during the 18th century.¹⁰ He and others urged that the organic nature of government be recognized as against the purely mechanical conception and stressed the

6. Bryce, James. American Commonwealth (First Ed.) v.1, p.206

7. Wilson, Woodrow. Congressional Government, pp 254, 316 (1887)

8. Black, Henry C. Relation of Executive Power to Legislation, p. 23. (Princeton, 1920)

Woodrow. Constitutional Government, p. 66 (1908)

necessity of viewing the government as a whole rather than dividing it into separate parts and trusting to the natural activity of those separate organs the custody of democracy and liberty. Coordination rather than separation and checks and balances has recently been emphasized.¹¹

The artificial theory of separation of powers served to distract attention from the natural grouping of governmental agencies into policy-forming and policy-executing functions. Although the doctrine has not been feasible as a legal principle and has not even been applied in constitutions and governmental structure, yet the language persists and all students of elementary government or even advanced government are taught in terms of the separation of powers, of checks and balances.

Constitutional law has finally worked around to the point where powers are no longer spoken of as separate, there is recognized a combination of powers so that all three may be combined,¹² and a delegation of power is allowed so that, provided purposes and limits are prescribed, the legislature may delegate powers to administrative authorities.¹³ Although the solution of problems of combination and delegation, particularly the latter, is by no means complete, yet the courts are no longer speaking of rigid separation of powers, so that the proper development of administrative agencies from the standpoint of practical necessity for the efficient application of legislation is under way.

11. Merriam, C. E. American Party System, p. 142. (MacMillan, 1923)

12. See: Norfolk etc. Co. v Commonwealth, 103 Va. 294, 40 S.E. 39; and Dreyer v. Illinois, 107 U.S. 71, 23 Supt. Ct. 28.

13. See: U. S. v. Crimaud, 220 U. S. 506, 31 Supt. Ct. 480.

ADMINISTRATIVE RELATIONS

"Increased administrative powers call for increased safeguards against their abuses, and as long as there is the possibility of official error, partiality or excess of zeal, the protection of private right is as important an object as the effectuation of some governmental policy." Ernst Freund

"What needs emphasis is no longer the inherent natural rights of the individual, but the importance, indeed the necessity, of administrative efficiency. For upon administrative efficiency depends the effectiveness of that social control without which healthy development in existing conditions is impossible."
Frank J. Goodnow

The administration as a part of the "executive department" in United States governments has a measure of independence, but its funds limit its action and it must answer to the courts for its methods; it is subject to politics, which does little to make it sound, and is affected by the play of public opinion.

The electorate retains potential control over the executive department through the initiative and, particularly, the recall. The election of officers is intended to give the electorate ultimate control of the administration, but actually lack of interest in administrative efficiency and detail and cloudy political issues make this control of little effect. The "short ballot" is advocated to do away with some of the evils of the political system, but as a method of integration it leaves things open to spoilsmen.¹ The administration on the other hand, is the point of contact between society and the laws, and the great problem of the administration is to educate the public to its functions in order to prevent, in some measure, friction which naturally results from any attempt to execute the will of the state.

1. White, Leonard D. Op. Cit., p. 440

_i that in France the legislature dominates the administration, in England the legislature dominates but does not control, and that in the United States there is no relation.² This is not, however, strictly true for the two are blended to a certain extent. The executive in the governments of the United States has tended constantly, whenever in strong hands, to dominate and even overshadow the legislature, since the executive is given large legislative powers in the veto and the right to recommend legislation; and the legislature has exercised administrative or executive powers in the power of impeachment and confirmation of appointments. The most important method of legislative control is, however, in the power over the purse.³ The control over money gives the legislature a weapon to secure control over the entire policy of the administration, for it fixes the amount to be spent, the purposes for which it is to be spent, and exercises supervision over expenditures after appropriations have been made. The legislature, further, controls receipts in its determination of tariffs and the various forms of taxes.

Control over personnel exists in appropriation for salaries, except where constitutions make certain officers independent of even this restraint. Finally, there is in the legislature, the power of investigation of specific parts of the administration.

It is evident that, actually, the legislature holds the whip hand. There is reason to say that the administration should be directly controlled by the legislature, for it is the

2. Laski, Harold J. Op. Cit., P. 340

3. White, Leonard D. Op. Cit., p. 423

legislature that is being carried out (although it is admitted, reasonably, that the judiciary should be independent and the administration should also have a certain degree of freedom as well as permanency of tenure).⁴ The proper balancing of administrative autonomy with legislative direction is one of the most delicate and important problems of administrative efficiency,⁵ and the tendency is strong in legislative bodies to interfere with the administration. It is recognized that the legislature should not attempt to bind the administration in detail or in method, for that is properly a function of the administration and one with which the legislature is not qualified to deal.

It cannot be said that the great powers of administrative control in the legislature are improper or misplaced, for the legislature is universally recognized as the foundation of governmental authority in the constitutional systems; it is entitled to know whether its laws are executed, its appropriations are properly spent, and what safeguards exist in the interest of efficiency and proper functioning. Unfortunately, "politics" in the more popular and vicious sense is allowed to interfere in the influence of the legislature over the administration.

The courts are a further supervisory body over administration. It has been said that the administration is set between the legislature (from whom it takes its orders) and the courts (by whom it is watched),⁶ and it is also said, however, that the

4. Laski, Harold J. Op. Cit., p. 289

5. White, Leonard D. Op. Cit., p. 24

6. Id., p. 23

ly limited jurisdiction over the administration to the exercise of control over jurisdictional error, errors in law, and abuse of discretion;⁷ or, according to a well-known writer on state government, to matters of constitutionality, statutory authority, delegation of power, and the prohibition against vesting judicial powers in administrative authorities.⁸ The tendency has been toward less control by the courts. In the gradual process of retreat the courts have refused to entertain direct actions against officers, when involved collaterally they have invoked the presumption of rite acta, and when the presumption is met they put their refusal to review on the ground of the type of question involved.⁹ The development of the attitude of the United States supreme court toward the conclusiveness of the decisions of the Interstate Commerce Commission is an excellent example of the withdrawal of judicial control.¹⁰ There must, however, always be some control to protect individual rights and in this there is necessarily some loss of efficiency.

The executive in the terminology of United States government includes the administration proper, although duties not executive or administrative are vested in the chief executives in the governments of the United States--particularly, the possession of legislative power. The executive is, however, charged with executing the laws efficiently and faithfully, although as we shall see in state governments the executive has lost much.

7. White, Leonard D. Op. Cit., p. 454

8. Holcombe, A. N. Op. Cit., p. 381

9. White, Leonard D. Op. Cit., p. 453

10. Freund, Ernst. Right to a Judicial Review in Rate Control versus W. Va. Law Quarterly, v. xxvii, pp. 207-12

control and supervision of the administration. The President of the United States is head of the administration of the federal government, but governors of states are not.¹¹ Executives in the various United States governments have less power over details and the legislatures more than is true in the parliamentary forms of government. As a whole, however, both in the federal and state governments the legislative character and power of the executive have tended to overshadow the administrative functions with a consequent laxity in the exercise of this latter important duty.

We have, then, in American government an arm of state known as the executive which exerts, in general, two types of authority--legislative (policy-forming) and administrative (policy-applying) functions. The executive, however, is not independent of the legislative and judicial authorities, for the courts "interpret" executive organization, powers, and duties,¹² and the legislature exercises supervision through the establishment of executive structure and organization, the grant and regulation of executive power through statute, and the control and supervision through appointment and removal in some cases but more particularly through the control of appropriations. The executive in parliamentary government is stronger than in the United States, but at the same time subject to greater control by the parliaments; in the United States the executive is not subject to appointment or removal by the legislatures and to some extent is free from legislative interference.

11. Haines, Charles G. and Bertha M. Principles and Problems of Government, p. 321, 322. (Harpers, 1921)

12. Goodnow, F. J. Comp. Adm. Law, p. 34 Op. Cit.

ADMINISTRATIVE STRUCTURE AND ORGANIZATION

In the United States the legislatures determine the form of administrative organization, in most cases going into minute details of organization and authority. If powers are delegated, it is the legislatures that delegate them; if they are combined, the legislatures do the combining. The legislatures determine form, extent, character of leadership, relations to other administrative agencies, and the internal structure of administrative departments or agencies. Sometimes, however, the executive head of a department is given the duty of completing internal organization--which is more reasonable since the administrator is more likely to understand the problem than the legislator. Since administrative structure is left almost entirely to the legislatures, there is a strange tangle of authority in administration; the legislatures have been neither wise nor consistent.

For the legislature, the wiser course would be to sketch the administrative structure in outline only, leaving the internal organization to the officers charged with the administration of each department. Furthermore, in actual legislation, details should be left to the administration in its ordinance power.

Every form of administrative organization is found in the United States governments. These have been formed with little attention to principle of even common sense. There is a fear of bureaucracy and distrust of centralization of control. Consolidation, integration, centralization and personnel problems

have been given little attention, although of late the latter has seen some attempt at solution through the civil service regulations.

Efficiency in governmental administration depends on the proper allocation of responsibility and authority; the first so that each officer will be charged with definite duties so that success or failure will depend on his diligence and wisdom, and there must be sufficient authority both legal and financial to give the officer power to carry out his task. The application of these principles is, of course, no simple matter.

Numerous elective officers do not fall in line with this ideal of administration for they are independent and have only to stay within the law. They need not cooperate and may even oppose the other administrative officers. Plural executives such as boards and commissions are likely to confuse responsibility; this is particularly true of ex-officio and bi-partisan boards.

The legislatures frequently overlap functions to a considerable extent. Friction develops where there are not responsive and responsible officers.

More important than all considerations, however, is the quality of personnel in administration.¹ The day of the amateur administrator is, unfortunately, still here in large measure, particularly in state government. There is a general failure to realize that the proper field for amateur administration is the field of local administration. In the scientific

1. Lowell, A. Lawrence. Expert Administrators in Popular Government. Am. Pol. Sci. Rev., p. 45, V.vii
 Hart, A. B. A Government of Men. Am. Pol. Sci. Rev., Vol. vii, p. 1

fields of governmental activity, however, great progress has been made toward employment of qualified experts.

