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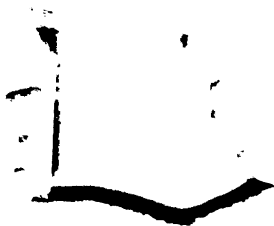
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# CIVIL GOVERNMENT

FOR

# NORTH DAKOTA

BY

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Editor of the Common School, and late Superintendent of Schools  
of Walsh County, North Dakota.

A. L. WOODS, PUBLISHER,  
GRAFTON, NORTH DAKOTA,  
1897.



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## PREFACE.

Not that there are not enough civil governments already before the student world, is this book published, but because, since the legislature in 1895 made it compulsory to teach civil government in the common schools of the state, there has been a constant call on the part of the teachers for some book that would deal minutely with the civil government of North Dakota. The outlines from which this book was developed were used by the author and other instructors in the institutes of 1895, and there seemed to meet with the approval of the teachers. The book is not intended as a philosophical study of the subject of political economy, but deals rather with the facts of government as the pupils find them. For North Dakota pupils, North Dakota government is best suited. Children grasp the concrete sooner than the abstract; therefore the greater part of the book has been devoted to the concrete treatment of the forms of government directly about them. Enough space has been given to the national government to encourage the older pupils to continue the study of our national institutions.

If this book in any way stimulates the interest already taken in the study of civil government in our common schools, the author will be satisfied. In placing this volume before the public we wish to acknowledge our obligations to C. E. Jackson, superintendent of schools of Pembina county, and W. L. Stockwell, superintendent of schools of Grafton City, who have kindly looked through most of the manuscript and made valuable suggestions which have been incorporated.

Grafton, N. Dak., Jan. 21, 1897.

A. L. W.

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## **TO THE TEACHERS OF NORTH DAKOTA,**

**who, during the past two years, have so faithfully endeavored to prepare themselves for teaching the important subject of civil government which has been so recently added to the course of study of our common schools, is this book fraternally dedicated by its author.**



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## TO THE TEACHERS.

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This book is intended as a text-book to be placed in the hands of the pupils of the sixth, seventh, and eighth grades, and to serve as a guide to the teacher in teaching civil government orally to the lower grades. In treating the subject the question has frequently arisen as to what should be omitted. In the "points for development" we have hinted at many things which the progressive teacher will carefully develop. Most teachers would have developed these points anyway, but by placing them close to the regular text, the pupils will become interested in them for themselves. The teacher should exercise judgment as to how much of these should be developed. The teacher in the country should make a specialty of the points that will interest and benefit country pupils; likewise in the villages and cities. No teacher will be expected to be ready with every point, but if the teacher is actuated with the true spirit of investigation, the pupils will imbibe that spirit and wonderful results will follow. The sources from which information on these points may be gained are various. Much can be learned by the pupils themselves by questioning their parents, the school officers, or other officers with whom they may come in contact. The school law, the newspapers, books of reference, histories, etc., will supply much. County superintendents and other county officers will aid with blanks and suggestions. Before assigning each day's lesson the teacher should be able to direct the pupils to the points that could be reasonably developed with the facilities that are at hand. Don't expect too much of the pupils at first, as this subject of civil government opens up an entirely new field of investigation to most of them. Teach the subject with a view to the instilling of patriotism with every lesson. It is recommended to develop the various topics under Part II. in the same manner that Part I. is developed.



# PART I.

## SUBORDINATE GOVERNMENTS.

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### SECTION I.

#### GOVERNMENT IN GENERAL.

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#### CHAPTER I.

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#### INTRODUCTORY.

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**Government Defined.** — Government as applied to mankind is a system of rules, either written or unwritten, intended to control and benefit all. Government is older than civilization, beginning when men in their savage state first began to assemble in families or communities. It is probable that family government was the earliest form of government, and it continues the most general form of government to-day. Every child is familiar with its workings and understands more or less fully its underlying principles. Tribal government, no doubt, followed family government, and was a step toward civilization. As civilization advanced government became more extensive and complex, until it has become the greatest study of the students of the world.

**Points for Development.** — Why is government necessary? What is anarchy? What is the result of good family government? Give illustrations of tribal government in America. Is tribal government to be found to-day?



**Civil Government.** — Civil government as a science is in its broadest sense a study of all the laws of all nations as adopted or accepted as a guide to the outward conduct of man to man. In its more limited sense it is the study of a few of the more general principles of law with which every good citizen should be familiar in order to thoroughly understand his duty to his government and to his fellow man. In a still more limited sense is it treated in this book, much the larger part of the work being devoted to that which will tend better to fit the pupils of our schools to become citizens of North Dakota.

**Points for Development.** — Why was the study of civil government added to the course of study for the common schools of North Dakota? Who will be the public officials twenty-five years hence? Why should girls study civil government? Give a definition of a good citizen.

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## CHAPTER II.

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### GOVERNMENTS CLASSIFIED.

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**Kinds of Government.** — In a treatise on civil government only two kinds of government need to be considered at present. Theocracy, plutocracy, aristocracy, oligarchy, and kindred forms are no longer in existence. Even democracy in its fullest sense is not to be found. The two forms of government prevailing throughout the world to-day are monarchy and republic. Monarchies are divided



into two classes, absolute and limited. Of the former class but few remain in the civilized world. The latter approach so near the republic that their civil government becomes almost identical. It is therefore with the civil government of republics that we shall deal almost wholly.

**Points for Development.**—What are theocracy, plutocracy, aristocracy, oligarchy, democracy, patriarchate? Name two absolute monarchies in Europe. Why have governments tended from absolute monarchies towards republics? Is family government a monarchy or republic?

- **Monarchy.**—A monarchy is a country whose chief ruler or monarch is designated by the title of king, emperor, kaiser, czar, or by some similar title. His authority continues during life and usually descends to some one of his family. An absolute monarchy is one in which the monarch has absolute control of all the affairs of the nation and is not restricted in any of his acts by laws of the country. A limited monarchy is one in which the chief ruler is restricted in his acts by laws enacted by representatives of the people, and in this respect is like the republic.

**Points for Development.**—Name the titles of monarchs of the principal monarchies of the world. Define a hereditary monarchy. Name a monarchy that is not hereditary. Name the two principal limited monarchies of Europe. What American countries are governed by European monarchies? Name the present monarchs of Europe.

**Republic.**—A republic is a country whose chief ruler is elected by the people or their representatives for a term of years and whose laws are made



by representatives elected by the people. In this form of government the people are the real rulers. They simply delegate to a chosen few of their own number the power for a time to make and execute their laws. In this way laws are secured which are acceptable to the majority of the people. The nations of the world are tending toward republican forms of government. The most civilized nations are republican in reality, if not in name. Of the republics the most conspicuous example is the United States.

**Points for Development.**—Name the two great republics. What is the usual title of the chief executive of a republic? What was the last monarchy in America, when did it become a republic, and who was its last emperor? Why do republics prevail in the western hemisphere, while monarchies prevail in the eastern?

**United States and its Divisions.**—The United States as a republic is divided into forty-five states, five territories, and one district, each of which is a republic within itself. The states and territories are again divided into counties, these counties for the most part are divided into townships, and in some cases the townships are divided into school districts, each and all of which are republican in their forms of government. It is with these republics that we have principally to deal in this treatise, and it has seemed best to begin with the smallest subdivisions, with which the pupils are most familiar, gradually following up through the other divisions, until we see all united in the national government. Therefore, the order in which they will



here be treated will be, the school district, the township, the village or city, the county, the state, and the nation.

**Points for Development.**—Name the territories. Why is it better that the country is divided into states? Give reasons to prove that a township has a republican form of government, and is the nearest approach to a democratic form of government that now exists.



# SECTION II.

## THE SCHOOL DISTRICT.

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### CHAPTER III.

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#### SPECIAL DISTRICTS.

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**Districts Classified.**—In North Dakota there are three classes of school districts, special districts, independent districts, and common school districts.

**Points for Development.**—What is the prime object of education? Are our schools free schools in every respect? Do all the states have free schools? What is the percentage of illiteracy in North Dakota? In which class of districts do you live?

**Special Districts Classified.**—Under special districts there are two classes, those that are operating under special acts of the territorial legislature, and those which are operating under a general law for such districts. Of the former there are only eight, namely: Fargo, Jamestown, Grafton, Lisbon, Mayville, Hankinson, Walcott, and Waziya, the provisions for the government of which differ somewhat from one another. The latter includes all cities and incorporated towns and villages which were formerly organized under the general school laws and were provided with a board of education.

**Points for Development.**—What was the territorial legislature? How many special districts in your county?



**Special Districts; How Formed.**—Any city or incorporated town or village having a population of over three hundred inhabitants, or any city organized under a special act, may become a special district as follows: A petition signed by one-third of the voters of such city, town, or village, asking for the formation of such special district, must be presented to the council or board of trustees, who, on receiving such petition, shall call a meeting of the voters to vote upon the question, and a majority of all votes cast shall be necessary to authorize the formation of such district.

**Points for Development.**—What cities, towns, or villages in your county, not now special districts, might become so? Make out a petition asking for a special district. What is a council or board of trustees? Is there any difference between them?

**Officers of Special Districts.**—The school board shall consist of five members who shall be elected on the third Tuesday in June for three years, except in case of first election. The board shall elect a president from its own members, and a clerk, not one of its own members. The treasurer of the city, town, or village, shall be the treasurer of the special district.

**Points for Development.**—For what terms are the officers elected at the first election? (See School Law.) What is the advantage of five rather than three members of the board?

**Advantages of Special District.**—The laws governing the special district enable the school board to establish a system of graded schools, to



maintain a high school, to purchase sites and erect school buildings, to impose upon teachers further requirements than those imposed by the county superintendent. No teacher can be employed who does not hold a county or state certificate.

**Points for Development.**—What are graded schools? How many grades below the high school? How may school house site be obtained when the owner is not willing to sell?

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## CHAPTER IV.

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### INDEPENDENT DISTRICTS.

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**Cities May Become Independent Districts.**—Any city formerly organized for school purposes under a special law and provided with a board of education may become incorporated as an independent school district.

**Points for Development.**—Are there any independent districts in your county?

**Independent District; How Formed.**—Any city organized for school purposes as stated above may become an independent district as follows: A petition signed by one-eighth of the voters of such city, asking for the establishment of such independent district, must be presented to the city council, who, on receiving such petition, shall call a meeting of the voters to vote upon the question, and a majority of all the votes cast shall be necessary to authorize the establishment of such district.



**Points for Development.**—Prepare a notice to call a meeting to vote upon the question of establishing an independent district.

**Officers of Independent Districts.**—The school board shall consist of one member from each ward of the city, and if there be an even number of wards, one member elected at large, and the election shall be held on the third Monday in April. The board shall elect one of its own members president and shall elect a secretary who may or may not be a member of the board. The treasurer of the city shall be the treasurer of the independent district.

**Points for Development.**—What is a city ward? What does it mean by elected at large?

**Advantages of Independent District.**—The advantages accruing from the special district are also applicable to the independent district. Some further powers are conferred upon the board of education, so that prompter action is secured in cases of emergency. The board has power to issue bonds; also to employ and remove teachers at pleasure, which would seem to indicate that the teachers of such schools are removed from the jurisdiction of the county superintendent.

**Points for Development.**—Why is prompt action often more necessary in a city than in a country district? Is it an advantage or disadvantage to the independent district to have the teacher removed from the jurisdiction of the county superintendent? Why?



## CHAPTER V.

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### COMMON SCHOOL DISTRICTS.

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**Common School Districts Classified.**—By far the larger part of the schools of North Dakota are acting under the general school law and may for convenience be classed as common school districts. These are divided into two classes, or systems, designated as the district system and the township system.

**Points for Development.**—What is a general law? Is your school under the district or township system? Why are there the two systems? Give the various steps for the organization of a new school district.

**District System.**—In the district system the size and shape of the district is not limited, but usually contains only sufficient territory to support one school. It is usually irregular in form and may include in its limits parts of two or more townships. Its boundaries may be changed by vote of the county commissioners upon petition of voters residing within the limits of the proposed change. Only five counties of the state have the district system namely: Pembina, Walsh, Grand Forks, Cass, and Barnes.

**Points for Development.**—Draw sectional map of your school district, locating in it your school house. Prepare a petition for change of boundary of school district, if you live in district county.



**Township System.**— In the township system the township is the basis of the school district and the limits of the township are the limits of the district, unless natural barriers practically prevent children from attending school in the township in which they reside. In such case a portion of a township may be attached to another township for school purposes. In all other cases the district must not be less than the congressional township, and in many cases includes two or more townships. In this system there are usually several schools in each district.

**Points for Development.**—If you live in a township district draw sectional map of same and locate all the schools in the district. Are any of the districts of your county larger or smaller than a congressional township? Is there territory in your county still unorganized into school districts?

**Similarity of the Systems.**— Although these two systems differ in respect to method of organization, size, and form, yet there is no material difference in the laws regulating the control of the same. The officers are the same, they have the same duties, the teachers are governed by the same regulations, and the schools are subject to the same requirements. Therefore the details of the two systems will be treated together.

**Points for Development.**— How many schools are necessary for the convenient accommodation of the children in an ordinary township? Draw plat and locate such schools.

**Advantages and Disadvantages of the Two Systems.**— The district system has the advantage that each community has the control of its own



school, and in many ways can make rules and regulations advantageous to the local conditions. On the other hand, the township system has the advantage of securing better officers, having a larger field to choose from, also of being less costly, one set of officers having control of several schools.

**Points for Development.**—Can you name any further advantages to be gained by either system? In the township system can a child in any part of the district attend any school in the district that he pleases?

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## CHAPTER VI.

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### SCHOOL BOARD.

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**Officers of Common School Districts.**—The officers of a common school district consist of three directors, a treasurer, and a clerk.

**Points for Development.**—Discuss the advantages of having only three officers, one of the directors serving as president, one as treasurer, and the other as clerk.

**Qualifications of Officers.**—The directors and treasurer must be qualified electors of the district in which they are elected. The clerk may or may not be an elector. Women qualified to vote on school questions are qualified to hold the office of director, treasurer, or clerk.

**Points for Development.**—Who are electors? What qualifications must women have to vote?



**Election of Officers.**—The annual school election is held on the third Tuesday of June, at which time one director is elected, and in even numbered years a treasurer. Also if a vacancy in the office of director or treasurer has occurred during the year some one must be elected to fill the unexpired term. The polls for election of officers shall be open from 2 o'clock p. m. to 5 o'clock p. m.

**Points for Development.**—Why is not the election of school officers held in November with other elections? Define polls.

**Notices of Election.**—At least fifteen days before the third Tuesday of June the school board shall designate a polling place convenient for the voters, which place is usually the school house, and shall cause a notice of the election to be posted in three or more conspicuous places in the district.

**Points for Development.**—Fill out properly a notice of election. Whose duty is it to post the notices?

**Election; How Conducted.**—There should be two judges and two clerks at every school election. Any two of the directors may act as judges, and the clerk of the school board as one clerk and the other clerk may be selected by the voters present at the opening of the polls. If the directors or clerk be absent, those present at the opening of the polls may select others to fill the places of judges and clerks. Ballots may be written or printed and should have on them above the name of person voted for, the name of office; for instance, "Director for three



years," "Treasurer for two years," or in case of filling vacancy, "Director for one (or two) years," "Treasurer for one year."

**Points for Development.**—Organize an annual school election among the pupils, going through with the whole process, from the posting of the notices to the canvassing of the votes. Is an election legal, if fewer than four persons be present?

**Canvass of Vote.**—As soon as the polls are closed the judges must proceed to count the votes, and the persons receiving the highest number for each office shall be declared elected. In case of a tie vote those having the same number of votes shall agree among themselves the manner of deciding the election, and within three days must meet and decide, by lot or otherwise, which of them shall hold the position.

**Points for Development.**—In canvassing the vote does the term "highest number" mean majority or plurality? Illustrate with figures the difference between majority and plurality.

**Term of Office.**—The term of office of directors is three years, of treasurer two years, and of clerk during the pleasure of the board. In the first election in a new school district, one director is elected to serve until the first annual election, one until the second, and one until the third annual election. The treasurer is elected to serve until the next even numbered year.

**Points for Development.**—Why not elect all three of the directors in the same year for a term of three years? Discuss the question of longer or shorter terms for directors or treasurer.



**Meetings and Organization of School Board.**—The school board shall meet regularly four times a year, on the second Tuesday of January, April, July, and October. At the regular meeting in July of each year they shall organize by electing one of their number president, and some person, not of their number, clerk. They may hold special meetings at the call of the president or of the other two members.

**Points for Development.**—Why does the board organize in July of each year? What important business has the board at the January meeting?

**Fees of School Officers.**—Each director is entitled to eight dollars a year, but must forfeit from this sum two dollars for every regular meeting that he fails to attend. The salary of the treasurer and clerk is fixed by the school board and shall not be less than five dollars nor more than twenty five dollars each. Judges and clerks of annual election are not entitled to compensation.

**Points for Development.**—Reasons for and against fees for directors. What are the salaries of treasurer and clerk in your district?

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## CHAPTER VII.

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### DUTIES OF SCHOOL OFFICERS.

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**Duties of School Board.**—The school board is the legislative or law-making body of the school district. They have the care and control of all the



property belonging to the district. It is their duty to organize and maintain one or more schools in the district, to see that all necessary repairs to school property are made, and to furnish necessary fuel and supplies for the schools. They shall employ teachers and may dismiss them for violation of contract, immorality, or neglect of duty. It is their duty to provide for the maintenance of school the lawful number of months each year, and for that purpose shall, at their regular meeting in July or before, make a levy upon the property of the district not to exceed thirty mills on the dollar. They shall see that all school laws of the state relating to the common school districts are enforced, and shall carry out all lawful enactments of the voters of the district.

**Points for Development.**—Who should be elected as directors? Who are the directors of your district? Can the board delegate its authority to any one member or to the clerk to engage a teacher? What are enactments of the voters? Can you name any duties of school boards not enumerated above?

**Duties of President of Board.**—It is the duty of the president to preside at all meetings of the board, to see that the clerk carries out all orders of the board, and to sign all contracts and warrants. He is the chief executive officer of the district.

**Points for Development.**—What are warrants? What is an executive officer?

**Duties of the School Treasurer.**—It is the duty of the treasurer to give a bond to the school district, signed by two or more securities to be approved by the board, and drawn in an amount



double the money likely to come into his hands in any one year. He shall pay all warrants when presented if there is any money in his hands or subject to his order. He shall make a written report to the school board at the close of each school year, copies of which must be filed in the offices of the district clerk and the county superintendent.

**Points for Development.**—With whom is the treasurer's bond filed? Do warrants draw interest if not paid when presented to the treasurer for payment? What sort of a person should be selected for treasurer? What are securities?

**Duties of the Clerk.**—The clerk, as his title implies, is to keep a record of all the proceedings of the board, and under the direction of the president is to see that the school laws of the state and the provisions of the district and board are carried out. He must make an enumeration of all the children between the ages of six and twenty in the district on the first day of December of each year and transmit a copy of the same to the county superintendent. At the close of each school year he shall make out an itemized statement of the condition of the district, a copy of which, after being approved by the school board, must be sent to the county superintendent. He shall keep on file all books and papers of the district. The clerk is often the chief adviser of the school board and the most influential officer in the district and should, therefore, be selected with much care.

**Points for Development.**—In what sense is the clerk an executive officer? Secure a copy of the clerk's last report and discuss its various items. What books are neces-



sary for the school officers? Are these books furnished by the state? Give the chief requisite of a good clerk. Secure copies of all blanks used in clerk's office and discuss each.

**Vacancies; How Filled**—A vacancy is caused by resignation or death of any officer, by his permanent removal from the district, or by his refusal or neglect to perform his duty or to qualify according to law. A vacancy in the office of president or clerk must be filled by the school board, and this may be done at any regular or special meeting of the board. A vacancy in the office of director or treasurer must be certified by the clerk to the county superintendent, who will appoint some person to fill the vacancy until the next annual school election, at which time the district must elect to fill the unexpired term.

**Points for Development.**—Write a letter of resignation as director or treasurer. When does a resignation go into effect? Give an example of neglect to perform duty. Organize a school board, elect officers, report proceedings on proper blanks to county superintendent, fill vacancies or report such as the case may require.

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## CHAPTER VIII.

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### TEACHERS.

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**Qualifications of Teachers.**—Teachers in the common schools and in the special districts operating under the general law must have the following qualifications: They must possess a good moral character, must be at least eighteen years of age,



must hold a certificate issued by the state department or by the superintendent of the county in which they wish to teach, and must have a written contract signed by the president and clerk of the school board.

**Points for Development.**—Name other qualifications necessary in a good teacher. Can a teacher collect salary if she teach without a certificate? without a written contract? Why is eighteen selected as the age necessary to qualify one for teaching? Should a teacher before receiving a certificate have professional training?

**Examination of Teachers.**—Examinations are held by the county superintendents on the second Friday of January, March, May, July, September, and November. Questions are supplied for these examinations by the state superintendent. Each applicant for a certificate pays one dollar to the county superintendent, and all such fees are deposited with the county treasurer for an institute fund.

**Points for Development.**—Why should private examinations not be held? Should examinations be more frequent or not so frequent? Secure lists of examination questions for the pupils to study.

**Grades of Certificates.**—County certificates are of three grades, first, second, and third. In addition to these a permit may be given to any one who can show good reason for not being present at the last examination, and is valid only until the next examination. For a first grade certificate a candidate must have taught at least twelve months, must be twenty years old, and must pass an examination in reading, writing, orthography, language, grammar, geography, United States history, arith-



metic, civil government, physiology and hygiene, theory and practice of teaching, physical geography, natural philosophy, psychology, algebra, and geometry. For second and third grade the applicant must be eighteen years of age, but may not have taught. An applicant for second grade must pass in the first eleven branches mentioned above and for third grade in the first ten. The percentages required to pass are prescribed by the superintendent of public instruction.

**Points for Development.**—Are county certificates valid in other counties than those in which they are issued? For how many years are certificates valid? What percentages are now required to pass?

**Duties of Teachers.**—All teachers shall teach the branches prescribed in the course of study for the common schools as soon as the pupils are sufficiently advanced to pursue the same, and shall give special instruction in the subject of physiology and hygiene on the topic of alcoholic drinks, stimulants, and narcotics. They should give notice to county superintendent of opening and closing school, keep the register complete in every particular, and make out a full report to the clerk and county superintendent at the end of the term. They can not receive the last month's salary until such report is made. They are required to attend institutes and teachers' associations, and are subject to penalties for failure to do so. The school month, day, etc., as prescribed by law or custom are as follows: School month, twenty days; school week, five days; school day to begin at 9 o'clock in the morning and continue until noon with an intermission of fifteen



minutes; afternoon session to begin at 1 o'clock and continue until 4 o'clock with same intermission as in forenoon.

**Points for Development.**—Name other duties of teachers. Why is there a special provision in regard to alcoholic drinks, etc.? What are the principal items in a teacher's report? What are the penalties for failure to attend institute or association?

**Rights of Teachers.**—Teachers have the right to receive their salary at the end of each month except the last, to govern the school in any reasonable manner without interference from patrons, to suspend pupils for cause for not more than five days, to read the Bible in school each day without sectarian comment, and to have as holidays besides Saturdays and Sundays all state holidays, which are as follows: Jan. 1, Feb. 22, May 30, July 4, Dec. 25, every day on which an election is held throughout the state, and every day appointed by the president or governor for a public fast, thanksgiving, or holiday.

**Points for Development**—Should a teacher use corporal punishment in the government of a school? Who are patrons of schools? What should be a good cause for suspension of a pupil? Has a teacher a right to teach on a holiday to "make up" for some day lost?

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## CHAPTER IX.

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### SUPPORT OF SCHOOLS.

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**Schools; How Supported.**—Schools are supported from three different financial sources, by bonding, by direct levy, and by state tuition fund.



The fund obtained from bonding is supposed to be used in the purchase of sites, erection of buildings, etc., while that obtained from direct levy or from the state is for the most part used in paying teachers' salaries, interest on bonds, and incidental expenses connected with the schools from year to year.

**Points for Development.**—What is a site? Who owns the sites and buildings? Name some incidental expenses. When was your school house built? At what cost?

**Bonds; How Issued.**—Bonds in common school districts and in special districts operating under the general law can be issued only by vote of the electors of such districts; and in the common school districts can not exceed four per cent of the assessed valuation, and in special districts can not exceed five per cent. In independent school districts bonds are issued by order of the school board instead of by vote of the people.

**Points for Development.**—Is your district bonded? For how much? When due? How will the bonds be paid? Why should bonds not exceed a certain per cent? What is the valuation of your district? For how much could your district bond?

**Direct Levy.**—The school boards of common school districts and special districts operating under the general law make an estimate each year of the amount of money needed for the use of the schools for the next year, deduct from this the amount likely to come in from the state, and then make a levy on the taxable property of the district not to exceed thirty mills to the dollar. This levy is certified to



the county auditor immediately after the twentieth day of July and such levy is collected as other taxes of the county.

**Points for Development.**—How much did your school board levy last July? About how much do your schools cost each year? How much might be levied this year? Who collects the school tax? How much would be the school tax on a thousand dollars' worth of property in your district this year?

**State Tuition Fund.**—The schools of the state are supported to quite an extent by what is called the state tuition fund. This fund is distributed to the counties quarterly by the state department, each county receiving its proportionate part according to the number of children of school age residing in the county on the first day of the preceding December. The amount received by the schools from this source during the past few years has been between four and one-half and six dollars annually for every child enumerated in each district. This fund is from various sources, but has been classified under two heads, fund from interest and income, and fund from fines, taxes, etc.

**Points for Development.**—How many children of school age in your district? In your county? In the state? How much was the tuition fund per child last year? How much did your district receive? Are married persons under twenty years of age enumerated?

**Interest and Income.**—The interest and income fund is derived from the school lands of the state. In every township in the state sections 16 and 36 are set apart by national law to be used exclusively for the support of the common schools of the state.



In case either of these sections had been taken before the government survey was made, some other sections were selected. This land is either leased or sold. It can not be sold for less than ten dollars an acre, and, therefore, only a small part of it has yet been sold. The proceeds from the sale of these lands must be invested by the state and is known as the permanent school fund; for, if any portion of the investment be lost, the state must make it good. The interest accruing from the permanent fund and the income from the leases of all land not sold constitute the interest and income fund apportioned quarterly to the common schools.

**Points for Development.**—Draw a township and mark the school sections. Have the school sections in your township been sold? Was any part of them taken before the survey was made? Who are living on the school sections in your township? If they are sold, how much was received for them? If leased, what is the annual rental? How is most of the permanent fund invested? At what rate?

**Fines, Taxes, Etc.**—The state tuition fund is greatly increased each year by fines, taxes, etc. All fines for violation of state laws, any miscellaneous sums of money not belonging to any other state fund, and all taxes levied by the state for common school purposes, belong to this portion of the fund. The state school tax is one dollar for each elector of the state, called a school poll tax, and two mills on every dollar of taxable property.

**Points for Development.**—How much would the state school tax be in your township? How much is the state school tax in your county?



## CHAPTER X.

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### ATTENDANCE, TEXT-BOOKS, FLAGS.

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**School Attendance.**—Every child in a common school district, between the ages of six and twenty, is entitled to attend the schools of the district and to receive instruction in the branches of the prescribed course of study for common schools, but is not entitled to instruction in any other branches. Every child between the ages of eight and fourteen in any district is obliged to attend school at least twelve weeks in each school year, six weeks of which must be consecutive, unless for one of the following reasons: That the child is taught in some approved private or other public school for the same length of time; that the child has already acquired the branches taught in the schools; that the child has physical or mental disability; or that the child resides more than two and one-half miles from the nearest school in the district.

**Points for Development.**—Why should not a pupil be entitled to instruction in the higher branches in the common schools? May any language except English be taught? What is compulsory attendance? Why should it be enforced in a free country? Is it enforced in your district?

**Compulsory Attendance; How Enforced.**—It is the duty of all parents and guardians to secure the attendance of their children as required by law, but in case of failure on the part of the parent or guardian, then it is the duty of the president of the school board to bring action against such parent or



guardian through the courts, and upon conviction, such parent or guardian is subject to a fine of not less than five nor more than twenty dollars, and for the second offense, of not less than ten nor more than fifty dollars. Attendance might often be secured if clerks would confer with teachers just before the beginning of the last three months of school, ascertain the names of those who were likely to fail in complying with the law, and send a statement of the facts to the parents or guardians of such children.

**Points for Development.**—Give some reasons that parents might have for not complying with the compulsory law. Through what court should action be brought against the parent or guardian? Are school officers likely to bring action against their neighbors to enforce the compulsory law? If not, suggest some better method for enforcing the law.

**Free Text-Books.**—Any district may supply free text-books to its pupils on the following conditions: A petition signed by a majority of the qualified electors of the district asking that the question be submitted to vote of the district must be presented to the school board. The question shall then be voted on at the next annual election, and if a majority of votes cast are in favor of free text-books, they shall be supplied at the expense of the district.

**Points for Development.**—What are the advantages of free text-books? Would free text-books be more beneficial to the rich or to the poor? Make out a free text-book petition.



**Flags for Schools.**—Every district is required by law to purchase a flag for each school house in the district, and such flags are to be displayed each school day.

**Points for Development.**—What is the object of a flag in every school? Does your district comply with the flag law? What is a good size for a school flag?



## SECTION III.

### THE TOWNSHIP.

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#### CHAPTER XI.

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##### CONGRESSIONAL TOWNSHIP.

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**Origin of the Township.**—During the settlement and development of the eastern states the people assembled into communities and organized local governments. As other local governments sprang up, the people on the lands around the centres of these governments naturally desired to attach themselves to one or another of these governments. Therefore lines were agreed upon separating the various political divisions. These divisions were necessarily irregular in size and shape, but were for the most part convenient in size for all the inhabitants thereof to meet together to make their laws. When the government survey was begun, investigation was made, and it was found that the most convenient size of these divisions for political purposes was about six miles square. So all lands that were not then settled and divided were laid out into tracts six miles square. The tracts in the east are called towns, in the south they are sometimes



called parishes, while those in the west are called townships, and are designated as congressional townships and civil townships.

**Points for Development.**—Why do people assemble into communities? What were the objects of the early governments in the New England states? When all the people meet together to make laws, what is the government called?

**Congressional Townships; How Laid Out.**—About the time of the adoption of the constitution plans were developed for the government survey of the unoccupied lands. From that time public lands have been surveyed in advance of settlement as fast as it seemed to be needed. By this survey the lands are divided into squares as nearly as possible, about six miles on each side. As a starting point for the survey a prime meridian must be chosen and a base line crossing it at right angles. The first prime meridian selected now forms the western boundary of Ohio. All of North Dakota north and east of the Missouri is from the fifth prime meridian, which passes through the mouth of the Arkansas river. The rest of North Dakota is from the sixth prime meridian, which is  $97^{\circ} 22'$  west longitude. The base line from which North Dakota is surveyed passes just south of Little Rock, Arkansas. Congressional townships, as these government divisions are called, are numbered east and west from these prime meridians, and north and south from the base lines. Rows of these divisions running east and west are designated as townships, and running north and south as ranges.



**Points for Development.**—What is the object of government survey? Has all of North Dakota been surveyed? Is your county all surveyed? What is the longitude of the fifth prime meridian? Draw map of your county and divide it into congressional townships. Number the townships and ranges. How many miles is your township north of the base line? About how many miles west of the prime meridian?

**Why Townships Are Not Square.**—The North and south boundaries of townships, since they follow parallels of latitude, are equally distant from each other at all points, while the east and west boundaries, since they follow meridians of longitude, are constantly approaching each other toward the pole. To avoid to some extent this constant narrowing, a correction is made every twenty-four miles, and this line is called the correction line. But townships will always be a little narrower at the north than at the south.

**Points for Development.**—Is there a correction line in your county? Indicate it on your map of the county. How much of a correction is made in your county? Find out the exact dimensions of your township. Divide it into sections and number them properly.

**Congressional Townships; How Divided.**—The congressional township is divided into thirty-six smaller squares called sections. Each section contains about one square mile and is again subdivided into quarter sections. Posts are placed at the corners of sections as well as at the quarter lines. Quarter sections are sometimes divided into what are called eighties or forties.



**Points for Development.**—Draw sectional map of the township in which you live. Locate the section on which you live, the quarter, and the site of the house. Designate each by its proper reading. Divide a section into eighties and forties and designate each by its proper reading. What reading is there on the section posts or stakes? What on the quarter posts? Do those on the township and range lines have the same markings? If lost, could one locate himself by the reading on the posts?

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## CHAPTER XII.

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### CIVIL TOWNSHIP.

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**Origin of Civil Township.**—When the people in a congressional township become numerous enough to feel the need of some common improvements, such as building bridges, improving roads, etc., they often desire to have an organization of their own for those purposes. Hitherto they have been under the general government of the county, with little influence over matters pertaining to the welfare of their special township. At the same time they are aware that the new privileges which they will acquire will also cause them new costs, so they are not always anxious to become a separate organization until their numbers and property are such that they can easily afford the extra expense. In fact in some counties of the state all, or nearly all the townships, are still congressional townships. The congressional township is in no sense a political



division. When it becomes organized into a political corporation it is called a civil township. A civil township sometimes contains more than one congressional township.

**Points for Development.**—Do you live in a civil township? What is its size? What other reasons than those given might a township have to become organized? Are most of the townships of your county civil or congressional? How many of each? What is a political division? Are there any civil townships in your county containing more than one congressional township?

**Civil Townships; How Organized.**—The county commissioners alone have the power to organize a civil township. The township must contain at least twenty-five legal voters, a majority of whom must petition the commissioners for the organization of such township. The commissioners so petitioned must determine the boundaries and name the new township. If a majority of the voters have expressed a wish for a certain name, such name shall be adopted, otherwise the commissioners shall select one. The commissioners shall appoint the place of the first township meeting, which must be held within twenty days after the township is organized.

**Points for Development.**—What congressional townships of your county have the requisite number of voters to become civil townships? Make out a petition to the commissioners for organization of a civil township. Draw map of county, locating each civil township by name. When was your township organized? Who signed the petition? Why was it named as it is? Who were the first officers?



**Powers of Civil Township.**—A civil township is a legal corporation and has all the powers of corporations; to sue and be sued, to purchase and hold land, to make contracts, and to transact such business as may be deemed conducive to the interests of its inhabitants.

**Points for Development.**—What is a corporation? Under what conditions might a township desire to hold land? Name other powers of a civil township.

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## CHAPTER XIII.

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### TOWNSHIP MEETINGS AND OFFICERS.

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**Township Meetings.**—The annual meetings of the township are held on the first Tuesday of March, and at a place selected by the voters at the previous annual meeting. At these annual meetings officers are elected and such other business transacted as may legally come before them, such as: to raise such sums of money as they may deem necessary for roads, bridges, poor, and other expenses, to establish rules and regulations for the benefit of the town, etc. No business can be transacted except such as was specified in the notices.

**Points for Development.**—Where does your township hold its meetings? Have you attended a township meeting? How much money was raised at your last township meeting? What special rules, or by-laws, has your township?



