THE

STATUTES AT LARGE

OF THE

UNITED STATES OF AMERICA,

FROM

MARCH, 1909, TO MARCH, 1911,

CONCURRENT RESOLUTIONS OF THE TWO HOUSES OF CONGRESS,

AND

RECENT TREATIES, CONVENTIONS, AND EXECUTIVE PROCLAMATIONS.

EDITED, PRINTED, AND PUBLISHED BY AUTHORITY OF CONGRESS
UNDER THE DIRECTION OF THE SECRETARY OF STATE.

VOL. XXXVI.

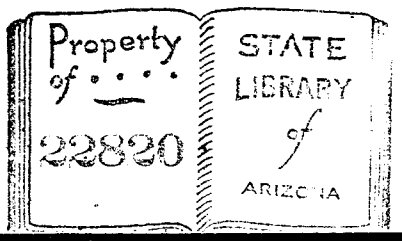
IN TWO PARTS.

PART 1—Public Acts and Resolutions.
PART 2—Private Acts and Resolutions, Concurrent Resolutions, Treaties, and Proclamations.

PART 1.

DEPARTMENT OF LIBRARY AND ARCHIVES
ARIZONA

WASHINGTON:
GOVERNMENT PRINTING OFFICE.
1911.



purposes of its investigations the commission shall be authorized to incur and have paid upon the certificate of its chairman such expenses as the commission shall deem necessary: *Provided, however,* That the total expenses authorized or incurred under the provisions of this section for compensation, employees, or otherwise, shall not exceed the sum of twenty-five thousand dollars.

Proviso. Restriction.

SEC. 17. That no interlocutory injunction suspending or restraining the enforcement, operation, or execution of any statute of a State by restraining the action of any officer of such State in the enforcement or execution of such statute shall be issued or granted by any justice of the supreme court, or by any circuit court of the United States, or by any judge thereof, or by any district judge acting as circuit judge, upon the ground of the unconstitutionality of such statute, unless the application for the same shall be presented to a justice of the Supreme Court of the United States, or to a circuit judge, or to a district judge acting as circuit judge, and shall be heard and determined by three judges, of whom at least one shall be a justice of the Supreme Court of the United States or a circuit judge, and the other two may be either circuit or district judges, and unless a majority of said three judges shall concur in granting such application. Whenever such application as aforesaid is presented to a justice of the Supreme Court of the United States, or to a judge, he shall immediately call to his assistance to hear and determine the application two other judges: *Provided, however,* That one of such three judges shall be a justice of the Supreme Court of the United States or a circuit judge. Said application shall not be heard or determined before at least five days' notice of the hearing has been given to the governor and to the attorney-general of the State, and to such other persons as may be defendants in the suit: *Provided,* That if of opinion that irreparable loss or damage would result to the complainant unless a temporary restraining order is granted, any justice of the Supreme Court of the United States, or any circuit or district judge, may grant such temporary restraining order at any time before such hearing and determination of the application for an interlocutory injunction, but such temporary restraining order shall only remain in force until the hearing and determination of the application for an interlocutory injunction upon notice as aforesaid. The hearing upon such application for an interlocutory injunction shall be given precedence and shall be in every way expedited and be assigned for a hearing at the earliest practicable day after the expiration of the notice hereinbefore provided for. An appeal may be taken directly to the Supreme Court of the United States from the order granting or denying, after notice and hearing, an interlocutory injunction in such case.

State statutes. Injunctions based on alleged unconstitutionality of, restricted. *Post,* p. 1162.

Hearing before three judges.

Provisos. Qualification of judges.

Notice to state officials, etc.

Temporary restraining order to prevent irreparable damage.

Precedence, etc., to hearings.

Direct appeal to Supreme Court.

SEC. 18. That this Act shall take effect and be in force from and after the expiration of sixty days after its passage, except as to sections twelve and sixteen, which sections shall take effect and be in force immediately.

To take effect in sixty days. Sections 12 and 16, immediately.

Approved, June 18, 1910.

CHAP. 310.—An Act To enable the people of New Mexico to form a constitution and state government and be admitted into the Union on an equal footing with the original States; and to enable the people of Arizona to form a constitution and state government and be admitted into the Union on an equal footing with the original States.

June 20, 1910. [H. R. 18166.] [Public, No. 219.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the qualified electors of the Territory of New Mexico are hereby authorized to vote for and choose delegates to form a constitutional convention for said Territory for the purpose of framing a constitution for the proposed State of New Mexico. Said convention shall consist of one hundred delegates;

Admission of new States. New Mexico. Constitutional convention. Election of delegates. Apportionment.

and the governor, chief justice, and secretary of said Territory shall apportion the delegates to be thus selected, as nearly as may be, equitably among the several counties thereof in accordance with the voting population, as shown by the vote cast at the election for Delegate in Congress in said Territory in nineteen hundred and eight:

Proviso. Counties added since 1908.

Provided, That in the event that any new counties shall have been added after said election, the apportionment for delegates shall be made proportionate to the vote cast within the various precincts contained in the area of such new counties so created, and the proportionate number of delegates so apportioned shall be deducted from the original counties out of which such counties shall have been created.

Proclamation by governor for election.

The governor of said Territory shall, within thirty days after the approval of this Act, by proclamation, in which the aforesaid apportionment of delegates to the convention shall be fully specified and announced, order an election of the delegates aforesaid on a day designated by him in said proclamation, not earlier than sixty nor later than ninety days after the approval of this Act. Such election for delegates shall be held and conducted, the returns made, and the certificates of persons elected to such convention issued, as nearly as may be, in the same manner as is prescribed by the laws of said Territory regulating elections therein of members of the legislature existing at the time of the last election of said members of the legislature; and the provisions of said laws in all respects, including the qualifications of electors and registration, are hereby made applicable to the election herein provided for; and said convention, when so called to order and organized, shall be the sole judge of the election and qualifications of its own members. Qualifications to entitle persons to vote on the ratification or rejection of the constitution formed by said convention when said constitution shall be submitted to the people of said Territory hereunder shall be the same as the qualifications to entitle persons to vote for delegates to said convention.

Conduct of election.

Territorial laws applicable.

Qualifications of electors.

Meeting of convention.

SEC. 2. That the delegates to the convention thus elected shall meet in the hall of the house of representatives in the capital of the Territory of New Mexico at twelve o'clock noon on the fourth Monday after their election, and they shall receive compensation for the period they actually are in session, but not for more than sixty days in all. After organization they shall declare on behalf of the people of said proposed State that they adopt the Constitution of the United States, whereupon the said convention shall be, and is hereby, authorized to form a constitution and provide for a state government for said proposed State, all in the manner and under the conditions contained in this Act. The constitution shall be republican in form and make no distinction in civil or political rights on account of race or color, and shall not be repugnant to the Constitution of the United States and the principles of the Declaration of Independence.

Duties.

Constitution. General principles.

Provisions.

And said convention shall provide, by an ordinance irrevocable without the consent of the United States and the people of said State—

Religious freedom.

First. That perfect toleration of religious sentiment shall be secured, and that no inhabitant of said State shall ever be molested in person or property on account of his or her mode of religious worship; and that polygamous or plural marriages, or polygamous cohabitation, and the sale, barter, or giving of intoxicating liquors to Indians and the introduction of liquors into Indian country, which term shall also include all lands now owned or occupied by the Pueblo Indians of New Mexico, are forever prohibited.

Polygamy and giving liquor to Indians prohibited.

Pueblo Indian lands.

Disclaimer of right to public or Indian lands.

Second. That the people inhabiting said proposed State do agree and declare that they forever disclaim all right and title to the unappropriated and ungranted public lands lying within the boundaries

thereof and to all lands lying within said boundaries owned or held by any Indian or Indian tribes the right or title to which shall have been acquired through or from the United States or any prior sovereignty, and that until the title of such Indian or Indian tribes shall have been extinguished the same shall be and remain subject to the disposition and under the absolute jurisdiction and control of the Congress of the United States; that the lands and other property belonging to citizens of the United States residing without the said State shall never be taxed at a higher rate than the lands and other property belonging to residents thereof; that no taxes shall be imposed by the State upon lands or property therein belonging to or which may hereafter be acquired by the United States or reserved for its use; but nothing herein, or in the ordinance herein provided for, shall preclude the said State from taxing, as other lands and other property are taxed, any lands and other property outside of an Indian reservation owned or held by any Indian, save and except such lands as have been granted or acquired as aforesaid or as may be granted or confirmed to any Indian or Indians under any Act of Congress, but said ordinance shall provide that all such lands shall be exempt from taxation by said State so long and to such extent as Congress has prescribed or may hereafter prescribe.

Equality of taxation.

Taxing lands of Indians not in reservations.

Third. That the debts and liabilities of said Territory of New Mexico and the debts of the counties thereof which shall be valid and subsisting at the time of the passage of this Act shall be assumed and paid by said proposed State, and that said State shall, as to all such debts and liabilities, be subrogated to all the rights, including rights of indemnity and reimbursement, existing in favor of said Territory or of any of the several counties thereof at the time of the passage of this Act: *Provided*, That nothing in this Act shall be construed as validating or in any manner legalizing any territorial, county, municipal, or other bonds, obligations, or evidences of indebtedness of said Territory or the counties or municipalities thereof which now are or may be invalid or illegal at the time said proposed State is admitted, nor shall the legislature of said proposed State pass any law in any manner validating or legalizing the same.

