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CIVICS
FOR
MONTANA STUDENTS

BY
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CHICAGO
SCOTT, FORESMAN AND COMPANY

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PREFACE

The purpose in offering this book is to enable pupils in the public schools of Montana to have the means of studying government as it actually exists where they live. The diversities in state and even more in local government, in different states of the American union, are such that what is written for use in some states will not apply to others. If a pupil is to learn about his own state, there are consequently only two alternatives—either to have a book written expressly for that state, or to expect the pupil as he goes along, to make the necessary mental corrections—perhaps with the aid of a condensed summary appended to his textbook.

Teachers who have had some experience do not need to be told that the latter attempt will not work successfully. The adult mind may be able to grasp generalizations, and modify them to secure a mental picture of local conditions; but the child must start with what is definite and specific.

This is indeed one of the chief reasons for emphasizing the study of one's own government. It is not simply that an understanding of the government with which he is immediately connected is of most practical value. It is only by starting with what is right at hand and accessible to the child's personal observation, that the study can be made other than mere "book learning."

For this reason every effort has been made in the present work to turn the pupil's attention to what is really going

on about him, so that he may not associate the study of civics simply with the school and "lessons," but come to connect it with actual life. It is hoped that every teacher who uses this book may keep this purpose constantly in mind. Foot-notes occasionally offer suggestions which the writer has found of great practical help in achieving the end sought.

Teachers of small experience may be disappointed in not finding more historical matter. There is a time when some knowledge of the historical development of political institutions will throw light on a pupil's understanding of his own government, but that time is certainly not at the beginning of his study. We do not think it necessary to instruct a child in the origin and development of the alphabet and the general history of language before he learns to read. Nor can a pupil who knows next to nothing of present political institutions, get from books any lucid conception of prehistoric conditions.

Nevertheless the present book does not by any means ignore historical aspects, and the smallest library, even the school histories, will supplement this to as great an extent as most pupils will find desirable till they reach a more advanced stage of their studies.

DILLON, June, 1907.

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CIVICS FOR MONTANA STUDENTS.

CHAPTER I.

LOCAL GOVERNMENT.

It must perplex pupils, if not teachers, to notice what a great diversity there is in definitions of government in different text-books. This is not the place to discuss these definitions, but a very little study discloses the reason for such conflicting variety. Each writer has his own opinion of what government ought to be, but no government that actually exists anywhere corresponds to this notion. Consequently the impossible task is undertaken of making a definition that will agree with the writer's notion of what *ought to be*, and at the same time apply to what *is*.

What Government Is.—Now many modern governments are exceedingly complicated affairs; the fundamental idea of government itself, however, is very simple. The following illustration may make this clear. Water is very necessary to human life; but there are many different ways of securing a water supply. In one neighborhood it may be entirely satisfactory for every household to have a well on the premises and be wholly independent of every other household. In another neighborhood, it seems better for several people to combine their efforts. They may, for example,

sink a well on the corner of four adjacent lots, and use water from this, or they may lay pipes from a spring or a running stream on the premises, and so, not only have water for their own use, but sell a supply to others. In some circumstances it may be better for all the inhabitants of a community to combine their efforts, and establish a water system for supplying all.

Sometimes scattered families on the frontier protect their own homes against marauders and savages. In other instances a number of persons combine and hire guards to protect their property. In still other cases a whole community regularly and systematically co-operate for mutual protection.

Some families educate their own children. Sometimes teachers are paid to teach the children of several families. Still another way is for a whole community to combine and employ teachers for all the children.

Many more illustrations might be given, but these are enough to show how various objects may be accomplished in any one of three different ways: by individual effort, by the combined efforts of several persons, and by a complete combination of a whole community. *Wherever we find permanent and systematic combination of a whole community for any purpose, there we have government.*

It will be noticed that this statement does not imply any particular theory about the probable origin of government. Nor does it necessitate any discussion about the "proper" function of government, a question over which a great deal of breath has been wasted. Some persons maintain that the only proper function of government is to kill or imprison people, that all other objects should be attained only by individual efforts, or the association of a few persons. The fact is, that there are few if any objects of human endeavor

which have not, at one time or another, been undertaken by each of these methods. Which is the best method for attaining any particular end is largely a question of experience, with which we are not specially concerned here.

Nor is any question raised about how people are led to co-operate. If it is largely a matter of compulsion with many people, we have a despotic type of government. The more largely the co-operation is voluntary, the nearer we approach the essence of pure democracy. Governments differ chiefly in the relative proportions in which the voluntary and compulsory features enter. No government known to history has been wholly devoid of either element.

Our Different Governments.—Now, just as some objects may be best accomplished by the co-operation of all the people in a community, so some things may be done best by the co-operation of several communities, or even of all the people in a large extent of country. Consequently, the same people are often concerned in several different governments at the same time. The co-operation of the people of a single neighborhood is accomplished through a township government or a city government or the government of a school district. Those things that can be more satisfactorily accomplished by the co-operation of all the people in a wider area are managed through county government. Objects that are better attained through still wider co-operation, come within the sphere of the state government. Finally, the federal government achieves ends that require the co-operation of the whole nation.

Township Government.—In some states that are very thickly settled, the people co-operate in a good many matters in small groups called townships, which are usually about six miles square. Montana, however, is at present so sparsely settled that regions so small as that seldom contain enough

people to make township government practicable. So the principal unit of local government in Montana is the county.

County Government.—There are at present in Montana twenty-seven counties, having areas varying from about one thousand to more than sixteen thousand square miles. Naturally, the counties of the greatest area are in the more thinly settled parts of the state, and as their population increases, some of these counties will doubtless be divided in two.

There are several things in regard to which the people of a county can be of help to one another. One of these is in preserving the peace and settling disputes, but as part of this work is done by other units than the county, it will be more convenient to study all about that matter by itself, and we shall do this in a separate chapter on the Judiciary.

The people of a county also co-operate in regard to education, but as some educational matters are managed by the state as a whole, it will be better to leave this also for a separate chapter on the school system.

What the County Is For.—So, apart from schools and judicial business, there are three things especially in which the people of a county co-operate. These are, the public roads, the care of the poor, and the keeping of certain public records.

Now, to accomplish these ends, three things are necessary: 1st, to decide just what shall be done; 2d, to provide for meeting the expense involved; and 3d, to have it understood just which part of the work shall be done by which persons.

Where there is township government, it is possible for all the grown men to come together and talk matters over, decide what is best to do, arrange for raising the money needed, and select the persons to see to the different details.

This is just what is done in the New England "town meeting."

In a Montana county, however, many people would have to travel a long way to get together, and even if they all came—since there are seldom less than a thousand, and in some counties nearly twenty thousand men¹—they would make such a crowd that it would be impossible to have a meeting in which they could talk matters over.

So, instead of attempting this, the people of a county choose three men to represent them in the management of county affairs. Instead, therefore, of having direct or democratic government, like that of the New England township, we have in Montana chiefly indirect or representative government in the county. Chiefly representative, though there are a few matters in regard to county government that are decided directly by the people.²

Board of Commissioners.—The three representatives chosen by the people to consider and decide what shall be done by the county, are together known as the board of commissioners. They are chosen for terms of six years, but

¹The following table shows the area of the different counties and their population in 1900:

| | <i>Sq. Miles.</i> | <i>Pop.</i> | | <i>Sq. Miles.</i> | <i>Pop.</i> |
|--------------------------|-------------------|-------------|-------------------------|-------------------|-------------|
| Beaverhead | 4,494 | 5,615 | Jefferson | 1,585 | 5,330 |
| Broadwater | 1,247 | 2,641 | Lewis and Clark | 2,572 | 19,171 |
| Carbon | 2,472 | 7,533 | Madison | 4,443 | 7,695 |
| Cascade | 2,764 | 25,777 | Meagher | 4,253 | 2,526 |
| Chouteau | 16,049 | 10,966 | Missoula and Sanders | 6,385 | 13,964 |
| Custer and Rosebud | 20,490 | 7,891 | Park | 2,788 | 7,341 |
| Dawson | 13,227 | 2,443 | Ravalli | 2,771 | 7,822 |
| Deer Lodge and Powell | 4,252 | 17,393 | Silver Bow | 1,017 | 47,635 |
| Fergus | 8,928 | 6,937 | Sweet Grass | 2,887 | 3,086 |
| Flathead | 8,419 | 9,375 | Teton | 7,588 | 5,080 |
| Gallatin | 2,583 | 9,553 | Valley | 13,368 | 4,355 |
| Granite | 1,543 | 4,328 | Yellowstone | 3,710 | 6,212 |

The Crow Indian Reservation (area 5,475 square miles, population 2,660) was not included in any county.

²For instance, the people decide whether the county shall go in debt for more than ten thousand dollars, whether the county seat shall be moved to another town, whether there shall be a county high school and whether liquor selling shall be prohibited. They also decide who some of the county officers shall be. How they do this will be seen when we come to study elections.

in such a way that the term of some commissioner expires every second year.

The board of commissioners organize by choosing one of their own number as chairman. Their meetings are held at the county seat¹ and are open to the public. The regular meetings begin on the first Monday of December, March, June and September; special meetings may be called at any time by a majority of the board. A statement of all the proceedings² of the board is published after the adjournment.³ Each commissioner is paid by the county eight dollars for each day's attendance at meetings and ten cents for each mile traveled.

Roads.—In a mountainous country, the care of the roads⁴ is a very great task, and if we look over the proceedings of the county commissioners, we shall see that this business occupies a large part of their attention.

They decide where roads shall be located. This is usually done on petition of the persons specially interested in having a particular road opened, and the recommendations of three

¹ The county seats of the different counties are as follows:

| <i>County.</i> | <i>Seat.</i> | <i>County.</i> | <i>Seat.</i> |
|------------------|--------------|----------------------|-----------------------|
| Beaverhead | Dillon | Lewis and Clark..... | Helena |
| Broadwater | Townsend | Madison | Virginia City |
| Carbon | Red Lodge | Meagher... .. | White Sulphur Springs |
| Cascade | Great Falls | Missoula | Missoula |
| Chouteau | Fort Benton | Park | Livingston |
| Custer | Miles City | Powell | Deer Lodge |
| Dawson | Glendive | Ravall | Hamilton |
| Deer Lodge | Anaconda | Rosebud | Forsyth |
| Fergus | Lewistown | Sanders | Thompson Falls |
| Flathead | Kalispell | Silver Bow | Butte |
| Gallatin | Bozeman | Sweet Grass..... | Big Timber |
| Granite | Phillpsburg | Teton | Chouteau |
| Jefferson | Boulder | Valley | Glasgow |
| | | Yellowstone | Billings |

² The county clerk attends all the meetings of the board and keeps a record in full detail of all the proceedings, showing how each commissioner voted on every question.

³ A class may derive great profit from cutting out of the newspapers and preserving in a scrapbook for several months the official reports of these proceedings. They will then have abundant practical illustration of what is here described, and can learn much more than can be fully stated in the textbooks.

⁴ The term "roads" strictly means only highways, outside of incorporated towns or cities.

road-viewers specially appointed to examine the matter. When a road is laid out across land belonging to any persons the owners must be compensated by the county for the land so taken, for the government is not considered to have any right to take private property for public use without compensation. In estimating the damage done to the land-owner the board of commissioners also takes account of the benefit which he will derive from the opening of the road, and if this offsets the damage, no payment need be made. On the other hand, no land-owner can refuse to permit his land to be taken for a road, because the government has a right known as the right of "eminent domain," which has been defined as "the right which governments necessarily retain over the estates of individuals to resume them for uses of a public nature."

When a road has been established, the commissioners attend to the construction, maintenance, and improvement of the highway, and of any bridges or ferries which may be necessary. To facilitate this work, they divide the county into road districts, in each of which a supervisor, working under the general direction of the board, takes immediate charge of the roads, keeping them in repair and making such improvements as may be needed from time to time. An officer known as the county surveyor, makes such surveys as the commissioners find necessary in connection with the roads.

The Poor.—In each county the board of commissioners care for persons either permanently or temporarily unable to provide for their own needs. In the case of families in temporary distress, this is sometimes done by gift of money or supplies, or medical attendance, but the usual method is to take such persons to the poor farm, which the commissioners have provided for this purpose. Here unfortunate

persons are fed, clothed and lodged in the poorhouse, and in case of sickness are attended by the county physician, sometimes in a separate building known as the county hospital, especially if they are suffering from contagious diseases. The usual method is for some citizen of the county to rent the farm and buildings at an agreed rental per year. He is then entitled to whatever he may raise out of the farm with the help of the inmates. On the other hand, he is paid by the county an agreed sum per day for the care of each person consigned to the farm.

Sometimes the aid rendered to the poor consists of railroad fare to some other place where they are thought to have friends.

In the more populous counties, where there is a great deal of business for the commissioners, there is a county officer known as the auditor, who looks after the wants of the poor.

County Records.—Among the things of which it is very desirable to have an accurate public record, are all of those things which show who are the owners of the different pieces of land in the county. If a man offers to sell me a sack of flour or a suit of clothes, which is in his possession, it is ordinarily safe enough to presume that the goods are really his, and that he can sell them to me. For, in the absence of any suspicious circumstances, it is reasonable to suppose that one who has personal property in his possession is its owner. Personal property can be moved from place to place, and if it should get out of the owner's possession, he would naturally take measures to recover it.

With real estate it is very different. Since it cannot be moved, one who owns considerable real estate cannot get it all into one place. It is very common for owners of real estate to lease it to others for a long period. Therefore the

fact that a man has a piece of land in his possession is no evidence that he is the owner. Nor can the owner affix an indelible brand to it as he can to live stock. So it is very important for an owner of land to be able to prove that he is the owner.

Furthermore, it is very common for land-owners to pledge land as security for the payment of a debt. When this is done, it would be wrong for the land to be sold to anyone who was ignorant that the land was so pledged. Or, to express the same thing in different words, the nominal owner in such a case would really be only part owner, and, of course, could sell only what he owned, namely, a part interest in the land.

Therefore the board of commissioners provide record books, and a fire-proof vault to keep the books in. When a person buys a piece of land in the county, he brings the deed to an officer known as the county clerk, and gets him to copy it into the record. Similarly a mortgage or any other legal paper affecting the title to real estate, is recorded, and as these records are open to public inspection, it is possible for one who contemplates buying a piece of land to learn positively who the owners are.¹

The county commissioners may also establish public scales and appoint public weighers, and may provide for establishing and maintaining drains under the charge of a drain commissioner whom they appoint.

There is also a county officer known as the surveyor, who is employed to locate the boundary lines of real estate.²

Court House.—In order to have a place for the board to meet, to keep the public records, to provide offices for the

¹The county clerk also records all marriages, births and deaths occurring in the county, official bonds, assignments for the benefit of creditors, estrays and lost property.

²A survey may be made by any competent person, but when made by the county surveyor, it is accepted as evidence in a court of law.

county officers, and a meeting place for the district court,¹ the board build, or sometimes rent, at the county seat, a building known as the court house.

In this connection also they usually provide a jail for the detention of persons confined there by order of the court. These, as well as the other buildings belonging to the county, are in charge of the board of commissioners.

¹ Described on page 72.

CHAPTER II.

THE FINANCES OF THE COUNTY.

Whether people supply their needs by working separately or by co-operating, there is very little that can be accomplished without involving some expense. To keep up the roads, to care for the poor, to carry on schools, and to do the other things which the people of a county combine to accomplish, costs a great deal of money. To provide for meeting all these expenses is consequently a very important part of the business of the county.

There are several sources from which counties derive some income, but as taxation is the principal one, we shall consider that first.

Taxation.—Various plans for raising taxes are employed in different places, but Montana counties depend chiefly on property taxes and poll taxes. Poll taxes are levied on every man between the ages of twenty-one and fifty to the amount of two dollars each,¹ for road purposes, and on men between twenty-one and sixty years old, a similar tax for the poor fund.

Property taxes are levied on all the property in the county except public property and property used exclusively for religious, educational, or charitable purposes, or for agricultural fairs, hospitals, or cemeteries.

Assessment.—In order to levy a tax it is of course necessary first to know what property and polls are in the county.

¹ People who prefer to do so may contribute one day's labor on the roads in place of paying this tax.

For this purpose an officer known as the county assessor makes, between the first Monday of March and the second Monday of July in each year, an *assessment*. That is, a list of all the polls in the county, and of all the property-owners, together with the kind and value of their property.¹

As changes may take place during this time, the assessor, no matter on what day he happens to assess a property-owner, takes account of things as they were on the first Monday of March.

The assessor sends to each property-owner a blank statement in which he may declare under oath what he believes to be the value of his property, but if he refuses or neglects to make such statement, he must submit to whatever estimate the assessor makes.

Equalization.—When the assessor has completed his work, he reports it to the county clerk, who lays it before the board of commissioners. On the third Monday of July the commissioners meet as a “Board of Equalization.” At this meeting the board increases the assessment of any property whose value seems to have been underestimated, and if property-owners think the assessor has unreasonably increased the estimates which they have given him, they may bring in evidence to show the board that their assessment should be lowered, and the board decides what is fair.

The Tax Levy.—When the assessment has been completed, the data are then available for levying the tax. The county tax is levied by the board of county commissioners, who meet for this purpose on the second Monday in August.

Levying the tax is done after estimating the probable amount of money which will have to be raised by taxation

¹ Even if some of the property owners live in other counties or states they are taxed in the county where the property is.

to meet the expenses of the county for the ensuing year. Dividing this by the total valuation of taxable property, of course, gives the number of mills which must be levied on each dollar's worth of taxable property. It is usual for the board to specify the number of mills levied for each purpose.¹

Apportionment.—When the tax has been levied, the county clerk enters against each name in the assessment book the amount of the tax to be paid, and notifies each taxpayer, by mail, how much his taxes are.

Collection of Taxes.—The county treasurer is the collector of taxes,² and each property owner must pay his taxes on or before the thirtieth of November. If the taxes are not paid at that time, a penalty equal to ten per cent. of the amount of the taxes is added, and interest at the rate of one per cent. a month until the taxes are paid.

Tax Sales.—On a day appointed, in the month of January, the county treasurer sells at public auction all real estate upon which the taxes have not been paid, or which belongs to persons who have not paid the taxes due on their personal property. The property goes to the person who offers to take the least part of it in return for paying the whole of the tax, penalty, and interest due.³ At any time after the first Monday in February, if anyone has failed to pay the taxes on his personal property, the treasurer may seize and sell so much of that personal property as may be necessary to get money enough to pay the taxes.

Inheritance Tax.—Besides the poll and property tax there is also a tax known as the inheritance tax. This tax

¹ The road tax may be from one to three mills, the poor tax not more than two mills.

² For the convenience of taxpayers, state, city and school district taxes are also apportioned by the county clerk and collected by the county treasurer at the same time as the county tax.

³ The owner has three years in which to redeem real estate sold for taxes.

does not yield very much at first in a newly settled state, but in course of time it will come to be an important source of income. The payment of any tax is apt to be regarded as more or less of a hardship, because it is difficult to arrange a tax which does not to some extent discourage some form of industry. An inheritance tax is probably less open to this objection than any other form of tax that has been tried. The fact that a tax will be levied on a man's estate when he dies does not check in the least his disposition to accumulate a fortune while he is alive; and as for the people who receive an inheritance, they have reason to be grateful that they get anything at all to which they really have no claim, and cannot therefore reasonably complain if a small percentage is retained by the government. Furthermore, a very great amount of personal property escapes all taxation during the lifetime of the owner, because of the ease with which it may often be concealed from the assessor. An inheritance tax makes sure that it will be taxed at least once in each generation.

There is, however, a great difference between taxing widows and young children on the property which the head of the family had saved for the express purpose of supporting them after his death, and taxing those who are not dependent on the care of the deceased person. The law therefore exempts from the inheritance tax estates of less than \$7,500 when left to the immediate family and descendants of the deceased, and levies only one per cent. on the excess over \$7,500. Estates left to others are taxed five per cent. if they exceed \$500.¹

Licenses.—Besides the revenue derived from taxation the county also exacts a license fee from persons and corpora-

¹ Only two-fifths of the inheritance tax goes to the county, and is used exclusively for school purposes; the rest goes to the state.

tions carrying on certain occupations in the county. The amount varies from ten dollars to \$600 per year, according to the character and magnitude of the occupation.¹

The expense of constructing drains may be met by a special tax on owners of real estate, in proportion to the benefit derived by each from the drain.

Fees and Fines.—The county gets all fees collected by the sheriff, the county clerk, the clerk of the district court, and the treasurer. Fines, unless the law provides otherwise, go into the school fund.

Public Debt.—If it is not possible to obtain, from all these sources, enough money to meet the expenses of the county, the board of commissioners may borrow money (not to exceed an amount equal to five per cent. of the value of all the taxable property in the county), issuing bonds pledging the payment of the principal and interest. Not more than ten thousand dollars can be borrowed for one purpose, however, without the approval of a majority of the voters of the county at a special election. Whenever bonds are issued, the commissioners must levy, every year, an additional tax sufficient to pay the interest on the bonds, and to provide a fund² for the payment of the principal when it becomes due.

County Expenditures.—The expenditure of county money is all under the control of the board of commissioners. No money can be taken from the county treasury except to meet some expenditure authorized by the board. Whenever a person wishes to get money from the county, he must present a bill showing that he has performed services or furnished goods ordered by the board.³ If the board approve

¹ One-half of the amount collected for licenses goes to the state.

² Such a fund is called a sinking fund.

³ In counties which have an auditor this officer must certify to the correctness of a bill before it can be approved by the board.

the bill, they order the clerk to draw and give to the claimant a warrant on the treasurer for the amount due. This warrant is a paper which directs the treasurer to pay to the person named the amount indicated, and tells him out of what fund to take the money. To guard against fraud, the clerk gives the treasurer a list of all the warrants he has drawn.

When a warrant is presented to the treasurer, he pays the money, if there is any in the fund indicated. If not, he endorses on the warrant, "Not paid for want of funds," and the warrant then bears six per cent. interest till there is money in the treasury to pay it. The treasurer keeps books which show the facts in regard to all the receipts and expenditures, and the condition of the different funds.

CHAPTER III.

ELECTIONS.

At the outset of our study it was seen that three things are necessary when people are going to co-operate. We have now seen, 1st, how it is decided in a county what shall be done; 2d, how the expense is met. It remains to be seen, 3d, how the various tasks are assigned to the different persons.

Some of the assigning of tasks is done directly by the people of the county. Much of it is also done by the board of commissioners. They appoint the road supervisors, the road viewers, the county physician, the keeper of the poor farm, already mentioned, and the registry agents, and the judges and clerks of election yet to be described. Besides this, they fill all vacancies which may occur in places for which persons are regularly chosen by the people, except vacancies in the board itself.¹

The people of the county directly decide to whom shall be assigned the tasks of being county clerk, sheriff, treasurer, superintendent of schools, surveyor, assessor, public administrator, county attorney, clerk of the district court, auditor, justice of the peace, and constable.² They also, as we have seen, select the county commissioners, who are their representatives, and they select, besides, their representatives in the government of the state. This brings us to the subject of elections.

¹ Vacancies on the board of commissioners are filled by appointments made by the judge of the district court.

² School matters are deferred to a later chapter.

There are three things especially important about elections: 1st, that only those persons should vote who are really voters of the county; 2d, that there should be suitable candidates to choose from; and 3d, that the voter should have a chance to vote in perfect secrecy, so as to be able to make a free choice without fear or compulsion.

Registration.—To attain the first end we have a system of registration. At the June meeting before a general election the board of commissioners map out the county into convenient districts, and appoint a registry agent for each. Every day for two weeks, beginning the fourth Monday before a general election, these agents keep their offices open, and register the names of all voters in their districts who come and ask to be registered.¹ To be a voter one must be a male citizen of the United States,² twenty-one years old or more, and a resident of Montana one year and of the county thirty days before the time of the election, and pardoned if he has ever been convicted of felony; but no idiot or insane person can vote. If there is doubt whether a person meets all these requirements, he has, during this two weeks, opportunity to present his proofs to the registry agent and have the question settled. Voters who may have been sick or away from home the whole two weeks of registration, have a further opportunity to register on the second Monday prior to the general election.

The completed registry list is published, and any voter may, up to a week before the election, challenge any name—that is, state reasons for believing the person not to be qualified to vote. The registry agent then sends to the elec-

¹ Except in cities where there are more than a thousand voters, anyone who registered in 1906 or any subsequent year, need not register again until 1914, and every eighth year thereafter, unless he moves into another district.

² Read the first clause of the XIVth amendment to the constitution of the United States to see who are citizens of the United States, and look up the subject "Naturalization," on page 174.

tion judges in each precinct the list of registered voters of that precinct, noting the names of all who have been challenged.

No one can vote whose name is not in the registry list, and those who have been challenged must prove to the judges that they have the required qualifications, before they can vote.

Candidates.—The nomination of candidates is a matter which requires a good deal of explanation. It is managed mainly through political parties. Political parties are voluntary organizations of voters who work together to achieve political ends. In this country political parties are based almost wholly on differences of opinion about the proper policies to be pursued by the government of the United States. It is true that in a state election there is sometimes a very clear contrast between the courses desired by opposing political parties in regard to state matters, but as a rule most people vote in state elections and even in county elections for people who agree with them in regard to national politics. This may seem rather strange, and indeed nobody ever has been able to make a thoroughly logical explanation of the fact; but it is a fact nevertheless.

So, even in county elections, as a rule, the voters of each political party have their candidates. In Montana there are in almost every instance democratic candidates and republican candidates, and frequently other candidates as well. Sometimes even the members of a party are not able to agree, and two factions of the same party have separate sets of candidates. Sometimes two parties, neither of which has enough votes to carry a county alone, come to an agreement whereby one party selects candidates for some of the county offices and the other selects candidates for the other offices. Then each "endorses" the candidates selected by

the other. This is known as "fusion,"¹ and by combining the votes of two parties, sometimes results in candidates being elected who would not have been elected if they had been the candidates of only one party.

Nominations.—To select the candidates, the voters of each political party in a county hold a public meeting called a caucus, or else those of each precinct meet and select delegates, in proportion to their numbers, and these delegates then hold a meeting called a convention. The caucus or convention, as the case may be, meets from twenty to sixty days before the election, selects candidates, and files their names with the county clerk. The caucus or convention also selects several persons as a "central committee," who attend to the holding of public meetings and other means of persuading people to vote for their candidates, and who arrange the time and place for the next convention. They are usually authorized also to select other candidates to take the place of any who may decline the nomination.²

Candidates may also be nominated by petitions signed by a number of voters equal to at least five per cent. of the number of votes cast for the successful candidate at the last preceding election.

Primary Elections.—While this method of selecting candidates by party conventions is the one most commonly employed in other states, as well as in Montana, it often fails to give satisfaction. Persons who are candidates or who have some strong interest in the choice of a certain candidate, are sometimes able to influence the delegates to do differently from what the persons who elected them wish, with the result that the candidates who are chosen by the

¹In Montana the most numerous instances of fusion have been between the democratic and people's party (often called the "populist"), though in some counties the republicans have occasionally fused with other parties.

²This is especially necessary in connection with fusion agreements. These are often managed by the central committees of the two parties.

convention are very unsatisfactory to the voters of the party. This has led in some states to the enactment of what is known as a primary election law. This provides for an election at which each voter should indicate his preference among the different persons who might be willing to be candidates of his party. Those receiving the most votes would then be the candidates.

Election Officers.—The board of commissioners divides the county into a convenient number of election precincts, and locates a polling place in each precinct. At its last meeting before the election, the board appoints five judges for each precinct in which there are a hundred voters, and three judges in the smaller precincts. Not more than three judges, and in the smaller precincts not more than two, may be of the same political party. The judges choose two persons to act as clerks.

After the nominations have been made, the county clerk has ballots printed, containing the names of all the candidates. Those of any one party are all printed in the same column, with the name of the party at the top. If any question is to be submitted to the voters, this question is also printed on the ballots.

The day for election is the Tuesday next after the first Monday of November in each even-numbered year. The polls are open from eight in the morning to six in the evening.

Voting.—When a voter enters the polling place, one of the judges takes a rubber stamp and stamps on the back of a ballot the words "Official Ballot," together with the name of the precinct and county, the date, and the name of the county clerk. He then hands this ballot to the voter, who takes it to a screened booth and there privately marks X in the square at the left of the name of every candidate for

whom he wishes to vote.¹ If he wants to vote for a person whose name is not printed on the ballot, he may write the name and mark X before it.

The voter then folds the ballot so that the official stamp is in sight, but the names concealed. This makes it sure that the ballot is the one given him by the judge, but prevents anyone from seeing how he has voted. He then hands the ballot to the judge and calls out his own name. One of the clerks finds the name on the list furnished by the registry agent, and writes "voted" against it. The other clerk writes the voter's name in a blank book called the poll book. The judge then puts the ballot into the ballot box.

Canvassing the Votes.—When the polls have been closed, the judges proceed immediately, in the presence of the bystanders, to count the votes. The clerks then enter in the poll books the number of votes cast for each candidate, and these books are sent to the county clerk.

Within ten days after the election, the board of commissioners meet as a board of canvassers,² open the returns from all the precincts, ascertain the total number of votes cast for each candidate in all the precincts, and declare the result. The person receiving a larger number of votes than any other candidate for the same office is elected. The county clerk immediately makes out and delivers to the persons elected certificates of their election.

The Australian Ballot.—The kind of ballot which is in use in Montana and many other states is known as the Australian ballot, because something very much like it was used in Australia before it was tried in this country. Formerly a ballot contained only the names of the candidates

¹ If he is unable to mark his ballot, he may have the aid of two judges of different political parties.

² In case any of the commissioners are absent, their places are taken by the treasurer, the assessor, or the sheriff.

of one party. Consequently there were as many kinds of ballots as there were parties, and bystanders could easily see by watching which kind of ballot the voter put into the box. Then if the voter wished to vote for some candidate of another party, he could do so only by scratching out the name on his ballot¹ and writing in the other name, or pasting another piece of paper over it. All this was likely to be watched by bystanders who were anxious to find out how he voted. Then, as the ballots were printed by the different candidates, a voter could get hold of as many as he wanted, and sometimes managed to slip more than one into the ballot box. Now, under the Australian system, the ballots, when folded, all look just alike. Furthermore, a voter cannot get hold of more than one ballot, for the judge in handing the voter a ballot, makes only one impression with his rubber stamp, and if any ballots without the impression of the rubber stamp are found in the ballot box, the judges throw them out and do not count them.

Another advantage of the Australian ballot is that it helps to call the voter's attention to the candidates of all the parties, since their names are all printed on the ballot. This purpose is partly defeated when a circle is printed at the top of each column, for a voter to mark and so indicate his desire to vote for all the candidates in the column. Many voters will then make a mark in the circle over the name of their party, without stopping to look over the names of the different candidates. Another objection to the circle is that it makes the voting less secret; for if people notice that a voter is in the marking booth but a second or two, they can be sure he voted a "straight" ticket, by making a mark in the circle, because it would have taken him

¹ This shows the origin of the popular expression to "scratch" a ticket, meaning to vote against some of the candidates of one's party, in contrast to voting a "straight" ticket, i. e., one that has not been changed.

much longer to mark the name of every candidate, which he would have had to do if he voted for some persons of other parties; but without the circle it takes just as long to mark a ballot one way as the other. The people of Montana tried the ballot with a circle for some years, but very wisely decided to dispense with the circle.

In one respect, however, the ballot used in Montana is still inferior to the genuine Australian ballot. The latter, instead of having the names arranged in columns according to parties, groups together under the name of each office the names of all the candidates for that office, arranged in alphabetical order and with the party designation after the name of each candidate. This makes it still more certain that the voter will not overlook any candidate, but will really exercise an intelligent choice. Then, too, this arrangement does not give an advantage to any particular party, as the column arrangement does.

Voting Machines.—Machines have been invented which enable each voter to record his vote by pushing a knob for each candidate. This he does in perfect secrecy, as only one voter is admitted at a time. The machines work very much on the same principle as a cash register, but lock automatically as soon as a voter has voted, and cannot be unlocked till he leaves and another voter enters. A great advantage is that the entire result is shown as soon as the last voter has voted. The law requires these machines to be used in first-class counties and cities, and permits their use in other counties and cities.

CHAPTER IV.

THE OFFICERS OF THE COUNTY.

Every voter in a county¹ is eligible to any county office,² except that only a lawyer can be county attorney, and no person can be county treasurer who has just held that office for the two preceding terms.

County officers serve for two years, except the clerk of the district court and the auditor, whose terms are four years. Their terms begin on the first Monday of January next after their election, except the treasurer, whose term begins on the first Monday of March.³

Before entering upon the duties of his office every county official takes an oath to support the constitutions of the United States and Montana, and to discharge the duties of his office with fidelity, and declares that he has not violated any election law and will not accept any bribe. He also files a bond, executed either by friends of his or by an indemnity company, to an amount specified by law, in which the bondsmen promise to make good any loss which the county might suffer by the dishonesty or negligence of the official. His bond is subject to the approval of the judge of the district court.

All county officers perform their duties under the direction of the board of commissioners, to whom they must

¹ A woman may be superintendent of schools if she has the other qualifications of voters except that of sex.

² An auditor must have resided in the county for two years.

³ This is in order to enable the treasurer to complete the tax sales, described on page 13, before the close of his term.

make their reports,¹ and who may examine their accounts at any time,² and direct their prosecution for any delinquencies that may appear. They must keep their offices at the county seat, and the sheriff, county clerk, clerk of the district court, treasurer, and attorney must have their offices open daily at least from 9 a. m. to 5 p. m. No county officer may leave the county without the permission of the board of commissioners, and this permission cannot be granted for more than sixty days.

If there is more work in connection with a county office than the person elected or appointed can perform alone, he may appoint deputies, whose salaries are determined by the board of commissioners.

The surveyor, coroner, public administrator, justices of the peace, and constables are compensated by fees paid by those for whom their services are performed. Jurors, witnesses, judges and clerks of election, and registry agents are paid in proportion to the work required of them. The keeper of the county poor farm and the county physician are compensated in accordance with contracts made annually with the board of commissioners.

Other county officers receive fixed salaries. Counties are classified according to the assessed valuation of taxable property, as follows:³

Valuation \$30,000,000 or over, counties of the 1st class.

Valuation \$20,000,000 to \$30,000,000, counties of the 2d class.

¹ Many of these reports are published in the newspapers, and form very valuable material for illustrative study by a class.

² The auditor, in counties which have such an officer, examines the books and accounts of all the other county officers, and reports thereon at every regular meeting of the board of commissioners. See, also, page 63.

³ Silver Bow county is at present (1907) a county of the 1st class; Cascade and Lewis and Clark, 3d; Chouteau, Flathead and Yellowstone, 4th; Deer Lodge, Fergus, Gallatin and Missoula, 5th; Beaverhead, Custer, Dawson, Madison, Park, Rosebud, Teton and Valley, 6th; Carbon, Jefferson, Meagher, Powell, Ravalli, Sanders and Sweet Grass, 7th; Broadwater and Granite, 8th. The classification of any county is subject to change whenever there is a sufficient increase or decrease in the assessed valuation.

Valuation \$15,000,000 to \$20,000,000, counties of the 3d class.
 Valuation \$11,000,000 to \$15,000,000, counties of the 4th class.
 Valuation \$8,000,000 to \$11,000,000, counties of the 5th class.
 Valuation \$5,000,000 to \$8,000,000, counties of the 6th class.
 Valuation \$3,000,000 to \$5,000,000, counties of the 7th class.
 Valuation under \$3,000,000, counties of the 8th class.

The salaries of the county officers are as follows:¹

CLASSES.

| | 1st | 2d | 3d | 4th | 5th | 6th | 7th | 8th |
|-------------------------|---------|---------|---------|---------|---------|---------|---------|---------|
| Treasurer | \$3,500 | \$3,000 | \$3,000 | \$2,500 | \$2,500 | \$2,000 | \$1,800 | \$1,500 |
| Sheriff | 4,500 | 3,500 | 3,500 | 2,750 | 2,750 | 2,250 | 2,000 | 1,800 |
| Assessor | 3,000 | 2,500 | 2,250 | 2,000 | 1,800 | 1,500 | 1,200 | 1,000 |
| County Clerk. | 3,500 | 3,000 | 2,750 | 2,500 | 2,000 | 2,000 | 1,800 | 1,200 |
| Auditor | 2,500 | 2,000 | 1,750 | | | | | |
| Clerk Dist. Ct. | 3,500 | 3,000 | 2,750 | 2,500 | 2,000 | 1,800 | 1,200 | 1,200 |
| County Atty. | 3,000 | 2,500 | 2,500 | 2,000 | 2,000 | 1,500 | 1,200 | 1,000 |
| Supt. Schools. | 2,000 | 1,500 | 1,500 | 1,500 | 1,500 | 1,200 | 800 | 600 |

Any county officer may be removed from office if convicted in the district court of misconduct or malfeasance in office.

¹The salary of the county attorney is paid one-half by the county and one-half by the state.

CHAPTER V.

THE GOVERNMENT OF CITIES.

In taking up the subject of city government, the question will naturally arise what need there is for city government. All the people of Montana are within the jurisdiction of the state government, and of the government of some county and of some school district, but only about two-fifths of them have anything to do with any city government. Why should two-fifths of the people have an additional government which the rest of the people get along without?

Why City Government is Needed.—Let us recall the fundamental feature of all government, the systematic cooperation of a whole neighborhood to meet certain needs of the inhabitants. We may then note two things about thickly-settled communities. In the first place, where people live near together, they have many needs which are not felt at all by people who live a great distance apart. Chief among these needs is the protection against the selfishness of one's neighbors. For example, it may make little difference to a rancher, if the owner of the next ranch builds a house so badly or uses it so carelessly that it burns down. The loss will fall chiefly upon the owner. If the premises are allowed to become filthy, their offensiveness and unhealthiness are felt mainly by the occupants. If one drives at a reckless speed along a country road, the chief danger is to himself and his team, but in the streets of a village

or of a crowded city the lives of many others are endangered. If the house next door burns down, my own house will be almost sure to take fire. If garbage is allowed to accumulate in a back yard, it becomes unbearable to the neighbors. So, whenever a good many people live closely together, they find it very desirable to combine their efforts to prevent careless and selfish people from doing great damage.

Besides this, there are many needs which are felt alike by people living in country or city, but which it costs a great deal to provide for. It would be a fine thing for the people in the country to have the grounds lighted up at night, to have sidewalks to walk on, to have the roads sprinkled to keep down the dust; but all these things are so expensive that people can very seldom afford them except when a large number of persons can combine. Now it is when people live near together that it is easiest for them to combine their efforts.

So people who live near together have greater need of co-operation, and it is also easier for them to do many things by co-operating than for people living far apart.

