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A STUDY OF EXECUTIVE DEPARTMENTM OF  
OKLAHOMA AND TENNESSEE WITH EMPHASIS  
ON COMPARATIVE COSTS OF ADMINISTRATION.

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A STUDY OF THE EXECUTIVE DEPARTMENTS OF  
OKLAHOMA AND TENNESSEE, WITH EMPHASIS ON  
COMPARATIVE COSTS OF ADMINISTRATION.

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J. E. B.



## P R E F A C E

The growing agitation for a shorter ballot in Oklahoma suggested there must be some merit in the old centralized plan of administration which deserved study. The state which presented itself as a basis for comparison was Tennessee, which not only had a highly centralized executive department but which had a population practically the same as that of Oklahoma.

In order to make a comparison which would prove of any value, study into the development of the constitutions and the evolution of the executive departments became necessary. As the research progressed, the chief difference which presented itself was the relative costs involved in administration of the governments involved in the study, hence this thesis places emphasis on the economic aspect of the short ballot as revealed by the results in Tennessee. No attempt is made to defend the centralized executive department except from the economic viewpoint. This explains the omission of a discussion of efficiency from many other aspects of administration, which in themselves would furnish basis for interesting study.

J. E. B.

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## Chapter I

## Administrative Department of Oklahoma

To understand properly the fundamental organization of the executive department of the government of Oklahoma, it is necessary to have some knowledge of the constitution as a whole and of the circumstances which influenced its making. It is not the purpose of this study to attempt a survey of the history of the area, which is now known as Oklahoma, from the time of the Louisiana Purchase<sup>1</sup> but it is well to know the status of governmental authority exercised immediately prior to statehood.

That part of the state formerly known as Oklahoma Territory had, since 1890, been operating under a government granted by and subject to the United States. There were however, seven other governments in operation within the boundaries of what is now Oklahoma. These were: the several governments of the Five Civilized Indian Tribes, of the Osage Nation, and a governmental authority exercised over the people of the eastern part of

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This transaction is mentioned because it was at this time that the area, of which Oklahoma was once a part, came into the possession of the United States.



The state who were not subject to the control of the Indian Nations. The latter was established and controlled by the Federal Government.<sup>2</sup>

Thus it will be seen that eight different governments were supplanted by the government of the State of Oklahoma. However, the area was commonly termed as Indian Territory and Oklahoma Territory.

The agitation for statehood, which began in 1890, culminated in an act of Congress of June 14, 1906, entitled the Enabling Act which authorized the people who were under the jurisdiction of the aforementioned territories to elect delegates in a prescribed manner to meet in a Constitutional convention. The Enabling Act made some twenty-two specific regulations concerning the forming of the government.<sup>3</sup>

The Constitutional Convention met in Guthrie November 20, 1906, and began the task of writing a constitution which would be at once acceptable to the United States Senate and to the people whom it would govern. The task before the convention was an extremely difficult one because the proposed

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2. Act of June 10, 1896; 29th. Statutes, pp 343-344 Declared it to be the duty of United States to establish suitable Government for white people in the Indian Territory.

3. Dale, E.E. Readings In Oklahoma History Enabling Act Section 3.

state had an enormous population,<sup>4</sup> and was of necessity to be made up of two distinct political units.<sup>5</sup> The leaders who were able to more or less dominate the convention had had valuable experience in the Sequoyah Convention and were therefore familiar with the tendencies of the newer constitutions;<sup>6</sup> namely, making more numerous detailed provisions relating to organization and operation of government, granting specific powers, expressly legislating as to particular matters.<sup>7</sup>

J.F.King, who was elected chairman pro tempore of the Constitutional Convention struck the key note of the attitude of the convention when he delivered the opening address upon taking the chair:

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4 Department of Commerce and Labor, Bureau of Census. Bulletin 89. p 7

The population of Oklahoma by special census July 1907 was 1,414,177.

5 Gittinger, Roy: The Formation of the State of Oklahoma: p 213

6 Wm.H.Murray, president of the Constitutional Convention, was Vice President of the Sequoyah Convention which met in Muskogee November 5, 1905, and drew up a Constitution for the proposed State of Sequoyah, which was denied Senate ratification. Charles N. Haskell, later Governor of Oklahoma was also a leader in the Sequoyah Convention as well as in the Constitutional Convention at Guthrie.

7 Dodd, W.F.: Functions of a State Government. p 742.

"....More than a hundred years of experience in popular government in the United States has demonstrated that the great problem confronting the American people in Constitution making is not so much to control or limit the executive as to control and properly limit the Legislative Department. While the constitutions of the different states contain the germ and principles of good government, nevertheless these principles have been stated in such general terms and with so little provision for their application to the affairs of the people that little assistance can be derived from them in the way of administrative government.

Our fathers established the principles on which it should be administered. To leave this labor to the next generation may be too late."8

Before going into the provisions of the Constitution as framed in this convention it is necessary to make a study of some other factors which had a direct influence on the convention. One of these was the First Shawnee Convention. This Convention was made up of delegates from the mining industry, Farmers Union, Rail Road Labor Unions, and several church organizations. The delegates met in Shawnee, early in 1907, and drafted a platform of what they wanted in the Constitution. Some of these included: eight hour work day; an elective Corporation Commission; elective mine

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8. Proceedings of the Constitutional Convention of The Proposed State of Oklahoma:  
The record of November 20, 1906, 2: P.M.



inspector, commissioner of labor, and commissioner of agriculture, and corporation tax commission.<sup>9</sup>

That the Convention was sincere in trying to meet all the foregoing "demands" is exhibited very noticeably in the organization of the executive department. The chief authority of the state is not vested in one man but the Constitution states:

"The Executive authority of the State shall be vested in a Governor, Lieutenant Governor, Secretary of State, State Auditor, Attorney General, State Treasurer, Superintendent of Public Instruction, State Examiner and Inspector, Commissioner of Labor, Commissioner of Charities and Corrections, Commissioner of Insurance, and other officers provided by law and this Constitution,.... " 10

The administration is further decentralized by providing:

"The legislature shall provide by law for the establishment and maintenance of an efficient system of checks and balances between the officials of the Executive Department, and all commissioners and superintendents, and boards of control of State Institutions, and all other officers entrusted with the collection, receipt, custody or disbursement of the revenues or moneys of the state whatsoever". 11

Not with standing the fact that the executive power is distributed among thirteen constitutionally

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9. Dale, E.E. Op.cit. p.742  
 10. Oklahoma Constitution Article VI Sec.1.  
 11. Ibid . Article V. Sec.60.

elective officers and the power of establishing checks and balances among them placed in the hands of the legislature, the Constitution states plainly:

"The chief Executive power shall be vested in a Chief Magistrate who shall be styled 'The Governor of the State of Oklahoma'." 12

With the many limitations placed upon his department the governor's power to supervise the state administration is grossly inadequate. The other executive officers, elected along with the governor, naturally feel their responsibility to the people rather than to the governor.<sup>13</sup> Furthermore the duties the Executive officers are prescribed by the Constitution,<sup>14</sup> therefore the chief executive may not direct the execution of the laws which it is their duty to administer, place any new duties upon them or otherwise exercise any of the powers which are generally considered the prerogatives of a Chief Administrative officer.

The powers and duties of the governor are listed as if he really were the "supreme executive power". They begin by making him Commander-in-

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12.

Ibid. Article VI Sec.2

13.

Johnson, Claudius: Government in The United States. p. 289

14.

