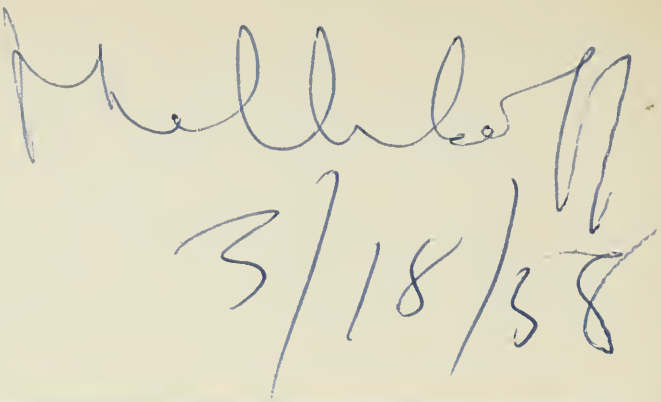


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"CLEANSED OF WORDS WITHOUT REASON, MUCH OF THE LANGUAGE OF THE LAW NEED NOT BE PECULIAR AT ALL. AND BETTER FOR IT."

THE LANGUAGE OF THE LAW
BY DAVID MELLINKOFF

THE FEDERAL AND STATE CONSTITUTIONS

COLONIAL CHARTERS, AND OTHER ORGANIC LAWS

OF THE

STATES, TERRITORIES, AND COLONIES

NOW OR HERETOFORE FORMING

THE UNITED STATES OF AMERICA

Compiled and Edited
under the Act of Congress of June 30, 1906

By

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PORTO RICO

For Treaty of Cession, 1898, see Philippines, p. 3153.

CIVIL GOVERNMENT OF PORTO RICO—1900

[Fifty-Sixth Congress, First Session]

An Act temporarily to provide revenues and a civil government for Porto Rico, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the provisions of this Act shall apply to the island of Porto Rico and to the adjacent islands and waters of the islands lying east of the seventy-fourth meridian of longitude west of Greenwich, which were ceded to the United States by the Government of Spain by treaty entered into on the tenth day of December, eighteen hundred and ninety-eight; and the name Porto Rico, as used in this Act, shall be held to include not only the island of that name, but all the adjacent islands as aforesaid.

Sec. 2. That on and after the passage of this Act the same tariffs, customs, and duties shall be levied, collected, and paid upon all articles imported into Porto Rico from ports other than those of the United States which are required by law to be collected upon articles imported into the United States from foreign countries: *Provided*, That on all coffee in the bean or ground imported into Porto Rico there shall be levied and collected a duty of five cents per pound, any law or part of law to the contrary notwithstanding: *And provided further*, That all Spanish scientific, literary, and artistic works, not subversive of public order in Porto Rico, shall be admitted free of duty into Porto Rico for a period of ten years, reckoning from the eleventh day of April, eighteen hundred and ninety-nine, as provided in said treaty of peace between the United States and Spain: *And provided further*, That all books and phamphlets printed in the English language shall be admitted into Porto Rico free of duty when imported from the United States.

Sec. 3. That on and after the passage of this Act all merchandise coming into the United States from Porto Rico and coming into Porto Rico from the United States shall be entered at the several ports of entry upon payment of fifteen per centum of the duties which are required to be levied, collected, and paid upon like articles of merchandise imported from foreign countries; and in addition thereto upon articles of merchandise of Porto Rican manufacture coming into the United States and withdrawn for consumption or sale upon

payment of a tax equal to the internal-revenue tax imposed in the United States upon the like articles of merchandise of domestic manufacture; such tax to be paid by internal-revenue stamp or stamps to be purchased and provided by the Commissioner of Internal Revenue and to be procured from the collector of internal revenue at or most convenient to the port of entry of said merchandise in the United States, and to be affixed under such regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall prescribe; and on all articles of merchandise of United States manufacture coming into Porto Rico in addition to the duty above provided upon payment of a tax equal in rate and amount to the internal-revenue tax imposed in Porto Rico upon the like articles of Porto Rican manufacture: *Provided*, That on and after the date when this Act shall take effect, all merchandise and articles, except coffee, not dutiable under the tariff laws of the United States, and all merchandise and articles entered in Porto Rico free of duty under orders heretofore made by the Secretary of War, shall be admitted into the several ports thereof, when imported from the United States, free of duty, all laws or parts of laws to the contrary notwithstanding; and whenever the legislative assembly of Porto Rico shall have enacted and put into operation a system of local taxation to meet the necessities of the government of Porto Rico, by this Act established, and shall by resolution duly passed so notify the President, he shall make proclamation thereof, and thereupon all tariff duties on merchandise and articles going into Porto Rico from the United States or coming into the United States from Porto Rico shall cease, and from and after such date all such merchandise and articles shall be entered at the several ports of entry free of duty; and in no event shall any duties be collected after the first day of March, nineteen hundred and two, on merchandise and articles going into Porto Rico from the United States or coming into the United States from Porto Rico.

SEC. 4. That the duties and taxes collected in Porto Rico in pursuance of this Act, less the cost of collecting the same, and the gross amount of all collections of duties and taxes in the United States upon articles of merchandise coming from Porto Rico, shall not be covered into the general fund of the Treasury, but shall be held as a separate fund, and shall be placed at the disposal of the President to be used for the government and benefit of Porto Rico until the government of Porto Rico herein provided for shall have been organized, when all moneys theretofore collected under the provisions hereof, then unexpended, shall be transferred to the local treasury of Porto Rico, and the Secretary of the Treasury shall designate the several ports and subports of entry in Porto Rico and shall make such rules and regulations and appoint such agents as may be necessary to collect the duties and taxes authorized to be levied, collected, and paid in Porto Rico by the provisions of this Act, and he shall fix the compensation and provide for the payment thereof of all such officers, agents, and assistants as he may find it necessary to employ to carry out the provisions hereof: *Provided, however*, That as soon as a civil government for Porto Rico shall have been organized in accordance with the provisions of this Act and notice thereof shall have been

given to the President he shall make proclamation thereof, and thereafter all collections of duties and taxes in Porto Rico under the provisions of this Act shall be paid into the treasury of Porto Rico, to be expended as required by law for the government and benefit thereof instead of being paid into the Treasury of the United States.

SEC. 5. That on and after the day when this Act shall go into effect all goods, wares, and merchandise previously imported from Porto Rico, for which no entry has been made, and all goods, wares, and merchandise previously entered without payment of duty and under bond for warehousing, transportation, or any other purpose, for which no permit of delivery to the importer or his agent has been issued, shall be subjected to the duties imposed by this Act, and to no other duty, upon the entry or the withdrawal threof: *Provided*, That when duties are based upon the weight of merchandise deposited in any public or private bonded warehouse said duties shall be levied and collected upon the weight of such merchandise at the time of its entry.

GENERAL PROVISIONS

SEC. 6. That the capital of Porto Rico shall be at the city of San Juan and the seat of government shall be maintained there.

SEC. 7. That all inhabitants continuing to reside therein who were Spanish subjects on the eleventh day of April, eighteen hundred and ninety-nine, and then resided in Porto Rico, and their children born subsequent thereto, shall be deemed and held to be citizens of Porto Rico, and as such entitled to the protection of the United States, except such as shall have elected to preserve their allegiance to the Crown of Spain on or before the eleventh day of April, nineteen hundred, in accordance with the provisions of the treaty of peace between the United States and Spain entered into on the eleventh day of April, eighteen hundred and ninety-nine; and they, together with such citizens of the United States as may reside in Porto Rico, shall constitute a body politic under the name of The People of Porto Rico, with governmental powers as hereinafter conferred, and with power to sue and be sued as such.

SEC. 8. That the laws and ordinances of Porto Rico now in force shall continue in full force and effect, except as altered, amended, or modified hereinafter, or as altered or modified by military orders and decrees in force when this Act shall take effect, and so far as the same are not inconsistent or in conflict with the statutory laws of the United States not locally inapplicable, or the provisions hereof, until altered, amended, or repealed by the legislative authority hereinafter provided for Porto Rico or by Act of Congress of the United States: *Provided*, That so much of the law which was in force at the time of cession, April eleventh, eighteen hundred and ninety-nine, forbidding the marriage of priests, ministers, or followers of any faith because of vows they may have taken, being paragraph four, article eighty-three, chapter three, civil code, and which was continued by the order of the secretary of justice of Porto Rico, dated March seventeenth, eighteen hundred and ninety-nine, and promulgated by Major-General Guy V. Henry, United States Volunteers, is hereby repealed and annulled, and all persons lawfully married in Porto Rico shall have

all the rights and remedies conferred by law upon parties to either civil or religious marriages: *And provided further*, That paragraph one, article one hundred and five, section four, divorce, civil code, and paragraph two, section nineteen, of the order of the minister of justice of Porto Rico, dated March seventeenth, eighteen hundred and ninety-nine, and promulgated by Major-General Guy V. Henry, United States Volunteers, be, and the same hereby are, so amended as to read: "Adultery on the part of either the husband or the wife."

SEC. 9. That the Commissioner of Navigation shall make such regulations, subject to the approval of the Secretary of the Treasury, as he may deem expedient for the nationalization of all vessels owned by the inhabitants of Porto Rico on the eleventh day of April, eighteen hundred and ninety-nine, and which continued to be so owned up to the date of such nationalization, and for the admission of the same to all the benefits of the coasting trade of the United States; and the coasting trade between Porto Rico and the United States shall be regulated in accordance with the provisions of law applicable to such trade between any two great coasting districts of the United States.

SEC. 10. That quarantine stations shall be established at such places in Porto Rico as the Supervising Surgeon-General of the Marine-Hospital Service of the United States shall direct, and the quarantine regulations relating to the importation of diseases from other countries shall be under the control of the Government of the United States.

SEC. 11. That for the purpose of retiring the Porto Rican coins now in circulation in Porto Rico and substituting therefor the coins of the United States, the Secretary of the Treasury is hereby authorized to redeem, on presentation in Porto Rico, all the silver coins of Porto Rico known as the peso and all other silver and copper Porto Rican coins now in circulation in Porto Rico, not including any such coins that may be imported into Porto Rico after the first day of February, nineteen hundred, at the present established rate of sixty cents in the coins of the United States for one peso of Porto Rican coin, and for all minor or subsidiary coins the same rate of exchange shall be applied. The Porto Rican coins so purchased or redeemed shall be recoined at the expense of the United States, under the direction of the Secretary of the Treasury, into such coins of the United States now authorized by law as he may direct, and from and after three months after the date when this Act shall take effect no coins shall be a legal tender, in payment of debts thereafter contracted, for any amount in Porto Rico, except those of the United States; and whatever sum may be required to carry out the provisions hereof, and to pay all expenses that may be incurred in connection therewith, is hereby appropriated, and the Secretary of the Treasury is hereby authorized to establish such regulations and employ such agencies as may be necessary to accomplish the purposes hereof: *Provided, however*, That all debts owing on the date when this Act shall take effect shall be payable in the coins of Porto Rico now in circulation, or in the coins of the United States at the rate of exchange above named.

SEC. 12. That all expenses that may be incurred on account of the government of Porto Rico for salaries of officials and the conduct of their offices and departments, and all expenses and obligations contracted for the internal improvement or development of the island,

not, however, including defenses, barracks, harbors, light-houses, buoys, and other works undertaken by the United States, shall be paid by the treasurer of Porto Rico out of the revenues in his custody.

SEC. 13. That all property which may have been acquired in Porto Rico by the United States under the cession of Spain in said treaty of peace in any public bridges, road houses, water powers, highways, unnavigable streams, and the beds thereof, subterranean waters, mines, or minerals under the surface of private lands, and all property which at the time of the cession belonged, under the laws of Spain then in force, to the various harbor-works boards of Porto Rico, and all the harbor shores, docks, slips, and reclaimed lands, but not including harbor areas or navigable waters, is hereby placed under the control of the government established by this Act to be administered for the benefit of the people of Porto Rico; and the legislative assembly hereby created shall have authority, subject to the limitations imposed upon all its acts, to legislate with respect to all such matters as it may deem advisable.

SEC. 14. That the statutory laws of the United States not locally inapplicable, except as hereinbefore or hereinafter otherwise provided, shall have the same force and effect in Porto Rico as in the United States, except the internal-revenue laws, which, in view of the provisions of section three, shall not have force and effect in Porto Rico.

SEC. 15. That the legislative authority hereinafter provided shall have power by due enactment to amend, alter, modify, or repeal any law or ordinance, civil or criminal, continued in force by this Act, as it may from time to time see fit.

SEC. 16. That all judicial process shall run in the name of "United States of America, ss: the President of the United States," and all criminal or penal prosecutions in the local courts shall be conducted in the name and by the authority of "The people of Porto Rico;" and all officials authorized by this Act shall before entering upon the duties of their respective offices take an oath to support the Constitution of the United States and the laws of Porto Rico.

THE GOVERNOR

SEC. 17. That the official title of the chief executive officer shall be "The Governor of Porto Rico." He shall be appointed by the President, by and with the advice and consent of the Senate; he shall hold his office for a term of four years and until his successor is chosen and qualified unless sooner removed by the President; he shall reside in Porto Rico during his official incumbency, and shall maintain his office at the seat of government; he may grant pardons and reprieves, and remit fines and forfeitures for offenses against the laws of Porto Rico, and respites for offenses against the laws of the United States, until the decision of the President can be ascertained; he shall commission all officers that he may be authorized to appoint, and may veto any legislation enacted, as hereinafter provided; he shall be the commander in chief of the militia, and shall at all times faithfully execute the laws, and he shall in that behalf have all the powers of governors of the Territories of the United States that are not locally inapplicable; and he shall annually, and at such other times as he may be

required, make official report of the transactions of the government in Porto Rico, through the Secretary of State, to the President of the United States: *Provided*, That the President may, in his discretion, delegate and assign to him such executive duties and functions as may in pursuance with law be so delegated and assigned.

THE EXECUTIVE COUNCIL

SEC. 18. That there shall be appointed by the President, by and with the advice and consent of the Senate, for the period of four years, unless sooner removed by the President, a secretary, an attorney-general, a treasurer, and auditor, a commissioner of the interior, and a commissioner of education, each of whom shall reside in Porto Rico during his official incumbency and have the powers and duties hereinafter provided for them, respectively, and who, together with five other persons of good repute, to be also appointed by the President for a like term of four years, by and with the advice and consent of the Senate, shall constitute an executive council, at least five of whom shall be native inhabitants of Porto Rico, and, in addition to the legislative duties hereinafter imposed upon them as a body, shall exercise such powers and perform such duties as are hereinafter provided for them, respectively, and who shall have power to employ all necessary deputies and assistants for the proper discharge of their duties as such officials and as such executive council.

SEC. 19. That the secretary shall record and preserve minutes of the proceedings of the executive council and the laws enacted by the legislative assembly and all acts and proceedings of the governor, and shall promulgate all proclamations and orders of the governor and all laws enacted by the legislative assembly. He shall, within sixty days after the end of each session of the legislative assembly, transmit to the President, the President of the Senate, the Speaker of the House of Representatives, and the Secretary of State of the United States one copy each of the laws and journals of such session.

SEC. 20. That in case of the death, removal, resignation, or disability of the governor, or his temporary absence from Porto Rico, the secretary shall exercise all the powers and perform all the duties of the governor during such vacancy, disability, or absence.

SEC. 21. That the attorney-general shall have all the powers and discharge all the duties provided by law for an attorney of a Territory of the United States in so far as the same are not locally inapplicable, and he shall perform such other duties as may be prescribed by law, and make such reports, through the governor, to the Attorney-General of the United States as he may require, which shall annually be transmitted to Congress.

SEC. 22. That the treasurer shall give bond, approved as to form by the attorney-general of Porto Rico, in such sum as the executive council may require, not less, however, than the sum of one hundred thousand dollars, with surety approved by the governor, and he shall collect and be the custodian of the public funds, and shall disburse the same when appropriated by law, on warrants signed by the auditor and countersigned by the governor, and shall perform such other duties as may be prescribed by law, and make, through the governor, such reports to the Secretary of the Treasury of the United States as he may require, which shall annually be transmitted to Congress.

SEC. 23. That the auditor shall keep full and accurate accounts, showing all receipts and disbursements, and perform such other duties as may be prescribed by law, and make, through the governor, such reports to the Secretary of the Treasury of the United States as he may require, which shall annually be transmitted to Congress.

SEC. 24. That the commissioner of the interior shall superintend all works of a public nature, and shall have charge of all public buildings, grounds, and lands, except those belonging to the United States, and shall execute such requirements as may be imposed by law with respect thereto, and shall perform such other duties as may be prescribed by law, and make such reports through the governor to the Secretary of the Interior of the United States as he may require, which shall annually be transmitted to Congress.

SEC. 25. That the commissioner of education shall superintend public instruction throughout Porto Rico, and all disbursements on account thereof must be approved by him; and he shall perform such other duties as may be prescribed by law, and make such reports through the governor as may be required by the Commissioner of Education of the United States, which shall annually be transmitted to Congress.

SEC. 26. That the other five members of the executive council, to be appointed as hereinbefore provided, shall attend all meetings of the executive council and participate in all business of every character that may be transacted by it; and they shall receive as compensation for their services such annual salaries as may be provided by the legislative assembly.

HOUSE OF DELEGATES

SEC. 27. That all local legislative powers hereby granted shall be vested in a legislative assembly which shall consist of two houses; one the executive council, as hereinbefore constituted, and the other a house of delegates, to consist of thirty-five members elected biennially by the qualified voters as hereinafter provided; and the two houses thus constituted shall be designated "The legislative assembly of Porto Rico."

SEC. 28. That for the purposes of such elections Porto Rico shall be divided by the executive council into seven districts, composed of contiguous territory and as nearly equal as may be in population, and each district shall be entitled to five members of the house of delegates.

ELECTION OF DELEGATES

SEC. 29. That the first election for delegates shall be held on such date and under such regulations as to ballots and voting as the executive council may prescribe; and at such elections the voters of each legislative district shall choose five delegates to represent them in the house of delegates from the date of their election and qualification until two years from and after the first day of January next ensuing; of all which thirty days' notice shall be given by publication in the Official Gazette, or by printed notices distributed and posted throughout the district, or by both, as the executive council

may prescribe. At such elections all citizens of Porto Rico shall be allowed to vote who have been bona fide residents for one year and who possess the other qualifications of voters under the laws and military orders in force on the first day of March, nineteen hundred, subject to such modifications and additional qualifications and such regulations and restrictions as to registration as may be prescribed by the executive council. The house of delegates so chosen shall convene at the capital and organize by the election of a speaker, a clerk, a sergeant-at-arms, and such other officers and assistants as it may require, at such time as may be designated by the executive council; but it shall not continue in session longer than sixty days in any one year, unless called by the governor to meet in extraordinary session. The enacting clause of the laws shall be, "Be it enacted by the legislative assembly of Porto Rico;" and each member of the house of delegates shall be paid for his services at the rate of five dollars per day for each day's attendance while the house is in session, and mileage at the rate of ten cents per mile for each mile necessarily traveled each way to and from each session of the legislative assembly.

All future elections of delegates shall be governed by the provisions hereof, so far as they are applicable, until the legislative assembly shall otherwise provide.

SEC. 30. That the house of delegates shall be the sole judge of the elections, returns, and qualifications of its members, and shall have and exercise all the powers with respect to the conduct of its proceedings that usually appertain to parliamentary legislative bodies. No person shall be eligible to membership in the house of delegates who is not twenty-five years of age and able to read and write either the Spanish or the English language, or who is not possessed in his own right of taxable property, real or personal, situated in Porto Rico.

SEC. 31. That all bills may originate in either house, but no bill shall become a law unless it be passed in each house by a majority vote of all the members belonging to such house and be approved by the governor within ten days thereafter. If, when a bill that has been passed is presented to the governor for signature, he approves the same, he shall sign it, or if not he shall return it, with his objections, to that house in which it originated, which house shall enter his objections at large on its journal, and proceed to reconsider the bill. If, after such reconsideration, two-thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be considered, and if approved by two-thirds of that house it shall become a law. But in all such cases the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered upon the journal of each house, respectively. If any bill shall not be returned by the governor within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the legislative assembly by adjournment prevent its return, in which case it shall not be a law: *Provided, however*, That all laws enacted by the legislative assembly shall be reported to the Congress of the United States, which hereby reserves the power and authority, if deemed advisable, to annul the same.

SEC. 32. That the legislative authority herein provided shall extend to all matters of a legislative character not locally inapplicable, including power to create, consoldiate, and reorganize the municipalities, so far as may be necessary, and to provide and repeal laws and ordinances therefor; and also the power to alter, amend, modify, and repeal any and all laws and ordinances of every character now in force in Porto Rico, or any municipality or district thereof, not inconsistent with the provisions hereof: *Provided, however*, That all grants of franchises, rights, and privileges or concessions of a public or quasi-public nature shall be made by the executive council, with the approval of the governor, and all franchises granted in Porto Rico shall be reported to Congress, which hereby reserves the power to annul or modify the same.

THE JUDICIARY

SEC. 33. That the judicial power shall be vested in the courts and tribunals of Porto Rico as already established and now in operation, including municipal courts, under and by virtue of General Orders, Numbered One hundred and eighteen, as promulgated by Brigadier-General Davis, United States Volunteers, August sixteenth, eighteen hundred and ninety-nine, and including also the police courts established by General Orders, Numbered One hundred and ninety-five, promulgated November twenty-ninth, eighteen hundred and ninety-nine, by Brigadier-General Davis, United States Volunteers, and the laws and ordinances of Porto Rico and the municipalities thereof in force, so far as the same are not in conflict herewith, all which courts and tribunals are hereby continued. The jurisdiction of said courts and the form of procedure in them, and the various officials and attachés thereof, respectively, shall be the same as defined and prescribed in and by said laws and ordinances, and said General Orders, Numbered One hundred and eighteen and One hundred and ninety-five, until otherwise provided by law: *Provided, however*, That the chief justice and associate justices of the supreme court and the marshal thereof shall be appointed by the President, by and with the advice and consent of the Senate, and the judges of the district courts shall be appointed by the governor, by and with the advice and consent of the executive council, and all other officials and attachés of all the other courts shall be chosen as may be directed by the legislative assembly, which shall have authority to legislate from time to time as it may see fit with respect to said courts, and any others they may deem it advisable to establish, their organization, the number of judges and officials and attachés for each, their jurisdiction, their procedure, and all other matters affecting them.

SEC. 34. That Porto Rico shall constitute a judicial district to be called "the district of Porto Rico." The President, by and with the advice and consent of the Senate, shall appoint a district judge, a district attorney, and a marshal for said district, each for a term of four years, unless sooner removed by the President. The district court for said district shall be called the district court of the United States for Porto Rico and shall have power to appoint all necessary officials and assistants, including a clerk, an interpreter, and such commissioners as may be necessary, who shall have like power and duties as are exercised and performed by commissioners of the circuit courts of the

United States, and shall have, in addition to the ordinary jurisdiction of district courts of the United States, jurisdiction of all cases cognizant in the circuit courts of the United States, and shall proceed therein in the same manner as a circuit court. The laws of the United States relating to appeals, writs of error and certiorari, removal of causes, and other matters and proceedings as between the courts of the United States and the courts of the several States shall govern in such matters and proceedings as between the district court of the United States and the courts of Porto Rico. Regular terms of said court shall be held at San Juan, commencing on the second Monday in April and October of each year, and also at Ponce on the second Monday in January of each year, and special terms may be held at Mayaguez at such other stated times as said judge may deem expedient. All pleadings and proceedings in said court shall be conducted in the English language.

The United States district court hereby established shall be the successor to the United States provisional court established by General Orders, Numbered Eighty-eight, promulgated by Brigadier-General Davis, United States Volunteers, and shall take possession of all records of that court, and take jurisdiction of all cases and proceedings pending therein, and said United States provisional court is hereby discontinued.

SEC. 35. That writs of error and appeals from the final decisions of the supreme court of Porto Rico and the district court of the United States shall be allowed and may be taken to the Supreme Court of the United States in the same manner and under the same regulations and in the same cases as from the supreme courts of the Territories of the United States; and such writs of error and appeal shall be allowed in all cases where the Constitution of the United States, or a treaty thereof, or an Act of Congress is brought in question and the right claimed thereunder is denied; and the supreme and district courts of Porto Rico and the respective judges thereof may grant writs of habeas corpus in all cases in which the same are grantable by the judges of the district and circuit courts of the United States. All such proceedings in the Supreme Court of the United States shall be conducted in the English language.

SEC. 36. That the salaries of all officials of Porto Rico not appointed by the President, including deputies, assistants, and other help, shall be such, and be so paid out of the revenues of Porto Rico, as the executive council shall from time to time determine: *Provided, however*, That the salary of no officer shall be either increased or diminished during his term of office. The salaries of all officers and all expenses of the offices of the various officials of Porto Rico, appointed as herein provided by the President, including deputies, assistants, and other help, shall also be paid out of the revenues of Porto Rico on the warrant of the auditor, countersigned by the governor.

The annual salaries of the officials appointed by the President, and so to be paid, shall be as follows:

The governor, eight thousand dollars; in addition thereto he shall be entitled to the occupancy of the buildings heretofore used by the chief executive of Porto Rico, with the furniture and effects therein, free of rental.

The secretary, four thousand dollars.

The attorney-general, four thousand dollars.
The treasurer, five thousand dollars.
The auditor, four thousand dollars.
The commissioner of the interior, four thousand dollars.
The commissioner of education, three thousand dollars.
The chief justice of the supreme court, five thousand dollars.
The associate justices of the supreme court (each), four thousand five hundred dollars.
The marshal of the supreme court, three thousand dollars.
The United States district judge, five thousand dollars.
The United States district attorney, four thousand dollars.
The United States district marshal, three thousand five hundred dollars.

SEC. 37. That the provisions of the foregoing section shall not apply to the municipal officials. Their salaries and the compensation of their deputies, assistants, and other help, as well as all other expenses incurred by the municipalities, shall be paid out of the municipal revenues in such manner as the legislative assembly shall provide.

SEC. 38. That no export duties shall be levied or collected on exports from Porto Rico; but taxes and assessments on property, and license fees for franchises, privileges, and concessions may be imposed for the purposes of the insular and municipal governments, respectively, as may be provided and defined by act of the legislative assembly; and where necessary to anticipate taxes and revenues, bonds and other obligations may be issued by Porto Rico or any municipal government therein as may be provided by law to provide for expenditures authorized by law, and to protect the public credit, and to reimburse the United States for any moneys which have been or may be expended out of the emergency fund of the War Department for the relief of the industrial conditions of Porto Rico caused by the hurricane of August eighth, eighteen hundred and ninety-nine: *Provided, however*, That no public indebtedness of Porto Rico or of any municipality thereof shall be authorized or allowed in excess of seven per centum of the aggregate tax valuation of its property.

SEC. 39. That the qualified voters of Porto Rico shall, on the first Tuesday after the first Monday of November, anno Domini nineteen hundred, and every two years thereafter, choose a resident commissioner to the United States, who shall be entitled to official recognition as such by all Departments, upon presentation to the Department of State of a certificate of election of the governor of Porto Rico, and who shall be entitled to a salary, payable monthly by the United States, at the rate of five thousand dollars per annum: *Provided*, That no person shall be eligible to such election who is not a bona fide citizen of Porto Rico, who is not thirty years of age, and who does not read and write the English language.

SEC. 40. That a commission, to consist of three members, at least one of whom shall be a native citizen of Porto Rico, shall be appointed by the President, by and with the advice and consent of the Senate, to compile and revise the laws of Porto Rico; also the various codes of procedure and systems of municipal government now in force, and to frame and report such legislation as may be necessary to make a simple, harmonious, and economical government, establish

justice and secure its prompt and efficient administration, inaugurate a general system of education and public instruction, provide buildings and funds therefor, equalize and simplify taxation and all the methods of raising revenue, and make all other provisions that may be necessary to secure and extend the benefits of a republican form of government to all the inhabitants of Porto Rico; and all the expenses of such commissioners, including all necessary clerks and other assistants that they may employ, and a salary to each member of the commission at the rate of five thousand dollars per annum, shall be allowed and paid out of the treasury of Porto Rico as a part of the expenses of the government of Porto Rico. And said commission shall make full and final report, in both the English and Spanish languages, of all its revisions, compilations, and recommendations, with explanatory notes as to the changes and the reasons therefor, to the Congress on or before one year after the passage of this Act.

SEC. 41. That this Act shall take effect and be in force from and after the first day of May, nineteen hundred.

Approved, April 12, 1900.

TEMPORARY PROVISION FOR CIVIL AFFAIRS IN PORTO RICO—1900

[FIFTY-SIXTH CONGRESS, FIRST SESSION]

[No. 23.] Joint Resolution to provide for the administration of civil affairs in Porto Rico pending the appointment and qualification of the civil officers provided for in the Act approved April twelfth, nineteen hundred, entitled, "An Act temporarily to provide revenues and a civil government for Porto Rico, and for other purposes."

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That until the officer to fill any office provided for by the Act of April twelfth, nineteen hundred, entitled "An Act temporarily to provide revenues and a civil government for Porto Rico, and for other purposes," shall have been appointed and qualified, the officer or officers now performing the civil duties pertaining to such office may continue to perform the same under the authority of said Act; and no officer of the Army shall lose his commission by reason thereof: *Provided*, That nothing herein contained shall be held to extend the time for the appointment and qualification of any such officers beyond the first day of August, nineteen hundred.

SEC. 2. That all railroad, street railway, telegraph and telephone franchises, privileges or concessions granted under section thirty-two of said Act shall be approved by the President of the United States, and no such franchise, privilege, or concession shall be operative until it shall have been so approved.

SEC. 3. That all franchises, privileges or concessions granted under section thirty-two of said Act shall provide that the same shall be subject to amendment, alteration, or repeal; shall forbid the issue of stock or bonds, except in exchange for actual cash, or property at a fair valuation, equal in amount to the par value of the stock or bonds issued; shall forbid the declaring of stock or bond dividends; and, in

the case of public-service corporations, shall provide for the effective regulation of the charges thereof and for the purchase or taking by the public authorities of their property at a fair and reasonable valuation. No corporation shall be authorized to conduct the business of buying and selling real estate or be permitted to hold or own real estate except such as may be reasonably necessary to enable it to carry out the purposes for which it was created, and every corporation hereafter authorized to engage in agriculture shall by its charter be restricted to the ownership and control of not to exceed five hundred acres of land; and this provision shall be held to prevent any member of a corporation engaged in agriculture from being in any wise interested in any other corporation engaged in agriculture. Corporations, however, may loan funds upon real estate security, and purchase real estate when necessary for the collection of loans, but they shall dispose of real estate so obtained within five years after receiving the title. Corporations not organized in Porto Rico, and doing business therein, shall be bound by the provisions of this section so far as they are applicable.

Approved, May 1, 1900.

RHODE ISLAND[a]

For organic acts relating to the land now included within Rhode Island see in other parts of this work:

Charter of Virginia, 1606 (Virginia, p. 3783).
Council for New England, 1620 (Massachusetts, p. 1827).
Commission of Andros, 1688 (Massachusetts, p. 1863).

PLANTATION AGREEMENT AT PROVIDENCE—AUGUST 27–SEPTEMBER 6, 1640[b]

Wee, Robert Coles, Chad Browne, William Harris, and John Warner, being freely chosen by the consent of our loving friends and neighbors the Inhabitants of this Towne of Providence, having many differences amongst us, they being freely willing and also bound themselves to stand to our Arbitration in all differences amongst us to rest contented in our determination, being so betrusted we have seriously and carefully indeavoured to weigh and consider all those differences, being desirous to bringe to unity and peace, although our abilities are farr short in the due examination of such weighty things, yet so farre as we conceive in laying all things together we have gone the fairest and the equallest way to produce our peace.

1. Agreed, We have with one consent agreed that in the parting those particular properties which some of our friends and neighbors have in Patuxit, from the general Common of our towne of Providence, to run uppon a streight line from a fresh spring being in the Gulley, at the head of that cove running by that point of land called Saxafras unto the towne of Mashipawog, to an oake tree standing neere unto the corn field, being at this time the nearest corn field unto Patuxit, the oake tree having four marks with an axe, till some other land marke be set for a certaine bound. Also, we agree that if any meadow ground lyeing and joineing to that Meadow, that borders uppon the River of Patuxit come within the aforesaid line, which will not come within a streight line from long Cove to the marked tree, then for that meadow to belong to Pawtuxit, and so beyond the towne of Mashipawog from the oake tree between the two fresh Rivers Pawtuxit and Wanasquatucket of an even Distance.

[a] Rhode Island was first settled in 1636 by Roger Williams and other immigrants who had suffered persecution in Massachusetts, and who established at Providence "a pure democracy, which for the first time guarded jealously the rights of conscience by ignoring any power in the body politic to interfere with those matters that alone concern man and his Maker."—*Arnold.*

[b] Text in Records of the Colony of Rhode Island and Providence Plantations in New England. (Providence, 1856), Vol. I, pp. 27–31.

2. Agreed. We have with one consent agreed that for the disposeing, of those lands that shall be disposed belonging to this towne of Providence to be in the whole Inhabitants by the choise of five men for generall disposeall, to betrusted with disposeall of lands and also of the towne Stocke, and all Generall things and not to receive in any six dayes at townesmen, but first to give the Inhabitants notice to consider if any have just cause to shew against the receiving of him as you can apprehend, and to receive none but such as subscribe to this our determination. Also, we agree that if any of our neighbours doe apprehend himselfe wronged by these or any of these 5 disposers, that at the Generall towne meeting he may have a tryall.

Also wee agree for the towne to choose beside the other five men one or more to keepe Record of all things belonging to the towne and lying in Common.

Wee agree, as formerly hath bin the liberties of the town, so still, to hould forth liberty of Conscience.

III. Agreed, that after many Considerations and Consultations of our owne State and alsoe of States abroad in way of government, we apprehend, no way so suitable to our Condition as government by way of Arbitration. But if men agree themselves by arbitration, no State we know of disallows that, neither doe we: But if men refuse that which is but common humanity betweene man and man, then to compel such unreasonable persons to a reasonable way, we agree that the 5 disposers shall have power to compel him to choose two men himselfe, or if he refuse, for them to choose two men to arbitrate his cause, and if these foure men chosen by every partie do end the cause, then to see theire determination performed and the faultive to pay the Arbitrators for theire time spent in it: But if these foure men doe not end it, then for the 5 disposers to choose three men to put an end to it, and for the certainty thereof, wee agree the major part of the 5 disposers to choose the 3 men, and the major part of the 3 men to end the cause haveing power from the 5 disposers by a note under theire hand to performe it, and the faultive not agreeing in the first to pay the charge of the last, and for the Arbitrators to follow no imployment til the cause be ended without consent of the whole that have to doe with the cause.

Instance. In the first Arbitration the offendor may offer reasonable terms of peace, and the offended may exact upon him and refuse and trouble men beyond reasonable satisfaction; so for the last arbitrators to judge where the fault was, in not agreeing in the first, to pay the charge of the last.

IV. Agreed, that if any person damnify any man, either in goods of good name, and the person offended follow not the cause uppon the offendor, that if any person give notice to the 5 Disposers, they shall call the party delinquent to answer by Arbitration.

Instance, Thus, if any person abuse an other person or goods, may be for peace sake, a man will at present put it up, and it may so be resolve to revenge: therefore, for the peace of the state, the disposers are to look to it in the first place.

V. Agreed, for all the whole Inhabitants to combine ourselves to assist any man in the pursuit of any party delinquent, with all best endeavours to attack him: but if any man raise a hubbub, and there

be no just cause, then for the party that raised the hubbub to satisfy men for their time lost in it.

VI. Agreed, that if any man have a difference with any of the 5 Disposers which cannot be deferred till general meeting of the towne, then he may have the Clerk call the towne together at his [discretion] for a tryall.

Instance. It may be, a man may be to depart the land, or to a farr parte of the land; or his estate may lye uppon a speedy tryall or the like case may fall out.

VII. Agreed, that the towne, by the five men shall give every man a deed of all his lands lying within the bounds of the Plantations, to hould it by for after ages.

VIII. Agreed, that the 5 disposers shall from the date hereof, meete every month-day uppon General things and at the quarter-day to yeeld a new choise and give up their old Accounts.

IX. Agreed, that the Clerke shall call the 5 Disposers together at the month-day, and the generall towne together every quarter, to meete uppon general occasions from the date hereof.

X. Agreed, that the Clerke is to receive for every cause that comes to the towne for a tryall 4*d*. for making each deed 12*d*. and to give up the booke to the towne at the yeeres' end and yeeld to a new choice.

XI. Agreed, that all acts of disposall on both sides to stand since the difference.

XII. Agreed, that every man that hath not paid in his purchase money for his Plantation shall make up his 10*s*. to be 30*s*. equal with the first purchasers: and for all that are received townsmen hereafter, to pay the like summe of money to the towne stocke.

These being those things wee have generally concluded on, for our peace, we desireing our loving friends to receive as our absolute determination, laying ourselves downe as subjects to it.

[Thirty-nine signatures follow.]

GOVERNMENT OF RHODE ISLAND—MARCH 16–19, 1641 [a]

The Generall Court of Election began and held at Portsmouth, from the 16th of March, to the 19th of the same mo., 1641.

1. It was ordered and agreed, before the Election, that an Ingagement by oath should be taken of all the officers of this Body now to be elected, as likewise for the time to come; the ingagement which the severall officers of the State shall give is this: To the Execution of this office, I Judge myself bound before God to walk faithfully and this I profess in ye presence of God.

2. [Minute of officers elected.]

3. It is ordered and unanimously agreed upon, that the Government which this Bodie Politick doth attend unto in this Island, and the Jurisdiction thereof, in favour of our Prince is a DEMOCRACIE, or Popular Government; that is to say, It is in the Powre of the Body of Freemen orderly assembled, or the major part of them, to make or constitute Just Lawes, by which they will be regulated, and to depute

[a] Text in Records of the Colony of Rhode Island and Providence Plantations in New England, (Providence, 1856), Vol. I, pp. 111–115.

from among themselves such Ministers as shall see them faithfully executed between Man and Man.

4. It was further ordered, by the authority of this present Courte, that none bee accounted a Delinquent for *Doctrine:* Provided, it be not directly repugnant to ye Government or Lawes established.

5. [Bounty on foxes.]

6. [Regulation in regard to the killing of deer.]

7. It is ordered from henceforth, that the Quarter Session Courts shall always be kept the first, the first Tuesday in March; the second, the first Tuesday in June; the third, the first Tuesday in September; the last, the first Tuesday in December.

8. It is ordered, that Eight Guns and their furniture with two corsletts, now in the hands of Mr. Willbore, shall be taken off by the Treasurie Jointlie, as part of satisfaction for what debts from him is now dew thereto: and that the said Armes be equally divided to each Towne.

9. It is ordered, that the Deputie Governor and Mr. Willbore, and Mr. Cogshall, and Mr. Jeremy Clarke, shall be joyned in commission with the Two Treasurers that now bee, to examine the Treasurie, and to even the accounts, and then to present them so rectified to the next Generall Court; and what oneveness there is found to bee, the one Treasurer shall make payment to the other Treasurer within twentie dayes after the period of their commission: the limits which are set for the performance of this, shall be three weeks from the date hereof.

10. It is ordered, that Mr. Porter, Mr. Balston, Mr. Easton, and Mr. Jeoffreys shall runn the line between the two Towns within twentie days after the date hereof, or else shall forfeit a Mark a peece; and performing it within the (time or) tearme they shall have a Mark a peece for their Labour.

11. It is ordered, that each Towne shall provide a Towne Book, wherein they shall Record the Evidences of the Lands by them impropriated; and shall also have Powre to give forth a Coppie thereof, which shall be a clear evidence for them and theirs, to whom it is so granted.

12. It is ordered, that the Officers of Justices of the Peace is confirmed to the Magistrates.

13. It is ordered, that no Fiers shall be kindled by any whatsoever to runn at Randome, eyther in Meadows or Woods; but what by him that so kindled it shall forthwith be put out, that it damnifie none. And that if damage shall accrew, satisfaction to the utmost shall be awarded.

14. It is ordered, that a Booke shall be provided, wherein the Secretary shall write all such Lawes and Acts, as are made and constituted by the Body, to be left alway in that Towne where the said Secretary is not resident; and also that copies of such Acts as shall be made now or hereafter, at the Generall Courts concerning necessary uses and ordinances to be observed, shall be fixed upon some public place where all men may see and take notice of them; or that coppies thereof be given to the Clerks of the Band, who shall read them at the head of the Companie.

15. It is ordered, that a Manual Seale shall be provided for the State, and thatt the Signett or Engraving thereof, shall be a sheafe

of Arrows bound up, and in the Liess or Bond, this motto indented: *Amor vincet omnia.*

16. It is ordered, that Ingagement shall be taken by the Justices of the Peace in their Quarter Sessions of all men or youth above fifteen years of age, eyther by the oath of Fidelity, or some other strong cognizance.

17. It is ordered, that a Line be drawen and a way be cleared between the Townes of Nuport and Portsmouth, by removing of the wood and mowing it; that drift Cattle may sufficiently pass: and for the performance thereof, Capt. Morris, of the one Towne, and Mr. Jeoffreys of the other, are appointed to draw the Line, and to be paid therefor, and the Townes to perform the rest.

18. It is ordered, that the Traine Bands shall choose among the Freemen, one or more such as shall be for their commanders, and present them to the Towne. The Major vote of the Towne, by the authority of this Court, shall have the negative voise for the Establishment of them, and shall order their Power till the next Generall Courte.

19. It is ordered, that the major part of the Courts, being lawfully assembled at the place and houre appointed, shall have full Powre to transact the business that shall be Presented: Provided, it be the Major part of the Body entire, if it be the Generall Court (present) or the Major part of the Magistrates, with the Jury in the inferior Courts; and that such acts concluded and issued be of as full authority as if there were all present. Provided, there be due and seasonable notice given of every such Court.

PATENT FOR PROVIDENCE PLANTATIONS—1643 *

Whereas by an Ordinance of the Lords and Commons, now assembled in Parliament, bearing Date the Second Day of November, Anno Domini 1643, Robert Earl of Warwick, is constituted, and ordained Governor in Chief, and Lord High Admiral of all those Islands and other Plantations inhabited or planted by, or belonging to any His Majesty the King of England's subjects, (or which hereafter may be inhabited and planted by, or belonging to them,) within the Bounds, and upon the Coasts of America. And whereas the said Lords have thought fit, and thereby ordained, that Philip Earl of Pembroke, Edward Earl of Manchester, William Viscount Say and Seal, Philip Lord Wharton, John Lord Rolle, Members of the House of Peers. Sir Gilbert Gerrard, Baronet, Sir Arthur Haslerig, Baronet, Sir Henry Vane, jun. Knight, Sir Benjamin Rudyard, Knight, John Pim, Oliver Cromwell, Dennis Bond, Miles Corbet, Cornelius Holland, Samuel Vassal, John Rolle, and William Spurstow, Esqrs, Members of the House of Commons, should be Commissioners, to join in Aid and Assistance with the said Earl. And whereas for the better Government and Defence, it is thereby ordained, that the aforesaid Governor and Commissioners, or the greater Number of them, shall have Power and Authority from Time to Time to nominate, appoint,

* Bartlett's Records of the Colony of Rhode Island and Providence Plantations. I. 143–146.

and constitute all such subordinate Governors, Counsellors, Commanders, Officers, and Agents, as they shall judge to be best affected, and most fit and serviceable for the said Islands and Plantations; and to provide for, order and dispose all Things, which they shall, from Time to Time, find most advantageous for the said Plantations; and for the better Security of the Owners and Inhabitants thereof, to assign, ratify, and confirm, so much of their afore-mentioned Authority and Power, and in such Manner, and to such Persons as they shall judge to be fit for the better governing and preserving of the said Plantations and Islands, from open Violences and Private Disturbances and Distractions. And whereas there is a Tract of Land in the Continent of America aforesaid, called by the Name of the Narraganset-Bay; bordering Northward and Northeast on the Patent of the Massachusetts, East and Southeast on Plymouth Patent, South on the Ocean, and on the West and Northwest by the Indians called Nahigganneucks, alias Narragansets; the whole Tract extending about Twenty-five English Miles unto the Pequot River and Country.

And whereas divers well affected and industrious English Inhabitants, of the Towns of Providence, Portsmouth, and Newport in the tract aforesaid, have adventured to make a nearer neighborhood and Society with the great Body of the Narragansets, which may in time by the blessing of God upon their Endeavours, lay a sure foundation of Happiness to all America. And have also purchased, and are purchasing of and amongst the said Natives, some other Places, which may be convenient both for Plantations, and also for building of Ships Supply of Pipe Staves and other Merchandize. And whereas the said English, have represented their Desire to the said Earl, and Commissioners, to have their hopeful beginnings approved and confirmed, by granting unto them a free Charter of Civil Incorporation and Government; that they may order and govern their Plantation in such a Manner as to maintain Justice and peace, both among themselves, and towards all Men with whom they shall have to do. In due Consideration of the said Premises, the said Robert Earl of Warwick, Governor in Chief, and Lord High Admiral of the said Plantations, and the greater Number of the said Commissioners, whose Names and Seals are here under-written and subjoined, out of a Desire to encourage the good Beginnings of the said Planters, Do, by the Authority of the aforesaid Ordinance of the Lords and Commons, give, grant, and confirm, to the aforesaid Inhabitants of the Towns of Providence, Portsmouth, and Newport, a free and absolute Charter of Incorporation, to be known by the Name of the Incorporation of Providence Plantations, in the Narraganset-Bay, in New-England.—Together with full Power and Authority to rule themselves, and such others as shall hereafter inhabit within any Part of the said Tract of land, by such a Form of Civil Government, as by voluntary consent of all, or the greater Part of them, they shall find most suitable to their Estate and Condition; and, for that End, to make and ordain such Civil Laws and Constitutions, and to inflict such punishments upon Transgressors, and for Execution thereof, so to place, and displace Officers of Justice, as they, or the greater Part of them, shall by free Consent agree unto. Provided nevertheless, that the said Laws, Constitutions, and Punishments, for the Civil Government of the said Plantations, be conformable to the Laws of

England, so far as the Nature and Constitution of the place will admit. And always reserving to the said Earl, and Commissioners, and their successors, Power and Authority for to dispose the general Government of that, as it stands in Relation to the rest of the Plantations in America as they shall conceive from Time to Time, most conducing to the general Good of the said Plantations, the Honour of his Majesty, and the Service of the State. And the said Earl and Commissioners, do further authorize, that the aforesaid Inhabitants, for the better transacting of their public Affairs to make and use a public Seal as the known Seal of Providence-Plantations, in the Narraganset-Bay, in New-England. In Testimony whereof, the said Robert Earl of Warwick, and Commissioners, have hereunto set their Hands and Seals, the Fourteenth Day of March, in the Nineteenth Year of the Reign of our Sovereign Lord King Charles, and in the Year of our Lord God, 1643.

ROBERT WARWICK, H. VANE,
PHILIP PEMBROKE. SAM VASSAL,
SAY and SEAL, JOHN ROLLE,
P. WHARTON, MILES CORBET,
ARTHUR HASLERIG, W. SPURSTOW.
COR. HOLLAND,

CHARTER OF RHODE ISLAND AND PROVIDENCE PLANTATIONS—1663 * [a]

CHARLES THE SECOND, by the grace of *God*, King of England, Scotland, France and Ireland, Defender of the Faith, &c., to all to whome these presents shall come, greeting: *Whereas wee* have been informed, by the humble petition of our trustie and well beloved subject, John Clarke, on the behalf of Benjamine Arnold, William Brenton, William Codington, Nicholas Easton, William Boulston, John Porter, John Smith, Samuell Gorton, John Weeks, Roger Williams, Thomas Olnie, Gregorie Dexter, John Cogeshall, Joseph Clarke, Randall Holden, John Greene, John Roome, Samuell Wildbore, William Ffield, James Barker, Richard Tew, Thomas Harris, and William Dyre, and the rest of the purchasers and ffree inhabitants of our island, called *Rhode-Island*, and the rest of the colonie of Providence Plantations, in the Narragansett Bay, in New-England, in America, that they, pursueing, with peaceable and loyall mindes, their sober, serious and religious intentions, of godlie edifieing themselves, and one another, in the holie Christian ffaith and worshipp as they were perswaded; together with the gaineing over and conversione of the poore ignorant Indian natives, in those partes of America,

* The Charter in "The Manual with Rules and orders for the use of the General Assembly of the State of Rhode Island. 1889–'90. Prepared in accordance with a Resolution of the General Assembly by Samuel H. Cross, Sec'y of State. 1889." pp. 49–64.

[a] The commonwealth of England had claimed the right, in 1651, to appoint a governor for Rhode Island and Providence Plantations, with a provincial council, to be elected by the freeholders and accepted by himself. After the restoration an agent was sent to England, who obtained this charter from Charles II.

to the sincere professione and obedienc of the same ffaith and worship, did, not onlie by the consent and good encouragement of our royall progenitors, transport themselves out of this kingdome of England into America, but alsoe, since their arrivall there, after their first settlement amongst other our subjects in those parts, ffor the avoideing of discorde, and those manie evills which were likely to ensue upon some of those oure subjects not beinge able to beare, in these remote parties, theire different apprehensiones in religious concernements, and in pursueance of the afforesayd ends, did once againe leave theire desireable stationes and habitationes, and with excessive labour and travell, hazard and charge, did transplant themselves into the middest of the Indian natives, who, as wee are infformed, are the most potent princes and people of all that country; where, by the good Providence of God, from whome the Plantationes have taken their name, upon theire labour and industrie, they have not onlie byn preserved to admiration, but have increased and prospered, and are seized and possessed, by purchase and consent of the said natives, to their ffull content, of such lands, islands, rivers, harbours and roades, as are verie convenient, both for plantationes and alsoe for buildinge of shipps, suplye of pypestaves, and other merchandize; and which lyes verie commodious, in manie respects, for commerce, and to accommodate oure southern plantationes, and may much advance the trade of this oure realme, and greatlie enlarge the territories thereof; they haveinge, by neare neighbourhoode to and friendlie societie with the greate bodie of the Narragansett Indians, given them encouragement, of theire owne accorde, to subject themselves, theire people and landes, unto us; whereby, as is hoped, there may, in due tyme, by the blessing of God upon theire endeavours, bee layd a sure ffoundation of happinesse to all America:

And whereas, in theire humble addresse, they have ffreely declared, that it is much on their hearts (if they may be permitted), to hold forth a livlie experiment, that a most flourishing civill state may stand and best bee maintained, and that among our English subjects, with a full libertie in religious concernements; and that true pietye rightly grounded upon gospell principles, will give the best and greatest security to sovereignetye, and will lay in the hearts of men the strongest obligations to true loyaltye: *Now know yee*, that wee beinge willinge to encourage the hopefull undertakeinge of oure sayd loyall and loveinge subjects, and to secure them in the free exercise and enjoyment of all theire civill and religious rights, appertaining to them, as our loveing subjects; and to preserve unto them that libertye, in the true Christian ffaith and worshipp of God, which they have sought with soe much travaill, and with peaceable myndes, and loyall subjectione to our royall progenitors and ourselves, to enjoye; and because some of the people and inhabitants of the same colonie cannot, in theire private opinions, conforms to the publique exercise of religion, according to the litturgy, formes and ceremonyes of the Church of England, or take or subscribe the oaths and articles made and established in that behalfe; and for that the same, by reason of the remote distances of those places, will (as wee hope) bee noe breach of the unitie and unifformitie established in this nation: Have therefore thought fitt, and doe hereby publish, graunt, ordeyne and declare,

That our royall will and pleasure is, that noe person within the sayd colonye, at any tyme hereafter, shall bee any wise molested, punished, disquieted, or called in question, for any differences in opinione in matters of religion, and doe not actually disturb the civill peace of our sayd colony; but that all and everye person and persons may, from tyme to tyme, and at all tymes hereafter, freelye and fullye have and enjoye his and theire owne judgments and consciences, in matters of religious concernments, throughout the tract of lande hereafter mentioned; they behaving themselves peaceablie and quietlie, and not useing this libertie to lycentiousnesse and profanenesse, nor to the civill injurye or outward disturbeance of others; any lawe, statute, or clause, therein contayned, or to bee contayned, usage or custome of this realme, to the contrary hereof, in any wise, notwithstanding. And that they may bee in the better capacity to defend themselves, in theire just rights and libertyes against all the enemies of the Christian ffaith, and others, in all respects, wee have further thought fit, and at the humble petition of the persons aforesayd are gratiously pleased to declare, That they shall have and enjoye the benefitt of our late act of indempnity and ffree pardon, as the rest of our subjects in other our dominions and territoryes have; and to create and make them a bodye politique or corporate, with the powers and priviledges hereinafter mentioned.

And accordingely our will and pleasure is, and of our especiall grace, certaine knowledge, and meere motion, *wee have ordeyned*, constituted and declared, and by these presents, for us, our heires and successors, doe ordeyne, constitute and declare, That they, the sayd William Brenton, William Codington, Nicholas Easton, Benedict Arnold, William Boulston, John Porter, Samuell Gorton, John Smith, John Weekes, Roger Williams, Thomas Olneye, Gregorie Dexter, John Cogeshall, Joseph Clarke, Randall Holden, John Greene, John Roome, William Dyre, Samuell Wildbore, Richard Tew, William Ffeild, Thomas Harris, James Barker, ——— Rainsborrow, ——— Williams, and John Nickson, and all such others as now are, or hereafter shall bee admitted and made ffree of the company and societie of our collonie of Providence Plantations, in the Narragansett Bay, in New England, shall bee, from tyme to tyme, and forever hereafter, a bodie corporate and politique, in ffact and name, by the name of *The Governor and Company of the English Colony of Rhode-Island and Providence Plantations, in New-England, in America;* and that, by the same name, they and their successors shall and may have perpetuall succession, and shall and may bee persons able and capable, in the lawe, to sue and bee sued, to pleade and be impleaded, to answeare and bee answeared unto, to defend and to be defended, in all and singular suites, causes, quarrels, matters, actions and thinges, of what kind or nature soever; and alsoe to have, take, possesse, acquire and purchase lands, tenements or hereditaments, or any goods or chattels, and the same to lease, graunt, demise, aliene, bargaine, sell and dispose of, at their owne will and pleasure, as other our liege people of this our realme of England, or anie corporation or bodie politique within the same, may be lawefully doe:—*And further*, that they the sayd Governor and Company, and theire successors, shall and may, forever hereafter, have a common seale, to serve and use for all mat-

ters, causes, thinges and affaires, whatsoever, of them and their successors; and the same seale to alter, change, breake, and make new, from tyme to tyme, at their will and pleasure, as they shall thinke flitt.

And further, wee will and ordeyne, and by these presents, for us, oure heires and successours, doe declare and apoynt that, for the better ordering and managing of the affaires and business of the sayd Company, and theire successours, there shall bee one Governour, one Deputie-Governour and ten Assistants, to bee from tyme to tyme, constituted, elected and chosen, out of the freemen of the sayd Company, for the tyme beinge, in such manner and fforme as is hereafter in these presents expressed; which sayd officers shall aplye themselves to take care for the best disposeinge and orderinge of the generall businesse and affaires of, and concerneinge the landes and hereditaments hereinafter mentioned, to be graunted, and the plantation thereof, and the government of the people there. *And* for the better execution of oure royall pleasure herein, wee doe, for us, oure heires and successours, assign, name, constitute and apoynt the aforesayd Benedict Arnold to bee the first and present Governor of the sayd Company, and the sayd William Brenton, to bee the Deputy-Governor, and the sayd William Boulston, John Porter, Roger Williams, Thomas Olnie, John Smith, John Greene, John Cogeshall, James Barker, William Ffeild, and Joseph Clarke, to bee the tenn present Assistants of the sayd Companye, to continue in the sayd severall offices, respectively, untill the first Wednesday which shall bee in the month of May now next comeing. *And further*, wee will, and by these presents, for us, our heires and successessours, doe ordeyne and graunt, that the Governor of the sayd Company, for the tyme being, or, in his absence, by occasion of sicknesse, or otherwise, by his leave and permission, the Deputy-Governor, ffor the tyme being, shall and may, ffrom tyme to tyme, upon all occasions, give order ffor the assemblinge of the sayd Company and callinge them together, to consult and advise of the businesse and affaires of the sayd Company.

And that forever hereafter, twice in every year, that is to say, on every first Wednesday in the month of May, and on every last Wednesday in October, or oftener, in case it shall bee requisite, the Assistants, and such of the ffreemen of the Company, not exceedinge six persons ffor Newport, ffoure persons ffor each of the respective townes of Providence, Portsmouth and Warwicke, and two persons for each other place, towne or city, whoe shall bee, from tyme to tyme, thereunto elected or deputed by the majour parte of the ffreemen of the respective townes or places ffor which they shall bee so elected or deputed, shall have a generall meetinge, or Assembly then and there to consult, advise and determine, in and about the affaires and businesse of the said Company and Plantations. *And further*, wee doe, of our especiall grace, certayne knowledge, and meere motion, give and graunt unto the sayd Governour and Company of the English Colonie of *Rhode-Island and Providence Plantations*, in New-England, in America, and theire successours, that the Governour, or, in his absence, or, by his permission, the Deputy-Governour of the sayd Company, for the tyme beinge, the Assistants, and such of the ffreemen of the sayd Company as shall bee soe as aforesayd elected or deputed, or soe many of them as shall bee present att such meetinge or assemblye, as afforesayde, shall bee called the Generall

Assemblye; and that they, or the greatest parte of them present, whereof the Governour or Deputy-Governour, and sixe of the Assistants, at least to bee seven, shall have, and have hereby given and graunted unto them, ffull power authority, ffrom tyme tyme, and at all tymes hereafter, to apoynt, alter and change, such dayes, tymes and places of meetinge and Generall Assemblye, as theye shall thinke fitt; and to choose, nominate, and apoynt, such and soe manye other persons as they shall thinke fitt, and shall be willing to accept the same, to bee ffree of the sayd Company and body politique, and them into the same to admitt; and to elect and constitute such offices and officers, and to graunt such needfull commissions, as they shall thinke fitt and requisite, ffor the ordering, managing and dispatching of the affaires of the sayd Governour and Company, and their successours; and from tyme to tyme, to make, ordeyne, constitute or repeal, such lawes, statutes, orders and ordinances, fformes and ceremonies of government and magistracye as to them shall seeme meete for the good nad wellfare of the sayd Company, and ffor the government and ordering of the landes and hereditaments, hereinafter mentioned to be graunted, and of the people that doe, or att any tyme hereafter shall, inhabitt or bee within the same; soe as such lawes, ordinances and constitutiones, soe made, bee not contrary and repugnant unto, butt, as neare as may bee, agreeable to the lawes of this our realme of England, considering the nature and constitutione of the place and people there; and alsoe to apoynt, order and direct, erect and settle, such places and courts of jurisdiction, ffor the heareinge and determininge of all actions, cases, matters and things, happening within the sayd collonie and plantatione, and which shall be in dispute, and depending there, as they shall thinke fit; and alsoe to distinguish and sett forth the severall names and titles, duties, powers and limitts, of each court, office and officer, superior and inferior; and alsoe to contrive and apoynt such formes of oaths and attestations, not repugnant, but, as neare as may bee, agreeable, as aforesayd, to the lawes and statutes of this oure realme, as are conveniente and requisite, with respect to the due administration of justice, and due execution and discharge of all offices and places of trust by the persons that shall bee therein concerned; and alsoe to regulate and order the waye and manner of all elections to offices and places of trust, and to prescribe, limitt and distinguish the numbers and boundes of all places, townes or cityes, within the limitts and bounds herein after mentioned, and not herein particularlie named, who have, and shall have, the power of electing and sending of ffreemen to the sayd Generall Assembly; and alsoe to order, direct and authorize the imposing of lawfull and reasonable ffynes, mulcts, imprisonments, and executing other punishments pecuniary and corporal, upon offenders and delinquents, according to the course of other corporations within this oure kingdom of England; and agayne to alter, revoke, annull or pardon, under their common seale or otherwyse, such ffynes, mulcts, imprisonments, sentences, judgments and condemnations, as shall bee thought fitt; and to direct, rule, order and dispose of, all other matters and things, and particularly that which relates to the makinge of purchases of the native Indians, as to them shall seeme meete; whereby oure sayd people and inhabitants, in the sayd Plantationes, may be soe religiously, peaceably and civilly governed, as that, by theire good

life and orderlie conversatione, they may win and invite the native Indians of the countrie to the knowledge and obedience of the onlie true God, and Saviour of mankinde; willing, commanding and requireing, and by these presents, for us, oure heires and successours, ordeyneing and apoynting, that all such lawes, statutes, orders and ordinances, instructions, impositions and directiones, as shall bee soe made by the Governour, deputye-Governour, Assistants and ffreemen, or such number of them as aforesayd, and published in writinge, under theire common seale, shall bee carefully and duely observed, kept, performed and putt in execution, accordinge to the true intent and meaning of the same.

And these our letters patent, or the duplicate or exempliffication thereof, shall bee to all and everie such officer, superiour or inferiour, ffrom tyme to tyme, for the putting of the same orders, lawes, statutes, ordinances, instructions and directions, in due execution, against us, oure heires and successours, a sufficient warrant and discharge. *And ffurther*, our will and pleasure is, and wee doe hereby, for us, oure heires and successours, establish and ordeyne, that yearelie, once in the yeare, forever hereafter, namely, the aforesayd Wednesday in May, and at the towne of Newport, or elsewhere, if urgent occasion doe require, the Governour, Deputy-Governour and Assistants of the sayd Company, and other officers of the sayd Company, or such of them as the Generall Assemblye shall thinke flitt, shall bee, in the sayd Generall Court or Assembly to bee held from that daye or tyme, newely chosen for the year ensueing, by such greater part of the sayd Company, for the tyme beinge, as shall bee then and there present; *and* if itt shall happen that the present Governour, Deputy-Governour and Assistants, by these presents apoynted, or any such as shall hereafter be newly chosen into their roomes, or any of them, or any other the officers of the sayd Company, shall die or bee removed ffrom his or their severall offices or places, before the sayd generall day of election, (whom wee doe hereby declare, for any misdemeanour or default, to be removeable by the Governour, Assistants and Company, or such greater parte of them, in any of the sayd publique courts, to bee assembled as aforesayd), that then, and in every such case, it shall and may bee lawfull to and ffor the sayd Governour, Deputy-Governour, Assistants and Company aforesayde, or such greater parte of them, soe to bee assembled as is aforesayde, in any theire assemblyes, to proceede to a new election of one or more of their Company, in the roome or place, roomes or places, of such officer or officers, soe dyeinge or removed, according to theire discretiones; and immediately upon and after such electione or elections made of such Governour, Deputy-Governour or Assistants, or any other officer of the sayd Company, in manner and forme aforesayde, the authoritie, office and power, before given to the fformer Governour, Deputy-Governour, and other officer and officers, soe removed, in whose steade and place new shall be chosen, shall, as to him and them, and every of them, respectively, cease and determine:

Provided, allwayes, and our will and pleasure is, that as well such as are by these presents apoynted to bee the present Governour, Deputy-Governour and Assistants, of the sayd Company, as those that shall succeede them, and all other officers to bee apoynted and chosen as aforesayde, shall, before the undertakeinge the execution

of the sayd offices and places respectively, give theire solemn engagement, by oath, or otherwyse, for the due and faythfull performance of theire duties in their severall offices and places, before such person or persons as are by these presents hereafter apoynted to take and receive the same, that is to say: the sayd Benedict Arnold, whoe is hereinbefore nominated and apoynted the present Governour of the sayd Company, shall give the aforesayd engagement before William Brenton, or any two of the sayd Assistants of the sayd Company; unto whome, *wee doe* by these presentes give ffull power and authority to require and receive the same; and the sayd William Brenton, whoe is hereby before nominated and apoynted the present Deputy-Governour of the sayd Company, shall give the aforesayed engagement before the sayd Benedict Arnold, or any two of the Assistants of the sayd Company; unto whome *wee doe* by these presents give ffull power and authority to require and receive the same; and the sayd William Boulston, John Porter, Roger Williams, Thomas Olneye, John Smith, John Greene, John Cogeshall, James Barker, William Ffeild, and Joseph Clarke, whoe are hereinbefore nominated apoynted the present Assistants of the sayd Company, shall give the sayd engagement to theire offices and places respectively belongeing, before the sayd Benedict Arnold and William Brenton, or one of them; to whome, respectively *wee doe* hereby give ffull power and authority to require, administer or receive the same: *and ffurther*, our will and pleasure is, that all and every other future Governour or Deputy-Governour, to bee elected and chosen by vertue of these presents, shall give the sayd engagement before two or more of the sayd Assistants of the sayd Company ffor the tyme beinge; unto whome wee doe by these presents give ffull power and authority to require, administer or receive the same; and the sayd Assistants, and every of them, and all and every other officer or officers to bee hereafter elected and chosen by vertue of these presents, from tyme to tyme, shall give the like engagements, to their offices and places respectively belonging bofere the Governour or Deputy-Governour for the tyme being; unto which sayd Governour, or Deputy-Governour, *wee doe* by these presents give full power and authority to require, administer or receive the same accordingly.

And wee doe likewise, for vs, oure heires and successours, give and graunt vnto the sayd Governour and Company and theire successours by these presents, that, for the more peaceable and orderly government of the sayd Plantations, it shall and may bee lawfull ffor the Governour, Deputy-Governor, Assistants, and all other officers and ministers of the sayd Company, in the administration of justice, and exercise of government, in the sayd Plantations, to vse, exercise, and putt in execution, such methods, rules, orders and directions, not being contrary or repugnant to the laws and statutes of this oure realme, as have byn heretofore given, vsed and accustomed, in such cases respectively, to be putt in practice, untill att the next or some other Generall Assembly, special provision shall be made and ordeyned in the cases aforesayd. *And wee doe ffurther*, for vs, oure heires and successours, give and graunt vnto the sayd Governour and Company, and theire successours, by these presents, that itt shall and may bee lawfull to and for the sayd Governour, or in his absence, the Deputy-Governour, and majour parte of the sayd Assistants, for the

tyme being, att any tyme when the sayd Generall Assembly is not sitting, to nominate, apoynt and constitute, such and soe many commanders, governours, and military officers, as to them shall seeme requisite, for the leading, conductinge and trayneing vpp the inhabitants of the sayd Plantations in martiall affaires, and for the defence and safeguard of the sayd Plantations; and that itt shall and may bee lawfull to and for all and every such commander, governour and military officer, that shall bee soe as aforesayd, or by the Governour, or, in his absence, the Deputy-Governour, and six of the sayd Assistants, and majour parte of the ffreemen of the sayd Company present att any Generall Assemblies, nominated, apoynted and constituted accordinge to the tenor of his and theire respective commissions and directions, to assemble, exercise in arms, martiall array, and putt in warlyke posture, the inhabitants of the sayd collonie, ffor theire speciall defence and safety; and to lead and conduct the sayd inhabitants, and to encounter, expulse, expell and resist, by force of armes, as well by sea as by lande; and alsoe to kill, slay and destroy, by all fitting waves, enterprizes and meanes, whatsoever, all and every such person or persons as shall, att any tyme hereafter, attempt or enterprize the destruction, invasion, detriment or annoyance of the sayd inhabitants or Plantations; and to vse and exercise the lawe martiall in such cases only as occasion shall necessarily require; and to take or surprise, by all wayes and meanes whatsoever, all and every such person and persons, with theire shipp or shipps, armor, ammunition or other goods of such persons, as shall, in hostile manner, invade or attempt the defeating of the sayd Plantations, or the hurt of the sayd Company and inhabitants; and vpon just causes, to invade and destroy the native Indians, or other enemyes of the sayd Collony. Neverthelesse, our will and pleasure is, and wee doe hereby declare to the rest of oure Collonies in New England, that itt shall not bee lawefull ffor this our sayd Collony of Rhode-Island and Providence Plantations, in America, in New-England, to invade the natives inhabiting within the boundes and limitts of theire sayd Collonies without the knowledge and consent of the sayd other Collonies. And itt is hereby declared, that itt shall not bee lawfull to or ffor the rest of the Collonies to invade or molest the native Indians, or any other inhabitants, inhabiting within the bounds and lymitts hereafter mentioned (they having subjected themselves vnto vs, and being by vs taken into our speciall protection), without the knowledge and consent of the Governour and Company of our Collony of Rhode-Island and Providence Plantations.

Alsoe our will and pleasure is, and wee doe hereby declare unto all Christian Kings, Princes and States, that if any person, which shall hereafter bee of the sayd Company or Plantations, or any other, by apoyntment of the sayd Governour and Company for the tyme beinge, shall at any tyme or tymes hereafter, rob or spoyle, by sea or land, or do any hurt, unlawfull hostillity to any of the subjects of vs, oure heires or successours, or any of the subjects of any Prince or State, beinge then in league with vs, oure heires, or successours, vpon complaint of such injury done to any such Prince or State, or theire subjects, wee, our heires and successours, will make open proclamation within any parts of oure realme of England, ffitt ffor that purpose, that the person or persons committing any such robbery or

spoyle shall, within the tyme lymitted by such proclamation, make full restitution or satisfaction of all such injuries, done or committed, soe as the sayd Prince, or others soe complaineinge, may bee fully satisfyed and contented; and if the sayd person or persons whoe shall committ any such robbery or spoyle shall not make satysfaction, accordingly, within such tyme, soe to bee lymitted, that then wee, oure heires and successours, will putt such person or persons out of oure allegiance and protection; and that then itt shall and may bee lawefull and ffree ffor all Princes or others to prosecute, with hostillity, such offenders, and every of them, theire and every of theire procurers, ayders, abettors and counsellors, in that behalfe; *Provided* alsoe, and oure expresse will and pleasure is, *and wee doe*, by these presents, ffor vs, our heirs and successours, ordeyne and apoynt, that these presents shall not, in any manner, hinder any of oure loveinge subjects, whatsoever, ffrom vseing and exercising the trade of ffishing vpon the coast of New-England, in America; butt that they, and every or any of them, shall have ffull and ffree power and liberty to continue and vse the trade of ffishing vpon the sayd coast, in any of the seas thereunto adjoyninge, or any armes of the seas, or salt water, rivers and creeks, where they have been accustomed to ffish; and to build and to sett upon the waste land, belonginge to the sayd Collony and Plantations, such wharfes, stages and worke-houses as shall be necessary for the salting, drying and keepeing of theire ffish, to be taken or gotten upon that coast. *And ffurther*, for the encouragement of the inhabitants of our sayd Collony of Providence Plantations to sett vpon the businesse of takeing whales, itt shall bee lawefull ffor them, or any of them, having struck whale, dubertus, or other greate ffish, itt or them, to pursue unto any parte of that coaste, and into any bay, river, cove, creeke or shoare, belonging thereto, and itt or them, vpon sayd coaste, or in the sayd bay, river, cove, creeke or shoare, belonging thereto, to kill and order for the best advantage, without molestation, they makeing noe wilfull waste or spoyle, any thinge in these presents conteyned, or any other matter or thing, to the contrary notwithstanding. And further alsoe, wee are gratiously pleased, and doe hereby declare, that if any of the inhabitants of oure sayd Collony doe sett upon the plantinge of vineyards (the soyle and clymate both seemeing naturally to concurr to the production of wynes), or bee industrious in the discovery of ffishing banks, in or about the sayd Collony, wee will, ffrom tyme to tyme, give and allow all due and fitting encouragement therein, as to others in cases of lyke nature. And further, of oure more ample grace, certayne knowledge, and meere motion, wee have given and graunted, and by these presents, ffor vs, oure heires and successours, doe give and graunt vnto the sayd Governour and Company of the English Collony of Rhode-Island and Providence Plantations, in the Narragansett Bay, in New-England in America, and to every inhabitant there, and to every person and persons trading thither, and to every such person or persons as are or shall bee ffree of the sayd Collony, full power and authority, from tyme to tyme, and att all tymes hereafter, to take, shipp, transport and carry away, out of any of our realmes and dominions, for and towards the plantation and defence of the sayd Collony, such and soe many of oure loveing subjects and strangers as shall or will willingly accompany them in and

to their sayd Collony and Plantation; except such person or persons as are or shall be therein restrained by vs, oure heires and successours, or any law or statute of this realme: and also to shipp and transport all and all manner of goods, chattels, merchandizes, and other things whatsoever, that are or shall bee vsefull or necessary ffor the sayd Plantations, and defence thereof, and vsually transported, and nott prohibited by any lawe or statute of this our realme; yielding and paying vnto vs, our heires and successours, such the duties, customes and subsidies, as are or ought to bee payd or payable for the same.

And ffurther, our will and pleasure is, and wee doe, ffor us, our heires and successours, ordeyn, declare and graunt, vnto the sayd Governour and Company, and their successours, that all and every the subjects of vs, our heires and successours, which are already planted and settled within our sayd Collony of Providence Plantations, or which shall hereafter goe to inhabit within the sayd Collony, and all and every of theire children, which have byn borne there, or which shall happen hereafter to bee borne there, or on the sea, goeing thither, or retourneing from thence, shall have and enjoye all libertyes and immunityes of ffree and naturall subjects within any the dominions of vs, our heires or successours, to all intents, constructions and purposes, whatsoever, as if they, and every of them, were borne within the realme of England. And ffurther, know ye, that wee, of our more abundant grace, certain knowledge and meere motion, have given, graunted and confirmed, and, by these presents, for vs, our heires and successours, doe give, graunt and confirme, vnto the sayd Governour and Company, and theire successours, all that parte of our dominiones in New-England, in America, conteyneing the Nahantick and Nanhyganset Bay, and countryes and partes adjacent, bounded on the west, or westerly, to the middle or channel of a river there, commonly called and known by the name of Pawcatuck, alias Pawcawtuck river, and soe along the sayd river, as the greater or middle streame thereof reacheth or lyes vpp into the north countrye, northward, unto the head thereoof, and from thence, by a streight lyne drawn due north, vntill itt meets with the south lyne of the Massachusetts Collonie; and on the north, or northerly, by the aforesayd south or southerly lyne of the Massachusettes Collony or Plantation, and extending towards the east, or eastwardly, three English miles to the east and north-east of the most eastern and north-eastern parts of the aforesayd Narragansett Bay, as the sayd bay lyeth or extendeth itself from the ocean on the south, or southwardly, vnto the mouth of the river which runneth towards the towne of Providence, and from thence along the eastwardly side or banke of the sayd river (higher called by the name of Seacunck river), vp to the ffalls called Patuckett ffalls, being the most westwardly lyne of Plymouth Collony, and soe from the sayd ffalls, in a streight lyne, due north, untill itt meete with the aforesayd line of the Massachusetts Collony; and bounded on the south by the ocean: and, in particular, the lands belonging to the townes of Providence, Pawtuxet, Warwicke, Misquammacok, alias Pawcatuck, and the rest vpon the maine land in the tract aforesayd, together with Rhode-Island, Blocke-Island, and all the rest of the islands and banks in the Narragansett Bay, and bordering vpon the coast of the tract aforesayd (Ffisher's Island only

excepted), together with all firme lands, soyles, grounds, havens, ports, rivers, waters, ffishings, mines royall, and all other mynes, mineralls, precious stones, quarries, woods, wood-grounds, rocks, slates, and all and singular other commodities, jurisdictions, royalties, priviledges, franchises, preheminences and hereditaments, whatsoever, within the sayd tract, bounds, landes, and islands, aforesayd, or to them or any of them belonging, or in any wise appertaining: *to have and to hold the same*, vnto the sayd Governour and Company, and their successours, forever, vpon trust, for the vse and benefitt of themselves and their associates, ffreemen of the sayd Collony, their heires and assignes, to be holden of vs, our heires and successours, as of the Mannor of East-Greenwich, in our county of Kent, in free and comon soccage, and not in capite, nor by knight service; yeilding and paying therefor, to vs, our heires and successours, only the ffifth part of all the oare of gold and silver which, from tyme to tyme, and att all tymes hereafter, shall bee there gotten, had or obtained; in lieu and satisfaction of all services, duties, ffynes, forfeitures, made or to be made, claimes and demands, whatsoever, to bee to vs, our heires or successours, therefor or thereout rendered, made or paid; any graunt, or clause in a late graunt, to the Governour and Company of Connecticutt Colony, in America, to the contrary thereof in any wise notwithstanding; the aforesayd Pawcatuck river haveing byn yielded, after much debate, for the fixed and certain boundes betweene these our sayd Colonies, by the agents thereof; whoe have alsoe agreed, that the sayd Pawcatuck river shall bee alsoe called alias Norrogansett or Narrogansett river; and, to prevent future disputes, that otherwise might arise thereby, forever hereafter shall bee construed, deemed and taken to bee the Narragansett river in our late graunt to Connecticutt Colony mentioned as the easterly bounds of that Colony. *And further*, our will and pleasure is, that in all matters of publique controversy which may fall out betweene our Colony of Providence Plantations, and the rest of our Colonies in New-England, itt shall and may bee lawfull to and for the Governour and Company of the sayd Colony of Providence Plantations to make their appeales therein to vs, our heirs and successours, for redresse in such cases, within this our realme of England: and that itt shall bee lawfull to and for the inhabitants of the sayd Colony of Providence Plantations, without let or molestation, to passe and repasse with freedome, into and thorough the rest of the English Collonies, vpon their lawfull and civill occasions, and to converse, and hold commerce and trade, with such of the inhabitants of our other English Collonies as shall bee willing to admitt them thereunto, they behaveing themselves peaceably among them; any act, clause or sentence, in any of the sayd Collonies provided, or that shall bee provided, to the contrary in anywise notwithstanding. *And lastly*, *wee doe*, for vs, our heires and successours, ordeyne and graunt vnto the sayd Governor and Company, and their successours, and by these presents, that these our letters patent shall be firme, good, effectuall and available in all things in the lawe, to all intents, constructions and purposes whatsoever, according to our true intent and meaning hereinbefore declared; and shall bee construed, reputed and adjudged in all cases most favorably on the behalfe, and for the benefitt and behoofe, of

the sayd Governor and Company, and their successours; although *express mention* of the true yearly value or certainty of the premises, or any of them, or of any other gifts or graunts by vs, or by any of our progenitors or predecessors, heretofore made to the sayd Governor and Company of the English Colony of Rhode-Island and Providence Plantations, in the Narragansett Bay, New-England, in America, in these presents is not made, or any statute, act, ordinance, provision, proclamation or restriction, heretofore had, made, enacted, ordeyned or provided, or any other matter, cause or thing whatsoever, to the contrary thereof in anywise notwithstanding. *In witnes* whereof, wee have caused these our letters to bee made patent. *Witnes* our Selfe att Westminster, the eighth day of July, in the ffifteenth yeare of our reigne.

By the King:

HOWARD.

CONSTITUTION OF RHODE ISLAND—1842 *

We, the people of the State of Rhode Island and Providence Plantations, grateful to Almighty God for the civil and religious liberty which He hath so long permitted us to enjoy, and looking to Him for a blessing upon our endeavors to secure and to transmit the same unimpaired to succeeding generations, do ordain and establish this constitution of government.

ARTICLE I

DECLARATION OF CERTAIN CONSTITUTIONAL RIGHTS AND PRINCIPLES

In order effectually to secure the religious and political freedom established by our venerated ancestors, and to preserve the same for our posterity, we do declare that the essential and unquestionable rights and principles hereinafter mentioned shall be established, maintained and preserved, and shall be of paramount obligation in all legislative, judicial and executive proceedings.

SECTION 1. In the words of the Father of his Country, we declare, that "the basis of our political systems is the right of the people to make and alter their constitutions of government; but that the constitution which at any time exists, till changed by an explicit and authentic act of the whole people, is sacredly obligatory upon all."

SEC. 2. All free governments are instituted for the protection, safety and happiness of the people. All laws, therefore, should be made for the good of the whole; and the burdens of the state ought to be fairly distributed among its citizens.

SEC. 3. Whereas Almighty God hath created the mind free; and all attempts to influence it by temporal punishments or burdens, or by civil incapacitations, tend to beget habits of hypocrisy and meanness; and whereas a principal object of our venerable ancestors, in their migration to this country and their settlement of this state,

* Verified from "The Constitution of the State of Rhode Island and Providence Plantations, with the Amendments thereto. Providence, R. I. E. L. Freeman & Sons, State Printers. 1904." pp. 37.

was, as they expressed it, to hold forth a lively experiment, that a flourishing civil state may stand and be best maintained with full liberty in religious concernments; we, therefore, declare that no man shall be compelled to frequent or to support any religious worship, place, or ministry whatever, except in fulfillment of his own voluntary contract; nor enforced, restrained, molested, or burdened in his body or goods; nor disqualified from holding any office; nor otherwise suffer on account of his religious belief; and that every man shall be free to worship God according to the dictates of his own conscience, and to profess and by argument to maintain his opinion in matters of religion; and that the same shall in no wise diminish, enlarge, or affect his civil capacity.

Sec. 4. Slavery will not be permitted in this state.

Sec. 5. Every person within this state ought to find a certain remedy, by having recourse to the laws, for all injuries or wrongs which he may receive in his person, property, or character. He ought to obtain right and justice freely and without purchase, completely and without denial; promptly and without delay; conformably to the laws.

Sec. 6. The right of the people to be secure in their persons, papers and possessions, against unreasonable searches and seizures, shall not be violated; and no warrant shall issue, but on complaint in writing, upon probable cause, supported by oath or affirmation, and describing as nearly as may be, the place to be searched, and the persons or things to be seized.

Sec. 7. No person shall be held to answer for a capital or other infamous crime, unless on presentment or indictment by a grand jury, except in cases of impeachment, or of such offences as are cognizable by a justice of the peace; or in cases arising in the land or naval forces, or in the militia when in actual service in time of war or public danger. No person shall, after an acquittal, be tried for the same offence.

Sec. 8. Excessive bail shall not be required, nor excessive fines imposed, nor cruel punishments inflicted; and all punishments ought to be proportioned to the offence.

Sec. 9. All persons imprisoned ought to be bailed by sufficient surety, unless for offences punishable by death or by imprisonment for life, when the proof of guilt is evident or the presumption great. The privilege of the writ of *habeas corpus* shall not be suspended, unless when in cases of rebellion or invasion the public safety shall require it; nor ever without the authority of the general assembly.

Sec. 10. In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury; to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining them in his favor, to have the assistance of counsel in his defence, and shall be at liberty to speak for himself; nor shall he be deprived of life, liberty, or property, unless by the judgment of his peers, or the law of the land.

Sec. 11. The person of a debtor, when there is not strong presumption of fraud, ought not to be continued in prison, after he shall have delivered up his property for the benefit of his creditors, in such manner as shall be prescribed by law.

Sec. 12. No *ex post facto* law, or law impairing the obligation of contracts, shall be passed.

Sec. 13. No man in a court of common law shall be compelled to give evidence criminating himself.

Sec. 14. Every man being presumed innocent, until he is pronounced guilty by the law, no act of severity which is not necessary to secure an accused person shall be permitted.

Sec. 15. The right of trial by jury shall remain inviolate.

Sec. 16. Private property shall not be taken for public uses, without just compensation.

Sec. 17. The people shall continue to enjoy and freely exercise all the rights of fishery, and the privileges of the shore, to which they have been heretofore entitled under the charter and usages of this state. But no new right is intended to be granted, nor any existing right impaired, by this declaration.

Sec. 18. The military shall be held in strict subordination to the civil authority. And the law martial shall be used and exercised in such cases only as occasion shall necessarily require.

Sec. 19. No soldier shall be quartered in any house, in time of peace, without the consent of the owner; nor, in time of war, but in a manner to be prescribed by law.

Sec. 20. The liberty of the press being essential to the security of freedom in a state, any person may publish his sentiments on any subject, being responsible for the abuse of that liberty; and in all trials for libel, both civil and criminal, the truth, unless published from malicious motives, shall be sufficient defence to the person charged.

Sec. 21. The citizens have a right in a peaceable manner to assemble for their common good, and to apply to those invested with the powers of government, for redress of grievances, or for other purposes, by petition, address, or remonstrance.

Sec. 22. The right of the people to keep and bear arms shall not be infringed.

Sec. 23. The enumeration of the foregoing rights shall not be construed to impair or deny others retained by the people.

Article II

of the qualifications of electors

Section 1. Every male citizen of the United States, of the age of twenty-one years, who has had his residence and home in this state for one year, and in the town or city in which he may claim a right to vote, six months next preceding the time of voting, and who is really and truly possessed in his own right of real estate in such town or city of the value of one hundred and thirty-four dollars over and above all incumbrances, or which shall rent for seven dollars per annum over and above any rent reserved or the interest of any incumbrances thereon, being an estate in fee-simple, fee-tail, for the life of any person, or an estate in reversion or remainder, which qualifies no other person to vote, the conveyance of which estate, if by deed, shall have been recorded at least ninety days, shall thereafter have a right to vote in the election of all civil officers and on

all questions in all legal town or ward meetings so long as he continues so qualified. And if any person hereinbefore described shall own any such estate within this state out of the town or city in which he resides, he shall have a right to vote in the election of all general officers and members of the general assembly in the town or city in which he shall have had his residence and home for the term of six months next preceding the election, upon producing a certificate from the clerk of the town or city in which his estate lies, bearing date within ten days of the time of his voting, setting forth that such person has a sufficient estate therein to qualify him as a voter; and that the deed, if any, has been recorded ninety days.

Sec. 2. Every male native citizen of the United States, of the age of twenty-one years, who has had his residence and home in this state two years, and in the town or city in which he may offer to vote, six months next preceding the time of voting, whose name is registered pursuant to the act calling the convention to frame this constitution, or shall be registered in the office of the clerk of such town or city at least seven days before the time he shall offer to vote, and before the last day of December in the present year; and who has paid or shall pay a tax or taxes assessed upon his estate within this state, and within a year of the time of voting, to the amount of one dollar, or who shall voluntarily pay, at least seven days before the time he shall offer to vote, and before said last day of December, to the clerk or treasurer of the town or city where he resides, the sum of one dollar, or such sum as with his other taxes shall amount to one dollar, for the support of public schools therein, and shall make proof of the same, by the certificate of the clerk, treasurer, or collector of any town or city where such payment is made: or who, being so registered, has been enrolled in any military company in this state, and done military service or duty therein, within the present year, pursuant to law, and shall (until other proof is required by law) prove by the certificate of the officer legally commanding the regiment, or chartered, or legally authorized volunteer company in which he may have served or done duty, that he has been equipped and done duty according to law, or by the certificate of the commissioners upon military claims, that he has performed military service, shall have a right to vote in the election of all civil officers, and on all questions in all legally organized town or ward meetings, until the end of the first year after the adoption of this constitution, or until the end of the year eighteen hundred and forty-three.

From and after that time, every such citizen who has had the residence herein required, and whose name shall be registered in the town where he resides, on or before the last day of December, in the year next preceding the time of his voting, and who shall show by legal proof, that he has for and within the year next preceding the time he shall offer to vote, paid a tax or taxes assessed against him in any town or city in this state, to the amount of one dollar, or that he has been enrolled in a military company in this state, been equipped and done duty therein according to law, and at least for one day during such year, shall have a right to vote in the election of all civil officers, and on all questions, in all legally organized town or ward meetings: *Provided*, that no person shall at any time

be allowed to vote in the election of the city council of the city of Providence, or upon any proposition to impose a tax, or for the expenditure of money in any town or city, unless he shall within the year next preceding have paid a tax assessed upon his property therein, valued at least at one hundred and thirty-four dollars.

Sec. 3. The assessors of each town or city shall annually assess upon every person whose name shall be registered a tax of one dollar, or such sum as with his other taxes shall amount to one dollar, which registry tax shall be paid into the treasury of such town or city, and be applied to the support of public schools therein; but no compulsory process shall issue for the collection of any registry tax: *Provided*, that the registry tax of every person who has performed military duty according to the provisions of the preceding section shall be remitted for the year he shall perform such duty; and the registry tax assessed upon any mariner, for any year while he is at sea, shall, upon his application, be remitted; and no person shall be allowed to vote whose registry tax for either of the two years next preceding the time of voting is not paid or remitted as herein provided.

Sec. 4. No person in the military, naval, marine, or any other service of the United States shall be considered as having the required residence by reason of being employed in any garrison, barrack, or military or naval station in this state: and no pauper, lunatic, person *non compos mentis*, person under guardianship, or member of the Narragansett tribe of Indians, shall be permitted to be registered or to vote. Nor shall any person convicted of bribery, or of any crime deemed infamous at common law, be permitted to exercise that privilege, until he be expressly restored thereto by act of the general assembly.

Sec. 5. Persons residing on lands ceded by this state to the United States shall not be entitled to exercise the privilege of electors.

Sec. 6. The general assembly shall have full power to provide for a registry of voters, to prescribe the manner of conducting the elections, the form of certificates, the nature of the evidence to be required in case of a dispute as to the right of any person to vote, and generally to enact all laws necessary to carry this article into effect, and to prevent abuse, corruption and fraud in voting.

Article III

of the distribution of powers

The powers of the government shall be distributed into three departments: the legislative, executive, and judicial.

Article IV

of the legislative power

Section 1. This constitution shall be the supreme law of the state, and any law inconsistent therewith shall be void. The general assembly shall pass all laws necessary to carry this constitution into effect.

Sec. 2. The legislative power, under this constitution, shall be vested in two houses, the one to be called the senate, the other the

house of representatives; and both together the general assembly The concurrence of the two houses shall be necessary to the enactment of laws. The style of their laws shall be, *It is enacted by the general assembly as follows:*

Sec. 3. There shall be two sessions of the general assembly holden annually: one at Newport, on the first Tuesday of May, for the purposes of election and other business; the other on the last Monday of October, which last session shall be holden at South Kingstown once in two years, and the intermediate years alternately at Bristol and East Greenwich; and an adjournment from the October session shall be holden annually at Providence.

Sec. 4. No member of the general assembly shall take any fee, or be of counsel in any case pending before either house of the general assembly, under penalty of forfeiting his seat, upon proof thereof to the satisfaction of the house of which he is a member.

Sec. 5. The person of every member of the general assembly shall be exempt from arrest, and his estate from attachment in any civil action, during the session of the general assembly, and two days before the commencement and two days after the termination thereof, and all process served contrary hereto shall be void. For any speech in debate in either house, no member shall be questioned in any other place.

Sec. 6. Each house shall be the judge of the elections and qualifications of its members; and a majority shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may compel the attendance of absent members in such manner, and under such penalties, as may be prescribed by such house or by law. The organization of the two houses may be regulated by law, subject to the limitations contained in this constitution.

Sec. 7. Each house may determine its rules of proceeding, punish contempts, punish its members for disorderly behavior, and, with the concurrence of two thirds, expel a member; but not a second time for the same cause.

Sec. 8. Each house shall keep a journal of its proceedings. The yeas and nays of the members of either house shall, at the desire of one fifth of those present, be entered on the journal.

Sec. 9. Neither house shall, during a session, without the consent of the other, adjourn for more than two days, nor to any other place than that in which they may be sitting.

Sec. 10. The general assembly shall continue to exercise the powers they have heretofore exercised, unless prohibited in this constitution.

Sec. 11. The senators and representatives shall receive the sum of one dollar for every day of attendance, and eight cents per mile for traveling expenses in going to and returning from the general assembly. The general assembly shall regulate the compensation of the governor, and all other officers, subject to the limitations contained in this constitution.

Sec. 12. All lotteries shall hereafter be prohibited in this state, except those already authorized by the general assembly.

