

CIVICS
-OF-
MONTANA



DAVIES

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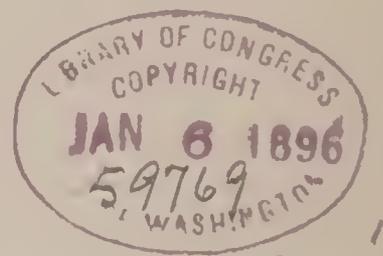
UNITED STATES OF AMERICA.



J. B. Richards

CIVICS
OF
MONTANA

BY ✓
JOHN F. DAVIES
AND
JOHN F. DAVIES



BUTTE, MONTANA

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BY

JOHN F. DAVIES

AND

JOHN F. DAVIES.

DEDICATION.

TO HIS EXCELLENCY,

GOVERNOR JOHN E. RICKARDS,

whose long residence in the Territory and State of Montana, and
whose many years of political service
have given him pre-eminent influence in the councils of the State,
and powerfully affected
its permanent organization and destiny,

This Volume
is respectfully dedicated by

THE AUTHORS.

PREFACE.

As the codes of the state of Montana require the civics of Montana to be taught in the schools, the object of the compilers has been to provide a satisfactory text book on the subject. Accuracy rather than originality has been aimed at and special care has been taken to verify all statements made.

The compilers believe that our scheme of government is not perfect, and that our citizens have not yet attained the highest possible degree of intelligence and virtue. But they also believe that, with all of its faults, our scheme of government is the best yet essayed by man; and that our citizens are inferior to those of no other country in the qualities that contribute to a nation's greatness.

In this book they have tried to expound no theories of their own. They have attempted to select the most general features of our political system and so arrange them that they may be easily comprehended and studied in the schools. It is their belief that the pupils should first learn the facts and then develop their own theories. For thus is the best citizenship attainable.

In the compilation of the book the state constitution

and the codes have been followed very closely, even to the extent of largely following the language for the sake of brevity. They believe that every statement rests upon competent authority to which they cheerfully refer teacher and student.

The plan of selection and arrangement they believe is their own.

The full text of the state constitution can be obtained from the Secretary of State by those teachers who desire it.

The references to various authorities have been made by Hon. E. S. Booth, who was chairman of the Committee on Codes in the last Legislative Assembly, and who is probably inferior to no other person in the state in knowledge of their contents.

Librarian Fk. C. Patten of Helena has rendered valuable aid in the compilation of the Bibliography and other friends have cheerfully assisted us.

JOHN F. DAVIES.

Butte, Mont., Christmas, 1895.

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“To thy fellow-countrymen, thou shalt preach the gospel of the New World; that here, here in our America, is the home of man; that here is the promise of a new and more excellent social state than history has recorded.”

—Emerson.

CIVICS OF MONTANA.



CHAPTER I.

INTRODUCTORY.

Sources of Civil Government.—In studying the civil government of Montana we are obliged to consider :

1st. The Constitution of the United States.

2d. The Constitution of Montana.

3d. The acts and resolves of the Legislative Assembly of Montana, including the Civil and Political Codes, the Code of Civil Procedure, and the Penal Code.

4th. The decisions of the courts of the state and territory of Montana.

5th. The common law, except where its principles are covered by one of the above mentioned sources.

United States Constitution.—The Constitution of the United States guarantees certain rights to the people, and regulates the relations between the various states. Applied to a state, Montana for instance, it indicates what functions of government it must not exercise. It forbids withholding the protection of its laws from citizens of other states. It tells the part

that the state has in making and exercising the general laws of the nation ; and defines the process to which it must resort, should it have causes of complaint against other states.

Thus we see that the Constitution of the United States is an essential part of the constitution of every separate state, and that it can never be disregarded in a special book on civics. ¹

Treaties.—All questions respecting relations with foreign governments and Indian tribes are under control of the National government. Hence all treaties and the acknowledged principles of international law are equally binding on a state with the provisions of the federal constitution.

Constitution of Montana.—The Constitution of Montana is the fundamental law of the commonwealth. It was adopted by the action of the people through a convention of their representatives, and afterwards ratified by a popular vote. It shows as clearly as can possibly be done what principles of government the people consider fixed, and what can be changed by the action of their representatives. At all times it is supposed to indicate the exact will of the people. All laws that the legislative assembly may pass must be in harmony with the constitution, or they are absolutely worthless. All public officers, elected or appointed, in the State of Montana, are sworn to act in accord

¹ Story's Commentaries on the Constitution; Walker's American Law; Cooley's Constitutional Limitations; Hare's Constitutional Law; The Federalist.

with the constitution and to carry out its provisions. Should they fail to do this they are liable to impeachment—the strongest political rebuke—and may also be punished for any transgression of the laws that may accompany their action.

Changes in Constitution.—At any time when it is apparent that the constitution does not express the desires of the citizens of the state, it should be so changed as to reflect their desires. Directions how to do this are contained in the instrument itself.¹ If the disagreement with public sentiment consists only in one or two provisions of the constitution it should be amended. If many of its principles do not agree with the will of the people, the constitution should be made entirely void, as soon as a satisfactory constitution is obtained in a proper manner.

This provision for changing a constitution is not an empty theory. Not a year passes without important alterations being made in some of the states of the Union. With the exception of those states which have recently been admitted, the entire document has been abrogated and another adopted instead, at least once in every state.

Written Constitutions.—The Constitution of the United States and that of Montana are written documents. So common is this conception to the American people that we hardly conceive of the possibility of an unwritten constitution. But nations have existed and

¹ Constitution of Montana, Art. XIX, Sec. 8.

flourished without any written instrument of this nature, and yet they all have had actual constitutions. England is the most important example of such a nation in modern times.

The written constitution, nevertheless, is a device very ancient in its origin, and so common in modern times that it is generally considered natural and essential to any federal government, whether republican or monarchical.

Acts of the Legislative Assembly.—The Legislative Assembly is directed to enforce the provisions of the constitution by proper legislation. It is also empowered to pass laws, not in conflict with the constitution, in regard to all matters pertaining to the interests of the state.

The general principles of legislation have been expressed in four classified codes, known as The Civil Code, The Political Code, The Code of Civil Procedure, and The Penal Code. These codes, in connection with the constitution, cover all the rights, duties and privileges of the citizens, except where amended by the Assembly or annulled by the decisions of the courts.

Judicial Interpretations.—The province of the courts, as affecting the civil government of the state, is to interpret the constitution and the laws passed by the legislature. No written document can be so accurately constructed that different opinions may not arise as to what it really means in every possible application. In our nation and its various states, it has been

agreed that any disputes as to meaning may be referred to the regularly established courts, and that their decision shall be final. This power given to the judiciary is the one invention of the framers of the Constitution of the United States, and may be almost said to be original with them. In any matters affecting the National Constitution, treaties or a United States statute, the federal courts must decide. In most other particulars the decision rests with the state courts.¹

This power of declaring the law, as it is called, has an additional meaning as applied to the acts of the Legislative Assembly, besides what it has when applied to the constitution. The courts may not only say what is meant by a law, but it also is frequently called upon to decide whether or not a law is in harmony with the constitution of the state. If it is not so in harmony, it is of no effect.

Indirect Action of the Courts.—It should be stated, however, that this power of interpreting the laws is never exercised directly. The legislators are always supposed to have in mind the necessity of conforming their acts to the principles laid down in the constitution. But whether they have done so or not, and whether the law is or is not constitutional can never be certainly known until a dispute arises over its enforcement. When such a condition arises, the person who considers himself wronged may bring the subject to

¹ Walker's American Law, p. 116; Curtis' Jurisdiction of Courts; Desty's Federal Procedure.

the attention of the courts, stating that the law is not binding on him because its application to his case is not authorized by the constitution. If the court decides that his interpretation is correct, the law fails as applied to the test case, and to all cases which are like it in principle. It may still be that the law is effective when applied to other cases, but it very frequently happens that it becomes entirely void.

In this way it happens that the functions of the courts become exceedingly important as affecting the civil government of the state, and can not be overlooked in a treatise of this sort.

Common Law.— But in spite of the greatest attempts which may be made to secure completeness, cases are continually occurring in which all of the above sources of authority fail to make clear the principle involved. In such instances recourse is had to what is termed the common law, this consisting of an innumerable number of decisions of courts of other states, of United States courts and of English courts before the establishment of our national judiciary, as well as opinions of commentators on various special branches of the law, and other material available only to thoroughly equipped lawyers.

The common law as such is not of direct authority, but is practically so considered when all of the above mentioned sources are found inadequate. It is powerful in its influence, and can never be left out of account in considering the civil and political rights of a people.

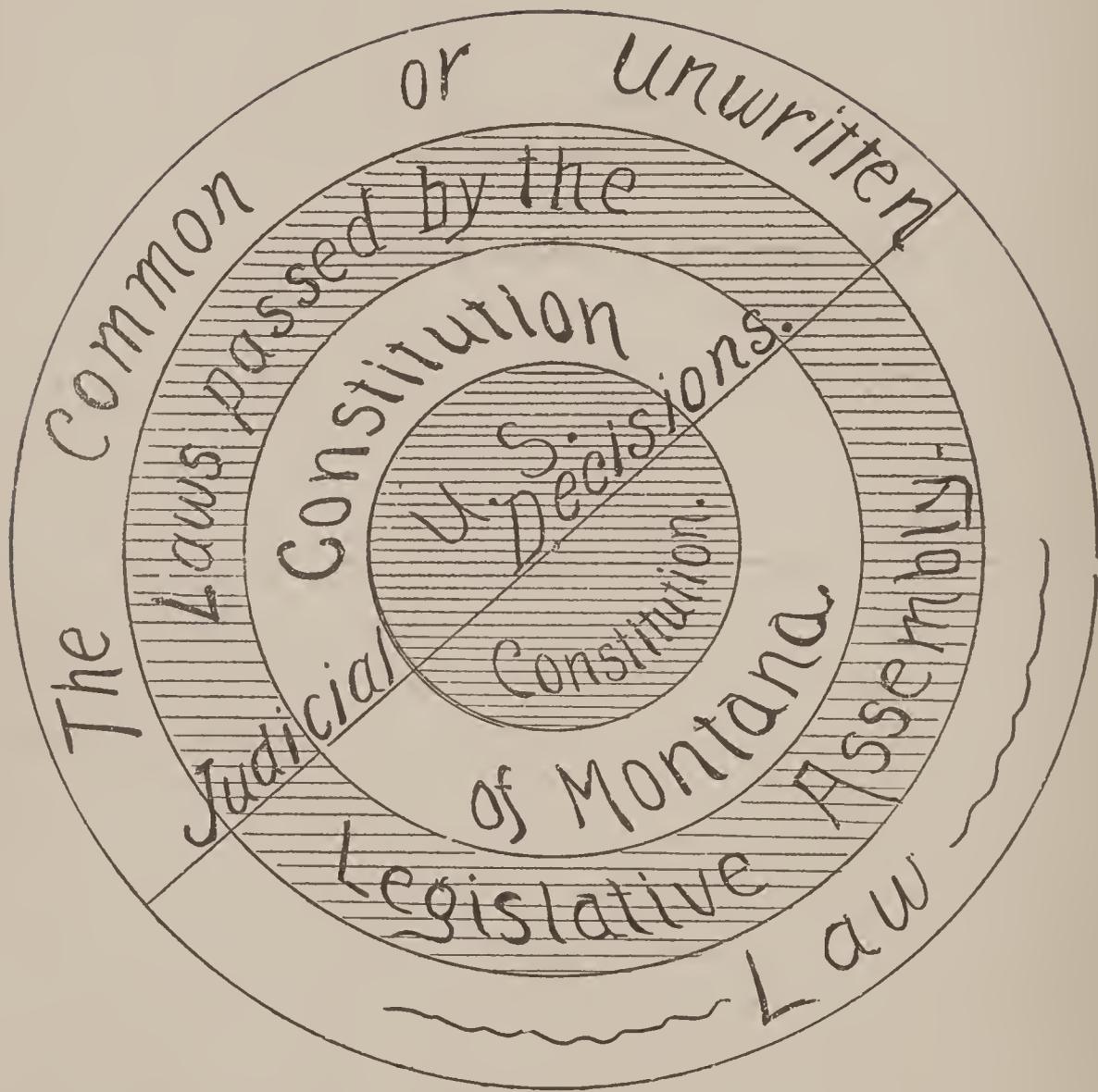
These five sources of authority would require voluminous treatment even to partially elucidate. But it is thought best to mention them here as being essential authorities for any student of the subject of this book. One or two of them will be slightly developed in succeeding chapters. But we shall be unable even to allude further to the others in the space at our command. ¹

Graphical Outline.—For making clear the relation existing between the varied authorities, we call attention to the following diagram composed of concentric circles. The central circle is occupied by the United States Constitution, being the fundamental expression of the nation. Just outside of this we place the Constitution of Montana, as expressing the conception of our people respecting the state government, this involving the application of the National Constitution to the interests of our commonwealth. The next outer circle indicates the action of the representatives of the people in applying the principles laid down.

The outside circle is devoted to the Common Law, as expressing the general opinion of English-speaking people, respecting otherwise undefined rights, duties and privileges.

While running across the center of all the spheres, the line of Judicial Decisions refers to the importance of the courts in defining and applying the principles expressed by the different authorities :

¹ Walker's American Law; Blackstone's Commentaries; The Institutes; Kent's Commentaries.



OUTLINES FOR STUDY.

