

THE ADMINISTRATION OF FEDERAL ENDOWMENTS IN OKLAHOMA
with Special Reference to the Common Schools

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By

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CHAPTER I

INTRODUCTION

The Problem.—Although the word education has been left out of the Constitution of the United States, the federal government has contributed materially to the advancement of education throughout the history of the nation. Federal, state, and local governments participate in the support and control of public education.

The amount of endowment and the manner in which grants were made by the federal government to aid education in Oklahoma were developed in a previous study.¹ Originally, more than three million acres of land and five million dollars in cash were given the state for public schools and public institutions. The administration of these federal endowments in Oklahoma with special reference to the common schools is the problem of this study.

Purpose and Need.—The first purpose of this study is to show the administrative organization and current conditions of federal endowments as they exist in Oklahoma. A second purpose is to determine what procedures and policies are essential to the maximum realization and protection of values in the interest of the legal beneficiaries. A third purpose is to make recommendations in accordance with the evidence of endowment conditions of operation and needed changes in procedure that can be used by the officials and citizens of Oklahoma to improve endowment administration.

¹ Oliver Hodge, The Administration and Development of the Oklahoma School Land Department. Dissertation, Oklahoma University, Norman, Oklahoma. 1937.

The need of funds for educational purposes has increased, necessitating a search for additional revenues.

Maximum return from the assets of endowments is a problem of administration and management. The Oklahoma Legislative Council and various state organizations are seeking ways and means for improving departments of state government. This study may be used to suggest improvements in endowment administration. In the interest of better management of public funds, the strong as well as the weak aspects can be reviewed with profit.

Sources of Data.—Twenty-nine states and territories received land grants from the federal government prior to 1890.² The Organic Act of May 2, 1890, provided, among other things, for the distribution of land grants for the Territory of Oklahoma.³ More than a century of land grant legislation and administration had been in existence in the United States before Oklahoma became a state. Previous studies have been made in Oklahoma and other states. The United States Bureau of Research has compiled a number of bulletins relating to federal endowments, and current periodicals frequently give space to land-grant administration. All these records furnish the background for the study of endowment administration in Oklahoma.

The primary data for this study are original records in the Oklahoma School Land Department and the State Library at Oklahoma City. Official reports and audits were made available for use. Moreover, the Oklahoma Constitution and Title No. 64 of the Oklahoma Statutes furnish the legal background for authority in administration of endowments. Likewise, the opinions of the courts and suggestions from administration officials have been used to formulate rules for the operation and management of the department.

² Ibid., p. 7.

³ Appendix A.

Procedure.—A survey type of investigation is used in this study. Analyses are made of previous studies of similar nature in order to formulate a pattern for study. Then, specific problems for solution are selected. These problems involve analysis of existing conditions in the land department.

In the interest of the legal beneficiaries the following principles of endowment administration in Oklahoma were examined:

1. Administrative responsibility.
2. Classification and accounting.
3. Farm sales, mortgages, and foreclosures.
4. Investment of permanent funds.
5. Audits and investigations.

Limitations of Study.—Although administration of federal endowments occurs in some thirty states, the study is concerned primarily with endowment administration in Oklahoma. Particular attention is given the common school fund which amounts to more than half of the total volume of business transacted by the School Land Department. Other endowment funds are mentioned merely to complete the whole process of administration.

Audits of various funds and accounts have been made by certified public accountants and it is not the purpose of this study to discuss the technicalities of auditing. Likewise, the investigations included are limited to the compiled records available. Only those findings that relate directly to administrative problems are reported.

Definition of Terms.—Federal endowment means the grants of land and money given to the state by the United States Government for the common schools, higher educational institutions, and public buildings.

The word "fund" applies to a group of assets to be used for a specific purpose. It may consist of cash, lands, loans, notes receivable, investments, and deficiency judgments.

"School funds - permanent" are created by the terms of the Enabling Act⁴ and according to the Oklahoma Constitution⁵ "shall be safely kept or invested and preserved by the State as a trust which shall never be diminished, but may be added to . . . and . . . shall forever remain inviolate."

"School funds - revenue" are funds to which the earnings from the "school funds - permanent" are credited. These earnings are then disbursed for the support and maintenance of the schools.

The term "schools" applies to both the common school (grades one through twelve) and the higher educational institutions.

Public building and other special funds are miscellaneous funds and accounts administered by the School Land Department.⁶

This study gives a brief history of the origin and growth of endowment funds granted Oklahoma by the federal government and attempts to discover effective administrative responsibility and reliable control of accounts.

The Criteria.—The criteria developed by Beach⁷ for the custody of school funds are employed in this study to appraise the administrative practices of the Oklahoma School Land Office. Beach describes the devices and conditions necessary for the satisfactory custody of school funds to consist of the following elements:

1. Safety - The funds are adequately protected against loss and misuse by aid of internal checks, external audits, periodic and frequent

⁴ Appendix B.

⁵ Appendix C.

⁶ Hodge, *op. cit.*, pp. 19-20.

⁷ Fred F. Beach, The Custody of School Funds. Teachers College, Columbia University, No. 577. 1933. pp. 26-36.

financial reports, publicity, surety bonds for employees, and adequate protection of funds in depositories.

2. Economy - Services of the custodians of school funds are procured at the lowest cost consistent with safety and efficient management.

3. Knowledge of financial status - A definite system of financial records and reports provide, when needed, a knowledge of financial status of those officials who are responsible for, manage, or disburse school funds.

4. Responsibility - One duty of a public officer intrusted with public money is to keep it safely, and this duty of safe custody must be performed at the peril of the officer.

5. Simplicity - Consistent with safety and efficient management, systems of custodial care of school funds perform a maximum of service by means of a minimum of procedure steps.

6. Readiness for audit - School financial records are complete, accurate, and up-to-date, facilitating external audits.

7. Selection of personnel - The custody of school funds is intrusted to responsible individuals or agencies, trained and experienced.

Two steps were used to establish the above criteria. First, the literature of public finance, school finance, and accounting and auditing were searched in order to gather the underlying principles in any plan of procedure for the proper custody of school funds. Second, these principles were verified and tested by competent school and auditing authorities in each of the fields.

The recommendations of this study are made upon the bases of these criteria and what appears to be the best interest of the legal beneficiaries of federal endowments. Before appraisals are made, it is necessary to understand the origin and growth of Oklahoma's school endowments.

CHAPTER II

ORIGIN AND GROWTH OF OKLAHOMA'S ENDOWMENTS

By act of Congress approved March 2, 1889, providing for the opening of lands acquired from the Seminole and Creek Indians, sections sixteen and thirty-six in each township were reserved for the use and benefit of the common schools. These reservations were confirmed by the Organic Act of Congress, approved May 2, 1890.¹ The organization for the Territory of Oklahoma was in conformity with the provisions of this law.

In 1891, Territorial Governor George W. Steele was granted the authority to lease the school lands in accordance with rules and regulations which might be prescribed by the Secretary of Interior.² As a result, the School Land Department was organized with one clerk appointed by the Secretary of Interior, and the leasing of school lands began.

A "land board" composed of the Governor, Secretary of the Oklahoma Territory, and Superintendent of Public Instructions, was created by an act of Congress in 1894. The purpose of this board was to lease school lands under the rules and regulations prescribed by the Secretary of Interior until laws for the administration of the trust should be passed by the territorial legislature. Due to the slowness of such legislative enactment, the board of its own accord on May 3, 1899, adopted a new set of rules and regulations for the leasing of school lands.

¹ Appendix A.

² W. B. Richards, *The Oklahoma Red Book*, Vol. II. p. 44. Tulsa Daily Democrat, Tulsa, Oklahoma, 1912.

When land of the Cherokee Strip was opened to white settlement, President Grover Cleveland, under the direction of Congress in 1893, added section thirteen for the support of state educational institutions and section thirty-three for the construction of public buildings. These two sections, with sections sixteen and thirty-six for common schools, created an endowment of 1,414,657.48 acres of land for the common schools, and 1,718,300.78 acres of land for higher educational institutions and public buildings.³

All previous reservations were confirmed and further grants were made by the Enabling Act of 1906.⁴ Provisions were made for indemnity lands selected in lieu of lands legally occupied in reserved sections thirteen, sixteen, thirty-three, and thirty-six (Appendix B, Sec. 7). Land in permanent reservations for national purposes such as parks and game preserves were exceptions free from federal grants.

Section thirteen land reserved for higher educational institutions was divided into three equal parts: one-third for the University of Oklahoma and the University Preparatory School; one-third for the Agricultural and Mechanical College and the Colored Agricultural and Normal University; and one-third for the normal schools. Originally, these land grants for the State Educational Institutions amounted to 353,286.00 acres.⁵

In 1896, Greer County, located between the North and South forks of Red River, was declared to be a part of Oklahoma. By act of Congress in 1897 the land in this county was opened for settlement and sections sixteen and thirty-six in each township were reserved for common schools;

³ Commissioners of the Land Office, State of Oklahoma, Biennial Report, 1944 to 1946. pp. 2-5.

⁴ Appendix B.

⁵ Hodge, op. cit., p. 31.

also, sections thirteen and thirty-three were reserved for such purposes as the legislature of the future State of Oklahoma should prescribe.⁶

A portion of section thirty-three land, 40,480 acres, was set aside by the state legislature in March, 1911, to be used to assist in promoting union graded and consolidated rural schools.⁷ This action amounted to a transfer of assets in the Public Building account and not an additional allotment of land.⁸

In addition to the above mentioned land grants, the federal government has given for educational purposes salt land, swamp, and over-flow lands in new states formed since 1841. Accordingly, in Section 12 of the Enabling Act, Oklahoma received land in lieu of swamp and over-flow lands.⁹ These lands were located in the western part of the Oklahoma Territory and areas were designated for the following state institutions: two hundred and fifty thousand acres for the benefit of the University of Oklahoma; one hundred and fifty thousand acres for the benefit of the University Preparatory School; two hundred and fifty thousand acres for the benefit of the Agricultural and Mechanical College; one hundred thousand acres for the benefit of the Colored Agricultural and Normal University; and three hundred thousand acres for the benefit of State Normal Schools now established or hereafter to be established. These grants and the revenues received from them make what is commonly known as the "New College Fund."

Nine separate funds in the Oklahoma School Land Department are:¹⁰

1. Common School.
2. State Educational Institution (Section 13, S.E.I.).

⁶ Territorial Governor's Report, January, 1899.

⁷ Session Laws of Oklahoma, 1911. Chapter 112, Sec. 1, p. 245.

⁸ Commissioners of the Land Office, *op. cit.*, p. 44-46.

⁹ Appendix B.

¹⁰ Hodge, *op. cit.*, p. 20.

3. University.
4. University Preparatory.
5. Agricultural and Mechanical College.
6. Normal School.
7. Colored Agricultural and Normal University.
8. Public Building (Section 33).
9. Greer 33 (Union-graded and Consolidated Schools).

In order to comply with provisions in laws prescribing the benefits and uses of these endowments the accounting is further divided into three classes, namely:

1. School Funds - Permanent.
2. School Funds - Revenue.
3. Public Building and other Special Funds.

Just prior to statehood the school land office employed eight persons regularly and from two to eight persons in the field. The expenses of the office for the fiscal year ending June 30, 1906, were \$23,500.99.¹¹

The duties and services performed by the employees of the land office during the latter territorial days were as follows:

1. Renting the land to nearly 10,000 leases.
2. Collecting rents averaging \$1,800 per day.
3. Looking after protection of lands from timber and mineral depredation.
4. Settling many disputes and controversies coming up daily over possession of certain lands.
5. Classifying and appraising lands.
6. Issuing new leases every three years.
7. Some jurisdiction over improvements on lands since the Territory had a lien on same for unpaid rents.

Each report of the Territorial Governors brings out the fact that Oklahoma was the first territory to lease the granted lands, and compares Oklahoma's handling of her endowment with the way other territories handled theirs.

The State of Oklahoma accepted the responsibility for the integrity as well as the administration of federal endowments through its Constitution.

¹¹ Governor's Report, 1906, p. 278.

Article eleven, Section one, reads as follows:¹²

The State hereby accepts all grants of land and donations of money made by the United States under the provisions of the Enabling Act, and any other Acts of Congress, for the uses and purposes and upon the conditions, and under the limitations for which the same are granted or donated; and the faith of the State is hereby pledged to preserve such lands and moneys and all moneys derived from the sale of any of said lands as a sacred trust, and to keep the same for the uses and purposes for which they were granted or donated.

When Oklahoma became a state, the business of the school land board was turned over to the State and the management of its affairs became the duty and responsibility of the Oklahoma School Land Commission, composed of the Governor, the Secretary of State, the Auditor, the Superintendent of Public Instruction, and the President of the Board of Agriculture.¹³

According to Territorial Governor Frantz's report of receipts and disbursements of the school land office during the territorial period ending June 30, 1907, the following items are listed:

| | |
|---|------------------|
| Total receipts from leasing, 1891 to June 30, 1907 | \$ 3,861,743.68 |
| Expenses | 235,321.61 |
| Refund to customers | 8,794.06 |
| Net receipts | \$ 3,617,628.01 |
| Apportionment of net receipts: | |
| Common Schools | 343,493.61 |
| Colleges (seven institutions) | 79,329.61 |
| Public Building | 79,339.58 |
| Greer 13 | 6,790.37 |
| Greer 33 | 4,077.45 |
| Total apportioned | 513,030.62 |
| Permanent Fund: | |
| Lands - 3,177,000 acres valued at | \$11,216,504.00# |
| Cash endowment | 5,000,000.00 |
| 5% Homestead land sales | 66,164.20 |
| Total Permanent Fund | \$16,282,668.20 |

#This is the only instance found where the valuation of the acreage was definitely stated.

¹² Appendix C.

¹³ Ibid.

Revenue Fund:

| | |
|---|-----------------|
| Cash accrued on agricultural rentals . . . \$ | 320,375.21 |
| Notes, unpaid rentals | 218,284.20 |
| Total Revenue Fund | 538,659.41 |
| Total Funds | \$16,821,327.61 |

This brief resume¹ of the work of the territorial school land office shows how it grew. At the time of its inception in 1891, the office had only one type of asset, land, approximately 104,000 acres; only one type of activity, surface leasing of these lands; and only one employee, a general secretary. The income during the first year of leasing in 1891 was \$4,536.00.¹⁴

In comparison, the assets of the Oklahoma School Land Department as of June 30, 1949, are listed as follows:¹⁵¹⁰

Permanent Funds:

| | <u>Acreage</u> | <u>Appraised Value</u> | <u>Percentage</u> |
|--------------------------------|----------------|------------------------|-------------------|
| Real Estate: | | | |
| Original granted land | 761,794.47 | \$16,321,054.52 | 19.84 |
| Foreclosed land | 53,146.87 | 978,608.57 | 1.18 |
| Cash | | 1,054,022.41 | 1.27 |
| Farm Mortgage Loans | | 8,840,629.19 | 10.76 |
| Deficiency Judgments | | 914,424.22 | 1.13 |
| Land Sale Contracts | | 4,998,617.08 | 6.03 |
| Bonds | | 41,116,100.00 | 48.68 |
| Accrued Interest | | <u>4,196.96</u> | .51 |
| Total Permanent Fund | | \$74,227,652.95 | |
| Total Revenue Funds | | \$ 7,861,458.71 | 9.48 |
| Miscellaneous Funds | | <u>\$ 843,332.25</u> | <u>1.12</u> |
| Total Assets | | \$82,932,443.91 | 100.00 |

Although the land acreage in 1949 is only 25.65 per cent as much as that of 1907, the appraised value of this smaller number of acres is

¹⁴ Commissioners of the Land Office, op. cit., p. 14.

¹⁵ Commissioners of the Land Office - Financial Statement for Twelve Months ending June 30, 1949.

154.24 per cent of the value in 1907. In general, the value of total assets has increased five-fold since Oklahoma became a state. In addition, apportionment of revenues for the common schools, higher educational institutions and public buildings during the forty-two years amounts to \$81,760,408.59.¹⁶

With this increase in assets, the duties and responsibilities of the School Land Department have multiplied. The following list of services performed are discussed in the succeeding chapters:

1. Leasing lands for agriculture and grazing
2. Leasing lands for oil, gas, and other minerals
3. Selling lands
4. Making investments in farm loans
5. Making other investments in accordance with the law
6. Handling mortgages, foreclosures, certificates of purchase, abstracts, titles, and deeds
7. Classifying and appraising lands
8. Appraising improvements on lands
9. Collecting rents, fees, and installment payments
10. Performing legal activities necessary to protect interest of school lands
11. Improving, preserving, and protecting lands for future posterity
12. Distributing the revenues of the various property trusts to the several institutions to which the funds belong.

Summary.—Federal endowments for Oklahoma consist of land and money designated for specific purposes. The administration of these funds began

¹⁶ This total is derived from the Twenty-Second Biennial Report of State Department of Education, p. 168, and the Financial Statements of Commissioners of the Land Office for Twelve months ending June 30, 1949.

during the early territorial days on a small scale basis. The land office business has increased more than five times the assets reported in 1907. Accounting of funds and the acceptance of responsibilities have become complex as additional services were assumed.