Sec. 13. The general assembly shall have no power, hereafter, without the express consent of the people, to incur state debts to an amount exceeding fifty thousand dollars, except in time of war, or in case of insurrection or invasion; nor shall they in any case, without such consent, pledge the faith of the state for the payment of the

obligations of others. This section shall not be construed to refer to any money that may be deposited with this state by the government of the United States.

Sec. 14. The assent of two thirds of the members elected to each house of the general assembly shall be required to every bill appropriating the public money or property for local or private purposes.

Sec. 15. The general assembly shall, from time to time, provide for making new valuations of property, for the assessment of taxes, in such manner as they may deem best. A new estimate of such property shall be taken before the first direct state tax, after the adoption of this constitution, shall be assessed.

Sec. 16. The general assembly may provide by law for the continuance in office of any officers of annual election or appointment, until other persons are qualified to take their places.

Sec. 17. Hereafter, when any bill shall be presented to either house of the general assembly, to create a corporation for any other than for religious, literary, or charitable purposes, or for a military or fire company, it shall be continued until another election of members of the general assembly shall have taken place, and such public notice of the pendency thereof shall be given as may be required by law.

Sec. 18. It shall be the duty of the two houses, upon the request of either, to join in grand committee for the purpose of electing senators in congress, at such times and in such manner as may be prescribed by law for said elections.

Article V

of the house of representatives

Section 1. The house of representatives shall never exceed seventy-two members, and shall be constituted on the basis of population, always allowing one representative for a fraction exceeding half the ratio; but each town or city shall always be entitled to at least one member; and no town or city shall have more than one sixth of the whole number of members to which the house is hereby limited. The present ratio shall be one representative to every fifteen hundred and thirty inhabitants, and the general assembly may, after any new census taken by the authority of the United States or of this state, reapportion the representation by altering the ratio; but no town or city shall be divided into districts for the choice of representatives.

Sec. 2. The house of representatives shall have authority to elect its speaker, clerks and other officers. The senior member from the town of Newport, if any be present, shall preside in the organization of the house.

Article VI

of the senate

Section 1. The senate shall consist of the lieutenant-governor and of one senator from each town or city in the state.

Sec. 2. The governor, and in his absence the lieutenant-governor, shall preside in the senate and in grand committee. The presiding officer of the senate and grand committee shall have a right to vote in case of equal division, but not otherwise.

Sec. 3. If, by reason of death, resignation, absence, or other cause, there be no governor or lieutenant-governor present, to preside in the senate, the senate shall elect one of their own members to preside during such absence or vacancy; and until such election is made by the senate, the secretary of state shall preside.

Sec. 4. The secretary of state shall, by virtue of his office, be secretary of the senate, unless otherwise provided by law, and the senate may elect such other officers as they may deem necessary.

Article VII

of the executive power

Section 1. The chief executive power of this state shall be vested in a governor, who, together with a lieutenant-governor, shall be annually elected by the people.

Sec. 2. The governor shall take care that the laws be faithfully executed.

Sec. 3. He shall be captain-general and commander-in-chief of the military and naval forces of this state, except when they shall be called into the service of the United States.

Sec. 4. He shall have power to grant reprieves after conviction, in all cases except those of impeachment, until the end of the next session of the general assembly.

Sec. 5. He may fill vacancies in office not otherwise provided for by this constitution or by law, until the same shall be filled by the general assembly, or by the people.

Sec. 6. In case of disagreement between the two houses of the general assembly, respecting the time or place of adjournment, certified to him by either, he may adjourn them to such time and place as he shall think proper: *Provided*, that the time of adjournment shall not be extended beyond the day of the next stated session.

Sec. 7. He may, on extraordinary occasions, convene the general assembly at any town or city in this state, at any time not provided for by law; and in case of danger from the prevalence of epidemic or contagious disease, in the place in which the general assembly are by law to meet, or to which they may have been adjourned, or for other urgent reasons, he may by proclamation convene said assembly at any other place within this state.

Sec. 8. All commissions shall be in the name and by authority of the State of Rhode Island and Providence Plantations; shall be sealed with the state seal, signed by the governor and attested by the secretary.

Sec. 9. In case of vacancy in the office of governor, or of his inability to serve, impeachment, or absence from the state, the lieutenant-governor shall fill the office of governor, and exercise the powers and authority appertaining thereto, until a governor is qualified to act or until the office is filled at the next annual election.

Sec. 10. If the offices of governor and lieutenant-governor be both vacant, by reason of death, resignation, impeachment, absence, or otherwise, the person entitled to preside over the senate for the time being shall in like manner fill the office of governor during such absence or vacancy,

Sec. 11. The compensation of the governor and lieutenant-governor shall be established by law, and shall not be diminished during the term for which they are elected.

Sec. 12. The duties and powers of the secretary, attorney-general, and general treasurer, shall be the same under this constitution as are now established, or as from time to time may be prescribed by law.

Article VIII

of elections

Section 1. The governor, lieutenant-governor, senators, representatives, secretary of state, attorney-general and general treasurer, shall be elected at the town, city, or ward meetings, to be holden on the first Wednesday of April, annually; and shall severally hold their offices for one year, from the first Tuesday of May next succeeding, and until others are legally chosen, and duly qualified to fill their places. If elected or qualified after the said first Tuesday of May, they shall hold their offices for the remainder of the political year, and until their successors are qualified to act.

Sec. 2. The voting for governor, lieutenant-governor, secretary of state, attorney-general, general treasurer and representative to congress, shall be by ballot; senators and representatives to the general assembly, and town or city officers, shall be chosen by ballot, on demand of any seven persons entitled to vote for the same; and in all cases where an election is made by ballot or paper vote, the manner of balloting shall be the same as is now required in voting for general officers, until otherwise prescribed by law.

Sec. 3. The names of the persons voted for as governor, lieutenant-governor, secretary of state, attorney-general and general treasurer shall be placed upon one ticket; and all votes for these officers shall, in open town or ward meetings, be sealed up by the moderators and town clerks and by the warden and ward clerks, who shall certify the same and deliver or send them to the secretary of state; whose duty it shall be securely to keep and deliver the same to the grand committee, after the organization of the two houses at the annual May session; and it shall be the duty of the two houses at said session, after their organization, upon the request of either house, to join in grand committee, for the purpose of counting and declaring said votes, and of electing other officers.

Sec. 4. The town and ward clerks shall also keep a correct list or register of all persons voting for general officers, and shall transmit a copy thereof to the general assembly, on or before the first day of said May session.

Sec. 5. The ballots for senators and representatives in the several towns shall, in each case, after the polls are declared to be closed, be counted by the moderator, who shall announce the result, and the clerk shall give certificates to the persons elected. If, in any case, there be no election, the polls may be reopened, and the like proceedings shall be had until an election shall take place: *Provided*, however, that an adjournment or adjournments of the election may be made to a time not exceeding seven days from the first meeting.

Sec. 6. In the city of Providence, the polls for senator and representatives shall be kept open during the whole time of voting for the day, and the votes in the several wards shall be sealed up at the close

of the meeting by the wardens and ward clerks in open ward meeting, and afterwards delivered to the city clerk. The mayor and aldermen shall proceed to count said votes within two days from the day of election; and if no election of senator and representatives, or if an election of only a portion of the representatives shall have taken place, the mayor and aldermen shall order a new election, to be held not more than ten days from the day of the first election, and so on until the election shall be completed. Certificates of election shall be furnished by the city clerk to the persons chosen.

Sec. 7. If no person shall have a majority of votes for governor, it shall be the duty of the grand committee to elect one by ballot from the two persons having the highest number of votes for the office, except when such a result is produced by rejecting the entire vote of any town, city, or ward, for informality or illegality, in which case a new election by the electors throughout the state shall be ordered; and in case no person shall have a majority of votes for lieutenant-governor, it shall be the duty of the grand committee to elect one by ballot from the two persons having the highest number of votes for the office.

Sec. 8. In case an election of the secretary of state, attorney-general, or general treasurer, should fail to be made by the electors at the annual election, the vacancy or vacancies shall be filled by the general assembly in grand committee, from the two candidates for such office having the greatest number of the votes of the electors. Or, in case of a vacancy in either of said offices from other causes, between the sessions of the general assembly, the governor shall appoint some person to fill the same until a successor elected by the general assembly is qualified to act; and in such case, and also in all other cases of vacancies not otherwise provided for, the general assembly may fill the same in any manner they may deem proper.

Sec. 9. Vacancies from any cause in the senate or house of representatives may be filled by a new election.

Sec. 10. In all elections held by the people under this constitution, a majority of all the electors voting shall be necessary to the election of the persons voted for.

Article IX

of qualifications for office

Section 1. No person shall be eligible to any civil office, (except the office of school committee,) unless he be a qualified elector for such office.

Sec. 2. Every person shall be disqualified from holding any office to which he may have been elected, if he be convicted of having offered, or procured any other person to offer, any bribe to secure his election, or the election of any other person.

Sec. 3. All general officers shall take the following engagement before they act in their respective offices, to wit: You being by the free vote of the electors of this State of Rhode Island and Providence Plantations, elected unto the place of do solemnly swear (or affirm) to be true and faithful unto this state, and to support the constitution of this state and of the United States; that you will faithfully and impartially discharge all the duties of your

aforesaid office to the best of your abilities, according to law: So help you God. Or, this affirmation you make and give upon the peril of the penalty of perjury.

Sec. 4. The members of the general assembly, the judges of all the courts, and all other officers, both civil and military, shall be bound by oath or affirmation to support this constitution, and the constitution of the United States.

Sec. 5. The oath or affirmation shall be administered to the governor, lieutenant-governor, senators and representatives, by the secretary of state, or, in his absence, by the attorney-general. The secretary of state, attorney-general, and general treasurer shall be engaged by the governor, or by a justice of the supreme court.

Sec. 6. No person holding any office under the government of the United States, or of any other state or country, shall act as a general officer, or as a member of the general assembly, unless at the time of taking his engagement he shall have resigned his office under such government; and if any general officer, senator, representative, or judge shall, after his election and engagement, accept any appointment under any other government, his office under this shall be immediately vacated; but this restriction shall not apply to any person appointed to take depositions or acknowledgment of deeds, or other legal instruments, by the authority of any other state or country.

Article X

of the judicial power

Section 1. The judicial power of this state shall be vested in one supreme court, and in such inferior courts as the general assembly may, from time to time, ordain and establish.

Sec. 2. The several courts shall have such jurisdiction as may from time to time be prescribed by law. Chancery powers may be conferred on the supreme court, but on no other court to any greater extent than is now provided by law.

Sec. 3. The judges of the supreme court shall, in all trials, instruct the jury in the law. They shall also give their written opinion upon any question of law whenever requested by the governor, or by either house of the general assembly.

Sec. 4. The judges of the supreme court shall be elected by the two houses in grand committee. Each judge shall hold his office until his place be declared vacant by a resolution of the general assembly to that effect; which resolution shall be voted for by a majority of all the members elected to the house in which it may originate, and be concurred in by the same majority of the other house. Such resolution shall not be entertained at any other than the annual session for the election of public officers; and in default of the passage thereof at said session, the judge shall hold his place as is herein provided. But a judge of any court shall be removed from office if, upon impeachment, he shall be found guilty of any official misdemeanor.

Sec. 5. In case of vacancy by death, resignation, removal from the state or from office, refusal or inability to serve, of any judge of the supreme court, the office may be filled by the grand committee, until

the next annual election, and the judge then elected shall hold his office as before provided. In cases of impeachment or temporary absence, or inability, the governor may appoint a person to discharge the duties of the office during the vacancy caused thereby.

Sec. 6. The judges of the supreme court shall receive a compensation for their services, which shall not be diminished during their continuance in office.

Sec. 7. The towns of New Shoreham and Jamestown may continue to elect their wardens as heretofore. The other towns and the city of Providence may elect such number of justices of the peace, resident therein, as they may deem proper. The jurisdiction of said justices and wardens shall be regulated by law. The justices shall be commissioned by the governor.

Article XI

of impeachments

Section 1. The house of representatives shall have the sole power of impeachment. A vote of two thirds of all the members elected shall be required for an impeachment of the governor. Any officer impeached shall thereby be suspended from office until judgment in the case shall have been pronounced.

Sec. 2. All impeachments shall be tried by the senate; and when sitting for that purpose, they shall be under oath or affirmation. No person shall be convicted except by vote of two thirds of the members elected. When the governor is impeached, the chief or presiding justice of the supreme court, for the time being, shall preside, with a casting vote in all preliminary questions.

Sec. 3. The governor and all other executive and judicial officers shall be liable to impeachment; but judgment in such cases shall not extend further than to removal from office. The person convicted shall, nevertheless, be liable to indictment, trial, and punishment, according to law.

Article XII

of education

Section 1. The diffusion of knowledge, as well as of virtue, among the people, being essential to the preservation of their rights and liberties, it shall be the duty of the general assembly to promote public schools, and to adopt all means which they may deem necessary and proper to secure to the people the advantages and opportunities of education.

Sec. 2. The money which now is or which may hereafter be appropriated by law for the establishment of a permanent fund for the support of public schools, shall be securely invested, and remain a perpetual fund for that purpose.

Sec. 3. All donations for the support of public schools, or for other purposes of education, which may be received by the general assembly, shall be applied according to the terms prescribed by the donors.

Sec. 4. The general assembly shall make all necessary provisions by law for carrying this article into effect. They shall not divert

said money or fund from the aforesaid uses, nor borrow, appropriate, or use the same, or any part there of, for any other purpose, under any pretense whatsoever.

Article XIII

of amendments

The general assembly may propose amendments to this constitution by the votes of a majority of all the members elected to each house. Such propositions for amendment shall be published in the newspapers, and printed copies of them shall be sent by the secretary of state, with the names of all the members who shall have voted thereon, with the yeas and nays, to all the town and city clerks in the state. The said propositions shall be, by said clerks, inserted in the warrants or notices by them issued, for warning the next annual town and ward meetings in April; and the clerks shall read said propositions to the electors when thus assembled, with the names of all the representatives and senators who shall have voted thereon, with the yeas and nays, before the election of senators and representatives shall be had. If a majority of all the members elected to each house, at said annual meeting, shall approve any proposition thus made, the same shall be published and submitted to the electors in the mode provided in the act of approval; and if then approved by three fifths of the electors of the state present and voting thereon in town and ward meetings, it shall become a part of the constitution of the state.

Article XIV

of the adoption of this constitution

Section 1. This constitution, if adopted, shall go into operation on the first Tuesday of May, in the year one thousand eight hundred and forty-three. The first election of governor, lieutenant-governor, secretary of state, attorney-general and general treasurer, and of senators and representatives under said constitution, shall be had on the first Wednesday of April next preceding, by the electors qualified under said constitution. And the town and ward meetings therefor shall be warned and conducted as is now provided by law. All civil and military officers now elected, or who shall hereafter be elected, by the general assembly, or other competent authority before the said first Wednesday of April, shall hold their offices and may exercise their powers until the said first Tuesday of May, or until their successors shall be qualified to act. All statutes, public and private, not repugnant to this constitution, shall continue in force until they expire by their own limitation, or are repealed by the general assembly. All charters, contracts, judgments, actions and rights of action shall be as valid as if this constitution had not been made. The present government shall exercise all the powers with which it is now clothed, until the said first Tuesday of May, one thousand eight hundred and forty-three, and until the government under this constitution is duly organized.

Sec. 2. All debts contracted and engagements entered into, before the adoption of this constitution, shall be as valid against the state as if this constitution had not been adopted.

Sec. 3. The supreme court, established by this constitution, shall have the same jurisdiction as the supreme judicial court at present established, and shall have jurisdiction of all causes which may be appealed to, or pending in the same; and shall be held at the same times and places, and in each county, as the present supreme judicial court, until otherwise prescribed by the general assembly.

Sec. 4. The towns of New Shoreham and Jamestown shall continue to enjoy the exemptions from military duty which they now enjoy, until otherwise prescribed by law.

Done in convention, at East Greenwich, this fifth day of November, A. D., one thousand eight hundred and forty-two.

James Fenner, *President.*
Henry Y. Cranston, *Vice-Pres't.*

Thomas A. Jenckes,
Walter W. Updike,
Secretaries.

ARTICLES OF AMENDMENT

Article I

(Adopted November, 1854)

It shall not be necessary for the town or ward clerks to keep and transmit to the general assembly a list or register of all persons voting for general officers; but the general assembly shall have power to pass such laws on the subject as they may deem expedient.

Article II

The governor, by and with the advice and consent of the senate, shall hereafter exclusively exercise the pardoning power, except in cases of impeachment, to the same extent as such power is now exercised by the general assembly.

Article III

There shall be one session of the general assembly, holden annually, commencing on the last Tuesday in May, at Newport, and an adjournment from the same shall be holden annually at Providence.

Article IV

(Adopted August, 1864)

Electors in this state who, in time of war, are absent from the state, in the actual military service of the United States, being otherwise qualified, shall have a right to vote in all elections in the state for electors of president and vice-president of the United States, representatives in congress, and general officers of the state. The general assembly shall have full power to provide by law for carrying this article into effect; and until such provision shall be made by law, every such absent elector on the day of such elections, may deliver a

written or printed ballot, with the names of the persons voted for thereon, and his christian and surname, and his voting residence in the state, written at length on the back thereof, to the officer commanding the regiment or company to which he belongs; and all such ballots, certified by such commanding officer to have been given by the elector whose name is written thereon, and returned by such commanding officer to the secretary of state within the time prescribed by law for counting the votes in such elections, shall be received and counted with the same effect as if given by such elector in open town, ward, or district meeting; and the clerk of each town or city, until otherwise provided by law, shall, within five days after any such election, transmit to the secretary of state a certified list of the names of all such electors on their respective voting lists.

Article V

(Adopted April 7, 1886)

The manufacture and sale of intoxicating liquors to be used as a beverage shall be prohibited. The general assembly shall provide by law for carrying this article into effect.

Article VI

All soldiers and sailors of foreign birth, citizens of the United States, who served in the army or navy of the United States from this state in the late civil war, and who were honorably discharged from such service, shall have the right to vote on all questions in all legally organized town, district or ward meetings, upon the same conditions and under and subject to the same restrictions as native born citizens.

Article VII

(Adopted April 4, 1888)

Section 1. Every male citizen of the United States of the age of twenty-one years who has had his residence and home in this state for two years, and in the town or city in which he may offer to vote six months next preceding the time of his voting, and whose name shall be registered in the town or city where he resides on or before the last day of December, in the year next preceding the time of his voting, shall have a right to vote in the election of all civil officers and on all questions in all legally organized town or ward meetings: *Provided*, that no person shall at any time be allowed to vote in the election of the city council of any city, or upon any proposition to impose a tax, or for the expenditure of money in any town or city, unless he shall within the year next preceding have paid a tax assessed upon his property therein, valued at least at one hundred and thirty-four dollars.

Sec. 2. The assessors of each town and city shall annually assess upon every person, who, if registered, would be qualified to vote, a tax of $1, or such sum as with his other taxes shall amount to $1, which tax shall be paid into the treasury of such town or city and be

applied to the support of the public schools therein: *Provided*, that such tax assessed upon any person who has performed military duty shall be remitted for the year he shall perform such duty; and said tax asesssed upon any mariner for any year while he is at sea, or upon any person who by reason of extreme poverty is unable to pay said tax, shall upon application of such mariner or person be remitted. The general assembly shall have power to provide by law for the collection and remission of said tax.

SEC. 3. This amendment shall take in the constitution of the state, the place of sections 2 and 3 of article II, "Of the qualification of electors," which said sections are hereby annulled.

ARTICLE VIII

(Adopted June 20, 1889)

Article V of the amendments to the constitution of this state is hereby annulled.

ARTICLE IX

(Adopted November 8, 1892)

SECTION 1. Hereafter the general assembly may provide by general law for the creation and control of corporations: *Provided, however*, that no corporation shall be created with the power to exercise the right of eminent domain, or to acquire franchises in the streets and highways of towns and cities, except by special act of the general assembly upon a petition for the same, the pendency whereof shall be notified as may be required by law.

SEC. 2. This amendment shall take in the constitution of the state the place of section 17 of article IV, "Of the legislative power," and shall be deemed to be in amendment of said section and article.

ARTICLE X

(Adopted November 28, 1893)

SECTION 1. In all elections held by the people for state, city, town, ward, or district officers, the person or candidate receiving the largest number of votes cast shall be declared elected.

SEC. 2. This amendment shall take in the constitution of the state the place of section 10 of article VIII, "Of elections," which said section is hereby annulled.

ARTICLE XI

(Adopted November 6, 1900)

SECTION 1. There shall be a session of the general assembly at Providence commencing on the first Tuesday of January in each year. The senators and representatives shall severally receive the sum of five dollars, and the speaker of the house of representatives ten dollars, for every day of actual attendance, and eight cents per

mile for traveling expenses in going to and returning from the general assembly: *Provided*, that no compensation or mileage shall be allowed any senator or representative for more than sixty days attendance in any calendar year. The general assembly shall regulate the compensation of the governor and of all other officers, subject to the limitations contained in the constitution.

SEC. 2. The governor, lieutenant-governor, secretary of state, attorney-general, general treasurer, and senators and representatives in the general assembly shall be elected at town, ward, and district meetings on the Tuesday next after the first Monday in November annually, commencing A. D. 1901, and shall severally hold their offices for one year from the first Tuesday of January next succeeding their election, and until their successors are elected and qualified.

SEC. 3. When the governor elect shall die, remove from the state, refuse to serve, become insane, or be otherwise incapacitated, the lieutenant-governor elect shall be qualified as governor at the beginning of the term for which he was elected. When both the governor and lieutenant-governor elect, or either the lieutenant-governor, secretary of state, attorney-general, or general treasurer elect are so incapacitated, or when there has been a failure to elect any one or more of the officers mentioned in this section, the general assembly shall upon its organization meet in grand committee and elect some person or persons to fill the office or offices, as the case may be, for which such incapacity exists or as to which such failure to elect occurred. When the general assembly shall elect any of said officers because of the failure of any person to receive a plurality of the votes cast, the election in each case shall be made from the persons who received the same and largest number of votes.

SEC. 4. If the offices of governor and lieutenant-governor be both vacant, by reason of death or otherwise, they shall be filled by the general assembly in grand committee, and the acting governor shall, if the general assembly is not then in session, call a special session thereof for that purpose within twenty days after both of said offices become vacant if a stated session is not sooner to occur.

SEC. 5. In case of a vacancy in the office of secretary of state, attorney-general, or general treasurer from any cause, the general assembly in grand committee shall elect some person to fill the same: *Provided*, that if such vacancy occurs when the general assembly is not in session the governor shall appoint some person to fill such vacancy until a successor elected by the general assembly is qualified to act.

SEC. 6. When a senator or representative elect shall die, remove from the state, refuse to serve, become insane, or be otherwise incapacitated, or when at an election for any senator or representative no person shall receive a plurality of the votes cast, a new election shall be held. A vacancy in the senate or house of representatives shall be filled at a new election. The general assembly shall provide by general law for the holding of such elections at such times as to insure that each town and city shall be fully represented in the general assembly during the whole of every session thereof so far as is practicable. Every person elected in accordance with this section shall hold his office for the remainder of the term or for the full term, as the case may be, of the office which he is elected to fill, and until his successor is elected and qualified.

SEC. 7. In elections by the general assembly in grand committee the person receiving a majority of the votes shall be elected. Every person elected by the general assembly to fill a vacancy, or pursuant to section 3 of this article, shall hold his office for the remainder of the term or for the full term, as the case may be, and until his successor is elected and qualified.

SEC. 8. A quorum of the grand committee shall consist of a majority of all the members of the senate and a majority of all the members of the house of representatives duly assembled pursuant to an invitation from one of said bodies which has been accepted by the other, and the acceptance of which has been communicated by message to the body in which such invitation originated, and each house shall be attended by its secretaries and clerks. No act or business of any kind shall be done in grand committee other than that which is distinctly specified in the invitation by virtue of which such grand committee is assembled, except to take a recess or to dissolve: *Provided*, that the grand committee may appoint a sub-committee of its own members to count any ballots delivered to it and report the result of such count.

SEC. 9. The governor, lieutenant-governor, secretary of state, attorney-general, general treasurer, and senators and representatives in the general assembly in office when this amendment goes into effect shall continue to hold their offices, with the powers and duties and subject to the limitations prescribed therein for like officers, until the first Tuesday in January, A. D. 1902, and until their successors are elected and qualified. Vacancies in their number from any cause shall be filled in the manner which is prescribed by law at the time of their occurrence. All officers who by the provisions of this amendment are continued in office beyond the stated time for which they were elected or appointed shall receive a pro rata compensation for their increased term of service, based upon the compensation provided for in this amendment or by law.

SEC. 10. The first election of officers named in the next preceding section under this amendment shall be held upon the Tuesday next after the first Monday in November, A. D. 1901. The town, ward, and district meetings therefor shall be warned and conducted, and the result thereof determined, authenticated, and declared, in the manner at that time prescribed by law, and the persons then elected shall hold their offices from the said first Tuesday in January, A. D. 1902, and thereafter until their successors are elected and qualified.

SEC. 11. The general assembly shall provide by law for the registration necessary to qualify persons to vote at said first election, which registration shall close on the last day of June, A. D. 1901, and after the adoption of this amendment no person of whom registration is or may be required by law shall be permitted to vote unless his name shall have been registered in the town or city where he resides on or before the last day of June next preceding the time of his voting. For all elections by the people held before said Tuesday next after the first Monday in November, A. D. 1901, the qualifications of the electors shall be such as were required by the constitution and laws existing at the time of the adoption of this amendment.

SEC. 12. This amendment shall take in the constitution of the state the place of sections 1, 2, 3, 4, 5, 6, 7, 8, and 9 of article VIII, "Of elections;" and of section 11 of article IV, "Of the legislative

power;" and of article III of the amendments to the constitution; which said article and sections, and all other provisions of the constitution inconsistent herewith, are hereby annulled.

Article XII

(Adopted November 3, 1903)

Section 1. The supreme court shall have final revisory and appellate jurisdiction upon all questions of law and equity. It shall have power to issue prerogative writs, and shall also have such other jurisdiction as may, from time to time, be prescribed by law. A majority of its judges shall always be necessary to constitute a quorum. The inferior courts shall have such jurisdiction as may, from time to time, be prescribed by law.

Sec. 2. The judges of the supreme court shall give their written opinion upon any question of law whenever requested by the governor or by either house of the general assembly.

Sec. 3. Sections 1 and 2 of this amendment shall take, in the constitution of the state, the place of sections 2 and 3 of article X, entitled "Of the judicial power," which sections are hereby annulled.

Sec. 4. Section 3 of article XIV of the constitution of the state, entitled "Of the adoption of this constitution," is hereby annulled.

Sec. 5. The general assembly shall provide by law for carrying this amendment into effect, and until such provision shall be made, the supreme court, as organized at the time of the adoption of this amendment, shall continue to have and exercise the same powers and jurisdictions which it shall then have under such organization.

SAMOA

(*See* Tutuila, page 3675.)

SOUTH CAROLINA

For organic acts relating to the lands now included within South Carolina see in other parts of this work:

Charter to Raleigh, 1584 (p. 53).
Charter of Virginia, 1606 (Virginia, p. 3783).
Charter of Virginia, 1609 (Virginia, p. 3790).
Charter of Virginia, 1612 (Virginia, p. 3802).
Ordinances for Virginia, 1621 (Virginia, p. 3810).

CONSTITUTION OF SOUTH CAROLINA—1776 *[a]

Whereas the British Parliament, claiming of late years a right to bind the North American colonies by law in all cases whatsoever, have enacted statutes for raising a revenue in those colonies and disposing of such revenue as they thought proper, without the consent and against the will of the colonists. And whereas it appearing to them that (they not being represented in Parliament) such claim was altogether unconstitutional, and, if admitted, would at once reduce them from the rank of freemen to a state of the most abject slavery; the said colonies, therefore, severally remonstrated against the passing, and petitioned for the repeal, of those acts, but in vain; and whereas the said claim being persisted in, other unconstitutional and oppressive statutes have been since enacted by which the powers of admiralty courts in the colonies are extended beyond their ancient limits, and jurisdiction is given to such courts in cases similar to those which in Great Britain are triable by jury; persons are liable to be sent to and tried in Great Britain for an offence created and made capital by one of those statutes, though committed in the colonies; the harbor of Boston was blocked up; people indicted for murder in the Massachusetts Bay may, at the will of a governor, be sent for trial to any other colony, or even to Great Britain; the chartered constitution of government in that colony is materially altered; the English laws and a free government, to which the inhabitants of Quebec were entitled by the King's royal proclamation, are abolished and French laws are restored; the Roman Catholic religion (although before tolerated and freely exercised there) and an absolute government are established in that province, and its limits extended through a vast tract of country so as to border on the free Protestant English settlements, with design of using a whole people

* Verified by—"Constitution" in "The Statutes at Large of South Carolina, Edited by Thomas Cooper, M. D.; LL. D. Vol. I. Columbia, S. C. 1836" pp. 128–134.

[a] This constitution was framed by the "Provincial Congress" of South Carolina, and adopted March 26, 1776. It was not submitted to the people for ratification.

differing in religious principles from the neighboring colonies, and subject to arbitrary power, as fit instruments to overawe and subdue the colonies. And whereas the delegates of all the colonies on this continent, from Nova Scotia to Georgia, assembled in a general Congress at Philadelphia, in the most dutiful manner laid their complaints at the foot of the throne, and humbly implored their sovereign that his royal authority and interposition might be used for their relief from the grievances occasioned by those statutes, and assured His Majesty that harmony between Great Britain and America, ardently desired by the latter, would be thereby immediately restored, and that the colonists confided in the magnanimity and justice of the King and Parliament for redress of the many other grievances under which they labored. And whereas these complaints being wholly disregarded, statutes still more cruel than those above mentioned have been enacted, prohibiting the intercourse of the colonies with each other, restricting their trade, and depriving many thousands of people of the means of subsistence, by restraining them from fishing on the American coast. And whereas large fleets and armies having been sent to America in order to enforce the execution of those laws, and to compel an absolute and implicit submission to the will of a corrupt and despotic administration, and in consequence thereof, hostilities having been commenced in the Massachusetts Bay, by the troops under command of General Gage, whereby a number of peaceable, helpless, and unarmed people were wantonly robbed and murdered, and there being just reason to apprehend that like hostilities would be committed in all the other colonies. The colonists were therefore driven to the necessity of taking up arms, to repel force by force, and to defend themselves and their properties against lawless invasions and depredations. Nevertheless, the delegates of the said colonies assembled in another Congress at Philadelphia, anxious to procure a reconciliation with Great Britain upon just and constitutional principles, supplicated His Majesty to direct some mode by which the united applications of his faithful colonists might be improved into a happy and permanent reconciliation, that in the mean time measures might be taken for preventing the further destruction of their lives, and that such statutes as immediately distressed any of the colonists might be repealed. And whereas, instead of obtaining that justice, to which the colonists were and are of right entitled, the unnatural civil war into which they were thus precipitated and are involved, hath been prosecuted with unremitted violence, and the governors and others bearing the royal commission in the colonies having broken the most solemn promises and engagements, and violated every obligation of honor, justice, and humanity, have caused the persons of divers good people to be seized and imprisoned, and their properties to be forcibly taken and detained, or destroyed, without any crime or forfeiture; excited domestic insurrections; proclaimed freedom to servants and slaves, enticed or stolen them from, and armed them against their masters; instigated and encouraged the Indian nations to war against the colonies; dispensed with the law of the land, and substituted the law martial in its stead; killed many of the colonists; burned several towns, and threatened to burn the rest, and daily endeavor by a conduct which has sullied the British arms, and would disgrace even savage nations, to effect the ruin and destruction of the colonies; and whereas a

statute hath been lately passed, whereby, under pretence that the said colonies are in open rebellion, all trade and commerce whatsoever with them is prohibited; vessels belonging to their inhabitants trading in, to, or from the said colonies, with the cargoes and effects on board such vessels, are made lawful prize, and the masters and crews of such vessels are subjected by force to act on board the King's ships against their country and dearest friends; and all seizures and detention or destruction of the persons and properties of the colonists which have at any time been made or committed for withstanding or suppressing the said pretended rebellion, and which shall be made in pursuance of the said act, or for the service of the public, are justified, and persons suing for damages in such cases are, on failing in their suits, subjected to payment of very heavy expenses. And whereas large reënforcements of troops and ships have been ordered and are daily expected in America for carrying on war against each of the united colonies by the most vigorous exertions. And whereas in consequence of a plan recommended by the governors, and which seems to have been concerted between them and their ministerial masters to withdraw the usual officers and thereby loosen the bands of government and create anarchy and confusion in the colonies, Lord William Campbell, late governor, on the fifteenth day of September last, dissolved the general assembly of this colony, and no other hath been since called, although by law the sitting and holding of general assemblies cannot be intermitted above six months, and having used his utmost efforts to destroy the lives, liberties, and properties of the good people here, whom by the duty of his station he was bound to protect, withdrew himself from the colony and carried off the great seal and the royal instructions to governors. And whereas the judges of courts of law here have refused to exercise their respective functions, so that it is become indispensably necessary that during the present situation of American affairs, and until an accommodation of the unhappy differences between Great Britain and America can be obtained, (an event which, though traduced and treated as rebels, we still earnestly desire,) some mode should be established by common consent, and for the good of the people, the origin and end of all governments, for regulating the internal polity of this colony. The congress being vested with powers competent for the purpose, and having fully deliberated touching the premises, do therefore resolve:

I. That this congress being a full and free representation of the people of this colony, shall henceforth be deemed and called the general assembly of South Carolina, and as such shall continue until the twenty-first day of October next, and no longer.

II. That the general assembly shall, out of their own body, elect by ballot a legislative council, to consist of thirteen members, (seven of whom shall be a quorum,) and to continue for the same time as the general assembly.

III. That the general assembly and the said legislative council shall jointly choose by ballot from among themselves, or from the people at large, a president and commander-in-chief and a vice-president of the colony.

IV. That a member of the general assembly being chosen and acting as president and commander-in-chief, or vice-president, or one of the legislative council shall vacate his seat in the general assembly and

another person shall be elected in his room; and if one of the legislative council is chosen president and commander-in-chief or vice-president, he shall lose his seat and another person shall be elected in his stead.

V. That there be a privy council, whereof the vice-president of the colony shall of course be a member and president of the privy council, and that six other members be chosen by ballot, three by the general assembly, and three by the legislative council: *Provided always*, That no officer in the army or navy in the service of the continent, or of this colony, shall be eligible. And a member of the general assembly, or of the legislative council, being chosen of the privy council, shall not thereby lose his seat in the general assembly, or in the legislative council, unless he be elected vice-president of the colony, in which case he shall, and another person shall be chosen in his stead. The privy council (of which four to be a quorum) to advise the president and commander-in-chief when required, but he shall not be bound to consult them, unless in cases after mentioned.

VI. That the qualifications of president and commander-in-chief, and vice-president of the colony, and members of the legislative and privy council, shall be the same as of members of the general assembly, and on being elected they shall take an oath of qualification in the general assembly.

VII. That the legislative authority be vested in the president and commander-in-chief, the general assembly and legislative council. All money-bills for the support of government shall originate in the general assembly, and shall not be altered or amended by the legislative council, but may be rejected by them. All other bills and ordinances may take rise in the general assembly or legislative council, and may be altered, amended, or rejected by either. Bills having passed the general assembly and legislative council may be assented to or rejected by the president and commander-in-chief. Having received his assent, they shall have all the force and validity of an act of general assembly of this colony. And the general assembly and legislative council, respectively, shall enjoy all other privileges which have at any time been claimed or exercised by the commons house of assembly, but the legislative council shall have no power of expelling their own members.

VIII. That the general assembly and legislative council may adjourn themselves respectively, and the president and commander-in-chief shall have no power to adjourn, prorogue, or dissolve them, but may, if necessary, call them before the time to which they shall stand adjourned. And where a bill has been rejected, it may, on a meeting after adjournment of not less than three days of the general assembly and legislative council, be brought in again.

IX. That the general assembly and legislative council shall each choose their respective speakers and their own officers without control.

X. That if a member of the general assembly or of the legislative council shall accept any place of emolument or any commission except in the militia, he shall vacate his seat, and there shall thereupon be a new election, but he shall not be disqualified from serving upon being reëlected.

XI. That on the last Monday in October next, and the day following, and on the same days of every second year thereafter, members

of the general assembly shall be chosen, to meet on the first Monday in December then next, and continue for two years from the said last Monday in October. The general assembly to consist of the same number of members as this congress does, each parish and district having the same representation as at present, viz: the parish of Saint Philip and Saint Michael, Charlestown, thirty members; the parish of Christ Church, six members; the parish of Saint John, in Berkely County, six members; the parish of Saint Andrew, six members; the parish of Saint George Dorchester, six members; the parish of Saint James Goose Creek, six members; the parish of Saint Thomas and Saint Dennis, six members; the parish of Saint Paul, six members; the parish of Saint Bartholemew, six members; the parish of Saint Helena, six members; the parish of Saint James Santee, six members; the parish of Prince George, Winyaw, six members; the parish of Prince Frederick, six members; the parish of Saint John, in Colleton County, six members; the parish of Saint Peter, six members; the parish of Prince William, six members; the parish of Saint Stephen, six members; the district to the eastward of Wateree River, ten members; the district of Ninety-six, ten members; the district of Saxe Gotha, six members; the district between Broad and Saluda Rivers, in three divisions, viz: the Lower district, four members; the Little River district, four members; the Upper or Spartan district, four members; the district between Broad and Catawba Rivers, ten members; the district called the New Acquisition, ten members; the parish of Saint Mathew, six members; the parish of Saint David, six members; the district between Savannah River and the North Fork of Edisto, six members. And the election of the said members shall be conducted as near as may be agreeable to the directions of the election act, and where there are no churches or church wardens in a district or parish, the general assembly, at some convenient time before their expiration, shall appoint places of election and persons to receive votes and make returns. The qualifications of electors shall be the same as required by law, but persons having property, which, according to the rate of the last preceding tax, is taxable at the sums mentioned in the election act, shall be entitled to vote, though it was no actually taxed, having the other qualifications mentioned in that act; electors shall take an oath of qualification, if required by the returning-officer. The qualification of the elected to be the same as mentioned in the election act, and construed to mean clear of debt.

XII. That if any parish or district neglects or refuses to elect members, or if the members chosen do not meet in general assembly, those who do meet shall have the powers of a general assembly; not less than forty-nine members shall make a house to do business, but the speaker or any seven members may adjourn from day to day.

XIII. That as soon as may be, after the first meeting of the general assembly, a president and commander-in-chief, a vice-president of the colony and privy council, shall be chosen in manner and for the time above mentioned, and till such choice be made the former president and commander-in-chief and vice-president of the colony and privy council shall continue to act as such.

XIV. That in case of the death of the president and commander-in-chief, or his absence from the colony, the vice-president of the colony shall succeed to his office, and the privy council shall choose

out of their own body a vice-president of the colony, and in case of the death of the vice-president of the colony, or his absence from the colony, one of the privy council (to be chosen by themselves) shall succeed to his office, until a nomination to those offices, respectively, by the general assembly and legislative council for the remainder of the time for which the officer so dying or being absent was appointed.

XV. That the delegates of this colony in the Continental Congress be chosen by the general assembly and legislative council jointly by ballot in the general assembly.

XVI. That the vice-president of the colony and the privy council, or the vice-president and a majority of the privy council for the time being, shall exercise the powers of a court of chancery, and there shall be an ordinary who shall exercise the powers heretofore exercised by that officer in this colony.

XVII. That the jurisdiction of the court of admiralty be confined to maritime causes.

XVIII. That all suits and process depending in any court of law or equity may, if either party shall be so inclined, be proceeded in and continued to a final ending, without being obliged to commence *de novo*. And the judges of the courts of law shall cause jury-lists to be made, and juries to be summoned, as near as may be, according to the directions of the acts of the general assembly in such cases provided.

XIX. That justices of the peace shall be nominated by the general assembly and commissioned by the president and commander-in-chief, during pleasure. They shall not be entitled to fees except on prosecutions for felony, and not acting in the magistracy, they shall not be entitled to the privileges allowed to them by law.

XX. That all other judicial officers shall be chosen by ballot, jointly by the general assembly and legislative council, and except the judges of the court of chancery, commissioned by the president and commander-in-chief, during good behavior, but shall be removed on address of the general assembly and legislative council.

XXI. That sheriffs, qualified as by law directed, shall be chosen in like manner by the general assembly and legislative council, and commissioned by the president and commander-in-chief, for two years only.

XXII. That the commissioners of the treasury, the secretary of the colony, register of mesne conveyances, attorney-general, and powder-receiver, be chosen by the general assembly and legislative council, jointly by ballot, and commissioned by the president and commander-in-chief during good behavior, but shall be removed on address of the general assembly and legislative council.

XXIII. That all field-officers in the army, and all captains in the navy, shall be, by the general assembly and legislative council, chosen jointly by ballot, and commissioned by the president and commander-in-chief, and that all other officers in the army or navy shall be commissioned by the president and commander-in-chief.

XXIV. That in case of vacancy in any of the offices above directed to be filled by the general assembly and legislative council, the president and commander-in-chief, with the advice and consent of the privy council, may appoint others in their stead, until there shall be an election by the general assembly and legislative council to fill their vacancies respectively.

XXV. That the president and commander-in-chief, with the advice and consent of the privy council, may appoint during pleasure, until otherwise directed by resolution of the general assembly and legislative council, all other necessary officers, except such as are by law directed to be otherwise chosen.

XXVI. That the president and commander-in-chief shall have no power to make war or peace, or enter into any final treaty, without the consent of the general assembly and legislative council.

XXVII. That if any parish or district shall neglect to elect a member or members on the day of election, or in case any person chosen a member of the general assembly shall refuse to qualify and take his seat as such, or die or depart the colony, the said general assembly shall appoint proper days for electing a member or members of the said general assembly in such cases respectively; and on the death of a member of the legislative or privy council, another member shall be chosen in his room, in manner above mentioned, for the election of members of the legislative and privy council respectively.

XXVIII. That the resolutions of the Continental Congress, now of force in this colony, shall so continue until altered or revoked by them.

XXIX. That the resolutions of this or any former congress of this colony, and all laws now of force here, (and not hereby altered,) shall so continue until altered or repealed by the legislature of this colony, unless where they are temporary, in which case they shall expire at the times respectively limited for their duration.

XXX. That the executive authority be vested in the president and commander-in-chief, limited and restrained as aforesaid.

XXXI. That the president and commander-in-chief, the vice-president of the colony, and privy council, respectively, shall have the same personal privileges as are allowed by act of assembly to the governor, lieutenant-governor, and privy council.

XXXII. That all persons now in office shall hold their commissions until there shall be a new appointment in manner above directed, at which time all commissions not derived from authority of the congress of this colony shall cease and be void

XXXIII. That all persons who shall be chosen and appointed to any office or to any place of trust, before entering upon the execution of office, shall take the following oath: "I, A. B., do swear that I will, to the utmost of my power, support, maintain, and defend the constitution of South Carolina, as established by Congress on the twenty-sixth day of March, one thousand seven hundred and seventy-six, until an accommodation of the differences between Great Britain and America shall take place, or I shall be released from this oath by the legislative authority of the said colony: So help me God." And all such persons shall also take an oath of office.

XXXIV. That the following yearly salaries be allowed to the public officers undermentioned: The president and commander-in-chief, nine thousand pounds; the chief justice and the assistant judges, the salaries, respectively, as by act of assembly established: the attorney-general, two thousand one hundred pounds, in lieu of all charges against the public for fees upon criminal prosecutions; the ordinary, one thousand pounds; the three commissioners of the treasury, two thousand pounds each; and all other public officers shall have the

same salaries as are allowed such officers, respectively, by act of assembly.

By order of the congress, March 26, 1776.

WILLIAM HENRY DRAYTON, *President.*

Attested:

PETER TIMOTHY, *Secretary.*

CONSTITUTION OF SOUTH CAROLINA—1778 * [a]

An Act for establishing the constitution of the State of South Carolina.

Whereas the constitution or form of government agreed to and resolved upon by the freemen of this country, met in congress, the twenty-sixth day of March, one thousand seven hundred and seventy-six, was temporary only, and suited to the situation of their public affairs at that period, looking forward to an accommodation with Great Britain, an event then desired; and whereas the United Colonies of America have been since constituted independent States, and the political connection heretofore subsisting between them and Great Britain entirely dissolved by the declaration of the honorable the Continental Congress, dated the fourth day of July, one thousand seven hundred and seventy-six, for the many great and weighty reasons therein particularly set forth: It therefore becomes absolutely necessary to frame a constitution suitable to that great event.

Be it therefore constituted and enacted, by his excellency Rawlins Lowndes, esq., president and commander-in-chief in and over the State of South Carolina, by the honorable the legislative council and general assembly, and by the authority of the same:

That the following articles, agreed upon by the freemen of this State, now met in general assembly, be deemed and held the constitution and form of government of the said State, unless altered by the legislative authority thereof, which constitution or form of government shall immediately take place and be in force from the passing of this act, excepting such parts as are hereafter mentioned and specified.

I. That the style of this country be hereafter the State of South Carolina.

II. That the legislative authority be vested in a general assembly, to consist of two distinct bodies, a senate and house of representatives, but that the legislature of this State, as established by the constitution or form of government passed the twenty-sixth of March, one thousand and seven hundred and seventy-six, shall continue and be in full force until the twenty-ninth day of November ensuing.

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* Verified by "A Collection of the Constitutions of the Thirteen United States of North America, Published by order of Congress. Philadelphia Printed: Glasgow Reprinted, John Bryce, 1783."

Also from Cooper's Statute of South Carolina, Vol. I, pp. 137–146.

[a] This constitution was framed by the general assembly of South Carolina, by which it was passed as an "act" March 19, 1778, although it did not go into effect until November, 1778. It was soon afterwards declared by the supreme court of South Carolina that both the constitution of 1776 and the constitution of 1778 were simply acts of the general assembly, which that body could repeal or amend at pleasure.

III. That as soon as may be after the first meeting of the senate and house of representatives, and at every first meeting of the senate and house of representatives thereafter, to be elected by virtue of this constitution, they shall jointly in the house of representatives choose by ballot from among themselves or from the people at large a governor and commander-in-chief, a lieutenant-governor, both to continue for two years, and a privy council, all of the Protestant religion, and till such choice shall be made the former president or governor and commander-in-chief, and vice-president or lieutenant-governor, as the case may be, and privy council, shall continue to act as such.

IV. That a member of the senate or house of representatives, being chosen and acting as governor and commander-in-chief or lieutenant-governor, shall vacate his seat, and another person shall be elected in his room.

V. That every person who shall be elected governor and commander-in-chief of the State, or lieutenant-governor, or a member of the privy council, shall be qualified as forthwith; that is to say, the governor and lieutenant-governor shall have been residents in this State for ten years, and the members of the privy council five years, preceding their said election, and shall have in this State a settled plantation or freehold in their and each of their own right of the value of at least ten thousand pounds currency, clear of debt, and on being elected they shall respectively take an oath of qualification in the house of representatives.

VI. That no future governor and commander-in-chief who shall serve for two years shall be eligible to serve in the said office after the expiration of the said term until the full end and term of four years.

VII. That no person in this State shall hold the office of governor thereof, or lieutenant-governor, and any other office or commission, civil or military, (except in the militia,) either in this or any other State, or under the authority of the Continental Congress, at one and the same time.

VIII. That in case of the impeachment of the governor and commander-in-chief, or his removal from office, death, resignation, or absence from the State, the lieutenant-governor shall succeed to his office, and the privy council shall choose out of their own body a lieutenant-governor of the State. And in case of the impeachment of the lieutenant-governor, or his removal from office, death, resignation, or absence from the State, one of the privy council, to be chosen by themselves, shall succeed to his office until a nomination to those offices respectively, by the senate and house of representatives, for the remainder of the time for which the officer so impeached, removed from office, dying, resigning, or being absent was appointed.

IX. That the privy council shall consist of the lieutenant-governor for the time being, and eight other members, five of whom shall be a quorum, to be chosen as before directed; four to serve for two years, and four for one year, and at the expiration of one year four others shall be chosen in the room of the last four, to serve for two years, and all future members of the privy council shall thenceforward be elected to serve two years, whereby there will be a new election every year for half the privy council, and a constant rotation established; but no member of the privy council who shall serve for two years

shall be eligible to serve therein after the expiration of the said term until the full end and term of four years: *Provided always*, That no officer of the army or navy in the service of the continent or this State, nor judge of any of the courts of law, shall be eligible, nor shall the father, son, or brother to the governor for the time being be elected in the privy council during his administration. A member of the senate and house of representatives being chosen of the privy council, shall not thereby lose his seat in the senate or house of representatives, unless he be elected lieutenant-governor, in which case he shall, and another person shall be chosen in his stead. The privy council is to advise the governor and commander-in-chief when required, but he shall not be bound to consult them unless directed by law. If a member of the privy council shall die or depart this State during the recess of the general assembly, the privy council shall choose another to act in his room, until a nomination by the senate and house of representatives shall take place. The clerk of the privy council shall keep a regular journal of all their proceedings, in which shall be entered the yeas and nays on every question, and the opinion, with the reasons at large, of any member who desires it; which journal shall be laid before the legislature when required by either house.

X. That in case of the absence from the seat of government or sickness of the governor and lieutenant-governor, any one of the privy council may be empowered by the governor, under his hand and seal, to act in his room, but such appointment shall not vacate his seat in the senate, house of representatives, or privy council.

XI. That the executive authority be vested in the governor and commander-in-chief, in manner herein mentioned.

XII. That each parish and district throughout this State shall on the last Monday in November next and the day following, and on the same days of every succeeding year thereafter, elect by ballot one member of the senate, except the district of Saint Philip and Saint Michael's parishes, Charleston, which shall elect two members; and except also the district between Broad and Saluda Rivers, in three divisions, viz: the Lower district, the Little River district, and the Upper or Spartan district, each of which said divisions shall elect one member; and except the parishes of Saint Matthew and Orange, which shall elect one member; and also except the parishes of Prince George and All Saints, which shall elect one member; and the election of senators for such parishes, respectively, shall, until otherwise altered by the legislature, be at the parish of Prince George for the said parish and the parish of All Saints, and at the parish of Saint Matthew for that parish and the parish of Orange; to meet on the first Monday in January then next, at the seat of government, unless the casualties of war or contagious disorders should render it unsafe to meet there, in which case the governor and commander-in-chief for the time being may, by proclamation, with the advice and consent of the privy council, appoint a more secure and convenient place of meeting; and to continue for two years from the said last Monday in November; and that no person shall be eligible to a seat in the said senate unless he be of the Protestant religion, and hath attained the age of thirty years, and hath been a resident in this State at least five years. Not less than thirteen members shall be a quorum to do business, but the president or any three members may adjourn from day

to day. No person who resides in the parish or district for which he is elected shall take his seat in the senate, unless he possess a settled estate and freehold in his own right in the said parish or district of the value of two thousand pounds currency at least, clear of debt; and no non-resident shall be eligible to a seat in the said senate unless he is owner of a settled estate and freehold in his own right, in the parish or district where he is elected, of the value of seven thousand pounds currency at least, also clear of debt.

XIII. That on the last Monday in November next and the day following, and on the same days of every second year thereafter, members of the house of representatives shall be chosen, to meet on the first Monday in January then next, at the seat of government, unless the casualties of war or contagious disorders should render it unsafe to meet there, in which case the governor and commander-in-chief for the time being may, by proclamation, with the advice and consent of the privy council, appoint a more secure and convenient place of meeting, and to continue for two years from the said last Monday in November. Each parish and district within this State shall send members to the general assembly in the following proportions; that is to say, the parish of Saint Philip and Saint Michael's, Charleston, thirty members; the parish of Christ Church, six members; the parish of Saint John's, in Berkely County, six members; the parish of Saint Andrew, six members; the parish of Saint George, Dorchester, six members; the parish of Saint James, Goose Creek, six members; the parish of Saint Thomas and Saint Dennis, six members; the parish of Saint Paul, six members; the parish of Saint Bartholomew, six members; the parish of Saint Helena, six members; the parish of Saint James, Santee, six members; the parish of Prince George, Winyaw, four members; the parish of All Saints, two members; the parish of Prince Frederick, six members; the parish of Saint John, in Colleton County, six members; the parish of Saint Peter, six members; the parish of Prince William, six members; the parish of Saint Stephen, six members; the district to the eastward of Wateree River, ten members; the district of Ninety-six, ten members; the district of Saxe Gotha, six members; the district between Broad and Saluda Rivers, in three divisions, viz: the lower district, four members; the Little River district, four members; the Upper or Spartan district, four members; the district between Broad and Catawba Rivers, ten members; the district called the New Acquisition, ten members; the parish of Saint Matthew, three members; the parish of Orange, three members; the parish of Saint David, six members; the district between the Savannah River and the North Fork of Edisto, six members. And the election of the said members shall be conducted as near as may be agreeable to the directions of the present or any future election act or acts, and where there are no churches or church-wardens in a district or parish, the house of representatives, at some convenient time before their expiration, shall appoint places of election and persons to receive votes and make returns. The qualification of electors shall be that every free white man, and no other person, who acknowledges the being of a God, and believes in a future state of rewards and punishments, and who has attained to the age of one and twenty years, and hath been a resident and an inhabitant in this State for the space of one whole year before

the day appointed for the election he offers to give his vote at, and hath a freehold at least of fifty acres of land, or a town lot, and hath been legally seized and possessed of the same at least six months previous to such election, or hath paid a tax the preceding year, or was taxable the present year, at least six months previous to the said election, in a sum equal to the tax on fifty acres of land, to the support of this government, shall be deemed a person qualified to vote for, and shall be capable of electing, a representative or representatives to serve as a member or members in the senate and house of representatives, for the parish or district where he actually is a resident, or in any other parish or district in this State where he hath the like freehold. Electors shall take an oath or affirmation of qualification, if required by the returning officer. No person shall be eligible to sit in the house of representatives unless he be of the Protestant religion, and hath been a resident in this State for three years previous to his election. The qualification of the elected, if residents in the parish or district for which they shall be returned, shall be the same as mentioned in the election act, and construed to mean clear of debt. But no non-resident shall be eligible to a seat in the house of representatives unless he is owner of a settled estate and freehold in his own right of the value of three thousand and five hundred pounds currency at least, clear of debt, in the parish or district for which he is elected.

XIV. That if any parish or district neglects or refuses to elect members, or if the members chosen do not meet in general assembly, those who do meet shall have the powers of the general assembly. Not less than sixty-nine members shall make a house of representatives to do business, but the speaker or any seven members may adjourn from day to day.

XV. That at the expiration of seven years after the passing of this constitution, and at the end of every fourteen years thereafter, the representation of the whole State shall be proportioned in the most equal and just manner according to the particular and comparative strength and taxable property of the different parts of the same, regard being always had to the number of white inhabitants and such taxable property.

XVI. That all money bills for the support of government shall originate in the house of representatives, and shall not be altered or amended by the senate, but may be rejected by them, and that no money be drawn out of the public treasury but by the legislative authority of the State. All other bills and ordinances may take rise in the senate or house of representatives, and be altered, amended, or rejected by either. Acts and ordinances having passed the general assembly shall have the great seal affixed to them by a joint committee of both houses, who shall wait upon the governor to receive and return the seal, and shall then be signed by the president of the senate and speaker of the house of representatives, in the senate-house, and shall thenceforth have all the force and validity of a law, and be lodged in the secretary's office. And the senate and house of representatives, respectively, shall enjoy all other privileges which have at any time been claimed or exercised by the commons house of assembly.

XVII. That neither the senate nor house of representatives shall have power to adjourn themselves for any longer time than three days,

without the mutual consent of both. The governor and commander-in-chief shall have no power to adjourn, prorogue, or dissolve them, but may, if necessary, by and with the advice and consent of the privy council, convene them before the time to which they shall stand adjourned. And where a bill hath been rejected by either house, it shall not be brought in again that session, without leave of the house, and a notice of six days being previously given.

XVIII. That the senate and house of representatives shall each choose their respective officers by ballot, without control, and that during a recess the president of the senate and speaker of the house of representatives shall issue writs for filling up vacancies occasioned by death in their respective houses, giving at least three weeks and not more than thirty-five days' previous notice of the time appointed for the election.

XIX. That if any parish or district shall neglect to elect a member or members on the day of election, or in case any person chosen a member of either house shall refuse to qualify and take his seat as such, or die, or depart the State, the senate or house of representatives, as the case may be, shall appoint proper days for electing a member or members in such cases respectively.

XX. That if any member of the senate or house of representatives shall accept any place of emolument, or any commission, (except in the militia or commission of the peace, and except as is excepted in the tenth article,) he shall vacate his seat, and there shall thereupon be a new election; but he shall not be disqualified from serving upon being reëlected, unless he is appointed secretary of the State, a commissioner of the treasury, an officer of the customs, register of mesne conveyances, a clerk of either of the courts of justice, sheriff, powder-reviewer, clerk of the senate, house of representatives, or privy council, surveyor-general, or commissary of military stores, which officers are hereby declared disqualified from being members either of the senate or house of representatives.

XXI. And whereas the ministers of the gospel are by their profession dedicated to the service of God and the cure of souls, and ought not to be diverted from the great duties of their function, therefore no minister of the gospel or public preacher of any religious persuasion, while he continues in the exercise of his pastoral function, and for two years after, shall be eligible either as governor, lieutenant-governor, a member of the senate, house of representatives, or privy council in this State.

XXII. That the delegates to represent this State in the Congress of the United States be chosen annually by the senate and house of representatives jointly, by ballot, in the house of representatives, and nothing contained in this constitution shall be construed to extend to vacate the seat of any member who is or may be a delegate from this State to Congress as such.

XXIII. That the form of impeaching all officers of the State for mal and corrupt conduct in their respective offices, not amenable to any other jurisdiction, be vested in the house of representatives. But that it shall always be necessary that two-third parts of the members present do consent to and agree in such impeachment. That the senators and such of the judges of this State as are not members of the house of representatives, be a court for the trial of impeachments.

under such regulations as the legislature shall establish, and that previous to the trial of every impeachment, the members of the said court shall respectively be sworn truly and impartially to try and determine the charge in question according to evidence, and no judgment of the said court, except judgment of acquittal, shall be valid, unless it shall be assented to by two-third parts of the members then present, and on every trial, as well on impeachments as others, the party accused shall be allowed counsel.

XXIV. That the lieutenant-governor of the State and a majority of the privy council for the time being shall, until otherwise altered by the legislature, exercise the powers of a court of chancery, and there shall be ordinaries appointed in the several districts of this State, to be chosen by the senate and house of representatives jointly by ballot, in the house of representatives, who shall, within their respective districts, exercise the powers heretofore exercised by the ordinary, and until such appointment is made the present ordinary in Charleston shall continue to exercise that office as heretofore.

XXV. That the jurisdiction of the court of admiralty be confined to maritime causes.

XXVI. That justices of the peace shall be nominated by the senate and house of representatives jointly, and commissioned by the governor and commander-in-chief during pleasure. They shall be entitled to receive the fees heretofore established by law; and not acting in the magistracy, they shall not be entitled to the privileges allowed them by law.

XXVII. That all other judicial officers shall be chosen by ballot, jointly by the senate and house of representatives, and, except the judges of the court of chancery, commissioned by the governor and commander-in-chief during good behavior, but shall be removed on address of the senate and house of representatives.

XXVIII. That the sheriffs, qualified as by law directed, shall be chosen in like manner by the senate and house of representatives, when the governor, lieutenant-governor, and privy council are chosen, and commissioned by the governor and commander-in-chief, for two years, and shall give security as required by law, before they enter on the execution of their office. No sheriff who shall have served for two years shall be eligible to serve in the said office after the expiration of the said term, until the full end and term of four years, but shall continue in office until such choice be made; nor shall any person be eligible as sheriff in any district unless he shall have resided therein for two years previous to the election.

XXIX. That two commissioners of the treasury, the secretary of the State, the register of mesne conveyances in each district, attorney-general, surveyor-general, powder-receiver, collectors and comptrollers of the customs and waiters, be chosen in like manner by the senate and house of representatives jointly, by ballot, in the house of representatives, and commissioned by the governor and commander-in-chief, for two years; that none of the said officers, respectively, who shall have served for four years, shall be eligible to serve in the said offices after the expiration of the said term, until the full end and term of four years, but shall continue in office until a new choice be made: *Provided*, That nothing herein contained shall extend to the several persons appointed to the above offices respectively, under the late constitution; and that the present and all future

commissioners of the treasury, and powder-receivers, shall each give bond with approved security agreeable to law.

XXX. That all the officers in the army and navy of this State, of and above the rank of captain, shall be chosen by the senate and house of representatives jointly, by ballot in the house of representatives, and commissioned by the governor and commander-in-chief, and that all other officers in the army and navy of this State shall be commissioned by the governor and commander-in-chief.

XXXI. That in case of vacancy in any of the offices above directed to be filled by the senate and house of representatives, the governor and commander-in-chief, with the advice and consent of the privy council, may appoint others in their stead, until there shall be an election by the senate and house of representatives to fill those vacancies respectively.

XXXII. That the governor and commander-in-chief, with the advice and consent of the privy council, may appoint during pleasure, until otherwise directed by law, all other necessary officers, except such as are now by law directed to be otherwise chosen.

XXXIII. That the governor and commander-in-chief shall have no power to commence war, or conclude peace, or enter into any final treaty without the consent of the senate and house of representatives.

XXXIV. That the resolutions of the late congress of this State, and all laws now of force here, (and not hereby altered,) shall so continue until altered or repealed by the legislature of this State, unless where they are temporary, in which case they shall expire at the times respectively limited for their duration.

XXXV. That the governor and commander-in-chief for the time being, by and with the advice and consent of the privy council, may lay embargoes or prohibit the exportation of any commodity, for any time not exceeding thirty days, in the recess of the general assembly.

XXXVI. That all persons who shall be chosen and appointed to any office or to any place of trust, civil or military, before entering upon the execution of office, shall take the following oath: "I, A. B., do acknowledge the State of South Carolina to be a free, sovereign, and independent State, and that the people thereof owe no allegiance or obedience to George the Third, King of Great Britain, and I do renounce, refuse, and abjure any allegiance or obedience to him. And I do swear [or affirm, as the case may be] that I will, to the utmost of my power, support, maintain, and defend the said State against the said King George the Third, and his heirs and successors, and his or their abettors, assistants, and adherents, and will serve the said State, in the office of ———, with fidelity and honor, and according to the best of my skill and understanding: So help me God."

XXXVII. That adequate yearly salaries be allowed to the public officers of this State, and be fixed by law.

XXXVIII. That all persons and religious societies who acknowledge that there is one God, and a future state of rewards and punishments, and that God is publicly to be worshipped, shall be freely tolerated. The Christian Protestant religion shall be deemed, and is hereby constituted and declared to be, the established religion of this State. That all denominations of Christian Protestants in this State, demeaning themselves peaceably and faithfully, shall enjoy

equal religious and civil privileges. To accomplish this desirable purpose without injury to the religious property of those societies of Christians which are by law already incorporated for the purpose of religious worship, and to put it fully into the power of every other society of Christian Protestants, either already formed or hereafter to be formed, to obtain the like incorporation, it is hereby constituted, appointed, and declared that the respective societies of the Church of England that are already formed in this State for the purpose of religious worship shall still continue incorporate and hold the religious property now in their possession. And that whenever fifteen or more male persons, not under twenty-one years of age, professing the Christian Protestant religion, and agreeing to unite themselves in a society for the purposes of religious worship, they shall, (on complying with the terms hereinafter mentioned,) be, and be constituted a church, and be esteemed and regarded in law as of the established religion of the State, and on a petition to the legislature shall be entitled to be incorporated and to enjoy equal privileges. That every society of Christians so formed shall give themselves a name or denomination by which they shall be called and known in law, and all that associate with them for the purposes of worship shall be esteemed as belonging to the society so called. But that previous to the establishment and incorporation of the respective societies of every denomination as aforesaid, and in order to entitle them thereto, each society so petitioning shall have agreed to and subscribed in a book the following five articles, without which no agreement or union of men upon pretence of religion shall entitle them to be incorporated and esteemed as a church of the established religion of this State:

1st. That there is one eternal God, and a future state of rewards and punishments.

2d. That God is publicly to be worshipped.

3d. That the Christian religion is the true religion.

4th. That the holy scriptures of the Old and New Testaments are of divine inspiration, and are the rule of faith and practice.

5th. That it is lawful and the duty of every man being thereunto called by those that govern, to bear witness to the truth.

And that every inhabitant of this State, when called to make an appeal to God as a witness to truth, shall be permitted to do it in that way which is most agreeable to the dictates of his own conscience. And that the people of this State may forever enjoy the right of electing their own pastors or clergy, and at the same time that the State may have sufficient security for the due discharge of the pastoral office, by those who shall be admitted to be clergymen, no person shall officiate as minister of any established church who shall not have been chosen by a majority of the society to which he shall minister, or by persons appointed by the said majority, to choose and procure a minister for them; nor until the minister so chosen and appointed shall have made and subscribed to the following declaration, over and above the aforesaid five articles, viz: "That he is determined by God's grace out of the holy scriptures, to instruct the people committed to his charge, and to teach nothing as required of necessity to eternal salvation but that which he shall be persuaded may be concluded and proved from the scripture; that he will use

both public and private admonitions, as well to the sick as to the whole within his cure, as need shall require and occasion shall be given, and that he will be diligent in prayers, and in reading of the same; that he will be diligent to frame and fashion his own self and his family according to the doctrine of Christ, and to make both himself and them, as much as in him lieth, wholesome examples and patterns to the flock of Christ; that he will maintain and set forwards, as much as he can, quietness, peace, and love among all people, and especially among those that are or shall be committed to his charge. No person shall disturb or molest any religious assembly; nor shall use any reproachful, reviling, or abusive language against any church, that being the certain way of disturbing the peace, and of hindering the conversion of any to the truth, by engaging them in quarrels and animosities, to the hatred of the professors, and that profession which otherwise they might be brought to assent to. No person whatsoever shall speak anything in their religious assembly irreverently or seditiously of the government of this State. No person shall, by law, be obliged to pay towards the maintenance and support of a religious worship that he does not freely join in, or has not voluntarily engaged to support. But the churches, chapels, parsonages, glebes, and all other property now belonging to any societies of the Church of England, or any other religious societies, shall remain and be secured to them forever. The poor shall be supported, and elections managed in the accustomed manner, until laws shall be provided to adjust those matters in the most equitable way.

XXXIX. That the whole State shall, as soon as proper laws can be passed for these purposes, be divided into districts and counties, and county courts established.

XL. That the penal laws, as heretofore used, shall be reformed, and punishments made in some cases less sanguinary, and in general more proportionate to the crime.

XLI. That no freeman of this State be taken or imprisoned, or disseized of his freehold, liberties, or privileges, or outlawed, exiled or in any manner destroyed or deprived of his life, liberty, or property, but by the judgment of his peers or by the law of the land.

XLII. That the military be subordinate to the civil power of the State.

XLIII. That the liberty of the press be inviolably preserved.

XLIV. That no part of this constitution shall be altered without notice being previously given of ninety days, nor shall any part of the same be changed without the consent of a majority of the members of the senate and house of representatives.

XLV. That the senate and house of representatives shall not proceed to the election of a governor or lieutenant-governor, until there be a majority of both houses present.

In the council-chamber, the 19th day of March, 1778.

Assented to.

RAWLINS LOWNDES.
HUGH RUTLEDGE,
Speaker of the Legislative Council.
THOMAS BEE,
Speaker of the General Assembly.

CONSTITUTION OF SOUTH CAROLINA—1790 * [a]

We, the delegates of the people of the State of South Carolina, in general convention met, do ordain and establish this constitution for its government.

Article I

Section 1. The legislative authority of this State shall be vested in a general assembly, which shall consist of a senate and house of representatives.

Sec. 2. The house of representatives shall be composed of members chosen by ballot every second year, by the citizens of this State, qualified as in this constitution provided.

Sec. 3. The several election districts in this State shall elect the following number for Representatives, viz:

Charleston, (including Saint Philip and Saint Michael,) fifteen members; Christ Church, three members; Saint John, Berkley, three members; Saint Andrew, three members; Saint George, Dorchester, three members; Saint James, Goose Creek, three members; Saint Thomas and Saint Dennis, three members; Saint Paul, three members; Saint Bartholomew, three members; Saint James, Santee, three members; Saint John, Colleton, three members; Saint Stephen, three members; Saint Helena, three members; Saint Luke, three members; Prince William, three members; Saint Peter, three members; All Saints, (including its ancient boundaries,) one member; Winyaw, (not including any part of All Saints,) three members; Kingston, (not including any part of All Saints,) two members; Williamsburgh, two members; Liberty, two members; Marlborough, two members; Chesterfield, two members; Darlington, two members; York, three members; Chester, two members; Fairfield, two members; Richland, two members; Lancaster, two members; Kershaw, two members; Claremont, two members; Clarendon, two members; Abbeville, three members; Edgefield, three members; Newbury, (including the fork between Broad and Saluda Rivers,) three members; Laurens, three members; Union, two members; Spartan, two members; Greenville, two members; Pendleton, three members; Saint Matthew, two members; Orange, two members; Winton, (including the district between Savannah River and the North Fork of Edisto,) three members; Saxe Gotha, three members.

Sec. 4. Every free white man, of the age of twenty-one years, being a citizen of this State, and having resided therein two years previous to the day of election, and who hath a freehold of fifty acres of land or a town lot, of which he hath been legally seized and possessed at least six months before such election, or, not having such freehold or town lot, hath been a resident in the election district in which he offers to give his vote six months before the said

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* Verified by "The Constitution of the United States according to the Latest Amendments. Philadelphia. Printed by E. Oswald. 1796."
Also by "Cooper's Statutes of South Carolina," vol. I, pp. 184–197.

[a] This constitution was framed by a convention which assembled at Columbia, and completed its labors June 3, 1790. It was not submitted to the people for ratification.

election, and hath paid a tax the preceding year of three shillings sterling towards the support of this government, shall have a right to vote for a member or members to serve in either branch of the legislature for the election district in which he holds such property or is so resident.

SEC. 5. The returning officer, or any other person present entitled to vote, may require any person who shall offer his vote at an election to produce a certificate of his citizenship and a receipt from the tax collector of his having paid a tax entitling him to vote, or to swear or affirm that he is duly qualified to vote, agreeably to this constitution.

SEC. 6. No person shall be eligible to a seat in the house of representatives unless he is a free white man, of the age of twenty-one years, and hath been a citizen and resident in this State three years previous to his election. If a resident in the election district, he shall not be eligible to a seat in the house of representatives unless he be legally seized and possessed in his own right of a settled freehold estate of five hundred acres of land and ten negroes, or of a real estate of the value of one hundred and fifty pounds sterling, clear of debt. If a non-resident, he shall be legally seized and possessed of a settled freehold estate therein of the value of five hundred pounds sterling, clear of debt.

SEC. 7. The senate shall be composed of members to be chosen for four years, in the following proportions, by the citizens of this State qualified to elect members to the house of representatives, at the same time, and in the same manner, and at the same places where they shall vote for representatives, viz: Charleston, (including Saint Philip and Saint Michael,) two members; Christ Church, one member; Saint John, Berkley, one member; Saint Andrew, one member; Saint George, one member; Saint James, Goose Creek, one member; Saint Thomas and Saint Dennis, one member; Saint Paul, one member; Saint Bartholomew, one member; Saint James, Santee, one member; Saint John, Colleton, one member; Saint Stephen, one member; Saint Helena, one member; Saint Luke, one member; Prince William, one member; Saint Peter, one member; All Saints, one member; Winyaw and Williamsburgh, one member; Liberty and Kingston, one member; Marlborough, Chesterfield, and Darlington, two members; York, one member; Fairfield, Richland, and Chester, one member; Lancaster and Kershaw, one member; Claremont and Clarendon, one member; Abbeville, one member; Edgefield, one member; Newbury, (including the Fork between Broad and Saluda Rivers,) one member; Lourens, one member; Union, one member; Spartan, one member; Greenville, one member; Pendleton, one member; Saint Matthew and Orange, one member; Winton, (including the district between Savannah River and the North Fork of Edisto,) one member; Saxe Gotha, one member.

SEC. 8. No person shall be eligible to a seat in the senate unless he is a free white man, of the age of thirty years, and hath been a citizen and resident in this State five years previous to his election. If a resident in the election district, he shall not be eligible unless he be legally seized and possessed, in his own right, of a settled freehold estate of the value of three hundred pounds sterling, clear of debt. If a non-resident in the election district, he shall not be eligible unless

he be legally seized and possessed in his own right of a settled freehold estate in the said district of the value of one thousand pounds sterling, clear of debt.

Sec. 9. Immediately after the senators shall be assembled, in consequence of the first election, they shall be divided by lot into two classes. The seats of the senators of the first class shall be vacated at the expiration of the second year, and of the second class at the expiration of the fourth year; so that one-half thereof, as near as possible, may be chosen, forever thereafter, every second year, for the term of four years.

Sec. 10. Senators and members of the house of representatives shall be chosen on the second Monday in October next, and the day following, and on the same days, in every second year thereafter, in such manner and at such times as are herein directed; and shall meet on the fourth Monday in November annually at Columbia, (which shall remain the seat of government, until otherwise determined, by the concurrence of two-thirds of both branches of the whole representation,) unless the casualties of war or contagious disorders should render it unsafe to meet there; in either of which cases, the governor, or commander-in-chief for the time being, may, by proclamation, appoint a more secure and convenient place of meeting.

Sec. 11. Each house shall judge of the elections, returns, and qualifications of its own members; and a majority of each house shall constaitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members in such manner and under such penalties as may be provided by law.

Sec. 12. Each house shall choose by ballot its own officers, determine its rules of proceeding, punish its members for disorderly behavior, and (with the concurrence of two-thirds) expel a member, but not a second time for the same cause.

Sec. 13. Each house may punish, by imprisonment, during sitting, any person not a member, who shall be guilty of disrespect to the house, by any disorderly or contemptuous behavior in its presence, or who, during the time of its sitting, shall threaten harm to the body or estate of any member, for anything said or done in either house, or who shall assault any of them therefor, or who shall assault or arrest any witness, or other person, ordered to attend the house, in his going to or returning therefrom, or who shall rescue any person arrested by order of the house.

Sec. 14. The members of both houses shall be protected in their persons and estates, during their attendance on, going to, and returning from, the legislature, and ten days previous to their sitting, and ten days after the adjournment of the legislature. But these privileges shall not be extended so as to protect any member who shall be charged with treason, felony, or breach of the peace.

Sec. 15. Bills for raising a revenue shall originate in the house of representatives, but may be altered, amended, or rejected by the senate. All other bills may originate in either house, and may be amended, altered, or rejected by the other.

Sec. 16. No bill or ordinance shall have the force of law, until it shall have been read three times, and on three several days, in each

house, has had the great seal affixed to it, and has been signed in the senate-house, by the president of the senate and speaker of the house of representatives.

SEC. 17. No money shall be drawn out of the public treasury, but by the legislative authority of the State.

SEC. 18. The members of the legislature, who shall assemble under this constitution, shall be entitled to receive out of the public treasury, as compensation for their expenses, a sum not exceeding seven shillings sterling a day, during their attendance on, going to, and returning from the legislature; but the same may be increased or diminished by law, if circumstances shall require; but no alterations shall be made by any legislature to take effect during the existence of the legislature which shall make such alteration.

SEC. 19. Neither house shall, during their session, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.

SEC. 20. No bill or ordinance which shall have been rejected by either house shall be brought in again during the sitting, without leave of the house, and notice of six days being previously given.

SEC. 21. No person shall be eligible to a seat in the legislature whilst he holds any office of profit or trust under this State, the United States, or either of them, or under any other power, except officers in the militia, army or navy of this State, justices of the peace, or justices of the county courts, while they receive no salaries; nor shall any contractor of the army or navy of this State, the United States, or either of them, or the agents of such contractor, be eligible to a seat in either house. And if any member shall accept or exercise any of the said disqualifying offices, he shall vacate his seat.

SEC. 22. If any election district shall neglect to choose a member or members on the days of election, or if any person chosen a member of either house should refuse to qualify and take his seat, or should die, depart the State, or accept of any disqualifying office, a writ of election shall be issued by the president of the senate, or speaker of the house of representatives, (as the case may be,) for the purpose of filling up the vacancy thereby occasioned for the remainder of the term for which the person so refusing to qualify, dying, departing the State, or accepting a disqualifying office was elected to serve.

SEC. 23. And whereas the ministers of the gospel are, by their profession, dedicated to the service of God and the care of souls, and ought not to be diverted from the great duties of their function, therefore no minister of the gospel or public preacher of any religious persuasion, whilst he continues in the exercise of his pastoral functions, shall be eligible to the office of governor, lieutenant-governor, or to a seat in the senate or house of representatives.

ARTICLE II

SECTION 1. The executive authority of this State shall be invested in a governor, to be chosen in manner following: As soon as may be after the first meeting of the senate and house of representatives, and at every first meeting of the house of representatives thereafter, when a majority of both houses shall be present, the senate and house of

representatives shall, jointly, in the house of representatives, choose, by ballot, a governor to continue for two years, and until a new election shall be made.

Sec. 2. No person shall be eligible to the office of governor unless he hath attained the age of thirty years, and hath resided within this State and been a citizen thereof ten years, and unless he be seized and possessed of a settled estate within the same, in his own right, of the value of fifteen hundred pounds sterling, clear of debt.

No person having served two years as governor shall be reëligible to that office till after the expiration of four years.

No person shall hold the office of governor and any other office or commission, civil or military, (except in the militia,) either in this State, or under any State, or the United States, or any other power, at one and the same time.

Sec. 3. A lieutenant-governor shall be chosen at the same time, in the same manner, continue in office for the same period, and be possessed of the same qualifications as the governor.

Sec. 4. A member of the senate or house of representatives being chosen and acting as governor or lieutenant-governor, shall vacate his seat, and another person shall be elected in his stead.

Sec. 5. In case of the impeachment of the governor, or his removal from office, death, resignation, or absence from the State, the lieutenant-governor shall succeed to his office. And in case of the impeachment of the lieutenant-governor, or his removal from office, death, resignation, or absence from the State, the president of the senate shall succeed to his office till a nomination to those offices respectively shall be made by the senate and house of representatives for the remainder of the time for which the officer so impeached, removed from office, dying, resigning, or being absent was elected.

Sec. 6. The governor shall be commander-in-chief of the army and navy of this State, and of the militia, except when they shall be called into the actual service of the United States.

Sec. 7. He shall have power to grant reprieves and pardons, after conviction, (except in cases of impeachment,) in such manner, on such terms, and under such restrictions as he shall think proper; and he shall have power to remit fines and forfeitures unless otherwise directed by law.

Sec. 8. He shall take care that the laws be faithfully executed in mercy.

Sec. 9. He shall have power to prohibit the exportation of provision for any time not exceeding thirty days.

Sec. 10. He shall, at stated times, receive for his services a compensation, which shall neither be increased or diminished during the period for which he shall have been elected.

Sec. 11. All officers in the executive department, when required by the governor, shall give him information in writing upon any subject relating to the duties of their respective offices.

Sec. 12. The governor shall, from time to time, give to the general assembly information of the condition of the State, and recommend to their consideration such measures as he shall judge necessary or expedient.

Sec. 13. He may, on extraordinary occasions, convene the general assembly; and in case of disagreement between the two houses with respect to the time of adjournment adjourn them to such time as he

shall think proper, not beyond the fourth Monday in the month of November then ensuing.

Article III

Section 1. The judicial power shall be vested in such superior and inferior courts of law and equity as the legislature shall, from time to time, direct and establish.

The judges of each shall hold their commissions during good behavior; and judges of the superior courts shall, at stated times, receive a compensation for their services, which shall neither be increased or diminished during their continuance in office; but they shall receive no fees or perquisites of office, nor hold any other office of profit or trust under this State, the United States, or any other power.

Sec. 2. The style of all processes shall be "The State of South Carolina." All prosecutions shall be carried on in the name and by the authority of the State of South Carolina, and conclude "against the peace and dignity of the same."

Article IV [a]

All persons who shall be chosen or appointed to any office of profit or trust, before entering on the execution thereof, shall take the following oath: "I do swear [or affirm] that I am duly qualified, according to the constitution of this State, to exercise the office to which I have been appointed, and will, to the best of my abilities, discharge the duties thereof, and preserve, protect, and defend the Constitution of this State and of the United States."

Article V

Section 1. The house of representatives shall have the sole power of impeaching; but no impeachment shall be made unless with the concurrence of two-thirds of the house of representatives.

Sec. 2. All impeachments shall be tried by the senate. When sitting for that purpose, the senators shall be on oath or affirmation; and no person shall be convicted without the concurrence of two-thirds of the members present.

Sec. 3. The governor, lieutenant-governor, and all the civil officers shall be liable to impeachment for any misdemeanor in office; but judgment in such cases shall not extend further than to a removal from office, and disqualification to hold any office of honor, trust, or profit under this State. The party convicted shall, nevertheless, be liable to indictment, trial, judgment, and punishment according to law.

Article VI

Section 1. The judges of the superior courts, commissioners of the treasury, secretary of the State, and surveyor-general shall be elected

[a] Amendment, 1860. See Journal of the Convention of the People of South Carolina. Held in 1860, 1861, and 1862. Together with the Ordinances, Reports, Resolutions, etc. Published by Order of the Convention. Columbia, S. C.: R. W. Gibbes, Printer to the Convention, p. 52.

by the joint ballot of both houses in the house of representatives. The commissioners of the treasury, secretary of this State, and surveyor-general shall hold their offices for four years; but shall not be eligible again for four years after the expiration of the time for which they shall have been elected.

SEC. 2. All other officers shall be appointed as they hitherto have been, until otherwise directed by law; but sheriffs shall hold their offices for four years, and not be again eligible for four years after the term for which they shall have been elected.

SEC. 3. All commissions shall be in the name and by the authority of the State of South Carolina, and be sealed with the seal of the State, and be signed by the governor.

ARTICLE VII

All laws of force in this State at the passing of this constitution shall so continue, until altered or repealed by the legislature, except where they are temporary, in which case they shall expire at the times respectively limited for their duration, if not continued by act of the legislature.

ARTICLE VIII

SECTION 1. The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever hereafter be allowed within this State to all mankind: *Provided*, That the liberty of conscience thereby declared shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of this State.

SEC. 2. The rights, privileges, immunities, and estates of both civil and religious societies, and of corporate bodies, shall remain as if the constitution of this State had not been altered or amended.

ARTICLE IX

SECTION 1. All power is originally vested in the people; and all free governments are founded on their authority, and are instituted for their peace, safety, and happiness.

SEC. 2. No freemen of this State shall be taken, or imprisoned, or disseized of his freehold, liberties, or privileges, or outlawed, or exiled, or in any manner destroyed, or deprived of his life, liberty or property, but by the judgment of his peers, or by the law of the land; nor shall any bill of attainder, *ex post facto* law, or law impairing the obligation of contracts, ever be passed by the legislature of this State.

SEC. 3. The military shall be subordinate to the civil power.

SEC. 4. Excessive bail shall not be required, nor excessive fines imposed, nor cruel punishments inflicted.

SEC. 5. The legislature shall not grant any title of nobility, or hereditary distinction, nor create any office the appointment to which shall be for any longer time than during good behavior.

SEC. 6. The trial by jury, as heretofore used in this State, and the liberty of the press, shall be forever inviolably preserved.

Article X

Section 1. The business of the treasury shall be in future conducted by two treasurers, one of whom shall hold his office and reside at Columbia; the other shall hold his office and reside in Charleston.

Sec. 2. The secretary of state and surveyor-general shall hold their offices both in Columbia and Charleston. They shall reside at one place, and their deputies at the other.

Sec. 3. At the conclusion of the circuits, the judges shall meet and sit at Columbia, for the purpose of hearing and determining all motions which may be made for new trials, and in arrest of judgments, and such points of law as may be submitted to them. From Columbia, they shall proceed to Charleston, and there hear and determine all such motions for new trials, and in arrest of judgment, and such points of law as may be submitted to them.

Sec. 4. The governor shall always reside, during the sitting of the legislature, at the place where their session may be held; and, at all other times, wherever, in his opinion, the public good may require.

Sec. 5. The legislature shall, as soon as may be convenient, pass laws for the abolition of the rights of primogeniture, and for giving an equitable distribution of the real estate of intestates.

Article XI

No convention of the people shall be called, unless by the concurrence of two-thirds of both branches of the whole representation.

No part of this constitution shall be altered, unless a bill to alter the same shall have been read three times in the house of representatives, and three times in the senate, and agreed to by two-thirds of both branches of the whole representation; neither shall any alteration take place until the bill so agreed to be published three months previous to a new election for members to the house of representatives; and if the alteration proposed by the legislature shall be agreed to, in their first session, by two-thirds of the whole representation in both branches of the legislature, after the same shall have been read three times, or three several days, in each house, then, and not otherwise, the same shall become a part of the constitution.

Done in convention at Columbia, in the State of South Carolina, the third day of June, in the year of our Lord 1790, and in the fourteenth year of the Independence of the United States of America.

By the unanimous order of the convention.

Charles Pinckney, *President.*

AMENDMENTS TO THE CONSTITUTION OF 1790

(Ratified December 17, 1808)

The following sections in amendment of the third, seventh, and ninth sections of the first article of the constitution of this State shall be, and they are hereby declared to be, valid parts of the said constitution; and the said third, seventh, and ninth sections, or such

parts thereof as are repugnant to such amendments, are hereby repealed and made void.

The house of representatives shall consist of one hundred and twenty-four members, to be apportioned among the several election districts of the State, according to the number of white inhabitants contained, and the amount of all taxes raised by the legislature, whether direct or indirect, or of whatever species, paid in each, deducting therefrom all taxes paid on account of property held in any other district, and adding thereto all taxes elsewhere paid on account of property held in such district. An enumeration of the white inhabitants, for this purpose, shall be made in the year one thousand eight hundred and nine, and in the course of every tenth year thereafter, in such manner as shall be by law directed; and representatives shall be assigned to the different districts in the above-mentioned proportion, by act of the legislature, at the session immediately succeeding the above enumeration.

If the enumeration herein directed should not be made in the course of the year appointed for the purpose by these amendments, it shall be the duty of the governor to have it effected as soon thereafter as shall be practicable.

In assigning representatives to the several districts of the State, the legislature shall allow one representative for every sixty-second part of the whole number of white inhabitants in the State; and one representative also for every sixty-second part of the whole taxes raised by the legislature of the State. The legislature shall further allow one representative for such fractions of the sixty-second part of the white inhabitants of the State, and of the sixty-second part of the taxes raised by the legislature of the State, as, when added together, form a unit.

In every apportionment of representation under these amendments, which shall take place after the first apportionment, the amount of taxes shall be estimated from the average of the ten preceding years; but the first apportionment shall be founded upon the tax of the preceding year, excluding from the amount thereof the whole produce of the tax on sales at public auction.

If, in the apportionment of representatives under these amendments, any election district shall appear not to be entitled, from its population and its taxes, to a representative, such election district shall, nevertheless, send one representative; and, if there should be still a deficiency of the number of representatives required by these amendments, such deficiency shall be supplied by assigning representatives to those election districts having the largest surplus fractions, whether those fractions consist of a combination of population and of taxes, or of population or of taxes separately, until the number of one hundred and twenty-four members be provided.

No apportionment under these amendments shall be construed to take effect, in any manner, until the general election which shall succeed such apportionment.

The election districts for members of the house of representatives shall be and remain as heretofore established, except Saxe Gotha and Newberry; in which the boundaries shall be altered, as follows, viz: That part of Lexington in the fork of Broad and Saluda Rivers shall no longer compose a part of the election district of Newberry, but shall be henceforth attached to, and form a part of, Saxe Gotha. And,

also, except Orange and Barnwell, or Winton, in which the boundaries shall be altered, as follows, viz: That part of Orange in the fork freehold or town lot, hath been a resident in the election district in Barnwell, or Winton, but shall be henceforth attached to, and form a part of, Orange election district.

The senate shall be composed of one member from each election district, as now established for the election of members of the house of representatives, except the district formed by the parishes of Saint Philip and Saint Michael, to which shall be allowed two senators, as heretofore.

The seats of those senators who under the constitution shall represent two or more election districts, on the day preceding the second Monday of October, which will be in the year one thousand eight hundred and ten, shall be vacated on that day, and the new senators who shall represent such districts under these amendments shall, immediately after they shall have been assembled under the first election, be divided by lots into two classes; the seats of the senators of the first class shall be vacated at the expiration of the second year, and of the second class, at the expiration of the fourth year; and the number in these classes shall be so proportioned that one-half of the whole number of senators may, as nearly as possible, continue to be chosen thereafter every second year.

None of these amendments becoming parts of the constitution of this State shall be altered, unless a bill to alter the same shall have been read on three several days in the house of representatives, and on three several days in the senate, and agreed to at the second and third reading by two-thirds of the whole representation in each branch of the legislature; neither shall any alteration take place until the bill so agreed to be published three months previous to a new election for members to the house of representatives; and if the alteration proposed by the legislature shall be agreed to in their first session, by two-thirds of the whole representation, in each branch of the legislature, after the same shall have been read on three several days in each house, then, and not otherwise, the same shall become a part of the constitution.

(Ratified December 19, 1810)

That the fourth section of the first article of the constitution of this State be altered and amended to read as follows: Every free white man of the age of twenty-one years, paupers, and non-commissioned officers and private soldiers of the Army of the United States excepted, being a citizen of this State, and having resided therein two years previous to the day of election, and who hath a freehold of fifty acres of land or a town lot, of which he hath been legally seized and possessed at least six months before such election, or not having such freehold or town lot, hath been a resident in the election district in which he offers to give his vote six months before the said election, shall have a right to vote for a member or members to serve in either branch of the legislature, for the election district in which he holds such property, or is so resident.

(Ratified December 19, 1816)

That the third section of the tenth article of the constitution of this State be altered and amended to read as follows: The judges

shall, at such times and places as shall be prescribed by act of the legislature of this State, meet and sit for the purpose of hearing and determining all motions which may be made for new trials, and in arrest of judgment, and such points of law as may be submitted to them.

(Ratified December 20, 1820)

That all that territory lying within the chartered limits of this State, and which was ceded by the Cherokee Nation, in a treaty concluded at Washington, on the twenty-second day of March, in the year of our Lord one thousand eight hundred and sixteen, and confirmed by an act of the legislature of this State, passed on the nineteenth day of December, in the same year, shall be, and the same is hereby, declared to be annexed to and shall form and continue a part of the election district of Pendleton.

(Ratified December 19, 20, 1828)

That the third section of the fifth article of the constitution of this State shall be altered to read as follows, viz:

SEC. 3. The governor, lieutenant-governor, and all civil officers shall be liable to impeachment for high crimes and misdemeanors, for any misbehavior in office, for corruption in procuring office, or for any act which shall degrade their official character. But judgment, in such cases, shall not extend further than to removal from office, and disqualification to hold any office of honor, trust, or profit under this State. The party convicted shall, nevertheless, be liable to indictment, trial, judgment, and punishment, according to law.

SEC. 4. All civil officers, whose authority is limited to a single election district, a single judicial district, or part of either, shall be appointed, hold their office, be removed from office, and in addition to liability to impeachment, may be punished for official misconduct, in such manner as the legislature, previous to their appointment, may provide.