A. CONSTITUTIONS.

- | | | |
|--|--|---|
| <p>1. Written.</p> <p style="padding-left: 2em;">1¹. United States.</p> <p style="padding-left: 2em;">1². Montana.</p> | | <p>2. Unwritten.</p> <p style="padding-left: 2em;">2¹. England.</p> <p style="padding-left: 2em;">2². _____</p> |
| 3. Direct Legislation (Frame Work). | | |
| 4. Legislate Directly (New State Const.). | | |
| <p>5. Enforcement of Provisions.</p> <p>6. Change—How Effected.</p> <p style="padding-left: 2em;">6¹. Legislature—People.</p> <p style="padding-left: 2em;">6². Legislature—Convention—People.</p> | | <p>8. Affected by Common Law.</p> <p>9. Affected by Treaties and International Law.</p> |
| 7. Judiciary—Interpretations. | | |
-

To Teachers.—Do not have children commit words of the book. Have them discuss the subject matter freely. Elicit all that they know upon the subject, then induce them to ask questions and aid them in securing the information. Be sure that they know all about the political affairs at home. This book does not presume to cover all the ground, but is simply a guide to school room work.

CHAPTER II.

HISTORY OF MONTANA.

Physical Description—The State of Montana is included between $44^{\circ} 6'$ and 49° north latitude, and 104° and 116° west longitude, its greatest length being 540 miles and its average width 275 miles. Its area is 146,080 square miles. It is thus third largest among the United States. The elevation varies from about 2,000 feet to more than 10,000 feet above sea level, and averages 3,400 feet. The surface exhibits a great variety of features from level prairie to rugged mountain. Lakes and rivers in great number furnish an abundant water supply.

Early History.—The country was first known to the whites in 1742, when Chevalier de la Verandrye, sent out by the French governor of Quebec, with his brother and two French-Canadians, accompanied by a large war party of Sioux, ascended the Missouri river. January 1, 1743, they arrived at the Gate of the Mountains, about twenty miles from the present site of Helena. They appear to have remained in Montana and Wyoming for upwards of a year. Before departing they are reported to have erected a monument and buried beneath it a leaden plate bearing the arms of France. The location of this monument is not known,

though it is generally thought to be near the great falls of the Missouri. Claims have been made of discovery, but the essential proof—the leaden plate—has not been furnished.

For a space of upwards of fifty years the region, though frequently visited by trappers and Jesuit missionaries, remained unknown to history. The main lines of travel from the Mississippi and the great lakes passed on either side, but Montana's many passes were largely unused.

Lewis and Clarke and Fur Traders.—The next historic event was in 1804, when Captains Lewis and Clarke crossed Montana on their famous expedition. A few years later the Missouri Fur Company, the Rocky Mountain Fur Company and the American Fur Company were organized and operated in this region. For many years all the supplies were taken overland, mainly by human labor from St. Louis, a distance of 2,000 miles. But in 1832 the steamboat *Yellowstone* ascended to Fort Union, which was built by Alex. Culbertson in 1829, being the first fort on the Missouri river above the Yellowstone.

Fort Union was not, however, the first settlement in Montana. In 1809, only a few years after the Lewis and Clarke expedition, a trading post was established on the Yellowstone by Emanuel Lisa, and in 1822 another was built on the same river by General Ashley.

Old Fort Benton was founded in 1846, and became United States property in 1869.

Missionaries and Gold Diggers.—Besides the

scattered records of the fur traders, the history of Montana before 1860 is occupied mainly with the missionary labors of Father De Smet and his associates among the Flathead Indians, beginning in 1840. About 1855, however, rumors of gold in Montana began to be whispered about. These were followed by rich discoveries in 1861 and since then the development of its mines has fixed upon Montana the name of *The Bonanza State*. Gold dust to the amount of \$25,000,000 was taken from Alder Gulch within a few months. Last Chance Gulch, where Helena now stands, produced great fortunes. The placer claims of the Silver Bow district were worked with great success for a few years and then the boom collapsed, until the introduction of modern machinery made available the extensive leads of gold and silver and copper that produce the permanent prosperity of Butte.

Indian Troubles.—Until 1877 continual troubles existed with the Indians during which, besides the petty raids and constant peril of life, some considerable battles were fought. In 1866 a disastrous engagement occurred near Fort Philip Kearney on the Big Horn river. In June, 1876, the most direful calamity in the history of the state occurred when the force of General Custer was annihilated in the battle of the Little Big Horn. Within a year, however, a series of victories under the direction of General Miles had destroyed the power of the Indians. Perhaps the most decisive of these victories was the battle of the Big Hole, where General Gibbons was in immediate command.

Rapid Increase of Population.—Meanwhile the story of the wealth obtainable in Montana spread abroad and the population rapidly increased. The most conspicuous industry was mining, but agriculture and sheep raising found also many followers. The population doubled between 1870 and 1880. The increase was even greater between 1880 and 1890. Vast streams of wealth flowed out of the country.

Until 1864 the region now known as Montana was included in the jurisdiction of other territories, but in that year it was separated with nearly its present boundaries. It is worthy of note that Montana was the first territory created after the emancipation of the slaves, and hence the first commonwealth where the constitution recognized the black man as having the same political rights as the white.

State Government.—For nearly twenty years the new territory rested content. But increase of population and wealth resulted in a desire that Montana should take its proper place in the sisterhood of states. In January, 1884, a convention met at Helena, which adopted a State Constitution. This was approved by vote of the people in November of the same year. But the time was not yet. Congress refused the needed sanction and another half decade of waiting was required. The goal of statehood was finally reached in 1889. On the 22d of February the Enabling Act was signed by the President of the United States. The Constitutional Convention met at Helena July 4th, and concluded its labors August 19th. The Constitution

then framed was approved by the people at a special election in October, and on the 8th of November was issued the proclamation recognizing Montana as one of the galaxy of states.

Organization of State Government.—Since then the work of completing the organization has gone steadily forward. Four legislative assemblies have been chosen and have wrestled with the problems before them. The four codes have been adopted. Provision for the various educational and other state institutions has been made. The location of the permanent seat of government has been determined after a prolonged contest of exceptional intensity.

Perhaps after all the most significant teaching of the election, which settled the question respecting the permanent capital of the state, was the revelation respecting the rapid increase of population. At this election over 52,000 votes were polled. Even more to be remarked was the distribution of the vote. While most varied occupations had been followed by the people, mining had always been the predominant industry. But at this election it appeared that the greatest growth in population was in the agricultural regions of the state. While mining industries are constantly growing they no longer overshadow other avocations, but every indication goes to show that there will be that symmetrical development which is most helpful to our permanent prosperity.

OUTLINES FOR STUDY.

A1 TERRITORY.

1. Location.
 - 1¹. Extent.
 - Effect on Government.
 - 1². Settlement.
2. First Visit.
 - 2¹. Time.
 - 2². Place.
3. Subsequent Visits.
 - 3¹. Lewis and Clarke.
 - 3². Time.
 - 3³. Place.
 - 3⁴. Effect.
4. Settlements.
5. Indian Troubles.
 - 5¹. Big Horn.
 - 5². Big Hole.
6. Population.

A2 STATE.

1. Organization.
 - 1¹. Enabling Act.
 - 1². Constitutional Convention.
 - A. Meeting—Place—Time.
 - B. How Composed.
 - 1³. Constitution.
 - A. Ratified.
 - 1⁴. Legislatures.
 - 1⁵. Location of Capital.

The geographical features of the state should enter largely into the discussion of this chapter. Maps of the state and of the various counties should be freely used.

The attention of the pupils should be called to the remarkable increase in population from the settlement to the admission of the state.

The magnitude and variety of the resources of the state should be discussed at length.

CHAPTER III.

MUNICIPAL AND TOWNSHIP GOVERNMENT.

Counties and Townships.—The State of Montana is divided into twenty-three counties. The counties are subdivided into townships.¹ The organization of a township occurs when a population of 100 or more desires a justice's court. In such a case, on petition to the county commissioners, an election is ordered and two Justices of the Peace and two Constables are chosen for a term of two years.² The duties of these officers are discussed in the chapter which treats of the judiciary.

Cities and Towns.—The municipalities proper, consisting of towns and cities, are not subdivisions of the county, nor do they conform to township boundaries. Their general privileges, duties and the conditions which characterize them are set forth in the political code.³ They are political corporations, consisting of all the inhabitants of any part of a county, created and

¹ The township here mentioned has no connection with the survey township, which is a district six miles square, laid off by United States surveyors.

² Political Code, §4,231.

³ Political Code, §4,700, et seq.

governed by public law, for certain economic and political ends.

Classification of Municipalities.—No such corporation can be formed without a population of at least 300 souls. If the population is between 300 and 1,000 the municipality is known as a town. If between 1,000 and 5,000, it is a city of the third class; if between 5,000 and 10,000, a city of the second class; if over 10,000, a city of the first class. The population which determines the rank of the municipality may be determined by the latest United States census, by the state census, or by a special census ordered by the municipality itself. ¹

Organization of Municipalities.—When the inhabitants of any part of a county desire to be incorporated into a town or city, a petition of 100 names is presented to the county commissioners. The commissioners order a census to be taken, and, if a sufficient population is found, they direct an election of town officers, designating time and place and appoint necessary judges and clerks of election. The officers so chosen qualify in the manner prescribed by law, and afterwards the elections are conducted by the municipality itself. ²

Who Eligible to Office.—In order to be eligible to any office, whether elective or appointive, a person must be a citizen of the United States, and must have

¹ Political Code, §4,710.

² Political Code, §4,720, et seq.

resided in the town or city which he serves for at least two years preceding his election or appointment. In order to hold certain offices he must also be a taxpayer. ¹

Differences Between Municipalities.—There is a difference in the different classes of cities, and in towns, as to the number of officers and their salaries, the number of wards in the cities, and the functions which they may exercise.

Powers and Duties of Municipalities.—The provisions of the codes respecting the government of a city or town follow the analogy of the constitution of the state of Montana and of the United States, in distinguishing the executive, legislative and judicial powers. ²

The Mayor.—The Mayor is the responsible head of the city government, presides over the City Council, nominates all appointive officers for confirmation by the council, communicates with the council by message, and has a casting vote in case of a tie. He may also administer oaths, remit fines or grant pardons in cases covered by the city ordinances, solemnize marriages, require exhibit of books of city officers, and has general supervision of their work. ³

The City Council.—The City Council is composed of two members from each ward, one being elected

¹ Political Code, §§4,749–4,752.

² Political Code, §4,800, et seq.

³ Political Code, §4,780, et seq.

each year for a term of two years. Its consent is necessary to the confirmation of any appointee of the Mayor, and it is divided into committees for the purpose of expediting business and properly carrying out its enactments.

Among the legislative functions of the council may be enumerated :

The making of appropriations to meet the expenses of the city government ; the direction of expending the moneys appropriated ; the fixing of the tax levy and direction of its collection.

The licensing of various industries and occupations.

The erection or leasing of buildings for the use of the city.

The laying out of streets, sidewalks, parks, etc., and the enacting of ordinances to prevent their obstruction.

The making of general laws regulating or prohibiting anything which affects the good morals or the safety of the inhabitants.

These and various other powers of similar nature are exercised by means of ordinances, orders and resolutions adopted in accordance with by-laws adopted by the council for its own guidance. ¹

The Treasurer.—The duties of the City Treasurer are to collect all moneys due the city, whether from taxes, licenses or otherwise, and to pay out the same on warrants signed by the Mayor and City Clerk, certifying to the action of the council. He may also be made assessor of the city property by act of the council.

Appointive Officers.—Among the appointive officers may be mentioned the Attorney, Clerk, Assessor, Street Commissioner, Engineer, Chief of Police, Chief Engineer when a fire department is organized, and Health Officer.

¹ Political Code, §4,800.

Executive Departments.—The above mentioned and various other appointees are distributed among the various executive departments. The chief of these are the Health Department, Police Department, Street Department and the Fire Department.

Health Department.—The province of the Health Department, whose official head is the Health Officer, or City Physician, is to have general care of the sanitary condition of the city, including the regulation of infectious diseases and nuisances. It also keeps a record of births and deaths.

Police Department.—The City Marshal or Chief of Police is in charge of the police force of the city. To this force is intrusted the protection of life and property, the enforcement of city ordinances and the arrest of criminals. It may also be required to report concerning matters in all of the executive departments, including condition of pavements, lights, etc.

Street Department.—To the street department is intrusted the proper grading of the streets, the construction and maintenance of sewers, sidewalks and roads. Its executive officer is the Street Commissioner under the direction of the City Engineer or Surveyor.

Fire Department.—The work of preventing and extinguishing fires belongs to this department, as well as the inspection of places containing explosives and the enforcement of ordinances respecting the same.

Judicial Department.—The officers belonging to the judicial department are the Police Magistrate, City Attorney and Chief of Police.

OUTLINES FOR STUDY.

TOWNSHIPS.

- | | |
|----------------------------|------------|
| 1. Political. | 2. Survey. |
| 1 ¹ . Officers. | |
| A. Number. | |
| B. Term. | |
| C. Qualifications. | |
| D. Duties. | |

Have pupils give the number of each class in the county in which they live; also have them give the names of the officers of the township in which they live.

OUTLINES FOR STUDY.

CITIES AND TOWNS.

- | | | |
|---|------------------------------|---------------------------------|
| 1. Class--First, Second, Third. | | 2. Town. |
| 1 ¹ . Manner of Determining. | | 2 ¹ . How Organized. |
| 3. Officers. | A. Legislative. | B. Executive. |
| | C. Judicial. | |
| 3 ¹ . Number. | A ¹ Council. | B ¹ Departments. |
| | C ¹ Names. | |
| 3 ² . Name. | A ¹ How Composed. | |
| 3 ³ . Qualifications. | A ² Officers. | |
| 3 ⁴ . Term. | Duties. | |
| 3 ⁵ . Duties. | A ³ Powers. | |
| | A ⁴ Ordinances. | { 1. Signed. |
| | Manner of Passing. | { 2. Over the Veto. |
| | | { 3. Not Returned. |

It has been our experience that even among people otherwise well informed there is a lamentable lack of knowledge of the workings of the municipal government. We would suggest that even the minutiae be thoroughly explained, the teacher taking care that she is well informed in regard to the various departments of the city or town government.