Finally, there is a great problem in state administration as to what duties should be left to local authorities--to the cities and counties of the various states. There are, however, important differences in the character of local administration so that it presents a separate field for study.²

2. Munro, W. B. Government of the U. S., pp. 616, 636 (MacMillan, 1925)

ADMINISTRATION IN STATE GOVERNMENTS

"Acting under the influence of many forces, our states have created an administrative system unlike any other type in the world. It differs from that at Washington, which gives the President large appointing and removal powers, groups the departments and agencies under his control, and makes him responsible for the entire range of the national administration. It is unlike that of England, where the great departments of government are in the hands of cabinet officers led by a premier and responsible through the majority in the Parliament to the voters of the nation." Charles A. Beard

"The activities of government have multiplied rapidly during recent years. When the state or nation had decided to take on some new function, instead of fitting it into some agency of government already established, it usually created an entirely new body. Sometimes it was an official, oftener it was a board or commission." Frank O. Lowden

Diversity is the fact in the organization of the administration in state governments. Methods of appointing, supervision, control and organization differ widely in the various states and in the civil executive of each state. The legislatures have set up administrative agencies as the need has arisen and as the field of legislation has increased, apparently without relation to any ascertainable plan other than the ultimate responsibility to the legislatures.

Most Americans would be surprised to learn that in state government the executive is multiple and in its units, more often than not, plural, except in those state governments which have recently reorganized.¹ Officialdom is not unified; individual officers are independent of one another, their responsibility is not fixed or uniform, and there exists in most states no common ground for coordination and cooperation (such as exists in the federal cabinet). Each officer goes his own way with little attention to the problems of other state administrative authorities.

1. Merriam, C. E. Op. Cit., p. 137

The tendencies to plural executives shown by the predominance of boards and commissions in state administration further serve to promote inefficiency through lack of fixed responsibility and the impossibility of swift or energetic action.

This state of anarchy among the administrative agencies of the states was not particularly injurious to the public in the early days of the republic. It was an individualistic age; every man looked to the courts for protection of personal rights and to the legislatures for the redress of general grievances. Little was expected of the administrative branch of state government. The burden of administration fell upon the local authorities, and so long as the requirements were not too technical, they were capable of giving satisfactory service.²

The increase of governmental activity and regulation in recent years has begun to bring out the hit-or-miss system of administrative organization in the state governments, and the entire field has become the center of attention of students of government.

The state governors, however, still retain their character as chief legislators of state rather than chief administrators.³ The multiple executive made administrative supervision and control in the chief executive almost impossible. The line of development in the governorships was, therefore, toward strengthening the position of the head of the state as the principal

2. Holcombe, A. N. *Op. Cit.*, p. 284

3. Taft, William H. Our Chief Magistrate, p. 76

ugh the veto power (and its refinement--the item veto) and the recommendation of legislation.⁴ In the words of a former president:

"The plan under which a dozen state officers engaged in executing the laws are elected on one ticket and have no relation of subordination to the normal executive head, the governor, is as absurd as it can be. It is one of those anomalies in our political history, of which there are a number, which seem to refute the idea that we are an intelligent and clear-sighted people, because the system adopted is so utterly at variance with the teachings of experience."⁵

It is said that this system of state administration reached its apogee about the middle of the nineteenth century and that since that time the tendency has been away from decentralization and toward centralization,⁶ but as a matter of fact less progress has been made than should be expected.

Progress has been made, however, in the development of definite canons of administrative method and organization. Closely related functions are grouped in single departments, responsibility is fixed in specific officers, and the lines of authority definitely traced; there is provision for close cooperation of related departments, independent accounting control is provided, and the head of the administration has the power to direct, appoint and discharge.⁷

It has begun to be realized that politics in administration is an evil and that administrative autonomy is conducive to good government, and any attempt at legislative control beyond that to insure administrative integrity is likely to

4. Holcombe, A. N. Op. Cit., p. 327

5. Black, H. C. Sp. Cit., passim.

6. Goodnow, F. J. Pol. and Adm., Op. Cit., p. 122

7. Gulick, Luther. Principles of Administration Nat. Mun. Rev., July, 1925

produce evil rather than good.

Lately there has been a definite movement toward administrative reorganization and several states have adopted entirely new administrative codes.⁸ The reforms have been slow in coming because of the difficulty in amending constitutions. Changes have affected the entire system--the relation of the administration to other governmental departments and the internal organization of the administration. The short ballot, the seating of chief executive officers in the legislatures, and the cabinet system⁹ have been principle features of the new ideal in state administration.¹⁰

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8. Tucker, Robert H. The Virginia Reorganization Program Nat. Mun. Rev., Nov., 1928; and Sly, John F. Administrative Reorganization in California, Nat. Mun. Rev., Apr., 1928
9. Haines, Charles. Op. Cit., p. 325
10. Mathews, John M. State Administrative Reorganization, Am. Pol. Sci. Rev., Vol. xvi, p. 307

PART II

THE ORGANIZATION OF THE CIVIL EXECUTIVE
IN THE CENTRAL GOVERNMENT
OF THE STATE OF MONTANA

PRELIMINARY STATEMENT

The materials for this study of the administration of the central state government in Montana have been gathered from official reports, such as the annual reports of the State Treasurer and State Auditor, and from the constitution, codes, and session laws of the state. The attempt is made to present as briefly as possible the complex structure of the state administration. The material in this part of the study is to be read in connection with the divisions of Part I, and the appendix to Part II will be found to provide a more graphic analysis to supplement the discussion.

There is one other attempt at analysis of the state administration in Montana. In 1919 the legislature provided for a State Efficiency and Trade Commission (Laws of 1919, Chapter 184), a study of state officers, boards and commissions was made, and a report with recommendations was published on November 1, 1919. The character of the state administration and its fundamental structure were not, however, changed in any material respect. Since that time the session laws have been revised (in 1921) and numerous additions have been made to the state administration.

THE ORGANIZATION OF CIVIL EXECUTIVE AUTHORITY
IN THE CENTRAL GOVERNMENT
OF THE STATE OF MONTANA

Following the tendency prevalent in the formation and maintenance of state government in the United States, the government of the State of Montana was ostensibly based upon the republican constitutional system of the federal government together with a number of new devices and safeguards such as the initiative and referendum which was later placed in the constitution of the state. At the same time there were incorporated into the constitution of the new state the details of an elaborate administrative structure. The republican ideal has been perpetuated, but the system of government insofar as the organization of the executive is concerned bears little resemblance to the federal government.

After stating the boundaries, military reservations, and the bill of rights, the framers of the Montana constitution proceeded to outline the general structure of the government of the state, introduced by a statement of the distribution of powers into legislative, executive, and judicial, as follows:

"The powers of the government of this state are divided into three distinct departments: The legislative, executive, and judicial, and no person or collection of persons charged with the exercise of powers properly belonging to one of these departments shall exercise any powers properly belonging to either of the others, except as in this constitution expressly directed or permitted." Montana Constitution, IV.

The powers of the legislative department are vested in a legislative assembly of two houses¹ although the legislative

1. Montana Constitution, V.

legislative power is reserved to the people through the initiative and referendum except in the case of appropriations, submission of constitutional amendments, and certain local or special laws.²

The legislature is given the power to act unrestrained by the referendum in the case of laws necessary for the immediate preservation of public peace, health, and safety.

Distrust of the legislature is expressed in the constitution in such provisions as: the prohibition of local legislation where general can be made to apply,³ prohibition on the legislature to contract debt for the construction of any railroad,⁴ prohibition of the delegation of municipal functions to any special commission or private corporation or association,⁵ and the provision that no claim against the state, except for salaries and compensation of officers fixed by law, shall be passed upon by the legislature without first having been considered and acted upon by the State Board of Examiners.⁶ The distrust of individual members of the legislative assembly is expressed in the provisions against the trading of votes on measures⁷ and the prohibition of members to vote on measures in which they have a personal or private interest.⁸

The judicial power of the state is vested in the senate sitting as a court of impeachment, in a supreme court, district courts, justices of the peace, and such other inferior courts as the legislative assembly may establish in any incorporated

2. Montana Constitution, V, 1
3. Id., V, 26
4. Id., V, 38

5. Id., V, 36
6. Id., VII, 20
7. Id., V, 41
8. Id., v, 44

city or town.⁹

The courts are not, however, independent. For instance, the power to set up their own procedure and the control of the lower courts is exercised by the legislature, and the legislature may increase or decrease the number of judges.¹⁰ It is pertinent to note here that power over officers by writs is contained in the general powers of the courts set out in the constitution.¹¹

The executive department is not independent of the legislature. Indeed, from the provisions of the constitution and the practice under the codes it is evident that the legislature is in a larger sense the supervisor of the executive and administrative departments. Of course, there are officers and boards that are set up in the constitution and which the legislature may not abolish, although the legislature generally has the power to prescribe the rules and regulations for all administrative or executive agencies. All departments of the executive report to the legislature through the agency of the Governor or the State Board of Examiners, and most offices and boards or commissions may be altered or abolished by the legislature. But it is mainly through the power over appropriations that the legislative supervision is based. The control of the purse is the most powerful and cherished prerogative of legislative bodies, affecting vitally every activity of government; in Montana this is carefully preserved to the legislative assembly, and many supervising agencies are set up.

9. Montana Constitution, VIII, 1

10. Id., VIII; and see The Rule Making Power of the Courts, Pope, W. L. Proceedings of the Montana Bar Association, 1929.

11. Montana Constitution, VIII, 3

In a narrower sense, however, the executive may be considered as an independent department. Certainly, between legislative sessions the executive functions as a complete and separate department, unrestrained except so far as duties and powers are interpreted by the courts.

ADMINISTRATIVE STRUCTURE IN MONTANA

Note: All material for the basis of this section will be found in the appendix.

