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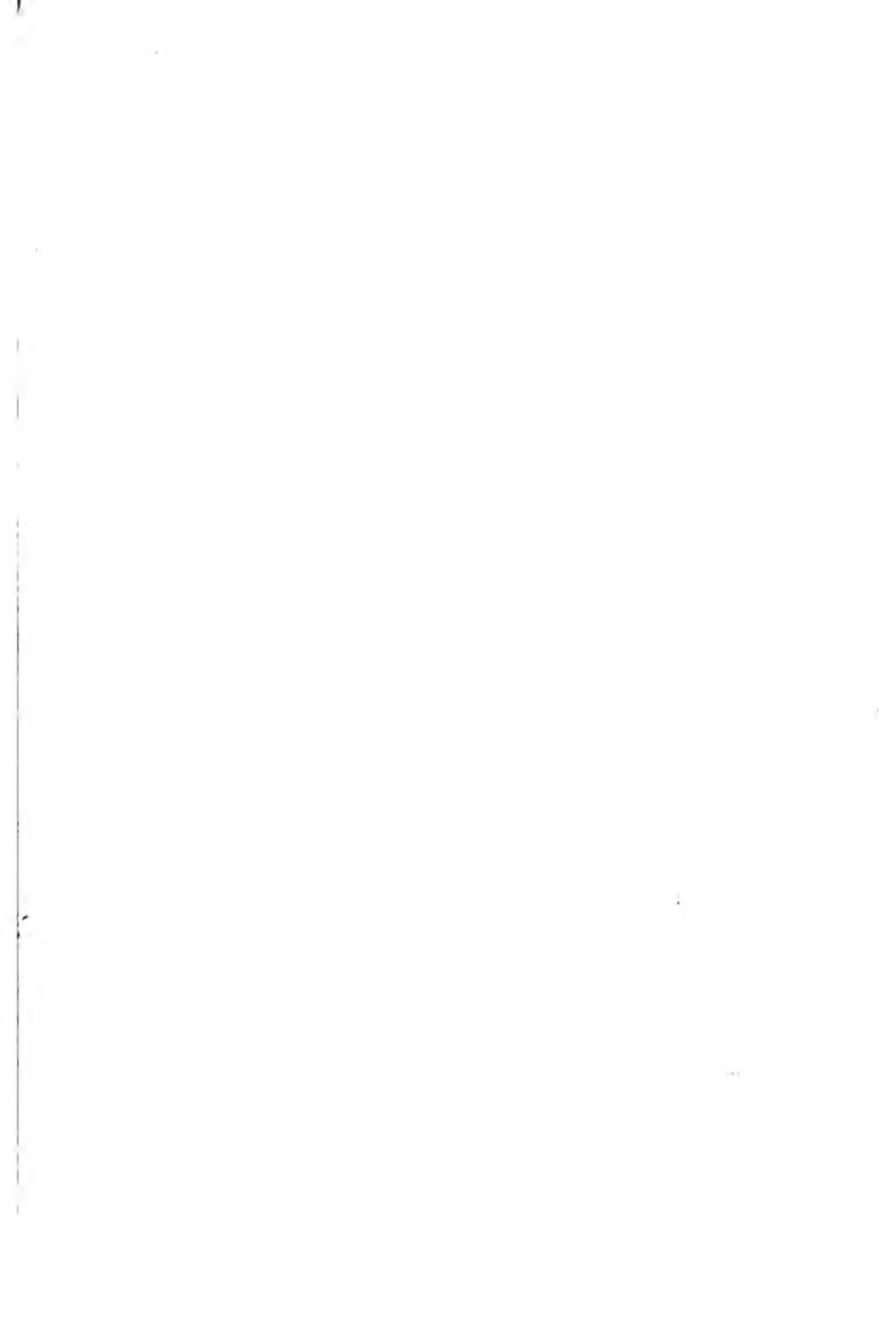
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# **CIVIL GOVERNMENT IN CALIFORNIA**

**BY**

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OAKLAND, CALIFORNIA**



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CIVIL GOV. IN CAL.  
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## PREFACE

It is the purpose of this work to present in brief form something of the theory and practice of civil government in California. The scope of governmental activity widens from year to year, coming nearer and nearer the life of every individual; and, on the other hand, the intelligence of the individual and his general attitude toward public affairs, react more and more upon the government. The influence of the citizen is vital in the selection of public officials, and in the attitude assumed toward them after they are selected. His power has been tremendously augmented in recent years by the widespread adoption of the direct primary, the initiative, the referendum, and the recall; and his intelligence must keep pace with his political power, or the commonwealth will suffer. The following chapters are intended to place in convenient form the most important features of the information which every responsible citizen should possess if his influence is to count for the common good.

The author hopes especially that this book may be of service to students of civil government in colleges and high schools. It is intended to be a book of information, and many details are given which may be omitted in class work. No attempt is made to present a complete exposition of the principles of government, or to discuss problems of good citizenship. These are important matters, and it is assumed that teachers will give them proper

attention in connection with the various topics found in the text.

The author desires to express his appreciation of the assistance given him in the preparation of this work by the late Mr. Haven W. Edwards of the Oakland High School, and Mr. F. H. Clark of the Lowell High School, San Francisco, who have read the manuscript and have given invaluable criticisms and suggestions. Thanks are due to Professor Orrin Kip McMurray, of the University of California, who has read and criticised the chapter on the state judicial system; and to Messrs. H. A. Mason and William J. Locke, of San Francisco, specialists in municipal corporation law, and Secretary and Assistant Secretary of the League of California Municipalities, who have made valuable suggestions on the chapters on municipal government. Valuable assistance has also been given by many public officials, especially by Mr. William C. Clark, Assemblyman from Oakland; Mr. Walter J. Burpee, Assistant District Attorney of Alameda county; and Mr. Edward Hyatt, Superintendent of Public Instruction.

J. R. S.

Since the publication of this text, some changes have been made in the public law of California. The most important of these will be found in the Supplement at page 465.

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# CIVIL GOVERNMENT IN CALIFORNIA

## CHAPTER I

### THE SCOPE OF GOVERNMENT

1. **Different Views as to the Scope of Government.** — Government exists in order that public wants may be satisfied, that public interests may be advanced, and that rules for regulating the conduct of individuals in their dealings with one another may be established and enforced. There is much difference of opinion as to the extent to which these functions should be pursued.

The *individualist* believes that governmental activity should be restricted to the satisfaction of the most obvious public wants, such as the preservation of order, the suppression of crime, and the protection of guaranteed constitutional rights; that in the advancement of public interests government should concern itself only with those lines of action which interfere least with private enterprise, such as the maintenance of roads, the improvement of rivers and harbors, and the encouragement of agriculture, industry, and commerce; and that in regulating the conduct of individuals toward one another, government should interfere as little as possible with personal freedom, confining its scope to such matters as the settlement of disputes, the enforcement of contract rights, and the establishment of general rules for the transaction of business. This belief is known historically as the doctrine of *laissez faire*.

On the other hand the *socialist* believes that society, through its agent, government, should extend its activities so as to include practically all the economic enterprises now conducted by individuals.

Between these two groups lies the great mass of citizens, who, adopting no fixed rule, would have the question of the government's function in any particular case settled by the merits of the case itself.

**2. The Attitude of European Government toward Industry.**—During the Middle Ages, and until the latter part of the eighteenth century, business of all kinds in Europe was strictly regulated by law. This was not difficult, because there were no large accumulations of capital under the control of small groups of men. Private corporations did not become prominent in the business world until the end of the eighteenth century, except the great trading companies of an earlier date; but, with the enormous expansion of business during the nineteenth century, they multiplied to such an extent that most of the business of the civilized world is now conducted by them. This means that business is now controlled by comparatively few men. These men exert great influence in politics. They in general believe in the doctrine of *laissez faire* and do all in their power to prevent the regulation of business by city, county, state, and national governments. Toward the end of the eighteenth century England discontinued the strict control which she had previously exercised over private business. Frightful abuses in factories and mines soon appeared, and during the nineteenth century Parliament was compelled by public opinion to pass many laws for the regulation of trade and industry. These laws regulate the employment of women and chil-

dren in mines and manufacturing establishments, protect the health of employees by providing for proper sanitary conditions, regulate transportation by land and sea, and in many other ways testify to the fact that the doctrine of *laissez faire*, after a short trial, has been abandoned in England. This doctrine never gained the foothold on the continent of Europe that it did in England, and trade and industry are even more strictly regulated there.

3. *Laissez faire* in the United States. — Nowhere in the civilized world has the doctrine of *laissez faire* ruled as it has in the United States. Three reasons may be mentioned for this.\*

1. The first is our love of liberty. This has caused us to be imposed upon by the absurd notion that every person should be permitted to conduct his own business exactly as he sees fit. Community rights as against the aggression of private individuals have never been fully appreciated in our country. Private business is sometimes detrimental to the public because of its nature, like the liquor business; and sometimes it imposes on the public because of the manner in which it is conducted, like the railroad business when its charges are unfair. In either case the community has a right to interfere, either to regulate or to prohibit.

2. The second reason why the doctrine of *laissez faire* has ruled so strongly in the United States is the abundance of our natural resources in land, timber, fish, game, water, oil, and the untold wealth of the mines. These things, which are the basis of our greatness, have been so abundant that we have followed the policy of permitting finders to be owners, with very little regulation on the part of the government. Vast fortunes have been made in lumber, coal, oil, salt, copper, and water power, by a few men in each case,



who have been permitted to seize what belonged to the whole people and sell to the people at exorbitant prices. The fact that we have followed a *laissez faire* policy in the exploitation of our natural resources has been one of the strong influences in causing us to follow the same policy in respect to all other lines of business. If the oil business or the coal business is permitted to run without interference on the part of the government, the same privilege should be accorded to the manufacturing business, the meat packing business, etc.; for all these lines of industry are very closely connected one with another.

3. Our federal plan of government is another reason why the doctrine of *laissez faire* has obtained so strongly in our country. The national government can regulate only interstate business, while each state has the power to regulate business within its borders. This overlapping of authority has caused no small degree of uncertainty in the minds of legislators with respect to the exact limits of national and state powers. Largely because of this uncertainty, corporations engaged in interstate business have escaped adequate regulation. It is significant that when the national government undertakes to impose regulations upon any great business interest, the men affected raise the cry of states' rights. This explains why we are hearing more about states' rights<sup>1</sup> now than at any other time since the slave interest, by raising the same cry, attempted to escape regulation on the part of the national government.

**4. Government Regulation of Industry in the United States.** — Toward the end of the nineteenth century pub-

<sup>1</sup> For example, interests opposed to the conservation of our natural resources are now advocating the theory that conservation should be looked after by the several states, and that the federal government should surrender to the states all its claims to the lands containing timber, mineral deposits, water power sites, etc.

lic opinion in our country began to favor government regulation of private business; and during the last twenty years many laws with this end in view have been enacted by Congress and the various state legislatures. To the same end cities and counties have enacted numberless local ordinances. *Laissez faire* has proved a failure here as in England, and very few disinterested persons still believe in it.

The scope of governmental activity is steadily widening, because the realm of public wants and interests is widening. Many things that were formerly considered as private affairs are now considered public in character. Furthermore, as life becomes more complex, and people become more and more dependent upon one another, government must regulate more and more minutely the conduct of individuals in their dealings with one another.

The government of any community is conducted by public officers and employees, and is practically what they make it. If they fail to distinguish sharply between public and private interests, public wants will not be satisfied, and public interests will not be advanced. In these days when private business must be more carefully regulated than ever before, our public officers are subjected to greater temptations than ever before by men whose profits would be greater if the government would not interfere with their business enterprises. These men are in politics for the definite purpose of controlling public offices, and many of them resort to corrupt methods in order to gain their ends. This means that the interest of the people will not be properly looked after unless their officers are honest, efficient, and exceedingly strong. The selection of public officers is therefore the most important duty that devolves upon the voters of our country.

## CHAPTER II

### THE SELECTION OF PUBLIC OFFICERS

**5. Methods of selecting Public Officers.** — Public officers, the world over, gain their positions in three ways: by inheritance, by appointment, and by election.<sup>1</sup> In a republic, they gain their positions by election and by appointment; in an absolute monarchy, by inheritance and by appointment; in a limited or constitutional monarchy, by all three methods.

In choosing elective officials, two important steps are necessary: the nomination and the election. The nomination is a complicated process; but the election is quite simple, because all that the voters have to do on election day is to choose officers from the candidates previously nominated. The greater part of this chapter is therefore devoted to an exposition of the manner in which candidates are nominated.

There are three methods of nominating candidates for office in common use in the United States: nomination by political conventions, nomination by direct primaries, and nomination "by petition."

**6. The Convention Method of making Nominations.** — The convention method was the only one used throughout the country until recent years; it is still extensively used, but is being rapidly replaced by the two other methods.

According to this method, each political party holds a state convention before any state election, for the purpose

<sup>1</sup> Seizure of office by usurpation might be considered a fourth method.

of nominating candidates for the various offices. In like manner, candidates for city, county, and national offices are nominated by city, county, and national conventions. These conventions are called by party committees; that is, a city convention is called by the city committee of the party holding the convention, a county convention by the county committee, and so on.

Each committee was chosen by a former convention, and each convention chooses a new committee to provide for the next convention.

Delegates to city conventions are chosen by the voters of the respective political parties at primary elections.<sup>1</sup> Delegates to county conventions are sometimes chosen at primary elections, and sometimes appointed by county committees. Delegates to state and congressional district conventions are usually chosen by county conventions; and delegates to national conventions, by state and congressional district conventions; but primary elections are sometimes used in choosing each one of these groups of delegates.

The convention method was used in California until 1909, but our legislature of that year passed a law providing for *direct primary elections*, and doing away with nominating conventions. The convention method proved unsatisfactory, especially in the nomination of candidates for state and local offices, because it usually resulted in the nomination of candidates whom the voters of the various parties did not want. Our public officers were often found to be more solicitous about the wants and interests of private individuals and private corporations than about public wants and interests. The cause of this lies in the fact that

<sup>1</sup> Not *direct* primary elections.

nominating conventions were often controlled by men who, more or less secretly, represented great private interests.

Such men are known as political *bosses*. The history of American politics abounds in the names of local, state, and national bosses. A boss is a party leader of a certain type. Every organized group of persons, whether they constitute a business firm, a club, a lodge, a church, or a political party, must have leaders; for without leaders they could not accomplish the purpose for which they are banded together. A leader is one who possesses originality, who is willing to assume responsibility, who has enthusiasm, who is able to express himself with clearness and force, and who appears to be honest. The voters of any political party look to the party leaders for guidance, and will usually give them loyal support as long as they work together. They will work together best when they themselves are controlled by one mind.

If a leader among political leaders uses his influence and power for the public good, we call him a statesman; if he is in politics for his own advantage, or for the advantage of private interests, we call him a political boss. A statesman has principles and usually seeks office in order that he may put them into practice; a boss is actuated by the desire to benefit the private interests which he serves, and usually does not seek office, for he can best attain his ends by naming and controlling public officials, while he himself remains nominally in private life. The nominating convention has been for many years the stronghold of his power. Through his lieutenants, — the local leaders, — in various counties, cities, precincts, or wards, he names the delegates to every convention of his party, and is thus able to place men of his choice in nomination for the various offices.

The organization which he builds up, consisting of party leaders, party committees, officeholders, office seekers, and the representatives of powerful private interests, is called a political "machine."

**7. Attempts to overthrow Bossism in California.**—Every session of the legislature after 1890 witnessed some attempt to place the voters of California in a position to break the power of political bosses. Laws passed in 1895 and 1897 providing for primary elections were declared unconstitutional by the supreme court, but valuable experience was gained through these attempts. A comprehensive primary law was passed in 1901, which broke up certain evil practices connected with the selection of delegates to party conventions,<sup>1</sup> but failed to accomplish the one great purpose for which it was intended. It provided that all delegates to all party conventions representing the people of any city which contained a population of seventy-five hundred, according to the census of 1900, should be elected directly by the voters. The law was thus mandatory in the twelve largest cities of the state; but any other city or county that chose to do so could take advantage of its provisions. It failed of its purpose because it demanded too much of the voters.

A voter on primary election day was called upon to vote for ten, fifteen, twenty, or possibly thirty delegates to this or that convention of his party. The law permitted him to write the required number of names on his ballot, but this he seldom did for the reason that he could not do so without a great deal of previous preparation. Few voters went to the polls prepared to vote. But the political "machine" was not so neglectful. It systematically prepared in advance

<sup>1</sup> Political bosses often procured the selection of such delegates as they desired by causing groups of voters to go from one precinct to another, or even from one city to another, to participate in party caucuses and primaries; and voters were frequently induced to participate in the primaries of parties other than their own. The law of 1901, requiring that all parties should hold their primaries on the same day, that such elections should be conducted in the same manner as regular elections, that none but registered voters could vote, and that the name of every person who voted and the name of his political party should be kept, and providing severe punishments for those who committed frauds at primary elections,—put an end to these gross practices. This considerably weakened, but did not overthrow, boss rule.

lists of names for the voter's use. These lists were printed on slips of paper of convenient size and prepared with an adhesive substance on the back, like a postage stamp. All the voter had to do was to paste one of these lists on his ballot, and this was practically all he could do. Thus the delegates to party conventions were still really selected, in our larger cities, by the political "machines," which were parts of a great "machine" dominating the politics of the state. In other parts of California they were selected as party committees directed. These committees were uniformly made up of "machine" men.

Although the law of 1901 was inadequate, it gave more power to the voters than they had previously possessed; and it should be regarded as an important step in the struggle against boss and "machine" rule in California, for through it the people who favored reform in state and local politics were able to elect a majority of the members of the legislature in November, 1908.

**8. The California Direct Primary Law.** — Following the example of the lawmaking bodies of Oregon, Minnesota, and a number of other states, our legislature in March, 1909, passed a law providing for the nomination of candidates by direct primaries.

A *direct primary* is an election at which candidates for office are nominated directly by the voters, nominating conventions being done away with. The law of 1909 was changed in some important particulars by the legislature in 1911, and again in 1913, and we shall consider it in its amended form.

**1. When Primaries are Held.** — A primary election is held throughout the state on the last Tuesday in August of each even-numbered year, "for the nomination of all candidates to be voted for at the ensuing November election." This provides for the nomination of candidates for all state, county, and township offices, as well as for the offices of United States senator and representative in Congress.

A primary election is also held on the first Tuesday in May of every presidential election year to choose delegates to national conventions, and to give each voter an opportunity to designate the one he prefers as the candidate of his party for the presidency.

Most city charters contain special provisions governing the nomination and election of city officers. In such cities the state primary law does not apply in nominating candidates for municipal offices. It must be used, however, in cities whose charters contain no such provisions, except in those governed by the sixth class charter. In cities where the law applies, the primary election must be held on Tuesday three weeks before the regular municipal election.

2. *The First Steps.*—In every even-numbered year, at least forty days before the August primary election, the secretary of state in Sacramento must send to the various county clerks, or to the registrar of voters<sup>1</sup>, a notice designating the offices for which candidates are to be nominated. Each county clerk, or registrar of voters, must publish "in not more than two newspapers published in the county" as much of this information as is applicable to his county. This publication must be for two weeks beginning within ten days from the receipt of the notice. In case of a city primary election held under the state law, the city clerk must by one publication give notice of the election and of the offices for which candidates are to be nominated, not more than forty nor less than twenty-five days in advance.

3. *Primary Election Ballots.*—Printed ballots for state and county elections are furnished in each county by the county clerk, or by the registrar of voters, and ballots for

<sup>1</sup> San Francisco has a special officer, known as the registrar of voters, who does all the work pertaining to elections that is done by county and city clerks elsewhere in the state. Los Angeles county has also a registrar of voters. Throughout this chapter it should be understood that whenever county or city clerks are referred to, the registrar of voters is meant in so far as either San Francisco or Los Angeles county is concerned.



any city primary are furnished by the city clerk. A separate ballot is provided for each political party, except in the case of city primaries.

Any candidate may have his name printed on the ballot of his party by filing with the proper officer a nomination paper containing the signatures of the required number of voters. A nomination paper may consist of any number of sections, each section containing one or more signatures. The law provides for "verification deputies" to obtain and verify signatures, and no voter may sign a nomination paper except in the presence of one of these deputies.<sup>1</sup> No voter may sign papers for more than one candidate for the same office, except for offices or boards to which two or more are to be elected.

Candidates for city offices must file their nomination papers with the city clerk at least twenty days before the city primary election. Those for county offices must file their papers with their respective county clerks at least thirty-five days before the August primary. Those for state offices,<sup>2</sup> and for the office of representative in Congress or United States senator, must *deliver* their papers to the clerks of the respective counties in which they are signed at least forty-two days before the August primary.

The number of signatures obtained by any party candidate for an office to be voted for throughout the entire state must not be less than one half of one per cent nor more than two per cent of the vote cast by the party in

<sup>1</sup> Each candidate may appoint one or more of his friends as verification deputies to secure signatures for him. The names of all deputies must be recorded by their respective county or city clerks.

<sup>2</sup> State officers include officers who are elected by the state at large and many officers who serve the state, but are elected by districts, such as members of the state legislature, judges of the district courts of appeal, and members of the state board of equalization.

the state at the last election; or if the office is to be filled by the vote of a subdivision of the state, the number of signatures must not be less than one nor more than two per cent of the vote cast by the party in that subdivision at the last election. This does not apply to candidates for judicial, school, county, township, or municipal offices, which are all declared by the law to be nonpartisan offices.<sup>1</sup> Any such candidate must obtain signatures equal in number to not less than one half of one per cent, nor more than two per cent, of the entire vote cast at the last election for the office which he seeks.

City and county clerks must examine all nomination papers and must reject all that are signed by persons who are not registered as voters. At least thirty-seven days before the August primary, each county clerk must send to the secretary of state all papers delivered to him by candidates for state offices, and for the office of representative in Congress, or that of United States senator. The secretary of state must place these papers on file in his office, and at least thirty days before the primary election must send to each county clerk a list of all such candidates as are entitled to be voted for in the county.

City clerks, from the nomination papers filed in their offices, print nonpartisan ballots to be used at city primaries.

<sup>1</sup> No candidate for any of these offices can be the candidate of any political party. He must simply offer himself as a nonpartisan candidate on his own merits. The term "judicial office" means the office of judge in any court from the township or police courts to the state supreme court; the term "school office" includes the offices of state superintendent of public instruction, county superintendent, and school director or trustee; the term "county, township, or municipal office" means any office that is filled by the vote of a county, judicial township, or city. Thus the offices for which persons may offer themselves as the candidates of political parties are those of presidential elector, United States senator, and representative in Congress, and all elective state offices, including membership in the legislature, except the office of judge and that of state superintendent of public instruction.

County clerks, from the papers filed in their offices, and from notices sent out by the secretary of state, print the ballots to be used at the August state and county primary. The name of each candidate is printed on the ballot of his political party, except that the names of all candidates for judicial, school, county, township, and municipal offices are printed on the ballot of every party.

The law of 1909 provided that the names of candidates for each office should be printed in alphabetical order; but the amended law provides for a rotation of names of all candidates (except for county and municipal offices), that are to be voted for in more than five assembly districts.

There are eighty districts in the state, numbered from one to eighty, beginning at the northern end of the state. The names of candidates for offices that are voted for by the state at large, must be arranged according to the respective offices, in alphabetical order, on the ballots that are used in assembly district number one. In each succeeding assembly district, the list for each office is changed in order by placing first the name which appeared last on the ballot for the preceding district, the remaining names always following in the same order as before. The names of candidates that are voted for by large subdivisions of the state, or by counties that contain more than five assembly districts, are similarly rotated according to assembly districts. The names of candidates for the offices of state senator and assemblyman, for any municipal office, or for any office in any county which is not divided into assembly districts, or which contains less than five such districts, are printed in alphabetical order.

4. *The Voter at the Primary.*—The voter on primary election day enters the polling place and gives his name to the election officers. If they find his name on the list of registered voters, he signs the "roster of voters" and writes after his name the name of his political party, if he is registered as a member of any party.<sup>1</sup> He is given a

<sup>1</sup>In order to vote at the primary, he must have registered in the office of the county clerk at least thirty days before the primary. He cannot participate in

ballot with the name of his party printed at the top, and retires to a booth to vote in secret. If his registration shows that he is not affiliated with any party, he is given a ballot which contains only the names of candidates for judicial, school, county, township, and municipal offices. This nonpartisan ballot is an exact duplicate of the right-hand or nonpartisan section of each regular party ballot. A part of the sample ballot which accompanies the direct primary law is shown on page 30.

If the entire ballot could be given, it would be seen to contain the names of the candidates for all elective state and county offices, and for the offices of United States senator<sup>1</sup> and representative in Congress. It should be observed that a voter may ignore all candidates for any office, whose names are printed on the ballot, and may write the name or names of his choice in the space or spaces provided for the purpose.

5. *The Result.* — Returns from city primaries are sent in each case to the city clerk to be canvassed by the city council or board of trustees. Returns from the August primaries are sent to the various county clerks to be canvassed by the respective boards of supervisors, except in San Francisco, where they are sent to the registrar of voters to be canvassed by the board of election commissioners. County clerks report to the secretary of state as to the number of votes received by each candidate for a

the nomination of any party candidate, or in the election of the members of any party committee, unless he is found to be registered as a member of the party in question.

<sup>1</sup> The adoption of the seventeenth amendment to the national Constitution requires United States senators to be elected by the voters of the respective states. In California they are nominated and elected like any state officer who is elected by the state at large. The legislature has conferred upon the governor the power to fill any vacancy that may occur until the next election.

# OFFICIAL PRIMARY ELECTION BALLOT

## REPUBLICAN PARTY

Forty-Eighth Assembly District, August 25, 1914

To vote for a person whose name appears on the ballot, stamp a cross (X) in the square at the RIGHT of the name of the person for whom you desire to vote. To vote for a person whose name is not printed on the ballot, write his name in the blank space provided for that purpose.

STATE		CONGRESSIONAL		JUDICIAL		County Clerk		Vote for One	
Governor	Vote for One	United States Senator	Vote for One	Chief Justice Sup. Court	Vote for One	S. R. MALLORY			
RICHARD ROE		CHARLES K. HART		WALTER WILDER		JAMES S. McCREARY			
HENRY BROWN		WALTER BROWNLOW		JOSEPH JENNINGS		ABURRY C. LATTIMER			
JOHN DOE		CARLUS H. CLAY		THOMAS MERTON					
						Auditor		Vote for One	
Lieutenant Governor	Vote for One	Representative in Congress	Vote for One	Associate Justice Sup. Ct.	Vote for One	JOHN W. DANIEL			
WILLIAM SMITH		PETER PETERSON		WILLIAM BREWER		M. J. FOSTER			
THOMAS GREEN		BARTICK BOYLAN		ERASTUS PECK		JOHN M. PATTERSON			
HORACE JONES		HENRY HUDSON		SAMUEL SNOW		J. F. ALLEN			
				GEORGE TAWNEY		CLARENCE D. CLARK			
Secretary of State	Vote for One	LEGISLATIVE				Treasurer		Vote for One	
JOHN TOURTELLOTT		Member Assembly	Vote for One	Judge of the District Court of Appeal	Vote for One	FRED T. DU BOIS			
ALBERT BERO		6th District		First District		AGUSTUS O. BACON			
PETER S. HANSON		PETER PETERSON		ANTHONY J. BRENNAN		JAMES H. BERRY			
		ANDREW ANDERSON		PETER DREW					
Comptroller	Vote for One	GEORGE CAUGHEY				Assessor		Vote for One	
THOMAS THOMPSON				Judge of the Superior Ct.	Vote for One	J. S. SPOONER			
SAMUEL ALDEN		Delegate to State Convention		GEORGE BURN		E. G. NEWLANDS			
WILLIAM DUNN		17th Senatorial District		WALTER CAMPBELL		E. W. FETTER			
		WILLIAM E. STOKES		CHARLES E. DAVIS					
Treasurer	Vote for One	AMOS STRONG		THOMAS McCALL		The Collector		Vote for One	
HENRY SAMPSON				ERNEST W. ROBERTS		EMULE NELSON			
A. T. CHILTON		COUNTY COMMITTEE				REDFIELD PROCTOR			
SAMUEL JOHNSON		Members County Central				E. W. CARMACK			
		Committee							
Attorney General	Vote for One	JOHN T. HUNT		Judge of the Peace	Vote for One	Recorder		Vote for One	
GEORGE F. WILSON		JOSEPH T. JOHNSON		THOMAS SULLIVAN		C. M. DE FEW			
W. S. CUBERAN		H. L. WAYHARD		PETER HEPBURN		CHARLES W. FULTON			
THOMAS O'BRIEN		E. S. MINOR		CLAUDE SWANSON		THOMAS H. CARTER			
		H. D. ROBINSON							
Surveyor General	Vote for One	EDWARD F. STEVENS		SCHOOL		Public Administrator		Vote for One	
FRANK WHEATON				Supt. of Pub. Instruction		H. W. TELLER			
MICHAEL KERNAN						J. W. BAILEY			
JOHN F. WALKER				CHARLES H. STOVER					
				FRANK H. KENDALL					

state office, as well as for the offices of representative and United States senator. The person receiving the highest vote of each party for any office is the candidate of the party for the office. In the case of a judicial, school, county, township, or a municipal office, a number of persons receiving the highest vote, equal to twice the number to be elected, are the candidates; provided that if only one person is to be elected and if any candidate receives a clear majority of all votes cast for the office, he is *elected* to the office. In case of partisan offices, candidates may be nominated after the primary by petition.

6. *Party Committees and Conventions.*—The primary law provides for county and state committees and for state conventions of political parties. The members of county committees are nominated and elected in the same manner as county officers, except that they are chosen by the respective political parties. Each county committee has charge of the political campaign of the party in the county under the general supervision of the state committee. This is its only duty. Each party must hold a state convention on the third Tuesday in September after every August primary election. Every such convention meets to draw up a state platform, to choose a state committee,<sup>1</sup> and to nominate candidates for the office of presidential elector in presidential election years.<sup>2</sup> Each state convention is composed of the

<sup>1</sup> Each state committee consists of three members from each congressional district. The duty of any such committee is to manage the campaign for the party, collecting money from those who are willing to contribute and sending out speakers and printed matter; and to have general control of the party's interests.

<sup>2</sup> As California is entitled to choose thirteen electors, each party nominates that number of candidates. Their names are reported by the secretary of state to the various county clerks, and are printed on the ballots used at the November election. Each voter votes for the entire thirteen, as electors are chosen by the state at large, and not by districts.

successful candidates of the party at the primary election for nomination to the various state offices, except judicial and school offices, including those to be voted for by senatorial, assembly, and other districts; and, in addition, one member elected by each senatorial district which will not elect a state senator at the November election.<sup>1</sup>

7. *Special Provisions.* — (a) If a person whose name was not printed on the primary election ballot is nominated at the primary, and later withdraws as a candidate, the vacancy cannot be filled. "In all other cases, vacancies occurring after the holding of any primary election may be filled by the party committee of the city, county, or state, as the case may be."

(b) If in any case a primary results in a tie vote, the candidate is selected by lot from the persons receiving the tie.

(c) Provision is made whereby contests that arise as to the result of any primary may be settled in court.

(d) Money must not be spent by or for any candidate for campaign purposes except for definite things mentioned in the law; and within fifteen days after each primary election every candidate for a nomination must file with the officer with whom his nomination papers were filed, a statement showing in detail the amount spent by him and others, in support of his candidacy. This statement must be sworn to and a copy must be filed with the county recorder, who must keep a permanent record of it.

(e) Any organization of voters may participate as a po-

<sup>1</sup> The state is divided into forty senatorial districts, numbered from one to forty, beginning at the northern end of the state, for the purpose of electing state senators. Each senator is elected for four years. All odd-numbered districts elect senators in 1912; even-numbered districts will elect in 1914; odd again in 1916; and so on. Delegates to the state convention from the districts that are not electing senators are nominated and elected in the same manner as senators.

litical party in any primary election: (1) if it participated as a party at the last general election and gave to any one of its candidates, voted upon throughout the state, at least three per cent of the entire vote cast in the state; (2) if by the fiftieth day before the primary, at least three per cent of the registered voters of the state have registered as members of such party; or (3) if by the fiftieth day before the primary a petition signed by voters equal in number to at least three per cent of the vote cast throughout the state at the last election, is presented to the secretary of state, stating the purpose of the signers to form a new political party. Any new party thus formed must not adopt a name so resembling the name of any existing party as to mislead voters.

Such are the main features of the direct primary law. Many details have, of course, been omitted in this summary, which may be ascertained by reference to the law itself.

**9. Nonpartisan Direct Primaries.**—No one could be nominated to any office under the original direct primary law of 1909 except as a candidate of some political party. In 1911 the law was amended so as to make judicial and school offices nonpartisan; and in 1913 it was further amended, adding county, township, and municipal offices to the nonpartisan list. This law has at no time applied to any city whose charter provided a method for nominating and electing officers, and most of our larger cities during the past five or six years have nominated candidates for their municipal offices by means of nonpartisan direct primaries provided for in their charters. In order to be a candidate in any such city, one must file with the city clerk, at the time designated in the charter, a nomi-



nation petition (or individual nomination papers), signed by the required number of voters. Only one kind of ballot is used at the primary election. On it the names of all candidates are printed in alphabetical order, according to the respective offices, and no reference to political parties is permitted.

In some cities,<sup>1</sup> the candidate receiving a majority vote in the election, is forthwith declared to be elected. In these cities this election is called the "first" rather than the primary election. If any office is not filled by this election because of the fact that no candidate receives a majority vote, a second election is held two or three weeks later to choose between the two candidates receiving the highest vote.<sup>2</sup>

In other cities,<sup>3</sup> the first election is a true primary election, since the two candidates for each office receiving the highest vote are nominated for the office, even though one may have received a majority vote. In these cities, all elective officers are chosen at the "general" municipal election occurring two or three weeks after the primary.

Since at the "second" or general election there can be no more than two candidates for each place to be filled, there can be no "three-cornered" contests, and any one to be elected must receive a majority vote.<sup>4</sup>

<sup>1</sup> San Francisco, Los Angeles, Sacramento, Stockton, Berkeley, Modesto, Santa Cruz, Vallejo, Long Beach.

<sup>2</sup> If more than one person is to be elected to any office, as that of city councilman or school director, the number of candidates nominated at the primary election is twice the number to be elected.

<sup>3</sup> Oakland, San Diego, Richmond, Pasadena.

<sup>4</sup> A system of voting known as "preferential voting" is provided for in the charters of Grand Junction, Colorado, and of Spokane, Washington. This system does away with the first or primary election, the work of choosing all elective officers being accomplished by one election. The voter indicates his first and second choice for each office to be filled; and, if there are more than two candidates, he may also

**10. Nomination by Petition.** — It has been pointed out that no one may be nominated under the direct primary law for the office of United States senator or that of representative in Congress, or for any state office, other than judicial and school offices, except as a candidate of some political party. Section 1188 of the Political Code provides a method whereby one may become a candidate for any one of these (partisan) offices, independent of all parties. This method is known as nomination "by petition," for by it the candidate gets his name printed on the ballot used at the *regular* election by means of a nomination paper, or petition, and not by direct primary election. The paper or petition must be signed by voters "equal in number to at least three per cent of the entire vote cast at the last preceding general election in the state, district, or political division, for which the nomination is to be made." The petition must, like nomination papers under the direct primary law, be filed with city or county clerks, or with the secretary of state, according as the office in question is a city, county, or state office.

The time limit for filing the petition is from sixty to thirty-five days before the regular election, in case they are to

indicate his third choice. Any candidate receiving a majority of first-choice votes is elected. If no one receives such a majority, the second-choice votes are added to those of the first-choice. If any office is still unfilled because no candidate has received a majority, the third-choice votes are also added, and the one receiving the *highest* vote is elected. The plan so far has worked well in these two cities. Good men have been elected to office, and the agitation and expense incident to a second election have been avoided. The legislature of 1913 passed a law providing a system of preferential voting for any city that decides by ordinance to use it. Such an ordinance may be adopted by the council or by the voters. The system must also be used at any election if at least sixty days before the election thirty per cent of the voters so petition the council. According to the plan any voter may express his or her first, second, and third choices for each office.

be filed with the secretary of state; or from fifty to twenty days before the election in case they are to be filed with a city or county clerk. No one may be nominated to any office by this method, who has tried and failed to secure the nomination to the same office by some political party at the primary election; and no one who has voted at the primary as a member of any party may sign a certificate of nomination for an independent candidate.

A few cities<sup>1</sup> provide in their charters that candidates for their municipal offices shall be nominated only by this method. That is, no municipal primary elections are held in these cities, but the names of candidates for each office are printed alphabetically on the general election ballot without any party designations, on petition of the required number of voters. Under such conditions a plurality elects.<sup>2</sup>

**11. The Election of Officers.** The nomination of candidates is only a means to an end. The election which follows eliminates all but a sufficient number to fill the various offices. A general election is held throughout the state to choose state, county, and township officers on the first Tuesday after the first Monday in November of each even-numbered year. These officers are elected for four years, and most of them are chosen in the years 1910, 1914, etc.; but some of our judges and county supervisors are chosen in the intervening even-numbered years. Also at each election representatives in Congress are chosen to serve for two years, and in the years 1912, 1916, etc., presidential electors are chosen. Furthermore, United States

<sup>1</sup> Alameda, Monterey, Pomona, San Rafael, and San Luis Obispo. Sixth-class cities also nominate candidates for their municipal offices by this method.

<sup>2</sup> This method may be used also for any *nonpartisan* office in case no candidate was nominated at the primary.

senators are chosen at this election to serve for six years as vacancies occur.

Twenty-five days before the November election, the secretary of state must send to each county clerk a certificate giving the names of all candidates for the office of United States senator, the office of presidential elector, the office of congressman, and for such state offices as are to be voted for in the county. From this certificate and from the list of candidates for county and township offices on file in his office, the clerk prints a sufficient number of ballots to be used at the election. The names of all candidates to be voted for in any precinct are printed on the same ballot, the candidates for each office being arranged alphabetically, or in accordance with a general plan of rotation, as on the primary election ballot. After the name of each candidate who secured his nomination through some political party, the name of the party is indicated.

Each county is divided into election precincts by the board of supervisors, and both primary and general elections are conducted at the polling places in the various precincts, by election officers chosen by the supervisors. Two inspectors, two judges, and two clerks comprise the election officers at each polling place.<sup>1</sup> They constitute an election board to decide disputed points.

The polls are open from 6 A.M. to 7 P.M. After the polls are closed, the votes are counted and are sent, together with the tally sheets, to the office of the county clerk. Here they are canvassed by the board of supervisors. Successful candidates for county and township offices are notified of their election by the county clerk,

<sup>1</sup> One inspector, one judge, and two clerks may be appointed for any precinct having less than seventy-five voters.

and the result of the vote for state and national officers is sent to the secretary of state.

The expense of conducting the election in each county, even though state and national officers, as well as county and township officers, are elected, is paid from the county treasury,<sup>1</sup> except that the paper used in printing the ballots is furnished by the secretary of state.

Municipal elections are held in each city at the time specified in the charter. They are conducted in all respects like general state and county elections, except that the city clerk and city council are substituted for the county clerk and county supervisors. All election expenses are paid from the city treasury,<sup>1</sup> except that the ballot paper is furnished by the secretary of state.

It should not be thought that general state and county elections are conducted in the various cities by the city officials. They are conducted throughout each county by county officials, irrespective of city boundary lines.

**12. Pre-primary Conventions.** — Although political conventions have been deprived of the power to nominate candidates for office, there is nothing in the law which forbids them to *suggest* candidates to the voters. Any party or any faction of a party, may hold a convention before a primary election for the purpose of agreeing upon a list of candidates.

Since the law makes no provision for such conventions, there is no special method according to which their delegates must be chosen. This means that they are chosen as party committees or other leaders may direct. The Lincoln-Roosevelt League was an organized faction of the Republican party, which in the spring of 1910 nominated a complete state ticket, and at the primary election completely defeated the "regular" Republican organization. After that the

<sup>1</sup>This, of course, does not include the campaign expenses of candidates.

League, as such, took no prominent part in politics, because its former leaders had come into control of the Republican party organization. The candidates selected by the Democratic party at the primary election in 1910 were suggested by a pre-primary convention held in the spring.

Pre-primary conventions seem to be a necessity. The average voter cannot give sufficient time to politics to prepare himself to vote intelligently at primary elections; and, because of the number of candidates to be nominated, he would be helpless without the aid of political leaders. The leaders of any party or any faction cannot give this advice until they have agreed among themselves, and in order to reach an agreement they must get together. The meeting may be a party convention of several hundred delegates, or an informal gathering of a few men who agree in their political views; and the confidence which they are able to inspire in the voters will determine the measure of support which their candidates will receive.

**13. The Short Ballot.** — At the regular state and county election (November, 1910, 1914, etc.), a voter is called upon to vote for about forty candidates for office. These he must select from a list of something like two hundred names printed on the election ballot.

At the preceding primary he was confronted with a ballot on which about one hundred and twenty names were printed. It is evident that no one could vote intelligently at either election without a great deal of previous preparation. A majority of voters cannot make this preparation. The result is that incompetent and even corrupt men are frequently elected to office.

The "short ballot" is suggested as a remedy for the difficulty. The advocates of the "short ballot" believe

that only the most important of our state, county, and city officers should be elected, and that all others should be appointed. Many officers are chosen to do work of a specialized or technical character and could be more intelligently selected by one man, or a small group of men, than by the mass of the voters. This is true of school superintendents, engineers, surveyors, assessors, public attorneys, and possibly others. It will be remembered that we select our national officers by the "short ballot" method, as only the President, Vice President, and the members of Congress are elected, — all others, numbering into the thousands, being appointed. Political bosses and professional politicians do not believe in the principle of the "short ballot," because much of their influence depends upon the helplessness of the voters at the polls when confronted with a ballot containing a bewildering number of names.

**14. National Conventions.** — Candidates for the offices of President and Vice President of the United States are nominated by national conventions. Each political party holds one of these conventions in the spring of each presidential election year. The call for a convention is issued by the national committee of each party some six months before the convention is to meet, and is sent to the various state and territorial committees of the party. It names the time and place for the meeting, specifies the number of delegates that each state and territory <sup>1</sup> may send, and gives general instructions as to how they shall be chosen.

<sup>1</sup> Although territories have no part in electing the President, they are permitted by the various political parties, as a matter of courtesy, to have a voice in the nomination of candidates. The District of Columbia, Alaska, Hawaii, Porto Rico, and the Philippine Islands were all invited to send delegates to the Republican and Democratic conventions in 1912.

There is no law governing national conventions, and each committee, in arranging for a convention, is controlled only by custom and the resolutions of previous conventions. It is customary for each state to be directed to send twice as many delegates as it has senators and representatives in Congress; and for each territory and island possession to send two, four, or six delegates according as the committee directs. The call usually requires that four of the delegates from each state shall be chosen from the state at large, and that two shall be chosen from each congressional district. In most of the states they are chosen by state and congressional district conventions, but in a few states, including California, they are chosen by the voters at primary elections.<sup>1</sup>

On the first Tuesday in May, every four years, beginning in 1912, a presidential primary election is to be held throughout California, for the purpose of choosing delegates to national conventions, and for the purpose of giving the voters of every political party in the state an opportunity to express their choice as to a party candidate for the presidency.<sup>2</sup> This primary is conducted in substantially the same manner as the August primary:

1. Not later than the tenth day of March, the secretary of state must notify the county clerk, or registrar of voters, of each county as to the number of delegates that each party in the state will send to its respective national convention. This information is obtained from the calls issued by the various national committees.

2. County clerks prepare separate ballots for each political party. Names of candidates for the presidency, and of those who wish to

<sup>1</sup> California, Oregon, Wisconsin, New Jersey, Nebraska, North Dakota, Illinois, Pennsylvania, and Massachusetts. They are chosen by conventions in the territories and in the island possessions.

<sup>2</sup> Statutes of 1911, Extra Session, page 85 *seq.* This law was amended in 1913 in certain respects.



be chosen as delegates to the national convention, are printed on the ballot of any party, if signatures to nomination papers are obtained equal in number to at least one per cent of the voters of the party in the state. These papers are left with the clerks of the counties in which they are signed, and are sent to the secretary of state, who later reports the names of all candidates to every county clerk in the state. Every ballot is prepared so that the name of each candidate for the presidency stands at the head of a separate column, and the column in which the name of any candidate for election as delegate appears indicates his choice for President. There is, however, a blank column in which any voter may write the names of those whom he prefers as delegates, if he is not satisfied with the names printed on the ballot. The ballot may also contain a "no preference column," in which may be printed the names of candidates for the position of delegate, if any, who favor none of the presidential candidates whose names appear on the ballot.

3. The election is conducted and the result canvassed in the same manner as the August primary. Each party expresses its choice for President, and elects its delegates throughout the state at large, and the names are so arranged on the ballot that a voter may vote for the requisite number of delegates in a group or as individuals.

4. *Miscellaneous Points.* — Voters do not express their choice for Vice President. The law provides for verification deputies for the May primary, the same as for the August primary. A candidate for the presidency may be represented by any organized body of supporters in the state who may take the necessary steps to have his name printed on the party ballot. After the election, the delegates chosen by each party meet and select an alternate for each one of their number, so that in case any delegate cannot attend the convention, his alternate will go in his place. Any candidate for the position of delegate may file a statement with the secretary of state, that if elected, irrespective of his personal preference, he will support at the convention the candidate for the presidency who receives the highest vote of his party throughout the state.

A national convention consists of about one thousand delegates. It is called to order by the chairman of the national committee, who presides until an organization is

effected. The work of the convention consists of adopting a party platform, which contains a statement of the principles for which the party expects to stand in the November election; nominating candidates for the office of President and Vice President; and choosing a national committee, consisting of one member from each state. After the adjournment of the convention, the committee has charge of the campaign, collecting money from those who are willing to contribute to the campaign fund, and using the money to publish campaign literature and send out speakers. After the election, the committee has nothing to do until the time for calling the next convention arrives.

**15. Conclusion.** — If a republic is to endure, its government must represent the opinions and desires of a majority of its voters. A government which does not do this may be a monarchy or an oligarchy, but it is not a republic. There can be no doubt that many of our states, counties, and cities have been, and are now, governed by officers representing, not the people, but a small fraction of the people, — those who own and control the great corporate interests of the country. There ought to be no conflict between our corporate interests and the masses of the people. There would be none, if the corporate interests had used legitimate methods in conducting their business enterprises. But many of them have not used legitimate methods. They have seized property which belonged to the whole people; they have secured franchises at a small fraction of their value; they have formed monopolies by driving competitors out of business, and have charged exorbitant prices for the necessities of life. To do these things, it was necessary for them to control our governments; and this they have done through the aid of political bosses. The

problem of the present is that of making our national, state, and local governments truly representative of the people. This is the same thing as saying that the political power now exercised by great corporate interests must be transferred to the people. The direct primary, the initiative, referendum, and recall—to be considered in succeeding chapters<sup>1</sup>—are intended to aid in bringing about this reform. These regulations and devices are helpful, and will doubtless prove to be more and more valuable as time goes by; but it should never be forgotten that it is beyond the power of men to devise measures of any kind that will serve as a substitute for honesty and patriotism on the part of the voters of a republic.

### QUESTIONS

1. What is the essential difference between a direct primary election and the primary elections held in the larger cities of California previous to 1910?
2. What is a nonpartisan direct primary?
3. How would a group of men proceed to organize a new political party?
4. Why did the Lincoln-Roosevelt League cease to be active?
5. If pre-primary conventions may now be held, and if delegates to such conventions are chosen as party committees or other leaders direct, what has been gained by the passage of the direct primary law?
6. To what extent may a pre-primary convention be influential?
7. What steps would one have to take to become the candidate of the Democratic party for any of the following offices: governor, state senator, United States senator, state assemblyman?
8. What steps would one have to take to become the candidate for sheriff in your county?

<sup>1</sup> See §§ 69, 72, 86. (References to sections of this book are in heavy type.)

9. Why would a political boss be opposed to the principle of the "short ballot"?

10. Why does a direct primary law require candidates to report the amount of money spent for campaign purposes?

11. Why is it not desirable for corporation directors to contribute corporation money to campaign funds?

12. Is it a voter's duty to vote? Why?

## CHAPTER III

### THE POLITICAL SUBDIVISIONS OF CALIFORNIA

**16. Importance of State and Local Government.** — The Constitution of the United States recognizes only two political units in our scheme of government: the nation and the state. The affairs of the nation are placed in the charge of the national government. These are important matters, although, for the most part, they influence the life of individual men and women only indirectly. The affairs of each state are of greater importance to the individual, because they directly influence his life at all times, whether he is conscious of the fact or not. They are in the charge of the state government, which is the constant guardian of our most vital public and private interests.

The state government has its headquarters at the state capital, but it must have agents in all parts of the state in order that the state law may be enforced in every locality. Because we believe in the principle of local self-government these agents are not appointed at the state capital, but are elected, or appointed, in the various localities. In order that they may be chosen without confusion, and that their powers and duties may be definitely established, the territory of the state is divided into numerous subdivisions, such as counties, townships, school districts, and cities. No one of these subdivisions should be regarded as a complete political unit. They are all parts of the state, as branches, twigs, and leaves are parts of a tree. They are created by the state and have only such powers,

duties, and privileges as the state confers upon them; and no one of them can be adequately understood unless it is considered in its relation to the state.

**17. The Subdivisions of California Classified.** — The subdivisions of California may be separated into two classes: Class I, those which collect no taxes and own no property; Class II, those which collect taxes and own property.

*Class I.* The following are the subdivisions which collect *no* taxes and own *no* property:

1. Congressional Districts. The state is divided into eleven.
2. Assembly Districts. The state is divided into eighty.
3. Senatorial Districts. The state is divided into forty.
4. Equalization Districts. The state is divided into four.
5. Appellate Court Districts. The state is divided into three.
6. Supervisorial Districts. Each county is divided into five.
7. Judicial Townships. Each county is divided into a convenient number.
8. Road Districts. Each county is divided into a convenient number.
9. Horticultural Districts. Each county is divided into a convenient number.

There are many other such districts, but this list includes the most important of them. Those from 1 to 7 inclusive are election districts, created for the purpose of electing representatives in Congress, assemblymen, state senators, members of the state board of equalization, and other officers. The expense of conducting elections in these districts is paid from county treasuries; and the salaries of the officers

elected are paid, in the case of representatives in Congress, from the national treasury, and in the remaining cases, from the state and the various county treasuries. These districts, therefore, have no expenses to meet; and they are not given the power either to levy and collect taxes, or to acquire property.

Counties are divided into road districts for the purpose of caring for the roads, and into horticultural districts for the purpose of inspecting orchards, vineyards, and nursery stock. But the care of roads and the protection of the fruit industry against diseases and pests are county charges. These districts also, therefore, have no need of money, and do not possess the power to tax or to hold property.

*Class II.* The most important of the subdivisions which collect taxes and own property are as follows:

#### A. Municipal Corporations:

1. Incorporated cities and towns.

#### B. Quasi Corporations:

2. Counties.
3. School Districts.
4. Irrigation Districts.
5. Sanitary Districts; organized to establish sewer systems.
6. Drainage Districts; organized to drain swamp lands.
7. Levee Districts; organized to build levees.
8. Fire Districts; organized to provide protection against fire.
9. Lighting Districts; organized to install electric lighting systems.
10. Permanent Road Divisions; organized to build roads and bridges.
11. Library Districts; organized to establish libraries.

The districts from 4 to 11 inclusive are organized only outside of incorporated cities and towns, because a city or town has power to provide its people with the accommodations furnished by such districts.

Not one of the subdivisions belonging to Class II could do the work for which it exists without money and property, and hence they must all have the power to tax as well as the power to acquire and hold property.

**18. Road Districts and Permanent Road Divisions.** — The difference between the subdivisions of Class I and those of Class II is illustrated by the difference between road districts and permanent road divisions. As road districts have no power to tax, the money spent on the roads in each district is derived from the general county road tax levied by the supervisors. If any portion of a county wishes the privilege of taxing itself in order to have more money to spend on its roads than comes to it from the general road tax, it may gain the privilege by organizing a permanent road division. A majority of the landowners living in the territory in question present a petition to the supervisors asking that the said territory be formed into a permanent road division. The law provides that the supervisors must grant the request, which they do by issuing a proclamation declaring the road division to be formed. After this the people may raise money at any time to spend on their roads by voting bonds or special taxes. The supervisors must call an election for either purpose upon the request of ten landowners in the district. Thus by organizing themselves into a permanent road division the people gain the power to speak and act as a unit in the matter of road building, and of taxing all taxable property in the district for that purpose.



**19. Corporations.**—All the subdivisions of Class II are known as public corporations. An accurate understanding of the character and powers of public corporations is necessary to every student of civil government, and can be acquired more readily after we have noted the characteristics of corporations in general.

The Civil Code of California (§ 283) defines a corporation thus: "A corporation is a *creature of the law*, having certain powers and duties of a natural person. Being created by the law, it may continue for any length of time which the law prescribes." Notice three points in this definition:—

1. "A corporation is a *creature of the law*." A group of people cannot form themselves into a corporation. Men may combine their capital and associate together in business, but they are not a corporation and cannot exercise the powers or enjoy the privileges of a corporation, until they "incorporate"; that is, until they receive the sanction of the state. In order to obtain this sanction in California they must take the following steps: (a) Form a temporary organization, and draw up "articles of incorporation," which must state the name and purpose of the proposed corporation, the place of business, the amount of capital stock, if any, the number of directors by whom the corporation is to be governed, and other details specified in the law; (b) file the articles of incorporation in the office of the county clerk in the county in which the principal place of business is to be; (c) file with the secretary of state in Sacramento a copy of the articles of incorporation, paying to him at the same time the fee required by law,—after this the secretary of state issues a certificate of incorporation to the persons whose names are signed to the articles; (d) a set of by-laws for the government of the corporation must be adopted, and permanent officers must be elected. This completes the process.

2. A corporation has "*certain powers and duties of a natural person*." It may be composed of any number of people,<sup>1</sup> but it

<sup>1</sup> There must be at least three in California.

wills, speaks, and acts as one person. It may make contracts; may sue and be sued in the courts; and may acquire, possess, and dispose of property. The word "certain" in the definition is important. It implies that the powers of a corporation are limited. A natural person may do anything not contrary to law; but a corporation may do only the things that the law permits it to do. In particular it may engage in no other business than that for which it was created, as specified in its articles of incorporation.

3. "Being created by the law, it may *continue for any length of time* which the law prescribes." This means that a corporation has what is called perpetual succession. The persons who compose it may change, but the corporation remains the same legal entity until it is terminated by the expiration of its term of existence,<sup>1</sup> or until it is dissolved according to law. A partnership is dissolved if one of the partners dies, or sells his interest in the firm, because it does not enjoy the right of perpetual succession; but if all the original stockholders or members of a corporation abandon the enterprise, sell their stock, or die, the new stockholders or members acquire their rights and privileges, and the law does not recognize that any change has taken place in the identity of the corporation.

**20. Charters of Corporations.**—Incorporation is a voluntary act. The state will not force corporate existence upon a group of people. A private corporation is thus invariably formed at the request of its stockholders, or members, and its formation confers upon them powers and privileges which they previously did not possess. These powers and privileges are definitely stated in the charter of the corporation. The charter also serves as a constitution for the corporation, designating what officers it shall have, how they shall be chosen, how long they shall serve, and what their powers and duties shall be.

Until the last quarter of the nineteenth century it was customary throughout the United States for corporations

<sup>1</sup> The longest term for which a corporation may be formed in California is fifty years. The term may be renewed, however.

to receive their charters as special acts from state legislatures. At present they commonly incorporate under general laws according to some such procedure as that described above. In California private corporations must always be formed according to this process. The charter of a corporation thus formed consists of its articles of incorporation and the general laws governing corporations. The general laws may of course be amended by the legislature, and the articles of incorporation may be amended by the corporation; but all amendments to the articles must be adopted according to state law, must be in harmony with the law, and must be approved by the secretary of state. Charters of municipal corporations will be considered in succeeding pages.

**21. Private and Public Corporations.** — “Corporations are either public or private. Public corporations are formed or organized for the government of a portion of the state; all other corporations are private.”<sup>1</sup>

*Private corporations* may be formed for any lawful purpose. They exist for business undertakings of every description; for the support of churches, schools, colleges, and hospitals; for pleasure; for sport; and for the furtherance of other enterprises almost without number. If the property of a private corporation is represented by shares of stock, the persons who compose it are called stockholders; if the property is not divided into shares the persons who compose it are called members. Private corporations are managed by their officers, who are chosen by their stockholders or members, and not by the voters of any definitely bounded district. They have no power to tax the property of any district, but derive their income from

<sup>1</sup> Civil Code of California, § 284.

voluntary contributions, from assessments levied on their stockholders or members, or from the profits of the business in which they may be engaged.

"*Public corporations* are formed or organized for the government of a portion of the state." Every public corporation is thus located within a definite district, and is composed of all the citizens who live in the district. Its affairs are managed by public officers and employees representing the people as a whole, and it derives its income mainly from taxing the property within its borders.

A public corporation may do only the things that the law definitely states that it may do. The trustees of a school district, for example, may not spend the money of the district to build a road or a bridge, to give relief to the poor, to fight contagious diseases, or for any purpose whatever, except the one purpose of educating the children within the district. An irrigation district may tax itself for the purpose of developing and distributing water, but for no other purpose. How, then, can it be said that a school district, or an irrigation district, is "formed or organized for the *government* of a portion of the state"? Government is the doing of public work. Any instrument that *has a part* in the doing of public work is participating in government. A school district, or an irrigation district, does not completely govern the people within its limits; but it does for them an important piece of public work, has an important part in their government, and for this reason the supreme court of California calls it a public corporation.<sup>1</sup>

It would not be an accurate use of language to speak of a state as a public corporation. A state has all the powers and privileges that

<sup>1</sup> See Supreme Court decisions: 93 Cal. 414; 92 Cal. 296; 51 Cal. 406; 129 Cal. 567.

could be granted to any corporation; but it is superior to any corporation. It creates corporations, grants to them all the powers and privileges that they possess, supervises and controls their actions, and has the power to dissolve them. The state, on the other hand, is not controlled by any outside authority; no outside authority has any legal power to dissolve it; its powers and privileges are nowhere definitely written down, for they are practically without limit.<sup>1</sup> It possesses a modified sovereign power,<sup>2</sup> and sovereign power transcends corporate power.

Likewise the United States possesses all possible corporate power, but is superior to any corporation, public or private, for it also possesses sovereign power.

**22. Two Kinds of Public Corporations.** — Public corporations are divided into two subclasses: municipal corporations and quasi corporations.<sup>3</sup>

1. A *municipal corporation* is an incorporated town or city.<sup>4</sup> A community incorporates by obtaining a charter according to a process described in Chapter VIII. A municipal charter is a special law for a particular city, or a particular class of cities, which contains a statement of the powers that may be exercised, and the privileges that may be enjoyed, and an outline of the form of government.

Every thickly settled community has wants and interests that a rural community does not have. But all thickly settled communities do not have the same wants and interests. For these reasons rural communities and cities cannot be governed by the same plan, nor can all cities be

<sup>1</sup> The powers of a state are restricted in numerous ways by the provisions of the national Constitution, but they are without limit in the sense that no definite bounds can be set to them. See the tenth amendment to the national Constitution.

<sup>2</sup> Cooley, *Principles of Constitutional Law*, p. 34.

<sup>3</sup> This term must not be confused with the term *quasi public* corporations, a name given to the great *private* corporations which serve the public on a large scale, such as railroads, telephone and telegraph companies, etc.

<sup>4</sup> There is no difference in meaning between the words *town* and *city* as used in California.

governed alike. The constitution and laws of California, therefore, provide that each city may have a charter which is suited to its own peculiar needs. When we come to study the government of cities more in detail, we shall consider the different kinds of charters. (§ 75.)

When a community incorporates, it acquires an individuality which sets it apart from the balance of the state as a separate political entity. To be sure it is a part of the state and in many respects acts as the agent of the state, but in the management of its local affairs it is regarded as a distinct political organism. The fact that the state confers upon it the power to manage its local affairs according to the terms of its charter, rather than according to general state law, makes of it a true corporation.

2. *A quasi corporation* is not a true corporation. It is not incorporated and has no charter,<sup>1</sup> but is governed according to the general laws of the state. Thus all the counties of the state, except the incorporated city and county of San Francisco, and such others as have adopted county charters,<sup>2</sup> are governed according to the same plan. This is true also of school districts, — except those whose government is modified by city charters, — of irrigation districts, sanitary districts, and of every other kind of district belonging to Class II. A quasi corporation has no

<sup>1</sup> A constitutional amendment adopted in 1911 provides that any county may elect a board of fifteen freeholders for the purpose of drawing up a charter for the county; and that this charter shall become the fundamental law of the county when adopted by the voters and ratified by the legislature. But such a charter would not be a true charter because it would not be a grant of power. It would provide for the election of a board of supervisors, and for the election, or appointment, of other county officers; it would state their terms of office, and determine, or provide a method of determining, their compensation. But all powers to be exercised by the county or any of its officers must be according to general law. The possession of such a charter would not make a county a true corporation.

<sup>2</sup> Los Angeles and San Bernardino counties at present (1913).

legal existence separate from the state. It is not a distinct political organism, but a part of the great organism, the state.

A municipal corporation is always formed at the request of its people for the purpose of securing a local government to look after local affairs. Under our present constitution it could not be formed without their consent.<sup>1</sup> A quasi corporation is formed for the purpose of enforcing the general laws of the state in the locality, and it may be formed without the consent of the people of the locality. The boundaries of a municipal corporation may not be changed without the consent of its people, while those of a quasi corporation may be. These differences grow out of the fact that general laws will meet the needs of sparsely settled communities, whose public wants and interests are few and simple; but that special provision must be made for thickly settled communities whose wants and interests are many and complex.

✓ **23. Corporations Classified.**—Corporations may be classified in many ways according to the points that one desires to emphasize. The following outline is intended to present to the eye a brief summary of what has been said in this chapter about corporations:

## CORPORATIONS

### I. Characteristics.

1. They are created by the state.
2. They have power to speak and act as one person, although they are composed of three or more persons. For this reason a corporation is said to be an "artificial person."
3. They have perpetual succession.

<sup>1</sup> See Andrews, *American Law*, page 536 *seq.* See also *Kahn vs. Sulro*, 114 Cal. 319. The maintenance of a municipal government is relatively more expensive than that of a county, and no community should be compelled to assume the burden without its consent.

## II. Kinds.

### 1. Private Corporations.

#### a. Corporations organized for profit.

(1) Ordinary business corporations.

(2) ~~Quasi~~ public <sup>UTILITY</sup> corporations. These include railroads, street car, telegraph, telephone, water, gas, and electric companies.

#### b. Eleemosynary corporations. These include incorporated churches, private schools and colleges, and charitable institutions.

#### c. Corporations organized for pleasure or sport.

### 2. Public Corporations.

#### a. Municipal corporations. These have charters and are true corporations.

#### b. Quasi corporations. These have no true charters and are not true corporations. They have, however, the characteristics and some of the powers of a corporation, and for convenience are called public corporations.

**24. Local Self-government.** — By means of public corporations we enjoy local self-government. Local self-government means (1) that all local (county, city, school district, etc.) officers are locally elected, and (2) that the state depends upon these local officers to enforce in the localities general state laws, as well as to make and enforce local ordinances. This makes all local officers state officers.

Countries in which local self-government does not exist have what is called a *centralized* government. If we had a centralized government in California, all our local officers, or at least the most important of them, would be appointed at the state capital; and they would not be responsible to the people whom they serve, but to the central authority in Sacramento. In each county there would probably be an appointed official whose consent would have to be obtained before the county could improve a road or build



a necessary public building; or before any city in the county could lay out a park, grade a street, or make any other necessary improvement.

The Roman Empire during the last two hundred years of its existence had a thoroughly centralized government. In the early days of Roman expansion the policy of the conquering city was to permit a large measure of local self-government to the conquered communities; but almost from the first there was a tendency toward centralization. Many times communities neglected to look after their local concerns properly, and the central government was obliged to interfere in the interests of efficiency and good order. Provincial governors grew more and more inclined to disregard local usages and customs, while they themselves became more and more dependent on the Emperor. It became customary to refer questions concerning the most trifling details to Rome for decision.<sup>1</sup> The process of centralization continued until by the beginning of the fourth century A.D. local self-government was entirely dead.<sup>2</sup>

France is an example of a well-governed modern nation which has a centralized government. The hand of the central authority is seen everywhere in the government of the localities. As Woodrow Wilson says,<sup>3</sup> "The general rule of French administration is centralization, the direct representation of the central authority through appointed officers in every grade of local government, and the ultimate dependence of all bodies and ministers upon the officers in Paris." France is divided into departments corresponding to our counties. The most important official in each department is the prefect. He is the recruiting officer of the department, its treasurer, its superintendent of schools, its chief of police, its executive officer in all important undertakings.<sup>4</sup> He appoints most subordinate officials. The police of every city in his department are subject to his control. He supervises the issuing of municipal bonds and the granting of franchises, and has a voice in all important municipal affairs. He is appointed by the Minister of the Interior in Paris, and is strictly re-

<sup>1</sup> See Pliny's letters to Trajan.

<sup>2</sup> W. W. Capes, *The Age of the Antonines*, page 200 seq.

<sup>3</sup> Wilson, *The State*, page 241.

<sup>4</sup> *Ibid.*, page 236.

sponsible to him. It is evident that the French people know very little of local self-government as we know it in America.

Our federal government is highly centralized. The officers and employees of the United States government number about four hundred thousand; and of this number only the President, the Vice President, and the members of Congress are elected. All others are appointed either directly or indirectly by the President, and are responsible to the President, or to the heads of the great departments in Washington. This form of government has proved eminently successful in the management of our national affairs. Our state governments are based on the local self-government principle, and all that we have of local self-government pertains to and is a part of our state governments. This is no doubt the fundamental cause of the jealousy that the states have always felt toward the national government when it has seemed to exhibit a tendency to encroach upon their powers; because every advance made by the federal government at the expense of the states is an encroachment of centralized authority on the principle of local self-government.

#### QUESTIONS

1. Why is a congressional district not a public corporation?
2. Why will not a county government serve for the cities located in the county?
3. What is a charter? Why must a city have a charter?
4. Why does a county need no true charter?
5. How can it be said of a school district that it "exists for the government of a portion of the state"?
6. Is Stanford University a private or a public corporation?
7. Why is a railroad called a quasi public corporation?
8. Why are the subdivisions of Class II called public corporations?

9. What is local self-government? What part does the state government have in our local self-government?

10. Could our national government be based on the local self-government principle? Why?<sup>1</sup>

11. Explain the difference between "Smith and Jones, Grocers," and "The Smith-Jones Grocery Co., Inc."

12. Can the student body of a public school sue or be sued?

13. Why are corporations difficult to punish for infractions of the law?

<sup>1</sup> Our national government exists to look after our *national affairs*, which include all matters that pertain to the nation as a whole. The states are united in order to secure unity of action in the management of these national affairs. This purpose would be defeated if each locality had a part in the management. The federal government must be centralized in order to avoid confusion.

## CHAPTER IV

### RURAL LOCAL GOVERNMENT

**25. Introductory.** — We have learned that our state governments depend upon local public corporations, not only to look after local affairs, but also to enforce general state laws. The three most important of these public corporations are cities, counties, and towns or townships. City government is pretty much the same in all parts of the United States, and will be considered in later chapters of this book. This chapter has to do with rural local government; that is, government outside of cities. We shall first give some attention to rural local government in different sections of the United States, and then study the subject as applied to California.

#### SECTION I. RURAL LOCAL GOVERNMENT IN THE UNITED STATES

**26. The New England Plan.** — In New England local government outside of cities is carried on by towns. Towns keep the roads and bridges in repair, give relief to the helpless poor, support schools, keep order, and do many other things that are looked after by counties in California. But it must be remembered that the word *town* as used in New England has a very different meaning from the same word as used in California. The territory of a New England state, outside of its cities, is all divided into towns, so that one cannot get out of a town in New England, except

by going into a city. The word as used in New England, in so far as it is applied to definitely bounded areas of territory, means the same thing as the word *township* as used in other parts of the United States. A town may have one or more villages within its borders, but most of its area is open country.

Every town has its town meeting, which is simply a mass meeting of voters. The town meeting is to a town what a city council is to a city; that is, it levies taxes, appropriates money, and passes local ordinances on matters of public interest. In addition to this it elects the town officers.

When a New England town becomes so thickly populated that the simple town government will not serve its purposes, it incorporates and becomes a city. A New England town is a quasi corporation; that is, it is governed by general state laws. Every city is of course governed by its charter. When a town incorporates, it gives up its town meeting and has a city council — a representative body — instead.

Towns are grouped together into counties, but New England counties have very little to do in comparison with California counties. They exist for scarcely any other purpose than to maintain superior courts. Each town has its local court to try petty cases, but cases of greater importance are tried in the county or superior courts.

**27. The Southern Plan.** — South of Mason and Dixon's line local government outside of cities is carried on by counties. The broad, level lands of the South Atlantic coast invited the first settlers of the country to a farming life. In New England the first immigrants from Europe settled in small villages and towns; in the South they spread out along the fertile river banks and settled on large planta-

tions. Where people are widely scattered the county type of local government is the one best suited to their needs, and counties were established in these southern colonies at the outset. Everywhere in the South to-day counties are relied upon to look after rural local affairs.

A southern county is divided into judicial districts, sometimes called townships, for the purpose of electing justices of the peace and constables. These districts are not public corporations, as they do not possess the taxing power. They exist simply as areas in which inferior courts are located. The expenses of such courts are paid by the counties, or by fees which they collect.

**28. Rural Local Government in the Middle Atlantic States.** — In New York, Pennsylvania, and New Jersey, both counties and towns, or townships, have a part in rural local government. Each state is divided into counties and each county into townships; and the work of keeping order, protecting life and property, caring for the roads, maintaining schools, etc., is divided by state law about equally between counties and townships, both of which are public corporations. This is called the compromise type of local government.

**29. Rural Local Government in the Middle South and West.** — People from the old southern states moved west with their slaves and built up new states on the broad plains north of the Gulf of Mexico. Land was abundant and fertile, and they settled on large plantations such as they had known in Virginia, the Carolinas, and Georgia. They naturally adopted the county type of local government, not only because it was the type best suited to their needs, but also because it was the type to which they had been accustomed.

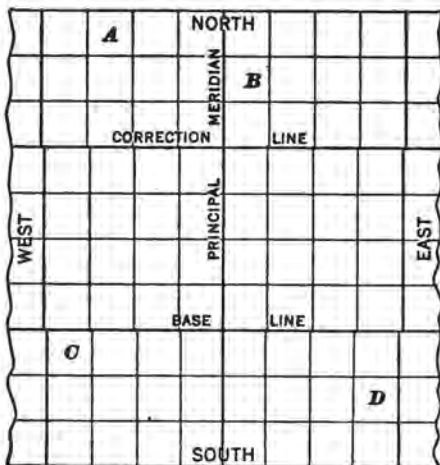
To-day the work of local government outside of cities in all of our southern states is done by counties. Townships exist only for judicial purposes and do not have the powers of public corporations. The same is true of all of our western states where the population is widely scattered. To be exact, the county type prevails south and west of a line drawn along the southern boundary of Pennsylvania to the Ohio River; then down the Ohio to the Mississippi, and on to the southern boundary of Missouri; then west along the southern boundaries of Missouri and Kansas; and then north along the western boundaries of Kansas, Nebraska, and the Dakotas.

**30. Rural Local Government in the Middle North.** — New Englanders moving into Ohio, Indiana, Illinois, and other states in the northern half of the Mississippi Valley found that the New England town, with its town meeting, could not easily be planted on the broad, level prairies of the West. They became farmers and lived farther apart than they had in New England; but, because of greater danger from the Indians, because of the difference in crops, and because of the absence of slaves, they did not settle on large plantations as had the cotton growers of the South. The county form of local government could have been made to answer their purposes, but they were not willing to give up the New England plan entirely. They therefore adopted the compromise plan of the Middle Atlantic states. Thus in each of these north-central states both counties and townships exist as public corporations, and the work of rural local government is divided between them by state law. The townships, unlike those in most other sections of the country, are six miles square. This is because the lines established by United States surveyors when they were

blocking the land off into "congressional townships," sections, and quarter sections, were later taken as boundary lines for these governmental townships.

NOTE.—A "congressional township"<sup>1</sup> is six miles square and is divided into thirty-six sections. Each section contains six hundred and forty acres and is divided into quarter sections. These land divisions are found wherever the United States government has owned the public land; that is, in all the states except Vermont, Maine, Kentucky, Tennessee, West Virginia, Texas, and the thirteen original states. They were intended only for the purpose of locating land, and are seldom used for any other purpose except in the northern part of the Mississippi Valley, where they have been adopted as territorial units in forming governmental townships. The student should observe that three kinds of townships have been mentioned in this chapter: *governmental* townships, found in New England and in the states where the compromise type of local government prevails; *judicial* townships, found in the south and far west; and *congressional* townships.

When the United States acquired California, the land not held in private ownership became government land. Government surveyors were sent out to mark off this land into congressional townships, sections, and quarter sections. They adopted Mt. Diablo as a starting point for central and northern California, and Mt. San Bernardino



A, Township 7 North, Range 3 West.

B, Township 6 North, Range 1 East.

C, Township 1 South, Range 4 West.

D, Township 2 South, Range 4 East.

<sup>1</sup> "Surveyors' township" would be a more suggestive name.



for southern California. The line drawn north and south through one of these mountains is called the "principal meridian," and the

6	5	4	3	2	1
7	8	9	10	11	12
13	17	16	15	14	13
19	20	21	22	23	24
29	28	28	27	26	25
a	32	33	34	35	36

Township *D* divided into sections, each section being one mile square and containing six hundred and forty acres. *a*, The Northeast quarter of Section 31, Township 7 South, Range 4 East.

line drawn east and west the "base line." Townships six miles square are marked off north, south, east, and west of these lines. The distance to the east or west of the principal meridian is indicated by the number of the *range*; while the distance to the north or south of the base line is indicated by the number of the *township*. As meridians of longitude converge toward the north, "correction lines" are established at intervals of twenty-four or thirty miles from the base line in order to keep the width of the townships from east to west as nearly six miles as possible. In the diagram on page 65 let the point of intersection of the principal meridian and the base line be considered as the

top of either Mt. Diablo or Mt. San Bernardino.

## SECTION 2. RURAL LOCAL GOVERNMENT IN CALIFORNIA

**31. The County Type in Use in California.**—We have already learned that we use the county type of local government in California. The New England town type, or even the compromise type, could not be used except in thickly settled rural districts. In many parts of the state, families live far apart and there are vast desert and mountain regions that are almost entirely uninhabited. It is clear that the county is our natural unit of local government.

Many men from the New England, the Middle, and the Ohio Valley states came to California in the exciting days of 1849. Here they found men from the South; and when the convention met at Monterey (September 1, 1849) to draw up a constitution for the new state, the county and town or township types of local government each had warm

friends among its members. The result was a compromise, and our first constitution provided that "the legislature shall establish a system of county and town governments, which shall be as nearly uniform as practicable throughout the state."<sup>1</sup> Our present constitution, adopted in 1879, provides that "the legislature shall establish a system of county governments, which shall be uniform throughout the state; and by general laws shall provide for township organization, under which any county may organize whenever the majority of the qualified electors of such county, voting at a general election, shall so determine."<sup>2</sup> In spite of this mandate in each of our two constitutions, the legislature has never provided for the organization of townships, simply because there never has been any need of them.<sup>3</sup> The physical geography of California speaks so emphatically in favor of the county type that townships have never been able to gain a foothold.

**32. Judicial Townships.** — *Governmental* townships are the kind contemplated in section 4, article XI, of the constitution. We have, however, *judicial* townships in California. Every county in the state, except the city and county of San Francisco, is divided by the board of supervisors into as many such townships as the board considers necessary. A judicial township is not a public corporation; it owns no property and collects no tax. It is an election district for choosing justices of the peace and constables. The salaries of these officers are paid by the county except where they are permitted to retain the fees which they collect. The township limits territorially the

<sup>1</sup> Constitution of 1849 — article XI, section 4.

<sup>2</sup> Article XI, section 4.

<sup>3</sup> See *Kahn vs. Suto*, 114 Cal. 334.

civil jurisdiction of the justice's court, but its criminal jurisdiction extends throughout the county. Townships include cities, or parts of cities, as well as country districts, so that every portion of the state is located in some township. This is true even of San Francisco, which is really a township, as well as a city and county.

**33. The Formation of Counties.**<sup>1</sup>—When California was a province of Mexico it was divided into ten large districts for governmental purposes. The first state legislature that met after the adoption of the constitution of 1849, realizing that these districts were too large to serve as counties for the new state, passed a bill (Feb. 18, 1850) dividing the state into twenty-seven counties. As the population has increased new counties have been formed from time to time, by subdividing the older ones, until now (1913) the number is fifty-eight (Appendix C). Each of these new counties except the last—Imperial county—has been formed by a special act of the legislature. Imperial county was formed according to a general law which was passed in 1907; this law was materially amended in 1909. Its provisions in the amended form are as follows:

The law declares that no new county shall be formed which has a population of less than ten thousand; that no old county shall be reduced to a population of less than twenty thousand, nor to an area of less than twelve hundred square miles, by the formation of a new county; and that the boundary line of a new county shall not pass within five miles of the county seat of any county from which its territory is taken. The other conditions are so severe that the formation of further new counties is practically impossible.

<sup>1</sup> See state constitution, article XI, section 3.

When it is desired to form a new county, a petition must be presented to the supervisors of the county from which its territory is to be taken, or, if it is to be formed from parts of two or more counties, the petition must be presented to the supervisors of the county which is to lose the greatest area. The petition must be signed by at least 50 per cent of the voters of the old county, including at least 65 per cent of all the voters living in the proposed new county. If it is to be formed from parts of two or more counties, at least 50 per cent of the voters of each county affected, including at least 65 per cent of those living in each part of the new county, must sign the petition. The petition must state the boundaries, the population, and the name of the proposed new county; and the population and area that will remain to the old county or counties. \*

Not less than thirty nor more than forty days after the filing of the petition, the board of supervisors must meet to determine whether or not the facts stated in the petition are true. Public notice must be given of this meeting so that friends and opponents of the proposition may appear before the board. If the board finds that the facts stated are true, and that the new county could be formed without violating any of the provisions of the law mentioned above, it must call an election in the county or counties in question. The new county will not be formed unless 50 per cent of the votes cast in the county, including 65 per cent of those cast in the proposed new county, are in favor of the proposition. If it is to be formed from parts of two or more counties, 50 per cent of the votes cast in each old county, including 65 per cent of those cast in each part of the proposed new county, must be favorable.<sup>1</sup> At the same election the location of the new county seat is determined, and a set of officers for the new county are chosen to take office in case the proposition carries. The board of supervisors must canvass the election returns and publish the result, and, if the vote is in favor of the proposition, must report the matter to the secretary of state. This completes the process,

<sup>1</sup> The law of 1907, under which Imperial county was formed, was much more liberal in its terms, as it provided that an election must be called in the proposed new county on petition of 50 per cent of the voters of the territory in question, and that the county would be formed if favored by 65 per cent of the vote cast. The wish of the voters of the balance of the county or counties from which the new county was to be taken was not considered.

except that the governor must appoint a committee of three persons — one of whom, but only one, shall be from the new county — to agree upon the terms of a business adjustment between the new and old counties.

**34. The Relation between a County and the State. —** In the creation of new counties according to the plan just described, the board of supervisors which receives the petition, conducts the election, and declares the result, is guided in every step that it takes by state law. This means that the board in all that it does acts as the agent of the state. It is thus the state that creates the new county.

A county gets all of its power from the state. It has only such officers as are provided for, or permitted, by the state law and constitution, and they must find authority in the law or constitution for every official act. It may hold only such property as the law permits. It may collect taxes only for the purposes authorized by law, and for these purposes alone may money be taken from its treasury. The state existed before there were any counties; and counties were formed in order that the laws of the state might be enforced in every locality, and that the people might enjoy local self-government under the guidance of state law. Thus the county is entirely the creature of the state, which may of its own will abolish it, or alter its area or government in any way it may desire.<sup>1</sup> We shall learn later that the relation of the county to the state is vitally different from the relation of the state to the nation.

#### QUESTIONS

1. Why is a California judicial township not a public corporation?
2. Do we have congressional townships in California?

<sup>1</sup> The people of the state are referred to here. The legislature may exercise these powers subject to the will of the people as expressed in the state constitution.

3. How does a California county differ from a New England county? from a middle northern county?
4. Why has township government never been established in California?
5. How can it be said that Imperial county was formed by the state?
6. When was your county formed? (See Appendix C.)
7. Why is a county a quasi corporation? What are its political relations to the state?

## CHAPTER V

### COUNTY GOVERNMENT—COUNTY OFFICERS

#### SECTION I. COUNTY OFFICERS, TERMS OF OFFICE, AND OTHER DETAILS

**35. County Officers.** — A California county has the following officers : —

##### I. *Elective Officers*

- |                                       |                                      |
|---------------------------------------|--------------------------------------|
| 1. The Board of Supervisors.          | 11. The Superior Judge<br>or Judges. |
| 2. The County Clerk.                  | 12. The Justices of the<br>Peace.    |
| 3. The Assessor.                      | 13. The Sheriff and Con-<br>stables. |
| 4. The Tax Collector.                 | 14. The District Attorney.           |
| 5. The Treasurer.                     | 15. The Public Adminis-<br>trator.   |
| 6. The Auditor.                       |                                      |
| 7. The Recorder.                      |                                      |
| 8. The Coroner.                       |                                      |
| 9. The Surveyor.                      |                                      |
| 10. The Superintendent of<br>Schools. |                                      |

##### II. *Appointive Officers*

A. The Board of Supervisors *must* appoint : —

16. Four members of the County Board of Education, the County Superintendent being a fifth member.
17. A County Health Officer.
18. A Horticultural Commissioner, if requested by twenty-five interested persons.

*B. The Board of Supervisors may appoint : —*

19. A Live Stock Inspector.
20. A Fish and Game Warden.
21. An Inspector of Apiaries.
22. Roadmasters ; Superintendents of County Farms, Hospitals, and Detention Houses ; and other minor officers and employees.

*C. The Superior Court appoints : —*

23. A Court Commissioner.
24. A Court Reporter for each judge of the court.

*D. The Judge of the Juvenile Court appoints : —*

25. A Probation Committee.
26. A Probation Officer, and such assistants as the law provides.

**36. Terms of Office.** — The term of office of all elective officers is four years, except that of superior judges, which is six years. The regular county election is held at the same time as the state election ; that is, on the first Tuesday after the first Monday of November every fourth year (1910, 1914, 1918, etc.). All elective officers, except supervisors, justices of the peace, and constables, are elected by the county at large. Officers assume the duties of their respective offices on the first Monday after the first day of January next succeeding their election. Appointive officers serve for terms of different lengths. For example, the horticultural commissioner is appointed for four years ; the fish and game warden, and the probation officer and his assistants, for two years ; the health officer, for one year ; the live stock inspector, and other officers and employees, each during the pleasure of the appointing power.



**37. Official Bonds.** — All elective county officers, except superior judges, are required to furnish official bonds. The official bond of an officer is the written promise of some other responsible person, or corporation, to the effect that if the officer does not do his duty "well and truly," the person or corporation making the promise will pay into the county treasury the amount mentioned in the bond. The supervisors fix the amount of all official bonds except their own; the amount of theirs is fixed by the superior judge, or judges, of the county. All bondsmen must be acceptable to the superior judge or judges. All official bonds are recorded in the recorder's office and are then filed with the county clerk; the clerk's bond is filed with the treasurer.

**38. Vacancies and Salaries.** — A vacancy in the office of superior judge or supervisor is filled, until the next election, by the governor of the state. A vacancy in any other elective county or township office is filled by the board of supervisors.

The compensation of county officers is fixed by state law. The state constitution requires that all laws pertaining to the government of counties shall be general laws; that is, the legislature is forbidden to pass a law for any particular county. But the constitution permits the legislature to divide the counties into classes, in proportion to their population, for the purpose of establishing the salaries of county officers. There are fifty-eight counties in the state, and the legislature has divided them into fifty-eight classes. (See Appendix C for statistics.) Thus the law which fixes the salaries of county and township officers is really a special law for each county, although it is in the form of a general law; and when it states that in all counties of the first class the various officers shall receive such and such

salaries, Los Angeles county is the only county affected, because it is the only one of the first class. Not only does the law fix the salary of each officer, but it also states the number of deputies, clerks, and other employees that each may appoint, and names their salaries. Certain officers receive no fixed salaries in most counties, but are permitted to retain the fees collected from the people whom they serve. This is true of the county surveyors, coroners, and public administrators, and of township justices of the peace<sup>1</sup> and constables. The amount to be collected as fees in each case is definitely determined by law.

**39. The Consolidation of County Offices.** — In counties of small population the supervisors are permitted to, and frequently do, consolidate county offices so that one man may serve as sheriff and tax collector; auditor and recorder; clerk, auditor, and recorder; coroner and public administrator; or the like. When one man holds two or more offices, he receives their combined salaries.

**40. The Uniformity of County Government.** — All the counties of the state, except the incorporated city and county of San Francisco, and counties that have adopted charters (see note, p. 55), are governed according to the provisions of certain acts of the legislature, the most important of which is the "County Government Act." The government is, therefore, uniform; that is, all counties have the same officers, — except for some variation in the appointive officers, — and the powers and duties of the corresponding officers are the same in all counties.

This uniformity may seem to be broken if advantage is taken of the constitutional amendment of 1911 which permits counties, with the approval of the legislature, to adopt

<sup>1</sup> Justices of the peace will be paid salaries after 1914.

charters. (Article XI, section 7½.) But such charters must provide for the election or appointment of practically the same officers<sup>1</sup> as are found in counties that are governed according to general laws; and their powers and duties must be the same. The uniformity of county government in its essential features will therefore not be disturbed. The lack of uniformity will appear only in respect to the manner of selecting officers, their terms of office, their compensation, and the manner of filling vacancies.

## SECTION 2. THE BOARD OF SUPERVISORS *8 ap.*

**41. Organization.**—The board of supervisors of each county, except the incorporated city and county of San Francisco, consists of five members. Each member is elected for four years by one of the five supervisorial districts into which the county is divided. Either two or three are elected every even-numbered year.

The board elects one of its members chairman. The county clerk or a deputy appointed by him is its secretary. Three members constitute a quorum, and the concurrence of three is necessary to pass a measure.<sup>2</sup> The board must hold regular meetings at the county seat as often as it shall determine. Special meetings may be held at any time. "All meetings must be public, and the books, records, and accounts of the board must be kept at the

<sup>1</sup> Provision must be made for such officers as are *required* to be elected or appointed in other counties. The amendment permits such charters to provide for necessary additional officers, which may or may not be the same as those that are appointed in other counties at the discretion of the supervisors.

<sup>2</sup> An act of the board may be a simple *order*, a *resolution*, or an *ordinance*. The word *law* should be reserved for the acts of Congress and state legislatures. An order or resolution of the board of supervisors may take effect at once, but an ordinance cannot be enforced for fifteen days, during which time it must be published for at least one week. (See § 72.)

office of the clerk, open at all times for public inspection.”<sup>1</sup> “Within ten days after each session of the board, it shall cause to be published a fair statement of all its proceedings.”<sup>2</sup> It has power to require the sheriff, or one of his deputies, to attend all of its meetings “to preserve order, serve notices, subpoenas, citations, and other process, as directed by the board.”

**42. The Powers and Duties of the Board of Supervisors.** — Only the most important of the powers and duties of the board of supervisors will be given. Any one desiring more detailed information is referred to the Political Code of California of which the “County Government Act” is a part (§ 4049—§ 4056).

1. The board is the business head of the county government. It provides and furnishes office rooms for all county officers, and purchases supplies and all necessary equipment for the various offices and institutions. It supervises the erection of county buildings, keeps them in repair, sees that they are insured, and employs janitors and gardeners to keep them and the grounds around them clean and in good condition. It has charge of county property, directs the prosecution of lawsuits in the name of the county, and, in general, represents it in all business transactions.

2. The board supervises the official conduct of all county officers who have any part in collecting, safe-keeping, or disbursing the public revenues; and examines and audits their accounts at least once a year. It also has power to supervise the official conduct of all officers who handle the revenues of public corporations in the county, other than cities.