Organizing Cities.—Now when people who live near together wish to combine their efforts, or, in other words to establish city government, the law of Montana prescribes just how this may be done. A petition is drawn up, with a map of the proposed city, its name, a description of its limits and of the several wards into which it is to be divided. When this has been signed by at least 100 voters residing within the limits of the proposed city, it is presented to the county commissioners. Two things are to be ascertained; 1st, whether there are people enough living near enough together to make it practicable for them to co-operate in this way. According to the law, there must be at least 300

persons, and they must live near enough together so that the ratio of area to population is not more than one square mile to 500 inhabitants; 2d, it must be ascertained whether the people generally wish a city government. To determine the first, the board of commissioners appoint some one to take a census of the proposed city. If this proves satisfactory, the commissioners arrange to hold an election at which the voters of the proposed city vote "yes" or "no" on the question whether they wish to have a city government. If a majority vote "no," nothing comes of it, but if a majority vote "yes," the commissioners appoint a time for electing city officers.

Additions.—Whenever the city council declares itself by resolution in favor of annexing to the city any contiguous platted tracts of land, the city clerk must publish a notice to that effect, and for a period of twenty days he must receive such written expressions of approval or disapproval as resident freeholders of the proposed addition care to send. At the next regular meeting the clerk must present all these communications to the council, and the council, after duly considering them, may make the proposed addition to the city, unless the plan is disapproved by a majority of the freeholders resident in the territory proposed to be added.

Classification.—Large cities need more officers than smaller ones, and some other differences are found to be desirable in their governments. Consequently the law groups cities into four classes. Those having more than 10,000 inhabitants are known as cities of the first class, those whose population is between 5,000 and 10,000 are called cities of the second class, those with from 1,000 to 5,000 inhabitants, cities of the third class, and those whose population is between 300 and 1,000 are called towns.

City Council.—City government is chiefly representative.¹ The representative body is called a council, and is composed of aldermen. Cities are divided into districts called wards,² and the voters of each ward choose two aldermen. To be eligible as alderman, one must be a qualified elector and tax-paying freeholder within the city, and a resident of the city at least two years, and of the ward in which he is elected at least one year. The aldermen serve two years, the term of one from each ward expiring each year.

The matters with which city governments have to deal are very different from those that engage the attention of the national government. To prevent the affairs of the city from becoming mixed up with questions of national politics, the city election is held at a different time from the general election, and the time fixed is the first Monday in April.

City Election.—At the city election, all qualified voters of the state may vote who have resided in the city six months and in any ward thirty days. The city election is conducted in substantially the same manner as the general election,³ except that the arrangements are made by the city council instead of the county commissioners. Registration of voters is required before every city election.

Candidates for city offices are usually nominated by conventions, in the same manner as in county matters. Sometimes these are conventions of political parties, but often, especially in the smaller cities, there is a general caucus attended by nearly all the voters of the city. When nominations are made by such a caucus, the regular election amounts only to a formal ratification of the work of the caucus.

¹ Voters share directly in city government in deciding on bond issues, in electing officers and in the initiative and referendum. (See pages 54, 55.)

² Cities of the first class have from four to eight wards, those of the second class from three to six, those of the third class from two to four, and towns two or three.

³ See Chapter III.

In alternate years a mayor is also chosen at the city election.

The terms of all persons elected at a city election begin on the first Monday of the next May, and last two years.

The Mayor.—The mayor presides at meetings of the council, and in case of a tie, he has the deciding vote. He may also disapprove the whole or any part of a resolution or ordinance passed by the council. If he does this, the measure will not go into effect unless the council passes it again by a two-thirds vote.

Power of the Council.—A majority of the aldermen constitute a quorum of the council. The council makes rules for its own proceedings, and has power to compel the attendance of members. It may punish them for improper conduct, and, by a two-thirds vote, expel a member. It may fill vacancies in its own number, and in any elective office. It chooses one of its own members as president, to take the place of the mayor in his absence.

In an introductory paragraph it was shown that the object of city government is to enable the people of a city to meet those needs which can best be met by combined effort. What these things are will differ in different cities, depending partly on the size, age, and wealth of the city, and partly on a great variety of local conditions. What these needs are in any particular city can be learned by studying the city ordinances,¹ and the proceedings of the city council. These are usually printed from time to time in some newspaper in the city. A great aid to this study is a scrap-book in which are pasted the newspaper clippings containing the

¹ Ordinance is a name usually applied to a law passed by a city council. Cities generally provide for a number of printed copies of their ordinances, and a reasonable supply for a school may sometimes be obtained by the courtesy of city officials.

proceedings of the city council, and the new ordinances adopted, for a series of months, or, if possible, for several years.

Taking such a scrap-book, and a book of ordinances, it is a useful exercise for a class to spend some time in an attempt to classify the different matters of business which have engaged the attention of the city council. In Montana cities it will probably be found that these matters can all be classified under some one of the following heads: (1) Control of the streets and alleys, opening or closing them, providing improvements, cleaning and lighting, regulating their use and preventing their obstruction; (2) protection of the public health; (3) control of markets, with the inspection and measurement of products; (4) suppression of fires, restriction of dangerous occupations, and regulating of building; (5) preservation of peace and suppression of whatever is offensive to public morals; (6) regulation of the keeping of animals, and prevention of cruelty; (7) control of certain licensed occupations, with a view to preventing fraud and other evil practices; (8) supplying water and light; (9) maintaining a public library; (10) establishing and maintaining public baths.

These are some of the things which experience has shown the people they can profitably manage through city government. But other things may be undertaken whenever the people of a city find them to be of advantage. Only the city government must not do anything that would conflict with the constitution of the United States or with the constitution or the laws of the state. This is only another way of saying, 1st, that the city government can control only such matters as directly affect only the city itself. For example, a city cannot coin money, or levy duties on imports, be-

cause these things would affect everybody in other parts of the country who does business with the people of the city; 2d, it is not very often that all the people of a city are perfectly agreed on all the enterprises that may be undertaken. The only way that many things can be done, is by a considerable number of persons yielding to the wishes of the majority, but there is great danger that serious injustice may be done in this way. It is hardly likely nowadays that three-fourths of the inhabitants of any region in this country would make actual slaves of the other one-fourth, though this very thing has happened in the past. There might, however, be danger that some of the people, specially impressed with the benefit to be derived from certain public enterprises, might take advantage of their power to compel others to contribute, to such an extent as to impoverish them. Hence the law places restrictions on the power of city governments in this respect. For it must be remembered that some public enterprises might benefit chiefly a part of the population. But all are obliged to share the cost. This is especially true when a city incurs a debt to be paid at a distant time. Those who have to pay the greater share of the debt may have no voice in the matter, and very little of the benefit. This leads us to the consideration of city finance.

City Finance.—The council has power to levy taxes on all the polls and all the taxable property in the city, and to raise money by the sale of licenses. Income is also derived from fines paid by persons guilty of violating city ordinances. The charge for a license must not exceed the sum prescribed by the state law. The poll-tax must not exceed \$3 per capita. The property tax for general purposes must not exceed one per cent. of the assessed valuation of taxable property in the city.

But a special tax¹ may be levied to support a library. Whenever a debt is incurred, additional taxes must be levied to pay the interest, and to establish a sinking fund for paying the principal of the bonds. Certain public improvements may also be made, and the expense met by a "special assessment" against the owners of abutting property. For the erection of public buildings, construction of sewers, bridges, water-works or lighting plants, or the purchase of fire-apparatus, the council may incur a debt, if the plan is approved by a vote of the taxpayers. The total indebtedness must never exceed three per cent. of the assessed valuation of taxable property, except that an additional debt, not exceeding ten per cent. of the valuation, may be incurred to construct a sewerage system or procure a water supply.

Duties of the Mayor.—The mayor must cause the city ordinances to be executed, and may call upon citizens and militia to assist him in enforcing laws and preventing or extinguishing fires. For enforcing health and quarantine regulations, he has such power as may be vested in him by the ordinances, over places within five miles of the city limits. He communicates to the council statements of affairs, makes recommendations, and causes to be presented, once in three months, a full statement of the financial condition of the city. He may call special meetings of the council. He may also grant pardons and remit fines and forfeitures for offenses against city ordinances. He supervises the discharge of official duties by all subordinate officers, and may require of them an exhibit of their books and papers. In towns all the officers are nominated and, with the consent of the council, appointed by the mayor. They

¹This tax must not exceed three mills. In cities where the valuation exceeds \$750,000 the tax must not be more than two and one-half mills and where the valuation exceeds \$1,000,000 the tax is limited to two mills, but the tax can not be made more than one mill without submitting the question to a vote of the taxpayers.

may also be suspended and, with the consent of the council, removed by him. The same is true in cities of the first three classes, except that the treasurer and police judge are elected by the voters at the same time as the mayor.

Other Officers.—The other officers are, in towns, a treasurer, a clerk, who is ex-officio assessor, and a marshal, who is ex-officio street commissioner. In cities there are an attorney, a chief of police, and a clerk who, in second and third class cities, is ex-officio assessor. First class cities have, besides these officers, an assessor, a street commissioner, a jailor, a surveyor and, if there is a paid fire department, a chief and assistant engineer. Wherever there is a public library, the trustees are appointed by the mayor with the consent of the council.

The clerk must record the proceedings of the council, sign ordinances, resolutions and contracts adopted, and licenses and commissions granted by the council, cause the ordinances to be published, keep a record of warrants issued, preserve all records and papers belonging to the city, and make copies of them when required, give notice of elections, and notify persons of their election or appointment.

The attorney must be a person who is licensed to practice law in the state. He holds his office for two years. It is his business to attend the police court and other courts, and prosecute on behalf of the city, to defend all suits in which the city is interested, to give legal advice to the mayor and council, and draw for the council any contract, resolution, or ordinance.

The treasurer must receive moneys that come to the city, and pay them out on the warrant of the mayor, keep the accounts of the city, and present a monthly financial report to the council.

The duties of the other city and town officers are pre-

scribed by ordinance, and the council may add to the duties of these officers, and may consolidate one office with another. The council fixes the salaries of all city officers, but within limits prescribed by law. In towns the mayor and aldermen receive no salary.

Problems of City Government.—The greatest difficulties in connection with government in this country have been encountered in the government of cities. The principal causes of bad city government have been, 1st, favoritism in appointments, especially on the police force; 2d, the very general practice of granting public franchises to private corporations; and 3d, the contract system on public works.

As most cities in Montana are so small that all the people know each other fairly well, there is a good deal of neighbor spirit, and less chance for some of these evils to become very aggravated than in larger cities. The small size of the cities also gives little occasion for very costly public works in connection with which there is strong temptation to corruption, and very few franchises of great value have been granted to private corporations.¹

As a further safeguard, the Eighth Legislative Assembly enacted a law which forbids city councils to grant any franchises whatever until the proposed franchise has been approved by a majority vote of the resident freeholders of the city at a special election, and the Tenth Legislative Assembly extended the initiative and referendum² to city government.

¹ Street-car companies hold public franchises in Butte, Great Falls, Helena, Anaconda and Bozeman. None of these franchises is of great value. Private corporations maintain waterworks in Butte, Helena, Anaconda, Missoula and Kalispell. But the cities of Great Falls, Bozeman, Lewistown, Miles City, White Sulphur Springs, Red Lodge, Philipsburg, Fort Benton, Glendive, Dillon and Chinook operate their own waterworks. Miles City and Townsend operate electric light plants, but other cities have granted light franchises to private corporations. Private companies operate gas plants in Butte and Helena.

² See pages 54, 55.

CHAPTER VI.

THE STATE.

We have seen how people have found it desirable to unite in comparatively small groups to attain some objects, in larger groups to attain others. We now come to a group larger yet, and in many respects the most important in our whole political system—*the State*.

Importance of the State.—There are a great many ends which people accomplish through the state—far more than are accomplished by the local governments on the one hand, or by the national government on the other. If we should undertake to enumerate all the different things which people do by joining their efforts together in this unit, even a brief explanation would fill the whole of a little book like this. And even if we should make such a list today, it would be very likely to be incomplete next year. For changes are frequently made, as the result of experience or for purposes of experiment, and for reasons which will presently be explained, plans for co-operating can be more easily changed in the case of the state than with any other political units.

While we cannot undertake here a complete list of all that the state does, the following quotation from a famous book on political science may help us to realize how vast is the importance of the state:

“All the civil and religious rights of our citizens depend upon state legislation; the education of the people is in

the care of the states; with them rests the regulation of the suffrage; they prescribe the rules of marriage, and the legal relations of husband and wife, of parent and child; they determine the powers of masters over servants and the whole law of principal and agent, which is so vital a matter in all business transactions; they regulate partnership, debt and credit, and insurance; they constitute all corporations, both private and municipal, except such as specially fulfil the financial or other specific functions of the federal government; they control the possession, distribution and use of property, the exercise of trades, and all contract relations; and they formulate and administer all criminal law, except only that which concerns crimes committed against the United States, on the high seas, or against the law of nations.”¹

Contrast with County Government.—It is through the co-operation of the people of the whole state that the arrangements about county and city government, which we have already studied, have been made. Likewise it is only through the co-operation of the people of the whole state that any change in these arrangements can be made.

Suppose, for example, that the people of some county should think two years too long a time for a county treasurer to serve. They would be powerless to make a change by themselves. Only as the people of the whole state agreed to it could any change be made in the form of county government. The counties themselves are only subdivisions of the state, and are arranged to suit the wishes of the people of the whole state. They may at any time form new counties by cutting existing counties in two, or by cutting off parts from several adjacent counties and join-

¹ Wilson : The State, 2d edition, page 473.

ing these parts to form a new county.¹ The state may also change the boundaries of counties by cutting any portion off one county and adding it on to another.²

Contrast with City Government.—Similarly the whole matter of city government is under the control of the state. The arrangements for city government which we have been studying may be changed at any time by the people of the state, even though the people of any city might be opposed to the change.

At present it is not the policy of the state to create new cities or change the boundaries of old ones, but to leave these changes to the people of each city, under regulations prescribed by the state. A different policy might be adopted if the people of the state preferred. In many states each city has a special charter,³ framed by the state legislature expressly for that city. There are one or two cities in Montana still governed under special charters, granted by the old territorial legislature of Montana, but the growing practice is for the state to enact a general law on the subject of city government, applicable to all cities in the state.⁴

State Sovereignty.—Now in regard to state government

¹ When the state of Montana was organized in 1889 it comprised only sixteen counties, viz.: Beaverhead, Cascade, Chouteau, Custer, Dawson, Deer Lodge, Fergus, Gallatin, Jefferson, Lewis and Clark, Madison, Meagher, Missoula, Park, Silver Bow and Yellowstone. In 1893 Flathead and Ravalli counties were formed from parts of Missoula county, Granite from part of Deer Lodge, Teton from part of Chouteau, and Valley from part of Dawson. In 1895 parts of Yellowstone, Park and Meagher counties were taken to form Carbon and Sweet Grass counties. In 1897 Broadwater was formed from parts of Jefferson and Meagher counties. In 1901 Powell county was formed by dividing Deer Lodge, and Rosebud by dividing Custer. In 1906 Sanders county was formed by dividing Missoula.

² In 1897 a part of Meagher county was annexed to Lewis and Clark and another part to Cascade county. In 1899 a part of Deer Lodge county was annexed to Flathead and another part to Lewis and Clark county. In 1903 a part of Silver Bow county was annexed to Deer Lodge, a part of Lewis and Clark to Powell county, and a part of Chouteau to Cascade county.

³ A charter is a document in which the sovereign power grants rights or privileges. It therefore differs from a constitution, which emanates from the people concerned, and not from some higher power.

⁴ Part IV, Title III, of the Political Code of Montana is a general charter for all cities in the state.

all this is very different. The state of Montana was originally organized under the direction of the Congress of the United States, but now that the state has actually been established, there is no power outside of Montana which can divide the state or alter its boundaries, or make any change in its government.¹ This is what is meant when people talk about the "sovereignty" of the state.

Limitations on the State.—There are, it is true, certain limitations on the power of a state. They may be summed up in a few words by saying that a state may not do anything in conflict with the constitution of the United States. Three sorts of things are forbidden to a state: 1st, control of foreign affairs and of relations with other states. It would obviously be impracticable for any one state alone to control these matters; 2d, the control of certain matters which it is very desirable to have uniform throughout the country, and which would probably be very diverse if each state managed them independently. Therefore a state is forbidden to coin money, emit bills of credit, make anything but gold and silver legal tender, or pass any law impairing the obligation of contracts. These two classes of affairs—foreign and interstate relations, and matters which must be uniform throughout the country—are under the exclusive control of the Congress of the United States. There is a third class of things which are forbidden to the states because they are deemed subversive of liberty, and they are of course forbidden to Congress also. These are, to have any other than a republican form of government, to pass any bill of attainder or *ex post facto* law,

¹ Theoretically such a change might be made (through an amendment to the constitution of the United States) by the concurrent action of two-thirds of both houses of Congress and three-fourths of all the states. But as it has never been found possible to adopt an amendment affecting the powers of states except through civil war, this theoretical possibility need be no more than barely mentioned in an elementary treatise.

to permit slavery, to deprive any person of life, liberty or property without due process of law, to deny to any person within its jurisdiction the equal protection of the laws, or to prohibit any citizen of the United States from voting because of his race, color or previous condition of servitude.

While it takes some space to enumerate all these restrictions, still it is evident on a little reflection, that in spite of these restrictions, a state is almost entirely free to manage its own internal affairs in accordance with the wishes of its own citizens.

The State of Montana.—Montana, except the portion west of the main range of the Rocky Mountains, was included in the Louisiana Purchase, obtained by President Jefferson from France in 1803. The western portion of Montana was included in the "Oregon country," acquired by the United States through occupation and settlement. Both portions were united by Act of Congress of May 26, 1864, establishing Montana Territory.¹

When Montana had had a separate territorial government for a quarter of a century, Congress passed an act, Feb. 22d, 1889, commonly known as the "Enabling Act," to enable the people of Montana to form a constitution² and state government and to be admitted to the union on an equal footing with the original states.

¹ The District of Louisiana was established by Congress March 26, 1804, embracing all the Louisiana Purchase outside the present state of Louisiana. The name was changed to the Territory of Louisiana the following year, and to Missouri Territory in 1812. The northern part of this was organized as Nebraska Territory in 1854, and the northern part of this in turn set off as Dakota Territory in 1861.

Oregon Territory was organized in 1848, and divided by the creation of Washington Territory in 1853. Idaho Territory, which was formed in 1863 from parts of Washington and Dakota Territories, comprised the whole of Montana. It was by the division of Idaho in 1864 that Montana Territory was formed.

² A constitution is a document in which the people of a state set forth the plan to which their government is to conform. While the constitution provides how laws shall be made to carry out all the details of government, it does not itself contain nearly all these details. One can not get any adequate idea of local government in Montana from a mere study of the constitution.

The Enabling Act.—This act provided for an election to be held May 14th, 1889, in all the counties of Montana, to select delegates to a constitutional convention. This convention met at Helena, July 4th, 1889, and remained in session six weeks, forming a constitution.¹ An election was held Oct. 1st, 1889, at which the people of Montana were to decide whether to adopt this constitution, and select persons who would be state officers in case the constitution should be adopted. As the constitution was adopted, the president of the United States issued a proclamation, Nov. 8th, 1889, declaring Montana admitted to the union, and the state government went into operation on that day.²

The State Government.—Like the county and city governments, the government of the state is chiefly representative; but just as in the county and city governments, so in the state government also the people participate directly in several important particulars.

In the first place, the people themselves select all the judicial officers and the principal executive officers of the state.

Second, the people decide on proposed amendments to the constitution. Amendments may be proposed by a two-thirds vote of both branches of the legislative assembly. Or two-thirds of both branches may propose the holding of a constitutional convention; if this proposal is ratified by a vote of the people, they choose representatives to such a convention, and this convention proposes amendments. In either case, the amendments do not take effect unless ratified by a vote of the people. The convention plan is the one

¹ This constitution is printed in full, pages 90-147.

² In order to prevent confusion in the change from territorial to state government this constitution provided that all territorial laws remain in force in the state until repealed, that cases pending in the territorial courts should be continued to settlement in the state courts, and that all obligation of the territory of Montana should be binding upon the state. See Article XX, pages 140, 141.

which would be taken if a general revision of the constitution were necessary; the other plan is usual when only two or three sections of the constitution need to be amended.¹

Third, the state cannot go into debt beyond \$100,000, except in case of war to repel invasion or suppress insurrection, nor levy a tax exceeding the rate mentioned in the chapter on state finance,² nor move the capital' unless a majority of the voters favor the proposition. To change the capital requires a two-thirds vote.

Finally, the power of initiative and referendum, described in the next chapter,³ enables the people to enact laws, and to reject laws which may have been enacted by the legislative assembly.

¹ Up to the present time (1907) five amendments have been made to the constitution—one in regard to the supreme court, proposed by the Sixth Legislative Assembly, and ratified at the general election in 1900 (see page 114), and one in regard to the terms of county commissioners. This was proposed by the Seventh Legislative Assembly, and adopted at the general election in 1902 (see page 135). The Eighth Legislative Assembly proposed an amendment adding three sections to Article XVIII (see page 138), prohibiting the employment of children under sixteen years of age in mines, and making eight hours a day's labor on public works, and in mills, smelters and mines. This amendment was adopted by a vote of the people at the general election in November, 1904. The Ninth Legislative Assembly proposed the "Initiative and Referendum" amendment which now constitutes Section 1, of Article V (see page 96). It was adopted by the people at the general election in 1906. The Tenth Legislative Assembly proposed two amendments, to be submitted at the general election in November, 1908. One relates to the care and management of public moneys in the hands of public officers, and the other increases the rate of taxation for state purposes permitted by Section 9, of Article XII (page 126).

² Page 65.

³ Pages 54, 55.

CHAPTER VII.

MAKING THE LAWS.

While, as we have just seen, there are some matters which the people settle for themselves, the state government is largely representative.

The Legislative Assembly.—The representative body is called the legislative assembly. It consists of two branches, known as the senate and the house of representatives. The senate is composed of one senator from each county; the house of representatives is made up of a number of representatives from each county, proportional to the population of the county. The present number of senators is of course twenty-seven, but would be increased whenever a new county should be organized. The present number of representatives is seventy-three.¹ This number may be increased or diminished at any time by the legislative assembly. It is usual to reapportion the representatives after a decennial census.²

At the general election already described³ the voters in each county elect one senator and as many representatives as the county is entitled to.⁴

Representatives must be at least twenty-one and senators

¹ Silver Bow county elects twelve representatives, Lewis and Clark seven, Deer Lodge six, Cascade five, Missoula four, Flathead, Gallatin, Jefferson and Madison each three, Beaverhead, Broadwater, Chouteau, Custer, Fergus, Granite, Meagher, Park and Ravalli each two, Carbon, Dawson, Powell, Rosebud, Sanders, Sweet Grass, Teton, Valley and Yellowstone each one.

² No reapportionment has been made, however, since the census of 1900, but the apportionment based on the census of 1890 still remains in effect except as additional representatives have been assigned to new counties whenever these have been created.

³ Chapter III.

⁴ When a vacancy occurs the governor of the state calls a special election in the county concerned to fill the vacancy.

twenty-four years of age, and both must be citizens of the United States and residents of their respective counties at least one year. No member of Congress and no state or federal office-holder can be a member of the legislative assembly. The senators' terms are four years and the representatives' two years. The senators are not all elected at the same time. The intention of the constitution is that one-half shall be elected at one general election and the other half at the next, but by reason of a neglect of duty on the part of the legislative assembly, it has come about that eleven are chosen at one election and sixteen at the other.¹

The regular session² of the legislative assembly begins on the first Monday of January in each odd-numbered year, and lasts not more than sixty days. Special sessions may be held at any time on the call of the governor of the state, but only to consider subjects specified in the governor's proclamation.³

Organization.—The lieutenant-governor of the state presides in the senate, but to serve in his absence the senate selects one of its own members as president *pro tempore*. The house of representatives chooses one of its own members as speaker and another as speaker *pro tempore*. Each house chooses all its other officers.⁴

¹ Broadwater, Cascade, Chouteau, Fergus, Flathead, Granite, Jefferson, Madison, Missoula, Ravalli, Rosebud, Sanders, Silver Bow, Teton, Valley and Yellowstone counties elected senators in 1906, and will elect again in 1910. Beaverhead, Carbon, Custer, Dawson, Deer Lodge, Gallatin, Lewis and Clark, Meagher, Park, Powell and Sweet Grass counties elected senators in 1904, and will elect again in 1908.

² These sessions are distinguished by numbers. For instance, the session held from Jan. 5th to March 5th, 1903, is known as the Eighth Session.

³ Only two special sessions have ever been held in Montana—that of May 26, 1903, called to consider an appropriation for a state exhibit at the World's Fair in St. Louis and to provide for the care of the capitol grounds, and that of Dec. 1, 1903, which passed the so-called "fair-trial" law.

⁴ These are, for each house, a secretary, assistant secretary, journal clerk, sergeant-at-arms, assistant sergeant-at-arms, enrolling clerk, door-keeper, janitor, day watchman, night watchman, chaplain and as many committee clerks and pages as may be required.

Each house also determines the rules for its own procedure, but can do business only when a majority of the members are present, and neither house without the consent of the other can adjourn for more than three days, nor to any other place than that in which the two houses are sitting. Each house has the power to punish its own members, and even, by a two-thirds vote, expel a member. The sessions of each house and of the committees of the whole are open to the public unless the business is such as requires secrecy. Each house keeps a journal of its own proceedings, and after the close of the session this journal is printed.¹

The compensation of members of the legislative assembly is six dollars for each day's session, and twenty cents for each mile traveled in going to the capital at the opening of the session and returning home at its close. The compensation may be changed by law at any session of the legislative assembly, but no increase can take effect till after the close of the terms of the members of the legislative assembly by which the change is made.

Power of the Assembly.—While the legislative assembly is the representative of the people, the people have not authorized this body to do whatever they may think best in regard to all matters that are under the control of the state. We noticed in the last chapter that certain matters require the concurrence of the voters before going into effect. Besides these, the constitution, especially in Article III,² known as the "Declaration of Rights," places limitations on the power of the legislative assembly, designed mainly to secure to the people of the state religious, political,

¹ Every school should have a copy of the Senate and House Journals of at least one session, for reference and illustrative study in connection with this chapter. A copy can usually be secured from some one who has been a member of the legislative assembly.

² See pages 92-95.

and civil liberty, freedom of speech and of the press, speedy justice, and impartial jury trial. The legislative assembly is also forbidden to pass any local or special laws in a large number of cases, and in all instances where a general law can be made applicable; no appropriation can be made in behalf of any private institution, nor can the public credit be used to construct railroads for private corporations.

Committees.—In order that any measure proposed in the legislative assembly may receive careful consideration, the presiding officer of each house appoints from the members of his house a number of standing committees, covering the different subjects likely to come before the house,¹ such as the committee on education, the committee on mines and mining, the committee on fish and game, etc.

How Laws Are Made.—When a bill² is introduced in either house,³ the clerk reads its title, then reads the bill in full, and the presiding officer assigns it to the proper standing committee.⁴ Each day, when the houses have adjourned, the committees to which bills have been assigned hold meetings at which they talk over the bills, and private citizens who are specially interested are usually given an opportunity to present their objections to the bill or their reasons for wishing it to be adopted. The committee then reports the bill back to their house with the recommendation that the bill do pass, or that the bill be rejected, or that the bill pass with amendments (which they have embodied in

¹ In the Eighth Legislative Assembly the senate had twenty-six standing committees, the house thirty-three.

² A proposed law is known as a "bill." If a bill becomes a law it is then called an "act." Every bill as it is introduced is numbered consecutively, and is thenceforth known as "House Bill No. . .," or "Senate Bill No. . .," as the case may be.

³ Bills for raising revenue must originate in the house of representatives, but other bills may originate in either house.

⁴ If a very important matter somewhat out of the usual line comes up a special committee is sometimes appointed, on vote of the house, to consider and report on that one matter. Such a committee is discharged as soon as the particular matter has been settled, unlike the "standing" committees, which continue throughout the session.

the bill), or they may bring in a somewhat different bill which they recommend as a substitute.

If the report of the committee is favorable, the bill is then given to the printing committee,¹ who sees to the printing of several hundred copies and distributing them to all the members of both houses.

When a bill has been printed, it is considered in "committee of the whole." This consists of all the members of the house, but the presiding officer calls upon some other member to preside, and the rules allow more freedom of debate than in the more formal meetings. The bill is read section by section by the clerk, and amendments may be offered by any member. At any time during the proceedings a member may move to strike out the enacting clause,² and if this motion is carried, it amounts to a final rejection of the bill. Otherwise, when the discussion is over, it is usual to move that when the committee rise it report to the house (or senate, as the case may be) that it has considered this bill, and recommends that it do pass (with amendments if any amendments have been adopted in the committee of the whole).

The bill is then sent to the engrossing committee, who have a copy, containing any amendments which may have been made in the committee of the whole, carefully typewritten. When this has been done, the engrossing committee brings in the bill, the clerk reads it for the third time, and then reads the history of the bill.³ The presiding

¹The house may order the bill printed even if the committee report is unfavorable.

²The enacting clause is "Be it enacted by the Legislative Assembly of the State of Montana." This immediately follows the title of the bill.

³The history of the bill consists of a series of memoranda entered on the back at each stage of its progress; as, for example, "Introduced by Smith, and read 1st and 2d times and referred to Committee on Irrigation and Water Rights, Jan. 7th. Reported favorably and ordered printed Jan. 14th. Reported correctly printed and placed on general orders Jan. 19th. Considered in Committee of the Whole and reported favorably with amendments Jan. 21st. Reported correctly engrossed and placed on general file Jan. 24th," etc.

officer then puts the question, "Shall the bill pass?" Upon this question the clerk calls the roll in alphabetical order, and every member responds "aye" or "no" to his name, and the ayes and noes are entered on the journal. If a majority vote aye, the engrossed copy of the bill is then taken to the other house, and goes through just the same course there, except that it is not printed or engrossed again.

If the bill is amended in the other house, it is then sent back to the house in which it originated, and the question is immediately put of concurring in the amendments. If the first house does not agree to the amendments, it is usual to refer the matter to a "conference committee" of the two houses, who try to bring about an agreement. If the two houses do not come to an agreement about the amendments, the bill fails.

If the two houses agree, the bill goes to the enrollment committee of the house in which it originated, who attend to having it "enrolled"—that is, carefully copied with pen and ink on specially durable paper. This copy is signed by the presiding officer of each house in open session.

The enrolled bill is now taken to the governor of the state. If it meets his approval, he signs it. If not, he sends it back, with a written statement of his objections, to the house in which it originated. This is called "vetoing" the bill.¹ The governor's message is read in the house and entered on its journal. The roll is then called on the question, "Shall the bill pass notwithstanding the governor's objections?" If two-thirds vote aye, the bill goes through the same process in the other house. If it also received a two-thirds vote there, it is said to be passed over the governor's veto.

¹ In a bill appropriating sums of money to different purposes the governor may veto some items while approving others.

If the governor fails either to approve or veto a bill for five days (Sundays excepted), it becomes a law, but bills which are still in the governor's hands when the legislative assembly adjourns at the end of the session may be kept by him for consideration fifteen days after the adjournment, and no such bill can become a law without his approval.

How to Find the Law.—A part of the law of the state is embodied in the constitution. This, as we have already seen, cannot be changed by the legislative assembly. In order that people may know just what laws the legislative assembly has made, however, at the end of each session many copies of a volume called the "Session Laws" are printed, containing all the new laws. An alphabetical index makes it possible to find any particular law, but after several sessions have been held, one would have to look through several volumes to find what the law is. Besides this, some laws passed at the later sessions repeal or amend laws made at earlier sessions. So one cannot be sure that a law which he finds in one of the earlier volumes is still in force, without looking through all the later volumes to see whether it has been changed. This makes the matter very perplexing. Consequently the legislative assembly has provided for "codifying" the laws—that is, collecting all laws still in force, embodying in them any changes that have been made since their original adoption, and grouping together all those that have to do with similar subjects.

The Codes.—The present codes are in four parts, known as the Political Code, the Civil Code, the Code of Civil Procedure, and the Penal Code. The Political Code contains such laws in regard to the details of state and local government as have not been definitely specified in the constitution, and is therefore the part of the codes in which students of civics would naturally be most interested. The

second, known as the Civil Code, contains the laws in regard to personal and property rights of individuals and corporations. The Code of Civil Procedure contains the laws in regard to the protection of personal and property rights and redress of injuries. The Penal Code defines crimes and misdemeanors, and prescribes their penalties. These codes are divided and subdivided in such a way that, so far as possible, one may find in one place all that the law provides in regard to any particular matter.

As the present codes were formed in 1895, many changes have already been made. So to find what the law is on any matter, one must first examine the codes, and then look through the Session Laws of 1897, 1899, 1901, 1903, 1905, and 1907, to see whether any changes have been made. Consequently the Tenth Legislative Assembly provided for a revision of the codes, to be published in 1908. Then for a time the finding of the laws will be simple.

Direct Government.—We have seen in the study of county government that representative government is used only as a substitute for direct government, where there seem to be such obstacles in the way of direct or democratic government as to make that impracticable. No system of representative government ever works perfectly, however, even though it is a very great improvement on any of the older forms of government which it has displaced.

The chief trouble with representative government is that the representatives do not always really represent the people. After representatives have been elected, they may be persuaded by means of great rewards promised by persons who will derive special benefit from certain legislation, to vote for measures contrary to public interests. Bribery has come to be so great an evil in all parts of this country, that the framers of Montana's constitution took great pains to guard

against it by prescribing a form of oath to be taken by every person elected, and by providing severe penalties for bribery.¹ Nevertheless the trouble is that it is very difficult to convict anyone of bribery. There are so many ways of bringing improper influence to bear on representatives without leaving any positive evidence that can be discovered. The matter may sometimes be managed so delicately that it seems as if the representative himself hardly realized that so harsh a word as "bribery" would rightly apply to his case.

Even where there is no corruption, it is not easy for voters to find thoroughly satisfactory representatives. A great many difficult measures come before a legislative body. Very often a voter must choose between two candidates, with each of whom he agrees on some subjects and disagrees on others. He must therefore decide which matter he considers the most important, and vote for the candidate who stands for that measure, even though, on other grounds, his opponent might be preferable.

Sometimes people vote for certain candidates for the state legislature solely because those candidates are pledged to favor the election of a certain man to the United States Senate when that question comes before the legislature. This particular feature would be removed if United States senators should be elected by direct vote of the people—a plan which the legislative assembly of Montana has three times in vain memorialized Congress to permit the people of the United States to consider. The other difficulty, however, would still remain.

Now it might seem that if democratic or direct government was impracticable in the county, it would be still more so in the state. And so it would if it were designed to dis-

¹ Read Article XIX, Section 1, and Article V, Sections 41-43, in the constitution of the state.

place representative government altogether. The people of Switzerland have found what they believe to be a solution of the matter, and their plan, known as the "Initiative and Referendum," has now been embodied in the constitution of Montana¹ and of some other states.

The Referendum.—We have already seen how the location of the state capital, the increase of the state debt, and the amending of the constitution cannot be accomplished by the legislative assembly without an express vote of approval by the people. Now the referendum simply applies this same plan to all the acts of the legislature.² Not that the people would vote on every act—most of the acts would still pass unchallenged—but the referendum empowers five per cent. of the voters to demand that any particular act of the legislature should be submitted to a vote of the people, and if not ratified by a majority of the voters the act does not go into effect.

The objection is sometimes made to the referendum that it will require the people so frequently to vote upon acts of the legislature that they will not interest themselves in the matter. In actual practice it is found that, if the referendum is only in reach all the time, it is very rarely necessary to use it. If persons who might be interested in securing bad legislation know that the laws, after passing the legislature, will almost certainly be challenged and submitted to a vote of the people if there is very serious objection to them, they will not think it worth while to bribe members of the legislature, and consequently very few measures will be passed which the people would wish to challenge.

It may be illustrated in this way. Suppose a very rich man, wishing to make his will, should take a blank, sign

¹ Article V, Section 1.

² It is also applicable to acts of city councils.

his name at the bottom, give it to a lawyer whom he employed, and ask him to take it to his office, fill in the blanks with certain names and amounts, and lock it up in his safe till the rich man should die. Under such circumstances there would be a very strong desire on the part of some people to bribe the lawyer to put their names in the blank spaces instead of the names which the testator wanted there. Now if any man should be foolish enough to make his will in this way, he would be doing very much as we do when we commit the making of our laws exclusively to a legislature. He would have to trust entirely to the honesty of his lawyer, and would sometimes be deceived. Therefore in making a will an ordinary person uses the principle of the referendum. He tells his lawyer what he wants done, and instructs him to bring the will to him for approval when he has drawn it up. Then if the will suits him he signs it, and if not, he destroys it. Knowing that this is the case, the lawyer cannot have any object in drawing up the will any differently from his instructions, and no one would think of bribing him.

The Initiative.—The initiative may be said to be the positive form, of which the referendum is the negative. If the legislature fails to enact a desirable law, the initiative allows eight per cent. of the voters to demand a submission of the question to the people, and if a majority vote in its favor, it becomes a law.

CHAPTER VIII.

EXECUTING THE LAWS.

We have seen how the people decide, either themselves or through their representatives, what shall be done by the state. We may now consider how it is decided who shall do these things. This is partly decided by the people themselves, who select the principal state officers, and partly it is left to these principal state officers to make selections.

The governor, the lieutenant-governor, the secretary of state, the attorney general, the treasurer, the auditor, the superintendent of public instruction, the railroad commissioners, and the judges and clerk of the supreme court, are chosen directly by the people at the general election.

Since we have learned about the general election under the study of county government, only two points need to be added here: 1st, in regard to candidates; 2d, counting of votes.

State Conventions.—The county conventions, such as nominate candidates for county offices, select a number of delegates, proportioned to the number of votes cast for the candidates of the political party which they represent, at the last election.¹ These delegates hold a state convention at some place previously appointed, and nominate candidates of their party for the state officers to be chosen. They also select a state central committee to have charge of the arrangements of the next convention of their party. Another

¹ Classes should watch the newspapers for announcements of the time and place of a state convention, and of the number of delegates to which the different counties are entitled.

thing is done at this convention which is not usually done at county conventions. That is, to adopt a "platform."¹ A platform is a statement of the principles of the party, giving special prominence to the reasons why, in that particular election, people should vote for the candidates of that party.

Candidates for state offices may also be nominated by petition, in the same way as candidates for county offices. When the nominations have been made, they are certified to the secretary of state, and he notifies the clerks of the different counties, who then have the names of the state candidates printed on their ballots along with the names of the county candidates.