In providing for the administration the founders and legislators of the central state government of Montana fell into, and have continued, the same errors and inconsistencies as did the statesmen of other state governments in the United States. The separation of powers, the elective principle, the multiple executive (composed, furthermore, mainly of boards and commission--plural executives), and neglect of the essentials of proper administrative supervision and control are all featured in the civil executive arm of the state government of Montana.

The state is comparatively young. Furthermore, the region was one of the last frontiers, and it is therefore not surprising that earlier American political philosophy was adopted since that philosophy was partly due to the environment of the frontier. However, the state is wealthy in comparison to population, and its industry is extensive because of its water power and other natural resources. The emergence of administration as one of the more important functions of government has, therefore, not been without effect in the state. There has been industry to regulate, the public welfare to foster, and the new fields of governmental service to develop. All of this has made it necessary to develop the administration of government.

But the development of the administration has, unfortunately, been cared for by the legislative assembly as the occasion arose -- with little relation to any central idea. Administrative agencies, usually boards, have been added from time to time as independent units of the system until now there are eighty-seven agencies of administration in addition to the fifteen provided in the constitution.

Although the constitution provides that "the supreme executive power of the state shall be vested in the Governor, who shall see that the laws are faithfully executed,"¹ the actual administration of the laws is vested in eight constitutional officers (seven of whom are elected by the people²) and thirty-two statutory officers, seven boards established by the constitution (of which five have membership which is entirely ex-officio and drawn from the seven constitutional and elected officers) and fifty-five boards set up by the legislature.

If it can be said that there is any central point of supervision in the administration of government in Montana, that point is the State Board of Examiners, a constitutional agency composed of the Governor, Secretary of State and Attorney General who have complete control over the expenditure of state moneys (except the salaries of officers holding positions established by law) and to whom the legislature has further given the control over the personnel of the various administrative authorities of the state government. Furthermore, when moneys available are not sufficient to cover all appropriations, this board has large budgeting powers.

1. Constitution of Montana, VII, 2

2. Id., VII, 1

At the very outset, the constitution provides that the executive department shall consist of the Governor, Lieutenant-Governor, Secretary of State, Attorney General, State Treasurer, State Auditor, and Superintendent of Public Instruction.³ These are, however, but a few of the executive agencies of the state government. The administration does not act as a unit except partially in their membership on the various boards and commissions. The position of the Governor is actually primus inter pares in spite of the constitutional declaration that the "supreme executive power of the state shall be vested in the Governor, who shall see that the laws are faithfully executed."⁴

It is important to distinguish between constitutional and statutory agencies of the administration since the former are difficult to change and are, therefore, more independent of administrative as well as legislative supervision.

The civil administration in Montana is therefore multiple and the individual or special executive powers are exercised by plural more often than single agencies. The supervisory power is diffused among officers and boards or is lost in the maze of administrative structure, although the control of public expenditures and the resultant large supervisory powers are vested in a board of three of the constitutional officers of the state--the State Board of Examiners.

Short of a reconstruction of the entire theory and practice of the administrative arm of the government of the state, it is evident that much could be done in the way of simplification and

3. Constitution of Montana, VII, 1

4. Id., VII, 3

standardization in means and methods of administrative supervision, cooperation, and control. There is much room for reorganization, grouping of related functions into single departments, and establishing departments according to the major fields of state activity. The abandonment of the elective principle in all but the chief executive and the chief financial officer and the fixation of definite lines of authority and responsibility could modernize the administration in the state. The problem of personnel, which so profoundly affects the quality of governmental administration, can be partially solved by securing to the administration a measure of autonomy.

The government of the state of Montana is, however, comparatively simple. The state is small and governmental activity and machinery is not complicated beyond understanding. There is not the pressing necessity for reorganization such as existed in the state government of New York, for instance. Furthermore, it is not probable that the people of the state will soon part with the elective principle or allow much independence to the administrative branch of the government. The most that can be reasonably expected is some reformation in the internal organization of the administration such as the consolidation of related fields and the establishment of major departments under central supervision with some means of integration so that the administration may act as a unit.

APPENDIX

MATERIALS REGARDING ADMINISTRATIVE AGENCIES AND ORGANIZATION
IN THE CENTRAL GOVERNMENT OF THE STATE OF
MONTANA

APPENDIX I --

ADMINISTRATIVE AGENCIES IN MONTANA

THEIR GOVERNMENTAL RELATIONSHIPS AND DUTIES

Note: Constitutional provisions are given by stating the article and section, the revised codes of 1921 are indicated by the initials.

STATE OFFICERS

Governor

The Governor is the first of the constitutional officers of the state and is charged with the faithful execution of the laws (VII, 5). His supervisory power, so far as stated or practical, consists in the authority to require reports in writing from the various state officers and state institutions (VII, 10), being required to receive and publish the report of the State Treasurer each fiscal quarter (XII, 13). Although the general supervision of state moneys is placed in the State Board of Examiners, it seems to have been the intention of the framers of the constitution that the governor should be particularly watchful of the public moneys, for he appoints the State Examiner who investigates the accounts of all state officers and agencies and reports to the governor, and the governor is also required to receive and publish the quarterly reports of the State Treasurer and may be empowered by the legislative assembly to provide for the temporary suspension of the State Treasurer when the Board of Examiners deem such action necessary for the protection of the moneys of the state (VII, 20). The Governor is empowered to appoint officers with the consent of the Senate where there is no other provision for election or appointment, and he may also fill vacancies (VII, 7). Under regulations set up by the legislature, the Governor may grant pardons, remit fines and forfeitures, and grant commutation of punishments after conviction and judgment for offenses against the criminal laws of the state upon approval by the Board of Pardons; but he must report such action to the legislature when it meets (VII, 9). The legislature has listed the duties of the Governor (R.C.M., 124) though the duties enumerated are simply those necessary in carrying out his general supervisory powers and the ministerial duties placed upon him. As the chief of state he must sign all grants and commissions with the Secretary of State (VII, 18) and he acts as sole organ of communication between the state and the federal government (I.C.M., 124).

The Governor is a member of the following boards and commissions:

- Carey Land Act Board
- State Board of Commissioners for the Insane
- State Furnishing Board
- State Depository Board
- State Board of Education (of which he is president)
- Board of Land Commissioners
- State Board of Examiners
- Board of Prison Commissioners
- Board of Administration of Farmers Institutes

**Legislative
Power of the
Governor**

The chief power of the Governor, as in all of the states of the Union, is the legislative power in the form of the veto. The Governor in this respect is virtually a third house of the legislature; although he may not initiate legislation he may prevent its passage unless the measure is repassed by a two-thirds majority of the members present in each house of the legislative assembly (VII, 12, 13). He may call the legislative assembly in extraordinary session to take up such matters as are specified in the calling of the legislature or presented to it by the Governor, and he may call the Senate in special executive session for the transaction of executive business (VII, 11). At the opening of each session of the legislature, the Governor is required to give information on the condition of the state, a statement of all public expenditures, and an estimate of the amount of money needed for the state (VII, 10).

**Lieutenant
Governor**

The Lieutenant Governor is a member of the executive department (VII, 1) but has no duties other than that of President of the Senate (without a vote except in case of a tie). The chief reason for the office is, of course, to furnish a substitute for the Governor in case of the Governor's absence, disqualification, or inability (VII, 14).

**President
Pro Tem of
the Senate
& Speaker of
the House**

In the case of the absence or disqualification of both the Governor and the Lieutenant Governor, the President Pro Tem of the Senate (chosen by the Senate to preside in the absence of the Lieutenant Governor (VII, 15) becomes the Governor; and in case of the absence or disqualification of all three of these, the Speaker of the House assumes the duties of Governor (VII, 16).

**Secretary
of State**

The Secretary of State is a constitutional officer (VII, 1) charged with the performance of a great host of ministerial duties (R.C.M.Ch. 10 of Part III). He is literally the "secretary" of the state government, and is a member of the following boards and commissions:

- Carey Land Act Board
- Board of Trustees for the State Law Library (of which he is secretary)
- State Board of Commissioners for the Insane
- State Furnishing Board
- Board of Land Commissioners
- Board of Examiners
- Board of Prison Commissioners
- Board of Pardons

**Ex-Officio
Sealer of
Weights and
Measures**

The Secretary of State is ex-officio State Sealer of Weights and Measures (R.C.L. 4235). The duties of this office require inspection and certification, and the sealers of weights and measures in local subdivisions of the state are his deputies.

Attorney
General

The Attorney General is the legal officer of the state and a constitutional officer (VII, 1). He prosecutes or defends all causes to which the state or any officer of the state in his official capacity is a party, is required, on request, to give legal opinions to any state agency or to county attorneys, and he has supervisory powers over county attorneys (R.C.L. 199).

He is a member of the following boards:

Carey Land Act Board
 State Board of Commissioners for the Insane
 State Furnishing Board
 State Board of Education
 State Board of Land Commissioners
 State Board of Examiners
 Board of Prison Commissioners
 Board of Pardons

State
Treasurer

The State Treasurer is a constitutional officer who is the keeper of all moneys of the state except those placed in the keeping in some other agency (VII, 1) and (R.C.L., Part III, Ch. 12). He reports quarterly to the Governor, and his accounts are under the further supervision of the State Board of Examiners (R.C.L. 250 and 251), and may be suspended by the State Board of Examiners (VII, 2) and R.C.L. 190). He is required to distribute certain funds such as forest reserve funds and school funds (R.C.L. 176 and 177), and abstractors of title to real estate are required to file a bond with the State Treasurer before they may receive a certificate to do business. The State Treasurer is a member of the State Depository Board, and the State Board of Fidelity Insurance.

State
Auditor

The State Auditor is the superintendent of the financial concerns of the state (R.C.L. 151) and is a constitutional officer (VII, 1). He draws upon the State Treasurer for the payment of moneys directed by law to be paid out of the treasury, and keeps complete financial records of the state. He is charged with the duty of inspection, supervision, and reporting. Like the State Treasurer his office is subject to the inspection and supervision of the State Board of Examiners (R.C.L. 251). The State Auditor is a member of the following boards:

Board of Trustees of the State Law Library
 State Depository Board
 Board of Pardons.
 Industrial Accident Board

Ex-officio
Investment
Commissioner

The State Auditor is ex-officio Investment Commissioner (R.C.L. 4015) and is charged with the supervision and execution of the regulations regarding stock brokers and investment companies -- the so-called "Blue Sky Laws".