<sup>1</sup> Political Code of California, § 4033.

<sup>2</sup> *Ibid.*, § 4049.

3. The board levies county taxes; that is, it determines annually the amount that property owners must pay on each one hundred dollars' worth of property. This is called the tax rate, and must be levied not later than the third Monday in September. The board also levies taxes for all public corporations in the county, except cities. If a public corporation wishes to impose a tax upon itself, its officers call an election,<sup>1</sup> and, if a majority of the votes cast are favorable to the tax, the matter is reported to the board of supervisors, which levies the tax at the same time that it levies the county tax.

4. The board equalizes assessments. If a property owner thinks that the assessor has valued his property too high, he may complain to the board of supervisors when it sits as a county board of equalization (between the first and third Mondays in July), and the board has power to lower the assessment. It also has power to increase the assessment on any piece of property.

5. It divides the county into judicial townships, and election, school, road, supervisorial, and other districts.

6. It has control of all county, state, and national elections within the county; that is, it divides the county into election precincts, appoints election officers, canvasses election returns, and appropriates money from the county treasury to pay the election expenses.

7. It has charge of county roads and bridges and for this purpose divides the county into road districts. These often coincide with the supervisorial districts, in which case each supervisor often acts as roadmaster for his district. In some counties a greater number of districts are required, and each supervisor appoints a roadmaster

<sup>1</sup> A tax may be imposed on a school district without an election.

for each road district in his supervisory district. The board has power to levy a special road tax, not to exceed twenty cents on each one hundred dollars' worth of property in the county, outside of incorporated towns and cities.<sup>1</sup> It may also impose a road poll tax not to exceed three dollars on every able-bodied man between the ages of twenty-one and fifty-five living in the county outside of cities. No more money may be spent in any road district than the amount collected therein, except by a two-thirds vote of the board. Caring for the roads includes grading, oiling, sprinkling, and other necessary work.

8. The board must care for the indigent sick and the dependent poor. For this purpose it may provide, by lease or purchase, hospitals and poor farms, and has power to impose special taxes for their maintenance.

9. It has power to license all lawful business enterprises carried on in the county, and determines the amount of the license in every case where it is not fixed by law.

10. It has power to establish a free county library at the county seat for the benefit of all parts of the county outside of library districts and incorporated towns which maintain public libraries; and to tax the property in the parts of the county benefited, for the support of the library, not in excess of ten cents on the hundred dollars. The librarian of such a library must be appointed by the board, but he must hold a librarian's certificate granted by the state board of library examiners, which consists of the state

<sup>1</sup> An incorporated town or city located in a road district is not part of the district. It cares for its own streets, and does not share in the burden of caring for the county roads. The law, however, provides that county bonds for the construction of "main public highways" may be issued, a main public highway being defined as a highway connecting two cities. The property of the entire county, including cities, would of course be taxed to redeem the bonds. See also section 7½ of article XI of the state constitution.

librarian at Sacramento and the librarians of San Francisco and Los Angeles. (§ 172.)

County libraries with numerous branches have been established in many counties. The branches in any county are supplied with books — which are frequently changed — from the main library. The state coöperates with the counties in this matter, and books are sent on request at state expense from the state library in Sacramento to county libraries and their branches. Thus a great state library system has been established by which the people of our most remote districts may be supplied with books at little trouble and at no expense to themselves.

11. The board has power to grant franchises for the use of the public roads by private corporations, such as street car and railroad companies.

12. It must provide for the burial of the indigent dead.

13. It has power to provide for the protection of trees, vines, cereals, vegetables, and other plants against weeds, and animal and insect pests; also to provide for the protection of live stock against diseases.

14. It has power to pass ordinances for the protection of fish and game. Such ordinances must of course not be in conflict with state law. They may shorten, but cannot lengthen, the fish or game seasons established by law.

15. It has power to aid the state and national authorities in caring for the forests and in preventing forest fires.

16. It has power to make and enforce "all such local police, sanitary, and other regulations as are not in conflict with general laws." By the police power of the board is meant its power to pass ordinances for the preservation of order, and for the protection of life, property, the public health, the public convenience, the public taste, and the



public morals. It is an extensive power. By virtue of it the board may license and regulate the conduct of lawful business enterprises, may close disorderly places, may prohibit the sale of intoxicating liquors, may regulate the speed of vehicles on public roads, may regulate the keeping and storing of dynamite and other explosives, may establish a public pound for the care of stray animals, and so on. The police power of the board extends throughout the county *outside of incorporated towns and cities.*

#### 43. The General Character of Supervisors' Work. —

It is customary to speak of the board of supervisors of a county as the legislative department of the county government; but this is somewhat misleading because it assumes that the government of a county is divided into legislative, executive, and judicial departments, — an assumption which is not true.<sup>1</sup> A county is an agency of the state, created for the purpose of carrying state law into execution. Its only legislative functions are to supply such details as are necessary for the execution of state law, and to determine whether or not it will exercise certain optional powers granted by law.<sup>2</sup> The board of supervisors exercises these limited legislative functions, subject to the initiative and referendum. When levying taxes and appropriating money for the maintenance of the county government, it is taking necessary steps for giving effect to state law; and when passing ordinances in the exercise of its police powers, it is making use of optional powers. The foregoing statement of the powers and duties of the board shows that, in addition to this legislative work, it renders many services that are purely executive

<sup>1</sup> The superior and inferior courts located within a county do not constitute the judicial department of the county government, but are parts of the state judicial system.

<sup>2</sup> The vital work of legislating for a county is thus done by the legislature.



in character. The making of appointments, the purchasing of supplies for county offices and institutions, and the letting of contracts for any kind of public work are examples of such services.

### SECTION 3. DUTIES OF OTHER COUNTY OFFICERS

In the following pages the most important duties of the various county officers will be given. Persons wishing more detailed information are referred to the Political Code.

3, **44. Duties of the County Clerk.**<sup>1</sup> — 1. The county clerk is clerk of the board of supervisors. He, or a deputy appointed by him, must attend every meeting of the board, and must keep a record of all orders, resolutions, ordinances, and other proceedings. After each meeting he issues such orders, certificates, and notices as the board directs; and delivers to the auditor warrants signed by himself and the chairman of the board for all orders directing the payment of money. He attends to the publication of ordinances and other proceedings of the board. Applications for licenses and franchises, and all other communications directed to the board, must be filed in his office.

2. He is clerk of the superior court. He, or a deputy appointed by him, must attend every session of the court and keep a record of all its orders, decrees, decisions, and other proceedings, and of all cases brought before the court. He must issue such warrants, notices, citations, subpoenas, and other process as the court may require.

3. He has charge of all books, papers, and records which may be filed in his office according to law. There are many such papers; among them may be mentioned the official

<sup>1</sup> Political Code, § 4178.

bonds of other county officers, articles of incorporation of private corporations, and nomination papers.

4. He has important duties to perform in connection with elections. He registers voters. No one may vote until he has registered in the clerk's office his name, occupation, place and date of birth, his present address, and other items required by law (p. 29). The clerk must have printed a complete list of all registered voters. This list is called the great register, a copy of which, or as much as is necessary, must be furnished for use at every voting place in the county on election days. He must furnish all blank forms to be used in connection with elections, such as nomination papers, ballots, and tally sheets; and all election returns are sent to his office to be canvassed by the board of supervisors. Finally, after each election, he officially notifies all successful candidates for county and township offices of their election; and sends to the secretary of state an abstract showing the result of the election in the county for state and national offices, and for constitutional amendments or other propositions.

5. He issues marriage and hunters' licenses.

4 **45. Duties of the Assessor.**<sup>1</sup>—1. The assessor must assess annually all taxable property in the county as it exists on the first of March. His record showing the value placed on every item and giving the names of owners, when possible, is called the assessment roll.

2. He collects poll taxes.<sup>2</sup> The state imposes a poll tax for the benefit of the state school fund on able-bodied men between the ages of twenty-one and sixty. The

<sup>1</sup> Political Code, § 3627 *seq.*

<sup>2</sup> In some counties assessors receive fifteen per cent of the amount collected by them as poll taxes (§ 38).

assessor collects this tax for the state. He also collects the road poll tax when it is imposed by the supervisors.<sup>1</sup>

3. He collects personal property taxes from people who own no real estate.<sup>2</sup>

4. He must report annually to the clerk of the board of supervisors a list of the names of all men in the county between the ages of eighteen and forty-five who are not by law exempt from military duty. The law requires that when any male citizen registers as a voter, files a statement of his property in the office of the assessor for assessment purposes, or pays his poll tax, the officer or clerk who waits upon him must ascertain whether or not he is subject to military duty and must make a record in reference to it. Principals of schools where young men over eighteen attend must report a list of all such cases to the assessor. From these sources and from any additional information that he is able to gather, the assessor must make up the military roll of the county. The clerk of the board of supervisors sends a copy of this list to the state adjutant general in Sacramento (§ 127).

4, ✓ **46. Duties of the Tax Collector.**<sup>3</sup> — 1. The tax collector collects all county taxes, except those collected by the assessor; the tax for all public corporations in the county, except incorporated cities;<sup>4</sup> and any general property tax imposed by the state.<sup>5</sup>

<sup>1</sup> The payment of poll taxes has nothing to do with the privilege of voting in California, as it has in some states.

<sup>2</sup> Every householder is excused from paying taxes on one hundred dollars' worth of personal property.

<sup>3</sup> Political Code, § 3746 *seq.*

<sup>4</sup> He often collects the taxes for small towns at their request.

<sup>5</sup> Since the adoption of a constitutional amendment in 1910 which provides that the state government shall be supported by a tax on corporations rather than by a tax on general property, the county tax collectors collect practically no money for

2. He collects county license fees. He also issues such licenses as are authorized by state law, or granted by the board of supervisors, except those issued by the county clerk. For example, he issues saloon, peddlers', merchants', and auctioneers' licenses.

3. He must make a financial report to the auditor on the first Monday of each month, and, on the same day, pay the money in his possession to the treasurer.

4. He must sell to the state all real estate on which the tax is not paid, or which stands as security for unpaid taxes on personal property.

The first installment of the tax on real estate, or the entire tax on personal property which is secured by real estate, is delinquent if not paid by the last Monday in November. If paid between this date and the last Monday in April, 15 per cent is added as a penalty; after the last Monday in April another 5 per cent is added. The second installment is delinquent if not paid by the last Monday in April, after which a penalty of 5 per cent is added. On or before the fifth day of June the tax collector must publish the delinquent tax list, specifying the date on which he will sell property to the state for delinquent taxes. This date must be not less than twenty-one nor more than twenty-eight days after the first publication of the delinquent list. On the day specified the tax collector must write the words "Sold to the State" on the delinquent list opposite each piece of property affected. Owners have five years in which to redeem their property, during which time they retain possession. Property is redeemed by the payment of all back taxes, penalties, and certain costs required by law. If not redeemed within the five years, the tax collector deeds it to the state, and the original owner has no further interest in it. The tax collector must report to the auditor and the state controller in reference to all lands sold to the state, and must file all deeds for such lands in the office of the county recorder.

the state. But the state may at any time impose a tax on general property, in which case it would be collected by the county tax collectors. See section 14, article XIII, of the constitution.

5. **47.. Duties of the Treasurer.**<sup>1</sup> — 1. The treasurer receives all money collected by the tax collector, and places it in different funds according to the purposes for which it was collected. He receives all other money belonging to the county, such as fees, fines, the proceeds from the sale of county property, debts due from private individuals, and so on. All money received by him, from whatever source, must be accompanied by certificates issued by the auditor, and his receipts for money must be returned to the auditor.

2. He collects for the state the inheritance tax, imposed by the state, due from persons who inherit property located in the county.

3. He pays money out of the treasury only on warrants issued by the auditor; however, he pays money which he holds for the state to the state treasurer on warrants issued by the state controller. The auditor reports to the controller the amount held by the county for the state. The treasurer settles with the state in May and December each year, and at any other time if required.

4. On the first Monday of each month he must make a detailed report to the auditor showing all money received and paid out by him since his last monthly report; and he must make a similar report to the board of supervisors at every regular meeting of the board. His report to the supervisors must also show the debts due to and from the county.

5. He and the auditor must make a joint report to the supervisors on the first Monday in February, May, August, and November, showing receipts, expenditures, debts, and credits.

<sup>1</sup> Political Code, § 4101 *seq.*

3 **48. Duties of the Auditor.**<sup>1</sup> — The auditor is the most important financial officer of the county.

1. He draws warrants on the treasurer for all lawful debts, claims, or demands against the county; or against any public corporation in the county whose funds are held by the treasurer. He must draw no warrants except on proper authority. Claims against the county must be allowed by the board of supervisors; claims against any school district must be allowed by the school board and approved by the county superintendent; claims against any other public corporation must be allowed by its board of trustees or directors. But even after a claim has been allowed, the auditor must make certain that the expenditure is authorized by the state law before he draws his warrant on the treasurer. To audit means to examine carefully. If the county supervisors or the trustees of any district, through mistake or otherwise, allow a claim or order an expenditure that is not authorized by the law, the auditor must refuse to pay it. It may be added that the treasurer may refuse to pay a bill after it has been audited, if he thinks that the state law does not clearly authorize the expenditure. In such a case, the district attorney, or possibly the courts, would have to settle the matter.

2. He must examine and settle the accounts of all persons who are in debt to the county, and must certify the amount in each case to the treasurer.

3. He must present to the board of supervisors at each regular meeting a detailed statement showing the exact condition of the finances of the county. This is in addition to the joint report made by him and the treasurer every three months.

<sup>1</sup> Political Code, § 3727 *seq.*, § 4091 *seq.*

4. He must examine the books of the treasurer once a month and see that they have been correctly kept.

5. He must, together with the district attorney, and the president of the board of supervisors, count the money in the county treasury once a month; and he must each time file with the county clerk a statement showing the amount of money that ought to be in the treasury, and the amount and kind of money actually found to be there.

6. From the assessment roll and tax rate, he must compute the amount of tax to be collected on each item of taxable property in the county, and must turn the tax bills over to the tax collector. He thus knows in advance what the tax is to be, and charges the tax collector with the amount.

4 ✓ 49. **Duties of the Recorder.**<sup>1</sup> — 1. The recorder keeps an official record, or copy, of all papers that in any way affect the title to any real estate in the county; such as deeds, mortgages, wills, contracts, decisions of court, etc.

Personal property may be bought and sold by verbal agreement; but land can be bought and sold only by *written* agreement. The agreement, or deed, must be drawn up in proper form, and must be sworn to and recorded exactly according to law. If A sells land to B, the transaction is not complete and the land does not belong to B, even though he may have paid the money and received the deed, until the deed has been filed for record in the office of the recorder. The recorder's books are open to the public in order that any one may investigate the title to any piece of land in the county. To do this is no simple matter, however, and abstract companies are organized for the purpose of searching the records to determine land titles for interested persons.

2. He records mortgages placed on personal property.

3. He records marriage certificates; and keeps a record

<sup>1</sup> Political Code, § 4130 *seq.*

of all births and deaths in the county, except in so far as this is done by city health officers.

4. He records the official bonds of county officers.

5. He must receive and keep on file in his office, building contracts, plans, and specifications. When one lets a contract for building a house, the law does not require that a copy of the contract shall be filed in the office of the recorder; but if this should not be done, and a dispute should later arise between the owner and the contractor, the injured party would find it difficult to obtain satisfaction.

6. He issues burial permits as stated in the following paragraph.

2. • **50. Duties of the Coroner.**<sup>1</sup> — 1. The coroner must hold an inquest over the body of every person in the county who has been killed, or has died in some unusual manner, or from some unknown cause, or under suspicious circumstances. An inquest is an inquiry conducted in the presence of a jury of six or more men, who must take notice of all the circumstances in the case, listen to the testimony of witnesses, and render a verdict if possible as to the cause of death. The coroner may employ a chemist or a physician to assist at any inquest.

No human body can lawfully be buried, or moved from the locality where the death occurred, without a *burial permit*. Burial permits are usually issued on the presentation of physicians' certificates giving the cause of death; but in every case where no physician has been in charge the permit is issued after an inquest has been held. Burial permits are issued in our larger cities by health officers; in smaller towns by the town clerks; and in country districts by county recorders, or deputies called subregistrars, appointed by them for that purpose.

<sup>1</sup> Political Code, § 4143.



2. If, after an inquest has been held, the jury charges some one with murder, the coroner has power to issue a warrant for his arrest.

3. After every inquest he must deliver to the county treasurer, or to the legal representatives of the deceased, any money or other property found on the body.

4. He must keep an accurate record of every inquest, giving the name of the deceased, if possible; the cause of death, when known; the property found on the body; and any information that might be of service in identifying the deceased if unknown.

5. He must give a decent burial to any human body that is not claimed for burial by some friend or relative.

6. Any justice of the peace in the county may perform the duties of the coroner in any case when the coroner is unable to act. The coroner may perform the duties of sheriff when the latter cannot act.

3. **51. Duties of the Surveyor.**<sup>1</sup> — 1. The surveyor must do all surveying work that may be required by the board of supervisors or by the superior court. The supervisors need his services when laying out new roads, or in locating the boundaries of subdivisions of the county, such as judicial townships, road districts, school districts, etc. The superior court may require him to locate the boundaries of any piece of land that may be in dispute before the court.

2. He must make surveys for private individuals who request him to do so and pay the fees required by law.

3. He must make correct maps of the various subdivisions of the county, and keep them in his office, as the property of the county.

<sup>1</sup> Political Code, § 4214 *seq.*

4. He is the county engineer, and must do such engineering work as may be required by the board of supervisors.

5. He must assist the surveyor-general of the state in making such surveys for the state as are necessary in the county. Such surveys are made, for example, in the building of state roads, and in locating the boundaries of state lands.

**52. County School Officers.**<sup>1</sup>—The schools of every county should be studied in connection with the state school system. The state system should be studied as a unit, and Chapter XIV is devoted to that purpose. The duties of the county superintendent of schools and of the county board of education will therefore be found in Chapter XIV.

**53. Superior Judges and Justices of the Peace.**—Each county elects at least one superior judge, and each judicial township elects at least one justice of the peace. The powers and duties of the superior judges and justices of the peace are discussed in Chapter XV, which is devoted to the state judicial system.

† **54. Duties of the Sheriff.**<sup>2</sup>—The most important duties of the sheriff are as follows:—

1. He is the county peace officer. That is, he must arrest all persons that commit, or attempt to commit, or are charged before the courts with having committed, public offenses; and he must “prevent and suppress any affrays, breaches of the peace, riots, and insurrections which may come to his knowledge.” In the discharge of these duties he may compel as many of the able-bodied men of his county as may be necessary to assist him.

<sup>1</sup> Political Code, § 1543 *seq.*, § 1768 *seq.*

<sup>2</sup> *Ibid.*, § 4157 *seq.*

2. He must take care of and keep the county jail and its prisoners.

3. He, or some deputy appointed by him, must attend every session of the superior court, and execute its lawful orders. If the court issues a warrant for the arrest of any person, the sheriff must, if possible, arrest him;<sup>1</sup> when men are wanted in court for jury service, he must summon them to appear; if the court orders private property sold to satisfy a debt, or seized and held under attachment to enforce the payment of a debt, he must execute the order.

Many orders of the court, such as summonses, subpoenas, and injunctions, may be served by private persons in whose favor they are issued, but the sheriff may be required to serve them in case resistance of any kind is encountered.

4. He must execute in his county such orders as may be issued to him by the courts of other counties of this state; and although not compelled to do so, he makes arrests, and serves summonses and other process, in his county on the orders of the United States courts, or the courts of other states.

5. He must pay any money that comes into his possession by virtue of his office to such person or persons as the order of the court may direct, and must account for the same to the court.

2. **55. Duties of Constables.**<sup>2</sup> — Each judicial township elects as many constables as justices of the peace.<sup>3</sup> They are elected at county elections for terms of four years, and

<sup>1</sup> When armed with a warrant, he may pursue the person against whom it is issued to any part of the state; but he must have the warrant indorsed by a judge or justice of the peace in the county, other than his own, in which the arrest is made.

<sup>2</sup> Political Code, § 4187 *seq.*

<sup>3</sup> San Francisco has five justices of the peace, but no constables. Other townships have one or two of each, except Los Angeles township, which has four.

receive fees for their services, except in some few counties where they receive definite salaries. Constables are peace officers. They assist the sheriffs of their respective counties in maintaining order. In the absence of the sheriff, the constable has all the powers conferred by law upon the sheriff as a peace officer. The constables must attend the sessions of their respective township courts, and, when required to do so, must serve and execute within their respective counties, the summonses, writs, and other process issued by such courts. When called upon to do so, they also execute the orders of other state and national courts; but no constable may execute the order of a township court in the township in which it was issued unless he is the constable of that township.

4 **56. Duties of the District Attorney.**<sup>1</sup>—1. The district attorney is the public prosecutor of the county. It is his duty to investigate every public offense committed in his county, and to prosecute before the courts all persons against whom he has evidence of guilt.

2. He must act as attorney for the county in any civil suit in which the county is a party, either as plaintiff or defendant. He must also act as attorney for the state in any civil suit brought by or against the state in the courts of his county.

3. He must "give, when required, and without fee, his opinion in writing, to county, district, and township officers, on matters relating to the duties of their respective offices."

4. He must attend meetings of the grand jury when it is investigating crimes that have been committed, and he draws all indictments.

<sup>1</sup> Political Code, § 4153. The district attorney is the *county* attorney. One must not be confused by the word *district*.

5. Four times each year he must file with the auditor an account of all money received by him in his official capacity, and must pay the same to the treasurer.<sup>1</sup>

2. **57. Duties of the Public Administrator.**<sup>2</sup>— When a person dies, it is the intention of the law that his property shall be distributed according to his will; that it shall pass to his lawful heirs if he leaves no will; or that it shall pass to the state if he leaves no will and no heirs.

The one who sees that the terms of a will are carried out is called the executor of the will. He is usually nominated in the will, but he is not the legal executor until he is appointed by the superior court. Within thirty days after the death of the person making the will, the will must be filed for probate with the clerk of the court. When it is probated, — that is, approved or accepted by the court, — the court appoints as executor the person nominated in the will, unless he is shown to be an incompetent person. "Letters testamentary" are issued to him, authorizing him to take charge of the estate, collect all money due the deceased, pay his debts, and distribute the property according to the will. He must, at stated times, designated in the law, report to the court; and must render a final account when his work as executor is complete.

If the judge of the court is not satisfied with the person named as executor in the will, he must appoint some one else. "Letters of administration" are issued to the person appointed, and he, as administrator of the estate, must take charge of the property and distribute it according to the will.

When a person dies leaving no will, his heirs, if any appear, may ask the court to appoint one of their number, or some one else, to act as administrator of the estate. After his appointment the administrator must settle up the affairs of the deceased and distribute his property according to law, accounting to the court for all his acts in the matter.

If a person dies leaving no will and no known heirs, or if he leaves heirs and they for any reason fail to have an

<sup>1</sup> See also Chapter XV for further information respecting the district attorney.

<sup>2</sup> Code of Civil Procedure, § 1726 *seq.*

administrator appointed, the public administrator must take charge of the property. He must in every case apply to the court for letters of administration, and must present to the court every six months (in January and July) a report showing in detail the condition of every estate on which he is administering, or has administrated, since his last report. If heirs appear and establish their claim to any estate, he must turn the property over to them according to the orders of the court, or if they have an administrator appointed, he must surrender the estate into the new administrator's keeping. At the time of making his semiannual report, he must deliver to the county treasurer any money belonging to estates for which no heirs have appeared. The treasurer turns such money over to the state. Real estate belonging to deceased persons who have no heirs also "escheats" to the state.

**58. Duties of the County Health Officer.**<sup>1</sup>—The board of supervisors of every county must appoint a county health officer. His term of office is one year, and his salary is determined by the board. He must enforce, outside of incorporated cities and towns, all state laws and county ordinances that pertain to the public health, and all orders issued by the state board of health. The board of supervisors may also appoint deputy health officers for unincorporated towns, whose salary shall not exceed \$100 a year, and who shall perform their official duties under the supervision of the county health officer. (See §§ 99, 159.)

**59. Duties of the Horticultural Commissioner and of the County Board of Forestry.**<sup>2</sup>—Upon the request of twenty-five owners of orchards, greenhouses, or nurseries, the board of supervisors must appoint a county horticul-

<sup>1</sup> Political Code, § 4225.

<sup>2</sup> Statutes of 1911, page 409.

tural commissioner, from a list of eligible persons recommended by the state board of horticultural examiners. This board consists of the state horticultural commissioner, the dean of the agricultural college at the state university, and the superintendent of the state insectory in Sacramento.

When a request for a county commissioner is presented to the supervisors, the state board of horticultural examiners, after publishing the matter throughout the county for thirty days, holds an examination in the county. A list of those who pass the examination is then certified to the supervisors, who appoint the county horticultural commissioner from the list, to serve for four years. If no one passes the examination, the examiners must, after making inquiry throughout the county, name "five competent persons" and from this number the supervisors must appoint the commissioner to serve for one year.

The horticultural commissioner may divide the county into districts and appoint a local inspector for each district. He may also, with the approval of the supervisors, appoint a deputy commissioner from a list recommended by the state examiners. The salary of the commissioner is six dollars for every day that he gives to the public service. The deputy receives \$5, and each inspector \$3.50, per day. These county officers may be appointed *state quarantine guardians* by the state horticultural commissioner, thus becoming a part of the state horticultural system (§ 153).

It is the duty of the horticultural commissioner and his assistants to eradicate noxious weeds and insect pests. They have power at any time to inspect any orchard, vineyard, nursery, packing house, storeroom, salesroom, or other premises; and if noxious weeds, dangerous insects, or plant diseases are found, it is their duty to order the owner or person in possession of the premises to destroy the nuisance. If he refuses or neglects to obey the order, the commissioner, or any of his appointees, must at once attend to the matter, but the expense of the work is charged as a lien against the property. The commissioner and his

assistants may resort to any expedient that may be necessary to eradicate a dangerous disease, pest, or nuisance, even to the extent of destroying trees, vines, or plants. The commissioner must report annually to the state commissioner, giving a statement of his official acts, and showing the general condition of the horticultural interests of the county. He must also attend the annual meeting of the state association of county horticultural commissioners.

The board of supervisors of any county may appoint a county board of forestry to consist of five members, one from each supervisory district. The term of office is four years and the members serve without pay. The duty of the board is to "have exclusive charge and control of all shade and ornamental trees, hedges, lawns, shrubs, and flowers growing or to be grown upon the public roads, highways, grounds, and property in the county." No such trees or hedges may be planted, trimmed, or removed without the consent of the board, except that this does not apply to the trimming of fruit or nut trees now growing along the public highways. With the consent of the supervisors the board may appoint a county forester to act as its executive officer. His salary must not exceed \$150 a month.

**60. Duties of the Live Stock Inspector.**<sup>1</sup>—The live stock inspector is appointed at the discretion of the supervisors to serve during the pleasure of the board, at a salary of \$125 a month. "It is the duty of the live stock inspector, acting under the supervision of the state veterinarian (§ 154), to enforce all laws of the state of California, and all orders and ordinances of the board of supervisors of his county pertaining to the health and sanitary surroundings of all live stock in his county, and for that purpose he is hereby authorized and empowered, by and with the approval of the board of supervisors, to establish, maintain,

<sup>1</sup> Political Code, § 4149 a.



and enforce such quarantine, sanitary, and other regulations as he may deem proper and necessary."

**61. Duties of the Fish and Game Warden.**<sup>1</sup>— The fish and game warden is appointed at the discretion of the supervisors to serve for two years. His salary varies with the population of the county. It is his duty to enforce all state laws and county ordinances that pertain to the protection of fish and game. He has power to arrest any person who breaks any of these laws or ordinances. "He shall report quarterly to the board of supervisors giving a detailed statement of all the arrests made, convictions had, and fines collected, and a general statement in regard to the management of his office."

**62. The Inspector of Apiaries.**— If ten property owners in any county who are interested in bee culture present a petition to the board of supervisors stating that "foul brood," or other disease, is present in the apiaries of the county, the board must appoint an inspector of apiaries. His salary is three dollars a day for the time he devotes to the duties of his office. He is appointed to serve during the pleasure of the board. His duty is to inspect all apiaries in the county and to see that they are free from disease. If he finds "foul brood," or other disease, in any apiary he orders the owner to eradicate the disease, either by proper treatment or by destroying the affected hives. If the owner fails to obey the order, the inspector must take such measures as may be necessary to render the apiary free from disease. He may destroy property if necessary. Any expense incurred by him in this work is borne by the county.

**63. Conclusion.**—The duties of the court commissioner,

<sup>1</sup> Political Code, § 4149 c.

court reporter, probation committee, and the probation officer and his assistants will be found in Chapter XV. When we consider the duties of public officers, it should be kept constantly in mind that government exists to satisfy public wants and advance public interests. How are the wants of the people of our counties legally determined? By the legislature, or by the people through the initiative. When they are determined by the legislature in general terms, the supervisors must supply the details.

If the duties of our county officers are reviewed, it will be seen that some of them relate directly, and some indirectly, to the satisfaction of our public wants and the advancement of our public interests. The duties of the assessor, treasurer, tax collector, and auditor are indirect, as they have to do with collecting, safe-keeping, and accounting for the county funds. This work is very important, because without it the county government could not exist. The duties of the remaining officers relate directly to the active work of the government. They are engaged in running the governmental machine. The student should at this point review the duties of all county officers and should endeavor to see clearly behind each duty either a direct public want, or a necessary detail in the maintenance or supervision of the county government.

### QUESTIONS

1. What are the names of your county officers?
2. Are any of the offices of your county consolidated?
3. To what class does your county belong? (See Appendix C.)
4. How many superior judges are there in your county?
5. How many judicial townships are there in your county? How many road and school districts? In what judicial township do you live?

6. What is the present tax rate of your county?

7. If the county tax rate is 95¢ on the \$100, how was this amount determined? If Mr. A's property is assessed at \$1800, how much county tax will he pay? If he thinks that his property should not be assessed so high, what can be done about it?

8. If a man builds a bridge for a county, with what officers will he have to deal, and how will he be paid?

9. How many incorporated towns or cities are there in your county? (See the last California Blue Book.)

10. What is meant by the police power of the board of supervisors?

11. If a landowner fails to pay the tax on his land, how long will it be before he loses it? What steps will be taken in the matter by the tax collector?

12. To what extent does the legislature, and to what extent do the supervisors, legislate for a county?

13. By what right does the horticultural commissioner, or the inspector of apiaries, destroy property in the discharge of his duty?<sup>1</sup>

<sup>1</sup>By the authority conferred upon him by state law. This is in exercise of the *general police power* of the state. The state has unlimited power to protect its people and their property against nuisances, dangers, or pests of any kind. By this police power it may suppress any undesirable business, or it may regulate any of the activities of its people. It confers this power on boards of supervisors, city councils, and other state or local officers in as large measure in each case as may be necessary to safeguard the public interests.

## CHAPTER VI

### COUNTY GOVERNMENT—FINANCES AND MISCELLANEOUS

#### SECTION I. COUNTY FINANCES

**64. Introductory.** — A good deal has been said on the subject of county finances in Chapter V in connection with the duties of the board of supervisors, the assessor, tax collector, treasurer, and auditor. We shall now briefly consider the various sources from which a county obtains money, and how county money is spent.

**65. Sources of County Revenues.** — A county receives revenue:—

1. From fines imposed by justices of the peace and superior judges.

2. From fees collected in the offices of the county clerk, sheriff, recorder, surveyor, public administrator, and by justices of the peace and constables. All fees are carefully regulated by state law, and are paid into the county treasury, except when the law permits them to be retained by the officers collecting them.

3. From licenses granted by the board of supervisors, such as saloon licenses.

4. From taxes imposed by the board of supervisors. The law fixes no limit to the county tax rate. All work done by a county is authorized by the state, and much of it is imposed upon the county by the state. The supervisors have the power to levy a sufficient tax to enable the

county government to do its work, and there is great variety in county tax rates throughout the state. For example, the county rate in Modoc county, including the road tax outside of incorporated cities, for the year 1912 was \$1.16 on the \$100; in Sutter county it was \$1.96; and in Yuba county it was \$2.66.

5. From the state school fund which is apportioned among the counties by the state superintendent of public instruction for the support of the public schools.

6. From the state treasury to assist in supporting orphans, half orphans, and abandoned children. The state regularly distributes a comparatively small amount of money among the counties in proportion to the number of such children supported in public and private charitable institutions.

7. From the sale of county property; such as produce from the county poor farm, or any lumber, machinery, furniture, or other merchandise that may be in possession of the supervisors and not needed by the county.

**66. County Bonds.**—The money derived from the sources previously mentioned is intended to pay the ordinary running expenses of the county government. When the county wishes to undertake some unusual task, such as putting up an expensive public building, it may borrow money for the purpose, provided that its debts never amount to more than five per cent of the value of all the taxable property in the county. A county borrows money by issuing bonds. A county bond is a promise of the county to pay a given amount of money, at a given time, at a given rate of interest. Before the supervisors can issue and sell bonds they must submit the matter to the voters at a regular or special election. The exact amount to be borrowed, the rate of interest to be paid, the time

that the bonds are to run, and the purpose for which the money is to be used must be published during at least four weeks before the election. The ballots used at the election must contain a general statement of the amount and purpose of the bonds. If *two thirds* of the votes cast at the election are in favor of the bonds, the supervisors must have them printed and must sell them at not less than par.

The purpose for which the bonds are issued must of course be some undertaking for which the state law definitely authorizes the expenditure of county money, otherwise the bonds are illegal. When money is borrowed for a certain purpose, it can be used for no other purpose. A county may borrow money for any length of time, not exceeding forty years. It may not pay a greater interest than six per cent. The supervisors must levy taxes each year to pay the interest on borrowed money; and, during the second half of the time for which the money was borrowed, they must provide for laying aside each year a certain amount, determined by law and called a sinking fund, to be used in paying the debt when it falls due.

**67. The Spending of County Money.** — Every county has its own money, in its own treasury, but it cannot spend a cent of it except for purposes authorized by state law. Concerning the manner in which it is spent we need only to sum up what has already been said. As we have seen, it is first appropriated by the supervisors. They appropriate most of it by placing it in various funds. After a fund has been established for a certain purpose, money may be drawn from it by order of the board or officer having immediate charge of the work. Money is drawn from the general fund on special orders issued by the supervisors. The treasurer pays money out only on warrants issued by the auditor; so that every order must be drawn on the auditor, no matter by whom or against what fund it is drawn.

The law intends that every county shall conduct its ordinary business on a cash basis; that is, that the running expenses of each fiscal year shall be paid out of the revenues provided for the year. Debts carried from one fiscal year into another cannot be paid until all the needs of the succeeding year have been provided for. If a surplus remains, old debts may be paid, otherwise they remain unpaid. This of course does not apply to debts that result from the sale of bonds.

**68. Suits against a County.**—Inasmuch as a county acts as the agent of the state in everything that it does, one cannot sue a county except in so far as the state law permits. The law permits a county to be sued for the value of merchandise or material of any kind that has been furnished, or for labor that has been performed, provided that the material was furnished or the labor was performed in a manner prescribed by law, and for the accomplishment of some purpose authorized by law. A county cannot be sued for the blunders or the carelessness of its officers. In case of carelessness an officer may be sued personally, but not the county.<sup>1</sup> If the supervisors should purchase merchandise, or cause labor to be performed, for the county without definite authority of law, neither could be lawfully paid for from the county treasury.<sup>2</sup>

One is likely to obtain little satisfaction in suing a county, even if the debt is a lawful one. This is true because judgment against a county only converts a disputed claim into a valid one.<sup>3</sup> It does not insure payment, because neither public nor private property can be seized to satisfy the debt, and the treasurer will not pay it until the

<sup>1</sup> See Supreme Court decisions, 21 Cal. 113; 62 Cal. 180; 78 Cal. 303; 109 Cal. 618.

<sup>2</sup> See decisions of the State Supreme Court, 10 Cal. 278; 116 Cal. 662.

<sup>3</sup> 34 Cal. 285; 43 Cal. 270.

supervisors have appropriated money for the purpose. It stands on a footing with all other valid claims. If the supervisors refuse to order it paid, they may be compelled to do so by mandamus proceedings; but even then they would have to appropriate the money from the *surplus* revenue for the year. That is, the necessary running expenses of the county would have to be paid first. Furthermore, judgment against the surplus revenue of a county for any particular year does not hold against the revenue for any subsequent year.<sup>1</sup>

When a person is dealing with a county, or any other public corporation, he is presumed to know its limitations and powers. The law puts on him the burden of determining whether the transaction is legal or not. This means that before any person works for a county, sells it material, or lends it money, he should make certain that the work which he is employed to do, or the purpose for which the material or money is to be used, is definitely authorized by law.

## SECTION 2. MISCELLANEOUS MATTERS

**69. The Removal of County Officers.** — The power to remove elective county officers resides in the superior court and in the people.

No officer can be dismissed by the superior court except for cause. "Willful or corrupt misconduct in office" is cause for dismissal. This may amount to a crime; or it may consist of nothing more than carelessness, incompetency, or neglect of duty. The board of supervisors, the grand jury, or any person may charge an officer with misconduct; and, if he does not resign, it is the duty of the district attorney to prosecute him before the court. If the district attorney is accused, the court must appoint an attorney to prosecute him. Any accused officer is en-

<sup>1</sup> 107 Cal. 464.



titled to a jury trial. If crime is charged, conviction will result in dismissal from office in addition to the infliction of such punishment as the law provides. If the charge is misconduct not amounting to crime, a conviction will result only in dismissal from office. After conviction an officer may appeal to the higher state courts.<sup>1</sup>

The people may remove an elective county officer, who has been in office for six months, by means of the *recall*.<sup>2</sup> No definite charge of misconduct is necessary. An officer may be recalled because of misconduct or incompetency, or simply because the people do not approve of his policies.

The method of procedure is as follows: A petition, signed by voters equal in number to at least 20 per cent of the votes cast for all candidates for the office in question at the last regular election, is presented to the county clerk. The petition must demand that an election be called to choose a successor to the officer whom it is proposed to recall, and must contain a brief statement of the reasons for such action. Within ten days the clerk must examine the petition and reject all signatures except those of registered voters. If the number of valid signatures is found to be insufficient, the persons who filed the petition are given ten days in which to secure additional signatures. The clerk again examines the petition, and if it is found to be correct, the board of supervisors must call a special election to take place in not less than thirty-five nor more than forty days.<sup>3</sup> Any qualified person wishing to be a candidate for the office may be nominated according to the provisions of section 1188 of the Political Code (§ 10).

<sup>1</sup> Penal Code, § 758 *seq.*

<sup>2</sup> Statutes of 1911, Extra Session, page 122.

<sup>3</sup> If there is to be a regular election within sixty days, the recall election may be held at that time, even if it should come after the fortieth day.

The sample ballot which the clerk sends to each voter must contain a statement in not more than two hundred words of the reasons for seeking the recall. If the officer in question so desires, the ballot may also contain a statement of his side of the case in not more than two hundred words. His name is not printed on the ballot as a candidate; but each voter at the election must vote "Yes" or "No" on the proposition of recalling him. The voter must also vote for one of the candidates whose names are printed on the ballot, whether he votes for or against the recall. If the vote on the recall proposition fails, the officer retains his position; if it carries, the candidate receiving the highest vote is elected to succeed him.

**70. No Responsible Head to our County Government. —** There is no way of promptly getting rid of an inefficient elective officer. Removal either by the superior court or by the recall is a slow and cumbersome process. There ought to be some method of dismissing an inefficient officer without either a trial or an election. Because of the lack of any such method there is no responsible head to any of our county governments. We have seen that the financial officers are to a certain extent under the control of the board of supervisors; but, inasmuch as the board does not appoint them and cannot dismiss them from office, it cannot be responsible for their official conduct. The county government is conducted on the theory that the affairs of the county will be properly looked after if each officer does his duty as it is outlined in the state law. That is, the state legislature assumes to be the directing head of each county government. In assigning duties to officers the legislature in some cases gives detailed instructions; in

other cases it confers authority in general terms, leaving room for the exercise of a large measure of discretionary power. In the exercise of this discretionary power each elective officer is his own master and is responsible to no one. The carelessness, incompetency, and waste that too often characterize our county governments are in large measure due to this lack of responsibility.

**71. A Possible Remedy.** — What is needed is a responsible head to each county government. The recent amendment to the constitution permitting counties to adopt charters makes this reform possible.<sup>1</sup> According to that amendment the supervisors are the only county officers that must be elected. With respect to other officers each charter must provide "for the election or appointment of said officers, or any of them," and also for their removal. The board of supervisors could thus be made the head of the county government, with power to appoint and supervise any or all other officers, and to dismiss promptly those who for any reason fail to render honest and efficient service. If the powers and responsibilities of the supervisors should be thus increased, their salaries also should be increased. Many of the shortcomings in our county governments at the present time, that are traceable to boards of supervisors, grow out of the fact that these officials are so poorly paid that they cannot give to the public service the time that it demands.

It would be unsafe to place so much power in the hands of the supervisors unless they could be made to feel their responsibility to the people at all times. To state the new theory of county government in general terms: if the elective officers of a county were reduced to a small num-

<sup>1</sup> Section 7½, article XI.

ber,<sup>1</sup> if all other officers were appointed by and made responsible to them, and if they were made to feel a constant responsibility to the people, it is believed that the county government would become both more efficient and more responsive to the wishes of the people. A county charter may provide that supervisors be elected by the county *at large* from supervisorial districts, or that one supervisor be elected by each district. It is believed that election at large would cause supervisors to be more readily influenced by public opinion than they have been in the past. But the exponents of the new theory of county government rely mainly on the recall to bring to the supervisors, and to all other elective officers, a sense of their responsibility to the people.<sup>2</sup>

**72. The Initiative and the Referendum.** — Up to the present time our county governments have been purely representative in character. That is, we have delegated all power to pass county ordinances to boards of county supervisors. But the legislature of 1911, which gave to the people of each county the power to recall their officers, gave them also the power to participate in passing ordinances.<sup>3</sup>

The *initiative* is the power on the part of the voters to pass ordinances. If a number of persons wish an ordinance passed, and the board of supervisors will not pass it, they may circulate among the voters a petition containing a full statement of the proposed ordinance. This petition is later filed with the county clerk, who must examine it within ten days; and if it does not contain a sufficient number of valid

<sup>1</sup> Including always the supervisors and superior judges, and possibly the sheriff, district attorney, and one or two others.

<sup>2</sup> See outlines of the Los Angeles and San Bernardino county charters, Appendix D.

<sup>3</sup> Statutes of 1911, Extra Session, page 125.

signatures, the persons who filed it have ten days in which to secure additional signatures. The clerk again examines it, and if it is then found to be correct, he must present it to the board of supervisors. The board must either pass the ordinance or submit it to the voters at an election. If the petition is signed by voters equal in number to at least 20 per cent of the votes cast in the county for all candidates for governor at the last gubernatorial election, the supervisors must call a special election to consider the ordinance in not less than thirty-five, nor more than forty days;<sup>1</sup> if the number of signatures is less than 20 per cent but more than 10 per cent, the supervisors must submit the ordinance to the voters at the next regular election. Before the election, sample ballots and copies of the ordinance must be mailed to each voter. Two statements of three hundred words each may be printed on the sample ballots, one by the persons proposing the ordinance, and the other by the supervisors showing why they object to it. Any number of ordinances may be submitted at the same election. An ordinance which has been adopted by the people cannot be amended or repealed without the consent of the people.

The *referendum* is the power on the part of the voters to vote directly on ordinances that have been passed by the supervisors. No ordinance passed by the supervisors goes into effect for thirty days, except ordinances that are required by state law, and urgent ordinances enacted for the preservation of the public peace and safety.<sup>2</sup> If within the thirty days a petition protesting against the ordinance,

<sup>1</sup> Unless there is to be a regular election within sixty days.

<sup>2</sup> Such ordinances must be passed, and must be declared to be urgent, by a four-fifths vote of the supervisors.

and signed by the voters equal in number to 20 per cent of the votes cast in the county for all candidates for governor at the last election, is presented to the county clerk, the ordinance is suspended from going into effect; and if the supervisors do not repeal it, they must submit it to the voters at a special election, or at the next general election. If necessary an opportunity to secure additional signatures is given, as in the case of the initiative and the recall. Sample ballots must be sent out on which may be printed statements of not more than three hundred words each for and against the ordinance. If the ordinance is approved by the voters at the election, it goes into effect at once; otherwise it is repealed.

### QUESTIONS

1. What financial dealings does each county have with the state?
2. How does a county pay interest on bonds? What are interest coupons?
3. Under what conditions may a county be sued?
4. If a county were to borrow money for some purpose not authorized by law and should spend the money, could the lender of the money compel the county to repay it?
5. Under what conditions can one officer be held responsible for the official acts of another? Why is there no responsible head to the county government?
6. What officers should be appointed?
7. What kinds of ordinances cannot be repealed by the people through the referendum?
8. It is specifically mentioned in the law that any ordinance granting a franchise may be repealed by the people. Why?
9. In the petitions for the initiative and the referendum why is the vote for candidates for the office of governor taken as a basis for the percentages? What is the basis for the percentages in the case of recall petitions?

## CHAPTER VII

### CITY GOVERNMENT

**73. The Meaning of the Word *City*.**—Two essential ideas are involved in the word *city*: (1) At least a few hundred people must live within a comparatively small area; and (2) the community must be *incorporated*—that is, the state must have given the people of the community the power to manage their local affairs. In California there is no difference in meaning between the words *city* and *town*.<sup>1</sup> When a community incorporates, it decides that its name shall be the city of —, or the town of —, and the name in no way indicates the size of the place or the powers exercised by its government. In some parts of the United States, especially in New England, the two words, as we have learned, have very different meanings.

**74. How Cities differ from other Public Corporations.**—Little need be said on this subject at this point except to sum up what has been said in Chapter III. Every city and incorporated town has a charter, which is a grant of power to it from the state and which outlines its plan of government. It received its first charter when it incorporated, for to incorporate means, among other things, to get a charter. A city needs a charter for two reasons: (1) because a thickly settled community has wants and interests

<sup>1</sup> Reference is here made to *incorporated towns*. Unincorporated settlements are generally called *towns* for convenience. When used in this sense the word of course has a very different meaning from the word *city*.

which the county government cannot look after; and (2) because the wants and interests of different cities are different, and therefore no one plan can be devised that will satisfactorily govern all cities. Each city must either have its own special plan of government, or, at any rate, all the cities of a state must be classified according to population and a plan be devised for each class.

Quasi corporations have no true charters and are therefore not incorporated. The law confers upon them certain corporate powers, and for this reason they are classed as public corporations. Instead of charters they are governed according to *general laws*; that is, certain general laws relate to the government of counties, others to that of school districts, others to that of sanitary districts, etc. All quasi corporations of a certain kind are therefore governed alike.<sup>1</sup> This is possible because the wants and interests of rural communities are comparatively simple and very much alike.

**75. Three Kinds of City Charters.** — There are three kinds of city charters in use in California: special charters, class charters, and freeholders' charters.

1. *Special Charters.* — A special charter is one that is made directly by the legislature for a particular city. In a state where such charters are granted, a community wishing to incorporate presents its petition to the legislature and receives a charter made especially for it. Such a charter may be amended only by the legislature. Special charters were the only ones granted in California previous to 1879, but none have been granted since then because the new state constitution adopted at that time forbids the legislature to issue any more such charters. Special charters are still in use in five towns (Appendix E). As it would re-

<sup>1</sup> This rule varies; see § 40.



quire a special act to amend any of these charters, it has been impossible to amend them since 1879.<sup>1</sup>

2. *Class Charters.* — A class charter is one that is made and adopted by the legislature for cities of a certain class, the class depending upon the population. Our legislature has divided the cities of the state into eight classes,<sup>2</sup> as follows:—

First class, population of more than 400,000.

First and one half class, population from 250,000 to 400,000.<sup>3</sup>

Second class, population from 100,000 to 250,000.

Second and one half class, population from 35,000 to 100,000.<sup>4</sup>

Third class, population from 23,000 to 35,000.

Fourth class, population from 20,000 to 23,000.

Fifth class, population from 6000 to 20,000.

Sixth class, population not exceeding 6000.

No city having a population of more than 3500 is compelled to use a class charter; and, as a matter of fact, those of the fifth and sixth classes are the only ones that have ever been used. A few cities (Appendix E) are now (1913) using the fifth class charter, and a large number<sup>5</sup> of cities are using the sixth class charter. Class charters can be amended only by the legislature.

<sup>1</sup> 73 Cal. 77, 78.

<sup>2</sup> Statutes of 1911, page 11.

<sup>3</sup> The first classification was made by an act passed in 1883, which provided for six classes and adopted a charter for each class. In 1897 the first and one half class was created; but no charter was provided for it, as Los Angeles, the only city belonging to the class, had a freeholders' charter. It was created for the purpose of fixing the number of police judges for Los Angeles.

<sup>4</sup> In 1911 this class was created for the purpose of providing clerks for the police courts in the cities affected, — Berkeley, Sacramento, and San Diego. No charter was provided for this class as all of these cities had freeholders' charters.

<sup>5</sup> In 1912 the number was 157.

3. *Freeholders' Charters.*<sup>1</sup>—A freeholders' charter is one that is drawn up by a board of fifteen freeholders (land-owners) who are elected for the purpose by the voters of a city, and is approved by the legislature after the voters have ratified it. To obtain such a charter a community must already be incorporated, and must have a population of more than 3500. It is really a special charter, but differs from the old "special charters" in the fact that it is not made by the legislature. The legislature has no power to alter or amend such a charter. When one is presented for its consideration, it must either approve or reject the charter as a whole.

An amendment to a freeholders' charter may be submitted to the voters by the city council, and, if ratified, is then either approved or rejected by the legislature. Fifteen per cent of the voters may compel the city council to submit any desired amendment. All of our larger cities, more than thirty in number, have freeholders' charters (Appendix E). This explains why the first, second, third, and fourth class charters are not used.

**76. How a Community Incorporates.**<sup>2</sup>—A community begins to have wants and interests which the county government cannot look after as soon as it has a few hundred people living on two or three square miles of territory. It may provide for some of these wants and interests by forming itself, according to law, into a sanitary district, a fire district, a lighting district, a permanent road division, etc.; but even if its territory should comprise all of these districts, one superimposed upon another, all of its needs would not be met. Besides, this would be very cumber-

<sup>1</sup> See the state constitution, article XI, section 8.

<sup>2</sup> General Laws of California (1909), page 823.

some and expensive, because each district would have its own separate government and would have to impose its own specific tax. By incorporating, the community may gain the power to tax itself to provide for all of its local needs. After incorporation it may care for its own highways, regulating their use and lighting them at night; it may make such sanitary regulations as it sees fit; it may protect itself against fire; and it may preserve order, regulate the sale of liquor, and control the operations of public service corporations within its borders. In short, it may do anything that its charter permits it to do, and every city charter attempts to convey sufficient power to provide for all local wants and interests.

Any community having a population of at least five hundred may incorporate as follows:—

1. A petition signed by at least fifty of its voters must be presented to the county board of supervisors. The petition must state the boundaries, must give the population and the name of the proposed town, and must ask that the community be permitted to incorporate.

2. The board of supervisors must satisfy themselves as to the correctness of the facts stated in the petition, and must then call an election in the community to determine whether a majority of the voters favor incorporation or not. Municipal officers are chosen at this election to take charge of the affairs of the new town in case incorporation carries.

3. If a majority of the votes are for incorporation, the supervisors must issue a proclamation declaring the community to be incorporated, stating its name, its boundaries, and the class to which it belongs, and announcing the names of its first officers. A copy of this proclamation is sent by the county clerk to the secretary of state in Sacramento, who makes a record of the facts in the case, and this completes the process.

The matter is not referred to the legislature; the supervisors, in all that they do, act as the agents of the state.

The new city begins proceedings under the charter prepared by the legislature for cities of its class. If its population increases so that it passes to a higher class, it may change its charter by a vote of its people.

77. **Disincorporation.** — The law provides a method whereby a city may disincorporate by a vote of its people.<sup>1</sup> The corporate existence of a city may also be terminated for cause by a decision of court;<sup>2</sup> or, if a city was incorporated by a special act of the legislature prior to 1879, it may be disincorporated by the legislature.<sup>3</sup> Furthermore, communities have incorporated and have exercised municipal functions for a time, and, because of a falling off in population, have simply ceased to act as cities. In such cases their municipal powers lapse for want of use.<sup>4</sup>

78. **Change of Boundaries.** — No two cities may be consolidated without the consent of each. The city council, or board of trustees, of the larger city, upon the receipt of a petition from each city, signed by 20 per cent of its voters, must call an election in each city to determine the question of consolidation. In order to be carried, the proposition must be approved by a majority of the votes cast in each city. No outside territory may be annexed to a city without its consent as well as that of the city. The city council, upon the receipt of a petition from the outside territory, and another from the city, signed in each case by 20 per cent of the voters, must call an election to determine the question of annexation. In order to be carried, the proposition must be approved by a majority vote in the outside territory, as well as in the city. No territory may be excluded from a city without the consent of the territory in question, and of the city as a whole. The election in this case is called by the city council, or board of trustees, on receipt of a petition signed by a majority of the voters of the city.

<sup>1</sup> Kelseyville, Lake county incorporated in 1888, and disincorporated in 1902.

<sup>2</sup> Plainsburg, Merced county, was incorporated in 1892, and dissolved by the superior court in 1893.

<sup>3</sup> The legislature in 1901 repealed an act passed in 1866 incorporating Downieville, Sierra county, and in 1909 repealed an act passed in 1858 incorporating Coloma, Eldorado county. There are other such cases.

<sup>4</sup> Felton, Santa Cruz county; Hornitos, Mariposa county; Markleeville, Alpine county; Meadow Lake, Nevada county, are examples.

**79. The Relation of Cities to the United States.** — The inhabitants of every city must obey national laws, and persons who break these laws are subject to arrest and punishment by national officers. A United States marshal may make arrests in a city without any reference to the city police department. On the request of the governor of a state the President will send federal troops into a city to aid in preserving order against mob violence; or, if national laws are being broken, he may order federal troops to interfere without the request of the governor and even in spite of his protest.<sup>1</sup> In enforcing federal law within a city the United States does not deal with the city as a public corporation, but with the people of the city as individuals. They are under the national jurisdiction, as well as that of the city, county, and state. The United States deals with individuals also in the matter of carrying and distributing the mail. Post-office employees are appointed and paid by the national government, and are in no way responsible to any local government.

— **80. The Relation of Cities to the State.** — A city as a public corporation sustains a very close and vital relation to the state. It derives its corporate existence from the state. Its charter was granted by the state and may be repealed by the state.<sup>2</sup> When the legislature grants a charter to a city, it surrenders into the hands of the city government the power to legislate concerning local affairs; a power which otherwise would reside in the legislature, except in so far as the legislature may have vested it in other public corporations. A city charter is therefore a grant of

<sup>1</sup> In 1894 President Cleveland ordered federal troops to restore order in Chicago in spite of the governor's protest.

<sup>2</sup> Many of our state supreme court decisions support this statement. See, for example, *Blanding vs. Burr*, 13 Cal. 343; *Desmond vs. Dunn*, 55 Cal. 242.

authority to the city to exercise within its borders a portion of the sovereign power of the state. Its powers are definitely enumerated in the charter, and it may exercise no other powers.

A city does two kinds of work: (1) it looks after its local or municipal affairs, and (2) it acts as the agent of the state in looking after matters of state-wide importance.<sup>1</sup> The municipal affairs of a city relate to such matters as the streets and their use, public parks, the granting of franchises, the care of city property, the control of public service corporations, the development of commercial possibilities, etc. These matters are of interest only to the people of the city. But there are other matters, which, on first thought, may seem to be only local in their importance, but which are really of vital interest to the entire state. This is true of education, because the citizens of every city participate in governing the entire state, and the well-being of the state depends in large measure upon the intelligence of its citizens. It is true of the suppression of crime and the preservation of order, because a city which neglects these matters becomes

<sup>1</sup> No clear line has ever been drawn between the municipal affairs of a city and the matters of state-wide importance under its control. Our state supreme court has declared certain matters to be municipal affairs, and others to be state affairs; but it has not formulated a rule for making the distinction, except to state in very general terms that "A municipal affair is one which refers to the internal business affairs of a municipality." It has been held that the care and control of streets, parks, and public buildings; the issuing of licenses; the method of passing ordinances; the management of city elections; and the protection of the public health are all municipal affairs, and are thus controlled by charter provisions rather than by general laws. But it has been held that any general law is binding in a city, even though it relates to a municipal affair, if the charter contains no provision relative to it. See 118 Cal. 474; 126 Cal. 383; 127 Cal. 663; 141 Cal. 204; 161 Cal. 265; 132 Cal. 373, 381.

The annexation of territory, the public school system, and the courts and control of crime are held to be matters of state-wide importance, and are thus governed by general laws rather than by charter provisions. See 140 Cal. 554; 148 Cal. 625; 154 Cal. 220; 155 Cal. 604.

dangerous to the state at large. Thus every city, through its school, police, and judicial departments, acts as the agent of the state. These departments are really branches of the state government, no matter how the persons comprising them are selected, or from what source they are paid. Our American principle of local self-government thus works out in detail.

Two important facts growing out of this dual nature of a city's work should be pointed out:—

1. If a conflict should arise between a provision of a freeholders' or a special city charter and a general state law, the charter would prevail if the question at issue related to any of the municipal affairs of the city; but the state law would prevail if a matter of state-wide importance were involved.<sup>1</sup>

2. A city may be sued for any damage that may result from errors or negligence on the part of its officers, or agents, when engaged in looking after such municipal affairs as partake of the nature of business enterprises, such as the selling of water, gas, or electric power;<sup>2</sup> but it may not be sued for any damage growing out of errors or negligence on the part of its officers, or agents, when looking after such municipal affairs as are necessary items in the carrying on of its government, such as caring for its streets, erecting

<sup>1</sup> A class charter is regarded as a general law, and for this reason it may be amended at any time by the legislature. Thus a class charter must not conflict with general laws, even in respect to municipal affairs. See 142 Cal. 694; also 143 Cal. 554.

The question may be asked, why is a city that is governed by a class charter not a quasi corporation? It is not for three reasons: first, a class charter is enacted for cities of a certain size, not for all cities in the state, and is, therefore, a general law in form and theory more than in fact; second, it confers greater powers and privileges than are granted to counties or other quasi corporations, thus providing for the care of municipal affairs; and third, it is used only by such cities of the required population as *choose to adopt it*.

<sup>2</sup> 84 Pacific Reporter, 760.



public buildings, protecting the public health, etc.,<sup>1</sup> or when acting as the agent of the state,<sup>2</sup> unless the city charter or the state law, as the case may be, makes the city liable for the damage.<sup>3</sup>

We are now in a position to understand a very vital distinction between municipal and quasi corporations, which will further aid us in understanding the relations between a city and the state. A quasi corporation has no municipal affairs, but acts as the agent of the state in everything that it does.<sup>4</sup> This could not be otherwise because no quasi corporation has an existence separate from the state. Every such public corporation is a part of the state from every point of view.<sup>5</sup> From the point of view of its municipal

<sup>1</sup> 45 Cal. 36; 51 Cal. 52; 61 Cal. 271; 115 Cal. 648.

<sup>2</sup> 63 Cal. 13.

<sup>3</sup> The law permits cities or counties to be sued for injuries to property done or caused by mobs or riots.

The courts of our various states uniformly hold that cities are liable for injuries to persons or property that result from errors or negligence on the part of its officers or agents when managing municipal business enterprises. The courts are also uniform in holding that cities are not liable for injuries growing out of errors or negligence on the part of its officers or agents when looking after state affairs. But this uniformity disappears when injuries arise in connection with the management of the general municipal affairs of a city. In California, unlike the practice in most states, cities are not liable for injuries sustained through defective streets, street work, building operations, or through accidents that occur in connection with the work of the fire or the health department.

<sup>4</sup> To be sure, the common wants that give rise to the formation of irrigation districts, sanitary districts, etc., as well as many of the wants and interests of every county, are local in character; but they are practically the same in every neighborhood, or county, in the state, and thus each kind of quasi corporation may be and is governed by the same general law. A quasi corporation acts as the agent of the state, not because everything that it does is of state-wide importance, but because in everything that it does it is governed by, or acts under the authority of, general state law. No special law applies to it, and it has no true charter.

<sup>5</sup> It follows that no quasi corporations may be sued except in so far as the state law permits. In general the law permits them to be sued if necessary to compel them to fulfill their contracts, provided the contracts relate to transactions that are authorized by law. If, under any kind of contract or agreement, one should work for, sell material to, or lend money to, any public corporation — quasi or municipal —



affairs a city is a political organism separate and distinct from the state, for in respect to these matters its charter, if a freeholders' charter, has the power to set aside state law in case of a conflict; but from the point of view of its affairs which are of state-wide importance it is a part of the state, and is governed by its charter in respect to these matters only in so far as the charter is in harmony with state law.

81. **The Relation of Cities to the Counties in which they are Located.** — There is no direct political relation between a city as a corporation and the county in which it is located. The city and the county do their work each independent of the other. Before a community incorporates, the county has charge of its local affairs. When it incorporates, it assumes control of these matters, and, in addition, becomes the agent of the state in attending to certain other matters which were previously attended to by the county. Thus in some respects the community on incorporating is subtracted from the county. But in other respects the county, although it has nothing to do with the city as a corporation, continues to serve the people of the city the same as before incorporation.

The following county officers in their work must in greater or less degree take notice of city boundary lines: the supervisors, sheriff, surveyor, superintendent of schools, members of the county board of education, county health officer, and the recorder. The same is true of township justices of the peace and constables. The other county officers serve the people of the entire county irrespective of city boundaries.

for some purpose not clearly authorized by law or charter, he could not recover payment from the corporation. See 62 Cal. 641; 105 Cal. 151.

The supervisors sustain the greatest loss of power in a community when it incorporates. We have seen that they have more discretionary power than other officers; that is, that they have authority to do many things which they are not compelled to do. This makes it possible for them to apply the general state law to the local needs of their county, and to this end they are authorized to pass county ordinances. Thus the supervisors, more than other county officers, are intrusted with the duty of caring for local wants and interests. But when a community incorporates, it assumes control of its own local affairs, and the authority of the supervisors relative thereto ceases. For example, a city has charge of its own highways, of public sanitation within its borders, and to its legislative council is intrusted the general police power which in unincorporated communities is exercised by the board of supervisors. The result is that practically no county ordinances, except those imposing county and school taxes, and those relative to conducting general elections, have any force within city limits.

The county sheriff does two kinds of work: he is the executive officer of the superior court and also the county peace officer. As executive officer of the court his authority is in no way affected by city boundary lines, for he must serve attachments, executions, warrants, and other orders of the court in all parts of the county. As regards his duty as peace officer the case is somewhat different. The maintenance of peace in cities involves the enforcement of state law and city ordinances. The sheriff pays no attention to the enforcement of city ordinances; that is left to the city or town marshal, or the police. It is the duty of these municipal officers also to enforce state laws within city limits, but if they fail at any time to do this it is the duty of the sheriff to interfere. He seldom finds it necessary to interfere in any city that has a well-regulated police force.

The jurisdiction of township courts within city limits varies. In some cities they have no jurisdiction over criminal cases; while in others they have concurrent jurisdiction with municipal courts over petty criminal cases (misdemeanors) which arise under state law. They nowhere have jurisdiction over cases arising under city ordinances, except by express provision of city charters (§ 204). Constables execute orders of township and other courts irrespective of city boundaries. They are also peace officers, with power to arrest

any person who is suspected of having broken any state law or county ordinance. They have no authority to enforce city ordinances, and, like the county sheriff, they usually take no part in enforcing state law in cities which have adequate police protection.

It will be remembered that the county surveyor is the county engineer, and that he makes surveys by order of the supervisors or the superior court, or on the request of private individuals who pay the required fees. As county engineer or as surveyor for the supervisors he is almost never called upon for service inside of city limits;<sup>1</sup> but city boundaries make no difference to him in his capacity as surveyor for the superior court or for individuals.

City boundary lines make very little difference to the county superintendent of schools. About the only difference is that he is not required to approve the plans for school buildings to be erected in cities having boards of education.<sup>2</sup> In such cities also the local boards of education prepare courses of study for the schools, and grant diplomas of graduation to those who have completed the work of the grammar schools; whereas these matters are looked after by the county board of education for other parts of the county.

The county health officer has no authority whatever in cities. We have seen that the recorder, in addition to keeping a record of deeds and other papers, keeps a record of births and deaths and issues burial permits. In every city, burial permits are issued by the local health officer or clerk, and in every city having a freeholders' charter births and deaths are recorded by the health officer rather than the county recorder.

**82. Consolidated Cities and Counties.** — A consolidated city and county is a single public corporation which does the ordinary work of a city, and, in addition, does for its people and the state at large the work which a county ordinarily does within city limits. San Francisco is our only consolidated city and county. It is a municipal corporation governed by its charter; but, inasmuch as it attends to a

<sup>1</sup> Of course he might do work for the county inside of a city, as, for example, in connection with the construction of county buildings.

<sup>2</sup> That is, cities using fifth class and freeholders' charters.

larger number of matters of state-wide importance than does an ordinary municipal corporation, more of its officers in the discharge of their duties are guided by state law than in any other city. The officers of such a corporation must consist of the usual city officers, and as many from the county official list as are necessary to do the added county work.<sup>1</sup>

If we think of the government of San Francisco as formed by combining the government of a California county with that of a city, it will be seen that, when feasible, offices and boards have been consolidated. The board of supervisors and the city council have been merged into one "board of supervisors." The city and county have one board of education, one assessor, one tax collector, one treasurer, one auditor, one superintendent of schools, one engineer, and one health officer. In each of these cases corresponding county and city offices have been combined. But, on the other hand, there are both a justices' court and a police court; a county clerk and a clerk of the board of supervisors, who is really a city clerk; a district attorney and a city attorney; a sheriff and a chief of police. Of this group, however, those which are taken from the county list have their duties considerably modified. Thus the criminal jurisdiction of the justices' court is transferred to the police court; the county clerk does little except to act as clerk of the superior court; the district attorney gives his entire time to the prosecution of persons accused of crime; and the sheriff's duty consists mainly in acting as executive officer of the superior court. Other officers from the county list are added, who exercise in San Fran-

<sup>1</sup> These latter are provided for in the charter, but their duties are in the main left to general state law.

cisco all the powers that such officers exercise in other counties, because there are no corresponding city officers to whom any of their powers could be granted. This is true of the superior judges, the recorder, the coroner, and the public administrator.

San Francisco was first incorporated in 1850. At that time it was a part of San Francisco county. In 1856 the county was divided, the northern part becoming the city and county of San Francisco, and the southern part the county of San Mateo. The formation of the city and county was effected by a special act of the legislature. This act outlined the government of the corporation, and, although it was amended many times by succeeding sessions of the legislature,<sup>1</sup> it served as the charter of the city and county until 1899, when the freeholders' charter now in use was obtained. Sacramento became a city and county by a special act passed in 1858, but this act was repealed in 1863; and the city was reincorporated as the city of Sacramento, becoming once more a part of Sacramento county.

The present constitution forbids the formation of consolidated cities and counties, as well as of cities, by special acts of the legislature. The restrictions also on the legislature relative to the formation of new counties (article XI, section 3) make the matter even more difficult. No new consolidated cities and counties can be formed until the legislature finds a way by which it can be done according to general law, and this is probably impossible until the constitution in this regard can be amended.

### QUESTIONS

1. What is the difference in meaning between the word *town* as used in California and in New England? Does the word *city* have the same meaning in both places?

<sup>1</sup> It was last amended in 1878 because the new constitution which was adopted in 1879 made further special legislation of that nature impossible.

2. If a special charter cannot be amended, how can a town that is governed by such a charter make any change in its government?

3. What is the difference between a special and a freeholders' charter?

4. What is the relation between the two statements that a community cannot be incorporated without its consent, and that the boundaries of a city cannot be changed without its consent as well as the consent of others that may be affected thereby?

5. How does a city differ from a county in its relation to the state?

6. What are municipal affairs?

7. How does a city differ from a county in the matter of its liability for the mistakes of its officers?

8. To what extent is a city subtracted from the county in which it is located?

## CHAPTER VIII

### CITY GOVERNMENT—GENERAL MUNICIPAL OFFICERS

**83. The Contents of City Charters.** — The charter of a city is a written statement of its powers, and an outline of its form of government. To be somewhat more specific, it states what officers the city shall have, what their qualifications must be, how they shall be chosen, how long they shall serve, what their powers and duties shall be, and how they may be held to a strict performance of their duties. It provides for the various departments of the city government and assigns to each department its proper work and its corps of officers. In addition, it contains numerous provisions relative to the manner in which elections shall be conducted, the granting of franchises, the purchase of supplies for the various departments of the city government, the levying of taxes, the control of finances, and other important matters.

Although city charters are alike in many respects, they differ widely from one another. Appendix E contains outlines of the contents of the various charters in use in California.

**84. Officers and Departments.** — Each charter provides for the general officers of the city, and assigns to them their duties. In larger cities various departments are provided for, each one usually consisting of certain of the general officers and certain special officers and employees. Charters differ widely as to details respecting these matters, but

the following outline gives a general survey of city government:—

I. The General Municipal Officers.<sup>1</sup>

1. The Principal Governing Board.
2. The Mayor.
3. The City Clerk.
4. The financial officers: the Assessor, Tax Collector, Treasurer, and Auditor.
5. The City Attorney.
6. The Police Judge or Judges.

II. The Municipal Departments.

1. The Departments of Public Safety.
  - a. The Police Department.
  - b. The Fire Department.
  - c. The Health Department.
2. Other Municipal Departments.
  - a. The Department of Public Works, including street work.
  - b. The Department of Public Supplies.
  - c. The Departments of Public Utilities.
  - d. The Park Department.
  - e. The Playground Department.
3. The Departments of Education.
  - a. The School Department.
  - b. The Library Department.
4. Miscellaneous Departments.
  - a. The Civil Service Commission.
  - b. Other Governmental agencies.

We shall—in this chapter and the one following—

<sup>1</sup> Other officers may be regarded as departmental officers, as they are engaged in special work in connection with the various departments.



briefly consider these various officers and departments in the order in which they are given.

**85. The Principal Governing Board.**—The principal governing board of a city consists of a group of officers called councilmen, trustees, or commissioners, except in San Francisco where they are called supervisors, and in Watsonville where they are called aldermen. Their number in each city depends upon the charter. San Francisco has eighteen, some cities have nine, some seven, but most cities have five.

The council or board, like the county board of supervisors, acts by issuing orders and passing resolutions and ordinances. The manner in which it may legally act is determined by the charter in each city. At least a majority vote is required in every case, and more than a majority in certain matters. Some charters give the mayor the veto power, and some do not; and many charters grant to the people the veto power in the form of the referendum, as well as the power to pass ordinances, even against the wish of the council or board of trustees, by means of the initiative. In every case, the passing of an ordinance requires a longer time and the observance of more exacting regulations than the passing of a resolution or the issuing of an order. Thus after the introduction of an ordinance it is referred to a committee which subsequently reports in favor of its adoption or rejection. It cannot be put upon its final passage until a certain time after its introduction, which is usually five or ten days according to the provisions of the charter. After its final passage it cannot go into effect for a certain number of days, usually thirty, unless it is an "emergency" measure. An order or a resolution may be introduced and passed at the same meeting.

Every charter requires that certain important matters can be disposed of only by ordinance; such as the granting of franchises, the purchase or sale of real estate, the appropriation of money exceeding a certain amount, usually from \$100 to \$500, etc.

The powers that may be exercised by the council or board of trustees are definitely stated in the charter, and it is strictly limited to these powers.<sup>1</sup> They are practically the same in all cities, and include the power to levy taxes; to equalize assessments; to appropriate the city revenues; to pass ordinances providing for the control, care, and use of streets, sidewalks, parks, playgrounds, wharves, docks, public buildings, and all other kinds of city property; to provide for the construction of new buildings, the opening of new streets, the putting in of sewers, and for all other necessary construction work; to grant franchises, subject to such limitations as may be specified in the charter; and, in the general exercise of the police power of the city, to grant licenses, abate nuisances, regulate or prohibit all business enterprises that may be dangerous to the general welfare, as well as to provide for the preservation of order, and the protection of the public health, safety, and morals.

The council or board of trustees, like a county board of supervisors, exercises both legislative and executive functions in all towns using the fifth and sixth class and special charters, and in many of those using freeholders' charters. This is especially true in all cities having the commission

<sup>1</sup> In *Von Schmidt vs. Widber*, 105 Cal. 151, the state supreme court declares that a "municipal corporation can exercise no powers except those which are (1) granted in express words, or (2) are necessarily implied or incident to powers expressly granted, or (3) those indispensable to the declared objects and purposes of the corporation; and any reasonable doubt concerning the existence of any power is to be resolved against the municipal corporation."

See also 20 Cal. 98; and 106 Cal. 237.

plan of government. On the other hand, in some of our larger cities, the work of the council is almost exclusively legislative, the executive work being turned over to other officers and boards.

Councilmen and trustees, more than any other city officers, except the mayor in a large city, should be men of ability and character, because no other officers are subjected to so many and so great temptations as they. Dangerous and questionable business enterprises desire licenses and often employ corrupt means to obtain them; private corporations seek franchises at a fraction of their value. Because such officers have many times proved unfaithful to the trust imposed in them, most city charters provide for the *recall*, the *initiative*, and the *referendum*; and the legislature of 1911, by a general law, granted these powers to the voters of every city in the state.<sup>1</sup> Some charters by a special provision make it impossible for franchises to be renewed without the consent of the voters, while in every city the granting of a franchise may be set aside by the use of the referendum.

**86. The Recall, Initiative, and Referendum.** — The procedure for bringing the recall, the initiative, and the referendum into operation is outlined in the law and in the various freeholders' charters. In cities where the voters have these powers by virtue of the state law, the procedure in each case is the same as that required of the voters of a county in respect to the same matter. (See §§ 69, 72.) The number of signatures to the petition in the case of the initiative must equal 10 per cent, or 20 per cent,<sup>2</sup> of the

<sup>1</sup> The law in respect of any one of these powers does not apply to any city whose charter provides for it.

<sup>2</sup> The larger percentage necessitates a special election.

votes cast in the city for all candidates for governor at the last state election. In the case of the referendum signatures equal to 10 per cent of the votes cast for governor are required. In the case of the recall, signatures equal to 25 per cent of the votes cast for the office in question at the last municipal election are required. In cities whose charters provide for these powers, the percentages vary from 5 to 40 per cent.<sup>1</sup> The procedure in each case is practically the same as that outlined in the general law, except that in the case of the recall, the officer whose removal is sought is deemed a candidate at the recall election unless he requests otherwise.<sup>2</sup>

**87. The Mayor.**—Cities and towns using fifth and sixth class charters, four towns using special charters,<sup>3</sup> and four cities or towns using freeholders' charters<sup>4</sup> have no mayors elected by the people. Each of these cities or towns elects a board of trustees or a city council; this body elects one of its number president, and he becomes the "mayor" of the city. In these cities the mayor has very

<sup>1</sup> A good many people who are interested in municipal problems believe that our laws and charters make it too easy for a dissatisfied minority to force recall, initiative, and referendum elections. Mr. William J. Lock, editor of "Pacific Municipalities," in the November (1912) issue of that publication, suggests that the soliciting of signatures to petitions for such elections be prohibited; and that all such petitions be left at certain specified public places for signatures. He points out that signatures are often procured by professional solicitors for a consideration, and that the issues involved are often misrepresented. He also suggests that counter petitions be permitted in order that the friends of an officer whose recall is proposed, the opponents of an initiative measure, or the supporters of a measure on which a referendary vote is desired, may have an opportunity to prevent the expense and turmoil of an election in case they are able to show a greater number of signatures than those who are trying to force the issue. See outlines of the Long Beach and the Vallejo charters, Appendix E.

<sup>2</sup> According to the Santa Cruz charter he is not a candidate.

<sup>3</sup> Alviso, Santa Clara, Marysville, and Nevada City.

<sup>4</sup> Richmond, Palo Alto, Pasadena, and Sacramento.

little power except to preside over the board or council at its meetings, and to exercise general supervision over municipal business. He represents the municipality at social functions. Most cities using freeholders' charters have mayors elected by the people.

The measure of power that should be given to the mayor is one of the unsolved problems of city government. Our California cities have met this problem in different ways. In some, he is little more than the presiding officer of the city council or board of trustees; in others, he has executive authority independent of the council, but of a strictly limited character; in still others, he has very extensive powers. His relation to the city council and to other city officers determines the extent of his power. If he has the veto power, he is an important factor in city legislation. If he has the power to appoint a large number of city officers, and to dismiss those who fail to render efficient service, he is the real head of the city government. Charters differ widely as to the extent of power granted to the mayor in these particulars.

All mayors serve the state as well as their respective cities by seeing that state laws are enforced within city limits. They may thus be regarded as state officers, and are usually given a large measure of power over the police department. As city officers they must enforce city ordinances, and usually have an important part in the management of the municipal affairs of their respective cities.

**88. The City Clerk.** — Each city has a clerk to keep a record of all orders, resolutions, and ordinances passed by the council or board of trustees. He issues burial permits in cities having no health officers, and performs such duties in connection with elections and other matters as are re-

quired of him by the city charter or by the state law. In some cities he is elected, in others he is appointed by the council or board of trustees.

**89. Financial Officers and Finances.** — City assessors, tax collectors, treasurers, and auditors are elected or appointed according to charter provisions. Special, fifth, and sixth class charters, and most of the older freeholders' charters provide that they shall be elected, while the more recent freeholders' charters provide that they shall be appointed, except that some of these charters provide for an elective auditor. Their duties are similar to those of the corresponding county officers. This is equivalent to saying that city finances are managed in the same manner as county finances. That is, the city council or board of trustees makes up the annual budget, imposes the tax, equalizes assessments, and appropriates the municipal revenues; while property is assessed, taxes are collected, the money is kept, and claims are audited by the respective financial officers.

The sources from which the city derives its income may be summed up as follows: —

1. Fines imposed by police courts.
2. Licenses and franchises.
3. Fees collected by city officers.
4. Receipts from business enterprises. For example, a city may own a water system and sell water to its people.
5. Taxes imposed by the legislative body. Most charters contain a limit beyond which the taxes cannot go, except for the payment of the principal and interest of bonded debts.
6. Receipts from the sale of bonds. Before the council or board of trustees can issue or sell bonds it must call an election, and two thirds of the votes cast must favor the proposition. The state law forbids any city to owe more money at any time than fifteen per cent of

the taxable property within its borders. No city may borrow money to meet its ordinary running expenses; money may be borrowed only to pay for necessary real estate or to make permanent improvements. Every bond issue must be for a definite purpose which must be stated on the ballots used at the election, and the money realized from the sale of bonds may not be used for any other purpose.

**90. The City Attorney.** — The city attorney does the legal work of the city. He gives advice to other city officers on points of law; draws up bonds, contracts, and other papers for the city; and represents the corporation in all civil suits in which it is interested. In some cities he prosecutes in the police courts persons who commit misdemeanors. In other cities this is the duty of the district attorney of the county, except in cities and towns using the sixth class charter, where it is attended to by the marshal. Where special prosecuting attorneys are provided for the police courts, they are sometimes appointed by city attorneys and sometimes by district attorneys. In some cities the city attorney is elected; in others, he is appointed either by the mayor or by the council.

**91. Police Judges.** — Every city has at least one judge whose duty is to try petty civil and criminal cases arising under its charter and ordinances.<sup>1</sup> Such judges are usually known as police judges, but in some towns and cities they are known officially as recorders, and in others as city justices of the peace. This difference in name indicates no difference in powers and duties. They are provided for in each case either by the city charter or by state law.

Freeholders' charters could not legally provide for them prior to 1896, but a constitutional amendment (section 8 $\frac{1}{2}$ , article XI), adopted in November of that year, removed this restriction. Most of the

<sup>1</sup> In San Francisco the police judges have no civil jurisdiction.

newer freeholders' charters, therefore, provide for police judges, but some do not. When not provided for in the charter, provision is made for them by state law. In such cases they are elected at county elections rather than at municipal elections.<sup>1</sup> Some few charters, instead of providing for special police judges, confer the powers of such judges on local township justices of the peace.<sup>2</sup>

Police judges, in addition to their powers to try petty cases arising under city charters and ordinances, also have power to try certain kinds of cases arising under state law. They are, therefore, a part of the general judicial system of the state, and will be considered more in detail in Chapter XV.

**92. The Selection of City Officers.**— Little need be said respecting the selection of city officers at this point, as the matter was quite fully discussed in Chapter II. The method there described of nominating city officers by nonpartisan direct primaries is rapidly gaining ground. National questions, upon which our political parties are founded, can find no legitimate place in municipal elections. Municipal officers should be selected on their records as men, and according to their attitude respecting municipal questions. Most freeholders' charters of recent date provide for nonpartisan direct primaries, and in some cases,<sup>3</sup> old charters have been amended by the addition of this feature.

The "short ballot" is another feature of recent charters and charter amendments. Our people are coming to believe that the voters should elect only the most important officers, and that these elective officers should appoint all others. If the duties of an office are such that general

<sup>1</sup> These are the city justices of the peace above referred to.

<sup>2</sup> Alviso, Santa Clara, Gilroy, Nevada City, Napa, Grass Valley.

<sup>3</sup> San Francisco, Los Angeles, and San Diego, for example.



policies can legitimately determine the manner in which they are to be discharged, the incumbent of the office should be elected because the voters should have what they desire in respect to general policies. If the duties of an office are such that expert knowledge, rather than an adherence to general policies, is required for their proper fulfillment, the incumbent of such office should be appointed, because experts can be selected more intelligently by one man, or a small group of men, than by the mass of the voters. General policies may be illustrated by such questions as the following: Shall the city improve its water front? Shall it engage in the business of selling water, gas, or electricity to its people? Shall saloons be licensed? Shall gambling places be tolerated? Shall the city spend much or little money on streets, parks, playgrounds, and the like? Shall the state law be honestly and rigidly enforced in the city? The members of the council and the mayor are the only city officers who are concerned *directly* in determining what shall be done with respect to these problems. The work required of all other city officers — the assessor, tax collector, treasurer, auditor, superintendent of streets, health officer, chief of police, fire chief, attorney, etc. — demands expert knowledge. These officers should be appointed not only because experts can best be selected in that way, but also because appointed officers can be held to a strict performance of their duties more readily than elected officers, and can be more easily dismissed in case they prove incompetent. By electing a few officers and giving them power to appoint, supervise, and dismiss other officers and employees, the people know whom to hold responsible in case of incompetency or wrongdoing. This centralizes the city government, and gives it

greater efficiency and greater freedom of action; while the recall places a remedy within reach of the people in case the elective officers prove weak or unfaithful.

To guard against the appointment of city employees according to the pernicious "spoils system," a few charters provide for the selection of employees according to civil service regulations. This will be considered under the head of the Civil Service Commission (§ 110).

**93. The Removal of City Officers.** — Elective city officers may be removed, like county officers, by the superior court and by the people. Removal by the superior court is governed by the same sections of the Penal Code<sup>1</sup> as the removal of county officers. The procedure is the same and is as unsatisfactory in the one case as in the other (§ 69). Removal by the people by means of the recall has been considered (§ 86).

All that need be added here is to repeat that the voters of every city have it within their power to recall any elective officer by the provisions of a recent state law,<sup>2</sup> if not according to the city charter. It is not likely that our cities will often find it necessary to use the recall,<sup>3</sup> but the possession of this power by the voters has a wholesome effect upon municipal officers.

**94. The Commission Plan.** — A number of recent city charters provide for a plan of government which is known as the "commission plan." It derives its name from

<sup>1</sup> §§ 758-772.

<sup>2</sup> Political Code, § 4058, a new section added in 1911. See statutes of Extra Session, page 128.

<sup>3</sup> It has been used twice in Los Angeles, once in San Francisco, and once in the 28th senatorial district, Santa Clara county, resulting in removal from office in each case. It has been invoked unsuccessfully in Kings county, and in Oakland, Berkeley, and a few other California cities. Notable instances of its use outside of California have been in Seattle and Spokane.

the fact that in cities where it is applied the government is in the hands of the mayor and a small group of men known as commissioners,<sup>1</sup> usually four in number. They and the mayor constitute the city council, the mayor being the presiding officer and having a vote but no veto power. The mayor has general supervision over the city government, and each commissioner is at the head of an administrative department. The legislative and executive powers of the city are thus placed in the hands of the same men. The charter provides for the various departments, and the commissioners assign one of their number to each department. It is intended that the mayor and commissioners shall give their entire time to their official duties, and the salaries paid them are considerably larger than those paid the mayor and councilmen in other cities.

The "short ballot" is one of the principal features of the "commission plan." The mayor, the commissioners, and the members of the board of education are in some cities the only officers elected. Other cities elect also the auditor, or the clerk, or the treasurer, or possibly two of these. Nonelective officers and employees are appointed, some by the mayor, and some by the council on the nomination of the mayor or the various commissioners. Officers and employees may be dismissed at any time by the appointing power. Elective officers are subject to the recall; and the initiative and referendum are provided for.

The plan according to which American cities have been governed since the independence of the United States is modeled after our state and national governments. This accounts for the fact that everywhere our municipal governments are divided into legislative, executive, and judicial

<sup>1</sup> Sacramento and Pasadena have no elected mayors. See Appendix E.

departments, each department checking and balancing the other two. The "commission plan" is modeled after the government of a private corporation, on the theory that the work of a city as a body corporate is of greater magnitude than its work as a body politic, and that the transaction of business, rather than participation in government, consumes most of its energies. The stockholders of a business corporation elect a board of directors and give them full power to appoint and dismiss all subordinate officers and employees, and to manage the affairs of the corporation unhampered by the necessity of obtaining the sanction of any other board or officer. The success of the "commission plan" thus far demonstrates that a similar centralization of power and responsibility in the government makes the government both more economical and efficient, and indicates that a solution for at least some of our municipal problems may have been found.

The "commission plan" is sometimes called the Galveston plan, because it originated in Galveston, Texas, in 1900. It is also called the Des Moines plan because Des Moines, Iowa, was one of the first cities outside of Texas to adopt it. It is now used quite extensively throughout the Mississippi Valley and the far western states. Berkeley and San Diego adopted it in 1909, and twelve other California cities have since then adopted it.

**95. The Features of a "Progressive" Charter.** — The main features of what is called a progressive charter may be summed up as follows: Such a charter would provide for a nonpartisan direct primary; for the election of officers at large, and not by wards; for the "short ballot," with the centralization of power and responsibility in a few hands; for the initiative, the referendum, and the recall; for the power to acquire and to operate public utilities; and for the

selection of employees according to civil service regulations. It would contain the following stipulations respecting franchises: (a) that they should be granted by the council either with the approval of the voters definitely expressed at an election, or subject to a referendary vote on demand of a certain percentage of their number; (b) that the term for which they could be granted should not exceed twenty-five or thirty-five years, or should be for an indeterminate period contingent upon the good behavior of the grantee; (c) that each franchise should be granted on condition that the grantee pay to the city a definitely stated percentage of the gross receipts arising from the use of the franchise; and (d) that every franchise should contain a provision to the effect that on its expiration the city should be at liberty to acquire the property used in the enjoyment of the franchise at a price not to exceed its actual physical value.

### QUESTIONS

(Each pupil should be able to answer the following questions respecting his own city.)

1. What departments are provided for in the city charter?
2. By what name is the legislative body known? Of how many members is it composed? How long do they serve? When and where do they meet?
3. Does the charter provide for the initiative, referendum, and recall? If so, what percentage of signatures is required to begin proceedings in each case?
4. Does the charter provide for a mayor with great or restricted powers?
5. In voting for city officers are the voters confronted with a long or a short ballot?
6. If bad management or corruption is discovered in any department of the city government, can the responsibility be definitely located?

7. How are candidates for office nominated? Are appointments made according to civil service rules?

8. Does the charter provide for a police court? How many judges compose the court? What other officers and employees are regularly attached to the court?

9. What township justice or justices of the peace has or have jurisdiction in the city? Is such jurisdiction confined to civil suits, or does it include misdemeanors which arise from the breaking of state law? Has the office of police judge in the city been given to the justice of the peace of the township, or is the police judge a different person?