SEC. 5. If any civil officer shall become disabled from discharging the duties of his office, by reason of any permanent bodily or mental infirmity, his office may be declared to be vacant, by joint resolution, agreed to by two-thirds of the whole representation in each branch of the legislature: *Provided*, That such resolution shall contain the grounds for the proposed removal, and before it shall pass either house a copy of it shall be served on the officer and a hearing be allowed him.

(Ratified December 6, 1834)

That the fourth article of the constitution of this State shall be amended so as to read as follows, viz: Every person who shall be chosen or appointed to any office of profit or trust, before entering on the execution thereof, shall take the following oath: "I do solemnly swear, (or affirm,) that I will be faithful, and true allegiance bear to the State of South Carolina, so long as I may continue a citizen thereof; and that I am duly qualified, according to the constitution of this State, to exercise the office to which I have been appointed; and that I will, to the best of my abilities, discharge the duties thereof, and preserve, protect, and defend the constitution of this State, and of the United States: So help me God."

(Ratified December, 1856)

That the tenth section of the first article of the constitution of this State be altered and amended to read as follows: Senators, according to their classification, and members of the house of representatives, shall be chosen on the second Monday in October, in the year of our Lord one thousand eight hundred and sixty, and on the same day in every second year thereafter, in such manner and at such times as are herein directed, and shall meet on the fourth Monday in November, annually, at Columbia, (which shall remain the seat of government until otherwise determined by the concurrence of two-thirds of both branches of the whole representation,) unless the casualties of war or contagious disorders should render it unsafe to meet there, in either of which cases the governor, or commander-in-chief for the time being, may, by proclamation, appoint a more secure and convenient place of meeting.

CONSTITUTION OF SOUTH CAROLINA—1861

[A State convention, called by an act of the legislature December 17, 1860, and on April 8, 1861, revised the State constitution, which was not submitted to the people for ratification.]

CONSTITUTION OF SOUTH CAROLINA—1865 *[a]

We, the people of the State of South Carolina, by our delegates in convention met, do ordain and establish this constitution for the government of the said State.

Article I

Section 1. The legislative authority of this State shall be vested in a general assembly which shall consist of a senate and a house of representatives.

Sec. 2. The house of representatives shall be composed of members chosen by ballot, every second year, by the citizens of this State, qualified as in this constitution is provided.

Sec. 3. Each judicial district in the State shall constitute one election district, except Charleston district, which shall be divided into two election districts: one, consisting of the late parishes of Saint Philip and Saint Michael, to be designated the election district of Charleston; the other, consisting of all that part of the judicial district which is without the limits of the said parishes, to be known as the election district of Berkeley.

Sec. 4. The boundaries of the several judicial and election districts shall remain as they are now established.

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* Verified by "Message of President Johnson, March 6, 1866, Ex. Doc. 26 Senate, 39 Congress, 1st session."

[a] This constitution was framed by a convention called by Provisional Governor Benjamin F. Perry, which assembled September 13, 1865, repealed the ordinance of secession September 19, 1865, and completed the amended constitution September 27, 1865. It was not submitted to the people for ratification.

SEC. 5. The house of representatives shall consist of one hundred and twenty-four members, to be apportioned among the several election districts of the State, according to the number of white inhabitants contained in each, and the amount of all taxes raised by the general assembly, whether direct or indirect, or of whatever species, paid in each, deducting therefrom all taxes paid on account of property held in any other district, and adding thereto all taxes elsewhere paid on account of property held in such district. An enumeration of the white inhabitants, for this purpose, was made in the year one thousand eight hundred and fifty-nine, and shall be made in the course of every tenth year thereafter, in such manner as shall be by law directed; and representatives shall be assigned to the different districts in the above-mentioned proportion by act of the general assembly at the session immediately succeeding every enumeration: *Provided*, That until the apportionment, which shall be made upon the next enumeration, shall take effect, the representation of the several election districts, as herein constituted, shall continue as assigned at the last apportionment, each district which has been heretofore divided into smaller districts, known as parishes, having the aggregate number of representatives which the parishes heretofore embraced within its limits have had since that apportionment, the representative to which the parish of All Saints has been heretofore entitled being, during the interval, assigned to Horry election district.

SEC. 6. If the enumeration herein directed shall not be made in the course of the year appointed for the purpose, it shall be the duty of the governor to have it effected as soon thereafter as shall be practicable.

SEC. 7. In assigning representatives to the several districts, the general assembly shall allow one representative for every sixty-second part of the whole number of white inhabitants in the State, and one representative, also, for every sixty-second part of the whole taxes raised by the general assembly. There shall be further allowed one representative for such fractions of the sixty-second part of the white inhabitants, and of the sixty-second part of the taxes, as, when added together, form a unit.

SEC. 8. All taxes upon property, real or personal, shall be laid upon the actual value of the property taxed, as the same shall be ascertained by an assessment made for the purpose of laying such tax. In the first apportionment which shall be made under this constitution, the amount of taxes shall be estimated from the average of the two years next preceding such apportionment; but in every subsequent apportionment, from the average of the ten years then next preceding.

SEC. 9. If, in the apportionment of representatives, any election district shall appear not to be entitled, from its population and its taxes, to a representative, such election district shall nevertheless send one representative; and if there be still a deficiency of the number of representatives required by section fifth, such deficiency shall be supplied by assigning representatives to those election districts having the largest surplus fractions, whether those fractions consist of a combination of population and taxes, or of population or taxes separately, until the number of one hundred and twenty-four members are made up: *Provided, however*, That not more than twelve

representatives shall in any apportionment be assigned to any one election district.

SEC. 10. No apportionment of representatives shall be construed to take effect, in any manner, until the general election which shall succeed such apportionment.

SEC. 11. The senate shall be composed of one member from each election district, except the election district of Charleston, to which shall be allowed two senators.

SEC. 12. Upon the meeting of the first general assembly which shall be chosen under the provisions of this constitution, the senators shall be divided, by lot, into two classes; the seats of the senators of the one class to be vacated at the expiration of two years after the Monday following the general election, and of those of the other class at the expiration of four years; and the number of these classes shall be so proportioned that one-half of the whole number of senators may, as nearly as possible, continue to be chosen thereafter every second year.

SEC. 13. No person shall be eligible to, or take or retain a seat in, the house of representatives, unless he is a free white man, who hath attained the age of twenty-one years, hath been a citizen and a resident of this State three years next preceding the day of election, and hath been for the last six months of this time, and shall continue, a resident of the district which he is to represent.

SEC. 14. No person shall be eligible to or take or retain a seat in the senate, unless he is a free white man, who hath attained the age of thirty years, hath been a citizen and resident of this State five years next preceding the day of election, and hath been, for the last six months of this time, and shall continue to be, a resident of the district which he is to represent.

SEC. 15. Senators and members of the house of representatives shall be chosen at a general election on the third Wednesday in October in the present year, and on the same day in every second year thereafter, in such manner and for such terms of office as are herein directed. They shall meet on the fourth Monday in November, annually, at Columbia, (which shall remain the seat of government until otherwise determined by the concurrence of two-thirds of both branches of the whole representation,) unless the casualties of war or contagious disorders shall render it unsafe to meet there; in either of which cases the governor, or commander-in-chief, for the time being, may, by proclamation, appoint a more secure and convenient place of meeting.

SEC. 16. The terms of office of the senators and representatives chosen at a general election shall begin on the Monday following such election.

SEC. 17. Each house shall judge of the election returns, and qualifications of its own members; and a majority of each house shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner and under such penalties as may be provided by law.

SEC. 18. Each house shall choose its own officers, determine its rules of proceeding, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member, but not a second time for the same cause.

SEC. 19. Each house may punish, by imprisonment, during its sitting, any person not a member who shall be guilty of disrespect to the house by any disorderly or contemptuous behavior in its presence; or who, during the time of its sitting, shall threaten harm to body or estate of any member for anything said or done in either house, or who shall assault any of them therefor, or who shall assault or arrest any witness or other person ordered to attend the house in his going thereto or returning therefrom, or who shall rescue any person arrested by order of the house.

SEC. 20. The members of both houses shall be protected in their persons and estates during their attendance on, going to, and returning from the general assembly, and ten days previous to the sitting and ten days after the adjournment thereof. But these privileges shall not be extended so as to protect any member who shall be charged with treason, felony, or breach of the peace.

SEC. 21. Bills for raising a revenue shall originate in the house of representatives, but may be altered, amended, or rejected by the senate; and all other bills may originate in either house, and may be amended, altered, or rejected by the other.

SEC. 22. Every act or resolution having the force of law shall relate to but one subject, and that shall be expressed in the title.

SEC. 23. No bill shall have the force of law until it shall have been read three times, and on three several days, in each house, has had the seal of the State affixed to it, and has been signed in the senate-house by the president of the senate and the speaker of the house of representatives.

SEC. 24. No money shall be drawn out of the public treasury but by the legislative authority of the State.

SEC. 25. In all elections by the general assembly, or either house thereof, the members shall vote *viva voce*, and their votes thus given shall be entered upon the journals of the house to which they respectively belong.

SEC. 26. The members of the general assembly who shall meet under this constitution, shall be entitled to receive out of the public treasury for their expenses during their attendance on, going to, and returning from the general assembly, five dollars for each day's attendance, and twenty cents for every mile of the ordinary route of travel between the residence of the member and the capital or other place of sitting of the general assembly, both going and returning; and the same may be increased or diminished by law if circumstances shall require; but no alteration shall be made to take effect during the existence of the general assembly which shall make such alteration.

SEC. 27. Neither house during the session of the general assembly shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the assembly shall be at the time sitting.

SEC. 28. No person shall be eligible to a seat in the general assembly whilst he holds any office of profit or trust under this State, the United States of America, or any of them, or under any other power, except officers in the militia, army or navy of this State, magistrates, or justices of inferior courts, while such justices receive no salaries; nor shall any contractor of the army or navy of this State, the United

States of America, or any of them, or the agents of such contractor, be eligible to a seat in either house. And if any member shall accept or exercise any of the said disqualifying offices, he shall vacate his seat.

Sec. 29. If any election district shall neglect to choose a member or members on the day of election, or if any person chosen a member of either house shall refuse to qualify and take his seat, or shall resign, die, depart the State, accept any disqualifying office, or become otherwise disqualified to hold his seat, a writ of election shall be issued by the president of the senate or speaker of the house of representatives, as the case may be, for the purpose of filling the vacancy thereby occasioned for the remainder of the term for which the person so refusing to qualify, resigning, dying, departing the State, or becoming disqualified was elected to serve, or the defaulting election district ought to have chosen a member or members.

Sec. 30. And whereas the ministers of the gospel are, by their profession, dedicated to the service of God and the cure of souls, and ought not to be diverted from the great duties of their functions; therefore no minister of the gospel, or public preacher of any religious persuasion, whilst he continues in the exercise of his pastoral functions, shall be eligible to the office of governor, lieutenant-governor, or to a seat in the senate or house of representatives.

Article II

Section 1. The executive authority of this State shall be vested in a chief magistrate, who shall be styled the governor of the State of South Carolina.

Sec. 2. The governor shall be elected by the electors duly qualified to vote for members of the house of representatives, and shall hold his office for four years, and until his successor shall be chosen and qualified; but the same person shall not be governor for two consecutive terms.

Sec. 3. No person shall be eligible to the office of governor unless he hath attained the age of thirty years, and hath been a citizen and resident of this State for the ten years next preceding the day of election. And no person shall hold the office of governor and any other office or commission, civil or military, (except in the militia,) under this State or the United States, or any of them, or any other power, at one and the same time.

Sec. 4. The returns of every election of governor shall be sealed up by the managers of elections in their respective districts, and transmitted by a messenger chosen by them to the seat of government, directed to the secretary of state, who shall deliver them to the speaker of the house of representatives, at the next ensuing session of the general assembly, during the first week of which session the speaker shall open and publish them in the presence of both houses of the general assembly. The person having the highest number of votes shall be governor; but if two or more shall be equal and highest in votes, the general assembly shall, during the same session, in the house of representatives, choose one of them governor *viva voce*. Contested elections for governor shall be determined by the general assembly in such manner as shall be prescribed by law.

SEC. 5. A lieutenant-governor shall be chosen at the same time, in the same manner, continue in office for the same period, and be possessed of the same qualifications as the governor, and shall, *ex officio*, be the president of the senate.

SEC. 6. The lieutenant-governor, acting as president of the senate, shall have no vote, unless the senate be equally divided.

SEC. 7. The senate shall choose a president *pro tempore* to act in the absence of the lieutenant-governor, or when he shall exercise the office of governor.

SEC. 8. A member of the senate, or of the house of representatives, being chosen, and acting as governor or lieutenant-governor, shall thereupon vacate his seat, and another person shall be elected in his stead.

SEC. 9. In case of the impeachment of the governor, or his removal from office, death, resignation, disqualification, disability, or removal from the State, the lieutenant-governor shall succeed to his office; and in case of the impeachment of the lieutenant-governor, or his removal from office, death, resignation, disqualification, disability, or removal from the State, the president *pro tempore* of the senate shall succeed to his office; and when the offices of the governor, lieutenant-governor, and president *pro tempore* of the senate shall become vacant in the recess of the senate, the secretary of state, for the time being, shall, by proclamation, convene the senate, that a president *pro tempore* may be chosen to exercise the office of governor for the unexpired term.

SEC. 10. The governor shall be commander-in-chief of the army and navy of this State, and of the militia, except when they shall be called into the actual service of the United States.

SEC. 11. He shall have power to grant reprieves and pardons after conviction, (except in cases of impeachment,) in such manner, on such terms, and under such restrictions as he shall think proper, and he shall have power to remit fines and forfeitures, unless otherwise directed by law. It shall be his duty to report to the general assembly at the next regular session thereafter all pardons granted by him, with a full statement of each case and the reasons moving him thereunto.

SEC. 12. He shall take care that the laws be faithfully executed in mercy.

SEC. 13. The governor and lieutenant-governor shall, at stated times, receive for their services a compensation which shall be neither increased nor diminished during the period for which they shall have been elected.

SEC. 14. All officers in the executive department, when required by the governor, shall give him information in writing upon any subject relating to the duties of their respective offices.

SEC. 15. The governor shall, from time to time, give to the general assembly information of the condition of the State, and recommend to their consideration such measures as he shall judge necessary or expedient.

SEC. 16. He may, on extraordinary occasions, convene the general assembly, and should either house remain without a quorum for three days, or in case of disagreement between the two houses with respect to the time of adjournment, may adjourn them to such time as he

shall think proper, not beyond the fourth Monday of November then next ensuing.

Sec. 17. He shall commission all officers of the State.

Sec. 18. It shall be the duty of the managers of elections of this State, at the first general election under this constitution, and at each alternate general election thereafter, to hold an election for governor and lieutenant-governor.

Sec. 19. The governor and the lieutenant-governor, before entering upon the duties of their respective offices, shall, in the presence of the general assembly, take the oath of office prescribed in this constitution.

Sec. 20. The governor shall reside, during the sitting of the general assembly, at the place where its sessions may be held; and the general assembly may, by law, require him to reside at the capital of the State.

Sec. 21. Every bill which shall have passed the general assembly shall, before it become a law, be presented to the governor; if the approve he shall sign it; but if not, he shall return it, with his objections, to that house in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If after such reconsideration a majority of the whole representation of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by a majority of the whole representation of that other house, it shall become a law. But in all such cases the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the governor within two days (Sundays excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it. And, that time may be always allowed the governor to consider bills passed by the general assembly, neither house shall read any bill on the last day of its session, except such bills as have been returned by the governor as herein provided.

Article III

Section 1. The judicial power shall be vested in such superior and inferior courts of law and equity as the general assembly shall, from time to time, direct and establish. The judges of the superior courts shall be elected by the general assembly, shall hold their offices during good behavior, and shall at stated times receive a compensation for their services, which shall neither be increased nor diminished during their continuance in office; but they shall receive no fees or perquisites of office, nor hold any other office of profit or trust under this State, the United States of America, or any of them, or any other power. The general assembly shall, as soon as possible, establish for each district in the State an inferior court or courts, to be styled the "district court," the judge whereof shall be resident in the district while in office, shall be elected by the general assembly for four years, and shall be reëligible, which court shall have jurisdiction of all civil causes wherein one or both of the parties are persons of color, and of all criminal cases wherein the accused is a person of

color; and the general assembly is empowered to extend the jurisdiction of the said court to other subjects.

SEC. 2. The judges shall meet and sit at Columbia, at such time as the general assembly may by act prescribe, for the purpose of hearing and determining all motions for new trials and in arrest of judgment, and such points of law as may be submitted to them; and the general assembly may, by act, appoint such other places for such meetings as in their discretion may seem fit.

SEC. 3. The style of all processes shall be "The State of South Carolina." All prosecutions shall be carried on in the name and by the authority of the State of South Carolina, and conclude, "against the peace and dignity of the same."

ARTICLE IV

In all elections to be made by the people of this State, or of any part thereof, for civil or political offices, every person shall be entitled to vote who has the following qualifications, to wit: He shall be a free white man who has attained the age of twenty-one years, and is not a pauper, nor a non-commissioned officer or private soldier of the Army, nor a seaman or marine of the Navy of the United States. He shall, for the two years next preceding the day of election, have been a citizen of this State, or, for the same period, an emigrant from Europe, who has declared his intention to become a citizen of the United States, according to the Constitution and laws of the United States. He shall have resided in this State for at least two years next preceding the day of election, and for the last six months of that time in the district in which he offers to vote: *Provided, however*, That the general assembly may, by requiring a registry of voters, or other suitable legislation, guard against frauds in elections and usurpations of the right of suffrage, may impose disqualification to vote as a punishment for crime, and may prescribe additional qualifications for voters in municipal elections.

ARTICLE V

All persons who shall be elected or appointed to any office of profit or trust, before entering on the execution thereof, shall take (besides special oaths, not repugnant to this constitution, prescribed by the general assembly) the following oath: "I do swear [or affirm] that I am duly qualified, according to the constitution of this State, to exercise the office to which I have been appointed, and that I will, to the best of my ability, discharge the duties thereof, and preserve, protect, and defend the constitution of this State, and that of the United States: So help me God."

ARTICLE VI

SECTION 1. The house of representatives shall have the sole power of impeaching; but no impeachment shall be made unless with the concurrence of two-thirds of the house of representatives.

SEC. 2. All impeachments shall be tried by the senate. When sitting for that purpose, the senators shall be on oath or affirmation,

and no person shall be convicted without the concurrence of two-thirds of the members present.

SEC. 3. The governor, lieutenant-governor, and all civil officers, shall be liable to impeachment for high crimes and misdemeanors, for any misbehavior in office, for corruption in procuring office, or for any act which shall degrade their official character. But judgment in such cases shall not extend further than to removal from office and disqualification to hold any office of honor, trust, or profit under this State. The party convicted shall, nevertheless, be liable to indictment, trial, judgment, and punishment according to law.

SEC. 4. All civil officers whose authority is limited to a single judicial district, a single election district, or part of either, shall be appointed, hold their office, be removed from office, and, in addition to liability to impeachment, may be punished for official misconduct, in such manner as the general assembly, previous to their appointment, may provide.

SEC. 5. If any civil officer shall become disabled from discharging the duties of his office, by reason of any permanent bodily or mental infirmity, his office may be declared to be vacant, by joint resolution, agreed to by two-thirds of the whole representation in each house of the general assembly: *Provided*, That such resolution shall contain the grounds for the proposed removal, and, before it shall pass either house, a copy of it shall be served on the officer, and a hearing be allowed him.

ARTICLE VII

SECTION 1. The treasurer and the secretary of state shall be elected by the general assembly in the house of representatives, shall hold their offices for four years, and shall not be eligible for the next succeeding term.

SEC. 2. All other officers shall be appointed as they hitherto have been, until otherwise directed by law; but the same person shall not hold the office of sheriff for two consecutive terms.

SEC. 3. All commissions shall be in the name and by the authority of the State of South Carolina, be sealed with the seal of the State, and be signed by the governor.

ARTICLE VIII

All laws of force in this State at the adoption of this constitution, and not repugnant hereto, shall so continue until altered or repealed, except where they are temporary; in which case they shall expire at the times respectively limited for their duration, if not continued by act of the general assembly.

ARTICLE IX

SECTION 1. All power is originally vested in the people, and all free governments are founded on their authority, and are instituted for their peace, safety, and happiness.

SEC. 2. No person shall be taken, or imprisoned, or disseized of his freehold, liberties, or privileges, or outlawed or exiled, or in any manner deprived of his life, liberty, or property, but by due process

of law; nor shall any bill of attainder, *ex post facto* law, or law impairing the obligation of contracts ever be passed by the general assembly.

SEC. 3. The military shall be subordinate to the civil power.

SEC. 4. The privilege of the writ of *habeas corpus* shall not be suspended, unless when, in case of rebellion or invasion, the public safety requires it.

SEC. 5. Excessive bail shall not be required, nor excessive fines imposed, nor cruel punishments inflicted.

SEC. 6. The general assembly shall not grant any title of nobility, or hereditary distinction, nor create any office the appointment to which shall be for any longer time than during good behavior.

SEC. 7. The trial by jury as heretofore used in this State, and the liberty of the press, shall be forever inviolably preserved. But the general assembly shall have power to determine the number of persons who shall constitute the jury in the inferior and district courts.

SEC. 8. The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall be allowed within this State to all mankind: *Provided*, That the liberty of conscience hereby declared shall not be construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace and safety of the State.

SEC. 9. The rights, privileges, immunities, and estates of both civil and religious societies and of corporate bodies shall remain as if the constitution of this State had not been altered or amended.

SEC. 10. The rights of primogeniture shall not be reëstablished, and there shall not fail to be some legislative provision for the equitable distribution of the estates of intestates.

SEC. 11. The slaves in South Carolina having been emancipated by the action of the United States authorities, neither slavery nor involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, shall ever be reëstablished in this State.

ARTICLE X

The general assembly, whenever a tax is laid upon land, shall, at the same time, impose a capitation-tax, which shall not be less upon each poll than one-fourth of the tax laid upon each hundred dollars' worth of the assessed value of the land taxed; excepting, however, from the operation of such capitation-tax all such classes of persons as from disability or otherwise ought, in the judgment of the general assembly, to be exempted.

ARTICLE XI

SECTION 1. The business of the treasury shall be conducted by one treasurer, who shall hold his office and reside at the seat of government.

SEC. 2. The secretary of state shall hold his office and reside at the seat of government.

ARTICLE XII

SECTION 1. No convention of the people shall be called, unless by the concurrence of two-thirds of the whole representation in each house of the general assembly.

SEC. 2. No part of this constitution shall be altered, unless a bill to alter the same shall have been read on three several days in the house of representatives, and on three several days in the senate, and agreed to, at the second and third reading, by two-thirds of the whole representation in each house of the general assembly; neither shall any alteration take effect until the bill, so agreed to, shall be published for three months previous to a new election for members of the house of representatives; and the alteration proposed by the preceding general assembly shall be agreed to by the new general assembly, in their first session, by the concurrence of two-thirds of the whole representation in each house, after the same shall have been read on three several days in each; then and not otherwise the same shall become a part of the constitution.

Done in convention at Columbia, in the State of South Carolina, the twenty-seventh day of September, in the year of our Lord one thousand eight hundred and sixty-five.

D. L. WARDLAW, *President.*

JOHN T. SLOAN, *Clerk.*

ORDINANCE

SECTION 1. We, the people of the State of South Carolina, by our delegates in convention met, do ordain that the constitution of this State, as ordained and established by the people in convention at Charleston, on the eighth day of April, in the year of our Lord one thousand eight hundred and sixty-one, is in force, except as amended or altered by this constitution.

SEC. 2. That all laws, orders, resolutions, and rules ascertaining the rights of persons, natural or artificial, or regulating proceedings in the courts of law or of equity, which were of force in this State on the nineteenth day of December, in the year of our Lord one thousand eight hundred and sixty, are now in force, and shall so continue until altered, modified, repealed, or avoided by proper State authority, except in so far as the same or any of them have or has been, since that time, so altered, modified, repealed, or avoided.

SEC. 3. That all acts and resolutions of the general assembly of this State which have been passed, adopted, or ratified since the nineteenth day of December, in the year of our Lord one thousand eight hundred and sixty aforesaid, are now in force, and shall so continue until altered, modified, repealed, or avoided by proper State authority, except such as have expired by their own limitation, or by reason of the cessation of the causes which occasioned their enactment; not, however, including within this exception the act of assembly prohibiting the collection of debts, usually known as the stay law: *Provided, however*, That all laws, resolutions, orders, or rules embraced within the terms of this and preceding sections, which recognize the existence of slavery and regulate the relations of master and slave, and define

and enforce the rights and duties growing thereout, or create and punish offences against such rights, or against the public policy of the State in reference to slavery, have become of no further or future force or effect by reason of the extinction of slavery.

SEC. 4. That all official acts in the executive and other departments of the government of this State, judicial proceedings, rules of court, sales, conveyances, contracts, obligations, instruments of writing, and transactions affecting rights of persons or property, had, made, executed, or incurred since the nineteenth day of December, in the year of our Lord one thousand eight hundred and sixty, have, and shall continue to have, in all respects, the same force, effect, and validity as if the same had been made, executed, or incurred during a time of peace, and as if the ordinance of secession had not been passed: *Provided*, That in every action arising on any contract, whether under seal or parol, written or oral, made between the first day of January, in the year of our Lord one thousand eight hundred and sixty-two, and the fifteenth day of May, in the year of our Lord one thousand eight hundred and sixty-five, it shall be lawful for either party to the action to introduce testimony showing the true value and real character of the consideration of such contract at the time it was made, so that, regard being had to the particular circumstances of each case, such verdict or decree may be rendered as will effect substantial justice between the parties: *And provided further*, That all prosecutions now pending under any act or acts of the general assembly, passed to aid or assist in the war against the United States, shall be discontinued.

SEC. 5. The general assembly of this State is hereby forever prohibited from passing any law imposing civil disabilities, forfeiture of property or of other rights, or punishment of any kind, on any citizen or resident of this State, or persons owning property therein, for the relation of such citizen, resident, or person to, or his or her conduct in reference to, the late secession of this State from the Federal Union, or the War which grew out of the same, or for any participation, aid, counsel, or assistance therein.

SEC. 6. The judges of the several courts in this State, and other judicial officers, the attorney-general and solicitors, president and directors of the Bank of the State of South Carolina, the secretary of state, commisioners of the treasury, surveyor-general, and all district and other officers who derive their authority from or under the executive, legislative, or judicial departments, who were holding and exercising office before and on the twenty-sixth day of April last, or had before that day been elected thereto, are, in the regard of the State, (except where vacancies have since occurred, or may occur by reason of death, expiration of term, or otherwise, under the laws of the State,) still holding their respective offices, and are entitled to hold and exercise the same by the original tenure thereof for the residue of the terms for which they were severally elected or appointed: *Provided, however*, That every person so holding office has heretofore taken and subscribed, or shall, before the first day of December next, take and subscribe, before some officer properly auththorized to administer the same, the oath prescribed and required in the proclamation of His Excellency Andrew Johnson, President of the United States, of the twenty-ninth day of May last, commonly

called the "amnesty proclamation;" and upon failure to comply with the requirements of this proviso, the office of such person shall be thereupon vacant, and shall be filled in the manner provided by law in cases of vacancy otherwise occurring.

Done at Columbia, the twenty-seventh day of September, in the year of our Lord one thousand eight hundred and sixty-five.

D. L. WARDLAW, *President.*

JOHN T. SLOAN, *Clerk.*

CONSTITUTION OF SOUTH CAROLINA—1868 * [a]

We, the people of the State of South Carolina, in convention assembled, grateful to Almighty God for this opportunity, deliberately and peaceably, of entering into an explicit and solemn compact with each other, and forming a new constitution of civil government for ourselves and posterity, recognizing the necessity of the protection of the people in all that pertains to their freedom, safety, and tranquillity, and imploring the direction of the Great Legislator of the universe, do agree upon, ordain, and establish the following declaration of rights and form of government as the constitution of the commonwealth of South Carolina:

ARTICLE I

DECLARATION OF RIGHTS AND FORM OF GOVERNMENT AS THE CONSTITUTION OF THE COMMONWEALTH OF SOUTH CAROLINA

SECTION 1. All men are born free and equal, endowed by their Creator with certain inalienable rights, among which are the rights of enjoying and defending their lives and liberties, of acquiring, possessing, and protecting property, and of seeking and obtaining their safety and happiness.

SEC. 2. Slavery shall never exist in this State; neither shall involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted.

SEC. 3. All political power is vested in and derived from the people only; therefore they have the right at all times to modify their form of government in such manner as they may deem expedient, when the public good demands.

SEC. 4. Every citizen of this State owes paramount allegiance to the Constitution and Government of the United States, and no law or ordinance of this State in contravention or subversion thereof can have any binding force.

SEC. 5. This State shall ever remain a member of the American Union, and all attempts, from whatever source, or upon whatever

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* Verified by "The Constitution of the State of South Carolina, adopted by the Constitutional Convention, Columbia, S. C. James Woodrow, State Printer, 1881."

[a] This constitution was framed by a convention (called under the reconstruction acts of Congress by Major-General Canby) which assembled at Charleston January 14, 1868, and completed its labors March 17, 1868. It was submitted to the people April 14 and 16, 1868, and ratified by 70,558 votes against 27,288 votes.

pretext, to dissolve the said Union, shall be resisted with the whole power of the State.

Sec. 6. The right of the people peaceably to assemble to consult for the common good, and to petition the government or any department thereof, shall never be abridged.

Sec. 7. All persons may freely speak, write, and publish their sentiments on any subject, being responsible for the abuse of that right; and no laws shall be enacted to restrain or abridge the liberty of speech or of the press.

Sec. 8. In prosecutions for the publication of papers investigating the official conduct of officers or men in public capacity, or when the matter published is proper for public information, the truth thereof may be given in evidence; and in all indictments for libel, the jury shall be the judges of the law and the facts.

Sec. 9. No person shall be deprived of the right to worship God according to the dictates of his own conscience: *Provided*, That the liberty of conscience hereby declared shall not justify practices inconsistent with the peace and moral safety of society.

Sec. 10. No form of religion shall be established by law; but it shall be the duty of the general assembly to pass suitable laws to protect every religious denomination in the peaceable enjoyment of its own mode of worship.

Sec. 11. The right of trial by jury shall remain inviolable.

Sec. 12. No person shall be disqualified as a witness, or be prevented from acquiring, holding, and transmitting property, or be hindered in acquiring education, or be liable to any other punishment for any offence, or be subjected in law to any other restraints or disqualifications in regard to any personal rights than such as are laid upon others under like circumstances.

Sec. 13. No person shall be held to answer for any crime or offence until the same is fully, fairly, plainly, substantially, and formally described to him; or be compelled to accuse or furnish evidence against himself; and every person shall have a right to produce all proofs that may be favorable to him, to meet the witnesses against him face to face, to have a speedy and public trial by an impartial jury, and to be fully heard in his defence by himself or by his counsel, or by both, as he may elect.

Sec. 14. No person shall be arrested, imprisoned, despoiled, or dispossessed of his property, immunities, or privileges, put out of the protection of the law, exiled, or deprived of his life, liberty, or estate, but by the judgment of his peers or the law of the land. And the general assembly shall not enact any law that shall subject any person to punishment without trial by jury; nor shall he be punished but by virtue of a law already established or promulgated prior to the offence, and legally applied.

Sec. 15. All courts shall be public; and every person, for any injury that he may receive in his lands, goods, person, or reputation, shall have remedy by due course of law, and justice administered without unnecessary delay.

Sec. 16. All persons shall, before conviction, be bailable by sufficient sureties, except for capital offences, when the proof is evident or the presumption great; and excessive bail shall not in any case be required, nor corporal punishment inflicted.

Sec. 17. The privilege of the writ of *habeas corpus* shall not be suspended, except when, in case of insurrection, rebellion, or invasion, the public safety may require it.

Sec. 18. No person, after having been once acquitted by a jury, shall again, for the same offence, be put in jeopardy of his life or liberty.

Sec. 19. All offences less than felony, and in which the punishment does not exceed a fine of one hundred dollars, or imprisonment for thirty days, shall be tried summarily before a justice of the peace, or other officer authorized by law, on information under oath, without indictment or intervention of a grand jury, saving to the defendant the right of appeal; and no person shall be held to answer for any higher crime or offence unless on presentment of a grand jury, except in cases arising in the land and naval service, or in the militia when in actual service in time of war or public danger.

Sec. 20. No person shall be imprisoned for debt, except in cases of fraud; and a reasonable amount of property, as a homestead, shall be exempted from seizure or sale for the payment of any debts or liabilities, except for the payment of such obligations as are provided for in this constitution.

Sec. 21. No bill of attainder, *ex post facto* law, nor any law impairing the obligation of contracts, shall ever be enacted; and no conviction shall work corruption of blood or forfeiture of estate.

Sec. 22. All persons have a right to be secure from unreasonable searches, or seizure of their persons, houses, papers or possessions. All warrants shall be supported by oath or affirmation, and the order of the warrant to a civil officer to make search or seizure in suspected places, or to arrest one or more suspected persons, or to seize their property, shall be accompanied with a special designation of the persons or objects of search, arrest, or seizure, and no warrant shall be issued but in the cases and with the formalities prescribed by the laws.

Sec. 23. Private property shall not be taken or applied for public use, or for the use of corporations, or for private use, without the consent of the owner or a just compensation being made therefor: *Provided, however*, That laws may be made securing to persons or corporations the right of way over the lands of either persons or corporations, and, for works of internal improvement, the right to establish depots, stations, turnouts, &c.; but a just compensation shall, in all cases, be first made to the owner.

Sec. 24. The power of suspending the laws, or the execution of the laws, shall never be exercised but by the general assembly, or by authority derived therefrom; to be exercised in such particular cases only as the general assembly shall expressly provide for.

Sec. 25. No person shall, in any case, be subject to martial law, or to any pains or penalties by virtue of that law, except those employed in the Army or Navy of the United States, and except the militia in actual service, but by authority of the general assembly.

Sec. 26. In the government of this commonwealth, the legislative, executive, and judicial powers of the government shall be forever separate and distinct from each other, and no person or persons exercising the functions of one of said departments shall assume or discharge the duties of any other.

Sec. 27. The general assembly ought frequently to assemble for the redress of grievances, and for making new laws, as the common good may require.

Sec. 28. The people have a right to keep and bear arms for the common defence. As, in times of peace, armies are dangerous to liberty, they ought not to be maintained without the consent of the general assembly. The military power ought always to be held in an exact subordination to the civil authority, and be governed by it.

Sec. 29. In time of peace, no soldier shall be quartered in any house without the consent of the owner; and in time of war, such quarters shall not be made but in a manner prescribed by law.

Sec. 30. No person who conscientiously scruples to bear arms shall be compelled so to do; but he shall pay an equivalent for personal service.

Sec. 31. All elections shall be free and open, and every inhabitant of this commonwealth possessing the qualifications provided for in this constitution shall have an equal right to elect officers and be elected to fill public office.

Sec. 32. No property qualification shall be necessary for an election to or the holding of any office, and no office shall be created, the appointment to which shall be for a longer time than good behavior. After the adoption of this constitution, any person who shall fight a duel, or send or accept a challenge for that purpose, or be an aider or abetter in fighting a duel, shall be deprived of holding any office of honor or trust in this State, and shall be otherwise punished as the law shall prescribe.

Sec. 33. The right of suffrage shall be protected by laws regulating elections, and prohibiting, under adequate penalties, all undue influences from power, bribery, tumult, or improper conduct.

Sec. 34. Representation shall be apportioned according to population, and no person in this State shall be disfranchised, or deprived of any of the rights or privileges now enjoyed, except by the law of the land or the judgment of his peers.

Sec. 35. Temporary absence from the State shall not forfeit a residence once obtained.

Sec. 36. All property subject to taxation shall be taxed in proportion to its value. Each individual of society has a right to be protected in the enjoyment of life, liberty, and property, according to standing laws. He should, therefore, contribute his share to the expense of his protection, and give his personal service, when necessary.

Sec. 37. No subsidy, charge, impost, tax, or duties shall be established, fixed, laid, or levied, under any pretext whatsoever, without the consent of the people, or their representatives, lawfully assembled.

Sec. 38. Excessive fines shall not be imposed, nor cruel and unusual punishment inflicted, nor shall witnesses be unreasonably detained.

Sec. 39. No title of nobility or hereditary emolument shall ever be granted in this State. Distinction, on account of race or color, in any case whatever, shall be prohibited, and all classes of citizens shall enjoy, equally, all common, public, legal, and political privileges.

Sec. 40. All navigable waters shall remain forever public highways, free to the citizens of the State and the United States, without tax, impost, or toll imposed; and no tax, toll, impost, or wharfage shall

be imposed, demanded, or received from the owner of any merchandise or commodity for the use of the shores or any wharf erected on the shores or in or over the waters of any navigable stream, unless the same be authorized by the general assembly.

SEC. 41. The enumeration of rights in this constitution shall not be construed to impair or deny others retained by the people, and all powers not herein delegated remain with the people.

ARTICLE II

LEGISLATIVE DEPARTMENT

SECTION 1. The legislative power of this State shall be vested in two distinct branches, the one to be styled the senate, and the other the house of representatives, and both together the general assembly of the State of South Carolina.

SEC. 2. The house of representatives shall be composed of members chosen by ballot every second year by the citizens of this State, qualified as in this constitution is provided.

SEC. 3. The judicial districts shall hereafter be designated as counties, and the boundaries of the several counties shall remain as they are now established, except the county of Pickens, which is hereby divided into two counties, by a line leaving the southern boundary of the State of North Carolina where the White Water River enters this State, and thence down the centre of said river, by whatever names known, to Ravenel's Bridge, on Seneca River, and thence along the centre of the road leading to Pendleton Village, until it intersects the line of the county of Anderson; and the territory lying east of said line shall be known as the county of Pickens, and the territory lying west of said line shall be known as the county of Oconee: *Provided*, That the general assembly shall have the power at any time to organize new counties, by changing the boundaries of any of the old ones; but no new county shall be hereafter formed of less extent than six hundred and twenty-five square miles, nor shall any existing counties be reduced to a less extent than six hundred and twenty-five square miles. Each county shall constitute one election district.

SEC. 4. The house of representatives shall consist of one hundred and twenty-four members, to be apportioned among the several counties according to the number of inhabitants contained in each. An enumeration of the inhabitants, for this purpose, shall be made in eighteen hundred and sixty-nine, and again in eighteen hundred and seventy-five, and shall be made in the course of every tenth year thereafter, in such manner as shall be by law directed; and representatives shall be assigned to the different counties in the above-mentioned proportion, by act of the general assembly, at the session immediately succeeding every enumeration: *Provided*, That until the apportionment which shall be made upon the next enumeration shall take effect, the representation of the several counties, as herein constituted, shall be as follows: Abbeville, five; Anderson, three; Barnwell, six; Beaufort, seven; Charleston, eighteen; Chester, three; Clarendon, two; Colleton, five; Chesterfield, two; Darlington, four; Edgefield, seven; Fairfield, three; Georgetown, three; Greenville, four; Horry, two; Kershaw, three; Lancaster, two; Laurens, four; Lexington, two;

Marion, four; Marlboro, two; Newberry, three; Oconee, two; Orangeburg, five; Pickens, one; Richland, four; Spartanburg, four; Sumter, four; Union, three; Williamsburg, three; York, four.

SEC. 5. If the enumeration herein directed shall not be made in the course of the year appointed for the purpose, it shall be the duty of the governor to have it effected as soon thereafter as shall be practicable.

SEC. 6. In assigning representatives to the several counties, the general assembly shall allow one representative to every one hundred and twenty-fourth part of the whole number of inhabitants in the State: *Provided*, That if in the apportionment of representatives any county shall appear not to be entitled, from its population, to a representative, such county shall nevertheless send one representative; and if there be still a deficiency of the number of representatives required by section fourth of this article, such deficiency shall be supplied by assigning representatives to those counties having the largest surplus fractions.

SEC. 7. No apportionment of representatives shall be construed to take effect, in any manner, until the general election which shall succeed such apportionment.

SEC. 8. The senate shall be composed of one member from each county, to be elected, for the term of four years, by the qualified voters of the State, in the same manner in which members of the house of representatives are chosen; except the county of Charleston, which shall be allowed two senators.

SEC. 9. Upon the meeting of the first general assembly which shall be chosen under the provisions of this constitution, the senators shall be divided, by lot, into two classes as nearly equal as may be; the seats of the senators of the first class to be vacated at the expiration of two years after the Monday following the general election, and of those of the second class at the expiration of four years; so that, except as above provided, one-half of the senators may be chosen every second year.

SEC. 10. No person shall be eligible to a seat in the senate or house of representatives who, at the time of his election, is not a citizen of the United States; nor any one who has not been for one year next preceding his election a resident of this State, and for three months next preceding his election a resident of the county whence he may be chosen, nor any one who has been convicted of an infamous crime. Senators shall be at least twenty-five, and representatives at least twenty-two years of age.

SEC. 11. The first election for senators and representatives, under the provisions of this constitution, shall be held on the 14th, 15th, and 16th days of April, of the present year; and the second election shall be held on the third Wednesday in October, 1870, and forever thereafter on the same day in every second year, in such manner and at such places at the general assembly may hereafter provide.

SEC. 12. The first session of the general assembly after the ratification of this constitution shall be convened on the second Tuesday of May, of the present year, in the city of Columbia, (which shall remain the seat of government until otherwise determined by the concurrence of two-thirds of both branches of the whole representation,) and thereafter on the fourth Tuesday in November annually. Should the casualties of war or contagious diseases render it unsafe to meet

at the seat of government, then the governor may, by proclamation, appoint a more secure and convenient place of meeting.

SEC. 13. The terms of office of the senators and representatives chosen at a general election shall begin on the Monday following such election.

SEC. 14. Each house shall judge of the election returns and qualifications of its own members; and a majority of each house shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may compel the attendance of absent members in such manner and under such penalties as may be provided by law.

SEC. 15. Each house shall choose its own officers, determine its rules of proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member, but not a second time for the same cause.

SEC. 16. Each house may punish by imprisonment, during its sitting, any person not a member who shall be guilty of disrespect to the house by any disorderly or contemptuous behavior in its presence, or who, during the time of its sitting, shall threaten harm to body or estate of any member for anything said or done in either house, or who shall assault any of them therefor, or who shall assault or arrest any witness or other person ordered to attend the house, in his going thereto or returning therefrom, or who shall rescue any person arrested by order of the house: *Provided*, That such time of imprisonment shall not in any case extend beyond the session of the general assembly.

SEC. 17. The members of both houses shall be protected in their persons and estates during their attendance on, going to, and returning from the general assembly, and ten days previous to the sitting, and ten days after the adjournment thereof. But these privileges shall not be extended so as to protect any member who shall be charged with treason, felony, or breach of the peace.

SEC. 18. Bills for raising a revenue shall originate in the house of representatives, but may be altered, amended, or rejected by the senate; and all other bills may originate in either house, and may be amended, altered, or rejected by the other.

SEC. 19. The style of all laws shall be, "*Be it enacted by the senate and house of representatives of the State of South Carolina, now met and sitting in general assembly, and by the authority of the same.*"

SEC. 20. Every act or resolution having the force of law shall relate to but one subject, and that shall be expressed in the title.

SEC. 21. No bill shall have the force of law until it shall have been read three times, and on three several days, in each house, has had the great seal of state affixed to it, and has been signed in the senate-house by the president of the senate and the speaker of the house of representatives.

SEC. 22. No money shall be drawn from the treasury but in pursuance of an appropriation made by law; and a regular statement and account of the receipts and expenditures of all public moneys shall be published annually, in such manner as may be by law directed.

SEC. 23. Each member of the first general assembly under this constitution shall receive six dollars per diem while in session, and the further sum of twenty cents for every mile of the ordinary route of

travel in going to and returning from the place where such session is held; after which they shall receive such compensation as shall be fixed by law; but no general assembly shall have the power to increase the compensation of its own members. And when convened in extra session they shall receive the same mileage and per-diem compensation as are fixed by law for the regular session, and none other.

SEC. 24. In all elections by the general assembly, or either house thereof, the members shall vote *viva voce*, and their votes, thus given, shall be entered upon the journal of the house to which they respectively belong.

SEC. 25. Neither house, during the session of the general assembly, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the assembly shall be at the time sitting.

SEC. 26. Each house shall keep a journal of its own proceedings and cause the same to be published immediately after its adjournment, excepting such parts as in its judgment may require secrecy; and the yeas and nays of the members of either house, on any question, shall, at the desire of any two members present, be entered on the journals. Any member of either house shall have liberty to dissent from, and protest against, any act or resolution which he may think injurious to the public or to an individual, and have the reasons of his dissent entered on the journals.

SEC. 27. The doors of each house shall be open, except on such occasions as in the opinion of the house may require secrecy.

SEC. 28. No person shall be eligible to a seat in the general assembly whilst he holds any office of profit or trust under this State, the United States of America, or any of them, or under any other power, except officers in the militia, magistrates, or justices of inferior courts, while such justices receive no salary. And if any member shall accept or exercise any of the said disqualifying offices, he shall vacate his seat: *Provided*, That this prohibition shall not extend to the members of the first general assembly.

SEC. 29. If any election district shall neglect to choose a member or members on the day of election, or if any person chosen a member of either house shall refuse to qualify and take his seat, or shall resign, die, depart the State, accept any disqualifying office, or become otherwise disqualified to hold his seat, a writ of election shall be issued by the president of the senate, or speaker of the house of representatives, as the case may be, for the purpose of filling the vacancy thereby occasioned, for the remainder of the term for which the person so refusing to qualify, resigning, dying, departing the State, or becoming disqualified, was elected to serve, or the defaulting election district ought to have chosen a member or members.

SEC. 30. Members of the general assembly, and all officers before they enter upon the execution of the duties of their respective offices, and all members of the bar, before they enter upon the practice of their professions, shall take and subscribe the following oath:

"I do solemnly swear [or affirm, as the case may be] that I am duly qualified according to the Constitution of the United States and of this State to exercise the duties of the office to which I have been elected, [or appointed,] and that I will faithfully discharge to the best of my abilities the duties thereof; that I recognize the supremacy

of the Constitution and laws of the United States over the constitution and laws of any State; and that I will support, protect, and defend the Constitution of the United States and the constitution of South Carolina, as ratified by the people on the sixteenth day of April, 1868: So help me God." (And the president of this convention is authorized to fill the blanks in this section whenever he shall receive satisfactory information of the day on which this constitution shall be ratified.)

SEC. 31. Officers shall be removed for incapacity, misconduct, or neglect of duty, in such manner as may be provided by law, when no mode of trial or removal is provided in this constitution.

SEC. 32. The family homestead of the head of each family, residing in this State, such homestead consisting of dwelling-house, outbuildings and lands appurtenant, not to exceed the value of one thousand dollars, and yearly product thereof, shall be exempt from attachment, levy, or sale on any mesne or final process issued from any court. To secure the full enjoyment of said homestead exemption to the person entitled thereto, or to the head of any family, the personal property of such person, of the following character, to wit: household furniture, beds and bedding, family library, arms, carts, wagons, farming implements, tools, neat cattle, work animals, swine, goats, and sheep, not to exceed in value in the aggregate the sum of five hundred dollars, shall be subject to a like exemption as said homestead, and there shall be exempt in addition thereto all necessary wearing apparel: *Provided*, That no property shall be exempt from attachment, levy, or sale, for taxes, or for payment of obligations contracted for the purchase of said homestead, or the erection of improvements thereon: *Provided further*, That the yearly products of said homestead shall not be exempt from attachment, levy, or sale for the payment of obligations contracted in the production of the same. It shall be the duty of the general assembly at their first session to enforce the provisions of this section by suitable legislation.

SEC. 33. All taxes upon property, real or personal, shall be laid upon the actual value of the property taxed, as the same shall be ascertained by an assessment made for the purpose of laying such tax.

ARTICLE III

EXECUTIVE DEPARTMENT

SECTION 1. The supreme executive authority of this State shall be vested in a chief magistrate, who shall be styled "the governor of the State of South Carolina."

SEC. 2. The governor shall be elected by the electors duly qualified to vote for members of the house of representatives, and shall hold his office for two years, and until his successor shall be chosen and qualified, and shall be reëligible. He shall be elected at the first general election held under this constitution for members of the general assembly, and at each general election thereafter, and shall be installed during the first session of the said general assembly after his election, on such day as shall be provided for by law. The other State officers elect shall, at the same time, enter upon the performance of their duties.

SEC. 3. No person shall be eligible to the office of governor who denies the existence of the Supreme Being; or who at the time of such election has not attained the age of thirty years, and who, except at the first election under this constitution, shall not have been a citizen of the United States and a citizen and resident of this State for two years next preceding the day of election. No person while governor shall hold any other office or commission (except in the militia) under this State, or any other power, at one and the same time.

SEC. 4. The returns of every election of governor shall be sealed up by the managers of elections in their respective counties, and transmitted, by mail, to the seat of government, directed to the secretary of state, who shall deliver them to the speaker of the house of representatives at the next ensuing session of the general assembly, and a duplicate of said returns shall be filed with the clerks of the courts of said counties, whose duty it shall be to forward to the secretary of state a certified copy thereof, upon being notified that the returns previously forwarded by mail have not been received at his office. It shall be the duty of the secretary of state, after the expiration of seven days from the day upon which the votes have been counted, if the returns thereof from any county have not been received, to notify the clerk of the court of said county, and order a copy of the returns filed in his office to be forwarded forthwith. The secretary of state shall deliver the returns to the speaker of the house of representatives at the next ensuing session of the general assembly; and during the first week of the session, or as soon as the general assembly shall have organized by the election of the presiding officers of the two houses, the speaker shall open and publish them in the presence of both houses. The person having the highest number of votes shall be governor; but if two or more shall be equal and highest in votes, the general assembly shall, during the same session in the house of representatives, choose one of them governor, *viva voce*. Contested elections for governor shall be determined by the general assembly in such manner as shall be prescribed by law.

SEC. 5. A lieutenant-governor shall be chosen at the same time, in the same manner, continue in office for the same period, and be possessed of the same qualifications as the governor; and shall, *ex officio*, be president of the senate.

SEC. 6. The lieutenant-governor, while presiding in the senate, shall have no vote, unless the senate be equally divided.

SEC. 7. The senate shall choose a president *pro tempore*, to act in the absence of the lieutenant-governor, or when he shall exercise the office of governor.

SEC. 8. A member of the senate, or of the house of representatives, being chosen and acting as governor or lieutenant-governor, shall thereupon vacate his seat, and another person shall be elected in his stead.

SEC. 9. In case of the removal of the governor from his office, or his death, resignation, removal from the State, or inability to discharge the powers and duties of the said office, the same shall devolve on the lieutenant-governor, and the general assembly, at its first session after the ratification of this constitution, shall, by law, provide for the case of removal, death, resignation, or inability, both of the governor and lieutenant-governor, declaring what officer shall then

act as governor, and such officer shall act accordingly, until such disability shall have been removed, or a governor shall have been elected.

SEC. 10. The governor shall be commander-in-chief of the militia of the State, except when they shall be called into the actual service of the United States.

SEC. 11. He shall have power to grant reprieves, and pardon after conviction, (except in cases of impeachment,) in such manner, on such terms, and under such restrictions as he shall think proper; and he shall have power to remit fines and forfeitures, unless otherwise directed by law. It shall be his duty to report to the general assembly, at the next regular session thereafter, all pardons granted by him, with a full statement of each case, and the reasons moving him thereunto.

SEC. 12. He shall take care that the laws be faithfully executed in mercy.

SEC. 13. The governor and lieutenant-governor shall, at stated times, receive for their services a compensation, which shall be neither increased nor diminished during the period for which they shall have been elected.

SEC. 14. All officers in the executive department shall, when required by the governor, give him information in writing upon any subject relating to the duties of their respective offices.

SEC. 15. The governor shall, from time to time, give to the general assembly information of the condition of the State, and recommend to their consideration such measures as he shall judge necessary or expedient.

SEC. 16. He may, on extraordinary occasions, convene the general assembly; and should either house remain without a quorum for five days, or in case of disagreement between the two houses with respect to the time of adjournment, may adjourn them to such time as he shall think proper, not beyond the time of the annual session then next ensuing.

SEC. 17. He shall commission all officers of the State.

SEC. 18. There shall be a seal of the State, for which the general assembly, at its first session, shall provide, and which shall be used by the governor officially, and shall be called "The Great Seal of the State of South Carolina."

SEC. 19. All grants and commissions shall be issued in the name and by the authority of the State of South Carolina, sealed with the great seal, signed by the governor, and countersigned by the secretary of state.

SEC. 20. The governor and the lieutenant-governor, before entering upon the duties of their respective offices, shall take and subscribe the oath of office as prescribed in article two, section thirty, of this constitution.

SEC. 21. The governor shall reside at the capital of the State; but during the sittings of the general assembly he shall reside where its sessions are held, except in case of contagion.

SEC. 22. Every bill or joint resolution which shall have passed the general assembly, except on a question of adjournment, shall, before it becomes a law, be presented to the governor, and, if he approve, he shall sign it, if not, he shall return it, with his objections, to the house in which it shall have originated; which shall enter the

objections at large on its journals, and proceed to reconsider it. If, after such reconsideration, two-thirds of that house shall agree to pass it, it shall be sent, together with the objections, to the other house, by which it shall be reconsidered, and if approved by two-thirds of that house, it shall have the same effect as if it had been signed by the governor; but in all such cases the vote of both houses shall be taken by yeas and nays, and the names of the persons voting for and against the bill or joint resolution shall be entered on the journals of both houses respectively. If a bill or joint resolution shall not be returned by the governor within three days after it shall have been presented to him, Sundays excepted, it shall have the same force and effect as if he had signed it, unless the general assembly, by their adjournment, prevent its return, in which case it shall not have such force and effect unless returned within two days after their next meeting.

SEC. 23. There shall be elected by the qualified voters of the State a comptroller-general, and treasurer, and a secretary of state, who shall hold their respective offices for the term of four years, and whose duties and compensation shall be prescribed by law.

ARTICLE IV

JUDICIAL DEPARTMENT

SECTION 1. The judicial power of this State shall be vested in a supreme court, in two circuit courts, to wit: a court of common pleas, having civil jurisdiction, and a court of general sessions, with criminal jurisdiction only; in probate courts, and in justices of the peace. The general assembly may also establish such municipal and other inferior courts as may be deemed necessary.

SEC. 2. The supreme court shall consist of a chief-justice and two associate justices, any two of whom shall constitute a quorum. They shall be elected by a joint vote of the general assembly, for the term of six years, and shall continue in office until their successors shall be elected and qualified. They shall be so classified that one of the justices shall go out of office every two years.

SEC. 3. The chief-justice elected under this constitution shall continue in office for six years, and the general assembly immediately after the said election shall determine which of the two associate justices elect shall serve for the term of two years and which for the term of four years; and having so determined the same, it shall be the duty of the governor to commission them accordingly.

SEC. 4. The supreme court shall have appellate jurisdiction only in cases of chancery, and shall constitute a court for the correction of errors at law, under such regulations as the general assembly may by law prescribe: *Provided*, The said court shall always have power to issue writs of injunction, *mandamus*, *quo warranto*, *habeas corpus*, and such other original and remedial writs as may be necessary to give it a general supervisory control over all other courts in the State.

SEC. 5. The supreme court shall be held at least once in each year, at the seat of government, and at such other place or places in the State as the general assembly may direct.

SEC. 6. No judge shall preside on the trial of any cause in the event of which he may be interested, or where either of the parties shall be

connected with him by affinity or consanguinity, within such degrees as may be prescribed by law, or in which he may have been counsel, or have presided in any inferior court, except by consent of all the parties. In case all or any of the judges of the supreme court shall be thus disqualified from presiding in any cause or causes, the court, or the judges thereof, shall certify the same to the governor of the State, and he shall immediately commission, specially, the requisite number of men learned in the law for the trial and determination thereof. The same course shall be pursued in the circuit and inferior courts as is prescribed in this section for cases of the supreme court.

SEC. 7. There shall be appointed by the judges of the supreme court a reporter and clerk of said court, who shall hold their offices for two years, and whose duties and compensation shall be prescribed by law.

SEC. 8. When a judgment or decree is reversed or affirmed by the supreme court, every point made and distinctly stated in writing in the cause, and fairly arising upon the record of the case, shall be considered and decided; and the reasons therefor shall be concisely and briefly stated in writing, and preserved with the records of the case.

SEC. 9. The judges of the supreme court and circuit courts shall, at stated times, receive a compensation for their services, to be fixed by law, which shall not be diminished during their continuance in office. They shall not be allowed any fees or perquisites of office, nor shall they hold any other office of trust or profit under this State, the United States, or any other power.

SEC. 10. No person shall be eligible to the office of judge of the supreme court or circuit courts who is not at the time of his election a citizen of the United States, and has not attained the age of thirty years, and been a resident of this State for five years next preceding his election, or from the adoption of this constitution.

SEC. 11. All vacancies in the supreme court, or other inferior tribunals, shall be filled by election as herein prescribed: *Provided*, That if the unexpired term does not exceed one year, such vacancy may be filled by executive appointment. All judges, by virtue of their office, shall be conservators of the peace throughout the State.

SEC. 12. In all cases decided by the supreme court, a concurrence of two of the judges shall be necessary to a decision.

SEC. 13. The State shall be divided into convenient circuits, and for each circuit a judge shall be elected by joint ballot of the general assembly, who shall hold his office for a term of four years, and during his continuance in office he shall reside in the circuit of which he is judge.

SEC. 14. Judges of the circuit court shall interchange circuits with each other in such manner as may be determined by law.

SEC. 15. The courts of common pleas shall have exclusive jurisdiction in all cases of divorce, and exclusive original jurisdiction in all civil cases and actions *ex delicto*, which shall not be cognizable before justices of the peace, and appellate jurisdiction in all such cases as may be provided by law. They shall have power to issue writs of *mandamus*, prohibition, *scire facias*, and all other writs which may be necessary for carrying their powers fully into effect.

SEC. 16. The court of common pleas shall sit in each judicial district in this State at least twice in every year, at such stated times and places as may be appointed by law. It shall have jurisdiction in all matters of equity; but the courts heretofore established for that

purpose shall continue as now organized until the first day of January, one thousand eight hundred and sixty-nine, for the disposition of causes now pending therein, unless otherwise provided by law.

Sec. 17. The general assembly shall provide by law for the preservation of the records of the courts of equity, and also for the transfer to the court of common pleas and probate courts for final decision of all causes that may remain undetermined. It shall be the duty of the judges of the supreme and circuit courts to file their decisions within sixty days from the last day of the term of court at which the causes were heard.

Sec. 18. The court of general sessions shall have exclusive jurisdiction over all criminal cases which shall not be otherwise provided for by law. It shall sit in each county in the State at least three times in each year, at such stated times and places as the general assembly may direct.

Sec. 19. The qualified electors of each county shall elect three persons for the term of two years, who shall constitute a board of county commissioners, which shall have jurisdiction over roads, highways, ferries, bridges, and in all matters relating to taxes, disbursements of money for county purposes, and in every other case that may be necessary to the internal improvement and local concerns of the respective counties: *Provided*, That in all cases there shall be the right of appeal to the State courts.

Sec. 20. A court of probate shall be established in each county, with jurisdiction in all matters testamentary and of administration, in business appertaining to minors and the allotment of dower in cases of idiocy and lunacy, and persons *non compotes mentis*. The judge of said court shall be elected by the qualified electors of the respective counties for the term of two years.

Sec. 21. A competent number of justices of the peace and constables shall be chosen in each county by the qualified electors thereof, in such manner as the general assembly may direct; they shall hold their offices for a term of two years, and until their successors are elected and qualified. They shall reside in the county, city, or beat for which they are elected, and the justices of the peace shall be commissioned by the governor.

Sec. 22. Justices of the peace, individually, or two or more of them jointly, as the general assembly may direct, shall have original jurisdiction in cases of bastardy, and in all matters of contract, and actions for the recovery of fines and forfeitures where the amount claimed does not exceed one hundred dollars, and such jurisdiction as may be provided by law in actions *ex delicto*, where the damages claimed do not exceed one hundred dollars, and prosecutions for assault and battery, and other penal offences less than felony punishable by fines only.

Sec. 23. They may also sit as examining courts, and commit, discharge, or recognize (except in capital cases) persons charged with offences, subject to such regulations as the general assembly may provide; they shall also have power to bind over to keep the peace or for good behavior. For the foregoing purposes they shall have power to issue all necessary processes.

Sec. 24. Every action cognizable before justices of the peace instituted by summons or warrant shall be brought before some justice of

the peace in the county or city where the defendant resides, and in all such causes tried by them the right of appeal shall be secured, under such rules and regulations as may be provided by law.

SEC. 25. The judges of probate, county commissioners, justices of the peace, and constables shall receive for their services such compensation and fees as the general assembly may from time to time by law direct.

SEC. 26. Judges shall not charge juries in respect to matters of fact, but may state the testimony and declare the law.

SEC. 27. There shall be elected in each county, by the electors thereof, one clerk for the court of common pleas, who shall hold his office for the term of four years, and until his successor shall be elected and qualified. He shall, by virtue of his office, be clerk of all other courts of record held therein; but the general assembly may provide by law for the election of a clerk, with a like term of office, for each or any other of the courts of record, and may authorize the judge of the probate court to perform the duties of clerk for his court, under such regulations as the general assembly may direct. Clerks of courts shall be removable for such cause and in such manner as shall be prescribed by law.

SEC. 28. There shall be an attorney-general for the State, who shall perform such duties as may be prescribed by law. He shall be elected by the qualified electors of the State for the term of four years, and shall receive for his services such compensation as shall be fixed by law.

SEC. 29. There shall be one solicitor for each circuit, who shall reside therein, to be elected by the qualified electors of the circuit, who shall hold his office for the term of four years, and shall receive for his services such compensation as shall be fixed by law. In all cases where an attorney for the State of any circuit fails to attend and prosecute, according to law, the court shall have power to appoint an attorney *pro tempore*.

SEC. 30. The qualified electors of each county shall elect a sheriff and a coroner for the term of four years, and until their successors are elected and qualified; they shall reside in their respective counties during their continuance in office, and be disqualified for the office a second time, if it should appear that they or either of them are in default for moneys collected by virtue of their respective offices.

SEC. 31. All writs and processes shall run and all prosecutions shall be conducted in the name of the State of South Carolina; all writs shall be attested by the clerk of the court from which they shall be issued; and all indictments shall conclude against the peace and dignity of the State.

SEC. 32. The general assembly shall provide by law for the speedy publication of the decisions of the supreme court made under this constitution.

SEC. 33. The first general assembly convened under this constitution, at their first session, immediately after their permanent organization, shall ratify the amendment to the Constitution of the United States known as the fourteenth article, proposed by the Thirty-ninth Congress.

SEC. 34. All contracts, whether under seal or not, the consideration of which were for the purchase of slaves, are hereby declared null

and void and of no effect, and no suit, either at law or equity, shall be commenced or prosecuted for the enforcement of such contracts, and all proceedings to enforce satisfaction or payment on judgments or decrees rendered, recorded, enrolled, or entered upon such contracts, in any court of this State, are hereby prohibited, and all orders heretofore made in this State in relation to such contracts, whereby property is held subject to decision as to the validity of such contracts, are also hereby declared null and void and of no effect.

Article V

JURISPRUDENCE

Section 1. The general assembly shall pass such laws as may be necessary and proper, to decide differences by arbitrators, to be appointed by the parties who may choose that summary mode of adjustment.

Sec. 2. It shall be the duty of the general assembly to pass the necessary laws for the change of venue in all cases, civil and criminal, over which the circuit courts have original jurisdiction, upon a proper showing, supported by affidavit, that a fair and impartial trial cannot be had in the county where such trial or prosecution was commenced.

Sec. 3. The general assembly, at its first session after the adoption of this constitution, shall make provision to revise, digest, and arrange, under proper heads, the body of our laws, civil and criminal, and form a penal code, founded upon principles of reformation, and have the same promulgated in such manner as they may direct, and a like revision, digest, and promulgation shall be made within every subsequent period of ten years. That justice may be administered in a uniform mode of pleading without distinction between law and equity, they shall provide for abolishing the distinct forms of action, and for that purpose shall appoint some suitable person or persons, whose duty it shall be to revise, simplify, and abridge the rules, practice, pleadings, and forms of the courts now in use in this State.

Article VI

EMINENT DOMAIN

Section 1. The State shall have concurrent jurisdiction on all rivers bordering on this State, so far as such rivers shall form a common boundary to this and any other State bounded by the same, and they, together with all other navigable waters within the limits of the State, shall be common highways, and forever free, as well to the inhabitants of this State as to the citizens of the United States, without any tax or impost therefor, unless the same be expressly provided for by the general assembly.

Sec. 2. The title to all lands and other property which have heretofore accrued to this State by grant, gift, purchase, forfeiture, escheats, or otherwise, shall vest in the State of South Carolina the same as though no change had taken place.

SEC. 3. The people of the State are declared to possess the ultimate property in and to all lands within the jurisdiction of the State, and all lands the title to which shall fail from defect of heirs shall revert or escheat to the people.

ARTICLE VII

IMPEACHMENT

SECTION 1. The house of representatives shall have the sole power of impeachment. A vote of two-thirds of all the members elected shall be required for an impeachment, and any officer impeached shall thereby be suspended from office until judgment in the case shall have been pronounced.

SEC. 2. All impeachments shall be tried by the senate, and when sitting for that purpose they shall be under oath or affirmation. No person shall be convicted except by vote of two-thirds of all the members elected. When the governor is impeached, the chief justice of the supreme court, or the senior judge, shall preside, with a casting vote in all preliminary questions.

SEC. 3. The governor and all other executive and judicial officers shall be liable to impeachment; but judgment in such case shall not extend further than removal from office. The persons convicted shall, nevertheless, be liable to indictment, trial, and punishment according to law.

SEC. 4. For any wilful neglect of duty, or other reasonable cause, which shall not be sufficient ground of impeachment, the governor shall remove any executive or judicial officer on the address of two-thirds of each house of the general assembly: *Provided*, That the cause or causes for which said removal may be required shall be stated at length in such address and entered on the journals of each house: *And provided further*, That the officer intended to be removed shall be notified of such cause or causes, and shall be admitted to a hearing in his own defence before any vote for such address; and in all cases the vote shall be taken by yeas and nays, and be entered on the journals of each house respectively.

ARTICLE VIII

RIGHT OF SUFFRAGE

SECTION 1. In all elections by the people the electors shall vote by ballot.

SEC. 2. Every male citizen of the United States, of the age of twenty-one years and upwards, not laboring under the disabilities named in this constitution, without distinction of race, color, or former condition, who shall be a resident of this State at the time of the adoption of this constitution, or who shall thereafter reside in this State one year, and in the county in which he offers to vote sixty days next preceding any election, shall be entitled to vote for all officers that are now, or hereafter may be, elected by the people, and upon all questions submitted to the electors at any elections; *Provided*, That

no person shall be allowed to vote or hold office who is now or hereafter may be disqualified therefor by the Constitution of the United States, until such disqualification shall be removed by the Congress of the United States: *Provided further*, That no person, while kept in any almshouse or asylum, or of unsound mind, or confined in any public prison, shall be allowed to vote or hold office.

SEC. 3. It shall be the duty of the general assembly to provide from time to time for the registration of all electors.

SEC. 4. For the purpose of voting, no person shall be deemed to have lost his residence by reason of absence while employed in the service of the United States, nor while engaged upon the waters of this State or the United States, or of the high seas, nor while temporarily absent from the State.

SEC. 5. No soldier, seaman, or marine in the Army or Navy of the United States shall be deemed a resident of this State in consequence of having been stationed therein.

SEC. 6. Electors shall, in all cases, except treason, felony, or breach of the peace, be privileged from arrest and civil process during their attendance at elections, and in going to and returning from the same.

SEC. 7. Every person entitled to vote at any election shall be eligible to any office which now is or hereafter shall be elective by the people in the county where he shall have resided sixty days previous to such election, except as otherwise provided in this constitution or the Constitution and laws of the United States.

SEC. 8. The general assembly shall never pass any law that will deprive any of the citizens of this State of the right of suffrage, except for treason, murder, robbery, or duelling, whereof the persons shall have been duly tried and convicted.

SEC. 9. Presidential electors shall be elected by the people.

SEC. 10. In all elections held by the people under this constitution, the person or persons who shall receive the highest number of votes shall be declared elected.

SEC. 11. The provision of this constitution concerning the term of residence necessary to enable persons to hold certain offices therein mentioned shall not be held to apply to officers chosen by the people at the first election, or by the general assembly at its first session.

SEC. 12. No person shall be disfranchised for felony, or other crimes committed while such person was a slave.

ARTICLE IX

FINANCE AND TAXATION

SECTION 1. The general assembly shall provide by law for a uniform and equal rate of assessment and taxation, and shall prescribe such regulations as shall secure a just valuation for taxation of all property, real, personal, and possessory, except mines and mining claims, the proceeds of which alone shall be taxed; and also excepting such property as may be exempted by law for municipal, educational, literary, scientific, religious, or charitable purposes.

SEC. 2. The general assembly may provide annually for a poll-tax, not to exceed one dollar on each poll, which shall be applied exclusively to the public-school fund. And no additional poll-tax shall be levied by any municipal corporation.

SEC. 3. The general assembly shall provide for an annual tax sufficient to defray the estimated expenses of the State for each year: and whenever it shall happen that such ordinary expenses of the State for any year shall exceed the income of the State for such year, the general assembly shall provide for levying a tax for the ensuing year sufficient, with other sources of income, to pay the deficiency of the preceding year, together with the estimated expenses of the ensuing year.

SEC. 4. No tax shall be levied except in pursuance of a law, which shall distinctly state the object of the same; to which object such tax shall be applied.

SEC. 5. It shall be the duty of the general assembly to enact laws for the exemption from taxation of all public schools, colleges, and institutions of learning, all charitable institutions in the nature of asylums for the infirm, deaf and dumb, blind, idiotic, and indigent persons, all public libraries, churches, and burying-grounds; but property of associations and societies, although connected with charitable objects, shall not be exempt from State, county, or municipal taxation: *Provided*, That this exemption shall not extend beyond the buildings and premises actually occupied by such schools, colleges, institutions of learning, asylums, libraries, churches, and burying-grounds, although connected with charitable objects.

SEC. 6. The general assembly shall provide for the valuation and assessment of all lands and the improvements thereon prior to the assembling of the general assembly of one thousand eight hundred and seventy, and thereafter on every fifth year.

SEC. 7. For the purpose of defraying extraordinary expenditures, the State may contract public debts; but such debts shall be authorized by law for some single object, to be distinctly specified therein; and no such law shall take effect until it shall have been passed by the vote of two-thirds of the members of each branch of the general assembly, to be recorded by yeas and nays on the journals of each house, respectively; and every such law shall levy a tax annually sufficient to pay the annual interest of such debt.

SEC. 8. The corporate authorities of counties, townships, school districts, cities, towns, and villages may be vested with power to assess and collect taxes for corporate purposes; such taxes to be uniform in respect to persons and property, within the jurisdiction of the body imposing the same. And the general assembly shall require that all the property, except as heretofore exempted within the limits of municipal corporations, shall be taxed for the payment of debts contracted under authority of law.

SEC. 9. The general assembly shall provide for the incorporation and organization of cities and towns, and shall restrict their powers of taxation, borrowing money, contracting debts, and loaning their credit.

SEC. 10. No scrip, certificate, or other evidence of State indebtedness shall be issued, except for the redemption of stock, bonds, or other evidences of indebtedness previously issued, or for such debts as are expressly authorized in this constitution.

SEC. 11. An accurate statement of the receipts and expenditures of the public money shall be published with the laws of each regular session of the general assembly in such manner as may by law be directed.

SEC. 12. No money shall be drawn from the treasury but in pursuance of appropriations made by law.

SEC. 13. The fiscal year shall commence on the first day of November in each year.

SEC. 14. Any debt contracted by the State shall be by loan on State bonds, of amounts not less than fifty dollars each, on interest, payable within twenty years after the final passage of the law authorizing such debt. A correct registry of all such bonds shall be kept by the treasurer in numerical order, so as always to exhibit the number and amount unpaid and to whom severally made payable.

SEC. 15. Suitable laws shall be passed by the general assembly for the safe-keeping, transfer, and disbursement of the State, county, and school funds; and all officers and other persons charged with the same shall keep an accurate entry of each sum received and of each payment and transfer, and shall give such security for the faithful discharge of such duties as the general assembly may provide. And it shall be the duty of the general assembly to pass laws making embezzlement of such funds a felony, punishable by fine and imprisonment, proportioned to the amount of deficiency or embezzlement; and the party convicted of such felony shall be disqualified from ever holding any office of honor or emolument in this State: *Provided, however*, That the general assembly, by a two-thirds vote, may remove the disability upon payment in full of the principal and interest of the sum embezzled.

SEC. 16. No debt contracted by this State in behalf of the late rebellion, in whole or in part, shall ever be paid.

ARTICLE X

EDUCATION

SECTION 1. The supervision of public instruction shall be vested in a State superintendent of education, who shall be elected by the qualified electors of the State in such manner and at such time as the other State officers are elected; his powers, duties, term of office, and compensation shall be defined by the general assembly.

SEC. 2. There shall be elected, biennially, in each county, by the qualified electors thereof, one school commissioner, said commissioners to constitute a State board of education, of which the State superintendent shall, by virtue of his office, be chairman; the powers, duties, and compensation of the members of said board shall be determined by law.

SEC. 3. The general assembly shall, as soon as practicable after the adoption of this constitution, provide for a liberal and uniform system of free public schools throughout the State, and shall also make provision for the division of the State into suitable school districts. There shall be kept open, at least six months in each year, one or more schools in each school district.

SEC. 4. It shall be the duty of the general assembly to provide for the compulsory attendance, at either public or private schools, of all children between the ages of six and sixteen years, not physically or mentally disabled, for a term equivalent to twenty-four months, at least: *Provided*, That no law to that effect shall be passed until a

system of public schools has been thoroughly and completely organized, and facilities afforded to all the inhabitants of the State for the free education of their children.

SEC. 5. The general assembly shall levy, at each regular session after the adoption of this constitution, an annual tax on all taxable property throughout the State for the support of public schools, which tax shall be collected at the same time and by the same agents as the general State levy, and shall be paid into the treasury of the State. There shall be assessed on all taxable polls in the State an annual tax of one dollar on each poll, the proceeds of which tax shall be applied solely to educational purposes: *Provided*, That no person shall ever be deprived of the right of suffrage for the non-payment of said tax. No other poll or capitation tax shall be levied in the State, nor shall the amount assessed on each poll exceed the limit given in this section. The school-tax shall be distributed among the several school districts of the State in proportion to the respective number of pupils attending the public schools. No religious sect or sects shall have exclusive right to or control of any part of the school-funds of the State, nor shall sectarian principles be taught in the public schools.

SEC. 6. Within five years after the first regular session of the general assembly, following the adoption of this constitution, it shall be the duty of the general assembly to provide for the establishment and support of a State normal school, which shall be open to all persons who may wish to become teachers.

SEC. 7. Educational institutions for the benefit of all the blind, deaf, and dumb, and such other benevolent institutions as the public good may require, shall be established and supported by the State, subject to such regulations as may be prescribed by law.

SEC. 8. Provisions shall be made by law, as soon as practicable, for the establishment and maintenance of a State reform school for juvenile offenders.

SEC. 9. The general assembly shall provide for the maintenance of the State university, and, as soon as practicable, provide for the establishment of an agricultural college, and shall appropriate the land given to this State for the support of such a college, by the act of Congress, passed July second, one thousand eight hundred and sixty-two, or the money or scrip, as the case may be, arising from the sale of said lands, or any lands which may hereafter be given or appropriated for such purpose, for the support and maintenance of such college, and may make the same a branch of the State university, for instruction in agriculture, the mechanic arts, and the natural sciences connected therewith.

SEC. 10. All the public schools, colleges, and universities of this State, supported in whole or in part by the public funds, shall be free and open to all the children and youths of the State, without regard to race or color.

SEC. 11. The proceeds of all lands that have been or hereafter may be given by the United States to this State for educational purposes, and not otherwise appropriated by this State or the United States, and of all lands or other property given by individuals, or appropriated by the State for like purposes, and of all estates of deceased persons who have died without leaving a will or heir, shall be securely invested and sacredly preserved as a State school-fund, and

the annual interest and income of said fund, together with such other means as the general assembly may provide, shall be faithfully appropriated for the purpose of establishing and maintaining free public schools, and for no other purposes or uses whatever.

Article XI

CHARITABLE AND PENAL INSTITUTIONS

Section 1. Institutions for the benefit of the insane, blind, deaf and dumb, and the poor shall always be fostered and supported by this State, and shall be subject to such regulations as the general assembly may enact.

Sec. 2. The directors of the penitentiary shall be elected or appointed, as the general assembly may direct.

Sec. 3. The directors of the benevolent and other State institutions, such as may be hereafter created, shall be appointed by the governor, by and with the consent of the senate; and upon all nominations made by the governor, the question shall be taken by yeas and nays, and entered upon the journals.

Sec. 4. The governor shall have power to fill all vacancies that may occur in the offices aforesaid, until the next session of the general assembly, and until a successor or successors shall be appointed and confirmed.

Sec. 5. The respective counties of this State shall make such provision as may be determined by law, for all those inhabitants who by reason of age and infirmities or misfortunes may have a claim upon the sympathy and aid of society.

Sec. 6. The physician of the lunatic asylum, who shall be superintendent of the same, shall be appointed by the governor, with the advice and consent of the senate. All other necessary officers and employés shall be appointed by the governor.

Article XII

CORPORATIONS

Section 1. Corporations may be formed under general laws, but all such laws may from time to time be altered or repealed.

Sec. 2. The property of corporations now existing or hereafter created shall be subject to taxation, except in cases otherwise provided for in this constitution.

Sec. 3. No right of way shall be appropriated to the use of any corporation until full compensation therefor shall be first made, or secured by a deposit of money, to the owner, irrespective of any benefit from any improvement proposed by such corporation, which compensation shall be ascertained by a jury of twelve men, in a court of record, as shall be prescribed by law.

Sec. 4. Dues from corporations shall be secured by such individual liability of the stockholders, and other means, as may be prescribed by law.

Sec. 5. All general laws and special acts passed pursuant to this section shall make provisions therein for fixing the personal liability

of stockholders under proper limitations; and shall prevent and punish fraudulent misrepresentations as to the capital, property, and resources of such corporations; and shall also regulate the public use of all franchises which have heretofore been or hereafter may be created or granted, by or under the authority of this State, and shall limit all tolls, imposts, and other charges and demands under such laws.

Sec. 6. The general assembly shall grant no charter for banking purposes, nor renew any banking corporations now in existence, except upon the condition that the stockholders shall be liable to the amount of their respective share or shares of stock in such banking institution, for all its debts and liabilities, upon note, bill, or otherwise; and upon the further condition that no director or other officer of said corporation shall borrow any money from said corporation; and if any director or other officer shall be convicted upon indictment of directly or indirectly violating this section, he shall be punished by fine or imprisonment, at the discretion of the court. The books, papers, and accounts of all banks shall be open to inspection, under such regulations as may be prescribed by law.

Article XIII

MILITIA

Section 1. The militia of this State shall consist of all able-bodied male citizens of the State between the ages of eighteen and forty-five years, except such persons as are now, or may hereafter be, exempted by the laws of the United States, or who may be adverse to bearing arms, as provided for in this constitution; and shall be organized, armed, equipped, and disciplined as the general assembly may by law provide.

Sec. 2. The governor shall have power to call out the militia to execute the laws, repel invasion, repress insurrection, and preserve the public peace.

Sec. 3. There shall be an adjutant and inspector general elected by the qualified electors of the State, at the same time and in the same manner as other State officers, who shall rank as a brigadier-general, and whose duties and compensation shall be prescribed by law. The governor shall appoint, by and with the advice and consent of the senate, such other staff-officers as the general assembly may direct.

Article XIV

MISCELLANEOUS

Section 1. No person shall be elected or appointed to any office in this State unless he possess the qualifications of an elector.

Sec. 2. Lotteries, and the sale of lottery-tickets, for any purpose whatever, are prohibited, and the general assembly shall prevent the same by penal laws.

Sec. 3. The State library shall be subject to such regulations as the general assembly may prescribe.

SEC. 4. The general assembly may direct, by law, in what manner claims against the State may be established and adjusted.

SEC. 5. Divorces from the bonds of matrimony shall not be allowed but by the judgment of a court, as shall be prescribed by law.

SEC. 6. No person who denies the existence of the Supreme Being shall hold any office under this constitution.

SEC. 7. The printing of the laws, journals, bills, legislative documents, and papers for each branch of the general assembly, with the printing required for the executive and other departments of State, shall be let on contract, in such manner as shall be prescribed by law.

SEC. 8. The real and personal property of a woman, held at the time of her marriage, or that which she may thereafter acquire, either by gift, grant, inheritance, devise, or otherwise, shall not be subject to levy and sale for her husband's debts; but shall be held as her separate property, and may be bequeathed, devised, or alienated by her the same as if she were unmarried: *Provided*, That no gift or grant from the husband to the wife shall be detrimental to the just claims of his creditors.

SEC. 9. The general assembly shall provide for the removal of all causes which may be pending when this constitution goes into effect to courts created by the same.

SEC. 10. The election for all State officers shall take place at the same time as is provided for that of members of the general assembly, and the election for those officers whose terms of service are for four years shall be held at the time of each alternate general election.

ARTICLE XV

AMENDMENT AND REVISION OF THE CONSTITUTION

SECTION 1. Any amendment or amendments to this constitution may be proposed in the senate or house of representatives. If the same be agreed to by two-thirds of the members elected to each house, such amendment or amendments shall be entered on the journals, respectively, with the yeas and nays taken thereon; and the same shall be submitted to the qualified electors of the State at the next general election thereafter for representatives, and if a majority of the electors qualified to vote for members of the general assembly, voting thereon, shall vote in favor of such amendment or amendments, and two-thirds of each branch of the next general assembly shall, after such an election, and before another, ratify the same amendment or amendments by yeas and nays, the same shall become part of the constitution: *Provided*, That such amendment or amendments shall have been read three times, on three several days, in each house.

SEC. 2. If two or more amendments shall be submitted at the same time, they shall be submitted in such manner that the electors shall vote for or against each of such amendments separately.

SEC. 3. Whenever two-thirds of the members elected to each branch of the general assembly shall think it necessary to call a convention to revise, amend, or change this constitution, they shall recommend to the electors to vote at the next election for representatives for or against a convention; and if a majority of all the electors voting at

said election shall have voted for a convention, the general assembly shall, at their next session, provide by law for calling the same; and such convention shall consist of a number of members, not less than that of the most numerous branch of the general assembly.

AMENDMENTS

[a] ART. 16. To the end that the public debt of South Carolina may not hereafter be increased, without the due consideration and free consent of the people of the State, the General Assembly is hereby forbidden to create any further debt or obligation, either by the loan of the credit of the State, by guaranty, endorsement, or otherwise, except for the ordinary and current business of the State, without first submitting the question as to the creation of any such new debt, guaranty, endorsement, or loan of its credit, to the people of this State at a general State election; and, unless two thirds of the qualified voters of this State, voting on this question, shall be in favor of a further debt, guaranty, or endorsement, or loan of its credi, none such shall be created or made.

(Approved January 29, 1873)

ART. 2. SEC. 11. Strike out all that portion of Section 11, Article 2, following the words "eighteen hundred and seventy." occurring in the fourth and fifth lines, and insert the following: "And forever thereafter on the first Tuesday following the first Monday in November, in every second year, in such manner, and at such places, as the Legislature may provide."

(Approved March 5, 1875)

ART. 3. SEC. 3. Strike out of Section 23 of Article 3 the word "four," occurring in the third line, and insert the word "two," so that the Section of the Constitution will read, when amended as follows:

"SEC. 23. There shall be elected by the qualified voters of the State a Comptroller General, Secretary of State, Treasurer, Attorney General, Adjutant and Inspector General, and Superintendent of Education, who shall hold their respective offices for the term of two years, and whose duties and compensation shall be prescribed by law."

(Approved March 11, 1875)

ART. 2. SEC. 3. That Section 3 of Article 2 of the Constitution of the State be amended by striking out the words "White Water River," in the fifth line of said section, and inserting in the place thereof the words "Taxaway River."

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[a] Article 16 was proposed by the General Assembly, at the regular session 1870–'71, submitted to the qualified electors of the State, at a general election held on the 16th day of October, 1872, approved by a majority vote, and finally adopted by a two thirds vote of the members elected to each House of the General Assembly at its regular session, 1872–'73, and approved January 29, 1873.

(Approved January 26, 1878)

ART. 10. SEC. 5. The Boards of County Commissioners of the several Counties shall levy an annual tax of not less than two on the dollar upon all the taxable property in their respective Counties, which levy shall not be increased unless by special enactment of the General Assembly, for the support of public schools in their respective Counties, which tax shall be collected at the same time and by the same officers as the other taxes for the same year, and shall be held in the County Treasuries of the respective Counties, and paid out exclusively for the support of public schools as provided by law. There shall be assessed on all taxable polls in the State an annual tax of one dollar on each poll, the proceeds of which tax shall be applied solely to educational purposes. *Provided*, That no person shall ever be deprived of the right of suffrage for the non-payment of said tax. No other poll or capitation tax shall be levied in the State, nor shall the amount assessed on each poll exceed the limit given in this Section. The school tax shall be distributed among the several school districts of the Counties in proportion to the respective number of pupils attending the public schools. No religious sect or sects shall have exclusive right to, or control of any part of the school funds of the State, nor shall sectarian principles be taught in the public schools.

(Approved Dec. 13, 1880)

ART. 2. SEC. 32. That Section 32, Article 2, of the Constitution of this State be, and is hereby, stricken out, and the following inserted in lieu thereof:

"The General Assembly shall enact such laws as will exempt from attachment and sale under any mesne or final process issued from any Court to the head of any family residing in this State a homestead in lands, whether held in fee or any lesser estate, not to exceed in value one thousand dollars, with the yearly products thereof; and every head of a family residing in this State, whether entitled to a homestead exemption in lands or not, personal property not to exceed in value the sum of five hundred dollars: *Provided*, That in case any woman having a separate estate shall be married to the head of a family who has not of his own sufficient property to constitute a homestead as hereinbefore provided, said married woman shall be entitled to a like exemption as provided for the head of a family: *Provided, further*, That there shall not be an allowance of more than one thousand dollars worth of real estate and more than five hundred dollars worth of personal property to the husband and wife jointly: *Provided*, That no property shall be exempt from attachment, levy or sale for taxes, or for payment of obligations contracted for the purchase of said homestead or the erection of improvements thereon: *Provided further*, That the yearly products of said homestead shall not be exempt from attachment, levy or sale, for the payment of obligations contracted in the production of the same. It shall be the duty of the General Assembly at their first session to enforce the provisions of this section by suitable legislation.

CONSTITUTION OF THE STATE OF SOUTH CAROLINA, 1895 *

THE STATE OF SOUTH CAROLINA:

At a Convention of the People of the State of South Carolina, begun and holden at Columbia, on the Tenth day of September, in the year of our Lord one thousand eight hundred and ninety-five, and thence continued by divers adjournments to the Fourth day of December, in the year of our Lord one thousand eight hundred and ninety-five.

Preamble

We, the people of the State of South Carolina, in Convention assembled, grateful to God for our liberties, do ordain and establish this Constitution for the preservation and perpetuation of the same.

ARTICLE I

DECLARATION OF RIGHTS

SECTION 1. All political power is vested in and derived from the people only, therefore they have the right at all times to modify their form of government.

SEC. 2. Representation in the House of Representatives shall be apportioned according to population.

SEC. 3. The General Assembly ought frequently to assemble for the redress of grievances and for making new laws, as the common good may require.

SEC. 4. The General Assembly shall make no law respecting an establishment of religion or prohibiting the free exercise thereof, or abridging the freedom of speech or of the press; or the right of the people peaceably to assemble and to petition the Government or any department thereof for a redress of grievances.

SEC. 5. The privileges and immunities of citizens of this State and of the United States under this Constitution shall not be abridged, nor shall any person be deprived of life, liberty or property without due process of law, nor shall any person be denied the equal protection of the laws.

SEC. 6. All property subject to taxation shall be taxed in proportion to its value.

SEC. 7. No tax, subsidy, charge, impost tax or duties shall be established, fixed, laid or levied, under any pretext whatsoever, without the consent of the people or their representatives lawfully assembled.

SEC. 8. No bill of attainder, *ex post facto* law, law impairing the obligation of contracts, nor law granting any title of nobility or hereditary emolument, shall be passed, and no conviction shall work corruption of blood or forfeiture of estate.

SEC. 9. The right of suffrage, as regulated in this Constitution, shall be protected by law regulating elections and prohibiting, under adequate penalties, all undue influences from power, bribery, tumult or improper conduct.

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* Verified from "Constitution of the State of South Carolina, Ratified in Convention, December 4, 1895. Abbeville, S. C.: Hugh Wilson, Printer, 1900." 96 pp.

Sec. 10. All elections shall be free and open, and every inhabitant of this State possessing the qualifications provided for in this Constitution shall have an equal right to elect officers and be elected to fill public office.

Sec. 11. No property qualification, unless prescribed in this Constitution, shall be necessary for an election to or the holding of any office. No person shall be elected or appointed to office in this State for life or during good behavior, but the terms of all officers shall be for some specified period, except Notaries Public and officers in the militia. After the adoption of this Constitution any person who shall fight a duel or send or accept a challenge for that purpose, or be an aider or abettor in fighting a duel, shall be deprived of holding any office of honor or trust in this State, and shall be otherwise punished as the law shall prescribe.

Sec. 12. Temporary absence from the State shall not forfeit a residence once obtained.

Sec. 13. The power of suspending the laws or the execution of the laws shall only be exercised by the General Assembly or by its authority in particular cases expressly provided for by it.

Sec. 14. In the government of this State the legislative, executive and judicial powers of the Government shall be forever separate and distinct from each other, and no person or persons exercising the functions of one of said departments shall assume or discharge the duties of any other.

Sec. 15. All Courts shall be public, and every person shall have speedy remedy therein for wrongs sustained.

Sec. 16. The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures shall not be violated, and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the person or thing to be seized.

Sec. 17. No person shall be held to answer for any crime where the punishment exceeds a fine of one hundred dollars or imprisonment for thirty days, with or without hard labor, unless on a presentment or indictment of a grand jury of the County where the crime shall have been committed, except in cases arising in the land or naval forces or in the militia when in actual service in time of war or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or liberty, nor shall be compelled in any criminal case to be a witness against himself. Private property shall not be taken for private use without the consent of the owner, nor for public use without just compensation being first made therefor.

Sec. 18. In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial by an impartial jury, and to be fully informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to be fully heard in his defence by himself or by his counsel or by both.

Sec. 19. Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted, nor shall witnesses be unreasonably detained. Corporal punishment shall not be inflicted. The power to punish for contempt shall not in any case extend to imprisonment in the State penitentiary.

Sec. 20. All persons shall, before conviction, be bailable by sufficient sureties, except for capital offences when the proof is evident or the presumption great.