State Canvassing Board.—When the county commissioners canvass the votes in their respective counties, the county clerk sends to the secretary of state a list of the number of votes cast in the county for each candidate for a state office. On the first Monday of December the state auditor, the state treasurer and the attorney general, who constitute a board of state canvassers, canvass the returns from all the counties, and ascertain which candidates have been elected.² The secretary of state notifies the governor of the result, and the governor issues commissions to the persons who have received the highest number of votes.

State Officers.—To be eligible to any of the executive offices named,³ one must be a citizen of the United States, at least twenty-five years old, who has resided in Montana at least two years; the governor, lieutenant-governor, attorney general, and superintendent of public instruction must be at least thirty years old, and the attorney general must be some one who has been admitted to practice law in the

¹ County conventions also sometimes adopt platforms, but this is not always done.

² In case of a tie the legislative assembly, at its next session, by joint ballot, chooses between the candidates tied.

³ Executive officers are officers whose business it is to enforce the laws.

supreme court of the state. The treasurer is not eligible for re-election. The term of each of these officers is four years, and begins on the first Monday of January in the years 1901, 1905, etc. The salary of the governor is \$5,000 per year; of the railroad commissioners each \$4,000; of the superintendent of public instruction¹ \$2,500; of the secretary of state, the auditor, the treasurer, and the attorney general, each \$3,000. The pay of the lieutenant-governor is the same as that of the speaker of the house of representatives, namely, ten dollars for each day's session of the legislative assembly and twenty cents for each mile traveled going to the capital at the opening of the session and returning home at its close.

A good idea of what the people accomplish through their co-operation as a state may be learned from a study of the business of the different offices of the state government.

The Governor.—At the head of the state is the governor. As the chief executive, it is his business to see that the laws are faithfully executed. That is only another way of saying that, when the people have decided to do certain things, the governor must see to it that these things are done. The governor cannot do all the things which the laws require to be done, but he has the general oversight of it all.

The governor is commander-in-chief of the militia forces of the state (unless these forces should be called out into the service of the United States), and he has power to use the militia to aid in executing the laws, to suppress insurrection, or to repel invasion. The governor nominates and, with the consent of the senate, appoints all officers of the state whose election or appointment is not otherwise provided for. He also makes appointments to elective offices when vacancies occur. The governor may require informa-

¹ After Jan. 1, 1909, \$3,000.

tion from the officers of the executive departments and from the officers and managers of state institutions upon any subject relating to the condition, management and expenses of their respective offices and institutions. He gives the legislative assembly information of the state, and recommends to them such measures as he deems expedient.¹ At the beginning of each session he presents to the legislative assembly estimates of the amount of money required to be raised by taxation for all purposes of the state.²

The governor also has power to grant pardons and remit fines and forfeitures, and grant commutations of punishments, and respites after conviction and judgment, for any offenses committed against the criminal laws of the state, but his power in this respect is limited by the necessity for having his action approved by a board of pardons, consisting of the secretary of state, the attorney general, and the auditor.

The Lieutenant-Governor.—In case of the inability of the governor or a vacancy in the office,³ the lieutenant-governor serves as governor till the expiration of the term or until the disability ceases. In case of the disability of the lieutenant-governor also, the office of the governor would pass first to the president *pro tempore* of the senate, or if he were disabled, to the speaker of the house of representatives.

The Secretary of State.—The secretary of state is charged with the custody of the enrolled copy of the constitution, of the acts and resolutions passed by the legislative assembly, and of their journals, of the seal of the state, and of some

¹ The class should obtain a copy of the governor's "message," as it is called, and make a careful study of it. It is always published in the newspapers at the time, and pamphlet copies can often be obtained afterwards.

² For the power of the governor in regard to the making of laws, see pages, 50, 51.

³ The chief occasion for someone else to serve as governor is when the governor is temporarily absent from the state.

other public documents and records. He attends the sessions of the legislative assembly, registers and attests the official acts of the governor, records conveyances made to the state, articles of incorporation filed in his office, and the official bonds of state officers. He attends to the printing and distributing of all state documents. He is also superintendent of the capitol, and keeper of certain supplies purchased for the use of the state.

The Auditor.—The auditor superintends the fiscal affairs of the state, and suggests plans for the improvement and management of the public revenue. He keeps all accounts in which the state is interested, audits all claims against the state, draws warrants on the treasurer for the payment of appropriations, and superintends the collection of all moneys due the state.

The Treasurer.—The treasurer receives and keeps account of moneys belonging to the state, and pays them out on warrants drawn by the auditor.

Other Officers.—The duties of the attorney general will be explained in the chapter on the Judiciary, and the duties of the superintendent of public instruction in the chapter on Education.

State Boards.—Many important matters in regard to the execution of the laws are committed to executive boards composed of several of the state officers.¹ The governor, the secretary of state, and the attorney general constitute the state furnishing board, to contract for the furnishing of all stationery, printing, binding, paper, fuel, lights, etc., used by the various departments of the state government. The governor, the secretary of state, and the attorney general also constitute the board of prison commissioners, who

¹ For the state board of equalization and the state board of examiners, see chapter on State Finance; for the state board of education see the chapter on Education.

have power to appoint the warden of the state prison, and have full control of the prison grounds, buildings, labor and property, and regulate the management of the prison. This board also has control and supervision of the reform school, but a board of three trustees, appointed by the governor, has immediate charge of the reform school. The governor, the secretary of state, and the attorney general also constitute the boards of commissioners for the insane, and for the deaf, dumb, and blind, and have control and management of the state asylum. The governor, the secretary of state, and the auditor constitute the state board of voting machine commissioners, to examine and approve machines to be used in elections.¹

The Carey Land Act board, consisting of the state engineer (appointed by the governor), the secretary of state, and the state examiner, co-operates with the federal government in measures for the irrigation of certain public lands.

The state law library is in charge of a board of trustees consisting of the justices of the supreme court, the secretary of state and the auditor. A board consisting of the superintendent of public instruction, the attorney general, and the auditor is authorized to establish and maintain a system of circulating libraries.

Railroad Commissioners.—The board of railroad commissioners consists of three persons chosen, one at each general election, for terms of six years, to adopt “rates, charges and regulations to govern and regulate freight and passenger tariffs, to correct abuses and prevent unjust discrimination” on the part of railroads in the state.

Appointive Boards.—Many other boards consist of persons appointed by the governor with the consent of the senate. Such is the board of medical examiners, composed

¹ See page 24.

of seven physicians, whose business it is to examine and license persons desiring to practice medicine or surgery. The board of pharmacy, composed of three pharmacists selected from a list nominated by the Montana Pharmacal Association, examines and registers persons who wish to compound and dispense drugs. The board of dental examiners, composed of five dentists, examines and certifies to the qualifications of persons who wish to practice dentistry. The board of osteopathic examiners consists of three osteopaths who examine and license qualified persons to practice osteopathy. The board of stock commissioners, consisting of not more than one member from each county, protects the stock interests of the state from theft and disease, and recommends such legislation as will foster the live-stock industry. A similarly constituted board of sheep commissioners takes like care of sheep interests. The board of charities and reforms consists of three members, whose duty it is to investigate and supervise the whole system of the charitable and correctional institutions supported by the state, and to inspect the poor-houses and jails in the different counties, and all other places in which persons are forcibly confined. The board of arbitration and conciliation consists of three members, one of whom must be an employer and one a laborer, and is intended to settle disputes between employers and employees. The state historical library is controlled by a board of five trustees. A board of five trustees controls the state orphans' home. The soldiers' home is managed by a board of five persons, one of whom is the department commander of the Grand Army of the Republic of the state of Montana.

The board of horticulture, consisting of the governor himself and five persons whom he appoints, inspects fruit and endeavors to exterminate pests which damage fruit trees

and vines. The state board of health is composed of the governor, the attorney general, and the state veterinarian, together with three physicians appointed by the governor and one physician chosen by the board itself as its secretary. This board co-operates with the local authorities in the different counties in trying to secure sanitary conditions and prevent the spread of disease. The state fish commission, consisting of the state game warden and two persons appointed by the governor, provides for the hatching of fish and their free distribution among the streams of the state.

The bureau of agriculture, labor and industry is in charge of a commissioner appointed by the governor. The commissioner collects various industrial and other statistics and publishes them in a biennial report.¹

A secretary of the state bureau of child and animal protection is appointed by the governor to secure the enforcement of the laws for the prevention of wrongs to children and dumb animals.

Appointive Officers.—Some of the executive duties are assigned to single officers appointed by the governor with the consent of the senate. Among these are the state examiner, who examines all the books and accounts of state and county officers, of all public institutions, and of banks and investment companies chartered by the state. The veterinary surgeon investigates cases of contagious diseases among domestic animals, and quarantines or slaughters such animals when necessary. The inspector of boilers examines steam boilers in use in the state, and examines and grants licenses to steam engineers. The names of the offices inspector of mines, inspector of coal mines, and game and fish warden, indicate the nature of their work.

¹ These reports contain a great deal of matter of interest to students of civics. Any school which has not received a copy of the latest report should apply to the commissioner for one.

The governor has a private secretary, and the other elected state officers have as many deputies as the legislative assembly may from time to time provide for.

State Institutions.—Most of the institutions maintained by the state are educational, and will be described in the chapter on education. The others are either charitable or correctional. The charitable institutions are the State Orphans' Home at Twin Bridges, the Soldiers' Home at Columbia Falls, and the Insane Asylum at Warm Springs. The correctional institutions are the State Penitentiary at Deer Lodge, and the State Reform School at Miles City. The immediate care and management of the Penitentiary and Insane Asylum are in the hands of contractors who are paid by the state in proportion to the number of inmates. The other institutions are managed directly by the state boards already described.

State Capitol.—The most magnificent building belonging to the state is the capitol at Helena. Here are the rooms for the meetings of the legislative assembly and the sessions of the Supreme Court. The state officers have their offices and most of the state boards hold their meetings here. Here also are to be found the State Historical Library and the State Law Library.

CHAPTER IX.

STATE FINANCE.

The financial affairs of the state are managed in very much the same way as the finances of the county, but there are some peculiarities which demand special attention.

Equalization.—There is a state board of equalization, consisting of the governor, the secretary of state, the state treasurer, the state auditor, and the attorney general. This board receives from the clerk of each county a report of the assessment of property in the county. If property seems to be assessed at a lower valuation in some counties than in others, the board undertakes to equalize this, so that when the tax is levied, the people of one county will not be compelled to pay an unreasonable share of the state taxes as compared with another county. The state board also fixes the valuation of the franchise, roadway, roadbed, rails, and rolling stock of all railroads operated in more than one county, and apportions this among the various counties through which the railroad runs, in proportion to the number of miles of track which the railroad has in each county.

The State Levy.—The legislative assembly, on the basis of such an assessment, levies the state tax. The constitution does not permit the legislative assembly (unless the proposition is approved by a majority of the electors at a general election¹) to levy a tax at a higher rate than three mills per

¹ This limitation makes it practically impossible to levy a greater tax, as a general election never comes till twenty months after the adjournment of the legislative assembly.

year on each dollar of valuation; when the taxable property amounts to \$100,000,000, the rate must not exceed two and one-half mills, and when it reaches \$300,000,000, the rate must not be more than one and one-half mills. Up to the present time the valuation has always been between \$100,000,000 and \$300,000,000,¹ and as the legislative assembly has found use for all the money which could legally be raised, the state tax levy is always two and one-half mills.

Each county treasurer therefore adds two and one-half mills to the levy made by the county commissioners, and collects the full amount. He then sends to the state treasurer the portion which belongs to the state. As already noted, the state also receives three-fifths of the proceeds of the inheritance tax described in the chapter on county finance, and one-half of all money received from licenses. Fees paid to state officers are also turned into the state treasury.

State Debt.—As already noted, no indebtedness can be incurred beyond \$100,000 without the approval of a majority of the voters at a general election.

Appropriations.—No money can be paid out of the state treasury except in pursuance of specific appropriations made by law, and no appropriation can be made for a longer term than two years. It is therefore an important part of the business of every regular session of the legislative assembly to decide on the amount of money to be applied, for the ensuing two years, to each purpose under the care of the state. It is usual to embody the appropriations for the executive and judicial departments in one act, and those for the maintenance of the state institutions in another. Any other appropriations must be made in separate acts, each showing in its title the purpose of the appropriation.

¹ The valuation for 1906 was \$233,953,571.

Expenditures.—The governor, the secretary of state, and the attorney general constitute the state board of examiners, who examine claims against the state, and the auditor must not draw his warrant for any claim unless it has been approved by the board, except for the payment of the salaries of those state officers whose salaries are fixed by law.

If no appropriation has been made by the legislative assembly for the payment of a claim approved by the board of examiners, or if an appropriation has been made and exhausted, the board can only refer it, with a statement of their approval, to the next session of the legislative assembly.

When a person receives a warrant drawn by the state auditor he may present it to the state treasurer. If there are funds to pay it, it is then paid. If not, the treasurer endorses upon it "presented for payment, and not paid for want of funds," and the warrant then bears four per cent. interest till there is money in the treasury to pay it.

By studying the annual reports of the state treasurer, we may see how much money the state expends on different purposes, and in this way learn something of the work which the people accomplish by co-operating as a state.¹

¹The Tenth Legislative Assembly made the following appropriations for the years named:

| | 1907. | 1908. |
|--|----------------|-------------|
| Executive Department..... | \$ 227,280 | \$ 225,800 |
| Judiciary | 113,700 | 113,700 |
| Legislative Assembly | 82,000 | |
| State Institutions | 505,042.17 | 510,270 |
| New Buildings at State Institutions..... | 206,031 | 191,731 |
| State Fair | 20,000 | 20,000 |
| Interest | 40,060 | 20,000 |
| Deficiencies of previous years | 103,086.91 | |
| Miscellaneous | 11,841 | |
| | <hr/> | <hr/> |
| | \$1,309,041.08 | \$1,081,501 |

CHAPTER X.

INTERPRETING THE LAWS.

When we are told that the judicial department "interprets" the laws, it is doubtful whether many pupils know much more about the matter than they did before. But the meaning will be clear if we recall that the laws, as they are made by the legislative department, are usually *expressed in general terms*. But the executive department can enforce the laws only by doing *specific things*.

Now if the law said that John Smith's ranch must be sold, and \$500 from the proceeds paid to Thomas Brown, there would be no need of a judicial department. Or if the law said that John Doe must be sent to the penitentiary for five years, it would be very plain what the sheriff must do. But the law does not name these people; it says, for instance, that any person guilty of burglary must be sent to the penitentiary. We may imagine the sheriff, in doubt, saying to himself, "Does this law mean that I must take John Doe to the penitentiary?"

Here the service of the judicial department comes in. The judiciary looks carefully into the matter, and finally says to the sheriff, "When the law says that persons guilty of burglary shall be confined in the penitentiary, it means that you must take John Doe to the penitentiary." In other words, the law, which is expressed in general terms, is *interpreted* by the judiciary into specific terms.

Now in deciding whether the law means that John Doe

must be imprisoned, two things must be considered: One about John Doe, and one about the law. First, has John Doe done certain things? And second, if he has done those things, are those things what the law means by burglary? The second question is a *question of law*;¹ and the first is a *question of fact*.

The courts which the state of Montana has established for deciding what the specific things are which the laws require to be done are of three grades: The justice or police court, the district court, and the supreme court.

The Justice Court.—Each county is divided by its board of commissioners into parts called townships.² In each of these townships the voters choose, at every general election, two justices of the peace and two constables. Each justice has his office at some place in the township, and must be always ready to hold court, except on Sundays and holidays.

Now a justice court is not empowered to try every sort of case. The matters with which it is authorized to deal constitute its *jurisdiction*.

The jurisdiction of the justice court is limited in three ways: 1st, territorially; 2d, in respect to the interests involved; 3d, in relation to other courts. 1st, The jurisdiction of the justice court is limited territorially to the county. 2d, In civil matters the justice court can try ordinary cases where the value of the property in controversy does not exceed \$300, and does not involve the title to real estate; in criminal matters the justice court can try persons charged with misdemeanors for which the law prescribes a penalty of imprisonment for not more than six months or a fine of

¹ There may be other questions of law, as, for example, "Has this law been altered or repealed?" "Is it in conflict with the constitution?" etc.

² This expression is very unfortunate. It has nothing to do with the word township as commonly used, but only means a sub-division of the county for election purposes. There is no such thing as "township government" in Montana.

not more than \$500, or both. 3d, The justice court cannot try cases that have already been tried in another court,—that is, it has only *original jurisdiction*.

It has already been said that, in a lawsuit, there may be two things in dispute,—the facts of the case, and the law which applies to the case. The question of law is always decided by the judge, who, in the justice court, is called the justice of the peace. Now it sometimes happens that there is no dispute about facts. Then all that is to be done is for the judge to decide what law applies to the case.

When the facts also are in dispute, the parties to the suit are very often willing to have the judge also decide the question of fact; but if either party to a civil suit, or the accused in a criminal case, desires, the questions of fact are submitted to a jury of not more than six men. Two-thirds of the jury must agree in order to render a verdict.

Examination.—If a person is accused of a crime for which the law prescribes as a penalty a fine of more than \$500, or imprisonment for more than six months, the justice court does not have jurisdiction over the *trial* of the case. But the justice court may hold an *examination*. That is, the accused is brought before the justice court, and the evidence against him is examined. If it seems probable to the justice of the peace that the accused is guilty, or if the accused waives examination, the justice commits him to the custody of the sheriff, who keeps him in jail till time for his trial before the court that has jurisdiction. If the offense is legally bailable, however, the accused may be released on finding bondsmen who guarantee that he shall be on hand for trial at the proper time.

If the evidence presented at the examination is not sufficient to make it seem probable to the justice that the accused has committed a crime, the justice dismisses him at once.

The object of the examination is to prevent, so far as possible, injustice being done to innocent persons by obliging them to stand trial on trivial grounds.

The Constable.—The executive officer who executes the decisions of the justice court is called a constable. There are two constables chosen by the voters of each township at every general election. Constables must attend the courts of justices of the peace within their township whenever required, and within their counties execute, serve, and return all processes and notices directed or delivered to them by a justice of the peace. Their duties in respect to the preservation of the peace are the same as those of the sheriff.¹

Police Court.—In every city and town there is a police court. The voters of the city elect a police judge every two years, at the city election. In towns the council designates one of the justices of the peace of the township in which the town is situated to act as a police judge.

The police court has very much the same jurisdiction as a justice court for the trial of persons charged with committing public offenses, and in addition has exclusive jurisdiction of all proceedings for violation of any city ordinance, and of all actions for the collection of money claimed to be due to or from the city.

The mayor nominates and, with the consent of the council, appoints a chief of police, who executes the decisions of the police court. In towns this officer is called the marshal.

District Court.—Courts of the next grade above the justice or police courts are district courts. The state is divided by the legislative assembly into districts,²—at present thir-

¹ See page 75.

² The 1st district consists of Lewis and Clark county; 2d, Silver Bow county; 3d, Deer Lodge, Powell and Granite; 4th, Missoula, Sanders and Ravalli; 5th, Beaverhead, Madison and Jefferson; 6th, Park and Sweet Grass; 7th, Custer and Dawson; 8th, Cascade; 9th, Gallatin and Broadwater; 10th, Fergus and Meagher; 11th, Flathead and Teton; 12th, Chouteau and Valley; 13th, Yellowstone, Rosebud and Carbon.

teen. The voters of each district, every four years at the general election, elect a district judge,¹ who must be a lawyer, twenty-five years of age or older, who is a citizen of the United States and has resided in Montana at least a year.

In districts which consist of a single county, the district court is always in session at the county seat except on Sundays and holidays. In other districts, the judge holds court in turn at least four sessions a year at each county seat in his district.

We have seen that the justice court has only original jurisdiction. But the jurisdiction of the district court is both *original* and *appellate*. Either party to a civil suit, who is dissatisfied with the judgment of the justice or the police court, may appeal to the district court within thirty days. A person convicted of a misdemeanor in a police or justice court may appeal to the district court within ten days.

The *original* jurisdiction of the district court extends to all criminal cases not in the jurisdiction of the justice or police court. In civil suits the district court has original jurisdiction wherever the matter in controversy exceeds \$50 in value, or involves the title to real estate, or a question of marriage or divorce.

As in the justice court, so in the district court, questions of law are decided by the judge. Questions of fact may usually be decided by the judge, but either party to a suit may insist on a jury trial, and cases amounting to felony *must* be tried before a jury. A trial jury in the district court consists of twelve men. In cases of felony the jury must be unanimous in order to render a verdict, but in other cases two-thirds is sufficient.

¹Two judges are elected in the first district, three in the second, and two in the fourth.

There are two ways in which persons may be brought to trial for crime in the district court—by *information* and by *indictment*.

Information.—If a person has been examined by a justice of the peace, and committed to jail to await trial, or admitted to bail, an account of the proceedings at the examination is presented to the district court by the county attorney. This account is technically known as *information*, and forms the basis of the prosecution. This is the usual method when there are witnesses who are ready to come forward and give their testimony.

Indictment.—Crimes are sometimes committed when the only persons who know anything about the matter are disposed, for some reason, to keep it secret. Under such circumstances the only way the matter can be reached is for the judge to summon a *grand jury*. A grand jury consists of seven men, and may be summoned whenever a district judge thinks it necessary. The grand jury holds its sessions in secret, and can compel any persons to attend and answer any questions which may throw light upon the matter. If, as a result of their investigations, such evidence is collected that five or more of the grand jury believe the evidence would convict some particular person if presented to a trial jury, the grand jury *indict* that person. A warrant is then issued for that person's arrest, and he is brought before the court for trial on *indictment*.

Coroner's Inquest.—Another judicial process used in certain cases is a coroner's inquest. There is in each county an officer called the coroner, whose duty it is to inquire into all cases where persons have died under such circumstances as to afford reasonable ground for suspicion that the death has been caused by criminal means. The coroner summons a jury of not more than nine persons, and as soon as six or

more are present, they proceed to hold an inquest. They view the remains and examine any witnesses that may be available. On the basis of the evidence obtainable a verdict is rendered, and a written report of the testimony and the inquisition is preserved for use in case a criminal trial should follow. If the jury find that a known person has committed a crime causing the death, the coroner orders the person to be arrested and taken before the nearest magistrate for examination.

The object of the coroner's inquest is to secure promptly evidence which would be destroyed by the removal and burial of the dead body, or which could not readily be obtainable after a little time had elapsed. If the office of coroner is vacant, or he is absent or unable to attend, the duties of his office may be discharged by any justice of the peace in the county.

Probate Matters.—In some states there are separate courts known as probate courts. These courts deal chiefly with the property left by deceased persons, deciding to whom it should belong, and the guardianship of orphans and sometimes of insane and other incapable persons. In Montana the district courts have jurisdiction in all probate matters. The voters of each county select at every general election a public administrator, who takes charge of the estates of persons dying in the county without heirs or administrators, and of such other estates as may be ordered into his hands by the court.

Equity.—Laws are usually made to fit general cases. However, cases sometimes arise for which no particular law has provided. All that a court can do in such cases is to decide what is just and fair to both parties. Such cases are called *cases in equity*, to distinguish them from cases at law. In England, courts distinct from the law courts have

existed, to try cases in equity. In this country the two functions are commonly united, and in Montana the district courts are courts of both law and equity.

Sometimes if it is not convenient for the district judge to try a civil case promptly, it may be tried by any lawyer in the state whom the two parties to the suit select.

The Sheriff.—The voters of each county, at every general election, choose a sheriff to enforce the decisions of the district court. The preservation of the peace of the county is committed to the sheriff. It is his duty to prevent or suppress affrays, breaches of the peace, riots, and insurrections. He must arrest and take before the nearest magistrate for examination all persons who commit or attempt to commit a public offense. He must attend all sessions of the district court in the county, and carry out all orders of the court. In order to accomplish his duties he may call upon as many male inhabitants of the county as he needs, and they are compelled to assist him, and if this is insufficient, he may call upon the governor of the state for the aid of the state militia. The sheriff is also required to serve all writs, warrants, summons, and other papers or orders required to be served in any proceeding before any court, board, or officer of the county. He is also the keeper of the county jail and of the prisoners committed to it.

In any case in which the sheriff himself is a party to the action or proceeding, the coroner acts as sheriff, unless the coroner also happens to be a party. In such case the court would temporarily appoint an officer called an elisor.

County Attorney.—At every general election, also, the voters of each county elect a county attorney. It is his business to attend the district court in his county, and conduct all prosecutions for public offenses. He must institute proceedings before magistrates for the arrest of per-

sons charged with or reasonably suspected of public offenses. He must draw all indictments and informations, defend all suits brought against the county, prosecute all recognizances forfeited in the courts, and all actions for the recovery of debts, fines, penalties, and forfeitures accruing to the county or the state. He must attend the meetings of the board of county commissioners when required, and give legal advice to the commissioners and to all county and district officers on matters pertaining to the duties of their respective offices.

Clerk of the District Court.—Every four years the voters of each county choose a clerk of the district court. He is required to attend all sessions of the district court in his county and keep complete records of all the proceedings of the court. It is for this reason that the district court is known as a *court of record*. It is because the justice court is not a court of record, that it is not given jurisdiction in any case involving the title to real estate. The clerk of the district court also takes charge of all books and papers filed in his office, and issues all processes and notices required to be issued. It is also his duty to issue marriage licenses, and to keep a record of licenses issued and of certificates of marriages solemnized in the county.

The Supreme Court.—The highest court of appeal in the state is the supreme court. Cases tried in any district court in the state may be brought on appeal to the supreme court. This court consists of a chief justice and two associate justices, elected by the voters of the state for the terms of six years. They must be lawyers, at least thirty years old, citizens of the United States, who have resided in Montana at least two years. One justice is chosen at every general election, so that their terms all expire at different times.¹ The supreme court holds four sessions each year,

¹ The chief justice is elected in the years 1904, 1910, etc.

always at the state capital. The three justices do not hold separate sessions, but all sit together, and when they do not all agree, the opinion of two is decisive.

Officers of the Supreme Court.—The executive officer of the supreme court is a marshal, chosen by the supreme court to hold office at their pleasure. The records of the supreme court are kept by the clerk of the supreme court, elected by the voters of the state for a term of six years, at the same time as the chief justice.

Attorney General.—The attorney general, chosen by the voters of the state every four years at the general election, is required to attend all sessions of the supreme court, and prosecute or defend all causes to which the state or any officer thereof in his official capacity is a party, and causes to which any county is a party unless the interest of the county is adverse to that of the state.

Reports.—The decisions of the supreme court are all reported by the justices, and printed in a series of volumes known as the "Montana Reports." These reports serve to guide the judges in the lower courts in deciding similar cases which may come before them.

Salaries.—The salaries of the district judges as well as of all persons connected with the supreme court are paid by the state. The amounts are as follows: Justices of the supreme court, each \$4,000¹ per year; clerk of the supreme court,² \$2,000 marshal of the supreme court, \$4 for each day's actual attendance upon the supreme court; district judges, each \$3,500³ per year. Both the district and supreme courts are entitled to appoint one stenographer for each, whose salaries are each \$1,800 per year. The stenographer of the supreme court is paid from the state treasury; in the district

¹ After January 1, 1909, \$6,000.

² After January 1, 1909, \$2,500.

³ After January 1, 1909, \$4,000.

courts the pay is apportioned among the counties comprising the district. The justices of the supreme court also receive each \$1,500 per year for reporting their decisions.

Impeachment.—One other piece of judicial machinery is provided by the state, though fortunately no occasion has yet arisen for its use. That is the court of impeachment. All state, executive, and judicial officers, except justices of the peace, are subject to impeachment for high crimes or misdemeanors or malfeasance in office.

The sole power of impeachment rests in the house of representatives. When an officer has been impeached by the house of representatives, he is tried before the senate, sitting as a court of impeachment. If two-thirds of the senators agree in finding him guilty he is convicted—otherwise he is acquitted. When the senate tries the governor or lieutenant-governor, the chief justice of the supreme court presides. When a person is convicted on impeachment he is either suspended or permanently removed from office or disqualified from holding any office under the state, according to the judgment of the senate.

CHAPTER XI.

EDUCATION.

The School District.—For school purposes the county is divided by the board of commissioners into school districts, designated by numbers. (New districts may be established on petition of residents, by the county superintendent, subject to appeal to the board of commissioners.) Every school district is a body corporate, and may sue and be sued, contract, purchase, hold, and use personal or real property for school purposes, and may sell the same. All districts having a population of 8,000 or more are districts of the first class, those with a population of from 1,000 to 8,000 are districts of the second class, and others are districts of the third class. The government of the school districts is chiefly representative, and is in the hands of a board of trustees consisting of seven in districts of the first class, five in districts of the second class, and three in districts of the third class. The trustees are elected by the voters of the district for terms of three years, and as nearly as possible the terms of one-third expire each year. The election is held at the school house on the first Saturday of April each year, under substantially similar arrangements as those for county elections, except that no registration is required in districts of the second and third classes. At these elections all citizens of the United States, male or female, twenty-one years old or more, who have resided in the state one year and in the district thirty days, may vote, and are

eligible to the office of trustee. The board holds its annual meeting on the third Saturday of April, and other regular meetings on the third Saturdays of July, October, and January. In districts of the first class regular meetings are held every month. The trustees choose one of their number chairman, and some other person clerk. The county treasurer is treasurer of all the school districts in his county. If a vacancy occurs in the board of trustees, the county superintendent appoints someone to fill the vacancy. The trustees have charge of the building or renting and repairing and furnishing of school houses, the employing of teachers and laborers, the fixing of their pay and that of the clerk, the general arrangement of courses of study, subject to the approval of the county superintendent; they establish rules for the government of the schools and enforce rules prescribed by the superintendent of public instruction, and manage the school libraries.

County High Schools.—Whenever 100 freeholders in any county petition the board of county commissioners to establish a county high school, the question of establishment and location is submitted by the board to a vote of the electors of the county at a special election. If the vote is favorable to the establishment of such a high school, the county board of commissioners appoints six resident taxpayers of the county (of whom three must be residents of the township where the school is to be located), who, together with the county superintendent, constitute a county high school board. These trustees are appointed for two years, and the terms of one-half expire each year on the third Saturday of April. The trustees organize by choosing a president and a secretary from among their own number. This board has power to erect and equip a building, employ teachers, and establish courses of study.

County Superintendent.—Any person qualified to vote at a school election is eligible to the office of county superintendent.¹ It is the superintendent's duty to have the general supervision of the public schools of the county. He visits the schools, advises the teachers, counsels with the trustees, decides matters in controversy in the administration of school law, holds teachers' institutes of from three to ten days each year, selects persons to instruct therein, and presides at the sessions, conducts teachers' examinations, and issues certificates to those who pass the examinations, and apportions all school moneys to the different districts in the county.

Teachers' Certificates.—To be a public school teacher, one must be eighteen years of age or older, a citizen of the United States, or one who has declared an intention to become a citizen, and must have certain evidences of qualification. Such evidence may be any one of four things: (1) a certificate of having passed an examination before the county superintendent; (2) a temporary permit from the superintendent; (3) a diploma from the State Normal College; or (4) a diploma from the State Board of Education.

(1) **County Certificates.** County examinations are held on the last Friday of February, April, August, and November and the day following. The questions are prepared and the regulations prescribed by the State Superintendent of Public Instruction. The certificates are of four grades, known as professional, 1st, 2d, and 3d grade. Third grade certificates are good only for one year, and are not issued more than twice to the same person. Second grade certificates are good for two years. Both 2d and 3d grade certificates are good only in the county where issued. First grade

¹The legislative assembly has passed a law requiring county superintendents to hold certain certificates, but as this law clearly violates Article IX, Section 11, of the constitution, it is of course void.

certificates are issued for three, and professional certificates for four years, and both are good as long as the holder continues teaching and gives good evidence of progress and efficiency. Examinations are given in the following subjects:¹ penmanship, orthography, reading, writing, arithmetic, mental arithmetic, geography, grammar, physiology and hygiene, history of the United States, and theory and practice of teaching. In addition to these subjects, examinations for 2d grade certificates include civics of the United States and Montana, and physical geography. Candidates for 1st grade certificates must pass an examination in all subjects required for the 2d grade, and also in American literature and elementary algebra, and for a professional certificate to all these must be added physics and plane geometry.

First, second, and third grade certificates do not entitle the holder to teach in a high school, or to be principal of a school of more than two departments. No professional or first grade certificate can be issued to any person who has not taught successfully for twelve months.

Special certificates, good for three years, may be issued in penmanship, drawing, modern languages, or music, entitling the holder to teach only the subjects named. Persons who wish to teach in a public kindergarten must pass such examination as may be prescribed by the State Normal College.

(2) Temporary Permits. The county superintendent may grant a temporary certificate to teach till the next regular examination, to a person who can show satisfactory reasons for failing to attend a regular examination. Such a temporary certificate cannot be granted but once to the same person, except that, where it is impossible for such person to attend the next regular examination, the superintendent of

¹ The papers are graded by a board of three examiners composed of the county superintendent and two teachers appointed by the county commissioners.

public instruction may, on application, authorize the county superintendent to issue a second permit, or he may require the applicant to take a private examination. The state superintendent may grant a temporary state certificate, good until the next regular meeting of the State Board of Education, to any teacher whose experience and qualifications would, in the opinion of the superintendent, entitle him to a state or life diploma.

(3) Diploma from the State Normal College. All graduates of the Montana State Normal College are entitled to teach in any public school in the state, without further examination, for a term of three years after such graduation.

(4) Diplomas from the State Board of Education. (a) State diplomas, valid for six years, are issued to persons who have held for one year first grade certificates, and pass an examination in English literature and mental philosophy, if they have successfully taught five years, of which not less than twenty-one months has been in the public schools of Montana. State diplomas are sometimes granted without examination to experienced teachers who are graduates of institutions of higher education, or who hold diplomas in other states. (b) Life diplomas are granted, 1st, to all graduates of the four years' course of the Montana State Normal College who have taught successfully in the public schools of the state for one year; 2d, to graduates of the University of Montana or of the three years' course of the State Normal College who have taught successfully in the public schools of the state for two years; 3d, to experienced teachers who are graduates of other institutions of higher education or who hold life diplomas in other states; 4th, to persons who have held first grade certificates for one year, and have taught successfully for ten years, including at least twenty-one months in the public schools of Montana, and who pass an

examination in botany, geology, political economy, zoology, and general history.

Duties of Teachers.—The duty of the school teacher is described in the law as being chiefly to enforce in school the course of study and regulations, and to “endeavor to impress on the minds of their pupils the principles of morality, truth, justice, and patriotism; to teach them to avoid idleness, profanity, and falsehood, and to instruct them in the principles of a free government, and to train them up to a true comprehension of the rights, duties, and dignity of American citizenship.”

Teachers are cautioned to refrain from undue severity in punishment, they must not act as agent for the sale of any school books or appliances, they must not teach any sectarian or denominational doctrine, and must not leave school before the expiration of their contracts, without the written consent of the trustees. They are required to keep a daily register on blanks furnished by the superintendent of public instruction, and to make an annual report to the county superintendent, by the 10th of September, and such additional reports as may be required by the superintendent of public instruction.

Teachers are empowered to hold pupils accountable in school for conduct on the way to school or during the intermission. Teachers may suspend any pupil for good cause. They may appeal to the county superintendent if dismissed before the expiration of their contracts. They are entitled to the protection of the law against insult or abuse about the school premises, and they cannot be required to teach on a legal holiday.

Text-Books.—A uniform set of text-books for the public schools is prescribed by the state board of text-book commissioners. Where a majority of the votes cast at a school elec-

tion in any district is in favor of free text-books, it is the duty of the trustees to purchase books to be loaned to pupils, and if necessary, a special tax may be levied for the purpose.

School Libraries.—From five to ten per cent. of the county school fund apportioned to each district must be devoted to a school library, except that the total amount in any district of less than two thousand inhabitants must not exceed \$50 in one year. In larger districts the amount may be not more than \$50 for every five hundred children.

School Finance.—For the support of public schools the government of the United States has ceded to the state of Montana the sixteenth and thirty-sixth section of every township—that is to say, one-eighteenth of all the land in the state of Montana. These lands made be leased for not more than five years at a time, or sold for not less than ten dollars per acre. The government of the United States also gives to the state five per cent. of the proceeds of the sales of public lands in the state. This money, together with the proceeds of the sale of school lands sold by the state, is invested, and the interest thereon, together with the money received from leases of school lands, is distributed to the different counties in the proportion which the number of children of school age¹—that is, between the ages of six and twenty-one—in a county bears to the whole number of such children in the state. Each county levies a tax of four mills on each dollar of taxable property in the county. This tax, together with the apportionment from the state school fund just men-

¹Persons between the ages of six and twenty-one have a right to attend school, but the law *requires* regular attendance as long as school is in session, on the part of all healthy children between eight and fourteen years of age, and also those between the ages of fourteen and sixteen who are unable to read and write the English language and are not regularly employed. The law forbids altogether the employment, in school hours, of any child under fourteen, unless he has completed the common school course.

tioned, and all fines paid into the county treasury, and the money which the county realizes from the inheritance tax, constitutes the county school fund. This is apportioned every year by the county superintendent to the different districts of the county in the proportion which the number of children of school age in the district bears to the whole number of such children in the county.

Special Tax.—If any district needs more money than this, the trustees of the district certify to the board of county commissioners the number of mills (not exceeding ten) which it is necessary to levy on each dollar of taxable property in the district, and the board of commissioners causes this to be levied (only on the property in that particular district), and collected along with the other taxes and set apart for the use of the district.

School Bonds.—To build and furnish school houses and to purchase land for them, district boards of trustees may issue bonds bearing not more than six per cent. interest, for an amount not greater than three per cent. of the value of taxable property in the district, and in no case exceeding \$500,000. The plan, however, must first be approved by a majority of the votes cast at a special election held in the district for the purpose of considering the matter. When bonds have been issued in any district, the county board of commissioners must, every year, levy a special tax on the property in the district sufficient to pay the interest on the bonds and to provide a sinking fund sufficient to redeem the bonds at maturity.

Support of High School.—To meet the expenses of a county high school, the board of county commissioners in every county in which there is such a high school, must levy every year such a tax, not exceeding three mills on each dollar of taxable property in the county, as the school board may

consider necessary; but the tax may be as high as ten mills when a school building is to be erected. The high school board may, however, issue bonds for not more than \$100,000, to run not more than twenty years, to erect and equip a high school building and provide a site. This question must first be submitted to a vote of the electors of the county, and if bonds are issued, the board of commissioners must levy such a tax every year as will suffice to pay the interest on the bonds and provide a sinking fund.