10. Are the police judges elected at city or county elections, or are they appointed? How long do they serve?

11. What city officers are appointed and by whom? What ones are elected?

12. What provisions does the city charter contain respecting the granting of franchises?

## CHAPTER IX

### CITY GOVERNMENT — THE MUNICIPAL DEPARTMENTS

#### SECTION I. THE DEPARTMENTS OF PUBLIC SAFETY

**96. Introductory.** — The police, fire, and health departments of a city are the great departments of public safety. The public wants and interests looked after by the police department are classed as matters of state-wide importance by our supreme court; while those intrusted to the care of the fire and health departments are classed as municipal affairs. This distinction makes no difference in the management of the three departments. They are all provided for and controlled by city charters and ordinances. To be sure there are numerous state laws relative to these important matters; but such laws are intended to supplement, rather than to limit or in any way impair, the provisions of charters and ordinances. No conflict is thus likely to occur between any state law and any municipal regulation. In case of such a conflict, the law would prevail if the question at issue should relate to the control of crime; but the charter or municipal ordinance would prevail if the question should relate to protection against fire or to the preservation of the public health.

**97. The Police Department.** — In cities using fifth and sixth class and special charters, the head of the police department is called the marshal. He is elected by the

people, except in cities using the sixth class charter (p. 434), and in many places is the only member of the department. The board of trustees provides funds, appoints assistants, and establishes rules for the department.

In cities having freeholders' charters, the city council determines the number of men that shall constitute the department and fixes their salaries. In the smaller of such cities, the council also has general control of the department and appoints its members, unless this power is vested in the mayor. Larger cities have police commissions, which usually consist of three, but sometimes of five, members. They are either appointed by the mayor or consist of the mayor and certain other elective officers. Some of the newer charters place the police department under the control of one commissioner appointed by the council from its own members (§ 94). The commission, whether it consists of one person or more than one, appoints the members of the department, provides for their discipline, adopts rules for their government, and dismisses those who fail to do their duty.

The police force of a large city is organized on a military basis. Its officers consist of the chief of police, lieutenants, sergeants, and captains. The rank and file of the force are frequently called patrolmen. The city detectives constitute an important branch of the department. In order that all parts of the city may be adequately protected, its area is divided into police districts, and certain members of the department are assigned to each district. Others must be ready at all times for service in any part of the city.

It is the duty of the police department to preserve order, to suppress crime, and to give aid to people who need its assistance. To preserve order means, among other things,



to prevent people singly or in groups from interfering with the peace and happiness of others, or from creating disturbances in public places. Disorder is not always crime, but it must nevertheless be prevented. Crime is the breaking of laws or ordinances (§ 200). The police do all in their power to prevent crime by being at their posts of duty, and frequently by giving warning or advice to people whose actions are of a suspicious character. When crime is committed, it is the duty of the department to arrest the offender and furnish proof of his guilt. When he is not known, the detective branch of the department is called into action. The city detectives usually know who the bad characters of the city are and where they live, but no man can be punished simply because he is a bad character. Some definite crime must be fastened upon him with sufficient clearness to convince a jury of his guilt.

Photographs, records, and measurements are kept of persons who are arrested by the department. The Bertillon system of measurement is the one most commonly used. According to this system the following measurements are taken: length and width of head; height of body; distance from finger tips to finger tips when the arms are extended; length of trunk; length and width of each ear; and the length and width of the forearm, and the little and middle fingers on the left side. These measurements, with other information such as the color of the eyes and hair, and the arrangement of lines on the finger tips, are carefully recorded. Since the same system is used in all large cities, persons with criminal records in different places are frequently identified by a comparison of records. The department also registers the location of all questionable places in the city, and the names of all persons connected with them. Furthermore, a list of all pawnbrokers is kept, and each one must report every twenty-four hours a complete description of articles that have been pawned.

Not only does the police department preserve order and suppress crime, but it renders many services to strangers, and to people who

are in trouble on the streets. One can best realize the extent to which the people of any large city are dependent upon the police department by calling to mind the conditions in more than one city when some great calamity has paralyzed the department for a few hours. In Chicago, at the time of the great fire, in Galveston, when the city was almost destroyed by a tidal wave, and in San Francisco, at the time of the earthquake and fire, hundreds of criminals, taking advantage of the confusion, began almost instantly to rob and plunder, and continued until stopped by the militia.<sup>1</sup>

**98. The Fire Department.** — Protection against fire is so important that unincorporated communities are given the power to tax themselves for this purpose, by forming fire districts. When a community incorporates, it acquires this power along with others. In a city using a fifth class, a sixth class, or a special charter, the board of trustees provides for and has general control of the fire department. In every city using a freeholders' charter, the money for the support of the fire department is, of course, supplied by the council. In some of these cities the council exercises active control over the department; others have fire commissioners appointed by the mayor; in others, the police and fire departments are controlled by the same officials, known as police and fire commissioners; and in those that are governed according to the commission plan, the fire department is under the control of one commissioner.

The head of the department in our larger cities is known as the fire chief. He is appointed by the council, the mayor, or the fire commission. Other members of the depart-

<sup>1</sup> In spite of criticisms that one occasionally hears, the police of our larger cities are among our most faithful and most deserving public servants. They are seldom absent from their posts of duty, and they never flinch in the face of danger. On the whole, they are poorly paid. Few people realize the extent to which the public is under obligations to them.

ment are appointed either by the chief, or in the same manner as the chief.

Large cities are divided into districts for fire-fighting purposes, and a fire engine house is located in each district. Each house is equipped with the necessary apparatus, and is supplied with a corps of men. The two great objects of the department are to save life and to save property, and for these purposes it is supplied with apparatus such as fire engines, extension ladders, and life nets. The system of fire hydrants located in all parts of the city and the fire alarm system are important parts of the fire-fighting equipment.<sup>1</sup>

In spite of the splendid work of our fire departments, property amounting in value to many millions of dollars is destroyed each year by fire in our American cities, and many lives are lost through the same cause. Much of this loss is due to the fact that people are often crowded into old and unsafe tenement houses and unsafe places of business; to poor electric wiring; and to carelessness on the part of many people with matches, lighted cigar ends, hot ashes, etc.

**99. The Health Department.** — The health department of every city, like the police courts and the public schools, is part of a general state system. At the head of the system is the state board of health, consisting of seven members, each appointed for four years by the governor with the approval of the state senate (§ 159). It meets in Sacramento at least four times a year, but its secretary maintains a permanent officer there, and enforces its orders between meetings. In order that the state board may guard and protect the public health the law gives it great power. Not only does it enforce the laws of the state that relate

<sup>1</sup> City councils pass numerous ordinances to guard against fire. For example, a fire district is established in every large city, including the business section, within which only fireproof buildings may be erected; all chimneys in the city are usually required to be provided with terra cotta linings; electric wiring must be done according to established rules; garages, steam laundries, and other dangerous kinds of business are strictly regulated; people are forbidden to permit inflammable rubbish of any kind to accumulate on their premises, etc.

to the public health, but it has power to make rules and issue orders which county and city boards of health and health officers must obey. These local authorities must report to the secretary of the state board once a month all cases of contagious diseases. If local officers are unable to prevent the spread of any disease, or if they neglect to do their duty, the state board may step in and take charge of the work. It has power to quarantine an entire city, or any other part of the state, if it believes that such action is necessary.

When studying the government of counties, we learned that the supervisors of every county must appoint a health officer (§ 58). As county health officers have no authority within city limits, the law requires that every incorporated town or city shall have either a board of health or a health officer. Most of the smaller towns have health officers, but some have boards of health. These officials are provided for and appointed by the boards of trustees. Cities with freeholders' charters usually have boards of health appointed by the mayors, and health officers appointed by these boards. In cities that have the commission plan of government the health department is controlled by one commissioner.

Our health departments give most of their time to the problem of preventing disease. They leave to physicians in private practice the care of people who are stricken with disease, except those in indigent circumstances, who are treated at county hospitals, and those who, because of the danger of contagion, are sent to public isolation hospitals. The work carried on for the prevention of disease exhibits two distinct phases: the fight against contagious diseases, and the fight against noncontagious diseases.

The United States government guards our seaports, as

well as our Canadian and Mexican border lines, to prevent the introduction of diseases from foreign lands. People seeking to enter our country and found to be suffering from contagious diseases are held in quarantine<sup>1</sup> until cured, if curable; if not curable, they are sent back to the places from which they came. The state board of health coöperates with the national government in this work, and also guards the border lines between California and other states. If necessary, it may quarantine any railroad car or any number of cars, at the state border, or may remove passengers to suitable places for treatment.

When a case of contagious disease is discovered in any place in the state, the person making the discovery, whether he is a physician or not, is required by law to report the matter at once to the local health officer. This officer immediately quarantines the house where the patient is located; and if the disease is one that is very dangerous, such as smallpox or bubonic plague, the patient may be removed to some special place for treatment.

The work of the state and local health departments for the prevention of noncontagious diseases consists of enforcing the state pure food law, and such other laws and local ordinances as relate to sanitary conditions in and about private residences, schools, factories, and other places where people congregate. Furthermore, by the publication of useful information,<sup>2</sup> an effort is made to educate the people to more healthful ways of living.

**100. The Work of City Health Departments.** — People living in large cities are exposed to diseases to a greater

<sup>1</sup> The San Francisco quarantine station is on Angel Island.

<sup>2</sup> See the monthly bulletin issued by the state board of health. This may be obtained from the secretary of the board in Sacramento.

extent than people living in country places. Not many years ago our cities, as well as those of other civilized lands, were frequently visited by frightful epidemics which carried away thousands of victims. Because of our modern methods of fighting disease, these great epidemics are probably a thing of the past. Most of the work of protecting the public health is done by city governments. The following are some of the things that the health department in a city does:—

1. It enforces state laws and city ordinances that relate to the public health, and all orders issued by the state board of health. Its power to establish quarantines in dealing with contagious diseases has been mentioned. It also has power to provide isolation hospitals, and to order unsanitary buildings, public or private, closed.

2. Formaldehyde, salicylic acid, and other poisons put in milk to prevent or delay natural fermentation have caused the death of many hundreds of young children in our large cities. Cows frequently have tuberculosis, and many people have contracted this dread disease through the milk which they have used. The health department inspects milk at the time of its arrival in the city, or when it is being delivered to consumers, and causes impure milk to be destroyed. Inspectors also visit dairies to prevent the sale of milk from diseased cows.

3. The health department inspects meat, vegetables, fruit, and other kinds of food that are offered for sale in the city, and causes the destruction of articles found to be in a state of decay or contaminated with disease germs. It also inspects the water used in the city.

4. The department does what it can to compel people to keep the premises where they live in a sanitary condition.

It inspects the plumbing in public and private buildings, unless this duty is assigned to some other department.

5. It is helpful to the school department. Many boys and girls do poor work in school because of weak eyes or some other physical defect. An inspector from the department visits the schools, examines the children, and tells teachers and parents what should be done in such cases.

6. The department takes immediate care of people who are accidentally injured on the streets, by removing them to an emergency hospital, and caring for them until they can be removed to their homes or other hospitals.

7. The health officer, who is the executive officer of the department, issues burial permits in the case of deaths that occur in the city. He also keeps a record of births and deaths, and reports these matters to the secretary of the state board of health, including in his report, when possible, the cause of every death.

**101. Some Facts that should be Remembered.** — The national, state, and local governments do much to protect the people against disease, but much is left for the people to do. Here are a few simple facts that our health departments would like all people to remember: —

1. That disease germs do not flourish in fresh air and sunlight.
2. That dirt furnishes a congenial home for disease germs.
3. That tuberculosis or consumption is contagious; but that it is not inclined to take hold of people whose respiratory organs are in sound condition. People cannot inherit tuberculosis, though they may inherit a condition of lungs and throat that will invite the disease. Fresh air and sunlight constitute the best protection against it. One should sleep with windows wide open.
4. That one should let liquors and patent medicines alone; and that tobacco is injurious to growing boys.

## SECTION 2. OTHER MUNICIPAL DEPARTMENTS

**102. Introductory.** — In addition to preserving order, suppressing crime, protecting property against fire, and guarding the public health, every city must attend to many other matters of public interest. The most important of these are the construction and care of public buildings, docks, and wharves; the care of streets, parks, and playgrounds; the removal of garbage; the granting of franchises; and the control of public utilities.

Subject to the initiative and referendum, and to the necessity of consulting the people before bonds can be issued, the city council determines what shall be done concerning these matters. This is legislative work. In small cities, — those using fifth and sixth class and special charters, and some of those using freeholders' charters, — the city council or board of trustees, like a county board of supervisors, also does the executive work of carrying its own orders into execution. Larger cities have special departments to attend to this executive work. The departments most commonly existing are the department of public works, the department of public supplies, the departments of public utilities, the park department, and the playground department.

**103. The Department of Public Works.** — This is one of the most important departments of a city government. When it exists as a separate department, it is under the control of a board known as the board of public works, or of one commissioner, known as the commissioner of public works. Where there is a board, it usually consists of three persons, who are either appointed by the mayor or consist of the mayor and two others. These may be appointed by



the mayor, or they may be two elected officials holding *ex officio* positions on the board. The duties of the department are as follows : —

1. It constructs municipal buildings, and keeps them clean and in repair. If the council provides for the erection of a new building, the department decides upon plans, advertises for bids, lets the contract to the most satisfactory bidder, and supervises the construction. It also repairs municipal buildings when necessary, and employs janitors to keep them clean.

2. In like manner the department puts in sewers and builds wharves and docks when such work is required.

3. Unless there is a separate department for the purpose, the department of public works has entire control of the streets. It opens new streets, paves and widens streets, and builds bridges and culverts. It also controls the use of the streets. No house may be moved through, and no lumber or other material may be piled in, the streets without its consent. It has charge of the trimming of trees along the streets, and of cleaning and sprinkling the streets.

4. The department usually has charge of the disposal of ashes, rubbish, and garbage. This is a serious problem. In some of our cities this waste matter is collected by private scavengers and dumped outside the city limits. Some cities take it from the scavengers and carry it out to sea ; others burn as much of it as possible. In a few cities it is collected by city employees rather than by scavengers.<sup>1</sup>

<sup>1</sup> This waste matter need not be all waste. The manner in which it is disposed of in New York is instructive. Ashes are used to fill in swamp lands, and city parks have been thus built up. Certain men pay for the privilege of picking over the rubbish for rags, pieces of rubber, wood, and other things that can be used. The rejected portions are burned by the city and the heat is used to run machinery. Men take the garbage from the city and make oils, soap, and perfumery from the fat that they extract from it. The solid parts are then made into commercial fertilizers.

5. The department enforces city ordinances relative to the construction of private residences. No one may build a house without a permit from the department. Inspectors are sent to examine the framework of the house, the foundations, the chimneys, and the electric wiring, unless these services are rendered by other departments.

The department of public works in any of our large cities must appoint many officers and employees, such as a superintendent of streets, a superintendent of public buildings, a chief of the street cleaning department, a city engineer, etc.

City charters are far from uniform in respect to the duties they assign to the department of public works, and it will be found that some of the duties mentioned here are not infrequently assigned to other departments. In a city as large as New York, Chicago, or Philadelphia, the original department of public works has disappeared, and a number of separate departments have taken its place; such as a department of public buildings, a street cleaning department, a street paving department, a department of sewers, etc. In San Francisco the department of public works consists of a number of bureaus which are practically independent of one another. A history of the development of any large city would show that when it was small its council, or board of trustees, exercised executive control over all of its civic affairs; that, as it grew to be a town of from ten thousand to twenty thousand inhabitants, police, fire, and health departments, in addition to a general department of public works, were found to be necessary; and that, as it grew to be still larger, new departments had to be established from time to time, some to take over duties that had previously been discharged by the council, or the board of public works, and others to take charge of new kinds of work undertaken by the city as the scope of its governmental activity widened.

**104. The Department of Public Supplies.** — The department of public supplies exists as a separate department

only in some of the cities that have adopted the commission plan of government. The commissioner of public supplies has charge of the department. His duty is to act as purchasing agent for the city in procuring supplies for all departments under regulations established by the charter and the council. In most cities each department purchases its own supplies, but in some the department of public works performs this duty for the others.

**105. The Departments of Public Utilities.** — There are many things that a city must do or it would not be a fit place in which to live. This is true of the services rendered by the various departments that we have thus far considered. There are other things that may be taken care of by the city or may be left to private enterprise. This is true of the work of providing water, gas, electric power, and telephone and street car service. Such things as these are called public utilities. They are natural monopolies. That is, there ought not to be more than one corporation doing any of these things in one city. The existence of more than one street car system, or telephone system, is not only a great nuisance, but also a great expense to the people; while the installation of a water system, or a system for manufacturing and distributing gas or electricity, is so expensive and involves such inconvenience to the people because of the work that must be done in the streets, that more than one such system should not be permitted to cover the same territory. This is the same as saying that such enterprises are natural monopolies, and that in respect to them competition cannot exist without serious inconvenience to the public. In view of this fact all enterprises of this kind should either be strictly regulated

in the interests of the public or should be owned by the public.<sup>1</sup>

European cities are far ahead of our American cities in this particular. This is especially true of the cities of Great Britain. Glasgow, Scotland, sells water, gas, and electricity to its people; owns a municipal street car system; owns large public markets, slaughterhouses, and stock-yards; is in the laundry business, and the farming business, and owns a large number of tenement houses which it rents to its people. It also owns a splendid harbor from which it derives a large income. Manchester, Birmingham, Liverpool, and other British cities are not far behind in these respects. On the continent of Europe, in a somewhat less degree than in Great Britain but far beyond anything that we know of in America, municipal ownership of public utilities prevails.

Municipal ownership of water systems is quite common in America. In California, more than forty cities own their own systems. A number of cities have electric light plants, either for the purpose of lighting their streets, parks, and public buildings; or for selling electricity to their people; or for both of these purposes.<sup>2</sup> - San Francisco has

<sup>1</sup>Section 23, article XII of the state constitution,—a recent amendment,—provides that any city may turn over to the state railroad commission the task of regulating all of its public utilities that are owned by private corporations. This has been done by a number of cities, including Oakland, San Jose, Bakersfield, Monterey, Napa, Palo Alto, Salinas, Petaluma, San Rafael, Ontario, Antioch, and others. See footnote, page 213.

<sup>2</sup>In 1911 the following cities owned municipal water systems: Anaheim, Antioch, Azusa, Biggs, Bishop, Colusa, Elsinore, Gilroy, Grass Valley, Gridley, Healdsburg, Imperial, Lakeport, Lincoln, Lindsay, Lodi, Lampoc, Long Beach, Lordsburg, Los Angeles, Monrovia, Mountain View, Nevada City, Newport Beach, Ontario, Orange, Palo Alto, Pleasanton, Redwood City, Rio Vista, Sacramento, San Bernardino, San Luis Obispo, Santa Ana, Santa Barbara, Santa Clara, Santa Cruz, Sausalito, Sebastopol, Suisun, Vallejo, Wheatland, Whittier, Yreka.

At the same time the following owned municipal lighting plants: Anaheim,

made a beginning in the development of a municipal street car system. All city charters that have been granted during the last few years confer authority on the respective municipal corporations to which they apply, to acquire by purchase or otherwise any or all public utilities.

Cities that own public utilities have special departments of their governments to look after them. Each of these departments is usually under the control of three commissioners appointed by the mayor. The commissioners appoint engineers and other employees and have general control of the work committed to their care.

**106. The Park Department.** — As we have seen, the public parks in a small city are under the direct control of the council or board of trustees. In larger cities they are either looked after by boards of public works, or by park commissions. These commissions usually consist of three or five members appointed by the mayor, who appoint park superintendents, gardeners, carpenters, painters, and other employees. They have general control of beautifying and caring for the public parks, and the grounds around all municipal buildings, and have charge of all museums, statues, and other works of art that are to be found in the parks. No statue may be placed in any park without their consent.

People are beginning to realize that parks may be made to play an important part in preserving the public health, and more for this than for any other reason, large cities in all parts of our country are investing large sums in park lands. In some cases, they are moving buildings to make room for parks; in others, they are filling in swamp lands.

Azusa, Biggs, Gilroy, Glendale, Gridley, Healdsburg, Lodi, Palo Alto, Pasadena, Riverside, Santa Clara.

**107. The Playground Department.** — Some cities have playgrounds for children in connection with their parks, while others have separate sites altogether. Playground commissions, consisting each of three or five men and women, appointed by the mayor, have charge of these grounds. A supervisor is placed over each to direct the children in their play, and to prevent intruders from imposing on them. It is intended that the playgrounds shall be made attractive to children, and to this end they are equipped with necessary buildings, swings, and other devices, and provision is made for sports of various kinds. Parents from time immemorial have realized that children need to play, but the necessity has not been recognized as a *public want* until within recent years. It is now so recognized on the ground of public health, as well as of public morals. The provision of playgrounds for children is the most recent burden assumed by our cities.

### SECTION 3. THE EDUCATIONAL DEPARTMENTS

**108. The School Department.** — The school department of every city is a part of the general school system of the state, which will be considered in Chapter XIV. It will there be seen that the schools of a city are managed on the same general plan as the schools of a country district. The school boards in larger towns and cities consist of more members and exercise a few more powers than rural school boards (§ 81). The teaching force of a city is under the immediate control of the city superintendent of schools, who is appointed by the board of education for a term of four years.<sup>1</sup> The larger cities have assistant superintendents, and every school building is provided with a prin-

<sup>1</sup> Political Code, § 1793.

cipal and a sufficient number of teachers. Freeholders' charters often contain statements of powers and duties of boards of education; but, inasmuch as educational work is not one of the municipal affairs of the city, such statements are valid only in so far as they do not conflict with state law. They are unnecessary, because the law is quite complete in this respect, and they are either entirely omitted from the more recent charters, or are given in a very brief form.

**109. The Library Department.** — As a means of education, libraries rank second only to public schools. They are regarded of such importance that, in addition to the county libraries referred to in Chapter V (§ 42, 10), the law provides a method whereby library districts, — public corporations with the power to tax, — may be formed in unincorporated communities. The law further provides that the legislative body of any incorporated city may, and when petitioned by one fourth of the voters must, establish a municipal library.<sup>1</sup> The fact that the state will compel a city to establish and maintain a library on petition of a minority of its voters would seem to classify this particular want as a matter of state-wide importance rather than as a municipal affair.

The money for the support of municipal libraries is derived from city taxes. Such taxes in cities of the first, second, and third classes<sup>2</sup> cannot exceed thirty cents. These taxes are levied by city councils or boards of trustees, and the money when collected is held by city treasurers for library purposes. Instead of imposing a special library tax, city councils often appropriate definite sums for library purposes.

<sup>1</sup> Statutes of 1909, page 823.

<sup>2</sup> Cities of over 23,000 population.



S	M	T	W	Th	F	S
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		



Every city library is under the control of a board of library trustees. If not otherwise provided in the city charter, the board consists of five members appointed by the mayor.<sup>1</sup> The board provides a building, or buildings, for library purposes; appoints a librarian and necessary assistants; purchases books, periodicals, and necessary supplies; and makes rules for the management of the library. A large city usually has a principal library, and a number of reading rooms situated in different localities.

#### SECTION 4. MISCELLANEOUS DEPARTMENTS

**110. The Civil Service Commission.** — The appointment of public employees according to political influence is known as the "spoils system," a system which we are rapidly giving up in California. A few cities<sup>2</sup> governed by freeholders' charters have adopted the "merit system"; that is, they have entered upon the reform of their civil service. Any such city has a civil service board or commission, consisting of from three to five members appointed by the mayor. The city charter states what employees shall be selected according to civil service regulations. In general, they include office employees, such as clerks, stenographers, and accountants, and other public servants except the chief officers of the city, the heads of departments, and certain important officials such as superintendents, inspectors, and assistant city attorneys. Common laborers

<sup>1</sup> This is a provision of the state law. Most freeholders' charters provide for library boards, five members appointed by the mayor or the council being the usual provision. Some cities have three members, while San Francisco has twelve.

<sup>2</sup> San Francisco, Los Angeles, Oakland, Sacramento, and Long Beach. The legislature of 1913 provided for the filling of many state positions by the merit system, and the new charter of Los Angeles county contains a similar provision respecting county positions.



are not included ; neither are members of the school department, as the qualifications of teachers are determined by state law.

The civil service board does not fill vacant positions. It classifies the various positions which fall under its jurisdiction, and prepares lists of persons who qualify for appointment in the various classes. A person gets his or her name on one of these lists by passing an examination given by the board. Examinations, free and open to all eligible persons, are given at stated times, usually twice a year. They are competitive ; that is, the name of the person receiving the highest mark is placed at the head of the list.

When a position in the classified service is to be filled, the appointing power<sup>1</sup> notifies the civil service board of the fact. This board then submits to the appointing power, from the top of the list, the names of as many persons as the charter stipulates ; usually three, if that number are on the list. One of these must be appointed to the position. Examinations are also given for promotion, so that an employee may qualify for advancement. Any employee in the classified service may be suspended for cause by the authority that appointed him, but he may appeal to the civil service board, which has power to reinstate him.

The merit system is in direct opposition to the plans and purposes of political bosses, and civil service reform cannot be expected to make headway in cities where bosses are in control. A civil service provision in a city charter is therefore no proof that the city enjoys the benefits of the merit system. An unfriendly administration may

<sup>1</sup> This may be the council, a board of commissioners, the mayor, or the head of a department.

render the charter provisions ineffective; and no city should expect to escape from the demoralizing influences of the spoils system until its officers are in thorough sympathy with the principle that public servants should be chosen for the good of the service, rather than for strengthening the political position of the party in power.

**111. Other Governmental Agencies.** — There are other governmental agencies in large cities that are not included under the departments mentioned above.

The *city pound* is one of these. It is established by the city council, in the exercise of its police power, for the purpose of taking care of stray animals and enforcing city ordinances relative to the licensing of dogs. It is under the management of a poundmaster.

Charters of the fifth and sixth classes empower the boards of trustees, where such charters are used, to establish *free markets* and *municipal employment bureaus*. The more recent freeholders' charters also provide for employment bureaus.

The *department of elections* in San Francisco should also be mentioned here.<sup>1</sup> It consists of a board of five election commissioners, and a registrar of voters. The election commissioners conduct all elections in the city, aided by the registrar of voters, as explained in Chapter II.<sup>2</sup>

**112. The Unity of a City Government.** — The government of a city must necessarily be studied by considering its departments separately; but one should think of it as a unit. The departments are the arms of the government

<sup>1</sup> See outline of the San Francisco charter, Appendix E.

<sup>2</sup> There are many voluntary organizations of citizens in every city which do important public work and exercise a pronounced influence over the city government. Among these may be mentioned the chamber of commerce, the merchants' exchange, charitable societies, improvement clubs, and the like.

reaching out in answer to the various public wants and interests. As a city increases in population and its municipal needs multiply, the number of its governmental departments must increase; but the unity of the municipal government should be kept constantly in mind, not only by the student, but by the voters, and especially by the officers and employees. This unity is not disturbed by the existence of those departments which represent the state, because our principle of local self-government makes such departments municipal in practice; even in theory they form a harmonious part of the city government because they are engaged in satisfying wants which the people of the city have in common with the people of the state.

### QUESTIONS

1. Why does the police department of a city in the work that it does represent the state?
2. How are these departments organized in your city?
3. Exactly what would you do in case a fire should break out in your home? Do you know where the nearest fire alarm box is, and how to give the alarm?
4. How can a citizen best assist either the police, fire, or health department in its work?
5. What are the "municipal affairs" of a city?
6. Does your city have a board of public works? If so, how are its members chosen? If not, who has charge of the construction and repair work, the cleaning of streets, etc.?
7. Does your city have a city engineer? A superintendent of streets? If so, how is each chosen?
8. What does your city do with its ashes, rubbish, and garbage?
9. Does your city have park and playground commissions?
10. How is the board of education in your city chosen? Does the city constitute a school district, or does outside territory belong to the district?

11. Does your city have a public library? If so, how is it managed?
12. Is there a civil service provision in your city charter? If so, is it carried into effect? If it is disregarded, who is to blame?

### ADDITIONAL QUESTIONS

Appendix E consists of brief outlines of all the city charters in use in California. These outlines are given in order that our various city charters may be studied comparatively, and the following questions are intended to assist in such comparative study.

1. What are the essential differences between the charters of Los Angeles and Berkeley? Palo Alto and Berkeley? Los Angeles and Palo Alto?
2. Compare the charters of 1907 and 1909, and note the differences.
3. Compare the charters of Riverside, Richmond, and Stockton with reference to the powers of the mayor and the council.
4. Compare the charters of San José, Sacramento, Riverside, and Oakland with reference to the selection of the board of education.
5. In how many ways are police judges chosen?
6. How do the charters of Stockton and Sacramento differ with respect to civil service?
7. To what extent are officers chosen by wards?
8. In what cities is an officer declared elected at the first election if he receives a majority vote?
9. Why is the charter of Richmond not a commission charter?
10. Compare the charters of San Francisco, Eureka, Riverside, and Oakland with respect to the department of public works.
11. What freeholders' charters resemble the fifth class charter?
12. Study the power of the mayor with respect to the following points: veto power, relations to the council, appointing power, power of removing other officers, and the *ex officio* positions which he holds. Do recent charters differ from older ones in respect to any of these points?
13. How does the charter of Petaluma differ from other charters

of 1911? How does it differ from the charters of Palo Alto and Riverside?

14. Compare the charters of Oakland, Los Angeles, Pomona, Alameda, San Diego, and Petaluma, with respect to the nomination and election of officers.

15. Ideas in respect to city government have changed rapidly in recent years. We consider certain features as "modern" and "progressive" (§ 95). Study the charters of 1909 and 1911 and observe which ones indicate a complete surrender to these ideas, and which ones indicate a compromise between them and older ideas.

16. Study the charters that were adopted or amended in 1901, 1903, 1905, or 1907 with respect to the following points: elections by wards, the size of the council, the powers of the mayor, and the powers of the council.

17. In general when did the people of California decide in favor of elections at large rather than by wards? In favor of nonpartisan elections? In favor of a small and powerful council? At what time was the idea that the mayor should possess great power most popular?

NOTE. — The years from 1909 to 1913 have been great years in the matter of charter making. During these years we have been endeavoring so to alter the forms of our city governments that they will be more economic, more efficient, and more responsive to the will of the people than they have been in the past. Indeed, we have made the people of every city an actual part of the city government. While we have been laboring with the forms of our municipal governments we have been gradually enlarging our views as to the work that these governments should undertake; and there can be no doubt that the future will witness greater activity on their part than we have hitherto known. This activity will show itself in discharging old duties more thoroughly and in assuming new ones. Among the new duties will unquestionably be the acquisition and operation of public utilities.

*Thursday*  
*Chap. 10, 11, 12, 16.*

## CHAPTER X

### INTRODUCTION TO STATE GOVERNMENT

#### **113. Relation of the State to Local Governments. —**

In the preceding chapters many references to the state have been made. We have seen it as a great controlling power behind counties, cities, school districts, and other public corporations; and we have learned that these public corporations are its instruments or agents, in bringing to the people the protection and benefit of its laws. The government of every public corporation is thus a branch of the state government. This is somewhat disguised by the thoroughness with which we put into practice our principle of local self-government. If we had a centralized government, we could more clearly see the hand of the state in the management of public affairs, for then the will of the state would be enforced among us by officers appointed at Sacramento. But in order that local self-government may prevail, the authority of the state over local affairs<sup>1</sup> is manifested, not in the appointment of officers for the various localities, but in the enactment of laws and charters which create public corporations and assign to them their duties and powers.

**114. A Central State Government Necessary. —** From what has been said it is clear that there must be a central state government with power at least to make laws for the entire state. This of necessity implies that there must be a system of courts of higher jurisdiction than the county and

<sup>1</sup> Including the enforcement of general laws in the localities.

city courts, for if the law could be interpreted in each locality without the possibility of an appeal to a higher authority, it would mean different things in different parts of the state, and, in the confusion that would arise, the will of the state as a whole would not be enforced. From the emphasis that has been placed on the fact that state laws are enforced in the various localities by local officers, it might appear that a central executive authority is hardly necessary. But such an authority is necessary, not only to see that the various public corporations attend properly to the matters of state-wide importance that are committed to their care, but to do directly a large amount of public work which cannot be done by public corporations. A vigorous state government complete in all respects is an absolute necessity.

#### **115. The Relations between the Nation and the States.**

—Inasmuch as the political relations existing between the American nation and the states that compose it are discussed in all general textbooks on civil government, a brief summary of the main points in the discussion is all that need be given here:—

1. The people of the United States have certain common wants and interests which constitute their national affairs. The national government was created to look after these national affairs.

2. The American people could adopt any plan of government that would be acceptable to a majority. They have chosen to establish a federal republic. The United States is a nation rather than a confederacy or a league, because it is a union of *people* rather than a union of states, and because the national government, in looking after our national affairs, deals with *people* rather than with states.

It is a *federal* republic because the people that compose it are divided into groups called states, which in respect to all matters of government other than national affairs are practically independent of the national government and of one another. The national government cannot interfere with the states in the exercise of their respective powers; neither can the states interfere with the national government. Each possesses a modified sovereign power. Complete sovereignty rests with the American people. By amending the national Constitution, or by discarding it and adopting a new one, they could modify in any manner the relations between the federal government and the states.

3. The American people have delegated to the national government certain powers which are definitely stated, or implied, in the national Constitution. The government may exercise only these delegated powers, together with such powers as are incident to them, and such other powers as are implied from the Constitution. The people have denied certain powers to the national government, certain powers to the states, and certain powers to both the national government and the states. The states may exercise all powers not denied to them, nor granted exclusively to the national government. The powers of the states are nowhere definitely enumerated. They are practically without limit,<sup>1</sup> although they are subject to certain definite restrictions.

4. The American people in granting certain powers to the national government, and reserving others to the states,

<sup>1</sup> In the sense that they cannot be definitely stated and numbered. The tenth amendment to the national Constitution provides that "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." The powers thus reserved to the states, or to the American people, are often referred to as *residuary* powers. It would be impossible to name them.



intended that the national government and the states should work together, each upholding and supporting the other. Neither is a complete scheme of government within itself; but taken together, they are intended to make provision for all of our public wants.

From this brief statement of the political relations between the nation and the states, it is clearly a very different relation from that existing between California and the counties into which it is divided. When a territory is admitted into the Union as a state, Congress does not grant to it certain powers which may be taken away or altered at any time. Congress simply declares that the people living in a definitely bounded area are to be regarded as a state. This confers upon them all the unnumbered, unnamed powers of statehood; and, according to our present Constitution, there is no legal method whereby any of these powers may be impaired or taken away. The federal government cannot impose duties on a state, except to a very limited degree, cannot control its government, cannot alter its boundary lines, cannot interfere with it in any way so long as it does not violate the national Constitution, laws, or treaties. Its powers are inherent; that is, it may do anything not prohibited to it by the American people. A county, as we have seen, has *granted* powers; that is, it may do only the things authorized by state law.

**116. The Sphere of State Activity.** — The powers that may be exercised by a state cannot be definitely set forth, but they may be indicated in general terms: —

1. Subject to a provision of the national Constitution that "the United States shall guarantee to every State in this Union a republican form of government," each state<sup>1</sup>

<sup>1</sup> The word *state* means the people of the state.

has unrestricted power in establishing the details of the state and local governments. That is, each state determines who may vote,<sup>1</sup> and what officers, institutions, and departments shall have charge of the public affairs of the state and its various subdivisions.

2. The general police power of the state<sup>2</sup> is practically without limit. In the exercise of this power it preserves order, punishes criminals, abates nuisances, grants licenses, and regulates or prohibits business enterprises that may be dangerous to the public order, the public health, the public convenience, the public taste, or the public morals.

3. The state regulates marriage and divorce, and establishes the legal relations between husbands and wives and parents and children.

4. The state establishes the conditions under which property may be bought, held, leased, mortgaged, loaned, sold, inherited, or disposed of by will or otherwise.

5. The state establishes conditions under which business may be transacted. Contracts must be made, commerce must be carried on, and private corporations must conduct themselves according to those regulations.<sup>3</sup>

6. The state protects its people in the enjoyment of their constitutional rights and provides for the settlement of disputes that arise among them.

7. The state supports, directs, and controls the great work of public education.

8. The state does many things for the general welfare of the people, such as the protection and encouragement

<sup>1</sup> This is subject to the fifteenth amendment to the national Constitution.

<sup>2</sup> Including counties, cities, and towns.

<sup>3</sup> Subject to the first section of the fourteenth amendment to the national Constitution.

of their various economic interests, and the conservation of natural resources.

**117. State Constitutions.** — All the states of our country have exactly the same powers; that is, *the people* of each state have the same power as *the people* of every other state. But the powers of the various state governments differ, because the people withhold more power from their governments in some states than in others. The form and composition of a state government and the powers that it may exercise are matters that are determined by the state constitution.

The word *constitution* as applied to government is used in two ways. In its broader sense it signifies the plan or method of government of any state or nation. According to this interpretation of the word every nation has a constitution. In a narrower sense it signifies the plan or method of government of a state or nation whose people have a voice in the government and have certain rights which the government cannot violate. According to this meaning — the usual meaning of the word — an absolute monarchy has no constitution.

Constitutions originate in different ways. The constitution of England consists of ancient customs and certain important acts of Parliament, and may be amended at any time by Parliament. The constitution of France was adopted by the national Legislature and may be amended by the same power. The constitution of Italy was granted by the king, and may be amended by the Legislature with the consent of the king. The constitution of Japan was granted by the emperor and may be amended only by him. The constitution of Switzerland, like our national and state constitutions, was adopted by the people<sup>1</sup> and may be amended only by them. In any state or nation the authority to amend the constitution at any given time is the ultimate source of political power.

A constitution in our country is in theory the will of the people directly expressed. This is true in fact of most of

<sup>1</sup> Some of our state constitutions were drawn up and adopted by conventions chosen for the purpose, and were not voted upon directly by the people.

our state constitutions. With us all departments of the government are entirely subordinate to the constitution; for the will of the people as thus expressed cannot be legally set aside by any agency of government created by the people.

**118. The First Constitution of California.** — The first constitution of California was drawn up by a convention which met at Monterey, September 1, 1849. The convention consisted of forty-eight delegates who had been elected in the various districts of California on the first day of August. The election was called by Gen. Bennet Riley, military governor of California. The convention completed its work and adjourned October 13, and the constitution was adopted by an election held November 13, 1849. At the same election, which was also called by General Riley, a governor, a lieutenant governor, and members of the legislature were elected. The legislature met at Monterey, December 15, 1849, and on December 20 the first governor, Peter H. Burnett, was inaugurated. Since California was not admitted to the Union until September 9, 1850, it will be seen that she had a state government, and was acting in all respects like a state, for nearly nine months before she was legally a state.

**119. The Second Constitution of California.** — The first constitution served as the fundamental law of the state for thirty years. In some respects it was not satisfactory, and our present constitution was adopted in 1879. A brief statement of the circumstances attending the change from the old constitution to the new will be found at the beginning of Chapter XVI, which contains also the text of the constitution itself.

### QUESTIONS

1. What has been said about the state government in the preceding chapters of this book?
2. How does the state control our local governments?

3. In what two ways is the word *constitution* used?
4. Why cannot our state legislature amend the state constitution?
5. The constitution is called our supreme law. What does this mean? When is a state law null and void?
6. Why did California adopt a new constitution in 1879? See Hittell's *History of California*.
7. What is the meaning of each of these terms: constitutional monarchy, republic, federal, federal republic, confederation?
8. How does a county in its relation to the state differ from a state in its relation to the United States?
9. Why cannot the powers of a state be definitely enumerated?
10. If the American people were to amend the national Constitution in some particular that should conflict with a provision of our state constitution, would this provision become void? Why?

## CHAPTER XI

### THE STATE LEGISLATURE

NOTE. — Before this chapter is read, articles I, II, III, and IV of the state constitution should be studied.

**120. Composition, Terms, and Sessions of the Legislature.** — California, in common with all other states of the Union, has a bicameral legislature; that is, a legislature of two houses. The upper house, the senate, consists of forty members, elected for four years, one by each of the forty senatorial districts into which the state is divided. The odd-numbered districts elect their senators at presidential elections; and the even-numbered districts, at state gubernatorial elections. The lower house, the assembly, consists of eighty members elected for two years (§ 11), one by each of the eighty assembly districts into which the state is divided. Inasmuch as the terms of the members of the assembly all expire at the same time, the beginning of a new assembly marks the beginning of a new term of the legislature. The term of the thirty-ninth legislature expired December 31, 1912; and that of the fortieth began January 1, 1913. For each term there is one regular session divided into two parts by a recess of thirty days. These sessions begin on the first Monday after the first day of January of the odd-numbered years, and the recess in each case begins after the session has continued thirty days. An extra session may be called at any time by the governor to consider such matters as he mentions in his

proclamation ordering the session to be held. An extra session usually lasts only a few days. Every member of the legislature receives \$1000 for each regular session, and \$10 a day for each extra session, in addition to mileage.

**121. The Organization of the Legislature.**<sup>1</sup>—As the lieutenant governor is president of the senate, the organization of that body consists of choosing the remaining officers, and appointing the various committees. The principal officers of the senate, other than the president, are the president *pro tem.*, the chaplain, the secretary, and the sergeant at arms. These are elected by the senate, but the president *pro tem.* is the only one of the number that is chosen from the members of the senate. In addition, the senate has about one hundred assistants of various kinds called *attachés*,<sup>2</sup> consisting of assistants to the principal officers, a postmaster and assistants, clerks of different kinds, stenographers, pages, porters, etc. These are appointed by different members according to regulations adopted by the senate, and are assigned to their duties by a committee.

The senate rules for each session determine what standing committees there shall be and how their members shall be appointed. There are usually about thirty such committees, and their members are usually appointed by the lieutenant governor as president of the senate.<sup>3</sup> Some of the most important committees are the finance committee; the corporations committee; the judiciary committee; and the committees on revenue and taxation, education,

<sup>1</sup> Political Code, § 235 *seq.*

<sup>2</sup> See constitution, article IV, section 23.

<sup>3</sup> In 1887 the lieutenant governor was a Republican and a majority of the senate was Democratic; while in 1897 the situation was exactly the reverse. Each time the senate committees were appointed by the senate itself.

county government, city government, public morals, elections and election laws, and federal relations. Each member of the senate belongs to five or six different committees.

The assembly organizes in much the same way as the senate, except that it must elect its presiding officer, the speaker. It is called to order by the clerk of the preceding assembly and proceeds to elect a speaker. It then elects a speaker *pro tem.*, a chaplain, a chief clerk, and a sergeant at arms. The assembly has about the same number of *attachés* as the senate, and they are selected in the same manner. The standing committees of the assembly are about fifty in number, and their members are appointed by the speaker. Each member usually belongs to five, six, or more committees. The most important committees have the same names as the corresponding committees in the senate, except that the important committee on finance is known as the "ways and means committee" in the assembly and the "finance committee" in the senate.

The standing rules of each house are important features in the process of lawmaking. They determine how the house shall go about its work, what privileges the members may enjoy, what committees shall be appointed, etc. Each house at the beginning of each regular session adopts its own rules, which are usually the rules of the preceding session slightly modified. The rules of either house may be amended on one day's notice by a two-thirds vote.

**122. The Passing of Laws.**<sup>1</sup> — Each house participates in the passing of laws according to its rules, which, of course, must not be contrary to the provisions of section 15, article IV of the constitution. The history of any bill that is enacted into a law is practically as follows: —

<sup>1</sup> Political Code, § 309 *seq.*



1. It is introduced, usually in typewritten form, in the senate or assembly by a member, and is immediately taken to the desk of the clerk or secretary. Here it is properly numbered and the title is read aloud. This is the "first reading."

2. It is then referred by the chair to one of the standing committees. Here it is considered point by point, and interested persons are given an opportunity to appear before the committee in favor of or in opposition to the bill. The committee must report on the bill within ten days, unless the house grants a longer time.<sup>1</sup> The committee may recommend that the bill "do pass," or that it "do not pass"; or it may report the bill back without recommendation, or suggest amendments to it, or offer a substitute for it. The original bill and also the recommendation of the committee are printed, and a copy of each is placed on the desk of each member. The clerk or secretary then places the number of the bill at the bottom of the "second reading" file.

3. When the bill is reached on the file, the title is read by the clerk or secretary, and the recommendation of the committee is pointed out. This is the "second reading." Without debate it is passed to the "third reading" by a *viva voce* vote, and its number is placed at the bottom of the "third reading" file. The bill is, at this point, referred to the engrossing and enrolling clerk, who must make certain that accurate copies of the original bill and amendments suggested by the committee, if any, are printed for consideration at the third reading.

<sup>1</sup> This is the rule in each house, but it is often not carried out. Many bills are never reported out, but are "smothered in committee." The author of any bill may prevent this if he is able to secure a majority vote of the house ordering the committee to report.

4. When the bill is reached on the third reading file, its number and title are read,<sup>1</sup> and it is up for final consideration. Debate is in order, and any member may offer amendments; but in most cases the recommendation of the committee is accepted. An amendment is disposed of by *viva voce* vote, unless three members demand a roll call. When the bill is put upon its final passage, the roll must be called and the votes recorded. Forty-one votes are required in the assembly, and twenty-one in the senate, to pass a bill.

5. After passing the house in which it originated, the bill is sent by the clerk or secretary to the other house, where it is reported to the presiding officer. The title is then read aloud by the secretary or clerk, and it is referred by the chair to the proper standing committee. After the committee reports, the bill must be "read" a second and a third time before it is passed. The second house cannot amend it without the concurrence of the first.<sup>2</sup>

6. After both houses have passed the bill in identical form, it is signed by the president of the senate and the speaker of the assembly, and is then presented to the governor. The duties of the governor in reference to it are sufficiently set forth in section 16, article IV of the constitution.

Each house passes resolutions and proposes constitutional amendments in the same manner as it passes bills, except that only one "reading" is required. A two-thirds vote is necessary in the case of constitutional amendments.

<sup>1</sup> No bill is ever actually read aloud in either house.

<sup>2</sup> A "conference committee" consisting of members from both houses is sometimes appointed to consider points on which the two houses find it difficult to agree.

An act<sup>1</sup> passed in 1913 provides for a bureau to assist in the task of preparing bills to present to the legislature. This bureau is known as the legislative counsel bureau, and is in the charge of a chief, who is appointed by a board consisting of the governor, two members of the assembly, and two members of the senate, each house selecting its two members. The term of office of the chief and of the appointive members of the board is four years. The board has general supervision over the chief and determines what assistants he may have.

The chief and his assistants must aid in the preparation of bills for presentation to the legislature upon the request of the governor; of any judge of the state supreme court, the district courts of appeal, or the superior courts of the state; or of any committee of either house of the legislature. Any such request must be in writing, and must state the substance of the desired bill. When the legislature is in session the bureau must hold itself in readiness to assist any member or any committee in the preparation of bills. It is very important that all laws are properly drawn and that they are in harmony with other laws and with decisions of the supreme court. In order that it may be prepared to give expert assistance in the preparation of bills, the bureau must make a careful and continuous study of the laws of this and other states, and of supreme court decisions.

**123. The Powers of the Legislature.** — As we have seen, (§ 115), the tenth amendment to the national Constitution declares that 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

<sup>1</sup> Statutes of 1913, chapter 322.

people." This means that any state may exercise any of these unnamed, residuary powers; but that the American people, by amending the national Constitution, have the power to impose such restrictions as they may choose to impose. The legislature is the branch of the state government which exercises these residuary powers.<sup>1</sup> Its powers, therefore, could not be named; no list of them could be made.<sup>2</sup> Subject to the provisions of the state constitution, it may exercise any power except those which are granted exclusively to the United States, and those which are expressly denied to the states by the national Constitution.<sup>3</sup>

The provisions of our state constitution relative to the powers of the legislature may be thus indicated:—

1. The legislature is commanded to do certain things. (See article II, section 2½; article IV, sections 21, 33; article VI, sections 11, 13, 16; article VIII, section 1; article IX, sections 1, 5, 7, 9; article X, sections 5, 6; article XI, sections 4, 5, 6; article XII, section 24; article XIII, sections 8, 14, f; article XV, section 2; article XVII, section 1; article XIX, sections 1, 2, 4; article XX, sections 6, 11, 14, 15.) There is no power, except the power of public opinion, to compel the legislature to enact the laws thus required; but in most cases it has done so. (See § 31.)

2. The legislature is required to do certain things in certain ways. (See article IV, sections 6, 24, 25, 27, 29,

<sup>1</sup> See 16 Cal. 332; 35 Cal. 624; 73 Cal. 76; 117 Cal. 122; 117 Cal. 521; 145 Cal. 684.

<sup>2</sup> The legislature is the only branch of a state government whose powers are thus undefined. The powers of the courts and of all executive officers and departments are *granted* to them by the state constitution and laws, and they may exercise no other powers. It is thus possible to make lists of such powers. See 6 Cal. 291.

<sup>3</sup> See section 10, article I, and amendments 13, 14, and 15 of the national Constitution.

and 34; article XI, sections 3, 4, 5, 6, and 7; article XII, sections 1 and 5.) It will be seen that most of the sections of the constitution here referred to either forbid the enactment of special laws, or command the enactment of general laws, and thus the only way in which the legislature can deal with the questions referred to is to pass general laws concerning them. Our present constitution differs widely from the constitution of 1849 in this respect, as the former constitution permitted special legislation almost without limit. Many acts of the legislature before 1879 relate to particular streets, parks, and public improvements in particular cities; and to the imposition of special duties and burdens on particular counties. Through this power to pass special laws, the legislature often meddled, with unfortunate results, in the internal affairs of cities and counties, and for this reason the power was taken away.

3. The legislature is forbidden to do many things. For example, the provisions of article I operate as prohibitions on the legislature, because no laws may be passed which infringe upon these rights of the people. Article III forbids the legislature to exercise any judicial or executive functions. Other prohibitions are found in article IV, sections 26, 29, 30, 31, and 32; article IX, section 8; article XI, sections 12, and 13; article XII, sections 5, 7, and 10; and article XVI.

4. The legislature is subject to certain checks. Among these may be mentioned the governor's veto power; the initiative and referendum; and the fact that the legislature may meet in regular session only once in two years, and in special session only on the call of the governor to consider only such questions as the governor specifies in the call.

NOTE. — It should be pointed out that our entire scheme of state government is founded on the "check and balance" plan. The governor holds the checks over the legislature above referred to, and he may set aside certain judgments of the courts by means of his pardoning power. All of our state courts, except the inferior courts, are established, and their jurisdiction is determined, by the constitution, rather than by state law. They are thus independent of the state legislature and of the governor. They may set aside such acts of the legislature as they deem unconstitutional; and may compel or enjoin the performance of special acts on the part of executive officers and boards. From these statements it may appear that the legislature is overshadowed by the other departments of the government; but such is not the case. The legislature appropriates all money used for the maintenance of every department of the government. It assigns to the governor and to all other executive officers and boards most of their powers and duties; and many of these officers and boards were created by it. Besides, all judges and all executive and administrative officers may exercise only such powers as are granted to them by the constitution and the law; but the legislature, subject to the commands, conditions, prohibitions, and checks above mentioned, may exercise any of the *immense residuary powers of the state*.

## QUESTIONS

1. What was the number of the last term of the legislature?
2. Name two ways in which a bill may become a law without the signature of the governor. (See section 16, article IV, of the constitution.)
3. What is a conference committee?
4. What is meant by the statement that our state government is a government of "checks and balances"? Illustrate.
5. Why is it impossible to enumerate the powers of the legislature?
6. Why is the legislature forbidden to pass local and special laws?
7. What limitation is imposed on the legislature in the formation of senatorial and assembly districts? Congressional districts? (See constitution, article IV, sections 6 and 7.)
8. Name the various ways in which the powers of the legislature are limited.

## CHAPTER XII

### THE STATE EXECUTIVE — ELECTIVE OFFICERS AND BOARDS

NOTE. — Before this chapter is read, articles V, VII, VIII, and XII of the state constitution should be studied.

**124. Introductory.** — We have seen that various public corporations, such as counties, cities, and school districts, have a large part in carrying into execution the laws of the state. We shall now consider the part played by the executive officers of the central state government. It will be observed that the constitution is very brief in respect to the duties of these officers. This means that the legislature must name their duties. Thus to find a complete statement of the duties of any officer, one must examine both the constitution and the state law, particularly that part of the law which is known as the Political Code.

**125. Classification of State Executive Officers and Boards.** — The executive officers and boards of the state may be classified as follows: —

#### I. Elective.

1. The Governor.
2. The Lieutenant Governor.
3. The Secretary of State.
4. The State Board of Equalization.
5. The Controller.
6. The Treasurer.
7. The Superintendent of Public Instruction.
8. The Surveyor-General.
9. The Attorney-General.

#### II. Appointive.

The most important appointive executive officers and boards will be considered in the next chapter, except the adjutant general and the state board of control, whose duties are given in this chapter.

**126. Terms of Office, Official Bonds, and Vacancies.** — The term of office of each elective officer above mentioned is four years, beginning in January, 1911, 1915, etc. The terms of appointive officers vary, but in most cases they are four years. State officers, the same as county officers, must furnish official bonds. The amount in each case is determined by law, except that in the case of some appointive officers, the amount is determined by the appointing power. All official bonds, whose amounts are determined by law, must be approved by the governor, and must all be filed in the office of the secretary of state, except the bond of the secretary, which must be filed in the office of the state treasurer. The governor and lieutenant governor are not required to furnish bonds.

Vacancies in the case of elective officers are filled by the governor, except that a vacancy in either house of the legislature is filled by an election called by the governor in the senatorial or assembly district affected. Appointive offices, when vacant, are filled by the appointing power.

**127. The Governor.**<sup>1</sup> — The legislature meets on the first Monday after the first day of January following the gubernatorial election, and at once provides for the inauguration of the governor. The governor's duties may be briefly summed up as follows: —

**I. The Executive Duties of the Governor.** — 1. He must see that all the state laws are enforced. To this end he is given power to supervise the official conduct of other exec-

<sup>1</sup> Political Code, § 380 seq.



utive officers, and may require a report from any officer or board at any time in addition to the regular biennial reports which many of them are required to make to him.<sup>1</sup> Furthermore, he may direct the attorney-general, or any district attorney, to investigate the conduct of any individual or corporation and to prosecute those that break the law. He may offer rewards, not to exceed \$1000 in each case, for the arrest of escaped convicts or persons charged with murder.

2. He represents the state in its dealings with the United States or with other states. For example, if a person charged with a crime in another state is arrested in California, the governor, on the demand of the executive of the state in question, orders the prisoner surrendered to the representative of that state;<sup>2</sup> and if a fugitive from justice in California is arrested in another state, the governor takes the necessary steps to have him returned.

<sup>1</sup> As a matter of fact the authority which the governor may exercise over our elective executive officers is more theoretical than practical, as any officer who owes his position to the people is practically independent of the governor. This makes it impossible for the governor to be the responsible head of the entire state government in the sense that the President of the United States is the responsible head of the national government. All national executive officers and commissioners are appointed either directly or indirectly by the President, and any of them may be removed for cause by him. We shall never have a thoroughly efficient state government until its various executive and administrative departments are similarly centralized under one responsible head. The creation of the state board of control (§ 135) is a step in this direction, but as long as the people elect a group of state executive officers in addition to the governor, our state government must be a many-headed affair. A thorough application of the principle of the "short ballot," together with the adoption of the merit system in the appointment of public employees, would seem to offer a solution of the problem.

<sup>2</sup> Section 2, article IV of the national Constitution states that the governor *shall* deliver up any fugitive from justice on the demand of the executive of the state from which he fled; but there is no way of compelling him to do this against his will. He might refuse in case he believed that the fugitive was wanted for prosecution for political reasons, or for some act that California does not consider a crime.

3. He is an *ex officio* member of the governing boards of the various educational institutions maintained by the state, and a number of other state boards.

4. He is vested with extensive appointing power. In some cases his appointments must be approved by the state senate, but in most cases this is not required. (See p. 264.)

5. He is commander in chief of the national guard of the state. The state militia referred to in article VIII of the constitution includes all able-bodied men in the state between the ages of eighteen and forty-five, except certain classes of persons who are exempt from military service. A complete militia roll is kept in the office of the adjutant general. (See § 45.) This roll contained over 300,000 names in 1912. Most of these men belong to the reserve militia. The active militia is known as the national guard, which includes the naval militia.

In 1912 the national guard consisted of three regiments (36 companies) of infantry, organized into one brigade: three troops of cavalry; one company of signal corps; eleven companies of coast artillery; two batteries of field artillery; nine companies of naval militia; and the officers of the governor's staff. The total strength of the force was something over 4300 officers and enlisted men, of which a little over 600 belonged to the naval militia. The support of the national guard is no light burden on the taxpayers. The state provides over \$225,000 a year for the current expenses of the organization, in addition to occasional appropriations for the erection of armories.<sup>1</sup> Members of the national guard receive no pay except when in camp or on duty in the service of the state. The money appropriated is used to pay rent for armories, to purchase uniforms and arms, and to meet other expenses.

The commander in chief appoints all officers above the rank of

<sup>1</sup> An appropriation was made recently to build armories in Sacramento, San Francisco, and Los Angeles; and to purchase a building for the purpose in San Diego.

colonel. The appointment of the "general officers of the line" must be approved by the senate, but this does not hold in the case of the adjutant general and the members of the governor's staff. The staff consists of the heads of the various departments of the national guard and a number of aids-de-camp. "Field officers of a regiment or a battalion shall be elected by the field and company officers thereof." Company and troop officers are elected by the members of such organizations.

The commander in chief authorizes the organization of the various companies, regiments, and other divisions; but the adjutant general, whose office is in the capitol, is in actual command of the national guard. He has the rank of brigadier general.

As stated in the constitution, "the governor shall have power to call forth the militia to execute the laws of the state, to suppress insurrection, and to repel invasion." He may on his own initiative order out any part of the force at any time to preserve order and enforce the law; or he may do so on the request of any sheriff, chief of police, United States marshal, or any state or federal judge.

The national guard is also a national force, and the federal government distributes \$2,000,000 a year among the states for its support. California receives \$100,000 of this each year. The national government also lends vessels to the state to be used as training ships by the naval militia. All state laws pertaining to the organized militia must be in harmony with the federal laws on the same subject, and the President may call the national guard into the service of the United States at any time it is required.

II. *The Legislative Powers of the Governor.* — The governor's legislative powers include: (1) his veto power; (2) his power to call extra sessions of the legislature and to designate in advance what shall be considered at any such session; and (3) his power and duty to make suggestions to the legislature as to measures which in his judgment should be enacted into law. He makes these suggestions in the form of messages. The legislature is not compelled to accept the suggestions, but if he has the confidence and

support of the people of the state the "administration measures" are quite likely to pass.

III. *The Judicial Power of the Governor* lies in the fact that he may set aside the judgments of the courts in criminal cases by pardoning persons who have been sentenced. This power is slightly restricted by article VII of the constitution.

**128. The Lieutenant Governor.**<sup>1</sup> — Unless the lieutenant governor is called upon to assume the office of governor, his only official duties are to act as president of the senate and as a member of the board of regents of the State University.

**129. The Secretary of State.**<sup>2</sup> — The most important duties of the secretary of state are as follows: —

1. He must keep on file in his office an accurate record of all laws, resolutions, and other official acts of the legislature; must cause the same to be printed and must distribute bound copies to all state officers, to our senators and representatives in Congress, to each state in the Union, to the Library of Congress, to the state library, and to various other libraries and institutions mentioned in the law. He must also distribute copies of all laws to each county officer.

2. He must distribute bound volumes of the decisions of the state supreme court, and of the district courts of appeal, to the state library and to the Library of Congress, to each state in the Union, and to various national, state, and county officers mentioned in the law.

3. He is the keeper of the great seal of the state. He must affix this seal to all commissions, pardons, and other public instruments to which the official signature of the governor is required.

<sup>1</sup> Political Code, §§ 377, 396.

<sup>2</sup> *Ibid.*, § 407 seq.

4. He must keep a record of all articles of incorporation filed in his office (§ 19, 1); must record the official bonds of all state officers; must keep a record of land conveyed to the state, except land sold to the state for taxes; and must keep an accurate account of all fees collected by him. He collects fees for various services which he renders, such as furnishing copies of laws or other instruments on file in his office, receiving and filing articles of incorporation, issuing certificates of incorporation, receiving official bonds, etc. He must pay all moneys collected as fees to the treasurer at the end of each month.

5. He performs such duties in connection with elections, the incorporation of cities, the formation of new counties, and other matters, as the law prescribes.<sup>1</sup>

6. Before the 15th of September of every even-numbered year, he must present to the governor a detailed report of all his official acts since his last report. He must show in detail how the money appropriated for the use of his office has been spent.

**130. State Revenues.** — The principal sources of the state's income are as follows: —

1. A tax on certain corporations. The corporations in question and the amount of the tax in each case are stated in section 14, article XIII, of the constitution. It will be observed that the tax is a certain percentage of the gross receipts of the various corporations, except that in the case of banks it is a certain percentage of their capital stock. Banks and insurance companies must pay county and municipal taxes on any real estate which they possess, but the amount of these local taxes is deducted from the amount they otherwise would pay to the state. The other

<sup>1</sup> See Chapter II, and §§ 33 and 76.

corporations are excused from all local taxes on property which is used in the operation of their business.

2. A tax on franchises. The word *franchise* is used here in its widest sense, including not only the right to use a public highway for a special purpose, but any special privilege granted by law to private individuals. For example, when a group of men form a corporation, they acquire certain privileges from the state. Thus the right to be a corporation is a franchise. All corporations, except those referred to in the preceding paragraph, must pay a corporation franchise tax. Franchises cannot be taxed for local purposes, but this does not prevent cities from compelling corporations to pay for their franchises. Such a payment is not a tax, even though it may consist of a certain percentage of the annual income.

3. A corporation license tax. This is a tax collected by the secretary of state from all corporations doing business in the state, and is in addition to the franchise tax just mentioned.<sup>1</sup>

4. A poll tax of \$2 is imposed annually on every man in the state from twenty-one to sixty years of age, except insane persons, paupers, and Indians not taxed. This is collected by county assessors. (§ 45.)

5. An inheritance tax. This is a tax imposed upon the property of deceased persons, when it passes by inheritance or will, to others. The rate of the tax depends upon the degree of the relationship existing between the deceased and the person to whom the property passes. There are certain exemptions in the law. For example, property equal in value to \$10,000 may pass to the widow or a minor child of the deceased without the payment of any tax (§ 190).

<sup>1</sup> Discontinued after June 30, 1914.

6. Fees collected by state officers. Fees are collected by the secretary of state, the surveyor-general, the clerks of the higher state courts, the controller, the superintendent of state banks, the building and loan commissioner, the insurance commissioner, and others.

7. Fees for licenses, such as automobile, fishing, and hunting licenses.

8. Receipts from state institutions. The largest amount from this source is derived from the sale of the products from the jute mill at the San Quentin state prison. Smaller amounts are received from the state prison at Folsom, the various state hospitals, the reform schools, the veterans' home, the home for the blind, and other institutions. None of these institutions are self-supporting. The money received from them is turned into the treasury, but larger amounts must be taken from the treasury for their support.

9. Receipts from state property and investments. The ferry building in San Francisco belongs to the state, and the harbor commissioners collect rents from corporations and individuals who occupy the building. The state also receives considerable amounts as interest on state money deposited in banks. The money received from the sale of the state school lands is invested in bonds of various kinds, and the interest from these investments is annually added to the state school fund (§§ 137, 190).

10. Miscellaneous sources. The state receives small amounts from various miscellaneous sources. One of these is from the sale of furniture, lumber, machinery, or other unnecessary material which the various state officers and boards may have on hand. Other sources are the amount paid by each county into the state treasury to aid in meeting the expenses of children from the county in the state reform schools and the state home for feeble-minded children; the amount received each year from the sale of escheated estates,

that is, estates of deceased persons who have no heirs; the yearly payment made to the state by the United States government, of 25 per cent of the receipts from the national forests in the state. This money is distributed by the state to the various counties on the basis of the area of each county embraced in each national reserve from which the money is collected.

In case these sources of revenue fail to meet the expenses of the state government, a tax may be imposed on all taxable property in the state, "in the manner to be provided by law" (article XIII, sec. 14, *e*, of the constitution). The state may borrow money in accordance with article XVI of the constitution.

**131. Summary of State Revenues.**—In order to present to the eye the relative importance of these various sources of income, the amount received from each source during the fiscal year from July 1, 1911, to June 30, 1912, is indicated below.

1. Tax on Corporations . . . . .	\$8,767,617.68
2. Tax on Franchises . . . . .	1,619,588.98
3. License Tax on Corporations . . . . .	802,012.50
4. Poll Tax . . . . .	843,664.00
5. Inheritance Tax . . . . .	1,083,243.87
6. Fees and Collections:	
Secretary of State . . . . .	327,510.89
Surveyor-General . . . . .	8,626.95
State Land Office . . . . .	3,581.50
Clerk of Supreme Court . . . . .	6,500.00
Clerks of District Courts of Appeal . . . . .	8,591.10
Insurance Commission . . . . .	49,623.14
Superintendent of Banks . . . . .	73,285.43
Building and Loan Commission . . . . .	8,527.63
7. Fees for Licenses:	
Automobile . . . . .	62,805.80



Fishing . . . . .	\$17,955.00
Hunting . . . . .	145,595.04
8. From State Institutions:	
San Quentin Prison . . . . .	453,705.05
Folsom Prison . . . . .	20,210.30
State Hospitals . . . . .	186,262.19
State Normal Schools . . . . .	16,424.66
State Polytechnic School . . . . .	38,451.45
Veterans' Home . . . . .	8,952.62
Reform Schools . . . . .	114,131.63
Home for the Adult Blind . . . . .	26,993.56
9. From State Property and Investments:	
Rent from Ferry Building, Wharves, etc., S. F. . . . .	1,254,287.32
Interest on State Deposits . . . . .	157,199.44
Interest on School Bonds . . . . .	311,862.45
Interest on University Bonds . . . . .	49,845.00
Interest from School Lands . . . . .	56,126.17
Sale of School Lands . . . . .	119,306.91
Sale of School Textbooks <sup>1</sup> . . . . .	201,701.95
10. Miscellaneous Sources:	
Sale of Property by State Engineer . . . . .	62,973.58
From Counties to aid in Support of Children in Reform Schools, etc. . . . .	95,360.00
Escheated Estates . . . . .	13,870.63
From United States Government . . . . .	157,650.38

Many items of income are not included in this summary. The total receipts for the year amounted to \$21,445,956.99. Of this amount \$2,005,040.89 was derived from the sale of state bonds for the benefit of the San Francisco water front, and the state highway fund; and \$1,270,297.01 was collected as a tax for the support of the Panama-Pacific Exposition.

**132. The State Board of Equalization.**<sup>2</sup>—The state board of equalization consists of the state controller and four other members elected each for four years at the general

<sup>1</sup> Since 1913 textbooks have been distributed free of charge.

<sup>2</sup> See state constitution, article XIII, section 9; also Statutes of 1911, page 530.

state election. One member is elected by each of the four equalization districts into which the state is divided. The office of the board is in Sacramento. Its most important duties are as follows: —

1. To determine the amount of tax due the state from corporations according to the provisions of section 14, article XIII of the constitution. This must be done each year "between the first Monday in March, and the third Monday before the first of July."

Blank forms are sent to all corporations mentioned in subdivision (a) of the section referred to, on which reports must be made to the board not later than the first Monday in March. The most important items included in each report are as follows: the name of the corporation, the amount of its capital stock, its debts, the market value of its stocks and bonds, its gross receipts during the year, its operating expenses, the improvements made, and the dividends paid during the year.

Appropriate blank forms are sent to all the banks to obtain from them reports as to their capital stock, profits, dividends, and other items. Similar reports are collected from insurance companies by the state insurance commissioner, who embodies the information thus obtained in a report to the state board of equalization. Owners of taxable franchises<sup>1</sup> must report to the board on blanks furnished by the board complete information as to the nature and value of each franchise, as well as the capital stock, debts, gross receipts, dividends, etc., of the corporation using each franchise. The secretary of state must report to the board the name, place of business, capitalization, and other specified items, of every corporation whose articles of incorporation are on file in his office; and city and county assessors must report in detail the assessments which they have placed on real estate belonging to banks and insurance companies. From these various reports, and from any additional information it may collect, the board determines the amount that each corporation must pay.

<sup>1</sup> Banks, insurance companies, and corporations that pay taxes on their gross receipts pay no additional franchise tax.

2. The board must issue instructions to city and county assessors to assist them in determining what property belonging to the corporations mentioned in subdivision (a) of section 14, article XIII, of the constitution, is "operative property." As these corporations are excused from local taxes on their "operative property,"—that is, the property used in operating their business,—it is to their advantage to have as much of their property as possible classed under this head. The board must settle all disputes that arise between corporations and local assessors respecting this matter.

The board must place an arbitrary assessment on any corporation which fails to file the report above mentioned; but the law permits the board to extend the time for filing the report in any case, not to exceed thirty days, when good cause is shown.

On the third Monday before the first Monday in July, the board must publish in Sacramento, San Francisco, and Los Angeles a statement to the effect that the "assessment of property for state purposes is completed." Any corporation which is dissatisfied with the assessment may complain to the board and the board has power to alter the assessment, but this must be done on or before the first Monday in July.

The board must keep an accurate record of all assessments which it imposes. On the first Monday in July each year, its secretary must deliver to the state controller a complete record of all assessments made for the year.

When necessary, the board, or any of its members, its secretary, or any representative selected for the purpose, may visit any part of the state to collect information to assist in justly assessing and levying the taxes. The board also has power to summon public officers, private citizens, or the officers of corporations, to appear before it as witnesses and to produce any books or records that may be desired. The board may at any time examine the books and accounts of any corporation required by law to report to it; but the law makes it a misdemeanor for any member or representative of the board to divulge

any information thus obtained other than such information as must be reported to the board. The governor, however, is given power to order any such information to be made public.

3. The board must equalize the assessments made by local assessors of the real estate of banks and insurance companies; and also assessments made for the purposes specified in subdivision (e) of section 14, article XIII of the constitution. Since the amount of the local tax collected from banks and insurance companies on their real estate, as well as the tax collected from the corporations mentioned in subdivision (a) of section 14, article XIII of the constitution, for the payment of local debts, is subtracted from the tax that these corporations would otherwise pay the state, the board of equalization must see that city and county assessors are not unfair to the state in assessing the property of these corporations too high. The board has power to alter any of these local assessments.

In case a tax should be imposed on all taxable property in the state for state purposes, as provided in subdivision (e), the state board has power to raise or lower by a definite percentage the assessments of an entire county if such action seems to it to be just.

4. The board must annually present a report to the governor showing the acreage of taxable land in each county and the assessment per acre, the value of all town and city lots, the value of all personal property in the state, and certain other items required by the law.

**133. The Controller.**<sup>1</sup>—In addition to his duty as a member of the state board of equalization, the controller performs the following duties:—

1. After receiving the record of assessments from the

<sup>1</sup> See Political Code, § 433, as amended in 1911; also Statutes of 1911, page 355.

state board of equalization, he must publish for two weeks in Sacramento, San Francisco, and Los Angeles, a statement to the effect:—

a. That all taxes thus assessed are due and payable on the first Monday in July.

b. That one half will be delinquent after six weeks; that any part of this half, if permitted to become delinquent, may be paid with 15 per cent added as a penalty, any time before the first Monday in February; and that an additional 5 per cent will be added if not paid by that time.

c. That the second half of the tax will be delinquent on the first Monday in February, and that if not paid by that time, 5 per cent will be added.

The first publication of this notice must be within ten days after the controller has received the assessment record.

2. He must enforce the payment of the tax provided for in section 14, article XIII of the constitution. The tax is paid to the treasurer on his order.

3. Within ten days after the first Monday in February, he must notify every company whose taxes are delinquent that unless the taxes and penalties are paid by the first Monday in March, the company will forfeit its charter to the state if it is a domestic corporation, or that it will forfeit its right to do business in the state if it is a foreign corporation.<sup>1</sup>

After the first Monday in March the controller must write the words "charter forfeited to the state," or the words "right to do business forfeited," as the case may be, on the assessment record opposite the name of each corporation whose tax has not been paid. He must report the names of all such corporations to the secretary of state, who reports the same to the governor, who issues a proclama-

<sup>1</sup> A foreign corporation is a corporation which received its charter from another state of the Union or from a foreign country.

tion declaring the penalty that has been imposed. The secretary of state causes this proclamation to be published in Sacramento, San Francisco, and Los Angeles, and notifies every county clerk in the state. The law provides a method whereby any such corporation may recover its charter, or the right to do business in the state, by paying all back taxes and penalties. The controller is given power to proceed in the courts against any such corporation to compel it to pay its tax by placing an attachment on its property.

4. He must superintend the fiscal concerns of the state; that is, he must keep an accurate record of all receipts, appropriations, and expenditures, and must be able at any time to give information to the governor or the legislature as to the condition of any fund, or of the state finances in general. He must make a detailed report to the governor on the second Monday in October of every even-numbered year. This report, consisting of over two hundred pages, is printed and bound and may be obtained on application to the controller.

5. He must examine and settle the accounts of all persons indebted to the state and certify the amount in each case to the treasurer.

6. He must audit all lawful claims against the state and must draw warrants on the treasurer against the proper funds for their payment. Each payment must be definitely authorized by law, and money for the purpose must be available. Every claim must be approved by the state board of control before a warrant for its payment is drawn, unless the law specially provides that this approval is not necessary.

Appropriations by the legislature usually consist of definite sums set aside for special purposes; but in some cases they consist of permanent provisions in the law to the effect that either all or a portion of the money derived from certain sources shall be devoted to certain

purposes. Examples are the provisions that \$250,000 of the income from the inheritance tax, and the interest on money received from the sale of state lands, shall be applied each year to the school fund; and that all money collected by the harbor commissioners of San Francisco shall be used in improving the water front of that city, or in paying debts incurred in making previous improvements. In all such cases, the money is turned into the state treasury and is drawn out on warrants issued by the controller.

7. Preceding each regular session of the legislature he must collect from the heads of the various state departments, boards, and institutions, on blanks which he sends out, itemized statements of their estimated expenses for the succeeding two years. He must also collect statements from members of the legislature as to the appropriations which they expect to ask from the legislature, and must compile a list of all claims against the state for which appropriations are necessary. He and the board of control — after going over these estimates and consulting the representatives of the offices, departments, boards, and institutions affected — determine the various amounts that in their judgment should be appropriated. The controller must tabulate these items for the use of the legislature and the governor at least within ten days after the opening of the session. This list of estimated expenses recommended by the controller and the board of control is known as the regular biennial *budget*.

8. He represents the state in all of its financial dealings with the various counties. Money collected by the counties for the state is paid to the state treasurer on the order of the controller; and money collected by the state for the counties is paid to them on his order.<sup>1</sup>

<sup>1</sup> The state school fund constitutes the largest item distributed to the counties from the state treasury. The local taxes referred to in subdivision (e) of section

9. He must compile and publish statistical reports of the financial transactions of the various counties and cities in the state. County and municipal auditors, or other proper officers, must report to him respecting these matters on blanks sent out by him.

**134. The Treasurer.**<sup>1</sup> — The most important duties of the treasurer are as follows: —

1. To receive all money belonging to the state, not required to be received and kept by some other person. Each payment must be accompanied by a certificate issued by the controller. He must keep in the vault of the state such money as is needed for immediate use. With the approval of the governor and the controller, he may deposit in reliable banks money that can be spared. Depository banks must be selected from those that agree to pay the highest rate of interest (not less than 2 per cent) for the use of the state's money. Such banks must furnish security for the money deposited. The law limits the amount that may be deposited in any one bank.

2. To pay lawful claims against the state, on warrants issued by the controller.

3. To keep an accurate record of all receipts and disbursements. His records must show at all times the condition of each separate fund. He must keep on file all controller's certificates accompanying payments of money, and all warrants issued by the controller on which money has been paid.

4. To report to the controller, on the last day of each month, the amount paid out during the month, the fund

14, article XIII of the constitution are collected by the state and returned to the counties and cities.

<sup>1</sup> Political Code, § 452 *seq.*



from which each item was paid, and the balance in the treasury to the credit of each fund. On the fifteenth day of September of every even-numbered year, he must report to the governor "the exact balance in the treasury to the credit of the state, with a summary of the receipts and payments of the treasury during the two preceding fiscal years." Furthermore, at the request of either house of the legislature, or of a committee of either house, he must give information in writing as to the condition of the treasury.

**135. The State Board of Control.**<sup>1</sup>—The state board of control consists of three members who are appointed by the governor to serve during his pleasure. It was created by an act of the legislature passed in 1911 to take the place of the state board of examiners, but its powers and duties are more extensive than those of the former board. It has its office in the state capitol, but its meetings may be held in any part of the state. The chairman of the board is designated by the governor. It appoints a secretary, three clerks, and two stenographers. Its most important powers and duties are as follows:—

1. It has general control of the payment of claims against state funds and appropriations. The controller must not draw his warrant for the payment of any claim until it has been allowed by the board, unless it is a claim which is specially exempt by law from this requirement. The concurrence of two members constitutes a decision of the board. If a claim is allowed by the board and the controller does not consider it just, he may require the board to reconsider it, and it cannot again be presented to him except with the unanimous approval of the board.

<sup>1</sup> Statutes of 1911, page 591 *seq.*

In order that the board may be in a position to act intelligently on all claims that are presented to it, one or more of its members, as the board may decide, or at the request of the governor, must "visit from time to time every public institution maintained in whole or in part by state appropriations, to ascertain the conditions of the same, and their wants and requirements, and also to visit public buildings in the course of construction to ascertain if all the provisions of the law in relation to such construction and of contracts therefor are being faithfully executed." The board must also have the books of every state institution, commission, bureau, and officer examined by expert accountants once each year. It may compel witnesses to appear before it or any of its members.

2. The board must examine and pass upon all claims against the state for which no appropriations have been made. This practically makes of the board a court of claims. When such claims are approved, the recommendation of the board, with the sanction of the governor, is reported to the legislature in order that money for their payment may be appropriated.

3. The board must count the money in the state treasury at least once a month, and must report to the secretary of state after each count "the amount of money or credit that ought to be in the state treasury," and "the amount and kind of money or credit actually therein."

4. The board must invest in national or state bonds, or in the bonds of counties, cities, or other political subdivisions of California, the money derived from the sale of school lands and the money received from estates which have escheated to the state. The money from either source must be invested at any time when \$10,000 has accumulated. All bonds thus purchased must be delivered to the treasurer in trust for the state school fund.

5. When absolutely necessary, the board, with the con-

sent of the governor, may authorize the creation of deficiencies in any fund. Thus, if the regular appropriation for any state office, board, or institution, is not sufficient for the two-year term for which such appropriations are made, the board of control and the governor may authorize the office, board, or institution in question to go on with its work, with the understanding that the legislature at its next session will provide for the deficiency.

6. The board may authorize the sale of any property belonging to the state, except real estate.

7. All contracts for the purchase of supplies by any state officer, board, bureau, or institution must be approved by the board of control. No supplies may be purchased in the open market, — that is, without calling for bids, — without the consent of the board; except that, to meet an emergency, any officer, board, etc., may purchase supplies of a perishable nature, not to exceed \$100 in value, without such consent.

8. The board has jurisdiction over the state department of accountancy. This department consists of a superintendent of accounts, two assistant superintendents, and such additional accountants as may be necessary. They are appointed by the board. The duty of the department is to "devise, install, and supervise a uniform system of accounting and reporting" for all state officers and boards who keep public records and accounts, and handle public money. This is to facilitate the inspection of such records and accounts.

9. "The board must biennially report to the legislature a history of its transactions and investigations."

**136. The Superintendent of Public Instruction.** — The powers and duties of the superintendent of public instruction will be considered in Chapter XIV, in connection with our state school system.

**137. The Surveyor-General.**<sup>1</sup>—The office of the surveyor-general is in the capitol in Sacramento. He may appoint two assistant surveyors-general and two clerks. His most important duties are as follows:—

1. To survey the boundary lines of counties and other political subdivisions of the state when required to do so.
2. To have general control of two kinds of public lands: school lands which have been granted to the state by the United States; and all "swamp and overflowed, salt marsh, and tide lands belonging to the state."

The school lands originally consisted of the sections numbered 16 and 36 in every congressional township of government land in the state,<sup>2</sup> and 500,000 acres in addition which became state land according to a law passed by Congress in 1841. Much of this land has been disposed of. Some of it has been occupied by private individuals who pay interest (7 per cent) to the state, under contract, on the purchase price, with the privilege of paying the principal at any time. A great deal of it has been sold. No person may buy more than 640 acres, and if it is suitable for cultivation, 320 acres is the limit. Some difficulty has been experienced in disposing of this land owing to the fact that a large portion of it has been situated in United States Indian and forest reservations, and in Spanish and Mexican grants, and therefore, could not be sold directly; but the surveyor-general, working in conjunction with the United States land office, has been permitted to locate and sell equal portions of government land situated elsewhere. As these lands have been selected in lieu of state lands which could not be sold because of their location, they are known as "lieu lands." It is claimed by the department of the interior of the national government that the state has sold more "lieu land" than it was entitled to sell; and the legislature of 1911, at its extra session, provided that such sales be discontinued, and that restitution be made to the United States if investigation proves that excess sales

<sup>1</sup> Political Code, § 483.

<sup>2</sup> Section 16 became state land according to a law passed in 1785 and section 36 according to a law passed in 1848.

have been made. The matter is now (1913) being investigated by the state and national authorities looking toward an adjustment. The amount of school land still belonging to the state cannot be determined until this adjustment has been made; but the state conservation commission, which recently investigated the matter, places it at something over one million acres.

All tide lands became the property of the state by common law upon its admission to the Union. All swamp and overflowed lands, — except mineral lands, lands reserved for naval and military purposes, and lands included in Indian reservations, towns, and Mexican or Spanish grants, — became the property of the state by virtue of an act of Congress passed in 1880. The tide and swamp lands are sold by the surveyor-general in tracts not to exceed 640 acres to any one person.<sup>1</sup>

**138. The Attorney-General.**<sup>2</sup> — The office of the attorney-general is in the capitol. His most important duties are as follows: —

1. To "have charge, as attorney, of all legal matters in which the state is in any wise interested, except the business of the regents of the University of California, and of the state harbor commissioners, and such other boards or officers as are now by law authorized to employ attorneys."

2. To see that all judgments of the courts in favor of the state are executed.

3. To "exercise supervisory powers over district attorneys in all matters pertaining to the duties of their offices, and from time to time to require of them reports as to the condition of the public business intrusted to their charge." He may at any time go to any county in the state to assist the district attorney in the discharge of his duties.

4. To give legal advice, without fee, on request, to the legislature, to any state officer or board, or to any district

<sup>1</sup> See section 3, article XV of the constitution.

<sup>2</sup> Political Code, § 470 *seq*

attorney, on any question of law relating to the public service.

5. To proceed in the courts against insolvent insurance companies, and building and loan associations, in order that the interests of creditors may be protected.

6. To perform all other duties required by law, and to present a biennial report to the governor giving information as to his official acts.

**139. Salaries and Office Help.** — The salary of every state officer is established by the constitution or by law; and the law determines the number of deputies, stenographers, and other assistants that each officer or board may employ and establishes their salaries. The annual salaries of the officers whose duties are discussed in this chapter are as follows:—

The Governor . . . . .	\$10,000
The Adjutant General . . . . .	3,600
The Lieutenant Governor . . . . .	4,000
The Secretary of State . . . . .	5,000
Each member of the Board of Equalization . . . . .	4,000
The Controller . . . . .	5,000
The Treasurer . . . . .	5,000
Each member of the State Board of Control . . . . .	4,000
The Superintendent of Public Instruction . . . . .	5,000
The Surveyor-General . . . . .	5,000
The Attorney-General . . . . .	6,000

### QUESTIONS

1. What are the executive, legislative, and judicial powers of the governor?
2. What is the difference between the militia and the national guard? What power does the governor have over the national guard? The President? For what three reasons may the national guard be called into active service?

3. Is there any legal limit to the taxing power of the state?
4. Under what circumstances may a tax be collected on general property for the support of the state government?
5. By what means does the state board of equalization keep track of the various corporations with which it deals? What powers other than that of computing taxes does it possess?
6. What are the respective duties of the controller and the treasurer in the matter of collecting the state tax?
7. What are the official relations between the controller and the state board of control?
8. What are lieu lands?

Functions of city gov.

1. Keep peace.
2. Educate
3. Fire
4. Health

## CHAPTER XIII

### THE STATE EXECUTIVE—APPOINTIVE OFFICERS AND BOARDS

NOTE.—The adjutant general and the board of control have been considered in the preceding chapter, because of their close relation to elective officers. In this chapter we shall consider the most important of the remaining appointive executive officers and boards. The treatment must of necessity be brief, and persons wishing more detailed information are referred to the Political Code.<sup>1</sup>

**140. The Railroad Commission.**<sup>2</sup>—A railroad is a private corporation operated for profit. To pay as large dividends as possible on its capital stock is the principal aim of its officers and managers. But in the services that it renders every railroad meets an urgent public want. The public is, therefore, vitally interested in the manner in which it is operated and in the rates that it charges. For many years the railroads of our country were permitted to establish their own freight and passenger rates, and they generally charged "all that the traffic would bear." Furthermore, they formed the habit of discriminating between different places, and between different corporations and individuals. Thus it was quite within their power to determine whether any city should prosper or not; and to favor

<sup>1</sup> Any edition of the Political Code will do, provided the code amendments and statutes of every session of the legislature since its publication are also taken into account.

<sup>2</sup> State constitution, article XII, section 22; see also Statutes of 1911, Extra Session, page 18 *seq.*



particular corporations and individuals whose business depended upon the transportation of goods, to such an extent as to enable them to drive their competitors out of business. Any city, corporation, or individual unaided by the government found it impossible to obtain fair treatment.

Shortly after the Civil War, there began to be a widespread demand throughout the country for the regulation of railroads by the national and state governments. To this end laws were passed by Congress and the various state legislatures. To enforce these laws, Congress created the interstate commerce commission, and many of the states established state railroad commissions. Our state constitution of 1879 provided for a commission of three members. The state was divided into three districts, each of which elected one member. For many years the commission exercised no real control over the railroads of the state. This was due to several reasons: (1) The method of selecting the members of the commission was wrong. Men to fill positions requiring expert knowledge cannot be selected by the mass of voters. (2) Several honest attempts to control the railroads made by the commission early in its history were promptly checked by injunctions from the federal courts. Discouragement and apathy followed. (3) The railroads have exercised a potent influence in California politics since the establishment of the commission, and this influence has naturally been exerted toward rendering the commission ineffective.

The legislature of 1909 — the same legislature that passed the direct primary law — raised the salary of each railroad commissioner from \$4000 to \$6000 a year, and increased the powers and duties of the commission. But the legislature of 1911 determined to remodel the commission completely.<sup>1</sup> A constitutional amendment, which has

<sup>1</sup> The members of this legislature were elected along with Governor Johnson in November, 1910. This was the first election at which voters were called upon to choose between candidates who had been nominated, not by party conventions, but by the voters of the various parties, under the direct primary law of 1909. The result was a revolution in California politics. It now seems as if bossism were

since been adopted by the people, was proposed, changing the number of commissioners from three to five, and providing that they be appointed by the governor, each for six years.<sup>1</sup> Furthermore, a law was passed increasing the powers and duties of the commission. The legislature of 1913 increased the salary of each commissioner to \$8000 a year.

The office of the commission is in San Francisco, but it is authorized to meet in any part of the state. It elects one of its members president and appoints a secretary, an assistant secretary, an attorney, and all necessary experts, engineers, inspectors, and other assistants. The attorney receives an annual salary of \$5000. It is his duty to represent the commission in all lawsuits in which it may be involved, and to perform such other duties as the commission may require.

The authority of the commission is confined strictly within the state. For example, in its control of the railroads, it cannot regulate interstate commerce. Shipments which begin and end in California are under its control, but any shipment to or from any other part of the United States is under the control of the federal interstate commerce commission *throughout the entire route*. The most important powers and duties of the commission are as follows:—

1. To establish rates of charges for railroads and other transportation companies, and to exercise the other powers mentioned in the second paragraph of section 22, article XII of the constitution. Every transportation

dead. Whether it proves to be so in fact will depend upon the intelligence and patriotism of the voters.