Assumption of Territorial debts.

Proviso. Invalid bonds excepted.

Fourth. That provision shall be made for the establishment and maintenance of a system of public schools, which shall be open to all the children of said State and free from sectarian control, and that said schools shall always be conducted in English.

Provision for public schools.

Fifth. That said State shall never enact any law restricting or abridging the right of suffrage on account of race, color, or previous condition of servitude, and that ability to read, write, speak, and understand the English language sufficiently well to conduct the duties of the office without the aid of an interpreter shall be a necessary qualification for all State officers and members of the state legislature.

Right of suffrage.

Knowledge of English.

Sixth. That the capital of said State shall, until changed by the electors voting at an election provided for by the legislature of said State for that purpose, be at the city of Santa Fe, but no election shall be called or provided for prior to the thirty-first day of December, nineteen hundred and twenty-five.

Capital to be at Santa Fe until 1926.

Seventh. That there be and are reserved to the United States, with full acquiescence of the State, all rights and powers for the carrying out of the provisions by the United States of the Act of Congress entitled "An Act appropriating the receipts from the sale and disposal of public lands in certain States and Territories to the construction of irrigation works for the reclamation of arid lands," approved June seventeenth, nineteen hundred and two, and Acts amendatory thereof or supplementary thereto, to the same extent as if said State had remained a Territory.

Acquiescence in reclamation projects. Vol. 32, p. 388; Vol. 34, pp. 116, 519.

Liquor prohibited on opened Indian reservations.

Eighth. That whenever hereafter any of the lands contained within Indian reservations or allotments in said proposed State shall be allotted, sold, reserved, or otherwise disposed of, they shall be subject for a period of twenty-five years after such allotment, sale, reservation, or other disposal to all the laws of the United States prohibiting the introduction of liquor into the Indian country; and the terms "Indian" and "Indian country" shall include the Pueblo Indians of New Mexico and the lands now owned or occupied by them.

Consent to conditions of lands granted to State

Ninth. That the State and its people consent to all and singular the provisions of this Act concerning the lands hereby granted or confirmed to the State, the terms and conditions upon which said grants and confirmations are made, and the means and manner of enforcing such terms and conditions, all in every respect and particular as in this Act provided.

Changes of foregoing forbidden.

All of which ordinance described in this section shall, by proper reference, be made a part of any constitution that shall be formed hereunder, in such terms as shall positively preclude the making by any future constitutional amendment of any change or abrogation of the said ordinance in whole or in part without the consent of Congress.

Submission of constitution to people.
Time for election.

SEC. 3. That when said constitution shall be formed as aforesaid the convention forming the same shall provide for the submission of said constitution to the people of New Mexico for ratification at an election which shall be held on a day named by said convention not earlier than sixty nor later than ninety days after said convention adjourns, at which election the qualified voters of New Mexico shall vote directly for or against said constitution and for or against any

Canvass of returns.

provisions thereof separately submitted. The returns of said election shall be made by the election officers direct to the secretary of the Territory of New Mexico at Santa Fe, who, with the governor and the chief justice of said Territory, shall constitute a canvassing board, and they, or any two of them, shall meet at said city of Santa Fe on the third Monday after said election and shall canvass the

Certificate of rejection.

same. If a majority of the legal votes cast at said election shall reject the constitution, the said canvassing board shall forthwith certify said result to the governor of said Territory, together with the statement of votes cast upon the question of the ratification or rejection of said constitution and also a statement of the votes cast for or against such provisions thereof as were separately submitted

Reassembling of convention.

to the voters at said election; whereupon the governor of said Territory shall, by proclamation, order the constitutional convention to reassemble at a date not later than twenty days after the receipt by said governor of the documents showing the rejection of the

Action on new constitution.

constitution by the people, and thereafter a new constitution shall be framed and the same proceedings shall be taken in regard thereto in like manner as if said constitution were being originally prepared for submission and submitted to the people.

Submission to President and to Congress.

SEC. 4. That when said constitution and such provisions thereof as have been separately submitted shall have been duly ratified by the people of New Mexico as aforesaid a certified copy of the same shall be submitted to the President of the United States and to Congress for approval, together with the statement of the votes cast thereon and upon any provisions thereof which were separately sub-

Notification of approval.

mitted to and voted upon by the people. And if Congress and the President approve said constitution and the said separate provisions thereof, or, if the President approves the same and Congress fails to disapprove the same during the next regular session thereof, then and in that event the President shall certify said facts to the governor of New Mexico, who shall, within thirty days after the receipt of said

notification from the President of the United States, issue his proclamation for the election of the state and county officers, the members of the state legislature and Representatives in Congress, and all other officers provided for in said constitution, all as hereinafter provided; said election to take place not earlier than sixty days nor later than ninety days after said proclamation by the governor of New Mexico ordering the same.

Proclamation by governor for election of officers.

Time.

SEC. 5. That said constitutional convention shall, by ordinance, provide that in case of the ratification of said constitution by the people, and in case the President of the United States and Congress approve the same, or in case the President approves the same and Congress fails to act in its next regular session, all as hereinbefore provided, an election shall be held at the time named in the proclamation of the governor of New Mexico, provided for in the preceding section, at which election officers for a full state government, including a governor, members of the legislature, two Representatives in Congress, to be elected at large from said State, and such other officers as such constitutional convention shall prescribe, shall be chosen by the people. Such election shall be held, the returns thereof made, canvassed, and certified to by the secretary of said Territory in the same manner as in this Act prescribed for the making of the returns, the canvassing and certification of the same of the election for the ratification or rejection of said constitution, as hereinbefore provided, and the qualifications of voters at said election for all state officers, members of the legislature, county officers, and Representatives in Congress, and other officers prescribed by said constitution shall be made the same as the qualifications of voters at the election for the ratification or rejection of said constitution as hereinbefore provided. When said election of said state and county officers, members of the legislature, and Representatives in Congress, and other officers above provided for shall be held and the returns thereof made, canvassed, and certified as hereinbefore provided, the governor of the Territory of New Mexico shall certify the result of said election, as canvassed and certified as herein provided, to the President of the United States, who thereupon shall immediately issue his proclamation announcing the result of said election so ascertained, and upon the issuance of said proclamation by the President of the United States the proposed State of New Mexico shall be deemed admitted by Congress into the Union, by virtue of this Act, on an equal footing with the other States. Until the issuance of said proclamation by the President of the United States, and until the said State is so admitted into the Union and said officers are elected and qualified under the provisions of the Constitution, the county and territorial officers of said Territory, including the Delegate in Congress thereof elected at the general election in nineteen hundred and eight, shall continue to discharge the duties of their respective offices in and for said Territory: *Provided*, That no session of the territorial legislative assembly shall he held in nineteen hundred and eleven.

Convention to provide for election of officers.

Election, returns, etc.

Certification of result.

Admission as State by President's proclamation.

Service of Territorial officers.

Proviso.
No legislative session in 1911.

SEC. 6. That in addition to sections sixteen and thirty-six, heretofore granted to the Territory of New Mexico, sections two and thirty-two in every township in said proposed State not otherwise appropriated at the date of the passage of this Act are hereby granted to the said State for the support of common schools; and where sections two, sixteen, thirty-two, and thirty-six, or any parts thereof, are mineral, or have been sold, reserved, or otherwise appropriated or reserved by or under the authority of any Act of Congress, or are wanting or fractional in quantity, or where settlement thereon with a view to preemption or homestead, or improvement thereof with a view to desert-land entry has been made heretofore or hereafter, and before the survey thereof in the field, the provisions of sections twenty-two hundred and seventy-five and twenty-two hundred and seventy-six

Public lands.
Additional grant for common schools.

Selections in lieu of mineral, etc., lands.

R. S., secs. 2275, 2276, p. 417.

of the Revised Statutes are hereby made applicable thereto and to the selection of lands in lieu thereof to the same extent as if sections two and thirty-two, as well as sections sixteen and thirty-six, were mentioned therein: *Provided, however,* That the area of such indemnity selections on account of any fractional township shall not in any event exceed an area which, when added to the area of the above-named sections returned by the survey as in place, will equal four sections for fractional townships containing seventeen thousand two hundred and eighty acres or more, three sections for such townships containing eleven thousand five hundred and twenty acres or more, two sections for such townships containing five thousand seven hundred and sixty acres or more, nor one section for such township containing six hundred and forty acres or more: *And provided further,* That the grants of sections two, sixteen, thirty-two, and thirty-six to said State, within national forests now existing or proclaimed, shall not vest the title to said sections in said State until the part of said national forests embracing any of said sections is restored to the public domain; but said granted sections shall be administered as a part of said forests, and at the close of each fiscal year there shall be paid by the Secretary of the Treasury to the State, as income for its common-school fund, such proportion of the gross proceeds of all the national forests within said State as the area of lands hereby granted to said State for school purposes which are situate within said forest reserves, whether surveyed or unsurveyed, and for which no indemnity has been selected, may bear to the total area of all the national forests within said State, the area of said sections when unsurveyed to be determined by the Secretary of the Interior, by protraction or otherwise, the amount necessary for such payments being appropriated and made available annually from any money in the Treasury not otherwise appropriated.

Provisos.
Restriction of indemnity selections.

Lands in national forests.