Ex-Officio
Commissioner
of Insurance

The State Auditor is ex-officio Commissioner of Insurance whose duties are the examination of insurance companies (R.C.L. 164) and the enforcement of the laws relating to insurance (Laws of 1927, Ch.153).

State
Fire Marshall

The State Fire Marshall's office is established as a department under the supervision of the State Auditor (R.C.L. 2737). The State Fire Marshall is appointed by the State Auditor for a term of four years whose duty it is to investigate with the local authorities all causes of fires and to enforce the regulations regarding fire protection for public houses and buildings.

State
Superintendent
of Public
Instruction

The State Superintendent of Public Instruction is a constitutional officer (VII, 1) charged with the general supervision of the public school system of the state, not including the institutions of higher education (R.C.L. 932). The duties of this office include the preparation of courses of study, arranging of teachers institutes and summer schools with the approval of the State Board of Education, the certification of teachers for the public schools, and the apportionment of the school fund among counties in proportion to the number of children of school age (R.C.L. 939 to 945). The State Superintendent of Public Instruction is a member of the State Board of Education, the State Board of Land Commissioners, the State Board of Educational Examiners (Chairman), and the State Library Extension Commission.

State
Examiner

The State Examiner is a constitutional officer appointed by the Governor with the confirmation of the Senate and charged with examining the accounts of the State Treasurer, the supreme court clerks, the district court clerks, the city treasurers and state institutions and officers handling moneys (VII, 8 and R.C.L. 210). The State Examiner is also authorized to prescribe methods of accounting for the various state agencies. This financial officer reports to the governor, thus carrying out the intention of the legislature that the Governor should exercise vigilance regarding the public moneys.

Commissioner
of
Agriculture

The Constitution authorizes the establishment of the Department of Agriculture, Labor, and Industry (although there is no such express constitutional authorization for the establishment of the other state boards, commissions, departments or commissioners), under the control of a commissioner who is appointed by the Governor subject to the confirmation of the Senate for a term of four years (XVIII, 1 and R.C.L. 3555). This department was set up by the legislature and the office of a Commissioner of Agriculture was established (R.C.L. 3556). This bureau has the supervision and administration of the many statutes regarding agriculture, labor and industry. It marked the abolition of a number of separate agencies such as the Board of Horticulture, the State Horticulturist, the Board of Directors of the State Fair, the Board of Dairy Commission Examiners, the Department of Labor and Industry, the Department of Agriculture and Publicity, the State Dairy Commissioner, the Grain Grading

Inspection and Warehousing Commission of Montana, and the Board of Poultry Husbandry; in this consolidation the legislature acted in accordance with sound principles of administration, but unfortunately this tendency seems to have stopped with the creation of this department. The Commissioner of Agriculture is a member of the Industrial Accident Board, the State Board of Fertilizer Insurance, and Board of Administration for Farmers Institutes.

**Ex-Officio
Farm Storage
Commissioner**

The Commissioner of Agriculture is ex-officio Farm Storage Commissioner whose duties include the making of rules and regulations with regard to storage of farm products and grain inspection.

**Ex-Officio
Real Estate
Commissioner**

The Commissioner of Agriculture is ex-officio Real Estate Commissioner, charged with the administration of the real estate laws (Laws of 1925, ch.40).

**Custodian of
the Records of
the Grand
Army of the
Republic**

The legislature has established the office of Custodian of Records, Memorials, Relics, Documents and Archives of the Grand Army of the Republic and the United Spanish War Veterans, whose duties in addition to those indicated by this title include the preservation of the history of residents who served in the Civil and Spanish-American wars (R.C.L. 320). The Custodian is appointed by the Governor on the recommendation of the department of commander of the Grand Army of the Republic or of the Spanish War Veterans.

**Chief of
Bureau of
Child and
Animal
Protection**

The Secretary of the Bureau of Child and Animal Protection is the chief of this department of the state government (R.C.L. 336 to 338). The duties of this bureau include the enforcement of the laws of the state pertaining to children and dumb animals, to promote the growth of education and sentiment favorable to the protection of children and dumb animals, and to report and recommend to the Governor (R.C.L. 336 and 339). The Secretary is authorized to appoint a deputy humane officer to investigate welfare of all children adopted or placed in homes from the orphans' home and other places (R.C.L. 341 to 343).

STATE BOARDS AND COMMISSIONS

**State Board
of Examiners**

The State Board of Examiners is a constitutional executive agency composed of the Governor, Secretary of State and Attorney General (VII, 20) and (R.C.L. 116 and 232), with power to examine all claims against the state, except salaries or compensation of officers fixed by law, and perform such other duties as may be prescribed by law (VII, 20). These other duties are:

Examination and supervision of the offices of the State Treasurer and State Auditor (R.C.L. 249 to 250), with power to suspend the State Treasurer (VII, 20).

Fix number, compensation, term, and tenure of office of all assistants, clerks, and stenographers for all civil executive officers, boards, commissions, or departments, or to discontinue in any or all state offices or any assistants, clerks, or stenographers, when in their judgment the best interests of the service

requires such action (R.C.L. 273).

✓
The Budget

The administration of the Budget Act (Ch. 20, Part III of the Political Code) is placed in the Board of Examiners. All state agencies must submit legislative appropriation requests to the Board, and the Board submits to the legislature a budget consisting of information regarding receipts and expenditures of the previous biennium, revenues expected during the coming biennium, and an estimate of appropriations for the coming biennium. The legislature may change the budget, although they may not repudiate obligations of the state or the salaries of officers required to be paid by the constitution and the statutes of the state. The Board of Examiners and the representatives of all executive agencies of the state may voluntarily appear, or be summoned, before either house of the legislature and be heard with respect to any budget bill during the consideration thereof.

✓
State
Accountant

The board of Examiners is required to appoint a State Accountant for a term of four years, subject to removal by the board, to examine at least once every three months the books and accounts of the treasurer and secretary and the general financial conditions of each of the state institutions such as the University units and charitable and reformatory institutions. He is authorized to prescribe rules for accounting and disbursement with the approval of the Board, and is the agent of the Board for such other duties as they may assign. (R.C.L. 305 and 306).

✓
State
Purchasing
Agent

The State Purchasing Department, under the immediate supervision of a State Purchasing Agent (appointed by the Governor and holding office at the pleasure of the Governor) is under the control of the State Board of Examiners. With the approval of the Board, the State Purchasing Agent purchases all supplies for the departments, commissions, boards, institutions and officers of the state, and is the agent for each department of state; but the Board may provide contingent funds for all departments for urgent and immediate expenses (R.C.L. 284 and 285).

✓
State
Furnishing
Board

The State Board of Examiners is ex-officio a State Furnishing Board for the purchase of all supplies, letting of printing contracts, and hiring of offices for state officers and for the legislative assembly (R.C.L. 254 and 255). These supplies are deposited with the Secretary of State and requisitioned as needed. All contracts, however, must be approved by the Governor and State Treasurer (R.C.L. 264).

Carey
Land Act
Board

The Governor, Secretary of State and the Attorney General compose the Carey Land Act Board to cooperate with the federal government under the Carey Land Act in reclaiming arid lands of the state (R.C.M. 1949 and 1951) and are the successors to the State Arid Land Grant Commission (R.C.M. 1950). The Governor is the chairman of the board (R.C.M. 1953). This board proceeds under the act of congress in behalf of the state and is empowered to make contracts in carrying out this work (R.C.M. 1966 and 1967).

The State Engineer, who is one of the administrative officers of the State Board of Land Commissioners appointed by the Governor for a four-year term on confirmation by the Senate, is required to make examinations required by the Carey Land Act Board. (R.C.M. 1971 and see under Carey Land Act Board).

State Board of
Prison
Commissioners

The Governor, Secretary of State, and Attorney General (who are the State Board of Examiners) are also the State Board of Prison Commissioners, with supervision of all matters connected with the state prisons as are prescribed by law (VII, 20) and R.C.M. 117). The Governor is the president of the Board and the Secretary of State is the secretary. (R.C.M. 12436). The Warden of the State Prison is, however, appointed by the governor with the consent of the Senate but subject to removal for cause by the Board.

Registrar of
Motor Vehicles

The Warden of the State Penitentiary is ex-officio Registrar of Motor Vehicles, charged with keeping all records and issuing licenses (Laws of 1927, Ch. 129)

Tuberculosis
Sanitarium

The State Tuberculosis Sanitarium (Ch. 115, Part III, Pol. Code is under the supervision of the State Board of Examiners who with the governor appoint the president of the institution and two members of the legislature, which three persons constitute the Local Executive Board of the Sanitarium charged with immediate control and supervision. (R.C.M. 1512 and 1524).

Board of
Commissioners

The management, control, and supervision of the State Insane Asylum is vested in the State Board of Commissioners for the insane, consisting of the Governor, Secretary of State, and the Attorney General (who are the State Board of Examiners), the Governor being president of the board and the Secretary of State acting as its secretary (R.C.M. 1413).

Hospital
for Inebriates

At the Insane Asylum there is established a department known as the Hospital for Inebriates, for the detention, care and treatment of all persons suffering from mental affliction occasioned by the use of drugs or intoxicants (R.C.M. 1445). This department is under the supervision and control of the Board of Commissioners for the Insane, and the officers of the Asylum constitute the officers of this department (R.C.M. 1446).

Custodian
of the
State Capitol

The head janitor at the state capitol is the custodian of all property at the state capitol, and is appointed for four years by the governor (R.C.M. 310). The duties of this office include the supervision of the work of caring for and maintaining the state capitol, its buildings, equipment and grounds under the direction of the State Board of Examiners (R.C.M. 311 and 312). The Custodian reports to the Governor (R.C.M. 313).

