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OKLAHOMA
SCHOOL CIVICS

BY

L. J. ABBOTT, LL.B., M.A.

PROFESSOR OF AMERICAN HISTORY, CENTRAL STATE NORMAL
EDMOND, OKLAHOMA

GINN AND COMPANY

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PREFACE

The great length of the Oklahoma constitution forbids quoting and commenting upon it section by section. The aim of this book is to give pupils in the schools of Oklahoma a complete working knowledge of the institutions of the state without burdening them with unnecessary details. It is published in connection with and becomes a part of Boynton's *School Civics* to which frequent reference is made. These references should be looked up, as they form a part of the text in the same manner as references to the constitution of the state.

References to the constitution are given by article and section, e.g. Art. VI, sect. 3; to *School Civics* by pages, e.g. Boynton, pp. 293-307; and to passages in this book by chapter and section, e.g. chap. x, § 151.

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OKLAHOMA SCHOOL CIVICS

CHAPTER I

THE CIVIL DISTRICT: IN OKLAHOMA, THE MUNICIPAL TOWNSHIP

1. Charters of Liberty. The four great charters of Anglo-Saxon liberty are: Magna Charta (1215), the Bill of Rights (1689), the Declaration of Independence (1776), and the Constitution of the United States (1789). But the rights which these epoch-making documents convey would be materially lessened were it not for the great body of common law (the law of custom and of usage), founded upon equity and justice, and for the boon of local self-government.

2. Local Government Important. While it is extremely important that we have good laws wisely administered in state and nation, the individual is deeply concerned with the laws and with their administration in the city, township, and county in which he resides (Boynton, p. 285). It is the laws of these lesser political divisions of government which regulate the daily life, and with which the citizen comes into daily contact. We will now consider in the smallest governmental division the function of the state in its relation to these local rights of self-government.

3. The Civil District was established in some form in every one of the colonies at an early date (Boynton, chap. xix, pp. 288-291). Its form and method of organization was brought

to America from England. It is the smallest and least complex of all our political machinery. In New England it is called a town, — a small country district, — which we in Oklahoma term a municipal township (Boynton, chap. iii, pp. 45–52, for full discussion of town, parish, county in America).

4. The Municipal Township in Oklahoma is exactly the same civic organization as the town in New England. There is this difference, however, that in Oklahoma the administration of the municipal township is clearly republican instead of a pure democracy, as in the case of a New England town, and its governmental functions are more limited. In Oklahoma the name “township” or “municipal township” is quite as confusing as the New England name “town.” This arises in part from the fact that the federal government has given the name “congressional township” to a tract of country just six miles square, a convenient unit for surveying the state. A municipal township may be larger or smaller than a congressional township, and has nothing to do with the latter, although in dividing a county into municipal townships the lines established by the government are frequently used, in which cases the area of the two kinds of townships coincide.

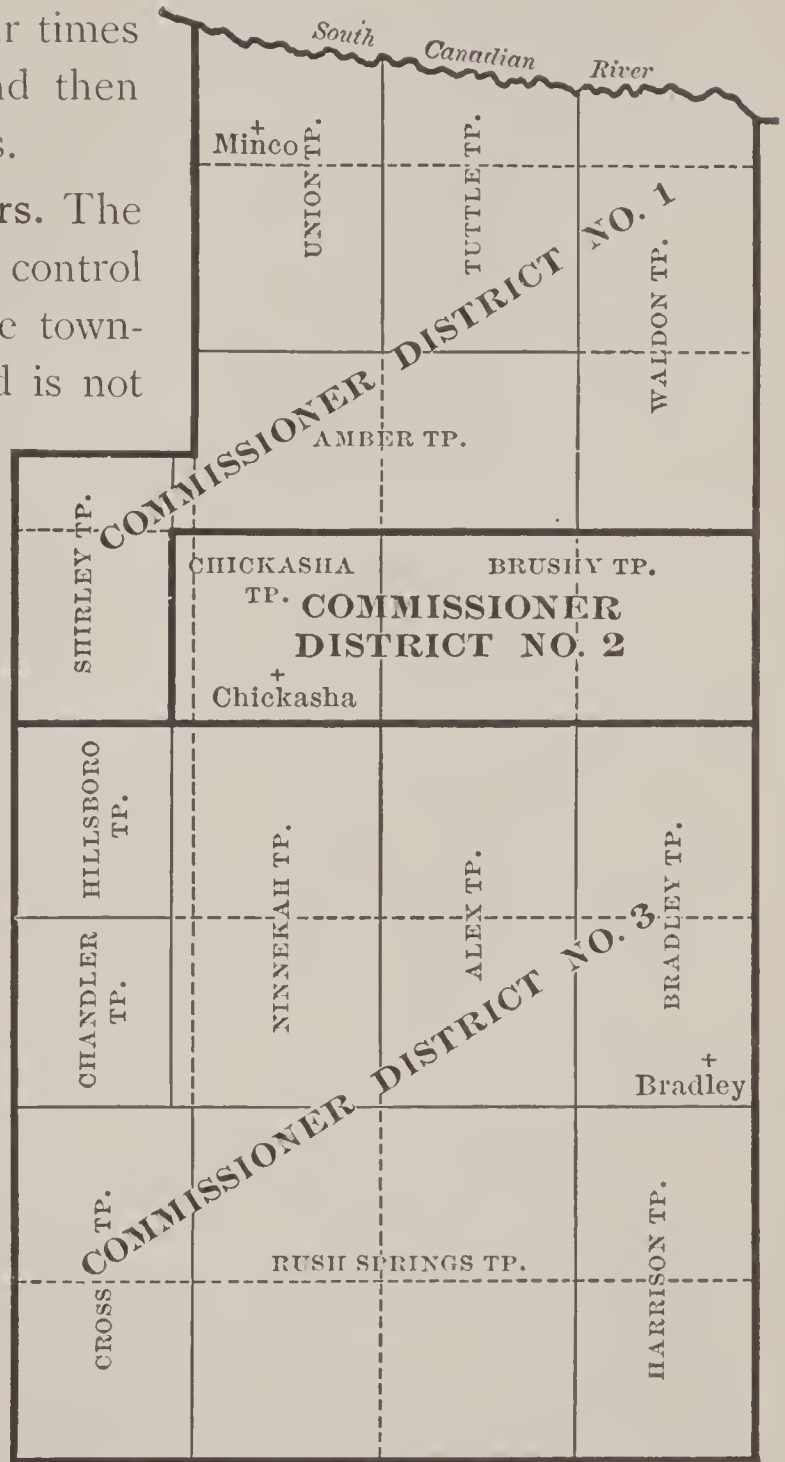
5. Township Officers. As has been stated, the township is the least complex of all our political machinery. In the sparsely settled country districts and in the small villages which are brought under this system there is little need of complex government. The chief authority in the township is the township board. This board is the legislative assembly of the township. It consists of three members: (1) the trustee, or chairman, who is the executive official of the township; (2) the treasurer, who has control of the funds; and (3) the clerk, who keeps the records of the board. These men seldom

meet more than four times during the year, and then only for a few hours.

6. Duties of Officers. The trustee has general control of the affairs of the township when the board is not in session, has general supervision of the road overseers, and also is assessor of the township. The treasurer has charge of the funds of the township. The clerk keeps the records.

7. Township divided into Road Districts. Every township is divided into road districts, each under the supervision of the road overseer. The road overseer has power to warn (call) out citizens to work on the roads in

order that the roads may be kept in as good repair as possible. It is also his duty to collect the poll tax and to keep the roads



MAP OF GRADY COUNTY

(Showing congressional and municipal townships and commissioner districts)

and bridges of his district in good condition. The township trustee may act at any time in place of the road overseer.

8. Initiative and Referendum. The legislative and executive departments of township government are combined and placed in the hands of one set of officials, the township board. The legislative acts of the board, however, are subject to review by the voters of the township by means of the referendum. Whenever the board fails, or refuses, to enact desired legislation it can be forced to do so by initiative petition (Art. V, sect. 5). In Chapter VII a detailed explanation of the initiative and referendum may be found. It is a part of the legislative machinery of the township, supplementary to the work of the township board.

9. Township Judiciary. There are two justices of the peace in every township, as well as in each city of the first class (Boynton, p. 279). Under the constitution each justice has jurisdiction in civil cases up to \$200, and in criminal cases where the fine does not exceed \$200, or imprisonment in the county jail for not exceeding thirty days, or both such fine and imprisonment (Art. VII, sect. 18). This jurisdiction is coextensive with the county. The justice also has power to examine and commit prisoners in all cases of felony. Every justice of the peace has a constable to enforce his decisions, to serve writs, and to act as general peace officer of the township. In a justice court six men constitute a jury. In July, 1910, the county commissioners will divide each county into six justice of the peace districts. One justice will be elected for each district. If necessary, however, additional justices may be provided but must not exceed one for each voting precinct in the county.

CHAPTER II

CITY GOVERNMENT

10. Municipalities. Where the population becomes dense, as in villages and cities, it has been found necessary for the best interests of all concerned to have a more detailed organization than is necessary in the municipal townships. In large cities government is found in its most complex form. The various state governments classify such densely populated communities differently, according to the numbers living in such communities. The smallest division is usually called a village, the next larger a town, and the largest a city. Cities are again classified, usually into three groups, namely, first, second, and third, the third-class city being the smallest (Boynton, chap. xx, pp. 293-307).

11. Oklahoma Municipalities. In Oklahoma all densely populated communities are called either cities or towns. There are no villages recognized by law in Oklahoma. Municipalities are of two classes: those of two thousand population are called cities of the first class; those of less than two thousand population are called towns. For the incorporation of towns no special population is required. When certain provisions have been complied with by a densely populated community of less than two thousand inhabitants, it is declared a town by the board of county commissioners. When a densely populated community of more than two thousand inhabitants has met the requirements of the general law, it is declared a city by the governor of the state. Any city containing a population

of more than two thousand inhabitants may frame a charter for its own government, consistent with and subject to the constitution and laws of the state (Art. XVIII, sect. 3). It is then termed a "charter city."

12. How a City forms its Own Charter. A convention of freeholders (men who own real estate) is elected to draw up a constitution or charter for the city. This body is composed of two men from each ward. This charter is submitted to the voters of the city. If a majority of those who vote upon the question of accepting or rejecting the charter drawn up by the convention are in favor of its adoption, it is then sent to the governor for his approval. If it is found to conform with the statutes and constitution of the state, and the governor approves, it then becomes the constitution of the city, defining what may and may not be done. If the charter is approved, one copy is filed with the secretary of state and one is recorded with the register of deeds of the county in which the city is located, and is then finally deposited in the archives of the city.

13. City Charters: Amendments. Amendments to a city charter may be begun as follows: first, by the city council; second, by a petition signed by twenty-five per cent of the voters. If the second method is adopted, an election must be called by the mayor within thirty days after the petition has been filed with him. At this election the voters decide whether or not a revision of the charter shall be made. If a majority vote in favor of such a revision, the work proceeds; if not, the matter is dropped. This provision and the one in the preceding section was put into the constitution so that Oklahoma cities could adopt the *commission system of city government*, if they so desired. Commission government

abolishes all wards and councilmen. A commission, or committee, usually of five men, is elected to serve the city much as a board of directors controls a large corporation. The members of this commission are paid large salaries and devote all their time to the city's interests. Government by commission is an effort to abolish the inefficient and often corrupt city governments that are found everywhere in America. Two Oklahoma cities, Tulsa and Ardmore, have already (1909) adopted charters and are operating under some form of the commission system. All other Oklahoma municipalities still adhere to the general law, which is explained in the following paragraphs.

14. City Wards and Councilmen. When the governor issues a proclamation declaring a certain community a city, he defines the wards (subdivisions of the city), not less than four, for the purpose of the first election. These wards may be changed after the first election, by the city councilmen, if occasion requires. The number of people residing in each ward is the same as nearly as possible. The wards serve as election precincts and are the basis of representation in the city council and school board. Each ward is entitled to two councilmen, elected for a term of two years alternately. By this method at least one half of the council has had experience in the administration of city affairs.

15. The City Council. All legislative authority of the city is vested in the city council, with the exception of what law-making power is reserved to the mayor and the people. The mayor presides over all meetings of the city council and has a vote in the case of a tie, and also exercises veto power over all acts of the city council. The city council has power to levy taxes, audit and pay bills against the city, borrow money on

the city's credit, impose license taxes, erect necessary public buildings for the city's use, condemn land for public purposes, and invest in public business for the benefit of the city. Waterworks, lighting plants, cemeteries, represent such investments.

16. The Initiative and Referendum. Like the municipal township, the city has the power of initiative and referendum (Art. XVIII, sect. 4 a). Through this power the voters of the city may reject the action of their city council or may force that body to pass needed legislation. The constitution requires, however, that every petition for initiative or referendum in the government of the city shall be signed by a number of the qualified voters residing within the city, equal to twenty-five per cent of the total number of votes cast at the next preceding election, and that this petition shall be filed with the mayor (Art. XXIII, sect. b). Thus the legislative authority of the city is vested, first, in the city council; second, in the mayor, by reason of his vote in the case of a tie and his power of veto; third, in the people, by means of the initiative and referendum.

17. The Mayor. The chief executive of a city of the first class is called the mayor (Boynton, pp. 296-297). It is his duty to see that the laws enacted for the government of the city are enforced. He presides at all meetings of the city council and exercises the right of veto over measures enacted by the council. After an ordinance has thus been vetoed it can only become a law by passing it over the veto by a two-thirds vote of the council. With the consent of the council, the mayor can grant reprieves and pardons for offenses arising under city ordinances. He can also suspend city officials for incompetency or neglect of duty until the council acts thereon. The mayor appoints the park commissioner, the water and

sewer commissioner, the light commissioner, the city physician, the police officers (excepting the chief of police), and such other officials as the needs of the city demand. His salary is fixed by city ordinance, is generally small, and is not considered as an adequate compensation for services rendered. In many cities throughout the country no compensation whatever is attached to the office of mayor or member of the common council. Service thus rendered is usually considered a matter of local patriotism.

18. The City Clerk. It is the duty of the city clerk to keep a record of all proceedings of the council. He signs all orders to pay out city funds. Thus he transacts for the city the duties that, in the state, are divided between the secretary of state and auditor. The term of the city clerk is two years. The salary varies widely, depending upon the size of the municipality.

19. The City Treasurer. All funds belonging to the city are under the control of the treasurer. Like the township treasurer, he does not collect the general tax. The general taxes are paid to the county treasurer. The only tax money that is paid directly to the city treasurer is for the occupation tax levied upon certain classes of business in the city, the dog tax, the peddler's tax, the street hawker's tax, etc. Such special taxes are created by ordinance and are specially devised to protect the people against imposition. Term two years. The salary depends upon the size of the city.

20. The City Attorney. The city attorney is elected by the people for a term of two years. The attorney is expected to advise all city officials upon legal matters that relate to the city. He defends all lawsuits against the city, brings action in the name of the city, and prosecutes all offenders tried in the police court.

21. The City Marshal. The official title of the chief of police is city marshal. He is elected by the people for a term of two years and has general control of the peace of the city. He is subject to the orders of the mayor only. In most cities in other states the mayor appoints the chief of police. This custom is more apt to obtain harmony between the chief of police and the mayor, and harmony makes for the best municipal government, a condition not always true in Oklahoma.

22. The Assessor. Every city of the first class chooses an assessor, who lists the property of the citizens for taxation as does the trustee in a municipal township. The assessor is the only official in cities of the first class elected for but one year. Salary three dollars per day for the time he is at work.

23. The Street Commissioner. The street commissioner has charge of the streets and sidewalks of the city. He attends to all grading, draining, ditching, builds cross walks, and has general supervision of all thoroughfares within the city limits. Term two years.

24. The Judicial Authority. The police judge, who is elected for a term of two years, is vested with the judicial authority in the city. Before him are arraigned the petty offenders against the peace and dignity of the municipality. The police judge determines the meaning of the city ordinances, and cases brought before him are never tried by jury. In cities of more than twenty-five hundred inhabitants two justices of the peace are elected. These justices have been held by the supreme court to be county officials, and are elected at the regular county election in November instead of at the city election in April. The reason for this is that all justices of the peace, from whatever district, have jurisdiction in all cases not exceeding two hundred dollars arising in the county.

A constable is elected for each justice chosen. Like incorporated towns, cities of the first class of less than twenty-five hundred population elect but one justice ; cities of over twenty-five hundred population elect one extra justice for every ten thousand population in excess of the twenty-five thousand.

25. Incorporated Towns. The general statute provides for incorporating towns in Oklahoma. Before a town can be incorporated it must be surveyed, mapped, and the census taken. The petition for incorporation is made to the county commissioners (see chap. iii, § 46), and must be signed by one third of the qualified voters residing in the town. If a majority of the citizens vote for incorporation, the board of county commissioners will issue an order declaring it a town. No special population is required, but it must be sufficient to support such a government as is provided by the law.

26. Oklahoma Town Government. The town is divided into not less than three and not more than seven districts or wards. Each district elects one trustee. The trustees form the town's legislative assembly, which is known as the board of trustees. The board chooses one of its own number for president, and he thus becomes the chief executive officer of the town. At the time of his election, the first Tuesday in April, there is also elected a clerk, assessor, treasurer, marshal, and justice of the peace, whose term of office is one year each. Their duties are the same as those of like officials in other departments of government. In towns the same person may be both clerk and assessor at the same time. The right of initiative and referendum is reserved to the town.

27. Public-Service Corporations. One of the greatest difficulties arising under city governments is the control of public-service corporations. The constitution of the state gives

the city explicit control over her franchises, which control, if properly exercised, will go a long way in the solution of this most vexatious problem in municipal administration. The constitution forbids that any city or town shall ever grant, extend, or renew a franchise without the approval of a majority of the qualified voters concerned, who shall vote upon the question at a general or special election; and no franchise shall be granted, extended, or renewed for a longer term than twenty-five years (Art. XVIII, sect. 5 a).

28. Public Utilities. It is becoming more and more the custom for cities to conduct certain lines of business that are, in the nature of things, monopolies. This is done for the benefit of the entire community. Public utilities most commonly under the control of the city are waterworks, lighting plants, sewers, drains, street railways. The state constitution makes it possible for cities to enter a much wider field. Every municipal corporation within the state has the right to engage in any business or enterprise which may be engaged in by a person, firm, or private corporation (Art. XVIII, sect. 6 a).

CHAPTER III

THE COUNTY

29. The County (Boynton, pp. 48-52). Like the municipal township, the county is a civil district. By this is meant that it is a governmental convenience. In most states its boundaries can be changed, or its very existence terminated, at the will of the legislature. The constitution of this state sets limitations (Art. XVII, sect. 4). It will be seen that the governments in the forty-six commonwealths composing the Union make them unitary states (Boynton, p. 27), and that the federal government has no such powers over the boundaries of the respective units (states) of which it is composed. The states are indestructible just as the Union is indissoluble, i.e. it cannot be legally destroyed (U. S. Supreme Court definition of the nature of the Union).

30. The County in Oklahoma. In Oklahoma the township has in no respect the powers of a New England town acting through its town meeting (Boynton, p. 47). Also the county commissioners lack in many material respects the authority lodged in the county court of Virginia's colonial days (Boynton, p. 50). Local self-government is here a happy blending of the two systems (Boynton, p. 52).

31. The Counties: how Organized. There are seventy-five counties¹ in Oklahoma, created by the constitutional

¹ Most of the legal steps have been taken to create a new county in the extreme southwest corner of the state. It will be named Harmon after the governor of Ohio.

convention. At the time of this convention Oklahoma had organized territorial forms of government. Its counties were, for the most part, left as they had been under the territorial administration; but in some instances county boundaries were changed, large counties cut up, and, in the instance of Day County, entirely obliterated. On the Indian Territory side of the state there was no local self-government except that which related to citizens of the Five Civilized Tribes, so counties had to be created throughout this section.

32. The County Seat. The place where the county government is administered is called the county seat. Here, at a building termed the courthouse, the county business is transacted, and here the district and county courts hold their sessions. The county seat is located by the constitution just as the county boundaries, but it can be changed in the following manner: twenty-five per cent of the electors of the county must petition for a change, whereupon the governor must issue a proclamation calling an election. If a majority of the votes cast shall be in favor of any town, such town shall thereafter be the county seat, unless the present county seat is within six miles of the geographical center of the county, in which case sixty per cent of the total votes cast is required to effect a change. If, however, the competing town is one mile nearer the center of the county than the present county seat, then the six-mile provision does not hold and a majority vote is sufficient to change to the competing city. The election officers to conduct a county-seat election must all come from another county. They are appointed by the governor to take charge of every polling place and to count the votes. These provisions for holding a county-seat election have been most satisfactory. Oklahoma

has avoided the countless bitter, and often bloody, county-seat wars that have stained the early history of other western states. The election is conducted by disinterested citizens, and no opportunity is given for ballot-box stuffing and frauds of a similar nature.

