

A NEW CHAPTER IN AN OLD STORY

By Edgar S. Vaught

FOREWORD

Judge Edgar S. Vaught was an active and honored member of the Board of Directors of the Oklahoma Historical Society, elected January 26, 1950. He was in demand as a speaker on programs of different organizations to tell the history which he had helped to make as a leader for over half a century, in the development of the Capital City and the State of Oklahoma. His account relating to the location and construction of the State Capitol of Oklahoma was written and given by him on a program of the Oklahoma City Chamber of Commerce, September 7, 1945. It is here published for the first time in The Chronicles. Some explanatory and reference footnotes have been added to Judge Vaught's original manuscript by Colonel George H. Shirk, which are published here with the Judge's own account and title "A New Chapter in an Old Story."

—The Editor

The development of that section of Oklahoma City adjacent to the State Capitol for oil and gas and the large revenues derived by the State from lands donated to it by citizens of Oklahoma City have developed fresh interest by the citizens of the State. The subject relates to the contract between the State and citizens of Oklahoma City in connection with the location and construction of the State Capitol of Oklahoma.

At the request of the Chamber of Commerce, because of my participation in practically all of the activities by the citizens of Oklahoma City in the location and provisions for the construction of the State Capitol, I am giving, from the records and from my own memory, the facts as I remember them.

Soon after statehood in November, 1907, agitation began for the permanent location of the State Capital. The capital was then located at Guthrie and had been throughout the life of Oklahoma Territory. Oklahoma City was an active candidate for the location of the capital, as were other cities in the state, and of course Guthrie desired very much to retain the capital. A special election was called by the State authorities for June 11, 1910, at which the people of the State were given the opportunity to vote¹ for a capital city. The result of that election was a majority in excess of 50,000 votes for Oklahoma City.²

¹ State Question 15, *Initiative Petition No. 7.*

² Notwithstanding the affirmative vote of the people, the election was declared invalid for technical reasons by the Supreme Court in *Smith vs State ex rel Hepburn*, 28 Okla. 235, 113 Pac. 932.

On the night following the election, Governor Charles N. Haskell removed the official capital to Oklahoma City. In the campaign culminating in the election on June 11, 1910, the fact that the capital should not be removed to Oklahoma City until 1913 was given much publicity, and the people in Oklahoma City who made the campaign for Oklahoma City did not expect the capital to be removed until 1913. There were no facilities for accommodation of State offices and it would require the three years to provide the necessary facilities. The people in Oklahoma City as a whole were greatly surprised when the capital was removed immediately following the election. Governor Haskell opened his executive offices in the Huckins Hotel and the various state offices were located in the different office buildings in the downtown district.

There was much discussion in the next few months as to the location of the capitol building, and on the 23rd day of November, 1910, Governor Haskell issued a proclamation³ convening a special session of the Legislature of the State of Oklahoma to be held on Monday, the 28th day of November, 1910, to consider matters in connection with the permanent location of the state capital and construction of the capitol building.

At this special session of the Legislature, the Governor submitted a message to the Legislature (*Sen. Journal, Extra Session, 1910, pp. 10 to 15*) wherein he sought to justify the recent removal of the capital from Guthrie to Oklahoma City, showing that 120,352 votes were cast for removal and 71,933 against. He also submitted a plan to the Legislature recommending a site in a suburb of Oklahoma City consisting of sixteen hundred acres of land and \$100,000 cash, the \$100,000 cash being a guarantee that from the proceeds of the sale of lots, the State would derive \$1,700,000.

This plan was not acceptable to the Legislature and the first bill introduced in the House in that session provided for a permanent location of the seat of government of the State of Oklahoma, created a Board of Capitol Commissioners and defined its powers and duties, authorized said Board to accept for capitol purposes the proceeds of the sale of land or donation from other sources and appropriation of the same for capitol purposes, and repealed all laws in conflict therewith. A similar bill was introduced in the Senate. The House bill, after being approved by the House, was approved by the Senate and sent to the Governor for his approval⁴ (*Sen. Journal, Extra Session, 1910, pp. 15 & 16*).