The control which the state exercises in the matter of education is chiefly through the superintendent of public instruction and the state board of education.

Superintendent of Public Instruction.—The superintendent of public instruction is one of the elected state officers already mentioned.¹ He has general supervision of the public schools throughout the state. He prepares their courses of study, he furnishes them with all necessary blanks, etc., for reports, he provides them with lists of approved books and rules for school libraries, and apportions the state school funds among the counties. He also prepares questions and prescribes rules for examinations for teachers' county certificates. He prescribes rules for holding teachers' institutes, and attends and assists at them. He sees to the printing of the school laws, furnishes copies of them to school officers, advises county superintendents, and decides appeals from their decisions.

State Board of Education.—The state board of education consists of the governor, the superintendent of public instruction, the attorney general, and eight persons appointed by the governor with the consent of the senate for terms of four years, two being appointed each year. The board has general control and supervision of all the state educational institutions, grants diplomas to their graduates, receives from

¹ Pages 56, 58, 60.

the state board of land commissioners or other sources, funds, incomes, and other property to which they are entitled, and uses the same for the purposes of the grant. The board grants state and life diplomas, and appoints and commissions teachers to act as instructors in county institutes. The governor is the chairman and the superintendent of public instruction is the secretary of the board.

State Institutions.—The educational institutions maintained by the state are the University of Montana at Missoula, the Agricultural College of Montana at Bozeman, the Montana State Normal College at Dillon, the Montana State School of Mines at Butte, and the State School for the Deaf and Blind (with special provisions also for the instruction of feeble-minded children), at Boulder.¹ The State University is directly managed by the state board of education, but the immediate direction of the others, subject to the general supervision of the state board of education, is vested in separate boards of trustees for each institution. The trustees of the School for the Deaf and Blind are three in number, and for the other institutions five. The trustees of the School of Mines and of the School for the Deaf and Blind are elected by the state board of education, and those of the Agricultural College and the Normal College are appointed by the governor with the consent of the board of education.

Federal Aid.—The federal government has made liberal donations of public lands for the support of the state institutions. The amounts of these are:

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| University | 46,080.48 | acres. |
| Agricultural College | 140,000 | acres. |

¹ Each of these institutions publishes an annual catalogue giving a great deal of information about the work of the institution. Every school ought to obtain and study these catalogues.

| | | |
|---------------------------------------|---------|--------|
| Normal College | 100,000 | acres. |
| School of Mines | 100,000 | acres. |
| School for the Deaf and Blind | 50,000 | acres. |

Whenever any of these lands or the timber thereon are sold, the proceeds are invested, and the interest thereon, together with rentals received from such lands as are leased, is devoted to the maintenance of the respective institutions. The federal government also appropriates \$50,000 per year in money for the expenses of the Agricultural College, and \$30,000 for an agricultural experiment station at the Agricultural College. The remaining expenses of all these institutions are met from appropriations made by the legislative assembly from the treasury of the state.

School Lands.—The leasing and sale of the school lands and the lands belonging to the educational and other institutions of the state¹ is in the hands of the state board of land commissioners, composed of the governor, the superintendent of public instruction, the secretary of state, and the attorney general. All records in connection with these lands are kept by the register of the state land office, an officer appointed by the governor. There is also a state land agent, appointed by the governor with the consent of the board of land commissioners, to select the lands granted to the state, attend to their conveyance to the state, and to oversee the cutting of timber thereon.

¹ Besides the land grants already mentioned, the federal government has given the state 182,000 acres for building the capitol, and 50,000 acres for the reform school.

CONSTITUTION OF MONTANA.

Framed by the Convention held at Helena, July 4-Aug. 17, 1889. Ratified by the people, Oct. 1, 1889; in force, Nov. 8, 1889.

PREAMBLE.—We, the people of Montana, grateful to Almighty God for the blessings of liberty, in order to secure the advantages of a state government, do, in accordance with the provisions of the enabling act of congress, approved the twenty-second of February, A. D. 1889, ordain and establish this constitution.

ARTICLE I.

BOUNDARIES.

SECTION 1. The boundaries of the state of Montana shall be as follows, to-wit: Beginning at a point formed by the intersection of the twenty-seventh degree of longitude west from Washington with the forty-fifth degree of north latitude, thence due west on the forty-fifth degree of latitude to a point formed by its intersection with the thirty-fourth degree of longitude west from Washington, thence due south along the thirty-fourth degree of longitude, to a point formed by its intersection with the crest of the Rocky Mountains, thence following the crest of the Rocky Mountains northward to its intersection with the Bitter Root Mountains; thence northward along the crest of the Bitter Root Mountains, to its intersection with the thirty-ninth degree of longitude west from Washington; thence along the thirty-ninth degree of longitude northward to the boundary line of the British Possessions; thence eastward along that boundary line to the twenty-seventh degree of longitude west from Washington; thence southward along the twenty-seventh degree of longitude to the place of beginning.

ARTICLE II.

MILITARY RESERVATIONS.

SECTION 1. Authority is hereby granted to and acknowledged in the United States to exercise exclusive legislation as provided by

the constitution of the United States, over the military reservations of Fort Assinaboine, Fort Custer, Fort Keogh, Fort Maginnis, Fort Missoula and Fort Shaw, as now established by law, so long as said places remain military reservations, to the same extent and with the same effect as if said reservations had been purchased by the United States by consent of the legislative assembly of the state of Montana; and the legislative assembly is authorized and directed to enact any law necessary or proper to give effect to this article.

Provided, That there be and is hereby reserved to the state the right to serve all legal process of the state, both civil and criminal, upon persons and property found within any of said reservations in all cases where the United States has not exclusive jurisdiction.

ARTICLE III.

A DECLARATION OF RIGHTS OF THE PEOPLE OF THE STATE OF MONTANA.

SECTION 1. All political power is vested in and derived from the people; all government of right originates with the people; is founded upon their will only and is instituted solely for the good of the whole.

SEC. 2. The people of the state have the sole and exclusive right of governing themselves, as a free, sovereign and independent state, and to alter and abolish their constitution and form of government, whenever they may deem it necessary to their safety and happiness, provided such change be not repugnant to the constitution of the United States.

SEC. 3. All persons are born equally free, and have certain natural, essential and inalienable rights, among which may be reckoned the right of enjoying and defending their lives and liberties, of acquiring, possessing and protecting property, and of seeking and obtaining their safety and happiness in all lawful ways.

SEC. 4. The free exercise and enjoyment of religious profession and worship, without discrimination, shall forever hereafter be guaranteed, and no person shall be denied any civil or political right or privilege on account of his opinions concerning religion, but the liberty of conscience hereby secured shall not be construed to dispense with oaths or affirmations, excuse acts of licentiousness, by bigamous or polygamous marriage, or otherwise, or justify practices inconsistent with the good order, peace or safety of the state,

or opposed to the civil authority thereof, or of the United States. No person shall be required to attend any place of worship or support any ministry, religious sect or denomination, against his consent; nor shall any preference be given by law to any religious denomination or mode of worship.

SEC. 5. All elections shall be free and open, and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage.

SEC. 6. Courts of justice shall be open to every person, and a speedy remedy afforded for every injury of person, property or character, and that right and justice shall be administered without sale, denial or delay.

SEC. 7. The people shall be secure in their persons, papers, homes and effects, from unreasonable searches and seizures, and no warrant to search any place or seize any person or thing, shall issue without describing the place to be searched, or the person or thing to be seized, nor without probable cause, supported by oath or affirmation, reduced to writing.

SEC. 8. Criminal offenses of which justices' courts and municipal and other courts, inferior to the district courts, have jurisdiction, shall, in all courts inferior to the district court, be prosecuted by complaint. All criminal actions in the district court, except those on appeal, shall be prosecuted by information, after examination and commitment, by a magistrate, or after leave granted by the court, or shall be prosecuted by indictment without such examination or commitment, or without such leave of the court. A grand jury shall consist of seven persons, of whom five must concur to find an indictment.

A grand jury shall only be drawn and summoned when the district judge shall in his discretion consider it necessary, and shall so order.

SEC. 9. Treason against the state shall consist only in levying war against it, or in adhering to its enemies, giving them aid and comfort; no person shall be convicted of treason except on the testimony of two witnesses to the same overt act, or on his confession in open court; no person shall be attainted of treason or felony by the legislative assembly; no conviction shall work corruption of blood or forfeiture of estate; the estates of persons who may destroy their own lives shall descend or vest as in cases of natural death.

SEC. 10. No law shall be passed impairing the freedom of speech; every person shall be free to speak, write or publish whatever he will on any subject, being responsible for all abuse of that liberty; and that in all suits and prosecutions for libel, the truth thereof may be given in evidence; and the jury, under the direction of the court, shall determine the law and the facts.

SEC. 11. No ex post facto law, nor law impairing the obligation of contracts, or making any irrevocable grant of special privileges, franchises or immunities shall be passed by the legislative assembly.

SEC. 12. No person shall be imprisoned for debt except in the manner prescribed by law, upon refusal to deliver up his estate for the benefit of his creditors, or in cases of tort, where there is strong presumption of fraud.

SEC. 13. The right of any person to keep or bear arms in defense of his own home, person and property, or in aid of the civil power when thereto legally summoned, shall not be called in question, but nothing herein contained shall be held to permit the carrying of concealed weapons.

SEC. 14. Private property shall not be taken or damaged for public use without just compensation having been first made to, or paid into court for the owner.

SEC. 15. The use of all water now appropriated, or that may hereafter be appropriated for sale, rental, distribution or other beneficial use and the right of way over the lands of others, for all ditches, drains, flumes, canals and aqueducts, necessarily used in connection therewith, as well as the sites for reservoirs necessary for collecting and storing the same, shall be held to be a public use. Private roads may be opened in the manner to be prescribed by law, but in every case the necessity of the road, and the amount of all damage to be sustained by the opening thereof, shall be first determined by a jury, and such amount together with the expenses of the proceeding shall be paid by the person to be benefited.

SEC. 16. In all criminal prosecutions the accused shall have the right to appear and defend in person and by counsel; to demand the nature and cause of the accusation; to meet the witnesses against him face to face; to have process to compel the attendance of witnesses in his behalf, and a speedy public trial by an impartial jury of the county or district in which the offense is alleged to have been committed, subject to the right of the state to have a change

of venue for any of the causes for which the defendant may obtain the same.

SEC. 17. No person shall be imprisoned for the purpose of securing his testimony in any criminal proceeding longer than may be necessary in order to take his deposition. If he can give security for his appearance at the time of trial he shall be discharged upon giving the same; if he cannot give security, his deposition shall be taken in the manner prescribed by law, and in the presence of the accused and his counsel, or without their presence, if they fail to attend the examination after reasonable notice of the time and place thereof. Any deposition authorized by this section may be received as evidence on the trial, if the witness shall be dead or absent from the state.

SEC. 18. No person shall be compelled to testify against himself, in a criminal proceeding, nor shall any person be twice put in jeopardy for the same offense.

SEC. 19. All persons shall be bailable by sufficient sureties, except for capital offenses, when the proof is evident or the presumption great.

SEC. 20. Excessive bail shall not be required, or excessive fines imposed, or cruel and unusual punishments inflicted.

SEC. 21. The privilege of the writ of habeas corpus shall never be suspended, unless, in case of rebellion, or invasion, the public safety require it.

SEC. 22. The military shall always be in strict subordination to the civil power; no soldier shall in time of peace be quartered in any house without the consent of the owner, nor in time of war, except in the manner prescribed by law.

SEC. 23. The right of trial by jury shall be secured to all, and remain inviolate, but in all civil cases and in all criminal cases not amounting to felony, upon default of appearance or by consent of the parties expressed in such manner as the law may prescribe, a trial by jury may be waived, or a trial had by any less number of jurors than the number provided by law. A jury in a justice's court both in civil cases and in cases of criminal misdemeanor shall consist of not more than six persons. In all civil actions and in all criminal cases not amounting to felony, two-thirds in number of the jury may render a verdict, and such verdict so rendered shall have the same force and effect as if all of such jury concurred therein.

SEC. 24. Laws for the punishment of crime shall be founded on the principles of reformation and prevention, but this shall not affect the power of the legislative assembly to provide for punishing offenses by death.

SEC. 25. Aliens and denizens shall have the same right as citizens to acquire, purchase, possess, enjoy, convey, transmit, and inherit mines and mining property, and milling, reduction, concentrating, and other works, and real property necessary for or connected with the business of mining and treating ores and minerals; *Provided*, That nothing herein contained shall be construed to infringe upon the authority of the United States to provide for the sale or disposition of its mineral and other public lands.

SEC. 26. The people shall have the right peaceably to assemble for the common good, and to apply to those invested with the powers of government for redress of grievances by petition or remonstrance.

SEC. 27. No person shall be deprived of life, liberty, or property without due process of law.

SEC. 28. There shall never be in this state either slavery or involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted.

SEC. 29. The provisions of this constitution are mandatory and prohibitory, unless by express words they are declared to be otherwise.

SEC. 30. The enumeration in this constitution of certain rights, shall not be construed to deny, impair or disparage others retained by the people.

SEC. 31. No armed person or persons or armed body of men shall be brought into this state for the preservation of the peace or the suppression of domestic violence, except upon the application of the legislative assembly or of the governor when the legislative assembly cannot be convened.

ARTICLE IV.

DISTRIBUTION OF POWERS.

SECTION 1. 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.

ARTICLE V.

LEGISLATIVE DEPARTMENT.

SECTION 1. The legislative authority of the state shall be vested in a legislative assembly, consisting of a senate and a house of representatives; [but the people reserve to themselves power to propose laws, and to enact or reject the same at the polls, except as to laws relating to appropriations of money, and except as to laws for the submission of constitutional amendments, and except as to local or special laws, as enumerated in Article V, Section 26, of this constitution, independent of the legislative assembly; and also reserve power at their own option, to approve or reject at the polls, any act of the legislative assembly, except as to laws necessary for the immediate preservation of the public peace, health or safety, and except as to laws relating to appropriations of money, and except as to laws for the submission of constitutional amendments, and except as to local or special laws, as enumerated in Article V, Section 26, of this constitution. The first power reserved by the people is the INITIATIVE, and eight per cent. of the legal voters of the state shall be required to propose any measure by petition; provided, that two-fifths of the whole number of the counties of the state must each furnish as signers of said petition eight per cent. of the legal voters in such county, and every such petition shall include the full text of the measure so proposed. Initiative petitions shall be filed with the secretary of state, not less than four months before the election at which they are to be voted upon.

The second power is the REFERENDUM, and it may be ordered either by petition signed by five per cent. of the legal voters of the state, provided that two-fifths of the whole number of the counties of the state must each furnish as signers of said petition five per cent. of the legal voters in such county; or by the legislative assembly, as other bills are enacted.

Referendum petitions shall be filed with the secretary of state, not later than six months after the final adjournment of the session of the legislative assembly which passed the bill on which the refer-

endum is demanded. The veto power of the governor shall not extend to measures referred to the people by the legislative assembly or by initiative or referendum petitions.

All elections on measures referred to the people of the state shall be had at the biennial regular general election, except when the legislative assembly, by a majority vote shall order a special election. Any measure referred to the people shall still be in full force and effect unless such petition be signed by fifteen per cent. of the legal voters of a majority of the whole number of the counties of the state, in which case the law shall be inoperative until such time as it shall be passed upon at an election, and the result has been determined and declared as provided by law. The whole number of votes cast for governor at the regular election last preceding the filing of any petition for the initiative or referendum, shall be the basis on which the number of the legal petitions and orders for the initiative and for the referendum shall be filed with the secretary of state; and in submitting the same to the people, he, and all other officers, shall be guided by the general laws and by the act submitting this amendment, until legislation shall be especially provided therefor. The enacting clause of every law originated by the initiative shall be as follows:

“Be it enacted by the People of Montana.”

This section shall not be construed to deprive any member of the legislative assembly of the right to introduce any measure.]¹

SEC. 2. Senators shall be elected for the term of four years, and representatives for the term of two years, except as otherwise provided in this constitution.

SEC. 3. No person shall be a representative who shall not have attained the age of twenty-one years, or a senator who shall not have attained the age of twenty-four years, and who shall not be a citizen of the United States, and who shall not (for at least twelve months next preceding his election) have resided within the county or district in which he shall be elected.

SEC. 4. The legislative assembly of this state, until otherwise provided by law, shall consist of sixteen members of the senate, and fifty-five members of the house of representatives.

It shall be the duty of the first legislative assembly to divide the

¹The portion of this section enclosed in brackets is an amendment proposed by the Ninth Legislative Assembly, and adopted by the people at the general election in 1906.

state into senatorial and representative districts, but there shall be no more than one senator from each county. The senators shall be divided into two classes. Those elected from odd numbered districts shall constitute one class, and those elected from even numbered districts shall constitute the other class; and when any additional senator shall be provided for by law his class shall be determined by lot.

One-half of the senators elected to the first legislative assembly shall hold office for one year, and the other half for three years; and it shall be determined by lot immediately after the organization of the senate whether the senators from the odd or even numbered districts shall hold for one or three years.

SEC. 5. Each member of the first legislative assembly, as a compensation for his services shall receive six dollars for each day's attendance and twenty cents for each mile necessarily traveled in going to and returning from the seat of government to his residence by the usually traveled route, and shall receive no other compensation, perquisite or allowance whatsoever.

No session of the legislative assembly, after the first, which may be ninety days, shall exceed sixty days.

After the first session, the compensation of the members of the legislative assembly shall be as provided by law; *Provided*, That no legislative assembly shall fix its own compensation.

SEC. 6. The legislative assembly (except the first) shall meet at the seat of government at twelve o'clock, noon, on the first Monday of January, next succeeding the general election provided by law, and at twelve o'clock, noon, on the first Monday of January, of each alternate year thereafter, and at other times when convened by the governor.

The term of service of the members thereof shall begin the next day after their election, until otherwise provided by law; *Provided*, That the first legislative assembly shall meet at the seat of government upon the proclamation of the governor after the admission of the state into the union, upon a day to be named in said proclamation, and which shall not be more than fifteen nor less than ten days after the admission of the state into the union.

SEC. 7. No senator or representative shall, during the term for which he shall have been elected, be appointed to any civil office under the state; and no member of congress, or other person holding

an office (except notary public, or in the militia) under the United States or this state, shall be a member of either house during his continuance in office.

SEC. 8. No member of either house shall, during the term for which he shall have been elected, receive any increase of salary or mileage under any law passed during such term.

SEC. 9. The senate shall, at the beginning and close of each regular session, and at such other times as may be necessary, elect one of its members president, *pro tempore*. The house of representatives shall elect one of its members speaker. Each house shall choose its other officers, and shall judge of the elections, returns, and qualifications of its members.

SEC. 10. A majority of each house shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and compel the attendance of absent members in such manner and under such penalties as each house may prescribe.

SEC. 11. Each house shall have power to determine the rules of its proceedings, and punish its members or other persons for contempt or disorderly behavior in its presence; to protect its members against violence or offers of bribe or private solicitation, and with the concurrence of two-thirds, to expel a member, and shall have all other powers necessary for the legislative assembly of a free state.

A member expelled for corruption shall not thereafter be eligible to either house of the legislative assembly; and punishment for contempt or disorderly behavior shall not bar a criminal prosecution for the same offense.

SEC. 12. Each house shall keep a journal of its proceedings and may, in its discretion, from time to time, publish the same, except such parts as require secrecy, and the ayes and noes on any question shall, at the request of any two members, be entered on the journal.

SEC. 13. The sessions of each house and of the committees of the whole shall be open unless the business is such as requires secrecy.

SEC. 14. Neither house shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.

SEC. 15. The members of the legislative assembly shall, in all cases, except treason, felony, violation of their oath of office and breach of the peace, be privileged from arrest during their attendance

at the sessions of their respective houses, and in going to and returning from the same; and for any speech or debate in either house they shall not be questioned in any other place.

SEC. 16. The sole power of impeachment shall vest in the house of representatives; the concurrence of a majority of all the members being necessary to the exercise thereof. Impeachment shall be tried by the senate sitting for that purpose and the senators shall be upon oath or affirmation to do justice according to law and evidence. When the governor or lieutenant-governor is on trial, the chief justice of the supreme court shall preside. No person shall be convicted without a concurrence of two-thirds of the senators elected.

SEC. 17. The governor and other state and judicial officers, except justices of the peace, shall be liable to impeachment for high crimes and misdemeanors, or malfeasance in office, but judgment in such cases shall only extend to removal from office and disqualification to hold any office of honor, trust or profit under the laws of the state. The party whether convicted or acquitted shall, nevertheless, be liable to prosecution, trial, judgment and punishment according to law.

SEC. 18. All officers not liable to impeachment shall be subject to removal for misconduct or malfeasance in office, in such manner as may be provided by law.

SEC. 19. No law shall be passed except by bill, and no bill shall be so altered or amended on its passage through either house as to change its original purpose.

SEC. 20. The enacting clause of every law shall be as follows: "Be it enacted by the Legislative Assembly of the State of Montana."

SEC. 21. No bill for the appropriation of money, except for the expenses of the government, shall be introduced within ten days of the close of the session, except by unanimous consent of the house in which it is sought to be introduced.

SEC. 22. No bill shall be considered or become a law unless referred to a committee, returned therefrom and printed for the use of the members.

SEC. 23. No bill, except general appropriation bills, and bills for the codification and general revision of the laws, shall be passed containing more than one subject which shall be clearly expressed in its title; but if any subject shall be embraced in any act which

shall not be expressed in the title, such act shall be void only as to so much thereof as shall not be so expressed.

SEC. 24. No bill shall become a law except by a vote of a majority of all the members present in each house, nor unless on its final passage, the vote be taken by ayes and noes, and the names of those voting be entered on the journal.

SEC. 25. No law shall be revised or amended, or the provisions thereof extended by reference to its title only, but so much thereof as is revised, amended or extended shall be re-enacted and published at length.

SEC. 26. The legislative assembly shall not pass local or special laws in any of the following enumerated cases, that is to say: For granting divorces; laying out, opening, altering or working roads or highways; vacating roads, town plats, streets, alleys or public grounds; locating or changing county seats; regulating county or township affairs; regulating the practice in courts of justice; regulating the jurisdiction and duties of justices of the peace, police magistrates or constables; changing the rules of evidence in any trial or inquiry; providing for changes of venue in civil or criminal cases; declaring any person of age; for limitation of civil actions, or giving effect to informal or invalid deeds; summoning or impaneling grand or petit juries; providing for the management of common schools; regulating the rate of interest on money; the opening or conducting of any election or designating the place of voting; the sale or mortgage of real estate belonging to minors or others under disability; chartering or licensing ferries or bridges or toll roads; chartering banks, insurance companies and loan and trust companies; remitting fines, penalties or forfeitures; creating, increasing or decreasing fees, percentages or allowances of public officers; changing the law of descent; granting to any corporation, association or individual the right to lay down railroad tracks, or any special or exclusive privilege, immunity or franchise whatever; for the punishment of crimes; changing the names of persons or places; for the assessment or collection of taxes; affecting estates of deceased persons, minors or others under legal disabilities; extending the time for the collection of taxes; refunding money paid into the state treasury; relinquishing or extinguishing in whole or in part the indebtedness, liability or obligation of any corporation or person to this state, or to any municipal corporation therein; ex-

empting property from taxation; restoring to citizenship persons convicted of infamous crimes; authorizing the creation, extension or impairing of liens; creating offices, or prescribing the powers or duties of officers in counties, cities, townships, or school districts; or authorizing the adoption or legitimation of children. In all other cases where a general law can be made applicable, no special law shall be enacted.

SEC. 27. The presiding officer of each house shall, in the presence of the house over which he presides, sign all bills and joint resolutions passed by the legislative assembly immediately after their titles have been publicly read, and the fact of signing shall be at once entered upon the journal.

SEC. 28. The legislative assembly shall prescribe by law, the number, duties and compensation of the officers and employes of each house; and no payment shall be made from the state treasury, or be in any way authorized to any such person, except to an acting officer or employe elected or appointed in pursuance of law.

SEC. 29. No bill shall be passed giving any extra compensation to any public officer, servant or employe, agent or contractor, after services shall have been rendered or contract made, nor providing for the payment of any claim made against the state without previous authority of law, except as may be otherwise provided herein.

SEC. 30. All stationery, printing, paper, fuel and lights used in the legislative and other departments of government, shall be furnished, and the printing, and binding and distribution of the laws, journals, and department reports and other printing and binding, and the repairing and furnishing the halls and rooms used for the meeting of the legislative assembly, and its committees shall be performed under contract, to be given to the lowest responsible bidder, below such maximum price and under such regulations as may be prescribed by law. No member or officer of the government shall be in any way interested in any such contract; and all such contracts shall be subject to the approval of the governor and state treasurer.

SEC. 31. Except as otherwise provided in this constitution, no law shall extend the term of any public officer, or increase or diminish his salary or emolument after his election or appointment; *Provided*, That this shall not be construed to forbid the legislative assembly from fixing the salaries or emoluments of those officers first elected

or appointed under this constitution, where such salaries or emoluments are not fixed by this constitution.

SEC. 32. All bills for raising revenue shall originate in the house of representatives; but the senate may propose amendments, as in the case of other bills.

SEC. 33. The general appropriation bills shall embrace nothing but appropriations for the ordinary expenses of the legislative, executive and judicial departments of the state, interest on the public debt and for public schools. All other appropriations shall be made by separate bills, each embracing but one subject.

SEC. 34. No money shall be paid out of the treasury except upon appropriations made by law, and on warrant drawn by the proper officer in pursuance thereof, except interest on the public debt.

SEC. 35. No appropriation shall be made for charitable, industrial, educational or benevolent purposes to any person, corporation or community not under the absolute control of the state, nor to any denominational or sectarian institution or association.

SEC. 36. The legislative assembly shall not delegate to any special commission, private corporation or association, any power to make, supervise or interfere with any municipal improvements, money, property or effects, whether held in trust or otherwise, or to levy taxes, or to perform any municipal functions whatever.

SEC. 37. No act of the legislative assembly shall authorize the investment of trust funds by executors, administrators, guardians, or trustees in the bonds or stock of any private corporation.

SEC. 38. The legislative assembly shall have no power to pass any law authorizing the state, or any county in the state, to contract any debt or obligation in the construction of any railroad, nor give or loan its credit to or in aid of the construction of the same.

SEC. 39. No obligation or liability of any person, association or corporation, held or owned by the state, or any municipal corporation therein, shall ever be exchanged, transferred, remitted, released or postponed, or in any way diminished by the legislative assembly; nor shall such liability or obligation be extinguished, except by the payment thereof into the proper treasury.

SEC. 40. Every order, resolution or vote, in which the concurrence of both houses may be necessary, except on the question of adjournment, or relating solely to the transaction of the business of the two houses, shall be presented to the governor, and before

it shall take effect be approved by him, or, being disapproved, be repassed by two-thirds of both houses, as prescribed in the case of a bill.

SEC. 41. If any person elected to either house of the legislative assembly shall offer or promise to give his vote or influence in favor of or against any measure or proposition, pending or proposed to be introduced into the legislative assembly, in consideration or upon condition that any other person elected to the same legislative assembly will give, or will promise or assent to give, his vote or influence, in favor of or against any other measure or proposition pending or proposed to be introduced into such legislative assembly, the person making such offer or promise shall be deemed guilty of solicitation of bribery. If any member of the legislative assembly shall give his vote or influence for or against any measure or proposition pending or proposed to be introduced in such legislative assembly, or offer, promise or assent so to, upon condition that any other member will give, or will promise or assent to give his vote or influence in favor of or against any other measure or proposition pending or proposed to be introduced in such legislative assembly, or in consideration that any other member hath given his vote or influence for or against any other measure or proposition in such legislative assembly, he shall be deemed guilty of bribery, and any member of the legislative assembly, or person elected thereto, who shall be guilty of either such offenses, shall be expelled and shall not thereafter be eligible to the legislative assembly, and on the conviction thereof in the civil courts, shall be liable to such further penalty as may be prescribed by law.

SEC. 42. Any person who shall directly or indirectly offer, give or promise any money or thing of value, testimonial, privilege or personal advantage, to any executive or judicial officer or member of the legislative assembly, to influence him in the performance of any of his official or public duties, shall be deemed guilty of bribery, and be punished in such manner as shall be provided by law.

SEC. 43. The offense of corrupt solicitation of members of the legislative assembly, or of public officers of the state, or of any municipal division thereof, and the occupation or practice of solicitation of such members or officers, to influence their official action, shall be defined by law, and shall be punishable by fine and imprisonment.

SEC. 44. A member who has a personal or private interest in any measure or bill proposed or pending before the legislative assembly shall disclose the fact to the house of which he is a member, and shall not vote thereon.

SEC. 45. When vacancies occur in either house the governor or the person exercising the functions of the governor shall issue writs of election to fill the same.

ARTICLE VI.

APPORTIONMENT AND REPRESENTATION.

SECTION 1. One representative in the congress of the United States shall be elected from the state at large, the first Tuesday in October, 1889, and thereafter at such times and places, and in such manner as may be prescribed by law. When a new apportionment shall be made by congress the legislative assembly shall divide the state into congressional districts accordingly.

SEC. 2. The legislative assembly shall provide by law for an enumeration of the inhabitants of the state in the year 1895 and every tenth year thereafter; and at the session next following such enumeration, and also at the session next following an enumeration made by the authority of the United States, shall revise and adjust the apportionment for representatives on the basis of such enumeration according to ratios to be fixed by law.

SEC. 3. Representative districts may be altered from time to time as public convenience may require. When a representative district shall be composed of two or more counties, they shall be contiguous, and the districts as compact as may be. No county shall be divided in the formation of representative districts.

SEC. 4. Whenever new counties are created, each of said counties shall be entitled to one senator, but in no case shall a senatorial district consist of more than one county.

SEC. 5. The senatorial districts of the state shall be constituted and numbered as follows:

The county of Beaverhead shall constitute the First district, and be entitled to one senator.

The county of Madison shall constitute the Second district, and be entitled to one senator.

The county of Gallatin shall constitute the Third district, and be entitled to one senator.

The county of Jefferson shall constitute the Fourth district, and be entitled to one senator.

The county of Deer Lodge shall constitute the Fifth district, and be entitled to one senator.

The county of Missoula shall constitute the Sixth district, and be entitled to one senator.

The county of Lewis and Clark shall constitute the Seventh district, and be entitled to one senator.

The county of Chouteau shall constitute the Eighth district, and be entitled to one senator.

The county of Meagher shall constitute the Ninth district, and be entitled to one senator.

The county of Silver Bow shall constitute the Tenth district, and be entitled to one senator.

The county of Custer shall constitute the Eleventh district, and be entitled to one senator.

The county of Yellowstone shall constitute the Twelfth district, and be entitled to one senator.

The county of Dawson shall constitute the Thirteenth district, and be entitled to one senator.

The county of Fergus shall constitute the Fourteenth district, and be entitled to one senator.

The county of Park shall constitute the Fifteenth district, and be entitled to one senator.

The county of Cascade shall constitute the Sixteenth district, and be entitled to one senator.

SEC. 6. Until an apportionment of representatives be made in accordance with the provisions of this article, they shall be divided among the several counties of the state in the following manner:

The county of Beaverhead shall have two (2).

The county of Madison shall have two (2).

The county of Gallatin shall have two (2).

The county of Jefferson shall have three (3).

The county of Deer Lodge shall have seven (7).

The county of Missoula shall have five (5).

The county of Lewis and Clark shall have eight (8).

The county of Chouteau shall have two (2).

The county of Meagher shall have two (2).

The county of Silver Bow shall have ten (10).

The county of Custer shall have two (2).

The county of Yellowstone shall have one (1).

The county of Fergus shall have two (2).

The county of Park shall have two (2).

The county of Cascade shall have two (2).

The counties of Dawson and Cascade shall have one (1) jointly.

The counties of Deer Lodge and Beaverhead shall have one (1) jointly.

The counties of Jefferson and Gallatin shall have one (1) jointly.

ARTICLE VII.

EXECUTIVE DEPARTMENT.

SECTION 1. The executive department shall consist of a governor, lieutenant governor, secretary of state, attorney general, state treasurer, state auditor and superintendent of public instruction, each of whom shall hold his office for four years, or until his successor is elected and qualified, beginning on the first Monday of January next succeeding his election, except that the terms of office of those who are elected at the first election, shall begin when the state shall be admitted into the union, and shall end on the first Monday of January, A. D. 1893. The officers of the executive department, excepting the lieutenant governor, shall during their terms of office reside at the seat of government, where they shall keep the public records, books and papers. They shall perform such duties as are prescribed in this constitution and by the laws of the state. The state treasurer shall not be eligible to his office for the succeeding term.

SEC. 2. The officers provided for in section 1 of this article, shall be elected by the qualified electors of the state at the time and place of voting for members of the legislative assembly, and the persons respectively, having the highest number of votes for the office voted for shall be elected; but if two or more shall have an equal and the highest number of votes for any one of said offices, the two houses of the legislative assembly, at its next regular session, shall forthwith, by joint ballot, elect one of such persons for said office. The returns of election for the officers named in section 1 shall be made in such manner as may be prescribed by law, and all contested elections of

the same, other than provided for in this section, shall be determined as may be prescribed by law.

SEC. 3. No person shall be eligible to the office of governor, lieutenant governor, or superintendent of public instruction, unless he shall have attained the age of thirty years at the time of his election, nor to the office of secretary of state, state auditor, or state treasurer, unless he shall have attained the age of twenty-five years, nor to the office of attorney general unless he shall have attained the age of thirty years, and have been admitted to practice in the supreme court of the state, or territory of Montana, and be in good standing at the time of his election. In addition to the qualifications above prescribed, each of the officers named shall be a citizen of the United States, and have resided within the state or territory two years next preceding his election.

SEC. 4. Until otherwise provided by law, the governor, secretary of state, state auditor, treasurer, attorney general and superintendent of public instruction, shall quarterly as due, during their continuance in office, receive for their services compensation, which is fixed as follows:

Governor, five thousand dollars per annum;
Secretary of state, three thousand dollars per annum;
Attorney general, three thousand dollars per annum;
State treasurer, three thousand dollars per annum;
State auditor, three thousand dollars per annum;
Superintendent of public instruction, two thousand five hundred dollars per annum.

The lieutenant governor shall receive the same per diem as may be prescribed by law, for the speaker of the legislative assembly, to be allowed only during the sessions of the legislative assembly.

The compensation enumerated shall be in full for all services by said officers respectively rendered in any official capacity or employment whatever during their respective terms of office, and the salary of no official shall be increased during his term of office. No officer named in this section shall receive, for the performance of any official duty, any fee for his own use, but all fees fixed by law for the performance by any officer of any official duty, shall be collected in advance, and deposited with the state treasurer quarterly to the credit of the state. No officer mentioned in this section shall be

eligible to, or hold any other public office, except member of the state board of education during his term of office.

SEC. 5. The supreme executive power of the state shall be vested in the governor, who shall see that the laws are faithfully executed.

SEC. 6. The governor shall be commander-in-chief of the militia forces of the state, except when these forces are in the actual service of the United States, and shall have power to call out any part or the whole of said forces to aid in the execution of the laws, to suppress insurrection or to repel invasion.

SEC. 7. The governor shall nominate, and by and with the consent of the senate, appoint all officers whose offices are established by this constitution, or which may be created by law, and whose appointment or election is not otherwise provided for. If during a recess of the senate a vacancy occur in any such office, the governor shall appoint some fit person to discharge the duties thereof until the next meeting of the senate, when he shall nominate some person to fill such office. If the office of secretary of state, state auditor, state treasurer, attorney general, or superintendent of public instruction shall be vacated by death, resignation or otherwise, it shall be the duty of the governor to fill the same by appointment, and the appointee shall hold his office until his successor shall be elected and qualified.

SEC. 8. The legislative assembly shall provide for a state examiner, who shall be appointed by the governor and confirmed by the senate. His duty shall be to examine the accounts of the state treasurer, supreme court clerks, district court clerks, and all county treasurers, and treasurers of such other public institutions as may be prescribed by law, and he shall perform such other duties as the legislative assembly may prescribe. He shall report at least once a year and oftener if required to such officers as may be designated by the legislative assembly. His compensation shall be fixed by law.

SEC. 9. The governor shall have the power to grant pardons, absolute and conditional, and to remit fines and forfeitures, and to grant commutation of punishments and respites after conviction and judgment for any offenses committed against the criminal laws of this state; *Provided, however,* That before granting pardons, remitting fines and forfeitures, or commuting punishments, the action of the governor concerning the same shall be approved by a board, or a majority thereof, composed of the secretary of state, attorney general and state auditor, who shall be known as the board of par-

dons. The legislative assembly shall by law prescribe the sessions of said board, and regulate the proceedings thereof. But no fine or forfeitures shall be remitted, and no commutation or pardon granted, except upon the approval of a majority of said board after a full hearing in open session and until notice of the time and place of such hearing, and of the relief sought, shall have been given by publication in some newspaper of general circulation in the county where the crime was committed, at least once a week for two weeks. The proceedings and decisions of the board shall be reduced to writing, and with their reasons for their action in each case, and the dissent of any member who may disagree, signed by them and filed, with all papers used upon the hearing, in the office of the secretary of state. The governor shall communicate to the legislative assembly, at each regular session, each case of remission of fine or forfeiture, reprieve, commutation or pardon granted since the last previous report, stating the name of the convict, the crime of which he was convicted, the sentence and its date, and the date of remission, commutation, pardon or reprieve, with the reasons for granting the same and the objections, if any, of any member of the board made thereto.

SEC. 10. The governor may require information in writing from the officers of the executive department upon any subject relating to the duties of their respective offices, which information shall be given upon oath whenever so required; he may also require information in writing, at any time, under oath, from all officers and managers of state institutions, upon any subject relating to the condition, management and expenses of their respective offices and institutions, and may, at any time he deems it necessary, appoint a committee to investigate and report to him upon the condition of any executive office or state institution. The governor shall at the beginning of each session, and from time to time by message, give to the legislative assembly information of the state, and shall recommend such measures as he shall deem expedient. He shall also send to the legislative assembly a statement with vouchers of the expenditures of all moneys belonging to the state and paid out by him. He shall also at the beginning of each session present estimates of the amount of money required to be raised by taxation for all purposes of the state.

SEC. 11. He may on extraordinary occasions convene the legislative assembly by proclamation, stating the purposes for which it is

convened, but when so convened, it shall have no power to legislate on any subjects other than those specified in the proclamation, or which may be recommended by the governor, but may provide for the expenses of the session and other matters incidental thereto. He may also by proclamation, convene the senate in extraordinary session for the transaction of executive business.