<sup>1</sup> Read section 22, article XII of the constitution.

company must file with the commission a complete statement of its freight and passenger rates, and all other charges of every character; and must keep a copy of such statement available for public inspection at every station or office where passengers or property are received for transportation. The commission, on its own motion or on complaint of interested persons, may investigate any single rate or class of rates and may alter such as are found to be unjust or unreasonable, determining in each case what they shall be.

2. To prescribe, establish, and modify, from time to time, the rules that shall govern railroad and other transportation companies in receiving, storing, carrying, switching, handling, and delivering freight, and in transporting passengers. Such rules must prescribe the conditions under which railroad companies shall furnish cars to shippers, and the penalties they must pay when delays occur; also the penalties that shippers must pay for delays in loading and unloading cars.

3. To establish through routes over connecting lines of any company, or of different companies, and to determine how such routes shall be operated. Also to require any company to receive cars from any other company and forward them over its lines, and to regulate the charges for such service.

4. To enforce numerous other provisions of the law relative to railroads and other common carriers, such as those forbidding discrimination, regulating the granting of passes, forbidding a road to charge more for a short haul than for a long haul, imposing conditions relative to railroad crossings, and many others.

5. To supervise and regulate all public utilities, other

than common carriers, in the state, outside of incorporated cities,<sup>1</sup> including gas, electric, telephone, telegraph, and water companies, as well as pipe lines, wharves, and warehouses operated in connection with the transportation of freight. The authority exercised over these public utilities may be indicated in part as follows:—

*a.* To establish their rates and charges. Every such company must file with the commission a complete statement of its rates and charges, and the commission has power to alter any and every item.

*b.* To establish rules for the government of public utilities in their dealings with the people, and to enforce such rules.

*c.* To ascertain the value of the property of any public utility in the state. If any city or other public corporation wishes to acquire any privately owned public utility, which it is authorized to acquire, it may petition the commission to fix the price that it must pay; and the price thus fixed shall be final unless set aside by order of the state supreme court.

6. To exercise additional authority over all public utilities, including common carriers,<sup>2</sup> as follows:—

*a.* By supervising and controlling them in the important matter of issuing stock and borrowing money. No such corporation may exercise either of these privileges without first obtaining the consent of the commission.

<sup>1</sup> The commission has no power to fix rates for, or to control the operation of, public utilities in any incorporated city; but any city may, by a vote of its people, confer this power on the commission.

A number of cities have taken this action; see the first footnote on page 157. Any city, after surrendering this power, may reclaim it by a vote of its people. See section 23, article XII, of the state constitution.

<sup>2</sup> Street car lines are classed as common carriers.

It is believed that this will prevent many abuses that have occurred in the past. In order that the commission may exercise this power wisely, it is given the authority to ascertain the value of all property belonging to, and the amount of all debts incurred by, every public utility in the state.

b. By requiring them to keep their accounts as directed by the commission.

c. By requiring them so to conduct their business as to safeguard the health and safety of their employees and other persons with whom they deal. It is the duty of the commission to investigate the cause of all accidents resulting in the loss of life, or in injury to persons or property, for which public utilities are responsible.

d. In general, the commission must enforce all constitutional provisions and laws for the regulation of public utilities. It is given power to sue or be sued in the courts. It must hear complaints from public utilities, as well as from persons with whom they deal, and adjust differences when possible; but its main duty, as an arm of the executive branch of the state government, is to enforce those parts of the constitution and the law that are committed to its care.

7. The commission must present to the governor, on or before the first of December each year, a report containing a statement of all its transactions during the year, and such "recommendations as it may deem of value to the people of the state."

**141. The Superintendent of Banks.**<sup>1</sup> — Three kinds of banks are recognized by the state law: savings banks, com-

<sup>1</sup> Statutes of 1909, page 109 *seq.*; Statutes of 1911, pages 7, and 1003 *seq.*

mercial banks, and trust companies. The principal difference between a savings bank and a commercial bank is that the former receives deposits for stated times upon which it pays interest, while the latter receives deposits with the understanding that they may be withdrawn without interest at any time. Checks may be drawn against deposits in commercial banks, but not against those in savings banks. A trust company is a corporation which acts as an executor of wills, administrator or guardian of estates, or as assignee, receiver, or trustee of money or other property. When authorized by its articles of incorporation any bank may combine the business of a savings bank, a commercial bank, and a trust company by maintaining a separate department for each line of business.

The most important part of the business of a bank is to receive money on deposit and place it out at interest. Only a small percentage of the money handled belongs to the bank. For this reason the public is vitally interested in the manner in which every bank is conducted, and the law imposes many conditions which all banks must observe. Some of these conditions are as follows: that every bank, other than a savings bank, must always have on hand money equal to at least fifteen per cent of its deposits; that no money may be loaned except on security sanctioned by law; that no officer or employee of a bank may borrow money from the institution; and that every bank must, on the request of any stockholder, creditor, or depositor, furnish a list of all its stockholders, showing the amount of stock owned by each, and other details concerning them.

The law provides for a special officer, — the superintendent of banks, — to supervise all of our state banks.<sup>1</sup> He

<sup>1</sup> National banks are under the jurisdiction of an officer belonging to the treasury department of the national government, known as the controller of the currency. A national bank receives its charter from and is subject to the supervision and control of the national government. All other banks within a state are state banks and are chartered and controlled by the state government. The chief difference

is appointed by the governor to serve during the governor's pleasure. His salary is \$10,000 a year. He must employ a chief deputy, an attorney, and such assistants and examiners as may be necessary. He determines the compensation of these employees, but the total expense of his department must not exceed \$75,000 a year. This money is not drawn from the ordinary revenues of the state, but is collected by the superintendent from the banks under his supervision, each bank paying in proportion to its deposits. His most important duties are as follows:—

1. He must enforce all the laws of the state relative to the banking business. No bank, other than a national bank, may engage in business in the state until the superintendent has issued to it a certificate authorizing it to do so.

2. He, his chief deputy, or an examiner appointed by him must visit and examine every savings bank at least once a year, and every other bank under his jurisdiction at least twice a year. Such examination must show in detail the condition of the bank and the manner in which its affairs are conducted.

3. He must take possession of the property and business of every bank which he believes to be in an unsound condition, and no such bank may resume business without his consent. If the bank is found to be in such a condition that a resumption of business is impossible, he must settle its affairs according to law, in such a manner as to safeguard the interests of depositors.

4. Three times each year he must call for reports from all banks under his jurisdiction. Such reports must show

between the two kinds is that the national banks issue a kind of paper money known as bank notes, a privilege which state banks do not enjoy. These notes are covered by securities held by the national government.

the capital stock, deposits, investments, the amount on hand, the amount loaned, and many other details respecting each bank.

5. In October of each year he must make a detailed report to the governor, showing the name, location, and condition of every bank under his jurisdiction; and give a complete account of the work of his department during the year, including the names and compensations of all persons employed by him, and a statement of all receipts and expenditures.

**142. The Insurance Commissioner.**<sup>1</sup>—The principle upon which insurance is based is very simple. It may be stated thus: a large group of persons can collectively assume the sum total of any special kind of risk more easily than any member can assume his share of such risk. For example, when insured property is burned, the loss does not fall upon the owner alone, but upon all the policy holders of the company carrying the insurance. Thus insurance is based upon the principle of coöperation. The principle is applied directly in mutual insurance companies,<sup>2</sup> and indirectly in others. Each policy holder pays a certain amount each year, called a premium,<sup>3</sup> in return for which the company assumes his individual risk and agrees to pay the face value of his policy in case the event insured against happens.

There are many kinds of insurance. The law of California recognizes fourteen different kinds: fire, life, accident, marine, fidelity,

<sup>1</sup> Political Code, §§ 368, 568, 569; Statutes of 1911, pages 1260, 1320.

<sup>2</sup> A policy holder in a mutual company is a member of the company. In another kind of company, he simply has a contract with the company whereby the company assumes a specified risk in return for an annual premium which he agrees to pay.

<sup>3</sup> In a mutual company, each member may be called upon for additional payments in case all losses cannot be met by the regular premiums.



plate glass, etc. The premium in each case is proportional to the risk assumed. It is possible to determine the amount with accuracy because experts have collected sufficient data from the experiences of human life to enable them to give a definite money value to every risk with which insurance deals.

Almost every man, woman, and child in California is interested either directly or indirectly in some form of insurance. It is therefore exceedingly important that every insurance company which transacts business in the state shall be honestly conducted and shall be able to fulfill all of its just obligations. The state law contains many regulations governing the insurance business, and provides for an insurance commissioner to see that these regulations are enforced. The commissioner is appointed by the governor, with the consent of the senate, to serve for four years. His office is in San Francisco. His salary is \$4000 a year. The law authorizes him to appoint a deputy commissioner, an assistant, a statistician, an actuary, and necessary clerks and stenographers. Insurance companies, like banks, must pay for their own inspection, and the commissioner collects certain fees from them for the purpose. If the fees are not sufficient to meet the expenses of his department, which must not exceed \$36,700 a year,<sup>1</sup> the balance must be made up by an assessment imposed by the commissioner on each company in proportion to the premiums which it receives.

His most important duties are as follows:—

1. He must enforce all state laws relative to insurance. No corporation may engage in the insurance business in the state without first receiving a certificate from him.<sup>2</sup>

<sup>1</sup> This does not include the actuary's pay, as he receives fees for his services.

<sup>2</sup> Provision is made whereby an uncertificated company may write *surplus* insurance in the state; that is, insurance on any property in excess of what any cer-

Every such certificate must be renewed annually. Before issuing a certificate to any company for the first time, he must carefully examine into its condition; and he may at any time thereafter employ experts to examine its books and records. He must investigate the condition of any company on the request of twenty-five interested persons.

2. He must see that every company organized in California has the amount of paid up capital stock required by law, the amount being \$200,000 for most kinds of insurance; and must require every "foreign" company doing business in the state to deposit bonds or other securities equal in amount to the capital stock required of domestic companies engaged in the same line of insurance.

3. If, at any time, he discovers that any company is insolvent, he must revoke its certificate and report the matter to the attorney-general, who must proceed against the company in the courts in order that its affairs may be adjusted according to the best interests of its creditors.

4. Not later than the first day of March of each year, he must obtain from every company doing business in the state a report, showing in detail the amount of its capital stock, the value of its property and assets, the amount of its liabilities, its total income, the amount of its expenditures, and other details. He must supply blanks for these reports.

5. On or before the first day of August of each year, he must make a detailed report to the governor, "showing generally, the condition of the insurance business and interests in this state," and giving an account of all moneys

tificated company is willing to take. Every agent for any such uncertificated company must procure a license from the insurance commissioner. Such an agent is known as a "surplus line broker."

received and paid out by him during the year. We have seen that he must also make a report to the board of equalization each year.

Fraternal insurance carried on by lodges for the mutual benefit of their members, and not for profit, is not subject to the general insurance laws of the state; but the legislature of 1911 passed a special act for the regulation of this kind of insurance. All such societies, in so far as they are involved in the insurance of their members, are now for the first time subject to the control of the insurance commissioner. Each one must annually procure a certificate from him, must present to him an annual report, must submit to an examination of its books and records at any time, and is subject to prosecution by the attorney-general in case the commissioner considers that it is not able to live up to the promises made to its members.

**143. The Building and Loan Commissioner.**<sup>1</sup> — A building and loan association is a corporation organized on the coöperative principle, to enable persons of small means to invest their savings in small amounts, or to purchase homes for themselves on the installment plan. Persons belonging to the association make small periodic payments, — usually weekly or monthly. Such an association differs from other kinds of corporations in that its shares of stock — when it issues stock — may be purchased on the installment plan; and in that any member may withdraw from the association at any time by surrendering his stock, or other evidence of membership, and receiving all money that he has paid in plus such dividends as may have accumulated upon it. Another difference is that the face value of its stock, unlike that of other corporations, is no fixed amount, but increases and diminishes in amount as members come into or withdraw from the association. It differs from a savings bank in that its funds are accumulated for the

<sup>1</sup> Statutes of 1911, page 609 *seq.*

special purpose of making loans to its members; and in that, instead of paying fixed rates of interest on deposits, as is done by savings banks, it credits each member with his share of the income of the association. The income is derived from membership fees, periodic payments, interest on loans, fines imposed on members for failing to make their payments according to agreement, and from other sources.

Each association has a board of directors who usually serve without pay. They are elected by the stockholders or members. They appoint a treasurer, secretary, and other necessary officers and employees and determine their salaries. They also determine the policy of the association, being guided in all that they do by the by-laws adopted by the stockholders or members.

In the year 1911 the total assets of building and loan associations in California amounted to more than \$23,000,000. Since this sum represents the accumulation of small investments, it is exceedingly important to large numbers of people that these associations shall be honestly and efficiently managed. The law therefore imposes many regulations upon them and provides for a building and loan commissioner to see that all such regulations are enforced. The commissioner is appointed by the governor to serve during his pleasure. His salary is \$3000 a year. His office is in San Francisco. The law allows him one secretary at a salary of \$2100, and \$2400 a year for office rent, fuel, stationery, and other incidental expenses. The expenses of his office are paid from fees which he collects from the various associations under his jurisdiction in proportion to their respective assets.

His duties are similar to those of the bank commissioner and the insurance commissioner. That is, he must enforce

all state laws relative to building and loan associations; must require every association doing business in the state to procure an annual license from him; must subject every association to a careful examination once a year; must report any case of insolvency to the attorney-general,<sup>1</sup> who is required to proceed as he would in the case of an insolvent insurance company; must require every company to present to him once a year a detailed report as to its financial condition and business transactions during the year; and he must present to the governor each year a report showing the condition of every association under his jurisdiction and giving an account of the manner in which his office has been conducted.

**144. The Commissioner of Corporations.**<sup>2</sup>—The "blue sky" law of 1913, providing for a corporation department under a commissioner of corporations, was suspended by a referendum petition, the vote to be taken in November, 1914. Following are the provisions of this law: The commissioner is appointed by the governor to serve during his pleasure at a salary of \$5000 a year. His office is in Sacramento and he is provided with necessary assistants. His jurisdiction extends over all corporations doing business in the state for profit, except those that are under the supervision of the railroad commission, the superintendent of banks, the insurance commissioner, the building and loan commissioner, or the federal government. It is his duty to prevent the corporations under his supervision from selling worthless shares of stock or other securities. No such corporation, whether organized in California or

<sup>1</sup> The commissioner has power to take immediate control of the affairs of any association which he believes to be in an unsound condition. This safeguards the interests of members while the attorney-general is effecting an adjustment in the courts.

<sup>2</sup> Statutes of 1913, chapter 353.

not, may offer or advertise any of its securities for sale in the state until it has obtained a license from the commissioner of corporations. Before issuing any such license it is his duty to inquire into the condition, the aims, and purposes of the corporation. He has full power to examine its books and accounts. It is also his duty to supervise all general investment brokers in the state who sell the securities of various corporations. All such brokers must annually obtain licenses from him.

The commissioner collects certain fees for issuing these licenses to corporations and brokers and the money thus obtained is placed in the treasury as a special fund to meet the expenses of the department.

**145. The Department of Engineering.**<sup>1</sup> — This department is under the control of an advisory board of seven members, consisting of the governor, the state engineer, the general superintendent of state hospitals, the chairman of the state board of harbor commissioners of San Francisco, and three other members appointed by the governor. The three appointed members serve during the governor's pleasure, at a salary of \$3600 a year each. The governor is the chairman of the advisory board and the state engineer is its executive officer. The latter is appointed by the governor to serve during his pleasure, at a salary of \$5000 a year. His office is located in the capitol. The advisory board must meet at least once in two months and may meet oftener if necessary.

The department requires the assistance of many engineers, architects, draftsmen, clerks, stenographers, and other employees. The most important of these are the state highway engineer, appointed by the governor, at a salary

<sup>1</sup> Statutes of 1907, page 215; Statutes of 1911, page 824.

of \$10,000 a year; and a state architect, appointed by the state engineer, at a salary of \$4800 a year. The governor also appoints a state consulting board of five persons, who serve without pay, and whose duty is to consult with the department of engineering "upon all matters that affect irrigation, drainage, and river improvement."

The most important duties of the department are as follows:—

1. To have general control of all construction work for the state. Construction work may be done by contract or by day's labor, according to the decision of the advisory board. If done by day's labor, the work is in the immediate charge of the department, except work on the water front of San Francisco.<sup>1</sup> If done by contract, it is under the immediate control of the board or commission for whom the work is done,<sup>2</sup> but plans, specifications, and bids must be approved by the state engineer, and no work must be accepted and paid for until examined and approved by him. He is, of course, assisted by the state architect and other members of the department.

2. To have charge of the improvement, construction, and upkeep of all state highways. Most roads in California are county roads under the jurisdiction of the various boards of county supervisors; but the state has built and maintains a few roads<sup>3</sup> in mountainous districts, where

<sup>1</sup> This is in charge of the harbor commissioners.

<sup>2</sup> Construction work for the University of California does not come under the jurisdiction of the department, being left in complete charge of the board of regents.

<sup>3</sup> The Lake Tahoe road in Eldorado county; the Sonora and Mono road in Tuolumne and Mono counties; the Mono Lake road in Mono county; the King River Canyon road in Fresno county; the Emigrant-Donner Lake road in Placer and Nevada counties; the Sierra State road in Sierra county, not completed; and the Trinity-Tehama-Shasta-Humboldt road, which when completed will connect the principal road systems of these counties.



the expense of the work is too heavy to be borne by the counties in which they are located. The state highway engineer is the executive officer of the department in constructing and caring for these roads. Local superintendents, appointed by the governor, have charge of the different sections under the highway engineer's supervision. The state highway system is to be extended greatly by the expenditure of \$18,000,000, for which state bonds were voted at the election of 1910.

3. To issue licenses to owners of automobiles and motorcycles, and to assign a definite number to every such vehicle. All owners must obtain such licenses, paying to the state treasurer the fees required by law. All chauffeurs must also obtain licenses from the department, paying the required fees to the treasurer.

4. To have charge of all work undertaken by the state to control flood waters and improve river channels.

Most of the work of this character so far done by the state has been along the Sacramento and San Joaquin rivers and their tributaries, but some work has been done along the Eel river in Humboldt county, and surveys have been made on the Russian river, and in and about Humboldt bay. The river work consists of dredging and levee building. The department has adopted the policy of coöperating with property owners in this work; that is, any item of work is paid for partly by the state and partly by owners of adjoining property. Since 1907 the legislature has appropriated \$475,000 for such work.

The state also coöperates with the national government in this and other kinds of work. For example, the legislature of 1909 appropriated \$400,000 to be used by the California Débris Commission<sup>1</sup> in dredging the mouth of the Sacramento river, provided the federal

<sup>1</sup> This commission consists of three army engineers appointed by the national government to have charge of all river work undertaken by the government in California. The government is interested in keeping the rivers and harbors open for navigation.



government would furnish an equal sum for the same purpose. Congress has made the necessary appropriation and the work is under way. All plans for such work must be approved by the engineering department. The legislature of 1909 also provided that the engineering department may contract with the proper departments of the national government to the extent of \$30,000 each year "to carry on topographic surveys and investigations into matters pertaining to the water resources of the state . . . and the use and distribution of water for agricultural purposes." Such contracts have so far been made with the director of the geological survey and with the agricultural department, whereby the federal government and the state furnish equal sums for making surveys and carrying on investigations.

5. At least thirty days before each regular session of the legislature the state engineer must present to the governor a detailed report of the work of the department.

**146. Harbor Commissioners.**<sup>1</sup>—The state owns the water fronts of three cities:—San Francisco, Eureka, and San Diego.<sup>2</sup> A harbor commission, consisting of three members appointed by the governor, with the consent of the senate, is provided for each of these cities.

The members of the commissions for San Diego and Eureka serve each for four years; those for San Francisco serve during the pleasure of the governor. The commissioners for San Diego receive \$300 a year each; those for Eureka, \$400; and those for San Francisco, \$3000, except the president of the board, who receives \$3600.

The duty of each commission is to have charge of the state property on the water front. Prior to 1910 the state took no steps to improve the water front of either San Diego or Eureka; but state bonds amounting to \$1,500,000 were voted in November of that year to build a sea wall, wharves, piers, docks, etc., at San Diego. These im-

<sup>1</sup> Commissioners of San Francisco, Political Code, § 2520 *seq.*

Commissioners of Eureka, Political Code, § 2567 *seq.*

Commissioners of San Diego, Political Code, § 2575 *seq.*

<sup>2</sup> In every other city situated on the coast, the water front is owned either by the city, by private corporations, or by individuals.

provements are in the charge of the harbor commission under the supervision of the state engineering department. The interest and principal of this debt are to be paid from the receipts arising from the use of the harbor. The ferry building, wharves, and other improvements on the water front in San Francisco amount in value to more than eighteen million dollars. The money collected for the use of this property is used by the commission to meet expenses, to provide for the payment of the interest and principal of state bonds which have been issued for the benefit of the harbor, and to make necessary improvements. All the money must, however, be accounted for and paid to the state treasurer and be expended on warrants issued by the controller. The harbor commissioners of San Francisco and of San Diego are authorized to appoint necessary wharfingers, engineers, janitors, and other employees.

The legislature of 1913 provided for a new harbor commission for San José. The commission consists of three persons, residents of San José, appointed by the governor, to serve without compensation for four years. It has jurisdiction over certain sloughs that are used for navigation at the southern end of San Francisco bay, the water fronts of which belong in part to the state.

**147. Other Harbor Officials.**<sup>1</sup> — Each harbor has a pilot commission consisting of three members, appointed by the governor, with the consent of the senate, whose duty is to examine and license pilots. San Francisco has four port wardens, and San Diego and Eureka one each. Their duty is to inspect and keep an official record of vessels and cargoes which arrive in a damaged condition. This is to assist in adjusting insurance and to protect the interests of absent parties.

The legislature of 1911 passed a bill providing that any city whose water front is owned by the state may issue bonds to assist in improving the water front. The desirability of the state's deeding the water front in every case to the city in which it is located has been much discussed in recent years, but such a policy has not yet been adopted.

<sup>1</sup> Political Code, §§ 368, 369, 2501, 2429 seq.

**148. The Department of Forestry.**<sup>1</sup> — The state board of forestry consists of the governor, the secretary of state, the attorney-general, and the state forester. The state forester is appointed by the governor to serve during his pleasure at a salary of \$3000 a year. He is the secretary and the executive officer of the board, and has his office in the capitol. He appoints a deputy forester, an assistant forester, and a stenographer.

There are about 19,500,000 acres of forested land in California. About 11,000,000 acres of this land belong to the United States. The balance belongs to private individuals and corporations, except the California Redwood Park,<sup>2</sup> near Santa Cruz, which belongs to the state. It is the aim of the forestry department to coöperate with the federal authorities in protecting the national forests; and to coöperate with the owners, and with various counties, in protecting privately owned forests. Fire and the ax are the great destroyers of forests. The state forester appoints as many fire wardens throughout the state as he considers necessary.<sup>3</sup> These men receive no pay from the state; but their number includes, in addition to volunteer fire wardens, practically all federal forest supervisors and rangers, as well as certain employees of the fish and game commission, and a number of fire wardens in the employ of certain counties,<sup>4</sup> all of whom accept appointment from the state because of the additional powers that it confers

<sup>1</sup> Statutes of 1905, page 235.

<sup>2</sup> This park consists of 3800 acres of redwood timber. It is under the control of a commission consisting of the governor and four other members appointed by him. The commissioners, who serve without pay, appoint a park warden and other necessary employees and determine their compensation.

<sup>3</sup> The number is at present between eleven and twelve hundred.

<sup>4</sup> These fire wardens are appointed by the state forester but are paid by the respective counties (§§ 42, 15).

upon them. They have the powers of peace officers and may arrest violators of the state forest laws. They may also compel private citizens to assist in fighting fires. The state board of forestry may cause any forest to be inspected at any time, and may compel the owner to clean up and burn any dry brush and other inflammable material.

The department has no supervisory power over cutting and logging operations in privately owned forests. All that it can do in the direction of protecting these forests is to compile and furnish such information to lumbermen as will convince them of the value of scientific forestry. The appropriations so far made by the legislature have not permitted the department to accomplish much along this line.

Our forests should be conserved not only because future generations are entitled to a share in them, but because of their relation to the water resources of the state. Rain falling on forest-covered mountains is held by the dense root mesh until much of it can percolate into subterranean reservoirs which feed springs and artesian wells during the long summer months; but rain falling on bare mountain slopes runs off immediately, causing floods in the lowlands during the rainy season, and making springs and artesian wells impossible during the summer. Our fruit industry and our municipal water supplies are thus in larger measure than is commonly realized dependent on mountain forests.

#### **149. State Department of Weights and Measures.<sup>1</sup>**

—In order that the people may be protected against dealers who use scales and measuring instruments that give short weight and short measure, the legislature of

<sup>1</sup> Statutes of 1913, Chapter 597.

1913 created a new department of weights and measures. The department consists of a superintendent and a deputy superintendent of weights and measures for the state at large, and a sealer of weights and measures for each county in the state. The superintendent is appointed by the governor to serve at a salary of \$3600 a year, for four years, unless sooner removed by the governor. The deputy is appointed by the superintendent, and the sealers of the various counties by boards of supervisors. City governments are also empowered to provide for municipal sealers of weights and measures.

The superintendent of weights and measures must keep in his office in Sacramento standards of weights and measures which have been approved by the national bureau of standards. He must furnish copies of these standards on request to any county or city in the state. Sealers of weights and measures use these standards in examining scales and measuring instruments used in business throughout the state. No scales or measuring instruments may be offered for sale until they have been examined and "sealed," that is, approved and stamped as correct. The superintendent and his deputy, and all local sealers and deputies have the powers of peace officers. They may enter private places of business for inspection purposes, and may make arrests and institute prosecutions when fraud in weighing or measuring is discovered. They may seize weighing or measuring instruments that are below standard, and may destroy any such that are not capable of being repaired.

**150. The State Water Commission.**<sup>1</sup> — This commission consists of the governor, the state engineer, and

<sup>1</sup>Statutes of 1913, Chapter 586.

three other members appointed by the governor. The term of office is four years, and the salary of each of the appointed members is \$5000 a year. The office of the commission is in Sacramento. It is authorized to employ a secretary, and such other assistants as it may require at such salaries as it may determine upon.

It is the duty of the commission to protect the interests of the people in the public waters of the state. It must investigate the various streams and lakes of the state in order to determine to what extent water and its use have been filed upon and appropriated by private individuals and corporations. Every such appropriation is declared to be void unless the water is actually being put to some useful purpose, or unless preparations for using it are being carried forward in good faith. One of the principal duties of the commission is to prevent the electric power sites of the state from being acquired in perpetual ownership by private corporations. If all, or a large percentage, of such sites should be thus acquired, and should fall into the hands of some great combination or trust, the people of California would be compelled to pay unfair prices for electric power with little hope of redress. No future appropriations of water or its use may be made except by permission of the commission. Applications must be made to the commission according to details worked out in the law. Every case is investigated and if the commission approves, it issues a license to the person or corporation making the application. Each license is granted under specific conditions as to the manner in which the water is to be used, and the commission has power to revoke any license at any time if these conditions are disregarded. Certain fees must be paid when applications

are filed, and after each license is granted a certain amount must be paid each year to the state, the amount in each case being determined by law according to the quantity of water used.

**151. The State Mining Bureau, and Mineral Cabinet.**<sup>1</sup> — Mining has been one of the most important industries of California from the first. The mining bureau is simply a bureau of information concerning this great industry. It is under the control of a state mineralogist, who is appointed by the governor for four years at a salary of \$3600 a year. The office of the mineralogist, which is the headquarters of the bureau, is in the ferry building in San Francisco. In the same building the bureau maintains a large collection of mineral specimens, and a library of some 5000 books and pamphlets, all bearing on the mining industry of the state. The library also contains numerous maps showing the locations of known mineral deposits, and models and drawings of machinery used in mining processes.

The mineralogist must investigate the operations of persons and corporations dealing, or purporting to deal, in mining stocks, bonds, lands, or other property, with a view to exposing and prosecuting those who are guilty of fraud. He may appoint such assistants as may be necessary to make these investigations, and to carry on the other work of the bureau. It is his duty from year to year to add to the collection of mineral specimens, books, pamphlets, maps, and drawings and models of mining machinery. He must biennially make a detailed report to the governor showing the results of his work and setting forth the condition of the mining industry in the state. He must also from time to time issue bulletins summing up the information which he has collected.

The state mineral cabinet consists of a number of cases of choice mineral specimens in the Crocker Art Gallery in Sacramento. The exhibit is under the control of three trustees appointed by the governor to serve during his pleasure without pay.

**152. The Fish and Game Commission.**<sup>2</sup> — Our state laws contain many provisions for the protection of fish and

<sup>1</sup> Statutes of 1913, Chapter 679; Statutes of 1907, page 935.

<sup>2</sup> Political Code, §§ 642, 643.



game.<sup>1</sup> Some of these provisions are as follows: that certain kinds of fish and game may not be killed at certain times of the year; that certain kinds of fish may be caught only with hook and line; that no fish may be caught through the ice; that certain kinds of fish may not be caught with nets of less than a certain specified mesh; that trout of less than one pound in weight may not be bought or sold; that no person may place a dam across a stream without providing a way for fish to pass up and down; that certain kinds of fish and game must never be killed; that birds' nests and eggs must never be destroyed; that no person may use more than one dog in hunting deer, etc.

The fish and game commission was created to enforce these laws. It consists of three members appointed by the governor to serve during his pleasure without pay. The senate must approve the appointments. The commission maintains its office in San Francisco. Its most important powers and duties are as follows:—

1. To appoint a sufficient number of assistants to enforce the fish and game laws of the state. There are some two or three hundred of these assistants scattered throughout the state, who have the powers of peace officers in enforcing the fish and game laws. Some receive regular salaries, but most of them are paid only for the bona fide arrests they make.

2. To establish and maintain hatcheries for the purpose of stocking the waters of the state with fish. Such hatcheries are established at Sisson, Siskiyou county; at Tahoe and Tallac on Lake Tahoe; at Wawona, Mariposa county; at Brookdale, Santa Cruz county; on the Eel river in Hum-

<sup>1</sup> See section 253, article IV, of the state constitution.



boldt county, and in other places. Fish eggs are procured in countless numbers and are hatched in these hatcheries. The young fish are then distributed to different parts of the state, where they are placed in lakes and running streams. The commission has a special car equipped for transporting the young fish.

3. To raise game birds and other animals for distribution on the public lands or elsewhere in the judgment of the commission. For this purpose the commission has established a game farm in Alameda county.

4. To sell licenses to persons who wish to fish or hunt for sport or for commercial purposes, as well as to persons who wish to deal in fish or game. These licenses are also sold by county clerks. The law specifies the amount that must be paid for each kind of license. The receipts from this source, which amount to over \$150,000 each year, are placed by the treasurer in the "fish and game preservation fund" to be used by the commission in carrying on its work.

**153. The Horticultural Commissioner.**<sup>1</sup> — The state horticultural commissioner is at the head of a great state system which exists for the purpose of protecting our horticultural interests, including the raising of fruits, nuts, vegetables, and ornamental trees and plants. In practice, the department does not confine its attention to these interests, but gives valuable assistance to the growers of alfalfa, cotton, potatoes, and other farm products. The system includes a horticultural commissioner and certain deputies, quarantine guardians, and other assistants, appointed by him; as well as all county commissioners, deputies, and inspectors. The state commissioner is ap-

<sup>1</sup> Statutes of 1911, page 1127; Political Code, § 2319 seq.; Statutes of 1899, page 91.

pointed by the governor to serve for four years at a salary of \$4000 a year. His main office is in Sacramento, but he maintains an office also in San Francisco. His principal duties are as follows:—

1. To guard the state against the introduction of tree or plant diseases and destructive insects from other states or from foreign lands. All shipments of nursery stock, fruit, or seed from foreign nations are inspected at the port of entry by horticultural quarantine deputies, who work in conjunction with the United States customs officials. Shipments from other states must not be taken from the custody of transportation companies until inspected. Diseased or infested stock is rendered harmless by fumigation or other treatment; or if this is impossible, it is either destroyed or returned to the place from which it came. Quarantine guardians<sup>1</sup> in all parts of the state have an important part in this work of inspection. The commissioner, with the approval of the governor, may quarantine the state against shipments from places known to be dangerous.

2. To eradicate tree or plant diseases and destructive insects found within the state. Any part of the state may be quarantined at any time. County commissioners and quarantine guardians must be vigilant in order that diseases and pests may be promptly located and reported to the state commissioner.

3. To rear and distribute beneficial insects. For this purpose the commissioner maintains an insectory on the capitol grounds in Sacramento. This building is con-

<sup>1</sup> County horticultural officers are practically all appointed state quarantine guardians by the state commissioner. But there are also quarantine guardians who are not county officers.

structed on the plan of a greenhouse and is devoted entirely to the rearing of insects and other life forms which prey upon destructive insects. These enemies of dangerous pests are frequently obtained from foreign nations or from other states. The United States government has trained entomologists searching for them in foreign lands, and the department of agriculture, which has charge of all such work, heartily coöperates with the horticultural commissioners of the various states.

4. To collect books, pamphlets, and periodicals containing information relating to horticulture; and to collect statistics showing the condition and progress of horticulture in this state and elsewhere. He must require annual reports from all county horticultural commissioners. He must issue bulletins from time to time, making public any information in his possession which in his judgment will be of benefit to the horticultural interests. He must make a detailed report each year, showing the work of his department and accounting for all money received and expended. This report is made to the governor on even-numbered, and to the legislature on odd-numbered, years.

This account of the work of the horticultural commissioner is exceedingly brief. Any person wishing more detailed information should write to the commissioner for bulletins and reports.<sup>1</sup>

<sup>1</sup> The legislature of 1913 passed a law creating a state board of viticultural commissioners to consist of nine persons appointed by the governor to serve without pay for four years. The state is divided into six districts and one commissioner must be appointed from each district, the other three being appointed from the state at large. The board appoints a secretary who gives his entire time to his official duties. His office is in Sacramento. It is the duty of the board to "collect and disseminate useful information relating to viticulture, including the best methods of growing grapes and handling the grape and its products," to study diseases and pests of vineyards and methods of control, "to study methods of coöperation among grape growers and manufacturers of grape products," and to arrange for meetings of persons interested in grape culture. This board has no connection with the horticultural

**154. The State Veterinarian.**<sup>1</sup>—The state veterinarian is appointed by the governor for a period of four years at a salary of \$3600 a year. The governor appoints also an assistant at a salary of \$3000 a year. The veterinarian appoints a deputy and a clerk. The office of the veterinarian is in the capitol, but he and his assistant spend a good part of their time traveling about the state in the discharge of their duties. Their traveling expenses, of course, are paid by the state.

It is the duty of the veterinarian to protect the health of domestic animals in the state. All veterinary surgeons are required by law to report cases of contagious diseases to him. With the consent of the governor, he may quarantine the state against live stock from any other state or nation where infection is known to exist; and in a similar manner he may quarantine any part of the state. When any contagious live stock disease is discovered in any county, he must report the matter to the board of supervisors, who must take steps immediately to eradicate the disease. He has general supervision over all county live stock inspectors. The legislature in 1909 and in 1911 made special appropriations for the appointment of sheep inspectors by the state veterinarian to eradicate a special sheep disease known as scabies. Owners of sheep infected with this disease must administer such treatment as the inspector directs. The veterinarian must make a biennial report to the governor as to the work of his office.

It is evident that the law at present does not provide a complete scheme for the protection of live stock against diseases. Sufficient

tural commissioner, but it must depend upon his department to put into practice any information that it may gather relative to grape diseases.

<sup>1</sup> Statutes of 1909, page 431.

provision is not made for local inspectors, as county boards of supervisors may or may not appoint live stock inspectors, and the sheep inspectors above referred to are the only ones that may be appointed by the state veterinarian.<sup>1</sup>

**155. The State Board of Agriculture.**<sup>2</sup> — This board consists of twelve members appointed by the governor. The term of office is four years and they serve without pay. Their principal duty is to provide for and conduct the annual fair which is held in the fall of the year at Sacramento. The fair grounds comprise eighty acres of land located outside of the city limits. The land belongs to the state and is equipped with buildings and other necessary improvements. The office of the board is at the grounds. The legislature appropriates money for the employment of a secretary, an assistant secretary, a stenographer, and a night watchman. Money is also appropriated to be used by the board in collecting, compiling, and publishing each year statistics, giving information as to the yield of "agricultural and other farm and industrial products" in the state and showing the number of acres of land under irrigation, including information as to new irrigation enterprises.

The state board of agriculture is referred to in the codes and statutes as the "state agricultural society." The original state agricultural society was incorporated in 1854. The plan of organization provided for a board of twelve directors to be appointed by the governor, and for a general membership to consist of those who paid the regular dues. There are no such members at present, but the board of directors, or the state board of agriculture, is still referred to as "state agricultural society."<sup>3</sup>

<sup>1</sup> The appropriation for the purpose amounts to less than \$10,000 each year.

<sup>2</sup> Statutes of 1880, page 212.

<sup>3</sup> The legislature has divided the state into forty-five agricultural districts in which associations may be formed for the purpose of holding district fairs; and such fairs are from time to time held in different parts of the state.

**156. The State Dairy Bureau.**<sup>1</sup>— This branch of the state government is under the control of a board of three members appointed by the governor, each for four years. They serve without pay, but their expenses incurred in the public service are paid. They employ a secretary and a number of trained inspectors. The office of the secretary is in San Francisco. The most important duties of the bureau are as follows:—

1. To prevent the sale of milk or milk products from dairies where diseased cows are kept, or where unsanitary conditions exist.

2. To prevent the sale of dairy products that are adulterated, or mislabeled, or that contain chemical preservatives, thickening material, or coloring matter.

3. To compel all manufacturers of oleomargarine and other substitutes for butter to label such manufactured products properly. Also to see that all cheese manufactured in the state is so branded as to show whether it is "full cream," "half-skim," or "skim" cheese.

4. To prevent short measure and short weight in selling dairy products.

5. To compile and disseminate statistics and useful information relative to the dairy industry.

To enable the bureau to enforce these and other regulations imposed by law, every dairy where more than four cows are kept, and every factory where milk products are manufactured, must file with the secretary of the bureau, on blanks furnished by the secretary, a statement giving full details as to the size, output, and general character of the dairy or factory. Furthermore, every person or corporation engaged in manufacturing or selling oleomargarine, or any other substitute for butter, must annually procure a license from the secretary of the bureau. A fee established by law is charged for each

<sup>1</sup> Statutes of 1897, page 68.

license. The bureau is supported by the money thus collected, in addition to appropriations made by the legislature.<sup>1</sup> The bureau sends inspectors and chemists to all parts of the state to see that the dairy laws are enforced. District attorneys and peace officers are required to coöperate with them in their work. They coöperate with the local health officers in preventing the sale of unhealthful dairy products; and they report all cases of diseased cows which come under their observation to the state veterinarian. The bureau must report biennially to the legislature.

**157. The Labor Commissioner.**<sup>2</sup>—The labor commissioner is at the head of the state bureau of labor statistics. He is appointed by the governor for a term of four years. His office is in San Francisco, but he maintains a branch office in Los Angeles. He appoints a deputy commissioner for the main office, and a deputy and an assistant deputy for the Los Angeles office. He receives \$3000 a year, each deputy \$2400, and the assistant deputy \$2100. He is also authorized to appoint an attorney at a salary of \$2400 and a "statistician, a stenographer, and such agents and assistants as he may from time to time require." His most important duties are as follows:—

1. To compile statistics relative to labor conditions in the various occupations and callings in the state. These statistics are to give information relative to hours of labor; the amount of labor required; the cost of living; the number of people depending on their daily labor for support; the value of lands, buildings, machinery, and other means of production; the number, age, and sex of the unemployed; sanitary conditions under which people work; etc. County assessors are required to assist in the collection of this information. The commissioner and his deputies and agents

<sup>1</sup> The appropriation amounts to something over \$20,000 a year.

<sup>2</sup> Statutes of 1883, page 27.

have free access to factories and other places where people are employed, and have the power to summon witnesses. The information collected must be embodied in a biennial report to the legislature.

2. To grant licenses to proprietors of employment agencies. No person may engage in this business without such a license. Each license is granted for one year. License fees are collected according to law, and the money thus received goes into the labor bureau fund.

3. To enforce labor laws. He is specially required to enforce the child labor law, the law forbidding unsanitary conditions in places where people are employed, the law forbidding the use of unsafe scaffolding, and other laws. Inspectors are sent to all parts of the state, and if discovery is made that labor laws are being violated, arrests and prosecutions follow, through the aid of local peace officers and district attorneys. (See article XIX, and sections 15, 17, 18, article XX, of the constitution.)

✓ **158. Industrial Commissions.**<sup>1</sup> — There are two important state commissions that have to do with the industrial life of our people: the industrial accident commission and the industrial welfare commission.

The *industrial accident commission* consists of three members appointed by the governor each for four years at a salary of \$5000 a year. It has its principal office in San Francisco and maintains a branch office in Los Angeles. It is authorized to appoint an attorney, a secretary, a manager of the state compensation insurance fund, a superintendent of the department of safety, and such other assistants, experts, inspectors, and employees as may be necessary.

<sup>1</sup> Statutes of 1913, Chapters 176 and 324.



The law provides that if a person is injured or killed while working for another, the employer is liable for damages, except in the case of employees engaged in farm work or in domestic service. To determine the amount of the liability is often a very complicated matter. The law contains many regulations for the adjustment of such disputes, and creates the industrial accident board to carry these regulations into effect. Cases are taken up by the commission on applications of interested parties. It carefully investigates each case, and renders its decision and awards damages according to the facts. Any award of the commission may be filed with the clerk of any superior court in the state, and is thereafter regarded as a judgment of that court. Any party to the dispute may appeal from the decision and award to the state supreme court or to the district court of appeals, but in reviewing such cases these courts are subject to certain limitations mentioned in the law.

In order that liability for industrial accidents may not prove to be too heavy a burden for employers, the state undertakes to insure them against loss from such accidents. An insurance fund is provided and placed in the charge of the industrial accident commission, which has full power to establish premium rates and to adopt regulations for administering the fund. It is intended that this enterprise shall be self-supporting, but that the state shall make no profit from it. No employer is compelled to take out any insurance with the state.

The commission is also given power to inspect places of employment and to compel employers to take such precautions and to establish such conditions as will make accidents improbable and safeguard the health of employees.

The *industrial welfare commission* consists of five members

appointed by the governor. One of their number must be a woman. The term of office is four years, and each member receives, in addition to traveling expenses, \$10 a day for the time devoted to the public service. The commission appoints a secretary "and such expert, clerical, and other assistants as may be necessary."

"It shall be the duty of the commission to ascertain the wages paid, the hours and conditions of labor and employment in the various occupations, trades, and industries in which women and minors are employed." The word "minor" here refers to children under eighteen years of age. The commission or its assistants may inspect any place where women and children are employed, and may require reports at any time from such places. "If, after investigation, the commission is of the opinion that, in any occupation, trade, or industry, the wages paid to women and minors are inadequate to supply the cost of proper living, or the hours or conditions of labor are prejudicial to the health, morals, or welfare of the workers," the commission may call a conference composed of representatives of the employers and workers, for the purpose of getting at all the facts in the case. After this the commission may fix a "minimum wage" that must be paid, prescribe the maximum hours of employment per day, and establish a standard of conditions looking toward health and safety that must be maintained. Any employer who disregards any order of the commission in respect to any of these matters is guilty of a misdemeanor and is subject to fine or imprisonment or both. This commission was created by the legislature of 1913. It is clearly intended to protect the weaker members of society from industrial oppression and the misery and degradation growing out of it.

159. **The State Board of Health.**<sup>1</sup> — As we have seen (§ 99), our general state system for the protection of the public health provides for the following boards and officers : —

1. The state board of health consisting of seven members, appointed by the governor, with the approval of the senate.

2. County health officers appointed by boards of supervisors.

3. Deputy county health officers for unincorporated towns, appointed by county supervisors.

4. City boards of health and health officers appointed by city councils or in some other manner provided by city charters.

The members of the state board of health are appointed for four years and serve without pay. They appoint a secretary, who is their executive officer. His salary is \$3600 a year and his office is in the capitol. They also appoint an assistant secretary, a chemist, and various other employees. An attorney for the board is appointed by the governor. The most important duties of the department are as follows : —

1. To protect the people of the state against contagious diseases. The details of this work are mainly in charge of the local health officers. If they are unable to locate the source of an epidemic, the state board sends trained inspectors to assist. The state board may assume entire control of a situation on the request of the local health officers ; or, without such request, if it is convinced that such action is necessary. Local health officers must report all cases of contagious diseases to the state board. The board may quarantine any part of the state. It must prevent the in-

<sup>1</sup> Political Code, § 2978 *seq.*

troduction of contagious diseases from other states.<sup>1</sup> To aid in the diagnosis of doubtful cases, it maintains a hygienic laboratory in Berkeley, to which health officers may send specimens for examination.

The board maintains a special department of tuberculosis to register all persons in the state who are afflicted with this disease, and to supervise all hospitals, sanitariums, and other places where tuberculous patients are treated. The board appoints a director for this department, and the governor appoints an advisory board of four members. The members of this board receive no pay, but their traveling expenses incurred in the public service are paid by the state. It makes recommendations to the state board of health relative to the treatment of tuberculosis.

2. To keep a record of marriages, births, and deaths. As far as possible, the cause of every death must be recorded.

3. To prescribe the form of permits issued by local officers for the burial, cremation, or transportation of the bodies of deceased persons.

4. To enforce the state pure food law. The state board maintains a pure food and drug laboratory in Berkeley. Samples of foods that are offered for sale are purchased and sent to the laboratory by special agents appointed for the purpose, and by county sheriffs who are constituted such agents by the pure food act. If any article is found to be adulterated or mislabeled, the person who is responsible is prosecuted. This means the person from whom it was purchased, unless he is able to show a written guarantee from the manufacturer or wholesaler, from whom he purchased it, to the effect that the article is not adulterated

<sup>1</sup> The federal government protects us against contagious diseases from foreign countries.

or mislabeled; in which case the person making the guarantee is responsible.

5. In general, to enforce all state laws that refer to the public health. The state board is given power to adopt any measures that may be necessary for this purpose. In carrying on its work, the department coöperates at all times with the national health officers.

6. To present a biennial report to the governor.

7. The board maintains a department for examining and registering graduate nurses. This department is in charge of a director appointed by the board. No person may be designated as a "registered nurse" unless registered by the department. Graduate nurses may be registered without examination up to July 1, 1914, but after that date only those may be registered who pass an examination given by the state board of health. Certificates of registration are given to all registered nurses.

**§ 160. The State Board of Pharmacy.**<sup>1</sup> — This board consists of seven members appointed by the governor. The term of office is four years and each member receives eight dollars a day for the time he devotes to the public service. The board has its office in San Francisco and appoints a secretary, a treasurer, and such inspectors as may be necessary. Its most important duties are as follows: —

1. To enforce all state laws relative to the sale of drugs, medicines, and poisons. Inspectors are employed to visit places where such articles are sold. If impure or mislabeled articles are found, prosecutions follow. Inspectors, working in conjunction with local peace officers, also endeavor to arrest and convict persons who sell opium, morphine, cocaine, and other drugs and preparations, contrary to law.

<sup>1</sup> Statutes of 1905, page 535; Statutes of 1907, page 766.

2. "To examine and register as pharmacists and assistant pharmacists all applicants whom it shall deem qualified to be such." The law imposes numerous conditions that must be observed by the board in this matter, the aim of which is to make certain that drugs shall be handled by competent and experienced persons. Every laboratory or store where drugs are sold or where prescriptions are filled must be in the charge of a registered pharmacist. Pharmacists and assistant pharmacists must renew their registrations annually, paying to the secretary of the state board the fees required by law. The expenses incurred by the board are paid from these fees. All receipts and expenditures must, of course, be strictly accounted for.

**161. Boards of Examiners.**—No person may engage in the profession or calling of a physician, a dentist, an optician, a veterinary surgeon, an architect, or a public accountant, in this state, without first obtaining a state certificate granting him or her permission so to do. The law provides for boards of examiners to examine candidates and grant certificates to those whom they find to be qualified.

*The state board of medical examiners* consists of eleven members appointed by the governor, each for two years. Five are appointed from the allopathic system of medicine, and two each from the homeopathic, eclectic, and osteopathic systems. The board grants three kinds of certificates: one kind for the practice of medicine and surgery, another for the practice of osteopathy, and another for the practice of other systems of treatment.<sup>1</sup>

*The state board of dental examiners* consists of seven members appointed by the governor, each for four years.<sup>2</sup>

<sup>1</sup> Statutes of 1907, page 252.

<sup>2</sup> Statutes of 1901, page 564.

*The state board of optometry* consists of three members appointed by the governor, each for six years.<sup>1</sup>

*The state board of veterinary medicine* consists of five members appointed by the governor, each for four years.<sup>2</sup>

*The state board of architecture* consists of ten members appointed by the governor, each for four years. Five must be appointed from northern, and five from southern, California, the northern boundaries of San Luis Obispo, Kern, and San Bernardino counties being the dividing line. The members may meet as a state board or as district boards. Examinations are held in San Francisco and Los Angeles by the northern and southern district boards respectively, according to rules adopted by the entire board.<sup>3</sup>

*The state board of accountancy* consists of five members appointed by the governor each for four years.<sup>4</sup>

Each of these various boards of examiners elects a president and a secretary, and carries on its work according to law. Each collects fees from the candidates whom it examines. The money thus collected is used to pay expenses, including the amount allowed per day to the members for the time they devote to the public service.

✓ **162. State Hospitals.**<sup>5</sup> — The care of the insane and feeble-minded is a heavy burden on the state. This is made clear by the fact that the state has invested in institutions for this purpose over \$7,500,000, and that the taxpayers must provide over \$1,750,000 a year for their support. There are seven such institutions. Six of these are hospitals for the insane, located at Stockton;

<sup>1</sup> Statutes of 1913, chapter 598.

<sup>2</sup> Statutes of 1901, page 641.

<sup>3</sup> Statutes of 1907, page 919.

<sup>4</sup> *Ibid.*, page 645.

<sup>5</sup> Statutes of 1909, page 56; Political Code, § 2136 *seq.*

Napa; Agnews, Santa Clara county; Talmage, Mendocino county; Patton, San Bernardino county; and Folsom, Sacramento county.<sup>1</sup> The hospital at Folsom is for the criminal insane. The seventh is the home for feeble-minded children at Eldridge, Sonoma county. In March, 1912, the state hospitals had 7790 patients, with 653 on parole; and the home for feeble-minded children had 939, with 16 on parole. It should be pointed out that, according to the report of the commission in lunacy for 1910, of the 1800 cases committed to the various hospitals during the preceding year, nearly 500 had become insane through the use of liquor, morphine, and cocaine, and through other forms of dissipation.

A state board known as the "commission in lunacy" has general supervision over all these institutions. It consists of the general superintendent of state hospitals, the secretary of the state board of health, the governor, the secretary of state, and the attorney-general. It establishes rules for the institutions under its jurisdiction, fixes the salaries of their officers and determines the number of their employees. It keeps complete statistics concerning these institutions and presents a report to the legislature every two years. The general superintendent of state hospitals is appointed by the governor, and his salary has been fixed by the commission at \$5000 a year.<sup>2</sup> He is the only member of the commission who gives his entire time to the supervision of state hospitals.

<sup>1</sup> The legislature of 1913 provided for another hospital for the insane to be located in southern California "preferably near to the seacoast." A commission is provided to select the site and to put up necessary buildings, and \$200,000 is appropriated for the purpose.

<sup>2</sup> The governor also appoints an officer known as the state dental surgeon, whose duty is to perform dental services for the inmates of the various hospitals. His salary is \$2400 a year.



Each institution has a board of five managers appointed by the governor.<sup>1</sup> The term of office is four years, and each member receives ten dollars a day for the time he devotes to the public service. Each board has general supervision of the hospital under its charge, subject to the jurisdiction of the lunacy commission. It appoints a medical superintendent and a treasurer. The medical superintendent is the chief executive officer of the institution. With the approval of the board of managers, he appoints all subordinate officers and employees.

Insane persons are committed to the state hospitals by the order of the superior court. The legislature of 1911, however, provided that persons who are suffering from mental diseases may be admitted for treatment as voluntary patients. The hospitals are supported mainly by state appropriations, but patients who are financially able to do so are required to pay fifteen dollars a month each.

✓ **163. State Prisons.** — The two state prisons are located at San Quentin, Marin county, and at Folsom, Sacramento county. The land, buildings, and other property represent (1913) an investment of over \$2,500,000. In March, 1912, the two prisons contained 3002 prisoners and 501 were out on parole.

Both prisons are under the control of a board of five prison directors appointed by the governor, with the approval of the senate, each for ten years.<sup>2</sup> Their office is in the ferry building in San Francisco. Their most important duties are as follows:—

1. To appoint a warden and a clerk for each prison.

<sup>1</sup> The state lunacy commission is the board of managers of the Folsom hospital, no local board being provided for.

<sup>2</sup> Read article X of the state constitution.

2. To establish rules for the management of the prisons.
3. To determine the number of employees for each prison.
4. To purchase supplies for the prisons.

5. To grant paroles to prisoners for good conduct. The directors appoint a parole officer and certain assistants to keep track of prisoners on parole. These prisoners are responsible to the directors until their terms have expired, and must report to the parole officer once a month. The directors may cancel the parole of any prisoner at any time and order him back to prison.

6. To provide for the employment of prisoners. A factory for making jute bags is operated at San Quentin and a rock crusher at Folsom. The legislature of 1911 provided for the manufacture, at the two prisons, of furniture, materials, and supplies to be sold to the state as well as to counties, cities, and school districts for use in their public institutions. Machinery was soon installed at San Quentin, and this prison, which had previously cost the state over \$300,000 a year, is now partially self-supporting. Machinery is soon to be installed at Folsom (1913).

**164. The Bureau of Criminal Identification.**<sup>1</sup>—The bureau of criminal identification is in the charge of a director, who is appointed by the board of prison directors to serve during the pleasure of the board. The board must provide an office for the director and furnish him with sufficient help.<sup>2</sup> His salary is \$1800 a year. His most important duties are as follows:—

1. So far as possible to collect and keep on file in his office, photographs, measurements, finger print records, and descriptions of all persons who have been convicted and imprisoned, or otherwise punished, for crimes committed "in this or any other state, territory, or

<sup>1</sup> Statutes of 1905, page 520.

<sup>2</sup> For some time the office was in San Francisco, but it has recently been removed to San Quentin prison.

possession, of the United States of America." These items of information are obtained from United States prison authorities, and from prison authorities, jail keepers, and police departments of this and other states. Every Saturday all such items of information relative to persons who have been discharged during the week must be sent to the office of the director from every prison and other penal institution in this state.

2. To furnish any information on file in his office relative to any person, on the request of any of the proper federal authorities, or of the proper authorities of any city or county of this or any other state.

**165. State Reform Schools.**<sup>1</sup> — California has two reform schools: one at Whittier near Los Angeles, and one near Ione, Amador county. The Whittier state school is a general school for boys between the ages of seven and sixteen, and for girls between the ages of seven and twenty-one. The school at Ione is known as the Preston School of Industry, and is for boys between the ages of eight and twenty-one. No person is committed to either school who is over eighteen years of age. All commitments must be by the superior or juvenile courts, and must be made in every case after some crime or other delinquency has been proved (§ 210).

In 1913, the land, buildings, and other property of the two reform schools represented an investment of over \$1,000,000. The legislature is required to appropriate over \$250,000 each year for the support of these two institutions. In March, 1912, there were detained at the Preston school 404 boys, and 299 were out on parole; and at the same time there were at the Whittier school 247 boys and 44 girls, with a total of 313 on parole.

The legislature of 1913 provided for a third reform school which is to be for girls only, and to which all the girls in the Whittier school are to be removed. This school is to be under the control of five trustees appointed by the governor. They are to select and

<sup>1</sup> Statutes of 1889, page 111; Statutes of 1893, page 39.

purchase a site for the school, and the department of engineering is to put up necessary buildings.

The two schools at Whittier and Ione are each under the control of a board of three trustees appointed by the governor. The appointment in the case of the Whittier board must be confirmed by the senate. The term of office is four years, and they serve without pay. The board of the Preston School of Industry appoints a superintendent, a military inspector, a parole officer, and a secretary. The superintendent appoints such other employees as the board directs. The board of the Whittier school appoints a superintendent, a parole officer, and all other assistants and employees. The superintendent of each school is its chief executive officer, and manages the institution according to the rules and regulations adopted by the boards of trustees.

**166. The Institution for the Deaf and the Blind.**<sup>1</sup>— This institution is housed in a fine group of brick buildings located in Berkeley. The land, buildings, and other property are equal in value to about \$1,150,000. The maintenance of the institution costs the state nearly \$100,000 a year. The institution is a school for deaf, dumb, and blind residents of the state, "of suitable age and capacity." Room, board, and instruction are furnished free of charge, and even clothing is supplied to those who are unable to clothe themselves. There are about one hundred girls and somewhat more than that number of boys at the school.

The institution is under the control of a board of five trustees who are appointed by the governor with the approval of the senate, to serve four years without pay.

<sup>1</sup> Political Code, § 2236 *seq.*

The trustees establish rules and regulations for the institution, and appoint the principal, teachers, matrons, janitors, and all other employees.

**167. The Industrial Home for the Adult Blind.**<sup>1</sup> — This institution is located in Oakland. The land, buildings, and other property represent an investment of over \$175,000. It costs the state about \$40,000 a year to maintain this institution. The home was established to furnish instruction in certain trades to adult blind people, to provide a home for those who desire to remain as workmen after they have learned trades, and to furnish a home for aged blind people who are unable to work. No charge is made for instruction, and aged blind people in indigent circumstances are given a home free of charge. Able-bodied men and women who live at the home and work in the factories pay a small amount for their maintenance but they receive wages for their work. Manufacturing brooms and brushes and reseating chairs are about the only kinds of work so far undertaken at the home. The receipts from this source amount to something over \$25,000 a year. The number of persons living at the home in March, 1912, was 117, of whom 22 were women.

The home is under the control of a board of five trustees, who are appointed by the governor to serve during his pleasure. They receive no compensation. They appoint a superintendent, a secretary, and other necessary officers and employees, and establish rules for the management of the institution.

**168. The State Board of Charities and Corrections.**<sup>2</sup> — This board consists of the governor and six other members appointed by him with the approval of the senate. The

<sup>1</sup> Political Code, § 2207 seq.

<sup>2</sup> Statutes of 1903, page 482.

appointed members serve without compensation, and their term of office is four years. The board appoints a secretary whose office is in San Francisco.

This board is concerned with the state hospitals, prisons, reform schools, the blind home, and the school for the deaf and blind; with county and city hospitals, orphanages, poor farms, prisons, and jails; and with all orphanages and other charitable institutions maintained by private persons or corporations. The authority of the board over these institutions is very limited. Its duties with respect to them are as follows:—

1. Concerning the public institutions mentioned, it must examine into their condition and carefully observe their methods. It may prescribe the forms according to which they must keep records and render reports. Plans for buildings for any such institution before adoption must be "submitted to the board for suggestions and criticism."

2. It has the same authority and duty with respect to all "institutions and persons receiving any state aid for the care of orphan, half-orphan, abandoned, or dependent children."

There are between forty and fifty such orphanages in the state, furnishing homes for over five thousand children. The state devotes nearly \$450,000 a year to the support of these unfortunate children.<sup>1</sup>

3. No organization, society, or person may engage in the work of placing dependent children in homes without obtaining a permit from the board.

4. The board must make a biennial report to the governor as to the condition of every institution under its jurisdiction. This report must contain recommendations as

<sup>1</sup> See section 22, article IV of the constitution.

to changes that, in the estimation of the board, should be made in the laws governing these institutions, or in the methods employed in their management. This report usually has great weight with the legislature and thus the board has considerable influence in spite of the fact that it has little direct authority.

✓ **169. The Commission of Immigration and Housing.<sup>1</sup>**

— This commission consists of five members appointed by the governor to serve during his pleasure. They receive no compensation, but their traveling expenses are paid by the state. The main office of the commission is in San Francisco, but it is authorized to establish branch offices in other places according to its judgment. It appoints a secretary and may employ such other experts and assistants as it may require.

A good many immigrants from Europe have been coming to California within recent years, and it is expected that still larger numbers will come after the opening of the Panama Canal. It is very much to be hoped that these people will not congregate in cities to the extent that immigrants have done in the eastern part of our country, but that they will move into the smaller towns in the rural sections of the state. To induce them to do so is the most important duty of the commission of immigration and housing. The commission must collect information relative to the demand for labor on the farms of California, and also with reference to "the agricultural possibilities and opportunities for settlement on land within the state." It must collect information also relative to the demand for labor in other industries, and must coöperate with state and municipal employment bureaus, as well as with private employment agencies, to

<sup>1</sup> Statutes of 1913, chapter 318.

the end that immigrants may find employment in the places where they are needed. It must put the information which it collects in such form that it may be of service to immigrants and must devise methods for distributing it among them.

It is the further duty of the commission to give constant attention to the general interests of immigrants: to see that they receive fair treatment in places where they are employed, and in places where they may be temporarily lodged upon their first arrival; to see that they are not imposed upon by railroad or steamship companies, or by pawn brokers, real estate agents, or other persons or corporations with whom they may have dealings; and to see that state laws and municipal ordinances relative to tenement houses are enforced. The method of the commission in attending to these various matters is to make investigations and to bring cases that need attention to the notice of local authorities.

✓ **170. The Veterans' Home of California.**<sup>1</sup> — This institution is located at Yountville, Napa county. Its property, consisting of 910 acres of land, and some forty-five buildings, has a value of nearly \$425,000. It was formerly owned and managed by the Veterans' Home Association, a corporation formed by the Grand Army of the Republic, and the Associated Veterans of the Mexican War; but it was deeded to the state by the association in 1897. It is under the control of a board of seven trustees appointed by the governor. Their term of office is four years and they serve without compensation. They appoint a commandant, who is the chief executive officer of the home, and other necessary officers and employees. There were 928 veterans

<sup>1</sup> Statutes of 1905, page 471.



present at the home in 1910. No charge is made to them for their support. The home is maintained by appropriations from the state and national governments. The federal government allows \$100 a year for each veteran maintained at the home. The government in addition maintains a veterans' home at Sawtelle, Los Angeles county.

**171. The Women's Relief Corps Home.**<sup>1</sup>—This institution is located at Evergreen, Santa Clara county. The property consists of five and one half acres of land and a number of buildings, valued at nearly \$25,000. The home is under the control of a board of trustees consisting of eleven members appointed by the governor. Their term of office is two years and they serve without compensation. They appoint a matron and other officials and employees. The home is intended for ex-army nurses, and widows, mothers, daughters, and sisters of Union veterans of the Civil War. The institution is supported by appropriations from the state treasury.

**172. The State Library.**<sup>2</sup>—The state library in the capitol building is under the control of five trustees appointed by the governor to serve four years without pay. They appoint a librarian and assistants, make rules for the library, and administer the library fund. This fund consists of appropriations by the legislature amounting (1913) to nearly \$100,000 a year. Books are used by state officers, and by people throughout the state who receive them directly, or through local libraries. If received through *county* libraries, the state pays the transportation charges.

The state librarian receives \$3600 a year. In addition to his work in Sacramento, he is chairman of the state board of library examiners, which, besides himself, consists of the city librarians of San Francisco and Los

<sup>1</sup> Statutes of 1907, page 702; Political Code, § 2210 *seq.*

<sup>2</sup> Political Code, § 2292; Statutes of 1899, page 30, as amended in 1913.

Angeles. No person may be appointed as a county librarian in the state without a certificate from this board. Examinations are given to those desiring such certificates. The state librarian has general supervision over all county libraries, and county librarians must make reports to him. He calls a convention of county librarians each year, which they are obliged to attend at the expense of their respective counties.

**173. The Superintendent of State Printing.**<sup>1</sup> — The superintendent of state printing has charge of the state printing office. He is appointed by the governor, with the approval of the senate, to serve during the pleasure of the governor. His salary is \$5000 a year. The printing plant occupies an entire building on the capitol grounds. The superintendent appoints necessary assistants and has entire control of the establishment. All supplies are purchased under the sanction of the state board of control. The office prints state school textbooks; the reports of state officers; laws passed by the legislature; the journals of the legislature; blank forms for the supreme court, the governor, secretary of state, and other state officers; and numerous other pamphlets, bulletins, and public documents.

**174. The Superintendent of the Capitol and Grounds.**<sup>2</sup> — This official is appointed by the governor to serve during his pleasure. His salary is \$3000 a year. He has entire control of the capitol and grounds and is given authority to appoint gardeners, special policemen, janitors, engineers, electricians, and other employees. He purchases all fuel and other supplies for the building and grounds under the sanction of the board of control.

**175. The Code Commission.**<sup>3</sup> — The code commission, or "commission for the revision and reform of the law" as it is often called, is not a permanent branch of the state government, but is provided for from time to time as the legislature considers that its services are needed. Previous to 1903, when it existed, it consisted of three mem-

<sup>1</sup> Statutes of 1911, page 1127.

<sup>2</sup> *Ibid.*, page 572.

<sup>3</sup> Statutes of 1907, page 294; Statutes of 1909, page 997.

bers; since then it has consisted of one member. The term of the last commissioner expired October 1, 1911.

A code is the systematic arrangement of the law according to topics and subtopics, properly indexed, and sanctioned by the legislature. In 1868, the legislature appointed a commission of three members to codify the laws of the state. The commission was appointed for two years, but as it had not completed its work at the end of that time, the legislature provided for the appointment of a second commission of three members, by the governor. This commission continued the work of the first, and in 1872 submitted to the legislature a complete codification of the laws of California as they then existed. The legislature approved the work, and the code of 1872, as amended to date, is still in force. It consists of four divisions, each printed in a separate volume: The Political Code, The Civil Code, The Code of Civil Procedure, and The Penal Code. A fifth volume, called the "General Laws of California," accompanies the codes.<sup>1</sup> It contains either full texts of, or references to, all acts of the legislature, or statutes, other than those that consist of amendments to the codes.

A code commissioner is provided for from time to time to make such recommendations to the legislature as will enable it to correct any errors that may exist in the codes, and to keep them in harmony with the decisions of the supreme court; and also to "ascertain, determine, and designate, according to his best judgment, those statutes now in force, and those expressly or by implication repealed, and to report the same to the next legislature."

**176. State Landmarks.** — Two historic landmarks belonging to the state should be mentioned: Sutter's Fort in Sacramento and Marshall's Monument at Colma, Eldorado county.<sup>2</sup> Sutter's Fort was built in 1839 by John A. Sutter and figured prominently in the early history of California. It was donated to the state in 1891 by the Native Sons of the Golden West. It is now under the control of a board of five trustees appointed by the governor. Marshall's Monument was erected by the state at a point overlooking the spot where James W. Marshall discovered gold in 1848. It is a statue of Marshall and is in charge of a guardian appointed by the governor.

<sup>1</sup> It is customary to pluralize the word.

<sup>2</sup> The legislature of 1913 appropriated \$5000 to erect a monument in Sonoma at the spot where the bear flag was raised in 1846.

The state has spent some money for the preservation of two other landmarks: the old custom house and Colton Hall, both at Monterey. The former belongs to the national government and the latter to the city of Monterey. Colton Hall is the building in which the first state constitutional convention met in September, 1849.

✓177. **The State Civil Service Commission.**<sup>1</sup>—The legislature of 1913 passed an act creating a state civil service commission consisting of three members appointed by the governor. The term of office is four years, and the salary of each commissioner is \$3000 a year.

A rather long list of appointive positions are exempt from civil service regulations. Among these are all appointees of the legislature and the governor; superintendents, chiefs, and heads of departments and institutions; attorneys, chief deputies, head secretaries, and stenographers of all elective officers, and all boards and commissions; employees of the railroad commission, teachers, common laborers, and a few others. This leaves, subject to civil service regulations, a large number of positions filled by subordinate clerks, stenographers, accountants, inspectors, assistants, engineers, and others.

The commission must classify the positions that come under its jurisdiction, and must hold examinations throughout the state for the purpose of making up an eligible list for each class. When an appointment is to be made the appointing power notifies the commission. The commission submits three names, if it has that many on the proper list, and one of these must be accepted. Promotion in the service is attained through examination. Either the appointing power or the commission may remove for cause any appointee whose position is subject to civil

<sup>1</sup> Statutes of 1913, chapter 590.

service regulations. The commission is authorized to appoint a chief examiner and such other assistants as it may require. Many details respecting the work of the commission are here omitted, which may be ascertained by reference to the creating act. This act was passed in response to a steadily growing public sentiment that appointment to positions in the civil service of the state and of its political subdivisions, as well as in that of the nation, should be based upon merit rather than on political influence.

**178. Conclusion.**—This long list of officers, boards, and commissions, interspersed with numerous statements of powers and duties, is doubtless somewhat bewildering. It may not give evidence of a well worked out, systematic plan of government, and one has some difficulty in seeing through it all the will of a great people striving to realize itself in action. But that is exactly what the student should endeavor to see. Back of every duty imposed upon, and every power granted to, any governmental agency, should be discerned some public want which the people are trying to satisfy, or some public interest which they are trying to advance.

These officers and boards have been established from time to time as need for them has developed. The greater number has been created by the legislature, and even those that are provided for in the constitution must look to the legislature for detailed assignments of their powers and duties. The personnel of the legislature changes every two years, our public wants and interests have been increasing rapidly in number and intensity, and it is therefore not surprising that our governmental machinery should be characterized by a lack of system. In some cases the

functions of two or more departments overlap and a higher degree of centralization would seem to be both more economic and more efficient. For instance, it is difficult to see why the board of health and the board of pharmacy could not be consolidated with profit; also the board of agriculture, the dairy bureau, the office of state veterinarian, and the office of horticultural commissioner; and possibly the offices of bank commissioner, insurance commissioner, and building and loan commissioner. It furthermore seems as if the governmental machinery for the management of the state hospitals is more complicated than it should be.

Something has been accomplished along this line in recent years. The legislature of 1907, in creating the department of engineering, gave to it the work of five former departments and commissions. The legislature of 1911, in creating the state board of control to take the place of the state board of examiners, took a long step toward centralization by giving the new board greater power than the former board had exercised, in supervising the expenditure of state money by other boards and officers. The same legislature, at its extra session, by placing the duty of supervising all public utilities on the state railroad commission, gave additional proof of its belief in a higher degree of centralization in the state government. On the other hand the legislature of 1913, by creating a number of independent commissions, the duties of some of which slightly overlap those of former officers and boards, has rendered the state government less systematic and centralized than it has ever been.

In spite of any lack of system that may appear in the work of the legislature respecting the machinery of the state

government, there can be no doubt of its general purpose, in repudiation of the doctrine of *laissez faire*, to subject all private enterprises, in so far as they affect the health, happiness, and general welfare of the people, to the supervision and control of the agents of the people.

In the following list of officers appointed by the governor, a star (\*) indicates that the appointment must be confirmed by the senate. This was once thought to be a valuable check on the governor, but such is no longer the prevailing opinion. Many appointments provided for by recent legislation are placed exclusively in the hands of the governor, which, if provided for fifteen or twenty years ago, would have required the sanction of the senate. For example, the appointment of the boards of trustees of the three most recently established normal schools, contrary to the rule followed in respect to the older of such schools, does not need to be confirmed by the senate. The same inconsistency is seen in the appointment of trustees for the two reform schools.

Accountancy, State Board of. Five members. § 161.

Adjutant General. § 127.

Adult Blind, Home for. Five trustees of. § 167.

Advisory Board, Bureau of Tuberculosis, Health Department. Four members. § 159.

Advisory Board, Engineering Department. Three members. § 145.

Agriculture, State Board of. Twelve members. § 155.

Architecture, Board of. Ten members. § 161.

Attorney of State Board of Health. § 159.

3 X Banks, Superintendent of. § 141.

3 X Building and Loan Commissioner. § 143.

Burial Grounds, State. Three trustees of.\* (Grounds located in Sacramento. Any person who dies a state officer may be buried there.)

- Board of Control. Three members. § 135.  
 Capitol and Grounds, Superintendent of. § 174.  
 4X Charities and Corrections, Board of. Six members.\* § 168.  
 2X Civil Service Commission. Three members. § 177.  
 Consulting Board, Engineering Department. Five members. § 145.  
 Corporations, Commissioner of. § 144.  
 5X Dairy Board. Three members. § 156.  
 Deaf and Blind, Institution for. Five trustees of.\* § 166.  
 Dental Examiners, Board of. Seven members. § 161.  
 Dental Surgeon. Footnote, § 162.  
 5X Engineer, State. § 145.  
 5X Fish and Game Commission. Three members.\* § 152.  
 2X Forester, State. § 148.  
 2X Harbor Commissioners. Three for each harbor.\* § 146.  
 5X Health, State Board of. Seven members.\* § 159.  
 Highway Engineer, State. § 145.  
 5X Horticultural Commissioner, State. § 153.  
 Hospitals, Superintendent of. § 162.  
 Board of five managers for each. § 162.  
 4X Immigration and Housing, Commission of. Five members. § 169.  
 2X Industrial Accident Commission. Three members.\* § 158.  
 2X Industrial Welfare Commission. Five members, § 158.  
 3X Insurance Commissioner.\* § 142.  
 2X Labor Commissioner. § 157.  
 Library, State. Five trustees of. § 172.  
 Marshall's Monument. Guardian of. § 176.  
 Medical Examiners, Board of. Eleven members. § 161.  
 Mineral Cabinet. Three trustees of. § 151.  
 Mineralogist, State. § 151.  
 National Guard. § 127.  
 General Officers of the Line.\*  
 Governor's Staff.  
 Normal Schools. Five trustees of each. (The senate must approve these appointments except for the trustees of the Santa Barbara, Fresno, and Humboldt schools.) § 191.  
 Optometry, State Board of. Three members, § 161.  
 Pharmacy, State Board of. Seven members. § 160.  
 Pilot Commissioners. Three for each port.\* § 147.



- Polytechnic School, State. Five trustees of. § 192.
- 2X Port Wardens. Six in number.\* § 147.
- 5X Prison Directors. Five in number.\* § 163.
- 10X Railroad Commission. Five members. § 140. *and Public Utilities.*
- Reform Schools. § 165.
- Five trustees of the Girls' School.
- Three trustees of the Whittier School.\*
- Three trustees of the Preston School.
- Superintendent of State Printing.\* § 173.
- Sutter's Fort. Five trustees of. § 176.
- University of California. Sixteen regents of.\* § 193.
- Veterans' Home. Seven trustees of. § 170.
- 5X Veterinarian, State; and one Assistant. § 154.
- Veterinary Medicine, State Board of. Five members. § 161.
- 3X Water Commission, State. Three members. § 150.
- 3X Weights and Measures, Superintendent of. § 149.
- Women's Relief Corps Home. Eleven trustees of. § 171.

NOTE.—In addition to the above the governor appoints all notaries public in the state, some six thousand in number. They are appointed for four years to administer oaths and take acknowledgments. The governor also appoints certain persons in other states, and in certain foreign nations, known as "commissioners of deeds," who have power to administer oaths and take acknowledgments which are as binding in California as if subscribed to before a notary public in this state. They are appointed for four years. In 1909 there were forty-four "commissioners of deeds," representing California in fourteen states and Hawaii; and twenty in foreign countries.

Practically every session of the legislature provides that the governor shall appoint certain temporary commissions to do special assignments of work. For example, the legislature of 1913 authorized him to appoint a commission of five members to study the question of old age pensions and mothers' pensions, in other states and nations, and to report to the legislature at its next session; also to appoint two delegates to go with delegates from other states to Europe for the purpose of studying the different systems of coöperative agricultural societies and rural credits "for the purpose of establishing in this country a sound system of rural credits and agricultural finance."

## QUESTIONS

1. What are the powers of the railroad commission with respect to fares and freight rates; discrimination; through routes; delay in furnishing cars and in unloading cars?

2. Why should a railroad company be forbidden to grant passes except to its employees?

3. Exactly why is the management of a bank, an insurance company, or a building and loan association a matter of public interest? How do the three kinds of banks recognized by the state law differ from one another? How does a building and loan association differ from a savings bank?

4. How does the bank commissioner, the insurance commissioner, or the building and loan commissioner proceed in case an institution under his jurisdiction should become insolvent? How does the fact of the insolvency of the institution become known to him? How do these commissioners keep informed about the institutions under their charge?

5. If a building is to be erected for a state institution, what are the duties of its board of trustees and the state engineering department respectively in the matter?

6. Why does the national government assist in the improvement of rivers and harbors in California?

7. If a tract of forest-covered land is privately owned, ought the owner to have the right to destroy the forest in case the land cannot by this means be rendered suitable for cultivation? (NOTE. — A law in Maine regulates the cutting of trees on privately owned land.)

8. How does the fish and game commission enforce the laws for the protection of fish and game?

9. In what respect is the state system for protecting trees, vines, and other plants against pests and diseases superior to the system for protecting live stock against diseases?

10. What officers constitute the state system for the protection of the public health?

11. What are the relations between the state dairy bureau and the local health officers? Between this bureau and the office of the state veterinarian?

NOTE. — The best way to obtain a thorough understanding of the work of any board or commission is to read the law defining its powers and duties, and its latest printed report. If it issues bulletins, they are also helpful. The California Blue Book, issued by the secretary of state every two years, is invaluable as a reference book. It contains the names of all state officers; tells where in the codes and statutes the powers and duties of the various officers, boards, and commissions may be found; and gives the addresses of the secretaries of the various departments. It may be found in any public library, or in any lawyer's library. Every high school is entitled to a copy free of charge. Reports of the various officers and boards may be obtained free of charge through the mail.

## CHAPTER XIV

### THE STATE SCHOOL SYSTEM<sup>1</sup>

**179. Introductory.** — One of the most important things that government undertakes to do is to educate growing citizens. So important is this duty that the state, counties, cities, and school districts — a special kind of public corporation created for this one purpose — are all engaged in discharging it. The magnitude of the task may be appreciated by reflecting that it now (1913) requires over \$20,000,000 each year to support our elementary and high schools in California. Every public school in the state is a part of our state educational system; and the maintenance and government of the schools in any locality can be understood only in their relation to the state system as a whole.

**180. School Districts.**<sup>2</sup> — The entire state is divided into school districts. There were 3357 grammar school districts in the state in 1912. We have learned that each county is divided into such districts by the board of supervisors. New districts may be formed, or the boundaries of old districts changed, by the supervisors, on petition of the people affected, according to certain regulations imposed by law. A district may be formed lying partly in one county and partly in another by the consent of the two boards of supervisors and the two county superintendents. Every incorporated city is a separate

<sup>1</sup> See article IX, state constitution.

<sup>2</sup> Political Code, § 1575 seq.

school district,<sup>1</sup> but the county supervisors have power to add to it for *school purposes* any adjoining territory. In such a case the district consists of the city and the territory which has been added.

We have learned (§ 22, 2) that every school district is a public corporation, having the power to tax itself for school purposes. It receives financial aid from the state and the county. This state and county money must be used to pay the ordinary running expenses of the school and is often sufficient for this purpose. Any deficiency is provided for by a district tax. The district must provide a building or buildings in which to hold school, and for this purpose may vote bonds, or a special tax not to exceed seventy cents on the hundred dollars. School must be maintained in each district at least six months during the year. If in any district there has been for a school year an average daily attendance of less than six pupils, the district lapses, and the supervisors must annex it to one or more adjoining districts.

**181. Union Districts.**<sup>2</sup>—The law provides a method whereby any number of adjoining districts may unite to form one large district. Where this is done the district provides a method of transporting the children from their homes to the school. By this means country children are given the advantage of a strong, vigorous, well-equipped school. This system is used quite extensively in some states and to a certain extent in California, and has so far given eminent satisfaction.

<sup>1</sup> According to a law passed in 1911 a community will not in the future become a separate school district on its incorporation as a city or town of the sixth class. The incorporation will have no effect on the former arrangements for school purposes.

<sup>2</sup> Political Code, § 1674 *seq.*

**182. School Boards.**<sup>1</sup> — Rural school districts and those consisting of incorporated towns using sixth class and special charters are governed by boards of school trustees.<sup>2</sup> Each board consists of three members, one elected each year for a term of three years. Union district boards consist in each case of one member elected from each of the districts comprising the union, except when the union consists of two districts, in which case each one elects three members. The larger cities — those using the fifth class, and most of those using freeholders' charters — have boards of education.<sup>3</sup> The board consists of five members in a city of the fifth class. In cities governed by freeholders' charters, the number of members, their term of office, the manner in which they are chosen, are matters determined in each case by the city charter. Their number ranges from five to eleven, and their term of office from two to five years. In most cases they are elected, but in three cities — San Francisco, San José, and Alameda — they are appointed by the mayors.

Boards of school trustees and city boards of education have practically the same powers and duties,<sup>4</sup> the most important of which are as follows: —

1. They have in charge the general business management of the schools. That is, they construct school buildings and keep them in repair, purchase supplies, and have general control of school property and school finances.

<sup>1</sup> Political Code, § 1611 *seq.*

<sup>2</sup> Except Santa Clara, whose special charter provides for a board of education. The school election in these towns is held on the first Friday in April. The municipal election is held at a different time.

<sup>3</sup> A few freeholders' charters — for example, those of Monterey, Napa, Santa Rosa, and Woodland — make no provision for the selection of school directors. They are, therefore, elected in these cities, or in the school districts in which they are located, according to state law.

<sup>4</sup> City boards of education have greater powers in certain particulars. See § 81.

2. They conduct school district elections either for voting taxes or school bonds, or for electing members of school boards, except in cities where school elections are held in connection with municipal elections.

3. They employ teachers, janitors, and other necessary employees and determine their salaries.

4. They make rules for the management of the schools. Teachers, parents, and pupils must obey these rules. They have power to dismiss teachers, or to suspend or expel pupils, for cause.

**183. Teachers.** — Statistics for the year 1912 show that 12,986 teachers were employed in the public elementary and high schools of California at that time and 262 teachers in public kindergartens. Almost all of our teachers are specially trained for their work, as most grammar grade teachers are graduates of the state normal schools, and most high school teachers are university graduates.

**184. Pupils.** — In 1912, 404,365 boys and girls attended the public elementary and high schools of California, and 9708 attended the public kindergartens. The pupils are the most important part of the school system. In fact, the entire system exists for them. Our taxpayers know that an educated man or woman has a much better chance in the world than one who is uneducated.

Education means ability to do something well. The men who occupy prominent positions in business, politics, literature, or in any of the professions, as well as those who are making the greatest success on the farm, are educated men. The women who are doing the most good in the world are educated women. It is of course true that school is not the only place in which one can receive an education.

Many persons acquire ability through experience, but the same persons would in all probability have acquired a higher degree of efficiency if they had had a thorough training in school while young. Our lawmakers know that if a boy or girl misses the advantages which our schools have to give, he or she is preparing to enter upon life's work badly handicapped; and they have written in the laws of California that every child in the state between the ages of eight and fifteen, who is healthy in mind and body, *must attend school* unless excused, for reasons mentioned in the law, by the school board of the district in which he or she lives. This law is not as strictly enforced as it should be, and in most parts of the state the responsibility of seeing that children go to school rests with their parents.

**185. High Schools.**<sup>1</sup> — Any incorporated city or town, or any school district which had during the preceding school year an average daily attendance at school of one hundred pupils, becomes a high school district if a majority of the votes cast at an election called to determine the question are favorable.

Such an election must be called by the county superintendent on petition of a majority of the voters or a majority of the heads of families living in the town or district. The law provides a method whereby a *union high school* district may be formed from any number of adjacent school districts in the same county;<sup>2</sup> and also a method whereby a *joint union high school* district may be formed from adjacent districts partly in one county and partly in another.<sup>3</sup>

Each high school district is governed by a high school board. In every case where the district coincides with an incorporated city or town, or with a single school district,

<sup>1</sup> Statutes of 1911, page 917 *seq.*

<sup>2</sup> In 1912 there were 111 such districts in the state.

<sup>3</sup> In 1912 there were 13 such districts in the state.



the common school board acts as the high school board. The board of a union or joint union high school district consists of five members, elected by the district at large, for three years, one or two members being elected each year.

Each high school district may maintain one or more high schools; or any county may maintain one or more county high schools on the approval of the voters at an election called to determine the question.

In 1912 there were 229 high school districts in the state. Twenty of these were county districts organized for the purpose of maintaining county high schools. High schools are supported mostly by local taxes, but the state each year contributes to their support to the extent of \$15 for each pupil on the basis of average daily attendance.

**186. The County Superintendent of Schools.**<sup>1</sup>—A county superintendent, as stated in Chapter V, is elected in each county, by the voters at large, for four years. His most important duties are as follows:—

1. To superintend the schools of his county; that is, to see that all the schools are conducted according to law, that they use the proper textbooks, that teachers and school trustees do their duty, that school money is not wasted, etc.

2. To apportion the money raised by the county for school purposes, as well as the money received from the state, among the various school districts of the county.

3. To authorize the expenditure of school money. The money belonging to each school district in the county is kept in the county treasury. The trustees of a district pay expenses by drawing warrants on the superintendent. Every warrant must state the purpose for which the money is to be spent. When a warrant is presented to the superintendent, he must satisfy himself that the money may be

<sup>1</sup> Political Code, § 1543 *seq.*

lawfully spent for the purpose stated. He then draws an order on the auditor, who in turn draws on the treasurer.

4. To visit every school in his county at least once a year.

5. To approve plans for new school buildings outside of incorporated cities. No board of trustees of a rural district may put up a building without such approval.

6. To make an annual report to the superintendent of public instruction concerning the schools of his county.

7. To fill vacancies, until the next election, in any board of school trustees.

8. To call and preside over teachers' institutes.

**187. The County Board of Education.**<sup>1</sup> — Each county board of education consists of the county superintendent, who is its secretary, and four other members appointed each for two years by the board of supervisors. Two members are appointed each year. Their most important duties are as follows: —

1. To grant teachers' certificates as follows: —

*a.* High school certificates, on credentials authorized by law or by the state board.

*b.* Grammar grade certificates, on proper credentials or on examination.

*c.* Special high school or grammar grade certificates, authorizing the holders to teach certain subjects, on examination.

*d.* Kindergarten-primary certificates, on credentials. Diplomas from the kindergarten department of any California state normal school, or from any other institution approved by the state board, are proper credentials.

<sup>1</sup> Political Code, § 1768 *seq.*

2. To revoke for cause any certificate granted by them.
3. To perform the following duties for all parts of the county outside of cities having boards of education: adopt a county course of study for elementary schools, grant diplomas to pupils who have completed the course of study in elementary schools, and approve courses of study which have been adopted for high schools by high school boards. City boards of education have charge of these matters in their respective jurisdictions.
4. To serve as a high school board in case one or more county high schools are maintained.

**188. The State Superintendent of Public Instruction.**<sup>1</sup>—The superintendent of public instruction is at the head of the state school system. He is elected at the general state election every four years and has his office in the capitol. His official duties, however, require him to spend a large part of his time in traveling about the state. His most important duties are as follows:—

1. He must see that the state laws relating to the public schools are enforced; and must compile and print all such laws in pamphlet form, and "supply school officers and school libraries with one copy each."
2. He must apportion the state school fund among the various counties, and must furnish an abstract of his apportionment to each county auditor, treasurer, and superintendent of schools, as well as to the financial officers of the state. He must draw his warrant on the state controller in favor of each county treasurer covering the amount apportioned to the county.
3. Every even-numbered year, on or before the 15th of September, he must report to the governor the condition

<sup>1</sup> Political Code, §§ 1532, 1533.

of the public schools, and of all other educational institutions supported by the state. This report must show, besides other things, the number of pupils and teachers, and the total amount of money collected and spent for school purposes in each county in the entire state. It must be printed and bound in order that copies may be supplied to persons who desire it.

4. He is the executive officer of the state board of education, and is its secretary unless it chooses some one else for that position. He is a member of the board of regents of the University of California, of the board of trustees of the State Polytechnic School, and of the board of trustees of each of the eight state normal schools.

5. He must print and furnish to school officers all necessary blank forms, must visit all orphan asylums which receive state aid, and must interpret the school law when called upon to do so. He gives advice to the governor and members of the legislature relative to school matters, supervises the work of the assistant superintendents, and, in general, superintends and represents the public schools of the state.

