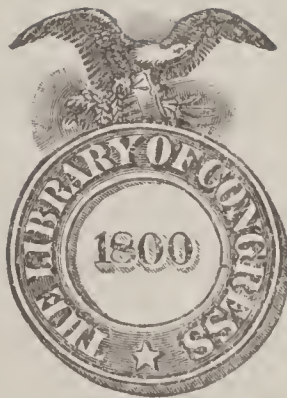


# ESSENTIALS *of* CIVICS

Wisconsin Edition

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D. O. KINSMAN



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# ESSENTIALS OF CIVICS

WISCONSIN EDITION

BY

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AUTHOR OF "THE LOCAL GOVERNMENTS"  
OF WISCONSIN, ETC.



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## PREFACE TO THE FIRST EDITION

As a teacher of Civics for fifteen years in a Wisconsin State Normal School and as institute conductor for a yet longer period, I have been made aware of the very great need for a text in Civics prepared expressly for Wisconsin schools. This book is an effort to meet that need.

Fully agreeing with the order and method of treatment of the subject outlined in the Manual of the Course of Study for the Common Schools of Wisconsin, I have followed both in the preparation of this text. It is hoped, therefore, that the teachers of the State will find this work most helpful in meeting the requirements set forth in the Manual.

Good citizenship, like charity, begins at home, spreads to the school, the community, the State, the Nation and the World. The call everywhere is for a well informed, patriotic and progressive type of citizen. May this book prove of service in equipping Wisconsin pupils with the necessary knowledge, spirit and training to meet the call. The emphasis in teaching should be upon the fact that the child is *now* a citizen and it is his duty to strive always to be the best possible one.

The "Practical Points" found at the close of the chapters are for the purpose of connecting the subject matter of the text with everyday problems. The index is prepared with a view to making it of service in conducting topical reviews.

The text is strictly up to date. It contains such modification in our political organization and procedure as have been made by the last session of the Legislature and a final chapter is devoted to the League of Nations with which every child should be familiar. With the many facts presented

some errors have doubtless crept in, therefore, such corrections as the reader may see fit to suggest will be most welcome.

I wish to acknowledge my indebtedness to many friends and authors whose assistance has added materially to the value of this work. Especially do I wish to thank the teachers and school officers of the State who have given me encouragement by the generous reception which they have accorded my smaller work on *The Local Governments of Wisconsin*.

*Delos O. Kinsman*

Appleton, Wisconsin

September, 1919

## PREFACE TO THE THIRD EDITION

The present edition of the *Essentials of Civics* is a revision, the purpose being to keep the text up to date. The United States Census of 1920 and the action of the State Legislature at its last session have made necessary certain minor changes. A few statements have been modified to make them conform more exactly with present conditions.

The author is aware that the large and increasing demand for the text is due to a growing desire for a practical discussion of good citizenship, nevertheless, he wishes to express his gratitude for this expression of appreciation.

*D. O. Kinsman*

Lawrence College

September, 1921

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# ESSENTIALS OF CIVICS

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## INTRODUCTION

### 1. OUR SUPREME DUTY

**We Should Make the Most of Our Lives.** Our own life is our most valuable possession. We not only want to keep it, but we want it to grow, to develop, to enlarge and to be enriched. We each have a deep seated desire to make the most of it. Indeed, it is a duty we owe not simply to our selves, our family, our friends and to our country, but to our Creator who gave it, that we make it the very best life of which it is capable. One is not only a good person, but he is at the same time a good citizen, when he develops his best and noblest character in its physical, its mental and its moral expression; that is, when he attains the highest possible perfection in body, mind and spirit. He must possess a vigorous, healthy body, a well trained mind and a keen moral sense, all of which should be placed at the service of his fellowmen. *The best citizen seeks constantly to make the most of himself and to assist others to develop their lives most perfectly.*

**What Must One Do to Make the Most of Himself?**

1. *One must keep the body in good condition.* This is done by eating pure food. It should be selected with reference to its nutritive qualities and carefully prepared and

served in a wholesome and nourishing form. The drinking water must not contain impurities of any kind. If it does, contagious diseases are likely to result. Lots of fresh air must be had both day and night. The clothing must protect the body from wet and cold. It is much more important that one's dress properly protect the body than that it conform to the latest style. Senseless fashion has been more destructive of health and life than have wars. The home must be built warm and arranged so it can be easily ventilated, making provision for plenty of fresh air. Sufficient sleep must be had. Growing children should have at least nine or ten hours of wholesome sleep each night.

Careful attention should be given to personal cleanliness. One should not only abstain from the use of drugs, narcotics, and liquor which have done so much to weaken and destroy life, but he should be temperate in all things, especially should this be true in eating and drinking. The exercise taken, whether it be work or play, should strengthen and develop every part of the body. A healthy body, then, is dependent upon pure food, pure water, fresh air, proper dress, plenty of sleep, a warm, well ventilated home, cleanliness, and the taking of plenty of good exercise.

2. *One must keep the mind wholesome and active.* To do this one should desire a good education. The mind should be not only well disciplined and cultured but should be filled with useful knowledge. Upon leaving school one should enjoy thinking clearly and carefully; he should possess a knowledge of the wonderful things which God and man have done; and he should be intimately acquainted with sufficient practical information to enable him to earn an honest living and to co-operate with his fellow citizens in making his community the best possible place in which to live. His aesthetic nature should be developed so he can enjoy the birds and the

flowers, the hills and the heavens, the seas and the sunsets. Architecture, sculpture, pictures, and music should give him great pleasure. Good newspapers, magazines and books should contribute greatly to his happiness and improvement. The present age with its means of travel and communication will not permit us to live isolated lives, so one who assumes to be educated must keep an interest in the great present day problems. He must be informed regarding the questions of concern to his community, his town, his village or city, his county, state and nation; indeed, he must now be well acquainted with the great international questions which concern the United States and the world at large. Education is essential to a good life and to a patriotic citizenship.

3. *The spiritual nature must be developed.* The possible ideals of life should be examined, classified and studied with reference to their relative values. One should decide early whether he is going to drift through the world or whether he is going to select an honorable occupation and be somebody worth while. When he determines his life work he must decide whether he is going to make it his chief purpose in life to accumulate money, to get rich; or to build character, to make the most of the spirit which God has given him. He should know why he is in the world and justify his existence by living a good life. Many people fail to give proper return to society for the food, clothing, shelter, education, training and service which is furnished them by the family, the school, the church and the state. Every child should resolve that he will not be one of this class but rather that he will give more to society than it gives to him. This can be done by living a good and useful life.

After one has decided to live a right life he must develop self control and self direction. He must refrain from doing wrong and instead he must do right. This may require time

and repeated effort, but it must be accomplished before life can be worth while. One must study right lines of action, he must learn to love his fellows, helping them in every way to be better, he must love and worship God for by so doing one learns to know and desire the best possible life. He must always be ready to serve both God and man. He should affiliate with uplifting organizations. The present is sometimes called the age of organizations, and well it may be for the world has never known a larger number of cooperative efforts for the betterment of man. One cannot be a useful member of society without being associated with one or more of these organizations. He cannot join them all but he can select one, two or three of the best and become an active, helpful member of them giving the other members encouragement and assisting the organization in every possible way to become most useful in its effort to uplift and improve mankind.

### REVIEW QUESTIONS

1. What does one desire to do with his own life?
2. Why should one make the most of his life?
3. What must one possess to be a good citizen?
4. What must one do to be the best possible citizen?
5. What must one do to make the most of himself (a) physically? (b) mentally? (c) spiritually?

### PRACTICAL POINTS

1. Have you a desire to live and develop in body? in mind? and in spirit?
2. Ought each of us to do what is suggested in this chapter?
3. Think of some things you are doing that are checking that development.
4. Think of some things you should be doing to increase that development.

## II. WHY GOVERNMENTS ARE NECESSARY

**The Environment Necessary for the Best Development of the Individual.** The environment best fitted for the development of our lives and those of our fellowmen is of very great importance. It is gratifying to know that centuries of experience have determined its nature. We need no longer be in doubt. That each individual may make the most of himself, certain personal rights must be guaranteed.

1. *Life and health must be protected.* Dangerous persons must not be allowed at large. Criminals must be captured and placed in prison. Dangerous places must be abolished or carefully guarded; contagious diseases must not be allowed to spread; and healthful conditions must be developed. Pure food must be assured. The manufacture and sale of injurious or poisonous commodities must be prohibited. The water supply must be pure. The conditions in the community must be thoroughly sanitary, in no way being permitted to endanger health or life.

2. *Freedom must be assured.* So long as a person does what he ought to do, he should not be restrained in his liberty. No individual or organization should be allowed to imprison such a person or force him to go where he does not wish to go. A person must be at liberty in order to engage in any business he likes or in any pleasure he enjoys so long as he refrains from encroachment upon the rights of others.

He must be free to think, speak, and write as he wishes, for only in so doing can he fully develop his intellectual nature. Of course he cannot speak or write in a way that will injure the reputation of any other person.

He must be at liberty to hold any religious belief and to worship as he sees fit, for this enables him to most perfectly develop his highest spiritual nature. But, again, in his worship he must not be permitted to encroach upon the rights of others. It is only by enjoying perfect freedom of person, of thought and expression, of religious belief and worship that one is able to develop his noblest qualities.

3. *Property must be protected.* A person must be able to keep possession of the property that rightfully belongs to him, otherwise there would be little inducement to labor in order to get property for present use, for the rainy day, and for old age. Provision must also be made by which one can receive property by purchase or gift and can transmit it by sale or bequest. Fraud must be prevented and protection against theft, against needless fire and destruction must be provided. The conditions should be such as to enable a person to receive, use and dispose of this property freely in business or pleasure so long as he does not abuse the rights of others, for only through such freedom in its employment can he make the most of his life, and the lives of those dependent upon him.

4. *Besides insuring life, liberty and property the general good of society should be promoted.* Schools should be established to provide opportunities for children to receive a training that will fit them to be most useful and happy. Educational, religious and benevolent institutions must be founded for the purpose of improving the intellectual and spiritual life of the community, or for taking care of the poor, the needy and the aged. So alms houses, hospitals, homes for orphans and old people, schools and colleges, churches and the like should receive special privileges. Places for healthful, wholesome recreation should be furnished; and entertainments provided. Short working

hours, better housing accommodations and improved sanitary conditions should be assured. Undesirable practices should be abolished, such as the use of cigarettes, liquors and drugs. Defectives, as the deaf, the dumb, the blind, the insane; dependents like the orphans, the poor and the aged; and the malicious such as incorrigibles and criminals must all be taken care of, otherwise society stands in great danger. Highways and bridges must be built and many other things done for the common good. Enough has been enumerated, however, to emphasize the need of cooperation if the members of society are to become the best possible citizens.

It is an important conclusion we now reach—that if each individual is to make the most of himself, his life, his health and his property must be carefully protected; his freedom of thought and expression, of religious belief and worship must be guaranteed; his personal liberty must be assured; perfect freedom in the right use of property must be provided; and the common welfare promoted. Without these rights, the development of the best life is impossible. With them, the individual is provided the environment best suited to the perfection of character. Society, then, must grant and must guard these rights.

**The Best Means for Guaranteeing the Right Environment.** To provide the environment in which one may have the best possible opportunity to make the most of himself has been the problem of the ages. When man first appeared upon the earth, each individual did as he wished. The strongest man had his own way. He, doing as he pleased, took all for himself and persecuted or killed the weak and dependent. But this did not and could not last. A better form of society—the *family*—was soon established. Then man sought to protect, care for and improve the members of the family by feeding, clothing and sheltering them and settling their dif-

ferences by peaceful methods. He fought to secure for them the necessities of life and he attacked those who threatened to harm them. In time families of relatives combined into *clans* to peaceably carry on the common activities necessary to their development and to engage more successfully in wars with their common enemies. And, still later, the related clans united to form *tribes*. After centuries, the tribes settled down, because they had begun to till the soil, and then it was that they united to form *states* and *nations*. So history is but the record of man's struggle, somewhat blind at times it is true, to establish the environment in which each individual can develop the best that is in him. We, therefore, have the right to conclude that the conditions which have been established so universally are the best possible. As the result of trying many plans, it is now agreed that the best way to secure the proper environment is by making rules or laws which all should obey, and then by having them carefully enforced. The best means for doing this is to establish a government with power to make laws, to enforce them, and to interpret and apply them. Thus has arisen the modern state.

**Democracy the Best Kind of State.** The best kind of state to perform this very important duty has been found only after long experience. At first a *monarchy* was tried. One man ruled. He alone was responsible for the making of laws and for their enforcement and for their interpretation. The subjects simply obeyed. The selfish monarch often declared himself divinely chosen, treated the people as servants and even slaves. To please his fancy, they were often maimed, or tortured, or imprisoned or even killed, and often their property was taken from them for the use of the king and his friends. Against such abuse the unfortunate people had no protection. In time the more powerful subjects resisted

such treatment, arose in their anger and limited the powers of the monarch, making his actions subect to their will. They now had a part in the making of laws. Thus an *aristocracy* was established and the second form of government was tried. But in time these selfish nobles conspired with the monarch and abused the rights of the people even as the king alone had done in the days of the monarchy. Such oppression no liberty loving people could tolerate, and so the yoke of bondage was thrown off and a *democracy* was established. This was first done by the English colonies in America. After gaining their independence as a result of the Revolutionary War they adopted the Constitution of the United States, and thus established the first great democratic nation in the world. Many countries have since followed their example, until now it is agreed that a democracy, in which the people themselves make the laws, and enforce, and interpret them, is the form of government that guarantees most perfectly the life, the liberty and the property of the individual so essential to his most perfect physical, intellectual and spiritual development. Because of its great desirability it seems likely that the democracy will ultimately become the accepted form of government throughout the world. Its success must depend, however, upon a thoroughly moral and highly educated citizenship.

### REVIEW QUESTIONS

1. To make the most of one's self what personal rights must be guaranteed?
2. What must be done for the children? for the poor? for the deaf, the blind, the insane? for the criminals?
3. What is the best organization yet found for doing all this work?
4. What kinds of states have been tried?
5. Why have monarchies failed?
6. Why have autocracies failed?

**PRACTICAL POINTS**

1. Name some things being done in your neighborhood by the government: (a) to protect life; (b) to ensure liberty; (c) to guarantee freedom of speech and press; (d) of religious worship; (e) to protect property.
2. Name some privileges your people are enjoying because they live in a democracy, instead of an aristocracy or monarchy.
3. State the advantages of a democracy over a monarchy or aristocracy.
4. In what ways may a democracy be made to fail?

### III. THE FAMILY AND ITS GOVERNMENT

**Definitions.** *A government is that power which makes laws, enforces them, interprets and applies them.* This definition not only tells us what a government is but suggests its three important departments—legislative, executive and judicial. A government in which the laws are made and the officers selected by one person is called a *monarchy*; one in which the laws are made and the officers selected by a few persons is called an *aristocracy*; and one in which the laws are made and the officers selected by the people is called a *democracy*. If the laws are made by the voters, as in our town meetings, it is called a *pure democracy* and if made by representatives elected by the voters, as in the state and nation, it is called a representative democracy or a *republic*.

While time has produced important changes in the family giving the parents less authority over the children, still it remains the most important unit of present day society. With the settling down of the migratory tribes the ancient clan gradually changed into the city ward, or the village, or the town; and the tribe into the city or the county; and the union of the tribes constituted the state. In some countries the states have been welded together into a powerful nation. The United States is a great nation of families comprising towns, villages, cities, counties, states and the central government.

**The Family a Government.** Is the family a little government? If we test it by our definition we see that we must answer the question in the affirmative, because the home is a power which makes, enforces, interprets, and applies rules or laws.

The home makes laws. Can you not name the laws of your home? Try it. Examine the list you have given and you will see that they are made for four purposes—to protect the life and health of the members of the family; to make each member free from the abuse of others; to protect the property from destruction; and to advance the best interests of the family as a whole. The parents are the *officers* of the home because they are the ones who make the rules and enforce them, punishing those who fail to obey them. The children are *citizens*. It makes no difference whether they are born into the family, or adopted, the laws apply to them just the same. The parents owe it to the children to know in what ways a child's life and health may be endangered and to require each child to guard himself against the possible loss of either. Each child should be made to be just and kind and to respect the rights of the other children. The property belonging to the different members of the family and to the family as a whole should not be marred or destroyed. The members should be fed wholesome food properly prepared, their clothing should be warm, comfortable and clean; and the home should protect them well from the weather and be made as beautiful as the family can afford, with paint, pictures, flowers, shrubs and trees. Each child has a right to an education; and to be taught at home or school some trade or other means of earning an honest, respectable living.

The children, on the other hand, owe much to the parents. They should be the best possible citizens in the little home state. They should obey the rules laid down by the parents; they should aid the other children to obey them, not by force, but by setting a good example, and persuading them that it is right; and they should assist in bettering the laws. Often the child finds that the parents have not laid down a rule governing a situation in which he finds himself. Here is

his opportunity to determine the right thing to do and then to do it. This will develop him into the best possible citizen for it will prepare him for the more serious questions of life. The good citizen in the little home state is always ready to help his parents to make, save or wisely spend the money which is so important in the maintenance of the family. He should perform the tasks assigned him, whether they be small or large; help keep the home neat and clean and make it most beautiful. He should seek to add to the enjoyment and improvement of the home in every way possible. Are you a good citizen in your little home state? What can you do to make yourself a better one?

**The Best Family Government.** In ancient times, before states developed, the father had the power of life and death over the children. This appeared necessary because it was only through a vigorous government of the family that good order was preserved in society. But as political states arose, the power of the father was lessened until at present it is quite limited.

Yet, it should not be assumed that the family is unimportant. Marriage is a sacred contract which binds the family together. To preserve a well organized and wisely managed home is a sacred task. There must be provided the care and training so vital to the future happiness and welfare of the children. The parents must feed and clothe each child, keeping him dry and warm and well and protected from all harm. While he is young, the parents should tell him, for his own good, just what he must and must not do. The government is of necessity a little monarchy. As the child grows older, in addition to his care, he must be given an education. So important is good citizenship, that in democratic states educational opportunities are provided at public expense and parents are compelled, by law, to

send the child to school. As the child proves himself worthy, parents admit him into their council and he expresses his views regarding the care and government of the home. To him the home now has become a limited monarchy, or aristocracy.

The good child takes advantage of every opportunity offered by the home to learn the lessons of sacrifice, of devotion and of self-direction, all of which contribute so much to his future success. As he proves himself capable of refusing to do wrong and of choosing the right and doing it because he realizes he should, the parents are glad to grant him very complete self direction and ask his council in regard to family affairs. The home is now a little democracy.

By taking advantage of the training offered, the child has prepared himself to become a good citizen in the state. In the ideal home the child is not just simply fed, clothed and protected from harm but he is trained physically, intellectually and morally to become ultimately a self-supporting, law abiding citizen. And the child is the best possible citizen in the little home state. He obeys the rules made by the parents; he helps the other children to obey them through good example, and he does everything possible to improve the conditions of the home. By taking advantage of the training in a good home, the child is preparing himself most perfectly for citizenship in our great republic.

### REVIEW QUESTIONS

1. Define government.
2. Name and define the kind of governments.
3. As savages settled down, what became of the clans, the tribe?
4. How many persons in your family?
5. Is your family a little government? Why?
6. If it is a government, who has charge of it?
7. What do they do? In a government what do you call them?

8. State some of the rules which parents make.
9. Why must they make these rules, enforce, interpret and apply them?
10. Do parents do anything more for the family than govern it? If so, what?
11. What should the children do for the parents? for themselves? for the family?
12. Who are the officers in the home? who, the citizens?
13. In the best family what do the parents do? What do the children do?
14. Why is a good family so important in society?

### PRACTICAL POINTS

1. How can your little home state be made better?
2. What are you doing to hinder the making of your home the best possible little state?
3. What are you doing to make it a more ideal little state?
4. What service can you render in the kitchen work; in the house work; in heating the home; in caring for the yard; in messenger work?
5. What are you doing to save the income of your family; to increase the income?
6. Are you doing anything to help feed the family; or clothe the family; or improve the home conditions? If so, what?

### REFERENCES

1. Essentials in Civil Government—Forman, Lesson 3, pp. 19-23.
2. The American Citizen—Dole, Chapter 1, pp. 3-8.
3. The Community and the Citizen—Dunn, Chapter 5, 6, pp. 25.
4. Training for Citizenship—Smith, Chapter 3, pp. 33-38.

#### IV. THE SCHOOL AND ITS GOVERNMENT

**The Child and the School.** The child during the first few years of his life is a citizen only of the little home state. But, as already stated, the parents must train him for a happy, useful life. So as soon as he becomes six or seven years of age they send him to school. He now becomes subject to another authority. He is now a citizen of the little school state. The government is very much like that of the home except the teacher takes the place of the parents.

**The School Government.** The purpose of the little school state should be remembered by every one. It is to secure the greatest possible good to all the pupils. Each child should be improved in every way,—physically, mentally and morally. To accomplish this end, the children must co-operate with the teacher to secure the best conditions possible for good work.

*In the school room* certain rules must be observed. Throughout the school year the pupils must be regular and punctual in attendance. This is necessary because if one misses his class work the time of the teacher, and often of the other members of the class, must be taken in order to help him make up the work he has missed. During school time the children must be quiet and orderly. If they are noisy, if they whisper, if they move about the room they disturb the other children and so prevent study. Each child should carefully prepare his lessons because a poorly prepared pupil takes up unnecessarily the valuable time of the teacher and of the other members of the class whenever he attempts to recite. Of course it is not possible always to pre-

pare a lesson perfectly but each pupil should endeavor to do his best. This will make the recitation much more interesting and enable the teacher to present to the class a much larger amount of valuable information. A program of recitation and study should be carefully followed, because this will enable each pupil to employ his time to the best advantage and so attain the greatest possible progress in school.

*On the school grounds*, during intermission, the children must obey other rules. Here the child has greater freedom and so must take special care to respect the rights of others. The larger pupils must not abuse the little ones but rather should help them to have a good time. There must be no quarreling, but every one should cooperate kindly in the playing of games. A game cannot be played without rules nor can it be played to the enjoyment of all unless each one obeys the rules. If one is honest and fair in the playing of games, he is likely to be honest and fair in business in after life.

Not only must the pupils respect each other's rights in the school room and upon the school grounds, but the little school state has apparatus, school furniture, a school building and school grounds which must be cared for. The children must not scratch, nor mar, nor destroy any of the property. Then, too, the property should be improved and beautified as much as possible. The school room should be kept neat and clean with fine pictures on the wall; the ground should be kept free from rubbish and flowers and trees planted and protected. The school should be made attractive in every possible way. So, to have the best work in school, the most fun on the playground, and to keep the school property in the best possible condition, rules, or laws, must be made, enforced and justly interpreted and applied. This makes necessary a little school government.

*In the little school state, the teacher is the officer and the*

*pupils are citizens.* In the ideal school there must be co-operation,—all must work together to secure the best conditions for learning. If they are good citizens, the children will not only obey the rules but will assist others to obey them; they will not only avoid injuring the property, but will improve and beautify it. They will want to see the schoolroom tastefully decorated and the school grounds made more attractive. They will assist the teacher in securing ideal conditions during school hours and during intermission. He who does the most to improve school conditions is the best citizen of the little school state. In what ways can your school be improved during school time; during intermission? How can your schoolroom, school building, and school grounds be improved and beautified?

*The school prepares the child for citizenship in several ways.* First, its organization and management teaches him to cooperate with others besides the members of his own family. He learns to be considerate of the rights of others. He must be regular, punctual, orderly, quiet and industrious for the sake of others. On the playground he must stand for fairplay and the square deal. The children are taught respect for true worth which is one of the cardinal principles of democracy. The children of the poor and the ignorant are given equal opportunity with those of the rich and the learned. He who possesses superior intellectual qualities is accorded credit in the schoolroom, and he who possesses powers of leadership is respected on the playground. Wealth and position receive little regard among pupils but personal worth is honored. This is as it should be. The school affords opportunity for training in honesty. In the preparation of lessons, the writing of notebooks, of essays and of examinations every pupil is given occasion to be honest with himself, with the teacher and with his classmates. It is a

most important lesson, one that every child should learn since successful business depends so much upon the quality. It is, also, the corner stone of character. The school that builds up a public opinion which causes each pupil to desire to do right and play fair is more truly a democracy than one which has the form of self government without the spirit.

The second way in which the school prepares the child for citizenship is through the subjects taught. During the early years of the Christian Church, schools were established to prepare young men for the priesthood. The books treated of religious subjects and were in Latin. After several centuries, Latin works which treated of other than religious subjects began to be studied and also Greek books from which the students learned about natural science, mathematics, medicine, history and philosophy. So, during the Middle Ages, not only did those attend the advanced schools, or universities, who intended to be clergymen but also those who intended to be teachers, doctors and lawyers.

The sons of farmers, of laborers and shopkeepers did not go to school. The same was true of the girls. The father and mother prepared both for their work. If the son desired to learn a trade he was sent to live with a skilled workman for a number of years as an apprentice. When the introduction of printing made books more common the desire for education became more general. Schools were still private and only the rich could afford to attend. In so far as the schools gave one a training for life it prepared the young men for intellectual work and not for manual labor.

*Our own country was the first to establish free public schools, open to all, and supported by taxation.* For the first time equal educational opportunities were provided for the children of the poor, as well as the rich, for girls as well as

boys. This important step was taken because it was believed that education would make the children more useful, patriotic citizens. When the state taxes the people to provide an education for every child, it places upon each one receiving the training a serious responsibility.

At first only the simplest subjects were taught in the schools—reading, writing and arithmetic—but in time new subjects were added. The length of the school year was also increased and compulsory attendance required. But for a long time these free schools favored those who were to enter the professions or engage in some other line of intellectual pursuit. However, the recent increased demand for scientific farmers, for skilled workmen and for trained business men has become so urgent that our free public schools are now offering most helpful courses for those who wish to enter these and similar fields. It is now most profitable for children to remain in school since by doing so they are prepared to earn an honest living whether they wish to pursue intellectual or manual labor, and they are taught to enjoy good books, music and pictures as well as receive a thorough training in those subjects which is essential for good citizenship. To be grateful and to make the most of the educational opportunities provided is the duty of every child.

### REVIEW QUESTIONS

1. How old were you when you began to attend school?
2. Did you then become subject to another little government?
3. If so, what government?
4. What is the purpose of this school government?
5. What conditions are necessary in order that all may do the best work while in school?
6. What conditions are necessary in order to have the most fun on the playground?
7. What must the children not do with school property?

8. What is the best means to be used in order to have the best work in school, the most fun on the playground, and to take the best care of the school property?
9. Who must make these rules, enforce them and interpret and apply them?
10. State some of the rules for the schoolroom; for the school grounds.
11. Who is the officer of this school state?
12. Who are the citizens?
13. In what way does the school prepare the child for citizenship?
14. What should we do in return for what the state has done for us?

### PRACTICAL POINTS

1. What may we do to make our school a better little state?
2. What can each one of us do in order to become better citizens in our school state?
3. In what way, do you think the schoolroom and school grounds can be made more attractive?
4. What are you doing to lessen their attractiveness?
5. What can you do to make them more attractive?
6. Should you keep your desks clean and orderly; pick up waste paper in school room and school yard; refrain from marring or defacing the furniture or the building?
7. Should you respect the rights of the smaller children; refrain from swearing; and practice kindness to others, and to animals?
8. *Organize a School Society.* Write the Superintendent of Public Instruction, at Madison, for the excellent pamphlet "Suggestions on Organization of School Societies." It is free.

### REFERENCES

1. The American Citizen—Dole, Chap. 2, 3, pp. 9-15.
2. Essentials in Civil Government—Forman, Lessons 4, 5, pp. 24-32.
3. City, State and Nation—Nida, Chap. XVII, pp. 146-56.
4. Elementary Social Science—Leavitt and Brown, Chap. VIII, pp. 81-95.
5. Elementary Civics—McCarthy, Swan and McMullin, Chap. XIII, pp. 132-142.
6. The New Civics—Ashley, Chap. II, pp. 21-33.

# THE LOCAL GOVERNMENTS OF WISCONSIN

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## V. THE SCHOOL DISTRICT AND ITS GOVERNMENT

**Why We Need School Districts.** Parents are very busy providing food, clothing, home, health and happiness for the children. They wish them also to receive an education. Have you ever thought how much additional work and expense it would be for them to educate you at home? If they themselves did not possess both the necessary education and time they would be obliged to hire some one to give the instruction. It would be necessary also to set apart a room and fit it up for school work. This plan would be very expensive and in many homes it would be impossible. Too many children would be obliged to go without an education. So, as we have already observed, in order to furnish the means of education to all as cheaply as possible towns are divided into school districts each including a convenient number of families.<sup>2</sup> The district is organized by the town board of supervisors, and is made of such size and the school

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<sup>1</sup>The government here described is that of the school district as found in towns and villages.

<sup>2</sup>Constitution of Wisconsin, Article X, Section 3, provides that, "The legislature shall provide by law for the establishment of district schools, which shall be as nearly uniform as practicable; and such schools shall be free and without charge for tuition to all children between the ages of four and twenty years, and no sectarian instruction shall be allowed."



A DISTRICT SCHOOLHOUSE IN OUTAGAMIE COUNTY

house is so located as to make it as convenient as possible for the children to attend school.

**The Government of a School District.** As has been said the school district is organized for the purpose of educating the children living within the district. The government of the school district is very democratic. All citizens of the United States, both men and women, twenty-one years of age who have resided in the state one year, and in the school district at least thirty days just before the annual school meeting may take part in the discussions and vote at the school meetings.

The annual school meeting is held the first Monday in July, unless this be a legal holiday when it is held on the following day. The meeting is at the school house, at eight o'clock in the evening. At this time the men and women of the school district qualified to take part in its government assemble at the school house and attend to the general busi-

ness of the school district. They perform two kinds of duties—*legislative* and *elective*.

**The Legislative Powers.** The persons qualified to vote at the school meeting first elect one of their number chairman, who presides at the meeting. The clerk of the district acts as secretary. The meeting is now ready to do business. Of the score or more legislative powers which may be exercised by the annual school meeting the principal ones are:

(1.) Levy taxes: (a) to purchase a site for a school house or teacherage; (b) to meet the expenses of erecting a new school building or teacherage; (c) to repair the school house or teacherage; (d) to provide maps, charts and other apparatus for use in the school; (e) to purchase textbooks for the school; (f) to purchase a school library; to pay the teacher's salary; (h) and meet the necessary expenses for running the school. A limit is commonly fixed, by law, to the amount which may be spent for each of the above named purposes. This is done in order to prevent extravagant expenditures.

(2.) Designate a site for a new schoolhouse or teacherage and provide for the sale of any site, schoolhouse or other property belonging to the district and not needed for school purposes.

(3.) Determine the length of the ensuing school year, provided it shall not be less than eight months if state aid is to be received.

(4.) Determine the action of the school district in case it is likely to be a party to a lawsuit.

(5.) The annual school meeting may also authorize the school board: (a) to borrow money; (b) purchase textbooks to be used in the school; (c) to suspend the district school and arrange with another district for the education of the children of the district, and (d) provide for the transportation of these children.<sup>1</sup>

**The Elective Powers.** Those who possess the power to vote at the annual school meeting elect the officers of the district. The election must be by ballot and a majority of all the votes cast is necessary to a choice. The officers elected are a director, treasurer and clerk; together they constitute the district board. Only one officer is regularly elected each year and the term of office is three years.

A *vacancy* may occur in any of the offices by the death, resignation or the removal of the officer from the district for a period of more than sixty days. The vacancy may be filled by the two remaining members of the district board, provided they make the appointment within ten days after the vacancy occurs; if not, then the appointment is made by the town or village clerk. The person appointed serves until the next annual meeting when some person is elected to fill the vacancy for the unexpired term.

**The Powers of the District Board.** The district board, or the school board as it is often called, performs the duties assigned it by the annual school meeting and certain other duties required by law. It has the care and keeping of the schoolhouse, apparatus, books and other property of the district which is not placed by law under the special care of the clerk. It must keep the schoolhouse in good repair and provide the necessaries for keeping school, including dictionaries, maps, charts, globes, supplementary readers and the like. The board engages the teacher and fixes the salary to be paid. It may make rules and regulations for the government of the school and may suspend or expel a pupil who refuses to comply with these rules or with rules made by the teacher. The board is required to visit the school, examine into its condition and assist the teacher in the im-

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<sup>1</sup>For further legislative powers see Revised Statutes of Wisconsin.

provement of the school. Other duties of more or less importance are also required of the school board, but it is clear from those stated above that the board has charge of the school property and general supervision of the school.

**Special Duties of the School Officers.** Besides acting as a member of the district board, each officer has duties which he individually must perform.

*The Director* (1) must countersign all orders requiring the payment of money legally drawn by the clerk upon the treasurer of the district. (2) He must represent the district in all lawsuits brought by the district against any person or brought by a person against the district, unless some one else is designated at the school meeting.

*The Treasurer* (1) receives all money paid to the school district by the town or village treasurer or by any other person; he keeps this money; and pays it out only on the order of the clerk countersigned by the director. (2) He must keep a record of all the money received and paid out and (3) report the same in writing to the annual school meeting.

*The Clerk* (1) must act as secretary at the school meetings; (2) keep a complete and accurate record of the proceedings; (3) notify any person of his election or appointment to a district office; (4) and send to the town clerk and the town treasurer the name and address of each school officer. (5) He must make, when required, reports to the town clerk and to the county superintendent. (6) He must draw the orders for all money to be paid by the treasurer of the school district. (7) He is also librarian of the school district unless some one else is elected at the school meeting. (8) He is required to take the school census.

Since the parents and friends take so much pains and go to so much expense to furnish the children of the school district with an opportunity to secure an education surely

children should do all they can to acquire the education thus offered.

**City Schools.** Most cities have school districts the size of the wards and the school is known as a ward school. Here the children are taught during the first eight grades. Then they enter the high school which is usually centrally located. The high school course is four years.

A few cities have the same system of school government as is found in towns and villages, but most of them make the schools a part of the city government, under a general board of education. The members of the board are in some cities elected by the voters and in others appointed by the mayor. The board selects the superintendent of schools who has charge of the system.

### REVIEW QUESTIONS

1. Why do we need school districts?
2. When is the annual school meeting?
3. Who may vote at the school meeting?
4. What is done at the annual school meeting?
5. Name the officers of the school district.
6. For what length of time does each serve?
7. Who comprise the district board?
8. What are the duties of the district board?
9. What are the duties of the director? Of the treasurer? Of the clerk?

### PRACTICAL POINTS

1. Draw a map of your school district, putting in the roads, and if possible the homes and farms.
2. How long is your district? How wide is it? What is its area?
3. What is its assessed value? How much was voted at the last annual school meeting for the support of the school? What is the tax rate for the school during the present year?

4. Who are the officers of your school district? Why do we call them "public servants"?
5. What were some of the most important things done at the last annual school meeting?
6. Can your school be made better? If so, in what ways? Who has the power to make the changes?
7. What can you do to make it better at the present time? When you become a voter?
8. Attend a school meeting.
9. Hold a mock school meeting.

### REFERENCES

1. The Community and the Citizen—Dunn, Chap. XV, pp. 118-131.
2. The Government—Clark, Chap. IX, pp. 48-52.
3. The Young Citizen's Reader—Reinsch, Chap. VIII, pp. 55-64.
4. The American Citizen—Dole, Chap. XVII, pp. 103-107.
5. Training for Citizenship—Smith, Chap. IV, pp. 39-46.
6. The Government of Wisconsin—James and Sanford; Chap. XVII, pp. 118-120.
7. The Statutes of Wisconsin, Chap. XXVII, Relative to Common Schools.

## VI. THE TOWN AND ITS GOVERNMENT

**The Need for Government.** The family, the school and the school district are engaged primarily in the rearing and education of children. But children are only one class in society. All the citizens have rights and in order that each one may live the best possible life, these rights must be carefully guarded. Each law-abiding citizen must be protected against those who would take his life or injure his person. He must be allowed to think, speak and write freely on all questions including religion; to go or to stay where he likes, and to keep and use his property as he thinks best. In order to protect each citizen's life, person, freedom of thought and expression, and property, governments have been established. In order to provide the most perfect protection and to further the interests of all the citizens we have established a government for towns; another for villages; another for cities; another for counties; another for the state; and one for the nation.

**The Town Government.** In rural communities town governments are organized for the purpose of supplying the common local needs. Life, health, crops and other property must be protected against local dangers. Highways must be opened and roads and bridges constructed to enable people to pass conveniently from one place to another; the poor must be cared for and public improvements must be made. The size of the town varies; sometimes the territory within its jurisdiction is less than a township,<sup>1</sup> some-

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<sup>1</sup>A township is a tract of land six miles square, as determined by the United States survey.

times more than a township but more often it is just a township. The government of the town is in charge of the voters.<sup>1</sup> They assemble, in a *town meeting*, the first Tuesday in April, each year to do two things—make the laws for the town and elect the officers of the town. The town hall is usually open on election day from nine o'clock in the morning until five in the afternoon, but by petition may be changed to six in the morning and eight in the evening. Each voter enters the voting place. After he has given his name, and the clerks of election have checked it on the list of those who have a right to vote at the election, he receives a ballot from the ballot clerks, proceeds to one of the booths where he marks it, indicating the person he wishes elected. Then he gives his ballot to the inspector who drops it into the ballot box and the voter passes out.

The voters of each party hold a *caucus* about two weeks before election day and nominate, that is select, the persons whom they wish to fill the town offices. The names of these persons will appear on the election ballot, under the party heading.

**The Legislative Department.** Some time during election day, usually in the afternoon, the chairman of the town calls the voters to order and they proceed to make any necessary laws.<sup>2</sup> The chairman acts as presiding officer and the town clerk acts as secretary and keeps the minutes of the meet-

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<sup>1</sup>In Wisconsin a voter must be twenty-one years of age; a resident of the state at least one year; and a resident of the election district at least ten days. He must also be either a natural born or a naturalized citizen; or an Indian who has left his tribe and become a citizen, or a member of an Indian tribe which has been declared citizens by act of Congress. For a full discussion of the suffrage see Chapter XIII on The Voters.

<sup>2</sup>The laws of the state made the town a "body corporate" and so, like a person, it may buy, own and sell property, sue a person or be sued by a person. The state laws also very carefully define the duties which *must* be performed by a town and the powers which *may* be exercised by the town.

ing. If anyone is disorderly during the meeting the chairman may direct a constable to put him out or take him in custody. The business is conducted the same as that of a literary society. The secretary reads the minutes of the previous meeting, town officers make their reports, and motions are made by any of the voters. Suppose a motion is made and seconded that \$300 be raised for the purpose of building an iron bridge over Sugar Creek, where the main road crosses the same. Then different voters will speak for and against the motion. Finally the chairman puts the question to a vote by saying, "All in favor of the motion say, aye:" then, "Those opposed, nay." If the majority are in favor of the motion it then becomes a town law or "by-law" as it is called. If the chairman is uncertain whether the majority are for or against the motion he may then ask all those who are in favor of the motion to stand and they are counted. Then he asks those who are opposed to stand and they are counted. In this way it is easily determined whether the majority are for or against the motion.

*The Legislative Powers of the Town Meeting.* The voters assembled in the town meeting may (1) raise money for numerous purposes, such as the following: (a) To build or purchase a town hall; (b) to pay the salaries of the town officers, and other expenses necessary for the running of the town; (c) to build and repair roads and bridges; (d) to purchase a town library; (e) to support the poor; (f) to provide for destitute soldiers and their families;<sup>1</sup> (g) and to purchase grounds for a town cemetery and to improve and beautify the same.<sup>2</sup> (2) They may pass such by-laws as are

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<sup>1</sup>But the amount raised for this purpose must not exceed \$150 for any person in any one year.

<sup>2</sup>But not more than \$500 can be spent for such improvements during any one year.

necessary to preserve the peace and good order and promote the welfare of the town. (3) They may direct the town board to begin, carry on or conclude any legal action to which the town is an interested party, and to employ an attorney if necessary. (4) They may also direct the town board to buy certain property for town purposes; to sell property belonging to the town; or to borrow money to be used by the town.

While the law limits the amount of taxes which may be levied and the amount of indebtedness which may be incurred for town purposes, still the voters are given sufficient powers to enable them to supply very fully the needs of the town.<sup>1</sup>

The making of laws for the town is soon completed and the remainder of the day is devoted to the election of town officers. When the polls are closed in the late afternoon the votes are counted and the result is announced. The person having the highest number of votes for each office is declared elected. If two candidates for any office should have the same number of votes they draw lots to determine which shall hold the office.

The town clerk keeps a full record of the number of votes cast and the result of the vote and must notify the successful candidates of their election within five days, unless they voted during the day when the public announcement of the result of the vote is considered sufficient notice of their election.

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<sup>1</sup>Special town meetings may be called when a petition signed by twelve voters, stating the purpose of the meeting, is filed with the town clerk. He must then post notices of the meeting so as to notify all the voters regarding its time and purpose. This meeting may be called to consider any business which may be considered at the annual meeting.

Excepting the justices of the peace, every town officer must take the oath of office prescribed by law<sup>1</sup> within ten days after notification or he is considered as having refused to serve in such office. This oath is taken usually before the town clerk, but may be taken before any other authorized officer, and must be filed with the town clerk. The clerk files his oath with the treasurer.

A *vacancy* may occur in a town office by the person failing to take the oath of office, to give bonds when required, by removal from the town, conviction of a crime, insanity, resignation or death. A vacancy may be filled by special election, or by the town board appointing some person to the office for the unexpired term. A vacancy on the town board is filled by appointment made by the two remaining members and the town clerk.

**The Executive Department.** The town meeting needs some one to carry out the "by-laws" passed by it. For illustration, some one must hire masons and other workmen, buy materials and superintend the construction of that bridge which the town meeting has voted to build over Sugar Creek. The regular business of the town must also be carried on, laws must be enforced and rights of the citizens protected. The officers of the town are elected to perform these duties.

Their term of office is one year except the justices of the peace which is two years. By special vote of the town board

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<sup>1</sup>Every officer in Wisconsin, whether local or State, when taking office, is required to swear or affirm that he will support the Constitution of the United States and the Constitution of the state of Wisconsin and faithfully to discharge the duties of his office to the best of his ability.

of supervisors the terms of its members may be changed to three years, one elected each year.

The officers of the town are of two kinds—elective and appointive. The elective officers are a town board of three supervisors; constables, not to exceed three in number; a town clerk; an assessor; a treasurer; and two justices of the peace. If the town has a library, a librarian is also elected. The appointed officers are a board of health; superintendents of highways; and commissioners of noxious weeds.

*The Town Board.* The town board consists of the chairman and two supervisors. Two members constitute a quorum to do business. They are responsible for the maintenance of good order in the town, appointing policemen if necessary. They have charge of the poor. They carry out the wishes of the voters as expressed at the annual town meeting. If, for example, improvements are to be made, bridges to be built, or licenses to be issued, the town board will attend to these duties. If required by the town meeting, they license peddlers, but the amount of such license fee cannot exceed \$25 a day. They audit all accounts against the town and order the payment of bills. They settle disputes arising over fences. They represent the town in all lawsuits in which the town is a party. They divide the town into road districts and levy the highway taxes. They appoint the superintendant of highways. With the clerk they act as a board of equalization. The board meets at least twice a year, once the first Tuesday in December, and again the Tuesday before the annual town meeting. At the latter meeting they examine the accounts of the town officers. A report stating in detail the items audited by the board during the year and those allowed and also those disallowed is published and read at the annual town meeting. The board also makes an estimate of the regular expenses of the town

for the ensuing year and submits it together with such recommendations as they may think fit to the annual town meeting.

The town board, besides appointing the regular appointed officers of the town, also fill all vacancies occurring in town offices; except when such vacancy occurs in the board itself when it is filled by the two remaining members and the town clerk.

*The Town Chairman*, besides being a member of the town board, is the chief executive of the town. If any "by-law" is being violated he is the one to whom complaint should be made.

He represents the town on the county board. If he is unable to attend, one of the other supervisors may attend in his place.

He issues orders on the town treasurer, which when countersigned by the town clerk, are presented to the treasurer who is then obliged to cash them.

As already stated, the chairman also presides at the annual town meeting.

*The Constables.* The constables are executive officers. The voters decide at the annual meeting the number to be elected, not to exceed three. The constables are required to stop all violation of the law; impound stock running at large contrary to law; be at the service of the justices of the peace and serve, within the county, such warrants, summonses, subpoenas<sup>1</sup> or other legal papers as are issued by such justices. A constable has charge of any person required to appear before a justice of the peace for trial and he conveys prisoners to the county jail. The sheriff may re-

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<sup>1</sup>A warrant of arrest is a writ which commands a person to appear for trial in a criminal case. A summons commands a person to appear for trial in a civil case. A subpoena commands a person to appear at a trial as a witness.

quire constables to attend sessions of the circuit court when held in the county. Constables receive fees for their services. The amount paid for each kind of service rendered is fixed by law.

*The Town Clerk.* The clerk has many duties to perform. He posts the notices of the town meetings, and acts as secretary of all such meetings. The by-laws passed at the meetings he must post in at least three public places in the town so that citizens may know what they are. Promptly after each annual meeting the clerk must send to the county clerk the name of each town officer, and to the clerk of the circuit court the names of the justices of the peace and of the constables.

The town clerk must also attend the meetings of the board of supervisors and keep the minutes. When the supervisors act as a board of audit he must furnish them with such information regarding the financial affairs of the town as he possesses; and when the board "allows" bills against the town the clerk must countersign the order drawn by the chairman upon the treasurer.

The clerk is required to keep safely all records, books and documents belonging to the town, and to file chattel mortgages.

He must furnish the county superintendent, promptly after their election, the name and address of each school clerk in his town. He must record the description of school districts in the town, and make and keep in his office a map of the town, showing the exact boundaries of all the school districts. He must apportion the school money received by the town treasurer among the several districts within the town. He makes out the tax roll; and acts as a member of the board of equalization.

Besides carrying on the correspondence for the town with

county and state officers he performs many other less important duties.

*The Assessor.* Taxes are levied for the purpose of paying the expenses of government. The taxes are apportioned among the people on the basis of the value of the property owned. It is the duty of the assessor to determine the value of the taxable property, real and personal, within the town. He begins his work about the first of May and is expected to complete it before the last Monday in June when the Board of Equalization meets.