CHAPTER IV.

COUNTY GOVERNMENT.

What the County Is.—The Political Code defines the county as the largest political division of the state having corporate power.¹ In Montana the county is the unit of government, and while not entirely like the county in the south in its functions, it may be described as the southern county with features of the town government of New England.²

Number and Classification of Counties.—At the time of the adoption of the constitution, the state contained sixteen counties. Since then seven more have been created, making the number at present twenty-three.

For the purpose of regulating the number and remuneration of county officers and for fixing the penalties of official bonds, the counties are divided into eight classes. The basis of classification is the value of taxable property in the county, as follows:

- 1st class, over \$20,000,000.
- 2d class, between \$15,000,000 and \$20,000,000.
- 3d class, between \$10,000,000 and \$15,000,000.

¹ Political Code, §4,100.

² Fiske's Civil Government in the United States.

- 4th class, between \$8,000,000 and \$10,000,000.
5th class, between \$6,000,000 and \$8,000,000.
6th class, between \$4,000,000 and \$6,000,000.
7th class, between \$2,000,000 and \$4,000,000.
8th class, under \$2,000,000.¹

County Officers.—The officers of a county are the Treasurer, County Clerk, Clerk of the District Court, Sheriff, County Auditor (in counties of 1st, 2d and 3d class), County Attorney, Surveyor, Coroner, Public Administrator, Assessor, County Superintendent of Schools and three County Commissioners.²

County Administration.—The powers of a county must be exercised by the County Commissioners or under their direction, or by authority of law.

The county is expressly forbidden to loan its credit in aid of, or to make any grant to any person or corporation, nor can it become a partner of any person or corporation.

County Commissioners.—Among the most important powers and duties of the County Commissioners may be mentioned:

The supervision and control of all county officers; the fixing of the number of deputies, and selection of other employes of the county.

The division of the county into townships, school, road and other districts, and the making of such changes in these districts as may be necessary.

The construction and management of roads, ferries and highways within the county.

¹ Political Code, §4,328.

² Political Code, §4,312.

The care and maintenance of the poor and indigent sick belonging to the county.

The control and management of all county properties and financial and other interests.

They also exercise various executive, legislative and judicial functions in addition to those above enumerated and in general represent the county in its corporate capacity. ¹

County Clerk.—The County Clerk is clerk of the Board of County Commissioners and as such keeps a record of its transactions, and preserves copies of all papers considered by them. In particular he keeps the records of the finances of the county, and separate records of warrants, franchises and proceedings respecting roads.

The County Clerk is ex-officio recorder and in separate books records deeds, contracts, etc., certificates of marriage and marriage contracts, births and deaths, wills, official bonds, notices of pre-emption claims, notices and declarations of water rights, assignments, notices of mining location, and many other writings required or permitted to be recorded. He is also required to keep up indexes of these various records. ²

County Treasurer.—The County Treasurer, besides having charge of all moneys collected from taxes, licenses and other sources, for county and school purposes, is the collector of the county. ³

¹ Political Code, §4,230.

² Political Code, §4,410.

³ Political Code, §4,350.

County Auditor.—It is the duty of the County Auditor to examine all claims against the county, and no bills not approved by him can be paid except by special order of the District Court. He also periodically examines the books of the various county and township officers and is ex-officio superintendent of the poor.

County Surveyor.—The County Surveyor makes all surveys ordered by the court, or upon application of any person, and keeps proper record of the same. He also supervises the work and expenditures of the road supervisors, furnishes plans and specifications for road or bridge work, and is chairman of all boards of road viewers.

Other County Officers —The duties of other county officers are treated in the chapters devoted to the judiciary and to education, and need not be enlarged on here.

OUTLINES FOR STUDY.

COUNTIES.

- | | |
|----------------------------------|---------------------------------|
| 1. Name. | 3. Officers. |
| 2. Class. | 3 ¹ . Term. |
| 2 ¹ . How Determined. | 3 ² . Qualification. |
| | 3 ³ . Duties. |
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Those belonging to the judiciary or to the department of education should only be named here, and their duties discussed when they are mentioned under the proper title.



HON. E. A. STEERE, SUPERINTENDENT OF PUBLIC INSTRUCTION.

CHAPTER V.

EDUCATION.

School Policy of United States.—The United States has always recognized that an efficient educational system, free from sectarian control, is essential to the prosperity and perpetuity of a free government. Accordingly, even before the adoption of the national constitution, the school interests were considered. In the ordinance of 1787 creating the Northwest Territory, the 16th and 36th sections of every township in said territory were set apart as a foundation for a common school fund, and in other ways the educational spirit was encouraged.

The government has never receded from the policy thus early laid down, but, while carefully leaving the execution to the various states, has ever encouraged and required the adoption of a common school and higher educational policy by new states as they have successively been added to the Union.

Enabling Act.—Accordingly in the Enabling Act approved February 22, 1889, in accordance with which the constitutions of North Dakota, South Dakota, Montana and Washington were formed, it was provided that in the new states constitutional provisions should

“be made for the establishment and maintenance of systems of public schools, which shall be open to all children from said states, and free from sectarian control.” Generous grants of public lands were also made both for the maintenance of common schools and of special schools and colleges.¹

The School Fund.—The school fund of the state consists of the following items:

1st. The proceeds of lands granted, directly or indirectly, by the general government. These at present comprise the 16th and 36th, or equivalent sections, of every township in the state outside of reservations for common school purposes; seventy-two sections of land for a state university; 140,000 acres for an agricultural college; 100,000 acres for a school of mines; 100,000 acres for state normal schools; 50,000 acres for a state reform school; 50,000 acres for a deaf and dumb asylum.

2d. Five per centum of the proceeds of the sale of public lands within the state.

3d. All estates or distributive shares of estates that may escheat to the state.

4th. All unclaimed shares and dividends of any corporation incorporated under the laws of Montana.

5th. All other grants, gifts, devises or bequests made to the state for general educational purposes.

It is further provided in the constitution that the above school fund shall be controlled and managed by the State Board of Land Commissioners which consists of the Governor, Superintendent of Public Instruction, Secretary of State and Attorney General; that the income only may be expended; and that

¹ Political Code, page 67.

the fund be guaranteed by the state against loss or diversion.¹

State Board of Education.—The general supervision of the school system of the state is vested in the State Board of Education. This consists of eleven members, eight of whom are appointed by the Governor and confirmed by the Senate. The terms of office are so arranged that the time for which two are appointed expires each year. The other three members are the Governor, who is president of the board, the Superintendent of Public Instruction, who is secretary, and the Attorney General. The State Treasurer is treasurer of the board, though not an active member. The State Board of Education besides having supervision of the various state educational institutions prescribes the rules and regulations for their government. It also makes recommendation to the Legislative Assembly of a uniform system of text books to be used in the public schools of the state below the high schools; grants diplomas to graduates of state educational institutions and honorary degrees to persons not graduates: grants state diplomas to, and appoints and commissions teachers to act as instructors in county institutes, and exercises other powers in harmony with its objects.

Educational Institutions.—The state institutions under control of the State Board of Education are:

The University of Montana, at Missoula.²

¹ Constitution of Montana, Art. XI., Sec. 2.

² Political Code, §1,540, et seq.

The School of Mines, at Butte. ¹

The Agricultural College of the State of Montana, at Bozeman. ²

The State Normal School, at Dillon. ³

The Montana Deaf and Dumb Asylum, at Boulder. ⁴

State Superintendent of Public Instruction.—The State Superintendent of Public Instruction is secretary and the executive officer of the State Board of Education.

He is required to gather and preserve literature of all kinds pertaining to educational subjects, and to turn the same over to his successor, with the reports, statements, records and archives of his office.

In his duty of general supervision of the public schools of the state is included :

The furnishing of all printed matter to school officers in the state of the nature of registers, records, statements, notices and blanks for returns required of them, lists of books and rules for school libraries, etc.

The preparation of questions and making of rules for examination of applicants for teachers' county certificates.

The prescribing of rules and regulations for the holding of teachers' institutes.

The advising of county superintendents, deciding appeals from their decisions and general oversight of the enforcement of the school laws of the state.

The printing of the school laws at least once in four years, and furnishing them to school officers in the state.

The assisting in teachers' institutes, and in other ways laboring to stimulate interest in public education.

¹ Political Code, §1,570, et seq.

² Political Code, §1,620, et seq.

³ Political Code, §1,650, et seq.

⁴ Political Code, §2,330, et seq.

The submitting of a report covering all the educational interests of the state to the Governor on or before the first day of December preceding the bi-ennial session of the Legislative Assembly.

The apportioning of the state school fund annually among the several counties of the state, in proportion to the number of children of school age.¹

County Superintendent of Schools.—In each organized county of the state a County Superintendent is elected for a term of two years. He must be a citizen of the United States, a resident of the county in which he is chosen for at least one year preceding his election, hold a certificate of the highest county grade and have had twelve months successful experience in teaching in the public schools of the state. He shall also take the oath or affirmation of office, and give an official bond in the sum of \$10,000, subject to the approval of the Commissioners of his county.

In his duty of supervision he must visit every school in his county at least once a year, advise and direct the teacher in regard to school matters, and see that the school laws and directions of the State Superintendent are fully carried out. He decides all matters in controversy under the school law, which arise in his county or are appealed to him, apportions all school moneys among the various school districts. He presides over all teachers' institutes held in his county, and selects persons to instruct therein from the list of teachers commissioned by the State Board of Education. He grants certificates of the 1st, 2d, and 3d grades in accordance with rules pre-

¹ Political Code, §1,700, et seq.

scribed by the State Superintendent, and reports annually to the State Superintendent concerning educational matters in his county. ¹

City Superintendent of Schools.—In any district of more than 5,000 inhabitants, a City Superintendent of schools may be chosen. He must hold a state certificate of the highest grade, or be a graduate of some reputable college or normal school, and have taught in the public schools at least five years. His duties, salary and tenure of office are to be prescribed by the trustees of the school district. ²

School District.—The unit of the school system of Montana is the school district. This is a division of the county, and its boundaries are determined in accordance with public sentiment. For the purpose of forming a new district, a petition signed by the parents or guardians of at least ten school census children must be presented to the County Superintendent. This petition must describe the boundaries, and give the names of all children of school age in the proposed new district. The County Superintendent must then fix a date for hearing the petition, and give notice thereof at least ten days before the date. On the day fixed he shall proceed to hear the petition, and, if he deem it advisable, shall make an order establishing the district. From this order an appeal may be taken by any three resident taxpayers of the new district within

¹ Political Code, §1,730, et seq.

² Political Code, §1,930, et seq.

thirty days. This appeal must be to the County Commissioners, and their decision is final. But no school district can be created between the first day of March and the first day of September.

In changing boundaries of districts and consolidating districts a practically similar process is followed.

Every district must maintain a school, free to all children of school age in the district, for at least three months in every year. All the teachers employed in the schools of the district must hold legal certificates of fitness for the occupation of teaching in full force and effect. The text books used must be such as are prescribed by the Legislative Assembly.¹

School Trustees.—The schools in each district are managed by a board of School Trustees. In districts of less than 500 inhabitants there are three Trustees; in districts of between 500 and 1,000 inhabitants, five Trustees; and in districts of over 1,000 inhabitants, seven Trustees. The term of office is three years, but the terms are so arranged that one-third of the board is changed every year.

School Election.—The Trustees are chosen at the regular school election held on the first Saturday in April of each year. Vacancies occurring during the year are filled by appointment for the unexpired part of the year by the County Superintendent of Schools. All arrangements respecting the school elections are made by the Trustees. The Judges are chosen from

¹ Political Code, §1,750, et seq.

their number. The votes are canvassed and certificates of election issued to the successful candidates by them.

The Trustees have full control of the school property and school interests of the district subject to the laws of the state and may adopt any rules for their own guidance or for the government of the schools under their supervision not inconsistent with law or the rules prescribed by the State Superintendent of Public Instruction. They engage and pay all the employes of the school district, and disburse all the school money, but receive no compensation for their services. They report to the County Superintendent on or before the first day of October in each year and whenever so instructed report directly to the Superintendent of Public Instruction. ¹

Institutes. — The County Superintendent, in any county containing five or more school districts, is required to hold a teachers' institute each year. ² In counties of less than five districts he may hold such an institute with the permission of the Superintendent of Public Instruction. Two or more counties may also unite in holding a joint institute.

An institute must continue at least five, but not more than ten days. All teachers employed in the public schools must attend such institutes as are held in the county.

Certificates.—On the third Fridays in February,

¹ Political Code, §1,770, et seq.

² Political Code, §1,900, et seq.

April, August and November public examinations of all persons over eighteen years of age, who desire to engage in teaching, shall be held by the County Superintendent. This examination may, when necessary, continue two days.

In accordance with the rank attained in the examination and the number of branches in which the applicant passes, three grades of certificates are issued. The certificates of the first grade are good for three years, those of the second grade for two years, and those of the third grade for one year. In order to obtain a third grade certificate the applicant must pass in reading, penmanship, orthography, written arithmetic, mental arithmetic, geography, English grammar, physiology and hygiene, United States history, and theory and practice of teaching. Applicants for a second grade certificate in addition to these branches must pass in civics of the United States and Montana, physical geography, and elementary algebra. Besides the foregoing branches, applicants for a first grade certificate must pass in American literature, natural philosophy and plane geometry. The required percentages for the various grades are fixed, by a standing rule, by the Superintendent of Public Instruction. In order to receive a first grade certificate, a person must have had at least twelve months' successful experience in teaching.

