

June 16, 1906
[H.R. 12702.]
CHAP. 3335 -

An Act To enable the peopel of Oklahoma and of the Indian Territory to form a constitutional and State government and be admitted into the Union on an equal footing with the original States; and to enable the people of New Mexico and of Arizona to form a constitutional and State government and be admitted into the Union on an equal footing with the original States.

Be it enacted by the Senate and House of Representaties of the United States of America in Congress assembled, That the inhabitants of all that part of the area of the United States now constituting the Territory of Oklahoma and the Indian Territory, **as at present described**, may adopt a constitution and become the State of Oklahoma, as hereinafter provided: *Provided*, That nothing contained in the said constitution shall be construed to limit or impair the rights of persons or property pertaining to the Indians of said Territories (so long as such rights shall remain unextinguished) or to limit or affect the authority of the Government of the United States to make any law or regulation respecting such Indians, their lands, property or other rights by treaties, agreement, law, or otherwise, which it would have been competent to make if this Act had never passed.

Sec. 2. That all male persons over the age of twenty-one years, who are citizens of the United Staets, or who are members of any Indian nation or tribe in said Indian Territory and Oklahoma, and who have resided within the limits of said proposed State for at least six months next preceding the election, are hearby authorized to vote for and choose delegates to form a constitutional convention for sid proposed State; and all persons qualified to vote for said delegates shall be eligible to serve as delegates; and the delegates to form such convention shall be one hundred and twelve in number, fifty-five of whom shall be elected by the people of the Territory of Okalhoma, and fifty-five by the people of Indian Territory, and two shall be elected by the electors residing in the Osage Indian Reservation in the Territory of Oklahoma into fifty-six districts, as nearly equal in population as may be, except that such apportionment shall include as one district the Osage Indian Reservation, and the governor, the chief justice, and the secretary of the Territory of Oklahoma shall appoint an election commissiner who shall establish voting precincts in said Osage Indian Reservation; and two delegates shall be elected from said Osage district; and the Commissioner to the Five Civilized Tribes, and two judges of the United States courts for the Indian Territory, to be designated by the President, shall constitute a board, which shall apportion the said Indian Territory into fifty-five districts, as nearly equal in population as may be, and one delegate shall be elected from each of said districts; and the governor of said Oklahoma Territory, together with the judge senior in service of the United States courts in Indian Territory, shall, by proclamation in which such appointment shall be fully specified and announced, order an election of the delegates aforesaid in said proposed State at a time designated by them within six months after the approval of this Act, which proclamation shall be issued at least sixty days prior to the time of holding said election of delegates. The election for delegates of Territory of Oklahoma and in said Indian Territory shall be conducted, the returns made, the result ascertained, and the certificates of all persons elected to such convention issued in the same manner as is prescribed by the laws of the Territory of Okalhoma regulating elections for Delegates to Congress. That the election laws of the Territory of Okalhoma now in force, as far as applicable and not in conflict with this Act, including the penal laws of said Territory of Oklahoma relating to elections and illegal voting, are hearby extended and put in force in said Indian Territory until the legislature of said proposed State shall otherwise

provide, and until all persons offending against said laws in the election aforesaid shall have been dealt with in the manner therein provided. And the United States courts of said Indian Territory shall have the same power to enforce the laws of the Territory as Oklahoma, hereby extended to and put in force in said Territory, as have the courts of the Territory of Oklahoma: *Provided however*; That said board to apportion districts in Indian Territory shall, for the purpose of said election, appoint an election commissioner for each district who shall distribute all ballots and election supplies to the several precincts in his district, receive the election returns from the judges in precincts, and deliver the same to the canvassing board herein named, establish and define the necessary election precincts, and appoint three judges of election for each precinct, not more than two of whom shall be of the same political party, which judges may appoint the necessary clerk or clerks; that said judges of election, so appointed, shall supervise the election in their respective precincts, and canvass and make due return of the vote cast, to the election commissioner for said district who shall deliver said returns, poll books, and ballots to said board, which shall constitute the ultimate and final canvassing board of said election, and they shall issue certificates of election to all persons elected to such convention from the various districts of the Indian Territory, and their certificates of election shall be prima facie evidence as to the election of delegates: *Provided further*, That in said Indian Territory and Osage Indian Reservation, nominations for delegates to said constitutional convention may be made by convention, by the Republican, Democratic, and People's Party or by petition in the manner provided by the laws of the Territory of Oklahoma; and certificates and petitions of nomination in said Indian Territory shall be filed with the districting and canvassing board who shall perform the duties of election commissioner under said law, and shall prepare, print, and distribute all ballots, poll books, and election supplies necessary for the holding of said election under said laws. The capital of said State shall temporarily be at the city of Guthrie, in the present Territory of Oklahoma and shall not be changed therefrom previous to anno Domini nineteen hundred and thirteen, but said capital shall, after said year, be located by the electors of said State in an election to be provided for by the legislature: *Provided, however*; That the legislature of said State except as shall be necessary for the convenient transaction of the public business of said State at said capital, shall not appropriate any public moneys of the State for the erection of buildings for capitol purposes during such period.