SEC. 12. Every bill passed by the legislative assembly shall, before it becomes a law, be presented to the governor. If he approve, he shall sign it, and thereupon it shall become a law, but if he do not approve, he shall return it with his objections to the house in which it originated, which house shall enter the objections at large upon its journal and proceed to reconsider the bill. If then two-thirds of the members present agree to pass the same, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by two-thirds of the members present in that house it shall become a law notwithstanding the objections of the governor. In all such cases the vote of each house shall be determined by yeas and nays, to be entered on the journal. If any bill shall not be returned by the governor within five days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the legislative assembly shall by their adjournment prevent its return, in which case it shall not become a law, without the approval of the governor. No bill shall become a law after the final adjournment of the legislative assembly, unless approved by the governor within fifteen days after such adjournment. In case the governor shall fail to approve of any bill after the final adjournment of the legislative assembly it shall be filed, with his objections, in the office of the secretary of state.

SEC. 13. The governor shall have power to disapprove of any item or items of any bill making appropriations of money, embracing distinct items, and the part or parts approved shall become a law, and the item or items disapproved shall be void, unless enacted in the manner following: If the legislative assembly be in session he shall within five days transmit to the house in which the bill originated, a copy of the item or items thereof disapproved, together with his objections thereto, and the items objected to shall be separately reconsidered, and each item shall take the same course as is prescribed for the passage of bills over the executive veto.

SEC. 14. In case of the failure to qualify, the impeachment or conviction of felony or infamous crime of the governor, or his death, removal from office, resignation, absence from the state or inability to discharge the powers and duties of his office, the powers, duties and emoluments of the office, for the residue of the term, or until the disability shall cease, shall devolve upon the lieutenant-governor.

SEC. 15. The lieutenant governor shall be president of the senate, but shall vote only when the senate is equally divided. In case of the absence or disqualification of the lieutenant governor, from any cause which applies to the governor, or when he shall hold the office of governor, then the president *pro tempore* of the senate shall perform the duties of the lieutenant governor until the vacancy is filled or the disability removed.

SEC. 16. In case of the failure to qualify in his office, death, resignation, absence from the state, impeachment, conviction of felony or infamous crime, or disqualification from any cause, of both the governor and the lieutenant governor, the duties of the governor shall devolve upon the president *pro tempore* of the senate until such disqualification of either the governor or lieutenant governor be removed, or the vacancy filled, and if the president *pro tempore* of the senate, for any of the above named causes, shall become incapable of performing the duties of governor, the same shall devolve upon the speaker of the house.

SEC. 17. The first legislative assembly shall provide a seal for the state, which shall be kept by the secretary of state and used by him officially, and known as the great seal of the state of Montana.

SEC. 18. All grants and commissions shall be in the name and by the authority of the state of Montana, sealed with the great seal of the state, signed by the governor, and countersigned by the secretary of state.

SEC. 19. An account shall be kept by the officers of the executive department, and of all public institutions of the state of all moneys received by them, severally from all sources, and for every service performed, and of all moneys disbursed by them severally, and a semi-annual report hereof shall be made to the governor, under oath; they shall also, at least twenty days preceding each regular session of the legislative assembly, make full and complete reports of their

official transactions to the governor, who shall transmit the same to the legislative assembly.

SEC. 20. The governor, secretary of state and attorney general shall constitute a board of state prison commissioners, which board shall have such supervision of all matters connected with the state prisons as may be prescribed by law. They shall constitute a board of examiners, 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. And no claims against the state except for salaries and compensation of officers fixed by law, shall be passed upon by the legislative assembly without first having been considered and acted upon by said board. The legislative assembly may provide for the temporary suspension of the state treasurer by the governor, when the board of examiners deem such action necessary for the protection of the moneys of the state.

ARTICLE VIII.

JUDICIAL DEPARTMENTS.

SECTION 1. The judicial power of the state shall be vested in the senate sitting as a court of impeachment, in a supreme court, district court, justices of the peace, and such other inferior courts as the legislative assembly may establish in any incorporated city or town.

SEC. 2. The supreme court, except as otherwise provided in this constitution, shall have appellate jurisdiction only, which shall be co-extensive with the state, and shall have a general supervisory control over all inferior courts, under such regulations and limitations as may be prescribed by law.

SEC. 3. The appellate jurisdiction of the supreme court shall extend to all cases at law and in equity, subject, however, to such limitations and regulations as may be prescribed by law. Said court shall have power in its discretion to issue and to hear and determine writs of habeas corpus, mandamus, quo-warranto, certiorari, prohibition and injunction, and such other original and remedial writs as may be necessary or proper to complete exercise of its appellate jurisdiction. When a jury is required in the supreme court to determine an issue of fact, said court shall have power to summon such jury in such manner as may be provided by law. Each of the

justices of the supreme court shall have power to issue writs of habeas corpus to any part of the state, upon petition by or on behalf of, any person held in actual custody, and may make such writs returnable before himself, or the supreme court, or before any district court of the state or any judge thereof; and such writs may be heard and determined by the justice or court, or judge, before whom they are made returnable. Each of the justices of the supreme court may also issue and hear and determine writs of certiorari in proceedings for contempt in the district court, and such other writs as he may be authorized by law to issue.

SEC. 4. At least three terms of the supreme court shall be held each year at the seat of government.

SEC. 5. The supreme court shall consist of three justices, a majority of whom shall be necessary to form a quorum or pronounce a decision, but one or more of said justices may adjourn the court from day to day, or to a day certain, and the legislative assembly shall have the power to increase the number of such justices to not less nor more than five.

[In case any justice or justices of the supreme court shall be in any way disqualified to sit in a cause brought before such court, the remaining justice or justices shall have power to call on one or more of the district judges of this state as in the particular case may be necessary to constitute the full number of justices of which the said court shall then be composed, to sit with them in the hearing of said cause.

In all cases where a district judge is invited to sit and does sit as by this section provided, the decision and opinion of such district judge shall have the same force and effect in any case heard before the court as if regularly participated in by a justice of the supreme court.]¹

SEC. 6. The justices of the supreme court shall be elected by electors of the state at large, as hereinafter provided.

SEC. 7. The term of office of the justices of the supreme court, except as in this constitution otherwise provided, shall be six years.

SEC. 8. There shall be elected at the first general election, provided for by this constitution, one chief justice and two associate justices of the supreme court. At said first election the chief justice

¹The two paragraphs enclosed in brackets were added to the constitution by an amendment proposed by the Sixth Legislative Assembly, and ratified at the general election, November 6, 1900.

shall be elected to hold his office until the general election in the year one thousand eight hundred ninety-two (1892), and one of the associate justices to hold his office until the general election in the year one thousand eight hundred ninety-four (1894), and the other associate justice to hold his office until the general election in the year one thousand eight hundred ninety-six (1896), and each shall hold until his successor is elected and qualified. The terms of office of said justices, and which one shall be chief justice, shall at the first and all subsequent elections be designated by ballot. After said first election one chief justice or one associate justice shall be elected at the general election every two years, commencing in the year one thousand eight hundred ninety-two (1892), and if the legislative assembly shall increase the number of justices to five, the first terms of office of such additional justices shall be fixed by law in such manner that at least one of the five justices shall be elected every two years. The chief justice shall preside at all sessions of the supreme court, and in case of his absence, the associate justice having the shortest term to serve shall preside in his stead.

SEC. 9. There shall be a clerk of the supreme court, who shall hold his office for the term of six years, except that the clerk first elected shall hold his office only until the general election in the year one thousand eight hundred ninety-two (1892), and until his successor is elected and qualified. He shall be elected by the electors at large of the state, and his compensation shall be fixed by law, and his duties prescribed by law, and by the rules of the supreme court.

SEC. 10. No person shall be eligible to the office of justice of the supreme court, unless he shall have been admitted to practice law in the supreme court of the territory or state of Montana, be at least thirty years of age, and a citizen of the United States, nor unless he shall have resided in said territory or state at least two years next preceding his election.

DISTRICT COURTS.

SEC. 11. The district court shall have original jurisdiction in all cases at law and in equity, including all cases which involve the title or right of possession of real property, or the legality of any tax, impost, assessment, toll or municipal fine, and in all cases in

which the debt, damage, claim or demand, exclusive of interest, or the value of the property in controversy exceeds fifty dollars; and in all criminal cases amounting to felony, and in all cases of misdemeanor not otherwise provided for; of actions of forcible entry and unlawful detainer; of proceedings in insolvency; of actions to prevent or abate a nuisance; of all matters of probate; of actions of divorce and for annulment of marriage, and for all such special actions and proceedings as are not otherwise provided for. And said courts shall have the power of naturalization, and to issue papers therefor, in all cases where they are authorized so to do by the laws of the United States. They shall have appellate jurisdiction in such cases arising in justices' and other inferior courts in their respective districts as may be prescribed by law, and consistent with this constitution. Their process shall extend to all parts of the state, provided that all actions for the recovery of, the possession of, quieting the title to, or for the enforcement of liens upon real property, shall be commenced in the county in which the real property, or any part thereof, affected by such action or actions, is situated. Said courts and the judges thereof shall have power also to issue, hear and determine writs of mandamus, quo warranto, certiorari, prohibition, injunction and other original and remedial writs, and also all writs of habeas corpus on petition by, or on behalf of, any person held in actual custody in their respective districts. Injunctions, writs of prohibition and habeas corpus, may be issued and served on legal holidays and non-judicial days.

SEC. 12. The state shall be divided into judicial districts, in each of which there shall be elected by the electors thereof one judge of the district court, whose term of office shall be four years, except that the district judges first elected shall hold their offices only until the general election in the year one thousand eight hundred and ninety-two (1892), and until their successors are elected and qualified. Any judge of the district court may hold court for any other district judge, and shall do so when required by law.

SEC. 13. Until otherwise provided by law the judicial districts of the state shall be constituted as follows: First district, Lewis and Clark county; Second district, Silver Bow county; third district, Deer Lodge county; Fourth district, Missoula county; Fifth district, Beaverhead, Jefferson and Madison counties; Sixth district, Gallatin, Park and Meagher counties; Seventh district, Yel-

lowstone, Custer and Dawson counties; Eighth district, Chouteau, Cascade and Fergus counties.

SEC. 14. The legislative assembly may increase or decrease the number of judges in any judicial district; *provided*, that there shall be at least one judge in any district established by law; and may divide the state, or any part thereof, into new districts; *provided*, that each be formed of compact territory and be bounded by county lines, but no changes in the number or boundaries of districts shall work a removal of any judge from office during the term for which he has been elected or appointed.

SEC. 15. Writs of error and appeals shall be allowed from the decisions of the said district courts to the supreme court under such regulations as may be prescribed by law.

SEC. 16. No person shall be eligible to the office of judge of the district court unless he be at least twenty-five years of age and a citizen of the United States, and shall have been admitted to practice law in the supreme court of the territory or state of Montana, nor unless he shall have resided in this state or territory at least one year next preceding his election. He need not be a resident of the district for which he is elected at the time of his election, but after his election he shall reside in the district for which he is elected during his term of office.

SEC. 17. The district court in each county which is a judicial district by itself shall be always open for the transaction of business, except on legal holidays and non-judicial days. In each district where two or more counties are united, until otherwise provided by law, the judges of such district shall fix the term of court, provided that there shall be at least four terms a year held in each county.

SEC. 18. There shall be a clerk of the district court in each county, who shall be elected by the electors of his county. The clerk shall be elected at the same time and for the same term as the district judge. The duties and compensation of the said clerk shall be as provided by law.

COUNTY ATTORNEYS.

SEC. 19. There shall be elected at the general election in each county of the state one county attorney, whose qualifications shall

be the same as are required for a judge of the district court, except that he must be over twenty-one years of age, but need not be twenty-five years of age, and whose term of office shall be two years, except that the county attorneys first elected shall hold their offices until the general election in the year one thousand eight hundred and ninety-two (1892), and until their successors are elected and qualified. He shall have a salary to be fixed by law, one-half of which shall be paid by the state, and the other half by the county for which he is elected, and he shall perform such duties as may be required by law.

JUSTICES OF THE PEACE.

SEC. 20. There shall be elected in each organized township of each county by the electors of such township at least two justices of the peace, who shall hold their offices except as otherwise provided in this constitution, for the term of two years. Justices' courts shall have such original jurisdiction within their respective counties as may be prescribed by law, except as in this constitution otherwise provided; *provided*, that they shall not have jurisdiction in any case where the debt, damage, claim or value of the property involved exceeds the sum of three hundred dollars.

SEC. 21. Justices' courts shall not have jurisdiction in any case involving the title or right of possession of real property, nor in cases of divorce, nor for annulment of marriage, nor of cases in equity; nor shall they have power to issue writs of habeas corpus, mandamus, certiorari, quo warranto, injunction, or prohibition, nor the power of naturalization; nor shall they have jurisdiction in cases of felony, except as examining courts; nor shall criminal cases in said courts be prosecuted by indictment; but said courts shall have such jurisdiction in criminal matters, not of the grade of felony, as may be provided by law; and shall also have concurrent jurisdiction with the district courts, in cases of forcible entry and unlawful detainer.

SEC. 22. Justices' courts shall always be open for the transaction of business, except on legal holidays and non-judicial days.

SEC. 23. Appeals shall be allowed from justices' courts, in all cases, to the district courts, in such manner and under such regulations as may be prescribed by law.

POLICE AND MUNICIPAL COURTS.

SEC. 24. The legislative assembly shall have power to provide for creating such police and municipal courts and magistrates for cities and towns as may be deemed necessary from time to time, who shall have jurisdiction in all cases arising under the ordinances of such cities and towns, respectively; such police magistrates may also be constituted ex officio justices of the peace for their respective counties.

SEC. 25. The supreme and district courts shall be courts of record.

SEC. 26. All laws relating to courts shall be general and of uniform operation throughout the state; and the organization, jurisdiction, powers, proceedings and practice of all courts of the same class or grade, so far as regulated by law, shall be uniform.

SEC. 27. The style of all process shall be "The State of Montana" and all prosecutions shall be conducted in the name and by the authority of the same.

SEC. 28. There shall be but one form of civil action, and law and equity may be administered in the same action.

SEC. 29. The justices of the supreme court and the judges of the district courts shall each be paid quarterly by the state, a salary which shall not be increased or diminished during the terms for which they shall have been respectively elected. Until otherwise provided by law, the salary of the justices of the supreme court shall be four thousand dollars per annum each, and the salary of the judges of the district courts shall be three thousand five hundred dollars per annum each.

SEC. 30. No justice of the supreme court nor judge of the district court shall accept or receive any compensation, fee, allowance, mileage, perquisite or emolument for or on account of his office in any form whatever, except the salary provided by law.

SEC. 31. No justice or clerk of the supreme court, nor judge or clerk of any district court shall act or practice as an attorney, or counsellor at law in any court of this state during his continuance in office.

SEC. 32. The legislative assembly may provide for the publication of decisions and opinions of the supreme court.

SEC. 33. All officers provided for in this article, excepting justices of the supreme court, who shall reside within the state, shall

respectively reside during their term of office in the district, county, township, precinct, city or town for which they may be elected or appointed.

SEC. 34. Vacancies in the office of justice of the supreme court, or judge of the district court, or clerk of the supreme court, shall be filled by appointment, by the governor of the state, and vacancies in the offices of county attorneys, clerk of the district court, and justices of the peace shall be filled by appointment by the board of county commissioners of the county where such vacancy occurs. A person appointed to fill any such vacancy shall hold his office until the next general election and until his successor is elected and qualified. A person elected to fill a vacancy shall hold office until the expiration of the term for which the person he succeeds was elected.

SEC. 35. No justice of the supreme court or district judge shall hold any other public office while he remains in the office to which he has been elected or appointed.

SEC. 36. A civil action in the district court may be tried by a judge pro tempore, who must be a member of the bar of the state, agreed upon in writing by the parties litigant, or their attorneys of record, approved by the court, and sworn to try the cause; and in such case any order, judgment or decree, made or rendered therein by such judge pro tempore, shall have the same force and effect as if made or rendered by the court with the regular judge presiding.

SEC. 37. Any judicial officer who shall absent himself from the state for more than sixty consecutive days shall be deemed to have forfeited his office.

ARTICLE IX.

RIGHTS OF SUFFRAGE AND QUALIFICATIONS TO HOLD OFFICE.

SECTION 1. All elections of the people shall be by ballot.

SEC. 2. Every male person of the age of twenty-one years or over, possessing the following qualifications, shall be entitled to vote at all general elections and for all officers that now are, or hereafter may be, elective by the people and upon all questions which may be submitted to the vote of the people: First, he shall be a citizen of the United States; second, he shall have resided in this state one year immediately preceding the election at which he offers

to vote, and in the town, county or precinct such time as may be prescribed by law; *provided*, first, that no person convicted of felony shall have the right to vote unless he has been pardoned; *provided*, second, that nothing herein contained shall be construed to deprive any person of the right to vote who has such right at the time of the adoption of this constitution; *provided*, that after the expiration of five years from the time of the adoption of this constitution no person except citizens of the United States shall have the right to vote.

SEC. 3. For the purpose of voting no person shall be deemed to have gained or lost a residence by reason of his presence or absence while employed in the service of the state, or of the United States, nor while a student at any institution of learning, nor while kept at any alms-house or other asylum at the public expense, nor while confined in any public prison.

SEC. 4. Electors shall in all cases, except treason, felony or breach of the peace, be privileged from arrest during their attendance at elections and in going to and returning therefrom.

SEC. 5. No elector shall be obliged to perform military duty on the days of election, except in time of war or public danger.

SEC. 6. No soldier, seaman or marine in the army or navy of the United States shall be deemed a resident of this state in consequence of being stationed at any military or naval place within the same.

SEC. 7. No person shall be elected or appointed to any office in this state, civil or military, who is not a citizen of the United States, and who shall not have resided in this state at least one year next before his election or appointment.

SEC. 8. No idiot or insane person shall be entitled to vote at any election in this state.

SEC. 9. The legislative assembly shall have the power to pass a registration and such other laws as may be necessary to secure the purity of elections and guard against abuses of the elective franchise.

SEC. 10. Women shall be eligible to hold the office of county superintendent of schools or any school district office and shall have the right to vote at any school district election.

SEC. 11. Any person qualified to vote at general elections and for state officers in this state shall be eligible to any office therein

except as otherwise provided in this constitution, and subject to such additional qualifications as may be prescribed by the legislative assembly for city offices and offices hereafter created.

SEC. 12. Upon all questions submitted to the vote of the tax-payers of the state, or any political division thereof, women who are tax-payers and possessed of the qualifications for the right of suffrage required of men by this constitution shall equally, with men, have the right to vote.

SEC. 13. In all elections held by the people under this constitution, the person or persons who shall receive the highest number of legal votes shall be declared elected.

ARTICLE X.

STATE INSTITUTIONS AND PUBLIC BUILDINGS.

SECTION 1. Educational, reformatory and penal institutions, and those for the benefit of the insane, blind, deaf and mute, soldiers' home, and such other institutions as the public good may require, shall be established and supported by the state in such a manner as may be prescribed by law.

SEC. 2. At the general election in the year one thousand eight hundred and ninety-two, the question of permanent location of the seat of government is hereby provided to be submitted to the qualified electors of the state and the majority of all the votes upon said question shall determine the location thereof. In case there shall be no choice of location at said election, the question of choice between the two places for which the highest number of votes shall have been cast shall be, and is hereby submitted in like manner to the qualified electors at the next general election thereafter; *provided*, that until the seat of government shall have been permanently located the temporary seat of government shall be and remain in the city of Helena.

SEC. 3. When the seat of government shall have been located as herein provided the location thereof shall not thereafter be changed, except by a vote of two-thirds of all the qualified electors of the state voting on that question at a general election at which the question of the location of the seat of government shall have been submitted by the legislative assembly.

SEC. 4. The legislative assembly shall make no appropriations

or expenditures for capital buildings or grounds until the seat of government shall have been permanently located, as herein provided.

SEC. 5. The several counties of the state shall provide as may be prescribed by law for those inhabitants, who, by reason of age, infirmity or misfortune, may have claims upon the sympathy and aid of society.

ARTICLE XI.

EDUCATION.

SECTION 1. It shall be the duty of the legislative assembly of Montana to establish and maintain a general, uniform and thorough system of public, free, common schools.

SEC. 2. The public school fund of the state shall consist of the proceeds of such lands as have heretofore been granted, or may hereafter be granted, to the state by the general government, known as school lands; and those granted in lieu of such; lands acquired by gift or grant from any person or corporation, under any law or grant of the general government; and of all other grants of land or money made to the state from the general government for general educational purposes, or where no other special purpose is indicated in such grant; all estates, or distributive shares of the estates that may escheat to the state; all unclaimed shares and dividends of any corporation incorporated under the laws of the state, and all other grants, gifts, devises or bequests made to the state for general educational purposes.

SEC. 3. Such public school fund shall forever remain inviolate, guaranteed by the state against loss or diversion, to be invested, so far as possible, in public securities within the state, including school district bonds, issued for the erection of school buildings, under the restrictions to be provided by law.

SEC. 4. The governor, superintendent of public instruction, secretary of state and attorney general shall constitute the state board of land commissioners, which shall have the direction, control, leasing and sale of the school lands of the state, and the lands granted or which may hereafter be granted for the support and benefit of the various state educational institutions, under such regulations and restrictions as may be prescribed by law.

SEC. 5. The interest on all invested school funds of the state, and all rents accruing from the leasing of any school lands, shall

be apportioned to the several school districts of the state in proportion to the number of children and youths between the ages of six and twenty-one years, residing therein respectively, but no district shall be entitled to such distributive share that does not maintain a public free school for at least three months during the year for which distributions shall be made.

SEC. 6. It shall be the duty of the legislative assembly to provide by taxation, or otherwise, sufficient means, in connection with the amount received from the general school fund, to maintain a public, free, common school in each organized district in the state, for at least three months in each year.

SEC. 7. The public free schools of the state shall be open to all children and youth between the ages of six and twenty-one years.

SEC. 8. Neither the legislative assembly, nor any county, city, town, or school district, or other public corporations, shall ever make directly or indirectly, any appropriation, or pay from any public fund or moneys whatever, or make any grant of land or other property in aid of any church, or for any sectarian purpose, or to aid in the support of any school, academy, seminary, college, university, or other literary, scientific institution, controlled in whole or in part by any church, sect or denomination whatever.

SEC. 9. No religious or partisan test or qualification shall ever be required of any person as a condition of admission into any public educational institution of the state, either as teacher or student; nor shall attendance be required at any religious service whatever, nor shall any sectarian tenets be taught in any public educational institution of the state; nor shall any person be debarred admission to any of the collegiate departments of the university on account of sex.

SEC. 10. The legislative assembly shall provide that all elections for school district officers shall be separate from those elections at which state or county officers are voted for.

SEC. 11. The general control and supervision of the state university and the various other state educational institutions shall be vested in a state board of education, whose powers and duties shall be prescribed and regulated by law. The said board shall consist of eleven members, the governor, state superintendent of public instruction, and attorney general, being members ex officio, the other eight members thereof shall be appointed by the governor, subject

to the confirmation of the senate, under the regulations and restrictions to be provided by law.

SEC. 12. The funds of the state university and of all other state institutions of learning, from whatever source accruing, shall forever remain inviolate and sacred to the purpose for which they were dedicated. The various funds shall be respectively invested under such regulations as may be prescribed by law, and shall be guaranteed by the state against loss or diversion. The interest of said invested funds, together with the rents from leased lands or properties, shall be devoted to the maintenance and perpetuation of these respective institutions.

ARTICLE XII.

REVENUE AND TAXATION.

SECTION 1. The necessary revenue for the support and maintenance of the state shall be provided by the legislative assembly, which shall levy a uniform rate of assessment and taxation, and shall prescribe such regulations as shall secure a just valuation for taxation of all property, except that specially provided for in this article. The legislative assembly may also impose a license tax, both upon persons and upon corporations doing business in the state.

SEC. 2. The property of the United States, the state, counties, cities, towns, school districts, municipal corporations, and public libraries shall be exempt from taxation; and such other property as may be used exclusively for agricultural and horticultural societies, for educational purposes, places for actual religious worship, hospitals and places of burial not used or held for private or corporate profit, and institutions of purely public charity may be exempt from taxation.

SEC. 3. All mines and mining claims, both placer and rock in place, containing or bearing gold, silver, copper, lead, coal, or other valuable mineral deposits, after purchase thereof from the United States, shall be taxed at the price paid the United States therefor, unless the surface ground, or some part thereof, of such mine or claim is used for other than mining purposes, and has a separate and independent value for such other purposes, in which case said surface ground, or any part thereof, so used for other than mining purposes, shall be taxed at its value for such other purposes, as pro-

vided by law; and all machinery used in mining, and all property and surface improvements upon or appurtenant to mines and mining claims which have a value separate and independent of such mines or mining claims, and the annual net proceeds of all mines and mining claims shall be taxed as provided by law.

SEC. 4. The legislative assembly shall not levy taxes upon the inhabitants or property in any county, city, town, or municipal corporation for county, town, or municipal purposes, but it may by law vest in the corporate authorities thereof powers to assess and collect taxes for such purposes.

SEC. 5. Taxes for city, town and school purposes may be levied on all subjects and objects of taxation, but the assessed valuation of any property shall not exceed the valuation of the same property for state and county purposes.

SEC. 6. No county, city, town or other municipal corporation, the inhabitants thereof nor the property therein, shall be released or discharged from their or its proportionate share of state taxes.

SEC. 7. The power to tax corporations or corporate property shall never be relinquished or suspended, and all corporations in this state, or doing business therein, shall be subject to taxation for state, county, school, municipal and other purposes, on real and personal property owned or used by them and not by this constitution exempted from taxation.

SEC. 8. Private property shall not be taken or sold for the corporate debt of public corporations, but the legislative assembly may provide by law for the funding thereof, and shall provide by law for the payment thereof, including all funded debts and obligations, by assessment and taxation of all private property not exempt from taxation within the limits of the territory over which such corporations respectively have authority.

SEC. 9. The rate of taxation of real and personal property for state purposes in any one year shall never exceed three (3) mills on each dollar of valuation; and whenever the taxable property in the state shall amount to one hundred million dollars (\$100,000,000), the rate shall not exceed two and one-half (2½) mills on each dollar of valuation; and whenever the taxable property in the state shall amount to three hundred million dollars (\$300,000,000) the rate shall never exceed one and one-half (1½) mills on each dollar of valuation; unless a proposition to increase such

rate specifying the rate proposed and the time during which the same shall be levied, shall have been submitted to the people at a general election, and shall have received a majority of all the votes cast for and against it at such election.

SEC. 10. All taxes levied for state purposes shall be paid into the state treasury, and no money shall be drawn from the treasury but in pursuance of specific appropriations made by law.

SEC. 11. Taxes shall be levied and collected by general laws and for public purposes only. They shall be uniform upon the same class of subjects within the territorial limits of the authority levying the tax.

SEC. 12. No appropriation shall be made or any expenditures authorized by the legislative assembly whereby the expenditures of the state during any fiscal year shall exceed the total tax then provided for by law, and applicable to such appropriation or expenditure, unless the legislative assembly making such appropriation shall provide for levying a sufficient tax, not exceeding the rate allowed in section nine (9) of this article, to pay such appropriations or expenditures within such fiscal year. This provision shall not apply to appropriations or expenditures to suppress insurrection, defend the state, or assist in defending the United States in time of war. No appropriations of public moneys shall be made for a longer term than two years.

SEC. 13. The state treasurer shall keep a separate account of each fund in his hands, and shall at the end of each quarter of the fiscal year report to the governor in writing under oath, the amount of all moneys in his hands to the credit of every such fund, and the place or places where the same is kept or deposited, and the number and amount of every warrant paid or redeemed by him during the quarter. The governor, or other person or persons authorized by law, shall verify said report and cause the same to be immediately published in at least one newspaper printed at the seat of government, and otherwise as the legislative assembly may require. The legislative assembly may provide by law further regulations for the safe keeping and management of the public funds in the hands of the treasurer; but, notwithstanding any such regulations, the treasurer and his sureties shall, in all cases, be held responsible therefor.

SEC. 14. The making of profit out of public moneys, or using

the same for any purpose not authorized by law, by any public officer, shall be deemed a felony, and shall be punished as provided by law, but part of such punishment shall be disqualification to hold public office.

SEC. 15. The governor, secretary of state, state treasurer, state auditor and attorney general shall constitute a state board of equalization and the board of county commissioners of each county shall constitute a county board of equalization. The duty of the state board of equalization shall be to adjust and equalize the valuation of the taxable property among the several counties of the state. The duty of the county boards of equalization shall be to adjust and equalize the valuation of taxable property within their respective counties. Each board shall also perform such other duties as may be prescribed by law.

SEC. 16. All property shall be assessed in the manner prescribed by law except as is otherwise provided in this constitution. The franchise, roadway, roadbed, rails and rolling stock of all railroads operated in more than one county in this state shall be assessed by the state board of equalization and the same shall be apportioned to the counties, cities, towns, townships and school districts in which such railroads are located, in proportion to the number of miles of railway laid in such counties, cities, towns, townships and school districts.

SEC. 17. The word property as used in this article is hereby declared to include moneys, credits, bonds, stocks, franchises and all matters and things (real, personal and mixed) capable of private ownership, but this shall not be construed so as to authorize the taxation of the stocks of any company or corporation when the property of such company or corporation represented by such stocks is within the state and has been taxed.

SEC. 18. The legislative assembly shall pass all laws, necessary to carry out the provisions of this article.

ARTICLE XIII.

PUBLIC INDEBTEDNESS.

SECTION 1. Neither the state, nor any county, city, town, municipality, nor other subdivision of the state shall ever give or loan its credit in aid of, or make any donation or grant, by subsidy or other-

wise, to any individual, association or corporation, or become a subscriber to, or a shareholder in, any company or corporation or a joint owner with any person, company or corporation, except as to such ownership as may accrue to the state by operation or provision of law.

SEC. 2. The legislative assembly shall not in any manner create any debt except by law which shall be irrevocable until the indebtedness therein provided for shall have been fully paid or discharged; such law shall specify the purpose to which the funds so raised shall be applied and provide for the levy of a tax sufficient to pay the interest on, and extinguish the principal of such debt within the time limited by such law for the payment thereof; but no debt or liability shall be created which shall singly, or in the aggregate with any existing debt or liability, exceed the sum of one hundred thousand dollars (\$100,000), except in case of war, to repel invasion or suppress insurrection, unless the law authorizing the same shall have been submitted to the people at a general election and shall have received a majority of the votes cast for and against it at such election.

SEC. 3. All moneys borrowed by, or on behalf of the state or any county, city, town, municipality or other subdivision of the state, shall be used only for the purpose specified in the law authorizing the loan.

SEC. 4. The state shall not assume the debt or any part thereof, of any county, city, town or municipal corporation.

SEC. 5. No county shall be allowed to become indebted in any manner, or for any purpose, to an amount, including existing indebtedness, in the aggregate, exceeding five (5) per centum of the (value of the) taxable property therein, to be ascertained by the last assessment for state and county taxes previous to the incurring of such indebtedness, and all bonds or obligations in excess of such amount given by, or on behalf of, such county shall be void. No county shall incur any indebtedness or liability for any single purpose to an amount exceeding ten thousand dollars (\$10,000), without the approval of a majority of the electors thereof, voting at an election to be provided by law.

SEC. 6. No city, town, township or school district shall be allowed to become indebted in any manner or for any purpose to an amount, including existing indebtedness, in the aggregate exceed-

ing three per centum of the value of the taxable property therein, to be ascertained by the last assessment for the state and county taxes previous to the incurring of such indebtedness, and all bonds or obligations in excess of such amount given by, or on behalf of, such city, town, township or school district shall be void; *provided, however,* that the legislative assembly may extend the limit mentioned in this section, by authorizing municipal corporations to submit the question to a vote of the tax-payers affected thereby, when such increase is necessary to construct a sewerage system or to procure a supply of water for such municipality which shall own and control said water supply and devote the revenues derived therefrom to the payment of the debt.

ARTICLE XIV.

MILITARY AFFAIRS.

SECTION 1. The militia of the state of Montana shall consist of all able-bodied male citizens of the state between the ages of eighteen (18) and forty-five (45) years inclusive, except such persons as may be exempted by the laws of the state or of the United States.

SEC. 2. The legislative assembly shall provide by law for the organization, equipment, and discipline of the militia and shall make rules and regulations for the government of the same. The organization shall conform as nearly as practicable to the regulations for the government of the armies of the United States.

SEC. 3. The legislative assembly shall provide by law for maintaining the militia by appropriations from the treasury of the state.

SEC. 4. The legislative assembly shall provide by law for the safe keeping of the public arms, military records, relics and banners of the state.

SEC. 5. When the governor shall, with the consent of the legislative assembly, be out of the state in time of war at the head of any military force thereof, he shall continue commander-in-chief of all the military forces of the state.

ARTICLE XV.

CORPORATIONS OTHER THAN MUNICIPAL.

SECTION 1. All existing charters, or grants of special or exclusive privileges, under which the corporations or grantees shall not

have organized or commenced business in good faith at the time of the adoption of this constitution, shall thereafter have no validity.

SEC. 2. No charter of incorporations shall be granted, extended, changed or amended by special law, except for such municipal, charitable, educational, penal, or reformatory corporations hereafter to be created; *provided*, that any such laws shall be subject to future repeal or alterations by the legislative assembly.

SEC. 3. The legislative assembly shall have the power to alter, revoke or annul any charter of incorporation existing at the time of the adoption of this constitution, or which may be hereafter incorporated, whenever in its opinion it may be injurious to the citizens of the state.

SEC. 4. The legislative assembly shall provide by law that in all elections for directors or trustees of incorporated companies, every stockholder shall have the right to vote in person or by proxy the number of shares of stock owned by him for as many persons as there are directors or trustees to be elected, or to cumulate said shares, and give one candidate as many votes as the number of directors multiplied by the number of his shares of stock shall equal, or to distribute them, on the same principle, among as many candidates as he shall think fit, and such directors or trustees shall not be elected in any other manner.

SEC. 5. All railroads shall be public highways, and all railroad, transportation and express companies shall be common carriers and subject to legislative control, and the legislative assembly shall have the power to regulate and control by law the rates of charges for the transportation of passengers and freight by such companies as common carriers from one point to another in the state. Any association or corporation, organized for the purpose, shall have the right to construct and operate a railroad between any designated points within this state and to connect at the state line with railroads of other states and territories. Every railroad company shall have the right with its road to intersect, connect with, or cross any other railroad.

SEC. 6. No railroad corporation, express, or other transportation company, or the lessees or managers thereof, shall consolidate its stock, property or franchises with any other railroad corporation, express or other transportation company, owning or having under its control a parallel or competing line; neither shall it in

any manner unite its business or earnings with the business or earnings of any other railroad corporation; nor shall any officer of such railroad, express, or other transportation company act as an officer of any other railroad company, express, or other transportation company owning or having control of a parallel or competing line.

SEC. 7. All individuals, associations and corporations shall have equal rights to have persons or property transported on and over any railroad, transportation or express route in this state. No discrimination in charges or facilities for transportation of freight or passengers of the same class shall be made by any railroad, or transportation, or express company, between persons or places within this state; but excursions or commutation tickets may be issued and sold at special rates, provided such rates are the same to all persons. No railroad, or transportation, or express company, shall be allowed to charge, collect, or receive, under penalties which the legislative assembly shall prescribe, any greater toll for the transportation of freight or passengers to any place or station upon its route or line, than it charges for the transportation of the same class of freight or passengers to any more distant place or station upon its route or line within this state. No railroad, express, or transportation company, nor any lessee, manager or other employe thereof, shall give any preference to any individual, association or corporation, in furnishing cars or motive power, or for the transportation of money or other express matter.

SEC. 8. No railroad, express, or other transportation company, in existence at the time of the adoption of this constitution, shall have the benefit of any future legislation, without first filing in the office of the secretary of state an acceptance of the provisions of this constitution in binding form.

SEC. 9. The right of eminent domain shall never be abridged, nor so construed as to prevent the legislative assembly from taking the property and franchises of incorporated companies, and subjecting them to public use the same as the property of individuals; and the police powers of the state shall never be abridged, or so construed, as to permit corporations to conduct their business in such manner as to infringe the equal rights of individuals, or the general well being of the state.

SEC. 10. No corporation shall issue stocks or bonds, except for

labor done, services performed, or money and property actually received; and all fictitious increase of stock or indebtedness shall be void. The stock of corporations shall not be increased except in pursuance of general law, nor without the consent of the persons holding a majority of the stock first obtained at a meeting held after at least thirty days' notice given in pursuance of law.

SEC. 11. No foreign corporation shall do any business in this state without having one or more known places of business, and an authorized agent or agents in the same, upon whom process may be served. And no company or corporation formed under the laws of any other country, state or territory, shall have, or be allowed to exercise, or enjoy within this state any greater rights or privileges than those possessed or enjoyed by corporations of the same or similar character created under the laws of the state.

SEC. 12. No street or other railroad shall be constructed within any city or town without the consent of the local authorities having control of the street or highway proposed to be occupied by such street or other railroad.

SEC. 13. The legislative assembly shall pass no law for the benefit of a railroad or other corporation, or any individual or association of individuals, retrospective in its operation, or which imposes on the people of any county or municipal subdivision of the state, a new liability in respect to transactions or considerations already passed.

SEC. 14. Any association or corporation, or the lessees or managers thereof, organized for the purpose, or any individual, shall have the right to construct or maintain lines of telegraph or telephone within this state, and connect the same with other lines; and the legislative assembly shall by general law of uniform operation provide reasonable regulations to give full effect to this section. No telegraph or telephone company shall consolidate with, or hold a controlling interest in, the stock or bonds of any other telegraph or telephone company, owning or having control of a competing line, or acquire by purchase or otherwise, any other competing line of telegraph or telephone.

SEC. 15. If any railroad, telegraph, telephone, express, or other corporation or company organized under any of the laws of this state, shall consolidate, by sale or otherwise, with any railroad, telegraph, telephone, express, or other corporation, organized under

any of the laws of any other state or territory of the United States, the same shall not become a foreign corporation, but the courts of this state shall retain jurisdiction over that part of the corporate property within the limits of the state, in all matters that may arise as if said consolidation had not taken place.

SEC. 16. It shall be unlawful for any person, company or corporation to require of its servants or employes, as a condition of their employment or otherwise, any contract or agreement whereby such persons, company or corporation, shall be released or discharged from liability or responsibility on account of personal injuries received by such servants or employes while in the service of such person, company or corporation, by reason of the negligence of such person, company or corporation, or the agents or employes thereof; and such contracts shall be absolutely null and void.