**Township Meetings; How Conducted.**—The meeting shall be opened between nine and ten o'clock in the forenoon and closed whenever the business to come before it has been completed. If the clerk is present he calls the meeting to order. If not the electors present choose a temporary chairman. Three judges are also elected and duly sworn. A moderator shall then be chosen, and the clerk or some person elected in his absence shall act as clerk of the meeting. The moderator shall state the business of the meeting in the order in which it is to be considered. Before proceeding to election of officers proclamation shall be made of the opening of the polls, and a similar proclamation before the closing of the same. Likewise a proclamation will be made before the opening or closing of the polls of any election or balloting during the meeting. All the officers enumerated in the following section shall be elected by ballot, the names of all being placed on one ballot. The name of each person voting is recorded in the poll book. Votes are handed to the judges and by them deposited in the ballot box. The judges count and canvass the ballots and the clerk keeps the record of the same and at the close announces publicly the result.

**Points for Development.**—Why are judges necessary at township meetings? What are the duties of the moderator? Make out notice of township meeting, including all items of business that would generally come before such meeting. Organize and conduct a township meeting, taking up such business as was contained in the notice. Is the township, so far as it is allowed to make laws for itself, a democracy? In what sense is it a republic?



**Officers of Township.**—The officers of a civil township are three supervisors, a clerk, treasurer, assessor, two justices of the peace, two constables, and one overseer of highways for each road district in the township. One of the supervisors is designated on the ballots as chairman. Justices of the peace and constables are elected only once in two years. Any elector in the township is eligible to any office in the township. All elected officers must take the oath of office, and the clerk, assessor, treasurer, justices, and constables must give bonds, the bond of the assessor, justices, and constables to be five hundred dollars, and that of the treasurer to be double the amount of money he is to receive during his term.

**Points for Development.**—Who are the officers of your township? How many electors in your township? What is the oath of office that is usually given? What are officers' bonds? Get a blank bond and fill it in properly.

**Vacancies.**—Vacancies are filled by the appointing board, which consists of the justices of the peace and the board of supervisors.

**Points for Development.**—How may vacancies be caused?

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## CHAPTER XIV.

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### POWERS AND DUTIES OF OFFICERS.

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**Powers and Duties of Supervisors.**—The township board shall meet at the office of the clerk or at the place of holding annual meetings, four times each year, on the last Tuesday of February



and March, the fourth Monday of June, and the last Tuesday of October. These meetings shall continue from ten o'clock a. m. to four o'clock p. m. At these meetings they may approve bonds of township officers, audit accounts, and transact such other township business as does not belong to other township officers. Special meetings may be called in case of emergency, in which case the clerk must give three days' notice. It is the duty of the board to draw orders for the payment of incidental expenses and for all purposes for which money has been raised by the township. The board shall prosecute and defend all actions for and against the township. Any two members of the board shall constitute a quorum for the transaction of business.

**Points for Development.**—Why are special days designated for the meetings of the board? Is there special business which must be transacted on any of these four days? What does it mean by "audit accounts"? Importance of electing good business men as supervisors. What is meant by the term quorum?

**Duties of Clerk.**—The clerk may administer oaths and take acknowledgments. He shall have charge of all the record books and papers of the township, and shall keep a record of the proceedings of all township or board meetings.

**Points for Development.**—What is an acknowledgment? Why are the records of a township important? Should the qualifications of a clerk differ from those of a supervisor?

**Duties of Treasurer.**—The township treasurer shall have charge of all moneys belonging to the township and shall pay them out at the order of the proper township officers. He shall keep a true



account of all moneys received and disbursed by him, and within five days of the annual township meeting shall file with the clerk a completely itemized statement of the same.

**Points for Development.**—From whom does the township treasurer receive the township moneys? Who can order the payment of moneys? If the treasurer has no money with which to pay warrants when presented, what is done? What should be the qualifications of a treasurer?

**Duties of Assessor.**—The assessor shall as soon as practicable after the first day of April in each year secure from every holder of property in the township a list of all the property in the township owned by said person, and such list must be certified to by oath. If any person refuses to furnish such list or take such oath, then the assessor shall estimate, as best he can, the amount of property owned by such person and shall list the same. On or before the first Monday of July the assessor must deliver to the county auditor an assessment roll containing itemized lists of all the property holders and their property in the township.

**Points for Development.**—Who are non-resident property holders? Must they also give list of property? What is the penalty for refusing to give list of property or certifying to the same? What is the penalty for false swearing in regard to property? What is the difference between real estate and personal property?

**Powers of Justice of the Peace.**—The township justice must have an office within his own township, but his jurisdiction extends to any part of the county. His court is always considered open, he is his own clerk, and he has jurisdiction in all civil



actions when the amount in controversy does not exceed two hundred dollars. He may also issue warrants for arrests and may officiate in certain criminal cases.

**Points for Development.**—Where are the offices of the justices of your township? What is the difference between a civil and a criminal case? What qualifications are important for a justice of the peace?

**Powers and Duties of Constable.**—The township constable is a peace officer, and he has the power to make arrests anywhere in the county when armed with a proper warrant, or without warrant when a public offense has been committed in his presence, or when he knows or believes a person has committed felony.

**Points for Development.**—What is a peace officer? What is felony? Who can issue warrants to a constable?

**Supervisors as Board of Health.**—The supervisors in addition to their general duties shall constitute a board of health. It is their duty to examine into all nuisances, sources of filth, etc., and make such regulations regarding these as may seem necessary for the public health. They may quarantine any infected person and establish a hospital when any dangerous disease breaks out in the township.

**Points for Development.**—What are some public nuisances which endanger health? What is a quarantine? Why have supervisors almost unlimited powers in case of epidemic or dangerous diseases? What diseases in this state would most need attention from the board of health?

**Duties of Overseers of Highways.**—Each overseer must repair and keep in order the roads in his district, must notify all persons when labor is due from them, collect all fines accruing to the



road fund, furnish to the clerk a list of all persons in his district liable to work on the highways, and carry out in general the lawful orders of the supervisors relating to the highways.

**Points for Development.**—How many road districts in your township? What are their limits? Who are exempt from work on the highways? Give an outline of the contract system of repairing roads. What are its advantages and disadvantages?

**Fees of Officers.**—Supervisors and clerk each receive one dollar and fifty cents for each day necessarily devoted to the service of the township, when attending to business in their township, and two dollars a day when attending to business out of the township; but no supervisor shall receive more than thirty-five dollars compensation in any one year. The clerk also receives certain fees for posting and serving notices, filing papers, and transcribing documents. The treasurer receives as compensation two per cent. of all moneys paid into the township treasury. The assessor receives three dollars per day for time necessarily devoted to the services of the township, not to exceed sixty dollars in any one year. Justices and constables receive fees varying according to the services performed. Road overseers receive two dollars per day for time necessarily employed.

**Points for Development.**—How much was paid in salaries to officers of your township last year? What is the object of limiting the amount to be received during the year by certain officers? Mayors and aldermen of cities seldom receive any salaries; would it be well if supervisors did not receive salaries? About how much will be your treasurer's salary this year?



## CHAPTER XV.

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### HIGHWAYS, POUNDS, DEBTS.

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**Highways; How Repaired.**—Under the direction of the overseers and supervisors the highways are kept in repair. Every male inhabitant in the township, between the ages of twenty-one and fifty, is assessed one day's labor for the highway, and all taxable property is subject to a road tax not to exceed one dollar on each hundred, which amount is determined by the supervisors. Each one assessed may work out his tax in person, together with his team or by substitute, or pay the amount assessed in money. Every person who works out his tax shall be allowed one dollar and fifty cents for himself and the same for his team for each day's work of eight hours each. Overseers shall give each person assessed for work at least three days' notice of the time and place when and where they are to appear. Any person so notified, not appearing for work and not paying his tax in money, is liable to a fine of two dollars for each day's refusal. Three-fourths of the road work must be done prior to August first.

**Points for Development.**—Advantages of good highways. What is the object of the road poll tax, instead of placing the levy entirely upon taxable property? Why should the greater part of the road work be done before August first? Is a township liable for damages sustained because of defective roads or bridges?



**Highways; How Opened or Vacated.**—All section lines, if practicable, are public highways. If it seems desirable to open up other highways or to discontinue any now open, and if the territory bordering on the proposed changes are entirely within a civil township, the supervisors of such township will act upon the question when brought properly before them. A petition signed by any ten persons having land in the vicinity of the proposed change must be presented to the board. The petition must contain a description of the road, and the names of the owners of the land through which it passes, together with such other information as may be useful to the board. The board shall then appoint three viewers, who shall be disinterested persons. These viewers shall make a careful investigation of the matter, and make a full report to the board, stating the feasibility and probable cost of the change, etc. The board may, after hearing evidence of those interested for or against, then order the change or not. If the change is ordered the overseer of that district is notified and the change incorporated under his jurisdiction.

**Points for Development.**—Under what conditions might section lines not be practicable for highways? Prepare a petition for new highway on quarter line. How wide are highways? Under what conditions should roads be discontinued? If a person, through whose land a new road is to pass, is not willing to give or sell his land for the purpose, how is the land obtained?

**Bridges.**—Bridges are a part of the public highways, and are under similar supervision. Bridges that do not cost more than one hundred dollars are



to be built by the civil township within which they are located, otherwise by the county. All such bridges, whether built by township or county, are under the supervision of the township and are to be repaired by the township, when the cost of repairs at any one time does not exceed fifty dollars.

**Points for Development.**—Why should not all bridges as well as other parts of all highways be constructed by townships? What bridges in your township were not constructed by the township?

**Pounds and Pound Masters.**—At any annual township meeting the voters may decide to erect one or more pounds. A pound is an inclosure where stray domestic animals are placed for safe keeping until called for by their owners. The persons elected to have charge of these pounds are called pound masters. The pound master shall receive for taking in or discharging from the pound any horse, mule, or neat cattle, twenty cents each, and for every sheep, lamb, or hog, ten cents each, and twenty-five cents each for every twenty-four hours the animals are kept in pound. The owner of the animals can not take them away until he has paid all dues. If the animals are not removed within four days, the pound master shall post notices in three public places, describing the animals, and in fifteen days after such notice, unless the animals are removed, he shall sell them at auction, deduct for himself two per cent. of the proceeds besides his legal fees, and turn over the rest of the money to the chairman of the super-



visors, to be paid over by him to the owners if at any time within six months they can prove that the property sold was theirs.

**Points for Development.**—Are there pounds in your township? If so, who are the pound masters? What is the prime object of pounds? Would people be more careful about letting their animals stray, if there were pounds? What would be the object of having more than one pound in each township?

**Debts.**—The township shall not contract debts beyond the amount assessed for any year, without being authorized to do so by a majority of the voters, and in no case shall more than ten mills on the dollar be assessed in any one year. The township, by a two-thirds majority of those voting, may authorize the issuing of bonds, such bonds to be payable at a date not exceeding six years from time of issue. Bonds may also be issued for refunding bonded indebtedness, and must be made payable in not less than five or more than fifteen years. Bonds can not be sold for less than par and can not bear more than eight per cent. interest.

**Points for Development.**—Why should the debts and assessments of a township be left to the will of the voters and not to the supervisors? Why is a limit placed to the amount that may be assessed by the voters? Why a two-thirds instead of a simple majority in issuing bonds? What is the valuation of your township? How many mills on the dollar was this year's assessment. For how much is your township bonded? What is par value?



## SECTION IV.

### VILLAGES AND CITIES.

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#### CHAPTER XVI.

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##### ORIGIN AND NAME.

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**Origin of Villages and Cities.**—Almost immediately after the beginning of the settlement of a new country, towns begin to spring up. For the purposes of trade a store is opened, a mill erected, a postoffice established, shops of various kinds are started, a railway station may be built, and here people will congregate to carry on the various industries useful to the surrounding country. At first the needs of the little town do not differ from those of the surrounding country, but as the population increases it is found that certain changes are necessary. Regular streets should be laid out, sidewalks should be built, arrangements for protection from fire should be made, and many other things done in which only the town is directly interested. It is not just that the township or county should be taxed for the special benefit of the town, nor, on the other hand, is it just for the township or county to dictate to the town what improvements it shall make



within its limits. Therefore the town seeks to be incorporated into a separate organization with certain rights and privileges of its own.

**Points for Development.**—What is the oldest town in North Dakota? Name the industries of your nearest town. Which is the oldest town in your county? Is not a town a benefit to the surrounding country? If so, why should not the township be taxed for special improvements in the town? Is it wise for a small town to become incorporated? What are some of the objections?

**Town, Village, or City.**—The term town has such a variety of meanings that it needs a little explanation here. In the east it means the township, in the south it often means the legally organized village or city, in the west it is sometimes applied to the township, and everywhere it is applied to any trade centre, large or small, when speaking of it in a general manner. Therefore the name town, as a legal appellation, has been discarded, and the term village, or city, will be applied henceforth in this state. There are many villages and cities in the state which were organized before the general law went into effect and are operating under all kinds of special charters; but the constitution forbids such special charters now, so that all future organizations must be under the general law. Village and city governments do not vary materially, but the difference is sufficient to treat each separately. The prime difference is that the laws governing a city are intended for larger corporations than those governing villages.

**Points for Development.**—Name all the places in your county that might be called towns. Name the organized villages and cities of your county. Have they special char-



ters or are they under the general law? If they are under special charters, secure copies of the charters and discuss them. When was your nearest village or city organized? Why are special charters forbidden by the constitution?

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## CHAPTER XVII.

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### VILLAGE ORGANIZATION.

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**Preliminary Steps for Incorporation of Village.**—Before a village can be incorporated, persons interested must cause accurate survey and map to be made of the territory intended to be incorporated, also a census of the resident population. These statistics must accompany a petition to the county commissioners, signed by at least one-third of the qualified voters in the territory to be embraced in the village. The commissioners shall require proof of all statistics and proceedings, and, if satisfied that all requirements have been complied with, they shall issue an order declaring that the described territory shall become an incorporated village, provided that, at an election called for the purpose of voting on the question of incorporation, a majority of the votes cast are for its incorporation. The commissioners shall fix the time and place of the meeting, of which ten days' notice shall be given. The petition shall contain a proposed name for the village, which must be different from that of any other village in the state.



**Points for Development.**—What is the usual size of lots and blocks as surveyed in a village? Draw a map of a block, divide it into lots, and number them. If you live in a village locate your home on your map. Locate your school house. Why are petitions usually to be signed by voters rather than by any residents? Make out a petition for incorporation of a village. Why should names of villages in different parts of the state be different?

**Meeting for Incorporation of Village.**—The polls shall be open from nine in the forenoon to four in the afternoon. Three inspectors shall be selected by the voters, one of whom shall act as clerk. The voting shall be by ballot, the inspectors shall canvass the votes, and shall return a statement of the result to the county commissioners. They shall also divide the village into not less than three nor more than seven districts.

**Points for Development.**—Organize and conduct a meeting for incorporation of a village. If you live in an incorporated village, ascertain the limits of its several districts. Is there a polling place in each district?

**First Election.**—The inspectors of the former meeting shall appoint a place and time for holding the first election for the purpose of electing village officers.

**Points for Development.**—How long will officers elected at first election hold office?

**Annual Election.**—The annual election is held on the first Monday of May. At all elections the polls shall be open from nine in the forenoon to four in the afternoon.

**Points for Development.**—Why are village officers elected each year, instead of once in two or three years?



**Officers of a Village.**—The village officers are one trustee for each district, a clerk, assessor, treasurer, marshal, and justice of the peace, who shall hold their offices for one year. The offices of clerk, treasurer, assessor, and marshal may be held by the same person. A plurality of votes elects in all cases, and the elections are conducted nearly the same as in county or other elections. The board elect a president from their own number.

**Points for Development.**—What would be the advantage of one person holding the four offices named above, or any two or three of them? Why is not a president of the village elected by the people? Who are the officers of your nearest village?

**Vacancies; How Filled.**—All vacancies in offices are filled by the trustees, at a special meeting called for that purpose. Vacancy in trusteeship must be filled from the district in which the vacancy occurs.

**Points for Development.**—Why are not vacancies filled by special election instead of by appointment?

**Bonds of Officers.**—The clerk, assessor, treasurer, marshal, and justice shall give bonds to such an amount as the board of trustees may determine.

**Points for Development.**—Why should not the trustees give bonds?

**Powers and Duties of Trustees.**—The board of trustees have the power to purchase or sell land in the name of the village, to establish and regulate a fire department, to take measures to preserve health, to restrain vice and crime, to grant licenses, to lay out streets and sidewalks and keep them in



repair, to have charge of public grounds in the village, to levy taxes, and to do many other things. It will be observed that many powers left to the voters of the township have been delegated to the trustees of the village.

**Points for Development.**—For what purposes might the trustees desire to purchase land? Name some licenses that may be granted? Why are more powers given to the board of trustees than to the board of supervisors of a township?

**Duties of Other Officers.**—The duties of treasurer, clerk, assessor, and justice are about the same as in the township. The marshal has powers similar to those of the constable, and is the special peace officer of the village, and it is his duty to carry out all orders of the trustees.

**Points for Development.**—What special qualifications are necessary in a marshal?

**Compensation of Officers.**—All village officers receive such compensation as the trustees may decide.

**Points for Development.**—Should trustees receive compensation? Do men seek office for the honor there is in it? If you live in a village, ascertain the compensation of its officers.

**How Village Sidewalks and Streets Are Maintained.**—Sidewalks and streets are not usually built by a general tax. If two-thirds of the resident owners or the owners of two-thirds of the real estate for a distance of not less than one block petition the trustees for a sidewalk or street, or for the grading or paving of such street, the trustees



shall order such sidewalk or street, and shall levy a tax on all property adjacent to such sidewalk or street for the payment of the same.

**Points for Development.**—Why should not a general tax be levied for construction and repair of streets and sidewalks? Are non-resident property holders taxed for a sidewalk along their property? What is the usual width of village streets?

**Indebtedness of Village.**—A village has no power to borrow money or contract any debt whatever unless the board of trustees are petitioned to do so by citizen owners of five-eighths of the taxable property of such village. Bonds may be issued only by a majority vote of the electors, and not to exceed five per cent. of the assessed valuation of the corporation.

**Points for Development.**—What is the reason for the provision given above for borrowing money? Reasons for and against bonding any municipal corporation. If you live in a village, ascertain if it is bonded and for how much.

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## CHAPTER XVIII.

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### CITY ORGANIZATION.

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**Cities; How Organized.**—Cities in a new country are often laid out on paper only, and special charters are granted before there are any real evidences whatever of a city. No city can now be organized in the state except under the general law, and in order to organize under this law, one of three conditions must exist: First, any corporation in



the state at present in the form of a city government may incorporate under the general law. Second, any town or village, whether under a special or the general law, and having a population of not less than five hundred, may become a city. Third, any territory not exceeding four square miles not now incorporated in a city or village and containing not less than five hundred inhabitants, may become an incorporated city.

**Points for Development.**—If you live in a city having a special charter, give some reasons why it would be better not to incorporate under the general law, and some reasons why it would be better to do so. What were the objects of laying out towns and securing charters before there were any real residents? Do you know of any city incorporated under the general law? What was its condition before being so incorporated?

**Cities and Villages May Adopt the General Law.**—Any city, or any village of five hundred inhabitants, may adopt the government of the general law at any time. To do this one-eighth of the legal voters of the corporation must petition the mayor and council or board of trustees, as the case may be, to submit the question to a vote of the electors. The question shall then be submitted, after due notice has been given, and a majority vote is necessary to establish the new organization.

**Points for Development.**—Why is so small a number required on the petition for the new organization? Is it well for a small village to incorporate as a city?

**Other Territory May Adopt the General Law.**—The method by which previously unorganized territory may adopt the general law and become



a city is similar to that given above. There are these conditions: It must not contain more than four square miles, must have at least five hundred inhabitants, and must present a petition to the county commissioners containing the names of at least fifty legal voters of the proposed new city. The question of adopting the general law shall then be submitted, the commissioners having the same powers and duties as the council or board of trustees in the city or village.

**Points for Development.**—Why should the amount of territory to be incorporated into a city be limited? Are the lots and blocks of a city usually the same as those of a village? How many ordinary city lots in an acre?

**Officers of a City.**—The elective officers of a city are mayor, two aldermen from each ward, treasurer, police magistrate, and city justice. The appointive officers are auditor, assessor, city attorney, and city engineer, together with such other officers as the council may deem necessary. All appointments are made by the mayor and must be approved by the council. All officers, elective or appointive, hold their office for two years.

**Points for Development.**—If you live in a city, ascertain what other officers are appointed? If the council does not approve the mayor's appointments what is to be done? Why should the mayor make appointments?

**Election of Officers.**—Annual election is held on the first Monday of April. Polls are to be kept open from eight in the morning to five in the afternoon. Officers of a city which changes to the general law will continue in office until the first annual election. Villages and unorganized territory becom-



ing cities must proceed at once to elect officers to serve until first annual election. The city is divided into not less than three wards, or voting precincts, and at the first election two aldermen are elected from each ward, but afterwards only one. Aldermen are voted for only in their own wards, while the other officers are elected at large.

**Points for Development.**—Why do not cities which change to the general law elect new officers at once? If you live in a city, draw map of same, dividing the city into its wards. Who are the aldermen from each ward? Give the names of all the city officers.

**Powers and Duties of Mayor.**—The mayor presides at meetings of the council, shall by message advise the council as to the needs of the city, has the power of sheriff to suppress disorder within the city, may call out the militia to suppress riots, and in general shall see that the laws are executed.

**Points for Development.**—Who presides over the council when the mayor is absent? What is the militia? Is the mayor an executive or legislative officer? Has he any of the powers of the other? What should be the natural qualifications of a mayor?

**Powers of City Council.**—The city council consists of the mayor and aldermen. They are a legislative body, and their powers are very extensive. The mayor has a vote only in case of a tie. The council shall meet regularly on the first Monday of each month. They have the entire control of the finances of the city, the power to levy taxes, borrow money, to issue bonds not to exceed five per cent. of the taxable property, to lay out and take charge of streets, to care for the health in the city,



in fact, to legislate upon almost any question that may pertain to the welfare of the city. Any ordinance passed by the council may be vetoed by the mayor, but by a two-thirds majority may be passed over the mayor's veto and become a law.

**Points for Development.**—Discuss the advantages resulting from the great powers of the council. Why are not these powers reserved to the people? If you live in a city, attend a meeting of the council, then organize a council of the pupils and pass an ordinance.

**Duties of Other Officers.**—The duties of treasurer, city justice, and assessor are about the same as in the township. The police magistrate, besides having the same jurisdiction as justices of the peace in the county, has exclusive jurisdiction in all offenses against the ordinances of the city. The city auditor is the official clerk of the council. The city attorney is the legal adviser of the mayor and council. The city engineer must be a practical surveyor and engineer and is to have charge of surveying and like work in the city.

**Points for Development.**—What are ordinances? Should the city attorney be a lawyer? What other work would a city engineer have besides surveying and platting in the city? Can you name any city officers not mentioned here? What are their duties?

**Local Improvements.**—Local improvements upon streets, sidewalks, sewers, etc., are determined by the council and are paid for by a levy on adjacent property.



**Points for Development.**—Compare the cost of local improvements in large and small cities. Compare local improvements in business and residential portions of the same city.

**Debt Limit.**—The debt limit of a city is ordinarily five per cent. of its assessed valuation, but by a two-thirds vote of the electors this may be increased to eight per cent.

**Points for Development.**—If you live in a city, find out for how much it is bonded. Is the limit reached?



## SECTION V.

### THE COUNTY.

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#### CHAPTER XIX.

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##### INTRODUCTORY.

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**Importance of the County.**—The importance of the county differs in different parts of the nation. In the east the county has much less civil and political significance than the township or town; in the south the county is by far the most important division; while in the west the county and township both have important functions to perform, with the county predominating somewhat. Local affairs need controlling and regulating by some higher authority; the state can not conveniently exercise its prerogatives in every locality directly through the state government. The county, therefore, is the civil and political link between the two. Consequently the county as a medium of government requires careful consideration in these western states. In North Dakota a pupil may live in any one of four or five different kinds of school districts, he may live under township, village, or city government, but he is at the same time under county government, which is



the same all over the state. As county governments are strong and efficient, so are local affairs well protected and the state well served.

**Points for Development.**—How did the town or township in the east acquire so much political importance? Why the importance of the county in the south? Why can not local matters be conveniently looked after at the state capital? Draw map of the state, locate in it your county and all adjacent counties.

**Origin of the County.**—The origin of the county is quite similar to that of the township. All the states except Louisiana have counties, and that state has parishes. In its early history the Territory of Dakota was divided into counties, at first unorganized, like congressional townships, but organized as soon as local conditions seemed to demand the change. The early counties were frequently very much larger than their present limits, but as population and wealth increased, it was not found convenient or desirable to retain so much territory under one county government, so divisions were made. New counties were formed out of parts of old ones and unorganized counties were organized, until at present in North Dakota there are thirty-nine organized and six unorganized counties. Changes are often being made in the boundaries of many of the counties, especially in the western part of the state, and these changes will continue to go on until conditions cease to be so changeable.

**Points for Development.**—Trace the history of your county from its establishment, its organization, its changes of boundaries if any, etc. How was your county named? Do you think that any changes in the limits of your county



would be advisable? Why? Have there been any important changes recently made in the limits of counties of the state? Is there any territory in the state not in any county?

**Functions of the County.**—The county has the power to organize subdivisions within its own territory, such as school districts, townships, villages, and cities; to collect taxes for the local organizations, for its own use, or for the state; to provide for public works too extensive and costly for local organizations to undertake; to protect owners of property by placing on record all deeds and like instruments and providing a safe depository for the same; to maintain competent courts of justice for the convenience of all its citizens; to act as a political subdivision of the state in all elections; and, being a body corporate within itself, to have all the powers necessary for the maintenance of such a body. These various powers will be brought out more fully in connection with the enumeration of the duties of county officers.

**Points for Development.**—Through what county officers are sub-divisions organized? Why should the county collect taxes for the township or school district? What are some public works too extensive for townships to provide for? Name some functions of the county not enumerated above.

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## CHAPTER XX.

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### COUNTY ORGANIZATION AND OFFICERS.

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**County; How Organized.**—There are two methods of organizing counties; one when a county is organized from an unorganized county, and the



other when a county is organized from parts of one or more organized counties. In the first case the unorganized county must have at least one thousand inhabitants and must present to the governor of the state a petition, signed by at least one hundred fifty qualified voters of such county, asking for organization. If the governor is satisfied that the county contains one thousand inhabitants, such petition shall be granted, and the governor shall call an election to elect officers of the new county. In the second case a petition signed by a majority of the legal voters in the proposed new county must be presented to the commissioners of the counties affected, who shall take steps to have the question submitted to a vote, in the counties affected, at the next general election. If a majority of votes cast in each county is in favor of the formation of the new county, it shall be considered organized, and the governor shall appoint three commissioners, who, in turn, will appoint all county officers for the new county, and these will serve until the next general election. No such division can be made, if it reduces any county to a territory of less than twenty-four townships.

**Points for Development.**—What was your county organized from? Draw map of your county and locate and name each township in it, the unorganized by number, the organized by name. Have any of the unorganized counties at present the necessary qualifications to become organized? Could a county be conveniently organized from parts of your county and parts of adjoining counties?

**County Seats; How Located.**—Temporary county seats are located as follows: In case of the county being formed from an unorganized county,



the question of the county seat shall be voted on at the first election, and the place receiving the highest number of votes is the temporary seat. In case of the county being formed from organized counties, the commissioners of the new county shall fix some place as a temporary county seat, but the question shall be submitted to the voters at the next general election.

**Points for Development.**—Will it be a plurality or a majority that locates a temporary county seat? What advantages accrue to a town from being the county seat? Is there any interesting history in connection with the locating of the county seat in your county?

**County Seats; How Changed.**—If a petition signed by legal voters of the county, equal in number to two-thirds of all the votes cast at the last general election, be presented to the commissioners, asking that a vote be taken on the removal of the county seat, the question shall be submitted at the next general election, and if two-thirds of all the votes cast are in favor of any one place, then the county seat shall be changed to such place. The question of removing county seat can not be submitted oftener than once in four years.

**Points for Development.**—Has your county seat ever been changed? What would be the benefits from a change in your county? What would be the disadvantages? Why such a large majority in order to change the county seat? Are county seats often changed?

**County Officers.**—The officers of a county are either three or five commissioners, auditor, register of deeds, clerk of the district court, state's attor-



ney, sheriff, county judge, treasurer, superintendent of schools, surveyor, coroner, four justices of the peace, and four constables.

**Points for Development.**—How many commissioners in your county? Name all the officers of your county. How many of them are from your township?

**Election of County Officers.**—All the county officers except the commissioners are elected for a term of two years and at the same time and on the same ballots as state officers. Commissioners are elected by the voters of their respective districts for a term of three years.

**Points for Development.**—When was the last election for county officers? When for commissioner in your district?

**Commissioners' Districts.**—Each new county has three commissioners' districts, which afterwards may be changed to five by vote of the people. Each district elects one commissioner. In case of three districts, one commissioner is elected each year after the first election. In case of five districts, two commissioners are elected in each of two years and one in the third year.

**Points for Development.**—In your map of the county mark off and number the commissioner districts. Which district or districts elect this year? What are the advantages and disadvantages of five rather than three commissioners?



## CHAPTER XXI.

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### POWERS AND DUTIES OF OFFICERS.

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#### **Powers and Duties of Commissioners.—**

The board of commissioners is the legislative body of the county, and as such body it has all power to legislate for the county so far as not restricted by law. The board meets regularly on the first Mondays of January, April, July, and October, and may adjourn from time to time. In most counties it meets each month. At the meeting of the board in January each year the members of the board elect a chairman whose duty it is to preside at all meetings of the board and to sign all warrants drawn on the treasurer, except for officers' salaries, and to assist in appraising school lands in the county. The board shall cause a record of all its proceedings to be kept and to be published in three newspapers of the county, if there are that number. It has the power to prosecute and defend all actions for and against the county, to provide for the building of bridges, opening of highways, etc., not directly under local supervision. It has charge of all property belonging to the county, such as the care of the courthouse, jail, etc., and must see that they are of sufficient capacity and in good repair. It must provide for the poor, and in general has a supervision over all the affairs of the county.



**Points for Development.**—Being a legislative body, what special qualifications should commissioners have? Why is it often important for the board to meet oftener than once a quarter? Does the chairman of the board have a vote upon all questions? What is the object of publishing the proceedings of the board? What papers in your county are the official papers? Are any of the roads or bridges of your township built by the county? Name the uses of the courthouse. Use of the jail.

**Duties of County Auditor.**—The duties of the county auditor are varied and important, although his work is more clerical than executive, and in some states he has the title of clerk. He is clerk of the board of commissioners, and draws all warrants on the county treasurer, whether by order of the board or by fixed law. He computes and extends all taxes for school, township, municipal, county, or state purposes. He must keep an accurate account with the treasurer, and his books at all times serve as a check upon any irregularities in that office. He receives, approves, and files bonds of treasurers of school districts, townships, etc., in the county. He has general supervision of the election supplies in all elections, and may call a special election in the county when petitioned to do so by a majority of the voters of the county, if for any reason the commissioners have failed to call such election. He is also a member of the county board of appraisers of school lands.

**Points for Development.**—What is meant by clerical work? By executive work? What should be the qualifications of the auditor? Why should bonds of treasurers throughout the county be filed in the auditor's office? What kind of licenses does the auditor grant?



**Duties of Register of Deeds.**—The office of register of deeds is one of long standing and was established to protect persons in the ownership of property. When a transfer of certain property has been made, the written instrument of transfer must be recorded in the office of the register of deeds in order to complete the legality of the transaction. If it were not recorded a second person might purchase the same property, have the instrument of transfer recorded, and become the legal owner of the property. Therefore it is the duty of the register of deeds to keep a full record of all deeds, mortgages, etc., filed with him. As soon as any such instrument is filed with him, he shall note thereon the date, hour, and minute of receipt, and it shall be considered as legally recorded from that minute. If several such instruments are received by mail, he shall record them in the order in which the inclosures are opened. His books are at all times open to the inspection of the public. Titles to property in the county for time to come depend upon the accurate records made by the register.

**Points for Development.**—What are recorded in the office of register of deeds besides deeds? Are these papers recorded free of cost to the holder of them? If a deed is not recorded, could the property enumerated in it be claimed by the purchaser? If a deed is not recorded, has the person who sold the property a right to sell it again? Secure a copy of a deed, and discuss its contents.

**Duties of Clerk of District Court.**—The clerk of court is the official clerical officer of the district court whenever in session in his county. He has charge of all papers, books, and records in con-



nection with such court, and shall record and keep on file all proceedings connected with the same. In court he administers the oaths to jurors and witnesses. In absence of the judge at the opening of a term of court he may adjourn court from day to day for three days, and then adjourn without day. He grants papers of "declaration of intention to become citizens of the United States," and keeps an accurate record of all who are granted final papers by the judge. He keeps on file proceedings of coroner's inquests, justices' courts, also mechanics' liens, and various other papers.

**Points for Development.**—What is the district court? What is meant by administering oaths? Ascertain the form of an oath to a witness. What is a mechanic's lien?

**Duties of State's Attorney.**—The state's attorney is called in most states the county attorney, as he is a county officer and his official duties are in the county. His title of state's attorney arises from the fact that in all cases before the district court he, in behalf of the county, represents the state. He is the legal adviser of all county officers, especially of the county commissioners. He conducts all prosecutions and defenses for and against the county. He institutes proceedings against persons charged or suspected of public offense, and draws all indictments. He must oppose all illegal claims on the county, and bring action to recover any moneys illegally paid. He must also, when requested to do so, give written opinions to any county, township, or school district officer, on matters pertaining to their offices. He must be an attorney by profession.



**Points for Development.**—What is meant by legal adviser? What are public offenses? Name some. What is an indictment? Write out a request of a school district officer to the state's attorney for an opinion on some school matter. Can a state's attorney have other cases in the district court besides those in connection with his office?

**Duties of Sheriff.**—The sheriff is the chief executive officer of the county. It is his duty to preserve the peace, and to do this he may command the assistance of citizens, and even call upon the governor of the state to lend aid. He serves all papers legally issued and placed in his hands, and arrests without papers any person who has committed or attempted to commit a public offense. He attends all terms of the district court held in his county and executes all orders of the judge. He has charge of the county jail and all prisoners therein committed, and is to guard against their escape therefrom. He accompanies to their destination prisoners sentenced to the penitentiary and patients adjudged insane and committed to the asylum. He is eligible for election to the office for only two consecutive terms.

**Points for Development.**—Suppose a case when the sheriff might call on citizens for assistance. When he might call on the governor for assistance. How many prisoners in your jail now? For what were they committed? What should be the qualifications of a sheriff? Has he a deputy in your vicinity? Give some reasons why he should not be eligible to more than two consecutive terms.