The administrative responsibility and the delegation of authority are discussed in the succeeding chapter.

CHAPTER III

ADMINISTRATIVE RESPONSIBILITY

The administration of federal endowments in Oklahoma is vested in three separate branches of state government represented by the Governor, the Legislature, and the Courts. The official governing body is the School Land Commission composed of five ex-officio state officers elected for a term of four years.

Article VI, Section 32 of the State Constitution¹ provides that "The Governor, Secretary of State, Auditor, Superintendent of Public Instruction, and the President of the Board of Agriculture, shall constitute the Commissioners of the Land Office who shall have charge of the sale, rental, disposal, and managing of school lands and other public lands of the State, and of the funds and proceeds derived therefrom under the rules and regulations prescribed by the legislature."

Of this five-member board, three (Governor, Secretary of State, Auditor) are not eligible to succeed themselves immediately.² Thus, a majority of the personnel may change every four years. In recent years the Secretary of State and the Auditor have alternated offices every four years, subject to the vote of the electorate.

The Board of Land Commissioners has arbitrary legislative, executive and judicial powers in handling the affairs of the School Land Department.³

¹ Appendix C.

² Article VI, Section 4, Oklahoma Constitution.

³ Commissioners of the Land Office, Biennial Report, State of Oklahoma, 1944 to 1946. p. 16.

It is like a large private corporation, managing a vast estate consisting of real estate and many types of investments, and apportioning the dividends to the stockholders - the common schools, higher educational institutions, and public buildings. But the business of the School Land Department is for the "general welfare" of public beneficiaries. Its problems are more complicated in that they are of a private-public nature. More field work is required, more intricate accounting is necessary than is usually done in a private corporation. This fact was brought out clearly in the survey of 1935 conducted by the Brookings Institution:⁴

If the finances of a government could be handled like those of a private corporation, it would be unnecessary to recognize fund distinctions, as all receipts would be collected into a single pot, or general fund, from which all payments to meet obligations would be made. This would greatly simplify the accounting and reporting work, as but one set of books would be required to gather the accounting information needed by the management. Unfortunately, this condition does not obtain in government. A government has the responsibility of handling large sums which are of a private trust character, and even in respect to public funds, many legislatures, particularly of Oklahoma, have, as a matter of policy, earmarked much of their revenue for particular purposes. The obligations and limitations that are thus set up can be met only by handling each category of receipts and expenditures as a separate accounting proposition. This is done by treating each such category as a separate 'fund.' Each such fund has, as it were, its own accounting personality, its own receipts and disbursements, and its own resources and obligations. The formal establishment of definite 'funds' and the funding of all receipts are universally practiced by governments to safeguard resources and to restrict and control expenditures.

The restrictions that are placed upon the expenditure of government moneys necessitate a proper classification of funds and a formal procedure in utilizing the resources of a fund. The procedure for handling each fund, therefore, involves (1) the method of authorizing the expenditure of such resources, (2) the operation of funding receipts, and (3) the operation of spending.

Since November 16, 1907, Oklahoma has had thirteen governors, nine secretaries of state, seven auditors, six superintendents of public

⁴ Organization and Administration of Oklahoma, Brookings Institution, Oklahoma City: Harlow Publishing Corp., 1935. p. 267.

instruction, and eight presidents of boards of agriculture. Table I shows the turnover of personnel:

TABLE I
TENURE OF COMMISSIONERS OF THE LAND OFFICE
FROM NOVEMBER, 1907, TO JANUARY, 1950

| <u>Years of Service</u> | <u>Number of Members</u> |
|-------------------------|--------------------------|
| 20 - 23 | 1 |
| 16 - 19 | 1 |
| 12 - 15 | 2 |
| 8 - 11 | 7 |
| 4 - 7 | 21 |
| 0 - 3 | 11 |
| | — |
| N equals | 43 |

Median is 5.60 years.

Thirty-two of the forty-three board members served less than eight years. Eleven members served less than four years and only four served more than twelve years. The two members having the longest tenure were alternating officers between the offices of Secretary of State and Auditor. It is believed that such political practices are questionable even when they lengthen tenure on the Board of Land Commissioners.

The Governor of Oklahoma is the ex-officio chairman of the School Land Commission.⁵ By statutory authority he appoints the Secretary of the School Land Commission with the advice and consent of the other commissioners. Since the governor cannot succeed himself a new secretary for the department is frequently named with little or no cause for dismissal of his predecessor. Twenty different persons have been appointed Secretary of the School Land Commission since statehood. Five of these have been named during the past seven years. Eleven of the thirteen

⁵ Oklahoma Statutes, Title 64, Chapter I, Sections 2 and 3, 1941.

governors have changed this employee near the beginning of their administrations. Better business practice indicates there should be more permanence to the office than the records reveal.

Only one secretary of the School Land Commission has served longer than four years and three have served less than nine months. Table II shows the median tenure to be 21.2 months.

TABLE II
TENURE OF SECRETARIES OF THE SCHOOL LAND
COMMISSION FROM NOVEMBER, 1907, TO JANUARY, 1950

| <u>Months of Service</u> | <u>Number of Secretaries</u> |
|--------------------------|------------------------------|
| 65 - 72 | 1 |
| 57 - 64 | 0 |
| 49 - 56 | 0 |
| 41 - 48 | 4 |
| 33 - 40 | 1 |
| 25 - 32 | 2 |
| 17 - 24 | 6 |
| 9 - 16 | 3 |
| 1 - 8 | 3 |
| | — |
| N equals | 20 |

Median is 21.2 months

Frequency of turnover is not conducive to sound administration in any business enterprise. It is true that some of the secretaries were promoted to better paying positions, but the management of a business whose assets exceed eighty-two million dollars should offer security for the best talent available in private or public business.

The Secretary of the School Land Commission, by authority of law, is the administrator of the School Land Department. He shall "select such employees as may be deemed necessary properly to operate the Land Office . . ."⁶ He is responsible for, and accountable to the Board of the School

⁶ Ibid., Section 3.

Land Commissioners and can be removed by a majority vote, but has little authority in the selection of personnel for the department.

Figure 1 indicates the present organization of the School Land Department. The people elect state officers who formulate the policies and select personnel for the administration, supervision, and management of the affairs in the department.

The legislature makes laws that determine policies of administration and supervision. It appropriates funds for the operation of the department. Senate Bill No. 23, enacted by the Twenty-Second Legislature is entitled, "An Act making appropriation for the support and maintenance of the office of the Commissioners of the Land Office for the fiscal years ending June 30, 1950, and June 30, 1951; authorizing the Commissioners of the Land Office to create positions, employ and fix the salaries of the personnel necessary to carry out the purposes for which the appropriations are made; repealing Section 27, Chapter 10a, Title 74, Oklahoma Session Laws 1947, page 598, and all Acts and parts of Acts in conflict herewith; fixing the effective date of this Act and declaring an emergency."⁷ The total appropriation made for each fiscal year is \$313,220.00. The statutory salaries of the employees were repealed and the Commissioners of the Land Office were authorized to create positions, make appointments, and fix the salaries of officials and employees of the department. This is a far-reaching authorization that can have wholesome effects in personnel turnover and departmental operation. The virtue and wisdom of this type of legislation will be determined and measured by future legislatures. What one legislature does, a subsequent one can amend or repeal.

Provisions are made for the Board of the Land Commissioners in the State Constitution. The members are elected state officers except the

⁷ Session Laws of Oklahoma, 1949. p. 664.

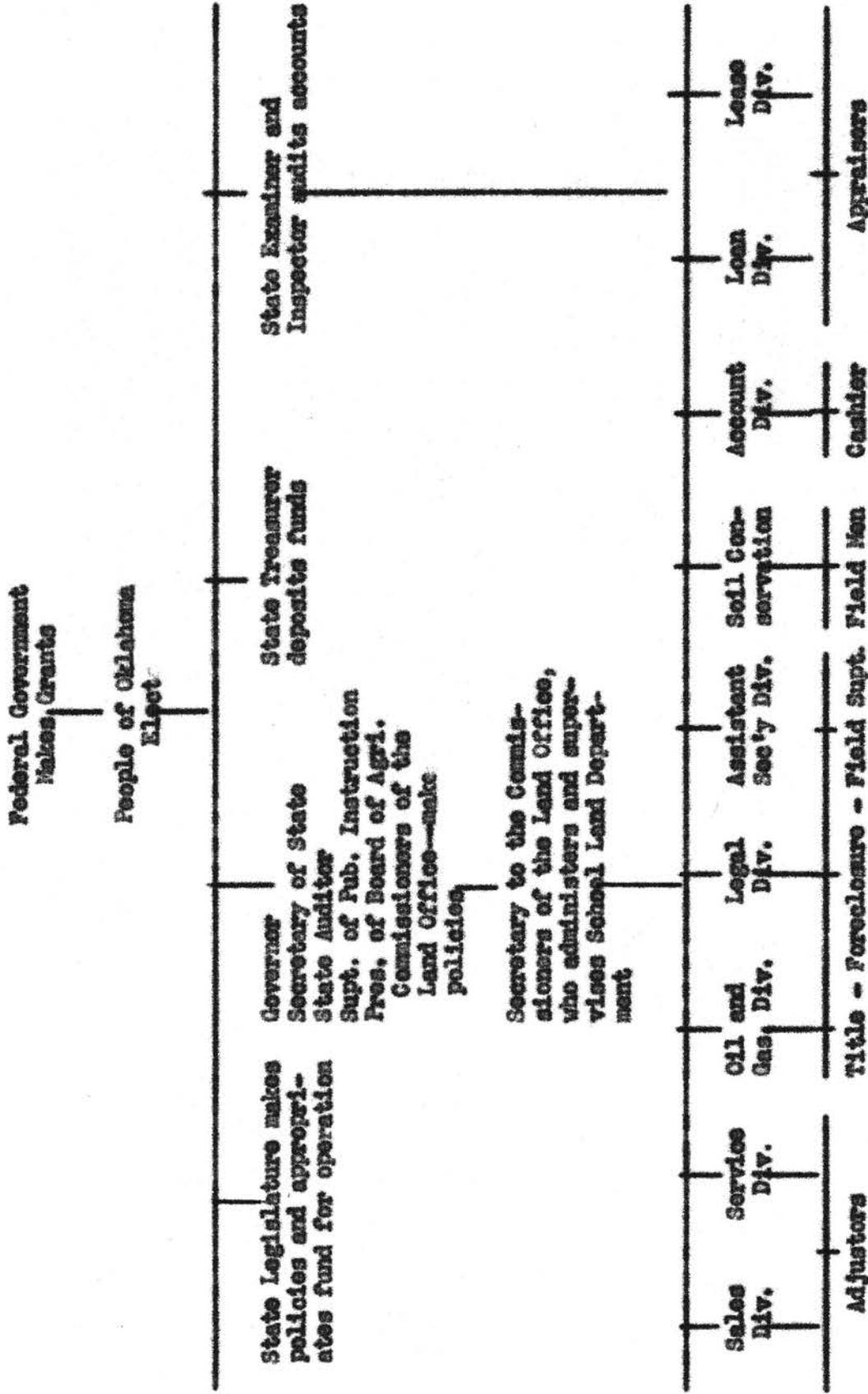


Figure 1. Organisation Hierarchy of Supervision and Control of the Oklahoma School Land Office.

President of the Board of Agriculture. Section 2, Chapter I, Title 2, of the Session Laws of Oklahoma, 1949, provides, "The President of the State Board of Agriculture shall be elected by the Board from its membership and shall serve at the pleasure of the Board.⁸ Each of the Land Commissioners has a full-time job in his elected office. Serving on the Board of the Land Commissioners is an excess burden placed upon each member and a side issue to regular duty. All elected officers are subjected to political patronage when serving the public and the members of this Board are no exception to the rule. It is believed that an amendment to the State Constitution changing the governing board of the State Land Office should be passed.

The State Examiner and Inspector is required through his duly authorized deputies to maintain a continuous audit of accounts, managements of funds and properties to the School Land Department. For this service the legislature appropriates funds from the "Depletion, Management and Sale Fund," of the School Land Office. Forty-three thousand three hundred dollars was allocated for each fiscal year of the biennium, 1949-51.⁹

The Secretary to the School Land Commissioners is spokesman for the Board. To him is delegated authority for carrying out the policies and decisions of the body and he is held accountable for such administration. He is the custodian of all monies, bonds, notes, mortgages, books, records, and other things of value. He serves as contact man, advisor, supervisor, personnel administrator, consultant and counselor. His salary is \$6,500.00 per year.

⁸ Session Laws of Oklahoma, 1949. p. 1.

⁹ Oklahoma Session Laws, 1949. p. 437.

Since 1911 the Department has had an Assistant Secretary to aid the superior officer in carrying out his duties and responsibilities. He directs procurement, storage and distribution of office supplies; oversees incoming and outgoing mail; and supervises filing of records. He is personnel and office manager, and receives a salary of \$4,500 per year.

The courts interpret the laws governing the administration, management and sale of state lands. In the handling of foreclosures, deficiency judgments, leases, sales, deeds and abstracts to title many chances for controversy arise. A court of equity is essential for the general welfare.

The succeeding chapter presents the various divisions of the land department, their functions and management as shared through legislative, executive, and judicial controls.

CHAPTER IV

DIVISIONS OF THE OKLAHOMA SCHOOL LAND DEPARTMENT

Leases.—The leasing of school lands was one of the first duties of the School Land Office. When Territorial Governor Steele made a trip to Washington in 1891, the federal government authorized the leasing of school lands under the direction of the Secretary of Interior. Leasing and renting continued to be the chief function of the Land Office until after statehood. Only surface right leases for agricultural and grazing purposes were contracted during the early period of statehood.

The Enabling Act made definite provisions for the handling of allotted lands.¹ Among these was a declaration that oil and gas deposits were segregated from surface use and should be dealt with separately. Lands found valuable for oil, gas, and other minerals would not be sold prior to January 1, 1915, but could be leased for surface rights for a period not to exceed five years subject to oil, gas, and mineral rights. The business of leasing involved two phases of endeavor and required two separate divisions.

In the leasing of lands for agricultural purposes there are two types: "Preference Right" and "Non-Preference Right" leases. In the "Preference Right" lease, the lessee is given the right to purchase the land at the highest bona fide bid when and if the land is offered for sale. The rental charges on such lands are not less than three per cent of the

¹ Commissioners of the Land Office, Biennial Report, 1944-1946.
p. 52.

appraised value of the land. Original grant lands carry the preference right privileges with two exceptions: (1) when the sale of such land has been cancelled because the buyer did not complete the payments, and (2) when the preference rights have been cancelled because of non-payment of rentals by the lessee. The "Preference Right" lessee holds the right to his improvements when the land is sold or when he ceases to be the lessee.

In the "Non-Preference Right" lease the lessee is given no more consideration than any other bidder when and if the land is offered for sale. The rental charges on such lands are a minimum of five per cent and must be agreed upon by the Commissioners of the Land Office and the lessee. Leases on all foreclosed lands and some original grant lands are of the "Non-Preference Right" type. All improvements on non-preference right leases are at the lessee's risk, unless he has written permission of the Commissioners of the Land Office to make such improvements. If the lessee is not the purchaser at the time of the sale, the matter of improvements is a question to be settled between the lessee and the purchaser.

The School Land Department retains a first lien on all improvements located on the premises and on all crops produced on state school lands. This is a method for securing payment of rentals. A lessee may sublease the land upon which he holds a lease provided the time is not greater than one year. Even then, he must make application in writing and secure the written approval of the Commissioners of the Land Office. Many lessees have subleased for bonuses in excess of the amount they are paying as rentals, and in addition have received one-third crop rent.²

² Ibid., p. 53.

The Commissioners condemned this practice of speculation and voted to have all school lands that had been subleased reappraised for sale; also, to have all preference right leases reappraised except those lands used exclusively for grazing purposes. In accordance with these regulations, new appraisals were made and new rental and lease contracts were entered into at the expiration of the previous contract. In most instances this date was January 1, 1947.

Table III summarizes the results of the most recent re-appraisal of school lands. The over-all increase of agricultural rentals when compared to previous rentals on the same land is 58.29 per cent. Since 1946 the annual rentals for agricultural leases have increased on an average more than fifty per cent due to the reappraisals of both preference right and non-preference right leases.

