

PERSONAL MEMOIR: JUDGE WILLIAM E. DOYLE AND GOVERNOR RALPH L. CARR; PEERS FOR EQUAL JUSTICE

GREGORY J. HOBBS, JR.[†]

ABSTRACT

In this personal recollection, Justice Hobbs relates how clerking for Judge William E. Doyle early in the history of the *Keyes* case eventually led Justice Hobbs to serving on the Colorado Supreme Court. Justice Hobbs compares Judge Doyle to Governor Ralph Carr as peers for justice who upheld the civil rights of others, despite being reviled by many at the time. Governor Carr spoke up for the constitutional rights of Japanese Americans relocated to Colorado during World War II. Judge Doyle prohibited the de jure segregation of the Denver Public Schools. The Learning Center of Colorado's Ralph Carr Judicial Center numbers their actions among the most significant legal milestones in Colorado history.

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I. INTRODUCTION

Passionate, compassionate, logical, decisive, a caretaker of community within the opportunity he was given and earned, “The Judge” is what we his law clerks called him.¹ Others more familiar with him from his law practice days called him “Bill Doyle.”

[†] The Honorable Gregory J. Hobbs Jr. is an Associate Justice on the Colorado Supreme Court. Justice Hobbs received his B.A. from the University of Notre Dame in 1966 and his J.D. from the University of California, Berkeley in 1971. He clerked for Judge William E. Doyle (who was the trial court judge during the formative years of the *Keyes* litigation) in the U.S. Court of Appeals for the Tenth Circuit from September 1971 through August 1972. Before joining the Colorado Supreme Court on May 1, 1996, Justice Hobbs served as an air enforcement attorney for Region VIII of the Environmental Protection Agency, a Colorado Assistant Attorney General for Natural Resources, and a member of the law firms of Davis, Graham & Stubbs and Hobbs, Trout & Raley. His law practice specialties included water, environmental, land use, and transportation law.

1. For additional information about Judge William E. Doyle, see Gregory J. Hobbs, Jr., *Making a Stand in Cowtown*, DOCKET, June 2008, at 1, July/Aug. 2008, at 1, *reprinted in* GREGORY J. HOBBS, JR., *LIVING THE FOUR CORNERS, COLORADO, CENTENNIAL STATE AT THE HEADWATERS* 221–26 (2010).

II. GETTING STARTED

I first met The Judge at his chambers in the federal courthouse during holiday break of 1970. I was a first-semester third-year law student at Boalt Hall, Berkeley, who lacked employment following graduation. I had interviewed with large law firms on the West and East Coasts but received no offers. My references for employment inevitably led back to the tangle I had with the senior named partner of a large Seattle law firm. At my exit interview following my 1970 summer clerkship, he offered me an associate position to begin in the fall of 1971. "You have any questions?" he asked me. "Why don't you have a pro bono program?" I asked him in return.

When my wife, Bobbie, and eighteen-month-old son Dan reached home two weeks later following a camping trip to Glacier National Park, I opened a letter from the Seattle law firm. I expected a written confirmation of my employment. Instead, I received a one-sentence letter withdrawing the offer.

Bobbie remembers it as a bleak Christmas. We'd come back to her Denver home to be with her family. She's a fourth generation Denverite. I obtained an interview with Sam Sherman of Sherman & Howard through her grandfather, Dr. John Lipscomb, whose patients included Mr. Sherman.

Also, Bobbie's parents knew I had interviewed for a clerkship with Justice Mathew Tobriner of the California Supreme Court. They suggested I see if Judge Doyle might have an opening. What they knew about him had been all over the Denver newspapers. Judge Doyle in *Keyes v. School District No. 1*² found the Denver Public Schools to be illegally segregated by race, requiring a remedy designed to extinguish inequality of treatment that isolated African-American and Hispanic children.³ Bobbie's father, George Hay, was a science teacher at Ellis Elementary School, a Denver public school.

I spoke by phone with Carolyn Deasey, The Judge's longtime secretary, and received a call back for an interview. Judge Doyle wanted to know about my Denver connections. I had only Bobbie's. Her grandparents and parents lived in the Baker, Capitol Hill, and Southern Hills neighborhoods. Her parents met in grade school at Dora Moore and went to East High School.

Judge Doyle and I talked about the pro bono tilt with the Seattle law firm; my Peace Corps experience with Bobbie in Colombia after we married in 1967; college at Notre Dame and law school at Berkeley; my sophomore-year college absence from Notre Dame to study for the

2. 313 F. Supp. 90 (D. Colo. 1970).

3. *Id.* at 91.

priesthood for the Archdiocese of San Francisco; growing up in an Air Force family of five kids that moved from Panama to Virginia, Alaska, northern California, southern California, and Texas; and meeting Bobbie in 1966 when we were staff members at the Philmont Scout Ranch in New Mexico. I later learned from working with him about his immense dedication to community service.

Returning to Berkeley after the holidays, I received a rejection letter from Sherman & Howard and Justice Tobriner. Then arrived Judge Doyle's offer of a clerkship. His other clerkship went to Randy Chastain, a really smart man who after our clerkships joined the law school faculty at the University of South Carolina.

III. CLERKING FOR THE JUDGE

We started in September of 1971. President Nixon in April of that year had appointed Judge Doyle to the United States Court of Appeals for the Tenth Circuit. But Judge Doyle kept the *Keyes* case pursuant to an order entered by Chief Judge Alfred Arraj.⁴ Randy and I attended the hearings he held on desegregation of the Hallett and Stedman Elementary Schools, resulting in an unpublished order as he finalized his judgment in the *Keyes* case for purposes of appeal.