No person may receive a third grade certificate more than twice. A first grade certificate may, upon payment of the regular fee, be once renewed without examination. Under certain conditions the County

Superintendent may issue a temporary certificate, good until a regular examination can be had. But no such temporary certificate can be issued more than once to the same person. ¹

Sex in Education.—In the state of Montana women are entitled to vote at all school elections. They may also hold any office or be employed in any capacity in the educational system of the state, except the office of Superintendent of Public Instruction.

Libraries.—In the educational system of Montana are embraced several classes of libraries.

School Libraries.—In every school district the Trustees are required to maintain a school library. In districts of less than 2,000 inhabitants at least five per cent., and not more than ten per cent. of the annual apportionment of the county school funds shall be expended for books for such libraries. But the amount annually so expended must not exceed fifty dollars.

In cities of 2,000 or more inhabitants the School Trustees must expend annually for books for school libraries not more than fifty dollars for every 500 children between the ages of six and twenty-one, or fraction thereof exceeding 300.

All books for such libraries must be chosen from lists approved by the Superintendent of Public Instruction. ²

Circulating Libraries.—An appropriation of \$1,000

¹ Political Code, §1,910, et seq.

² Political Code §2,000, et seq.

for the year 1895, \$500 for 1896, and \$300 annually thereafter has been made by the Legislative Assembly, for books to be purchased and managed by a board consisting of the Superintendent of Public Instruction, the Attorney General and State Auditor. The books are to be divided into libraries of one hundred books each and known as circulating libraries. One of these libraries may be loaned for a period of six months to any community which will guarantee its proper care and pay all expenses involved in its transfer and use.

Public Libraries Proper.—While the term public library is applicable to any library supported by public funds and regulated by public law, it is specially applied to such libraries as are permanently established in any community and by public taxation made free to all the inhabitants thereof.

The council of any town or city may by ordinance provide for the establishment, government and maintenance of a public library. The ordinance must be approved by a vote of the qualified electors, and must state the tax, not to exceed one mill on the dollar of assessed valuation, which is to be devoted to library purposes. The Trustees of a public library are appointed by the Mayor with the advice and consent of the City Council.

Other Libraries.—Other libraries of a public nature are the State Law Library, the State Historical Library, and those connected with the various state institutions.

OUTLINES FOR STUDY.

EDUCATION.

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| <p>A. Supervision.</p> <p style="padding-left: 20px;">A¹ State Superintendent.</p> <p style="padding-left: 20px;">A² County Superintendent.</p> <p style="padding-left: 20px;">A³ City Superintendent.</p> <p style="padding-left: 40px;">1. How Elected.</p> <p style="padding-left: 40px;">2. Term.</p> <p style="padding-left: 40px;">3. Qualification.</p> <p style="padding-left: 40px;">4. Duties.</p> <p style="padding-left: 40px;">5. Powers.</p> <p>C. State Institutions.</p> <p style="padding-left: 20px;">C¹ Location.</p> <p style="padding-left: 20px;">C² Purpose.</p> <p>E. Teachers.</p> <p style="padding-left: 20px;">E¹ Election.</p> <p style="padding-left: 20px;">E² Qualification.</p> <p style="padding-left: 20px;">E³ Duties.</p> <p>G. Libraries.</p> <p style="padding-left: 20px;">G¹ Classes.</p> <p style="padding-left: 20px;">G² How Provided.</p> | <p>B. Direction.</p> <p style="padding-left: 20px;">B¹ State Board.</p> <p style="padding-left: 40px;">A. Local Boards (State Institutions).</p> <p style="padding-left: 20px;">B² District Board.</p> <p style="padding-left: 40px;">1. How Composed.</p> <p style="padding-left: 60px;">1'. Officers.</p> <p style="padding-left: 60px;">2. Powers.</p> <p style="padding-left: 60px;">3. Duties.</p> <p>D. School Districts.</p> <p style="padding-left: 20px;">D¹ How Formed.</p> <p style="padding-left: 20px;">D² Extent.</p> <p style="padding-left: 20px;">D³ Regulations.</p> <p>F. Pupils.</p> <p style="padding-left: 20px;">F¹ Duties.</p> <p style="padding-left: 20px;">F² Privileges.</p> <p>H. County Institutes.</p> <p style="padding-left: 20px;">H¹ When Held.</p> <p style="padding-left: 20px;">H² By Whose Direction.</p> <p style="padding-left: 20px;">H³ Time.</p> <p style="padding-left: 20px;">H⁴ Purpose.</p> |
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The amount of the above outline to be used is left to the discretion of the teacher.

CHAPTER VI.

THE STATE CONSTITUTION.

Governmental Authority.—It is to be carefully remembered that while the municipal corporations, school districts and other political organizations treated of in the preceding chapters, exercise many of the functions of government, they do not constitute the government. They are simply corporations for the better management of local affairs, but are created, controlled or destroyed by the authority of the state. ¹

Constitutions.—The inhabitants of the United States recognize a two-fold authority, both resting on the expressed will of the people, and both equally supreme. The government of the United States and the government of Montana are both founded on a written constitution which is supposed to be the actual expression of the people in regard to political questions. This, politically speaking, is the real “referendum” and carefully guarded “initiative” of the American people. All legislation derives from the constitution its authority and must be in harmony with it. ²

¹ Dillon's Municipal Corporations; Beach's Public Corporations; Political Code, §§1,759, 4,190, 4,700.

² Cooley's Const. Limitations; Story's Commentaries on the Const.; The Federalist; Bryce's Am. Commonwealth; Hitchcock's Am. State Constitutions.

Divisions of the State Constitution.—The Constitution of the state of Montana consists of four unequal parts.

First. The preamble which is very brief and states that the object of forming the Constitution is to secure the advantages of a state government.

Secondly. The first article sets forth the boundaries of the state, and the second article mentions certain military reservations in which the national government has exclusive jurisdiction, except in a limited number of cases involved in police regulations.

Thirdly. The bill of rights, which comprises Article III of the Constitution, and The Schedule set forth in Article (or as it is printed) Section XX.

Fourthly. Articles III to XIX describe the frame work of the state government and it is these articles with which almost all legislation is concerned.

Bill of Rights.—The bill of rights may be described as the theoretical part of the Constitution. In it the members of the Constitutional Convention strove to express their opinion of the fundamental conceptions which underlie a free government, and the general rights and privileges which such a government should secure. It is the most readable part of the Constitution. For its full explanation it refers back through a long series of deliverances of statesmen to the granting of Magna Charta.

Among the principles laid down may be mentioned that all men are equal in political, religious, legal and social rights; that government derives its authority from the people; that while people must obey the laws, the government has certain important duties toward the governed; that the military power in the state is subordinate to the civil; and that the object of punishment

for crime shall be reformative and preventive rather than vengeful.¹

Schedule.—The Schedule contains provisions that all laws in force under the territorial form of government, are to be binding on the state government unless expressly changed by the Constitution or act of the Legislative Assembly. It also indicates certain verbal changes which are to be understood in order to bear the new construction. Certain sections are devoted to the subject of the adoption of the Constitution and the methods of changing from the old to the new form.

Enabling Act.—The Enabling Act while a separate document is, in reality, as much a portion of the Constitution as is the Schedule. But as its important provisions are embodied in the Constitution proper, and developed in the codes, it is not necessary to enlarge upon it here.²

¹ Walker's Am. Law; Const. Mont., Art. III, Schedule xx.; Political Code, page 80.

² Political Code, page 68.

OUTLINES FOR STUDY.

CONSTITUTION.

A. Preamble.

C. ¹ Bill of Rights, ² Schedule.

1¹. Governed.

1². Accused.

1³. Witness.

1⁴. Alien.

1⁵. Water Rights.

Armed Bodies.

B. Boundaries and Reservations.

D. Powers of the Government outlined under the separate heads.

CHAPTER VII.

EXECUTIVE.

Executive Officers.—The officers of the state executive department are the Governor, Lieutenant-Governor, Secretary of State, Attorney General, State Treasurer, State Auditor and Superintendent of Public Instruction. They are elected by a plurality vote for a term of four years. With the exception of the Lieutenant-Governor, they must, during the term for which they are elected, reside at the seat of government and keep there the records of their respective offices.¹

Governor.—The Governor is the supreme executive officer and supervises the official conduct of the others. He may require information in writing of them, or of any officer or manager of the state institutions, at any time upon any subject connected with their respective offices or institutions; or, may appoint a committee to investigate and report to him, concerning matters in these offices or departments.²

He is required to report to the Legislative Assembly, at the beginning of each session and at other times when he deems it necessary, concerning the condition

¹ Const. Mont., Art. VII, Sec. 1-2; Political Code, §§ 330, et seq.

² Const. Mont., Art. VII, Sec. 10; Political Code, § 370.

of the State Government and such legislation as he deems advisable.¹ His approval is necessary to every bill passed by the Assembly, unless passed over his veto by a two-thirds vote of each house acting separately. But if he delays to return the bill, with his approval, within five days (not including Sundays) from the time when he receives it, it becomes a law, unless the Assembly by adjournment prevents its return within such period.² In the case of a bill making appropriations for money, he may approve it in part and return the parts not approved to the Assembly with his objections as in the case of other entire bills disapproved.³

He may at any time by proclamation call an extra session of the Senate for the transaction of executive business. He may also for special purposes call together the Legislative Assembly. But the purpose for which it is convened must be clearly set forth in the proclamation and no other business can be transacted at such special session.⁴

He is the only medium of communication between the state of Montana and the other states of the Union, or the National government.

The Governor is the commander-in-chief of the militia, except when in actual service of the United States, and may call them out when needed.⁵ He is

¹ Const. Mont., Art. VII, Sec. 10.

² Const. Mont., Art. VII, Sec. 12.

³ Const. Mont., Art. VII, Sec. 13.

⁴ Const. Mont., Art. VII, Sec. 11.

⁵ Const. Mont., Art. VII, Sec. 6.

also a member of the State Board of Prison Commissioners, State Board of Examiners, State Board of Land Commissioners, State Board of Equalization, State Board of Education, State Board of Commissioners for the Insane, and State Board of Commissioners for the Deaf, Dumb and Blind. ¹

He nominates, and with the consent of the Senate, appoints among others the following officers.

- 1 State Land Agent.
- 1 State Examiner.
- 1 Sealer of Weights and Measures.
- 1 Inspector of Boilers.
- 1 Inspector of Mines.
- 1 Deputy Inspector of Mines.
- 7 Medical Examiners.
- 5 Dental Examiners.
- 3 Members of State Board of Pharmacy.
- 3 Members of State Board of Charities and Reform.
- 1 Commissioner of Agriculture, Labor and Industry.
- 1 or more Notaries Public for each County in the State.
- 1 or more Commissioners of Deeds in every state in the Union and in any foreign state.
- 8 Members of the State Board of Education.
- 5 Trustees of the State Historical and Miscellaneous Library.
- 5 Trustees of the State Orphans' Home.
- 4 Trustees of the Soldiers' Home.
- 12 or more Members of the Board of Stock Commissioners.
- 1 State Veterinary Surgeon.
- 3 Members of the State Board of Arbitration and Conciliation.
- 1 Register of the State Land Office.

In the cases of vacancies in the other state executive offices, the Governor fills the same by appointment. ²

¹ Political Code, relating to creation of the several Boards.

² Const. Mont., Art. VII, Sec. 7—Sections of Political Code creating various offices.

The Governor grants pardons, absolute or conditional, remits fines, etc., with the approval of a majority of the State Board of Pardons, which consists of the Secretary of State, Attorney General and State Auditor. But before a pardon is granted or fine remitted, proper notice must be given, and a full hearing must be had in open session. ¹

The Governor must be a citizen of the United States, and a resident of the state of Montana for at least two years preceding his election, and when elected must be at least thirty years of age. ²

Lieutenant-Governor.—The Lieutenant-Governor acts as president of the state Senate, but has no vote except when it is equally divided. The same qualifications are required of him as of the Governor. He acts as Governor in case of the failure of the latter to qualify, or of his death, resignation, absence from the state, impeachment, conviction of felony or infamous crime, or other disqualification. ³

Secretary of State.—The Secretary of State has charge of the enrolled copy of the constitution, of the state seal, of all acts and resolves and of the journals of the Legislative Assembly, as well as of various other documents, books and records.

He must attend every session of the assembly, and perform such duties as they may prescribe.

¹ Const. Mont., Art. VII, Sec. 9.

² Const. Mont., Art. VII, Sec. 3.

³ Const. Mont., Secs. 14-15—Political Code, § 390, et seq.

He records the official acts of the Governor, all conveyances made to the state, all articles of incorporation filed with him, and the official bonds of state officers.

He has the direction of the printing of the public documents of the state, and of their distribution to the proper depositories.

He is a member of the State Board of Examiners, State Board of Prison Commissioners, State Board of Equalization, State Board of Pardons, State Board of Land Commissioners, State Board of Commissioners of Insane, Deaf, Dumb and Blind. He is State Sealer of Weights and Measures, and Superintendent of the state Capitol or the building or rooms used by the state government.

He must when elected be a citizen of the United States, a resident of the state of Montana for at least two years, and not less than 25 years of age.¹

State Auditor.—The State Auditor is superintendent of the fiscal concerns of the State. He reports regularly to the Governor concerning all matters under his supervision and to the Superintendent of Public Instruction concerning the School Fund. Whenever called upon he gives any desired information to the Legislative Assembly respecting the fiscal affairs of the State.