TABLE III
AGRICULTURAL LEASE LANDS AND RENTALS
ACCORDING TO APPRAISAL COMPLETED DECEMBER 31, 1946

| Type of Lease | Acreage | Appraisal | Present Rental | Former Rental | Percentage of Increase |
|-----------------|------------|-----------------|----------------|---------------|------------------------|
| Pre-ference | 302,680.76 | \$11,013,436.16 | \$330,909.78 | \$199,772.95 | 65.64% |
| Non-Prefer-ence | 286,878.25 | 4,970,745.80 | 248,537.29 | 166,291.43 | 49.46% |
| Total | 589,559.01 | \$15,984,181.96 | \$579,447.07 | \$366,064.38 | 58.29% |

The revenue from agricultural rentals are apportioned as follows: forty-five per cent of the income from agricultural leases is placed in the "Depletion, Management and Sale Fund." Certain employees, their

travel expenses and office supplies are paid out of this fund. The Soil Conservation Service program for school lands is also financed by this fund. Forty-five per cent of the income from agricultural leases is credited to the proper "Revenue Fund" of the particular account to which such agricultural land belongs and is therefrom apportioned to the legal beneficiaries for which the endowments exist. Ten per cent of the agricultural lease income is placed in a reserve account to be used as needed and appropriated by future legislatures to take care of losses in the permanent funds of the legal beneficiaries.

Sales.—By the provisions in the Enabling Act, affirmed by the Constitution of Oklahoma, the Board of Commissioners of the Land Office is authorized to sell the school lands under stipulated conditions. It is the duty of the legislature to prescribe such rules and regulations in conformity with the provisions of the Enabling Act and the Constitution.³

Preparatory to land sales, the Legislature of 1908 caused all school lands and public building lands to be appraised.⁴ The Legislature of 1909 provided for the sales under the 1908 appraisals and set forth rules and regulations to govern the same.⁵ The more outstanding rules and regulations governing the first sales are:⁶

—All proceeds from the sale of such lands shall be sacredly preserved for the use and benefit of the several funds, institutions, and purposes for which said lands were granted by the United States Government to the State of Oklahoma under provisions of the Enabling Act and of any and all other acts of Congress, and by the Constitution.

³ Appendix B and C.

⁴ Session Laws, 1908, Chapter 49, Article 11, Section 2.

⁵ Session Laws, 1909, Chapter 28, Article 11, Section 2.

⁶ Commissioners of the Land Office, Biennial Report, 1944-46.
p. 206.

None of the land shall be sold for less than its appraised value.---

---The State shall have first lien upon all lands sold --- together with all improvements and appurtenances thereunto belonging, until all payments both principal and interest are made thereon.---

Purchaser shall make affidavit that the land purchased is for his own use.

Five per cent of the purchase price shall be paid at the time of the sale and the remainder to be paid in forty annual payments with 5 per cent interest on all unpaid balance.

There are restrictions on the number of acres that can be purchased by one person. The reselling of land for five years from the date of purchase is prohibited. A preference right to purchase the land at the highest bid is given the lessee, as secured under the Enabling Act. However, this right is limited to one hundred and sixty acres.

Oil, gas, and other minerals were declared segregated from the surface rights and were not to be sold prior to January 1, 1915. The School Land Department reserves and retains a percentage of the oil, gas, and other minerals under all tracts sold, and retains the exclusive right to lease the lands for such purposes.⁷

There have been few sales of original grant lands since 1917. The proceeds from the sale of lands are credited to the permanent fund of the respective institutions to which the lands belonged. When considering the original grant and foreclosed lands as of June 30, 1949, there remains acreages as shown on the following page.⁸ The total of 814,941.34 acres of land unsold is twenty-six per cent of the acreage of original grant lands.

⁷ Ibid., p. 207.

⁸ Commissioners of the Land Office, Financial Statements, June 30, 1949.

Of the Original Grant Lands there Remains:

| | <u>Acreege</u> | <u>Appraised Value</u> |
|------------------|----------------|------------------------|
| Common School | 362,295.39 | \$10,004,219.75 |
| S. E. I. | 83,321.77 | 2,609,491.89 |
| University | 68,897.84 | 569,557.82 |
| University Prep. | 22,351.13 | 177,017.13 |
| A. & M. | 78,412.77 | 759,417.36 |
| Normal Schools | 84,479.52 | 662,596.07 |
| C.A. & N.U. | 19,945.89 | 175,390.21 |
| Public Building | 38,326.36 | 1,270,325.99 |
| Greer No. 33 | 3,763.80 | 93,038.30 |
| | <hr/> | <hr/> |
| Total | 761,794.47 | \$16,321,054.52 |

Of the lands acquired by foreclosure there remains:⁹

| | <u>Acreege</u> | <u>Appraised Value</u> |
|------------------|----------------|------------------------|
| Common School | 39,492.03 | \$ 695,566.24 |
| S. E. I. | 9,119.24 | 207,767.68 |
| University | 1,147.16 | 20,095.04 |
| University Prep. | 492.67 | 13,227.00 |
| A. & M. | 1,466.72 | 15,015.00 |
| Normal Schools | 1,269.05 | 24,237.61 |
| C.A. & N.U. | 160.00 | 2,700.00 |
| | <hr/> | <hr/> |
| Total | 53,146.87 | \$ 978,608.57 |

⁹ Ibid.

Beginning in 1938, there has been a consistent campaign for the sale of foreclosed lands acquired by the Department. Most of the proceeds of the sales of the foreclosed lands belong to the permanent funds and, as collected, are available for investment. These sales were justified as a means of getting the land back into private ownership and back on the tax rolls in the respective counties where the lands are located. Table IV shows the extent of the sales of foreclosed lands.

TABLE IV¹⁰

SALE OF FORECLOSED LANDS, 1938, TO JUNE 30, 1948

| <u>Year</u> | <u>Acreage</u> | <u>Sale Value</u> |
|--------------------|-------------------|------------------------|
| 1938 | 6,723.45 | \$ 150,177.10 |
| 1939 | 17,879.21 | 447,672.17 |
| 1940 | 101,147.44 | 1,901,214.01 |
| 1941 | 85,603.93 | 1,480,551.16 |
| 1942 | 92,692.04 | 1,440,238.52 |
| 1943 | 5,880.91 | 139,718.87 |
| 1944 No Sales Held | | |
| 1945 | 37,212.52 | 765,756.40 |
| 1946 | 113,655.89 | 2,859,927.22 |
| 1947 | 34,980.55 | 918,190.15 |
| 1948 | 12,394.01 | 544,496.34 |
| Total | 508,169.95 | \$10,647,941.94 |

Average Sale Price per Acre — \$21.95

During the period of 1938 to June 30, 1948, a total of 508,169.95 acres of foreclosed land were sold at an average price of \$21.95 per acre. Since the State retains a percentage of oil, gas, and other minerals and mineral rights under all tracts sold, the sale price is considered average. In accordance with the terms of the sales contract a large part of the purchase price of these lands is in the process of being collected.

¹⁰ Twenty-Second Biennial Report, State Department of Education, 1946-48. p. 173.

From the original grant of 3,132,958.26 acres of endowment lands there remained as of June 30, 1938, a total of 972,364.06 acres.¹¹ According to the annual report ending June 30, 1949, the amount of original grant lands owned was 761,794.47 acres. Thus during the eleven years there were 210,569.59 acres of grant lands sold.

Rules and regulations governing the sale of original grant lands remain much the same as those set forth by the 1909 legislature. Some of the changes are:¹²

Lands may be sold for cash, or under a sales contract denominated, 'Certificate of Purchase,' providing for an initial payment of not less than twenty-five per centum of the total purchase price, the balance to be paid in twenty-five equal annual installments, with deferred payments drawing interest at the rate of three per cent per annum. Delinquent principal and interest bear interest at three per cent per annum. Certificates of purchase are delivered to the purchaser upon approval of the sales, provided the purchaser executes and delivers to the State of Oklahoma a promissory note for such deferred payments. No certificate of purchase can be transferred or assigned without the approval of the Commissioners of the Land Office.

Each bid must be at least equal to the appraised value of the land. The successful bidder at a land sale, other than the preference right lessee, must pay to the Commissioners of the Land Office for the benefit of the preference right lessee, the appraised value of such improvements as are set forth at the time of the sale. In addition to the sale price, the State retains a percentage of all oil, gas, and other minerals and mineral rights owned by it in and under all tracts sold. Each tract is sold subject to the right of the present lessee to grow and harvest crops for the current year and the State reserves the right to collect all rentals from each tract for the current year.

¹¹ Seventeenth Biennial Report, Superintendent of Public Instruction, State of Oklahoma. 1936-38. p. 224.

¹² Commissioner of the Land Office, Biennial Report, 1944-46. p. 207.

Sales are made subject to the laws of the State, and the rules and regulations of the Commissioners of the Land Office, and act, rules and regulations amendatory thereto. The State reserves the right to reject any and all bids, and no bid shall be considered as finally accepted, until it is accepted and approved by the Commissioners of the Land Office.

Rules and regulations governing the sale of foreclosed lands differ in some respects from the rules governing the sale of original grant lands.

Some of these differences are:

1. No tract can be sold for less than ninety per centum of the total appraised value of the land and the improvements thereon.
2. The State retains fifty per cent or more of the oil, gas, and mineral rights owned by it in and under all tracts of land sold.
3. The purchaser must comply with any suggestion of the Commissioners of the Land Office for agricultural production and soil conservation, and with the terms and conditions of any existing soil conservation agreement made between them and any soil conservation district.
4. The purchaser must agree personally to farm and till the soil of the tract purchased for at least five years following the issuance of his certificate of purchase.
5. No sale to the lessee of any state-owned lands will be approved if such lessee is delinquent in the payment of any rental.
6. The purchaser is required to execute all necessary instruments for the completion of the sale within thirty days.
7. No certificate of purchase shall be transferred or assigned for a period of five years, except by the operation of law, without the written consent of the Commissioners of the Land Office and the same shall be subject to cancellation at the option of the Commissioners of the Land Office in event of the default of the purchaser as to any of the terms or conditions thereof, or failure to pay the ad valorem taxes assessed against the land within one year after the same shall have become due.
8. Upon payment of all principal and interest, the purchaser shall receive a patent to said lands, subject to the reservation of mineral rights as set forth above.

Loans and Investments.—The State Constitution makes provision for the investment of school funds. Article XI, Section 6, reads:¹³

The permanent common school and other educational funds shall be invested in first mortgages upon good and improved farm lands within the State, (and in no case shall be more than fifty per centum of the reasonable valuation of the lands without improvements be loaned on any tract), Oklahoma State Bonds, County bonds of the counties of Oklahoma, School District bonds of the school districts of Oklahoma, United States bonds, preference to be given to the securities in the order named.

The Constitution provides for the security of the investments by requiring that the legislature do all things necessary for the safety and permanency of the investment:

The legislature shall provide the manner of selecting the securities aforesaid, prescribe the rules, regulations and restrictions, and conditions upon which the funds aforesaid shall be loaned or invested, and do all things necessary for the safety of funds and permanency of the investments.

Immediately after the receipt of \$500,000.00 from the five-million dollar Federal appropriation, in lieu of lands for common schools in the Indian Territory, the Farm Loan Division was organized and the first loan was made January 21, 1908.

In the early history of the loan division, straight five per cent term-type loans were made; the interest was to be paid annually and the principal paid at the end of the term. For the present, all new loans are of a three per cent, twenty-five year amortized type.¹⁴ First mortgage farm loans from the higher educational institution funds were authorized by the legislature of 1915. As of June 30, 1948, there were 5,065 active farm loans secured by 955,962.80 acres of land. The original amounts of these loans were \$12,980,024.81.¹⁵

¹³ Appendix C.

¹⁴ Commissioners of the Land Office, Biennial Report, 1944-46. p. 196.

¹⁵ Ibid., p. 25.

The School Land Department is the largest farm loan agency in the State. Its experience as a farm loan agency is comparable to that of any other farm loan agency during the same period of time. There are most unfavorable times when droughts or financial depressions prevail; there are prosperous times when weather conditions are conducive for farming and farmers receive high prices for farm products and regain confidence in agriculture and its future.

When a farm loan is made, the School Land Department is given a first lien on the land as security. If the land changes hands, the new owner assumes responsibility for the payment of loan. A fee of two dollars is charged for making the change. The new owner is required to furnish his recorded deed to show rightful ownership, and if the deed does not contain an acceptance clause whereby the grantee assumes and agrees to pay the balance due on the loan, the owner must execute an assumption of mortgage agreement wherein he agrees to pay the balance due the Department.

The following rules of the Commissioners of the Land Office govern the making of farm loans:¹⁶

1. The applicant for a new loan must be a resident and a citizen of the State of Oklahoma and must own a fee simple record title to the surface of the land offered as security on the date the application is filed, and must own at least an undivided one-half of the mineral rights in and under each and every acre of the land offered as security except where oil, gas, or other minerals are owned or held in trust by the United States Government for the benefit of any Indian Tribe or Tribes.
2. An application fee calculated on the following basis, must accompany the application: \$20.00 fee for application for \$2,000 or less and an additional \$5.00 fee for each \$1,000 or fraction thereof on applications in excess of \$2,000.
3. An affidavit of possession of any person(s) other than the applicant, who rents, leases, or otherwise has possession

¹⁶ Ibid., pp. 198-99.

of any part or all of the land or any of the improvements thereon, must accompany each application.

4. If the land in the application lies within an organized soil conservation district, the applicant must comply with the soil conservation program of the district and submit with his application the Certificate of such agreement of compliance signed by the Work Unit Leader, President, or Secretary of the Soil Conservation District.
5. The land offered as security for a new loan must be good and improved farm land, located within the State, and the amount of the loan cannot exceed fifty-per cent of the appraised value of the land, exclusive of improvements.
6. No new loan will be made to guardians, executors, or administrators.
7. No new loan will be made on any tract of land of less than twenty acres nor for an amount less than \$3,000, nor in excess of \$10,000, nor more than \$50.00 per acre, regardless of value, and all loans shall be multiples of \$100.
8. Any individual or family may obtain one or more loans provided the principal of said loan, or the total of the principals of said loans, does not exceed \$10,000.
9. No new loan can be made to any state official, either legislative, executive or judicial, either elected or appointed, during the term of office or during their candidacy for elective office.
10. Title to the land offered as security coming through heirs or devisees of deceased persons will not be accepted unless there has been a legal determination of heirship by a court of competent jurisdiction.
11. No loan will be made upon lands situated in drainage districts unless all bonded indebtedness of the whole district is paid in full and the bonds cancelled.
12. An increased loan must take the status of a new loan and be governed by the rules governing such loans.
13. Applicants applying for rewriting of an unmatured loan or the renewal of a matured loan is required to pay, on the date of filing his application, the interest of said loan to the fifteenth day of the month following the date of the filing of said application unless the application is filed on or before the fifteenth day of the current month. New mortgage papers will be dated as of the date to which the interest has been paid except in cases where the applicant has not exercised due diligence in complying with Departmental requirements or where it is necessary to obtain a Court Order authorizing execution of mortgage papers.

14. All loans are made for twenty-five years at the interest rate of three per cent per annum; interest and principal are payable semi-annually, under a plan to pay said loan in full at maturity. No loan will be completed until the security has been inspected and appraised; approved by the Commissioners of the Land Office and the title approved by the Title Division.
15. All applications will be considered in the order in which they are filed. Ordinarily, thirty to sixty days are required to complete a loan.

It appears that the legislature and the Commissioners of the Land Office have exercised adequate precautions safeguarding the investment of school funds in farm loans. Criterion one—safety—and criterion four—responsibility—have been duly considered by the authorities of control.

Permanent school funds are invested in bonds of the state, county, school district, and of the United States. The Board of Commissioners of the Land Office has the authority to select the investments for school funds in so far as amount and kind are concerned. In 1936, the investments in all types of bonds amounted to \$5,080,500.00. The par value of this same type of investment on June 30, 1948, amounted to \$36,695,600.00.¹⁷

Table V shows the amount of bonds owned classified as to the seven permanent funds.

The annual rate of interest ranges from one and one-half per cent to two and one-half per cent, and all the bonds are of the United States Government or Treasury except \$128,000.00 invested in Tulsa County bonds. The maturity dates vary from 1950 to 1972 with the greater part, \$26,837,000.00 maturing at the latter date. Duplicate bond records are kept in the Land Office and in the State Treasurer's office where

¹⁷ Commissioners of the Land Office, Biennial Report, 1946-48, p. 22.

TABLE V
RECORD OF BONDS OWNED AS OF JUNE 30, 1948

| <u>Permanent Fund</u> | <u>Amount of Bonds</u> | <u>Percentage</u> |
|-----------------------|------------------------|-------------------|
| Common School | \$28,149,000.00 | 76.7 |
| S. E. I. | 5,568,000.00 | 15.2 |
| University | 774,300.00 | 2.1 |
| University Prep. | 440,000.00 | 1.2 |
| A. & M. | 644,000.00 | 1.7 |
| Normal School | 874,500.00 | 2.4 |
| C.A. & N.U. | 245,800.00 | .7 |
| <hr/> | | |
| Total | \$36,695,600.00 | 100.0 |

data are itemized for each bond. Safety, knowledge of bond status, and responsibility have been exercised judiciously since 1935. All bond records are kept in a state of readiness for audit, and the custodians are insured by surety agencies.