Oklahoma Constitution Article VI Sec. 1

chief of the state militia with power, to call out same, to execute the laws, protect the public health suppress insurrections and repel invasion.<sup>15</sup> They continue with giving him power to convoke the Legislature or the Senate only for extraordinary occasions and furthermore that:

"No subject shall be acted upon, except such as the Governor may recommend for consideration."<sup>16</sup>

The irony manifest in designating these powers is found in the next following section which says:

"The Governor shall cause the laws of the State to be faithfully executed."<sup>17</sup>

After surveying the long list of administrative officials which are not under the jurisdiction of the Governor but who received their office in the same manner in which the governor did, it is seen that about all the Governor can do is to observe carefully the manner in which the different officers exercise their functions and execute the laws committed to their charge. He is however given power to recommend legislation<sup>18</sup> and to veto bills which are passed by the legislature,

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15. Oklahoma Constitution Article VI Section 6  
 16. Ibid. Article VI Section 7  
 17. Ibid. Article VI Section 8  
 18. Ibid. Article VI Section 9



much after the manner of the federal veto power of the president;<sup>19</sup> and a veto of specific items in bills making appropriations and emergency bills require a three fourths of both houses to override said veto.<sup>20</sup>

The makers of the Oklahoma Constitution went to special pains to make the qualifications for several of the Administrative officers very specific. In order to present a more definite idea of the complexity of this long administrative ballot which the voters must attempt in some measure, at least, to intelligently dispose of on election day, -

A few of these have been listed:

"The State Examiner and Inspector must have had at least three years experience as an expert accountant."<sup>21</sup>

"The Insurance Commissioner shall be at least twenty-five years of age and well versed in Insurance matters";<sup>22</sup>

"No person shall be elected to the office of Chief Mine Inspector unless he shall have had eight years actual experience as a practical miner";<sup>23</sup>

"A board of agriculture is hereby created---- all of whom shall be farmers."<sup>24</sup>

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19. Ibid. Article VI Section 11  
 20. Ibid. Article VI Section 12  
 21. Ibid. Article VI Section 19  
 22. Ibid. Article VI Section 23  
 23. Ibid. Article VI Section 25  
 24. Ibid. Article VI Section 31

These highly specific qualifications, it seems presupposes an equally specific requirement of the electors of the state; that is a knowledge of the constitutional limitations placed on the various officials and then a careful investigation into the record of each aspirant for nomination to office in the primary election.

The demands for an elective Corporation Commission must have struck a responsive chord in the hearts of the delegates because a further study of the constitution reveals that an entire section is devoted to corporations in general. The article contains regulations concerning the qualifications, and oath of office of a Corporation Commission, its powers and authority, its organization; the definition of the various terms used in constitutional provisions and specific regulations concerning the corporations themselves.<sup>25</sup> Some forty eight sections containing about seven thousand words are spent in "expressly legislating particular matters."

The regulations are worked out so minutely that provision is prescribed as to who shall be

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25.

Ibid.

Article IX Section 1-48

able to receive passes on the railroad <sup>26</sup> and the maximum fare per mile which railroads are permitted to charge for the transportation of passengers within the state. <sup>27</sup> Another instance of the constitution legislating in particular matters occurs in the regulations concerning education, one of which says:

"The Legislature shall provide for the teaching of the elements of agriculture, horticulture, stock raising and domestic science in the common schools of the state.<sup>28</sup>

It must be admitted that this tendency to legislate regulations, which would seemingly be more appropriately provided by statute, was probably intended more as a check on the legislative than the executive department but, never-the-less, many of the regulations vitally affected some of the very fundamental items of organization in the latter department. For instance; the Governor, Secretary of State, State Auditor and the State Treasurer are not permitted to hold office for two consecutive terms. <sup>29</sup> While many of the usual functions belonging to an auditor are taken away from him,

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26. Ibid Article IX Section 13  
 27, Ibid . Article IX Section 37  
 28. Ibid . Article IX Section 7  
 29. Ibid . Article VI Section 4



certain unusual functions are given to him. As a member of the State Board of Equalization, he helps to assess all public utilities operating within the state.<sup>30</sup> The collection of gross production tax, on transportation and transmission companies has been vested in the Auditor by statute.<sup>31</sup>

Notwithstanding the vast amount of legislation found written in the Oklahoma Constitution and the widely diffused authority in the executive department, there is yet provision that:

"The Governor shall commission all officers not otherwise commissioned by law. 32"

This prerogative gives the governor considerable patronage power, for he is empowered to appoint a large number of officials to serve singly or on boards and commissions that are a part of state government. This appointive power carries with it the power of removal for cause, except perhaps of the Board of Regents of Oklahoma University.<sup>33</sup> Courts of the state have held that

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30.

Ibid. Article X Section 21

31.

State Law 1915 Chapter 164 and 1916 Chap. 39

32.

Oklahoma Constitution Article VI Section 13

33.

State Law 1927 House Bill 46

the Governor shall be the sole judge of the cause of removal.<sup>34</sup>

Through this appointive power the Governor touches no less than sixty boards, commissions and offices of Oklahoma's governmental system.

The Governor appoints the following Officials with Senate Confirmation.

Secretary of Insurance Board.

Medical Adviser to the Industrial Commission.

Warden of the State Penitentiary.

Warden of the State Reformatory.

State Fire Marshall

State Bank Commissioner.

State Tax Commissioner.

and

The Adjutant General.

The following Boards and Commissions are appointed with Senate Confirmation.

State Insurance Board.

Fraternal Insurance Board.

Building and Loan Board.

Board of Examiners in Veterinary Medicine.

Board of Arbitration and Conciliation.

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34.

Logan, D.M. The Structure of Oklahoma Government. p 19

State Industrial Commission.  
Banking Board.  
Planning and Resources Board.  
Coordinating Board.  
Board of Trustees of the Union Soldiers Home.  
State Game and Fish Commission.  
State Mining Board.  
State Highway Commission.  
State Election Board.  
Board of Regents of Oklahoma University.  
Board of Regents for Oklahoma College for  
women.  
Board of Trustees for Confederate Home.  
State Board of Public Affairs.

The following officials are appointed without  
any Legislative confirmation.

Budget Officer.  
Pardon and Parole Officer.  
Attorney for the Tax Commission.  
Commissioner of Pensions.  
Commissioner of Public Safety  
Commissioner of Public Health  
The Secretary to the Commissioner of the Land.



\*Superintendent of the Bureau of Criminal Identification and Investigation.

The following Boards and Commissions are appointed without any Legislative confirmation.

Board of Pharmacy

Board of Examiners of Architects.

Board of Barbers Examiners.

Board of Examiners in Basic Sciences.

Board of Chiropractic Examiners.

Board of Cosmetology Examiners.

Board of Embalming.

Board of Medical Examiners.

Board of Optometry.

Board of Accountancy.

State Athletic Commission.

Board of Control for Athletics and Military drill.

B

Board of Directors for the Grand River Dam Authority.

Board of Directors for Oklahoma Free Fair.

Oklahoma Library Commission.

Board of Nurses Examiners.

Board of Chiropody.

Commission for the Adult Blind.

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\* Appointed by the Adjutant General with the approval of the Governor.