Sec. 21. In all indictments or prosecutions for libel, the truth of the alleged libel may be given in evidence, and the jury shall be the judges of the law and the facts.

Sec. 22. Treason against the State shall consist alone in levying war or in giving aid and comfort to enemies against the State. No person shall be held guilty of treason, except upon testimony of at least two witnesses to the same overt act, or upon confession in open Court.

Sec. 23. The privilege of the writ of *habeas corpus* shall not be suspended unless when, in case of insurrection, rebellion or invasion, the public safety may require it.

Sec. 24. No person shall be imprisoned for debt except in cases of fraud.

Sec. 25. The right of trial by jury shall be preserved inviolate.

Sec. 26. A well regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed. As in times of peace armies are dangerous to liberty, they shall not be maintained without the consent of the General Assembly. The military power of the State shall always be held in subordination to the civil authority and be governed by it. No soldier shall in time of peace be quartered in any house without the consent of the owner, nor in time of war but in the manner to be prescribed by law.

Sec. 27. No person shall in any case be subject to martial law or to any pains or penalties by virtue of that law, except those employed in the army and navy of the United States, and except the militia in actual service, but by the authority of the General Assembly.

Sec. 28. All navigable waters shall forever remain public highways free to the citizens of the State and the United States without tax, impost or toll imposed; and no tax, toll, impost or wharfage shall be imposed, demanded or received from the owners of any merchandise or commodity for the use of the shores or any wharf erected on the shores or in or over the waters of any navigable stream unless the same be authorized by the General Assembly.

Sec. 29. The provisions of the Constitution shall be taken, deemed and construed to be mandatory and prohibitory, and not merely directory, except where expressly made directory or permissory by its own terms.

Article II

Right of Suffrage

Section 1. All elections by the people shall be by ballot, and elections shall never be held or the ballots counted in secret.

Sec. 2. Every qualified elector shall be eligible to any office to be voted for, unless disqualified by age, as prescribed in this Constitution. But no person shall hold two offices of honor or profit at the same time: *Provided*, That any person holding another office may at the same time be an officer in the militia or a Notary Public.

SEC. 3. Every male citizen of this State and of the United States twenty-one years of age and upwards, not laboring under the disabilities named in this Constitution and possessing the qualifications required by it, shall be an elector.

SEC. 4. The qualifications for suffrage shall be as follows:

(*a*) Residence in the State for two years, in the County one year, in the polling precinct in which the elector offers to vote four months, and the payment six months before any election of any poll tax then due and payable: *Provided*, That ministers in charge of an organized church and teachers of public schools shall be entitled to vote after six months' residence in the State, otherwise qualified.

(*b*) Registration, which shall provide for the enrollment of every elector once in ten years, and also an enrollment during each and every year of every elector not previously registered under the provisions of this Article.

(*c*) Up to January 1st 1898, all male persons of voting age applying for registration who can read any Section in this Constitution submitted to them by the registration officer, or understand and explain it when read to them by the registration officer, shall be entitled to register and become electors. A separate record of all persons registered before January 1st, 1898, sworn to by the registration officer, shall be filed, one copy with the Clerk of Court and one in the office of the Secretary of State, on or before February 1st, 1898, and such persons shall remain during life qualified electors unless disqualified by the other provisions of this Article. The certificate of the Clerk of Court or Secretary of State shall be sufficient evidence to establish the right of said citizens to any subsequent registration and the franchise under the limitations herein imposed.

(*d*) Any person who shall apply for registration after January 1st, 1898, if otherwise qualified, shall be registered: *Provided*, That he can both read and write any Section of this Constitution submitted to him by the registration officer or can show that he owns, and has paid all taxes collectible during the previous year on property in this State assessed at three hundred dollars ($300) or more.

(*e*) Managers of election shall require of every elector offering to vote at any election, before allowing him to vote, proof of the payment of all taxes, including poll tax, assessed against him and collectible during the previous year. The production of a certificate or of the receipt of the officer authorized to collect such taxes shall be conclusive proof of the payment thereof.

(*f*) The General Assembly shall provide for issuing to each duly registered elector a certificate of registration, and shall provide for the renewal of such certificate when lost, mutilated or destroyed, if the applicant is still a qualified elector under the provisions of this Constitution, or if he has been registered as provided in subsection (*e*).

SEC. 5. Any person denied registration shall have the right to appeal to the Court of Common Pleas, or any Judge thereof, and thence to the Supreme Court, to determine his right to vote under the limitations imposed in this Article, and on such appeal the hearing shall be *de novo*, and the General Assembly shall provide by law for such appeal, and for the correction of illegal and fraudulent registration, voting, and all other crimes against the election laws.

SEC. 6. The following persons are disqualified from being registered or voting:

First. Persons convicted of burglary, arson, obtaining goods or money under false pretenses, perjury, forgery, robbery, bribery, adultery, bigamy, wife-beating, house-breaking, receiving stolen goods, breach of trust with fraudulent intent, fornication, sodomy, incest, assault with intent to ravish, miscegenation, larceny, or crimes against the election laws: *Provided*, That the pardon of the Governor shall remove such disqualification.

Second. Persons who are idiots, insane, paupers supported at the public expense, and persons confined in any public prison.

SEC. 7. For the purpose of voting, no person shall be deemed to have gained or lost a residence by reason of his presence or absence while employed in the service of the United States, nor while engaged in the navigation of the waters of this State, or of the United States, or of the high seas, nor while a student of any institution of learning.

SEC. 8. The General Assembly shall provide by law for the registration of all qualified electors, and shall prescribe the manner of holding elections and of ascertaining the results of the same: *Provided*, At the first registration under this Constitution, and until the first of January, 1898, the registration shall be conducted by a Board of three discreet persons in each County, to be appointed by the Governor, by and with the advice and consent of the Senate. For the first registration to be provided for under this Constitution, the registration books shall be kept open for at least six consecutive weeks; and thereafter from time to time at least one week in each month, up to thirty days next preceding the first election to be held under this Constitution. The registration books shall be public records open to the inspection of any citizen at all times.

SEC. 9. The General Assembly shall provide for the establishment of polling precincts in the several Counties of the State, and those now existing shall so continue until abolished or changed. Each elector shall be required to vote at his own precinct, but provision shall be made for his transfer to another precinct upon his change of residence.

SEC. 10. The General Assembly shall provide for the regulation of party primary elections and punishing fraud at the same.

SEC. 11. The registration books shall close at least thirty days before an election, during which time transfers and registration shall not be legal: *Provided*, Persons who will become of age during that period shall be entitled to registration before the books are closed.

SEC. 12. Electors in municipal elections shall possess the qualifications and be subject to the disqualifications herein prescribed. The production of a certificate of registration from the registration officers of the County as an elector at a precinct included in the incorporated city or town in which the voter desires to vote is declared a condition prerequisite to his obtaining a certificate of registration for municipal elections, and in addition he must have been a resident within the corporate limits at least four months before the election and have paid all taxes due and collectible for the preceding fiscal year. The General Assembly shall provide for the registration of all voters before each election in municipalities: *Provided*, That nothing herein con-

tained shall apply to any municipal elections which may be held prior to the general election of the year 1896.

Sec. 13. In authorizing a special election in any incorporated city or town in this State for the purpose of bonding the same, the General Assembly shall prescribe as a condition precedent to the holding of said election a petition from a majority of the freeholders of said city or town as shown by its tax books, and at such elections all electors of such city or town who are duly qualified for voting under Section 12 of this Article, and who have paid all taxes, State, County and municipal, for the previous year, shall be allowed to vote; and the vote of a majority of those voting in said election shall be necessary to authorize the issue of said bonds.

Sec. 14. Electors shall in all cases except treason, felony, or a breach of the peace, be privileged from arrest on the days of election during their attendance at the polls, and going to and returning therefrom.

Sec. 15. No power civil, or military, shall at any time interfere to prevent the free exercise of the right of suffrage in this State.

Article III

LEGISLATIVE DEPARTMENT

Section 1. The legislative power of this State shall be vested in two distinct branches, the one to be styled the "Senate" and the other the "House of Representatives," and both together the "General Assembly of the State of South Carolina."

Sec. 2. The House of Representatives shall be composed of members chosen by ballot every second year by citizens of this State, qualified as in this Constitution is provided.

Sec. 3. The House of Representatives shall consist of one hundred and twenty-four members, to be apportioned among the several Counties according to the number of inhabitants contained in each. Each County shall constitute one Election District. An enumeration of the inhabitants for this purpose shall be made in the year nineteen hundred and one, and shall be made in the course of every tenth year thereafter, in such manner as shall be by law directed: *Provided*, That the General Assembly may at any time, in its discretion, adopt the immediately preceding United States Census as a true and correct enumeration of the inhabitants of the several Counties, and make the apportionment of Representatives among the several Counties according to said enumeration: *Provided, further*, That until the apportionment which shall be made upon the next enumeration shall take effect, the representation of the several Counties as they now exist (including the County of Saluda established by ordinance) shall be as follows: Abbeville, 5; Aiken, 3; Anderson, 5; Barnwell, 5; Beaufort, 4; Berkeley, 4; Charleston, 9; Chester, 3; Chesterfield, 2; Clarendon, 3; Colleton, 4; Darlington, 3; Edgefield, 3; Fairfield, 3; Florence, 3; Georgetown, 2; Greenville, 5; Hampton, 2; Horry, 2; Kershaw, 2; Lancaster, 2; Laurens, 3; Lexington, 2; Marion, 3; Marlboro, 3; Newberry, 3; Oconee, 2; Orangeburg, 5; Pickens, 2; Richland, 4; Saluda, 2; Spartanburg, 6; Sumter, 5; Union, 3; Williamsburg, 3; York, 4: *Provided further*, That in the event other Counties are hereafter established, then the General Assembly shall reapportion the Representatives between the Counties.

SEC. 4. In assigning Representatives to the several Counties, the General Assembly shall allow one Representative to every one hundred and twenty-fourth part of the whole number of inhabitants in the State: *Provided*, That if in the apportionment of Representatives any County shall appear not to be entitled, from its population, to a Representative, such County shall, nevertheless, send one Representative; and if there be still a deficiency in the number of Representatives required by Section third of this Article, such deficiency shall be supplied by assigning Representatives to those Counties having the largest surplus fractions.

SEC. 5. No apportionment of Representatives shall take effect until the general election which shall succeed such apportionment.

SEC. 6. The Senate shall be composed of one member from each County, to be elected for the term of four years by the qualified electors in each County, in the same manner in which members of the House of Representatives are chosen.

SEC. 7. No person shall be eligible to a seat in the Senate or House of Representatives who, at the time of his election, is not a duly qualified elector under this Constitution in the County in which he may be chosen. Senators shall be at least twenty-five and Representatives at least twenty-one years of age.

SEC. 8. The first election for members of the House of Representatives under this Constitution shall be held on Tuesday after the first Monday in November, eighteen hundred and ninety-six, and in every second year thereafter, in such manner and at such places as the General Assembly may prescribe; and the first election for Senators shall be held on Tuesday after the first Monday in November, eighteen hundred and ninety-six, and every fourth year thereafter, except in Counties in which there was an election for Senator in eighteen hundred and ninety-four for a full term, in which Counties no election for Senator shall be held until the general election to be held in eighteen hundred and ninety-eight, and every fourth year thereafter, except to fill vacancies. Senators shall be so classified that one-half of their number, as nearly as practicable, shall be chosen every two years. Whenever the General Assembly shall establish more than one County at any session, it shall so prescribe the first term of the Senators from such Counties as to observe such classification.

SEC. 9. The annual session of the General Assembly heretofore elected, fixed by the Constitution of the year eighteen hundred and sixty-eight to convene on the fourth Tuesday of November, in the year eighteen hundred and ninety-five, is hereby postponed, and the same shall be convened and held in the city of Columbia on the second Tuesday of January, in the year eighteen hundred and ninety-six. The first session of the General Assembly elected under this Constitution shall convene in Columbia on the second Tuesday in January, in the year eighteen hundred and ninety-seven, and thereafter annually at the same time and place. Should the casualties of war or contagious diseases render it unsafe to meet at the seat of government, then the Governor may, by proclamation, appoint a more secure and convenient place of meeting. Members of the General Assembly shall not receive any compensation for more than forty days of any one session: *Provided*, That this limitation shall not

affect the first four sessions of the General Assembly under this Constitution.

SEC. 10. The terms of office of the Senators and Representatives chosen at a general election shall begin on the Monday following such election.

SEC. 11. Each house shall judge of the election returns and qualifications of its own members, and a majority of each house shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may compel the attendance of absent members, in such manner and under such penalties as may be provided by law or rule.

SEC. 12. Each house shall choose its own officers, determine its rules of procedure, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member, but not a second time for the same cause.

SEC. 13. Each house may punish by imprisonment during its sitting any person not a member who shall be guilty of disrespect to the house by any disorderly or contemptuous behavior in its presence, or who, during the time of its sitting, shall threaten harm to the body or estate of any member for anything said or done in either house, or who shall assault any of them therefor, or who shall assault or arrest any witness or other person ordered to attend the house in his going thereto or returning therefrom, or who shall rescue any person arrested by order of the house: *Provided*, That such time of imprisonment shall not in any case extend beyond the session of the General Assembly.

SEC. 14. The members of both houses shall be protected in their persons and estates during their attendance on, going to and returning from the General Assembly, and ten days previous to the sitting and ten days after the adjournment thereof. But these privileges shall not protect any member who shall be charged with treason, felony or breach of the peace.

SEC. 15. Bills for raising revenue shall originate in the House of Representatives, but may be altered, amended or rejected by the Senate; all other Bills may originate in either house, and may be amended, altered or rejected by the other.

SEC. 16. The style of all laws shall be: "Be it enacted by the General Assembly of the State of South Carolina."

SEC. 17. Every Act or resolution having the force of law shall relate to but one subject, and that shall be expressed in the title.

SEC. 18. No Bill or Joint Resolution shall have the force of law until it shall have been read three times and on three several days in each house, has had the Great Seal of the State affixed to it, and has been signed by the President of the Senate and the Speaker of the House of Representatives: *Provided*, That either branch of the General Assembly may provide by rule for a first and third reading of any Bill or Joint Resolution by its title only.

SEC. 19. Each member of the General Assembly shall receive five cents for every mile for the ordinary route of travel in going to and returning from the place where its sessions are held; no General Assembly shall have the power to increase the per diem of its own members; and members of the General Assembly when convened in extra session shall receive the same compensation as is fixed by law for the regular session.

SEC. 20. In all elections by the General Assembly, or either house thereof, the members shall vote "*viva voce*," and their votes, thus given, shall be entered upon the journal of the house to which they respectively belong.

SEC. 21. Neither house, during the session of the General Assembly, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which it shall be at the time sitting.

SEC. 22. Each house shall keep a journal of its own proceedings, and cause the same to be published immediately after its adjournment, excepting such parts as, in its judgment, may require secrecy; and the yeas and nays of the members of either house, on any question, shall, at the desire of ten members of the House or five members of the Senate, respectively, be entered on the journal. Any member of either house shall have liberty to dissent from and protest against any Act or resolution which he may think injurious to the public or to an individual, and have the reasons of his dissent entered on the journal.

SEC. 23. The doors of each house shall be open, except on such occasions as in the opinion of the House may require secrecy.

SEC. 24. No person shall be eligible to a seat in the General Assembly while he holds any office or position of profit or trust under this State, the United States of America, or any of them, or under any other power, except officers in the militia or Notaries Public; and if any member shall accept or exercise any of the said disqualifying offices or positions he shall vacate his seat.

SEC. 25. If any election district shall neglect to choose a member or members on the day of election, or if any person chosen a member of either house shall refuse to qualify and take his seat, or shall resign, die, depart from the State, accept any disqualifying office or position, or become otherwise disqualified to hold his seat, a writ of election shall be issued by the President of the Senate or Speaker of the House of Representatives, as the case may be, for the purpose of filling the vacancy thereby occasioned for the remainder of the term for which the person so refusing to qualify, resigning, dying, departing the State, or becoming disqualified, was elected to serve, or the defaulting election district ought to have chosen a member or members.

SEC. 26. Members of the General Assembly, and all officers, before they enter upon the duties of their respective offices, and all members of the bar, before they enter upon the practice of their profession, shall take and subscribe the following oath: "I do solemnly swear (or affirm) that I am duly qualified, according to the Constitution of this State, to exercise the duties of the office to which I have been elected, (or appointed,) and that I will, to the best of my ability, discharge the duties thereof, and preserve, protect and defend the Constitution of this State and of the United States. I do further solemnly swear (or affirm) that I have not since the first day of January, in the year eighteen hundred and eighty-one, engaged in a duel as principal or second or otherwise; and that I will not, during the term of office to which I have been elected (or appointed) engage in a duel as principal or second or otherwise. So help me God."

SEC. 27. Officers shall be removed for incapacity, misconduct or neglect of duty, in such manner as may be provided by law, when no mode of trial or removal is provided in this Constitution.

SEC. 28. The General Assembly shall enact such laws as will exempt from attachment, levy and sale under any mesne or final process issued from any Court, to the head of any family residing in this State, a homestead in lands, whether held in fee or any lesser estate, to the value of one thousand dollars, or so much thereof as the property is worth if its value is less than one thousand dollars, with the yearly products thereof, and to every head of a family residing in this State, whether entitled to a homestead exemption in lands or not, personal property to the value of five hundred dollars, or so much thereof as the property is worth if its value is less than five hundred dollars. The title to the homestead to be set off and assigned shall be absolute and be forever discharged from all debts of the said debtor then existing or thereafter contracted except as hereinafter provided: *Provided*, That in case any woman having a separate estate shall be married to the head of a family who has not of his own sufficient property to constitute a homestead as hereinbefore provided, said married woman shall be entitled to a like exemption as provided for the head of a family: *Provided, further*, That there shall not be an allowance of more than one thousand dollars' worth of real estate and more than five hundred dollars' worth of personal property to the husband and wife jointly: *Provided, further*, That no property shall be exempt from attachment, levy or sale for taxes, or for payment of obligations contracted for the purchase of said homestead or personal property exemption or the erection or making of improvements or repairs thereon: *Provided, further*, That the yearly products of said homestead shall not be exempt from attachment, levy or sale for the payment of obligations contracted in the production of the same: *Provided, further*, That no waiver shall defeat the right of homestead before assignment except it be by deed of conveyance, or by mortgage, and only as against the mortgage debt; and no judgment creditor or other creditor whose lien does not bind the homestead shall have any right or equity to require that a lien which embraces the homestead and other property shall first exhaust the homestead: *Provided, further*, That after a homestead in lands has been set off and recorded the same shall not be waived by deed of conveyance, mortgage or otherwise, unless the same be executed by both husband and wife, if both be living: *Provided, further*, That any person not the head of a family shall be entitled to a like exemption as provided for the head of a family in all necessary wearing apparel and tools and implements of trade, not to exceed in value the sum of three hundred dollars.

SEC. 29. All taxes upon property, real and personal, shall be laid upon the actual value of the property taxed, as the same shall be ascertained by an assessment made for the purpose of laying such tax.

SEC. 30. The General Assembly shall never grant extra compensation, fee or allowance to any public officer, agent, servant or contractor after service rendered, or contract made, nor authorize payment or part payment of any claim under any contract not authorized by law; but appropriations may be made for expenditures in repelling invasion, preventing or suppressing insurrection.

SEC. 31. Lands belonging to or under the control of the State shall never be donated, directly or indirectly, to private corporations or

individuals, or to railroad companies. Nor shall such land be sold to corporations, or associations, for a less price than that for which it can be sold to individuals. This, however, shall not prevent the General Assembly from granting a right of way, not exceeding one hundred and fifty feet in width, as a mere easement to railroads across State lands, nor to interfere with the discretion of the General Assembly in confirming the title to lands claimed to belong to the State, but used or possessed by other parties under an adverse claim.

SEC. 32. The General Assembly shall not authorize payment to any person of the salary of a deceased officer beyond the date of his death; nor grant pensions except for military and naval service; nor retire any officer on pay or part pay.

SEC. 33. The marriage of a white person with a negro or mulatto, or person who shall have one-eighth or more negro blood, shall be unlawful and void. No unmarried woman shall legally consent to sexual intercourse who shall not have attained the age of fourteen years.

SEC. 34. The General Assembly of this State shall not enact local or special laws concerning any of the following subjects or for any of the following purposes, to wit:

I. To change the names of persons or places.

II. To lay out, open, alter or work roads or highways.

III. To incorporate cities, towns or villages, or change, amend or extend the charter thereof.

IV. To incorporate educational, religious, charitable, social, manufacturing or banking institutions not under the control of the State, or amend or extend the charters thereof.

V. To incorporate school districts.

VI. To authorize the adoption or legitimation of children.

VII. To provide for the protection of game.

VIII. To summon and empanel grand or petit jurors.

IX. To provide for the age at which citizens shall be subject to road or other public duty.

X. To fix the amount or manner of compensation to be paid to any County officer, except that the laws may be so made as to grade the compensation in proportion to the population and necessary service required.

XI. In all other cases, where a general law can be made applicable, no special law shall be enacted.

XII. The General Assembly shall forthwith enact general laws concerning said subjects for said purposes, which shall be uniform in their operations: *Provided*, That nothing contained in this Section shall prohibit the General Assembly from enacting special provisions in general laws.

XIII. The provisions of this Section shall not apply to charitable and educational corporations where, under the terms of a gift, devise or will, special incorporation may be required.

SECTION 35. It shall be the duty of the General Assembly to enact laws limiting the number of acres of land which any alien or any corporation controlled by aliens may own within this State.

Article IV

EXECUTIVE DEPARTMENT

Section 1. The supreme executive authority of this State shall be vested in a Chief Magistrate, who shall be styled "The Governor of the State of South Carolina."

Sec. 2. The Governor shall be elected by the electors duly qualified to vote for members of the House of Representatives, and shall hold his office for two years, and until his successor shall be chosen and qualified, and shall be re-eligible. He shall be elected at the first general election held under this Constitution for members of the General Assembly, and at each general election thereafter, and shall be installed during the first session of the said General Assembly after his election, on such day as shall be provided by law. The other State officers-elect shall at the same time enter upon the performance of their duties.

Sec. 3. No person shall be eligible to the office of Governor who denies the existence of the Supreme Being; or who at the time of such election has not attained the age of thirty years; and who shall not have been a citizen of the United States and a citizen and resident of this State for five years next preceding the day of election. No person while Governor shall hold any office or other commission (except in the militia) under the authority of this State, or of any other power, at one and the same time.

Sec. 4. The returns of every election for Governor shall be sealed up by the Boards of Canvassers in the respective Counties, and transmitted, by mail, to the seat of government, directed to the Secretary of State, who shall deliver them to the Speaker of the House of Representatives at the next ensuing session of the General Assembly; and duplicates of said returns shall be filed with the Clerks of the Court of said Counties. It shall be the duty of any Clerk of Court to forward to the Secretary of State a certified copy of said returns upon being notified that the returns previously forwarded by mail have not been received at his office. It shall be the duty of the Secretary of State, after the expiration of seven days from the day upon which the votes have been canvassed by the County Board, if the returns thereof from any County have not been received, to notify the Clerk of the Court of said County, and order a copy of the returns filed in his office to be forwarded forthwith. The Secretary of State shall deliver the returns to the Speaker of the House of Representatives, at the next ensuing session of the General Assembly; and during the first week of the session, or as soon as the General Assembly shall have organized by the election of the presiding officers of the two houses, the Speaker shall open and publish them in the presence of both houses. The person having the highest number of votes shall be Governor; but if two or more shall be equal, and highest in votes, the General Assembly shall during the same session, in the House of Representatives, choose one of them Governor, *viva voce*. Contested elections for Governor shall be determined by the General Assembly in such manner as shall be prescribed by law.

Sec. 5. A Lieutenant Governor shall be chosen at the same time, in the same manner, continue in office for the same period and be possessed of the same qualifications as the Governor, and shall, *ex officio*, be President of the Senate.

SEC. 6. The Lieutenant Governor while presiding in the Senate shall have no vote, unless the Senate be equally divided.

SEC. 7. The Senate shall, as soon as practicable after the convening of the General Assembly, choose a President *pro tempore* to act in the absence of the Lieutenant Governor, or when he shall fill the office of Governor.

SEC. 8. A member of the Senate acting as Governor or Lieutenant Governor shall thereupon vacate his seat and another person shall be elected in his stead.

SEC. 9. In case of the removal of the Governor from office by impeachment, death, resignation, disqualification, disability, or removal from the State, the Lieutenant Governor shall then be Governor; and in case of the removal of the last named officer from his office by impeachment, death, resignation, disqualification, disability, or removal from the State, the President *pro tempore* of the Senate shall be Governor; and the last named officer shall then forwith, by proclamation, convene the Senate in order that a President *pro tempore* may be chosen. In case the Governor be impeached, the Lieutenant Governor shall act in his stead and have his powers until judgment in the case shall have been pronounced. In case of the temporary disability of the Governor the Lieutenant Governor shall perform the duties of the Governor.

SEC. 10. The Governor shall be Commander-in-Chief of the militia of the State, except when they shall be called into the active service of the United States.

SEC. 11. He shall have power to grant reprieves, commutations and pardons after conviction (except in cases of impeachment), in such manner, on such terms and under such restrictions as he shall think proper; and he shall have power to remit fines and forfeitures, unless otherwise directed by law. It shall be his duty to report to the General Assembly, at the next regular session thereafter, all pardons granted by him, with the report of the Board of Pardons. Every petition for pardon or commutation of sentence may be first referred by him to a Board of Pardons, to be provided by the General Assembly, which Board shall hear all such petitions under such rules and regulations as the General Assembly may provide. The Governor may adopt the recommendations of said Board, but in case he does not he shall submit his reasons to the General Assembly.

SEC. 12. He shall take care that the laws be faithfully executed in mercy.

SEC. 13. The Governor and Lieutenant Governor shall, at stated times, receive for their services compensation, which shall be neither increased nor diminished during the period for which they shall have been elected.

SEC. 14. All officers in the Executive Department, and all Boards of public institutions, shall, when required by the Governor, give him information in writing upon any subject relating to the duties of their respective offices or the concerns of their respective institutions, including itemized accounts of receipts and disbursements.

SEC. 15. The Governor shall, from time to time, give to the General Assembly information of the condition of the State, and recommend for its consideration such measures as he shall deem necessary or expedient.

SEC. 16. He may on extraordinary occasions convene the General Assembly in extra session. Should either house remain without a quorum for five days, or in case of disagreement between the two houses during any session with respect to the time of adjournment, he may adjourn them to such time as he shall think proper, not beyond the time of the annual session then next ensuing.

SEC. 17. He shall commission all officers of the State.

SEC. 18. The Seal of the State now in use shall be used by the Governor officially, and shall be called "The Great Seal of the State of South Carolina."

SEC. 19. All grants and commissions shall be issued in the name and by the authority of the State of South Carolina, sealed with the great Seal, signed by the Governor, and countersigned by the Secretary of State.

SEC. 20. The Governor and Lieutenant Governor, before enfering upon the duties of their respective offices, shall take and subscribe the oath of office as prescribed in Article III, Section 26, of the Constitution.

SEC. 21. The Governor shall reside at the Capital of the State, except in cases of contagion or the emergencies of war; but during the sittings of the General Assembly he shall reside where its sessions are held.

SEC. 22. Whenever it shall be brought to the notice of the Governor by affidavit that any officer who has the custody of public or trust funds is probably guilty of embezzlement or the appropriation of public or trust funds to private use, then the Governor shall direct his immediate prosecution by the proper officer, and upon true bill found the Governor shall suspend such officer and appoint one in his stead, until he shall have been acquitted by the verdict of a jury. In case of conviction the office shall be declared vacant and the vacancy filled as may be provided by law.

SEC. 23. Every Bill or Joint Resolution which shall have passed the General Assembly, except on a question of adjournment, shall, before it becomes a law, be presented to the Governor, and if he approve he shall sign it; if not, he shall return it, with his objections, to the house in which it originated, which shall enter the objections at large on its Journal and proceed to reconsider it. If after such reconsideration two-thirds of that house shall agree to pass it, it shall be sent, together with the objections, to the other house, by which it shall be reconsidered, and if approved by two-thirds of that house it shall have the same effect as if it had been signed by the Governor; but in all such cases the vote of both houses shall be taken by yeas and nays, and the names of the persons voting for and against the Bill or Joint Resolution shall be entered on the Journals of both houses respectively. Bills appropriating money out of the Treasury shall specify the objects and purposes for which the same are made, and appropriate to them respectively their several amounts in distinct items and Sections. If the Governor shall not approve any one or more of the items or Sections contained in any Bill, but shall approve of the residue thereof, it shall become a law as to the residue in like manner as if he had signed it. The Governor shall then return the Bill with his objections to the items or Sections of the same not approved by him to the house in which the Bill originated, which house shall enter the objections at large upon its Journal and proceed to reconsider so much of

said Bill as is not approved by the Governor. The same proceedings shall be had in both houses in reconsidering the same as is provided in case of an entire Bill returned by the Governor with his objections; and if any item or Section of said Bill not approved by the Governor shall be passed by two-thirds of each house of the General Assembly, it shall become a part of said law notwithstanding the objections of the Governor. If a Bill or Joint Resolution shall not be returned by the Governor within three days after it shall have been presented to him, Sundays excepted, it shall have the same force and effect as if he had signed it, unless the General Assembly, by adjournment, prevent its return, in which case it shall have such force and effect unless returned within two days after the next meeting.

Sec. 24. There shall be elected by the qualified voters of the State a Secretary of State, a Comptroller-General, an Attorney-General, a Treasurer, an Adjutant and Inspector-General, and a Superintendent of Education, who shall hold their respective offices for the term of two years, and until their several successors have been chosen and qualified; and whose duties and compensation shall be prescribed by law. The compensation of such officers shall be neither increased nor diminished during the period for which they shall have been elected.

Article V

JUDICIAL DEPARTMENT

Section 1. The judicial power of this State shall be vested in a Supreme Court, in two Circuit Courts, to wit: A Court of Common Pleas having civil jurisdiction and a Court of General Sessions with criminal jurisdiction only. The General Assembly may also establish County Courts, Municipal Courts and such Courts in any or all of the Counties of this State inferior to Circuit Courts as may be deemed necessary, but none of such Courts shall ever be invested with jurisdiction to try cases of murder, manslaughter, rape or attempt to rape, arson, common law burglary, bribery or perjury: *Provided*, Before a County Court shall be established in any County it must be submitted to the qualified electors and a majority of those voting must vote for its establishment.

Sec. 2. The Supreme Court shall consist of a Chief Justice and three Associate Justices, any three of whom shall constitute a quorum for the transaction of business. The Chief Justice shall preside, and in his absence the senior Associate Justice. They shall be elected by a joint *viva voce* vote of the General Assembly for the term of eight years, and shall continue in office until their successors shall be elected and qualified, and shall be so classified that one of them shall go out of office every two years.

Sec. 3. The present Chief Justice and Associate Justices of the Supreme Court are declared to be the Chief Justice and two of the Associate Justices of said Court as herein established until the terms for which they were elected shall expire, and the General Assembly at its next session shall elect the third Associate Justice and make suitable provision for accomplishing the classification above directed.

Sec. 4. The Supreme Court shall have power to issue writs or orders of injunction, mandamus, quo warranto, prohibition, certiorari, habeas corpus and other original and remedial writs. And said Court

shall have appellate jurisdiction only in cases of chancery, and in such appeals they shall review the findings of fact as well as the law, except in chancery cases where the facts are settled by a jury and the verdict not set aside, and shall constitute a Court for the correction of errors at law under such regulations as the General Assembly may by law prescribe.

Sec. 5. The Supreme Court shall be held at least twice in each year at the seat of government and at such other place or places in the State as the General Assembly may direct.

Sec. 6. No Judge shall preside at the trial of any cause in the event of which he may be interested, or when either of the parties shall be connected with him by affinity or consanguinity, within such degrees as may be prescribed by law, or in which he may have been counsel or have presided in any inferior Court. In case all or any of the Justices of the Supreme Court shall be thus disqualified, or be otherwise prevented from presiding in any cause or causes, the Court or the Justices thereof shall certify the same to the Governor of the State, and he shall immediately commission, specially, the requisite number of men learned in the law for the trial and determination thereof. The same course shall be pursued in the Circuit and inferior Courts as is prescribed in this Section for cases of the Supreme Court. The General Assembly shall provide by law for the temporary appointment of men learned in the law to hold either special or regular terms of the Circuit Courts whenever there may be necessity for such appointment.

Sec. 7. There shall be appointed by the Justices of the Supreme Court a Reporter and a Clerk of said Court, who shall hold their offices for four years, and whose duties and compensation shall be prescribed by law.

Sec. 8. When a judgment or decree is reversed or affirmed by the Supreme Court, every point made and distinctly stated in the cause and fairly arising upon the record of the case shall be considered and decided, and the reason thereof shall be concisely and briefly stated in writing and preserved with the record of the case.

Sec. 9. The Justices of the Supreme Court and Judges of the Circuit Court shall each receive compensation for their services to be fixed by law, which shall not be increased or diminished during their continuance in office. They shall not be allowed any fees or perquisites of office, nor shall they hold any other office of trust or profit under this State, the United States, or any other power.

Sec. 10. No person shall be eligible to the office of Chief Justice, Associate Justice or Judge of the Circuit Court who is not at the time of his election a citizen of the United States and of this State, and has not attained the age of twenty-six years, has not been a licensed attorney at law for at least five years, and been a resident of this State for five years next preceding his election.

Sec. 11. All vacancies in the Supreme Court or inferior tribunals shall be filled by elections as herein prescribed: *Provided*, That if the unexpired term does not exceed one year such vacancy may be filled by Executive appointment. All Judges, by virtue of their office, shall be conservators of the peace throughout the State; and when a vacancy is filled by either appointment or election, the incumbent shall hold only for the unexpired term of his predecessor.

SEC. 12. In all cases decided by the Supreme Court the concurrence of three of the Justices shall be necessary for a reversal of the judgment below, but if the four Justices equally divide in opinion the judgment below shall be affirmed, subject to the provisions hereinafter prescribed. Whenever, upon the hearing of any cause or question before the Supreme Court, in the exercise of its original or appellate jurisdiction, it shall appear to the Justices thereof, or any two of them, that there is involved a question of constitutional law, or of conflict between the Constitution and laws of this State and of the United States, or between the duties and obligations of her citizens under the same, upon the determination of which the entire Court is not agreed; or whenever the Justices of said Court, or any two of them, desire it on any cause or question so before said Court, the Chief Justice, or in his absence the presiding Associate Justice, shall call to the assistance of the Supreme Court all of the Judges of the Circuit Court: *Provided, however*, That when the matter to be submitted is involved in an appeal from the Circuit Court, the Circuit Judge who tried the cause shall not sit. A majority of the Justices of the Supreme Court and Circuit Judges shall constitute a quorum. The decision of the Court so constituted, or a majority of the Justices and Judges sitting, shall be final and conclusive. In such case the Chief Justice, or in his absence the presiding Associate Justice, shall preside. Whenever the Justices of the Supreme Court and the Circuit Judges meet together for the purposes aforesaid, if the number thereof qualified to sit constitute an even number, then one of the Circuit Judges must retire; and the Circuit Judges present shall determine by lot which of their number shall retire.

SEC. 13. The State shall be divided into as many Judicial Circuits as the General Assembly may prescribe, and for each Circuit a Judge shall be elected by joint *viva voce* vote of the General Assembly, who shall hold his office for a term of four years; and at the time of his election he shall be an elector of a County of, and during his continuance in office he shall reside in, the Circuit of which he is Judge. The present Judges of the Circuit Courts shall continue in office until the expiration of the terms for which they were elected, and, should a new division of the Judicial Circuits be made, shall be the Judges of the respective Circuits in which they shall reside after said division.

SEC. 14. Judges of the Circuit Courts shall interchange Circuits with each other, and the General Assembly shall provide therefor.

SEC. 15. The Courts of Common Pleas shall have original jurisdiction, subject to appeal to the Supreme Court, to issue writs or orders of injunction, mandamus, habeas corpus, and such other writs as may be necessary to carry their powers into full effect. They shall have jurisdiction in all civil cases. They shall have appellate jurisdiction in all cases within the jurisdiction of inferior Courts, except from such inferior Courts from which the General Assembly shall provide an appeal directly to the Supreme Court.

SEC. 16. The Court of Common Pleas shall sit in each County in this State at least twice in every year at such stated times and places as may be appointed by law.

SEC. 17. It shall be the duty of the Justices of the Supreme Court to file their decisions within sixty days from the last day of the Court at which the cases were heard; and the duty of the Judges of the

Circuit Courts to file their decisions within sixty days from the rising of the last Court of the Circuit then being held.

Sec. 18. The Court of General Sessions shall have jurisdiction in all criminal cases except those cases in which exclusive jurisdiction shall be given to inferior Courts, and in these it shall have appellate jurisdiction. It shall also have concurrent jurisdiction with, as well as appellate jurisdiction from, the inferior Courts in all cases of riot, assault and battery, and larceny. It shall sit in each County in the State at least twice in each year at such stated times and places as the General Assembly may direct.

Sec. 19. The Court of Probate shall remain as now established in the County of Charleston. In all other Counties of the State the jurisdiction in all matters testamentary and of administration, in business appertaining to minors and the allotment of dower, in cases of idiocy and lunacy, and persons *non compos mentis*, shall be vested as the General Assembly may provide, and until such provision such jurisdiction shall remain in the Court of Probate as now established.

Sec. 20. A sufficient number of Magistrates shall be appointed and commissioned by the Governor, by and with the advice and consent of the Senate, for each County, who shall hold their offices for the term of two years and until their successors are appointed and qualified. Each Magistrate shall have the power, under such regulations as may now or hereafter be provided by law, to appoint one or more Constables to execute writs and processes issued by him. The present Trial Justices are declared Magistrates as herein created, and shall exercise the powers and duties of said office of Magistrate until their successors shall be appointed and qualified. Each Magistrate shall receive a salary, to be fixed by the General Assembly, in lieu of all fees in criminal cases.

Sec. 21. Magistrates shall have jurisdiction in such civil cases as the General Assembly may prescribe: *Provided*, Such jurisdiction shall not extend to cases where the value of property in controversy, or the amount claimed, exceeds one hundred dollars, or to cases where the title to real estate is in question, or to cases in chancery. They shall have exclusive jurisdiction in such criminal cases as the General Assembly may prescribe: *Provided, further*, Such jurisdiction shall not extend to cases where the punishment exceeds a fine of one hundred dollars or imprisonment for thirty days. In criminal matters beyond their jurisdiction to try, they shall sit as Examining Courts, and commit, discharge or (except in capital cases) recognize persons charged with such offences, subject to such regulations as the General Assembly may provide. They shall also have the power to bind over to keep the peace and for good behavior for a time not to exceed twelve months.

Sec. 22. All persons charged with an offence shall have the right to demand and obtain a trial by jury. The jury in cases civil or criminal in all municipal Courts, and Courts inferior to Circuit Courts, shall consist of six. The grand jury of each County shall consist of eighteen members, twelve of whom must agree in a matter before it can be submitted to the Court.

The petit jury of the Circuit Courts shall consist of twelve men, all of whom must agree to a verdict in order to render the same.

Each juror must be a qualified elector under the provisions of this Constitution, between the ages of twenty-one and sixty-five years, and of good moral character.

SEC. 23. Every civil action cognizable by Magistrates shall be brought before a Magistrate in the County where the defendant resides, and every criminal action in the County where the offence was committed. In all cases tried by them, the right of appeal shall be secured under such rules and regulations as may be provided by law: *Provided*, That in Counties where Magistrates have separate and exclusive territorial jurisdiction, criminal causes shall be tried in the Magistrate's district where the offence was committed, subject to such provision for change of venue from one Magistrate's district to another in the same County as may be provided by the General Assembly.

SEC. 24. All officers other than those named in Section nine provided for in this Article shall receive for their services such compensation as the General Assembly may from time to time by law direct.

SEC. 25. Each of the Justices of the Supreme Court and Judges of the Circuit Court shall have the same power at chambers to issue writs of habeas corpus, mandamus, quo warranto, certiorari, prohibition and interlocutory writs or orders of injunction as when in open Court. The Judges of the Circuit Courts shall have such powers at chambers as the General Assembly may provide.

SEC. 26. Judges shall not charge juries in respect to matters of fact, but shall declare the law.

SEC. 27. There shall be elected in each County, by the electors thereof, one Clerk for the Court of Common Pleas, who shall hold his office for the term of four years, and until his successor shall be elected and qualified. He shall, by virtue of his office, be Clerk of all other Courts of record held therein, but the General Assembly may provide by law for the election of a Clerk, with a like term of office, for each or any other of the Courts of record, and may authorize the Judge of the Probate Court to perform the duties of Clerk for his Court under such regulations as the General Assembly may direct. Clerks of Courts shall be removable for such cause and in such manner as shall be prescribed by law.

SEC. 28. There shall be an Attorney General for the State, who shall perform such duties as may be prescribed by law. He shall be elected by the qualified electors of the State for the term of two years, and shall receive for his services such compensation as shall be fixed by law.

SEC. 29. There shall be one Solicitor for each Circuit, who shall reside therein, to be elected by the qualified electors of the Circuit, who shall hold his office for the term of four years, and shall receive for his services such compensation as shall be fixed by law. In all cases when an Attorney for the State of any Circuit fails to attend and prosecute according to law, the Court shall have power to appoint an Attorney *pro tempore*. In the event of the establishment of County Courts the General Assembly may provide for one Solicitor for each County in the place and in stead of the Circuit Solicitor, and may prescribe his powers, duties and compensation.

SEC. 30. The qualified electors of each County shall elect a Sheriff and Coroner, for the term of four years, and until their successors are

elected and qualified; they shall reside in their respective Counties during their continuance in office, and be disqualified for the office a second time if it should appear that they, or either of them, are in default for moneys collected by virtue of their respective offices.

Sec. 31. All writs and processes shall run and all prosecutions shall be conducted in the name of the State of South Carolina; all writs shall be attested by the Clerk of the Court from which they shall be issued; and all indictments shall conclude "against the peace and dignity of the State."

Sec. 32. The General Assembly shall provide by law for the speedy publication of the decisions of the Supreme Court made under this Constitution.

Sec. 33. Circuit Courts and all Courts inferior thereto and municipal Courts shall have the power, in their discretion, to impose sentence of labor upon highways, streets and other public works upon persons by them sentenced to imprisonment.

Sec. 34. All matters, civil and criminal, now pending within the jurisdiction of any of the Courts of this State shall continue therein until disposed of according to law.

Article VI

JURISPRUDENCE

Section 1. The General Assembly shall pass laws allowing differences to be decided by arbitrators, to be appointed by the parties who may choose that mode of adjustment.

Sec. 2. It shall be the duty of the General Assembly to pass laws for the change of venue in all cases, civil and criminal, over which the Circuit Courts have original jurisdiction, upon a proper showing, supported by affidavit, that a fair and impartial trial cannot be had in the County where such action or prosecution was commenced. The State shall have the same right to move for a change of venue that a defendant has for such offences as the General Assembly may prescribe. Unless a change of venue be had under the provisions of this Article the defendant shall be tried in the County where the offence was committed: *Provided, however*, That no change of venue shall be granted in criminal cases until after a true bill has been found by the grand jury: *And provided, further*, That if a change be ordered it shall be to a County in the same Judicial Circuit.

Sec. 3. Justice shall be administered in a uniform mode of pleading without distinction between law and equity.

Sec. 4. Every Statute shall be a public law, unless otherwise declared in the Statute itself.

Sec. 5. The General Assembly, at its first session after the adoption of this Constitution, shall provide for the appointment or election of a Commissioner, whose duty it shall be to collect and revise all the General Statute law of this State then of force as well as that which shall be passed from time to time, and to properly index and arrange the said Statutes when so passed. And the said Commissioner shall reduce into a systematic Code the general statutes, including the Code of Civil Procedure, with all the amendments thereto, and shall, on the first day of the session for the year nineteen hundred and one, and at the end of every subsequent period of not more than

ten years, report the result of his labors to the General Assembly, with such recommendations and suggestions as to the abridgment and amendments as may be deemed necessary or proper. Said report, when ready to be made, shall be printed and a copy thereof laid upon the desk of each member of both houses of the General Assembly on the first day of the first session, but shall not be taken up for consideration until the next session of said General Assembly. The said Code shall be declared by the General Assembly, in an Act passed according to the forms in this Constitution for the enactment of laws, to be the only general statutory law of the State; but no alterations or additions to any of the laws therein contained shall be made except by Bill passed under the formalities heretofore prescribed for the passage of laws. Provision shall be made by law for filling vacancies, regulating the term of office and the compensation of said Commissioner, not exceeding five hundred dollars per annum, and imposing such other duties as may be desired. And the General Assembly shall by committee inquire into the progress of his work at each session.

Sec. 6. In the case of any prisoner lawfully in the charge, custody or control of any officer, State, County or municipal, being seized and taken from said officer through his negligence, permission or connivance, by a mob or other unlawful assemblage of persons, and at their hands suffering bodily violence or death, the said officer shall be deemed guilty of a misdemeanor, and, upon true bill found, shall be deposed from his office pending his trial, and upon conviction shall forfeit his office, and shall, unless pardoned by the Governor, be ineligible to hold any office of trust or profit within this State. It shall be the duty of the prosecuting Attorney within whose Circuit or County the offence may be committed to forthwith institute a prosecution against said officer, who shall be tried in such County, in the same Circuit, other than the one in which the offence was committed, as the Attorney General may elect. The fees and mileage of all material witnesses, both for the State and for the defence, shall be paid by the State Treasurer, in such manner as may be provided by law: *Provided*, In all cases of lynching when death ensues, the County where such lynching takes place shall, without regard to the conduct of the officers, be liable in exemplary damages of not less than two thousand dollars to the legal representatives of the person lynched: *Provided, further*, That any County against which a judgment has been obtained for damages in any case of lynching shall have the right to recover the amount of said judgment from the parties engaged in said lynching in any Court of competent jurisdiction.

Article VII

Counties and County Government

Section 1. The General Assembly may establish new Counties in the following manner: Whenever one-third of the qualified electors within the area of each section of an old County proposed to be cut off to form a new County shall petition the Governor for the creation of a new County, setting forth the boundaries and showing compliance with the requirements of this Article, the Governor shall order an election, within a reasonable time thereafter, by the qualified

electors within the proposed area, in which election they shall vote "Yes" or "No" upon the question of creating said new County; and at the same election the question of a name and a County seat for such County shall be submitted to the electors.

Sec. 2. If two-thirds of the qualified electors voting at such election shall vote "Yes" upon such questions, then the General Assembly at the next session shall establish such new County: *Provided*, No section of the County proposed to be dismembered shall be thus cut off without consent by a two-thirds vote of those voting in such section; and no County shall be formed without complying with all the conditions imposed in this Article. An election upon the question of forming the same proposed new County shall not be held oftener than once in four years.

Sec. 3. No new County hereafter formed shall contain less than one one hundred and twenty-fourth part of the whole number of inhabitants of the State, nor shall it have less assessed taxable property than one and one half millions of dollars as shown by the last tax returns, nor shall it contain less area than four hundred square miles.

Sec. 4. No old County shall be reduced to less area than five hundred square miles, to less assessed taxable property than two million dollars, nor to a smaller population than fifteen thousand inhabitants.

Sec. 5. In the formation of new Counties no old County shall be cut within eight miles of its court house building.

Sec. 6. All new Counties hereafter formed shall bear a just apportionment of the valid indebtedness of the old County or Counties from which they have been formed.

Sec. 7. The General Assembly shall have the power to alter County lines at any time: *Provided*, That before any existing County line is altered the question shall be first submitted to the qualified electors of the territory proposed to be taken from one County and given to another, and shall have received two-thirds of the votes cast: *Provided, further*, That the change shall not reduce the County from which the territory is taken below the limits prescribed in Sections 3, 4, and 5 of this Article: *Provided*, That the proper proportion of the existing County indebtedness of the section so transferred shall be assumed by the County to which the territory is transferred.

Sec. 8. No County seat shall be removed except by a vote of two-thirds of the qualified electors of said County voting in an election held for that purpose, but such election shall not be held in any County oftener than once in five years.

Sec. 9. Each County shall constitute one election district, and shall be a body politic and corporate.

Sec. 10. The General Assembly may provide for the consolidation of two or more existing Counties if a majority of the qualified electors of such Counties voting at an election held for that purpose shall vote separately therefor, but such election shall not be held oftener than once in four years in the same Counties.

Sec. 11. Each of the several townships of this State, with names and boundaries as now established by law, shall constitute a body politic and corporate, but this shall not prevent the General Assembly from organizing other townships or changing the boundaries of those already established; and the General Assembly may provide such system of township government as it shall think proper in any and all

the Counties, and may make special provision for municipal government and for the protection of chartered rights and powers of municipalities.

Sec. 12. Until changed by the General Assembly, as allowed by this Constitution, the boundaries of the several Counties shall remain as now established, except that the boundaries of the County of Edgefield shall undergo such changes as are made necessary by the formation of a new County from a portion of Edgefield, to be known as Saluda, the boundaries of which are set forth in a Constitutional ordinance. The election ordered in said ordinance for the location of its County seat shall be held under the Constitution and laws now of force. And the General Assembly shall provide for the assessment of property in the County of Saluda for the fiscal year beginning January first, eighteen hundred and ninety-six, and for the collection of said taxes when assessed.

Sec. 13. The General Assembly may at any time arrange the various Counties into Judicial Circuits, and into Congressional Districts, including the County of Saluda, as it may deem wise and proper, and may establish or alter the location of voting precincts in any County.

Sec. 14. Hereafter no County lines shall be so established as to pass through any incorporated city or town of this State.

Article VIII

Municipal corporations and police regulations

Section 1. The General Assembly shall provide by general laws for the organization and classification of municipal corporations. The powers of each class shall be defined so that no such corporations shall have any powers or be subject to any restrictions other than all corporations of the same class. Cities and towns now existing under special charters may reorganize under the general laws of the State, and when so reorganized their special charters shall cease and determine.

Sec. 2. No city or town shall be organized without the consent of the majority of the electors residing and entitled by law to vote within the district proposed to be incorporated; such consent to be ascertained in the manner and under such regulations as may be prescribed by law.

Sec. 3. The General Assembly shall restrict the powers of cities and towns to levy taxes and assessments, to borrow money and to contract debts, and no tax or assessment shall be levied or debt contracted except in pursuance of law, for public purposes specified by law.

Sec. 4. No law shall be passed by the General Assembly granting the right to construct and operate a street or other railway, telegraph, telephone or electric plant, or to erect water or gas works for public uses or to lay mains for any purpose, without first obtaining the consent of the local authorities in control of the streets or public places proposed to be occupied for any such or like purposes.

Sec. 5. Cities and towns may acquire, by construction or purchase, and may operate, water works systems and plants for furnishing lights, and may furnish water and lights to individuals, firms and private corporations for reasonable compensation: *Provided*, That no

such construction or purchase shall be made except upon a majority vote of the electors in said cities or towns who are qualified to vote on the bonded indebtedness of said cities or towns.

Sec. 6. The corporate authorities of cities and towns in this State shall be vested with power to assess and collect taxes for corporate purposes, said taxes to be uniform in respect to persons and property within the jurisdiction of the body composing the same; and all the property, except such as is exempt by law, within the limits of cities and towns shall be taxed for the payment of debts contracted under authority of law. License or privileged taxes imposed shall be graduated so as to secure a just imposition of such tax upon the classes subject thereto.

Sec. 7. No city or town in this State shall hereafter incur any bonded debt which, including existing bonded indebtedness, shall exceed eight per centum of the assessed value of the taxable property therein, and no such debt shall be created without submitting the question as to the creation thereof to the qualified electors of such city or town, as provided in this Constitution for such special elections; and unless a majority of such electors voting on the question shall be in favor of creating such further bonded debt, none shall be created: *Provided*, That this Section shall not be construed to prevent the issuing of certificates of indebtedness in anticipation of the collection of taxes for amounts actually contained or to be contained in the taxes for the year when such certificates are issued and payable out of such taxes: *And provided, further*, That such cities and towns shall on the issuing of such bonds create a sinking fund for the redemption thereof at maturity. Nothing herein contained shall prevent the issuing of bonds to an amount sufficient to refund bonded indebtedness existing at the time of the adoption of this Constitution.

Sec. 8. Cities and towns may exempt from taxation, by general or special ordinance, except for school purposes, manufactories established within their limits for five successive years from the time of the establishment of such manufactories: *Provided*, That such ordinance shall be first ratified by a majority of such qualified electors of such city or town as shall vote at an election held for that purpose.

Sec. 9. No armed police force or representatives of a detective agency shall ever be brought into this State for the suppression of domestic violence; nor shall any other armed or unarmed body of men be brought in for that purpose, except upon the application of the General Assembly or of the Executive of this State (when the General Assembly is not in session), as provided in the Constitution of the United States. The General Assembly shall provide proper penalties for the enforcement of the provisions of this Section.

Sec. 10. It shall be the duty of the General Assembly to create Boards of Health wherever they may be necessary, giving to them power and authority to make such regulations as shall protect the health of the community and abate nuisances.

Sec. 11. In the exercise of the police power the General Assembly shall have the right to prohibit the manufacture and sale and retail of alcoholic liquors or beverages within the State. The General Assembly may license persons or corporations to manufacture and sell and retail alcoholic liquors or beverages within the State under such rules and restrictions as it deems proper; or the General Assem-

bly may prohibit the manufacture and sale and retail of alcoholic liquors and beverages within the State, and may authorize and empower State, County and municipal officers, all or either, under the authority and in the name of the State, to buy in any market and retail within the State liquors and beverages in such packages and quantities, under such rules and regulations, as it deems expedient: *Provided*, That no license shall be granted to sell alcoholic beverages in less quantities than one-half pint, or to sell them between sundown and sunrise, or to sell them to be drunk on the premises: *And provided, further*, That the General Assembly shall not delegate to any municipal corporation the power to issue licenses to sell the same.

Sec. 12. All prize-fighting is prohibited in this State, and the General Assembly shall provide by proper laws for the prevention and punishment of the same.

Article IX

CORPORATIONS

Section 1. The term corporation as used in this Article includes all associations and joint stock companies having powers and privileges not possessed by individuals or partnerships, and excludes municipal corporations.

Sec. 2. No charter of incorporation shall be granted, changed or amended by special law, except in the case of such charitable, educational, penal or reformatory corporations as may be under the control of the State, or may be provided for in this Constitution, but the General Assembly shall provide by general laws for changing or amending existing charters, and for the organization of all corporations hereafter to be created, and any such law so passed, as well as all charters now existing or hereafter created, shall be subject to future repeal or alteration: *Provided*, That the General Assembly may by a two-thirds vote of each house on a concurrent resolution allow a Bill for a special charter to be introduced, and when so introduced may pass the same as other Bills.

Sec. 3. All railroad, express, canal and other corporations engaged in transportation for hire and all telegraph and other corporations engaged in the business of transmitting intelligence for hire are common carriers in their respective lines of business, and are subject to liability and taxation as such. It shall be unlawful for any such corporation to make any contract relieving it of its common law liability or limiting the same, in reference to the carriage of passengers.

Sec. 4. Every corporation organized or doing business in this State, other than religious, educational or benevolent associations, shall have and maintain at least one agent in this State upon whom process may be served, and at least one public office for the transaction of its business: *Provided*, This Section shall not apply to mercantile corporations: *Provided*, That nothing contained in this Section shall be construed to prohibit the General Assembly from providing for the service of process on any agent of a corporation so as to bind such corporation.

Sec. 5. No discrimination in charges or facilities for transportation of the same classes of freight or passengers, or for the transmission

of intelligence within this State, or coming from or going to any other State, shall be made by any railroad or other transportation or transmission company between places or persons.

Persons and property transported by any railroad or any other transportation or transmission company or corporation, shall be delivered at any station, landing or port at charges not exceeding the charges for the transportation of persons and property of the same class, in the same direction, to any more distant station, landing or port. Excursion and commutation tickets may be issued at special rates. This Section shall not prevent the Railroad Commission from making such competitive rates as shall, in their judgment, be just and equitable between the railroads and the public, at all junctional and competitive points or at points where water competition controls the traffic or at points where the competition of points located in other States may make necessary the prescribing of different rates for the protection of the commerce of this State.

Sec. 6. Any railroad or other transportation corporation, and any telegraph or other transmitting corporation, organized under the laws of this State, shall have the right to connect its roads or lines, at the State line, with those in other States, and shall have the right to intersect with or cross any other railroad, street railway, transportation road or transmitting line, and shall each receive and transport the freight, passengers, cars (loaded or empty) and messages delivered to it by another without delay or discrimination.

Sec. 7. No railroad, or other transportation company, and no telegraph or other transmitting corporation, or the lessees, purchasers or managers of any such corporation, shall consolidate the stock, property or franchises of such corporation with, or lease or purchase the works or franchises of, or in any way control, any other railroad or other transportation, telegraph or other transmitting company owning or having under its control a parallel or competing line; and the question whether railroads or other transportation, telegraph or other transmitting companies are parallel or competing lines shall, when demanded by the party complainant, be decided by a jury as in other civil causes.

Sec. 8. The General Assembly shall not grant to any foreign corporation or association a license to build, operate or lease any railroad in this State; but in all cases where a railroad is to be built or operated, or is now being operated, in this State, and the same shall be partly in this State and partly in another State, or in other States, the owners or projectors thereof shall first become incorporated under the laws of this State; nor shall any foreign corporation or association lease or operate any railroad in this State, or purchase the same or any interest therein. Consolidation of any railroad lines and corporations in this State with others shall be allowed only where the consolidated company shall become a domestic corporation of this State. No general or special law shall ever be passed for the benefit of any foreign corporation operating a railroad under an existing license of this State or under any existing lease, and no grant of any right or privilege and no exemption from any burden shall be made to any such foreign corporation, except upon the condition that the owners or stockholders thereof shall first organize a corporation in this State under the laws thereof, and shall thereafter operate and

manage the same and the business thereof under said domestic charter.

SEC. 9. The General Assembly shall have no power to grant any special charter for banking purposes, but corporations or associations may be formed for such purposes under general laws, with such privileges, powers and limitations, not inconsistent with this Constitution, as it may deem proper. The General Assembly shall provide by law for the thorough examination and inspection of all banking and fiscal corporations of this State.

SEC. 10. Stock or bonds shall not be issued by any corporation save for labor done, or money or property actually received or subscribed; and all fictitious increase of stock or indebtedness shall be void.

SEC. 11. The General Assembly shall provide by law for the election of directors, trustees or managers of all corporations so that each stockholder shall be allowed to cast, in person or by proxy, as many votes as the number of shares he owns multiplied by the number of directors, trustees or managers to be elected, the same to be cast for any one candidate or to be distributed among two or more candidates.

SEC. 12. Corporations shall not engage in any business except that specifically authorized by their charters or necessarily incident thereto.

SEC. 13. The General Assembly shall enact laws to prevent all trusts, combinations, contracts and agreements against the public welfare; and to prevent abuses, unjust discriminations and extortion in all charges of transporting and transmitting companies; and shall pass laws for the supervision and regulation of such companies by commission or otherwise, and shall provide adequate penalties, to the extent, if necessary for that purpose, of forfeiture of their franchises.

SEC. 14. A Commission is hereby established to be known as "the Railroad Commission," which shall be composed of not less than three members, whose powers over all transporting and transmitting corporations, and duties, manner of election and term of office shall be regulated by law; and until otherwise provided by law the said Commissioners shall have the same powers and jurisdiction, perform the same duties and receive the same compensation as now conferred, prescribed and allowed by law to the existing Railroad Commissioners: *Provided*, That the members thereof shall be elected at the expiration of the terms of the present Railroad Commissioners, who are hereby continued in office for the terms for which they were elected.

SEC. 15. Every employee of any railroad corporation shall have the same rights and remedies for any injury suffered by him from the acts or omissions of said corporation or its employees as are allowed by law to other persons not employees, when the injury results from the negligence of a superior agent or officer, or of a person having a right to control or direct the services of a party injured, and also when the injury results from the negligence of a fellow servant engaged in another department of labor from that of the party injured, or of a fellow servant on another train of cars, or one engaged about a different piece of work. Knowledge by any employee injured of the defective or unsafe character or condition of any machinery, ways or appliances shall be no defence to an action for injury caused thereby, except as to conductors or engineers in charge of dangerous or unsafe cars or engines voluntarily operated

by them. When death ensues from any injury to employees, the legal or personal representatives of the person injured shall have the same right and remedies as are allowed by law to such representatives of other persons. Any contract or agreement, expressed or implied, made by any employee to waive the benefit of this Section shall be null and void; and this Section shall not be construed to deprive any employee of a corporation, or his legal or personal representative, of any remedy or right that he now has by the law of the land. The General Assembly may extend the remedies herein provided for to any other class of employees.

Sec. 16. All existing charters or grants of corporate franchise under which organizations have not in good faith taken place at the adoption of this Constitution shall be subject to the provisions of this Article.

Sec. 17. The General Assembly shall never remit the forfeiture of the franchise of any corporation now chartered, nor alter nor amend the charter thereof, nor pass any general or special law for the benefit of such corporation, except upon the condition that such corporation shall thereafter hold its charter and franchise subject to the provisions of this Constitution, and the acceptance by any corporation of any provision of any such laws or the taking of any benefit or advantage from the same shall be conclusively held an agreement by such corporation to hold its charter and franchises under the provisions of this Article.

Sec. 18. The stockholders of all insolvent corporations shall be individually liable to the creditors thereof only to the extent of the amount remaining due to the corporations upon the stock owned by them: *Provided*, That stockholders in banks or banking institutions shall be liable to depositors therein in a sum equal in amount to their stock over and above the face value of the same.

Sec. 19. Nothing prohibited in this Article shall be permitted to be done by any corporation or company, persons or person, either for its or their own benefit or otherwise, by its or their holding or controlling in its or their own name or otherwise, or in the name of an other person or persons, or other corporation or company whatsoever, a majority of the capital stock, or of bonds having voting power, of any railroad or transportation company, or corporation created by or existing under the laws of this State, or doing business within this State.

Sec. 20. No right of way shall be appropriated to the use of any corporation until full compensation therefor shall be first made to the owner or secured by a deposit of money, irrespective of any benefit from any improvement proposed by such corporation, which compensation shall be ascertained by a jury of twelve men, in a Court of record, as shall be prescribed by law.

Sec. 21. The General Assembly shall enforce the provisions of this Article by appropriate legislation.

Article X

Finance and Taxation

Section 1. The General Assembly shall provide by law for a uniform and equal rate of assessment and taxation, and shall prescribe

regulations to secure a just valuation for taxation of all property, real, personal and possessory, except mines and mining claims, the products of which alone shall be taxed; and also excepting such property as may be exempted by law for municipal, educational, literary, scientific, religious or charitable purposes: *Provided, however*, That the General Assembly may impose a capitation tax upon such domestic animals as from their nature and habits are destructive of other property: *And provided, further*, That the General Assembly may provide for a graduated tax on incomes, and for a graduated license on occupations and business.

Sec. 2. The General Assembly shall provide for an annual tax sufficient to defray the estimated expenses of the State for each year, and whenever it shall happen that the ordinary expenses of the sufficient to defray the estimated expenses of the State for each year, the General Assembly shall provide for levying a tax for the ensuing year sufficient, with other sources of income, to pay the deficiency of the preceding year together with the estimated expenses of the ensuing year.

Sec. 3. No tax shall be levied except in pursuance of a law which shall distinctly state the object of the same; to which object the tax shall be applied.

Sec. 4. There shall be exempted from taxation all County, township and municipal property used exclusively for public purposes and not for revenue, and the property of all schools, colleges and institutions of learning, all charitable institutions in the nature of asylums for the infirm, deaf and dumb, blind, idiotic and indigent persons, except where the profits of such institutions are applied to private uses; all public libraries, churches, parsonages and burying grounds; but property of associations and societies, although connected with charitable objects, shall not be exempt from State, County or municipal taxation: *Provided*, That as to real estate this exemption shall not extend beyond the buildings and premises actually occupied by such schools, colleges, institutions of learning, asylums, libraries, churches, parsonages and burial grounds, although connected with charitable objects.

Sec. 5. The corporate authorities of Counties, townships, school districts, cities, towns and villages may be vested with power to assess and collect taxes for corporate purposes; such taxes to be uniform in respect to persons and property within the jurisdiction of the body imposing the same. All shares of the stockholders in any bank or banking association located in this State, whether now or hereafter incorporated, or organized under the laws of this State or of the United States, shall be listed at their true value in money, and taxed for municipal purposes in the city, ward, town or incorporated village where such bank is located, and not elsewhere: *Provided*, That the words "true value in money" as used in line 12 [line 12 of original MS. and line 9 of this printing.—Editor] of this Section shall be so construed as to mean and include all surplus or extra moneys, capital, and every species of personal property of value owned or in possession of any such bank: *Provided*, A like rule of taxation shall apply to the stockholders of all corporations other than banking institutions. And the General Assembly shall require that all the property, except that herein permitted to be exempted

within the limits of municipal corporations, shall be taxed for corporate purposes and for the payment of debts contracted under authority of law. The bonded debt of any County, township, school district, municipal corporation or political division or subdivision of this State shall never exceed eight per centum of the assessed value of all the taxable property therein. And no County, township, municipal corporation or other political division of this State shall hereafter be authorized to increase its bonded indebtedness if at the time of any proposed increase thereof the aggregate amount of its already existing bonded debt amounts to eight per centum of the value of all taxable property therein as ascertained by the valuation for State taxation.

And wherever there shall be several political divisions or municipal corporations covering or extending over the same territory, or portions thereof, possessing a power to levy a tax or contract a debt, then each of such political divisions or municipal corporations shall so exercise its power to increase its debt under the foregoing eight per cent. limitation that the aggregate debt over and upon any territory of this State shall never exceed fifteen per centum of the value of all taxable property in such territory as valued for taxation by the State: *Provided*, That nothing herein shall prevent the issue of bonds for the purpose of paying or refunding any valid municipal debt heretofore contracted in excess of eight per centum of the assessed value of all the taxable property therein.

Sec. 6. The credit of the State shall not be pledged or loaned for the benefit of any individual, company, association or corporation; and the State shall not become a joint owner of or stockholder in any company, association or corporation. The General Assembly shall not have power to authorize any County or township to levy a tax or issue bonds for any purpose except for educational purposes, to build and repair public roads, buildings and bridges, to maintain and support prisoners, pay jurors, County officers, and for litigation, quarantine and Court expenses, and for ordinary County purposes, to support paupers, and pay past indebtedness.

Sec. 7. No scrip, certificate or other evidence of State indebtedness shall be issued except for the redemption of stock, bonds or other evidences of indebtedness previously issued, or for such debts as are expressly authorized in this Constitution.

Sec. 8. An accurate statement of the receipts and expenditures of the public money shall be published with the laws of each regular session of the General Assembly, in such manner as may by law be directed.

Sec. 9. Money shall be drawn from the Treasury only in pursuance of appropriations made by law.

Sec. 10. The fiscal year shall commence on the first day of January in each year.

Sec. 11. To the end that the public debt of South Carolina may not hereafter be increased without the due consideration and free consent of the people of the State, the General Assembly is hereby forbidden to create any further debt or obligation, either by the loan of the credit of the State, by guaranty, endorsement or otherwise, except for the ordinary and current business of the State, without first submitting the question as to the creation of such new debt, guaranty, endorsement or loan of its credit to the qualified electors of

this State at a general State election; and unless two-thirds of the qualified electors of this State, voting on the question, shall be in favor of increasing the debt, guaranty, endorsement or loan of its credit, none shall be created or made. And any debt contracted by the State shall be by loan on State bonds, of amounts not less than fifty dollars each, bearing interest, payable not more than forty years after final passage of the law authorizing such debt. A correct registry of all such bonds shall be kept by the Treasurer in numerical order, so as to always exhibit the number and amount unpaid, and to whom severally made payable. And the General Assembly shall levy an annual tax sufficient to pay the annual interest on said bonds.

Sec. 12. Suitable laws shall be passed by the General Assembly for the safe-keeping, transfer and disbursement of the State, County and school funds; and all officers and other persons charged with the same shall keep an accurate entry of each sum received, and of each payment and transfer, and shall give such security for the faithful discharge of such duties as the General Assembly may provide. And it shall be the duty of the General Assembly to pass laws making embezzlement of such funds a felony, punishable by fine and imprisonment, proportioned to the amount of the deficiency or embezzlement, and the party convicted of such felony shall be disqualified from ever holding any office of honor or emolument in this State: *Provided, however*, That the General Assembly, by a two-thirds vote, may remove the disability upon payment in full of the principal and interest of the sum embezzled.

Sec. 13. The General Assembly shall provide for the assessment of all property for taxation; and State, County, township, school, municipal and all other taxes shall be levied on the same assessment, which shall be that made for State taxes; and the taxes for the subdivisions of the State shall be levied and collected by the respective fiscal authorities thereof.

Article XI

EDUCATION

Section 1. The supervision of public instruction shall be vested in a State Superintendent of Education, who shall be elected for the term of two years by the qualified electors of the State, in such manner and at such time as the other State officers are elected; his powers, duties and compensation shall be defined by the General Assembly.

Sec. 2. There shall be a State Board of Education, composed of the Governor, the State Superintendent of Education, and not exceeding seven persons to be appointed by the Governor every four years, of which Board the Governor shall be Chairman, and the State Superintendent of Education, Secretary. This Board shall have the regulation of examination of teachers applying for certificates of qualification, and shall award all scholarships, and have such other powers and duties as may be determined by law. The traveling expenses of the persons to be appointed shall be provided for by the General Assembly.

Sec. 3. The General Assembly shall make provision for the election or appointment of all other necessary school officers, and shall

define their qualifications, powers, duties, compensation and terms of office.

Sec. 4. The salaries of the State and County school officers and compensation of County Treasurers for collecting and disbursing school moneys shall not be paid out of the school funds, but shall be otherwise provided for by the General Assembly.

Sec. 5. The General Assembly shall provide for a liberal system of free public schools for all children between the ages of six and twenty-one years, and for the division of the Counties into suitable school districts, as compact in form as practicable, having regard to natural boundaries, and not to exceed forty-nine nor be less than nine square miles in area: *Provided*, That in cities of ten thousand inhabitants and over, this limitation of area shall not apply: *Provided, further*, That when any school district laid out under this Section shall embrace cities or towns already organized into special school districts in which graded school buildings have been erected by the issue of bonds, or by special taxation, or by donation, all the territory included in said school district shall bear its just proportion of any tax that may be levied to liquidate such bonds or support the public schools therein: *Provided, further*, That nothing in this Article contained shall be construed as a repeal of the laws under which the several graded school districts of this State are organized. The present division of the Counties into school districts and the provisions of law now governing the same shall remain until changed by the General Assembly.

Sec. 6. The existing County Boards of Commissioners of the several Counties, or such officer or officers as may hereafter be vested with the same or similar powers and duties, shall levy an annual tax of three mills on the dollar upon all the taxable property in their respective Counties, which tax shall be collected at the same time and by the same officers as the other taxes for the same year, and shall be held in the County treasury of the respective Counties; and the said fund shall be apportioned among the school districts of the County in proportion to the number of pupils enrolled in the public schools of the respective districts, and the officer or officers charged by law with making said apportionment shall notify the Trustees of the respective school districts thereof, who shall expend and disburse the same as the General Assembly may prescribe. The General Assembly shall define "enrollment." Not less than three Trustees for each school district shall be selected from the qualified voters and taxpayers therein, in such manner and for such terms as the General Assembly may determine, except in cases of special school districts now existing, where the provisions of law now governing the same shall remain until changed by the General Assembly: *Provided*, The manner of the selection of said Trustees need not be uniform throughout the State. There shall be assessed on all taxable polls in the State between the ages of twenty-one and sixty years (excepting Confederate soldiers above the age of fifty years), an annual tax of one dollar on each poll, the proceeds of which tax shall be expended for school purposes in the several school districts in which it is collected. Whenever during the three next ensuing fiscal years the tax levied by the said County Boards of Commissioners or similar officers and the poll tax shall not yield an amount equal to three dollars per capita of the number of children enrolled in the public schools of each

County for the scholastic year ending the thirty-first day of October in the year eighteen hundred and ninety-five, as it appears in the report of the State Superintendent of Education for said scholastic year, the Comptroller-General shall, for the aforesaid three next ensuing fiscal years, on the first day of each of said years, levy such an annual tax on the taxable property of the State as he may determine to be necessary to make up such deficiency, to be collected as other State taxes, and apportion the same among the Counties of the State in proportion to the respective deficiencies therein. The sum so apportioned shall be paid by the State Treasurer to the County Treasurers of the respective Counties, in proportion to the respective deficiencies therein, on the warrant of the Comptroller-General, and shall be apportioned among the school districts of the Counties, and disbursed as other school funds; and from and after the thirty-first day of December, in the year eighteen hundred and ninety-eight, the General Assembly shall cause to be levied annually on all the taxable property of the State such a tax, in addition to the said tax levied by the said County Boards of Commissioners or similar officers, and poll tax above provided, as may be necessary to keep the schools open throughout the State for such length of time in each scholastic year as the General Assembly may prescribe; and said tax shall be apportioned among the Counties in proportion to the deficiencies therein and disbursed as other school funds. Any school district may by the authority of the General Assembly levy an additional tax for the support of its schools.

Sec. 7. Separate schools shall be provided for children of the white and colored races, and no child of either race shall ever be permitted to attend a school provided for children of the other race.

Sec. 8. The General Assembly may provide for the maintenance of Clemson Agricultural College, the University of South Carolina, and the Winthrop Normal and Industrial College, a branch thereof, as now established by law, and may create scholarships therein; the proceeds realized from the land scrip given by the Act of Congress passed the second day of July, in the year eighteen hundred and sixty-two, for the support of an agricultural college, and any lands or funds which have heretofore been or may hereafter be given or appropriated for educational purposes by the Congress of the United States, shall be applied as directed in the Acts appropriating the same: *Provided*, That the General Assembly shall, as soon as practicable, wholly separate Claflin College from Claflin University, and provide for a separate corps of professors and instructors therein, representation to be given to men and women of the negro race; and it shall be the Colored Normal, Industrial, Agricultural and Mechanical College of this State.

Sec. 9. The property or credit of the State of South Carolina, or of any County, city, town, township, school district, or other subdivision of the said State, or any public money, from whatever source derived, shall not, by gift, donation, loan, contract, appropriation, or otherwise, be used, directly or indirectly, in aid or maintenance of any college, school, hospital, orphan house, or other institution, society or organization, of whatever kind, which is wholly or in part under the direction or control of any church or of any religious or sectarian denomination, society or organization.

Sec. 10. All gifts of every kind for educational purposes, if accepted by the General Assembly, shall be applied and used for the purposes designated by the giver, unless the same be in conflict with the provisions of this Constitution.

Sec. 11. All gifts to the State where the purpose is not designated, all escheated property, the net assets or funds of all estates or copartnerships in the hands of the Courts of the State where there have been no claimants for the same within the last seventy years, and other money coming into the Treasury of the State by reason of the twelfth Section of an Act entitled "An Act to provide a mode of distribution of the moneys as direct tax from the citizens of this State by the United States in trust to the State of South Carolina," approved the twenty-fourth day of December, in the year eighteen hundred and ninety-one, together with such other means as the General Assembly may provide, shall be securely invested as the State School Fund, and the annual income thereof shall be apportioned by the General Assembly for the purpose of maintaining the public schools.

Sec. 12. All the net income to be derived by the State from the sale or license for the sale of spirituous, malt, vinous and intoxicating liquors and beverages, not including so much thereof as is now or may hereafter be allowed by law to go to the Counties and municipal corporations of the State, shall be applied annually in aid of the supplementary taxes provided for in the sixth Section of this Article; and if after said application there should be a surplus, it shall be devoted to public school purposes, and apportioned as the General Assembly may determine: *Provided, however*, That the said supplementary taxes shall only be levied when the net income aforesaid from the sale or license for the sale of alcoholic liquors or beverages are not sufficient to meet and equalize the deficiencies for which the said supplementary taxes are provided.

Article XII

Charitable and penal institutions

Section 1. Institutions for the care of the insane, blind, deaf and dumb and the poor shall always be fostered and supported by this State, and shall be subject to such regulations as the General Assembly may enact.

Sec. 2. The Regents of the State Hospital for the Insane and the Superintendent thereof, who shall be a physician, shall be appointed by the Governor, by and with the advice and consent of the Senate. All other physicians, officers and employees of the Hospital shall be appointed by the Regents, unless otherwise ordered by the General Assembly.

Sec. 3. The respective Counties of this State shall make such provision as may be determined by law for all those inhabitants who by reason of age, infirmities and misfortune may have a claim upon the sympathy and aid of society.

Sec. 4. The Directors of the benevolent and penal State institutions which may be hereafter created shall be appointed or elected as the General Assembly may direct.

Sec. 5. The Directors and Superintendent of the Penitentiary shall be appointed or elected as the General Assembly may direct.

Sec. 6. All convicts sentenced to hard labor by any of the Courts in this State may be employed upon the public works of the State or of the Counties and upon the public highways.

Sec. 7. Provision may be made by the General Assembly for the establishment and maintenance by the State of a Reformatory for juvenile offenders separate and apart from hardened criminals.

Sec. 8. The Governor shall have power to fill all vacancies that may occur in the offices aforesaid, except where otherwise provided for, with the power of removal until the next session of the General Assembly and until a successor or successors shall be appointed and confirmed.

Sec. 9. The Penitentiary and the convicts thereto sentenced shall forever be under the supervision and control of officers employed by the State; and in case any convicts are hired or farmed out, as may be provided by law, their maintenance, support, medical attendance and discipline shall be under the direction of officers detailed for those duties by the authorities of the Penitentiary.

Article XIII

MILITIA

Section 1. The militia of this State shall consist of all able-bodied male citizens of the State between the ages of eighteen and forty-five years, except such persons as are now or may be exempted by the laws of the United States or this State, or who from religious scruples may be averse to bearing arms, and shall be organized, officered, armed, equipped and disciplined as the General Assembly may by law direct.

Sec. 2. The volunteer and militia forces shall (except for treason, felony and breach of the peace) be exempt from arrest by warrant or other process while in active service or attending muster or the election of officers, or while going to or returning from either of the same.

Sec. 3. The Governor shall have the power to call out the volunteer and militia forces, either or both, to execute the laws, repel invasions, suppress insurrections and preserve the public peace.

Sec. 4. There shall be an Adjutant and Inspector General elected by the qualified electors of the State at the same time and in the same manner as other State officers, who shall rank as Brigadier General, and whose duties and compensation shall be prescribed by law. The Governor shall, by and with the advice and consent of the Senate, appoint such other staff officers as the General Assembly may direct.

Sec. 5. The General Assembly is hereby empowered and required, at its first session after the adoption of this Constitution, to provide such proper and liberal legislation as will guarantee and secure an annual pension to every indigent or disabled Confederate soldier and sailor of this State and of the late Confederate States who are citizens of this State, and also to the indigent widows of Confederate soldiers and sailors.

Article XIV

EMINENT DOMAIN

Section 1. The State shall have concurrent jurisdiction on all rivers bordering on this State, so far as such rivers shall form a common boundary to this and any other State bounded by the same; and

they, together with all navigable waters within the limits of the State, shall be common highways and forever free, as well to the inhabitants of this State as to the citizens of the United States, without any tax or impost therefor, unless the same be expressly provided for by the General Assembly.

Sec. 2. The title to all lands and other property which have heretofore accrued to this State by grant, gift, purchase, forfeiture, escheats or otherwise shall vest in the State of South Carolina, the same as though no change had taken place.

Sec. 3. The people of the State are declared to possess the ultimate property in and to all lands within the jurisdiction of the State; and all lands the title to which shall fail from defect of heirs shall revert or escheat to the people.

Article XV

IMPEACHMENTS

Section 1. The House of Representatives shall have the sole power of impeachment. A vote of two-thirds of all the members elected shall be required for an impeachment. Any officer impeached shall thereby be suspended from office until judgment in the case shall have been pronounced; and the office shall be filled during the trial in such manner as may be provided by law.

Sec. 2. All impeachments shall be tried by the Senate, and when sitting for that purpose they shall be under oath or affirmation. No person shall be convicted except by a vote of two-thirds of all the members elected. When the Governor is impeached, the Chief Justice of the Supreme Court, or, if he be disqualified, the Senior Justice shall preside, with a casting vote in all preliminary questions.

Sec. 3. The Governor and all other executive and judicial officers shall be liable to impeachment; but judgment in such case shall not extend further than removal from office. The persons convicted shall, nevertheless, be liable to indictment, trial and punishment according to law.

Sec. 4. For any willful neglect of duty, or other reasonable cause, which shall not be sufficient ground of impeachment, the Governor shall remove any executive or judicial officer on the address of two-thirds of each house of the General Assembly: *Provided*, That the cause or causes for which said removal may be required shall be stated at length in such address, and entered on the Journals of each house: *And provided, further*, That the officer intended to be removed shall be notified of such cause or causes, and shall be admitted to a hearing in his own defence, or by his counsel, or by both, before any vote for such address; and in all cases the vote shall be taken by yeas and nays, and be entered on the Journal of each house respectively.

Article XVI

AMENDMENT AND REVISION OF THE CONSTITUTION

Section 1. Any amendment or amendments to this Constitution may be proposed in the Senate or House of Representatives. If the same be agreed to by two-thirds of the members elected to each

house, such amendment or amendments shall be entered on the Journals respectively, with the yeas and nays taken thereon; and the same shall be submitted to the qualified electors of the State at the next general election thereafter for Representatives; and if a majority of the electors qualified to vote for members of the General Assembly, voting thereon, shall vote in favor of such amendment or amendments, and a majority of each branch of the next General Assembly shall, after such an election and before another, ratify the same amendment or amendments, by yeas and nays, the same shall become part of the Constitution: *Provided*, That such amendment or amendments shall have been read three times, on three several days, in each house.

Sec. 2. If two or more amendments shall be submitted at the same time, they shall be submitted in such manner that the electors shall vote for or against each of such amendments separately.

Sec. 3. Whenever two-thirds of the members elected to each branch of the General Assembly shall think it necessary to call a Convention to revise, amend or change this Constitution, they shall recommend to the electors to vote for or against a Convention at the next election for Representatives; and if a majority of all the electors voting at said election shall have voted for a Convention, the General Assembly shall, at its next session, provide by law for calling the same; and such Convention shall consist of a number of members equal to that of the most numerous branch of the General Assembly.

Article XVII

Miscellaneous Matters

Section 1. No person shall be elected or appointed to any office in this State unless he possess the qualifications of an elector: *Provided*, The provisions of this Section shall not apply to the offices of State Librarian and Departmental Clerks, to either of which offices any woman, a resident of the State two years, who has attained the age of twenty-one years, shall be eligible.

Sec. 2. The General Assembly may direct, by law, in what manner claims against the State may be established and adjusted.

Sec. 3. Divorces from the bonds of matrimony shall not be allowed in this State.

Sec. 4. No person who denies the existence of a Supreme Being shall hold any office under this Constitution.

Sec. 5. The printing of the laws, journals, bills, legislative documents and papers for each branch of the General Assembly, with the printing required for the Executive and other departments of the State, shall be let, on contract, in such manner as shall be prescribed by law.

Sec. 6. The General Assembly shall provide for the removal of all causes which may be pending when this Constitution goes into effect to Courts created by the same.

Sec. 7. No lottery shall ever be allowed, or be advertised by newspapers, or otherwise, or its tickets be sold in this State; and the General Assembly shall provide by law at its next session for the enforcement of this provision.

Sec. 8. It shall be unlawful for any person holding an office of honor, trust or profit to engage in gambling or betting on games of

chance; and any such officer, upon conviction thereof, shall become thereby disqualified from the further exercise of the functions of his office, and the office of said person shall become vacant, as in the case of resignation or death.

SEC. 9. The real and personal property of a woman held at the time of her marriage, or that which she may thereafter acquire, either by gift, grant, inheritance, devise or otherwise, shall be her separate property, and she shall have all the rights incident to the same to which an unmarried woman or a man is entitled. She shall have the power to contract and be contracted with in the same manner as if she were unmarried.

SEC. 10. All laws now in force in this State and not repugnant to this Constitution shall remain and be enforced until altered or repealed by the General Assembly, or shall expire by their own limitations.

SEC. 11. That no inconvenience may arise from the change in the Constitution of this State, and in order to carry this Constitution into complete operation, it is hereby declared:

First. That all laws in force in this State, at the time of the adoption of this Constitution, not inconsistent therewith and constitutional when enacted, shall remain in full force until altered or repealed by the General Assembly or expire by their own limitation. All ordinances passed and ratified at this Convention shall have the same force and effect as if included in and constituting a part of this Constitution.

Second. All writs, actions, causes of action, proceedings, prosecutions, and rights of individuals, of bodies corporate and of the State, when not inconsistent with this Constitution, shall continue as valid.

Third. The provisions of all laws which are inconsistent with this Constitution shall cease upon its adoption, except that all laws which are inconsistent with such provisions of this Constitution as require legislation to enforce them shall remain in force until such legislation is had.

Fourth. All fines, penalties, forfeitures and escheats accruing to the State of South Carolina under the Constitution and laws heretofore in force shall accrue to the use of the State of South Carolina under this Constitution, except as herein otherwise provided.

Fifth. All recognizances, obligations and all other instruments entered into or executed before the adoption of this Constitution to the State, or to any County, township, city or town therein, and all fines, taxes, penalties and forfeitures due or owing to this State, or to any County, township, city or town therein, and all writs, prosecutions, actions and proceedings, except as herein otherwise provided, shall continue and remain unaffected by the adoption of this Constitution. All indictments which shall have been found, or may hereafter be found, for any crime or offence committed before the adoption of this Constitution may be prosecuted as if no change had been made, except as otherwise provided herein.

Sixth. All officers, State, executive, legislative, judicial, circuit, district, County, township and municipal, who may be in office at the adoption of this Constitution, or who may be elected before the election of their successors as herein provided, shall hold their respective offices until their terms have expired and until their successors are

elected or appointed and qualified as provided in this Constitution, unless sooner removed as may be provided by law; and shall receive the compensation now fixed by the Statute Laws in force at the adoption of this Constitution.

Seventh. At all elections held for members of the General Assembly in case of a vacancy, or for any other office, State, County or municipal, the qualifications of electors shall remain as they were under the Constitution of eighteen hundred and sixty-eight until the first day of November, in the year eighteen hundred and ninety-six.

Eighth. This Constitution, adopted by the people of South Carolina in Convention assembled, shall be in force and effect from and after the thirty-first day of December, in the year eighteen hundred and ninety-five.

Ninth. The provisions of the Constitution of eighteen hundred and sixty-eight and amendments thereto are repealed by this Constitution, except when reordained and declared herein.

Done in Convention in Columbia on the fourth day of December, in the year of our Lord one thousand eight hundred and ninety-five.

JOHN GARY EVANS,
President of the Convention.
IRA B. JONES,
Vice President of the Convention.

Attest:
S. W. VANCE,
Secretary of the Convention.

ORDINANCES PASSED BY THE SOUTH CAROLINA CONSTITUTIONAL CONVENTION OF 1895

THE STATE OF SOUTH CAROLINA:

At a Convention of the people of the State of South Carolina begun and holden at Columbia on the tenth day of September, in the year of our Lord one thousand eight hundred and ninety-five, and thence continued by divers adjournments to the fourth day of December, in the year of our Lord one thousand eight hundred and ninety-five.

An Ordinance to establish a new judicial and election county from a portion of the territory of Edgefield County, to be called Saluda, with boundaries as hereinafter described

We, the people of the State of South Carolina, by our delegates in Convention assembled, do ordain:

SECTION 1. That a new judicial and election County, which shall be known as Saluda County, shall be formed, and is hereby authorized to be formed, with the following boundaries, to wit:

Beginning at the centre of Big Saluda River at a point opposite the corner of Edgefield and Lexington Counties, thence the Edgefield and Lexington line to the corner of Lexington and Aiken Counties, thence the Edgefield and Aiken line to a point three miles north of where the public road crosses said line near Lybrand's old mill, thence a straight line to ten-mile post on public highway leading from Edgefield to Columbia near the residence of J. W. L. Bartley, thence a straight line to the junction of the public road leading from Pleasant

Cross with the Long Cane road near Wm. Lott's, thence by the Long Cane road to Matt. Mathis' Cross Roads, thence a straight line to Owdom's postoffice, thence a straight line to Little Red Hill school house near Dr. Landrum's old place, thence a straight line to a point on the northwestern line of Pine Grove Township, one mile north of Double Bridges, thence along the northwestern boundary of Pine Grove Township, to the point on the old Charleston and Cambridge road where it crosses Halfway Swamp Creek, thence down the middle of Halfway Swamp Creek to a point in the middle of Saluda River opposite the mouth of said creek, thence down the middle of Big Saluda River to the initial point; and the territory embraced within the said lines shall be known as the County of Saluda.

SEC. 2. That J. H. Edwards, B. W. Crouch, Alvin Ethredge, P. C. Stevens, B. L. Caughman, James P. Bean, C. P. Boozer, J. R. Watson, and J. B. Suddath be, and are hereby, appointed Commissioners to have the boundaries of said new County Saluda as above indicated, surveyed and properly marked, as well as to designate and establish the County seat: *Provided*, That the County seat shall be located within three (3) miles of the geographical centre of the County, to be ascertained by drawing diagonal lines from the four corners of the County and taking the point of crossing as such centre, the particular site to be decided by vote of the people in said County at an election which shall be held in accordance with law by order of the Governor; and to provide suitable buildings for the several Court and County officers, and to select and purchase or procure sites for the usual public buildings, and contract for and superintend the erection of the court house and jail thereon, and said public buildings shall be built at the expense of the citizens of the said County of Saluda; and to meet the said demand a special tax, not exceeding two mills on the dollar of the assessed value of real and personal property in said County, be levied by the proper County officials hereinafter provided for, in accordance with the laws now in force regulating the assessment and collection of taxes.

SEC. 3. That an election shall be held in the County of Saluda on Tuesday following the first Monday in November, A. D. 1896, or on such other day as may be provided by law hereinafter, for members of the General Assembly and for the regular County officers provided for by the Constitution and laws of the State.

SEC. 4. That until the next apportionment of Representatives the said County of Saluda shall be entitled to two Representatives.

SEC. 5. That the voting precincts heretofore established by law in that portion of Edgefield County embraced in the limits of Saluda County shall be the precincts of Saluda County.

SEC. 6. That the County of Saluda be, and is hereby, attached to the Second Congressional District, and shall form part and parcel of the Fifth Judicial Circuit, and that the regular terms of the Courts of General Sessions and Common Pleas shall be held at such times as shall be fixed by law; and that the Trial Justices located in that portion of Edgefield County embraced in the limits of Saluda County shall be continued in office until their successors shall have been appointed and qualified: *Provided, however*, That from and after the time this ordinance goes into effect they shall be confined and limited in their official capacity, duty and power to said limits of Saluda County.

Sec. 7. That from and after the first day of December, A. D. 1896, all suits pending in the Courts of Edgefield of which the defendants reside in that portion of said County now established as the County of Saluda, and all indictments pending in the said County of Edgefield where the offence was committed in that part of said County now established as the County of Saluda, shall be transferred to the Calendars of the Courts of the said County of Saluda; and all records, commissions and other papers belonging to any of the said suits or indictments, together with all the legal incidents thereto appertaining, shall be transferred to the Clerk of the Court of the said County of Saluda.