Appraisals.—The success or failure of any farm loan agency depends in a large measure on its appraisals of the lands in question. Prior to 1933 the legislature gave little attention to the appraisal of lands offered as security for farm loans. This matter was left to the judgment and discretion of the Commissioners of the Land Office. As a result of an investigation of the School Land Department, two laws were enacted which affected land appraisals.¹⁸

Authorized employees are prohibited from appraising a tract of land before an application (with required fees) has been filed in the Department. The appraiser must personally inspect every tract of land offered as security. He takes a complete description, giving the character of the soil and all the natural conditions, kinds of grass, timber, location of water, the amount of land that can be profitably farmed, distance from market, kind of roads and improvements. A complete plot of the land is made.

¹⁸ Sessions Laws of 1933, Chapters 91, 184, and 187.

From the description, plot, and reports showing the selling value of deeded land in the vicinity, a cash value of the particular tract as unimproved land is fixed and the rental value placed at a stipulated percentage. The appraiser is prohibited from revealing to the applicant his valuation placed on the land until after the appraisal is on file in the office. False statements are made perjury.

Before the Commissioners of the Land Office can consider an application for a loan they must have a statement from the tax assessor of the county wherein the land is situated. This statement must show:

1. The assessed value of the land in question for each of the five years previous to the filing of the loan application.
2. The assessor's opinion as to whether the land in question is capable of earning the taxes and the interest on the loan of an amount equal to fifty per cent of the land value.

The appraisal system is organized on a district basis. The state is divided into seven districts and one appraiser is appointed for each area. The law provides that each appraiser shall reside within his assigned district and shall receive actual traveling expenses necessary for the performance of his duties in examining lands and making appraisals. Each appraiser is required to be a free-holder and practical farmer, or a farm loan inspector, who has had at least five years experience as a farmer or as a farm loan inspector and shall be acquainted with land values.

Services.—The Service Division of the Oklahoma School Land Department was created by the legislature in 1935.¹⁹ Operations began August 1, with a personnel consisting of a manager, seven adjusters in the field, five assistant-adjusters in the office, and stenographers.

The duties of the Service Division are:

¹⁹ Commissioners of the Land Office, Biennial Report, 1944-46. pp. 240-241.

1. To have charge of all administrative detail work pertaining to liquidation of all accounts receivable of whatever nature due the School Land Department.
2. To take charge of all collections on real estate agreements, oil and gas rentals, royalty payments, and all other collections of whatsoever nature.
3. To obtain information from the county treasurer regarding payment of taxes on the securities held under mortgages and certificates of purchase.

The assistant-adjusters write letters on delinquent loans, delinquent sales contracts, and delinquent rents as a means to collect. If these efforts fail the manager of the division refers the delinquencies to the field adjusters of the appropriate districts. In case these efforts fail, the field adjusters refer them back to the manager, who in turn refers settlement to the Legal Department for legal action. Moreover, the personnel may be transferred from one division to another by the secretary of the department. By such authority in the law, adjusters at times are assigned to assist in the work of appraising state-owned lands which results in personnel economy for seasonal work.

It is a mandatory duty of the Commissioners of the Land Office to foreclose mortgages and cancel the certificates of purchase when clients fail to pay the ad valorem taxes within specified periods of time. This duty necessitates the sending of tax records to the county treasurer each year for certification. The audits reveal that the above practices are neglected and inadequate responsibilities result among the personnel.

Payment of salaries of all employees of the Service Division, necessary travel expenses, and office maintenance are paid from the "Depletion, Management and Sale Fund," rather than from the general revenue of the state. It is believed that such practices are contrary to the provisions in the State Constitution safeguarding endowment funds (Art. 11, Sec. 3).²⁰

²⁰ Appendix C.

Accounting.—The legislature of 1935 enacted a law creating the Accounting Division of the School Land Department.²¹ This division has charge of all journals, ledgers, and other books and equipment as may be prescribed by law or by any person so authorized by the Act. A department auditor is at the head of the Accounting Division.

All business transactions involving money must pass through the Accounting Division. This practice enables internal checking and the placing of responsibility. Although the heads of the several divisions of the department keep record of the business transactions of which they have charge, the Accounting Division serves as a central accounting office for all the divisions. Its chief duties are:

1. Maintenance of subsidiary and detail ledgers for all the several funds of the department.
2. Apportionment of all receipts to the several funds.
3. Preparation of financial and statistical reports at regular intervals.

Each of the various funds has a detailed set of books kept by the Accounting Division. These records include:

1. Accounts receivable: Loans, leases, sales, foreclosure, forfeiture, mortgages, deficiency judgments, and miscellaneous.
2. Accounts payable: Operational costs, salaries, and supplies.
3. Bonds.
4. Cash.

An officer of the Accounting Division is a cashier. He receives all money paid to the department and deposits the same with the state treasurer. All drafts, checks, money orders, and money of any form, received by mail, are turned over to the cashier along with a reception record.²² The cashier

²¹ Session Laws of 1935.

²² Oklahoma Statutes, 1941. Title 64, Sections 126, 127.

signs the reception record and returns it to the mail clerk, and in turn issues receipt in triplicate for all money received. The original receipt goes to the borrower, the duplicate to the permanent files of the division for which the fund covered by receipt was received, and the triplicate to the accounting division where it is credited to the fund for which it belongs. Payments made in person at the cashier's window are receipted in duplicate; the original goes to the borrower and the duplicate remains in the cashier's file. The cashier then issues a distribution receipt in triplicate, the same as is done when funds are received by mail. All funds of any form received by the department are deposited with the state treasurer and are balanced with the accounting division at the end of every month.

Accounts payable for operating costs and supplies charged to the department cannot be recognized until the claims sent by creditors have been approved by the proper authorities. The claims are checked for errors by the chief auditor and attested by the assistant secretary. When this has been done the claims are presented to the Commissioners of the Land Office for final approval. Upon approval, a check for the amount of the claim is mailed to the creditor by the accounting division.

The Burroughs Bookkeeping Machine system is used in the accounting division. Consequently, fewer employees are required. The personnel of this division consists of an auditor, assistant auditor, four bookkeepers and five machine operators.

Oil and Gas.—Prior to statehood, nothing definite was done in regard to oil and gas rights on school lands. Sections seven, eight, and ten of the Enabling Act gave the State authority to sell or lease lands, subject to oil, gas, and minerals therein.²³ As a result a law was enacted which

²³ Appendix B.

authorized the Commissioners of the Land Office to lease public lands for oil and gas.²⁴ A portion of this law reads, ". . . and further declare that the oil and gas deposits are segregated from the surface use and interest therein, and segregation of such deposits shall conclusively withhold the same from sale, lease, or other cultivation, except as provided in this act."

If school lands were found to be mineral in character, they were declared segregated, an entry was made in the land office records declaring such lands segregated and all mineral lands were reserved from sale prior to 1915.²⁵ The first leases for oil and gas were made soon after statehood. The terms were for five years and one-eighth royalty of all oil and gas produced.

From 1907 to 1917, royalties, bonuses, and rentals accruing to the School Land Department were placed to the credit of the revenue fund and apportioned to the schools to be used for current expenses. The legislature enacted a law which provided that after March 30, 1917, all income from oil, gas, and other minerals should be termed "Capital" and credited to the permanent fund of the institution to which the land belonged.

From statehood to the time of this transfer, collections from oil and gas amounted to \$225,609.80.²⁶ These collections have fluctuated with the trend of the price of crude oil and with gas development in areas where school lands are located. According to the State Auditor's biennial report for the period ending June 30, 1934, the total earnings from all school lands for oil and gas leases and royalties amounted to \$14,157,593.58. The major part of this amount was collected after 1920 and has become a

²⁴ Session Laws, 1907-08. p. 490.

²⁵ Ibid., p. 486.

²⁶ Commissioners of the Land Office, Biennial Report, 1944-46. p. 257.

part of the permanent fund of the particular account to which the land belonged.

A simplified record system for understanding the financial status of income from oil and gas is desirable. Personal responsibility cannot be placed due to the plans for unitization of oil, as mentioned by audits made from 1945-48 (p. 77).

Since 1934 earnings from oil and gas leases and royalties shown in Table VI amounted to \$9,947,562.35.

Legal.—The Legal Division of the School Land Department was created by the legislature in 1919. Its purpose is to prepare, institute, prosecute, and defend all legal proceedings that pertain to the public lands under the control of the School Land Commission.²⁷ The staff includes a "Law and Executive Counsel," assistants and stenographers. In addition, and at the request of the Land Commissioners, the Attorney General defends any action in which the commissioners may be sued in their official capacity. Suits may be instituted by the Attorney General.

The chief duties of the Legal Division are:²⁸

1. Examining the title of property offered as security for a loan
2. Conducting foreclosure proceedings when loans are in default
3. Securing and collecting judgments on unpaid notes
4. Representing the state in all condemnation suits filed by the Federal Government
5. Representing the State as creditors when borrowers of school fund money file in bankruptcy
6. Representing the State in appeals of order of the Commissioners of the Land Office
7. Preparing contracts.

²⁷ Session Laws of 1919, Chapter 211, p. 301.

²⁸ Commissioners of the Land Office, Biennial Report, 1944-46. p. 276.

TABLE VI

INCOME FROM OIL AND GAS LEASES AND ROYALTIES SINCE JUNE 30, 1934, TO JUNE 30, 1949

| <u>Year Ending</u> <u>June 30</u> | <u>Union Graded &</u> <u>Consolidated</u> | <u>Common School</u> | <u>S.E.I.</u> | <u>New College</u> | <u>Public Bldgs.</u> | <u>Total</u> |
|--------------------------------------|--|----------------------|-------------------|--------------------|----------------------|---------------------|
| 1935 | | \$ 512,594.02 | \$ 31,440.98 | \$ 260.22 | \$ 18,153.68 | \$ 562,448.90 |
| 1936 | | 270,324.38 | 31,314.65 | 205.66 | 10,337.24 | 312,181.93 |
| 1937 | | 304,078.66 | 31,368.20 | 2,268.00 | 11,559.43 | 349,274.29 |
| 1938 | | 332,867.13 | 18,656.25 | 13,872.30 | 10,091.82 | 375,487.50 |
| 1939 | 24.50 | 313,515.61 | 22,565.14 | 13,620.19 | 7,785.50 | 357,510.94 |
| 1940 | 00.00 | 267,329.50 | 32,290.65 | 8,032.68 | 6,772.22 | 314,425.05 |
| 1941 | 3,520.00 | 249,058.93 | 41,079.09 | 4,776.83 | 11,876.91 | 310,311.76 |
| 1942 | 320.00 | 329,041.81 | 38,051.66 | 20,097.06 | 7,845.03 | 395,355.56 |
| 1943 | 00.00 | 309,444.88 | 35,721.13 | 32,837.56 | 30,469.98 | 408,473.55 |
| 1944 | 425.00 | 686,479.70 | 154,260.26 | 57,707.87 | 6,532.75 | 905,405.58 |
| 1945 | 00.00 | 644,260.82 | 71,100.56 | 8,920.99 | 10,718.51 | 735,000.88 |
| 1946 | 00.00 | 681,524.19 | 194,301.15 | 76,825.35 | 20,025.22 | 972,675.91 |
| 1947 | 920.00 | 820,069.60 | 130,267.19 | 105,845.97 | 24,834.36 | 1,081,937.12 |
| 1948 | 160.00 | 1,296,602.48 | 151,521.52 | 68,689.78 | 13,694.10 | 1,530,667.88 |
| 1949 | <u>5,840.00</u> | <u>1,047,482.04</u> | <u>207,099.62</u> | <u>42,989.32</u> | <u>32,994.62</u> | <u>1,336,405.60</u> |
| Totals | 11,209.50 | \$8,064,673.75 | \$1,191,038.05 | \$456,949.78 | \$223,691.37 | \$9,947,562.35 |

Due to the number of foreclosures pending and the amount of deficiency judgments, it appears that additional legal counsel is justified in order to protect the financial interests of the legal beneficiaries. The state must compete with the legal staff of the major oil companies. The criterion of economy applies.

Soil Conservation—The legislature of 1937 provided for soil conservation work within the department and authorized the Commissioners of the Land Office to cooperate with the State Soil Conservation Committee in carrying out state and national programs. The Commissioners were empowered to adopt such policies, rules and regulations as may be necessary.²⁹

The purposes of the program are:

1. Conserving, protecting and improving the land
2. Preventing wind and soil erosion
3. Rebuilding and reclaiming waste, eroded, and abandoned lands
4. Irrigation of land in districts where facilities are available.

The methods employed in attempting to carry out the soil conservation program are:

1. Terracing
2. Contour cultivation
3. Planting grass and foresting of lands
4. Seeding of waste, eroded, and abandoned lands.

The School Land Department takes the status of an individual farmer when participating in the soil conservation program. A separate application on each tract of land affected must be made. Due to insufficient facilities in the way of machinery and advice of technical experts the soil conservation program advanced very slowly. In 1941 the state legislature set up a separate Soil Conservation Division within the School Land

²⁹ Commissioners of the Land Office, Biennial Report, 1944-46. p. 265.

Department and appropriated \$200,000.00 out of the Depletion, Management and Sale fund, for its operation.³⁰

For a time following this legislation, the department planned and organized its own program, employed technical experts and advisory assistants, and operated the program by contracting with private contractors to do the work. When private concerns could not be secured, the School Land Commissioners bought machinery and other needed equipment. They employed labor in an attempt to continue the soil conservation work during the war years. However, this plan never operated on full scale due to shortages of labor, machinery, and technical experts; besides it proved to be very expensive.³¹

An effort to shift part of the burden of the original cost and operation to the lessee met with little success. The land affected most had been acquired through foreclosures, in which case the lessee did not hold a preference right and simply leased the land from year to year. For this reason he was reluctant to assume any additional cost.

At the present time the building of terraces is the only work that is being done to conserve the soil. The lessee maintains it. Efforts are made to preserve and extend soil conservation work by requiring signed agreements with lessees, purchasers, and borrowers. These practices show interest in economy as well as protecting the capital outlay of school funds.

SUMMARY

Each of the nine divisions of the School Land Department has specific duties to perform. An internal check and balance system operates between

³⁰ Session Laws of 1941, S. B. No. 45, pp. 296-99.

³¹ Commissioners of the Land Office, Biennial Report, 1944-46. pp. 265-67.

the accounting division and each of the other subdivisions. This organization permits the transfer of employees to divisions that have seasonal work. The adjusters and appraisers are selected and assigned so as to serve the whole department rather than only one division. Delegation of authority is necessary in large organizations such as the School Land Department. Each head of a division of labor should assume the responsibilities that accompany the delegated authority. It is through this line of control that the secretary is accountable to the Commissioners.

The accumulation of the various school funds and the accounting procedures followed in apportioning money to the beneficiaries are presented in the following chapter.

CHAPTER V
SCHOOL FUNDS

In accordance with section eleven of the Enabling Act, five per cent of all future Homestead Land Sales were set aside for the use of common schools. The amount of \$66,164.20 has been received from this source and added to the permanent common school fund.²

Since March 30, 1917, all receipts from oil and gas sources produced from school lands are credited to the permanent funds of the various schools. To June 30, 1949, this has amounted to \$18,150,879.46 for the Common School Fund.

The sale of timber, sand and gravel, easements and rights of way, forfeitures from land sales contracts, condemnations and escheats are added to the particular fund account to which such rights belong. The amounts realized from these sources vary from time to time and are insufficient to make a sizable increase in assets.

Home Loan Fund.—In 1919 the legislature appropriated \$250,000.00 from the general revenues of the state to be placed in the custody of the Commissioners of the Land Office and to be known as the "Home Loan Fund."³ Residents of the state having certain qualifications and desiring to buy farms as provided in the law, could make applications for loans. According to the provisions of this law the state would take both a first and second mortgage and notes for the amount of the loan.

¹ Appendix B.

² Oliver Hodge, Oklahoma School Land Department, p. 23.

³ Session Laws of 1919, Chapter 194.

The law providing for the Home Loan Fund was repealed during the 1925 legislative session.⁴ All the assets of this fund were placed to the credit of the Permanent Common School Fund as provided for escheats by Article XI, Section three of the Constitution of the State. The 1931 legislature provided for the dissolution of the Home Loan Fund as it is converted into cash, by the transfer of all cash to the permanent school fund. A total of \$188,020.53 from the Home Loan Fund was credited to the school fund at the closing of the account, June 30, 1947. In addition there were deficiency judgments amounting to \$59,068.99 and second mortgages on foreclosed farms amounting to \$6,335.15; all of which have been transferred to the Permanent Common School Fund.