With a blank containing a list of taxable objects, the assessor goes from house to house and requires each taxpayer to tell him the number and value of his hogs, sheep, cows, horses and other taxable possessions. The real estate is assessed at the same time. The salary of the assessor is fixed by the town board.<sup>1</sup>

On the last Monday in June, the assessment roll is submitted to the town board of review, consisting of the three supervisors and the clerk, who meet at the town hall and make such changes in the assessments as they think just. If the board raises the assessed value of any property the owner must be notified and be given an opportunity to be heard, and any person who thinks his property assessed too high may make complaint before the board. The assessor is always present at the meetings of the board to furnish information. Later the town clerk is told the amount of school, town, county and state taxes to be raised and he takes this corrected assessment roll and determines the amount of taxes each person must pay.

*The Treasurer.* The treasurer receives, keeps and pays out the money of the town. He receives the tax roll from the

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<sup>1</sup>According to the Laws of 1919 (Chapter 60), the Assessor's salary must not be less than three nor more than five dollars per day.

clerk and during the months of December and January collects the taxes. The treasurer is obliged to safely keep the money of the town. To ensure this when he takes his office he is obliged to give a bond equal to twice the amount of taxes to be collected. Money can be paid out by the treasurer only upon order, countersigned by the town clerk and by the chairman. The treasurer must keep a careful record of all moneys received and paid out.

**The Judicial Department.** There are two justices of the peace elected in each town, one each year. The term of each justice begins the first Monday in May following his election and is for two years. If a vacancy occurs it is filled by an appointment by the town board, until the voters meet in special or annual meeting and elect some one for the unexpired term.

The justices of the peace have jurisdiction over all cases arising under the by-laws of the town and over all criminal cases<sup>1</sup> in which the penalty does not exceed a fine of \$100 or six months imprisonment in the county jail or both; and over all civil cases<sup>2</sup> in which the amount in controversy does not exceed \$200. They may also hold preliminary hearings<sup>3</sup> in criminal cases when the penalty exceeds \$100 or six months in the county jail or both; and in civil cases when the amount in controversy exceeds \$200. The justices may solemnize marriages, issue warrants, subpoena witnesses, administer oaths, take depositions, acknowledgment of deeds and perform many other like duties.

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<sup>1</sup>A criminal case involves a wrong actually committed directly against an individual, but indirectly against public peace, dignity or security. Therefore in a criminal case the state is always plaintiff.

<sup>2</sup>A civil case is one which involves the enforcement or protection of private rights. The plaintiff is therefore a person.

<sup>3</sup>A preliminary hearing is for the purpose of determining whether an accused person should be held for trial in a higher court.

**The Appointive Officers.** *The Board of Health.* The board of health, consisting of three members, is appointed by the town board, within thirty days after election. One member, the health officer, is usually a physician.

The duty of the board of health is to protect the health of the people of the town. All cases of contagious diseases should be reported to the health officer of the town. He is required to carefully investigate them, quarantine homes where such diseases are found, post placards at the house, warning others of the presence of the disease, close schools, churches and other public places and use all other means possible to suppress the disease and to prevent its spread. The board of health may investigate all buildings, premises, or places where diseases are likely to originate and spread and order conditions to be improved.

Should the board learn of any contagious disease among animals of the town it should report the fact to the state veterinarian and co-operate with him to suppress the disease.

*Superintendent of Highways.* For the purpose of keeping the roads in repair the town is divided into one or more road districts. A superintendent is appointed by the town board for each district. He also may be removed by the board. It is the duty of the superintendent to keep the roads of his district clear of all obstructions as rubbish, fallen trees, snow and the like. He is always to keep the roads of his district in good repair. It is not only desirable to have good roads for purposes of travel but the town is liable for any injuries to persons, horses or vehicles, caused by poor roads or bridges. Property taxes and other taxes are levied for the purpose of keeping up the highways.

Of recent years the counties and the State have taken an active part in highway improvements. The result is a very great improvement in the roads.

*The Commissioner of Noxious Weeds.* At the annual town meeting the town chairman must permit the voters to decide whether the superintendents of highways shall be ex-officio commissioners of noxious weeds in their respective districts, or whether they prefer other persons appointed weed commissioners. If the vote is in favor of appointing the superintendents of highways, they are then appointed by the chairman; if the voters favor the appointment of other persons the chairman designates the town as one district or divides it up into districts and appoints a commissioner of noxious weeds for each district. The appointment is for one year. A heavy fine is the penalty for neglecting to appoint the commissioners or for the commissioners to fail or refuse to perform the duties of their office.

The commissioners of noxious weeds are to see that all noxious weeds<sup>1</sup> within their respective districts are cut in time to prevent their going to seed. They are to visit the different parts of their district and should any noxious weeds be found going to seed they must notify the owner and if within six days the weeds are not destroyed the owner may be fined \$5 for every day the weeds remain. The weeds are then cut by the commissioner or some one hired for the purpose and a proper charge made for the work. The amount is paid by the town treasurer but is collected from the property owner at the time he pays his taxes.

**Conclusion.** Thus, the town government performs many important services. While the voters meet only once a year to make laws and elect officers who carry out the laws, still they should not forget that they themselves are responsible

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<sup>1</sup>The weeds defined as noxious by the law are the Canadian thistle, Russian thistle, sow thistle, burdock, cockle-bur, sour dock, yellow dock, snap dragon, white or ox-eye daisy, mustard, wild parsnip, wild barley, quack grass, morning glory, and wild onion.

for the good government of the town. Each voter should not only obey the laws and assist others to obey the laws but he should be constantly thinking out ways and means by which his town can be improved. Will you not remember this fact when you become a voter?

### REVIEW QUESTIONS

1. Why do we need a town government?
2. How large are towns?
3. Who are in charge of the town government?
4. What are the qualifications of voters?
5. When do voters meet to attend to the business of the town?
6. What do voters do at the town meeting?
7. Name some of the by-laws passed at the town meeting.
8. How are these laws made?
9. Name the elective officers of the town.
10. What are their qualifications?
11. What is their length of term?
12. How are vacancies in town offices filled?
13. What functions of government are exercised by these officers?
14. Name the officers exercising each function. What name is applied to each group?
15. Name the powers and duties of each officer.
16. Name the appointive officers of the town.
17. What are the powers and duties of each?

### PRACTICAL POINTS

(To be answered if your school is located in a town)

1. Construct a map of your town by putting the school districts together. Put in the roads and bridges.
2. How large is your town? What is its area? What is the population? What is the origin of its name?
3. What does your town do for the schools in it?
4. What does it do to protect the lives of the people; their freedom; their property?
5. How does it take care of its poor? of its roads? of its bridges?
6. When is the town meeting held? Where is it held?
7. Give some of your most important town laws. Were there any important laws passed at the last annual meeting or was there any other important business done? If so, what?

8. What is the assessed value of your town? How much money was voted at the meeting last spring for town purposes? What is the tax rate for your town?

9. Who are the officers in your town and where do they live? Why should they do their duty?

10. What can you do to be a better citizen in your town now? When you become a voter?

11. Attend a town meeting.

12. Hold a mock town meeting.

### REFERENCES

1. Essentials in Civil Government—Forman, Lesson 17, 18, pp. 93-102.
2. The Community and the Citizen—Dunn, Chap. 21, pp. 183-190.
3. The Government of the United States—Moses, Chap. 12, pp. 308-313.
4. Government Class Book—Young, Chap. 12, pp. 56-58.
5. The Young Citizen's Reader—Reinsch, Chap. 21, pp. 47-50.
6. School Civics—Boynton, Chap. 19, pp. 288-89.
7. The American Citizen—Dole, Chap. 10, pp. 5-53.
8. How the People Rule—Hoxie, Chap. 5, pp. 42-54.
9. The Government of Wisconsin—James and Sanford, Chap. II, pp. 6-9.
10. Essentials of Civil Government—Gillan and Hewitt, pp. 77-78.
11. Civil Government of Wisconsin—Wilgus, Chap. 4, Town Government.
12. Revised Statutes of Wisconsin on Town Government.

## VII. THE VILLAGE AND ITS GOVERNMENT

**The Needs for a Village Government.** At the country cross-roads a blacksmith shop, a store, a school house, a church may be built for the benefit of the people round about. Slowly houses are built along the roads leading from the corner and soon the hamlet, as it is called, has new needs. Sidewalks become necessary, streets being in constant use must be kept in better condition. They must also be lighted. Drains and sometimes sewers must be constructed. Since the buildings are erected near each other better fire protection must be had. The people living close together realize there is greater danger from contagious diseases. New and more carefully drawn rules and ordinances must be enacted to guide the citizens in their relations one with another. All the time the inhabitants of the hamlet or unincorporated village, as it is often called, are living under the town government and must ask the town meeting to supply these wants. Often the town government does not wish to go to this trouble and expense.

That the people of the hamlet may supply their own needs they are allowed, by law, to incorporate as a village. If the hamlet is wholly in one county and has a population of at least 150 within an area of one-half square mile; or if it is partly in one county and partly in another and has a population of at least 400 within an area of one square mile, it may

by taking certain steps required by law<sup>1</sup> incorporate as a village.

**The Annual Election.** When once organized the government of the village is in the hands of the voters. Candidates for office are nominated by each party in a caucus held two or three weeks before election, or by petition. The voters meet annually on the first Tuesday in April to elect the village officers. The polls are open from nine in the morning until five-thirty in the afternoon. But by petition the hours may be changed to six in the morning and eight in the evening. The village trustees are the election inspectors and so have charge of the election. When the voters meet upon election day they perform but one duty, the election of officers. The officers elected are a village board of trustees, composed of six members,<sup>1</sup> a supervisor, a village president, a constable, clerk, treasurer, assessor, two justices of the peace and a police justice, unless the office of police justice has been abolished.

A person must be a resident elector in order to hold a village office. The term of office is one year except that of trustee, justice of the peace and police justice which is two years. One-half the trustees, or, if an odd number, as nearly one-half as possible are elected each year.

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<sup>1</sup>The law requires that a survey be made of the hamlet and a census taken and left at some convenient place in the hamlet for examination for a period of five weeks. Then not less than five taxpayers of the territory must petition the circuit judge for a public hearing. After hearing all arguments for and against the petition, if the judge is satisfied that the law has been complied with, he submits the question of incorporation to a vote of the people and if a majority are in favor of incorporation as expressed by ballot, the village is declared incorporated. Within forty days after the village is incorporated, three election inspectors, appointed by the circuit judge, hold an election for the purpose of filling the village offices.

<sup>1</sup>Unless the charter provides for a different number, but no village can have less than two trustees. Laws 1921, Chapter 159.

The officers, except justice of the peace and police justice take office within fifteen days after their election. The justice of the peace and the police justice take office the first Monday in May.

**The Legislative Department.** The legislative power of the village is vested in the village board of trustees. The board consists of the village president and the six trustees. Meetings are held regularly at such times as are fixed by the board and special meetings may be called upon written request of two members of the board. Four members constitute a sufficient number to do business. The village president acts as chairman of the meetings, the village clerk acts as secretary and the constable may be called in, if necessary, to keep order. Any person may attend the meetings of the board.

(1) The village board is expected to enact such ordinances as it deems necessary to ensure peace and order in the village and may fix the penalty for the violation of any such ordinance provided the amount of such penalty does not exceed \$200.

(2) Ordinances may be passed providing (a) for the opening or changing of streets; (b) for the improvement of streets, bridges and sidewalks; (c) and for keeping them clear of rubbish and snow. Provisions may also be made (d) for lighting the streets; and (e) for building drains and sewers.

(3) The board may provide (a) for the planting of trees; (b) the opening of parks, the appointment of a park commission of not more than seven members; (4) erection of monuments, the building of an auditorium, opera house, a public amusement building or a library. (5) It may construct and maintain village waterworks. (6) It may license amusement places and shows and provides rules for regu-

lating them. (7) Provisions must also be made for caring for the village poor. (8) The board determines the amount of taxes to be levied and make all appropriations, auditing also all accounts against the village. (9) It may determine the powers and duties of the village officials and fix their compensation. (10) It also fills vacancies. The board may exercise many other powers which further the peace and order and promote the general welfare of the village.

*The Supervisor* represents the village on the county board and so takes part in the making of county laws.

**The Executive Department.** *The president* is the chief executive of the village. He enforces the ordinances of the village and maintains peace and order. He presides at the meetings of the village board and signs all ordinances, licenses and commissions passed by it. He also signs all orders drawn on the village treasurer.

*The Constable* performs the same duties in the village that the constables of the town perform in the town.

*The Clerk*, like the town clerk, must post notices of all general and special elections, act as clerk at such meetings, notify persons chosen of their election and within ten days after the officers have qualified send to the county clerk the name and address of the president, clerk, treasurer, supervisor and assessor and to the clerk of the circuit court the name and address of the marshall, constable, justice of the peace and the police justice. This is done so that the county officers wishing to communicate with the village officers may have no trouble in doing so.

The clerk must attend all meetings of the village board of trustees, keep a full record of all that is done, and post all ordinances passed by it, that the people may know what they are. He must draw and countersign all orders on the village treasurer as voted by the village board. He must make and deliver to the village treasurer a tax roll, giving the name,

the assessed value of the property owned, and the amount of taxes to be paid by each person in the village.

He must keep the records of the village and the village seal. He must accept and file chattel mortgages, which are mortgages upon personal property.

*The Treasurer* must give a bond that he will conduct honestly the business of his office. It is his duty to collect taxes and receive all other moneys due the village; to securely keep the same; and pay them out only on the written order of the president of the village, countersigned by the village clerk.

*The Assessor*, like the assessor of the town, begins work about the first of May, assesses the taxable property of the village, both real and personal, and after the assessment roll has been corrected by the board of review he hands it to the village clerk.

**The Judicial Department.** *The justices of the peace* perform the same duties in the village as the justices of the peace in the towns. When there is no police justice in the village the justices of the peace perform his duties.

*The Police Justice* is an officer not found in towns. Besides exercising the same duties as a justice of the peace he has exclusive jurisdiction over all cases arising under the ordinances of the village. This office may be abolished by popular vote.

**Appointive Village Officers.** In addition to the elective officers, the village board of trustees has the power to appoint a number of minor officers. It may appoint a *village marshal* and *policeman* to assist in keeping the peace and enforcing the laws; a *village attorney* to give legal advice to the village officers and act as lawyer for the village in lawsuits; *fire wardens* and furnish them with apparatus to protect the village against destructive fires; *board of health* to guard the

health of the village; a *poundmaster* to take care of animals running at large; a *street commissioner* to keep the streets in repair. Other officers may be appointed as the needs of the village demand.

We see, therefore, that a village may well supply its special needs if the citizens will do their duty. A good citizen will not only obey the ordinances of the village and assist others to be law abiding but he will be thinking constantly of how he may be able to improve the conditions in his village.

### REVIEW QUESTIONS

1. Why is a village government needed?
2. Who is responsible for the government of a village?
3. When do they meet to do business?
4. What business do they do when they meet?
5. Who comprise the legislative department of a village? What may be done by the legislative department?
6. Who comprise the executive department of a village? What are the duties of each officer?
7. Who comprise the judicial department? What duties does each perform?
8. What appointive officers are found in a village? What duties are performed by each?
9. What are the qualities of a good citizen in the village?

### PRACTICAL POINTS

If your school is located in a village answer the same "Practical Points" for your village as are required of those living in a city, simply substitute the word "village" for "city." See the "Practical Points" at the close of the chapter on The City and Its Government.

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2. The Young Citizen's Reader—Reinsch, Chap. 21, pp. 150-1.
3. How the People Rule—Hoxie, Chap. 6, pp. 55-62.
4. The Government of Wisconsin—James and Sanford, Chap. III, pp. 11-13.
5. Essentials in Civil Government—Gillan and Hewitt, pp. 80-81
6. Civil Government of Wisconsin—Wilgus, Chap. 4, Village Government.
7. Wisconsin Statutes, latest edition, on Town Government

## VIII. THE CITY AND ITS GOVERNMENT

**The Need for a City Government.** As a village increases in size and population the need for more and better sidewalks, streets, lights, and sewers becomes urgent. Better protection against fire must be had. The people must be more carefully guarded against contagious diseases and against evil persons who would do them harm. Increased population makes necessary more and better rules, or ordinances as they are called, to govern the citizens in their relations one with another. These additional needs make it necessary to grant the people more powers than are given a village. For this purpose the city charter is provided.

**Classes of Cities.** Cities in Wisconsin are incorporated under a general law enacted by the legislature.<sup>1</sup> Whenever the population of a village reaches 1500 according to the census, the village may become a city. Upon petition signed by one hundred taxpayers the town board or the village trustees must submit the question of incorporation to a vote. If a majority approve, the village clerk then certifies the fact to the secretary of state. A charter is then issued by the governor and the necessary city officers are elected. For convenience in legislation the cities in the state are divided into four classes; Cities having 150,000 population or over comprise the *first class*; those containing less than 150,000 but more than 40,000, the *second class*; those containing less

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<sup>1</sup>Prior to 1871 cities were incorporated by special act of the legislature. But all special charters for cities, except Milwaukee, were repealed by the Legislature in 1921, and cities of the second, third and fourth classes are now governed under the general law. Statutes 1921, Chapter 242.



MILWAUKEE CITY HALL

than 40,000 but more than 10,000, the *third class*; and those containing less than 10,000 but more than 1,500, the *fourth class*. If the population is sufficient a city may pass from a lower class to a higher when its city council vote to do so and make provision for the necessary changes in the government of the city.

According to the United States Census of 1920, Milwaukee is the only city of the first class; Racine and Kenosha are the only cities of the second class; eighteen of the remaining are in the third class; and all the other cities of the state belong to the fourth class.

**The City Government.** The different classes of cities have much the same form of government. Differences exist only in so far as increased size and population make necessary. Each city performs all the functions of government—legislative, executive and judicial. In order that the people may be justly represented in the making of laws and greater efficiency be attained in the enforcement of the laws each city is divided into wards.

**The Officers.** Each city has two classes of officers—*elective* and *appointive*. Cities of the second, third and fourth classes have the same *elective officers*. In each ward there are elected one or two aldermen, and a supervisor. And in the city as a whole there is elected a mayor, a treasurer, a comptroller and three or more justices of the peace.<sup>1</sup> But a city council may, by a two-thirds vote, abolish the office of comptroller and require his duties to be performed by the other officers. This has been very generally done. The duties are commonly performed by the city clerk.

**Election Day.** In all cities the first Tuesday in April is

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<sup>1</sup>In cities of the first class, see Statutes for elective ward and city officers.

<sup>2</sup>The city council, by a three-fourths vote, may change the date to the first Tuesday in March. This is rarely done.

election day. The polls are open from six o'clock in the morning to five-thirty o'clock in the afternoon. During this time the voters elect the city officers.

*Qualifications.* All city officials must be citizens of the United States and qualified electors of the city; or of the ward, in case of a ward office.

The mayor and aldermen take their offices the third Tuesday in April and all other officials take theirs the first of May.

*The term of office* is two years for all elective officers except supervisors who hold for one year. However, the common council has the power to change the term of any office should it see fit to do so.

*Removals.* Any officer of the city may be removed by a two-thirds vote of the city council. But before the vote is taken the officer must be informed regarding the charges preferred against him and be given opportunity for a hearing in his own defense.

Any officer may also be removed by a vote of the people. After any official has held office for six months, a petition may be circulated demanding the election of a successor to the person sought to be removed. If properly signed by one-third of the voters of the city and filed with the city clerk, the council must call a special election. The name of the person sought to be removed is placed upon a ballot with that of one other person who is a candidate for the office. The person securing the highest number of votes is declared elected. If the person sought to be removed receives the highest number of votes he retains the office; if the rival candidate receives the highest number, the officer is removed and the successful opponent takes his place. This method of removing an officer is known as the *recall*.

*Vacancies* may also occur because of death, resignation,

removal from the city or ward, failure to "qualify" and enter upon the discharge of the duties of the office or removal from office. In every case except that of mayor and councilman the vacancy is filled by appointment by the mayor and confirmation by the city council. If the vacancy occurs in the office of mayor or councilman it is filled by an election by the city council. The person selected to fill the vacancy holds office until a successor is elected and qualifies.

*The salaries* of city officials are fixed by the common council, but in cities of the second, third and fourth classes no salaries can be paid the mayor or members of the council unless ordered by three-fourths of the members elected to the common council.

**The Legislative Department.** *The common council* is the legislative body of the city and makes the ordinances of the city. It is composed of the mayor and two aldermen from each ward.<sup>1</sup> The first meeting each year is held the third Tuesday in April. Regular meetings are held the first Tuesday in each month. Special meetings may be called by the mayor.

The mayor presides at the meetings of the common council; and the city clerk acts as secretary, keeping the minutes. At the first meeting each year the council chooses one of its members as president who acts as presiding officer when the mayor is not present. In cities of the first class the president always presides.

Two-thirds of the members must be present in order to do business. The council may compel its members to attend the meetings, requiring the police to bring them if necessary.

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<sup>1</sup>But the city council by a two-thirds vote, approved by a majority of the voters at a general election, may provide for the election of one alderman from each ward instead of two, or provide that the supervisor from each ward shall act as one of the two aldermen.

It makes its own rules for doing business; punishes its members, or other persons attending the meeting, for disorderly behavior. For neglect of duty it may even fine or expel a member.

That the public may know what the council is doing, it is required that business be conducted in open session; that the votes on financial measures be "viva voce" and recorded in the minutes; and that, on any measure, the "ayes" and "noes" must be recorded when any member demands it.

*The Duties and Powers of the Common Council.* The common council may enact such ordinances as are necessary for the government of the city. But these ordinances must conform to the Constitution of the United States and of the State and also to the laws of both the United States and of the State. The laws of the State enumerate the specific subjects upon which the council may legislate. Some of the most important duties and powers are: (1) to provide for opening streets, and for grading and improving them; (2) to construct and improve sidewalks; (3) build bridges; (4) construct sewers; (5) provide for lighting the streets; (6) as well as for cleaning the streets of snow and rubbish.

The council also carefully (7) regulates the use of the streets. For illustration, ordinances are commonly enacted providing that no one shall block the streets, that merchants shall not place boxes or barrels on the sidewalk and obstruct the way, that bicycles shall not be ridden upon the sidewalk, or that automobiles shall not exceed a certain speed limit while within the city limits.

Besides the streets and sidewalks (8) the council has charge of the other public property owned by the city, such as the city hall and other public buildings, the parks, the public playgrounds, the markets, and the cemetery. It may

provide for their care and make needful rules and regulations regarding their use.

To protect the lives and provide for the happiness of citizens (9) rules and regulations are made providing for the peace and good order of the city. Crimes are defined and penalties and punishments are imposed upon such as commit them. (10) Provision may be made for the preservation and suppression of disturbances and riots; (11) and for the restraint and punishment of vagrants, beggars and the like. (12) Improper acts, improper language and unnecessary noises are commonly punishable.

To protect the health of people the council may (13) appoint food inspectors; (14) enact ordinances for the prevention and suppression of infectious and contagious diseases, (15) and establish a city hospital in which to care for the sick.

Ordinances may also be enacted providing (16) for the care of the poor and (17) for the safe keeping and the education of dependent children.

To protect property against destructive fires the council may (18) control the construction of buildings, both public and private and (19) designate the building materials to be used. A (20) fire department may also be provided.

For the purpose of benefitting and regulating trade many ordinances are passed. (21) Licenses are granted to peddlers, showmen and the like. (22) The size and weight of a loaf of bread may be fixed. (23) The weights and measures may be tested by a city sealer and punishment inflicted for the use of false weights or measures.

Since the ordinances of the city must be carefully enforced in order to be effective the common council may (24) provide for the appointment of policemen and watchmen and prescribe their duties.

To carry on the business of the city much money must be raised and spent. The common council has charge of the finances of the city. It may (25) levy taxes, grant licenses, and borrow money by issuing bonds subject to the limitations made by the laws and the Constitution.<sup>1</sup> Then the council is (26) empowered to make such appropriations of money as is necessary to carry out the ordinances of the city. (27) It may rent or purchase and operate the electric light plant, water works or the street car line. (28) It may also erect an auditorium, opera house or public amusement or recreation building. (29) It may establish municipal ice plants and fuel yards for the purpose of supplying ice and wood and coal.

Many other legislative powers and duties are performed by the common council but these are sufficient to show the nature and scope of its work in protecting the life and property of the people and furthering the welfare of the city.

An ordinance, before it becomes a law of the city, must be passed by a majority vote of the council and be published in the official paper or papers of the city. Then every one is expected to obey it.

*The Supervisor* is also a legislative officer. As the two aldermen are elected in each ward to represent it upon the common council so the supervisor is elected, one in each ward, to represent it upon the county board, which is the legislative body of the county. The work of the county board will be taken up in our study of the county government.

**The Executive Department.** *The mayor* has different duties in the different classes of cities but his ordinary duties are the following: (1) He is the chief executive of the city and as such must enforce the ordinances of the city and the

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<sup>1</sup>See Article XI, Section 3.

laws of the State. That he may the better protect the people and their property, (2) he is the head of the police and of the fire departments. He must see (3) that the other officers of the city discharge their duties.

He (4) presides at the meetings of the common council but can not vote except in case of a tie. He must give the council (5) information concerning the condition of the city and recommend such ordinances as he, from time to time, thinks necessary. He may veto any measure passed by the common council.<sup>1</sup> He (7) signs ordinances, licenses, contracts, permits and claims allowed by the council.

He may (8) appoint certain officers and boards but in most cases the appointments must be confirmed by the common council.

*The constables*, one or more elected for the city as the common council may direct, assist in the enforcement of laws, by performing the same duties as constables in towns and villages.

*The assessor* in the city, like the same officers in the towns and villages, passes from house to house and fixes a valuation upon the taxable property of the citizens. All real estate and personal property, except incomes, are assessed by him. The assessor begins work about the first of May and completes it before the last of June. After the assessment roll has been examined, and if necessary corrected by the board of review, composed of the mayor, clerk and one or more members of the common council, it is given to the city clerk.

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<sup>1</sup>When he vetoes an ordinance he must present his objections to the city clerk within 5 days from the time the act is submitted to him. The objections are to be presented to the council at its next meeting. By a three-fourth vote the ordinance may be passed over his veto.

*The treasurer* collects the city, county and state taxes levied by the city. He also receives all money paid the city. He takes care of the money and pays it out upon orders drawn by the city clerk.

He must keep an itemized account of all money received and paid out by him, make a monthly report to the common council and file a detailed report at the close of each year with the city clerk. At any reasonable time any voter of the city may examine the treasurer's books.

*The comptroller* has general supervision of the finances of the city. He must approve all contracts made by the city and examine and adjust all claims against the city. He must file with the clerk a statement of all special taxes to be levied and make a monthly report to the common council, giving the amount of money on hand, the condition of unfinished contracts and the claims against the city. He must examine the monthly statement of the treasurer and report as to its correctness. He makes an annual report, at the close of each year, of the expenditures of the city for the fiscal year together with an estimate of the probable receipts and expenditures for the ensuing year. He keeps a record of his official acts which the public may examine at any time.

In many cities the common council has taken advantage of the power granted it and abolished the office of comptroller requiring the other city officers to perform his duties.

**The Judicial Department.** *The justices of the peace*, three or more for the city, as the common council may determine, have the same criminal and civil jurisdiction as those in towns and villages.

*A police justice*, one in each city, is elected for a term of four years. He has exclusive jurisdiction over all cases involving the violations of the city ordinances. In cities of the second, third and fourth classes, he also has the civil and

criminal jurisdiction of a justice of the peace within the city limits.

In cities of the fourth class the council may abolish the office of police justice if it thinks best and require the justices of the peace, or other municipal court, if one is located in the city, to perform its duties. This is frequently done.

*Municipal courts*, may be established by the legislature in such cities or counties as it sees fit. In many cities the amount of judicial work is so great that the justice courts cannot take care of it, so municipal courts are established, each one by a separate act of the legislature. The judges are elected for a term of four years. The jurisdiction of the court is fixed by the act of the legislature<sup>1</sup> at the time it establishes the court. Such courts, however, commonly have jurisdiction over cases arising under ordinances of the city, and certain other civil and criminal cases.

This completes our study of the elective legislative, executive and judicial officials of the city. Let us now consider some of the more important appointive city officers.

**The Appointive Officers.** The following officers are commonly appointed by the mayor, subject to confirmation by the common council, but they may be elected by the common council. The method is determined by ordinance.

*The Clerk* is required to publish notice of all general and special city elections. He must attend the meetings of the city council and act as secretary, keeping the minutes of their proceedings and publish the same. He must carefully record all ordinances, licenses and bonds. He must draw and sign such orders on the treasurer as are voted by the city council. He keeps the city seal and all papers and records of the city. In cities of the second, third and fourth

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<sup>1</sup>See Constitution, Article 7, Section 2.

classes he is *ex officio* secretary of the board of school commissioners and the board of public works. He is required to perform such other duties as the council may require. At the close of each fiscal year he must make and have published an itemized statement of the receipts and expenditures of the city for the year.

*The City Attorney* is the official lawyer of the city. He drafts the ordinances, contracts, bonds and other legal papers for the city. He gives legal advice to the mayor, the council or the other officers of the city when called upon to do so. He acts as attorney for the city in all law suits to which the city is a party.

*The City Physician*, or commissioner of public health, must be a regularly licensed physician. It is his business to protect the health of the people. He requires physicians of the city to report to him cases of contagious diseases, making such rules and regulations as are necessary to prevent the spread of such diseases. He may require the cleaning up of such refuse in yards, alleys and streets as is likely to cause disease.

*A Chief of Police* and policemen are appointed in most cities to assist the mayor in enforcing the ordinances and laws.

*A Chief of Fire Department* and firemen are commonly appointed to protect property against fire.

*The Street Commissioner* has charge of the construction, improvement and repair of the streets and sidewalks of the city.

*The City Engineer* is sometimes appointed to take charge of the buildings and keeping up of streets, alleys, sewers, buildings, parks and the like.

These are but a few of the appointive officers found in

cities. The duties of the other officers are indicated by their names.

Boards, composed of three or more members, are often appointed to perform certain duties which require much care and time.

A *Board of Public Works* is sometimes appointed to take charge of the work commonly done by the street commissioner and the city engineer. When this is done the office of street commissioner is abolished and the city engineer is commonly made a member of the board. The board then takes charge of the construction and improvement of streets, sewers, alleys, parks and public buildings.

A *Board of Health* composed of the city council, or individuals appointed by it, assist the city physician in the protection of the general health of the citizens.

The *Board of School Commissioners*<sup>1</sup> has charge of the city schools. It fixes the limit of the school districts, builds schoolhouses, purchases apparatus, determines the course of study and the textbooks to be used. It engages the teachers and enacts rules and regulations for the government of the schools. With the consent of the common council,<sup>2</sup> it determines the amount of money to be raised for school purposes.

Other boards are frequently found in cities, their powers

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<sup>1</sup>By a properly signed petition the question of electing school commissions may be submitted to a popular vote. If a majority favor their election the members, seven in number, are henceforth to be elected instead of appointed. In cities of the fourth class one commissioner is appointed from each ward and three at large, or simply the three at large if the council so decides by a two-thirds vote.

<sup>2</sup>The Legislative session of 1919 provided that in cities of the first, second and third classes the Board may raise such taxes for educational purposes, not in excess of four-tenths of a mill, without approval of the council.

being indicated by their names. The kinds of boards vary with the nature of the duties to be performed.

The common council is empowered, by the general law governing cities, to provide for the appointment of such officers and boards as it deems necessary for the best government of the city. This power is frequently exercised and a more efficient city government is the consequence.

A good city official is one who performs the duties of his office carefully and completely, leaving nothing undone that he should do. He also takes advantage of his position to improve the government of the city in every way possible.

A good citizen is one who obeys the ordinances of the city and the laws of the State, and who assists other people to obey them. He tries to learn about the candidates for office and does what he can to secure the election of those persons who will make the best officials. He studies the government of the city and endeavors to find ways of improving it. He works constantly to have a clean, beautiful and moral city, one in which every citizen is encouraged to develop the best possible character.

**The Commission Form of Government.** The government for cities in Wisconsin, described in this chapter, is quite like that for cities in other states of the union. A very large number of elective and appointive officers exercise the greatest variety of legislative, executive and judicial powers. The term of office is at the same time short. Officers are often inclined to neglect their duty, to be extravagant and to be corrupt. The many officials make it difficult for the citizens to fix responsibility. This has resulted in much dissatisfaction with this common form of city government. Consequently the commission form of government has been adopted by many cities throughout the United States.

The chief features of this form of government are: (1) The

wards are abolished and the entire city is made a unit for governmental purposes; (2) the voters elect usually five, but in some states three officials; (3) these officials together constitute the city council and enact the ordinances of the city; (4) the city government is divided into as many departments as there are officials elected and one official is placed at the head of each of the departments; (5) and each official is held responsible for the success of his department.

The departments into which the city government is divided are such as the following: accounting and finance; streets and public improvements; parks and public property; public safety, including police and fire departments; and public affairs. That the people may continue to exercise full control over their city government it is usually provided that the initiative, referendum and recall may be employed by them wherever they deem them necessary. The *initiative* is the power of the people, by direct, popular vote, to introduce desirable ordinances into the city council. The *referendum* is the power of the people, by direct popular vote, to veto or confirm recent ordinances of the city council. And the *recall* is the power of the people, by popular vote, to remove any officer.

Galveston, Texas, was the first city in the United States to employ the commission form of government. This was shortly after the hurricane and flood, in 1900, which destroyed so much of the city. The plan was so successful, that Houston and other Texas cities soon adopted it. Shortly this form of city government spread to other states and at the present time many cities throughout the United States are employing it. Des Moines, Ia; Tacoma, Washington; St. Joseph, Missouri; Memphis, Tennessee; Buffalo, New York and Boston, Massachusetts, are some of the most important.

In 1909, Wisconsin passed a law allowing all cities of the state, except those of the first class, to adopt the commission form of government. The adoption is made only when the majority of the voters so decide. Under the Wisconsin plan, a definite number of commissioners, usually three, are made responsible for the government of the city. All other city officers, except members of the board of education who continue to be elected by the people, are appointed and removed by the commissioners. The mayor and the two councilmen, or the mayor and one councilman from each ward, comprise the city council. They meet regularly to enact ordinances. The mayor presides, and, being a member of the council, he has a vote but no veto power. The city government is divided into departments by the council and a commissioner placed at the head of each. He is made responsible for the success of his department. The citizens may employ the initiative, referendum or recall if they deem it advisable. After three years trial, if the citizens are dissatisfied with the commission form of government, they may by popular vote return to their former government.

A number of the cities of the State have adopted this form of government. However, it has not proven entirely satisfactory and already several of the cities have abandoned it.

**The City-Manager Plan of Government.** The commission form of government has proven defective at two points. It lacks concentration of administrative authority. A commissioner in charge of a certain department, well able to solve its problems, is prevented from doing so by the combined vote of the remaining commissioners. It is commonly necessary to place men in charge of the city departments who have no expert qualifications. In short, the commission form of government has done little more than induce citi-

zens, once elected to office, to do the best they can, which often proves unsatisfactory.

The city-manager plan was devised to remedy the defects of the commission form of government. The city of Dayton, Ohio, was the first to adopt the plan. Following the great flood of March, 1913, the citizens realized the need of a very efficient municipal government. The new charter went into effect on January 1, 1914. It provides for a city council or commission of five members which enacts the city ordinances, exercises general control over the city finances and appoints and pays the city manager.

The city manager advises the commission and recommends measures for enactment. He enforces all laws and ordinances; appoints and removes the heads of city departments and all subordinate officials; and controls all the city departments. Thus he is made directly responsible for the successful administration of city affairs.

The administrative work of the city is divided into departments much the same as under the commission form of government. Dayton has five departments—law, finance, public safety, public service and public welfare. It is possible to vary the number or functions of the departments as the needs of a city may require.

Dayton's success caused the plan to be adopted by many other cities. The great majority have been small, although San Antonio, Texas with a population of over 100,000 and Springfield, Ohio and Wheeling, West Virginia each with a population of about 50,000 early adopted it.

The city-manager plan applies, for the first time, the form of a business corporation to city government. The commissioners correspond to the board of directors and the city manager to the business manager. The plan has proven

very successful. It has secured trained, experienced and efficient city officials, and greatly improved the financial methods, thus gaining the support of taxpayers.

In 1919, Wisconsin enacted a law permitting cities of the second, third and fourth classes to adopt the city-manager plan. The question is submitted to the voters of the city. At the same time the voters are to be informed as to the number of councilmen, whether they shall be elected from wards or from the city as a whole and the compensation, if any, to be paid. If a majority of the voters favor the plan it is adopted.

*The Councilmen* are elected the first Tuesday in April, and serve for one or two years as determined at the time of adopting the plan. The method of nomination, of election, and the qualifications for holding office are the same as for cities in general. Vacancies are filled by the remaining councilmen if the unexpired term is less than six months, otherwise by special election. Members of the council are subject to recall. The salary of each member can not exceed \$200 a year.

The council elects one of its members president and fixes the time for holding meetings. It exercises all the legislative and ordinance powers of the city. And it is required to hire a trained, experienced, and efficient city manager, fix his salary and, should he prove unsuccessful, remove him.

*The City Manager* is the chief executive of the city. He appoints the heads of departments and subordinate officials and removes them. He may create or abolish such minor offices as he sees fit. With the consent of the council he may abolish city boards and commissions except the school board which can be abolished only by popular vote. He may make such recommendations to the council as he deems wise and

he must make monthly reports regarding receipts and expenditures.

As already indicated, this plan of city government has proven very successful and will doubtless be commonly adopted in this State. Therefore, every student should study it carefully.

### REVIEW QUESTIONS

1. **Why** do we need city governments? **Why** are cities incorporated?
2. **How** are cities incorporated in Wisconsin?
3. **What** classes of cities are there in Wisconsin?
4. **Why** are these classes made?
5. **What** classes of officers are found in each class?
6. **Name** the elective officers in cities of the second, third and fourth class.
7. **When** are these officers elected?
8. **By** whom are they elected?
9. **What** are their qualifications?
10. **What** is the length of term of each?
11. **When** does each take office?
12. **How** may city officers be removed?
13. **How** are vacancies filled?
14. **How** are the salaries of officers in cities fixed?
15. **What** officers comprise the common council?
16. **What** are the powers and duties of the common council?
17. **What** is the duty of the supervisors?
18. **Name** the elective officers of the executive department and give the duties of each.
19. **Name** the elective officers of the judicial department and give the duties of each.
20. **Name** the appointive officers of a city and give the duties of each.
21. **Name** some of the important boards of the city and give the duties of each.
22. **What** is the commission form of government?
23. **What** is the initiative, the referendum and the recall?
24. **What** are the advantages of the commission form of government? of the initiative? of the referendum and of the recall?
25. **What** is the city-manager plan of government? **What** are its advantages?

**PRACTICAL POINTS**

(To be answered if your school is located in a city)

1. Construct a map of your city (marking the ward lines). Put in all streets and bridges. Draw a map of the town in which the city is located, putting in all school districts, roads and bridges.

2. What has the town to do with the government of your city? What has your city to do with the government of the town?

3. How long is your city? How wide is it? What is its area? What is its population? What is the origin of its name?

4. What does your city do for its schools?

5. How does it protect the lives of the people; their freedom; their property?

6. How does it care for its streets; its sidewalks; its light; its water; its poor; its criminals?

7. What do the voters have to do with the government of the city? When do they meet? Where do they meet?

8. Who are the officers of your city and where do they live? Why should they do their duty?

9. Who makes the ordinances, or laws, of your city? Give some of the important ones. When are these laws made?

10. What would happen if one of you violated one of these laws?

11. Examine a copy of the city clerk's report of the council proceedings.

12. What is the assessed value of your city? How much money is to be raised this year to pay the expenses of your city? What is the tax rate for your city?

13. What can you do to be a better citizen in your city now? When you become a voter?

14. In what ways can your city government be made better?

15. Has your city a good water supply; an adequate sewerage system; a garbage disposal plant; a good lighting system; proper police and fire protection; a public library; a good health record; playgrounds, parks and a natatorium?

16. Locate the fire alarm box nearest the school; nearest your home. How and when should it be used?

17. Visit a meeting of the city council.

18. Hold a mock council meeting.

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11. Revised Statutes of Wisconsin, Chapter on Cities.

## IX. THE COUNTY AND ITS GOVERNMENT

**The Need for County Government.** Town, village and city governments, as we have learned, are organized to supply local needs. But these different localities have certain needs in common, such as a comfortable home for the poor, an asylum for the insane, and a secure jail for criminals. Extended highways must be constructed and costly bridges built. Peace must be preserved and the education of children supervised. Such needs can be satisfied most efficiently and economically by a large political unit which includes the towns, villages and cities. Therefore the county government has been organized. The towns, villages and cities are primary political units, and if you will place those in your county in their proper relation, one to another, you will discover you have constructed a complete map of the county. In other words a county is composed of the towns, villages and cities in it. Besides attending to the common local needs of the people the county also assists the State to administer its laws.

**The Organization of the County.** Counties are created by the State legislature, whenever conditions make it desirable. The State Constitution provides that a county containing more than 900 square miles may be divided by the Legislature without submitting the question to the voters of the county, but if it contains less than 900 square miles the people of the county must approve, by vote, any change before it can be made by the Legislature. It thus appears that the framers of the Constitution thought 900 square miles, or 25 townships, a convenient size for a county.

As a matter of fact, the 71 counties of the State average about 800 square miles.

When a new county is organized the county board, at its first meeting, establishes the county seat. When once located it can be moved to another city only by vote of the people. At the county seat are located the county offices, the court house, jail, and sometimes other public buildings.

*The County Government*, according to the Constitution, must be as nearly uniform as possible throughout the State. Like towns, villages and cities, the county may own property both real and personal. It may sue and be sued; and it may make such contracts as are necessary to exercise its powers. The government of the county, like those of the local units already studied, may be divided into three departments—legislative, executive and judicial.

**The Legislative Department.**<sup>1</sup> *The County Board of Supervisors* makes the laws for the county. The board is composed of the chairman of each town, a supervisor from each village, and a supervisor from each ward in each city within the county.

If the chairman of any town, for any reason, is unable to attend a meeting of the county board, one of the other members of the town board attends in his place. If a village supervisor is unable to attend, the trustees of the village appoint some one to take his place, and if a supervisor from a city ward is unable to attend a meeting of the county board the city council appoints some one to fill the vacancy.

The pay of the members is determined by the board itself, but it can not be less than four nor more than five dollars a day, while they are attending to county business, and six cents a mile in going to and from the county seat.

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<sup>1</sup>If a majority of the voters so desire, a county may now be governed by a board of commissioners. Laws 1921, Ch. 245.



GREEN COUNTY COURT HOUSE AT MONROE

*Meetings of the County Board.* The county board must meet each year on the Tuesday following the second Monday in November. Special meetings may be called by the county clerk upon the request of a majority of the county board. He signs all ordinances passed by the county board and countersigns all orders drawn on the county treasurer. The chairman is elected at the annual meeting in November by the members of the board and holds his office for one year.

The county clerk acts as secretary of the county board. He must attend all the meetings and keep the minutes, making a careful record of all ordinances, resolutions and petitions passed. Upon the request of one member, he also must record the votes of members on any measure.

That the people of the county may know what their representatives are doing, any one conducting himself in an orderly manner is permitted to attend the meetings of the county board. The proceedings are also published, so anyone may read them.

The business of the board is conducted according to parliamentary rules. For example, an ordinance is put in the form of a motion by some member, is considered, discussed and finally put to a vote and passed or killed as a majority of the members present decide.

*Powers and Duties of the County Board.* Many powers are exercised by the county board. A few of the more important are the following: (1) It may erect, repair, and maintain county buildings such as a county office building, a court house, jail, poor house, insane asylum, training school for teachers, and a county agricultural school. (2) It may purchase land, not exceeding \$8,000 in value, for a county fair grounds; (3) and erect a soldiers' monument not to exceed \$10,000 in value.

(4) It must have the care of all county property; (5) provide the necessary books and stationery for the county offi-

cers; (6) provide the forms for keeping the public records; (7) and furnish a seal for the county and its officers.

(8) It fixes the salaries of county officers; (9) and provides for the publication of the proceedings of the board in pamphlet form.

It (10) examines and settles all bills against the county; (11) makes appropriations necessary to care for the county property and meet the running expenses of the county; and (12) meets the expenses by borrowing money or by levying taxes.

The board may (13) lay out, change or vacate territorial or state roads; (14) assist local units to build roads and bridges; (15) grant charters to persons or companies to build plank or turnpike roads, construct bridges or establish ferries within the county and fix the toll for each.

It (16) may grant charters also to literary, charitable, benevolent and scientific institutions. It (17) may organize towns within the county, abolish them, or change their boundaries. It (18) may also change the name of any town, village or even person in the county. (19) It may assume direct charge of all the poor of the county. (20) If it has a population of 50,000 or more it may establish an industrial school for wayward children.

It has the (21) power to appoint such officers and boards as are necessary to effectually administer the affairs of the county.

Other powers and duties are authorized or required by law but those named above give a very complete idea of the work of the county board.

**The Executive Department.** The executive officers of the county are a sheriff, coroner, clerk, treasurer, register of deeds, surveyor, superintendent of schools, district attorney, and clerk of the circuit court. These officers, except the

superintendent of schools, are elected by the voters the first Tuesday after the first Monday in November in the even numbered year.<sup>1</sup>

They enter upon the duties of their office the first Monday in January following their election. The superintendent of schools is elected the first Tuesday in April the odd numbered years and takes his office the first Monday in the following July.

Each officer, before entering upon the duties of his office, is required to take an oath to support the Constitution of the United states and of the State, and some, especially those who handle money for the county, are required to give bonds.

*The Length of Term* for all executive officers is two years.

*Their Salaries*, as we have already learned, are fixed by the county board.

*Vacancies* may occur by death, resignation, removal from the county or removal from office. They are filled by appointments made by the governor with the exception of those occurring in the office of superintendent of schools, the county clerk, county treasurer or surveyor and the clerk of the court. When a vacancy in the office of superintendent occurs it is filled by an appointment made by the state superintendent, when one occurs in the office of clerk of the court it is filled by the circuit judge, and in the office of county clerk, county treasurer or surveyor by the county board. A person appointed to fill a vacancy holds the office for the unexpired term.

*The Sheriff* is the chief executive officer of the county. He appoints a jailer, and undersheriff, and, in each city and each village of 1000 population or more, a deputy sheriff to assist him when it is necessary in order to catch criminals;

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<sup>1</sup>See Article VI, Section 4, of the Constitution of Wisconsin.

or in time of riots he may appoint as many deputies as he thinks necessary. In very serious cases he may call to his assistance the "posse commitates," that is the citizens, and if they are not sufficient to quell the disturbance he may call upon the governor for the State militia.