It was a great year for a first-year lawyer. My seven years on the staff of the Philmont Scout Ranch in the 1960s had introduced me to the history and culture of New Mexico. Philmont introduced me to the Native American and Hispanic roots of the southwestern United States and to the glories of leading backpackers into the Sangre de Cristo Range of the Rocky Mountains. The Santa Fe Trail from Bent's Fort on the Arkansas River to Fort Union passes through Rayado at the foot of Philmont's Tooth of Time Ridge in the land of the Maxwell Land Grant and the Ute Indian Agency at Cimarron on the route to Taos.⁵

The Philmont experience enhanced my enthusiasm about working for a Tenth Circuit judge. New Mexico is a Tenth Circuit state. We also had cases from Utah, Wyoming, Kansas, Oklahoma, and Colorado, of course. Courtesy of The Judge, we gained firsthand experience with federal question and diversity jurisdiction as we considered all manner of

4. By the time I commenced my clerkship with Judge Doyle, he had issued these reported decisions in *Keyes v. School District No. 1*: *Keyes v. School District No. 1*, 303 F. Supp. 279 (D. Colo. 1969), *Keyes v. School District No. 1*, 303 F. Supp. 289 (D. Colo. 1969), and *Keyes v. School District No. 1*, 313 F. Supp. 90 (D. Colo. 1970). The U.S. Supreme Court upheld his finding of de jure segregation in the Denver Public Schools in *Keyes v. School District No. 1*, 413 U.S. 189, 212 (1973). Two additional opinions by Judge Doyle followed in the case: *Keyes v. School District No. 1*, 368 F. Supp. 207 (D. Colo. 1973), and *Keyes v. School District No. 1*, 380 F. Supp. 673 (D. Colo. 1974).

5. See LAWRENCE R. MURPHY, PHILMONT: A HISTORY OF NEW MEXICO'S CIMARRON COUNTRY 42-43, 73-83 (1972).

snarly peccadillos that people, businesses, and the government get themselves into.

IV. THE JUDGE'S GEOGRAPHY

The geography of the Tenth Circuit encompasses Indian Country and the High Plains rising into the Great Divide and crossing into the Colorado River Plateau's canyon country. Judge Doyle appreciated the scope of it all, in its historical and legal dimensions, and especially loved Denver, his hometown.

Denver was being razed in the early 1970s. The Denver Urban Renewal Authority was making temporary parking lots out of the historical downtown area fronting Broadway proceeding west from downtown.⁶ As East Coast and West Coast skyscraper-like development began to settle in, the movement to preserve Lower Downtown shoved old and new Denver into proximity. Some law firms began to relocate from the newer skyscrapers into renovated warehouses and flophouses west of Market Street.

A graduate of Denver's West High School, the University of Colorado, and George Washington University Law School, Judge Doyle reveled in the underdog features of Denver the cow town being transformed into a first-class sports, cultural, commercial, and intellectual community. A former high school boxer and football player, Army infantry man during World War II, Denver prosecutor and private practice attorney, and a member of the Colorado Supreme Court from 1959 to 1961, he was a practicing Catholic in his personal life and broadly catholic in his practice of the law and judging.

Judge Jim Carrigan, who, like Judge Doyle, served on the Colorado Supreme Court and the federal district court for Colorado observed that The Judge's faith deeply influenced his character: "Perhaps the strongest unifying theme in Judge Doyle's life was his devout Catholic faith. . . . [H]is faith was the source of the powerful conscience, innate sense of fairness and thirst for universal justice that marked his career."⁷

In addition, as related by Judge John Kane of Colorado's federal district court, Judge Doyle's opinions hew to the law, with an eye towards protection of civil rights and the community's interest in criminal law enforcement.⁸ Judge Kane also commented on Judge Doyle's writing

6. See DENVER URBAN RENEWAL AUTHORITY, 50 YEARS OF REVITALIZING DENVER 12-13 (2008); see also PHIL GOODSTEIN, DENVER'S CAPITOL HILL: ONE HUNDRED YEARS OF LIFE IN A VIBRANT NEIGHBORHOOD 136-37 (1988).

7. John L. Kane, Jr. & Harry F. Tepker, Jr., *Five of the Greatest: A Tribute to Outstanding Attorneys in Colorado History: William E. Doyle*, COLO. LAW., July 1998, 21, 23 (quoting James R. Carrigan, In Memoriam: The Hon. William E. Doyle 2 (May 20, 1986) (unpublished manuscript)) (internal quotation marks omitted).

8. *Id.* at 21.

style and teaching abilities: “Judge Doyle’s opinions are characterized by crisp, short declarative sentences, rigid attention to factual details, and full discussion of applicable precedents. As a jurist whose lifetime avocation was teaching, his opinions reflect his ability to instruct as well as inform.”⁹

As his law clerks, our job was to research and draft proposed opinions, then he would transform our drafts into his own voice based on his learning, experience, and instinct. He dictated each of his opinions aloud to his secretary, had her transcribe them, and then edited them by hand into the final transcribed form. As a result, his opinions address the reader straightforwardly and discuss the legal points he mastered.

V. FOLLOWING THE MENTOR

A mentor is someone who helps you see the lay of the land, who engages your mind and who fills your heart with inspiration. Judge Doyle had a wonderful smile and fought to keep his temper contained. He prized humility.

“Egad!” “Don’t you know!” These were his expressions. There was always something interesting or funny that followed and then you were back at your desk working on the new opinion or revising the one that drew the “Egad!” or “Don’t you know!”



Judge Doyle in 1972 with his law clerk Gregory Hobbs
Source: Gregory Hobbs collection

9. *Id.* at 22.

I helped him research fifty-two opinions that year. We had gotten into only one huge scrap. He shouted at me, “Don’t you know who The Judge is!” when I pushed him on why he wasn’t granting relief to the injured plaintiff in a horrible automobile accident case. The next morning he called me in first thing, saying “Egad! Let’s go over what you were saying!” In the end, he wrote the published opinion opposite to his initial inclination.