Home Loan Guaranty Fund.—Chapter 194 of the Session Laws of 1919 provided that all unclaimed express and freight refunds, then in the hands of the Corporation Commission, be placed in the custody of the Commissioners of the Land Office and be used exclusively for the security and guaranty of any second mortgages and notes sold under the provisions of the Home Loan Act. As no second mortgage notes were sold, Chapter 24 of the 1925 Session Laws provided for the dissolution of the Home Loan Guaranty Fund and the transfer of its assets to the permanent common school fund. Accordingly, these assets, \$216,662.50 in investments and \$111,354.48 in cash, were transferred to the permanent common school fund.⁵

Other Sources of Revenue.—The 1937 legislature passed House Bill Number 77 which provides penalties for the unlawful holding of real estate by corporations. These penalties are on a graduated scale ranging from one to six per cent of the assessed valuation of the property. The enforcement of the act is placed in the hands of the county attorney of the

⁴ Session Laws of 1925, Chapter 24.

⁵ Hodge, op. cit., p. 24.

respective counties of the state. For such services the county attorney receives fifteen per cent of the total penalties collected and the remainder is paid to the Commissioners of the Land Office to be credited to the permanent common school fund. A total of \$451,276.40 has been received from this source.⁶

Depletion, Management and Sale Fund.—In 1935 the Legislature created the "Depletion Revolving Fund" whereby a percentage of the income from surface leases was set aside "to be used to improve, preserve, and protect the lands so leased."⁷ The law has been amended several times and the fund is now known as the "Depletion, Management and Sale Fund."

Twenty per cent of all money received from surface leases of any and all lands under the jurisdiction and control of the Commissioners of the Land Office, whether for agricultural, grazing, or other purposes was allocated to the Depletion Fund. This per cent was changed to ninety in 1937 with the provision that a modern system of accounting be installed and maintained as well as necessary expenses of printing, travel, and supplies be purchased with the money allocated to this fund. This practice of diversion of earned revenues from the legal beneficiaries to the maintenance and operation of the department violates the principles of safety and responsibility for endowment funds (Appendix C). (Art. 11, Sec. 3.)

In 1939 the law was amended to provide that the "Depletion, Management and Sales Fund" would be used to defray the expenses of administering, managing and renting the lands belonging to the particular school fund. In 1941 the Act was further amended for the same purpose, but provided

⁶ State Superintendent of Public Instruction, Biennial Reports, 1940-42; 1945-46.

⁷ Session Laws of 1935, Chapter 28, Art. 3, Sec. 23.

that eighty per cent of the money collected of lands belonging to the Public Building Fund and seventy-five per cent from all other lands belonging to the Commissioners of the Land Office be used for that purpose. The 1943 Legislature amended the law to provide for sixty-five per cent of all rental money collected from land belonging to the Public Building Fund, and fifty-five per cent of such money as may be collected from the land belonging to the Permanent Common School Fund and the State Educational Institution Fund should be credited to the "Depletion, Management and Sale Fund."

In 1945 the legislature amended two subsections of the law providing that forty-five per cent of all money classified as rental would be credited to the "Depletion, Management and Sale Fund." Also, a provision of the amendment made possible transfer of surplus money in the "Depletion, Management and Sale Fund" to the revenue fund. A total of \$803,910.81 has been transferred from the "Depletion, Management and Sales" account to the cash accounts of revenue funds in accordance with the provisions of House Bill No. 524 of the Twentieth Legislature.⁸ A balance of \$123,668.07 remained in the account June 30, 1949. Combining these two amounts for the total of \$927,578.88 will give the net amount available for use by the legal beneficiaries.

From May 15, 1935, to June 30, 1949, a total of \$3,400,188.30 income from surface rentals has been apportioned to the Depletion, Management and Sales fund. The yearly amounts are shown in Table VII.

During this fourteen-year period, \$2,472,609.42 have been spent for the maintenance and operation of the department and participation in soil conservation programs. This is an average yearly cost of \$176,614.96.

⁸ Chas. G. Morris, Audits. Commissioners of the Land Office, "Cash Accounts of Revenue Funds," 1947, 1948.

TABLE VII

MONEY APPORTIONED TO THE DEPLETION, MANAGEMENT AND
SALE FUND FROM MAY 15, 1935, TO JUNE 30, 1949

| <u>Fiscal Year Ending</u> <u>June 30</u> | <u>Amount</u> |
|---|-----------------------|
| 1935 | \$ 1,087.04 |
| 1936 | 47,811.39 |
| 1937 | 58,809.93 |
| 1938 | 216,730.11 |
| 1939 | 259,015.55 |
| 1940 | 310,331.96 |
| 1941 | 287,027.70 |
| 1942 | 257,512.91 |
| 1943 | 324,384.37 |
| 1944 | 264,791.06 |
| 1945 | 295,811.63 |
| 1946 | 217,763.83 |
| 1947 | 266,614.18 |
| 1948 | 298,008.60 |
| 1949 | 294,488.04 |
| | <hr/> |
| Total | \$3,400,168.30 |

Soil conservation values are intangible and a portion of such expenditure can be classified as capital outlay. However, a major portion of this expenditure has been used for salaries and traveling expenses. These amounts are in addition to the appropriations made by the legislature from the state general revenue fund. The custom has been for the legislature to make lump-sum appropriations from the Depletion, Management and Sales Fund and thus limit the expenditures to such total. It appears that such practices have increased the cost of operation without legal sanction.

Special Reserve Fund.—In 1941 the legislature created a "reserve fund" for the purpose of repaying any losses in the permanent funds of Common School and State Educational Institutional funds.⁹ Five per cent

⁹ Session Laws, 1941, Title 64, Chapter 1c, Section 1.

of all moneys received from surface leases on any and all land belonging to the Common School and the State Educational Institutional funds was credited to the "reserve fund."

During the 1943 legislative session the amount of per cent was changed from five to ten per cent for the reserve fund. ¹⁰ (Table VIII on following page.) These reserves are guarantees against losses that have or may occur in the permanent fund of the particular account. In other words ten per cent of the income from agricultural leases is set aside in a reserve to insure the safety of permanent funds for the common schools, state educational institutions and the new college funds. This is a means of having the income take care of losses from bad investments. The integrity of the state has been pledged that all losses shall be reimbursed. (Append. C, Art. 11, Sec. 2.)

Revolving Fund and Fees.—The legislature created a revolving fund for the Department of the Commissioners of the Land Office. ¹¹

All fees collected by the department are deposited in this fund to be used for designated purposes. Books, printed forms, equipment, and supplies necessary for the installation and maintenance of a modern system of accounting are purchased with funds from this account. Emergency help and travel expenses incurred by employees processing foreclosures are paid from the revolving fund.

A schedule of fees to be charged for services rendered by the department is determined by the Commissioners of the Land Office. The secretary to the Commissioners is responsible for the collection and safety of the revolving funds. During the twelve months ending June 30, 1949, the

¹⁰ Session Laws, 1943, Title 64, Chapter 14, Section 1.

¹¹ Session Laws of 1935. p. 109.

TABLE VIII

ACCUMULATED RESERVE FUND FOR THE PERIOD BEGINNING
MAY 13, 1941, AND ENDING JULY 1, 1949

| Fiscal Year Ending June 30 | Common School Fund | State Educational Institution Fund | New College Fund | Total Reserve Fund |
|----------------------------------|--------------------------|--|---------------------|--------------------------|
| 1941 | \$ 50.03 | \$ 14.15 | \$ 12.18 | \$ 76.36 |
| 1942 | 11,815.25 | 2,959.36 | 1,303.34 | 16,077.95 |
| 1943 | 14,610.51 | 3,690.98 | 1,865.56 | 20,167.05 |
| 1944 | 31,406.00 | 7,589.00 | 3,700.40 | 42,695.40 |
| 1945 | 36,199.19 | 9,278.59 | 4,519.09 | 49,996.87 |
| 1946 | 33,435.94 | 7,384.70 | 4,081.02 | 44,901.66 |
| 1947 | 34,449.19 | 9,577.82 | 10,897.37 | 54,924.38 |
| 1948 | 40,215.62 | 8,925.87 | 12,428.54 | 61,570.03 |
| 1949 | 38,578.51 | 9,157.18 | 12,702.55 | 60,438.24 |
| Total | \$240,760.24 | \$58,577.65 | \$51,510.05 | \$350,847.94 |

deposits in the revolving fund were \$22,895.93 and for the same period the disbursements were \$11,234.00. The balance of cash in this fund July 1, 1949, was \$128,714.06.¹² To the extent of these amounts the School Land Department is self-supporting in accordance with services performed.

Deficiency Judgments.—When a foreclosure is made and the value of the land is insufficient to satisfy the debt a deficiency judgment is secured. The amount of the judgment is determined by the difference between the debt and the value of the land plus additional costs such as attorney's fees, abstracts, court cost, and publications. The total

¹² Commissioners of the Land Office, Financial Statements for the Twelve Months Ending June 30, 1949.

judgment is entered on the books as an asset to the particular fund of which such foreclosed land belonged. Table IX shows the total amount of deficiency judgments as of June 30, 1949.¹³

Two kinds of deficiency judgments are "personum" and "rem." The "personum" judgment is against a person or corporation for the non-payment of a debt. The "rem" judgment is used in case the maker of a contract is deceased and there are no heirs, or in case the maker of the contract is out of the jurisdiction of the court.

TABLE IX

AMOUNTS OF DEFICIENCY JUDGMENTS IN SCHOOL FUNDS

JUNE 30, 1950

| Account | Permanent | Revenue | Miscellaneous | Total |
|---------------|--------------|----------------|---------------|----------------|
| Common School | \$594,849.50 | \$5,711,151.65 | \$565,546.55 | \$6,871,547.70 |
| S. E. I. | 253,421.30 | 1,639,509.74 | 161,542.67 | 2,054,473.71 |
| University | 22,693.86 | 105,041.97 | 10,286.00 | 138,021.83 |
| Univ. Prep. | 10,290.27 | 69,255.28 | 7,963.62 | 87,509.17 |
| A. & M. | 10,895.94 | 142,071.67 | 13,379.71 | 166,347.32 |
| Normal School | 16,238.72 | 138,889.10 | 15,229.34 | 170,357.16 |
| C. A. & N. U. | 6,034.63 | 37,363.49 | 4,311.06 | 47,709.18 |
| Total | \$914,424.22 | \$7,843,282.90 | \$778,258.95 | \$9,535,966.07 |

A judgment becomes dormant at the end of five years unless another execution is issued. When this is done, the judgment is in full force

¹³ Ibid.

and effect for another five years. Judgments may be kept alive indefinitely. As long as a judgment is alive, it is a lien on all real estate belonging to the judgment debtor situated in the county where the judgment is of record. A judgment may be enforced against the property that is subject to the execution of such judgment debtor.

A detailed system of bookkeeping shows the status of each deficiency judgment. An individual ledger-sheet is kept for each judgment whereon full data concerning the principal amount, interest, court costs, attorney fees, abstract fees, publication fees and other items of cost are recorded. By proper credit each fund account will receive a percentage of payment equivalent to the percentage the account bears to the total amount of the judgment. For example, a judgment amounting to \$2,000.00, wherein \$500.00 was due the miscellaneous fund (fees authorized by the Commissioners), \$1,000.00 was due the revenue fund (interest and rental), and \$500.00 was due the permanent fund (principal of debt). A collection of \$1,000.00 is received and will be divided proportionately between the three accounts. The miscellaneous fund would receive \$250.00 or twenty-five per cent, the revenue fund would receive \$500.00 or fifty per cent, and the permanent fund would receive \$250.00 of twenty-five per cent. In each instance the deficiency judgments would be reduced the same amount as the cash received for that particular fund.

So long as there is a possibility of collecting a deficiency judgment there is justification for keeping it alive and in the current accounting procedure; but when it is obvious that no collections will be received, it appears to be useless to continue counting such judgments as assets. The state is liable for any and all losses in the permanent fund. The legislature has the power to appropriate funds to replace losses and has

so exercised this power by causing ten per cent of all agricultural leases to be set aside in a reserve account. The miscellaneous and revenue fund accounts should bear their losses, and the total assets should be reduced to conform with the actual value.

Funds Apportioned for Common Schools.—The earnings from the assets of the Common School Fund are apportioned monthly to the various counties of the state on the basis of the school census population. If any apportionments were made prior to statehood the minutes of the Board for Leasing Lands do not reveal the amount. From November 16, 1907, to June 30, 1936, the Hodge study shows a total of \$34,204,703.85 was apportioned for the support and maintenance of the common schools.¹⁴ Table X reveals a total apportionment of \$16,385,314.70 was made from June 30, 1936, to July 1, 1949. By combining the two amounts listed the common schools have received a grand total of \$50,590,018.55 during the forty-three year period since statehood. This is an average of \$1,176,512.00 per year.

For the past thirteen years the per capita payment apportioned has ranged from \$1.49 in 1937 to \$3.20 in 1946, or an average of \$1.96 per child per year. This amounts to approximately 1.5 per cent of the per capita cost of education in the common schools during the school year 1947-48.¹⁵ Apportionments for common schools have been stable for the most part during the past thirty years. The decrease in the scholastic population partially accounts for the increase in the per capita payment from the endowment fund.

Funds Apportioned to State Educational Institutions.—Five institutions—the University at Norman, the Agricultural and Mechanical College at

¹⁴ Oliver Hodge, Oklahoma School Land Department. p. 27.

¹⁵ State Department of Education. Twenty-Second Biennial Report, 1946-48. pp. 245-55.

TABLE X
 APPORTIONMENT MADE FOR THE SUPPORT AND MAINTENANCE OF
 COMMON SCHOOLS FOR THE PERIOD FROM JUNE 30, 1936,
 TO JULY 1, 1949

| Fiscal Year Ending June 30 | Scholastic Enumeration | Amount Apportioned | Per Capita Payment |
|-------------------------------|---------------------------|-----------------------|-----------------------|
| 1937 | 751,642 | \$ 1,119,052.58 | \$1.49 |
| 1938 | 727,734 | 1,164,345.14 | 1.60 |
| 1939 | 707,328 | 1,011,472.44 | 1.43 |
| 1940 | 706,524 | 1,080,998.10 | 1.53 |
| 1941 | 694,477 | 1,055,605.04 | 1.52 |
| 1942 | 679,182 | 1,229,319.42 | 1.81 |
| 1943 | 647,856 | 1,315,147.68 | 2.03 |
| 1944 | 607,781 | 1,231,198.46 | 2.02 |
| 1945 | 570,794 | 1,336,203.59 | 2.34 |
| 1946 | 565,818 | 1,810,093.08 | 3.20 |
| 1947 | 565,842 | 1,361,832.52 | 2.41 |
| 1948 | 559,709 | 1,338,481.25 | 2.39 |
| 1949 | 557,061 | 1,331,575.45 | 2.39 |
| Total | 8,341,148 | \$16,385,324.75 | Av. \$1.96 |

Stillwater, the Normal at Edmond, the Normal at Alva, and the Colored Agricultural and Normal University at Langston—were in existence when the first apportionment of endowment revenue was made in 1899.¹⁶ The Normal at Weatherford and the University Preparatory School at Tonkawa

¹⁶ Hodge, *op. cit.*, p. 33.

were established in 1903 and have received shares in the distribution of revenue since their existence. At Ada, Durant, and Tahlequah, three additional normals have been established since Oklahoma became a state. Thus a total of ten state educational institutions share in the apportionment of revenue funds from the earnings of the S. E. I. permanent fund and the New College fund.

In pro-rating the earnings of the S. E. I. fund, one-third is divided equally among the six normal schools, one-third between the University and the University Preparatory in the ratio of 9:1, respectively, and one-third is divided between the Agricultural and Mechanical College and the Colored Agricultural and Normal University in the ratio of 9:1, respectively. Apportionments made from the S. E. I. fund prior to June 30, 1936, amounted to \$7,888,333.77.¹⁷ From the above date to July 1, 1949, the amount apportioned was \$3,425,363.59, as revealed in Table XI.

The same ten state institutions share in the apportionment of earnings from the New College fund. The method of distribution for this fund is determined by individual institution accounts created when the original granted lands were assigned. Prior to June 30, 1936, the total apportionment amounted to \$3,687,983.72.¹⁸ From the above date to July 1, 1949, the apportionment was \$1,731,067.45.

Current Assets of School Funds.—Each of the school funds has increased in value during the past thirteen years. The increase can be accounted for partially by the increase in land values. Fewer acres are appraised and carried on the official record at a greater price in 1949

¹⁷ Ibid., p. 34.

¹⁸ Ibid., pp. 30-59.