Sec. 8. That the Governor be, and is hereby, authorized and empowered to appoint a Commission of five persons, two of whom shall be residents of the County of Edgefield, two residents of the new County of Saluda, and one resident of some other County of the State, which said Commission shall divide and apportion between the two Counties herein provided for the present lawful and *bona fide* indebtedness of the old County of Edgefield, having regard to the amount of unpaid taxes due to the said County of Edgefield.

Sec. 9. The General Assembly may pass any Act not inconsistent with this Ordinance to carry the same into effect.

Done in Columbia, the sixteenth day of October, in the year of our Lord, one thousand eight hundred and ninety-five.

Jno. Gary Evans,
President of Convention.

Attest:
S. W. Vance.
Secretary of Convention.

The State of South Carolina:

At a Convention of the people of the State of South Carolina begun and holden at Columbia on the tenth day of September, in the year of our Lord one thousand eight hundred and ninety-five, and thence continued by divers adjournments to the fourth day of December, in the year of our Lord one thousand eight hundred and ninety-five.

An Ordinance to provide an alphabetical Index and marginal notes to the Constitution and Ordinances of the Convention of the year 1895

Whereas, it is desirable to facilitate and afford easy reference to the provisions of the Constitution of the year 1895; now,

Be it ordained by the people of the State of South Carolina, in Convention assembled, and by the authority of the same:

Section 1. That C. M. Efird is hereby authorized and appointed to prepare a complete alphabetical index, with marginal notes, of the Constitution and Ordinances adopted by this Convention, to form a part of this Constitution and Ordinances when printed, and that he receive as compensation therefor fifty dollars, the same to be paid him by the State Treasurer upon the warrant of the Comptroller-General.

Jno. Gary Evans, *President.*

Attest:
S. W. Vance.
Secretary of Convention.

THE STATE OF SOUTH CAROLINA:

At a Convention of the people of the State of South Carolina, begun and holden at Columbia on the tenth day of September, in the year of our Lord one thousand eight hundred and ninety-five, and thence continued by divers adjournments to the fourth day of December, in the year of our Lord one thousand eight hundred and ninety-five.

An Ordinance to provide for the payment of interest on the public debt of the State of South Carolina to become due on the first day of January, A. D. 1896, and to require the General Assembly to make appropriations for that purpose

We, the people of South Carolina, by our delegates in Convention assembled, do ordain:

SECTION 1. That the Governor and State Treasurer be, and are hereby, authorized to make arrangements for the payment of the semi-annual interest due on the public debt of the State on the first day of January, A. D. 1896, and, if necessary, in anticipation of the collection of taxes, they are hereby authorized to borrow for that purpose a sum not exceeding one hundred and sixty thousand dollars.

SEC. 2. That the General Assembly, at its next session, is hereby required and directed to make an appropriation for the payment of the said loan.

Done in Convention, in Columbia, on the third day of December, A. D. 1895.

JNO. GARY EVANS,
President of Convention.

Attest:
S. W. VANCE,
Secretary of Convention.

THE STATE OF SOUTH CAROLINA:

At a Convention of the people of the State of South Carolina begun and holden at Columbia on the tenth day of September, in the year of our Lord one thousand eight hundred and ninety-five, and thence continued by divers adjournments to the fourth day of December, in the year of our Lord one thousand eight hundred and ninety-five.

An Ordinance to authorize the General Assembly to provide for a sinking fund in the several counties of the State to enable the same to do business on a cash basis

Whereas in most if not in all, of the Counties of the State the taxes are never realized until a year after the levy, and consequently the contracts for ordinary County purposes and for the running of the schools have to be made on a credit instead of a cash basis; and whereas this is an evil that ought to be remedied. Therefore,

Be it ordained by the people of the State of South Carolina, in Convention assembled, and by the authority of the same:

SECTION 1. That the General Assembly may provide for an annual tax levy, not to exceed one-half of one mill, in each county not now on a cash basis. The proceeds of all such levies shall be used as a sinking fund for each and every County in which it is levied and collected, and shall be invested or paid out as the General Assembly

shall direct, until an amount sufficient shall have been collected to put such Counties on a cash basis, then such annual levies shall cease.

Done in convention, in Columbia, on the third day of December, A. D. 1895.

JNO. GARY EVANS.
President of Convention.

Attest:
S. W. VANCE,
Secretary of Convention.

THE STATE OF SOUTH CAROLINA:

At a Convention of the people of the State of South Carolina begun and holden at Columbia on the tenth day of September, in the year of our Lord one thousand eight hundred and ninety-five, and thence continued by divers adjournments to the fourth day of December, in the year of our Lord one thousand eight hundred and ninety-five.

An Ordinance in regard to paying the State printer

Be it ordained by the people of the State of South Carolina, in Convention assembled:

That the Comptroller-General be authorized to audit the accounts of the State Printer for work done for the Convention before or after the adjournment *sine die*, and to draw his warrant upon the State Treasurer therefor upon production of the proper vouchers.

Done in Convention, in Columbia, on the third day of December, A. D. 1895.

JNO. GARY EVANS,
President of Convention.

Attest:
S. W. VANCE,
Secretary of Convention.

THE STATE OF SOUTH CAROLINA:

At a Convention of the people of the State of South Carolina begun and holden at Columbia on the tenth day of September, in the year of our Lord one thousand eight hundred and ninety-five, and thence continued by divers adjournments to the fourth day of December, in the year of our Lord one thousand eight hundred and ninety-five.

An Ordinance to provide for the pay of the Commissioners and Managers of Election

Be it ordained by the people of the State of South Carolina:

That the General Assembly, at its next session, shall provide reasonable compensation for the Commissioners, Managers and other officers, who conducted the election for members of this Constitutional Convention.

Done in Convention, in Columbia, on the third day of December, A. D. 1895.

JNO. GARY EVANS,
President of Convention.

Attest:
S. W. VANCE,
Secretary of Convention.

THE STATE OF SOUTH CAROLINA:

At a Convention of the people of the State of South Carolina begun and holden at Columbia on the tenth day of September, in the year of our Lord one thousand eight hundred and ninety-five, and thence continued by divers adjournments to the fourth day of December, in the year of our Lord one thousand eight hundred and ninety-five.

An Ordinance to provide that the General Assembly may enact laws necessary to validate and carry into effect the subscriptions to the capital stock of the Carolina, Knoxville and Western Railroad Company, heretofore voted for and authorized by the qualified electors of Greenville County.

We, the people of South Carolina, by our delegates in Convention assembled, do ordain:

SECTION 1. That nothing contained in the Constitution adopted by the people of South Carolina, now in Convention assembled, shall inhibit the General Assembly from enacting all laws necessary to validate and carry into effect the subscription to the capital stock of the Carolina, Knoxville and Western Railroad Company, heretofore voted for and authorized by the qualified electors of Greenville County: *Provided*, That said railroad company shall comply with all the conditions upon which the said bonds were originally voted: *And provided, further*, That the qualified electors of said County shall reaffirm the grant of authority to issue said bonds at an election called for the purpose, within such time as the General Assembly may prescribe.

Done in Convention, in Columbia, on the third day of December, A. D. 1895.

JNO. GARY EVANS,
President of Convention.

Attest:
S. W. VANCE,
Secretary of Convention.

THE STATE OF SOUTH CAROLINA:

At a Convention of the people of the State of South Carolina begun and holden at Columbia on the tenth day of September, in the year of our Lord one thousand eight hundred and ninety-five, and thence continued by divers adjournments to the fourth day of December, in the year of our Lord one thousand eight hundred and ninety-five.

An Ordinance to provide for the payment of the per diem and mileage of delegates, officers and employees of the Convention and other necessary expenses, and to require the General Assembly to make additional appropriations to pay the same

We, the people of South Carolina, by our delegates in Convention assembled, do ordain:

SECTION 1. That the amount of $30,000, if so much be necessary, in addition to the $30,000 appropriated by the last General Assembly, be, and is hereby, appropriated to pay the per diem and mileage of the delegates, officers and employees of the Convention and other necessary expenses.

SEC. 2. That the Governor and State Treasurer be, and they are hereby, authorized to borrow sufficient money to meet this additional

appropriation, and the State Treasurer is hereby authorized to pay it out upon the warrants of the Comptroller-General, who is hereby required to issue his warrant or warrants for this additional appropriation, or so much thereof, as may be necessary to meet the purposes of this Ordinance.

SEC. 3. That the General Assembly is hereby required and directed, at its next session, to make an appropriation, sufficient to pay the amount of money the State Treasurer is herein authorized to borrow for the payment of the balance of the per diem, and mileage of the delegates, officers and employees of the Convention, and other necessary expenses, after the exhaustion of the $30,000 already appropriated by the General Assembly.

Done in Convention, in Columbia, on the third day of December, A. D. 1895.

JNO. GARY EVANS,
President of Convention.

Attest:
S. W. VANCE,
Secretary of Convention.

THE STATE OF SOUTH CAROLINA:

At a Convention of the people of the State of South Carolina begun and holden at Columbia on the tenth day of September, in the year of our Lord one thousand eight hundred and ninety-five, and thence continued by divers adjournments to the fourth day of December, in the year of our Lord one thousand eight hundred and ninety-five.

An Ordinance to provide that the General Assembly may enact laws necessary to validate and carry into effect subscriptions to the capital stock of certain railroad companies, heretofore voted by the county of Fairfield, and to validate and authorize the issue of bonds in payment of the same

Be it ordained by the people of South Carolina, in Convention assembled, That nothing contained in the Constitution adopted by the people of South Carolina, now in Convention assembled, shall prohibit the General Assembly from enacting laws necessary to validate and carry into effect the subscription to the capital stock of the Cape Fear and Cincinnati Railroad Company, and the subscription to the capital stock of the Wadesboro, Winnsboro and Camak Railroad Company, heretofore voted for and authorized by the qualified electors of Fairfield County, and to validate and authorize the issue of the bonds of said County in payment of the same: *Provided*, That the said railroad companies comply with all the conditions upon which said subscriptions and bonds were originally voted: *And provided, further*, That the qualified electors of said County reaffirm the grant of authority to issue said bonds in payment of said subscriptions to either or both of said railroad companies at the next general election for State and County officers.

Done in Convention, in Columbia, on the third day of December, A. D. 1895.

JNO. GARY EVANS,
President of Convention.

Attest:
S. W. VANCE,
Secretary of Convention,

THE STATE OF SOUTH CAROLINA:

At a Convention of the people of the State of South Carolina begun and holden at Columbia on the tenth day of September, in the year of our Lord one thousand eight hundred and ninety-five, and thence continued by divers adjournments to the fourth day of December, in the year of our Lord one thousand eight hundred and ninety-five.

An Ordinance fixing the pay and mileage of the members, officers and employees of this Convention

We, the people of South Carolina, in Convention assembled, do ordain:

SECTION 1. That the following sums, if so much be necessary, be, and the same are hereby, appropriated to pay the expenses of the Constitutional Convention from the tenth day of September, eighteen hundred and ninety-five, to the close of the session (except the time of the recess taken from the fourth day of October, eighteen hundred and ninety-five, to the fifteenth day of October, eighteen hundred and ninety-five,) to the close of the session, as follows: For the per diem of the members at two dollars, and an additional per diem of two dollars from the sixteenth day of October, eighteen hundred and ninety-five, to the end of the session; for the pay of S. W. Vance, Secretary of the Convention, six hundred dollars; for the pay of P. L. Melton, Assistant Secretary of the Convention, four dollars per day; for the pay of H. R. Flannigan, Second Assistant Secretary of the Convention, three dollars per day; for the pay of J. T. Gantt, Journal Clerk, three dollars per day, and three dollars per day for indexing after adjournment, not to exceed twenty days, such number of days as are absolutely necessary to be certified to by the Secretary of the Convention; for the pay of D. H. Witherspoon, Bill Clerk, three dollars per day; for the pay of A. H. Dagnall, Reading Clerk, three dollars per day; for the pay of E. P. Jenkins, Postal Clerk, two dollars per day; for the pay of R. M. Jolly, Doorkeeper, two dollars and fifty cents per day; for the pay of Joseph Witherspoon, Assistant Doorkeeper, two dollars per day; for the pay of W. J. Shelton, Gallery Doorkeeper, two dollars per day; for the pay of Glenn Smith, James Robinson, J. B. Hughes, Belton Drafts Caughman, J. W. McCalla, U. R. Brooks, Jr., Pages of the Constitutional Convention, each one dollar and fifty cents per day; for the pay of W. W. Lazenbury, West Oliphant, Damon Cantey, Council Cross, James Adamson and Aaron Owens, Laborers, each one dollar and fifty cents per day; for the pay of W. Boyd Evans, Clerk of Judiciary Committee, two dollars per day; for the pay of Benjamin W. Crouch, Clerk of the Suffrage Committee, two dollars per day; for the pay of Levi David, Clerk of the Educational Committee, two dollars per day; for the pay of A. R. Harmon, Clerk of the Executive Committee, two dollars per day; for the pay of J. W. Wessinger, Clerk of the Legislative Committee, two dollars per day; for the pay of R. L. Freeman, Clerk of the Committee on Finance and Taxation, two dollars per day; for the pay of G. P. Smith, Clerk of the Committee on Declaration of Rights, two dollars per day; for the pay of E. W. Townsend, Clerk of the Committee on Miscellaneous Matters, two dollars per day; for the pay of G. H. Charles, Clerk of the Commit-

tee on Counties and County Government, two dollars per day; for the pay of W. H. Yeldell, Chief Clerk of the Engrossing Department, three dollars per day; for the pay of N. H. Stansell, Sergeant-at-Arms, three dollars per day; for the pay of the two Chaplains of the Convention, seventy-five dollars each.

SEC. 2. *Be it further ordained*, That the mileage of the members of the Convention shall be five cents per mile, to and from the Convention by the usual routes. *And be it further ordained*, That according to a resolution passed by the Constitutional Convention on the twenty-first day (Thursday, October third, eighteen hundred and ninety-five), the members, officers and employees of this Convention be paid five cents per mile going to their homes during the recess and returning therefrom.

SEC. 3. *Be it further ordained*, That the following sums, if so much be necessary, be appropriated: To pay for the printing connected with the Convention, ——— dollars; for lights, $700; for stationery, ——— dollars.

SEC. 4. The disbursing officer of this Convention shall, upon the adjournment thereof, or as soon thereafter as practicable, issue to the widows of the late J. O. Byrd, R. H. Hodges and J. M. Sprott, members of this Convention, who died while in attendance thereon, pay certificates for the amounts which would have been due their respective husbands had they lived and been in attendance upon this body when it adjourned.

SEC. 5. Each delegate, officer and employee be allowed mileage at five cents per mile going to his home and returning, for the recess from the twenty-seventh day of November to the third day of December; that no per diem be allowed for said recess to delegates, officers and employees, except to those who remained in Columbia sick during the recess and except those delegates who shall attend the meetings of the Committee on Order, Style and Revision, and the clerks employed by said Committee shall be paid four dollars per day.

Done in Convention, in Columbia, on the third day of December, A. D. 1895.

JNO. GARY EVANS,
President of Convention.

Attest:
S. W. VANCE,
Secretary of Convention.

THE STATE OF SOUTH CAROLINA:

At a Convention of the people of the State of South Carolina begun and holden at Columbia on the tenth day of September, in the year of our Lord one thousand eight hundred and ninety-five, and thence continued by divers adjournments to the fourth day of December, in the year of our Lord one thousand eight hundred and ninety-five.

An Ordinance to provide that the General Assembly may enact such laws as may be necessary to validate and carry into effect subscriptions to the capital stock of certain railroad companies, heretofore voted by the county of Chesterfield and by the city of Spartanburg, respectively, and to validate and authorize the issue of bonds in payment of the same

Be it ordained by the people of South Carolina, in Convention assembled, That nothing in the Constitution ordained and established

by the people of South Carolina, now in Convention assembled, shall prohibit the General Assembly from enacting such laws as may be necessary to validate and carry into effect the subscriptions to the capital stock of the Chesterfield and Lancaster Railroad Company, and to the Chesterfield and Kershaw Railroad Company, heretofore voted for and authorized by the qualified voters of Chesterfield County, and to validate and authorize the issue of the bonds of said County in payment of the same; or from enacting such laws as may be necessary to validate and carry into effect the subscription by the city of Spartanburg to the capital stock of the Spartanburg and Rutherfordton Railroad Company heretofore voted for, and authorized by the qualified voters of the city of Spartanburg, and to validate and authorize the issue of the bonds of said city in payment of the same.

Done in Convention, in Columbia, on the twentieth day of November, A. D. 1895.

JNO. GARY EVANS,
President of Convention.

Attest:
S. W. VANCE,
Secretary of Convention.

THE STATE OF SOUTH CAROLINA:

At a Convention of the people of the State of South Carolina begun and holden at Columbia on the tenth day of September, in the year of our Lord one thousand eight hundred and ninety-five, and thence continued by divers adjournments to the fourth day of December, in the year of our Lord one thousand eight hundred and ninety-five.

An Ordinance to postpone the next regular session of the General Assembly from the fourth Tuesday in November, 1895, to the second Tuesday in January, 1896.

Be it ordained by the people of South Carolina, in Convention assembled, and by authority of the same, That the next regular session of the General Assembly of this State, appointed by law, to be held on the fourth Tuesday of November, in the year of our Lord one thousand eight hundred and ninety-five, be, and the same is hereby, postponed until the second Tuesday of January, in the year of our Lord one thousand eight hundred and ninety-six; and that the Governor of the State, be, and is hereby, authorized and empowered to issue his proclamation to that effect.

Done in Convention this eighteenth day of November, 1895.

JNO. GARY EVANS,
President of Convention.

Attest:
S. W. VANCE,
Secretary of Convention.

SOUTH DAKOTA[a]

For organic acts relating to the land now included within North Dakota see in this work:

Treaty Ceding Louisiana, 1803 (Louisiana, p. 1359).
District of Louisiana, 1804 (Louisiana, p. 1364).
Territory of Louisiana, 1805 (Louisiana, p. 1373).
Territory of Missouri, 1812 (Missouri, p. 2139).
Act Extending Bounds of Michigan Territory, 1834 (Iowa, p. 1111).
Territory of Wisconsin, 1836 (Wisconsin, p. 4065).
Territory of Iowa, 1838 (Iowa, p. 1111).
Territory of Nebraska, 1854 (Kansas, p. 1161).
Enabling Act for South Dakota, 1889 (Montana, p. 2289).

PROCLAMATION ANNOUNCING ADMISSION OF SOUTH DAKOTA—1889

By the President of the United States of America

A PROCLAMATION

Whereas the Congress of the United States did, by an act approved on the twenty-second day of February, one thousand eight hundred and eighty-nine, provide that the inhabitants of the Territory of Dakota might, upon the conditions prescribed in the said act, become the States of North Dakota and South Dakota:

And whereas it was provided by said act that the area comprising the Territory of Dakota should, for the purposes of the act, be divided on the line of the seventh standard parallel produced due west to the western boundary of said Territory, and that the delegates elected as therein provided to the Constitutional convention in districts south of said parallel should, at the time prescribed in the act, assemble in convention at the city of Sioux Falls;

And whereas it was provided by the said act that the delegates elected as aforesaid should, after they had met and organized, declare on behalf of the people of South Dakota that they adopt the Constitution of the United States: whereupon the said convention should be authorized to form a constitution and State Government for the proposed State of South Dakota;

And whereas it was provided by said act that the constitution so adopted should be republican in form, and make no distinction in civil or political rights on account of race or color, except as to Indians not taxed, and not be repugnant to the Constitution of the United States and the principles of the Declaration of Independence;

[a] For other statutes relating to the Dakotas see note to North Dakota, p. 2845.

and that the convention should, by an ordinance irrevocable without the consent of the United States and the people of said States, make certain provisions prescribed in said act;

And whereas it was provided by said act that the constitutions of North Dakota and South Dakota should, respectively, incorporate an agreement to be reached in accordance with the provisions of the act, for an equitable division of all property belonging to the Territory of Dakota, the disposition of all public records, and also for the apportionment of the debts and liabilities of said Territory, and that each of said States should obligate itself to pay its proportion of such debts and liabilities the same as if they had been created by such States respectively;

And whereas it was provided by said act that at the election for delegates to the constitutional convention in South Dakota, as therein provided, each elector might have written or printed on his ballot the words "For the Sioux Falls constitution," or the words "against the Sioux Falls constitution;" that the votes on this question should be returned and canvassed in the same manner as the votes for the election of delegates; and, if a majority of all votes cast on this question should be "for the Sioux Falls constitution" it should be the duty of the convention which might assemble at Sioux Falls, as provided in the act, to re-submit to the people of South Dakota, for ratification or rejection, at an election provided for in said act, the constitution framed at Sioux Falls and adopted November third, eighteen hundred and eighty-five, and also the articles and propositions separately submitted at that election, including the question of locating the temporary seat of government, with such changes only as related to the name and boundary of the proposed State, to the reapportionment of the judicial and legislative districts, and such amendments as might be necessary in order to comply with the provisions of the act;

And whereas it was provided by said act that the constitution formed for the people of South Dakota should, by an ordinance of the convention forming the same, be submitted to the people of South Dakota at an election to be held therein on the first Tuesday in October, eighteen hundred and eighty-nine, for ratification or rejection by the qualified voters of said proposed State, and that the returns of said election should be made to the Secretary of the Territory of Dakota, who, with the Governor and Chief Justice thereof, or any two of them, should canvass the same, and if a majority of the legal votes cast should be for the constitution the Governor should certify the result to the President of the United States, together with a statement of the votes cast thereon and upon separate articles or propositions, and a copy of said constitution, articles, propositions and ordinances;

And whereas it has been certified to me by the Governor of the Territory of Dakota that at the aforesaid election for delegates the "Sioux Falls constitution" was submitted to the people of the proposed State of South Dakota, as provided in the said act; that a majority of all the votes cast on this question was "for the Sioux Falls constitution;" and that the said constitution was, at the time prescribed in the act resubmittted to the people of South Dakota, with proper changes and amendments, and has been adopted and

ratified by a majority of the qualified voters of said proposed State, in accordance with the conditions prescribed in said act;

And whereas it is also certified to me by the said Governor that at the same time that the body of said Constitution was submitted to a vote of the people, two additional articles were submitted separately to wit: an article numbered twenty-four entitled "Prohibition," which received a majority of all the votes cast for and against said article, as well as a majority of all the votes cast for and against the constitution and was adopted; and an article numbered twenty-five, entitled "Minority Representation," which did not receive a majority of the votes cast thereon or upon the constitution and was rejected;

And whereas a duly authenticated copy of said constitution, additional articles, ordinances and propositions as required by said act, has been received by me:

Now, therefore, I, Benjamin Harrison, President of the United States of America, do, in accordance with the act of Congress aforesaid, declare and proclaim the fact that the conditions imposed by Congress on the State of South Dakota to entitle that State to admission to the Union have been ratified and accepted, and that the admission of the said State into the Union is now complete.

In testimony whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the City of Washington this second day of November in the year of our Lord one thousand eight hundred and [SEAL.] eighty-nine, and of the Independence of the United States of America the one hundred and fourteenth.

BENJ. HARRISON.

By the President:

JAMES G. BLAINE,

Secretary of State.

CONSTITUTION OF SOUTH DAKOTA—1889 *[a]

PREAMBLE

We, the people of South Dakota, grateful to Almighty God for our civil and religious liberties, in order to form a more perfect and independent government, establish justice, insure tranquility, provide for the common defense, promote the general welfare and preserve to ourselves and to our posterity the blessings of liberty, do ordain and establish this constitution for the State of South Dakota.

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* Verified from "The Enabling Act and Constitution of South Dakota. Constitution Adopted October 1, 1889. Free Press Company, Legal Blank and Law Publishers, Pierre, S. D." LXXIX pp.

Also the Revised Codes of South Dakota, 1903, pp. 1–26; also, Laws Passed at the Ninth Session of the Legislature of South Dakota. Aberdeen, S. D.: 1905. (Constitution as amended.)

See also the Constitution of the United States, Constitution of South Dakota, and Enabling Act admitting South Dakota. Hipple Printing Co. 1904. 31 pp.

[a] Adopted by popular vote October 1, 1889. Yeas, 70,131; nays, 3,267.

Article I

NAME AND BOUNDARY

§ 1. The name of the State shall be South Dakota.

§ 2. The boundaries of the State of South Dakota shall be as follows: Beginning at the point of intersection of the western boundary line of the State of Minnesota with the northern boundary line of the State of Iowa, and running thence northerly along the western boundary line of the State of Minnesota to its intersection with the 7th standard parallel; thence west on the line of the 7th standard parallel produced due west to its intersection with the 27th meridian of longitude west from Washington; thence south on the 27th meridian of longitude west from Washington to its intersection with the northern boundary line of the State of Nebraska; thence easterly along the northern boundary line of the State of Nebraska to its intersection with the western boundary line of the State of Iowa; thence northerly along the western boundary line of the State of Iowa to its intersection with the northern boundary line of the State of Iowa; thence east along the northern boundary line of the State of Iowa to the place of beginning.

Article II

DIVISION OF THE POWERS OF GOVERNMENT

The powers of the government of the state are divided into three distinct departments—the legislative, executive and judicial; and the powers and duties of each are prescribed by this constitution.

Article III

LEGISLATIVE DEPARTMENT

[a] § 1. The legislative power shall be vested in a legislature, which shall consist of a senate and house of representatives.

§ 2. The number of members of the house of representatives shall not be less than seventy-five nor more than one hundred and thirty-five. The number of members of the senate shall not be less than twenty-five nor more than forty-five.

The sessions of the legislature shall be biennial except as otherwise provided in this constitution.

§ 3. No person shall be eligible to the office of senator who is not a qualified elector in the district from which he may be chosen, and a citizen of the United States, and who shall not have attained the age of twenty-five years, and who shall not have been a resident of the state or territory for two years next preceding his election.

No person shall be eligible to the office of representative who is not a qualified elector in the district from which he may be chosen, and a citizen of the United States, and who shall not have been a resident of the state or territory for two years next preceding his election, and who shall not have attained the age of twenty-five years.

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[a] See amendment, 1898.

No judge or clerk of any court, secretary of state, attorney general, state's attorney, recorder, sheriff or collector of public moneys, member of either house of congress, or person holding any lucrative office under the United States or this state, or any foreign government, shall be a member of the legislature; *Provided*, that appointments in the militia, the offices of notary public and justice of the peace shall not be considered lucrative; nor shall any person holding any office of honor or profit under any foreign government or under the government of the United States, except postmasters whose annual compensation does not exceed the sum of three hundred dollars, hold any office in either branch of the legislature or become a member thereof.

§ 4. No person who has been, or hereafter shall be, convicted of bribery, perjury or other infamous crime, nor any person who has been, or may be collector or holder of public moneys who shall not have accounted for and paid over, according to law, all such moneys due from him, shall be eligible to the legislature or to any office in either branch thereof.

§ 5. The legislature shall provide by law for the enumeration of the inhabitants of the state in the year one thousand eight hundred and ninety-five and every ten years thereafter, and at its first regular session after each enumeration, and also after each enumeration made by authority of the United States, but at no other time, the legislature shall apportion the senators and representatives according to the number of inhabitants, excluding Indians not taxed and soldiers and officers of the United States army and navy; *Provided*, that the legislature may make an apportionment at its first session after the admission of South Dakota as a State.

§ 6. The terms of the office of the members of the legislature shall be two years; they shall receive for their services the sum of five dollars for each day's attendance during the session of the legislature, and five[a] cents for every mile of necessary travel in going to and returning from the place of meeting of the legislature on the most usual route.

Each regular session of the legislature shall not exceed sixty days, except in cases of impeachment, and members of the legislature shall receive no other pay or perquisites except per diem and mileage.

§ 7. The legislature shall meet at the seat of government on the first Tuesday after the first Monday of January at 12 o'clock M., in the year next ensuing the election of members thereof, and at no other time except as provided by this constitution.

§ 8. Members of the legislature and officers thereof, before they enter upon their official duties, shall take and subscribe the following oath or affirmation: I do solemnly swear (or affirm) that I will support the constitution of the United States and the constitution of the State of South Dakota, and will faithfully discharge the duties of (senator, representative or officer) according to the best of my abilities, and that I have not knowingly or intentionally paid or contributed anything, or made any promise in the nature of a bribe, to directly or indirectly influence any vote at the election at which I

[a] The mileage of members of the legislature was amended by reducing from "ten" to "five" cents per mile, by popular vote of 39,364 for and 11,236 against, at the general election of 1892.

was chosen to fill said office, and have not accepted, nor will I accept or receive, directly or indirectly, any money, pass, or any other valuable thing, from any corporation, company or person, for any vote or influence I may give or withhold on any bill or resolution, or appropriation, or for any other official act.

This oath shall be administered by a judge of the supreme or circuit court, or the presiding officer of either house, in the hall of the house to which the member or officer is elected, and the secretary of state shall record and file the oath subscribed by each member and officer.

Any member or officer of the legislature who shall refuse to take the oath herein prescribed shall forfeit his office.

Any member or officer of the legislature who shall be convicted of having sworn falsely to or violated his said oath, shall forfeit his office and be disqualified thereafter from holding the office of senator or member of the house of representatives or any office within the gift of the legislature.

§ 9. Each house shall be the judge of the election returns and qualifications of its own members.

A majority of the members of each house shall constitute a quorum, but a smaller number may adjourn from day to day, and may compel the attendance of absent members in such a manner and under such penalty as each house may provide.

Each house shall determine the rules of its proceedings, shall choose its own officers and employes and fix the pay thereof, except as otherwise provided in this constitution.

§ 10. The governor shall issue writs of election to fill such vacancies as may occur in either house of the legislature.

§ 11. Senators and representatives shall, in all cases except treason, felony or breach of the peace, be privileged from arrest during the session of the legislature, and in going to and returning from the same; and for words used in any speech or debate in either house, they shall not be questioned in any other place.

§ 12. No member of the legislature shall, during the term for which he was elected, be appointed or elected to any civil office in the State which shall have been created, or the emoluments of which shall have been increased during the term for which he was elected, nor shall any member receive any civil appointment from the governor, the governor and senate, or from the legislature during the term for which he shall have been elected, and all such appointments and all votes given for any such members for any such office or appointment shall be void; nor shall any member of the legislature during the term for which he shall have been elected, or within one year thereafter, be interested, directly or indirectly, in any contract with the State or any county thereof, authorized by any law passed during the term for which he shall have been elected.

§ 13. Each house shall keep a journal of its proceedings and publish the same from time to time, except such parts as require secrecy, and the yeas and nays of members on any question shall be taken at the desire of one-sixth of those present and entered upon the journal.

§ 14. In all elections to be made by the legislature the members thereof shall vote *viva voce* and their votes shall be entered in the journal.

§ 15. The sessions of each house and of the committee of the whole shall be open, unless when the business is such as ought to be kept secret.

§ 16. Neither house shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.

§ 17. Every bill shall be read three several times, but the first and second reading may be on the same day, and the second reading may be by the title of the bill, unless the reading at length be demanded. The first and third readings shall be at length.

§ 18. The enacting clause of a law shall be: "Be it enacted by the Legislature of the State of South Dakota," and no law shall be passed unless by assent of a majority of all the members elected to each house of the legislature. And the question upon the final passage shall be taken upon its last reading, and the yeas and nays shall be entered upon the journal.

§ 19. The presiding officer of each house shall, in the presence of the house over which he presides, sign all bills and joint resolutions passed by the legislature, after their titles have been publicly read immediately before signing, and the fact of signing shall be entered upon the journal.

§ 20. Any bill may originate in either house of the legislature, and a bill passed by one house may be amended in the other.

§ 21. No law shall embrace more than one subject, which shall be expressed in its title.

§ 22. No act shall take effect until ninety days after the adjournment of the session at which it passed, unless in case of emergency (to be expressed in the preamble or body of the act) the legislature shall, by a vote of two-thirds of all the members elected of each house, otherwise direct.

§ 23. The legislature is prohibited from enacting any private or special laws in the following cases:

1. Granting divorces.
2. Changing the names of persons or places, or constituting one person the heir-at-law of another.
3. Locating or changing county-seats.
4. Regulating county and township affairs.
5. Incorporating cities, towns and villages or changing or amending the charter of any town, city or village, or laying out, opening, vacating or altering town plats, streets, wards, alleys and public grounds.
6. Providing for sale or mortgage of real estate belonging to minors or others under disability.
7. Authorizing persons to keep ferries across streams wholly within the State.
8. Remitting fines, penalties or forfeitures.
9. Granting to an individual, association or corporation any special or exclusive privilege, immunity or franchise whatever.
10. Providing for the management of common schools.
11. Creating, increasing or decreasing fees, percentages or allowances of public officers during the term for which said officers are elected or appointed.

But the legislature may repeal any existing special law relating to the foregoing subdivisions.

In all other cases where a general law can be applicable, no special law shall be enacted.

§ 24. The legislature shall have no power to release or extinguish, in whole or in part, the indebtedness, liability or obligation of any corporation or individual to this State or to any municipal corporation therein.

§ 25. The legislature shall not authorize any game of chance, lottery or gift enterprise, under any pretense, or for any purpose whatever.

§ 26. The legislature shall not delegate to any special commission, private corporation or association any power to make, supervise or interfere with any municipal improvement, money, property, effects, whether held in trust or otherwise, or levy taxes or to select a capital site or to perform any municipal functions whatever.

§ 27. The legislature shall direct by law in what manner and in what court suits may be brought against the State.

§ 28. Any person who shall give, demand, offer, directly or indirectly, any money, testimonial, privilege or personal advantage, anything of value to an executive or judicial officer or member of the legislature, to influence him in the performance of any of his official or public duties shall be guilty of bribery and shall be punished in such manner as shall be provided by law.

The offense of corrupt solicitation of members of the legislature, or of public officers of the State, or any municipal division thereof, and any effort toward solicitation of said members of the legislature or officers to influence their official action shall be defined by law, and shall be punishable by fine and imprisonment.

Any person may be compelled to testify in investigation or judicial proceedings against any person charged with having committed any offense of bribery or corrupt solicitation, and shall not be permitted to withhold his testimony upon the ground that it may criminate himself, but said testimony shall not afterward be used against him in any judicial proceeding except for bribery in giving such testimony, and any person convicted of either of the offienses aforesaid shall be disqualified from holding any office or position or office of trust or profit in this State.

Article IV

Executive Department

§ 1. The executive power shall be vested in a governor who shall hold his office for two years. A lieutenant governor shall be elected at the same time and for the same term.

§ 2. No person shall be eligible to the office of governor or lieutenant governor except a citizen of the United States and a qualified elector of the State, who shall have attained the age of 30 years, and who shall have resided two years next preceding the election within the State or territory; nor shall he be eligible to any other office during the term for which he shall have been elected.

§ 3. The governor and lieutenant governor shall be elected by the qualified electors of the State at the time and places of choosing members of the legislature. The persons respectively having the highest

number of votes for governor and lieutenant governor shall be elected; but if two or more shall have an equal and highest number of votes for governor or lieutenant governor, the two houses of the legislature at its next regular session shall forthwith, by joint ballot, choose one of such persons for said office. The returns of the election for governor and lieutenant governor shall be made in such manner as shall be prescribed by law.

§ 4. The governor shall be commander-in-chief of the military and naval forces of the State, except when they shall be called into the service of the United States, and may call out the same to execute laws, suppress insurrection and repel invasion. He shall have power to convene the legislature on extraordinary occasions. He shall, at the commencement of each session, communicate to the legislature by message, information of the condition of the State, and shall recommend such measures as he shall deem expedient. He shall transact all necessary business with the officers of the government, civil and military. He shall expedite all such measures as may be resolved upon by the legislature and shall take care that the laws be faithfully executed.

§ 5. The governor shall have power to remit fines and forfeitures, to grant reprieves, commutations and pardons after conviction for all offences except treason and cases of impeachment; provided, that in all cases where the sentence of the court is capital punishment, imprisonment for life or a longer term than two years, or a fine exceeding $200, no pardon shall be granted, sentence commuted or fine remitted except upon the recommendation in writing of a board of pardons, consisting of the presiding judge, secretary of state and attorney general, after full hearing in open session, and such recommendation, with the reasons therefor, shall be filed in the office of the secretary of state; but the legislature may by law in all cases regulate the manner in which the remission of fines, pardons, commutations and reprieves may be applied for. Upon conviction for treason he shall have the power to suspend the execution of the sentence until the case shall be reported to the legislature at its next regular session, when the legislature shall either pardon or commute the sentence, direct the execution of the sentence or grant a further reprieve. He shall communicate to the legislature at each regular session, each case of remission of fine, reprieve, commutation or pardon granted by him in the cases in which he is authorized to act without the recommendation of the said board of pardons, stating the name of the convict, the crime of which he is convicted, the sentence and its date, and the date of the remission, commutation, pardon or reprieve, with his reasons for granting the same.

§ 6. In case of death, impeachment, resignation, failure to qualify, absence from the State, removal from office, or other disability of the governor, the powers and duties of the office for the residue of the term, or until he shall be acquitted, or the disability removed, shall devolve upon the lieutenant governor.

§ 7. The lieutenant governor shall be president of the senate, but shall have only a casting vote therein. If during a vacancy of the office of governor the lieutenant governor shall be impeached, displaced, resign or die, or from mental or physical disease or otherwise become incapable of performing the duties of his office the secretary

of state shall act as governor until the vacancy shall be filled or the disability removed.

§ 8. When any office shall from any cause become vacant and no mode is provided by the constitution or law for filling such vacancy, the governor shall have the power to fill such vacancy by appointment.

§ 9. Every bill which shall have passed the legislature shall, before it becomes a law, be presented to the governor. If he approve, he shall sign it; but if not, he shall return it with his objection to the house in which it originated, which shall enter the objection at large upon the journal and proceed to reconsider it. If after such reconsideration, two-thirds of the members present shall agree to pass the bill, it shall be sent together with the objection, to the other house, by which it shall likewise be reconsidered, and if it be approved by two-thirds of the members present, it shall become a law; but in all such cases the vote of both houses shall be determined by the yeas and nays, and the names of the members voting for and against the bill shall be entered upon the journal of each house respectively. If any bill shall [not] be returned by the governor within three days (Sundays excepted) after it shall have been presented to him, the same shall be a law, unless the legislature shall by its adjournment prevent its return, in which case it shall be filed, with his objection, in the office of the secretary of state within ten days after such adjournment, or become a law.

§ 10. The governor shall have power to disapprove of any item or items of any bill making appropriations of money embracing distinct items, and the part or parts of the bill approved shall be law, and the item or items disapproved shall be void, unless enacted in the following manner: If the legislature be in session he shall transmit to the house in which the bill originated, a copy of the item or items thereof disapproved, together with his objections thereto, and the items objected to shall be separately reconsidered, and each item shall then take the same course as is prescribed for the passage of bills over the executive veto.

§ 11. Any governor of this State who asks, receives, or agrees to receive any bribe upon any understanding that his official opinion, judgment or action shall be influenced thereby, or who gives or offers, or promises his official influence in consideration that any member of the legislature shall give his official vote or influence on any particular side of any question or matter upon which he may be required to act in his official capacity, or who menaces any member by the threatened use of his veto power or who offers or promises any member that he, the said governor, will appoint any particular person or persons to any office created or thereafter to be created in consideration that any member shall give his official vote or influence on any matter pending or thereafter to be introduced into either house of said legislature or who threatenes any member that he, the said governor, will remove any person or persons from any office or position with intent to in any manner influence the official action of said member, shall be punished in the manner now, or that may hereafter be, provided by law, and upon conviction thereon shall forfeit all right to hold or exercise any office of trust or honor in this State.

§ 12. There shall be chosen by the qualified electors of the State at the times and places of choosing members of the legislature, a

secretary of state, auditor, treasurer, superintendent of public instruction, commissioner of school and public lands, and attorney general, who shall severally hold their offices for the term of two years, but no person shall be eligible to the office of treasurer for more than two terms consectively. They shall respectively keep their offices at the seat of government.

§ 13. The powers and duties of the secretary of state, auditor, treasurer, superintendent of public instruction, commissioner of school and public lands and attorney general shall be as prescribed by law.

Article V

JUDICIAL DEPARTMENT

§ 1. The judicial powers of the State, except as in this constitution otherwise provided, shall be vested in a supreme court, circuit courts, county courts and justices of the peace, and such other courts as may be created by law for cities and incorporated towns.

SUPREME COURT

§ 2. The supreme court, except as otherwise provided in this constitution, shall have appellate jurisdiction only, which shall be coextensive with the State, and shall have a general superintending control over all inferior courts, under such regulations and limitations as may be prescribed by law.

§ 3. The supreme court and the judges thereof shall have power to issue writs of habeas corpus. The supreme court shall have power to issue writs of mandamus, quo warranto, certiorari, injunction and other original and remedial writs, with authority to hear and determine the same in such cases and under such regulations as may be prescribed by law, provided, however, that no jury trials shall be allowed in said supreme court, but, in proper cases, questions of fact may be sent by said court to a circuit court for a trial before a jury.

§ 4. At least two terms of the supreme court shall be held each year at the seat of government.

§ 5. The supreme court shall consist of three judges, to be chosen from districts by qualified electors of the State at large, as hereinafter provided.

§ 6. The number of said judges and districts may, after five years from the admission of this State under this constitution, be increased by law to not exceeding five.

§ 7. A majority of the judges of the supreme court shall be necessary to form a quorum or to pronounce a decision, but one or more of said judges may adjourn the court from day to day or to a day certain.

§ 8. The term of the judges of the supreme court who shall be elected at the first election under this constitution shall be four years. At all subsequent elections the term of said judges shall be six years.

§ 9. The judges of the supreme court shall by rules select from their number a presiding judge, who shall act as such for the term prescribed by such rule.

§ 10. No person shall be eligible to the office of judge of the supreme court unless he be learned in the law, be at least thirty years of age, a citizen of the United States, nor unless he shall have resided in this State or territory at least two years next preceding his election and at the time of his election be a resident of the district from which he is elected; but for the purpose of re-election, no such judge shall be deemed to have lost his residence in the district by reason of his removal to the seat of government in the discharge of his official duties.

§ 11. Until otherwise provided by law, the districts from which the said judges of the supreme court shall be elected shall be constituted as follows:

First District—All that portion of the State lying west of the Missouri river.

Second District—All that portion of the State lying east of the Missouri river and south of the second standard parallel.

Third District—All that portion of the State lying east of the Missouri river and north of the second standard parallel.

§ 12. There shall be a clerk and also a reporter of the supreme court, who shall be appointed by the judges thereof and who shall hold office during the pleasure of said judges, and whose duties and emoluments shall be prescribed by law, and by the rules of the supreme court not inconsistent with law. The legislature shall make provisions for the publication and distribution of the decisions of the supreme court, and for the sale of the published volumes thereof. No private person or corporation shall be allowed to secure any copyright to such decisions, but if any copyrights are secured they shall inure wholly to the benefit of the State.

§ 13. The governor shall have authority to require the opinions of the judges of the supreme court upon important questions of law involved in the exercise of his executive powers and upon solemn occasions.

CIRCUIT COURTS

§ 14. The circuit courts shall have original jurisdiction of all actions and causes, both at law and in equity, and such appellate jurisdiction as may be conferred by law and consistent with this constitution; such jurisdiction as to value and amount and grade of offense, may be limited by law. They and the judges thereof shall also have jurisdiction and power to issue writs of habeas corpus, mandamus, quo warranto, certiorari, injunction and other original and remedial writs, with authority to hear and determine the same.

§ 15. The state shall be divided into judicial circuits in each of which there shall be elected by the electors thereof one judge of the circuit court therein, whose term of office shall be four years.

§ 16. Until otherwise ordered by law, said circuits shall be eight in number and constituted as follows, viz.

First Circuit—The counties of Union, Clay, Yankton, Turner, Bon Homme, Hutchinson, Charles Mix, Douglas, Todd, Gregory, Tripp and Meyer.

Second Circuit—The counties of Lincoln, Minnehaha, McCook, Moody and Lake.

Third Circuit—The counties of Brookings, Kingsbury, Deuel,

Hamlin, Codington, Clark, Grant, Roberts, Day, and the Wahpeton and Sisseton reservation, except such portion of such reservation as lies in Marshall county.

Fourth Circuit—The counties of Sanborn, Davison, Aurora, Brule, Buffalo, Jerauld, Hanson, Miner, Lyman, Presho and Pratt.

Fifth Circuit—The counties of Beadle, Spink, Brown and Marshall.

Sixth Circuit—The counties of Hand, Hyde, Hughes, Sully, Stanley, Potter, Faulk, Edmunds, Walworth, Campbell and McPherson and all that portion of said state lying east of the Missouri river and not included in any other judicial circuit.

Seventh Circuit—The counties of Pennington, Custer, Fall River, Shannon, Washington, Ziebach, Sterling, Nowlin, Jackson, Washabaugh and Lugenbeel.

Eighth Circuit—The counties of Lawrence, Meade, Scobey, Butte, Delano, Pyatt, Dewey, Boreman, Schnasse, Rinehart, Martin, Choteau, Ewing and Harding and all that portion of said state west of the Missouri river and north of the Big Cheyenne river and the north fork of the Cheyenne river not included in any other judicial circuit.

§ 17. The legislature may, whenever two-thirds of the members of each house shall concur therein, increase the number of judicial circuits and the judges thereof, and divide the State into judicial circuits accordingly, taking care that they be formed of compact territory and be bounded by county lines, but such increase of number or change in the boundaries of districts shall not work the removal of any judge from his office during the term for which he shall have been elected or appointed.

§ 18. Writs of error and appeals may be allowed from the decisions of the circuit courts to the supreme court under such regulations as may be prescribed by law.

COUNTY COURTS

§ 19. There shall be elected in each organized county a county judge who shall be judge of the county court of said county, whose term of office shall be two years until otherwise provided by law.

§ 20. County courts shall be courts of record and shall have original jurisdiction in all matters of probate guardianship and settlement of estates of deceased persons, and such other civil and criminal jurisdiction as may be conferred by law; *Provided*, that such courts shall not have jurisdiction in any case where the debt, damage, claim or value of property involved shall exceed one thousand dollars except in matters of probate, guardianship and the estates of deceased persons. Writs of error and appeal may be allowed from county to circuit courts, or to the supreme court, in such cases and in such manner as may be prescribed by law; *Provided*, that no appeal or writ of error shall be allowed to the circuit court from any judgment rendered upon an appeal from a justice of the peace or police magistrate for cities or towns.

§ 21. The county court shall not have jurisdiction in cases of felony, nor shall criminal cases therein be prosecuted by indictment; but they may have such jurisdiction in criminal matters, not of the grade of felony, as the legislature may prescribe, and the prosecutions therein may be by information or otherwise as the legislature may provide.

JUSTICE OF THE PEACE

§ 22. Justices of the peace shall have such jurisdiction as may be conferred by law, but they shall not have jurisdiction of any cause wherein the value of the property or the amount in controversy exceeds the sum of one hundred dollars, or where the boundaries or title to real property shall be called in question.

POLICE MAGISTRATE

§ 23. The legislature shall have power to provide for creating such police magistrates for cities and towns as may be deemed from time to time necessary, who shall have jurisdiction of all cases arising under the ordinances of such cities and towns respectively, and such police magistrates may also be constituted ex-officio justices of the peace for their respective counties.

STATE'S ATTORNEY

§ 24. The legislature shall have power to provide for State's attorneys and to prescribe their duties and fix their compensation; but no person shall be eligible to the office of attorney general or State's attorney who shall not at the time of his election be at least 25 years of age and possess all the other qualifications for judges of circuit courts as prescribed in this article.

MISCELLANEOUS

§ 25. No person shall be eligible to the office of judge of the circuit or county courts unless he be learned in the law, be at least 25 years of age, and a citizen of the United States; nor unless he shall have resided in this state or territory at least one year next preceding his election, and at the time of his election be a resident of the county or circuit, as the case may be, for which he is elected.

§ 26. The judges of the supreme court, circuit courts and county courts shall be chosen at the first election held under the provisions of this constitution, and thereafter as provided by law, and the legislature may provide for the election of such officers on a different day from that on which an election is held for any other purpose and may, for the purpose of making such provision, extend or abridge the term of office for any such judges, then holding, but not in any case more than six months. The term of office of all judges of circuit courts, elected in the several judicial circuits throughout the state, shall expire on the same day.

§ 27. The time of holding courts within said judicial circuits and counties shall be as provided by law; but at least one term of the circuit court shall be held annually in each organized county, and the legislature shall make provision for attaching unorganized counties or territory to original counties for judicial purposes.

§ 28. Special terms of said courts may be held under such regulations as may be provided by law.

§ 29. The judges of the circuit courts may hold courts in other circuits than their own under such regulations as may be prescribed by law.

§ 30. The judges of the supreme court, circuit courts and county courts shall each receive such salary as may be provided by law, consistent with this constitution, and no such judge shall receive any compensation, perquisite or emoluments for or on account of his office in any form whatever except such salary; provided that county judges may accept and receive such fees as may be allowed under the land laws of the United States.

§ 31. No judge of the supreme court or circuit court shall act as attorney or counselor at law, nor shall any county judge act as an attorney or counselor at law in any case which is or may be brought into his court, or which may be appealed therefrom.

§ 32. There shall be a clerk of the circuit court in each organized county who shall also be clerk of the county court, and who shall be elected by the qualified electors of such county. The duties and compensation of said clerk shall be as provided by law and regulated by the rules of the court consistent with the provisions of law.

§ 33. Until the legislature shall provide by law for fixing the terms of courts, the judges of the supreme, circuit and county courts respectively shall fix the terms thereof.

§ 34. All laws relating to courts shall be general and of uniform operation throughout the state, and the organization, jurisdiction, power, proceedings and practice of all the courts of the same class or grade, so far as regulated by law, and the force and effect of the proceedings, judgments and decrees of such courts severally shall be uniform; *Provided, however*, that the legislature may classify the county courts according to the population of the respective counties and fix the jurisdiction and salary of the judges thereof, accordingly.

§ 35. No judge of the supreme or circuit courts shall be elected to any other than a judicial office or be eligible thereto, during the term for which he was elected such judge. All votes for either of them during such term for any elective office, except that of judge of the supreme court, circuit court or county court, given by the legislature or the people, shall be void.

§ 36. All judges or other officers of the supreme, circuit or county courts provided for in this article shall hold their offices until their successors respectively are elected or appointed and qualified.

§ 37. All officers provided for in this article shall respectively reside in the district, county, precinct, city or town for which they may be elected or appointed. Vacancies in the elective offices provided for in this article shall be filled by appointment until the next general election as follows: All judges of the supreme, circuit and county courts by the governor. All other judicial and other officers by the county board of the counties where the vacancy occurs; in cases of police magistrates, by the municipality.

§ 38. All process shall run in the name of the "State of South Dakota." All prosecutions shall be carried on in the name of and by authority of the "State of South Dakota."

Article VI

Bill of Rights

§ 1. All men are born equally free and independent, and have certain inherent rights, among which are those of enjoying and defending life and liberty, of acquiring and protecting property and the

pursuit of happiness. To secure these rights governments are instituted among men, deriving their just powers from the consent of the governed.

§ 2. No person shall be deprived of life, liberty or property without due process of law.

§ 3. The right to worship God according to the dictates of conscience shall never be infringed. No person shall be denied any civil or political right, privilege or position on account of his religious opinions; but the liberty of conscience hereby secured shall not be so construed as to excuse licentiousness, the invasion of the rights of others, or justify practices inconsistent with the peace or safety of the State. No person shall be compelled to attend or support any ministry or place of worship against his consent, nor shall any preference be given by law to any religious establishment or mode of worship. No money or property of the state shall be given or appropriated for the benefit of any sectarian or religious society or institution.

§ 4. The right of petition, and of the people peaceably to assemble to consult for the common good and make known their opinions, shall never be abridged.

§ 5. Every person may freely speak, write and publish on all subjects, being responsible for the abuse of that right. In all trials for libel, both civil and criminal, the truth, when published, with good motives and for justifiable ends, shall be a sufficient defense. The jury shall have the right to determine the facts and the law under the direction of the court.

§ 6. The right of trial by jury shall remain inviolate, and shall extend to all cases at law without regard to the amount in controversy, but the legislature may provide for a jury of less than twelve in any court not a court of record, and for the decision of civil cases by three-fourths of the jury in any court.

§ 7. In all criminal prosecutions the accused shall have the right to defend in person and by counsel; to demand the nature and cause of the accusation against him; to have a copy thereof; to meet the witnesses against him face to face; to have compulsory process served for obtaining witnesses in his behalf, and to a speedy public trial by an impartial jury of the county or district in which the offense is alleged to have been committed.

§ 8. All persons shall be bailable by sufficient sureties, except for capital offenses when proof is evident or presumption great. The privilege of the writ of habeas corpus shall not be suspended, unless when in case of rebellion or invasion the public safety may require it.

§ 9. No person shall be compelled in any criminal case to give evidence against himself or be twice put in jeopardy for the same offense.

§ 10. No person shall be held for a criminal offense unless on the presentment or indictment of the grand jury, or information of the public prosecutor, except in cases of impeachment, in cases cognizable by county courts, by justices of the peace, and in cases arising in the army and navy, or in the militia when in actual service in time of war or public danger. *Provided*, that the grand jury may be modified or abolished by law.

§ 11. The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated, and no warrant shall issued but upon probable cause

supported by affidavit, particularly describing the place to be searched and the person or thing to be seized.

§ 12. No *ex post facto* law, or law imparing the obligation of contracts or making any irrevocable grant or privilege, franchise or immunity shall be passed.

§ 13. Private property shall not be taken for public use, or damaged, without just compensation as determined by a jury, which shall be paid as soon as it can be ascertained and before possession is taken. No benefit which may accrue to the owner as a result of an improvement made by any private corporation shall be considered in fixing the compensation for property taken or damaged. The fee of land taken for railroad tracks or other highways shall remain in such owners, subject to the use for which it is taken.

§ 14. No distinction shall ever be made by law between resident aliens and citizens in reference to the possession, enjoyment or descent of property.

§ 15. No person shall be imprisoned for debt arising out of or founded upon a contract.

§ 16. The military shall be in strict subordination to the civil power. No soldier in time of peace shall be quartered in any house without consent of the owner, nor in time of war except in the manner prescribed by law.

§ 17. No tax or duty shall be imposed without the consent of the people or their respresentatives in the legislature, and all taxation shall be equal and uniform.

§ 18. No law shall be passed granting to any citizen, class of citizens or corporation, privileges or immunities which upon the same terms shall not equally belong to all citizens or corporations.

§ 19. Elections shall be free and equal, and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage. Soldiers in time of war may vote at their post of duty in or out of the state, under regulations to be prescribed by the legislature.

§ 20. All courts shall be open, and every man for an injury done him in his property, person or reputation, shall have remedy by due course of law, and right and justice administered without denial or delay.

§ 21. No power of suspending law shall be exercised, unless by the legislature or its authority.

§ 22. No person shall be attainted of treason or felony by the legislature.

§ 23. Excessive bail shall not be required, excessive fines imposed, nor cruel punishments inflicted.

§ 24. The right of the citizens to bear arms in defense of themselves and the state shall not be denied.

§ 25. Treason against the state shall consist only in levying war against it, or in adhering to its enemies, or in giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act or confession in open court.

§ 26. All political power is inherent in the people and all free government is founded on their authority, and is instituted for their equal protection and benefit, and they have the right in lawful and constituted methods to alter or reform their forms of government in

such manner as they may think proper. And the state of South Dakota is an inseparable part of the American Union, and the constitution of the United States is the supreme law of the land.

§ 27. The blessings of a free government can only be maintained by a firm adherence to justice, moderation, temperance, frugality and virtue, and by frequent recurrence to fundamental principles.

Article VII

Elections and right of suffrage

§ 1. Every male person resident of this State who shall be of the age of 21 years and upwards, not otherwise disqualified, belonging to either of the following classes, who shall be a qualified elector under the laws of the territory of Dakota at the date of the ratification of this constitution by the people, or who shall have resided in the United States one year, in this state six months, in the county thirty days and in the election precinct where he offers his vote ten days next preceding any election. shall be deemed a qualified elector at such election.

First. Citizens of the United States.

Second. Persons of foreign birth who shall have declared their intention to become citizens conformably to the laws of the United States upon the subject of naturalization.

[a] § 2. The legislature shall at its first session after the admission of the state into the Union, submit to a vote of the electors of the state the following question to be voted upon at the next general election held thereafter, namely: "Shall the word 'male' be stricken from the article of the constitution relating to elections and the right of suffrage." If a majority of the votes cast upon that question are in favor of striking out said word "male" it shall be stricken out and there shall thereafter be no distinction between males and females in the exercise of the right of suffrage at any election in this state.

§ 3. All votes shall be by ballot, but the legislature may provide for numbering ballots for the purpose of preventing and detecting fraud.

§ 4. All general elections shall be biennial.

§ 5. Electors shall in all cases except treason, felony or breach of the peace, be privileged from arrest during their attendance at elections and in going to and returning from the same. And no elector shall be obliged to do military duty on the days of election except in time of war or public danger.

§ 6. No elector shall be deemed to have lost his residence in this state by reason of his absence on business of the United States or of this state, or in the military or naval service of the United States.

§ 7. No soldier, seaman or marine in the army or navy of the United States shall be deemed a resident of this state in consequence of being stationed therein.

§ 8. No person under guardianship, *non compos mentis* or insane, shall be qualified to vote at any election, nor shall any person con-

[a] This question was submitted to the people at the election held in November, 1890, and was rejected by the following vote: For, 22,072; against, 45,682.

victed of treason or felony be qualified to vote at any election unless restored to civil rights.

§ 9. Any woman having the qualifications enumerated in Section 1, of this article, as to age, residence and citizenship, and including those now qualified by the laws of the territory, may vote at any election held solely for school purposes, and may hold any office in this state except as otherwise provided in this constitution.

Article VIII

EDUCATION AND SCHOOL LANDS

§ 1. The stability of a republican form of government depending on the morality and intelligence of the people, it shall be the duty of the legislature to establish and maintain a general and uniform system of public schools wherein tuition shall be without charge, and equally open to all; and to adopt all suitable means to secure to the people the advantages and opportunities of education.

§ 2. All proceeds of the sale of public lands that have heretofore been or may hereafter be given by the United States for the use of public schools in the State; all such per centum as may be granted by the United States on the sales of public lands; the proceeds of all property that shall fall to the State by escheat; the proceeds of all gifts or donations to the State for public schools or not otherwise appropriated by the terms of the gift; and all property otherwise acquired for public schools, shall be and remain a perpetual fund for the maintenance of public schools in the State. It shall be deemed a trust fund held by the State. The principal shall forever remain inviolate, and may be increased, but shall never be diminished, and the State shall make good all losses thereof which may in any manner occur.

§ 3. The interest and income of this fund, together with the net proceeds of all fines for violation of State laws and all other sums which may be added thereto by law, shall be faithfully used and applied each year for the benefit of the public schools of the State, and shall be for this purpose apportioned among and between all the several public school corporations of the State in proportion to the number of children in each of school age, as may be fixed by law; and no part of the fund, either principal or interest, shall ever be diverted, even temporarily, from this purpose or used for any other purpose whatever than the maintenance of public schools for the equal benefit of all the people of the State.

§ 4. After one year from the assembling of the first legislature, the lands granted to the State by the United States for the use of public schools may be sold upon the following conditions and no other: Not more than one-third of all such lands shall be sold within the first five years, and no more than two-thirds within the first fifteen years after the title thereto is vested in the State and the legislature shall, subject to the provisions of this article, provide for the sale of the same.

The commissioner of school and public lands, the State auditor and the county superintendent of schools of the counties severally, shall constitute boards of appraisal and shall appraise all school lands within the several counties which they may from time to

time select and designate for sale, at their actual value under the terms of sale. They shall take care to first select and designate for sale the most valuable lands; and they shall ascertain all such lands as may be of special and peculiar value, other than agricultural, and cause the proper sub-division of the same in order that the largest price may be obtained therefor.

§ 5. No land shall be sold for less than the appraised value, and in no case for less than ten dollars an acre. The purchaser shall pay one-fourth of the price in cash, and the remaining three-fourths as follows: One-fourth in five years, one-fourth in ten years, and one-fourth in fifteen years; with interest thereon at the rate of not less than six per centum per annum, payable annually in advance, but all such subdivided lands may be sold for cash, provided that upon payment of the interest for one full year in advance, the balance of the purchase price may be paid at any time. All sales shall be at public auction to the highest bidder, after sixty day's advertisement of the same in a newspaper of general circulation in the vicinity of the lands to be sold, and one at the seat of government. Such lands as shall not have been specially subdivided shall be offered in tracts of not more than eighty acres, and those so subdivided in the smallest subdivisions. All lands designated for sale and not sold within four years after appraisal, shall be reappraised by the board of appraisal as hereinbefore provided before they are sold.

§ 6. All sales shall be conducted through the office of the commissioner of school and public lands as may be prescribed by law, and returns of all appraisals and sales shall be made to said office. No sale shall operate to convey any right or title to any lands for sixty days after the date thereof, nor until the same shall have received the approval of the governor in such form as may be provided by law. No grant or patent for any such lands shall issue until final payment be made.

§ 7. All lands, money or other property donated, granted, or received from the United States or any other source for a university, agricultural college, normal schools or other educational or charitable institution or purpose, and the proceeds of all such lands and other property so received from any source, shall be and remain perpetual funds, the interest and income of which, together with the rents of all such lands as may remain unsold, shall be inviolably appropriated and applied to the specific objects of the original grants or gifts. The principal of every such fund may be increased, but shall never be diminished, and the interest and income only shall be used. Every such fund shall be deemed a trust fund held by the state, and the state shall make good all losses therefrom that shall in any manner occur.

§ 8. All lands mentioned in the preceding section shall be appraised and sold in the same manner and by the same officers and boards under the same limitations and subject to all the conditions as to price, sale and approval provided above for the appraisal and sale of lands for the benefit of public schools, but a distinct and separate account shall be kept by the proper officers of each of such funds.

§ 9. No lands mentioned in this article shall be leased except for pasturage and meadow purposes and at public auction after notice as hereinbefore provided in case of sale and shall be offered in tracts not greater than one section. All rents shall be payable annually in

advance, and no term of lease shall exceed five years, nor shall any lease be valid until it receives the approval of the governor.

§ 10. No claim to any public lands by any tresspasser thereon by reason of occupancy, cultivation or improvement thereof, shall ever be recognized; nor shall compensation ever be made on account of any improvements made by such trespasser.

[a] § 11. The moneys of the permanent school and other educational funds shall be invested only in first mortgages upon good improved farm lands within this State as hereinafter provided, or in bonds of school corporations within the State, or in bonds of the United States, or of the State of South Dakota. The legislature shall provide by law the method of determining the amounts of said funds which shall be invested from time to time in such classes of securities respectively, taking care to secure continuous investments as far as possible.

All moneys of said funds which may from time to time be designated for investment in farm mortgages and in the bonds of school corporations shall for such purpose be divided among the organized counties of the State in proportion to population as nearly as provisions by law to secure continuous investments may permit. The several counties shall hold and manage the same as trust funds, and they shall be and remain responsible and accountable for the principal and interest of all such moneys received by them from the date of receipt until returned because not loaned; and in case of loss to any money so apportioned to any county, such county shall make the same good out of its common revenue. Counties shall invest said money in bonds of school corporations, or in first mortgages upon good improved farm lands within their limits respectively; but no farm loan shall exceed $500 to any one person, nor shall it exceed one-half the valuation of the lands as assessed for taxation, and the rate of interest shall not be less than 6 per centum per annum, and shall be such other and higher rate as the legislature may provide, and shall be payable semi-annually on the first days of January and July; provided, that whenever there are moneys of said funds in any county amounting to $1,000 that cannot be loaned according to the provisions of this section and any law pursuant thereto, the said sum may be returned to the state treasurer to be entrusted to some other county or counties, or otherwise invested under the provisions of this section.

Each county shall semi-annually, on the first day of January and July, render an account of the condition of the funds intrusted to it to the auditor of state, and at the same time pay to or account to the state treasurer for the interest due on all funds intrusted to it.

The legislature may provide by general law that counties may retain from interest collected in excess of six per centum per annum upon all said funds intrusted to them, not to exceed one per centum per annum. But no county shall be exempted from the obligation to make semi-annual payments to the state treasury of interest at the rate provided by law for such loans, except only said one per centum, and in no case shall the interest so to be paid be less than six per centum per annum.

The legislature shall provide by law for the safe investment of the permanent school and other educational funds, and for the prompt

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[a] See amendment, 1902.

collection of interest and income thereof, and to carry out the objects and provisions of this section.

§ 12. The governor may disapprove any sale, lease or investment other than such as are intrusted to the counties.

§ 13. All losses to the permanent school or other educational funds of this state which shall have been occasioned by the defalcation, negligence, mismanagement or fraud of the agents or officers controlling and managing the same, shall be audited by the proper authorities of the state. The amount so audited shall be a permanent funded debt against the state in favor of the fund sustaining the loss upon which not less than six per centum of annual interest shall be paid. The amount of indebtedness so created shall not be counted as a part of the indebtedness mentioned in Article XIII, Sec. 2.

§ 14. The legislature shall provide by law for the protection of the school lands from trespass or unlawful appropriation, and for their defense against all unauthorized claims or efforts to divert them from the school fund.

§ 15. The legislature shall make such provisions by general taxation, and by authorizing the school corporations to levy such additional taxes, as with the income from the permanent school fund shall secure a thorough and efficient system of common schools throughout the state.

§ 16. No appropriation of lands, money or other property or credits to aid any sectarian school shall ever be made by the state, or any county or municipality within the state, nor shall the state or any county or municipality within the state accept any grant, conveyance, gift or bequest of lands, money or other property to be used for sectarian purposes, and no sectarian instruction shall be allowed in any school or institution aided or supported by the state.

§ 17. No teacher, State, county, township or district school officer shall be interested in the sale, proceeds or profits of any book, apparatus or furniture used or to be used in any school in this state, under such penalties as shall be provided by law.

Article IX

County and Township Organization

§ 1. The legislature shall provide by general law for organizing new counties, locating the county seats thereof and changing county lines; but no new county shall be organized so as to include an area of less than twenty-four congressional townships, as near as may be without dividing a township or fractional township, nor shall the boundaries of any organized county be changed so as to reduce the same to a less area than above specified. All changes in county boundaries in counties already organized, before taking effect, shall be submitted to the electors of the county or counties to be affected thereby, at the next general election thereafter and be adopted by a majority of the votes cast in each county at such election. Counties now organized shall remain as they are unless changed according to the above provisions.

§ 2. In counties already organized where the county seat has not been located by a majority vote, it shall be the duty of the county board to submit the location of the county seat to the electors of said

county at a general election. The place receiving the majority of all votes cast at said election shall be the county seat of said county.

§ 3. Whenever a majority of the legal voters of any organized county shall petition the county board to change the location of the county seat which has once been located by a majority vote, specifying the place to which it is to be changed, said county board shall submit the same to the people of said county at the next general election, and if the proposition to change the county seat be ratified by two-thirds of the votes cast at said election, then the county seat shall be changed, otherwise not. A proposition to change the location of the county seat of any organized county shall not again be submitted before the expiration of four years.

§ 4. The legislature shall provide by general law for organizing the counties into townships, having due regard for congressional township lines and natural boundaries, and whenever the population is sufficient and the natural boundaries will permit, the civil townships shall be co-extensive with the congressional townships.

§ 5. In each organized county at the first general election held after the admission of the State of South Dakota into the Union, and every two years thereafter, there shall be elected a clerk of the court, sheriff, county auditor, register of deeds, treasurer, state's attorney, surveyor, coroner, and superintendent of schools, whose terms of office respectively shall be two years, and except the clerk of the court, no person shall be eligible for more than four years in succession to any of the above named offices.

§ 6. The legislature shall provide by general law for such county, township and district officers as may be deemed necessary, and shall prescribe the duties and compensation of all county, township and district officers.

§ 7. All county, township and district officers shall be electors in the county, township or district in which they are elected, provided that nothing in this section shall prevent the holding of school offices by any person, as provided in Section 9, Article VII.

Article X

Municipal corporations

§ 1. The legislature shall provide by general laws for the organization and classification of municipal corporations. The number of such classes shall not exceed four, and the powers of each class shall be defined by general laws, so that no such corporations shall have any powers, or be subject to any restrictions other than those of all corporations of the same class. The legislature shall restrict the power of such corporations to levy taxes and assessments, borrow money and contract debts, so as to prevent the abuse of such power.

§ 2. Except as otherwise provided in this constitution, no tax or assessment shall be levied or collected, or debts contracted by municipal corporations, except in pursuance of law, for public purposes specified by law; nor shall money raised by taxation, loan or assessment for one purpose ever be diverted to any other.

§ 3. No street passenger railway or telegraph or telephone lines shall be constructed within the limits of any village, town or city without the consent of its local authorities.

Article XI

Revenue and Finance

§ 1. The legislature shall provide for an annual tax sufficient to defray the estimated ordinary expenses of the state, for each year, not to exceed in any one year two mills on each dollar of the assessed valuation of all taxable property in the state, to be ascertained by the last assessment made for state and county purposes.

And whenever it shall appear that such ordinary expenses shall exceed the income of the state for such year, the legislature shall provide for levying a tax for the ensuing year, sufficient with other sources of income, to pay the deficiency of the preceding year, together with the estimated expenses of such ensuing year. And for the purpose of paying the public debt, the legislature shall provide for levying a tax annually, sufficient to pay the annual interest and the principal of such debt within ten years from the final passage of the law creating the debt, provided that the annual tax for the payment of the interest and principal of the public debt shall not exceed in any one year two mills on each dollar of the assessed valuation of all taxable property in the state as ascertained by the last assessment made for the state and county purposes.

§ 2. All taxes to be raised in this state shall be uniform on all real and personal property, according to its value in money, to be ascertained by such rules of appraisement and assessment as may be prescribed by the legislature by general law, so that every person and corporation shall pay a tax in proportion to the value of his, her or its property. And the legislature shall provide by general law for the assessing and levying of taxes on all corporation property as near as may be by the same methods as are provided for assessing and levying of taxes on individual property.

§ 3. The power to tax corporations and corporate property shall not be surrendered or suspended by any contract or grant to which the state shall be a party.

§ 4. The legislature shall provide for taxing all moneys, credits, investments in bonds, stocks, joint stock companies, or otherwise; and also for taxing the notes and bills discounted or purchased, moneys loaned and all other property, effects or dues of every description, of all banks and of all bankers, so that all property employed in banking shall always be subject to a taxation equal to that imposed on the property of individuals.

§ 5. The property of the United States and of the state, county, and municpal corporations, both real and personal, shall be exempt from taxation.

§ 6. The legislature shall, by general law, exempt from taxation, property used exclusively for agricultural and horticultural societies, for school, religious, cemetery and charitable purposes, and personal property to any amount not exceeding in value two hundred dollars, for each individual liable to taxation.

§ 7. All laws exempting property from taxation, other than that enumerated in Sections 5 and 6 of this article, shall be void.

§ 8. No tax shall be levied except in pursuance of a law, which shall distinctly state the object of the same, to which the tax only shall be applied.

§ 9. All taxes levied and collected for state purposes shall be paid into the state treasury. No indebtedness shall be incurred or money expended by the state, and no warrant shall be drawn upon the state treasurer except in pursuance of an appropriation for the specific purpose first made. The legislature shall provide by suitable enactment for carrying this section into effect.

§ 10. The legislature may vest the corporate authority of cities, towns and villages with power to make local improvements by special taxation of contiguous property or otherwise. For all corporate purposes, all municipal corporations may be vested with authority to assess and collect taxes; but such tax shall be uniform in respect to persons and property within the jurisdiction of the body levying the same.

§ 11. The making of profit, directly or indirectly, out of state, county, city, town or school district money, or using the same for any purpose not authorized by law, shall be deemed a felony and shall be punished as provided by law.

§ 12. An accurate statement of the receipts and expenditures of the public moneys shall be published annually in such manner as the legislature may provide.

Article XII

PUBLIC ACCOUNTS AND EXPENDITURES

§ 1. No money shall be paid out of the treasury except upon appropriation by law and on warrant drawn by the proper officer.

§ 2. The general appropriation bill shall embrace nothing but appropriations for ordinary expenses of the executive, legislative and judicial departments of the state, the current expenses of state institutions, interest on the public debt, and for common schools. All other appropriations shall be made by separate bills, each embracing but one object, and shall require a two-thirds vote of all the members of each branch of the legislature.

§ 3. The legislature shall never grant any extra compensation to any public officer, employe, agent or contractor after the services shall have been rendered or the contract entered into, nor authorize the payment of any claims or part thereof created against the state, under any agreement or contract made without express authority of law, and all such unauthorized agreements or contracts shall be null and void; nor shall the compensation of any public officer be increased or diminished during his term of office: *Provided, however*, that the legislature may make appropriations for expenditures incurred in suppressing or repelling invasion.

§ 4. An itemized statement of all receipts and expenditures of the public moneys shall be published annually in such manner as the legislature shall provide, and such statements shall be submitted to the legislature at the beginning of each regular session by the governor with his message.

Article XIII

PUBLIC INDEBTEDNESS

§ 1. Neither the state nor any county, township or municipality shall loan or give its credit or make donations to or in aid of any individual, association or corporation except for the necessary sup-

port of the poor, nor subscribe to or become the owner of the capital stock of any association or corporation, nor pay or become responsible for the debt or liability of any individual, association or corporation; *Provided*, that the state may assume or pay such debt or liability when incurred in time of war for the defense of the state. Nor shall the state engage in any work of internal improvement.

§ 2. For the purpose of defraying extraordinary expenses and making public improvements, or to meet casual deficits or failure in revenue, the state may contract debts never to exceed, with previous debts, in the aggregate $100,000, and no greater indebtedness shall be incurred except for the purpose of repelling invasion, suppressing insurrection, or defending the state or the United States in war, and provision shall be made by law for the payment of the interest annually, and the principal when due, by tax levied for the purpose, or from other sources of revenue; which law providing for the payment of such interest and principal by such tax or otherwise shall be irrepealable until such debt is paid; *Provided*, *however*, the State of South Dakota shall have the power to refund the territorial debt assumed by the State of South Dakota, by bonds of the State of South Dakota.

§ 3. That the indebtedness of the State of South Dakota, limited by Sec. 2 of this article shall be in addition to the debt of the Territory of Dakota assumed by and agreed to be paid by South Dakota.

§ 4. * The debt of any county, city, town, school district or other subdivision, shall never exceed five per centum upon the assessed value of the taxable property therein.

In estimating the amount of indebtedness which a municipality or subdivision may incur, the amount of indebtedness contracted prior to the adoption of this constitution shall be included.

§ 5. Any city, county, town, school district or any other subdivision incurring indebtedness shall, at or before the time of so doing, provide for the collection of an annual tax sufficient to pay the interest and also the principal thereof when due, and all laws or ordinances providing for the payment of the interest or principal of any debt shall be irrepealable until such debt be paid.

§ 6. In order that the payment of the debts and liabilities contracted or incurred by and in behalf of the Territory of Dakota may be justly and equitably provided for and made, and in pursuance of the requirements of an act of congress approved Feb. 22, 1889, entitled, "An Act to provide for the division of Dakota into two states and to enable the people of North Dakota, South Dakota, Montana and Washington to form constitutions and state governments and to be admitted into the Union on an equal footing with the original states, and to make donations of public lands to such states," the states of North Dakota and South Dakota, by proceedings of a joint commission, duly appointed under said act, the sessions whereof were held in Bismarck in said State of North Dakota, from July 16, 1889, to July 31, 1889, inclusive, have agreed to the following adjustment of the amounts of the debts and liabilities of the Territory of Dakota which shall be assumed and paid by each of the States of North Dakota and South Dakota respectively, towit:

* See amendments, 1896, 1902.

1. This agreement shall take effect and be in force from and after the admission into the Union, as one of the United States of America, of either the State of North Dakota or the State of South Dakota.

2. The words "State of North Dakota" wherever used in this agreement, shall be taken to mean the Territory of North Dakota, in case the State of South Dakota shall be admitted into the Union prior to the admission into the Union of the State of North Dakota; and the words "State of South Dakota" wherever used in this agreement, shall be taken to mean the Territory of South Dakota in case the State of North Dakota shall be admitted into the Union prior to the admission into the Union of the State of South Dakota.

3. The said State of North Dakota shall assume and pay all bonds issued by the Territory of Dakota to provide funds for the purchase, construction, repairs or maintenance of such public institutions, grounds or buildings as are located within the boundaries of North Dakota, and shall pay all warrants issued under and by virtue of that certain act of the legislative assembly of the Territory of Dakota, approved March 3, 1889, entitled, "An Act to provide for the refunding of outstanding warrants drawn on the capitol building fund."

4. The said State of South Dakota shall assume and pay all bonds issued by the Territory of Dakota to provide funds for the purchase, construction, repairs or maintenance of such public institutions, grounds or buildings as are located within the boundaries of South Dakota.

5. That is to say: The State of North Dakota shall assume and pay the following bonds and indebtedness, to-wit: Bonds issued on account of the hospital for insane at Jamestown, North Dakota, the face aggregate of which is two hundred and sixty-six thousand dollars; also, bonds issued on account of the North Dakota University at Grand Forks, North Dakota, the face aggregate of which is ninety-six thousand seven hundred dollars; also, bonds issued on account of the penitentiary at Bismarck, North Dakota, the face aggregate of which is ninety-three thousand six hundred dollars; also, refunding capitol building warrants dated April 1, 1889, eighty-three thousand five hundred and seven dollars and forty-six cents.

And the State of South Dakota shall assume and pay the following bonds and indebtedness, towit: Bonds issued on account of the Hospital for the Insane at Yankton, South Dakota, the face aggregate of which is two hundred and ten thousand dollars; also, bonds issued on account of the school for deaf mutes at Sioux Falls, South Dakota, the face aggregate of which is fifty-one thousand dollars; also, bonds issued on account of the university at Vermillion, South Dakota, the face aggregate of which is seventy-five thousand dollars; also, bonds issued on account of the penitentiary at Sioux Falls, South Dakota, the face aggregate of which is ninety-four thousand three hundred dollars; also, bonds issued on account of agricultural college at Brookings, South Dakota, the face aggregate of which is ninety-seven thousand five hundred dollars, also, bonds issued on account of the normal school at Madison, South Dakota, the face aggregate of which is forty-nine thousand four hundred dollars; also, bonds issued on account of [the] school of mines at Rapid City, South Dakota, the face aggregate of which is thirty-three thousand dollars; also, bonds issued on account of the reform school at Plankinton, South Dakota,

the face aggregate of which is thirty thousand dollars; also, bonds issued on account of the normal school at Spearfish, South Dakota, the face aggregate of which is twenty-five thousand dollars; also, bonds issued on account of the soldier's home at Hot Springs, South Dakota, the face aggregate of which is forty-five thousand dollars.

6. The states of North Dakota and South Dakota shall pay one-half each of all liabilities now existing or hereafter and prior to the taking effect of this agreement incurred, except those heretofore and hereafter incurred on account of public institutions, grounds or buildings, except as otherwise herein specifically provided.

7. The State of South Dakota shall pay to the State of North Dakota forty-six thousand five hundred dollars on account of the excess of territorial appropriations for the permanent improvement of territorial institutions which under this agreement will go to South Dakota, and in full of the undivided one-half interest of North Dakota in the territorial library, and in full settlement of unbalanced accounts, and of all claims against the territory of whatever nature, legal or equitable, arising out of the alleged erroneous or unlawful taxation of the Northern Pacific railroad lands, and the payment of said amount shall discharge and exempt the State of South Dakota from all liability for or on account of the several matters hereinbefore referred to; nor shall either state be called upon to pay or answer to any portion of liability hereafter arising or accruing on account of transactions heretofore had, which liability would be a liability of the territory of Dakota had such territory remained in existence, and which liability shall grow out of matters connected with any public institution, grounds or buildings of the territory situated or located within the boundaries of the other state.

8. A final adjustment of accounts shall be made upon the following basis: North Dakota shall be charged with all sums paid on account of the public institutions, grounds or buildings located within its boundaries on account of the current appropriations since March 8, 1889; and South Dakota shall be charged with all sums paid on account of public institutions, grounds or buildings located within its boundaries on the same account and during the same time. Each state shall be charged with one-half of all other expenses of the territorial government during the same time. All moneys paid into the treasury during the period from March 8, 1889, to the time of taking effect of this agreement by any county, municipality or person within the limits of the proposed State of North Dakota, shall be credited to the State of North Dakota; and all sums paid into said treasury within the same time by any county, municipality or person within the limits of the proposed State of South Dakota shall be credited to the State of South Dakota; except that any and all taxes on gross earnings paid into said treasury by railroad corporations since the eighth day of March, 1889, based upon earnings of years prior to 1888, under and by virtue of the act of the legislative assembly of the Territory of Dakota, approved March 7, 1889, and entitled "An Act providing for the levy and collection of taxes upon property of railroad companies in this territory," being Chapter 107 of the Session Laws of 1889, (that is, the part of such sum going to the territory) shall be equally divided between the States of North Dakota and South Dakota, and all taxes heretofore or hereafter paid into the said treasury under and by virtue of the act last mentioned, based on the gross

earnings of the year 1888, shall be distributed as already provided by law, except that so much thereof as goes to the territorial treasury shall be divided as follows: North Dakota shall have so [much] thereof as shall be or has been paid by railroads within the limits of the proposed State of North Dakota and South Dakota so much thereof as shall be or has been paid by railroads within the limits of the proposed State of South Dakota. Each state shall be credited also with all balances of appropriations made by the seventeenth legislative assembly of the Territory of Dakota for the account of public institutions, grounds or buildings situated within its limits, remaining unexpended on March 8, 1889. If there be any indebtedness except the indebtedness represented by the bonds and refunding warrants hereinbefore mentioned, each state shall at the time of such final adjustments of accounts, assume its share of said indebtedness as determined by the amount paid on account of the public institutions, grounds or buildings of such state in excess of the receipts from counties, municipalities, railroad corporations or persons within the limits of said state as provided in this article: and if there should be a surplus at the time of such final adjustment, each state shall be entitled to the amounts received from counties, municipalities, railroad corporations or persons within its limits over and above the amount charged to it.

§ 7. And the State of South Dakota hereby obligates itself to pay such part of the debts and liabilities of the Territory of Dakota as is declared by the foregoing agreement to be its proportion thereof, the same as if such proportion had been originally created by said State of South Dakota as its own debt or liability.

§ 8. The territorial treasurer is hereby authorized and empowered to issue refunding bonds to the amount of $107,000, bearing interest not to exceed the rate of four per cent per annum, for the purpose of refunding the following described indebtedness of the Territory of Dakota, towit:

Seventy-seven thousand five hundred dollars 5 per cent bonds, dated May 1, 1883, issued for the construction of the west wing of the insane hospital at Yankton, and $30,000 6 per cent bonds, dated May 1, 1883, issued for permanent improvements [of the] Dakota penitentiary at Sioux Falls, such refunding bonds, if issued, to run for not more than twenty years, and shall be executed by the governor and treasurer of the territory, and shall be attested by the secretary under the great seal of the territory.

In case such bonds are issued by the territorial treasurer as hereinbefore set forth, before the first day of October, 1889, then upon the admission of South Dakota as a state it shall assume and pay said bonds in lieu of the aforesaid territorial indebtedness.

Article XIV

STATE INSTITUTIONS

§ 1. The charitable and penal institutions of the State of South Dakota shall consist of a penitentiary, insane hospital, a school for the deaf and dumb, a school for the blind and a reform school.

§ 2. The state institutions provided for in the preceding section shall be under the control of a state board of charities and corrections,

under such rules and restrictions as the legislature shall provide; such board to consist of not to exceed five members, to be appointed by the governor and confirmed by the senate, and whose compensation shall be fixed by law.

*§ 3. The state university, the agricultural college, the normal schools and all other educational institutions that may be sustained either wholly or in part by the state shall be under the control of a board of nine members, appointed by the governor and confirmed by the senate, to be designated the regents of education. They shall hold their office for six years, three retiring every second year.

The regents in connection with the faculty of each institution shall fix the course of study in the same.

The compensation of the regents shall be fixed by the legislature.

§ 4. The regents shall appoint a board of five members for each institution under their control, to be designated the board of trustees. They shall hold office for five years, one member retiring annually. The trustees of each institution shall appoint the faculty of the same, and shall provide for the current management of the institution, but all appointments and removals must have the approval of the regents to be valid. The trustees of the several institutions shall receive no compensation for their services, but they shall be reimbursed for all expenses incurred in the discharge of their duties, upon presenting an itemized account of the same to the proper officer. Each board of trustees at its first meeting shall decide by lot the order in which its members shall retire from office.

§ 5. The legislature shall provide that the science of mining and metallurgy be taught in at least one institution of learning under the patronage of the state.

Article XV

MILITIA

§ 1. The militia of the State of South Dakota shall consist of all able-bodied male persons residing in the state, between the ages of eighteen and forty-five years, except such persons as now are, or hereafter may be, exempted by the laws of the United States or of this state.

§ 2. The legislature shall provide by law for the enrollment, uniforming, equipment and discipline of the militia, and the establishment of volunteer and such other organizations or both, as may be deemed necessary for the protection of the state, the preservation of order and the efficiency and good of the service.

§ 3. The legislature in providing for the organization of the militia shall conform, as nearly as practicable, to the regulations for the government of the armies of the United States.

§ 4. All militia officers shall be commissioned by the governor and may hold their commissions for such period of time as the legislature may provide, subject to removal by the governor for cause, to be first ascertained by a court-martial pursuant to law.

§ 5. The militia shall in [all] cases except treason, felony or breach of the peace be privileged from arrest during their attendance at muster and elections and in going to and returning from the same.

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* See amendment, 1896.

§ 6. All military records, banners and relics of the state, except when in lawful use, shall be preserved in the office of the adjutant general as an enduring memorial of the patriotism and valor of South Dakota; and it shall be the duty of the legislature to provide by law for the safe keeping of the same.

§ 7. No person having conscientious scruples against bearing arms shall be compelled to do military duty in time of peace.

Article XVI

IMPEACHMENT AND REMOVAL FROM OFFICE

§ 1. The house of representatives shall have the sole power of impeachment.

The concurrence of a majority of all members elected shall be necessary to an impeachment.

§ 2. All impeachments shall be tried by the senate. When sitting for that purpose the senator shall be upon oath or affirmation to do justice acording to law and evidence. No person shall be convicted without the concurrence of two-thirds of the members elected. When the governor or lieutenant governor is on trial the presiding judge of the supreme court shall preside.

§ 3. The governor and other state and judicial officers except county judges, justices of the peace and police magistrates shall be liable to impeachment for drunkenness, crimes, corrupt conduct, or malfeasance or misdemeanor in office, but judgment in such cases shall not extend further than to removal from office and disqualification to hold any office of trust or profit under the state. The person accused whether convicted or acquitted, shall nevertheless be liable to indictment, trial, judgment and punishment according to law.

§ 4. All officers not liable to impeachment shall be subject to removal for misconduct or malfeasance or crime or misdemeanor in office or for drunkenness or gross incompetency, in such manner as may be provided by law.

§ 5. No officer shall exercise the duties of his office after he shall have been impeached and before his acquittal.

§ 6. On trial of an impeachment against the governor the lieutenant governor shall not act as a member of the court.

§ 7. No person shall be tried on impeachment before he shall have been served with a copy thereof at least twenty days previous to the day set for trial.

§ 8. No person shall be liable to impeachment twice for the same offense.

Article XVII

CORPORATIONS

§ 1. No corporation shall be created or have its charter extended, changed or amended by special laws except those for charitable, educational, penal or reformatory purposes, which are to be and remain under the patronage and control of the state; but the legislature shall provide by general laws for the organization of all corporations hereafter to be created.

§ 2. All existing charters, or grants of special or exclusive privileges, under which a *bona fide* organization shall not have taken place

and business been commenced in good faith at the time this constitution takes effect, shall thereafter have no validity.

§ 3. The legislature shall not remit the forfeiture of the charter of any corporation now existing nor alter or amend the same nor pass any other general or special law for the benefit of such corporation, except upon the condition that such corporation shall thereafter hold its charter subject to the provisions of this constitution.

§ 4. The exercise of the right of eminent domain shall never be abridged or so construed as to prevent the legislature from taking the property and franchises of incorporated companies and subjecting them to public use, the same as the property of individuals, and the exercise of the police power of the state shall never be abridged or so construed as to permit corporations to conduct their business in such manner as to infringe the equal rights of individuals or the general well being of the state.

§ 5. In all elections for directors or managers of a corporation each member or shareholder may cast the whole number of his votes for one candidate, or distribute them upon two or more candidates as he may prefer.

§ 6. No foreign corporation shall do any business in this state without having one or more known places of business and an authorized agent or agents in the same upon whom process may be served.

§ 7. No corporation shall engage in any business other than that expressly authorized in its charter, nor shall it take or hold any real estate except such as may be necessary and proper for its legitimate business.

§ 8. No corporation shall issue stocks or bonds except for money, labor done, or money or property actually received; and all fictitious increase of stock or indebtedness shall be void. The stock and indebtedness of corporations shall not be increased except in pursuance of general law nor without the consent of the persons holding the larger amount in value of the stock first obtained, at a meeting to be held after sixty days' notice given in pursuance of law.

§ 9. The legislature shall have the power to alter, revise or annul any charter of any corporation now existing and revokable at the taking effect of this constitution, or any that may be created, whenever in their opinion it may be injurious to the citizens of this state, in such a manner, however, that no injustice shall be done to the incorporators. No law hereafter enacted shall create, renew or extend the charter of more than one corporation.

§ 10. No law shall be passed by the legislature granting the right to construct and operate a street railroad within any city, town or incorporated village without requiring the consent of the local authorities having the control of the street or highway proposed to be occupied by said such street railroad.

§ 11. Any association or corporation organized for the purpose, or any individual, shall have the right to construct and maintain lines of telegraph in this state, and to connect the same with other lines; and the legislature shall by general law of uniform operation provide reasonable regulations to give full effect to this section. No telegraph company shall consolidate with or hold a controlling interest in the stock or bonds of any other telegraph company owning a competing line or acquire by purchase or otherwise any other competing line of telegraph.

§ 12. Every railroad corporation organized or doing business in this state under the laws or authority thereof shall have and maintain a public office or place in this state for the transaction of its business, where transfers of its stocks shall be made and in which shall be kept for public inspection books in which shall be recorded the amount of capital stock subscribed, and by whom; the names of the owners of its stock, and the amount owned by them respectively; the amount of stock paid in, and by whom; the transfers of said stock; the amount of its assets and liabilities, and the names and place of residence of its officers. The directors of every railroad corporation shall annually make a report, under oath, to the auditor of public accounts or some officer or officers to be designated by law, of all their acts and doings, which report shall include such matters relating to railroads as may be prescribed by law, and the legislature shall pass laws enforcing by suitable penalties the provisions of this section.

§ 13. The rolling stock and all other movable property belonging to any railroad company or corporation in this state shall be considered personal property, and shall be liable to execution and sale in the same manner as the personal property of individuals, and the legislature shall pass no laws exempting such property from execution and sale.