The last day of the job, when I was getting ready to move my family to San Francisco to start as a law firm associate, he said, “Why don’t you make your stand here?” I kept thinking of that and the mountains. Bobbie and I moved back to Colorado with Dan and our second child, Emily, within a year.

One can’t plan on being a judge; the desire to become one and succeeding in the work likely derives from admiring and studying the work of particular judges. Judge Doyle gave me that opportunity and pointed to the possibility of perhaps serving on the Colorado Supreme Court someday.

During my clerkship, he often referenced the state courts as the place you get to work with every conceivable arena of the law. “Don’t forget, the federal courts are courts of limited jurisdiction.” He especially admired litigators. “The trial work, the hardest work in the law there is,” he’d say.

For a scant two months in 1948, he’d served out the unexpired term of another judge on the state district court for Denver City and County. In the days before adoption of the merit-based judicial selection process by Colorado voters in 1966, he ran for election as a Colorado Supreme Court Justice in 1952 but lost. He later made a successful run for that office and served as a Justice from 1959 to 1961, after which President John Kennedy appointed him to the federal district court.

“Don’t give up!” he would say. Tenacity characterized the way Judge Doyle approached his work and his noon-hour workday workouts at the YMCA gym. He served as a state and federal trial and appellate judge over the course of twenty-six momentous years in Colorado’s history. Years ago while in practice, I wrote this poem entitled *Judges Must Be Students*, summarizing what I believe to be the ongoing role and responsibility of judges in pursuing the rule of law for all.

Law is the written experience
of the People

Wise for being slow to change,
courage for the changing

In the strength of individual experience,
one Nation

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Joined to the community
of individuals,

Judges must be students
of the experience of the community.¹⁰

Inspired by Judge Doyle, I applied to the state's Nominating Commission for the seats on the Colorado Supreme Court to which Governor Richard Lamm appointed Justice Tony Vollack in 1986 and Governor Roy Romer appointed Justice Rebecca Love Kourlis in 1995. Upon appointment by Governor Romer in April of 1996, I had the extraordinary experience of serving with both of them.¹¹

VI. RALPH CARR, JUDGE DOYLE, AND THE LEARNING CENTER

The Colorado Supreme Court and Court of Appeals have recently settled into the Ralph L. Carr Colorado Judicial Center. I consider Judge Doyle to be the peer of Governor Ralph Carr in their work for the civil rights of all Americans. Governor Carr welcomed displaced Japanese Americans to Colorado during World War II and advocated for their constitutional rights.¹² He was reviled by many, losing to Edwin Johnson in a subsequent race for the U.S. Senate.¹³ I commemorate the courage and ongoing legacy of these Colorado lawyers with this poem entitled *Ralph Carr Promised Remembered*.

Welcome to Colorado! Bring all of Colorado in!

We share a common heritage forged from all too many
common experiences. Despised, dismembered, exiled,

Enslaved, seeking refuge in a homeland of promises
remembered: Before the law, each and all, created equal

Entitled to celebrate the many bonds of our ancestries
as for a more perfect Union continuously we strive

Liberty and Justice for All, in the image of Amache
and the columbine

10. GREG HOBBS, IN PRAISE OF FAIR COLORADO, THE PRACTICE OF POETRY, HISTORY AND JUDGING 26 (2004).

11. In my seventh month as a Justice, I authored *Bennett Bear Creek Farm Water and Sanitation District v. City and County of Denver*, 928 P.2d 1254 (Colo. 1996), which discusses the ironical impact that the Poundstone Amendment's curtailment of Denver's annexation authority had on suburban entities that might have expected Denver to provide them future water supplies at a price charged to Denver customers. *Id.* at 1271–72 n.27. The furor over integration of the Denver Public Schools resulting from the *Keyes* case led to the introduction and passage of the Poundstone Amendment. *Id.* In turn, this change to Colorado's constitution effectively terminated suburban reliance on Denver water for future growth, while increasing water prices to extra-territorial entities lucky enough to have contracts with Denver. *Id.*

12. See ADAM SCHRAGER, THE PRINCIPLED POLITICIAN: GOVERNOR RALPH CARR AND THE FIGHT AGAINST JAPANESE AMERICAN INTERNMENT 140–56 (2008).

13. *Id.* at 161–66.

Mountain, canyon, mesa, plain, mother, father, daughter,
son, chartered by and through the Great Divide.

Judge Doyle insisted on the right of all children to attend the Denver Public Schools on an equal basis with all other students.¹⁴ He too was reviled by many. Someone threw a bomb against the porch of his home, not causing injury but greatly disturbing the Doyle family's equilibrium.¹⁵ Nonetheless, The Judge kept on making decisions in the *Keyes* case.

The learning center of the Ralph L. Carr Colorado Judicial Center opened in May 2013. It features a bronze statue of Governor Carr sitting on a bench facing the golden dome of the state capitol. On the glass wall along Lincoln Street, Abraham Lincoln's image appears in a timeline of significant legal events in U.S. and Colorado history.

The *Dred Scott v. Sandford*¹⁶ decision and the crisis over whether the new states and territories would be slaveholding or free led to the creation of Colorado Territory in February 1861.¹⁷ The Civil War Amendments—the Thirteenth Amendment abolishing slavery, the Fourteenth Amendment establishing that due process and equal protection guarantees are applicable to state and local governmental action, and the Fifteenth Amendment recognizing the right of the former black male slaves to vote—did not result in thorough and uniform public schools being open to enrollment to every child in Colorado and throughout the United States.