Lands in lieu of grants.
Internal improvements.
Vol. 5, p. 455.
Swamp lands.
Vol. 9, p. 519.
R. S., sec. 2479, p. 453.
Agricultural college.
Vol. 12, p. 503.

SEC. 7. That in lieu of the grant of land for purposes of internal improvements made to new States by the eighth section of the Act of September fourth, eighteen hundred and forty-one, and in lieu of the swamp-land grant made by the Act of September twenty-eighth, eighteen hundred and fifty, and section twenty-four hundred and seventy-nine of the Revised Statutes, and in lieu of the grant of thirty thousand acres for each Senator and Representative in Congress, made by the Act of July second, eighteen hundred and sixty-two, Twelfth Statutes at Large, page five hundred and three, which grants are hereby declared not to extend to the said State, and in lieu of the grant of saline lands heretofore made to the Territory of New Mexico for university purposes by section three of the Act of June twenty-first, eighteen hundred and ninety-eight, which is hereby repealed, except to the extent of such approved selections of such saline lands as may have been made by said Territory prior to the passage of this Act, the following grants of lands are hereby made, to wit:

Saline lands.
Vol. 30, p. 484.

Allotment.
University.
State buildings.
Insane asylums.
Penitentiaries.
Schools for deaf, etc.
Miners' hospitals.
Normal schools.
Charitable, etc., institutions.
Agricultural, etc., colleges.

For university purposes, two hundred thousand acres; for legislative, executive, and judicial public buildings heretofore erected in said Territory or to be hereafter erected in the proposed State, and for the payment of the bonds heretofore or hereafter issued therefor, one hundred thousand acres; for insane asylums, one hundred thousand acres; for penitentiaries, one hundred thousand acres; for schools and asylums for the deaf, dumb, and the blind, one hundred thousand acres; for miners' hospitals for disabled miners, fifty thousand acres; for normal schools, two hundred thousand acres; for state charitable, penal, and reformatory institutions, one hundred thousand acres; for agricultural and mechanical colleges, one hundred and fifty thousand acres; and the national appropriation heretofore annually paid for the agricultural and mechanical college to said Territory shall, until further order of Congress, continue to be paid to said State for the use

Annual appropriations continued.

of said institution; for school of mines, one hundred and fifty thousand acres; for military institutes, one hundred thousand acres; and for the payment of the bonds and accrued interest thereon issued by Grant and Santa Fe Counties, New Mexico, which said bonds were validated, approved, and confirmed by Act of Congress of January sixteenth, eighteen hundred and ninety-seven (Twenty-ninth statutes, page four hundred and eighty-seven), one million acres: *Provided*, That if there shall remain any of the one million acres of land so granted, or of the proceeds of the sale or lease thereof, or rents, issues, or profits therefrom, after the payment of said debts, such remainder of lands and the proceeds of sales thereof shall be added to and become a part of the permanent school fund of said State, the income therefrom only to be used for the maintenance of the common schools of said State.

School of mines.
Military institutes.
Bonds of Grant and Santa Fe counties.

Vol. 29, p. 487.

Proviso.
Balance to common schools.

SEC. 8. That the schools, colleges, and universities provided for in this Act shall forever remain under the exclusive control of the said State, and no part of the proceeds arising from the sale or disposal of any lands granted herein for educational purposes shall be used for the support of any sectarian or denominational school, college, or university.

Control of schools, etc.

Sectarian prohibition.

SEC. 9. That five per centum of the proceeds of sales of public lands lying within said State, which shall be sold by the United States subsequent to the admission of said State into the Union, after deducting all the expenses incident to such sales, shall be paid to the said State to be used as a permanent inviolable fund, the interest of which only shall be expended for the support of the common schools within said State.

Use of 5 per cent fund for common schools.

SEC. 10. That it is hereby declared that all lands hereby granted, including those which, having been heretofore granted to the said Territory, are hereby expressly transferred and confirmed to the said State, shall be by the said State held in trust, to be disposed of in whole or in part only in manner as herein provided and for the several objects specified in the respective granting and confirmatory provisions, and that the natural products and money proceeds of any of said lands shall be subject to the same trusts as the lands producing the same.

Lands and proceeds to be held in trust.

Disposition of any of said lands, or of any money or thing of value directly or indirectly derived therefrom, for any object other than that for which such particular lands, or the lands from which such money or thing of value shall have been derived, were granted or confirmed, or in any manner contrary to the provisions of this Act, shall be deemed a breach of trust.

Disposal for other purposes a breach of trust.

No mortgage or other incumbrance of the said lands, or any thereof, shall be valid in favor of any person or for any purpose or under any circumstances whatsoever. Said lands shall not be sold or leased, in whole or in part, except to the highest and best bidder at a public auction to be held at the county seat of a county wherein the lands to be affected, or the major portion thereof, shall lie, notice of which public auction shall first have been duly given by advertisement, which shall set forth the nature, time, and place of the transaction to be had, with a full description of the lands to be offered, and be published once each week for not less than ten successive weeks in a newspaper of general circulation published regularly at the state capital, and in that newspaper of like circulation which shall then be regularly published nearest to the location of such lands so offered; nor shall any sale or contract for the sale of any timber or other natural product of such lands be made, save at the place, in the manner, and after the notice by publication thus provided for sales and leases of the lands themselves: *Provided*, That nothing herein contained shall prevent said proposed State from leasing any of said

Mortgages forbidden.

Sales and leases to highest bidder.

Advertisement.

Sales of timber, etc.

Proviso.
Short leases.

lands referred to in this section for a term of five years or less without said advertisement herein required.

Appraisal and sales.

All lands, leaseholds, timber, and other products of land before being offered shall be appraised at their true value, and no sale or other disposal thereof shall be made for a consideration less than the value so ascertained, nor in any case less than the minimum price hereinafter fixed, nor upon credit unless accompanied by ample security, and the legal title shall not be deemed to have passed until the consideration shall have been paid.

Minimum prices.

Lands east of the line between ranges eighteen and nineteen east of the New Mexico principal meridian shall not be sold for less than five dollars per acre, and lands west of said line shall not be sold for less than three dollars per acre, and no lands which are or shall be susceptible of irrigation under any projects now or hereafter completed or adopted by the United States under legislation for the reclamation of lands, or under any other project for the reclamation of lands, shall be sold at less than twenty-five dollars per acre: *Provided*, That said State, at the request of the Secretary of the Interior, shall from time to time relinquish such of its lands to the United States as at any time are needed for irrigation works in connection with any such government project. And other lands in lieu thereof are hereby granted to said State, to be selected from lands of the character named and in the manner prescribed in section eleven of this Act.

Irrigable lands.

Proviso.
Relinquishment for reclamation projects.

Lieu selections.

Water-power reservations.

There is hereby reserved to the United States and exempted from the operation of any and all grants made or confirmed by this Act to said proposed State all land actually or prospectively valuable for the development of water powers or power for hydroelectric use or transmission and which shall be ascertained and designated by the Secretary of the Interior within five years after the proclamation of the President declaring the admission of the State; and no lands so reserved and excepted shall be subject to any disposition whatsoever by said State, and any conveyance or transfer of such land by said State or any officer thereof shall be absolutely null and void within the period above named; and in lieu of the land so reserved to the United States and excepted from the operation of any of said grants, there be, and is hereby, granted to the proposed State an equal quantity of land to be selected from land of the character named and in the manner prescribed in section eleven of this Act.

Lieu selections.

Separate funds of proceeds.

A separate fund shall be established for each of the several objects for which the said grants are hereby made or confirmed, and whenever any moneys shall be in any manner derived from any of said land the same shall be deposited by the state treasurer in the fund corresponding to the grant under which the particular land producing such moneys were by this Act conveyed or confirmed. No moneys shall ever be taken from one fund for deposit in any other, or for any object other than that for which the land producing the same was granted or confirmed. The state treasurer shall keep all such moneys invested in safe interest-bearing securities, which securities shall be approved by the governor and secretary of state of said proposed State, and shall at all times be under a good and sufficient bond or bonds conditioned for the faithful performance of his duties in regard thereto as defined by this Act and the laws of the State not in conflict herewith.

Investment, etc.

Irregular sales, etc., void.

Every sale, lease, conveyance, or contract of or concerning any of the lands hereby granted or confirmed, or the use thereof or the natural products thereof, not made in substantial conformity with the provisions of this Act shall be null and void, any provision of the constitution or laws of the said State to the contrary notwithstanding.

Enforcement of land provisions.

It shall be the duty of the Attorney-General of the United States to prosecute in the name of the United States and its courts such proceedings at law or in equity as may from time to time be necessary

and appropriate to enforce the provisions hereof relative to the application and disposition of the said lands and the products thereof and the funds derived therefrom.

Rights of State and citizens.

Nothing herein contained shall be taken as in limitation of the power of the State or of any citizen thereof to enforce the provisions of this Act.

Commission to select granted lands.

SEC. 11. That all lands granted in quantity or as indemnity by this Act shall be selected, under the direction and subject to the approval of the Secretary of the Interior, from the surveyed, unreserved, unappropriated, and nonmineral public lands of the United States within the limits of said State, by a commission composed of the governor, surveyor-general, or other officer exercising the functions of a surveyor-general, and the attorney-general of the said State; and after its admission into the Union said State may procure public lands of the United States within its boundaries to be surveyed with a view to satisfying any public-land grants made to said State in the same manner prescribed for the procurement of such surveys by Washington, Idaho, and other States by the Act of Congress approved August eighteenth, eighteen hundred and ninety-four (Twenty-eighth Statutes at Large, page three hundred and ninety-four), and the provisions of said Act, in so far as they relate to such surveys and the preference right of selection, are hereby extended to the said State of New Mexico. The fees to be paid to the register and receiver for each final location or selection of one hundred and sixty acres made hereunder shall be one dollar.