**Duties of County Judge.**—The office of county judge is mostly of a judicial nature. In many states the county judge is styled the judge of probate, be-



cause his chief duties are in probating wills. The judge has an office at the county seat, and his court is considered to be always open. He has the power to admit wills to probate, to decide heirship, to settle the accounts of executors and administrators, to appoint and remove guardians, and to have general jurisdiction over estates of persons dying intestate. It is through this office that the property of a person is, after his death, distributed as the law directs. The county judge issues marriage licenses to those who are to be married in the county, and may also perform the marriage ceremony. He must keep a complete record of all his official proceedings.

**Points for Development**—What are wills? Who are heirs? If a man who has a family dies intestate, how is his property divided? What are executors? What are guardians? Must property always be disposed of as a will directs? Why are marriage licenses necessary? Who besides the judge may perform the marriage ceremony?

**Duties of County Treasurer.**—The duties of county treasurer are similar to those of the treasurer of almost any corporation. He, of course, receives all moneys belonging to the county and pays them out upon proper warrants. He also collects all taxes, not only for the county, but for the state, and for the school districts, townships, villages, and cities within his county, and pays over to the treasurers of the other corporations such moneys as he has collected for them. His books and accounts shall at all times be subject to the inspection of the county commissioners, and he shall on the regular January and July meetings of the board make full settlement with them, by exhibiting all his books,



accounts, and moneys. He shall insure county property when directed to do so by the board. Whenever an abstract of title of real estate is presented to him, he shall certify upon it as to the payment of taxes on the property named in the abstract. In February and in November of each year he shall notify township clerks of the amount of money in the county treasury belonging to their respective townships. He can serve for only two consecutive terms.

**Points for Development.**—What especial qualifications should a treasurer have? Why does the county treasurer collect all taxes? Where are taxes payable? Why is the treasurer required to make settlement so often? What is the object of limiting the treasurer to two consecutive terms? What results if a person neglects or refuses to pay his taxes?

### **Duties of County Superintendent of Schools.**

—The superintendent of schools has the general supervision of all schools in his county except in special and independent districts, and in those he has certain supervision. He must visit each school under his supervision and keep a record of each visit. He shall carry out all the instructions of the state superintendent, distribute to district officers and teachers all blanks needed by them, call meetings of teachers for discussion of school work, arrange for meetings of school officers whenever he may deem it necessary, decide questions in controversy in school matters, hold examination of teachers six times each year, apportion state tuition fund, appraise school land in the county, revoke certificates for cause, and make an itemized report of



the condition of the schools to the state superintendent before the fifteenth day of August in each year. He must hold a first grade county certificate or its equivalent, which is considered to be any state certificate or diploma of graduation from any university, college, or normal school of good standing. He shall not engage in teaching or any other business that will interfere with his duties as superintendent, if his salary exceeds twelve hundred dollars per year.

**Points for Development.**—What does the superintendent have to do with the independent districts? How often must he visit schools? What blanks are needed by teachers? What might be the object of a meeting of superintendent and school officers? Who are the appraising board of school land in each county? Why should the superintendent hold at least a first grade certificate? Is the last provision above any more necessary than in case of other county officers?

**Duties of Surveyor.**—The county surveyor must make, in a good and professional manner, any surveys of land in the county when called upon to do so by any owner of such land, or whenever directed by the district or county court, the county commissioners, or township supervisors. He shall also make surveys of public roads when so directed. He shall make a full record of the field notes and plats of every piece of land and road which he surveys, and the commissioners may order these notes filed in the office of the county auditor.

**Points for Development.**—Are there usually many persons in the county qualified for the office of surveyor? If possible, watch the surveyor sometime when he is at his work, and describe his instruments.



**Duties of Coroner.**—It is the coroner's duty to assemble a jury of three and hold an inquest over the body of any person who is supposed to have died by any unlawful means. He may secure his jury by warrants issued to a sheriff or constable, or when that is not convenient, he may select them from bystanders. He shall place the jury under oath and proceed to ascertain, if possible, the cause of the person's death. The verdict of the jury shall be returned in writing to the county. The coroner may order the arrest of the one supposed to be guilty of the alleged crime. He also orders the disposition of the body. In case there is no sheriff or deputy in a county, the coroner has all powers of sheriff, and also serves all papers on the sheriff.

**Points for Development.**—Of what profession is it convenient for the coroner to be? Can the coroner's jury convict of a crime or simply allege a crime?

**Duties of County Justices and Constables.**—The duties of county justices and constables differ but little from those of the township justices and constables. The justices may try certain cases and the constables act as peace officers. Their duties will be treated more fully in connection with the judiciary.

**Points for Development.**—Where are the offices of your county justices? What is the object of having so many constables in a county?

**Deputies and Clerks of County Officers.**—The county treasurer, auditor, sheriff, register of deeds, superintendent of schools, surveyor, and clerk of the district court may appoint deputies, and shall be responsible for their acts. The commissioners,



at their discretion, may authorize the employment of clerks in the offices of the auditor, treasurer, clerk of court in counties having less than fifteen thousand inhabitants, and register of deeds, and fix the salaries of the same. The county judge and clerk of the district court in counties having over fifteen thousand inhabitants shall have clerks whose salaries are fixed by law. In the larger counties there are usually one or more clerks in the principal offices, while in some of the smaller counties one clerk often does the work of several of the offices.

**Points for Development.**—Why should the officer be responsible for his deputy? Do the officers or their deputies and clerks usually do the greater part of the work of the office? Name the deputies of the principal officers of your county.

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## CHAPTER XXII.

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### SALARIES OF OFFICERS.

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**Salaries and Fees of County Officers.**—The county officers now for the most part receive regular fixed salaries, while formerly, under the territorial laws, they often received fees. Now all fees received by most of the officers must be turned over to the county treasury. Salaries of county officers are to be paid monthly on warrant of the county auditor.

**Points for Development.**—What is the difference between salary and fee? Mention some men in business who receive salaries. Some who receive fees.



**Salary of Commissioners.**—County commissioners are allowed three dollars a day each for the time necessarily employed in the discharge of their duties, and five cents a mile for the distance actually traveled by them.

**Points for Development.**—Why is not the salary of the commissioners on a sliding scale as you will find it to be in the case of most of the county officers? About how many days each month are your commissioners in session? How much then would your commissioner receive each year?

**Salary of Auditor.**—The salary of the auditor is regulated by the value of property in the county. He receives four mills on the dollar on the first hundred thousand dollars, one mill on the next three hundred thousand dollars, one-third of one mill on all in excess of said sums, not exceeding two million dollars, and one-fifth of one mill on all sums exceeding two million dollars; but his salary shall be limited to two thousand dollars. He also receives fees for certifying to deeds, which he must turn over to the treasury when his salary reaches two thousand dollars.

**Points for Development.**—What is the assessed valuation of your county? How much salary will this give your auditor? How much would be the salary of your auditor, if the valuation of your county should be doubled?

**Salary of Register of Deeds.**—The register of deeds receives one thousand dollars a year in counties where the assessed valuation does not exceed one million five hundred thousand dollars, for over that assessed valuation he receives two hundred dollars more, and for every increase of five hundred thousand dollars in the assessed valuation he



receives two hundred dollars more, until his salary reaches a limit of two thousand dollars. All fees received in his office are turned over to the county treasury, and his salary is paid out of them, and his salary can not exceed the amount of these fees.

**Points for Development.**—Is the work of the register likely to be quite extensive in a new county? Note that his salary in smaller counties is more than that of most of the other officers. Compute his salary in your county. What would his salary be if the valuation were doubled? What amount of fees did he turn over last year?

**Salary of Clerk of District Court.**—The salary of the clerk of district court is based on the population of the county. For the first three thousand inhabitants he receives four hundred dollars, and one hundred dollars for each additional one thousand inhabitants; but his salary shall not exceed two thousand dollars. The population is determined by taking as a basis the last census and adding thereto five per cent. of the population as then shown for each year having expired since, but not more than twenty per cent. in all shall be added. The deputy shall receive a salary equal to one-half the salary of the clerk.

**Points for Development.**—What was the population of your county in 1890? Has any census been taken since? What should your clerk of court now receive? What did he receive by law in 1892? Will he receive any more next year than he does this year? What amount of fees did he turn over to the treasurer last year?

**Salary of State's Attorney.**—In counties of less than thirteen thousand inhabitants the salary of the state's attorney shall remain as it has been fixed by the county commissioners. In counties of



over thirteen thousand and less than eighteen thousand it shall be twelve hundred dollars; over eighteen thousand and less than twenty thousand, fourteen hundred dollars; and over twenty thousand, two thousand dollars. The population is determined the same as in case of the clerk of the district court.

**Points for Development.**—What is the state's attorney's salary in your county? Suppose the population in 1890 was fourteen thousand, in what year would he receive twelve hundred dollars? Would he receive fourteen hundred dollars before 1900?

**Salary of Sheriff.**—The sheriff receives no fixed salary, but his compensation is in the nature of fees for every duty performed, such as serving warrants, summoning juries, selling advertised property, attending court, committing and boarding prisoners, distributing election supplies, etc. Besides these fees, which are too diverse for enumeration, he receives ten cents per mile for distance actually and necessarily traveled in the discharge of his duties.

**Points for Development.**—Can you give any reasons why sheriffs should receive fees rather than a salary? Secure if possible a list of fees which may be received by a sheriff and discuss the different items.

**Salary of County Judge.**—The salary of the county judge also depends upon the population of the county. For three thousand inhabitants or less he receives three hundred dollars; for the next three thousand, he receives an additional hundred dollars for each thousand; and for each additional thousand an additional fifty dollars, not to exceed



in all two thousand dollars. In addition to this he receives certain fees for acknowledging deeds, granting licenses, etc. In counties having a population of fifteen thousand there shall be paid to the county judge for clerk hire six hundred dollars per year, and for each additional thousand inhabitants an additional fifty dollars. Population will be determined as in case of clerk of court.

**Points for Development.**—What is the salary of the county judge in your county? What would be the least population that would entitle him to two thousand dollars a year? What would the clerk hire for county judge amount to in a county of fifty thousand inhabitants? How much is the fee for a marriage license?

**Salary of County Treasurer.**—The salary of the treasurer depends on the amount of money by him collected. He shall receive for the first ten thousand dollars, four and one-half cents on each dollar; for the next twenty thousand, three cents on each dollar; for the next thirty thousand, two cents on each dollar; and for all sums over sixty thousand, one cent on each dollar; but where the valuation of the county does not exceed two million dollars, he shall not receive more than twelve hundred dollars; and the limits are as follows: Less than four million, fifteen hundred; less than six million, two thousand; less than nine million, twenty-five hundred; less than twelve million, three thousand; more than twelve million, thirty-five hundred.

**Points for Development.**—What is the tax levy of your county this year? What per cent of the levy is usually collected by the treasurer? How much does your treasurer receive? Is his salary limited by the second provision? If



there were no limit, how much would he receive on a collection of one hundred thousand dollars? Why is the limit to the treasurer's salary higher than that of any other county office?

**Salary of Superintendent of Schools.**—The salary of the superintendent of schools depends upon the number of schools in the county. In each county having not over five schools he shall receive one hundred dollars; from six to ten schools, two hundred dollars; from ten to fifteen, three hundred dollars, and so on by additions of one hundred dollars for every five schools until forty schools are reached, then one hundred dollars for every ten additional schools, with a limit of fifteen hundred dollars. He is also paid seven cents a mile for distance actually and necessarily traveled in the discharge of his duties. He may appoint a deputy to perform his duties while out of the county, and in counties having more than eighty schools, the commissioners may allow one hundred dollars a year for clerical assistance.

**Points for Development.**—How many schools in your county? How much salary would this entitle your superintendent to? What would be the number of schools when the limit is reached? Is anything allowed in your county for clerical assistance in the superintendent's office?

**Salary of Surveyor.**—The county surveyor shall receive three dollars per day for time actually employed and ten cents a mile for distance traveled, also fees for certain additional work.

**Points for Development.**—Is the surveyor employed more in a new or an old county? Is his work skilled labor or ordinary labor?



**Salary of Coroner, Justices, and Constables.**—The coroner, justices, and constables receive fees, which vary with the kind and amount of work done.

**Points for Development.**—Secure a list of fees and discuss them. Why is it better for these to have fees than salaries?

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## CHAPTER XXIII.

### DEBTS, POOR, BOARDS.

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**Bonded Indebtedness of County.**—Bonds may be issued by a county for two purposes: For paying outstanding indebtedness, and for the erection of county buildings. In the former case the commissioners have the power to order the issue of the bonds, but in the latter case the question must be submitted to the electors of the county. In no case can bonds be issued for more than five per cent of the assessed valuation, nor for a longer period than twenty years.

**Points for Development.**<sup>1</sup>—Give reasons for commissioners authorizing the issue of bonds in one case and the people in the other case. What county buildings may be needed? Why is a debt limit usually fixed by law? Is your county bonded? By which method was it bonded? When will the bonds become due? Are they likely to be paid when due, or will they be refunded?

**Support of the Poor.**—Each county must support all the poor and needy persons who are legal residents therein. For this purpose the county commissioners are designated overseers of the poor and



have entire oversight of the same. They allow, at their discretion, whatever may be necessary for the relief of those who seem unable to provide for themselves. In many large counties it is found that the poor can be better and more economically cared for at an asylum erected by the county for that purpose. In any county, by vote of the people, a tract of land may be purchased and suitable buildings may be erected thereon for the accommodation of the poor. All persons who have become permanent paupers are removed to this asylum. The commissioners appoint a superintendent of the same, who will take measures for the employment and support of all placed under his charge. The commissioners also appoint a qualified physician to attend the county asylum.

**Points for Development.**—Why is it better for the county rather than the township to care for the poor? Who are legal residents? How could any one not a legal resident receive aid? What is the annual cost for the poor of your county? Is there an asylum for the poor in your county? If so, are any paupers being supported outside of the asylum? If so, why? Who is county physician in your county? Are there many paupers in North Dakota compared with other states? What are the chief causes of pauperism?

**County Boards.**—Besides the board of overseers of the poor there are several other county boards, the most important of which are: The board of equalization, board of health, and board of commissioners of insanity.

**Points for Development.**—Can you name any other county boards? Notice that in the appointment of boards and in certain other things the commissioners have powers in the county similar to those of the governor in the state. See state boards.



**Board of Equalization.**—The board of county commissioners constitute the board of equalization, and it is their duty at their regular meeting in July of each year to inspect the assessment roll as reported by the assessors and to increase or diminish assessments in various parts of the county, so as to make, in their judgment, an equitable valuation throughout, and thus render taxation uniform. It is their duty also to add to the roll any property that has for any reason been omitted. Any person may apply to the board for correction of errors or reduction of assessment and upon satisfactory evidence, such application will be granted.

**Points for Development.**—Are all sections of the same county equally valuable? Compare the assessed valuation of land in your township with that in other townships. What is the assessed valuation of horses, cows, etc.? Should the assessment on them be the same all over the county?

**Board of Health.**—The county board of health consists of the state's attorney and two other members appointed by the commissioners, one of whom shall be a practicing physician. The state's attorney is the president of the board, the physician is the superintendent of public health, and the other member is vice president. This board is under the supervision of the state board of health, and it is its duty to take measures to prevent the spread of contagious or infectious diseases, and in general to look after the enforcement of health regulations throughout the county.



**Points for Development.**—What is the need of having a county board of health in addition to township or city boards and also a state board? Has the county board of health authority to close all the schools of the county? If so, under what conditions?

**Commissioners of Insanity.**—This board consists of the county judge and two other members appointed by the commissioners, one of whom shall be a practicing physician and the other a practicing attorney. Any person in the county thought to be insane is brought before this board, and, if upon examination the board is satisfied that the person is insane, it is their duty to consign him to the hospital for the insane.

**Points for Development.**—Why is an attorney needed on the board of commissioners of insanity? Why should there be great caution and skill exercised in examining patients for insanity before committing them to the hospital? Who usually takes charge of the patient after he has been adjudged insane by the board?



## SECTION VI.

### THE JUDICIARY.

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#### CHAPTER XXIV.

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##### CLASSIFICATION, DEFINITIONS.

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**How Classified.**—The judiciary of the state can not be classified in any of its branches as belonging exclusively to any political division. The legislative and executive departments of the township, county, state, etc., have well-defined limits, while the judicial departments of the same intermingle and overlap so much that they must necessarily be treated together. In the preceding pages the judiciary of the township, village, city, and county has been discussed to some extent. The next in order is the judiciary of the district, and lastly that of the state as a whole, or the supreme court. Of all these the judiciary of the district, or district court as it is usually called, is by far the most important to the citizens in general. As the judicial district is usually composed of several counties, this seems to be the logical position for the treatment of it, and incidentally of the whole subject.



**Points for Development.**—Review to some extent the judiciary of the preceding pages. What is the general function of the judicial department of a government? What are district courts called in some other states? What is capital punishment? Give some reasons for and against its use. Get as many court blanks as possible and use them in the development of each subject.

**Definitions.**—Before proceeding to the discussion of the various courts, there are a few terms common in law that need to be understood. A criminal action is one brought against a person for committing some crime or public offense, such as would endanger the life, health, property, or reputation of others. A civil action is one brought against a person for some private offense, and deals almost wholly with the non-fulfillment of contracts. Crimes are of two classes, felonies and misdemeanors. A felony is a crime punishable by death or imprisonment in the penitentiary. A misdemeanor is any other crime. Issues at stake in a trial may be of two kinds, issue of law and issue of fact. In the issue of law the parties agree as to the facts in the case, but not on the law governing those facts. In the issue of fact the parties do not agree as to the facts in the case. Plaintiff is the person or party who makes complaint or brings action. Defendant is the person or party who defends against the action. Habeas corpus, the most noted term in law, is a writ issued by some judge ordering that any person detaining another against his will, shall at once show reason for the detention or grant him his freedom. Mandamus is a writ commanding a certain thing to be done. Injunction is usually about the



opposite of mandamus, commanding that a certain thing shall not be done. Appellate jurisdiction is jurisdiction over cases appealed from lower courts.

**Points for Development.**—Name some crimes. Name some civil offenses. Name two felonies. Two misdemeanors. Illustrate the distinction between a point of law and point of fact. Illustrate the justness of habeas corpus.

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## CHAPTER XXV.

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### JUSTICES' AND COUNTY COURTS.

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**Justices' Courts.**—There are four classes of justices,—township, village, city, and county, but they have what is called concurrent jurisdiction; that is, their jurisdiction under certain circumstances extends to any part of the county. They have jurisdiction in a civil action to recover money, to recover personal property, to foreclose or enforce a lien upon chattels or trespassing animals, to detain real estate for rents, etc., when the amount in controversy does not exceed two hundred dollars; but in no case do they have jurisdiction when boundaries or titles of real estate are in question. In criminal jurisdiction they have the power to prevent the commission of public offenses, to institute searches and seizures, to require the arrest of persons charged with crime, to require and accept bail, etc., also to try criminal cases in which the offense charged is punishable by fine not exceeding one hundred dollars or by impris-



onment in the county jail for not more than thirty days. City police magistrates have the same jurisdiction as justices.

**Points for Development.**—What is a lien? What are chattels? What is trespass? Has a person a right to injure trespassing animals? Can you give any reasons why boundaries or titles of real estate should not be settled in justices' courts? What are the advantages of having justices' courts? Could a case of felony be tried in a justice's court? Why? Have city police magistrates any other jurisdiction than that of justices?

**Procedure in Justices' Courts.**—A civil action in a justice's court is begun by the issuance of a summons by the justice. This summons is issued in the name of "The State of North Dakota," and is addressed to the defendant, summoning him to appear at a certain time and place to answer to a certain charge, which must be plainly stated. The summons may be served by sheriff, constable, or any other person not a party in the action, by delivering a copy of the summons to the defendant at least three days before the time set for the trial. If in the trial a point of law is at issue, the question is decided by the justice, but if a point of fact is at issue, a jury of six is called, who shall hear the testimony and decide the point. Such jury may be waived, if neither party demands it. In criminal cases the procedure is about the same. A jury of twelve men may be demanded by either party. An appeal from any decisions of the justice's court may be taken to the district court, or to the county court when it has increased jurisdiction.



**Points for Development.**—Make out a summons. Why should the justice decide points of law and juries points of fact? What is testimony? Why a larger jury in a criminal case than in a civil case? What is an appeal? Who can appeal? What may be the advantages and disadvantages of an appeal? Does a decision of a court of law always mean that justice has been done? What often prevents justice?

**County Court.**—The county court as a court of probate has already been considered, and as such the office of judge is very similar to that of other county offices, being executive to quite an extent. But in counties having two thousand or more inhabitants the jurisdiction of the county court may be increased by a majority vote of the electors. It then has concurrent jurisdiction in the county with the district court when the amount at issue in any civil case is not over one thousand dollars, and in criminal cases where the alleged crime is below felony. The county judge must then be an attorney by profession. In counties of less than eighteen thousand inhabitants the clerk of the district court acts as clerk of the county court, but in counties of larger population the judge has the power to appoint his own clerk. An appeal from the county court may be taken to the district court or supreme court.

**Points for Development**—Has the county court increased jurisdiction in your county? What would be the advantages of increase of jurisdiction? Disadvantages? Could a case of forgery be tried in a county court of increased jurisdiction? Does such a county court have concurrent jurisdiction with justices' courts or district court, or with both?



## CHAPTER XXVI.

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### DISTRICT COURTS.

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**District Courts Described.** — There are seven district courts in the state, and therefore seven judicial districts. The first includes Grand Forks and Nelson counties; the second, Ramsey, Towner, Rolette, Benson, Pierce, Bottineau, McHenry, Ward, and Williams; the third, Cass, Steele, and Traill; the fourth, Richland, Ransom, Sargent, Dickey, and McIntosh; the fifth, Stutsman, Barnes, La Moure, Griggs, Foster, Eddy, Wells, and Logan; the sixth, Burleigh, Emmons, Kidder, McLean, Morton, Oliver, Mercer, Stark, Billings, and the unorganized counties; the seventh, Pembina, Walsh, and Cavalier. The district courts have original jurisdiction in all cases within their own districts, except cases in probate and questions affecting the sovereign rights of the state. It has appellate jurisdiction in cases from any inferior courts, and appeals may be taken from it to the supreme court. Court must be held at least twice a year in each subdivision of the district. In sparsely settled districts two or more counties are sometimes united into one judicial subdivision.

**Points for Development.** — In which district do you live? What is original jurisdiction? Is there more than one county in your judicial subdivision? Where does the court convene in your county? What are the dates of the terms in your county? Attend district court for a day or two if possible.



**Judges of District Courts.**—Judges of the district courts are elected by the voters of their respective districts in presidential years and for terms of four years. No one is eligible to the office of district judge unless he is learned in the law, is at least twenty-five years old, is a citizen, and has resided within the state at least two years next preceding his election, and is an elector within his own judicial district. The salary of the district judges is thirty-five hundred dollars a year.

**Points for Development.**—Who is your judge? Name the judges of the other districts. Discuss each qualification of the judge. What other qualifications ought he to have? Why is so large a salary paid the judge? Would it be better for judges to be elected for a longer time? Why?

**Procedure in District Courts.**—The district court is considered to be always open to what are called court cases, that is, cases where points of law are in question and are to be decided by the judge. All cases in which there are questions as to the facts must be tried in regular term time in the county in which the action is brought, unless the parties in the case agree to waive a jury. Actions are begun in the same manner as in justices' courts, by a summons being served on the person against whom suit is brought. If the person cannot conveniently be found, a copy of the summons may be left at his usual place of residence in the presence of one or more members of his family over fourteen years of age. Summons may also be made by publication and by mail. If the defendant appear voluntarily for the defense, the service of the summons is unnecessary.



**Points for Development.**—What are judges' chambers? Has the judge of your district fixed chambers? Why can not questions of fact be tried at any time the same as questions of law? If you hold a note against a person for one hundred dollars and he refuses to pay it, would you bring action in a justice's court or in the district court? Why? Could you bring it in either? How would it be if the note was for five hundred dollars?

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## CHAPTER XXVII.

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### JURIES AND WITNESSES.

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**Trial by Jury.**—When there is a question of fact in a civil action, or when the case is a criminal action, and the jury is not waived, the judge shall order the clerk of court to call a jury. When the requisite number of jurors has been selected and impaneled, the trial begins. The first is the reading of the complaint by the counsel, who is a lawyer who has charge of the plaintiff's case. The complaint must state in a clear manner the facts that are expected to be proved. Evidence for the plaintiff is then introduced and his witnesses are examined and cross-examined. The counsel for the defense next makes his answer to the complaint and then introduces his evidence. The plaintiff may again offer evidence in rebuttal of that brought in by the defense, and the defendant may also bring in evidence to refute the evidence of rebuttal. The counsel for the defendant sums up his evidence in his



argument to the jury, and then the counsel for the plaintiff does the same. The judge instructs the jury on points of law in the case. The jury then retire to a room by themselves, and if they all agree to the same verdict, they return to the court room and render such verdict. If they do not agree, they are dismissed and the case is tried before another jury at some future time.

**Points for Development.**—Organize a court with its proper officers and conduct a trial by jury. Who cross-examines witnesses? Is evidence admitted except to prove or disprove the allegations made in the complaint? What should be the nature of the judge's charge? Does a jury need to understand much about law? Why?

**Juries.**—A jury is a body of men authorized by law to listen to evidence in courts of justice and to render verdicts on questions of fact. There are two general classes, grand and petit. Both classes are summoned by order of the judge or justice of the court in which they are to serve. Any male elector is considered competent to serve on a jury in his own county, but there are some exemptions: such as judges and clerks of court, sheriff, coroner, attorneys, jailers, clergymen, county commissioners, register of deeds, physicians, postmasters and carriers of mail, members of fire companies, persons over sixty years of age, or of bodily disability, or unsound mind, or having been convicted of some crime.

**Points for Development.**—Enumerate the persons in your vicinity who would be exempt from jury duty. Would a jury composed of one class of citizens be desirable? Why? Give reasons for each exemption mentioned above. Is a jury of ancient or modern origin?



**Juries; How Summoned.**—Each county shall keep a list of the names of two hundred competent persons, justly apportioned to the various parts of the county, from which jurors may be drawn from time to time as needed in the district court. When the judge has issued an order for a certain number of jurors, the county board to select jurors, consisting of the clerk of court, auditor, treasurer, and sheriff, shall meet and draw from the list of two hundred as many as ordered. At the close of the term of court, the list shall again be filled to two hundred, from others than those who were last drawn, and this rotation shall go on until all in various parts of the county competent to serve have been placed on the list. Every juror summoned is obliged to appear at court on the day specified and must serve as juror unless excused. If he fails to appear, he may be fined not less than five or more than fifty dollars.

**Points for Development.**—How many jurors out of the two hundred is your township entitled to? How are they selected in your township? Why should there be rotation in the jury list? What would be a reasonable excuse for an absent juror? How are juries summoned for justices' courts? Should persons not able to understand the English language well be placed on the jury list? What reasons might a person have for not desiring to be a juror?

**Grand Jury.**—A grand jury is a body of not less than sixteen nor more than twenty-three men summoned by the judge, whose duty it is to inquire into all crimes or public offenses within the county. They do not convict of crime, but make indictments for offense, and then the indicted person is tried



before the district court. In most states a grand jury is summoned to appear before the beginning of each term of the district court and all except a few minor offenses must come before them previous to coming before the district court. They hold their meetings in private, may summon and examine witnesses, and by a concurrence of at least twelve of their number, shall bring indictment for any offense. In North Dakota the grand jury is now almost wholly dispensed with. The judge summons such jury when he shall deem it necessary, when requested by the county commissioners to do so, or when petitioned to do so by at least twenty-five resident taxpayers. In place of indictments by a grand jury, informations are filed by the state's attorney, such informations usually based on some preliminary examination before an inferior magistrate.

**Points for Development.**—When did the last grand jury assemble in your county? What is an indictment? Is the examination before a grand jury usually so extensive as before a petit jury? What are the advantages and disadvantages of a grand jury? Why such a large number in a grand jury?

**Petit Jury.**—A petit jury in the district court consists of twelve men. A larger number is always summoned by the judge, as some of them are usually disqualified from serving on certain cases. When a jury case is called for trial, the clerk of court places the names of all the jurors in a box and then draws therefrom twelve names, who will constitute the jury unless excused. They are placed under oath and then examined as to their knowledge of the case and their prejudices in regard to it. Fre-



quently some are prejudiced and are excused. As soon as one is excused another name is drawn from the box. When the jury is finally complete they are again sworn to try the case impartially, and the trial proceeds. After listening to evidence, arguments, and charge, they retire and confer upon a verdict. They must be unanimous in their verdict, or the jury is said to disagree. Frequently juries are kept out for many hours, in an endeavor to compel an agreement. Sometimes as soon as one jury retires another is called from the remaining jurors, and another case is begun.

**Points for Development.**—How many petit jurors are usually summoned by the judge in your county? What should disqualify a juror from serving on any certain case? Who have the right to challenge a juror's right to serve on a case? What is the object of having the jury unanimous in their verdict? Should not a majority be sufficient to render a verdict? Is the jury system as it now exists in accordance with modern progress? What is the object of keeping jurors out after they have reported that they can not agree?

**Witnesses.**—Witnesses, when properly subpoenaed, must appear and testify in all criminal cases within their own county, but in civil cases they may demand fees in advance, and if the fees be not paid, they need not obey the subpoena. The testimony of witnesses is either their sworn statement in writing, called an affidavit or deposition, or their oral statement. In the former case the witness does not appear in court.

**Points for Development.**—What is a subpoena? When must witnesses go out of their own county? Who are not competent to be witnesses? When is a person not compelled  
*a writ commanding the attendance in court of the persons on whom it is served as a witness*

*has been altered.*

*and to*



to testify against himself? Why do witnesses often disagree in their testimony? What is false swearing of a witness called? How is it punished?

**Counsel for Accused.**—Every person is considered, in the eyes of the law, innocent until he is proved guilty. Therefore every one accused of crime is given an opportunity to defend himself. If he testifies that he is unable to obtain counsel, the judge assigns some attorney to be his counsel and to do the best he can in the defense of the accused.

**Points for Development.**—In some countries an accused person is deemed guilty, and must prove his innocence. Which is better? Why? Who pays for the defense of person who is not able to pay?

**Fees of Jurors and Witnesses.**—Jurors in district court receive two dollars per day, and in justice's court or coroner's inquest, one dollar per day, and in either case five cents per mile for distance traveled. Witnesses before any court or tribunal receive one dollar per day and ten cents per mile for distance traveled one way.

**Points for Development.**—Why is the fee of witnesses so small? How is the time computed?

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## CHAPTER XXVIII.

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### SUPREME COURT AND BOARDS OF CONCILIATION.

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**Supreme Court.**—The supreme court, as its name indicates, is the highest court of the state. From its decisions there is no appeal in state matters. The constitution provides that there shall be



three judges of the supreme court, and this number may be increased to five when the population of the state has reached 600,000. The judges are elected for terms of six years, one in each even numbered year, and by the electors at large at the time of general election. The judge whose term expires at the next biennial election is always the chief justice. No person is eligible to the office unless he is learned in the law, is at least thirty years of age and a citizen of the United States, and has resided in the state three years next preceding his election. The salary of the judges is four thousand dollars a year. Two general terms of the supreme court are held each year at the seat of government, on the first Tuesdays in April and October. They may hold special terms at the same place when public interests seem to demand it. The judges appoint a clerk and reporter of the supreme court to act during the pleasure of the court. Their salaries are fifteen hundred dollars and eight hundred dollars, respectively. The sheriffs of Burleigh, Cass, and Grand Forks counties act as marshals of the supreme court.

**Points for Development.**—Under what conditions might there be an appeal from the supreme court? To what would the appeal be taken? Who are the present judges? What are the judges of the supreme court often called? Would it be better for the judges to be appointed instead of elected? Would there be any reasons for making their terms for life instead of six years? Give reason for and against. Who is chief justice at present? Who will succeed him? What is the object of holding the supreme court at the seat of government?



**Jurisdiction of Supreme Court.**—The supreme court has original jurisdiction in cases where the state as a body corporate is in question, and has power to issue original writs of habeas corpus, mandamus, injunction, etc., necessary to the exercise of its jurisdiction. No jury trial is allowed in the supreme court. Its work is almost wholly confined to appellate jurisdiction. It does not decide upon questions of fact, but upon questions of law. It reviews all cases appealed to it from the district or county courts. It considers all evidence given in the lower court so far as it bears on the point appealed, but it can introduce no new evidence. If it finds that the case has been conducted in the lower court according to law and evidence, it upholds the decision of the lower court and the case is ended, otherwise it reverses the decision of the lower court. The concurrence of a majority of the judges is necessary to a judgment. The decisions of the court must be in writing, and are printed and distributed for the government of future cases.

**Points for Development.**—Why should the supreme court have original jurisdiction in cases where the sovereignty of the state is in question? Secure a supreme court report and look over some of the decisions. What is the difference between an opinion and a decision of the supreme court? Does the opinion of the court in regard to a law decide its constitutionality? When a decision has been made by the court, would a future case bearing upon the same points be considered by them? .

**Boards of Conciliation.**—In addition to the regular courts there is what is called a board of conciliation, which is a body intended to promote



the principle of arbitration. Each town, village, and city elects four commissioners of conciliation, whose term of office is two years. When any civil action is begun before a justice of the peace, the action may be brought before any two of these commissioners by the agreement of both interested parties. No attorney is allowed to act for either party. The commissioners hear the evidence and suggest an equitable method of settlement. If both parties agree to the settlement, they sign the agreement, and it is entered as a judgment of the court of the justice of peace before whom the action was begun. The law is excellent in theory, but has not yet been much used in the settlement of cases.

**Points for Development.**—What is arbitration? What would be the advantages of its application? Are there any noted instances of recent arbitration? Why has not the board of conciliation proved popular in the state? Have any cases come before it in your town? Why is no attorney allowed in these cases? What about the cost to both parties before the boards of conciliation as compared with the cost before the courts?

**Vacancies.**—Vacancies in the supreme and district judgeships are filled by the governor; in the lower courts, by the county commissioners. Such appointments will be in effect only until the next general election.

**Points for Development.**—Why not call a special election to fill such vacancies? Why not have the appointment continue until expiration of terms?



# SECTION VII.

## THE STATE.

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### CHAPTER XXIX.

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#### INTRODUCTORY.

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**Historical.**—North Dakota forms a part of that territory of Louisiana which was purchased from Napoleon in 1803. During its history it has had various names and has been attached to various territories for governmental purposes. It has been successively a part of Indian Territory, Missouri Territory, Michigan Territory, Wisconsin Territory, Iowa Territory, Minnesota Territory, except the western part, which was included in Mandan Territory and afterwards in Nebraska Territory, and finally, in 1861, was organized with the present state of South Dakota into Dakota Territory. The Territory was organized under President Buchanan, but the first territorial officers were appointed by President Lincoln.

**Points for Development.**—Draw map of the United States of 1803, outlining carefully the Louisiana Purchase. In this map place the present state of North Dakota. Give the latitude or longitude, as the case may be, of the northern, western, and southern boundaries of the state. How does North Dakota compare in size with other western states? For purposes of government are large states or small states better? Give reasons for each. From what was Dakota named?