It took Chief Justice Earl Warren's *Brown v. Board of Education*¹⁸ and decisions like Judge Doyle's in *Keyes* to move towards accomplishing the promise of universal education on an equal basis. Both men and both decisions are being honored in the Ralph Carr learning center. Many Colorado lawyers took the plaintiff's side of the *Keyes* case pro bono. Today, over 265 firms have committed to Colorado Rule of Professional Conduct 6.1's goal of fifty hours of pro bono legal services per Colorado licensed attorney, averaged across the firm, primarily for persons of limited means and organizations that serve them.¹⁹

14. See *Keyes v. Sch. Dist. No. 1*, 313 F. Supp. 90, 91 (D. Colo. 1970).

15. Kane & Tepker, *supra* note 7, at 22.

16. 60 U.S. (19 How.) 393 (1857), *superseded by constitutional amendment*, U.S. CONST. amend. XIV.

17. See DON E. FEHRENBACHER, THE DRED SCOTT CASE: ITS SIGNIFICANCE IN AMERICAN LAW AND POLITICS 365–88 (1978).

18. 347 U.S. 483 (1954).

19. *Colorado Supreme Court Pro Bono Legal Service Commitment and Recognition Program RPC 6.1*, COLO. JUD. BRANCH (Mar. 25, 2013), http://www.courts.state.co.us/Courts/Supreme_Court/Pro_Bono.cfm.

Colorado is the Centennial State. We were admitted to the Union in 1876, one hundred years after the Declaration of Independence.²⁰ Lincoln's political and legal credo stemmed from the proposition that all persons are created equal before the law; in turn, this principle guides our state and nation's ongoing pursuit of liberty and justice for all.²¹

In preparing the content of the learning center, a group of Colorado historians and law professors, coordinated by Dr. Susan Schulten, chair of the History Department of the University of Denver, helped assemble the following timeline of significant milestones in U.S. and Colorado legal history. A grouping of the timeline into twelve principal themes reveals how the Native American, Hispanic, and immigrant roots of our Colorado contribute to the fabric of a community conscious of injustices that require rectification. The U.S. Supreme Court's 1973 affirmation of Judge Doyle's *Keyes* decision takes its rightful place among momentous events in our state and nation's history.

Table 1. The Rule of Law Through Colorado Legal History²²

Year	Milestone
I. Treaties and Congressional Acts Shaping Colorado	
1776	<i>Declaration of Independence</i> declares legal break from Britain and asserts that all men are created equal and are endowed with certain unalienable rights that include life, liberty, and the pursuit of happiness. ²³
1789	<i>Ratification of Constitution, together with the Bill of Rights</i> , establishes the original charter for the government of the United States starting with thirteen states (the original colonies). ²⁴
1803	<i>Marbury v. Madison</i> ²⁵ decision of the U.S. Supreme Court authored by Chief Justice John Marshall defines the role of the judicial branch of government in reviewing the constitutionality of laws. ²⁶

20. See Greg Hobbs, *Abraham Lincoln and Equal Justice Under the Law*, COLO. LAW., June 2009, 19, 19.

21. See MARK FIEGE, *THE REPUBLIC OF NATURE: AN ENVIRONMENTAL HISTORY OF THE UNITED STATES 174–76* (2012).

22. Historians, law professors, lawyers, teachers, judges, and public officials who were consulted in assembling this timeline under the leadership of Dr. Susan Schulten, Chair of the History Department of the University of Denver, include Thomas G. Andrews, Megan C. Bertron, Wesley A. Brown, Russell Carparelli, Bill Convery, Daniel B. Cordova, Susan D. Daggett, Janice B. Davidson, Brooke Depenbusch, Elizabeth Escobedo, Mark Fiege, Gregory J. Hobbs Jr., Ernest House Jr., Sam Kamin, Patricia N. Limerick, Monica M. Márquez, Viva Moffat, Thomas J. Noel, Jared Orsi, William Philpott, David Prince, Nancy E. Rice, Tom I. Romero II, Steven C. Schulte, Thomas H. Shippis, Duane A. Smith, Joseph Turnage, and Michael Welsh.

23. THE DECLARATION OF INDEPENDENCE, 1 Stat. 1 (1776).

24. U.S. CONST. art. VII.

25. 5 U.S. (1 Cranch) 137 (1803).

26. *Id.* at 138.

Year	Milestone
1803	<i>Louisiana Purchase Treaty</i> with France adds lands to the United States up the Arkansas River to the Continental Divide and north up the Rocky Mountain Range where the Arapahoe, Cheyenne, and other Plains Indians are living. ²⁷
1848	<i>Treaty of Guadalupe Hidalgo</i> with Mexico adds lands to the United States out of Native American and Mexican lands where the Ute Indians are living. ²⁸
1854	<i>Kansas-Nebraska Act of 1854</i> opens what had been permanent Indian territory to settlement. The Act provides that white male voters in the Western territories may decide on slavery or freedom for African-American descendants of slaves. ²⁹
1857	<i>Dred Scott</i> decision by the U.S. Supreme Court voids the Kansas-Nebraska Act and prohibits Western territories and states from preventing slavery within their boundaries. ³⁰
1861	<i>Colorado Territory</i> is created by Congress out of Territories of Nebraska, Kansas, New Mexico, and Utah, including the Continental Divide potential gold-bearing area, as the South secedes from the Union. ³¹
1876	<i>State of Colorado</i> is admitted to the Union by Congress on equal footing with all other states, with the right to have its own legislative, executive, and judicial branches of government. ³²
2. Colorado's Native American Heritage	
1864	<i>Sand Creek Massacre</i> . Colorado Cavalry, under the command of Colonel John Chivington, massacres at least 150 Cheyenne and Arapaho men, women, and children at Sand Creek in 1864. The Sand Creek Massacre National Historic Site was established in 2007 as a place of healing and remembrance, not only for the descendants of the Cheyenne and Arapaho but also for marginalized victims of atrocities worldwide. ³³
1867	<i>Cheyenne and Arapaho are relocated</i> by treaty from eastern Colorado to Indian territory in future Oklahoma. ³⁴
1868	<i>1868 Ute Indian Treaty creates reservation</i> comprising western third of Colorado and reserves water for future Ute uses. ³⁵
1874	<i>1874 Brunot Agreement cedes San Juan Mountains</i> from Ute Tribes to the United States for mineral development. ³⁶

27. Louisiana Purchase Treaty, U.S.-Fr., Apr. 30, 1803, 8 Stat. 200.

28. Treaty of Guadalupe Hidalgo, U.S.-Mex., Feb. 2, 1848, 9 Stat. 922.

29. Kansas-Nebraska Act, ch. 59, 10 Stat. 277, 283-84 (1854).

30. *Dred Scott v. Sanford*, 60 U.S. (19 How.) 393 (1857), *superseded by constitutional amendment*, U.S. CONST. amend. XIV.