It is the duty of the sheriff and his deputies to preserve peace and good order throughout the county. They must capture criminals and suppress disturbances and riots. The sheriff is the servant of the judicial department and serves the warrants, subpoenas and other legal papers issued by it. He arrests offenders, places them in the county jail, feeds them, takes charge of them during their trial, and, at the close of the trial, he releases them, keeps them in the county jail or takes them to the State's prison at Waupun, as directed by the judge. He must keep a careful record of the name and residence of each person placed in the county jail and the nature of the crime committed. At the sessions of the circuit court held in his county he must always be present and take charge of the jury as well as the criminals.

The sheriff and his assistants commonly receive fees for their services but the county board may provide fixed salaries.

*The Coroner* takes the office of sheriff whenever it becomes vacant. When the sheriff is party to a civil suit or violates the law the coroner serves the notice or warrant upon him.

But the coroner's chief business is to hold inquests over the bodies of persons who have met death in a mysterious or violent manner. An inquest is an examination to determine the cause of death. A jury of six men is called to assist in deciding the case. Witnesses are examined and if evidences of foul play are discovered an effort is made to bring the guilty persons to trial.

*The County Clerk* publishes notice of the county elections, sees to the printing of the ballots for the elections, and after the election, with the aid of the board of canvassers, he tabulates the vote.

As we have seen already, he acts as secretary of the county board, keeping the minutes of its meetings, and he must notify the state superintendent of schools of all resolutions passed by the board pertaining to the school funds; and the secretary of state of any new towns organized or changes made in the boundaries of towns and villages in the county.

He carefully preserves the records of the county and for a small fee he will make out a certified copy of any portion of these records.

He draws all orders on the county treasurer, keeps a record of the receipts and expenditures of the county, examines the books of the county treasurer and makes a detailed financial report to the county board at its annual meeting.

The county board, at its annual meeting in November, determines the amount of taxes to be raised for county purposes. The amount to be raised for the State has already been reported by the secretary of state. The clerk apportions the State and county taxes among the towns, villages and cities of the county according to the assessed value of their property and reports the amount to be raised by each unit to the clerk.

*The County Treasurer* receives, keeps and pays out all moneys belonging to the county. The town, village and city treasurers pay to him about March first each year the county and State taxes collected by them. He pays to the state treasurer the State taxes; and pays out the money belonging to the county only on order of the county board. The order is drawn by the county clerk and countersigned by the chairman of the county board.

He must keep a careful record of all moneys received and paid out by him and make a full report to the county board at its annual meeting.

*The Register of Deeds* keeps a record of deeds and mortgages upon real estate located in the county. This record is kept in books furnished for the purpose. The record is very important in determining the ownership of and the mortgage claims against the real estate in the county.

He must keep, also, a record of all births, marriages and deaths occurring in the county.

*The County Surveyor* makes surveys of land, roads, lots, streets and the like when ordered to do so by the court or upon application of individuals or corporations. He keeps a record and maps of his surveys on file in his office. His books are open to the public for inspection and he will furnish a copy of any records or maps to any person who pays the required fee.

*The County Superintendent of Schools* has general supervision of the schools of the county. To be a county superintendent one must have taught at least eight months in the public schools of the State and must hold a teacher's certificate or a county superintendent's certificate at the time of his election. It will be remembered that he is elected at the spring election in the odd numbered years and takes his office the first Monday of the July following.

The county superintendent examines and licenses teachers; visits the district schools of his county at least once a year, inspects the grounds, buildings, heating plant and general equipment; examines into the management of the school, the discipline, the methods of instruction, the course of study and the text-books. He suggests to the teacher and the school board any improvements he deems desirable.

He must hold at least one teachers' institute and one school

board meeting, and he must attend at least one county superintendents' meeting during each year.

He receives the reports of the school district clerks required by law and transmits abstracts of them to the State Superintendent—a laborious but important duty.

Once each year he must make a report on the condition of the schools of the county to the county board.

In counties having more than 60 schools, the county board is empowered to authorize the county superintendent to appoint a clerk to assist him and to employ competent persons to take charge of the examinations for common school diplomas.

*The District Attorney* is the lawyer for the county. He gives legal advice to the officers of the county when called upon to do so. He prepares the legal papers for the county upon request. He acts as attorney for the county or State whenever either is an interested party in a civil or criminal case.

But when the district attorney is personally interested in a case, either directly or indirectly, the judge may appoint some one to act in his place.

*The Clerk of the Circuit Court* attends the sessions of the circuit court held in his county and keeps a detailed record of all civil and criminal cases tried before the court.

In a book provided for the purpose he must enter the names of the parties to each suit, the attorneys, jurors and witnesses, the date when each paper is filed, the facts presented during the trial, and the verdict of the jury.

In other books he keeps the names of all foreigners who declare their intentions to become citizens of the United States, and of those who are admitted, by the court, to full citizenship in compliance with the United States law.

In still other books he keeps a record of the appointments of deputy sheriffs, court commissioners, notaries public, and the names and official terms of justices of the peace.

It is very necessary that these records be accurately kept for they are frequently examined by individuals and demanded by courts.

**The Judicial Department.** We have already studied the justice courts found in towns, villages and cities, and presided over by justices of the peace.

We recall also the police courts which are frequently found in villages and cities.

We must remember, too, the municipal courts established in quite a number of the cities of the State by special acts of the Legislature.

*The County Court* is presided over by a county judge who is elected at the spring election, which is the first Tuesday in April, for a term of six years.

He has charge of all probate work; that is, the settlement of the estates of deceased persons. When a person dies without a will the judge appoints an administrator to take charge of the estate, and when a person leaves a will the judge appoints an executor to take charge of the property under the supervision of the judge. The administrator or executor collects all money owed the deceased person, examines and settles the accounts against him and finally distributes the property to the heirs according to the law or according to the will in case one has been left.

The county judge appoints guardians for orphans, feeble-minded adults and other individuals unable to take care of themselves and their property.

The county judge commonly is granted jurisdiction over certain civil and criminal cases arising within the county.

The extent of jurisdiction is determined in each county by special act of the legislature and it therefore includes different cases in the different counties.

It is often provided that cases may be appealed from the justice, the police justice and the municipal courts of the county to the county court.

*The Circuit Court*, while not a county court, but a State court, should be mentioned here because a session of this court is held twice a year in each county. Several counties are usually included in each circuit, and the judge has jurisdiction over civil and criminal cases. He is elected at the spring election for a term of six years.

As we have learned already, the clerk of the circuit court, the sheriff and the district attorney must attend the sessions of this court held in their county.

**The Appointive Officers and Boards.** The county board is given power to appoint certain officers and boards. The powers exercised by such officials are indicated by their names.

A *County Highway Commissioner*, appointed for three years, has charge of the construction of the State highways within the county. The highways of the county are mapped out by the county board and road construction is carried on from year to year. Two-thirds of the expenses of building the roads and four-fifths of the cost of constructing bridges is borne by the town and county in which the road is constructed. The State pays the remaining expenses. The construction and improvement of roads throughout the State are under the supervision of a state highway commission.

*The Income Tax Assessor*, although not a county officer, has a great deal to do with the assessment of property in the county. The State is divided into income tax districts, no

district being smaller than a county. There are between forty and forty-five such districts. The income tax assessor is appointed by the state tax commission, under civil service, for a term of three years. This officer assesses the incomes of individuals within his district. The corporations are assessed by the state tax commission. The total income of the individual or corporation is first determined. The expenses necessary to get it are then subtracted. This gives the net income.

Then only the net income in excess of \$800 received by a single person, and that in excess of \$1200 received by a married person is subject to taxation.

Besides assessing incomes in his district the income tax assessor supervises the work of the town, village and city assessors within his district. He may call the assessors together to discuss their assessment problems. He may visit each assessor and test his work by comparing his assessed value with the actual value of the property within the town, village or city. He also compares the assessment rolls of the different towns, villages and cities to see that the assessments are reasonable and just.

*The County Agricultural Representative*, an official found in a number of counties, aids the farmers in the improvement and development of agriculture and country life conditions, in the adoption of better business methods, the formation of co-operative enterprises and gives instruction in agriculture to children and adults.

Other officers of less importance are appointed when conditions make them necessary.

**Boards**, composed of three or more members, are appointed whenever the needs of the county make them desirable.

When a poorhouse is provided a *board of superintendents* of the poor is appointed to care for the property and for the inmates. A superintendent of the poor farm is also appointed. He is in actual charge of the poor.

*Trustees of the Insane* are appointed in case the county maintains an asylum for the insane. When the county has both a poorhouse and an asylum one board is often in charge of both.

If the county maintains a county training school to prepare teachers for better service in its rural schools, the school is placed under the control of a board of three members, one of whom is the county superintendent of schools. Likewise, if the county establishes a school of agriculture and domestic science it is placed in the charge of a similar board. In many counties other appointive officers and boards may be found but those named above give some idea of the purpose and the plan by which they are established.

*The Committee on Common Schools* consists of three members elected by the county board. One member of the committee is elected each year at the November meeting of the board to serve for a term of three years. Any voter of the county, except a member of the county board, living outside a city having a city superintendent is qualified to serve on the committee. The members are paid by the day and their services are limited to a few days each year. The necessary expenses of each member of the committee are also paid. The regular meeting of the committee is held on the first Tuesday in December annually and special meetings may be held from time to time.

This Committee must make, and keep up to date, a map of the school districts of the county; it may hear the case of any person dissatisfied with the decision of a town board, village board of trustees or a city council relative to the creation, dissolution, consolidation or alteration of school dis-

tricts; and it may make such changes in the school districts of the county as it thinks desirable. A report of all such changes must be made annually to the county board.

A *supervising teacher* must be appointed annually, in May, by the Committee to assist the county superintendent in organizing, administering and supervising the schools. Should the county contain more than 125 schools the Committee may appoint two supervising teachers. These assistants must be selected from a list submitted by the county superintendent, or the county superintendent elect, and they must be especially qualified for their work. They are paid not less than \$80.00 nor more than \$100.00 per month and expenses, the money to be taken from the treasury of the State. Our public schools have been greatly improved because of the services rendered by the supervising teachers.

A *Health Instructor*, or public health registered nurse, according to a law enacted in 1919, must be appointed in each county of the State. The appointment is made by the county board from a certified list of nurses furnished by the state board of health.

The county nurse supervises the health of the schools, reports contagious diseases, investigates cripples, assists tuberculosis patients, acts as health instructor throughout the county, assists in securing school attendance and in the enforcement of the child labor laws.

The work is under the general direction of the state board of health and under the immediate supervision of a county board of health especially appointed for the purpose.

**Conclusion.** We have now completed our study of the local governments of Wisconsin and it is hoped that the knowledge we now possess will cause us to continue to study them, and to find ways and means by which one or more of

those in which we are living can be improved. And more than everything else, we hope that our study will give us a greater patriotic feeling and determination to be better citizens in our home, our school, our town, village or city and our county.

### REVIEW QUESTIONS

1. How many counties are there in Wisconsin?
2. By whom are they organized?
3. About how large is the average county?
4. What is meant by the county seat? What buildings are found there?
5. What do we call the legislative department of the county?
6. Who comprise the legislative department of the county?
7. Who presides at the county board meetings? Who acts as secretary? Who keeps order?
8. When does the county board meet?
9. What powers are exercised by the county board?
10. What officers comprise the executive department of the county?
11. When are they elected?
12. By whom are they elected?
13. What is the length of their term?
14. When do they take office?
15. What duties are performed by each officer?
16. What officers comprise the judicial department of the county?
17. When are they elected?
18. When do they take office?
19. What is the length of their term?
20. What duties are performed by them?
21. How many vacancies occur in any of the county offices?
22. Who fills such vacancies?

### PRACTICAL POINTS

1. Draw a map of your county, putting in the towns, villages and cities.
2. How long is your county? How wide is it? What is its area? What is its population?
3. How many towns in the county? How many villages? How many cities?
4. What does the county do for your town, village or city school?

5. What does it do to protect the lives of your people; their freedom; their property?

6. What does it do to keep up your roads; your bridges? What does it do for your poor; your insane; your criminals?

7. Who makes the laws for your county? When do they meet? Who represents your town, village, or city ward on your county board?

8. Give some of the important laws which have been passed by your county board. Did it pass any important laws at its last session? Did it do any other important business? (A copy of the Proceedings of the County Board can be gotten from the County Clerk).

9. What is the assessed value of your county? How much money has been voted to pay the county expenses for the present year? What is the tax rate for county purposes?

10. Who are the officers of your county and where are they from? Why do we call them "the servants of the people"?

11. What can you do to be a better citizen of your county now? When you become a voter?

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STATE CAPITOL OF MADISON

One of the most beautiful in the United States

# THE STATE GOVERNMENT OF WISCONSIN

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## X. *THE STATE GOVERNMENT ESTABLISHED*

**Under French Rule.** The lands which comprise the State of Wisconsin were discovered, explored and settled by the French during the seventeenth century. Samuel Champlain, while governor of Quebec, sent Jean Nicholet to explore the region. Following the Great Lakes he entered Green Bay and landed just below the mouth of the Fox River, in what is now Brown county, in 1634, just fourteen years after Plymouth colony was founded. He went up the Fox River, discovered Lake Winnebago and ascended the Upper Fox to the site of the present City of Berlin and then he returned to Quebec. Within the next half century he was followed by other explorers and missionaries who learned of the copper mines on the shores of Lake Superior, and of the lead mines in the southwestern part of the State. In 1671 (June 14) the territory was formally taken possession of by the Sieur Saint Lussou in the name of the King of France. Later the lead mines were worked, trading posts established, and temporary settlements made which strengthened the King's claim to this portion of New France. A nominal control was exercised by the governor general of the French dominions stationed at Quebec. The territory remained in the hands of the French until the close of the French and Indian War, when by the Treaty of Paris, in 1763, it passed to England.

**Under English Rule.** The first permanent settlement was

made at Green Bay by Charles de Langlade and some associates in 1766. Other settlements were soon made at Prairie du Chien and Milwaukee. These isolated inhabitants had little occasion to display loyalty to the mother country. In 1774, by the Quebec Act, the English provided for the annexation of the territory north of the Ohio and east of the Mississippi to Canada and for the establishment of a civil government over it all with the capital at Quebec. This was very distasteful to the American colonies and was one cause of the Revolution. By the treaty with England, in 1783, all the territory north of the Ohio, east of the Mississippi and south of the Great Lakes was ceded to the colonies.

**As Territory of the United States.** The conflicting claims of the different colonies, due to inaccurate charters, resulted in all of them, by mutual agreement, relinquishing their interests to this territory in favor of the central government. By the *Ordinance of 1787* the Congress organized it into the Northwest territory. This ordinance was a most important document for it provided an efficient government for this territory and also gave shape to the territorial system of government employed by the United States ever since. It prohibited slavery within the territory, laid the foundation for a permanent system of public schools and provided for a democratic form of government. As the population increased and settlements extended, the Territory was to be organized into not less than three states nor more than five. Each state was to be admitted into the Union when it possessed a population of 60,000.

In accordance with these provisions Ohio was admitted in 1802, Indiana in 1816, Illinois in 1818, and Michigan in 1836. When Ohio was organized as a separate territory in 1800, Wisconsin become a part of the Territory of Indiana. In 1809, when Indiana was established as a separate territory

Wisconsin became a part of the Territory of Illinois, and when Illinois became a state in 1818, Wisconsin was attached to the Territory of Michigan which had been established as a separate territory as early as 1805.

**Wisconsin Territory Organized.** When Michigan was admitted to the Union in 1836, Wisconsin was organized into the Territory of Wisconsin. The congressional act establishing the territorial government was passed April 20, and, ten days later, President Jackson appointed Henry Dodge governor. On July 4, 1836, at Mineral Point, Mr. Dodge and the other territorial officers took their oath of office and so inaugurated the new government. The first Legislative Assembly met at Old Belmont (Lafayette county) on October 25 and continued in session until December 9. Besides enacting the necessary territorial laws, it located the permanent capitol at Madison. The place was then inhabited by only a few people but the Creator had made it one of the beauty spots of America. Time has proven the wisdom of the selection.

**State Government Organized.** After ten years of territorial experience and development the people were ready for statehood. By request, Congress in 1846 granted the people the right to draft a constitution and apply for admission. The people by an overwhelming majority favored the plan and Governor Dodge issued a proclamation calling a convention for drafting a constitution. The 124 delegates, representing the various counties, were elected Sept. 7, 1846, and they assembled in the territorial capitol, at Madison, in December. After some weeks of effort, a constitution was drafted and on April 5, 1847, it was submitted to the voters for approval. It was rejected. Several clauses were especially criticised, notably the provision for an elected judi-

ciary, the restrictions upon banks, the clause relating to exemptions, and to the rights of married women.

Governor Dodge then called a special session of the Legislature which made provision for a second constitutional convention. Of the 69 members elected to the second convention but six had been members of the first, most of them refusing to stand for re-election. The convention assembled in the Capitol and, after laboring from December 15 to February 1, framed a second constitution which was adopted the following March by a large majority of the voters. The document was approved by Congress and the President. *Wisconsin became a State on the 29th of May, 1848, and we should celebrate that day as Wisconsin's birthday.*

Upon being assured that Congress and the President would act favorably, a general election for the first State officers was held on May 8. Mr. Nelson Dewey was chosen governor. He and his fellow officers took the oath of office at Madison, June 7. At the same time the Legislature opened its first session and thus the State government began business.

Out of experience the people had discovered that they possess certain common needs that can be best satisfied by local organizations such as the school district, the town, the village, the city, and the county; other needs, more general in nature, can be best supplied by a State government; still others can best be met by the cooperation of the local and State governments. In territorial days, as the population grew, schools, villages, cities, towns and counties were organized in response to common demands. Finally a State government was established and Wisconsin, as we have seen, was admitted into the Union. The people of the State like those of all other American states, have a Constitution,

that is a fundamental law, expressing in general principles the will of the people by which the government is controlled. All laws enacted by the State Legislature must be consistent with this Constitution, otherwise they are null and void.

**The Constitution.** The State has had but one Constitution, although it has been amended some twenty-five times. It states the rights guaranteed the people of the State; describes the boundaries of Wisconsin; gives the qualifications of voters; provides for the establishment of a legislative, an executive, administrative, and a judicial department for the purpose of making and enforcing laws. It also states very definitely the principles which must guide the government in the raising and expending of money; in exercising the right of eminent domain; and in the organization of corporations, both public and private. A very liberal provision is made for a system of education at public expense. It concludes by providing for a method of amending the Constitution; for certain miscellaneous matters; and for the steps necessary to be taken in changing from a territorial to a permanent State government. The Constitution opens with the Preamble, which states the reasons for its adoption. It reads as follows:

*"We, the people of Wisconsin, grateful to Almighty God for our freedom; in order to secure its blessings, form a more perfect government, insure domestic tranquility and promote the general welfare do establish this Constitution."*

#### REVIEW QUESTIONS

1. State briefly how Wisconsin was discovered, explored and settled.
2. What nation first governed it?
3. How long was Wisconsin under its rule?
4. What nation next governed it? How did it govern the territory?
5. What did it do in the way of planning a form of government for it?
6. What nation next governed the territory? How and when did it get it?

7. What was the Ordinance of 1787?
8. Of what territories was Wisconsin a part before the Territory of Wisconsin was organized?
9. When was the Territory of Wisconsin organized?
10. Who was the first territorial governor? When and where did he take his oath of office?
11. When was the State of Wisconsin admitted into the Union? Who was the first Governor of the State?
12. Why was the State government organized? (See Preamble)
13. What are the important subjects treated in the Constitution?

### PRACTICAL POINTS

1. Was the section in which you live settled before Wisconsin became a State?
2. What city nearest you was founded while Wisconsin was a territory? When and why was it settled?
3. Is there any place near where you live that was of importance in territorial or early State history?
4. Where can you get information regarding the early history of Wisconsin?
5. Do you know anyone who lived in territorial days?
6. The author's father was born five years before Wisconsin became a State, in the city where Mr. Dodge took his oath of office as Governor of the Territory. When and where was he born?

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## XI. THE DECLARATION OF RIGHTS

**The Principles of Democracy.** Centuries of experience have proven that man in order to make the most of himself must enjoy certain personal rights. So important is this fact that the framers of our State Constitution declare, in the very first section of the first article that,

*“All men are born equally free and independent, and have certain inherent rights; among these are life, liberty, and the pursuit of happiness. To secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed.”*

This same thought was first expressed by our forefathers in the Declaration of Independence and may be considered the foundation principles upon which our democratic institutions rest. Yet, it should never be forgotten that the government may deprive any person of these rights should he act in a way that endangers the welfare of his fellows.

**The Rights of Law-abiding persons.** *Freedom of Person.* For the purpose of guaranteeing personal rights, the people in the State are divided into two classes—those who are law-abiding; and those who are suspected of crime. A good person, who properly respects the right of others, is ensured perfect freedom of person. He is allowed to go where he pleases, or remain where he wishes, or engage in any business he thinks best. He can never be placed in prison or in slavery. Should anyone, by force, attempt to deprive him of his freedom he may secure (unless in time of rebellion or invasion) a writ of *habeas corpus*. This is done by petitioning a judicial officer, who immediately issues the writ which commands the person in charge of the prisoner to

bring him before the judge issuing the writ, who decides whether the person is being lawfully held. If he is not, then he is at once set free, but if he is lawfully held then he is returned to jail. After centuries of oppression freedom of person is thus guaranteed.

*Freedom of Speech and of the Press.* To think as one pleases upon any subject is essential to one's highest mental development. To express one's self freely is essential to clear and right thinking. Then, too, people, whether they be common citizens or officers, are inclined to heed public opinion and so hesitate to do wrong if they know every one is at liberty to discuss their acts. For these reasons every person is given the right to speak freely, write, and to publish his sentiments on any subject.<sup>1</sup> Of course one may abuse this right. Libel consists in speaking or publishing, with *malicious intent*, that which injures the reputation of another. But if that which is said or written is true, and was expressed for a good purpose, then it is not libel although it may injure a person in the eyes of the public.

*Right of Assembly and Petition.* The right of the people to peaceably assemble and discuss political or other questions and to petition the government is closely related to freedom of speech. It was not enjoyed in the days of monarchies and aristocracies. But when the people succeeded in getting a voice in the government it was a right early demanded and secured. It has proven one of the best safeguards against oppressive government. It is, therefore, a right universally enjoyed by the citizens of democratic states. Officers who are inclined to forget the interests of the people are often brought to a clearer sense of duty by the people freely discussing their acts in public assembly; or by expressing their wishes by the use of petitions. Knowing the wholesome in-

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<sup>1</sup>Article I, section 3.

fluence that would follow, the framers of the Constitution provided that,

*"The rights of the people peaceably to assemble to consult for the common good and to petition the government or any department thereof shall never be abridged."*<sup>1</sup>

*Freedom of Religious Worship.* Freedom to worship God is a most sacred right. It establishes one's ideals and fixes his standards of right and of justice. It enables him, as nothing else can, to develop his spiritual nature—that part of him which is most like the Creator. Little wonder, then, that the Declaration of Rights provides for complete religious freedom. It declares that,

*"The right of every man to worship Almighty God according to the dictates of his own conscience shall never be infringed; nor shall any man be compelled to attend, erect or support any place of worship, or to maintain any ministry, against his consent; nor shall any control of or interference with the rights of conscience be permitted, or any preference be given by law to any religious establishment, or mode of worship; nor shall any money be drawn from the treasury for the benefit of religious societies, or religious or theological seminaries."*<sup>2</sup>

To prevent any denomination from getting control of the State and managing it in the interests of its own members, as has been done in Europe, and to ensure complete separation of church and State, which has proven best for both, it further provides that,

*"No religious test shall ever be required as a qualification for any office of public trust, under the State, and no person shall be rendered incompetent to give evidence in any court*

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<sup>1</sup>Article I, section 4. <sup>2</sup>Article I, section 18.

*of law or county in consequence of his opinions on the subject of religion.”<sup>1</sup>*

It was not the intention that the people of the State should be irreligious, but that they should enjoy perfect freedom of worship; nor that churches and other religious organizations should be unsupported, but it was belived that they would do best when supported entirely by voluntary contributions. As to the success with which this principle has worked in practice, you may judge. We shall certainly never return to the union of the church and the state as in the past.

*Right of Private Property.* Property, or wealth, is essential to the life and development of individuals. So it is quite natural that in a democracy like ours the right of individuals to receive, use and dispose of property should be carefully guarded. The need is so vital that the Declaration of Rights provides, that,

*“The privilege of the debtor to enjoy the necessary comforts of life shall be recognized by wholesome laws, exempting a reasonable amount of property from seizure or sale for the payment of any debt or liability hereafter contracted.”*

The necessary laws have been enacted and provide that a farmer may retain his homestead of forty acres, and the necessary machinery and seed and certain farm animals; while one living in the city may keep his home and certain tools or equipment necessary to carry on his trade or business.

Indeed, so sacred is the right of private property that even the State cannot take the property of an individual without justly compensating him for it. The people of the State, and of the counties, cities, villages, towns and school districts have the right of *eminent domain* over the property of citizens. That is, they have the right to take private property for public use, if they think it necessary, even though the

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<sup>1</sup>Article I, section 19. <sup>2</sup>Article I, section 17.

owner does not wish to let it go. If the authorities and the owner cannot agree upon the price to be paid, then a jury is summoned, under the direction of a court, which appraises, or fixes, the price which must be paid for the property. The Constitution provides that,

*“The property of no person shall be taken for public use without just compensation therefor.”<sup>1</sup>*

*Protection Against Evil-Doers.* “Every person,” says the Declaration of Rights, “is entitled to a certain remedy in the laws, for all injuries, or wrongs which he may receive in his person, property, or character; he ought to obtain justice freely, and without being obliged to purchase it, completely and without denial, promptly, and without delay, conformable to the laws.”<sup>2</sup>

In harmony with this statement, the Legislature has enacted a very complete code of laws which carefully protect the right of personal security, personal liberty, and private property. If one's life is threatened or his person in danger of being harmed by another, he is granted the right of self-defense. The offender is also made subject to severe punishment. If one's health is in danger, he is permitted to remove the cause, and to have the offender punished. One's liberty of person is made secure by the writ of *Habeas Corpus* and his reputation, or good name, by a suit for libel. The right of private property is safeguarded in many ways. Laws of contract, by which it is received and disposed of, are carefully drawn. Fraud is defined and punishment for it provided. Theft is a crime, and the party guilty of it is made subject to fine and imprisonment.

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<sup>1</sup>Article I, section 13. <sup>2</sup>Article I, section 9.

Officers have been provided and local, county, circuit and supreme courts established in the State which make it especially easy to secure the arrest, conviction and punishment of evil-doers who encroach upon the rights of law-abiding citizens.

*Abuses of Government Prohibited.* In ages past the people suffered greatly from the evil practices of rulers. The monarch who wished to secure the property of a rich subject or who desired to punish a political enemy often employed governmental devices to attain his ends. Sometimes a *bill of attainder* was passed. This was a law which condemned a person without granting him a trial. Sometimes an *ex post facto law* was enacted. This was a law which made an act punishable by a penalty more severe than was the case when the act was committed. Sometimes, indeed often, as a penalty for the violation of law the person was made to suffer *corruption of blood or forfeiture of estate*. Corruption of blood deprived an offender of the right to inherit property from his ancestors, or to retain that which he already possessed, or transmit property to his heirs. By the forfeiture of an estate the entire possessions of an offender, although the violator of an unimportant law, were taken from him to swell the treasury of the king. Laws changing the provisions of *a contract* have worked much harm in ages past. Royal favorites were often released from their obligations in this way. For the government to possess the power to change contracts at will is dangerous and likely to work great harm. In Wisconsin, none of these evils can exist, for the people are guarded against the abuses of government by a provision in the Bill of Rights which declares that: "*No bill of attainder, or ex post facto law, nor any law impairing the obligation of contracts shall ever be passed;*

*and no conviction shall work corruption of blood or forfeiture of estate.”*<sup>1</sup>

The law-abiding citizen, is carefully protected, therefore, in his life, his liberty, his freedom of thought, of religious worship, of property, all of which are deemed essential to his making the most of himself. Since the State so carefully protects him, he is in duty bound to do everything within his power to make the best possible use of his rights in developing himself into the best possible citizen.

**The Rights of Accused Persons. Rights Before Trial.** So sacred are the rights of people that they cannot be too carefully guarded. Even when one is suspected of crime it must be presumed he is innocent until he is proven guilty. The Bill of Rights declares that,

*“The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures shall not be violated, and no warrants shall issue but upon probable cause; supported by oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized.”*<sup>2</sup>

A person suspected of crime is subject to arrest only after a *complaint* has been made. This is a written accusation made to a judicial officer upon the oath or affirmation of a responsible person. If the judge deems the grounds sufficient, he issues a *warrant of arrest*. This contains a statement of the crime with which he is charged, and must be read to the accused person.

If it is necessary to find concealed goods, an *affidavit*, a statement supported by oath or affirmation, must be made to a judicial officer carefully describing the goods and the place where they are supposed to be. The *search-warrant*, when

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<sup>1</sup>Article I, section 12. <sup>2</sup>Article I, section 11.

issued, permits an examination of only the place specifically described and the taking of the goods if found.

It was a practice common among kings to arrest a person and keep him in jail indefinitely. But in Wisconsin accused persons are protected against such abuses by the Constitution which provides that, "*All persons shall before conviction be bailable by sufficient securities, except for capital offenses when the proof is evident or the presumption great.*"<sup>1</sup>

*Bail* is the security given by an arrested person or his friends as a guarantee that he will appear for trial when the time comes. If he fails to do so the bail is forfeited. This, however, does not release him from trial. Should he be captured, he will be tried.

Since the bail can be placed so high that it would be impossible to pay it, it is further declared that,

*"Excessive bail shall not be required."*<sup>2</sup>

Should a justice of the peace or a judge of a lower court place the bail too high, an appeal may be made by the accused person to a judge of a higher court, who will lower it should he think it excessive.

That the suspected person may not be annoyed unduly or inconvenienced indefinitely it is required that he shall be granted a speedy trial.<sup>3</sup>

*Rights at the Trial.* An accused person has a right to a *public* trial, that is, any one who wishes may be present. It is believed that justice is more likely to be secured in this way than if the trial were held privately, the public being excluded.

The person has a right to a trial by an impartial *jury* se-

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<sup>1</sup>Article I, section 8 (in part). <sup>2</sup>Article I, section 6. <sup>3</sup>Article I, section 7.

lected from the county or district in which the crime was committed. In the days of monarchies, judges appointed and paid by the king were often very unjust in the punishment which they meted out to accused persons. The trial by jury was developed in England for the purpose of securing greater fairness. A jury commonly consists of twelve persons chosen in such a way that they will be impartial. The accused is held guilty only when all twelve agree. The person can not be taken to some other part of the State to be tried. This is in the interests of justice and convenience. However, if the person thinks the judge is prejudiced or a fair jury can not be secured, he can have a *change of venue* to another county or district. The accused has a right to his own *lawyer*, if he so desires. If he is too poor to pay for one, the judge appoints one for him, and he is paid by the county. Should the accused wish, he may conduct his own trial, but a lawyer familiar with the law and the methods of procedure, is much preferred. In England, during early times an accused person was not allowed to have an attorney while the state employed the best lawyers against him. The Bill of Rights make such injustice impossible in Wisconsin. The accused not only has the right to know the nature of the accusation against him, but he has a right to *meet his accusers* face to face in court, listen to the charges made against him, and cross-examine the opposing witnesses. He is also permitted to *subpoena witnesses*, that is compel anyone who may know anything about the crime to come into court and testify, so that the facts may be fully known. While an accused person may himself take the witness stand and testify he can never be made to do so.<sup>1</sup>

*Rights After Trial.* The law which defines a crime also

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<sup>1</sup>Article I, sections 7 and 8.

gives the punishment for each offense. It commonly states the greatest and the least fine or imprisonment to be imposed, and then leaves it to the judge to fix the penalty between the limits set. In times past the king's laws provided, not only heavy fines, but most cruel and inhuman punishments, such as whipping, torturing, maiming, breaking on the wheel, drawing and quartering and even burning at the stake. These were inflicted until only a few centuries ago. They are prohibited in Wisconsin by the Constitution which declares that excessive fines shall not be imposed, nor cruel, and unusual punishment inflicted.<sup>1</sup> Should the law be too severe the judge may declare it unconstitutional and refuse to enforce it. No such case, however, has ever arisen in the State.

And, finally, a person cannot be tried twice for the same offense. When a person charged with a crime is once tried, the case is settled. He cannot be subjected to a second trial as was possible in times past. Of course, if the jury disagrees he may be tried before another jury, or the case may be appealed to a higher court. In either instance it is often called "a new trial," but the statement is incorrect. It is simply the same trial continued.

**Laws Must Be Respected.** It is clear that the framers of our Constitution did all within their power to guard our rights. With such minute provisions protecting both the innocent and accused it would seem impossible to interpret the Constitution and the laws in such a way as to endanger the public peace and good order. Shrewd lawyers, too often, measure their success by the number of cases they win rather than the amount of justice secured. This should not be. Every citizen is a guardian of the law and should not permit

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<sup>1</sup>Article I, section 6.

either the statutes or the Constitution to be violated. To ensure success in a democracy every one must realize the truth of the concluding clause of our Bill of Rights.

*“The blessing of a free government can only be maintained by a firm adherence to justice, moderation, temperance, frugality and virtue, and by frequent recurrence to fundamental principles.”*<sup>1</sup>

### REVIEW QUESTIONS

1. What are the fundamental principles upon which democratic institutions rest?
2. What is the Bill of Rights?
3. Why is it desirable to have a Bill of Rights in a Constitution?
4. What are the rights of a law-abiding citizen? State how each is protected.
5. What are the rights of an accused person? Describe how each is protected.

### PRACTICAL POINTS

1. What would you do if you were imprisoned without a warrant?
2. In what ways do you enjoy the freedom of speech?
3. Do you exercise the freedom of worship? If so, what good does it do you? What good does it do others?
4. Do you enjoy the right of private property?
5. How should a citizen use his property?
6. How does the law take care of a person when he tries to harm you?
7. Have you ever been present at a trial? Would you like to see one? Can you do so? Try it.
8. What is your duty respecting the rights of others?

### REFERENCES

1. The Government of Wisconsin—James and Sanford, Chapter VII, pp. 30-36.
2. Constitution of Wisconsin—Wright, Discussion of Article I.

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<sup>1</sup>Article I, section 22.

## XII. *THE STATE BOUNDARIES*

For several reasons the boundaries of the State must be very carefully described. Other states are concerned, people's rights are involved, and the geographical limits of our State government are thus set. Only those who reside within the boundaries are protected by our Bill of Rights. It is interesting to take a map and trace the boundaries as stated in Article II, section 1, of our State Constitution.

Because Wisconsin was the last of the five states organized out of the Northwest Territory, she secured much less territory than was originally planned. This is made clear by a comparison of a map of the original Northwest Territory with one of the State. The southern boundary of the State was originally intended to be a line drawn due west from the southern end of Lake Michigan including the great city of Chicago and what is now the best part of northern Illinois. The eastern boundary was to include the northern peninsula of Michigan, with its rich copper and iron deposits. And the northwest boundary was to have followed the Mississippi River to its source and then a line drawn due north from that point which would have included the great iron mines of northeastern Minnesota. But when Illinois entered the Union in 1818 she was allowed, by Congress, to fix the northern boundary at 42° 30' north latitude which gave her a large and fertile tract of land including what is now the City of Chicago. When Michigan became a state in 1836 she was granted what is now "the northern peninsula" which naturally belongs to Wisconsin. And by making our northwest

boundary, the St. Croix River, the rich iron lands at the head of Lake Superior were reserved for the State of Minnesota.<sup>1</sup> Still, enough territory has been left to comprise a State larger than England, which in several lines of economic and political activity, already assumes a position of first rank among her sister commonwealths.

### REVIEW QUESTIONS

1. Name the states that bound Wisconsin.
2. What rivers constitute a portion of her boundary?
3. What lakes form a portion of her boundary?
4. What did we lose by the restrictions of our state boundaries?

### PRACTICAL POINTS

1. Give the constitutional boundary of the State.
2. Draw a map showing the present boundaries of the State, also the boundaries we desired.
3. Why is it so necessary to fix exactly our State boundaries?
4. What is the area of our State? How does it compare with Illinois, with Michigan, with Minnesota?
5. What is the present population of the State?

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<sup>1</sup>See Article II, section 1.

### XIII. THE VOTERS

**Its Importance.** In a democratic state the government is in the hands of the people. As we have already observed in our study of the town, the village, the city and the country, this is true in Wisconsin. In theory, and it is quite true in fact, the voters represent those who do not exercise the suffrage. Knowing that the voters would possess the most vital influence in shaping the policy and promoting the welfare of our commonwealth it was agreed that their qualifications should be carefully stated in the Constitution itself. To still further guard this important power from abuses, certain disqualifications are likewise enumerated.

**Qualifications of Voters.** Each voter must possess the following three qualifications. He must be twenty-one years of age; a resident of the State at least one year next preceding the election; and of the election district where he offers to vote such time as may be prescribed by the Legislature, not to exceed thirty days. In addition to these four general qualifications he must also possess one of the three following: he must be a citizen of the United States, either native born or naturalized; or a person of Indian blood who has once been declared by an act of Congress to be a citizen of the United States even though a later act released him from citizenship; or a civilized person of Indian descent not a member of any tribe.<sup>1</sup>

The general qualification that a voter be twenty-one years of age was made for the purpose of excluding children who lack in knowledge or judgement. That the general suffrage

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<sup>1</sup>Article III, section 1.

was, so long, confined to male persons was due to historical causes. In times past the men who fought in the king's army demanded and finally secured the right to a voice in the affairs of state. At that time women were kept in the home and considered unworthy of education. At present women are educated and are taking on important responsibilities outside the home and very properly have been given the right to vote by the Nineteenth Amendment to the United States Constitution. In many foreign countries the right has also been granted them. If a person is a resident of the State for a full year next preceding the election, he is provided an opportunity to become informed upon the political questions at issue and the position and personal worth of each of the various candidates who are up for election. His spirit of loyalty to the State is also likely to be greater. For similar reasons a person should reside in the election district a certain number of days. The Legislature has taken advantage of the power granted it and fixed the necessary residence at ten days. This provision also makes it more difficult for persons to commit the serious offense of voting in two different districts during a given election.

All persons of foreign birth must now be citizens of the United States in order to vote in Wisconsin. Until 1912, the state constitution required foreigners simply to declare their intentions to become citizens of the United States, or to take out their first papers, as it is called, in order to vote. But now they must also go into open court and there renounce their allegiance to any foreign power and swear their allegiance to the United States, or in other words, take out their second papers, before they are permitted to vote. It takes at least five years for a foreigner to become naturalized. This gives him an opportunity to become acquainted with our democratic institutions.

With the Indians we have been very liberal. During territorial days the Stockbridge Indians, who then lived on the east shore of Lake Winnebago, at their own request, were made citizens of the United States by Act of Congress. After a time a part of them asked to go back to their savage mode of life and re-establish their tribal organization, and Congress permitted them to do so. Nevertheless, a clause was placed in our Constitution granting them the privilege to vote the same as if they were civilized. A person of Indian blood is also granted the right to vote whenever he ceases to be a member of a tribe and becomes subject to the State laws—provided, of course, he also possesses the four general qualifications.

The Constitution grants to the Legislature the right to extend the suffrage, at any time, to persons not now enjoying it; but any law making such provision must first be submitted to the people at a general election and be approved by a majority of all the votes cast at such election.<sup>1</sup> In accordance with this method, the qualifications were changed in 1912 requiring all voters to be citizens; and at another time a proposed extension of the suffrage to women was defeated.

**Disqualifications of Voters.** A person may possess all the qualifications enumerated above and yet, for certain reasons, be denied the suffrage. A person under guardianship or who is idiotic, or insane, is not permitted to vote. He who is unable to govern himself should not assist in governing the State. A person so lawless as to be convicted of felony or treason is denied the right to vote.<sup>2</sup> Felony is a crime the punishment for which is imprisonment in the State peniten-

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<sup>1</sup>Article III, section 1.

<sup>2</sup>Article III, section 2.

tiary. Treason is levying war against one's country or giving its enemies aid and comfort. But should a person convicted of either offense be pardoned by the Governor then he is restored to civil rights and may vote again; otherwise he can never do so.

To take part in a duel is a most serious offense and any person engaging in one, either directly or indirectly, is forever denied the right to vote or hold office in Wisconsin.

The Legislature has also taken advantage of powers granted it and denies the right to vote to any person convicted of bribery or of having anything to do with a bet made upon the outcome of the election. It is quite proper that a person guilty of selling his vote, or gambling upon election returns should be denied the privilege of taking active part in the affairs of government.<sup>1</sup>

Do you not think it wise to refuse incompetent persons the privilege of voting and to deny those who have been proven to be law breakers of the opportunity to elect officers and to have a part in making and enforcing laws?

**Registration of Voters.** The suffrage is not fully safeguarded when the qualifications of voters are carefully stated. It is important that only those who possess the qualifications shall be permitted to vote, and each one be permitted to vote but once. In towns and villages the voters are generally known, so there is little chance for dishonesty; but in cities, where the population is constantly changing, there is greater opportunity for abuse. So the law provides that in cities containing more than a certain specified population the voters must register. It provides that sometime before each election several days shall be set apart for the registration. The inspectors of election act as registration officers.

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<sup>1</sup>Article III, section 6.

The names of voters are printed and posted for public inspection. Should a voter be unable to register before election he may "swear in" his vote; that is at the time he casts his ballot on election day, he may state under oath that he possesses the qualifications to vote.

**The Nomination of Candidates.** If the people are to be fairly represented in a republic, the voters must have a very direct control over the selection of the nominees for the different offices; for if all the candidates are undesirable, it makes little difference which one is chosen on election day.

The *primary election* system has been provided to meet this need. Nominations for offices in our larger cities, and for those voted upon at the November Election are made by this direct system. Any person wishing to become a candidate for an office must secure a certain number of signatures to a petition and file it with the clerk of the political unit a certain number of days before the primary election. Then his name is printed upon the ballot to be used at the election. The Primary to nominate the candidates for the "general election" is held on the first Tuesday in September, that is, some two months before the election.

On Primary Election Day all voters go to the polls. Each one upon entering the polling place receives the primary ballot of each party, proceeds to the booth and marks the name of the candidate on his party ballot whom he prefers to be the nominee for each office to be filled. In this way each voter is given the right to express his preference for the nominee for each office, for example, county clerk, secretary of state or governor. Any person receiving a majority of the votes cast becomes the party nominee and his name is placed upon the election ballot.

Non-partisan candidates such as those for judicial offices, for county and state superintendent of schools, are not nom-

inated by the primary election method but by filing "nomination papers." These are petitions signed by a certain number of voters, requesting the name of the nominee to be placed upon the official election ballot.

In the smaller local units, the towns, the villages and the smaller cities, where there is little opportunity or occasion for abuse or corruption, the voters of each party commonly meet a week or ten days before the election and in a *caucus* decide upon their candidates for office.

**The Election.** Seven officials are in charge of each election—three inspectors, two election clerks, and two ballot clerks. In towns the three supervisors act as inspectors of election, while in villages and cities all the election officers are appointed from the two leading political parties. The Australian ballot is used. The names of all the nominees for each office are thus officially printed upon a single sheet.

The voter upon entering the election booth gives his name. If it is found upon the registry it is checked off by the election clerks, and the ballot clerks hand him a ballot. He then proceeds to one of the compartments so that no one can observe him and marks his ballot by placing a cross after the name of the nominee he prefers for each office. He then folds his ballot and hands it to the inspector in charge of the ballot box, again gives his name and passes out.

Should the person's right to vote be challenged, he is placed under oath and required to answer certain questions relative to his qualifications. Each political party has the right to appoint two "challengers" who remain in the election booth for the purpose of challenging any one whom they believe to be unqualified to vote.

**The Canvass.** As soon as the polls are closed the officials canvass the election returns. The number of persons voting as indicated in the registry, and the number of ballots are

first counted to see that they are the same. The votes received by each nominee are then counted and the result announced. A statement of the result is filed with the town, village or city clerk as the case may be.

A copy of the votes cast for the candidates for county, State and United States offices (if there be any) is sent to the county clerk. When the reports have arrived from all the local units the county clerk and two other officers constituting the county board of canvassers, tabulate the returns showing the total number of votes cast for each nominee in the county.

A statement of the votes cast for each nominee for the State office is reported to the Secretary of State. He, together with the Attorney General and the State Treasurer constitute the *State board of canvassers*. They tabulate the returns from the various counties and determine the number of votes cast for each nominee and announce the result. Assembly, senatorial and congressional districts, each has its own board of canvassers. The successful candidates are given *certificates of election* as official evidence of their election. These are filed with the clerk of the political unit in which the person holds office.

**Protection against Corrupt Practices.** To make certain that each voter expresses his own independent choice through his suffrage, not only is the Australian ballot employed and the polls carefully guarded, but the law provides strict regulations to be followed by each candidate for office and by those who conduct his campaign. The amount of money to be used is not only limited, but it can be spent only for legitimate purposes. The amount used and the purposes for which it is spent must be itemized and reported under oath. It is unlawful for a candidate to promise to appoint a certain person to office if elected. And no candidate or

campaign committee is permitted to pay for any service rendered upon election day. The law is very complete and has done much to protect the independence of the voter.

**The Recall of Officers.** Finally, to still further extend the power of the voters over the officers elected, the laws permit the recall of certain officials. The officer must be permitted to hold office for six months. If he is then thought to be undesirable and a petition is signed by a sufficient number of voters demanding the election of a successor, a special election must be called. The name of the officer is placed upon a ballot together with that of one other person. The one receiving the highest number of votes is elected. Should this be the official he simply continues in office; should the opponent be successful, he takes the place.

**The Initiative and Referendum.** In the local units the voters are also permitted to exercise their influence directly upon legislation by the use of the *initiative* and *referendum*. Should a legislative body of a town, a village, a city or a county refuse to consider desired legislation, the voters may have the measure framed, and by a petition signed by the proper number of voters, compel its introduction. Since they can not force the body to consider it, the referendum is also allowed. This permits the voters to decide by vote whether or not a measure shall become a law. It makes no difference whether it has passed the legislative body or not. The referendum is also employed to veto undesirable legislation when passed by a legislative body.

**Safeguards of the Suffrage.** With such care taken to secure wise and patriotic voters; to guard their right to cast an honest and independent ballot; to ensure the selection of desirable nominees; to place the officer after his election under the control of the voters; and to provide the short term

which makes easy the prompt change of undesirable officials the people are fairly represented and the voter may rightly be held responsible for the success of the government.

