

or otherwise, it is the duty of such Court to set such judgment aside.

For the fiscal year of 1922-23, the Excise Board of Tulsa County allowed appropriations in the General Fund in the total sum of \$1,062,132.99, and classified as to purpose as follows:

Current Expense	\$656,047.32	
Tuberculosis Fund	8,331.66	
Free Fair Fund	29,006.35	
Common Separate Schools	11,616.54	
Construction of State Highways (County Road Constructions)	<u>357,131.12</u>	\$1,062,132.99

At the close of business November 30th. 1923, claims were allowed and warrants drawn and registered with the County Treasurer against said appropriations to the amount of \$1,060,782.52, leaving balance of appropriations available to the amount of \$1,350.47. Under the law, the County Treasurer can only register and pay warrants up to the amount of the appropriations. At this time the Treasurer can register and pay warrants against the General Fund for the fiscal year of 1922-23 up to the amount of \$1,350.47. I have recommended for payment, in this report, claims to the amount of \$445.50. If this recommendation is acted upon favorably the balance of appropriations remaining will be the sum of \$904.97.

It is patent that with only \$904.97 available balances of appropriations the Board of County Commissioners cannot allow claims and draw warrants to the total amount of \$28,776.29, and even though the Commissioners did so, the County Treasurer could only register and pay warrants to the amount of \$904.97 in addition to the claims herein recommended for allowance.

The Board of County Commissioners and the County Treasurer have no alternative in this matter. The law is plain. Their duties under the law are plain. In the performance of these duties they can exercise no discretion.

It is to be regretted that this condition has come to pass. Who is at fault? Not the Board of County Commissioners, past or present, but the officers contracting the indebtedness and the claimants. It was the duty of the officers before contracting the indebtedness to inform themselves of the condition of their respective appropriations and ascertain, if sufficient balances were available to pay the indebtedness to be created, and it was the duty of the claimants to ascertain the condition of the fund and the authority of the officers to enter into the contracts. Both having failed to perform their duties, both must suffer the consequences.

The law recognizes two classes of liabilities against a County, ie, Liabilities arising by operation of a contract, and liabilities arising by operation of law.

Liabilities arising by operation of a contract can only be liquidated upon these conditions:

1. That the subject of the contract is lawful.
2. That there is a sufficient appropriation made to cover the expenditures growing out of the Contract.

Liabilities arising by operation of law can be liquidated in the absence of appropriations or funds when the performance of the act creating the liability is expressly enjoined by law.

Undoubtedly, many of the claims set out in this report come within the distinction "Liabilities arising by operation of law".

Such claims can only be paid by Judgments through the Sinking Fund of the County.

I do not attempt, in this report, to distinguish between the two classes of liabilities. This is within the province of a Court. Sufficient to state that as far as the Board of County Commissioners are concerned, the claims are all of the same character.

Respectfully Submitted,

Ed O. Cassidy.
Special Deputy State Examiner and Inspector.

Upon motion of W.L.North, seconded by J.S.Shaver, the above report of audit, and recommendations as set forth in the above, is hereby approved. Upon roll call, all members voting in the affirmative, same was declared carried.

The claims recommended for disallowance, in the audit, above referred to, are herewith listed:

<u>CLAIM NO.</u>	<u>NAME</u>	<u>AMOUNT.</u>
80222	C.L.Thompson	6.00
80595	Banknote Printing Co.	10.25
83606	Mayo Furniture Co.	19.00
85410	Line-A-Time Mfg. Co.	30.00
79924	J.A.Sewell	78.00
80224	John Smitherman	36.30
80236	Glenn Larkin	180.00
80237	Glenn Larkin	75.00
80262	Glenn Larkin	15.87
80263	Glenn Larkin	71.44
81374	Jack Quast	121.40
80050	Beacon Ptg. Co.	91.75