31. Act of Feb. 28, 1861, ch. 59, 12 Stat. 172.

32. Enabling Act of Congress, ch. 139, 18 Stat. 474 (1875).

33. *Sand Creek Massacre*, NAT'L PARK SERVICE, <http://www.nps.gov/sand/index.htm> (last updated Mar. 11, 2013).

34. Treaty between the United States of America and the Cheyenne and Arapahoe Tribes of Indians, Oct. 28, 1867, 15 Stat. 593.

35. Treaty between the United States of America and the Tabeguache, Muache, Capote, Weeminuche, Yampa, Grand River, and Uintah Bands of Ute Indians, Mar. 2, 1868, 15 Stat. 619.

36. Brunot Agreement, ch. 136, 18 Stat. 36 (1874).

Year	Milestone
1879	<i>Meeker incident reduces Ute reservation lands.</i> Killing of Indian Agent Nathan Meeker, original organizer of Greeley's Union Colony, leads to revocation of a large portion of the 1868 Ute Reservation, opening up lands from Ouray to Grand Junction for homesteading. Four bands of Utes are removed to Utah. Three bands of Utes are limited to a seventy-five-mile strip of land in the southwestern corner of Colorado for Southern Ute and Ute Mountain Ute Reservations. ³⁷
1899	<i>Southern Ute land allotment order</i> by President McKinley begins to break up this tribal reservation by means of individual land allotments to members of the Southern Ute Tribe, opening up all remaining lands to non-Indian homesteading. ³⁸
1924	<i>Native American U.S. citizenship</i> is recognized by Congress. ³⁹
1934	<i>Congress recognizes tribal constitutions, laws, and courts.</i> ⁴⁰
1988	<i>Colorado Ute Indian Reserved Water Rights Settlement Act of 1988</i> leads to the construction of the Animas-La Plata Water Project built by the U.S. Bureau of Reclamation through a construction consortium of the Southern Ute and Ute Mountain Ute Tribes. ⁴¹
Today	<i>Southern Ute and Ute Mountain Ute Tribes today.</i> The Southern Ute Tribe operates a new visitors' center and museum in Ignacio, Colorado, featuring Ute cultural and legal history, along with Ute development of the tribe's energy resources. ⁴² The Ute Mountain Ute Tribe continues its successful construction company enterprise and its highly productive farm and ranch operation near Towaoc, Colorado, along with inviting visitors to its tribal park featuring spectacular ancestral Pueblo cliff dwellings and legendary petroglyphs. ⁴³

3. Colorado's Hispanic Heritage

1821	<i>Mexican Independence</i> wrests control of what would become southern and western Colorado from Spain. Soon thereafter, Mexico rapidly expands the Spanish practice of making land grants to persons to foster settlement. ⁴⁴
1848	<i>Recognition of Mexican land grants</i> is required by the Treaty of Guadalupe Hidalgo, protecting property and citizenship rights of Hispano settlers on lands that become a part of New Mexico Territory and, later, Colorado Territory. ⁴⁵

37. Act of June 15, 1880, ch. 223, 21 Stat. 199.

38. William McKinley, Proclamation No. 436 (Apr. 13, 1899), available at <http://www.presidency.ucsb.edu/ws/index.php?pid=69259>.

39. Act of June 2, 1924, ch. 233, 43 Stat. 253.

40. Act of June 18, 1934, ch. 576, 48 Stat. 984.

41. Colorado Ute Indian Water Rights Settlement Act of 1988, Pub. L. No. 100-585, 102 Stat. 2973.

42. S. UTE INDIAN TRIBE, <http://www.southernute-nsn.gov> (last visited Apr. 25, 2013).

43. UTE MOUNTAIN: UTE MOUNTAIN UTE TRIBE, <http://www.utemountainute.com> (last visited Apr. 25, 2013).

44. See 1 PAUL HORGAN, GREAT RIVER, THE RIO GRANDE IN NORTH AMERICAN HISTORY: INDIANS AND SPAIN 436-37 (1954); LOREN E. MALL, PUBLIC LAND AND MINING LAW 6-7 (3d ed. 1981).