### REVIEW QUESTIONS

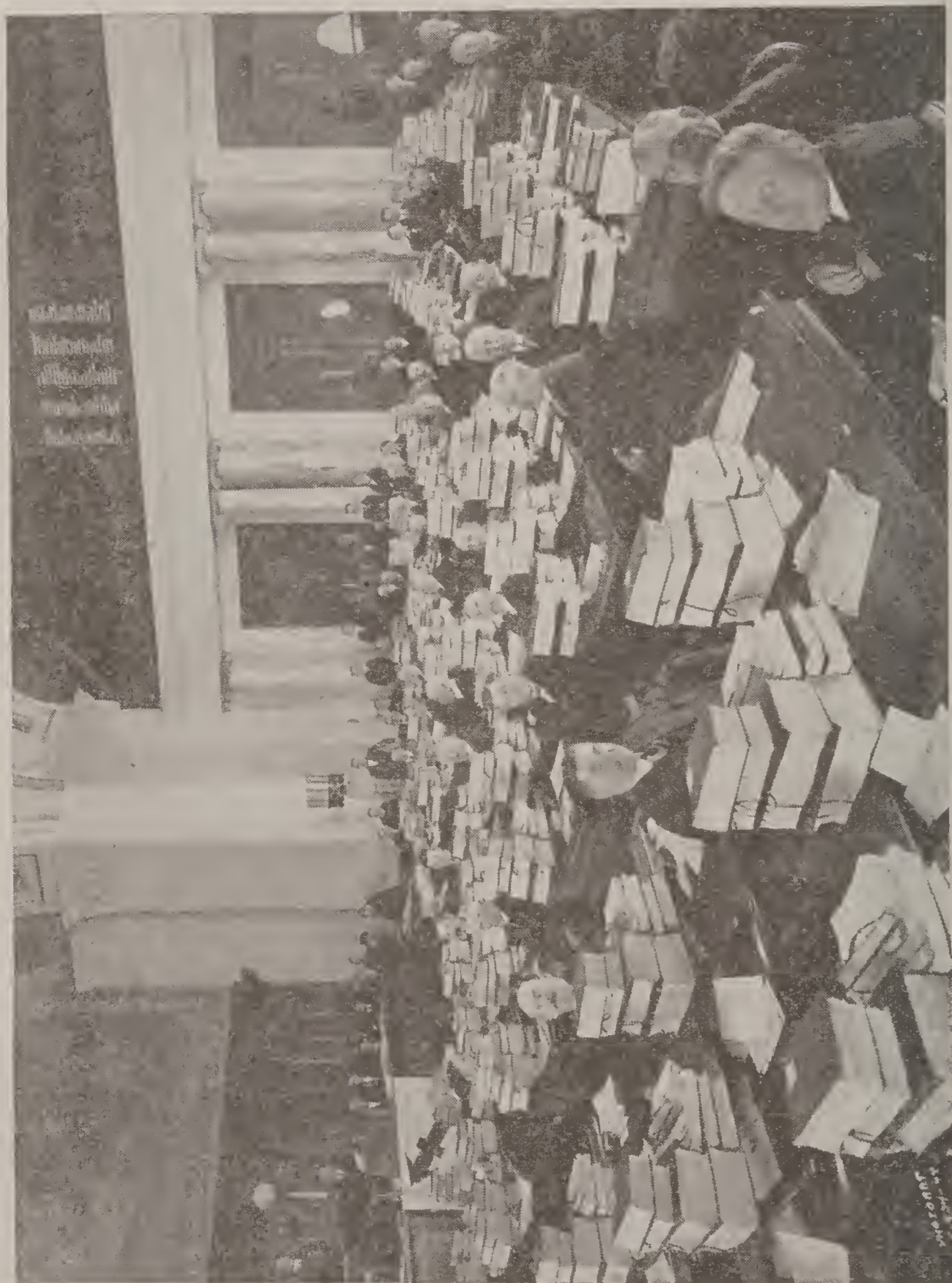
1. Why is suffrage so important?
2. What are the qualifications of voters?
3. What are the disqualifications?
4. Why must voters register in the larger cities?
5. How are candidates nominated for office? Why are they so nominated?
6. Who has charge of an election?
7. How does a person vote?
8. How is it determined who is elected?
9. What is the Corrupt Practice Act? What are some of its important provisions?
10. What is the recall? the initiative? the referendum?
11. What are the duties of a voter?

### PRACTICAL POINTS

1. Do you possess any of the qualifications of a voter? If so, which? Which do you lack?
2. Examine a registration list, or a polling list.
3. Secure copies of nomination blanks.
4. Secure a sample of a primary election ballot and study it.
5. Get an Australian ballot and examine carefully its form.
6. If possible, visit a village, town or city election.
7. Hold a mock primary, and election.
8. How many voters in your town, village, ward or precinct? How many voted at the last election?
9. Should voters be fined for failing to vote without good cause?
10. Should women vote? Why?

### REFERENCES

1. The Government of Wisconsin—James and Sanford, Chapter XIII, pp. 90-98.
2. Civil Government of Wisconsin—Wilgus, Chapter VI, pp. 99-109.
3. Government of Wisconsin—Wright, Discussion of Article III.
4. Essentials of Civil Government—Gillan and Hewitt, p.95.



THE WISCONSIN ASSEMBLY  
Capitol at Madison

## XIV. THE LEGISLATIVE DEPARTMENT-- ITS ORGANIZATION

**Reason for a Republic.** Because of the extent of territory and the very large number of voters it is impossible for all of them to assemble at the State capitol to make the laws. So Wisconsin, of necessity, is a representative democracy, or a republic as it is commonly called. The voters elect certain of their number who go to Madison and make their laws for them. These representatives comprise *the Legislature*.

**The Two Houses.** The Constitution provides that:

*"The legislative power shall be vested in a Senate and Assembly."*

The Legislature, organized into two houses instead of one, compels a longer time and greater publicity in the passage of bills. This gives members, and the public, opportunity to study each measure and determine its influence upon the social welfare before it becomes a law. The freest possible discussion is essential to the making of good laws. Then, too, because of the difference in view point, each house often acts as a check upon the other. In organizing the two houses Wisconsin followed the example of the United States Government, and, the older states which by experience had already proven the efficiency of the plan.

**Membership of the Houses.** *"The number of the members of the Assembly shall never be less than fifty-four, nor more than one hundred. The Senate shall consist of a number*

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<sup>1</sup>Article IV, section 1.

*not more than one-third, nor less than one-fourth of the number of the members of the Assembly.”*<sup>1</sup>

It is for the general good that all classes and all parts of the State are represented in the making of laws. Yet, the law-making body should not be so large that time is wasted in unnecessary debate and delay. With these facts in mind, the number of members allowed in each house was limited. The Legislature, which has the power to determine the exact number, fixed the membership at the maximum in 1862,—one hundred in the Assembly and thirty-three in the Senate. It has remained unchanged ever since.

**The Apportionment.** In order that the people may be fairly represented in the making of laws, the hundred Assemblymen and thirty-three Senators are equally distributed over the State. The process of dividing the State into Assembly and Senate districts is called *apportionment*. The apportionment is made by the Legislature. The basis is population, wealth or area never being taken into consideration as has been done in some European states. Since the population is constantly changing—increasing or decreasing and moving about within the State—it is necessary to make a new apportionment often. A new one is made every ten years, at the first session following each census of the United States.<sup>2</sup> This census is taken during the years ending in zero. The number of people to be represented by each Assemblyman is determined by dividing the population of the State, thus determined by one hundred; and the number to be represented by each Senator is found by dividing the population by thirty-three. The Assembly districts, must be bounded “*by county, precinct, town or ward lines,*” and

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<sup>1</sup>Article IV, section 2.

<sup>2</sup>Article IV, section 3.

*“consist of contiguous territory, and be in as compact form as practicable.”*<sup>2</sup> Contiguous territory is composed of one piece, rather than several scattered parts. An Assembly district may consist of a part of a county, as is true in the city of Milwaukee; or of an entire county, or of two or more entire counties joined together. But when a county is divided into two or more districts, town, ward or precinct lines must be followed. In densely populated cities, wards are often divided for voting purposes into precincts.

Senate districts are likewise composed of contiguous territory, and no Assembly district can be divided in making a Senate district. Maps of the Assembly and the Senate districts are printed in the Wisconsin Blue Book.

**The Election of Legislators.** Any person wishing to become a candidate for Assemblyman in his district must obtain a certain number of names signed to a petition. If it is filed with the proper official thirty days before the primary election then his name will be printed upon the primary election ballot of his party. The voters of the district assemble at their respective places of election upon Primary Election Day and select, or nominate, their party candidates.<sup>1</sup>

Upon the first Tuesday after the first Monday in the following November the election is held. The voters then meet at their places of election and, using the Australian ballot, each vote for the nominee he prefers to have represent him in the Assembly. The person receiving the highest number of votes is declared elected.

Should a defeated candidate have reason to believe that the person winning the election is not qualified, or that the election has not been conducted in accordance with

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<sup>1</sup>Article IV, section 4.

<sup>2</sup>For the details, see page 121.

law, he has a right to contest the election. He does this by notifying the successful candidate of his intentions. Each then furnishes the Assembly when it meets with the evidence supporting his position, and the house decides the case.

State Senators are nominated and elected by the voters of the Senate districts in the same manner and on the same days as the Assemblymen are nominated and elected in the Assembly districts. A defeated candidate for the Senate, also, has the privilege of contesting an election. This is provided by the Constitution which declares that, "*Each house shall be the judge of the elections, returns and qualifications of its own members.*"<sup>1</sup>

**The Qualifications of Members.** The Constitution says that, "*No person shall be eligible to the Legislature, who shall not have resided one year within the State and be a qualified elector in the district which he may be chosen to represent.*"<sup>2</sup> At present, as we have observed, a person must reside within the State a year before he is permitted to vote. So the qualifications of members may be expressed by simply stating that they must be voters in the district from which they are elected. It was thought wise to require the legislator to live in the district which he represents for he would then be better informed as to its needs and more concerned about furthering its interests. Of recent years this requirement has been criticised on the ground that it causes the legislators to place the interests of their section above the interests of the State as a whole and, also, that it often makes it impossible to place our ablest men in the Legislature.

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<sup>1</sup>Article IV, section 7.

<sup>2</sup>Article IV, section 6.

A member of Congress, or a person holding any other office under the United States (except postmaster), or under any foreign power is likely to be influenced thereby and so is very properly denied the right to be at the same time, a member of the Legislature.<sup>1</sup>

**The Term of Members.** The term of office for Assemblymen is two years, so there is a new Assembly every second year. There is nothing to prevent the re-election of an assemblyman as many times as the voters of the district think wise. Many members remain in the Legislature for years.

The term of Senators is four years. Half of them go out of office every two years. The Senate districts are numbered, from one to thirty-three, as is shown in the Blue Book, and the Senators are chosen alternately from the odd and even numbered districts. Since half the members hold over from one Legislature to the next the Senate is a continuous body. Senators, like Assemblymen, may be repeatedly re-elected.

*Vacancies* may occur in either house caused by death, resignation, expulsion, or acceptance of a United States office; and when they do occur, the governor, by official order, calls a special election in the district where the vacancy exists. The person elected holds office only for the remainder of the term.

**The Pay of Members.** Each member of the Legislature receives for his services \$500 for each regular session and ten cents a mile in going to and returning from the capital by the most usual route. The speaker of the house is allowed \$500 in addition for his services as such. In case of an extra session no additional compensation is allowed the members except mileage, which is the same as for a

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<sup>1</sup>Article IV, section 13.

regular session. The Constitution further provides that no stationery, stamps, newspapers or other perquisites shall be received from the State by any member. But should you know any person who has been a member of the Legislature ask him to describe his "plunder box." The compensation of a legislator, like that of other public officers, can not be increased, or diminished during his term of office.

**The Privileges of Members.** When the people were first gaining their right to take part in the making of their own laws, it was not uncommon for the king to keep the representatives from attending legislative meetings by imprisoning them upon petty charges; or to prevent them from expressing their opinions freely while at the meetings by arresting them when they dared to criticise him, as Charles I of England attempted to do in 1642.

To make sure that the persons selected by the voters of our Assembly and Senate districts should have a fair opportunity to represent them, the members of the Legislature are guaranteed several important rights by the Constitution. First, they are privileged from arrest during their entire term of office except for treason, felony, and breach of the peace. Treason and felony have already been defined<sup>2</sup> and breach of the peace is disturbing the public order, such as attacking a person with the intent of doing him bodily harm. A person who violates the law to such an extent is unfit to represent the people and participate in the making of laws, the object of which is to preserve order.

No civil process may be issued against a member of the Legislature during the session nor for fifteen days before it begins or after it closes.<sup>1</sup> By a civil process a person is taken

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<sup>1</sup>Article IV, section 15. <sup>2</sup>See page 119.

into court in order to enforce a right or redress a wrong, such, for example, as the payment of a debt. This right also is granted to enable the member to be present at all the meetings.

In order that perfectly free discussion of measures and men may be had, that the best possible laws may be enacted and appointments made, the members of the Legislature are freed from any civil action or criminal prosecution whatever, for words spoken in debate.<sup>1</sup> They are subject simply to the rules of their own house. By these three means, the representatives of the voters are enabled fully and freely to perform their duties.

But assuring their presence in the Legislature is not sufficient, each member should give his undivided attention to the interests of the people he represents. The Legislature has the power to create offices and to fix the salaries of officers. To prevent a member from devoting his time to furthering his own selfish political interests, the Constitution provides that he shall not accept any civil office which shall have been created or the emoluments of which shall have been increased during the term for which he was elected.<sup>2</sup> And, it is further provided that if any member of the Legislature should be elected to Congress, or be appointed to any office, civil or military, under the government of the United States, his acceptance thereof shall vacate his seat in the Legislature.<sup>3</sup> This prevents his dividing his attention between his duties to the State and to the United States and more especially using his position in the Legislature to assist in making laws favorable to the Federal Government.

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<sup>1</sup>Article IV, section 16. <sup>2</sup>Article IV, section 12. <sup>3</sup>Article IV, section 13.

For years members of the Legislature, as well as other public officials were granted free passes by the railroads, and franks by the telegraph and express companies. In return the legislators were expected to favor railroads and other companies, often against the best interest of the people whom they represented. To prevent such an unjust influence being brought to bear in favor of certain classes, the Constitution was amended, in 1902, prohibiting members of the Legislature, along with other public officials, from using free passes on railroads, and frank privileges of telegraph or express companies.<sup>1</sup> So every precaution has been taken to make the legislators serve the interests of the people they represent.

**The Sessions of the Legislature.** The Constitution provides that, "*The Legislature shall meet at the seat of government, at such times as shall be provided by law, once in two years, and no oftener, unless convened by the Governor in special session; and when so convened, no business shall be transacted except as shall be necessary to accomplish the special purposes for which it was convened.*"<sup>2</sup>

For thirty-three years annual sessions of the Legislature were held, but this proved unnecessary and so, in 1881, the Constitution was amended changing the meetings to once in two years. Each regular session now begins at 12 o'clock, noon, on the second Wednesday of January of each odd-numbered year. The meetings are held at Madison in the Assembly and Senate chambers of the capitol building. The session lasts until all necessary business is transacted which is often well into the following summer. To permit members to return home and take care of their necessary business it

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<sup>1</sup>Article XIII, section 11.

<sup>2</sup>Article IV, section 11.

is customary, especially during the fore part of each session, for the Legislature to adjourn weekly over Saturday and Sunday. But to prevent unnecessary delay the Constitution provides that "*Neither house shall, without the consent of the other, adjourn for more than three days.*"<sup>1</sup>

**The Organization of the Two Houses for Business.** When the members of the Legislature meet at Madison at noon on the second Wednesday of January of the odd-numbered year, they proceed at once to organize the two houses for business. In the Senate the *Lieutenant-Governor*, who is ex-officio president of that house, takes the chair and calls the members to order. The new members then take the oath of office, required of public officers, and swear or affirm that they will support the Constitution of the United States, and the Constitution of the State of Wisconsin, and faithfully discharge the duties of their office to the best of their ability. The Senate is then ready for business. It proceeds by electing a president *pro tempore* to act as presiding officer in the absence of the Lieutenant-Governor; a *chief clerk* who is responsible for keeping the minutes of the meetings, or the journal of the proceedings; and a *sergeant-at-arms* whose duty it is to preserve order and compel the attendance of absent members when ordered to do so by action of the Senate.

The Assembly is not a continuous body, as is the Senate, so it must organize anew at the opening of each session of the Legislature. This is done by the chief clerk of the previous Assembly calling the meeting to order and then reading a certified list of the members-elect, which has been handed him by the Secretary of State. The members then advance to the clerk's desk and take the oath of office. Roll-call

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<sup>1</sup>Article IV, section 10.

follows and if a quorum is found to be present, the house proceeds to elect its officers. The *Speaker* is first chosen. This is often a spirited contest, sometimes covering several days. As soon as the speaker is chosen he is conducted to the chair and then takes charge of the meetings. A *clerk* and a *sergeant-at-arms* are next elected and word is sent to the Senate that the Assembly is organized. A joint committee composed of members appointed by each house, waits upon the Governor and informs him that the Legislature is organized and ready to receive any communication from him. The Governor sets a time, within the next day or so, when he will present his message to them. The message is usually read by the Governor at a joint session of the two houses held in the Assembly chamber.

Of the officers in the Senate the only one who is a member of the body is the president *pro tempore*, and of those in the Assembly the speaker is the only member. In addition to the regularly elected officers in each house there are many others who are usually appointed such as a post-master, doorkeepers, enrolling, transcribing, engrossing and committee clerks, and numerous messengers, or pages. None of these are members.

**Quorum to do Business.** In each house a quorum, that is a sufficient number to do business legally, consists of a majority, or more than one-half, of the members elected. In other words in the Assembly fifty-one members must be present before business can be done; and in the Senate, seventeen. However, a smaller number may adjourn from day to day and compel the attendance of absent members by sending the sergeant-at-arms to arrest them.<sup>1</sup>

**Publicity.** The Legislature is a representative body and

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<sup>1</sup>Article IV, section 7.

the people who are represented have a right to know what is being done. To provide the public with the necessary information, each house is supposed to keep a journal of its proceedings and publish the same; and the doors of each house are to be kept open, except under unusual conditions when the public welfare requires secrecy. Reporters of the daily papers are admitted to the sessions, and are shown many courtesies. By entering either house and observing the business being done; by having access to the published minutes; and by reading the reports in the newspapers every individual has an excellent opportunity to keep well informed upon the doings of the Legislature. Such general publicity has proven one of the greatest safe-guards against bad legislation.

**The Keeping of Order.** It is of course necessary to preserve order in the legislative chamber, especially when business is being done. Therefore the Constitution gives each house power to punish any person for contempt or disorderly behavior; and, with the consent of two-thirds of all members elected, expel a member; but no member can be expelled a second time for the same cause.<sup>1</sup> Any person, whether a member or some one else, may be charged with "contempt" and punished if his conduct, while in the chamber, is such as to interrupt its proceedings; or if he refuses to appear before a committee, or before the house itself, and give testimony on any subject when ordered to do so; or attempts to bribe or threaten a member in order to influence his vote; or if he should attempt to arrest a member in violation of his privilege from arrest as guaranteed by the Constitution. The punishment may be either fine or imprisonment. Any person imprisoned for contempt is

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<sup>1</sup>Article IV, section 8.

placed in the Dane county jail, at Madison, but the sentence cannot extend beyond the close of the session of the Legislature.

Should a member refuse to obey the rules of the house he is a fit subject for punishment, and should he become so notoriously bad as to endanger the reputation of the entire body he may be expelled. But this power, which could be easily abused for political purposes, is doubly guarded. In order to expel a member two-thirds of the members elected must agree; and if the expelled member should be re-elected, he can not be expelled a second time for the same offense.

**Order of Business.** Each house is granted the right to determine the rules of its own proceedings. The order of business in each house, nevertheless, is much the same. The customary order, as stated in Robert's Rules of Order, is followed somewhat closely. When the house convenes each day, which is commonly at ten o'clock in the morning, roll call is the first order of business; the journal is then corrected; and the house is ready for the reception of reports on resolutions and bills demanding revision; then follows the introduction of new resolutions and bills, and petitions and communications; the reports of standing and special committees; communications from the Governor and from the other house; the consideration of motions and resolutions; bills to be engrossed, to be ordered to a third reading, and those ready for a third reading; the session closes with the consideration of any business of a special order. A daily calendar following the above order is prepared by the clerk of each house, printed and furnished each member at least twenty-four hours before the business is to be taken up which gives each member time to study the bills and resolutions before they arise.

**Methods of Voting.** The common method of voting in the Legislature is by acclamation, that is, all who favor a motion say "aye" and those opposed "no." If it is difficult for the presiding officer to decide which side has a majority, or a division is called for, a "rising vote" is taken, those voting on each side then stand and are counted. But it is well known that the members vote more carefully when they know their votes are to be made a matter of record so that any one may know at any time in the future, just how they have voted. In order to make them thus careful it is providing in the Constitution that "*The yeas and nays of the members of either house, on any question, shall, at the request of one-sixth of those present be entered on the journal.*" When the "yeas and nays" are taken, the clerk calls the roll and each member present in response to his name votes for or against the measure. An electrical device<sup>2</sup> is now employed in the Assembly by which each member registers his vote by simply pressing a button at his desk. This lessens very greatly the time necessary to record the votes of the members.

### REVIEW QUESTIONS

1. Why did we establish a republic in Wisconsin?
2. How many houses comprise the Legislature? Give the advantages of this organization.
3. How many members comprise each house?
4. Why and how are they apportioned?
5. When and how are the members nominated and elected?
6. What qualifications must they possess?
7. What compensation do members of the Legislature receive?
8. What privileges do they enjoy?
9. When and where does the Legislature meet?
10. How does each house organize for business? What officers are elected in each?

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<sup>2</sup>Article IV, section 20. <sup>3</sup>See picture of Assembly, page 126.

11. How many members must be present to do business in the Senate? in the Assembly?

12. Why should the people know what is being done in the Legislature? How can they get the information?

13. How is order kept in each house?

14. What is the "daily calendar"? How is the order of business determined?

15. How do members vote? Is there any way of recording their vote? If so, how is it done?

### PRACTICAL POINTS

1. When was the last census taken in the State? What was the population?

2. When was the last apportionment made?

3. According to the last apportionment, what was the ratio for Assembly districts? for Senate districts? (See Blue Book.)

4. What political divisions comprise your Assembly district? What is its population?

5. Who is your Assemblyman?

6. What is the number of your senatorial district?

7. What political divisions comprise your Senatorial district? What is the population?

8. Who is your Senator? When was he elected?

9. When was the last regular session of the Legislature held?

10. What were some of the important laws enacted?

11. Do the people have sufficient interest in the Legislature? Why?

### REFERENCES

1. The Government of Wisconsin—James and Sanford, Chapter VIII, pp. 37-43.

2. Civil Government of Wisconsin—Wilgus, Chapter V, pp. 58-69.

3. Constitution of Wisconsin—Wright, Discussion of Article IV.

4. Essentials of Civil Government—Gillan and Hewitt, p. 83.

## XV. THE WORK OF THE LEGISLATURE

**The Power to Make Laws.** Of all legislative bodies in the political organization of the United States, the State Legislature holds a unique position. The school meetings, town meetings, village boards of trustees, city councils and the county boards, which we have already studied, may exercise only such powers as are expressly delegated to them by the State Legislature; and Congress can exercise only such powers as are delegated to it by the Constitution of the United States. The Legislature, on the other hand, has the power to enact laws upon all subjects except (1) those denied it by the State Constitution; (2) those denied it by the United States Constitution; (3) and those which are reserved exclusively for Congress. The Legislature exercises what are called "residuary" powers, while the other law making bodies exercise only "delegated" powers.

**Limitations upon the Legislature.** *The powers granted exclusively to Congress* have been determined, in many instances, only by submitting the questions to the United States Supreme Court, and it is difficult to state them in detail. But speaking generally, it may be said that Congress exercises exclusive jurisdiction over matters which concern the United States as a whole, as, for example, the regulation of commerce between the states and with foreign nations; the declaration of war and the making of peace; and the establishment of post offices and post roads.

*The Constitution of the United States* places two kinds of restrictions upon the State Legislature; *absolute*, in which



THE WISCONSIN SENATE  
Capitol at Madison

case it denies the Legislature the right to exercise the power at all; and *conditional*, in which case it may exercise the power only with the consent of Congress.

Under no circumstances is a state permitted to enter into a treaty, alliance or confederation with another country. It can not make coin or paper money or declare anything but gold and silver legal tender. It is not permitted to pass any bill of attainder, ex post facto law or law impairing the obligation of contract. Nor can it grant any title of nobility.

Only when Congress gives consent is a state permitted to levy and collect an import or export duty, except when absolutely necessary to enforce her inspection laws. And then it is done only under very direct supervision of the Federal government. Nor can a state keep troops or ships of war in time of peace or engage in war except in self-defense. Other restrictions of less importance also are made.<sup>1</sup>

*The Constitution of Wisconsin* places three kinds of restrictions upon the Legislature. *First* it prohibits the enactment of certain laws. It denies the power to enact measures which, if passed, would deprive the citizens of their essential rights, such as ex post facto laws, bills of attainder and many others which we have already studied in the Bill of Rights. Then, too, in order to save the time of the Legislature and to ensure justice to everyone the enactment of certain special laws is prohibited.

*"The Legislature is prohibited from enacting any special or private laws in the following cases: 1st. For changing the name of persons or constituting one person the heir-at-law of another. 2nd. For laying out, opening or altering*

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<sup>1</sup>See United States Constitution, Article I, section 10.

*highways except in cases of State roads extending into more than one county, and military roads to aid in the construction of which lands may be granted by Congress. 3d. For authorizing persons to keep ferries across streams, at points wholly within this state. 4th. For authorizing the sale or mortgage of real or personal property of minors or others under disability. 5th. For locating or changing any county seat. 6th. For assessment or collection of taxes or for extending the time for collection thereof. 7th. For granting corporate powers or privileges, except to cities. 8th. For authorizing the apportionment of any part of the school fund. 9th. For incorporating any city, town or village, or to amend the charter thereof.”<sup>1</sup>*

To protect the funds and the reputation of the State, the Legislature is denied the right to give or lend its credit in aid of any individual, association or corporation; or authorize any lottery. Many of the states have lost large sums of money, and even repudiated their debts, by lending their credit, or “going security” for private individuals and corporations.

*The second class of restrictions which the State Constitution places upon the Legislature provide that certain laws must be passed. For example, the Legislature must provide general laws for the transaction of any business that may be prohibited in section 31, quoted above, and all such laws must be uniform in their operation throughout the State. The legislature must provide one system of town, of village, of city, and of county government, to be as uniform as practicable throughout the State. And the Legislature must direct by law in what manner and in what courts, suits may be*

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<sup>1</sup>Article IV, section 1.

brought against the State. Other less important laws must also be enacted but these are sufficient to illustrate the nature of the restriction.

*The third class* of restrictions placed upon the Legislature by the Constitution are such as limit the methods of enacting certain kinds of laws. The raising and spending of money was greatly abused by many of the states shortly before Wisconsin entered the union. This general extravagance for internal improvements had much to do in causing the crisis of 1837. In view of this unhappy experience it was natural and wise that the framers of our State Constitution should carefully guard the financial powers of the Legislature.

Besides providing that "*the rule of taxation shall be uniform,*" and that, no money shall be paid out of the treasury, except in pursuance of an appropriation by law, the Constitution provides that the current expenses must be met by the annual income. If in any year they exceed the income the deficit must be made up by an increased tax the following year.

Extraordinary expenses may be incurred in time of peace, but at no time must the debt for such purposes exceed \$100,000. The law authorizing the debt must state specifically the purpose for which it is allowed and provide for its payment in five years.

To repel an invasion or suppress an insurrection it is necessary that any amount of money may be borrowed. But for the consideration of all financial measures three-fifths of all the members elected to each house are required to constitute a quorum and the names of those voting for and against it must be recorded on the journal.<sup>1</sup>

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<sup>1</sup>Article VIII, sections 4-8.

It may seem that with all these limitations little opportunity is left for legislative action. But if one should examine a copy of the Revised Statutes consisting of several thousands of pages, and read the laws that are at present in force, he would appreciate the seemingly unlimited powers which our Legislature still exercises.

**The Making of Laws.** Resolutions which express simply an opinion may be passed by either house of the Legislature, or both together, but only bills properly enacted have the force of law. A bill may originate in either house of the Legislature and, being passed by one house, may always be amended by the other. In order to constantly remind the members of the Assembly and Senate that they are but the servants of the people, the Constitution provides that every law must begin with the words, "*The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows.*"<sup>1</sup>

**The Appointment of Committees.** To enact bills into laws is the chief business of the Legislature. In order that the process may be rapidly and wisely carried on and only the best possible laws passed, the committee system is employed.

The rules of each house name the permanent or "standing committees" to be appointed. They are designated by the nature of the bills to be considered by them, as the committee on Education, to which is referred all bills having to do with our schools; the committee on Agriculture which considers all bills relating to farming; or the committee on Taxation, which is required to receive all measures which relate to the levying of taxes. There are about a half dozen permanent committees in the Senate and twenty to twenty-five in the Assembly. They are composed of from three to eleven mem-

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<sup>1</sup>Article IV, section 17.

bers, there always being an odd number. Each member of the Assembly and the Senate is on at least one committee and may serve on two or three.

At the beginning of the Legislative session the Speaker of the Assembly appoints the members of the standing committees, always taking care that the chairman and a majority of each committee belong to his party. In the Senate the members of the committees are elected. There are several joint committees, composed of both Assemblymen and Senators, the Finance Committee being a good illustration.

Committees usually meet each afternoon during the session, each in a room provided for the purpose. The bills to be considered at each meeting are announced before hand and any person may appear before the committee, at the appropriate time, and discuss the measure under consideration. The committee may conduct investigations and, if it so desires, compel persons to appear before it and give information upon any measure.

**The Passage of Bills.** A bill is "introduced" by a member rising to his feet, at the time the introduction of bills is in order, and saying, "I ask leave to introduce a bill." He then sends it to the Chief Clerk's desk by one of the messenger boys. The Clerk reads aloud the title of the bill—which is a statement of its purpose,—and the presiding officer announces "First reading of the bill." Immediately, the clerk repeats the title and the presiding officer announces, "Second reading of the bill."

It is then referred to the appropriate *committee* by the presiding officer, unless the house, by vote, determines which shall receive it. The bill is now printed for general distribution and a copy is furnished each member of the legislature which gives him opportunity to study

it. The committee has power to modify the bill in any way it sees fit; or, it may leave it unchanged. If, finally, the committee is opposed to the measure it will make no report at all, or it will recommend the bill for "indefinite postponement." If, on the other hand, it approves the measure, it will report the bill "for passage." If there is a division of opinion in the committee, the minority may submit a separate report. While the committee's opinion has great weight with the house, it by no means follows that the house will act in harmony with the recommendations made. The report of the committee is made to the house, and it is printed in the journal.

The bills reported for passage are placed on the *calendar* under the heading, "Bills Ready for Engrossment." When, in the order of business, a bill under this head is reached it is discussed and possible amendments are made. The presiding officer then puts the question, "Shall the bill be engrossed and read a third time?" If the vote is in the negative, the bill is lost; but if in the affirmative it is referred to the *Committee on Engrossment*, which makes a typewritten copy so that it contains no interlineations or erasures. It is then returned to the house and referred to the *Committee on Third Reading*. Upon being reported back "correct" by it, the bill is placed upon the calendar under the heading, "Bills Ready for Third Reading." When, in the order of business, the bill is reached it is read a third time, which is by title, unless it is an appropriation bill and some member requests that it be read in full. If the request is made it must be so read. Then the presiding officer puts the question, "Shall the bill pass?" and the vote is taken. If the house passes the bill it is certified by the clerk as evidence that it has been lawfully enacted and sent to the other house where it passes through a similar process. If a bill is amended dur-

ing its passage through the second house the amendment must be approved by the first house.

When a bill has passed both houses of the Legislature it is signed by the Speaker and the Chief Clerk of the Assembly and the President of the Senate and is then sent, by messenger, to the Governor. If he approves the bill, he signs it, but if not, he returns it, with his objections, to that house in which it originated, which enters the objections at large upon the journal, and proceeds to reconsider it. If, after such reconsideration two-thirds of the members present, agree to pass the bill, it is sent, together with the objections, to the other house, by which it is likewise reconsidered, and if approved by two-thirds of the members present, it becomes a law. But in all such cases the votes in both houses are determined by yeas and nays, and the names of the members voting for or against the bill, are entered on the journal of each house respectively. If any bill is not returned by the governor within six days (Sundays excepted) after it has been presented to him, it becomes a law, unless the Legislature by adjournment, prevent its return, in which case it does not become a law.<sup>1</sup>

There are, therefore, three ways in which a bill may become a law. 1. It may pass the two houses and be signed by the Governor. 2. It may be passed by the two houses, be vetoed by the Governor, and then be passed over his veto by a two-thirds vote of each house. 3. Or, it may be passed by the two houses, sent to the Governor, and he fail to return it within six days (Sundays excepted) providing the Legislature continues in session.

When a bill becomes a law it is filed with the Secretary of State for permanent reference. He gives it a chapter head-

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<sup>1</sup>Article V, section 10.

ing and publishes it, and it goes into effect immediately, unless the law itself provides otherwise. At the close of each session of the Legislature, all the laws passed during that session are printed in one volume known as the Statutes or the Session Laws. At every Legislative session not only are new laws enacted, but old ones are repealed and others are amended. The "Revised Statutes" is a volume containing all the laws in force at the time it is issued.

**Powers of Each House Separately.** The Assembly may impeach any civil officer in the State for corruption in office or for crime. The Senate tries the case. The Senate also has the right to ratify important appointments made by the Governor.<sup>1</sup>

#### REVIEW QUESTIONS

1. What powers may be exercised by the State Legislature?
2. What limitations are placed upon the powers of our State Legislature?
3. Why are committees appointed in the Legislature? What committees are appointed? What powers do they have?
4. Trace the steps in the passage of a bill from the time it is introduced until it becomes a law.
5. What are the Session Laws? What are the Revised Statutes?

#### PRACTICAL POINTS

1. Visit, if possible, a session of the Legislature at Madison.
2. What standing committees were appointed at the beginning of the last session of the Legislature (See Manual or Directory of either House).
3. What were some of the important laws passed by the last session of the Legislature?
4. How much did the last session of the Legislature cost the state?
5. Why is it more difficult for Legislators to enact just laws today than ever before?

#### REFERENCES

1. The Government of Wisconsin—James and Sanford, Chapter IX, pp. 45-51.
2. Essentials of Civil Government—Gillan and Hewitt, p. 83.
3. The Government of Wisconsin—Wilgus, pp. 67-69.

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<sup>1</sup>Article VII, section 1.

## XVI. THE EXECUTIVE DEPARTMENT

**The Governor.** It is not sufficient to make laws, even though they be ever so just. They must be enforced. When laws are being enacted, the wisdom of many is desired so our Legislature is composed of many members; but when laws are being enforced, promptness of action is desired so one man is in charge of the Executive Department. If laws are being violated, quiet and quick action must be taken in order to catch the law breaker. The experience of all civilized countries has proven that this is best secured by having a single executive, rather than a board or committee. Consistent with this principle, the Constitution of Wisconsin provides that "*The executive power shall be vested in a governor.*"<sup>1</sup>

**Qualifications.** No one should be permitted to exercise the important powers of Governor who is not a thoroughly patriotic citizen, deeply interested in furthering the ideals of our democratic form of government. More especially should he be thoroughly loyal to the highest interests of our State. Therefore the Constitution very properly provides that "*No person except a citizen of the United States and a qualified elector of the State shall be eligible to the office of governor.*" This makes it impossible for a foreigner to become Governor of this State until he has been in this country at least five years and in the State at least one year. It is presumed that a citizen will always be patriotic. Prior to

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<sup>1</sup>Article V, section 1 (in part).



THE EXECUTIVE CHAMBER

The Governor, Lieutenant Governor, Secretary of State, State Treasurer and Attorney-General

1912 a foreigner could vote before taking out his second papers but since that date, as we have already seen, he must have taken out both his papers and resided in the State one year before exercising the right to vote. Therefore, at present, any voter in the State of Wisconsin may be Governor.<sup>1</sup>

*The Election and Term.* The Governor is elected by the voters of the State for a term of two years. Candidates for the position circulate petitions and secure the necessary signers some time before the primary election which is held the first Tuesday in September, the even numbered years. The voters of each party determine by vote at the primary which of those seeking nomination on their ticket shall be their candidate at the general election. The general election is held on the first Tuesday after the first Monday in November of the same year. The person receiving the highest number of votes is elected Governor. But if two or more should tie, having the highest number, then the two houses of the Legislature at their next regular session, held in January, must as soon as they are organized for business proceed to determine, by joint ballot, which one of the persons shall be Governor. No such tie has ever occurred nor is such a situation likely to arise.

The Governor's term of office begins the first Monday in January following his election. He is inaugurated at the State capitol by formally taking his oath of office, pledging to support the Constitution of the United States and of the State and to faithfully perform the duties of his office. The oath is administered to him by the Chief Justice of the Supreme Court. The ceremony is public and is often very imposing. The Governor is furnished beautiful office rooms in

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<sup>1</sup>Article V, section 2.

the capitol building. They are known as "The Executive Chamber." Here he performs his principal duties.

*Vacancies.* Vacancies may occur in the office of Governor either temporarily or permanently. A *temporary* vacancy occurs when the Governor goes outside the State; when he is impeached, or when he is out of his right mind, or so ill that he is unable to attend to the duties of his office. A *permanent* vacancy occurs in case of death; resignation; or when the impeachment charges, presented by the Assembly are found at his trial by the Senate, to be sufficient grounds for his removal from office.<sup>1</sup>

However, in time of war the Governor may, with the consent of the Legislature, go out of the State to command the State troops and still retain his authority as commander-in-chief of the military and naval forces of the State. With the exception of this one possible instance, the Lieutenant Governor serves as Governor receiving five dollars a day for his services when filling a temporary vacancy and the full salary of the Governor when filling the vacancy permanently. Should both the Governor and Lieutenant Governor be unable to serve as chief executive then the Secretary of State acts as Governor.

*The Compensation.* The Governor receives for his services a salary of \$5,000 a year. Before 1869 he was paid but \$1,250 annually but in that year the Constitution was amended fixing the salary at the present amount which at the time was thought sufficient to enable him to live in proper style.

Besides his salary, the Governor is furnished an executive mansion, which is located on Gilman Street in Madison, overlooking Lake Mendota. The building and grounds are

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<sup>1</sup>Article V, section 7.

kept up at the expense of the State. During recent years the Legislature has also been in the practice of voting the Governor an annual contingent fund of about \$2,000. From this he is expected to pay his expenses when attending official functions, and meet the cost of official receptions, and similar public functions.

**The Powers and Duties of the Governor.** They are many and also very important. Some of them are strictly executive, others are legislative in their nature and still others judicial.

**The Executive Duties** are the most important. The Governor must see that the laws are faithfully executed. In this work he is assisted by numerous local officers, such as the sheriffs of the counties, the mayors of the cities, the presidents of the villages, the chairmen of the towns and the constables elected in all the primary local units, they being empowered to enforce the laws of the State as well as those of their own local division.

While these officers are found in every community of the State, still the laws are frequently violated. This is due in part to the fact that assistants are not appointed by the governor but elected locally by the very people who are frequently the guilty parties. Some of our states employ state police to enforce their state laws. The results have been quite satisfactory. Should not Wisconsin employ such a system? As Chief Executive, the Governor may offer rewards for the capture of criminals. He may order the Attorney-General to bring suit against any person or corporation whom he thinks to be injuring the property or encroaching upon the rights of the State. He is authorized to inspect State institutions such as the school for the deaf, for the blind, the hospitals for the insane, and the State

prison and insist that they be administered according to the laws of the State.

*The Governor Has the Power of Appointment*, and also the power to remove certain officers and fill vacancies. Should a State or county officer, except a judicial officer, fail to perform his duty, the Governor may remove him, giving him a copy of the charges against him and an opportunity to be heard in his own defense. Vacancies which occur are likewise filled by the Governor for the unexpired term, except a few which for special reasons are filled otherwise, as the county superintendent of schools, which position is filled by the State Superintendent of Public Instruction.

The Legislature has conferred upon the Governor, from time to time, power to appoint officers and members of commissions or boards, some with and others without the consent of the Senate. In this way the Governor exercises, indirectly, not a little authority over officers who assist him in the enforcement of laws.

*The Governor is Commander-in-Chief* of the military and naval forces of the State. The Legislature has provided that all able-bodied male citizens between the ages of eighteen and forty-five are liable to military service and so constitute the militia of the State. Most of the number constitute the "unorganized militia" but a small portion of them known as the "organized militia" have formed into companies and comprise the Wisconsin National Guard. Sixty-four qualified persons living in any county may petition the Governor for the privilege of organizing a military company. If the petition is granted they are permitted to elect a captain, a first and a second lieutenant and, upon being provided with arms and supplies at the expense of the State, they must drill regularly. The members enlist for a term of three years. About thirty-six such companies have been organized. The

law permits the organization of not more than forty companies of infantry; one battery of artillery; one troop of cavalry; an adjutant-general's department which keeps the muster rolls, the military records and reports; a quartermaster-general's department, which has charge of military supplies, including food, clothing, ammunition and guns; and a medical department which takes care of the health of the members. The "Governor's staff" consists of the adjutant-general, the quartermaster-general, the surgeon-general, each with the rank of brigadier-general, five aids-de-camp with the rank of colonel, and several lower officers. The headquarters are in the capitol at Madison where the Governor, the adjutant-general and the quartermaster-general have offices. The State military reservation is located at Camp Douglas. Here each company in the State is required to drill for one week each summer.

The Governor, as commander-in-chief, may order out the militia to enforce the laws of the State or of the United States, or to suppress a riot, rebellion, insurrection, or repel an invasion, or to serve in time of war; he may also call them out in time of public disaster from flood, fire or tornado. If a disturbance should arise and the sheriff of the county thinks he will be unable to control it, he calls for aid from the Governor, who may order out one or more companies of the Wisconsin National Guard. Should the State militia be unable to quell the disorder the governor may call upon the President of the United States for assistance and he will send the army and navy if necessary.

So the Governor, in order to see that the laws are faithfully executed, may remove certain officers who fail to perform their duty, fill vacancies, call out the militia of the State, and if necessary receive the assistance of the United

States army and navy. This should ensure the enforcement of law.

**Legislative Powers.** The Governor exercises certain important powers over the Legislature. He may call it in special session at any time he thinks wise.<sup>1</sup> But he must state in the call the purpose for which it is convened and the business must be confined to the special purpose.<sup>2</sup> And in case of invasion, or danger from the prevalence of contagious disease at the capital, he may convene the Legislature at any convenient place within the State.<sup>3</sup>

It is the Governor's duty to deliver a *message* at the beginning of each session of the Legislature. In it, he describes the condition of the State and recommends such matters for their consideration as he may deem expedient.<sup>4</sup> He also influences legislation by sending special communications during the session giving his views upon measures before the Legislature, or recommending subjects for consideration.

As already observed in our study of the Legislative Department, the Governor, through the veto power, exercises no little control over the making of laws. By the use of his authority to call the Legislature in special session for the consideration of certain measures; by the submission of regular and special messages; and by the exercise of the power to sign and veto bills, the Governor influences legislation to no small degree.

**Judicial Powers.** The Governor's judicial powers are varied. Although permitted to exercise authority over the organization of the Judicial Department to the least possible degree, still the Governor exercises certain important judi-

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<sup>1</sup>Article V, section 4.

<sup>2</sup>Article IV, section 11.

<sup>3</sup>Article V, section 4.

<sup>4</sup>Article V, section 4.

cial powers. He is given "*the power to grant reprieves, commutations, and pardons, after conviction, for all offenses except treason and cases of impeachment, upon such conditions and with such restrictions and limitations as he may think proper, subject to such regulations as may be provided by law relative to the manner of applying for pardons.*"<sup>1</sup>

A *reprieve* delays the execution of a sentence for a time. A *commutation* changes a sentence to one less severe. A *pardon* stops the punishment and restores the criminal to his civil rights. The steps to be taken in making application to the Governor for a pardon are carefully prescribed by law. The district attorney who prosecuted the case and the judge who presided at the trial must be notified; and in order that others interested in the case may know that an effort is being made to secure a pardon a copy of the application must be published in a newspaper of the county where the case was tried. The Governor receives petitions and usually holds a hearing before making a decision. Justice is thus secured. As a check upon the abuses of his power, the Governor is obliged to report to the Legislature at each session each case of reprieve, commutation, or pardon granted, stating the name of the convict, the crime for which he was convicted, the sentence and its date, and the date of the commutation, pardon, or reprieve with his reasons for granting the same.<sup>2</sup>

Since such a report simply discourages abuses, but in no way prevents them, it frequently has been advocated that the Governor should be denied the right to exercise such important powers. Do you think the suggestion is a wise one?

The Governor is denied the power to act in cases of im-

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<sup>1</sup>Article V, section 6.

<sup>2</sup>Article V, section 6.

peachment, for if he possessed the authority to pardon, commute or reprieve in such cases, he might free political associates who have got into trouble. In cases of treason, he has only the authority to suspend the execution of the sentence until the next session of the Legislature when it may either pardon the accused person or commute the sentence, or grant a further reprieve or order the execution of the sentence.<sup>1</sup>

Although the Governor has no authority in cases of impeachment, and only power to suspend sentence in cases of treason; and although he can act in other cases only after the party has been duly convicted, and within limitations prescribed by the Legislature, still his judicial powers are very important. Can he not pardon all who are now in our State prison?

Finally, the Governor represents the State in all its business with the United States and with other states, and he transacts all State business with local or State officers unless some other officer is expressly named to perform the service.

**The Lieutenant Governor.** The Lieutenant Governor is elected by the voters of the State at the same time; for the same term; and in the same manner as the Governor. Since, in case of a vacancy, he must serve as governor, he must, also, possess the same qualifications.

The Lieutenant Governor is president of the State Senate. He calls that body to order, and presides over its business sessions; but not being a member, he has no right to discuss questions, nor can he vote except in case of a tie.

Since he has little to do when the Legislature is not in session, his salary is small—only one thousand dollars a year

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<sup>1</sup>Article V, section 6.

Should the Governor be unable to perform his duties the Lieutenant Governor, as we have already learned, serves in his place.