§ 14. No railroad corporation shall consolidate its stock, property or franchises with any other railroad corporation owning a parallel or competing line; and in no case shall any consolidation take place except upon public notice given out, at least sixty days to all stockholders in such manner as may be provided by law. Any attempt to evade the provisions of this section, by any railroad corporation, by lease or otherwise, shall work a forfeiture of its charter.

§ 15. Railways heretofore constructed or that may hereafter be constructed, in this state, are hereby declared public highways, and all railroads and transportation companies are declared to be common carriers and subject to legislative control; and the legislature shall have power to enact laws regulating and controlling the rates of charges for the transportation of passengers and freight as such common carrier from one point to another in this state.

§ 16. Any association or corporation organized for the purpose shall have the right to construct and operate a railroad between any points within this state, and to connect at the state line with railroads of other states. Every railroad company shall have the right with its road to intersect, connect with, or cross any other railroad, and shall receive and transport each the other's passengers, tonnage and cars, loaded or empty, without delay or discrimination.

§ 17. The legislature shall pass laws to correct abuses and prevent discrimination and extortion in the rates of freight and passenger tariffs on the different railroads in this state, and enforce such laws by adequate penalties, to the extent, if necessary for that purpose, of forfeiture of their property and franchises.

§ 18. Municipal and other corporations and individuals invested with the privilege of taking private property for public use shall make just compensation for property taken, injured or destroyed, by the construction or enlargement of their works, highways or improvements, which compensation shall be paid or secured before such taking, injury or destruction. The legislature is hereby prohibited

from depriving any person of an appeal from any preliminary assessment of damages against any such corporation or individuals made by viewers or otherwise, and the amount of such damages in all cases of appeal shall, on the demand of either party, be determined by a jury as in other civil cases.

§ 19. The term "corporations" as used in this article shall be construed to include all joint stock companies or associations having any of the powers or privileges of corporations not possessed by individuals or partnerships.*

Article XVIII

BANKING AND CURRENCY

§ 1. If a general banking law shall be enacted it shall provide for the registry and countersigning by an officer of this State of all bills or paper credit designed to circulate as money, and require security to the full amount thereof, to be deposited with the state treasurer, in the approved securities of the state or of the United States, to be rated at ten per centum below their par value, and in case of their depreciation the deficiency shall be made good by depositing additional securities.

§ 2. Every bank, banking company or corporation shall be required to cease all banking operation within twenty years from the time of its organization, and promptly thereafter close its business, but shall have corporate capacity to sue or be sued until its business is fully closed, but the legislature may provide by general law for the reorganization of such banks.

§ 3. The shareholders or stockholders of any banking corporation shall be held individually responsible and liable for all contracts, debts and engagements of such corporation to the extent of the amount of their stock therein, at the par value thereof, in addition to the amount invested in such shares or stock; and such individual liabilities shall continue for one year after any transfer or sale of stock by any stockholder or stockholders.

Article XIX

CONGRESSIONAL AND LEGISLATIVE APPORTIONMENT

§ 1. Until otherwise provided by law, the members of the house of representatives of the United States, apportioned to this state, shall be elected by the state at large.

§ 2. Until otherwise provided by law, the senatorial and representative districts shall be formed, and the senators and representatives shall be apportioned, as follows:

SENATORIAL DISTRICTS

District No. 1 shall consist of the county of Union and be entitled to one senator.

District No. 2 shall consist of the county of Clay, and be entitled to one senator.

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* For new section, 20, see amendment, 1896.

District No. 3 shall consist of the county of Yankton, and be entitled to one senator.

District No. 4 shall consist of the county of Bon Homme, and be entitled to one senator.

District No. 5 shall consist of the county of Lincoln, and be entitled to one senator.

District No. 6 shall consist of the county of Turner, and be entitled to one senator.

District No. 7 shall consist of the county of Hutchinson, and be entitled to one senator.

District No. 8 shall consist of the counties of Charles Mix and Douglas, and be entitled to one senator.

District No. 9 shall consist of the county of Minnehaha, and be entitled to two senators.

District No. 10 shall consist of the county of McCook, and be entitled to one senator.

District No. 11 shall consist of the county of Hanson, and be entitled to one senator.

District No. 12 shall consist of the county of Davison, and be entitled to one senator.

District No. 13 shall consist of the county of Aurora, and be entitled to one senator.

District No. 14 shall consist of the county of Brule, and be entitled to one senator.

District No. 15 shall consist of the county of Moody, and be entitled to one senator.

District No. 16 shall consist of the county of Lake, and be entitled to one senator.

District No. 17 shall consist of the county of Miner, and be entitled to one senator.

District No. 18 shall consist of the county of Sanborn, and be entitled to one senator.

District No. 19 shall consist of the counties of Jerauld and Buffalo, and be entitled to one senator.

District No. 20 shall consist of the county of Brookings, and be entitled to one senator.

District No. 21 shall consist of the county of Kingsbury, and be entitled to one senator.

District No. 22 shall consist of the county of Beadle, and be entitled to one senator.

District No. 23 shall consist of the county of Hand, and be entitled to one senator.

District No. 24 shall consist of the counties of Hughes and Stanley, and be entitled to one senator.

District No. 25 shall consist of the counties of Sully and Hyde, and be entitled to one senator.

District No. 26 shall consist of the county of Deuel, and be entitled to one senator.

District No. 27 shall consist of the county of Hamlin, and be entitled to one senator.

District No. 28 shall consist of the county of Codington, and be entitled to one senator.

District No. 29 shall consist of the county of Clark, and be entitled to one senator.

District No. 30 shall consist of the county of Spink, and be entitled to one senator.

District No. 31 shall consist of the county of Grant, and be entitled to one senator.

District No. 32 shall consist of the county of Day, and be entitled to one senator.

District No. 33 shall consist of the county of Brown, and be entitled to two senators.

District No. 34 shall consist of the counties of Marshall and Roberts, and be entitled to one senator.

District No. 35 shall consist of the counties of Faulk and Potter, and be entitled to one senator.

District No. 36 shall consist of the counties of Edmunds and Walworth, and be entitled to one senator.

District No. 37 shall consist of the counties of McPherson and Campbell, and be entitled to one senator.

District No. 38 shall consist of the county of Lawrence, and be entitled to one senator.

District No. 39 shall consist of the county of Pennington, and be entitled to one senator.

District No. 40 shall consist of the counties of Meade and Butte, and be entitled to one senator.

District No. 41 shall consist of the counties of Custer and Fall River, and be entitled to one Senator.

REPRESENTATIVE DISTRICTS

District No. 1 shall consist of the county of Union, and be entitled to two representatives.

District No. 2 shall consist of the county of Clay, and be entitled to two representatives.

District No. 3 shall consist of the county of Yankton, and be entitled to three representatives.

District No. 4 shall consist of the county of Lincoln and be entitled to two representatives.

District No. 5 shall consist of the county of Turner, and be entitled to three representatives.

District No. 6 shall consist of the county of Hutchinson, and be entitled to three representatives.

District No. 7 shall consist of the county of Bon Homme, and be entitled to two representatives.

District No. 8 shall consist of the county of Douglas, and be entitled to one representative.

District No. 9 shall consist of the county of Charles Mix, and be entitled to one representative.

District No. 10 shall consist of the county of Minnehaha, and be entitled to five representatives.

District No. 11 shall consist of the county of McCook, and be entitled to two representatives.

District No. 12 shall consist of the county of Hanson, and be entitled to one representative.

District No. 13 shall consist of the county of Davison, and be entitled to one representative.

District No. 14 shall consist of the county of Sanborn, and be entitled to one representative.

District No. 15 shall consist of the county of Aurora, and be entitled to one representative.

District No. 16 shall consist of the counties of Jerauld and Buffalo, and be entitled to one representative.

District No. 17 shall consist of the county of Lake, and be entitled to three representatives.

District No. 18 shall consist of the county of Miner, and be entitled to two representatives.

District No. 19 shall consist of the county of Sanborn, and be entitled to two representatives.

District No. 20 shall consist of the county of Jerauld, and be entitled to one representative.

District No. 21 shall consist of the county of Buffalo, and be entitled to one representative.

District No. 22 shall consist of the county of Brookings, and be entitled to three representatives.

District No. 23 shall consist of the county of Kingsbury, and be entitled to three representatives.

District No. 24 shall consist of the county of Beadle, and be entitled to five representatives.

District No. 25 shall consist of the county of Hand, and be entitled to three representatives.

District No. 26 shall consist of the county of Hyde, and be entitled to one representative.

District No. 27 shall consist of the county of Hughes, and be entitled to one representative.

District No. 28 shall consist of the county of Sully, and be entitled to one representative.

District No. 29 shall consist of the county of Deuel, and be entitled to two representatives.

District No. 30 shall consist of the county of Hamlin, and be entitled to two representatives.

District No. 31 shall consist of the county of Codington, and be entitled to three representatives.

District No. 32 shall consist of the county of Clark, and be entitled to three representatives.

District No. 33 shall consist of the county of Spink, and be entitled to five representatives.

District No. 34 shall consist of the county of Faulk, and be entitled to two representatives.

District No. 35 shall consist of the county of Potter, and be entitled to one representative.

District No. 36 shall consist of the county of Grant, and be entitled to two representatives.

District No. 37 shall consist of the county of Roberts, and be entitled to one representative.

District No. 38 shall consist of the county of Day, and be entitled to three representatives.

District No. 39 shall consist of the county of Marshall and be entitled to two representatives.

District No. 40 shall consist of the county of Brown, and be entitled to eight representatives.

District No. 41 shall consist of the county of Potter, and be entitled to one representative.

District No. 42 shall consist of the county of Faulk, and be entitled to one representative.

District No. 43 shall consist of the county of Custer, and be entitled to one representative.

District No. 44 shall consist of the county of Fall River, and be entitled to one representative.

District No. 45 shall consist of the county of Pennington, and be entitled to two representatives.

District No. 46 shall consist of the county of Meade, and be entitled to one representative.

District No. 47 shall consist of the county of Butte, and be entitled to one representative.

District No. 48 shall consist of the county of Lawrence, and be entitled to three representatives.

Article XX

SEAT OF GOVERNMENT

§ 1. The question of the location of the temporary seat of government shall be submitted to a vote of the electors of the proposed State of South Dakota, in the same manner and at the same election at which this constitution shall be submitted, and the place receiving the highest number of votes shall be the temporary seat of government until a permanent seat of government shall be established as hereinafter provided.

§ 2. The legislature, at its first session after the admission of this state, shall provide for the submission of the question of a place for a permanent seat of government to the qualified voters of the state at the next general election thereafter, and that place which receives a majority of all the votes cast upon that question shall be the permanent seat of government.

§ 3. Should no place voted for at said election have a majority of all votes cast upon this question, the governor shall issue his proclamation for an election to be held in the same manner at the next general election to choose between the two places having received the highest number of votes cast at the first election on this question. This election shall be conducted in the same manner as the first election for the permanent seat of government, and the place receiving a majority of all the votes cast upon this question shall be the permanent seat of government.

Article XXI

MISCELLANEOUS

§ 1. *Seal and coat of arms.*] The design of the great seal of South Dakota shall be as follows: A circle within which shall appear in the left foreground a smelting furnace and other features of mining work. In the left background a range of hills. In the right foreground a farmer at his plow. In the right background a herd of cattle and a field of corn. Between the two parts thus described shall appear a river bearing a steamboat. Properly divided between the upper and lower edges of the circle shall appear the legend

"Under God the People Rule," which shall be the motto of the State of South Dakota. Exterior to this circle and within a circumscribed circle shall appear, in the upper part, the words "State of South Dakota." In the lower part the words "Great Seal," and the date in Arabic numerals of the year in which the state shall be admitted to the Union.

COMPENSATION OF PUBLIC OFFICERS

§ 2. The governor shall receive an annual salary of two thousand five hundred dollars; the judges of the supreme court shall each receive an annual salary of two thousand five hundred dollars; the judges of the circuit courts shall each receive an annual salary of two thousand dollars; *Provided*, that the legislature may, after the year one thousand eight hundred and ninety, increase the annual salary of the governor and each of the judges of the supreme court to three thousand dollars, and the annual salary of each of the circuit court judges to two thousand five hundred dollars.

The secretary of state, state treasurer and state auditor shall each receive an annual salary of one thousand eight hundred dollars; the commissioner of school and public lands shall receive an annual salary of one thousand eight hundred dollars; the superintendent of public instruction shall receive an annual salary of one thousand eight hundred dollars; the attorney general shall receive an annual salary of one thousand dollars; the compensation of the lieutenant governor shall be double the compensation of a state senator.

They shall receive no fees or perquisites whatever for the performance of any duties connected with their offices. It shall not be competent for the legislature to increase the salaries of the officers named in this article except as herein provided.

§ 3. *Oath of office.* Every person elected or appointed to any office in this state, except such inferior offices as may be by law exempted, shall, before entering upon the duties thereof, take an oath or affirmation to support the constitution of the United States and of this state, and faithfully to discharge the duties of his office.

§ 4. *Exemptions.*] The right of the debtor to enjoy the comforts and necessaries of life shall be recognized by wholesome laws; exempting from forced sale a homestead, the value of which shall be limited and defined by law, to all heads of families, and a reasonable amount of personal property, the kind and value of which to be fixed by general law.

§ 5. *Rights of married women.*] The real and personal property of any women in this state acquired before marriage, and all property to which she may after marriage become in any manner rightfully entitled, shall be her separate property, and shall not be liable for the debts of her husband.

Article XXII

COMPACT WITH THE UNITED STATES

The following articles shall be irrevocable without the consent of the United States and the people of the State of South Dakota expressed by their legislative assembly:

First—That perfect toleration of religious sentiment shall be secured, and that no inhabitant of this state shall ever be molested in

person or property on account of his or her mode of religious worship.

Second—That we, the people inhabiting the State of South Dakota, do agree and declare that we forever disclaim all right and title to the unappropriated public lands lying within the boundary of South Dakota, and to all lands lying within said limits owned or held by any Indian or Indian tribes; and that until the title thereto shall have been extinguished by the United States, the same shall be and remain subject to the disposition of the United States; and said Indian lands shall remain under the absolute jurisdiction and control of the Congress of the United States; that the lands belonging to citizens of the United States residing without the said state shall never be taxed at a higher rate than the lands belonging to residents of this state; that no taxes shall be imposed by the State of South Dakota on lands or property therein belonging to or which may hereafter be purchased by the United States, or reserved for its use. But nothing herein shall preclude the State of South Dakota from taxing as other lands are taxed any lands owned or held by any Indian who has severed his tribal relation and has obtained from the United States, or from any person, a title thereto by patent or other grant, save and except such lands as have been or may be granted to any Indian or Indians under any act of Congress containing a provision exempting the lands thus granted from taxation. All such lands which may have been exempted by any grant or law of the United States shall remain exempt to the extent and as prescribed by such act of Congress.

Third—That the State of South Dakota shall assume and pay that portion of the debts and liabilities of the Territory of Dakota as provided by this constitution.

Fourth—That provision shall be made for the establishment and maintenance of systems of public schools, which shall be opened to all the children of this state, and free from sectarian control.

Article XXIII

Amendments and revisions of the constitution

§ 1. Any amendment or amendments to this constitution may be proposed in either house of the legislature, and if the same shall be agreed to by a majority of the members elected to each of the two houses, such proposed amendment or amendments shall be entered on their journals, with the yeas and nays taken thereon, and it shall be the duty of the legislature to submit such proposed amendment or amendments to the vote of the people at the next general election. And if the people shall approve and ratify such amendment or amendments by a majority of the electors voting thereon, such amendment or amendments shall become a part of this constitution; *Provided*, that the amendment or amendments so proposed shall be published for a period of twelve weeks previous to the date of said election, in such manner as the legislature may provide; and *Provided further*, that if more than one amendment be submitted, they shall be submitted in such manner that the people may vote for or against such amendment separately.

§ 2. Whenever two-thirds of the members elected to each branch of the legislature shall think it necessary to call a convention to revise this constitution they shall recommend to the electors to vote at the next election for members of the legislature, for or against a convention; and if a majority of all the electors voting at said election shall have voted for a convention, the legislature shall, at their next session, provide by law for calling the same. The convention shall consist of as many members as the house of representatives of the legislature, and shall be chosen in the same manner, and shall meet within three months after their election for the purpose aforesaid.

Article XXIV

PROHIBITION

[To be submitted to a separate vote as provided by the schedule and ordinance.]

No person or corporation shall manufacture, or aid in the manufacture for sale, any intoxicating liquor; no person shall sell or keep for sale, as a beverage any intoxicating liquor. The legislature shall by law prescribe regulations for the enforcement of the provisions of this section and provide suitable and adequate penalties for the violation thereof. [Adopted October 1, 1889, by the following vote: For prohibition, 40,234; against prohibition, 34,510.]

Article XXV

MINORITY REPRESENTATION

[To be submitted to a separate vote as provided by the schedule and ordinance.]

§ 1. The house of representatives shall consist of three times the number of the members of the senate, and the term of office shall be two years. Three representatives shall be elected in each senatorial district at the first general election held after this constitution takes effect, and every two years thereafter.

§ 2. In all elections of representatives aforesaid each qualified voter may cast as many votes for one candidate as there are representatives to be elected, or may distribute the same, or equal parts thereof, among the candidates as he may see fit; and the candidates highest in votes shall be declared elected. [Rejected October 1, 1889, by the following vote: For minority representation, 24,161; against minority representation, 46,200.]

Article XXVI

SCHEDULE AND ORDINANCE

§ 1. That no inconvenience may arise from the change of the territorial government to the permanent state government it is hereby declared that all writs, actions, prosecutions, claims and rights of individuals, and all bodies corporate, shall continue as if no change had taken place in this government; and all process which may be

before the organization of the judicial department under this constitution issued under the authority of the Territory of Dakota, within the boundary of this state, shall be as valid as if issued in the name of the State of South Dakota.

§ 2. That all fines, penalties, forfeitures and escheats accruing to the Territory of Dakota, within the boundary of the State of South Dakota, shall accrue to the use of said state.

§ 3. That all recognizances, bonds, obligations or other undertakings, heretofore taken, or which may be taken before the organization of the judicial department under this constitution shall remain valid, and shall pass over to, and may be prosecuted in the name of the State of South Dakota; and all bonds, obligations or undertakings executed to this territory, within the boundaries of the State of South Dakota, or to any officer in his official capacity, shall pass over to the proper state authority, and to their successors in office, for the uses therein respectively expressed, and may be sued for and recovered accordingly.

All criminal prosecutions and penal actions, which have arisen, or which may arise before the organization of the judicial department under this constitution, and which shall then be pending, may be prosecuted to judgment and executed in the name of the state.

§ 4. All officers, civil and military, now holding their offices and appointments in this territory under the authority of the United States, or under the authority of the Territory of Dakota, shall continue to hold and exercise their respective offices and appointments until superseded under this constitution; *Provided*, that the provisions of the above sections shall be subject to the provisions of the act of congress providing for the admission of the State of South Dakota, approved by the president of the United States on February 22, 1889.

§ 5. This constitution shall be submitted for adoption or rejection to a vote of the electors qualified by the laws of this territory to vote at all elections, at the election to be held on Tuesday, Oct. 1, 1889.

At the said election the ballots shall be in the following form:

For the constitution: Yes. No.

For prohibition: Yes. No.

For minority representation: Yes. No.

As a heading to each of said ballots shall be printed on each ballot the following instructions to voters:

All persons desiring to vote for the constitution, or for any of the articles submitted to a separate vote, must erase the word "No."

All persons who desire to vote against the constitution, or against any article submitted separately, must erase the word "Yes."

Any person may have printed or written on his ballot only the words "For the Constitution," or "Against the Constitution," and such ballots shall be counted for, or against the constitution accordingly. The same provision shall apply to articles submitted separately.

In addition to the foregoing election for the constitution and for the article submitted by this convention for a separate vote thereon, an election shall be held at the same time and places, by the said qualified electors, for the following state officers, to be voted for on the same ballot as above provided for votes on the constitution and separate articles, towit:

A governor, lieutenant governor, secretary of state, auditor, treasurer, attorney general, superintendent of public instruction, commissioner of school and public lands, judges of the supreme, circuit and county courts, representatives in congress, state senators, and representatives in the legislature.

All the elections above provided for shall be held in the same manner and form as provided for the election for the adoption or rejection of the constitution. And the names of all the officers above specified to be voted for at such election shall be written or printed upon the same ballots as the vote for or against the constitution.

The judges of election in counting the ballots voted at such election shall count all the affirmative ballots upon the constitution as votes for the constitution; and they shall count all the negative ballots voted at said election upon the constitution as votes against the constitution; and ballots voted at said election upon which neither of said words "Yes" or "No" following the words "For the Constitution" are erased, shall not be counted upon such proposition. And they shall count all affirmative ballots so voted upon the article on prohibition, separately submitted, as votes for such article, and they shall count all negative ballots so voted upon such article, as votes against such article; and ballots upon which neither the words "Yes" or "No" following the words "For Prohibition" are erased, shall not be counted upon such proposition; and they shall count all the affirmative ballots so voted upon the article on minority representation, separately submitted, as votes for such article. And they shall count all negative ballots so voted upon such article as votes against such article; and ballots upon which neither of said words "Yes" or "No" following the words "For Minority Representation" are erased, shall not be counted upon such proposition.

If it shall appear in accordance with the returns hereinafter provided for, that a majority of the votes polled at such election, for and against the constitution, are for the constitution, then this constitution shall be the constitution of the State of South Dakota. If it shall appear, according to the returns hereinafter provided for, that a majority of all votes cast at said election for and against "Prohibition" are for prohibition, then said Article XXIV shall be and form a part of this constitution, and be in full force and effect as such from date of said election, but if a majority of said votes shall appear, according to said returns to be against prohibition, then Article XXIV shall be null and void and shall not be a part of this constitution. And if it appear, according to the returns hereinafter provided for, that a majority of all votes cast at said election for and against "Minority Representation" are for minority representation, then Article XXV shall be and form a part of said constitution, and be in full force and effect as such from the date of said election; but if a majority of said votes shall appear, according to said returns, to be against minority representation, then said Article XXV shall be null and void and shall not be a part of this constitution.

At such election the person voted for, for any one of the offices to be filled at such election, who shall receive the highest number of votes cast at said election, shall be declared elected to said office.

§ 6. At the same time and places of election there shall be held

by said qualified electors an election for the place of the temporary seat of government.

On each ballot, and on the same ballot on which are the matters voted for or against, as hereinbefore provided, shall be written or printed the words "For Temporary Seat of Government," (Here insert the name of the city, town or place, to be voted for.)

And upon the canvass and return of the vote, made as hereinafter provided for, the name of the city, town or place, which shall have received the largest number of votes for said temporary seat of government, shall be declared by the governor, chief justice and secretary of the Territory of Dakota, or by any two of them, at the same time that they shall canvass the vote for or against the constitution, together with the whole number of votes cast for each city, town or place, and the officers above named, shall immediately after the result of said election shall have been ascertained, issue a proclamation directing the legislature elected at said election to assemble at said city, town or place so selected, on the day fixed by this schedule and ordinance.

§ 7. The election provided for herein shall be under the provisions of the constitution herewith submitted, and shall be conducted in all respects as elections are conducted under the general laws of the Territory of Dakota, except as herein provided. No mere technicalities or informalities in the manner or form of election, or neglect of any officer to perform his duty with regard thereto, shall be deemed to vitiate or avoid the same, it being the true intent and object of this ordinance to ascertain and give effect to the true will of the people of the State of South Dakota, as expressed by their votes at the polls.

§ 8. Immediately after the election herein provided for, the judges of election at each voting place shall make a true and complete count of all the votes duly cast at such election, and shall certify and return the result of the same, with the names of all the candidates and the number of votes cast for each candidate, and the number of votes cast for and against the constitution, and the number of votes cast for and against prohibition, and the number of votes cast for and against minority representation, and the number of votes cast for each city, town or place for the "temporary seat of government," to the county clerk, or auditor of the respective counties, together with one of the poll lists and election books used in said election.

§ 9. Within five days after said election the several boards of county canvassers provided by law for the canvassing of the results of the election, shall make and certify to the secretary of the Territory of Dakota the true and correct return of the total number of votes cast for the constitution, and against the constitution, of the number of votes cast for and against "prohibition," and the number of votes cast for and against minority representation," and the number of votes cast for each city, town or place as the "temporary seat of government," and of the number of votes cast for each person voted for at such election, except county officers and members of the legislature, and shall transmit the same to the secretary of the Territory of Dakota, by mail, and shall file with the county clerk or auditor of each of said counties a duplicate and certified copy of said return.

Said board of county canvassers shall issue certificates of election to the persons who shall have received the highest number of votes cast

for the respective offices of judge of the county court and representatives in the legislature, and for state senator or senators.

§ 10. When two or more counties are connected in one senatorial or representative district, it shall be the duty of the clerks and auditors of the respective counties to attend at the office of the county clerk of the senior county in the date of organization within twenty days after the date of election, and they shall compare the votes given in the several counties comprising such senatorial and representative district and such clerks or auditors shall immediately make out a certificate of election to the person having the highest number of votes in such district for state senator or representative or both; which certificate shall be delivered to the person entitled thereto on his application to the clerk of the senior county of such district.

§ 11. The secretary of the territory shall receive all returns of election transmitted to him as above provided, and shall preserve the same, and after they have been canvassed as hereinafter provided, and after the admission of the State of South Dakota into the Union, he shall deliver said returns to the proper state officer of said State of South Dakota.

Within fifteen days after said election the secretary of the territory, with the governor and chief justice thereof, or any two of them, shall canvass such returns and certify the same to the president of the United States, as provided in the enabling act.

They shall also ascertain the total number of votes cast at such election for the constitution and against the constitution; the total number of votes cast for and against prohibition; and the total number of votes cast for and against minority representation; and the total number of votes cast for each city, town, or place as the "temporary seat of government;" and the total number of votes cast for each person voted for, for any office at said election, excepting county judges and members of the legislature, and shall declare the result of said election in conformity with such vote, and the governor of the territory shall thereupon issue a proclamation at once thereof.

They shall also make and transmit to the state legislature, immediately upon its organization, a list of all the state and judicial officers who shall thus be ascertained to be duly elected.

The various county and district canvassing boards shall make and transmit to the secretary of the territory the names of all persons declared by them to be elected members of the senate and house of representatives of the state of South Dakota; he shall make separate lists of the senators and representatives so elected, which lists shall constitute the rolls under which the senate and house of representatives shall be organized.

The governor of the territory shall make and issue certificates of election to the persons who are shown by the canvass to have received the highest number of votes for governor, lieutenant governor, secretary of state, auditor, treasurer, attorney-general, superintendent of public instruction, commissioner of schools and public lands, and judges of the supreme and circuit courts. Such certificates to be attested by the secretary of the territory.

§ 12. The apportionment made in this constitution shall govern the elections above provided for for members of the state legislature, until otherwise provided by law.

At the first election held under this ordinance for senators and representatives of the legislature, there shall be elected forty-five senators and one hundred and twenty-four representatives in the state legislature respectively.

§ 13. The legislature elected under the provisions of this ordinance and constitution shall assemble at the temporary seat of government on the third Tuesday in October, in the year A. D. 1889, at 12 o'clock noon, and on the first day of their assemblage the governor and other state officers shall take the oath of office in the presence of the legislature. The oath of office shall be administered to the members of the legislature and to the state officers by the chief justice of the territory, or by any other officer duly authorized by the laws of the territory of Dakota to administer oaths.

§ 14. Immediately after the organization of the legislature and taking the oath of office by the state officers, the legislature shall then and there proceed to the election of two senators of the United States for the State of South Dakota, in the mode and manner provided by the laws of congress for the election of United States senators. And the governor and the secretary of the State of South Dakota shall certify the election of the said senators and two representatives in congress, in the manner required by law.

§ 15. Immediately after the election of the United States senators as above provided for, said legislature shall adjourn to meet at the temporary seat of government on the first Tuesday after the first Monday of January, 1890, at 12 o'clock M.: *Provided, however*, that if the State of South Dakota has not been admitted by proclamation or otherwise at said date, then said legislature shall convene within ten days after the date of the admission of the state into the Union.

§ 16. Nothing in this constitution or schedule contained shall be construed to authorize the legislature to exercise any powers except such as are necessary to its first organization, and to elect United States senators, and to adjourn as above provided. Nor to authorize an officer of the executive, administrative or judiciary departments to exercise any duties of his office until the State of South Dakota shall have been regularly admitted into the Union, excepting such as may be authorized by the congress of the United States.

§ 17. The ordinances and schedules enacted by this convention shall be held to be valid for all the purposes thereof.

§ 18. That we, the people of the State of South Dakota, do ordain:

First—That perfect toleration of religious sentiment shall be secured, and that no inhabitant of this state shall ever be molested in person or property on account of his or her mode of religious worship.

Second—That we, the people inhabiting the State of South Dakota, do agree and declare that we forever disclaim all right and title to the unappropriated public lands lying within the boundaries of South Dakota; and to all lands lying within said limits owned or held by any Indian or Indian tribes, and that until the title thereto shall have been extinguished by the United States the same shall be and remain subject to the disposition of the United States, and said Indian lands shall remain under the absolute jurisdiction and control of the congress of the United States; that the lands belonging to citizens of the United States residing without the said state shall never be taxed at a higher rate than the lands belonging to residents of this state.

That no taxes shall be imposed by the State of South Dakota on lands or property therein belonging to or which may hereafter be purchased by the United States, or reserved for its use. But nothing herein shall preclude the State of South Dakota from taxing as other lands are taxed, any lands owned or held by any Indian who has severed his tribal relation and has obtained from the United States or from any person a title thereto by patent or other grant, save and except such lands as have been or may be granted to any Indian or Indians under any act of Congress containing a provision exempting the lands thus granted from taxation; all such lands which may have been exempted by any grant or law of the United States shall remain exempt to the extent and as prescribed by such act of Congress.

Third—That the State of South Dakota shall assume and pay that portion of the debts and liabilities of the Territory of Dakota as provided in this constitution.

Fourth—That provision shall be made for the establishment and maintenance of systems of public schools which shall be opened to all the children of this state and free from sectarian control.

Fifth—That jurisdiction is ceded to the United States over the military reservations of Fort Mead, Fort Randall and Fort Sully, heretofore declared by the president of the United States; *Provided*, legal process, civil and criminal, of this state shall extend over such reservations in all cases of which exclusive jurisdiction is not vested in the United States, or of crimes not committed within the limits of such reservations.

These ordinances shall be irrevocable without the consent of the United States, and also the people of the said State of South Dakota expressed by their legislative assembly.

§ 19. The tenure of all officers, whose election is provided for in this schedule on the first day of October, A. D. 1889, shall be as follows:

The governor, lieutenant governor, secretary of state, auditor, treasurer, attorney general, superintendent of public instruction, commissioner of school and public lands, judges of county courts, shall hold their respective offices until the first Tuesday after the first Monday in January, A. D. 1891, at twelve o'clock, M., and until their successors are elected and qualified.

The judges of the supreme court and circuit courts shall hold their offices until the first Tuesday after the first Monday in January, A. D. 1894, at twelve o'clock M., and until their successors are elected and qualified; subject to the provisions of Sec. 26 of Article V of the constitution.

The terms of office of the members of the legislature elected at the first election held under the provisions of this constitution shall expire on the first Tuesday after the first Monday in January, one thousand eight hundred and ninety-one (1891.)

§ 20. That the first general election under the provisions of this constitution shall be held on the first Tuesday after the first Monday in November, 1890, and every two years thereafter.

§ 21. The following form of ballot is adopted:

CONSTITUTIONAL TICKET.

INSTRUCTIONS TO VOTERS.

All persons desiring to vote for the constitution, or for any of the articles submitted to a separate vote, may erase the word "No."

All persons who desire to vote against the constitution, or any articles separately submitted may erase the word "Yes."

For the Constitution: Yes. No.
For Prohibition: Yes. No.
For Minority Representation: Yes. No.
For_____as the temporary seat of government.

For Governor.

For Lieutenant Governor.

For Secretary of State.

For Auditor.

For Treasurer.

For Attorney General.

For Superintendent of Public Instruction.

For Commissioner of School and Public Lands.

For Judges of the Supreme Court.

First District_____
Second District_____
Third District_____

For Judge of the Circuit Court_____Circuit.

For Representatives in Congress.

For State Senator.

For Representative in the Legislature.

For County Judge.

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§ 22. This constitution shall be enrolled and after adoption and signing by the convention shall be delivered to Hon. A. J. Edgerton, the president of the constitutional convention, for safe keeping, and by him to be delivered to the secretary of state as soon as he assumes the duties of his office, and printed copies thereof shall be prefixed to the books containing the laws of the state, and all future editions thereof.

The president of this convention shall also supervise the making of the copy that must be sent to the president of the United States;

said copy is to be certified by the president and chief clerk of this convention.

§ 23. "The agreement made by the joint commission of the constitutional conventions of North and South Dakota concerning the records, books and archives of the Territory of Dakota is hereby ratified and confirmed, which agreement is in the words following: That is to say:"

The following books, records and archives of the Territory of Dakota shall be the property of North Dakota, towit:

All records, books and archives in the offices of the governor and secretary of the territory (except records of articles of incorporation of domestic corporations, returns of election of delegates to the constitutional convention of 1889, for South Dakota, returns of elections held under the so-called local option law in counties within the limits of South Dakota, bonds of notaries public appointed for counties within the limits of South Dakota, papers relating to the organization of counties situate within the limits of South Dakota, all of which records and archives are part of the records and archives of said secretary's office: excepting also census returns from counties situate within the limits of South Dakota and papers relating to requisitions issued upon the application of officers of counties situate within the limits of South Dakota, all of which are part of the records and archives of said governor's office.)

And the following records, books and archives shall also be the property of the State of North Dakota, towit:

Vouchers in the office or in the custody of the auditor of this territory relating to expenditures on account of public institutions, grounds or buildings situate within the limits of North Dakota; one warrant register in the office of the treasurer of this territory, being a record of warrants issued under and by virtue of chapter twenty-four of the laws enacted by the eighteenth legislative assembly of Dakota territory; all letters, receipts and vouchers in the same office now filed by counties and pertaining to counties within the limits of North Dakota; paid and canceled coupons in the same office representing interest on bonds which said State of North Dakota is to assume and pay; reports of gross earnings of the year 1888 in the same office, made by corporations operating lines of railroad situated wholly or mainly within the limits of North Dakota; records and papers of the office of the public examiner of the second district of the territory; records and papers of the office of the second district board of agriculture; records and papers in the office of the board of pharmacy of the district of North Dakota.

All records, books and archives of the Territory of Dakota which it is not herein agreed shall be the property of North Dakota, shall be the property of South Dakota.

The following books shall be copied and the copies shall be the property of North Dakota, and the cost of such copies shall be borne equally by the said states of North Dakota and South Dakota. That is to say:

Appropriation ledger for the years ending November, 1889 and 1890—one volume.

The current warrant auditor's register—one volume.

Insurance record for 1889—one volume.

Treasurer's cash book "D."

Assessment ledger "B."

Dakota Territory bond register—one volume.

Treasurer's current ledger—one volume.

The originals of the foregoing volumes which are to be copied, shall at any time after such copying shall have been completed, be delivered on demand to the proper authorities of the State of South Dakota.

All other records, books and archives which it is hereby agreed shall be the property of South Dakota shall remain at the capital of North Dakota until demanded by the legislature of the State of South Dakota, and until the State of North Dakota shall have had a reasonable time after such demand is made to provide copies or abstracts or such portions thereof as the said State of North Dakota may desire to have copies or abstracts of.

The State of South Dakota may also provide copies or abstracts of such records, books and archives which is agreed shall be the property of North Dakota as said State of South Dakota shall desire to have copies or abstracts of.

The expense of all copies or abstracts of records, books and archives which it is herein agreed may be made, shall be borne equally by said two states.*

ALONZO J. EDGERTON,
President of the Constitutional Convention.

Attest:
F. A. BURDICK, *Chief Clerk.*

AMENDMENTS

(November 8, 1898)[a]

ART. III. SEC. 1. The legislative power shall be vested in a legislature which shall consist of a Senate and House of Representatives. Except that the people expressly reserve to themselves the right to propose measures, which measures the legislature shall enact and submit to a vote of the electors of the state, and also the right to require that any laws which the legislature may have enacted shall be submitted to a vote of the electors of he state before going into effect (except such laws as may be necessary for the immediate preservation of the public peace, health or safety, support of state government and the existing public institutions.)

Provided, That not more than five per centum of the qualified electors of the state shall be required to invoke either the initiative or the referendum.

This section shall not be construed so as to deprive the legislature or any member thereof of the right to propose any measure. The veto power of the executive shall not be exercised as to measures referred to a vote of the people. This section shall apply to municipalities. The enacting clause of all laws approved by vote of the electors of the state shall be: "Be it enacted by the people of South Dakota." The legislature shall make suitable provisions for carrying into effect the provisions of this section.

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* See amendment, 1900.

[a] This section was submitted in its present form by the legislature in 1897 as an amendment to the Constitution; (Chap. 39, Laws of 1897.) It was adopted by the people at the general election held November 8, 1898.

(November 4, 1902)

ART. VIII. SEC. 11. The rate of interest upon all investments of the permanent school or other educational funds mentioned in Sec. 11 of Art. VIII of the constitution of this state is hereby changed and reduced from six per centum per annum to five per centum per annum, wherever the said words "six per centum per annum" occur in said section. That if the foregoing amendment shall be approved and ratified by the people at said election, as provided by Article XXIII of the constitution, said Section 11 of Article VIII of the constitution shall be thereby amended by striking out the said words, "six per centum per annum" wherever they occur in said Section 11 and substituting in lieu thereof the words "five per centum per annum."

(November 8, 1904)

ART. VIII. SEC. 2. The moneys of the permanent school and other educational funds shall be invested only in first mortgages upon good improved farm lands within this state, as hereinafter provided or in bonds of school corporations within this state, or in bonds of the United States or of the State of South Dakota, or of any organized county, township or incorporated city in said state. The legislature shall provide by law the method of determining the amount of said funds, which shall be invested from time to time in such classes of securities respectively, taking care to secure continuous investments as far as possible.

All moneys of said funds which may from time to time be designated for investment in farm mortgages and in the bonds of school corporations, or in bonds or organized counties, townships or incorporated cities within this state, shall for such purpose be divided among the organized counties of the state in proportion to population as nearly as provisions by law to secure continuous investment may permit. The several counties shall hold and manage the same as trust funds, and they shall be and remain responsible and accountable for the principal and interest of all such moneys received by them from the date of receipt until returned because not loaned; and in case of loss of any money so apportioned to any county, such county shall make the same good out of its common revenue. Counties shall invest said money in bonds of school corporations, counties, townships or cities, or in first mortgages upon good improved farm lands within their limits respectively. The amount of each loan shall not exceed one-third of the actual value of the lands covered by the mortgage given to secure the same, such value to be determined by the board of county commissioners of the county in which the land is situated, and in no case shall more than five thousand dollars ($5,000) be loaned to any one person, firm or corporation, and the rate of interest shall not be less than five per cent per annum, and shall be such other and higher rate as the legislature may provide, and shall be payable semi-annually on the first day of January and July; Provided, that whenever there are moneys of said fund in any county amounting to one thousand dollars that cannot be loaned according to the provisions of this section, and any law pursuant thereto, the said sum may be returned to the state treasurer to be entrusted to some other county or counties, or otherwise invested under the provisions of this section.

Each county shall semi-annually, on the first day of January and July, render an account of the condition of the funds intrusted to it to the auditor of state, and at the same time pay to or account to the state treasurer for the interest due on all funds intrusted to it.

The legislature may provide by general law that counties may retain from interest collected in excess of five per centum per annum upon all said funds intrusted to them, not to exceed one per centum per annum. But no county shall be exempted from the obligation to make semi-annual payments to the state treasurer of interest at the rate provided by law for such loans, except only said one per centum, and in no case shall the interest, so to be paid, be less than five per centum per annum.

The legislature shall provide by law for the safe investment of the permanent school and other educational funds and for the prompt collection of interest and income thereof, and to carry out the objects and provisions of this section.

(1902)

[a]Art. IX. Sec. 3. Whenever a majority of the legal voters of any organized county shall petition the county board to change the location of the county seat which has once been located by a majority vote, specifying the place to which it is to be changed, said county board shall submit the same to the people of said county at the next general election, and if the proposition to change the county seat be ratified by two-thirds of the votes cast at said election, then the county seat shall be changed, otherwise not. A proposition to change the location of the county seat of any organized county shall not again be submitted before the expiration of four years.

(1896)

[b]Art. XIII. Sec. 4. The debt of any county, city, town, school district, civil township, or other subdivision, shall never exceed (5) five per centum upon the assessed value of the taxable property therein. In estimating the amount of indebtedness which a municipality or subdivision may incur the amount of indebtedness prior to the adoption of this constitution shall be included.

Provided, That any county, municipal corporation, civil township, district or other subdivision, may incur an additional indebtedness not exceeding ten per centum upon the assessed value of the taxable property therein for the purpose of providing water for irrigation and domestic uses: *Provided further*, That no county, municipal corporation or civil township shall be included within any such district or subdivision without a majority vote in favor thereof of the electors of the county, municipal corporation or civil township, as the case may be, which is proposed to be included therein, and no such debt

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[a]Amended by popular vote of 36,436 for, to 14,612 against, at the general election held November 4, 1902.

[b] Submitted by the legislature in 1895, as an amendment to Section 4 of Article 13, of the Constitution, and was adopted at the general election of 1896 by a vote of 28,490 for, and 14,789 against.

That at the general election held on November 4, 1902, Section 4 of Article 13 of the Constitution was amended by a popular vote of 32,810 for to 13,599 against.

shall ever be incurred for any of the purposes in this section provided; unless authorized by a vote in favor thereof of a majority of the electors of such county, municipal corporation, civil township, district or subdivision incurring the same.

(November 4, 1902)

ART. XIII. SEC. 4. The debt of any county, city, town, school district, civil township or other subdivision, shall never exceed five (5) per centum upon the assessed valuation of the taxable property therein for the year preceding that in which said indebtedness is incurred.

In estimating the amount of the indebtedness which a municipality or subdivision may incur, the amount of indebtedness contracted prior to the adoption of this constitution shall be included.

Provided, That any county, municipal corporation, civil township, district or other subdivision may incur an additional indebtedness not exceeding ten per centum upon the assessed valuation of the taxable property therein for the year preceding that in which said indebtedness is incurred for the purpose of providing water and sewerage for irrigation, domestic uses, sewerage and other purposes; and

Provided, That in a city where the population is 8,000 or more, such city may incur an indebtedness not exceeding eight per centum upon the assessed valuation of the taxable property therein for the year next preceding that in which said indebtedness is incurred for the purpose of constructing street railways, electric lights or other lighting plants.

Provided further, That no county, municipal corporation, civil township, district or subdivision shall be included within such district or subdivision without a majority vote in favor thereof of the electors of the county, municipal corporation, civil township, district, or other subdivision as the case may be, which is purposed to be included therein, and no such debt shall ever be incurred for any of the purposes in this section provided, unless authorized by a vote in favor thereof by a majority of the electors of such county, municipal corporation, civil township, district or subdivision incurring the same.

(1896)

ART. XIV. SEC. 3.[a] The state university, the agricultural college, the normal schools and other educational institutions that may be sustained either wholly or in part by the state shall be under the control of a board of five members appointed by the governor and confirmed by the senate under such rules and restrictions as the legislature shall provide. The legislature may increase the number of members to nine.

ART. XIV. SEC. 4.[b] Stricken out, 1896, from original constitution.

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[a] Submitted as an amendment to Constitution, Article 14, § 3, by the legislature in 1895, and at the general election in 1896, was adopted by the following vote: 31,061 for, and 11,690 against.

[b] Stricken from the Constitution, by an amendment submitted by the legislature in 1895, and adopted by the popular vote at the general election in 1896: 31,061 for, and 11,690 against.

(1896)

ART. XVII. SEC. 20.[a] Monopolies and trusts shall never be allowed in this state, and no incorporated company, co-partnership or association of persons in this state shall directly or indirectly combine or make any contract with any incorporated company, foreign or domestic, through their stockholders, or the trustees or assigns of such stockholders, or with any co-partnership or association of persons, or in any manner whatever to fix the prices, limit the production or regulate the transportation of any product or commodity so as to prevent competition in such prices, production or transportation, or to establish excessive prices therefor.

The legislature shall pass laws for the enforcement of this section by adequate penalties and in the case of incorporated companies, if necessary for that purpose, may, as a penalty, declare a forfeiture of their franchises.

ART. XXIV. (Prohibition) adopted, 1896.[b]

ART. XV. (Minority representation) rejected, 1889.[c]

ART. XXVI. Obsolete, except sections 17 and 18.[d]

ART. XXVII. (The control of, manufacture, and sale of liquor.)[e]

(1900)

ART. XXVIII.[f] SEC. 1. The several counties of the state shall invest the money of the permanent school and endowment funds in bonds of school, corporation, state, county and municipal bonds, or in first mortgages upon good improved farm lands within their limits respectively; under such regulations as the legislature may provide, but no farm loan shall exceed one thousand dollars to any one person or corporation.

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[a] Submitted as an amendment to the Constitution, by the legislature in 1895, and was adopted by a popular vote of the electors of the state at the general election in 1896, by the following vote, for 36,763, against 9,136.

[b] Adopted at the time of the adoption of the Constitution, October 1st, 1889, it being voted upon separately, by the following vote: For, 40,234; against, 34,510. The legislature in 1895 submitted an amendment for the repeal of this article (24), which was adopted by a popular vote of the electors at the general election in 1896, by a vote of 31,901 for, and 24,910 against.

[c] Submitted to a separate vote, at the time of the adoption of the Constitution, October 1st, 1889, and was rejected by a vote of 24,161 for, and 46,200 against.

[d] As the provisions of this article (26), with the exception of Sections 17 and 18 thereof, have become obsolete, or fully executed, they have been omitted from this compilation.

[e] Article 27 of the constituion, providing that the manufacture and sale of liquor should be under exclusive state control, was submitted by the legislature in 1897, and adopted by a vote of the people at the general election in 1898, by a vote of 22,170 for, and 20,557 against. The legislature in 1899 submitted an amendment repealing Article 27, and at the general election held in 1900 the amendment was adopted by a vote of 48,673 for, and 33,927 against.

[f] Proposed by the legislature in 1899 as an amendment to the Constitution and was at the general election held in November, 1900, adopted by a popular vote of 49,989 for, and 15,653 against.

TENNESSEE

For organic acts issued previous to 1790 relating to the land now included within Tennessee see in this work:—

Virginia Charter of 1609 (Virginia, p. 3790).
Virginia Charter of 1612 (Virginia, p. 3802).
Ordinances for Virginia 1621 (Virginia, p. 3810).
Proprietary Charter of Carolina, 1663 (North Carolina, p. 2743).
Proprietary Proposals, 1663 (North Carolina, p. 2753).
Proprietary Charter of Carolina, 1665 (North Carolina, p. 2756).
Fundamental Constitutions of Carolina, 1669 (North Carolina, p. 2772).
Constitution of North Carolina, 1776 (North Carolina, p. 2787).

CESSION OF TENNESSEE TO THE UNITED STATES—1790 [a]

[First Congress, Second Session]

An Act to accept a cession of the claims of the State of North Carolina to a certain district of western territory

A deed of cession having been executed, and in the Senate offered for acceptance to the United States, of the claims of the State of North Carolina to a district of territory therein described; which deed is in the words following, viz:

"*To all who shall see these presents:*

"We, the underwritten, Samuel Johnston and Benjamin Hawkins, Senators in the Congress of the United States of America, duly and constitutionally chosen by the legislature of the State of North Carolina, send greeting:

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[a] The State of Tennessee is within the limits of the territory granted by Queen Elizabeth to Sir Walter Raleigh, and of the subsequent land-grants made by Charles II to the lords proprietors of Carolina. As it became settled, it was recognized as a portion of North Carolina, but the pioneers, as early as 1772, asserted the right of self-government, and the constitution of what was known as the "Watauga" government was the first written compact for civil rule anywhere west of the Alleghany Mountains. A few years afterward, North Carolina succeeded in exercising her rights of sovereignty, and in 1784 she 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 Frankland." There was an indisposition manifested, however, to rebel against North Carolina, and a "declaration of rights" and "constitution," which were submitted at a convention, [see Ramsey's Annals of Tennessee, pages 323–334,] were rejected, while the constitution of North Carolina, slightly modified, was adopted. The powers of an independent State government were exercised, however, until North Carolina, by a conciliatory policy, resumed her jurisdiction, and then, February 25, 1790, ceded that portion of her territory west of the mountains to the United States.

"Whereas the general assembly of the State of North Carolina, on the —— day of December, in the year of our Lord one thousand seven hundred and eighty-nine, passed an act entituled "An act for the purpose of ceding to the United States of America certain western lands therein described," in the words following, to wit:

"Whereas the United States, in Congress assembled, have repeatedly and earnestly recommended to the respective States in the Union, claiming or owning vacant western territory, to make cessions of part of the same, as a further means, as well of hastening the extinguishment of the debts as of establishing the harmony of the United States; and the inhabitants of the said western territory being also desirous that such cessions should be made, in order to obtain a more ample protection than they have heretofore received: Now, this State being ever desirous of doing ample justice to the public creditors, as well as the establishing the harmony of the United States, and complying with the reasonable desires of her citizens,

"*Be it enacted by the general assembly of the State of North Carolina, and it is hereby enacted by the authority of the same*, That the Senators of this State in the Congress of the United States, or one of the Senators and any two of the Representatives of this State in the Congress of the United States, are hereby authorized, empowered, and required to execute a deed or deeds on the part and behalf of this State, conveying to the United States of America all right, title, and claim which this State has to the sovereignty and territory of the lands situated within the chartered limits of this State west of a line beginning on the extreme height of the Stone Mountain, at the place where the Virginia line intersects it; running thence along the extreme height of the said mountain to the place where Watauga River breaks through it; thence a direct course to the top of the Yellow Mountain, where Bright's road crosses the same; thence along the ridge of said mountain, between the waters of Doe River and the waters of Rock Creek, to the place where the road crosses the Iron Mountain; from thence along the extreme height of said mountain to where Nolichucky River runs through the same; thence to the top of the Bald Mountains; thence along the extreme height of the said mountain to the Painted Rock, on French Broad River; thence along the highest ridge of the said mountain to the place where it is called the Great Iron or Smoaky Mountain; thence along the extreme height of the said mountain to the place where it is called Unicoy or Unaka Mountain, between the Indian towns of Cowee and Old Chota; thence along the main ridge of the said mountain to the southern boundary of this State, upon the following express conditions, and subject thereto, that is to say:

"First. That neither the lands nor inhabitants westward of the said mountains shall be estimated, after the cession made by virtue of this act shall be accepted, in the ascertaining the proportion of this State with the United States in the common expense occasioned by the late war.

"Secondly. That the lands laid off, or directed to be laid off, by any act or acts of the general assembly of this State for the officers and soldiers thereof, their heirs and assigns respectively, shall be and enure to the use and benefit of the said officers, their heirs and assigns respectively; and if the bounds of the said lands already prescribed for the officers and soldiers of the Continental Line of this State shall

not contain a sufficient quantity of lands fit for cultivation, to make good the several provisions intended by law, that such officer or soldier, or his assignee, who shall fall short of his allotment or proportion after all the lands fit for cultivation within the said bounds are appropriated, be permitted to take his quota, or such part thereof as may be deficient, in any other part of the said territory intended to be ceded by virtue of this act, not already appropriated. And where entries have been made agreeable to law, and titles under them not perfected by grant or otherwise, then, and in that case, the governor for the time being shall, and he is hereby, required to perfect, from time to time, such titles, in such manner as if this act had never been passed. And that all entries made by, or grants made to, all and every person or persons whatsoever, agreeable to law, and within the limits hereby intended to be ceded to the United States, shall have the same force and effect as if such cession had not been made; and that all and every right of occupancy and pre-emption, and every other right reserved by any act or acts to persons settled on and occupying lands within the limits of the lands hereby intended to be ceded as aforesaid, shall continue to be in full force, in the same manner as if the cession had not been made, and as conditions upon which the said lands are ceded to the United States. And further, it shall be understood that if any person or persons shall have, by virtue of the act entituled "An act for opening the land-office for the redemption of specie and other certificates, and discharging the arrears due to the Army," passed in the year one thousand seven hundred and eighty-three, made his or their entry in the office usually called John Armstrong's office, and located the same to any spot or piece of ground on which any other person or persons shall have previously located any entry or entries, that then, and in that case, the person or persons having made such entry or entries, or their assignee or assignees, shall have leave and be at full liberty to remove the location of such entry or entries to any lands on which no entry has been specially located, or on any vacant lands included within the limits of the lands hereby intended to be ceded: *Provided*, That nothing herein contained shall extend or be construed to extend to the making good any entry or entries, or any grant or grants heretofore declared void, by any act or acts of the general assembly of this State.

"Thirdly, That all the lands intended to be ceded by virtue of this act to the United States of America, and not appropriated as before mentioned, shall be considered as a common fund for the use and benefit of the United States of America, North Carolina inclusive, according to their respective and usual proportion in the general charge and expenditure, and shall be faithfully disposed of for that purpose, and for no other use or purpose whatever.

"Fourthly, That the territory so ceded shall be laid out and formed into a State or States, containing a suitable extent of territory, the inhabitants of which shall enjoy all the privileges, benefits, and advantages set forth in the ordinance of the late Congress for the government of the western territory of the United States, that is to say, whenever the Congress of the United States shall cause to be officially transmitted to the executive authority of this State an authenticated copy of the act to be passed by the Congress of the

United States, accepting the cession of territory made by virtue of this act, under the express conditions hereby specified; the said Congress shall at the same time assume the government of the said ceded territory, which they shall execute in a manner similar to that which they support in the territory west of the Ohio; shall protect the inhabitants against enemies, and shall never bar or deprive them of any privileges which the people in the territory west of the Ohio enjoy: *Provided always*, That no regulations made or to be made by Congress shall tend to emancipate slaves.

"Fifthly. That the inhabitants of the said ceded territory shall be liable to pay such sums of money as may, from taking their census, be their just proportion of the debt of the United States, and the arrears of the requisitions of Congress on this State.

"Sixthly. That all persons indebted to this State, residing in the territory intended to be ceded by virtue of this act, shall be held and deemed liable to pay such debt or debts in the same manner and under the same penalty or penalties as if this act had never been passed.

"Seventhly. That if the Congress of the United States do not accept the cession hereby intended to be made, in due form, and give official notice thereof to the executive of this State within eighteen months from the passing of this act, then this act shall be of no force or effect whatsoever.

"Eighthly. That the laws in force and use in the State of North Carolina at the time of passing this act shall be and continue in full force within the territory hereby ceded, until the same shall be repealed or otherwise altered by the legislative authority of the said territory.

"Ninthly. That the lands of non-resident proprietors within the said ceded territory shall not be taxed higher than the lands of residents.

"Tenthly. That this act shall not prevent the people now residing south of French Broad, between the rivers Tennessee and Big Pigeon, from entering their pre-emptions in that tract, should an office be opened for that purpose, under an act of the present general assembly.

And be it further enacted by the authority aforesaid, That the sovereignty and jurisdiction of this State, in and over the territory aforesaid, and all and every the inhabitants thereof, shall be and remain the same in all respects, until the Congress of the United States shall accept the cession to be made by virtue of this act, as if this act had never passed.

"Read three times, and ratified in general assembly, the —— day of December, A. D. 1789.

"Chas. Johnson, *Sp. Sen.*
"S. Cabarrus, *Sp. H. C.*"

Now therefore know ye that we, Samuel Johnston and Benjamin Hawkins, Senators aforesaid, by virtue of the power and authority committed to us by the said act, and in the name, and for and on behalf of the said State, do, by these presents, convey, assign, transfer, and set over unto the United States of America, for the benefit of the said States, North Carolina inclusive, all right, title, and claim which the said State hath to the sovereignty and territory of the lands situ-

ated within the chartered limits of the said State, as bounded and described in the above-recited act of the general assembly, to and for the uses and purposes and on the conditions mentioned in the said act.

In witness whereof we have hereunto subscribed our names and affixed our seals, in the Senate chamber, at New York, this twenty-fifth day of February, in the year of our Lord one thousand seven hundred and ninety, and in the fourteenth year of the Independence of the United States of America.

SAM. JOHNSTON. [L. S.]
BENJAMIN HAWKINS. [L. S.]

Signed, sealed, and delivered in the presence of—
SAM. A. OTIS.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the said deed be, and the same is hereby, accepted.

Approved, April 2, 1790.

THE TERRITORY SOUTH OF THE OHIO—1790

[FIRST CONGRESS, SECOND SESSION]

An Act for the government of the territory of the United States south of the river Ohio

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the territory of the United States south of the river Ohio, for the purposes of temporary government, shall be one district; the inhabitants of which shall enjoy all the privileges, benefits, and advantages set forth in the ordinance of the late Congress for the government of the territory of the United States northwest of the river Ohio. And the government of the said territory south of the Ohio shall be similar to that which is now exercised in the territory northwest of the Ohio; except so far as is otherwise provided in the conditions expressed in an act of Congress of the present session, entitled "An act to accept a cession of the claims of the State of North Carolina to a certain district of western territory."

SEC. 2. *And be it further enacted*, That the salaries of the officers which the President of the United States shall nominate and, with the advice and consent of the Senate, appoint, by virtue of this act, shall be the same as those by law established of similar officers in the government northwest of the river Ohio. And the powers, duties, and emoluments of a superintendent of Indian affairs for the southern department shall be united with those of the governor.

Approved, May 26, 1790.

ACT ADMITTING THE STATE OF TENNESSEE—1796 [a]

[Fourth Congress, First Session]

An Act for the admission of the State of Tennessee into the Union

Whereas by the acceptance of the deed of cession of the State of North Carolina Congress are bound to lay out into one or more States the territory thereby ceded to the United States:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the whole of the territory ceded to the United States by the State of North Carolina shall be one State, and the same is hereby declared to be one of the United States of America, on an equal footing with the original States in all respects whatever, by the name and title of the State of Tennessee. That until the next general census the said State of Tennessee shall be entitled to one Representative in the House of Representatives of the United States, and in all other respects, as far as they may be applicable, the laws of the United States shall extend to and have force in the State of Tennessee in the same manner as if that State had originally been one of the United States.

Approved, June 1, 1796.

THE CONSTITUTION OF TENNESSEE—1796 * [b]

We, the people of the territory of the United States south of the river Ohio, having the right of admission into the General Government as a member State thereof, consistent with the Constitution of the United States and the act of cession of the State of North Carolina, recognizing the ordinance for the government of the territory of the United States northwest of the river Ohio, do ordain and establish the following constitution or form of government, and do mutually agree with each other to form ourselves into a free and independent State by the name of the State of Tennessee.

Article I

Section 1. The legislative authority of this State shall be vested in a general assembly, which shall consist of a senate and house of representatives, both dependent on the people.

Sec. 2. Within three years after the first meeting of the general assembly, and within every subsequent term of seven years, an enumeration of the taxable inhabitants shall be made in such manner as shall be directed by law; the number of representatives shall, at the several periods of making such enumeration, be fixed by the legis-

* Journal of the Proceedings of a Convention begun and held at Knoxville, January 11, 1796. Knoxville: Printed by George Roulstone, 1796; Nashville: Reprinted by McKennie & Brown, True Whig Office, 1852. pp. 32.

[a] See also the act of May 8, 1792, changing slightly the duties of officers and courts, and the act of January 31, 1797, to give effect to the laws of the United States in Tennessee.

[b] This constitution was framed by a convention which assembled at Knoxville January 11, 1796, and completed its labors February 6, 1796. It was not submitted to the people for ratification.

lature, and apportioned among the several counties according to the number of taxable inhabitants in each, and shall never be less than twenty-two nor greater than twenty-six until the number of taxable inhabitants shall be forty thousand, and after that event at such ratio that the whole number of representatives shall never exceed forty.

Sec. 3. The number of senators shall, at the several periods of making the enumeration before mentioned, be fixed by the legislature and apportioned among the districts formed as hereinafter directed, according to the number of taxable inhabitants in each, and shall never be less than one-third nor more than one-half of the number of representatives.

Sec. 4. The senators shall be chosen by districts, to be formed by the legislature, each district containing such a number of taxable inhabitants as shall be entitled to elect not more than three senators. When a district shall be composed of two or more counties they shall be adjoining, and no county shall be divided in forming a district.

Sec. 5. The first election for senators and representatives shall commence on the second Thursday of March next, and shall continue for that and the succeeding day, and the next election shall commence on the first Thursday of August, one thousand seven hundred and ninety-seven, and shall continue on that and the succeeding day; and forever after elections shall be held once in two years, commencing on the first Thursday in August and terminating the succeeding day.

Sec. 6. The first session of the general assembly shall commence on the last Monday of March next; the second on the third Monday of September, one thousand seven hundred and ninety-seven; and forever after the general assembly shall meet on the third Monday of September next ensuing the then election, and at no other period, unless as provided for by this constitution.

Sec. 7. That no person shall be eligible to a seat in the general assembly unless he shall have resided three years in the State and one year in the county immediately preceding the election, and shall possess in his own right in the county which he represents not less than two hundred acres of land, and shall have attained to the age of twenty-one years.

Sec. 8. The senate and house of representatives, when assembled, shall each choose a speaker and its other officers, be judges of the qualifications and elections of its members, and sit upon its own adjournments from day to day. Two-thirds of each house shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and may be authorized by law to compel the attendance of absent members.

Sec. 9. Each house may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds expel a member, but not a second time for the same offence, and shall have all other powers necessary for the legislature of a free State.

Sec. 10. Senators and representatives shall, in all cases, except treason, felony, or breach of the peace, be privileged from arrest during the session of the general assembly, and in going to and returning from the same; and for any speech or debate in either house, they shall not be questioned in any other place.

Sec. 11. Each house may punish, by imprisonment, during their session, any person, not a member, who shall be guilty of disrespect to

the house, by any disorderly or contemptuous behavior in their presence.

Sec. 12. When vacancies happen in either house, the governor, for the time being, shall issue writs of election to fill such vacancies.

Sec. 13. Neither house shall, during their session, adjourn without consent of the other, for more than three days, nor to any other place than that in which the two houses shall be sitting.

Sec. 14. Bills may originate in either house, but may be amended, altered, or rejected by the other.

Sec. 15. Every bill shall be read three times, on three different days, in each house, and be signed by the respective speakers, before it becomes a law.

Sec. 16. After a bill has been rejected, no bill containing the same substance shall be passed into a law during the same session.

Sec. 17. The style of the laws of this State shall be, "*Be it enacted by the general assembly of the State of Tennessee.*"

Sec. 18. Each house shall keep a journal of its proceedings, and publish them, except such parts as the welfare of the State may require to be kept secret. And the yeas and nays of the members on any question shall, at the request of any two of them, be entered on the journals.

Sec. 19. The doors of each house, and committees of the whole, shall be kept open, unless when the business shall be such as ought to be kept secret.

Sec. 20. The legislature of this State shall not allow the following officers of government greater annual salaries than as follows, until the year one thousand eight hundred and four, to wit:

The governor not more than seven hundred and fifty dollars.

The judges of the superior courts not more than six hundred dollars each.

The secretary not more than four hundred dollars.

The treasurer or treasurers not more than 4 per cent. for receiving and paying out all moneys.

The attorney or attorneys for the State shall receive a compensation for their services, not exceeding fifty dollars for each superior court which he shall attend.

No member of the legislature shall receive more than one dollar and seventy-five cents per day, nor more for every twenty-five miles he shall travel in going to and returning from the general assembly.

Sec. 21. No money shall be drawn from the treasury but in consequence of appropriations made by law.

Sec. 22. No person who heretofore hath been, or hereafter may be, a collector or holder of public moneys shall have a seat in either house of the general assembly, until such person shall have accounted for, and paid into the treasury, all sums for which he may be accountable or liable.

Sec. 23. No judge of any court of law or equity, secretary of state, attorney-general, register, clerk of any court of record, or person holding any office under the authority of the United States shall have a seat in the general assembly; nor shall any person in this State hold more than one lucrative office at one and the same time: *Provided*, That no appointment in the militia, or to the office of a justice of the peace, shall be considered a lucrative office.

Sec. 24. No member of the general assembly shall be eligible to any office or place of trust, except to the office of a justice of the peace, or trustee of any literary institution, where the power of appointment to such office or place of trust is vested in their own body.

Sec. 25. Any member of either house of the general assembly shall have liberty to dissent from and protest against any act or resolve which he may think injurious to the public, or any individual, and have the reasons of his dissent entered on the journals.

Sec. 26. All lands liable to taxation in this State, held by deed, grant, or entry, shall be taxed equal and uniform, in such manner that no one hundred acres shall be taxed higher than another, except town-lots, which shall not be taxed higher than two hundred acres of land each; no freeman shall be taxed higher than one hundred acres, and no slave higher than two hundred acres on each poll.

Sec. 27. No article manufactured of the produce of this State shall be taxed otherwise than to pay inspection fees.

Article II

Section 1. The supreme executive power of this State shall be vested in a governor.

Sec. 2. The governor shall be chosen by the electors of the members of the general assembly, at the times and places where they shall respectively vote for the members thereof. The returns of every election for governor shall be sealed up, and transmitted to the seat of government by the returning officers, directed to the speaker of the senate, who shall open and publish them in the presence of a majority of the members of each house of the general assembly. The person having the highest number of votes shall be governor; but if two or more shall be equal and highest in votes, one of them shall be chosen governor by joint ballot of both houses of the general assembly. Contested elections for governor shall be determined by both houses of the general assembly, in such manner as shall be prescribed by law.

Sec. 3. He shall be at least twenty-five years of age, and possess a freehold estate of five hundred acres of land, and have been a citizen or inhabitant of this State four years next before his election, unless he shall have been absent on the public business of the United States or of this State.

Sec. 4. The first governor shall hold his office until the fourth Tuesday of September, one thousand seven hundred and ninety-seven, and until another governor shall be elected and qualified to office; and forever after the governor shall hold his office for the term of two years, and until another governor shall be elected and qualified: but shall not be eligible more than six years in any term of eight.

Sec. 5. He shall be commander-in-chief of the army and navy of this State, and of the militia, except when they shall be called into the service of the United States.

Sec. 6. He shall have power to grant reprieves and pardons, after conviction, except in cases of impeachment.

Sec. 7. He shall, at stated times, receive a compensation for his services, which shall not be increased or diminished during the period for which he shall have been elected.

Sec. 8. He may require information, in writing, from the officers in

the executive department, upon any subject relating to the duties of their respective offices.

Sec. 9. He may, on extraordinary occasions, convene the general assembly by proclamation, and shall state to them, when assembled, the purpose for which they shall have been convened.

Sec. 10. He shall take care that the laws shall be faithfully executed.

Sec. 11. He shall, from time to time, give to the general assembly information of the state of the government, and recommend to their consideration such measures as he shall judge expedient.

Sec. 12. In case of his death, or resignation, or removal from office, the speaker of the senate shall exercise the office of governor until another governor shall be duly qualified.

Sec. 13. No member of Congress or person holding any office under the United States, or this State, shall execute the office of governor.

Sec. 14. When any officer, the right of whose appointment is by this constitution vested in the general assembly, shall, during the recess, die, or his office by other means become vacant, the governor shall have power to fill up such vacancy by granting a temporary commission, which shall expire at the end of the next session of the legislature.

Sec. 15. There shall be a seal of this State, which shall be kept by the governor, and used by him officially, and shall be called "The Great Seal of the State of Tennessee."

Sec. 16. All grants and commissions shall be in the name and by the authority of the State of Tennessee, be sealed with the State seal, and signed by the governor.

Sec. 17. A secretary of this State shall be appointed and commissioned during the term of four years. He shall keep a fair register of all the official acts and proceedings of the governor; and shall, when required, lay the same, and all papers, minutes, and vouchers relative thereto, before the general assembly, and shall perform such other duties as shall be enjoined him by law.

Article III

Section 1. Every freeman of the age of twenty-one years and upwards, possessing a freehold in the county wherein he may vote, and being an inhabitant of this State, and every freeman, being an inhabitant of any one county in the State six months immediately preceding the day of election, shall be entitled to vote for members of the general assembly, for the county in which he shall reside.

Sec. 2. Electors shall in all cases, except treason, felony, or breach of the peace, be privileged from arrest during their attendance at elections, and in going to and returning from them.

Sec. 3. All elections shall be by ballot.

Article IV

Section 1. The house of representatives shall have the sole power of impeachment.

Sec. 2. All impeachments shall be tried by the senate. When sitting for that purpose, the senators shall be upon oath or affirmation.

Sec. 3. No person shall be convicted, without the concurrence of two-thirds of the members of the whole house.

Sec. 4. The governor, and all civil officers under this State, shall be liable to impeachment for any misdemeanor in office; but judgment, in such cases, shall not extend further than to removal from office, and disqualification to hold any office of honor, trust, or profit under this State. The party shall, nevertheless, in all cases be liable to indictment, trial, judgment, and punishment, according to law.

Article V

Section 1. The judicial power of the State shall be vested in such superior and inferior courts of law and equity as the legislature shall, from time to time, direct and establish.

Sec. 2. The general assembly shall, by joint ballot of both houses, appoint judges of the several courts of law and equity, also an attorney or attorneys for the State, who shall hold their respective offices during good behavior.

Sec. 3. The judges of the superior court shall, at stated times, receive a compensation for their services, to be ascertained by law; but shall not be allowed any fees or perquisites of office, nor shall they hold any other office of trust or profit under this State or the United States.

Sec. 4. The judges of the superior courts shall be justices of oyer and terminer and general jail-delivery throughout the State.

Sec. 5. The judges of the superior and inferior courts shall not charge juries with respect to matters of fact, but may state the testimony and declare the law.

Sec. 6. The judges of the superior courts shall have power, in all civil cases, to issue writs of *certiorari*, to remove any cause, or a transcript thereof, from any inferior court of record into the superior, on sufficient cause, supported by oath or affirmation.

Sec. 7. The judges or justices of the inferior courts of law shall have power, in all civil cases, to issue writs of *certiorari*, to remove any cause, or a transcript thereof, from any inferior jurisdiction into their court, on sufficient cause, supported by oath or affirmation.

Sec. 8. No judge shall sit on the trial of any cause where the parties shall be connected with him by affinity or consanguinity, except by consent of parties. In case all the judges of the superior court shall be interested in the event of any cause, or related to all or either of the parties, the governor of the State shall in such case specially commission three men of law knowledge for the determination thereof.

Sec. 9. All writs and other process shall run in the name of the State of Tennessee, and bear test and be signed by the respective clerks. Indictments shall conclude, "against the peace and dignity of the State."

Sec. 10. Each court shall appoint its own clerk, who may hold his office during good behavior.

Sec. 11. No fine shall be laid on any citizen of this State that shall exceed fifty dollars, unless it shall be assessed by a jury of his peers, who shall assess the fine at the time they find the fact, if they think the fine ought to be more than fifty dollars.

Sec. 12. There shall be justices of the peace appointed for each county, not exceeding two for each captain's company, except for the company which includes the county town, which shall not exceed three, who shall hold their offices during good behavior.

Article VI

Section 1. There shall be appointed in each county, by the county court, one sheriff, one coroner, one trustee, and a sufficient number of constables, who shall hold their offices for two years. They shall also have power to appoint one register and ranger for the county, who shall hold their offices during good behavior. The sheriff and coroner shall be commissioned by the governor.

Sec. 2. There shall be a treasurer or treasurers appointed for the State, who shall hold his or their offices for two years.

Sec. 3. The appointment of all officers, not otherwise directed by this constitution, shall be vested in the legislature.

Article VII

Section 1. Captains, subalterns, and non-commissioned officers shall be elected by those citizens, in their respective districts, who are subject to military duty.

Sec. 2. All field-officers of the militia shall be elected by those citizens in their respective counties who are subject to military duty.

Sec. 3. Brigadiers-general shall be elected by the field-officers of their respective brigades.

Sec. 4. Majors-general shall be elected by the brigadiers and field-officers of the respective divisions.

Sec. 5. The governor shall appoint the adjutant-general; the majors-general shall appoint their aids; the brigadiers-general shall appoint their brigade-majors, and the commanding officers of regiments their adjutants and quartermasters.

Sec. 6. The captains and the subalterns of the cavalry shall be appointed by the troops enrolled in their respective companies, and the field-officers of the district shall be appointed by the said captains and subalterns: *Provided*, That, whenever any new county is laid off, that the field-officers of the said cavalry shall appoint the captain and other officers therein *pro tempore*, until the company is filled up and completed, at which time the election of the captains and subalterns shall take place as aforesaid.

Sec. 7. The legislature shall pass laws exempting citizens, belonging to any sect or denomination of religion the tenets of which are known to be opposed to the bearing of arms, from attending private and general musters.

Article VIII

Section 1. Whereas the ministers of the gospel are, by their professions, dedicated to God and the care of souls, and ought not to be diverted from the great duties of their functions; therefore no minister of the gospel, or priest of any denomination whatever, shall be eligible to a seat in either house of the legislature.

Sec. 2. 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.

Article IX

Section 1. That every person who shall be chosen or appointed to any office of trust or profit shall, before entering on the execution thereof, take an oath to support the constitution of this State, and also an oath of office.

SEC. 2. That each member of the senate and house of representatives shall, before they proceed to business, take an oath or affirmation to support the constitution of this State, and also the following oath:

"I, A. B., do solemnly swear [or affirm] that, as a member of this general assembly, I will in all appointments vote without favor, affection, partiality, or prejudice, and that I will not propose or assent to any bill, vote, or resolution which shall appear to me injurious to the people, or consent to any act or thing whatever that shall have a tendency to lessen or abridge their rights and privileges, as declared by the constitution of this State."

SEC. 3. Any elector who shall receive any gift or reward for his vote, in meat, drink, money, or otherwise, shall suffer such punishment as the laws shall direct. And any person who shall directly or indirectly give, promise, or bestow any such reward to be elected, shall thereby be rendered incapable, for two years, to serve in the office for which he was elected, and be subject to such further punishment as the legislature shall direct.

SEC. 4. No new county shall be established by the general assembly which shall reduce the county or counties, or either of them, from which it shall be taken to a less content than six hundred and twenty-five square miles; nor shall any new county be laid off of less contents. All new counties, as to the right of suffrage and representation, shall be considered as a part of the county or counties from which it was taken, until entitled by numbers to the right of representation. No bill shall be passed into a law for the establishment of a new county except upon a petition to the general assembly for that purpose, signed by two hundred of the free male inhabitants within the limits or bounds of such new county prayed to be laid off.

ARTICLE X

SECTION 1. Knoxville shall be the seat of government until the year one thousand eight hundred and two.

SEC. 2. All laws and ordinances now in force and use in this Territory, not inconsistent with this constitution, shall continue to be in force and use in this State, until they shall expire, be altered, or repealed by the legislature.

SEC. 3. That whenever two-thirds of the general assembly shall think it necessary to amend or change this constitution, they shall recommend to the electors, at the next election for members to the general assembly, to vote for or against a convention; and if it shall appear that a majority of all the citizens of the State, voting for representatives, have voted for a convention, the general assembly shall, at their next session, call a convention, to consist of as many members as there be in the general assembly, to be chosen in the same manner, at the same place, and by the same electors that chose the general assembly, who shall meet within three months after the said election, for the purpose of revising, amending, or changing the constitution.

SEC. 4. The declaration of rights hereto annexed is declared to be a part of the constitution of this State, and shall never be violated on any pretence whatever. And to guard against transgressions of the high powers which we have delegated, we declare that everything in

the bill of rights contained, and every other right not hereby delegated, is excepted out of the general powers of government, and shall forever remain inviolate.

Article XI

DECLARATION OF RIGHTS

Section 1. That all power is inherent in the people, and all free governments are founded on their authority, and instituted for their peace, safety, and happiness; for the advancement of those ends, they have at all times an unalienable and indefeasible right to alter, reform, or abolish the government in such manner as they may think proper.

Sec. 2. That, government being instituted for the common benefit, the doctrine of non-resistance against arbitrary power and oppression is absurd, slavish, and destructive to the good and happiness of mankind.

Sec. 3. That all men have a natural and indefeasible right to worship Almighty God according to the dictates of their own consciences; that no man can of right be compelled to attend, erect, or support any place of worship, or to maintain any ministry against his consent; that no human authority can in any case whatever control or interfere with the rights of conscience; and that no preference shall ever be given by law to any religious establishments or modes of worship.

Sec. 4. That no religious test shall ever be required as a qualification to any office or public trust under this State.

Sec. 5. That elections shall be free and equal.

Sec. 6. That the right of trial by jury shall remain inviolate.

Sec. 7. That the people shall be secure in their persons, houses, papers, and possessions, from unreasonable searches and seizures, and that general warrants, whereby an officer may be commanded to search suspected places, without evidence of the fact committed, or to seize any person or persons not named, whose offences are not particularly described and supported by evidence, are dangerous to liberty, and ought not to be granted.

Sec. 8. That no freeman shall be taken, or imprisoned, or disseized of his freehold, liberties, or privileges, or outlawed or exiled, or in any manner destroyed or deprived of his life, liberty, or property, but by the judgment of his peers or the law of the land.

Sec. 9. That in all criminal prosecutions the accused hath a right to be heard by himself and his counsel; to demand the nature and cause of the accusation against him, and to have a copy thereof; to meet the witnesses face to face; to have compulsory process for obtaining witnesses in his favor; and in prosecutions by indictment or presentment a speedy public trial, by an impartial jury of the county or district in which the crime shall have been committed; and shall not be compelled to give evidence against himself.

Sec. 10. That no person shall, for the same offence, be twice put in jeopardy of life or limb.

Sec. 11. That laws made for the punishment of facts committed previous to the existence of such laws, and by them only declared

criminal, are contrary to the principles of a free government; wherefore no *ex post facto* law shall be made.

Sec. 12. That no conviction shall work corruption of blood or forfeiture of estate. The estate of such persons as shall destroy their own lives shall descend or vest as in case of natural death. If any person be killed by casualty, there shall be no forfeiture in consequence thereof.

Sec. 13. That no person arrested, or confined in jail, shall be treated with unnecessary rigor.

Sec. 14. That no freeman shall be put to answer any criminal charge, but by presentment, indictment, or impeachment.

Sec. 15. That all prisoners shall be bailable by sufficient sureties, unless for capital offences, when the proof is evident or the presumption great. And the privilege of the writ of *habeas corpus* shall not be suspended, unless when, in case of rebellion or invasion, the public safety may require it.

Sec. 16. That excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Sec. 17. That all courts shall be open; and every man, for an injury done him in his lands, goods, person, or reputation, shall have remedy by due course of law, and right and justice administered without sale, denial, or delay. Suits may be brought against the State in such manner and in such courts as the legislature may by law direct: *Provided*, The right of bringing suit be limited to the citizens of this State.

Sec. 18. That the person of a debtor, where there is not strong presumption of fraud, shall not be continued in prison after delivering up his estate for the benefit of his creditor or creditors, in such manner as shall be prescribed by law.

Sec. 19. That the printing-presses shall be free to every person who undertakes to examine the proceedings of the legislature, or of any branch or officer of government; and no law shall ever be made to restrain the right thereof. The free communication of thoughts and opinions is one of the invaluable rights of man; and every citizen may freely speak, write, and print on any subject, being responsible for the abuse of that liberty. But in prosecutions for the publication of papers investigating the official conduct of officers or men in public capacity, the truth thereof may be given in evidence; and in all indictments for libels, the jury shall have a right to determine the law and the facts, under the direction of the court, as in other cases.

Sec. 20. That no retrospective law, or law impairing the obligation of contracts, shall be made.

Sec. 21. That no man's particular services shall be demanded or property taken, or applied to public use, without the consent of his representatives, or without just compensation being made therefor.

Sec. 22. That the citizens have a right, in a peaceable manner, to assemble together for their common good, to instruct their representatives, and to apply to those invested with the powers of government for redress of grievances, or other proper purposes, by address or remonstrance.

Sec. 23. That perpetuities and monopolies are contrary to the genius of a free State, and shall not be allowed.

SEC. 24. That the sure and certain defence of a free people is a well-regulated militia; and as standing armies, in time of peace, are dangerous to freedom, they ought to be avoided, as far as the circumstances and safety of the community will admit, and that in all cases the military shall be in strict subordination to the civil authority.

SEC. 25. That no citizen in this State, except such as are employed in the Army of the United States or militia in actual service, shall be subject to corporal punishment under the martial law.

SEC. 26. That the freemen of this State have a right to keep and to bear arms for their common defence.

SEC. 27. That no soldier shall in time of peace be quartered in any house without consent of the owner, nor in time of war but in a manner prescribed by law.

SEC. 28. That no citizen of this State shall be compelled to bear arms, provided he will pay an equivalent, to be ascertained by law.

SEC. 29. That an equal participation of the free navigation of the Mississippi is one of the inherent rights of the citizens of this State; it cannot, therefore, be conceded to any prince, potentate, power, person, or persons whatever.

SEC. 30. That no hereditary emoluments, privileges, or honors shall ever be granted or conferred in this State.

SEC. 31. That the people residing south of French Broad and Holston, between the rivers Tennessee and the Big Pigeon, are entitled to the right of preëmption and occupancy in that tract.

SEC. 32. That the limits and boundaries of this State be ascertained, it is declared they are as hereafter mentioned; that is to say: Beginning on the extreme height of the Stone Mountain, at the place where the line of Virginia intersects it, in latitude thirty-six degrees and thirty minutes north; running thence along the extreme height of the said mountain to the place where Watauga River breaks through it; thence a direct course to the top of the Yellow Mountain, where Bright's road crosses the same; thence along the ridge of said mountain, between the waters of Doe River and the waters of Rock Creek, to the place where the road crosses the Iron Mountain; from thence along the extreme height of said mountain to where Nolichucky River runs through the same; thence to the top of the Bald Mountain; thence along the extreme height of said mountain to the Painted Rock, on French Broad River; thence along the highest ridge of said mountain to the place where it is called the Great Iron or Smoky Mountain; thence along the extreme height of said mountain to the place where it is called Unicoi or Unaka Mountain, between the Indian towns of Cowee and Old Chota; thence along the main ridge of the said mountain to the southern boundary of this State, as described in the act of cession of North Carolina to the United States of America, and that all the territory, lands, and waters lying west of the said line, as before mentioned, and contained within the chartered limits of the State of North Carolina, are within the boundaries and limits of this State, over which the people have the right of exercising sovereignty and right of soil so far as is consistent with the Constitution of the United States, recognizing the Articles of Confederation, the Bill of Rights, and constitution of North Carolina, the cession act of the said State, and the ordinance

of the late Congress for the government of the territory northwest of the Ohio; provided nothing herein contained shall extend to affect the claim or claims of individuals to any part of the soil which is recognized to them by the aforesaid cession act.

SCHEDULE

SECTION 1. That no inconvenience may arise from a change of the temporary to a permanent State government, it is declared that all rights, actions, prosecutions, claims, and contracts, as well of individuals as of bodies-corporate, shall continue as if no change had taken place in the administration of government.

SEC. 2. All fines, penalties, and forfeitures, due and owing to the territory of the United States of America south of the river Ohio, shall inure to the use of the State. All bonds for performance, executed to the governor of the said territory, shall be and pass over to the governor of this State, and his successors in office, for the use of the State, or by him or them respectively to be assigned over to the use of those concerned, as the case may be.

SEC. 3. The governor, secretary, judges, and brigadiers-general have a right, by virtue of their appointments, under the authority of the United States, to continue in the exercise of the duties of their respective offices in their several departments until the said officers are superseded under the authority of this constitution.

SEC. 4. All officers, civil and military, who have been appointed by the governor, shall continue to exercise their respective offices until the second Monday in June, and until successors in office shall be appointed under the authority of this constitution and duly qualified.

SEC. 5. The governor shall make use of his private seal until a State seal shall be provided.

SEC. 6. Until the first enumeration shall be made, as directed in the second section of the first article of this constitution, the several counties shall be respectively entitled to elect one senator and two representatives: *Provided*, That no new county shall be entitled to separate representation previous to taking the enumeration.

SEC. 7. That the next election for representatives and other officers to be held for the county of Tennessee shall be held at the house of William Miles.

SEC. 8. Until a land-office shall be opened, so as to enable the citizens south of French Broad and Holston, between the rivers Tennessee and Big Pigeon, to obtain titles upon their claims of occupancy and preëmption, those who hold land by virtue of such claims shall be eligible to serve in all capacities where a freehold is by this constitution made a requisite qualification.

Done in convention at Knoxville, by unanimous consent, on the sixth day of February, in the year of our Lord one thousand seven hundred and ninety-six, and of the Independence of the United States of America the twentieth. In testimony whereof we have hereunto subscribed our names.

WILLIAM BLOUNT, *President.*

WILLIAM MACLIN, *Secretary.*

CONSTITUTION OF TENNESSEE—1834 * [a]

Whereas the people of the territory of the United States south of the river Ohio, having the right of admission into the General Government as a member State thereof, consistent with the Constitution of the United States, and the act of cession of the State of North Carolina, recognizing the ordinance for the government of the territory of the United States northwest of the river Ohio, by their delegates and representatives in convention assembled, did, on the sixth day of February, in the year of our Lord one thousand seven hundred and ninety-six, ordain and establish a constitution or form of government, and mutually agree with each other to form themselves into a free and independent State, by the name of "the State of Tennessee;" and whereas the general assembly of said State of Tennessee, pursuant to the third section of the tenth article of the constitution, by an act passed on the twenty-seventh day of November, in the year of our Lord one thousand eight hundred and thirty-three, entitled "An act to provide for the calling of a convention," did authorize and provide for the election by the people of delegates and representatives to meet at Nashville, in Davidson County, on the third Monday in May, in the year of our Lord one thousand eight hundred and thirty-four, "for the purpose of revising and amending (or changing) the constitution."

We, therefore, the delegates and representatives of the people of the State of Tennessee, elected and in convention assembled, in pursuance of the said act of assembly, have ordained and established the following amended constitution and form of government for this State, which we recommend to the people of Tennessee for their ratification; that is to say:

Article I

DECLARATION OF RIGHTS

Section I. That all power is inherent in the people, and all free governments are founded on their authority and instituted for their peace, safety, and happiness; for the advancement of those ends they have at all times an inalienable and indefeasible right to alter, reform, or abolish the government in such manner as they may think proper.

Sec. 2. That government being instituted for the common benefit, the doctrine of non-resistance against arbitrary power and oppression is absurd, slavish, and destructive to the good and happiness of mankind.

Sec. 3. That all men have a natural and indefeasible right to worship Almighty God according to the dictates of their own conscience;

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* Verified from "The Statutes of Tennessee, Caruthers and Nicholson, Nashville, Press of James Smith 1836 pp. 45–62, and Acts of the State of Tennessee, Nashville, Mercer, Printer to the State 1865." pp. III–XIII.

[a] This constitution was framed by a convention which assembled at Nashville May 19, 1834, and completed its labors August 30, 1834. It was submitted to the people March 5 and 6, 1835, and ratified by 42,666 votes against 17,691 votes.

that no man can of right be compelled to attend, erect, or support any place of worship, or to maintain any minister, against his consent; that no human authority can, in any case whatever, control or interfere with the rights of conscience; and that no preference shall ever be given by law to any religious establishment or mode of worship.

SEC. 4. That no religious test shall ever be required as a qualification to any office or public trust under this State.

SEC. 5. That elections shall be free and equal.

SEC. 6. That the right of trial by jury shall remain inviolate.

SEC. 7. That the people shall be secure in their persons, houses, papers, and possessions, from unreasonable searches and seizures; and that general warrants, whereby an officer may be commanded to search suspected places, without evidence of the fact committed, or to seize any person or persons not named, whose offences are not particularly described and supported by evidence, are dangerous to liberty, and ought not to be granted.

SEC. 8. That no free man shall be taken or imprisoned, or disseized of his freehold, liberties, or privileges, or outlawed, or exiled, or in any manner destroyed or deprived of his life, liberty, or property, but by the judgment of his peers, or the law of the land.

SEC. 9. That in all criminal prosecutions the accused hath a right to be heard by himself and his counsel; to demand the nature and cause of the accusation against him, and to have a copy thereof; to meet the witnesses face to face; to have compulsory process for obtaining witnesses in his favor; and in prosecutions by indictment or presentment, a speedy public trial, by an impartial jury of the county or district in which the crime shall have been committed; and shall not be compelled to give evidence against himself.

SEC. 10. That no person shall, for the same offence, be twice put in jeopardy of life or limb.

SEC. 11. That laws made for the punishment of facts committed previous to the existence of such laws, and by them only declared criminal, are contrary to the principles of a free government; wherefore, no *ex post facto* law shall be made.

SEC. 12. That no conviction shall work corruption of blood or forfeiture of estate. The estate of such persons as shall destroy their own lives shall descend or vest as in case of natural death. If any person be killed by casualty, there shall be no forfeiture in consequence thereof.

SEC. 13. That no person arrested or confined in jail shall be treated with unnecessary rigor.

SEC. 14. That no freeman shall be put to answer any criminal charge but by presentment, indictment, or impeachment.

SEC. 15. That all prisoners shall be bailable by sufficient sureties, unless for capital offences when the proof is evident or the presumption great. And the privilege of the writ of *habeas corpus* shall not be suspended, unless when, in case of rebellion or invasion, the public safety may require it.

SEC. 16. That excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

SEC. 17. That all courts shall be open; and every man, for an injury done him in his lands, goods, person, or reputation, shall have remedy by due course of law, and right and justice administered

without sale, denial, or delay. Suits may be brought against the State in such manner, and in such courts, as the legislature may by law direct.

Sec. 18. That the person of a debtor, where there is not strong presumption of fraud, shall not be continued in prison after delivering up his estate for the benefit of his creditors, in such manner as shall be prescribed by law.

Sec. 19. That the printing-presses shall be free to every person who undertakes to examine the proceedings of the legislature, or of any branch of office of government; and no law shall ever be made to restrain the right thereof. The free communication of thoughts and opinions is one of the invaluable rights of man, and every citizen may freely speak, write, and print on any subject, being responsible for the abuse of that liberty. But in prosecutions for the publication of papers investigating the official conduct of officers or men in public capacity, the truth thereof may be given in evidence; and in all indictments for libels, the jury shall have a right to determine the law and the facts, under the direction of the court, as in other criminal cases.

Sec. 20. That no retrospective law, or law impairing the obligation of contracts, shall be made.

Sec. 21. That no man's particular services shall be demanded, or property taken, or applied to public use, without the consent of his representatives, or without just compensation being made therefor.

Sec. 22. That perpetuities and monopolies are contrary to the genius of free State, and shall not be allowed.

Sec. 23. That the citizens have a right, in a peaceable manner, to assemble together for their common good, to instruct their representatives, and to apply to those invested with the powers of government for redress of grievances or other proper purposes, by address or remonstrance.

Sec. 24. That the sure and certain defence of a free people is a well-regulated militia; and, as standing armies in time of peace are dangerous to freedom, they ought to be avoided, as far as the circumstances and safety of the community will admit; and that in all cases the military shall be kept in strict subordination to the civil authority.

Sec. 25. That no citizen of this State, except such as are employed in the Army of the United States, or militia in actual service, shall be subjected to corporeal punishment under the martial law.

Sec. 26. That the free white men of this State have a right to keep and to bear arms for their common defence.