Sec. 3. That the delegates to the convention thus elected shall meet at the seat of government of said Oklahoma Territory on the second Tuesday after their election, excluding the day of election in case such day shall be Tuesday, but they shall not receive compensation for more than sixty days of service, and, after organization, shall declare on behalf of the people of said proposed State, that they adopt the Constitution of the United States; whereupon the said convention shall, and is hereby authorized to, form a constitution and State government for said proposed State. **The constitution shall be republican in form, and make no distinction in civil or political rights on account of race or color, and shall not be repugnant to the Constitution of the United States and the principles of the Declaration of Independence. And said convention shall provide in said constitution---**

First, That perfect toleration of religious sentiment shall be secured, and that no inhabitant of said State shall ever be molested in person or property on account of his or her mode of religious worship, and that polygamous or plural marriages are forever prohibited.

Second. That the manufacture, sale, barter, giving away, or otherwise furnishing, except as hereinafter provided, of intoxicating liquors within those parts of said State now known as the Indian Territory and the Osage Indian Reservation and within any other parts of said State which existed as Indian reservations on the first day of January, nineteen hundred and six, is prohibited for a period of twenty-one years from the date of the admission of said State into the Union, and thereafter until the

people of said State shall otherwise provide by amendment of said constitution and proper State legislation. Any person, individual or corporate, who shall manufacture, sell, barter, give away, or otherwise furnish any intoxicating liquor of any kind, including beer, ale, and wine, contrary to the provisions of this section, or who shall, within the above-described portions of said State, advertise for sale or solicit the purchase of any such liquors, or who shall ship or in any way convey such liquors from other parts of said State into the portions hereinbefore described, shall be punished on conviction thereof, by fine not less than fifty dollars and by imprisonment not less than thirty days for each offense: *Provided*, That the legislature may provide by law for one agency under the supervision of said State in each incorporated town of not less than two thousand population in the portion of said State hereinbefore described; and if there be no incorporated town of two thousand population in any county in said portions of said State, such county shall be entitled to have one such agency, for the sale of such liquors for medicinal purposes; and for the sale, for industrial purposes, of alcohol which shall have been denaturalized by some process approved by the United States Commissioner of Internal Revenue; and for the sale of alcohol for scientific purposes to such scientific institutions, universities, and colleges as are authorized to procure the same free of tax under the laws of the United States; and for the sale of such liquors to any apothecary who shall have executed an approved bond, in a sum not less than one thousand dollars, conditional that none of the liquors shall be disposed of for any purpose other than in the compounding of prescriptions or other medicines, the sale of which would not subject him to the payment of the special tax required of liquor dealers by the United States, and the payment of such special tax by any person within the parts of said State hereinabove defined shall constitute prima facie evidence of his intention to violate the provisions of this section. No sale shall be made except upon the sworn statement of the applicant in writing setting forth the purpose for which the liquor is to be used, and no sale shall be made for medicinal purposes except sales to apothecaries as hereinabove provided unless such statement shall be accompanied by a bona fide prescription signed by a regular practicing physician, which prescription shall not be filled more than once. Each sale shall be duly registered, and the register thereof together with the affidavits and prescriptions pertaining thereto, shall be open to inspection by any officer or citizen of said State at all times during business hours. Any person who shall knowingly make a false affidavit for the purpose aforesaid shall be deemed guilty of perjury. Any physician who shall prescribe any such liquor, except for treatment of disease which after his own personal diagnosis he shall deem to require such treatment, shall, upon conviction thereof, be punished for each offense by fine of not less than two hundred dollars or by imprisonment for not less than thirty days, or by both such fine and imprisonment; and any person connected with any such agency who shall be convicted of making any sale or other disposition of liquor contrary to these provisions shall be punished by imprisonment for not less than one year and one day. Upon admission of said State into the Union these provisions shall be immediately enforceable in the courts of said State.