Position of
the State Board
of Examiners

From the foregoing brief description of the powers and duties of the State Board of Examiners it is evident that this group of constitutional state officers constitute the most powerful executive and administrative agency of the state. Through the control of public expenditures, the budget, the assistants in executive agencies, the State Accountant, and the State Purchasing Agent the actual power of this Board is almost unlimited. Characteristic of all state executive agencies, however, the Board also possesses the duty of purchasing and issuing supplies and printing for the agencies of the state, and has in addition the control of one charitable and one reformatory institution.

Board of Pardons

The Secretary of State, Attorney General, and State Auditor constitute the Board of Pardons set up by the constitution to approve the exercise of the Governor's power of executive clemency (VII, 9).

State Board of
Land Commissioners

The State Board of Land Commissioners is set up in the constitution and consists of the Governor, Superintendent of Public Instruction, Secretary of State, and Attorney General, who have the direction, control, leasing and sale of the school lands of the state and lands held for the support and benefit of the various state educational institutions (XI, 4 and R.C.M. 119).

Department of
State Lands and
Investments

This Board has control of the Department of State Lands and Investments which is charged with the administration of the federal land grants, state lands, and funds therefrom (Laws of 1927, Ch. 60).

State Land
Commissioner

The Commissioner of State Lands and Investments, appointed for a four year term by the Governor with the approval of the Senate, is the chief administrative and executive officer of the Department under the control of the State Board of Land Commissioners, except as to state forests (Laws of 1927, Ch. 60).

State
Forester

The State Forester, appointed for a four year term by the governor with the consent of the senate, is the chief executive and administrative officer of the State Board of Land Commissioners in all matters pertaining to the state forests (Laws of 1927, Ch. 60).

State
Engineer

The State Engineer, who is the secretary of the Carey Land Act Board, is appointed by the Governor for four years on confirmation by the Senate (R.C.M. 1954). The duties of the State Engineer include the examination of all state lands with approval of the State Board of Land Commissioners, preparation of plans for irrigation when so directed by the land commissioners, conduct of research and gathering of material on state waterways and irrigation possibilities (H.C.M. 1955) and to examine mineral and coal lands of the state under the direction of the land commissioners, make settlement with lessees, and examine state lands for minerals when so directed by the land commissioners (R.C.M. 1956). The State Engineer is also required to make examinations required by the Carey Land Act Board (R.C.M. 1971).

State
Depository
Board

The Governor, State Auditor, and State Treasurer constitute the State Depository board set up by the constitution (XII, 14) with full power and authority to designate depositories with which all funds in the hands of the State Treasurer shall be deposited, and at such rate of interest as may be prescribed by law (Laws of 1929, Ch. 180).

State
Library
Boards

The State Library is considered in two parts, the law library and the historical and miscellaneous library (R.C.M. 1547). The Law Library is under the control of a board of seven trustees composed of the Chief Justice of the Supreme Court and the Associate Justices, the Secretary of State and the State Auditor, of which board the Chief Justice is president and the Secretary of State is secretary; and the general state library is under the control of a board of five trustees appointed for a term of two years by the Governor with the approval of the Senate, the members of which serve without compensation (R.C.M. 1548). The Law Librarian has the duty of indexing the session laws of the state upon delivery of copies by the Secretary of State (R.C.M. 1565 and 1566).

✓
Legislative
Reference
Bureau

In connection with the Law Library the legislature has established a Legislative Reference Bureau in charge of the librarian of the library whose duty it is to gather and make available to members of the legislature such information as will aid legislators such as material concerning legislation in other states and legal data as to the constitutionality and interpretation of laws (R.C.M. 1568).

State Board of
Equalization

The State Board of Equalization is a constitutional board of three members, appointed for a term of six years by the Governor with the approval of the Senate not more than two of which may be of the same political party (XII, Amended Dec. 14, 1922). This board, which is always in session and which elects its own chairman, adjusts and equalizes the valuation of property for taxation among the counties, the classes of property, and supervises the county tax officers (Laws of 1923 Ch. 3).

State Livestock
Commission and
Livestock Sani-
tary Board

The State Livestock Commission, consisting of six members who are cattle owners are appointed for a six year term by the Governor with the approval of the Senate (R.C.M. 3253). The members of the board serve without compensation but receive expenses (R.C.M. 3254). They are empowered to appoint their own secretary (R.C.M. 3255), and are charged with the supervision of the livestock interests of the state, such as the administration of the laws regarding theft and disease of cattle, are to recommend legislation, and report annually to the Governor (R.C.M. 3256 and 3258). They appoint livestock inspectors to carry out the administration of the livestock laws (R. C. M. 3309).

The State Livestock Commission is also the Livestock Sanitary Board (R.C.M. 3260) which supervises the sanitary conditions and makes rules and regulations regarding livestock sanitation (R.C.M. 3267). They issue licenses for producers of dairy foods (R.C.M. 3282 as Amended by Ch. 170, Laws of 1929), and are also given duties of poultry regulation (Laws of 1929, Ch. 161).

State
Veterinary
Surgeon

The State Veterinary Surgeon is appointed by and under the supervision of the Livestock Sanitary Board, (R.C.M. 3262, 3267) and is the secretary of the board of which he is also the administrative officer acting through inspectors and deputies (R.C.M. 3263 and 3264). The State Veterinary Surgeon is a member of the Stallion Registration Board and the State Board of Entomology.

Recorder of
Brands

The Secretary of the Livestock Sanitary Board (the State Veterinary Surgeon) is the General Recorder of Marks and Brands ex-officio.

Montana V
Orthopedic
Commission

The Montana Orthopedic Commission is composed of five members, the Secretary of the State Board of Health, the President of the Montana State Medical Association, a representative of the Montana Tuberculosis Association, and two members of the Montana Federation of Women's Clubs the last three of which are appointed by the Governor and hold office at his pleasure; they serve without pay but are allowed travelling expenses (R.C.M. 2512). The board is empowered to employ a field investigator to carry out the duties of the board which consist of the examination of cases of crippled, indigent children or adults who cannot secure medical or surgical treatment (R.C.M. 2513), and they may order operations or treatment in hospitals when the cases warrant (R.C.M. 2514).

State Board of
Entomology

The State Board of Entomology is composed of the State Entomologist, the Secretary of the State Board of Health, and the State Veterinarian; (R.C.M. 2543), the Secretary of the State Board of Health being the chairman and the State Entomologist the secretary (R.C.M. 2544). These serve without compensation other than necessary traveling expenses (R.C.M. 2545) and have the duty of investigating and studying the dissemination of diseases by insects among persons and animals with purpose of eradication and prevention of such diseases (R.C.M. 2546), and they are particularly charged with the duty of taking steps to eradicate and prevent the spread of tick fever, infantile paralysis, and other diseases transmitted by insects (R.C.M. 2547). In carrying out these duties the board is empowered to make rules of quarantine, (R.C.M. 2548), but all rules and regulations are subject to the approval of the State Board of Health (R.C.M. 2549).

State
Entomologist

The State Entomologist is the entomologist of the Montana State College, (R.C.M. 913), who serves without compensation other than expenses for supplies and assistance (Laws of 1925, Ch. 114), and who is charged with the duty of investigating insects injurious to plants and make recommendations (R.C.M. 914). He reports to the Governor. He is the secretary of the State Board of Entomology.

Industrial
Accident Board

The Industrial Accident Board is composed of the Commissioner of Agriculture, the State Auditor, and one member appointed by the Governor for a four year term and who is chairman of the board (R.C.M. 3819). The Board appoints a secretary to record its proceedings and issue the necessary processes (R.C.M. 2827), and the board is charged with the administration of the workmen's Compensation Act (Pol Code, Part III, Ch. 213). The Attorney General is the attorney for the board (R.C.M. 2835), and the board has in addition to the administration of the compensation laws certain duties of supervision which are performed through inspectors such as boiler and mine inspectors (R.C.M. 3035, 3448 and 2712).

Board of Coal
Mine Inspectors

The Board of Examiners for Coal Mine Inspectors is appointed by the Industrial Accident Commission to examine the application of persons for positions as coal mine inspectors (R.C.M. 3459).

State Board of
Arbitration and
Conciliation

The State Board of Arbitration and Conciliation, consisting of three members (one of which must be an employer or selected from some association representing employers of labor, one a laborer or selected from some labor organization and not an employer of labor, and the third a disinterested citizen) appointed by the Governor with the consent of the Senate (R.C.M. 3052 and 3053) to investigate labor disputes where over 20 employees are involved upon application by an employer or majority of employees, and the board must give a written decision (R.C.M. 3055 and 3056).

State Fish and Game Commission

The State Fish and Game Commission is composed of five members, not more than three of which may belong to the same political party appointed by the Governor for a term of four years and removable by the Governor for cause (R.C.M. 3650 and 3651). The members of the commission serve without compensation except \$10 a day while on the business of the commission plus expenses. (R.C.M. 3562). The commission is in charge of the administration of the fish and game laws (Laws of 1925, Ch. 192).

State Game Warden

The State Game Warden is appointed by the Fish and Game Commission and holds office at their pleasure (Laws of 1927, Ch. 59); he is the administrative agent of the commission and custodian of the property of the commission. Deputies are appointed by the Warden with the approval of the commission, and he is also charged with the licensing of fur dealers. (Laws of 1929, Ch. 42).

Ex-Officio State Fire Warden

The State Game and Fish Warden is ex-officio State Fire Warden and his deputies as Game Warden are deputy Fire Wardens (R.C.M. 2776 and 2777). These officers administer the duty of enforcing the laws regarding forest fire protection (R.C.M. 2764 and 2775).

Superintendent of State Fisheries

The Superintendent of State Fisheries is appointed by the Fish and Game Commission to supervise the state fish hatcheries as the executive officer of the commission subject always to the control of the commission (Laws of 1925, Ch. 192).