When the Lieutenant Governor acts as Governor or for any other reason is not able to serve as President of the Senate, the president *pro tempore* presides. But being a member of the Senate, unlike the Lieutenant Governor, he may speak and vote upon any question before the house.

### REVIEW QUESTIONS

1. Why is one person made responsible for the enforcement of law?
2. What are the qualifications of the Governor?
3. How is the Governor nominated and elected?
4. What is his length of term?
5. How may vacancies in the office occur? How are vacancies filled?
6. What is the compensation of the Governor?
7. What executive powers does the Governor exercise? What legislative? What judicial?
8. When is the Lieutenant Governor elected? How long is his term? What are his qualifications? What is his salary?
9. What are his duties?

### PRACTICAL POINTS

1. Who is the Governor of the State? Who is the Lieutenant Governor?
2. To what political party do they belong? When were they elected?
3. Do you know of any State law which has been enforced in your neighborhood? If so who enforced it?
4. Is there a military company in your county? If so, when does it drill? Has it ever been called out for service? If so, for what?

### REFERENCES

1. Government of Wisconsin—Wilgus, pp. 75-78.
2. The Government of Wisconsin—James and Sanford, Chapter X, pp. 52-59.
3. Essentials of Civil Government—Gillan and Hewitt, p. 85.
4. The Constitution of Wisconsin—Wright, Discussion of Article V.

## XVII. THE ADMINISTRATIVE DEPARTMENT

**The Nature of the Department.** The Administrative Department is very closely related to the Executive Department. The officers comprising the latter are commonly obliged to employ force, or a show of authority, in performing their duty, as, for example, when capturing a criminal; while those comprising the Administrative Department simply carry out the law in a peaceful manner, as is done when the Treasurer receives money belonging to the State, or the Secretary of State files a law enacted by the Legislature.

The Administrative Department is composed of *officers* and *boards*. The more important officers are elected, the others are appointed; the boards are all appointed.

**The Elective Administrative Officers** are four in number: the Secretary of State; the State Treasurer; the Attorney General; and the State Superintendent. They are elected by the voters of the State at the "general election" in November, the even numbered years and take their office the first Monday in January following, and serve for a term of two years; except the State Superintendent, who is elected at the "spring election" the year following leap year, and takes office the first Monday of the next July, serving for four years. Each officer receives a salary of \$5,000 a year.

*The Secretary of State* performs many duties. He keeps the original copies of the laws passed by the Legislature; and all financial records and documents pertaining to the State. He issues automobile licenses, charters to corporations, and

receives annual reports from all corporations doing business in the State. He keeps the State seal and affixes it to all public documents. He audits the accounts of the State and issues all warrants for money drawn from the State Treasury.

*The State Treasurer* receives all moneys paid to the State. The larger portion is received from taxes, paid by corporations and individuals. He keeps the money, a portion in the vaults in his office and a portion in certain banks designated as State depositories, where it draws a small rate of interest. He pays out money only when ordered to do so by a warrant issued by the Secretary of State.

*The Attorney-General* gives legal advice to State officers relative to their duties. He serves as the lawyer in all suits to which the State is a party, when the case is tried in the Supreme Court. He also gives legal advice to district attorneys who represent the State in the lower courts.

*The State Superintendent* has general supervision of the public schools of the State. He makes the courses of study for the district, the graded, and high schools. He apportions among these schools the moneys for educational purposes which come to the State from various sources notable "the school fund"<sup>1</sup> and the State school tax. He appoints the State board of teachers' examiners and exercises no little authority over the granting of teachers' certificates. He hears appeals involving school questions that may be brought to him from school boards, teachers and superintendents. He advises county and city superintendents, teachers and school officers relative to their work. As state superintendent he is a member of the University Board of Regents and of the Board of Regents of Normal Schools. He is also required to visit the schools of the State and encourage their improve-

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<sup>1</sup>See Constitution Article X, section 2.

ment. The task is not only a large but a very important one. To assist him he has some sixteen supervisors, some devote their time to the high schools, some to the graded schools, some to the rural schools, some to the city grades while others assist in special phases of educational work.

The **Appointed Administrative Officers** are many. The most important are the Insurance Commissioner, the Dairy and Food Commissioner, the Bank Commissioner, the Fire Marshal, the Fish and Game Warden and the Superintendent of Public Property. Most of them are appointed by the Governor and confirmed by the Senate. A few are appointed by the Governor alone. Their salaries range from \$2,500 to \$5,000.

*The Insurance Commissioner* administers all laws regulating insurance companies doing business within the State. He issues to each an annual license to do business, approves the form of policies issued, and in general protects the rights of the policy holders. Since the State now insures its own public buildings and also the lives of its own citizens, he is obliged to manage this business and take care of the funds.

*The Dairy and Food Commissioner* administers the pure food laws, which require the manufacture and sale of pure food, dairy products, and drugs, and so protects the people against impure, poisonous or unsanitary products. He makes chemical analysis of foods suspected of being other than claimed by the dealer.

To protect the public against false weights and measures, he is also required to have tested, once each year, every weight and measuring appliance in commercial use in the State. This work is done by city or State sealers and reported to him.

*The Commissioner of Banking* administers all laws rela-

tive to banks and the banking business in the State. The State banks are required to make five reports a year to him, and the bank examiners carefully investigate each State bank at least twice a year. This is for the protection of depositors.

*The Fire Marshal* administers the laws for protection against fires. He requires fire departments in cities to make quarterly inspections, and to draft proper fire regulations. He collects and publishes the facts regarding the causes of fires and the losses due to them within the State.

*The Fish and Game Warden* administers the laws for the protection of the fish and game of the State. He is assisted by a large number of deputy game wardens located in various parts of the State.

*The Superintendent of Public Property* is in charge of the capitol building and the executive mansion and their grounds. He supervises the care of them and purchases the necessary supplies and equipment, as provided by law.

Other less important administrative officers are also appointed.

**The Administrative Boards.** There are about forty administrative boards and commissions. Some have existed since the State was organized but many of them have been established in recent years for the purpose of securing more efficient administration of important laws. Some have also been appointed to further the general welfare of the people of the State. In size, the boards vary from three to fifteen members. Most of them receive no salary, but those comprising the more important commissions are paid as high as \$5,000 a year. They are generally appointed by the Governor and confirmed by the Senate. Their terms vary from a few months, in case of temporary boards, to eight years, in

case of some of the permanent ones. The terms of the members on permanent commissions commonly expire at different times so as to make the work as efficient as possible.

It is not necessary to treat here the work of all the boards and commissions. Only a few of the more important will be considered.

*The State Board of Control* manages the State institutions which care for the dependent, defective and criminal classes of the State. It has charge of the school for dependent children at Sparta; for deaf children at Delavan; for the blind children at Janesville; of the reform school for boys at Waukesha; and the state reformatory at Green Bay; of the home for feeble-minded children at Chippewa Falls and at Union Grove. It has charge of the tuberculosis sanatoria; the two hospitals for the insane; and the State prison. It appoints the officers in charge of these institutions, purchases all necessary supplies and disposes of all the products raised or made by the inmates. The education and the special treatment of the occupants are also carefully attended to by the Board.

Besides managing the State institutions the board supervises and inspects the county, local and private asylums, poorhouses, jails, sanatoria, and hospitals. So, it is doing a very important work for us in looking so very thoroughly after the needs of our unfortunate classes.

*The State Tax Commission* supervises the assessment of property and the collection of taxes throughout the State. It assesses the property of transportation and communication companies doing business in the State as well as the incomes of all corporations. It supervises the work of assessors of incomes, and advises and, if necessary, assists local assessors. Its most important duty is to determine the fairest possible means of levying taxes for State and local pur-

poses and recommends to the Legislature such changes in the tax laws as are thought desirable.

*The Industrial Commission* administers the laws relating to employers and employees. With the growth of industry the enforcement of factory laws, providing for necessary light, heat, pure air; the enclosure of dangerous machinery; the limitation of child and women labor becomes increasingly important. By aid of factory inspectors, the Commission enforces these laws. It is also provided by law that in case a workman is injured, due to no carelessness on his part, the employer must compensate him or his family. The Commission adjusts such claims and sees that they are paid. Then, too, the Commission determines the wage necessary to maintain a person at a reasonable standard of living, and has the power to punish any employer who pays to his employees less than that amount. It may act as a board of arbitration and mediation to settle disputes arising between employers and employees. It also maintains free employment agencies in different cities of the State which assist employers to find workers and the unemployed to find positions. It compiles the Wisconsin Blue Book which contains so much valuable information.

*The Railroad Commission* administers the many laws which regulate our transportation companies such as our steam and electric lines; our communication companies such as telephones and telegraphs; our express companies, and our light, heat and power companies. Such public utilities have come to play a very important part in our industrial life, and it is quite necessary that they deal fairly with the public, employing safety devices, giving good service, charging reasonable rates and in many other ways respecting the rights of the people. Any person who thinks himself unfairly treated by any of the corporations named may appeal to

the Commission for justice. The Commission also publishes the railroad map of Wisconsin which supplies many important facts regarding the State.

*The State Highway Commission* supervises the laying out and construction of State highways. It approves proposed county systems which are intended to be a part of the State system. It conducts examinations for the office of county highway commissioner. Under its influence and direction, the liberal appropriations made by the State and local units, have already greatly improved the roads throughout the State. The farmers are especially benefitted by the change, although drivers of automobiles are, too often, led to exceed the speed limit.

*The State Board of Health and Vital Statistics* performs the important duty of guarding the health of the citizens of the State. It advises local health officers and individuals with reference to water supply, sewage disposal and general sanitary conditions. It seeks to remove cause for disease and enforces quarantine rules. It distributes free literature on the prevention and control of communicable diseases. It also makes a record of births and deaths, marriages and divorces, in the State.

*State Boards of Examiners* protect the lives, health, and rights of the people by examining individuals desiring to enter certain professions. A State Board of Law Examiners examines all applicants for admission to the bar; a Board of Medical Examiners determines the fitness of those desiring to practice medicine; a Board of Dental Examiners examines and licenses all who are permitted to practice dentistry in the State; and a Board of Pharmacy conducts examinations and issues licenses to persons desiring to practice pharmacy. The last named also enforces the laws restricting the sale of poisons, narcotics, and habit-forming drugs. Barbers are

also licensed by a State board, and required to keep their shops in sanitary condition. Architects are likewise examined by a state board and must possess a license before engaging in their profession.

*The Board of Regents of the University of Wisconsin*, consisting of fifteen members, has general management of the University. The Board receives the appropriations made by the Legislature and uses them in the erection of buildings, the supplying of equipment, the hiring of professors and such other purposes as the law may direct. Under their wise management the University is performing a valuable service, not only to the youth, but to all the people in the State. It is now one of the greatest institutions of its kind in the country.

*The Board of Regents of Normal Schools*, consisting of twelve members, manages the normal schools of the State—at present nine in number. Doubtless a tenth will be established soon. It receives the appropriations made by the Legislature and employs them as directed by law, securing sites for new schools, erecting buildings and securing equipment and instructors. The Normal schools have done much to raise the standard of teaching in the State.

*Other Boards and Commissions* further the best interests of the people of the State. The State Board of Agriculture promotes the development of agriculture, dairying and horticulture. The Live Stock Sanitary Board protects the health of farm animals and improves the market for them. The State Board of Forestry has charge of our State parks and is actively engaged in the development of our forest reserves. It also advises individuals regarding timber tracts and farm woodlots. The State Board of Immigration seeks to encourage desirable farmers, manufacturers and merchants to settle in the State. And the Commissioners of Fisheries raise

in our State hatcheries and distribute millions of young fish annually to our rivers and lakes.

**The Service of the Department.** It is difficult to fully appreciate the valuable services rendered the citizens throughout the State by the officers, boards and commissions comprising the Administrative Department. But, after our short study, we can realize that they do much to protect our lives, our property, our rights; educate our youth; care for our unfortunate men, women and children; secure for us justice; and promote in many ways the general welfare of all our people. Surely, we must number them among our most valuable servants.

#### REVIEW QUESTIONS

1. How does the Administrative Department differ from the Executive Department?
2. Of what divisions is the Administrative Department composed?
3. Name the Elective Administrative officers. When are they elected? What is the length of their term? What is their salary? Name the duties of each.
4. Name the important appointive Administrative officers and state the duties of each.
5. Name the principal Administrative Boards and give the duties of each.

#### PRACTICAL POINTS

1. Who is the present Secretary of State? State Treasurer? Attorney-General? State Superintendent?
2. Do you know of any service rendered to your community by any appointive Administrative officer? by an administrative board?
3. Can you think of anything that ought to be done for your community which is not now being done?

#### REFERENCES

1. The Government of Wisconsin—James and Sanford, Chapter XI, pp. 61-72.
2. Civil Government of Wisconsin—Wilgus, pp. 79-88.
3. Constitution of Wisconsin—Wright, Discussion of Article VI.

## XVIII. THE JUDICIAL DEPARTMENT

**The Need for Courts.** In order that the laws may be promptly enforced throughout the State, judicial officers must be everywhere convenient to issue warrants and conduct the necessary trials. To ensure justice in minor cases, and to try the more serious offenses, a complete system of courts is necessary. Therefore the Constitution provides that:

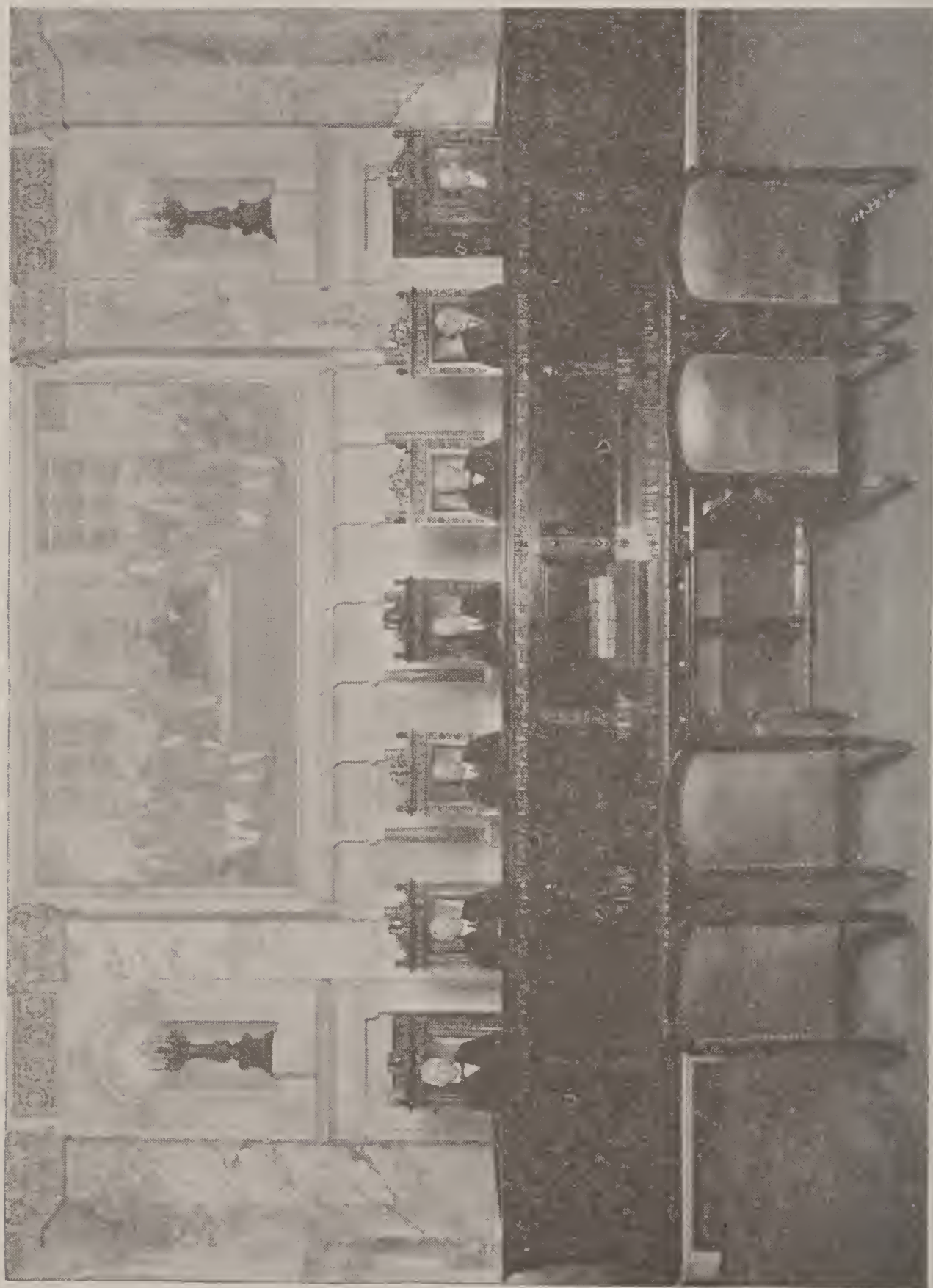
*The judicial power of this State, both as to matters of law and equity, shall be vested in a Supreme court, Circuit courts, Courts of Probate and in Justices of the Peace. The Legislature may also vest such jurisdiction as shall be deemed necessary in municipal courts, and shall have power to establish inferior courts in the several counties, with limited civil and criminal jurisdiction.<sup>1</sup>*

**The Kinds of Courts.** The courts may be very properly divided into two groups—regular and special. The regular courts consist of the Justice Courts; the Circuit Courts; and the Supreme Court. The special courts include the municipal courts; the county courts; and the State Senate. One judge is in charge of each court, except in the case of the Supreme Court and the Senate.

**The Justice Courts** are located, as we have already learned, in every town, village and city (except Milwaukee) throughout the State. This makes them always easy to reach. The justices, we remember, have the power to issue warrants, summons and subpoenas as well as other less important legal papers; and may also have authority to conduct

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<sup>1</sup>Article VII, section 2.



THE SUPREME COURT CHAMBER  
Capitol at Madison

minor civil and criminal trials and to hold preliminary hearings when the offenses are of a more serious nature.

Police Justices elected in some villages and cities exercise powers quite similar to those of the Justices of the Peace, except that they are particularly responsible for the trial of cases resulting from the violation of the village or city ordinances.

**Municipal Courts** are established in cities and counties when the judicial work is too great in amount and serious in nature to be performed by the Justice Courts. It was with the expectation, that in some parts of the State this need would arise that the framers of the Constitution gave to the Legislature the power to establish municipal and inferior courts whenever it was thought wise. Since the courts are special in nature, each being located only when and where it is needed and given such powers as is thought best, they do not comprise a *system* as do the justice and circuit courts. They are special courts.

**The County Courts**, one located in each county of the State, have already been studied. Because their chief duty is the settlement of estates of deceased persons and the appointment of guardians for minors, they are known in some states as Probate Courts or Orphans' Courts. Instead of establishing Municipal or inferior courts to relieve the Justice and Circuit Courts it is now quite common for the Legislature to grant County Courts jurisdiction over certain civil and criminal cases. The jurisdiction of each court is granted by special act and therefore is not at all uniform throughout the State. For this reason the courts are known as special courts.

**The Circuit Courts—*Their Organization.*** The State is divided into twenty or more circuits as is shown by a map in the Blue Book. The size of each circuit is determined by

the amount of judicial business to be done. Milwaukee county comprises one circuit (with six judges) the remaining circuits include two or more counties, a single judge being selected for each. The Legislature may change the circuits at any time, but it is always obliged to bound them by county lines.<sup>1</sup>

A Circuit judge must be twenty-five years of age, a citizen of the United States, and a qualified voter of the circuit. He can hold no other than a judicial office during his term. His compensation is fixed by the Legislature.

Election of judges takes place the first Tuesday in April, each judge being chosen by the voters of his own circuit for a term of six years. A judge may be removed from office in two ways, by impeachment or by address. Vacancies are filled by the Governor who appoints some one to act until a successor is elected and qualified. The person elected serves for the unexpired term.<sup>2</sup>

As stated in the discussion of the County government, two sessions of Circuit Court are held annually at the county seat in each county. The law fixes the exact dates. The sheriff, the district attorney, and the clerk of the district court, elected in each county, attend the sessions held in their county. The sheriff, as we have seen, takes charge of prisoners and juries and executes the orders and serves the writs of the court; the district attorney acts as the attorney for the State in all criminal cases and represents the county in all civil suits to which it is a party. The clerk of the circuit court keeps a record of all cases and other legal matters which come before the court.

*The Powers of the Circuit Court* may be grouped under

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<sup>1</sup>Article VII, sections 6, 7.

<sup>2</sup>Article VII, sections 1, 9, 13.

four heads. 1. It has a supervisory control over the inferior courts, such for example as the justice courts. 2. It has appellate jurisdiction over all inferior courts and tribunals, that is, cases may be appealed to it from the lower courts. 3. It has original jurisdiction in all matters civil and criminal within the State, unless especially excepted by the Constitution or the laws. This permits the court to admit to original trial a large class of important cases. 4. It has the right to issue the *writ of habeas corpus*, which commands a party imprisoning another person to appear before the court and show cause why the person should not be set free; *mandamus*, which commands an officer to perform his duty; *injunction*, which orders a party to do or to refrain from doing a specified thing that otherwise would result in an injury which could not be repaired; and *quo warranto*, which calls upon an individual or corporation to show by what authority he or it is exercising certain powers; and the writ of *certiorari*, which compels a lower court to transfer a case to a higher court for trial; it also has the power to issue any other writs necessary to carry into effect its orders, judgments and decrees.<sup>1</sup>

**The Supreme Court—Its Organization.** The Supreme Court is the highest court in the State. It is composed of a chief justice and six associate justices, the chief justice being the member who has been longest in office.

To be a justice of the Supreme Court one must be twenty-five years of age, a citizen of the United States and a qualified voter of the State. He can hold no other office during his term.

Justices are chosen by the electors of the State, at the spring election, not more than one being elected each year. The term is for ten years. Vacancies may occur in the same

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<sup>1</sup>Article VII, section 8.

way and are filled in the same manner as in the case of circuit judges. The salaries are fixed by the Legislature.

The sessions of the Court are held in the beautiful Supreme Court room in the Capitol at Madison. Two sessions are held each year, one beginning in January and the other in August. Four justices must be present in order to do business. A majority of the justices elected determine the decision of the court; a minority opinion is often rendered by one or more judges.

*The Powers of the Supreme Court* are stated by the Constitution as follows:

*The Supreme court, except in cases otherwise provided in this Constitution, shall have appellate jurisdiction only, which shall be co-extensive with the State; but in no case removed to the Supreme Court shall a trial by jury be allowed. The Supreme Court shall have a general superintending control over all inferior courts; it shall have power to issue writs of habeas corpus, mandamus, injunction, quo warranto, certiorari; and other original remedial writs, and to hear and determine the same.*<sup>1</sup>

Experience has proven the wisdom of limiting the original jurisdiction of the Supreme Court. Since it is very important that the credit of the State be kept high, in order that it may borrow money at a low rate of interest, justice must be assured to its creditors. So the Legislature is required to direct in what manner and in what court suits may be brought against the State. It has provided that the Supreme Court shall have original jurisdiction in all such cases.

In all other suits the case must begin in a lower court and an appeal made to the next higher and so on until it reaches the Supreme Court. The case may be taken from one court to the next higher on a "writ of error." This is granted in

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<sup>1</sup>Article VII, section 3.

case the judge was unfair in his rulings, or the trial was not conducted according to law, or the court which tried the case had no jurisdiction over it. When the Supreme Court hands down its interpretation of law, its decision is final. In a very true sense, therefore, the Supreme Court may be said to some times make law. Since it also renders final decision upon cases involving the Constitution itself it may in quite as true a sense be said to sometimes amend the State Constitution.

The power to exercise a general superintending control over inferior courts gives the Supreme Court much authority over the administration of justice throughout the State. In no sense can this power be said to be abused. Since the Circuit Courts have power to issue all writs as we have seen, it is only in exceptional cases that the Supreme Court will grant them. Petitioners are expected to apply to one of the lower courts for them.

**The State Senate a Court.** The Senate is the one special court which in no way has to do with the regular judicial business of the State. In imitation of the House of Lords in the English Parliament and the Senate of the United States, it is made the court for the trial of impeachments.<sup>1</sup> Any *civil officer* of the State is subject to impeachment for corrupt conduct in office or for crimes or misdemeanors. The trial is not a criminal, but a political one. The officer tried, the offense charged, and the punishment imposed are all political. The Assembly impeaches, that is prefers the charges against the suspected person. This is done by a majority vote of that body. The members of the Senate must take oath or affirmation to impartially try the case. The trial is conducted in the same manner as those in the higher courts of law, and no person can be convicted without the concur-

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<sup>1</sup>Article VII, section 1.

rence of two-thirds of the members present. In case the accused is found guilty, he can be removed from office, or removed from office and disqualified to hold any office of honor, trust or profit under the State. After receiving his political punishment, if the guilty person has in any way violated the law, he may be tried and punished by the regular courts. It is gratifying to know that in the history of the State but one officer has ever been impeached, and none has ever been convicted.

### REVIEW QUESTIONS

1. Why do we need courts?
2. What are the kinds of courts?
3. What may a justice of the peace do?
4. What is the principal duty of a county judge?
5. Describe the organization of the Circuit courts. Describe their powers.
6. Describe the organization of the Supreme Court. Describe its powers.
7. Over what cases does the Senate act as a court? What punishments may it inflict? May the guilty party be tried by any other court?

### PRACTICAL POINTS

1. Who are the justices of the peace in your town, village or city?
2. Have you a police court?
3. Have you a municipal court in your city or county?
4. Who is your county judge? What duties does he perform?
5. What counties comprise your judicial circuit? When are the sessions of circuit court held at your county seat? Who is your circuit judge? (See Blue Book)
6. Do you know any cases which have been tried in your county or circuit court?
7. Who is chief justice of our State Supreme Court?
8. What is the salary of the Circuit Court judges? Of the justices of the Supreme Court?

### REFERENCES

1. The Government of Wisconsin—James and Sanford, Chapter XII, pp 74-77, 86-88.
2. Essentials of Civil Government—Gillan and Hewitt, pp. 85-87.
3. Civil Government of Wisconsin—Wilgus, pp. 88-95.
4. Constitution of Wisconsin—Wright, Discussion of Article VII.

## XIX. HOW LAWS ARE ENFORCED

**Law Supposed to Be Known.** The laws governing the people of the State, are made, as we know, by the Legislative Departments—the voters at the town meeting, village boards of trustees, city councils, county boards of supervisors, and the State Legislature. As soon as the laws are published every citizen is supposed to know them, understand them, and obey them.

**Capture of Suspected Person.** Should one violate the law and commit a wrong against the public peace, dignity or security, and thus become an unsafe member in society, some one should make a formal charge against the supposed criminal. This *complaint*, as it is called, may be made by any person, but is commonly made by an officer, for example, a constable, policeman, marshal, sheriff or district attorney. In every instance it is a sworn statement, accusing a specified person of a crime. It is because this step may quite easily get one into trouble that violaters of the law frequently go unpunished. If the judicial officer thinks the reason in the complaint sufficient, he issues a *warrant of arrest*. This is given to an executive officer, for example a constable, a policeman or a sheriff, who finds the accused person and upon reading to him the warrant he “arrests” him and brings him before the judge issuing the warrant. Sometimes when a person is seen violating the law, he is caught and taken before a judicial officer and the complaint is made and the warrant issued. *Bail* is fixed by the judge and if the party or his friends can furnish it he is allowed his liberty until his trial, if not he is placed in jail.

**The Trial.** *Where held.* The accused has a right to trial in the county or district in which the offense was committed. The law which defines a crime also states the punishment for committing it. If the crime of which the person is charged is punishable by not more than six months imprisonment in the county jail, or a fine of \$100 or both, the case is tried before a Justice of the Peace and without a jury, unless the accused should demand it. In this case, the constable writes down the names of eighteen inhabitants of the county, each party to the suit then strikes off six, and the six remaining constitute the jury.

If the crime with which the accused is charged is too serious to be tried by a Justice, he holds a preliminary hearing in order to determine whether the accused person shall be held for trial in a higher court. Lawyers appear, witnesses are examined and evidence admitted so far as may be necessary to determine whether there is good reason to believe the prisoner guilty of the offense charged. If the evidence is not sufficient he will be set free, if it is he will be bound over to the next term of court. Bail is allowed, and if provided the accused is allowed freedom until his trial; if not he is placed in jail.

*Selection of the Jury.* If the person is tried in the Circuit Court, three jury commissioners,—appointed by the circuit judge, one each year for a term of three years,—make a list of persons residing in the county who are qualified to serve as jurors. At a meeting of the commissioners held some three or four weeks before the term of Circuit Court, the names are written on separate sheets of paper and placed in a box. The Clerk of the Court then draws from the box, by lot, thirty-six of the names. The persons thus selected constitute the *panel* or *petit jury* for that term of court from

which the *trial jury* of twelve persons is drawn to decide each case.

The members of the *petit jury* are summoned by a *venire*, and all remain in attendance during the term of court. When according to the court calendar, which states the order of business, the trial of the accused is called, the names of the petit jurymen are written upon slips of paper and placed in a box. Twelve names are then drawn by lot, and if upon careful examination by the attorneys representing the parties to the suit, it is thought they will be fair and impartial, they are accepted as the trial jury for his case. If any are found to be undesirable others from the petit jury are selected until twelve are found who are satisfactory.

*Steps in the Trial.* The crime with which the accused is charged is read to him and he is given opportunity to plead "guilty" or "not guilty." If he pleads guilty, he is usually given a lighter sentence than he would otherwise receive. If he pleads not guilty, the trial proceeds. First, the district attorney, representing the State, calls the witnesses for the prosecution. Each is questioned by the district attorney, or his assistant, and then cross-examined by the attorney of the accused. The witnesses for the defendant, as the accused is called, are next examined by his attorney and cross-examined by the prosecution. The law states what sort of testimony may be admitted to court and it is the duty of the judge to see that the law is carefully obeyed. Unjust decisions on his part may enable the accused to secure a *writ of error* and a rehearing of the case by a higher court. When all the testimony is in, the lawyers make their pleas, each summarizing the facts in favor of his party and appealing to the jury to render its decision in his favor.

*The Charge to the Jury and Verdict.* The judge then gives the charge to the jury, instructing it regarding the law

governing the case they are deciding. The sheriff then takes charge of the jury, taking them to the jury room, and keeping them from contact with other persons until the members have reached some decision. All must agree that the accused is guilty of the crime charged before he can be convicted. If they fail to reach a *verdict*, that is a unanimous decision, the case may be retried by another jury.

*The Sentence and Its Execution.* If the jury finds the prisoner "not guilty," he is set free; but if it declare him "guilty" the judge pronounces *sentence*, fixing the penalty within the limits set by law. The sheriff is then directed by him, to *execute judgment* upon the person of the convicted by compelling him to pay a fine, or by committing him to jail or taking him to the State prison as the sentence may require.

**Criminal Law for but Few.** Most citizens are law-abiding. This expensive system of government, with its Legislative Department, which makes laws for the preservation of order, the Executive Department which is busily engaged in enforcing them, and the Judicial Department which devotes so much time to their interpretation and application to accused persons, is maintained for a comparatively small number of evil-doers. The capture and trial of a criminal often take weeks, many times months and sometimes years, frequently costing the local unit, the county or the state hundreds and many times thousands of dollars.

To be a law breaker is not only a source of much misery to the individual and his family, but a very serious menace to society and a matter of no little expense to the state. Proper training in childhood and youth is the surest corrective.

**Civil Cases.** A civil suit is brought by a person to enforce or protect some private right. The plaintiff appears before

a judicial officer, enters a *complaint* which results in a *summons* being served upon the defendant, requiring him to appear at a stated time in court and defend his action. The trial proceeds much the same as in a criminal case, but sometimes without a jury. If the defendant should fail to appear at the time and place specified, the case is decided against him.

**Administrative Law.** Many laws simply state the mode of procedure which must be followed in order to make a transaction legal, such, for example, as the registration of deeds, the steps to be taken in the organization of a corporation, or the method necessary to the establishment of a new school district. Such laws are peacefully carried out.

Technically, they may be said to be administered, not enforced.

#### REVIEW QUESTIONS

1. When are we supposed to obey a law?
2. Describe the steps in capturing a person suspected of violating a law.
3. Who tries the case?
4. How is the jury selected?
5. What are the steps in a trial?
6. Describe the charge of the jury and the verdict.
7. Describe the sentence and execution.
8. What is the best way to avoid being a criminal?
9. How is a civil case tried?
10. How is administrative law applied?

#### PRACTICAL POINTS

1. Name some important State laws.
2. Get a copy of a complaint, a warrant, a venire, a summons.
3. If possible, attend a trial.
4. Conduct a mock trial.
5. Do you know any laws that are being violated? If so what is your duty?

6. What was the expense of maintaining your county jail last year?
7. What did it cost to maintain the State prison last year?
8. What is the best method of producing law-abiding citizens?

#### REFERENCES

1. The Government of Wisconsin—James and Sanford, Chapter XII, pp. 77-85.
2. The Civil Government of Wisconsin—Wilgus, pp. 95-98.

## XX. *HOW EXPENSES ARE PAID*

**The Needs.** Since the schools, the towns, villages, cities, counties and the State are all actively engaged in protecting the people's rights and promoting their highest good, it is but natural that the expenses of government must be high. While it is doubtless true that useless officers are sometimes employed and unnecessary expenses incurred, still it should be remembered that centuries of experience have discovered no cheaper or more efficient agent for performing these all-important duties. And if we insist, as we have in recent years, that the government provide a more complete system of education for our children; take better care of our blind, our deaf, our feeble-minded, our insane, our poor and our criminals; build better roads; furnish better protection of life and property; and promote our industrial and other interest in so many ways, then we must expect the general expenses of government to increase.

It is the constant effort of many officials to distribute as justly as possible among the people, the obligation of paying these bills. It is no easy task since the State is now spending about a million and a half dollars a month, and the local units, including the towns, villages, cities and counties, from three to four times that amount.<sup>1</sup>

**The Departments that Meet the Needs.** The legislative department in the school district, the town, the village, the city, the county and the State is given power by the Consti-

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<sup>1</sup>See the latest report of the Wisconsin Tax Commission for valuable information on the subject of taxation.

tution to do many things which incurs expense. Each is, also given power to enact laws providing for the raising of money and the making of appropriations necessary to pay these expenses. Of course limits are set beyond which the legislative department can not go in the raising and spending of money. At the time the legislature of a particular unit, whether it be the school district, the town, village, city, county or the State, decides that something be done for its people, it also provides for an appropriation to meet the necessary cost and for the revenues with which the bill is to be paid.<sup>1</sup>

When the amount to be raised and the appropriations to be made are once provided for by the legislative department then it becomes the duty of the proper executive officers (also administrative officers in the State government) to secure the money from the sources indicated by law and pay the legally authorized bills.

**Where the Money Comes from.** The money comes from several different sources; from taxes upon real estate, upon personal property, income, and inheritances; from licenses paid by individuals and corporations; from the sale of public lands and the products of public lands; from fees; and a few other less important sources. Money is frequently borrowed to meet special expenditures, as the erection of buildings, the construction of roads, or the making of other necessary improvements. The power to borrow money is carefully restricted by the Constitution.<sup>2</sup>

Licenses yield relatively a small amount of the total revenue. Public lands are being conserved and while yielding but little revenue at present, if wisely used, much being planted to forest, they may yet be a source of great profit.

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<sup>1</sup>See the Constitution, Article XI.

<sup>2</sup>See Article VIII, sections 4 to 10.

Fees are charged by public officers for recording deeds and mortgages, recording wills, making copies of records and documents, and issuing charters to corporations, but they cannot be a source of much revenue. And fines are paid only by violaters of the law. The Constitution provides that they must be placed, along with moneys from certain other sources, in the school fund of the State.

**Corporation Taxes.** Taxes constitute by far the most important source of revenue in the State. The method of assessing and collecting them is fixed by State law, so is the same in all the political units.

The expenses of the State government are met largely by taxes levied upon corporations. Steam and electric railroads, express companies, life, fire and accident insurance companies and a few other less important corporations are assessed annually by the State Tax Commission. Some are assessed upon their property, real and personal, and others upon their gross earnings under a license system.

The Tax Commission computes the taxes to be paid by each company and reports the amount to the State Treasurer. About February or March, annually, the Treasurer collects from each company the taxes due.

Should the railroads, telegraphs and telephones ever be owned permanently by the United States, it would mean a great loss of revenue to the State, and indeed to all the states, since the property of the federal government is not taxable by the states. Profits, of course, may make up the loss.

**The General Property Tax.** The general property tax is the same in all local units. It is levied upon real estate and personal property. The law provides that certain property shall not be assessed at all; for example property owned by the United States, by the State or by any local government;

property owned by religious, educational and benevolent associations and used by them for the public good; wearing apparel and household goods; and moneys, notes and mortgages. Property not exempted is subject to taxation.

*The Assessment.* Beginning on the first of May, annually, the assessor in each town, village and city calls upon each person who is believed to own taxable property. By actual observation, he is required to determine the amount and the "full value" of each kind of taxable property possessed by the person and enter it under its proper head in the "assessment roll," which is a book containing lists of property subject to taxation. This includes both personal property and real estate. The assessor may examine any person under oath as to how much property he owns and its value. Any person making false statements to the assessor is liable to a severe penalty.

*The Equalization of Assessments.* The assessor, although he does his best, frequently fails to assess property at the "full value which could ordinarily be obtained therefore at a private sale," as the law requires; and he, too frequently, does not get all the taxable property on the assessment roll. To correct any such errors, the work of the assessor in each town, village and city is subject to revision by the local "board of review." In towns this board consists of the three supervisors and the clerk; in the villages, of the president and the clerk; in the cities, of the mayor, the clerk and one or more members of the Common Council.

The board of review meets the last Monday in June and continues in session until its work is completed. It examines and corrects the assessment roll, lowering or raising valuations, or adding taxable property which has been omitted. But before the board raises the valuation or adds property

to the roll, it must notify the owner who may appear before the board and protest the action. If any property owner thinks the assessor has valued his property too high, he is at liberty to appear before the board and ask for a reduction.

When the board of review has completed its work the corrected assessment roll is given the town, village, or city clerk, as the case may be. The clerk places it on file, and makes a report to the county clerk. The county clerk lays the reports from all the local units before the county board of supervisors, which acts as a board of review and equalizes the assessments between the towns, villages and cities of the county.

The county clerk then reports the corrected assessment of the county to the State Tax Commission, at Madison, which acts as a State board of review equalizing the assessed values between the different counties of the State.

*The Determination of the Tax Rate.* The assessed values of all the counties, as corrected by the Tax Commission, are furnished the Secretary of State. He already knows the amount of money to be raised for State purposes. He determines the amount to be raised by each county for State purposes and reports the same to the county clerks.

Each county clerk adds to the sum apportioned to his county, the amount to be raised for the support of the county, and apportions the total sum among the towns, villages and cities of the county and reports the amount to be raised by each unit to its clerk.

The clerk combines the amount to be raised for State and county purposes with that to be raised for his own local unit and determines what per cent that sum is of the assessed value of the taxable property. This gives the local tax rate.

The amount of tax to be paid by each property owner is determined by multiplying the assessed value of his proper-

ty by this tax rate. The clerk places in a book made for the purpose a description of each person's property, the assessed value, the tax rate, and the amount of taxes he is required to pay. This is known as the *tax roll*.

*The Collection of Taxes.* The clerk next delivers the tax roll to the local town, village, or city treasurer, who proceeds in December or January each year to collect the taxes. He gives to each person who pays his taxes a *tax receipt* which describes his property, gives its assessed value and states the amount of taxes paid. In towns and villages the treasurer receives from one to two per cent for collecting taxes paid before January 31; after that date, unless special provision is made, he receives five per cent. In cities he receives one per cent before, and three per cent after January 31. It is to be observed that the local treasurer gathers the taxes levied for State and county purposes as well as local. It is a great economy to have them all collected at the same time.

Should any person fail or refuse to pay his personal property taxes the treasurer reports the fact to the county treasurer. The sheriff is then given a warrant which authorizes him to seize and sell at auction any property belonging to the delinquent taxpayer. The taxes and costs are paid, if the amount is sufficient, and the balance, if any, is returned to the owner. In case the taxes upon real estate are not paid, the county treasurer advertises the lands for sale at auction. Any one paying the taxes on a piece of land is given a tax certificate. This certifies that he will be entitled to the deed of the land in three years unless within that time the owner pays the taxes with interest and costs.

*The Tax Returns.* When the town, village, or city treasurer has completed the collection of the taxes, he retains the amount raised for local purposes and sends to the county treasurer the amount collected for county and State pur-

poses. The county treasurer retains the portion raised for county use and forwards to the State Treasurer the sum raised for the State. Since 1884 the State has collected annually a large sum for the support of common schools; and since 1909 another considerable amount for the construction of bridges and highways. Since the purpose of these taxes is entirely local they are State taxes only in name. This fact should be kept in mind for many people make the mistake of thinking that all taxes raised by the State are employed in bearing the cost of conducting the State government.

**The Income Tax.** *The Assessment.* Since 1911 Wisconsin has been levying an annual tax upon the incomes of individuals and corporations. The State is divided into about forty districts each including one or more counties. An income tax assessor is appointed in each district by the State Tax Commission who is in charge of the administration of the law. The income tax assessor assesses the taxable incomes of all *individuals* in his district. The work is done about the first of March each year.

Each person who is supposed to have received a taxable income during the preceding calendar year is required to fill out a blank. He states in detail his gross, or total income, received during the year; and the deductions allowed by law, which in the main consists of the necessary expenses incurred in securing his gross income. By subtracting the deductions from the gross income, the net income is determined. He also states whether he is single or married and if married, the number of children he has under eighteen years of age. This is required because the law allows an exemption of \$800 for the support of a single person; \$1200 for a husband and wife, and \$200 for each child under eighteen years of age. This amount is subtracted from the net income and the remainder constitutes the taxable income.

The incomes of *corporations* which do not pay a tax or license fee directly into the State Treasury, in other words the incomes of all local corporations with but few exceptions, are assessed directly by the State Tax Commission. A heavy penalty is imposed upon any person or corporation guilty of making false returns.

*The Income Tax Rate* is the same throughout the State. Upon individuals it is 1% on the first \$1000 of taxable income or part thereof; 1¼% on the second; 1½% on the third; 1¾% on the fourth; 2% on the fifth; 2½% on the sixth; 3% on the seventh; 3½% on the eighth; 4% on the ninth; 4½% on the tenth; 5% on the eleventh; 5½% on the twelfth; 6% on any amount in excess of twelve thousand dollars.

The tax rate upon each thousand dollars of income received by a corporation is double that upon incomes received by individuals until it reaches \$7000 when it remains uniformly 6% upon all higher amounts. The law carefully guards against taxing the same income twice. The progressive rate is employed because it is believed that a person or corporation with a large income is able to pay a larger percentage of it than one receiving a small income.

The amount of income tax to be paid by each individual in the county is computed by the county clerk with the assistance of the income tax assessor. The clerk then reports to each town, village and city clerk the names of all persons in his local unit whose incomes are assessed, and the amount of tax levied against each such person. The clerk enters the amount in a separate column designated "income tax" under the proper name upon the tax roll of the year. The tax upon the income of corporations in each county and the amount of tax levied against each is reported to the county clerk who reports the same to the town, village or city clerk to be placed upon the year's tax roll.

*The Income Taxes are collected* by the town, village or city treasurer at the same time and in the same manner as the general property taxes.

*Of the Distribution of the Amount Received*, 70% is retained by the local unit in which it is collected, 20% paid to the county, and 10% to the State to cover the expense of administering the law.

The income tax has yielded several millions of dollars annually and, although during the past three hundred years many of our states have enacted income tax laws, this has proven the most successful one ever passed.

**Inheritance Taxes** are assessed and collected upon property acquired by inheritance. The assessment is made at the time the estate is settled. The rate varies with the relationship existing between the person leaving the property and the person receiving it, increasing with the remoteness of the relationship. It also varies with the amount inherited, being higher on the larger sums received. The proceeds from the tax is divided between the State and the county, the former receiving considerably the larger portion. While the tax has yielded a relatively small amount, nevertheless, it is a form of taxation generally approved by students of the subject, and so is likely to increase in importance.

**How Money is paid from the Treasury.** The law is very exact in its statement of the method by which money may be paid from the treasury. This is to prevent the wasteful or dishonest use of funds. Appropriations can be made only by the legislative department of the proper political unit.

In the school district an order signed by the clerk and the director must be presented to the treasurer. He pays the money and retains the order as a receipt. In a town, the

order is issued by the chairman and countersigned by the clerk; in a village by the president and the clerk; in the city the bill is approved by the city council and the order drawn by the clerk; in the county the bill is approved by the county board of supervisors and the order drawn by the county clerk; and in the State the Secretary of State audits the bill, and draws a warrant, as the order is called, upon the State Treasurer. When the order properly drawn is presented, the treasurer in each case pays the amount, and keeps the order as a receipt.

By requiring annual reports, and comparing the orders drawn with the money paid out, it is easy to determine whether any of the money has been unlawfully used. Treasurers are required to give bonds which are a guarantee that they will properly care for the public funds. Should one fail to do so, the amount lost is collected from those signing his bond.

### REVIEW QUESTIONS

1. Why is money needed by governments?
2. What departments take part in the raising and spending of money?
3. Where does the money come from? Name the kinds of taxes.
4. What is the corporation tax? By whom is the tax assessed upon corporations?
5. How is the general property tax assessed? How equalized? How is the rate determined? How is the tax collected?
6. Describe the income tax. By whom is it paid? Who assesses the taxes? How are the assessments made? What exemptions are allowed? What rate is charged on individual incomes? On corporations?
7. Who collects the tax?
8. What is the inheritance tax?
9. How is money paid out of a treasury?

### PRACTICAL POINTS

1. Examine an assessment blank; a tax receipt; an income tax blank.
2. What is the assessed value of your school district; of your town; of your county; of the State?

3. What is the present tax rate in your town, village or city?
4. Assume different assessed values for pieces of property and determine the amount of taxes due at the present tax rate.
5. If my personal net income is \$4300, what income tax do I pay if single? What would I pay if I were married and had three children?
6. Examine an order drawn on your school treasurer.

#### REFERENCES

1. The Civil Government of Wisconsin—Wilgus, Chapter VII, pp 110-115.
2. The Government of Wisconsin—James and Sanford, Chapter XV, pp. 105-111.
3. Essentials of Civil Government—Gillan and Hewitt, pp. 89-91.