45. Treaty of Guadalupe Hidalgo, U.S.-Mex., Feb. 2, 1848, 9 Stat. 922.

Year	Milestone
1852	<i>San Luis People's Ditch is constructed.</i> Oldest continuous water right in Colorado is constructed on lands of the Sangre de Cristo Land Grant in the San Luis Valley as part of the acequia system of community water distribution. ⁴⁶
1876	<i>Laws are printed in English as well as in Spanish and German</i> under mandate of the Colorado constitution until the year 1900. ⁴⁷
2002	<i>Land grant rights are upheld</i> by the Colorado Supreme Court for timber, firewood, and grazing use on the Sangre de Cristo Land Grant by descendants of the original settlers. ⁴⁸
2009	<i>Acequia community water ditches are recognized</i> by Colorado General Assembly. ⁴⁹
4. Federal Lands Opened for Settlement	
1861	<i>First territorial land and water laws</i> by the Colorado Territorial Legislature recognize the rights of settlers to use land, water, minerals, timber, and other natural resources on federal lands and claim privately owned property rights pertaining to such resources. ⁵⁰
1862	<i>Colorado militia defeats Texas Confederates</i> at the Battle of Glorieta Pass outside of Santa Fe, repelling an attempted invasion of Colorado gold fields. ⁵¹
1862	<i>Homestead Act of 1862</i> of Congress allows settlers to obtain a patent (title) to 160 acres of federal land by living on it for five years. ⁵² It leads to 22,146,400 acres of land in Colorado becoming privately owned. ⁵³
1872	<i>General Mining Act of 1872</i> of Congress allows miners to own hard rock mineral rights on federal lands. ⁵⁴
5. Colorado Courts Created	
1859	<i>Miners' courts</i> spring up in the newly discovered gold regions of western Kansas Territory to resolve disputes. ⁵⁵
1861	<i>Territorial supreme court, district courts, probate courts, and justices of the peace</i> are established by Congress. ⁵⁶
1876	<i>State supreme court, district courts, county courts, and justices of the peace</i> are established by the Colorado constitution. ⁵⁷
1891	<i>Colorado Court of Appeals</i> is established by the Colorado legislature. ⁵⁸

46. CARL UBBELOHDE ET AL., A COLORADO HISTORY 187 (9th. ed. 2006).

47. COLO. CONST. art. XVIII, § 8 (amended 1990).

48. Lobato v. Taylor, 71 P.3d 938 (Colo. 2002).

49. Act of Apr. 22, 2009, ch. 168, 2009 Colo. Sess. Laws 738.

50. Act of Nov. 5, 1861, 1861 Colo. Sess. Laws 67–69; Act of Nov. 7, 1861, 1861 Colo. Sess. Laws 168.

51. UBBELOHDE ET AL., *supra* note 46, at 100.

52. Act of May 20, 1862, ch. 75, 12 Stat. 392.

53. UBBELOHDE ET AL., *supra* note 46, at 252.

54. Act of May 10, 1872, ch. 149, 17 Stat. 91.

55. CARL ABBOTT ET AL., COLORADO: A HISTORY OF THE CENTENNIAL STATE 62–63 (3d ed. 1994).

56. Act of Feb. 28, 1861, ch. 59, 12 Stat. 174.

57. COLO. CONST. art. VI, § 1 (repealed and reenacted 1961).

58. Act of Apr. 6, 1891, ch. 121, 1891 Colo. Sess. Laws 118 (repealed and reenacted).

Year	Milestone
1897	<i>Colorado Bar Association</i> is organized. ⁵⁹
1899	<i>First juvenile laws</i> are adopted by the Colorado legislature. ⁶⁰
1903	<i>Juvenile court</i> is established by the Colorado legislature. ⁶¹
6. Rights of Women	
1861	<i>Property rights for married women</i> are expanded by the Colorado legislature. ⁶²
1893	<i>Women's right to vote</i> is established by Colorado voters. ⁶³
1944	<i>Women's right to jury service</i> is established by Colorado voters. ⁶⁴
1967	<i>Women's right to terminate pregnancy</i> is established by the Colorado legislature in cases of rape, incest, or threat to the health of the woman. ⁶⁵
2000	<i>"Bubble Bill"</i> is upheld by the Colorado Supreme Court, affirming the Colorado legislature's provision of protective space for women entering and leaving health care clinics to terminate pregnancy. ⁶⁶
7. Civil Rights Laws	
1867	<i>Territorial Suffrage Act</i> by Congress eliminates race, color, or previous condition of servitude as disqualifying conditions for voting by men in Colorado and other Western territories. Passed in large measure due to advocacy by African-Americans in Colorado, the law allowed black men to vote in the territories three years before ratification of the Fifteenth Amendment. ⁶⁷
1868	<i>Fourteenth Amendment to U.S. Constitution</i> applies due process and equal protection of the law guarantees to state and local governmental action. ⁶⁸
1876	<i>Racial discrimination in public schools is prohibited</i> by the Colorado constitution. ⁶⁹
1895	<i>Civil Rights Act</i> of the Colorado legislature provides that all persons be entitled to the full and equal enjoyment of all places of public accommodation, such as restaurants, barbershops, theaters, and transport conveyances. ⁷⁰
1920	<i>Racially restrictive housing covenants</i> begin to be adopted by Colorado cities. They are upheld by the Colorado and U.S. Supreme Courts. ⁷¹

59. Christopher R. Brauchli, *The Colorado Bar Association: A Brief History*, COLO. LAW., June 1997, 1, 1–2.

60. Act of Apr. 12, 1899, ch. 136, 1899 Colo. Sess. Laws 340.

61. Act of Mar. 7, 1903, ch. 85, 1903 Colo. Sess. Laws 178.

62. An Act to Protect the Rights of Married Women, 1861 Colo. Sess. Laws 152.

63. Act of Apr. 7, 1893, ch. 83, 1893 Colo. Sess. Laws 256; *see also* COLO. CONST. art. VII, § 1.

64. COLO. CONST. art. II, § 23 (amended 1944); Act of Mar. 22, 1943, ch. 158, 1945 Colo. Sess. Laws 424.

65. Act Relating to Abortion, ch. 190, 1967 Colo. Sess. Laws 284.

66. *Hill v. Colorado*, 530 U.S. 703, 707–14 (2000).

67. Act of Jan. 25, 1867, ch. 15, 14 Stat. 379–80.

68. U.S. CONST. amend. XIV, § 1.

69. COLO. CONST. art. IX, § 8 (amended 1974).

70. Act of April 9, 1895, ch. 61, 1895 Colo. Sess. Laws 139, 139–141.

71. *Steward v. Cronan*, 98 P.2d 999, 999 (Colo. 1940); *Chandler v. Ziegler*, 291 P. 822, 823–24 (Colo. 1930) (involving a Lakewood, Colorado case).