**Early Government.**—Yankton was the first seat of government of the Territory and continued to be the capital until 1883, when it was changed to Bismarck. The first governor was William Jaynes. The Territory had ten governors in all, appointed by the various presidents from 1861 to 1889. Most of these governors were not residents of the Territory and had no particular interests here. The first session of the legislature was held in 1862 and the last in 1889. The last governor was Arthur C. Mellette, who held the office during the period of state-making in the two Dakotas and until the first governors of the two states were inaugurated.

**Points for Development.**—Can you give any reason for change of capital from Yankton to Bismarck? Can a territory be considered a truly republican form of government? Why were the governors usually selected from non-residents?

**Steps Toward Statehood.**—Soon after 1880 the population of the Territory began rapidly to increase. The desire for home government soon developed. Several efforts were made to secure statehood, but these were not successful until 1889. Although the population had increased to about 500,000, congress seemed unwilling to consider the question. There were dissensions at home, as to whether there should be one or two states made of the Territory. Educational and charitable institutions had been located in both parts of the Territory; there were population and property enough to support two states; and finally it was agreed to ask congress to divide Dakota Territory and admit as states North and South Dakota.



**Points for Development.**—In what respects is a state government more satisfactory to the people than a territorial government? How did the population of Dakota compare with that of most states when they were admitted? What political reason might there have been for congress not to desire to admit the Dakotas? What have been the chief advantages of the two states instead of the one?

**Statehood; How Obtained.**—A territory can be admitted to statehood only by act of congress. Congress can not be compelled to grant statehood, nor on the other hand can congress compel any territory to become a state. A territory may hold a constitutional convention, frame a constitution, submit it to the electors of the territory for approval, and then petition congress to be admitted as a state. Congress may then pass an enabling act which will admit the territory to statehood. Another method of gaining statehood is for congress first to pass an enabling act permitting the territory to hold a convention and frame a constitution. When such constitution has been approved by congress, or by the president when authorized by congress, the state is admitted by proclamation of the president. North Dakota was admitted by the latter method.

**Points for Development.**—Why should congress decide when a territory shall become a state? Should a territory with a very small population become a state? Why? What other states were admitted at the same time as North Dakota? What is the number of North Dakota as regards the order of admission? What states have been admitted without first having a territorial government?



**The Enabling Act.**—The enabling act for the admission of North Dakota, together with South Dakota, Montana, and Washington, was approved on Feb. 22, 1889. It prescribed the boundaries of the state, provided for a constitutional convention to be held at Bismarck commencing on the Fourth of July of the same year, and appointed a day of election of delegates to said convention. It also appointed the first Tuesday in October, 1889, as the day for the constitution to be submitted to the people for their approval or rejection. It provided that the constitution should be republican in form and should guarantee to every person civil and religious liberty; that certain lands shall be set aside for the exclusive use of the common schools, the state schools, and charitable institutions. It further provided that the constitutional convention might arrange for the first election of all state officers. These are some of the principal provisions of the act under which our state constitution was framed.

**Points for Development.**—Secure a constitution of the state and read the enabling act. Who was president when the enabling act was approved? Note the historical days in connection with our constitution. Why should a constitution be submitted to the people, and not be left with their delegates to ratify? What is meant by civil liberty? religious liberty? Who owned the public land before it became the property of the state? Is it owned now absolutely by the schools and institutions or held in trust by the state?



## CHAPTER XXX.

### THE CONSTITUTION.

**The Constitutional Convention.**—The election of delegates to the constitutional convention was held on the Tuesday after the second Monday of May, 1889, and these delegates, seventy-five in number, three being chosen from each of the twenty-five districts into which the state was divided, assembled at the capital on the fourth day of July following. The convention organized by electing F. B. Fancher, of Jamestown, as president, and J. G. Hamilton, of Grand Forks, as chief clerk. The convention did its work, prepared the constitution, section by section, and on August 17th, after having continued in session forty-five days, adjourned. On the day appointed the constitution was submitted to the vote of the electors and was approved by a vote of 27,441 to 8,107. President Harrison, finding that the constitution was in accordance with the provisions of the enabling act of congress, signed the proclamation making North Dakota a state on Nov. 2, 1889.

**Points for Development.**—Who were the delegates to the constitutional convention from your district? To what political parties did they belong? What constituted your district? Was any part of your county not in your district? If so, who were the delegates from it? Have the president and chief clerk of the convention been prominent in public affairs since? Secure a complete list of the members of the constitutional convention and note how many



of them have since been prominent in state affairs. Is it important to know something of the men who made our constitution? What was the vote of your county on the constitution? Why did your county approve or disapprove?

**First Election.**—The constitutional convention provided for the first election on the day of the vote on the constitution. At that election John Miller was elected as the first governor of North Dakota and H. C. Hansbrough as the first representative to congress. All other state officers, legislative, executive, and judicial, were also elected at the same time.

**Points for Development.**—Name the other state officer elected at the first election. How long did Hansbrough serve as representative? What was his public office after that? How long was John Miller governor? What was the date of his inauguration?

**The Constitution.**—The constitution is the fundamental law of the state. It lays down broad principles of law which shall be the general guide to the officers and citizens of the commonwealth. It is divided into twenty departments called articles, each of which will receive attention as the discussion of the state continues. The preamble reads thus: "We, the people of North Dakota, grateful to Almighty God for the blessings of civil and religious liberty, do ordain and establish this constitution."

**Points for Development.**—What is meant by fundamental law? Compare the length of our state constitution with that of the nation. Should a constitution go into the details of legislation or leave that for the legislatures? Has our constitution legislated too much or too little? Commit the preamble. Compare it with the preamble of the United States constitution.



**Declaration of Rights.**—The first article of the constitution is called the declaration of rights. The first section declares that "All men are by nature equally free and independent and have certain inalienable rights, among which are those of enjoying and defending life and liberty; acquiring, possessing and protecting property and reputation; and pursuing and obtaining safety and happiness." It then enumerates fully the rights of the people, one towards another, the rights of the people due from the state, and the rights of the state due from the people. This declaration of rights, found in all republican constitutions, is one that is dearest to the hearts of the liberty-loving American people.

**Points for Development.**—Compare the quotation in the paragraph above with second section of the Declaration of Independence. Has any person rights which interfere with the rights of others? Name some rights and show how they do not interfere with the rights of others. What are some of the rights which a government may claim from its citizens? What is the doctrine of the anarchists in regard to these rights? What are the nihilists and socialists?

**State Government.**—The state, like most political divisions of a republican form, has three departments to its government, the legislative, or law making, the executive, or law executing, and the judicial, or law interpreting. In the state we find these three departments much more sharply defined and distinct than in the divisions already discussed.

**Points for Development.**—Why should not the three departments be combined? Give the order in which these three departments must act on any law and tell why. Which of these departments would be necessary in an absolute monarchy?



## CHAPTER XXXI.

### LEGISLATIVE DEPARTMENT.

#### **Importance of the Legislative Department.—**

The legislative department, or the legislature, as it is commonly called, is the law making body of the state. The legislature of a state has wider powers than can be found vested anywhere else in the nation. The executive of state or nation can only execute such laws as exist. Even congress can legislate only upon such matters as are specified in the national constitution, while the legislature may legislate upon any subjects not forbidden by the constitutions of the nation or state. This almost unlimited power makes the legislative department of a state a very important body.

**Points for Development.—**Why is it important that a state legislature should have broad powers? What are some of the things forbidden to state legislatures? Refer to the national constitution as to powers of states. What kind of men should be sent to the legislature?

**Powers of the Legislature.—**The legislature of our state is legally designated the Legislative Assembly of the State of North Dakota. It meets at the seat of government at noon on the first Tuesday after the first Monday of January in odd numbered years. Its sessions are biennial unless called together in special session, and no regular session shall last longer than sixty days, except in case of impeachment. It must pass such laws as are necessary to carry out the provisions of the constitution,



but it is prohibited from enacting class legislation or from making special laws where a general law can be made applicable. Any law made conflicting with these prohibitions would be null and void. The legislature has the power, and it is its duty, to enact laws for the transaction of business between man and man in the state, to regulate traffic, to arrange for justice through the courts, to provide for the maintenance of charitable and educational institutions, and to legislate on all matters pertaining to the welfare of the state.

**Points for Development.**—When did the first session of the state legislature convene? How long did it remain in session? What would be the advantages of more frequent sessions of the legislature? Of less frequent? What is the object of prohibiting class legislation? Who would determine a law to be null and void? Does legislation always tend to the welfare of the state? Why? What will usually prevent a legislature from enacting bad laws?

**Divisions of the Legislature.**—Every state of the Union, as well as the national government itself, has two bodies in its legislative department. The names of these two bodies, or houses as they are called, vary somewhat in the different states, but in North Dakota are designated as the senate and house of representatives. The senate is always a smaller body than the house of representatives, and is supposed to be more select. Before any bill can become a law of the state it must pass both houses; therefore two houses instead of one prevent hasty legislation. The legislators of the senate are called senators, and of the other house, representatives. The constitution provides that the senate shall be



composed of not less than thirty nor more than sixty members, and the house of representatives of not less than sixty nor more than one hundred forty members.

**Points for Development.**—What is the advantage of two houses of the legislature instead of one? If two houses are better than one, why should there not be three or more? Why should there be limits to the number of legislators? Near which limit is the number now fixed in this state? Would it be wise to increase the number at present? Why?

**Legislative Districts.**—The constitution provides that the state shall be divided into senatorial districts and numbered from one upward, and that one senator shall be elected from each district, and that the representatives are to be elected from these senatorial districts. It also provides that an enumeration of the population of the state shall be taken in 1895 and every tenth year thereafter, and that at the next session of the legislature after such enumeration, also after each federal enumeration, the legislature shall redistrict the state according to population. The constitution fixed the senatorial districts, which remained unchanged until 1897. By this division there were thirty-one senatorial districts. The number of representatives from each district varied from one to four, but the whole number was sixty-two.

**Points for Development.**—What is the number of the senatorial district in which you live? What territory does it include? Draw map of the district. If there are other districts in your county draw maps of them also. How many representatives does your district elect? How many



does your county? How many members of the senate at present? This would be one senator for about how much population in the state? Is your district fairly represented according to its population?

**Legislative Election.**—Senators and representatives are elected by the voters of their respective districts at the regular biennial elections, senators for four years and representatives for two years. Senators from the odd numbered districts are elected at one biennial election and those from the even numbered districts at the next.

**Points for Development.**—Who is the senator from your district? When elected? Who are the representatives? Who are the other senators and representatives of your county, if any? To what political party does each belong?

**The Senate.**—No person can be a senator unless he is a qualified elector in the district in which he is elected, is at least twenty-five years of age, and has been a resident of the state for two years next preceding his election. At the beginning and close of its session the senate elects from its own number a president pro tempore, who is to take the place of the lieutenant-governor in case of the latter's inability at any time to serve. It also elects, not from its own number, a secretary, assistant secretary, enrolling and engrossing clerk, bill clerk, stenographer, sergeant-at-arms, and several minor employes. The senate alone has the power to try all cases of impeachment. Appointments of the governor are made through the advice and consent of the senate. The senate is also sole judge of the qualification of its own members.



**Points for Development.**—Give reasons for each of the qualifications of a senator. What would be the duty of the president pro tempore usually? If the lieutenant-governor were absent? Who is the present president pro tempore? Would he become governor if both the governor and lieutenant-governor should be disqualified? Is impeachment an accusation or a conviction? In confirming appointments of the governor is the senate legislative or executive? In deciding between two claimants for a seat from the same district, would the senate be legislative, executive, or judicial?

**House of Representatives.**—No person can be a representative unless he has the same qualifications as are necessary for a senator, except that the age is twenty-one instead of twenty-five. At the beginning of the session the house elects one of its members as speaker, whose duty it is to preside during the session. It also elects about the same officers and employes as the senate, except that the principal clerk is called chief clerk instead of secretary. The house of representatives alone has the power to institute all proceedings of impeachment, and, like the senate, is sole judge of the qualifications of its own members.

**Points for Development.**—What reason for decreasing the age qualification for members of the house? Who was the last elected speaker of the house? What should be the special qualifications of the speaker? Get a full list of employes of the two houses and discuss each.

**Term of Office.**—The term of office of senators, representatives, president pro tempore elected at the close of the session of the senate, secretary of the senate, and chief clerk of the house, does not expire until their successors have qualified at the



beginning of the next session. The term of office of all other officers and employes of the legislature expires at the close of the session for which they were elected.

**Points for Development.**—If a special session of the legislature was called, would there be a special election of senators and representatives?

**Legislative Salaries and Fees.**—Senators and representatives receive five dollars per day during each session and a mileage of ten cents per mile. The president pro tempore of the senate and speaker of the house receive two dollars a day extra. The secretary of the senate and chief clerk of the house receive six dollars per day. The assistant secretary and clerk, enrolling and engrossing clerks, bill clerks, journal clerks, and clerks of the judiciary committees, receive five dollars per day. All other officers receive from two to four dollars per day.

**Points for Development.**—What would be the cost of salaries of members of the legislature for a regular session? How much mileage would your senator receive? About how much is the entire cost of a session of the legislature?

**Vacancies.**—Vacancies in either body of the legislature are filled by special election called by the governor.

**Points for Development.**—Why are not vacancies in the legislature filled by the governor as in most other offices?



## CHAPTER XXXII.

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### BILLS, LAWS, ETC.

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**Bills; How Introduced.**—A bill is a proposed law. Bills may be introduced in either house and by any member thereof. A bill is introduced by being read in full in open session. Each bill must be read three times. It may be read a second time on the day on which it was introduced, and then by title only, unless there be a demand that it be read at length. The third reading cannot be on the day of introduction. A bill is usually referred to a committee, who will report as to the advisability of its passage.

**Points for Development.**—Get some bills and study their forms. Why should a bill be read so many times? What is the advantage of referring a bill to a committee? Name some of the chief committees of a legislature.

**Passage of a Bill.**—Certain days are usually set for the consideration of certain bills. On the day set the bill is read again in full, it is debated if any one so desires, amendments may be proposed and adopted, or lost, and finally, a vote is taken. The vote is taken by yeas and nays, each member responding as his name is called, and his vote is recorded. A majority of all the members of the body, and not simply a majority of those voting, are necessary to the passage of a bill. When a bill has been passed it is sent to the other house, where it goes



through the same process as in the house where it originated. If it is amended it must be sent back to the house where it originated for approval or disapproval of the amendment. Sometimes conference committees are appointed in such cases to propose amendments that will be acceptable to both houses. When the bill has finally been agreed to by both houses and has received the signatures of the presiding officer of each it is ready to become a law.

**Points for Development.**—Form a legislative assembly of the class, have some one introduce a bill, refer it to a committee, debate it, and take a vote upon it. What is the object of recording how each man voted? What is the object of a majority of all members elected? Is it wise for so much time to be spent sometimes on a single bill? Why? What bills did the senator and representatives from your district introduce at the last session of the legislature? Which ones became laws?

**How a Bill Becomes a Law.**—After the passage of a bill by both houses it may become a law in one of three ways. It is sent to the governor, and, if he signs it, it becomes a law. If he does not sign it, he returns it, together with his objections, to the house whence it originated. This is called vetoing a bill. If both houses pass it again, and this time by a two-thirds majority, it becomes a law. If the governor does not sign it and does not return it to the legislature within three days, it becomes a law. However, in the latter case, if the legislature has adjourned within the three days, the governor can veto the bill by filing it, together with his objections, in the office of secretary of state within fifteen days after such adjournment.



**Points for Development.**—What is the use of the governor's vetoing power? Is the governor a better lawmaker than a majority of two houses chosen by the people? Why should a bill ever become a law in spite of the governor's veto? Did the governor veto any important bills of the last session? What were his reasons? What do you think of his reasons?

**Quorum.**—A quorum to transact business in either branch of the legislature consists of a majority of all members-elect. A smaller number may adjourn from day to day, and may take measures to compel the attendance of absent members.

**Points for Development.**—Is it likely that a mere quorum would be able to pass any bills? Should members without good reasons be absent from any sessions?

• **Special Power of the Legislature.**—The legislature has, besides the general power of making laws for the state, the special power of electing United States senators. This power of electing public officials is almost always vested in the people in a republic, but here is a noted exception. Inasmuch as senators are elected for six years, the legislature in two out of three of its sessions will be called upon to exercise this special power. The senator is elected by joint vote of the two houses and a majority vote of all members-elect is necessary to the election.

**Points for Development.**—Would it be better to have the United States senators elected by the people? Are there any noted instances of nearly all the interest of a legislative session being centered on the election of senator? Who was last elected senator in this state? Who is the other senator? When will their terms expire? To what political parties do they belong?



## CHAPTER XXXIII.

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### EXECUTIVE DEPARTMENT.

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**Officers of the Executive Department.**—The executive department of the state consists of the governor, who is the chief executive officer, and many other either elective or appointive officers, who assist him in the execution of the laws and in the administration of his office. All states have governors, but not all have the same list of secondary officers. The elective officers of North Dakota, besides the governor, are lieutenant-governor, secretary of state, auditor, treasurer, superintendent of public instruction, attorney general, commissioner of insurance, commissioner of agriculture and labor, and three commissioners of railroads.

**Points for Development.**—Name the state officers elected at the last general election. When did they take their office? What state offices have any of them filled before?

**Election of State Officers.**—The state officers are elected for a term of two years and by the electors at large. The election is held on the first Tuesday after the first Monday in November in even numbered years. A plurality, and not a majority of votes, is required for election.

**Points for Development.**—Give reasons for a shorter or a longer term for state officers. Why do not the new officers take their seats as soon as the result of the election is known? Are there any states that now require a majority for election of state officers?



**Powers and Duties of the Governor.**—The governor is the commander-in-chief of the military forces of the state, except when called into the service of the United States, and he may call them out to aid in the execution of the laws. He has supervision over the official conduct of the other state officers, and he must see that all offices are filled and the duties thereof performed. He is the official organ of communication between the government of his own state and that of any other state. He has the power to convene special sessions of the legislature, and at the opening of each regular or special session he shall, by message, inform the legislature of the condition of the state and recommend such legislation as he may deem wise. He has power to remit fines, forfeitures, etc., and may grant reprieves, commutations, and pardons, except in cases of treason or impeachment. He makes appointments to fill vacancies, usually with the consent of the senate. He may veto bills, and, in case of appropriation bills, may veto parts of them.

**Points for Development.**—Does the governor, when he has called the militia into the field, usually take command in person? Why? Note the almost unlimited powers given to the governor of the state. Why is this done? Has the governor of North Dakota ever convened a special session of the legislature? If so, for what purpose? Read the governor's last message. Reasons for and against the vesting of the pardoning power in the governor. In vetoing a bill is the governor exercising executive or legislative authority? Name the governors of North Dakota in order.

**Powers and Duties of Lieutenant-Governor.**—The lieutenant-governor is president of the senate, but he has no vote, except in case of a tie. As



president of the senate, he usually has the privilege of appointing all committees of that body, although each house makes its own rules of procedure. Should the governor die, be impeached, resign, fail to qualify, be absent from the state, be removed from office, or in any way be disabled so as to render it impossible for him to attend properly to the duties of the office, the lieutenant-governor shall act as governor until the disability is removed, and shall have all the powers which are delegated to the governor.

**Points for Development.**—Is the office of lieutenant-governor usually important? Is it likely to be? What then should be the qualifications of a lieutenant-governor? How much of the two years' term of the lieutenant-governor is usually given up to the duties of the office? Has any lieutenant-governor of the state ever assumed the duties of governor?

**Duties of Secretary of State.**—The secretary of state has the custody of the constitution and great seal of the state and of all official records and papers. He keeps a register of and attests the official acts of the governor and affixes the great seal to all public instruments to which the signature of the governor is required. He distributes public documents and has charge of supplies for state officers. He records official bonds of state officers, and is in reality the official clerk of the state government. If there is a vacancy in the office of governor, and the lieutenant-governor should in any way become disqualified to fill the office, the secretary of state shall perform the duties of governor.

**Points for Development.**—Why should the secretary of state be next in line to fill a vacancy in the governor's office after the lieutenant-governor? Is there any further provision for succession to the governor's office?



**Duties of Auditor.**—The auditor superintends the fiscal or financial affairs of the state. He audits all claims against the state and issues all warrants for payment of the same, and keeps an account between the state and state treasurer. He reports to the governor in November before the assembling of the legislature the expenditures of the past two years, together with an estimate of the expenditures for the next two years. He directs and superintends the collection of all moneys due the state, and transmits to county auditors such information as may be necessary to them in their relations with the state. He institutes proceedings against defaulters to the state. He keeps a separate account of the school fund, and must report four times a year to the superintendent of public instruction the amount of tuition fund.

**Points for Development.**—Compare the duties of the state auditor and county auditor. What is the purpose of the estimate of expenditures for every two succeeding years? What should be the special qualifications of the auditor?

**Duties of Treasurer.**—The state treasurer has the custody and care of the moneys of the state. He pays them out on warrant of the state auditor and in the order in which they are presented. He keeps a full account of all moneys received and disbursed, each fund being kept in a separate account, and on the last day of each month reports to the state auditor. He makes a semi-annual report to the governor, and in November before the assembling of the legislature makes a full report for the two years.



He turns over all redeemed warrants to the auditor and takes his receipt therefor. The treasurer can serve for only two consecutive terms.

**Points for Development.**—How much money did the state treasurer pay out during the last two years? Why does he report so often to the auditor and to the governor? Why should not the treasurer serve for more than two consecutive terms? After serving two terms can he ever hold the office again? What should be the special qualifications of a state treasurer? What state treasurers have served two consecutive terms?

**Duties of Superintendent of Public Instruction.**—The superintendent of public instruction has the general supervision of the schools of the state. He prepares and causes to be distributed all blanks needed by the schools and school officers of the state. He prepares questions for state and county examinations of teachers, and prescribes rules for conducting such examinations. He arranges for county institutes and advises with the county superintendents upon all matters pertaining to the welfare of the schools. He decides all appeals from decisions of county superintendents. He keeps a record of all his official acts and files all appeals and papers relating to the same in his office. He prepares and distributes courses of study for all public and normal schools, causes the school law to be printed and distributed once in two years, and in December preceding the assembling of the legislature shall have printed one thousand copies of his biennial report, which copies shall be distributed to state and school officers. He also has charge of the apportionment of the state tuition fund to the various counties.



**Points for Development.**—Who was the last territorial superintendent of public instruction? Name the superintendents since the organization of the state. Has any one held the office more than one term? Would it be well for the superintendent to hold the office for several successive terms? Why? Why are school laws distributed so often? Get a copy of the last biennial report and discuss various parts of it in the class for a few days. How often is the tuition fund apportioned? Is the superintendent's power to any extent legislative as well as executive? If so, in respect to what matters?

**Duties of Attorney General.**—The attorney general is the legal adviser of all state officers. He prosecutes all actions in behalf of the state and defends all actions against the state. He advises with state's attorneys in matters relating to their office, and may attend in any county the trial of any party accused of crime, and assist in the prosecution. He gives written opinions to the legislature when requested to do so. He keeps a record of all his official opinions. He makes a report to the governor in November of each year, in which he gives a detailed account of all his official acts, and calls attention to any defects in the operation of the laws, and suggests amendments.

**Points for Development.**—What should be the special qualifications of the attorney general? Can the attorney general decide the constitutionality of a law? On what points would the legislature be likely to ask his opinion?

**Duties of Commissioner of Insurance.**—The commissioner of insurance sees that the laws of the state respecting insurance companies are faithfully executed. He reports to the attorney general any



violation of law by such companies, keeps a full record of his official acts, makes in November of each year a detailed report to the governor, which report shall contain full information respecting the condition of insurance companies doing business in the state.

**Points for Development.**—Why is it necessary to have a strict supervision over insurance companies? What are the two general classes of insurance companies that would do business in North Dakota? Can any company that desires, come into the state and do business?

**Duties of Commissioner of Agriculture and Labor.**—It is the duty of the commissioner of agriculture and labor to look after the welfare of the agricultural and labor interests of the state. He shall encourage and promote immigration, distribute literature for the benefit of farming interests, investigate labor organizations, have charge of all exhibits of the products and resources of the state, and coöperate with any railroad company or with any persons with a view to securing such exhibits. He is state statistician, and as such he obtains from the officers of the counties of the state statistics showing indebtedness of all kinds, assessed valuation of property, acreage of grains, number of live stock, population, and other information pertaining to the development of the counties of the state. The commissioner tabulates these statistics, together with all statistics relating to labor in the state, and reports biennially to the legislature.

**Points for Development.**—Are the agricultural interests or the employed labor interests more important in this state? What can the commissioner do to aid labor inter-



ests? What is the law concerning child labor in shops and factories? What is a labor organization? Are they beneficial or injurious? Why? Secure comparative tables of indebtedness of this and other states. What special qualifications should the commissioner have? What are the latest statistics of your county in regard to agriculture, etc.?

**Duties of Commissioners of Railroads.**—It is the duty of the commissioners of railroads to see that the laws of the state in regard to railroads are enforced. For this purpose they are to visit every station in the state as often as practicable, and at least once a year visit each county in which there is a railroad station. Due notice of the visits are given the communities, and opportunity given at each station for complaints to be filed with the commissioners. Such complaints are investigated by the commissioners, and if they find the law has been violated by the railroad corporations, it is the duty of the commissioners to compel said corporations to make restitution. They bring suit either through the attorney-general or through any state's attorney in whose county the violation arose. Railroad managements must furnish convenient transportation for the commissioners in the performance of their duties. In November of each year they make a report to the governor, and also make biennial reports containing suggestions for amendment or revision of railroad laws.

**Points for Development.**—Have any complaints from your vicinity been recently filed with the commissioners? What abuses, if any, by the railroads in your vicinity need correcting? Are suits against railroads frequent? Why? Why are there three commissioners instead of one? Do



they have extensive duties to perform in their office? Do you know of any railroad law that you think ought to be revised? Give your reasons for it. Secure and study a copy of the commissioners' report.

**Qualifications of State Officers.**—No person is eligible to the office of governor or lieutenant-governor unless he is a citizen of the United States, a qualified elector in the state, has attained the age of thirty years, and has resided in the state five years next preceding his election. Other state officers must have the same qualifications, except that the age is twenty-five, and residence in the state is only long enough to make them qualified electors.

**Points for Development.**—Given reasons for each of the qualifications required in state officers. Why should governor and lieutenant-governor have the extra qualifications? Can you mention any other qualifications that state officers might well have? Compare the qualifications of the governor with those of president.

**Official Bonds.**—All state officers, except governor, are required to give official bonds binding themselves to the faithful discharge of the duties of their office and to render a true account of all moneys or property coming into their hands. The bonds must have at least two sureties, and that of state treasurer at least four. The bond of the treasurer is two hundred fifty thousand dollars; that of auditor, twenty thousand; secretary of state and railroad commissioners, ten thousand; all other state officers, five thousand. Members of the legislature and judges of the supreme and district courts are exempt from official bond.



**Points for Development.**—Can you give any reasons why the governor should not be required to give bonds? Why is the bond of the treasurer so much larger than that of any other officer? Why should not members of the legislature and judges give bonds?

**Salaries of State Officers.**—The salary of the governor is three thousand dollars a year; of the lieutenant-governor, one thousand; all other state officers receive two thousand dollars each per year.

**Points for Development.**—Compare the salaries of our state officers with those of other states. Do you think any of the salaries are too small or too large?

**Vacancies.**—All vacancies in state offices are filled by appointment by the governor, and such appointment shall hold until the next general election.

**Points for Development.**—Why would it not be better to have a special state election to fill vacancies in state offices? Why should the power be vested in the governor?

**Deputies.**—The state auditor, treasurer, superintendent of public instruction, and secretary of state may each appoint a deputy, but shall be responsible for the acts of such deputy. The attorney general may appoint an assistant, who has the same power and authority as the attorney general.

**Points for Development.**—What is the difference between a deputy and a clerk? Who is the deputy superintendent of public instruction?

**Clerks.**—Provision has been made by the legislature for clerk hire in varying amounts for the different state offices. Clerical appointments are made by the several officers, but must be approved by the governor.

**Points for Development.**—Do the officers or the state pay the salaries of the deputies and clerks? Note again the authority of the governor in clerical appointments. Why is it so extensive?



## CHAPTER XXXIV.

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### APPOINTIVE OFFICERS.

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**Other Officers, Boards, Etc.**—Besides the regular elective officers of the state, there are many others who are appointed, or, by virtue of their office, are members of certain boards. Following is an outline of these offices and the duties of the officers.

**Points for Development.**—Why should not all officers be elected by the people? What is a board of officers?

**State Examiner.**—The state examiner is appointed by the governor and holds his office for two years. He must be a skilled accountant, and it is his duty to examine at least once a year the books and accounts of the secretary of state, state treasurer, auditor, clerk of the supreme court, commissioner of insurance, county auditors, treasurers, and other county officers, upon request of the county commissioners. He shall also supervise the accounts of all the public institutions of the state and all private institutions with which the state has any dealing. He shall secure, so far as possible, a uniform system of bookkeeping by state and county treasurers and auditors. In addition to these duties he shall visit once in each year, without previous notice, each of the banks, loan and trust companies, etc., of the



state, examine their affairs, and report their financial condition to the governor. His salary is two thousand dollars a year.

**Points for Development.**—Why should the books of the state officers be examined? Are banks usually state institutions? Why should they be under the supervision of the state examiner? If the state examiner is honest and efficient, is there much opportunity for loss to the people in the institutions of the state? Who is the present state examiner?

**Oil Inspector.**—The oil inspector is appointed by the governor for a term of two years. It is his duty to inspect all oils brought into the state for illuminating purposes and to condemn that which is found to be unsafe to use. It is a misdemeanor for any person to offer for sale oil which has not been inspected. The inspector may appoint deputies to aid him, and the remuneration is in the form of fees varying from forty cents per barrel downward, according to the number of barrels inspected at one time.

**Points for Development.**—In what respects is the oil inspectorship an important position? Can you get statistics as to the number of barrels of illuminating oil coming into the state each year? Who pays for the inspection? Who is now inspector?

**Commissioner of University and School Lands.**—The commissioner is appointed for a term of two years by the board of university and school lands, and is their official agent. All his official acts must be approved by the board. He has the custody of all books, maps, etc., pertaining to the public lands



of the state, and keeps a true record of sales, leases, etc. He selects lists of land for sale and certifies to county auditors what lists have been approved. He, or his deputy, attends all sales and leases in the various counties. He reports biennially to the legislature. His salary is two thousand dollars a year.

**Points for Development.**—Who is now land commissioner? Most of the work now done by this commissioner was formerly done by the superintendent of public instruction. Why was the change made? Should the commissioner have different qualifications from the superintendent? Why should his acts be approved by the board?

**Superintendent of Irrigation and Forestry.**—The superintendent of irrigation and forestry is appointed by the governor for a term of two years. His duty is to superintend and encourage irrigation by artesian wells and otherwise in the arid portions of the state, and to promote tree culture everywhere in the state. He has also been made fish and game commissioner, with power to locate fish hatcheries and attend to the stocking of our lakes and rivers with fish, and to look after the preservation of the game of the state. His salary is one thousand dollars a year, with five hundred dollars allowed for traveling expenses.

**Points for Development**—Is irrigation practiced to any extent in the state? Discuss the advisability of state appropriation for irrigation. State some of the benefits to be derived from tree culture. What are the objects of increasing the fish in our lakes and rivers? Who is the present commissioner? Study a copy of his report.



**Game Warden.**—The game warden is appointed by the governor for a term of two years. It is his duty to aid in the enforcement of the game laws of the state. He appoints one or more deputies in each county. The warden and deputies have the power of constables, and it is their duty to report all violations of the game law to the state's attorney. The warden and deputies receive fees and fines. The fees are obtained from licenses issued by county auditors. No person can hunt without such license. A license costs fifty cents when secured by a resident and twenty-five dollars by a non-resident. The warden receives one-third of all these fees and the deputies two-thirds. A deputy also receives five dollars fine collected from each person convicted upon his testimony of violating the game law. Any person has the right to make complaint against another for illegal hunting.

**Points for Development.**—What is the object of having the game of the state protected? Who is the deputy in your county? Has the law been generally violated in your vicinity? In what months may prairie chickens, ducks, and geese be hunted? Can a township prevent hunting within its limits? Is it well to have so high a license for non-residents? Why should there not be hunting in the spring?

**State and District Veterinarians.**—The professor of veterinary science of the state agricultural college is the chief state veterinarian, and in each judicial district there is a district veterinarian appointed by the governor. It is the duty of these officers to investigate all cases of disease among domestic animals and to take such measures for the



suppression of the same as may seem necessary, as ordering quarantine, disinfecting, etc., or condemning for slaughter certain animals infected with diseases dangerous to man or beast.

**Points for Development.**—What is a veterinarian? Who is your district veterinarian? What is quarantine? What diseases of animals are especially dangerous? If animals are killed to prevent the spread of disease, who suffers the loss?

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## CHAPTER XXXV.

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### STATE BOARDS.

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**Board of Veterinary Medical Examiners.**—The state board of veterinary medical examiners consists of three members appointed by the governor. They shall be practicing veterinarians and hold diplomas from authorized veterinary schools. Persons commencing the practice of veterinary science in the state must be graduates of a veterinary school and pass such examination as the board may require. The fee for examination is ten dollars, which goes toward defraying the expenses of the board.

**Points for Development.**—What is the object of the veterinary board? Can persons who have practiced for a time before the law went into effect continue to practice without a diploma from a veterinary school? Why? Is a veterinarian responsible for injury he may do to an animal through lack of knowledge on his part?



**State Weather Bureau.**—The state weather bureau is for the purpose of collecting weather data and crop statistics and disseminating weather forecasts and storm and frost signals. The central station is at the capital, but it has volunteer stations in various parts of the state. It acts in conjunction with the United States weather bureau, and is under the charge of a director designated by the bureau at Washington. It issues weekly weather crop bulletins from April first to October fifteenth, and makes an annual report to the governor.

**Points for Development.**—How may storm and frost signals aid the people of the state? Is there a volunteer station near you? Write to the Weather Bureau at Bismarck for such papers as it may have to distribute. What is the object of crop bulletins? Learn the different weather signals.

**State Historical Commission.**—This commission consists of the governor, auditor, secretary of state, commissioner of agriculture, William H. Moorhead, and the president of the North Dakota Historical Society. Its duty is to collect and preserve records and relics of the early history and settlement of the state. It shall provide a room at the capitol for the safe keeping of collections.

**Points for Development.**—Why is William H. Moorhead named as a member of the historical commission? Who is the president of the state historical society? Why is it comparatively easy at present to collect records and relics of our early history? Where was the first settlement in the state?



**Board of Trustees of Public Property.**—This board consists of the governor, secretary of state, and auditor, who have charge of the capitol, executive mansion, and the park and public grounds, and at the opening of each legislative session they report to the assembly an estimate of the cost for the next two years for repairs, fuel, and all incidental expenses connected with the same.

**Points for Development.**—What is the executive mansion? Find from reports the cost of care of the public property for two years.