TABLE XI

APPORTIONMENT MADE FOR THE SUPPORT AND MAINTENANCE OF STATE
EDUCATIONAL INSTITUTIONS FOR THE PERIOD BEGINNING
JULY 1, 1936, AND ENDING JUNE 30, 1949

| Fiscal Year End June 30 | Revenue Sources | | Total Amount |
|-------------------------------|------------------|---------------------|----------------|
| | S. E. I. Fund | New College Fund | |
| 1937 | \$ 251,944.50 | \$ 106,920.78 | \$ 358,865.28 |
| 1938 | 231,151.42 | 111,495.50 | 342,646.92 |
| 1939 | 202,285.15 | 85,620.91 | 287,906.06 |
| 1940 | 223,190.41 | 104,895.17 | 328,085.58 |
| 1941 | 207,870.62 | 109,488.29 | 317,358.91 |
| 1942 | 261,393.37 | 138,630.38 | 400,023.75 |
| 1943 | 273,125.27 | 153,690.64 | 426,815.91 |
| 1944 | 269,332.04 | 131,182.06 | 400,514.10 |
| 1945 | 267,244.07 | 114,557.62 | 381,801.69 |
| 1946 | 383,007.19 | 185,093.05 | 568,100.24 |
| 1947 | 299,686.24 | 160,943.99 | 460,630.23 |
| 1948 | 282,165.52 | 170,110.59 | 452,276.11 |
| 1949 | 272,967.79 | 158,438.47 | 431,406.26 |
| Total | \$3,425,363.59 | \$1,731,067.45 | \$5,156,431.04 |

than the same land plus additional acres were valued in 1936. The value of the unsold granted lands for common schools was \$10,003,635.96 in 1949, whereas this same item on June 30, 1936, was valued at only \$5,767,899.15.¹⁹

¹⁹ Hodge, op. cit., p. 25.

TABLE XII
A COMPARISON OF ASSETS OF THE COMMON SCHOOL FUND FROM
JUNE 30, 1936, TO DECEMBER 31, 1949

| <u>Item</u> | <u>1936#</u> | <u>1949</u> |
|---|---------------------|---------------------|
| Farm mortgage loans | \$21,502,989.09 | \$ 7,436,821.69 |
| Farm loans in the process of foreclosure | ————— | 25,339.59 |
| Land sales installment contracts | 2,814,691.41 | 3,481,570.05 |
| Bonds | 4,590,000.00 | 31,866,000.00 |
| Value of unsold granted lands | 5,767,899.15 | 10,003,635.96 |
| Value of unsold foreclosed lands . . | 1,456,234.55 | 689,549.56 |
| Cash on hand | 1,832,611.29 | 1,206,655.47 |
| Accrued interest | ————— | 4,567.23 |
| Deficiency judgments | 222,088.78 | 594,043.29 |
| Total | \$38,186,514.27 | \$55,308,182.84 |

#Amounts used in this column are taken from the Hodge study, p. 25.

Farm mortgages have decreased approximately sixty-six per cent during the past thirteen years. Bond investments have increased almost six hundred per cent during this period, and the deficiency judgments have increased more than one hundred per cent. The overall increase in total assets amounts to about forty-five per cent.

In a similar manner a comparison between the total assets in the State Educational Institution fund over the past thirteen years reveals an overall increase of assets of about thirty-nine per cent.

TABLE XIII

A COMPARISON OF THE ASSETS OF THE STATE EDUCATIONAL INSTITUTION
 FUND FROM JUNE 30, 1936, TO DECEMBER 31, 1949.²⁰

| <u>Item</u> | <u>1936</u> | <u>1949</u> |
|---|-----------------------|------------------------|
| Farm mortgage loans | \$4,540,476.67 | \$ 999,873.37 |
| Farm loans in process of foreclosure | — | 9,600.00 |
| Land sales installment contracts | 710,475.49 | 968,748.55 |
| Value of unsold Granted lands | 1,325,257.00 | 2,608,329.39 |
| Foreclosed lands | 559,860.85 | 197,067.68 |
| Bonds | 480,000.00 | 6,345,000.00 |
| Cash on hand | 832,496.40 | 433,865.23 |
| Deficiency judgments | 69,325.55 | 253,321.30 |
| Total | \$8,517,891.96 | \$11,815,805.52 |

Likewise, the assets of the "New College" funds have increased during the past thirteen years, but of a much lesser degree.

From the accompanying comparisons it is significant to note the amount of decrease in farm loans from 1936 to 1949. To compensate for this, bond investments have increased. A small number of farm loans are in the process of foreclosure and land sales contracts have been reduced materially.

²⁰ Commissioners of the Land Office, Financial Statements, June 30, 1936, and December 31, 1949.

TABLE XIV

A COMPARISON OF THE ASSETS OF THE UNIVERSITY FUND

FROM JUNE 30, 1936, TO DECEMBER 31, 1949

| <u>Item</u> | <u>1936</u> | <u>1949</u> |
|---|-----------------------|-----------------------|
| Farm mortgage loans | \$ 464,572.74 | \$ 75,425.48 |
| Land sales installment contracts | 218,232.73 | 44,593.10 |
| Value of unsold: | | |
| Granted lands | 225,263.26 | 569,557.82 |
| Foreclosed lands | 25,544.66 | 20,095.04 |
| Bonds | — | 857,300.00 |
| Cash on hand | 99,267.87 | 11,823.30 |
| Deficiency judgments | 6,917.34 | 22,693.86 |
| Total | \$1,039,798.60 | \$1,601,488.60 |

TABLE XV

A COMPARISON OF THE ASSETS OF THE UNIVERSITY PREPARATORY FUND

FROM JUNE 30, 1936, TO DECEMBER 31, 1949

| <u>Item</u> | <u>1936</u> | <u>1949</u> |
|---|---------------------|---------------------|
| Farm mortgage loans | \$285,007.23 | \$ 34,316.24 |
| Land sales installment contracts | 99,815.68 | 44,931.74 |
| Value of unsold: | | |
| Granted lands | 60,800.93 | 177,017.13 |
| Foreclosed lands | 26,689.96 | 13,227.00 |
| Bonds | — | 486,000.00 |
| Cash on hand | 91,651.38 | 4,134.09 |
| Deficiency judgment | 4,424.00 | 10,290.27 |
| Total | \$562,389.18 | \$769,916.47 |

TABLE XVI

A COMPARISON OF THE ASSETS OF THE AGRICULTURAL AND MECHANICAL
COLLEGE FUND FROM JUNE 30, 1936, TO DECEMBER 31, 1949

| <u>Item</u> | <u>1936</u> | <u>1949</u> |
|---|-----------------------|-----------------------|
| Farm mortgage loans | \$ 406,564.06 | \$ 64,791.35 |
| Farm loans in the process of foreclosure | ————— | 600.00 |
| Land sales installment contracts | 157,911.00 | 66,466.60 |
| Value of unsold: | | |
| Granted Lands | 341,423.90 | 759,417.36 |
| Foreclosed lands | 20,820.39 | 15,015.00 |
| Bonds | 10,500.00 | 675,000.00 |
| Cash on hand | 159,837.71 | 3,180.81 |
| Deficiency judgments | 2,971.08 | 10,895.94 |
| Total | \$1,100,028.14 | \$1,595,367.06 |

TABLE XVII

A COMPARISON OF THE ASSETS OF THE NORMAL SCHOOL FUND
FROM JUNE 30, 1936, TO DECEMBER 31, 1949

| <u>Item</u> | <u>1936</u> | <u>1949</u> |
|---|-----------------------|-----------------------|
| Farm mortgage loans | \$ 528,505.58 | \$ 89,322.71 |
| Farm loans in process of foreclosure | ————— | 4,500.00 |
| Farm sales installment contracts. . . | 231,563.27 | 49,790.43 |
| Value of unsold: | | |
| Granted lands | 231,493.11 | 662,596.07 |
| Foreclosed lands | 66,157.78 | 24,237.61 |
| Bonds | ————— | 939,500.00 |
| Cash on hand | 96,907.97 | 11,325.72 |
| Deficiency judgments | 7,734.72 | 16,238.72 |
| Total | \$1,162,362.43 | \$1,797,511.26 |

TABLE XVIII

A COMPARISON OF THE ASSETS OF THE COLORED AGRICULTURAL AND NORMAL
UNIVERSITY FUND FROM JUNE 30, 1936, TO DECEMBER 31, 1949

| <u>Item</u> | <u>1936</u> | <u>1949</u> |
|---|--------------|--------------|
| Farm mortgage loans | \$181,418.67 | \$ 51,506.89 |
| Land sales installment contracts | 75,371.47 | 34,595.19 |
| Value of unsold: | | |
| Granted lands | 85,590.29 | 175,390.21 |
| Foreclosed lands | 19,518.62 | 2,700.00 |
| Bonds | ————— | 264,800.00 |
| Cash on hand | 54,816.85 | 3,776.61 |
| Deficiency judgments | 2,685.73 | 6,034.63 |
| | ————— | ————— |
| Total | \$419,401.63 | \$538,803.53 |

The value of unsold granted lands is much greater in 1949 than in 1936 due to recent appraisals. Many of the foreclosed farms were sold during the past thirteen years which accounts for the reduced value in this item. Deficiency judgments increased from two to five times what they were in 1936. This is explained as a result of foreclosures and reduction in farm loans. The amount of cash on hand in 1949 is much less than in 1936. More bond investments account for less cash on hand.

Because of these differences the assets of school funds in general are fluid in that a large part could be readily converted into cash. What farm loans are listed are for the most part current and in good standing. There is little doubt about some losses being sustained in the item of deficiency judgments and for this reason the reserve account is

being increased from year to year. It appears to be imperative that more attention should be given to the collection of deficiencies.

Summary.—The permanent common school fund has increased by virtue of legislative acts. Various school funds are placed in individual accounts subject to external audits and periodic reports. Apportionments made to common school have averaged more than one million dollars per year. Ten state institutions of higher learning have shared in the revenue of federal endowments. From the multiplicity of funds and accounts the accounting procedures have become complex. The creation of the Depletion, Management, and Sale Fund has caused the revenue fund to be diverted to services different from the legal beneficiaries as provided by law. Assets of the various accounts have increased during the past thirteen years. The amount of deficiency judgments has increased causing a loss of soluble assets in most of the school funds. A reserve fund has accumulated to partially off-set the losses in the permanent funds.

Audits and investigations of the Oklahoma School Land Department are discussed in Chapter VI.

CHAPTER VI

AUDITS AND INVESTIGATIONS

Six audits are of record concerning the conditions of books, files, and accounts of the School Land Department since January, 1933. There had been no official audit made of the department prior to this date. The first two audits overlapped in covering the first twenty-five years of statehood, the first ending June 30, 1932, and the second ended June 30, 1934. Mention was made of these two reports in the Hodge study.¹

An audit was implemented by the passage of House Bill No. 405 during the 1937 session of the state legislature. The Governor, President Pro Tempore of the Senate and the Speaker of the House of Representatives were authorized to contract for the services of a certified public accountant to study the period from June 30, 1932, to July 1, 1937.² R. M. Hays and Company, accountants and engineers of Tulsa, Oklahoma, made a three-volume audit for this period. An appropriation of \$50,000.00 from the general revenue fund of the state was made available for this audit.

In 1945 an audit committee composed of the Governor, Attorney General, and State Treasurer was designated by the state legislature.³ This committee was authorized and directed to enter into a contract for

¹ Hodge, *Op. cit.*, p. 21.

² Session Laws of 1937. p. 133.

³ Session Laws of 1945. p. 247.

a complete audit, examination and investigation of the books, files, records, and accounts of the Commissioners of the Land Office from June 30, 1937, to July 1, 1945. An appropriation of \$50,000.00 was made from the general revenue fund of the state to take care of the expenses of this audit. The personnel of the office of the State Examiner and Inspector was increased so as to make this audit covering the seven-year period.

The audit report, dated December 23, 1946, revealed an over-all gain in capital structure of twelve and eight tenths per cent during the seven-year period. However, the schedules of assets were taken at book value, until such time as legal constructions could be secured on procedures that augment or increase the capital value of these assets. All cash accounts, both permanent and revenue funds, showing collections and disbursements, were reconciled with the official depository and verified to be in balance.

During this seven-year period there was a change in the bond account. The total amount of bonds belonging to the Commissioners of the Land Office and held by the State Treasurer June 30, 1945, was checked and verified. The bonds were not actually counted since an examination of the State Treasurer's office was in progress at the time and these investments were to be verified by actual count.

In the departmental accounts, schedules were made of the "Revolving Fund 16" (fees collected and disbursed for certain departmental expenses) and of "Depletion, Management and Sale Fund" (carried in the official depository as Account 16E). Both schedules were reconciled with the official depository.

Schedules covering loans of the State Educational Institutions, University, University Preparatory School, Agricultural and Mechanical

College, Normal Schools, Colored Agricultural and Normal University and the Home Loan Fund were included in the report. Due to the lack of funds and time, the schedule on Common School Loans was not completed.

An analysis of the State Educational Institution five per cent loans, a total of \$376,958.06, reveals that eighteen and four tenths per cent were current, sixty-two and six tenths per cent were delinquent, and nineteen and eight tenths per cent were in process of foreclosure. The statement, "Most of the loans in process of foreclosure have been in this status for a period of ten years or more," is alarming.⁴ Herein is a need for improved administration through the aid of an increased legal counsel.

According to the report a number of discrepancies were found in the posting of loan ledger sheets, leaving the group of loans scheduled \$791.27 short of the control, as shown by a comparison statement with the loan schedules. Since the Common School Loan schedule was incomplete, no adjustment of these discrepancies was made. Moreover, a change over from five per cent loans to three per cent loans in all funds during this period made the work of checking doubly hard. Some accounts were inaccessible for audit which violates criterion six. (Page 5.)

Mention was made of the surety bond covering the schedule of the various positions and the amount each individual was bonded. The bond having been in force through at least two complete changes of governing boards, had been greatly thinned down, and it was recommended that a new bond be secured at every change of administration. It was reported that great improvement in the Accounting Department had been made, but due to

⁴ Morris, Chas. G., Audit Report of the Commissioners of the Land Office, July 1, 1937, to June 30, 1945.

having several different series of receipt numbers the audit was greatly hindered. Simplicity of records would aid in auditing and contribute to accuracy and safety.

By legislative act in 1947 the State Examiner and Inspector was authorized to make and keep a continuous audit in relation to "the management of funds, accounts and properties of the Commissioners of the Land Office as accomplished by employees, agents and agencies."⁵ An annual appropriation of \$29,500.00 was made from the Depletion, Management and Sale fund to pay the expenses incurred in making and keeping this audit intact. This law is in effect at the present time and the legislature of 1949 made an annual appropriation of \$43,300.00 from the Depletion, Management and Sale fund in order to keep the continuous audit functioning during the fiscal years of 1949-50 and 1950-51.

A two-year audit report was filed March 15, 1948, for the period beginning July 1, 1945, and ending June 30, 1947. This audit gives more details of the functioning of the Department. In the letter of transmittal the following statement is made: "We are unable to make schedules of the deficiency judgments as the Accounting Department has never had a deficiency judgment ledger set up . . . ; however, at this time each judgment is being checked and the Department is setting up ledger cards on each individual judgment."⁶

The audit shows a greater amount in delinquent loans than the Department carries as "matured loans" because delinquent loan payments make the entire loan delinquent, but the Department carries only the delinquent

⁵ Session Laws of 1947, House Bill No. 375, p. 410.

⁶ Morris, Chas. G., Audit Report of the Commissioners of the Land Office, July 1, 1945, to June 30, 1947.

payment as matured. However, the amount of foreclosed loans is being reduced at a rapid pace as shown by total controls on loans in process of foreclosure. The records reveal that some of the loans carried in the process of foreclosure have been in this status for twenty years or more. The total of loans in process of foreclosure in all funds on July 1, 1945, was \$602,287.21, while the total of loans in foreclosure June 30, 1947, was only \$162,758.75.

As a result of this audit on which special reports were filed, a total of \$16,266.12 was collected, and as a direct result of this investigation on which no reports were filed a sum of \$13,426.92 was paid to the Department. In other words a total of \$29,693.04 in funds for the Department is attributed to the making of this audit. Checks received by the Department from the Federal Government as part reimbursement for soil conservation costs are deposited in the permanent fund carrying title to the land. In order that responsibility may be placed it is suggested that journal entries affecting the general ledgers be signed by the recording employee. The duty of safe custody of funds must be performed at the peril of the officer.

The most recent audit report of the Commissioners of the Land Office is for the period beginning July 1, 1947, and ending June 30, 1948. Nine of ten schedules are included in this annual report. The only schedule omitted is VII Agricultural Leases. The following items are given in concise form:⁷

- I. Financial Conditions as of June 30, 1948 (Summary of all funds)
- II. Schedules of Cash Accounts - Reconciliation (Summary of collections, disbursements, and balances - all funds)

⁷ Chas. G. Morris. Audit Report of the Commissioners of the Land Office, July 1, 1947, to June 30, 1948.

- III. Bonds - Summary and Reconciliation of all bond accounts
- IV. Schedules of Loans
- V. Schedules of Sales
- VI. Lands - By Counties and by Funds
- VII. Agricultural Leases (Schedules pending)
- VIII. Judgments
- IX. Departmental Accounts
- X. Summary of Activity in the Various Loan and Sale Funds.

This report is more voluminous than either of the previous audits. It indicates that more time and effort have been given to the specific items contained in the various accounts of the Department. Complete schedules of cash, bonds, loans, sales, lands, rents, and judgments are given in this report.