Soldiers Memorial Commission.  
Confederate Memorial Commission .  
Will Rogers Memorial Commission.  
Haskell Memorial Commission.  
Oklahoma Public Welfare Commission  
Board of Osteopathy  
Board of Registration for Professional Engineers.  
Text Book Commission.  
Custodian of American Legion Memorial Hall.  
Board of Trustees for Teacher Retirement and  
Disability fund.  
New Board of Regents for Oklahoma Colleges.  
Board of Regents for Oklahoma Military Academy.  
Board of Regents for E. Oklahoma Orphants Home.  
Americanization Commission.  
Board of Regents for Eastern Oklahoma College.  
Board of Managers for Schools for unfortunate  
children.  
Committee on Standardization.  
Soldiers Relief Commission.  
Santa Clause Commission.

The following are Ex Officio Boards appointed by  
the Governor, without confirmation.

State Depository Board.  
Oklahoma Securities Commission.  
State Board of Equalization.

Industrial Welfare Commission

State Anatomical Board.

Commission of Land Office .

\* Commission on Interstate Cooperation.

Board of Managers for State Insurance Fund.

State Board of Public Welfare.

State Lunacy Commission.

Oklahoma Commission for Crippled Children.

State Soil Conservation Commission.

Commission for Agricultural and Ind. Education.

Oklahoma Live Stock Registry Board.

Board of Commissioners of Grain Warehouses.

Warehouse Commission.

Advisory Board of Farm and Industrial Council.

Board of Control of Bureau of Standards.

Interstate oil Compact.

The following are self governing Boards:

Board of Governors of State Bar Association.

Board of Governors for Registered Dentists.

Board of Directors of Oklahoma Historical  
Society.

The enormous appointive power lodged in  
the hands of the Governor is readily apparent.

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\* This is composed of Governors Commission,  
Senate Commission and House Commission.



This survey of the structure of the Government of Oklahoma has disclosed several aspects of the Constitution, and the State itself which are unique.

The Constitution is one of the longest of any of the forty eight states,- containing over 45,000 words. The State was formed of two distinct political units; namely, Oklahoma Territory and Indian Territory. At the time of admission into statehood it had the largest population of any territory which has been admitted into the union; at the time of admission Oklahoma was the home of more than one third of the Indian population of the United States and it has at the present time more elective state administrative officials than any of the forty eight states of the Union.

## Chapter II

## Administrative Department of Tennessee.

In order to properly understand and appreciate the governmental set up in Tennessee, one must know something of its background and subsequent development. The territory comprised by the State of Tennessee was for many years a part of North Carolina, consequently, the Tennesseans' hold a heritage of having been really a part of the thirteen original colonies in North America. Some of the practices of the executive department and characteristics of the present Constitution show the influence of this early colonial prestige. We are concerned principally with those which are embodied in the administrative offices, but since there is sometimes more or less overlapping in jurisdiction and perhaps a change in another department affects the administration, it becomes necessary in a study of this nature to become familiar with practically all the departments of the documents in question and a digression, sometimes, into all three departments of government is necessary.

The first characteristic worthy of study is the method of selecting the chief executive and the powers given him, which clearly shows colonial influence. For many years the King of England was very busy with affairs at home and the people in the Carolinas were practically left alone. The chief executive office and head of the government was the governor or Deputy Palatine. He resided in the province, was High Chancellor, executed all the laws, presided over the Council and his approval was necessary to the validity of legislation. He commanded the militia and appointed all its officers. Thus his powers were executive, legislative and judicial and of almost unlimited extent.<sup>1</sup>

The first State Constitution of North Carolina was framed by the Congress which met at Halifax, November 12, 1776. Under it the Governor was elected for a period of one year by the Senate and House of Commons acting jointly. He could serve not more than three years in six<sup>2</sup> and was required to be thirty years of age, to reside in the state five years before election, and to hold

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1.

Caldwell, J.W. Constitutional History of Tennessee. p. 88

2.

Constitution of North Carolina 1776. Article XV.



land and tenements exceeding one thousand pounds in value. In case of vacancy in the office of governor, the succession was first to the speaker of the Senate and then to the speaker of the House of Representatives.<sup>3</sup>

As early as 1772, the pioneers in the western part of North Carolina asserted the right of self government, and the Constitution of what was known as the "Wataga" government, was drawn up and adopted. A few years afterward (1784) North Carolina offered to cede her lands west of the mountains to the United States but the offer was not accepted, and the offer was withdrawn. This led the pioneers to form, for their personal security, a government known as "The State of Franklin".<sup>4</sup> There was an indisposition manifested, however, to rebel against the Mother State and the Constitution of North Carolina, slightly modified, was adopted. The powers of an independent state were exercised, for four years. Then North Carolina resumed her jurisdiction for a short period of time, and on February 25, 1790, ceded that portion of her territory west of the mountains to the United States.<sup>5</sup>

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3 Constitution of North Carolina. 1776. Art. XV

4 Ramsey, J.G.M. Annals of Tennessee p 293

5. House Documents. Vol. 91 pt.2 p 3409

This territory became known officially as the Territory South of the Okio and was placed under the jurisdiction of the Ordinance of 1787 with few exceptions, one of which reads:

"The powers, duties and emoluments of a superintendent of Indian affairs for the southern department shall be united with those of the governor."<sup>6</sup>

The first act of the General Assembly in this Southwest Territory (As it was commonly called) was a revision of the North Carolina Judiciary act of 1777, but very few changes were made.<sup>7</sup> These people who had been citizens of a state and who had been reduced to citizenship of a territory, naturally desired to be reinstated into statehood as quickly as possible. The Ordinance under which they operated made provision they could apply for admission as a state when the population should be as many as 60,000 people. In 1795 a census was taken which revealed they had more than 70,000 population and the leaders immediately petitioned Congress for admittance into the Union. After some controvercy the Senate passed a bill enabling the region which is now Tennessee to become a state.<sup>8</sup>

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6 Constitutions and Charters. Vol.6 p 3413

7 Caldwell, J.W. op. cit. p 108

8 Thorpes. op. cit. p 3414

A constitutional convention met in Knoxville, January 11, 1796, and formulated the draft of the constitution which Thomas Jefferson said was:

"The least imperfect and the most republican system of government that had been adopted by any of the American States". 9

They followed somewhat closely the framework of the North Carolina Constitution- in that the Supreme executive power should be vested in a Governor chosen by the members of the general assembly.<sup>10</sup>

His qualifications also were similar but the Tennessee Convention saw fit to give regulations for the election and counting of the ballots. <sup>11</sup>

The governor's powers were almost identical with those of North Carolina. The succession to the governorship was the same but the governor could serve "six years in any term of eight".<sup>12</sup>

They were indefinite in stating the regulations in providing for a secretary of state:

9 Ramsey, J.G.M. Annals of Tennessee p 657

10 North Carolina Constitution 1776 Article XV and Tennessee Constitution 1796 Art. II Sec. 1 & 2.

11 Ibid; Ibid. Article II Section 12

12 Ibid; Ibid. Article II Section 4



"A secretary of state shall be appointed and commissioned during the term of four years". 13

The general assembly, by joint ballot of both houses, was empowered to appoint an attorney general who was given the right to hold his office "during good behavior".<sup>14</sup>

The clerk of the supreme court was appointed by that court and was given the right to hold his office during good behavior.<sup>15</sup>

An interesting little side light, which affected all departments of government needs to be noted as both regulations show the influence of the Mother State:

"....No minister of the gospel, or priest of any denomination whatever, shall be eligible to a seat in either house of the legislature. "

and

"....No person who denies the being of God, or a future state of rewards and punishments, shall hold any office in the civil department of this state." 16

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13. Tennessee Constitution 1796 Art. II Sec. 17
14. Ibid . Art. V Sec. 2
15. Ibid . Art. V Sec. 10
16. Constitution of North Carolina 1776  
Articles XXXI and XXXII  
Tennessee Constitution 1796 Art. VIII Sec. 1 & 2.