**Board of Agriculture.**—The state board of agriculture consists of one member from each judicial district of the state, and these are appointed by the governor for terms of two years. Under the direction of this board state fairs are to be held near Grand Forks on a tract of land set apart for that purpose. These fairs, or exhibits, are supposed to be held annually, at which may be exhibited not only agricultural products, but also the products of stock-breeding, horticultural, mining, mechanical, industrial, educational, and other pursuits of the state.

**Points for Development.**—Who is the member of the board of agriculture from your district? Has a state fair been held each year recently? What is the value of agricultural fairs? Outline a suitable educational exhibit for a state fair. Ought an agricultural fair in this state to be especially successful? Why?

**High School Board.**—This board consists of the governor, superintendent of public instruction, and president of the state university. Under the direction of this board public graded schools in any dis-



tricts of the state may become classed as state high schools, provided that they admit students from any part of the state, have regular and orderly courses of study, as prescribed by the board, and shall be deemed worthy of such classification after an examination by the board. The board shall cause each accredited school to be visited at least once a year, which visit may be by one or more members of the board, or by some competent person appointed by the board. Members of the board receive no compensation. In connection with the establishment of this board, it is hoped that aid towards the support of high schools will be obtained from the state.

**Points for Development.**—Have the high schools of the state yet been classified? What would be the advantages of high school classification and aid? What schools of your county would be likely at present to come under the classification? Read the full article and discuss its various provisions.

**Board of University and School Lands.**—This board consists of the governor, secretary of state, auditor, attorney general, and superintendent of public instruction, of which the governor is president, the secretary of state is vice president, and the superintendent of public instruction is secretary. They have full control of selecting, appraising, renting, selling, and managing the school and public lands of the state, and the investment of the permanent school fund. They have the power to appoint a commissioner of university and school lands, who shall be the official agent of said board. The board meets at the office of the commissioner on the last Thursday of each month. This is beyond question the



most important board in the state, as the future welfare of the schools of the state, and therefore the state itself, depends upon the wisdom and discretion of this board.

**Points for Development.**—What are the school lands of the state? How were they obtained? If the board by some misjudgment should invest and lose any of the permanent school fund, who would be the losers? Is any of the permanent school fund invested in bonds of your school district? Why is the board especially well constituted for its purpose?

**Board of Canvassers.**—The state board of canvassers consists of secretary of state, auditor, treasurer, attorney general, and superintendent of public instruction. Members who are candidates are disqualified, and the governor appoints other state officers to fill their places. Their duty is to meet on the second Tuesday of December in years of election to canvass the state returns.

**Points for Development.**—What is meant by canvass of returns? Does the state board canvass the returns of district judges? Why does it not meet sooner after election? From what source does it receive the returns to be canvassed?

**Board of Auditors.**—The secretary of state, auditor, and attorney general constitute the state board of auditors, whose duty it is to examine and audit the accounts of the state treasurer at least twice a year, and without previous notice to the treasurer. They shall also designate certain banks of the state wherein the state moneys shall be deposited, a selection of banks to be made after duly advertising and receiving proposals. Such proposals shall state se-



curity offered and rate of interest to be given, not less than three nor more than four per cent. When the money has been deposited the treasurer is exempt from any loss that may accrue to such funds while under control of the banks.

**Points for Development.**—Why are the treasurer's accounts so frequently and carefully inspected? Why does the board examine the treasurer's books without previous notice? Why is the state money kept in banks? How much does the interest on the state money amount to in a year?

**Board of Health.**—The state board of health consists of the attorney general, who is president, a vice president appointed by the governor, and a superintendent of public health, who is the secretary of the board, and is also appointed by the governor. The superintendent must be a legally licensed physician of the state. The board meets at least twice a year, and has the power to make and enforce rules and regulations to prevent the spread of any contagious, infectious, or malarial disease among persons or domestic animals, to establish quarantine, to kill affected animals, to cause the removal of substances that endanger health, to condemn impure food offered for sale, and to superintend the boards of health of cities, villages, townships, and counties. The county, and other minor boards of health, have about the same duties to perform as the state board. They have, in times of danger from diseases, almost absolute authority.

**Points for Development.**—Who is the superintendent of public health in the state? Why are people in general careless about the spread of diseases? What diseases are usually quarantined? Has the board authority to destroy private property for the public good?



**Board of Medical Examiners.**—The board of medical examiners is appointed by the governor for terms of three years, and consists of eight practicing physicians and one lawyer. Two of the board shall be homeopathic physicians. They hold meetings for examinations on the first Tuesdays of January, April, July, and October of each year. No person can practice medicine in the state until he has passed an examination before and been granted a license by this board, and any violation of this condition is a misdemeanor. The fee for examination is twenty dollars, which is used in defraying the expenses of the board. The board may revoke the license of any physician for dishonorable or immoral conduct, or for habitual drunkenness, or for violating the laws of practice. All licenses for practicing must be filed with the register of deeds of the county in which the holder of the license resides.

**Points for Development.**—Why should one member of the board of medical examiners be a lawyer? Why do not homeopathic physicians have an equal representation on the board? Give reasons in full for the necessity of a board of medical examiners? Why should not a drunkard be allowed to practice medicine? If a surgeon fails to set a broken bone properly, is he liable for damages? Why? If a wheelwright fails to mend a broken carriage properly, is he liable? Why? Why is a physician's license filed with the register of deeds?

**Board of Pharmacy.**—The board of pharmacy consists of three members appointed for terms of three years by the governor and upon the recommendation of the North Dakota Pharmaceutical Association. The board shall hold two or more meet-



ings each year for examination of applicants for certificates as pharmacists, or druggists, as more commonly termed. A person who is over eighteen years of age and has had two years of experience in assisting in the compounding of prescriptions, shall, upon passing a satisfactory examination, receive a certificate as registered assistant. If he is a graduate of a college of pharmacy, or has been engaged for four years in the preparation of physicians' prescriptions, he is, upon satisfactory examination, entitled to a certificate of registered pharmacist. Applicants for pharmacists' certificates pay five dollars, and for assistants' certificates, one dollar, said fees to be used in defraying expenses of the board.

**Points for Development.**—What is a pharmaceutical association? Why the necessity for a certificate to become a druggist? Why can not a person fill a physician's prescription without a license?

**Board of Dental Examiners.**—This board consists of five members appointed by the governor for terms of five years. They hold regular meetings at least twice a year. No person can practice dentistry in the state until he has a license from the board. No person shall be granted a license unless he has practiced for three years or studied dentistry under a regularly practicing dentist for the same time. A person holding a diploma from a reputable dental college may be granted a license without examination, at the discretion of the board. The fee for examination is ten dollars, with an additional fee of five dollars for a license, which fees are used in payment of expenses of the board.



**Points for Development.**—Why is the law in regard to practicing dentists not so rigid as in regard to practicing physicians? Is a dentist liable for damage, if he breaks a jaw while extracting a tooth? Why?

**Board of Equalization.**—This board consists of the governor, auditor, attorney general, commissioner of agriculture, and treasurer. They meet in August of each year and examine the various county assessments, reducing assessments which they think are too high and increasing those which they think are too low. They also decide upon the rate of state tax to be levied. They can not reduce the aggregate valuation of the property of the state as returned by the county auditors.

**Points for Development.**—Why is a state board of equalization necessary? On what would they base their judgment as to the valuation of land in the different counties? Has the board recently made any material change in the valuation of your county?

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## CHAPTER XXXVI.

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### PUBLIC INSTITUTIONS.

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**Location and Endowment.**—The public institutions of the state were located by the constitutional convention. They are scattered over the state, almost every part of the state being the location of a public institution. Not all of them have yet been opened, and it has been found difficult to support as they should be those that are opened. The ques-



tion often arises as to whether it would not have been better to have left the locating of the public institutions to the legislature. Many think that they would then have been located only as fast as they were needed or could be supported. On the other hand, many think it was better for the convention to settle these things and not leave them as a continuous source of strife for every legislature. It is claimed that the details of legislation will be better attended to when many of the greater questions are settled by the constitution. The enabling act grants 500,000 acres of land for the use of the various educational and charitable institutions. It designates the distribution of all but 170,000 acres of this, which amount the constitution has distributed. Following is a detailed account of the various public institutions.

**Points for Development.**—Learn what you can about the contention in the constitutional convention over the location of public institutions. Did your county get one of the institutions? If so, what is the particular reason why it should have been so located? Would it be better to concentrate the institutions? Why? Why were some of the institutions left without financial support from the state during the years of 1895 and 1896? From what source is this public land grant? How much of this 500,000 acres has been selected from your county? Has it all been selected yet? Who selects it?

**The Capital.**—The capital, or seat of government, is located at Bismarck, in Burleigh county. The enabling act sets apart 50,000 acres of land for public buildings for the same. The supervision of these buildings has been discussed in a preceding section.



**Points for Development.**—Is the capital located near the center of the state? Near the center of population? If you think it is not located in the right place, give reasons for its location at some other place. What has been the cost of the present capitol and grounds? Is the capitol complete as planned?

**State University and School of Mines.**—This institution is located at the city of Grand Forks, in Grand Forks county, and 80,000 acres of land are set apart to aid in its maintenance. Its further support is from state appropriation. The department of mines has not yet been opened, but a normal department has been added to the regular university course. The government of the university is vested in a board of trustees, consisting of five members appointed by the governor for terms of four years. The duty of this board is to see that the university accomplishes the object for which it was established, namely, the higher education of the young men and women of the state. They elect the president, professors, and teachers, fix the salaries of the same, prescribe courses of study and qualifications for admission, provide for the care of the buildings, etc. The university is free to students of both sexes who have been residents of the state for the year next preceding their admission.

**Points for Development.**—Is the state university properly located? Could any other institutions have been conveniently located with it? What ones? How much appropriation is needed each year for the support of the university? Is a school of mines now needed in this state? Why? Who is the president of the university? What is his salary?



**Agricultural College.**—The agricultural college is located at Fargo, in Cass county, and has a grant of 40,000 acres of land. The government is vested in a board of trustees consisting of seven members appointed by the governor. Their powers and duties are similar to those of the trustees of the university. The course of study must contain, besides subjects which give a general education, those branches which pertain to practical agriculture. Students of both sexes, residents of the state, are admitted free, and may labor a part of the time on the farm or about the buildings connected with the college, and receive compensation for such work. In connection with the college is a national experiment station. Therefore the support of the agricultural college is partially by national and partially by state appropriation.

**Points for Development.**—What other schools, if any, might well have been combined with the agricultural college? What is the purpose of this institution? Who is the present president? What would be the special training of the females who attended the college? What is the object and value of the experiment station? How much is the annual national appropriation for the college?

**Normal Schools.**—Normal schools are located at Valley City, in Barnes county, and at Mayville, in Traill county, the former with a grant of 50,000 acres, the latter with 30,000 acres. Each school has a board of management consisting of five members appointed by the governor for terms of four years. These two boards, together with the governor and superintendent of public instruction, con-



stitute the board of trustees for the normal schools. The board of trustees elect a principal and teachers for each school, and fix the salaries of the same; also prescribe a course of study, which course of study must be such as will tend to fit teachers for their work in the public schools. The boards of management recommend principals and teachers for their respective schools, have general management of their respective buildings, fix the salaries of employes who are not teachers, and perform such other duties as are not delegated to the board of trustees. Tuition is free to all students resident in the state, and the schools are supported by state appropriation and income from their land grants.

**Points for Development.**—Why did the normal schools receive different amounts of land? Are two normal schools now needed in the state? Why? Are the two schools well located? Why? Who are the present principals of the two schools? Get catalogues from the two schools and discuss the course of study. How much was the last appropriation for each of the schools?

**Deaf and Dumb Asylum.**—The asylum for the deaf and dumb is at the city of Devils Lake, in Ramsey county, and has a land grant of 40,000 acres. Its board of trustees consists of five members appointed by the governor for terms of four years. This board has powers the same as in other public schools of the state. The principal of the school must be skilled in the sign language and all the methods in use in educating the deaf, and he, as well as the matron, must reside at the institution. Every deaf child in the state between the ages of



seven and twenty-one shall be sent to the school for the deaf for at least eight months of each school year, and it is the duty of each county auditor each year to report to the principal of said school the names of all such deaf persons residing in his county. Tuition and board are free to pupils resident in the state, but clothing and transportation are to be paid for by parents or guardians, or, in case of indigency, by the county.

**Points for Development.**—Would the deaf and dumb asylum be classed as an educational or charitable institution? Is there any reason why "School for the Deaf" would be any better title for it? Why is it compulsory for the deaf to attend this school? Are there any deaf children from your county in the school?

**Reform School.**—The state reform school is located at Mandan, in Morton county, and has a land grant of 40,000 acres. Its board of trustees consists of five members, appointed by the governor for terms of four years. It is their duty to inspect the buildings and grounds, and to make general rules for the government of the same. The trustees appoint a superintendent and matron of the school, and the superintendent, with the approval of the board, appoints all other employes. Any person under the age of eighteen years who has been convicted in a district court of a crime or public offense other than murder, may, at the discretion of the judge, be committed to the reform school for the remainder of his minority; or any child against whom complaint is brought by parent or guardian, if the judge finds, upon investigation, that the com-



plaint is warranted, may be committed in the same manner. Children committed to the reform school are to receive regular instruction in common school branches. The trustees have the power to discharge any inmate after one year's detention as a reward for good conduct and diligence in study. The school at Mandan has not yet been opened, but all committed persons are for the present confined in the reform school at Plankinton, South Dakota.

**Points for Development.**—Is the reform school an educational, charitable, or penal institution? What is the object of sending minors to the reform school rather than to the penitentiary? Should those nearly eighteen years of age who are especially depraved be committed to the reform school? Why? What is the prospect for the opening of the school at Mandan? Who will determine it? What is the yearly cost to our state of the children now at Plankinton?

**Hospital for the Insane.**—The state hospital for the insane and institution for the feeble-minded is located at Jamestown, in Stutsman county, and the constitution has endowed it with 20,000 acres of the public land grant. The board of trustees is constituted as in previously mentioned institutions. The board has general care of the buildings, grounds, finances, and government of the institution. They appoint a superintendent, also assistant physicians, steward, and matron. The superintendent has the appointing of all other employes. No insane person of the state is admitted to the hospital except upon application from a county board of commissioners of insanity. All patients who are



residents of the state are entitled to board and treatment free of charge. The superintendent must be a physician of acknowledged skill and ability, and his salary is twenty-five hundred dollars a year.

**Points for Development.**—Under what class of institutions does the hospital for the insane come? Why are the feeble-minded confined under the same care as the insane? Refer to the official ballot of 1896, note the proposed amendment to the constitution, and give something of its history. How does the number of inmates of our asylum correspond with that of other states? How many in the asylum from your county? Who is the present superintendent? Study the report last issued.

**Soldiers' Home.**—The soldiers' home is located at Lisbon, in Ransom county, and is endowed by the constitution with 40,000 acres of land. The board of trustees consists of five members, appointed by the governor. The chairman of the board shall be the commander of the state G. A. R., unless he shall be considered incompetent, and shall be appointed for one year, and the other members shall be appointed for two, three, four, and five years, respectively. No person can be a member of such board unless he has served in the army or navy of the United States. The board has the power to appoint a commandant of the home at a salary not to exceed twelve hundred dollars per year, which commandant shall have been in the military or naval service of the United States. The commandant, with the consent of the trustees, appoints other employes. The home is free to all honorably discharged soldiers, sailors, and marines who have



served in the army or navy of the United States, and who are from any cause unable to provide suitably for themselves; the home is also open to the wives and widows of soldiers.

**Points for Development.**—Why should special provisions be made for indigent soldiers? Why are all the trustees members of the G. A. R.? How many persons are there now at the home? Give reasons why it might be expected that the nation rather than the state should provide for the soldiers. Are there national homes, and if so, where located?

**Blind Asylum.**—The blind asylum was located in Pembina county by the constitution, but at such place as the electors of that county might determine, and 30,000 acres of the public land grant were assigned to it. Bathgate was selected by the electors as the location. The trustees are determined as in the greater part of the state institutions. The board has power, as soon as the legislature sees fit to make appropriation for the same, to erect buildings, appoint superintendent, and other officers, and provide for the instruction and care of the blind.

**Points for Development.**—To what class of institutions does the blind asylum belong? Give a history of the locating of the asylum at Bathgate. Is it yet open? Give reasons for and against the opening of such an asylum in a new state.

**Industrial School.**—The industrial school and school of manual training is located at Ellendale, in Dickey county, and is endowed with 40,000 acres of land. The board of trustees consists of three members, appointed for terms of two years. Ellendale



must donate to the state a site of not less than forty acres, and a fund of twenty-five thousand dollars must have accumulated before steps can be taken to erect buildings for the school.

**Points for Development.**—What is the object of the industrial school? From what sources would a fund accumulate? Would it have been well to combine this school with some other school of the state?

**School of Forestry.**—The school of forestry is located by the constitution at such a place in one of the counties of McHenry, Ward, Bottineau, or Rolette, as the electors of those counties may determine. There is no land grant for the same, and the electors have thus far failed to decide upon the permanent location of the school.

**Points for Development.**—What would be the work of the school of forestry? How could it be made valuable to North Dakota? Give a history of what has been done toward locating it in one of the named counties.

**Scientific School.**—The scientific school, or, as the legislature has denominated it, the North Dakota Academy of Science, is located at Wahpeton, in Richland county, with a land grant of 40,000 acres. The board of trustees consists of five members, three of them appointed by the governor, the other two being the state treasurer and the superintendent of public instruction. Their powers are similar to those of other educational institutions of the state. No building has yet been erected and the school is not yet opened.

**Points for Development.**—Discuss the necessity for this school, also its location. Have any steps yet been taken toward opening the school?



**Penitentiary.**—The constitution fails to make any provision for the location of the state penitentiary, but the legislature has since confirmed its location at Bismarck, where it had been established during the territorial government. The board of trustees is constituted in the same way as in case of the reform school, and has similar duties. The chief officer at the penitentiary is warden, who is appointed by the trustees, and who in turn appoints all other officers, to be approved by the trustees. He receives a salary fixed by the trustees, but not to exceed two thousand dollars per year. The warden makes all rules and regulations for the government of the officers and inmates, also subject to the approval of the trustees. All persons convicted of crime in any county of the state and sentenced by the judge to be confined in the penitentiary are conveyed to the penitentiary by the sheriff of said county and placed in charge of the warden thereof. Inmates are usually kept at work about the buildings, on the farm, or in the shops, where various manufactures are carried on. For good behavior a prisoner may shorten the duration of his sentence. For the first month's good behavior, two days are deducted; for the second month's, four days; and for each month's thereafter, six days. When prisoners are discharged they are furnished with a decent suit of clothing and with transportation to the place where they received sentence.

**Points for Development.**—Should a penitentiary be an institution for punishing or for reforming? Is the penitentiary for punishing criminals or protecting the people? For what two objects are work shops established in con-



nection with penitentiaries? Discuss the question of allowing convict labor to compete with ordinary labor. Should convicts be let out on contract to work outside the penitentiary? Why? How many convicts at present at the penitentiary? Do most prisoners shorten the duration of their sentence? How does that rule affect a life convict? What would be the shortest possible term of imprisonment of a convict sentenced to ten years' confinement?

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## CHAPTER XXXVII.

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### ELECTIONS.

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**Elective Franchise.**—By the elective franchise is meant the right to vote upon questions pertaining to the political organizations known as nation, state, county, etc. Not all persons have this right, but those that do are called electors.

**Points for Development.**—How is the elective franchise considered by all liberty-loving people? Under what different political organizations are you living at present?

**Electors.**—Every male person of the age of twenty-one years or more, who has resided in the state one year, in the county six months, and in the precinct ninety days next preceding any election, is a qualified elector; but with this provision: He must be a citizen of the United States, or have declared his intention to become a citizen, one year and not more than six years prior to the date of voting; or is a civilized Indian, who has severed his tribal re-



lations at least two years before voting. In all school questions, women with the same qualifications as above, are electors, and are eligible to any school office.

**Points for Development.**—Why is the right to vote limited to males? To persons over twenty-one? Give reasons for the three conditions of residence. Why are not Indians in tribes allowed to vote? Why are women permitted to vote on school questions rather than other questions? Discuss the question of universal suffrage. Should there be a property qualification for voting? Why? Should there be an educational qualification? Why? Should there be other qualifications?

**Citizens.**—A citizen is a person born in the United States and who has not renounced his allegiance, or one who has become naturalized according to the laws of the United States. When a man becomes naturalized, his wife and also his children under age are naturalized. All persons not citizens are called aliens.

**Points for Development.**—What proportion of the electors of the state are natural born citizens? What two countries have furnished to North Dakota the largest number of naturalized citizens? Is the comparative number of natural born citizens larger in the towns or in the country of this state? How is it in the eastern states?

**Elections.**—All elections shall be by secret ballot, so that no man knows how another votes. The election of state officers is held in the various voting precincts in the townships, villages, and cities of the state. County elections are held at the same time, and sometimes also other elections. The



county commissioners divide the county into voting precincts, each precinct to contain not more than three hundred electors, making precincts, so far as possible, conform to townships, and in villages and cities to wards.

**Points for Development.**—Discuss fully the advantages of secret ballot. What besides state and county elections were held in your county at the last general election? Why should all the votes for the same officer be cast on the same day?

**Election Officers.**—The board of election in each precinct consists of an inspector and two judges. In organized townships the chairman of the board of supervisors is the inspector; in cities the senior alderman in each ward; in villages the president of the board of trustees; in unorganized townships the county commissioners appoint the inspector. Before the polls are opened the inspector shall appoint two judges, who are qualified electors in the precinct and who are members of different political parties and of the parties which cast the highest number of votes at the last general election. No near relative of a candidate can serve as a member of the board of election, nor can any one who has staked any wager on the result of the election. The board of election appoint two poll clerks, who must have the same qualifications as enumerated above for judges. The board have control of the ballots and ballot boxes and general oversight of the election, and it is their duty to challenge the vote of any that they believe not to be qualified electors. Each clerk keeps a separate list of the names of those voting.



**Points for Development.**—Why should the judges and clerks be from different political parties? Why are relatives excluded from the board? Is betting on election lawful? Explain what is meant by challenging a vote. Has any elector the right to challenge the vote of any person?

**Election Supplies.**—The election supplies consist of ballot boxes, ballots, official stamps, poll books, and printed instructions. These are prepared under the direction of the auditor of each county and delivered to the inspectors of the various precincts, usually by the sheriff, at the expense of the county. Ballots are delivered in sealed packages duly marked on the outside.

**Points for Development.**—Why is it just as well for each county to bear its own expense for election supplies as for the state as a whole to bear it? Can any one lawfully secure an official ballot before the day of election?

**The Ballot.**—The ballot shall be of white paper, and printed in black ink. At the head of the ballot is printed the name of every political party represented on the ballot. The names of the candidates are arranged in columns, those of the party casting the highest number of votes in the state for congressman at the last general election in the first column, of the party casting the second highest in the second column, etc., but no party can be represented that did not cast at least one-fifth of all the votes cast at the last election. Under the name of each candidate is a space left for a name to be written in, if any voter desires. At the left of each name and each space there is a circle. The pres-



idential electors head the list of candidates, if it is a presidential year, the state officers next, and under these the county officers, and municipal officers, if there be any.

**Points for Development.**—What party will be represented in the left hand column at the next election? What other parties can have representation? Study a copy of the ballot of the last election. Will any party which was not represented on the last ballot be represented on the next? What besides the names of the regular party nominees are found on the last ballot?

**Nominations for Office.**—Nominations for office are made by conventions of political parties. Nominations of state officers are usually made as follows: The state central committee of a political party decide upon a time and place of holding the state convention, and apportion to each county a certain number of delegates, corresponding to the number of votes cast for the party in such county at the last general election. The county central committees being duly notified, call a county convention at a certain place and date, and apportion to each election precinct in the county a number of delegates corresponding to previous party vote, and notify the party committee of each precinct. The precinct proceeds to elect its allotted number of delegates; these delegates assemble in county convention and elect the allotted number of delegates to the state convention, and these delegates in turn assemble and nominate the party candidates for state offices. County officers are nominated in a similar manner, by delegates sent by the various voting precincts of the county.



**Points for Development.**—Who are the chairmen of the state central committees? Of your county committees? How many delegates was your county entitled to at the state convention of each party before the last election? The votes of which officer are usually taken as the basis? Hold a state convention and nominate all state officers. Does it take a majority or plurality to nominate for office? Discuss the importance of the primary political meetings, or caucuses as they are called.

**Certificates of Nomination.**—Certificates of nomination are filed with the secretary of state, and must contain the name of each person nominated, his postoffice address, the office for which he is named, and must be signed by the presiding officer and secretary of the nominating convention. Certificates for county officers are filed with the county auditor. Certificates of nominations not by convention may also be filed, but such certificates must have the signatures of at least three hundred electors for any state office, and, in case of a county office, at least one-tenth as many signatures as votes cast in the county for congressman at the last election.

**Points for Development.**—Why so much care needed in certificates of nomination? Under what circumstances are certificates by petition justifiable? Why should not any one who desires it be permitted to have his name placed on the ticket? Some states require a fee for all names on the ticket. What are its advantages and disadvantages? How many signers must a petition have in your county to secure a place on the ticket?

**Notice of Election.**—Notice of election shall be published in the official paper of each county for four consecutive weeks next preceding election.

**Points for Development.**—Read the last election notice. What is the object of these notices?



**Conduct of Elections.**—At all elections held under the general election law the polls open at eight o'clock a. m. and close at five o'clock p. m. The judges inspect the ballot box, then lock it. The ballots are produced and the seal publicly broken. Each ballot, before being given to an elector, must be stamped on the back with the words, "official ballot," and must have the written initials of the member of the election board giving the ballot. The elector enters a booth or compartment alone and there places a cross in the circle before the name of each person for whom he desires to vote. He may write a name in a blank space and place a cross before it. If he spoils a ballot he may return it and receive another, not to exceed three in all. If he is not capable of marking his ballot, from inability to read or physical disability, two of the election officers of different political parties may assist him. When the ballot is marked, it must be folded so as to conceal its face and disclose the official stamp. It is handed to a judge, who deposits it in the ballot box. Separate boxes and ballots are supplied for women.

**Points for Development.**—Why is the seal of the ballots publicly broken? What is the object of stamping and marking the back of the ballot? If a cross be placed before two names of candidates for the same office, would either be counted? If a voter should sign his name to a ballot would any part of the ballot be counted? What would be on the ballots prepared for women? Study the marking of the ballot carefully; thousands of ballots are now marked wrong at every general election.

**Canvass of Returns.**—As soon as the polls are closed the election board proceed to canvass the vote. The poll books are inspected to see that they



agree, the ballots are counted, and if found to exceed the poll list, ballots shall be selected from them at random and destroyed. They shall then proceed to count the votes for each name, and continue without adjournment until all are counted. As soon as the vote is all canvassed they shall make a public announcement of the same. They make two written statements of the results, one of which, together with a poll book, they send sealed to the county auditor; the other, together with the other poll book and ballots locked in the box, is delivered to the clerk of the township, village, or city. The key to the box is also sent to the auditor. The county commissioners and auditor, within fifteen days after election, shall meet and canvass the returns from the various precincts. As soon as the canvass has been completed the auditor shall issue certificates of election to all county officers, and send an abstract of votes for state officers to the secretary of state. The state board of canvassers meet on the second Tuesday of December and canvass the state returns.

**Points for Development.**—In what should the poll books agree? An excess of ballots might indicate what? Why should the board not adjourn until all the votes are counted? Why is the key sent to the auditor? Does the county canvassing board have a right to recount the ballots, or must they take the result of the canvass of each precinct board? If any defeated candidate doubts the legality of the voting or counting, what can he do? Before whom would he bring his case?

**Restrictions.**—The judges are forbidden to deposit in the ballot box a ballot that does not have the official stamp. This is to prevent the use of bal-



lots that might have been marked before the elector entered the polling place. No electioneering or soliciting of votes is allowed on election day within the polling place or within fifty feet of the building in which the election is held. No person shall show his ballot, after it has been marked, to any person so as to reveal the markings. No person shall vote any other ballot than that given him by the judges, nor shall he place on it his name or any other mark by which it might be distinguished from other ballots. No civil process can be served on an elector on election day; the electors can not be arrested on that day except for crime or public offense, otherwise persons might be detained from voting through the plotting of politicians.

**Points for Development.**—What objection to marking ballots before entering the polling place? Why is electioneering prohibited about the polls? Note the many safeguards thrown around the whole Australian system in order to secure an absolutely secret and uninfluenced ballot.

**Registration.**—Cities and villages of one thousand or more inhabitants shall make a registration of voters. The board of registration consists of the inspectors of the various precincts, together with judges appointed according to the city or village ordinance. These boards meet two weeks before election and make an alphabetical list of all persons that they believe to be qualified electors in their several precincts. On Tuesday, one week before election, they shall meet at the usual polling places, and remain in session from eight in the morning until eight at night. The lists are open to



public inspection. Any elector whose name is not registered can have his name registered by proving to the board that he is an elector. Names of persons proved to the satisfaction of the board not to be electors must be erased. On the day of election only those registered can vote, unless it be under oath and on the sworn statement of a householder and a registered voter of the precinct.

**Points for Development.**—What is the general object of registration? Give reasons for and against extending it to all voting precincts. What is the penalty for illegal voting? From what classes of people does illegal voting usually come? Are the country or the town precincts likely to have the greater amount of illegal voting? Why? Which are usually guarded more closely by party leaders?

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## CHAPTER XXXVIII.

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### REVENUE AND TAXATION.

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**Support of the State.**—The revenues for the support of state, county, and municipal corporations are obtained for the greater part from taxation. Some of the support comes from fines, etc. The schools and public institutions are supported to some extent by the income from the public land grants.

**Points for Development**—In whatever way taxes are paid, from whom do they finally come? Why are taxes in a republic just? Why do people so often find fault because of their taxes? Does the lessening of taxes lie with those who pay them?



**Kinds of Taxes.**—Taxes are of two kinds, poll taxes and property taxes. A poll tax is a tax paid by male citizens regardless of the amount of property they may own. A property tax is a tax upon property, and is divided into two classes, real estate tax and personal property tax.

**Points for Development.**—Origin of the word poll as related to taxes. Distinguish between real estate and personal property. Which are houses? Cattle? Fences? How many school polls in the state?

**Poll Tax.**—A school poll tax of one dollar is assessed against every male elector in each county. A road poll tax of one dollar and fifty cents is assessed against every male person between the ages of twenty-one and fifty years.

**Points for Development.**—Discuss the justness of a poll tax. Why is it right for a person without children to be taxed for schools? Why is fifty years the limit for road poll tax?

**Property Tax.**—The state may levy a tax for state purposes upon all taxable property in the state, not to exceed four mills on the dollar valuation. The rate of levy is determined by the state board of equalization, and certified to the county auditors, who extend it; and its collection is made in the same manner as county taxes. In addition to the four mills, one mill on the dollar may be added to pay interest on the state debt. Property on which taxes have not been paid is advertised and sold at auction for the payment of such taxes.

**Points for Development.**—How much taxable property of each kind in the state? What would be the annual revenue on this if the full amount were levied? Give reasons for



and against the taxation of real estate only. How may property be redeemed after it has been sold for taxes? How does the assessed valuation of the state compare with its real value?

**Exemptions.**—Certain exemptions from taxation are made, of which the following are the most important: Property of the United States, state, county, or municipal corporation, when for public use; agricultural fair grounds, cemeteries, grounds and buildings for educational, benevolent, and religious purposes, and all property belonging to the same; grounds, buildings, and apparatus of fire companies and military organizations; polls and estates of persons who, through age or infirmity, are unable to pay; all United States pensions; and household furniture to the amount of twenty-five dollars.

**Points for Development.**—Give reasons for each of the exemptions. The exemption on household goods was formerly two hundred dollars. Why was it changed to twenty-five dollars? Discuss the question of exempting manufactures from taxation to induce them to locate in any place.

**Public Debt.**—In order to meet some unlooked-for failure in the revenue, or in case of extraordinary emergency, the state may contract debts, but never to exceed two hundred thousand dollars. This amount does not include the debt of the state at the time of the adoption of the constitution. Such debts can only be authorized by law for some definite purposes, and the law must provide for a tax that will meet the interest, and also the prin-



cipal within thirty years. To provide funds for repelling invasion or suppressing insurrection, or to defend the state in time of war, there is no debt limit.

**Points for Development.**—Is there any agitation now about increasing the debt limit? What are some reasons for and against increasing it? Give reasons for and against the increase or decrease of the limit as the valuation increased or decreased. Do states usually free themselves from debt? What is the justness of continuing a debt to the next generation? What is repudiation? Can a state repudiate its debt? Why is there no debt limit in case of great danger to the state?

**State Credit.**—Funds are not always available for the payment of warrants as they are issued; therefore, to protect the credit of the state, the treasurer, with the consent of the governor and auditor, is authorized to pay such warrants, if money can be obtained at a rate not to exceed eight per cent. But such warrants are not to exceed eighty thousand dollars.

**Points for Development.**—What are some of the objects of retaining the state's credit? Why are not funds always available, if appropriations have been made for them?

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## CHAPTER XXXIX.

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### EDUCATION AND MILITIA.

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**Education.**—The constitution makes it mandatory upon the state to provide for the establishment and maintenance of a system of public schools, open to all children of the state and free from sectarian



control, and this can not be revoked by amending the state constitution, but only by receiving the consent of the United States. The state is also required to take steps to prevent illiteracy, to secure a reasonable degree of uniformity in course of study, and to have and retain exclusive control of all colleges, universities, and other educational institutions supported by public lands or public tax. The legislature has accordingly made laws covering these points, and has established a system of free public schools, beginning with the primary and extending through all the grades, including the normal and collegiate courses. The legislature has power to make provision for the sale of school lands when they shall become worth at least ten dollars per acre, and much of the land has already been sold, and the permanent interest-bearing school fund of the state is already large.

**Points for Development.**—Discuss the necessity for such a strong provision in regard to education. What are the advantages of having the higher schools under state rather than denominational control? What special steps are necessary to prevent illiteracy? From what portion of the state has most of the school land been sold? Why has it not been sold in other portions? How much is the permanent school fund at present? In what is most of this invested? Compare the amount of money spent on schools in North Dakota with that of other states.

**Militia.**—The term militia is sometimes used to mean any body of soldiers, but in its legal meaning it has a different application. The militia of the state are all able-bodied male citizens between the ages of eighteen and forty-five. The assessors each



year, when making assessments, make lists of all persons liable to military duty and transmit these lists to the secretary of state. This is called the enrollment of the militia.

**Points for Development.**—How many does the militia of the state number? Discuss the reasons for the limits of age. Who are exempt from military duty? In some countries every able-bodied young man must receive a certain amount of military training. Discuss its necessity in this country.