For maintaining the continuous audit for the fiscal year 1947-48 the cost was \$29,500.00. The total receipts during this same period amounted to \$11,907,911.84 from all sources.⁸ The audit expense amounted to twenty-five hundredths of one per cent of the total cash received for the fiscal year. Likewise, for the current fiscal year 1948-49 the total cash receipts were \$8,903,051.25, and assuming that all the appropriation (\$43,300.00) for the continuous audit is expended the expense will be fifty-three hundredths of one per cent of the total cash received.⁹

Some important facts pointed out in each of the last three audits are: laxity in collecting delinquent loans; long period of time between the beginning of foreclosure proceeding and the acquiring of the land; the

⁸ Commissioners of the Land Office, Financial Statements for the fiscal year ending June 30, 1948.

⁹ Commissioners of the Land Office, Financial Statements for the fiscal year ending June 30, 1949.

accounting of deficiency judgments as assets in the revenue fund. These factors should be corrected as rapidly as possible for the protection of the legal beneficiaries' interests and the development of a fiscally sound policy of administration. Little justification can be made for the continuous audit unless its recommendations are followed in safeguarding the endowment funds.

Beach lists seven criteria for the custody of school funds:¹⁰ safety; economy; knowledge of financial status; responsibility; simplicity; readiness for audit; and selection of personnel.

When one person has to be entrusted with the property of another, the need for safety becomes the prime consideration in devising methods of operation. The need for some checks upon the integrity of this person is immediately felt. As a consequence the following principle has become firmly established: "No one person shall have complete authority over, or control of, any one phase of the custody of school funds."¹¹

Evidences of the application of this principle are found in the administration of the Oklahoma School Land Department. Internal checks are provided through a system of double records of receipts and disbursements, by the separation of the authority to disburse money from the custody of funds, and by the keeping of accounts separate from the depository. Periodic reports are made every six months and a printed biennial report every even-numbered year. By external authority a continuous audit is maintained with frequent reports to the governor and to the legislature. Surety bonds for the employees of the department are required. It appears that the safety of the school funds is sufficient.

¹⁰ Beach, op. cit. pp. 26-36.

¹¹ Ibid., p. 23.

Economy is measured by the cost of services consistent with safety and efficient management of funds. Since 1930 the cost of operation and management of the School Land Department has increased more than one hundred per cent. Table No. XIX shows the increase in appropriations made by the legislature for the maintenance and operation of the department. The number of employees has varied from a low of sixty-five to a high of one hundred and ten. The total appropriations have ranged from \$174,000.00 to \$356,520.00 per fiscal year.

Appropriations limit the amount of expenditure, and would include any unexpended balance at the end of the fiscal year. Services performed through the soil conservation division, legal and foreclosure of lands, and sales and accounting divisions have increased. It appears that the accounts of the different funds are in such condition at this time that economy through the reduction of overhead costs could be exercised. Furthermore, almost one-half of the assets is invested in government bonds that require little personnel attention. With fewer acres of land, reduced farm loans, less frequent land sales, and recent appraisal of properties, it is reasonable to reduce personnel and travel costs.

Knowledge of the financial status of the School Land Department is provided by a definite system of financial records and reports from those officials who are responsible, and manage and disburse school funds. This is of paramount importance for executive control and management.

The secretary of the Commissioners of the Land Office is responsible for all endowment funds. He is the legal and duly designated custodian of all the land office funds. Safety demands this responsibility at the peril of the officer. He is an insurer of public property lawfully in his possession, and is liable for losses which occur even without his fault.

TABLE XIX
 NUMBER OF EMPLOYEES AND APPROPRIATIONS MADE FOR THE MAINTENANCE
 AND OPERATION OF THE SCHOOL LAND DEPARTMENT
 FROM JUNE 30, 1936, TO JULY 1, 1950

| Year Ending June 30 | Number of Employees | Legislative Appropriations [#] | | |
|------------------------|------------------------|---|----------------------------------|--------------|
| | | General Fund | Depletion Man- agement & Sale | Total Funds |
| 1937 | 65 | \$174,000.00 | ————— | \$174,000.00 |
| 1938 | 67 | 176,500.00 | ————— | 176,500.00 |
| 1939 | 67 | 174,290.00 | ————— | 174,290.00 |
| 1940 | 82 | 107,860.00 | \$ 82,820.00 | 190,680.00 |
| 1941 | 82 | 107,860.00 | 95,020.00 | 203,480.00 |
| 1942 | 95 | 93,270.00 | 175,020.00 | 268,290.00 |
| 1943 | 95 | 93,270.00 | 175,020.00 | 268,290.00 |
| 1944 | 110 | 85,820.00 | 260,400.00 | 346,220.00 |
| 1945 | 110 | 85,820.00 | 260,400.00 | 346,220.00 |
| 1946 | 99 | 90,230.00 | 184,650.00 | 274,880.00 |
| 1947 | 99 | 95,230.00 | 184,650.00 | 279,880.00 |
| 1948 | 98 | 100,480.00 | 250,930.00 | 351,410.00 |
| 1949 | 98 | 100,480.00 | 250,930.00 | 351,410.00 |
| 1950 | 85 | 84,800.00 | 271,720.00 | 356,520.00 |

[#] Regular and supplemental appropriations are totaled for each fiscal year.

Simplicity of procedure is consistent with safety and efficient management. A clear-cut sequence of operations should characterize the procedures in the School Land Department. Unnecessary red tape leads to inefficiency and higher costs. Duplicated services should be avoided through a direct means of supervision and accountability.

Current records of the School Land Department are becoming more complete and up-to-date. Such records accurately kept, facilitate the continuous audit as well as internal checks. They are important safeguards for school funds. The lack of readiness for audit makes it difficult to check upon the fidelity of officials, and to determine the full extent of losses in the event they occur.

The selection of trained and experienced personnel lays the foundation for the successful administration of public funds. The caliber of the employees determines the performance of the functions of the department. Political control tends to constitute an outstanding obstacle in the choice of satisfactory personnel. When possible the personnel of the School Land Department should be divorced from political patronage.

Investigations.—A business as large and as far-reaching as that of the Oklahoma School Land Department will bear the burden of criticisms. The policies, rules, and regulations of the Commissioners of the Land Office will be unsatisfactory to some of the clients. Some of the preference-right landholders feel that they have been discriminated against for the reason of prohibited land sales.¹² Some charges are not well-founded and are brought to the public's attention for various and sundry reasons.

Politicians have sponsored resolutions in the legislature asking for an investigation of the management of funds, making of loans and other instruments of investments. Many resolutions have been voted down, but the House and Senate journals carry records of two investigations conducted

¹² Butcher, John T. The Administration of the Common School Endowment. Unpublished Thesis, University of Oklahoma. 1929, pp. 25-31.

by a special investigating committee appointed from the membership of each official body.¹³ In each instance a number of recommendations were enumerated.¹⁴

Some of the pertinent recommendations are:

1. That the legislature should submit to the vote of the people of this state, prior to the election of state officials in 1934, a Constitutional amendment setting up a Board consisting of three members to be appointed by the Governor, to be given the sole responsibility of administering the affairs of this sacred trust.
2. That the secretary be given the right to employ and discharge the subordinates in the department.
3. That the appraisers be appointed by a majority of the Commissioners, after the filing of application for the position and a thorough investigation of their character and their fitness is determined.
4. Adequate penalties for more effective punishment of officials or other persons who have violated the duties of their office and have conspired or connived toward securing benefits from this trust fund.
5. That the State Treasurer of Oklahoma make a formal demand of Sam Pollard for payment to the state on any and all moneys missing during his administration, this demand to be the basis for such civil and criminal actions and prosecutions as the Attorney General may deem wise and proper in the premises.
6. That the audit be continued and the records of the oil producers audited and checked with the records of the Department and that all facts outside the records themselves pertaining to the business of the School Land Department be investigated.
7. That such action as may be deemed advisable by the legislature be taken to enforce the respective duties of the School Land Commissioners and State Examiner and Inspector.
8. That the Investigating Committee be authorized in the name of the State of Oklahoma to prosecute any and all claims for money due the School Land Department of the State of Oklahoma, and to make reasonable effort to recover the same for use and benefit of the School Land Department.

¹³ Oklahoma Senate Journal, Fourteenth Legislature, 1933, pp. 387-403. Oklahoma House Journal, Fifteenth Legislature, 1933, pp. 3745-48.

¹⁴ Hodge, *op. cit.*, pp. 80-85.

9. That the Committee be authorized to employ counsel to assist in prosecution of these claims for recovery of money due and owing the School Land Department of the State of Oklahoma, and to fix the compensation of such attorney or attorneys.

As a result of the investigation conducted by the House of Representatives in April, 1935, impeachment charges were read against the State Auditor, Secretary of State, and the Superintendent of Public Instruction, respectively.¹⁵ No charges were filed because a majority of the House Members did not favor impeachment.

Of recent date the nature of investigation has been approached through the continuous audit conducted by the personnel in the office of State Examiner and Inspector. A specific phase of departmental management and operation is selected for study and a special report is prepared for the Commissioners of the Land Office and the Executive secretary.

A study of casinghead gas reports and payments made from leases of school land was filed September 23, 1948.¹⁶ This study reveals a shortage of \$312,382.51 in royalties due on state school lands by thirteen different lessees holding eighteen tracts of land.

Specific attention is called to the first report listed in the schedule. It involves a lawsuit in which a petition was filed June 19, 1946, in the District Court of Oklahoma County. This suit represents the sum of approximately \$119,103.00 in royalty due and unpaid the State. The style of the case is the Commissioners of the Land Office, plaintiff, and Sinclair Prairie Oil Company, defendant. Representatives of the defendant offered to settle out of court for the sum of approximately

¹⁵ Ibid., p. 85.

¹⁶ Morris, Chas. G., Memorandum, Office of State Examiner and Inspector, September 23, 1948. p. 5.

\$26,500.00, but the representatives of the School Land Commission elected to continue the suit. When the suit came to trial November 25, 1947, it was dismissed without prejudice, by attorneys for the School Land Commission. A new petition has been drawn up and waiting for refiling since May 7, 1948, but no one seems to have any authority or takes any authority or interest in reopening this case. There is a sizable sum of money involved in this case and the Sinclair Prairie Oil Company, by offering settlement, has admitted owing the State.

A group of major oil companies drew up the rules and regulations governing the unit plan in the Edmond oil field, and received approval of the Corporation Commission on or about October, 1947. The Legal Department of the School Land Commission met later with the Corporation Commission for the purpose of protesting the unit plan, but never followed up the protest; consequently, nothing has been done to protect the School Land interest in this field. The Oil and Gas Division of the Land Office receives monthly reports filed by the Phillips Petroleum Corporation, covering the processing at the Hutton Lime Unit Plant, from which there is no way of calculating just how much casinghead gas, and all its by-products are actually produced from the various leases of state-owned land in this field. As far as any information as to the exact volume produced and the royalty due, these reports are worthless; they merely say that the State is due so much money from the Unit Plan and enclose their check. These reports disclose that large deductions in royalty are made without verification.¹⁷ As long as this method of accounting for the production of casinghead gas is permitted, there will be no way of

¹⁷ Morris, Chas. G. and Nelson, Louis. Special Report Office of State Examiner and Inspector, March 23, 1949. p. 17.

ever determining whether or not the State has received its full one-eighth share as required by law.

After reviewing these reports and investigations of the School Land Department it appears that negligence has existed in various divisions of the office. The lack of authority and/or the unwillingness to assume responsibility has resulted in large losses of revenue justly due and unpaid the State. Specific duties and responsibilities must be placed and assumed by the official personnel of the Board and Department if the interests of the legal beneficiaries are properly safeguarded.

The concluding chapter summarizes the general subject-content and presents recommendations for improvement of endowment administration in Oklahoma.

CHAPTER VII

SUMMARY AND RECOMMENDATIONS

"In spite of the fact that educational endowments have not always been well administered in the past, there is yet time for some states to set up a type of administration that will insure adequate protection for their permanent funds that are still intact and may be increased by the future sale of public lands or income from their resources."¹

The administration of the Oklahoma School Land Department has improved steadily since 1935. Through improved accounting procedures the accountability of funds has been responsive to public demands. The service division has given impetus to the collection of funds due the Department. By cooperative planning the soil conservation division has been instrumental in the improvement of state lands. The legal division, still burdened with farm loan foreclosure, has made decided progress toward the clearing of records of bad loans. Oil and gas leases have increased the permanent school funds. United States Government Bonds, almost exclusively, are the principle investments of permanent fund assets. Land sales have declined, but the sales made have been in excess of the appraised value in a majority of instances. Continuous audits are maintained by the State Examiner and Inspector. A special reserve fund has been accumulating to insure the Department against permanent fund losses as the legislature may direct. Nevertheless, it is believed that when the following recommendations

¹ Paul R. Mort and Walter C. Reusser. Public School Finance. p. 569.

are vitalized there will be an improvement in the administration of endowment funds.

Recommendations.--1. The ex-officio Board of Land Commissioners should be abolished. At least three substantial reasons for this recommendation are: (a) All members of the present board are busy men with full-time duties and responsibilities to a state office; (b) The ex-officio board is a changing body dominated by the Governor who serves only four years; (c) Four of the five-member board are elected state officers, and if any patronage is available, an elected officer more or less has to use it. So long as the legal authority over the Department is vested in a political board, it will be exceedingly difficult to get the necessary permanency in tenure for the secretary and the rest of the personnel.

A board of directors is necessary for an agency such as the Oklahoma School Land Office. The work of the secretary and his subordinates should be subject to review by a board, and too, some matters of broad policy need the composite decision of a board rather than of an individual.

Section thirty-two of Article VI of Oklahoma's constitution should be amended by eliminating the ex-officio board and substituting for it a board of three members with staggered terms of twelve years, to be appointed by the governor. The amendment should specify that the power of appointing and removing the subordinate personnel should be vested in the secretary, subject to a merit system selection. The members of the board would be part-time employees of the state, receiving their expenses and a per diem compensation.

2. The office of secretary to the Commissioners of the Land Office should be removed from patronage of politics. A competent, honest administrator should be obtained through open competition; and the person so selected should hold office during good behavior. The average tenure

for this employee over the past forty-three years has been less than two years. The only common sense way of administering such an enormous trust is to get a competent man, put him at the head of the Department and keep him there during good behavior. He should be responsible and accountable to the Board.

3. All subordinate employees of the Department should be appointed by the secretary, and should be obtained in the first instance through open competitive examinations. The secretary should have complete administrative authority over the personnel with authority to remove employees for inefficiency, incompetency, or irregularity.

4. Land appraisers and adjusters should be graduates of a standard school of agriculture and engineering, qualified in agronomy, soils, farm management, accounting, and farm engineering. The chief appraiser or reviewer of appraisals and adjustments should be an outstanding man in his general field.

The selection of appraisers and adjusters should be taken out of patronage politics and placed on a merit basis. They should hold office during good behavior, subject to removal only for cause. They should be removed very promptly for over-evaluation, but adequately protected from political pressure designed to make them optimistic regarding future land values and productive value of property. Appraisals determine the success or failure of a mortgage loan agency. They involve the exercise of judgment and it is almost impossible to distinguish between an innocent error in judgment and an intentional and deliberate over-evaluation made from improper motives. One way to get rid of a piece of property is to get a loan on it for more than it is really worth and let the holder of the mortgage take it over by foreclosure.

5. The legislature should supply the Department with the means for employing a sufficient legal staff to clear the records of pending foreclosures, delinquent loans and judgments. A question may be raised as to why some mortgages are foreclosed and others are permitted to drag on for years. The primary duty of the School Land Commissioners and of the departmental personnel is to protect the interests of the legal beneficiaries' endowment funds and not the interest of a particular purchaser or borrower who happens at the moment to be in difficulty.

The bulk of the revenue from these funds is for the benefit of the youth of Oklahoma. Every client should feel that an obligation to the School Land Department is a sacred trust that must be met and that the state will see that it is met. The state is under moral obligation to make good any losses that have or may occur in the trust funds.

6. Hidden losses should be forbidden. When a mortgage has been foreclosed, the land secured should be immediately re-appraised at its present value. It should not be carried as an asset greater than the new appraisal. When the appraisal is less than the face of the loan, plus accrued interest, plus charges, the state has lost money from its trust fund and the books should reveal this fact. If at some later date, the land sells for more than the appraised value, the trust fund has gained some money and the books should reveal this fact. The fund accounts should reflect the true status of all trust funds and thus avoid hidden losses. Every effort should be made to cause the books to show the real conditions of all endowment funds.

7. The "Depletion, Management and Sale" Fund as established by Title 64 O. S. 1941, Section 87A and subsequent amendments should be repealed by the legislature. This fund belongs to the legal beneficiaries of school funds and should be included with the amounts apportioned to the

various revenue fund accounts. The operation and maintenance of the Department should be by legislative appropriation from the general revenue fund of the State and not by requiring a share of the earnings of the beneficiaries. It appears that the creation of the "Depletion, Management and Sale" Fund is unconstitutional and contrary to the will and testament of the original grantor. Such diversion of revenue is little short of subterfuge.