In the North Carolina Constitution the treasurer was to be appointed annually by a joint ballot of both houses of the general assembly,<sup>17</sup> but the Tennessee Constitution says:

"There shall be a treasurer appointed for the state who shall hold his office for two years".

and

"The appointment of all officers not otherwise directed by this constitution, shall be vested in the legislature".<sup>18</sup>

This is an important item in studying the government of Tennessee because it showed a disposition on the part of the framers of the document to make it elastic enough to care for the future needs of the state. However the governor was not given the power of veto, and the fundamental law could be changed only by assembling another Constitutional Convention.<sup>19</sup>

The old frontier was passing and Tennessee was becoming a dominant element in American politics; her forests had been turned into fields; manufacture and commerce were beginning to flourish and her people were beginning to feel that the state had outgrown the Constitution of 1796. As a result of this

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17

North Carolina Constitution 1776 Article XXII

18

Tennessee Constitution 1796 Art. VI Sec. 2 & 3

19

Ibid.

Art. X Sec. 3

prevalent feeling, a new convention was called in 1834 and a new Constitution was submitted to the people, which on may 5 and 6, 1835 was ratified by a vote of 42,666 to 17,691.<sup>20</sup>

J.W.Caldwell says of this Constitution:

"The convention of 1834 marked the triumph of democracy, the beginning of a new era of progress of activity and of state leadership".<sup>21</sup>

In making a study of this document it is necessary to note a few general changes before taking up the specific changes or retentions in the executive department.

Increased democracy was provided for by the elimination of property qualifications for voting and holding certain state offices and by apportionment of representation in the legislature according to "qualified electors" rather than by "taxable inhabitants".<sup>22</sup> Provision was made for property to be taxed according to its value.<sup>23</sup>

The regulations concerning the chief executive were:

20

Garrett and Goodpasture. A History of Tennessee p 180

21

Caldwell, J.W. Op. Cit. p 192

22

Wallace, McClure: State Constitution Making p 52

23

Under the Constitution of 1796, citizens were taxed 50¢ for a town lot and 1½¢ per acre on land. Consequently the owners of the poor land were bearing the heaviest load in taxation.



"....Governor shall be chosen by the electors of the members of the general assmebly, at the time and places where they shall respectively vote for the members there of".

Also property qualifications were removed. <sup>24</sup>

In section 17, the appointment of the secretary of state was specifically delegated to a "joint vote of the general assembly".

The legislature continued to select the judges of the supreme court,<sup>25</sup> the attorney general,<sup>26</sup> and the State Treasurer.<sup>27</sup>

The article concerning ministers, or priests being eligible to sit in the legislature as well as a belief in "God and a future state of reward and punishments" required for holding any office was retained.<sup>28</sup> A provision making dueling illegal was added.<sup>29</sup>

An amendment was ratified November 3, 1853 transferring the election of judges from the legislature to the people and fixing their term of office at eight years.<sup>30</sup>

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<sup>24</sup> Constitution of Tennessee 1834 Article III

<sup>25</sup> Ibid. Article VI Section 3

<sup>26</sup> Ibid. Article VI Section 5

<sup>27</sup> Ibid. Article VII Section 3

<sup>28</sup> Ibid. Article IX Sections 1 & 2

<sup>29</sup> Ibid. Article IX Section 3

<sup>30</sup> Ibid. Amendments Art. VI Sections 3 & 5

After this amendment was ratified, the people evidently were satisfied with the constitution as it stood, because in March 1858 the legislature ordered that an election be held to authorize another Constitutional Convention but the people rejected such a meeting;<sup>31</sup> however after the civil war, some changes were deemed necessary.

The Constitution of 1870 called by a popular majority of over 40,000 was really a political expedient for the purpose of restoring the citizenship of the majority of white voters of the state and securing to them the control of affairs, which they were denied. That the Constitution was not in need of immediate amendment is clearly shown by the fact that the convention made hardly a single change of importance, which might not have been as effectivly and lawfully accomplished by a statute.<sup>32</sup> This is especially true of ArticleIII dealing with the executive department which received only one important amendment and according to some authorities this was done to curtail the power of the carpetbagger officials. This opinion is

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31 Hamer, Philip M. Tennessee, A History:Vol.I p 320

32 Caldwell, J.W. Op. Cit. p 296

somewhat brought out by the nature of the change,<sup>33</sup> and the fact that in 1893 a law was passed giving the governor power of commander in Chief of citizens who shall be known as Army of Tennessee.

A power of veto was granted to the governor but the legislature may pass a bill over his veto by a majority of the whole number elected to each house.<sup>34</sup> In addition to the governor, the Constitution provides that there shall be selected four administrative officials: a secretary of state, comptroller, treasurer and attorney-general. The legislature selects the first three<sup>35</sup> and the supreme court the fourth official.<sup>36</sup> The secretary of state has a four year term, the comptroller and treasurer two year terms and the attorney-general an eight year term. Beyond this the constitution is silent (as were the first two we studied) on the organization of the executive department except to say that the "election of all officers not otherwise directed or provided by this constitution shall be made in such manner as the legislature may direct".<sup>37</sup>

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33 This change denied the power of the governor in calling out the Militia.  
Tennessee Constitution 1870 Art. III /Sec. 5

34 Ibid. Art. III Sec. 9, 11 & 18

35 Ibid. Art. III Sec. 17, Art. V Sec. 3

36 Ibid. Art. VI Sec. 5

37 Ibid. Art. VII Sec. 4



Acting under these constitutional mandates, the legislature from 1870 to 1923 established a practice of creating many boards and commissions to be filled by appointment by the governor, instead of single headed departments, to handle the functions undertaken by the state. By the year 1923, the executive and administrative system was composed of the governor, the four above-named constitutional officers, the popularly elected Railroad and Public Utilities Commission, and a group of boards and commissions.

In 1922 the movement for administrative reorganization came to a head and in 1923 the legislature passed the Reorganization Bill. In 1937 another Reorganization Bill was passed; but even so there are forty-five unorganized agencies, which added to the organized agencies and their attached agencies, make a total of sixty-one agencies of government in the executive department. In order to facilitate and coordinate the activities of the various state departments, the governor brings together for conference, at least once a week, the ten commissioners heading the various executive departments of the state government. These commissioners have complete charge of their respective departments,<sup>38</sup>

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38 Tennessee Blue Book. 1937-38 p 121

which include (1)administration, (2)finance and taxation, (3)agriculture, (4)highways and public works, (5)education, (6)institutions and public welfare, (7)health, (8)insurance and banking, (9)Conservation , and (10)labor.

Under the jurisdiction of these department heads are the various bureaus which carry on the specific work of the department. This shows an effort to promote cooperation and to eliminate duplication in expense and duties of the lower officials. For instance, in the department of education there are some sixteen divisions and boards. A closer research reveals that they cover such topics; Board of Education, Board of Trustees for University of Tennessee, Board of Trustees for blind, deaf and industrial training school; Division of State Library and Archives, Division of Professional Registration, Division of Finance, Division of School House Planning and Transportation, Division of School Libraries, Division of Vocational Education, Division of Elementary School Supervision, Division of High School Supervision, Division Civilian Rehabilitation, and the Division of Negro Education, in like manner is the department of Institutions and Public Welfare.