State Board of Hail Insurance

The State Board of Hail Insurance is composed of five members, the State Treasurer, Commissioner of Agriculture (who is the secretary of the board), and three others appointed for a one-year term by the governor from names submitted by duly organized farmers' societies having general state membership one of which is chairman (Laws of 1923, Ch. 40). The administration of the hail insurance laws is placed in this board. The chairman receives \$250 a month while engaged in his work as officer of the board, but other appointive members receive a daily wage determined by the board. (Laws of 1929, Ch. 165).

Board of Administration For Farmers Institutes

The Governor, President of the State College of Agriculture, and Commissioner of Agriculture, Labor and Industry are members of the Board of Administration for Farmers' Institutes (R.C.M. 1576), and are designated as "Directors of the Montana Farmers' Institutes". The board has full control and discretion to employ agents to organize and conduct farmers' institutes, the expenses of which are paid out of the State Treasury (R.C.M. 1577).

State Highway Commission

The State Highway Commission is composed of three members, appointed by the Governor for a four-year term at a salary of \$10 a day while on commission business plus expenses; these choose their own chairman and appoint the State Highway Engineer (Laws of 1925, Ch. 129).

**State Highway
Engineer**

The State Highway Engineer is appointed by the State Highway Commission as the administrative officer thereof, and may be removed by the commission at any time (R.C.M. 1784).

✓
**State
Board of
Health**

The State Board of Health is composed of five members, chosen by the Governor from a list of ten submitted by the Montana Medical Association (R.C.M. 2444) for a five year term, one of whom is appointed each year. (R.C.M. 2445) at \$5 per day and expenses while attending meetings (R.C.M. 2451). The board has general supervision of the interests and health in the life of the citizens of the state, and is charged with study of vital statistics, sanitary investigations, general conditions, and the inspection of public institutions (R.C.M. 2448). The board is also to cooperate with federal health authorities in the suppression of venereal diseases (Pol. Code., Part III, Ch. 189), is to administer the pure food laws (Pol Code, Part III, Ch. 199), has general oversight and care of all inland waters of the state used by any city, town or public institution or any water or ice company (R.C.M. 2641) and is to approve municipal water projects and advise with towns and cities on water supply problems (R.C.M. 2648).

✓
**Child Welfare
Division**

The Child Welfare Division is a department of the State Board of Health (R.C.M. 2503) to make and enforce regulations, to carry on a campaign of public health education, and to take all possible steps for the better protection of the health of children of the state (R.C.M. 2504). The Secretary of the State Board of Health (The State Health Officer) is empowered to employ such officers as may be necessary to carry out the provisions of this law subject to the approval of the State Board of Health (R.C.M. 2509).

✓
**Bureau of
Vital Statistics**

The Bureau of Vital Statistics is created as a department of the State Board of Health for the complete and proper registration of births and deaths for legal, sanitary and statistical purposes, under the immediate superintendence of the Secretary of the State Board of Health (the State Health Officer) who is the State Registrar (R.C.M. 2513).

**State Health
Officer**

The State Board of Health appoints its own secretary for a four year term who is the State Health Officer (R.C.M. 2446). The duties of the State Health Officer include custody of records, the supervision of city health boards and the administration of the regulations of the State Board of Health with power to act for the board in emergency cases. (T.C.M. 2447 and 2459). The State Health Officer is State Registrar under the Bureau of Vital Statistics (R.C.M. 2515, and is chairman of the State Board of Entomology.

**Ex-Officio
State
Registrar**

The Secretary of the State Board of Health (The State Health Officer) is the State Registrar (R.C.M. 2513), the executive officer of the Bureau of Vital Statistics, empowered to make, promulgate and enforce such rules and regulations as he may consider necessary, subject to the approval of the State Board of Health, to carry out the registration laws and cooperate with local registrars (local health officers) (R.C.M. 2516).

State ✓
Epidemiologist

The State Epidemiologist is appointed by the State Board of Health with powers of a deputy state health officer under the direction of the Secretary of the State Board of Health and subject to the control of the board (R.C.M. 2540) to study causes and prevalence of diseases in the state, to take the proper steps to check such diseases, and to assist the local and county health officers in the suppression of these diseases and perform other duties assigned by the board (R.C.M. 2541). The State Epidemiologist holds office at the discretion of the board. (R.C.M. 2542).

Board of
Embalmers

The State Board of Embalmers is established under the authority of the State Board of Health to establish a system of licensing. (R.C.M. 2456).

✓
State Board of
Eugenics
(Sterilization)

The State Board of Eugenics is composed of the chief physician of each custodial institution, the President of the State Medical Association, a female member named by the state medical association, and the Secretary of the State Board of Health (the State Health Officer) who is chairman (Laws of 1923, Ch. 164) who must approve certificates of sterilization for institution inmates and exercise supervision of sterilization.

The State
Library Extension
Commission

The State Library Extension Commission, composed of the librarian of the State University, the Superintendent of Public instruction, and one member appointed for three years by the Governor from a list of five selected by the State Library Association of Montana, who serve without compensation. The duty of this commission is to provide library service through travelling libraries, to procure the establishment of libraries, to visit and advise with regard to libraries, and to secure the cooperation of the librarians of the state with the state institutions.

✓
Veterans Welfare
Commission

The Veterans Welfare Commission is composed of three members, appointed and removable by the Governor, without compensation other than expenses (R.C.M. 5658). This commission is formulated to assist former soldier and sailors of the United States in securing employment and are also empowered to provide for their education, training and comfort (R.C.M. 5660).

Athletic
Commission

The Athletic Commission is composed of three members appointed by the Governor for three year terms without compensation other than expenses (R.C.M. 4554, 4551). This commission possesses authority over boxing matches in the state so far as state regulations are concerned (R.C.M. 4555, 4556).

State Text
Book Commission

The State Textbook Commission is composed of seven members, five of whom must be chosen from the public school profession, appointed by the Governor for five-year terms (R.C.M. 1187). It is this commission that adopts textbooks for the public schools (R.C.M. 1157).

✓
Boards
Controlling
State
Institutions

All state institutions--education, charitable and correctional are under the supervision and control of boards. The Insane Asylum and State Prison are not, however, under a special board as are the educational institutions, the charitable institutions and industrial school described below, but are placed under the control of a board composed of the Governor, Secretary of State, and Attorney General (who are the chief executive officers of the state and compose the State Board of Examiners which is the most powerful executive agency of the state). The Insane Asylum and the State Prison have, therefore, been treated above under the description of the duties of the State Board of Examiners.

✓
The State Board
Of Education

The State Board of Education is a constitutional agency vested with the general control and supervision of the educational institutions with powers and duties prescribed by law. The board consists of eleven members--the Governor (who is the President of the Board), the State Superintendent of Public Instruction, the Attorney General, and eight members appointed by the Governor with the confirmation of the Senate (XI, 11) of which eight members not more than four may be of the same party and who must be equally divided between the two congressional districts of the state; the appointed members hold office for four years (Laws of 1927, Ch. 53). This board has general supervision and control over the institutions of higher education, the State Orphan's Home, the State Vocational School for Girls, and the State Industrial School (Laws of 1925, Ch. 160). The board also prescribes standards of promotion to the high school department of all public schools of the state, accredits high schools (R.C.M. 836), confers degrees, chooses and appoints the presidents and faculties of the institutions, and confers on the Local Executive Boards authority relative to the immediate control and management, other than financial, and the selection of teachers, or this authority may be conferred on the presidents of the various institutions (R.C.M. 836). Members receive no compensation other than travelling expenses (R.C.M. 835).

The State Board
of Visual
Instruction

The State Board of Education is ex-officio the State Board of Visual Instruction to carry out the terms of the laws regarding visual instruction and cooperate with federal government (Pol Code., Part III, Ch. 103 and 216).

The University
of Montana

The University of Montana comprises the State University, State College of Agriculture and Mechanic Arts, the School of Mines, the Normal College, the Eastern Normal School, and the Northern Montana School (Pol Code, Part III, Ch. 67).

Chancellor

The Chancellor of the University of Montana is the executive officer of the board in relation to the institutions of higher education and is appointed by the board to carry out such duties as they may prescribe.

**Local
Executive
Boards**

There is also a Local Executive Board for each of the institutions comprising the University of Montana, consisting of three members--two appointed by the Governor with the consent of the State Board of Education and the President of the institution concerned, who is the chairman of the board. The Local Executive Boards have such immediate direction and control of the institution, other than financial, as may be conferred by the State Board of Education and are subject to the supervision and control of the State Board of Education (R.C.M. 842 and 843). The members of these boards receive not to exceed \$5.00 a day while in performance of their duties plus necessary expenses (R.C.M. 846).

**Institution
Presidents**

The President of each institution have the immediate direction, management, and control of the institution subject to the general supervision, management and control of the State Board of Education (R.C.M. 858). The President of the State College is a member of the Board of Administration for Farmers Institutes.

**Agricultural
Extension and
Experiment
Station**

The Agricultural Experiment Station is established in connection with the State College of Agriculture and Mechanic Arts to carry on agricultural extension and experimental work, to cooperate with the federal government, and to accept the federal grants in aid. (R.C.M. 891).

**Montana Grain
Inspection
Laboratory**

The Montana Grain Inspection Laboratory is formed in connection with Experiment Station and Extension Service to study and inspect field crop seeds (R.C.M. 902). The head of this laboratory is the agronomist of the Agricultural Experiment Station (R.C.M. 906).

**State Bureau
of Mines and
Geology**

The State Bureau of Mines and Geology is established under the direction of the State Board of Education (Laws of 1929, ch. 95). The State Board of Education appoints the director, who must be qualified in the scientific field, and fixes the organization of the bureau, which is charged with gathering of statistics, specimens, library, and the study of geography and geology of the state--particularly the state mineral resources (R.C.M. 883 and 884).