**189. The State Board of Education.**<sup>1</sup> — The state board of education consists of seven members appointed by the governor each for four years. Regular meetings of the board are held in Sacramento once every three months, and special meetings may be called at any time. Each member receives \$15 a day for the time he devotes to the public service, in addition to traveling expenses. The superintendent of public instruction is the executive officer of the board, and must act as its secretary unless it chooses another person for that position. The most important duties of the board are as follows: —

<sup>1</sup> See section 7, article IX of the constitution. See also Political Code, § 1517 seq.

1. To make rules for the government of the public schools. These rules must not, of course, conflict with any state law.

2. "To prescribe by general rule the credentials upon which persons may be granted certificates to teach in the high schools of this state. No credentials shall be prescribed or allowed, unless the same, in the judgment of the board, are the equivalent of a diploma of graduation from the University of California." Such credentials must also give evidence of special training in pedagogy.

3. To grant life diplomas to holders of teachers' certificates of any grade who have taught forty-eight months.

4. To revoke certificates or life diplomas "for immoral or unprofessional conduct, or for evident unfitness for teaching."

5. To adopt a uniform series of textbooks for the elementary schools of the state. Such books may be purchased from publishing companies when necessary, but most of them are printed and bound at the state printing office. The board gains the right to print them by entering into contracts with authors and publishers. They are distributed to the elementary school children of the state free of cost.<sup>1</sup>

6. To appoint three assistant superintendents of public instruction: one to be known as commissioner of elementary schools, one as commissioner of secondary schools, and one as commissioner of industrial and vocational schools. It is the duty of each assistant to investigate the schools under his supervision and to recommend needed changes to the state board and to local school authorities. The salary of each assistant is \$4000 a year.

<sup>1</sup> See constitution, article IX, section 7.

**190. School Finances.**<sup>1</sup> — Money for the support of our public elementary and high schools is supplied by the state, the counties, and the various school districts.

*The state school fund* for the support of the *elementary schools* is derived from the following sources : —

1. From an appropriation by the legislature equal to \$13 a year for each pupil in the state, calculated on the basis of the average daily attendance at school during the preceding year. This is appropriated from the money received from the state corporation tax.

2. From a poll tax of two dollars each on all men in the state, except paupers, insane persons, and Indians not taxed, between twenty-one and sixty years of age. As we have seen, this is collected by county assessors.

3. From an appropriation of \$250,000 a year from the state inheritance tax.

4. From the interest on bonds which the state holds in trust for the school fund. When California was acquired by the United States it contained vast areas of land which no one owned. This became government land. According to acts of Congress which had been passed in 1785 and in 1848, one eighteenth of this land — that is, two sections out of every congressional township — became the property of the state for the support of the public schools (§ 137). By another act of Congress which had been passed in 1841, the state received 500,000 additional acres of public land, and this has also been dedicated to the support of the public schools. Most of this land has been sold and the money has been invested in state, county, and city bonds. In 1906 Congress granted to each state 5 per cent of the amount received from the sale of government lands within its

<sup>1</sup> Political Code, § 1817 *seq.*, as amended 1911.

borders since 1882. California received nearly one million dollars from this source, and this money has also been invested in bonds for the benefit of the schools. All these bonds, representing in 1912 an investment of nearly \$7,000,000, are held by the state treasurer, and the interest from them is placed each year in the state school fund.

5. From interest on unsold school lands. A good many persons have entered into contracts with the state for school lands. They are permitted to occupy the lands, the title to which remains in the state, as long as they pay interest on the contract price. Any person entering into such a contract may pay the purchase price and receive a deed to the land at any time.

*The state high school fund* consists entirely of an appropriation by the legislature equal to \$15 a year for each high school pupil in the state, calculated on the basis of the average daily attendance at school during the preceding year.<sup>1</sup> This, like the appropriation for the elementary schools, comes from the state corporation tax.

The state school funds are apportioned each year among the various counties by the superintendent of public instruction. In apportioning the fund for the elementary schools he allows to each county \$250 for each teacher to which the county is entitled, and divides the balance among the counties according to the average daily attendance at school during the preceding year. In apportioning the high school fund he divides one third of it equally among the high schools of the state that are entitled to state aid,

<sup>1</sup> The average daily attendance both of elementary and high school pupils is reported each year to the state controller by the superintendent of public instruction. He derives the data for his report from the reports of the various county superintendents.

and apportions the balance among these schools according to their average daily attendance.

*The county school fund* is derived entirely from a school tax imposed by the supervisors. This tax must be sufficient each year to yield an amount which, when added to the money received from the state, will equal \$550 for each teacher to which the county is entitled.<sup>1</sup> Each school district in the county is entitled to at least one teacher, and any district is entitled to an additional teacher for every thirty-five pupils (calculated on the basis of average daily attendance at school during the preceding year) or for a fraction of thirty-five not less than ten.<sup>2</sup> Each district is also entitled to two additional teachers for every seven hundred pupils in average daily attendance. The county superintendent reports to the supervisors each year the amount that must be raised by a county tax.

If the money received from the state and county is not sufficient to maintain the school or schools in any district, the county supervisors, on the request of the district school board, with the approval of the county superintendent, must impose a *special tax on the district* for school purposes.

This tax must not exceed thirty cents on the hundred if it is for the general maintenance of the schools; and it must not exceed seventy cents if it is for building purposes. This applies to cities as well as to county school districts; but when a school district coincides with a city, the school tax may be imposed by the city council instead of the county supervisors, and, even if it is imposed by the supervisors, the council may contribute to the school fund from the city treasury.

<sup>1</sup> In no case, however, must the county tax yield a sum less than \$13 for each pupil in average daily attendance in the county during the preceding year; that is, the county must not fall below the state in the amount it contributes. But the county school tax rate must not exceed fifty cents on the hundred.

<sup>2</sup> If there is a fraction less than ten, the district receives \$40 for each pupil in average daily attendance comprising the fraction.



Any district may issue bonds for the purchase of school sites, or for erecting and equipping school buildings, if two thirds of the votes cast at an election called to determine the question are favorable; but the amount of the debt that it may incur must not exceed five per cent of the assessed value of the taxable property within its borders. Such bonds may be issued in any city, under the control of the school board, as school district bonds; or, under the control of the city council, as city bonds.

**191. State Normal Schools.**<sup>1</sup>—The state maintains seven normal schools. They are located at San José (established 1862), Los Angeles (1882), Chico (1889), San Diego (1897), San Francisco (1899), Santa Barbara (1909), and Fresno (1911). Each is under the control of a board of trustees consisting of the governor, the superintendent of public instruction, and five other members appointed by the governor. The senate must approve these appointments, except in the case of the trustees of the Santa Barbara and the Fresno schools. These institutions exist for the purpose of preparing teachers for our elementary schools. The Santa Barbara state normal prepares its graduates to teach manual training and domestic science in the public schools. The legislature of 1913 provided for an eighth normal school to be located in Humboldt county. It is to be governed in the same manner as the other normal schools.<sup>2</sup>

**192. The State Polytechnic School.**<sup>3</sup>—There is a state polytechnic school at San Luis Obispo. Its board of trustees is constituted exactly as the board of any of the normal schools.<sup>2</sup> It is open to any of the young people of the state who are able to meet its entrance requirements. Agricul-

<sup>1</sup> Political Code, § 354; Statutes of 1899, page 177; Statutes of 1909, page 795.

<sup>2</sup> Board of trustees need not be approved by the senate.

<sup>3</sup> Statutes of 1901, page 115.

ture, engineering, manual training, domestic science, business methods, and mechanics are among the subjects taught.

**193. The State University.**<sup>1</sup>—At the head of our public school system stands the State University. It has a governing board of twenty-three regents. Sixteen of these are appointed by the governor, with the approval of the senate, each for a term of sixteen years. The others are *ex officio* members. They are the governor, the lieutenant governor, the superintendent of public instruction, the speaker of the assembly, the president of the university, the president of the state board of agriculture, and the president of the Mechanics' Institute of San Francisco. Berkeley is the home of the university; but colleges of law, medicine, dentistry, and pharmacy, and an institute of art, all belonging to it, are located in San Francisco. A medical college in Los Angeles, Lick Observatory on Mount Hamilton, the state farm at Davis, Yolo county, and a number of laboratories and agricultural experiment stations in different parts of the state also belong to the university.

The university is supported by appropriations from the state treasury, and by the interest on money derived from the sale of lands which Congress in 1853 and again in 1862 granted to the state for the support of a "seminary of learning." The grant of 1862 was especially intended to provide for a college of agriculture, and this college has been established as one of the important departments of the university. The state farm at Davis, consisting of 780 acres, and the agricultural experiment stations above mentioned are under the supervision of this department.

**194. Conclusion.**—In addition to aiding our public schools, and maintaining the various state institutions of

<sup>1</sup> Political Code, §§ 353, 1425, 1427.

learning, the state still further encourages education by exempting the property of Stanford University, and that of a number of other private institutions,<sup>1</sup> from taxation. This is really giving state aid. Education will come to no one without hard work; but the wisdom and generosity of our taxpayers have placed the opportunity to work for an education within the reach of every boy and girl in the state.

### QUESTIONS

1. How can it be said that every public school is a state institution?
2. To what extent is the government of our state school system centralized, and to what extent is it founded on the principle of local self-government?
3. What part has the national government had in the development of our school system?
4. Should the compulsory education law be enforced?
5. Why is the absence of any pupil from school a direct financial loss to the school district? Is this true if the absence is for only one day?

<sup>1</sup> See the state constitution, article IX, sections 10, 11, 12, and 13.

## CHAPTER XV

### THE STATE JUDICIAL SYSTEM

**195. The Purpose of the Courts.** — Courts exist to interpret the law when disputes arise as to its meaning, and to apply it to special cases. They never offer their services, but hear only such cases as are brought before them. When a case is brought into court, the duty of the court is to ascertain the exact point of difference between the parties to the suit, and to decide the case by applying the general law to it. An example will make this clear. Some years ago the supervisors of San Francisco decided to purchase a piece of land on which to build a smallpox hospital. They entered into an agreement with the owner of the land and gave him a warrant on the auditor for the amount of the purchase price. The auditor gave him a warrant on the treasurer, but the latter refused to pay the money on the ground that the supervisors did not have the power to spend the money of the city for that purpose. The owner brought suit in the superior court to compel the treasurer to pay him the money.<sup>1</sup> The law gave the supervisors power "to make all regulations which may be necessary for the preservation of the public health and the prevention of contagious diseases." Did this give them power to spend the city's money to buy land on which to build a hospital for the treatment of one particular disease? The treasurer claimed that it did not, and the man who wished to sell

<sup>1</sup> *Von Schmidt vs. Widber*, 105 Cal. 151.

the land to the city claimed that it did. The court decided the case in favor of the treasurer. The law did not clearly state that the supervisors could buy land for this special purpose, and it is an old principle of law that no public corporation may buy land for any purpose unless the law expressly gives it power. The duty of the court was to interpret the law and then to apply it as thus interpreted in the settlement of the particular dispute before it.

In many cases the meaning of the law is perfectly clear, and the only duty of the courts is to apply it to the cases brought before them. If a man is caught committing a crime, he may be detained in jail until the court can consider his case; but no punishment may be inflicted upon him, even though he confesses his guilt, until the court applies the law to his particular case by pronouncing judgment upon him.

**196. The Difference between Civil and Criminal Cases.**—Suits, or cases brought before the courts, are either civil or criminal. Civil suits grow out of disputes between people concerning such matters as property rights, contracts, debts, damages, nuisances, personal rights, and privileges. The one bringing the case into court is called the plaintiff, and the one against whom it is brought is called the defendant. If the defendant is accused of having committed fraud or some other crime, he may be under arrest, but this is usually not the case in civil suits. Both parties are often absent from court, being represented by their attorneys. In a civil suit, the dispute is between the plaintiff and the defendant, the people of the state as a whole having no interest in the matter beyond the fact that they want the courts to decide all such cases justly.

In deciding a civil suit, the court has no thought of pun-

ishing the one against whom the decision is rendered. Its purpose is to settle disputes and protect people in their rights. But the thought of punishment is the motive that brings every criminal case into court. The defendant is accused of committing a crime, and the court is called upon to determine whether he is guilty or not and to name the punishment if he is guilty. Criminal cases are brought into court by prosecuting attorneys in the name of the people of California, for all the people are injured when a crime is committed. If "A" breaks a contract which he has made with "B," in the eyes of the law, "B" alone is injured; and if suit is brought against "A," "B" must bring it. This, of course, is a civil suit. When the case is decided, the costs<sup>1</sup> of the trial are paid by the one who loses, unless assessed by the court to both parties. If "A" steals money from "B," in the eyes of the law the people of California are injured, and the district attorney, or the city prosecuting attorney, has "A" arrested and prosecutes him before the court in the name of the people. All the expenses of the trial, except what "A" pays his attorney, are paid from the county or city treasury.

**197. Kinds of Civil Cases.** — Civil cases are divided into two great classes: law cases and equity cases. The distinction between law and equity is too complicated to be fully set forth in a book like this.<sup>2</sup> In general, it may be

<sup>1</sup> Costs do not include attorneys' fees. They consist of certain fees that must be paid to the clerk of the court for services which he renders, to the sheriff or other peace officers for serving papers, to jurors and witnesses for time spent and expenses incurred in connection with the trial, and other charges allowed by law. Officers who receive salaries retain no money collected as fees.

<sup>2</sup> Pomeroy's *Equity Jurisprudence* is a complete treatise on equity. The first 73 pages of the first volume contain a good discussion of the origin and nature of equity. For shorter accounts see Andrews's *American Law*, Dole's *Talks about Law*, the *American Encyclopedia* and other encyclopedias.

pointed out that equity jurisprudence grew up in England centuries ago to supplement and mitigate the rigor of the common law. Law and equity were administered by separate courts, and the equity courts gave relief in many cases where the law courts could not. For example, the law courts could award damages for injuries, for nuisances, or for breaches of contract; but the courts of equity could forbid the commission of injuries, could suppress nuisances, and could compel the performance of contracts. The law courts, because of their complicated procedure and the unyielding character of the laws which they administered, often worked injustice when they attempted to handle cases involving complicated and delicate human relationships; while the courts of equity, because of their more simple procedure, and the flexibility of the rules which governed them, handled such cases effectively and with justice.

Since 1873 law and equity have been administered by the same courts in England. Both are administered by the same courts in California and in all other states of the Union, except five, which still have separate courts of law and equity.<sup>1</sup> The word "law" as now used includes equity, but there are still important differences between cases at law, and cases in equity. Law cases are more numerous than equity cases, for they include all damage suits for injuries or for breaches of contract, suits for money claimed on contract, suits affecting land titles and the ownership of personal property, etc. Equity cases include cases that arise in connection with trusts and their administration, and suits for the enforcement or the modification of contracts,

<sup>1</sup> New Jersey, Delaware, Tennessee, Mississippi, and Alabama. In the federal system, law and equity are administered by the same courts, but according to two distinct methods of procedure. Each court keeps separate dockets of law and equity cases, and the two kinds of cases are quite differently conducted.

the enforcement of liens, the suppression of nuisances, the prevention of injuries, and for other kinds of preventive relief. The issuing of injunctions is probably the most common exercise of equity jurisdiction by our courts.

**198. The Steps in a Civil Suit.**<sup>1</sup> — The steps in a civil suit are as follows: —

1. *The Pleadings.* — The pleadings consist of a correspondence through the court between the plaintiff and the defendant, the purpose of which is to get before the court the exact cause of the dispute. The plaintiff files his complaint with the clerk of the court, or with the judge if there is no clerk.<sup>2</sup> The complaint is a statement of the facts upon which he bases his claim against the defendant. The clerk, or the judge, issues a summons to the defendant directing him to appear and answer the complaint within ten days. The summons, together with a copy of the complaint, may be served on the defendant by the sheriff, or by any other person over eighteen years of age who is not interested in the case. If the defendant fails to answer, judgment is rendered in favor of the plaintiff. On his part the defendant may object to the form of the complaint, or deny that the court has jurisdiction to try the case, or deny the facts stated in the complaint, or admit the facts but deny that they constitute a cause for action, or set up a counterclaim against the plaintiff, or plead something else to prevent or delay action. If the justice of the case demands it, the court may permit the plaintiff to amend his complaint, and the defendant to file an additional statement.

<sup>1</sup> Code of Civil Procedure, § 307 *seq.*

<sup>2</sup> Most of our township courts, presided over by justices of the peace, have no clerks.



2. *Provisional Remedies.* — While the pleadings are in progress, the plaintiff may have the power of the court to protect his interests. If the defendant is about to escape from the state in order to defraud him, he may cause his arrest; if the suit is to gain possession of property, and he has cause to believe that the defendant will dispose of it, he may ask the court to direct the sheriff to take possession of it; if the suit is to collect a debt, and the plaintiff fears that the defendant will secrete his property in order to escape payment, he may have a writ of attachment against the property; if the suit is to compel the defendant to refrain from some act or enterprise that is injuring him, he may ask the court for a temporary writ of injunction. These provisional remedies are, of course, granted according to regulations imposed by law.

3. *The Trial.* — The pleadings make clear the exact point or points at issue between the plaintiff and the defendant. The issue may be one of law or one of fact; that is, it may be a dispute over some point of law or over some fact or facts brought out in the pleadings. An issue of law is tried by the judge. An issue of fact is tried by the judge if the case is a suit in equity; and by a jury if it is a suit at law, unless a jury trial is waived.<sup>1</sup> A trial by the judge consists of the examination of witnesses, the arguments of the attorneys, and the decision of the case. A jury trial consists of the selection of a jury, the examination of witnesses, the arguments of the attorneys, the instructions to the jury by the judge, and the rendering of the verdict by the jury.

Provision is made for settling civil disputes by a "reference" rather than by a trial in court. When this method is adopted, after the pleadings have been completed in court, the judge orders that the issue be submitted either to special referees chosen for the purpose, or to the regular court commissioner of the county. Except in certain special cases, both parties must agree to the reference. There

<sup>1</sup> See section 7, article I of the constitution.

may be three referees or only one, and the method of their selection is provided for in the law. The referees, or the court commissioner, after hearing the case, must report to the court, and the decision or verdict thus reported will stand as the decision of the court, unless set aside for cause by the court.

4. *Judgment and Execution.* — The judgment in any case is the order of the court as to its final settlement and must of course be in harmony with the outcome of the trial. It may settle the title to a piece of land; may direct the payment of a certain sum of money, the relinquishment of certain property, or the fulfillment of a certain contract; may order that a certain act or enterprise be discontinued; etc. In case the person against whom the judgment is directed refuses to comply with its requirement, the court, on request of the other party, issues a *writ of execution*, ordering the sheriff to see to its enforcement.

199. *Appeals in Civil Cases.* — After a judgment is rendered, but before it is executed, the losing party, upon certain definite grounds which are carefully specified in the law, may appeal to a higher court. The law contains minute provisions as to the time and method of taking an appeal. It must be on certain definite grounds; as, for example, that the judge in the lower court erred in admitting, or excluding, certain evidence, or in instructing the jury; or that the verdict of the jury, or the decision of the court, was not supported by the law and the evidence introduced at the trial. The proceedings in the higher court are based on the record of the case sent up from the court below. There is no jury and no witnesses are examined. The record is submitted and the arguments of the attorneys are presented. The court either affirms, modifies, or reverses the judgment of the lower court. If it reverses the judgment, it may order

a new trial or may settle the controversy forthwith by issuing an appropriate order or decree.

**200. Kinds of Criminal Cases.** — "A crime or public offense is an act committed or omitted in violation of a law forbidding or commanding it, and to which is annexed, upon conviction, one of the following punishments: death, imprisonment, fine, removal from office, or disqualification to hold and enjoy any office of honor, trust, or profit in this state."<sup>1</sup> The law contains many prohibitions and commands, violations of which do not constitute crimes, because none of these punishments are attached to them; but persons who are injured by such violations may obtain satisfaction through civil suits.

Crimes are divided into two classes: misdemeanors and felonies. "A felony is a crime which is punishable with death or by imprisonment in the state prison. Every other crime is a misdemeanor."<sup>2</sup> From this definition it is seen that the class to which a crime belongs depends upon the punishment attached to it. This is a matter that rests with the legislature. In the Penal Code many crimes and their punishments are catalogued, but this is by no means a complete list, as many others are named and their punishments defined in other codes and in numerous statutes. The difference between the two classes is simply one of degree. To steal property worth fifty dollars, or less, is petty larceny, a misdemeanor;<sup>3</sup> but to steal property worth more than fifty dollars is grand larceny, a felony. All crimes resulting from the breaking of city and county ordinances are misdemeanors.

<sup>1</sup> Penal Code, § 15.

<sup>2</sup> *Ibid.*, § 17.

<sup>3</sup> Provided that in taking the property neither "robbery" nor "burglary" is committed.

**201. Steps in a Criminal Case.** — The steps in a criminal case are as follows: —

1. *The Arrest.*<sup>1</sup> — Any person may arrest a criminal whom he "catches in the act."<sup>2</sup> An officer may arrest a person who is suspected of crime, on suspicion, or on a warrant issued by a judge of any court. A judge will issue a warrant for the arrest of any person on complaint of a private individual, or an officer, to the effect that the person complained of has committed a crime. The complaint must be given under oath and must be supported by evidence. If the case is triable in an inferior court (§ 204, 3), the defendant is taken before any such court having jurisdiction, and the matter is disposed of as indicated in subdivisions 3, 4, and 5 of this section. If the case is triable in the superior court,<sup>2</sup> it reaches that court through one of two preliminary steps which will be described in subdivisions 2a and 2b.

2a. *The Examination.*<sup>3</sup> — If the defendant is charged with felony or a misdemeanor that is triable in the superior court, he may be taken before the nearest justice of the peace in the county, or before any police judge having jurisdiction in the matter, for a preliminary examination. If the examination convinces the magistrate<sup>4</sup> that sufficient evidence cannot be obtained to convict the accused,

<sup>1</sup> Penal Code, § 811 *seq.*

<sup>2</sup> The superior court has jurisdiction over all felonies, and over "high" misdemeanors; that is, misdemeanors subject to a punishment of imprisonment exceeding six months, or the payment of a fine exceeding \$500. In some instances, however, police courts are given jurisdiction over *all* misdemeanors, as, for example, those of Los Angeles and Oakland. Such courts try "high" misdemeanors instead of sending them to the superior court.

<sup>3</sup> Penal Code, § 858 *seq.*

<sup>4</sup> The word *magistrate* signifies a judge or justice of the peace, who has power to examine persons accused of crimes and, when the evidence is found to be sufficient, to hold such persons to answer to the superior court, when that court has jurisdiction.

he orders his release; if it convinces him that sufficient evidence can be obtained, he holds the accused to answer before the superior court. The accused is admitted to bail,<sup>1</sup> except when the crime is treason or murder, provided he is able to furnish the amount named by the magistrate. If he cannot furnish the bail required, or if the crime is treason or murder, he is committed to the custody of the sheriff until his case can be tried. After he is "held to answer" by the magistrate, he is tried in the superior court on a charge called an "information," filed against him by the district attorney. The information sets forth the nature of the alleged crime and formally charges the accused with it.

2b. *The Indictment.*<sup>2</sup>—Another method of bringing a person accused of a felony or a "high" misdemeanor before the superior court for trial is by indictment.<sup>3</sup> An indictment is a formal accusation by a grand jury (§ 207) to the effect that a certain crime has been committed by a certain person. Instead of taking the accused before a justice of the peace or a police judge for a preliminary examination, the district attorney may take him before the grand jury. If the evidence convinces the grand jury of his guilt, it "finds" an indictment against him, and he is then prosecuted in the superior court the same as if he had been "held to answer" by an inferior court. When an indictment is found, it is filed with the clerk of the superior court by the foreman of the grand jury. If the accused is not in custody, the clerk issues a bench warrant for his arrest, and if the offense is bailable, the superior court fixes the amount of bail.

<sup>1</sup> See section 6, article I of the constitution.

<sup>2</sup> Penal Code, § 888 seq.

<sup>3</sup> See section 8, article I of the constitution.

3. *The Arraignment.*<sup>1</sup> — As soon as possible after the defendant is formally charged with the crime, he is arraigned; that is, he is brought into court, the information or indictment is read in his presence, a copy is given him, and he is asked to enter his plea. In reply, he may try to have the information or indictment set aside on technical grounds, or he may plead guilty or not guilty. If the plea is guilty, the court, either immediately or within a few days, pronounces judgment upon him. If the plea is not guilty, the case is tried at once, or a time for the trial is set.

4. *The Trial.*<sup>2</sup> — If the crime is a felony, the trial must be by a jury of twelve; if it is a misdemeanor, it must be by a jury of twelve or a smaller number, unless both the prosecution and the defense agree upon a trial by the judge of the court.<sup>3</sup> A trial by the judge consists of the examination of witnesses, the arguments of the attorneys,<sup>4</sup> and the decision as to the guilt or innocence of the accused; a trial by jury consists of the selection of the jury, the examination of witnesses, the arguments of the attorneys, the judge's instructions to the jury, and the verdict. The verdict must be by a unanimous vote of the jury. If the jury fails to agree, the case is as if it had not been tried; a new jury must be selected, and the whole process repeated, unless the court, on motion of the prosecution, dismisses the case.

5. *Judgment and Execution.* — The judgment is the sentence imposed by the judge. If the crime is a felony, the penalty will be death or imprisonment in one of the state

<sup>1</sup> Penal Code, § 976 *seq.*

<sup>2</sup> *Ibid.*, § 1093 *seq.*

<sup>3</sup> Most misdemeanors are tried without juries.

<sup>4</sup> The accused is always entitled to the assistance of counsel. If he is unable to employ an attorney, the court will appoint one to defend him.

prisons for a definite time; if it is a misdemeanor, the penalty will be a fine, or imprisonment in the county or city jail, or both fine and imprisonment.<sup>1</sup> If a fine is not paid, the defendant is detained in jail, being credited with two dollars a day until the amount is canceled; or if he has property, the sheriff may seize a sufficient amount to pay the fine. The execution of any judgment rests with the sheriff or some other peace officer, with the assistance of the prison authorities when necessary.

**202. Appeals in Criminal Cases.**<sup>2</sup>—During the progress of a criminal prosecution, the distinction between *the law* and *the fact* must be carefully observed. By “the law” is meant all the rules and regulations which the court must follow in securing a jury, in admitting or excluding evidence, in instructing the jury, and in every other stage of the proceeding; by “the fact” is meant all facts and happenings leading up to or in any way connected with the crime. In case the trial is held without a jury, the judge must, of course, determine the law and the fact; but if it is by jury, the judge determines the law, and the jury the fact. No appeal as to matters of fact may be taken, but if it can be made to appear that the judge has erred in some point of law, an appeal may be taken.<sup>3</sup> An appeal from an inferior court is to the superior court, and from the superior court to the higher state courts. The court to which the case is appealed may affirm, modify, or reverse the judgment of the lower court. In case of a reversal, it may render such judgment as it sees fit, or may order a new trial. In case

<sup>1</sup> For impeachments before the senate, see § 213; for prosecutions in the superior court to remove from office, see § 69.

<sup>2</sup> Penal Code, § 1235 *seq.*

<sup>3</sup> For the points on which the defense may appeal, see § 1237 of the Penal Code; for the points on which the prosecution may appeal, see § 1238.

the superior court orders a new trial, it conducts the trial itself; but a new trial ordered by a higher court is conducted by the court that originally tried the case. Appellate proceedings in a criminal case, like those in a civil suit, are based on the record sent up from the lower court, and consist mainly of an examination of the record and of the arguments of attorneys representing the defendant and the people.

**203. The State Courts.**<sup>1</sup> — Our state system of courts includes the following: —

1. The Senate as a Court of Impeachment.
2. The Supreme Court.
3. The District Courts of Appeal.
4. The Superior Courts.
5. The Inferior Courts.
  - a. Township Courts.
  - b. Municipal Courts.

We shall consider these courts in their reverse order.

**204. The Inferior Courts.**<sup>2</sup> — There are two kinds of inferior courts: township courts, presided over by justices of the peace, and municipal courts, presided over by police judges and "recorders."

1. *Township Courts.* — Each county is divided into judicial townships by its board of supervisors, and each township has at least one justice of the peace. Any township may have two justices, if the board of supervisors so determines.<sup>3</sup> Each justice of the peace is elected by his township at the county election for four years and receives, as his compensation, either a definite salary from the

<sup>1</sup> See article VI of the state constitution.

<sup>2</sup> Code of Civil Procedure, § 103 *seq.*

<sup>3</sup> Los Angeles township, however, has four justices of the peace, and San Francisco has five. San Francisco may be considered as a township.



county treasury, determined by law, or certain fees which the law allows him to collect.<sup>1</sup>

2. *Municipal Courts.* — Municipal or police courts are established either by law or by city charters. Fifth and sixth class charters provide for them under the name of recorders' courts. Any freeholders' charter may provide for a police court and many of them do;<sup>2</sup> but cities whose charters make no such provision have city justices' courts, as they are called, established by law.<sup>3</sup> In such cities, the justices of the peace, or police judges, are elected at the county elections for four years.

3. *The Jurisdiction of Inferior Courts.* — The jurisdiction of a court has reference to the territory in which cases that may be tried by it originate,<sup>4</sup> and to the kinds of cases that it may try. The jurisdiction of our township and police courts is somewhat difficult to understand for two reasons: first, every person living in a city is subject to the jurisdiction of a township court and also of a police court, for every city either constitutes a township, or is part of a township or possibly two;<sup>5</sup> secondly, some police courts are established by city charters and some by state law, and city charters are not uniform as to the powers they confer

<sup>1</sup> After 1914 all will receive definite salaries. See section 15, article VI of the constitution.

<sup>2</sup> As may be seen in Appendix D, the charter of San Francisco provides for four police judges, and every other charter, which establishes a police court, provides for one judge. In some cities they are elected and in others they are appointed. The term of office is either at the pleasure of the appointing power or for a definite time, usually two or four years.

<sup>3</sup> According to the law Los Angeles has five city justices of the peace; Oakland has two; and other cities, whose charters do not provide for police judges, have one each.

<sup>4</sup> The authority of a court to summon people before it and to issue other "process" extends throughout the state.

<sup>5</sup> Part of Oakland is in Oakland township, and part in Brooklyn township, and each of these townships contains additional territory.

upon such courts, and even the law does not give to them the same powers in all cities.<sup>1</sup> Bearing these difficulties in mind, let us consider the jurisdiction of these courts, first in relation to that of the superior court, and second as to the differences between township and police courts.

First, as to the relation between their jurisdiction and that of the superior court. The inferior courts have concurrent jurisdiction with the superior court in two kinds of cases, as set forth in section 11, article VI of the constitution. They have no equity jurisdiction, but have exclusive jurisdiction in cases at law in which the amount of money claimed, or the value of the property involved, is less than \$300. Such cases are often called petty civil suits. They have exclusive criminal jurisdiction over misdemeanors that are "punishable by fine not exceeding \$500, or imprisonment not exceeding six months, or by both such fine and imprisonment"; except that in Los Angeles and Oakland, the police courts have jurisdiction over all misdemeanors, whatever their punishment may be.

Second, as to the differences between the jurisdiction of the township and that of the police courts. Township courts always have the jurisdiction indicated in the preceding paragraph in their respective townships outside of incorporated cities.<sup>2</sup>

<sup>1</sup> The police courts in cities of the first and one half class, and in cities of the second class, have greater criminal and less civil jurisdiction than such courts in other cities. Los Angeles is the only city of the first and one half, and Oakland the only city of the second class. This in reality is special legislation in the form of general laws.

<sup>2</sup> The criminal jurisdiction of a township court extends *throughout the county*; that is, any case triable in such a court may be tried before any justice of the peace in that county. The civil jurisdiction of a township court is limited to the township, except that its *process* extends throughout the county. That is, any petty civil suit must be tried in the township in which it arises, but any summons or writ issued by the court may be served or executed in any part of the county.

Police courts always have jurisdiction over all misdemeanors arising within city limits, except those that must be tried by the superior court; and over all petty civil suits growing out of city charters and ordinances.

Police courts have no jurisdiction outside of cities, but township courts have jurisdiction inside of cities as follows:—

a. Always over petty civil suits (involving less than \$300), *growing out of the state law*. They have this jurisdiction concurrently with the police courts; except in San Francisco, Los Angeles, Oakland, and a few other cities whose police courts have no jurisdiction over such cases.<sup>1</sup>

b. Over such misdemeanors *growing out of the state law* as are triable in inferior courts, except in San Francisco, Los Angeles, and Oakland, whose police courts have exclusive jurisdiction over such cases. The jurisdiction except in the three cities mentioned is concurrent with that of police courts.

<sup>1</sup> The charters of Long Beach, Pasadena, Watsonville, Santa Barbara, Eureka, and Sacramento give the police courts in these cities no jurisdiction over petty civil suits growing out of the state law. Such cases arising in these cities are therefore tried in the township courts. See *Graham vs. Fresno*, 151 Cal. 465; also *Kahn vs. Suto*, 114 Cal. 316. In San Francisco the police court has no civil, and the justices' court, no criminal jurisdiction. In Los Angeles and Oakland the police courts are presided over by city justices of the peace. The police courts in these two cities have no civil jurisdiction over cases growing out of the state law, but the justices who preside over them may, as justices of the peace (not as police judges) exercise jurisdiction in such cases. These justices may thus act in two capacities. See *People vs. Cobb*, 133 Cal. 74.

Other supreme court decisions that assist in understanding the relations between police and justices' courts are:—

*Ex Parte Sato*, 88 Cal. 624; *Roberts vs. Police Court*, 148 Cal. 131; *Ex Parte Dolan*, 128 Cal. 460; *Green vs. Superior Court*, 78 Cal. 556; also *In Re Johnson* Decisions of the District Courts of Appeal, Vol. 6, p. 734. In the case of *Ex Parte Dolan* the supreme court decided that a city charter cannot confer upon the police court exclusive jurisdiction over misdemeanor cases. This may be done, however, by state law, as in the case of Los Angeles and Oakland. The law creating the justices' court in San Francisco confers upon it only civil jurisdiction (see Statutes of 1872, page 84), while the charter confers criminal jurisdiction on the police court.

All justices of the peace, recorders, and police judges, except the justices of the peace in San Francisco, have the powers, and are required to perform the duties, of magistrates.

**205. The Superior Courts.**<sup>1</sup> — There is a superior court in each county, presided over by at least one judge. If additional judges are needed in any county, the legislature provides for them by special act.<sup>2</sup> Each judge is elected by his county, at large, for six years. If a county has more than one judge, they are not all, or both, elected at the same time. Vacancies are filled by the governor. Salaries of superior judges are determined for the respective counties by the legislature, and are paid half by the county and half by the state.

The supervisors of every county must provide a courtroom for each superior judge of the county, so that as many sessions of the court may be held at the same time as there are judges.<sup>3</sup> As the judges are state officers, a judge from any county may hold court in any other county "at the request of a judge of the superior court thereof, and upon the request of the governor, it shall be his duty to do so." Provision is also made for referring cases to judges *pro*

<sup>1</sup> See sections 6, 7, 8, article VI of the constitution.

<sup>2</sup> Los Angeles county has eighteen superior judges; San Francisco, sixteen; Alameda county, six; San Diego county, four; Santa Clara, Sacramento, San Joaquin, and Kern counties, three each; Sonoma, Fresno, San Bernardino, Tulare, Humboldt, Shasta, Contra Costa, and Orange counties, two each; and the remaining counties of the state, one each.

<sup>3</sup> The sheriff, or a deputy appointed by him, called a bailiff, must be present at every session of the court to preserve order, and to have charge of the jury during a jury trial. The sheriff must also, when directed to do so, serve writs and summonses issued by the court. The county clerk, or a deputy appointed by him, must act as clerk of each session of the court. The court appoints a court reporter for each judge to take reports in shorthand of proceedings before the court as directed by the judge.

*tempore*.<sup>1</sup> A county is said to have only one superior court no matter how many judges it may have, and the decision of any judge is regarded as a decision of the court. San Francisco county and Los Angeles county have each a presiding judge who apportions the work of the court among the various judges.<sup>2</sup> In other counties having more than one judge, this is done by agreement among themselves.

The jurisdiction of the superior court is both *original* and *appellate*.<sup>3</sup> It is our great court of original jurisdiction. All equity cases; all cases at law involving as much as \$300 in money or property equal to that amount; all cases at law involving the title or possession of real property, irrespective of its value, or the legality of any tax, or municipal fine, irrespective of the amount; all probate cases, divorce cases, and certain other civil cases mentioned in the constitution; "and all such special cases and proceedings as are not otherwise provided for,"<sup>4</sup> must originate in the superior court.<sup>5</sup>

"Said courts and their judges shall have power to issue writs of mandamus, certiorari, prohibition, quo warranto, and habeas corpus." These are regarded as public writs;

<sup>1</sup> Any person, not a judge, selected to try a case, with as much power to decide it as a regularly elected superior judge, would be a judge *pro tempore*. He would be very different from a referee, as the latter is selected to investigate some fact concerning which the court wants information, and to report to the court. Judges *pro tempore* are almost unknown in actual practice.

<sup>2</sup> In San Francisco, the presiding judge is, according to the constitution, chosen by the remaining judges. In Los Angeles county, the judges, by agreement among themselves, serve as presiding judge in rotation.

<sup>3</sup> A court has original jurisdiction over all cases that it may try first; and appellate jurisdiction over cases that may be appealed to it after being tried in a lower court. A court of original jurisdiction is often referred to as a court of first instance.

<sup>4</sup> Section 5, article VI of the constitution.

<sup>5</sup> The two kinds of civil cases that may originate in either the superior or an inferior court are mentioned in section 11, article VI of the constitution.

that is, the matters with which they deal, "though they may be owned and controlled by private persons, are of such public interest that the people have a right to demand the proper use and management of them. . . . In every case they proceed in the name of the people. In other words, they are civil suits by the people to protect matters of public interest."<sup>1</sup>

A writ of mandamus, or mandate, is an order "to any inferior tribunal, corporation, board, or person, to compel the performance of an act which the law specifically enjoins as a duty resulting from an office, trust, or station."<sup>2</sup> "It is the only process to compel the payment of money by a public corporation."<sup>3</sup>

A writ of certiorari, or a writ of review, is an order to a lower court, or to any board or officer exercising judicial functions, directing that the records in some particular case be certified to the court issuing the writ, in order that it may determine whether the lower court, board, or officer has exceeded its or his authority in the proceedings in question. The court issuing the writ, after examining the record, and hearing the arguments of the interested parties, must either affirm, annul, or modify the proceedings.

A writ of prohibition is an order directing some lower court, board, officer, or corporation to stop proceedings in some particular matter. The court issuing the writ does so only when it is convinced that the lower court, board, officer, or corporation is exercising authority not granted by law. The writ differs from an injunction in that its aim is to prevent an agency of the government from exceeding its legal authority; while an injunction is to protect private rights. A writ of prohibition against a corporation is to prevent it from exceeding its authorized powers; while a writ of injunction against it is to prevent it from infringing upon the private rights of individuals or of other corporations.

Quo warranto is a proceeding "against any person who usurps, intrudes into, or unlawfully holds or exercises any public office, civil

<sup>1</sup> Andrews's *American Law*, page 1093.

<sup>2</sup> Code of Civil Procedure, § 1085.

<sup>3</sup> Andrews's *American Law*, page 1094.

or military, or any franchise within this state.”<sup>1</sup> Formerly the proceeding was started by a writ directing the person or persons in question to appear before the court and explain by what authority such and such powers were being exercised; but now the first step is the filing of an information in court by the attorney-general. “It is a great remedy by which corporations are kept from usurping power, and individuals restrained from assuming corporate or official powers.”<sup>2</sup>

A writ of habeas corpus is an order directing the sheriff or any other person, having another in custody, to bring the prisoner before the court in order that the court may determine whether or not he is legally detained. The proceeding is not a criminal trial; it is simply to test the legality of the imprisonment. It is most commonly resorted to by persons who have been charged with felony and committed by a magistrate, and are held awaiting trial in a superior court. When the prisoner appears before the court, witnesses may be examined, and the case is gone into sufficiently to enable the judge to determine whether the detention is lawful. The action of the court may be to order the prisoner's release, to admit him to bail, or to order him detained until his case can be regularly tried.

The criminal jurisdiction of the superior court includes all felony cases and misdemeanors not otherwise provided for. This includes all the so-called “high” misdemeanors, except those committed in Los Angeles and Oakland.

The superior court acts as the agent of the United States government in naturalizing aliens. In performing this duty, it is controlled entirely by federal law.

The appellate jurisdiction of the superior court includes all cases, civil and criminal, that may be tried in township and police courts.

<sup>1</sup> Code of Civil Procedure, § 803.

<sup>2</sup> Andrews's *American Law*, page 1094.

Proceedings for the annulment of the Virginia charter in 1624 were begun by the issuing of a writ of quo warranto against the company by the court of King's Bench on the complaint of the attorney-general for the crown.



**206. Court Commissioners.** — The superior court of every county in the state may appoint one court commissioner, except that of San Francisco, which may appoint six. Each commissioner serves during the pleasure of the appointing power and receives fees for his services. A court commissioner is an official assistant of the court in certain matters: —

1. As previously stated, cases may be submitted to him as referee under conditions mentioned in the law.

2. In case of the absence or inability to act on the part of the judge of the court, he may "hear and determine *ex parte* motions for orders and writs, except orders and writs of injunction." An *ex parte* motion is one based on evidence submitted by only one side in a controversy. On such a motion a temporary writ may be issued if the matter is shown to be urgent.

3. During the progress of a trial he may be required to investigate any matter of fact not brought out in the pleadings, concerning which the court desires information. He must conduct his investigations according to law and must report his findings to the court.

4. He may be directed to examine any bond or undertaking that may be required of any person in any proceeding in the superior court, and to "examine the sureties<sup>1</sup> thereon when an exception has been taken to their sufficiency." The law confers upon him the powers of a notary public.

<sup>1</sup> The sureties are the persons who sign the bond or undertaking. Bonds or undertakings are required in many instances. Bail is a common example. Bonds sufficient to cover the costs of a trial may be required of the plaintiff at the beginning of the action; or when a temporary injunction is applied for, the plaintiff may be required to furnish bonds in sufficient amount to cover any loss that the defendant may sustain because of the injunction if it is later found that the plaintiff is not entitled to it. Many other examples could be given.



**207. The Grand Jury.**<sup>1</sup> — A grand jury must be summoned by the superior court in each county at least once a year, and it may be summoned any number of times. Its members are selected in the following manner: In January a suitable number of persons are selected from different parts of the county, by the judge or judges of the court, to serve as grand jurors for the year. The number must be at least twenty-five, and may be fifty, seventy-five, one hundred, or more. The names are given to the county clerk, who writes them on separate pieces of paper, which he places in a small box known as the grand jury box. When the court decides to summon the grand jury, the clerk in the presence of the court draws from the box by lot from twenty-five to thirty names as the judge directs.<sup>2</sup> These names are given to the sheriff, who summons the jurors to appear in court at a certain time. When they appear, those who are able to present good cause for not serving may be excused. If nineteen remain, they constitute the grand jury; if less than that number, others are drawn from the box; if more than nineteen, that number is selected by lot from those that remain. Provision is made whereby the district attorney, or any person accused of a crime triable by the superior court, may object to any juror and prevent his selection, if good cause is shown; but this is seldom done. The persons selected are sworn in as grand jurors; the judge appoints one of them to act as foreman, and instructs them as to their duties. Their most important duties are as follows: —

1. To inquire carefully into the official conduct of all

<sup>1</sup> Penal Code, § 894 *seq.*

<sup>2</sup> In counties having more than one judge, one of them is selected to summon, select, instruct, and receive the final report of the grand jury.

county officers and boards, especially of those that handle public money. They must examine the books and records of every county office and institution, and may employ an expert accountant to assist them. They must report to the court as to "the facts they have found, with such recommendations as they may deem proper and fit."<sup>1</sup> If they discover that public money has been unlawfully spent, they must direct the district attorney to bring suit to recover it. If they discover that any officer is guilty of "willful or corrupt misconduct," not amounting to crime, they must direct the district attorney to institute proceedings to remove him from office; but if the misconduct amounts to a crime, they must find an indictment against him. They must also investigate any charges that may be made against city, township, school district, or other public officers in the county, and if they discover evidence of misconduct, they must act as they would in the case of a county officer.

2. To investigate crimes that are committed in the county and that are triable in the superior court. Many such crimes are not investigated by the grand jury because they are prosecuted by information. Some, however, are brought before it by the district attorney; and it may investigate any alleged crime on its own motion. If the investigation discovers sufficient guilt, it finds an indictment against the persons whom it considers guilty. The indictment is filed in court by the foreman and the accused is prosecuted before a trial jury.

3. To inquire into the case of every person imprisoned in the county jail on a criminal charge and not indicted,

<sup>1</sup> The report consists of comments favorable or unfavorable as the case may be, and recommendations as to changes that should be made.

and into the condition and management of the public prisons within the county.

The meetings of the grand jury are held in secret. The district attorney is the only person not a member who may be present, except in answer to a summons or a request from the grand jury. When a crime is being investigated, the accused may or may not be permitted to introduce testimony in his behalf. Twelve members must concur in arriving at any conclusion. The grand jury may meet every day, or possibly only once or twice a week, and the time required to do its work may be several weeks, or several months.

**208. Trial Juries.**<sup>1</sup> — In January of each year, the superior court of each county decides upon the number of trial jurors that will be required during the year. In counties having a population amounting to one hundred thousand, the superior court selects the jurors; in other counties they are selected by boards of supervisors. The names are given to the county clerk, who places them, on separate pieces of paper, in the trial jury box. In the more populous counties, the jurors are divided into groups called panels, each panel serving for a certain definite time.<sup>2</sup> The names forming each panel are drawn from the box by the clerk in the presence of the court, and are usually placed in another box. This is done at the beginning of the period for which the panel is to serve. When a jury is needed, the clerk in the presence of the court draws from the trial jury box, or the panel box, as many names as the judge directs. These are given to the sheriff, who notifies the persons when to appear in court. When they appear, they

<sup>1</sup> Penal Code, §1055 *seq.*

<sup>2</sup> In San Francisco 1200 jurors are selected, and in Los Angeles county about 2500. In both places names are drawn from the box in panels of thirty, forty, or more, as they are needed. In Alameda county 400 are selected, and a panel of 100 names is drawn every three months beginning in January. These 100 are liable for jury service any time during the three months.

are questioned one by one by the attorneys for each side, in order to determine whether they can try the case "well and truly" and without prejudice. Some are excused, some accepted, the process continuing until the jury is made up. The number must be twelve in all felony cases; but in misdemeanor cases and in civil actions it may be a smaller number.<sup>1</sup>

If the jury cannot be secured from the first group summoned, another drawing from the box is ordered, and this may be repeated until all the names are exhausted. If the jury is still incomplete, the sheriff is directed to summon other persons from the citizenship of the county. The order issued by the judge directing that men be summoned for jury service is technically called a *venire*, but the word is commonly used as a collective noun to designate the men summoned. When a jury is required in an inferior court, citizens are summoned, in a less formal manner, from the township or city as the case may be, by the constable or the court bailiff.

**209. Miscellaneous Points respecting Juries.** — Grand and trial jurors in the superior court receive each two or three dollars a day; but jurors in inferior courts, and members of coroners' juries, serve without pay. A coroners' jury, consisting of twelve or a smaller number, is usually made up from men who happen to be in the immediate neighborhood.

Any man<sup>2</sup> may serve on a grand or trial jury who is an American citizen, twenty-one years of age, and a taxpayer; who has lived in the state one year and in the county ninety days; who understands English, and is possessed of natural faculties; who is ordinarily intelligent,

<sup>1</sup> See section 7, article I of the constitution.

<sup>2</sup> When women were granted the ballot in California it was at first assumed by many that this rendered them liable to jury service, but the attorney-general of the state ruled otherwise. Before they could serve as jurors a change in the law (not in the constitution) would be necessary.

and not decrepit. Persons convicted of crime are debarred, and no one may act as a grand juror and also as a trial juror in the same case. Certain persons are exempt from jury service, as, for example, public officers, ministers, teachers, physicians, druggists, sailors, mail carriers, express agents, railroad employees, telegraph and telephone operators, and a few others.

**210. The Juvenile Court.**<sup>1</sup>— Until 1903 the state reform schools were the only special institutions in California supported at public expense for the care of children who committed crimes, or who could not be controlled by their parents. Children were sent to the reform schools or were confined in jails and the state prisons, who would have had a better chance to develop into good citizens if they could have remained free under proper supervision. As the law did not provide for this supervision, the welfare of society demanded that such children be confined, although it was evident to many people that many of them, instead of being reformed, became hardened criminals through such treatment. The legislature of 1903 enacted a law which was intended to provide for more intelligent and humane treatment of such children. The principles upon which this law was based may be stated as follows: (a) that children who break the law or defy constituted authority, because of the fact that their characters are not formed, should be treated differently from adults who act in the same manner; (b) that reform, rather than punishment, should be the aim of the state in dealing with such children; and (c) that in most cases they can be reformed more effectively by permitting them to remain natural members of society under the supervision of public officers who are responsible for their

<sup>1</sup> Statutes of 1911, page 658 *seq.*

conduct, than by depriving them of their liberty. The law of 1903 has been amended by every subsequent regular session of the legislature, but it is still based on these principles. The provisions of the law as amended in 1913 will be briefly summed up.

The law applies to persons under the age of twenty-one years who are either "dependent" or "delinquent." Such a person is declared to be *dependent* who is found begging, or homeless, or destitute; whose parents or guardians are unfit to have control over him; who frequents the company of criminals or dissolute persons; who drinks, "habitually smokes cigarettes," frequents saloons or pool rooms, plays truant, or disobeys his parents or guardian; or "who for any cause is in danger of growing up to lead an idle, dissolute, or immoral life." A person under twenty-one is declared to be *delinquent* who is guilty of any act which if committed by an adult would be a crime.

To deal with dependent and delinquent children, the law provides for juvenile courts, probation committees, probation officers, and detention homes. There is a juvenile court in each county, presided over by a judge of the superior court. In every county having more than one superior judge, they select one of their number to perform this duty,<sup>1</sup> except that in San Francisco the selection is made by the presiding judge. Every county has a probation committee consisting of seven men and women, appointed by the judge of the juvenile court to serve four years without pay. Every county also has a probation officer, who is nominated by the probation committee and

<sup>1</sup> This is required by law, but is in harmony with long-established practice in our superior courts of more than one judge; for they always apportion their regular work among themselves, one judge taking probate cases, one divorce cases, one criminal cases, etc.

appointed by the judge of the juvenile court. Certain counties have assistant probation officers, appointed in the same manner as probation officers.<sup>1</sup> Probation officers and assistants receive salaries and give their entire time to their official duties. Their term of office is two years. The probation officer of each county may, with the approval of the judge of the juvenile court, appoint as many deputy probation officers to serve without pay as may be required. The supervisors of every county are required to provide a detention home for dependent and delinquent boys and girls. The superintendent, matron, and other employees of this institution must be nominated by the probation committee, approved by the judge of the juvenile court, and appointed by the supervisors. It must have no connection with the county jail, "and must be conducted in all respects as nearly like a home as possible, and shall not be deemed to be or treated as a penal institution."

Cases of dependent children come before the juvenile court on complaint of parents, guardians, persons engaged in charity work, or other interested parties. When the case is presented, the court orders the child and his parents or guardian to appear in court so that the facts may be ascertained. If he has no parent or guardian, the court appoints some person to act in his behalf. The proceedings are quite informal. If the judge, after he is in possession of the facts, decides that the child is dependent within the meaning of the law, he may commit him to the care of some person or society willing to assume the responsibility; may permit him to return to his home under the super-

<sup>1</sup> Los Angeles county has twenty-five assistants; San Francisco, ten, but the number may be altered by the supervisors; Alameda county, eight; and other counties have three, two, one, or none, according to law.



vision of the probation officer; may commit him to the detention home, or to one of the reform schools; or make any other disposition of the case that may seem advisable. It is the duty of the probation committee to inquire into the condition of any institution that offers to become responsible for such children, and to report the facts to the juvenile court.

Cases of delinquent children may come before the court and be disposed of in the same manner as cases of dependent children; but such cases may also come through the medium of the inferior courts. When any person charged with crime is brought before an inferior court and "it shall be suggested to the judge, justice, or recorder before whom the person is brought, that the person charged is under eighteen years," the court may investigate the age of the accused, and, if he is found to be under eighteen, the case must be turned over to the juvenile court. Here, the matter is investigated by the judge, without a jury; and if the accused is found to be delinquent, that is, guilty, the judge may send him to a reform school or to a detention home, or may commit him to the custody of the probation officer, or to the care of any society or corporation that is willing to assume the responsibility. Such a person remains under the jurisdiction of the court until he or she is twenty-one years of age, and the court may modify the original sentence at any time. If the crime committed amounts to a felony, and if the accused has been treated as a delinquent and proves to be incorrigible or incapable of reformation, the judge of the juvenile court, sitting as a committing magistrate, may order the case tried by a jury in the superior court; and if found guilty, the accused will then be treated as a criminal, that is, he will be sent to the penitentiary.



If a person between the ages of eighteen and twenty-one is accused of felony, the case takes the usual course until it reaches the superior court. Here, unless the charge is murder, the case may be turned over to the juvenile court and treated as a delinquency, or it may be tried in the superior court as a crime.<sup>1</sup>

The juvenile court has power to try, and, upon conviction, to punish by fine or imprisonment, any parent, guardian, or other person who, "by any act or omission," contributes to, or encourages, the dependency or delinquency of any child.

The probation officer and his assistants and deputies constitute an important part of this machinery for the care of juvenile offenders. It is their duty to keep track of all dependent and delinquent children who are placed on probation instead of being deprived of their liberty. Whether such children improve in character during their probationary period depends in large measure upon the earnestness and efficiency of these officers.

**211. County Law Libraries.**<sup>2</sup> — At the beginning of any civil suit in the superior court, either as an original proceeding or on appeal from a lower court, the party who begins the action must pay to the clerk of the court a special fee of one dollar for the benefit of the county law library. Such a library is maintained at every county seat for the use of judges, lawyers, and the general public. It is under the control of a board of five trustees, consisting of the chairman of the board of supervisors; one, two, or three

<sup>1</sup> One should distinguish between the juvenile court and the superior court. The same judge presides over both, but they are different courts. The juvenile court considers only the cases of dependents and delinquents, and disposes of such cases as the judge sees fit, no jury trials being held in this court.

<sup>2</sup> Political Code, § 4190 *seq.*

superior judges;<sup>1</sup> and one, two, or three attorneys appointed by the supervisors, the number depending upon the number of judges on the board. The trustees appoint a librarian and other necessary help, purchase suitable books and periodicals, and establish rules for the management of the library.

**212. The Higher State Courts.** — 1. *The District Courts of Appeal.* — The state is divided into three appellate court districts,<sup>2</sup> and a court consisting of three justices is provided for each district. One of these courts is located in San Francisco, one in Los Angeles, and one in Sacramento, these three cities being in different districts. The justices of each court are elected, each for a term of twelve years, by the voters of the district, one of the three being chosen at every general state election. Each justice receives a salary of \$7000 a year. Vacancies are filled by the governor until the next election. One of the justices in each district is the presiding justice.<sup>3</sup> Each court appoints a clerk, a deputy clerk, a bailiff, and other necessary attendants as provided by law.

Although each court is open at all times for the filing of papers and for the transaction of business at chambers,<sup>4</sup> only four regular sessions for the submission of new cases on appeal are held each year.<sup>5</sup> Every such session lasts four or five days, and only those cases may be submitted that have been previously placed on the calendar.<sup>6</sup> In addi-

<sup>1</sup> If a county has one, two, or three judges, each one is a member of the board. If there are more than three, they select three of their number to serve as members.

<sup>2</sup> See section 4, article VI of the constitution.

<sup>3</sup> He is elected as the presiding justice by the people.

<sup>4</sup> Business that any judge is authorized to transact at other times than at formal sessions of the court, such as to issue writs of habeas corpus.

<sup>5</sup> In January, April, August, and November.

<sup>6</sup> Cases are submitted by attorneys employed by interested parties, or by district attorneys. The submission of a case means the presentation of the record from the

tion, the court convenes on the fourth Monday of each month to consider applications for such writs as it is authorized to issue, and to hear any motions that litigants may wish to make relative to cases that have been submitted at regular sessions.<sup>1</sup> All three judges must be present at every session. The balance of their time is occupied in considering cases that have been submitted and in writing decisions.

After a case has been submitted, the presiding justice either takes it under consideration and writes his opinion upon it, or assigns it for that purpose to one of the other justices. Such an opinion when signed by all three justices becomes the decision of the court. Any decision of a district court of appeal is final, as far as that court is concerned, in thirty days; but during the next period of thirty days the supreme court may consent to review it. This action on the part of the supreme court suspends the decision; but the supreme court may later confirm it, or may modify or reverse it. If the supreme court does not consent to review an appellate court decision between the thirty-first and sixtieth day inclusive after it is rendered, it is as if it had been rendered by the supreme court. The supreme court may take a case out of the hands of any district court of appeal before a decision is rendered and may hear the case itself, or may transfer it to another district court of appeal.

2. *The Supreme Court.* — The state supreme court consists of one chief justice and six associate justices, elected by the state at large, each for a term of twelve years. Two

lower court, together with the written arguments, or "briefs," of attorneys, accompanied by such oral arguments as they are able to present in the time granted by the court.

<sup>1</sup> The fourth Monday of each month is called the "regular motion day."

associate justices are elected at every gubernatorial election, and a chief justice will be elected in 1914. Each justice receives a salary of \$8000 a year. Vacancies are filled by the governor until the next election. The court appoints a clerk, a chief deputy clerk, six deputy clerks, two secretaries, two bailiffs, a librarian for the supreme court library, a reporter and an assistant reporter of the decisions of the supreme court and of the district courts of appeal, and other necessary attendants as provided by law.

The court holds regular sessions in San Francisco beginning on the second Monday in January and on the third Monday in July; in Los Angeles beginning on the first Monday in April and on the second Monday in October; and in Sacramento beginning on the first Monday in May and on the second Monday in November. At these sessions cases on appeal from the superior courts are submitted, as well as cases that have been decided in district courts of appeal and are to be reviewed by the supreme court.<sup>1</sup> Special sessions are held at the same places from time to time to hear applications for writs and to consider motions affecting cases that have been submitted at regular sessions. A regular session usually lasts four or five days; and a special session, one or two. Except when holding sessions in Los Angeles and Sacramento, the justices spend most of their time in San Francisco, considering cases that have been submitted and writing decisions.

When in session, the court may sit in bank or in departments. Each department consists of three associate jus-

<sup>1</sup> The state is divided into supreme court districts known as the San Francisco, Los Angeles, and Sacramento districts. A case from a superior court may be submitted to the supreme court only when the latter is sitting in the same district; but a case from any district court of appeal may be submitted at any session of the supreme court.

tices designated by the chief justice, one of whom is chosen by the other two to act as presiding justice. The chief justice presides over the court in bank, and over either department when he is present,<sup>1</sup> and apportions the work to the departments and to the court in bank. After a case has been assigned to a department, he, or any four justices, may transfer it to the court in bank before a decision has been reached.

The supreme court arrives at its decisions in the same manner as the district courts of appeal; that is, after a case is submitted at any session, it is assigned to one of the justices, who considers it between sessions and writes his opinion upon it.<sup>2</sup> The opinion is then passed to the other two justices, if the case is a "department case," or to all the remaining justices, if it is a "bank case." Three must concur in a department decision, and four in a decision of the court in bank. A decision of the court in bank becomes final in thirty days after it is rendered.<sup>3</sup> A decision of a department becomes final at once if approved by the chief justice and two associates;<sup>4</sup> otherwise it becomes final in thirty days, if, during that time, the case is not ordered to be submitted to the court in bank at a subsequent session. This may be done by

<sup>1</sup> This practically never occurs except when one of the associate justices is absent.

<sup>2</sup> This is usually done in San Francisco.

<sup>3</sup> This is a provision of law, not of the constitution. During the thirty days the court may reconsider the case if it so desires. No case may be appealed from the state to the national supreme court unless the question at issue involves the national Constitution, a national law, or a treaty.

<sup>4</sup> This makes it possible for a department decision to become final sooner than a bank decision, for the latter cannot become final until thirty days after it is rendered. (Code of Civil Procedure, § 45.) This is clearly an anomalous situation, but no confusion arises from it for the reason that the chief justice almost never signs a department decision. He has done so only two or three times in ten years.

the chief justice and two associates, or by four associates, and such an order sets aside the department decision.

3. *The Jurisdiction of the Higher Courts.* — The jurisdiction of the supreme court and of the district courts of appeal is stated technically in the constitution.<sup>1</sup> It may be indicated in simple form as follows: —

*a. Appellate.* — The most important duty of these courts is to decide cases that are appealed from the superior courts, and by far the greater part of their time is devoted to this work. The constitution mentions certain kinds of cases which, if appealed at all from the superior courts, must go to the supreme court. The most important are: *cases in equity, cases at law involving the title to real estate, or involving any claim or property equal in value to \$2000, probate cases, and questions of law alone in capital criminal cases.* Other cases, when appealed, must go to the district courts of appeal. The supreme court may transfer any case that has been appealed to it to one of the district courts of appeal; and, as previously stated, it may take any case out of the hands of any of the appellate courts before a decision is reached. It is, therefore, possible for any case to be decided on appeal by any of the higher courts. Since any decision rendered by a district court of appeal may be reviewed by the supreme court, the decisions of all these courts are likely to be harmonious and consistent.

*b. Original.* — The only original jurisdiction possessed by the supreme court and the district courts of appeal is their power to issue writs of mandamus, certiorari, prohibition, and habeas corpus. To issue one of these writs is an exer-

<sup>1</sup> Section 4, article VI.

cise of original jurisdiction because the application for the writ is made directly to the higher court, and does not come up on appeal from the superior court. When considering such applications, these courts occasionally summon witnesses before them, — a thing which they never do when hearing cases on appeal, as all necessary facts are then ascertained from the records sent up from the superior courts.

**213. The Senate as a Court of Impeachment.** — The senate sits as a court of impeachment only on those rare occasions when the assembly decides to impeach some officer whom the constitution declares to be subject to impeachment.<sup>1</sup> When sitting in this capacity, the forty members are to be regarded as constituting a court of forty judges, and not the senate of the state. Their oath of office as senators is not sufficient to cover this duty, and thus they are required to take a special oath when assuming the character of judges of this high court. The concurrence of two thirds of the forty is necessary for a conviction.<sup>2</sup>

This court has no jurisdiction except in these special cases of impeachment, and a conviction extends only to "removal from office and disqualification to hold any office of honor, trust, or profit under the state"; but within this

<sup>1</sup> See sections 17 and 18 of article IV.

<sup>2</sup> In 1857 Henry Bates, state treasurer, was impeached and convicted, but resigned before the trial was concluded. In the same year George W. Whitman, state controller, was impeached, but was acquitted. In 1862 James W. Hardy, one of the district judges of the state, was impeached, convicted, and removed from office. See Hittell's *History of California*, Vol. IV, pages 199, 300, 431.

These are the only cases of impeachment that have arisen in California, although on several occasions the assembly has considered charges against certain judges without taking action. This method of removing men from office served a useful purpose in England long ago in rendering the king's ministers responsible to the representatives of the people; but it is of almost no practical value in our country. A state legislature is a political body, and has neither the time nor the temperament to exercise judicial functions properly.



limited range, its power is absolute, as there is no appeal from its decision. Even the governor, in the exercise of his pardoning power, cannot set aside or modify such a decision.<sup>1</sup>

**214. Miscellaneous Matters.** — Judges of the supreme court, district courts of appeal, and superior courts may be removed in three ways: by impeachment, by a concurrent resolution of both houses of the legislature adopted in each house by a two-thirds vote, and by the people through the recall. Judges of the inferior courts may be removed by the people, or by the superior court if convicted of "willful or corrupt misconduct" in office.

The supreme court, district courts of appeal, and superior courts are called "courts of record." Until within comparatively recent times, inferior courts did not keep complete records of their proceedings, and were said to be courts "not of record." They are still so classed, although they now keep complete records. This classification is thus of little practical importance and would not be referred to here except for the fact that it is mentioned in the constitution.

The records of a court are public records. They consist of a court docket in which is entered the title of each case, the date of its commencement, a statement of every subsequent proceeding, and of all fees charged; a complete statement, or a synopsis, of every order, judgment, or decree of the court; and a complete set of indexes.

The written decisions of the supreme court and of the district courts of appeal are compiled by the official reporter appointed for the purpose, and are printed under his supervision. With the approval of the secretary of state and the attorney-general, he awards the contract for the printing to the firm which agrees to print the decisions according to specifications and sell the bound volumes at the lowest price, — not exceeding four dollars per volume. Three hundred copies of each volume are purchased by the secretary of state to be distributed to certain officers and libraries as prescribed by law. There were, in October, 1913, 164 volumes of supreme court decisions running back to 1850; and 19 volumes of the decisions of

<sup>1</sup> See article VII of the constitution.



the district courts of appeal, running back to 1905, the date of the organization of these courts. Each volume contains something more than 700 pages. Many references are made to these volumes in this book. (For example see page 300.)

Any person wishing to practice law before the courts of this state must first obtain a certificate from one of the district courts of appeal. Such certificates are granted on the presentation of similar certificates from other states, and on examination.

The power of the courts is so extensive that our liberties would be endangered if they acted in an arbitrary manner. It is therefore essential that they act at all times according to established laws, rules, and customs, rather than according to the opinions and impulses of individual judges. The judges realize this to a greater extent than their fellow citizens, and it has sometimes seemed as if they were more concerned about the observance of technical rules of procedure than the rendering of justice. This has been especially true in criminal proceedings, because the courts feel that they should be unusually guarded and temperate when they have in their keeping the lives and liberties of men. They have therefore permitted a good many criminals to escape punishment on mere technical points of law. For this reason the voters of California at the special election in 1911 adopted an amendment to the constitution which is intended to prevent such miscarriages of justice. (See section 4½, article VI.)

The power of the courts to declare laws and local ordinances null and void when they are shown to be inconsistent with any part of the national or state constitution is well established. This makes the courts the guardians of the people's will, as expressed in their fundamental laws, against

any governmental agency which knowingly or inadvertently attempts to put any contrary principle into operation. This is their highest function and constitutes the greatest element of their power.

## QUESTIONS

1. What is the purpose of the courts?
2. If "A" steals from "B," why are "the people" injured?
3. What function has a jury in a civil suit? How many persons constitute such a jury? How many must concur in the verdict?
4. What is a crime? Is all lawbreaking crime?
5. What is bail? Why is it granted? When is it not granted?
6. When is a person said to be prosecuted by indictment? By information? What is the difference?
7. What are the advantages of secret sessions of the grand jury?
8. How are grand and trial juries impaneled? What is a talesman? A juror?
9. What is meant by the process of a court?
10. What two kinds of misdemeanors are mentioned in this chapter? What is a felony?
11. What is meant by the jurisdiction of a court?
12. Upon what theory is the juvenile court founded?
13. In what sense is the senate as a court of impeachment our highest state court?
14. Under what conditions may a case be appealed from the state supreme court to the national supreme court?

## CHAPTER XVI

### THE CONSTITUTION OF CALIFORNIA

**215. The Making of the Constitution.** — Our present constitution was adopted in 1879. Dissatisfaction with the constitution of 1849 was due, in large measure, to the hard times that prevailed after the financial panic of 1873. Many people believed that they were due to extortion on the part of the railroads and to the presence of large numbers of Chinese laborers in California. The demand for the regulation of the railroads became very insistent, especially in the rural districts, where the grangers had a powerful organization. The sentiment against the Chinese was strongest in the cities, where large numbers of men were unemployed. The old constitution had been adopted before either of these problems arose, and all discontented elements, believing that they could be solved only by changing the fundamental law, united in demanding a new constitution. The legislature of 1876, by the necessary two-thirds vote, decided to submit to the voters the proposition of calling a constitutional convention. The proposition was approved by a small majority of the voters, and the legislature of 1878 passed an act providing for the convention.

Times became even harder between 1876 and 1878, and the discontent increased. In 1877 the Workingman's Party was formed in San Francisco, and soon spread to other cities. This new party elected 51 of the 152 delegates

to the constitutional convention.<sup>1</sup> Of the remaining delegates 78 were elected on a nonpartisan ticket, 11 were Republicans, 10 were Democrats, and 2 were Independents.<sup>2</sup> The representatives of the Workingman's Party formed the most radical element in the convention. Many of the members from the country districts, who represented the views of the grangers, acted in harmony with this element on many questions; and thus the conservatives and the radicals were about evenly divided. But the conservatives controlled the convention throughout because of the fact that practically all the members of ability and legal training were found in their ranks. Thus the constitution as drawn up by the convention was in the main conservative, although the influence of the radical element can easily be seen.

The convention was in session from September 28, 1878, to March 3, 1879. The constitution was ratified by the voters of the state May 7, 1879, and went into effect January 1, 1880. It is given in the following pages as amended to date (1913).

**216. Contents of the Constitution.** — The constitution contains twenty-three articles, as follows:

Article	I. Declaration of Rights. (Page 327.)
Article	II. Right of Suffrage. (Page 332.)
Article	III. Distribution of Powers. (Page 334.)
Article	IV. Legislative Department. (Page 334.)
Article	V. Executive Department. (Page 350.)
Article	VI. Judicial Department. (Page 354.)

<sup>1</sup> The election was held June 19, 1879. Of the 152 delegates elected, two died before the convention met, one resigned, and four did not attend. The convention thus consisted of 145 delegates.

<sup>2</sup> Hittell's *History of California*, Vol. IV, pages 613-640.

- Article VII. Pardoning Power. (Page 364.)
- Article VIII. Militia. (Page 365.)
- Article IX. Education. (Page 365.)
- Article X. State Institutions and Public Buildings.  
(Page 369.)
- Article XI. Counties, Cities, and Towns. (Page 370.)
- Article XII. Corporations. (Page 387.)
- Article XIII. Revenue and Taxation. (Page 395.)
- Article XIV. Water and Water Rights. (Page 403.)
- Article XV. Harbor Frontages. (Page 403.)
- Article XVI. State Indebtedness. (Page 404.)
- Article XVII. Land, and Homestead Exemption. (Page  
405.)
- Article XVIII. Amending and Revising the Constitution.  
(Page 405.)
- Article XIX. Chinese. (Page 406.)
- Article XX. Miscellaneous Subjects. (Page 408.)
- Article XXI. Boundary. (Page 411.)
- Article XXII. Schedule. (Page 412.)
- Article XXIII. Recall of Public Officials. (Page 415.)

# CONSTITUTION OF THE STATE OF CALIFORNIA<sup>1</sup>

## PREAMBLE AND DECLARATION OF RIGHTS

### PREAMBLE

#### **Purpose of the constitution.**

We, the people of the State of California, grateful to Almighty God for our freedom, in order to secure and perpetuate its blessings, do establish this Constitution.

### ARTICLE I

#### DECLARATION OF RIGHTS

#### **Inalienable rights of men.**

SECTION 1. All men are by nature 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 pursuing and obtaining safety and happiness.

#### **Government for and by the people.**

SEC. 2. All political power is inherent<sup>2</sup> in the people. Government is instituted for the protection, security and benefit of the people, and they have the right to alter or reform the same whenever the public good may require it.

#### **California a part of the Union.**

SEC. 3. The State of California is an inseparable part of the American Union, and the Constitution of the United States is the supreme law of the land.

#### **Freedom of religion.**

SEC. 4. The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be guaranteed in

<sup>1</sup> The text of the Constitution here given is taken from the edition compiled by F. C. Jordan, Secretary of State, and published by F. W. Richardson, Superintendent of State Printing, 1912.

<sup>2</sup> Inherent power is power that exists by natural right. Such power is possessed by the people of a state. The powers possessed by any public corporation in a state are *granted* powers, and may legally be taken away.

this State; and no person shall be rendered incompetent to be a witness or juror on account of his opinions on matters of religious belief; but the liberty of conscience hereby secured shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of this State.

#### **Habeas corpus.**

SEC. 5. The privilege of the writ of habeas corpus shall not be suspended unless when, in cases of rebellion or invasion, the public safety may require its suspension. (§ 205.)

#### **Bail — Witnesses.**

SEC. 6. All persons shall be bailable by sufficient sureties, unless for capital offenses when the proof is evident or the presumption great. Excessive bail shall not be required, nor excessive fines imposed; nor shall cruel or unusual punishments be inflicted. Witnesses shall not be unreasonably detained, nor confined in any room where criminals are actually imprisoned. (§ 201, 2 a.)

#### **Jury trial.**

SEC. 7. The right of trial by jury shall be secured to all, and remain inviolate; but in civil actions three fourths of the jury may render a verdict. A trial by jury may be waived in all criminal cases, not amounting to felony, by the consent of both parties, expressed in open court, and in civil actions by the consent of the parties, signified in such manner as may be prescribed by law. In civil actions, and cases of misdemeanor, the jury may consist of twelve, or of any number less than twelve upon which the parties may agree in open court. (§ 198, 3; § 201, 4.)

#### **Indictments — Information — Grand jury.**

SEC. 8. Offenses heretofore required to be prosecuted by indictment shall be prosecuted by information, after examination and commitment by a magistrate, or by indictment, with or without such examination and commitment, as may be prescribed by law. A grand jury shall be drawn and summoned at least once a year in each county. (§ 201, 2 b.)

#### **Freedom of speech — Libel suits.**

SEC. 9. Every citizen may freely speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that right; and no law shall be passed to restrain or abridge the liberty of speech or of the press. In all criminal prosecutions for libels, the truth may be given in evidence to the jury; and if it shall appear to the jury that the matter charged as libelous is true, and was published with good motives and for justifiable ends, the party shall be acquitted; and the jury shall have the right to determine the law and the fact. Indictments found, or information laid, for

publications in newspapers shall be tried in the county where such newspapers have their publication office, or in the county where the party alleged to be libeled resided at the time of the alleged publication, unless the place of trial shall be changed for good cause.

**Freedom of assembling and petitioning.**

SEC. 10. The people shall have the right to freely assemble together to consult for the common good, to instruct their representatives and to petition the Legislature for redress of grievances.<sup>1</sup>

**Laws to be uniform.**

SEC. 11. All laws of a general nature shall have a uniform operation.

**Military subordinate to civil power.**

SEC. 12. The military shall be subordinate to the civil power. No standing army shall be kept up by this State in time of peace,<sup>2</sup> and no soldier shall, in time of peace, be quartered in any house without the consent of the owner; nor in time of war, except in the manner prescribed by law.

**Criminal trials — Rights of the accused.**

SEC. 13. In criminal prosecutions, in any court whatever, the party accused shall have the right to a speedy and public trial; to have the process of the court to compel the attendance of witnesses in his behalf, and to appear and defend, in person and with counsel. No person shall be twice put in jeopardy for the same offense;<sup>3</sup> nor 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. The Legislature shall have power to provide for the taking, in the presence of the party accused and his counsel, of depositions of witnesses in criminal cases, other than cases of homicide, when there is reason to believe that the witness, from inability or other cause, will not attend at the trial.

**Rights of private property.**

SEC. 14. Private property shall not be taken or damaged for public use without just compensation having first been made to, or paid into court for, the owner, and no right of way shall be appropriated to the use of any corporation other than municipal until full compensation therefor be first made in money or ascertained and paid into court for the owner, irrespective of

<sup>1</sup> In some countries — Russia, for example — the people do not have the right of free assemblage.

<sup>2</sup> The national guard is not a standing army, as its members are not professional soldiers, and do not give their entire time to military service.

<sup>3</sup> If a verdict of acquittal is rendered at the end of a trial the defendant may not be tried again on the same charge, unless the court should set the verdict aside for cause. There may be a new trial if the jury fails to agree.



any benefits from any improvement proposed by such corporation, which compensation shall be ascertained by a jury, unless a jury be waived, as in other civil cases in a court of record, as shall be prescribed by law. The taking of private property for a railroad run by steam or electric power for logging or lumbering purposes shall be deemed a taking for a public use, and any person, firm, company or corporation taking private property under the law of eminent domain for such purposes shall thereupon and thereby become a common carrier.<sup>1</sup> [*As amended October 10, 1911.*]

**Imprisonment for debt and for militia fines forbidden.**

SEC. 15. No person shall be imprisoned for debt in any civil action, on mesne or final process, unless in cases of fraud, nor in civil actions for torts, except in cases of willful injury to person or property,<sup>2</sup> and no person shall be imprisoned for a militia fine in time of peace.

**Bills of attainder — Ex post facto laws — Obligation of contracts.**

SEC. 16. No bill of attainder, ex post facto law, or law impairing the obligations of contracts shall ever be passed.<sup>3</sup>

**Rights of foreigners.**

SEC. 17. Foreigners of the white race, or of African descent, eligible to become citizens of the United States under the naturalization laws thereof,

<sup>1</sup> A railroad company, like a public corporation, has the right of *eminent domain*. If a lumber company builds a railroad for logging purposes over land belonging to other persons, the road is a *common carrier*; that is, it must transport freight offered to it for the purpose by other persons along the route; and is subject to the control of the state railroad commission.

<sup>2</sup> "Mesne" process refers to orders issued by the Court during the progress of a trial (§ 198, 2); "final" process refers to those issued at the end (§ 198, 4); a "tort" is an injury to person or property not amounting to a crime, but which constitutes cause for a civil action (§ 300).

<sup>3</sup> During and preceding the seventeenth century the British parliament occasionally passed bills declaring persons to be guilty of "high crimes and misdemeanors." Such bills were called bills of attainder. The person against whom any such bill was passed had no trial and was given no hearing. The punishment was death and the confiscation of his property; also the blood of his descendants was declared to be "attainted," that is, they were reduced to the lowest rank of society. No such bills have ever been passed in this country, as no person can be legally convicted except by a court of competent jurisdiction. Lynching, as compared with the old English bills of attainder, is a degraded method of taking life without "due process of law."

A law making a past act punishable which was not punishable when committed, or a law increasing the punishment of a past act, would be an *ex post facto* law. A contract is made according to the law then in force. If the law relating to contracts is amended, the amendment cannot affect contracts already entered into; it must apply only to future contracts.

while bona fide residents of this State, shall have the same rights in respect to the acquisition, possession, enjoyment, transmission, and inheritance of all property, other than real estate, as native born citizens; *provided*, that such aliens owning real estate at the time of the adoption of this amendment may remain such owners; *and provided further*, that the Legislature may, by statute, provide for the disposition of real estate which shall hereafter be acquired by such aliens by descent or devise.<sup>1</sup> [*As amended November 6, 1894.*]

#### **Slavery prohibited.**

SEC. 18. Neither slavery nor involuntary servitude, unless for the punishment of crime, shall ever be tolerated in this State.

#### **General warrants.**

SEC. 19. The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable seizures and searches, shall not be violated; and no warrant shall issue, but on probable cause, supported by oath or affirmation, particularly describing the place to be searched and the person and things to be seized.

#### **Treason.**

SEC. 20. Treason against the State shall consist only in levying war against it, adhering to its enemies, or giving them aid and comfort. No person shall be convicted of treason unless on the evidence of two witnesses to the same overt act, or confession in open court.

#### **Special privileges, limitations on.**

SEC. 21. No special privileges or immunities shall ever be granted which may not be altered, revoked, or repealed by the Legislature; nor shall any citizen, or class of citizens, be granted privileges or immunities which, upon the same terms, shall not be granted to all citizens.

#### **Constitution mandatory.**

SEC. 22. The provisions of this Constitution are mandatory and prohibitory, unless by express words they are declared to be otherwise.<sup>2</sup>

<sup>1</sup> The legislature is here given power to deprive the classes of aliens referred to of the right to own real estate, but it has not exercised this power. The omission of Asiatics and other persons not of the white or black races would seem to imply that the legislature may deprive them of the right even to own personal property. This power has of course not been exercised, but the passage of the "anti-alien land bill" in 1913 deprives persons who are ineligible to become American citizens (that is "Mongolians," or Chinese and Japanese) of the right to own real estate.

<sup>2</sup> The parts of the constitution that confer *optional* power upon the legislature, the courts, any officer or board, or any public corporation, are not mandatory or

**Rights retained by the people.**

SEC. 23. This enumeration of rights shall not be construed to impair or deny others retained by the people.

**Property qualification forbidden.**

SEC. 24. No property qualification shall ever be required for any person to vote or hold office.

**Right to fish.**

SEC. 25. The people shall have the right to fish upon and from the public lands of the State and in the waters thereof, excepting upon lands set aside for fish hatcheries, and no land owned by the State shall ever be sold or transferred without reserving in the people the absolute right to fish thereupon; and no law shall ever be passed making it a crime for the people to enter upon the public lands within this State for the purpose of fishing in any water containing fish that have been planted therein by the State; *provided*, that the Legislature may by statute, provide for the season when and the conditions under which the different species of fish may be taken. [*New section adopted November 8, 1910.*]

**ARTICLE II****RIGHT OF SUFFRAGE****Who may vote, who may not.**

SECTION 1. Every native citizen of the United States, every person who shall have acquired the rights of citizenship under or by virtue of the treaty of Queretaro, and every naturalized citizen thereof, who shall have become such ninety days prior to any election, of the age of twenty-one years, who shall have been resident of the State one year next preceding the election, and of the county in which he or she claims his or her vote ninety days, and in the election precinct thirty days, shall be entitled to vote at all elections which are now or may hereafter be authorized by law; *provided*, no native of China, no idiot, no insane person, no person convicted of any infamous crime, no person hereafter convicted of the embezzlement or misappropriation of public money, and no person who shall not be able to read the Constitution in the English language and write his or her name, shall ever exercise the privileges of an elector in this State; *provided*, that the provisions prohibitory. Mandatory provisions are self-executing, — that is, public officers must enforce them, — unless supplementary acts on the part of the legislature are required. There is no way to compel the legislature to pass laws demanded by the constitution. Prohibitory provisions will be enforced by the courts at all times.

of this amendment relative to an educational qualification shall not apply to any person prevented by a physical disability from complying with its requisitions, nor to any person who now has the right to vote, nor to any person who shall be sixty years of age and upwards at the time this amendment shall take effect.<sup>1</sup> [*As amended October 10, 1911.*]

#### **Privileges of voters.**

SEC. 2. Electors shall in all cases, except treason, felony, or breach of the peace, be privileged from arrest on the days of election, during their attendance at such election, going to and returning therefrom.

#### **Primary elections.**

SEC. 2½. The Legislature shall have the power to enact laws relative to the election of delegates to conventions of political parties; and the Legislature shall enact laws providing for the direct nomination of candidates for public office, by electors, political parties, or organizations of electors without conventions, at elections to be known and designated as primary elections; also to determine the tests and conditions upon which electors, political parties, or organizations of electors may participate in any such primary election. It shall also be lawful for the Legislature to prescribe that any such primary election shall be mandatory and obligatory. The Legislature shall also have the power to establish the rates of compensation for primary election officers serving at such primary elections in any city, or city and county, or county, or other subdivision of a designated population, without making such compensation uniform, and for such purpose such law may declare the population of any city, city and county, county or political subdivision. *Provided, however,* that until the Legislature shall enact a direct primary election law under the provisions of this section, the present primary election law shall remain in force and effect.<sup>2</sup> [*As amended November 3, 1908.*]

#### **Voters not obliged to perform military duty on election day.**

SEC. 3. No elector shall be obliged to perform militia duty on the day of election, except in time of war or public danger.

#### **Residence of voters.**

SEC. 4. For the purpose of voting, no person shall be deemed to have gained or lost a residence by reason of his presence or absence while employed in the service of the United States, nor while engaged in the navigation of the waters of this State or of the United States, or of the high seas; nor while

<sup>1</sup> Prior to 1911 only qualified "native male citizens" could vote.

<sup>2</sup> The word electors as used in this section means voters. By virtue of this section the direct primary law of 1909 was passed.

a student at any seminary of learning; nor while kept in any almshouse or other asylum at public expense; nor while confined in any public prison.

**Elections to be by ballot or otherwise.**

SEC. 5. All elections by the people shall be by ballot or by such other method as may be prescribed by law; *provided*, that secrecy in voting be preserved. [*As amended November 3, 1896.*]

**Voting machines.**

SEC. 6. The inhibitions of this Constitution to the contrary notwithstanding,<sup>1</sup> the Legislature shall have power to provide that in different parts of the State different methods may be employed for receiving and registering the will of the people as expressed at elections, and may provide that mechanical devices may be used within designated subdivisions of the State at the option of the local authority indicated by the Legislature for that purpose. [*New section; adopted November 4, 1902.*]

## ARTICLE III

### DISTRIBUTION OF POWERS

**Three departments of government.**

SECTION 1. The powers of the government of the State of California shall be divided into three separate departments — the legislative, executive, and judicial; and no person charged with the exercise of powers properly belonging to one of these departments shall exercise any functions appertaining to either of the others, except as in this Constitution expressly directed or permitted. (§ 123.)

## ARTICLE IV

### LEGISLATIVE DEPARTMENT

**Legislative power.**

SECTION 1. The legislative power of this State shall be vested in a Senate and Assembly which shall be designated "The Legislature of the State of California," but the people reserve to themselves the power to propose laws and amendments to the Constitution, and to adopt or reject the same, at the polls independent of the Legislature, and also reserve the power, at their own option, to so adopt or reject any act, or section or part of any act, passed

<sup>1</sup> See Article I, section 11.

by the Legislature. The enacting clause of every law shall be "The people of the State of California do enact as follows:".

The first power reserved to the people shall be known as the initiative. Upon the presentation to the Secretary of State of a petition certified as herein provided to have been signed by qualified electors, equal in number to eight per cent of all the votes cast for all candidates for Governor at the last preceding general election, at which a Governor was elected, proposing a law or amendment to the Constitution, set forth in full in said petition, the Secretary of State shall submit the said proposed law or amendment to the Constitution to the electors at the next succeeding general election occurring subsequent to ninety days after the presentation aforesaid of said petition, or at any special election called by the Governor in his discretion prior to such general election. All such initiative petitions shall have printed across the top thereof in twelve point black-face type the following: "Initiative measure to be submitted directly to the electors."

Upon the presentation to the Secretary of State, at any time not less than ten days before the commencement of any regular session of the Legislature, of a petition certified as herein provided to have been signed by qualified electors of the State equal in number to five per cent of all the votes cast for all candidates for Governor at the last preceding general election, at which a Governor was elected, proposing a law set forth in full in said petition, the Secretary of State shall transmit the same to the Legislature as soon as it convenes and organizes. The law proposed by such petition shall be either enacted or rejected without change or amendment by the Legislature, within forty days from the time it is received by the Legislature. If any law proposed by such petition shall be enacted by the Legislature it shall be subject to referendum, as hereinafter provided. If any law so petitioned for be rejected, or if no action is taken upon it by the Legislature within said forty days, the Secretary of State shall submit it to the people for approval or rejection at the next ensuing general election. The Legislature may reject any measure so proposed by initiative petition and propose a different one on the same subject by a yea and nay vote upon separate roll call, and in such event both measures shall be submitted by the Secretary of State to the electors for approval or rejection at the next ensuing general election or at a prior special election called by the Governor, in his discretion, for such purpose. All said initiative petitions last above described shall have printed in twelve point black-face type the following: "Initiative measure to be presented to the Legislature."

The second power reserved to the people shall be known as the referendum. No act passed by the Legislature shall go into effect until ninety days after the final adjournment of the session of the Legislature which passed such act, except acts calling elections, acts providing for tax levies or appropriations

for the usual current expenses of the State, and urgency measures necessary for the immediate preservation of the public peace, health or safety, passed by a two-thirds vote of all the members elected to each house. Whenever it is deemed necessary for the immediate preservation of the public peace, health or safety that a law shall go into immediate effect, a statement of the facts constituting such necessity shall be set forth in one section of the act, which section shall be passed only upon a ye and nay vote, upon a separate roll call thereon; *provided, however*, that no measure creating or abolishing any office or changing the salary, term or duties of any officer, or granting any franchise or special privilege, or creating any vested right or interest, shall be construed to be an urgency measure. Any law so passed by the Legislature and declared to be an urgency measure shall go into immediate effect.