## XXI. SERVICES RENDERED BY THE STATE

Every citizen of Wisconsin, young or old, should possess a personal pride in the excellent service being rendered the inhabitants through the government. So completely is the government organized into school districts, towns, villages, cities, counties and the State, that it can most perfectly and cheaply meet the common needs.

The **Schools** are efficient, well supervised, and liberally supported. In order to teach, a person must hold a certificate showing intellectual and moral fitness. Rural schools are supervised by the county superintendent assisted by one or more supervising teachers, and the city schools are under the charge of a city superintendent. Above the county and city superintendents is the state superintendent, who is at the head of the school system. He does a constantly increasing number of things to improve the schools. As we have seen, he makes the courses of study for rural and city schools, which provide for work in agriculture, commerce, manual training and domestic science as well as in the common branches; he sends out inspectors to the rural schools, the city grades, the graded schools and the high schools for the purpose of improving them; and in many ways, he aids the county superintendents, the city superintendents and district boards to make the school system more efficient.

Rural schools, graded schools and high schools are established. County agricultural schools furnish special training in agriculture and domestic science. County training schools and normal schools, in many parts of the State, provide

training for those who wish to teach in rural and city schools. The university with its college of letters and science, of law, of agriculture and of engineering completes the school system. The organization of the public schools is such that a child may begin in the first grade of a rural or city school and upon completing the grades enter a high school (or a graded school and later transfer to a high school); then upon graduation from the high school enter the university (or, if he prefers, a state normal school as a junior and later transfer to the university); and upon the completion of the university receive his diploma and degree. In other words the educational system of the State has been so perfected that a child may enter the first grade of a public school anywhere in the State and after sixteen years of faithful study graduate at the University.

To meet the expenses of maintaining such a thorough and complete system of education millions of dollars must be raised annually. But knowing that the right kind of education adds to the usefulness, happiness and patriotism of the citizens, the people of the State are very willing to provide the money. A portion is provided by a tax levied in the towns and villages by the voters at the school meetings, and in the cities by the city council. A portion is provided by a tax levied by the county board of supervisors. And the remainder known as "state money" is furnished by the State. The State derives its school money from three sources. (1) from a tax, amounting to a fraction of a mill, levied on all the taxable property of the State; (2) from certain taxes upon corporations; and (3) from the school fund income. The school fund, which is derived from various sources now amounts to about \$4,000,000 but is increasing. The "state money" is distributed among the schools in proportion to the number of children in each

district of school age, that is between four and twenty years of age.<sup>1</sup>

**Public Libraries** are most generously provided. They are now found in every city of any importance in the State and provide the best books, periodicals and other reading matter. The libraries are assisted by the State Free Library Commission located in the capitol at Madison, which aids them by visitations, advice in the selection of books, in the cataloging of books, and in many other ways. The Commission will send boxes of carefully selected books to rural communities and villages where no libraries exist, if requested to do so by the teacher or other reliable person. These books may be retained for a reasonable length of time. This enables every community in the State to enjoy the best educational, inspirational and recreational books; and every one should take advantage of the opportunity.

**The Health of the Citizens** is carefully guarded. Realizing that good health is dependent upon proper surroundings, right habits of living, wholesome food and the avoidance of contagion, the State is giving much more attention than formerly to public health.

Schools, stores, factories, and public buildings must be well ventilated, lighted and heated. Playgrounds and parks are freely provided. The State is divided into sanitary districts and over each an experienced physician is placed whose duty it is to look after the general health conditions of the people.

Laws have been enacted discouraging bad habits among our young people. The use of cigarettes by minors is prohibited. Instruction in personal hygiene is given in the

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<sup>1</sup>See the Constitution Article X, section 2.

schools, at public meetings and through the press. Hospitals and sanatoria are provided.

The manufacture and sale of unwholesome foods are prohibited. Adulteration and imitation of certain foods are not allowed. Dairies, creameries and cheese factories are inspected. Food-stuffs must be produced and sold under sanitary conditions.

Strict regulations are made for the control of contagious and infectuous diseases. Many lives are lost each year through ignorance and carelessness. The law requires physicians and others to report to the local health officer all cases of contagion. The persons affected must be quarantined, and the houses disinfected.

To enforce all these regulations local boards of health are established in each town, village and city, and a physician is commonly appointed health officer.

Both the officer and the board are under the supervision of the State Board of Health. Should a contagion become serious the State Board may take direct charge in order to eliminate the disease and remove the conditions causing it.

**Dependents, Defectives and Criminals** are cared for. The poor, whether children or aged, are furnished with the necessities of life. The deaf and the blind are educated, the feeble minded and the insane are kept and treated in public institutions, wayward boys and girls are provided proper training and criminals are not permitted to be at large to harm society but are placed in jail or prison for safe keeping.

**Highways Are Being Greatly Improved** and extended throughout the State. Towns, villages, cities and counties are systematically cooperating with the State in this important work. The local units are divided into road districts, each under a supervisor of highways. Those of a given coun-

ty are under the supervision of a county highway commissioner. Over the county highway commissioner is the State Highway Commission composed of five members. It supervises the construction of roads throughout the State. It also publishes valuable information regarding road building which can be had for the asking.

Millions of dollars are being spent annually upon the improvement of the highways, a portion being paid by the local unit, a part by the county, and not a little by the State. Money paid for automobile licenses is used for this purpose.

These are but a few of the many services rendered the people through the State government. Can you not think of many others? Try it. The services, whether rendered through the town, the village, the city, the county or the State organization is as yet neither perfect nor complete. There are many points at which they can be improved and extended. Every true citizen becomes fully informed regarding the organization of the government and the services it should render and endeavors constantly to make both as perfect as possible.

#### REVIEW QUESTIONS

1. What are the schools doing for the young people of the State?
2. What services are being rendered the people of the State by the libraries?
3. How is the health of the people being cared for?
4. What is being done to improve our highways?
5. What is the duty of every good citizen?

#### PRACTICAL POINTS

1. What officials supervise your school?
2. How long would it take you to graduate from the University if you continued in school?
3. How much "state money" did your district receive during the past year? How much taxes were raised by your school district?

4. Where can you get library books other than in your school library? How many such books have you read during the past year?

5. What is being done by the government to preserve the health of your community?

6. Who is responsible for improving your roads?

7. Who furnishes the money for paying the cost of improving your roads?

8. Are there any State roads in your school district?

9. Describe the methods of road building. What kind of road construction is best? Give the reasons for your answer.

10. What can you do to be a better citizen in your school district; your town, village or city; your county; your State?

11. Are there any ways in which the government can be made to serve the needs of the people more perfectly? If so in what ways?

#### REFERENCES

1. Community Civics—Hughes, Chapters V-VIII.
2. American Government—Macgruder, Chapter XXIX.
3. The Government of Wisconsin—James and Sanford, Chapter XIV, pp. 100-104.
4. The Blue Book of Wisconsin.

## XXII. METHODS OF CHANGING THE CONSTITUTION

**Amendments, How Made.** A Constitution can hardly be perfect in all its parts. If it should be at the time of its adoption, industrial, social and other changes would, in time, make modifications necessary. Therefore, amendments must be made possible.

On the other hand it would be very undesirable to have the Constitution affected by every passing sentiment. It would lead to unlimited confusion. So, amendments should not be made too easily.

With these two facts in mind, the framers of the Constitution provided that five distinct steps must be taken in order to make an amendment. *First*, a proposed amendment must be introduced into one of the houses of the Legislature, by a member or a committee. *Second*, it must be passed by a majority vote of each house, and be entered with the votes for and against it upon the journal of each house. *Third*, it must be published three months before the election of members to the next Legislature. *Fourth*, it must be passed by a majority of the members elected to each House. *Fifth*, and finally, it must be approved by a majority of the voters of the State, who vote upon it at a regular election.<sup>1</sup>

This method gives opportunity to wisely and deliberately consider each amendment before it becomes a part of the Constitution. It has been thought by some that the process is too complicated. At a recent session of the Legislature a

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<sup>1</sup>Article XII, section 1.

simpler method was proposed but defeated. The fact that about twenty-five amendments have been made since the adoption of the Constitution indicates that the method does not prevent needed changes.

**A New Constitution, How Framed.** The framers conceived it possible that some time a complete revision of the Constitution may be desired. So they provided the method by which it might be brought about. It involves three necessary steps. *First*, the Senate and the Assembly, by a majority vote of each house, must deem it necessary to call a convention to revise or change the Constitution. *Second*, the voters at the general election must approve by a majority vote a recommendation of the Legislature that a constitutional convention be called. *Third*, the Legislature must at its next session provide for calling such convention.<sup>1</sup> In so doing it would provide for the number of members, for their election, for the time and place for the convention, and for the appropriation necessary to meet the expenses.

The convention when it has once met, may change the Constitution in any way it thinks wise, or lay it aside and frame an entirely new one. When the task is finished the proposed Constitution would doubtless be submitted to the voters for approval, although this is not required.

This method of revising the Constitution has never been employed, the original Constitution as amended, from time to time by the method previously described, having proven quite satisfactory.

#### REVIEW QUESTIONS

1. By what two methods may the Constitution be revised?
2. Describe the steps to be taken in amending the Constitution.
3. Describe the steps necessary to revise the Constitution.

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<sup>1</sup>Article XII, section 2.

**PRACTICAL POINTS**

1. How many times has our Constitution been amended?
2. What are some of the sections which have been amended? (See the Constitution.)
3. Are there any sections you think should be amended? If so, which and why?

**REFERENCES**

1. The Government of Wisconsin—James and Sanford—Chapter XXIII, pp. 130-31.
2. Constitution of Wisconsin—Wright, Discussion of Article XII.



THE CAPITOL AT WASHINGTON

# THE UNITED STATES GOVERNMENT

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## XXIII. *THE STEPS LEADING TO THE UNION*

**Colonial Governments a Response to Common Needs.** Our forefathers settled America in little groups, or colonies. From the beginning they were conscious of certain common needs, as protection, order, and education, which could be supplied best by some form of political organization.

The Puritans, who settled New England, came as church congregations led by their pastors, and naturally employed the parish form of government with which they were so familiar. Thus was begun what we know as the New England town, which finally spread westward and ultimately supplied the basis for the system of town government adopted by our own State. In the northern colonies, as new settlements were made, common interest caused the different communities to send representatives to a central organization which exercised authority over the group and so appeared the beginnings of the county system of government. In the Southern colonies, where the population was sparse, the county was the original local unit.

As commercial and social intercourse developed, the central organizations, including groups of local units, became more and more influential and thus the government of each of the thirteen colonies grew in importance. By changing their form of government during the Revolutionary per-

iod the colonies came to be the thirteen original states of our union.

**The First Union.** A common enemy has often been the cause producing political unions. Our colonial history repeatedly exemplifies this truth. A number of the frontier New England settlements were early exposed to attacks from the Indians, the French and the Dutch. To defend themselves, New Haven, Connecticut, New Plymouth and Massachusetts Bay united into a Confederation in 1643. It was known as the United Colonies of New England, and possessed a written constitution. The governing body consisted of eight commissioners, two elected from each colony, one of the eight being chosen as presiding officer. This body exercised no authority over the internal affairs of the separate colonies, but was empowered to act upon all matters of common interest, especially affairs of war and peace. But the governing body was little more than a committee of public safety. It dealt with the governments of the member colonies and not at all with the individual citizens. It lacked the authority to enforce its own decrees.

The weakness of the organization, however, rested in the fact that while Massachusetts Bay possessed over three-fifths of the aggregate population of the Confederacy, and agreed to send one hundred men for every forty-five furnished by each of her colleagues, still her representation in the central body was only equal to each of the other colonies. Because she frequently endeavored to exercise more power than was allowed her under the articles, she aroused the jealousy of the smaller colonies and so weakened the efficiency of the central government. After an existence of some forty years, during which time the influence of the central government constantly declined, the Confederation was dissolved in

1684. Nevertheless, its influence was doubtless felt throughout the colonial period.

**Two Proposed Plans for Uniting All the Colonies.** Colonial conferences—some composed of delegates and some of officers only—were called from time to time to adjust differences arising between colonies, or to organize a defense against a common enemy. Such was the first colonial congress ever called, which met in Albany in 1690 to treat with the Iroquois Indians against the common enemy, New France.

But the trend toward co-operation was especially manifested in two plans, each proposing to include all the colonies. The first was made by William Penn, in 1697. He laid before the Board of Trade in England, which had charge of the colonies, a scheme for colonial organization. The idea was suggested by numerous difficulties which had arisen between New York and his own colonies.

By Penn's plan the governing body was to consist of a high commissioner, to be appointed by the king, who was to preside over a Congress and two representatives from each colony. This body was to have jurisdiction, not only over matters of peace and war, and adjust differences between colonies, as was provided in the Constitution of the New England Confederation, but provision was made also, for the return of absconding debtors and the regulation of commerce. In time of war, the king's high commissioner was to be "General or Chief Commander" of the forces raised by the colonies. While the plan met such opposition on the part of the colonists that it failed of adoption still it provided the basis for many other schemes suggested during the following sixty years. It also gave the term "Congress" to the framers of the federal Constitution and drew attention to the problem of commerce which became so acute that the Constitutional

Convention was finally called to remedy it; and there is no more important clause than the one which gives to Congress the power to regulate commerce with foreign nations and among the several states, and with the Indian tribes.

When the French became aggressive near the opening of the French and Indian War, the Lords of Trade called a second congress of all the colonies, at Albany, in 1754. The primary purpose was to make general treaties with the Indians in the New York region; but it was also stated in the call that "articles of union and confederation" would be favorably considered should any such be submitted. In response, Franklin submitted a plan for the union of all the colonies. By it self-government was guaranteed each colony. The central authority was placed in the hands of a president-general, to be appointed by the crown, and a grand council composed of representatives apportioned among the colonies according to the amount of money annually raised by each, provided that not less than two nor more than seven members could be chosen from any one colony.

The central government was given power to declare war, make peace, and attend to other matters of common interest to the colonies. The most striking provision of the proposed plan of government, however, was that the grand council, or representative body of the colonies, was given power to "lay and levy general duties, imposts and taxes." This provision allowed the general government to act directly on the people rather than on the colonial governments, as provided by previous plans. The president-general was required to carry into execution the acts of the council, and was to be at the head of the military organization of the colonies. Other provisions are quite similar to clauses found in our present federal Constitution.

While the plan was adopted by the congress, it was re-

jected by both the colonies and the Lords of Trade, each thinking it gave the other too much power. But it will not be long before the colonists will act on matters of colonial concern without the consent of the English government.

**The Stamp Act Congress.** The Indians and the French had done much to force union upon the colonies, but now England herself is to exert the greatest influence of all. The French and Indian War had proven very costly, and since the colonists had been benefitted by England's success, the mother country felt that the colonists should bear a share of the expense. As a consequence an effort was made to enforce more strictly the navigation laws; writs of assistance, or general search warrants were issued empowering officials to visit any premises and seize smuggled goods wherever found. A law was enacted by the British Government in 1765 placing a stamp tax upon newspapers, books, deeds, wills and other legal documents. It aroused a storm of opposition throughout the colonies, and Massachusetts proposed that some concerted action be taken. In response to the suggestion, the representatives of nine colonies met in a colonial congress at New York, in October, 1765. It formulated a Declaration of Rights in which it was asserted that the colonists were subjects of the crown and entitled to the rights of Englishmen; that they were in no true sense represented by Parliament and therefore should not be taxed by Parliament. While suggesting that England had the right to levy an *external* tax, such as duties, it declared that the colonial legislatures alone had the right to impose an *internal* tax, such as the stamp tax. This humble declaration, if such we may call it, was sent to the English government. It, together with a determined resistance to the law, caused a repeal of the Stamp Tax in 1766.

**Opposition to the Townshend Acts.** But the repeal was

accompanied by a declaration that Parliament had full power "to make laws and statutes of sufficient force and validity to bind the colonies and people of American subjects to the Crown of Great Britain in all cases whatsoever." Consistent with this statement, and the admission of the colonies, Parliament, in 1767, passed the Townshend Acts. By them an external tax, or duty, was laid upon glass, paper, lead, painters' colors, wine, oil, and tea. The law was to be enforced by officials paid by the British government. Again a storm of opposition arose, Massachusetts leading. Its legislature, in a circular letter, suggested that concerted action be taken against the Acts. This, together with a business boycott, caused Parliament to repeal the tax, in 1767, except that on tea.

**The Committees of Correspondence.** Trouble increased and feeling grew, the colonists realizing finally that the King's oppressive policy was to be indefinitely continued. Experience had taught the advantage of concerted action. It was with little difficulty, therefore, that Samuel Adams persuaded the different towns of Massachusetts, in 1772, to select committees to correspond with each other regarding matters of common interest. The plan was so successful that it served as a model for inter-colonial committees which were established in most of the colonies the following year. These committees of correspondence aided greatly in unifying public sentiment, and rendering inter-colonial action effective, taking the place of the assemblies, when the latter were dissolved.

**The First Continental Congress.** Matters were growing rapidly worse. The opposition to the tea tax culminated in the Boston Tea Party, in 1773. As a punishment for such open opposition, the port of Boston was closed, portions of the Massachusetts charter were suspended and a military

government was set up in the colony. So united had the colonists become in their opposition to England's policy that when the Massachusetts legislature sounded a call for a congress, every colony except Georgia responded. Although the royal governors quickly dissolved the assemblies and forbade participation in the Congress, delegates were chosen by colonial committees of correspondence, by conventions and even by legislatures, to meet in Philadelphia, in September, 1774.

This Congress formulated a Declaration of Rights, similar to the one of 1765, but stating more definitely the attitude of the colonies toward control by England. It made a stirring appeal to the colonists and issued a strong address to the people of England. It also provided for the calling of a second Congress. Resistance was organizing.

**The Second Continental Congress.** The resistance of the colonies became a revolution in the spring of 1775. When the Second Continental Congress met at Philadelphia in May, the Battle of Lexington had already been fought. At first this body, in which all the colonies were represented, was merely advisory, but in time it took on the functions of a central government and for six years directed the common cause of the colonies. It provided for a continental army and a navy. It levied taxes, borrowed money and issued paper currency. It prohibited commerce with England, and regulated the trade with other countries. It advised the colonies to organize state governments, and on July 4, 1776, it issued the Declaration of Independence.

**The Establishment of the Confederation.** The separation from Great Britain made a union of the thirteen colonies necessary. When it became evident that they would declare their independence a committee of one member from each colony was appointed to draft a plan of union. After long

and heated debate the Articles of Confederation were accepted by Congress, in November, 1777, and sent to the states for ratification. Because of the intense spirit of local independence approval came slowly. It was only after five years of debate and effort that the last of the thirteen states ratified the Articles and so made the union possible.

The Articles of Confederation declared that sovereignty rested in the separate states and the central government could exercise only powers expressly delegated to it. The central government consisted of a Congress, composed of not less than two nor more than seven delegates from each state. Only one vote was allowed each state upon any question. The Congress had jurisdiction over matters of national concern, such as war, peace, taxation, commerce; disputes between the states; and the control of public taxes. Under such authority it enacted the Ordinance of 1787. But no power was given the body to enforce its decisions.

While Congress was in session it exercised both legislative and executive authority; during the recess of Congress a committee, composed of one member from each state, exercised the executive power. There was no separate executive department, and no judicial department at all. Although the Articles of Confederation remained in operation from 1781 to 1789, serious defects early appeared. Small and large states exercised equal power in the Congress; the central body consisted of only one house; the laws once passed could be neither interpreted nor enforced. The Articles by declaring the separate states superior to the central government thereby recognized the right of the states to withdraw from the "league of friendship" should they at any time think it to their advantage. The Articles could be amended only by the approval of Congress and ratification by the legislature of every state. This made any change quite impossible.

To the thoughtful men of that day, it was evident that the Confederation had failed and it was only a question of time when a more perfect union must be established.

### REVIEW QUESTIONS

1. Why were governments organized in the early colonies?
2. What governments were organized?
3. What was the earliest government established which united two or more colonies? Why was it organized?
4. Discuss the two proposed plans for uniting all the colonies.
5. Discuss the Stamp Act Congress.
6. Describe the work of the First Continental Congress; of the Second Continental Congress.
7. Describe the establishment of the Confederation.
8. Why did the Articles of Confederation prove unsatisfactory?

### REFERENCES

1. School Civics—Boynton, Chapter III-V, pp.40-70.
2. The American Federal State—Ashley, Chapter IV, pp. 68-70.
3. American History—James and Sanford, Chapters X-XII, pp. 142-195

## XXIV. THE ESTABLISHMENT OF THE FEDERAL GOVERNMENT

**The Constitutional Convention.** *The Convention called.* Repeatedly it was proposed that the Articles of Confederation be revised but the desire for a convention to remedy the defects was not wide spread. The Congress having failed to call a convention, Madison urged that the conference to be held at Annapolis, in 1786, by delegates from Maryland and Virginia for the purpose of regulating commerce on the Potomac River, be made a general meeting and that all the States be invited to send delegates for the purpose of discussing the condition of trade and commerce throughout the Confederation. This was done but delegates from only five states were present. Hamilton urged that all the states should be represented and proposed that the states be urged to send delegates to a larger convention at Philadelphia the next year. This plan was adopted.

The Constitutional Convention was called to order on the 25th of May and adjourned the 17th of September, 1787. Of the sixty-two delegates appointed, fifty-five reported, and every state except Rhode Island was represented during most of the time. George Washington was unanimously chosen chairman. The sessions were to be secret and each state was to have one vote.

*The Proposed Plans.* The issues before the Convention early divided the delegates into two parties, the conservatives and the progressives. The conservatives introduced a resolution providing for a scheme of government known as

the *New Jersey Plan*. It favored the retention of the Articles of Confederation, which recognized the sovereignty of the separate states and provided equal voting power in Congress. But amendments were to be made so as to give Congress the power to regulate commerce and levy taxes, both direct and indirect. That the laws might be properly enforced an Executive was to be elected by Congress and a Judiciary appointed by the Executive. Provision was also made for the admission of new states.

The progressives proposed the *Virginia Plan*. This provided for a new form of government, radically different from the Articles of Confederation. A national government was to be established with legislative, executive, and judicial authority. The legislative department was to consist of two houses, the lower chosen by the voters and the upper house chosen by the lower from persons nominated by the state legislatures.

The legislature was to have not only extensive law making powers, but was to elect the executive head of the government. The senate was to elect the members of the judicial department. Provision was made for the admission of new states. The central government was to exercise supreme authority, thus subordinating the states. While the Virginia Plan was strongly opposed by the conservatives, especially the delegates from the smaller states, nevertheless, it was adopted. With modifications including several important compromises, it became the Constitution of the United States.

*The Three Great Compromises.* 1. The larger states desired that the congress be composed of representatives apportioned among the states according to population; the smaller states insisted upon equal representation. After days of bitter debate, it was agreed that the House of Representa-

tives should be composed of members apportioned according to population, and the Senate should be composed of two members from each state, each member having one vote. The larger states could thus control the lower house and the smaller states the upper. This made it impossible for either group to enact legislation without the consent of the other.

2. As soon as it was agreed that representation in the lower house—and direct taxes—should be apportioned among the states according to population, the question at once arose as to the counting of the negroes. The South wished them counted when apportioning the representatives but not when apportioning the direct taxes. The North did not want them counted when apportioning the representatives but wanted them counted when apportioning direct taxes. The Three-fifth Compromise was finally agreed upon. This provided that in apportioning representatives or direct taxes among the states, three-fifths of the negro slaves should be counted. This compromise continued in operation until the close of the Civil War when the slaves were set free by the Thirteenth Amendment.

3. The urgent need for a central government which could regulate the commerce of the states caused the calling of the Constitutional Convention. It was quite proper therefore that the Constitution should make provision for the settlement of this important question. The South had good reason to fear that if the central government was given unrestricted power to regulate commerce it would prohibit the importation of slaves altogether. After the consideration of various plans and much discussion, it was agreed that Congress should be given power to regulate commerce with foreign nations and among the several states, but that it could not prohibit the slave trade prior to 1808 although a duty of ten dollars might be levied upon each negro imported.

A number of other questions were seriously debated, notably the method of electing senators and the president and vice-president, but these three compromises made the drafting of the Constitution possible.

**The Adoption of the Constitution.** When the Constitution was given its final form, but thirty-nine of the fifty-five delegates signed it. However, among the signers was to be found one or more delegates from each of the twelve states represented in the convention.

The Constitution was then submitted to the Congress of the Confederation which after eight days of ardent debate passed it on to the state legislatures, to be sent by them to state conventions for ratification as required by article VII of the Constitution itself.

Although it was submitted to the states September 28, 1787, for ratification, it was not until June 21, 1788, that the necessary nine states ratified it, which assured its adoption by the states so ratifying it. Rhode Island, the last of the thirteen states, withheld its approval until May 29, 1790, more than a year after the new government was established.

**The Authority and Purpose of the Constitution.** The framers wisely set forth the authority and purpose of the Constitution in the Preamble. It declares that the central government rests upon the *people* rather than upon the *states*, and then gives six reasons for establishing the new Constitution. The Preamble is as follows:

*"We the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this constitution for the United States of America."*

**The Federal Constitution.** The system of federal govern-

ment established by the Constitution was the first of its kind in history. It insures to the states the advantages of union. This system is most flexible, yet most stable. It has proven so successful that it has been adopted by many foreign countries. The individual states have become, in a very true sense, political laboratories working out the problems of woman's suffrage, of education, of taxation and many other questions and giving the results to the other states.

The principle governing the division of powers between the State governments on the one hand, and the National government on the other is stated in the Tenth Amendment:

*"The powers not delegated to the United States by the constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people."*

The Federal government must show some specific or implied grant of power for everything it does, while a State government need only show that the Constitution does not prohibit it from doing whatever it endeavors to do. Because this is true the National government is said to exercise "delegated" powers, while the states possess "residuary" powers.

The United States Constitution consists of seven articles, and nineteen amendments.

Article I treats of the Legislative Department;

Article II, the Executive Department;

Article III, the Judicial Department;

Article IV, the Privileges and Duties of the States;

Article V, the Method of Amendment;

Article VI, the Supremacy of the Constitution, and

Article VII, the Ratification of the Constitution.

The first ten amendments known as "The Bill of Rights" were added immediately after the ratification of the Constitution; the eleventh limits the jurisdiction of the Federal courts; the twelfth states the method of electing the Presi-

dent and the Vice-president; the thirteenth, fourteenth and fifteenth, freed the slaves and gave them the right to vote; the sixteenth gives to Congress the power to levy taxes upon incomes; the seventeenth provides for the election of senators by popular vote; the eighteenth prohibits the manufacture and sale of intoxicating liquors; and the nineteenth grants the suffrage to women.

### REVIEW QUESTIONS

1. What led to the Constitutional Convention?
2. Describe the proposed plans for the new government. Which was adopted?
3. What were the three compromises of the Convention?
4. Describe the steps necessary in the adoption of the Constitution.
5. Is the federal government a union of the states or of the people? Justify your answer by a statement in the Constitution.
6. Give six reasons for adopting the Constitution.
7. How do the powers of the national government differ from those of the states?
8. Name the divisions of the Constitution.

### REFERENCES

1. School Civics—Boynton, Chapters VI-VII, pp. 72-96.
2. The American Federal State—Ashley, Chapter V, pp. 91-111.
3. American Government—Macgruder, Chapter IV, pp. 40-50.
4. American History—James and Sanford, Chapter XIII, pp. 197-213.

## XXV. THE LEGISLATIVE DEPARTMENT— ITS ORGANIZATION

**Its Organization.** All legislative power is vested in a Congress of the United States, which consists of a House of Representatives and a Senate. This plan of organization was agreed upon early in the Constitutional Convention. A number of the colonies had found two houses satisfactory and the same was true of England's experience with her Parliament. Although the two houses have sometimes prevented the passage of desirable legislation, there is little doubt that we have had more satisfactory laws than if Congress had been composed of one house.

**The House of Representatives.** *The Apportionment of Representatives.* The first census of the United States was taken in 1790 and one has been taken every tenth year since. Following each census the House of Representatives must reapportion its members among the states of the Union according to the population excluding the Indians not taxed; that is, in apportioning Representatives the Indians still living under their tribal organization are not counted.

In making a reapportionment the House of Representatives first determines the number of members to be in the next House, always taking care that the representation from no State shall be reduced, thus providing each member opportunity to return. This has made necessary an increase in the number of members each ten years. The first House in 1789 contained 65 members; the number at present is 435. The population to be represented in the forty-eight states is



THE HOUSE OF REPRESENTATIVES  
President Wilson reading his message to the two houses

determined from the last census. By dividing the number of people to be represented by the number of members to be in the House, the ratio is determined. Between 1910 and 1920 the ratio is one representative for every 211,877 persons, or major fraction thereof. Dividing the population of any State by the 211,877 determines the number of its Representatives in the House during the next decade. Each State is entitled to one representative regardless of population. At present the representation varies from one member from Delaware, Nevada, Arizona, Wyoming and New Mexico to forty-three from New York. Wisconsin has eleven.

Each State is notified of the number of its representatives, and its Legislature at the next regular session, redistricts the State. By act of Congress these districts must be of contiguous territory, as compact as possible, and contain as nearly equal population as practicable.

“Gerrymandering” is an unfair scheme of laying out representative districts, state or national, so as to secure a majority of voters for the party in power.

*Election and Term of Representatives.* The framers of the Constitution wished to leave to each State the right to fix the qualifications of its electors, so they provided that the person voting for the members of the House of Representatives “*shall have the qualifications requisite for electors of the most numerous branch of the state legislature.*” In other words, those who possess the right to vote for members of the lower house of the State Legislature may vote for members of the House of Representatives.

Representatives are nominated, in Wisconsin, at the September primaries and elected the Tuesday after the first Monday in November each even numbered year. The term

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<sup>1</sup>Article I, section 2, clause 1.

begins the 4th of March following and continues for two years. In case of a vacancy in the representation of any district, the Governor of the State calls a special election, the person elected serving for the unexpired term.

*Qualifications of Representatives.* The important office of representative should be filled only by a patriotic person of mature judgment, well informed regarding American institutions. The Constitution provides, therefore, that, "*No person shall be a Representative who shall not have attained to the age of twenty-five years, and be seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of the state in which he shall be chosen.*"<sup>1</sup>

In practice, only inhabitants of the district are chosen to represent it. This is unfortunate, for if men living outside the district were selected occasionally it would result in more able men entering Congress and selfish local interests would give way more frequently to national welfare.

**The Senate.** *Its Composition.* In theory the Senators represent the States. To meet the demand for equal representation, two Senators are chosen from each State. The Senate is a small body. At the beginning of our national history it was composed of but 26 members, at present there are 96.

*Election and Term of Senators.* Senators are elected from the State at large. Like Representatives they are nominated, in Wisconsin, by the voters of each party at the September primaries, and elected at the regular November election. They are chosen for a term of six years, one-third being elected every two years. By dividing the senators into three classes, and two-thirds of them holding over at the time of each election, the Senate is made a permanent body and constitutes a steadying influence in the government. The

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<sup>1</sup>Article I, section 2, clause 2.

two senators from the same State are placed in different classes so but one is elected in any given year. Each Senator has one vote. Vacancies are filled by special election called by the Governor, the person elected serving for the unexpired term.

*Qualifications of Senators.* The position of Senator is more important than that of Representative, so the Constitution provides that, "*No person shall be a Senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state for which he shall be chosen.*"<sup>1</sup>

A person of thirty is supposed to be sufficiently mature in judgment and understanding to be qualified to deal wisely with national issues. A native born citizen is assumed to be patriotic, and since our naturalization laws require a residence of at least five years before an alien can become a citizen, no foreigner can become a Senator who has not resided in this country at least fourteen years. It is the duty of every loyal voter to carry into effect the spirit of this clause and assist in the defeat of any candidate for Congress not thoroughly in sympathy with American ideals and institutions.

*Privileges of Congressmen.* Unless charged with treason, felony, or breach of the peace, both Senators and Representatives are free from arrest, during their attendance at the sessions of their respective houses, and in going to and returning from the same. If congressmen are to perform the duties for which they are chosen they must be at liberty to attend the sessions.

To the same end, it is provided that no person holding any office under the authority of the United States can be at the

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<sup>1</sup>Article I, section 3, clause 3.

same time a member of Congress. And no congressman may use his power to have an office created or the salary of an office increased and then resign his position in Congress to accept it.<sup>1</sup>

**The Compensation of Congressmen.** That the influence of the different states may be as nearly in proportion to the number of congressmen as possible, the Constitution provides that the salaries shall be the same for Senators as for Representatives and that they shall be paid from the Treasury of the United States. Congress has power to fix the salaries of its own members. It has changed the compensation some eight times since the adoption of the Constitution. At present, each member of Congress receives, (1) a salary of \$7500 a year; (2) twenty cents a mile for expenses in going to and returning from Washington by the most usually traveled route for each regular and special session; (3) \$125 a year for stationery; (4) free office rooms; (5) free postage; (6) \$1500 for clerk hire for Representatives and \$1800 for clerk hire for Senators; (7) and free publication and distribution of speeches. Chairmen of committees in the Senate and House of Representatives are allowed an additional amount for clerk hire often ranging as high as \$5000 a year.

**The Sessions of Congress.** Each *Congress* begins on the fourth of March, the odd numbered years. It is, therefore, two years in length. The *sessions* begin the first Monday in December, each year. There are two regular sessions of each Congress, the "long" and the "short" session. The long session begins the first Monday in December of the odd-numbered year and lasts usually until some time the following summer; the short session begins the first Monday in December the even-numbered year and continues until noon on the

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<sup>1</sup>Article I, section 6.

fourth of March following, when the term of Representatives expires. Each Congress is numbered consecutively from the first term, which began the fourth of March, 1789. The session which begins the first Monday in December, 1922, and terminates March fourth, 1923, is the *second session* of the *Sixty-seventh Congress*. The President may call special sessions of Congress or of either house separately whenever he deems it necessary.

**Organization of Each House for Business.** *The House of Representatives.* The House of Representatives occupies a large part of the south wing of the Capitol at Washington and the Senate occupies a smaller room in the north wing of the same building. The first Monday in December, each odd numbered year, the House of Representatives is entirely reorganized. The clerk of the preceding House receives the credentials of all members elected. When the hour arrives for organization he calls the roll of members properly chosen and, if a quorum is present, they proceed to the election of a Speaker. After his election, he takes the oath of office, and then administers it to the other members in groups by States. Then follows the election of the Chief Clerk and other officers including a Sergeant-at-Arms, Doorkeeper, Postmaster and Chaplain, none of whom is a member of the House. About 60 committees, varying in membership from 5 to 18, are next elected. The important committees are the Ways and Means Committee, which has charge of bills for raising revenue; the Committee on Appropriations, which has charge of bills providing for expenditures; the Committee on Rules; the Committee on Foreign Affairs; on Military Affairs; on Naval Affairs; and on Post-office and Post Roads. The majority of members comprising each committee are always of the dominant party. Having completed the elec-

tion of officers and committees, the House is ready for business.

*The Senate.* The Senate is a continuous body and no reorganization is necessary. When a new Congress opens, the Vice-President takes the chair and calls the Senate to order. The Secretary, Chief Clerk, Sergeant-at-Arms, Doorkeeper, Postmaster, Chaplain and Librarian, also take their offices, a president *pro tempore* is elected, the new Senators are sworn in, the committees, some sixty in number, are elected and the Senate is ready for business. The committees are composed of from 9 to 11 members. Some of the more important are the Finance Committee, which considers all bills for raising revenue; the Committee on Appropriations; the Committee on Foreign Relations; on Military Affairs; on Naval Affairs; on Commerce; and the Judiciary Committee.

*Membership and Quorum.* Often it is claimed that a person holding a certificate of election has not been legally chosen or that he lacks the qualifications for membership. Each House is made judge of the elections, returns, and qualifications of its own members.<sup>1</sup> A contested election in either House is referred to its committee on Elections, which hears the testimony and reports its decisions to the House. By a majority vote the House decides the case.

A majority of each House constitutes a quorum to do business; but a smaller number may adjourn from day to day, and may compel the attendance of absent members.<sup>1</sup> A majority is one more than half. The number who may adjourn, and compel the attendance of absent members is fixed in the House of Representatives at fifteen.

*Rules of Procedure and Discipline.* Each House is giv-

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<sup>1</sup>Article I, section 5, clause 1.

en authority to determine its own rules of business procedure. The time is carefully divided, and the work in each House, is thoroughly systematized. The order of business is much the same as that described in Robert's Rules of Order.

Each House has the right to preserve order, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member.<sup>1</sup> Order must be preserved that business may be carried on. For minor offenses, members may be punished by reprimand, imprisonment or fine; and, for the more serious offenses, they may be expelled. This is the only method by which they can be removed from office. They are not subject to impeachment because they are state, and not United States, officers.

*The Journal.* Each House must keep a journal of its proceedings and publish the same from time to time, except such parts as it may deem wise to keep secret. Should one-fifth of those present in either House request it, the vote of each member upon any question must be entered on the journal.

The journal is the official record of the proceedings of the House. It is read at the opening of each day's session. A report of the meetings, including the debates is published daily in the *Congressional Record*.

The public is admitted to the galleries of each House, and the newspapers publish the important doings of Congress. We have, therefore, little excuse for being uninformed.

In the House of Representatives, the members vote by acclamation; (2) by division, when the members for and against a measure stand and are counted; (3) and by "yeas and nays" when the roll is called and each member's vote is recorded. The third method must be employed whenever

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<sup>1</sup>Article I, section 5, clause 2.

one-fifth of the members request it. The Senate always votes by "yeas and nays,"

**The Passage of a Bill.** In Congress the steps in the passage of a bill are very much the same as those in our State Legislature. The bill is introduced by the member handing it to the Speaker, if it is a public bill, and to the Clerk if it is a private bill. It is immediately referred to the proper committee. The committee may "pigeon-hole" the bill, that is give it no consideration at all; or it may hold hearing, examine witnesses, confer with interested persons, amend the bill, report it for passage or for indefinite postponement. The meetings are in the committee room and are commonly open to the public but are sometimes secret. With thousands of measures to be considered each session, the committee system is a necessity, and in the committees the important business of the House must be transacted. The committees exercise very great influence upon legislation, their recommendations being ratified in the vast majority of cases.

The Committee on Rules, consisting of five members, prepares the daily calendar for the House and so determines what bills reported by the regular committees shall receive consideration. Once upon the calendar, a bill passes to a second reading, engrossment, and a third reading much the same as a bill in our State Legislature.

When a bill has passed both Houses of Congress it is submitted to the President of the United States; if he approves, he signs it; but if not, he returns it, with his objections, to the House in which it originated. If, after full consideration, two-thirds of the members of each House agree to pass it, the bill becomes a law the same as if the President had signed it. And if any bill is not returned by the President within ten days (Sundays excepted) after it is presented to him, it be-

comes a law the same as if he had signed it, unless Congress by its adjournment prevents its return, in which case it does not become a law.<sup>1</sup>

### REVIEW QUESTIONS

1. What is the law-making department called? Of how many Houses is it composed? Why two Houses? Name them.
2. How are Representatives apportioned?
3. Who are qualified to elect them?
4. What are the qualifications of Representatives?
5. How many members in the United States Senate? How are they elected?
6. What are the qualifications of Senators?
7. What privileges are enjoyed by Congressmen?
8. What compensation do they receive?
9. When does a new Congress meet? How are the Congresses designated? How are the Sessions designated?
10. Describe the method of organizing each House for business. How many must be present to do business?
11. What jurisdiction has each House over its membership? Over its rules of procedure? Over its discipline?
12. What is the journal?
13. Describe the steps in the passage of a bill.

### PRACTICAL POINTS

1. When was the last United States census taken? With the population given determine the number of Representatives from Wisconsin.
2. In which congressional district do you live? What counties comprise it? What is its population? Who is your representative? To what party does he belong? When was he elected? (See Wisconsin Blue Book.)

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<sup>1</sup>Article I, section 7, clause 2.

3. What is the number of the present Congress? (The number of any congress can be determined by subtracting 1789, the year the first Congress met, from the year in which the number is desired ends and dividing the remainder by two.)

4. Who are your Senators? When was each elected? How long has each been in the Senate? To what party does each belong?

5. Which political party controls the House of Representatives at present? Which the Senate? What is the majority in each?

6. What are the arguments for and against the popular election of Senators?

7. Give the arguments for and against the election of women to Congress.

#### REFERENCES

1. Our Government—James and Sanford, Chapter VII, pp. 50-63.
2. American Government—Macgruder, Chapter V, pp. 53-65; Chapter VII, pp. 89-100.
3. The American Federal State—Ashley, Chapter VII, pp. 245-64.
4. American Government and Politics—Beard, Chapter XII, pp. 231-52.

## XXVI. THE POWERS OF CONGRESS

**Kinds of Powers.** As we have already learned, Congress exercises only delegated powers. Yet these powers are divided very properly into two kinds or classes—*expressed* and *implied*. The expressed powers are those specifically enumerated in the Constitution; and the implied powers are those “necessary and proper” to carry the expressed powers into execution. The limits to congressional authority have always been a subject of controversy. Persons favoring strong state governments, like Thomas Jefferson, have insisted upon a strict construction of the Constitution, interpreting the delegated powers literally; while those favoring a strong National government like Washington and Lincoln, have insisted upon a liberal interpretation of congressional powers. Fortunate for the loose or liberal constructionists, Chief Justice Marshall, who dominated the Supreme Court from 1800 to 1835, was of their party, and laid a broad foundation for the functions of the central government.

**Financial Powers.** The financial powers have to do with the getting and spending of money. The Constitution provides that “*The Congress shall have power to lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defense and general welfare of the United States; but all duties, imposts and excises shall be uniform throughout the United States.*”<sup>1</sup> Taxes are of two kinds—direct and indirect. Direct taxes are those in which

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<sup>1</sup>Article I, section 8, clause 1.



THE SENATE CHAMBER  
Capitol at Washington

the immediate taxpayer and the ultimate taxpayer are the same person. That is the person who pays the tax to the government is the one who finally bears the burden, he being unable to shift its payment to someone else. Taxes upon lands, buildings, movable property and persons is of this kind. Indirect taxes are those in which the immediate and the ultimate taxpayers are different persons; that is, the person who pays the tax to the government is able to shift the actual payment to some one else. Taxes upon goods imported, and upon goods made and sold in the United States are of this kind. The selling price is made high enough to include the tax.

*Direct Taxes* have been levied by the National government only in times of great emergency—five times in our nation's history. No direct taxes, except those upon incomes, have been levied since the Civil War. Direct taxes must be apportioned among the states according to population, except income taxes which were made an exception to this rule by the adoption of the sixteenth amendment in 1913. With wealth so unequally distributed, this apportionment of taxes in proportion to population works such injustice that Congress doubtless will never again levy a general direct tax. But a tax upon incomes has been levied since 1916. Upon net incomes in excess of \$3000 a year for single persons, and \$4000 for those married, a progressive rate is levied beginning at 2% and increasing with the amount of taxable income. The tax has proved so successful that it will doubtless be retained as a permanent part of the Federal tax system.

*Indirect Taxes* are of two kinds—duties and excises. Duties are levied upon commodities imported from foreign countries. They are also of two kinds: *specific* duties, which are levied upon the measure or weight of goods; and *ad valorem*, which are levied upon their value. Sometimes the

same commodity is taxed by both methods at once. A tariff bill enumerates the articles to be taxed and fixes the rate to be charged. Such bills are among the most important measures enacted by Congress. A *prohibitive tariff* is one which places the duty so high that it does not pay to import the article; a *protective tariff* is one high enough to make it profitable to produce the article in this country; a *revenue tariff* is one which is neither too high nor too low to yield a good revenue to the government; and *free trade* exists when there is no tariff at all.

*Excises*, or internal revenue duties, are taxes levied upon goods produced and sold in the United States, such as tobacco, oleomargarine, and playing cards. A license tax is also charged for carrying on certain kinds of business. Such is the "Corporation Tax," which is a tax of 2% levied upon the income of business organizations for the privilege of operating as corporations.

For convenience in levying and collecting excise taxes, the United States is divided into internal revenue districts. An internal revenue collector is placed at the head of each district, and with the assistance of many subordinates, levies and collects the internal revenue taxes.

*Imposts* is a term used vaguely in the Constitution with the apparent intention of including any kind of indirect taxes that anyone could claim is not covered by the words duties and excises.

*Limitations Upon the Taxing Power* are very properly made. Not only are direct taxes apportioned among the states according to population, but duties, excises, and impostes must be uniform throughout the United States. The duty upon an imported commodity must be the same at all ports of entry, and the excise tax upon an article manufactured and sold in the United States, like tobacco, must be the

same in all parts. In order that our producers may have the best possible opportunity to meet their competitors in a foreign market, export duties are prohibited.

Finally Congress is denied the right to tax the people except for three purposes: (1) to pay the debts of the United States; (2) to provide for the common defense; (3) and to promote the general welfare. Although these provisions seem to restrict the taxing power of Congress, still the limitations are more apparent than real. Congress may borrow money for any purpose it sees fit, and levy a tax to pay the debt; or taking advantage of its right to define "general welfare" it may give a very wide range to the taxing power. But the levying of taxes to be squandered for the benefit of certain individuals, as in monarchies, or for the benefit of one state to the exclusion of others is clearly prohibited.

*The Power to Borrow Money* on the credit of the United States is an important function of Congress.<sup>1</sup> During ordinary times the annual taxes are sufficient to meet current expenses, but on extraordinary occasions, like the winning of the Civil War, the building of the Panama Canal, or the waging of the World War, the usual revenues are insufficient and Congress meets the additional needs by borrowing money. The ordinary method of borrowing money is by the sale of bonds. Bonds of the government are similar to the promissory notes of individuals. United States bonds are of two kinds—registered and coupon. A *registered bond* is recorded in the United States Treasury together with the name and address of the owner. If the owner sells the bond he must notify the proper official at Washington and have the transfer recorded on the books. No one except the owner can collect the bond or the in-

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<sup>1</sup>Article I, section 8, clause 2.

terest upon it. It is, therefore, safe against loss as well as against theft. A *coupon bond* is not recorded at Washington but is bought and sold like ordinary property. The government pays the bond or interest coupon when due to any person who presents it. Such bonds are in danger of being lost or stolen like any personal property. The credit of the United States is so good that it has been able to borrow money at a rate of interest as low as two per cent.

*The Spending of Money* is limited by a Constitutional provision which declares that no money shall be drawn from the Treasury except as is authorized by an appropriation made by law; and a regular statement of receipts and expenditures must be published from time to time.<sup>1</sup> The public is thus made acquainted with the facts and may act intelligently upon matters of governmental expenditures.