There are some thirty minor boards and commissions which are also appointed by the governor. They include offices the responsibilities of which, in the complexity of modern government, seem to be necessary to efficient state government, as: Board of Equalization, Crime Commission, Tennessee Athletic Commission, Commission on Inter-Governmental Cooperation, Rural Electrification Authority; and a number which have merely routine duties; as, Board of Dental Examiners, Board of Embalmers, Board of Pharmacy and Board of Barbers. 39

This plan makes it necessary for the electors of Tennessee to vote for only one executive official, the governor; however they do elect the Public Utilities Commission, which might be termed as part of the executive department as all other commissions are appointed by the governor.

It must be admitted that the short ballot gives the governor tremendous patronage power but evidently Tennessee has been satisfied with the plan for she has re-written her Constitution on two separate occasions and neither time has she tampered with the powers of the Governor, except to enlarge them as in the instance of allowing him more



appointive power.

The members of the Constitutional Convention of 1834 and 1870 showed that they understood that administrative organization must constantly adapt itself to changing conditions and that such adaptation is extremely difficult and altogether too slow when administrative organization and administrative functions are unalterably prescribed by the constitution. An instance of this is in the case of the Comptroller of the Treasury. The Constitution outlined no duties for this office, but the legislature has prescribed in great detail what he should do. The Reorganization Bill of 1937 created a Department of Audit to be headed by the Comptroller.

The development of the government of Tennessee is unique in the following aspects:

(1) Her earliest settlers founded independent government, with no state or Federal connections; until North Carolina asserted jurisdiction.

(2) When ceded by North Carolina to the United States in 1790, her people furnished the only instance of any large body of people who were reduced from condition of citizens of a state to that of inhabitants of a Territory.

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(3) Tennessee was the first state formed from  
Federal Territory.

(4) Tennessee abrogated her territorial govern-  
ment and performed all the functions of statehood  
nearly three months before receiving the consent  
of Congress.<sup>41</sup>

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41 Garrett and Goodpasture; Op. Cit. p 9

## Chapter III

Economic Aspect of the Efficiency of  
Government in Oklahoma and Tennessee.

Superficially, all state government appears to be more or less alike, however each state is distinguished from its fellows not only in size and population, but also in location, climatic conditions, and resources. These differences reflect themselves in the political and governmental organization.<sup>1</sup>

Therefore, before an intelligent comparison can be made of the government of Oklahoma and Tennessee, a study must be made of the forces which have influenced the development of the political practices and the organization of the governmental departments.

The governmental jurisdiction of Tennessee extends over an area of 42,022 square miles and over a total of 2,616,556 population; while that of Oklahoma extends over 70,057 square miles and 2,396,040 population.<sup>2</sup> The difference in size is

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1 Dodd, Walter F. State Government p 4

2 Statistical Abstract of the United States.  
United States Printing Office 1939.



characteristic of the new and older states,<sup>3</sup> as are many of the other differences which appear in this study.

Tennessee and Oklahoma each have a picturesque history in that each has, in its turn, furnished a frontier for the sturdy pioneers whose virtues and vices have been the subject of song and story, but there is a difference in time of practically a century between the opening of the two frontiers.

Daniel Boone is given credit for the opening of the wilderness in Tennessee, when he and his companions opened the settlement of Boonesborough in 1769;<sup>4</sup> and the first white settlers in the present boundaries of Oklahoma were led by C.C. Carpenter about the year 1879.<sup>5</sup> Early in 1889 a rider, known as the Springer Bill, attached to the Indian Appropriation Bill was passed by Congress, which provided for the opening of the Oklahoma Lands to white settlement.<sup>6</sup> The people for thirteen months were without

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3 The largest state to be admitted into the Union before 1796 was Georgia whose area is 59,265 square miles, while the smallest of the states admitted after 1889 was Idaho, whose area is 83,888 square miles.

4. Tennessee Blue Book p 10

5 Dale & Rader: Readings in Oklahoma History p 441

6 Ibid. p 463

organized government, except such as they were able to establish for themselves. On May 2, 1890, the President approved an act of Congress, commonly known as the Organic Act, which provided territorial government for Old Oklahoma and the Panhandle.<sup>7</sup>

Oklahoma Territory was settled by a diverse population, coming from virtually every state in the Union. This population was largely agricultural, though there were numerous towns and villages. Indian Territory, on the other hand, consisted of five little Indian Republics, each under its own constitution and laws. Lands were held in common by tribal members and white people had no political rights, no schools and no great assurance that they would be permitted to live in the Indian Country permanently,<sup>8</sup> until, after 1896, when by Act of Congress, the United States assumed jurisdiction over the white settlers.<sup>9</sup>

Soon after the passage of the Organic Act the people of Oklahoma Territory began to ask

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7 Oklahoma Red Book Vol. I pp 426-436

8 Dale & Rader. Op. Cit. p 640

9 See Chapter I p 2

for statehood but as the Indians in the Indian Territory were reluctant to give up their tribal governments and the system of holding land in common, there was little agitation from that area. After the Organization of the Dawes Commission<sup>10</sup> and the passage of the Curtis Act January 1893<sup>11</sup> however, the white settlers in Indian Territory began to dream of becoming citizens of a state. In the mean time Oklahoma Territory was developing, railroads were being built, and many people were unwilling to wait until Indian Territory could be made ready for state government, and persistantly urged Congress to make Oklahoma Territory a separate state.<sup>12</sup> In 1905 there was called a convention in Muskogee for the purpose of drawing up a Constitution for the proposed state of Sequoyah, to be formed of Indian Territory; but their efforts were fruitless. Also, in 1905 the National Press Association met at Guthrie. While in the Territory the

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10 Dawes Commission was created by Act of Congress in 1893

11 Congressional Record 55Congress Session II  
Ch. 517 United Statutes at Large 30:495-  
519 Je 33-1898

12. Dale & Rader Op. Cit. p 641



editors were provided with a special train and were given opportunity to see the unprecedented progress in all parts of Oklahoma. When they returned to their homes in the states they became earnest and efficient advocates for statehood.<sup>13</sup> It is well to bear in mind that partisanship and statesmanship combined to keep Oklahoma out of the Union for almost a score of years.<sup>14</sup> During the period from 1890 to 1907 Oklahoma Territory had a legislature which at times was unpopular with the administrative officer, namely, the Governor. Abbot says:

"Governor Steele was justly displeased at the conduct of certain members of the Legislature".<sup>15</sup>

Local political antagonisms was the common story of the territorial governors- which is attested by the following observations:

"Governor Steel made himself extremely unpopular by two capitol bill vetoes; and resigned October 18, 1891."

"Seay was sharply criticized for appointing non-residents of the counties as county officers, and served as governor only a little longer than a year".

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- 13 Abott, L.J. History of Oklahoma p 196  
 14 Ibid . p 192  
 15 Ibid . p 181

"The Barnes administration was marked by political turmoil. "

"Jenkins time as governor was short and full of trouble." 16

This prolonged lack of harmony and seeming distrust between the governor and the legislature probably accounts for some of the seemingly unnecessary provisions in the Oklahoma Constitution. The delegates probably feared to allow the governor too wide jurisdiction in the way of appointments and felt that politics, rather than merit, would qualify legislative appointments. At any rate these factors made the framers certainly very sympathetic with the growing attitude of the period- namely, of making the people sovereign; as a result of these many influences, Oklahoma, by constitutional provision elects by popular vote probably the largest number of Administrative officials of any state in the Union.