He audits all claims against the state, and draws warrants on the Treasurer for moneys legally payable.

He is a member of the State Board of Equalization.

¹ Political Code, §§ 400, et seq.

The same qualifications are required of him as of the Secretary of State. ¹

State Treasurer.—The State Treasurer is custodian of all the funds of the State. He pays out money on warrants issued by the State Auditor. He reports at times prescribed by the codes to the State Auditor, the Legislative Assembly and the Governor.

He is a member of the State Board of Equalization.

He is required to possess the same qualifications as the Secretary of State. ²

Attorney General.—The Attorney General is the legal adviser of the Legislative Assembly and the State Officers. He prosecutes or defends before the Supreme Court all cases in which the state is a party, or in which any county is a party unless the interest of the county conflicts with that of the state.

He supervises the official work of County Attorneys, and assists the County Attorneys when needed.

He reports to the Governor at times prescribed by the Political Code.

He is a member of the State Board of Pardons, State Board of Land Commissioners, State Board of Education, State Board of Equalization, State Board of Prison Commissioners, and State Board of Commissioners for the Insane, Deaf, Dumb and Blind.

He must have the same qualifications as are prescribed for the Governor, and must besides be a lawyer

¹ Political Code, §§ 420, et seq.

² Political Code, §§ 410, et seq.

in good standing at the bar of the Supreme Court of the state. ¹

Superintendent of Public Instruction.—The duties of the Superintendent of Public Instruction are mentioned in the chapter on Education and need not be repeated here. ²

¹ Political Code, §§ 160, et seq.

² Political Code, § 1,700, et seq.

OUTLINES FOR STUDY.

EXECUTIVE.

A. Officers.

A ¹ Governor.	1. Term.
A ² Lieutenant-Governor.	2. Qualifications.
A ³ State Auditor.	3. Powers.
A ⁴ State Treasurer.	4. Duties.
A ⁵ Attorney General.	5. Succession in Case of Vacancy.
A ⁶ Superintendent of Public Instruction (discussed under Education).	

CHAPTER VIII.

LEGISLATIVE.

Legislative Assembly.—Following the analogy of the Constitution of the United States the legislative power of the government of Montana is vested in two assemblies, which are known separately as the “Senate” and “House of Representatives,” and collectively as the “Legislative Assembly of the State of Montana.” As will be noted in the extracts from the Constitution which make up most of this chapter, the Assembly in the matter of impeachment exercises judicial functions, and in the making of appointments the Senate divides with the Governor the executive power. ¹

Membership of Assembly.—The House of Representatives at present consists of sixty-eight members elected by the people of the various counties of the state for a term of two years. The date of the election of Representatives is the first Tuesday after the first Monday in November in the even years. Following is a list of counties with the number of Representatives to which each is entitled:

¹ Const. Mont., Art. v.

COUNTY.	NUMBER OF REPRESENTATIVES.
Beaverhead.....	2
Cascade.....	5
Choteau.....	2
Custer.....	2
Dawson.....	1
Deer Lodge.....	6
Fergus.....	2
Flathead.....	3
Gallatin.....	3
Granite.....	2
Jefferson.....	3
Lewis and Clarke.....	7
Madison.....	3
Meagher.....	2
Missoula.....	4
Park.....	2
Ravalli.....	2
Silver Bow.....	12
Teton.....	1
Valley.....	1
Yellowstone.....	1
Carbon.....	1
Sweetgrass.....	1 ¹

The Senate consists of twenty-three members, each representing one of the counties of the state.²

The term of office of the Senators is four years, but the terms are so arranged that one-half of the whole number are elected at each election where representatives are chosen.³

A Representative must be at least twenty-one years

¹ Political Code, § 112.

² Const. Mont., Art. VI, Sec. 1.

³ Const. Mont., Art. V, Sec. 2.

of age, and a Senator at least twenty-four years of age. Each must also be a citizen of the United States and a resident for at least twelve months preceding his election of the county in which he is elected. ¹

The compensation of the members of the Legislative Assembly is fixed by a legislative bill, but no assembly can determine its own compensation. ²

Sessions of the Legislative Assembly.—The regular sessions of the Legislative Assembly, begin at twelve o'clock noon of the first Monday of January, in the odd years, and continue not to exceed sixty days. Special sessions may be convened by the Governor for extraordinary purposes. ³

For other explanations respecting the powers and duties of the Legislative Assembly we quote in full the following sections of Article V. of the constitution :

Restrictions to Appointment to Civil Office.—SECTION 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.

Officers and Rules of Assembly.—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 chose its other officers, and shall judge of the elections, returns and qualifications of its members.

¹ Const. Mont., Art. v, Sec. 3.

² Const. Mont., Art. v, Sec. 5.

³ Const. Mont., Art. v, Sec. 6.

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.

Journal.—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.

Open Sessions.—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.

Adjournment.—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.

Privilege of Members.—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.

Impeachment.—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.

Legislative Bills.—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.

Special Laws.—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; exempting 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.

Duties of Officers and Employes.—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.

Extra Compensation of Officials.—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.

Purchase of Supplies.—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.

Increase of Term or Salary of Official.—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.

Revenue Bills.—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.

Appropriations.—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.

Other Restrictions.—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.

Approval of Governor.—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.

Bribery and Influence.—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.

Personal Interest of Members.—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.

Vacancies.—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.

OUTLINES FOR STUDY.

LEGISLATIVE.

1. Senate.

- 1¹. How Composed.
- 1². Term.
- 1³. Qualifications.
- 1⁴. Compensation.
- 1⁵. Restrictions.
- 1⁶. Privileges.
- 1⁷. Duties.
- 1⁸. Officers.
 - A. Duties.
 - B. How Elected.
 - C. Compensation.

A. Bills.

- | | | |
|----------------------------|---|---|
| A ¹ How Passed. | { | <ol style="list-style-type: none"> 1. Signed by the Governor. 2. Over Veto. 3. Not Returned. |
|----------------------------|---|---|

B. Vacancies—How Filled.

2. House.

- 2¹. How Composed.
- 2². Term.
- 2³. Qualifications.
- 2⁴. Compensation.
- 2⁵. Restrictions.
- 2⁶. Privileges.
- 2⁷. Duties.
- 2⁸. Officers.
 - A. Duties.
 - B. How Elected.
 - C. Compensation.

CHAPTER IX.

JUDICIAL.

Different Classes of Courts.—By the Constitution of the state it is provided that the judicial powers of the state are exercised by the Senate sitting as a court of impeachment, by the Supreme Court, District Courts, Justices of the Peace, and such other courts as the Legislature may establish. So far as the serving of processes is concerned, the authority of the courts extends to the reservations under legislative control of the National government. The only additional courts so far provided for are the Police Court and the Coroner's Inquest, but in certain cases what are really judicial functions are performed by several of the executive officers.¹

Supreme Court.—The Supreme Court consists of a Chief Justice and two Associate Justices, each elected by a plurality of a popular vote for a term of six years. The total number of Justices may at any time be increased to five, but the tenure of office and date of expiration of terms must be so arranged that in any case at least one Justice shall be chosen at each election

¹ Const. Mont., Art. VIII; Code of Civil Procedure, § 2, et seq.

held for the choice of representatives to the Legislative Assembly.¹

The jurisdiction of the Supreme Court extends to all parts of the State, and is appellate only except that the Supreme Court has original jurisdiction to hear and determine writs of habeas corpus, mandamus, quo warranto, certiorari, prohibition and injunctions and other original and remedial writs. Or, in other words, no case can be tried before the Supreme Court unless it has first been tried in some inferior court, and brought to the Supreme Court on appeal, except as above specified. The Supreme Court also has supervisory control over all inferior courts.²

At least three terms of the Supreme Court are held each year at the seat of government. A majority of the Justices is necessary to form a quorum or to pronounce a decision. But a single Justice may adjourn the court from day to day or to a definite time.³

Each Justice is required to be at least 30 years of age, a citizen of the United States, and a resident of the state of Montana for at least two years next preceding his election. He must in addition be a member in good standing of the bar of the Supreme Court of Montana.⁴

District Courts.—The state of Montana is divided

¹ Const. Mont., Art. VIII, Secs. 5-6-7; Code of Civil Procedure, §12, et seq.

² Const. Mont., Art. VIII, Sec. 3; Code of Civil Procedure, § 18, 19, 20.

³ Const. Mont., Art. VIII, Sec. 5; Code of Civil Procedure, § 15.

⁴ Const. Mont., Art. VIII, Sec. 10.

into judicial districts, the number of which may at any time be changed by the Legislative Assembly. The division, however, always recognizes county lines, and no county is in more than one district. In each district at least one Judge is elected by popular vote, whose term of office is four years. A Judge at the time of his election must be at least 25 years of age, a citizen of the United States, and a resident of the state of Montana for at least a year before the date of his election. He must, besides, have been admitted to practice in the Supreme Court of the state and be in good standing at the time of his election. He need not, when elected, be a resident of the district for which he is chosen, but must reside in the district during his term of office. ¹

In counties which comprise the whole of a judicial district, the Court is open for business every day in the year except legal holidays. But, on the days excepted, injunctions and writs of prohibition and habeas corpus may be issued. ²

The legal holidays in Montana are the following : Sundays, the first day of January, the twenty-second day of February, the thirtieth day of May, the fourth day of July, the first Monday in September, the twenty-fifth day of December, every day on which an election is held throughout the state, every day appointed by the President of the United States, or by

¹ Const. Mont., Art. VIII, Secs. 12, 13, 16; Code of Civil Procedure, § 30, et seq.

² Const. Mont., Art. VIII, Sec. 17.

the Governor of Montana for a public fast, thanksgiving or holiday. If January 1st, February 22d, May 30th, July 4th, or December 25th is Sunday, the following day is a holiday. ¹

In counties which constitute but part of a judicial district, at least four terms of court must be held every year. ²

The following classes of cases may be begun in the District Court :

All cases involving the right to real property.

All cases involving the legality of any tax, impost, assessment, toll or municipal fine.

All other civil cases in which the value of fifty dollars is involved.

All criminal cases amounting to felony.

All cases of actions of forcible entry and unlawful detention.

All cases of proceedings in insolvency.

All cases of actions to prevent or abate a nuisance.

All cases of actions in matters of probate.

All cases of actions of divorce and for annulment of marriage.

All cases of misdemeanor, where the punishment exceeds six months' imprisonment or a fine of \$500 or more, or both such fine and imprisonment, and other special actions and proceedings.

The District Courts also:

Issue naturalization papers.

Have appellate jurisdiction in cases arising in inferior courts.

Have power to issue, hear and determine writs of mandamus, quo warranto, certiorari, prohibition, injunction, habeas corpus and other original and remedial rights. ³

The process of the District Courts extends to all

¹ Political Code, § 10; Civil Code, § 4,655; Code of Civil Procedure, § 121.

² Const. Mont., Art. VIII, Sec. 17.

³ Const. Mont., Art. VIII, Sec. 11; Code of Civil Procedure, § 41.

parts of the state. But actions involving title to real property must be begun in the county in which the property is located, and all criminal prosecutions must be begun in the county in which the felony was committed, except in the asportation of property.

A civil action may be tried in the District Court, or may be tried by a judge, *pro tempore*, when agreed upon in writing by the parties litigant.

Justices of the Peace.—All civil cases, not involving the title to real property, where the value of less than \$50 is involved, are tried before a Justice of the Peace, and such cases, where the value at issue is between \$50 and \$300, may be so tried. A Justice of the Peace also examines the evidence in criminal cases amounting to felony or indictable misdemeanor in order to hold the accused for trial before the District Court and has final jurisdiction in all criminal actions where the punishment does not exceed \$500 fine or six months' imprisonment or both, solemnizes marriages, issues writs of attachment for debt, and performs other similar duties. The court of a Justice of the Peace is open for business every day in the year except legal holidays.

In towns one of the Justices of the Peace may be appointed Police Judge by the Council, and when so appointed has exclusive jurisdiction over all cases arising under the town ordinances where the town is a party.¹

¹ Const. Mont., Art. VIII, Sec. 20; Code of Civil Procedure, § 60.

Police Court.—Every town and city contains a Police Court which must be open every day in the year except legal holidays, and on the excepted days may transact criminal business.

In petit larceny, minor cases of assault and battery, breaches of the peace, riots, and proceedings respecting vagrants and disorderly persons the jurisdiction of the Police Judge is concurrent with that of the Justice of the Peace.

Exclusive jurisdiction belongs to the Police Court in all cases arising under the ordinances of the city or town: also in all cases for the collection of any moneys claimed by the city or town, or claimed from the city or town, where the amount exclusive of interest and costs does not exceed \$300. Such claims on the part of the city or town may be for collection of tax, license or assessment, breach of official bond, recovery of personal property belonging to the city or town, or for other cause.

In cases where the judge is interested or when he is related within the sixth degree to either party, or in case of sickness, absence or inability to act, either the Judge or the Mayor may call in a Justice of the Peace to preside and act.¹

Other Judicial Officers.—Besides the judges of the courts which we have mentioned, many other officers and employes are necessary for the administration of justice. Among these are the following elective county

¹ Const. Mont., Art. VIII, Sec. 24; Political Code, §4,910, et seq.

officers: Sheriff, Clerk of the District Court, Coroner, Public Administrator and Attorney, also the Constable elected by the township. Sheriffs, Clerks, Constables and their deputies may not practice law or be in partnership with any person so practicing.