**Commercial Powers.** *Congress is given power to regulate commerce with foreign nations.*<sup>1</sup> This is one of its most important functions. It is this right that enables Congress to declare the conditions under which ships may engage in foreign commerce under the American flag. It prescribes the regulations necessary for the protection of the life and health of passengers. Under this power the importation of slaves was prohibited in 1808. Congress, at present, prohibits the importation of many articles such as adulterated foods, diseased vegetables or animals, and lottery tickets. Congress also prohibits the exportation of certain goods, as the white or yellow phosphorus matches. And, it was under the power to regulate commerce, that Congress passed the Embargo Act of 1807; however, the constitutionality of the step has always been questioned.

*Congress has power to regulate commerce among the sev-*

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<sup>1</sup>Article I, section 9, clause 7. <sup>2</sup>Article I, section VIII, clause 3.

*eral States.*<sup>1</sup> The annoying problems of intercolonial trade led to the adoption of the Constitution. But it would be incorrect to think that trouble ceased as soon as Congress was given the authority to regulate interstate commerce. River and lake navigation; steam railways; electric lines; telegraph; and the telephone, have each supplied its group of perplexing problems. The conflict of State and Federal authority in matters of commerce has been a never ending source of trouble.

To make the Federal regulation more efficient the Interstate Commerce Commission was established in 1887. It consists of eleven members appointed by the President and Senate. It is the duty of this Commission to administer the laws relative to all common carriers engaged in interstate commerce. Its supervision includes both the interpretation and the application of the laws.

It is under the right to regulate commerce, that Congress has prohibited interstate trade in dangerous explosives, diseased cattle and impure foods. It is under the same right that Congress has enacted anti-trust laws, notably the Sherman law of 1890, which prohibits contracts, or combinations in restraint of trade, or commerce, among the several States, or with foreign nations. The purpose of this act is to abolish all trusts and monopolies and preserve freedom of competition in business. This, it is believed, will develop most fully our industrial life.

*Congress has power to fix the standards of weights and measures.* Congress has never established a system of weights and measures although it undoubtedly has the right to do so. Our forefathers brought the English system of weights and measures with them and no attempt has been

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<sup>1</sup>Article I, section 8, clause 3.

made to alter these. However, Congress has authorized the use of the metric system but has not insisted upon its adoption. The power to fix the standard of weights and measures is left to the State legislatures.

*Congress has the power to coin money, regulate the value thereof, and fix the value of foreign coins.*<sup>1</sup> Congress has established mints at Philadelphia, New Orleans, Denver and San Francisco for the coinage of copper, nickel, silver and gold coins. It has also provided for the making of various kinds of paper money, including United States notes, or "greenbacks" as they are popularly called, gold and silver certificates, federal reserve notes and several other forms. States are denied the right to coin money. This ensures a uniform currency throughout the United States. Congress has fixed the value of foreign coins when offered in payment of taxes, or duties, but nothing has been done to regulate the value of foreign coins in the payment of private debts.

*National banks* are organized by individuals under national laws for the conduct of ordinary banking operations. *Federal Reserve Banks*, twelve in number, are established in the twelve federal reserve districts into which the United States has been divided. These banks, by the issue of federal reserve notes and the exercise of other powers, place more money into circulation when honest business men demand it thus preventing financial crises, and hard times. The plan has met with remarkable success.

*Farm Loan Banks*, also twelve in number, one located in each of the twelve districts into which the United States is divided, loan money to farmers on easy terms and at a low rate of interest. The purpose is to encourage the purchase and improvement of farm lands.

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<sup>1</sup>Article 8, clause 5 (in part)

*Congress has power to provide for the punishment of counterfeiting the securities and current coin of the United States.*<sup>1</sup> Under the authority conferred by this clause, Congress has enacted laws providing for the severe punishment of anyone counterfeiting United States coins, paper money, bonds, stamps or other securities. A considerable force of secret service men is employed constantly to detect and bring to trial persons suspected of the serious crime of counterfeiting.

*Congress is given power to establish uniform laws on the subject of bankruptcies.*<sup>2</sup> Men in business are likely, at times, to become financially involved and unable to pay their debts. A bankruptcy law permits a person to turn over what property he has to be distributed upon a percentage basis among his creditors. He is then released from the remainder of his ordinary debts and thus permitted to get a new start in business. Many of our states have enacted bankruptcy laws, but in 1898, Congress enacted the present Federal Act which superseded all the state bankruptcy laws.

**Postal Powers.** *Congress has power to establish postoffices and post-roads.*<sup>3</sup> This power affects vitally the daily life of every citizen. The low rates of postage and the free delivery of mail in city and country has done much to increase the general intelligence of the people. The establishment of the parcel post has greatly expanded the possibilities of business, and the postal savings-banks have greatly encouraged economy especially among those of limited incomes. The Postmaster-General, who is a member of the President's Cabinet, is in charge of this rapidly growing department.

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<sup>1</sup>Article I, section 8, clause 6.

<sup>2</sup>Article I, section 8, clause 4.

<sup>3</sup>Article I, section 8, clause 7.

**War Powers.** *Congress has power to declare war, to raise and support armies, and to provide and maintain a navy.*<sup>1</sup> But no appropriation for the support of the army can be for longer than two years. Congress, also, makes rules for the government of the land and naval forces; and detailed provisions concerning captures on land and water. The organization of the army and navy, and the equipment and maintenance of them is most complete. In time of war, the capture of ships and of contraband goods, that is arms or articles that directly help to carry on war, is a most important question and so has received most careful regulation by Congress.

*Congress has power to provide for calling forth the militia; for organizing, arming, and disciplining the same; and for governing such part of them as may be employed in the service of the United States.*<sup>2</sup> But the militia can be called into the United States service for but three purposes—(1) to execute the laws; (2) to suppress insurrections; and (3) to repel invasions.

**Patents and Copyrights.** Americans are naturally inventive. Yet, the government has greatly stimulated their inventive genius by issuing patents to protect the inventors. A patent is granted for seventeen years, and may be extended only by special act of Congress. During the term of the patent the inventor has the exclusive right to manufacture, sell or dispose of his invention. For granting a patent, a fee of \$35.00 is charged. Petitions for patents are addressed to the Commissioner of Patents who is in charge of the patent office at Washington.

Copyrights are secured from the Librarian of Congress.

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<sup>1</sup>Article I, section 8, clauses 11-14.

<sup>2</sup>Article I, section 8, clauses 15-16.

For the small fee of \$1.00, an author may have his book, article, or map copyrighted, a composer his music, or an artist his picture. A copyright gives the owner exclusive right to produce and sell his work for a period of twenty-eight years and the right may be extended for twenty-eight more. The fine arts, including literature, music, painting and sculpture, have been greatly encouraged by the copyright.

**Naturalization.** *Congress has power to establish an uniform rule of naturalization.*<sup>1</sup> Naturalization is a process by which a citizen of one country becomes a citizen of another. The fact that England had one process of naturalization and the United States another furnished one of the chief causes for the War of 1812. A foreigner may become a citizen of the United States in any one of several ways. If he is twenty-one, he may go before a clerk of a State or United States court, any time he wishes, and swear that it is his intention to renounce his allegiance to the country of which he is a citizen and become a citizen of the United States. Then, not less than two years after taking this first step, provided he has been in the country five years, he is required to appear in open court and, under oath, renounce all allegiance to any foreign power and swear that he will support the Constitution of the United States. The document giving evidence of his first step is called his "first papers" and that giving evidence of his second step is called his "second papers."

A woman may become naturalized by the same process as a man. If a married man becomes naturalized, his wife, and his children under twenty-one, become citizens. Congress, by a single act, has given citizenship to an entire tribe of Indians, as the Stockbridge Indians in Wisconsin. In like manner it has naturalized aliens occupying territory acquired

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<sup>1</sup>Article I, section 8, clause 4 (in part)

by the United States, as was true at the time of the Louisiana purchase and the annexation of Texas. It has been our principle to admit to citizenship peoples of all races, but in recent years we have denied to certain Orientals, including the Chinese, the Japanese, Burmese and the East Indians, the right to enter the United States, and in so doing we have made it impossible for them to become citizens. The justice of such action has been seriously questioned.

**Implied Powers.** Realizing no group of men could foresee all legislative authority necessary to establish an efficient government, the framers of the Constitution closed the statement of the powers granted to Congress with an elastic clause. It gives to Congress the right to make all laws necessary for carrying into execution the foregoing powers and all other powers vested by the Constitution in the Government of the United States or in any department or officer thereof.<sup>1</sup> The tendency of the party in power has been to construe this clause liberally, so Congress has established a United States bank, carried on internal improvements, levied a prohibitive tariff and purchased territory.

**Powers Denied Congress.** Although Congress exercises only delegated and implied powers still it was thought wise to expressly deny it certain powers in order to safeguard the rights of citizens. The Constitution declares, therefore, that no bill of attainder or ex post facto law shall be passed. The writ of habeas corpus cannot be suspended unless, in case of rebellion or invasion, the public safety may require it. Freedom of speech or press cannot be abridged; and the right of the people peaceably to assemble, and to petition the government for a redress of grievances can not be denied. Congress must not restrain freedom of religious worship. The

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<sup>1</sup>Article I, section 8, clause 18.

rights of accused persons before trial, and during trial, are carefully guarded against possible abuse by the National government by a series of provisions.<sup>1</sup>

**The Powers of Each House Separately.** Believing that the people should retain control of the purse strings of the nation, and that the lower House more directly represents the people than does the Senate, the Constitution provides that all bills for raising revenue must originate in the House of Representatives. But the Senate by exercising its right to amend bills has caused this power to be of little importance.

All *civil* officers of the United States are subject to impeachment. The House of Representatives has the power to impeach them, that is prefer charges against them, and the Senate has the power to try impeachment cases.<sup>2</sup> The Senate has the power to confirm *appointments* of important Federal officers made by the President and also to approve treaties made by him with foreign powers.

### REVIEW QUESTIONS

1. What kinds of powers are exercised by Congress?
2. What are the two general kinds of taxes? Define and illustrate each.
3. What direct taxes may be levied by Congress? What limitations are placed by the Constitution upon the levying of direct taxes? How are direct taxes levied and collected?
4. What kinds of indirect taxes are levied by the United States? What limitations are placed upon the levy of indirect taxes? How are indirect taxes levied and collected?
5. May Congress raise money by any other method than taxation?
6. What limitations are placed upon the spending of money?
7. What powers has Congress over commerce with foreign nations? Between the States?
8. What other commercial powers are exercised by Congress?
9. Discuss the postal powers of Congress.

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<sup>1</sup>See the first ten amendments.

<sup>2</sup>Article II, section 4.

10. Describe the patent and copyright laws of the United States.
11. Discuss the military powers of Congress.
12. How may a foreigner become a citizen of the United States?
13. What powers are expressly denied Congress?
14. Discuss the powers exercised by each House separately.

### PRACTICAL POINTS

1. How much taxes does your father pay to the State? Enumerate the things the State does for your family in return for the taxes.
2. What taxes does your family pay to the United States? What benefits does it receive in payment for these taxes?
3. Which do you think the more just, direct or indirect taxes? Give your reasons.
4. What are the advantages of giving Congress power to regulate commerce with foreign nations?
5. What are the advantages in giving Congress power to regulate commerce between the several states?
6. Why should Congress coin our money? Name the different kinds of coins; of paper money.
7. Do you know of any business organization which has raised prices unnecessarily high? Should they be permitted to do so? Give your reasons. Has the government of the United States done anything to prevent high prices?
8. What services does the Post Office render your family?
9. Name some of the important patents in the United States. Do you know any person who has secured a patent?
10. Do you know any person who has secured a copyright?
11. Has the tariff affected your family in any way? If so how? Should we have a protective tariff, a tariff for revenue or free trade? Give your reasons.

### REFERENCES

1. American Government—Macgruder, Chapter VI, pp. 69-88.
2. The American Federal State—Ashley, Chapter XIII, pp. 268-281.
3. Our Government—James and Sanford, Chapters X-XII, pp. 83-114.

## XXVII. *THE EXECUTIVE DEPARTMENT— ITS ORGANIZATION*

**The Importance of the President.** The executive power is vested in a President of the United States. He is the most conspicuous official in our country and indeed, one of the most conspicuous in the world. His preeminence at home is due in part to the fact that once every four years his election becomes the center of popular interest. Throughout the campaign covering several months his character, qualifications and the principles and policies for which he stands are sharply discussed by advocates and opponents. Following the election he is considered the leader of his party, being its chief spokesman, and is held responsible for the enactment into law of the pledges made in the party platform. The President dominates official affairs in Washington and exerts a distinct influence throughout the states, territories and possessions of the United States, wherever federal officers are found. He officially represents our nation in all foreign relations, performing the duties through the Secretary of State. Expression of his authority is made in foreign countries through our representatives at the various foreign courts and through consuls located in the chief cities throughout the civilized world.

In contrast to the governors of our states, the President holds a unique position. Of the federal executive officers, he is the only one elected; all others are appointed. He is at the head of the Executive Department. He appoints, sometimes with the consent of the Senate, and he may remove,

the officials who assist him in the enforcement of Federal laws. The members of his Cabinet are his advisers and the United States marshals and district attorneys, the internal revenue collectors and custom house officers with thousands of others are his assistants. The governor of any one of our commonwealths, on the other hand, occupies no such position. He is but one of the several elected State officers. Properly, he cannot be designated as *the executive* since by Constitution and statutes the Secretary of State, the State Treasurer, the Attorney General, and the other executive officers are not made subject to his will, but are required to perform their own specified duties. In the carrying out of their tasks they commonly are not required to confer with the governor, much less assist him. Then, too, the county sheriffs, city mayors, town chairmen, and the constables who have no small part in the enforcement of law are elected by the voters of the local units and are primarily interested in serving, not the State, but their own political division. Such decentralization of administrative power makes it quite impossible to think of the governor and the other chief officials of the commonwealth as comprising an executive department in the same sense as do the President of the United States and his aids.

**The Nomination and Election of President and Vice-President.** The method of electing the President and Vice President was a much debated subject in the Constitutional Convention. It was finally agreed that they should be elected not directly, but indirectly, by the people. Accordingly provision was made whereby the voters should elect a college of electors and they should elect the President and the Vice President.

Each State is privileged to select, in any manner it sees fit, a number of electors equal to the number of its Representatives and Senators in Congress. It was the original intention

that these electors should use their own judgment in the selection of the President and Vice-President. But this is no longer true. The National Conventions now nominate the party candidates and the electors pledge themselves to vote for them.

*The Nomination of the Presidential Candidates* has become of prime importance. Each of the political parties holds a National Convention in some important city during the early summer before the presidential election. To each convention the members of the party residing in each State is privileged to send twice as many delegates as that State has Senators and Representatives in Congress. For example, since Wisconsin has thirteen members in Congress, the Republicans of Wisconsin are entitled to send twenty-six delegates to the Republican Convention; the Democrats twenty-six delegates to the Democratic Convention and the members of each of the other parties the same number to their respective party conventions. In Wisconsin, each party elects its delegates to the National Convention at the preceding spring election, the first Tuesday in April.

The *Convention*, always of nation-wide interest and importance, performs three important duties. 1. It nominates the party candidates for President and Vice-President. 2. It frames the party platform. 3. And it appoints a National Committee, which consists of one member from each State. Its chairman is commonly designated by the Presidential candidate. This committee conducts the campaign, appoints the speakers, secures the necessary funds, and distributes party literature. The committee also looks after the party interests during the following four years and arranges for the next National Convention.

*The Presidential Election Consists of Several Steps.* Each State is entitled to as many electors as it has Representatives

and Senators in Congress. In Wisconsin each party nominates its candidates for the presidential electors at the regular Primary Election the first Tuesday in September, preceding the general election. The names of the electors, headed by the names of the party candidates for President and Vice-President, are then placed upon the Australian ballot to be used at the November Election. At this election each person votes for the electors of his party. The political party which polls the largest number of votes in a State elects its presidential electors, unless the election is close when one or more of the electors on a minority ticket may run ahead of some of the candidates on the majority ticket and thus obtain the election. But this rarely happens.

The electors meet at the Capitols of their respective states, the second Monday in January following, and vote by ballot for President and Vice-President. They then make distinct lists of all persons voted for as President and of all persons voted for as Vice-President and of the number of votes for each. These lists are signed by each presidential elector, certified by the Governor, sealed and sent to Washington to the President of the Senate. On the second Wednesday in February the two Houses of Congress meet in joint session, and in their presence the President of the Senate opens all the certificates, counts the votes and announces the candidates for President and Vice-President who have received the majority of the electoral votes, declaring them duly elected.

If no candidate for President receives a majority of the electoral votes, the House of Representatives elects one of the three receiving the highest number, the Representatives from each State having one vote. A quorum necessary for such an election consists of a member or members from two-thirds of the states and a majority of all the states is neces-

sary to a choice. If no candidate for Vice-President receives a majority of the electoral votes, the Senate chooses one from the two highest on the list. Two-thirds of the Senators constitute a quorum for the election and a majority of all elected is necessary to a choice.

The election of President and Vice-President, although modified by the Twelfth Amendment, is still very unsatisfactory. Since the electors are pledged to certain candidates, the freedom of choice which it was intended they should exercise no longer exists. Do you not think the President and Vice-President should be elected directly by the voters of the United States?

**The Term of the President and Vice-President.** The President and Vice-President take office the fourth of March following their election. On Inauguration Day the President takes his oath of office declaring that he will faithfully execute the office of President of the United States, and to the best of his ability, preserve, protect and defend the Constitution of the United States.<sup>1</sup> He then delivers his inaugural address, which outlines the policy of his administration. He serves for a term of four years. Nothing in the Constitution limits the number of terms a person may serve but custom has fixed the number at two. President Washington refused election for a third term and the precedent has been followed ever since.

**Vacancies.** A vacancy in the office of President may occur in any one of several ways; by death, resignation, removal from office or inability to perform the duties due to illness. When a vacancy occurs the duties devolve upon the Vice-President. In the case of the inability of both the President and Vice-President to serve, the members of the cabinet, if

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<sup>1</sup>Article II, section 1, clause 7.

qualified, shall serve in the following order: (1) Secretary of State; (2) Secretary of the Treasury; (3) Secretary of War; (4) Attorney-General; (5) Postmaster-General; (6) Secretary of the Navy; and (7) Secretary of the Interior.

**Qualification of President and Vice-President.** With the very great trust and responsibility reposed in the President of the United States, it is little wonder that the framers of the Constitution inserted a clause providing that no person except a natural born citizen, or a citizen of the United States at the time of the adoption of the Constitution, should be eligible to the office of President; and that no person should be eligible to the office who has not attained to the age of thirty-five years, and been fourteen years a resident of the United States. Since the Vice-President may become President, he must have the same qualifications.<sup>1</sup>

**Privileges of the President.** Certain privileges and immunities are enjoyed by the President. During his term of office he is not subject to the criminal law of the land. No matter how serious the crime, the courts of the nation cannot reach him. Such an offense as murder, like many others, would result in impeachment by the House of Representatives and trial by the Senate. The Senators would be required to make oath or affirmation that they would fairly try him. The Vice-President, who would be interested in his removal, would not be permitted to preside at the trial, but that duty would be performed by the Chief Justice of the Supreme Court. Conviction could be secured only upon the concurrence of two-thirds of the Senators present. Judgment in case of impeachment could only extend to removal from office and disqualification to hold any office of honor, trust, or profit under the United States. But after the President is convicted

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<sup>1</sup>Article II, section 1, clause 4.

and removed from office then as a private citizen he is subject, like any one else, to arrest, trial, judgment and punishment for the crime committed.<sup>1</sup>

The President is carefully guarded by secret service men. Cranks of all sorts insist upon seeing him and not infrequently the malicious or unbalanced are intent upon doing him bodily harm. To conserve his energy and to protect his person, such caution is necessary.

**Compensation of the President.** The President is entitled to a compensation for his service, which according to the Constitution, shall be fixed by law but may not be increased or decreased during his term of office. Originally the President received \$25,000 a year, at present he receives \$75,000 annually. In addition to his salary the President is provided secretaries and clerks and furnished offices and a residence including elaborate furnishings, a greenhouse and beautifully kept grounds; and supplied with funds to cover contingent and traveling expenses. Indeed, while the salary is but \$75,000 annually, the cost of maintaining our chief executive is about \$300,000 a year. However, it might be remembered that this amount is small indeed when compared with that paid the crowned heads of Europe or even the President of France. The Vice-President receives \$12,000 a year.

#### REVIEW QUESTIONS

1. Why is the President such an important personage?
2. How is the President nominated? How elected? How many ways of electing the President?
3. When is the President elected? When does he take office? How long

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<sup>1</sup>Article I, section 2, clause 5; section 3, clauses 6-7, and Article II, section 4.

does he serve? How many times may he be reelected?

4. How may a vacancy occur in the presidency? How is a vacancy filled?
5. What qualifications must the President possess?
6. What privileges does he enjoy?
7. What compensation does he receive?
8. Answer questions 2 to 7 relative to the Vice-President.

### PRACTICAL POINTS

1. Who is President of the United States? Who is Vice-President? When were they elected? When did they take office? When do their terms expire?
2. Who were the candidates of the other parties for President and Vice-President at the last presidential election?
3. What were the provisions of the Republican party platform? What were the provisions of the Democratic platform? Which do you like the better? Give your reasons.
4. Would you add, or subtract any qualifications for the President? Give your reasons.

### REFERENCES

1. American Government—Magruder, Chapter VIII, pp. 104-111.
2. Our Government—James and Sanford, Chapter XIII, pp. 115-128.
3. The American Federal State—Ashley, Chapter XIV, pp. 284-299.
4. American Government and Politics—Beard, Chapter IX, pp. 166-186.

## XXVIII. *THE POWERS OF THE PRESIDENT*

**The Enforcement of Law.** The President, under oath, is required to faithfully execute the laws of the United States. To assist him in this work, ten important departments have been established with a secretary at the head of each. The number, no doubt, will be enlarged as the executive duties increase. Subordinate to these heads of departments are the large number of officials distributed throughout the United States including the dependencies. In each of the eighty or more judicial districts is to be found a marshal and a district attorney, often with assistants, whose duty it is to arrest and bring to trial violators of federal law; and there are federal prisons for the safe keeping of those convicted. The extent to which the President may exercise authority over these subordinate officials is a matter of uncertainty. The Supreme Court early decided, however, that he must insist that they faithfully perform their duties as prescribed by law, but he has no right to direct the officers as to the manner in which they shall perform their duty. Much authority may be exercised also by the President over subordinate officials through the power of removal. President Jackson removed two Secretaries of the Treasury before he was able to find one willing to do his bidding and remove the federal funds from the United States Bank and its branches.

The variety and volume of federal statutes are indeed very great, although the general civil and criminal codes are enacted and enforced by the commonwealths. Because the President is required to enforce law he, of necessity, must

interpret the statutes and a revision of his opinion can be secured only when a proper case can be framed against him and submitted to the Judicial Department. The President also enjoys an extensive ordinance power due in part to authority specifically granted him, and in part to his position as chief executive. Rules and regulations prescribing the methods of enforcing the civil service law, of conducting the patent office, of collecting the internal revenues and the duties on imports are but a few illustrations.

**The Military Power.** The powers of the President in time of peace are limited; but in time of war they are greatly extended making him virtually a dictator. By the Constitution he is made commander-in-chief of the army and navy and of the militia when called into the service of the United States.<sup>1</sup> Congress provides for the establishment and maintenance of the army and navy, and the calling forth of the militia of the commonwealths. When the military force is once provided, the President, by constitutional prerogative, is in full charge of it. While the Constitution does not state in detail the military powers of the President, it is evident that he has the right to engage in defensive war, repelling an invasion, or to suppress an insurrection, or enforce law by military power. He may direct the army and navy to such places as the exigencies of the situation, in his opinion, may require. The Supreme Court has declared that he alone may decide when the danger from invasion, or rebellion, or resistance to law requires the calling out of the militia and any refusal to obey his orders will subject the disobedient person to trial by court martial. By Federal statute, the President is authorized, upon request of a governor, to call forth the militia to assist him in suppressing any serious disorder

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<sup>1</sup>Article II, section 2, clause 1 (in part).

within his State. The Federal Constitution guarantees to each commonwealth a republican form of government and the President must employ armed force, if necessary, in order to establish and maintain such a government.

When conducting either an offensive or defensive war, or suppressing an insurrection, the President may do all within the power of a commander-in-chief to weaken and overcome an enemy. By such authority President Lincoln, during the Civil War, blockaded the southern ports, abolished slavery in many of the states and suspended the writ of habeas corpus in sections other than the seat of war. By the same right, the President, until Congress acts, may govern conquered territory, appoint officers, levy and collect taxes, and make such rules and regulations for the maintenance of peace and good order as he deems wise. Yet, during the World War, Congress bestowed upon President Wilson far greater war powers than had been exercised by Lincoln or any other President. For instance, the complete control exercised by him over the supply of fuel and food stuffs, over the means of transportation and communication was never before seriously considered as an appropriate executive function.

**The Power of Appointment.** It is interesting to observe that in this, the greatest of all democracies, but few of the national officers are elected, only the President, the Vice-President, the Senators and Representatives, 533 out of nearly 500,000. The vast army of Federal officers receive their positions through appointment. The right to nominate or appoint officers is a most important executive and political power, for not only does it seriously influence the administration of law, but even presidential elections may be determined through it.

With respect to the method of appointment, the Constitu-

tion recognizes two classes of offices—superior and inferior. With a few exceptions named in the Constitution, Congress may determine to which class a particular office belongs. The superior offices may be arranged in two groups: those named in the Constitution, including ambassadors, other public ministers and consuls and judges of the Supreme Court; and those established by law. The mode of selecting the former can be changed only by constitutional amendment, while the method of choosing the latter can be changed by a simple act of Congress. The inferior offices are created by statute.

The superior offices are filled upon the nomination of the President and confirmation of the Senate.<sup>1</sup> The President, however, does not enjoy perfect freedom in the selection of his nominees, nor is the Senate entirely independent regarding confirmation. It has long been the practice of the Senate, even when the majority is of a different political party, to confirm the selection of members of the cabinet without objection. These nominees are often the President's personal or political friends, sometimes made it is true, through the strenuous pre-election campaign. The members of the cabinet must work in very close cooperation with him and so their selection should be left to his personal preference. Nor is the Senate often disposed to interfere with the choice of diplomatic representatives, of military officers, or judges of the Supreme Court. During President Wilson's first term, however, great influence was brought to bear upon the Senate to prevent the confirmation of his nominee to the position of associate justice on the Supreme bench, nevertheless, his selection was confirmed. Other offices filled by the President and Senate are filled virtually by the latter. A practice known as "courtesy of the Senate" permits the senators, if of

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<sup>1</sup>Article II, section 2, clause 2 (in part).

the President's party, to select the persons who are to fill certain important offices located within their State, otherwise the Senate will not confirm the appointment. This rule prevails with reference to such officials as United States district judges, marshals, district attorneys, the principal postmasters, and internal revenue collectors. The extent to which this power of selection is enjoyed by senators is not determined by rule but varies from time to time with the character of the Senator and of the President. At the beginning of each administration much of the valuable time of the President and Senate is devoted to the consideration of appointments, especially is this true when the new President is of the opposite political party from his predecessor. Politicians and office seekers consume weeks and months of the President's time in their efforts to obtain positions for their friends or themselves. "From the fourth of March," says Mr. Bryce, "when Garfield came into power until he was shot in the July following, he was engaged almost incessantly in questions of patronage." And, he might have added, his life was taken by a disappointed office seeker. In regard to the making of appointments, Mr. Bryce's conclusion is fully justified that "the President's individual judgment has little scope. He must reckon with the Senate; he must requite the supporters of the men to whom he owes his election; he must so distribute the places all over the country as to keep the local wire-pullers in good humor, and generally strengthen the party by doing something for those who have worked or will work for it."

The inferior offices, many in number, are filled as the law creating them may require, by the President alone, by the courts of law, or by the heads of departments. The practice prevails of placing the appointing power in the hands of the superior officer in whose department the office is located.

Exceptions to this rule are commonly due to politics. Many of these offices are now filled by competitive examination.

**The Power of Removal.** The power of removal is indispensable to the efficient enforcement of law, but the Constitution is silent upon the subject of removals. From the beginning it was agreed that the power to appoint carried with it the power to remove. There has been, therefore, no question regarding the inferior officers; the judge, the head of the department, or the President making the appointment is at liberty to call for the resignation of his appointee. But the application of this principle has caused no little dispute regarding the superior officers. With little difficulty Washington and his successors established the right to remove officers appointed with the consent of the Senate. This principle prevailed until the time of the bitter struggle between Congress and President Johnson when the Tenure of Office Act was passed, in 1867, which provided that the President must secure the consent of the Senate in order to remove an officer appointed jointly by them. For twenty years the law remained on the statute books, with some modification, not being repealed until 1887. Since that time, the President has been free to remove his appointees from office without the consent of the Senate.

With such a large number of appointments at the disposal of the Executive Department, now nearly 500,000 in all, great opportunity is afforded for political patronage. Since Washington and his immediate successors believed that the inferior offices should be filled only in accordance with the principle of efficiency, but few changes were made prior to Jackson's administration. A total of but seventy-four officers were removed during this period, five of whom were defaulters. But President Jackson put the "spoils system" into operation by changing over 2000 officials during the first year

of his administration. While the policy was repeatedly denounced, the political pressure continued so great that resistance was impossible and so a change of party meant a "clean sweep" in the appointment of executive officers. As the system extended, the evils became more and more apparent. Public opinion finally compelled Congress, in January 1883, to pass the Pendleton civil service act which established the present United States Civil Service Commission and inaugurated a system of appointments by competitive examination which in 1916 applied to 296,000 Federal offices. While the Civil Service law has not accomplished all that one might wish, yet by amendment, it is becoming increasingly efficient and, through executive order, more extended in application. It has greatly improved the work of the Executive Department and now receives quite universal approval.

**The Legislative Powers.** It was the desire of the framers of the Constitution to keep the three departments of government distinct, but this was found to be impossible. The Executive who is most familiar with the conditions of the country is required by the Constitution to give to Congress, from time to time, information regarding the state of the union and recommend to their consideration such measures as he shall judge necessary and expedient. *The President's Message*, which supplies valuable information and suggests needed legislation, is regularly given to Congress at the opening of each session. Washington and his successor, Adams, read their messages to Congress. The practice was discontinued by President Jefferson and a message in writing substituted, but the former custom was revived by President Wilson. Special messages touching particular subjects before Congress are also common, and Congress frequently

requests the President to furnish needed information, documents and the like.

*The President may call one or both Houses of Congress in Special Session should conditions warrant. The Senate is often called to affirm appointments; and Congress is not infrequently called on extraordinary occasions to consider matters of great importance to the nation. Should the two houses disagree as to the time of adjournment, the President is authorized to adjourn them to such time as he shall deem fit. But this power has never yet been exercised.*

*The President is given the Constitutional Right to veto any Measure, or Resolution which passes the two Houses. In this way he is enabled to check any encroachment by the Legislative Department upon the prerogatives of the Executive. The passage of unwise legislation he may also prevent. A bill, upon passage through the two houses, receives the signature of the Speaker and of the President of the Senate. Upon its presentation to the President it is usually referred to the head of the department concerned, and if a question of constitutionality is raised, to the Attorney-General. With their opinions attached, the President takes up the measure for consideration. If he approves it, he signs it and transmits it to the Secretary of State by whom it is filed and published. It is then a law and enforced as such. If the President disapproves, he returns it to the house in which it originated where, in the light of the President's criticisms, it is reconsidered and if approved by a two-thirds vote, it is sent to the other house where it is likewise reconsidered and if passed by the necessary two-thirds it becomes a law. The names of those voting for and against the measure must be recorded in the minutes which makes their position regarding the bill a matter of permanent record. The President is allowed ten days, Sundays excepted, in which to sign or veto a bill*

should he fail to act in the given time, the bill becomes a law unless Congress, by its adjournment, prevents its return.<sup>1</sup> Bills sent to the President during the last ten days of a session are subject to an absolute veto. By exercising the authority granted by the Constitution he may retain a bill which he does not wish to become a law until Congress adjourns. He thus kills the measure by simply refusing to act. This method of defeating legislation is known as the "pocket" veto and is of no little importance, since the dilatory methods of Congress leave a large percentage of the bills to be hurried through during the last few days of the session.

It was undoubtedly a mistake not to give the President power to veto sections of a bill including specifications in appropriation bills without vetoing the entire measure. Many acts are in the main desirable, but carry items most undesirable. The President being obliged to accept or reject the bill in its entirety has often found it necessary to approve single provisions which, if submitted to him as a separate bill, he would undoubtedly veto. This practice of attaching "riders" to financial and other important measures has been very much abused. Such abuse would be impossible if the President had the power to veto single items. Nevertheless the veto power has had a wholesome influence upon legislation. In a few instances it has prevented the enactment of unconstitutional measures, thus saving the expense of a legal process; and many times it has saved the country from undesirable legislation. And the probability of veto has prevented much questionable legislation from passing one or the other of the two houses. Yet, there is little danger that the President will abuse his power for he has many bills that

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<sup>1</sup>Article I, section 7.

he wishes Congress to pass and so cannot afford to antagonize the Legislative Department.

**Foreign Relations.** The President enjoys the distinction of representing the United States in all foreign relations. He is not only the official spokesman, but he is responsible for our foreign policy. The commonwealths are expressly forbidden by the Constitution to enter into any treaty, alliance or confederation with a foreign state. The president may so act as to develop international friendship or provoke hatred or even war. The functions of the chief executive relative to foreign countries may be discussed under three heads; his treaty making power; power to appoint foreign diplomatic representatives and consuls; and the power to receive ambassadors and other public ministers.

*The Treaty-making Power* he shares with the Senate. Only when two-thirds of the senators concur is a treaty made binding upon the United States.<sup>1</sup> There are two distinct steps in making a treaty; one the carrying on of the negotiations by which the provisions of the treaty are determined and the other the ratification. The first which requires promptness and secrecy of action is the distinct function of the President. In performing his task ordinarily the President is represented by the Secretary of State and the negotiations are carried on at the capitol of the nation suggesting the treaty. If the negotiations are carried on at Washington, the Secretary of State confers directly with the representative of the foreign nation. If carried on at a foreign court, the Secretary of State acts through our minister at that court. Upon extraordinary occasions, as the making of a treaty closing a war, the negotiations are carried on in some

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<sup>1</sup>Article II, section 2, clause 2 (in part).

neutral country by special commissioners appointed for the purpose.

After the President has agreed with the representatives of the foreign state upon the provisions of the treaty, it is then submitted to the Senate for ratification. In order to maintain secrecy, the Senate goes into "executive session." It may modify, accept or reject the treaty. Finally the Senate, by resolution, removes the ban of secrecy and its action becomes known. If the treaty is rejected, the way is open for a new treaty; if amended, the President and the nation or nations interested must approve the changes. If it is approved, duplicate copies are made and signed by the chief executives of each country. One is placed on file with each nation. The treaty is then published by the President and declared to be a part of the law of the land.

The importance of the treaty making power can hardly be over stated. By its exercise the limits of our country have been extended from the Mississippi to the Pacific and beyond. The rights of Americans have been established throughout the civilized world. By making of treaties peace has been assured and by the breaking of them war has been caused. It is upon our President, who alone has power to initiate treaty negotiations, that our international rights and privileges primarily depend. Conscious of this truth, President Wilson, at the close of the World War, disregarded all precedents and made two trips to the Peace Conference at Paris and took an active and prominent part in framing the provisions of the treaty of peace and in drafting the constitution for the League of Nations.

*He also enjoys the Constitutional right to nominate Ambassadors, other Public Ministers and Consuls.<sup>1</sup> Such nomin-*

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<sup>1</sup>Article II, section II, clause 2 (in part).

ations are confirmed by the Senate. Should a vacancy occur during the recess of the Senate, the President has the power to fill it by issuing a commission which expires at the end of the next session of the Senate. Should the Senate fail to act upon the nomination before it adjourns, another commission must be issued to the same or another person.

It must not be presumed that the executive has enjoyed perfect freedom in the nomination of our representatives to foreign courts. The nominee must always be agreeable to the government to which he is accredited. Senators have not infrequently gone so far as to declare that the Senate possesses the right, not only to suggest, but even to dictate the selection of ministers. Party leaders have often insisted that the political services either of themselves or their friends be rewarded by appointment to a foreign court. Then, too, Congress alone can create and fix the salaries of diplomatic positions. The compensation generally has been made so low that men of modest means have been unable to accept appointment. In some instances the salary has not been sufficient to pay necessary house rent. Only recently an ex-president of one of our leading universities was obliged to decline an appointment to the court of St. James because of limited funds. The compensation should be sufficient to enable our best statesmen to fill these very important posts, because class representation needs no encouragement and the ability and spirit of our foreign representatives determine our standing and position in the family of nations.

*Consuls* who are located in the principal cities of the world to further the interests of American commerce and guard the rights of American citizens, are likewise nominated by the President and confirmed by the Senate. Until recently these appointments have been filled for political reasons, but the

service has been greatly improved of late by placing the positions under civil service.

The privileges of a *diplomatic representative* are very much greater than those of a consul. Being the official representative of his country, an insult to a diplomat is an offense against the state he represents. His residence in the foreign capitol is particularly protected by law, no official or other person being permitted to enter it without his consent. He, the members of his official family, and even his servants are exempt from any civil or criminal process served by the country of his residence. Special protection is granted them when traveling, even when forced to leave the country due to an abrupt break in diplomatic relations. A consul, on the other hand, is subject to the laws of the land in which he is located (if a civilized country). His home may be entered by its officials. He and the members of his family may be arrested, tried and punished the same as any ordinary citizen of the country.

*It is the President's constitutional duty to receive Ambassadors and other Public Ministers.*<sup>1</sup> The discharge of this discretionary ceremonial function carries with it the most serious consequences. A sovereign state is officially recognized by formally receiving its accredited minister. The President may refuse to accept a minister from a sovereign state whose independence has been established; or he may demand the recall or abruptly dismiss any public minister or ambassador accredited to the United States. The reason for such action may be either personal or political. If the former, no offense is taken, but should any political indiscretion be shown on the part of the President, it may easily involve the country in war. Receiving a diplomatic representative of a new state

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<sup>1</sup>Article II, section III.

amounts to a recognition of that state as a member of the family of nations.

**The Judicial Power.** The President is empowered to exercise limited judicial functions. By the Constitution he has been given the right to grant reprieves and pardons for offenses against the United States, except in cases of impeachment.<sup>1</sup> A reprieve is the suspension of the execution of the sentence, giving time for further investigation of the facts; a pardon grants complete release from a sentence. Within the scope designated, his power is without limit. He may take action, before, during, or following a trial; he may commute a death sentence, that is, substitute a less serious penalty, remit a fine, or set a prisoner free. Following the Civil War an attempt was made by constitutional amendment to also except treason, but it failed. Because of the limited scope of Federal legislation, the judicial authority of the President is much less in extent than that of a governor.

In the exercise of the power or reprieve or pardon, the President follows a uniform procedure. The application for clemency, together with the evidence and argument, is submitted to the Attorney-General. The opinion of the district attorney and judge by whom the case was first tried is usually required. The course of action advised by the Attorney-General is generally followed. There has been little disposition on the part of the executive to abuse his judicial authority.

With such extensive executive powers comprising so many lines of activity and reaching all parts of the United States and into foreign countries; with important legislative functions enabling him to recommend, to modify and to prevent the enactment of statutes; and with judicial authority of no

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<sup>1</sup>Article II, section II, clause 1.

mean importance, it is indeed easy to appreciate the pre-eminence of the President of the United States.

### REVIEW QUESTIONS

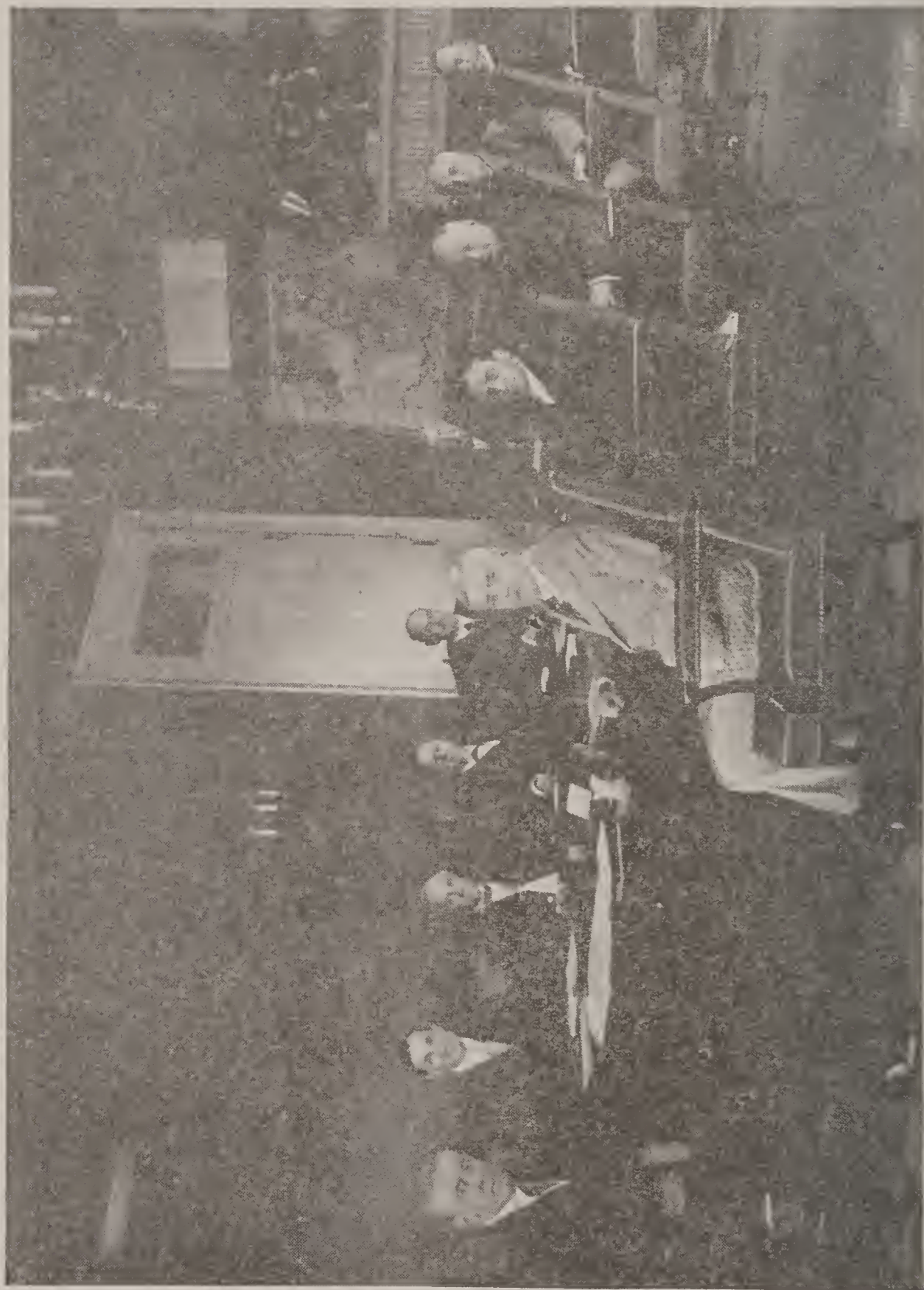
1. What laws are enforced by the President?
2. Discuss the military powers of the President.
3. What officers are appointed by the President and the Senate? What are appointed by the President alone?
4. May the President remove officers? If so what officers?
5. What is the Civil Service law?
6. What power has the President over Congress?
7. What power has he over the enactment of a law?
8. Should the President be given power to veto sections of bills without vetoing the entire bill? Why?
9. What powers are exercised by the President over our relations with foreign countries? Describe his treaty making power. What are ambassadors; ministers; consuls?
10. Describe the judicial powers exercised by the President.

### PRACTICAL POINTS

1. Name some of the important laws which the President is required to enforce.
2. Do any federal officers reside in your city? If so what do they do?
3. Are there any outside your city who exercise authority in your locality? If so who are they and what do they do? How did they receive their offices?
4. Enumerate the things which the National government does for your family.
5. Can you tell what you pay the United States for these services? How do you make the payments?
6. What Federal districts do you live in? What is each organized for?
7. Name some United States property which you have seen. For what is it used?
8. Have you ever seen any United States officers? If so, who were they and what were their duties?

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2. Our Government—James and Sanford, Chapter XIV, pp. 131-139.
3. The American Federal State—Ashley, Chapter XIV, pp. 291-299.
4. American Government and Politics—Beard, Chapter X, pp. 187-214.



PRESIDENT WILSON AND HIS WAR CABINET

## XXIX. THE CABINET

The Executive Departments have been organized for the purpose of assisting the President to perform more efficiently his many duties. At the time the Federal government was established, in 1789, Congress created four Departments—State, Treasury, War and Justice. Since that time, the needs have made necessary six additional Departments. They are the Navy, Postoffice, Interior, Agriculture, Commerce and Labor. For the purpose of securing the greatest possible efficiency the Departments are divided into *bureaus* and the bureaus into *divisions*.<sup>1</sup>

The President, immediately upon taking office, sends to the Senate, for confirmation, the names of the men whom he wishes at the head of the Departments during his administration. Since they are to be his close advisers, constituting his *Cabinet*, the Senate never presumes to interfere, but always approves his choice. The head of each Department receives a salary of \$12,000 a year.

The Department of State ranks first in importance. The Secretary of State is head of the Department. *He performs certain Secretarial functions.* In this capacity, he keeps on file the laws of the United States, the treaties made with foreign countries, and affixes the great seal to all papers issued by the executive; he attends to all correspondence between the President and the Governors of the several States; and he conducts all negotiations with foreign countries. His duties relative to foreign affairs are of the greatest importance.

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<sup>1</sup>For the officials in each Department see World Almanac.

*He issues passports* to Americans who desire to travel in foreign countries. A passport is a document carried by a person when traveling abroad identifying him as a citizen of this nation which enables him to enjoy all privileges granted by treaty or international law. A citizen secures a passport by making application to the Secretary of State, giving a detailed description of himself and inclosing a fee of \$1.00. A passport is good for two years and may be renewed by any diplomatic officer for two more.

*The Secretary of State is head of the Diplomatic Service.* A diplomatic representative is sent to the capital of each foreign country. *Ambassadors* are sent to some twelve or fifteen of the most important; *ministers-plenopotentary* to a large number of second rate countries; and *ministers-resident* to a few of the least important.

The duties of the diplomatic officers are to transmit official communications, and negotiate treaties and other agreements under the direction of the Secretary of State. They also keep the State Department informed upon matters of foreign relations, legislation, business, science and art—indeed anything of concern to our country.