Another factor among the events immediately prior to statehood which seemingly had an influence on the making of the constitution was

the resentment against the railroads. Harlow says:

"The attorneys for the railroads were the most influential persons in the territory outside of the chief territorial officers, and their influence ran through the government itself. By 1906 resentment towards this domination was gathering among Oklahoma voters. The management of the roads was not considerate of the feelings of the Oklahoma public, and in many instances rates and business practices aroused great antagonism towards the roads in whole communities. The conviction grew up that the roads used their influence unfairly, to promote favored communities over other competing commonwealths. This feeling was generally developed, together with the conviction that the power of the railroads must be curbed." 17

The Oklahoma Constitution has been criticized for containing such a vast space devoted to the regulation of corporations. These foregoing citations will tend, in part at least, to show the reason the framers felt justified in this procedure.

A study of Tennessee in the years preceding the forming of her state constitution does not reveal the legislature-governor difficulties which were so prominent in Oklahoma. The chief contention appears to have been Indian troubles. Because North Carolina did not lend as much aid against hostile Indians as the settlers felt they deserved, the leaders advocated the formation of a state of their own. This resulted in the formation of the State of



Franklin in 1784, which was discussed earlier in this study. By 1787 there scarcely remained in the Commonwealth of Franklin vitality enough to give it a nominal existence; its subsistence and strength were so nearly absorbed into North Carolina Government. Some of the members of the Franklin Council of State had accepted offices under North Carolina and even the Franklin Legislature manifested a strong tendency to dismemberment<sup>18</sup> as session after session it became smaller and smaller, confining its action to subjects of immediate importance, until finally the only vestige of government was the governor.<sup>19</sup>

The legislature of North Carolina extended a conciliatory policy toward the western people which, added to the fact that delegates from the western counties were members of the legislature of the Mother State, went far to remove the remains of the State of Franklin. As the interest of North Carolina became manifest to the citizens in the west, they returned their allegiance to her. The great distance of the western counties

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18 Ramsey, J.G.M. Annals of Tennessee p 401

19 Ibid. p 404

from the seat of government influenced many who lived nearer the east to favor a separation of the territory. In 1787 Governor Caswell in his letter to General Shelby ( of Tennessee) says:

"Whenever unanimity prevails among your people, and their strength and numbers will justify an application for a separation, if it is general, I have no doubt of its taking place upon reciprocal and honorable terms". 20

So general was the sentiment, even in North Carolina, in favor of separation, that in 1789 her Western Territory was ceded to Congress and "The Territory Southwest of the River Ohio" was organized. William Blount was appointed Governor by the President of the United States. He, in turn, recommended John Sevier and James Robertson as generals to take care of the Indian difficulties. President Washington honored the recommendation of these Tennesseans and appointed them. The one overshadowing fact in the history of Tennessee during Brount's term as governor was Indian Warfare.<sup>21</sup> It was not until 1794 that a General Assembly of the Territory of the United States of America, South of the

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20 Ibid. p 441

21 Roosevelt, Theodore: Winning of the West ;p363

Ohio was organized. It met at Knoxville August 25, 1794 and, forth with, a committee was appointed to:

"consider and report as soon as possible, what bills of a public and general nature are necessary to be passed into laws by the present assembly".<sup>22</sup>

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This assembly was wise and patriotic, for the records show that their first bills were for:

"relief of such persons as have been disabled by wounds, or rendered incapable of procuring, for themselves and families, subsistence, in the Militia of this Territory: and providing for the widows and orphans of such as has died".<sup>23</sup>

Another action this first legislature was a bill to "establish a University in Greene County".<sup>24</sup>  
Four days later the bill became a law.<sup>25</sup>

Probably one reason that the territorial assembly and the governor were so amicable in Tennessee is the fact that the governor and the leaders of the general assembly were all Tennesseans; whereas, the territorial governors of Oklahoma were in the main "Carpet Baggers". Governor Blount called the General Assembly into session on June 29, instead of the usual date of the

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22 Ramsey, Op. Cit. p 625

23 Bill introduced by General Sevier.

24 Bill introduced August 29, 1794 by Mr. F.L.White from Davison County.

25 Ramsey, Op. Cit. p 627



first Monday of October in 1795. In part, his message follows:

"The principal object for which I have called you together, at an earlier period than that to which the General Assembly stood prorogued, is to afford an opportunity to inquire whether it is, as I have been taught to believe, the wish of the majority of the people, that this Territory should become a State. When taking the enumeration there should prove to be sixty thousand free inhabitants therein, or at such earlier period as Congress shall pass an act for its admission; and if it is, to take such measures as may be proper to affect the desired change of the form of government as early as practicable". 26

July 7- Mr. Sevier offered the following address to the Governor:

Sir:-

"The members of the Legislative Council, and the House of Representatives, beg leave to express to your Excellency their approbation of the object for which they were principally called together: and feeling convinced that the great body of our constituents are sensible of the many defects of our present mode of government and of the great and permanent advantages to be derived from a change and speedy representation in Congress, the General Assembly of the Territory will, during the present session, endeavor to devise and means a way to affect that desirable object; and, in so doing, we shall be happy in meeting with your Excellency's concurrence." 27

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26 Message of Governor Blount to Territorial assembly June 29, 1795

27 Ramsey: op. cit. p 642

Throughout the years, there appears to be no such sharp clash of the legislative assembly with the administration as was observed in the development of the government in Oklahoma; consequently it is very natural that when Tennessee became a state in 1796, her constitutional convention should have been conservative. That the circumstances which influenced the formation of the state of Franklin did not involve a lack of faith in the organization of the government of North Carolina is proved by the fact that the State Constitution was patterned very closely after that of the Mother State, as is discussed earlier in this study.<sup>28</sup>

It is true, there must be progress in governmental methods as well as in other forms of development, but, it is well sometimes to pause and analyze whether certain so called progressive measures are wise or merely radical. It is in this spirit that the further observations are made on the relative efficiency of the government provided by states in question. The one, a product of conservatives who are not prone to waver with the tide of popular

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28 See Chapter II

whims; the other, a product of more or less radicals who are led by the popular sentiment which agitates sovereignty of the people.

Since Oklahoma is an example of a widely decentralized administrative department and Tennessee is recognized as possessing a government characterized by administrative centralization, points of contrast and comparison in the execution of state government are manifest.

The political setup in these states is necessarily taken up in some detail in order to come to some conclusion as to their relative efficiency, however the Author interprets efficiency in the light of expense, therefore the emphasis is placed on the comparative cost of the government, as it exists at the present time, to the people governed.

The Constitution in each instance makes the governor the chief executive within the state. His duties and powers, therefore, are similar but because of the difference in development of governmental powers acquired by precedent and legislative action, there is a great difference in the political leadership which they are able to exercise.