SEC. 17. The legislative assembly shall not pass any law permitting the leasing or alienation of any franchise so as to release or relieve the franchise or property held thereunder from any of the liabilities of the lessor or grantor, or lessee or grantee, contracted or incurred in the operation, use or enjoyment of such franchise, or any of its privileges.

SEC. 18. The term "corporation," as used in this article shall be held and construed to include all associations and joint stock companies, having or exercising any of the powers or privileges of corporations not possessed by individuals or partnerships; and all corporations shall have the right to sue, and shall be subject to be sued in all courts in like cases as natural persons, subject to such regulations and conditions as may be prescribed by law.

SEC. 19. Dues from private corporations shall be secured by such means as may be prescribed by law.

SEC. 20. No incorporation, stock company, person or association of persons in the state of Montana, shall directly or indirectly combine or form what is known as a trust, or make any contract with any person or persons, corporations, or stock company, foreign or domestic, through their stockholders, trustees, or in any manner whatever, for the purpose of fixing the price, or regulating the production of any article of commerce, or of the product of the soil, for consumption by the people. The legislative assembly shall pass laws for the enforcement thereof by adequate penalties to the extent, if necessary for that purpose, of the forfeiture of their property

and franchises, and in case of foreign corporations prohibiting them from carrying on business in the state.

ARTICLE XVI.

MUNICIPAL CORPORATIONS AND OFFICERS.

SECTION 1. The several counties of the territory of Montana, as they shall exist at the time of the admission of the state into the union are hereby declared to be the counties of the state until otherwise established or changed by law.

SEC. 2. The legislative assembly shall have no power to remove the county seat of any county, but the same shall be provided for by general law; and no county seat shall be removed unless a majority of the qualified electors of the county, at a general election on a proposition to remove the county seat, shall vote therefor; but no such proposition shall be submitted oftener than once in four years.

SEC. 3. In all cases of the establishment of a new county it shall be held to pay its ratable proportion of all then existing liabilities of the county or counties from which it is formed, less the ratable proportion of the value of the county buildings and property of the county or counties from which it is formed; *provided*, that nothing in this section shall prevent the re-adjustment of county lines between existing counties.

SEC. 4. In each county there shall be elected three county commissioners, whose term of office shall be six years; *provided*, that the term of office of those elected on November 6th, 1900, shall expire on the first Monday in January, 1907; *provided further*, that at the general election to be held in November, 1902 (in counties where commissioners are to be elected that year), three commissioners shall be elected whose terms shall expire on the first Monday in January, 1907; *provided further*, that at the general election to be held in November, 1906, one commissioner shall be elected for a term of two years, one commissioner shall be elected for a term of four years, and one commissioner shall be elected for a term of six years, whose term of office shall commence on the said first Monday of January, 1907; and *provided further*, that at each general election thereafter commencing with the general election to be held in November, 1908, one commissioner shall be elected for a term

of six years. A vacancy in the board of county commissioners shall be filled by appointment by the judge of the judicial district in which the vacancy occurs.¹

SEC. 5. There shall be elected in each county the following officers: One county clerk, who shall be clerk of the county commissioners and ex officio recorder; one sheriff; one treasurer, who shall be collector of taxes; *provided*, that no person shall hold the office of county treasurer for more than two consecutive terms; one county superintendent of schools; one county surveyor; one assessor; one coroner; one public administrator. Persons elected to the different offices named in this section shall hold their respective offices for the term of two years, and until their successors are elected and qualified. Vacancies in all county, township and precinct offices, except that of county commissioners, shall be filled by appointment by the board of county commissioners, and the appointee shall hold his office until the next general election.

SEC. 6. The legislative assembly may provide for the election or appointment of such other county, township, precinct and municipal officers as public convenience may require and their terms of office shall be as prescribed by law, not in any case to exceed two years, except as in this constitution otherwise provided.

ARTICLE XVII.

PUBLIC LANDS.

SECTION 1. All lands of the state that have been, or that may hereafter be granted to the state by congress, and all lands acquired by gift or grant or devise, from any person or corporation, shall be public lands of the state, and shall be held in trust for the people, to be disposed of as hereafter provided, for the respective purposes for which they have been or may be granted, donated or devised; and none of such land, nor any estate or interest therein, shall ever be disposed of except in pursuance of general laws providing for such disposition, nor unless the full market value of the estate

¹ In the original constitution this section read as follows: "In each county there shall be elected three county commissioners whose term of office shall be four years. A vacancy in the board of county commissioners shall be filled by appointment by the district judge of the district in which the vacancy occurs." The section printed above is an amendment proposed by the Seventh Legislative Assembly, and ratified at the general election, November 4, 1902.

or interest disposed of, to be ascertained in such manner as may be provided by law, be paid or safely secured to the state; nor shall any lands which the state holds by grant from the United States (in any case in which the manner of disposal and minimum price are so prescribed) be disposed of, except in the manner and for at least the price prescribed in the grant thereof, without the consent of the United States. Said lands shall be classified by the board of land commissioners as follows: First, lands which are valuable only for grazing purposes. Second, those which are principally valuable for the timber that is on them. Third, agricultural lands. Fourth, lands within the limits of any town or city or within three miles of such limits; *provided*, that any of said lands may be reclassified whenever, by reason of increased facilities for irrigation or otherwise, they shall be subject to different classification.

SEC. 2. The lands of the first of said classes may be sold or leased, under such rules and regulations as may be prescribed by law. The lands of the second class may be sold, or the timber thereon may be sold, under such rules and regulations as may be prescribed by law. The agricultural lands may be either sold or leased, under such rules and regulations as may be prescribed by law. The lands of the fourth class shall be sold in alternate lots of not more than five acres each, and not more than one-half of any one tract of such lands shall be sold prior to the year one thousand nine hundred and ten (1910).

SEC. 3. All public lands may be disposed of in such manner as may be provided by law.

ARTICLE XVIII.

LABOR.

SECTION 1. The legislative assembly may provide for a bureau of agriculture, labor and industry, to be located at the capital and be under the control of a commissioner appointed by the governor subject to the confirmation of the senate. The commissioner shall hold his office for four years, and until his successor is appointed and qualified, his compensation shall be as provided by law.

SEC. 2. It shall be unlawful for the warden or other officer of any state penitentiary or reformatory institution in the state of Montana, or for any state officer to let by contract to any person

or persons or corporation the labor of any convict confined within said institutions.

SEC. 3. It shall be unlawful to employ children under the age of sixteen years of age in underground mines.

SEC. 4. A period of eight hours shall constitute a day's work on all works or undertakings carried on or aided by any municipal, county or state government, and on all contracts let by them, and in mills and smelters for the treatment of ores, and in underground mines.

SEC. 5. The legislature by appropriate legislation shall provide for the enforcement of the provisions of this article.¹

ARTICLE XIX.

MISCELLANEOUS SUBJECTS AND FUTURE AMENDMENTS.

SECTION 1. Members of the legislative assembly and all officers, executive, ministerial or judicial, shall before they enter upon the duties of their respective offices, take and subscribe the following oath or affirmation, to-wit: "I do solemnly swear (or affirm) that I will support, protect and defend the constitution of the United States, and the constitution of the state of Montana, and that I will discharge the duties of my office with fidelity; and that I have not paid or contributed, or promised to pay or contribute, either directly or indirectly, any money or other valuable thing to procure my nomination or election (or appointment), except for necessary and proper expenses expressly authorized by law; that I have not knowingly violated any election law of this state, or procured it to be done by others in my behalf; that I will not knowingly receive, directly or indirectly, any money or other valuable thing for the performance or non-performance of any act or duty pertaining to my office other than the compensation allowed by law, so help me God." And no other oath, declaration or test shall be required as a qualification for any office or trust.

SEC. 2. The legislative assembly shall have no power to authorize lotteries, or gift enterprises for any purpose, and shall pass laws to prohibit the sale of lottery or gift enterprise tickets in this state.

¹ Sections 3, 4 and 5 were proposed by the Eighth Legislative Assembly, and adopted by vote of the people at the general election in 1904.

SEC. 3. The legislative assembly shall enact suitable laws to prevent the destruction by fire from any cause of the grasses and forests upon lands of the state or upon lands of the public domain the control of which may be conferred by congress upon this state, and to otherwise protect the same.

SEC. 4. The legislative assembly shall enact liberal homestead and exemption laws.

SEC. 5. No perpetuities shall be allowed, except for charitable purposes.

SEC. 6. All county officers shall keep their offices at the county seats of their respective counties.

SEC. 7. In the disposition of the public lands granted by the United States to this state, preference shall always be given to actual settlers thereon, and the legislative assembly shall provide by law for carrying this section into effect.

SEC. 8. The legislative assembly may at any time, by a vote of two-thirds of the members elected to each house, submit to the electors of the state the question whether there shall be a convention to revise, alter, or amend this constitution; and if a majority of those voting on the question shall declare in favor of such convention, the legislative assembly shall at its next session provide for the calling thereof. The number of members of the convention shall be the same as that of the house of representatives, and they shall be elected in the same manner, at the same places, and in the same districts. The legislative assembly shall in the act calling the convention designate the day, hour and place of its meeting, fix the pay of its members and officers, and provide for the payment of the same, together with the necessary expenses of the convention. Before proceeding, the members shall take an oath to support the constitution of the United States and of the state of Montana, and to faithfully discharge their duties as members of the convention. The qualifications of members shall be the same as of members of the senate, and vacancies occurring shall be filled in the manner provided for filling vacancies in the legislative assembly. Said convention shall meet within three months after such election and prepare such revisions, alterations or amendments to the constitution as may be deemed necessary, which shall be submitted to the electors for their ratification or rejection at an election appointed by the convention for that purpose, not less than two or more than six

months after the adjournment thereof, and unless so submitted and approved by a majority of the electors voting at the election, no such revision, alteration or amendment shall take effect.

SEC. 9. Amendments to this constitution may be proposed in either house of the legislative assembly; and if the same shall be voted for by two-thirds of the members elected to each house, such proposed amendments, together with the ayes and nays of each house thereon, shall be entered in full on their respective journals; and the secretary of state shall cause the said amendment or amendments to be published in full in at least one newspaper in each county (if such there be) for three months previous to the next general election for members of the legislative assembly; and at said election the said amendment or amendments shall be submitted to the qualified electors of the state for their approval or rejection. Should more amendments than one be submitted at the same election, they shall be so prepared and distinguished by numbers or otherwise that each can be voted on separately; *provided*, however, that not more than three amendments to this constitution shall be submitted at the same election.

ARTICLE XX.

SCHEDULE.

That no inconvenience may arise by reason of changing from a territorial to a state form of government, it is declared as follows:

SECTION 1. All laws enacted by the legislative assembly of the territory of Montana and in force at the time the state shall be admitted into the union and not inconsistent with this constitution or the constitution or laws of the United States of America, shall be and remain in full force as the laws of the state until altered or repealed, or until they expire by their own limitation; *provided*, that whenever in said laws the words, "Territory," "Montana Territory" or "Territory of Montana" occur, the words "State" or "State of Montana" shall be appropriately substituted and read therefor; *And, provided further*, that the duties which now by law devolve upon probate judges as jury commissioners and in relation to issuing marriage licenses and filing and recording marriage certificates, and the duties as ex officio clerks of their own courts, shall,

until otherwise provided by law, devolve upon and be performed by the clerks of the district courts in their respective counties; *And, provided further*, that the duties of probate judges now imposed by law relative to town sites and to the approval of bonds of other county officers shall, until otherwise provided by law, be performed by the district judges in the several counties in their respective districts.

SEC. 2. All lawful orders, judgments and decrees in civil causes, all contracts and claims and all lawful convictions, judgments and sentences in criminal actions, made and entered, or pronounced by the courts within the territory of Montana, and in force at the time the state shall be admitted into the union, shall continue and be and remain in full force in the state unaffected in any respect by the change from a territorial to a state form of government, and may be enforced and executed under the laws of the state.

SEC. 3. No crime or criminal offense committed against the laws of the territory of Montana shall abate, or be in any wise affected, by reason of the change from a territorial to a state form of government; but the same shall be deemed and taken to be an offense against the laws of the state, and the appropriate courts of the state shall have jurisdiction over and to hear and determine the same; *provided*, that this section shall not in any wise be construed to change the law of the statute of limitations, or the due effect or application of the same.

SEC. 4. Except as herein otherwise provided, the word "district" shall be substituted and read in lieu of the word "probate" in the terms "probate court" or "probate judge" whenever the same occurs in the laws of the territory of Montana, and all said laws which by their terms apply to probate courts or probate judges shall, except as in this constitution otherwise provided, upon a change from territorial to state government, be deemed and taken to apply to district courts and district judges; *provided*, that all laws allowing fees to probate judges are hereby repealed.

SEC. 5. Clerks of district courts, until otherwise provided by law, shall each perform the duties and be entitled to the same fees as now provided by law for clerks of the district courts of the territory, and until otherwise provided by law shall also perform the services and be entitled to fees therefor that are now provided for clerks of probate courts.

SEC. 5. Upon a change from territorial to state government the seals in use by the supreme court and the territorial district courts in and for the several counties respectively, shall pass to and become, until otherwise provided by law, the seals respectively of the supreme court and of the district courts of the state in such counties.

SEC. 7. Prosecutions for criminal offenses against the laws of the territory of Montana, pending at the time the state shall be admitted into the union shall not abate; but the same shall continue and be prosecuted in the name of the state of Montana, and the title of every such action shall be changed to conform to this provision.

SEC. 8. Parties who, at the time of the admission of the state into the union, may be confined under lawful commitments, or otherwise lawfully held to answer for alleged violations of any of the criminal laws of the territory of Montana, shall continue to be so confined or held until discharged therefrom by the proper courts of the state.

SEC. 9. All writs, processes, prosecutions, actions, causes of action, defenses, claims and rights of individuals, associations and bodies corporate existing at the time the state shall be admitted into the union, shall continue and be respectively executed, proceeded with, determined, enforced and protected under the laws of the state.

SEC. 10. All undertakings, bonds, obligations and recognizances in force at the time the state shall be admitted into the union, which were executed to the territory of Montana, or any officer thereof in his official capacity, or to any official board for the benefit of the territory of Montana, are hereby respectively assigned and transferred to the state of Montana, to the state officer successor to said territorial officer, or to the official board successor to the aforesaid official board, for the use of the state, as the case may be, and shall be as valid and binding as if executed under state law to the state, or state officer in his official capacity, or official board, for the benefit of the state; and all fines, taxes, penalties and forfeitures due or owing to the territory of Montana or to any county, school district, or municipality therein, at the time the state shall be admitted into the union, are hereby respectively assigned and transferred, and the same shall be payable to the state, county, school district or municipality, as the case may be, and payment thereof may be enforced under the laws of the state.

SEC. 11. All property, real or personal, and all moneys, credits, claims, demands and choses in action of every kind, belonging to the territory of Montana at the time the state shall be admitted into the union, are hereby assigned and transferred to, and shall be vested in, and become the property of the state of Montana.

SEC. 12. All obligations of the territory of Montana, existing, in force and unpaid at the time of the admission of the state into the union are hereby assumed by the state, which shall and will well and truly pay the same.

SEC. 13. All matters, cases and proceedings pending in any probate court in the territory of Montana, at the time the state shall be admitted into the union, and all official records, files, moneys, and other property of, or pertaining to such court, are hereby transferred to the district court in and for the same county, and such district court shall have full power and jurisdiction to hear, determine and dispose of all such matters, cases and proceedings.

SEC. 14. All actions, cases and proceedings, and matters which shall be pending in the supreme and district courts of Montana territory at the time of the admission of the state into the union whereof the United States circuit or district court might have had jurisdiction, had such court existed at the commencement of such actions, cases, proceedings and matters, respectively, shall be transferred to said United States circuit and district courts respectively; and all the files, records, indictments and proceedings relating to such actions, cases, proceedings and matters shall be transferred to said United States courts; *Provided*, That no civil action, cause or proceeding to which the United States is not a party shall be transferred to either of said United States courts except upon written request of one of the parties thereto, and in the absence of such request, such case shall be proceeded with in the proper state courts.

SEC. 15. All actions, cases, proceedings and matters pending in the supreme and district courts of the territory of Montana at the time the state shall be admitted into the union, and all files, records and indictments relating thereto, except as otherwise provided herein, shall be appropriately transferred, as may be proper, to the supreme and district courts of the state, respectively, and all such actions, cases, and matters shall be proceeded with in the proper state courts.

SEC. 16. Upon a change from a territorial to a state government, and until otherwise provided by law, the great seal of the

territory shall be deemed and taken to be the great seal of the state of Montana.

SEC. 17. All territorial, county and township officers now occupying their respective positions under the laws of the territory of Montana, or of the United States of America, shall continue and remain in their respective official positions and perform the duties thereof as now provided by law after the state is admitted into the union, and shall be considered state officers until their successors in office shall be duly elected and qualified, as provided by ordinance, notwithstanding any inconsistent provisions in this constitution, and shall be entitled to the same compensation for their services as is now established by law; *Provided*, That the compensation for justices of the supreme court, governor and secretary of the territory shall be paid by the state of Montana.

Done in open convention at the city of Helena in the territory of Montana, this seventeenth day of August, in the year of our Lord one thousand eight hundred and eighty-nine.

ORDINANCE NO. I.

FEDERAL RELATIONS.

BE IT ORDAINED: First. That perfect toleration of religious sentiment shall be secured and that no inhabitant of the state of Montana shall ever be molested in person or property, on account of his or her mode of religious worship.

Second. That the people inhabiting the said proposed state of Montana do agree and declare that they forever disclaim all right and title to the unappropriated public lands lying within the boundaries thereof, and to all lands lying within said limits owned or held by any Indian or Indian tribes, and that until the title thereto shall have been extinguished by the United States, the same shall be and remain subject to the disposition of the United States and said Indian lands shall remain under the absolute jurisdiction and control of the congress of the United States; that the lands belonging to citizens of the United States, residing without the said state of Montana, shall never be taxed at a higher rate than the lands belonging to residents thereof; that no taxes shall be imposed by the said state of Montana on lands or property therein belonging to,

or which may hereafter be purchased by the United States or reserved for its use. But nothing herein contained shall preclude the said state of Montana from taxing as other lands are taxed any lands owned or held by any Indian who has severed his tribal relations and has obtained from the United States or from any person a title thereto by patent or other grant, save and except such lands as have been or may be granted to any Indian or Indians under any act of congress containing a provision exempting the lands thus granted from taxation, but said last named lands shall be exempt from taxation by said state of Montana so long and to such extent as such act of congress may prescribe.

Third. That the debts and liabilities of said territory of Montana shall be assumed and paid by the said state of Montana.

Fourth. That provision shall be made for the establishment and maintenance of a uniform system of public schools, which shall be open to all the children of said state of Montana and free from sectarian control.

Fifth. That on behalf of the people of Montana, we, in convention assembled, do adopt the constitution of the United States.

Sixth. That the ordinances in this article shall be irrevocable without the consent of the United States and the people of said state of Montana.

Seventh. The state hereby accepts the several grants of land from the United States to the state of Montana, mentioned in an act of congress, entitled "An act to provide for the division of Dakota into two states, and to enable the people of North Dakota, South Dakota, Montana and Washington to form constitutions and state governments, and to be admitted into the union on an equal footing with the original states, and to make donations of public lands to such states." Approved February 22d, 1889, upon the terms and conditions therein provided.

ORDINANCE II.

ELECTIONS.

Be it Ordained by the Convention assembled to form a Constitution for the State of Montana:

First. That an election shall be held throughout the territory of Montana on the first Tuesday of October, 1889, for the ratifi-

cation or rejection of the constitution framed and adopted by this convention.

Second. At said election the constitution framed and adopted by this convention shall be submitted to the people of the territory for their ratification or rejection, and all persons who are then qualified electors under the laws of this territory shall be qualified to vote for the ratification or rejection thereof.

Third. Said elections shall be held at the several polling places and precincts throughout the territory appointed for the holding of elections under the laws of the territory, and shall be conducted in the manner prescribed by the laws of the territory regulating elections. The boards of county commissioners of the several counties of the territory shall appoint judges and clerks of such election in each of said polling places and precincts in the same manner as is now required by law for the appointment of judges and clerks of general elections in the territory.

Fourth. Each elector voting at said election shall have written or printed upon the ticket he may deposit in the ballot box, the words "For the Constitution" or "Against the Constitution."

Fifth. The votes cast at said election for the adoption or rejection of said constitution shall be canvassed by the canvassing boards of the respective counties not later than fifteen days after said election, or sooner, if the returns from all of the precincts shall have been received and in the manner prescribed by the laws of the territory of Montana for canvassing the votes at general elections in said territory, and the returns of said election shall be made to the secretary of the territory, who with the governor, and the chief justice of the territory, or any two of them, shall constitute a board of canvassers who shall meet at the office of the secretary of the territory on, or before, the thirtieth day after the election, and canvass the votes so cast and declare the result.

Sixth. That on the first Tuesday in October, 1889, there shall be elected by the qualified electors of Montana, a governor, a lieutenant governor, a secretary of state, an attorney general, a state treasurer, a state auditor, a state superintendent of public instruction, one chief justice and two associate justices of the supreme court, a judge for each of the judicial districts established by this constitution, a clerk of the supreme court, and a clerk of the district court in and for each county of the state, and the members

of the legislative assembly provided for in this constitution. The terms of officers so elected shall begin when the state shall be admitted into the union and shall end on the first Monday in January, 1893, except as otherwise provided.

Seventh. There shall be elected at the same time one representative in the fifty-first congress of the United States.

Eighth. The votes for the above officers shall be returned and canvassed as is provided by law, and returns shall be made to the secretary of the territory and canvassed in the same manner and by the same board as is the vote upon the constitution, except as to clerk of the district court.

Ninth. There shall also be elected at the same time the following county and township officers: Three county commissioners, one clerk of the board of commissioners and ex-officio recorder, one sheriff, one county treasurer, one county superintendent of common schools, one county surveyor, one county assessor, one coroner, one public administrator, one county attorney, two justices of the peace, and two constables for each township. The terms of office for the above named officers shall begin upon the admission of the state and end upon the first Monday of January, A. D. 1893, except, as to county treasurer, whose term shall begin on the first Monday in March succeeding his election, and end on the first Monday of March, A. D. 1893, and also, as to county commissioners whose terms are otherwise provided for in this constitution.

Tenth. The votes for the above county and township officers and for clerk of the district court, shall be returned and canvassed and certificates of election to said officers issued as is now provided by law.

Eleventh. Notice of the election for the adoption or rejection of this constitution, and for state, district, county and township officers shall be given by the clerks of the several boards of county commissioners in the same manner as notice of general elections for delegate to congress and county officers is required to be given by the existing laws of the territory.

Twelfth. That the provisions of this ordinance shall apply only to the election and to the officers elected on the first Tuesday of October, 1889.

GOVERNORS OF MONTANA TERRITORY.

| | |
|-------------------------|-----------|
| Sidney Edgerton..... | 1864-1866 |
| Green Clay Smith..... | 1866-1869 |
| James M. Ashley..... | 1869-1870 |
| Benjamin F. Potts..... | 1870-1883 |
| J. Schuyler Crosby..... | 1883-1884 |
| B. Platt Carpenter..... | 1884-1885 |
| Samuel T. Hauser | 1885-1887 |
| Preston H. Leslie..... | 1887-1889 |
| Benjamin F. White..... | 1889 |

GOVERNORS OF THE STATE OF MONTANA.

| | |
|-----------------------|-----------|
| Joseph K. Toole..... | 1889-1893 |
| John E. Rickards..... | 1893-1897 |
| Robert B. Smith..... | 1897-1901 |
| Joseph K. Toole..... | 1901-1909 |

DELEGATES IN CONGRESS FROM MONTANA TERRITORY.

| | |
|--------------------------|--------------------------------------|
| Samuel McLean..... | 38th and 39th Congresses (1864-1867) |
| James M. Cavanaugh..... | 40th and 41st Congresses (1867-1871) |
| William H. Claggett..... | 42d Congress (1871-1873) |
| Martin Maginnis..... | 43d to 48th Congresses (1873-1885) |
| Joseph K. Toole..... | 49th and 50th Congresses (1885-1889) |
| Thomas H. Carter..... | 51st Congress (1889) |

UNITED STATES SENATORS FROM MONTANA.

CLASS 1.¹

| | |
|------------------------|--------------------------------------|
| Wilbur F. Sanders..... | 51st and 52d Congresses (1890-1893) |
| (Vacant) | 53d Congress (1893-1895) |
| Lee Mantle..... | 54th and 55th Congresses (1895-1899) |
| (Vacant) | 56th Congress (1899-1901) |
| Paris Gibson..... | 57th and 58th Congresses (1901-1905) |
| Thomas H. Carter..... | 59th to 61st Congresses (1905-1911) |

CLASS 2.¹

| | |
|-----------------------|-------------------------------------|
| T. C. Power..... | 51st to 53d Congresses (1890-1895) |
| Thomas H. Carter..... | 54th to 56th Congresses (1895-1901) |
| William A. Clark..... | 57th to 59th Congresses (1901-1907) |
| Joseph M. Dixon..... | 60th to 62d Congresses (1907-1913) |

REPRESENTATIVES IN CONGRESS FROM MONTANA.

| | |
|-------------------------|--------------------------------------|
| Thomas H. Carter..... | 51st Congress (1889-1891) |
| William W. Dixon..... | 52d Congress (1891-1893) |
| Charles S. Hartman..... | 53d to 55th Congresses (1893-1899) |
| A. J. Campbell..... | 56th Congress (1899-1901) |
| Caldwell Edwards..... | 57th Congress (1901-1903) |
| Joseph M. Dixon..... | 58th and 59th Congresses (1903-1907) |
| Charles N. Pray..... | 60th Congress (1907-1909) |

¹See page 159.

FEDERAL GOVERNMENT.

CHAPTER XII.

HOW WE CAME TO HAVE ANOTHER GOVERNMENT.

For many years after the establishment of the English colonies in America, the colonial governments, or as we now call them, the state governments, were almost the only governments the people thought much about. The people in one colony were a long distance away from those in another and still farther from all foreign countries, and people had little to do with anybody outside of their own colony. So far as their relations with foreigners were concerned, the British government did some things for them, and so long as the British government helped the colonies to protect themselves from the French and the Indians, things went along very well; but whenever the British government undertook much more than this, it always made trouble. And when danger from the French and the Indians had partially passed away, the American colonists were not willing to let the British king and parliament have much to say about American matters.

It is quite important to understand this clearly, for if we study history carelessly, we are likely to get the notion that, after being governed by Great Britain for a century and a

half, the American colonists decided to "throw off the foreign yoke." Now the truth is that our British ancestors were quite well accustomed to governing themselves in Great Britain, and when they came to America they kept on doing very much as they had before. Most of the governors sent over from Great Britain did not undertake to interfere very much with the colonists doing as they liked about their own affairs. When the governors tried to take matters into their own hands, they always met with opposition, which was usually successful in the long run. Finally, when George III. and the parliament really undertook to govern the colonies, the colonists rebelled, and refused any longer to give the British government even the nominal allegiance which they had formerly acknowledged.

Colonial Union.—The colonists did not think they needed any government but the thirteen colonial governments. As soon as they began to resist the acts of George III. and the parliament, the people of the different colonies took counsel together, and several times sent delegates to meet with those of the other colonies and talk matters over. Some such meetings were the Stamp Act Congress, which met in New York, in 1765, and the First Continental Congress, at Philadelphia, in 1774.

When the Second Continental Congress met, in 1775, the revolutionary war had already begun. Now, in great emergencies somebody has to do things, and it was very natural that, in such an emergency as this, the Continental Congress should take it upon itself to do some things that needed very much to be done; but in sending delegates to this congress the colonists did not dream of setting up a new government.¹

¹To some extent we are likely to get a wrong impression on this matter, because we now associate the word "congress" with government. In 1775, however, the word had no such significance. As Professor Fiske has well remarked, if the colonists had thought they were setting up a government, they certainly would not have called it a congress.

As has already been said, they thought the colonial or state governments were all they needed.

The war with Great Britain brought the people of the different colonies into much closer association with one another than ever before, and in time they came to realize that there was great advantage in having all the colonies work together.

Articles of Confederation.—Just about the time the war closed a plan, proposed by the Continental Congress four years before, and called “Articles of Confederation and Perpetual Union Between the States,” was adopted. This league was made “for their common defense, and security of their liberties, and their mutual and general welfare.”¹ It was very soon found, however, that these objects were not being gained, and in a very short time another plan was formed, which clearly and unmistakably provided for a government of the United States “in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty.”²

This new plan was embodied in what has proved to be one of the most remarkable documents in the world,—the Constitution of the United States of America.

Constitution of the United States.—This document was drawn up by a convention of delegates from twelve³ of the thirteen original states which met in Philadelphia in 1787, and which included many of the foremost statesmen of the time. George Washington was its chairman. This plan was not invented by these delegates. It was modeled almost en-

¹ Articles of Confederation, Article III.

² Preamble to the Constitution.

³ Rhode Island failed to send delegates.

tirely on the governments of the states,¹ with modifications in many of the details, to fit it to the different circumstances. It is a notable fact that the few features which were not based on colonial experience, have proved failures.

“Connecticut Compromise.”—It was no easy task for these men to reach an agreement on the form of government. Naturally the small states feared they would come to be completely controlled by the large states, while the large states were unwilling to agree to any plan which should not allow more power in the new government to them than to the smaller states. For a long time it seemed as if no agreement could ever be reached, but at last a compromise was effected whereby, as we shall see, when we come to study that matter in detail, control of the new government should be placed in a legislative body of two branches, in one of which the small states should have equal power with the large ones, while in the other, the states should be represented in proportion to the number of their inhabitants.

“Three-Fifths Compromise.”—Another serious difficulty grew out of the fact that in the southern states there were large numbers of slaves, while slavery had almost died out in the north. As these slaves were not allowed a voice in the governments of the states where they lived, the northern delegates did not deem it fair to count them in determining a state’s share in the new government. It was finally decided that three-fifths of the slaves should be counted, both in this and in fixing each state’s contribution to the expenses of the national government.

Commercial Compromise.—Finally, there was great fear that, if the new government had power to control foreign commerce by a bare majority vote, the representatives of the

¹ This is one reason why some acquaintance with state government is desirable before one begins to study the government of the United States.

commercial states would manage this in their own interests, rather than in the interest of the agricultural states. The agricultural states therefore insisted that laws in control of commerce should be enacted only by a two-thirds vote. This would have made it impossible for any commercial restriction to be adopted which was not acceptable to the agricultural states.

The agricultural states finally yielded this point, however, in consideration of an agreement that there should be no interruption of the slave trade for twenty years, and that no duties should ever be levied on exports.

Adoption of the Constitution.—Since the people had so recently been unwilling to have any government but those of the states, it is not strange that, when they found a national government necessary, they should have wished to keep just as much power in the state governments as possible and yield just as little as possible to the national government. Consequently, when the constitution was made public, it was severely criticised, and it seemed very doubtful whether it would be adopted. It was proposed that the people of each state should hold a delegate convention, to discuss the matter and determine whether the state should ratify the constitution. If as many as nine states should ratify, it should go into effect so far as those states were concerned.

By June, 1788, eleven states had ratified, but most of them by very slender majorities, North Carolina had refused, and in Rhode Island no convention was held.

The industrial development of the country, and especially the building of railroads, has brought all parts of the United States into intercourse with one another, so that the importance of the national government has come, in the minds of many people, to overshadow that of the state governments; but there can be no doubt that in 1788 a majority of the

people in the United States were opposed to the adoption of the constitution. Nevertheless, the new government went into operation on the fourth of March, 1789, and in course of the following year, North Carolina reconsidered her rejection of the constitution, and Rhode Island gave her tardy consent.

Success of the New Government.—The federal government, when it had actually gone into operation, proved far more satisfactory than had been anticipated. Doubtless the high character and statesmanship of some of the men, like Washington, Jefferson, and Chief Justice Marshall, who were prominent in its beginnings, had something to do with this. But of even more importance was the fact that the people found that their liberties were not threatened by the new government to the extent they had feared. The reason for this was that most of the matters which enter into people's everyday life were controlled by the state governments,¹ and the state governments were changed but very little indeed by the revolution.

¹ See pages 38, 39.

CHAPTER XIII.

THE CONGRESS OF THE UNITED STATES.

In the first chapter we saw that some things can be accomplished best by the co-operation of all the people in a community, other things by the co-operation of several communities, and still others by the whole nation.

At first the people of this country thought chiefly of foreign affairs and of relations of one state to another as the things that could be best managed through the co-operation of the whole nation. But as people in different parts of the country came to have more and more to do with one another, they realized that there were certain matters which it was very desirable to have uniform throughout the country, but which would probably be very diverse if each state managed them independently. We shall presently see more in detail what these things were, but first let us see how the government of the United States, or as it is often called, the federal government, is carried on.

The Federal Government Wholly Indirect.—We saw that the government of the state and of the county, and the city, and the school district are mainly representative, though in some respects they are also direct or democratic, and the adoption of the initiative and referendum makes these governments much more democratic than they were before. When, however, we come to the government of the United States, we do not find any features of direct government at all. There are no questions about the federal government submitted directly to the people for their decision, and there

are no officers of the executive or judicial departments of that government chosen directly by the people. Indeed, we cannot say that it is even a representative government in so complete a sense as the state and local governments are, for even some of the representatives are chosen in so round-about a way that the people do not have a chance to express their choice.

The Congress.—The persons who decide what shall be done by the government of the United States, constitute what is called Congress. Like the legislative assembly, this Congress consists of two branches, known as the House of Representatives and the Senate; but in some respects this Congress is very unlike the legislative assembly.

The House of Representatives.—The House of Representatives is the branch which is intended to represent the people. At the general election the voters in each state elect the representatives, for the term of two years. The number of representatives to be chosen in any state depends on the number of inhabitants, except that every state, however small its population, has at least one representative.

As the number of inhabitants changes, so every ten years, after the census has been taken, the representation is re-arranged. The Congress itself determines what the total number of representatives shall be. At present the number is 386,¹ and that will continue to be the number till after the census of 1910, except as new states may be admitted to the union. The less populous states, like Nevada, Delaware, Montana, and some others, have each one representative, and at the other extreme, the great state of New York has thirty-seven.

In a state which is entitled to more than one representative,

¹ This is as nearly as possible one representative to 194,182 inhabitants.

the voters do not usually vote for several representatives, but the legislature generally divides the state into as many congressional districts as the number of representatives, trying to make the districts all as nearly equal in population as possible, and the voters of each district choose one representative.¹

Naturally we should expect that these districts should be arranged just as compactly as possible, but sometimes the party which is in the majority in a legislature tries to arrange the districts so that just as many as possible shall elect representatives of that party, and in doing this they sometimes make districts of a very odd shape. This practice is called Gerrymandering (hard g) from a certain Elbridge Gerry, who is said to have been prominent in such a scheme.

To be a representative in Congress one must be at least 25 years old, an inhabitant of the state in which he is chosen, and for seven years a citizen of the United States.

The Senate.—The Senate is composed of two senators from each state, no matter how large or how small the state may be. This fact makes the Senate very imperfectly representative, since some of the states are much more populous than others.² What makes the Senate most unrepresentative is the fact that the senators are chosen not by the people, but by the legislatures of the states. Many efforts have been made to change this plan, and have the senators chosen by

¹ After each census Congress passes an apportionment law, declaring how many representatives each state shall have for the next ten years. Sometimes it happens that after this law is passed, a legislature does not meet again before the next election, so that there is no chance to redistrict the state. In such a case, if the number of representatives for a state is increased, all the voters in the state vote for as many representatives "at large" as have been added by the new law, besides voting for the district representatives. If the law diminishes the number of representatives for a state, all the representatives of that state have to be elected "at large" till the legislature redistricts the state. Owing to changes in the population of different sections of the states, legislatures usually redistrict their states after every census, even in states the number of whose representatives is unchanged.

² This is part of the "Connecticut Compromise" mentioned in the last chapter.

the people, but this would require an amendment to the constitution of the United States. As we shall see when we come to study that matter, the Senate itself has something to do with amending the constitution, and a number of senators who fear that they would not be able to hold their positions if the people of their states had a voice in the matter, have always been able to prevent the passage of any such amendment. In some states an effort has been made to accomplish the same result by giving the voters an opportunity to express their choice for senator, and getting the members of the legislature to promise to vote for whatever person is shown to be the choice of the voters.

Cumulative Voting.—Even the House of Representatives is not perfectly representative. For instance, it would seem fair, in a state where the two parties are almost even in numbers, if there were seven representatives, that four should be of one party and three of the other. It will be found, however, in many cases that six or seven may be of the same party, if the voters of the different parties happen to be pretty evenly distributed about the state. Several plans have been proposed to remedy this injustice. One is the plan of cumulative voting, such as is practiced in Illinois in choosing members of the legislature. This requires a division of the state into large districts, each of which chooses three representatives; each voter may then vote for three representatives, but he may cast one vote for each of three candidates, or two for one and one for another, or one and a half votes for each of two, or three votes for one candidate. Unless more than two-thirds of the voters belong to one party, this usually results in the election of two representatives of one party and one of the other. One objection to this plan is that it is difficult to apply it to any state

where the number of representatives is not an exact multiple of three.

Proportional Representation.—Another plan is known as proportional representation. Under this plan a state would not be divided into districts, but each party would nominate as many candidates as the whole number of representatives to which the state was entitled. If, for example a state was entitled to seven representatives, each voter would vote for seven candidates, and also indicate the party of his choice. Then each party would have such proportion of the representatives as the number of votes for that party bore to the whole number of votes in the state. Suppose 250,000 votes were cast, of which 100,000 were republican, 70,000 democratic, 40,000 socialist, 50,000 prohibitionist, and 10,000 populist. Then the three highest republican candidates, the two highest democratic candidates, the highest socialist candidate, and the highest prohibitionist candidate would be elected.

Senatorial Terms.—The senators' terms are for six years, and they are divided into three classes, so that the terms of one-third expire every second year, and the terms of the two senators from any one state do not expire at the same time. When a new state is added, the two senators are assigned to classes in such a way as to keep all the classes as nearly even in numbers as possible, and then the two senators draw lots to determine which shall enter the class whose terms expire sooner and which the other.

To be a senator one must be at least 30 years old, an inhabitant of the state in which he is chosen, and for nine years a citizen of the United States. When a vacancy occurs in the House of Representatives, a special election is held in the state or district concerned. When there is a vacancy in the Senate, the state legislature elects a senator to fill

the vacancy, and if the legislature does not happen to be in session at the time, the governor of the state appoints a senator to serve till the next session of the legislature.