Sheriff.—The Sheriff is the principal police officer of the county, is responsible for the preservation of the peace and the custody of all persons under arrest for infringement of the laws. In the performance of his duty of preserving the peace he must arrest and bring before the nearest magistrate any person apprehended in committing a public offense. For the prevention or suppression of affrays or riots, or for the arrest of criminals, he may command the assistance of such and as many male inhabitants of the county as he may deem necessary.

He must attend all sessions of the District Court held in his county, proclaim the opening and closing of the court, secure the attendance of and call all witnesses, parties and other persons bound to appear before the Court.

He serves notices, processes and other papers and in general executes the orders of the Court. He appoints an Under Sheriff and such deputies as may be necessary for the performance of his duties.

When the Sheriff is a party to an action or proceeding, the Coroner performs his duties. When it is considered improper for either the Sheriff or Coroner to act, the Court appoints pro tempore some other resident of the county, who is called an Elisor.

So far as the duties assigned to a Sheriff in the jurisdiction of the District Court are necessary in the jurisdiction of other courts, they are performed in the Supreme Court by the Marshal appointed by the Court itself, by the Constable in a Court of a Justice of the Peace, and by the Court Officer in a Police Court. ¹ .

County Attorney.—The County Attorney, as the public prosecutor of the County, conducts on behalf of the state all prosecutions for public offenses, and draws all papers necessary for such prosecutions.

He is also the legal advisor of the county officers, and when required, must give his opinion in writing on all matters referred to him respecting the duties of their positions, by the county, district and township officers. He must attend the meetings of the Board of County Commissioners when required and must oppose all claims against the county which are unjust or illegal.

In case any money shall have been illegally paid through the action of the Commissioners or any other county officers, the County Attorney must institute proceedings for the recovery of the same and twenty-five per cent. in addition to the amount for damages, without formal authorization. And in case warrants have been illegally drawn and no moneys paid upon them, he shall commence action in the name of the county restraining such payment. ²

¹ Political Code, § 4,320, et seq.

² Political Code, § 4,450, et seq.

Coroner.—All cases where death has occurred by accident or under suspicious circumstances, are investigated by the Coroner, who assumes charge of the body and frequently of the property of the deceased. The investigation is made by a Coroner's Inquest, which is simply a court for the determination of the question of criminality. Nine taxpayers are summoned by the Coroner to form a jury, though as few as six may act, witnesses are subpœnaed and a regular court is held. In case the jury finds sufficient evidence and the arrest of the proper person or persons has not already been made, they are arrested by the Coroner and taken before the nearest Justice of the Peace for commitment.

Under certain conditions the Coroner acts as Sheriff. When the Coroner is absent or unable to act, or in case of a vacancy in his office, any Justice of the Peace may perform the duty.¹

Clerk of the District Court.—The Clerk of the District Court keeps all the records and cares for all the books and papers required for the business of the Court. He issues all legal papers required by the Court. Among the books kept by him are the following:

General index.

Minute book.

Record of probate proceedings.

Declaration of intention to become citizens of the United States.

¹ Political Code, § 4,490; Penal Code, § 2,790.

Naturalization—Final papers.

Register of criminal actions.

Register of probate and guardianship proceedings.

Index of persons sent to the insane asylum.

Fee book.

Record of jurors' certificates.

Witness book. ¹

Public Administrator.—The Public Administrator, under the direction of the District Court, takes charge of the following classes of estates:

Those for which no administrators are appointed in accordance with the will of the heirs.

Those to which there are no known heirs.

Those ordered into his hands by the Court.

Those upon which letters of administration are issued to him by the Court.

He reports to the Court semi-annually. ²

Notaries Public.—One or more Notaries Public for each county in the State are appointed by the Governor, whose term of office is three years from the date of the commission. Each Notary must provide an official seal and execute a bond of \$1,000, which bond must be approved by the County Clerk.

A Notary Public demands acceptance and payment of bills of exchange and promissory notes, and protests the same for non-acceptance or non-payment; acknowledges certain forms of legal documents; takes depositions and affidavits, administers oaths and affirmations, and furnishes certified copies of any records kept by him.

¹ Political Code, § 4,440.

² Political Code, § 4,510.

He authenticates with his seal papers and his official acts, and receives a fee for each such authentication.

Removal from the county for which he is commissioned vacates his office and is equivalent to a resignation. ¹

¹ Political Code, § 910.

OUTLINES FOR STUDY.

JUDICIAL - REGULAR.

- | 1. Supreme. | 2. District. | 3. Justice. |
|------------------------------------|---------------------------------------|----------------------------------|
| 1 ¹ . How Composed. | 2 ¹ . Number of Districts. | 1. Jurisdiction. |
| 1 ² . Election. | 2 ² . Election. | A. Original. |
| 1 ³ . Jurisdiction. | 2 ³ . Jurisdiction. | A ¹ Classes of Cases. |
| A. Extent. | A. Extent. | 2. Judges. |
| B. Appellate Writs. | B. Original. | 2 ¹ . Election. |
| C. Supervision of Superior Courts. | C. Classes of Cases. | 2 ² . Term. |
| 1 ⁴ . Term. | 2 ⁴ . Term. | 2 ³ . Qualification. |
| A. Judges. | A. Judges. | Writs—Appellate. |
| A ¹ Qualification. | A ¹ Qualification. | Value of Writs. |
| | | 3 ¹ . Police Courts. |

OUTLINES FOR STUDY.

JUDICIAL - REGULAR. - CONTINUED.

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| <ol style="list-style-type: none"> 1. Jurisdiction. <li style="padding-left: 20px;">1¹. Ordinances. <li style="padding-left: 20px;">1². Ex-officio Justice. | <ol style="list-style-type: none"> 2. Judges. <li style="padding-left: 20px;">2¹. Election. <li style="padding-left: 20px;">2². Term. <li style="padding-left: 20px;">2³. Qualifications. |
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JUDICIAL - IRREGULAR.

- | | |
|---|---|
| <ol style="list-style-type: none"> 1. Senate. <li style="padding-left: 20px;">1¹. Court of Impeachment. <li style="padding-left: 20px;">1². Presiding Officer. | <ol style="list-style-type: none"> 2. Coroner's Inquest. <li style="padding-left: 20px;">2¹. When Called. <li style="padding-left: 20px;">2². Jury. <li style="padding-left: 20px;">2³. Power. |
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OFFICERS.

- | | |
|---|--|
| <ol style="list-style-type: none"> 1. Sheriff. 2. County Attorney. 3. Coroner. 4. Clerk of Court. | <ol style="list-style-type: none"> 5. Public Administrator. <li style="padding-left: 20px;">A. Term. <li style="padding-left: 20px;">B. Duties. <li style="padding-left: 20px;">C. Qualification. <li style="padding-left: 20px;">A. Notaries Public. |
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CHAPTER X.

FINANCE.

Revenues.—Theoretically all moneys used for public expenditures are derived from taxes or licenses.

Practically, besides moneys received from taxes and licenses, considerable sums are obtained from fees, fines, bequests and revenues from public properties, particularly lands, which sums under direction of law are applied to the needs of the government. ¹

Taxes.—Taxes are of two kinds, per capita taxes and taxes upon property.

Per Capita Taxes.—A per capita tax of two dollars per year, known as a poll tax, is levied on every male inhabitant of the state, between the ages of 21 and 60, except paupers, insane persons and Indians. ²

A road tax of three dollars is also assessed annually from every able-bodied man above 21 years of age, and applied exclusively to the needs of the public highways and bridges. In case such tax assessed against any person is not paid, he must, in lieu thereof, perform one day's work, of eight hours, at any rea-

¹ Const. Mont., Art. XII; Cooley on Taxation; Desty on Taxation; Burroughs on Taxation; Cooley, Const. Limitations.

² Political Code, §3,960.

sonable time and place designated by the Road Supervisor. ¹

Property Taxes.—All property in the state is subject to taxation excepting the following items:

United States, state, county, municipal, township, school district and public library property.

Property used exclusively for agricultural and horticultural societies and for educational purposes.

Places of actual religious worship.

Hospitals and places of burial, unless conducted for profit.

Institutions of purely public charity. ²

Taxation of Mines.—Mines and mining claims are assessed for purposes of taxation at the price paid for them to the United States, unless the surface ground is used for other than mining purposes, and so has an independent value, in which case it must be assessed at such value. But all machinery and surface improvements together with the annual net proceeds of mines are taxed as other property. ³

Corporations.—The Constitution expressly forbids exemption from taxation of the property of any corporation. ⁴

The franchise, roadbed, rolling stock, etc., of all railroads which are operated in more than one county, are assessed by the State Board of Equalization, and the amount divided between the various taxing districts

¹ Political Code, § 2,640.

² Const. Mont., Art. XII, Sec. 2; Political Code, §§ 3,670, 3,671.

³ Const. Mont., Art. XII, Sec. 3; Political Code, § 3,672.

⁴ Const. Mont., Art. XII, Sec. 7.

of the state in proportion to the mileage operated in each district.¹

Equalization of Assessment.—It is the duty of the State Board of Equalization, in open session at which the interests of the various counties may be considered, to adjust and equalize the amounts of assessment reported from the counties, so that each may bear its rightful share of the common taxation. And the same duty is performed for the divisions of the counties by County Boards of Equalization.²

Districts of Taxation.—Taxes are levied for raising revenue for the purpose of meeting expenses of the state, the county, the city or town, and the school district. In addition to regular taxes levied for the above districts special taxes are assessed against properties benefited for various kinds of improvements.

State Taxes.—Once in two years the Legislative Assembly estimates the amount of revenue necessary for the expenses of the departments of the State Government and makes appropriations in accordance with these estimates. The total amount of the appropriations determines the rate of taxation for the period covered. But the total appropriation made, together with a reasonable allowance for taxes not collected, must not exceed two and a half mills on each dollar of the assessed valuation; and after the total of taxable property in the state amounts to \$300,000,000, the rate

¹ Political Code, §3,696.

² Const. Mont., Art. XII, Sec. 15; Political Code, §3,780, §3,800.

of taxation must not exceed one and a half mills on the dollar. But the people of the state, at any general election, may, for a definite, specified time, by a majority vote authorize a limited increase of such levy. ¹

County Taxes.—The County Commissioners in any county must levy taxes each year for the construction and maintenance of highways and bridges, for the care of the poor of the county, and for general county purposes. The road tax must be at least one mill and not more than two mills on the dollar of assessed valuation. The poor tax may not exceed two mills on the dollar, and the tax for general county purposes may not exceed sixteen mills on the dollar. ²

School Taxes.—In the absence of any provision for a regular school tax the schools must be provided for by a special tax each year. This tax is levied by the school trustees of any district after authorization by a majority vote at a special school election and may not exceed ten mills on the dollar of the appraisement of the district. ³

City Taxes.—The City Council annually makes the tax levy for municipal purposes. The tax levied for general administrative purposes may not exceed ten mills on each dollar of taxable property.

The tax for construction and care of the streets must be at least one mill and may not exceed two mills on

¹ Const. Mont., Art. XII, Sec. 9; Political Code, § 3,820, 3,830, § 2,640.

² Political Code, § 3,825, § 3,230.

³ Political Code, § 1,940.

the dollar. The tax for the maintenance of a public library may not exceed one mill on the dollar.

In addition the City Council may provide for the sprinkling of the streets by a special tax against the property benefited. For the construction of a system of sewerage and the municipal ownership of water works special arrangements are permitted. ¹

Collector of Taxes.—All taxes, except city taxes in cities of the first class, are collected by the County Treasurers, who, in the manner prescribed by law, remit the amount of the state tax to the State Treasurer, and apportion the remaining amounts among the several funds under their charge.

In cities of the first-class, the City Treasurer is the collector. ²

Licenses.—The state, county and city governments collect considerable amounts from licenses, which are required of persons and corporations engaged in most kinds of business conducted in the state. ³

Franchises.—In most cases franchises (implying the use of streets or other property under the control of the government, conveying to a limited extent the privilege of condemning and acquiring property under the right of the government to eminent domain, or permitting the control and management of what is really a natural monopoly) are granted without

¹ Political Code, § 4,860, et seq.

² Political Code, § 4,860, et seq.

³ Political Code, § 4,800, § 4,900.

a tangible consideration. This is done on the assumption that the plant usually involves a considerable outlay before any profits are received, and that the people at large are sufficiently benefited by the business for which the franchise is granted. But where it seems desirable the Legislative Assembly, the County Commissioners or the City Council, may require a financial or other tangible consideration. Franchises, however, in all cases are regarded as having an assessable value, and must be taxed as other property.

Fees.—For the recording of many kinds of official papers, furnishing copies of the same and many other official acts, fees are collected. In general the moneys obtained from this source must be turned over to the treasury and used to help in meeting the expenses of the government. ¹

Fines.—The fines obtained in the courts in accordance with the statutes of the state constitute another source of revenue.

Revenues from Public Properties.—The income from the lands, or the proceeds of the sale of lands, granted by the national government for educational purposes, or the support of state institutions, constitutes a part of the revenue applicable to the needs of the objects specified. Donations and bequests to the state and property reverting to the state by escheat or forfeiture are also among the resources of the government. Unless obtained under other conditions, all

¹ Political Code, § 4,630, et seq.

such properties, together with any funds which may accumulate in the treasury and for the disbursement of which no other legal provision is made, are added to the school fund, and the income only expended.

State Indebtedness.—The debt of the state may not at any time exceed \$100,000, except in case of war, to repel invasion or suppress insurrection, or unless the proposition creating the same shall have been legally approved by a majority vote at a general election.¹

County Indebtedness.—A county may not incur a debt of more than \$10,000, except with the approval of a majority of the electors of the county. This approval may be obtained at either a regular or a special election, but the total indebtedness of any county may not exceed 5 per cent. of the valuation of the county.²

Municipal, Township and School District Indebtedness.—The total indebtedness of any township or school district may not exceed 3 per cent. of the taxable value of property in the township or school district. And should a larger debt be contracted, the excess is void. The indebtedness which may be contracted by a city or town is subject to the same limitation as that of the township or school district, except that the Legislative Assembly may authorize the municipalities to submit to the voters a proposition to increase the indebtedness in order to construct a sewer-

¹ Const. Mont., Art. XIII.