Upon the presentation to the Secretary of State within ninety days after the final adjournment of the Legislature of a petition certified as herein provided, to have been signed by qualified electors equal in number to five per cent of all the votes cast for all candidates for Governor at the last preceding general election at which a Governor was elected, asking that any act or section or part of any act of the Legislature, be submitted to the electors for their approval or rejection, the Secretary of State shall submit to the electors for their approval or rejection, such act, or section or part of such act, at the next succeeding general election occurring at any time subsequent to thirty days after the filing of said petition or at any special election which may be called by the Governor, in his discretion, prior to such regular election, and no such act or section or part of such act shall go into effect until and unless approved by a majority of the qualified electors voting thereon; but if a referendum petition is filed against any section or part of any act the remainder of such act shall not be delayed from going into effect.

Any act, law or amendment to the Constitution submitted to the people by either initiative or referendum petition and approved by a majority of the votes cast thereon, at any election, shall take effect five days after the date of the official declaration of the vote by the Secretary of State. No act, law or amendment to the Constitution, initiated or adopted by the people, shall be subject to the veto power of the Governor, and no act, law or amendment to the Constitution, adopted by the people at the polls under the initiative provisions of this section, shall be amended or repealed except by a vote of the electors, unless otherwise provided in said initiative measure; but acts and laws adopted by the people under the referendum provisions of this section may be amended by the Legislature at any subsequent session thereof. If any provision or provisions of two or more measures, approved by the electors at the same election, conflict, the provision or provisions of the measure receiving the highest affirmative vote shall prevail. Until



otherwise provided by law, all measures submitted to a vote of the electors, under the provisions of this section, shall be printed, and together with arguments for and against each such measure by the proponents and opponents thereof, shall be mailed to each elector in the same manner as now provided by law as to amendments to the Constitution, proposed by the Legislature; and the persons to prepare and present such arguments shall, until otherwise provided by law, be selected by the presiding officer of the senate.

If for any reason any initiative or referendum measure, proposed by petition as herein provided, be not submitted at the election specified in this section, such failure shall not prevent its submission at a succeeding general election, and no law or amendment to the Constitution, proposed by the Legislature, shall be submitted at any election unless at the same election there shall be submitted all measures proposed by petition of the electors, if any be so proposed, as herein provided.

Any initiative or referendum petition may be presented in sections, but each section shall contain a full and correct copy of the title and text of the proposed measure. Each signer shall add to his signature his place of residence, giving the street and number if such exist. His election precinct shall also appear on the paper after his name. The number of signatures attached to each section shall be at the pleasure of the person soliciting signatures to the same. Any qualified elector of the State shall be competent to solicit said signatures within the county or city and county of which he is an elector. Each section of the petition shall bear the name of the county or city and county in which it is circulated, and only qualified electors of such county or city and county shall be competent to sign such section. Each section shall have attached thereto the affidavit of the person soliciting signatures to the same, stating his own qualifications and that all the signatures to the attached section were made in his presence and that to the best of his knowledge and belief each signature to the section is the genuine signature of the person whose name it purports to be, and no other affidavit thereto shall be required. The affidavit of any person soliciting signatures hereunder shall be verified free of charge by any officer authorized to administer oaths. Such petitions so verified shall be prima facie evidence that the signatures thereon are genuine and that the persons signing the same are qualified electors. Unless and until it be otherwise proven upon official investigation, it shall be presumed that the petition presented contains the signatures of the requisite number of qualified electors.

Each section of the petition shall be filed with the clerk or registrar of voters of the county or city and county in which it was circulated, but all said sections circulated in any county or city and county shall be filed at the same time. Within twenty days after the filing of such petition in his



office the said clerk, or registrar of voters, shall determine from the records of registration what number of qualified electors have signed the same, and if necessary the board of supervisors shall allow said clerk or registrar additional assistants for the purpose of examining such petition and provide for their compensation. The said clerk or registrar, upon the completion of such examination, shall forthwith attach to said petition, except the signatures thereto appended, his certificate, properly dated, showing the result of said examination and shall forthwith transmit said petition, together with his said certificate, to the Secretary of State and also file a copy of said certificate in his office. Within forty days from the transmission of the said petition and certificate by the clerk or registrar to the Secretary of State, a supplemental petition identical with the original as to the body of the petition but containing supplemental names, may be filed with the clerk or registrar of voters, as aforesaid. The clerk or registrar of voters shall within ten days after the filing of such supplemental petition make like examination thereof, as of the original petition, and upon the completion of such examination shall forthwith attach to said petition his certificate, properly dated, showing the result of said examination, and shall forthwith transmit a copy of said supplemental petition, except the signatures thereto appended, together with his certificate, to the Secretary of State.

When the Secretary of State shall have received from one or more county clerks or registrars of voters a petition certified as herein provided to have been signed by the requisite number of qualified electors, he shall forthwith transmit to the county clerk or registrar of voters of every county or city and county in the State his certificate showing such fact. A petition shall be deemed to be filed with the Secretary of State upon the date of the receipt by him of a certificate or certificates showing said petition to be signed by the requisite number of electors of the State. Any county clerk or registrar of voters shall, upon receipt of such copy, file the same for record in his office. The duties herein imposed upon the clerk or registrar of voters shall be performed by such registrar of voters in all cases where the office of registrar of voters exists.

The initiative and referendum powers of the people are hereby further reserved to the electors of each county, city and county, city and town of the State, to be exercised under such procedure as may be provided by law. Until otherwise provided by law, the legislative body of any such county, city and county, city or town may provide for the manner of exercising the initiative and referendum powers herein reserved to such counties, cities and counties, cities and towns, but shall not require more than fifteen per cent of the electors thereof to propose any initiative measure nor more than ten per cent of the electors thereof to order the referendum. Nothing contained in this section shall be construed as affecting or limiting the present

or future powers of cities or cities and counties having charters adopted under the provisions of section eight of article eleven of this Constitution. In the submission to the electors of any measure under this section, all officers shall be guided by the general laws of this State, except as is herein otherwise provided. This section is self-executing, but legislation may be enacted to facilitate its operation, but in no way limiting or restricting either the provisions of this section or the powers herein reserved. [*As amended October 10, 1911.*]

#### **Sessions of the Legislature.**

SEC. 2. The sessions of the Legislature shall be biennial, unless the Governor shall, in the interim, convene the Legislature, by proclamation, in extraordinary session. All sessions, other than extraordinary, shall commence at twelve o'clock m., on the first Monday after the first day of January next succeeding the election of its members, and shall continue in session for a period not exceeding thirty days thereafter; whereupon a recess of both houses must be taken for not less than thirty days. On the reassembling of the Legislature, no bill shall be introduced in either house without the consent of three fourths of the members thereof, nor shall more than two bills be introduced by any one member after such reassembling. [*As amended October 10, 1911.*]

#### **Election of members of the Assembly.**

SEC. 3. Members of the Assembly shall be elected in the year eighteen hundred and seventy-nine, at the time and in the manner now provided by law. The second election of members of the Assembly after the adoption of this Constitution shall be on the first Tuesday after the first Monday in November, eighteen hundred and eighty. Thereafter, members of the Assembly shall be chosen biennially, and their term of office shall be two years; and each election shall be on the first Tuesday after the first Monday in November, unless otherwise ordered by the Legislature. (§ 120.)

#### **Election of senators and qualifications of members of Legislature.**

SEC. 4. Senators shall be chosen for the term of four years, at the same time and places as members of the Assembly, and no person shall be a member of the Senate or Assembly who has not been a citizen and inhabitant of the State three years, and of the district for which he shall be chosen one year, next before his election. (§ 120.)

#### **Number of senators and members of the Assembly.**

SEC. 5. The Senate shall consist of forty members, and the Assembly of eighty members, to be elected by districts, numbered as hereinafter provided. The seats of the twenty Senators elected in the year eighteen hundred and eighty-two from the odd-numbered districts shall be vacated

at the expiration of the second year, so that one half of the Senators shall be elected every two years; *provided*, that all the Senators elected at the first election under this Constitution shall hold office for the term of three years.

**Senatorial and Assembly districts.**

SEC. 6. For the purpose of choosing members of the Legislature, the State shall be divided into forty senatorial and eighty assembly districts, as nearly equal in population as may be, and composed of contiguous territory, to be called senatorial and assembly districts. Each senatorial district shall choose one Senator, and each assembly district shall choose one member of Assembly. The senatorial districts shall be numbered from one to forty, inclusive, in numerical order, and the assembly districts shall be numbered from one to eighty in the same order, commencing at the northern boundary of the State and ending at the southern boundary thereof. In the formation of such districts, no county, or city and county, shall be divided, unless it contains sufficient population within itself to form two or more districts; nor shall a part of any county, or of any city and county, be united with any other county, or city and county, in forming any district. The census taken under the direction of the Congress of the United States, in the year one thousand eight hundred and eighty, and every ten years thereafter, shall be the basis of fixing and adjusting the legislative districts; and the Legislature shall, at its first session after each census, adjust such districts and reapportion the representation so as to preserve them as near equal in population as may be. But in making such adjustment no persons who are not eligible to become citizens of the United States, under the naturalization laws, shall be counted as forming a part of the population of any district. Until such districting as herein provided for shall be made, Senators and Assemblymen shall be elected by the districts according to the apportionment now provided for by law. (Appendix B, I and II.)

**Each house to choose its officers and judge of the qualifications of its members.**

SEC. 7. Each house shall choose its officers, and judge of the qualifications, elections, and returns of its members.

**Quorum.**

SEC. 8. A majority of each house shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and may compel the attendance of absent members in such manner, and under such penalties, as each house may provide.

**Rules of proceeding, and expulsion of members.**

SEC. 9. Each house shall determine the rule of its proceeding, and may.

with the concurrence of two thirds of all the members elected, expel a member.

**Journals.**

SEC. 10. Each house shall keep a journal of its proceedings, and publish the same, and the yeas and nays of the members of either house, on any question, shall, at the desire of any three members present, be entered on the journal.

**Members privileged from arrest.**

SEC. 11. Members of the Legislature shall, in all cases, except treason, felony, and breach of the peace, be privileged from arrest, and shall not be subject to any civil process during the session of the Legislature, nor for fifteen days next before the commencement and after the termination of each session.

**Vacancies.**

SEC. 12. When vacancies occur in either house, the Governor, or the person exercising the functions of the Governor, shall issue writs of election to fill such vacancies.

**Meetings to be open.**

SEC. 13. The doors of each house shall be open, except on such occasions as, in the opinion of the house, may require secrecy.

**Adjournment.**

SEC. 14. Neither house shall, without the consent of the other, adjourn for more than three days, nor to any place other than that in which they may be sitting. Nor shall the members of either house draw pay for any recess or adjournment for a longer time than three days.

**Laws, how passed.**

SEC. 15. No law shall be passed except by bill. Nor shall any bill be put upon its final passage until the same, with the amendments thereto, shall have been printed for the use of the members; nor shall any bill become a law unless the same be read on three several days in each house, unless, in case of urgency, two thirds of the house where such bill may be pending shall, by a vote of yeas and nays, dispense with this provision. Any bill may originate in either house, but may be amended or rejected by the other; and on the final passage of all bills they shall be read at length, and the vote shall be by yeas and nays upon each bill separately, and shall be entered on the journal; and no bill shall become a law without the concurrence of a majority of the members elected to each house. (§ 122.)

**Approval of bills by Governor, and veto power.**

SEC. 16. Every bill which may have passed the Legislature shall, before it becomes a law, be presented to the Governor. If he approve it, he shall

sign it; but if not, he shall return it, with his objections, to the house in which it originated, which shall enter such objections upon the journal and proceed to reconsider it. If after such reconsideration, it again pass both houses, by yeas and nays, two thirds of the members elected to each house voting therefor, it shall become a law, notwithstanding the Governor's objections. If any bill shall not be returned within ten days after it shall have been presented to him (Sundays excepted), the same shall become a law in like manner as if he had signed it, unless the Legislature, by adjournment, prevents such return, in which case it shall not become a law, unless the Governor, within thirty days after such adjournment (Sundays excepted), shall sign and deposit the same in the office of the Secretary of State, in which case it shall become a law in like manner as if it had been signed by him before adjournment. If any bill presented to the Governor contains several items of appropriation of money, he may object to one or more items, while approving other portions of the bill. In such case he shall append to the bill at the time of signing it, a statement of the items to which he objects, and the reasons therefor, and the appropriation so objected to shall not take effect unless passed over the Governor's veto, as hereinbefore provided. If the Legislature be in session, the Governor shall transmit to the house in which the bill originated a copy of such statement, and the items so objected to shall be separately reconsidered in the same manner as bills which have been disapproved by the Governor. [*As amended November 3, 1908.*] (§ 122.)

#### **Impeachment.**

SEC. 17. The Assembly shall have the sole power of impeachment, and all impeachments shall be tried by the Senate. When sitting for that purpose, the Senators shall be upon oath or affirmation, and no person shall be convicted without the concurrence of two thirds of the members elected. (§ 213.)

#### **Officers subject to impeachment.**

SEC. 18. The Governor, Lieutenant Governor, Secretary of State, Controller, Treasurer, Attorney General, Surveyor General, Chief Justice and Associate Justices of the Supreme Court, Judges of the District Courts of Appeal, and Judges of the Superior Courts, shall be liable to impeachment for any misdemeanor in office; but judgment in such cases shall extend only to removal from office, and disqualification to hold any office of honor, trust, or profit under the State; but the party convicted or acquitted shall nevertheless be liable to indictment, trial, and punishment according to law. All other civil officers shall be tried for misdemeanor in office in such manner as the Legislature may provide. [*As amended October 10, 1911.*]

**Members not eligible to certain offices.**

SEC. 19. No Senator or member of Assembly shall, during the term for which he shall have been elected, be appointed to any civil office of profit under this State which shall have been created, or the emoluments of which have been increased, during such term, except such offices as may be filled by election by the people.

**Certain officials not eligible to office under state government.**

SEC. 20. No person holding any lucrative office under the United States, or any other power, shall be eligible to any civil office of profit under this State; *provided*, that officers in the militia, who receive no annual salary, local officers, or postmasters whose compensation does not exceed five hundred dollars per annum, shall not be deemed to hold lucrative offices.

**Embezzlers not eligible to office.**

SEC. 21. No person convicted of the embezzlement or defalcation of the public funds of the United States, or of any State, or of any county or municipality therein, shall ever be eligible to any office of honor, trust, or profit under this State, and the Legislature shall provide, by law, for the punishment of embezzlement or defalcation as a felony.

**Money, how appropriated; how drawn.**

SEC. 22. No money shall be drawn from the treasury but in consequence of appropriations made by law, and upon warrants duly drawn thereon by the Controller; and no money shall ever be appropriated or drawn from the state treasury for the purpose or benefit of any corporation, association, asylum, hospital, or any other institution not under the exclusive management and control of the State as a state institution, nor shall any grant or donation of property ever be made thereto by the State; *provided*, that notwithstanding anything contained in this or any other section of this Constitution, the Legislature shall have the power to grant aid to the institutions conducted for the support and maintenance of minor orphans, or half orphans, or abandoned children, or aged persons in indigent circumstances — such aid to be granted by a uniform rule, and proportioned to the number of inmates of such respective institutions; *provided, further*, that the State shall have at any time the right to inquire into the management of such institution; *provided, further*, that whenever any county, or city and county, or city, or town, shall provide for the support of minor orphans, or half orphans, or abandoned children, or aged persons in indigent circumstances, such county, city and county, city, or town shall be entitled to receive the same pro rata appropriations as may be granted to such institutions under church or other control. An accurate statement of the receipts and expenditures of public moneys shall be attached to and published with the laws at every regular session of the Legislature. (§ 65, 6.)

*Provided, however,* that for the purpose of raising five million dollars (\$5,000,000), to be used in establishing, maintaining, and supporting in the city and county of San Francisco, State of California, an exposition in commemoration of the completion of the Panama canal, to be known as the Panama-Pacific International Exposition, the State Board of Equalization shall, for the fiscal year beginning July 1, 1911, and for each fiscal year thereafter, to and including the fiscal year beginning July 1, 1914, fix, establish, and levy such an *ad valorem* rate of taxation, as when levied upon all the taxable property in the State, after making due allowance for delinquency, shall produce for each of such fiscal years a sum of one million two hundred and fifty thousand dollars (\$1,250,000). The said taxes shall be levied, assessed, and collected upon every kind and character of property in the State of California not exempt from taxation under the law, and subject to taxation on the 1st day of July, 1910, and in the same manner, and by the same method, as other state taxes were levied, assessed, and collected under the law, as the same existed on the 1st day of July, 1910. The State Board of Equalization shall each year, at the time it determines the amount of revenue required for other state purposes, determine, fix, and include the rate of tax necessary to raise the revenue herein provided for.

There is hereby created in the state treasury a fund to be known as the Panama-Pacific International Exposition fund, and all moneys collected pursuant to this provision, after deducting the proportionate share of the expense for the collection of the same, shall be paid into the state treasury, and credited to such fund. All moneys so paid into such fund are hereby appropriated, without reference to fiscal years, for the use, establishment, maintenance, and support of said Panama-Pacific International Exposition. No tax, license fee, or charge of any kind or character shall ever be levied or assessed or charged against any property of said Panama-Pacific International Exposition, or against any property used as exhibit therein, while being used or exhibited in connection therewith.

There is hereby created a commission to be known as the Panama-Pacific International Exposition Commission of the State of California, which shall consist of the Governor of said State and four other members to be appointed by the Governor, by and with the advice and consent of the Senate of said State. The Governor shall have the power to fill all vacancies occurring at any time in said commission. The members of said commission shall receive no compensation and shall hold office until such exposition shall have been closed and its affairs settled. Said four members of said commission shall be selected from different sections of the State, and the appointment thereof shall be made by the Governor of the State during the month of February, 1911. The commission hereby created shall have the exclusive charge and control of all moneys paid into the Panama-Pacific International



Exposition fund; and *provided further* that the Legislature shall pass all laws necessary to carry out the provisions of this act, including the times and the manner in which and the terms and conditions upon which money shall be drawn from the state treasury by said commission; where contracts and vouchers shall be filed; to whom and how often reports shall be made; what disposition shall be made of any sum left unexpended or received from the sale of any property or buildings purchased or constructed by said commission for the use of said exposition, or of any disposition of any building or improvement constructed by said commission out of said fund, and to provide for the transfer to the general fund of the State of California of any portion of said Panama-Pacific International Exposition fund unused.

The commission herein created is authorized and directed to make such proper contracts with the Panama-Pacific International Exposition Company, a corporation organized under the laws of the State of California on the 22d day of March, 1910, as will entitle the State of California to share proportionately with the contributors to the said Panama-Pacific International Exposition in the returns from the holding of said exposition at the city and county of San Francisco. [*As amended November 8, 1910.*]

#### **Compensation of members of the Legislature.**

SEC. 23. The members of the Legislature shall receive for their services, the sum of one thousand dollars each for each regular session, to be paid at such times during the session as may be provided by law, and the sum of ten dollars each, for each day while in attendance at a special or extraordinary session, for a number of days not exceeding thirty; and mileage to be fixed by law, all paid out of the state treasury; such mileage shall not exceed ten cents per mile; and each member shall be allowed contingent expenses not exceeding twenty-five dollars per member for each regular biennial session. The Legislature may also provide for additional help; but in no case shall the total expense for officers, employés and attachés exceed the sum of five hundred dollars per day for either house, at any regular or biennial session, nor the sum of two hundred dollars per day for either house, at any special or extraordinary session, nor shall the pay of any officer, employé or attaché be increased after he is elected or appointed. [*As amended November 3, 1908.*] (§ 121.)

#### **Limitation of expense for officers and employés.**

SEC. 23a. The Legislature may also provide for the employment of help; but in no case shall the total expense for officers, employés and attachés exceed the sum of five hundred dollars per day for either house, at any regular or biennial session, nor the sum of two hundred dollars per day for either house at any special or extraordinary session, nor shall the pay of any officer,



employé or attaché be increased after he is elected or appointed.<sup>1</sup> [*New section; adopted November 3, 1908.*]

**Every act to embrace but one subject — Amending acts.**

SEC. 24. Every act shall embrace but one subject, which subject shall be expressed in its title. But if any subject shall be embraced in an act which shall not be expressed in its title, such act shall be void only as to so much thereof as shall not be expressed in its title. No law shall be revised or amended by reference to its title; but in such case the act revised or section amended shall be reenacted and published at length as revised or amended; and all laws of the State of California, and all official writings, and the executive, legislative, and judicial proceedings shall be conducted, preserved, and published in no other than the English language.

**Local and special legislation forbidden.**

SEC. 25. The Legislature shall not pass local or special laws in any of the following enumerated cases, that is to say:

*First* — Regulating the jurisdiction and duties of justices of the peace, police judges, and of constables.

*Second* — For the punishment of crimes and misdemeanors.

*Third* — Regulating the practice of courts of justice.

*Fourth* — Providing for changing the venue in civil or criminal actions.<sup>2</sup>

*Fifth* — Granting divorces.

*Sixth* — Changing the names of persons or places.

*Seventh* — Authorizing the laying out, opening, altering, maintaining, or vacating roads, highways, streets, alleys, town plats, parks, cemeteries, graveyards, or public grounds not owned by the State.

*Eighth* — Summoning and impaneling grand and petit juries,<sup>3</sup> and providing for their compensation.

*Ninth* — Regulating county and township business, or the election of county and township officers.

*Tenth* — For the assessment or collection of taxes.

*Eleventh* — Providing for conducting elections, or designating the places of voting, except on the organization of new counties.

*Twelfth* — Affecting estates of deceased persons, minors, or other persons under legal disabilities.

*Thirteenth* — Extending the time for the collection of taxes.

<sup>1</sup> Sections 23 and 23a were both submitted to the voters at the same time. It was contemplated that only one of the two would be adopted, but both were; hence the repetition.

<sup>2</sup> A change of venue means a change in the place of holding a trial, as from one county to another.

<sup>3</sup> A petit jury is a trial jury.

*Fourteenth* — Giving effect to invalid deeds, wills, or other instruments.

*Fifteenth* — Refunding money paid into the state treasury.

*Sixteenth* — Releasing or extinguishing, in whole or in part, the indebtedness, liability, or obligation of any corporation or person to this State, or to any municipal corporation therein.

*Seventeenth* — Declaring any person of age, or authorizing any minor to sell, lease, or encumber his or her property.

*Eighteenth* — Legalizing, except as against the State, the unauthorized or invalid act of any officer.

*Nineteenth* — Granting to any corporation, association, or individual any special or exclusive right, privilege, or immunity.

*Twentieth* — Exempting property from taxation.

*Twenty-first* — Changing county seats.

*Twenty-second* — Restoring to citizenship persons convicted of infamous crimes.

*Twenty-third* — Regulating the rate of interest on money.

*Twenty-fourth* — Authorizing the creation, extension, or impairing of liens.

*Twenty-fifth* — Chartering or licensing ferries, bridges, or roads.

*Twenty-sixth* — Remitting fines, penalties, or forfeitures.

*Twenty-seventh* — Providing for the management of common schools.

*Twenty-eighth* — Creating offices, or prescribing the powers and duties of officers in counties, cities, cities and counties, townships, election or school districts.

*Twenty-ninth* — Affecting the fees or salary of any officer.

*Thirtieth* — Changing the law of descent or succession.

*Thirty-first* — Authorizing the adoption or legitimation of children.

*Thirty-second* — For limitation of civil or criminal actions.

*Thirty-third* — In all other cases where a general law can be made applicable. (§ 123.)

#### **Fish and game districts.**

SEC. 25½. The Legislature may provide for the division of the State into fish and game districts, and may enact such laws for the protection of fish and game therein as it may deem appropriate to the respective districts. [New section; adopted November 4, 1902.] (§§ 61, 132.)

#### **Lotteries prohibited.**

SEC. 26. The Legislature shall have no power to authorize lotteries or gift enterprises for any purpose and shall pass laws to prohibit the sale in this State of lottery or gift enterprise tickets or tickets in any scheme in the nature of a lottery. The Legislature shall pass laws to prohibit the fictitious buying and selling of the shares of the capital stock of corporations in any stock board, stock exchange or stock market under the control of any corporation

or association. All contracts for the purchase or sale of shares of the capital stock of any corporation or association without any intention on the part of one party to deliver and of the other party to receive the shares, and contemplating merely the payment of differences between the contract and market prices on divers days, shall be void, and neither party to any such contract shall be entitled to recover any damages for failure to perform the same, or any money paid thereon, in any court of this State.<sup>1</sup> [*As amended November 3, 1908.*]

**Congressional districts, formation of.**

SEC. 27. When a congressional district shall be composed of two or more counties, it shall not be separated by any county belonging to another district. No county, or city and county, shall be divided in forming a congressional district so as to attach one portion of a county, or city and county, to another county, or city and county, except in cases where one county, or city and county, has more population than the ratio required for one or more congressmen; but the Legislature may divide any county, or city and county, into as many congressional districts as it may be entitled to by law. Any county, or city and county, containing a population greater than the number required for one congressional district shall be formed into one or more congressional districts, according to the population thereof, and any residue, after forming such district or districts, shall be attached by compact adjoining assembly districts, to a contiguous county or counties, and form a congressional district. In dividing a county, or city and county, into congressional districts no assembly district shall be divided so as to form a part of more than one congressional district, and every such congressional district shall be composed of compact contiguous assembly districts. (Appendix B, III.)

**Elections by the Legislature.**

SEC. 28. In all elections by the Legislature the members thereof shall vote *viva voce*, and the vote shall be entered on the journal.

**General appropriation bill, what to contain.**

SEC. 29. The general appropriation bill shall contain no item or items of appropriation other than such as are required to pay the salaries of the State officers, the expenses of the government, and of the institutions under the exclusive control and management of the State.

**Support of sectarian schools prohibited.**

SEC. 30. Neither the Legislature, nor any county, city and county, township, school district, or other municipal corporation, shall ever make an appropriation, or pay from any public fund whatever, or grant anything to

<sup>1</sup> The last provision relates to speculation in the capital stock of corporations.

or in aid of any religious sect, church, creed, or sectarian purpose, or help to support or sustain any school, college, university, hospital, or other institution controlled by any religious creed, church, or sectarian denomination whatever; nor shall any grant or donation of personal property or real estate ever be made by the State, or any city, city and county, town, or other municipal corporation for any religious creed, church, or sectarian purpose whatever; *provided*, that nothing in this section shall prevent the Legislature granting aid pursuant to section twenty-two of this article.

**Public credit to corporations prohibited.**

SEC. 31. The Legislature shall have no power to give or to lend, or to authorize the giving or lending, of the credit of the State, or of any county, city and county, city, township, or other political corporation or subdivision of the State now existing, or that may be hereafter established, in aid of or to any person, association, or corporation, whether municipal or otherwise, or to pledge the credit thereof, in any manner whatever, for the payment of the liabilities of any individual, association, municipal or other corporation whatever; nor shall it have power to make any gift, or authorize the making of any gift, of any public money or thing of value to any individual, municipal or other corporation whatever; *provided*, that nothing in this section shall prevent the Legislature granting aid pursuant to section twenty-two of this article; and it shall not have power to authorize the State, or any political subdivision thereof, to subscribe for stock, or to become a stockholder in any corporation whatever.

**Extra compensation to officers prohibited.**

SEC. 32. The Legislature shall have no power to grant, or authorize any county or municipal authority to grant, any extra compensation or allowance to any public officer, agent, servant, or contractor, after service has been rendered, or a contract has been entered into and performed, in whole or in part, nor to pay, or to authorize the payment of, any claim hereafter created against the State, or any county or municipality of the State, under any agreement or contract made without express authority of law; and all such unauthorized agreements or contracts shall be null and void. (§ 68.)

**Charges by certain corporations, regulation of.**

SEC. 33. The Legislature shall pass laws for the regulation and limitation of the charges for services performed and commodities furnished by telegraph and gas corporations, and the charges by corporations or individuals for storage and wharfage, in which there is a public use, and where laws shall provide for the selection of any person or officer to regulate and limit such rates, no such person or officer shall be selected by any corporation or individual interested in the business to be regulated, and no person shall be selected who is an officer or stockholder in any such corporation.

**Appropriation bills to contain but one item.**

SEC. 34. No bill making an appropriation of money, except the general appropriation bill, shall contain more than one item of appropriation, and that for one single and certain purpose to be therein expressed.

**Punishment for bribery.**

SEC. 35. Any person who seeks to influence the vote of a member of the Legislature by bribery, promise of reward, intimidation, or any other dishonest means, shall be guilty of lobbying, which is hereby declared a felony; and it shall be the duty of the Legislature to provide, by law, for the punishment of this crime. Any member of the Legislature, who shall be influenced in his vote or action upon any matter pending before the Legislature by any reward, or promise of future reward, shall be deemed guilty of a felony, and upon conviction thereof, in addition to such punishment as may be provided by law, shall be disfranchised and forever disqualified from holding any office or public trust. Any person may be compelled to testify in any lawful investigation or judicial proceeding against any person who may be charged with having committed the offense of bribery or corrupt solicitation, or with having been influenced in his vote or action, as a member of the Legislature, by reward, or promise of future reward, and shall not be permitted to withhold his testimony upon the ground that it may criminate himself or subject him to public infamy; but such testimony shall not afterwards be used against him in any judicial proceeding, except for perjury in giving such testimony.

**Establish system of highways.**

SEC. 36. The Legislature shall have power to establish a system of state highways or to declare any road a state highway, and to pass all laws necessary or proper to construct and maintain the same, and to extend aid for the construction and maintenance in whole or in part of any county highway. [*New section; adopted November 4, 1902.*] (§ 145.)

**ARTICLE V****EXECUTIVE DEPARTMENT****Executive power vested in the Governor.**

SECTION 1. The supreme executive power of this State shall be vested in a Chief Magistrate, who shall be styled the Governor of the State of California.

**Election and term of office of Governor.**

SEC. 2. The Governor shall be elected by the qualified electors at the time and places of voting for members of the Assembly, and shall hold his office four years from and after the first Monday after the first day of January subsequent to his election, and until his successor is elected and qualified. (§ 126.)

**Qualifications of Governor.**

SEC. 3. No person shall be eligible to the office of Governor who has not been a citizen of the United States and a resident of this State five years next preceding his election, and attained the age of twenty-five years at the time of such election.

**Election of Governor, how made known.**

SEC. 4. The returns of every election for Governor shall be sealed up and transmitted to the seat of government, directed to the Speaker of the Assembly, who shall, during the first week of the session, open and publish them in the presence of both houses of the Legislature. The person having the highest number of votes shall be Governor; but, in case any two or more have an equal and the highest number of votes, the Legislature shall, by joint vote of both houses, choose one of such persons so having an equal and the highest number of votes for Governor.

**Governor to be commander-in-chief.**

SEC. 5. The Governor shall be commander-in-chief of the militia, the army and navy of this State. (§ 127.)

**Governor to transact executive business.**

SEC. 6. He shall transact all executive business with the officers of government, civil and military, and may require information, in writing, from the officers of the executive department, upon any subject relating to the duties of their respective offices. (§ 127.)

**Governor to see that laws are executed.**

SEC. 7. He shall see that the laws are faithfully executed.

**Governor to fill vacancies.**

SEC. 8. When any office shall, from any cause, become vacant, and no mode is provided by the Constitution and law for filling such vacancy, the Governor shall have power to fill such vacancy by granting a commission, which shall expire at the end of the next session of the Legislature, or at the next election by the people.

**Governor may call extra session of Legislature.**

SEC. 9. He may, on extraordinary occasions, convene the Legislature by proclamation, stating the purposes for which he has convened it, and when

so convened it shall have no power to legislate on any subjects other than those specified in the proclamation, but may provide for the expenses of the session and other matters incidental thereto. (§§ 123; 127, II.)

**Governor's message.**

SEC. 10. He shall communicate by message to the Legislature, at every session, the condition of the State, and recommend such matters as he shall deem expedient. (§ 127, II.)

**Governor may adjourn Legislature.**

SEC. 11. In case of a disagreement between the two houses with respect to the time of adjournment, the Governor shall have power to adjourn the Legislature to such time as he may think proper; *provided*, it be not beyond the time fixed for the meeting of the next Legislature.

**Officer of the United States not to act as Governor.**

SEC. 12. No person shall, while holding any office under the United States or this State, exercise the office of Governor except as hereinafter expressly provided.

**Governor to keep great seal.**

SEC. 13. There shall be a seal of this State, which shall be kept by the Governor, and used by him officially, and shall be called "The Great Seal of the State of California."

**Form of commission.**

SEC. 14. All grants and commissions shall be in the name and by the authority of the people of the State of California, sealed with the great seal of the State, signed by the Governor, and countersigned by the Secretary of State.

**Lieutenant Governor, qualifications and duties.**

SEC. 15. A Lieutenant Governor shall be elected at the same time and place and in the same manner as the Governor, and his term of office and his qualifications shall be the same. He shall be President of the Senate, but shall only have a casting vote therein. [*As amended November 8, 1898.*] (§ 128.)

**Lieutenant Governor may become Governor, when.**

SEC. 16. In case of the impeachment of the Governor, or his removal from office, death, inability to discharge the powers and duties of his office, resignation, or absence from the State, the powers and duties of the office shall devolve upon the Lieutenant Governor for the residue of the term, or until the disability shall cease. And should the Lieutenant Governor be impeached, displaced, resign, die, or become incapable of performing the duties of his office, or be absent from the State, the President *pro tempore*

of the Senate shall act as Governor until the vacancy in the office of Governor shall be filled at the next general election when members of the Legislature shall be chosen, or until such disability of the Lieutenant Governor shall cease. In case of a vacancy in the office of Governor for any of the reasons above named, and neither the Lieutenant Governor nor the President *pro tempore* of the Senate succeed to the powers and duties of Governor, then the powers and duties of such office shall devolve upon the Speaker of the Assembly, until the office of Governor shall be filled at such general election. [*As amended November 8, 1898.*]

**State executive officers.**

SEC. 17. A Secretary of State, a Controller, a Treasurer, an Attorney General, and a Surveyor General shall be elected at the same time and places, and in the same manner as the Governor and Lieutenant Governor, and their terms of office shall be the same as that of the Governor.

**Secretary of State — Duties.**

SEC. 18. The Secretary of State shall keep a correct record of the official acts of the legislative and executive departments of the Government, and shall, when required, lay the same, and all matters relative thereto, before either branch of the Legislature, and shall perform such other duties as may be assigned him by law. (§ 129.)

**Compensation of executive officers.**

SEC. 19. The Governor, Lieutenant Governor, Secretary of State, Controller, Treasurer, Attorney General, and Surveyor General shall, at stated times during their continuance in office, receive for their services a compensation which shall not be increased or diminished during the term for which they shall have been elected, which compensation is hereby fixed for the following officers, as follows: Governor, ten thousand dollars per annum; Lieutenant Governor, four thousand dollars, the Secretary of State, Controller, Treasurer, and Surveyor General, five thousand dollars each per annum, and the Attorney General, six thousand dollars per annum, such compensation to be in full for all services by them respectively rendered in any official capacity or employment whatsoever during their respective terms of office; *provided, however*, that the Legislature may, by law, diminish the compensation of any or all of such officers, but in no case shall have the power to increase the same above the sums hereby fixed by this Constitution. No salary shall be authorized by law for clerical service, in any office provided for in this article, exceeding eighteen hundred dollars per annum for each clerk employed. The Legislature may, in its discretion, abolish the office of Surveyor General; and none of the officers hereinbefore named shall receive for their own use any fees or perquisites for the performance of any official duty. [*As amended November 3, 1908.*] (§ 139.)



**Governor not eligible to United States Senate.**

SEC. 20. The Governor shall not, during his term of office, be elected a Senator to the Senate of the United States.

## ARTICLE VI

### JUDICIAL DEPARTMENT

**Judicial power — How vested.**

SECTION 1. The judicial power of the State shall be vested in the Senate, sitting as a court of impeachment, in a Supreme Court, District Courts of Appeal, Superior Courts and such inferior courts as the Legislature may establish in any incorporated city or town, township, county, or city and county. [*As amended October 10, 1911.*] (§ 203.)

**Supreme Court — How constituted.**

SEC. 2. The Supreme Court shall consist of a Chief Justice and six Associate Justices. The court may sit in departments and in bank, and shall always be open for the transaction of business. There shall be two departments, denominated, respectively, Department One and Department Two. The Chief Justice shall assign three of the Associate Justices to each department, and such assignment may be changed by him from time to time. The Associate Justices shall be competent to sit in either department, and may interchange with each other by agreement among themselves or as ordered by the Chief Justice. Each of the departments shall have the power to hear and determine causes and all questions arising therein, subject to the provisions hereinafter contained in relation to the court in bank. The presence of three justices shall be necessary to transact any business in either of the departments, except such as may be done at chambers, and the concurrence of three justices shall be necessary to pronounce a judgment. The Chief Justice shall apportion the business to the departments, and may, in his discretion, order any cause pending before the court to be heard and decided by the court in bank. The order may be made before or after judgment pronounced by a department; but where a cause has been allotted to one of the departments, and a judgment pronounced thereon, the order must be made within thirty days after such judgment, and concurred in by two Associate Justices, and if so made it shall have the effect to vacate and set aside the judgment. Any four justices may, either before or after judgment by a department, order a case to be heard in bank. If the order be not made within the time above limited the judgment shall be final. No judgment by a department shall become final until the expiration of the

period of thirty days aforesaid, unless approved by the Chief Justice, in writing, with the concurrence of two Associate Justices. The Chief Justice may convene the court in bank at any time, and shall be the presiding justice of the court when so convened. The concurrence of four justices present at the argument shall be necessary to pronounce a judgment in bank; but if four justices, so present, do not concur in a judgment, then all the justices qualified to sit in the cause shall hear the argument; but to render a judgment a concurrence of four judges shall be necessary. In the determination of causes, all decisions of the court in bank or in departments shall be given in writing, and the grounds of the decision shall be stated. The Chief Justice may sit in either department, and shall preside when so sitting, but the justices assigned to each department shall select one of their number as presiding justice. In case of the absence of the Chief Justice from the place at which the court is held, or his inability to act, the Associate Justices shall select one of their own number to perform the duties and exercise the powers of the Chief Justice during such absence or inability to act. (§ 212, 2.)

#### **Justices of the Supreme Court, election of.**

SEC. 3. The Chief Justice and the Associate Justices shall be elected by the qualified electors of the State at large at the general State elections, at the time and places at which State officers are elected; and the term of office shall be twelve years, from and after the first Monday after the first day of January next succeeding their election; *provided*, that the six Associate Justices elected at the first election shall, at their first meeting, so classify themselves, by lot, that two of them shall go out of office at the end of four years, two of them at the end of eight years, and two of them at the end of twelve years, and an entry of such classification shall be made in the minutes of the court in bank, signed by them, and a duplicate thereof shall be filed in the office of the Secretary of State. If a vacancy occur in the office of a justice, the Governor shall appoint a person to hold the office until the election and qualification of a justice to fill the vacancy, which election shall take place at the next succeeding general election, and the justice so elected shall hold the office for the remainder of the unexpired term. The first election of the justices shall be at the first general election after the adoption and ratification of this Constitution.

#### **Jurisdiction of Supreme Court and District Courts of Appeal — Appellate districts.**

SEC. 4. The Supreme Court shall have appellate jurisdiction on appeal from the Superior Courts in all cases in equity, except such as arise in Justices' Courts; also, in all cases at law which involve the title or possession of real estate, or the legality of any tax, impost, assessment, toll, or municipal fine,

or in which the demand, exclusive of interest, or the value of the property in controversy, amounts to two thousand dollars; also, in all such probate matters as may be provided by law; also, in questions of law alone, in all criminal cases where judgment of death has been rendered; the said court shall also have appellate jurisdiction in all cases, matters, and proceedings pending before a District Court of Appeal which shall be ordered by the Supreme Court to be transferred to itself for hearing and decision, as hereinafter provided. The said court shall also have power to issue writs of mandamus, certiorari, prohibition, and habeas corpus, and all other writs necessary or proper to the complete exercise of its appellate jurisdiction. Each of the justices shall have power to issue writs of habeas corpus to any part of the State, upon petition by or on behalf of any person held in actual custody, and may make such writs returnable before himself or the Supreme Court, or before any District Court of Appeal, or before any judge thereof, or before any Superior Court in the State, or before any judge thereof. (§ 212, 3.)

The State is hereby divided into three appellate districts, in each of which there shall be a District Court of Appeal consisting of three justices. The first district shall embrace the following counties: San Francisco, Marin, Contra Costa, Alameda, San Mateo, Santa Clara, Fresno, Santa Cruz, Monterey, and San Benito.

The second district shall embrace the following counties: Tulare, Kings, San Luis Obispo, Kern, Inyo, Santa Barbara, Ventura, Los Angeles, San Bernardino, Orange, Riverside, and San Diego.

The third district shall embrace the following counties: Del Norte, Siskiyou, Modoc, Humboldt, Trinity, Shasta, Lassen, Tehama, Plumas, Mendocino, Lake, Colusa, Glenn, Butte, Sierra, Sutter, Yuba, Nevada, Sonoma, Napa, Yolo, Placer, Solano, Sacramento, Eldorado, San Joaquin, Amador, Calaveras, Stanislaus, Mariposa, Madera, Merced; Tuolumne, Alpine, and Mono.

The Supreme Court, by orders entered in its minutes, may from time to time remove one or more counties from one appellate district to another, but no county not contiguous to another county of a district shall be added to such district. (§ 212, 1.)

Said District Courts of Appeal shall hold their regular sessions respectively at San Francisco, Los Angeles, and Sacramento, and they shall always be open for the transaction of business.

The District Courts of Appeal shall have appellate jurisdiction on appeal from the Superior Courts in all cases at law in which the demand, exclusive of interest, or the value of the property in controversy, amounts to three hundred dollars, and does not amount to two thousand dollars; also, in all cases of forcible and unlawful entry and detainer (except such as arise in

Justices' Courts), in proceedings in insolvency, and in actions to prevent or abate a nuisance; in proceedings of mandamus, certiorari, and prohibition, usurpation of office, contesting elections and eminent domain, and in such other special proceedings as may be provided by law (excepting cases in which appellate jurisdiction is given to the Supreme Court); also, on questions of law alone, in all criminal cases prosecuted by indictment or information in a court of record, excepting criminal cases where judgment of death has been rendered. The said courts shall also have appellate jurisdiction in all cases, matters, and proceedings pending before the Supreme Court which shall be ordered by the Supreme Court to be transferred to a District Court of Appeal for hearing and decision. The said courts shall also have power to issue writs of mandamus, certiorari, prohibition, and habeas corpus, and all other writs necessary or proper to the complete exercise of their appellate jurisdiction. Each of the justices thereof shall have power to issue writs of habeas corpus to any part of his appellate district upon petition by or on behalf of any person held in actual custody, and may make such writs returnable before himself or the District Court of Appeal of his district, or before any Superior Court within his district, or before any judge thereof. (§ 212, 3.)

The Supreme Court shall have power to order any cause pending before the Supreme Court to be heard and determined by a District Court of Appeal, and to order any cause pending before a District Court of Appeal to be heard and determined by the Supreme Court. The order last mentioned may be made before judgment has been pronounced by a District Court of Appeal, or within thirty days after such judgment shall have become final therein. The judgments of the District Courts of Appeal shall become final therein upon the expiration of thirty days after the same shall have been pronounced. (§ 212, 1.)

The Supreme Court shall have power to order causes pending before a District Court of Appeal for one district to be transferred to the District Court of Appeal of another district for hearing and decision.

The Justices of the District Courts of Appeal shall be elected by the qualified electors within their respective districts at the general State elections at the times and places at which Justices of the Supreme Court are elected. Their terms of office and salaries shall be the same as those of Justices of the Supreme Court, and their salaries shall be paid by the State. Upon the ratification by the people of this amendment the Governor shall appoint nine persons to serve as Justices of the District Courts of Appeal until the first Monday after the first day of January in the year 1907, *provided*, that not more than six of said persons shall be members of the same political party. At the election in the year 1906 nine of such justices shall be elected as above provided, and the justices of each District Court of

Appeal shall so classify themselves by lot that one of them shall go out of office at the end of four years, one of them at the end of eight years, and one of them at the end of twelve years; an entry of such classification shall be made in the minutes of the court, signed by the three justices thereof, and a duplicate thereof filed in the office of the Secretary of State. If any vacancy occur in the office of a justice of the District Courts of Appeal, the Governor shall appoint a person to hold office until the election and qualification of a justice to fill the vacancy; such election shall take place at the next succeeding general State election as aforesaid; the justice then elected shall hold the office for the unexpired term.

One of the justices of each of the District Courts of Appeal shall be the presiding justice thereof, and as such shall be appointed or elected as the case may be. The presence of three justices shall be necessary for the transaction of any business by such court, except such as may be done at chambers, and the concurrence of three justices shall be necessary to pronounce a judgment.

Whenever any Justice of the Supreme Court is for any reason disqualified or unable to act in a cause pending before it, the remaining justices may select one of the justices of a District Court of Appeal to act *pro tempore* in the place of the justice so disqualified or unable to act.

Whenever any Justice of a District Court of Appeal is for any reason disqualified or unable to act in any cause pending before it, the Supreme Court may appoint a Justice of the District Court of Appeal of another district, or a judge of a Superior Court who has not acted in the cause in the court below, to act *pro tempore* in the place of the justice so disqualified or unable to act.

No appeal taken to the Supreme Court or to a District Court of Appeal shall be dismissed for the reason only that the same was not taken to the proper court, but the cause shall be transferred to the proper court upon such terms as to costs or otherwise as may be just, and shall be proceeded with therein as if regularly appealed thereto.

All statutes now in force allowing, providing for, or regulating appeals to the Supreme Court shall apply to appeals to the District Courts of Appeal so far as such statutes are not inconsistent with this article and until the Legislature shall otherwise provide.

The Supreme Court shall make and adopt rules not inconsistent with law for the government of the Supreme Court and of the District Courts of Appeal and of the officers thereof, and for regulating the practice in said courts. [As amended November 8, 1904.]

**New trial. When and how granted in criminal cases.**

SEC. 4½. No judgment shall be set aside, or new trial granted in any criminal case on the ground of misdirection of the jury or the improper ad-

mission or rejection of evidence, or for error as to any matter of pleading or procedure, unless, after an examination of the entire cause, including the evidence, the court shall be of the opinion that the error complained of has resulted in a miscarriage of justice. [*New section; adopted October 10, 1911.*] (§ 214.)

#### **Jurisdiction of Superior Court.**

SEC. 5. The Superior Court shall have original jurisdiction in all cases in equity, and in all cases at law which involve the title or possession of real property, or the legality of any tax, impost, assessment, toll, or municipal fine, and in all other cases in which the demand, exclusive of interest or the value of the property in controversy amounts to three hundred dollars, and in all criminal cases amounting to felony, and cases of misdemeanor not otherwise provided for; of actions of forcible entry and detainer; of proceedings in insolvency; of actions to prevent or abate a nuisance; of all matters of probate; of divorce and for annulment of marriage; and of all such special cases and proceedings as are not otherwise provided for, and said courts shall have the power of naturalization, and to issue papers therefor. They shall have appellate jurisdiction in such cases arising in inferior courts in their respective counties as may be prescribed by law. They shall be always open (legal holidays and non-judicial days excepted), and their process shall extend to all parts of the State; *provided*, that all actions for the recovery of the possession of, quieting the title to, or for the enforcement of liens upon real estate, shall be commenced in the county in which the real estate, or any part thereof, affected by such action or actions, is situated. Said courts, and their judges, shall have power to issue writs of mandamus, certiorari, prohibition, quo warranto, and habeas corpus, on petition by or on behalf of any person in actual custody, in their respective counties. Injunctions and writs of prohibition may be issued and served on legal holidays and non-judicial days. [*As amended October 10, 1911.*] (§ 205.)

#### **Superior courts — Number — Organization — Terms of office — Vacancies.**

SEC. 6. There shall be in each of the organized counties, or cities and counties, of the State, a Superior Court, for each of which at least one judge shall be elected by the qualified electors of the county, or city and county, at the general State election; *provided*, that until otherwise ordered by the Legislature, only one judge shall be elected for the counties of Yuba and Sutter, and that in the city and county of San Francisco there shall be elected twelve judges of the Superior Court, any one or more of whom may hold court. There may be as many sessions of said court, at the same time, as there are judges thereof. The said judges shall choose from their own number a presiding judge, who may be removed at their pleasure. He shall

distribute the business of the court among the judges thereof, and prescribe the order of business. The judgments, orders, and proceedings of any session of the Superior Court, held by any one or more of the judges of said courts, respectively, shall be equally effectual as if all the judges of said respective courts presided at such session. In each of the counties of Sacramento, San Joaquin, Los Angeles, Sonoma, Santa Clara, and Alameda, there shall be elected two such judges. The term of office of judges of the Superior Courts shall be six years from and after the first Monday of January next succeeding their election; *provided*, that the twelve judges of the Superior Court, elected in the city and county of San Francisco at the first election held under this Constitution, shall, at their first meeting, so classify themselves, by lot, that four of them shall go out of office at the end of two years, and four of them shall go out of office at the end of four years, and four of them shall go out of office at the end of six years, and an entry of such classification shall be made in the minutes of the court, signed by them, and a duplicate thereof filed in the office of the Secretary of State. The first election of judges of the superior courts shall take place at the first general election held after the adoption and ratification of this Constitution. If a vacancy occur in the office of judge of a superior court, the Governor shall appoint a person to hold the office until the election and qualification of a judge to fill the vacancy, which election shall take place at the next succeeding general election, and the judge so elected shall hold office for the remainder of the unexpired term. (§ 205.)

#### **Superior court sessions.**

SEC. 7. In any county, or city and county, other than the city and county of San Francisco, in which there shall be more than one judge of the superior court, the judges of such court may hold as many sessions of said court at the same time as there are judges thereof, and shall apportion the business among themselves as equally as may be.

#### **Superior courts — Who may try causes.**

SEC. 8. A judge of any Superior Court may hold a superior court in any county, at the request of a judge of the Superior Court thereof, and upon the request of the Governor it shall be his duty so to do. But a cause in the Superior Court may be tried by a judge *pro tempore*, who must be a member of the bar, agreed upon in writing by the parties litigant, or their attorneys of record, and sworn to try the cause and the person so selected shall be empowered to act in such capacity in all further proceedings in any suit or proceedings tried before him until the final determination thereof. There may be as many sessions of a superior court at the same time as there are judges thereof, including any judge or judges acting upon request, or any judge or judges *pro tempore*. The judgments, orders, acts and pro-



ceedings of any session of any Superior Court held by one or more judges acting upon request, or judge or judges *pro tempore*, shall be equally effective as if the judge or all of the judges of such court presided at such session. [As amended November 8, 1910.] (§ 205.)

**Leave of absence can not be granted — Legislature may change number of judges.**

SEC. 9. The Legislature shall have no power to grant leave of absence to any judicial officer; and any such officer who shall absent himself from the State for more than sixty consecutive days shall be deemed to have forfeited his office. The Legislature of the State may at any time, two thirds of the members of the Senate and two thirds of the members of the Assembly voting therefor, increase or diminish the number of judges of the Superior Court in any county, or city and county, in the State; *provided*, that no such reduction shall affect any judge who has been elected.

**Removal of judicial officers.**

SEC. 10. Justices of the Supreme Court, and of the District Courts of Appeal, and judges of the Superior Courts may be removed by concurrent resolution of both houses of the Legislature adopted by a two-thirds vote of each house. All other judicial officers, except justices of the peace, may be removed by the Senate on the recommendation of the Governor; but no removal shall be made by virtue of this section unless the cause thereof be entered on the journal, nor unless the party complained of has been served with a copy of the complaint against him and shall have had an opportunity of being heard in his defense. On the question of removal the ayes and noes shall be entered on the journal. [As amended November 8, 1904.] (§ 214.)

**Inferior courts.**

SEC. 11. The Legislature shall determine the number of each of the inferior courts in incorporated cities or towns, and in townships, counties, or cities and counties, according to the population thereof and the number of judges or justices thereof, and shall fix by law the powers, duties and responsibilities of each of such courts and of the judges or justices thereof; *provided*, such powers shall not in any case, trench upon the jurisdiction of the several courts of record, except that the Legislature shall provide that said courts shall have concurrent jurisdiction with the Superior Courts in cases of forcible entry and detainer, where the rental value does not exceed twenty-five dollars per month, and where the whole amount of damages claimed does not exceed two hundred dollars, and in cases to enforce and foreclose liens on personal property when neither the amount of liens nor the value of the property amounts to three hundred dollars. (§ 204.)



**Courts of record.**

SEC. 12. The Supreme Court, the District Courts of Appeal, the Superior Courts, and such other courts as the Legislature shall prescribe, shall be courts of record. [*As amended November 8, 1904.*] (§ 214.)

**Jurisdiction of inferior courts.**

SEC. 13. The Legislature shall fix by law the jurisdiction of any inferior courts which may be established in pursuance of section one of this article, and shall fix by law the powers, duties, and responsibilities of the judges thereof.

**Clerks of courts — Court commissioners.**

SEC. 14. The county clerks shall be ex officio clerks of the courts of record in and for their respective counties or cities and counties. The Legislature may also provide for the appointment, by the several Superior Courts, of one or more commissioners in their respective counties, or cities and counties, with authority to perform chamber business of the judges of the Superior Courts, to take depositions, and to perform such other business connected with the administration of justice as may be prescribed by law. [*As amended October 10, 1911.*] (§ 206.)

**No judicial officer to receive fees.**

SEC. 15. No judicial officer, except court commissioners, shall receive to his own use any fees or perquisites of office; *provided*, that justices of the peace now holding office shall receive to their own use such fees as are now allowed by law during the terms for which they have been elected. [*As amended October 10, 1911.*]

**Publication of opinions of the Supreme Court.**

SEC. 16. The Legislature shall provide for the speedy publication of such opinions of the Supreme Court and of the District Courts of Appeal as the Supreme Court may deem expedient, and all opinions shall be free for publication by any person. [*As amended November 8, 1904.*] (§ 214.)

**Salaries of Justices of the Supreme Court and District Courts of Appeal and of Judges of the Superior Courts.**

SEC. 17. The Justices of the Supreme Court and of the District Courts of Appeal, and the judges of the Superior Courts, shall severally, at stated times during their continuance in office, receive for their service such compensation as is or shall be provided by law. The salaries of the judges of the Superior Court, in all counties having but one judge, and in all counties in which the terms of the judges of the Superior Court expire at the same time, shall not hereafter be increased or diminished after their election, nor during the term for which they shall have been elected. Upon the adoption of this amendment the salaries then established by law shall be paid uni-

formly to the justices and judges then in office. The salaries of the Justices, of the Supreme Court and of the District Courts of Appeal shall be paid by the State. One half of the salary of each Superior Court judge shall be paid by the State; and the other half thereof shall be paid by the county for which he is elected. On and after the first day of January, A.D. one thousand nine hundred and seven the Justices of the Supreme Court shall each receive an annual salary of eight thousand dollars, and the justices of the several District Courts of Appeal shall each receive an annual salary of seven thousand dollars; the said salaries to be payable monthly. [*As amended November 6, 1906.*]

**Certain justices and judges not eligible to other than judicial offices—When.**

SEC. 18. The Justices of the Supreme Court, and of the District Courts of Appeal, and the judges of the Superior Courts shall be ineligible to any other office or public employment than a judicial office or employment during the term for which they shall have been elected. [*As amended November 8, 1904.*]

**Charge to juries.**

SEC. 19. Judges shall not charge juries with respect to matters of fact, but may state the testimony and declare the law.

**Style of process.**

SEC. 20. The style of all process shall be "The People of the State of California," and all prosecutions shall be conducted in their name and by their authority.

**Clerks of Supreme Court and District Courts of Appeal, and reporters—  
How appointed.**

SEC. 21. The Supreme Court shall appoint a clerk of the Supreme Court; *provided, however*, that any person elected to the office of clerk of the Supreme Court before the adoption hereof, shall continue to hold such office until the expiration of the term for which he may have been elected. Said court may also appoint a reporter and not more than three assistant reporters of the decisions of the Supreme Court and of the District Courts of Appeal. Each of the District Courts of Appeal shall appoint its own clerk. All the officers herein mentioned shall hold office and be removable at the pleasure of the courts by which they are severally appointed, and they shall receive such compensation as shall be prescribed by law, and discharge such duties as shall be prescribed by law, or by the rules or orders of the courts by which they are severally appointed. [*As amended October 10, 1911.*]

**Judges not to practice law.**

SEC. 22. No judge of a court of record shall practice law in any court of this State during his continuance in office.

**Qualification of judges.**

SEC. 23. No one shall be eligible to the office of a justice of the Supreme Court, or of a District Court of Appeal, or of a judge of a Superior Court, unless he shall have been admitted to practice before the Supreme Court of the State. [*As amended November 8, 1904.*]

**Condition of receiving salary.**

SEC. 24. No judge of the Supreme Court nor of a District Court of Appeal, nor of a Superior Court, shall draw or receive any monthly salary unless he shall make and subscribe an affidavit before an officer entitled to administer oaths, that no cause in his court remains pending and undecided, that has been submitted for decision for a period of ninety days. In the determination of causes all decisions of the Supreme Court and of the District Courts of Appeal shall be given in writing, and the grounds of the decision shall be stated. When the justices of a District Court of Appeal are unable to concur in a judgment, they shall give their several opinions in writing and cause copies thereof to be forwarded to the Supreme Court. [*As amended November 8, 1904.*]

**Supreme Court Commission abolished.**

SEC. 25. The present Supreme Court Commission shall be abolished at the expiration of its present term of office, and no Supreme Court Commission shall be created or provided for after January 1st, A.D. 1905. [*New section; adopted November 8, 1904.*]

**ARTICLE VII****PARDONING POWER****Vested in Governor.**

SECTION 1. The Governor shall have the power to grant reprieves, pardons, and commutations of sentence, after conviction, for all offenses except treason and cases of impeachment, upon such conditions, and with such restrictions and limitations, as he may think proper, subject to such regulations as may be provided by law relative to the manner of applying for pardons. Upon conviction for treason, the Governor shall have power to suspend the execution of the sentence until the case shall be reported to the Legislature at its next meeting, when the Legislature shall either pardon, direct the execution of the sentence, or grant a further reprieve. The Governor shall communicate to the Legislature, at the beginning of every session, every case of reprieve or pardon granted, stating the name of the convict, the crime for which he was convicted, the sentence, its date, the date of the

pardon or reprieve, and the reasons for granting the same. Neither the Governor nor the Legislature shall have power to grant pardons, or commutations of sentence, in any case where the convict had been twice convicted of a felony, unless upon the written recommendation of a majority of the judges of the Supreme Court. (§ 127, III.)

## ARTICLE VIII

### MILITIA

#### Organization of.

SECTION 1. The Legislature shall provide, by law, for organizing and disciplining the militia, in such manner as it may deem expedient, not incompatible with the Constitution and laws of the United States. Officers of the militia shall be elected or appointed in such manner as the Legislature shall from time to time direct, and shall be commissioned by the Governor. The Governor shall have power to call forth the militia to execute the laws of the State, to suppress insurrections, and repel invasions. (§ 127, I.)

#### Flag of State militia.

SEC. 2. All military organizations provided for by this Constitution, or any law of this State, and receiving State support, shall, while under arms either for ceremony or duty, carry no device, banner, or flag of any state or nation, except that of the United States or the State of California.

## ARTICLE IX

### EDUCATION

#### Encouragement of education.

SECTION 1. A general diffusion of knowledge and intelligence being essential to the preservation of the rights and liberties of the people, the Legislature shall encourage by all suitable means the promotion of intellectual, scientific, moral, and agricultural improvement.

#### Superintendent of Public Instruction.

SEC. 2. A Superintendent of Public Instruction shall, at each gubernatorial election after the adoption of this Constitution, be elected by the qualified electors of the State. He shall receive a salary equal to that of the Secretary of State, and shall enter upon the duties of his office on the first Monday after the first day of January next succeeding his election. (§ 188.)

**County Superintendent of Schools.**

SEC. 3. A superintendent of schools for each county shall be elected by the qualified electors thereof at each gubernatorial election; *provided*, that the Legislature may authorize two or more counties to unite and elect one superintendent for the counties so uniting. (§ 186.)

**State school fund.**

SEC. 4. The proceeds of all lands that have been or may be granted by the United States to this State for the support of common schools which may be, or may have been, sold or disposed of, and the five hundred thousand acres of land granted to the new states under an act of Congress distributing the proceeds of the public lands among the several states of the Union, approved A.D. one thousand eight hundred and forty-one, and all estates of deceased persons who may have died without leaving a will or heir, and also such per cent as may be granted, or may have been granted, by Congress on the sale of lands in this State, shall be and remain a perpetual fund, the interest of which, together with all the rents of the unsold lands, and such other means as the Legislature may provide, shall be inviolably appropriated to the support of common schools throughout the State. (§§ 190, 137.)

**Common schools, system of.**

SEC. 5. The Legislature shall provide for a system of common schools by which a free school shall be kept up and supported in each district at least six months in every year, after the first year in which a school has been established.

**Public school system, and tax.**

SEC. 6. The public school system shall include day and evening elementary schools, and such day and evening secondary schools, normal schools, and technical schools as may be established by the Legislature, or by municipal or district authority. The entire revenue derived from the State school fund and from the general State school tax shall be applied exclusively to the support of day and evening elementary schools; but the Legislature may authorize and cause to be levied a special State school tax for the support of day and evening secondary schools and technical schools, or either of such schools, included in the public school system, and all revenue derived from such special tax shall be applied exclusively to the support of the schools for which such special tax shall be levied. [*As amended November 3, 1908.*]

**State Board of Education — Text-books — County Boards of Education.**

SEC. 7. The Legislature shall provide for the appointment or election of a State board of education, and said board shall provide, compile, or cause to

be compiled, and adopt, a uniform series of text-books for use in the day and evening elementary schools throughout the State. The State board may cause such text-books, when adopted, to be printed and published by the superintendent of State printing, at the State printing office; and wherever and however such text-books may be printed and published, they shall be furnished and distributed by the State free of cost or any charge whatever, to all children attending the day and evening elementary schools of the State, under such conditions as the Legislature shall prescribe. The text-books, so adopted, shall continue in use not less than four years, without any change or alteration whatsoever which will require or necessitate the furnishing of new books to such pupils, and said State board shall perform such other duties as may be prescribed by law. The Legislature shall provide for a board of education in each county in the State. The county superintendents and the county boards of education shall have control of the examination of teachers and the granting of teachers' certificates within their respective jurisdictions. [*As amended November 5, 1912.*] (§§ 187, 189.)

**Sectarian schools — Appropriating money for, prohibited.**

SEC. 8. No public money shall ever be appropriated for the support of any sectarian or denominational school, or any school not under the exclusive control of the officers of the public schools; nor shall any sectarian or denominational doctrine be taught, or instruction thereon be permitted, directly or indirectly, in any of the common schools of this State.

**University of California.**

SEC. 9. The University of California shall constitute a public trust, and its organization and government shall be perpetually continued in the form and character prescribed by the Organic Act creating the same, passed March twenty-third, eighteen hundred and sixty-eight (and the several acts amendatory thereof), subject only to such legislative control as may be necessary to insure compliance with the terms of its endowments, and the proper investment and security of its funds. It shall be entirely independent of all political or sectarian influence, and kept free therefrom in the appointment of its regents, and in the administration of its affairs; *provided*, that all the moneys derived from the sale of the public lands donated to this State by act of Congress, approved July second, eighteen hundred and sixty-two (and the several acts amendatory thereof), shall be invested as provided by said acts of Congress, and the interest of said moneys shall be inviolably appropriated to the endowment, support, and maintenance of at least one college of agriculture, where the leading objects shall be (without excluding other scientific and classical studies, and including military tactics), to teach such branches of learning as are related to scientific and practical agriculture and the mechanic arts, in accordance with the

requirements and conditions of said acts of Congress; and the Legislature shall provide that if, through neglect, misappropriation, or any other contingency, any portion of the funds so set apart shall be diminished or lost, the State shall replace such portion so lost or misappropriated, so that the principal thereof shall remain forever undiminished. No person shall be debarred admission to any of the collegiate departments of the University on account of sex. (§ 193.)

**Leland Stanford Junior University.**

SEC. 10. The trusts and estates created for the founding, endowment and maintenance of the Leland Stanford Junior University, under and in accordance with "An act to advance learning," etc., approved March ninth, eighteen hundred and eighty-five, by the endowment grant executed by Leland Stanford and Jane Lathrop Stanford on the eleventh day of November, A. D. eighteen hundred and eighty-five, and recorded in liber eighty-three of deeds, at page twenty-three, *et seq.*, records of Santa Clara County, and by the amendments of such grant, and by gifts, grants, bequests and devises supplementary thereto, and by confirmatory grants, are permitted, approved and confirmed. The board of trustees of the Leland Stanford Junior University, as such, or in the name of the institution, or by other intelligible designation of the trustees of the institution, may receive property, real or personal, and wherever situated, by gift, grant, devise, or bequest for the benefit of the institution, or of any department thereof, and such property, unless otherwise provided, shall be held by the trustees of the Leland Stanford Junior University upon the trusts provided for in the grant founding the university, and amendments thereof, and grants, bequests and devises supplementary thereto. The Legislature, by special act, may grant to the trustees of the Leland Stanford Junior University corporate powers and privileges, but it shall not thereby alter their tenure, or limit their powers or obligations as trustees. All property now or hereafter held in trust for the founding, maintenance or benefit of the Leland Stanford Junior University, or of any department thereof, may be exempted by special act from state taxation, and all personal property so held, the Palo Alto farm as described in the endowment grant to the trustees of the university, and all other real property so held and used by the university for educational purposes exclusively, may be similarly exempted from county and municipal taxation; *provided*, that residents of California shall be charged no fees for tuition unless such fees be authorized by act of the Legislature. [*New section; adopted November 6, 1900.*] (§ 194.)

**California School of Mechanical Arts.**

SEC. 11. All property now or hereafter belonging to "The California School of Mechanical Arts," an institution founded and endowed by the

late James Lick to educate males and females in the practical arts of life, and incorporated under the laws of the State of California, November twenty-third, eighteen hundred and eighty-five, having its school buildings located in the city and county of San Francisco, shall be exempt from taxation. The trustees of said institution must annually report their proceedings and financial accounts to the Governor. The Legislature may modify, suspend, and revive at will the exemption from taxation herein given. [*New section; adopted November 6, 1900.*]

**California Academy of Sciences.**

SEC. 12. All property now or hereafter belonging to the "California Academy of Sciences," an institution for the advancement of science and maintenance of a free museum, and chiefly endowed by the late James Lick, and incorporated under the laws of the State of California, January sixteenth, eighteen hundred and seventy-one, having its buildings located in the city and county of San Francisco, shall be exempt from taxation. The trustees of said institution must annually report their proceedings and financial accounts to the Governor. The Legislature may modify, suspend, and revive at will the exemption from taxation herein given. [*New section; adopted November 8, 1904.*]

**Cogswell Polytechnical College.**

SEC. 13. All property now or hereafter belonging to the Cogswell Polytechnical College, an institution for the advancement of learning, incorporated under the laws of the State of California, and having its buildings located in the city and county of San Francisco, shall be exempt from taxation. The trustees of said institution must annually report their proceedings and financial accounts to the Governor. The Legislature may modify, suspend, and revive at will the exemption from taxation herein given.<sup>1</sup> [*New section; adopted November 6, 1906.*]

## ARTICLE X

### STATE INSTITUTIONS AND PUBLIC BUILDINGS

**Prison Directors, appointment and term of office.**

SECTION 1. There shall be a State Board of Prison Directors, to consist of five persons, to be appointed by the Governor, with the advice and consent of the Senate, who shall hold office for ten years, except that the first appointed shall, in such manner as the Legislature may direct, be so classified that the term of one person so appointed shall expire at the end of each

<sup>1</sup>This can be done only by definite provision of the constitution. See article IV, section 25, 20; and note, page 386.



two years during the first ten years, and vacancies occurring shall be filled in like manner. The appointee to a vacancy, occurring before the expiration of a term, shall hold only for the unexpired term of his predecessor. The Governor shall have the power to remove either of the directors for misconduct, incompetency, or neglect of duty, after an opportunity to be heard upon written charges. (§ 163.)

**Powers and duties of Prison Directors.**

SEC. 2. The board of directors shall have the charge and superintendence of the state prisons, and shall possess such powers, and perform such duties, in respect to other penal and reformatory institutions of the State, as the Legislature may prescribe.

**Prison officers.**

SEC. 3. The board shall appoint the warden and clerk, and determine the other necessary officers of the prisons. The board shall have power to remove the wardens and clerks for misconduct, incompetency, or neglect of duty. All other officers and employes of the prisons shall be appointed by the warden thereof, and be removed at his pleasure.

**Compensation of Prison Directors.**

SEC. 4. The members of the board shall receive no compensation other than reasonable traveling and other expenses incurred while engaged in the performance of official duties, to be audited as the Legislature may direct.

**Powers and duties of board of directors and officers.**

SEC. 5. The Legislature shall pass such laws as may be necessary to further define and regulate the powers and duties of the board, wardens, and clerks, and to carry into effect the provisions of this article.

**Convict labor.**

SEC. 6. After the first day of January, eighteen hundred and eighty-two, the labor of convicts shall not be let out by contract to any person, copartnership, company, or corporation, and the Legislature shall, by law, provide for the working of convicts for the benefit of the State. (§ 163, 6.)

## ARTICLE XI

### COUNTIES, CITIES, AND TOWNS

**Existing counties recognized.**

SECTION 1. The several counties, as they now exist, are hereby recognized as legal subdivisions of this State.

**County seat — Removal of.**

SEC. 2. No county seat shall be removed unless two thirds of the qualified electors of the county, voting on the proposition at a general election, shall

vote in favor of such removal. A proposition of removal shall not be submitted in the same county more than once in four years.

**New counties.**

SEC. 3. The Legislature, by general and uniform laws, may provide for the alteration of county boundary lines, and for the formation of new counties; *provided, however*, that no new county shall be established which shall reduce any county to a population of less than twenty thousand; nor shall a new county be formed containing a less population than eight thousand; nor shall any line thereof pass within five miles of the exterior boundary of the city or town in which the county seat of any county proposed to be divided is situated. Every county which shall be enlarged or created from territory taken from any other county or counties, shall be liable for a just proportion of the existing debts and liabilities of the county or counties from which such territory shall be taken. [*As amended November 8, 1910.*] (§ 33.)

**County government and township organization.**

SEC. 4. The Legislature shall establish a system of county governments which shall be uniform throughout the State; and by general laws shall provide for township organization, under which any county may organize whenever a majority of the qualified electors of such county, voting at a general election, shall so determine; and, whenever a county shall adopt township organization, the assessment and collection of the revenue shall be made, and the business of such county and the local affairs of the several townships therein shall be managed and transacted in the manner prescribed by such general laws. (§§ 31, 40.)

**County and township officers, juries, and compensation.**

SEC. 5. The Legislature, by general and uniform laws, shall provide for the election or appointment, in the several counties, of boards of supervisors, sheriffs, county clerks, district attorneys, and such other county, township, and municipal officers as public convenience may require, and shall prescribe their duties and fix their terms of office. It shall regulate the compensation of all such officers, in proportion to duties, and may also establish fees to be charged and collected by such officers for services performed in their respective offices, in the manner and for the uses provided by law, and for this purpose may classify the counties by population; and it shall provide for the strict accountability of county and township officers for all fees which may be collected by them, and for all public and municipal moneys which may be paid to them, or officially come into their possession. It may regulate the compensation of grand and trial jurors in all courts within the classes of counties herein permitted to be made; such compensation, however, shall not, in any class, exceed the sum of three dollars per day and mileage. [*As amended November 3, 1908.*] (§§ 35, 36, 38.)

**Municipal corporations.**

SEC. 6. Corporations for municipal purposes shall not be created by special laws; but the Legislature, by general laws, shall provide for the incorporation, organization, and classification, in proportion to population, of cities and towns, which laws may be altered, amended, or repealed. Cities and towns heretofore organized or incorporated may become organized under such general laws whenever a majority of the electors voting at a general election shall so determine, and shall organize in conformity therewith; and cities and towns heretofore or hereafter organized, and all charters thereof framed or adopted by authority of this Constitution, except in municipal affairs, shall be subject to and controlled by general laws. [*As amended November 3, 1896.*] (§ 75, 2; § 76.)

**Consolidation of city and county governments.**

SEC. 7. City and county governments may be merged and consolidated into one municipal government, with one set of officers, and may be incorporated under general laws providing for the incorporation and organization of corporations for municipal purposes. The provisions of this Constitution applicable to cities, and also those applicable to counties, so far as not inconsistent or prohibited to cities, shall be applicable to such consolidated government. [*As amended November 6, 1894.*] (§ 82.)

**Charters for government of counties — Amendment of — Surrender of.**

SEC. 7½. Any county may frame a charter for its own government consistent with and subject to the Constitution (or, having framed such a charter, may frame a new one,) relating to the matters hereinafter in this section specified, and none other, by causing a board of fifteen freeholders, who have been for at least five years qualified electors thereof, to be elected by the qualified electors of said county, at a general or special election. Said board of freeholders may be so elected in pursuance of an ordinance adopted by the vote of three fifths of all the members of the board of supervisors of such county, declaring that the public interest requires the election of such board for the purpose of preparing and proposing a charter for said county, or in pursuance of a petition of qualified electors of said county as herein-after provided. Such petition, signed by fifteen per centum of the qualified electors of said county, computed upon the total number of votes cast therein for all candidates for Governor at the last preceding general election at which a Governor was elected, praying for the election of a board of fifteen freeholders to prepare and propose a charter for said county, may be filed in the office of the county clerk. It shall be the duty of said county clerk, within twenty days after the filing of said petition, to examine the same, and to ascertain from the record of the registration of electors of the county, whether said petition is signed by the requisite number of qualified electors.

If required by said clerk, the board of supervisors shall authorize him to employ persons specially to assist him in the work of examining such petition, and shall provide for their compensation. Upon the completion of such examination, said clerk shall forthwith attach to said petition his certificate, properly dated, showing the result thereof, and if, by said certificate, it shall appear that said petition is signed by the requisite number of qualified electors, said clerk shall immediately present said petition to the board of supervisors, if it be in session, otherwise at its next regular meeting after the date of such certificate. Upon the adoption of such ordinance, or the presentation of such petition, said board of supervisors shall order the holding of a special election for the purpose of electing such board of freeholders, which said special election shall be held not less than twenty days nor more than sixty days after the adoption of the ordinance aforesaid or the presentation of said petition to said board of supervisors; *provided*, that if a general election shall occur in said county not less than twenty days nor more than sixty days after the adoption of the ordinance aforesaid, or such presentation of said petition to said board of supervisors, said board of freeholders may be elected at such general election. Candidates for election as members of said board of freeholders shall be nominated by petition, substantially in the same manner as may be provided by general law for the nomination, by petition of electors, of candidates for county offices, to be voted for at general elections.

It shall be the duty of said board of freeholders, within one hundred and twenty days after the result of such election shall have been declared by said board of supervisors, to prepare and propose a charter for said county, which shall be signed in duplicate by the members of said board of freeholders, or a majority of them, and be filed, one copy in the office of the county clerk of said county and the other in the office of the county recorder thereof. Said board of supervisors shall thereupon cause said proposed charter to be published for at least ten times in a daily newspaper of general circulation, printed, published and circulated in said county; *provided*, that in any county where no such daily newspaper is printed, published and circulated, such proposed charter shall be published for at least three times in at least one weekly newspaper, of general circulation, printed, published and circulated in such county, *and provided* that in any county where neither such daily nor such weekly newspaper is printed, published and circulated, a copy of such proposed charter shall be posted by the county clerk in three public places in said county, and on or near the entrance to at least one public schoolhouse in each school district in said county, and the first publication or the posting of such proposed charter shall be made within fifteen days after the filing of a copy thereof, as aforesaid, in the office of the county clerk. Said proposed charter shall be submitted by said board of supervisors to the

qualified electors of said county at a special election held not less than thirty days nor more than sixty days after the completion of such publication, or after such posting; *provided*, that if a general election shall occur in said county not less than thirty days nor more than sixty days after the completion of such publication, or after such posting, then such proposed charter may be so submitted at such general election. If a majority of said qualified electors voting thereon at such general or special election, shall vote in favor of such proposed charter, it shall be deemed to be ratified, and shall be forthwith submitted to the Legislature, if it be in regular session, otherwise at its next regular session, or it may be submitted to the Legislature in extraordinary session, for its approval or rejection as a whole, without power of alteration or amendment. Such approval may be made by concurrent resolution, and if approved by a majority vote of the members elected to each house, such charter shall become the charter of such county and shall become the organic law thereof relative to the matters therein provided, and supersede any existing charter framed under the provisions of this section, and all amendments thereof, and shall supersede all laws inconsistent with such charter relative to the matters provided in such charter. A copy of such charter, certified and authenticated by the chairman and clerk of the board of supervisors under the seal of said board and attested by the county clerk of said county, setting forth the submission of such charter to the electors of said county, and its ratification by them, shall, after the approval of such charter by the Legislature, be made in duplicate, and filed, one in the office of the Secretary of State and the other, after being recorded in the office of the recorder of said county, shall be filed in the office of the county clerk thereof, and thereafter all courts shall take judicial notice of said charter.

The charter, so ratified, may be amended by proposals therefor submitted by the board of supervisors of the county to the qualified electors thereof at a general or special election held not less than thirty days nor more than sixty days after the publication of such proposals for ten times in a daily newspaper of general circulation, printed, published and circulated in said county, *provided* that in any county where no such daily newspaper is printed, published and circulated, such proposed charter shall be published for at least three times in at least one weekly newspaper, of general circulation printed, published and circulated in such county; *provided*, that in any county where neither such daily nor such weekly newspaper is printed, published and circulated, a copy of such proposed charter shall be posted by the county clerk in three public places in said county, and on or near the entrance to at least one public schoolhouse in each school district in said county. If a majority of such qualified electors voting thereon, at such general or special election, shall vote in favor of any such proposed amendment or amendments, or any amendment or amendments proposed

by petition as hereinafter provided, such amendment or amendments shall be deemed to be ratified, and shall be forthwith submitted to the Legislature, if it be in regular session, otherwise at its next regular session, or may be submitted to the Legislature in extraordinary session, for approval or rejection as a whole, without power of alteration or amendment, and if approved by the Legislature, as herein provided for the approval of the charter, such charter shall be amended accordingly. A copy of such amendment or amendments shall, after the approval thereof by the Legislature, be made in duplicate, and shall be authenticated, certified, recorded and filed as herein provided for the charter, and with like force and effect. Whenever a petition signed by ten per centum of the qualified electors of any county, computed upon the total number of votes cast in said county for all candidates for Governor at the last general election, at which a Governor was elected, is filed in the office of the county clerk of said county, petitioning the board of supervisors thereof to submit any proposed amendment or amendments to the charter of such county, which amendment or amendments shall be set forth in full in such petition, to the qualified electors thereof, such petition shall forthwith be examined and certified by the county clerk, and if signed by the requisite number of qualified electors of such county, shall be presented to the said board of supervisors, by the said county clerk, as hereinbefore provided for petitions for the election of boards of freeholders. Upon the presentation of said petition to said board of supervisors, said board must submit the amendment or amendments set forth therein to the qualified electors of said county at a general or special election held not less than thirty days nor more than sixty days after the publication or posting of such proposed amendment or amendments in the same manner as hereinbefore provided in the case of the submission of any proposed amendment or amendments to such charter, proposed and submitted by the board of supervisors. In submitting any such charter, or amendments thereto, any alternative article or proposition may be presented for the choice of the electors, and may be voted on separately without prejudice to others.

Every special election held under the provisions of this section, for the election of boards of freeholders or for the submission of proposed charters, or any amendment or amendments thereto, shall be called by the board of supervisors, by ordinance, which shall specify the purpose and time of such election and shall establish the election precincts and designate the polling places therein, and the names of the election officers for each such precinct. Such ordinance, prior to such election, shall be published five times in a daily newspaper, or twice in a weekly newspaper, if there be no such daily newspaper, printed, published and circulated in said county; *provided*, that if no such daily or weekly newspaper be printed or published in such county, then a copy of such ordinance shall be posted by the county clerk in three public

places in such county and in or near the entrance to at least one public schoolhouse in each school district therein. In all other respects, every such election shall be held and conducted, the returns thereof canvassed and the result thereof declared by the board of supervisors in the same manner as provided by law for general elections. Whenever boards of freeholders shall be elected, or any such proposed charter, or amendment or amendments thereto, submitted, at a general election, the general laws applicable to the election of county officers and the submission of propositions to the vote of electors, shall be followed in so far as the same may be applicable thereto.

It shall be competent, in all charters framed under the authority given by this section, to provide, in addition to any other provisions allowable by this Constitution, and the same shall provide, for the following matters :

1. For boards of supervisors and for the constitution, regulation and government thereof, for the times at which and the terms for which the members of said board shall be elected, for the number of members, not less than three, that shall constitute such boards, for their compensation and for their election, either by the electors of the counties at large or by districts; *provided*, that in any event said board shall consist of one member for each district, who must be a qualified elector thereof; and

2. For sheriffs, county clerks, treasurers, recorders, license collectors, tax collectors, public administrators, coroners, surveyors, district attorneys, auditors, assessors and superintendents of schools, for the election or appointment of said officers, or any of them, for the times at which and the terms for which, said officers shall be elected or appointed, and for their compensation, or for the fixing of such compensation by boards of supervisors, and, if appointed, for the manner of their appointment; and

3. For the number of justices of the peace and constables for each township, or for the number of such judges and other officers of such inferior courts as may be provided by the Constitution or general law, for the election or appointment of said officers, for the times at which and the terms for which said officers shall be elected or appointed, and for their compensation, or for the fixing of such compensation by boards of supervisors, and if appointed, for the manner of their appointment; and

4. For the powers and duties of boards of supervisors and all other county officers, for their removal and for the consolidation and segregation of county offices, and for the manner of filling all vacancies occurring therein; *provided*, that the provisions of such charters relating to the powers and duties of boards of supervisors and all other county officers shall be subject to and controlled by general laws; and

5. For the fixing and regulation by boards of supervisors, by ordinance, of the appointment and number of assistants, deputies, clerks, attachés and



other persons to be employed, from time to time, in the several offices of the county, and for the prescribing and regulating by such boards of the powers, duties, qualifications and compensation of such persons, the times at which, and the terms for which they shall be appointed, and the manner of their appointment and removal; and

6. For the compensation of such fish and game wardens, probation and other officers as may be provided by general law, or for the fixing of such compensation by boards of supervisors.

All elective officers of counties, and of townships, of road districts and of highway construction divisions therein shall be nominated and elected in the manner provided by general laws for the nomination and election of such officers.

All charters framed under the authority given by this section, in addition to the matters herein above specified, may provide as follows:

For offices other than those required by the Constitution and laws of the State, or for the creation of any or all of such offices by boards of supervisors, for the election or appointment of persons to fill such offices, for the manner of such appointment, for the times at which and the terms for which such persons shall be so elected or appointed, and for their compensation, or for the fixing of such compensation by boards of supervisors.

For offices hereafter created by this Constitution or by general law, for the election or appointment of persons to fill such offices, for the manner of such appointment, for the times at which and the terms for which such persons shall be so elected or appointed, and for their compensation, or for the fixing of such compensation by boards of supervisors.

For the formation, in such counties, of road districts for the care, maintenance, repair, inspection and supervision only of roads, highways and bridges; and for the formation, in such counties, of highway construction divisions for the construction only of roads, highways and bridges; for the inclusion in any such district or division, of the whole or any part of any incorporated city or town, upon ordinance passed by such incorporated city or town authorizing the same, and upon the assent to such inclusion by a majority of the qualified electors of such incorporated city or town, or portion thereof, proposed to be so included, at an election held for that purpose; for the organization, government, powers and jurisdiction of such districts and divisions, and for raising revenue therein, for such purposes, by taxation, upon the assent of a majority of the qualified electors of such districts or divisions, voting at an election to be held for that purpose; for the incurring of indebtedness therefor by such counties, districts or divisions for such purposes respectively, by the issuance and sale, by the counties, of bonds of such counties, districts or divisions, and the expenditure of the proceeds of the sale of such bonds, and for levying and collecting taxes against the



property of the counties, districts or divisions, as the case may be, for the payment of the principal and interest of such indebtedness at maturity; *provided*, that any such indebtedness shall not be incurred without the assent of two thirds of the qualified electors of the county, district or division, as the case may be, voting at an election to be held for that purpose, nor unless before or at the time of incurring such indebtedness provision shall be made for the collection of an annual tax sufficient to pay the interest on such indebtedness as it falls due, and also for a sinking fund for the payment of the principal thereof on or before maturity, which shall not exceed forty years from the time of contracting the same, and the procedure for voting, issuing and selling such bonds shall, except in so far as the same shall be prescribed in such charters, conform to general laws for the authorizing and incurring by counties of bonded indebtedness, so far as applicable; *provided, further*, that provisions in such charters for the construction, care, maintenance, repair, inspection and supervision of roads, highways and bridges for which aid from the state is granted, shall be subject to such regulations and conditions as may be imposed by the Legislature.

Whenever any county has framed and adopted a charter, and the same shall have been approved by the Legislature, as herein provided, the general laws adopted by the Legislature in pursuance of sections four and five of this article, shall, as to such county, be superseded by said charter as to matters for which, under this section it is competent to make provision in such charter, and for which provision is made therein, except as herein otherwise expressly provided, and except that any such charter shall not affect the tenure of office of the elective officers of the county, or of any district, township or division thereof, in office at the time such charter goes into effect, and such officers shall continue to hold their respective offices until the expiration of the term for which they shall have been elected, unless sooner removed in the manner provided by law.

The charter of any county, adopted under the authority of this section, may be surrendered and annulled with the assent of two thirds of the qualified electors of such county, voting at a special election, held for that purpose, and to be ordered and called by the board of supervisors of the county upon receiving a written petition, signed and certified as hereinabove provided for the purposes of the adoption of charters, requesting said board to submit the question of the surrender and annulment of such charter to the qualified electors of such county, and, in the event of the surrender and annulment of any such charter, such county shall thereafter be governed under general laws in force for the government of counties.

The provisions of this section shall not be applicable to any county that is consolidated with any city. [*New section; adopted October 10, 1911.*]  
(§§ 40, 71.)

**Charters of cities and amendments thereto.**

SEC. 8. Any city containing a population of more than three thousand five hundred inhabitants as ascertained and established by the last preceding census, taken under the direction of the Congress of the United States, or by a census of said city, taken, subsequent to the aforesaid census, under the direction of the legislative body thereof, under laws authorizing the taking of the census of cities, may frame a charter for its own government, consistent with, and subject to, the Constitution, (or, having framed such a charter, may frame a new one), by causing a board of fifteen freeholders, who shall have been, for at least five years, qualified electors thereof, to be elected by the qualified electors of said city, at a general or special municipal election. Said board of freeholders may be so elected in pursuance of an ordinance adopted by a vote of two thirds of all the members of the council, or other legislative body, of such city, declaring that the public interest requires the election of such board for the purpose of preparing and proposing a charter for said city, or in pursuance of a petition of qualified electors of said city, as hereinafter provided. Such petition, signed by fifteen per centum of the qualified electors of said city computed upon the total number of votes cast therein for all candidates for Governor at the last preceding general election at which a Governor was elected, praying for the election of a board of fifteen freeholders to prepare and propose a charter for said city, may be filed in the office of the city clerk thereof. It shall be the duty of said city clerk, within twenty days after the filing of said petition, to examine the same and to ascertain from the record of the registration of electors of the county, showing the registration of electors of said city, whether the petition is signed by the requisite number of qualified electors of such city. If required by said clerk, the council, or other legislative body, of said city shall authorize him to employ persons specially to assist him in the work of examining such petition, and shall provide for their compensation. Upon the completion of such examination, said clerk shall forthwith attach to said petition his certificate, properly dated, showing the result thereof, and if, by said certificate, it shall appear that said petition is signed by the requisite number of qualified electors, said clerk shall present the said petition to said council, or other legislative body, at its next regular meeting after the date of such certificate. Upon the adoption of such ordinance, or the presentation of such petition, said council, or other legislative body, shall order the holding of a special election for the purpose of electing such board of freeholders, which said special election shall be held not less than twenty days, nor more than sixty days, after the adoption of the ordinance aforesaid, or the presentation of said petition to said council, or other legislative body; *provided*, that if a general municipal election shall occur in said city not less than twenty days, nor more than sixty days, after the adoption of the ordinance aforesaid,

or the presentation of said petition to said council, or other legislative body, said board of freeholders may be elected at such general municipal election. Candidates for election as members of said board of freeholders shall be nominated by petition, substantially in the same manner as may be provided by general laws for the nomination by petition of electors of candidates for public offices to be voted for at general elections.