**Militia; Organized and Unorganized.**—The militia of the state is divided into two classes, the organized and unorganized. The former is called the North Dakota National Guard, and consists of one regiment of infantry and the departments necessary to its maintenance, and may have one battalion of artillery and one or more troops of cavalry. The regiment is divided into companies, not to exceed ten, but only one company is to be organized in a county. Any person of proper age may enlist in the Guard for a term of three years, and he is then under special military duty and must conform to certain military laws. The number in each company, battery, or troop is not to exceed forty privates and the officers attached to each. This number may be increased by the commander-in-chief in times of emergency. All persons of proper qualifications, not members of the Guard, are the unorganized militia of the state.

**Points for Development.**—How many members of the organized militia of the state? Define infantry, cavalry, artillery. What is the state encampment? What would the guard of this state be likely ever to be called out for? Name the officers of the guard by rank.



**Militia; How Called Into Service.**—The unorganized militia is subject to active military duty only in case of war, invasion, or to prevent invasion, riot, or insurrection. In any of these cases the governor, who is commander-in-chief of the military forces of the state, has the authority to call out as many of the militia as he may deem necessary. The militia while in active service are governed by the military law of the state and the rules of war of the United States. The organized militia, or Guard, is the first to be called to active duty.

**Points for Development.**—Have the militia of this state ever been called out? Name some of the differences between military law and civil law.

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## CHAPTER XL.

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### IMPEACHMENT, PROHIBITION, AMENDMENTS.

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**Impeachment.**—A person is said to be impeached when he is accused of some offense. Only state officers, including judges of the supreme and district courts, can be legally impeached in this state. Other officers may be accused, tried, and removed from office, but the process is not called impeachment. An officer may be impeached for drunkenness, crime, corrupt conduct, or malfeasance or misdemeanor in office. No impeachment can be made except by the house of representatives, and the house can not bring its complaint except by a majority



vote of the members elected. The complaint, or impeachment, is brought before the senate, which body sits as a court of trial in all impeachment cases. If the governor or lieutenant-governor is on trial, the chief justice of the supreme court presides over the senate. The prosecution is conducted by five or more managers, selected by the house, the presiding officer of the senate acts as judge, and the whole senate sits as a jury. To convict there must be a concurrence of two-thirds of the senators elected. A conviction removes the impeached officer from office, and may disqualify him from holding any office of trust in the state.

**Points for Development.**—Have there been any cases of impeachment in this state? Why should not the lieutenant-governor preside in the senate while the governor is being tried? Why so large a majority necessary to convict? Why should impeachment of district judges come before the state legislature?

**Prohibition.**—The constitutional convention earnestly discussed the question of inserting in the constitution a clause prohibiting the manufacture and sale of intoxicating liquors in the state. Many thought that such a clause might endanger the adoption of the whole constitution. It was therefore decided to submit the prohibitory clause as a separate article, to be incorporated in the constitution, if adopted. It was adopted, and is therefore a part of our constitutional law. The article is very concise, simply stating that no person or corporation shall within the state manufacture, import, sell, or keep for sale, gift, barter or trade, any intox-



icating liquor as a beverage. It also enjoins the legislature to prescribe regulations for the enforcement of the same. This the legislature has done by placing a penalty for the first offense of not less than two hundred dollars fine and not less than ninety days in the county jail, and for the second offense, imprisonment in the penitentiary for not less than a year.

**Points for Development.**—Mention some other states that have constitutional prohibition. What are some of the arguments of those who oppose prohibition? What efforts have been made to render the law inoperative? Discuss the enforcement of the law in general throughout the state.

**Amendments.**—The constitution, even though when made it was fitted to the needs of the state, might be found inadequate to the changed circumstances of the state in the future; therefore provision was made for its amendment. Before a proposed amendment becomes a part of the constitution it must undergo three ordeals. It must first be agreed to by a majority of the members of each house of the legislature; it must next be agreed to in the same way by the next legislative assembly; and it is lastly submitted to a vote of the people. If a majority of the votes cast are in favor of it, it becomes a part of the constitution. Only one amendment has yet been adopted, and that is one forbidding the legislature to authorize lotteries or gift enterprises, and enjoining the legislature to pass laws to prohibit the sale of lottery or gift enterprise tickets.



**Points for Development.**—Compare the method of amending our constitution with that of the United States and with some other states. Why so many difficulties in amending a constitution? Why did the lottery amendment happen to come up so soon? Did the amendment meet with much opposition? Are there any other proposed amendments to the constitution receiving attention now? Discuss the proposition voted upon by the people in 1896 as to a new constitutional convention.



## PART II.

### NATIONAL GOVERNMENT.

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## SECTION I.

### ORIGIN OF THE GOVERNMENT.

#### CHAPTER XLI.

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#### EARLY COLONIAL DEVELOPMENTS.

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**Introductory.**—The government of the United States has not been the growth of merely a century, but has been germinating in the minds of the liberty-loving, English-speaking people for more than a thousand years. The history of England has been one almost continuous assertion of the rights of the people to have a voice in their own government. The murmurings, uprisings, rebellions, and the revolution of our colonial history were the outward demonstrations of that same God-given principle of love of freedom. Although many nations had a part in the colonizing projects of America, and several nations gained strong foothold within the present limits of the United States, yet only one has fixed



its stamp indelibly on our nation's government. Prior to the revolution and the birth of the present nation, all of the thirteen colonies had become English, not only in government, but also in speech and thought. It is therefore from this basis of English origin that we must study the development of our national government to its present form.

### **Early Evidences of the Self-Governing Spirit.**

—Almost as soon as a colony was permanently established the struggle for self-government began. The Jamestown colony endured the evils of repressive government from across the sea for less than twelve years from its founding, and then, in 1618, was granted the "Great Charter," which gave the people a voice in making their own laws. Edward Eggleston says: "This was the beginning of free government in America. \* \* \* The government of the United States by a president, a senate, and a house of representatives shows that the ideas put into the Great Charter have left their mark on the constitution of our country."

**The Mayflower Compact.**—Only two years after the granting of the Great Charter, that liberty-seeking band of Pilgrims, even before taking possession of the land of their new home at Plymouth, made that solemn compact in the cabin of the Mayflower, that remarkable agreement which will be handed down among the few precious state papers of a free people. In that compact is the germ of the constitution of a great nation. It says: "We ..... do, by these presents, solemnly and mutually, in the



presence of God, and one another, covenant and combine ourselves together into a civil body politic, for our better ordering and preservation and furtherance of the ends aforesaid; and by virtue hereof, to enact, constitute, and frame such just and equal laws, ordinances, acts, constitutions and offices, from time to time, as shall be thought most meet and convenient for the general good of the colony."

**The Connecticut Constitution.**—Another landmark in the early history of government-making in America is what is sometimes called the Connecticut constitution and sometimes the Hartford constitution. It was framed in 1639 at Hartford by the inhabitants of the towns of Hartford, Wethersfield, and Windsor. It is the first written American constitution. The historian, Montgomery, says of it: "One remarkable fact about that compact is that it made no mention either of the king of England or the English company which held a royal grant of the Connecticut lands. It was in reality the constitution of a republic; and the men who framed it refused to bow to any authority outside or above themselves, except that of their Maker."

**The "Grand Model."**—The illustrious philosopher, John Locke's, constitution for the government of the Carolinas deserves mention among other noted constitutions of our early colonial history. The Grand Model, as it was called, laid out a grand domain in the then western wilds, placing over it a nobility who held all the power and regulated all the acts of the inhabitants, but made no provision



for the common people to have a voice in their own government. This proved to be a fatal omission, and the great plan failed, as all have which do not recognize in the English people the sovereign power.

**The "Great Law."**—In 1682 William Penn gave to his people for their government the "Great Law," which inculcated the two great principles of liberty and obedience; for, as Penn himself says: "Liberty without obedience is confusion, and obedience without liberty is slavery." Under this constitution Pennsylvania became the refuge for the oppressed.

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## CHAPTER XLII.

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### LATER COLONIAL DEVELOPMENTS.

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**The Albany Plan.**—In accordance with a recommendation from the English government, a convention of representatives from several of the colonies was held at Albany in 1754 for the purpose of forming a plan for a closer union and better defense of the colonies. A plan was proposed by the convention which, before going into operation, was to be ratified by the English government and by each colony. Macy says of it: "The English government rejected the plan, because it gave too much power to the proposed colonial government; and the colonies rejected it because it gave too much power to England." This indicates that the spirit of self-government was developing.



**The Declaration of Rights.**—The colonies during their first fifty or sixty years made their own laws to a great extent. This they continued to do to some extent even to the time of the revolution, but at times England would interfere with these sacred rights. These interferences became more frequent as the colonies came to be worth the notice of the English government. The colonists more or less patiently endured repressions until the passage of the famous stamp act in 1765. Then representatives from nine of the colonies met in New York and prepared a formal "Declaration of Rights." In this declaration they still affirm their allegiance to the crown of Great Britain, but claim inherent rights as subjects of that kingdom. They declare their right not to be taxed without representation, to have trial by jury, and especially do they protest against the "stamp act." The declaration is mild in its utterances, but the undercurrent of firmness in it indicates that this is the beginning of the end of British oppression.

**The First Continental Congress.**—The first Continental Congress met in Philadelphia in 1774. Its purpose was to consider what course it was best for the colonies to pursue. The work of the congress was similar to that of the convention of 1765. They formulated another Declaration of Rights, in which they demanded the right to levy all taxes and make all laws in their own assemblies. They continued their professions of allegiance to the king, but the general spirit of the congress was not conciliatory. It was another step toward a government of their own.



**The Second Continental Congress.**—The second Continental Congress met in Philadelphia, May 10, 1775, and continued to be the directing power of the united colonies until near the close of the revolution and adoption of the Articles of Confederation in 1781. At first it continued with the same professions of allegiance to the king as the two preceding conventions, but proceeded to raise an army to defend the colonies, an evidence of confidence in itself as a governing power.

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## CHAPTER XLIII.

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### BIRTH OF THE NATION.

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**The Declaration of Independence.**—In the second Continental Congress, in June, 1776, Richard Henry Lee of Virginia offered the following resolution: "Resolved, That these United Colonies are, and of right ought to be, free and independent states." Thomas Jefferson, John Adams, Benjamin Franklin, Roger Sherman, and Robert R. Livingston were appointed a committee to draft a declaration based on this resolution. They performed their task faithfully and presented to congress a draft, which, after mature consideration and slight amendments, was adopted by that body on the Fourth of July, 1776. This was the birth of our nation, and the study of our nation's government properly begins with this date. Before this the people and the gov-



ernment professed allegiance to England's king; now all professions of allegiance were thrown off and the new nation assumed its place among the nations of the earth.

**Analysis of the Declaration.**—The Declaration of Independence is worthy of the critical study of every student of civil government. It was written almost wholly by that great statesman, the immortal Jefferson. Its preamble reads thus: "When, in the course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume, among the powers of the earth, the separate and equal station to which the law of nature and of nature's God entitles them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation." It boldly states the fundamental principles of free government, "that all men are created equal" and "are endowed by their Creator with certain inalienable rights," among which "are life, liberty, and the pursuit of happiness." It further submits "to a candid world" some of the reasons for such a declaration, holding the king of England responsible for the movement, and closes with these words: "And for the support of this declaration, with a firm reliance on the protection of Divine Providence, we mutually pledge to each other our lives, our fortunes, and our sacred honor."

**The Confederation.**—Closely following the Declaration of Independence came the formation of a union of the colonies under a government of their



own. The Continental Congress, after a little over a year's deliberation, adopted, on Nov. 15, 1777, the Articles of Confederation. These were to go into operation when ratified by all the states; but as the last state did not consent to them until March, 1781, our country had no other law than that of the congress until that time. A government without fundamental law and with only the will of a congress to control it from day to day must necessarily be a weak government; and so ours proved during the revolutionary period. The war was prolonged much longer than it would have been under a strong central government.

**The Articles of Confederation.**—The government under these articles was not much better than it had been under the Continental Congress, but still it had fundamental law, and was a step toward the strong government that was to come. The people of the colonies had realized the evils of a strong central government through the tyranny of the English king; therefore very little power was given to the general government, but most of it retained for the individual states. Only one branch of government was recognized, and that was the legislative. This legislative body could not execute its laws, but made them in the form of recommendations to the states. It had only one house, to which members were elected for only one year. It had power to determine all matters pertaining to war and peace, to decide disputes between states, to fix the standards of weights and measures, to determine the fineness of coins, to have control of postoffices, to appropriate



and to borrow money. But without power to carry out these provisions the nation soon became hopelessly weak, all kinds of business were stagnant, and the people were suffering from a depression not natural to so fruitful a country. What should be done?

**Ordinance of 1787.**—The congress of the confederation in July of 1787 passed the celebrated and important ordinance for the government of the Northwest Territory. By this ordinance slavery was never to exist north of the Ohio River. This was the beginning of that series of debates and compromises on the slave question which finally terminated in the emancipation proclamation and the last three amendments to the constitution. Many historians believe that this ordinance had more influence on the slave question and did more towards their final emancipation than any other act of a legislative body. Our territory then extended only to the Mississippi. Florida was not ours, and our government was in its weakest and most critical period; yet that ordinance almost effectually divided the territory then held and afterwards acquired into free and slave states. It was the crowning demand for freedom of the people of the new world, and its spirit was fully recognized and accepted almost ninety years later. This ordinance also guaranteed religious toleration and made provision for future aid to free schools by setting aside section 16 of each township for school purposes.



## CHAPTER XLIV.

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### THE CONSTITUTION.

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**The Constitutional Convention.**—The cause of the continued and increasing depression following the Revolution was soon found to have its foundation in the form of the government itself. Although the articles of confederation did not become effective until 1781, yet as early as 1785 some of the states passed resolutions or took action condemning the government under these articles. It was not because the states had been deprived of too much power, but because so much had been left to them individually that they were continually wrangling among themselves, and the nation was without respect at home and abroad. In 1786, at the invitation of the legislature of Virginia, delegates from five of the states met at Annapolis to discuss the subject of the trade of the United States. This convention recommended that delegates from all the states meet in Philadelphia in May of the next year to consider the situation of the United States. Congress, in the following February, passed a resolution recommending that such a convention be held for the purpose of revising the articles of confederation. In accordance with this recommendation, delegates from all the states, except Rhode Island, met in Philadelphia, May 14, 1787, and formed an organization on May 25. with George Washington as president.



**Adoption of the Constitution.**—The fifty-five members of the convention spent nearly four months in discussing the various articles for a new constitution; for it became apparent from the first that the old constitution could not be so revised as to make it suited to the needs of our country. At last, after many compromises, the constitution, under which we as a nation have wrought so prosperously for over a hundred years, was on Sept. 15, 1787, accepted by the convention, and two days later was signed by thirty-nine of the members. The constitution provided that as soon as it should be ratified by the people of nine states, it should become the constitution of the states so ratifying it. In July, 1788, New Hampshire, the ninth state, sent its ratification, and the constitution then became binding upon these states. However, the constitution did not go into operation until March 4, 1789. The other four states finally adopted its provisions, North Carolina and Rhode Island being the last, not coming into the Union until about a year after the organization of the new government.

**Superiority of the Constitution.**—The constitution is superior to the articles of confederation in that it gives power to the central government. The national government can now command where before it could only recommend. It has the three departments of government, and therefore can execute and interpret its own laws instead of leaving those important functions to the varying moods of the several states. The constitution was made for the



development of a nation while at peace as well as for the protection of the same while at war. The articles of confederation were made in time of war, and looked more to the exigencies of the time than to the needs of the future. The constitution is the fundamental law of a nation of people, while the articles of confederation comprised not much more than a compact or agreement entered into by the different states. The difference between the two will be brought out more fully in the discussion of the constitution which is to follow.

**Signers of the Constitution.**—Before entering on a detailed study of the constitution it is well to know who were the men who gave to us this remarkable document. Eleven years before, the Declaration of Independence had been signed by such men as John Hancock, Samuel Adams, John Adams, Elbridge Gerry, Roger Sherman, Robert Morris, Benjamin Franklin, Richard Henry Lee, Thomas Jefferson, Francis Lightfoot Lee, and forty-six others, most of whom were renowned leaders during the revolutionary period and the early years of the nation. Of the fifty-six who signed the Declaration of Independence only six signed the constitution, namely: Roger Sherman, Benjamin Franklin, Robert Morris, George Clymer, James Wilson, and George Read. But others were there whose ability would make any country illustrious. There were Alexander Hamilton, William Livingston, Gouverneur Morris, James Madison, John Rutledge, the Pinckneys, and George Washington, president of the



convention. Each of these names is familiar to every student of American history, and is worthy of the critical and reverential study of every student of civil government. Especially illustrious is the name of James Madison in connection with the framing of the constitution, and afterwards in securing its adoption.



# SECTION II.

## ANALYSIS OF THE CONSTITUTION.

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### CHAPTER XLV.

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#### INTRODUCTORY.

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**PREAMBLE.**—"We, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this constitution for the United States of America."

**Source of Power.**—In the preamble to the constitution there are several points to be considered. The first is the source of power which is expressed by the term people. The constitution recognizes in its first line that the people are and must be the real governing power in a republic. The vital weakness of the articles of confederation was that the people were not recognized, but the confederacy was to be a "union between the states \* \* \* a firm league of friendship with each other." The government under the constitution is not a league between the states, but is a government of itself of which each state is a subordinate part.

(186)



**More Perfect Union.**—During the few years that the United States tried the government of the “union between the states” discord increased. Each state became jealous of its neighbor. The state then had sovereign power and no such union could be abiding. Therefore the next object after declaring the people sovereign was to provide for a more perfect union of the states, one in which all would have equal rights, with a power outside of themselves to determine those rights.

**Justice.**—In the colonial days trial at home was often denied the colonists, and they were taken before the courts of England. Under the confederation there was no judicial department in the general government and no power to regulate the courts of the several states. Therefore laws were often made by the states that were unjust to citizens of neighboring states, and courts of justice were everywhere coming into disrepute. Hence the necessity to establish justice.

**Domestic Tranquillity.**—The states were continually quarreling with one another. Boundaries were constantly under dispute, taxes were not suitably equalized, and as a result the spirit of rebellion was almost everywhere rife. There must be some authority to quell rebellion, to dispel its causes, and to secure domestic tranquillity.

**Common Defense.**—The states being sovereign might refuse to aid in the common defense. Only a strong central government can prosecute a war successfully. The Revolution was successful only



because the colonies gave up their power to congress. Now the states had individual interests, and these interests were likely to deter them from coming to the support of the nation in time of war.

**General Welfare.**—The prime object in the call for a convention to revise the articles of confederation was to promote the general welfare. This provision has been broadly interpreted and made to cover a multitude of transactions that have been beneficial to the nation.

**Blessings of Liberty.**—The blessings of liberty obtained by eight years of war and bloodshed were fast slipping away because of the weakness of the general government. Something must be done to secure this priceless boon for themselves and their posterity. The articles of confederation were inadequate for it, but the constitution has accomplished all that its makers hoped.

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## CHAPTER XLVI.

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### THE LEGISLATIVE DEPARTMENT.

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ARTICLE I, SECTION 1. — "All legislative powers herein granted shall be vested in a congress of the United States, which shall consist of a senate and house of representatives."

**Congress.**—Under the confederation there was only one body of lawmakers, and in this each state, whether large or small, had the same voting power, each state having one vote. In the constitutional



convention the small states desired to continue this arrangement, while the large states desired representation according to population. Some desired congress still to represent the states, while others desired it to represent the people. All desired the welfare of the nation and a compromise prevailed. Two houses were decided upon, the senate representing the states and with equal representation from each, and the house of representatives representing the people and with representation according to population. The plan follows to some extent that of the British parliament, and in turn is followed in some degree by every state in the Union. Congress has, besides its general meaning of the legislative body of the United States, a special meaning. In its special sense a congress is the two years for which representatives are elected, and begins and expires on the fourth of March in odd numbered years. The first congress was from 1789 to 1791. The representatives and senators elected in 1896 and the early part of 1897 will be members of the congress that begins the fourth of March, 1897, and will be the fifty-fifth congress.

ARTICLE I, SECTION 2. (1) "The house of representatives shall be composed of members chosen every second year by the people of the several states, and the electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislature."

**House of Representatives.**—Two years is the length of term of members of the house, and was the result of another compromise. Members before had been elected annually, and some thought that the states could keep better control of the legislators



if the term was only one year. Others thought that several years were necessary to any man in order that he might become familiar with the methods of legislation. The state makes its own rules as to the method of electing the representatives, provided that all voters for members of the lower branch of the legislature are permitted to vote for representatives to congress. In most states the state is divided into sections of nearly equal population and corresponding in number to the number of representatives to which the state is entitled, and each section elects its own representative. In some states some of the representatives are elected at large.

(2) "No person shall be a representative who shall not have attained the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state in which he shall be chosen."

**Qualifications of Representatives.**—The constitution requires members of the house of representatives to have been voters four years before they are intrusted to make laws for those who elect them. Also a twelve years' residence in the United States, five years to become a citizen, and seven afterwards, is required before a person is supposed to be familiar with the needs of the country. He must be an inhabitant of the state, but not necessarily of the district in which he is elected. The states may determine this for themselves.

(3) "Representatives and direct taxes shall be apportioned among the several states which may be included within this Union, according to their respective numbers, which



shall be determined by adding to the whole number of free persons, including those bound to service for a number of years, and excluding Indians not taxed, three-fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of representatives shall not exceed one for every thirty thousand, but each state shall have at least one representative; and until such enumeration shall be made, the State of New Hampshire shall be entitled to choose three, Massachusetts eight, Rhode Island and Providence Plantations one, Connecticut five, New York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three."

**Representation and Taxation.**—The Revolution was the result of taxation without representation; therefore in forming the people's house of congress the two were inseparably combined. Both shall be apportioned in proportion to the population. Direct taxes have not often been levied in the United States for national purposes, but when they have each state has paid its just proportion, not according to valuation, but population.

**Population; How Determined.**—At present it is easy enough to determine the ratio of apportionment for each state, simply by taking the census of all persons except Indians not taxed; but when the constitution was made there were many slaves in some of the states, and the delegates from those states contended that they should be counted as well as women and children in determining the representa-



tion. Delegates from states without slaves contended that slaves were property and should not be counted. The usual compromise came in, and three-fifths of the slaves were counted in determining both representation and taxation. So few direct taxes have been levied that the result of the compromise was largely to the advantage of the slave-holding states. The expression "bound to service" has little or no meaning now, as the old custom of "binding out" apprentices has become nearly obsolete.

**Number of Representatives.**—Every state is entitled to at least one representative and as many more as its population warrants. In order that the house might not become too large the lower limit of one representative for thirty thousand inhabitants was decided upon. Congress has the power to increase the ratio of representation and has done so after every census since 1810. It will be noted that the first house consisted of sixty-five members, but in 1793 it was increased to one hundred five, and in 1803, to one hundred forty-one, which was based on a ratio of one representative to about thirty-three thousand population. Since that time the ratio of population has been increased every ten years until in 1893 it became one representative for 173,901. The number of representatives has also been increased every ten years, except in 1843, when the number was decreased from two hundred forty to two hundred twenty-three; in 1893 the number had reached three hundred fifty-six.



(4) "When vacancies happen in the representation from any state, the executive authority thereof shall issue writs of election to fill such vacancies."

**Vacancies; How Filled.**—Vacancies in nearly all offices of the nation, as well as the state, are usually filled by appointment, but representatives, both in state and nation, form an exception to this rule. When a vacancy occurs, the governor calls a special election, at which election a representative is elected to fill the unexpired term.

(5) "The house of representatives shall choose their speaker and other officers; and shall have the sole power of impeachment."

**Speaker of the House.**—The speaker of the house, elected at the beginning of the first session of each congress, is a very important officer, probably third in rank and second in power to the president. The house makes its own rules, but the speaker is always granted the privilege of appointing all the committees, and as much legislation is manipulated by the committees, herein his power is great. He is a member of the house, is usually of the party having the majority in that body, and endeavors to influence legislation along the lines of the party electing him.

**Other Officers.**—The other officers of the house are clerk, sergeant-at-arms, doorkeeper, postmaster, and chaplain. The duties of the clerk are to keep a record of all the proceedings. The sergeant-at-arms preserves order under the direction of the speaker. The doorkeeper has charge of the assem-



bly room, the postmaster has charge of the mail department of the house, and the chaplain offers the prayer with which each day's session is begun. These officers are not members of the house.

**Impeachment.**—The subject of impeachment has been fully discussed under that head in a former chapter on state government. It is the same in the nation, the lower house, or the people's representatives, having the sole power to bring accusation against an officer high in power.

ARTICLE I, SECTION 3. (1) "The senate of the United States shall be composed of two senators from each state, chosen by the legislature thereof, for six years, and each senator shall have one vote."

**Number of Senators.**—As has already been stated, the number of senators from each state was the result of a compromise, a yielding to the smaller states and to the principle of state representation.

**Method of Choosing Senators.**—Allowing the state legislatures to elect senators was another concession to the principle of state representation. It was also thought that by this method men might be selected under different influences than the representatives, and would thus be a check upon harmful legislation by the other body. Both of these reasons for the method of election have lost the greater part of their force. The constitution does not provide for the method of procedure in electing a senator, but congress in 1866 made such provision. On the second Tuesday after the organization of the legislature, each house votes separately by a viva



voice vote and records the result. At twelve o'clock on the next day the two houses meet in joint session, the result of the vote of the day before in each house is read, and if any one person has received a majority of all the votes in each house, he is declared elected. If not, the joint assembly proceed to vote, and must take at least one vote each day until some one receives a majority of all votes.

**Term of Office of Senators.**—The senate being a more select body than the house, would acquire more dignity if given a longer term of office. It was also thought that greater care might be observed in selecting senators if their term was to be longer. A long term would surely give freedom and independence of action and would avoid a change of policy for every whim of public opinion. A country is better under some poor laws than under too many and too frequent changes of laws. Therefore the term of office of senators was made six years to offset any evils that might arise from a change of the lower house every two years.

**Vote of Senators.**—Under the articles of confederation each state had only one vote. The members from each state cast one vote, which represented the opinion of the majority of the representatives from that state. If there were a tie among the members from any state, then the state had no vote. Under the constitution each senator votes his individual pleasure.

(2) "Immediately after they shall be assembled in consequence of the first election, they shall be divided, as equally as may be, into three classes. The seats of the senators



of the first class shall be vacated at the expiration of the second year; of the second class, at the expiration of the fourth year; and of the third class, at the expiration of the sixth year; so that one-third may be chosen each second year, and if vacancies happen by resignation, or otherwise, during the recess of the legislature of any state, the executive thereof may make temporary appointments until the next meeting of the legislature, which shall then fill such vacancies."

**Senate a Permanent Body.**—As two-thirds of the senators always "hold over" from congress to congress, the senate is a permanent organization, and not like the house which may be entirely changed every two years. By this arrangement the senate always has a majority of experienced legislators, and this tends to make it a body more to be trusted at home and respected abroad.

**Vacancies.**—As would be expected, the senators representing the state rather than the people, any vacancy in the same if the legislature of the state be not in session when the vacancy occurs, is filled by the governor of the state by appointment. Such appointment holds good only till the next meeting of the legislature, when another election will be held to fill the unexpired term. If a legislature at any time fails to elect a senator, the governor then does not appoint, but the state is deprived of such representation.

(3) "No person shall be senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state for which he shall be chosen."



**Qualifications of a Senator.**—As the senate is supposed to be a more influential body than the house, so should its members have higher qualifications. The senate acts with the president in concluding treaties, and therefore it is a little to be wondered at that the qualifications as to citizenship were not made more than nine years.

(4) "The vice-president of the United States shall be president of the senate, but shall have no vote, unless they be equally divided."

**President of the Senate.**—It will be noticed that the duties and powers of the vice-president are almost identical with those of lieutenant-governor of the state. By placing him as a presiding officer of the senate, it was thought that the equality of the states would be better retained than by electing one of their own number, also that the vice-president, not being elected to represent any state, would be less partial. Not being a member of the senate, he, of course, has no vote, except when the senate itself can not decide a question.

(5) "The senate shall choose their other officers, and also a president pro tempore, in the absence of the vice-president, or when he shall exercise the office of president of the United States."

**Other Officers of the Senate.**—The other officers of the senate are about the same as those of the house and their duties are similar. The chief clerk of the senate has the title of secretary. The president pro tempore is a member of the senate and is therefore entitled to a vote upon all questions when he is presiding.



(6) "The senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the president of the United States is tried, the chief justice shall preside; and no person shall be convicted without the concurrence of two-thirds of the members present."

**Impeachment.**—As the house represents the people in bringing charges against its civil officers, so the trial should be before a court that will not be hasty in its decisions. Such the senate would likely be. The other provisions of this clause of the constitution have been fully discussed under the state government.

(7) "Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust or profit, under the United States; but the party convicted shall, nevertheless, be liable and subject to indictment, trial, judgment and punishment, according to law."

**Penalty in Impeachment.**—The court of impeachment is not strictly a court of law, therefore it should not usurp the function of such courts. The penalty inflicted goes no farther than to the question of officeholding, leaving the courts of law still free to proceed with the convicted person, just the same as though he had not been tried by the court of impeachment.



## CHAPTER XLVII.

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### POWERS AND DUTIES OF CONGRESS.

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**ARTICLE I, SECTION 4.** (1) "The times, places and manner of holding elections for senators and representatives shall be prescribed in each state by the legislature thereof; but the congress may at any time, by law, make or alter such regulations, except as to the place of choosing senators."

**Election of Congressmen.**—The election of representatives and senators has been left almost entirely to the states, but congress made provision for dividing states into representative districts, and also made provision, as has been noticed, for the method of electing senators. The place of choosing senators should obviously be left with the state, otherwise congress would have the power to locate state capitals.

(2) "The congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day."

**Meetings of Congress.**—Representatives in most of the states are elected on the first Tuesday after the first Monday of November, and senators for the most part are elected during the two or three months following, but the congress to which they are elected does not come into existence until the fourth of March following, the first or long session



of which opens on the first Monday of December, a year or more after election. Each congress now meets twice, once on the first Monday of December of the odd numbered years and continues until some time the next summer, but may continue one year, then assembles for its second or short session again in December of the even numbered years and continues until the fourth of March. Special sessions may be called by the president.

ARTICLE I, SECTION 5. (1) "Each house shall be the judge of the elections, returns, and qualifications of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner, and under such penalties, as each house may provide."

**Powers of Congress.**—Each house receives the certificates of election of each member, decides all cases of contested seats, and pronounces on the qualifications of its own members. The quorum being placed at a majority almost always insures transaction of business. If it were larger, a minority might hinder business by remaining away; if it were smaller, a minority might transact business not acceptable to the majority. Both houses have at times to send the sergeant-at-arms after absent members in order to secure a quorum. It was the custom until a few years ago for members who desired to delay legislation to be in their seats but to refuse to vote. They were then considered as not present and at times a quorum could not be secured. Speaker Reed made a ruling that all present should



be counted so, and continued to do business. For this ruling he was denominated "Czar" Reed; but speakers of the opposite party have since applied the same ruling.

(2) "Each house may determine the rules of its proceedings, punish its members for disorderly behavior, and with the concurrence of two-thirds, expel a member."

**Rules of Congress.**—As in the state legislature, both houses make their own rules, and may at any time lay aside all rules and transact business as they deem best. It would hardly be supposed that a provision would be necessary for the punishment of members for disorderly behavior in the congress of the United States, but such provision has been useful at times. The expulsion of a member would be a serious affair and should be done only for the grossest offense; therefore, the number necessary to expel has been made large. Under this provision no one would be likely to be expelled for political reasons.

(3) "Each house shall keep a journal of its proceedings, and, from time to time, publish the same, excepting such parts as may, in their judgment, require secrecy; and the yeas and nays of the members of either house, shall, at the desire of one-fifth of those present, be entered on the journal."

**Record to be Published.**—A most complete record of every transaction of congress is kept. The debates are taken in full and form a part of the records and are printed and distributed daily. The American people are opposed to any secrecy in anything that pertains to the public interests. Legis-



lators are the agents of the people and the people have the right to have the fullest knowledge possible of all their public acts. The people also have the right to know just how every member votes on every question. If the ballot was secret, members might be induced by bribes to vote contrary to their convictions or the desires of their constituents. This often delays business, but it is better delayed than not done right. The senate still holds secret executive sessions, that is, sessions in which it acts with the executive in the consideration of his appointments.

(4) "Neither house, during the session of congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting."

**Adjournment.**—Both houses are necessary to the passage of any law, therefore business might be seriously delayed by the adjournment of either house for a long period, or by the adjournment to some place not convenient of access.

ARTICLE I, SECTION 6. (1) "The senators and representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the treasury of the United States. They shall in all cases except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the session of their respective houses, and in going to and returning from the same; and for any speech or debate in either house, they shall not be questioned in any other place."

**Salaries.**—The question arose in the constitutional convention, and has often arisen since, as to whether congressmen should receive salaries. Many



contend that unworthy men seek election to congress because of the salary attached, while others contend that poor but worthy men would be debarred if there were no salary. Finally it was decided to let congress fix its own salaries. At first it was placed at six dollars a day in the house and seven in the senate, but has been increased from time to time until it is now five thousand dollars a year and twenty cents a mile for distance necessarily traveled. The speaker receives eight thousand, and the president pro tempore, when serving as president of the senate, receives the same.

**Privileges of Congressmen.**—If a member of congress was subject to arrest for any trivial offense, he might be prevented, without adequate cause, from attending the sessions, and his constituency would thus be deprived of their just representation. If he could be sued for slander, he would not feel free to utter his just convictions at all times. Hence these two special privileges are granted to members of congress, freedom from arrest and freedom of speech. In speaking of the latter, Congressman McCleary says:

“The purpose of this provision is not to shield cowards in speaking ill of persons who do not deserve reproach, but to protect right-minded members in exposing iniquity, no matter how the doers of it may be intrenched in wealth or power.”

(2) “No senator or representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have



been created, or the emoluments whereof shall have been increased, during such time; and no person holding any office under the United States shall be a member of either house during his continuance in office."

**Restrictions on Congressmen.**—Members might be instrumental in creating offices, or in increasing the salaries attached to others already created, for no other purpose than to secure an appointment to the position. Members can hold no other office under the general government, as it was thought that no one could well "serve two masters." It is thought by many that members of the president's cabinet should be members of congress.

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## CHAPTER XLVIII.

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### HOW LAWS ARE MADE.

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**ARTICLE I, SECTION 7.** (1) "All bills for raising revenue shall originate in the house of representatives; but the senate may propose or concur with amendments, as on other bills."

**Revenue.**—By revenue is meant the money received by the government from various sources and used for the support of the same. It is mostly in the form of taxes, either direct or indirect, and therefore must be paid by the people; therefore the house, which is nearest the people, should originate all bills relating to the revenue. However, as all such bills must be concurred in and may be amended by the



senate, much of the force of the original intention is lost. The senate may even introduce bills that imply the raising of revenue, such as establishing postoffices, etc. The bills to which the clause would especially apply are those for direct taxation and for tariff.

(2) "Every bill which shall have passed the house of representatives and the senate, shall, before it becomes a law, be presented to the president of the United States; if he approve, he shall sign it; but if not, he shall return it, with his objections, to that house in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be considered, and, if approved by two-thirds of that house, it shall become a law. But in all such cases the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each house, respectively. If any bill shall not be returned by the president within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the congress, by their adjournment, prevent its return, in which case it shall not be a law."