33. County Government. Oklahoma's constitution and statutes have created a threefold division of county government : executive, sheriff ; legislative, county commissioners ; judicial, county judge.

34. Sheriff. The sheriff is almost the only pure executive official known to the American polity, that is, he has no veto nor judicial authority. The sheriff's duties are to preserve the peace within the county, to attend court, and to serve processes. He arrests criminals and has charge of juries, witnesses, and prisoners ; he executes the sentence of the courts, and also serves writs not only for the district court but also for the county court and justices of the peace. He is the governor's executive assistant in the county. The sheriff is elected for a term of two years, paid by fees.

35. County Attorney. Like any large corporation, the county employs a regular attorney to act for it in all lawsuits. He represents the people, i.e. the state, in all criminal prosecutions and is therefore often called the state's attorney. The county attorney is the legal adviser of all county officials, and, in fact, of every township and city officer in the county in respect to county business. He is elected for a term of two years.

36. The County Clerk. In some states the county clerk is called the recorder, and in others the auditor. He is secretary of the board of county commissioners and has charge of all county papers. All warrants, i.e. orders upon the treasurer,

are issued by him. He is the bookkeeper for the county. He also makes up the tax roll after the assessors turn in their lists of taxable property to him. A copy of this tax roll is turned over to the county treasurer, to be followed in collecting each individual's taxes. He is elected for a term of two years, at a salary ranging from five hundred dollars to sixteen hundred dollars, depending upon the population of the county. He is also allowed three hundred dollars additional for making out the tax roll (chap. xi, § 175).

37. The County Treasurer receives and pays out all funds with which the county government has to do. He collects all taxes for township, school, city, and state purposes. He pays out no money except upon a properly signed voucher, properly indorsed by the payee, and this paper is his receipt and proof of payment. The county treasurer is the only treasurer in the state who collects funds, excepting certain special taxes. He pays over the pro rata share of all money to the township, school, city, and state treasurer for disbursement.

38. Register of Deeds. The transfer of real estate is counted such an important matter, and disputed titles to the land causes so much confusion, that the state provides for a man in each county to register the title of real estate. When a person buys real property he is given a deed. In order to prevent, as nearly as possible, all fraud in land titles, this deed is copied by the register of deeds in a public record book. In this way any one can learn exactly who owns the property. One should be careful to register a deed as soon as the land is purchased. If he does not, the grantor, if dishonest, might sell the same property again. If the second person who gets the land is an innocent purchaser, he will

hold title to the property, provided his deed is registered prior to that of the original purchaser, who then must look to the seller for satisfaction. The register of deeds also keeps a record of mortgages, leases, and other matters of general interest to the public. The boundaries of oil and mineral claims are here recorded. In fact, this officer keeps a record, when requested and a small fee is paid, of everything that pertains in any way to real estate titles or chattel mortgages. He also records the charter of a charter city, after it is approved by the governor (chap. ii, § 12).

39. The Surveyor. The duties of the county surveyor require that he survey all public improvements, such as roads, lands, and public buildings. He is not paid a salary; his compensation depends upon the amount of work required of him. Election to this office generally gives the surveyor a standing in the community that brings him much private business. He settles disputes about boundary lines, plats, town sites, surveys for irrigation ditches, and seeks general employment during the periods when not employed by the county.

40. Superintendent of Public Instruction. A school-teacher is generally chosen to the office of county superintendent of public instruction. This is the only county or township office that can be held by a woman. The county superintendent has general supervision over all the school-teachers in incorporated towns and in rural districts. He certifies teachers who do not hold state certificates, apportions the school fund to the respective districts, decides on the boundary lines of new districts, and in general promotes the welfare of the school system of the county. He is required by law to visit every teacher under his supervision once a year during school hours.

41. The Coroner. The Oklahoma constitution does not provide for the office of coroner; a justice of the peace acts in his stead. Most English-speaking communities elect a coroner to take charge of the dead body of a human being found under circumstances which warrant the suspicion that the deceased came to his death by violence. He summons a jury and investigates the cause of the death. The facts thus elicited, if any evidence of foul play is found, are turned over to an officer. There was once a time in England when the only county officers were the sheriff and the coroner. The coroner then acted in the sheriff's place when the latter was absent or incapacitated. This practice holds to-day. In many states the coroner is the only man who can arrest or serve a writ on the sheriff.

42. The County Weigher. Previous to the adoption of the constitution there was an official known as county weigher in the Oklahoma portion of the new state. The first state legislature reëstablished the office. The county weigher receives no salary, but his weights on cotton and grain are counted official, and the fees resulting from his office are considerable. This office is found in many western and southern states. It is created in order to save the farmer from false weights and collusion of grain factors. He is elected for a term of two years.

43. The County Board of Health. In each county there is a county board of health, whose duty it is to look after the general health of the community, abolish nuisances that are dangerous to the public health, quarantine persons afflicted with contagious diseases, and, in fact, to attend to all things necessary for the preservation of the public health. The members of the board are appointed by the county commissioners for a term of two years.

44. The Commission on Insanity. The county judge, a physician, and a lawyer constitute the commission on insanity. Persons thought to be insane are brought before this commission. If so adjudged, they are sent to the Hospital for the Insane at Fort Supply or to the sanitarium at Norman. As soon as the East Side Insane Asylum is completed at Vinita, the state will no longer send insane patients to the Norman Sanitarium. If the commissioners are convinced that relatives will take proper care of the insane patient, this is permitted, and the patient then does not become a charge on the state. These two commissioners, who are appointed to serve with the county judge, are chosen for a term of two years (chap. xiii, § 228).

45. The County Physician. The county physician is elected by the board of county commissioners. He attends the sick at the poorhouse, and prescribes for the indigent sick elsewhere in the county, when instructed to do so by the county commissioners. He is appointed for a term of two years. His salary depends upon the service rendered.

46. County Commissioners. The legislature of each county consists of three commissioners. In other states this body is frequently more numerous and is known under the name of supervisors or county court. But whatever the name may be, the functions vary but little. The commissioners of the county have general supervision of all roads and bridges, buildings, and other county property. They also have the care of the poor. The commissioners determine the tax levy for their respective counties, and all bills must be allowed by them before being audited by the county clerk or paid by the treasurer. The county commissioners also compose the county board of equalization (chap. xi, § 174). They are

elected for a term of two years. Their salary depends upon the population of the county. It ranges from one hundred and fifty to two hundred and fifty dollars per year. There is some other slight compensation in the way of mileage, etc.

47. Initiative and Referendum. Measures passed by the county commissioners, like all other legislation in the state, are subject to direct review by the people of the county (see chap. viii). The manner of exercising the initiative and referendum according to the constitution " shall be prescribed by the general laws, except that boards of county commissioners may provide for the time for exercising this power as regards local legislation in their respective counties and districts (Art. V, sect. 5).

48. The County Judge. The court over which the county judge presides has original jurisdiction concurrent " with the district court in civil cases in amount not exceeding one thousand dollars " (Art. VII, sect. 12). It is a court of record and has exclusive jurisdiction in all civil cases in which more than two hundred and less than five hundred dollars is involved. It also has the general jurisdiction of the probate court. It probates wills, appoints guardians of minors, idiots, lunatics, persons *non compos mentis*, and common drunkards ; grants letters testamentary and of administration, and transacts all business appertaining to the estates of deceased persons, minors, idiots, etc. The county judge also conducts the juvenile court. On certain days only youthful offenders are tried. Thus children are not contaminated by association with hardened criminals. In civil cases six electors compose a jury, and three fourths can render a verdict. In criminal cases the county judge's authority is about the same as that of a justice of the peace. He can act as examining and

committing magistrate in all criminal cases (Art. VII, sect. 17) (see chap. i, § 9).

49. County Superior Court. In each county of thirty thousand population, in which there is a city of eight thousand, a superior judge is elected. This judge has concurrent jurisdiction with the district and county courts, except he has no probate powers. His term is four years, and his salary is the same as that of the county judge in the county where he presides. At present (1909) but five counties have such courts — Oklahoma, Logan, Pottawatomie, Pittsburg, and Muskogee.

50. Eleemosynary Institutions. The several counties of the state shall provide, as may be prescribed by law, for those inhabitants who, by reason of age, infirmity, or misfortune, may have claims upon the sympathy and aid of the county (Art. XVII, sect. 3). Most counties have a poor-house, or some other way to provide for the indigent within their borders. In densely populated counties these eleemosynary institutions are much more numerous, and the charity work is much more highly organized than in Oklahoma, where as yet there is little need of it.

CHAPTER IV

HOW TERRITORIES BECOME STATES — ENABLING ACT FOR OKLAHOMA

51. New States. The federal Constitution provides (Art. IV, sect. 3) that "new states may be admitted by the Congress into the Union"; and the next sentence of the same section states that "The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property of the United States" (Boynton, p. 143). It was under this latter clause that Oklahoma was created a territory in 1890 by the passage of an *organic act*, i.e. an act organizing the territory (Boynton, p. 144). The portion of the state opened for settlement the previous year (1889) was a few counties west of the Creek and Seminole nations and north of the Chickasaws, to which the Panhandle was attached. Tract after tract was added to this nucleus until all the western half of the present commonwealth was known as Oklahoma Territory.

52. Territorial Government. While under this form of federal tutelage the citizens enjoyed many liberties, although two very important functions were denied them. These were the right to choose their executive with all his heads of departments and assistants, and to say who should be their judges and other court officials. Likewise, the single delegate sent to Congress had no vote. But the people of the territory were given local self-government in the townships, cities, and counties. They elected their own legislature and had

control of the taxes levied and moneys expended (Boynton, pp. 144-145). Territorial government is similar in form to that of a state. The exceptions above noted are the chief differences. These differences are minimized when the men appointed reside in the section over which they are to preside. Notwithstanding, a territorial form of government is far from self-government. The only way that a corrupt or inefficient appointee can be removed, is to convince the President of his incompetency. This is frequently very hard to do, since it is almost impossible to arrive at the exact truth in such cases. However, the government of Oklahoma Territory was in the main satisfactory, and was, in general, the same as that adopted by the delegates of the people when they met to form a state government.

53. Indian Territory. The enabling act that passed Congress June 14, 1906, extended the boundaries of the state about to be formed, to include Indian Territory. This section of the present state of Oklahoma had never had a territorial form of government. In the early years of the nineteenth century the region now embraced in the state of Oklahoma had been set apart for an Indian empire. The Five Civilized Tribes (Cherokees, Creeks, Seminoles, Choctaws, and Chickasaws) were settled here. They formed tribal governments, republican in form, that were fairly efficient. Notwithstanding the fact that other tribes and remnants of tribes subsequently settled in this section, the population grew very slowly. Much of the land remained unoccupied, some of which the Indians receded to the government, thus affording land for the "first opening" in 1889. But the white men who moved upon these receded tracts were not the only ones who came into the Indian country. At first they came in slowly, later by

the thousands. White interlopers moved into the territory of the Civilized Tribes. These whites were not always welcome, yet they were tolerated. They worked the Indian lands, developed rich mines, and settled in the towns, but these white men had no standing in the tribal courts. They were recognized in no way by the tribal law. Such an anomaly could not long exist; and the federal government, in spite of the Indians' treaty rights, was forced to step in and give the white population legal recognition. This was done through the Bureau of Indian Affairs and the Dawes Commission.

54. Bureau of Indian Affairs. Previous to 1871 each Indian tribe was treated as a foreign nation, but in that year a bill was passed making them wards of the nation. Their interests are now looked after by the Bureau of Indian Affairs (Boynton, p. 213), under the secretary of the interior. A board of Indian commissioners oversees the expenditures of money and inspects the goods purchased for all agency Indians. Inspectors visit the agencies and examine into the condition of the various tribes. Agents are appointed, who, with the help of teachers, mechanics, and farmers, promote the Indians' welfare intellectually and industrially. Indian schools are maintained at every agency. The institutions for the more advanced students are supported at various places throughout the country. The schools at Carlisle, Pennsylvania, and Hampton, Virginia, are especially famous. Because of Oklahoma's large Indian population it has had much to do with the Department of the Interior and the Bureau of Indian Affairs.

55. The Dawes Commission. A division of the Department of the Interior is a committee of three men, organized in 1893, to look after the interests of the Five Civilized

Tribes. Its main office is in Muskogee. Previous to the establishment of the Dawes Commission, government in the Indian Territory was in a chaotic condition. United States marshals tried to keep order, and would take offenders off to Fort Smith, Arkansas, or to Texas to stand trial in the federal courts. There were no taxes, and consequently no public roads or bridges, and no public schools supported by the white residents. The Indian schools soon became crowded and white children were shut out altogether. Private enterprise was at a low ebb, because the Indians owned the land. Treaties were finally obtained by the general government from all the tribes, in which the Indians agreed to take their lands in severalty. In 1898 Congress extended the laws of Arkansas over Indian Territory, and the same year the enrollment of Indians began. The allotment of separate farms to every man, woman, and child had progressed so rapidly that in 1907 the Indian governments ceased to exist. Indian citizens had become American citizens.

56. Removal of Restrictions. After an Indian, intermarried citizen, or freedman had been put upon the tribal roll he was given a definite plot of land, the number of acres allotted varying according to the class of the land. (Freedmen were not placed upon exactly the same plane as others on the rolls.) Land thus allotted was not to be sold for twenty-one years. From time to time, however, Congress removed the restrictions from certain classes of citizens. The Dawes Commission, under the secretary of the interior, was given authority to determine when the necessary conditions had been met. Still progress was greatly handicapped by the fact that the title to nine tenths of the country could not be had, and highly educated Indians were not allowed to

dispose of their holdings. In May, 1908, however, a bill was approved by the President, removing the restrictions from ten million acres. The act provided that intermarried whites, freedmen, and mix-blood Indians having less than half Indian blood, including minors, shall be free from all restrictions. This puts an immense dominion subject to taxation, but, better than this, it marks the full recognition of the fact that these Indians are no longer wards of the nation, but true American citizens, — free in every particular.

57. Indian Territory School System. By the terms of the Curtis Act, passed in 1898, a system of schools for white children was established in the Five Civilized Tribes. Indians also attend these free schools if they so desire, although most of them choose to attend tribal schools. Separate schools have always been provided for negroes. A superintendent of schools for the Indian Territory was appointed; and four supervisors of education — one each for the Cherokees, Choctaws, and Chickasaws, and one for the Creeks and Seminoles — were given direct charge of the free schools of these nations. The federal government appropriated funds to carry on the work in rural communities, and each locality was expected to assist in some way in meeting the expenses of the school. The incorporated cities of the Indian Territory had sufficient taxable property to maintain a system of schools without federal aid. In 1908 Congress appropriated three hundred thousand dollars for the maintenance of these schools for the year. By the coöperation of the federal authorities with the county superintendents, localities that could have almost no school are now able to have a full term. When the last restriction bill comes into full effect

it is believed that there will be sufficient taxable land to support the schools, when federal aid will naturally cease.

58. Admission of Territories. States are usually admitted into the Union in one of two ways. Congress may pass an "enabling act" by which the people are allowed to form a state constitution (Boynton, pp. 231-232). In this constitution certain provisions must be incorporated, which are set forth in the enabling act. Most of the states of the Union have been admitted in this way. Other territories have become states by submitting to Congress a constitution that meets the approbation of that body. Upon the approval of the constitution thus submitted the territory becomes a state. Michigan, Kansas, and Oregon came into the Union by this method.

59. The Oklahoma Enabling Act. Oklahoma was admitted by the former method. An enabling act was passed, setting forth certain conditions that must be met by the territories before the President could proclaim them a state. Other restrictions were put upon the new commonwealth, which, if infringed, will be enforced through the federal courts. We present a detailed digest of this act, because, on its acceptance, the enabling act became a part of the constitution. The following ordinance of acceptance was passed by the convention: "Be it ordained by the constitutional convention for the proposed state of Oklahoma, that said constitutional convention do, by this ordinance irrevocable, accept the terms and conditions of an act of Congress of the United States, entitled, An act to enable the people of Oklahoma and the Indian Territory to form a constitution and state government and be admitted into the Union on an equal footing with the original states."

60. Provisions of the Enabling Act. Some of the more important provisions of the enabling act follow: Plural marriages are forever prohibited in Oklahoma; no act can be passed infringing perfect religious toleration; right of suffrage cannot be abridged on account of race, color, or previous condition of servitude; rights and property of the Indians in the two territories can in no way be impaired; sale of liquor in Indian Territory, Osage Nation, and all Indian reservations in existence after January 1, 1908, is prohibited for twenty-one years, but the state legislature may authorize the establishment of dispensaries where liquor may be sold for scientific, medicinal, and industrial purposes. The state legislature may authorize one agency in each town of not less than two thousand population for the sale of liquor, and one in each county not containing a town of two thousand population; druggists may be allowed to sell liquor in restricted territory for medicinal purposes, but the sales must be registered upon the affidavit of the purchaser, and the druggist's bond must be one thousand dollars to secure rigid enforcement of the law; separate schools for white and colored children may be established if desired; two United States senators and five congressmen are allowed the state; the constitutional convention was to consist of one hundred and twelve delegates; one hundred thousand dollars was donated by Congress to pay the expenses of organizing the state government; Oklahoma is to have two federal district courts; one million fifty thousand extra acres of public land was given to the state; if the school lands are sold, it shall be by appraisal and sale in tracts of one hundred and sixty acres or less at public auction; five million dollars is added to the state's permanent school fund because of Indian Territory's

lack of school lands ; section 33 is reserved for public buildings ; the other public lands are reserved for common schools and state colleges ; reserved mineral lands of the state may be leased, but shall not be sold prior to January 1, 1915. The government of the state must be republican in form.

CHAPTER V

OKLAHOMA CONSTITUTION — BILL OF RIGHTS

61. The Constitutional Convention. The delegates elected under the foregoing Enabling Act met in Guthrie, November 20, 1906. The convention was in session until July 16, 1907, but not continuously. The constitution adopted by these delegates is the longest document of its kind in this country. Because of the peculiar relations of the two territories that composed the new state, much material had to be inserted that quite naturally would not occur in similar documents. But the very nature of the instrument itself compelled that it be lengthy and detailed (Boynton, p. 269).

62. The Oklahoma Constitution. The Oklahoma constitution was ratified by the electors of the two territories, September 17, 1907. On November 16, the same year, statehood was proclaimed by the President. Previously the document had been subjected to a rigid examination by President Roosevelt and Attorney-General Bonaparte, his legal adviser, to see whether or not the charter squared with the Constitution of the United States and the enabling act. Owing to the length of the document only the most important phases will be discussed here.

63. The Preamble. "Invoking the guidance of Almighty God, in order to secure and perpetuate the blessing of liberty; secure just and rightful government; promote our mutual welfare and happiness, we, the people of the state of Oklahoma, do ordain and establish this constitution." The phrase

invoking the aid of Almighty God was expressly inserted to show that Oklahoma is a God-fearing, Christian republic.

64. Contents of the Oklahoma Constitution. In general form the Oklahoma constitution is very similar to that of the nation. It consists of twenty-four articles and a "schedule"; also the prohibitory amendment and a resolution adopting the Constitution of the United States, and another accepting the enabling act. Most of the articles are in turn divided into sections. After the preamble the articles in turn take up the various topics as follows: I, Federal relations; II, Bill of Rights; III, Suffrage; IV, Distribution of powers; V, Legislative department; VI, Executive department; VII, Judicial department; VIII, Impeachment and removal from office; IX, Corporations; X, Revenue and taxation; XI, State and school lands; XII, Homesteads and exemptions; XIII, Education; XIV, Banks and banking; XV, Oath of office; XVI, Public roads, highways, and internal improvements; XVII, Counties; XVIII, Municipal corporations; XIX, Insurance; XX, Manufacture and commerce; XXI, Public institutions; XXII, Alien and corporate ownership of lands; XXIII, Miscellaneous; XXIV, Constitutional amendments. Then follows the "schedule" under which the instrument is signed, and following this are the prohibitory provision, which was voted upon separately, and the two resolutions above noted.

65. Federal Relations. The seven sections of Article I are chiefly statements accepting the conditions of the enabling act. "The state of Oklahoma is an inseparable part of the federal Union, and the Constitution of the United States is the supreme law of the land" (Art. I, sect. 1). This is an apt expression of the present relation of the state to the

Union. It is only since the Civil War that the states have fully realized that they are an inseparable part of the Union.

66. The Oklahoma Bill of Rights. In the Oklahoma constitution (Art. II) the Bill of Rights (Boynton, p. 243) bears the very place of honor in the state's basic law. It is much more detailed than is the Bill of Rights in the federal Constitution. Of the thirty-three sections in this Bill of Rights we will merely discuss the few that differ widely from those found in the constitutions of other states.