It shall be the duty of said board of freeholders, within one hundred and twenty days after the result of such election shall have been declared by said council, or other legislative body, to prepare and propose a charter for said city, which shall be signed in duplicate by the members of said board of freeholders, or a majority of them, and be filed, one copy in the office of the city clerk of said city, and the other in the office of the county recorder of the county in which said city is situated. Said council, or other legislative body, shall, thereupon, cause said proposed charter to be published for at least ten times, in a daily newspaper of general circulation, printed, published and circulated in said city; *provided*, that in any city where no such daily newspaper is printed, published and circulated, such proposed charter shall be published, for at least three times, in at least one weekly newspaper of general circulation, printed, published and circulated in said city, and, in any event, the first publication of such proposed charter shall be made within fifteen days after the filing of a copy thereof, as aforesaid, in the office of the city clerk. Such proposed charter shall be submitted by said council, or other legislative body, to the qualified electors of said city, at a special election held not less than twenty days, nor more than forty days, after the completion of such publication; *provided*, that if a general municipal election shall occur in said city not less than twenty days, nor more than forty days, after the completion of such publication, then such proposed charter may be so submitted at such general election. If a majority of such qualified electors voting thereon at such general or special election shall vote in favor of such proposed charter, it shall be deemed to be ratified, and shall be submitted to the Legislature, if it be in regular session, otherwise at its next regular session, or it may be submitted to the Legislature in extraordinary session, for its approval or rejection as a whole, without power of alteration or amendment. Such approval may be made by concurrent resolution, and if approved by a majority vote of the members elected to each house, such charter shall become the charter of such city, or, if such city be consolidated with a county, then of such city and county, and shall become the organic law thereof, and supersede any existing charter, (whether framed under the provisions of this section of the Constitution or not,) and all amendments thereof, and all laws inconsistent with such charter. A copy of such charter, certified by the mayor, or other chief executive officer of said city, and authenticated under the seal of such city, setting forth the

submission of such charter to the electors of said city, and its ratification by them, shall, after the approval of such charter by the Legislature, be made in duplicate and deposited, one in the office of the Secretary of State and the other, after being recorded in the office of the recorder of the county in which such city is situated, shall be deposited in the archives of the city, and thereafter all courts shall take judicial notice of said charter.

The charter, so ratified, may be amended by proposals therefor submitted by the council, or other legislative body of the city, to the qualified electors thereof at a general or special municipal election held at intervals of not less than two years (except that charter amendments may be submitted at a general municipal election at an interval of less than two years after the last election on charter amendments, *provided* that no other election on charter amendments has been held since the beginning of the last regular session of the State Legislature or shall be held prior to the next regular session of the State Legislature), and held not less than twenty days, nor more than forty days, after the completion of the publication of such proposals for ten times in a daily newspaper of general circulation, printed, published and circulated in said city, or for three times in at least one weekly newspaper of general circulation, printed, published and circulated in said city, if there be no such daily newspaper. If a majority of such qualified electors voting thereon at such general or special election shall vote in favor of any such proposed amendment or amendments, or any amendment or amendments proposed by petition, as hereinafter provided, such amendment or amendments shall be deemed to be ratified, and shall be forthwith submitted to the Legislature, if it be in regular session, otherwise at its next regular session, or may be submitted to the Legislature in extraordinary session, for approval or rejection as a whole, without power of alteration or amendment, and if approved by the Legislature, as herein provided for the approval of the charter, such charter shall be amended accordingly. A copy of such amendment or amendments shall, after the approval thereof by the Legislature, be made in duplicate, and shall be authenticated, certified, recorded and filed as herein provided for the charter, and with like force and effect. Whenever a petition signed by fifteen per centum of the qualified electors of the city, computed upon the total number of votes cast therein for all candidates for Governor at the last preceding general election at which a Governor was elected, is filed in the office of the city clerk of said city, petitioning the council, or other legislative body thereof, to submit any proposed amendment or amendments to the charter of such city, which amendment or amendments shall be set forth in full in such petition, to the qualified electors thereof, such petition shall forthwith be examined and certified by the city clerk, and if signed by the requisite number of qualified electors of said city, it shall be presented to the said council, or other legislative body, by the said city clerk,

as hereinbefore provided for petitions for the election of boards of freeholders. Upon the presentation of said petition to said council, or other legislative body, said council, or other legislative body, must submit the amendment or amendments set forth in said petition to the qualified electors of said city, at a general or special municipal election, held not less than twenty, nor more than forty, days after the completion of the publication of such proposed amendment or amendments, in the same manner as hereinbefore provided in the case of the submission of any proposed amendment or amendments to such charter, proposed and submitted by the council, or other legislative body. The first publication of any proposed amendment or amendments to such charter so proposed by petition shall be made within fifteen days after the aforesaid presentation of said petition to said council, or other legislative body. In submitting any such charter, amendment or amendments thereto, any alternative article or proposition may be presented for the choice of the electors, and may be voted on separately without prejudice to others.

Every special election held in any city under the provisions of this section, for the election of a board of freeholders, or for the submission of any proposed charter or any amendment or amendments thereto, shall be called by the council, or other legislative body thereof, by ordinance, which shall specify the purpose and time of such election, and shall establish the election precincts and designate the polling places therein, and the names of the election officers for each such precinct. Such ordinance shall, prior to such election, be published five times in a daily newspaper, or twice in a weekly newspaper, if there be no such daily newspaper printed, published and circulated in said city. Such election shall be held and conducted, the returns thereof canvassed, and the result thereof declared by the council, or other legislative body of such city, in the manner that is now or may be hereafter provided by general law for such elections in the particulars wherein such provision is now or may hereafter be made therefor, and in all other respects in the manner provided by law for general municipal elections, in so far as the same may be applicable thereto.

Whenever any board of freeholders shall be elected, or any such proposed charter or amendment or amendments thereto shall be submitted at a general municipal election, the laws governing the election of city officers or the submission of propositions to the vote of electors, shall be followed in so far as the same may be applicable thereto and not inconsistent herewith.

It shall be competent in any charter framed by any city under the authority given in this section, or by amendment to such charter, to provide, in addition to those provisions allowed by this Constitution and by the laws of the State, for the establishment of a borough system of government for the whole or any part of the territory of such city, by which one or more

districts may be created therein, which districts shall be known as boroughs, and which shall exercise such special municipal powers as may be granted by such charter, and for the organization, regulation, government and jurisdiction of such boroughs.

All the provisions of this section relating to the city clerk shall, in any city and county, be deemed to relate to the clerk of the legislative body thereof. [*As amended October 10, 1911.*] (§ 75, 3.)

**Charter of city and county of San Francisco — Amendment in aid of Panama-Pacific International Exposition.**

**SEC. 8a.<sup>1</sup>**

**Powers conferred on municipalities by charter.**

SEC. 8½. It shall be competent, in all charters framed under the authority given by section eight of article XI of this Constitution, to provide, in addition to those provisions allowable by this Constitution and by the laws of the State, as follows:

1. For the constitution, regulation, government, and jurisdiction of police courts, and for the manner in which, the times at which, and the terms for which the judges of such courts shall be elected or appointed, and for the qualifications and compensation of said judges and of their clerks and attachés.

2. For the manner in which, the times at which, and the terms for which the members of boards of education shall be elected or appointed, for their qualifications, compensation and removal, and for the number which shall constitute any one of such boards.

3. For the manner in which, the times at which, and the terms for which the members of the boards of police commissioners shall be elected or appointed; and for the constitution, regulation, compensation, and government of such boards and of the municipal police force.

4. For the manner in which and the times at which any municipal election shall be held and the result thereof determined; for the manner in which, the times at which, and the terms for which the members of all boards of election shall be elected or appointed, and for the constitution, regulation, compensation and government of such boards, and of their clerks and attachés; and for all expenses incident to the holding of any election.

Where a city and county government has been merged and consolidated into one municipal government, it shall also be competent, in any charter framed under said section eight of said article XI, or by amendment thereto, to provide for the manner in which, the times at which and the terms for

<sup>1</sup> Section 8a is omitted. It was adopted in 1910 to permit San Francisco to amend her charter in certain particulars, in order to prepare for the Panama-Pacific Exposition, without submitting said amendments to the legislature.

which the several county and municipal officers and employes whose compensation is paid by such city and county, excepting judges of the Superior Court, shall be elected or appointed, and for their recall and removal, and for their compensation, and for the number of deputies, clerks and other employes that each shall have, and for the compensation, method of appointment, qualifications, tenure of office and removal of such deputies, clerks and other employes. All provisions of any charter of any such consolidated city and county heretofore adopted, and amendments thereto, which are in accordance herewith, are hereby confirmed and declared valid. [*First adopted 1896, amended October 10, 1911.*] (§ 91.)

**Compensation and term of officers not to be increased, when.**

SEC. 9. The compensation of any county, city, town, or municipal officer shall not be increased after his election or during his term of office; nor shall the term of any such officer be extended beyond the period for which he is elected or appointed.

**Not to be released from taxes.**

SEC. 10. [*Repealed November 8, 1910.*]

**Local laws.**

SEC. 11. Any county, city, town, or township may make and enforce within its limits all such local, police, sanitary, and other regulations as are not in conflict with general laws. (§ 24.)

**Legislature not to impose taxes on.**

SEC. 12. The Legislature shall have no power to impose taxes upon counties, cities, towns, or other public or municipal corporations, or upon the inhabitants or property thereof, for county, city, town, or other municipal purposes, but may, by general laws, vest in the corporate authorities thereof the power to assess and collect taxes for such purposes.<sup>1</sup>

**Municipal power not granted by Legislature.**

SEC. 13. The Legislature shall not delegate to any special commission, private corporation, company, association, or individual, any power to make, control, appropriate, supervise, or in any way interfere with, any county, city, town, or municipal improvement, money, property, or effects, whether held in trust or otherwise, or to levy taxes or assessments, or perform any municipal functions whatever.

**State, county, and municipal bonds.**

SEC. 13½. Nothing in this Constitution contained shall be construed as prohibiting the State or any county, city and county, city, town, municipality,

<sup>1</sup> Section 12 is one of a number of parts of the constitution that favor local self-government. See also sections 6, 7½, 8, 11, and 13 of article XI; and subdivisions 7, 9, 21, 27, and 28 of section 25, article IV.



or other public corporation, issuing bonds under the laws of the State, to make said bonds payable at any place within the United States designated in said bonds.<sup>1</sup> [*New section; adopted November 6, 1906.*]

**Merchandise — Inspection of, etc.**

SEC. 14. The Legislature may by general and uniform laws provide for the inspection, measurement and graduation of merchandise, manufactured articles and commodities, and may provide for the appointment of such officers as may be necessary for such inspection, measurement and graduation. [*As amended October 10, 1911.*]

**Private property not to be sold for corporate debt.**

SEC. 15. Private property shall not be taken or sold for the payment of the corporate debt of any political or municipal corporation. (§ 68.)

**Moneys to be immediately deposited with treasurer.**

SEC. 16. All moneys, assessments, and taxes belonging to or collected for the use of any county, city, town, or other public or municipal corporation, coming into the hands of any officer thereof, shall immediately be deposited with the treasurer, or other legal depository, to the credit of such city, town, or other corporation respectively, for the benefit of the funds to which they respectively belong.

**Deposit of moneys belonging to State, county or municipality.**

SEC. 16½. All moneys belonging to the State, or to any county or municipality within this State, may be deposited in any national bank or banks within this State, or in any bank or banks organized under the laws of this State, in such manner and under such conditions as may be provided by law; *provided*, that such bank or banks in which such moneys are deposited shall furnish as security for such deposits, bonds of the United States, or of this State or of any county, municipality or school district, within this State, or of any irrigation district within this State, to be approved by the officer or officers designated by law, to an amount in value of at least ten per cent in excess of the amount of such deposit; and *provided*, that such bank or banks shall pay a reasonable rate of interest, not less than two per cent per annum on the daily balances therein deposited; and *provided*, that no deposit shall at any one time exceed fifty per cent of the paid-up capital stock of such depository bank or banks; and *provided, further*, that no officer shall deposit at one time more than twenty per cent of such public moneys available for deposit in any bank while there are other qualified banks requesting such deposits. [*As amended November 5, 1912.*]

<sup>1</sup> This section was adopted to make it easy for any California city, or other public corporation, to borrow money in the East after the earthquake in 1906.



**Public funds not to be used for private profit.**

SEC. 17. The making of profit out of county, city, town, or other public money, or using the same for any purpose not authorized by law, by any officer having the possession or control thereof, shall be a felony, and shall be prosecuted and punished as prescribed by law.

**Annual debt not to exceed annual income — exceptions.**

SEC. 18. No county, city, town, township, board of education or school district, shall incur any indebtedness or liability in any manner or for any purpose exceeding in any year the income and revenue provided for such year, without the assent of two thirds of the qualified electors thereof, voting at an election to be held for that purpose, nor unless before or at the time of incurring such indebtedness provision shall be made for the collection of an annual tax sufficient to pay the interest on such indebtedness as it falls due, and also provision to constitute a sinking fund for the payment of the principal thereof on or before maturity, which shall not exceed forty years from the time of contracting the same; *provided, however*, that the city and county of San Francisco may at any time pay the unpaid claims, with interest thereon at the rate of five per cent per annum, for materials furnished to and work done for said city and county during the forty-first, forty-second, forty-third, forty-fourth, and fiftieth fiscal years, and for unpaid teachers' salaries for the fiftieth fiscal year, out of the income and revenue of any succeeding year or years, the amount to be paid in full of said claims not to exceed in the aggregate the sum of five hundred thousand dollars, and that no statute of limitations shall apply in any manner to these claims; *and provided further*, that the city of Vallejo, of Solano County, may pay its existing indebtedness incurred in the construction of its waterworks whenever two thirds of the electors thereof voting at an election held for that purpose shall so decide, and that no statute of limitations shall apply in any manner. Any indebtedness or liability incurred contrary to this provision, with the exceptions hereinbefore recited, shall be void. [*As amended November 6, 1900.*]

*Section 18 amended by adding the following, adopted November 6, 1906:* The city and county of San Francisco, the city of San José and the town of Santa Clara may make provision for a sinking fund, to pay the principal of any indebtedness incurred, or to be hereafter incurred, by it, to commence at a time after the incurring of such indebtedness of not more than a period of one fourth of the time of maturity of such indebtedness, which shall not exceed seventy-five years from the time of contracting the same. Any indebtedness incurred contrary to any provision of this section shall be void.<sup>1</sup>

<sup>1</sup> This section lays down two general rules: (1) that no public corporation in the state may incur any indebtedness in any year that cannot be paid out of the ordinary

**Use of streets for gas and water pipes.**

SEC. 19. Any municipal corporation may establish and operate public works for supplying its inhabitants with light, water, power, heat, transportation, telephone service or other means of communication. Such works may be acquired by original construction or by the purchase of existing works, including their franchises, or both. Persons or corporations may establish and operate works for supplying the inhabitants with such services upon such conditions and under such regulations as the municipality may prescribe under its organic law, on condition that the municipal government shall have the right to regulate the charges thereof. A municipal corporation may furnish such services to inhabitants outside its boundaries; *provided*, that it shall not furnish any service to the inhabitants of any other municipality owning or operating works supplying the same service to such inhabitants, without the consent of such other municipality, expressed by ordinance. [*As amended October 10, 1911.*] (§ 105.)

**ARTICLE XII****CORPORATIONS****Corporations, how formed.**

SECTION 1. Corporations may be formed under general laws, but shall not be created by special act. All laws now in force in this State concerning corporations, and all laws that may be hereafter passed pursuant to this section, may be altered from time to time or repealed. (§ 19, 1.)

**Corporations, dues from.**

SEC. 2. Dues from corporations shall be secured by such individual liability of the corporators and other means as may be prescribed by law.

**Corporation stockholders and directors, liability of.**

SEC. 3. Each stockholder of a corporation, or joint-stock association, shall be individually and personally liable for such proportion of all its debts and liabilities contracted or incurred, during the time he was a stockholder, *revenues* for the year, unless authorized by a two-thirds vote at an election called for the purpose; and (2) that proper provision shall be made for the payment of the principal and interest of all such debts, and that no debt shall run for a longer time than forty years.

The balance of the section contains certain exceptions to these general rules which are of importance only to the cities affected. It should be observed that the *people* of California, by amending the constitution, may indulge in *special* legislation without limit; a power which the legislature does not possess.

property of the counties, districts or divisions, as the case may be, for the payment of the principal and interest of such indebtedness at maturity ; *provided*, that any such indebtedness shall not be incurred without the assent of two thirds of the qualified electors of the county, district or division, as the case may be, voting at an election to be held for that purpose, nor unless before or at the time of incurring such indebtedness provision shall be made for the collection of an annual tax sufficient to pay the interest on such indebtedness as it falls due, and also for a sinking fund for the payment of the principal thereof on or before maturity, which shall not exceed forty years from the time of contracting the same, and the procedure for voting, issuing and selling such bonds shall, except in so far as the same shall be prescribed in such charters, conform to general laws for the authorizing and incurring by counties of bonded indebtedness, so far as applicable ; *provided, further*, that provisions in such charters for the construction, care, maintenance, repair, inspection and supervision of roads, highways and bridges for which aid from the state is granted, shall be subject to such regulations and conditions as may be imposed by the Legislature.

Whenever any county has framed and adopted a charter, and the same shall have been approved by the Legislature, as herein provided, the general laws adopted by the Legislature in pursuance of sections four and five of this article, shall, as to such county, be superseded by said charter as to matters for which, under this section it is competent to make provision in such charter, and for which provision is made therein, except as herein otherwise expressly provided, and except that any such charter shall not affect the tenure of office of the elective officers of the county, or of any district, township or division thereof, in office at the time such charter goes into effect, and such officers shall continue to hold their respective offices until the expiration of the term for which they shall have been elected, unless sooner removed in the manner provided by law.

The charter of any county, adopted under the authority of this section, may be surrendered and annulled with the assent of two thirds of the qualified electors of such county, voting at a special election, held for that purpose, and to be ordered and called by the board of supervisors of the county upon receiving a written petition, signed and certified as hereinabove provided for the purposes of the adoption of charters, requesting said board to submit the question of the surrender and annulment of such charter to the qualified electors of such county, and, in the event of the surrender and annulment of any such charter, such county shall thereafter be governed under general laws in force for the government of counties.

The provisions of this section shall not be applicable to any county that is consolidated with any city. [*New section; adopted October 10, 1911.*] (§§ 40, 71.)

**Charters of cities and amendments thereto.**

SEC. 8. Any city containing a population of more than three thousand five hundred inhabitants as ascertained and established by the last preceding census, taken under the direction of the Congress of the United States, or by a census of said city, taken, subsequent to the aforesaid census, under the direction of the legislative body thereof, under laws authorizing the taking of the census of cities, may frame a charter for its own government, consistent with, and subject to, the Constitution, (or, having framed such a charter, may frame a new one), by causing a board of fifteen freeholders, who shall have been, for at least five years, qualified electors thereof, to be elected by the qualified electors of said city, at a general or special municipal election. Said board of freeholders may be so elected in pursuance of an ordinance adopted by a vote of two thirds of all the members of the council, or other legislative body, of such city, declaring that the public interest requires the election of such board for the purpose of preparing and proposing a charter for said city, or in pursuance of a petition of qualified electors of said city, as hereinafter provided. Such petition, signed by fifteen per centum of the qualified electors of said city computed upon the total number of votes cast therein for all candidates for Governor at the last preceding general election at which a Governor was elected, praying for the election of a board of fifteen freeholders to prepare and propose a charter for said city, may be filed in the office of the city clerk thereof. It shall be the duty of said city clerk, within twenty days after the filing of said petition, to examine the same and to ascertain from the record of the registration of electors of the county, showing the registration of electors of said city, whether the petition is signed by the requisite number of qualified electors of such city. If required by said clerk, the council, or other legislative body, of said city shall authorize him to employ persons specially to assist him in the work of examining such petition, and shall provide for their compensation. Upon the completion of such examination, said clerk shall forthwith attach to said petition his certificate, properly dated, showing the result thereof, and if, by said certificate, it shall appear that said petition is signed by the requisite number of qualified electors, said clerk shall present the said petition to said council, or other legislative body, at its next regular meeting after the date of such certificate. Upon the adoption of such ordinance, or the presentation of such petition, said council, or other legislative body, shall order the holding of a special election for the purpose of electing such board of freeholders, which said special election shall be held not less than twenty days, nor more than sixty days, after the adoption of the ordinance aforesaid, or the presentation of said petition to said council, or other legislative body; *provided*, that if a general municipal election shall occur in said city not less than twenty days, nor more than sixty days, after the adoption of the ordinance aforesaid,

or the presentation of said petition to said council, or other legislative body, said board of freeholders may be elected at such general municipal election. Candidates for election as members of said board of freeholders shall be nominated by petition, substantially in the same manner as may be provided by general laws for the nomination by petition of electors of candidates for public offices to be voted for at general elections.

It shall be the duty of said board of freeholders, within one hundred and twenty days after the result of such election shall have been declared by said council, or other legislative body, to prepare and propose a charter for said city, which shall be signed in duplicate by the members of said board of freeholders, or a majority of them, and be filed, one copy in the office of the city clerk of said city, and the other in the office of the county recorder of the county in which said city is situated. Said council, or other legislative body, shall, thereupon, cause said proposed charter to be published for at least ten times, in a daily newspaper of general circulation, printed, published and circulated in said city; *provided*, that in any city where no such daily newspaper is printed, published and circulated, such proposed charter shall be published, for at least three times, in at least one weekly newspaper of general circulation, printed, published and circulated in said city, and, in any event, the first publication of such proposed charter shall be made within fifteen days after the filing of a copy thereof, as aforesaid, in the office of the city clerk. Such proposed charter shall be submitted by said council, or other legislative body, to the qualified electors of said city, at a special election held not less than twenty days, nor more than forty days, after the completion of such publication; *provided*, that if a general municipal election shall occur in said city not less than twenty days, nor more than forty days, after the completion of such publication, then such proposed charter may be so submitted at such general election. If a majority of such qualified electors voting thereon at such general or special election shall vote in favor of such proposed charter, it shall be deemed to be ratified, and shall be submitted to the Legislature, if it be in regular session, otherwise at its next regular session, or it may be submitted to the Legislature in extraordinary session, for its approval or rejection as a whole, without power of alteration or amendment. Such approval may be made by concurrent resolution, and if approved by a majority vote of the members elected to each house, such charter shall become the charter of such city, or, if such city be consolidated with a county, then of such city and county, and shall become the organic law thereof, and supersede any existing charter, (whether framed under the provisions of this section of the Constitution or not,) and all amendments thereof, and all laws inconsistent with such charter. A copy of such charter, certified by the mayor, or other chief executive officer of said city, and authenticated under the seal of such city, setting forth the

submission of such charter to the electors of said city, and its ratification by them, shall, after the approval of such charter by the Legislature, be made in duplicate and deposited, one in the office of the Secretary of State and the other, after being recorded in the office of the recorder of the county in which such city is situated, shall be deposited in the archives of the city, and thereafter all courts shall take judicial notice of said charter.

The charter, so ratified, may be amended by proposals therefor submitted by the council, or other legislative body of the city, to the qualified electors thereof at a general or special municipal election held at intervals of not less than two years (except that charter amendments may be submitted at a general municipal election at an interval of less than two years after the last election on charter amendments, *provided* that no other election on charter amendments has been held since the beginning of the last regular session of the State Legislature or shall be held prior to the next regular session of the State Legislature), and held not less than twenty days, nor more than forty days, after the completion of the publication of such proposals for ten times in a daily newspaper of general circulation, printed, published and circulated in said city, or for three times in at least one weekly newspaper of general circulation, printed, published and circulated in said city, if there be no such daily newspaper. If a majority of such qualified electors voting thereon at such general or special election shall vote in favor of any such proposed amendment or amendments, or any amendment or amendments proposed by petition, as hereinafter provided, such amendment or amendments shall be deemed to be ratified, and shall be forthwith submitted to the Legislature, if it be in regular session, otherwise at its next regular session, or may be submitted to the Legislature in extraordinary session, for approval or rejection as a whole, without power of alteration or amendment, and if approved by the Legislature, as herein provided for the approval of the charter, such charter shall be amended accordingly. A copy of such amendment or amendments shall, after the approval thereof by the Legislature, be made in duplicate, and shall be authenticated, certified, recorded and filed as herein provided for the charter, and with like force and effect. Whenever a petition signed by fifteen per centum of the qualified electors of the city, computed upon the total number of votes cast therein for all candidates for Governor at the last preceding general election at which a Governor was elected, is filed in the office of the city clerk of said city, petitioning the council, or other legislative body thereof, to submit any proposed amendment or amendments to the charter of such city, which amendment or amendments shall be set forth in full in such petition, to the qualified electors thereof, such petition shall forthwith be examined and certified by the city clerk, and if signed by the requisite number of qualified electors of said city, it shall be presented to the said council, or other legislative body, by the said city clerk,

as hereinbefore provided for petitions for the election of boards of freeholders. Upon the presentation of said petition to said council, or other legislative body, said council, or other legislative body, must submit the amendment or amendments set forth in said petition to the qualified electors of said city, at a general or special municipal election, held not less than twenty, nor more than forty, days after the completion of the publication of such proposed amendment or amendments, in the same manner as hereinbefore provided in the case of the submission of any proposed amendment or amendments to such charter, proposed and submitted by the council, or other legislative body. The first publication of any proposed amendment or amendments to such charter so proposed by petition shall be made within fifteen days after the aforesaid presentation of said petition to said council, or other legislative body. In submitting any such charter, amendment or amendments thereto, any alternative article or proposition may be presented for the choice of the electors, and may be voted on separately without prejudice to others.

Every special election held in any city under the provisions of this section, for the election of a board of freeholders, or for the submission of any proposed charter or any amendment or amendments thereto, shall be called by the council, or other legislative body thereof, by ordinance, which shall specify the purpose and time of such election, and shall establish the election precincts and designate the polling places therein, and the names of the election officers for each such precinct. Such ordinance shall, prior to such election, be published five times in a daily newspaper, or twice in a weekly newspaper, if there be no such daily newspaper printed, published and circulated in said city. Such election shall be held and conducted, the returns thereof canvassed, and the result thereof declared by the council, or other legislative body of such city, in the manner that is now or may be hereafter provided by general law for such elections in the particulars wherein such provision is now or may hereafter be made therefor, and in all other respects in the manner provided by law for general municipal elections, in so far as the same may be applicable thereto.

Whenever any board of freeholders shall be elected, or any such proposed charter or amendment or amendments thereto shall be submitted at a general municipal election, the laws governing the election of city officers or the submission of propositions to the vote of electors, shall be followed in so far as the same may be applicable thereto and not inconsistent herewith.

It shall be competent in any charter framed by any city under the authority given in this section, or by amendment to such charter, to provide, in addition to those provisions allowed by this Constitution and by the laws of the State, for the establishment of a borough system of government for the whole or any part of the territory of such city, by which one or more



districts may be created therein, which districts shall be known as boroughs, and which shall exercise such special municipal powers as may be granted by such charter, and for the organization, regulation, government and jurisdiction of such boroughs.

All the provisions of this section relating to the city clerk shall, in any city and county, be deemed to relate to the clerk of the legislative body thereof. [*As amended October 10, 1911.*] (§ 75, 3.)

**Charter of city and county of San Francisco—Amendment in aid of Panama-Pacific International Exposition.**

**SEC. 8a.<sup>1</sup>**

**Powers conferred on municipalities by charter.**

SEC. 8½. It shall be competent, in all charters framed under the authority given by section eight of article XI of this Constitution, to provide, in addition to those provisions allowable by this Constitution and by the laws of the State, as follows:

1. For the constitution, regulation, government, and jurisdiction of police courts, and for the manner in which, the times at which, and the terms for which the judges of such courts shall be elected or appointed, and for the qualifications and compensation of said judges and of their clerks and attachés.

2. For the manner in which, the times at which, and the terms for which the members of boards of education shall be elected or appointed, for their qualifications, compensation and removal, and for the number which shall constitute any one of such boards.

3. For the manner in which, the times at which, and the terms for which the members of the boards of police commissioners shall be elected or appointed; and for the constitution, regulation, compensation, and government of such boards and of the municipal police force.

4. For the manner in which and the times at which any municipal election shall be held and the result thereof determined; for the manner in which, the times at which, and the terms for which the members of all boards of election shall be elected or appointed, and for the constitution, regulation, compensation and government of such boards, and of their clerks and attachés; and for all expenses incident to the holding of any election.

Where a city and county government has been merged and consolidated into one municipal government, it shall also be competent, in any charter framed under said section eight of said article XI, or by amendment thereto, to provide for the manner in which, the times at which and the terms for

<sup>1</sup> Section 8a is omitted. It was adopted in 1910 to permit San Francisco to amend her charter in certain particulars, in order to prepare for the Panama-Pacific Exposition, without submitting said amendments to the legislature.



the adoption of this provision of the Constitution and of all other provisions adopted concurrently herewith, except that the three commissioners referred to in said act shall be held and construed to be the five commissioners provided for herein. [*As amended October 10, 1911.*] (§ 140.)

**Public Utilities — Supervision and regulation of.**

SEC. 23. Every private corporation, and every individual or association of individuals, owning, operating, managing, or controlling any commercial railroad, interurban railroad, street railroad, canal, pipe line, plant, or equipment, or any part of such railroad, canal, pipe line, plant or equipment within this State, for the transportation or conveyance of passengers, or express matter, or freight of any kind, including crude oil, or for the transmission of telephone or telegraph messages, or for the production, generation, transmission, delivery or furnishing of heat, light, water or power or for the furnishing of storage or wharfage facilities, either directly or indirectly, to or for the public, and every common carrier, is hereby declared to be a public utility subject to such control and regulation by the Railroad Commission as may be provided by the Legislature, and every class of private corporations, individuals, or associations of individuals hereafter declared by the Legislature to be public utilities shall likewise be subject to such control and regulation. The Railroad Commission shall have and exercise such power and jurisdiction to supervise and regulate public utilities, in the State of California, and to fix the rates to be charged for commodities furnished, or services rendered by public utilities as shall be conferred upon it by the Legislature, and the right of the Legislature to confer powers upon the Railroad Commission respecting public utilities is hereby declared to be plenary and to be unlimited by any provision of this Constitution.

From and after the passage by the Legislature of laws conferring powers upon the Railroad Commission respecting public utilities, all powers respecting such public utilities vested in boards of supervisors, or municipal councils or other governing bodies of the several counties, cities and counties, cities and towns, in this State, or in any commission created by law and existing at the time of the passage of such laws, shall cease so far as such powers shall conflict with the powers so conferred upon the Railroad Commission; *provided, however*, that this section shall not affect such powers of control over any public utility vested in any city and county, or incorporated city or town as, at an election to be held pursuant to laws to be passed hereafter by the Legislature, a majority of the qualified electors voting thereon of such city and county, or incorporated city or town, shall vote to retain, and until such election such powers shall continue unimpaired; but if the vote so taken shall not favor the continuation of such powers they shall thereafter vest in the Railroad Commission as provided by law; *and provided, further*

that where any such city and county or incorporated city or town shall have elected to continue any powers respecting public utilities, it may, by vote of a majority of its qualified electors voting thereon, thereafter surrender such powers to the Railroad Commission in the manner to be prescribed by the Legislature; or if such municipal corporation shall have surrendered any powers to the Railroad Commission, it may, by like vote, thereafter reinvest itself with such power. Nothing in this section shall be construed as a limitation upon any power conferred upon the Railroad Commission by any provision of this Constitution now existing or adopted concurrently herewith. [*As amended October 10, 1911.*] (§ 140, 5.)

**Legislature to enforce this article.**

SEC. 24. The Legislature shall pass all laws necessary for the enforcement of the provisions of this article.

## ARTICLE XIII

### REVENUE AND TAXATION

**Property to be taxed according to value — Exempting mortgages.**

SECTION 1. All property in the State except as otherwise in this Constitution provided, not exempt under the laws of the United States, shall be taxed in proportion to its value, to be ascertained as provided by law, or as hereinafter provided. The word "property," as used in this article and section, is hereby declared to include moneys, credits, bonds, stocks, dues, franchises, and all other matters and things, real, personal, and mixed, capable of private ownership; *provided*, that a mortgage, deed of trust, contract, or other obligation by which a debt is secured when land is pledged as security for the payment thereof, together with the money represented by such debt, shall not be considered property subject to taxation; *and further provided*, that property used for free public libraries and free museums, growing crops, property used exclusively for public schools, and such as may belong to the United States, this State, or to any county or municipal corporation within this State shall be exempt from taxation. The Legislature may provide, except in the case of credits secured by mortgage or trust deed, for a deduction from credits of debts due to bona fide residents of this State. [*As amended November 8, 1910.*]

**Exemption from taxation — Soldiers, sailors, etc.**

SEC. 14. The property to the amount of one thousand dollars of every resident in this State who has served in the army, navy, marine corps, or revenue marine service of the United States in time of war, and received an

honorable discharge therefrom; or lacking such amount of property in his own name, so much of the property of the wife of any such person as shall be necessary to equal said amount; and property to the amount of one thousand dollars of the widow resident in this State, or if there be no such widow, of the widowed mother resident in this State, of every person who has so served and has died either during his term of service or after receiving honorable discharge from said service; and the property to the amount of one thousand dollars of pensioned widows, fathers, and mothers, resident in this State, of soldiers, sailors, and marines who served in the army, navy, or marine corps, or revenue marine service of the United States, shall be exempt from taxation; *provided*, that this exemption shall not apply to any person named herein owning property of the value of five thousand dollars or more, or where the wife of such soldier or sailor owns property of the value of five thousand dollars or more. No exemption shall be made under the provisions of this act of the property of a person who is not a legal resident of the State. [*New section; adopted October 10, 1911.*]

**Churches exempt from taxation.**

SEC. 1 $\frac{1}{2}$ . All buildings, and so much of the real property on which they are situated as may be required for the convenient use and occupation of said buildings, when the same are used solely and exclusively for religious worship, shall be free from taxation; *provided*, that no building so used which may be rented for religious purposes and rent received by the owner therefor, shall be exempt from taxation. [*New section; adopted November 6, 1900.*]

**State, county, city and district bonds exempt from taxation.**

SEC. 1 $\frac{3}{4}$ . All bonds hereafter issued by the State of California, or by any county, city and county, municipal corporation, or district (including school, reclamation, and irrigation districts) within said State, shall be free and exempt from taxation. [*New section; adopted November 4, 1902.*]

**Land and improvements to be separately assessed.**

SEC. 2. Land, and the improvements thereon, shall be separately assessed. Cultivated and uncultivated land, of the same quality, and similarly situated, shall be assessed at the same value.

**Assessment of tracts of land sectionized by U. S. Government.**

SEC. 3. Every tract of land containing more than six hundred and forty acres and which has been sectionized by the United States Government, shall be assessed, for the purposes of taxation, by sections or fractions of sections. The Legislature shall provide by law for the assessment, in small tracts, of all lands not sectionized by the United States Government.

**Taxation of mortgages and securities.**

SEC. 4. [*Repealed November 8, 1910.*]

**Contract to pay tax on borrowed money, void.**

SEC. 5. [*Repealed November 6, 1906.*]

**Power of taxation not to be impaired.**

SEC. 6. The power of taxation shall never be surrendered or suspended by any grant or contract to which the State shall be a party.

**Payment of taxes by installments.**

SEC. 7. The Legislature shall have the power to provide by law for the payment of all taxes on real property by installments. (§ 46.)

**Taxpayer to make statement to county assessor.**

SEC. 8. The Legislature shall by law require each taxpayer in this State to make and deliver to the county assessor, annually, a statement, under oath, setting forth specifically all the real and personal property owned by such taxpayer, or in his possession, or under his control, at twelve o'clock meridian, on the first Monday of March.

**State and county boards of equalization.**

SEC. 9. A State Board of Equalization, consisting of one member from each congressional district in this State, as the same existed in eighteen hundred and seventy-nine, shall be elected by the qualified electors of their respective districts at the general election to be held in the year one thousand eight hundred and eighty-six, and at each gubernatorial election thereafter, whose term of office shall be for four years, whose duty it shall be to equalize the valuation of the taxable property in the several counties of the State for the purposes of taxation. The Controller of State shall be ex officio a member of the board. The boards of supervisors of the several counties of the State shall constitute Boards of Equalization for their respective counties, whose duty it shall be to equalize the valuation of the taxable property in the county for the purpose of taxation; *provided*, such State and County Boards of Equalization are hereby authorized and empowered, under such rules of notice as the county boards may prescribe as to the county assessments, and under such rules of notice as the State Board may prescribe as to the action of the State Board, to increase or lower the entire assessment roll, or any assessment contained therein, so as to equalize the assessment of the property contained in said assessment roll, and make the assessment conform to the true value in money of the property contained in said roll; *provided*, that no Board of Equalization shall raise any mortgage, deed of trust, contract, or other obligation by which a debt is secured, money, or solvent credits, above its face value. The present State Board of Equalization shall continue in office until their successors, as herein provided for, shall be elected and shall qualify. The Legislature shall have power to redistrict the State into four districts, as nearly equal in population as prac-

tical, and to provide for the election of members of said Board of Equalization. [*As amended November 4, 1884.*] (§§ 42, 4; 132; Appendix B, IV.)

**Property, where assessed.**

SEC. 10. All property, except as otherwise in this Constitution provided, shall be assessed in the county, city, city and county, town or township, or district in which it is situated, in the manner prescribed by law. [*As amended November 8, 1910.*]

**Personal property exempt from taxation.**

SEC. 10½. The personal property of every householder to the amount of one hundred dollars, the articles to be selected by each householder, shall be exempt from taxation. [*New section; adopted November 8, 1904.*]

**Income taxes.**

SEC. 11. Income taxes may be assessed to and collected from persons, corporations, joint-stock associations, or companies resident or doing business in this State, or any one or more of them, in such cases and amounts, and in such manner, as shall be prescribed by law.

**Poll tax.**

SEC. 12. The Legislature shall provide for the levy and collection of an annual poll tax of not less than two dollars on every male inhabitant of this State, over twenty-one and under sixty years of age, except paupers, idiots, insane persons, and Indians not taxed. Said tax shall be paid into the State school fund. (§§ 45, 2; 130; 131; 190.)

**Young trees and vines exempt from taxation.**

SEC. 12½. Fruit and nut-bearing trees under the age of four years from the time of planting in orchard form, and grapevines under the age of three years from the time of planting in vineyard form, shall be exempt from taxation, and nothing in this article shall be construed as subjecting such trees and grapevines to taxation. [*New section; adopted November 6, 1894.*]

**Legislature to pass laws to enforce taxation.**

SEC. 13. The Legislature shall pass all laws necessary to carry out the provisions of this article.

**Taxation — Separation of State and local taxation of public service and other corporations.**

SEC. 14. Taxes levied, assessed and collected as hereinafter provided upon railroads, including street railways, whether operated in one or more counties; sleeping car, dining car, drawing-room car and palace car companies, refrigerator, oil, stock, fruit, and other car-loaning and other car companies operating upon railroads in this State; companies doing express business on any railroad, steamboat, vessel or stage line in this State; telegraph com-

panies; telephone companies; companies engaged in the transmission or sale of gas or electricity; insurance companies; banks, banking associations, savings and loan societies, and trust companies; and taxes upon all franchises of every kind and nature, shall be entirely and exclusively for State purposes, and shall be levied, assessed and collected in the manner hereinafter provided. The word "companies" as used in this section shall include persons, partnerships, joint-stock associations, companies, and corporations.

(a) All railroad companies, including street railways, whether operated in one or more counties; all sleeping car, dining car, drawing-room car, and palace car companies, all refrigerator, oil, stock, fruit and other car-loaning and other car companies, operating upon the railroads in this State; all companies doing express business on any railroad, steamboat, vessel or stage line in this State; all telegraph and telephone companies; and all companies engaged in the transmission or sale of gas or electricity shall annually pay to the State a tax upon their franchises, roadways, roadbeds, rails, rolling stock, poles, wires, pipes, canals, conduits, rights of way, and other property, or any part thereof, used exclusively in the operation of their business in this State, computed as follows: Said tax shall be equal to the percentages hereinafter fixed upon the gross receipts from operation of such companies and each thereof within this State. When such companies are operating partly within and partly without this State, the gross receipts within this State shall be deemed to be all receipts on business beginning and ending within this State, and a proportion, based upon the proportion of the mileage within this State to the entire mileage over which such business is done, of receipts on all business passing through, into, or out of this State.

The percentages above mentioned shall be as follows: On all railroad companies, including street railways, four per cent; on all sleeping car, dining car, drawing-room car, palace car companies, refrigerator, oil, stock, fruit and other car-loaning and other car companies, three per cent; on all companies doing express business on any railroad, steamboat, vessel or stage line, two per cent; on all telegraph and telephone companies, three and one half per cent; on all companies engaged in the transmission or sale of gas or electricity, four per cent.<sup>1</sup> Such taxes shall be in lieu of all other taxes and licenses, state, county and municipal, upon the property above enumerated of such companies except as otherwise in this section provided; *provided*, that nothing herein shall be construed to release any such company from the payment of any amount agreed to be paid or required by law to be

<sup>1</sup> These percentages were changed by the legislature of 1913 so that they now are respectively: 4½ per cent; 4 per cent; 2 per cent (no change); 4½ per cent; 4½ per cent.

paid for any special privilege or franchise granted by any of the municipal authorities of this State.

(b) Every insurance company or association doing business in this State shall annually pay to the State a tax of one and one half per cent<sup>1</sup> upon the amount of the gross premiums received upon its business done in this State, less return premiums and reinsurance in companies or associations authorized to do business in this State; *provided*, that there shall be deducted from said one and one half per cent upon the gross premiums the amount of any county and municipal taxes paid by such companies on real estate owned by them in this State. This tax shall be in lieu of all other taxes and licenses, state, county and municipal, upon the property of such companies, except county and municipal taxes on real estate, and except as otherwise in this section provided; *provided*, that when by the laws of any other State or country, any taxes, fines, penalties, licenses, fees, deposits of money, or of securities, or other obligations or prohibitions, are imposed on insurance companies of this State, doing business in such other State or country, or upon their agents therein, in excess of such taxes, fines, penalties, licenses, fees, deposits of money, or of securities, or other obligations or prohibitions, imposed upon insurance companies of such other State or country, so long as such laws continue in force, the same obligations and prohibitions of whatsoever kind may be imposed by the Legislature upon insurance companies of such other State or country doing business in this State.

(c) The shares of capital stock of all banks, organized under the laws of this State, or of the United States, or of any other State and located in this State, shall be assessed and taxed to the owners or holders thereof by the State Board of Equalization, in the manner to be prescribed by law, in the city or town where the bank is located and not elsewhere. There shall be levied and assessed upon such shares of capital stock an annual tax, payable to the State, of one per centum upon the value thereof. The value of each share of stock in each bank, except such as are in liquidation, shall be taken to be the amount paid in thereon, together with its pro rata of the accumulated surplus and undivided profits. The value of each share of stock in each bank which is in liquidation shall be taken to be its pro rata of the actual assets of such bank. This tax shall be in lieu of all other taxes and licenses, state, county and municipal, upon such shares of stock and upon the property of such banks, except county and municipal taxes on real estate and except as otherwise in this section provided. In determining the value of the capital stock of any bank there shall be deducted from the value, as defined above, the value, as assessed for county taxes, of any real estate, other than mortgage interests therein, owned by such bank and taxed for

<sup>1</sup> Changed to 1½ per cent by the legislature of 1913.



county purposes. The banks shall be liable to the State for this tax and the same shall be paid to the State by them on behalf of the stockholders in the manner and at the time prescribed by law, and they shall have a lien upon the shares of stock and upon any dividends declared thereon to secure the amount so paid.

The moneyed capital, reserve, surplus, undivided profits and all other property belonging to unincorporated banks or bankers of this State, or held by any bank located in this State which has no shares of capital stock, or employed in this State by any branches, agencies, or other representatives of any banks doing business outside of the State of California, shall be likewise assessed and taxed to such banks or bankers by the said Board of Equalization, in the manner to be provided by law, and taxed at the same rate that is levied upon the shares of capital stock of incorporated banks, as provided in the first paragraph of this subdivision. The value of said property shall be determined by taking the entire property invested in such business, together with all the reserve, surplus, and undivided profits, at their full cash value, and deducting therefrom the value as assessed for county taxes of any real estate other than mortgage interests therein, owned by such bank and taxed for county purposes. Such taxes shall be in lieu of all other taxes and licenses, state, county and municipal, upon the property of the banks and bankers mentioned in this paragraph, except county and municipal taxes on real estate and except as otherwise in this section provided. It is the intention of this paragraph that all moneyed capital and property of the banks and bankers mentioned in this paragraph shall be assessed and taxed at the same rate as an incorporated bank, provided for in the first paragraph of this subdivision. In determining the value of the moneyed capital and property of the banks and bankers mentioned in this subdivision, the said State Board of Equalization shall include and assess to such banks all property and everything of value owned or held by them, which go to make up the value of the capital stock of such banks and bankers, if the same were incorporated and had shares of capital stock.

The word "banks" as used in this subdivision shall include banking associations, savings and loan societies and trust companies, but shall not include building and loan associations.

(d) All franchises, other than those expressly provided for in this section, shall be assessed at their actual cash value, in the manner to be provided by law, and shall be taxed at the rate of one per centum each year, and the taxes collected thereon shall be exclusively for the benefit of the State.

(e) Out of the revenues from the taxes provided for in this section, together with all other state revenues, there shall be first set apart the moneys to be applied by the state to the support of the public school system and the state university. In the event that the above named revenues are at any



time deemed insufficient to meet the annual expenditures of the State, including the above named expenditures for educational purposes, there may be levied, in the manner to be provided by law, a tax, for state purposes, on all the property in the State, including the classes of property enumerated in this section, sufficient to meet the deficiency. All property enumerated in subdivisions *a*, *b*, and *d* of this section shall be subject to taxation, in the manner provided by law, to pay the principal and interest of any bonded indebtedness created and outstanding by any city, city and county, county, town, township or district, before the adoption of this section. The taxes so paid for principal and interest on such bonded indebtedness shall be deducted from the total amount paid in taxes for state purposes.

(f) All the provisions of this section shall be self-executing, and the legislature shall pass all laws necessary to carry this section into effect, and shall provide for a valuation and assessment of the property enumerated in this section, and shall prescribe the duties of the State Board of Equalization and any other officers in connection with the administration thereof. The rates of taxation fixed in this section shall remain in force until changed by the Legislature, two thirds of all the members elected to each of the two houses voting in favor thereof. The taxes herein provided for shall become a lien on the first Monday in March of each year after the adoption of this section and shall become due and payable on the first Monday in July thereafter. The gross receipts and gross premiums herein mentioned shall be computed for the year ending the thirty-first day of December prior to the levy of such taxes and the value of any property mentioned herein shall be fixed as of the first Monday in March. Nothing herein contained shall affect any tax levied or assessed prior to the adoption of this section; and all laws in relation to such taxes in force at the time of the adoption of this section shall remain in force until changed by the Legislature. Until the year 1918 the State shall reimburse any and all counties which sustain loss of revenue by the withdrawal of railroad property from county taxation for the net loss in county revenue occasioned by the withdrawal of railroad property from county taxation. The Legislature shall provide for reimbursement from the general funds of any county to districts therein where loss is occasioned in such districts by the withdrawal from local taxation of property taxed for state purposes only.

(g) No injunction shall ever issue in any suit, action or proceeding in any court against this State or against any officer thereof to prevent or enjoin the collection of any tax levied under the provisions of this section; but after payment action may be maintained to recover any tax illegally collected in such manner and at such time as may now or hereafter be provided by law. [*New section; adopted November 8, 1910.*] (§§ 130, 131, 132, 133, 134.)

## ARTICLE XIV

## WATER AND WATER RIGHTS

**Subject to control of State.**

SECTION 1. The use of all water now appropriated, or that may hereafter be appropriated, for sale, rental, or distribution, is hereby declared to be a public use, and subject to the regulation and control of the State, in the manner to be prescribed by law; *provided*, that the rates or compensation to be collected by any person, company, or corporation in this State, for the use of water supplied to any city and county, or city or town, or the inhabitants thereof, shall be fixed annually, by the board of supervisors, or city and county, or city or town council, or other governing body of such city and county, or city or town, by ordinance or otherwise, in the manner that other ordinances or legislative acts or resolutions are passed by such body, and shall continue in force for one year and no longer. Such ordinances or resolutions shall be passed in the month of February of each year, and take effect on the first day of July thereafter. Any board or body failing to pass the necessary ordinances or resolutions fixing water rates, where necessary, within such time, shall be subject to peremptory process, to compel action at the suit of any party interested, and shall be liable to such further processes and penalties as the Legislature may prescribe. Any person, company, or corporation collecting water rates in any city and county, or city or town in this State, otherwise than as so established, shall forfeit the franchises and waterworks of such person, company, or corporation, to the city and county, or city or town where the same are collected, for the public use.

**Right to collect rates is a franchise.**

SEC. 2. The right to collect rates or compensation for the use of water supplied to any county, city and county, or town, or the inhabitants thereof, is a franchise, and can not be exercised except by authority of and in the manner prescribed by law.

## ARTICLE XV

## HARBOR FRONTAGES, ETC.

**Right of the State to frontage.**

SECTION 1. The right of eminent domain is hereby declared to exist in the State to all frontages on the navigable waters of this State.

**Access to navigable waters.**

SEC. 2. No individual, partnership, or corporation, claiming or possessing the frontage or tidal lands of a harbor, bay, inlet, estuary, or other navigable water in this State, shall be permitted to exclude the right of way to such water whenever it is required for any public purpose, nor to destroy or obstruct the free navigation of such water; and the Legislature shall enact such laws as will give the most liberal construction to this provision, so that access to the navigable waters of this State shall be always attainable for the people thereof.

**Tide lands.**

SEC. 3. All tide lands within two miles of any incorporated city or town in this State, and fronting on the waters of any harbor, estuary, bay, or inlet used for the purposes of navigation, shall be withheld from grant or sale to private persons, partnerships, or corporations.<sup>1</sup> (§ 137, 2.)

**ARTICLE XVI****STATE INDEBTEDNESS****Liability exceeding three hundred thousand dollars, how created.**

SECTION 1. The Legislature shall not, in any manner create any debt or debts, liability or liabilities, which shall, singly or in the aggregate with any previous debts or liabilities, exceed the sum of three hundred thousand dollars, except in case of war to repel invasion or suppress insurrection, unless the same shall be authorized by law for some single object or work to be distinctly specified therein which law shall provide ways and means, exclusive of loans, for the payment of the interest of such debt or liability as it falls due, and also to pay and discharge the principal of such debt or liability within seventy-five years of the time of the contracting thereof, and shall be irrevocable until the principal and interest thereon shall be paid and discharged, and such law may make provision for a sinking fund to pay the principal of such debt or liability to commence at a time after the incurring of such debt or liability of not more than a period of one fourth of the time of maturity of such debt or liability; but no such law shall take effect until, at a general election, it shall have been submitted to the people and shall have received a majority of all the votes cast for and against it at such election; and all moneys raised by authority of such law shall be applied only to the specific object therein stated or to the payment of the debt thereby

<sup>1</sup> In some cities tide lands that were acquired by individuals or private corporations before 1879 are still privately owned.

created, and such law shall be published in at least one newspaper in each county, or city and county, if one be published therein throughout the State for three months next preceding the election at which it is submitted to the people. The Legislature may, at any time after the approval of such law by the people, if no debt shall have been contracted in pursuance thereof, repeal the same.<sup>1</sup> [*As amended November 3, 1908.*]

## ARTICLE XVII

### LAND, AND HOMESTEAD EXEMPTION

#### Homestead exemption.

SECTION 1. The Legislature shall protect, by law, from forced sale a certain portion of the homestead and other property of all heads of families.<sup>2</sup>

#### Large land holdings discouraged.

SEC. 2. The holding of large tracts of land, uncultivated and unimproved, by individuals or corporations, is against the public interest, and should be discouraged by all means not inconsistent with the rights of private property.

#### State lands granted only to actual settlers.

SEC. 3. Lands belonging to this State, which are suitable for cultivation, shall be granted only to actual settlers, and in quantities not exceeding three hundred and twenty acres to each settler, under such conditions as shall be prescribed by law. (§ 137, 2.)

## ARTICLE XVIII

### AMENDING AND REVISING THE CONSTITUTION

#### Amendments, how made.

SECTION 1. Any amendment or amendments to this Constitution may be proposed in the Senate or Assembly, and if two thirds of all the members elected to each of the two houses shall vote in favor thereof, such proposed amendment or amendments shall be entered in their journals, with the yeas

<sup>1</sup> This article outlines in full the manner in which state bonds are issued.

<sup>2</sup> The head of a family who owns a house may have it and the land on which it is located, amounting to \$5000 in value, set aside as a homestead. The declaration of homestead must be drawn up in proper form, something like a deed, and must be recorded by the county recorder. A homestead is "subject to execution of forced sale" to satisfy a mortgage, or a debt secured by a lien on the property; but cannot be taken to satisfy other debts of the owner.

and nays taken thereon; and it shall be the duty of the Legislature to submit such proposed amendment or amendments to the people in such manner, and at such time, and after such publication as may be deemed expedient. Should more amendments than one be submitted at the same election they shall be so prepared and distinguished, by numbers or otherwise, that each can be voted on separately. If the people shall approve and ratify such amendment or amendments, or any of them, by a majority of the qualified electors voting thereon such amendment or amendments shall become a part of this Constitution.

**Revision, convention for.**

SEC. 2. Whenever two thirds of the members elected to each branch of the Legislature shall deem it necessary to revise this Constitution, they shall recommend to the electors to vote at the next general election for or against a convention for that purpose, and if a majority of the electors voting at such election on the proposition for a convention shall vote in favor thereof, the Legislature shall, at its next session, provide by law for calling the same. The convention shall consist of a number of delegates not to exceed that of both branches of the Legislature, who shall be chosen in the same manner, and have the same qualifications, as members of the Legislature. The delegates so elected shall meet within three months after their election at such place as the Legislature may direct. At a special election to be provided for by law, the Constitution that may be agreed upon by such convention shall be submitted to the people for their ratification or rejection, in such manner as the convention may determine. The returns of such election shall, in such manner as the convention shall direct, be certified to the Executive of the State, who shall call to his assistance the Controller, Treasurer, and Secretary of State, and compare the returns so certified to him; and it shall be the duty of the Executive to declare, by his proclamation, such Constitution, as may have been ratified by a majority of all the votes cast at such special election, to be the Constitution of the State of California.

## ARTICLE XIX

### CHINESE<sup>1</sup>

**Protection against undesirable aliens.**

SECTION 1. The Legislature shall prescribe all necessary regulations for the protection of the State, and the counties, cities, and towns thereof,

<sup>1</sup> Public sentiment in California was very strong against the Chinese in 1879, and article XIX gives expression to this sentiment. The entire article, except section 3, is practically a dead letter.

from the burdens and evils arising from the presence of aliens, who are, or may become, vagrants, paupers, mendicants, criminals, or invalids afflicted with contagious or infectious diseases, and from aliens otherwise dangerous or detrimental to the well-being or peace of the State, and to impose conditions upon which such persons may reside in the State, and to provide the means and mode of their removal from the State, upon failure or refusal to comply with such conditions; *provided*, that nothing contained in this section shall be construed to impair or limit the power of the Legislature to pass such police laws or other regulations as it may deem necessary.

**Corporations not to employ Chinese.**

SEC. 2. No corporation now existing or hereafter formed under the laws of this State shall, after the adoption of this Constitution, employ, directly or indirectly, in any capacity, any Chinese or Mongolian. The Legislature shall pass such laws as may be necessary to enforce this provision.

NOTE.—SEC. 2. The provisions of this section held to be in conflict with the United States Constitution, and therefore void. *In re Parrott*, 5 Pac. Coast Law Jour., p. 161.

**No Chinese to be employed on public work.**

SEC. 3. No Chinese shall be employed on any State, county, municipal, or other public work, except in punishment for crime.

**Chinese immigration to be discouraged.**

SEC. 4. The presence of foreigners ineligible to become citizens of the United States is declared to be dangerous to the well-being of the State, and the Legislature shall discourage their immigration by all the means within its power. Asiatic coolieism is a form of human slavery, and is forever prohibited in this State, and all contracts for coolie labor shall be void. All companies or corporations, whether formed in this country or any foreign country, for the importation of such labor, shall be subject to such penalties as the Legislature may prescribe. The Legislature shall delegate all necessary power to the incorporated cities and towns of this State for the removal of Chinese without the limits of such cities and towns, or for their location within prescribed portions of those limits, and it shall also provide the necessary legislation to prohibit the introduction into this State of Chinese after the adoption of this Constitution. This section shall be enforced by appropriate legislation.

## ARTICLE XX

## MISCELLANEOUS SUBJECTS

**Capital of the State — How changed.**

SECTION 1. The city of Sacramento is hereby declared to be the seat of government of this State, and shall so remain until changed by law; but no law changing the seat of government shall be valid or binding, unless the same be approved and ratified by a majority of the qualified electors of the State voting therefor at a general State election, under such regulations and provisions as the Legislature, by a two-thirds vote of each house, may provide, submitting the question of change to the people.

**Disqualification and disfranchisement for dueling.**

SEC. 2. Any citizen of this State who shall, after the adoption of this Constitution, fight a duel with deadly weapons, or send or accept a challenge to fight a duel with deadly weapons, either within this State or out of it, or who shall act as second, or knowingly aid or assist in any manner those thus offending, shall not be allowed to hold any office of profit, or to enjoy the right of suffrage under this Constitution.

**Oath of office.**

SEC. 3. Members of the Legislature, and all officers, executive and judicial, except such inferior officers as may be by law exempted, shall, before they enter upon the duties of their respective offices, take and subscribe the following oath or affirmation:

"I do solemnly swear (or affirm, as the case may be), that I will support the Constitution of the United States and the Constitution of the State of California, and that I will faithfully discharge the duties of the office of —, according to the best of my ability."

And no other oath, declaration, or test, shall be required as a qualification for any office or public trust.

**Officers or commissioners, election or appointment of.**

SEC. 4. All officers or commissioners whose election or appointment is not provided for by this Constitution, and all officers or commissioners whose offices or duties may hereafter be created by law, shall be elected by the people, or appointed, as the Legislature may direct.

**Fiscal year.**

SEC. 5. The fiscal year shall commence on the first day of July.

**Suits against the State.**

SEC. 6. Suits may be brought against the State in such manner and in such courts as shall be directed by law.

**Marriage contracts.**

SEC. 7. No contract of marriage, if otherwise duly made, shall be invalidated for want of conformity to the requirements of any religious sect.

**Separate property of husband and wife.**

SEC. 8. All property, real and personal, owned by either husband or wife before marriage, and that acquired by either of them afterwards by gift, devise, or descent, shall be their separate property.

**Perpetuities.**

SEC. 9. No perpetuities shall be allowed except for eleemosynary purposes.<sup>1</sup> (§ 23.)

**Disqualification for bribery.**

SEC. 10. Every person shall be disqualified from holding any office of profit in this State who shall have been convicted of having given or offered a bribe to procure his election or appointment.

**Purity in office-holding and in elections.**

SEC. 11. Laws shall be made to exclude from office, serving on juries, and from the right of suffrage, persons convicted of bribery, perjury, forgery, malfeasance in office, or other high crimes. The privilege of free suffrage shall be supported by laws regulating elections and prohibiting, under adequate penalties, all undue influence thereon from power, bribery, tumult, or other improper practice.

**Residence, when absence does not affect.**

SEC. 12. Absence from this State, on business of the State or of the United States, shall not affect the question of residence of any person.

**Election by plurality.**

SEC. 13. A plurality of the votes given at any election shall constitute a choice where not otherwise directed in this Constitution, *provided*, that it shall be competent in all charters of cities, counties or cities and counties framed under the authority of this Constitution to provide the manner in which their respective elective officers may be elected and to prescribe a higher proportion of the vote therefor, *and provided also*, that it shall be competent for the Legislature by general law to provide the manner in which officers of municipalities organized or incorporated under general laws may be elected and to prescribe a higher proportion of the vote therefor.<sup>2</sup> [*As amended October 10, 1911.*]

<sup>1</sup> Land so disposed of by deed or will that it cannot be sold is a perpetuity. An example is the land belonging to Stanford University — an eleemosynary institution.

<sup>2</sup> Some of our cities choose their elective officers by a majority rather than by a plurality vote (§ 9).



**State Board of Health.**

SEC. 14. The Legislature shall provide, by law, for the maintenance and efficiency of a State Board of Health. (§ 159.)

**Mechanic's lien.**

SEC. 15. Mechanics, materialmen, artisans, and laborers of every class shall have a lien upon the property upon which they have bestowed labor or furnished material for the value of such labor done and material furnished; and the Legislature shall provide, by law, for the speedy and efficient enforcement of such liens.<sup>1</sup>

**Term of offices, when not fixed by Constitution.**

SEC. 16. When the term of any officer or commissioner is not provided for in this Constitution, the term of such officer or commissioner may be declared by law; and, if not so declared, such officer or commissioner shall hold his position as such officer or commissioner during the pleasure of the authority making the appointment; but in no case shall such term exceed four years; *provided, however*, that in the case of any officer or employé of any municipality governed under a legally adopted charter, the provisions of such charter with reference to the tenure of office or the dismissal from office of any such officer or employé shall control; *and provided further*, that the term of office of any person heretofore or hereafter appointed to hold office or employment during good behavior under civil service laws of the State or of any political division thereof shall not be limited by this section. [*As amended October 10, 1911.*]

**Hours of labor on public works.**

SEC. 17. The time of service of all laborers or workmen or mechanics employed upon any public works of the State of California, or of any county, city and county, city, town, district, township, or any other political subdivision thereof, whether said work is done by contract or otherwise, shall be limited and restricted to eight hours in any one calendar day, except in cases of extraordinary emergency caused by fire, flood, or danger to life and property, or except to work upon public, military, or naval works or defenses in time of war, and the Legislature shall provide by law that a stipulation to this effect shall be incorporated in all contracts for public work and prescribe proper penalties for the speedy and efficient enforcement of said law. [*As amended November 4, 1902.*]

**Sex does not disqualify for business pursuits.**

SEC. 18. No person shall, on account of sex, be disqualified from entering upon or pursuing any lawful business, vocation, or profession.

<sup>1</sup> If a contractor fails to pay for the material or the labor required to complete a piece of work, any person to whom any of the money is due has a lien on the property even though the owner may have paid the contractor the full contract price.

**Expenses of constitutional convention.**

SEC. 19. Nothing in this Constitution shall prevent the Legislature from providing, by law, for the payment of the expenses of the convention framing this Constitution, including the per diem of the delegates for the full term thereof.

**Elections, when held — Terms of office.**

SEC. 20. Elections of the officers provided for by this Constitution, except at the election in the year eighteen hundred and seventy-nine, shall be held on the even-numbered years next before the expiration of their respective terms. The terms of such officers shall commence on the first Monday after the first day of January next following their election. (§§ 36, 126.)

**Industrial Accidents—Employer's Liability for—Settlement by arbitration, etc.**

SEC. 21. The Legislature may by appropriate legislation create and enforce a liability on the part of all employers to compensate their employes for any injury incurred by the said employes in the course of their employment irrespective of the fault of either party. The Legislature may provide for the settlement of any disputes arising under the legislation contemplated by this section, by arbitration, or by an industrial accident board, by the courts, or by either, any or all of these agencies, anything in this Constitution to the contrary notwithstanding. [*New section; adopted October 10, 1911.*] (§ 161.)

**ARTICLE XXI****BOUNDARY****Boundary of State.**

SECTION 1. The boundary of the State of California shall be as follows: Commencing at the point of intersection of the forty-second degree of north latitude with the one hundred and twentieth degree of longitude west from Greenwich, and running south on the line of said one hundred and twentieth degree of west longitude until it intersects the thirty-ninth degree of north latitude; thence running in a straight line, in a southeasterly direction, to the river Colorado, at a point where it intersects the thirty-fifth degree of north latitude; thence down the middle of the channel of said river to the boundary line between the United States and Mexico, as established by the treaty of May thirtieth, one thousand eight hundred and forty-eight; thence running west and along said boundary line to the Pacific Ocean, and extending therein three English miles; thence running in a northwesterly direction and following the direction of the Pacific coast to the forty-second degree

of north latitude; thence on the line of said forty-second degree of north latitude to the place of beginning. Also, including all the islands, harbors, and bays along and adjacent to the coast.

## ARTICLE XXII

### SCHEDULE

That no inconvenience may arise from the alterations and amendments in the Constitution of this State, and to carry the same into complete effect, it is hereby ordained and declared :

#### **Present laws in force.**

SECTION 1. That all laws in force at the adoption of this Constitution, not inconsistent therewith, shall remain in full force and effect until altered or repealed by the Legislature; and all rights, actions, prosecutions, claims, and contracts of the State, counties, individuals, or bodies corporate, not inconsistent therewith, shall continue to be as valid as if this Constitution had not been adopted. The provisions of all laws which are inconsistent with this Constitution shall cease upon the adoption thereof, except that all laws which are inconsistent with such provisions of this Constitution as require legislation to enforce them shall remain in full force until the first day of July, eighteen hundred and eighty, unless sooner altered or repealed by the Legislature.

#### **Existing obligations and actions unaffected.**

SEC. 2. That all recognizances, obligations, and all other instruments, entered into or executed before the adoption of this Constitution, to this State, or to any subdivision thereof, or any municipality therein, and all fines, taxes, penalties, and forfeitures due or owing to this State, or any subdivision or municipality thereof, and all writs, prosecutions, actions, and causes of action, except as herein otherwise provided, shall continue and remain unaffected by the adoption of this Constitution. All indictments or informations which shall have been found, or may hereafter be found, for any crime or offense committed before this Constitution takes effect, may be proceeded upon as if no change had taken place, except as otherwise provided in this Constitution.

#### **Certain existing courts abolished.**

SEC. 3. All courts now existing, save justices' and police courts, are hereby abolished; and all records, books, papers, and proceedings from such courts, as are abolished by this Constitution, shall be transferred, on the

first day of January, eighteen hundred and eighty, to the courts provided for in this Constitution; and the courts to which the same are thus transferred shall have the same power and jurisdiction over them as if they had been in the first instance commenced, filed, or lodged therein.

**Printing of Constitution and proclamation of election therefor.**

SEC. 4. The Superintendent of Printing of the State of California shall, at least thirty days before the first Wednesday in May, A. D., eighteen hundred and seventy-nine, cause to be printed at the State Printing Office, in pamphlet form, simply stitched, as many copies of this Constitution as there are registered voters in this State, and mail one copy thereof to the post office address of each registered voter; *provided*, any copies not called for ten days after reaching their delivery office, shall be subject to general distribution by the several postmasters of the State. The Governor shall issue his proclamation, giving notice of the election for the adoption or rejection of this Constitution, at least thirty days before the said first Wednesday of May, eighteen hundred and seventy-nine, and the boards of supervisors of the several counties shall cause said proclamation to be made public in their respective counties, and general notice of said election to be given at least fifteen days next before said election.

**Ballots for voting on Constitution.**

SEC. 5. The Superintendent of Printing of the State of California shall, at least twenty days before said election, cause to be printed and delivered to the clerk of each county in this State five times the number of properly prepared ballots for said election that there are voters in said respective counties, with the words printed thereon: "For the New Constitution." He shall likewise cause to be so printed and delivered to said clerks five times the number of properly prepared ballots for said election that there are voters in said respective counties, with the words printed thereon: "Against the New Constitution." The Secretary of State is hereby authorized and required to furnish the Superintendent of State Printing a sufficient quantity of legal ballot paper, now on hand, to carry out the provisions of this section.

**County clerks to provide poll books, etc.**

SEC. 6. The clerks of the several counties in the State shall, at least five days before said election, cause to be delivered to the inspectors of elections, at each election precinct or polling place in their respective counties, suitable registers, poll books, forms of return, and an equal number of the aforesaid ballots, which number, in the aggregate, must be ten times greater than the number of voters in the said election precincts or polling places. The returns of the number of votes cast at the presidential election in the year eighteen hundred and seventy-six shall serve as a basis of calculation

for this and the preceding section; *provided*, that the duties in this and the preceding section imposed upon the clerk of the respective counties shall, in the city and county of San Francisco, be performed by the Registrar of Voters for said city and county.

**Who entitled to vote.**

SEC. 7. Every citizen of the United States, entitled by law to vote for members of the Assembly in this State, shall be entitled to vote for the adoption or rejection of this Constitution.

**Returns, how canvassed.**

SEC. 8. The officers of the several counties of this State, whose duty it is, under the law, to receive and canvass the returns from the several precincts of their respective counties, as well as of the city and county of San Francisco, shall meet at the usual places of meeting for such purposes on the first Monday after said election. If, at the time of meeting, the returns from each precinct in the county in which the polls were opened have been received, the board must then and there proceed to canvass the returns; but if all the returns have not been received, the canvass must be postponed from time to time until all the returns are received, or until the second Monday after said election, when they shall proceed to make out returns of the votes cast for and against the new Constitution; and the proceedings of said boards shall be the same as those prescribed for like boards in the case of an election for Governor. Upon the completion of said canvass and returns, the said boards shall immediately certify the same, in the usual form, to the Governor of the State of California.

**Computation of returns and proclamation thereof.**

SEC. 9. The Governor of the State of California shall, as soon as the returns of said election shall be received by him, or within thirty days after said election, in the presence and with the assistance of the Controller, Treasurer, and Secretary of State, open and compute all the returns received of votes cast for and against the new Constitution. If, by such examination and computation, it is ascertained that a majority of the whole number of votes cast at such election is in favor of such new Constitution, the Executive of this State shall, by his proclamation, declare such new Constitution to be the Constitution of the State of California, and that it shall take effect and be in force on the days hereinafter specified.

**Terms of officers first elected.**

SEC. 10. In order that future elections in this State shall conform to the requirements of this Constitution, the terms of all officers elected at the first election under the same shall be, respectively, one year shorter than the terms as fixed by law or by this Constitution; and the successors of all such

officers shall be elected at the last election before the expiration of the terms as in this section provided. The first officers chosen after the adoption of this Constitution shall be elected at the time and in the manner now provided by law. Judicial officers and the Superintendent of Public Instruction shall be elected at the time and in the manner that State officers are elected.

**Laws relating to judicial system.**

SEC. 11. All laws relative to the present judicial system of the State shall be applicable to the judicial system created by this Constitution until changed by legislation.

**Constitution, when to take effect.**

SEC. 12. This Constitution shall take effect and be in force on and after the fourth day of July, eighteen hundred and seventy-nine, at twelve o'clock meridian, so far as the same relates to the election of all officers, the commencement of their terms of office and the meeting of the Legislature. In all other respects, and for all other purposes, this Constitution shall take effect on the first day of January, eighteen hundred and eighty, at twelve o'clock meridian.

## ARTICLE XXIII

### RECALL OF PUBLIC OFFICIALS

SECTION 1. Every elective public officer of the State of California may be removed from office at any time by the electors entitled to vote for a successor of such incumbent, through the procedure and in the manner herein provided for, which procedure shall be known as the recall, and is in addition to any other method of removal provided by law.

The procedure hereunder to effect the removal of an incumbent of an elective public office shall be as follows: A petition signed by electors entitled to vote for a successor of the incumbent sought to be removed, equal in number to at least twelve per cent of the entire vote cast at the last preceding election for all candidates for the office which the incumbent sought to be removed occupies (provided that if the officer sought to be removed is a State officer who is elected in any political subdivision of the State, said petition shall be signed by electors entitled to vote for a successor to the incumbent sought to be removed, equal in number to at least twenty per cent of the entire vote cast at the last preceding election for all candidates for the office which the incumbent sought to be removed occupies) demanding an election of a successor to the officer named in said petition, shall be addressed to the Secretary of State and filed with the clerk, or registrar of voters of

the county or city and county in which the petition was circulated; *provided*, that if the officer sought to be removed was elected in the State at large such petition shall be circulated in not less than five counties of the State, and shall be signed in each of such counties by electors equal in number to not less than one per cent of the entire vote cast, in each of said counties, at said election, as above estimated. Such petition shall contain a general statement of the grounds on which the removal is sought, which statement is intended solely for the information of the electors, and the sufficiency of which shall not be open to review.

When such petition is certified as is herein provided to the Secretary of State, he shall forthwith submit the said petition, together with a certificate of its sufficiency, to the Governor, who shall thereupon order and fix a date for holding the election, not less than sixty days nor more than eighty days from the date of such certificate of the Secretary of State.

The Governor shall make or cause to be made publication of notice for the holding of such election, and officers charged by law with duties concerning elections shall make all arrangements for such election and the same shall be conducted, returned, and the result thereof declared, in all respects as are other State elections. On the official ballot at such election shall be printed, in not more than two hundred words, the reasons set forth in the petition for demanding his recall. And in not more than three hundred words there shall also be printed, if desired by him, the officer's justification of his course in office. Proceedings for the recall of any officer shall be deemed to be pending from the date of the filing with any county, or city and county clerk, or registrar of voters, of any recall petition against such officer; and if such officer shall resign at any time subsequent to the filing thereof, the recall election shall be held notwithstanding such resignation, and the vacancy caused by such resignation, or from any other cause, shall be filled as provided by law, but the person appointed to fill such vacancy shall hold his office only until the person elected at the said recall election shall qualify.

Any person may be nominated for the office which is to be filled at any recall election by a petition signed by electors, qualified to vote at such recall election, equal in number to at least one per cent of the total number of votes cast at the last preceding election for all candidates for the office which the incumbent sought to be removed occupies. Each such nominating petition shall be filed with the Secretary of State not less than twenty-five days before such recall election.

There shall be printed on the recall ballot, as to every officer whose recall is to be voted on thereat, the following question: " Shall (name of person against whom the recall petition is filed) be recalled from the office of (title of the office)? ", following which question shall be the words " Yes " and



"No" on separate lines, with a blank space at the right of each, in which the voter shall indicate, by stamping a cross (X), his vote for or against such recall. On such ballots, under each such question, there shall also be printed the names of those persons who have been nominated as candidates to succeed the person recalled, in case he shall be removed from office by said recall election; but no vote cast shall be counted for any candidate for said office unless the voter also voted on said question of the recall of the person sought to be recalled from said office. The name of the person against whom the petition is filed shall not appear on the ballot as a candidate for the office. If a majority of those voting on said question of the recall of any incumbent from office shall vote "No," said incumbent shall continue in said office. If a majority shall vote "Yes," said incumbent shall thereupon be deemed removed from such office, upon the qualification of his successor. The canvassers shall canvass all votes for candidates for said office and declare the result in like manner as in a regular election. If the vote at any such recall election shall recall the officer, then the candidate who has received the highest number of votes for the office shall be thereby declared elected for the remainder of the term. In case the person who received the highest number of votes shall fail to qualify within ten days after receiving the certificate of election, the office shall be deemed vacant and shall be filled according to law.

Any recall petition may be presented in sections, but each section shall contain a full and accurate copy of the title and text of the petition. Each signer shall add to his signature his place of residence, giving the street and number, if such exist. His election precinct shall also appear on the paper after his name. The number of signatures appended to each section shall be at the pleasure of the person soliciting signatures to the same. Any qualified elector of the State shall be competent to solicit such signatures within the county, or city and county, of which he is an elector. Each section of the petition shall bear the name of the county, or city and county in which it is circulated, and only qualified electors of such county or city and county shall be competent to sign such section. Each section shall have attached thereto the affidavit of the person soliciting signatures to the same stating his qualifications and that all the signatures to the attached section were made in his presence and that to the best of his knowledge and belief each signature to the section is the genuine signature of the person whose name it purports to be; and no other affidavit thereto shall be required. The affidavit of any person soliciting signatures hereunder shall be verified free of charge by any officer authorized to administer an oath. Such petition so verified shall be prima facie evidence that the signatures thereto appended are genuine and that the persons signing the same are qualified electors. Unless and until it is otherwise proven upon official



investigation, it shall be presumed that the petition presented contains the signatures of the requisite number of electors. Each section of the petition shall be filed with the clerk, or registrar of voters, of the county or city and county in which it was circulated; but all such sections circulated in any county or city and county shall be filed at the same time. Within twenty days after the date of filing such petition, the clerk, or registrar of voters, shall finally determine from the records of registration what number of qualified electors have signed the same; and, if necessary, the board of supervisors shall allow such clerk or registrar additional assistants for the purpose of examining such petition and provide for their compensation. The said clerk or registrar, upon the completion of such examination, shall forthwith attach to such petition his certificate, properly dated, showing the result of such examination, and submit said petition, except as to the signatures appended thereto, to the Secretary of State and file a copy of said certificate in his office. Within forty days from the transmission of the said petition and certificate by the clerk or registrar of voters to the Secretary of State, a supplemental petition, identical with the original as to the body of the petition but containing supplemental names, may be filed with the clerk or registrar of voters, as aforesaid. The clerk or registrar of voters shall within ten days after the filing of such supplemental petition make like examination thereof as of the original petition, and upon the conclusion of such examination shall forthwith attach to such petition his certificate, properly dated, showing the result of such examination, and shall forthwith transmit such supplemental petition, except as to the signatures thereon, together with his said certificate, to the Secretary of State.

When the Secretary of State shall have received from one or more county clerks, or registrars of voters, a petition certified as herein provided to have been signed by the requisite number of qualified electors, he shall forthwith transmit to the county clerk or registrar of voters of every county or city and county in the State a certificate showing such fact; and such clerk or registrar of voters shall thereupon file said certificate for record in his office.

A petition shall be deemed to be filed with the Secretary of State upon the date of the receipt by him of a certificate or certificates showing the said petition to be signed by the requisite number of electors of the State.

No recall petition shall be circulated or filed against any officer until he has actually held his office for at least six months; save and except it may be filed against any member of the State Legislature at any time after five days from the convening and organizing of the Legislature after his election.<sup>1</sup>

<sup>1</sup> On January 2, 1913, a recall election was held in the 28th senatorial district, and state senator Marshall Black was recalled, Mr. Herbert C. Jones being elected in his place.

If at any recall election the incumbent whose removal is sought is not recalled, he shall be repaid from the state treasury any amount legally expended by him as expenses of such election, and the Legislature shall provide appropriation for such purpose, and no proceedings for another recall election of said incumbent shall be initiated within six months after such election.

If the Governor is sought to be removed under the provisions of this article, the duties herein imposed upon him shall be performed by the Lieutenant Governor; and if the Secretary of State is sought to be removed, the duties herein imposed upon him shall be performed by the State Controller; and the duties herein imposed upon the clerk or registrar of voters, shall be performed by such registrar of voters in all cases where the office of registrar of voters exists.

The recall shall also be exercised by the electors of each county, city and county, city and town of the State, with reference to the elective officers thereof, under such procedure as shall be provided by law.

Until otherwise provided by law, the legislative body of any such county, city and county, city or town may provide for the manner of exercising such recall powers in such counties, cities and counties, cities and towns, but shall not require any such recall petition to be signed by electors more in number than twenty-five per cent of the entire vote cast at the last preceding election for all candidates for the office which the incumbent sought to be removed occupies. Nothing herein contained shall be construed as affecting or limiting the present or future powers of cities or counties or cities and counties having charters adopted under the authority given by the Constitution.

In the submission to the electors of any petition proposed under this article all officers shall be guided by the general laws of the State, except as otherwise herein provided.

This article is self-executing, but legislation may be enacted to facilitate its operation, but in no way limiting or restricting the provisions of this article or the powers herein reserved. [*New article adopted October 10, 1911.*]

*Adopted in Convention, at Sacramento, March 3d, A. D. 1879.*

J. P. HOGE, President.

Attest: EDWIN F. SMITH, Secretary.

A. R. ANDREWS  
JAMES J. AYRES  
CLITUS BARBOUR  
EDWARD BARRY  
JAMES N. BARTON  
C. J. BEERSTECHER  
ISAAC S. BELCHER  
PETER BELL  
MARION BIGGS  
E. T. BLACKMER

JOSIAH BOUCHER  
JOSEPH C. BROWN  
SAML. B. BURT  
JAMES CÁPLES  
AUG. H. CHAPMAN  
J. M. CHARLES  
JOHN D. CONDON  
C. W. CROSS  
HAMLET DAVIS  
JAS. E. DEAN

P. T. DOWLING  
 LUKE D. DOYLE  
 W. L. DUDLEY  
 JONATHAN M. DUDLEY  
 PRESLEY DUNLAP  
 JOHN A. EAGON  
 HENRY EDGERTON  
 THOMAS H. ESTEY  
 M. M. ESTEE  
 EDWARD EVEY  
 SIMON J. FARRELL  
 J. A. FILCHER  
 JACOB RICHARD FREUD  
 ABRAHAM CLARK FREEMAN  
 J. B. GARVEY  
 B. B. GLASCOCK  
 JOSEPH C. GORMAN  
 W. P. GRACE  
 WILLIAM J. GRAVES  
 V. A. GREGG  
 JNO. S. HAGER  
 JOHN B. HALL  
 J. E. HALE  
 THOMAS HARRISON  
 JOEL A. HARVEY  
 T. D. HEISKELL  
 CONRAD HEROLD  
 D. W. HERRINGTON  
 S. G. HILBORN  
 J. R. W. HITCHCOCK  
 SAM A. HOLMES  
 VOLNEY E. HOWARD  
 W. J. HOWARD  
 W. F. HUESTIS  
 WM. PROCTER HUGHEY  
 G. W. HUNTER  
 DANIEL INMAN  
 GEORGE A. JOHNSON  
 L. F. JONES  
 PETER J. JOYCE  
 JOHN J. KENNEY  
 J. M. KELLEY  
 JAMES H. KEYES  
 C. R. KLEINE  
 T. H. LAINE  
 R. M. LAMPSON  
 H. W. LA RUE  
 HENRY LARKIN  
 DAVID LEWIS  
 R. LAVIGNE  
 J. F. LINDOW  
 JNO. MANSFIELD  
 J. WEST MARTIN  
 EDWARD MARTIN  
 JOHN G. McCALLUM  
 RUSH McCOMAS  
 THOMAS McCONNELL  
 JOHN McCoy  
 THOMAS B. McFARLAND  
 JOHN FLEMING McNUTT

WM. S. MOFFATT  
 L. D. MORSE  
 HIRAM MILLS  
 W. W. MORELAND  
 JAMES E. MURPHY  
 EDMOND NASON  
 THORWALD KLAUDIUS NELSON  
 HENRY NEUNABER  
 CHAS. C. O'DONNELL  
 GEORGE OHLEYER  
 JAMES O'SULLIVAN  
 A. P. OVERTON  
 JAMES MARTIN PORTER  
 WILLIAM H. PROUTY  
 M. R. C. PULLIAM  
 PATRICK REDDY  
 CHAS. F. REED  
 JAS. S. REYNOLDS  
 JNO. M. RHODES  
 CHAS. S. RINGGOLD  
 HORACE C. ROLFE  
 GEO. W. SCHELL  
 RUFUS SHOEMAKER  
 J. SCHOMP  
 JAMES McM. SHAFTER  
 BENJ. SHURTLEFF  
 E. O. SMITH  
 H. W. SMITH  
 GEO. VENABLE SMITH  
 E. P. SOULE  
 JOHN C. STEDMAN  
 GEO. STEELE  
 D. C. STEVENSON  
 CHAS. V. STUART  
 W. J. SWASEY  
 CHARLES SWENSON  
 R. S. SWING  
 D. S. TERRY  
 S. B. THOMPSON  
 W. J. TINNIN  
 F. O. TOWNSEND  
 P. B. TULLY  
 H. K. TURNER  
 DANIEL TUTTLE  
 A. P. VACQUEREL  
 WALTER VAN DYKE  
 WM. VAN VOORHIES  
 JNO. WALKER  
 HUGH WALKER  
 BYRON WATERS  
 J. V. WEBSTER  
 JOSEPH R. WELLER  
 PATRICK M. WELLIN  
 JOHN P. WEST  
 WM. F. WHITE  
 JOHN T. WICKES  
 H. C. WILSON  
 JOS. W. WINANS  
 N. G. WYATT

## APPENDIX A

### ACT FOR THE ADMISSION OF THE STATE OF CALIFORNIA INTO THE UNION

WHEREAS, The people of California have presented a constitution and asked admission into the Union, which constitution was submitted to Congress by the President of the United States, by message dated February thirteenth, eighteen hundred and fifty, and which, on due examination, is found to be republican in its form of government:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the State of California shall be one, and is hereby declared to be one, of the United States of America, and admitted into the Union on an equal footing with the original States in all respects whatever.

2. The said State of California is admitted into the Union upon the express condition that the people of said State, through their Legislature or otherwise, shall never interfere with the primary disposal of the public lands within its limits, and shall pass no law and do no act whereby the title of the United States to, and right to dispose of, the same shall be impaired or questioned; and that they shall never lay any tax, or assessment of any description whatsoever, upon the public domain of the United States; and in no case shall non-resident proprietors, who are citizens of the United States, be taxed higher than residents; and that all the navigable waters within the said State shall be common highways, and forever free, as well to the inhabitants of said State as to the citizens of the United States, without any tax, impost, or duty therefor; *provided*, that nothing herein contained shall be construed as recognizing or rejecting the propositions tendered by the people of California, as articles of compact in the ordinance adopted by the convention which formed the Constitution of that State.

3. All laws of the United States which are not locally inapplicable shall have the same force and effect within the said State of California as elsewhere within the United States.

Approved September 9, 1850.



## APPENDIX B

### DISTRICTS INTO WHICH THE STATE IS DIVIDED

#### I. ASSEMBLY DISTRICTS (Statutes of 1911, Extra Session, page 18)

- 1st. Del Norte and Siskiyou counties.
- 2d. Humboldt county.
- 3d. Shasta and Trinity counties.
- 4th. Plumas, Lassen, Modoc, and Sierra counties.
- 5th. Tehama, Glenn, and Colusa counties.
- 6th. Mendocino county.
- 7th. Butte county.
- 8th. Yuba, Sutter, and Yolo counties.
- 9th. Nevada and Placer counties.
- 10th. Solano county.
- 11th. Napa and Lake counties.
- 12th and 13th. Sonoma county.
- 14th and 15th. Sacramento county.
- 16th. Amador, Eldorado, Alpine, and Calaveras counties.
- 17th. Marin county.
- 18th. Contra Costa county.
- 19th and 20th. San Joaquin county.
- 21st to 33d, inclusive. The city and county of San Francisco.
- 34th to 41st, inclusive. Alameda county.
- 42d. San Mateo county.
- 43d. Santa Cruz county.
- 44th and 45th. Santa Clara county.
- 46th. Stanislaus county.
- 47th. Mariposa, Tuolumne, Mono, and Inyo counties.
- 48th. Monterey and San Benito counties.
- 49th. Merced and Madera counties.
- 50th to 52d, inclusive. Fresno county.
- 53d. San Luis Obispo county.
- 54th. Kings county.
- 55th. Tulare county.
- 56th. Kern county.
- 57th and 58th. San Bernardino county.

- 59th. Santa Barbara county.
- 60th. Ventura county.
- 61st to 75th, inclusive. Los Angeles county.
- 76th. Orange county.
- 77th. Riverside county.
- 78th. Imperial county.
- 79th and 80th. San Diego county.

## II. SENATORIAL DISTRICTS (Statutes of 1911, Extra Session, page 140)

- 1st. Del Norte, Humboldt, Trinity, and Tehama counties.
- 2d. Modoc, Siskiyou, Shasta, and Lassen counties.
- 3d. Plumas, Sierra, Nevada, Placer, and Eldorado counties.
- 4th. Mendocino, Colusa, Lake, and Glenn counties.
- 5th. Napa and Solano counties.
- 6th. Butte, Yuba, Sutter, and Yolo counties.
- 7th. Sacramento county.
- 8th. Sonoma county.
- 9th. Marin and Contra Costa counties.
- 10th. San Joaquin and Amador counties.
- 11th. San Mateo, San Benito, and Santa Cruz counties.
- 12th. Tuolumne, Mariposa, Stanislaus, Merced, Alpine, Mono, Madera, and Calaveras counties.
- 13th to 16th, inclusive. Alameda county.
- 17th. Monterey and San Luis Obispo counties.
- 18th to 24th, inclusive. The city and county of San Francisco.
- 25th. Ventura and Santa Barbara counties.
- 26th. Fresno county.
- 27th and 28th. Santa Clara county.
- 29th. Part of Los Angeles county.
- 30th. San Bernardino and Inyo counties.
- 31st. Part of Los Angeles county.
- 32d. Kings, Tulare, and Kern counties.
- 33d to 38th, inclusive. Balance of Los Angeles county.
- 39th. Riverside, Orange, and Imperial counties.
- 40th. San Diego county.