**How a Bill Becomes Law.**—Every possible safeguard is thrown about the law-making process to prevent the enactment of poor laws. A majority of congress might be carried away by popular frenzy and hastily pass some harmful law. Here the president may step in with his veto power and demand further consideration of the bill. If after still further consideration by both houses, two-thirds of each



house agree that the bill should become a law, it is quite probable that there is a need or demand for such a law. This is why it was wise not to make the president's veto absolute. The progress of a bill from the time it is introduced into either house until it becomes a law is about the same as outlined in the treatment of the same subject under the state government.

(3) "Every order, resolution, or vote to which the concurrence of the senate and house of representatives may be necessary (except on a question of adjournment), shall be presented to the president of the United States; and before the same shall take effect, shall be approved by him, or, being disapproved by him, shall be repassed by two-thirds of the senate and house of representatives, according to the rules and limitations prescribed in the case of a bill."

**Joint and Concurrent Resolutions.**—A joint resolution is an agreement between the two houses to pass certain acts, and such acts are to become general law. The veto power of the president may be used here the same as in the preceding clause, except in case of adjournment, which it might have been well also to leave somewhat under the control of the president, as congress might adjourn without transacting business necessary to the general workings of the government until the next session. A concurrent resolution is an agreement to do certain things, which are not to become general laws. Over these the president has no control. The distinction between the two is often confusing.



## CHAPTER XLIX.

### LEGISLATIVE POWERS OF CONGRESS.

**ARTICLE I, SECTION 8.** (1) "Congress shall have power: To lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defense and general welfare of the United States; but all duties, imposts and excises shall be uniform throughout the United States."

**Powers of Congress Specified.**—From the time of the formation of the confederation of the states up to the present day the people have been divided as to whether the greater part of the legislative power should be vested in the general government or in the states. As a concession to those in the constitutional convention believing in state rights it was agreed to specify points upon which congress might legislate. The constitution is therefore a guide to both the nation and the states in their legislative functions; congress looks there to see on what points it may legislate; legislatures look there to see on what points they may not legislate.

**Taxes.**—Under the articles of confederation congress had power to apportion taxes to the several states, but had no power to levy or collect them. This was a vital weakness which the constitution provides against. The four terms used may be thus explained: Taxes is a general term including all the others; duties is somewhat general, being often



applied to all kinds of indirect taxes; imposts are duties upon imported goods; and excises are taxes on goods manufactured in the nation. Direct taxes were laid only four times prior to the civil war, in 1798, 1813, 1815, and 1816, and were also laid to meet part of the debt of the civil war, but are no longer laid. The purposes for which congress may levy taxes are almost unlimited, as the term "general welfare" is very broad. Lack of uniformity weakened the confederation, therefore the constitution provides that all taxes shall be uniform. Direct taxes by the national government are usually expensive in collecting and not so satisfactory as indirect taxes.

(2) "To borrow money on the credit of the United States."

**Borrowing Money.**—The credit of the United States is simply based on the will of the people to pay their debts. A nation in times of peace might get along without borrowing money, but in case of war or some other emergency she must utterly fail without such power. The abiding faith in the United States as a nation has rendered it possible for our government to borrow money to almost any extent and at a very low rate of interest.

(3) "To regulate commerce with foreign nations, and among the several states, and with the Indian tribes."

**Commerce.**—The regulation of commerce is one of the most important questions with which congress has to deal. It includes all interstate and international traffic by water or land and must neces-



sarily be under one general arrangement, otherwise the states would legislate for their own advantage. This was indeed the greatest difficulty under the confederation, and was the prime cause for calling the constitutional convention. The regulation has been made broad by congress and extends so as to render commerce as safe and profitable as possible. It thus includes all works for safety and convenience along our coasts, and also the laying of imposts upon goods.

(4) "To establish a uniform rule of naturalization, and uniform laws on the subject of bankruptcies, throughout the United States."

**Naturalization.**—The power to establish rules of naturalization was given to congress so that uniformity might be secured, and that a person who becomes a citizen in one state will also be a citizen in any other state of the Union. Citizens are all persons born in the country or naturalized. All other persons are aliens. Persons coming to this country to make their home may at any time declare their intention to become citizens. This they do before a clerk of court or before the court itself. Two years after declaring their intentions, if they have then been in the United States five years, they may take out what are called their second papers. They must appear before the judge, renounce allegiance to their former country, swear to support the constitution of the United States, and prove by two witnesses their residence in the state for the past year. They then receive their naturalization papers which make



them citizens. A person coming into the country before he is eighteen can take out both papers at the same time when he becomes of age. Children under twenty-one when the father was naturalized are considered citizens. When the husband becomes naturalized the wife is also considered a citizen.

**Bankruptcy.**—A person who can not pay his debts is said to be bankrupt, but the term should apply only when the courts have declared such bankruptcy. If the states were allowed to make bankrupt laws of their own they might make laws that would conflict with laws of other states and prevent justice between debtor and creditor in different states. Congress gave early attention to this and passed a bankrupt law in 1800, but it was repealed in 1803. It passed another in 1841 which was repealed in two years, and another in 1867 which lasted until 1878. The objection to the laws was that they gave too great opportunity for dishonest dealers to defraud their honest creditors.

(5) "To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures."

**Coinage.**—It can readily be seen why the coining of money should be left to the general government. Congress early established a uniform system, based upon the decimal scale instead of the English scale. The value of each piece of money is determined by congress and stamped thereon and usually depends somewhat on the amount of precious metal contained in the coin.



**Weights and Measures.**—Although congress has the power to fix the standard of weights and measures, it has never done so, and there is still a variety in the different states. Congress adopted for use in the business of the government the English standards and recommended their use to the various states. The states adopted them for the greater part, yet the difference is still so great that some change is urgently needed. Congress has legalized the metric system but has not attempted to introduce it. Most civilized countries have introduced it, and the United States and England will probably before many years fall into line. The system is as much superior to our present system of weights and measures as the decimal system of money is superior to the system of pounds, shillings, and pence.

(6) "To provide for the punishment of counterfeiting the securities and current coin of the United States."

**Counterfeiting.**—If coinage is left with congress, of course the punishment for counterfeiting must be also. Congress has placed heavy penalties for the crime of counterfeiting, and as a result a counterfeit coin is rare. States are not forbidden to pass such laws and some states have passed laws to provide for punishment for counterfeiting.

(7) "To establish postoffices and post roads."

**Postal Service.**—That the mails may be promptly and cheaply transmitted they must be under the direction of one authority. This department is one of the most important with which congress has to deal. So important is it that its chief officer has



been given a place in the president's cabinet. Post roads are usually selected from already existing carriage roads, railroads, and waterways, although in former times a few roads were laid out by the government. The revenue from the postage does not always pay the expenses of the system, but the rates of postage have been reduced from time to time to correspond with the amount of business transacted. During the early part of the century different rates were charged for different distances.

(8) "To promote the progress of science and useful arts, by securing, for limited times, to authors and inventors, the exclusive right to their respective writings and discoveries."

**Copyrights.**—There was no question as to the right of the general government to have the power to grant copyrights and patents. A copyright is a protection guaranteed to an author to have the sole right to print, publish, and sell his books, maps, charts, etc. It is obtained from the librarian of congress by sending him, on or before the day of publication, a copy of the title page, and also two copies of the publication. This entitles the publisher to the right for twenty-eight years and it may then be renewed for fourteen years longer. In 1891 a law was passed which secures international copyright with most of the civilized nations of the world.

**Patents.**—A patent is a right granted upon some invention and is very similar to a copyright. It is obtained from the commissioner of patents and is good for a period of seventeen years. A written



description of the patent, together with drawings and model, must be sent to the commissioner, and if it is thought not to conflict with former patents, the patent is granted. More than three hundred thousand patents have already been issued by the United States.

(9) "To constitute tribunals inferior to the supreme court."

**Courts.**—The constitution establishes the supreme court and congress has established circuit courts of appeal, circuit courts, district courts, court of claims, court of the District of Columbia, territorial courts, and consular courts. These deal only with matters that do not regularly belong to the state courts. There are as many circuit courts of appeal and circuit courts as there are judges of the supreme court, to each of which a judge of the supreme court is assigned. District courts are established as fast as they are needed and judges appointed to preside over them. The court of the District of Columbia exercises jurisdiction only in that district, and territorial courts only in their several territories. The court of claims decides what accounts against the United States should be paid. Consular courts are held by American consuls in foreign countries. The judges of all these courts are appointed by the president, with the consent of the senate.

(10) "To define and punish piracies and felonies committed on the high seas, and offenses against the law of nations."



**Piracy.**—Piracy is robbery committed by a ship's crew upon the high seas. When the constitution was framed this crime was common but is now scarcely known.

**Felony.**—Felony is a high crime, but had not been defined the same in all the states. States have no jurisdiction beyond their coast line, nor has the United States beyond a three-mile limit from the coast. Yet in dealing with felony committed on the high seas and with piracy, it is evident that the general government should have control, as the punishment of such might lead to international complications in which a state can have no part.

**Offenses Against Nations.**—A citizen of any state is legally considered by any foreign nation simply as a citizen of the United States. Therefore the United States must deal with all offenses committed against the law of nations.

(11) "To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water."

**Declaring War.**—As a foreign nation does not recognize state rights, the declaration of war by any state would involve the whole nation; therefore, it is right that the nation should have the power to declare war. In monarchies the chief ruler usually has this power, but in a republic the people are sovereign and their representatives should determine this important question.



**Marque and Reprisal.**—Letters of marque and reprisal are commissions granted to private persons permitting them to take the property of a foreign nation. They are granted in times of war as a means of harassing the enemy, and in times of peace to obtain redress for wrongs committed by a foreign nation. The result is usually a destruction of private property and is not much resorted to in modern warfare.

**Captures.**—Prizes captured on the seas in time of war are usually divided among the captors. All these things being war measures, should, of necessity, be under the general power of congress.

(12) "To raise and support armies; but no appropriation of money to that use shall be for a longer term than two years."

**Armies.**—The confederacy could declare war, but the states were to raise the armies. This defect the constitution removes. The general government, in order to retain its sovereignty, must have power to raise an army to protect itself or to resent an injury. Yet a large army kept long in service often becomes a menace to a nation. The president is commander-in-chief, and under him a strong army might turn the nation into anarchy and the power of the people be lost; therefore the constitution provides that no appropriation for the support of the army shall be for more than two years. An army without financial support would soon be disbanded. Appropriations may be renewed as often as congress sees fit.



- (13) "To provide and maintain a navy."

**Navy.**—The general principles that apply to the army will apply to the navy, except that it takes longer to prepare a navy, therefore no provision is inserted as to the time for which an appropriation shall be made.

- (14) "To make rules for the government and regulation of the land and naval forces."

**Regulations of Army and Navy.**—This clause is a necessary sequence to the preceding. A nation with an army and without power to make rules for the regulation of the same would be powerless.

- (15) "To provide for calling forth the militia to execute the laws of the Union, suppress insurrections and repel invasions."

(16) "To provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the states respectively, the appointment of the officers, and the authority of training the militia according to the discipline prescribed by congress."

**Militia.**—Each state has its militia, organized as well as unorganized, as has been outlined in a former chapter of this book. This militia is at the command of the president at any time, and congress has made complete regulations governing the same. This state militia is usually under the control of the governor, but when called into the service of the nation goes under the control of the president.



(17) "To exercise exclusive legislation in all cases whatsoever, over such district (not exceeding ten miles square) as may, by the cession of particular states, and the acceptance of congress, become the seat of government of the United States, and to exercise like authority over all places purchased by the consent of the legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dock yards, and other needful buildings."

**District of Columbia.**—Under the last clause congress secured the present District of Columbia, and there the capital of the nation was laid out. It is entirely under the control of congress, thus placing our government outside the direct influence or interference of any state. The inhabitants of the district do not even have the power to vote.

**Public Property.**—All public property belonging to the United States is under the direct supervision of congress, and the states have no rights whatever over them. This is to insure the nation against interference in any of her projects.

(18) "To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution in the government of the United States, or in any department or officer thereof."

**"The Sweeping Clause."**—This clause has been called "the sweeping clause" because of the great power that many claim that it gives to congress. The clause was stoutly opposed by many members of the constitutional convention, but was finally agreed to, but restrictions on congress were specially named. Acting under this clause congress has done



many things for which no direct provision can be found in the constitution. Without it the central government would be greatly weakened. With the increasing prosperity of the country under the strong central government, states have lost much of their former mistrust, and acts under this clause are not so bitterly opposed as formerly.

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## CHAPTER L.

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### PROHIBITIONS ON THE NATIONAL GOVERNMENT.

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ARTICLE I, SECTION 9. (1) "The migration or importation of such persons as any of the states now existing shall think proper to admit, shall not be prohibited by congress prior to the year one thousand eight hundred and eight, but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person."

**Slave Trade.**—The first clause of section nine refers to the slave trade, although the framers of the constitution did not wish to degrade that document by placing the word slave in it. The importation of slaves had already been discontinued except in two or three states, but it appeared that these states would not accept the constitution unless they were granted this privilege. Hence a compromise, by which congress was forbidden to interfere for twenty years, was the result. In 1808 congress passed a law prohibiting the importation of any more slaves, and the civil war has made the clause obsolete.



(2) "The privileges of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it."

**Habeas Corpus.**—Habeas corpus has been defined in a former chapter. It was considered one of the dearest rights of the people, therefore congress should be prohibited from suspending it. In case of war, measures are sometimes necessary that would not be tolerated in times of peace. During the rebellion the privileges were suspended and use made of it as a war measure.

(3) "No bill of attainder or ex post facto law shall be passed."

**Bill of Attainder.**—A bill of attainder is one by which a person is condemned by legislative rather than by judicial process and which is usually accompanied by the loss of civil rights to his heirs. A bill of attainder might provide that the heirs of a person executed for some political reason should not inherit the property of the deceased, as well as provide for condemning and executing a person without a regular trial in some court. Such measures are inconsistent with republican principles and are forbidden to congress.

**Ex Post Facto Law.**—An ex post facto law is one that imposes a penalty for some act that was committed before the law was made. It may be either a penalty where no penalty whatever existed before, or it may be an increase of penalty already existing. A person when committing any act should



know the penalty, therefore no such law would be just. No increase of penalty after the commission of a crime can be applied, but a decrease in penalty may be applied to such cases.

(4) "No capitation or other direct tax shall be laid, unless in proportion to the census or enumeration hereinbefore directed to be taken."

**Taxes.**—A capitation tax is a poll tax. Direct taxes have already been explained. All such taxes levied by the United States must have been, prior to the civil war, in proportion to an enumeration that consisted of all free people and three-fifths of the slaves. The same rule still applies, but no slaves exist. The clause was hardly necessary, as the third clause of section two of this article has already provided for the same.

(5) "No tax or duty shall be laid on articles exported from any state."

**Export Duties.**—Congress is given power to lay duties, but is specially prohibited from laying duties on exports. An export duty could hardly be laid that would not do injustice to some state, as no article is produced in equal quantities in all parts of the nation.

(6) "No preference shall be given by any regulation of commerce or revenue to the ports of one state over those of another; nor shall vessels bound to or from one state, be obliged to enter, clear or pay duties in another."

**Regulation of Commerce.**—Fear was expressed that the general government might show partiality to some of the states in matters of commerce. It



was also thought that there should be free trade among the different states, otherwise one state might be enriched at the expense of another. Therefore the general government was prohibited to aid any state in particular in its commerce.

(7) "No money shall be drawn from the treasury but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time."

**Appropriations.**—No public official can expend any public money until it has been appropriated by congress. This is to guard the nation's finances and keep them in the control of the people's representatives. Congress is given the power to raise money; it should therefore have the power to determine for what purposes it should be used. Those who have the disbursement of appropriated public funds make annual detailed reports.

(8) "No title of nobility shall be granted by the United States; and no person holding an office of profit or trust under them, shall, without the consent of the congress, accept of any present, emolument, office, or title of any kind whatever, from any king, prince or foreign state."

**Titles of Nobility.**—Titles of nobility would be contrary to our ideas of equality, and would bring back distasteful memories. Any title, present, or the like, from a foreign power to an officer of the government might tend to influence his acts. Our nation had seen enough of foreign influence and determined to stamp it out forever.



## CHAPTER LI.

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### PROHIBITIONS ON THE STATES.

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ARTICLE I, SECTION 10. (1) "No state shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make anything but gold and silver coin a tender in payment of debts; pass any bill of attainder, ex post facto law, or law impairing the obligation of contracts, or grant any title of nobility."

**Treaty; Alliance; Confederation.**—These three terms mean almost the same, the last being more comprehensive. If states were permitted to make treaties with foreign nations, the power of the nation would be null, for a treaty made by a state might conflict with one made by the general government, and the nation would be thus brought into difficulty with foreign nations. Neither should states be permitted to make alliances among themselves, for they would thus become a menace to the Union.

**Marque and Reprisal.**—Letters of marque and reprisal should be issued only as a war measure, and if issued by any state would be likely to bring war upon the whole nation. This power has been given to congress, but has been used very little even there.

**Coinage.**—Power to coin money was given to congress so as to secure uniformity; therefore the power should not be given to the states.



**Bills of Credit.**—Bills of credit are paper promises to pay money. They had been issued extensively prior to the constitution and had become almost worthless, and caused much trouble. States could not issue them without continuing this trouble and endangering the whole financial system.

**Legal Tender.**—Gold and silver are considered more stable than most other commodities, and especially when compared with the paper money issued by the states. All powers relating to the money of the nation are wisely left with congress.

**Attainder.**—No bill of attainder shall be passed by a state for reasons given under prohibitions on congress.

**Ex Post Facto Law.**—The reasons for the prohibition on congress in regard to an ex post facto law are equally applicable to the states.

**Obligation of Contracts.**—Contracts once entered into of one's own will should be everywhere morally and legally binding. Therefore no state should have power to pass a law that would release any person from such contract.

**Title of Nobility.**—Every state must be republican in form of government, and it would be contrary to the principles of such government to grant titles just the same as it would be for the nation to grant them.



(2) "No state shall, without the consent of the congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws; and the net produce of all duties and imposts, laid by any state on imports or exports, shall be for the use of the treasury of the United States; and all such laws shall be subject to the revision and control of the congress. No state shall, without the consent of congress, lay any duty of tonnage, keep troops or ships of war in time of peace, enter into any agreement or compact with another state, or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as not to admit of delay."

**Duties.**—If states were permitted to lay duties, confusion would soon arise from lack of uniformity. Inspection duties are permitted because each state can better investigate the products of its own industries than could the nation. Inspection is for the purpose of having only good products placed on the market, or that all products shall be marked according to their grade. This is to protect legitimate manufacturers and producers as well as consumers. States may impose a duty for this purpose, but this may be controlled somewhat by congress. Tonnage duties are duties on vessels, and come under the regulations of commerce, which belong properly to congress.

**War Powers.**—The whole subject of war was assigned to congress, therefore the state, of course, would be prohibited from taking any initiatory war-like steps without consent of congress. A state, as has been stated in connection with treaties, should not enter into any compact whatever with another



state or a foreign nation. Yet one exception to these provisions remains: A state, as well as an individual, has the right to defend itself in time of danger. The state may use its militia in time of imminent danger, but even then it is by provision of congress, as the militia of each state is organized and acting under national law almost wholly.

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## CHAPTER LII.

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### EXECUTIVE DEPARTMENT.

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ARTICLE II, SECTION 1. (1) "The executive power shall be vested in a president of the United States of America. He shall hold his office during the term of four years, and together with the vice-president, chosen for the same term, shall be elected as follows."

**The Executive.**—Under the articles of confederation there was no executive. The people having received such unjust treatment from the king of England, came to think of the executive only as another name for tyrant. However, a few years without an executive convinced the people that a government without such an office was not a government at all; so it was generally agreed in the constitutional convention that there should be an executive. It was debated as to whether this power should consist of one man or more than one, but it was finally decided that to insure prompt and energetic action one person would be more efficient, but that his office must be surrounded with limitations so that there would be a safeguard to the liberties of the people.



**Term of Office.**—The length of term of the president came in for its share of debate. Opinions differed, the lengths proposed varying from two years to life. A compromise followed and four years was selected. The arguments against too short a term are that the president would not have time to carry out any policy that he might advocate, and further, he might look more to a reelection than to the duties of his office. On the other hand, too long a term might make him too independent of the people and cause him to become tyrannical. Many advocated ineligibility to reelection, but it seemed best to place the president where he would look both to the interests of the country and to the will of the majority. The term begins on the fourth of March following the election. No president has been a candidate for more than two terms, and it is an unwritten law, upheld by public sentiment, that no one shall be elected to the presidential chair for a third term.

(2) "Each state shall appoint, in such manner as the legislature thereof may direct, a number of electors equal to the whole number of senators and representatives to which the state may be entitled in the congress; but no senator or representative, or person holding an office of trust or profit under the United States, shall be appointed an elector."

**Method of Election.** — Several methods were suggested for electing the president, among which were election by congress, by legislatures, by the people, and by special persons elected by the people. If congress should elect, the legislative and executive would be brought into too close relationship and it



would not leave the executive so free to act. If legislatures elected, a new authority would be given to bodies who should be elected for an entirely different purpose. If the people elected directly they might be led away by popular favoritism, and elect a man unfit for his high position. If persons selected by the people especially for this purpose were given this power, they would be more likely to judge correctly as to the qualifications necessary to the chief executive of the nation. The last method was adopted, but the arguments in its favor do not apply now.

**Electors.**—The number of presidential electors is equal to the number of representatives and senators in congress from each state. This was a concession to the smaller states, giving them the same voice in electing president that they have in congress. At first the electors were elected without regard to party affiliation, and therefore were left free to exercise their judgment in the selection of the president. But as soon as party lines began to be closely drawn electors were chosen who were pledged to certain parties and to certain leaders of certain parties. Each state is free to elect its electors as it deems best, but the election must be held on the first Tuesday after the first Monday of November. Methods of electing in the different states differed somewhat in the past, but at present all the voters in each state may vote for as many presidential electors as his state is entitled to. It will readily be seen that under the original intention of this



clause no person holding office under the United States would be a suitable person for elector, as he might not be free to exercise his judgment. It would have little force now.

(3) "The electors shall meet in their respective states, and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same state with themselves. And they shall make a list of all the persons voted for, and the number of votes for each; which list they shall sign and certify, and transmit, sealed, to the seat of the government of the United States, directed to the president of the senate. The president of the senate shall, in the presence of the senate and house of representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be president, if such number be a majority of the whole number of electors appointed; and if there be more than one who have such a majority, and have an equal number of votes, then the house of representatives shall immediately choose by ballot one of them president, and if no person have a majority, then from the five highest on the list the said house shall in like manner choose the president. But in choosing the president, the vote shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. In every case, after the choice of the president, the person having the greatest number of votes of the electors shall be vice-president. But if there should remain two or more who have equal votes, the senate shall choose from them by ballot the vice-president.

**Election by Electors.**— This clause has been superseded in some of its provisions by the twelfth amendment. The electors, which body has been styled the electoral college, meet in their respective



states, and congress provides for this meeting to be on the second Monday of January following election. Formerly each elector voted for two persons for president, but now for only one. Each elector now votes for one person, also, for vice-president, and it will be seen, from either the original or the amendment, that the president and vice-president were not intended to be from the same state, as that would give too much power to one state. The result of the vote of electors in each state is certified to and transmitted to the president of the senate. In fact, three sets of these "returns," as they are called, are sealed; one is deposited with the judge of the United States district court in whose district the electors meet; another set is sent by mail to the president of the senate, and the third set is delivered in person to him by special messenger, usually one of the electors. A majority of all the votes of the electors is necessary to the selection of the president. This was so in the amendment and the original, but in the original the vice-president might be elected by a plurality. The votes of the electors are opened on the second Wednesday of February.

**Election of President by the House.**—If no one has received a majority of all the electoral votes for president, then the house of representatives must proceed to elect. The power was given to the house, as that body is nearer to the people. In the original, if two persons had a majority, but an equal number, then one of them was selected president, or if no one had a majority, then the selection was made from the five having the highest number of



votes. In the amendment this number is reduced to three, and might, perhaps, have been well reduced to two. The vote by states, each state having one vote, means that the majority of the representatives from each state shall determine that vote. Only two presidents have been elected by the house, Thomas Jefferson, in his first term, and John Quincy Adams.

**Election of Vice President by the Senate.—**

When the electors fail to choose a vice-president, the duty devolves upon the senate, for the reason that his duties, except in case of death or disability of the president, are in connection with that body, each senator having one vote. Only two names being presented there is likely always to be a speedy election, hence the provision for the vice-president to serve as president when the house fails to elect before the fourth of March.

(4) "The congress may determine the time of choosing the electors, and the day on which they shall give their votes; which day shall be the same throughout the United States."

**Time of Election.**—Congress has determined the time of holding the elections as has been noted in the preceding pages. If the election was not held on the same day in each state, undue influence might be brought to bear on the last two or three states to vote, when the vote was found to be quite close.

(5) "No person except a natural born citizen, or a citizen of the United States at the time of the adoption of this constitution, shall be eligible to the office of president;



neither shall any person be eligible to that office, who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States."

**Qualifications of President and Vice President.**—No one but a native born citizen could be trusted in such a position as president of the nation. Foreign influence was feared. Persons who had become true subjects at the time of the adoption of the constitution were excepted. The qualifications of age and residence can easily be understood when compared with the qualifications of representatives and senators. By the twelfth amendment the vice-president must have the same qualifications as the president.

(6) "In case of the removal of the president from office, or of his death, resignation or inability to discharge the powers and duties of the said office, the same shall devolve on the vice-president, and the congress may by law provide for the case of removal, death, resignation or inability, both of the president and vice-president, declaring what officer shall then act as president, and such officer shall act accordingly, until the disability be removed, or a president shall be elected."

**Vacancies.**—A vacancy in the presidency may be caused in various ways. Four times in the hundred years it has been caused by death, and the vice-president has filled the unexpired term. Were there no provision for succession the life of the nation might be endangered while a new election was going on. No vice-president acting as president has ever died while in office, but congress early made provision for succession in such an event, by design-



nating the president pro tempore of the senate and the speaker of the house as respectively in line of succession. But at times there are no such officers, so to make the succession more certain the president's cabinet has been substituted in the order of secretary of state, secretary of the treasury, secretary of war, attorney general, postmaster general, secretary of the navy, and secretary of the interior. This succession insures the same political party in power, as the president's cabinet is chosen from his own party. This would avoid abrupt changes in national policies.

(7) "The president shall, at stated times, receive for his services a compensation which shall be neither increased nor diminished during the period for which he shall have been elected, and he shall not receive within that period any other emolument from the United States, or any of them."

**Salary.**—Congress originally fixed the president's salary at \$25,000, but some years ago increased it to \$50,000. This compensation is remarkably small compared with that of rulers of other large countries. Congress has no power to increase or decrease the president's salary during his term; therefore, they can not by that means influence his acts. Nor can the government, which would be the congress in this case, make him any present of any kind, for this would amount to the same thing as increasing his salary. He is also forbidden to receive any emolument from any state, because it might tend to influence him to favor that particular state. The executive mansion, or White House, is furnished



to the president at the expense of the nation. The salary of the vice-president is \$8,000 a year. All the officers receive their salary at the end of each month.

(8) "Before he enter on the execution of his office, he shall take the following oath or affirmation: 'I do solemnly swear (or affirm) that I will faithfully execute the office of president of the United States, and will to the best of my ability, preserve, protect and defend the constitution of the United States.' "

**Inauguration.**—Taking the oath of office is the principal ceremony of inauguration. The oath is administered on the fourth day of March by the chief justice of the United States. It will be noted that this oath is very simple and yet very broad. The president who carries out the spirit of his oath will do his duty.

**Inaugural Address.**—Immediately after assuming the oath the president delivers his inaugural address, in which he outlines his policy and gives plans for the guidance of the administration. He assumes the responsibilities of a great nation, and therefore should direct the policy of the same. Thorpe well says: "The responsibilities incident to the office of president of the United States have called into exercise noble qualities from all our presidents. From the excitement of the campaign to the cares of the White House is a transformation likely to change the leader of a party into the head of the nation."



## CHAPTER LIII.

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### POWERS AND DUTIES OF PRESIDENT.

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ARTICLE II, SECTION 2. (1) "The president shall be commander-in-chief of the army and navy of the United States, and of the militia of the several states, when called into the actual service of the United States; he may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices, and he shall have power to grant reprieves and pardons for offenses against the United States, except in cases of impeachment."

**Commander-in-Chief.**—The chief executive must have some means of executing his authority. In performing his duty the occasion often arises for the use of an army or navy, and it is only logical that the president should have these at his command. The president does not take the field in person, but appoints a general to carry out his orders. Although the army is at the command of the president, yet he is prevented from abusing the power thus bestowed on him, for the army is the creature of congress, and that body has entire control over its existence.

**Executive Departments.**—The constitution does not provide for the establishment of special executive departments, but inasmuch as they are necessary to the president in performing the duties of his office, congress has established eight depart-



ments, the heads of which are appointed by the president, with the consent of the senate, and constitute what is known as his cabinet. The names of these executive auxiliaries are the departments of state, treasury, war, navy, interior, agriculture, justice, and postoffices. The chief officers of the first six are called secretaries, and of the last two, attorney-general and postmaster-general. It is from these eight cabinet officers that the president may require opinions, and it is upon these that he depends to see that his executive authority is duly exercised throughout the nation and in transactions with other nations. Their salaries are \$8,000 each.

**Department of State.**—The head of this department is called secretary of state, and he has charge of all public documents and records and affixes the great seal of the United States to all commissions issued by the president. Through him all foreign negotiations and correspondence with our foreign ministers and consuls are carried on. For this reason he is considered the most important cabinet officer and is usually selected from men of international renown. The department is divided into three bureaus, called the diplomatic bureau, the consular bureau, and the domestic bureau.

**Ministers and Consuls.**—Under the control of the department of state are all the ministers and consuls representing our government in foreign countries. They are appointed by the president. Ministers represent our government in all political negotiations, while consuls represent it in commercial relations. Ministers are considered of higher



rank than consuls. The minister to England is considered the most important. The salaries grade downward from \$17,500.

**Department of Treasury.**—The secretary of the treasury is at the head of the treasury department and his office is considered very important. He is expected to devise plans for raising revenue for the support of the nation, look after the national debt, and see that the credit of the government is maintained. Under his control all moneys of the nation are received and disbursed. To this department naturally belong the control of the customs and custom houses, all the mints, government issues of paper money, national banks, and everything pertaining to the finances of the country. In addition to the control of the finances, this department has charge of the coast survey, the collecting of statistics, the architectural plans for United States buildings, and some other important branches. The chief officers under the secretary are two controllers and six auditors.

**Department of War.**—The department of war has control of all matters pertaining to the army. In times of peace the department is not so important as the other departments, but in time of war it at once becomes the most important. Under the supervision of this department is the national military academy at West Point. The signal service belongs to this department.

**Department of Navy.**—Like the department of war, the department of navy is much more important in times of war than in times of peace. It



supervises the building of war ships and the furnishing of all naval supplies. The naval academy at Annapolis is under its control.

**Department of Interior.**—This department, as its name signifies, has charge of various branches of the government that relate to home interests, such as pensions, patents, education, census, public lands, and Indian matters. This department in times of peace has probably more to do with the general welfare of the people than any other department.

**Department of Agriculture.**—The department of agriculture did not become a distinct department until 1889, but was under the interior department. The immense agricultural interests in the West seemed to demand a separate department, therefore it was separated, and its chief officer is now a member of the president's cabinet. Its duties are implied in its title. The weather bureau belongs to this department.

**Department of Justice.**—The chief of the department of justice is called attorney-general, and it is his duty to act as counsel in all cases in the name of the United States; also to give advice to the executive and departments on points of law.

**Department of Postoffices.**—The chief of this department is called postmaster-general. Under his direction the immense postal service of the nation is carried on. He establishes postoffices and post roads, makes arrangements for the transpor-



tation of mail, and appoints all postmasters whose salaries do not exceed one thousand dollars a year. The postoffice department, like the interior department, is important to the people in general.

**Reprieves and Pardons.**—Like the governor of the state, the president has power to grant reprieves and pardons in cases of persons convicted by United States courts. Injustice may have been done by courts and there should be some power to restore rights which have been unjustly taken away. In times of war there have been some noted reprieves and pardons granted by the president. The exception to his power in cases of impeachment is made so that congress may have entire control over the acts of public officers.

(2) "He shall have power, by and with the advice and consent of the senate, to make treaties, provided that two-thirds of the senators present concur; and he shall nominate and by and with the advice and consent of the senate, shall appoint ambassadors, other public ministers and consuls, judges of the supreme court, and all other officers of the United States, whose appointments are not otherwise herein provided for, and which shall be established by law; but congress may by law vest the appointment of such inferior officers as they may think proper, in the president alone, in the courts of law or in the heads of departments.

**Treaties.**—Treaties are compacts with foreign nations and may be upon almost any subjects relating either to peace or war. They are usually negotiated through the secretary of state and the foreign minister, but must be ratified by the president, and this is called making the treaty. But in



ratifying it the president must have the consent of two-thirds of the senators present at the time of making the treaty. It was considered too important a duty to be entrusted to the president alone, but the details of such a matter could be better attended to by one man than by many.

**Appointments.**—Only two executive officers of the nation are elected. All other executive and all judicial officers are appointed, and most of them by the president. This is a great responsibility, and in all the important offices the senate must concur. By thus having the appointive power in his hands the president can surround himself with subordinates who will be in harmony with his policies, and the machinery of the nation will move more harmoniously. But there are dangers in the system. President Jackson first exercised, to any great extent, the right to remove from office and fill the places with political friends, claiming that "To the victors belong the spoils." The federal officeholders form a large and influential class of citizens. These, if they are so inclined, may help much to keep the president in office, though he were unworthy of the position, and a president might be inclined to appoint unscrupulous persons for the purpose of furthering his ends.

**Civil Service Reform.**—The civil service means all the persons in the employ of the national government. To relieve the president of some of the responsibilities of so many appointments, and to secure more efficient services to the government, a reform in the civil service has been instituted



during the last few years. Competitive examinations are held to determine qualifications for positions, and those best qualified receive the appointments. Many of the minor offices are already included in the reform, and it is being extended every year. Most honest statesmen are in favor of it, and there is no question but that all but a few of the immediate advisers of the president and the highest judicial officers will come into the list, although unscrupulous politicians are still opposed to it.

(3) "The president shall have power to fill up all vacancies that may happen during the recess of the senate, by granting commissions which shall expire at the end of their next session."

**Vacancies.**—Business might be delayed during the recesses of the senate if the power to make temporary appointments were not given to the president. The senate at its next session may confirm the appointment, but if it does not, another appointment is usually made. This power of the president might be abused by his appointing a rejected candidate again at the close of the session of the senate.