² Const. Mont., Art. XIII.

age system, or to obtain control of a water supply for the said city or town. But in case of the creation of a debt for the latter purpose, the revenues therefrom must be applied to the payment of the debt.¹

General Provisions Respecting Debts.—When a debt is contracted a tax must at the same time be levied sufficient in amount to pay the interest on the bonds issued, and to extinguish the principal when the time for which the bonds are issued shall have expired. The proceeds of the accumulation of such a tax is known as a sinking fund.

Any county or municipal indebtedness may not be assumed by the state, nor may the state or any political division incur indebtedness in behalf of any individual, association or corporation, or guarantee indebtedness incurred by such individual, association or corporation.

¹ Const. Mont., Art. XIII.

OUTLINES FOR STUDY.

FINANCE.

1. Revenues.

1¹. Taxes.

A. Property.

B. Per Capita.

B¹ Poll.B² Road.1². Licenses.

Division.

A. State.

B. County.

C. City.

D. National.

1³. Collector.

2. Indebtedness.

Limit.

A. State.

B. County.

C. City.

D. School.

CHAPTER XI.

RELATIONS BETWEEN THE STATE AND UNITED STATES GOVERNMENTS.

Republican Form of Government.—The nation guarantees to all the states of the Union a republican form of government in local affairs and furnishes them with such a form in National affairs. As a condition of being received into the sisterhood of states each new state is required to adopt such a republican form of government.

Analogy Between State and United States Constitutions.—In the formation of the state constitution, the United States Constitution is the ever present model. This is true of all the states, the instruments existing at the time of the declaration of independence having been abrogated, and new ones substituted more in harmony with the common ideal. All the states have adopted a constitution embodying the common features, the last to change from the colonial charter being Rhode Island and this did not occur till 1842. But to a certain extent in the older states and quite frequently in the newer ones, new constitutions have been adopted and the framework of the National government has always suggested that of the state.

Up to the time when Montana, Washington and the two Dakotas received their recognition as states, one hundred and five district constitutions had been adopted by the various states, nearly twice as many constitutional conventions had been held, and two hundred and fourteen partial amendments had been made to state constitutions. In all these changes the common thought was authoritative.¹

The analogy between the national and state governments is first apparent in the three-fold division of the powers of government into the executive, the legislative and the judicial, the provision for the independence of each and the checks to prevent any one overshadowing the others. The analogy extends to the officers who represent the people in the exercise of the government and is conspicuous in their duties, their prerogatives and their forms of proceeding.

The same analogy is apparent in the administration of the corporate political divisions of the state.

A marked resemblance is evident, in the duties assigned and forms observed, between the President of the United States, the Governor of a state, and the Mayor of a city. The Vice-President is represented in functions in the state government by the Lieutenant-Governor, and in the city by the President of the Council.

The transaction of business in the legislative department by means of committees instead of the initiative of

¹ Hitchcock's Am. State Constitutions.

a responsible ministry, and the independence of the judiciary, perhaps the most distinctively American features of our constitution, are features common to nation, state and city. In the states as in the nation the legislature is composed of a senate and a house of representatives, each embodying a different principle of representation, and a different tenure of office. The same division occurs in many states in the municipal council, but this is not so in Montana.

Illustrations of the same analogy could be multiplied almost indefinitely, but enough has been given to indicate its completeness.

Sovereignty.—Every citizen of the United States owes a two-fold allegiance to the nation and to the state. This allegiance is direct and entire in respect to both. In certain particulars the Nation exercises control and in certain the state, but in both the authority is exercised directly on the citizen. In only one direction is the prerogative of the National exercised through the state government, and in only one direction can the state government command the Nation. In case of war or to repel invasion the President of the United States, may, through the Governor of a state, summon the militia of a state and assume command of them. When it becomes apparent that the resources at the command of the Governor are insufficient to preserve order and to execute the laws of the state, the Governor may appeal to the President, and he must furnish assistance. But in this case even, the Nation retains authority over its own servants.

Participation of the State in the National Government.—The people of a State co-operate with those of other states in the election of the President of the United States. They are also represented in the United States Senate by two Senators, and in proportion to the population in the House of Representatives. The Congressional Representative is elected by a popular vote and his term of office is two years. The vote for President is also popular, but it is not direct. Instead of voting directly for their choice, the people vote for a certain number of electors, and the electors chosen are in honor bound to vote for the choice of the people whom they represent. The Senators are chosen as the legislature of the state may determine. In the state of Montana this is by the legislature direct. The term of office of the President is four years, that of the Senators is six years, but the terms of the two Senators are so arranged that both do not expire at the same time.

By an unwritten law of procedure, the National government also chooses from the various states, and in about the proportion of their respective populations, its employes in the governmental departments and in foreign countries. In 1893 there were eighteen citizens of Montana employed in the executive departments at Washington.

Authority of the United States Within State Limits.—For enforcing the laws of the United States, collecting United States taxes and other purposes the National government appoints its own servants in each

state. These are almost always citizens of the state in which their duties are performed. According to the last United States Official Register, or Blue Book, as it is commonly termed, there were within the boundaries of the state of Montana nearly a thousand persons engaged in the interests of the National government, without reckoning officers and soldiers of the regular army, detachments of which were located at Forts Assinnaboine, Keogh and Missoula. About a dozen people are employed in the assay office.

Public Lands.—The ownership of a large portion of the territory of the state of Montana is retained by the United States, and demands the attention of two sets of government employes. All matters respecting boundaries and surveying are under the direction of the United States Surveyor-General of the survey district of Montana, whose headquarters are at the state capital, and under whom is a considerable force of clerks, draughtsmen and deputy surveyors. There are also land offices at several places in the state, to which is assigned the duty of allotting the lands belonging to the National government to actual settlers under the laws respecting homestead and pre-emption. At these land offices also direct sales of land are sometimes made.

Temporarily a number of United States Mineral Land Commissioners are now engaged within the state, their duties being confined to disputes existing between the National government and the Northern Pacific Railroad regarding the mineral lands.

Indian Service.—About two hundred and fifty persons were employed on the various Indian reservations, about two-fifths of this number being the Indian police and one-fifth instructors in the Indian schools. The remainder were engaged in the judiciary department or in offices from which the government collects a revenue.

Judiciary Department.—The judicial district of Montana comprises a part of the ninth judicial circuit, the two Judges representing which at present have their headquarters at Portland, Ore., and San Francisco, Cal. The force at present employed in the district consists of a Judge, an Attorney, a Marshal, a clerk and fifty-two United States commissioners distributed over the state.

United States Taxes.—Owing to the unpopular nature of direct taxes when assessed by the National government, such taxes as are collected by the United States are what are known as indirect taxes. These are taxes which, while ultimately paid by the consumer, are so incorporated into the price of his goods as not to be recognized by him as a tax. And generally in laying the tax the government has in view, not only the creation of revenue, but also some philanthropic or economic advantage. This is true of customs duties which aim to discourage the consumption of luxuries or of products of foreign factories, and of the internal revenue tax which is directed against luxuries or industries which should be discouraged.

The Collector of customs duties has his headquarters

at Fort Benton. A deputy collector and inspector is stationed at Sweet Grass station, on the Great Northern Railway. Mounted inspectors patrol some of the Indian reservations, and other employes of the custom house are distributed through the state.

The internal revenue district of Montana embraces the states of Idaho, Utah and Montana, and in 1893 had a force of fourteen employes, six of whom were stationed in the state of Montana.

Post-Offices.—In 1893 there were three hundred and ninety post-offices in the state, and consequently three hundred and ninety postmasters. This allows rather more than one post-office for every five hundred inhabitants, and the compensation of the postmasters ranged that year all the way from eighty-eight cents to thirty-one hundred dollars. In the various post-offices were employed thirty-eight clerks and nineteen letter-carriers. In the railway mail service in the state were forty-two employes. The contracts for railway mail service were let to twenty different contractors, and there were one hundred and sixty-two star routes, the business of which was distributed among forty-nine contractors.

The revenue derived from carrying the mails is not considered either by the government or the people as a tax, but rather as a reasonable payment for services performed. It has always been the object of the government to make the post-office department nearly self-sustaining, and, consistently with this object, to furnish the most complete service at the lowest possible rates.

Land Offices.—Besides the above offices within the state of Montana, the United States has a force employed to look after its interests respecting the public lands. These are granted to actual settlers under the laws respecting homestead and pre-emption locations, and some revenue is derived from direct sale.

Appointments to United States Employ.—Roughly speaking, about two-thirds of the employes of the United States civil service are appointed by the President or some appointing officer, and if there are examinations they are not competitive in nature. The appointing officer is in this case responsible for the results of the work intrusted to him, and is supposed to select those persons who will give the best satisfaction in the positions to which they are appointed. As a general rule the term of office of such employes is four years, at the end of which time their service ceases unless reappointed.

About one-third of the employes of the government, belonging to what is known as the classified list are appointed after a partly competitive examination, and after a certain trial period, receive a permanent appointment. In the classified list both appointments and promotions are made in accordance with examinations under the supervision of the Civil Service Commission. The Commissioners draw up a set of questions applicable to each position in the classified list. Contestants are ranked by the examining boards and when a vacancy occurs the three highest on the list are reported to the appointing officer and he selects any

one of the three. When another vacancy occurs for the same position the names of the two not selected are reported with that of the applicant who stands fourth, and so on. But no name may be reported more than three times. In the state of Montana the positions open in the classified list are in the post-office (including railway mail) and in the Indian department, and for positions in the departmental offices in Washington.

CHAPTER XII.

CITIZENSHIP.

Objects of Government.—The preamble to the Constitution of the United States indicates that government exists in order to secure the following results:

- The establishment of justice.
- The preservation of domestic tranquillity.
- The provision for the common defence.
- The promotion of the general welfare.
- The maintenance of the blessings of liberty.

This is another way of stating in accordance with the preamble of the Declaration of Independence that governments are instituted among men in order to secure the inalienable rights of Life, Liberty and the Pursuit of Happiness.

Thus our nation is fully committed to the principle of government for the good of the people. The full theory of the constitution is aptly summarized in the world renowned Gettysburg address of the Martyr President as the “government of the people, by the people and for the people.”

The Duty of Government to the People.—We consider first the government “for the people.”

Establishment of Justice.—A true government must establish and maintain a judicial and administra-

tive system which must recognize the right of every individual within its borders to security of life and limb, of property and civil equality. It must provide penalties and processes calculated to protect the law abiding from the lawless, the weak from the strong, the poor from the rich and the rich from the poor. It must in every way encourage virtue and discourage vice.

Preservation of Domestic Tranquillity.—For the apprehension of evil-doers, the suppression of riots and the general preservation of the peace of the community all modern governments maintain police and military forces, well officered, disciplined and equipped.

Provision for the Common Defence.—To keep the country safe from foreign aggression, it is essential that the military force be sufficiently numerous and well provided, that defences be of proper nature and condition, that the navy be large enough and efficient enough to meet all the demands of modern conditions.

Maintenance of Liberty.—Every inhabitant of a free country has a right to the fullest liberty of speech and action. This liberty may be personal, political or religious.

In his personal relations every citizen is permitted to say or do what he wishes, subject only to due responsibility and a reasonable recognition of the rights of others.

In his political relations every citizen is permitted to form his own opinions and to exercise his prerogatives free from dictation by others. Special attention is

given to political safeguards in the civil government of the state and country.

In his religious relations the individual must be entirely free. Neither the government nor any other citizen must dictate respecting the religious theories or exercises of any person.

Promotion of the General Welfare.—The promotion of the general welfare, may be said from one point of view to include all the above mentioned propositions. But it has been well to mention them separately. In addition to all these principles, however, it is now generally agreed that government should in every way—short of direct paternalism—attend to the interests of the people. It is the duty of all patriotic citizens, either through their representatives or by their power of initiative and referendum in the amending of the constitution to see that the government is in reality a government of the people.

Duties to the Government.—We consider secondly the government “of the people.”

Establishment of Justice.—Good laws are of very little effect unless they have the support of the people for whom they are designed. Every true citizen must cheerfully recognize the authority of laws framed by his representatives. He must submit to them under all conditions. Even should he not consider them wise he must recognize them as long as in force, though he should in the regular way strive to have them corrected to meet his ideas. It has been said that the best way to get rid of a bad law is to enforce it. And

enforcing a good law is bound to strengthen it. In his capacity as a citizen one must recognize the authority of those appointed to carry out the laws, and himself aid in their enforcement, whether as an official, a juryman, a member of a sheriff's posse, or in other ways that may occur.

Preservation of Domestic Tranquillity.—In general all male citizens of the state of Montana are considered as members of the state militia, and may be called on for active duty whenever the need arises. In cases of riot or the apprehension of criminals, any citizen may be called upon by suitable process to assist the proper officer of justice. Formal membership in the National Guard and regular drill is, however, in time of peace, left to voluntary action.

Provision for the Common Defence.—United in a common spirit of patriotism the citizens of the various states are also citizens of the United States, and in every way are bound to support and co-operate in the maintenance of the National power.

Maintenance of Liberty.—It is the duty of every citizen to recognize that every other citizen has the same right to liberty of speech and action which he himself possesses. He should in a spirit of tolerance regard as natural any differences of personal, political or religious opinion in which others may differ from him. While all citizens should sink in their pride in the common country all minor disagreements.