## III. CONGRESSIONAL DISTRICTS (Statutes of 1911, Extra Session, page 164)

- 1st. Del Norte, Humboldt, Mendocino, Glenn, Butte, Yuba, Sutter, Marin, Colusa, Lake, and Sonoma counties.

- 2d. Siskiyou, Modoc, Trinity, Shasta, Lassen, Tehama, Plumas, Sierra, Nevada, Placer, Eldorado, Amador, Calaveras, Alpine, Tuolumne, and Mariposa counties.
- 3d. Napa, Yolo, Sacramento, Solano, Contra Costa, and San Joaquin counties.
- 4th and 5th. The city and county of San Francisco.
- 6th. Alameda county.
- 7th. Stanislaus, Merced, Madera, Fresno, Kings, Tulare, and Kern counties.
- 8th. San Mateo, Santa Clara, Santa Cruz, San Benito, Monterey, San Luis Obispo, Santa Barbara, and Ventura counties.
- 9th and 10th. Los Angeles county.
- 11th. San Bernardino, Orange, Riverside, San Diego, Inyo, Mono, and Imperial counties.

#### IV. EQUALIZATION DISTRICTS

The four equalization districts still coincide with the four congressional districts into which the state was divided in 1879, the legislature having never redistricted the state as it has power to do by section 9, article XIII of the constitution.

The four districts are as follows:

- 1st. The city and county of San Francisco.
- 2d. Alameda, Contra Costa, San Joaquin, Sacramento, Placer, Nevada, Eldorado, Amador, Calaveras, Alpine, and Tuolumne counties.
- 3d. All that part of the state north of the first and second districts.
- 4th. All that part of the state south of the first and second districts.



# APPENDIX C

## COUNTIES OF CALIFORNIA

### I. COUNTIES IN THE ORDER OF THEIR CREATION<sup>1</sup>

NAME OF COUNTY	COUNTY SEAT	DATE OF CREATION	AREA IN Sq. M.
1. Butte . . . . .	Oroville ✕	Feb. 18, 1850	1,764
2. Calaveras . . . . .	San Andreas ✕	Feb. 18, 1850	990
3. Colusa . . . . .	Colusa	Feb. 18, 1850	1,080
4. Contra Costa . . . . .	Martinez ✕	Feb. 18, 1850	750
5. Eldorado . . . . .	Placerville	Feb. 18, 1850	1,891
6. Los Angeles . . . . .	Los Angeles ✕	Feb. 18, 1850	3,957½
7. Marin . . . . .	San Rafael ✕	Feb. 18, 1850	516
8. Mariposa . . . . .	Mariposa ✕	Feb. 18, 1850	1,580
9. Mendocino . . . . .	Ukiah	Feb. 18, 1850	3,400
10. Monterey . . . . .	Salinas ✕	Feb. 18, 1850	3,450
11. Napa . . . . .	Napa ✕	Feb. 18, 1850	800
12. Sacramento . . . . .	Sacramento ✕	Feb. 18, 1850	1,007
13. San Diego . . . . .	San Diego ✕	Feb. 18, 1850	4,377
14. San Francisco . . . . .	San Francisco ✕	Feb. 18, 1850	42
15. San Joaquin . . . . .	Stockton ✕	Feb. 18, 1850	1,370
16. San Luis Obispo . . . . .	San Luis Obispo ✕	Feb. 18, 1850	3,500
17. Santa Barbara . . . . .	Santa Barbara ✕	Feb. 18, 1850	2,450
18. Santa Clara . . . . .	San José	Feb. 18, 1850	1,355
19. Santa Cruz . . . . .	Santa Cruz ✕	Feb. 18, 1850	425
20. Shasta . . . . .	Redding ✕	Feb. 18, 1850	4,050
21. Solano . . . . .	Fairfield ✕	Feb. 18, 1850	911
22. Sonoma . . . . .	Santa Rosa	Feb. 18, 1850	1,540
23. Sutter . . . . .	Yuba City ✕	Feb. 18, 1850	611
24. Trinity . . . . .	Weaverville ✕	Feb. 18, 1850	3,276
25. Tuolumne . . . . .	Sonora ✕	Feb. 18, 1850	2,282
26. Yolo . . . . .	Woodland	Feb. 18, 1850	1,017
27. Yuba . . . . .	Marysville ✕	Feb. 18, 1850	625
28. Nevada . . . . .	Nevada City ✕	April 25, 1851	958
29. Placer . . . . .	Auburn ✕	April 25, 1851	1,484

<sup>1</sup> From the California Blue Book.

✕ send cash 5.00 for definite answer

NAME OF COUNTY	COUNTY SEAT	DATE OF CREATION	AREA IN SQ. MI.
30. Siskiyou . . . .	Yreka +	Mar. 22, 1852	6,078
31. Sierra . . . .	Downieville	April 16, 1852	910
32. Tulare . . . .	Visalia +	April 20, 1852	4,863
33. Alameda . . . .	Oakland ✓ +	Mar. 25, 1853	840
34. San Bernardino . . . .	San Bernardino	April 26, 1853	20,055
35. Humboldt . . . .	Eureka +	May 12, 1853	3,507
36. Plumas . . . .	Quincy +	Mar. 18, 1854	2,361
37. Stanislaus . . . .	Modesto +	April 1, 1854	1,486
38. Amador . . . .	Jackson +	May 11, 1854	568
39. Merced . . . .	Merced +	April 19, 1855	1,750
40. Tehama . . . .	Red Bluff +	April 9, 1856	3,200
41. Fresno . . . .	Fresno +	April 19, 1856	5,606
42. San Mateo . . . .	Redwood City +	April 19, 1856	470
43. Del Norte . . . .	Crescent City +	Mar. 2, 1857	1,546
44. Mono . . . .	Bridgeport +	April 24, 1861	2,796
45. Lake . . . .	Lakeport +	May 20, 1861	1,332
46. Alpine . . . .	Markleeville +	Mar. 16, 1864	575
47. Lassen . . . .	Susanville +	April 1, 1864	4,750
48. Inyo . . . .	Independence +	Mar. 22, 1866	10,224
49. Kern . . . .	Bakersfield +	April 2, 1866	8,159
50. Ventura . . . .	San Buenaventura +	Mar. 22, 1872	1,850
51. San Benito . . . .	Hollister +	Feb. 12, 1874	1,476
52. Modoc . . . .	Alturas	Feb. 17, 1874	4,097
53. Orange . . . .	Santa Ana +	Mar. 11, 1889	780
54. Glenn . . . .	Willows +	Mar. 11, 1891	1,460
55. Madera . . . .	Madera +	Mar. 11, 1893	2,140
56. Riverside . . . .	Riverside +	Mar. 11, 1893	7,008
57. Kings . . . .	Hanford	Mar. 22, 1893	1,260
58. Imperial . . . .	El Centro	Aug. 15, 1907	4,140

✓ added.    ✗ negative increment.

March 2, 1914.

## II. COUNTIES IN THE ORDER OF THEIR POPULATION

The number at the left in each case indicates the class to which the county belongs (Statutes of 1911, page 97). The populations given are according to the census of 1910.

1. Los Angeles . . . . .	504,131	30. Ventura . . . . .	18,347
2. San Francisco . . . . .	416,912	31. Placer . . . . .	18,237
3. Alameda . . . . .	246,131	32. Kings . . . . .	16,230
4. Santa Clara . . . . .	83,539	33. Merced . . . . .	15,148
5. Fresno . . . . .	75,657	34. Nevada . . . . .	14,955
6. Sacramento . . . . .	67,806	35. Yolo . . . . .	13,926
7. San Diego . . . . .	61,665	36. Imperial . . . . .	13,591
8. San Bernardino . . . . .	56,706	37. Tehama . . . . .	11,401
9. San Joaquin . . . . .	50,731	38. Yuba . . . . .	10,042
10. Sonoma . . . . .	48,394	39. Tuolumne . . . . .	9,979
11. Kern . . . . .	37,715	40. Calaveras . . . . .	9,171
12. Tulare . . . . .	35,440	41. Amador . . . . .	9,086
13. Riverside . . . . .	34,696	42. Madera . . . . .	8,368
14. Orange . . . . .	34,436	43. San Benito . . . . .	8,041
15. Humboldt . . . . .	33,857	44. Colusa . . . . .	7,732
16. Contra Costa . . . . .	31,674	45. Eldorado . . . . .	7,492
17. Santa Barbara . . . . .	27,738	46. Glenn . . . . .	7,172
18. Solano . . . . .	27,559	47. Inyo . . . . .	6,974
19. Butte . . . . .	27,301	48. Sutter . . . . .	6,328
20. San Mateo . . . . .	26,585	49. Modoc . . . . .	6,191
21. Santa Cruz . . . . .	26,140	50. Lake . . . . .	5,526
22. Marin . . . . .	25,114	51. Plumas . . . . .	5,259
23. Monterey . . . . .	24,146	52. Lassen . . . . .	4,802
24. Mendocino . . . . .	23,929	53. Sierra . . . . .	4,098
25. Stanislaus . . . . .	22,522	54. Mariposa . . . . .	3,956
26. Napa . . . . .	19,800	55. Trinity . . . . .	3,301
27. San Luis Obispo . . . . .	19,383	56. Del Norte . . . . .	2,417
28. Shasta . . . . .	18,920	57. Mono . . . . .	2,042
29. Siskiyou . . . . .	18,801	58. Alpine . . . . .	309

Total population of California, 2,377,549.

## APPENDIX D

### OUTLINE OF THE LOS ANGELES COUNTY CHARTER

The following is an outline of the freeholders' charter adopted by the voters of Los Angeles county, November 5, 1912. It was approved by the legislature, and went into effect on the first Monday in June, 1913.

**Officers elected by Districts:** One Supervisor by each of the five supervisorial districts.

**Officers elected at Large:** Sheriff, District Attorney, Assessor. The term of office is four years.

**Elections:** Two Supervisors are to be elected at the regular November election in 1914, 1918, etc.; and three in 1916, 1920, etc. The District Attorney is to be elected in 1914 for two years, and in 1916, 1920, etc., for four years. The Sheriff and Assessor are to be elected in 1914, 1918, etc. Primary and other elections are to be conducted according to general laws.

**Board of Supervisors:** The Board of Supervisors is the responsible head of the county government. The members receive \$5000 a year each, and must give all of their time to the public service. The Board appoints the Auditor, County Board of Education, County Library Trustees, the Civil Service Commission consisting of three members, Coroner, County Clerk, County Counsel, Fish and Game Warden, Health Officer, Horticultural Commissioner, Live Stock Inspector, Probation Committee, Probation Officer, Public Administrator, Public Defender, Purchasing Agent, Recorder, Registrar of Voters, Road Commissioner, Superintendent of Charities, Superintendent of Schools, Surveyor, Tax Collector, and Treasurer; and must appoint, or provide for the appointment of, other necessary officers and employees.

The Board must fix the salaries of all county officers and employees, except those of its own members, and of the members of the Civil Service Commission. All appointments, except to a few specified positions, must be according to civil service regulations. Appointive officers are chosen for indefinite periods of time, and may be dismissed at any time for cause.

**Duties of Officers:** The duties of most of the county officers are determined by state law. The Sheriff, in addition to his other duties, appoints and super-

vises all constables in the county. The County Counsel gives legal advice on request to county officers, and is the attorney for the county in civil proceedings, the District Attorney being relieved of this work. The Public Defender is charged with the duty of defending in the courts all persons who are accused of crime and who are unable to employ private counsel. He must also protect and defend the civil rights of people who are unable to employ private counsel. The county will pay the costs of such suits as he finds it necessary to institute in their behalf.

**The Courts:** Superior Judges and Justices of the Peace are to be elected. The Supervisors determine the number of Justices of the Peace for each township.

**The Recall:** Both elective and appointive officers are subject to the Recall. The number of signatures required to begin proceedings is 15 per cent of the vote cast for Governor at the last election, if the office in question is to be filled by a vote of the entire county; or 25 per cent, if the office is to be filled by the vote of a district.

## OUTLINE OF THE CHARTER OF SAN BERNARDINO COUNTY

1913

**Board of Supervisors:** The Board consists of five members, elected by the county at large, one from each supervisorial district. The term of office is four years. Either two or three are elected at each regular county election. Elections are governed by general laws.

The Board is the responsible head of the county government. It appoints all other county officers, fixes such salaries as are not fixed by the charter, and may remove any officer at any time for cause. The chairman of the board is the chief executive officer of the county and is the county purchasing agent. He must give his entire time to his official duties.

**Appointive Officers:** The appointive officers are the usual county officers, and in addition a county Highway Commissioner, and a district Commissioner for each road district. The charter consolidates the following offices: District Attorney and Public Administrator, Sheriff and Coroner, Treasurer and Tax Collector, and Clerk and Recorder. Appointments are made for four years. The Board of Supervisors may provide for a Civil Service Board.

**Township Officers:** One Justice of the Peace and one Constable are to be elected in each township, each for four years. (Superior Judges are to be elected. They are regarded as state officers.)

The charter is to go into effect on the first Monday after January 1, 1915.

## APPENDIX E

### OUTLINES OF CITY CHARTERS

**Introductory:** In the following outlines an attempt has been made to present the framework of the various city charters in use at the present time (1913) in California. Many details are necessarily omitted.

The percentages for beginning operations under the initiative and the referendum are based upon the number of votes cast at the last municipal election, unless otherwise stated. The smaller of the two percentages in the case of the initiative forces a vote on the proposed ordinance at the next general election; the larger forces a special election. The two percentages in the case of the referendum have the same meaning as in the case of the initiative according to some charters. According to others, the smaller percentage suspends the ordinance for sixty days and forces the council to reconsider it, while the larger forces a referendary vote at a general or special election if the council does not repeal it. According to still others the smaller percentage permits the ordinance to go into effect after thirty days, but forces a general or special election on it any time after sixty days to determine whether it is to be permitted to stand, while the larger suspends the ordinance "until and unless" passed at such election.

**Classification of Charters:** The various charters may be classified as follows:

- I. Special Charters: Alviso, Santa Clara, Gilroy, Marysville, and Nevada City.<sup>1</sup>
- II. Class Charters:
  1. Sixth Class: Over 150 incorporated towns and cities.

<sup>1</sup> In this classification the cities in each list are given in order according to the dates of their charters.

2. Fifth Class: Santa Ana, Tulare, Visalia, Woodland, Chico, (Bakersfield,) Ventura, and Oroville.

### III. Freeholders' Charters:

1. Those which divide power about equally between the Mayor and the Council: Eureka, (San José, Los Angeles, Santa Barbara, Fresno, Watsonville, Salinas, San Bernardino, Santa Rosa, Santa Monica, Alameda, Long Beach.
2. Those which give most power to the Mayor: San Francisco, Riverside.
3. Those which give most or all power to the Council.
  - a. Those not based on the "commission plan," the members of the council not serving as heads of departments: Napa, Grass Valley, Palo Alto, Richmond, Petaluma, San Rafael.
  - b. Those based on the "commission plan," the members of the council serving as heads of departments: Berkeley, San Diego, San Luis Obispo, Modesto, Oakland, Monterey, Santa Cruz, Pomona, Vallejo, Stockton, Sacramento, and Pasadena.<sup>1</sup>

## I. SPECIAL CHARTERS

### 1. Alviso, 1852<sup>2</sup>

**Officers elected at Large:** Five Trustees, Treasurer, Assessor, Marshal-Tax-Collector.<sup>3</sup> The term of office is one year.

**Elections:** The municipal election is held on the first Monday in May each year.

**Board of Trustees:** Elects a president and a clerk from their own number. Has general charge of the town government. Appoints an Attorney and other necessary officers and employees.

<sup>1</sup> The charters of 1911 and 1913 in this group are given in the order of their ratification by the voters in their respective cities.

<sup>2</sup> The date of the charter.

<sup>3</sup> The two offices of Marshal and Tax Collector are held by the same person.

**Police Court:** Any Justice of the Peace may try cases growing out of city ordinances.

## 2. Santa Clara, 1866, 1872, 1874<sup>1</sup>

**Officers elected at Large:** Five Trustees, Marshal, Clerk-Assessor, Treasurer, and five School Trustees. The Trustees and School Trustees are elected for two years; the others, for one.

**Elections:** The municipal election is held the first Monday in April each year. Either two or three Trustees and School Trustees are elected each year together with the other officers.

**Board of Trustees:** Has general charge of the town government. Appoints an Attorney and other necessary officers and employees.

**Police Court:** Any Justice of the Peace may try cases growing out of city ordinances.

## 3. Gilroy, 1870, 1872, 1876

**Officers elected at Large:** Mayor, six Councilmen, Marshal-Tax-Collector, Clerk-Assessor, Treasurer. The term of office is two years.

**Elections:** The municipal election is held on the first Monday in May of even years.

**Mayor:** President of the Council. Has the veto power but no vote except in case of a tie. Enforces laws and ordinances.

**Council:** The legislative authority. Has general charge of the city government. Appoints an Attorney and other necessary officers and employees.

**Police Court:** Any Justice of the Peace may try cases growing out of city ordinances.

## 4. Marysville, 1876

**Officers elected at Large:** Mayor, Marshal-Tax-Collector, Assessor-Clerk, Treasurer.

**Officers elected by Wards:** One Councilman by each of the four wards. The term of office is two years.

**Elections:** The municipal election is held on the third Monday in March of even years.

**Mayor:** A member and president of the Council. Has a vote but no veto power.

**Council:** Has general charge of the city government. Appoints an Attorney and other necessary officers and employees.

**Police Court:** Consists of one judge appointed by the Council.

<sup>1</sup> The first date is the date of the charter; the others are dates of amendments to the charter.



### 5. Nevada City, 1878

**Officers elected at Large:** Five Trustees, Assessor, Marshal-Tax-Collector, Treasurer. The Trustees are elected for two years; the others, for one.

**Elections:** The municipal election is held on the first Monday in May of each year. Either two or three Trustees are elected each year together with the other officers.

**Board of Trustees:** Elects a president and clerk from its own number. Has general charge of the city government. Appoints an Attorney and other necessary officers and employees.

**Police Court:** Any Justice of the Peace may try cases growing out of city ordinances.

## II. CLASS CHARTERS

### 1. The Sixth Class Charter—Adopted in 1883

("General Laws," 1909, page 843)

**Officers elected at Large:** Five Trustees, Clerk-Assessor, Treasurer. The Trustees are elected for four years; the others, for two.

**Elections:** The municipal election is held on the second Monday in April of even years. Either two or three Trustees are elected at each election, together with other officers.

**Board of Trustees:** Has general charge of the city government. Elects one of its members president. Appoints a Recorder and may appoint an Attorney, Engineer, Poundmaster, Superintendent of Streets, Marshal-Tax-Collector, and other necessary officers and employees to hold office during the pleasure of the board.

**Police Court:** Called the "Recorder's Court," consists of one judge, the "Recorder," appointed by the Trustees.

**No provision** is made for School Trustees. They are therefore elected according to general state law.

### 2. The Fifth Class Charter—Adopted in 1883

("General Laws," 1909, page 822)

**Officers elected at Large:** Five Trustees, five School Directors, five Library Trustees, a Clerk, Attorney, Assessor, Marshal, Treasurer, and Recorder. The Trustees may consolidate certain of these offices. The term of office is four years.

**Elections:** The municipal election is held on the second Monday in April every four years (1911, 1915, etc.).

**Board of Trustees:** Has general charge of the city government. Elects one of its own number president, and provides for the appointment of subordinate officers and employees.

**Police Court:** Called the "Recorder's Court," consists of one judge, the "Recorder," elected for four years.

**NOTE.** — According to a law enacted in 1911<sup>1</sup> any city using a fifth or a sixth class charter may, by a vote of its people, adopt the "commission plan" of government. The proposition must be submitted to the people by the Trustees in the form of an ordinance, which must provide that the city government shall be divided into five departments and that the Trustees shall assign one of their number to each department as its head. The ordinance may also provide that all other municipal officers shall be appointed by the Trustees to serve during their pleasure, or that some shall be appointed and some elected. If such ordinance is adopted by the people, it shall take effect as an amendment to the charter on the expiration of the terms of the present officers. It will be remembered that another law passed in 1911<sup>2</sup> grants the recall (25 per cent), the initiative (15 per cent, 30 per cent), and the referendum (25 per cent) to the voters of every city who do not possess these powers by the provisions of their charter.

### III. FREEHOLDERS' CHARTERS

The cities having freeholders' charters are arranged in the following list in the order in which they received their *first* charters of this kind. The date of the first freeholders' charter is given in each case, and in every case in which this has been exchanged for a new one, the date of the new charter is also given.

- |                            |                           |
|----------------------------|---------------------------|
| 1. Oakland, 1889; 1911.    | 12. Santa Barbara; 1899.  |
| 2. Stockton, 1889; 1911.   | 13. Vallejo, 1899; 1911.  |
| 3. San Diego, 1889.        | 14. Fresno, 1901.         |
| 4. Napa, 1893.             | 15. Pasadena, 1901.       |
| 5. Sacramento, 1893; 1911. | 16. Salinas, 1903.        |
| 6. Grass Valley, 1893.     | 17. Watsonville, 1903.    |
| 7. Berkeley, 1895; 1909.   | 18. San Bernardino, 1905. |
| 8. Eureka, 1895.           | 19. Santa Rosa, 1905.     |
| 9. San José, 1897.         | 20. Alameda, 1907.        |
| 10. Los Angeles, 1899.     | 21. Long Beach, 1907.     |
| 11. San Francisco, 1899.   | 22. Riverside, 1907.      |

<sup>1</sup> Statutes of 1911, page 842.

<sup>2</sup> Statutes of 1911, page 339.

- |                             |                            |
|-----------------------------|----------------------------|
| 23. Santa Cruz, 1907; 1911. | 28. Monterey, 1911.        |
| 24. Santa Monica, 1907.     | 29. Petaluma, 1911.        |
| 25. Palo Alto, 1909.        | 30. Pomona, 1911.          |
| 26. Richmond, 1909.         | 31. San Luis Obispo, 1911. |
| 27. Modesto, 1911.          | 32. San Rafael, 1913.      |

The outlines of charters appearing in the following pages are arranged in the same order as the cities to which they apply are arranged in the above list. The date of each charter is given, as well as the dates of all important amendments.

### 1. Oakland, 1911

**Officers elected at Large:** Mayor, Auditor-Assessor, four Commissioners, and six School Directors. The term of office is four years. The Board of Education consists of the six School Directors and the Commissioner of Revenue and Finance.

**Elections:** A nonpartisan direct primary election is held on the third Tuesday in April of odd years. The general municipal election is held on the third Tuesday after the primary. Names are printed on the primary ballot on petition of from 50 to 250 voters.

**Mayor:** A member and president of the Council. Has a vote but no veto power. Enforces laws and ordinances. Is at the head of the Department of Public Affairs. Appoints five Library Directors, five Playground Directors, three Park Directors, and three Civil Service Commissioners. The Council must confirm these appointments. Members of these boards serve six years.

**Council:** Consists of the Mayor and the four Commissioners. It is the center of all municipal authority. Meets daily. Appoints a City Attorney and Clerk.

**Departments:** Five Departments are provided for: Public Affairs; Revenue and Finance; Health and Safety; Public Works; and Streets. The Mayor has charge of the department of Public Affairs; and the Council selects one of its number, other than the Mayor, to serve as commissioner of each of the other departments.

**Officers appointed by the Commissioners and confirmed by the Council:** By the Commissioner of Public Works, the City Engineer; by the Commissioner of Revenue and Finance, the Treasurer-Tax-Collector; by the Commissioner of Public Health and Safety, the Chief of Police, Fire Chief, Health Officer, and Superintendent of the Electrical Department; by the Commissioner of Streets, the Superintendent of Streets and an Assistant Superintendent.

**Other Officers,** inspectors, and employees, when authorized by ordinance,

are appointed by the Commissioners without confirmation by the Council. Many of these, however, are appointed according to civil service regulations.

**Powers granted the People:** Initiative (5 per cent, 15 per cent); Referendum (10 per cent); Recall (15 per cent).

**Police Court:** Established by state law. Consists of two judges elected at county elections for four years.

**Special Provisions:** (1) Power is given the Council to provide pensions for persons who are sixty-five years of age and who have been employed by the city for twenty-five years. Policemen may be pensioned at sixty, and members of the fire department at fifty-five. (2) Renewals of franchises for public utilities must be approved by the people. (3) A person wishing to be a commissioner or school director must become a candidate for Commissioner No. 1, 2, 3, or 4; or for School Director No. 1, 2, 3, 4, 5, or 6. The contest in each case is between the persons selecting the same number. This is to make the practice called "plumping" impossible. These numbers have no significance after the election.

## 2. Stockton, 1911

**Officers elected at Large:** Mayor, four Councilmen, and five School Directors. The term of office is four years.

**Elections:** A municipal election is held on the first Tuesday in October of even years. Names of candidates are printed on the ballot alphabetically for each office, each on petition of from twenty-five to thirty-five voters. A candidate receiving a majority vote for any office is elected. If any office is not filled at this election, a second election is held two weeks later to choose between the two receiving the highest vote. In case more than one is to be elected to any office, the number of candidates equals twice the number.

**Mayor:** Has general supervision over all the departments. Is a member and president of the Council, having a vote, but no veto power.

**Council:** It is the center of all municipal authority. Appoints Clerk, Assessor, Tax Collector, Attorney, Engineer, Chief of Police, Fire Chief, Street Superintendent, Health Officer, Five Library Trustees, and all other necessary officers and employees. The Library Trustees are appointed for five years to serve without pay. Other appointive officers serve during the pleasure of the Council, at such salaries as the Council establishes. The Council may provide for and appoint a Civil Service Board.

**Departments:** Four departments are provided for: Finance, Revenue, and Public Supplies; Public Health and Safety; Public Works; and the Department of Audit. Each Councilman is assigned by the Council to serve as head of a department.

**Powers granted the People:** Initiative (10 per cent, 20 per cent); Referendum (10 per cent); Recall (20 per cent).

**Police Court:** Established by state law. Consists of one judge elected at county elections for four years.

**Special Provision:** No franchise may be granted for a longer term than twenty-five years.

### 3. San Diego, 1889, 1901, 1905, 1909<sup>1</sup>

**Officers elected at Large:** Mayor, Treasurer-Tax-Collector, five Councilmen, and five members of the Board of Education. The Mayor is elected for two years; the others for four.

**Elections:** The municipal election is held on the first Tuesday after the first Monday in April of odd years. A nonpartisan direct primary is held two weeks before the municipal election. Fifty signatures are required for a candidate's name to be printed on the primary election ballot.

**Mayor:** Enforces laws and ordinances. Has the veto power. Supervises other officers and must report negligence or malfeasance to the Council. Appoints, with the approval of the Council, three Library Trustees, three Park Commissioners, five members of the Board of Health, three Cemetery Commissioners, and an Auditor-Assessor.

**Council:** Consists of the five Councilmen. The legislative authority of the city; and acts as a Board of Public Works, and as a Police and Fire Board. Appoints an Attorney, Clerk, Engineer, Fire Chief, Chief of Police, and may provide for and appoint other necessary officers and assistants. The Council may provide that the work of the Assessor, Tax Collector, and Treasurer, or either of them, shall be done by the corresponding county officers.

**Departments:** The following administrative departments are provided for: Finance, Ways and Means; Police, Health, and Morals; Streets and Buildings; Fire and Sewers; and the Water Department. The Council appoints one of its members to serve as head of each department.

**Powers granted the People:** Initiative (5 per cent, 15 per cent); Referendum (7 per cent); Recall (25 per cent).

**Police Court:** Established by state law. Consists of one judge elected at county elections for four years.

### 4. Napa, 1893, 1903

**Officers elected at Large:** Mayor; Engineer-Superintendent-of-Streets; Clerk-Treasurer-Tax-Collector; Attorney-Auditor; and Marshal-Assessor-License-Collector.

<sup>1</sup> The 1909 amendment changed the charter to the commission type.

**Officers elected by Wards:** One Councilman by each of the five wards. The Councilmen are elected for four years; the others, for two.

**Elections:** The municipal election is held on the first Monday in May of odd years. No provision is made for primary elections.

**Mayor:** President of the Council. Has the veto power, but no vote except in case of a tie. Enforces laws and ordinances. Appoints five Library Trustees, with the approval of the Council. Receives no compensation.

**Council:** Has general charge of the city government. Acts as a Board of Public Works, and is charged with the duty of providing for Police, Fire, and Health departments. Appoints a City Attorney and prescribes the duties of all city officers. The members receive no compensation.

**Public Schools** are not provided for by the charter.

**Police Court:** Any Justice of the Peace having his office in the city is by the charter given the powers of a police judge for the city.

## 5. Sacramento, 1911

**Officers elected at Large:** Five City Commissioners, who are *ex officio* members of the Board of Education. The term of office is five years, one Commissioner being elected each year.

**Elections:** A municipal election is held on the first Saturday in May each year. Names of candidates are printed on the ballot alphabetically, each on petition of from one hundred to three hundred names. Any candidate receiving a majority vote is elected. In case no one receives a majority, a second election is held the second Saturday after the result of the first is announced, to choose between the two candidates receiving the highest vote.

**Mayor:** The charter provides for no Mayor, but the President of the Commission performs many duties that devolve upon a mayor in other cities. In all that he does he is subject to the Commission.

**Commission:** It is the legislative and executive authority of the city. Appoints the following officers of the first class: Attorney, Assessor, Treasurer, Auditor, Collector, Clerk, Engineer, Police Judge, and Purchasing Agent; and the following of the second class: Librarian, Superintendent of Streets, Health Officer, Chief of Police, Fire Chief, Municipal Employment Agent, Machinist, Building Inspector, Electrician, and Engineer of Water Works. Officers of either class serve during the pleasure of the commission. The commission also appoints a Civil Service Board, of three members, each for six years; and four Playground Directors, and four Park Directors, each for eight years. The Commissioner of Education is a member and presi-

dent of the Playground Board, and also of the Park Board. The city library is under his supervision.

**Departments:** Five departments are provided for: Public Works; Streets; Public Health and Safety; Education; and Finance. One commissioner is placed in charge of each department.

**Powers granted the People:** Initiative (5 per cent, 15 per cent); Referendum (10 per cent); Recall (10 per cent). The percentages are based on the total registration at the time of the last municipal election.

**Police Court:** Established by the charter. Consists of one judge appointed by the Commission.

**Special Provisions:** (1) No franchise may be granted for a longer term than twenty-five years. (2) The City Clerk must issue once a week an "Official Gazette" in which all the proceedings of the Commission, and other official matter shall be published.

#### 6. Grass Valley, 1893, 1909

**Officers elected at Large:** A Mayor; a Marshal, who is *ex officio* Chief of Police, Tax Collector, and Superintendent of Streets; a Treasurer; a Collector and Superintendent for the Water System; seven City Trustees, one from each election precinct; and eight School Directors, one from each precinct, and one from that portion of the school district outside of the city. The term of office is two years.

**Elections:** The municipal election is held on the third Monday in May of odd years. The school election is held each year at the time set by state law; that is, the first Friday in April. Half of the School Directors are elected each year. No provision is made for primary elections.

**Board of Trustees:** Consists of the Mayor and Trustees. The Mayor is president and may vote, but has no veto power. The Board has general charge of the city government. Appoints a Clerk, who is *ex officio* Auditor and Assessor; and five members of the Board of Health; and employs an Attorney and Surveyor when necessary. Acts as a Board of Public Works and has general control of the Police and Fire Departments.

**Police Court:** Any Justice of the Peace of Grass Valley Township is by the charter given the powers of a police judge for the city.

#### 7. Berkeley, 1909

**Officers elected at Large:** Mayor, Auditor, four Councilmen, and four School Directors. The Board of Education consists of the School Directors and the Commissioner of Finance and Revenue. The Mayor and Auditor are elected for two years; the others, for four.

**Elections:** A municipal election is held on the first Saturday in April of odd years. Names of candidates for each office are printed on the ballot alphabetically, without party designation, each on petition of at least twenty-five voters. Any candidate receiving a majority vote is elected. If any office is not filled by this election, a second election is held the third Saturday following to choose between the two candidates receiving the highest vote. In case more than one is to be elected to any office, the number of candidates at the second election equals twice the number to be elected.

**Mayor:** A member and president of the Council. Has a vote, but no veto power. Enforces laws and ordinances.

**Council:** Consists of the Mayor and the four Councilmen. It is the center of all municipal authority. Appoints a City Clerk, Assessor, Treasurer, Tax Collector, Attorney, Engineer, Chief of Police, Fire Chief, Street Superintendent, Health Officer, five Library Trustees; and must appoint, or provide for the appointment of, other necessary officers and employees. The Council may consolidate any two or more of these offices.

**Departments:** Four departments are provided for: Finance and Revenue; Public Health and Safety; Public Works; and Public Supplies. The Council selects one of its number, other than the Mayor, to serve as commissioner or head of each department.

**Powers granted to the People:** Initiative (5 per cent, 15 per cent); Referendum (10 per cent); Recall (20 per cent).

**Police Court:** Established by state law. Consists of one judge elected at county elections for four years.

**Special Provision:** The sale of liquor is prohibited by the charter, except to druggists on physicians' prescriptions or for mechanical or scientific purposes.

## 8. Eureka, 1895, 1907, 1911

**Officers elected at Large:** Mayor, Assessor, Treasurer, Tax Collector, Police Judge, Attorney, Clerk, Engineer, and Superintendent of Streets.

**Officers elected by Wards:** Each of the five wards elects one Councilman, one School Director, and one Library Trustee. School Directors are elected for four years; the others, for two.

**Elections:** The municipal election is held on the third Monday in June of odd years. No provision is made for primary elections.

**Mayor:** President of the Council. Has veto power but no vote except in case of a tie. Supervises other officers and may suspend any officer pending an investigation by the Council. Appoints, with the approval of the Council, a chief and other members of the Police Department; a Fire Chief and assistants; and three members of the Board of Health, the Mayor, who is chairman, and the City Engineer also being members.



**Council:** The legislative body. Acts as a Board of Public Works, and must provide for Police and Fire Departments, and for public parks.

**Powers granted the People:** Initiative (10 per cent, 20 per cent); Referendum (10 per cent, 15 per cent); Recall (25 per cent). Percentages based on registration, except in case of the Recall, where it is based on the last vote for the office in question.

**Police Court:** Established by the charter. One judge elected for two years.

**Special Provision:** The charter gives the city power to acquire public utilities, and to supply the city and its inhabitants with "water, ice, meat, or any other food products or necessities of life."

### 9. San José, 1897, 1901, 1903

**Officers elected at Large:** Mayor, Treasurer-Tax-Collector, Clerk-Assessor, Police Judge, and five Councilmen. One Councilman is nominated by each of the four wards and one from the city at large. The Councilmen are elected for four years; the others, for two.

**Elections:** The municipal election is held on the third Monday in May of even years. No provision is made for primary elections.

**Mayor:** President of the Council. Has the veto power but no vote. Enforces laws and ordinances. Supervises other officers and may suspend any officer pending an investigation by the Council. Appoints, with the approval of the Council, a City Attorney, Superintendent of Streets, and City Engineer; without such approval, five members each of the Board of Health, Board of Education, Library Board, Board of Park Commissioners, and the Police and Fire Board. The members of these boards serve four years. One member of the Board of Education must be appointed from each ward, and one from the city at large.

**Council:** Is the legislative authority and acts as a Board of Public Works.

**Finances:** The Clerk performs the duties of Auditor. The Council is given power to provide for the assessment of property and the collection of taxes by county officers.

**Police Court:** Established by the charter. Consists of one judge elected for two years.

### 10. Los Angeles, 1889, 1903, 1905, 1907, 1909, 1911

**Officers elected at Large:** Mayor, Attorney, Auditor, Assessor, nine Councilmen, and seven members of the Board of Education. The term of office is two years.

**Elections:** An election is held on the first Tuesday in May of odd years. Names of candidates are printed on the ballot alphabetically according to

the respective offices, each on petition of from 500 to 1000 voters. Any candidate receiving a majority vote is elected. Offices not filled at this election are filled at a second election held the first Tuesday in June following, the candidates for each office being the two receiving the highest vote at the first election. If more than one person is to be elected to any office, the number of candidates equals twice the number to be elected.

**Mayor:** Has the veto power. Supervises the conduct of other officers and must report negligence or malfeasance to the Council or proper board. Appoints, without the approval of the Council, a Chief of Police and a Fire Chief; with the approval of the Council, a Health Commissioner; a City Prosecutor; five Library Directors; three Park Commissioners; three members of the Board of Public Utilities; three Harbor Commissioners; three members of the Board of Public Works; five Playground Commissioners; five Public Service Commissioners, who have charge of the municipal water system; five members of the Civil Service Board; two members of the Police Board, and two of the Fire Board, the Mayor being a member and president of each; and five members of the Municipal Art Commission, the Mayor, Engineer, and Building Inspector being members, and also for the time being the head of any department affected by any action of the commission.

**Council:** Is the legislative authority.

**Other appointive officers and employees** are chosen by the various boards and commissions.

**Powers granted the People:** Initiative (5 per cent, 10 per cent); Referendum (10 per cent, 15 per cent); Recall (20 per cent).

**Police Court:** Established by law. Consists of five judges elected at county elections for four years.

**Special Feature:** The functions of the city government are divided by the Council into nine divisions, and one Councilman is assigned to each division as a committee of one to keep himself and the Council fully informed concerning its affairs. He has no administrative control over his division, but is to investigate its affairs and make recommendations to the Council. The Council has power to issue instructions to administrative officers and boards which they must obey.

## 11. The City and County of San Francisco, 1899, 1903, 1911

**Officers elected at Large:** The following are elected every four years (1911, 1915, etc.) at the municipal elections: Mayor, Auditor, Assessor, two of the four Police Judges, nine of the eighteen Supervisors, *County Clerk, District Attorney, Sheriff, and Coroner.*

The following are elected every four years (1913, 1917, etc.) at municipal elections: City Attorney, Treasurer, Tax Collector, two Police Judges, nine of the eighteen Supervisors, *Recorder*, and *Public Administrator*.

The following are elected every four years (1914, 1918, etc.) at the regular state and county election: A Superintendent of Schools, and five *Justices of the Peace*.

Sixteen Superior Judges are elected, five or six every two years, each for six years, at the regular state and county election.

All but Superior Judges are elected for four years. Those in italics are distinctively county officers, there being no city officers with which they could be consolidated.

**Elections:** A municipal primary election is held on the last Tuesday in September of odd years. Names of candidates for each office are printed on the ballot alphabetically, without party designations, on the filing of declarations of candidacy by the candidates, and certificates by not less than ten nor more than twenty sponsors for each candidate. They are filed with the Registrar of Voters. The sponsors must appear personally before him. Any candidate receiving a majority vote is elected. If any office is not filled by this election, a second election is held on Tuesday after the first Monday in November to choose between the two candidates receiving the highest vote. In case more than one person is to be elected to the same office, as that of Supervisor, the number of candidates equals twice the number to be elected.

**Mayor:** Enforces laws and ordinances. He is president of the Board of Supervisors and has the veto power, but no vote. Appoints, without the approval of the Supervisors, for terms of four years: four Police Commissioners; four Fire Commissioners; five Park Commissioners; four members of the Board of Education, who give their entire time to their official duties and receive each \$3000 a year; and five Election Commissioners. He appoints for three years, one each year, three members of the Board of Public Works; for six years, one every second year, three members of the Civil Service Commission; and for seven years, one each year, seven members of the Board of Health. The Mayor is an *ex officio* member of the Library Board — the said Board having eleven other members who serve without pay for an indefinite term. Vacancies are filled by the Board.

**Other officers, deputies, and employees** are appointed by the various boards and elective officers. The Board of Public Works consists of the following subdepartments, each having its corps of officers and employees: the Department of Bookkeeping and Accounting, the Street Repair Department; and the bureaus of Engineering, Architecture, Building and Repairs

Buildings Inspection, Streets, Sidewalk Inspection, Street Sweeping, Sewers, and Light and Water. The Registrar of Voters is appointed by the Election Commissioners.

**Board of Supervisors:** Consists of eighteen members. It is the legislative authority of the city and county, but has no appointive or other executive power.

**Powers granted the People:** Initiative (4 per cent, 10 per cent); Referendum (5 per cent); Recall (10 per cent, but at least 7000 signatures are required). The basis for the percentages in case of the Initiative is the entire registered vote; in case of the Referendum and the Recall, it is the vote for Mayor at the last election.

**Police Court:** Established by the charter. Four judges elected for four years.

### 12. Santa Barbara, 1899, 1905, 1909

**Officers elected at Large:** Mayor, Attorney, Clerk-Auditor-Assessor,<sup>1</sup> Treasurer-Tax-Collector, Police Judge, five Library Trustees, and five School Trustees.

**Officers elected by Wards:** Seven Councilmen, one by each of the seven wards. The School Trustees are elected for four years; the others, for two.

**Elections:** The municipal election is held on the first Tuesday in December of odd years. No provision is made for primary elections.

**Mayor:** President of the Council. Has the veto power but no vote except in case of a tie. Supervises other officers and must report negligence or malfeasance to the Council. Appoints, with the approval of the Council, a City Engineer and a Superintendent of Streets; without such approval, a Chief of Police and other members of the Police Department, and three members of the Board of Health—the Mayor and Attorney also being members, the Mayor president. He is a member of the Fire Board, the other members being the Chairman of the Finance Committee of the Council, and the Fire Chief. The latter is elected by the volunteer firemen of the city, or, if they fail to elect, he is appointed by the Mayor.

**Council:** Is the legislative authority and acts as a Board of Public Works and a Police Board.

**Powers granted the People:** Initiative (10 per cent, 20 per cent); Referendum (10 per cent, 15 per cent); Recall (25 per cent). The percentages are based on the total registration of voters.

**Police Court:** Established by the charter. Consists of one judge elected for two years.

<sup>1</sup>Three offices held by the same person.

**13. Vallejo, 1911**

**Officers elected at Large:** Mayor, Auditor-Assessor, two Commissioners, and three School Directors. The term of office is four years.

**Elections:** A municipal election is held on the first Tuesday in April of odd years. Names of candidates are printed on the ballot alphabetically, without party designations, each on petition of from twenty-five to fifty voters. Any candidate receiving a majority vote is elected. If any office is not filled by this election, a second election is held two weeks later to choose between the two candidates receiving the highest vote, or in case more than one is to be elected to any office the number of candidates equals twice the number.

**Mayor:** A member and president of the Council. Has a vote but no veto power. Enforces laws and ordinances.

**Council:** Consists of the Mayor and the two Commissioners. It is the legislative and executive authority of the city. Appoints a City Clerk, Treasurer-Tax-Collector, Attorney, Engineer, Chief of Police, Fire Chief, Street Superintendent, Health Officer, three Library Trustees; and appoints, or provides for the appointment of, other necessary officers and employees. The Council may consolidate two or more of these offices.

**Departments:** Three departments are provided for: Finance and Supplies, Public Health and Safety, and Public Works. The Mayor is the Commissioner of Finance and Supplies; and one Commissioner is placed in charge of each of the other departments.

**Powers granted the People:** Initiative (20 per cent); Referendum (5 per cent for any ordinance granting a franchise, 20 per cent for any other ordinance); Recall (20 per cent).

**Police Court:** Established by the charter. Consists of one Police Judge appointed by the Council for two years.

**Special Provision:** No initiative petition may be circulated among the voters. Copies of any such petition must be left at the city hall, the public library, and the post office for such voters to sign as may wish to do so. Copies of a petition in opposition to the proposed ordinance may also be left at the same places. In order to force an election on the proposed ordinance, the petition favoring it must contain signatures equal in number to 20 per cent of the vote for mayor at the last election, and these signatures must also exceed those on the opposing petition.

**14. Fresno, 1901, 1905**

**Officers elected at Large:** Mayor, Clerk, Police Judge, eight City Trustees, and five School Directors. The Trustees are elected one from each of the eight wards of the city. The term of office is four years.

**Elections:** The municipal election is held on the second Monday in April, every four years, 1913, 1917, etc. No provision is made for primary elections.

**Mayor:** President of the Board of Trustees with power to vote only in case of a tie. Has veto power. Enforces laws and ordinances. Appoints, with the approval of the Board of Trustees, a Superintendent of Streets; Engineer; Attorney; a License Collector; five members of the Board of Health; three members of the Park Commission, the Mayor and Engineer also being members, the Mayor president; five Library Trustees; and four members of the Police and Fire Board, the Mayor being president with power to vote in case of a tie.

**Board of Trustees:** The legislative body. Acts as Board of Public Works.

**Finances:** The Clerk acts as Auditor. Property is assessed, taxes are collected, and money is kept for the city by the county Assessor, Tax-Collector, and Treasurer respectively.

**Police Court:** Established by the charter. Consists of one judge elected for four years.

#### 15. Pasadena, 1901, 1905, 1909, 1913<sup>1</sup>

**Officers elected at Large:** Five Commissioners and five members of the Board of Education. The term of office is four years.

**Elections:** The general municipal election is held on the first Thursday in April every odd year, a nonpartisan direct primary being held on the third Thursday preceding. Names of candidates are printed on the primary election ballots on petition of at least 25 voters.

**Commission:** Consists of the five Commissioners, there being no mayor. It is the center of all municipal authority. Acts as a board of Public Works, Health Board, Police and Fire Board, Library Board, Park Board, and Water Board. Appoints a Treasurer-Tax-Collector, Clerk, Attorney, Police Judge, Auditor-Assessor, Engineer, Superintendent of Streets, and other necessary officers and employees, and assigns to them their duties and fixes their salaries. Divides the work of the city government into five departments and assigns one of its number to the headship of each department. The names of the departments are not indicated in the charter.

**Powers granted the People:** Initiative (10 per cent, 30 per cent); Referendum (15 per cent); Recall (25 per cent).

**Police Court:** Established by the charter. Consists of one judge appointed by the Commission.

**Special Provision:** 1. No franchise may be granted for a longer time than 20 years, unless power to acquire at any time the property used under it be reserved to the city.

<sup>1</sup> The 1913 amendment changed the charter to the commission type.

2. The sale of liquors is prohibited by the charter except in hotels under certain definite conditions.

### 16. Salinas, 1903, 1911

**Officers elected at Large:** Mayor, Clerk-Assessor, Treasurer-Tax-Collector, three Library Trustees, a Police Judge if the Council provides for his election, and one School Director.

**Officers elected by Wards:** Two Councilmen and one School Director by each of the four wards. The Councilmen are elected for four years; the Library Trustees, for six; and the others, for two.

**Elections:** The municipal election is held the first Monday in June of odd years. No provision is made for primary elections.

**Mayor:** President of the Council. Has the veto power but no vote except in case of a tie. Supervises officers and may suspend any officer pending an investigation by the Council. Appoints, with the approval of the Council, three members of the Board of Health; and three Park Commissioners, the Mayor and Engineer also being members.

**Council:** The legislative body. Acts as a Board of Public Works, and as a Police and Fire Board. Appoints a city Attorney, and an Engineer who is *ex officio* Superintendent of Streets.

**Power granted the People:** The Referendum (10 per cent).

**Police Court:** Established by the charter. One judge elected for two years if the Council so provides, otherwise he is appointed by the Mayor.

### 17. Watsonville, 1903

**Officers elected at Large:** Mayor, Clerk-Auditor-Assessor, Treasurer, Police Judge, Chief-of-Police-Tax-Collector.

**Officers elected by Wards:** Eight Aldermen, two by each of the four wards. The Aldermen are elected for four years; the others, for two.

**Elections:** The municipal election is held on the second Monday in May of odd years. No provision is made for primary elections.

**Mayor:** President of the Board of Aldermen. Has the veto power but no vote except in case of a tie. Supervises other officers and may suspend any officer pending an investigation by the Aldermen. Appoints, with the approval of the Board of Aldermen, a Library Board of not less than three nor more than five members; and three members of the Board of Health, the Mayor, who is chairman, and the City Engineer being members.

**Board of Aldermen:** The legislative body. Acts as a Board of Public Works and is charged with the duty of providing for Fire and Park Depart-

ments. Appoints a City Attorney, and a City Engineer who is *ex officio* Superintendent of Streets and Sewers.

Schools are not provided for by the charter.

**Police Court:** Established by the charter. One judge elected for two years.

### 18. San Bernardino, 1905

**Officers elected at Large:** Mayor, Clerk, Attorney, Police Judge who is *ex officio* Treasurer, and five members of the Board of Education.

**Officers elected by Wards:** One Councilman from each of the five wards. The Mayor is elected for two years; other officers, for four.

**Elections:** The municipal election is held the second Monday in April of odd years. No provision is made for primary elections.

**Mayor:** President of the Council. Has the veto power but no vote. Enforces laws and ordinances. Appoints, with the approval of the Council, a City Engineer; Superintendent of Streets; four members of the Board of Health, the Chief of Police being a fifth member; three Water Commissioners; five Library Trustees; Chief of Police; and a Fire Chief.

**Council and Mayor:** Act as a Board of Public Works, and a Police and Fire Board.

**Finances:** The Clerk acts as Auditor. Property is assessed and taxes are collected for the city by the county Assessor and Tax Collector. The Chief of Police is License Collector.

**Powers granted the People:** Initiative (30 per cent); Referendum (30 per cent); Recall (30 per cent).

**Police Court:** Established by the charter. Consists of one judge elected for four years.

### 19. Santa Rosa, 1905

**Officers elected at Large:** Mayor, Clerk, Assessor, Recorder (Police Judge).

**Officers elected by Wards:** One Councilman by each of the six wards. The Councilmen are elected for four years; the others, for two.

**Elections:** The municipal election is held on the first Tuesday in April of even years. No provision is made for primary elections.

**Mayor:** President of the Council, with power to vote only in case of a tie. Has the veto power. Enforces laws and ordinances. Appoints, with the approval of the Council, a Chief of Police, Attorney, Treasurer, Engineer, Street Commissioner, and five Library Trustees.

**Council and Mayor:** Act as a Board of Public Works. Police, Fire, and Health Departments are established by ordinance, the Council and Mayor acting as a board for each.



**Police Court:** Established by the charter. Consists of one judge, the "Recorder," elected for two years.

## 20. Alameda, 1907

**Officers elected at Large:** Mayor, Auditor-Assessor, Treasurer-Tax-Collector, and nine Councilmen. The Mayor is elected for two years; the others, for four.

**Elections:** The municipal election is held on the second Monday in April of odd years. No primary election is held. Candidates are nominated by petition. One Councilman is elected from candidates nominated by each of the seven wards; all other candidates are nominated at large. The ward nominations require twenty signatures; those at large, fifty. Names of candidates for each office are printed alphabetically on the election ballot, no party designations being permitted. A plurality in each case elects.

**Mayor:** President of the Council. Has the veto power but no vote. Supervises other officials and must report negligence or malfeasance to the Council. Appoints, with the approval of the Council, a City Engineer, five members of the Board of Education, three Police and Fire Commissioners, and three members of the Board of Electricity.

**Council:** Is the legislative body and acts as a Board of Public Works. Appoints a City Clerk, Attorney, Street Superintendent, five members of the Board of Health, and five Library Trustees.

**Powers granted the People:** Initiative (10 per cent, 20 per cent); Referendum (10 per cent, 15 per cent); Recall (25 per cent). The percentages for the Initiative and Referendum are based on the total registration; that for the Recall, on the last vote for mayor.

**Police Court:** The charter provides for a Court which, when established, by order of the Council, will consist of one judge elected for two years. In the meantime the Court established by law is to continue.

## 21. Long Beach, 1907, 1913

**Officers elected at Large:** Mayor, seven Councilmen, Clerk, Attorney, Treasurer, Police Judge, Auditor, Assessor, Tax Collector, and five School Directors. The term of office is two years.

**Elections:** A municipal election is held on the second Tuesday in November every odd year. Names of candidates for each office are printed on the ballots, without party designations, each on petition of from 25 to 35 voters. Any one receiving a majority vote is elected. If any office is not filled at this election a second election is held three weeks later to choose between the two

candidates receiving the highest vote. In case more than one person is to be elected to any office the number of candidates equals twice the number to be elected. School Directors are elected on the first Friday in April every odd year.

**Mayor:** President of the Council. Has the veto power but no vote. Supervises other officers and must report negligence or malfeasance to the Council or proper board. Appoints, with the approval of the Council, three members of the Board of Public Works, three members of the Civil Service Board; and two members of the Police Board, two of the Fire Board, four of the Health Board, and four of the Library Board, he being a member and presiding officer of each of these four boards.

**Council:** Is the legislative authority.

**Powers granted the People:** Initiative (10 per cent, 30 per cent); Referendum (25 per cent); Recall (40 per cent).

**Police Court:** Established by the charter. Consists of one judge elected for two years.

**Special Provisions:** 1. The sale of intoxicating liquors is prohibited by the charter except for medicinal purposes. Druggists may sell alcohol for mechanical or scientific purposes.

2. No one is permitted to circulate initiative, referendum, or recall petitions, but all such petitions must be left at certain specified places for voluntary signatures.

3. The charter confers upon the State Railroad Commission the power to regulate and control all common carriers (including street car lines) within the city limits. (See sec. 23, article XII, of the state constitution.)

## 22. Riverside, 1907

**Officers elected at Large:** Mayor, Clerk-Assessor, Treasurer-Tax-Collector, Auditor, and five members of the Board of Education.

**Officers elected by Wards:** One Councilman by each of the six wards. The Mayor is elected for two years; the others, for four.

**Elections:** The municipal election is held on the third Tuesday in November of odd years. No provision is made for primary elections.

**Mayor:** President of the Council. Has the veto power but no vote except in case of a tie. Supervises other officers. May remove any appointive officer at any time and may suspend any elective officer pending an investigation by the Council. Appoints, without the approval of the Council, a City Engineer; Attorney; Superintendent of Streets; Chief of Police; Fire Chief; five Library Trustees; five Park Commissioners; four members of the Board of Public Utilities — he being a fifth member and president;

and three members of the Board of Health — the Mayor, who is president, and the City Engineer also being members.

**Council:** Is the legislative authority and acts as a Board of Public Works.

**Policemen and Firemen** are appointed by their respective Chiefs.

**Powers granted the People:** Initiative (10 per cent, 15 per cent); Referendum (10 per cent, 15 per cent); Recall (25 per cent).

**Police Court:** Established by the charter. Consists of one judge appointed by the Mayor. The Mayor may appoint a Justice of the Peace of Riverside Township.

### 23. Santa Cruz, 1911

**Officers elected at Large:** For two years, the Mayor and three members of an Auditing Committee; for four years, four Commissioners, and five School Directors.

**Elections:** The municipal election is held on the first Tuesday after the first Monday in May of odd years. Names of candidates for each office are printed on the ballot alphabetically, without party designations, each on petition of twenty-five voters. Any candidate receiving a majority vote is elected. If any office is not filled by this election, a second election is held two weeks later to choose between the two candidates receiving the highest vote. In case more than one is to be elected to any office the number of candidates equals twice the number to be elected.

**Mayor:** A member and president of the Council. Has a vote but no veto power. Enforces laws and ordinances and is Commissioner of Public Affairs. Appoints, with the approval of the Council, a City Attorney and five Library Trustees.

**Council:** Consists of the Mayor and four Councilmen. It is the center of all municipal authority. Appoints a Clerk-Assessor, and may when necessary provide for the appointment of officers and employees not specified in the charter.

**Departments:** Five departments are provided for: Public Affairs; Revenue and Finance; Health and Safety; Public Works; and Streets and Parks. The Mayor is Commissioner of Public Affairs. The Council selects one of its number, other than the Mayor, to serve as commissioner of each department.

**Officers appointed by the Commissioners with the Approval of the Council:** By the Commissioner of Revenue and Finance, the Treasurer-Tax-Collector; by the Commissioner of Public Health and Safety, the Police Judge, Chief of Police, the Fire Chief and an Assistant, Health Officer, Superintendent of the Electrical Department, and the Plumbing and Building Inspec-

tor; by the Commissioner of Public Works, a Superintendent of Waterworks; by the Commissioner of Streets and Parks, the Street Superintendent, and the Engineer-Surveyor.

**Minor officers** and employees are appointed by the Commissioners, without the approval of the Council.

**The Auditing Committee** appoints an Accountant to examine the books and keep track of the finances of each department.

**Powers granted the People:** Initiative (10 per cent, 20 per cent); Referendum (10 per cent); Recall (15 per cent).

**Police Court:** Established by the charter. Consists of one judge appointed for four years.

#### 24. Santa Monica, 1907

**Officers elected at Large:** Mayor, Clerk, Treasurer-Tax-Collector, Assessor, and five members of the Board of Education.

**Officers elected by Wards:** One Councilman by each of the seven wards. The term of office is two years.

**Elections:** The municipal election is held on the first Tuesday in December of odd years. No provision is made for primary elections.

**Mayor:** Has the veto power. Supervises the conduct of other officers and must report negligence or malfeasance to the Council or proper board. Appoints, with the approval of the Council, a City Engineer; City Attorney; Superintendent of Buildings; Superintendent of Streets; five Library Trustees; and two members each of the Police Board, Fire Board, Park Board, and Board of Health, — he being a member and presiding officer of each of these four boards.

**Council:** Is the legislative body and the Board of Public Works.

**Powers granted the People:** Initiative (25 per cent, 30 per cent); Referendum (25 per cent, 30 per cent); Recall (40 per cent). The basis of the percentages is the total registration; except for the Recall, in which case it is the last vote for the office in question.

**Police Court:** Established by law. One judge elected for four years at county elections.

#### 25. Palo Alto, 1909

**Officers elected at Large:** Fifteen Councilmen to serve for six years, five being elected every two years; and five members of the Board of Education to serve for five years, one being elected each year.

**Elections:** The municipal election is held on the second Monday in May of odd years. The school district election is held on the third Saturday of April each year. No provision is made for primary elections, but power

is granted to the Council, or to the people, to make such provision by ordinance.

**Mayor:** The Council elects annually one of its number as its presiding officer, and he becomes the Mayor of the city. He has a vote in the Council but no veto power. He sees that laws and ordinances are enforced.

**Council:** It is the center of all municipal authority. Appoints three members of the Board of Public Works, three members of the Board of Public Safety, three Library Trustees, one Police Judge; and must appoint, or provide for the appointment of, a City Clerk, Treasurer, Auditor, Tax Collector, Assessor, Attorney, and other necessary officers and employees.

**Powers granted the People:** Initiative (10 per cent, 20 per cent); Referendum (10 per cent, 20 per cent); Recall (20 per cent).

**Police Court:** Established by the charter. Consists of one judge appointed by the Council to serve during its pleasure.

### 26. Richmond, 1909

**Officers elected at Large:** Nine Councilmen to serve for six years, three being elected every two years; and three members of the Board of Education to serve for six years, one being elected every two years.

**Elections:** The municipal election is held on the second Monday in May of odd years; the school election, on the first Saturday in May of even years. Any candidate is nominated by a petition signed by voters equal to 3 per cent of the votes cast at the last election. If the nominations for either election amount to more than twice the number of officers to be elected, a nonpartisan direct primary is held two weeks before the election to eliminate all but twice the number.

**Mayor:** The Council elects annually one of its number as its presiding officer, and he becomes Mayor of the city. He has a vote in the Council but no veto power. He sees that laws and ordinances are enforced.

**Council:** It is the center of all municipal authority. It appoints a Commissioner of Health, and a Health Officer; and must appoint, or provide for the appointment of, a City Clerk, Treasurer, Auditor, Tax Collector, Assessor, Attorney, Engineer, Chief of Police, and other necessary officers, employees, and boards or commissions.

**Powers granted the People:** Initiative (10 per cent, 25 per cent); Referendum (10 per cent, 25 per cent); Recall (25 per cent).

**Police Court:** Established by the charter. Consists of one judge appointed by the Council to serve during its pleasure.

**27. Modesto, 1911**

**Officers elected at Large:** Mayor, four Councilmen, and five members of the Board of Education. The term of office is four years.

**Elections:** The regular municipal election is held on the second Tuesday in April of odd years. Names of candidates for each office are printed on the ballot alphabetically, without party designations, each on petition of twenty-five voters. Any candidate receiving a majority vote is elected. If any office is not filled by this election, a second election is held the second Tuesday following to choose between the two candidates receiving the highest vote. In case more than one is to be elected to any office, the number of candidates at the second election equals twice the number to be elected.

**Mayor:** A member and president of the Council. Has a vote but no veto power. Enforces laws and ordinances.

**Council:** Consists of the Mayor and four Councilmen. It is the center of all municipal authority. Appoints a City Clerk, Auditor, Assessor, Treasurer, Tax Collector, Attorney, Engineer, Chief of Police, Fire Chief, Street Superintendent, Building Inspector, Sewer Inspector, Health Officer, five Library Trustees, and other necessary officers and employees. The Council may consolidate any two or more of these offices.

**Departments:** Four departments are provided for: **Finance and Revenue;** **Health and Safety;** **Public Works;** and **Public Supplies.** The Council selects one of its number, other than the Mayor, to serve as commissioner or head of each department.

**Powers granted the People:** Initiative (15 per cent, 25 per cent); **Referendum** (15 per cent); Recall (15 per cent).

**Police Court:** Established by the charter. Consists of one judge appointed by the Council to serve during its pleasure.

**Special Provision:** No franchise may be granted by the Council without the approval of the voters at an election. No franchise may be granted for a longer time than 25 years.

**28. Monterey, 1911**

**Officers elected at Large:** The Mayor for two years, and four Councilmen for four years.

**Elections:** The general municipal election is held on the second Monday in April of odd years. No primary elections are held. Candidates are nominated on petition of from 25 to 100 voters. Names for each office are printed on the ballot alphabetically, no party designations being permitted. A plurality in each case elects.

**Mayor:** A member and president of the Council. Has a vote but no veto power. Enforces laws and ordinances.

**Council:** Consists of the Mayor and four Councilmen. It is the center of all municipal authority. Appoints a City Clerk, Auditor, Assessor, Treasurer, Tax Collector, Police Judge, Attorney, Engineer, Chief of Police, Fire Chief, Street Superintendent, Building Inspector, Sewer Inspector, Health Officer, five Library Trustees, and other necessary officers and employees. The Council may consolidate any of these offices.

**Departments:** Four departments are provided for: Finance and Revenue; Health and Safety; Public Works; and Public Supplies. The Council appoints one of its number, other than the Mayor, to serve as commissioner of each department.

**Public Schools** are not provided for in the charter.

**Powers granted the People:** Initiative (10 per cent, 20 per cent); Referendum (25 per cent); Recall (25 per cent).

**Police Court:** Established by the charter. Consists of one judge appointed by the Council to serve during its pleasure.

**Special Provision:** The Council is given power to provide for a Civil Service Board.

## 29. Petaluma, 1911

**Officers elected at Large:** For two years: Mayor, Clerk, Auditor, Assessor, Treasurer, Tax Collector, Chief of Police, Police Judge, and Superintendent of Streets.

For four years: Six Councilmen, five School Directors, and five Library Trustees.

**Elections:** The municipal election is held on the second Tuesday in April of odd years. No provision is made for primary elections.

**Mayor:** A member and president of the Council. Has a vote but no veto power. Supervises other officers with power to suspend any officer pending an investigation by the Council.

**Council:** It is the center of municipal authority. Acts as a Board of Public Works. Appoints a City Attorney; Fire Chief; Engineer; three Park Commissioners; three members of the Board of Health — the Mayor, who is president, and the City Engineer also being members; and three Fire Commissioners, the Fire Chief and the Chairman of the Finance Committee of the Council also being members.

**Powers granted the People:** Initiative (15 per cent, 25 per cent); Referendum (15 per cent, 25 per cent); Recall (30 per cent);

**Police Court:** Established by the charter. Consists of one judge elected for two years.

**30. Pomona, 1911**

**Officers elected at Large:** For two years: Mayor, Auditor-Clerk, Assessor-Tax-Collector-Treasurer, Attorney, Police Judge, and President of the Board of Education.

For four years: Four Councilmen and four members of the Board of Education. One of each is nominated by and from each of the four wards of the city.

**Elections:** The general municipal election is held on the first Monday in April of odd years. Candidates are nominated by petition. When nominated from the city at large fifty signatures are required; when nominated from wards, twenty-five signatures. A nonpartisan direct primary is held the second Monday before the election, if requested by voters equal in number to 25 per cent of the votes cast at the last election. In this event only two candidates for each office remain after the primary; otherwise there are as many as file the requisite petitions, but no party designations are permitted.

**Council:** Consists of the Mayor and the four Councilmen. It is the center of all municipal authority. Appoints a Chief of Police, Engineer, Street Superintendent, Park Superintendent, five Library Trustees, Health Officer, Fire Chief, Building Inspector, and other necessary officers and employees. The Council has power to consolidate the offices of Engineer and Street Superintendent.

**Departments:** Five departments are provided for: Public Works; Finance and Revenue; Fire and Health; Police; and Public Supplies. The Mayor is commissioner of Public Works. The Council selects one of its number, other than the Mayor, to serve as commissioner of each of the other departments.

**Powers granted the People:** Initiative (5 per cent, 15 per cent); Referendum (20 per cent); Recall (20 per cent). The basis for the percentages in the case of the Initiative and the Referendum is the entire registration; for the Recall it is the last vote for the office in question.

**Police Court:** Established by the charter. Consists of one judge appointed by the Council for two years.

**Special Provision:** Liquors may be sold only by druggists on physicians' prescriptions. Alcohol is sold only for mechanical or scientific purposes.

**31. San Luis Obispo, 1911**

**Officers elected at Large:** The Mayor and Clerk-Assessor, each for two years; and four Councilmen and four School Directors, each for four years. The Board of Education consists of the four School Directors and the Commissioner of Finance and Revenue.



**Elections:** The general municipal election is held on the first Monday in April of odd years. No primary elections are held. Candidates are nominated on petition of from twenty-five to one hundred voters. Names for each office are printed alphabetically on the ballot, no party designations being permitted. A plurality in each case elects.

**Mayor:** A member and president of the Council. Has a vote but no veto power. Enforces laws and ordinances.

**Council:** Consists of the Mayor and the four Councilmen. It is the center of all municipal authority. Appoints a Treasurer, Attorney, Tax Collector, Engineer, Chief of Police, Fire Chief, Street Superintendent, five Library Trustees, Police Judge, and other necessary officers and employees. The Chief of Police and Fire Chief must be nominated by the Commissioner of Public Health and Safety; and the Street Superintendent, by the Commissioner of Public Works. The Council may consolidate any of these offices.

**Departments:** Four departments are provided for: Finance and Revenue; Health and Safety; Public Works; and Public Supplies. The Council selects one of its number, other than the Mayor, as commissioner of each department.

**Powers granted the People:** Initiative (10 per cent, 25 per cent); Referendum (10 per cent); Recall (25 per cent).

**Police Court:** Established by the charter. Consists of one judge appointed by the Council to serve during its pleasure.

### 32. San Rafael, 1913

**Officers elected at Large:** Mayor, four Councilmen, five School Directors, Clerk, Attorney, Chief of Police, Treasurer, Assessor, Tax Collector, and Police Judge. The Council may consolidate certain offices. The term of office for the Mayor is two years; for all other officers, four.

**Elections:** A municipal election is held on the second Monday in April every odd year. Names of candidates for each office are printed alphabetically on the ballots, without party designations, each on petition of from 50 to 100 voters. A plurality elects. No primaries are provided for.

**Mayor:** Enforces laws and ordinances. A member and president of the Council, having a vote but no veto power. Appoints a Library Board of five members.

**Council:** Consists of the Mayor and four Councilmen. Is the center of municipal authority. Acts as a Board of Public Works, and appoints an Engineer; a Superintendent of Streets; a Health Officer; a Fire Chief; a Pound Master; two members of the Board of Health, the other members being the Mayor, the Engineer, and the Health officer; three members of the Fire Commission, the other members being the Chairman of the Finance


Committee of the Council, and the Fire Chief; and five members of the Park Commission.

**Police Court:** Established by the charter. Consists of one judge elected for four years.

**Powers granted the People:** Initiative (10 per cent, 20 per cent); Referendum (10 per cent); Recall (20 per cent).

**Special features:** 1. The Mayor and members of the Council receive no compensation, except \$10 a day when sitting as a Board of Equalization.

2. At a recall election candidates for the office in question are not voted for. If the officer is recalled, the vacancy is filled in the same manner as other vacancies.



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## **SUTTON'S CIVIL GOVERNMENT IN CALIFORNIA**

### **SUPPLEMENT**

Since this book was published some changes in the public law of California have been made, by legislation and by constitutional amendment. An attempt is made in the following pages to sum up the most important of these changes.

**Page 73.** — County sealers of weights and measures (§ 149) and the county board of public welfare should be added to the list of county officers.

The county board of public welfare may be appointed by the board of supervisors, and must be upon the petition of one hundred voters in the county. It consists of seven members, both men and women, who serve without pay, each for a term of four years. Its duty is to inspect and inquire into the management of every charitable or correctional institution in the county which is supported either wholly or partly by the county. The county jail, county infirmary, county hospital, county detention home, and similar institutions, come under its supervision. It makes reports and recommendations to the county board of supervisors and to the state board of charities and corrections.

**Page 83.** — The abolition of the poll tax in 1914 modifies somewhat the duties of the county assessor, who formerly collected that tax.

**Page 88.** — In connection with the recorder the Torrens land law, adopted as an initiative measure in 1914, should be mentioned. The law provides for the registration of land titles according to the Torrens system, first devised by Sir Robert Torrens (1814-1884). Any landowner may file with the county clerk, on a blank form



furnished by the clerk, an application to the superior court to have his land registered according to the law. The court has the title examined, gives any interested parties a hearing, and then issues a decree establishing the title and ordering it registered. The county recorder enters the certificate of registration in a special volume in his office, and gives the owner a duplicate certificate. The certificate states the true condition of the title, noting any incumbrances, and the state guarantees the title as thus set forth. The title is thus not only secure, but any one is able to determine its exact condition from the certificate in the recorder's office, and no further search of title is necessary.

An owner of registered land may sell it by delivering a deed to the purchaser and his duplicate certificate to the recorder. The recorder makes a note of the transfer on the original certificate in his office, and on the duplicate, which he keeps, and issues a new duplicate to the new owner. The fee is one dollar, which becomes part of an insurance fund, by which the state guarantees the titles to all registered land. The process of mortgaging such land is as simple as that of selling it. The purpose of the law is to do away with the necessity of having the title to land searched every time it is sold or mortgaged, and to provide a method whereby the titles to registered land may be guaranteed by the state; but the first expense of getting land registered under the law is so heavy that little use has so far been made of it.

**Page 92.** — Los Angeles township now has six justices of the peace.

**Page 93.** — The county sheriff, the district attorney, and the chief of police of the county seat, constitute a county parole commission with power to parole prisoners from the jail, or any city prison, in the county.

**Pages 119 and 131.** — A constitutional amendment adopted in 1914 (sec. 6, art. XI) modifies the statements in the text to the effect that all powers of a city must be definitely stated in its charter. A city charter may now confer power upon the city *in general terms*, rather than by a specific enumeration of items, to take full charge of its *municipal affairs*. This is something entirely new in the United States. Bakersfield, Napa, and San José have taken advantage of this provision of the constitution in their new charters.

**Page 126.** — A constitutional amendment adopted in 1914 provides a method whereby any city having a population of 50,000 may detach itself from the county in which it is located for the purpose of forming a consolidated city and county, by obtaining the consent of its voters, as well as of those of the county at large, and of the state legislature. Additional territory may also be included with the consent of the people affected.

**Page 137.** — All cities in California now elect their officers by the nonpartisan method. This has been brought about in many cases by charter modifications, and in others by amendments in the state law.

**Page 141.** — The commission plan of city government has continued to spread throughout the middle and western divisions of the United States. On the whole it has worked more satisfactorily than the plan which it replaced, but owing to the fact that it does not place experts at the head of the various municipal departments, it has not met the expectations of its most ardent advocates. It is to be noted that in just this particular it departs from the plan upon which a corporation is governed, for the directors of a corporation do not as a rule serve as heads of departments. To remedy this weakness in the commission plan a plan known as "the city manager plan" has been devised.

According to the city manager plan the voters of a city elect a council of three, five, seven, or more members, which serves as a legislative body, but which has very limited *executive* powers. Its members do not serve as heads of departments and they receive small salaries. The council appoints a city manager who in most cases need not be a resident of the city at the time of his appointment. He is the executive head of the city government, but is responsible to the council, which has the power to remove him at any time. He attends the meetings of the council and makes recommendations relative to public policies and to the details of the government. He appoints all other city officers, except possibly the auditor, the police judge, and one or two others, and may remove any of his appointees at any time for cause. In making most of his appointments he is governed by civil service regulations. This plan agrees with the commission plan in that it provides for the short ballot and the concentration of power in a few hands, but differs from it in that it makes more likely the securing of experts for responsible executive positions.

Napa, San José, Long Beach, Alhambra, and Bakersfield adopted new charters in 1915; and San Diego and Santa Monica adopted amendments to their charters which are very far-reaching.

The most noticeable features of these charters are as follows:

1. The city manager plan of government is much in favor. It is definitely adopted by San José, Bakersfield, and Alhambra; and provision is made in the charters of Long Beach and Napa whereby it may be taken up later by a vote of the people without the necessity of amending the charters. It is adopted in a modified form by San Diego, which has a "manager of operation," who has charge of the harbor, streets, buildings, sewers, water system, and other engineering work.

2. The tendency to eliminate the office of mayor is becoming more pronounced. The following cities having freeholders' charters elect no mayors: Richmond, Palo Alto, Sacramento, Pasadena, Long Beach, Bakersfield, San José, Alhambra, and Santa Monica. In some of these cities the president of the council has the title of "mayor," and in others the office has been merged into that of city manager.

3. San Diego has given up the commission plan of government for the modified city manager plan above referred to. Long Beach, Santa Monica, and Napa have changed to the commission plan. In Long Beach and Santa Monica each commissioner is elected to a definite department. This differs from the method followed in other cities, where the commissioners are assigned to their respective departments after their installation into office.

4. The charters of Long Beach, Napa, Alhambra, and San José all provide that vacancies created by recall elections shall be filled by appointment in the same manner as other vacancies are filled. A recall election in any of these cities will thus be concerned with the one proposition of declaring the office or offices in question vacant. The distracting question of electing some one to fill the proposed vacancy will not enter into the election.

5. Santa Monica and Napa have adopted the preferential method of voting (see page 34).

Page 144. — In cities having city managers the police, fire, and health departments, and the department of public works, are placed under his control.

**Pages 157 and 213, footnotes.** — Many cities have followed the example of Palo Alto and Willits in placing the control of their public utilities in the hands of the state railroad commission. Section 23, article XII, of the constitution was again amended in 1914 conferring upon the legislature power to give the railroad commission control over public utilities within city limits. A law passed in 1915 permits cities to determine whether they will retain such power or turn it over to the railroad commission.

**Page 177.** — The power of the people of the state at large to participate in the making of laws by means of the initiative and the referendum should be mentioned here. An initiative petition is signed by at least either five or eight per cent of the vote for governor at the last election, and is filed with the secretary of state. A measure supported by a five per cent petition is submitted by him to the legislature at its next session, and if not passed without amendment within forty days it must be placed on the ballot at the next general election. The legislature may, however, propose a substitute law to be placed on the same ballot. An eight per cent petition may propose either a law or a constitutional amendment which must be placed on the ballot at the next general election unless the governor calls a special election at an earlier date.

A five per cent petition may force a referendum on any law passed by the legislature if filed with the secretary of state within ninety days following the adjournment of the legislature. If such a petition is filed, the law in question is suspended from going into effect before it is submitted to the voters. It must be placed on the ballot at the next general election unless the governor calls a special election at an earlier date to consider it. See constitution, article IV, section 1. Extensive use is made of the initiative and the referendum at every election.

**Page 180.** — An important duty of the legislative counsel bureau is to assist in the preparation of any initiative measure at any time on the request of twenty-five voters.

**Page 189.** — A state pardon board has been established whose advice the governor may ask when requests for pardons are presented to him. This board consists of the lieutenant governor, the attorney general, and the wardens of the two state prisons.

**Page 191.** — The poll tax was abolished in 1914.

**Page 193.** — Automobile, and other motor vehicle licenses have become an important source of income. In the year ending June 30, 1914, the state received from this source about a million and a quarter dollars.

**Page 197.** — In case a state tax on general property should be necessary, as provided for in subdivision (e) of section 14, article XIII, of the constitution, such a tax would be imposed by the state board of equalization.

**Page 204.** — The legislature of 1915 created a state purchasing department under a "state purchasing agent," appointed by the governor, to serve during the governor's pleasure, at a salary of \$4000 a year. He may appoint an assistant purchasing agent, a testing engineer, and other necessary help, on the approval of the state board of control. The department is to establish necessary warehouses at convenient places throughout the state. It is the duty of the department "upon the approval of the state board of control to contract for and purchase, or direct and supervise the purchase of, all supplies of whatever nature necessary for the proper transaction of the business of each and every state department, commission, board, institution, or official." The state university is, however, exempt from this provision, and the board of control is given authority to make such other exemptions as it may deem wise.

**Page 207.** — The salary of each member of the state board of control has been changed to \$5000.

**Page 221.** — The salary of the building and loan commissioner has been changed to \$3600.

**Page 225.** — The legislature of 1915 proposed an additional state bond issue of \$15,000,000 for the benefit of the state highway system. This is to be voted on at the regular November election in 1916.

The legislature of 1915 created a new department known as the "motor vehicle department" to take over from the engineering department the work of registering and licensing all automobiles and other motor vehicles. At the head of the department is a superintendent appointed by the governor, to serve during the governor's pleasure, at a salary of \$3000 a year. He appoints a chief clerk and a cashier, and may appoint other assistants with the approval of the

board of control. It is the duty of the department to register all motor vehicles in the state, and to collect from their owners annually the fees required by law, issuing licenses as fees are paid.

**Page 226.** — The salary of the president of the San Francisco harbor board has been changed to \$5000.

**Page 231.** — One of the most important duties of the water commission is to investigate and settle conflicting claims to the use of water along the streams of the state. Such claims can be settled in this way more promptly and with less expense than by the courts.

**Page 232.** — The salary of the state mineralogist has been changed to \$5000.

The legislature of 1915 provided for a new department to be attached to the state mining bureau, and to be known as the "department of petroleum and gas." It is to be in the charge of a supervisor appointed by the state mineralogist, at a salary of \$4500 a year. When a well is drilled down to an oil or a gas deposit, the well must be properly cased, and great care must be taken in other ways to prevent water going down the opening from higher levels and doing great damage to the entire deposit. One careless operator may injure the property of many others. The department of petroleum and gas is charged with the duty of supervising the "drilling, operation, maintenance, or abandonment" of all oil and gas wells in the state in order to prevent the damage above referred to. All operators must carry on their work according to rules laid down by the department.

**Page 234.** — The horticultural commissioner is now appointed to serve during the pleasure of the governor, instead of for a four-year term.

**Page 240.** — The labor commissioner now maintains branch offices in Los Angeles, Sacramento, and San Diego; and is soon to establish free employment bureaus in San Francisco, Los Angeles, Oakland, and Sacramento. His salary is now \$4000 a year.

**Page 248.** — A new board of examiners known as the "state board of embalmers" has been established. This board consists of five members appointed by the governor, and its duty is to examine all persons who wish to become undertakers in the state. Examinations are to be held in San Francisco, Sacramento, and Los Angeles, — once annually in each place.

Page 249. — The hospital referred to in the footnote has been established at Norwalk, Los Angeles county. The hospital for the criminal insane at Folsom has never been completed, and work on it has been discontinued. The salary of the state dental surgeon has been changed to \$3600.

Page 252. — The new reform school, which is known as the California School for Girls, has been located near Ventura, and the girls from the Whittier school have been removed to it.

Page 261. — There are about 5000 positions which come under the jurisdiction of the state civil service commission.

Page 262. — In addition to the newly created departments of the state government which have been previously mentioned in this supplement notice should be taken of two others:

1. A "state commission market" has been provided for. It is to be under the control of a director who is to be appointed by the governor to serve for a term of four years, at a salary of \$5000 a year. The market is to have branches in various parts of the state and is to handle farm, dairy, and fishery products *for producers only*. Such products are to be received and sold to dealers, and other buyers on commission. The director may appoint a secretary and other assistants, and may rent necessary land and buildings to carry on his work. It is the aim of the market to assist in bringing the producer and the consumer closer together, the state acting as "middle man." It is an attempt on the part of the state to reduce the high cost of living. The state does not expect to make any profit in this business. The commission charged for handling products is to be sufficient only to make the enterprise self-supporting.

2. A "state irrigation department" has also been established. It is to be in charge of a board of three members who are to be appointed by the governor to serve for four years. Each member is to receive \$10 a day for the time he devotes to the public service. Heretofore public irrigation projects have been carried on by single irrigation districts. Each district has had the entire burden of developing and distributing its own water. If a number of districts could cooperate in the matter of developing a common water supply, more extensive projects of this nature could be undertaken, new sources of supply could be utilized, and the irrigated area of the state could be greatly



increased. The irrigation department was created to bring about such coöperation. If certain neighboring communities are capable of being served with water for irrigation purposes from some common source, the proper work of the department would be to influence each community to organize a local irrigation district and then to organize the whole section into a large district under state control — the large district to develop the water supply and deliver the water to the local districts for distribution among the consumers. The law creating the department directs that it shall coöperate with the federal government in carrying on its work wherever possible. This may be necessary because many sources of water supply are on government land; and it may be desirable because the federal government itself carries on such work on a large scale, and its coöperation would be of great value.

**Pages 264-266.** — The following should be added to the list:

Commission Market Director.

Embalmers, Board of five members.

Irrigation Board, State. Three members.

Purchasing Agent, State.

Superintendent of Motor Vehicle Department.

Viticultural Commissioners. Nine members (§ 188).

**Page 274.** — Previous to 1915 high schools received no assistance from the counties in which they were located. In 1915 the legislature passed a law to the effect that each county shall tax itself sufficient to enable it to contribute to the support of the high schools within its borders to the extent of \$60 a year per pupil on the basis of average daily attendance at school during the preceding year.

**Page 275.** — Item (c) (§ 187) should read as follows: "Special certificates of any grade, authorizing the holders to teach certain subjects, on credentials approved by, or according to qualifications established by, the state board."

**Page 277.** — The superintendent of public instruction since 1915 is by law the secretary of the state board of education.

**Page 278.** — The state normal schools have been placed under the general supervision of the state board of education, which now has power to make rules for their management, and to establish their courses of study.



Page 279. — The appropriation made by the legislature for the support of the elementary schools now amounts to \$15 instead of \$13 a year. The abolition of the poll tax deprives the school fund of one important source of revenue.

Page 282. — The new normal school which was provided for by the legislature of 1913 has been established at Arcata, Humboldt county.

Page 297, footnote 3. — The number of justices of the peace in Los Angeles township has been changed from four to six.

Page 301, footnote 2. — Hereafter Shasta county is to have only one superior judge, and Stanislaus county is to have two.

Page 309. — The provision that one shall be a taxpayer in order to qualify as a juror has been removed.

Women have served as jurors a few times in different parts of the state. The situation seems to be that they *may* serve as jurors, but that jury service cannot be *required* of them.

The state constitution was amended in some important particulars in 1914. The substance of these amendments may be briefly indicated as follows:

Page 349, IV, 31. — This section was amended so as to permit an irrigation district (a political subdivision of the state) in Imperial county to acquire the stock of a corporation in Mexico which owns part of the water system of the district — the system starting in California, running across the border into Mexico, and then coming back into California.

Page 354, V, 20. — This section was amended to read as follows: "United States Senators shall be elected by the people of the State in the manner provided by law."

Page 358, VI, 4½. — This section was amended by eliminating the word "criminal." As it now stands the provisions of the section apply to all cases, *civil* and *criminal*.

Page 372, XI, 6. — This section was amended in two respects:

1. Any city is permitted to turn over certain of its municipal work — such as the assessing of property, the collecting of taxes, the auditing of accounts, and the keeping of the city funds — to county officers.

2. Any city is permitted to provide in its charter that its governing

body may manage its municipal affairs, not according to a specific enumeration of powers, but subject only to the limitations found in the charter. Heretofore the powers of a city had to be definitely stated, item by item, in the charter; now they may be granted in general terms in so far as they relate to municipal affairs.

**Page 376, XI, 7½.** — A new subdivision, 4½, was added to this section which makes it competent for a county charter to empower county officers to do certain work for cities located within the county, if such cities request such work to be done. For example, a city may wish the county assessor to assess the property within its limits for purposes of municipal taxation, the county tax collector to collect the city taxes, the county treasurer to keep the city money, etc.

**Page 379, XI, 8.** — This section was amended in many particulars, the most important of which are as follows:

1. Permitting a general grant of power, as to municipal affairs, as stated above respecting section 6.

2. Providing that petitions for charter elections shall be verified by county clerks, and registrars of voters, instead of city clerks.

3. Permitting nominations of candidates for the office of freeholder to be made either by petition or in the same manner as the city nominates candidates for city offices.

4. Permitting the city council to extend the time for the completion of the charter by the freeholders from 120 to 180 days.

5. Providing for only one publication of the charter, instead of ten, and requiring that it be printed in pamphlet form for general distribution.

6. Providing that charter amendments may be submitted to the people at a special or general election within six months of the meeting of the legislature, or before it adjourns.

**Page 383, XI, 8½.** — This section was amended in two particulars:

1. Permitting any city to provide in its charter for a municipal court to take the place of the police court, and also of the township court having jurisdiction in the city. This would do away with the complications arising from the overlapping jurisdictions of township and police courts as explained on pages 298-300.

2. Providing a method whereby any city having a population of 50,000 may detach itself from the county in which it is located for

the purpose of forming a consolidated city and county. In order to carry through such a plan the people of the city, as well as of the entire county, would have to approve, and the consent of the state legislature would have to be obtained.

Page 384, XI, 13. — This section was amended so as to permit the legislature "to provide for the supervision, regulation, and conduct, in such manner as it may determine, of the affairs of irrigation districts, reclamation districts, or drainage districts." Some of these districts have been so poorly managed by their locally elected officers that it is becoming difficult for any of them to sell their bonds. It is hoped that if they are subjected to state supervision men with money to lend will have more confidence in them.

Section 13 $\frac{1}{2}$  was amended by adding "irrigation districts," to the public corporations specified, and by making "said bonds and the interest thereon payable at any place or places within or outside of the United States, and in any money, domestic or foreign, designated in said bonds."

Page 394, XII, 23. — This section was amended so as to give the legislature power to place the control of public utilities *within city limits* in the hands of the state railroad commission: a power which the legislature did not previously possess.

A new section, 23a, was added. It empowers the legislature to confer power upon the state railroad commission to fix the price to be paid by the state, or any city or other public corporation in the state, for any public utility which it may wish to acquire "through eminent domain proceedings."

Page 395, XIII, 1. — This section was amended so as to provide that "lands and improvements thereon located" owned by any city *outside its own limits* shall be subject to taxation, provided it was taxable when the city acquired it. All improvements made by the city on such property, however, shall be free from taxation.

A new section, 1a, was added which exempts from taxation the buildings, grounds (not exceeding 100 acres), and securities of any college in the state not conducted for profit.

Page 396, XIII, 4. — A new section was added exempting from taxation, except for state purposes, all vessels of over fifty tons burden that are registered in any port of this state.

**Page 398, XIII, 12.** — This section was amended to read as follows :  
“ No poll tax or head tax for any purpose whatever shall be levied or collected in the State of California.”

**Page 410.** — A new section, 17 $\frac{1}{2}$ , was added to article XX. It empowers the legislature to pass laws providing for the establishment of a minimum wage for women and minors, and for the comfort, health, safety, and general welfare of any and all employees.

**Page 430.** — San Bernardino county has amended its charter so as to make all county offices elective that are elective in other counties. Thus the long ballot is restored. Other features of the charter remain practically unchanged.





x R.B. - M.C.

x R.W. - H.M.

x E<sup>dg</sup> - F.B.

x W.TS. - O.W.

x D.P. - J.L.

x E.Q. - G.S.

x L.W. - F.M.





What verse-form have you written the  
poem in, and how many lines.



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