ARTICLE II, SECTION 3. (1) "He shall from time to time give to congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient; he may on extraordinary occasions, convene both houses or either of them, and in case of disagreement between them, with respect to the time of adjournment, he may adjourn them to such time as



he shall think proper; he shall receive ambassadors and other public ministers; he shall take care that the laws be faithfully executed, and shall commission all officers of the United States."

**Message.**—The president, at the beginning of each session of congress, and from time to time as he may think necessary, sends to congress messages. These messages outline to congress the policies that he would like to see carried out by appropriate legislation.

**Extra Sessions.**—Emergencies sometimes arise during recesses of congress which render it important for congress to assemble. The president may then call an extra session to consider such matters as he may lay before it.

**Receiving Ambassadors.**—Ambassadors, or ministers, are sent by all civilized nations to represent their government at the capitals of other nations. The matter of receiving them is left to the president, as the representative of the nation. It is a matter of great importance at times, as two sets of ambassadors might be sent by two forms of government set up in the same country, and it is then for the president to decide which ambassadors are entitled to recognition. It is a custom of nations to recognize no new government until it has proved its right to existence, and for the president to receive ambassadors from a form of government that has not proved that right might involve our nation in war.

**Execution of the Laws.**—It is evident that the chief executive should see that the laws are faithfully executed, and this provision implies that



he shall use such means as may be necessary and not prohibited in performing the same. The president must be the judge of these means, and it is important that he should be a man of sound judgment and quick decision.

**Commissions of Officers.**—Over one hundred thousand offices have been in the past filled by the president by appointment and all these are to be commissioned by him. Civil service reform is fast removing much of this unnecessary burden and leaves the president freer to attend to his executive duties.

ARTICLE II, SECTION 4. (1) "The president, vice-president, and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors."

**Impeachment.**—Impeachment has been referred to twice before in the discussion of the constitution. It may be well here to state that only officers of high rank are ever impeached. Others are usually removed by the power which appointed them. The right to impeach high officers is another safeguard thrown around the public offices. There have been only seven cases of impeachment in the history of the national government: William Blount, a senator; John Pickering, a judge; Samuel Chase, a judge; James Peck, a judge; W. H. Humphreys, a judge; Andrew Johnson, president; and W. W. Belknap, secretary of war. The case against the first was dismissed, as it was decided that he was not a civil officer. Judge Pickering and Judge Humphreys were convicted, and all the others acquitted.



## CHAPTER LIV.

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### JUDICIAL DEPARTMENT.

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ARTICLE III, SECTION 1. (1) "The judicial power of the United States shall be vested in one supreme court, and in such inferior courts as the congress may from time to time ordain and establish. The judges both of the supreme and inferior courts shall hold their offices during good behavior, and shall at stated times receive for their services a compensation which shall not be diminished during their continuance in office."

**Importance of the Judiciary.**—Another weakness of the government under the articles of confederation was the lack of a national judiciary. Congress could make laws, but each state was free to interpret them according to the will of its courts. The result was a conflict in interpretations, often to suit the interests of the states in which decisions were made. It was therefore pretty well agreed among the makers of the constitution that there should be a judicial department, and that it should be as free as possible from restraint.

**The Courts.**—Congress has power to establish all the courts except the supreme court, which is provided for by the constitution. Under powers of congress these courts have been referred to.

**Judges of the Supreme Court.**—The constitution does not provide for the number of judges of the supreme court, therefore congress adds to

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the list as the increase of business seems to demand. At present there are nine, one of whom is called chief justice, and the others associate justices. They are appointed by the president, and their term of office is really for life. Thus they are free after appointment to exercise their judgment without fear of incurring party displeasure or persecution. They can be removed from office only by impeachment.

**Other Judges.**—Inasmuch as there are as many circuit courts of appeal and circuit courts as there are supreme judges, there are now nine of each, several states being combined under one justice of the supreme court and two or more circuit judges. The supreme judge and the judges of the circuit constitute the circuit court of appeals, which has final jurisdiction in most cases. Besides these, each state has a district court and some states two or three, in all nearly seventy at present, each with one judge, and a district attorney who has charge of all cases before the district court. The various other courts established by congress have judges, all of whom are appointed by the president.

**Salaries of Judges.**—It will readily be seen why the salary of a judge should not be liable to reduction by congress, and it would seem equally just that it should not be increased, but no provision is made against that. The salary of the chief justice is \$10,500 and of the associate justices, \$10,000. Of the circuit judges it is \$6,000, of the district judges it is \$5,000, and of the other judges it varies from \$5,000 to \$3,500.



ARTICLE III, SECTION 2. (1) "The judicial power shall extend to all cases, in law and equity, arising under this constitution, the laws of the United States, and treaties made or which shall be made, under their authority; to all cases affecting ambassadors, other public ministers, and consuls; to all cases of admiralty jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more states; between a state and citizens of another state; between citizens of different states; between citizens of the same state claiming lands under grants of different states, and between a state or the citizens thereof, and foreign states, citizens or subjects."

**Jurisdiction of Federal Courts.**—Most cases involving the questions of law are tried in the state courts, but there are others which are manifestly of such a nature as to place them outside the jurisdiction of the law of any one state. For such cases as these the federal, or national, courts were established. Two classes of cases are specified, those which are purely national, and those in which the states are individually interested; but, like congress, the federal courts are limited to specific cases.

**Cases Purely National.**—Among the cases which the constitution expressly places under the jurisdiction of the federal courts are those in which some point of the constitution itself is in question, or some law made by the national government. These laws are general and must have a general interpretation. In all cases affecting treaties, ambassadors, ministers, and consuls, and admiralty jurisdiction, which means jurisdiction on the high seas, the federal courts should surely have jurisdiction, as the cases all affect our foreign relations,



and foreign nations recognize no state government. The United States also reserves to herself the right to have tried in her own courts any case in which she is herself a party, and thus retains her sovereignty. If a state were the other party in this last provision the subject would naturally fall in the following paragraph:

**Cases in Which States Are Interested.—**

A controversy between two states could not be satisfactorily settled in the courts of either state. The same idea would naturally rise in connection with a case between one state and citizens of another state, and the constitution made provision for such cases in the federal courts, but the eleventh amendment changes this so that no suit brought by citizens of one state against another state can be considered by the federal court; yet suits by a state against citizens of another state are still brought in the federal court. Also do cases come under the same court between citizens of different states for reasons given above. In early days land grants often overlapped owing to inaccuracy or lack of survey, and in such cases state courts might lead to trouble between states granting the lands. The last provision evidently comes under the jurisdiction of the nation, as it involves foreign interests.

(2) "In all cases affecting ambassadors, other public ministers and consuls, and those in which a state shall be a party, the supreme court shall have original jurisdiction. In all the other cases before mentioned, the supreme court shall have appellate jurisdiction, both as to law and fact, with such exceptions and under such regulations as the congress shall make."



**Jurisdiction of Supreme Court.**—Original and appellate jurisdiction have already been explained. Only cases which have some high importance attached to them can come originally before the supreme court. Ambassadors, ministers, and consuls are considered high officers and much respect is shown them; likewise, the state being a government within itself, and the thirteen being originally sovereign powers, would command the highest respect that could be shown. Cases involving the constitutionality of law from all the inferior federal courts, and from state courts when the point at issue affects the nation, may be brought by appeal before the supreme court. Five members of the court form a quorum to consider cases, and their decision is final. They do not decide upon the constitutionality of any law passed by congress until some case is brought before them involving that point.

(3) "The trial of all crimes, except in cases of impeachment, shall be by jury, and such trial shall be held in the state where said crimes shall have been committed; but when not committed within any state, the trial shall be at such place or places as congress may by law have directed."

**Trial of Crimes.**—The difference between criminal and civil cases has been noted. Civil cases may or may not be tried by jury, but the constitution guarantees trial by jury to every person accused of crime. Trial by jury is of long standing and is considered one of the most important rights of a free people. Trial should be in the state where



the crime was committed, otherwise the accused would be submitted to too much trouble and expense. If a crime is not committed in any state it is reasonable that the trial of it should be under the direction of the general government. Such commission of crimes might be on the high seas, in the territories or District of Columbia, or on military or Indian reservations.

ARTICLE III, SECTION 3. (1) "Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court."

**Treason.**—Treason is considered the highest crime a person can commit and its punishment at all times has been most severe. In different countries different acts are considered treasonable, and therefore congress thought best to define it accurately, and has limited it to two acts, levying war against the United States or adhering to or giving aid and comfort to their enemies. No contemplated act against the nation is treason; it must be something actually performed. Further than this, a person can not be convicted unless there are two witnesses to the same overt or open act, or upon open confession. One witness in most cases is sufficient to convict, but in time of war or disturbances accusations are more likely to be made from prejudice than in time of peace; also, as treason is some overt act, if there was any foundation for the charge, more than one witness would be likely to know of the facts.



(2) "The congress shall have power to declare the punishment for treason; but no attainder of treason shall work corruption of blood, or forfeiture, except during the life of the person attainted."

**Punishment for Treason.**—Congress may declare the punishment for treason and has made it death or imprisonment and fine; but none of the cruelties of the past are, of course, inflicted. Punishment for treason in England and other countries was often extended to the children and they were prevented from inheriting the property of their convicted parent. This, of course, was unjust and not consistent with the principles of a free country. Had the Revolution failed it is probable that many of the leaders would have been punished for treason. Again, at the close of the civil war our government had the right to punish for treason any who took part in the war against the Union, but no punishments were meted out except certain political disabilities.

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## CHAPTER LV.

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### RELATIONS OF THE STATES.

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**ARTICLE IV, SECTION 1.** (1) "Full faith and credit shall be given in each state to the public acts, records and judicial proceedings of every other state. And the congress may by general laws prescribe the manner in which such acts, records and proceedings shall be proved, and the effect thereof."



**Records.**—The public acts, which here mean the laws; the records, which mean all papers and reports legally filed; and judicial proceedings, which mean decisions of the courts, of one state, must be taken in full faith in any other state. Were it not for this, persons going into other states might be subjected to much inconvenience. This gives freedom of action and equality of rights to all persons in whatever state they may happen to be either permanently or temporarily. Congress has made laws prescribing the manner of proving any of these acts, records, and proceedings, such as having signatures of certain officials and seals attached.

ARTICLE IV, SECTION 2. (1) "The citizens of each state shall be entitled to all privileges and immunities of citizens in the several states."

**Privileges of Citizens.**—A state can not grant privileges to its citizens and deny the same to citizens of other states. A citizen going into another state is accorded all the privileges allowed to the citizens of that state. This is a safeguard to assure the equality of the people wherever they may be while within the limits of the country.

(2) "A person charged in any state with treason, felony, or other crime, who shall flee from justice, and be found in another state, shall, on demand of the executive authority of the state from which he fled, be delivered up, to be removed to the state having jurisdiction of the crime."

**Fugitive Criminals.**—One state has no authority in another state, therefore a criminal who has escaped into another state is exempt from arrest by any officer from the state from which he fled.



Criminals could almost always make their way into another state before arrest, and justice could not be secured, were it not for this provision. The constitution does not designate the method for carrying out this provision, but the states carry it out as follows: The governor of the state from which the criminal fled makes a requisition on the governor of the state in which the criminal is found and where he may be held by the authorities in that state. The governor of the latter state usually complies with the requisition and orders the prisoner turned over to the authorities of the former state.

(3) "No person held to service or labor in one state, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due."

**Fugitive Slaves.**—The last clause refers particularly to slaves escaping from their masters. It would also refer to those "bound out," as they formerly were to serve apprenticeships. There was much sympathy in the Northern states for the slaves of the South, and it was feared by the Southern members of the convention that Northern states might enact laws that would interfere with the return of fugitive slaves, or that Northern people might afford such shelter and protection. Therefore this clause was a concession to Southern sentiment. The principle contained in it caused much bitterness of spirit for years before the rebellion, but now the provision has no force whatever.



**ARTICLE IV, SECTION 3.** (1) "New states may be admitted by the congress into this Union; but no new state shall be formed or erected within the jurisdiction of any other state; nor shall any state be formed by the junction of two or more states or parts of states, without the consent of the legislatures of the states concerned as well as of the congress."

**Admission of States.**—At the time of the adoption of the constitution there was much land extending westward from the thirteen original states that was acknowledged to be a part of the United States, and was either in no state at all or claimed by the different states. Instead of keeping this land, and all territory thereafter acquired, as subsidiary to the original states, provision was made for admitting it on equal terms with the others. This has proved to be a wise provision, every state added being an addition of power and not a dependency that would tend in time to drag the nation down. Most of the territory claimed by the states was afterwards ceded to the general government, but when new states were made out of territory over which some state still claimed jurisdiction, the consent of the legislature of the state had to be obtained. The rights of states can not be interfered with, therefore a state can not be formed from part of another state without the consent of that state.

(2) "The congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this constitution shall be so construed as to prejudice any claims of the United States, or of any particular state,"



**Public Territory.**—Of course a government has the right to make any regulations necessary to the control or disposal of its own property, but this provision places that right in the legislative branch of the government. Congress has had many a stormy session over the disposal of its vast areas of public lands which it has acquired by concession, conquest, purchase, annexation, or otherwise. Yet it has enriched the nation as a whole, and many of the newer states have reason to be satisfied with the disposition of the lands when they consider their immense permanent school fund resulting from these very lands. The last part of the clause was added to assure the states, that no act of congress could deprive them of their right over any of this territory.

ARTICLE IV, SECTION 4. (1) "The United States shall guarantee to every state in this union a republican form of government, and shall protect each of them against invasion, and on application of the legislature, or of the executive (when the legislature cannot be convened), against domestic violence."

**Protection of the States.**—Any other form of government than republican would be inconsistent with the principles upon which this government was founded, therefore the guarantee that every state should have such a form is only natural. It is not left for each state to decide this, but it is to be enforced by the general government if necessary. It is also the duty of the nation to assist the state, if need be, when invaded, for the state is a part of the nation, and invasion of the state is invasion of the



nation. The state may, through its militia, take arms against invasion, but this is under general provisions of the national government. The nation is also bound to aid a state in times of domestic troubles, but then only at the request of the legislature or executive. This last condition is to relieve the nation from interfering in petty state broils. However, in times of great danger, the nation has interfered in state matters, even though not requested to do so by the state, on the ground that a national calamity was imminent.

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## CHAPTER LVI.

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### AMENDMENT AND MISCELLANEOUS.

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ARTICLE V. (1) "The congress, whenever two-thirds of both houses shall deem it necessary, shall propose amendments to this constitution, or, on the application of the legislatures of two-thirds of the several states, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as a part of this constitution, when ratified by the legislatures of three-fourths of the several states, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the congress; provided, that no amendment, which may be made prior to the year one thousand eight hundred and eight, shall, in any manner, affect the first and fourth clauses in the ninth section of the first article; and that no state, without its consent, shall be deprived of its equal suffrage in the senate."

**Amendment.**—The constitution of the United States is the most complete and comprehensive political document ever compiled by any body of



men; and yet it is brief, being much shorter than the constitutions of most of the states. The wisdom expressed in those few pages has almost without change withstood the shocks of peace and war for over a hundred years. But the framers knew that however complete it might be for the then existing condition, the time would come when changes would be necessary, yet during the hundred years, although over seven hundred amendments have been advocated in congress and nineteen proposed to the states for ratification, only fifteen have been adopted. No amendment has ever been proposed or ratified by conventions. Stability of fundamental principles of government are necessary to progress and tranquillity in a nation; therefore amendment to a constitution is usually made difficult. If there is a real need for change the change can be made under these difficulties. The two provisos at the close of the clause were concessions to the South and to the small states. The former has been amended in part, but the latter has not.

**Rejected Amendments.**—Of the four amendments rejected by the states, two were proposed by the first congress. One of these related to the regulation of the number of representatives. This could be better regulated by congress from time to time. The other was to prevent congressmen from increasing their own salaries. Public opinion will usually prevent congressmen from increasing beyond reasonable limits their own salaries. In 1873 congress passed a bill increasing the salaries of members to \$7,500 and making it apply from the



beginning of their term. This was called the "salary grab," and created such an outburst of condemnation throughout the country that it was repealed at the next session. Another rejected amendment was one to prohibit citizens from receiving titles, or any emoluments from a foreign power. The last rejected amendment was proposed in 1861, and was to make slavery perpetual. It was hoped by this that the feeling in the South might be allayed and the threatened war averted.

ARTICLE VI. (1) "All debts contracted and engagements entered into before the adoption of this constitution shall be as valid against the United States under this constitution as under the confederation."

**Debts.**—Under the confederation it was difficult to collect debts, and one purpose of a new form of government was to insure the payment of all just claims. Yet there were those who might fear that a change in government would affect their rights, so this clause was inserted as a sort of assurance to the mistrustful. Under the new government credit soon became much more firmly established than it had ever been under the confederation.

(2) "This constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the constitution or laws of any state to the contrary notwithstanding."

**Supremacy of the Nation.**—When the states adopted the constitution they, of course, adopted the provisions of this clause, and the stand which



many of them afterwards took in regard to state rights had no foundation at all. This clause gives entire supremacy to the constitution and laws of the United States and makes all laws of the states contrary to the same null and void. It is the clause which makes the whole constitution a living, acting force.

(3) "The senators and representatives before mentioned, and the members of the several state legislatures, and all executive and judicial officers, both of the United States and of the several states, shall be bound by oath or affirmation, to support this constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States."

**Oaths.**—The first provision of this last clause requires all officers under the national or state governments to swear allegiance to the United States. This custom of taking an oath of office is of long standing in various countries, but it has come to be considered by many as a mere form; yet the majority of the people are still influenced by its sacredness. The test oath, as it is called, of the second provision is in accordance with the spirit of religious liberty for which our forefathers so often contended. No officer of the national government is ever required to proclaim his religious belief. This provision does not extend to state officers, but the states have followed the nation in the matter.

ARTICLE VII. (1) "The ratification of the conventions of nine states shall be sufficient for the establishment of this constitution between the states so ratifying the same."



**Ratification of the Constitution.**—The constitutional convention was called for the purpose of revising the articles of confederation, but instead of this the convention assumed a power not delegated to it and made a constitution for the people. The states were still sovereign, and, therefore, the constitution was referred directly to them for ratification, without referring it to congress, the body which had brought the convention into existence. When two-thirds of the states had ratified it, it was to become binding upon those states. The others would still be sovereign. It was thought that nine states would be few enough to make successful such a government. Nine states adopted it before the end of a year, and the new government went into operation; an existing government had been overthrown, and another revolution had been accomplished.

**Inauguration of the New Government.**—The constitution was completed and signed by the members of the convention in September, 1787. In July of the next year the ninth state ratified it, and the government of those nine states under the constitution began. That is, the constitution became binding upon them, but the government did not go into immediate operation. The old congress still continued to exist, and in September, 1788, adopted the following resolution:

*“Resolved, That the first Wednesday in January next be the day of appointing electors in the several states which before the said day shall have ratified the said constitution; that the first Wednes-*



day in February next be the day for the electors to assemble in their respective states, and vote for a president; and that the first Wednesday in March next be the time, and the present seat of congress the place, for commencing proceedings under the said constitution."

Senators, representatives, and presidential electors were elected, and the latter met in February, 1789, and elected George Washington president. The day set for inauguration of the president fell on the fourth of March, therefore that date has come down to us as the day of inauguration. However, the first inauguration did not take place until April 30 on account of a delay in the assembling of congress. Washington was inaugurated on the balcony of Federal Hall in New York City, where the capital was located until 1790.

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## CHAPTER LVII.

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### THE AMENDMENTS.

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**First Ten Amendments.**—As the constitution came before the several legislatures for ratification, quite a general sentiment was expressed that the rights of the people were not clearly enough expressed. Under the confederation the people could not be reached at all by the general government, but this had proved a weakness. Yet personal liberty was what they had fought for in the Revolution, and they were still opposed to any form of



government that in any way threatened those liberties. Although the constitution reserved to the national government only certain rights, expressly stated, and conceded to the states and the people all other rights, yet there was a demand for a more explicit statement of these facts. Therefore, in the first session of congress in 1789, twelve amendments were proposed, ten of which were ratified by the requisite number of state legislatures in 1791. These amendments together were called the "bill of rights." They do not change the constitution at all, but rather serve to explain it. Judge Story says their object was to "more efficiently guard certain rights already provided for in the constitution, or to prohibit certain exercises of authority supposed to be dangerous to the public interests."

ARTICLE I. "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech or of the press; or the right of the people peaceably to assemble and to petition the government for a redress of grievances."

**Freedom of Religion.**—Many of the states were settled for the purpose of securing religious freedom, and in the minds of our forefathers it should go hand in hand with political freedom. No national religion should be established by congress and no law should be made interfering with free exercise of anyone's religion. The Mormons have tried to take advantage of this article to practice polygamy, contrary to the laws of the United States.

**Freedom of Speech and Press.**—Some countries even now restrict speech and the press, but it is at variance with the spirit of liberty, and assur-



ances were demanded that it would never be practiced by our government. Every person is free to speak or write his opinion on any subject, but this does not include the right to utter falsehoods that would injure another. Freedom can extend only so far as it does not injure others or interfere with their rights.

**Right to Petition.**—England had at times refused the people the right to assemble and petition the king, on the ground that it was to prevent insurrection. Bodies of men assembled, sometimes threaten a government, but a government is weak, indeed, and unworthy the confidence of the people if it fears such assemblies.

ARTICLE II. "A well-regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed."

**Right to Keep and Bear Arms.**—The people, or certain specified portions of them, constitute the militia, and have been found to be of valuable assistance in times of danger. Were they deprived of the right to keep arms, the regular army under an unscrupulous leader might usurp the liberties of the people; but the militia being somewhat trained, and free to keep arms, would be able to counteract any such attempt at usurpation by any army that a republic should keep in time of peace. But this amendment does not convey to the people the right to carry concealed weapons.

ARTICLE III. "No soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war, but in a manner to be prescribed by law."



**Quartering Soldiers.**—The Declaration of Independence declares against “quartering large bodies of armed troops,” for the people had been frequently annoyed by this for years before the Revolution. People had been obliged to provide for the very soldiers that were sent to watch them and keep them in subjection, and this was a point on which they desired special assurance.

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

**Right of Search.**—Liberty is not complete unless a person is secure in the unmolested possession of his property. Unwarranted searches had often been made by soldiers and officers prior to the Revolution, much to the discomfort of citizens. This article was an assurance that no searches for property illegally held could be made without proper warrant issued upon probable cause, and especially designating the place to be searched.

ARTICLE V. “No person shall be held to answer for a capital or otherwise infamous crime unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia when in active service in time of war, or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.”



**Rights in Criminal Cases.**—The first provision of the last clause is intended to assure to every person the right of a preliminary hearing before some authorized body, before he can be formally accused and placed on trial for any great crime. It is a safeguard against hasty trials. But an exception is made in military affairs, because in time of danger prompt action is necessary to good discipline. Court-martial is then the court of justice, and its proceedings are very informal. No person shall be tried a second time for the same offense; that is, after he has been once acquitted, he can not be called to answer for the same offense again. In a criminal case, the accused is not compelled to testify against himself. This idea probably resulted from the old method of torturing the accused to secure confessions. No right of a person can be taken from him without due process of law, and for property, just compensation. These were assurances that the people felt that they were entitled to.

ARTICLE VI. "In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and to have the assistance of counsel for his defense."

**Rights of Accused**—An accused person should have a speedy trial. If he is guilty the purposes of justice are better served by quick conviction, and if he is innocent he should be freed from the accusation as soon as possible. It is customary for trials



to be held at the next term of court, two or more terms usually being held in each district every year. The trial is public. Sometimes the doors are closed against spectators for the sake of decency, but the records are open to inspection. Impartial juries are obtained by a system of drawing and questioning, as heretofore explained. The accused has the right to know of what he is accused, and this is set forth in the warrant and in the pleadings. All witnesses against him testify in open court, either by deposition or in person, so that the accused may have opportunity to refute false testimony. Persons who could prove the innocence of the accused might, for various reasons, not desire to appear and testify, but it is right that they should be compelled to do so. Further, the accused, though too poor to obtain counsel, should have rights equal with the rich; therefore, counsel is furnished him at public expense.

ARTICLE VII. "In suits at common law, where the amount in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved; and no fact tried by a jury shall be otherwise re-examined in any court of the United States, than according to the rules of common law."

**Juries in Civil Cases.**—This article is for the purpose of securing to the people the right of trial by jury in civil as well as criminal cases, and adds another privilege to the lists claimed by them. It further provides that when any fact has been acted upon by a jury, it shall not be taken before a court of the United States and again acted upon, but must follow the principles of common law.



ARTICLE VIII. "Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted."

**Bail, Fines and Punishment.**—This clause is very indefinite, but serves to call attention to the lawmakers that they are to take the rights of the people into consideration. Excessive bail might prevent an innocent person from securing it, and subject him to long imprisonment. Small offenses might be punished by fines so heavy as to render the payment impossible or unjust, and the purpose for which they were imposed would be thwarted. Cruel punishments are no longer tolerated in any civilized nation, but one hundred years ago whipping posts and the like were hardly out of date.

ARTICLE IX. "The enumeration in the constitution of certain rights shall not be construed to deny or disparage others retained by the people."

**Enumerated Rights.**—The constitution enumerates certain rights belonging to the people, and it was feared that the general government might assume that these were all the rights that the people could claim, so this clause was inserted to prevent any such assumption on the part of the nation.

ARTICLE X. "The powers not delegated to the United States by the constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people."

**Powers not Delegated.**—The last two articles have a very similar import, namely, that all powers not enumerated as belonging either to the states or



the nation shall be considered as belonging to the states or people. Certain powers are delegated to the United States, and certain others are forbidden to the states by the constitution. All others belong to the states, and upon these clauses the advocates of state rights have based many of their arguments.

ARTICLE XI. "The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by citizens of another state, or by citizens or subjects of any foreign state."

**Suit Against a State.**—The eleventh amendment was adopted in 1798. Suits in the federal courts by citizens against states proved to be a constant source of irritation to the states. States preferred to have suits against themselves brought in their own courts; therefore, the constitution was amended to that effect, as has been noted in the second section of the judicial department. In fact, now no state can be sued by private individuals, but must obtain redress for grievances through the legislature. Therefore, states may repudiate their debts at pleasure, and some states have done this.

ARTICLE XII. "The electors shall meet in their respective states and vote by ballot for president and vice-president, one of whom at least shall not be an inhabitant of the same state with themselves; they shall name in their ballots the person voted for as president and in distinct ballots the person voted for as vice-president, and they shall make distinct lists of all persons voted for as president, and of all persons voted for as vice-president, and of the number of votes for each; which lists they shall sign and certify,



and transmit sealed to the seat of government of the United States, directed to the president of the senate. The president of the senate shall, in the presence of the senate and house of representatives, open all the certificates, and the votes shall then be counted; the person having the greatest number of votes for president shall be president, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as president, the house of representatives shall choose immediately, by ballot, the president. But in choosing the president, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. And if the house of representatives shall not choose a president whenever the right of choice shall devolve upon them, before the fourth day of March, next following, then the vice-president shall act as president, as in the case of the death or other constitutional disability of the president.

"The person having the greatest number of votes as vice-president, shall be the vice-president, if such number be a majority of the whole number of electors appointed, and if no person have a majority, then from the two highest numbers on the list the senate shall choose the vice-president; a quorum for the purpose shall consist of two-thirds of the whole number of senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to office of president shall be eligible to that of vice-president of the United States."

**Election of President and Vice-President.—**  
This amendment was adopted in 1804, and was the result of the rise of political parties. It has been fully discussed under the first section of the executive department.



**ARTICLE XIII, SECTION 1.** "Neither slavery nor involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction."

**Abolition of Slavery.**—In 1863 President Lincoln issued his famous Emancipation Proclamation, "That on the first day of January, in the year of our Lord one thousand eight hundred and sixty-three, all persons held as slaves within any state, or designated part of the state, the people whereof shall be in rebellion against the United States, shall be then, thenceforward, and forever free." Under ordinary circumstances the president would have had no such authority; but in times of war or great danger, he, as commander-in-chief of the army and navy, has extraordinary powers, and often resorts to what are called war measures. The proclamation was issued in accordance with this power, and the slaves were considered free; but in 1865 congress formally indorsed the proclamation by proposing the thirteenth amendment, which was at once ratified by the state legislatures.

**ARTICLE XIII, SECTION 2.** "Congress shall have power to enforce this article by appropriate legislation."

**Power of Congress.**—The second section of the amendment seems unnecessary, as the authority to enact a law would seem to carry with it the authority to execute it. But it must be remembered that the amendment was only proposed by congress, and had to be ratified by the states, and, further,



that slavery had been considered by many as a state institution; therefore, it was necessary now to place it entirely under the control of the general government.

ARTICLE XIV, SECTION 1. "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws."

**Citizenship.**—The thirteenth amendment gave freedom to the slaves; the fourteenth gave them citizenship. It was the second step in raising the negroes, in the light of law, to an equality with the white people. It was proposed in congress in 1866 and became a part of the constitution in 1868. The first section not only declares citizenship of all persons born in the United States, but provides that no state shall make laws that will in any way deprive any persons of this right or abridge it in any way. Most of the amendments were to limit powers of congress; this was to limit powers of states.

ARTICLE XIV, SECTION 2. "Representatives shall be apportioned among the several states according to their respective numbers, counting the whole number of persons in each state, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for president and vice-president of the United States, representatives in congress, the executive and judicial officers of a state, or the members of the legislature thereof, is de-



nied to any of the male inhabitants of such state, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation 'herein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such state.'

**Representation.**—In determining representation under the constitution three-fifths of all slaves had been counted. Now, that there were no slaves, the representation in former slave states would be increased. But, as states had the right to determine the qualifications of their citizens for voting, it was feared some of the states might impose such restrictions as virtually to exclude the negroes from voting, and still the states would enjoy the right of increased representation. This section was added to counteract any such attempt.

ARTICLE XIV, SECTION 3. "No person shall be a senator or representative in congress, or elector of president or vice-president, or hold any office, civil or military, under the United States, or under any state, who, having previously taken an oath, as a member of congress, or as an officer of the United States, or as a member of any state legislature, or as an executive or judicial officer of any state, to support the constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof." But congress may, by a two-thirds vote of each house, remove such disability."

**Political Disabilities.**—Instead of dealing with those who had rebelled against their government as the laws for treason would allow, no punishments were inflicted, except the political disabilities noted



in the last section. Persons so recently in active rebellion against their country, after having taken an oath to support that government, could not well be entrusted at once with responsibilities in the national government. However, leniency, rather than severity, has been the policy of the government, and congress has from time to time removed these disabilities, until only a few remain. In a few years more the section will become obsolete in the natural course of events.

ARTICLE XIV, SECTION 4. "The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions, and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any state shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void."

**Debts.**—The national government, as well as the government of the Confederate States, had incurred large debts during the war. The last section not only assures creditors that the national debt will be paid, but it forbids the payment of the Confederate debt. This was to discourage aid and support to future insurrections and rebellions. This was, perhaps, an unnecessary provision, as there was no government left to assume the debt, and the states were hardly likely to take upon themselves individually the responsibility.



**ARTICLE XIV, SECTION 5.** "Congress shall have power to enforce, by appropriate legislation, the provisions of this article."

**Power of Congress.**—As in other amendments, the states in ratifying them, give to congress the power to enforce them.

**ARTICLE XV, SECTION 1.** "The right of citizens of the United States to vote shall not be denied or abridged by the United States, or by any state, on account of race, color, or previous condition of servitude."

**Rights of Citizens.**—The fifteenth and last amendment was ratified in 1870, and was the third and last step to secure to the former slaves all the rights of citizenship and suffrage. It is another limitation on the powers of states, as well as on the powers of the United States. The states may still prescribe the qualifications of voters, but such qualifications must be general in their application, and can not be made "on account of race, color, or previous condition of servitude."

**ARTICLE XV, SECTION 2.** "Congress shall have power to enforce this article by appropriate legislation."

**Power of Congress.**—Without this last section the states might claim all powers in the enforcement of this vital amendment, and the struggle for the entire emancipation of the slaves would have lost much of its force.

**Results.**—Thus the constitution stands to-day amended in really only three particulars: First, by the eleventh amendment, in respect to suits against



states; by the twelfth, in respect to the election of president and vice-president; and by the thirteenth, fourteenth, and fifteenth, in respect to the rights of former slaves. We can but wonder at the marvelous wisdom of the framers of such a document. Under it our country has developed as no other country ever has in the history of the world. But it might be said that, under almost any form of government, a nation with such resources and possibilities would have prospered. This might have been true in times of peace, but the strength and efficiency of our government have been tested by three wars, one of which was the greatest and most trying in the annals of modern warfare. Each war tended to strengthen rather than weaken our political institutions, and we stand to-day, after the vicissitudes of over a hundred years, the wonder and admiration of the world, the land of promise of liberty-loving people from every nation on the globe.







# SUPPLEMENT.

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- The legislature of 1897 made changes in laws which affect Civil Government for North Dakota as follows:
- Page 15.—Third line: two hundred.
- Page 17.—Cities of three wards elect two members at large.
- Page 23.—Clerk's salary not less than \$10 nor more than \$40.
- Page 27.—Examinations second Friday in March and last Friday in May, August and October.
- Page 28.—Teacher sends both reports to county superintendent.
- Page 29.—February 12th is a holiday.
- Page 30.—Towns and villages of over 200 inhabitants have debt limit of 5 per cent.
- Page 35.—Flags are to be displayed in seasonable weather.
- Page 43.—Assessor must be owner of real estate, his bond from \$500 to \$1,000.
- Page 44.—First line: second Monday of June.
- Page 45.—Persons give list of personal property only. Assessor examines real estate. He makes returns to auditor last Monday of June.
- Page 49.—Ninth line: six persons. Supervisors are the viewers.
- Page 60.—Cities of less than 600 inhabitants have only four aldermen, elected at large.
- Page 68.—County officers: also one assessor in each commissioner district in which there is territory not in civil townships.
- Page 77.—Second line: fifteenth day of September.
- Page 84.—Counties of 60 schools have deputies at a salary of \$100 per year and \$5.00 additional for each additional school.
- Page 102.—Sixteenth line: at any place in the state.
- Page 125.—Fourth line from bottom: two thousand.
- Page 127.—Duties from line 18 to line 29 repealed.
- Page 133.—Sixth line: fifteen hundred.
- Page 134.—Eleventh line: seventy-five cents. Nine veterinarian districts.
- Page 148.—One member of Reform School board is appointed for two years.
- Page 150.—Soldiers' Home board elects its own chairman.
- Page 151.—Last two lines: five members, terms of four years.
- Page 152.—First four lines: Board authorized to proceed at once. School of Forestry: decided to be located at Bottineau, and provision made for the appointment of a board of three.
- Page 153.—Shortening sentence: first two years, two months each year; next two years, 75 days each; next two, three months each; next four, 105 days each; thereafter, four months each.
- Page 157.—Last two lines: at head of each column and at end of each name and space there is a square.
- Page 160.—Eleventh and twelfth lines: a cross or other mark in the square at the head of the column or after each name.
- Page 165.—Sixteenth line: Personal property to amount of \$10.







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