Year	Milestone
1942	<i>Interracial marriage ban</i> is upheld by the Colorado Supreme Court in <i>Jackson v. City and County of Denver</i> . ⁷²
1948	<i>Racially restrictive housing covenants are prohibited</i> . ⁷³
1951	<i>Colorado Anti-Discrimination Act of 1951</i> is adopted by the Colorado legislature, establishing the state's first fair employment law for public employees and creating an anti-discrimination division within the Colorado Industrial Commission. ⁷⁴
1957	<i>Colorado repeals ban on interracial marriage</i> and brings public accommodations and private employers under the jurisdiction of the Colorado Anti-Discrimination Commission. ⁷⁵
1959	<i>Fair housing law</i> of the Colorado legislature is the first in the United States to prohibit discrimination in both public and private housing based on race, creed, color, national origin, or ancestry. ⁷⁶
1963	<i>Refusal to hire based on race is prohibited</i> by the U.S. Supreme Court in a Colorado case. ⁷⁷
1973	<i>Segregation in the Denver Public Schools is prohibited</i> by the U.S. Supreme Court. ⁷⁸
1992	<i>Colorado voters ban legislation for gay rights</i> by adopting a state constitutional amendment (Amendment 2) prohibiting state and local governmental agencies from enacting legislation or policies that would prohibit discrimination against "homosexual, lesbian or bisexual" persons. ⁷⁹
1996	<i>Ban on legislation for gay rights is prohibited</i> by Colorado and U.S. Supreme Court decisions. ⁸⁰
8. Business and Labor Laws	
1862	<i>Businesses are allowed to incorporate</i> by the Colorado legislature. ⁸¹
1876	<i>Employees are protected against employer-caused personal injury</i> by provisions of the Colorado constitution allowing businesses to incorporate and making employers liable for personal injury they cause to employees. ⁸²
1893	<i>Eight-hour workday for public employees</i> is adopted by the Colorado legislature. ⁸³

72. 124 P.2d 240, 241 (Colo. 1942).

73. *Shelley v. Kraemer*, 343 U.S. 1, 13 (1948).

74. Colorado Anti-Discrimination Act of 1951, 1951 Colo. Sess. Laws 531-39.

75. Act of March 13, 1957, ch. 176, 1957 Colo. Sess. Laws 492.

76. Colorado Fair Housing Act of 1959, ch. 148, 1959 Colo. Sess. Laws 489, 489-97.

77. *Colo. Anti-Discrimination Comm'n v. Cont'l Air Lines, Inc.*, 372 U.S. 714, 720-25 (1963).

78. *Keyes v. Sch. Dist. No. 1*, 413 U.S. 189, 195 (1973); *Keyes v. Sch. Dist. No. 1*, 445 F.2d 990, 999 (10th Cir. 1971).

79. COLO. CONST. art. II, § 30(b) (adopted in statewide referendum in 1992), *invalidated by Romer v. Evans*, 517 U.S. 620, 635 (1996).

80. *Romer*, 517 U.S. at 635 (1996); *Romer v. Evans*, 882 P.2d 1335, 1343-44 (Colo. 1994).

81. Act of Aug. 15, 1862, 1862 Colo. Sess. Laws 44, 44 (enabling companies to become corporate bodies).

82. COLO. CONST. art. XV, §§ 2, 15 (adopted in state constitutional convention and passed by popular election in 1876).

83. Act of Mar. 27, 1893, ch. 112, 1893 Colo. Sess. Laws 305, 305.

Year	Milestone
1899	<i>Eight-hour workday for miners is invalidated</i> by the Colorado Supreme Court. ⁸⁴
1905	<i>Eight-hour workday for miners is adopted</i> by the Colorado legislature. ⁸⁵
1907	<i>Working-hours regulation is upheld</i> by the Colorado Supreme Court. ⁸⁶
1911	<i>Child labor laws are adopted</i> by the Colorado legislature. ⁸⁷
9. Progressive Conservation: One-third of Colorado Preserved	
1891	<i>Forest Reserve Act of 1891</i> is passed by Congress. ⁸⁸ Soon thereafter, President Harrison creates two-million-acre White River Reserve, the second timber reserve in the nation and the first in Colorado.
1897	<i>National Forest Organic Act of 1897</i> , expanding on the Forest Reserve Act, leads to the creation of fourteen million acres of forest reserves in Colorado to be managed by U.S. Forest Service. ⁸⁹
1934	<i>Taylor Grazing Act of 1934</i> pioneers regulated use of eight million acres in Colorado by the Bureau of Land Management. Farrington Carpenter of Colorado becomes the first director, overseeing a grazing permit system that becomes the basis for modern cattle industry. ⁹⁰
1976	<i>Federal Land Policy and Management Act of 1976</i> requires permits to use Bureau of Land Management lands, triggering application of all federal environmental requirements. ⁹¹
1976	<i>National Forest Management Act of 1976</i> requires formulation of management plans for uses of national forest lands. ⁹²
10. Water Rights System Established	
1861	<i>Water law is adopted</i> by the Colorado Territorial Legislature, providing for the establishment of agricultural water use rights and ditch rights-of-way across public and private lands to farms. ⁹³
1864	<i>Prior appropriation is recognized</i> by the Colorado Territorial Legislature as governing water rights. ⁹⁴
1866	<i>1866 Mining Act</i> allows states and territories to create use rights in waters of the public domain and allows ditch and reservoir construction on land owned by the United States. ⁹⁵

84. *In re Morgan*, 58 P. 1071, 1083–84 (Colo. 1899).