Surveys.

Vol. 28, p. 394.

Territorial grants confirmed to State.

SEC. 12. That all grants of lands heretofore made by any Act of Congress to said Territory, except to the extent modified or repealed by this Act, are hereby ratified and confirmed to said State, subject to the provisions of this Act: *Provided, however,* That nothing in this Act contained shall, directly or indirectly, affect any litigation now pending and to which the United States is a party, or any right or claim therein asserted.

Proviso.
Pending litigation.

Judicial district created.
Courts.
In eighth circuit.

SEC. 13. That the State, when admitted as aforesaid, shall constitute one judicial district, and the circuit and district courts of said district shall be held at the capital of said State, and the said district shall, for judicial purposes, be attached to the eighth judicial circuit. There shall be appointed for said district one district judge, one United States attorney, and one United States marshal. The judge of said district shall receive a yearly salary the same as other similar judges of the United States, payable as provided for by law, and shall reside in the district to which he is appointed. There shall be appointed clerks of said courts, who shall keep their offices at the capital of said State. The regular terms of said courts shall be held on the first Monday in April and the first Monday in October of each year. The circuit and district courts for said district, and the judges thereof, respectively, shall possess the same powers and jurisdiction and perform the same duties required to be performed by the other circuit and district courts and judges of the United States, and shall be governed by the same laws and regulations. The marshal, district attorney, and the clerks of the circuit and district courts of said district, and all other officers and persons performing duties in the administration of justice therein, shall severally possess the powers and perform the duties lawfully possessed and required to be performed by similar officers in other districts of the United States, and shall, for the services they may perform, receive the fees and compensation now allowed by law to officers performing similar services for the United States in the Territory of New Mexico.

Judge, attorney, and marshal.

Clerks.

Terms.

Jurisdiction, etc.

Determination of pending appeals and writs of error.

SEC. 14. That all cases of appeal or writ of error and all other proceedings heretofore lawfully prosecuted and now pending in the Supreme Court of the United States or in the proper circuit court of

appeals upon any record from the supreme court of said Territory, and all cases of appeal or writ of error and all other proceedings heretofore lawfully prosecuted and now pending in the Supreme Court of the United States upon any record from a district court of said Territory or in any matter of habeas corpus upon any return or order of a district judge thereof, and all and singular the cases aforesaid which, hereafter shall be so lawfully prosecuted and remain pending in the Supreme Court of the United States or in the proper circuit court of appeals, may be heard and determined by the Supreme Court of the United States or the proper circuit court of appeals, as the case may be. And the mandate of execution or of further proceedings shall be directed by the Supreme Court of the United States or the circuit court of appeals to the circuit or district court, hereby established within the said State, or to the supreme court of such State, as the nature of the case may require. And the circuit, district, and state courts herein named shall respectively be the successors of the supreme court and of the district courts of the said Territory as to all such cases arising within the limits embraced within the jurisdiction of said courts, respectively, with full power to proceed with the same and award mesne or final process therein; and that from all judgments and decrees or other determinations of any court of the said Territory, in any case begun prior to admission, the parties to such cause shall have the same right to prosecute appeals and writs of error to the Supreme Court of the United States or to the circuit court of appeals as they would have had by law prior to the admission of said State into the Union.

Succession of courts.

Transfer of Federal cases.

SEC. 15. That the said circuit or the said district court, as the case may be, shall have jurisdiction to hear and determine all trials, proceedings, and questions arising, or which may be raised, in any case or controversy pending in any of the courts other than the supreme court of the said Territory at the date of its admission as a State, the case being such that, under the laws of the United States touching the jurisdictions of federal courts, it might properly have been begun in or (as a separable controversy or otherwise) removed to said circuit or said district court, had they been established when the litigation of such case or controversy was commenced. Should such case or controversy be such that, if begun within a State, it would have fallen within the exclusive original cognizance of a circuit or district court of the United States sitting therein, it shall be transferred to the one or the other of said courts sitting within said State of New Mexico, with due regard for the general provisions of law defining their respective jurisdictions; but should such case or controversy be by nature one of those which under such general jurisdictional provisions fall within the concurrent but not the exclusive jurisdiction of such courts, then such transfer may be had upon application of any party to such case or controversy, to be made as nearly as may be in the manner now provided for removal of cases from state to federal courts, and not later than sixty days after the lodgment of the record of such case or controversy in the proper court of the State, as herein provided. All cases and controversies pending at the admission of the State, and not transferable to the said circuit or district court under the foregoing provision, shall be heard and determined by the proper court of the State. All files, records, and proceedings relating to any such pending cases or controversies shall be transferred to such circuit, district, and state courts, respectively, in such wise and so authenticated or proven as such courts shall, respectively, by rule direct, and upon transfer of any case or controversy, as herein provided, the same shall be proceeded with in due course of law; and no writ, action, indictment, information, cause, or proceeding pending in any court of the said Territory at the time of its admission as a

To circuit or district court.

Other cases.

Pending proceedings not abated.

State shall abate or be deemed ineffective by reason of such admission, but the same shall be transferred and proceeded with in the proper circuit or district court of the United States, or state court, as the case may be: *Provided, however,* That all cases pending and undisposed of in the supreme court of the said Territory at the time of the admission thereof as a State shall be transferred, together with the records thereof, to the highest appellate court of the State, and shall be heard and determined thereby, and appeal to and writ of error from the Supreme Court of the United States shall lie to review all such cases in accordance with the rules and principles applicable to the review by that tribunal of cases determined by state courts: *Provided further,* That all cases so pending in said territorial supreme court in which the United States is a party or which, if instituted within a State, would have fallen within the exclusive original cognizance of a circuit or district court of the United States, shall, with the records appertaining thereto, be transferred to the circuit court of appeals for the eighth circuit, and be there heard and decided; and any such case which, if finally decided by the supreme court of the Territory, would have been in any manner reviewable by the Supreme Court of the United States, may in like manner and with like effect be so reviewed after final decision thereof by said circuit court of appeals. Transfers of all files and records from the said territorial supreme court to the highest appellate court of the State and to the said circuit court of appeals, shall be accomplished in such manner and under such proofs and authentications as the two last-mentioned courts shall respectively by rule prescribe.

Provisos.
Determination of State cases.

Transfers to circuit court of appeals.

All civil causes of action and all criminal offenses which shall have arisen or been committed prior to the admission of said Territory as a State, but as to which no suit, action, or prosecution shall be pending at the date of such admission, shall be subject to prosecution in the courts of said State and the said circuit or district courts of the United States sitting therein, and to review in the appellate courts of such respective sovereignties in like manner and to the same extent as if said State had been created and such circuit, district, and state courts had been established prior to the accrual of such causes of action and the commission of such offenses; and in effectuation of this provision such of the said criminal offenses as shall have been committed against the laws of the said Territory shall be tried and punished by the appropriate courts of the said State, and such as shall have been committed against the laws of the United States shall be tried and punished in the circuit or district courts of the United States.

Suits not begun before admission.

All suits and actions brought by the United States in which said Territory is named as a party defendant, which shall be pending in any court of said Territory at the date of its admission hereunder, shall be transferred as herein provided; and the said State shall be substituted therein and become a party defendant thereto in lieu of said Territory.

State substituted for Territory, as defendant in Federal cases.

SEC. 16. That the members of the legislature elected at the election hereinbefore provided for may assemble at Santa Fe, organize, and elect two Senators of the United States in the manner now prescribed by the Constitution and laws of the United States; and the governor and secretary of state of the proposed State shall certify the election of the Senators and Representatives in the manner required by law; and the Senators and Representatives so elected shall be entitled to be admitted to seats in Congress and to all rights and privileges of Senators and Representatives of other States in the Congress of the United States; and the officers of the state government formed in pursuance of said constitution, as provided by the constitutional convention, shall proceed to exercise all the functions of state officers; and all laws of said Territory in force at the time of its admission into the Union shall be in force in said State until changed by the legis-

Assembling of legislature.

Certifying election of Senators and Representatives.

Operation of State government.

Territorial laws continued.

United States laws.

lature of said State, except as modified or changed by this Act or by the constitution of the State; and the laws of the United States shall have the same force and effect within the said State as elsewhere within the United States.

Appropriation for election and convention expenses.

SEC. 17. That the sum of one hundred thousand dollars, or so much thereof as may be necessary, is hereby appropriated, out of any money in the Treasury not otherwise appropriated, for defraying all and every kind and character of expense incident to the elections and convention provided for in this Act; that is, the payment of the expenses of holding the election for members of the constitutional convention and the election for the ratification of the constitution, at the same rates that are paid for similar services under the territorial laws, and for the payment of the mileage for and salaries of members of the constitutional convention at the same rates that are paid to members of the said territorial legislature under national law, and for the payment of all proper and necessary expenses, officers, clerks, and messengers thereof, and printing and other expenses incident thereto: *Provided*, *Proviso.* Excess by State.