Sec. 27. That no soldier shall, in time of peace, be quartered in any house without the consent of the owner; nor in time of war, but in a manner prescribed by law.

Sec. 28. That no citizen of this State shall be compelled to bear arms, provided he will pay an equivalent, to be ascertained by law.

Sec. 29. That an equal participation of the free navigation of the Mississippi is one of the inherent rights of the citizens of this State; it cannot, therefore, be conceded to any prince, potentate, power, person or persons whatever.

Sec. 30. That no hereditary emoluments, privileges, or honors shall ever be granted or conferred in this State.

SEC. 31. That the limits and boundaries of this State be ascertained, it is declared they are as hereafter mentioned, that is to say: Beginning on the extreme height of the Stone Mountain, at the place where the line of Virginia intersects it, in latitude thirty-six degrees and thirty minutes north; running thence along the extreme height of the said mountain to the place where Watauga River breaks through it; thence a direct course to the top of the Yellow Mountain, where Bright's road crosses the same; thence along the ridge of said mountain, between the waters of Doe River and the waters of Rock Creek, to the place where the road crosses the Iron Mountain; from thence along the extreme height of said mountain to the place where Nolichucky River runs through the same; thence to the top of the Bald Mountain; thence along the extreme height of said mountain to the Painted Rock, on French Broad River; thence along the highest ridge of said mountain to the place where it is called the Great Iron on Smoky Mountain; thence along the extreme height of said mountain to the place where it is called Unicoi or Unaka Mountain, between the Indian towns of Cowee and Old Chota; thence along the main ridge of the said mountain to the southern boundary of this State, as described in the act of cession of North Carolina to the United States of America; and that all the territory, lands, and waters lying west of the said line, as before mentioned, and contained within the chartered limits of the State of North Carolina, are within the boundaries and limits of this State, over which the people have the right of exercising sovereignty and the right of soil, so far as is consistent with the Constitution of the United States, recognizing the Articles of Confederation, the Bill of Rights, and constitution of North Carolina, the cession act of the said State, and the ordinance of Congress for the government of the territory northwest of the Ohio: *Provided*, Nothing herein contained shall extend to affect the claim or claims of individuals to any part of the soil which is recognized to them by the aforesaid cession act: *And provided also*, That the limits and jurisdiction of this State shall extend to any other land and territory now acquired, or that may hereafter be acquired by compact or agreement with other States or otherwise, although such land and territory are not included within the boundaries hereinbefore designated.

SEC. 32. The people residing south of French Broad and Holston, between the rivers Tennessee and Big Pigeon, are entitled to the right of pre-emption and occupancy in that tract.

ARTICLE II

SECTION 1. The powers of the government shall be divided into three distinct departments, the legislative, executive, and judicial.

SEC. 2. No person or persons belonging to one of these departments shall exercise any of the powers properly belonging to either of the others, except in the cases herein directed or permitted.

SEC. 3. The legislative authority of this State shall be vested in a general assembly, which shall consist of a senate and house of representatives, both dependent on the people.

SEC. 4. An enumeration of the qualified voters and an apportionment of the representatives in the general assembly shall be made in

the year one thousand eight hundred and forty-one, and within every subsequent term of ten years.

Sec. 5. The number of representatives shall, at the several periods of making the enumeration, be apportioned among the several counties or districts according to the number of qualified voters in each; and shall not exceed seventy-five, until the population of the State shall be one million and a half; and shall never thereafter exceed ninety-nine: *Provided*, That any county having two-thirds of the ratio shall be entitled to one member.

Sec. 6. The number of senators shall, at the several periods of making the enumeration, be apportioned among the several counties or districts, according to the number of qualified electors in each, and shall not exceed one-third the number of representatives. In apportioning the senators among the different counties, the fraction that may be lost by any county or counties, in the apportionment of members to the house of representatives, shall be made up to such county or counties in the senate as near as may be practicable. When a district is composed of two or more counties, they shall be adjoining; and no county shall be divided in forming a district.

Sec. 7. The first election for senators and representatives shall be held on the first Thursday in August, one thousand eight hundred and thirty-five; and forever thereafter elections for members of the general assembly shall be held once in two years, on the first Thursday in August; said elections shall terminate the same day.

Sec. 8. The first session of the general assembly shall commence on the first Monday in October, one thousand eight hundred and thirty-five; and forever thereafter the general assembly shall meet on the first Monday in October next ensuing the election.

Sec. 9. No person shall be a representative, unless he shall be a citizen of the United States of the age of twenty-one years, and shall have been a citizen of this State for three years, and a resident in the county he represents one year immediately preceding the election.

Sec. 10. No person shall be a senator unless he shall be a citizen of the United States, of the age of thirty years, and shall have resided three years in this State, and one year in the county or district, immediately preceding the election. No senator or representative shall, during the time for which he was elected, be eligible to any office or place of trust, the appointment to which is vested in the executive or the general assembly, except to the office of trustee of a literary institution.

Sec. 11. The senate and house of representatives, when assembled, shall each choose a speaker and its other officers, be judges of the qualifications and election of its members, and sit upon its own adjournments from day to day. Two-thirds of each house shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized by law to compel the attendance of absent members.

Sec. 12. Each house may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member, but not a second time for the same offence; and shall have all other powers necessary for a branch of the legislature of a free State.

Sec. 13. Senators and representatives shall in all cases, except treason, felony, or breach of the peace, be privileged from arrest during

the session of the general assembly, and in going to and returning from the same; and, for any speech or debate in either house, they shall not be questioned in any other place.

Sec. 14. Each house may punish by imprisonment during its session any person, not a member, who shall be guilty of disrespect to the house, by any disorderly or contemptuous behavior in its presence.

Sec. 15. When vacancies happen in either house, the governor for the time being shall issue writs of election to fill such vacancies.

Sec. 16. Neither house shall, during its session, adjourn without consent of the other for more than three days, nor to any other place than that in which the two houses shall be sitting.

Sec. 17. Bills may originate in either house, but may be amended, altered, or rejected by the other.

Sec. 18. Every bill shall be read once on three different days, and be passed each time in the house where it originated, before transmission to the other. No bill shall become a law until it shall be read and passed on three different days in each house, and be signed by the respective speakers.

Sec. 19. After a bill has been rejected, no bill containing the same substance shall be passed into a law during the same session.

Sec. 20. The style of the laws of this State shall be, "*Be it enacted by the general assembly of the State of Tennessee.*"

Sec. 21. Each house shall keep a journal of its proceedings, and publish it, except such parts as the welfare of the State may require to be kept secret; the ayes and nays shall be taken in each house upon the final passage of every bill of a general character, and bills making appropriations of public moneys; and the ayes and noes of the members on any question shall, at the request of any two of them, be entered on the journal.

Sec. 22. The doors of each house and of committees of the whole shall be kept open, unless when the business shall be such as ought to be kept secret.

Sec. 23. The sum of four dollars per day, and four dollars for every twenty-five miles travelling to and from the seat of government, shall be allowed to the members of the first general assembly, as a compensation for their services. The compensation of the members of the succeeding legislatures shall be ascertained by law; but no law increasing the compensation of the members shall take effect until the commencement of the next regular session after such law shall have been enacted.

Sec. 24. No money shall be drawn from the treasury but in consequence of appropriations made by law; and an accurate statement of the receipts and expenditures of the public money shall be attached to and published with the laws at the rise of each stated session of the general assembly.

Sec. 25. No person who heretofore hath been, or may hereafter be, a collector or holder of public moneys, shall have a seat in either house of the general assembly until such person shall have accounted for and paid into the treasury all sums for which he may be accountable or liable.

Sec. 26. No judge of any court of law or equity, secretary of state, attorney-general, register, clerk of any court of record, or person holding any office under the authority of the United States, shall have a seat in the general assembly; nor shall any person in this State

hold more than one lucrative office at the same time: *Provided*, That no appointment in the militia, or to the office of justice of the peace, shall be considered a lucrative office, or operate as a disqualification to a seat in either house of the general assembly.

Sec. 27. Any member of either house of the general assembly shall have liberty to dissent from, and protest against, any act or resolve which he may think injurious to the public or to any individual, and to have the reasons for his dissent entered on the journals.

Sec. 28. All lands liable to taxation, held by deed, grant, or entry, town-lots, bank-stock, slaves between the ages of twelve and fifty years, and such other property as the legislature may from time to time deem expedient, shall be taxable. All property shall be taxed according to its value; that value to be ascertained in such manner as the legislature shall direct, so that the same shall be equal and uniform throughout the State. No one species of property from which a tax may be collected shall be taxed higher than any other species of property of equal value. But the legislature shall have power to tax merchants, pedlers, and privileges, in such manner as they may, from time to time, direct. A tax on white polls shall be laid, in such manner and of such an amount as may be prescribed by law.

Sec. 29. The general assembly shall have power to authorize the several counties and incorporated towns in this State to impose taxes for county and corporation purposes respectively, in such manner as shall be prescribed by law; and all property shall be taxed according to its value, upon the principles established in regard to State taxation.

Sec. 30. No article manufactured of the produce of this State shall be taxed otherwise than to pay inspection fees.

Sec. 31. The general assembly shall have no power to pass laws for the emancipation of slaves, without the consent of their owner or owners.

Article III

Section 1. The supreme executive power of this State shall be vested in a governor.

Sec. 2. The governor shall be chosen by the electors of the members of the general assembly, at the times and places where they shall respectively vote for the members thereof. The returns of every election for governor shall be sealed up, and transmitted to the seat of government, by the returning officers, directed to the speaker of the senate, who shall open and publish them in the presence of a majority of the members of each house of the general assembly. The person having the highest number of votes shall be governor; but if two or more shall be equal and highest in votes, one of them shall be chosen governor by joint vote of both houses of the general assembly. Contested elections for governor shall be determined by both houses of the general assembly, in such manner as shall be prescribed by law.

Sec. 3. He shall be at least thirty years of age, shall be a citizen of the United States, and shall have been a citizen of this State seven years next before his election.

Sec. 4. The governor shall hold his office for two years, and until his successor shall be elected and qualified. He shall not be eligible more than six years in any term of eight.

Sec. 5. He shall be commander-in-chief of the army and navy of this State, and of the militia, except when they shall be called into the service of the United States.

Sec. 6. He shall have power to grant reprieves and pardons, after conviction, except in cases of impeachment.

Sec. 7. He shall, at stated times, receive a compensation for his services, which shall not be increased or diminished during the period for which he shall have been elected.

Sec. 8. He may require information, in writing, from the officers in the executive department, upon any subject relating to the duties of their respective offices.

Sec. 9. He may, on extraordinary occasions, convene the general assembly, by proclamation; and shall state to them, when assembled, the purposes for which they shall have been convened; but they shall enter on no legislative business except that for which they were especially called together.

Sec. 10. He shall take care that the laws be faithfully executed.

Sec. 11. He shall, from time to time, give to the general assembly information of the state of the government, and recommend to their consideration such measures as he shall judge expedient.

Sec. 12. In case of the removal of the governor from office, or of his death or resignation, the powers and duties of the office shall devolve on the speaker of the senate: and in case of the death, removal from office, or resignation of the speaker of the senate, the powers and duties of the office shall devolve on the speaker of the house of representatives.

Sec. 13. No member of Congress, or person holding any office under the United States or this State, shall execute the office of governor.

Sec. 14. When any officer, the right of whose appointment is by this constitution vested in the general assembly, shall, during the recess, die, or the office, by the expiration of the term, or by other means, become vacant, the governor shall have the power to fill such vacancy, by granting a temporary commission, which shall expire at the end of the next session of the legislature.

Sec. 15. There shall be a seal of this State, which shall be kept by the governor, and used by him officially, and shall be called "The Great Seal of the State of Tennessee."

Sec. 16. All grants and commissions shall be in the name and by the authority of the State of Tennessee, be sealed with the State seal, and signed by the governor.

Sec. 17. A secretary of state shall be appointed by joint vote of the general assembly, and commissioned during the term of four years; he shall keep a fair register of all the official acts and proceedings of the governor, and shall, when required, lay the same, and all papers, minutes, and vouchers relative thereto, before the general assembly, and shall perform such other duties as shall be enjoined by law.

Article IV

Section 1. Every free white man of the age of twenty-one years, being a citizen of the United States, and a citizen of the county wherein he may offer his vote six months next preceding the day of election, shall be entitled to vote for members of the general assembly,

and other civil officers for the county or district in which he resides: *Provided*, That no person shall be disqualified from voting in any election on account of color, who is now, by the laws of this State, a competent witness in a court of justice against a white man. All free men of color shall be exempt from military duty in time of peace, and also from paying a free poll-tax.

Sec. 2. Laws may be passed excluding from the right of suffrage persons who may be convicted of infamous crimes.

Sec. 3. Electors shall in all cases, except treason, felony, or breach of the peace, be privileged from arrest or summons during their attendance at elections, and in going to and returning from them.

Sec. 4. In all elections to be made by the general assembly, the members thereof shall vote *viva voce;* and their votes shall be entered on the journal. All other elections shall be by ballot.

Article V

Section 1. The house of representatives shall have the sole power of impeachment.

Sec. 2. All impeachments shall be tried by the senate; when sitting for that purpose, the senators shall be upon oath or affirmation. No person shall be convicted without the concurrence of two-thirds of the senators sworn to try the officer impeached.

Sec. 3. The house of representatives shall elect, from their own body, three members, whose duty it shall be to prosecute impeachments. No impeachment shall be tried until the legislature shall have adjourned *sine die*, when the senate shall proceed to try such impeachment.

Sec. 4. The governor, judges of the supreme court, judges of inferior courts, chancellors, attorneys for the State, and secretary of state, shall be liable to impeachment, whenever they may, in the opinion of the house of representatives, commit any crime in their official capacity which may require disqualification; but judgment shall only extend to removal from office, and disqualification to fill any office thereafter. The party shall, nevertheless, be liable to indictment, trial, judgment, and punishment, according to law.

Sec. 5. Justices of the peace and other civil officers not hereinbefore mentioned, for crimes or misdemeanors in office, shall be liable to indictment in such courts as the legislature may direct; and upon conviction, shall be removed from office, by said court, as if found guilty on impeachment; and shall be subject to such other punishment as may be prescribed by law.

Article VI

Section 1. The judicial power of this State shall be vested in one supreme court, in such inferior courts as the legislature shall from time to time ordain and establish, and the judges thereof, and in justices of the peace. The legislature may also vest such jurisdiction as may be deemed necessary in corporation courts.

Sec. 2. The supreme court shall be composed of three judges, one of whom shall reside in each of the grand divisions of the State; the concurrence of two of said judges shall in every case be necessary to a decision. The jurisdiction of this court shall be appellate only,

under such restrictions and regulations as may from time to time be prescribed by law; but it may possess such other jurisdiction as is now conferred by law on the present supreme court. Said courts shall be held at one place, and at one place only, in each of the three grand divisions in the State.

Sec. 3. The general assembly shall, by joint vote of both houses, appoint judges of the several courts of law and equity; but courts may be established to be holden by justices of the peace. Judges of the supreme court shall be thirty-five years of age, and shall be elected for the term of twelve years.

Sec. 4. The judges of such inferior courts as the legislature may establish shall be thirty years of age, and shall be elected for the term of eight years.

Sec. 5. The legislature shall elect attorneys for the State, by joint vote of both houses of the general assembly, who shall hold their offices for the term of six years. In all cases where an attorney for any district fails or refuses to attend and prosecute according to law, the court shall have power to appoint an attorney *pro tempore*.

Sec. 6. Judges and attorneys for the State may be removed from office by a concurrent vote of both houses of the general assembly, each house voting separately; but two-thirds of all the members elected to each house must concur in such vote. The vote shall be determined by ayes and noes, and the names of the members voting for or against the judge or attorney for the State, together with the cause or causes of removal, shall be entered on the journals of each house respectively. The judge or attorney for the State, against whom the legislature may be about to proceed, shall receive notice thereof, accompanied with a copy of the causes alleged for his removal, at least ten days before the day on which either house of the general assembly shall act thereupon.

Sec. 7. The judges of the supreme and inferior courts shall, at stated times, receive a compensation for their services, to be ascertained by law, which shall not be increased or diminished during the time for which they are elected. They shall not be allowed any fees or perquisites of office, nor hold any other office of trust or profit under this State or the United States.

Sec. 8. The jurisdiction of such inferior courts as the legislature may from time to time establish shall be regulated by law.

Sec. 9. Judges shall not charge juries with respect to matters of fact, but may state the testimony and declare the law.

Sec. 10. The judges or justices of such inferior courts of law as the legislature may establish shall have power, in all civil cases, to issue writs of *certiorari* to remove any cause, or transcript thereof, from any inferior jurisdiction into said court, on sufficient cause, supported by oath or affirmation.

Sec. 11. No judge of the supreme or inferior courts shall preside on the trial of any cause in the event of which he may be interested, or where either of the parties shall be connected with him by affinity or consanguinity, within such degrees as may be prescribed by law, or in which he may have been of counsel, or in which he may have presided in any inferior court, except by consent of all the parties. In case all or any of the judges of the supreme court shall be thus disqualified from presiding on the trial of any cause or causes, the court, or the judges thereof, shall certify the same to the governor of

the State, and he shall forthwith specially commission the requisite number of men of law knowledge for the trial and determination thereof. In case of sickness of any of the judges of the supreme or inferior courts, so that they or any of them are unable to attend, the legislature shall be authorized to make provision by the general laws that special judges may be appointed to attend said courts.

Sec. 12. All writs and other process shall run in the name of the State of Tennessee, and bear test and be signed by the respective clerks. Indictments shall conclude "against the peace and dignity of the State."

Sec. 13. Judges of the supreme court shall appoint their clerks, who shall hold their offices for the period of six years. Chancellors (if courts of chancery shall be established) shall appoint their clerks and masters, who shall hold their offices for the period of six years. Clerks of such inferior courts as may be hereafter established, which shall be required to be holden in the respective counties of this State, shall be elected by the qualified voters thereof, for the term of four years; they shall be removed from office for malfeasance, incompetency, or neglect of duty, in such manner as may be prescribed by law.

Sec. 14. No fine shall be laid on any citizen of this State that shall exceed fifty dollars, unless it shall be assessed by a jury of his peers, who shall assess the fine at the time they find the fact, if they think the fine should be more than fifty dollars.

Sec. 15. The different counties in this State shall be laid off, as the general assembly may direct, into districts of convenient size, so that the whole number in each county shall not be more than twenty-five, or four for every one hundred square miles. There shall be two justices of the peace and one constable elected in each district, by the qualified voters therein, except districts including county towns, which shall elect three justices and two constables. The jurisdiction of said officers shall be coextensive with the county. Justices of the peace shall be elected for the term of six, and constables for the term of two years. Upon the removal of either of said officers from the district in which he was elected, his office shall become vacant from the time of such removal. Justices of the peace shall be commissioned by the governor. The legislature shall have power to provide for the appointment of an additional number of justices of the peace in incorporated towns.

Article VII

Section 1. There shall be elected in each county, by the qualified voters therein, one sheriff, one trustee, and one register; the sheriff and trustee for two years, and the register for four years: *Provided*, That no person shall be eligible to the office of sheriff more than six years in any term of eight years. There shall be elected for each county, by the justices of the peace, one coroner and one ranger, who shall hold their offices for two years. Said officers shall be removed for malfeasance, or neglect of duty, in such manner as may be prescribed by law.

Sec. 2. Should a vacancy occur, subsequent to an election, in the office of sheriff, trustee, or register, it shall be filled by the justices; if in that of the clerks to be elected by the people, it shall be filled by the courts; and the person so appointed shall continue in office until

his successor shall be elected and qualified; and such office shall be filled by the qualified voters at the first election for any of the county officers.

Sec. 3. There shall be a treasurer or treasurers appointed for the State, by the joint vote of both houses of the general assembly, who shall hold his or their offices for two years.

Sec. 4. The election of all officers, and the filling of all vacancies that may happen, by death, resignation, or removal, not otherwise directed or provided for by this constitution, shall be made in such manner as the legislature shall direct.

Sec. 5. The legislature shall provide that the election of the county and other officers by the people shall not take place at the same time that the general elections are held for members of Congress, members of the legislature, and governor. The elections shall commence and terminate on the same day.

Article VIII

Section 1. All militia officers shall be elected by persons subject to military duty, within the bounds of their several companies, battalions, regiments, brigades, and divisions, under such rules and regulations as the legislature may, from time to time, direct and establish.

Sec. 2. The governor shall appoint the adjutant-general and his other staff-officers; the majors-general, brigadiers-general, and commanding officers of regiments shall, respectively, appoint their staff-officers.

Sec. 3. The legislature shall pass laws exempting citizens belonging to any sect or denomination of religion, the tenets of which are known to be opposed to the bearing of arms, from attending private and general musters.

Article IX

Section 1. Whereas ministers of the gospel are, by their profession, dedicated to God and the care of souls, and ought not to be diverted from the great duties of their functions; therefore, no minister of the gospel, or priest of any denomination whatever, shall be eligible to a seat in either house of the legislature.

Sec. 2. 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.

Sec. 3. Any person who shall, after the adoption of this constitution, fight a duel, or knowingly be the bearer of a challenge to fight a duel, or send or accept a challenge for that purpose, or be an aider or abettor in fighting a duel, shall be deprived of the right to hold any office of honor or profit in this State, and shall be punished otherwise in such manner as the legislature may prescribe.

Article X

Section 1. Every person who shall be chosen or appointed to any office of trust or profit under this constitution, or any law made in pursuance thereof, shall, before entering on the duties thereof, take an oath to support the constitution of this State and of the United States, and an oath of office.

Sec. 2. Each member of the senate and house of representatives shall, before they proceed to business, take an oath or affirmation to support the constitution of this State, and of the United States, and also the following oath: "I, ——— ———, do solemnly swear [or affirm] that, as a member of this general assembly, I will, in all appointments, vote without favor, affection, partiality, or prejudice; and that I will not propose or assent to any bill, vote, or resolution which shall appear to me injurious to the people, or consent to any act or thing whatever that shall have a tendency to lessen or abridge their rights and privileges as declared by the constitution of this State."

Sec. 3. Any elector who shall receive any gift or reward for his vote, in meat, drink, money, or otherwise, shall suffer such punishment as the laws shall direct. And any person who shall directly or indirectly give, promise, or bestow any such reward to be elected, shall thereby be rendered incapable, for six years, to serve in the office for which he was elected, and be subject to such further punishment as the legislature shall direct.

Sec. 4. New counties may be established by the legislature, to consist of not less than three hundred and fifty square miles, and which shall contain a population of four hundred and fifty qualified voters. No line of such county shall approach the court-house of any old county from which it may be taken nearer than twelve miles. No part of a county shall be taken to form a new county, or a part thereof, without the consent of a majority of the qualified voters in such part taken off. And in all cases where an old county may be reduced for the purpose of forming a new one, the seat of justice in said old county shall not be removed without the concurrence of two-thirds of both branches of the legislature, nor shall said old county be reduced to less than six hundred and twenty-five square miles: *Provided, however*, That the county of Bedford may be reduced to four hundred and seventy-five square miles; and there shall not be laid off more than one new county on the west, and one on the east, adjoining the county of the dividing line, a majority of the qualified voters of said county voting in favor of said division; the counties of Carter, Rhea, and Humphreys shall not be divided into more than two counties each; nor shall more than one new county be taken out of the territory now composing the counties of Tipton and Dyer; nor shall the seats of justice in the counties of Rhea, Carter, Tipton, and Dyer be removed, without the concurrence of two-thirds of both branches of the legislature. The county of Sullivan may be reduced below the contents of six hundred and twenty-five square miles, but the line of any new county which may hereafter be laid off shall not approach the county-seat of said county nearer than ten miles. The counties of Marion and Bledsoe shall not be reduced below one thousand qualified voters each in forming a new county or counties.

Sec. 5. The citizens who may be included in any new county shall vote with the county or counties from which they may have been stricken off, for members of Congress, for governor, and for members of the general assembly, until the next apportionment of members to the general assembly after the establishment of such new county.

Article XI

Section 1. All laws and ordinances now in force and use in this State, not inconsistent with this constitution, shall continue in force and use until they shall expire, be altered, or repealed by the legislature.

Sec. 2. Nothing contained in this constitution shall impair the validity of any debts or contracts, or affect any rights of property, or any suits, actions, rights of action, or other proceedings in courts of justice.

Sec. 3. Any amendment or amendments to this constitution may be proposed in the senate or house of representatives; and if the same shall be agreed to by a majority of all the members elected to each of the two houses, such proposed amendment or amendments shall be entered on their journals, with the yeas and nays thereon, and referred to the general assembly then next to be chosen; and shall be published for six months previous to the time of making such choice. And if in the general assembly next chosen as aforesaid such proposed amendment or amendments shall be agreed to by two-thirds of all the members elected to each house, then it shall be the duty of the general assembly to submit such proposed amendment or amendments to the people, in such manner and at such time as the general assembly shall prescribe. And if the people shall approve and ratify such amendment or amendments, by a majority of all the citizens of the State voting for representatives, voting in their favor, such amendment or amendments shall become part of this constitution. When any amendment or amendments to the constitution shall be proposed in pursuance of the foregoing provisions, the same shall at each of the said sessions be read three times on three several days in each house. The legislature shall not propose amendments to the constitution oftener than once in six years.

Sec. 4. The legislature shall have no power to grant divorces, but may authorize the courts of justice to grant them for such causes as may be specified by law: *Provided*, That such laws be general and uniform in their operation throughout the State.

Sec. 5. The legislature shall have no power to authorize lotteries for any purpose, and shall pass laws to prohibit the sale of lottery-tickets in this State.

Sec. 6. The legislature shall fix the rate of interest; and the rate so established shall be equal and uniform throughout the State.

Sec. 7. The legislature shall have no power to suspend any general law for the benefit of any particular individual, nor to pass any law for the benefit of individuals inconsistent with the general laws of the land; nor to pass any law granting to any individual or individuals rights, privileges, immunities, or exemptions other than such as may be by the same law extended to any member of the community who may be able to bring himself within the provisions of such law: *Provided always*, The legislature shall have power to grant such charters of corporation as they may deem expedient for the public good.

Sec. 8. The legislature shall have the right to vest such powers in the courts of justice, with regard to private and local affairs, as may be deemed expedient.

SEC. 9. A well-regulated system of internal improvement is calculated to develop the resources of the State, and promote the happiness and prosperity of her citizens; therefore, it ought to be encouraged by the general assembly.

SEC. 10. Knowledge, learning, and virtue being essential to the preservation of republican institutions, and the diffusion of the opportunities and advantages of education throughout the different portions of the State being highly conducive to the promotion of this end, it shall be the duty of the general assembly, in all future periods of this government, to cherish literature and science. And the fund called the "common-school fund," and all the lands and proceeds thereof, dividends, stocks, and other property of every description whatever, heretofore by law appropriated by the general assembly of this State for the use of common schools, and all such as shall hereafter be appropriated, shall remain a perpetual fund, the principal of which shall never be diminished by legislative appropriation, and the interest thereof shall be inviolably appropriated to the support and encouragement of common schools throughout the State, and for the equal benefit of all the people thereof; and no law shall be made authorizing said fund, or any part thereof, to be diverted to any other use than the support and encouragement of common schools; and it shall be the duty of the general assembly to appoint a board of commissioners, for such term of time as they may think proper, who shall have the general superintendence of said fund, and who shall make a report of the condition of the same, from time to time, under such rules, regulations, and restrictions as may be required by law: *Provided*, That if at any time hereafter a division of the public lands of the United States, or of the money arising from the sales of such lands, shall be made among the individual States, the part of such lands or money coming to this State shall be devoted to the purposes of education and internal improvement and shall never be applied to any other purpose.

SEC. 11. The above provisions shall not be construed to prevent the legislature from carrying into effect any laws that have been passed in favor of the colleges, universities, or academies, or from authorizing heirs or distributees to receive and enjoy escheated property, under such rules and regulations as from time to time may be prescribed by law.

SEC. 12. The declaration of rights hereto prefixed is declared to be a part of the constitution of this State, and shall never be violated on any pretence whatever. And to guard against transgression of the high powers we have delegated, we declare that everything in the bill of rights contained is excepted out of the general powers of government, and shall forever remain inviolate.

SCHEDULE

SECTION 1. That no inconvenience may arise from a change of the constitution, it is declared that all officers, civil and military, shall continue to hold their offices; and all the functions appertaining to the same shall be exercised and performed according to the existing laws and constitution, until the end of the first session of the general assembly which shall sit under this constitution, and until the government can be reorganized and put into operation under this con-

stitution, in such manner as the first general assembly aforesaid shall prescribe, and no longer.

Sec. 2. The general assembly which shall sit after the first apportionment of representation under the new constitution, to wit, in the year one thousand eight hundred and forty-three, shall, within the first week after the commencement of the session, designate and fix the seat of government; and when so fixed, it shall not be removed, except by the consent of two-thirds of the members of both houses of the general assembly. The first and second sessions of the general assembly under this constitution shall be held in Nashville.

Sec. 3. Until a land-office shall be opened, so as to enable the citizens south and west of the congressional reservation-line to obtain titles upon their claims of occupancy, those who hold lands by virtue of such claims shall be eligible to serve in all capacities where a freehold is, by the laws of the State, made a requisite qualification.

Done in convention, at Nashville, this thirtieth day of August, one thousand eight hundred and thirty-four, and of the Independence of the United States of America the fifty-ninth.

William B. Carter, *President.*

William K. Hill, *Secretary.*

ORDINANCE

I. *Ordered*, That it shall be the duty of the several officers of this State, authorized by law to hold elections for members of the general assembly, to open and hold an election, at the places of holding elections for members to the general assembly, in their respective counties, on the first Thursday and Friday in March next, for the purpose of receiving the votes of such qualified voters as may desire to vote for the adoption or rejection of this amended constitution: *Provided*, That no person shall be deemed a qualified voter in said election except such as are included within the provisions of the first section of the fourth article of this amended constitution.

II. *Ordered*, That it shall be the duty of said returning officers in each county in this State to prepare poll-books, which shall be opened on said days of election, and in which shall be enrolled the name of each voter by the assistance of clerks, who shall be appointed and sworn as clerks in other elections. Said officers shall prepare a ballot-box, in which shall be placed the ticket of each voter. Each ticket shall have written thereon the words "I ratify the amended constitution;" or, if the voter is opposed to it, "I reject the amended constitution;" or the words "Ratification" or "Rejection," or some such words as will distinctly convey the intention of the voter. The justices of the several county courts in this State, at some time previous to the day of said election, shall appoint three inspectors for each precinct, and in case of failure of the courts to appoint inspectors, then said returning officers shall appoint them. It shall be the duty of said returning officers, in presence of the said inspectors, to count the votes given for the ratification and rejection of the constitution, of which they shall keep a true and correct estimate in said poll-book. Said returning officer shall deposit the original poll-books of said election with the clerk of the county court in their respective counties, and shall, within five days after said election, make out

duplicate statements of the number of votes in their respective counties for ratifying and rejecting the constitution, and shall forward by mail one of said certificates to the governor, one to the secretary of state, and shall likewise deposit one with the clerk of the county court. It shall be the duty of said several clerks carefully to examine the said poll-books, and forthwith to certify to the secretary of state a full, true, and perfect statement of the number of votes taken for and against the constitution, as appears from the poll-books filed in their office. Should said returning officers, or any of them, fail to make returns in due time, as above directed, the secretary of state shall then be authorized to despatch a special messenger for the purpose of obtaining a certified copy of the result of said elections.

III. *Ordered*, That upon the receipt of the said returns it shall be the duty of the governor, secretary of state, and any one of the judges of the supreme court, or any two of the said named officers, to compare the votes given in said election for the ratification and rejection of the amended constitution; and if it shall appear from said returns that a majority of all the votes given in said election is for ratifying the amended constitution, then it shall be the duty of the governor forthwith to make proclamation of that fact, and thenceforth this amended constitution shall be ordained and established as the constitution of the State of Tennessee. It shall moreover be the duty of the governor, in and by said proclamation, to command the sheriffs and other officers directed by law to hold and superintend elections, to open the polls of elections at the places of holding elections for members of the general assembly in their respective counties, on the first Thursday in August, one thousand eight hundred and thirty-five, for the purpose of electing a governor and for the election of senators and representatives to the general assembly of this State from the several districts and counties, as mentioned and described in this ordinance, at which times and places elections shall also be held for members of Congress, and said officers shall make returns of said elections under the same rules and regulations as are now required by the existing laws; and it shall be the duty of the secretary of state to record the returns made from each county or district, and the result of said election, in a bound book to be preserved in his office.

IV. *Be it further ordered*, That if any sheriff or other acting officer shall fail, within the time prescribed by this ordinance, to discharge any of the duties hereby required, such sheriff or other returning officer so failing as aforesaid shall forfeit and pay the sum of five thousand dollars, to be recovered by action of debt in any of the courts of record in this State, to be sued for in the name of the governor for the use and benefit of common schools.

V. *Be it further ordered*, That until the first enumeration and apportionment of representation, in one thousand eight hundred and forty-one, as directed by the amended constitution, the following districts shall be formed, each of which shall elect one senator, and the polls of election shall be compared at the several places herein mentioned on the first Monday succeeding the day of election, to wit:

The counties of Carter, Sullivan, and Washington shall form one district; and the polls shall be compared in the town of Jonesborough.

The counties of Greene and Hawkins shall compose one district; and the polls shall be compared in the town of Greenville.

The counties of Cocke, Sevier, Jefferson, and Blount shall form one district; and the polls shall be compared in the town of Sevierville.

The counties of Grainger, Claiborne, Campbell, Anderson, and Morgan shall compose one district; and the polls shall be compared at the house of Robert Glenn, esq., in Campbell County.

The counties of Knox and Roane shall form one district; and the polls shall be compared at Campbell's Station.

The counties of Munroe and McMinn shall compose one district; and the polls shall be compared in the town of Athens.

The counties of Rhea, Bledsoe, Marion, and Hamilton shall compose one district; and the polls shall be compared at the town of Dallas.

The counties of Warren and Franklin shall compose one district; and the polls shall be compared at Hillsborough.

The counties of Overton, Jackson, Fentress, and White shall compose one district; and the polls shall be compared at Livingston.

The counties of Lincoln and Giles shall compose one district; and the polls shall be compared at the house of John Kennedy.

The counties of Smith and Sumner shall compose one district; and the polls shall be compared at Hartsville.

The county of Bedford shall compose one district; and the polls shall be compared at Shelbyville.

The county of Maury shall compose one district; and the polls shall be compared in Columbia.

The county of Rutherford shall compose one district; and the polls shall be compared in Murfreesborough.

The county of Davidson shall compose one district; and the polls shall be compared in the city of Nashville.

The county of Williamson shall compose one district; and the polls shall be compared in the town of Franklin.

The counties of Lawrence, Wayne, and Hickman shall compose one district; and the polls shall be compared at Catron and Napier's Furnace.

The counties of Dickson, Stewart, and Humphreys shall compose one district; and the polls shall be compared at Simmons's old place on Yellow Creek.

The counties of Robertson and Montgomery shall compose one district; and the polls shall be compared at Port Royal.

The county of Wilson shall compose one district; and the polls shall be compared in Lebanon.

The counties of Hardeman, Fayette, and Shelby shall compose one district; and the polls shall be compared in Sommerville.

The counties of Madison, Haywood, and Tipton shall compose one district; and the polls shall be compared in Brownsville.

The counties of Carroll, Gibson, and Dyer shall compose one district; and the polls shall be compared in Trenton.

The counties of Henry, Weakley, and Obion shall compose one district; and the polls shall be compared in Dresden.

The counties of Henderson, Perry, McNairy, and Hardin shall compose one district; and the polls shall be compared at the house of James Wright, in Hardin County.

And until said enumeration and apportionment of one thousand eight hundred and forty-one, the counties of Carter, Sullivan, Wash-

ington, Greene, Hawkins, Cocke, Sevier, Jefferson, Blount, Grainger, Claiborne, Knox, Roane, Monroe, McMinn, Rhea, and Bledsoe shall each elect one representative; and the polls shall be compared at their respective court-houses.

The counties of Sullivan and Hawkins shall jointly elect one representative; and shall compare the polls at Kingsport.

The counties of Greene and Washington shall jointly elect one representative; and the polls shall be compared at the house of Joshua Royston, esq.

The counties of Knox and Roane shall jointly elect one representative; and the polls shall be compared at Campbell's Station.

The counties of Monroe and McMinn shall jointly elect one representative; and the polls shall be compared at Athens.

The counties of Campbell, Anderson and Morgan shall jointly elect two representatives; and the polls shall be compared at the house of James Ross, esq., in Anderson County.

The counties of Marion and Hamilton shall jointly elect one representative; and the polls shall be compared at Dallas.

The counties of Warren, Franklin, Bedford, Lincoln, Giles, Maury, Rutherford, Williamson, Davidson, Wilson, Smith, and Sumner shall each elect two representatives; and the polls shall be compared at their respective court-houses.

The counties of Lawrence, Wayne, Hickman, Dickson, Humphreys, Montgomery, Stewart, Robertson, Overton, Jackson, Fentress, White, Hardin, McNairy, Hardeman, Fayette, Shelby, Perry, Henderson, Madison, Haywood, Tipton, Carroll, Gibson, Henry, and Weakley shall each elect one representative; and the polls shall be compared at their respective court-houses.

The counties of Obion and Dyer shall jointly elect one representative; and the polls shall be compared at the house of William Terrel, esq., in Dyer County.

The returns of the elections for representatives shall be made at the several places herein pointed out, on the first Saturday succeeding the day of election.

William B. Carter, *President.*

William K. Hill, *Secretary.*

AMENDMENTS TO THE CONSTITUTION OF 1834

(Ratified November 3, 1853)*

Art. VI. Sec. 3. The judges of the supreme court shall be elected by the qualified voters of the State at large, and the judges of such inferior courts as the legislature may establish shall be elected by the qualified voters residing within the bounds of any district or circuit to which such inferior judge or judges, either of law or equity, may be assigned by ballot, in the same manner that members of the general assembly are elected. Courts may be established to be holden by justices of the peace. Judges of the supreme court shall be thirty-five years of age, and shall be elected for the term of eight years.

* Acts of Tennessee, Nashville: McKennie and Brown, Printers to the State, 1854, p. 293.

SEC. 4. The judges of such inferior courts as the legislature may establish shall be thirty years of age, and shall be elected for the term of eight years.

SEC. 5. An attorney-general for the State shall be elected by the qualified voters of the State at large, and the attorney for the State for any circuit or district to which a judge of an inferior court may be assigned shall be elected by the qualified voters within the bounds of such district or circuit, in the same manner that members of the general assembly are elected; all said attorneys, both for the State and circuit or district, shall hold their offices for the term of six years. In all cases where the attorney for any district fails or refuses to attend and prosecute according to law, the court shall have power to appoint an attorney *pro tempore*.

(Ratified November 3, 1853)*

The legislature shall appoint a day for holding the election of judges and attorneys-general, separate and apart from the days already prescribed or hereafter to be prescribed by the legislature for holding the elections for State and county officers.

(Ratified February 22, 1866)[a]

ARTICLE I. SECTION 1. That slavery and involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, are hereby forever abolished and prohibited throughout the State.

SEC. 2. The legislature shall make no law recognizing the right of property in man.

SCHEDULE

SECTION 1. Section thirty-one of the second article of the constitution, which is as follows: "The general assembly shall have no power to pass laws for the emancipation of slaves, without the consent of their owner or owners," is hereby abrogated.

SEC. 2. "The declaration of independence and ordinance dissolving the federal relations between the State of Tennessee and the United States of America," passed and promulgated by the legislature of Tennessee on the 6th day of May, 1861, by which the State was declared separated from the Federal Union, and all laws and ordinances by which Tennessee became a member of the Federal Union, annulled and abrogated, was in like manner an act of treason and usurpation, unconstitutional, null, and void.

SEC. 3. The convention, agreement, and military leagues entered into by the commissioners of the State of Tennessee and the commissioners of the so-called Confederate States of America, made May 7, 1861, and on the same day ratified and confirmed by the legislature, was an act of treason and usurpation, unconstitutional, null, and void.

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* See Acts of Tennessee, Nashville, McKennie and Brown, Printers to the State, 1854, p. 794. Also, for amendment of 1866, see Acts of State of Tennessee, 1865, p. xi.

[a] These amendments were framed by a convention which assembled at Nashville January 9, 1865, and completed its labors January 26, 1865. They were submitted to the people February 22, 1865, and ratified by 21,104 votes against 40 votes.

SEC. 4. No statute of limitations shall be held to operate from and after the 6th day of May, 1861, until such time hereafter as the legislature may prescribe, nor shall any writ of error be refused, or abated in any cause, or suit decided since the 6th day of May, 1861, and prior to this time, by reason of any lapse of time. And in all actions for torts brought, or which may hereafter be brought in the courts of this State by attachment levied upon the property of the defendant, the court shall have power to proceed to judgment and collection of the same, as upon contracts, without personal service of process upon the defendant, until the legislature may see fit to change the law in such cases.

SEC. 5. All laws, ordinances, and resolutions, as well as all acts done in pursuance thereof, under the authority of the usurped State government after the declared independence of the State of Tennessee, on or after the 6th day of May, 1861, were unconstitutional, null, and void from the beginning: *Provided*, That this section shall not be construed as to effect any judicial decisions made by the State courts held at times differing from those provided by law prior to May 6, 1861; said judicial decisions being made pursuant to the laws of the State of Tennessee enacted previous to said date, and between parties present in courts and litigating their rights.

SEC. 6. All laws, ordinances, and resolutions of the usurped State governments, passed on or after the 6th day of May, 1861, providing for the issuance of State bonds, also all notes of the Bank of Tennessee, or any of its branches, issued on or after the 6th day of May, 1861, and all debts created or contracted in the name of the State by said authority, are unconstitutional, null, and void; and no legislature shall hereafter have power to pass any act authorizing the payment of said bonds or debts, or providing for the redemption of said notes.

SEC. 7. All civil and military officers which have been or may hereafter be appointed by the acting governor of the State, are hereby ratified and affirmed, and they shall continue to hold and exercise the functions of their respective offices until their successors shall be elected or appointed and qualified as prescribed by the laws and constitution of the State and United States.

SEC. 8. That the proposed amendments to the constitution, and the schedule thereto, be submitted to the people at the ballot-box, on the 22d day of February next, and that upon the adoption thereof, by the people, an election shall be held on the 4th day of March next for governor and members of the legislature, the latter to be voted for by general ticket, upon the basis prescribed in the act apportioning representation in the State, passed on the 19th day of February, 1852, to assemble at the capitol on the first Monday in April next, said officers to continue in office until their successors shall be elected and qualified, under the regular biennial election of 1867: *Provided*, That said apportionment be so modified as to give to the counties of Johnson, Carter, Campbell, Anderson, Union, Sevier, Macon, and Hancock each one member; and the district composed of the counties of Fentress, Morgan, Scott, and Cumberland one additional member in the house of representatives.

SEC. 9. The qualifications of voters and the limitation of the elective franchise may be determined by the general assembly which shall first assemble under the amended constitution.

RESOLUTIONS

Resolved, That at the election in February, those in favor of the foregoing amendments and schedule shall deposit a ballot, on which shall be written "Ratification;" and those who are opposed shall deposit a ballot, on which shall be written "Rejection."

Resolved, That when the above amendments of the constitution of the State of Tennessee shall be submittted to the people of the State for their ratification or rejection, and at the first election held under said constitution as amended, if ratified by the people, no person shall be permitted to vote unless he first take the following oath at the polls. And the name of each voter shall be written upon the back of his ticket, and it shall be the duty of the judges and clerks of said election to preserve said tickets and file them with the clerks of the county courts of their respective counties for future reference: *Provided*, That this oath shall not be required of the citizens who are well known to the judges of the election to have been unconditional Union men: *Provided also*, That voters otherwise qualified may vote within any county of the State, and, if in the military service, wherever they may be on the day of election; and that the commanding officer of each regiment, battalion, detachment, battery, or hospital is empowered to hold such election.

"OATH

I solemnly swear that I will henceforth support the Constitution of the United States, and defend it against the assaults of all its enemies; that I am an active friend of the Government of the United States, and the enemy of the so-called Confederate States; that I ardently desire the suppression of the present rebellion against the Government of the United States; that I sincerely rejoice in the triumph of the armies and navies of the United States, and in the defeat and overthrow of the armies, navies, and of all armed combinations in the so-called Confederate States; that I will cordially oppose all armistices or negotiations for peace with rebels in arms, until the Constitution of the United States, and all laws and proclamations made in pursuance thereof, shall be established over all the people of every State and Territory embraced within the national Union; and that I will heartily aid and assist the loyal people in whatever measures may be adopted for the attainment of those ends; and further, that I take this oath freely and voluntarily and without mental reservation: So help me God."

Resolved, That the returns of this election shall be made to the secretary of state, and the result be declared by the proclamation of the acting governor.

Resolved, That the convention do nominate and offer to the people a candidate for governor, and that the delegates from the several senatorial and representative districts be requested to nominate and present to the convention candidates for their respective districts, to be placed upon the general legislative ticket: *Provided*, If the Union people of any district shall desire to make another selection, that they have opportunity to do so.

Resolved, That it shall be the duty of the executive committee to fill all vacancies that may occur in the list of candidates and officers for holding elections solicited by the convention.

Resolved, That the names of such as may be selected shall be forwarded to the chairman at Nashville, on or before the 10th day of February next, when the chairman shall publish the complete list in the papers of the State.

CONSTITUTION OF TENNESSEE—1870 * [a]

PREAMBLE AND DECLARATION OF RIGHTS

Whereas the people of the territory of the United States south of the River Ohio, having the right of admission into the general government as a member State thereof, consistent with the Constitution of the United States and the Act of cession of the State of North Carolina, recognizing the ordinance for the government of the territory of the United States northwest of the Ohio River, by their delegates and representatives in convention assembled, did, on the sixth day of February, in the year of our Lord one thousand seven hundred and ninety-six, ordain and establish a Constitution, or form of government, and mutually agreed with each other to form themselves into a free and independent State by the name of the State of Tennessee; and

Whereas the General Assembly of the said State of Tennessee (pursuant to the third section of the tenth Article of the Constitution), by an Act passed on the twenty-seventh day of November, in the year of our Lord one thousand eight hundred and thirty-three, entitled "An Act" to provide for the calling of a convention, passed in obedience to the declared will of the voters of the State, as expressed at the general election of August, in the year of our Lord one thousand eight hundred and thirty-three, did authorize and provide for the election, by the people, of delegates and representatives, to meet at Nashville, in Davidson County, on the third Monday in May, in the year of our Lord one thousand eight hundred and thirty-four, for the purpose of revising and amending, or changing, the Constitution, and said convention did accordingly meet and form a Constitution, which was submitted to the people, and was ratified by them, on the first Friday in March, in the year of our Lord one thousand eight hundred and thirty-five; and

Whereas the General Assembly of the said State of Tennessee, under and in virtue of the first section of the first Article of the Declaration of Rights, contained in and forming a part of the existing Constitution of the State, by an Act passed on the fifteenth day

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* Verified from "The Constitution of the State of Tennessee. Adopted in Convention at Nashville, February 23, A. D. 1870. Printed under Authority of Senate Joint Resolution No. 2, Fifty-second General Assembly. Nashville, Tenn, Foster, Webb & Parkes Print, 1906." 52 pp.

[a] Adopted in convention at Nashville, February 23, A. D. 1870. This is an exact copy of the Constitution of 1870. The language and punctuation of that instrument are given *verbatim et literatim*, with the exception of words in brackets, which are inserted as explanatory of words used, and with the exception of the italic index line at the beginning of each section.

of November, in the year of our Lord one thousand eight hundred and sixty-nine, did provide for the calling of a convention by the people of the State, to meet at Nashville, on the second Monday in January, in the year of our Lord one thousand eight hundred and seventy, and for the election of delegates for the purpose of amending or revising the present Constitution, or forming and making a new Constitution; and

Whereas the people of the State, in the mode provided by said Act, have called said convention and elected delegates to represent them therein; now, therefore, we, the delegates and representatives of the people of the State of Tennessee, duly elected, and in convention assembled, in pursuance of said Act of Assembly, have ordained and established the following Constitution and form of government for this State, which we recommend to the people of Tennessee for their ratification—that is to say:

Article I

declaration of rights

Section 1. *All power inherent in the people; government under their control.*—That all power is inherent in the people, and all free governments are founded on their authority, and instituted for their peace, safety, and happiness; for the advancement of those ends, they have at all times an unalienable and indefeasible right to alter, reform, or abolish the government in such manner as they may think proper.

Sec. 2. *Doctrine of nonresistance condemned.*—That government being instituted for the common benefit, the doctrine of nonresistance against arbitrary power and oppression is absurd, slavish, and destructive of ["to" in Constitution of 1796] the good and happiness of mankind.

Sec. 3. *Right of worship free.*—That all men have a natural and indefeasible right to worship Almighty God according to the dictates of their own conscience; that no man can, of right, be compelled to attend, erect, or support any place of worship, or to maintain any minister, against his consent; that no human authority can, in any case whatever, control or interfere with the rights of conscience; and that no preference shall ever be given, by law, to any religious establishment or mode ["modes" in Constitution of 1796] of worship.

Sec. 4. *No religious or political test.*—That no political or religious test, other than an oath to support the Constitution of the United States and of this State, shall ever be required as a qualification to any office or public trust under this State.

Sec. 5. *Elections to be free and equal; right of suffrage declared.*—That elections shall be free and equal, and the right of suffrage, as hereinafter declared, shall never be denied to any person entitled thereto, except upon a conviction by a jury of some infamous crime, previously ascertained and declared by law, and judgment thereon by court of competent jurisdiction.

Sec. 6. *Trial by jury.*—That the right of trial by jury shall remain inviolate, and no religious or political test shall ever be required as a qualification for jurors.

Sec. 7. *People to be free from searches, seizures, and general warrants.*—That the people shall be secure in their persons, houses, papers, and possessions, from unreasonable searches and seizures; and that general warrants, whereby an officer may be commanded to search suspected places, without evidence of the fact committed, or to seize any person or persons not named, whose offenses are not particularly described and supported by evidence, are dangerous to liberty, and ought not to be granted.

Sec. 8. *No free man to be disturbed but by law.*—That no man shall be taken or imprisoned, or disseized of his freehold, liberties, or privileges, or outlawed, or exiled, or in any manner destroyed or deprived of his life, liberty, or property, but by the judgment of his peers or the law of the land.

Sec. 9. *Right of the accused in criminal prosecutions.*—That in all criminal prosecutions the accused hath the right to be heard by himself and his counsel; to demand the nature and cause of the accusation against him, and to have a copy thereof, to meet the witnesses face to face, to have compulsory process for obtaining witnesses in his favor, and, in prosecution by indictment or presentment, a speedy public trial, by an impartial jury of the county [" county or district " in Constitutions of 1796 and 1834.—1 Cold., 338, 342] in which the crime shall have been committed, and shall not be compelled to give evidence against himself.

Sec. 10. *Not to be put twice in jeopardy.*—That no person shall, for the same offense, be twice put in jeopardy of life or limb.

Sec. 11. *No ex post facto laws.*—That laws made for the punishment of acts [" facts " in Constitution of 1796] committed previous to the existence of such laws, and by them only declared criminal, are contrary to the principles of a free government; wherefore no *ex post facto* law shall be made.

Sec. 12. *No corruption of blood or forfeiture of estates; no deodands.*—That no conviction shall work corruption of blood or forfeiture of estate. The estate of such persons as shall destroy their own lives shall descend or vest as in case of natural death. If any person be killed by casualty, there shall be no forfeiture in consequence thereof.

Sec. 13. *No unnecessary rigor.*—That no person arrested and [" or " in Constitution of 1796] confined in jail shall be treated with unnecessary rigor.

Sec. 14. *Crimes punished by presentment, etc.*—That no person shall be put to answer any criminal charge but by presentment, indictment [" that no freeman," etc., in Constitution of 1796, Art. XI, sec. 14, and Constitution of 1834, Art. I, sec. 14], or impeachment.

Sec. 15. *What offenses bailable; privilege of habeas corpus.*—That all prisoners shall be bailable by sufficient sureties, unless for capital offenses, when the proof is evident, or the presumption great. And the privilege of the writ of *habeas corpus* shall not be suspended, unless when, in case of rebellion or invasion, the General Assembly shall declare the public safety requires it.

Sec. 16. *Excessive bail, fines, etc.*—That excessive bail shall not be required, nor excessive fines imposel, nor cruel and unusual punishments inflicted.

Sec. 17. *Courts shall be open; redress of injuries; suits against the State.*—That all courts shall be open; and every man, for an

injury done him in his lands, goods, person, or reputation, shall have remedy by due course of law, and right and justice administered without sale, denial, or delay. Suits may be brought against the State in such manner and in such courts as the Legislature may by law direct.

SEC. 18. *No imprisonment for debt.*—The Legislature shall pass no law authorizing imprisonment for debt in civil cases.

SEC. 19. *Printing presses free; freedom of speech, etc., secured.*—That the printing presses shall be free to every person [" who undertakes " in Constitutions of 1796 and 1834] to examine the proceedings of the Legislature, or of any branch or officer of the government; and no law shall ever be made to restrain the right thereof.

The free communication of thoughts and opinions is one of the invaluable rights of man, and every citizen may freely speak, write, and print on any subject, being responsible for the abuse of that liberty. But in prosecutions for the publication [" publications " in Constitution of 1796] of papers investigating the official conduct of officers, or men in public capacity, the truth thereof may be given in evidence; and in all indictments for libel, the jury shall have the right to determine the law and the facts, under the direction of the court, as in other criminal [" criminal " not in Constitution of 1796] cases.

SEC. 20. *No retrospective law, etc.*—That no retrospective law, or law impairing the obligations of contracts, shall be made.

SEC. 21. *No man's services or property taken without consent or compensation.*—That no man's particular services shall be demanded, or property taken, or applied to public use, without the consent of his representatives, or without just compensation being made therefor.

SEC. 22. *No perpetuities or monopolies.*—That perpetuities and monopolies are contrary to the genius of a free State, and shall not be allowed.

SEC. 23. *People may assemble and instruct.*—That the citizens have a right, in a peaceable manner, to assemble together for their common good, to instruct their representatives, and to apply to those invested with the powers of government for redress of grievances, or other proper purposes, by addresses or remonstrance.

SEC. 24. *Militia; military subordinate to civil authority.*—That the sure and certain defense of a free people is a well-regulated militia; and as standing armies in time of peace are dangerous to freedom, they ought to be avoided as far as the circumstances and safety of the community will admit; and that in all cases the military shall be kept in strict subordination to the civil authority.

SEC. 25. *Punishment under martial and military law.*—That no citizen of [" in " in Constitution of 1796] this State, except such as are employed in the army of the United States, or militia in actual service, shall be subjected to punishment under the martial or military [" or military " not in Constitution of 1796 and 1834] law [the remainder of this section was not in the Constitutions of 1796 and 1834]; that martial law, in the sense of the unrestricted power of military officers, or others, to dispose of the persons, liberties, or property of the citizen, is inconsistent with the principles of free government, and is not confided to any department of the government of this State.

SEC. 26. *Right to bear arms; Legislature to regulate wearing of arms.*—That the citizens [" freemen " in Constitution of 1796, and

" free white men " in Constitution of 1834] of this State have a right to keep and to bear arms for their common defense [the remainder of this section was not in the Constitutions of 1796 and 1834]; but the Legislature shall have the power, by law, to regulate the wearing of arms with a view to prevent crime.

SEC. 27. *Quartering soldiers.*—That no soldier shall, in time of peace, be quartered in any house without the [" the " not in the Constitution of 1796] consent of the owner; nor in time of war, but in a manner prescribed by law.

SEC. 28. *No one compelled to bear arms.*—That no citizen of this State shall be compelled to bear arms, provided he will pay an equivalent, to be ascertained by law.

SEC. 29. *Navigation of the Mississippi.*—That an equal participation in [" of " in Constitutions of 1796 and 1834] the free navigation of the Mississippi is one of the inherent rights of the citizens of this State; it cannot, therefore, be conceded to any prince, potentate, power, person, or persons whatever.

SEC. 30. *No hereditary honors.*—That no hereditary emoluments, privileges, or honors shall ever be granted or conferred in this State.

SEC. 31. *Boundaries of the State.*—That the limits and boundaries of this State be ascertained, it is declared they are as hereafter mentioned—that is to say: Beginning on the extreme height of the Stone Mountain, at the place where the line of Virginia intersects it, in latitude thirty-six degrees and thirty minutes north; running thence along the extreme height of the said mountain, to the place where Watauga River breaks through it; thence a direct course to the top of the Yellow Mountain, where Bright's road crosses the same; thence along the ridge of said mountain, between the waters of the Doe River and the waters of Rock Creek, to the place where the road crosses the Iron Mountain; from thence along the extreme height of said mountain, to the place where Nolichucky River runs through the same; thence to the top of the Bald Mountain; thence, along the extreme height of said mountain to the Painted Rock, on French Broad River; thence along the highest ridge of said mountain, to the place where it is called the Great Iron, or Smoky, Mountain; thence along the extreme height of said mountain, to the place where it is called Unicoi, or Unaka, Mountain, between the Indian towns of Cowee and Old Chota; thence along the main ridge of the said mountain, to the southern boundary of this State, as described in the Act of cession of North Carolina to the United States of America; and that all the territory, lands, and waters lying west of said line, as before mentioned, and contained within the chartered limits of the State of North Carolina, are within the boundaries and limits of this State, over which the people have the right of exercising sovereignty, and the right of soil, so far as is consistent with the Constitution of the United States, recognizing the Articles of Confederation, the Bill of Rights, and Constitution of North Carolina, the cession Act of the said State, and the ordinance of [" the late " in Constitution of 1796] Congress for the government of the territory northwest of the Ohio; *Provided*, nothing herein contained shall extend to affect the claim or claims of individuals to any part of the soil which is recognized to them by the aforesaid cession Act [the remainder of this section is not in the Constitution of 1796]; *And provided also*, that the limits and jurisdiction of this State shall extend to any other land and territory

now acquired, or that may hereafter be acquired, by compact or agreement with other States, or otherwise, although such land and territory are not included within the boundaries hereinbefore designated.

Sec. 32. *Prisons.*—That the erection of safe and comfortable prisons, the inspection of prisons, and the humane treatment of prisoners shall be provided for.

Sec. 33. *Slavery prohibited.*—That slavery and involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, are forever prohibited in this State.

Sec. 34. *Right of property in man.*—The General Assembly shall make no law recognizing the right of property in man.

Article II

DISTRIBUTION OF POWERS

Section 1. *Division of powers.*—The powers of the government shall be divided into three distinct departments: the Legislative, Executive, and Judicial.

Sec. 2. *No person to exercise powers of more than one department.*—No person, or persons, beloning to one of these departments shall exercise any of the powers properly belonging to either of the others, except in the cases herein directed or permitted.

LEGISLATIVE DEPARTMENT

Sec. 3. *Legislative authority; term of office.*—The legislative authority of this State shall be vested in a General Assembly, which shall consist of a Senate and House of Representatives, both dependent on the people [the remainder of this section originated with this Constitution]; who shall hold their offices for two years from the day of the general election. (Art. I., sec. 1, of Constitution of 1796.)

Sec. 4. *Census.*—An enumeration of the qualified voters, and an apportionment of the Representatives in the General Assembly, shall be made in the year one thousand eight hundred and seventy-one [" 1841 " in Constitution of 1834], and within every subsequent term of ten years.

Sec. 5. *Apportionment of Representatives.*—The number of Representatives shall, at the several periods of making the enumeration, be apportioned among the several counties or districts, according to the number of qualified voters in each; and shall not exceed seventy-five until the population of the State shall be one million and a half, and shall never [" thereafter " in Constitution of 1834] exceed ninety-nine; *Provided*, that any county having two-thirds of the ratio shall be entitled to one member.

Sec. 6. *Apportionment of Senators.*—The number of Senators shall, at the several periods of making the enumeration, be apportioned among the several counties or districts, according to the number of qualified voters in each, and shall not exceed one-third the number of representatives. In apportioning the Senators among the different counties the fraction that may be lost by any county or counties, in the apportionment of members to the House of Representatives, shall be made up to such county or counties in the Senate, as near as may be practicable. When a district is composed of two or more counties,

they shall be adjoining; and no county shall be divided in forming a district.

SEC. 7. *Time of elections.*—The first election for Senators and Representatives shall be held on the second Tuesday in November, one thousand eight hundred and seventy; and forever thereafter, elections for members of the General Assembly shall be held once in two years, on the first Tuesday after the first Monday in November. Said elections shall terminate the same day.

SEC. 8. *When Legislature to meet; when Governor to be inaugurated.*—The first session of the General Assembly shall commence on the first Monday in October, one thousand eight hundred and seventy-one, at which time the term of service of the members shall commence, and expire on the first Tuesday of November, one thousand eight hundred and seventy-two, at which session the Governor elected on the second Tuesday in November, one thousand eight hundred and seventy, shall be inaugurated; and forever thereafter, the General Assembly shall meet on the first Monday in January next ensuing the election, at which session thereof the Governor shall be inaugurated.

SEC. 9. *Qualifications of Representatives.*—No person shall be a Representative unless he shall be a citizen of the United States, of the age of twenty-one years, and shall have been a citizen of this State for three years, and a resident in the county he represents one year, immediately preceding the election.

SEC. 10. *Of Senators; ineligible to office.*—No person shall be a Senator unless he shall be a citizen of the United States, of the age of thirty years, and shall have resided three years in this State, and one year in the county or district, immediately preceding the election. No Senator or Representative shall, during the time for which he was elected, be eligible to any office or place of trust, the appointment to which is vested in the Executive or the General Assembly, except to the office of trustee of a literary institution.

SEC. 11. *Powers of each house; quorum; adjournments from day to day.*—The Senate and House of Representatives, when assembled, shall each choose a Speaker and its other officers, be judges of the qualifications and election of its members, and sit upon its own adjournments from day to day. Not less than two-thirds of all the members to which each house shall be entitled [" two-thirds of each house " in Constitutions of 1796 and 1834] shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized by law to compel the attendance of absent members. (Art. I., sec. 8, of Constitution of 1796.)

SEC. 12. *Each house to make its own rules.*—Each house may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member, but not a second time for the same offense; and shall have all other powers necessary for a branch of [" a branch of " not in Constitution of 1796] the Legislature of a free State. (Art. I., sec. 9, Constitution of 1796.)

SEC. 13. *Privilege of members.*—Senators and Representatives shall, in all cases, except treason, felony, or breach of the peace, be privileged from arrest during the session of the General Assembly, and in going to and [" or " in Constitution of 1796] returning from the

same; and for any speech or debate in either house, they shall not be questioned in any other place. (Constitution of 1796, Art. I., sec. 10.)

SEC. 14. *Power to punish other than members.*—Each house may punish, by imprisonment, during its session, any person not a member, who shall be guilty of disrespect to the house, by any disorderly or any ["any" not in Constitution of 1796 and 1834] contemptuous behavior in its presence. (Constitution of 1796, Art. I., sec. 11.)

SEC. 15. *Vacancies.*—When vacancies happen in either house, the Governor, for the time being, shall issue writs of election to fill such vacancies. (Constitution of 1796, Art. I., sec. 12.)

SEC. 16. *Limitation upon power of adjournment.*—Neither house shall, during its ["their" in Constitution of 1796] session, adjourn without the ["the" not in Constitution of 1796] consent of the other for more than three days, nor to any other place than that in which the two houses shall be sitting. (Constitution of 1796, Art. I., sec. 13.)

SEC. 17. *Origin and frame of bills.*—Bills may originate in either house; but may be amended, altered, or rejected by the other. [The remainder of this section originated with this Constitution.] No bill shall become a law which embraces more than one subject, that subject to be expressed in the title. All acts which repeal, revive, or amend former laws shall recite in their caption, or otherwise, the title or substance of the law repealed, revived, or amended. (Constitution of 1796, Art. I., sec. 14.)

SEC. 18. *Of passage of bills.*—Every bill shall be read once, on three different days, and be passed each time in the house where it originated, before transmission to the other. No bill shall become a law until it shall have been read and passed, on three different days in each house, and shall have received, on its final passage in each house, the assent of a majority of all the members to which that house shall be entitled under this Constitution; and shall have been signed by the respective Speakers in open session, the fact of such signing to be noted on the journal; and shall have received the approval of the Governor, or shall have been otherwise passed under the provisions of this Constitution.

SEC. 19. *When rejected.*—After a bill has been rejected, no bill containing the same substance shall be passed into a law during the same session. (Constitution of 1796, Art. I., sec. 16.)

SEC. 20. *Style of laws; when to take effect.*—The style of the laws of this State shall be, "*Be it enacted by the General Assembly of the State of Tennessee.*" [The remainder of this section originated with this Constitution.] No law of a general nature shall take effect until forty days after its passage, unless the same or the caption shall state that the public welfare requires that it should take effect sooner. (Constitution of 1796, Art. I., sec. 17.)

SEC. 21. *Journal of proceedings; ayes and noes.*—Each house shall keep a journal of its proceedings, and publish it, except such parts as the welfare of the State may require to be kept secret; the ayes and noes shall be taken in each house upon the final passage of every bill of a general character, and bills making appropriations of public moneys; and the ayes and noes of the members on any question shall, at the request of any five of them, be entered on the journal.

SEC. 22. *Business open, unless, etc.*—The doors of each house and of ["of" not in Constitution of 1796] committees of the whole shall be

kept open, unless when the business shall be such as ought to be kept secret. (Constitution of 1796, Art. I., sec. 19.)

Sec. 23. *Compensation of members; number of days to be paid for; Senators, court of impeachment; per diem.*—The sum of four dollars per day, and four dollars for every twenty-five miles traveling to and from the seat of government, shall be allowed to the members of each General Assembly elected after the ratification of this Constitution, as a compensation for their services. But no member shall be paid for more than seventy-five days of a regular session, or for more than twenty days of any extra or called session, or for any day when absent from his seat in the legislature, unless physically unable to attend. The Senators, when sitting as a court of impeachment, shall each receive four dollars per day of actual attendance.

Sec. 24. *Public money.*—No money shall be drawn from the treasury but in consequence of appropriations made by law [the remainder of this section was not in the Constitution of 1796]; and an accurate statement of the receipts and expenditures of the public money shall be attached to and published with the laws at the rise of each stated session of the General Assembly. (Constitution of 1796, Art. I., sec. 21.)

Sec. 25. *Defaulters ineligible.*—No person who heretofore hath been, or may hereafter be, a collector or holder of public moneys, shall have a seat in either house of the General Assembly, or hold any other office under the State Government, until such person shall have accounted for and paid into the treasury all sums for which he may be accountable or liable. (Constitution of 1796, Art. I., sec. 23.)

Sec. 26. *Certain officers ineligible; no one to hold two lucrative offices.*—No judge of any court of law or equity, Secretary of State, attorney-general, register, clerk of any court of record, or person holding any office under the authority of the United States, shall have a seat in the General Assembly, nor shall any person in this State hold more than one lucrative office at the same time; *Provided*, that no appointment in the militia, or to the office of justice of the peace, shall be considered a lucrative office, or operative as a disqualification to a seat in either house of the General Assembly.

Sec. 27. *Right of protest.*—Any member of either house of the General Assembly shall have liberty to dissent from and protest against any act or resolve which he may think injurious to the public or to any individual, and to have the reasons for [" of " in Constitution of 1796] his dissent entered on the journals. (Constitution of 1796, Art. I., sec. 25.)

Sec. 28. *Taxation, merchant's and privileges.*—All property, real, personal, or mixed, shall be taxed; but the Legislature may except such as may be held by the State, by counties, cities, or towns, and used exclusively for public or corporation purposes, and such as may be held and used for purposes purely religious, charitable, scientific, literary, or educational, and shall except one thousand dollars' worth of personal property in the hands of each taxpayer, and the direct product of the soil in the hands of the producer and his immediate vendee. All property shall be taxed according to its value, that value to be ascertained in such manner as the Legislature shall direct, so that taxes shall be equal and uniform throughout the State. No one species of property from which a tax may be collected shall be taxed higher than any other species of property of the same value; but the

Legislature shall have power to tax merchants, peddlers, and privileges in such manner as they may from time to time direct. The portion of a merchant's capital used in the purchase of merchandise sold by him to nonresidents, and sent beyond the State, shall not be taxed at a rate higher than the *ad valorem* tax on property. The Legislature shall have power to levy a tax upon incomes derived from stocks and bonds that are not taxed *ad valorem*. All male citizens of this State over the age of twenty-one years, except such persons as may be exempted by law on account of age or other infirmity, shall be liable to a poll tax of not less than fifty cents nor more than one dollar per annum; nor shall any county or corporation levy a poll tax exceeding the amount levied by the State.

Sec. 29. *Legislature may authorize counties and towns to tax; loan of credit of county, etc., restricted; exceptions.*—The General Assembly shall have power to authorize the several counties and incorporated towns in this State to impose taxes for county and corporation purposes respectively, in such manner as shall be prescribed by law; and all property shall be taxed according to its value, upon the principles established in regard to State taxation.

But the credit of no county, city, or town shall be given or loaned to or in aid of any person, company, association, or corporation, except upon an election to be first held by the qualified voters of such county, city, or town, and the assent of three-fourths of the votes cast at said election. Nor shall any county, city or town become a stockholder with others in any company, association, or corporation, except upon a like election and the assent of a like majority. But the counties of Grainger, Hawkins, Hancock, Union, Campbell, Scott, Morgan, Grundy, Sumner, Smith, Fentress, Van Buren, and the new county herein authorized to be established out of fractions of Sumner, Macon, and Smith Counties, White, Putnam, Overton, Jackson, Cumberland, Anderson, Henderson, Wayne, Cocke, Coffee, Macon, Marshall, and Roane, shall be excepted out of the provisions of this section, so far that the assent of a majority of the qualified voters of either of said counties voting on the question shall be sufficient, when the credit of such county is given or loaned to any person, association, or corporation; *Provided*, that the exception of the counties above named shall not be in force beyond the year one thousand eight hundred and eighty, and after that period they shall be subject to the three-fourths majority applicable to the other counties of the State.

Sec. 30. *Manufactured produce of State not taxed.*—No article manufactured of the produce of this State shall be taxed otherwise than to pay inspection fees. (Constitution of 1796, Art. I., sec. 27.) 9 Bax., 5–18.

Sec. 31. *State aid forbidden.*—The credit of this State shall not be hereafter loaned or given to or in aid of any person, association, company, corporation, or municipality; nor shall the State become the owner, in whole or in part, of any bank, or a stockholder with others in any association, company, corporation, or municipality.

Sec. 32. *Amendments to Constitution of United States.*—No convention or General Assembly of this State shall act upon any amendment of the Constitution of the United States, proposed by Congress to the several States, unless such convention or General Assembly shall have been elected after such amendment is submitted.

SEC. 33. *State bonds to defaulting railroads, none.*—No bonds of the State shall be issued to any railroad company which, at the time of its application for the same, shall be in default in paying the interest upon the State bonds previously loaned to it, or that shall hereafter, and before such application, sell or absolutely dispose of any State bonds loaned to it for less than par.

ARTICLE III

EXECUTIVE DEPARTMENT

SECTION 1. *Governor.*—The supreme executive power of this State shall be vested in a Governor.

SEC. 2. *How and when elected.*—The Governor shall be chosen by the electors of the members of the General Assembly, at the time and places where they shall respectively vote for the members thereof. The returns of every election for Governor shall be sealed up and transmitted to the seat of government, by the returning officers, directed to the Speaker of the Senate, who shall open and publish them in the presence of a majority of the members of each house of the General Assembly. The person having the highest number of votes shall be Governor; but if two or more shall be equal and highest in votes, one of them shall be chosen Governor by joint vote [" ballot " in Constitution of 1796] of both houses of the General Assembly. Contested elections for Governor shall be determined by both houses of the General Assembly, in such manner as shall be prescribed by law.

SEC. 3. *Qualifications.*—He shall be at least thirty years of age, shall be a citizen of the United States, and shall have been a citizen of this State seven years next before his election.

SEC. 4. *Term of service.*—The Governor shall hold his office for two years, and until his successor shall be elected and qualified. He shall not be eligible more than six years in any term of eight.

SEC. 5. *Commander in chief; militia not to be called out except, etc.*—He shall be commander in chief of the army and navy of this State, and of the militia, except when they shall be called into the service of the United States [the remainder of this section originated with this Constitution]; but the militia shall not be called into service except in case of rebellion or invasion, and then only when the General Assembly shall declare by law that the public safety requires it.

SEC. 6. *May grant pardons.*—He shall have power to grant reprieves and pardons, after conviction, except in cases of impeachment.

SEC. 7. *Compensation.*—He shall, at stated times, receive a compensation for his services, which shall not be increased or diminished during the period for which he shall have been elected.

SEC. 8. *May require information from officers.*—He may require information, in writing, from the officers in the executive department, upon any subject relating to the duties of their respective offices.

SEC. 9. *May convene the Legislature.*—He may, on extraordinary occasions, convene the General Assembly by proclamation, in which he shall state specifically the purposes for which they are to convene; but they shall enter on no legislative business except that for which they were specifically called together.

Sec. 10. *Execute laws.*—He shall take care that the laws [" shall " inserted in Constitution of 1796] be faithfully executed.

Sec. 11. *Give information to the Legislature.*—He shall, from time to time, give to the General Assembly information of the state of the government, and recommend for [" to " in Constitution of 1796] their consideration such measures as he shall judge expedient.

Sec. 12. *Vacancies.*—In case of the removal of the Governor from office, or of his death or resignation, the powers and duties of the office shall devolve on the Speaker of the Senate; and in case of the death, removal from office, or resignation of the Speaker of the Senate, the powers and duties of the office shall devolve on the Speaker of the House of Representatives.

Sec. 13. *Ineligibility.*—No member of Congress, or person holding any office under the United States, or this State, shall execute the office of Governor.

Sec. 14. *Temporary appointments.*—When any officer, the right of whose appointment is by this Constitution vested in the General Assembly, shall, during the recess, die, or the [" his " in Constitution of 1796] office, by the expiration of the term, or [the words, " by the expiration of the term, or," were not in the Constitution of 1796] by other means, become vacant, the Governor shall have the power to fill such vacancy by granting a temporary commission, which shall expire at the end of the next session of the Legislature.

Sec. 15. *Great Seal.*—There shall be a seal of this State, which shall be kept by the Governor, and used by him officially, and shall be called the Great Seal of the State of Tennessee.

Sec. 16. *Grants and commissions.*—All grants and commissions shall be in the name and by the authority of the State of Tennessee, be sealed with the State seal, and signed by the Governor.

Sec. 17. *Secretary of State.*—A Secretary of [" this " inserted in Constitution of 1796] State shall be appointed by joint vote of the General Assembly [the last seven words not in the Constitution of 1796], and commisioned during the term of four years; he shall keep a fair register of all the official acts and proceedings of the Governor; and shall, when required, lay the same, and all papers, minutes, and vouchers relative thereto, before the General Assembly; and shall perform such other duties as shall be enjoined by law.

Sec. 18. *Bills to be approved by the Governor; Governor's veto; joint resolutions.*—Every bill which may pass both houses of the General Assembly shall, before it becomes a law, be presented to the Governor for his signature. If he approve it, he shall sign it, and the same shall become a law; but if he refuse to sign it, he shall return it, with his objections thereto in writing, to the house in which it originated; and said house shall cause said objections to be entered at large upon its journal, and proceed to reconsider the bill. If, after such reconsideration, a majority of all the members elected to that house shall agree to pass the bill, notwithstanding the objections of the Executive, it shall be sent, with said objections, to the other house, by which it shall be likewise reconsidered. If approved by a majority of the whole number elected to that house, it shall become a law. The votes of both houses shall be determined by yeas and nays, and the names of all the members voting for or against the bill shall be entered upon the journals of their respective houses. If the Governor shall fail to return any bill, with his objections, within five days

(Sundays excepted) after it shall have been presented to him, the same shall become a law without his signature, unless the General Assembly, by its adjournment, prevents its return, in which case it shall not become a law. Every joint resolution or order (except on questions of adjournment) shall likewise be presented to the Governor for his signature, and before it shall take effect shall receive his signature; and on being disapproved by him, shall, in like manner, be returned, with his objections; and the same, before it shall take effect, shall be repassed by a majority of all the members elected to both houses, in the manner and according to the rules prescribed in case of a bill.

Article IV

ELECTIONS

Section 1. *Right of suffrage; poll tax; military duty; voting, where.*—Every male person of the age of twenty-one years, being a citizen of the United States, and a resident of this State for twelve months, and of the county wherein he may offer his vote for six months, next preceding the day of election, shall be entitled to vote for members of the General Assembly, and other civil officers for the county or district in which he resides; and there shall be no qualification attached to the right of suffrage, except that each voter shall give to the judges of election, where he offers to vote, satisfactory evidence that he has paid the poll taxes assessed against him for such preceding period as the Legislature shall prescribe, and at such time as may be prescribed by law; without which his vote cannot be received. And all male citizens of the State shall be subject to the payment of poll taxes and to the performance of military duty within such ages as may be prescribed by law. The General Assembly shall have power to enact laws requiring voters to vote in the election precincts in which they may reside, and laws to secure the freedom of election and the purity of the ballot box.

Sec. 2. *Right of suffrage may be restricted for crime.*—Laws may be passed excluding from the right of suffrage persons who may be convicted of infamous crimes. [This provision was not in the Constitution of 1796.]

Sec. 3. *Privileges of voters.*—Electors shall, in all cases, except treason, felony, or breach of the peace, be privileged from arrest or summons [the words "or summons" not in Constitution of 1796], during their attendance at elections, and in going to and returning from them. (Art. III., sec. 2, of Constitution of 1796.)

Sec. 4. *Mode of voting.*—In all elections to be made by the General Assembly, the members thereof shall vote *viva voce*, and their votes shall be entered on the journal. All other elections shall be by ballot.

Article V

IMPEACHMENTS

Section 1. *Impeachment.*—The House of Representatives shall have the sole power of impeachment.

Sec. 2. *Tried by the Senate.*—All impeachments shall be tried by the Senate. When sitting for that purpose, the Senators shall be

upon oath or affirmation, and the Chief Justice of the Supreme Court—or, if he be on trial, the senior associate judge—shall preside over them. No person shall be convicted without the concurrence of two-thirds of the Senators sworn to try the officer impeached.

SEC. 3. *How prosecuted.*—The House of Representatives shall elect from their own body three members, whose duty it shall be to prosecute impeachments. No impeachment shall be tried until the Legislature shall have adjourned *sine die*, when the Senate shall proceed to try such impeachment.

SEC. 4. *Who may be impeached.*—The Governor, judges of the Supreme Court, judges of the inferior courts, chancellors, attorneys for the State, Treasurer, Comptroller, and Secretary of State, shall be liable to impeachment whenever they may, in the opinion of the House of Representatives, commit any crime in their official capacity which may require disqualification; but judgment shall only extend to removal from office, and disqualification to fill any office thereafter. The party shall, nevertheless, be liable to indictment, trial, judgment, and punishment according to law. The Legislature now has, and shall continue to have, power to relieve from the penalties imposed any person disqualified from holding office by the judgment of a court of impeachment.

SEC. 5. *Officers liable to indictment.*—Justices of the peace, and other civil officers, not hereinbefore mentioned, for crimes or misdemeanors in office, shall be liable to indictment in such courts as the Legislature may direct; and, upon conviction, shall be removed from office by said court, as if found guilty on impeachment; and shall be subject to such other punishment as may be prescribed by law.

ARTICLE VI

JUDICIAL DEPARTMENT

SECTION 1. *Judicial power.*—The judicial power of this State shall be vested in one Supreme Court, and in such Circuit, Chancery, and other inferior courts as the Legislature shall, from time to time, ordain and establish; in the judges thereof, and in justices of the peace. The Legislature may also vest such jurisdiction in corporation courts as may be deemed necessary. Courts to be holden by justices of the peace may also be established.

SEC. 2. *Supreme Court.*—The Supreme Court shall consist of five judges, of whom not more than two shall reside in any one of the grand divisions of the State. The judges shall designate one of their own number who shall preside as Chief Justice. The concurrence of three of the judges shall, in every case, be necessary to a decision. The jurisdiction of this court shall be appellate only, under such restrictions and regulations as may, from time to time, be prescribed by law; but it may possess such other jurisdiction as is now conferred by law on the present Supreme Court. Said Court shall be held at Knoxville, Nashville, and Jackson.

SEC. 3. *Election of judges; qualifications.*—The Judges of the Supreme Court shall be elected by the qualified voters of the State. The Legislature shall have power to prescribe such rules as may be necessary to carry out the provisions of Section 2 of this article.

Every judge of the Supreme Court shall be thirty-five years of age, and shall, before his election, have been a resident of the State for five years. His term of service shall be eight years.

SEC. 4. *Judges of inferior courts.*—The judges of the Circuit and Chancery Courts, and of other inferior courts, shall be elected by the qualified voters of the district or circuit to which they are to be assigned. Every judge of such courts shall be thirty years of age, and shall, before his election, have been a resident of the State for five years, and of the circuit or district one year. His term of service shall be eight years.

SEC. 5. *Attorney-general and Reporter.*—An Attorney-general and Reporter for the State shall be appointed by the judges of the Supreme Court, and shall hold his office for a term of eight years. An attorney for the State for any circuit or district for which a judge having criminal jurisdiction shall be provided by law, shall be elected by the qualified voters of such circuit or district, and shall hold his office for a term of eight years, and shall have been a resident of the State five years, and of the circuit or district one year. In all cases where the attorney for any district fails or refuses to attend and prosecute according to law, the court shall have power to appoint an attorney *pro tempore*.

SEC. 6. *Judges and attorneys, how removed.*—Judges and attorneys for the State may be removed from office by a concurrent vote of both houses of the General Assembly, each house voting separately; but two-thirds of the members to which each house may be entitled ["two-thirds of all the members elected to each house" in Constitution of 1834] must concur in such vote. The vote shall be determined by ayes and noes, and the names of the members voting for or against the judge or attorney for the State, together with the cause or causes of removal, shall be entered on the journal of each house, respectively. The judge or attorney for the State, against whom the Legislature may be about to proceed, shall receive notice thereof, accompanied with a copy of the causes alleged for his removal, at least ten days before the day on which either house of the General Assembly shall act thereupon.

SEC. 7. *Compensation of judges.*—The judges of the Supreme or inferior courts shall, at stated times, receive a compensation for their services, to be ascertained by law, which shall not be increased or diminished during the time for which they are elected. They shall not be allowed any fees or perquisites of office, nor hold any office of trust of profit under this State or the United States.

SEC. 8. *Jurisdiction of inferior courts.*—The jurisdiction of the Circuit, Chancery, and other inferior courts shall be as now established by law, until changed by the Legislature.

SEC. 9. *Judge's charge.*—Judges shall not charge juries with respect to matters of fact, but may state the testimony and declare the law.

SEC. 10. *Certiorari.*—The judges or justices of inferior courts of law and equity shall have power in all civil caces [cases] to issue writs of *certiorari*, to remove any cause or the transcript of the record thereof, from any inferior jurisdiction into such court of law, on sufficient cause, supported by oath or affirmation.

SEC. 11. *Incompetency of judges; special judges.*—No judge of the Supreme or inferior courts shall preside on the trial of any cause in the event of which he may be interested, or where either of the parties

shall be connected with him by affinity or consanguinity, within such degrees as may be prescribed by law, or in which he may have been of counsel, or in which he may have presided in any inferior court, except by consent of all the parties. In case all or any of the judges of the Supreme Court shall thus be disqualified from presiding on the trial of any cause or causes, the court, or the judges thereof, shall certify the same to the Governor of the State, and he shall forthwith specially commission the requisite number of men, of law knowledge, for the trial and determination thereof. The Legislature may, by general laws, make provision that special judges may be appointed to hold any courts the judge of which shall be unable or fail to attend or sit, or to hear any cause in which the judge may be incompetent.

Sec. 12. *Process; conclusion of indictments.*—All writs and other process shall run in the name of the State of Tennessee, and bear teste and be signed by the respective clerks. Indictments shall conclude "against the peace and dignity of the State."

Sec. 13. *Clerks of court.*—Judges of the Supreme Court shall appoint their clerks, who shall hold their offices for six years. Chancellors shall appoint their clerks and masters, who shall hold their offices for six years. Clerks of inferior courts, holden in the respective counties or districts, shall be elected by the qualified voters thereof, for the term of four years. Any clerk may be removed from office for malfeasance, incompetency, or neglect of duty, in such manner as may be prescribed by law.

Sec. 14. *Fines.*—No fines shall be laid on any citizen of this State that shall exceed fifty dollars, unless it shall be assessed by a jury of his peers, who shall assess the fine at the time they find the fact, if they think the fine should [for "should" "ought to" is used in the Constitution of 1796, Art. 5, sec. II] be more than fifty dollars.

Sec. 15. *Civil districts.*—The different counties of this State shall be laid off, as the General Assembly may direct, into districts of convenient size, so that the whole number in each county shall not be more than twenty-five, or four for every one hundred square miles. There shall be two justices of the peace and one constable elected in each district, by the qualified voters therein, except districts including county towns, which shall elect three justices and two constables. The jurisdiction of said officers shall be coextensive with the county. Justices of the peace shall be elected for the term of six, and constables for the term of two, years. Upon removal of either of said officers from the district in which he was elected, his office shall become vacant from the time of such removal. Justices of the peace shall be commissioned by the Governor. The Legislature shall have power to provide for the appointment of an additional number of justices of the peace in incorporated towns.

Article VII

State and County Officers

Section 1. *Justices and constables, number of; removal of county officers.*—There shall be elected in each county, by the qualified voters therein, one sheriff, one trustee ["and" inserted in Constitution of 1834], one register; the sheriff and trustee for two years, and the register for four years. But [instead of "but" the words "pro-

vided that" are used in Constitution of 1834] no person shall be eligible to the office of sheriff more than six years in any term of eight years. There shall be elected for each county, by the justices of the peace, one coroner and one ranger, who shall hold their offices for two years; said officers shall be removed for malfeasance, or neglect of duty, in such manner as may be prescribed by law.

Sec. 2. *Vacancies, how filled.*—Should a vacancy occur, subsequent to an election, in the office of sheriff, trustee, or register, it shall be filled by the justices; if in that of the clerks to be elected by the people, it shall be filled by the courts; and the person so appointed shall continue in office until his successor shall be elected and qualified; and such office shall be filled by the qualified voters at the first election for any of the county officers.

Sec. 3. *Treasurer and Comptroller.*—There shall be a Treasurer, or Treasurers, and a Comptroller of the Treasury, appointed for the State, by the joint vote of both houses of the General Assembly, who shall hold their offices for two years.

Sec. 4. *Other elections and vacancies.*—The election of all officers and the filling of all vacancies [the words "that may happen by death, resignation, or removal," were inserted here in the Constitution of 1834] not otherwise directed or provided by this Constitution shall be made in such manner as the Legislature shall direct.

Sec. 5. *Time of election of civil officers; terms; temporary appointments.*—Elections for judicial and other civil officers shall be held on the first Thursday in August, one thousand eight hundred and seventy, and forever thereafter on the first Thursday in August next preceding the expiration of their respective terms of service.

The term of each officer so elected shall be computed from the first day of September next succeeding his election. The term of office of the Governor and of other executive officers shall be computed from the fifteenth of January next after election of the Governor. No appointment or election to fill a vacancy shall be made for a period extending beyond the unexpired term. Every officer shall hold his office until his successor is elected or appointed and qualified. No special election shall be held to fill a vacancy in the office of judge or district attorney, but at the time herein fixed for the biennial election of civil officers; and such vacancy shall be filled at the next biennial election occurring more than thirty days after the vacancy occurs.

Article VIII

Militia

Section 1. *Militia officers.*—All militia officers shall be elected by persons subject to military duty, within the bounds of their several companies, battalions, regiments, brigades, and divisions, under such rules and regulations as the Legislature may, from time to time, direct and establish.

Sec. 2. *Staff officers.*—The Governor shall appoint the adjutant general and his other staff officers; the major generals, brigadier generals, and commanding officers of regiments shall, respectively, appoint their staff officers.

Sec. 3. *Exemptions.*—The Legislature shall pass laws exempting citizens belonging to any sect or denomination of religion, the tenets

of which are known to be opposed to the bearing of arms, from attending private and general musters. (Constitution of 1796, Art. VII., sec. 7, same as this.)

Article IX

DISQUALIFICATIONS

Section 1. *Ineligibility of ministers and priests.*—Whereas ministers of the gospel are, by their profession, dedicated to God and the care of souls, and ought not to be diverted from the great duties of their functions; therefore no minister of the gospel, or priest of any denomination whatever, shall be eligible to a seat in either house of the Legislature.

Sec. 3. *Of belief.*—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.

Sec. 3. *Of duelists.*—Any person who shall, after the adoption of this Constitution, fight a duel, or knowingly be the bearer of a challenge to fight a duel, or send or accept a challenge for that purpose, or be an aider or abettor in fighting a duel, shall be deprived of the right to hold any office of honor or profit in this State, and shall be punished otherwise, in such manner as the Legislature may prescribe.

Article X

OATHS, BRIBERY OF ELECTORS, NEW COUNTIES

Section 1. *Oath of office.*—Every person who shall be chosen or appointed to any office of trust or profit under this Constitution, or any law made in pursuance thereof, shall, before entering upon the duties thereof, take an oath to support the Constitution of this State, and of the United States, and an oath of office.

Sec. 2. *Of members of the General Assembly.*—Each member of the Senate and House of Representatives shall, before they proceed to business, take an oath or affirmation to support the Constitution of this State, and of the United States, and also the following oath: "I, ——— ———, do solemnly swear [or affirm] that, as a member of this General Assembly, I will, in all appointments, vote without favor, affection, partiality, or prejudice; and that I will not propose or assent to any bill, vote, or resolution, which shall appear to me injurious to the people, or consent to any act or thing whatever that shall have a tendency to lessen or abridge their rights and privileges, as declared by the Constitution of this State."

Sec. 3. *Punishment of electors for bribery.*—Any elector who shall receive any gift or reward for his vote, in meat, drink, money, or otherwise, shall suffer such punishment as the laws shall direct; and any person who shall directly or indirectly give, promise, or bestow any such reward to be elected shall thereby be rendered incapable, for six ["two" in Constituion of 1796] years, to serve in the office for which he was elected, and be subject to such further punishment as the Legislature shall direct.

Sec. 4. *New counties; county lines; exceptions; vote necessary to establish new counties or remove county seat; liability for existing*

debt.—New counties may be established by the Legislature, to consist of not less than two hundred and seventy-five square miles, and which shall contain a population of seven hundred qualified voters. No line of such county shall approach the courthouse of any old county from which it may be taken nearer than eleven miles, nor shall such old county be reduced to less than five hundred square miles. But the following exceptions are made to the foregoing provisions, viz.: New counties may be established by the present or any succeeding Legislature out of the following territory—to wit: Out of that portion of Obion County which lies west of low-water mark of Reelfoot Lake; out of fractions of Sumner, Macon, and Smith Counties; but no line of such new county shall approach the courthouse of Sumner or Smith Counties nearer than ten miles, nor include any part of Macon County lying within nine and a half miles of the courthouse of said county; nor shall more than twenty square miles of Macon County, nor any part of Sumner County lying due west of the western boundary of Macon County, be taken in the formation of said new county; out of fractions of Grainger and Jefferson Counties, but no line of such new county shall include any part of Grainger County north of the Holston River; nor shall any line thereof approach the courthouse of Jefferson County nearer than eleven miles. Such new county may include any other territory which is not excluded by any general provision of this Constitution; out of fractions of Jackson and Overton Counties, but no line of such new county shall approach the courthouse of Jackson or Overton Counties nearer than ten miles; nor shall such county contain less than four hundred qualified voters, nor shall the area of either of the old counties be reduced below four hundred and fifty square miles; out of fractions of Roane, Monroe, and Blount Counties, around the town of Loudon, but no line of such new county shall ever approach the towns of Maryville, Kingston, or Madisonville nearer than eleven miles, except that, on the south side of the Tennessee River, said lines may approach as near as ten miles to the courthouse of Roane County.