Summary.—Authority for the administration of federal endowments is divided between the legislature and the Commissioners of the Land Office. The courts aid by interpreting the legal rights of clients and the state. It is generally accepted that divided responsibilities lessen efficiency in the processing of leases, loans, and foreclosures.

The accounting division has improved the system of records through internal-external checks and balances. The records are accessible for audit and reflect periodic reporting. Labor-saving devices of accounting are employed in the interest of accuracy and economy. The books and accounts are maintained in conformity with the legal requirements of the state.

Delinquent loans and deficiency judgments necessitate an increased legal staff to help protect the interests of the legal beneficiaries. Tentative losses of revenue are pending legal action and can easily affect the total assets of the department. It appears that political patronage has affected the administration of departmental services. Either by the neglect of duty or by the unwillingness to accept responsibility, delinquent loans have not been foreclosed, deficiency judgments have not been collected, and oil royalties have not been properly accounted. It is believed that more careful selection of personnel would strengthen the department.

Investments in bonds are properly secured by aid of sureties and specific accountability. Farm loan investments are amortized and currently reported both externally and internally. The assets have increased for the permanent funds, but revenue funds have remained about the same. The legal beneficiaries have received small increases in the amount of funds apportioned.

It is believed that further study and investigation of specific areas of endowment administration should be made. Some specific topics are (1) personnel administration in the School Land Department, (2) farm loans and foreclosures, and (3) mineral leases and royalties on school lands. With the current data being compiled in the processing of the continuous audit factual evidences are available.

APPENDICES

Appendix A

Chapter 412. Fiftieth Congress, Session II, March 2, 1889.

Section 13. That the lands acquired by the United States under said agreement shall be a part of the public domain, to be disposed of only as herein provided, and sections sixteen and thirty-six of each township, whether surveyed or unsurveyed, are hereby reserved for the use and benefit of the public schools to be established within the limits of said lands under such conditions and regulations as may be hereafter enacted by Congress.

(The above is the first paragraph of Section 13 of the agreement between Congress and the Seminole Indians. It was made a part of the agreement between Congress and the Creek or Muskogee Indians and included verbatim in the President's proclamation of designating April 22, 1889, for opening the Oklahoma Territory for white settlement.)

Provisions of the Organic Act of Congress

Relative to Federal Endowment Land, May 2, 1890.

26 U. S. St. at Large, pp. 81 - 100.

Section 18. Lands in lieu of school land grants - Other land provisions. - That sections numbered sixteen and thirty-six in each township in said Territory (Oklahoma)¹ shall be, and the same are hereby reserved for the purpose of being applied to public schools in the state or states hereafter to be erected out of same. In all cases where sections sixteen and thirty-six, or either of them, are occupied by actual settlers prior to survey thereof the county commissioners of the counties in which such sections are so occupied are authorized to locate other lands, to an equal amount, in sections or fractional sections as the case may be, within their respective counties, in lieu of the sections so occupied.

¹ Word and parenthesis inserted.

Appendix B

Provisions of the Enabling Act
Relative to Federal Endowments in Oklahoma

(Approved March 4, 1907, 34 Stat. 267)

Section 7. Land Grants - Sections 16 and 36. That upon the admission of the State into the Union sections numbered sixteen and thirty-six, in every township in Oklahoma Territory, and all indemnity lands heretofore selected in lieu thereof, are hereby granted to the State for the use and benefit of the common schools: Provided, that sections sixteen and thirty-six embraced in permanent reservations for National purposes shall not at any time be subject to the grant nor the indemnity provisions of this Act, nor shall any lands embraced in Indian, military, or other reservations of any character, nor shall land owned by Indian tribes or individual members of any tribe, be subjected to the grants or to the indemnity provisions of this Act until the reservation shall have been extinguished and such lands be restored to and become a part of the public domain: Provided, that in case any of the lands herein granted to the State of Oklahoma have heretofore been confirmed to the Territory of Oklahoma for the purposes specified in this Act, the amount so confirmed shall be deducted from the quantity specified in this Act.

\$5,000,000 Donation - Sulphur Springs Reservation.

There is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of five million dollars for the use and benefit of the common schools of said State in lieu of sections sixteen and thirty-six, and other lands of the Indian Territory. Said appropriation shall be paid by the Treasurer of the United States at such time and to such person or persons as may be authorized by said State to receive the same under laws to be enacted by said State, and until said State shall enact such laws said appropriation shall not be paid, but said State shall be allowed interest thereon at the rate of three per centum per annum, which shall be paid to said State for use and benefit of its public schools. Said appropriation of five million dollars shall be held and invested by said State, in trust, for the use and benefit of said schools, and the interest thereon shall be used exclusively in the support and maintenance of said schools: Provided, that nothing in this Act contained shall repeal or affect any Act of Congress relating to the Sulphur Springs Reservation as now defined or as may be hereafter defined or extended, or the power of the United States over it, or any other lands embraced in the State hereafter set aside by Congress as a national park, game preserve, or for the preservation of objects of archaeological or ethnological interest, and nothing contained in this Act shall interfere with the rights and ownership of the United States in any land here after set aside by Congress as a national park, game preserve, or other reservation, or in the said Sulphur Springs Reservation, as it now is or may be hereafter

defined or extended by law; but exclusive legislation, in all cases what so ever, shall be extended by the United States, which shall have exclusive control and jurisdiction over the same; but nothing in this proviso contained shall be construed to prevent the service within said Sulphur Springs Reservation or national parks, game preserve, and other reservations hereafter established by law, of civil and criminal processes lawfully issued by the authority of said State, and said State shall not be entitled to select indemnity school lands for the thirteenth, sixteenth, thirty-third, and thirty-sixth sections that may be embraced within the metes and bounds of the national park, game preserve, and other reservation or the said Sulphur Springs Reservation, as now defined or may be hereafter defined.

Section 8. Land Granted - Sections 13 and 33. That section thirteen in the Cherokee Outlet, the Tonkawa Indian Reservation, and the Pawnee Indian Reservation, reserved by the President of the United States by proclamation issued August nineteenth, eighteen hundred and ninety-three, opening to settlement the said lands, and by act or acts of Congress since said date, and section thirteen of all other lands which have been or may be opened to settlement in the Territory of Oklahoma, and all lands heretofore selected in lieu thereof, is hereby reserved and granted to said State for the use and benefit of the University of Oklahoma and the University Preparatory School, one-third; of the normal schools now established or hereafter to be established, one-third; and of the Agricultural and Mechanical College and the Colored Agricultural Normal University, one-third. The said lands or the proceeds thereof as above apportioned shall be divided between the institutions as the legislature of said State may prescribe: Provided, That the said lands so reserved or the proceeds of the sale thereof shall be safely kept or invested and held by said State, and the income thereof, interest, rentals or otherwise, only shall be used exclusively for the benefit of said educational institutions. Such educational institutions shall remain under the exclusive control of said State, and no part of the proceeds arising from the sale or disposal of any lands herein granted for educational purposes, or the income, or rentals thereof, shall be used for the support of any religious or sectarian school, college or university.

That section thirty-three, and all lands heretofore selected in lieu thereof, heretofore reserved under said proclamation, and Acts for charitable and penal institutions and public buildings, shall be apportioned and disposed of as the legislature of said State prescribe.

Mineral Lands

Where any part of the lands granted by this Act to the State of Oklahoma are valuable for minerals, which terms shall also include gas and oil, such lands shall not be sold by the said State prior to January first, nineteen hundred and fifteen; but the same may be leased for periods not exceeding five years by the State officers duly authorized for that purpose, such leasing to be made by public competition after not less than thirty days' advertisement in the manner to be prescribed by law, and all such leasing shall be done under sealed bids and awarded

to the highest responsible bidder. The leasing shall require and the advertisement shall specify in each case a fixed royalty to be paid by the successful bidder, in addition to any bonus offered for lease, and all proceeds from leases shall be covered into the fund to which they properly belong, and no transfer or assignment of any lease shall be valid or confer any right in the assignee without the consent of the proper State authorities in writing: Provided, however, That agricultural lessees in possession of such lands shall be reimbursed by the mining lessees for all damages done to said agricultural lessees' interest therein by reason of such mining operations. The legislature of the State may prescribe additional legislation governing such leases not in conflict herewith.

Section 9. Lands - Sections 16 and 36 - Lease and Sale. That said sections sixteen and thirty-six, and lands taken in lieu thereof, herein granted for the support of the common schools, if sold, may be appraised and sold at public sale in one hundred and sixty acre tracts or less, under such rules and regulations as the legislature of the State may prescribe, preference right to purchase at the highest bid being given to the lessee at the time of such sale, the proceeds to constitute a permanent school fund, the interest of which only shall be expended in the support of such schools. But said lands may, under such regulations as the legislature may prescribe, be leased for periods not to exceed ten years; and such lands shall not be subject to homestead entry or any other entry under the land laws of the United States, whether surveyed or unsurveyed, but shall be reserved for school purpose only.

Section 10. Lands - Sections 13 and 33. - Lease and Sale. That said sections thirteen and thirty-three, aforesaid, if sold, may be appraised and sold at public sale, in one hundred and sixty acre tracts or less, under such rules and regulations as the legislature of said State may prescribe, preference right to purchase at the highest bid being given to the lessee at the time of such sale, but such lands may be leased for periods of not more than five years, under such rules and regulations as the legislature shall prescribe, and until such times as the legislature shall prescribe such rules these and all other lands granted to the State shall be leased under existing rules and regulations, and shall not be subject to homestead entry or any other entry under the land laws of the United States, whether surveyed or unsurveyed, but shall be reserved for designated purposes only, and until such time as the legislature shall prescribe as aforesaid such land shall be leased under existing rules: Provided, That before any of the said lands shall be sold, as provided in sections nine and ten of the Act, the said lands and the improvements thereon shall be appraised by three disinterested appraisers, who shall be nonresidents of the county wherein the land is situated, to be designated as the legislature of said State shall prescribe, and the said appraisers shall make a true appraisal of said lands at the actual cash value thereof, exclusive of improvements, and shall separately appraise all permanent improvements thereon at their fair and reasonable value, and in case the leaseholder does not become the purchaser, the purchaser of said sale shall, under such rules and regulations as the legislature may prescribe, pay to, or for the leaseholder the appraised

value of said improvements, and to the State the amount bid for the said lands, exclusive of the appraised value of improvements; and at said sale no bid for any tract at less than the appraisement thereof shall be accepted.

Section 11. Permanent Common School Fund. That an amount equal to five per centum of the proceeds of the sales of public lands lying within said State shall be paid to the said State, to be used as a permanent fund, the interest only of which shall be expended for the support of the common schools within said State.

Section 12. Land Granted in Lieu of Swamps and Overflowed Lands. That in lieu of the grant of land for purposes of internal improvement made to new states by the eighth section of the Act of September fourth, eighteen hundred and forty-one, which section is hereby repealed as to said State, and in lieu of any claim or demand of the State of Oklahoma under the Act of September twenty-eighth, eighteen hundred and fifty, and section twenty-four hundred and seventy-nine of the Revised Statutes, making a grant of swamp and overflowed lands, which grant it is hereby declared is not extended to said State of Oklahoma, the following grant of land is hereby made to said State from public lands of the United States within said State, for the purposes indicated, namely: For the benefit of the Oklahoma University, two hundred fifty thousand acres; for the benefit of the University Preparatory School, one hundred fifty thousand acres; for the benefit of the Agricultural and Mechanical College, two hundred fifty thousand acres; for the benefit of the Colored Agricultural and Normal University, one hundred thousand acres; for the benefit of normal schools, now established or hereafter to be established, three hundred thousand acres. The lands granted by this section shall be selected by the board for leasing school lands of the Territory of Oklahoma immediately upon the approval of this Act. Said selections as soon as made shall be certified to the Secretary of the Interior, and the lands so selected shall be thereupon withdrawn from homestead entry.

Appendix C

Provisions of the Oklahoma Constitution Relative
to the Administration of Federal Endowments

Article 6, Section 32. Commissioners of the Land Office - Authority. The Governor, Secretary of State, State Auditor, Superintendent of Public Instruction and the President of the Board of Agriculture, shall constitute the Commissioners of the Land Office, who shall have charge of the sale, rental, disposal, and managing of the school lands and other public lands of the State, and of the funds and proceeds derived therefrom, under rules and regulations prescribed by the legislature.

Article 6, Section 33. Annual Reports. An account shall be kept by the officers and commissioners of the State of all moneys and choses in action disbursed or otherwise disposed of severally by them, from all sources, and for every service performed; and a report thereof shall be made semi-annually and as often as may be required by law, to the governor under oath. The governor may, at any time, require information in writing, under oath, from all officers and commissioners of the State, and all officers of State institutions, penal eleemosynary, educational, and industrial on any subject relating to their respective offices and institutions; which information, when so required, shall be furnished by such officers and managers, and any officer or manager who, at any time, shall make a false report, shall be punished as by law provided.

Article 11. Public Lands

Section 1. Lands and Moneys from Federal Government Accepted. Pledge of Faith of State. The State hereby accepts all grants of land and donations of money made by the United States under the provisions of the Enabling Act, and any other Acts of Congress, for the uses and purposes and upon the conditions, and under the limitations for which the same are granted or donated; and the faith of the State is hereby pledged to preserve such lands and moneys and all moneys derived from the sale of any of said lands as a sacred trust, and to keep the same for the uses and purposes for which they were granted or donated.

Section 2. Permanent School Fund - How Constituted Use - Reimbursement for Losses. All proceeds of the sale of public lands that have heretofore been or may be hereafter given by the United States for the use and benefit of the common schools of this State, all such per centum as may be granted by the United States on the sales of public lands, the sum of five million dollars appropriated to the State for the use and benefit of the common schools in lieu of sections sixteen and thirty-six, and other lands of the Indian Territory, the proceeds of all property that shall fall to the State by escheat, the proceeds of all gifts or donations to the State for common schools not otherwise appropriated by the terms of the gifts, and such other appropriations, gifts, or donations as shall be made by the legislature for the benefit of the common schools, shall constitute the permanent school fund, the income from which shall be

used for the maintenance of the common schools in the state. The principal shall be deemed a trust fund held by the State, and shall remain inviolate. It may be increased, but shall never be diminished. The State shall reimburse said permanent school fund for all losses thereof which may in any manner occur, and no portion of said fund shall be diverted for any other use or purpose.

Section 3. Interest and Income - Use and Apportionment. The interest and income of the permanent school fund, the net income from the leasing of Public lands which have been or may be granted by the United States to the State for the use and benefit of the common schools, together with any revenues derived from taxes authorized to be levied for such purposes, any other sums which may be added thereto by law, shall be used and applied each year for the benefit of the common schools of the State, and shall be, for this purpose, apportioned among and between all the several common school districts of the State in proportion to the school population of the several districts, and no part of the fund shall ever be diverted from this purpose, or used for any other purpose than the support and maintenance of common schools for the equal benefit of all the people of the State.

Section 4. Sale of Public Lands. All public lands set apart to the State by Congress for charitable, penal, educational, and public building purposes, and all lands taken in lieu thereof, may be sold by the State, under such rules and regulations as the legislature may prescribe, in conformity with the regulations of the Enabling Act.

Section 5. Lands for Educational Institutions - Control of Institutions - Diversion of Funds. Section thirteen in every portion of the State, which has been granted to the State, shall be preserved for the use and benefit of the University of Oklahoma and the University Preparatory School, one-third; of the normal schools now established, or hereafter to be established, one-third; and of the Agricultural and Mechanical College and Colored Agricultural and Normal University, one-third. The said lands or the proceeds thereof as above apportioned to be divided between the institutions as the legislature may prescribe: Provided, That the said lands so reserved, or the proceeds of the sale thereof, or of any indemnity lands granted in lieu of section thirteen shall be safely kept or invested and preserved by the State as a trust, which shall never be diminished, but may be added to, and the income thereof, interest, rentals, or otherwise, only shall be used exclusively for the benefit of said educational institutions. Such educational institutions shall remain under the exclusive control of the State and no part of the proceeds arising from the sale or disposal of any lands granted for educational purposes, or the income of rentals thereof, shall be used for the support of any religious or sectarian school, college, or university, and no portion of the funds arising from the sale of section thirteen or any indemnity lands selected in lieu thereof, either principal or interest, shall ever be diverted, either temporarily or permanently, from the purpose for which said lands were granted to the State.

Section 6. Investment of Common School and Other Educational Funds. The permanent common school and other educational funds shall be invested in first mortgages upon good and improved farm lands within the State

(and in no case shall more than fifty per centum of the reasonable valuation of the lands without improvement be loaned on any tract), Oklahoma State bonds, county bonds of the counties of Oklahoma, school district bonds of the schools districts of Oklahoma, United States bonds; preference to be given to the securities in the order named.

The legislature shall provide the manner of selecting the aforesaid, prescribe the rules, regulations, restrictions, and conditions upon which the funds aforesaid shall be loaned or invested, and do all things necessary for the safety of the funds and permanency of the investment.

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