APPORTIONMENT OF REPRESENTATIVES IN CONGRESS.

| | | | |
|---------------|----|----------------|-----|
| Alabama | 9 | Nevada | 1 |
| Arkansas | 7 | New Hampshire | 2 |
| California | 8 | New Jersey | 10 |
| Colorado | 3 | New York | 37 |
| Connecticut | 5 | North Carolina | 10 |
| Delaware | 1 | North Dakota | 2 |
| Florida | 3 | Ohio | 21 |
| Georgia | 11 | Oregon | 2 |
| Idaho | 1 | Pennsylvania | 32 |
| Illinois | 25 | Rhode Island | 2 |
| Indiana | 13 | South Carolina | 7 |
| Iowa | 11 | South Dakota | 2 |
| Kansas | 8 | Tennessee | 10 |
| Kentucky | 11 | Texas | 16 |
| Louisiana | 7 | Utah | 1 |
| Maine | 4 | Vermont | 2 |
| Maryland | 6 | Virginia | 10 |
| Massachusetts | 14 | Washington | 3 |
| Michigan | 12 | West Virginia | 5 |
| Minnesota | 9 | Wisconsin | 11 |
| Mississippi | 8 | Wyoming | 1 |
| Missouri | 16 | | |
| Montana | 1 | Total | 386 |
| Nebraska | 6 | | |

CHAPTER XIV.

HOW THE CONGRESS WORKS.

Organization of Congress.—The organization of the Congress is very much like the organization of the legislative assembly. The House of Representatives chooses one of its own members as speaker, and elects all other officers. The vice-president of the United States presides in the Senate, but in his absence the Senate chooses some senator as president pro tempore, and it also chooses all its other officers.

Each house of the Congress decides any disputes about the elections and qualifications of its members, makes its own rules of procedure, has power to punish its members for disorderly conduct, and may expel a member by a two-thirds vote. In order to secure as much freedom as possible for senators and representatives in the discharge of their duties, they are privileged from arrest during the sessions of Congress, except for treason, felony, or breach of the peace; and they cannot be called to account outside of Congress for any speech made there.¹

Committee System.—The committee system, of which we learned in connection with the legislative assembly, is also the system by which Congress works. The committees have really very much more power in Congress than in state legislatures, for the number of bills introduced in Congress is so very large that only a small portion of them are ever reported back to the house at all. Naturally, the committees

¹That is, they cannot be subjected to any legal penalty. People may criticize them and vote against them at the next election because of speeches made in Congress.

report only such bills as they favor, though they may be required by a vote of the house to report a particular bill.

Law-Making.—The method of enacting laws in Congress is also very similar to that in the legislative assembly. To become a law a bill must be passed by both houses and receive the approval of the president of the United States, unless the president keeps the bill for ten days without either approving it or vetoing it. If he vetoes a bill, it fails unless repassed by two-thirds of both houses, and all bills left in his hands unsigned when Congress adjourns, fail.

Some other differences in procedure may also be noted. Bills which do not appropriate money or provide for raising money, may be passed without coming before the committee of the whole, and the passage of bills is often by viva voce vote, the yeas and nays being taken only when demanded by one-fifth of the members present. The membership of the House of Representatives is so large that a roll-call consumes a long time. Members who are opposed to a bill which seems likely to be passed, sometimes take advantage of this fact to demand a roll-call on every motion, especially towards the close of the session, for the purpose of delaying matters, in hope that the time for adjournment will come without the obnoxious bill having passed. This is one of the practices known as filibustering.

The body of men composing the House of Representatives and the Senate for a period of two years from the 4th of March in an odd-numbered year, is known as a Congress, and is designated by a number. The Congress from March 4, 1789, to March 4, 1791, was the 1st Congress; that from March 4, 1807, to March 4, 1809, the 60th, etc.

Sessions of Congress.—The Congress holds one session every year, beginning on the first Monday of December, and the president of the United States may call a special session

at any time. The regular session beginning in December of an odd-numbered year, usually lasts on well into the following summer, and is commonly called the long session. But the short session, beginning in December of an even year, cannot last beyond the 4th of the following March, because the terms of the representatives all expire at that time. The sessions of each Congress are also numbered. The session beginning December 3, 1906, was the second session of the 59th Congress.

The present plan about the meetings of Congress is another thing which makes the Congress unrepresentative. The representatives elected in November do not begin their terms until the following March, and unless there is a special session, they do not assemble till the next December,—more than a year after their election. By this time matters may have so changed that these men have quite ceased to represent public opinion on many important issues. What makes things still worse is that the old Congress holds another session after the election, though it may, at that election, have been utterly repudiated by the voters.¹

Records of Congress.—Like the legislative assembly, each house of the Congress keeps and publishes a journal of its proceedings, and there is also a bulky publication called the Congressional Record, which is printed every day while the Congress is in session, and at the end of the session the daily numbers are collected and bound in huge volumes. The Record contains not only an account of the business transacted, but full reports of the discussions and debates, including not only the speeches actually delivered, but many others which senators and representatives have prepared but which there has not been time for them to deliver.

¹ Could any change in the time for the meeting of Congress improve this? Is there any reason why Congress should meet in winter rather than in summer?

The acts passed at each session of Congress are printed after Congress has adjourned, but the laws of the United States have never been completely codified.

Congressional Salaries.—The senators and representatives receive regular salaries, fixed by law. At present the salary is \$7,500 per year, with an allowance of \$125 for stationery, and mileage at the rate of ten cents per mile for the distance between the capital and the member's home, paid at the beginning and end of each session of Congress. The salary of the speaker is \$10,000 and the president pro tempore of the Senate receives the same salary when there is no vice-president. No person who holds any office under the United States can be a member of Congress, and no member of Congress can, during the term for which he is elected, be appointed to any government office which has been created or whose emoluments have been increased during his term.

Power of the Speaker. —The large membership of the House of Representatives makes it very difficult for any member to secure the floor so as to offer a motion. This fact gives the speaker great power, since, when several persons rise at once to address the house, only the one whom the speaker recognizes can obtain the floor. As so many persons desire this recognition whenever an opportunity occurs, it is seldom possible for a member to secure recognition except as the result of a previous arrangement with the speaker. It is often very difficult, therefore, for any bill to which the speaker is opposed, even to get before the house.

Another result of the large membership of the House of Representatives is that there is time for only a very small proportion of the bills introduced ever to be considered. Consequently the committee on rules prepares a program for each day, directing what bills shall be taken up, how much

time shall be given to them, and when they shall be brought to a vote. As the speaker is chairman of this committee, great power is in his hands. While the house may vote to reject a report of the committee on rules, yet members who must frequently seek the speaker's favor hesitate to take such a course. When it is remembered that the speaker also appoints all the committees in the house, it will be seen that his power in controlling legislation is very great.

The large membership of the house also makes it necessary to limit debate very closely; otherwise it would be impossible to transact any business. The result is that a comparatively small number of the representatives ever take any actual part in debate. When a bill is under consideration, the time allotted for debate is divided between the friends and opponents of the bill, and this time in turn is given to a very few of the leaders of each side.

Freedom of the Senators.—In the Senate the situation is different, and there is no limit to the time that may be occupied. When a senator gets the floor, he may occupy it as long as he is physically able. Sometimes advantage is taken of this fact to “talk a bill to death” by preventing it from coming to a vote.

CHAPTER XV.

FOREIGN AND INTERSTATE RELATIONS.

We have already noticed that the matters which the federal government cares for are chiefly relations of this country with foreign countries, relations between different states, and the management of affairs which need to be uniform throughout the country. We may now give more particular attention to these matters.

War Powers.—In the first place, Congress determines what the relations with other countries shall be,—whether peaceful or otherwise. The power to declare war rests with Congress.

Naturally Congress is also the body which provides for the carrying on of a war. For this purpose it provides for the raising and supporting of armies and a navy, and makes the rules for the government and regulation of the land and naval forces. It also provides for calling forth the militia, but only for the purpose of executing the laws of the Union, suppressing insurrections, and repelling invasions. Congress provides for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States. Each state, however, appoints the officers of its militia, and provides for training the militia according to the discipline prescribed by Congress.

Congress has power to grant letters of marque and re-

prisal,¹ but these have almost passed out of use. Congress does, however, make rules concerning captures on land and water. The present rules are that captures on land become the property of the government; captures on the water are sold under authority of the United States District Court; the proceeds are divided among the victorious crew in proportion to the service pay of each, if the captured vessel is of equal rank with the captor; if its rank is inferior, one-half is paid to the government.

Akin to these powers is the power of Congress to define and punish piracies and felonies committed on the high seas, and offences against the law of nations. States bordering upon the seacoast have jurisdiction only to the low-water mark. The term "high seas" means the region beyond this. The expression "law of nations" is also a technical term; it means international law.

Control of Commerce.—One of the most important relations with foreign countries is that of a commercial character. "In the regulation of foreign commerce, Congress has enacted measures for the protection of shipping, by the maintenance of light-houses, buoys, and life-saving stations." Congress also prescribes regulations under which vessels engaged in foreign commerce enter and clear ports. Vessels registered in the United States are entitled to protection by the government of the United States wherever they go. Only vessels owned by citizens of the United States and built in this country are now admitted to register. Foreign vessels are not permitted to engage in the coasting trade.

Immigration.—Immigration of foreigners to the United States is regulated by Congress. Present laws forbid the immigration of Chinese, and of convicts, anarchists, insane

¹ Commissions issued to private persons, usually captains of merchant vessels, authorizing them to capture the property of the enemy. This practice is known as privateering.

persons, paupers and those liable to become paupers, polygamists, persons having contagious diseases, and laborers under contract to perform labor in the United States; but persons engaged in the professions, and skilled laborers employed in the establishment of new industries are admitted.

“Protection.”—In the exercise of its power Congress is forbidden by the constitution of the United States to give any preference to the ports of one state over those of another. Congress is also forbidden to lay any tax or duty on articles exported from any state. But Congress exercises a powerful influence on commerce by imposing duties on the importation of goods from abroad. This is done not only for the purpose of raising money, which we shall consider in another connection, but also for the purpose of discouraging the importation of foreign goods.

The object of this is to lead people to purchase goods produced in this country, and because it seeks thus to “protect” home industries, the policy is commonly known as “protection.” In an earlier stage of the country’s development, this probably hastened to some extent the progress of industrial enterprise in this country. Now that it has ceased to be necessary, and also enormously increases the cost of living, those who profit most directly by the system have become so powerful that it is not only impossible to do away with the system, but it seems almost impossible to get Congress to give any attention even to modifying some of the most burdensome and unquestioned abuses of the system.

Interstate Commerce.—The relations between the states are likewise very largely of a commercial character. Congress has power to regulate commerce between the states. Up to the present time Congress has done very little in the way of regulating interstate commerce on land. The coast trade and the traffic on navigable rivers are controlled by

Congress, and large amounts of money have been appropriated for the improvement of harbors and navigable rivers, to render them more useful for commerce.

The greater part of the commerce between states is carried on by railroad. Such as is confined within the limits of a single state is subject only to the control of that state,¹ but when a journey or a shipment of property begins in one state and passes into another, it comes under the control of Congress. Prior to 1887 Congress did not undertake to control railroad transportation. In that year the interstate commerce act was passed, which was designed to remedy some of the most flagrant abuses of railroad management, placing the enforcement of the law largely in the hands of a body of men to be known as the Interstate Commerce Commission. The powers of this commission proved to be so limited, however, that little or nothing was ever accomplished aside from compelling, after almost interminable delays on every sort of pretext, the use of a few safety appliances in the operation of the railroads. The 59th Congress passed a new act intended to strengthen the commission, and particularly to empower it to establish maximum rates. The new law, however, still hedges the commission about with so many restrictions as to make effective use of this power very difficult.

Interstate Comity.—Some of the relations between states are defined by the Constitution, but Congress has power to carry these provisions into effect. For example, the Constitution provides that full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state. But Congress prescribes the manner in which such acts, records and proceedings shall be proved.

The citizens of each state are entitled to all the privileges and immunities of citizens in the several states. A person

¹ See page 61.

charged with crime in one state, who flees from justice and is found in another state, must, on demand of the governor of the state from which he fled, be delivered up to be removed to the state having jurisdiction of the crime. This is called extradition.¹

Prior to the abolition of slavery it was also the duty of the federal government to provide for the return of fugitive slaves to the states from which they had escaped.

¹Treaties with most foreign nations also provide for extradition of criminals who flee abroad, and for the return of criminals who escape to this country. These treaties specify the crimes for which persons may be extradited, and the United States refuses to return "political prisoners"—that is, persons who are not guilty of any crime but are accused of conspiring to overthrow a despotic government. Many of our most valuable citizens have been these political refugees.

CHAPTER XVI.

THINGS THAT MUST BE ALIKE.

Money.—Of the matters which are controlled by the federal government because of the necessity of their being uniform throughout the country, the following are the most important:

Congress has power to coin money, regulate the value thereof and of foreign coin, and fix the standard of weights and measures. In pursuance of the last purpose Congress has established a national standardizing bureau, with a laboratory at which the standards used in all the applied sciences are kept.

Gold Money.—Under the present laws gold is freely coined by the United States government. That is, all the gold that is offered at the mints is coined into double eagles, eagles or half eagles, at the rate of 23.22 grains of pure gold to the dollar. As pure gold would be too soft for coins, it is alloyed in the proportion of one part of copper to nine parts of gold. For the copper a small charge is made at the mint. The result of all this is plain. So long as anyone having gold bullion can take it to the mint and have it coined into money at the rate of one dollar for every 23.22 grains, the price of 23.22 grains of pure gold can never fall below one dollar.

Silver Money.—Up to 1873 silver was likewise freely coined, the standard coin being the dollar of 371.25 grains of pure silver, and like the gold coins, nine-tenths fine. As 371.25 grains is nearly sixteen times 23.22 grains, the two

metals were said to be coined at the ratio of 16 to 1. So long as this law was in effect the price of silver could, of course, never be less than one dollar for 371.25 grains. In 1873, however, the law was repealed, and no silver was then coined till 1878, when a new law provided for a limited coinage of silver. This law has since been repealed, and no dollars are now coined except what may be necessary to redeem certain certificates which will presently be described. For purposes of small change a limited amount of silver is coined into half-dollars, quarter-dollars and dimes. These coins are lighter than the corresponding fractions of a silver dollar, in order to make it unprofitable to melt them or export them. A five-cent piece, weighing 77.16 grains, is coined of three-fourths copper and one-fourth nickel. A one-cent piece is coined which weighs 48 grains, and is composed of 95 per cent. copper and 5 per cent. tin and zinc. The gold coins and the dollar are legal tender¹ to an unlimited amount; the smaller silver coins to the amount of ten dollars, and the five and one-cent pieces to the amount of 25 cents. The government has mints at Philadelphia, New Orleans, San Francisco and Denver.² The mints at Carson City, Nevada, and Dahlonega, Georgia, have been abandoned.

Paper Money.—Besides the metallic money, the government of the United States issues several sorts of paper money. Anyone may deposit silver dollars in the treasury of the United States and receive silver certificates in denominations of one, two, five, or ten dollars. As the silver dollars are kept in the treasury to redeem the certificates, the certifi-

¹That is, by offering them in payment one may legally discharge a debt. A debt may be paid with other things than legal tender if the creditor is willing to accept them. But if he refuses anything which is legal tender, the debtor is released from his obligations.

²Coins having a small "s" at the bottom on the reverse side were coined at the San Francisco mint, those with "o" at New Orleans, and those with "cc" at Carson City. Coins without a mint mark were struck at Philadelphia.

cates circulate as money. Likewise gold coins may be deposited in the treasury and gold certificates in denominations of not less than ten dollars received in exchange.

“Greenbacks.”—During the civil war the government found it very difficult to raise sufficient revenue to meet its extraordinary expenses. Consequently large numbers of promissory notes payable to the bearer were issued and paid out in exchange for supplies. It was expected that when the war should cease and the expenses of the government be diminished, these notes would be paid in coin, and the greater part of them were so paid off; but it was found that the rapid paying off of these notes and the consequent reduction of the amount of money in circulation, had a very injurious effect on business by causing a fall of prices. It was also found that the notes answered every purpose of money, and consequently it was decided to leave nearly \$347,000,000 of them in circulation. From the fact that, when these notes were first printed, the reverse side being green, they presented a novel appearance, they became popularly known as greenbacks,—a name which is still applied to them, although there are now other sorts of money that have a similar appearance.

Treasury Notes.—When the law providing for the limited coinage of silver dollars was repealed, another law took its place, which directed the secretary of the treasury to buy four and one-half million ounces of silver bullion per month, at market prices, and pay for it with notes, which are known as treasury notes of 1890. This law was repealed three years later, but many of the notes are still in use.

Bank Notes.—Under the present laws banks are not permitted to issue circulating notes except after depositing with the treasurer of the United States, bonds of the United States in amount equal to the amount of notes, and keeping

constantly on deposit in the United States treasury money equal to 5 per cent. of their notes, to redeem any that may be presented for payment. These precautions make the payment of bank-notes so nearly certain, that the notes pass readily as money throughout the country, though they are not legal tender.

Postoffices.—One of the most important services performed by the federal government is the “establishment of postoffices and post-roads.” What has been done in this direction we shall see when we study the executive department of the government.

Patents and Copyrights.—Under the clause of the Constitution which empowers Congress “to promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries,” the patent and copyright laws have been enacted.

On payment of a very small fee and compliance with simple regulations, the author or designer of a book, map, picture or other work of art may have the sole right to make and sell copies of the work for 28 years; and a renewal may then be had for fourteen years more.

An inventor, on payment of a fee of \$35, may receive a patent granting him the sole right to make and sell his invention for seventeen years. If the inventor does not receive an adequate return in that time, a patent may be extended for seven years more.

Naturalization.—Another thing which it is highly important to have uniform throughout the United States is citizenship. The Constitution of the United States declares (Amendment XIV.) that “all persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein

they reside." Congress prescribes the conditions under which foreigners may be naturalized. The present laws do not permit of the naturalization of Chinese, Japanese and Burmese.¹ But natives of other countries may be naturalized after living in this country five years, provided they have, at least two years before, filed a formal declaration of intention to become citizens, and take an oath of allegiance to the United States, at the same time renouncing all allegiance to any foreign government. Some recent changes in the law, which require applicants to answer certain questions and sign their papers, make it impossible for persons to be naturalized who are not able to read, write, and speak the English language to some extent. The naturalization of a man makes his wife and his children under 21 years of age citizens at the same time.

Bankruptcy.—Congress also has power to pass uniform laws on the subject of bankruptcy. The present law permits a person who owes a debt to become a voluntary bankrupt, and one who owes a debt to the amount of \$1,000 may be adjudged an involuntary bankrupt after an impartial trial. A bankrupt's property is divided proportionally among his creditors, and he is released from further legal obligations to them.

Further Uniformity.—There is very much more intercourse between different states now than there was when the Constitution was made. Consequently there are many things which it would be very desirable to have uniform throughout the country which were not material a hundred years ago. One of the most important of these is the law in regard to marriage and divorce, which is now very different in some states than in others. Proposals have been made to amend the Constitution of the United States so as to bring this

¹ But their children, if born in the United States, may be citizens.

matter within the power of Congress. This movement has not made much headway. The fact is that, so long as Congress continues to be so unrepresentative a body as it is, there is very little likelihood of success in any movement intended to increase the power of Congress.

Regulation of Corporations.—Federal regulation of life insurance companies, and indeed of all corporations, is desired by many people, for the sake of uniformity. Another reason urged is the fact that, since Congress has the sole power to regulate interstate commerce, a corporation organized in any state may extend its business into all other states, and the citizens of these states are helpless to protect themselves against many abuses of corporate power.

Furthermore, strict regulation in some states may result in manufacturing enterprises centering in states whose regulations are looser. For instance, it is feared that such restriction of child labor as is desired in those states where public sentiment is most enlightened, might tend to drive all the cotton-mills into such states as permit child labor without restriction, and thus the real purpose of the laws be thwarted. For this reason many people urge upon Congress the restriction of child labor by national law.

CHAPTER XVII.

FEDERAL FINANCE.

We come now to some other powers of Congress which do not seem to be within the limits of the division which we have noticed between the federal government and the states. While they may not be classified directly under the head of matters in regard to relations of states with each other and with foreign countries, nor matters which must be uniform throughout the country, yet indirectly they are within these limits, because the powers already named could not be effectively exercised and an efficient government maintained without these powers which are now to be named.

Taxation.—The first of these is the power of taxation. No government can be effective without this power. The experience of the United States under the Articles of Confederation proved this. So when the Constitution was formed care was taken to provide for the exercise of the taxing power.

Congress has the power to levy taxes of every sort, except duties on exports. In levying other taxes there are only two limitations: 1st, they must be uniform throughout the United States; 2d, direct taxes must be apportioned among the different states in proportion to their population. That is, if direct taxes are levied, they must be assessed in such a way that just twice as much money will be raised in a state having a population of two millions as in a state having a population of one million, for instance. This is so very

inconvenient that Congress has undertaken only two or three times to levy direct taxes, and the income of the government is now derived entirely from indirect taxes. These are of two general sorts, known as internal revenue and import duties, and about one-half of the revenue is derived from each source. For the year ended June 30, 1906, the income of the federal government was as follows:

| | |
|---|---------------|
| From duties on imports..... | \$300,251,878 |
| Internal revenue | 249,150,213 |
| Postal service | 167,932,783 |
| Miscellaneous (fees, land-sales, and various items) | 45,052,031 |
| | \$762,386,905 |

The receipts from internal revenues were made up of taxes on the following items:

| | |
|---|---------------|
| Distilled liquors | \$143,394,055 |
| Fermented liquors | 55,641,859 |
| Tobacco | 48,422,997 |
| Oleomargarine | 570,038 |
| Miscellaneous (playing-cards, penalties, etc.)... | 1,121,264 |

Duties.—Duties on imported goods are of two sorts: Specific duties, which are levied on certain units of measurement, as 1½c per lb. on tin plate; and ad valorem duties, which are some percentage of the value of the article. Sometimes both duties are levied on the same article, as for example, tapestry Brussels carpets are taxed 28c per sq. yd. and 40 per cent. ad valorem in addition. Duties are levied on an immense variety of products, but the largest items are the following (year ended June 30, 1906):

| | |
|--|--------------|
| Sugar and molasses..... | \$52,594,732 |
| Manufactures of cotton..... | 33,349,342 |
| Tobacco and manufactures of tobacco..... | 23,927,701 |
| Silk manufactures and silk..... | 17,351,095 |
| Wool | 17,783,646 |
| Manufactures of wool..... | 20,185,049 |
| Manufactures of flax and hemp..... | 15,754,570 |
| Liquors | 13,528,213 |
| Manufactures of iron and steel..... | 9,437,918 |

These items account for more than two-thirds of the duties. Under the present laws about half the goods imported are dutiable, and not quite half are free of duty. In the year ended June 30, 1906, dutiable goods to the value of \$676,938,568 were imported, and goods free of duty which were valued at \$549,623,878.

The principal items imported free of duty were, in millions of dollars:

| | | | |
|--------------------------|----|-----------------|----|
| Coffee | 73 | Diamonds | 11 |
| Silk | 54 | Chemicals | 49 |
| Rubber | 45 | Tin | 31 |
| Hides | 62 | Cotton | 12 |
| Fibers (manila, etc.)... | 36 | Tea | 15 |
| Fruits and nuts..... | 13 | Furs | 13 |

A peculiar provision of the Constitution is that all bills for raising revenue must originate in the House of Representatives, but the Senate may propose or concur in amendments, as on other bills.

Appropriations.—Congress likewise has entire control of expenditures. No money can be drawn from the treasury except by appropriations made by law. The total expenditures of the federal government for the year ended June 30,

1906 were \$736,717,582. The following are the principal items, in millions of dollars: Postoffice, 182, pensions, 141, war department, 120, navy, 111, interest, 24.

National Debt.—If the revenues are not sufficient, Congress has power “to borrow money on the credit of the United States.” Towards the close of the civil war the public debt reached the enormous total of more than two and two-thirds billions. It was reduced by 1893 to less than \$839,000,000. June 30, 1907, it was \$894,834,280. The credit of the United States government is now so good that the Treasury Department can borrow money at a very low rate of interest. Nearly three-fourths of the present debt bears only two per cent. interest, and the rest bears only three or four per cent.

CHAPTER XVIII.

TERRITORIES OF THE UNITED STATES.

National Capital.—In order to conduct its business the government must have some special center, and it is very desirable that the place occupied as the seat of government should be outside the jurisdiction of any particular state. Congress therefore has power “to exercise exclusive legislation in all cases whatsoever over such district (not exceeding ten miles square) as may, by cession of particular states, and the acceptance of Congress, become the seat of government of the United States, and to exercise like authority over all places purchased, by the consent of the legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dock yards, and other needful buildings.”

In 1800 the District of Columbia, a tract of land ten miles square, lying on both sides of the Potomac, ceded to the federal government by Maryland and Virginia, became the seat of government. The portion on the Virginia side of the river, about one-third of the whole, was afterwards receded to Virginia. The city of Washington was established as the capital, and Georgetown was its suburb. Now, however, Washington has been extended to include the whole district. Since the district is not a part of any state, all the laws of the district are made by Congress. Under its present rules, bills reported by the committee on the District of Columbia have precedence on the second and fourth Mondays of each month in the House of Representatives. The gov-

ernment of the district is administered by the commissioners, two of whom are appointed by the president of the United States for three years, and the other is an officer of the engineers of the army detailed by the president. Half the expenses are met from the national treasury, and half from taxation of the property owners of the district.

National Domain.—After a government has been established it naturally comes into possession of considerable property which it holds in trust for the people of the country. To care for this property the government must have power to control it completely. Partly by cessions on the part of the original states of their western lands, and partly by treaties with foreign nations, the United States at different times came into possession of nearly all the land between the Alleghany mountains and the Pacific ocean, as well as Florida and Alaska, and later of the Hawaiian islands, Porto Rico, Guam, and the Philippines. The Constitution empowers Congress to “dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States.”

Territories.—No definite policy has been adopted with reference to the remote possessions,¹ but in those on the American continent, as well as in Hawaii and Porto Rico, the policy has been to commit the government very largely to the inhabitants. A territorial government is established in accordance with an act of Congress known as an organic act. In most instances there is a legislature of two houses,

¹ The government of the Philippine Islands is vested in (1) a governor, appointed by the president of the United States; (2) a council composed of the governor, the secretary, the attorney general, the treasurer, the auditor, the commissioner of education, the secretary of the interior of the Philippines, and five natives appointed by the president of the United States; (3) a house of delegates, thirty in number, elected for terms of two years by such inhabitants, 21 years of age or older, who have lived in the islands one year, and either own taxable property or can read and write Spanish or English. The Sulu Islands are not included in this scheme. Tutuila and Guam are still subject to naval authority.

chosen by the voters of the territory and having powers carefully defined by the organic act,—a governor, a secretary, and several judges, appointed by the president of the United States. Such local offices as the legislature may establish are filled chiefly by elections in the territory. The voters of the territory also elect a delegate to Congress, who has all the privileges of a member of the House of Representatives except that he has no vote in Congress. There are now six of these territorial governments,—New Mexico, Arizona, Oklahoma, Porto Rico, Hawaii, and Alaska. Alaska has no legislature, and in Porto Rico the members of the smaller branch of the legislature are appointed by the president of the United States. In some respects Congress treats Porto Rico as a foreign country, taxing all goods shipped between Porto Rico and other parts of the United States 15 per cent. of the duties which would be paid if the goods were imported from abroad.

New States.—It has always been the policy of the United States to encourage the inhabitants of the territories to expect that their territories would be admitted to the union as states as soon as they were fairly well settled, and twenty-seven¹ states have already been formed in this way. It is sometimes supposed that a territory is entitled to admission as soon as its population is as large as the number which constitutes the ratio of representation in the House of Representatives. But there is no rule about the matter, and many territories had a much larger population before they became states. The Constitution gives Congress complete control of the admission of new states, subject only to the provision that “no new state shall be formed or erected

¹ Congress has also passed an act for the admission of the state of Oklahoma, formed by uniting the territory of Oklahoma and the Indian Territory, but at this date (August, 1907) the admission has not yet been effected.

within the jurisdiction of any other state, nor shall any state be formed by the junction of two or more states or parts of states, without the consent of the legislatures of the states concerned, as well as of Congress." Besides the twenty-seven states formed from territories, Congress has admitted five others: Kentucky and West Virginia were both formed by dividing Virginia, and Maine by dividing Massachusetts; Vermont had maintained a government of its own independently for some time, though it was claimed by both New Hampshire and New York; Texas was annexed to the United States, having previously been a foreign nation.

Public Lands.—In regard to the lands included in the public domain, it has always been the policy of our government to encourage settlement by offering public lands on very easy terms to those who would establish homes upon them. As preliminary to this the lands are surveyed according to a very simple system. Starting from some convenient parallel of latitude known as a "base line," parallel lines are surveyed north and south of this line at intervals of six miles. Intersecting lines six miles apart are also run on the east and west sides of certain "principal meridians." Thus the lands are divided into "townships" numbered north or south of the base line, and lying in "ranges" which are numbered east or west of the meridian. Thus, for example, most of the city of Butte lies in Township 3 north, Range 7 west of the Montana meridian. Glendive is in Township 16 north, Range 55 east. The townships are subdivided into thirty-six sections, each of which of course contains just one square mile. These sections are always numbered in a certain order shown in this diagram. Thus it is possible exactly to locate any farm by a very simple description; the forty acres indicated by the dark square would be de-

scribed as the northeast quarter of the northwest quarter of section seventeen, of whatever township and range it might be.

| | | | | | |
|----|----|----|----|----|----|
| 6 | 5 | 4 | 3 | 2 | 1 |
| 7 | 8 | 9 | 10 | 11 | 12 |
| 18 | 17 | 16 | 15 | 14 | 13 |
| 19 | 20 | 21 | 22 | 23 | 2 |
| 30 | 29 | 28 | 27 | 26 | 25 |
| 31 | 32 | 33 | 34 | 35 | 36 |

Land Grants.—Besides the lands given to settlers, vast tracts of the public domain have been donated to railroad companies, in order that by the proceeds of the sales of the lands the companies might build lines of railroad, chiefly from the Mississippi river westward toward the Pacific coast.

Reserves.—By far the greater part of the public domain has now passed into the hands of private owners. Recently more attention has been paid to preserving the forests, especially about the head waters of the great rivers, and large forest reserves are permanently held by the government. The government seems likely also to retain such coal lands as still remain a part of the public domain. Some parts of the public domain have also been set aside as national parks, such as the Yellowstone Park in Wyoming on the borders of Montana and Idaho.

CHAPTER XIX.

GENERAL POWERS AND RESTRICTIONS.

The "Elastic Clause."—Finally we must notice the general summary by which the Constitution declares that Congress shall have power "to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the government of the United States or in any department or officer thereof." This is often called the elastic clause of the Constitution, because it may be held not to confer any powers which Congress would not have without it, while on the other hand it may be "stretched" so as to give Congress a great deal of additional power. It is sometimes said that the interpretation of this clause is the basis of the division of our people into political parties, according as they take this clause strictly or loosely. It would be more nearly correct to say that political parties (which are divided largely by economic causes) find it convenient to adopt either a strict or a loose construction of this clause according as their interests may seem to require.¹

Prohibitions on Congress.—We must now notice a few things that are distinctly forbidden by the Constitution to the federal government. Besides the limitations already

¹ During the first century of the republic the democratic party rather tended to strict construction, and the various parties which opposed it (federalist, whig, republican), to loose construction. But there were numerous exceptions, and in general any party is inclined to a stricter construction when it is out of power than when it is in control of the government. Since the close of the civil war all parties have favored a looser construction than was advocated by any party a generation earlier.

noticed, Congress is forbidden to suspend the writ of habeas corpus unless when, in cases of rebellion or invasion, the public safety may require it. The writ of habeas corpus is a legal proceeding by which a person who is deprived of his liberty may secure a hearing before a judge and compel those who detain him to show legal cause why he should not be set at liberty.

Congress is forbidden to pass any *ex post facto* law or bill of attainder. An *ex post facto* law is a law which makes anything a crime under the law at the time the act was committed, or subjects an offender to a greater penalty than was prescribed by the law at the time when the offense was committed. A bill of attainder is a bill which imposes penalties on particular individuals. Criminal laws must be expressed in general terms, and it must be left to the courts to determine who the particular individuals are who are liable to punishment.

No money can be drawn from the treasury except by appropriations made by law; no title of nobility can be granted by the United States, and no person holding any office of profit or trust can, without the consent of Congress, accept any present, emolument, office, or title of any kind whatever, from any king, prince or foreign state. No religious test can ever be required as a qualification for any office or public trust under the United States.

The "Bill of Rights."—When the Constitution of the United States was adopted, it was feared by many persons that the government might be oppressive. To guard against this, ten amendments were almost immediately adopted. They did not change anything in the original constitution, but provided additional safeguards. They forbid Congress to make any law respecting an establishment of religion or prohibiting the free exercise thereof; or abridging freedom of

speech or of the press; or the right of the people to assemble, peaceably, and to petition for a redress of grievances; or to infringe the right of the people to maintain a militia. They forbid the quartering of soldiers in time of peace in any house without the consent of the owner; or in time of war except in a manner prescribed by law. They seek to secure the people against unreasonable searches or seizures; they prohibit the trial of persons for infamous crimes without indictment by a grand jury;¹ they forbid the putting of any person in jeopardy of life or limb twice for the same offense, or compelling anyone to be a witness against himself, or depriving him of life, liberty or property without due process of law, or taking private property for public use without just compensation. They guarantee jury trial in criminal cases and in suits at common law where the value in controversy exceeds \$20; they prohibit excessive bail, excessive fines, and cruel and unusual punishments.

“Supreme Law of the Land.”—The constitution declares that the constitution and the laws of the United States which shall be *made in pursuance thereof*, and all treaties made under the authority of the United States, shall be the supreme law of the land, anything in the constitution or laws of any state to the contrary notwithstanding. The significant part of this is the words in italics. If congress should make a law not in pursuance of the constitution of the United States, such a law would be utterly void.

¹ It should be noticed that these amendments apply only to the federal government. Some of the states have now abolished indictment by grand jury in their own courts.

CHAPTER XX.

THE PRESIDENT OF THE UNITED STATES.

We have seen that, in the making of the laws, the government of the United States is very much like that of the state. In executing the laws there is also resemblance between the two, but perhaps the contrast is even more striking. In the words of the Constitution, "the executive power shall be vested in a president of the United States of America." We saw that the executive department of the state is made up of a number of different persons, all elected independently of each other, so that there is no unity to the administration. All the executive power in the government of the United States, however, is vested in one man. While it takes more than 250,000 people (besides the army and navy) to do the work of the executive department, they are all appointed, directly or indirectly, by the president, and are responsible to him.

The term of the president of the United States is for four years. It begins on the 4th of March in the years 1905, 1909, etc. To be eligible to the office one must be a natural born citizen of the United States, at least 35 years of age, and for 14 years a resident of the United States. In case of the removal of the president from office, or of his death, resignation, or inability, the office devolves upon the vice-president for the remainder of the term for which he was chosen.

Election of President.—The manner of choosing the president and vice-president is rather complicated. It might seem

to us very reasonable for all voters of the United States to vote directly for candidates for president and vice-president, just as the voters in each state elect their governor; but the people who framed the Constitution of the United States did not have much confidence in the people, and they devised another method.

This is the plan for electing the president and vice-president. Each state chooses as many presidential electors as the whole number of senators and representatives to which it is entitled in Congress. These electors are chosen in such manner as the legislature of each state may direct, only that the day for choosing the electors must be the same throughout the United States.¹

At first, in most of the states, the legislatures themselves chose the electors, but now in all the states the choice of the electors is left to the voters of the state. Each voter votes for as many electors as the whole number to which his state is entitled. The persons having the largest number of votes become the electors of their state. These electors meet at the capitals of their respective states on the second Monday in January, and vote by ballot for president and vice-president, at least one of whom must not be a resident of the same state with themselves. The electors then make lists of all persons voted for as president and as vice-president, and the number of votes cast for each, and send these lists to Washington to the president of the Senate. On the second Wednesday of February the two houses of Congress meet in joint session, and in their presence the presiding officer of the Senate opens all the certificates, and the votes are counted.

The person having the greatest number of votes for presi-

¹ Congress has designated the Tuesday next after the first Monday of November, just before the close of the presidential term.

dent is president if such number is a majority of the whole number of electors, but if no person has a majority, the House of Representatives immediately chooses a president from among the three who have received the most votes. In this case the House of Representatives votes by states, the representation from each state having one vote, and a majority of all the states is necessary to a choice.¹ If the House of Representatives should not succeed in electing a president by the 4th of March, the vice-president would become president.

Vice-President.—The person receiving the votes of a majority of the electors for vice-president becomes vice-president, but if no one receives a majority, the Senate immediately chooses a vice-president from the two highest on the list. This has never happened but once. In 1837 no candidate received a majority, and the Senate elected R. M. Johnson vice-president.

Popular Control.—It was originally expected that the presidential electors would exercise their own judgment in voting for president and vice-president, but in practice this is never done. The electors always vote for candidates who have previously been nominated by the parties to which they belong. Some months before the presidential election, each political party holds a national convention to nominate its candidates for president and vice-president, and to draw up a platform and select a central committee. The delegates to these conventions are chosen by the state conventions of the parties, as we learned in the study of the state government, and those same state conventions also nominate as many candidates for presidential electors as the state is entitled to. It is understood that these persons, if they are

¹ This has never happened but once. In 1825 no candidate had a majority, and the House of Representatives chose John Quincy Adams as president.

elected as electors, will vote for such persons as president and vice-president as may be nominated by the national convention of their party. The result is practically known as soon as the electors have been chosen in November, although, as we have seen, the president is not actually elected until the second Monday in January. So perfectly is it understood that the electors will do as agreed upon, that voters do not think of themselves as voting for the electors, but consider themselves as practically voting for president and vice-president.

National Conventions.—There is one noticeable difference in regard to the number of delegates chosen by each state for the national convention, from the plan that we saw in the state in choosing delegates to the state convention. Instead of basing the number of delegates from a state on the number of votes cast for the candidates of the party at the last election, every state sends just twice as many delegates as the number of presidential electors to which it is entitled. The territories and the District of Columbia also are usually allowed to send two delegates each.¹

Salary.—The president receives a salary, fixed by Congress, but the amount can neither be increased nor diminished during the period for which he was elected. Under the present law, the president receives an annual salary of \$50,000, and occupies a residence provided by the government. The salary of the vice-president is \$10,000 per year.