67. Habeas Corpus. "The privilege of the writ of habeas corpus (Boynton, pp. 153-154) shall never be suspended by the authorities of the state" (Art. II, sect. 10). This clause in the Bill of Rights is one of its radical departures. Article I, sect. 9, of the federal Constitution states that "The privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion, the public safety shall require it." The Oklahoma constitution makes no exceptions. The writ of habeas corpus is never to be suspended.

68. Trial by Jury. Juries in courts of record, that is, a higher court where felonies are tried, consist of twelve men. In a justice court (chap. i, § 9) or a county court (chap. iii, § 46) six men can try a case. A case not involving twenty dollars is usually first tried in one of these lower courts, because the expense is much less than in a district court; but wherever the case is first tried the constitution expressly provides that laws may be provided limiting appeals in cases "involving less than twenty dollars." This is to prevent clogging a higher court with trivial business. In all civil suits, and also in all criminal cases, except where the death penalty or a penitentiary sentence may follow conviction, when a unanimous decision is required, three fourths of the

jury can decide the case. This clause in our constitution is a radical departure from the English law, which always demanded a unanimous decision. Its purpose is to make it easier to transact court business by avoiding so many divided juries.

69. Contempt of Court. Contempt of court arises generally from violating some court order. Sometimes contempt of court is held to be talking or writing disrespectfully of a judge or his decisions. This kind of contempt can be adjudged through the law of libel, but orders in chancery or equity have always been dealt with by the judge. The person accused of breaking the order is brought into court. The judge makes the investigation and assesses the punishment. Men are not infrequently sentenced to long terms in jail or to pay large fines in this summary fashion. As a rule Americans are very careful whom they elect as judges, yet, to make doubly sure, personal liberty as already safeguarded by the Bill of Rights provides as follows: "Every one accused of violating an injunction or other restraining order of a court is now allowed a trial by jury, provided the alleged contempt is not committed in the presence of the court." This contempt provision in the Oklahoma Bill of Rights presents, possibly, the most radical provision in the constitution of the state. It is well to note, however, that the judge can impose penalties for contempt committed in his presence. Only in this way could the authority and dignity of the court be maintained (Art. II, sect. 25).

70. When Incriminating Evidence can be Required. It is an old rule of law that a person shall not be compelled to give evidence that will render him liable to a criminal prosecution, and this is the general rule in Oklahoma (Art. II,

sect. 21). But this section of the Bill of Rights must be read in connection with section 71. It is there stated that under certain circumstances incriminating evidence must be given, but the one giving such evidence cannot be prosecuted or subject to any penalty for matters thus revealed. This is another provision to prevent overriding the law.

71. Books of All Corporations can be Investigated (Boyn-ton, p. 216). At all times the records, books, and files of all corporations shall be "liable and subject to the full visitorial and inquisitorial powers of the state, notwithstanding the immunities and privileges in this Bill of Rights secured to the persons, inhabitants, and citizens thereof" (Art. II, sect. 28). Another section (30) of this article provides that no search warrant shall issue except upon probable cause, and in no way are the citizens of Oklahoma subject to any such thing as the Writs of Assistance that distracted our fathers in colonial days. But this section provides that corporations shall be subject to just such inquisitorial powers in regard to their books. The Oklahoma constitution provides that the right of search does extend to corporations. The reason for this is that corporations are created by the state, and therefore should be subject to the full visitorial and inquisitorial powers of the state (chap. xiv, § 243).

72. No Person shall be Transported. No person shall be transported out of the state for any offense committed within the state, nor shall any person be transported out of the state for any purpose, without his consent, except by due process of law; but nothing in this provision shall prevent the operation of extradition laws, or the transporting of persons sentenced for crime, to other states for the purpose of incarceration (Art. II, sect. 29). It is contrary to public policy to allow

citizens of one state to be seized and transported to another for trial, yet it has been done in other states. The Oklahoma constitution peremptorily forbids such abuses. However, if one commits a crime and flees to this state, on a proper showing he must be promptly surrendered for trial in the state where the offense occurred. This giving up of persons accused of crime is termed extradition. The English Bill of Rights of 1689 and the Bill of Rights found in the first ten amendments to the national Constitution contain all other essential provisions of the other articles of the Oklahoma Bill of Rights.

CHAPTER VI

LEGISLATIVE DEPARTMENT, SENATE AND HOUSE OF REPRESENTATIVES

73. Threefold Division of Government. The powers of the government of the state of Oklahoma are divided into three separate departments, — the legislative, executive, and judicial; and except as provided in the constitution, these departments must be separate and distinct, and neither shall exercise the powers properly belonging to either of the others (Art. IV, sect. 1) (Boynton, p. 269).

74. The Legislative Authority of the State. The constitution vests the legislative authority of the state in a legislature (Boynton, p. 272), consisting of a senate and a house of representatives; but the people reserve to themselves the power to propose laws and amendments to the constitution, and to enact or reject the same at the polls independent of the legislature, and also reserve power, at their own option, to approve or reject at the polls any act of the legislature (Art. V, sect. 1). Thus the legislative function in Oklahoma is divided among four distinct sources of power, — one more than we find in the federal government, — as follows: (1) house of representatives; (2) senate; (3) governor, by veto power (chap. viii, § 111); (4) the people, by initiative and referendum (chap. vii). There is no special need for a two-chambered legislature in the states, as both houses are elected directly by the people. In all the states except Rhode Island and North Carolina the governor has the right of veto.

75. Initiative and Referendum. The initiative is nothing more than a petition, signed by a certain number of legal voters, that must be heeded. The referendum is the people's veto or approval of the acts of the legislature. The constitution says that if the governor approve a law he shall sign it. If he does not approve he vetoes it, that is, forbids it. If the people approve a law they vote for it, if not, they vote against it. All laws are not submitted to the people for an expression of their opinion, but practically all legislation can be submitted to them if they so desire (see chap. vii).

76. Senatorial Districts. The state is divided into thirty-three senatorial districts, each of which elects one senator, while eleven of these districts are allowed an extra senator, making forty-four in all. If any county becomes entitled to more than two senators, because of its increased population, it is given this extra representation in addition to the forty-four (Art. V, sect. 9 a). As near as possible the senatorial districts are to contain an equal number of inhabitants, which number is to be obtained by the latest federal census, or in such manner as the legislature may direct. These districts must be compact, must consist of contiguous territory, and cannot be altered from one ten-year period to another. No county can be divided to form a senatorial district, unless it is to make two or more districts in said county. Nor can a city or ward be divided to form a district. These provisions obviate to a great extent the possibilities of gerrymander (Boynton, p. 103).

77. Term of Office of Senators. The term of office of each senator is four years. But as only half the senators go out of office every two years, the term of those chosen at the first election from the even-numbered districts expired fifteen days after the regular election in 1908. Those from

the odd-numbered districts hold their office until the fifteenth day after the election in 1910. Where two senators came from the same district they had to cast lots for the long and short term.

78. Senators : their Qualifications. Senators must be at least twenty-five years of age, must be electors of their respective districts, and must reside there during their terms of office (Art. V, sect. 17) (Boynton, p. 272).

79. Senate : its Officers. The lieutenant governor (Boynton, p. 274) is president of the senate, but has only a casting vote in case of a tie. The senate chooses one of its own members president *pro tempore*, who presides in the absence of the lieutenant governor. It also provides for necessary clerks, sergeants-at-arms, doorkeepers, pages, and a post-master. The constitution likewise makes this very important provision : " The senate shall provide for all its standing committees and, by a majority vote, elect the members thereof " (Art. V, sect. 98). The power to choose legislative committees is one of the most important in the state. In the nation it has made the speaker (Boynton, p. 171) of the house of representatives almost as powerful as the President, and in Oklahoma this power allowed the speaker greatly enhances his authority (chap. vi, § 83). The senate, however, allows no one man to appoint its standing committees and thereby control legislation.

80. The Senate : its Executive Powers. The United States Senate has many executive powers (Boynton, p. 149). Chief of these is its power to pass on all appointments of the President. Since in Oklahoma most of the administrative officers under the governor are elected, the state senate has no such wide executive powers. Such a right only comes to

it when the law creating the office specifies that the official appointed under it shall be confirmed by the senate.

81. Representative Districts : Term of Office : Apportionment. The total population of the state is divided by one hundred, and legislative districts are established, each containing, as nearly as possible, this number of inhabitants. But the membership in the house of representatives will always be considerably larger than one hundred, because if any representative district has a sufficiently large fraction left over, it will be given additional representation (Art. V, sect. 10). Representatives are elected in the even years and hold office for two years. Each county is given at least one representative, if it has sufficient population to in any way warrant it (Boynton, p. 273).

82. Representatives : their Qualifications. Members of the house of representatives in Oklahoma must be twenty-one years of age at the time of their election. They also, like the senators, must be qualified electors in their respective counties or districts, and must reside therein during their term of office.

83. Speaker. The constitution provides that the house of representatives shall, at the beginning of each regular session, and at such other times as may be necessary, elect one of its members speaker (Art. V, sect. 29). It is to be observed that the speaker, unlike the lieutenant governor, is a regularly elected member of the body over which he presides. If he chooses to exercise his right, he has a vote upon every question that comes before the body. The powers of the speaker in shaping legislation are extensive. This is because of the rule of the house allowing him to appoint all standing committees. By this means the speaker sees to

it that men favorable to his ideas are put in the majority upon all important committees. All legislative measures must be first passed upon by some one of these committees before the house considers them. If the committee to which a bill has been referred approves of it, then it is reported back to the representatives for consideration ; if the committee does not approve, it refuses to report the bill and it is "strangled" in the committee. It is easy to understand, if the speaker has control of a majority of all committees, that only such bills as he approves can become laws. The extensive authority of the Oklahoma speaker is based on the wide powers granted the presiding officer of the federal lower house. However, it is well to note that the extensive powers of the speaker rest upon the consent of the members of the house. If at any time a majority decides to clip his dictatorial powers, it can be done easily. The other officers of the house are about the same as those of the senate (Boynton, pp. 171-173).

84. Adjournment and Special Sessions. Neither house during the session of the legislature shall, without the consent of the other, adjourn for more than three days, and cannot adjourn to any other place than that in which the two houses shall be sitting (Art. V, sect. 30). But in case of a disagreement between the two houses, with respect to the time of adjournment, the governor may adjourn them to such time as he may deem proper. He can also convoke the legislature, or adjourn it to another place, when in his opinion the public safety or the safety or health of the members require it.

85. Revenue Bills. All bills for raising revenue must originate in the house of representatives. The senate may propose amendments to revenue bills. This is in accordance

with the federal Constitution, which requires that all revenue bills originate in the lower house (Boynton, p. 147). The reason for this is that the house of representatives is much nearer the people than the senate; but this explanation is not of so much force in any state legislature, where both senators and representatives are elected directly by the people. No revenue bill shall be passed during the last five days of the session (Art. V, sect. 38).

86. Each House Sole Judge of its Own Members. Each house is judge of the election, returns, and qualifications of its own members (Art. V, sect. 30). This means that neither the courts nor the executive have anything to say as to whether a person has been elected a member of either house, or whether the conduct of a member after election is such that he can continue to serve. This provision is in the constitution, in order to keep the legislature an absolutely distinct branch of the government. However, it takes two thirds to expel a member (Art. V, sect. 30).

87. Salary. Members of the legislature receive six dollars per day during the sessions of the legislature, and ten cents per mile for every mile of necessary travel in going to and returning from the place of meeting, on the most usual route. They shall receive no other compensation. It is also provided that after sixty days of each session have elapsed they can receive but two dollars per day. This is to induce them to finish up the business of the legislature and adjourn as soon as possible (Art. V, sect. 21).

88. Vacancies. The governor shall issue writs of election to fill such vacancies as may occur in the legislature (Art. V, sect. 20). Other vacancies are generally filled by appointment, but the members of the legislature must always be

elected. By this provision the legislature is kept a distinct branch of the government. The members have the people who elect them to thank for their office, and no one else (Boynton, p. 105, concerning vacancies in Congress).

89. No Member to Vote if Personally Interested in a Bill.

The constitution provides that a member of the legislature who has a personal or private interest in any measure or bill proposed or pending before the legislature shall disclose the fact to the house of which he is a member, and shall not vote thereon (Art. V, sect. 24).

90. Quorum. A majority of each house constitutes a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner and under such penalty as each house may provide (Art. V, sect. 30).

91. Journal of Proceedings. Each house shall keep a journal of its proceedings, and from time to time publish the same. The yeas and nays of the members of either house on any question, at the desire of one fifth of those present, shall be entered upon its journal (Art. V, sect. 30). By this means is the public informed of what goes on in the legislature. There are also public galleries in each of the chambers, where citizens may attend the session of either the senate or the house, and personally observe how their legislators conduct public business.

92. Joint Sessions. United States senators are elected by the legislature in joint session, the lieutenant governor and speaker presiding jointly. The legislature in joint session canvasses the vote for all elective state officers, the one having the highest number of votes being declared elected. In case of a tie vote between two or more candidates, the

legislature shall forthwith, by joint ballot, choose one of the persons having an equal number of votes for said office.

93. How Laws are Passed. Every bill shall be read on three different days in each house. No bill shall become a law unless, on its final passage, it is read at length, and a majority of all the members elected to each house vote in its favor. The question upon final passage shall be taken upon its last reading, and the yeas and nays shall be entered upon the journal (Art. V, sect. 34).

94. Every Act to have an Express Title. Every act of the legislature shall embrace but one subject, which shall be clearly expressed in the title, except general appropriation bills, general revenue bills, and bills adopting a code of laws (Art. V, sect. 57). This provision is to prevent the slipping through the legislature of objectionable measures by the use of false titles. It also prevents the use of "riders," i.e. tacking on to a good bill things that are opposed by many.

95. Emergency Legislation. No act shall take effect until ninety days after the adjournment of the session at which it was passed, except enactments for carrying into effect provisions relating to the initiative and referendum, or general appropriation bills, unless, in case of emergency to be expressed in the act, the legislature, by a vote of two thirds of all members elected to each house, so direct. Emergency bills only include measures immediately necessary for the preservation of the public peace, health, or safety. Emergency measures may be vetoed by the governor, but they may be passed over the veto by a three-fourths vote of each house. It takes but a two-thirds majority to pass an ordinary measure over the governor's veto. Emergency bills are not subject to referendum (chap. vii, § 103).

CHAPTER VII

LEGISLATIVE DEPARTMENT, INITIATIVE AND REFERENDUM

96. Principle of Direct Legislation. The one great object of Oklahoma's constitution builders was to bring the government as near to the people as possible. It would be absolutely out of the question in any large and populous state, to have all the people meet in a single primary assembly and enact laws. To overcome this, another system of pure democracy has been devised. By means of the initiative any citizen can frame a law, and if a sufficient number of electors join with him and sign this law, it must be presented to the voters of the state. At this referendum (election) this law is either adopted or rejected. Oklahoma's constitution contains such provision.

97. The Initiative. The initiative is really nothing but a petition addressed to the governor, which must be heeded, if it is presented in legal form. The governor must then appoint a day for the vote to be taken upon this measure. Thus if the Oklahoma legislature neglects or refuses to pass laws that are demanded, the people have a means of obtaining the desired legislation. Only qualified electors can sign an initiative petition. Eight per cent of the legal voters have the right to propose any legislative measure, but fifteen per cent of the legal voters must sign the petition, if the proposed measure is an amendment to the constitution (Art. V, sect. 2). If any measure is proposed by initiative and fails,

then a petition of twenty-five per cent of the qualified electors must be obtained before a referendum can again be held on the same question within three years (Art. V, sect. 6); but if one is willing to wait three years before initiating the same measure, then the usual per cents hold as at first. The reason for this large per cent of signers in order to obtain a rehearing is to prevent worrying the people with the reconsideration of a measure but recently voted upon. The ratio and per cent of legal voters are based upon the number of votes cast for all candidates who, at the last general election, ran for the "state office that received the highest number of votes."

98. What the Governor does with the Initiative Petition.

The governor submits said initiative petition to the voters of the state. The style or heading of all referenda must be: "Be it enacted by the people of the state of Oklahoma." This vote is termed a referendum, and must be taken at the next regular election throughout the state, except when the legislature or the governor shall order a special election for the express purpose of making such reference. If a majority of the votes cast are for the measure, it takes effect and is in force immediately (Art. V, sect. 3).

99. Governor cannot veto an Initiated Law. The governor cannot veto an act passed by the people, but the legislature can repeal such a statute just as it can any other law. Of course, if the people pass a constitutional amendment by initiative and referendum, the legislature cannot alter this any more than it can any other portion of the constitution. The governor is not allowed to veto an act passed by initiative and referendum, because it is not contemplated that one man should interpose his will against that of the whole people.

100. Why the Legislature can repeal an Initiated Statute.

If the constitution had not provided that the legislature could repeal statutes passed by initiative and referendum, it is doubtful whether our constitution would have been proclaimed as in accordance with the enabling act, which provides that the government of the state must be republican in form. If the representatives of the people had not been given this authority, then the constitution would have been democratic instead of republican in this respect, and just that much out of accord with the enabling act (Art. V, sect. 7).

101. The Referendum. The referendum is an election. We have seen that the initiative is a petition framed as a law. It is without force or value until enacted into law by a majority at a referendum. But the referendum is not only used to enact statutes and constitutional amendments framed by initiative petition ; it is also used to prevent laws that the people do not want. If the legislature passes a law that the people do not want, a means has been provided by the constitution for the people to veto the measure. Such a referendum vote may be ordered in two ways : first, by the people, when the legislation is considered as objectionable ; and second, by the legislature, when the members are not sure whether or not the people wish a certain law.

102. How the People order a Referendum. A referendum petition demanding that a certain law, passed by the legislature, be submitted to the people needs to be signed by but five per cent of the legal voters of the state to obtain such referendum. Said petition must be filed within ninety days after the final adjournment of the session of the legislature which enacted the bill on which the referendum is demanded (Art. V, sect. 3). The referendum may be demanded by the

people against one or more items, sections, or parts of any act of the legislature, in the same manner in which such power may be exercised against a complete act. If a majority of the electors vote against it, the law is null and void (Art. V, sect. 2).

103. Emergency Legislation not Subject to Referendum. Laws necessary for the immediate preservation of the public peace, health, or safety are termed emergency legislation. Acts that have failed to receive the necessary two thirds to declare an emergency do not go into effect until ninety days after the adjournment of the session at which they were passed. Against these the referendum can be invoked. Emergency laws go into effect at once, and are therefore not subject to the referendum. Such a petition would stop the operation of the law until it had been voted upon, and the very nature of an emergency law demands that it go into effect at once. There is no reason why one cannot file an initiative petition repealing an emergency law that is not wanted, and if ratified at the poles, the law ceases to be of effect. General appropriation bills become effective as soon as passed (Art. V, sect. 8), but such acts or even separate clauses in such acts may be delayed until passed upon by the people. The filing of a referendum petition against one or more items, sections, or parts of an act, however, does not delay the remainder of such act from becoming operative (Art. V, sect. 4).

104. Constitutional Amendments. Fifteen per cent of the qualified electors of the state can demand that an initiative petition be submitted to amend the constitution of the state. A majority of both branches of the legislature may order a referendum to amend the constitution or to approve a statute. It requires a majority of all the votes cast at an election to adopt

an amendment to the constitution, while but a majority of all the votes cast upon any particular proposition is required to enact a statute. A two-thirds vote of each house of the legislature can order a special election to vote upon constitutional amendments. Also the governor has authority to call such an election provided an initiative petition to amend the constitution has been presented to him. If a special election is not called, the proposition is voted upon at the next general election. No convention can be called by the legislature to propose alterations, revisions, or amendments to the constitution, or to propose a new constitution, unless the law providing for such convention shall first be approved by the people on a referendum vote. The amendments, alterations, revisions, or new constitution proposed by such convention must be submitted to the electors of the state, and must receive a majority of all electors voting thereon, before becoming effective. The question as to whether the people wish such a convention to revise the constitution must be submitted to the electorate of the state every twenty years (Art. XXIV, sect. 2).

CHAPTER VIII

EXECUTIVE DEPARTMENT

105. Executive Department. Upon the governor, with the numerous administrative officers and commissions under him, falls the duty of executing the laws. According to Article IV of the constitution, the executive department of the state's government (Boynton, pp. 264–286) is a coördinate or equal branch of its government. The governor cannot intrude on the authority of the legislature or judges, but neither can either of these departments infringe on his jurisdiction.

106. A Divided Executive. It is well to note at the beginning that the executive authority in the state is divided among numerous men, and that therefore the power of the governor (Boynton, pp. 276–277) is limited. The President appoints and has full control over the administrative officers under him. If a cabinet officer (Boynton, p. 203) should refuse to do as directed by the President, he can be summarily removed. The governor of the state has no such executive powers. The so-called administrative officials in the state are really departmental executives. Within the limitations of their own office they perform their duties as they please, without any dictation from the governor. The administrative officials in the state who are elected, are responsible to the people who elect them, not to the governor. Thus it is clear that Oklahoma has a decentralized executive. The nation has a centralized executive. The governor, however, usually has the same authority over the few men he appoints

as does the President over his appointees ; but it is only the subordinate officers of the state over which the governor has this power. All the chief administrative officials are elected. Again, the governor's executive power is divided with a host of subordinate county, city, and civil district officials. These officials help execute the laws of the state. Their authority comes from the people, not from the governor, and they are just as apt to thwart the state's chief executive as to coincide with his views. The extent of national authority over the states is limited by the constitution (Boynton, p. 152), but just so far as that authority runs, the executive power of the President is not curtailed. The one infringement on the President's executive powers has come through the civil service, and every President in recent years has advocated such restrictions of his appointing power.