Third. That the people inhabiting said proposed State do agree and declare that they forever disclaim all right and title in or to any unappropriated public lands lying within the boundaries thereof, and to all lands lying within said limits owned or held by any Indian, tribe, or nation; and that such title to any such public lands shall have been extinguished by the United States, the same shall be and remain subject to the jurisdiction, disposal, and control of the United States. That land belonging to citizens of the United States residing without the limits of said State shall never be taxed at a higher rate than the land belonging to residents thereof; that no taxes shall be imposed by State or lands or property belonging to or what may hereafter be purchased by the United States or reserved for its use.

Fourth. That the debts and liabilities of said Territory of Oklahoma shall be assumed and paid by

said State.

Fifth. That provisions shall be made for the establishment and maintenance of a system of public schools, which shall be open to all children of said State and free from sectarian control; and said schools shall always be conducted in English: *Provided*, That nothing herein shall preclude the teaching of other languages in said public schools: *And provided further*, That this shall not be construed to preven the establishment and maintenance of separate schools for white and colord children.

Sixth. That said State shall never enact any law restricting or abridging the right of suffrage on account of race, color, or previous condition of servitude.

Sec. 4. That in case a constitution and State government shall be formed in compliance with the provisions of this Act the convention forming the same shall provided by ordinance for submitting said constitution to the people of said proposed State for its ratification or rejection at an election to be held at a time fixed in said ordiance, at which election the qualified voters for said proposed State shall vote directly for or against the proposed constitution, and for or against any provision separately submitted. The returns of said election shall be made to the secretary of the Territory of Oklahoma, who, with the chief justice thereof and the senior judge of the United Stats court of appeals for the Indian Territory, shall canvass the same; and if a majority of the legal votes cast on that question shall be for the constitution the governor of Oklahoma Territory and the judge senior in service of the United States court of appeals for the Indian Territory shall certify the result to the President of the United States, together with the statement of the votes cast thereon, and upon separate articles or propositions and a copy of said constitution, articles, propositions, and ordinances. **And if the constitution and the government of said proposed State are republican in form, and if the provisions in this Act have been complied with in the formation thereof, it shall be the duty of the President of the United States, within twenty days from the receipt of the certificate of the result of said election and the statement of votes cast thereon and a copy of said constitution, articles, propositions, and ordinances, to issue his proclamation announcing the result of said election; and thereupon the proposed State of Oklahoma shall be deemed admitted by Congress into the Union, under and by virtue of this Act, on an equal footing with the original States.** The original of said constitution, articles, propositions, and ordinances, and the election returns, and a copy of the statement of the votes cast at said election, shall be forwarded and turned over by the secretary of the Territory of Oklahoma to the State authroities of said State.

Sec. 5. That the sum of one hundred thousand dollars, or so much thereof as may be necessary, is hereby appropriated, out of any money in the Treasury not otherwise appropriated, for the defraying of the expenses of the elections provided for in this Act, and said convention, and for the payment of the members thereof, under the same rules and regulations and at the same rates as are now provided by law for the payment of the Territorial legislature of the Territory of Oklahoma, and the disbursement of the money appropriated by this section shall be made by the secretary of the Territory of Oklahoma.

Sect. 6. That until the next general census, or until otherwise provided by law, the said State of Oklahoma shall be entitled to five Representatives in the House of Representatives of the United States, to be elected from the following described districts, the boundaries of which shall remain the same until the general census:

(cont)