85. Act of Mar. 21, 1905, ch. 119, 1905 Colo. Sess. Laws 284, 284.

86. *Burcher v. People*, 93 P. 14, 17 (Colo. 1907).

87. Child Labor Law, ch. 95, 1911 Colo. Sess. Laws 232.

88. Forest Reserve Act of 1891, ch. 561, 26 Stat. 1095, 1103.

89. National Forest Organic Act of 1897, ch. 2, 30 Stat. 32, 36.

90. Act of June 28, 1934, ch. 865, 48 Stat. 1269, 1269.

91. Federal Land Policy and Management Act of 1976, Pub. L. 94-579, 90 Stat. 2743.

92. National Forest Management Act of 1976, Pub. L. 94-588, 90 Stat. 2949.

93. Act of Nov. 5, 1861, 1861 Colo. Sess. Laws 67, 67–69.

94. Act of Mar. 11, 1864, 1864 Colo. Sess. Laws 49, 58.

95. Act of July 26, 1866, ch. 262, 14 Stat. 251, 253.

Year	Milestone
1876	<i>Public ownership of water subject to appropriation</i> by public agencies and private persons in order of priority is established by the Colorado constitution for surface water and tributary groundwater. Constitution also provides for private right of condemnation, with payment of just compensation for rights-of-way necessary to store and convey water to place of use. ⁹⁶
1881	<i>Water rights adjudications</i> by Colorado courts is authorized by the Colorado legislature to determine priority, amount, location, and use of water rights. ⁹⁷
1907	<i>Equitable apportionment of interstate streams</i> is applied by the U.S. Supreme Court in <i>Kansas v. Colorado</i> . ⁹⁸
1922	<i>Colorado River Compact</i> is negotiated by the seven Colorado River Basin states and subsequently approved by the state legislatures and Congress under the Compact Clause of the U.S. Constitution, apportioning interstate waters for beneficial uses in perpetuity among the signatory states. ⁹⁹ Eight additional interstate compacts are later approved. ¹⁰⁰
1952	<i>McCarran Amendment</i> allows state courts to adjudicate federal and tribal reserved water rights for national parks and monuments, and Indian reservations. ¹⁰¹
1969	<i>Seven water courts</i> are established by the Colorado legislature in major river basins within Colorado. ¹⁰²

11. Education Laws Adopted

1861	<i>Comprehensive school law</i> is adopted by the Colorado legislature. ¹⁰³
1862	<i>First public schools</i> are funded by the Colorado legislature. ¹⁰⁴
1876	<i>Thorough and uniform system of free public schools</i> is established by the Colorado constitution. ¹⁰⁵
1877	<i>Public lands reserved for producing income for public schools</i> are selected by the Colorado legislature and managed by state land commissioners in accordance with the Colorado constitution. ¹⁰⁶

12. Health and Environment Protected

96. COLO. CONST. art. II, §§ 14–15; COLO. CONST. art. XVI, §§ 5–7 (adopted in state constitutional convention and passed by popular election in 1876).

97. Act of Feb. 23, 1881, 1881 Colo. Sess. Laws 142, 142–46.

98. 206 U.S. 46, 117–18 (1907).

99. Colorado River Compact, COLO. REV. STAT. § 37-61-101 (2012).

100. La Plata River Compact, COLO. REV. STAT. § 37-63-101 (2012); South Platte River Compact, COLO. REV. STAT. § 37-65-101 (2012); Rio Grande River Compact, COLO. REV. STAT. § 37-66-101 (2012); Republican River Compact, COLO. REV. STAT. § 37-67-101 (2012); Upper Colorado River Compact, COLO. REV. STAT. § 37-62-101 (2012); Arkansas River Compact, COLO. REV. STAT. § 37-69-101 (2012); Amended Costilla Creek Compact, COLO. REV. STAT. § 37-68-101 (2012); Animas-La Plata Project Compact, COLO. REV. STAT. § 37-64-101 (2012).

101. Department of Justice Appropriation Act of 1953, ch. 651, 66 Stat. 556, 560 (1952).

102. Water Rights Determination and Administration Act of 1969, ch. 373, 1969 Colo. Sess. Laws 1200, 1202–03.

103. Act of Nov. 7, 1861, 1861 Colo. Sess. Laws 154, 154 (establishing a common school system).

104. Act of Aug. 15, 1862, 1862 Colo. Sess. Laws 95 (creating a fund to benefit schools).

105. COLO. CONST. art. IX, § 2 (adopted in Convention and passed by popular election 1876).

106. *Id.* §§ 5, 9–10.

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Year	Milestone
1876	<i>Forest Protection Clause</i> is included in the Colorado constitution. ¹⁰⁷
1964	<i>Wilderness Act of 1964</i> of Congress leads to creation of numerous wilderness areas in Colorado. ¹⁰⁸
1970	<i>Clean Air Acts</i> of Congress and the Colorado legislature are adopted to protect public health and welfare. ¹⁰⁹
1972	<i>Clean Water Acts</i> of Congress and the Colorado legislature are adopted to protect public health and drinking water, and agricultural, recreational, and environmental water uses. ¹¹⁰
1973	<i>Endangered Species Act of 1973</i> of Congress is adopted to protect threatened and endangered plants, birds, and animals. ¹¹¹

107. COLO. CONST. art. XVIII, § 6 (adopted in state constitutional convention and passed by popular election in 1876).

108. Wilderness Act, Pub. L. 88-577, § 2(a), 78 Stat. 890, 890 (1964).

109. Clean Air Act Amendments of 1970, Pub. L. 91-604, 84 Stat. 1676; COLO. REV. STAT. § 25-7-101-139 (2012).

110. Act of March 1, 1972, Pub. L. 92-240, 86 Stat. 47 (1972); COLO. REV. STAT. § 25-8-101 (2012).

111. Endangered Species Act of 1973, Pub. L. 93-205, 87 Stat. 884.