107. The Governor : Qualifications ; Term ; Salary. The supreme executive power is vested in a chief magistrate, who is styled The Governor of the State of Oklahoma (Art. VI, sect. 2). The governor must be a male citizen of the United States, thirty years of age, and for three years next previous to his election a qualified elector of the state. His term of office is for four years at a salary of \$4500 per year. The term begins on the second Monday in January after the November election. State elections fall in the even years between the presidential elections ; by this means it is hoped to avoid confusing state with national issues. Presidential elections occur in 1908, 1912, 1916, etc. ; state elections will come in 1910, 1914, 1918, etc.

108. Reëligibility of the Governor and of Others. The governor is not allowed to immediately succeed himself. Three other officials of the executive department are placed under

the same restriction ; they are the secretary of state, state auditor, and state treasurer. It is often charged that executives, instead of administering the law without fear or favor, spend a great portion of their first term fixing things so that they can be reëlected. By preventing immediate succession it is believed that the governor will execute the laws with greater singleness of purpose and less striving to maintain himself in office. The term of secretary of state, auditor, and treasurer is limited, because it is believed that new men should check these officials up at the close of their term. They all handle large sums of the state's money, like the secretary of state and treasurer, or draw out these funds, like the auditor. To avoid mistake or mismanagement in the finances of the commonwealth, it was deemed best to have a change every four years.

109. Executive Duties of Governor (Art. VI). The executive duties of the governor need no further explanation than to be enumerated, except his power of convoking the senate in its executive capacity. The right to confirm some officials appointed by the governor is retained by the upper house of the legislature. This is the only executive power possessed by the senate, and to exercise this authority is the only reason that it should ever be summoned in extraordinary session without the house of representatives. The governor is commander in chief of the militia¹ except when in service of the United States ; causes the laws to be faithfully executed ; conducts all intercourse and business with other states and with

¹ The militia of the state consists of twelve companies of infantry, one company of engineers, one company of signal corps, a hospital detachment, and regimental band. An adjutant-general, under the direction of the governor, is in command of these troops. The adjutant-general and his office assistants are the only militiamen regularly in the employ of the state. The rest of the state's military force receive pay only when called into service.

the United States ; conserves the peace throughout the state ; commissions all officers not otherwise commissioned by law ; appoints, unless otherwise provided by law, persons to fill vacancies until their successors shall have been duly elected ; and convokes the senate in its executive capacity.

110. Legislative Duties of Governor. The governor has extensive control over legislation. He can convoke the legislature on extraordinary occasions, and at such times no subject can be considered except those he recommends. In time of invasion or rebellion, for the sake of public safety, he can convoke the legislature at a different place than the state capital. Also, in case the health or safety of the members is endangered, he can adjourn them to a different place ; but in this case two thirds of all members elected in each house will have to agree to the change. Also, in case of a disagreement between the two houses of the legislature, at a regular or special session, with respect to the time of adjournment, the governor may, if the facts be certified to him by the presiding officer of the house first moving the adjournment, adjourn them to such time as he shall deem proper, not beyond the day of the next stated meeting of the legislature (Art. VI, sect. 14). Another method by which the governor may direct legislation is by the exercise of his power to send messages to the legislature. "At every session of the legislature, and immediately upon its organization, the governor shall communicate by message, delivered to a joint session of the two houses, upon the condition of the state, and shall recommend such matters to the legislature as he shall judge expedient" (Art. VI, sect. 9). But this formal message can be supplemented at any time by terse communications on any subject which the governor thinks demands attention. An able

executive can use such message with telling effect in forcing a reluctant legislature to pass bills he counts of importance.

111. The Veto. The greatest of the governor's legislative powers is his right of veto. This allows the state's chief magistrate to pass final judgment on every enactment the legislature frames. The word veto means, "I forbid." If vetoed, a bill goes back to the house where it originated, where the governor's objections are entered on the journal. If, after such reconsideration, two thirds of the members elected to that house shall agree to pass the bill or joint resolution, it shall be sent, together with the objection, to the other house, by which it shall likewise be reconsidered; and if approved by two thirds of the members elected to that house, it shall become a law, notwithstanding the objection of the governor. In all such cases the vote in both houses shall be determined by yeas and nays, and the names of the members voting shall be entered on the journal of each house respectively. If the governor fails to either sign or veto (Boynton, p. 277) a bill within five days (Sundays excepted), it becomes a law without his signature and without further ceremony. But if the legislature adjourns, the governor is given fifteen days in which to sign bills passed before adjournment. If he fails to sign a bill within this time, the measure falls exactly as if he had vetoed it. This is known as the "pocket veto." The governor has still further privileges in the vetoing of special items of an appropriation bill. Thus, he can sign the bill granting money, but can forbid one or more items in it of which he does not approve. Where this right of special veto does not exist, legislatures will sometimes put into an appropriation bill one or more items of doubtful expediency, while the great body of the bill is in

every way satisfactory. The executive, while not approving these clauses, will often sign the bill, because it would take so much time to reenact another bill omitting the unsatisfactory features. Here the governor need not sign provisions he does not approve, just to get others that are desirable. The veto power does not extend to initiative and referendum legislation.

112. Judicial Duties of Governor. In Article VI, sect. 10, the constitution provides that the governor has the power to grant, after conviction, reprieves, commutations, paroles, and pardons for all offenses except cases of impeachment. In this way the governor can vary judicial decrees on the criminal side. Civil, i.e. property, judgments cannot be changed by him. A reprieve is delaying the execution of a sentence so that alleged new facts may be presented, which may lead to further executive clemency. If the governor changes a sentence, it is termed a commutation. The executive can lessen, never increase, the severity of the punishment. To parole a prisoner is to let him out on good behavior. A pardon is the granting of full immunity from some court sentence. These powers are given the governor to prevent miscarriage of justice, and the people generally demand that the executive use his judicial authority sparingly and only after mature deliberation. The governor can exercise none of his judicial functions, other than to put off the day of execution of a convicted murderer, without first receiving the sanction of the state board of pardons (see § 130).

113. The Lieutenant Governor. The lieutenant governor presides over the senate. He is also a member of the state banking board. His qualifications must be the same as those for governor. His salary is \$1000 per year. If the governor should die or become incapacitated in any way during his

term of office, the lieutenant governor at once becomes governor. In the absence of the governor and the lieutenant governor the president *pro tempore* of the senate becomes chief executive.¹ In case none of these can serve, the speaker of the house of representatives becomes acting governor (Art. VI, sect. 15). The legislature is empowered to make further provisions for the succession. If the governor leaves the state even for a day, the lieutenant governor becomes the acting governor. Because of this the state's chief magistrate is generally careful never to leave the commonwealth when important matters are pending.

114. The Secretary of State. A register of all the official acts of the governor must be kept by the secretary of state. When requested he must attest these, and lay copies of the same, together with copies of all papers relative thereto, before either house of the legislature (Art. VI, sect. 17). He is custodian of the great seal of the state,² and with it he must

¹ This provision for the succession in the state is the same as the national law up to 1886. In that year the national succession law was altered so that the cabinet members succeed to the presidency in case of a vacancy, according to their rank (see Boynton, pp. 189-190).

² The seal was devised by the Hon. Gabe Parker, a Choctaw-Indian delegate to the constitutional convention. The large star represents Oklahoma, the forty-sixth state. In its center is the seal of Oklahoma Territory. The upper left-hand ray contains the seal of the Cherokee Nation, the Chickasaw seal is on the ray pointing directly up, the upper right-hand ray contains the Choctaw emblem, beneath it is the Seminole seal, and the lower left-hand ray contains the ancient seal of the Creeks. The small stars represent the other forty-five states in the Union.



authenticate (stamp) all official acts of the governor except his approval of laws. In the secretary of state's office is kept the parchment copy of the constitution and all acts of the legislature, just as they are engrossed and signed by the governor. The vetoed bills are likewise kept in the vaults in the office of this official. Initiative and referendum petitions are sent to the secretary of state, addressed to the governor; and all election returns for state officers are sent to him, although they are addressed to the speaker of the house of representatives. He is elected for a term of four years at a salary of \$2500 per year.

115. The State Auditor. In many states the auditor is called the comptroller. It is his duty to manage the financial affairs of the state. He examines and adjusts accounts and claims against the commonwealth. When money is to be expended the auditor draws a warrant on the treasurer. His books and those of the treasurer are kept entirely separate, but must agree as to the amount of money on hand in the treasury. In this way mistakes in the state's finances can be avoided or any shortage discovered. The state auditor is elected for a term of four years, at a salary of \$2000 per year.

116. The Attorney-General. It is the duty of the attorney-general to act for the state in all lawsuits where the state is a party. He prosecutes certain criminal cases where county attorneys fail to act, and also when necessary brings suit to collect all moneys due the state. He enforces the law, especially against corporations and wealthy individuals too powerful to be successfully resisted by county attorneys. It is the duty of the attorney-general to render opinions on questions of law submitted to him by the governor and other state officers. He is elected for a term of four years, at a salary of \$4000 per year.

117. Superintendent of Public Instruction. The entire public-school system of the state is under the general supervision of the superintendent of public instruction. He is the chairman of the state board of education and other numerous boards that have to do with the public schools of the state. Uniform teachers' examinations are prepared under his supervision, and the general educational interests of the state are promoted. He is elected for a term of four years, at a salary of \$2500 per year.

118. State Treasurer. The state treasurer has the care of all the moneys of the state. He pays out the same on warrants that are signed by the auditor. The state treasurer collects no money directly from the taxpayer, but receives the state tax money from each county treasurer as the latter collects it. An accurate account of all moneys expended by the state is kept by the treasurer as well as by the auditor. He is elected for a term of four years, at a salary of \$3000 per year.

119. State Examiner and Inspector. The constitution provides that, without giving any warning, the state examiner and inspector shall twice each year take complete possession of the state treasurer's office, and of every county treasurer's office, and make a thorough examination of the books, accounts, and cash in hand. Once each year he is to publish in his report the condition of every such treasury. He is also to provide a uniform system of bookkeeping for the use of all treasurers; and other duties may be assigned him by law. The state examiner must have had at least three years' experience as an expert accountant (Art. VI, sect. 19). He is elected for a term of four years, at a salary of \$3000 per year.

120. Commissioner of Labor. The department of labor is under control of the labor commissioner. The legislature

must create a board of arbitration and conciliation in the labor department, and the commissioner of labor shall be ex-officio chairman (Art. VI, sect. 21). He is elected for a term of four years, at a salary of \$2000 per year.

121. Insurance Commissioner. The insurance department is under the supervision of an insurance commissioner. He is charged with the execution of all laws in relation to insurance and insurance companies doing business in the state. The insurance commissioner must be at least twenty-five years of age and well versed in insurance matters. He is elected for a term of four years, at a salary of \$2500 per year.

122. The Chief Mine Inspector. All mineral, oil, and gas interests in the state of Oklahoma are under the supervision of the chief mine inspector. No person shall be elected to said office unless he shall have had eight years' actual experience as a practical miner, and such other qualifications as shall be prescribed by the legislature. The constitution also provides that the legislature shall create mining districts and provide for the appointment or election of assistant inspectors therein, who shall be under the general control of the chief mine inspector (Art. VI, sect. 25). He is elected for a term of four years, at a salary of \$3000 per year.

123. Commissioners of Charities. A commissioner of charities and corrections may be of either sex, and shall be twenty-five years of age or over; in all other respects said officer shall have the qualifications which shall be required of the governor (Art. VI, sect. 25). This is the only state office that can be held by a woman. The commissioner of charities must make a report once each year (October 1), and at any time, on the request of the governor, regarding all the public charities and corrections with which the

commissioner has to do. A peculiar section of the constitution (Art. VI, sect. 30) gives the legislature power to alter, amend, or add to the duties of, or grant additional authority to, such commissioner. Here is an instance where the legislature can change the constitution without the matter being referred to the people. The commissioner is elected for a term of four years, at a salary of \$1500 per year.

124. State Printer. It is the duty of the state printer to superintend, supervise, and contract for all public printing and binding required by the legislature, the governor, supreme court, state officers, or any state board or commission created under the laws of the state. He also contracts for all bound books and records required by the district courts, counties, and townships of the state. This office was created by the first legislature. The state printer is under the authority of the state printing board, composed of the governor, state treasurer, and state auditor. The term of the state printer is for four years, at a salary not to exceed \$2500 per year.

125. Text-Book Commission. The text-book commission consists of seven members, six of whom are appointed by the governor and confirmed by the senate. The seventh member is the governor himself. The appointed members serve for five years unless sooner removed. It is the duty of this commission to contract with publishers and authors for all books, registers, records, charts, maps, globes, and other apparatus to be used in the common schools of the state. The object of this commission is to obtain satisfactory, uniform text-books for the entire state at the lowest possible price. At an appointed time the commission receives sealed bids for all texts, records, apparatus, etc. (see chap. xii, § 200). It is made a misdemeanor to use other text-books than those

adopted, and it is a like offense for any one to charge more than the contract price for them. The salary of the members of this commission is six dollars per day while on duty, and actual traveling expenses in going to and from the place of meeting.

126. Corporation Commissioners. There are three corporation commissioners. This board has extensive authority over semipublic corporations. Its duties are so numerous and its powers so far reaching that one of the longest and most detailed articles of the constitution (Art. IX) is given over to its functions. The salary of these officials is \$4000 per year, the term of office six years. One commissioner goes out every two years, so the commission is always able to transact business. The duties of this commission will be further developed in Chapter XIV.

127. State Board of Agriculture. A nonpartisan board composed of eleven members, all of whom are farmers, constitute the state board of agriculture. The members of this board are chosen by delegates elected by the farmers at their county institutes. One delegate from each county institute attends the state institute, and these delegates elect ten members (two from each supreme court district) to serve on the state board of agriculture. The president of the board makes the eleventh member. His position is an elective office. This board is maintained as a part of the state government, and has jurisdiction over all matters affecting animal industry and animal quarantine regulations, and is the board of regents of all state agricultural and mechanical colleges. The term of the president of state board of agriculture is four years, at a salary of \$2500 per year. Other members of the board receive five dollars per day during actual time in session.

128. Commissioners of Land Office. The governor, secretary of state, state auditor, superintendent of public instruction, and the president of the board of agriculture shall constitute the commissioners of the land office, who shall have charge of the sale, rental, disposal, and managing of the school lands and other public lands of the state, and of the funds and proceeds derived therefrom, under rules and regulations prescribed by the legislature (Art. VI, sect. 32, chap. xii).

129. The State Banking Board. The state banking board is composed of the governor, lieutenant governor, president of the board of agriculture, state treasurer, and state auditor. These gentlemen have general supervision of all state banks, pass upon a bank's qualification and fitness to become a state depository, and have general supervision of all the bank examiners. This board also has the management of the *depositors' guarantee fund*. One per cent of all deposits in the state banks is levied and kept on interest by the state banking board. Thus a fund is created to pay off all depositors in case a bank so guaranteed fails. Through this guarantee fund depositors receive their money as soon as a bank fails. The state banking board then straightens up the affairs of the defunct bank, and, if possible, gets back out of funds due the bank the money which has been advanced to pay the depositors. This law is so popular in Oklahoma that one year after the passage of the measure no less than fifty national banks had surrendered their charters and become state banks.

130. The State Board of Pardons. An administrative board, consisting of the state superintendent, the president of the board of agriculture, and the state auditor, constitutes the state board of pardons. It holds regular meetings the

second Monday of each month, and more frequently if necessary. The governor can grant no pardon or parole except upon the recommendation of this board, but he can commute the death sentence to life imprisonment without its action. Before any public hearing for a pardon is held by the state board of pardons a legal notice announcing such a hearing must be published for two weeks in a weekly paper in the county where the crime was committed, so that those opposed to granting the pardon may be present, as well as those in its favor. Even after a pardon has been recommended by the board of pardons the governor can do as he chooses about granting it.

131. Dispensary. For the enforcement of prohibition a dispensary system has been adopted. A state agency is created under the supervision of a superintendent. This superintendent and all the agents under him are appointed by the governor, and they hold office at his pleasure.

132. State Board of Public Affairs.¹ This board consists of three members, not more than two of whom can belong to the same political party. The members of this board are appointed by the governor "for a term coterminous with that of the governor making the appointment." The governor is also given authority to remove any member of this board at his discretion. The board of public affairs has most extensive powers. It has charge of the construction, repair, maintenance, and insurance of all state buildings. It is a board of purchase for all state departments and state institutions. The members of the board are prohibited from engaging in any other business, and must each give a

¹ There are numerous other minor boards and commissions that assist in executing the law.

fifty-thousand-dollar bond before entering upon their duties. The salary is \$3000 per year.

133. Increase and Decrease of Salaries. All officials having to do with the expenditure of state funds are required to give bonds for the faithful performance of their duty. An account shall be kept by such officers and commissioners of all moneys disbursed or otherwise disposed of severally by them, from all sources, and for every service performed; and a report thereof is made semiannually or as often as may be required by law, to the governor under oath. The governor may at any time require information in writing, under oath, from all officers and commissioners of the state, and all officers of state institutions, penal, eleemosynary, educational, and industrial, on any subject relating to their respective offices and institutions; which information when so required shall be furnished by such officers and managers; and any officer or manager who at any time shall make a false report shall be punished as by law provided. Each state officer shall, at stated times, during his continuance in office, receive for his services a compensation, which shall be neither increased nor diminished during the term for which he shall have been elected; nor shall he receive to his use any fees, costs, or perquisites of office or other compensation.

134. Nepotism Prohibited. Nepotism is appointing one's relatives to office. This is now prohibited in Oklahoma. The law makes it unlawful for any executive, legislative, ministerial, or judicial officer of this state to appoint or vote for the appointment of any person related to him by affinity or consanguinity within the third degree, to any clerkship, office, position, employment, or duty in any department of the state, district, county, city, or municipal government. The

law applies alike to relationship by marriage as by blood. And it is further made unlawful for officials to appoint one another's relatives to office and thus circumvent the law. This act extends to all school boards and regents of state institutions. No teacher can be elected by a board of education if he is related by blood or marriage to any member of that board. It is provided that any official guilty of appointing a relative to office shall be punished by a fine of not less than one hundred nor more than one thousand dollars, and shall forfeit his office.

CHAPTER IX

JUDICIAL DEPARTMENT

135. The Judicial Power. The judicial power of the state is vested in the senate, sitting as a court of impeachment, a supreme court, criminal court of appeals, district courts, superior courts (chap. iii, § 48), county courts (chap. iii, § 49), courts of justice of the peace (chap. i, § 9), municipal courts (chap. ii, § 24), and such other courts, commissions, or boards, inferior to the supreme court, as may be established by law (Art. VII, sect. 1 ; also Boynton, p. 279).

136. Impeachment. A trial for misconduct in office is termed impeachment (Boynton, pp. 148–151). The constitution provides that the governor and other elective state officers, including the justices of the supreme court, shall be liable and subject to impeachment for willful neglect of duty, corruption in office, habitual drunkenness, incompetency, or any offense involving moral turpitude committed while in office (Art. VIII, sect. 1). The house of representatives presents all impeachments by a majority vote. This method is similar to that of the grand jury presenting an indictment. The senate then tries the case, exercising functions similar to a petit jury. A two-thirds vote is necessary for conviction. When the senate is sitting as a court of impeachment the senators shall be on oath, or affirmation, impartially to try the party impeached ; and no person shall be convicted without the concurrence of two thirds of the senators present (Art. VIII, sect. 4).

137. Removal of Officials not Subject to Impeachment.

All elective officials are subject to removal from office for just cause. This is done by the chief justice ; or, if he is absent or disqualified, then one of the associate justices of the supreme court, to be selected from it, acts in his stead. When a supreme court justice is impeached he is tried by the senate. Members of the house of representatives and of the senate cannot be impeached. The only way they can lose their office is to be expelled by the house of which they are a member, and each house is sole judge of the qualifications of its members. *Judgment of impeachment* shall not extend beyond removal from office, but this shall not prevent punishment of any such officer on charges growing out of the same matter by the courts of the state (Art. VIII, sect. 5).

138. Supreme Court. The supreme court (Boynton, p. 280) consists of five judges nominated from districts but voted upon by the people at large. The term is six years. The salary of supreme court justices is \$4000 per year. Each supreme court judge is in turn chief justice for one year during his term of office.