Power of the President.—The power of the president of the United States is very extensive. He is commander in chief of the army and navy, and also of the militia when it is called into the service of the United States. As already

¹There are also some differences in the practices of the different political parties. In the Democratic National Convention no one can be nominated until he receives the votes of two-thirds of the delegates, while in the Republican convention a bare majority is sufficient.

intimated, he appoints all the officers of the United States, directly or indirectly. The more important ones are appointed subject to the confirmation of the Senate. The less important are appointed by the president alone or by the heads of the executive departments.

While it is the general plan to keep the legislative, executive and judicial branches of the government quite distinct, they do overlap at some points. We have already seen what part the president has in the legislative department, through his veto power. He also has the power, on extraordinary occasions, to convene Congress in special session, and in case of disagreement between the two houses with respect to the time of adjournment, he may adjourn them to such time as he shall think proper. It is his custom, also, in the words of the Constitution, to "give to the Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient." His annual message at the opening of each session of Congress is always awaited with great interest as a summary of political conditions, but he also sends the Congress special messages from time to time.

The president also has important judicial powers, since he may grant pardons and reprieves for offenses against the United States, except in cases of impeachment.

Importance of the Presidential Office.—A bare recital of these facts is hardly enough to impress one with the very great power of the president of the United States. While his term is short, yet as long as it lasts he is far more powerful than any European monarch except the German and Russian emperors. His power to appoint and remove officials is one of the most important of his prerogatives, since, as a result of this, he has, scattered all over the country, reaching into every little village and country cross-roads, thousands

of people whose positions more or less directly depend upon him. Naturally most of these people and their friends are likely to be strong supporters of the president.

Of far more importance than this is the strong hold which the president's appointive power gives him upon members of Congress. Whether we like it or not, it is a fact that a great many senators and representatives care far more to have their friends appointed to offices than they do about great national policies. By making or withholding certain appointments, therefore, the president can often influence the votes of enough senators and representatives to control the passage of measures which he desires adopted. When we remember that his veto is usually fatal to any measure to which he is opposed, we can see that his influence in legislation is very great.

In addition to his general appointing power, special notice should also be given to the president's power to appoint judges. As we shall notice in the last chapter, the success or failure of any public policy depends to a considerable extent on the sympathetic or hostile attitude taken by the courts in the interpretation of the laws. While the president cannot remove judges, yet the number whose positions naturally become vacant during a presidential term is enough to give the president great power in determining the general tendency of the federal courts.

Beyond all these things, what gives the president great power is the fact that he, pre-eminently, is the representative of the people. We have seen that Congress is very imperfectly representative, but even if plans were adopted for popular election of senators, for example, any particular senator would represent no more than a single state, and both senators and representatives being usually chosen with a view to local interests, they would not be truly representa-

tive of the people at large. The president is the only person who makes any approach to being a representative of the whole nation. And even with the present cumbersome method of electing the president, it must be admitted that, as a rule, he is fairly representative of the trend of public sentiment.

The Vice-Presidency.—In contrast with the great power and prestige of the presidency is the remarkable insignificance of the vice-presidency. If an emergency brings the vice-president to the presidency, he of course succeeds to all its power. Otherwise he passes his term in comparative obscurity and is rarely heard of in public life afterwards. This often leads, unfortunately, to the choice of inferior men for vice-president, since men who are conspicuously suitable for the presidency are usually reluctant to accept the office of vice-president.

CHAPTER XXI.

THE EXECUTIVE DEPARTMENTS.

Most of the executive officers are distributed among a number of departments, at the head of each of which is a cabinet officer. The following compose the cabinet:

Secretary of State.

Secretary of the Treasury.

Secretary of War.

Secretary of the Navy.

Secretary of the Interior.

Attorney-General.

Postmaster-General.

Secretary of Agriculture.

Secretary of Commerce and Labor.

The State Department.—The department of state really combines two departments: That which would naturally be suggested by the term secretary of state, and the department of foreign affairs. The first resembles the office of secretary of state as we saw it in our state government; that is, the secretary of state preserves certain public records, and attests the official acts of the president, but the greater part of his duty is as head of the department of foreign affairs. In dealing with foreign nations all communications are made through the department of state, acting through persons who are sent to foreign countries for that purpose. The United States, in accordance with the usual custom of nations, keeps a representative at the capital of every foreign nation. Ac-

According to the supposed importance of the nation, these representatives are known as, 1st, ambassadors; 2d, envoys extraordinary and ministers plenipotentiary; 3d, ministers resident; 4th, *chargés d'affaires*. They are all, of course, appointed by the president with the consent of the Senate. When treaties are made, they are arranged through these ministers, who communicate in the different countries with the person who holds the same position as the secretary of state here. Likewise the foreign countries all keep at Washington their representatives, who are ranked as ambassadors, etc., and when those countries have communications to make to our country, they manage it through their ministers, who communicate with our secretary of state.

When a treaty has been arranged by the president of the United States, acting through the ministers, it must be submitted to the Senate for approval. The Senate considers treaties in secret session, and a two-thirds vote is necessary for ratification.

Besides the ministers, United States consuls are stationed in more than three hundred cities in foreign countries. These consuls have a great variety of duties, chiefly in advancing the interests of American commerce and looking after the welfare of American citizens who may be temporarily abroad. Foreign consuls also are located in most of the important cities of the United States, to look after the interests of their citizens in this country.¹

The Treasury Department.—The treasury department, as the name implies, supervises all the financial affairs of the federal government. It is not only charged with the collection and disbursement of all the revenues of the government, but with the management of the mints, the bureau of printing and engraving, and the life-saving service.

¹ Italy and Greece have each a consul in Butte.

Besides the treasury at Washington, there are sub-treasuries of the United States at Boston, New York, Philadelphia, Baltimore, Cincinnati, Chicago, St. Louis, New Orleans, and San Francisco. The government does not, however, keep all its money in these places, as about two hundred national banks, in different parts of the country, are also national depositories.

The War Department.—The war department has charge of military affairs, including all the purchases and distribution of supplies for the army, and its transportation. This department also supervises the military academy at West Point, and all the national cemeteries. All improvements of rivers and harbors also are carried on under the direction of the secretary of war. The most important work now in his charge is the construction of the Panama canal and the government of the canal strip, which is managed through the Panama Canal Commission.

The Navy Department.—The navy department attends to the building and equipping of naval vessels and the management of the navy. It also has charge of the naval observatory at Washington, and the naval academy at Annapolis.

The Interior Department.—The interior department comprises a number of bureaus not readily assignable to other departments. They are (1) the General Land Office, which has charge of all the government lands; (2) the Pension Bureau, which attends to the examination of all claims for pensions; (3) the Patent Office, which has charge of the granting of patents; (4) the Commissioner of Indian Affairs, who has charge of the Indian reservations and Indian schools; (5) the Bureau of Education, which collects facts and statistics in regard to education, and publishes reports; (6) the Commissioner of Railroads, who sees to the enforcement of the laws in regard to the management of those rail-

roads whose construction has been aided by the federal government.

The Postoffice Department.—The Postoffice Department employs the largest number of people of any of the departments. The postmaster-general and four assistant postmasters-general are appointed by the president, with the consent of the Senate, as are also about 4,500 postmasters, whose salaries are \$1,000 a year or more. The first assistant postmaster-general has the management of the postoffices, with their clerks and carriers, the dead letter office, and the money-order service. The second assistant postmaster-general looks after the transportation of the mails.¹ The third assistant furnishes stamps and has charge of the finances and of the registry department. The fourth assistant postmaster-general looks after the appointment of about 70,000 postmasters (those whose pay is less than \$1,000 per year), directs the inspectors, and has charge of the rural free delivery.

The Universal Postal Union, of which the United States is a member, includes more than fifty nations, who agree on uniform rates of postage and co-operate with one another to facilitate the carrying of the mails. The uniform rate of postage on a letter sent from one country to another in the postal union is five cents for each half-ounce, and on newspapers one cent for each two ounces. By special arrangement with Canada, Mexico, and Cuba, our domestic rates² apply to those countries.

The Agricultural Department.—The agricultural depart-

¹ Most of the transportation of domestic mails is by railroad, a less amount by steamboat and stage lines. In most other civilized countries it is possible for the postoffice to utilize the latest electric inventions, the telegraph being almost universally included in the postoffice department. But the powerful grip which great corporations have on the congress of the United States is a very formidable obstacle in the way of all improvements of our postal service.

² Two cents per ounce for letters, one cent each for postal cards, one cent for each four ounces for periodicals, one cent for each two ounces for other printed matter, and one cent per ounce for other merchandise.

ment is one of the more recently established departments. Its bureau of animal industry has for its principal object the suppression of dangerous communicable diseases in live stock. It also inspects dairy products for export. The bureau of plant industry is engaged chiefly in experimental investigations in gardens and farms. The bureau of forestry carries on investigations as to the methods of forest management, and makes plans for the management of the national forest reserves. The bureau of chemistry investigates the chemical composition of fertilizers, agricultural products, foods and drugs. The bureau of soils investigates the properties of soils and their relations to crop production. The office of experiment stations has charge of the relations of the department to the experiment stations connected with the state agricultural colleges. The weather bureau is also under the department of agriculture.

The Department of Commerce and Labor.—The department of commerce and labor is the latest of the departments to be established. This department includes the bureaus of corporations, of manufactures, of labor, of the census, of statistics, of navigation, of fisheries, of immigration, of standards, and the steamboat inspection service, the lighthouse establishment, and the coast and geodetic survey.

The Department of Justice.—The department of justice is under the direction of the attorney-general, who is the legal adviser of the president and of the heads of the departments. His other duties will be noted in connection with the judiciary.

Independent Departments.—There are also several executive agencies which are not attached to any department. The Interstate Commerce Commission has already been mentioned. The Civil Service Commission arranges competitive examinations for persons seeking employment in the execu-

tive departments. The Government Printing Office, in charge of the Public Printer, is the largest printing and binding establishment in the world. It does all the printing and binding for all branches of the government, except what is done by the Bureau of Engraving and Printing in the Treasury Department. The Librarian of Congress not only has charge of the great congressional library in Washington, but also of the copyright office. Every person securing a copyright must deposit a copy of his work in the congressional library. The Smithsonian Institution carries on a variety of scientific investigations, and maintains a great museum of natural history, ethnology, geology, and paleontology. The International Bureau of American Republics was established to develop closer relations between the republics of North and South America. There is also a National Home for Disabled Volunteers, which maintains ten institutions for the care of such soldiers in different parts of the country.

The Cabinet.—The heads of the nine executive departments form the president's cabinet, who advise him and keep him informed on the subject of their respective departments. They are also the successors to the office of the president in case of the death, resignation, removal, or disability of both the president and vice-president in the following order: Secretary of State, Secretary of the Treasury, Secretary of War, Attorney-General, Postmaster-General, Secretary of the Navy, Secretary of the Interior.

CHAPTER XXII.

THE JUDICIARY.

The District Courts.—The federal courts are of four grades. The lowest is the United States District Court. For this purpose each state constitutes one, two, three, or four districts. At present there are eighty-six districts. As a rule, each district has one judge, though on account of the amount of business there are three or four districts having two judges each. The judge holds court in at least one city in his district.¹

The Circuit Courts.—Next above the District Courts are the Circuit Courts. The whole United States is divided into nine parts called circuits,² because the judges go about in circuit, holding court in the different districts of their respective circuits.

Each circuit has from two to four circuit judges,³ according to the amount of business,—27 circuit judges in all. In case of necessity any district judge may be called upon to serve in the Circuit Court of the circuit in which his district is situated. Each judge of the Supreme Court (to be described presently) is also assigned to some particular circuit, and must sit on the circuit bench of his circuit at least once in two years.

¹ In Montana the United States District Court holds sessions at Butte, Helena and Great Falls.

² The 9th circuit includes the districts of California, Montana, Washington, Idaho, Oregon, Nevada, Alaska, Arizona, and Hawaii.

³ The 9th circuit has three judges.

The Circuit Courts of Appeals.—Next above these are the nine Circuit Courts of Appeals, one for each circuit. There are no separate judges for these courts, but the supreme judge assigned to the circuit, all the circuit judges of the circuit, and all the district judges in the circuit, may serve, three at a time.

The Supreme Court.—The highest court of all is the Supreme Court of the United States, which holds annual sessions at Washington, beginning in October and usually lasting till the following May. It consists of nine judges,—the chief justice and eight associate justices,—and all nine together hear cases, the decision of a majority being conclusive.

The Judges.—All the federal judges are appointed by the president with the consent of the Senate, and serve for life; but any federal judge 70 years old may retire on full pay for life, as soon as he has served ten years.

Court Officers.—The president, with the consent of the Senate, also appoints a district attorney and a marshal for each district, and also a clerk who attends upon both the District and Circuit Courts. The district attorney prosecutes persons accused of violating federal laws, and represents the United States in all cases in which it is a party in his district. The marshal executes the orders of the District and Circuit Courts.

The Supreme Court of the United States also has its clerk, its marshal and its reporter. All cases before the Supreme Court in which the United States is a party are represented by the Attorney-General of the United States, who also supervises the work of all the United States district attorneys and marshals.

Each District Court appoints a number of Commission-

ers,¹ who issue warrants of arrest on criminal proceedings, take bail, inquire whether there is probable cause to hold the accused to answer to the charge in court, etc.

Jurisdiction of Federal Courts.—The jurisdiction of the federal courts is of two classes: One which depends (1) on the nature of the questions involved, and on (2) the parties to the suit. (1) The federal courts have jurisdiction over all cases arising out of the Constitution, laws, and treaties of the United States, and admiralty and maritime cases. (2) The federal courts have jurisdiction over all cases affecting ambassadors and other public ministers and consuls, suits between states, between a state and a citizen of another state, and between citizens of different states. It is provided, however, by the eleventh amendment to the Constitution, that the jurisdiction of the federal courts shall not extend to a suit against a state by citizens of another state or country.

District Courts.—Within the limits mentioned, the District Courts have jurisdiction over admiralty suits, bankruptcy proceedings, revenue cases, and offenses against the United States for which capital punishment cannot be inflicted.

Circuit Courts.—The Circuit Courts have jurisdiction over patent and copyright cases, over cases arising under laws of the United States when the value of the matter in controversy exceeds \$2,000, and suits involving an amount exceeding \$2,000 whenever the parties to the suit are citizens of different states, or citizens of the same state claiming land under grants from different states. Any such suits which are brought in a state court may, at the option of the defendant, be transferred to the United States Circuit Court.

¹ In Montana there are about one hundred United States Commissioners.

This court also has jurisdiction of all offenses against the United States.

Courts of Appeals.—The Circuit Courts of Appeals have no original jurisdiction. They constitute, each for its own circuit, the final court of appeals for most civil cases appealed from the District and Circuit Courts, and also in criminal cases not capital. The purpose of these courts was to relieve the Supreme Court, which was formerly so crowded with appeals that, when these courts were established, it took three years from the time of filing an appeal before the Supreme Court could give it a hearing. This condition has now been relieved.

Supreme Court.—The Supreme Court of the United States has original jurisdiction in all cases affecting public ministers and consuls, and in all cases in which a state is a party. The Supreme Court has appellate jurisdiction over cases appealed from the District and Circuit Courts in cases involving the limits of their jurisdiction, in prize causes, in equity suits by the United States under the statutes regulating interstate commerce, and in all cases involving the construction or application of the Constitution of the United States or of a treaty. It also has appellate jurisdiction in cases of conviction in the Circuit Courts for capital offenses. If the Supreme Court considers a matter of sufficient importance, it can review cases decided by the Circuit Court of Appeals.

The Court of Claims.—Outside this regular system of courts Congress has established a Court of Claims, consisting of a chief justice and four associate justices, which meets at Washington, and hears the cases of all persons who have claims against the government of the United States which have been rejected by the executive departments, or for the payment of which no appropriation has been made. This is

not a court in the sense of a body clothed with power to enforce its decrees. It merely certifies to Congress the decisions which it has reached. As a matter of fact, however, Congress regularly appropriates money to pay such claims as the Court of Claims decides to be just.

The Court of Impeachment.—There is also a special court for the trial of impeachment cases. This is the United States Senate. The president, vice-president, and all civil officers of the United States, are liable to removal from office on impeachment for and conviction of treason, bribery, or other high crimes and misdemeanors. The House of Representatives has the sole power to impeach. This is equivalent to indictment in ordinary criminal cases. When an officer is impeached, he is then brought before the Senate for trial, and a vote of two-thirds of the senators is necessary to secure conviction. When the president of the United States is impeached, the chief justice of the Supreme Court presides over the Senate. When an officer is convicted in an impeachment trial, the Senate cannot inflict any further penalty than removal from office and disqualification to hold any office in the future, but if the act for which the officer is impeached is a crime under the laws, the officer can also be punished in the regular courts the same as any other citizen.

CHAPTER XXIII.

AMENDING THE CONSTITUTION.

Proposing Amendments.—There are two ways in which amendments to the Constitution of the United States may be proposed. The first is by a two-thirds vote of both houses of Congress. All the amendments that have been made have been proposed in this way, but, whenever the legislatures of two-thirds of the states apply, it is the duty of Congress to call a convention for the purpose of proposing amendments. If this should ever be done, Congress would determine just how many delegates each state should have in the constitutional convention, and would probably prescribe how the delegates should be chosen. Congress would also, of course, declare when and where the convention should meet, and make appropriations for the expenses of the convention. Since it has never been possible to get two-thirds of the senators to agree to an amendment providing for popular election of senators, a movement has recently been started looking to the securing of a request from two-thirds of the states for the calling of such a convention.

Ratifying Amendments.—Whichever way an amendment is proposed, there are two possible ways of ratifying it; one is by the legislatures of three-fourths of the states; the other is by conventions, held for that express purpose, in three-fourths of the states. Congress determines which method shall be taken, and all the amendments that have been proposed heretofore have been referred to the legislatures of the

states, but only fifteen have been ratified by the requisite number of states.

The Fifteen Amendments.—The first ten amendments constitute the so-called bill of rights, and became part of the constitution in 1791. The eleventh is the one mentioned under the judiciary, and was adopted in 1798. The twelfth is the one which changed the procedure of the presidential electors.¹ The thirteenth abolished slavery, in 1865. The fourteenth, adopted in 1868, settled various controversies growing out of the civil war. The fifteenth forbade the United States or any state to deny the right of voting to any citizens on account of race, color, or previous condition of servitude. It was ratified in 1870.

Difficulty of Amendment.—It will appear from this summary that the constitution is very hard to amend. The first ten amendments did not make any change in the Constitution and may be looked upon almost as a part of the original document. The last three amendments were the result of the civil war. So in a hundred and twenty years only two changes have been peaceably made,—the eleventh and twelfth amendments. Even the twelfth was only for the purpose of curing a defect which was very evident, and it encountered no opposition.

Growth of Democracy.—But while so little formal change has been made, and there is so little prospect of further amendment in the near future, it should not be supposed that great changes have not taken place in our form of government. The most notable changes have been in the

¹ Formerly the presidential electors did not vote for president *and vice-president*, but voted for two persons, and the one receiving the largest number of votes became president and the one receiving the next largest number became vice-president. In 1801 Thomas Jefferson and Aaron Burr each received the same number of votes. The House of Representatives, which had to choose between them, selected Jefferson as president, and consequently Burr became vice-president. To prevent the recurrence of such a complication, the twelfth amendment was adopted in 1804.

direction of democracy; that is, in the increased power of the people in the government. That this has been brought about without amendment of the Constitution is largely due to the fact that the qualifications of voters are determined by each state for itself. Now all the states allow practically all male citizens¹ who have reached the age of twenty-one years to vote. A hundred years ago not much more than one-fourth of the whole number of such persons could vote. The rest were excluded chiefly by the restriction of voting to property-holders. Another thing which has increased the power of the people is the growth of the party convention system. The result is that the president is practically chosen by the people, while it was not the intention of the framers of the Constitution that the mass of the people should have anything to do with this matter.

Increased Strength of the Federal Government.—In the second place the relative power of the national government has greatly increased and the powers of the state governments correspondingly declined. This has come about largely through judicial interpretation. That is, judicial interpretation has made it possible for this change to come about without any change in the wording of the Constitution. The real cause of all these changes is the changing of public sentiment, partly through the great growth of the country and the steady extension of the frontier.

Judicial Interpretation.—We sometimes think that because our Constitution is a written one that it is a great deal more fixed and definite than the constitutions of those countries which do not have written constitutions. But when we try the experiment we find that it is not easy even to put things in writing so that there is not some room for difference of

¹ Several states also allow female citizens to vote.

opinion as to just what is meant. This makes it of great importance that the judges, who are the people to decide what laws mean, should be in sympathy with the public welfare rather than attached to the interests of certain classes. In making the federal judges appointive and assigning them a life-tenure, the framers of the Constitution guarded effectively against what they considered the danger of judges being affected by "popular clamor." Unfortunately these arrangements do not perfectly guarantee that judges shall always be independent of narrow and selfish class interests. For safeguards here we must look in another direction.

Increased Power of the President.—This brings us to the third of the great changes, and this has already been mentioned in a previous chapter—the greatly increased power of the president of the United States.

The People the Real Power.—In looking to the future, therefore, we need not be discouraged at the prospect of improvement in our government. For if the Constitution itself is difficult to change, yet after all, forms of government are only what might be called the outer shell. The real determining force in any government is found in the character of the people. The government will be very nearly what they want to make it.

CONSTITUTION OF THE UNITED STATES.

PREAMBLE.—We, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this constitution for the United States of America.

ARTICLE I.

1. All legislative powers herein granted shall be vested in a congress of the United States, which shall consist of a senate and house of representatives.

2. *First.* The house of representatives shall be composed of members chosen every second year, by the people of the several states; and the electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislature.

Second. No person shall be a representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state in which he shall be chosen.

Third. [Representatives and direct taxes shall be apportioned among the several states which may be included within this union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons.]¹ The actual enumeration shall be made within three years after the first meeting of the congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of representatives shall not exceed one for every 30,000, but each state shall have at least one representative; and until such enumeration shall

¹ Modified by Amendment XIV, Sec. 2.

be made, the state of *New Hampshire* shall be entitled to choose three; *Massachusetts*, eight; *Rhode Island* and *Providence Plantations*, one; *Connecticut*, five; *New York*, six; *New Jersey*, four; *Pennsylvania*, eight; *Delaware*, one; *Maryland*, six; *Virginia*, ten; *North Carolina*, five; *South Carolina*, five, and *Georgia*, three.

Fourth. When vacancies happen in the representation from any state, the executive authority thereof shall issue writs of election to fill such vacancies.

Fifth. The house of representatives shall choose their speaker and other officers, and shall have the sole power of impeachment.

3. *First.* The senate of the United States shall be composed of two senators from each state, chosen by the legislature thereof, for six years; and each senator shall have one vote.

Second. Immediately after they shall be assembled in consequence of the first election, they shall be divided, as equally as may be, into three classes. The seats of the senators of the first class shall be vacated at the expiration of the second year; of the second class, at the expiration of the fourth year; and of the third class, at the expiration of the sixth year, so that one third may be chosen every second year; and if vacancies happen by resignation or otherwise, during the recess of the legislature of any state, the executive thereof may make temporary appointments until the next meeting of the legislature, which shall then fill such vacancies.

Third. No person shall be a senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state for which he shall be chosen.

Fourth. The vice-president of the United States shall be president of the senate; but shall have no vote, unless they be equally divided.

Fifth. The senate shall choose their other officers, and also a president *pro tempore* in the absence of the vice-president, or when he shall exercise the office of president of the United States.

Sixth. The senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the president of the United States is tried, the chief justice shall preside; and no person shall be convicted without the concurrence of two thirds of the members present.

Seventh. Judgment, in cases of impeachment, shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust or profit under the United States; but the party convicted shall, nevertheless, be liable and subject to indictment, trial, judgment and punishment, according to law.

4. *First.* The times, places and manner of holding elections for senators and representatives shall be prescribed in each state by the legislature thereof; but the congress may, at any time, by law, make or alter such regulations, except as to the places of choosing senators.

Second. The congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall, by law, appoint a different day.

5. *First.* Each house shall be the judge of the elections, returns and qualifications of its own members; and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner and under such penalties as each house may provide.

Second. Each house may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member.

Third. Each house shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may, in their judgment, require secrecy; and the yeas and nays of the members of either house, on any question, shall, at the desire of one-fifth of those present, be entered on the journal.

Fourth. Neither house, during the session of congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.

6. *First.* The senators and representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the treasury of the United States. They shall, in all cases, except treason, felony and breach of the peace, be privileged from arrest during their attendance at the session of their respective houses, and in going to or returning from the same; and for any speech or debate in either house, they shall not be questioned in any other place.

Second. No senator or representative shall, during the time for

which he was elected, be appointed to any civil office under the authority of the United States which shall have been created, or the emoluments whereof shall have been increased, during such time; and no person holding any office under the United States shall be a member of either house during his continuance in office.

7. *First.* All bills for raising a revenue shall originate in the house of representatives; but the senate may propose or concur with amendments, as on other bills.

Second. Every bill, which shall have passed the house of representatives and the senate, shall, before it becomes a law, be presented to the president of the United States; if he approve, he shall sign it; but if not, he shall return it, with his objections, to that house in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by two-thirds of that house, it shall become a law. But in all such cases the votes of both houses shall be determined by yeas and nays; and the names of the persons voting for and against the bill, shall be entered on the journal of each house respectively. If any bill shall not be returned by the president within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the congress, by their adjournment, prevent its return; in which case, it shall not be a law.

Third. Every order, resolution or vote, to which the concurrence of the senate and house of representatives may be necessary (except on a question of adjournment), shall be presented to the president of the United States; and before the same shall take effect, shall be approved by him, or being disapproved by him, shall be repassed by two-thirds of the senate and house of representatives, according to the rules and limitations prescribed in the case of a bill.

8. The congress shall have power—

First. To lay and collect taxes, duties, imposts and excises, to pay the debts, and provide for the common defense and general welfare of the United States; but all duties, imposts and excises shall be uniform throughout the United States.

Second. To borrow money on the credit of the United States.

Third. To regulate commerce with foreign nations, and among the several states, and with the Indian tribes.

Fourth. To establish an uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States.

Fifth. To coin money, regulate the value thereof, and of foreign coin, and to fix the standard of weights and measures.

Sixth. To provide for the punishment of counterfeiting the securities and current coin of the United States.

Seventh. To establish post offices and post roads.

Eighth. To promote the progress of science and useful arts, by securing, for limited times, to authors and inventors, the exclusive right to their respective writings and discoveries.

Ninth. To constitute tribunals inferior to the supreme court. To define and punish piracies and felonies committed on the high seas, and offenses against the law of nations.

Tenth. To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water.

Eleventh. To raise and support armies; but no appropriation of money to that use shall be for a longer term than two years.

Twelfth. To provide and maintain a navy.

Thirteenth. To make rules for the government and regulation of the land and naval forces.

Fourteenth. To provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions.

Fifteenth. To provide for organizing, arming and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the states respectively the appointment of the officers, and the authority of training the militia according to the discipline prescribed by congress.

Sixteenth. To exercise exclusive legislation in all cases whatsoever over such district (not exceeding ten miles square) as may, by cession of particular states, and the acceptance of congress, become the seat of government of the United States, and to exercise like authority over all places purchased, by the consent of the legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dock yards, and other needful buildings; and

Seventeenth. To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all

other powers vested by this constitution in the government of the United States, or in any department or officer thereof.

9. *First.* The migration or importation of such persons as any of the states now existing shall think proper to admit, shall not be prohibited by the congress prior to the year one thousand eight hundred and eight, but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.

Second. The privilege of the writ of *habeas corpus* shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require it.

Third. No bill of attainder or *ex post facto* law shall be passed.

Fourth. No capitation or other direct tax shall be laid, unless in proportion to the census or enumeration hereinbefore directed to be taken.

Fifth. No tax or duty shall be laid on articles exported from any state. No preference shall be given, by any regulation of commerce or revenue, to the ports of one state over those of another; nor shall vessels bound to or from one state be obliged to enter, clear or pay duties in another.

Sixth. No money shall be drawn from the treasury, but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

Seventh. No title of nobility shall be granted by the United States, and no person holding any office of profit or trust under them shall, without the consent of the congress, accept of any present, emolument, office or title of any kind whatever, from any king, prince, or foreign state.

10. *First.* No state shall enter into any treaty, alliance or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make anything but gold and silver coin a tender in payment of debts; pass any bill of attainder, *ex post facto* law, or law impairing the obligation of contracts; or grant any title of nobility.

Second. No state shall, without the consent of the congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws; and the net produce of all duties and imposts, laid by any state on imports or exports, shall be for the use of the treasury of the United States,

and all such laws shall be subject to the revision and control of the congress. No state shall, without the consent of congress, lay any duty of tonnage, keep troops or ships of war in time of peace, enter into any agreement or compact with another state or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay.

ARTICLE II.

1. *First.* The executive power shall be vested in a president of the United States of America. He shall hold his office during the term of four years, and together with the vice-president, chosen for the same term, be elected as follows:

Second. Each state shall appoint, in such manner as the legislature thereof may direct, a number of electors, equal to the whole number of senators and representatives to which the state may be entitled in the congress; but no senator or representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

Third. [The electors shall meet in their respective states, and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same state with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each; which list they shall sign and certify, and transmit sealed to the seat of government of the United States, directed to the president of the senate. The president of the senate shall, in the presence of the senate and house of representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the president, if such number be a majority of the whole number of electors appointed; and if there be more than one who have such majority, and have an equal number of votes, then the house of representatives shall immediately choose, by ballot, one of them for president; and if no person have a majority, then from the five highest on the list the said house shall, in like manner, choose the president. But in choosing the president, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. In every case after the choice of the president, the person having the greatest number of votes of the electors shall

be the vice-president. But if there should remain two or more who have equal votes, the senate shall choose from them, by ballot, the vice-president.]¹

Fourth. The congress may determine the time of choosing the electors, and the day on which they shall give their votes; which day shall be the same throughout the United States.

Fifth. No person except a natural born citizen, or a citizen of the United States at the time of the adoption of this constitution, shall be eligible to the office of president; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States.

Sixth. In case of the removal of the president from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the vice-president, and the congress may, by law, provide for the case of removal, death, resignation, or inability, both of the president and vice-president, declaring what officer shall then act as president, and such officer shall act accordingly, until the disability be removed, or a president shall be elected.

Seventh. The president shall, at stated times, receive for his services a compensation, which shall neither be increased or diminished during the period for which he shall have been elected, and he shall not receive within that period any other emolument from the United States or any of them.

Eighth. Before he enters on the execution of his office he shall take the following oath or affirmation:

I do solemnly swear (or affirm) that I will faithfully execute the office of president of the United States. and will, to the best of my ability, preserve, protect and defend the constitution of the United States.

2. *First.* The president shall be commander-in-chief of the army and navy of the United States, and of the militia of the several states, when called into the actual service of the United States. He may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices; and he shall have power to grant reprieves and pardons, for offenses against the United States, except in cases of impeachment.

¹ Repealed by Amendment XII.

Second. He shall have power, by and with the advice and consent of the senate, to make treaties, provided two-thirds of the senators present concur; and he shall nominate, and, by and with the advice and consent of the senate, shall appoint ambassadors, other public ministers and consuls, judges of the supreme court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law. But the congress may, by law, vest the appointment of such inferior officers, as they shall think proper, in the president alone, in the courts of law, or in the heads of departments.

Third. The president shall have power to fill up all vacancies that may happen during the recess of the senate, by granting commissions, which shall expire at the end of their next session.

3. He shall, from time to time, give to the congress information of the state of the Union; and recommend to their consideration such measures as he shall judge necessary and expedient. He may, on extraordinary occasions, convene both houses, or either of them, and in case of disagreement between them, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper. He shall receive ambassadors and other public ministers. He shall take care that the laws be faithfully executed; and shall commission all officers of the United States.

4. The president, vice-president, and all civil officers of the United States, shall be removed from office, on impeachment for and conviction of treason, bribery, or other high crimes and misdemeanors.

ARTICLE III.

1. The judicial power of the United States shall be vested in one supreme court, and in such inferior courts as the congress may, from time to time, ordain and establish. The judges, both of the supreme and inferior courts, shall hold their offices during good behavior; and shall, at stated times, receive for their services a compensation, which shall not be diminished during their continuance in office.

2. *First.* The judicial power shall extend to all cases, in law and equity, arising under this constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; to all cases, affecting ambassadors, other public ministers and

consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more states; between a state and citizens of another state; between citizens of different states; between citizens of the same state, claiming lands under grants of different states; and between a state or the citizens thereof, and foreign states, citizens or subjects.

Second. In all cases, affecting ambassadors, other public ministers and consuls, and those in which a state shall be a party, the supreme court shall have original jurisdiction. In all the other cases before mentioned, the supreme court shall have appellate jurisdiction, both as to law and fact, with such exceptions and under such regulations as the congress shall make.

Third. The trial of all crimes, except in cases of impeachment, shall be by jury; and such trials shall be held in the state where the said crimes shall have been committed; but when not committed within any state, the trial shall be at such place or places as the congress may by law have directed.

3. *First.* Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

Second. The congress shall have power to declare the punishment of treason; but no attainder of treason shall work corruption of blood, or forfeiture except during the life of the person attainted.

ARTICLE IV.

1. Full faith and credit shall be given, in each state, to the public acts, records and judicial proceedings of every other state. And the congress may, by general laws, prescribe the manner in which such acts, records and proceedings shall be proved, and the effect thereof.

2. *First.* The citizens of each state shall be entitled to all privileges and immunities of citizens in the several states.

Second. A person charged in any state with treason, felony, or other crime, who shall flee from justice, and be found in another state, shall, on demand of the executive authority of the state from

which he fled, be delivered up, to be removed to the state having jurisdiction of the crime.

Third. No person held to service or labor in one state under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor; but shall be delivered up on claim of the party to whom such service or labor may be due.¹

3. *First.* New states may be admitted by the congress of this Union; but no new state shall be formed or erected within the jurisdiction of any other state, nor any state be formed by the junction of two or more states, or parts of states, without the consent of the legislatures of the states concerned, as well as of the congress. .

Second. The congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this constitution shall be so construed as to prejudice any claims of the United States or of any particular state.

4. The United States shall guarantee to every state in this Union a republican form of government, and shall protect each of them against invasion; and on application of the legislature, or of the executive (when the legislature cannot be convened), against domestic violence.

ARTICLE V.

The congress, whenever two-thirds of both houses shall deem it necessary, shall propose amendments to this constitution; or, on the application of the legislatures of two-thirds of the several states, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this constitution, when ratified by the legislatures of three-fourths of the several states, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the congress: *Provided*, that no amendment which may be made prior to the year one thousand eight hundred and eight, shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no state, without its consent, shall be deprived of its equal suffrage in the senate.

¹ Annulled by Amendment XIII.

ARTICLE VI.

1. *First.* All debts contracted, and engagements entered into, before the adoption of this constitution, shall be as valid against the United States, under this constitution, as under the confederation.

Second. This constitution and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made under authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby; anything in the constitution or laws of any state to the contrary notwithstanding.

Third. The senators and representatives before mentioned, and the members of the several state legislatures, and all executive and judicial officers, both of the United States and of the several states, shall be bound, by oath or affirmation, to support this constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States.

ARTICLE VII.

The ratification of the conventions of nine states shall be sufficient for the establishment of this constitution between the states so ratifying the same.

Done in convention, by the unanimous consent of the states present, the seventeenth day of September, in the year of our Lord one thousand seven hundred and eighty-seven, and of the independence of the United States of America the twelfth.

AMENDMENTS TO THE CONSTITUTION.

I. Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

II. A well regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed.

III. No soldier shall, in time of peace, be quartered in any house

without the consent of the owner; nor in time of war, but in a manner to be prescribed by law.

IV. The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated; and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

V. No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service, in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled, in any criminal case, to be a witness against himself, nor be deprived of life, liberty or property, without due process of law; nor shall private property be taken for public use without just compensation.

VI. In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

VII. In suits at common law, where the value in controversy shall exceed \$20, the right of trial by jury shall be preserved; and no fact tried by a jury shall be otherwise re-examined in any court of the United States, than according to the rules of the common law.

VIII. Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

IX. The enumeration, in the constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

X. The powers not delegated to the United States by the constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.

XI. The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prose-

cuted against one of the United States by citizens of another state, or by citizens or subjects of any foreign state.

XII. 1. The electors shall meet in their respective states and vote by ballot for president and vice-president, one of whom at least shall not be an inhabitant of the same state with themselves; they shall name in their ballots the person voted for as president, and in distinct ballots the person voted for as vice-president; and they shall make distinct lists of all persons voted for as president, and of all persons voted for as vice-president, and of the number of votes for each, which list they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the president of the senate; the president of the senate shall, in the presence of the senate and house of representatives, open all the certificates, and the votes shall then be counted; the person having the greatest number of votes for president shall be the president, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then from the persons having the highest numbers, not exceeding three, on the list of those voted for as president, the house of representatives shall choose immediately, by ballot, the president. But in choosing the president, the votes shall be taken by states, the representation from each state having one vote: a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. And if the house of representatives shall not choose a president whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the vice-president shall act as president, as in the case of the death or other constitutional disability of the president.

2. The person having the greatest number of votes as vice-president, shall be the vice-president, if such number be a majority of the whole number of electors appointed; and if no person have a majority, then from the two highest numbers on the list the senate shall choose a vice-president. A quorum for the purpose shall consist of two-thirds of the whole number of senators, and a majority of the whole number shall be necessary to a choice.

3. But no person constitutionally ineligible to the office of president shall be eligible to that of vice-president of the United States.

XIII. 1. Neither slavery nor involuntary servitude, except as a

punishment for crime, whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

2. Congress shall have power to enforce this article by appropriate legislation.

XIV. 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, nor shall any state deprive any person of life, liberty or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

2. Representatives shall be apportioned among the several states, according to their respective numbers, counting the whole number of persons in each state, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for president and vice-president of the United States, representatives in congress, the executive and judicial officers of a state, or the members of the legislature thereof, is denied to any of the male inhabitants of such state being 21 years of age and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens 21 years of age in such state.

3. No person shall be a senator or representative in congress, or elector of president and vice-president, or hold any office, civil or military, under the United States, or under any state, who, having previously taken an oath as a member of congress, or as an officer of the United States, or as a member of any state legislature, or as an executive or judicial officer of any state, to support the constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But congress may, by a vote of two-thirds of each house, remove such disability.

4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any state shall

assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

5. The congress shall have power to enforce, by appropriate legislation, the provisions of this article.

XV. 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or any state on account of race, color or previous condition of servitude.

2. The congress shall have power to enforce this article by appropriate legislation.

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