³ *Sen. Journal, Extra Session, 1910, pp. 1 & 2.*

⁴ *Laws 1910—11, Chapt. 5. Only Section 1 of this Act remains effective today, and appears in our present code as Title 73, O.S. 1951, Sec. 1. By this enactment the Legislature declared Oklahoma City to be the capital of*

Numerous suggestions were made by various citizens of Oklahoma City and by various members of the Legislature with reference to a capitol site adjacent to the city. The House and Senate appointed a joint committee on location of the Capitol Building, which committee will be referred to as the "Capitol Committee." This committee rejected many suggestions as to location but advised a citizens' committee representing Oklahoma City that it would consider a proposition for location of the State Capitol in the northeast section of the city adjacent to Lincoln Boulevard and between Thirteenth and Twenty Third Streets.

The property owners interested in the northeast location met, discussed the possibilities of providing an acceptable site and finally submitted a proposition to the Capitol Committee, which was as follows:

We, the undersigned committee, present for your consideration the following proposition for a free Million Dollar Building, with grounds for same of fifteen acres.

We propose to provide warranty deeds to six hundred fifty (650) acres of land located in the Northeast part of the City, the site for the Capitol being within one and three-fourths ($1\frac{3}{4}$) miles of the Federal Building, which we will place as security, with an additional bond of \$100,000 in cash within the time agreed upon.

The proposed capitol site consisting of fifteen (15) acres to be located as follows: $7\frac{1}{2}$ acres to be in the Northeast corner of the Northwest $\frac{1}{4}$ of Section 27, and $7\frac{1}{2}$ acres in the Northwest corner of the Northeast $\frac{1}{4}$ of Section 27, all in Township Twelve (12) R. 3 W. of the Indian Meridian. The exact site for the capitol building to be near the center of Lincoln Boulevard and South of 23rd Street, as nearly in the center of the said described site as practical.

Then followed with the Capitol Committee of the Legislature, various discussions. For the purpose of handling the donations of land and funds, there was organized a corporation known as the State Capitol Building Company.⁵

Prior to the organization of the State Capitol Building Company, deeds to the 650 acres of land were made to Ed. S.

the State. The Act was upheld by the Supreme Court in *Coyle vs Smith*, 28 Okl. 121, 113 Pac. 944. Affirmed by U. S. Supreme Court, 221 U. S. 559, 55 L. Ed. 853. Thus the legal basis for the present location of the capital is legislative enactment rather than the vote of the people. The remaining portions of the 1910-11 Act were repealed by Session Laws 1913, Chapt. 220.

⁵The area ground between N.E. 23 and N. E. 21 Streets and the Santa Fe R/W and North Kelley Street was platted on June 30, 1911 by the State Capitol Building Company into lots and blocks, with the central area designated as the state capitol square. The plat was signed on behalf of the corporation by K. W. Dawson, vice president and Orin Ashton, secretary, and is in Book 18, p. 61 of the records of the County Clerk of Oklahoma County.

Vaught, as trustee, and the notes aggregating more than \$20,000 were made to said Ed. S. Vaught, as trustee, but upon the organization of the State Capitol Building Company, all of these lands were conveyed and the notes were assigned by said trustee to the corporation.

This proposition was put in more definite form, submitted to the Governor and the Legislature (Sen. Journal, Extra Session, 1910, pp. 95 to 101), appraisers were appointed by the Capitol Committee and the report of the appraisers was as follows:

Grand total Acreage	627½	Valuation	\$1,278,400.00
Lots	51	Valuation	120,950.00
Lots	10	Valuation	3,500.00

This was a total valuation on the lands proposed to be donated of \$1,402,850. In addition there were notes given by those citizens interested in the northeast location but who did not own real estate in that section in the amount of \$29,500. The State Capitol Building Company, having been organized and vested with the title to the donated lands and notes, entered into a formal contract with Charles N. Haskell, as Governor, which, with other matters connected therewith, appears at pages 83 to 108, inclusive, of Senate Journal, Regular Session, Oklahoma, 1911.

There also was executed a bond for \$100,000 guaranteeing the faithful performance of the obligations assumed by the State Capitol Building Company and this bond was signed by thirty one citizens of Oklahoma City.