139. Jurisdiction. The supreme court has both original and appellate jurisdiction. Original jurisdiction means that the case can be started before it. The original jurisdiction of the supreme court shall extend to a general superintending control over all inferior courts and all commissions and boards created by law. The supreme court has power to issue writs of habeas corpus, mandamus, quo warranto, prohibition, and such other remedial writs as may be provided by law (Art. VII, sect. 2). But the supreme court rather discourages hearing cases in the first instance, and so most of its work comes under its appellate jurisdiction. If either party to a suit in the

district, superior, or county court is dissatisfied, he can appeal. This is done by sending a transcript or an account of all that happened in the lower court up to the supreme court. This transcript is carefully read by all the judges, to see whether the trial court decided according to law and evidence. If the decision was right, it is sustained by the supreme court; if it was not, it is reversed and sent back to be tried over again.

140. Supreme Court Clerk. This is an elective office under the constitution. The duty of the clerk is to keep the records of the supreme court and of the criminal court of appeals. Such decisions have the authority of law, and are followed by all lower courts in the state in rendering opinions, unless said opinion has been altered by a more recent statute or constitutional enactment. He also serves as clerk of the criminal court of appeals. His term is four years and he is paid by fees. There is also a *state reporter*, whose duty is to arrange and supervise the printing of all decisions of the supreme court and the criminal court of appeals. He is elected by the eight judges who constitute these two courts. His term of office is at the pleasure of these courts. His salary is \$2000 per year.

141. Supreme Court Marshal. The marshal is the executive officer of the supreme court and of the criminal court of appeals. He keeps order in the court room and serves all writs for the judges. If necessary, he can call on the citizens to assist him in enforcing a court order. He is chosen for a term of four years, at a salary of \$1500 per year.

142. Criminal Court of Appeals. The criminal court of appeals was organized because of the congested condition of the supreme court docket. It consists of three judges appointed by the governor. They hold office until January,

1911, at which time judges to succeed them will have been elected. The term of office is six years, but in order that the term of only one judge will expire every two years, the first judges elected will cast lots to decide which one of them will serve two, four, and six years respectively. The salary is \$4000 per year.

143. Jurisdiction of Criminal Court of Appeals. The criminal court of appeals has exclusive appellate jurisdiction in all criminal cases appealed from county, superior, or district courts.

144. District Court. Because of its great authority and direct contact with the people, the district court is the most important instrument of government in the state. The district judge may at any time have to pass judgment upon any person in his district, taking from that person property, liberty, or even life. It is therefore extremely important that the highest type of citizen, one versed in the law, be elected to this office.

145. District Judge: Salary and Qualifications. Recognizing the importance of this office, the framers of the constitution sought to so make our fundamental law that only men of high character and attainment would be chosen. This was done by making the salary (\$3000) large enough to attract men of ability, and by making the qualifications such that only competent lawyers could meet them. The district judge must be a citizen of the United States, must have resided in the state for two years, and in the territory comprising his district at least one year prior to his election; and he must be a lawyer licensed by some court of record. Residence in his district during his term of office is required (Art. VII, sect. 9). His term is four years.

146. Jurisdiction of District Court. The district courts have original jurisdiction in all cases, civil and criminal, except where exclusive jurisdiction is, by the constitution or by law, conferred on some other court, and they have such appellate jurisdiction as may be provided in the constitution or by law. The district courts, or any judge thereof, have power to issue writs of habeas corpus, mandamus, injunctions, quo warranto, certiorari, prohibition,¹ and other writs, remedial or otherwise, necessary or proper to carry into effect their orders, judgments, or decrees. The district courts also have the power of naturalization in accordance with the laws of the United States (Art. VII, sect. 10) (Boynton, pp. 138-139). Appeals may be taken from the decision of a justice or a municipal court to the district court. The district court is a court of record ; appeals are taken from it direct to one of the supreme courts. So it will be seen that if a suit is begun in a municipal court, two trials can be had, one in the lower court and one in the district court. If, however, a case is begun in the district court, but one trial is held. When an appeal is taken to the supreme court or criminal court of appeals, the case is not tried again. The supreme judges merely review the record sent up from the district court. There may be an error, in which case a new trial is ordered, which will be held in the same court where the error was made. Sometimes one takes change of venue to avoid the prejudice of a judge or a community. If the trial judge thinks there is sufficient reason, he may let the case be taken into another district where a judge and the people are less acquainted with the facts in the case. This expedient is often resorted to in case of homicide. But it is in a district court that final trial of the case is held.

¹ The instructor should explain clearly the meaning of each of these writs (see next section).

147. Law distinguished from Equity. The paragraph just above, relating to civil and criminal cases, has chiefly to do with that branch of jurisprudence that is technically termed "law." It sprang up from the old English common law. Generally a jury of twelve men decides the facts, and the duty of the judge is to see that the law is strictly adhered to in presenting the evidence to the jury, so that no unfair or illegal advantage is taken of either party in the case. We have seen that (chap. i, § 1) custom-made law is the much larger body of our jurisprudence. Sometimes custom is enacted into statute law by the legislature, i.e. written down and defined. "Equity," or chancery as it is sometimes called, grew up through the church courts of the early English. It was found that there were some cases where damages were no remedy. But damages is the only civil remedy at law, so chancery courts stepped in and enforced specific decrees. Thus, suppose that a man meant to turn a river across your land; no damages would compensate you for the loss of your home if you did not want to move. Here you would bring a suit in chancery, and the judge would enjoin the man from persisting in his efforts to change the natural course of the river. Injunction, therefore, is to stop one from committing an injury to some one else. Mandamus, another remedy in equity, is to compel men to do that which they ought to do. Thus, suppose a writ is placed in the possession of the sheriff and he refuses to serve it; under the law it is his duty to do so, and the remedy for his misconduct is for the injured party to obtain a writ of mandamus from the court, compelling him to perform his duty and serve the writ.

148. District Courts: Equity Jurisdiction in Oklahoma. It is, as a rule, the extent of equity jurisdiction that marks

the difference between a superior and an inferior court. We noticed under the discussion of the twenty-fifth section of the bill of rights how our basic law limits the authority of an Oklahoma court to punish for contempt (chap. v, § 69). If the alleged contempt occurs out of the presence of the court, there must be a trial by jury to determine whether or not the contempt has been committed. In other respects the equity powers of an Oklahoma district court are as extensive as those of any similar state court, and therefore this court exercises the highest authority and is a tribunal of the highest dignity.

149. Verdict. The decision arrived at by a jury is termed "a verdict" (Boynton, p. 364). In most cases the verdict assesses money damages against the party at fault. In criminal cases the judgment may be either a fine, that is, the convicted person must pay a sum of money; imprisonment, that is, his liberty is taken from him; death, that is, his life is taken, because, it is reasoned, if he continue to live he will be a menace to society. The jury brings in the verdict of guilty or not guilty in criminal cases in accordance with the instructions of the judge (chap. v, § 68). In civil cases the verdict states the amount of damages. The judge then renders judgment in accordance with the law. Frequently in criminal cases the judgment is both a fine and imprisonment.

CHAPTER X

ELECTORS AND ELECTIONS ¹

150. Suffrage. Qualified electors are male citizens of the United States twenty-one years of age, who have resided in the state of Oklahoma one year, in the county six months, and in the election precinct thirty days next preceding the election at which the elector offers to vote (Boynton, p. 99, p. 270). No person adjudged guilty of a felony after the adoption of the constitution, subject to such exceptions as the legislature may prescribe, unless his citizenship shall have been restored in the manner provided by law; nor any person, while kept in a poorhouse or other asylum at the public expense, except federal and confederate ex-soldiers; nor any person in a public prison, nor any idiot or lunatic, shall be entitled to vote at any election under the laws of this state (Art. III, sect. 1).

151. Soldiers and the Suffrage. A soldier who enlists from Oklahoma can always vote in the town he enlisted from, so long as he is in the army. But a soldier who is stationed in Oklahoma does not become a resident of the state because he happens to be quartered here. His being a soldier in Oklahoma does not make him a citizen of the state.

¹ The legislature of 1909 passed an election law radically altering the provisions as given in this chapter. The new measure has met energetic opposition, and a referendum has been demanded upon it (see chap. vii, §§ 101, 102). The election upon this referendum may not be held until November, 1910, and at that time the new law may be defeated, so the statute as given here remains in full force and effect until disposed of by the people. (See Appendix C for discussion of this suspended law.)

152. Time of Elections. General elections (Boynton, pp. 270–271) for the purpose of electing congressmen, state, legislative, and county officers, occur on the first Tuesday after the first Monday of the even-numbered years. Municipal elections occur yearly on the first Tuesday in April. Special elections may be called at any time by the governor to fill vacancies in the legislature or to take a referendum vote.

153. Elections and Electors not to be interfered with. The election shall be free and equal. No power, civil or military, shall interfere to prevent the free exercise of the right of suffrage, and electors shall, in all cases except for treason and breach of the peace, be privileged from arrest during their attendance on elections and while going to and from the same (Art. III, sect. 7).

154. Election Precincts. The county election board divides the townships into voting precincts, establishes the boundaries of the same, and designates at least one voting place in each township and city ward. There shall be but one voting place in each precinct. Each precinct should contain about two hundred voters, and in no case should the number exceed two hundred and fifty. Voting places are designated by the county election board.

155. State Election Board. The governor, within thirty days after his inauguration, shall name a state election board, subject to the approval and confirmation of the senate. This board consists of three members, not more than two of whom shall be of the same political party. The state central committees of the political parties casting the highest number of votes at the last general election each suggest the names of five electors, and the governor must appoint the members of the election board from this list. The salary of the members

of the state election board is three dollars per day for time actually engaged in the duties of the office. The term is for four years.

156. Duties of State Election Board. The state election board has general supervision of all elections in the state, both primary and general. It appoints the county election boards, prepares the ballot for both the primary and the general election, decides who have been properly nominated for office, and canvasses the returns for all state elections and for district elections where the district is not a subdivision of a county. It also issues certificates of election to the various successful candidates who come within its jurisdiction.

157. County Election Board. This board consists of three members appointed by the state election board. The county central committees of the two largest political parties each submit five names to the state board, just as the state central committees of the parties submit names to the governor. The county election board must be appointed from these lists. Not more than two of the three members can come from the same political party. This board supervises the election in the county, just as the state board does in the state. It canvasses the returns from the county and issues certificates of election to the successful county candidates.

158. Precinct Election Board. From lists of five, just as in the case of the state and county boards, the precinct election board is chosen by the county board. This board actually conducts the balloting. One of these three officials is termed inspector, another judge, and the third clerk. If any one of these three officials is disqualified or fails to qualify on the precinct boards, his colleagues shall appoint

his successor from the ranks of the party to which he belonged, and, if possible, from the list previously submitted. This board issues certificates of nomination for precinct officers.

159. Official Counters. On the Friday preceding the election it shall be the duty of the precinct election board to choose four official counters. They shall be equally distributed among the political parties, and in no case shall more than three counters come from one party. At ten o'clock on the morning of the election these counters, having first voted and taken the proper oath, shall begin to count. The count is to be kept secret until the entire poll is counted. Violation of this provision subjects them to severe fine and jail sentence. A careful record of all votes cast is kept and certified to the county election board; and the vote on state officers and such district officers as come under the jurisdiction of the state board is in turn certified up to it. The ballots are hung on a string as counted. When all the votes are recorded these tickets are securely tied, sealed, and delivered to the county election board.

160. The Ballot. In the general election the ballot is made up by the state and county boards on or before the first day of September preceding the November general election. These boards also make up the ballot for the primary. The copy for the ballot must be delivered to the printer by October first. By the last week in October the state board must deliver the state ballots to the county boards, and the county boards must also have obtained the county tickets from the printer. All ballots for a general election must be on white paper and bound in books. Sample ballots are on cheap yellow paper.






NEVER DETACH THIS NUMBER FROM THE STUB N^o 6425





Voters Name Post Office
 Street Number If Voter is Challenged, Write..... Here. If Voter was
 Sworn, Write..... Here. If Ballot is Spoiled or Not Voted, Write..... Here.
sworn challenge spoiled

Remarks

N ^o 6425	WHEN VOTER RETURNS BALLOT DETACH THIS NUMBER
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GRADY COUNTY, WASHINGTON TOWNSHIP, FAIR GROUNDS PRECINCT.

DEMOCRATIC	REPUBLICAN	SOCIALIST	INDEPENDENCE PARTY	PEOPLES PARTY
				
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
For Presidential Electors (vote for seven.)	For Presidential Electors (vote for seven.)	For Presidential Electors (vote for seven.)	For Presidential Electors (vote for seven.)	For Presidential Electors (vote for seven.)
<input type="checkbox"/> S. M. RUTHERFORD	<input type="checkbox"/> WILLIAM BUSBY	<input type="checkbox"/> I. N. JOHNSON	<input type="checkbox"/> B. C. HANSEN	<input type="checkbox"/> HORACE E. STRAUGHEN
<input type="checkbox"/> GEO. C. WHITEHURST	<input type="checkbox"/> J. C. ROBERTS.	<input type="checkbox"/> CHAS. T. WATKINS	<input type="checkbox"/> S. W. MATTUBBY	<input type="checkbox"/> R. L. SCOTT
<input type="checkbox"/> GEO. L. BOWMAN.	<input type="checkbox"/> EMORY FOSTER	<input type="checkbox"/> JULIUS R. ELLIS	<input type="checkbox"/> C. G. YOUNG	<input type="checkbox"/> J. T. CRAIG
<input type="checkbox"/> D. W. DRENNON	<input type="checkbox"/> ABEL J. SANDS	<input type="checkbox"/> G. P. MILLARD	<input type="checkbox"/> C. C. ZIEGLAR	<input type="checkbox"/> E. M. SMOOT
<input type="checkbox"/> E. A. McDOUGAL	<input type="checkbox"/> E. O. CLARE		<input type="checkbox"/> J. W. WALLACE, Jr.	<input type="checkbox"/> JESSE L. SWANGO
<input type="checkbox"/> PRESTON & LESTER	<input type="checkbox"/> BRUCE KENAN		<input type="checkbox"/> E. C. BURKHART	<input type="checkbox"/> J. N. NANCE
<input type="checkbox"/> J. E. GIBBONS	<input type="checkbox"/> WILLIAM McKOT		<input type="checkbox"/> M. E. AKIN	<input type="checkbox"/> L. P. BARKER
For Justice of Supreme Court Second District (vote for one in this district.)	For Justice of Supreme Court Second District (vote for one in this district.)	For Justice of Supreme Court Second District (vote for one in this district.)	For Justice of Supreme Court Second District (vote for one in this district.)	For Justice of Supreme Court Second District (vote for one in this district.)
<input type="checkbox"/> R. L. WILLIAMS				
For Justice of Supreme Court Fourth District (vote for one in this district.)	For Justice of Supreme Court Fourth District (vote for one in this district.)	For Justice of Supreme Court Fourth District (vote for one in this district.)	For Justice of Supreme Court Fourth District (vote for one in this district.)	For Justice of Supreme Court Fourth District (vote for one in this district.)
<input type="checkbox"/> SAMUEL W. HAYES	<input type="checkbox"/> JOSEPH T. DICKERSON	<input type="checkbox"/> A. W. BENNETT		
For Corporation Commissioner	For Corporation Commissioner	For Corporation Commissioner	For Corporation Commissioner	For Corporation Commissioner
<input type="checkbox"/> A. P. WATSON	<input type="checkbox"/> WILLIAM H. REYNOLDS	<input type="checkbox"/> ROY O'BRYAN		
For Congressman 5th District	For Congressman 5th District	For Congressman 5th District	For Congressman 5th District	For Congressman 5th District
<input type="checkbox"/> SCOTT FERRIS		<input type="checkbox"/> W. D. DAVIS		
For State Senator	For State Senator	For State Senator	For State Senator	For State Senator
<input type="checkbox"/> GEO. O. JOHNSON		<input type="checkbox"/> J. E. SHIELDS		
For Representative (vote for two.)	For Representative (vote for two.)	For Representative (vote for two.)	For Representative (vote for two.)	For Representative (vote for two.)
<input type="checkbox"/> MARY IRETON	<input type="checkbox"/> J. P. POPE			
<input type="checkbox"/> R. L. GLOVER	<input type="checkbox"/> M. S. McCOBB			
For Flatorial Representative	For Flatorial Representative	For Flatorial Representative	For Flatorial Representative	For Flatorial Representative
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

-  To vote the Democratic Ticket, stamp X in circle under the Rooster.
-  To vote the Republican Ticket, stamp X in circle under the Eagle. The same wording as to other Parties.
-  Should a voter desire to vote a mixed ticket, stamp in circle under devise of the party, then cross over in columns containing other names and stamp X in the square opposite name of candidate you desire to vote for.
-  After you have voted, fold ballot over to perforated line and return to election officers.

161. Ballot Stub. Each ballot has a stub. On this stub is left a blank for the voter's name, post office, street number, a place to write "challenged" if he is challenged, to write "sworn" if he is sworn, and another blank to write "spoiled" if the ballot is mutilated. In the upper left-hand corner of the ballot there is a number corresponding to the number on the stub. If a voter is challenged, this number serves to identify the identical ballot cast by the person whose vote was questioned. If it is found he voted illegally, his vote can be cast out and the person himself punished.

162. Registration. In cities of the first class the election inspector for each precinct must keep open the precinct registration books during the entire month of July. He shall also keep his books open for registration during the last week in October. For this he receives a fee of three cents for each name registered. This is paid by the city. All electors must register here if they wish to vote, unless prevented by some unavoidable circumstance, such as sickness or absence from the city. The object of registration is to get the list of all men claiming to be qualified electors in the city. It is more difficult in congested centers of population to detect fraud at elections, and registration aids in ferreting out the men who mean to vote illegally. Men can be punished for fraudulent registration, the same as for fraudulent voting.

163. Political Parties Recognized. In no particular does the national constitution vary more greatly from what its framers intended than in the election of President (Boynton, pp. 183-184). The people choose members of an electoral college, as many from each state as the commonwealth has senators and representatives. These men do the actual voting

for President. The Fathers intended that the presidential electors constituting the electoral college should vote for the men they thought best fitted for President and vice president, independent of party ; but since the time of Jefferson (Boynton, pp. 309-325) political parties have stepped in and selected the men to be voted for. Since political parties do exist, and since the choice for all officials is limited to the few men these parties pick out, the builders of the Oklahoma constitution decided to regulate the manner in which political parties shall choose their candidates. This is done at what is termed a primary election.

164. Mandatory Primary. " The legislature shall enact laws providing for a mandatory primary system, which shall provide for the nomination of all candidates in all elections for state, district, county, and municipal officers, for all political parties, including United States senators : provided, however, this provision shall not exclude the right of the people to place on the ballot by petition any nonpartisan candidate " (Art. III, sect. 5). A mandatory primary election law was enacted by the first legislature in accordance with this constitutional provision. All candidates of political parties must be chosen at a primary which is held the first Tuesday in August of every even-numbered year. The officers provided by the general election law also have control of the primary. The voting places are the same, and the ballot is as nearly as possible like that used at the general election. However, only candidates of one party appear on one ticket, and the tickets of the respective parties must be of different colors. The July registration in cities of the first class is for the benefit of the primary. The entire expense of this election is borne by the state and local governments, just as is the case in a

general election. The officers voted for include every one who represents the people, from precinct committeemen and delegates to the state convention where the party platform is now made, up to the highest office in the gift of the people.

165. Nominating Petitions. In order that a candidate may have his name upon a primary ballot, he must present a petition to the proper election board. Any candidate for an office where the electors of the entire state shall vote, or a candidate for the legislature, or in any district larger than a county, must present his petition to the secretary of the state election board. A candidate in a county or a division smaller than a county files his petition with the secretary of the county election board. Candidates for the United States senate¹ are voted for at the primary the same as other candidates.

166. Primary Election and Ballot. The election is conducted exactly like a general election, only instead of having the names of all candidates on one ticket, separate ballots are printed for each party, and a voter on entering the election booth announces his party and is given the proper ticket. The ballot is similar in form to the one presented earlier in this chapter, except that there is no party insignia upon it.

167. Nonpartisan Nominations. If one belongs to no political party, he cannot vote at the primary; but nonpartisan nominations can be made by exactly the same method used to petition names upon the primary ballot of the several political parties. These petitions are filed in the same way that party petitions are filed, and at the same time.

¹ United States senators are not elected by the people, nor is a political party bound to nominate a candidate in order to have his name considered at the time the legislature meets in joint session. But such a vote is regarded as instructing the legislators as to what the people desire, and the legislature is apt to follow the express will of the people.

168. How to Vote. At the primary one must stamp in the square to the left of the names of the men for whom he desires to vote. At the regular election, to vote a straight ticket, stamp in the circle beneath the device (Boynton, p. 271). To vote a mixed ticket, stamp in the square to the left of the name of each candidate for whom it is desired to vote. Or if one stamps in the circle beneath the device and then crosses over and votes for certain candidates in other columns, his vote will be counted for the candidates beneath the device, except where he has indicated a preference for some other candidate.