Expenditures.

That any expense incurred in excess of said sum of one hundred thousand dollars shall be paid by said State. The said money shall be expended under the direction of the Secretary of the Interior, and shall be forwarded, to be locally expended in the present Territory of New Mexico, through the secretary of said Territory as may be necessary and proper, in the discretion of the Secretary of the Interior, in order to carry out the full intent and meaning of this Act.

Saline lands reserved.

SEC. 18. That all saline lands in the proposed State of New Mexico are hereby reserved from entry, location, selection, or settlement until such time as Congress shall hereafter provide for their disposition.

Arizona. Constitutional convention. Election of delegates. Apportionment.

SEC. 19. That the qualified electors of the Territory of Arizona are hereby authorized to vote for and choose delegates to form a constitutional convention for said Territory for the purpose of framing a constitution for the proposed State of Arizona. Said convention shall consist of fifty-two delegates; and the governor, chief justice, and secretary of said Territory shall apportion the delegates to be thus selected, as nearly as may be, equitably among the several counties thereof in accordance with the voting population as shown by the vote cast at the election for Delegate in Congress in said Territory in nineteen hundred and eight.

Qualifications of voters.

A qualified elector within the meaning of this section shall be any male citizen of the United States of the age of twenty-one years who shall have resided in the Territory at least twelve months next preceding the date fixed for the election of delegates to the constitutional convention, as herein provided for, and who shall possess in other respects the qualifications of an elector as provided by title twenty, Revised Statutes of Arizona, August second, nineteen hundred and one. Within ten days after the issuance of the governor's proclamation ordering the election of delegates to the constitutional convention, as herein provided, the board of supervisors of each county of the Territory shall meet and authorize and require a reregistration of the qualified electors of said county: *Provided, however*, That there need not be a reregistration of the qualified electors whose names appear on the great register of said county for the year nineteen hundred and eight, but all such names, together with such as may be registered under the provisions of this section, shall constitute the great register of said county and be used at each of the elections herein provided for; and so far as the same is consistent with the provisions of this Act, such registration, as also the making up, printing, distribution, and use of such great register, shall in all respects conform to and be governed by the provisions of chapter three of said title twenty, Revised Statutes of Arizona, nineteen hundred and one. And the provisions of this section shall apply to all voters at all elections for the election of dele-

Reregistration.

Proviso. Acceptance of registry of 1908.

Regulations.

Application to all elections.

gates to the constitutional convention and for the ratification of the constitution, for state officers, members of the state legislature, Representatives in Congress, and all other officers named in said constitution or in any manner herein provided for or mentioned.

Proclamation by governor for election.

The governor of said Territory shall, within thirty days after the approval of this Act, by proclamation, in which the aforesaid apportionment of delegates to the convention shall be fully specified and announced, order an election of the delegates aforesaid on a day, designated by him in said proclamation, not earlier than sixty nor later than ninety days after the approval of this Act. Such election for delegates shall be held and conducted, the returns made, and the certificates of persons elected to such convention issued, as nearly as may be, in the same manner as is prescribed by the laws of said Territory regulating elections therein of members of the legislature existing at the time of the last election of said members of the legislature; and the provisions of said laws in all respects, including the qualifications of electors and registration, are hereby made applicable to the election herein provided for; and said convention when so called to order and organized shall be the sole judge of the election and qualifications of its own members. Qualifications to entitle persons to vote on the ratification or rejection of the constitution formed by said convention when said constitution shall be submitted to the people of said Territory hereunder shall be the same as the qualifications to entitle persons to vote for delegates to said convention.

Conduct of election.

Territorial laws applicable.

Qualifications of electors, etc.

Meeting of convention.

SEC. 20. That the delegates to the convention thus elected shall meet in the hall of the house of representatives in the capital of the Territory of Arizona at twelve o'clock noon on the fourth Monday after their election, and they shall receive compensation for the period they actually are in session, but not for more than sixty days in all; after organization they shall declare on behalf of the people of said proposed State that they adopt the Constitution of the United States, whereupon the said convention shall be, and is hereby, authorized to form a constitution and provide for a state government for said proposed State, all in the manner and under the conditions contained in this Act. The constitution shall be republican in form and make no distinction in civil or political rights on account of race or color, and shall not be repugnant to the Constitution of the United States and the principles of the Declaration of Independence.

Duties.

Constitution. General principles.

Provisions.

And said convention shall provide, by an ordinance irrevocable without the consent of the United States and the people of said State—

Religious freedom.

First. That perfect toleration of religious sentiment shall be secured, and that no inhabitant of said State shall ever be molested in person or property on account of his or her mode of religious worship; and that polygamous or plural marriages, or polygamous cohabitation, and the sale, barter, or giving of intoxicating liquors to Indians, and the introduction of liquors into Indian country are forever prohibited.

Polygamy and giving liquor to Indians prohibited.

Disclaimer of right to public or Indian lands.

Second. That the people inhabiting said proposed State do agree and declare that they forever disclaim all right and title to the unappropriated and ungranted public lands lying within the boundaries thereof and to all lands lying within said boundaries owned or held by any Indian or Indian tribes, the right or title to which shall have been acquired through or from the United States or any prior sovereignty, and that until the title of such Indian or Indian tribes shall have been extinguished the same shall be and remain subject to the disposition and under the absolute jurisdiction and control of the Congress of the United States; that the lands and other property belonging to citizens of the United States residing without the said

Equality of taxation.

State shall never be taxed at a higher rate than the lands and other property belonging to residents thereof; that no taxes shall be imposed by the State upon lands or property therein belonging to or which may hereafter be acquired by the United States or reserved for its use; but nothing herein, or in the ordinance herein provided for, shall preclude the said State from taxing as other lands and other property are taxed any lands and other property outside of an Indian reservation owned or held by any Indian, save and except such lands as have been granted or acquired as aforesaid or as may be granted or confirmed to any Indian or Indians under any Act of Congress, but said ordinance shall provide that all such lands shall be exempt from taxation by said State so long and to such extent as Congress has prescribed or may hereafter prescribe.

Taxing lands of Indians not in reservations.

Third. That the debts and liabilities of said Territory of Arizona, and the debts of the counties thereof, which shall be valid and subsisting at the time of the passage of this Act, shall be assumed and paid by said proposed State, and that said State shall, as to all such debts and liabilities, be subrogated to all the rights, including rights of indemnity and reimbursement, existing in favor of said Territory or of any of the several counties thereof at the time of the passage of this Act: *Provided*, That nothing in this Act shall be construed as validating or in any manner legalizing any territorial, county, municipal, or other bonds, obligations, or evidences of indebtedness of said Territory or the counties or municipalities thereof which now are or may be invalid or illegal at the time said proposed State is admitted, nor shall the legislature of said proposed State pass any law in any manner validating or legalizing the same.

Assumption of Territorial debts.

Proviso. Invalid bonds excepted.

Fourth. That provisions shall be made for the establishment and maintenance of a system of public schools which shall be open to all the children of said State and free from sectarian control; and that said schools shall always be conducted in English.

Provision for public schools.

Fifth. That said State shall never enact any law restricting or abridging the right of suffrage on account of race, color, or previous condition of servitude, and that ability to read, write, speak, and understand the English language sufficiently well to conduct the duties of the office without the aid of an interpreter shall be a necessary qualification for all state officers and members of the state legislature.

Right of suffrage.

Knowledge of English.

Sixth. That the capital of said State shall, until changed by the electors voting at an election provided for by the legislature of said State for that purpose, be at the city of Phoenix, but no election shall be called or provided for prior to the thirty-first day of December, nineteen hundred and twenty-five.

Capital at Phoenix till 1926.

Seventh. That there be and are reserved to the United States, with full acquiescence of the State, all rights and powers for the carrying out of the provisions by the United States of the Act of Congress entitled "An Act appropriating the receipts from the sale and disposal of public lands in certain States and Territories to the construction of irrigation works for the reclamation of arid lands," approved June seventeenth, nineteen hundred and two, and Acts amendatory thereof or supplementary thereto, to the same extent as if said State had remained a Territory.

Acquiescence in reclamation projects. Vol. 32, p. 388; Vol. 34, pp. 116, 519.

Eighth. That whenever hereafter any of the lands contained within Indian reservations or allotments in said proposed State shall be allotted, sold, reserved, or otherwise disposed of, they shall be subject, for a period of twenty-five years after such allotment, sale, reservation, or other disposal, to all the laws of the United States prohibiting the introduction of liquor into the Indian country.

Liquor to be prohibited on opened Indian reservations.

Ninth. That the State and its people consent to all and singular the provisions of this Act concerning the lands hereby granted or confirmed to the State, the terms and conditions upon which said grants

Consent to conditions of land grants to State.

and confirmations are made, and the means and manner of enforcing such terms and conditions, all in every respect and particular as in this Act provided.

All of which ordinance described in this section shall, by proper reference, be made a part of any constitution that shall be formed hereunder, in such terms as shall positively preclude the making by any future constitutional amendment of any change or abrogation of the said ordinance in whole or in part without the consent of Congress. Changes of foregoing forbidden.