This contract with the Governor was approved by the Legislature but nothing was done with regard to the construction of the capitol building because of litigation which had arisen with reference to the legality of the removal of the state capital. After this litigation was finally determined, the State Capitol Building Company entered into a new contract with Lee Cruce, as Governor, in which it was agreed that the bond of \$100,000 should be paid to the State in cash and on the 18th day of May, 1912, said payment was made. The last clause of the contract provided:

It is furthermore agreed that actual work on said building shall be begun by the said Lee Cruce within days from this date and continued as rapidly as conditions will permit until said sum of One Hundred Thousand Dollars (\$100,000.00) shall have been exhausted; and that the said The State Capitol Building Company shall have the same rights to audit the books of the said Lee Cruce relative to the expenditure of said sum of One Hundred Thousand Dollars (\$100,000.00) as was guaranteed to it under said original contract between the said The State Capitol Building Company and the State of Oklahoma, through Governor Chas. N. Haskell.

On July 3, 1914, the deeds to all of the property,⁶ after being carefully checked by the office of the Attorney General, were delivered by the State Capitol Building Company to the State of Oklahoma and on the same date the Governor signed the following acceptance for and on behalf of the State of Oklahoma:

WHEREAS, It satisfactorily appearing that the tracts of land in the above and foregoing deed described, have been legally conveyed to the State of Oklahoma, by a title in Fee Simple, free from all liens, incumbrances, and adverse claims whatsoever, the said lands being for Capitol Building Purposes, all as provided by Senate Joint Resolution No. 7, adopted by the Senate on March 5th, 1913, and by the House of Representatives on March 15th, 1913, approved March 17th, 1913, Oklahoma Session Laws 1913, P.p. 264-268.

NOW THEREFORE, We, the Commissioners of the Land Office of the State of Oklahoma, pursuant to the directions of Section Three of said Senate Joint Resolution No. 7, hereby accept for and upon behalf of the said State of Oklahoma, in its name, and benefit, the lands above described, all in the City, County and State of Oklahoma, this the 3rd day of July, A.D. 1914.

This deed was signed by the Governor, the Secretary of State, State Auditor, Superintendent of Public Instruction, and President of the Board of Agriculture, constituting the Commissioners of the Land Office.

Thus, with the conveyance of the 650 acres, as provided in the original contract, and the payment of the \$100,000 bond in cash, the State Capitol Building Company had met every requirement to which it was obligated in the original contract.⁷ Disposition of these lands accepted by the State has been entirely in the hands of the State and is a matter of State record.

Of the lands deeded to the State for capitol purposes, the State has disposed of some of the property and has received therefor the sum of \$4,625. The remaining land in the possession of the State is in the area of oil production and in addition to the 650 acres of land, the capitol site, and the \$100,000 in cash, the State has received to this date from royalties on the capitol lands, the sum of \$4,265,828.79.

In other words, the State has received from the citizens of Oklahoma City (1) the State Capitol site consisting of fif-

⁶ The property was conveyed to the State of Oklahoma by two separate deeds. The fifteen acres for the capitol building site and the governor's mansion site as selected by the State Capitol Commission on June 19, 1914 were conveyed by deed recorded in the office of the County Clerk on 12 December 1914 in Book 173, p. 640. The deed for the remaining properties was recorded February 12, 1915, Book 182, p. 248.

⁷ The Oklahoma State Capitol was completed by March, 1917. — "State Capitol Commission Record" in Notes and Documents, *The Chronicles of Oklahoma*, Vol. XXII, No. 3 (Autumn, 1944), pp. 354-56.

teen acres on which the Capitol Building is located, (2) cash of \$100,000, (3) \$4,625 from the sale of lots included in the capitol donation, and (4) \$4,265,828.79 from royalties on the capitol lands, or total cash in the sum of \$4,370,453.79, as of September 4, 1945. The State still owns the lands donated, including the site on which is located the Governor's Mansion,⁸ in addition to the capitol site, less the acreage sold for the \$4,625.

All of which most certainly justifies the confidence which the State Capitol Building Company and its officers had in the represented value of the lands donated to the State, as contained in their original proposal. While production of oil has greatly enhanced the value of the lands donated and the income therefrom, yet the original 650 acres of land had a value of at least one million dollars at the time of its donation.

⁸ Governor Henry S. Johnson was the first resident of the Governor's Mansion, having moved into the recently completed residence in September, 1928.