169. Corrupt Practice at Elections. Since primary elections are now as much under sanction of law as are the general elections, it has been deemed necessary to provide penalties for violations of its provisions even more stringent than for the general election. Corporations are especially forbidden in any way to participate in elections. It is a penitentiary offense to bribe a voter. Election officers are likewise severely punished for failing to do their duty; and any one who brings intoxicating liquors of any kind within one half mile of a voting place is guilty of a misdemeanor.

170. Limitation on Amount of Money to be Spent. There seems to be no limit placed upon the amount a candidate may spend to secure his election after he is nominated, but he is strictly limited as to what he can spend in order to secure a nomination. The amount¹ is in proportion to the

¹ Candidates for United States senator or governor are not to spend an amount exceeding \$3000; other state offices, \$1500; supreme judge, \$1000; Congress, \$800; district judge, \$500; state senator, \$250; representatives in a district larger than a county, \$250; county candidates, \$200; subdivision of county, \$50; mayor (cities over 15,000), \$200; other city officials (cities over 15,000), \$150; mayor (cities less than 15,000), \$100; other officials (cities less than 15,000), \$50.

relative importance of the office. The law aims to prevent rich men, by a lavish use of money, from obtaining nominations. It also seeks to make it possible for a person of limited means to aspire to the highest office in the gift of the people. If a candidate violates this provision, he not only forfeits his right to have his name printed on the primary ballot, but is also guilty of a misdemeanor, and on conviction shall pay a fine of not less than one hundred dollars nor more than two thousand dollars, and suffer a jail sentence as well. And even if a person is elected to an office, and it is found that he has violated the corrupt-practice features of the state election laws, he shall not be entitled to hold such office. Newspapers are compelled to announce political advertising as such, so that the voter will not be deceived into believing that purchased space in the paper is the editorial opinion of the publisher.

171. Publicity. Before the state and county election boards give out any certificates of nomination or election they must give out for publication a statement of each candidate's expenditures and all that was spent in his behalf by his several agents. Within ten days after a primary or general election, as the case may be, the campaign committees, both of individuals and of parties, must file a complete list of all money which came into the hands of such committees.

CHAPTER XI

TAXATION AND PUBLIC DEBTS

172. Taxation. Of all governmental functions taxation is the most important. Any student of American history must have noticed that the century-old struggle in England and America was directed chiefly against the king's attempt to levy taxes without the consent of those taxed. And to-day the most difficult problem statesmen have to meet is to equitably adjust the burdens of government upon each man according to the benefit he receives from the government, and according to his ability to help support it. In no respect has the constitution of Oklahoma gone further from the commonly accepted custom in America than in the matter of taxation. The Oklahoma constitution was so written that those men who obtained the greatest financial benefit from the state and its system of laws should contribute most to the state's support. The power to tax can never be surrendered, suspended, or contracted away, but must always remain a function of the state.

173. Assessment. The township trustee is the assessor in rural communities (chap. i, § 6). Cities and towns elect an assessor each year (chap. ii, § 22). As soon as possible on or after the first Monday of March of each year it is the duty of the assessor to make a list of the property of each person residing within the township or city which he is to assess. All assessments must be completed and the assessment rolls turned over to the county clerk by the township and municipal

assessors by the first Monday in May. All property is to be assessed to the person who owned it on the first of March, no matter if it has been sold after that time and before the assessor calls upon him. All property is listed in schedules and at actual cash value. The taxpayer must take oath that he "give in" all his property at its true value before his returns are received. The assessor who shall commit any willful error in the performance of his duty shall be deemed guilty of malfeasance, and upon conviction thereof shall forfeit his office and be otherwise punished as provided by law. The various boards of equalization are as follows: townships, the township board; towns, assessor, president of board of trustees, and town clerk; cities, assessor, mayor, and city clerk; counties, board of county commissioners; state, governor, state auditor, state treasurer, secretary of state, attorney-general, state examiner and inspector, president of the board of agriculture.

174. Duties of Boards of Equalization. The duties of these boards are most important. On the third Monday in April the boards for the townships, towns, and cities meet to examine the assessment rolls of their respective localities. They hear all complaints of persons who feel aggrieved by their assessments, and correct, equalize, and adjust assessments by increasing or diminishing the amounts listed for any individual, when unjust. These boards may, if necessary, even require a reassessment of all property on the tax roll. On the first Monday in June the county board of equalization holds its sessions and equalizes the taxes of the respective political divisions of the county. As these tax rolls are made by as many different men as there are townships, towns, and cities in the county, no two lists are apt to be

made upon the same basis. Previous to making the assessment the assessors often hold a convention at the county seat and decide on a list by which to assess. Notwithstanding, there are bound to be discrepancies which need adjustment. What the county board of equalization does for one county the state board does for the entire state. This state board meets on the third Monday in June. It is the duty of this board to examine the various county assessments, and to equalize, correct, and adjust the same as between the counties, by increasing the aggregate assessed value of the property, or any class of property, in any of the counties, so that it conforms to the fair cash value. It can order the assessment rolls of any county so corrected. The state board of equalization also assesses all public service corporations.

175. Ad Valorem Tax. " Except as herein otherwise provided, the total taxes on an ad valorem basis for all purposes — state, county, township, city, or town, and school-district taxes — shall not exceed in any one year thirty-one and one-half mills on the dollar, to be divided as follows: state levy, not more than three and one-half mills; county levy, not more than eight mills, *Provided*, That any county may levy not exceeding two mills additional for county high school and aid to the common schools of the county, not over one mill of which shall be for such high school, and the aid to said common schools shall be apportioned as provided by law; township levy, not more than five mills; city or town levy, not more than ten mills; school-district levy, not more than five mills on the dollar for school-district purposes, for support of common schools, *Provided*, That the aforesaid annual rate for school purposes may be increased by any school district to an amount not to exceed ten mills on the dollar valuation, on

condition that a majority of the voters thereof voting at an election, vote for said increase " (Art. X, sect. 9). The assessment having been taken and an estimate made by the respective township, town, city, county, and state officials of what it will cost to run their respective offices the next year, then the rate of taxation can be ascertained. It is determined by dividing the estimated expense for the year by the assessed valuation. The tax roll is turned over to the county treasurer by the county clerk on or before October 1; on October 15 the ad valorem tax becomes due. All such taxes must be paid by January 1, or a penalty (i.e. extra charge) attaches.

176. Exemptions. " All property used for free public libraries, free museums, public cemeteries, property used exclusively for schools, colleges, and all property used exclusively for religious and charitable purposes, and all property of the United States and of this state and of counties and of municipalities of this state; household goods of the heads of families, tools, implements, and live stock employed in the support of the family, not exceeding one hundred dollars in value, and all growing crops, shall be exempt from taxation. Provided, that all property not herein specified, now exempt from taxation under the laws of the territory of Oklahoma, shall be exempt from taxation until otherwise provided by law; and provided further, that there shall be exempt from taxation, to all ex-Union and ex-Confederate soldiers bona fide residents of this state, and to all widows of ex-Union and ex-Confederate soldiers, who are heads of families and bona fide residents of this state, personal property not exceeding two hundred dollars in value. All property owned by the Murrow Indian Orphan Home, located in Coal County, and all property owned by the Whitaker Orphan Home, located in Mayes

County, so long as the same shall be used exclusively as free homes or schools for orphan children, and for poor and indigent persons, and all fraternal orphan homes, and other orphan homes, together with all their charitable funds, shall be exempt from taxation ; and such property as may be exempt by reason of treaty stipulation existing between the Indians and the United States government, or by federal laws during the force and effect of such treaties or federal laws. The legislature may authorize any incorporated city or town, by a majority vote of its electors voting thereon, to exempt manufacturing establishments and public utilities from municipal taxation for a period not exceeding five years, as an inducement to their location " (Art. X, sect. 6). This clause of the constitution is self-explanatory. This long list of exemptions (Boynton, p. 281) from taxation is placed in the constitution because it is felt that either such property is a necessity to citizens in earning a living, or such institutions are a public benefit, and that they should not be charged with the burdens of government. The active members of fire and militia companies are also exempt from paying poll tax. Cities and towns are often much benefited by factories being located within their boundaries. They are allowed to aid the factory during the first of its struggle by exempting it from taxation.

177. Special Tax Provision. The legislature shall have power to provide for the levy and collection of license, franchise, gross revenue, excise, income, collateral and direct inheritance, legacy, and succession taxes ; also graduated income taxes, graduated collateral and direct inheritance taxes, graduated legacy and succession taxes ; also stamp, registration, production, or other specific taxes (Art. X, sect. 12). The

state may select its subjects of taxation, and levy and collect its revenues independent of the counties, cities, or other municipal subdivisions (Art. X, sect. 13). Under this provision of the constitution the state and its subdivisions are given an absolutely free hand in levying taxes so long as they are uniform upon the same class of subjects.

178. License and Franchise Taxes. Cities and towns may levy a license tax. In states where liquor is sold, the liquor license is of this character. The dog tax and drayman's license is also a license tax. A franchise tax is a demand that a semipublic corporation pay a portion of its receipts into the public treasury for the privileges granted. Street-car companies, lighting and water companies are often subject to such charges. When articles of incorporation are filed a fee of one tenth of one per cent of the authorized capital stock is charged. This is a license tax that is charged but once, but it is frequently a tax of large proportions. A railroad company that is incorporated for three million dollars must pay a license tax of three thousand before it can begin business in the state. The secretary of state collects so many fees and license taxes of this character that his office is one of the great revenue-gathering offices of the state.

179. Income Tax. It is the duty of the assessor to furnish the state auditor a list of all persons whose income is in excess of \$3500, and upon which no gross receipt or excise tax has been paid. He shall also furnish a list of other persons in his township, who, in his opinion, may be liable for an income tax, and such persons can be compelled to make a statement under oath concerning their incomes. The tax all goes to the common-school fund, and is as follows: for the excess over \$3500 and less than \$5000, one half of one per cent; for

the excess over \$5000 and less than \$10,000, three fourths of one per cent; for the excess over \$10,000 and less than \$20,000, one and one-fifth per cent; for the excess over \$20,000 and less than \$50,000, two per cent; for all amounts over \$100,000, three and three-tenths per cent. If a person neglects or refuses to pay his income tax, it becomes a lien on his property, the same as ad valorem tax, and if a false affidavit is made in connection with the collection of an income tax, the person is guilty of perjury. There is also a graduated income tax on the rents and profits of large farms that are not owned, but are held under title less than fee. The tax is one per cent upon the rents and profits of said farms for the excess over one section. It increases to ten per cent upon the rents and profits of said farms where such holdings exceed five thousand acres. This law was especially designed to reach the large holdings on the Indian Territory side of the state. Often men will be in possession of vast estates in this section of the commonwealth, and yet the title to the land will rest in the government.

180. Inheritance Tax. Property that passes by will or inheritance — bequests, legacies, etc. — is taxed in proportion to the amount of property that passes and the relationship of the person benefited. The county judge supervises the collecting of this tax. It is paid to the county treasurers and by them turned over to the state treasury. One half the sum derived goes to the common-school fund; the other half is applied to the expenses of the state government. Such a tax is levied by several states, and is becoming more and more a source of revenue for the support of state governments.

181. Exemptions from Inheritance Tax. All property transferred to corporations of this state organized solely for

religious, charitable, or educational purposes is exempt from this tax. Widows are allowed to inherit ten thousand dollars without being required to pay the tax, while children or parents of a deceased person can receive five thousand dollars' tax free. Other relatives can inherit in much smaller amounts without being obliged to pay the tax.

182. Graduated Land Tax. This law provides that every person can own three hundred and twenty acres (a half section) of land without paying any tax upon it other than the regular ad valorem tax discussed in a previous section. Any one can own as much as six hundred and forty acres of land of average taxable value and still pay only the usual ad valorem tax. The law declares that twenty dollars per acre shall be regarded as the average value of Oklahoma lands. Thus, if one owns more than a section of average-value land, or, in other words, has more than \$12,800 invested in farm lands of greater acreage than half a section of average land, he pays one fourth of one per cent upon the excess; ten per cent per annum is levied if one is possessed of over ten thousand acres. Thus it will be seen that the tax is really prohibitory on large bodies of land. One could not afford to hold them and pay the tax. This law will probably tend to increase the number of landowners, and this doubtless was the intention of the framers of the law.

183. The Gross Revenue Tax. The first state legislature provided for the levy and collection of an extra tax upon all public-service corporations, and from all persons, firms, or corporations engaged in mining or in the production of oil or natural gas. Every company or person affected by this act must pay the state a gross revenue tax for the fiscal year ending June 30, 1909, and for each year thereafter. This

is in addition to the ad valorem tax previously mentioned. Sleeping-car companies pay three per cent and railroads pay one per cent. Those engaged in the production of coal pay one per cent; oil, gas, and other companies engaged in mining pay one half of one per cent of their gross production. If a firm or corporation fails or refuses to make a report to the state auditor's office of the amount of its gross revenue or production, the auditor is required to certify the name of the company to the district court, and the firm will be compelled to pay according to law.

184. Poll Tax. Every male between the ages of twenty-one and fifty years is required to pay a poll tax of two dollars, and must be listed by the assessor. Active members of fire and militia companies are exempt from this tax (Art. X, sect. 18).

185. Bonds. All laws authorizing the borrowing of money by and on behalf of the state, county, or other political subdivision of the state, shall specify the purpose for which the money is to be used, and the money so borrowed shall be used for no other purpose. A bond is an interest-bearing promissory note of the state, county, town, or district, agreeing to pay a certain sum of money at a given time. No law creating a bonded indebtedness can take effect until it shall, at a general election, have been submitted to the people and have received a majority of all votes cast for and against it at such election (Art. X, sect. 16). No bond of indebtedness of this state shall be valid unless the same shall have indorsed thereon a certificate, signed by the auditor and attorney-general of the state, showing that the bond or evidence of debt is pursuant to law and is issued within the debt limit. No bond or evidence of debt of any county, or bond of any

township or any other political subdivision of any county, shall be valid unless the same have indorsed thereon a certificate signed by the county clerk or other officer authorized by law to sign such certificate, and the county attorney, stating that said bond or evidence of debt is issued pursuant to law, and that said issue is within the debt limit (Art. X, sect. 29).

186. The Debt Limit. The state may, to meet casual deficit or failure in revenue, or for expenses not provided for, contract debts, but such debts shall not at any time exceed \$400,000, and the moneys arising from the loans creating such debts shall be applied to the purpose for which they were obtained, or to repay the debts so contracted, and to no other purpose whatever (Art. X, sect. 23).

187. War Debt not Limited. In addition to the above limited power to contract debts, the state may contract debts to repel invasion, suppress insurrection, or to defend the state in war; but the money arising from the contracting of such debts shall be applied to the purpose for which it was raised, or to repay such debts, and to no other purpose whatever (Art. X, sect. 24).

188. Sinking Fund. Counties, townships, school districts, cities, and towns shall levy sufficient additional revenue to create a sinking fund to be used (1) for the payment of interest coupons as they fall due; (2) for the payment of bonds as they fall due; (3) for the payment of such parts of judgments as such municipality may, by law, be required to pay (Art. X, sect. 28). It is also provided that the law shall provide for the collection of a direct annual tax sufficient to pay the interest on all bonded debts as it falls due, and also to pay and discharge the principal of such debts within twenty-five years from the time of the contracting thereof.

189. Bonds not to be voted to aid Private Enterprise. The credit of the state shall not be given, pledged, or loaned, to pay any individual, company, or corporation, or association, municipality, or political subdivision of the state; nor shall the state become an owner or stockholder in, or make donation by gift, subscription to stock, by tax, or otherwise, to any company, association, or corporation. The legislature shall not authorize any county, or subdivision thereof, — city, town, or incorporated district, — to become a stockholder in any company, association, or corporation, or to obtain or appropriate money for, or levy any tax for, or to loan its credit to, any corporation, association, or individual (Art. X, sect. 15). It has been a common practice in Oklahoma, as well as elsewhere in the Middle West, to vote bonds or city warrants to railroad companies as an inducement for them to build into the locality voting the bonds. This practice is now absolutely prohibited by the constitution.

190. Fiscal Year. The fiscal or business year of the state begins on the first day of July. All accounts are checked up to this date. Appropriations that have been made by the legislature but have not been entirely expended often revert back into the treasury at this time.

CHAPTER XII

PUBLIC-SCHOOL SYSTEM

191. Public Schools and the Enabling Act. The fifth section of the enabling act requires that provisions shall be made for the establishment and maintenance of a system of public schools conducted in English, open to all the children of the state, and free from sectarian control. It also provides that other languages may be taught in the public schools, and permits the establishment and maintenance of separate schools for white and colored children. The enabling act is higher law than the state's constitution, and therefore the state's school law had to be formulated in accordance with it.

192. Free Public Schools. Section 5 of Article I of the state constitution repeats this section verbatim. Ever since the earliest organization of Oklahoma Territory a free public-school system was maintained. The white people of Indian Territory did not have such good school advantages, although free public schools were maintained in the incorporated cities, and some free schools were supported by the federal government in rural sections. The Five Civilized Tribes had supported public schools for Indian children for more than a generation. As the laws of Oklahoma Territory were extended over Indian Territory on the adoption of the constitution, the school law of the Oklahoma portion of the new commonwealth became the law for the entire state.

193. Organization of Districts. The county superintendent can lay out a school district with such boundaries as he

sees fit. But such boundaries must be within reason. The district is said to be organized when its officers have been elected and qualified. No district shall be organized containing less than eight persons of school age. As there were no counties and consequently no school districts in Indian Territory until after statehood, county superintendents in that section had to organize a vast territory. This was done, as a rule, by forming the largest possible districts compatible with efficiency. Thus the advantage of so-called consolidated or township schools has, in many cases, been obtained from the very first.

194. District Officers. A director, clerk, and treasurer constitute the school board. Women as well as men are eligible to serve on any school board. At the annual meeting in 1908 the director was elected for three years, the clerk for two years, the treasurer for one year. Their successors will be elected for three years. The director presides at all district meetings, and he signs all warrants drawn by the district clerk on the treasurer. The clerk keeps all the books belonging to the district. He must transmit to the county clerk, on or before May 25 of each year, a list of all persons in his district liable to pay taxes. He must promptly report to the county superintendent all school officers elected, the commencement of each term of school, and the amount of school tax levied at the annual meeting. The treasurer must give a bond in double the amount of school money he is apt to handle each year. He must keep a careful report of all moneys received and expended, and make a full report at the annual district meeting. He can pay out funds only on warrants properly signed. If warrants are not paid for want of funds, he records same in the warrant register. Such warrants draw six per cent

interest until notice is given that funds are on hand to pay them. This notice being given, the interest stops after thirty days. Acting together these officers constitute the district school board, with duties that cannot be performed singly. Under instructions from a district meeting it can provide a schoolhouse and grounds. The board hires the teacher, procures fuel and supplies, and has general supervision of all school property. With the sanction of the county superintendent, it can dismiss a teacher for incompetency, cruelty, negligence, or immorality. The law provides that at least twice each term one member of the board visit the school.

195. Consolidated Districts. Experience has shown that the best results cannot be obtained in a one-room rural school, with one teacher to give instruction in all grades. Better results are obtained by consolidating two or more districts and erecting a suitable building at a central point. Teachers are then selected who are especially equipped for the work of the different grades, and better equipment is afforded. Such consolidated schools are to be found in most of the states of the Middle West, Oklahoma included. The law provides that a majority of those voting in each district must favor the proposition in order to consolidate. In case pupils live more than two miles from the schoolhouse, the district is compelled to transport them ; but it has been shown that this extra expense can be assumed by the enlarged district, and yet there will be no increase of school taxes, since it has been found cheaper and better to maintain one large school at a central point than three or four little inefficient schools at different points.

196. Annual Meeting : Voters. The annual school meeting is held the first Tuesday in June, at two o'clock in the afternoon. At this meeting the voters elect the district officer

whose term expires. A tax for the support of the school, not to exceed two per cent, is levied; and the length of term is decided upon, which must not be less than three months. A ballot box is seldom provided. Matters are generally discussed in open meeting and then voted upon by viva voce vote. Often all matters pertaining to school-board activities are discussed and decided. All persons, male or female, twenty-one years of age and citizens of the United States, or who have declared their intention to become such, who have resided in the state one year, in the township sixty days, and in the district thirty days, previous to the time of election, are qualified voters at a school election.

197. School Districts in Towns. The school board in the incorporated town is exactly the same as in the rural districts. Frequently adjoining rural territory is added to a town or city district, thus affording the country children living in the vicinity of a town or city the advantage of a much better equipped and more highly organized school.