✓
**The School for the
Deaf and Blind and
Training School
for the Feeble
Minded**

of
The School for the Deaf and Blind, which institution the Training School for the Feeble Minded is a department (R.C.M. 1474), is under the general supervision of the State Board of Education and a local executive board (T.C.M. 1459). (Chs. 112 and 113, Pol. Code, Part III)

↓
**The Orphans'
Home**

The State Orphans' Home is under the general supervision and control of the State Board of Education and a Local Executive Board (R.C.M. 1486) (Pol. Code, Part III, Ch. 114)

✓
The Industrial
School

The Industrial School, consisting of a male and female department, is under the control and supervision of the State Board of Education who are the Trustees of the State Industrial School (R.C.M. 12498, 12497, 12498). The President of the Industrial School is in general charge with immediate charge over the male department, while there is a matron in charge of the female department (R.C.M. 12495).

State Board of
Educational
Examiners

The State Board of Educational Examiners, who provide rules and regulations for the issuance of all teachers certificates and prepare questions and provide assistance on giving examinations, are subject to the State Board of Education. The Board consists of the Superintendent of Public Instruction who is the Chairman and four other members--a faculty member from one of the University units, a city superintendent of schools, a high school principal, and a district superintendent, all of whom are elected by the State Board of Education on the nomination of the Superintendent of Public Instruction (R.C.M. Laws of 1923, Ch. 131).

✓
State Vocational
School for Girls

The State Vocational School for Girls is established for the care, education, training and safekeeping of girls committed thereto (R.C.M. 12519 and 12520). The institution is under the general supervision of a Local Executive Board of three, two of whom must be women, appointed by the Governor with the approval of the State Board of Education; the President of the institution is ex-officio the chairman of the Local Executive Board (R.C.M. 12522 to 12531); although the institution is under the immediate supervision of this Local Executive Board, the management and control is subject to the Governor and the State Board of Education (R.C.M. 12534).

✓
Principal

The Principal of the Girls Vocational School is appointed by the Local Executive Board subject to the approval of the Governor and the State Board of Education (R.C.M. 12525).

✓
State Board
of Managers of
the State Soldiers
Home

The Soldier Home (Ch. 116, Part III, Pol Code) consisting of five members, of which three must be soldiers or sailors and one a practicing physician, appointed for a four-year term by the Governor with the confirmation of the Senate and the department commander of the Grand Army of the Republic (in the case of inability of such person to serve, the commander of the state department of the Spanish War Veterans). (Laws of 1925, Ch. 149).

✓
Commandant

The Commandant of the Soldiers Home is appointed by the Board of Managers and must have served in the Civil or Spanish wars (R.C.M. 1533).

✓
Board of
 Charities
 and Reform

The Board of Charities and Reform is composed of three members, nominated by the Governor and confirmed by the Senate for a term of six years to serve without compensation other than necessary expenses; the board is to investigate and supervise the whole system of charitable and correctional institution of the state by personal visits and recommend such changes and additional legislation as they deem necessary, make a study of poorhouses of the state and collect data, to the end that the administration of public charity be conducted upon sound principles of economy and justice (R.C.M. 325, 335, 328, 330, 331).

Licensing and
 Regulation of
 Professions

There are numerous boards for the licensing of specific professional practitioners. The organization of these boards are fairly uniform; there are from 3 to 7 members, usually selected by the Governor with or without the Senate from the profession in the state at large or from lists submitted by professional associations. The members serve without compensation other than expenses. The existing licensing boards for the professions are as follows:

- Board of Dental Examiners (R.C.M. 3106-3109)
- Board of Medical Examiners (R.C.M. 3116)
- Board of Osteopathic Examiners (T.C.M. 3125)
- Board of Chiropractic Examiners (R.C.M. 3138-3140*)
- Montana State Board of Examiners in Optometry (R.C.M. 3157, 3158)
- State Board of Pharmacy (R.C.M. 3173)
- Board of Examiners for Nurses (R.C.M. 3204-06)
- State Board of Veterinary Medical Examiners (R.C.M. 3217)
- Board of Architectural Examiners (R.C.M. 3229)
- Board of Examiners in Accountancy (R.C.M. 3244)
- Podiatry Examiners (Chiropody) (Laws of 1923, Ch. 2)
- Montana State Board of Beauty Culturists (Laws of 1929, Ch. 104)
- Board of Barber Examiners (Laws of 1929, Ch. 127)
- State Board of Library Examiners (R.C.M. 4565)

The laws relating to the admission of attorneys to practice in the state are administered by the Supreme Court.

Abstractors are licensed by the State Treasurer. Licensing of Embalmers is through a board established by the State Board of Health.

Public Utility
 Boards and
 Commissions

The laws relating to the regulation of public utilities are administered by three agencies--the Board of Railroad Commissioners, the Public Service Commission and the Montana Trade Commission, but the membership and officers of these boards are the same.

Board of
Railroad
Commissioners

The Board of Railroad Commissioners is composed of three members elected by the people for six-year terms (R.C.M. 3779). They hold sessions once a month at least and adopt their own rules and regulations (P.C.M. 3783). One of the members is chosen chairman and a secretary is appointed to serve during the pleasure of the board (R.C.M. 3783). The board had the administration of the laws relating to common carriers (R.C.M. 3797), and the act governing the production of oil and gas in the state (Laws of 1925, Ch. 56). The Attorney General is the attorney and counsellor of the board (R.C.M. 3802).

The Public
Service
Commission

The Board of Railroad Commissioners are ex-officio the Public Service Commission but the business of the board as a Public Service Commission is kept separate (R.C.M. 3879 and 3880). The duties of the board include the regulation of public utilities other than common carriers (R.C.M. 3880) and the administration of the Gasoline Inspection Act (Laws of 1927, Ch. 109).

The Montana
Trade
Commission

The Board of Railroad Commissioners is ex-officio the Montana Trade Commission (R.C.M. 3914) charged with the fixing of reasonable rates, charges, tolls and maximum profits of public utilities and the supervision of public mills (R.C.M. 3914). The officers of this Commission are the same as those of the Board of Railroad Commissioners but the business is kept separate (R.C.M. 3916).

Special Boards
and Commissions

From time to time for special projects the legislature has seen fit to create boards. Examples of these are:

√
Crime Commission
of the State of
Montana

The Crime Commission of the State of Montana, composed of three district court judges appointed by the Chief Justice of the Supreme Court and two members appointed by the Governor, all of whom serve without compensation. The commission is formed to investigate and recommend improvements in the administration of criminal justice (Laws of 1929, Ch. 122).

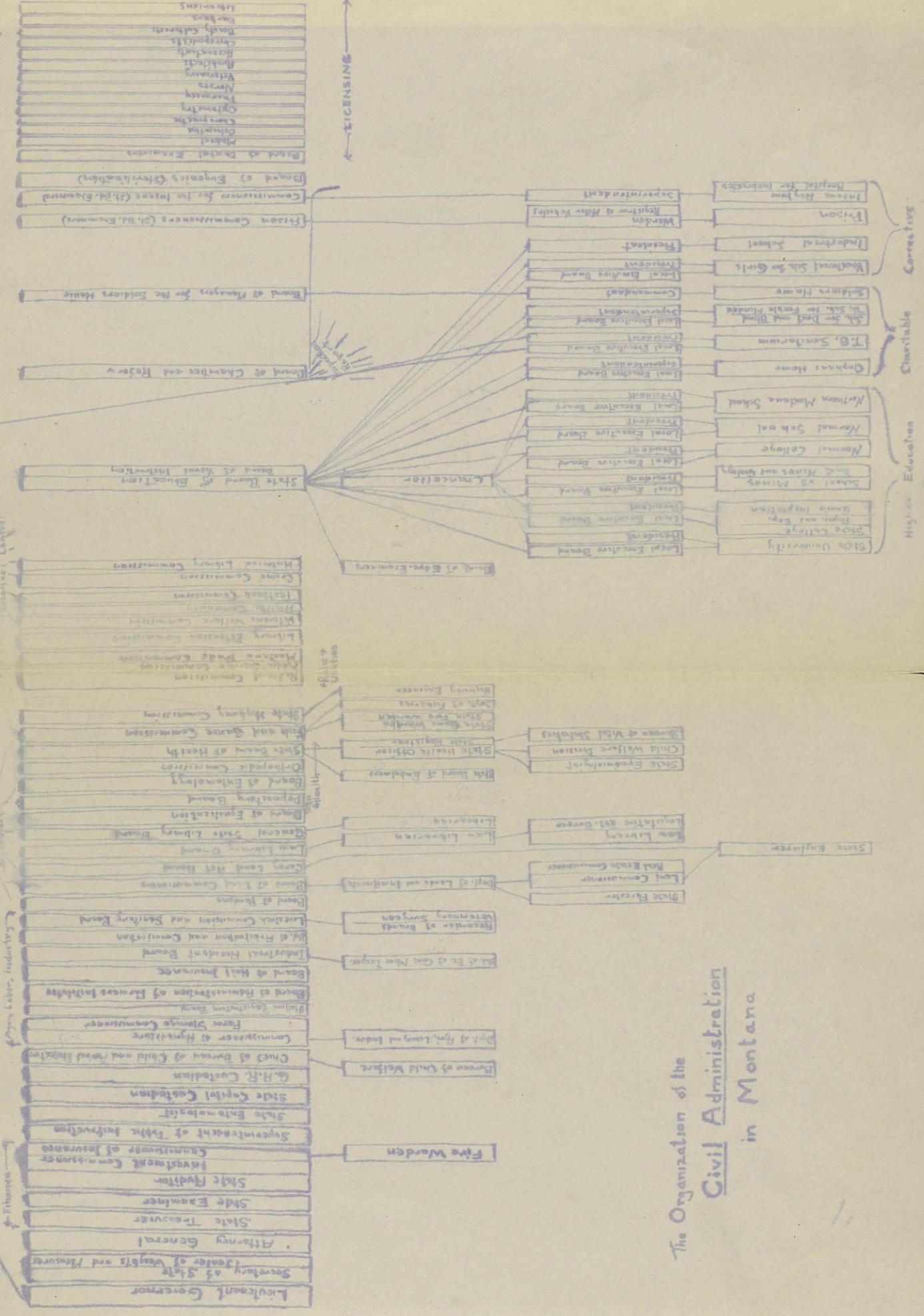
Advisory
Commission for
the State
Historical
Library

Advisory Commission for the State Historical Library may be appointed by the State Board of Examiners to advise with them in the matter of the erection of the library. This commission is composed of the Secretary of the Montana Historical Society, one member of the Pioneers Society, one member of the Sons and Daughters of Pioneers of Montana and two others appointed by the Governor, all of whom serve without salary other than travelling expenses. (Laws of 1929, Ch. 30).