There is a popular feeling abroad in Oklahoma that the office of governor is a political graveyard. This feeling has, no doubt, been brought about by the fact that in no instance has a governor been reelected in Oklahoma. It is true that the Constitution does not allow the governor to immediately succeed himself,<sup>29</sup> but the party has never advanced him to a post of national honor, nor have the people seen fit to call him back into gubernatorial power.<sup>30</sup>

A glaring example of the lack of political leadership which the governor is able to maintain is of Wm. H. Murray, who was president of the Constitutional Convention, speaker of the First House of Representatives, and nationally known as a leader in politics, after having served as governor from 1930-1934, ran for re-election in 1938 and did not

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29 Oklahoma Constitution Article VI Sec. 4

30 Many years after serving as governor. R.L. Williams was appointed by the President to the office of Federal District Judge; Henry S. Johnston was later elected to the legislature; John C. (Jack) Walton defeated in two races for re-election as governor, succeeded in being elected as a member of the Corporation Commission.

receive enough votes to win second place.<sup>31</sup>  
 Another instance of the loss of political leadership is evidenced in the same election of 1938 when E.W.Marland, the outgoing governor, was a candidate for the United States Senate. He received only 115,625 votes to 252,550 for the leading aspirant.<sup>32</sup>

This is not the political status of the governors of Tennessee. The first Governor, John Sevier, was elected without opposition and was twice re-elected with such unanimity.<sup>33</sup> The constitution forbade his serving another term, but after two years had elapsed, he was returned to the gubernatorial chair where he served for another three terms.<sup>34</sup> The prestige established by Sevier was continued by Wm.Carroll

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31 Official Election Returns: Daily Oklahoman July 12, 1938.

Leon C. Phillips	179,139
W.S.Key	176,034
Ex. Gov. Wm.H. Murray	148,395
Ex. Gov. J.C .Walton	45,760

32 Ibid • Elmer Thomas, who had been in the Senate since 1927 was re-elected over a field of four including ex-governor Marland.

33 Garrett & Goodpasture. op. cit. p 141

34 Tennessee Constitution 1870 Article II Sec. 2.

who had identical experience.<sup>35</sup> Six men  
 have been twice re-elected as chief executive<sup>36</sup>  
 and twelve men have served two terms in Tennessee.<sup>37</sup>  
 Since 1907, the date of Oklahoma's admission  
 into the Union, Tennessee has honored six  
 governors with reelection; during the same  
 period not one Oklahoma governor has been  
 returned to office.

The highly decentralized plan of govern-  
 ment in force in Oklahoma does not afford the  
 governor sufficient power to make him really  
 responsible for the policies of government  
 which are practiced during his administration.  
 Although the people regard him as the one to

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35 Tennessee Blue Book (1937-38) Page 93 shows  
 that Sevier served as governor of Tennessee  
 (1796-1801) and (1803-1809)

36 Ibid. William Carroll served as governor  
 (1821-1827) and (1829-1835)  
 Willie Blount (1809-1815) Joseph McMinn(1815-21)  
 Isham Harris (1857-63) Robert L. Taylor (1887-93)  
 Austin Peay(1923-until death 1927)  
 Henry H. Horton (1927-33)

37 Ibid. pp 93-94 Minton Cannon (1835-39)  
 James C. Jones(1841-5) Andrew Johnson(1853-7)  
 W.G. Brownlow(1865-9) John C. Brown(1871-5)  
 James D. Porter(1875-9) Wm. B. Bates(1883-7)  
 Peter Turney(1893-7) Benton McMillan(1899-03)  
 James B. Frasier(1903-7) M. B. Patterson(1907-11)  
 Ben W. Hooper(1911-15) Tom C. Rye(1915-19)  
 And Hill McAlister (1933-37)



whom they should express their wishes and he bases his campaign upon questions of public policy, he, many times, is unable to carry out those policies which he desires. The legislature may ignore, change, or vote against his proposed legislation and if he has an unsympathetic legislature which he cannot by sheer strength of personality and politic dispensation of patronage, win to his point of view, he becomes the subject of severe criticism and makes himself liable to impeachment. During the thirty-two years in which Oklahoma has been a part of the Union, two governors have been removed from office by impeachment<sup>38</sup> and several others have had serious legislative difficulties.

The following editorials will tend to show the reputation this record has given Oklahoma among her sister states.

"Yea, Verily, the throne of Afghanistan is no more uncertain than that of Oklahoma, where when a Governor goes in office, he does not know whether he's seated in a firm chair or the saddle of an outlaw pinto pony".

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38 Harlow, Victor: op. cit. p 353 360  
 Walton was removed in 1923  
 Henry S. Johnston was removed in 1929

"Just as divorce follows swiftly on the heels of all normal Hollywood marriages, impeachment or talk of impeachment is the natural sequel to the election of Oklahoma's chief executive."

"No other state in the Union, however old that state may be, has as many impeachment cases in its history. Nearly one fifth of all the Governors impeached in the United States have been Oklahoma Governors".<sup>39</sup>

In another publication is found:

"The story of Oklahoma Politics suggests a picnic- an outing in which, sooner or later, the ants get into the sandwiches, some one drops the salt in the jam and his Excellency the Governor if he isn't stung by a wasp, falls into the brook".<sup>40</sup>

The highly centralized plan of government in Tennessee appears to allow the development of a political machine run by a party boss. Edward Hull Crump of Memphis has been given credit for controlling the election of governor for the past several years. So complete has been his control that he has attracted nationwide attention.

Of Boss Crump we read:

"In sixty city and state elections his machine has never been defeated. In 1936 his candidate for governor, Gordon Browning, won the Primary 2 to 1. Shelby County went 60,208 to 881." <sup>41</sup>

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39 Literary Digest Feb. 9, 1929 p 12

40 Independent 119:642-3 Sept. 14, 1927

41 Time: Tennessee: Crimp in Crump; Nov. 1, 1937

and

"Edward Hull Crump, -ex-mayor of Memphis, Democratic Committeeman has for more than thirty years been political boss of Tennessee. He is a jaunty, strapping six footer of sixty-two who keeps taxes low and pocks good, competent men for public office". 42

and further-

"Without Mr. Crump's approval, Judas Isocariot or John Jones is just running for the trip, but with Mr. Crump's approval, grateful candidates like Governor Gordon Browning may get so many votes that they may send in appreciation quick telegrams about "Sixty thousand reasons why I love You". Next time the same candidate, lacking Mr. Crump, may get hardly any votes at all and will have no reason for loving Mr. Crump." 43

Mr. Daniels continues:

"Negroes in Memphis by the van load vote for Mr. Crump's candidates." 44

Evidently the editor of Time analyzed Mr. Crump's system in regard to taxes pretty accurately for a study into the cost of the governor's office for the fiscal year ending June 30, 1937 - when the expense of Tennessee's executive was \$17,518.25<sup>45</sup> while the governor's office in Oklahoma for the same year cost a

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42 Time: City and County Crowd; August 17, 1936

43 Daniels, Jonathan: "He Suits Memphis" Saturday Evening Post. June 10, 1939.

44 Ibid.

45 State of Tennessee: Annual Report of the Comptroller of the Treasury for 1936-37.



total of \$129,722.05<sup>46</sup> The margin of difference is even greater for the fiscal year ending June 30, 1938, when the chief executive's office cost the taxpayers of Tennessee \$19,833.43<sup>47</sup> and the cost of Oklahoma's office had soared to \$245,296.43<sup>46</sup>

A further examination brings out some very interesting points. For instance the Oklahoma Governor's office spent, according to the State Auditors 1938 report, \$26,715.13 for traveling expenses- more than the whole expense of the Tennessee's office. During the same period Tennessee's office spent the meager sum of \$487.60 Another item of expense in the Oklahoma report is marked "sundry". The "sundry" or miscellaneous expense was \$79,416.14 and a comparative study of the Tennessee report reveals no expense for sundry or miscellaneous purposes. No intelligent conclusion can be drawn from a study of the chief executive office only, therefore a study into the whole administrative department should be made.