SEC. 21. That when said constitution shall be formed, as aforesaid, the convention forming the same shall provide for the submission of said constitution to the people of Arizona for ratification at an election which shall be held on a day named by said convention not earlier than sixty nor later than ninety days after said convention adjourns, at which election the qualified voters of Arizona shall vote directly for or against said constitution and for or against any provisions thereof separately submitted. The returns of said election shall be made by the election officers direct to the secretary of the Territory of Arizona at Phoenix, who, with the governor and chief justice of said Territory, shall constitute a canvassing board, and they, or any two of them, shall meet at said city of Phoenix on the third Monday after said election and shall canvass the same. If a majority of the legal votes cast at said election shall reject the constitution, the said canvassing board shall forthwith certify said result to the governor of said Territory, together with the statement of votes cast upon the question of the ratification or rejection of said constitution and also a statement of the votes cast for or against such provisions thereof as were separately submitted to the voters at said election; whereupon the governor of said Territory shall, by proclamation, order the constitutional convention to reassemble at a date not later than twenty days after the receipt by said governor of the documents showing the rejection of the constitution by the people, and thereafter a new constitution shall be framed and the same proceedings shall be taken in regard thereto in like manner as if said constitution were being originally prepared for submission and submitted to the people. Submission of constitution to people. Time for election. Canvass of returns. Certificate of rejection. Reassembling of convention. Action on new convention.

SEC. 22. That when said constitution and such provisions thereof as have been separately submitted shall have been duly ratified by the people of Arizona, as aforesaid, a certified copy of the same shall be submitted to the President of the United States and to Congress for approval, together with the statement of the votes cast thereon and upon any provisions thereof which were separately submitted to and voted upon by the people. And if Congress and the President approve said constitution and the said separate provisions thereof, if any, or if the President approves the same and Congress fails to disapprove the same during the next regular session thereof, then and in that event the President shall certify said facts to the governor of Arizona, who shall, within thirty days after the receipt of said notification from the President of the United States, issue his proclamation for the election of the state and county officers, the members of the state legislature, and Representative in Congress, and all other officers provided for in said constitution, all as hereinafter provided; said election to take place not earlier than sixty days nor later than ninety days after said proclamation by the governor of Arizona ordering the same. Submission to President and to Congress. Notification of approval. Proclamation by governor for election of officers. Time.

SEC. 23. That said constitutional convention shall, by ordinance, provide that in case of the ratification of said constitution by the people, and in case the President of the United States and Congress approve the same, or in case the President approves the same and Congress fails to act in its next regular session, all as hereinbefore provided, an election shall be held at the time named in the proclama- Convention to provide for election of officers.

tion of the governor of Arizona, provided for in the preceding section, at which election of officers for a full state government, including a governor, members of the legislature, one Representative in Congress, and such other officers as such constitutional convention shall prescribe, shall be chosen by the people. Such election shall be held, the returns thereof made, canvassed, and certified to by the secretary of said Territory, in the same manner as in this Act prescribed for the making of the returns, the canvassing and certification of the same of the election for the ratification or rejection of said constitution, as hereinbefore provided, and the qualifications of voters at said election for all state officers, members of the legislature, county officers, and Representative in Congress, and other officers prescribed by said constitution shall be made the same as the qualifications of voters at the election for the ratification or rejection of said constitution, as hereinbefore provided. When said election of state and county officers, members of the legislature, and Representative in Congress, and other officers above provided for shall be held and the returns thereof made, canvassed, and certified, as hereinbefore provided, the governor of the Territory of Arizona shall certify the result of said election as canvassed and certified, as herein provided, to the President of the United States, who thereupon shall immediately issue his proclamation announcing the result of said election so ascertained, and upon the issuance of said proclamation by the President of the United States the proposed State of Arizona shall be deemed admitted by Congress into the Union by virtue of this Act on an equal footing with the other States. Until the issuance of said proclamation by the President of the United States, and until the said State is so admitted into the Union and said officers are elected and qualified under the provisions of the constitution, the county and territorial officers of said Territory, including the Delegate in Congress thereof elected in the general election in nineteen hundred and eight, shall continue to discharge the duties of their respective offices in and for said Territory: *Provided*, That no session of the territorial legislative assembly shall be held in nineteen hundred and eleven.

Election, returns, etc.

Certification of result.

Admission as State by President's proclamation.

Service of Territorial officers.

Proviso.
No legislative session in 1911.

Public lands.
Additional grant for common schools.

SEC. 24. That in addition to sections sixteen and thirty-six, heretofore reserved for the Territory of Arizona, sections two and thirty-two in every township in said proposed State not otherwise appropriated at the date of the passage of this Act are hereby granted to the said State for the support of common schools; and where sections two, sixteen, thirty-two, and thirty-six, or any parts thereof, are mineral, or have been sold, reserved, or otherwise appropriated or reserved by or under the authority of any Act of Congress, or are wanting or fractional in quantity, or where settlement thereon with a view to preemption or homestead, or improvement thereof with a view to desert-land entry has been made heretofore or hereafter, and before the survey thereof in the field, the provisions of sections twenty-two hundred and seventy-five and twenty-two hundred and seventy-six of the Revised Statutes, and Acts amendatory thereof or supplementary thereto, are hereby made applicable thereto and to the selection of lands in lieu thereof to the same extent as if sections two and thirty-two, as well as sections sixteen and thirty-six, were mentioned therein: *Provided, however*, That the area of such indemnity selections on account of any fractional township shall not in any event exceed an area which, when added to the area of the above-named sections returned by the survey as in place, will equal four sections for fractional townships containing seventeen thousand two hundred and eighty acres or more, three sections for such townships containing eleven thousand five hundred and twenty acres or more,

Selections in lieu of mineral, etc., lands.

R. S., secs. 2275, 2276, p. 417.

Provisos.
Restriction on indemnity selections.

two sections for such townships containing five thousand seven hundred and sixty acres or more, nor one section for such townships containing six hundred and forty acres or more: *And provided further*, That the grants of sections two, sixteen, thirty-two, and thirty-six to said State, within national forests now existing or proclaimed, shall not vest the title to said sections in said State until the part of said national forests embracing any of said sections is restored to the public domain; but said granted sections shall be administered as a part of said forests, and at the close of each fiscal year there shall be paid by the Secretary of the Treasury to the State, as income for its common-school fund, such proportion of the gross proceeds of all the national forests within said State as the area of lands hereby granted to said State for school purposes which are situated within said forest reserves, whether surveyed or unsurveyed, and for which no indemnity has been selected, may bear to the total area of said sections when unsurveyed to be determined by the Secretary of the Interior, by protraction or otherwise, the amount necessary for such payments being appropriated and made available annually from any money in the Treasury not otherwise appropriated.

Lands in national forests.

SEC. 25. That in lieu of the grant of land for purposes of internal improvements made to new States by the eighth section of the Act of September fourth, eighteen hundred and forty-one, and in lieu of the swamp-land grant made by the Act of September twenty-eighth, eighteen hundred and fifty, and section twenty-four hundred and seventy-nine of the Revised Statutes, and in lieu of the grant of thirty thousand acres for each Senator and Representative in Congress, made by the Act of July second, eighteen hundred and three, which grants are hereby declared not to extend to the said State, the following grants are hereby made, to wit:

Lands in lieu of grants.
Internal improvements.
Vol. 5, p. 455.
Swamp lands.
Vol. 9, p. 519.
R. S., sec. 2479, p. 453.
Agricultural college.
Vol. 12, p. 503.

For university purposes, two hundred thousand acres; for legislative, executive, and judicial public buildings heretofore erected in said Territory or to be hereafter erected in the proposed State, and for the payment of the bonds heretofore or hereafter issued therefor, one hundred thousand acres; for penitentiaries, one hundred thousand acres; for insane asylums, one hundred thousand acres; for school and asylums for the deaf, dumb, and the blind, one hundred thousand acres; for miners' hospitals for disabled miners, fifty thousand acres; for normal schools, two hundred thousand acres; for state charitable, penal, and reformatory institutions, one hundred thousand acres; for agricultural and mechanical colleges, one hundred and fifty thousand acres; and the national appropriation heretofore annually paid for the agricultural and mechanical college to said Territory shall, until further order of Congress, continue to be paid to said State for the use of said institution; for school of mines, one hundred and fifty thousand acres; for military institutes, one hundred thousand acres; and for the payment of the bonds and accrued interest thereon issued by Maricopia, Pima, Yavapai, and Coconino counties, Arizona, which said bonds were validated, approved, and confirmed by the Act of Congress of June sixth, eighteen hundred and ninety-six (Twenty-ninth Statutes, page two hundred and sixty-two), one million acres: *Provided*, That if there shall remain any of the one million acres of land so granted, or of the proceeds of the sale or lease thereof, or rents, issues, or other profits therefrom, after the payment of said debts, such remainder of lands and the proceeds of sales thereof shall be added to and become a part of the permanent school fund of said State, the income therefrom only to be used for the maintenance of the common schools of said State.

Allotment., University.
State buildings, etc.
Penitentiaries.
Asylums.
Miners' hospital.
Normal schools.
Charitable, etc., institutions.
Agricultural, etc., colleges.
Appropriation continued.
School of mines.
Military institutes.
Specified county bonds.
Vol. 29, p. 262.
Proviso.
Balance to common schools.

SEC. 26. That the schools, colleges, and universities provided for in this Act shall forever remain under the exclusive control of the

Control of schools, etc.

Sectarian prohibition.

said State, and no part of the proceeds arising from the sale or disposal of any lands granted herein for educational purposes shall be used for the support of any sectarian or denominational school, college, or university.