Legislative Assembly

State Board of Examiners

Governor



The Organization of the Civil Administration in Montana

STATE INSTITUTIONS

I. STATE OFFICERS (Single administrative agencies)

A. Constitutional (ex-officio functions are all statutory)

- Elected by the people:
1. Governor (member of nine boards)
 2. Lieutenant Governor
 3. Secretary of State (member of eight boards)
 - a. Ex-Officio, State Sealer of Weights and Measures
 4. Attorney General (member of eight boards)
 5. State Treasurer (member of two boards)
 6. State Auditor (member of four boards)
 - a. Ex-Officio, Investment Commissioner
 - b. Ex-Officio, Commissioner of Insurance
 7. Superintendent of Public Instruction (member of four boards)
 8. State Examiner (appointed by the Governor)

B. Statutory (established by legislative act)

1. Commissioner of Agriculture, Labor, and Industry
 - a. Ex-Officio, Farm Storage Commissioner
 - b. Ex-Officio, Real Estate Commissioner
 2. Chief of the Bureau of Child and Animal Protection
 3. Purchasing Agent
 4. Custodian of the State Capitol
 5. Custodian of Records of the Grand Army of the Republic
 6. State Entomologist (Ex-Officio)
 7. State Fire Marshall
 8. State Accountant
 9. State Land Commissioner
 10. State Veterinary Surgeon
 - a. Ex-Officio, Recorder of Marks and Brands
 11. State Highway Engineer
 12. State Engineer (Reclamation and Public Lands)
 13. State Health Officer
 - a. Ex-Officio, Registrar (in Bureau of Vital Statistics)
 14. State Epidemiologist
 15. State Fish and Game Warden
 - a. Ex-Officio, State Fire Warden
 16. Superintendent of State Fisheries
 17. Warden of the State Prison
 - a. Ex-Officio, State Registrar of Motor Vehicles
 18. Chancellor of the University of Montana
 - 19 to 32. Heads of state educational, charitable, and regulatory agencies
- These are the administrative officers of various boards and commissions of the state government.

II. STATE BOARDS AND COMMISSIONS (Plural administrative agencies)

A. Constitutional

- Ex-Officio membership from the constitutional state officers:
1. State Board of Examiners
 2. Board of Pardons
 3. Board of Prison Commissioners
 4. State Depository Board
 5. State Board of Land Commissioners
 6. State Board of Education (also ex-officio Board of Visual Instruction)
 7. State Board of Equalization

B. Statutory

- Ex-Officio membership entirely:
1. Furnishing Board and Board of Supplies
 2. Law Library Board
 3. Board of Administration of Farmers Institutes
 4. Board of Commissioners for the Insane
 5. Carey Land Act Board
 6. State Board of Entomology
 7. State (General) Library Board
 8. Livestock Commission and (Ex Officio) Livestock Sanitary Board
 9. Board of Charities
 10. State Board of Hygiene
 11. State Highway Commission
 12. State Board of Health
 13. Montana Orthopedic Commission
 14. Industrial Accident Board
 15. State Board for Vocational Education
 16. State Board of Arbitration and Conciliation
 17. Stallion Registration Board
 18. Fish and Game Commission
 19. State Board of Hail Insurance
 20. Board of Managers of the State Soldiers Home
 21. State Library Extension Commission
 22. Veterans Welfare Commission
 23. Athletic Commission
 24. Text Book Commission
 - 25 to 40. Boards for the Licensing of Professions
 41. Board of Railroad Commissioners
 42. Public Service Commission
 43. Montana Trade Commission
 44. Crime Commission for the State of Montana
 45. Advisory Commission for the State Historical Library Building
 - 46 to 55. Local Executive Boards for State Institutions
- The same board of three elected members
- Special commissions

PLURAL FUNCTIONS OF STATE OFFICERS
and
THEIR MEMBERSHIP ON BOARDS AND COM-
MISSIONS

Constitu- : Officers of
tional : Boards and
Officers : Commissions

Governor
Secretary of State
Attorney General
Treasurer
Auditor
Supt. of Pub. Instr.
Veterinary Surgeon
Comm'r of Agriculture
State Entomologist
Land Commissioner
Health Officer
Game Warden
Supt. of State Prison

Ex-Officio Officers:

	Governor	Secretary of State	Attorney General	Treasurer	Auditor	Supt. of Pub. Instr.	Veterinary Surgeon	Comm'r of Agriculture	State Entomologist	Land Commissioner	Health Officer	Game Warden	Supt. of State Prison
Investment Commissioner					X								
Real Estate Commissioner										X			
Commissioner of Insurance				X									
Farm Storage Commissioner								X					
Recorder of Marks and Brands							X						
Secretary, Livestock Sanitary Board							X						
Secretary, State Board of Health											X		
State Registrar											X		
State Fire Warden												X	
Registrar of Motor Vehicles													X
Sealer of Weights and Measures		X											

Membership on Boards and Commissions:

	Governor	Secretary of State	Attorney General	Treasurer	Auditor	Supt. of Pub. Instr.	Veterinary Surgeon	Comm'r of Agriculture	State Entomologist	Land Commissioner	Health Officer	Game Warden	Supt. of State Prison
*Board of Examiners	X	X	X										
*Furnishing Board	X	X	X										
*Carey Land Act Board	X	X	X										
*Commissioners for the Insane	X	X	X										
*Prison Commissioners	X	X	X										
*Board of Land Commissioners	X	X	X			X							
*Board of Adm. for Farmers Institutes	X							X					
*Depository Board	X			X	X								
Board of Education	X	X				X							
*Law Library Board		X			X								
*Board of Pardons		X	X		X								
Board of Hail Insurance				X				X					
Industrial Accident Board					X			X					
Educational Examiners						X							
*Board of Entomology							X	X	X				
Library Extension Commission						X							
Orthopedic Commission											X		
Stallion Registration Board							X						

* These Boards are entirely ex-officio

WORKS CITED AND BIBLIOGRAPHY

On the following page (59) will be found an alphabetical list of all works cited or quoted. There has been no attempt to cite all works on a given point; instead, leading works by political writers are given where the writer is an authority in the field and when the discussion is particularly forceful and complete.

Bibliography: No complete list of works on administration is given. There are hundreds of volumes, articles, and reports on the subject, all of which are valuable. A complete bibliography may be secured from the files of the American Political Science Review, in each issue of which are listed all current works.

In addition to the standard works on government and the special works on the administration of government in its various aspects, there is information on the subject of equal and sometimes greater value to be found in the Proceedings of the American Political Science Association, The American Political Science Review, the Political Science Quarterly, and the National Municipal Review. Much stimulating material is to be found in the various, standard law reviews. The Johns Hopkins Studies and the Columbia University Studies contain articles on particular problems and on various state administrations. The reports of state commissions formed to study administration are available.

WORKS CITEDBooks:

- Beard, Charles A. American Government and Politics (5 Ed.) (N.Y., 1928)
 Black, Henry C. Relation of Executive Power to Legislation (Princeton, 1920)
 Bryce, James. American Commonwealth (First Edition)
 Croly, Herbert The Promise of American Life (N. Y., 1909)
 Gettel, R. G. History of Political Thought (Century, 1924)
 Goodnow, F. J. Politics and Administration (MacMillan, 1900)
 Goodnow, F. J. Comparative Administrative Law (Putnam's, 1893)
 Haines, Charles G. and Bertha M. Principles and Problems of Government
 (Harpers, 1921)
 Holcombe, A. N. State Government in the United States (N. Y., 1920)
 Laski, Harold J. Grammar of Politics (London, 1925)
 MacIver, R. M. The Modern State (Clarendon, 1926)
 Merriam, C. E. The American Party System (N. Y., 1923)
 Montesquieu, Baron de The Spirit of the Laws (London, 1906)
 Munro, W. B. Government of the United States (MacMillan, 1925)
 Paine, Thomas. The Rights of Man
 Root, Elihu. Experiments in Government (Princeton, 1913)
 Snow, A. H. American Philosophy of Government (Putnam's, 1893)
 Taft, William H. Our Chief Magistrate
 White, Leonard D. Public Administration (MacMillan, 1926)
 Willoughby, W. F. Principles of Public Administration (Baltimore, 1927)
 Wilson, Woodrow Congressional Government (1887)
 Wilson, Woodrow Constitutional Government (1908)

Articles:

- Beard, Charles A. Time, Technology and the Creative Spirit in Political Science. Am. Pol. Sci. Rev., Vol. xxi, p. 1
 Freund, Ernst Right to a Judicial Review in Rate Controversies. W. Va. Law Quarterly, Vol. xxvii, pp. 207-12
 Gulick, Luther Principles of Administration. Nat. Mun. Rev. (July, 1925)
 Hart, A. B. A Government of Men. Am. Pol. Sci. Rev., Vol. vii, p. 1
 Lowell, A. Lawrence Expert Administrators in Popular Government. Am. Pol. Sci. Rev., Vol. vii, p. 45
 Mathews, John M. State Administrative Reorganization. Am. Pol. Sci. Rev., Vol. xvi, p. 387.
 Sly, John F. Administrative Reorganization in California. Nat. Mun. Rev. (April, 1928)
 Tucker, Robert H. The Virginia Reorganization Program. Nat. Mun. Rev. (November, 1928)

Reports:

- Fifteenth Report of the United States Civil Service Commission.
Report of the State Efficiency and Trade Commission (Montana), 1919
 Pope, Walter L. The Rule Making Power of the Courts. Proceedings of the Montana Bar Association, 1929.

Laws of Montana:

- The Constitution of Montana (as amended)
Revised Codes of 1921
Session Laws of 1923, 1925, 1927, and 1929