Diplomatic officers and the members of their households are not subject to the laws of the land in which they live, but to those of the United States. The home of an ambassador is called an “embassy” and that of a minister a “legation.” The salary of ambassadors is \$17,500 a year; while that of the ministers varies from \$10,000 to \$12,000.

*The Secretary of State is at the head of our Consular Service.* Consuls are commercial representatives, and are stationed at every important industrial city of the world. There are about 700 of them, appointed under civil service. Their principal duty is to discover opportunities for extending our foreign trade. They protect our various commercial inter-

ests and activities. They also guard the rights of American citizens traveling or residing abroad.

The Treasury Department has charge of the funds of the United States. The Secretary of the Treasury, who is at the head of the Department, collects the taxes, the duties, and excises; keeps the money; and pays it out upon proper order. The duties yield large returns; the internal revenues likewise; and many minor sources supply relatively small sums.

The Treasurer keeps a considerable portion of the funds in the Treasury at Washington; the remainder is kept in the sub-treasuries located at Boston, New York, Philadelphia, Baltimore, Cincinnati, Chicago, St. Louis, New Orleans and San Francisco; in the twelve Federal Reserve Banks; in the twelve Federal Farm Loan Banks; and in the National Banks.

The Treasurer pays out the money only when authorized by Act of Congress, and upon the presentation of a warrant drawn by the Secretary of the Treasury and countersigned by the Comptroller of the Treasury. The funds are used for many purposes, some of the more important ones being the payment of salaries; the erection of Federal buildings; the maintenance of the Army and the Navy; interest on the public debt; and for pension, and insurance for soldiers. A full report is made annually by the Secretary of the Treasury of all moneys received and paid out during the year.

The Secretary of the Treasury is in charge of the coinage of all moneys authorized by Congress, both metallic and paper. *The metallic* money is composed of four kinds of metal—copper, nickel, silver and gold. The copper, nickel and silver bullions are purchased at market prices and coined by the mints into money, as required by law. The United

States has established the gold standard. By an act of March 14, 1900, it was provided that the gold dollar, consisting of 25.8 grains of gold nine-tenths fine, must be the standard unit of value. In order to maintain an equality between the bullion and coin values, free coinage of gold is provided; that is any one having gold bullion may take it to the mint and have it coined; each 23.22 grains (with 2.58 grains of alloy) being made into one gold dollar.

*The paper currency* consists of gold certificates, silver certificates, United States notes, Federal Reserve Bank notes, Treasury notes of 1890, and National Bank notes. The paper is made by a secret process and printed at the Bureau of Engraving and Printing at Washington.

**The War Department** has charge of the army, the Military Academy, and the War College. The President being commander-in-chief of the army is connected closely with the Department, although it is directly under the charge of the Secretary of War.

*The General Staff*, established in 1903, is composed of about fifty able army officers, chosen by the President. It prepares plans for national defense, investigates the needs of the army and provides plans for the movement of the military forces in time of war. It also has charge of the Army War College which was established at Washington in 1901, for the training of young men from the ranks who have proven themselves able to become officers.

The United States Military Academy at West Point was established in 1802 for the purpose of training young men to become officers. The appointees are usually selected, by competitive examination, and are nominated by the President, but custom has established the practice of nominations being made to him by Senators, Representatives, and Territorial Delegates. The cadet must be between seventeen and

twenty-two years of age. During the course of four years he receives about \$700 a year. Upon graduation he is commissioned a second lieutenant.

*The unorganized militia* of the United States consists of all persons between the ages of eighteen and forty-five. They may be called into service as directed by Congress. The selective draft first employed by the United States during the recent World War has proved a very wise system. Persons of military age may enlist in the national guard and comprise the *organized militia*. In time of peace the national guard is subject to the order of the Governor, but in time of war it is under the command of the President. *The regular army* is composed of men who enlist for a period of seven years; three to be spent in the active service, and four in civil life subject to call.

**The Navy Department** is responsible for all matters relating to the navy. The President is commander-in-chief of the navy, but the Secretary of the Navy has the administration of the Department. He is responsible for the construction, arming, equipping, manning and direction of war-vessels. Men enlist in the navy for a period of four years. The vessels have been grouped into two fleets—the Atlantic and the Pacific.

*A General Board*, studies the needs of the navy, and plans for its direction in time of war. It renders a service similar to the General Staff of the Army. It has charge of the Naval War College at Newport for the training of young men from the ranks who are preparing to become naval officers.

The United States Naval Academy at Annapolis was established in 1846, for the purpose of educating naval officers. After a competitive examination, the successful candidates are recommended by Senators, Representatives, and Territorial Delegates to the Secretary of the Navy for appoint-

ment. The candidates must be between the ages of fifteen and twenty years. After completing their six years—two of which are spent at sea—they are commissioned as ensigns. During their course they are paid about \$600 annually.

**The Department of Justice**, at the head of which is the Attorney-General, furnishes legal advice to the President and the heads of the Executive Departments. The Attorney-General represents the government in suits brought against individuals and corporations that violate Federal law; and in suits brought against the United States in the Court of Claims. He himself seldom appears in court but is represented by one of his numerous assistants.

He directs the Federal Court system by having the right to approve the appointment of federal district attorneys and federal district marshals.

He provides for the care of federal prisoners, supervises their parole, examines petitions for their pardon and makes recommendations to the President.

**The Post-Office Department** is of great importance to the people of the United States. The Postmaster-General is at the head of the Department. He has charge of the collection, transportation and distribution of the mails. He appoints, subject to civil examinations, all fourth-class postmasters. And he sends the names of the persons receiving the highest standings in the civil service examination for first, second and third class postoffices to the President who, with the approval of the Senate, appoints them.

The parcel post, which is growing rapidly; the postal savings banks; and the money order business are all under the control of the Postmaster-General. The telephones and telegraphs were added during the World War but were returned to their owners at its close. The transportation of mails by airship has been a recent improvement.

Fraudulent business activities, lotteries and gambling schemes are discouraged by promptly closing the mails to them and punishing, according to law, those engaged in the contemptible business.

The Department of the Interior, under the Secretary of the Interior, includes a variety of bureaus.

*The General Land Office* has charge of millions of acres of lands belonging to the United States. In the past it has been the policy of the government to encourage development by virtually giving away public lands; the present policy is to withhold from private ownership lands possessing minerals, timber and waterpower.

*The Reclamation Bureau* is in charge of the irrigation of the arid sections of the Western States. The expense of the reclamation work is met out of funds received from the sale of public lands. Once irrigated this rich land is sold to farmers in small tracts.

*The Bureau of Indian Affairs*, at the head of which is a Commissioner of Indian Affairs, has charge of all Indians living upon reservations. During our colonial and early national history, the Indians were treated as independent nations. But in 1871 by Federal Act they were made wards of the nation and since that time their lands, their industries and their schools have been under the care of the general government.

*The Bureau of Education* has greatly increased its usefulness and importance in recent years. The Commissioner of Education collects and publishes useful educational statistics. A strong corps of able assistants is doing much to vitalize the educational systems of the country.

*The Bureau of Patents* issues patents and registers trademarks. More than a million patents have been issued, many of them like the cotton gin, the sewing machine, the selfbind-

er, the telegraph, the telephone and the steam engine have had a profound influence upon our industrial development.

*The Pension Office* examines applications for pensions, and has charge of the payment of pensions and of insurance to American soldiers and their widows.

**The Department of Agriculture** was established in 1889, and former Governor Rusk of Wisconsin was appointed the first Secretary of Agriculture. The functions of the Department are many.

*The Bureau of Soils* devotes its energy to the study of the chemistry, the nature and the improvement of the soils of the United States.

*The Bureau of Plant Industry* increases the variety of domesticated plants. Agents are sent to all parts of the world in search of plants adapted to our various soils and climates. The treatment of plant diseases is also studied and the results published.

*The Weather Bureau* keeps the public informed regarding weather conditions. Rain, storm, frost and flood warnings are sent out making possible the necessary precautions and the saving of millions of dollars annually.

*The Bureau of Animal Industry* carries on experiments in the feeding and breeding of animals. It investigates diseases among stock and poultry and recommends remedies. It enforces quarantine laws relative to live stock, and regulations regarding meat inspection.

*The Forest Reserve* is responsible for the protection of some 200,000,000 acres of national forests against fires and timber thieves. The planting of trees upon desirable areas has greatly extended the forest area.

*The Bureau of Chemistry* examines the foods and medi-

cines upon the market to make certain that they conform to the national pure food law. These and many other activities make the Department of vital importance to public welfare.

The Department of Commerce has been organized for the purpose of encouraging business. At its head is the Secretary of Commerce. Its work includes various fields.

*The Census Bureau* enumerates the population of the United States every ten years, and gathers very complete statistics regarding the wealth and industries of the country. The information is published in the United States Census report.

*The Bureau of Corporations* reports upon trade conditions, and investigates the organization and methods of corporations thought to be violating the Sherman Anti-Trust Law.

Other Bureaus supervise the weights and measures, enforce regulations relative to navigable waters, inspect steamboats and maintain lighthouses.

The Department of Labor, the last to be organized, was established in 1913. Its purpose is to advance the general welfare of labor.

*The Bureau of Labor Statistics* gathers information regarding the condition and employment of labor. It reports the number of accidents and deaths caused by industry; the general health conditions under which laborers are obliged to work and the amount of wages paid in different industries.

*The Bureau of Immigration* superintends the enforcement of the Federal immigration laws. Dependents, feeble minded, criminals, polygamists, anarchists, and alien Orientals are not permitted to enter the United States. Physical tests

are applied to all applicants and defectives are returned to the country from which they came, at the expense of the steamship company that brought them. Adults are also required to pass a literacy test. They must be able to read at least 40 words in some language. Each immigrant is obliged to pay a tax of \$8.00.

*The Bureau of Naturalization* keeps a record of foreigners entering the United States; and supervises their naturalization, to see that they become citizens only by the legal process.

*The Bureau of Child Welfare*, with a woman at its head, investigates the conditions of child labor. It aids materially in the reduction of infant mortality.

**The Conclusion** we must reach is that the President, aided by the members of his Cabinet, is rendering an invaluable service, and that the scope of government activity is clearly broadening. This is highly desirable as long as the purpose is to improve the general welfare of the people. No doubt the future will see other Departments added to those already existing, and as citizens we should welcome any change which will improve the condition of our people including the millions of aliens who land on our shores.

#### REVIEW QUESTIONS

1. Why have Executive Departments been established?
2. Name the Departments and give the title of the person at the head of each.
3. What are the important duties of *each* Department?
4. What are the duties of ambassadors? Of consuls?
5. Are we likely to have other Departments established? Why?

#### PRACTICAL POINTS

1. Name the members of the President's Cabinet.
2. What other public positions has each held?

3. Name an instance of the Secretary of State communicating with a Governor on official business.
4. Who is our ambassador at the Court of St. James (England)? Who is ambassador to France?
5. What has the Secretary of the Treasury ever done that affects you?
6. What taxes does your family pay him?
7. How much did it cost to maintain our army last year? Our Navy?
8. What would happen if you were caught destroying a mail box in your city? Who would arrest you? Who would try you?
9. Have we dealt with the Indians fairly? Give reasons for your answer.
10. Do you know of a grain, a fruit or a shrub introduced into the United States by the Secretary of Agriculture?
11. Name one duty of each Department which affects you personally.

#### REFERENCES

1. American Government—Macgruder, Chapters IX-XII, pp. 127-176.
2. Community Civics—Hughes, Chapter XII, pp. 184-205.
3. The American Federal State—Ashley, Chapter XV, pp. 303-313.
4. American Government and Politics—Beard, Chapter XI, pp. 215-230.

### XXX. THE JUDICIAL DEPARTMENT

**The Federal Courts.** Experience under the Articles of Confederation made it clear that a central government, in order to succeed, must have courts of its own, free from State domination, which would exercise jurisdiction over cases involving national interests. The Constitution makes provision for an independent system of Federal courts with authority over a wide range of important cases.

**The Organization of the Federal Courts.** The Constitution declares that, "*The Judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish.*"<sup>1</sup>

Congress has exercised the authority thus conferred upon it. So there has been established a complete system of *regular courts* composed of the Supreme Court of the United States; 9 Circuit Courts of Appeal; and 80 to 85 District Courts. Three *special courts* have also been established by Congress—the Court of Claims; the Court of Customs Appeals; and the Court of the District of Columbia.

**The District Courts.** *Of the Regular Courts, the District Courts* are the lowest. The forty-eight states are divided into some 80 to 85 districts. Each of the sparsely populated states comprise one district, other states consist of two or three districts; and states with a large amount of judicial business like New York and Texas, are divided into four

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<sup>1</sup>Article III, section 1, clause 1.

districts. Wisconsin is composed of two districts. The large districts are organized into *divisions* and court is held in each division at a place and time designated by Federal law.

The judges are appointed by the President and Senate. One, two, three or four judges are appointed to each District, depending upon the amount of judicial business to be done. Since each case is tried by a single judge, several judges in a district make it possible to hear a number of cases at the same time. Each judge holds his position during good behavior. He can be removed only by impeachment. The salary of District Judges is fixed by Congress.

A *United States District Attorney* and a *United States Marshal* are associated with each District court. They are appointed by the President and the Senate. The Attorney is required to prosecute persons or corporations accused of violating Federal law, and to defend the government when suit is brought against it in his District. The Marshal, with one or more assistants, captures persons suspected of violating United States law, serves warrants, summons, subpœnas or other orders issued by the District Court. He thus assists in the enforcement of Federal laws.

A *clerk* is appointed by each court, his duty being to keep a record of its proceedings and act as custodian of the court seal. District Court Commissioners are appointed whose duty it is to issue warrants, take depositions and receive bail.

Prior to 1911 Circuit Courts existed between the District Courts and the Circuit Courts of Appeal, but they were then abolished and their business transferred to the District Courts.

The Circuit Courts of Appeal, were established in 1891 for the purpose of relieving the Supreme Court of its constantly increasing judicial business. The United States is divided into nine circuits, each composed of from three to thirteen

States. Wisconsin together with Illinois and Indiana comprise the seventh circuit. At first judges from the lower Federal courts presided, but by the Act of 1911 special judges were appointed, the number varying from two to four for each circuit, depending upon the amount of business. Each of the judges of the Supreme Court is assigned, also, to one of the circuits.

The Circuit Judges are appointed by the President and the Senate. The term is during good behavior, and the salary is fixed by Congress.

**The Supreme Court** is at the head of the judicial system of the United States. It is composed of one Chief Justice and eight Associate Justices who are appointed by the President and Senate and serve during good behavior. The salary of the Chief Justice and those of the Associate Justices are determined by Congress. The Court holds its sessions from October until May in the Supreme Court Chamber at the Capital. Six judges must be present at each trial and a majority is necessary for a decision. Cases are presented to the Court by attorneys, in person, or by printed briefs that set forth the facts as well as the law involved. The "opinion" is written by one of the Justices at the request of the Chief Justice, and expresses the conclusions reached by the majority. A Justice who agrees with the majority but rests his conclusions upon other reasons than those advanced by the majority may present a "concurring opinion." And one or more of the judges who disagree with the majority may present a "dissenting opinion" giving their reasons for believing the case should be decided the other way. The opinions are published in the *United States Reports*.

**The Jurisdiction of the Federal Courts** is fixed by the Constitution. It provides that, "*The judicial power shall extend to*

*all cases, in law and equity, arising under the Constitution, the laws of the United States, and treaties made, or which shall be made under their authority; to all cases affecting ambassadors, other public ministers and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more states; between citizens of different states; between citizens of the same state claiming lands under grants of different states, and between a state, or the citizens thereof, and foreign states, citizens, or subjects.”*<sup>1</sup> This clause continues in force today, except the last portion which has been modified by the Eleventh Amendment, passed in 1798, which denies an individual the right to sue a State in the Federal courts.<sup>2</sup>

The United States Courts are given authority to try cases (1) *because of the nature of the subject matter involved*. This includes cases in law or equity (a) arising under the Constitution, under the statutes of the United States, or under treaties made under their authority; and (b) cases of admiralty and maritime jurisdiction.

A *case in law* is one involving the interpretation and application of a statute. A *case in equity* is one which seeks to secure justice when no law has been enacted covering the point in dispute. In a law case witnesses are usually called and a jury decides the facts; the judge gives judgment or passes sentence. In a case in equity the judge appoints a referee to take the evidence in writing and upon this evidence he himself decides the facts and renders a decision called a decree. A case in law or equity is within the jurisdiction of the Federal courts whenever it involves the cor-

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<sup>1</sup>Article III, section 2, clause 4.

<sup>2</sup>See Amendments, Article XI.



THE SUPREME COURT ROOM  
Capitol at Washington

rect interpretation of the Constitution or the Federal statutes or treaties. Congress has provided that cases involving the Constitution or the laws of a State may be tried in the courts of the State concerned, but they may be taken from the Supreme Court of the State to the Supreme Court of the United States when the former decides *against* the jurisdiction of the Federal Constitution, statute or a treaty.

*Cases in admiralty* include crimes upon the high seas or navigable waters in time of peace, and prizes seized in time of war. Maritime jurisdiction has reference to contracts, claims, and the like relative to business done upon the high seas or navigable waters.

The United States Courts are also given jurisdiction over certain cases (2) *because of the parties involved in the controversy*. This includes (a) cases affecting ambassadors, other public ministers, and consuls; (b) controversies to which the United States is a party; (c) controversies between two or more States; (d) suits brought by States against citizens of another State; (e) controversies between citizens of different States; (f) controversies between citizens of the same State claiming lands under grants of different States; (g) and controversies between a State, or citizens thereof, and foreign states, citizens or subjects. It is important that such cases should be tried by the United States courts in order that the greatest possible justice may be attained, and in the case of ambassadors, other public ministers and consuls, trouble may be thus avoided with foreign countries.

**Original and Appellate Jurisdiction** of the various courts with two exceptions, is left to the decision of Congress. The Constitution provides that the Supreme Court has original—but not exclusive—jurisdiction over cases affecting ambassadors, other public ministers and consuls, and those in

which a State is a party.<sup>1</sup> By *original jurisdiction* is meant the right to hear a case at its beginning, without its being previously tried in some other court. By *appellate jurisdiction* is meant that a court has the right to hear a case only after it has been tried in another court.

All Federal courts possess original jurisdiction relative to the issuance of certain important writs—habeas corpus, mandamus, injunction, certiorari and quo warranto. The definition of each, we learned in the study of the jurisdiction of our State courts.

Congress has stated in detail the matters over which the *Federal District Courts* have jurisdiction. We would find it impossible to understand fully the scope, but they include crimes and offenses against the general laws of the United States, cases arising under laws protecting trade and commerce, such as suits brought against trusts and monopolies, suits involving the postal laws, patent and copyright laws, internal revenue laws, and cases affecting the rights of aliens.

*The Circuit Courts of Appeal* have the right to try certain cases brought to them from the Federal District Courts. Their jurisdiction includes all cases except those involving the jurisdiction of the lower courts, final decision in prize cases, and questions of Constitutionality. In cases involving the criminal law, and suits arising under the patent, copyright and revenue laws, and controversies between aliens and citizens the decision rendered is final.

*The Supreme Court* exercises original jurisdiction, as already observed, over cases affecting ambassadors, other public ministers and consuls and those to which a State is a party. It has appellate jurisdiction in all other cases except

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<sup>1</sup>Article III, section 2, clause 2 (in part).

those in which the Circuit Courts of Appeal exercise final jurisdiction. The most important cases appealed to the Supreme Court are those involving Constitutional questions.

The Special Courts are only three in number. *The Court of Claims*, composed of five judges, holds its sessions at Washington. Its duty is to hear claims against the Federal government. If it decides that a certain amount of money is due a person from the United States, it cannot compel payment but must be dependent upon an appropriation by Congress. However, the money is invariably appropriated as a matter of course.

*The Court of Customs Appeals*, composed of five judges, was established in 1909. It holds its sessions at Washington or any other convenient place. It has jurisdiction over cases arising under the tariff laws. Appeals may be taken to it when dissatisfaction exists with the decisions of the Board of General Appraisers, relative to the classification of merchandise and the rate of duty imposed thereon. Most of the cases arise at the port of New York.

*The Courts of the District of Columbia* consisting of several local courts, a court of appeals and a supreme court. It is their duty to take care of all cases arising under the laws enacted by Congress for the District of Columbia.

The Rights of Individuals are carefully guarded by the Bill of Rights consisting of the first ten Amendments to the Federal Constitution. The rights guaranteed to citizens are very similar to those guaranteed by the Declaration of Rights in our State Constitution, such as freedom of person, of speech and press, of religion, and of petition; protection against bills of attainder and *ex post facto* laws, and the just treatment of suspected persons before trial, as well as on trial.<sup>1</sup>

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<sup>1</sup>See the Amendments.

These ten Amendments restrict only the actions of Congress. They do not apply to the States. The Federal Courts must carefully guard the rights of citizens against abuse by the Federal Government, as well as interpret and apply the great body of statutes enacted by Congress.

### REVIEW QUESTIONS

1. Why is it necessary to have a system of Federal Courts?
2. Describe the organization of the system of regular courts.
3. How do the judges secure their offices?
4. What is meant by original jurisdiction? By appellate jurisdiction?
5. State the general jurisdiction of the Federal courts.
6. State the jurisdiction of each of the regular courts.
7. Name the special courts and state the jurisdiction of each.

### PRACTICAL POINTS

1. How many judicial districts in this State?
2. Locate their boundaries upon the map.
3. In which district do you live?
4. Is court held in more than one place in your district? Where is court held?
5. Who is your District judge? Where does he live?
6. In what judicial circuit do you live? What states comprise it?
7. Where are the sessions of the Circuit Court of Appeals held?
8. Who is judge of your Circuit Court of Appeals? Where does he live?
9. Who is Chief Justice of the United States Supreme Court? Name the Associate Justices.
10. What is the salary of a United States District judge? Of a Circuit judge? Of an Associate Justice of the Supreme Court? Of the Chief Justice? (See Wisconsin Blue Book, or The World Almanac)
11. If you defaced a mail box, who would capture you? What court would try you? To what prison would you be sent?

### REFERENCES

1. American Government—Macgruder, Chapter XIV, pp. 193-202.
2. Our Government—James and Sanford, Chapter XVI, pp. 156-163.
3. The American Federal State—Ashley, Chapter XVI, pp. 316-325.
4. American Government and Politics—Beard, Chapter XV, pp. 294-314.

## XXXI. THE RIGHTS AND DUTIES OF STATES

**The Territory of the United States.** When the thirteen original colonies secured their freedom in 1783, England also released her claim to the vast territory west of the Alleghany Mountains and east of the Mississippi. The States then withdrew their conflicting claims, leaving these lands to the Federal government. Thus began the great public domain to which was added from time to time the Louisiana Purchase, Florida, the Mexican Session, the Oregon Territory, and other possessions.

**The Government of Territories.** To govern this territory was no easy task. Congress was given power to make all needful rules and regulations respecting the territory of the United States.<sup>1</sup>

Consistent with the authority granted it, Congress has provided two forms of territorial government—(1) that for unorganized territory; and (2) that for organized territory. *Unorganized territories* are directly under the control of Congress. Commonly an executive department is provided by the appointment of a governor and attorney-general, and a judicial department by the appointment of three judges. There is no legislative department, the necessary laws being enacted by Congress.

When the population is sufficient, an *organized territory* is established. Then the executive department consists of a governor, a secretary, treasurer, attorney-general, superin-

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<sup>1</sup>Article IV, section 3, clause 3.

tendent of education, adjutant-general, and auditor; all appointed by the President and the Senate. The judicial department consists of a number of judges, the territorial courts being organized on a plan similar to those of a State. The legislative department consists of two houses, the members of which are elected by popular vote.

**The Organization of Territories Into States.** The power to admit or refuse to admit a territory to statehood has been given to Congress.<sup>1</sup> It has provided that a territory may become a State in one of two ways. (1) It may elect delegates to a convention, which frames a constitution. Application is then made to Congress for admission to the Union and, at the same time, the constitution is submitted for approval. If Congress accepts and ratifies the constitution the territory becomes a State. Or, (2) the territory may make formal application for admission. An "enabling act" is then passed by Congress, authorizing the people to establish a State government. The governor of the territory then calls an election of delegates to a constitutional convention. The constitution may, or may not be submitted to the people for ratification. When it is approved by Congress the territory becomes a State.

**The Rights of States.** Since the general government is a representative democracy or a republic, it was deemed necessary to guarantee to each of the States a republican form of government. Since the invasion of any State would endanger the security of the United States, and since the states are deprived of the right to maintain troops or ships of war in times of peace, provision is made that the United States shall protect each of the states against invasion; and on application of the Legislature, or of the Executive (when the

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<sup>1</sup>Article IV, section 3, clause 1 (in part).

Legislature is not in session) against domestic violence.<sup>1</sup> It is presumed that each state is the best judge of its own ability to enforce its laws and quell disturbances. Then, too, by requiring the State to demand the aid before it is sent, the Central government is deprived of the opportunity to interfere with State affairs under the pretext of protecting it.

**The Duties of States to One Another.** While the Constitution guarantees to the states certain rights, it also imposes upon them certain duties to each other. Each State must give full faith and credit to the public acts, records, and judicial proceeding of every other; and Congress is given power to prescribe by general law the manner in which such acts, records, and proceedings shall be proved.<sup>2</sup> Congress has provided that legislative acts are made authentic and must be accepted when the seal of the State is affixed, and court records are made authentic by the certificate of the judge, the signature of the clerk, and the affixing of the court seal. By acceptance of the legislative acts and court records of each other, the states avoid endless confusion and litigation. Each State must grant to the citizens of the United States all the privileges and immunities of citizens in the several states. That is, it must not regard them as aliens; it must permit them to come and go, to acquire, enjoy and dispose of property as freely as it does its own citizens; it must in no way discriminate against them; it must grant them the same legal protection that it grants its own inhabitants.

A person charged in any State with treason, felony, or other crime, who flees from justice and is found in another State, must, on demand of the executive authority of the

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<sup>1</sup>Article IV, section 4.

<sup>2</sup>Article IV, section 1.

<sup>3</sup>Article IV, section 2, clause 1.

State from which he fled, be delivered up, to be removed to the State having jurisdiction of the crime.<sup>1</sup> When the suspected fugitive from justice is found in a State other than where the crime was committed, a requisition is made in official form by the Governor of the State where the offense was committed upon the Governor of the State where the suspected person is found. The latter is free to decide whether the person demanded is a fugitive from justice of the State making the demand. The process of thus securing the surrender of fugitive criminals is called extradition. If the duty of delivering up suspected persons for trial was not imposed upon the states, criminals would frequently escape punishment and lawlessness would be encouraged. To secure obedience to law, nations universally make extradition treaties with one another.

### REVIEW QUESTIONS

1. Describe the territory that has once been a part of the public domain.
2. How is unorganized territory governed?
3. Describe the form of government for organized territory.
4. In what ways may a territory become a State?
5. What rights are guaranteed the States by the Constitution?
6. What duties are imposed by the Constitution upon a State relative to the rights of other States?

### PRACTICAL POINTS

1. Was the territory now comprising the State of Wisconsin ever a part of the public domain? If so, when?
2. Was it ever unorganized territory? If so, when, and of what territory?
3. When did it constitute an organized territory?
4. Which of the two methods by which a territory may become a State did Wisconsin use when she entered the Union?

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<sup>1</sup>Article IV, section 2, clause 2.

5. Did the territory of Wisconsin submit her proposed Constitution to the people? With what result?

6. Do you know of an instance in which Wisconsin has given full faith and credit to the laws of another State?

7. How would a criminal wanted in Wisconsin be caught in Illinois?

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2. American Government—Macgruder, Chapter XVI, pp. 216-225.
3. American Government and Politics—Beard, Chapters XXI, XXII, pp. 417-457.
4. The American Federal State—Ashley, Chapter X, pp. 197-220.

## XXXII. METHODS OF CHANGING THE CONSTITUTION

**Need for Amendments.** The framers of the Constitution realized the impossibility of drafting a perfect document—one that would meet the needs of their time and all future times. So provision was made by which the Constitution may be changed. The process was made sufficiently difficult to prevent its modification by every passing wave of public opinion; yet sufficiently easy to make possible amendments necessary to meet abiding changes in the social and political order. However, some think the method too complex and believe a simpler one should be provided.

**The Method of Amendment.** Two steps are necessary in the amendment of the Constitution. First an amendment must be proposed; and second it must be ratified. It may be proposed in either one of two ways—(1) by a two-thirds vote of each house of Congress; or (2) by a convention called by Congress at the request of the legislatures of two-thirds of the States. The amendment may be ratified also in either one of two ways—(1) by the legislatures of three-fourths of the States; or (2) by conventions in three-fourths of the States, the conventions being called especially to consider ratification. Congress is permitted to determine which of the two methods of ratification shall be employed.<sup>1</sup>

Two limitations were placed upon the right to amend the Constitution. It was provided that the importation of slaves could not be prohibited prior to 1808; and a limitation,

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<sup>1</sup>Article V.

which is still in effect, that no State can be deprived of its equal suffrage in the Senate.

Up to the present time all amendments have been framed and proposed by Congress, and ratified by State Legislatures. Some two thousand have been proposed but only nineteen have been ratified.

**Amendments Adopted.** The first ten Amendments were passed in response to a demand made by several of the states at the time they ratified the Constitution. They declared there was no explicit guarantee of the rights of individuals against abuses by the Federal government. These ten Amendments guarantee to the citizens the rights of personal liberty; of personal security; and of private property. Because these amendments resemble the provisions of the English Bill of Rights enacted in 1689, they are commonly referred to as the Bill of Rights.

The XIth and XIIth Amendments we have already considered. The former provides that a citizen cannot sue a State in the United States courts; and the latter provides the present method of electing the President and Vice-President.

The XIIIth, XIVth and XVth Amendments were the results of the Civil War. The XIIIth abolished slavery in the United States, except as punishment for crime. The XIVth makes the freed slaves citizens of the United States, and forbids the States to enact any laws abridging their privileges as such, or denying male citizens twenty-one years of age the right to vote. But the provisions have never been made entirely effective. The XVth Amendment endeavored to secure full political rights for the negro by providing that the right of citizens to vote should not be abridged on account of race, color, or previous condition of servitude. But this amendment has proven inadequate. Negroes quite commonly have been deprived of the right to vote.

The XVIth Amendment, adopted in 1913, permits Congress to lay and collect an income tax, without apportioning it among the several States according to population as must be done in the case of other direct taxes. A Federal income tax, levied in harmony with this article, now yields a large revenue.

The XVIIth Amendment, also adopted in 1913, provides for the election of United States Senators by popular vote, instead of by State Legislatures as had been the method since the adoption of the Constitution.

The XVIIIth Amendment was proposed by Congress in 1917 and ratified by the necessary number of State Legislatures in 1919. It provides for the prohibition of the manufacture and sale of intoxicating liquors throughout the United States. This country thus became the first of the leading nations of the world to enact such a constitutional provision. It removed from our land one of the greatest curses of mankind and has done much to establish an environment in which the individual citizen can make the most of himself.

The XIXth and last Amendment was added to the Constitution in 1920. It extends to women throughout the United States the right to vote under the same limitations as men. The provision was added to the Constitution in time to permit the women to take part in the general election in November of that year.

**The Supreme Law of the Land** consists of the Constitution, the laws of the United States, and the treaties made with foreign countries. That is if a State Constitution or a statute of a State is inconsistent with any of them, the Constitutional clause or the statute must be declared null and void by the courts. This is necessary to the continued supremacy of the United States.

### REVIEW QUESTIONS

1. Why should provision be made for amending the Constitution?
2. In what ways may the Constitution be amended?
3. How many amendments have been adopted?
4. What is the Bill of Rights?
5. What change was made in the Constitution by the XIth Amendment?  
By the XIIth?
6. What rights were provided by the XIIIth Amendment? The XIVth Amendment? The XVth Amendment?
7. What is the provision of the XVIth Amendment?
8. What is the provision of the XVIIth Amendment?
9. What change was made by the XVIIIth Amendment?

### PRACTICAL POINTS

1. Give four possible ways in which the Constitution may be amended.
2. Name three rights guaranteed you by the Bill of Rights.
3. Does involuntary slavery exist in Wisconsin at the present time? If so, where? Is it contrary to the XIIIth Amendment? Why?
4. Should all male negroes, twenty-one years of age and citizens of the United States have the right to vote? Give reasons.
5. In what way has your family been affected by the Federal income tax?
6. Why should United States Senators be elected by popular vote rather than by the State Legislature?
7. Should the manufacture and sale of intoxicating liquors be prohibited? Why?
8. Should women have the right to vote? Why?

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### XXXIII. THE LEAGUE OF NATIONS

**Movement toward a World State.** Since the beginning of human history two great motives have directed the activities of men. One is the spirit of selfishness, the other the spirit of altruism.

The selfish individual satisfies his own wants without regard to the rights of others. In the earliest stages of savage existence, he secured the food, the clothing, the shelter he desired, and, if necessary, took the life of anyone who interfered. This spirit of selfishness has directed the lives of many men through all ages down even to the present day. They satisfy their own personal ends at the expense of the general good.

The altruistic person is one who has full regard for the rights of others, and who seeks the promotion of the general welfare while supplying his own needs. These are the individuals who have organized the great social institutions which have done so much for the improvement of humanity.

The earliest altruistic savage did not eat all the food he gathered, nor did he wear all the skins of animals he obtained, nor did he occupy alone the shelter he found, but he shared them with his wife and children. Thus, the spirit of altruism made possible the organization of the *family*. And it is only by its continuous exercise that the family can be maintained. Love, of which this spirit is born, must be strong in the home if the family is to continue the basic institution of organized society.

Gradually, this spirit of altruism caused men to be

thoughtful of their relatives as well as their immediate families. So they ceased to kill them and began to cooperate with them in an effort to further the common good. The *clan*, composed of near relatives, was organized under the leadership of the strongest for defensive and offensive warfare, and to maintain order and justice within the group.

In time, the altruistic spirit united the clans into a *tribe*. With its council of warriors, and led by a chieftain, the tribe carried forward its activities of common concern, preserving peace within the organization and waging warfare against the common foe.

As civilization advanced the peoples ceased the migratory life and settled down. Then the family became more definitely organized in its present form; the clans formed city wards, villages or towns; the tribes organized into counties or states; and a group organized into the nation.

So the spirit of altruism, the spirit of cooperation, first found its expression in the organization of the family, then the grouping of families into clans; clans into tribes; and tribes into states and nations. Or, expressing the historical development of political society in other words, there was first formed the family; then the town, village or city; then the county; then the state; then the nation. Since mankind has taken five of the six steps towards the federation of the world, it is most reasonable to believe that the last one will also be taken.

**The Need of a World State.** As was learned at the beginning of our study of Civics, every person possesses certain God given faculties,—physical, intellectual and spiritual,—and it is his most sacred duty to develop these to the highest possible perfection. States are established among men for the purpose of providing the best possible environment in which to develop these faculties. Life must be safeguarded,

personal liberty must be assured, freedom of thought, expression and worship must be guaranteed, and the rights of private property protected. If man's spiritual nature is to be developed opportunity must be provided for great co-operative undertaking which will enable him to exercise those qualities of fellowship so necessary to spiritual growth.

The establishment of the clan made possible the maintenance of justice and the ministration of mercy among immediate relatives. But brute force prevailed between clans. Might made right. The union of clans into a tribe substituted the human qualities of justice and mercy, for the brute quality of force, in the settlement of interclan difficulties; but might continued the law between tribes. In time the tribes or rather the states which they came to form, united into a nation. Then the principles of justice settled the differences between the states, as in case of our own Union, but the law of force continued to settle international disputes.

Slowly a body of international law was developed which sought to maintain right relations between sovereign states, and settle differences between them without war. But with no superior authority to enforce the provisions, it proved inefficient as shown by many wars, the most notable being the recent terrible World War.

**The Establishment of the League of Nations.** The establishment of an international government with power to settle differences between the sovereign states of the world in harmony with the principles of justice, mercy and the promotion of human welfare became a recognized necessity.

That such a state might be established furnished inspiration and enthusiasm to the Allied Nations during the closing years of the World War. By November 1918, when the armistice was signed, it was a common belief that no more

fitting monument could be established to the memory of the millions of brave men who have given their lives for the liberty of the world than that a league of nations be organized which should have as its purpose the preservation of peace and the promotion of justice throughout the world.

It was with a desire to establish such a government that the representations of the Allied Nations assembled in Paris in December 1918. After long and painstaking effort a tentative Constitution for the League of Nations was submitted to the world for consideration. It was freely discussed by the nations interested, especially by the United States. Objections were raised and criticisms, both destructive and constructive, were made.

At a second sitting of the Peace Conference, the Constitution was carefully revised, incorporating not a few important changes recommended by statesmen in America and other countries. Upon April 28th, 1919, the Peace Conference adopted the revised Constitution, or Covenant as it was now called, without a dissenting vote. It was formally signed—together with the general treaty of peace—by the delegates of the leading nations engaged in the World War on June 28th, 1919. It was next submitted to the various governments interested for ratification. After much discussion and debate, the leading powers, excepting the United States, ratified the treaty, including the Covenant. Thus was established a confederation of the leading nations of the world. Forty-six states were eligible to be charter members of the League of Nations and the Covenant provides a method by which the remaining states may enter. The adoption of the Covenant by more than forty nations and the establishment of the League constitutes a great step toward the abolition of war and the advancement of the human race. The highest type of civilization demands peace.

The Covenant, or Constitution of the League of Nations is a remarkable document containing twenty-six articles. Untold possibilities are provided by it for promoting the general good. It can be very properly considered the Magna Charta of mankind. Conceived in the spirit of liberty, equality and fraternity, may it fulfill its purpose.

The Capital of the League is located at Geneva, Switzerland, although it may be changed to another place, at any time, by a vote of the Council.

**The Organs of the League.** The functions of the League are performed by three distinct bodies—an Assembly, a Council, and a permanent Secretariat.

*The Assembly* is composed of not less than one, nor more than three, representatives from each state comprising the League. The representatives from each state have but one vote upon any question coming before the Assembly. They are chosen by such method as the nation sending them may wish to employ, and serve for such time as it may deem wise.

*The Council* consists of one representative from each of the four leading allied powers—the British Empire, France, Italy, and Japan—together with one representative from each of four other nations, members of the League. These four states are determined, from time to time, by the Assembly. The number of states represented in the Council may be increased by decision of the Council and the Assembly.

The representatives to the Council are selected by the states which they represent and serve for such period as the states may determine.

*The Secretariat* is a permanent body, consisting of a Secretary-General and such secretaries and staff officials as the business of the League may require. The first Secretary-General, Sir James Eric Drummond of England, was appointed by the Peace Convention, thereafter the Secretary-

General is to be appointed by the Council with the consent of the majority of the Assembly. The secretaries and staff officers are appointed by the Secretary-General with the approval of the Council.

**The Time and Place of Meeting.** The *Assembly* must meet at stated intervals at the seat of the League or other place previously decided upon. Special meetings may be held as occasion requires.

The *Council* must meet at least once a year, at the seat of the League, or other place previously agreed upon. Special meetings may be held when deemed necessary.

The *Secretariat* is a permanent body being constantly at work. Its offices are at the seat, or capital, of the League. Their location can be changed only by moving the capital to another city.

**Powers and Duties.** The authority of the League is quite limited yet it is permitted to exercise certain legislative, administrative, judicial, advisory and appointive powers.

The *Assembly* is authorized to admit states to membership in the League by a two-thirds vote; to advise the reconsideration of such treaties as it believes to be out of date; to arbitrate disputes between states which are submitted to it; and to consider "any matter within the sphere of the League or affecting the peace of the world." The last named power is a very broad one.

The *Council* exercises a variety of powers. It is required to enforce the provisions of the Covenant and it may expel from the League any member which refuses to obey.

Like the Assembly, the Council is authorized to deal with "any matter within the sphere of the League or affecting the peace of the world."

It is permitted to inquire into any dispute between members of the League and endeavor to secure a settlement

should the parties fail to submit the question to the Assembly or the Court of Arbitration. If a member of the League becomes involved with a state not a member of the League, or if two non-member states should enter into a difference likely to lead to war, the Council may take steps necessary to settle the dispute and prevent hostilities.

In case any state fails to carry out the award of an arbitration by which it has agreed to abide, the Council must propose the means by which the decision is to be enforced; and should war be levied against the League, the Council recommends what military and naval forces each member shall contribute to the defense.

It appoints all permanent international commissions and bureaus and directs their activities together with those of all existing international bureaus which, by the Covenant, are placed under the direction of the League.

To guard each state against abuse by a combination of the remaining states in the League, it is provided that, except where expressly provided in the Covenant or treaty, no decision of the Assembly or of the Council shall be effective unless approved by all members of the League represented at the meeting. The United States, or any other nation, can thus prevent any action on the part of the League which it considers detrimental to its own interests.

The *Secretary-General*, together with the subordinate secretaries and staff officials, perform the administrative functions of the League. The size of this department will no doubt increase greatly as time goes on and the work of the League is extended.

The *International Court of Justice*, established in accordance with plans worked out by the Council and adopted by the members of the League, exercises two distinct functions.

It may give an advisory opinion upon any question or dispute referred to it by the Council or Assembly. It also has power to hear and decide any dispute of an international character which the parties involved may submit.

**Important Provisions of the Covenant.** Since it is the aim of the League to preserve the peace of the world and promote the highest interests of mankind, the Covenant contains the provisions essential to the carrying out of these purposes.

The members of the League are to respect each other's independence and territory and preserve them, if necessary, against external attack. But all nations are to fully respect the Monroe Doctrine. Since improved methods of communication and transportation have virtually made the world a neighborhood, war or even the threat of war is a serious concern to all the states, so every member is authorized to call the attention of the League to anything that threatens to disturb the peace of the world and the League may take such action as it deems necessary to prevent strife.

Any trouble arising between the members of the League which is likely to lead to war must be submitted either to arbitration by an international court or to mediation by the Council or the Assembly. A member can submit its dispute to the proper authority by giving notice to the Secretary-General who will arrange for a hearing. No state is to go to war until three months after the award of the court or the recommendation of the Council or Assembly has been made; and never must it carry on a war against a state that complies with the award of the tribunal or with the unanimous recommendation of the Council or the Assembly. All awards and recommendations are to be carried out in good faith.

Any nation making war contrary to the provisions of the Covenant is deemed an enemy of the League and is treated accordingly. An economic boycott is carried on against it

by the other members of the League, that is they promptly discontinue all business relations with the warring state. In these days of great commercial interdependence, this would prove most disastrous to the rebellious state and would doubtless be sufficient to bring it to terms. But, should the boycott prove ineffectual the nations agree to supply such military and naval forces as the Council may direct, and also to grant passage through their territory to the forces of the League.

- Germany has proved that a nation prepared for war will engage in war, so the members of the League are agreed that the preservation of peace requires the reduction of armaments to the lowest point consistent with national safety and the enforcement of international obligations. The Council is required to formulate plans for such reduction which are to become operative when approved by the members of the League. These plans are subject to revision at least every ten years. A permanent commission has been established to advise the Council. The nations agree to keep each other fully informed as to the size of their armaments, the details of their military and naval programs, and the condition of their industries adaptable to war purposes.

Secret treaties and agreements have been a cause of much international trouble. To stop this source of annoyance all treaties are to be registered with the Secretariat, and a treaty is not binding until so registered. No treaty is to be made in violation of the Covenant of the League.

The commerce of the members is guaranteed perfect freedom and just treatment on the high seas. But trade in opium and other dangerous drugs, as well as in arms and ammunition, is to be properly supervised.

Fair and humane conditions of labor for men, women and children are to be established within the states which are

members of the League and, as far as possible, in the countries with which they have commercial and industrial relations. Such organizations as are necessary to carry out these purposes must be established. The effect of this provision will ultimately be to advance greatly the conditions of labor throughout the civilized world.

The backward peoples of the earth are not to be conquered, but their well-being and development are to be a sacred trust to be administered by member states acceptable to the peoples concerned, which will consent to act as agents, or mandatories, of the League for such purpose. A permanent mandatory commission supervises the work of the mandatory states, carefully examining the annual reports made and advising the Council respecting the administration of the affairs of the backward peoples. Here, for the first time, the great nations of the world have acknowledged it to be their duty to employ the strength they possess in the uplift, instead of the oppression, of the inferior races. May the spirit as well as the letter of the Covenant be carried out.

The offices of the League, even including that of Secretary-General, are to be open to women as well as men; and the expenses are divided among the members according to a plan agreed upon.

Amendments may be made to the Covenant by unanimous vote of the Council and a majority vote of the Assembly. No amendment is binding on any member of the League which signifies its dissent therefrom, but in such case the dissenting state ceases to be a member of the League.

**Members of the League.** As previously stated, forty-six nations are privileged to become charter members of the League; and any other nation may be admitted to membership by a two-thirds vote of the Assembly. A state may be

expelled from the League by a unanimous vote of the Council; or it may withdraw by giving two years notice of its intention to do so.

**Conclusion.** The League of Nations is in no sense a government superior to the member states but is an organization established by mutual agreement among the nations comprising it. It can not coerce the states. Sovereign power rests with the separate members. It is the servant, not the master, of the states comprising the League. By its assistance, the members hope to preserve the peace and promote the general welfare of the world.

The Covenant of the League, like the Articles of Confederation adopted by the thirteen original colonies of the United States, may be but the first step towards a more perfect union. The nations may some day establish a United States of the World which will be given powers similar to those of our Federal government, thus ensuring the peace and promoting the general welfare of the world. May the day soon come when the governments will fulfill the mission for which they were intended and ensure to every individual that protection, freedom and opportunity that will enable him to make the most of the qualities with which the Creator has endowed him. It is the duty of every loyal American citizen to establish such conditions in his local unit, in his county, his state and the nation; and then do all within his power to perfect the international state which will establish peace and good will among men.

### REVIEW QUESTIONS

1. From the beginning of history what steps towards a world state have been taken?
2. Why is a world state needed?
3. Describe the events leading to the establishment of the League of Nations.

4. What is the Covenant?
5. Where is the capitol of the League?
6. Describe the organization and duties of the Assembly; of the Council; of the Secretariat.
7. State the important provisions of the Covenant.
8. How may the Covenant be amended?

#### PRACTICAL POINTS

1. What nations are members of the League at present?
2. Who is Secretary-General of the League?
3. Who are our representatives in the Assembly? Council? Who represents each of the other countries?
5. State the argument in favor of the League of Nations. Can you give any against it? If so what are they?
6. Should the United States remain out of the League? Give your reasons.

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