198. Schools in Cities of the First Class. Every city of the first class is an independent school district. Contiguous rural territory is sometimes added to it. Each ward elects two members on the board. This board has general control of the schools of the city. It elects teachers and also a superintendent, neither of whom is under the supervision of the county superintendent. At the annual meeting, the first Monday in May, the board organizes by the selection of a president, vice president, and a clerk. The treasurer is elected by the people at the same time the board is chosen. The clerk gives a bond of one thousand dollars; the bond of the treasurer is prescribed by the board. The course of study in cities and towns is much more elaborate than in rural schools.

Cities of the first class maintain efficient instructors in the first eight grades, and generally have well-organized high schools. Special instructors in drawing and music and other branches are frequently provided. The constitution requires that the legislature shall provide for the teaching of the elements of agriculture, horticulture, stock feeding, and domestic science in the common schools of the state (Art. XIII, sect. 7).

199. Initiative and Referendum in School Districts. The rural school district in Oklahoma is almost a pure democracy. In towns and cities the republican form of administration naturally prevails. In matters of large outlay, such as the issue of bonds, the referendum was required in territorial days, and the constitution preserves the right of the initiative and referendum to the people of the state at large, and to the legal voters of every county and district therein (Art. V, sect. 5).

200. Uniform Text-Books. It is the duty of the legislature to provide for a uniform system of text-books for the common schools of the state (Art. XIII, sect. 7). By the adoption of a uniform series of books it is believed that school texts can be obtained at a greatly reduced price ; that experts can select better books than those often in use ; that uniformity will bring all schools of like grade in closer touch ; and that children can be moved from schools in one portion of the state to those of another without loss of time or money. The text-book commission consists of six educators, appointed by the governor, by and with the consent of the senate. The governor is ex-officio chairman of this board. This commission selects a uniform set of text-books for all common and high schools of the state. The six appointed members hold office for a term of five years. Books selected are adopted for a term of five years, at the end of which period a new adoption is made.

201. County High Schools. The second state legislature repealed the county high-school law ; but such high schools as were already in operation, or where the vote had been taken to establish such a school previous to the repeal of the law, were expressly excepted from the operation of the bill. Under this latter provision the county high schools at Guthrie, in Logan County, and at Helena, in Alfalfa County, will continue their educational work. Creek County will also soon (1909) establish such an institution at Mounds.

202. Separate Schools. The enabling act provides for the establishment and maintenance of separate schools for white and colored children. In districts having both white and colored children of school age, the separate school is established for those who are fewer in number. When the number of pupils for the separate school does not exceed ten, they may be transferred to the nearest school of their own color in the adjoining district. This transfer can be made without the consent of the parents, if the distance does not exceed two and a half miles. If further than that, the parents' consent has to be obtained before the transfer can be made. In a district where there is a separate school there is a separate board of education — a colored board for colored schools and a white board for white schools. The county superintendent certifies colored as well as white teachers.

203. Compulsory Education. The legislature must provide for the compulsory attendance at some public or other school, unless other means of education are provided, of all the children in the state, who are sound in mind and body, between the ages of eight and sixteen years, for at least three months in each year (Art. XIII, sect. 4). Beginning in the fall of 1910, children of school age will be required by law to attend

at least five months each year. A child who is the chief support of a widowed mother can have the matter brought to the attention of the county commissioners, and on proper showing he will receive a reasonable allowance per month for his actual days of attendance (session laws, 1907-1908, p. 395).

204. County Superintendent of Public Instruction. The general supervision of the schools of a county is in the hands of the county superintendent of public instruction. Women as well as men can hold this office. A necessary qualification for this position is to hold a first-grade county certificate or be a graduate of some institution of learning. The county superintendent divides the county into convenient school districts, but he cannot change the boundaries of a district unless one third of the voters of such district so petition. Appeals may be taken from his decision to the county commissioners by a petition of one fourth of the legal voters in the district. He fills vacancies on rural and town school boards, but his jurisdiction does not extend to schools in cities of the first class. He is chairman of the county board of examiners that certifies teachers. He must visit each school at least once during each term, for which he receives one dollar for each school so visited, and he has general supervision of discipline, classification, and instruction of the schools under his charge. Each summer he holds a teachers' institute for at least four weeks. There is, however, no statute requiring teachers to attend these summer normals. Two or more counties may hold a joint institute. Conductors and instructors hold special certificates issued by the state board of education. His salary depends upon the population of the county. It cannot be higher than \$1800 and may be as low as \$800 per year.

205. Teachers' Certificates. Under the direction of the state board of education the state board of examiners prepares questions, so that all teachers' examinations will be uniform throughout the state. County examinations are held on the last Thursday and Friday of January, April, July, and October, and at the close of the normal institutes. A day or two before the examination the questions are sent sealed to the county superintendent. In the presence of the applicants and the two assistant examiners he breaks the package. First-, second-, and third-grade certificates are issued, according to the experience and proficiency of the applicant.

206. School Tax. The state constitution provides that a school tax may be levied of "not more than five mills on the dollar for the support of the common schools, unless the annual rate be increased by any school district to an amount not to exceed ten mills on the dollar valuation where a majority of the electors thereof vote for the increase. It also provides that any county may levy a school tax not to exceed two mills on the dollar for a county high school¹ and to aid the common schools of the county. Not over one mill of this tax shall be for the county high school, and the aid to common schools shall be apportioned according to law" (Art. X, sect. 9). This tax levy will provide ample means for the support of the state's school system. The above limitations are for maintenance. For the purpose of erecting school buildings in counties, cities, or school districts the rate of taxation may be increased five mills more "when the rate of such increase and the purpose for which it is intended shall have been submitted to vote of the people, and a majority

¹ There is no county high-school law, and this clause in the constitution is now noneffective, except in the three counties mentioned in sect. 201.

of the qualified voters of such county, city, or school district shall vote therefor" (Art. X, sect. 10).

207. County School Fund. Besides the one mill of direct tax above mentioned, the county school fund is also augmented by all fines, sales of estrays, marriage fees, and money paid for release from military duty. This fund is apportioned among the various districts of the county according to school population.

208. State Apportionment. Each year the clerk of every school board must see to it that a careful enumeration of every person of school age, i.e. between the ages of six and twenty-one, is taken. Such enumeration is sent to the county superintendent and by him transmitted to the state superintendent. Twice each year, between the fifteenth and the thirtieth day of January and between the fifteenth and thirtieth day of July, the commissioners of the land office apportion the income of the state school fund, and the annual taxes collected by the state for the support of public schools, to those counties from which proper reports have been made. This money, when received by the county superintendent, is apportioned among the respective districts according to school population. City, as well as town and rural districts, receive their semiannual apportionment through the county superintendent. Funds for the state apportionment are chiefly derived from the rental of the school lands (see Appendix B), and from the interest on the five million dollars donated by Congress (chap. iv, § 60). These lands and the funds derived from them are under the control of the commissioners of the land office. It is the duty of the commissioners to invest the permanent school fund in safe securities, especially Oklahoma farm loans, at five per cent interest.

209. State Superintendent of Public Instruction. The duties of the state superintendent have been considered under the executive department of the state (chap. viii, § 117). He is head of the entire school system of Oklahoma. His office has direct charge of all state examinations, keeps in close touch with the county superintendents, and advises every one interested upon school matters. The state superintendent is ex officio a regent of many of the state schools, and is also a member of numerous important boards.

210. State Board of Education. The supervision of instruction in the public schools is vested in a board of education whose powers and duties shall be prescribed by law. The superintendent of public instruction shall be president of the board. Until otherwise provided by law, the governor, secretary of state, and attorney-general are ex officio members, and, with the superintendent, compose the state board of education (Art. XIII, sect. 5).

211. State Board of Examiners. The state board of examiners consists of eight competent educators, besides the state superintendent, who is ex-officio president of the board. This board of examiners, by and with the consent of the state board of education, adopts rules and regulations and prepares questions for all teachers' examinations held in the state. It decides the requirements for state certificates, prepares the questions, and holds the examination for the same. It examines and certifies all applicants for normal institute conductors or instructors. It prepares questions for all city and county teachers' examinations, but under the present law city boards of education need not use such questions unless they so desire. The state board of examiners also prepares questions for applicants for graduation from the

eighth grade. Pupils who successfully pass this examination are admitted into the subnormal course of the state normals, the preparatory course of the state university and state agricultural college, the university preparatory schools, and the county high schools without examinations. Most city high schools also recognize such diplomas.

CHAPTER XIII

STATE INSTITUTIONS

212. The University Preparatory Schools. There are two university preparatory schools, one located at Tonkawa, in Kay County and one at Claremore, in Rogers County. These schools were founded by the state in order to afford graduates of the common schools a high-school education. The town- or city-school pupils pass from the eighth grade into the high school, but the child from the country has no opportunity to continue his education tuition free, if there is no county or township high school, yet he is unable to enter the state university without additional preparation. The Tonkawa and Claremore schools supply this deficiency. They are under the control of a board of three regents, consisting of the governor and two others appointed by him.

213. Normal Schools. Oklahoma has six normal schools : the Central State Normal, located at Edmond ; the Northwestern, at Alva ; Southwestern, at Weatherford ; Northeastern, at Tahlequah ; Southeastern, at Durant ; and East Central, at Ada. The object of these schools is to train competent teachers for the schools of the state. Efficient general courses are maintained, however, and high-school work is also provided. Normal schools are governed by a board of regents consisting of five members, three of whom are appointed by the governor. The state superintendent is ex-officio president of said board, and the state treasurer is a member ex officio.

214. Agricultural and Mechanical College. The aim of the agricultural and mechanical college is to promote scientific, agricultural, and mechanical education. At Stillwater, in Payne County, where the school is located, experiment stations are maintained, and shops are provided in order that these occupations may be taught experimentally as well as theoretically. Because of this occupational education, students who desire, are enabled to work overtime and thus pay a portion of their expenses while at college. The constitution stipulates that the state board of agriculture, which must be composed of eleven farmers, shall have control of all agricultural and mechanical colleges (Art. VI, sect. 31 ; chap. vii, § 127).

215. District Agricultural Schools. Because of the commanding importance of the agricultural industries of the state, six agricultural schools have been established, one in each supreme court judicial district, and an extra one for the Panhandle. The Murray Agricultural School at Tishomingo and the Connor Agricultural School at Warner have been in operation the past year. The other four have not yet (April, 1909) been located. Graduates of these schools are qualified to enter the state agricultural college.

216. Colored Agricultural and Normal University. At Langston, in Logan County, the state maintains an agricultural and normal university for the colored race. While this school has general literary and classical courses, especial attention is given to normal training and agricultural and industrial education. Pupils receive instruction in manual training, machine work, carpentry, blacksmithing, domestic science, agriculture, horticulture, and stock feeding. The students care for the grounds, conduct the laundry, and perform all labor at the boarding departments. As at Stillwater,

many students are enabled to partially pay their way through school by employment furnished in the course in industrial training. Besides the state superintendent and the state treasurer, who are ex-officio members of this board, three other regents are appointed by the governor, two of whom must be of the colored race.

217. Industrial School for Girls. The name of this school might lead one to think that it is similar in scope to the Pauls Valley-Wynnewood school discussed in § 226. This is not the case. This school is not for unruly girls, but it is to teach the industrial arts to the girls of the state. Sometimes it is called the "Chickasha Domestic Science School," and this name seems to fit it very well. The second state legislature located this school at Chickasha and voted funds for its erection and maintenance.

218. School of Mines. The legislature of 1908 established a state school of mines at Wilburton, in Latimer County. This institution was deemed necessary because of the state's extensive mining interests. The object of the school is to educate the youth of the state as competent mining engineers. It is under the supervision of a board of regents appointed by the governor.

219. The State University. The apex of Oklahoma's educational system is the state university. The university is intended to enter all the fields of higher learning. It was established in 1892 at Norman, in Cleveland County. The university embraces a college of arts and sciences, of medicine, of mines, of fine arts, of pharmacy, and a preparatory school. The government of the state university is in the hands of a board of regents, consisting of ten members, nine of whom are appointed by the governor, by and with the

consent of the senate ; and the governor, during his term of office, is also a member of said board. The term of office of the regents is for four years.

220. Denominational, Private, and Federal Schools. Besides these state institutions there are numerous denominational colleges and academies, as well as private schools, that materially add to the educational resources of the state. The United States government likewise maintains numerous federal Indian schools throughout the state ; and also, under the Dawes Commission, the federal government has supported a regular school system, with common-school, academic, normal, and college instruction, in the Indian Territory (chap. iv, § 55). These schools are still being conducted (1909) by means of federal appropriations. They work in conjunction with the public schools of the state.

221. Other Institutions. It is provided by the constitution that " educational, reformatory, and penal institutions, and those for the benefit of the insane, blind, deaf, and mute, and such other institutions as the public good may require, shall be established and supported by the state in such manner as may be prescribed by law " (Art. XXI, sect. 1).

222. Oklahoma School for the Deaf. In September, 1905, a school for the deaf was opened in Guthrie. In January, 1908, it contained one hundred ten pupils. It is now (1909) permanently located at Sulphur, in Murray County. It is governed by a board of regents consisting of three members, two of whom are appointed by the governor. The state superintendent is chairman ex officio.

223. School for the Blind. The Lowery Institute for the Blind has long been maintained at Fort Gibson in the Cherokee Nation. The legislature of 1908 appropriated five

thousand dollars for state aid to this school. Certain conditions in the way of equipment had to be met before this money was available. Here children who are blind, or who have such defective vision that they cannot be educated in the public schools, are educated at state expense.

224. Colored Institute for the Deaf and Blind. At Taft, in Muskogee County, the state will conduct an institute for deaf and blind negro children. Colored orphans will also be cared for at this institute.

225. State Orphan Home. Article X, sect. 6, of the constitution provides that the Whittaker Orphan Home at Pryor Creek, in Mayes County, shall be exempt from taxation. The first state legislature appropriated \$39,700 to take over the home, and now it is conducted as a state institution under the supervision of a board of trustees.

226. State Industrial School. In the 1908 report of the state superintendent it was recommended that the state establish an industrial school for youthful offenders. Such a school for truant or insubordinate children, whose conduct may lead to more serious consequences and whose influence in the public schools is bad, was established the next year upon a four-hundred-acre farm halfway between Pauls Valley and Wynnewood. Most states have such institutions. The committing magistrate is generally a judge, although in some states the city superintendent of schools may commit if parents consent.

227. Institute for the Feeble-Minded. The second state legislature (1909) located the Institute for the Feeble-Minded on a section of public land (see Appendix B) adjacent to Enid, in Garfield County. The name of this institution explains its purpose. Here, at state expense, those children are educated

whose minds are too weak to admit of their attendance at the public schools.

228. Asylum for the Insane. The United States government gave to Oklahoma the Fort Supply Military Reservation in Woodward County, to be used as an asylum for the insane. The legislature of 1903 appropriated fifteen thousand dollars to equip this institution. Subsequent legislatures have appropriated additional amounts, and in May of 1908 a portion of the patients were removed from Norman to this state hospital. The remainder are still cared for at Norman, under a contract with a private sanitarium. The second state legislature located the East Side Asylum for the Insane at Vinita, in Craig County. Probably as soon as this institution is able to receive the patients the contract with the Norman sanitarium will be allowed to lapse. In every county there is a commission of insanity, consisting of the county judge and two other persons, — a lawyer and a doctor. This commission examines all persons brought before it on the charge of being *non compos mentis*. If found insane, the patient is taken to one of the asylums.

229. State Reformatory. This is an institution where offenders convicted of felony (any crime for which one is sent to state prison) can be sent in place of to the penitentiary. It is especially designed for youthful criminals, those between the ages of sixteen and twenty-five, whom the state does not wish to associate with the hardened criminals at McAlester. This institution is located at Granite, in Greer County.

230. Penitentiary. Oklahoma Territory had no penitentiary, persons convicted of felony being sent to the Kansas state prison at Lansing. The first legislature passed a law that necessitated the return of these convicts. The statute

provided that these prisoners be used in building a system of macadamized roads across the state. The penitentiary is located at McAlester, where a high stockade is built, in which the convicts are confined until a prison can be erected. The localities, cities, and counties that will be benefited by the road are expected to donate bridges and aid the enterprise in other ways. A permanent prison is now being erected.

CHAPTER XIV

CORPORATIONS

231. Corporation Defined. A corporation (Boynton, p. 216) is a body of individuals who are allowed to act together as a single person. Upon the death of an individual his affairs are brought to an end, his estate is administered, and his business closed. On the death of one partner in a partnership, the partnership at once ceases and the business must be closed up. This is not true of corporations. The death of one or more directors or stockholders in a corporation has no effect on the corporate life. The only way a corporation can become extinct is to lose its charter by failure in business, forfeit its charter by misconduct, surrender its charter because it no longer wishes to continue in business, or have its charter expire by lapse of the time for which it was created.

232. Reason for creating Corporations. It has been found that many industries would suffer if, on the death of one or more interested parties, everything had to be settled up and an accounting made. For example, for universities, colleges, hospitals, and charitable institutions to exist indefinitely, some scheme had to be devised for carrying them on after the men connected with them had passed away. Corporations are the product of this need.

233. Corporate Charters. Every corporation must have a charter, granted by the state, defining what business it can engage in, the term of years for which it is created, and the amount of its capital stock. To meet the numerous demands,

the legislature has enacted a general statute which provides that the secretary of state may issue charters to corporations complying with the law. Foreign corporations must obtain a license to do business in the state. Such a license corresponds to the charter of a company incorporated within the state. And it is further provided that no "public-service corporation organized under the laws of any other state, or of the United States, and doing business, or proposing to do business, in this state, shall be entitled to the benefit of the right of eminent domain in this state until it shall have become a body corporate, pursuant to or in accordance with the laws of this state" (Art. IX, sect. 31).

234. Private Corporations. A private corporation is an association of individuals authorized by law to transact private business as a single person. The association of individuals obtains a charter from the secretary of state, which sets forth the object of the corporation, the term of years for which it is incorporated, the capital stock, and the names of the men who apply for the charter. The men named, having obtained the charter, proceed to elect directors, sell the stock, and to carry on the business for which the corporation has been created. The stockholders of each corporation elect directors according to the terms of the charter. The liability of stockholders, directors, and officers for the debts of a corporation is fixed by law, and is twice the amount of the par value of the stock of each. The constitution provides that no private corporation shall be created, nor foreign corporation licensed, to conduct business in the state, except by general law. This is to prevent special favors being extended to one group of men in the way of corporate privilege, and denied to another.

235. A Public Corporation. A public corporation is one founded by the sovereign people for public purposes, where the whole interests belong to the people. Such a corporation is the United States of America. Here a great body of individuals act together as a single individual. Each of the forty-six states is a great public corporation, as are the counties within the states; and likewise cities and towns are often spoken of as municipal corporations. School districts and municipal townships are also public corporations. The charter of the United States is its constitution, just as is that of the state. In Oklahoma each municipality of over two thousand population can form its own constitution, which is called its charter (chap. ii, § 12). Counties, school districts, and civil districts do not have charters in the sense of these governmental divisions just named, but the general laws under which they are established correspond to charters, and they are clearly self-perpetuating corporate beings.

236. A Semipublic Corporation. A company founded for private gain, but engaging in business of such a character that important governmental powers are granted to it, is known as a semipublic corporation. Such a company is termed in law a quasi-public corporation. Railroad, street-car, canal, and turnpike companies, and all public-service corporations such as waterworks and lighting plants, when owned by individuals, are corporations of this character. They have the right of eminent domain (Boynton, p. 20). The state constitution forbids monopolies; since there is only one railroad, one street-car line, one canal, and one turnpike leading in a given direction from a city, and but one waterworks plant or lighting system in a community, as a general rule, these quasi-public corporations of necessity become monopolies, and

are, for this reason, regulated much more stringently than private corporations.

237. Church and Eleemosynary Corporations. There is still a fourth class of corporations which are not for private gain, nor do they belong to the public. They are called ecclesiastical and eleemosynary corporations. They are established by individuals, not for gain, but for the benefit of certain persons. Churches, colleges, hospitals, and asylums for orphans or the aged come under this heading. Such institutions are created as corporations because they best serve the purpose of the benevolent men and women who gave their money to found them. The charter of such a corporation can stipulate who can receive the benefits of the institution created. To illustrate: Stephen Girard in 1831 founded a boys' school at Philadelphia. Its object, so he stipulated, was to educate poor white male orphans. These orphan boys were to come from the following localities in the order named: Philadelphia, Pennsylvania, New York City, New Orleans; and so to-day the student body of the famous Girard School is composed of orphan boys who come from the places named by the founder.

238. Oklahoma's Control of Corporations. Since corporations are created by law, they are clearly subject to the authority of the people. Corporations in the past have not always recognized this, and to obviate the difficulty one of the most carefully drawn and exhausting clauses in the Oklahoma constitution is that dealing with corporations. Since it has been public-service corporations that have chiefly infringed upon the rights of the people, this portion of the constitution is particularly intended to regulate them. The chief instrument in regulating such corporations is the corporation

commission, composed of three members, each serving for six years (chap. viii, § 126). Commissioners must be residents of the state for over two years next preceding their election, must be qualified voters, thirty years of age, and have no interest, direct or indirect, in any of the countless companies that it may be their duty to regulate.