Use of 5 per cent fund for common schools.

SEC. 27. That five per centum of the proceeds of sales of public lands lying within said State which shall be sold by the United States subsequent to the admission of said State into the Union, after deducting all the expenses incident to such sales, shall be paid to the said State to be used as a permanent inviolable fund, the interest of which only shall be expended for the support of the common schools within said State.

Lands and proceeds to be held in trust.

SEC. 28. That it is hereby declared that all lands hereby granted, including those which, having been heretofore granted to the said Territory, are hereby expressly transferred and confirmed to the said State, shall be by the said State held in trust, to be disposed of in whole or in part only in manner as herein provided and for the several objects specified in the respective granting and confirmatory provisions, and that the natural products and money proceeds of any of said lands shall be subject to the same trusts as the lands producing the same.

Disposal for other purposes a breach of trust.

Disposition of any of said lands, or of any money or thing of value directly or indirectly derived therefrom, for any object other than for which such particular lands, or the lands from which such money or thing of value shall have been derived, were granted or confirmed, or in any manner contrary to the provisions of this Act, shall be deemed a breach of trust.

Mortgages forbidden.

Sales and leases to highest bidder.

No mortgage or other incumbrance of the said lands, or any thereof, shall be valid in favor of any person or for any purpose or under any circumstances whatsoever. Said lands shall not be sold or leased, in whole or in part, except to the highest and best bidder at a public auction to be held at the county seat of the county wherein the lands to be affected, or the major portion thereof, shall lie,

Advertisement.

notice of which public auction shall first have been duly given by advertisement, which shall set forth the nature, time, and place of the transaction to be had, with a full description of the lands to be offered, and be published once each week for not less than ten successive weeks in a newspaper of general circulation published regularly at the state capital, and in that newspaper of like circulation which shall then be regularly published nearest to the location of

Sales of timber, etc.

such lands so offered; nor shall any sale or contract for the sale of any timber or other natural product of such lands be made, save at the place, in the manner, and after the notice by publication thus

Proviso.
Short leases.

provided for sales and leases of the lands themselves: *Provided*, That nothing herein contained shall prevent said proposed State from leasing any of said lands referred to in this section for a term of five years or less without said advertisement herein required.

Appraisal and sales.

All lands, leaseholds, timber, and other products of land, before being offered, shall be appraised at their true value, and no sale or other disposal thereof shall be made for a consideration less than the value so ascertained, nor in any case less than the minimum price hereinafter fixed, nor upon credit unless accompanied by ample security, and the legal title shall not be deemed to have passed until the consideration shall have been paid.

Minimum prices. Irrigable lands.

No lands shall be sold for less than three dollars per acre, and no lands which are or shall be susceptible of irrigation under any projects now or hereafter completed or adopted by the United States under legislation for the reclamation of lands, or under any other project for the reclamation of lands, shall be sold at less than twenty-five

Proviso.
Relinquishment for reclamation projects.

dollars per acre: *Provided*, That said State, at the request of the Secretary of the Interior, shall from time to time relinquish such of its lands to the United States as at any time are needed for irrigation

works in connection with any such government project. And other lands in lieu thereof are hereby granted to said State, to be selected from lands of the character named and in the manner prescribed in section twenty-four of this Act. Lieu selections.

There is hereby reserved to the United States and excepted from the operation of any and all grants made or confirmed by this Act to said proposed State all land actually or prospectively valuable for the development of water powers or power for hydro-electric use or transmission and which shall be ascertained and designated by the Secretary of the Interior within five years after the proclamation of the President declaring the admission of the State; and no lands so reserved and excepted shall be subject to any disposition whatsoever by said State, and any conveyance or transfer of such land by said State or any officer thereof shall be absolutely null and void within the period above named; and in lieu of the land so reserved to the United States and excepted from the operation of any of said grants there be, and is hereby, granted to the proposed State an equal quantity of land to be selected from land of the character named and in the manner prescribed in section twenty-four of this Act. Water-power reservations. Lieu selections.

A separate fund shall be established for each of the several objects for which the said grants are hereby made or confirmed, and whenever any moneys shall be in any manner derived from any of said land the same shall be deposited by the state treasurer in the fund corresponding to the grant under which the particular land producing such moneys was by this Act conveyed or confirmed. No moneys shall ever be taken from one fund for deposit in any other, or for any object other than that for which the land producing the same was granted or confirmed. The state treasurer shall keep all such moneys invested in safe, interest-bearing securities, which securities shall be approved by the governor and secretary of state of said proposed State, and shall at all times be under a good and sufficient bond or bonds conditioned for the faithful performance of his duties in regard thereto, as defined by this Act and the laws of the State not in conflict herewith. Separate funds of proceeds. Investment, etc.

Every sale, lease, conveyance, or contract of or concerning any of the lands hereby granted or confirmed, or the use thereof or the natural products thereof, not made in substantial conformity with the provisions of this Act shall be null and void, any provision of the constitution or laws of the said State to the contrary notwithstanding. Irregular, etc., leases void.

It shall be the duty of the Attorney-General of the United States to prosecute, in the name of the United States and in its courts, such proceedings at law or in equity as may from time to time be necessary and appropriate to enforce the provisions hereof relative to the application and disposition of the said lands and the products thereof and the funds derived therefrom. Enforcement of land provisions.

Nothing herein contained shall be taken as in limitation of the power of the State or of any citizen thereof to enforce the provisions of this Act. Rights of State and citizens.

SEC. 29. That all lands granted in quantity, or as indemnity, by this Act, shall be selected, under the direction and subject to the approval of the Secretary of the Interior, from the surveyed, unreserved, unappropriated, and nonmineral public lands of the United States within the limits of said State, by a commission composed of the governor, surveyor-general or other officer exercising the functions of a surveyor-general, and the attorney-general of the said State; and after its admission into the Union said State may procure public lands of the United States within its boundaries to be surveyed with a view to satisfying any public land grants made to said State in the same manner prescribed for the procurement of such surveys by Washington, Idaho, and other States by the Act of Congress approved August eighteenth, eighteen hundred and ninety-four (Twenty-eighth Commission to select granted lands. Surveys. Vol. 28, p. 394.

Statutes at Large, page three hundred and ninety-four), and the provisions of said Act, in so far as they relate to such surveys and the preference right of selection, are hereby extended to the said State of Arizona. The fees to be paid to the register and receiver for each final location or selection of one hundred and sixty acres made hereunder shall be one dollar.

Territorial grants confirmed to State.

SEC. 30. That all grants of lands heretofore made by any Act of Congress to said Territory, except to the extent modified or repealed by this Act, are hereby ratified and confirmed to said State, subject to the provisions of this Act: *Provided, however,* That nothing in this Act contained shall, directly or indirectly, affect any litigation now pending and to which the United States is a party, or any right or claim therein asserted.

Proviso. Pending litigation.

Judicial district created. Courts. In ninth circuit.

SEC. 31. That the said State, when admitted as aforesaid, shall constitute one judicial district, and the circuit and district courts of said district shall be held at the capital of said State, and the said district shall, for judicial purposes, be attached to the ninth judicial circuit.

Judge, attorney, and marshal.

There shall be appointed for said district one district judge, one United States attorney, and one United States marshal. The judge of said district shall receive a yearly salary the same as other similar judges of the United States, payable as provided for by law, and shall reside in the district to which he is appointed.

Clerks.

There shall be appointed clerks of said courts, who shall keep their offices at the capital of said State.

Terms.

The regular terms of said courts shall be held on the first Monday in April and the first Monday in October of each year.

Jurisdiction.

The circuit and district courts for said district, and the judges thereof, respectively, shall possess the same powers and jurisdiction and perform the same duties required to be performed by the other circuit and district courts and judges of the United States, and shall be governed by the same laws and regulations. The marshal, district attorney, and the clerks of the circuit and district courts of said district, and all other officers and persons performing duties in the administration of justice therein, shall severally possess the powers and perform the duties lawfully possessed and required to be performed by similar officers in other districts of the United States, and shall, for the services they perform, receive the fees and compensation now allowed by law to officers performing similar services for the United States in the Territory of Arizona.

Determination of pending appeals and writs of error.

SEC. 32. That all cases of appeal or writ of error and all other proceedings heretofore lawfully prosecuted and now pending in the Supreme Court of the United States or in the proper circuit court of appeals upon any record from the supreme court of said Territory, and all cases of appeal or writ of error and all other proceedings heretofore lawfully prosecuted and now pending in the Supreme Court of the United States upon any record from a district court of said Territory or, in any matter of habeas corpus, upon any return or order of a district judge thereof, and all and singular the cases aforesaid which, hereafter shall be so lawfully prosecuted and remain pending in the Supreme Court of the United States or in the proper circuit court of appeals, may be heard and determined by the Supreme Court of the United States or the proper circuit court of appeals, as the case may be. And the mandate of execution or of further proceedings shall be directed by the Supreme Court of the United States or the circuit court of appeals to the circuit or district court hereby established within the said State, or to the supreme court of such State, as the nature of the case may require. And the circuit, district, and state courts herein named shall, respectively, be the successors of the supreme court and of the district courts of said Territory as to all such cases arising within the limits embraced within the jurisdiction of said courts, respectively, with full power to proceed

Succession of courts.

with the same and award mesne or final process therein; and that from all judgments and decrees or other determinations of any court of the said Territory, in any case begun prior to admission, the parties to such cause shall have the same right to prosecute appeals, writs of error, and petitions for review to the Supreme Court of the United States or to the circuit court of appeals as they would have had by law prior to the admission of said State into the Union.