Promotion of the General Welfare.—No government is perfect and faults are bound to exist. But no

American citizen can fail to be proud of his heritage. It was once said that "To be a Roman was greater than to be a king." This was a mere figure of speech to those who claimed protection from a country far less praiseworthy than our own. With all its faults, and we do not say faults are lacking, the United States is the best nation on the face of the globe. Every patriotic citizen, while frankly recognizing what is wrong, should also strive to remedy the imperfections. He should also work with might and main to extend the prestige of the nation and to make it the more an agency for good to all who recognize the authority of its laws.

Who Are American Citizens.—Lastly we have a few words to say on government "by the people." The term citizen with all that the term involves respecting rights, privileges and duties is applied to all persons born in the United States except such persons as, born of foreign parents, voluntarily elect to be considered citizens of the country of their parents. It also includes children born of American parents in foreign countries, unless such children voluntarily choose to be considered citizens of the country of their birth.

Besides these native citizens any Caucasian or Negro may become a naturalized citizen after a residence of five years in the United States. In order to become such a naturalized citizen he must make application at least two years before he receives his final papers, and must make oath or affirmation voluntarily renouncing

all allegiance to the government of which he had been a citizen.

In the state of Montana every male citizen over 21 years of age is a voter and in this capacity participates with every other voter in the government of the land. The enforcement of the laws, the selection of the right men for public offices, the maintenance of the dignity and efficiency of the government, depend in the last analysis on the intelligence and character of the people.

OUTLINE FOR STUDY.

CITIZENSHIP.

Objects of Government.

- A. Preamble of U. S. Constitution.
 - A¹ What the Citizen Owes the State.
 - A² What the State Owes the Citizen.
2. Who Are Citizens.

OUTLINES FOR STUDY.

APPOINTMENTS - VACANCIES.

1. Governor.

2 Dist. Judge.

1¹. U. S. Senator.

3. Co. Commissioners.

1². State Auditor.

3¹. Co. Officers.

1³. State Treasurer.

4. Co. Supts.

1⁴. Attorney General.

4¹. School Trust's.

1⁵. Superintendent of Public Instruction.

1⁶. Secretary of State.

1⁷. Supreme Judges.

1⁸. Newly Created Offices.

SUCCESSION.

1⁹. Regular Appointments.

2. Lieutenant Governor.

1¹⁰. Issues Writs of Election
for Congressman and
Legislator.

3. Pres't pro tempore, Senate.

4. Speaker of the House.

APPENDIX.

SUMMARIES OF STATISTICS OF MONTANA.¹

First visited by white men.....	1742
Ceded to Spain by France.....	1763
Ceded to France by Spain.....	1801
Acquired by United States as part of the Louisiana purchase	1804
Part of Territory of Louisiana.....	1805
First trading post on the Yellowstone.....	1809
Part of Territory of Missouri.....	1812
First settled at Fort Union, by fur traders.....	1829
Fort Benton founded.....	1846
Part of Missouri Territory and Oregon Territory.....	1848
Part of Missouri Territory and Washington Territory.....	1853
Part of Nebraska Territory and Washington Territory.....	1854
Part of Dakota Territory and Washington Territory.....	1861
Part of Idaho Territory.....	1863
Territory of Montana established.....	1864
Present boundaries fixed.....	1873
Admitted into the Union.....	1889
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Population in 1860.....	288
Population in 1870.....	20,595
Population in 1880.....	39,159
Population in 1890.....	132,159

¹ These statistics have been compiled from the various Reports of the United States Census and the United States Director of the Mint; the publications of the Montana Bureau of Agriculture, Labor and Industry; The Engineering and Mining Journal; MacCoun's Historical Geography of the U. S., and from various other authorities. Where dates are not given, the figures are the latest obtainable.

Native Born.....	89,063	Sweden.....	3,771
Montana.....	21,618	China.....	2,564
New York.....	6,283	Norway.....	1,957
Missouri.....	6,105	Scotland.....	1,588
Illinois.....	5,138	Austria.....	939
Ohio.....	5,017	Italy.....	734
Pennsylvania..	4,871	Wales.....	719
Iowa.....	4,792	Denmark.....	683
Wisconsin.....	3,924	All other coun-	
Minnesota.....	3,411	tries.....	2,374
Michigan.....	3,335	Born of Foreign	
Indiana.....	2,406	Parents.....	73,661
Oregon.....	1,958	Males.....	87,882
Maine.....	1,722	Married.....	22,772
Kentucky.....	1,515	Single.....	62,445
Massachusetts.	1,345	Widowed.....	1,706
Kansas.....	1,306	Divorced.....	253
Virginia.....	1,149	Unknown.....	706
California.....	1,126	Females.....	44,277
Other states...	9,002	Married.....	18,766
Not known....	2,983	Single.....	23,341
At sea and		Widowed.....	1,906
abroad.....	57	Divorced.....	217
Foreign Born.....	43,096	Unknown.....	47
Canada.....	9,040	Caucasian.....	127,257
Ireland.....	6,638	Negro.....	1,490
England.....	6,480	Chinese.....	2,532
Germany.....	5,609	Japanese.....	6
Males of militia age.....			
Males of voting age.....			
Males of school age, 5-20.....			
Females of school age, 5-20.....			
Civilized Indians.....			
Membership of State Militia.			
Area in square miles.....	146,080		
Beaverhead County.....	4,200		
Carbon County.....	3,000		
Cascade County.....	2,600		

Choteau County.....	14,835
Custer County.....	26,580
Dawson County.....	13,194
Deer Lodge County	4,111
Fergus County.....	6,762
Flathead County.....	8,434
Gallatin County.....	2,600
Granite County.....	1,557
Jefferson County.....	1,850
Lewis and Clarke County.....	2,600
Madison County.....	4,250
Meagher County.....	6,640
Missoula County.....	7,150
Park County.....	2,900
Ravalli County.....	2,889
Silver Bow County.....	915
Sweet Grass County.....	3,000
Teton County.....	7,900
Valley County.....	13,486
Yellowstone County.....	4,527

Number of dwellings, 1890.....	26,934
Number of families, 1890.....	27,501
Number of persons to a dwelling.....	4.91
Number of persons to a family.....	4.81
Rank of state among United States in respect to area.....	3
Rank of state among United States in respect to pop- ulation.....	45
Rank of state among United States in respect to density of population.....	44
Estimated population, 1895.....	200,000
Number of counties.....	23
Number of postoffices.....	390
Number of United States Representatives.....	1
Number of miles of railroad.....	2,712
Number of pupils in public schools.....	24,973
Number of newspapers.....	89
Latitude.....	44° 6' to 49° N

Longitude.....	104° to 116° W
Number of acres of vacant public land, 1894	10,365,367
Total vote on state constitution, October 1, 1889....	5,058
Total vote on location of state capital, 1894.....	52,142

Assessed property, 1895 ¹	\$104,370,505
Beaverhead County.....	\$3,074,507
Carbon County.....	997,827
Cascade County.....	10,700,263
Choteau County.....	3,341,689
Custer County.....	5,137,246
Dawson County.....	1,935,937
Deer Lodge County.....	5,032,855
Fergus County.....	4,244,113
Flathead County.....	2,093,075
Gallatin County.....	5,181,791
Granite County.....	1,896,083
Jefferson County.....	3,104,990
Lewis and Clarke County.....	16,520,750
Madison County.....	2,793,375
Meagher County.....	3,901,999
Missoula County.....	4,552,318
Park County.....	3,129,260
Ravalli County.....	1,902,602
Silver Bow County.....	17,818,980
Sweet Grass County.....	1,383,579
Teton County.....	1,722,467
Valley County.....	724,572
Yellowstone County.....	3,180,227

Production of gold in 1894.....	\$ 3,651,410
Total production of gold to 1894.....	193,941,478
Production of silver in 1894.....	16,575,458

¹ The figures here given are those reported to the State Board of Equalization in July by the various County Assessors. The figures were afterwards raised considerably by apportionment of railroad and other assessments, as explained in Chapter x. e. g. The final figures make the assessment of Silver Bow county \$23,091,405, and that of the state \$124,076,585.50.

Total production of silver to 1894.....	\$207,998,425
Production of copper in 1894.....	17,375,692
Total production of copper to 1894.....	144,216,899
Production of lead in 1894.....	730,552
Total production of lead to 1894.....	7,464,124
Production of coal in 1894.....	1,700,000
Total production of coal to 1894.....	9,133,392

Number of acres planted with wheat, 1892.....	32,331
Number of acres planted with rye, 1892... ..	179
Number of acres planted with barley, 1892.....	9,526
Number of acres planted with corn, 1892.....	921
Number of acres planted with oats, 1892.....	94,558
Number of acres planted with potatoes, 1892.....	3,431
Number of bushels of wheat produced, 1892.....	837,835
Number of bushels of rye produced, 1892.....	5,220
Number of bushels of barley produced, 1892.....	325,272
Number of bushels of corn produced, 1892.....	33,251
Number of bushels of oats produced, 1892.....	3,672,744
Number of bushels of potatoes produced, 1892.....	560,613
Average production of wheat per acre, 1892.....	25.91 bush.
Average production of rye per acre, 1892.....	29.16 bush.
Average production of barley per acre, 1892.....	34.14 bush.
Average production of corn per acre, 1892.....	36.10 bush.
Average production of oats per acre, 1892.....	38.84 bush.
Average production of potatoes per acre, 1892.....	160.48 bush.

Number of banks, September 1, 1894.....	49
Paid up banking capital, September 1, 1894.....	\$7,077,000
Number of cattle shipped to eastern markets, 1894.....	242,655
Number of cattle killed for home consumption, 1894.....	60,000
Value of cattle killed or shipped, 1894.....	\$10,592,925
Number of pounds of wool produced, 1894.....	17,642,079
Number of horses assessed, 1894.....	184,633
Number of cows assessed, 1894.....	28,473
Number of stock cattle assessed, 1894.....	642,427
Number of sheep assessed, 1894.....	2,228,875
Number of hogs assessed, 1894.....	12,596

Total indebtedness of counties, February 28, 1895.... \$2,856,053.71

Methodist Episcopal churches.....	55
Methodist Episcopal membership.....	2,500
Methodist Episcopal Sunday school members.....	5,100
Protestant Episcopal churches.....	32
Protestant Episcopal membership.....	1,711
Protestant Episcopal Sunday school members.....	1,284
Presbyterian churches.....	34
Presbyterian membership.....	1,750
Presbyterian Sunday school members.....	6,451
Christian churches.....	13
Christian membership.....	950
Christian Sunday school members.....	833
Baptist churches.....	20
Baptist membership.....	1,029
Baptist Sunday school members.....	1,163
Methodist Episcopal Church South churches.....	17
Methodist Episcopal Church South membership.....	917
Methodist Episcopal Church South Sunday school members	646
Congregational churches.....	10
Congregational membership.....	498
Congregational Sunday school members.....	763
German Lutheran churches.....	14
German Lutheran membership.....	350
German Lutheran Sunday school members.....	113
Unitarian churches.....	2
Unitarian membership.....	250
Unitarian Sunday school members.....	175
Salvation Army corps.....	6
Salvation Army soldiers.....	300
Roman Catholic churches.....	94
Roman Catholic membership.....	29,309

Free public libraries.....	8
Other libraries other than school libraries.....	6
Number of volumes in public libraries.....	70,000
Number of volumes in school libraries.....	8,000

LIST OF GOVERNORS OF MONTANA.

TERRITORIAL.

Sidney Edgerton.....	Commissioned June 22, 1864
Thomas F. Meagher.....	Acting Governor September, 1865
Green Clay Smith.....	Commissioned July 13, 1866
James F. Ashley.....	Commissioned April 9, 1869
Benjamin F. Potts.....	Commissioned July 13, 1870
John Schuyler Crosby.....	Commissioned 1883
B. Platt Carpenter.....	Commissioned December 16, 1884
Samuel T. Hauser.....	Commissioned 1885
Preston H. Leslie.....	Commissioned 1886
B. F. White.....	Commissioned 1889

STATE.

Joseph K. Toole	1889—1893
John E. Rickards.....	1893—

Popular names for Montana..... { The Bonanza State.
 { The Treasure State.
 { The Mountain State.

Indian name, To “Yabe-Shock” Up, “The Country of the Mountains.”

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TO A
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GLOSSARY OF LEGAL TERMS.

CERTIORARI: A writ to review the proceedings of inferior courts and officers exercising judicial powers.

CIVIL ACTION: A proceeding to enforce the rights and redress the wrongs of the individual.

CRIMINAL ACTION: A proceeding to secure conviction and punishment for a crime against the state.

ESCHEAT: A reversion of property to the state in consequence of the want of an individual competent to inherit.

FELONY: An offense which is punishable by death or imprisonment in the penitentiary.

FRANCHISES: A special privilege from the government to individuals.

HABEAS CORPUS: A writ directed to a person detaining another in custody commanding him to "have the body" of the person brought before the court for a specified purpose.

INITIATIVE AND REFERENDUM: A system by which legislation is referred to and acted upon by the people.

INJUNCTION: A writ, equitable order or decree, prohibiting a person or his agents or servants from doing a specified act.

MANDAMUS: A writ compelling inferior courts or officers to perform their duties.

MISDEMEANOR: An offense which does not subject the offender to punishment in the penitentiary.

PROBATE: Approval of the sufficiency of a will by a proper court.

PROHIBITION: A writ which commands a person or tribunal not to do something.

QUO WARRANTO: A writ to determine by what authority persons claiming or usurping an office are acting.

STATUTE: An act of legislation ; a written law.

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