239. Duties of Commission. "The commission has power and authority, and is charged with the duty of supervising, regulating, and controlling all transportation and transmission companies doing business in the state, in all matters relating to the performance of their public duties and their charges therefor, and of correcting abuses and discrimination and extortion by such companies. . . . It shall keep itself fully informed of the physical condition of all railroads of the state, as to the manner in which they are operated with reference to the security and accommodation of the public, and shall, from time to time, make and enforce such requirements, rules, and regulations as may be necessary to prevent unjust or unreasonable discrimination and extortion by any transportation or transmission company in favor of, or against, any person, locality, or community, or connecting line" (Art. IX, sect. 18). However, it is well to note that franchises granted by municipal corporations allow privileges to public-service corporations (chap. ii, § 27) which the corporation commission can in no way infringe upon. All corporations, foreign and domestic, "shall file in the office of the corporation commission a list of its stockholders, officers, and directors, with the residence and post-office address of, and the amount of stock held by each, before beginning business" (Art. IX, sect. 43).

240. Foreign Corporations: Resident Oklahoma Agent. Every foreign corporation shall, before being licensed to do

business in the state, designate an agent residing in the state, upon whom summons or legal notice may be served, and such other agents as now are or may hereafter be provided for by law. Suit may be maintained against a foreign corporation in the county where an agent of such corporation may be found, or in the county of the residence of the plaintiff, or in the county where the cause of action may arise. This provision makes it possible for the state authorities to find some responsible person upon whom they can serve writs when necessary. This resident agent of a foreign corporation is the person responsible to the state for any misconduct of the company he represents. A foreign corporation is any company not chartered in Oklahoma.

241. Commission Clothed with Authority of a Court. In all matters pertaining to the public visitation, regulation, or control of corporations, and within the jurisdiction of the commission, it has the power and authority of a court of record to administer oaths, to compel the attendance of witnesses and the production of papers, to punish for contempt any person guilty of disrespectful or disorderly conduct in the presence of the commission while in session, and to enforce compliance with any of its lawful orders or requirements by adjudging, and by enforcing its own appropriate process, against the delinquent or offending party or company, levying such fines or other penalties as may be prescribed or authorized by the constitution or by law" (Art. IX, sect. 19).

242. Commission to Supreme Court. From any action of the commission prescribing rates, charges, or classification of traffic, or affecting the train schedule of any transportation company, or requiring additional facilities, conveniences, or

public service of a transmission or a transportation company, an appeal may be taken to the supreme court (Art. IX, sect. 20). When a corporation appeals from the decision of the commission, such appeal does not stop the force and effect of the commission's decision until set aside by the court, and a suspending bond shall first have been executed and filed with, and approved by, the commission or by the supreme court, payable to the state and sufficient in amount and security to insure the prompt refunding, by the appealing corporation to the parties entitled thereto, of all charges which such company may collect or receive pending the appeal, in excess of those fixed or authorized by the final decision of the court on appeal (Art. IX, sect. 21). For example, if the commission should order a railroad company to lower freight rates, the company has a right to appeal to the supreme court. Pending the litigation the railroad company can avoid lowering its rate, but it has to put up a sufficient bond to pay back all this extra charge if the supreme court decides in favor of the commission's lower rate. Such a bond is called a supersedeas. If the railroad can show that the rate is already low enough, when the court hands down its decision, the bond becomes void.

243. Commission's Right to inspect Books. The "commissioners, or either of them, or such persons as they may employ therefor, have the right, at such time as they may deem necessary, to inspect the books and papers of any railroad company or other public-service corporation (chap. v, § 71), and to examine under oath any officer, agent, or employee of such corporations in relation to the business and affairs of the same. If any railroad company or other public-service corporation shall refuse to permit the commissioners, or

either of them, or any person authorized thereto, to examine its books and papers, such railroad company or other public-service corporation shall, until otherwise provided by law, for each offense pay to the state of Oklahoma not less than one hundred and twenty-five dollars for each day it shall so fail or refuse, and the officer or other person so refusing shall be punished as the law shall prescribe" (Art. IX, sect. 28).

244. Physical Value of Railroads; Salaries; Mileage.

The commission must make record, the same to be a public record, of the amount of money expended in construction and equipment per mile of every railroad and other public-service corporation in Oklahoma, the amount of money expended to procure the right of way, and the amount of money it would require to construct the roadbed, track, depots, and transportation facilities, and also the amount necessary to replace all the physical properties belonging to the railroad or other public-service corporation. It must also ascertain all the outstanding bonds, debentures, and other indebtedness. The commission also ascertains the amounts paid for salaries to the officers of all public-service corporations, and the wages paid its employees, and from time to time this information shall be communicated to the attorney-general by report, and a duplicate thereof filed with the state examiner and inspector for public use, and the same shall be printed in the annual report of the commission. Between points within the state not more than two cents per mile shall be charged for passenger fare unless otherwise provided by law; the corporation commission shall exempt any railroad from the operation of this section upon satisfactory proof that it cannot earn a just compensation for services rendered, if not permitted to charge more than two cents per mile. A few railroads but recently

constructed are permitted to charge three cents per mile under this clause of the constitution.

245. Fellow-Servant Law. The common-law doctrine of the fellow-servant so far as it affects the master's liability for the injuries of his servant, resulting from the acts or omission of any other servant or servants of the common master, is abrogated as to every employee of every railroad company or interurban railway company, and every street railway company, and of every person, firm, or corporation engaged in mining in this state. Every such employee has the same right to recover for every injury suffered by him for the acts or omissions of any other employee of the common master that a servant would have if such acts or omissions were those of the master himself in the performance of a nonassignable duty. When death, whether instantaneous or not, results to such employee from any injury for which he could recover damages under the above provisions, had not death occurred, then his legal or personal representative or guardian shall have the same rights and remedies with respect thereto as if death had been caused by the negligence of the master. Railroad companies and street railway companies, and persons, firms, or corporations engaged in the underground mining, are liable for the acts of their trustees or receivers. The old common law was that the servant assumed all risk from the negligent acts of his fellow-servants. The above clause provides that the employee shall have the same right to recover for the acts or omissions of a fellow-servant as he would for the acts or omissions of the master. This is a most important provision, for railroads and other public-service corporations have been in the habit of throwing all blame for accidents of one employee upon some other

servant of the company, and in this manner escaped paying damages. No such defense is now valid in Oklahoma.

246. Compulsory Arbitration. Every license issued, or charter granted, to a mining or public-service corporation, foreign or domestic, must contain a stipulation that such corporation will submit to arbitration, as shall be provided by law, any difference it may have with employees in reference to labor.

247. Stock of Corporations must represent Actual Value. No corporation shall issue stock except for money, labor done, or property actually received to the amount of the par value thereof, and all fictitious increase of stock or indebtedness shall be void, and the legislature shall prescribe the necessary regulations to prevent the issue of fictitious stock or indebtedness. The stock and bonded indebtedness of corporations shall not be increased except in pursuance of general law, nor without the consent of the persons holding the larger amount in value of the stock first obtained at a meeting to be held thirty days after notice given in pursuance of law (Art. IX, sect. 39). The stock of a corporation is the money represented in the business. This stock is divided into shares and sold. Each person holding shares has one vote at the annual stockholders' meeting for every share he holds. A certificate is a document signed by the proper officials of the corporation, stating how many shares the owner of the certificate holds.

248. Corporations and Competing Corporations. No corporation chartered or licensed to do business in this state can own, hold, or control, in any manner whatever, the stock of any competitive corporation engaged in the same kind of business in or out of the state, except such stock as may be pledged in good faith to secure bona fide indebtedness

acquired upon foreclosure, execution sale, or otherwise for the satisfaction of debt. No trust company, or bank, or banking company, shall own, hold, or control, in any manner whatever, the stock of any other trust company, or bank or banking company, except such stock as may be pledged in good faith to secure bona fide indebtedness, acquired upon foreclosure, execution sale, or otherwise for the satisfaction of debt. All stock thus acquired by any corporation must be disposed of within one year. Corporations have been in the habit of obtaining control of other corporations in the same line of business, and thus strangling competition. This is prohibited in Oklahoma.

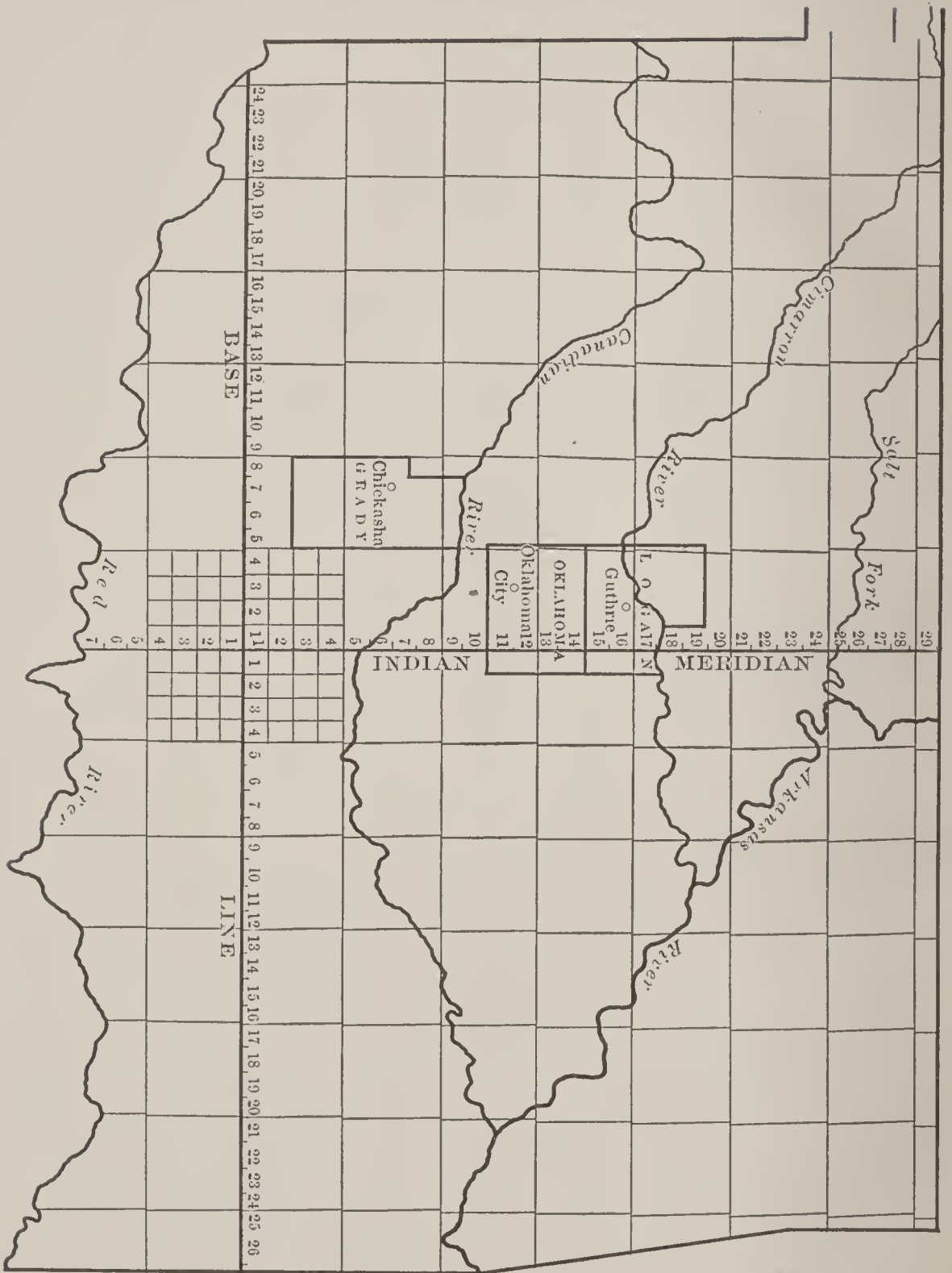
249. Legislative Control of Corporations. The legislature has power to alter, amend, revoke, or repeal any charter of incorporation or franchise now existing and subject to be altered, amended, annulled, revoked, or repealed at the time of the adoption of the constitution, or any that may be hereafter created, whenever in its opinion further operation of the corporation is injurious to the citizens of the state. This annulling of a corporation's charter must be done in such manner, however, that no injustice shall be done to the corporation.

APPENDIX A

UNITED STATES LAND SURVEY

1. Land Surveys. The Department of the Interior has charge of the public lands. Before the land can be sold it is necessary that boundaries be accurately fixed. For this purpose a system of land surveys was adopted during Washington's administration. According to this system the land is first divided into squares by meridians and parallels, six miles apart. These squares are called townships, and serve the double purpose of locating lands and of furnishing the boundaries for local governments. A row of townships running north and south is called a range. The surveyors begin their work by selecting some natural object, easily distinguished; and from this, as an initial point, they mark off, north and south, a true meridian, called in the system a principal meridian. In Oklahoma the principal meridian is known as the Indian meridian. Crossing the principal meridian at right angles, they establish a true parallel, called the base line. In this state the base line cuts the state from east to west, just far enough north to avoid the bends of Red River. Range lines are run north and south, six miles apart, on either side of the principal meridian. These lines and the ranges of townships they mark off are numbered east and west from the Indian meridian. Range fifteen west means the row of townships ninety miles west from the principal meridian. Range twenty east is the twentieth range east, one hundred and twenty miles east from the principal meridian. Note that the Panhandle has a system of land survey distinct from that used in the rest of Oklahoma.

Township lines are run six miles apart, parallel with the base line. They are numbered north or south from the base line. Township



MAP ILLUSTRATING OKLAHOMA LAND SURVEY

surveyors measure out from the principal meridian, and establish a new base line called a standard parallel, but commonly known as a correction line. Every twenty-four miles north and south of the base line such a standard parallel is established. East and west of the principal meridian every twenty-four miles a guide meridian is run. This is a range line that is much more carefully surveyed than the others, and here all errors in survey are corrected.

3. Sections. Each township is subdivided into thirty-six sections of six hundred and forty acres each. The surveyors begin at the southeast corner of the township to mark the boundaries of the sections. If the work is accurate, all sections are perfect except those on the west side; these are always imperfect or fractional. On the north side, also, it generally happens that, on account of inaccuracies, the survey of the sections does not correspond with the township survey; hence a lot on the north side of the township is generally fractional, containing more or less than the ordinary quantity. The United States survey ends with the location of the section lines. Marks are made by the surveyors at the corners of the sections, and also half-mile marks between the corners. Purchasers measure from these marks to determine the situation of their land. The following is a complete description of one hundred and sixty acres of land, according to United States survey: "The northwest one fourth (N.W. $\frac{1}{4}$) of section number twenty (20) in township four (4) south; range nine (9) west of the Indian meridian."

APPENDIX B

OKLAHOMA'S PUBLIC LANDS

The public lands of Oklahoma consist of four classes: (1) common-school lands, sections sixteen and thirty-six in each township; (2) college lands, section thirteen; (3) public building lands, section thirty-three; (4) indemnity lands, i.e. sections or parts of sections chosen in lieu of the above-named sections, when they had been previously allotted to Indians or lost to the state in some other way.

	NUMBER OF ACRES	ACRES OF IN- DEMNITY LAND IN EACH CLASS
Common-school lands	1,413,803	214,651
College lands	352,207	44,874
Public-building lands	515,065	46,663
Lands granted to colleges by enabling act	1,050,000	
Total	3,331,075	

These three million three hundred and thirty-one thousand and seventy-five acres include the three hundred and six thousand one hundred and eighty-eight acres of indemnity land.

This is in accordance with a report made by the commissioners of the land office to the first state legislature.

The public lands of Oklahoma lie entirely in the western or Oklahoma Territory portion of the state. This is because the lands on the east side belonged to the Indian nations and not to the federal government. It has been the policy of the federal government ever since the ordinance of 1787 to give some of its public lands to each state for the benefit of public schools. Oklahoma, it will be

seen, was given two sections in every township for common schools, one section to aid state schools and one section to be used in the erection of public buildings.

These lands can be sold and the interest used for the respective schools for which it was set aside, or the lands can be retained and the rent used for school purposes. Of course when the public-building lands are sold the funds will all go to erect state buildings. At the November election in 1908 a referendum was held as to whether all the public lands of the state should be sold, and it was decided by a large majority that they should not be. The second legislature passed an act which provided for the sale of the public-building lands (section thirty-three) and for all the indemnity, or lien lands, as well as for the college sections given the state by the enabling act (chap. iv, § 60). The common-school sections and the college section are to be retained as a permanent endowment for our public-school system. The reason given for the sale of section thirty-three is that the money is used to erect public buildings. The indemnity and enabling-act lands frequently lie in such large bodies that often there is but little taxable land in a township, and therefore no way to maintain local government in the community. Thus the legislature decided to sell it.

APPENDIX C

THE RIBBON BALLOT

The legislature of 1909 materially altered the ballot law discussed in Chapter X, but the measure as passed has excited the opposition of certain citizens and the referendum has been invoked against it (chap. vii, § 101). So until this matter is settled the law as given in the body of the text is in force. If, when the referendum is taken, a plurality is registered against the new law, it will never go into effect. If, on the other hand, the larger number of voters favor the new measure, then it becomes a statute. This proposition need not be voted upon until the next general election, — November, 1910, — although the governor can call a special election to decide the matter earlier if he so desires (chap. vii, § 104).

The "ribbon ballot law," as the new measure has come to be termed, because of the narrow, extended nature of the ticket, makes such conditions for voting that it is practically impossible for one to vote at all without being able to read. The names are printed on the ticket in one or more columns. All the candidates for any office are grouped under the respective captions, as is shown in the illustration (p. 136). All these names must appear without any party device or designation. More than this, the names are not to come in any fixed order, and they can be shifted about by the election boards that have control of the printing of the ballots.

Thus it is clear that no ignorant man can vote wholesale for an entire ticket by putting his cross under the "rooster" or the "eagle," as under the present system (see p. 76). The elector will have to know enough about the candidates to recognize who

they are, and what party they represent, and how to read their names, or he cannot hope to vote. For it is made a serious offense to have a copy of the ballot previous to going into the election booth, nor can any sample ballot be made or circulated, although there can be "dummy ballots," like the one herewith presented, to show the general appearance of the ticket. But on the dummy ballot either fictitious names must appear or the lines left blank.

DUMMY BALLOT ARRANGED IN ACCORDANCE WITH THE
NEW RIBBON BALLOT LAW

DUMMY BALLOT	
GOVERNOR	
VOTE FOR ONE	
<input type="checkbox"/>	Frank Franz
<input type="checkbox"/>	Charles N. Haskell
<input type="checkbox"/>	Richard Roe
<input type="checkbox"/>	John H. Porter
SECRETARY OF STATE	
VOTE FOR ONE	
<input type="checkbox"/>	Bill Cross
<input type="checkbox"/>	John Doe
<input type="checkbox"/>	William F. Kerr
<input type="checkbox"/>	Robert Riley
ATTORNEY-GENERAL	
VOTE FOR ONE	
<input type="checkbox"/>	Hartley Alexander
<input type="checkbox"/>	Charles West
<input type="checkbox"/>	John J. Smith
<input type="checkbox"/>	

To vote mark (x) in the square to the left of the name of the candidate.

These are the chief changes from the election law discussed in the body of the text. Other provisions require that every voter must register, just as those who live in cities of the first class are

now required to do (chap. x, § 162). "State questions" or referenda are to be printed upon the ballot along with the names of candidates, and not on separate tickets as now.

Those who oppose the law do so chiefly on two grounds: (1) It is alleged that the power to put names on the ticket in any order will permit a partisan election board to place the names of its party candidates in the same position every time, and the ignorant voter can be told to vote for the first or second name, as the case might be, under each caption. Thus he can vote almost as easily as with the party device. But the names of candidates from other parties will follow no set order and thus the voter will be confused. It is demanded that a fixed order, or an alphabetical arrangement, be substituted. (2) The election inspector is made the registration clerk in each voting precinct. He is allowed one dollar per day for thirty days for hunting up those eligible to register. It is argued that he will look up those of his own party and compel voters of other parties, who wish to register, to hunt him up. In this way many voters will be disfranchised.

Those who favor the law assert that it is to be noted that objections are all based upon the hypothesis that the election boards are disposed to take unfair advantage of some one. It is urged that the law will be honestly and fairly administered, and that the new measure is a material improvement over the old method of wholesale voting under a party device. It is also pointed out that it will stimulate the ignorant to seek an education so that they can vote, and that it will merely disfranchise those who are in no way fitted to exercise the franchise.

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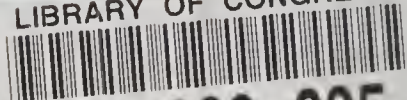
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