Transfer of Federal cases.

SEC. 33. That the said circuit or the said district courts, as the case may be, shall have jurisdiction to hear and determine all trials, proceedings, and questions arising, or which may be raised, in any case or controversy pending in any of the courts other than the supreme court of the said Territory at the date of its admission as a State, the case being such that, under the laws of the United States touching the jurisdictions of federal courts, it might properly have been begun in or (as a separable controversy or otherwise) removed to said circuit or said district court had they been established when the litigation of such case or controversy was commenced. Should such case or controversy be such that, if begun within a State, it would have fallen within the exclusive original cognizance of a circuit or district court of the United States sitting therein, it shall be transferred to the one or the other of said courts sitting within said State of Arizona, with due regard for the general provisions of law defining their respective jurisdictions; but should such case or controversy be by nature one of those which under such general jurisdictional provisions fall within the concurrent, but not the exclusive, jurisdiction of such courts, then such transfer may be had upon application of any party to such case or controversy, to be made as nearly as may be in the manner now provided for removal of cases from state to federal courts, and not later than sixty days after the lodgment of the record of such case or controversy in the proper court of the State as herein provided. All cases and controversies pending at the admission of the State, and not transferable to the said circuit or district court under the foregoing provision, shall be heard and determined by the proper court of the State. All files, records, and proceedings relating to any such pending cases or controversies shall be transferred to such circuit, district, and state courts, respectively, in such wise and so authenticated or proven as such courts shall respectively by rule direct, and upon transfer of any case or controversy as herein provided the same shall be proceeded with in due course of law; and no writ, action, indictment, information, cause, or proceeding pending in any court of the said Territory at the time of its admission as a State shall abate or be deemed ineffective by reason of such admission, but the same shall be transferred and proceeded with in the proper circuit or district court of the United States or state court, as the case may be: *Provided, however*, That all cases pending and undisposed of in the supreme court of the said Territory at the time of the admission thereof as a State shall be transferred, together with the records thereof, to the highest appellate court of the State, and shall be heard and determined thereby, and appeal to and writ of error from the Supreme Court of the United States shall lie to review all such cases in accordance with the rules and principles applicable to the review by that tribunal of cases determined by state courts: *Provided further*, That all cases so pending in said territorial supreme court in which the United States is a party or which, if instituted within a State, would have fallen within the exclusive original cognizance of a circuit or district court of the United States shall, with the records appertaining thereto, be transferred to the circuit court of appeals for the ninth circuit, and be there heard and decided; and any such case which, if finally decided by the supreme court of the Territory, would have been in any manner reviewable by the

To circuit or district court.

Other cases.

Pending proceedings not abated.

Provisos.
Determination of State cases.

Transfers to circuit court of appeals.

Supreme Court of the United States may, in like manner and with like effect, be so reviewed after final decision thereof by said circuit court of appeals. Transfers of all files and records from the said territorial supreme court to the highest appellate court of the State and to the said circuit court of appeals shall be accomplished in such manner and under such proofs and authentications as the two last-mentioned courts shall respectively by rule prescribe.

Suits not begun before admission.

All civil causes of action and all criminal offenses which shall have arisen or been committed prior to the admission of said Territory as a State, but as to which no suit, action, or prosecution shall be pending at the date of such admission, shall be subject to prosecution in the courts of said State and the said circuit or district courts of the United States sitting therein, and to review in the appellate courts of such respective sovereignties in like manner and to the same extent as if said State had been created and such circuit, district, and state courts had been established prior to the accrual of such causes of action and the commission of such offenses; and in effectuation of this provision such of the said criminal offenses as shall have been committed against the laws of the said Territory shall be tried and punished by the appropriate courts of the said State, and such as shall have been committed against the laws of the United States shall be tried and punished in the circuit or district courts of the United States.

State substituted for Territory as defendant in Federal cases.

All suits and actions brought by the United States in which said Territory is named as a party defendant which shall be pending in any court of said Territory at the date of its admission hereunder shall be transferred as herein provided, and the said State shall be substituted therein and become a party defendant thereto in lieu of said Territory.

Assembling of legislature.

SEC. 34. That the members of the legislature elected at the election hereinbefore provided for may assemble at Phoenix, organize, and elect two Senators of the United States in the manner now prescribed by the Constitution and laws of the United States; and the governor and secretary of state of the proposed State shall certify the election of the Senators and Representative in the manner required by law, and the Senators and Representative so elected shall be entitled to be admitted to seats in Congress and to all rights and privileges of Senators and Representatives of other States in the Congress of the United States; and the officers of the state government formed in pursuance of said constitution, as provided by the constitutional convention, shall proceed to exercise all the functions of state officers; and all laws of said Territory in force at the time of its admission into the Union shall be in force in said State until changed by the legislature of said State, except as modified or changed by this Act or by the constitution of the State; and the laws of the United States shall have the same force and effect within the said State as elsewhere within the United States.

Certifying election of Senators and Representative.

Operation of State government.

Territorial laws continued.

United States laws.

Appropriation for election and convention expenses.

SEC. 35. That the sum of one hundred thousand dollars, or so much thereof as may be necessary, is hereby appropriated, out of any money in the Treasury not otherwise appropriated, for defraying all and every kind and character of expense incident to the elections and convention provided for in this Act; that is, the payment of the expenses of holding the election for members of the constitutional convention and the election for the ratification of the constitution, at the same rates that are paid for similar services under the territorial laws, and for the payment of the mileage for and salaries of members of the constitutional convention, at the same rates that are paid to members of the said territorial legislature under national law, and for the payment of all proper and necessary expenses, officers, clerks, and messengers thereof, and printing and other expenses incident thereto: *Provided*, That any expense incurred in excess of said sum

Proviso.

of one hundred thousand dollars shall be paid by said State. The said money shall be expended under the direction of the Secretary of the Interior, and shall be forwarded to be locally expended in the present Territory of Arizona, through the secretary of said Territory, as may be necessary and proper in the discretion of the Secretary of the Interior, in order to carry out the full intent and meaning of this Act.

Excess by State. Expenditures.

Approved, June 20, 1910.

June 22, 1910.
[S. 538.]
[Public, No. 220.]

CHAP. 311.—An Act To amend sections twenty-five hundred and eighty-six and twenty-five hundred and eighty-seven of the Revised Statutes of the United States, as amended by the Acts of April twenty-fifth, eighteen hundred and eighty-two, and August twenty-eighth, eighteen hundred and ninety, relating to collection districts in Oregon.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section twenty-five hundred and eighty-six of the Revised Statutes of the United States be amended so as to read as follows:

Customs. Oregon collection districts.

"SEC. 2586. There shall be in the State of Oregon four collection districts, as follows:

R.S., sec. 2586, p. 513, amended. Vol. 22, p. 48.

"First. The district of Coos Bay, to comprise all of the waters and shores of that part of the State of Oregon lying south and east of the north bank of the Siuslaw River and west of the summit of the Coast Range of mountains; in which Coos Bay, in Coos County, shall be the port of entry, and Ellensburg, at the mouth of the Rogue River; Port Orford and Gardiner, on the Umpqua River, ports of delivery.

Coos Bay.

Ports of entry and delivery.

"Second. The district of Yaquina, to comprise all the waters and shores lying north and east of the north bank of the Siuslaw River to the forty-fifth degree of north latitude and west of the summit of the Coast Range of mountains; in which Yaquina shall be the port of entry and Newport a port of delivery.

Yaquina.

Ports of entry and delivery.

"Third. The district of Astoria, to comprise all the waters and shores lying within the territory described as follows: Beginning at the summit of the Coast Mountains, on the forty-fifth degree north latitude, running thence west to the Pacific Ocean, thence north to where the north bank of the Columbia River intersects the Pacific Ocean, thence easterly and southerly along but excluding the north bank of the Columbia River to where one hundred and twenty-two degrees forty-six minutes fifty-five seconds west longitude intersects forty-five degrees fifty-one minutes north latitude, thence westerly to the summit of the Coast Mountains, thence southerly along the summit of said Coast Mountains to the place of beginning; in which Astoria shall be the port of entry.

Astoria.

Port of entry.

"Fourth. The district of Portland, to comprise all the waters and shores in the State of Oregon, excluding the north bank of the Columbia River between the States of Oregon and Washington, not described in the collection districts of Coos Bay, Yaquina, and Astoria; in which Portland shall be the port of entry."

Portland.

Port of entry.

SEC. 2. That section twenty-five hundred and eighty-seven of the Revised Statutes of the United States be amended so as to read as follows:

Officers.

"SEC. 2587. There shall be in the collection districts in the State of Oregon the following officers:

R.S., sec. 2587, p. 513, amended. Vol. 22, p. 48.

"First. In the district of Coos Bay a collector, who shall reside at Empire City, and three deputy collectors, who may be appointed by the collector, with the approval of the Secretary of the Treasury, and of whom one shall reside at Ellensburg, one at Port Orford, and one at Gardiner.

Coos Bay.

"Second. In the district of Yaquina a collector, who shall reside at Yaquina, and who shall receive a salary of one thousand dollars a year,

Yaquina.