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46 State of Oklahoma: Report of the State Auditor 1938

47 State of Tennessee: Annual Report of the Comptroller of the Treasury 1938.

From the very nature of state government, the functions of the various administrative offices are very similar but the politics, which has developed in regard to some of them is different within the two states.

In Oklahoma, the secretary-of-state, the state auditor and the state treasurer are not eligible to immediately succeed themselves,<sup>48</sup> but the holders of these and other offices have worked out a practice which is commonly known as "job swapping". This practice is made possible by several factors, one of which is the long ballot presented to the voters at the polls.

An editorial writer for the Daily Oklahoman on election day comments upon the long ballot thus:

"READ IT AND WEEP"

"Look at it and weep, this blanket ballot that insults your intelligence as you enter the polling place today. Read it and faint, if you have the patience or the audacity to read it through. Almost but not quite 300 names (most of which are unknown to the average voter) clutter up this paper blanket, and you are supposed to mark it intelligently. Good government

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48 Oklahoma Constitution Article VI



is supposed to be served by your manner of marking this electoral monstrosity." "From this electoral bedlam the nominees of the dominant party are to be chosen. And whatever measure of patriotic service and civic advancement derives from this impossible proceeding will be due to sheer accident in a great many cases." 49

Since it is a physical impossibility for the voters to know such a great number of candidates, many of them, upon finding a familiar name cast their vote in his favor. The "job swappers" have capitalized upon this psychological fact and have by their "swaps" kept their names on the state ballot year after year. For instance.

A.S.J. Shaw	R.A. Sneed
1923-27-Treasurer	1923-27-Sec. of State
1927-31-Auditor	1927-31-Treasurer
1935-41-Corp. Comm.	1931-35-Sec. of State (Deceased)
C.C. Childers	Frank Carter
1923-27-Auditor	1923-29-Corp. Comm.
1927-33-Corp. Comm.	1931-35-Auditor
1935-39-Auditor	1935-39-Sec. of State
1939-43-Sec. of State	1939-43-Auditor 50

It will be seen from this table that three or four men have filled these administrative offices for the past twenty years.

An editorial writer has explained how hard it is for a "new comer" to break into the politics of the state capitol.

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49 Daily Oklahoman Editorial. July 12, 1938 p 8

50 Directory of State of Oklahoma Elections of 1907 to 1939



"Job Swappers, Incorporated"

"....Young Irvin Hurst thought he was to run for state auditor against the men who have filed for that office, but he speedily discovered that he was being fought by all of the job swappers of the capitol, regardless of what office they were running for. Out at the capitol it is "all for each and each for all", and any man who has the temerity to run against one of them soon learns that he is being fought by all of them." 51

Because these men, whose names have become familiar landmarks on the state ballot, have been consistently elected, regardless of the office they were seeking, other men, who have possessed names of well known individuals have filed as a candidate for office. In 1932 Will Rogers, a school teacher, filed for Congressman-at-large and was elected to that office without an extensive campaign. 52 The records prove that Mr. Rogers has ably acquitted himself in Congress but the credit belongs to the Congressman himself and not to the system of elections in Oklahoma. Following the precedent set by Will Rogers, in the 1938 election there were no less than nine famous names

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51 Daily Oklahoman."Job Swappers Incorporated"  
July 9, 1938 8:2

52 Personal Interview with Congressman Rogers.

on the state ballot.<sup>53</sup> In each case the old office holder at the time of election was returned to the capitol payroll; nevertheless, four of these candidates who possessed familiar names were runners up for state popularity. They were: Bob Burns for Lieutenant Governor, Huey Long for Clerk of Supreme Court, Josh Lee for President of State Board of Agriculture and the Author of this study for Secretary of State.<sup>54</sup>

The degree of efficiency with which a department operates is reflected by the expense involved in the administration of the relative functions. A comparison of the expense of several of the administrative offices for the past year ending June 30, 1938 follows.

<u>Office</u>	<u>Oklahoma</u>	<u>Tennessee</u>
<u>Sec. of State</u>	<u>\$22,754.32</u>	<u>\$20,463.38</u>
<u>Treasurer</u>	<u>\$68,657.40</u>	<u>\$22,319.47</u>
<u>Auditor</u>	<u>\$53,836.47</u>	<u>\$77,496.36</u>
<u>Attorney General &amp; Reporter</u>	<u>\$78,537.38</u>	<u>\$58,783.30</u>

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53 Daily Oklahoman, "Official Election Returns" July 18, 1938

54 Ibid

55 State of Tennessee, Comptroller Report 1938  
State of Oklahoma, Auditor Biennial Report 1938

Most of the administrative boards and commissions are appointive and since the Governor of Oklahoma does not have authority over the executive offices which the governor of Tennessee possesses, he is forced to create more boards in order to dispense his patronage. The result is that the executive department of Oklahoma cost the people of that state \$8,653,326.15 for the fiscal year ending June 30, 1938, while the Tennesseans were out \$5,008,897.20

The expensive executive department has influenced the other departments to such an extent that the total governmental expense of Oklahoma exceeds that of Tennessee by more than \$24,000,000.<sup>56</sup> The tax rate in Oklahoma is \$1.29 per \$100 higher than the rate levied in Tennessee.

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56 United States Department of Commerce: Financial Statistics of State and Local Governments. For 1932 pp 1409 and 1633

Total Expense of Government	
in Oklahoma	\$131,635,947.
Total Expense of Government	
in Tennessee	\$106,683,502.
Difference	\$24,952,445.



The governmental cost is reflected in other economic aspects among the citizens of the respective states, as for instance home ownership and employment.

	Oklahoma	Tennessee
Tenant Farm Homes	125,329	113,520
Owned Farm Homes	78,537	132,137
Rented non Farm Homes	194,015	188,030
Owned non Farm Homes	138,660	149,483
Persons over 10 years old	1 Males 73.2%	75.8%
gainfully employed	1 Females 14.5%	19.1%

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This study is consistent in revealing that Oklahoma in her great zeal to become a democratic state, decentralized the administration of duties to such an extent that the government has suffered in the economic efficiency to her people.

### Conclusion and Recommendations.

This detailed study of the comparative costs of government in Oklahoma and Tennessee has established proof that the long ballot in Oklahoma has contributed greatly toward the immense expense entailed in administering the entire governmental functions, and that this expense is reflected in other economic aspects of the citizens of the state, therefore a governmental problem exists; that is , to find a method of establishing governmental authority without taking away from the citizen his right freely to choose that authority. The solution of which, it appears, is found in the practice of Tennessee where the Short Ballot is in use.

"The Short Ballot principle is that only those government officials shall be elected whose functions are important enough to attract and deserve general public scrutiny and understanding, and that all other officers shall be appointed."<sup>1</sup>

Oklahomans know, from experience, that the long ballot principle is, that the voter must

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1 Abbot, L.F. "The Short Ballot" Outlook  
142:4045 March 17, 1926

have his say about the selection of every official from the assistant mine inspector to the Governor.

If Oklahoma government is to become efficient it must adopt the system which has proved successful in Tennessee to say nothing of our National government; namely, the Short Ballot system. In short, the recommendation which the author would offer to Oklahoma Government is: give the people the privilege of selecting the fewest possible officials, give the officials the greatest possible amount of authority and then hold them to the strictest accountability.

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"For forms of government, let fools contest,  
That which is best administered is best."

(Alexander Pope)



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