The counties of Lewis, Cheatham, and Sequatchie, as now established by legislative enactments, are hereby declared to be constitutional counties. No part of Bledsoe County shall be taken to form a new county, or a part thereof, or be attached to any adjoining county.

That portion of Marion County included within the following boundaries—beginning on the Grundy and Marion County line, at the Nick-a-Jack Trace, and running about six hundred yards west of Ben. Posey's, to where the Tennessee Coal Railroad crosses the line, running thence southeast through the pocket, near William Summar's, crossing the Battle Creek Gulf at the corner of Thomas Wooten's field; thence running across the Little Gizzard Gulf, at Raven Point; thence in a direct line to the bridge crossing the Big Fiery Gizzard; thence in a direct line to the mouth of Holy Water Creek; thence up said creek to the Grundy County line, and thence with said line to the beginning—is hereby detached from Marion County, and attached to the county of Grundy.

No part of a county shall be taken off to form a new county, or a part thereof, without the consent of two-thirds of the qualified voters in such part taken off; and where an old county is reduced for the purpose of forming a new one, the seat of justice in said old county shall not be removed without the concurrence of two-thirds

of both branches of the Legislature, nor shall the seat of justice of any county be removed without the concurrence of two-thirds of the qualified voters of the county. But the foregoing provision, requiring a two-thirds majority of the voters of a county to remove its county seat, shall not apply to the counties of Obion and Cocke.

The fractions taken from old counties to form new counties, or taken from one county and added to another, shall continue liable for their pro rata of all debts contracted by their respective counties prior to the separation, and be entitled to their proportion of any stocks or credits belonging to such old counties.

SEC. 5. *To vote with old county.*—The citizens who may be included in any new county shall vote with the county or counties from which they may have been stricken off, for members of Congress, for Governor, and for members of the General Assembly, until the next apportionment of members to the General Assembly after the establishment of such new county.

ARTICLE XI

MISCELLANEOUS PROVISIONS

SECTION 1. *Existing laws not affected by this Constitution.*—All laws and ordinances now in force and use in this State, not inconsistent with this Constitution, shall continue in force and use until they shall expire, or be altered or repealed by the Legislature; but ordinances contained in any former Constitution or schedule thereto are hereby abrogated.

SEC. 2. *Nor rights, contracts, actions, etc.*—Nothing contained in this Constitution shall impair the validity of any debts or contracts, or affect any rights of property, or any suits, actions, rights of action, or other proceedings in courts of justice.

SEC. 3. *Amendments of the Constitution, etc.; not oftener than once in six years; but Legislature may at any time submit question of calling convention.*—Any amendment or amendments to this Constitution may be proposed in the Senate or House of Representatives; and if the same shall be agreed to by a majority of all the members elected to each of the two houses, such proposed amendment or amendments shall be entered on their journals, with the yeas and nays thereon, and referred to the General Assembly then next to be chosen, and shall be published six months previous to the time of making such choice; and if in the General Assembly then next chosen, as aforesaid, such proposed amendment or amendments to the people, to by two-thirds of all the members elected to each house, then it shall be the duty of the General Assembly to submit such proposed amendment or amendments to the people, in such manner and at such time as the General Assembly shall prescribe; and if the people shall approve and ratify such amendment or amendments by a majority of all the citizens of the State voting for Representatives, voting in their favor, such amendment or amendments shall become part of this Constitution. When any amendment or amendments to the Constitution shall be proposed in pursuance of the foregoing provisions, the same shall, at each of said sessions, be read three times on three several days in each house. The Legislature

shall not propose amendments to the Constitution oftener than once in six years. [The remainder of this section originated with this Constitution.] The Legislature shall have the right, at any time, by law to submit to the people the question of calling a convention to alter, reform, or abolish this Constitution; and when, upon such submission, a majority of all the votes cast shall be in favor of said proposition, then delegates shall be chosen, and the convention shall assemble in such mode and manner as shall be prescribed.

Sec. 4. *Divorces.*—The Legislature shall have no power to grant divorces, but may authorize the courts of justice to grant them for such causes as may be specified by law; but such laws shall be general and uniform in their operation throughout the State.

Sec. 5. *Lotteries.*—The Legislature shall have no power to authorize lotteries for any purpose, and shall pass laws to prohibit the sale of lottery tickets in this State.

Sec. 6. *Changing name, legitimation, etc.*—The Legislature shall have no power to change the names of persons, or to pass acts adopting or legitimatizing [legitimating or legitimizing] persons; but shall, by general laws, confer this power on the courts.

Sec. 7. *Interest, conventional rate.*—The Legislature shall fix the rate of interest, and the rate so established shall be equal and uniform throughout the State; but the Legislature may provide for a conventional rate of interest, not to exceed ten per centum per annum.

Sec. 8. *General laws only to be passed; corporations only to be provided for by general laws.*—The Legislature shall have no power to suspend any general law for the benefit of any particular individual, nor to pass any law for the benefit of individuals, inconsistent with the general law of the land; nor to pass any law granting to any individual or individuals rights, privileges, immunitie [immunities] or exemptions other than such as may be, by the same law, extended to any member of the community who may be able to bring himself within the provisions of such law. No corporation shall be created, or its powers increased or diminished, by special laws; but the General Assembly shall provide by general laws, for the organization of all corporations hereafter created, which laws may, at any time, be altered or repealed; and no such alteration or repeal shall interfere with or divest rights which have become vested.

Sec. 9. *Power over private and local affairs.*—The Legislature shall have the right to vest such powers in the courts of justice, with regard to private and local affairs, as may be expedient.

Sec. 10. *Internal improvements to be encouraged.*—A well-regulated system of internal improvement is calculated to develop the resources of the State, and promote the happiness and prosperity of her citizens; therefore it ought to be encouraged by the General Assembly.

Sec. 11. *Homestead exemption.*—A homestead, in the possession of each head of a family, and the improvement thereon, to the value, in all, of one thousand dollars, shall be exempt from sale under legal process during the life of such head of a family, to inure to the benefit of the widow, and shall be exempt during the minority of their children occupying the same. Nor shall said property be alienated without the joint consent of husband and wife, when that relation exists. This exemption shall not operate against public taxes, nor

debts contracted for the purchase money of such homestead, or improvements thereon.

SEC. 12. *Education to be cherished; common school fund; poll tax; whites and negroes; colleges, etc., rights of.*—Knowledge, learning, and virtue, being essential to the preservation of republican institutions, and the diffusion of the opportunities and advantages of education throughout the different portions of the State, being highly conducive to the promotion of this end, it shall be the duty of the General Assembly, in all future periods of this government, to cherish literature and science. And the fund called the common school fund, and all the lands and proceeds thereof, dividends, stocks, and other property of every description whatever, heretofore by law appropriated, by the General Assembly of this State for the use of common schools, and all such as shall hereafter be appropriated, shall remain a perpetual fund, the principal of which shall never be diminished by legislative appropriations; and the interest thereof shall be inviolably appropriated to the support and encouragement of common schools throughout the State, and for the equal benefit of all the people thereof; and no law shall be made authorizing said fund or any part thereof to be diverted to any other use than the support and encouragement of common schools. The State taxes derived hereafter from polls shall be appropriated to educational purposes, in such manner as the General Assembly shall, from time to time, direct by law. No school established or aided under this section shall allow white and negro children to be received as scholars together in the same school. The above provisions shall not prevent the Legislature from carrying into effect any laws that have been passed in favor of the colleges, universities, or academies, or from authorizing heirs or distributees to receive and enjoy escheated property under such laws as shall be passed from time to time.

SEC. 13. *Game, fish, etc.*—The General Assembly shall have power to enact laws for the protection and preservation of game and fish within the State, and such laws may be enacted for and applied and enforced in particular counties or geographical districts designated by the General Assembly.

SEC. 14. *Intermarriage between whites and negroes.*—The intermarriage of white persons with negroes, mulattoes, or persons of mixed blood, descended from a negro to the third generation, inclusive, or their living together as man and wife, in this State, is prohibited. The Legislature shall enforce this section by appropriate legislation.

SEC. 15. *Religious holidays.*—No person shall, in time of peace, be required to perform any service to the public on any day set apart by his religion as a day of rest.

SEC. 16. *Bill of Rights to remain inviolate.*—The declaration of rights, hereto prefixed, is declared to be a part of the Constitution of this State, and shall never be violated on any pretense whatever. And to guard against transgression of the high powers we have delegated, we declare that everything in the Bill of Rights contained is excepted out of the general powers of the government, and shall forever remain inviolate.

SEC. 17. *County offices.*—No county office created by the Legislature shall be filled otherwise than by the people or the County Court.

SCHEDULE

SECTION 1. *Public officers to hold from what time; appointments; officers to vacate, when; exceptions.*—That no inconvenience may arise from a change of the Constitution, it is declared that the Governor of the State, the members of the General Assembly, and all officers elected at or after the general election of March, one thousand eight hundred and seventy, shall hold their offices for the terms prescribed in this Constitution.

Officers appointed by the courts shall be filled by appointment, to be made and to take effect during the first term of the court held by judges elected under this Constitution.

All other officers shall vacate their places thirty days after the day fixed for the election of their successors under this Constitution.

The Secretary of State, Comptroller, and Treasurer shall hold their offices until the first session of the present General Assembly occurring after the ratification of this Constitution, and until their successors are elected and qualified.

The officers then elected shall hold their offices until the fifteenth day of January, one thousand eight hundred and seventy-three.

SEC. 2. *Judges of Supreme Court; vacancy to remain unfilled; court may sit in two sections; two judges must concur; Attorney-general and Reporter.*—At the first election of judges under this Constitution, there shall be elected six judges of the Supreme Court, two from each grand division of the State, who shall hold their offices for the term herein prescribed.

In the event any vacancy shall occur in the office of either of said judges at any time after the first day of January, one thousand eight hundred and seventy-three, it shall remain unfilled, and the court shall from time to time be constituted of five judges.

While the court may consist of six judges, they may sit in two sections, and may hear and determine causes in each at the same time, but not in different grand divisions at the same time.

When so sitting, the concurrence of two judges shall be necessary to a decision.

The Attorney-general and Reporter for the State shall be appointed after the election and qualification of the judges of the Supreme Court herein provided for.

SEC. 3. *Officers to take oath to support this Constitution* or vacate.—Every judge and every officer of the executive department of this State, and every sheriff holding over under this Constitution, shall, within twenty days after the ratification of this Constitution is proclaimed, take an oath to support the same; and the failure of any officer to take such oath shall vacate his office.

SEC. 4. *Statute of limitations.*—The time which has elapsed since the sixth day of May, one thousand eight hundred and sixty-one, until the first day of January, one thousand eight hundred and sixty-seven, shall not be computed in any cases affected by the statutes of limitation, nor shall any writ of error be affected by such lapse of time.

Done in convention, at Nashville, the twenty-third day of February, in the year of our Lord one thousand eight hundred and

seventy, and of the independence of the United States the ninety-fourth. In testimony whereof, we have hereunto set our names.

JOHN C. BROWN, *President.*

Attest:

T. E. S. RUSSWURM, *Secretary;*
THOS. W. JONES, *Assistant Secretary;*
W. S. KYLE, *Second Assistant Secretary.*

ORDINANCE

SECTION 1. *Election ordered.—Be it ordained by the convention,* That it shall be the duty of the several officers of the State, authorized by law to hold elections for members of the General Assembly and other officers to open and hold an election at the place of holding said elections in their respective counties, on the fourth Saturday in March, 1870, for the purpose of receiving the votes of such qualified voters as may desire to vote for the ratification or rejection of the Constitution recommended by this convention. And the qualification of voters in said election be the same as that required in the election of delegates to this convention.

SEC. 2. *Duty of returning officers; manner of voting.*—It shall be the duty of said returning officers, in each county, in this State, to enroll the name of each voter on the poll books prepared for said election, and shall deposit each ballot in the ballot boxes respectively. Each voter who wishes to ratify the new Constitution shall have written or printed on his ticket the words "New Constitution," or words of like import; and each voter who wishes to vote against the ratification of the new Constitution shall have written or printed on his ticket the words "Old Constitution," or words of like import.

SEC. 3. *Election, how held; votes, etc.*—The election shall be held, and the judges and clerks shall be appointed, as in the case of the election of the members of the General Assembly; and the returning officers, in presence of the judges or inspectors, shall count the votes given for the "New Constitution," and of those given for the "Old Constitution," of which they shall keep a correct estimate in said poll books. They shall deposit the original poll books of said election with the clerks of the County Courts in the respective counties, and shall, within five days after the election, make out accurate statements of the number of votes, in their respective counties, for or against the "New Constitution," and immediately forward, by mail, one copy of said certificates to the Governor, and one to the Speaker of the Senate. So soon as the poll books are deposited with the County Court clerks, they shall certify to the president of the convention an accurate statement of the number of votes cast for or against the "New Constitution," as appears on said poll books; and if any of said returning officers shall fail to make the returns herein provided for within the time required, the Governor shall be authorized to send special messengers for the result of the vote in those counties whose officers have so failed to make returns.

SEC. 4. *Returns, who to compare; certificate of result; Governor's proclamation.*—Upon the receipt of said returns, it shall be the duty of the Governor, Speaker of the Senate, and the president of this convention, or any two of them, to compare the votes cast in said

election; and if it shall appear that a majority of all the votes cast for and against the "New Constitution" were for "New Constitution," it shall be the duty of the Governor, Speaker of the Senate, and president of this convention, or any two of them, to append to this Constitution a certificate of the result of the votes, from which time the Constitution shall be established as the Constitution of Tennessee, and the Governor shall make proclamation of the result.

SEC. 5. *When proclamation to be issued.*—The Governor of the State is required to issue his proclamation as to the election on the fourth Saturday in March, 1870, hereto provided for.

JOHN C. BROWN *President.*

Attest:

[L. S.] T. E. S. RUSSWURM, *Secretary.*

CERTIFICATE

STATE OF TENNESSEE.

In pursuance of the fourth ordinance of the late constitutional convention of the State of Tennessee, adopted on the twenty-third of February, one thousand eight hundred and seventy, in the city of Nashville, we, D. W. C. Senter, Governor of said State; Dorsey B. Thomas, Speaker of the Senate; and John C. Brown, president of said convention, do hereby certify that we have carefully compared the votes cast for and against the new Constitution in the election on the fourth Saturday of March, one thousand eight hundred and seventy, and we certify that the vote cast in the entire State, leaving out the counties of Knox, Grainger, Roane, and Overton (from which there are no official returns), was one hundred and thirty-two thousand. Of these, ninety-eight thousand one hundred and twenty-eight votes were for the new Constitution, and thirty-three thousand eight hundred and seventy-two votes were for the old Constitution; and that the majority for the new Constitution is sixty-four thousand two hundred and fifty-six; and we certify accordingly the ratification of the new Constitution.

Done at the executive department, in the city of Nashville, this fifth day of May, A. D. one thousand eight hundred and seventy, and of the American independence the ninety-fourth.

D. W. C. SENTER, *Governor;*
JOHN C. BROWN, *President, etc.;*
D. B. THOMAS, *Speaker of the Senate.*

PROCLAMATION

STATE OF TENNESSEE, EXECUTIVE DEPARTMENT,
Nashville, May 5, 1870.

In pursuance of the fourth ordinance of the late constitutional convention, I have carefully examined the official returns of the election held on the twenty-sixth day of March last, for the ratification or rejection of the proposed Constitution of the State of Tennessee (except the counties of Knox, Grainger, Roane, and Overton, which returns have not been received), and find the number of votes cast for the "New Constitution" to be (98,128) ninety-eight thousand

one hundred and twenty-eight, and for the "Old Constitution" (33,872) thirty-three thousand eight hundred and seventy-two, being a majority of (64,256) sixty-four thousand two hundred and fifty-six for the new Constitution.

Now, therefore, I, D. W. C. Senter, Governor of the State of Tennessee, by virtue of the power and authority in me vested, do hereby declare and proclaim that the new Constitution, as submitted to the people, was ratified by them at the ballot box, on the twenty-sixth day of March last, by said majority of (64,256) sixty-four thousand two hundred and fifty-six votes.

In testimony whereof, I have hereunto subscribed my official signature, and ordered the great seal of the State to be affixed.

Done at the department in the city of Nashville, this fifth day of May, in the year of our Lord one thousand eight hundred and seventy, and of the American independence the ninety-fourth.

D. W. C. SENTER.

By the Governor:

[L. S.] A. J. FLETCHER, *Secretary of State.*

TEXAS

CONSTITUTION OF THE REPUBLIC OF MEXICO—1824 * [a]

The Supreme Executive Power, provisionally appointed by the general sovereign Congress of the Nation, to all who shall see these presents, Know, and understand, That the same Congress has decreed and sanctioned the following Federal Constitution of the United Mexican States.

In the name of God, all powerful, author and supreme legislator of society. The general constituent Congress of the Mexican Nation, in the discharge of the duties confided to them by their constituents, in order to establish and fix its political Independence, establish and confirm its Liberty, and promote its prosperity and glory, decree as follows:

CONSTITUTION OF THE UNITED MEXICAN STATES

Title 1st

Only Section.—*Of the Mexican Nation, its Territory and Religion*

Article 1. The Mexican Nation, is forever free and independent of the Spanish government, and every other power.

2. Its Territory consists of that, which was formerly called the vice-royalty of New-Spain, that styled the captain generalship of Tucaton, that of the commandant generalship formerly called the

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* Verified by "The Constitution of the Republic of Mexico and of the State of Coahuila and Texas. New York: Ludwig and Tolefree, Printers, 1832."

[a] This constitution was translated into English for circulation among the immigrants from the United States who had settled at several places in the Mexican State of Texas.

The first colony of Europeans within the present limits of Texas was planted by Robert Cavalier, le Sieur de la Salle, near the entrance of Matagorda Bay, February 18, 1685. La Salle had found his way from Canada to the Mississippi River, and had descended it to the Gulf of Mexico in 1682, returning the way he came. Going back to France, he fitted out a naval expedition, and sailed July 24, 1684, from La Rochelle, for the mouth of the Mississippi. Failing to find it, he established a colony at Matagorda Bay, which was short lived. In 1686 the Marquis of Laguna, then Vice-Roy of Mexico, sent an armed expedition to take possession of the country, and in 1691 Don Domingo Teran was appointed Governor of Coahuila and Texas, with instructions to establish agricultural colonies under military rule. France, however, never ceded her claim to Texas, and it having been transferred to the United States by the treaty of 1803 ceding Louisiana and its dependencies, [see *ante*, page 687.] the controversy was continued until closed by the treaty of Guadalupe Hidalgo, 1848.

Internal Provinces of East and West, and that of Lower and Upper California, with the lands annexed, and adjacent islands in both seas. By a constitutional law, a demarkation of the limits of the Federation will be made as soon as circumstances will permit.

3. The Religion of the Mexican Nation is, and will be perpetually, the Roman Catholic Apostolic. The Nation will protect it by wise and just laws, and prohibit the exercise of any other whatever.

Title 2d

Only Section.—*Form of Government of the Nation, of its integral parts and division of Supreme Power*

4. The Mexican Nation adopts for its Government the form of Republican representative, popular Federal.

5. The parts of this Federation are the States and Territories as follows:—The State of the Chiapas, Chiuahua, Coahuila and Texas, Durango, Guanajuato, Mexico, Michoacan, New Leon, Oajaca, Puebla de los Angeles, Quetaro, San Luis Potosi, Sinora, and Sinaloa, Tobasco, Tumaulipas, Vera Cruz, Xalisco, Yucatan Tacatecas; the Territory of Upper California, Lower California, Colima and Santa Fe of New Mexico—a constitutional law shall fix the character of Tlaxcala.

6. The supreme power of the Federation will be divided for its exercises, in Legislative, Executive, and Judicial.

Title 3d

Section 1st.—*Legislative power, of its nature and the mode of exercising it*

7. The legislative power of the Federation, shall be disposed in a General Congress, this to be divided in two houses, one of the Deputies (Representatives) and the other of Senators.

Section 2d.—*Of the House of Representatives*

8. The House of Representatives shall be composed of representatives elected totally every two years, by the citizens of the States.

9. The qualifications of the electors shall be constitutionally prescribed by the Legislatures of the States; to whom, likewise, appertains the regulation of the elections, in conformity with the principles established by this Constitution.

10. The general basis for the appointment of representatives shall be the population.

11. For every 80,000 souls, one representative shall be appointed, or for a fraction which passes 40,000. The State which may not contain this population, shall, notwithstanding, appoint one representative.

12. A census of the whole Federation, which shall be formed in five years and renewed every ten, shall serve to designate the number of Deputies corresponding to each State; and in the mean time, it shall be regulated agreeably to the basis established in the former Article, by the census which governed in the election of Deputies in the present Congress.

13. In the same manner shall be elected in each State, the necessary number of supernumerary representatives, in the ratio of one for every three full representatives, or for a fraction amounting to two; the States which may contain less than three full representatives shall elect one supernumerary.

14. The Territory which may contain more than 40,000 inhabitants, shall appoint a full representative and one supernumerary, who shall have a voice and vote in the formation of laws and decrees.

15. The Territory which may not contain the foregoing number of population, shall appoint one full representative and one supernumerary, who shall be entitled to a voice in all matters. The election of Representatives for the Territories shall be regulated by a special law.

16. In every State and Territory of the Federation the appointment of Representatives shall be made on the first Sunday in October previous to its renovation. The election to be indirect.

17. The election of Representatives concluded. The electoral college shall remit through their President to the Council of Government a legal return of the election, and notify the elected of their appointment by an official letter, which shall serve as a credential of election.

18. The President of the Council of Government shall give to the returns, referred to in the preceding Article, the direction prescribed by the regulations of said Council.

19. To be a Representative it is required—First. To be at the time of the election, twenty-five years of age, complete. Second, To have been a resident of the State, from which elected, at least two years, or born in the State, although a resident in another.

20. Those not born in the Territory of the Mexican Nation, to be Representatives, must have, besides eight years' residence in it, 8000 dollars of real estate in any part of the Republic, or an occupation that produces them 1000 per year.

21. Exceptions to the foregoing article—First, Those born in any other part of America, that in 1810 appertained to Spain, and has not united itself to another nation, nor remains subject to the former, to whom three years' residence in the Territory of the Federation is sufficient, in addition to the requisite prescribed in the 19th article. Second, The military not born in the Territory of the Republic, who, with arms, sustained the independence of the country, eight years' residence, complete, is sufficient, and the requisites prescribed in the 19th article.

22. In the election of Representatives, actual residence shall have preference over birth and non-residence.

23. Those cannot be Representatives—First, Those deprived or suspended from the rights of citizenship. Second, The President and Vice-President of the Federation. Third, The members of the Supreme Judicial Court. Fourth, Secretaries of the Cabinet and the officers of their departments. Fifth, Those employed in the Treasury, whose functions Extend over the whole Federation. Sixth, Governors of States and Territories, Commandant Generals, Archbishops and Bishops, Governors of Archbishoprics and Bishoprics, Provisors and Vicar Generals, Circuit Judges, Commissary Generals of treasury and war, for the States and Territories over which they exercise their functions.

24. In order that any person enumerated in the foregoing Article may be eligible, it is necessary they should have ceased their functions six months previous to their election.

Section 3d.—*Of the Senate*

25. The Senate shall be composed of two Senators from each State, elected by an absolute majority of the votes of the Legislatures, and renewed by one-half every two years.

26. The seats of the Senators appointed in the second place, shall be vacated in two years, and the first appointed in four years, and so on in succession.

27. When a vacancy occurs by the death, resignation, or other cause, it shall be filled by the corresponding Legislature in session, if not, as soon as it meets.

28. To be a Senator it is necessary to possess all the qualifications required by the former Section, to be a representative, and moreover, to be at the time of election, thirty years of age.

29. No person can be a Senator who is disqualified from being a Representative.

30. In the election of Senators, the 22d Article shall also govern.

31. When the same individual is elected for a Senator and Representative, the first election shall have the preference.

32. The periodical election of Senators shall be made in all the States on the same day, which shall be the first day of September previous to the renewal of half the Senators.

33. The election of Senators concluded, the Legislature shall remit a legal return through their President, to the President of the Council of Government; and notify the elected of their appointment, by means of an official letter, which shall serve them as credentials. The President of the Council of Government shall give the direction to these returns, indicated in the 18th Article.

Section 4th.—*Of the Individual Functions of both Houses, and Prerogatives of its Members*

34. Each House in its preparatory meeting, and in everything appertaining to its government shall follow the rules formed by the present Congress; provided that amendments may be made to them in future, should both Houses consider it necessary.

35. Each house shall judge of the elections of its respective members, and resolve all doubts which may occur in them.

36. The Houses cannot open their sessions without the presence of more than the half of the total number of its members; but those present of one and the other, must unite on the day appointed for the regulation of the internal government of each, and respectively compel the attendance of the absentees, under the penalties prescribed by the law.

37. The Houses will communicate with one another, and with the Supreme Executive Power, by means of their respective Secretaries, or by means of deputations.

38. Either of the two Houses may sit as Grand Jurors on accusations: First, against the President of the Federation, for the crime

of treason against the National Independence or the established form of Government, or for subornation or bribery during the time of his service. Second, also, against the President, for acts manifestly intended to impede the Election of President, Senators, or Representatives, or to prevent them from entering on the exercise of their duties in the manner prescribed in this Constitution or to deprive the Chambers of the use of any of the powers constitutionally vested in them. Third, against the members of the Supreme Court and the secretaries of the departments, for any crime committed during the time of their service. Fourth, against the Governors of the States, for infractions on the Federal Constitution, laws of the Union, or orders of the President of the Federation, which may not be manifestly contrary to the Constitution and general laws of the Union, and likewise by the publication of laws and decrees of the Legislature of their respective States, contrary to the same Constitution and laws.

39. The House of Representatives will exclusively form a Grand Jury, when the President or his ministers may be accused of acts in which the Senate or the Council of Government have concurred by reason of its attributions. The House will, in the same manner, serve as Grand Juror, in cases of accusation against the Vice-President for any offence committed during the term of his service.

40. The House, before which has been made the accusations of the individual spoken of in the two preceding articles, will form itself in a Grand Jury, and if it is declared, by the vote of two-thirds of the members present, that there is cause of accusation, the functions of the accused shall be suspended, and he shall be placed at the disposition of the competent tribunal.

41. Any Representative or Senator can make any propositions in writing, or present projects of a law or decree in his respective Chamber.

42. The Representatives and Senators shall be inviolable for the opinions manifested in the discharge of their duties, and never can be called to account for them.

43. In all criminal prosecutions instituted against Senators or Representatives, from the time of their election until two months after the expiration of their term of service, the former shall be accused before the chamber of the latter, and the latter before that of the former; each Chamber composing a Grand Jury respectively for this object.

44. If the Chamber sitting as a Grand Jury, in the cases referred to in the last article, declare, by a vote of two-thirds of the members present, that there is cause for accusation, the accused shall be suspended and placed at the disposition of the competent tribunal.

45. The emoluments of the Representatives and Senators shall be determined by law, and paid from the general treasury of the Federation.

46. Each House, and also the meetings spoken of in the 36th Article, shall have power to deliver such orders as they may deem necessary to carry their resolutions into effect, issued by virtue of the functions granted to each by the 35th, 36th, 39th, 40th, 44th, and 45th Articles of the Constitution, and the President of the United States shall cause them to be executed without making any observations upon them.

SECTION 5TH.—*Of the faculties of the General Congress*

47. Every resolution of the general Congress shall have the character of a law or decree.

48. The resolutions of the general Congress, to be entitled to the force of law or decree, must be signed by the President, except in cases otherwise provided in this Constitution.

49. The laws and decrees which emanate from the general Congress shall have for object—First, to sustain the National Independence, and provide for the National Security and preservation of its exterior relations. Second, to preserve the Federal Union of the States, and the peace and public order of the interior of the Federation. Third, maintain the independence of the States amongst themselves, in all that relates to their interior government in conformity to the Constitutional Act, and his Constitution. Fourth, sustain the proportional equality of obligations and rights, which the States are entitled to before the law.

50. The exclusive faculties of the general Congress are the following:—First, promote illustration, assuring, for a limited time, exclusive rights to authors for their respective works, establishing Colleges for marine, artillery, and engineers; erecting one or more establishments in which are to be taught natural, political, and moral sciences, noble arts, and the languages, without prejudice to the power which the Legislatures have to regulate public education in their respective States. Second, promote the general prosperity, by opening and improving roads and canals, without impeding the States in the improvement of theirs; establishing mails and post-offices, and securing, for a limited time, exclusive right to the inventors, perfectioners or introducers of any branch of industry, for their respective inventions, perfections, or new introductions. Third, protect and regulate the political liberty of the press, in order that its exercises may never be suspended, and much less abolished, in any of the States and Territories of the Federation. Fourth, admit new States to the Federal Union or Territories, incorporating them in the nation. Fifth, regulate definitively the limits of the States, when they cannot agree among themselves about the demarkation of their respective districts. Sixth, form States out of Territories, or unite them to those already existing. Seventh, unite two or more States, by a petition of their Legislatures, to form one only, or form a new one from the limits of those that already exist, with the approbation of three-fourths of the members present of both Houses, and a ratification of an equal number of the Legislatures of the other States of the Union. Eighth, fix the general expenses, establish the necessary contributions to cover them, regulate their collection, determine the inversion, and take annually accounts thereof from the Government. Ninth, contract debts upon the credit of the Federation, and designate guarantees to cover them. Tenth, acknowledge the National debt, and designate means for its consolidation and payment. Eleventh, regulate the commerce with foreign nations, and among the different States and tribes of Indians. Twelfth, give instructions to celebrate covenants with the Apostolic Chair, approve them for their ratification, and regulate the exercise of the patronage in all parts of the Nation. Thirteenth, approve treaties of peace, alliance, friendship, federation, armed neutrality, and whatsoever others which the President of the United States may

celebrate with foreign powers. Fourteenth, to establish all kind of courts, custom-houses, and designate their locations. Fifteenth, determine and regulate the weight, standard, value, type and denomination of money in all the States of the Federation, and adopt a general system of weights and measures. Sixteenth, declare war after examining the data prescribed by the President of the United States. Seventeeth, form regulations relative to granting letters of marque and reprisal, and to declare good or bad captures by sea and land. Eighteenth, designate the armed force of sea and land, fix the respective quota of men of each State, and give orders and regulations for their organization and service. Nineteenth, form regulations to organize, arm, and discipline the local militia of the States reserving to each one the appointment of their respective officers, and the faculty of training them conformably to the discipline prescribed by said regulations. Twentieth, to grant or deny the entrance of foreign troops in the Territory of the Federation. Twenty-first, permit or not, the station of squadrons of any other power, for more than one month, in the Mexican ports. Twenty-second, permit or not, the departure of National troops within the limits of the Federation. Twenty-third, create or suppress public officers of the Federation, designate, augment or diminish their emoluments and pensions. Twenty-fourth, grant premiums and recompenses to corporations or persons who have rendered important services to the Republic, and decree public honors to the posthumous memory of great men. Twenty-fifth, grant amnesty or pardon for crimes, the cognizance of which appertains to the tribunal of the Federation, in the cases, and with the previous requirements prescribed by law. Twenty-sixth, to establish a general law of naturalization. Twenty-seventh, to give uniform laws in every State, on the subject of bankruptcies. Twenty-eighth, to select a place to serve as a residence for the supreme powers of the Federation, and exercise within its limits the attributions of the legislative powers of the State. Twenty-ninth, to change such residence when they may deem it necessary. Thirtieth, give laws and decrees for the regulation of the interior administration of the Territories. Thirty-first, dictate all the laws and decrees that may be conductive to fulfill the object spoken of in the 49th Article, without interfering with the interior administration of the State.

Section 6th.—*Formation of the Laws.*

51. The formation of laws and decrees can proceed indiscriminately from either of the two Houses, with the exception of those which arise from contributions or imposts, which cannot have origin except in the House of Representatives.

52. There shall be considered as incipients of law or decree—First, the propositions which the President of the United Mexican States may deem conducive to the general good of society, and as such, particularly recommend them to the House of Representatives. Second, the propositions or plans of laws or decrees which the legislatures may direct to either House.

53. All projects of a law or decree, without any exception, shall be successively discussed in both Houses, observing in each with exacti-

tude, the rules relative to the form of debates, interval and mode of proceeding in discussing and voting.

54. The projects of a law or decree rejected in the House where it originated, before being sent to the other House, shall not be renewed in the same House by its members in the sessions of that year, but must remain until the following year.

55. If the project of a law or decree, after having been debated, should be approved by the absolute majority of the members present of both Houses, shall be passed to the President of the United States, who also, if he approves it, shall sign and publish it, and if not, return it, with his observations, within the term of ten days, (Sundays and solemn festivals excepted,) to the House of its origin.

56. The project of a law or decree, returned by the President in conformity with the preceding Article, shall be a second time discussed in the two Houses. If in both of these it should be approved by two-thirds of the members present, it shall be again returned to the President, who, without excuse, must sign it and publish it, but if it was not approved by the vote of two-thirds of both Houses, it cannot be renewed in either of them until the next year.

57. If the President does not return any project of a law or decree within the time prescribed in the 55th Article, it shall, from that circumstance be considered as sanctioned and as such shall be promulgated, unless in the mean time, the session of Congress should be closed or suspended, in which case the return must be made on the first day in which Congress shall be re-assembled.

58. The project of a law or decree, totally rejected for the first time by the House to which it has been sent, shall be returned with their observations to the one in which it originated, if after a re-examination the said House shall again approve of it by a vote of two-thirds of the members present, it shall be sent a second time to the House that rejected it, who cannot a second time reject it without the concurrence of two-thirds of the members present.

59. The projects of a law or decree, approved of after a second revision by two-thirds of the members of the House where it originated, and not rejected by two-thirds of the members of the other House, shall be sent to the President, who shall sign and publish it, or return it within ten days (Sundays, &c., excepted) to the House where it originated, with his observations.

60. The project of a law or decree, which according to the foregoing Article, the President returned to the House of its origin, it shall be again taken into consideration, and if this approves it by a vote of two-thirds of the members present, and the revising body does not reject, by an equal number of its members, it shall be returned to the President, who must publish it. But if was not approved by the vote of two-thirds of the House of its origin, or was rejected by an equal number of the revising body, it cannot be renewed until the ordinary subsequent sessions.

61. In the event of the rejection a second time of the revising body, in conformity with the 58th Article, the project shall be considered rejected, and cannot be reconsidered until the following year.

62. In the amendments which the revising body make to any project of a law or decree, there shall be observed the same for-

malities required before the project of a law can be sent to the President.

63. The parts of a project of a law or decree rejected for the first time by the revising body, shall take the same course as those totally rejected by it for the first time.

64. In the interpretation, modification, or revocation of the laws or decrees, the same requisites shall be observed which are prescribed for their formation.

65. All resolutions of the general Congress communicated to the President of the Republic, must be signed by the President of both Houses and by a Secretary of each one of them.

66. For the formation of every law or decree, it is necessary that an absolute majority of all the members of each House should be present in their respective Houses.

SECTION 7TH—*Of the time, duration and place of the Sessions of the General Congress*

67. The general Congress shall meet every year on the first day of January at the place designated by law; its internal rules shall prescribe the previous forms necessary at the opening of its sessions, and the formalities which are to be observed at its installation.

68. The President of the Federation shall assist at the installation, and pronounce a discourse analogous to this important act, and the person who presides in Congress, shall answer it in general terms.

69. The ordinary sessions of Congress shall be daily, without any other interruption than that of the days of solemn festival, and in order to adjourn for more than three days, the consent of both Houses shall be necessary.

70. Both Houses shall reside in the same place, and cannot move to another, without first agreeing on the removal, the time and manner of effecting it, designating the same point, for the reunion of one and the other. But if they agree on a removal, and differ as to the time, mode, and place, the President of the States shall determine the difference, electing one of those in question.

71. The Congress shall close its sessions annually on the 15th day of April, with the same formalities as are prescribed for its opening, prorogning the session 30 days, (Sundays and solemn festivals excepted) when they may deem it necessary, or when the President of the Federation requires it.

72. When the general Congress is assembled for extraordinary sessions, it shall be formed of the same Representatives and Senators as the ordinary sessions of that year, and shall occupy itself exclusively on the object or objects for which it was convened; but if these should not be completed on the day in which the ordinary sessions are to commence, the extraordinary sessions shall cease, and the subject pending shall be determined by Congress in said ordinary sesions.

73. The resolution that the Congress take relative to the removal, suspension, or prorogation of their sessions, agreeably to the three preceding Articles, shall be communicated to the President, who shall cause them to be executed without making any observations upon them.

TITLE 4TH

SECTION 1ST—*Of the Supreme Executive power of the Nation.*

74. The supreme executive power of the Federation shall be deposited in one individual who shall be styled *President of the United Mexican States.*

75. There shall likewise be a Vice President, on whom will devolve the faculties and prerogatives of the President, in case of his physical or moral inability to serve.

76. To be President or Vice President, it is required to be a Mexican citizen by birth, thirty-five years of age at the time of the election, and to be a resident in the country.

77. The President cannot be re-elected for this office, until after four years are passed from the time of his retirement.

78. He that is elected President or Vice President of the Republic shall accept these offices in preference to any others.

79. The first day of September, anterior to the year in which the new President must enter on the exercise of his duties, the Legislatures of each State shall elect by an absolute majority of votes two individuals, one of which, at least, must not be a native of the State that elects.

80. The voting concluded, the Legislatures shall remit to the President of the Council of Government, a legal return of the election, in order that he may give it the course designated by the rules of the Council.

81. The sixth of January afterwards, the said returns shall be read in presence of both Houses united, provided those of three-fourths of the Legislatures of the States have been received.

82. The reading of said returns concluded, the Senators shall retire, and a committee appointed by the House of Representatives, and composed of one from each State of those that have representatives present, shall revise them and render an account of the result.

83. The House shall then proceed to class the elections and enumerate the votes.

84. He who has an absolute majority of the votes of all the Legislatures shall be the President.

85. If two should have said majority, he shall be President who has the most votes, and the other the Vice President. In case of a tie with said majority, the House of Representatives shall elect one of the two for President, and the other shall be Vice President.

86. If no one should have the absolute majority of the votes of the Legislatures, the House of Representatives shall elect the President and Vice President, choosing in each election, one of the two which had the greatest number of suffrages.

87. When more than two individuals have a respective majority and equal number of votes, the House shall choose from them the President or Vice President, as the case may be.

88. If one has received the respective majority, and two or more have an equal number of suffrages but greater than the others, the House shall elect from among those who have the greatest number of votes.

89. If all have an equal number of votes, the House shall elect from

among them all, the President and Vice President, doing the same when one has a number of suffrages and the others an equal number.

90. If there should be a tie upon the voting of the classing of the elections made by the Legislatures, the vote shall be repeated once, and if it should result in a tie, shall decide it by lot.

91. In the competitions between three or more that have an equal number of votes, the voting shall be directed to the reduction of the competitors to two or one, in order that in the election he may contend with the other, that may have obtained a relative majority over all the others.

92. For a general rule in voting, relative to the election of President and Vice-President, they shall not refer to lots before having made a second vote.

93. The voting on classifications of electors made by the Legislatures, and on those made by the House of Representatives, for President and Vice President shall be made by States, the representation of each one having a single vote, and in order that there may be a decision in the House, it must contain an absolute majority of the votes.

94. In order to deliberate on the objects contained in the foregoing Article, there must be united in the House more than the half of the total number of its members, and be present, representatives from three-fourths of the States.

SECTION 2D.—*Duration of the office of President and Vice President, manner of filling the vacancies of both and their oath.*

95. The President and Vice President of the Federation shall enter upon the discharge of their duties on the first of April, and shall be replaced precisely on the same day every four years by a new constitutional election.

96. If for any motive, the elections of President and Vice President are not made and published by the first of April, when they ought to take their seats, or those elected should not immediately enter upon the discharge of their duties, nevertheless, the former ones shall go out of office the same day, and the Supreme Executive power shall be deposited, provisionally, in a President, that shall be elected by the House of Representatives, voting by States.

97. In case the President should be indisposed, then the provisions in the preceding Article shall have effect, and if both should be at the same time, and Congress not being in session, the Supreme Executive Power shall be deposited in the hands of the Chief Justice of the Supreme Court, and two individuals that shall be elected by an absolute plurality of votes by the Council of Government; these are not to be members of the general Congress, and are to have the qualities requisite to be President of the Federation.

98. Until the elections are made to which the preceding Articles allude, the Chief Justice of the Supreme Court shall be charged with the Supreme Executive Power.

99. In case of the perpetual inability of the President and Vice President to serve, Congress, or in its recess, the Council of Government, will respectively provide according to articles 96 and 97, and so dispose that the Legislatures proceed to the election of President and Vice President, according to the forms prescribed by the Constitution.

100. The elections of President and Vice President, made by the Legislatures, in consequence of the perpetual inability of those to serve who had been elected for these offices, shall not impede the ordinary elections the first of September every four years.

101. The President and Vice President newly elected, must be on the first day of April, in the place where the supreme powers of the Federation reside, and before both Houses assembled, swear to observe the duties imposed on them under the following form:

"I, N ——— ——— Elected President (or Vice President) of the United Mexican States, swear before God and the Holy Evangelists, that I will exercise faithfully, the charge the same U. S. have confided in me, and that I will keep, and cause to be kept exactly, the Constitution and general laws of the Federation."

102. If neither the President or Vice President present themselves to swear as the preceding Article provides, and the sessions of Congress being open, they shall swear before the Council of Government as soon as each one presents himself.

103. If the Vice President takes the oath prescribed in Article 101, before the President, he shall enter immediately on the discharge of the duties of President until he shall have sworn.

104. The President and Vice President constitutionally appointed according to Article 99, and those individuals provisionally appointed to exercise the charge of President, according to Articles 96 and 97, shall be sworn as prescribed in Article 101, before both Houses, if assembled, if not, before the Council of Government.

SECTION 3D.—*Of the prerogatives of the President and Vice President*

105. The President has the power to lay before Congress such propositions or amendments of laws as he may deem conducive to the general good, directing them to the House of Representatives.

106. The President has the power once in the space of ten days (Sundays and solemn festivals excepted) to make observations upon the laws and decrees passed to him by Congress, suspending their publication until the resolution of Congress, except in the cases mentioned in this Constitution.

107. The President, during the time of his administration, cannot be accused, except before either of the Houses, and only in crimes alluded to in Article 38, committed in the time therein expressed.

108. Within one year from the day on which the President ceases his functions, he cannot be accused except before one of the Houses for crimes alluded to in Article 38, or any others committed during the term of his administration; after this he cannot be accused for those crimes.

109. The Vice-President, during the four years of his administration, cannot be accused except before the House of Representatives, for whatever crime he commits during the time of his administration.

SECTION 4TH.—*Attributions of the President and the restrictions of his faculties*

110. The attributions of the President are the following: First, to publish, circulate, and cause to be kept, the laws and decrees of the general Congress. Second, to give rules and decrees and orders for the better observance of the Constitution, constitutional act and

general laws. Third, to put into execution the laws and decrees directed to preserve the integrity of the Federation, and to sustain its independence in its exterior, together with its union and liberty in its interior. Fourth, to name and remove freely, Secretaries of the departments. Fifth, to direct the collection of, and decree the inversion of general contributions agreeably to the laws. Sixth, to name the officers of the Treasury department, and those of the commissary generals, diplomatic ministers, and consuls, colonels and other superior officers of the permanent army, active militia and navy, with the approbation of the Senate, and should it not be in session, with the Council of Government. Seventh, to name all other officers of the permanent army, navy, and active militia, and officers of the Federation, conformably to the laws. Eighth, to appoint, after previous recommendation from the Supreme Court, Judges and Attorney Generals of the Circuit and District. Ninth, to grant discharges, grant licenses, and regulate military pensions according to law. Tenth, to dispose of the permanent armed force by sea and land, and the active militia for the security of the interior and defence of the exterior of the Federation. Eleventh, to dispose of the local militia for the same purposes, but to take them out of their respective States or Territories, it will require the previous consent of Congress, who will also designate the force necessary. Should Congress not be assembled, the consent of the Council of Government will be necessary, and who will also designate the number. Twelfth, to declare war in the name of the United Mexican States, after a previous decree of Congress to that effect, and to grant commissions to Privateers in conformity with the laws. Thirteenth, to celebrate covenants with the Apostolic Chair, as designated in clause 12th of Article 50. Fourteenth, to direct diplomatic negotiations, and to celebrate treaties of peace, amity, alliance, truce, federation, armed neutrality, commerce, and all others, but to give or deny the ratification of any of them, requires the approbation of the general Congress. Fifteenth, to receive ministers and other envoys from foreign nations. Sixteenth, to request Congress to prorogue their sessions for thirty days, (Sundays, &c., excepted.) Seventeenth, to assemble Congress for extraordinary sessions, as he may deem the case necessary, by the consent of two-thirds of the Council of Government present. Eighteenth, also to assemble an extraordinary session of Congress, when the Council of Government shall deem it necessary, and the vote of two-thirds of the members present is given to that effect. Nineteenth, to see that justice is promptly and impartially administered by the Supreme Courts, Tribunals, and inferior courts of the Federation, and that their sentences be executed according to law. Twentieth, to suspend from their employments, for the space of three months, and deprive one-half of their pay for the same time, all officers belonging to the Federation, violators of its orders and decrees; and should there be cause for a prosecution against such officers, he shall place the subject before its proper tribunal. Twenty-first, to grant the passage, or retain the decrees of the Ecclesiastical Councils, Pontifical Bulls, Briefs and Rescripts with the consent of the general Congress, if they contain general dispositions to be laid before the Senate, or in its recess, bofer the Council of Government, if containing Governmental business, and before the Supreme Court of Justice, if it is a subject of litigation.

111. The President, in publishing laws and decrees, shall use the following form: "The President of the United Mexican States, to the inhabitants of the Republic. *Know*, that the general Congress have decreed the following: (here the subject) Therefore, I command that it be printed, published, and circulated, and that due compliance be given it.

112. The restrictions of the faculties of the President are the following: First, the President cannot take command of the forces by sea or land in person, without the previous consent of the general Congress, or should it not be in session, without the Council of Government, by a vote of two-thirds of the members present. When he takes the command with these requisites, the Vice-President shall administer the Government. Second, the President has not the right to deprive any one of his liberty nor inflict punishment on any individual, but when the safety of the Federation requires it, he can arrest any person provided he places the person arrested, within 48 hours, at the disposition of the competent judge or tribunal. Third, the President cannot occupy the property of any individual or corporation, or disturb the possession, use, or benefit of it: and should it be necessary for the public good, to take the property of any individual or corporation, it will require the approbation of the Senate, or in its recess, the approbation of the Council of Government, indemnifying the party interested, by the decision of men chosen by the party and the Government. Fourth, the President cannot impede the elections and other acts expressed in the last clause of the 38th Article. Fifth, the President or Vice-President cannot leave the Territory of the Republic without the consent of Congress, during the discharge of their duties, and for one year after they retire from office.

Section 5th.—*Of the Council of Government*

113. During the recess of Congress there shall be a Council of Government, composed of one-half of the members of the Senate, one for each State.

114. For the first two years this Council of Government shall be composed of the first members elected by their respective Legislatures, and the succeeding year by the oldest members.

115. This Council shall have for President the Vice-President of the United States, and also have the power to elect a President *pro tem.*, to fill the vacancy occasioned by the absence of the other.

116. The attributions of this Council are the following: First, to see that the Constitution is strictly observed, and the constitutional act, and general laws, and to give their advice in any incident relative to these objects. Second, to lay before the President any observations conducive for the better compliance of the Constitution and laws of the Union. Third, to determine of themselves only, the advice of the President, the calling of extraordinary sessions of Congress; but in either, it shall require the vote of two-thirds of the counsellors present, as stated in attributions 17 and 18, of Article 110. Fourth, to grant their consent to the calling out of the local militia, in the manner stated in Article 110, attribution 11. Fifth, to approve the appointment of officers designated in attribution six of Article 110. Sixth, to give their consent in the case referred to in Article 112, restriction first. Seventh, to name two individuals who shall, in

conjunction with the Chief Justice of the Supreme Court, provisionally exercise the Supreme Executive Power, as prescribed in Article 97. Eighth, to administer the oath stated in Article 101, to those individuals of the Supreme Executive Power, in the terms provided in this Constitution. Ninth, to give their opinion on subjects referred to them by the President, by virtue of the 21st faculty of Article 110, and all business wherein he may consult them.

SECTION 6TH.—*Of the despatch of Government business*

117. For a despatch of government business of the Republic, there shall be the number of Secretaries of State, which Congress by a law may establish.

118. All regulations, decrees, and orders of the President, must be signed by the Secretary of State of the department to which the subject belongs, and without this pre-requisite they shall not be obeyed.

119. The Secretaries of State shall be responsible for the acts of the President, unauthorized by their signatures, contrary to the Constitution, constitutional act, and general laws and Constitutions of the States.

120. The Secretaries of State shall give to each House, as soon as their annual sessions are opened, an account of the state of their respective departments.

121. To be a Secretary of State it is necessary to be a Mexican citizen by birth.

122. The Secretaries of State shall form a regulation for the better distribution and direction of their duties, which shall be passed by the Government to the Congress for their approbation.

TITLE 5TH

SECTION 1ST.—*Of the Judicial Power of the Confederation*

123. The Judicial Power of the Federation shall reside in one Supreme Court of Justice, and in the Circuit and District Courts.

SECTION 2D.—*Of the Supreme Court of Justice, the election, terms of service, and oath of its members*

124. The Supreme Court of Justice shall be composed of eleven members divided into three halls, and one Attorney General. Congress may augment or diminish its number as they deem necessary.

125. To be elected a Judge of the Supreme Court of Justice, it is necessary to have been instructed in the science of public rights, according to the judgments of the Legislatures of the States, to be 35 years of age, to be a native-born citizen of the Republic, or born in any part of America, which in 1810, was dependent on Spain, and has separated from her, provided they have been five years resident within the territory of the Republic.

126. The Judges of the Supreme Court of Justice shall hold their offices during good behavior, and can only be removed in the mode prescribed by the law.

127. The election of the Judges of the Supreme Court of Justice shall be made on the same day by the Legislatures of the States, by an absolute majority of votes.

128. The elections concluded, each Legislature shall remit to the Council of Government a certified list of the twelve persons elected, designating which one of them was elected the Attorney-General.

129. The President of the Council, as soon as he shall have received the list from at least three-fourths of the Legislatures of the States, shall give them direction indicated by the rules of the Council.

130. On the day designated, the Congress shall open and read the said lists in presence of both Houses united, after which the Senate shall retire.

131. In continuation, the House of Representatives shall appoint, by an absolute majority of votes, a committee, which shall be composed of one member from each State, from which there was any member present, to which committee the said lists shall be passed, who will revise and examine them, and render an account of the result; and the House shall then proceed to class the election and count the votes.

132. The individual or individuals who may have received more than half the votes of the whole number of the Legislatures, without regard to the number of votes given by their respective members, shall be considered elected; and the declaration of the House to that effect shall immediately entitle them to their seats.

133. Should those who may have received the necessary majority of votes agreeably to the last article, not amount to 12, the House shall elect the balance from those who had the highest number of votes before the Legislatures, observing in everything relative to these elections the provisions of the first section of the 4th title, which treats of the election of President and Vice-President.

134. Should a Senator or Representative be elected a Judge of the Supreme Court of Justice, his election to that office shall be preferred over the other.

135. When a vacancy occurs in a Supreme Court of Justice by perpetual inability, it shall be filled agreeably to this section, after a previous notification given by the Governor to the Legislature of the State of said vacancy.

136. The members of the Supreme Court of Justice on entering upon the exercise of the office shall take an oath in the presence of the President of the Republic, in the following form: "You swear to God our Lord, faithfully to discharge the duties and obligations confided to you by the nation—if you do this God will reward you, if otherwise he will punish you."

SECTION 3D.—*Of the attributions of the Supreme Court of Justice*

137. The attributions of the Supreme Court are the following: First, to take cognizance of the difference which may arise between one and another State of the Federation, whenever it embraces a subject of litigation in which there must be a formal sentence, and those that arise between one State and one or more inhabitants of another, or between individuals about pretensions to lands under concession from States, without depriving the party of the right of reclaiming the concession from the authority which granted it. Second, to terminate all disputes which arise, or contracts or negotiations made by the Supreme Government or its agents. Third, consult relative to publishing or retaining of Pontificial Bulls, Briefs, and Rescripts

issued in matters litigant. Fourth, adjust any dispute that may exist among the tribunals of the Federation, and between these and those of the States, and those which may arise between the tribunals of one State and those of another. Fifth, to take connoisance: First, of the prosecutions moved against the President and Vice-President according to Articles 38 and 39, after the previous declaration in Article 40. Second, of the criminal prosecutions of the Representatives and Senators, indicated in Article 43, after the previous declaration required in Article 44. Third, of those against Governors of the States in the cases spoken of in Article 38, in its third part, after the previous declaration required in Article 40. Fourth, of those of Secretaries of State in conformity with Articles 38 and 40. Fifth, of the civil and criminal affairs of the Diplomatic Ministers and Consuls of the Republic. Sixth, of the Admiralty cases, captures by sea, land, and contraband, of crimes committed on the high sea, of the offences against the United Mexican States, of those employed in the Treasury and Judiciary of the Federation, and of the infractions of the Constitution and general laws, as may be provided for by law.

138. A law shall regulate the mode and grade by which the Supreme Court of Justice shall take cognizance of the cases comprehended in this section.

Section 4th.—*Of the mode of judging the members of the Supreme Court*

139. In order to judge the members of the Supreme Court, the House of Representatives shall elect, voting by States, in the first month of the ordinary sessions of each biennial, twenty-four individuals not appertaining to the general Congress, and who shall possess the qualifications required for judges of the Supreme Court; from these there shall be elected by lot an Attorney-General and an equal number of Judges equal to that which composes the first Hall of the Court, and whenever it may be necessary the same House shall proceed, and in its recess, the Council of Government, to draw in the same manner Judges of the other Halls.

Section 5th.—*Of the Circuit Courts*

140. The Circuit Court shall be composed of a Judge of the law and a prosecuting Attorney, both appointed by the Supreme Executive Power, proposed by the Supreme Court, and two Associate Judges, as the law may prescribe.

141. In order to be a Circuit Judge it is necessary to be a citizen of the Federation, and thirty years of age.

142. To these tribunals, corresponds the cognizance of admiralty cases, captures by sea and land, contraband, crimes committed on the high sea, offences against the United Mexican States, cases of consuls, and civil cases whose value exceeds $500, and in which the Federation are interested. By a law, shall be designated the number of these tribunals, their respective jurisdictions, the mode, form, and grade, in which they must exercise their powers in these and other matters which come under the cognizance of the Supreme Court of Justice.

SECTION 6TH.—*Of the District Courts*

143. The United Mexican States shall be divided into a certain number of districts, and in each one of which there shall be a tribunal presided by a judge of the law, which shall take cognizance without appeal, of all civil cases in which the Federation is interested, the amount of which does not exceed $500, and shall have original jurisdiction in all cases in which the circuit courts have appellate jurisdiction.

144. In order to be a District Judge, it is necessary to be a citizen of the United Mexican States, and twenty-five years of age. The Judges shall be appointed by the President, proposed by the Supreme Court.

SECTION 7TH.—*General Rules to which all the States and Territories in the Federation shall conform in the administration of Justice*

145. In each one of the States of the Federation, full faith and credit shall be given to the acts, registers, and proceedings of the judges and other authorities of the other States. The general Congress shall regulate the laws by which said acts, registers, and proceedings shall be authenticated.

146. The sentence of infamy shall not extend beyond the criminal that may have merited it according to law.

147. There is forever prohibited the penalty of confiscation of estates.

148. There is forever prohibited all judgments by commission and all retro-active laws.

149. No authority shall apply any species of torture, whatever may be the nature or state of the prosecution.

150. No one shall be imprisoned, unless there is reasonable ground to suppose him criminal.

151. No one shall be imprisoned on suspicion more than seventy hours.

152. No authority shall give an order for the search of any houses, papers, and other effects of the inhabitants of the Republic, except in the cases expressly provided for by law, and in the form which it designates.

153. No inhabitant of the Republic shall be compelled to take an oath relative to his own acts in criminal affairs.

154. The military and ecclesiastics will remain subject to the authority under which they actually are, according to the existing laws.

155. No suit can be instituted, neither in civil or criminal cases, for injuries, without being able to prove, having legally attempted, the means of conciliation.

156. None can be deprived of the right of terminating his differences by means of arbitrators appointed by each party, whatever may be the situation of the controversy.

TITLE 6TH

SECTION 1ST.—*Of the individual government of the States*

157. The government of each State shall be divided for its exercise in three powers, Legislative, Executive, and Judicial, and never can

be united two or more of these in one corporation or person, nor the Legislature deposited in one individual.

158. The legislative power of each State shall reside in one Legislature, composed of the number of individuals which their respective constitutions may determine, to be elected popularly and removable, in the time and manner which said constitutions may designate.

159. The person or persons in whom the States confide their Executive power, cannot exercise it except for a definite time, which shall be fixed by their respective constitutions.

160. The judicial power of each state shall be exercised by the Tribunals that the Constitution may establish or designate, and all cases, civil or criminal, which appertain to the cognizance of those Tribunals, shall be terminated in them to final judgment and execution.

SECTION 2D.—*Of the obligations of the States*

161. Each one of the States is obliged—First, to organize its interior government and administration, without opposing this Constitution nor the constitutional act. Second, to publish, by means of their Governors, their respective Constitutions, laws, and decrees. Third, to obey, and cause to be obeyed, the Constitution and general laws of the Union, and treaties made, and those that henceforward may be made, by the supreme authority of the Federation with any foreign Power. Fourth, to protect its inhabitants in the free use and liberty which they have to write, print, and publish their political ideas, without the necessity of license, revision, or approbation previous to publication, always taking care to observe the general laws on the subject. Fifth, to deliver immediately, the criminals of other States, to the authority which reclaims them. Sixth, to deliver the fugitives of other States to the person that justly reclaims them, or compel them in some other mode to satisfy the interested party. Seventh, to contribute for the consolidation and extinguishment of the debts acknowledged by the general Congress. Eighth, to remit annually to each one of the Houses of Congress, a general, circumstantial, and comprehensive note, of the ingress and egress in all the Treasuries they may have in their respective districts, with a relation of the origin of one and the other, of the situation in which are found the branches of industry, agriculture, commerce and manufactures, of the new branches of industry which they can introduce and extend, designating the means by which it can be obtained, and of their respective population and means of protecting and augmenting it. Ninth, to remit to both Houses, and in their recess, to the Council of Government, and likewise to the Supreme Executive Power, authorized copies of the Constitutions, laws, and decrees.

SECTION 3D.—*Restrictions of the Powers of the State*

162. None of the States can—First, establish, without the consent of the general Congress, any tonnage duty, nor other post duty. Second, impose, without the consent of the general Congress, contributions or duties on importations or exportations, whilst the law does not regulate it as it must do. Third, hold, at no time, a permanent troop nor vessels of war, without the consent of the general Congress. Fourth, enter into any agreement or compact with any foreign power,

nor declare war against them, resisting in case of actual invasion, or in such danger as will not admit of delay, giving immediate notice thereof to the President of the Republic. Fifth, enter into any agreement or compact with other States of the Federation, without the previous consent of the general Congress or its posterior approbation, if the transaction was upon the regulation of limits.

Title 7th

Only Section.—*Of the observance, interpretation, and amendment of the Constitution and Constitutional Act*

163. Every public functionary, without exception to the class, previous to entering on the discharge of his duties, must take the oath to obey the Constitution and Constitutional Act.

164. The Congress shall dictate all laws and decrees, which they may deem necessary to render effective, the responsibility of those who violate this Constitution or the Constitutional Act.

165. The general Congress alone can resolve doubts, which may occur about the meaning or understanding of the Articles of this Constitution and of the Constitutional Act.

166. The Legislatures of the States can make such observations as they may deem proper about particular Articles of this Constitution and the Constitutional Act, but the general Congress will not take them into consideration until the year 1830.

167. The Congress in that year shall confine itself to examining the observations that merit the deliberation of the next Congress, and this declaration they shall communicate to the President, who shall publish and circulate them without any observations.

168. The following Congress in the first year of its ordinary sessions, shall occupy themselves in examining these observations submitted to their deliberation, in order to make such amendments as may be deemed necessary, but the same Congress which makes the examination, provided in the last article, cannot decree the amendments.

169. The amendments and additions that are proposed in the year following, the 30th shall be taken into consideration by the Congress, in the second year of each biennial, and if rendered necessary, in conformity with the provisions made in the preceding Article they shall publish this resolution, in order that the next Congress may notice them.

170. In order to reform or amend this Constitution or the Constitutional Act, shall be observed, besides the rules prescribed in the foregoing Articles, all the requisites provided for the formation of laws, excepting the right to make observations granted to the President, in Article 106.

171. The Articles of this Constitution and the Constitutional Act which establishes the Liberty and Independence of the Mexican Nation, its Religion, form of Government, Liberty of the Press, and division of the Supreme Powers of the Federation, and of the States, can never be reformed.

Given in Mexico, 4th October, 1824, fourth year of Independence, third of Liberty, and second of the Federation.

Signed by the members of Congress, and the Supreme Executive Power.

CONSTITUTION OF COAHUILA AND TEXAS—1827 * [a]

The Governor of the Free State of Coahuila and Texas, to all its inhabitants—*Know*, that the Constituent Congress of the same State, has *Decreed* and sanctioned the following political Constitution of the Free State of Coahuila and Texas.

In the name of God, omnipotent, author, and supreme legislator of the Universe, the Constituent Congress of the State of Coahuila and Texas, desirous to comply with the will of the people, and in order completely to fill the great and magnificent object of promoting the glory and prosperity of the same State, *Decrees* for its administration and government the Constitution which follows:—

PRELIMINARY DISPOSITIONS

Article 1. The State of Coahuila and Texas consists in the union of all its inhabitants.

2. It is free and independent of the other United Mexican States, and of every other foreign power and dominion.

3. The sovereignty of the State resides originally and essentially in the general mass of the individuals who compose it; but these do not of themselves excuse any other acts of sovereignty than those designated in this Constitution, and in the form which it prescribes.

4. In all matters relating to the Mexican Federation, the State delegates its faculties and powers to the General Congress of the same, but in all that properly relates to the administration and entire Government of the State, it retains its liberty, independence, and sovereignty.

5. Therefore, Belongs exclusively to the same State, the right to establish by means of its representatives, its fundamental laws, conformable to the basis sanctioned in the Constitutional Act and the General Constitution.

6. The Territory of the State is the same which compreliends the Provinces heretofore known by the name of Coahuilla and Texas. A constitutional law shall fix their limits with respect to the other adjoining States of the Mexican Federation.

7. The Territory of the State is divided for the present, for its better administration, into three departments, which shall be—Bexar—which district is extended to the whole of the Territory, which corresponds to that called the Province of Texas, which alone is a district. Monclova, which comprehends the district of this name and that of Rio Grande Saltillo, which embraces the district of this name, and that of Parras.

8. Congress hereafter shall have power to alter, vary, and modify this division of the Territory of the State, in the manner it may esteem most conducive to the felicity of the people.

9. The Apostolic Catholic Religion is that of the State; this it protects by wise and just laws, and prohibits the exercise of any other.

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* Verified by "The Constitution of the Republic of Mexico and the State of Coahuila and Texas. New York. Ludwig and Tolifree, Printers, 1832."

[a] The two northeastern provinces of Mexico, not having sufficient population to entitle them to enter the Mexican Union as separate states, were united as "the state of Coahuila and Texas." The state congress which met at Saltillo framed this constitution, which was proclaimed March 11, 1827.

10. The State shall regulate and defray the expenses which may be necessary for the preservation of worship, in conformity with the regulation of the Concordats, which the nation shall celebrate with the Holy See, and by the laws it shall dictate relative to the exercise of patronage in the whole Federation.

11. Every man who inhabits the territory of the State, although he be in transit, shall enjoy the imprescriptible rights of liberty, security, property, and equality; and it is the duty of the same State to conserve, and protect by laws, wise and equitable, those general rights of mankind.

12. It is also an obligation on the State to protect all its inhabitants in the right which they have to write, print, and publish freely their thoughts, and political opinions, without the necessity of examination, revision or censure, anterior to the publication, under the restrictions, and responsibilities established, or which hereafter may be established, by general laws on the subject.

13. In this State no person shall be born a slave, after this Constitution is published in the capital of each District, and six months thereafter neither will the introduction of slaves be permitted under any pretext.

14. It is the duty of every man who inhabits the State, to obey its laws, respect its constituted authorities, and contribute to the support of the same State, in the mode which it asks.

15. To the State belongs every species of vacant goods in its Territories, and those of its intestate inhabitants who have no legitimate successor in the manner laid down by the laws.

16. The State is composed of only two classes of persons, to wit: *inhabitants* of Coahuila and Texas, (Coahuittejanos) and *citizens* of Coahuila and Texas.

17. Those are inhabitants of Coahuila and Texas (Coahuittejanos.) First, All men born and domesticated in the Territory of the State and their descendants. Secondly, those born in any other part of the Territory of the Federation, or those who fix their domicile in this State. Thirdly, those foreigners who are legitimately established in the State, be they of what nation they may. Fourthly, those foreigners who obtain from Congress letters of naturalization, or have a domicile in the State obtained according to law, which shall be passed as soon as the Congress of the Union fixes the general rule of naturalization, which it ought to establish conformable to the 26th clause of the faculties which the Federal Constitution designates.

18. Those are citizens of Coahuila and Texas (Coahuittejanos.) First, all men born in the State, and who are domiciliated in any part of its Territory. Secondly, all citizens of the other the States and Territories of the Federation, as soon as they become domiciliated in the State. Thirdly, all the children of Mexican citizens, who have been born out of the Territory of the Federation, and who fix their domicile in the State. Fourthly, the foreigners who are actually and legally domiciliated in the State, whatever may have been the country of their nativity. Fifthly, foreigners who enjoy the rights of inhabitants of Coahuila and Texas, have obtained from Congress special letters of citizenship—the laws will prescribe the merits and circumstances requisite for the concession of such.

19. Those born in the Territory of the Federation, and those foreigners resident in it, (with the exception of their children,) who, at

the time of the proclamation of the political emancipation of the nation, was unfaithful to the cause of independence, and emigrated to a foreign country, or that dependent on the Spanish government, are neither entitled to the rights of domiciliation nor citizenship, in the State.

20. The rights of citizenship are lost. First, by acquiring naturalization in a foreign country. Secondly, by acquiring a station of profit, or honor, under a foreign government, without permission of Congress. Thirdly, by sentence legally obtained, which imposes penal or infamous punishments. Fourthly, by selling his vote, or buying that of another, for himself or for a third person, whether in popular assemblies, or in any other whatever—and of trust in the same assemblies, either as presidents, tellers, or secretaries, or in the exercise of any other public functions. Fifthly, for having resided five consecutive years out of the limits of the Territory of the Federation, without commission of the general government, or particular one of the State, or without its leave.

21. He that has lost the rights of citizenship cannot regain them without the express act of restoration of Congress.

22. The exercise of the same rights are suspended. First, for physical or moral incapacity, previously ascertained by judicial decision. Secondly, for not being twenty-one years complete, except those who are married, who can enter upon the exercise of these rights from the time they contract matrimony, of whatever age they may be. Thirdly, for being a debtor to the public funds, the time of payment elapsed, legal requisition therefore made, and not complied with. Fourthly, for having been prosecuted criminally, unless the defendant is absolved of the matter, or condemned to punishment not painful or infamous. Fifthly, for not having an employment, trade, or any known method of obtaining a livelihood. Sixthly, for not knowing how to read and write; but this shall not take effect until the year 1850, with regard to those who hereafter enter into the rights of citizenship.

23. The rights of citizenship can only be destroyed or suspended for the causes stated in articles 20 and 22.

24. None but citizens who are in the exercise of their rights can vote for popular employments in the State in those instances stated in the law; and these only can obtain the said employments, or any others in the same State.

25. Professional employments form an exception to the second part of the anterior article, which employments can also be conferred on foreigners.

FORM OF THE STATE GOVERNMENT

26. The object of the State government is the happiness of the individuals which compose it, for the end of all political society is no other than the welfare of the associated.

27. The officers of the government, invested with whatever kind of authority, are no more than mere agents or commissioners of the State, responsible to it for their public conduct.

28. The government of the State is popular representative federal; in consequence, it shall not have in it any hereditary office or privilege.

29. The supreme power of the State is divided for its exercise, into Legislative, Executive, and Judicial, and never can these three powers, nor two of them, be united in one corporation or person, nor the Legislative power deposited in one individual.

30. The exercise of the Legislative power shall reside in a Congress, composed of deputies popularly elected.

31. The exercise of the Executive power shall reside in a citizen, who shall be denominated Governor of the State, and who also shall be chosen popularly.

32. The exercise of the Judicial power shall reside in the Tribunals and Courts which the Constitution establishes.

Title 1st.—Of the legislative power of the state

Section 1st.—*Of the Deputies of Congress*

33. The Congress consists of the deputies which represent the State, chosen conformably to this Constitution; its number shall be that of twelve members proprietary, and six supernumerary members, until the year 1832.[a]

34. The Congress in that year, and in the last of every ten years which follow, shall have power to augment the number of deputies under the standard of one for every 7000 souls.

35. The election of proprietary deputies and supernumeraries shall be held in all and every one of the districts of the State. A law shall fix the number of deputies of one and the other class which each district ought to appoint.

36. To be a deputy, proprietary, or supernumerary, it is required to have, at the time of the election, the following qualities:—First, to be a citizen in the exercise of his rights. Secondly, to be of the full age of twenty-five years. Thirdly, to be an inhabitant of the State, with residence in it for two years immediately before the election. To natives of the State it is sufficient to possess the two first requisites.

37. It is necessary for those not born in the Territory of the Federation, in order to be deputies, proprietaries, or supernumeraries, to have had eight years' residence in it, and to be worth $8000 in property, or to have an income of some business of $1000 annually, and the qualifications provided in the foregoing article.

38. There is excepted from the foregoing, those born in any other part of the Territory of America, which in the year 1810, depended on Spain, and which may not have united itself to any other nation, nor remained in dependence on Spain; to those it is sufficient that they have been three years, complete, in the Mexican Republic, and possess the requisites prescribed in article 36.

39. Those cannot be deputies, proprietaries, or supernumeraries; First, The Governor, or Vice-Governor of the State; the member of the Council of Government; those employed in the Federation; the Civil Functionaries of the State Government; the Ecclesiastics who exercise any species of Jurisdiction or authority in some part of the district where the election may be held; foreigners, at the time when war may exist between the country of their nativity and Mexico.

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[a] The supernumerary deputies are intended to supply vacancies occasioned by death or other evil.

40. In order that those public functionaries of the Federation, or of the State, comprehended in the anterior article, may be elected deputies, they ought absolutely to have ceased the exercise of their functions four months before the election.

41. If the same individual shall be named deputy proprietary for two or more districts, the election of that district in which he actually resides shall have preference. If he does not reside in either, the election of the district of his origin shall have preference. If he was neither a resident nor a native of some one of the said distrticts, that shall stand which the same elected deputy shall designate. In either of these cases, or of the death or inability of the deputies proprietary to discharge their functions according to the judgment of Congress, their duties shall devolve upon the respective deputies supernumerary.

42. If it shall happen that the same citizen is elected deputy supernumerary for two or more districts, in this case the same order of preference provided for in the three first parts of the anterior article prevails. And in the district which remains without a deputy supernumerary, the vacancy shall be filled up by the person who, in the respective electoral assembly, had the next greatest number of votes. In case of a tie it shall be decided by lot, (suerte.)

43. The deputies, during the discharge of their commissions, shall obtain from the public Treasury of the State, the compensation which the anterior Congress shall assign; and they shall also receive what may appear necessary for their expenses in going to the place of sesion, and in returning from thence to their houses on the close of the session.

44. The deputies at no time, and in no case, nor before any authority, can be responsible for the opinions which they manifest in the discharge of their duties. In criminal cases, instituted against them, they shall be judged by the Tribunals which will be hereafter mentioned; and from the day of their appointment until they have completed the two years of their deputation, they cannot be accused unless before Congress, which is constituted a Grand Jury to declare if there is, or is not, cause for an accusation. In the mean time, during the session, the deputies cannot be sued in civil suits, nor arrested for debts.

45. During the time of their deputation, counting for this purpose, from the day of their appointment, they cannot obtain for themselves any employment from the government, nor shall they solicit it for others, nor even for their promotion, except it be in the regular order of office.

Section 2d.—*Of the Nomination of the Deputies*

46. For the election of the deputies, there shall be held electoral municipal assemblies, and electoral district assemblies.

Paragraph 1st.—*Of the Electoral Municipal Assemblies*

47. The electoral municipal assemblies shall be composed of the citizens who are in the exercise of their rights, and who may be inhabitants and residents within the limits of their respective Ayuntamientos, and no person of this can be excused from attending.

48. These assemblies shall be celebrated the first Sunday and the following day of the month of August, of the year anterior to the renovation of Congress, in order to nominate the electors of the district who are to choose the deputies, and eight days previously, the president of every Ayuntamiento, without the necessity of other order, shall call together the citizens of his district, by a proper notice, or as may be the custom, that they shall convene to make the elections at the time and in the form which this Constitution requires, giving prompt notification to the villages of the same district for the information of the inhabitants.

49. In order that the citizens can assist with the greater convenience, every Ayuntamiento according to its locality and the population of its territory, shall determine the number of municipal assemblies which it ought to form in its limits, and the public places in which they have to be held, designating the limits of each.

50. They shall be presided, one by the Political Chief or Alcalde, and the remainder by other individuals of the Ayuntamiento to whom it falls by lot, and in default of these, that corporation shall appoint as President of the respective municipal assembly an inhabitant of its own district, who shall know how to read and write.

51. On the aforesaid Sunday in August, at the hour of meeting the citizens who have convened in the place designated for it, shall open the said assembly by appointment from amongst themselves, by a plurality of votes, one Secretary and two Tellers, who shall know how to read and write.

52. The elections shall be opened on the two days mentioned in Article 48, for the space of four hours each day, divided between the morning and the evening, and in every one of these assemblies there shall be a Register, in which shall be written the votes of the citizens who come together to name the electors of the district, setting down in alphabetical order the names of the voters and those voted for.

53. To be an elector of a district, it is necessary to be a citizen in the exercise of his rights, of the age of 25 years complete, to know how to read and write, and to be an inhabitant and resident in some part of the same district, the year immediately anterior to the election.

54. Every citizen shall choose by voice or writing, the respective electors of the district, whose names (the election being had according to the former mode) the voter shall designate in a loud voice, and it shall be entered in a list and then read by the Secretary; and it is indispensable that it should be written in the Register in presence of the voter. No person shall vote for himself in this or any other instance of the election, under the penalty of losing the right to vote.

55. In those districts in which there is to be chosen only one deputy, there shall be appointed 11 electors, and in that which can choose two or more, there shall be appointed 21 electors.

56. The doubts or controversies that may arise, whether any person or persons present, possess the qualification of votes, shall be decided verbally by the assembly, and its decisions shall be executed without appeal, for this time and object only; *Provided*, that such doubt shall not turn upon the construction of this Constitution or other law. If the said resolution shall result in a tie, the doubt shall be considered removed.

57. Should complaints arise that bribery, corruption, or force had been used to determine the election in favor of particular persons, a public and verbal investigation shall be made thereof, and should it appear that the accusation is true, those who have committed the crime shall be deprived of all voice in the election, and the calumniator shall suffer the same penalty; and from this judgment there shall be no appeal. Doubts which arise as to the quality of proof, shall be decided by the assembly, in the manner prescribed in the preceding article.

58. Municipal assemblies shall be held with open doors and without any guard whatever; and no individual, whatever his class may be, shall present himself in them armed.

59. On completion of the two days for which the election is to be kept open, the President, Tellers, and Secretary of each assembly shall proceed to sum up the votes which each citizen has received, in the Register, which shall be signed by the said officers; and by this operation the assembly shall be dissolved, and any other act which may be done, shall not only be considered null, but as an attempt against the public security. The said Register shall be delivered sealed to the Secretary of the respective Ayuntamiento.

60. On the second Sunday of the said month of August, each Ayuntamiento shall convene in their respective halls in public session. In their presence, and also with the assistance of the President, Tellers, and Secretary of the municipal assemblies, the Registers shall be opened, and after examining the whole of them, a general list shall be formed in alphabetical order, in which shall be comprehended all the individuals voted for, and the number of votes they have received.

61. This list and the certificate which shall be extended on the subject, shall be signed by the President of the Ayuntamiento, the Secretary of it, and the Secretaries of the assemblies; after which, two copies of the said list shall be drawn off, certified by the same persons, one of which shall be immediately posted up in the next public place, and the other shall be delivered with accompanying official letter, signed by the President of the Ayuntamiento, to two individuals appointed by that body to proceed to the capital of the district, there to form a general classification of votes in union with the commissioners of the other Ayuntamientos.

62. On the fourth Sunday in August, the commissioners of the Ayuntamientos shall present themselves with their credentials of election to the political chief, or in his absence to the first alcalde, of the capital of the district, and presided by the first or by the second, as the case be thus, shall assemble in public session in the town hall, and after examining all the lists, they shall form a general list of all the individuals voted for as electors of the district by the citizens of each municipal district respectively, expressing the number of votes they have had and the place of their residence.

63. In order to make this general regulation of votes, the concurrence of not less than four of the commissioners is requisite. In those districts in which there is not that number, the Ayuntamiento of the capital shall name, from amongst the individuals of its own body, the number deficient.

64. The citizens, who upon the result of this general scrutiny, have the greatest number of votes on the list, shall be considered constitu-

tionally appointed for electors. In case of a tie amongst two or more individuals, it shall be decided by lot.

65. The aforesaid list, and all acts relative to the business, shall be attested by the President, the Commissioners, and the Secretary of the Ayuntamientos of the capital of the district. There shall be extracted copies of one, and the other certified by the same; and they shall be remitted by the President to the permanent deputation of Congress, the Governor of the State, and the different municipalities of the district.

66. The same President shall pass without any delay, the corresponding certificate to the electors appointed, that they may go to the capital of the department on the day named by the Constitution, in order to celebrate the electoral assembly of the same.

PARAGRAPH 2D.—*Of the Electoral Assemblies of the District*

67. The electoral assemblies of the district shall be composed of the electors named by the citizens in the municipal assemblies, who shall assemble in the capital of the respective district with a view to name the deputy or deputies, required to assist at the Congress as representatives of the State.

68. These assemblies shall be held 15 days after the general regulation of votes, spoken of in article 62; the electors meeting in the municipal hall, or in the building which is supposed to be more fitting for so solemn an act, with open doors, and without guards, and in the said assemblies, no person, of whatever class he may be, shall be present with arms.

69. They shall be presided by the Political Chief, or in his default, by the first Alcalde of the capital of the district, and shall commence their sessions by appointing, by plurality of votes, one Secretary and two Tellers, from amongst their own body, and in continuation, the President shall read the credentials of the electors, which are to be the certificates in which is set forth their appointment.

70. In continuation, the President shall inquire if any number is legally disqualified, and if it is proved that there is, the elector shall use his right to vote. Afterwards, the President shall also inquire if there has been bribery, corruption, or force whereby the election has been determined in favor of any particular person, and if it is proved that there has been, the delinquents shall be deprived of any voice in the election, and the calumniators shall suffer an equal punishment. The doubts which shall occur in one or the other case, the assembly shall resolve in the manner which is spoken of in Article 56.

71. Immediately after—the electors present shall proceed to name the deputy or deputies that correspond to the district, and they shall be chosen one by one by secret ballot, by means of tickets which each elector shall throw into an urn to be placed upon a table at the foot of the crucifix, after having taken an oath before the President to vote for those citizens for deputies to the Congress of the State, who, in his opinion, possess the qualifications of information, judgment, probity, and a known adherence to the independence of the nation.

72. The voting being concluded, the President, Tellers, and Secretary shall regulate the votes, and declare constitutionally elected for deputy, the citizen who has obtained more than half the votes—the President publishing each election. If no one has had an absolute

plurality of votes, they shall proceed to a second ballot, for the two who may have obtained the greatest number of votes. If there are more than two who have an equal number of votes, the second ballot shall be made amongst the whole of them, doing the same when no one has obtained this majority, but all of those having an equal number of votes. In all these cases he shall be elected who has a plurality of votes, and in case of a tie, the voting shall be repeated once only, and if it again result in a tie, it shall be decided by lot.

73. If only one individual has a respective majority, (the highest number of votes) and two or more an equal number of votes, but greater than all the others, in order to decide which of them shall enter into the second ballot with the first, there shall be a second voting relative to these, and he that obtains the most votes shall enter ino competition with him that had the respective majority; in case of a tie, the voting shall be repeated, and if it happens a second time, it shall be decided by lot. In the second ballot, which is had between him who had obtained the respective majority over the whole, and his competitor, that which is established in the last part of the anterior article, shall be observed.

74. When one alone has the respective majority, and all the others have an equal number of votes, in order to know which shall enter into competition in the second ballot with him, will be carried into effect by the provisions of the foregoing articles—for this end, in respect of those who have been tied, and in order to know at the same time which of these competitors ought to be the deputy, the method established in the last part of the same article shall be observed.

75. The election of deputies proprietaries concluded—There shall follow that of the supernumeraries in the same method and form, which being finished, there shall be immediately posted up in the most public place, a list, which shall contain the names of all the deputies elected, attested by the Secretary of the respective assembly. The Act of the election shall be attested by the President and all the electors. And the President, the Secretary, and the Tellers, shall remit authenticated copies of the same to the permanent deputation of Congress, the Governor of the State, and all the Ayuntamientos of the district. These assemblies shall immediately dissolve when they have executed the acts which this Constitution prescribes, and every other act with which they intermeddle shall be null, and shall be considered an attempt against the public security.

76. The President, without delay, shall deliver to the deputies and supernumeraries, an official letter accompanied with a certificate of their election, which shall serve as their credentials.

77. No citizen can be excused upon any motive or pretext, from the discharge of the duties which are spoken of in the present section.

Section 3d.—*Of the Celebration of Congress*

78. The Congress shall assemble each year, to hold its sessions in the place which shall be designated by a law and in the building which is destined for this object. Whenever it may be deemed convenient to change it to another place, it can be done with the accordance of two-thirds of the whole number of the deputies.

79. The deputies shall present their credentials to the permanent deputation of Congress, in order that they may examine them, by

comparing them with the testimonies of the elections of the electoral assemblies of the district.

80. On the 28th day of the month of December, of the year anterior to the renovation of Congress, the newly elected deputies and the members of the permanent deputation shall meet in public session, and shall choose their President and Secretary from the said deputation. This meeting shall report as to the legitimacy of the credentials and qualifications of the deputies, and any doubts which may arise on these points shall be definitely determined by a plurality of votes by this assembly; but the individuals of the permanent deputation, who have not been re-elected shall not have a vote.

81. In continuation, the deputies shall take before the President an oath, that they will observe, and caused to be observed, the Constitutional Act, and the Federal Constitution of the United States of Mexico, and the Constitution of this State, and that they will completely discharge their duties.

82. In continuation, the deputies shall proceed to choose from amongst themselves by secret ballot, and by an absolutely plurality of votes, a President and Vice President and two Secretaries, upon which the permanent deputation shall cease in all its functions, and those of its members not re-elected having retired, the President of Congress shall declare that it is solemnly and legitimately constituted.

83. For the celebration of the ordinary and extraordinary sessions of Congress, the deputies shall meet four days previous to its organization, in the manner prescribed in the first part of Article 80, in order to resolve in the manner expressed in the second part of the same Article upon the legitimacy of the credentials and qualifications of the new deputies who present themselves, and having approved of them, the deputies shall immediately take the oath prescribed by Article 81, and the continuation shall proceed to make nomination of the President, Vice President, and Secretaries, in the same manner which is provided in Article 82.

84. The Congress shall open its ordinary sessions the first day of January in every year, and the first day of September in each year following the renovation of the same Congress. The Governor of the State being obliged to assist upon so important an occasion, when he shall pronounce a suitable discourse, which the President of Congress shall answer in general terms.

85. On the day after the opening of the ordinary session, the Governor shall present in person to Congress, a written account of the state of the public Administration, proposing such amendments or reforms, as may be required in its different branches.

86. The sessions of Congress shall be held daily, without other interruption than those of solemn festivals. All the proceedings shall be public, with the exception of those which treat of reserved business, which may be secret.

87. The ordinary sessions of Congress, which commence the first day of January, shall last that month and the three following, February, March, and April; and cannot be prorogued to any other month, except in the two following instances: First, by petition of the Governor; and secondly, if the same Congress deem it necessary—for this, there must be the concurrence, in both cases, of the vote of two-thirds of the deputies. The ordinary sessions, which commence on the first of September, shall last 30 days of the said month without any power

to prorogue on any motive or pretext whatever. Both sessions shall be closed with the same formalities which are prescribed for their opening.

88. Before the conclusion of the ordinary session of Congress, there shall be appointed of that body a permanent deputation, composed of three individuals proprietary, and one supernumerary, which shall continue all the intervening time between one ordinary session and the other; and its President shall be its first appointed individual, and its Secretary the last individual proprietary.

89. When in the intervening time between one ordinary session and another, circumstances or business shall occur requiring the meeting of Congress, it can be convoked for extraordinary sessions, provided it is sanctioned by the unanimous vote of two-thirds of the members of the permanent deputation, and of the council of government, which shall meet for that purpose.

90. If the circumstances or business which cause the extraordinary convocation of Congress, should be very weighty and urgent, the permanent deputation, united with the council of government and the other deputies which are in the capital, shall immediately take such necessary measures as the exigency shall require, and shall give an account thereof to Congress as soon as it may meet.

91. When Congress meet in extraordinary sessions, there shall be called to the same, the deputies who ought to assist at the ordinary sessions of that year, and they shall be exclusively occupied upon the business or businesses for which they have been convoked, but if they have not concluded against the day on which they ought to meet in ordinary sessions, they shall postpone those and continue the business for which the extraordinary session had been convoked.

92. The holding of the extraordinary sessions shall not impede the election of the new deputies at the time prescribed in this constitution.

93. The extraordinary sessions shall be opened and closed with the same solemnities as the ordinary sessions.

94. The resolutions which Congress may take upon the change of its residence, or the prorogation of its sessions, shall be executed by the Governor without any observations upon them.

95. The Congress, in all that belongs to its government and interior order, shall observe the regulations formed by the present, having power to make the reforms it may deem necessary.

96. The deputies shall be renewed totally every two years. Those of the anterior Congress can be re-chosen, but they cannot be compelled to accept this trust unless there should be a vacancy of one-half of the deputation. There shall be excepted in this Article, the deputies of the present Congress, who cannot be re-elected for the next Constitutional Congress.

Section 4th.—*Of the Attributes of Congress, and of the Permanent Deputation*

97. The exclusive attributes of Congress are first to decree, interpret, reform, or abolish, the laws relative to the Administration, and interior government of the State in all its branches. Secondly, to regulate the votes which the citizens may have obtained in the electoral assemblies for Governor, Vice-Governor, and for members of the council of government, and to appoint those officers whenever it

shall devolve upon them to do so. Thirdly, to decide by secret ballot, the ties which may happen between two or more individuals, in the election of the fore-mentioned officers. Fourthly, to resolve the doubts which may arise upon these elections and upon the qualifications of the elected. Fifthly, to examine the excuses which the elected may allege for not accepting these stations and to determine them. Sixthly, to form themselves into a Grand Jury, and to declare whether there are or are not grounds of accusation for neglect of official duty, as well as for ordinary crimes against the deputies of Congress. The Governor, the Vice-Governor, the members of the Council, the Secretary of State, and the individuals of the Supreme Court of Justice of the State. Seventhly, to render effective the responsibility of these public functionaries, and to do in this case that which is so necessary with respect to all others employed. Eighthly, to fix every year the public expenses of the State, having in view the reports on the subject which shall be presented by the Governor. Ninthly, to establish or confirm the taxes or contributions necessary to cover these expenses, under the regulations of this Constitution, and the general one of the Federation—to regulate their collection, determine their application, and approve of their distribution. Tenthly, to examine and approve the accounts of the application of all the public funds of the State. Eleventh, to contract debts in case of necessity upon the credit of the State, and to designate the guarantees for their liquidation. Twelfth, to decree whatever may be necessary for the administration, conservataion, or altercation of the goods of the State: Thirteenth, to create, suspend, or suppress the public officers of the State; and to fix, diminish, or augment their salaries or pensions. Fourteenth, to grant premiums or recompenses to corporations or persons, who have rendered distinguished services to the State, and to decree posthumous public honors to the memory of great men. Fifteenth, to regulate the manner of recruiting the men which may be necessary for the service, or to fill up the permanent presidial militia companies of cavalry, and the active militia of the same army, auxiliary to that which are destined by the institution to the defence of the State, approve of the distribution which may be made among the towns of the State of their respective quotas, to effect this object. Sixteenth, to decree that which may be necessary for the enrolling and instruction of the civic militia of the State, and the appointment of its officers conformable to the discipline prescribed, or which shall be prescribed by general laws. Seventeenth, to promote and encourage, by laws, public information, and education, and the progress of the sciences, arts, and useful establishments, removing the obstacles which may palsy objects so commendable. Eighteenth, to protect the political liberty of the press. Ninteenth, to attend to, and give or deny their consent to all those acts and cases for which this Constitution has provided.

98. The attributes of the permanent deputation, are First, to watch over the observance of the Constitutional Act, the Constitution, and general laws of the Union, and the particular ones of the State, in order to give an account to Congress of infractions thereof, which they may observe. Second, to convoke the Congress for extraordinary sessions in those cases, and in the manner prescribed by this Constitution. Third, to discharge the functions which are prescribed in Articles 79 and 80. Fourth, to give notice to the supernumeraries

of the time when they shall come to the Congress in the place of the deputies proprietaries, and of the death or absolute inability of one or more of them should occur, to communicate the corresponding orders to the respective district, in order that it may proceed to a new election. Fifth, to receive the testimonies of the acts of the elections of the electorial assemblies of the district, for Governor, Vice-Governor, and members of the Council of Government, and to deliver them to Congress as soon as it may be installed.

SECTION 5TH.—*Of the formation and promulgation of the Laws.*

99. The interior regulations of Congress shall prescribe the form, intervals, and method of procedure in the debates and votings for the projects of laws and decrees.

100. Every project of a law or decree, which has been rejected conformable to the regulations, shall not be again proposed until the ordinary session of the following year; but this shall not impede the passage of one or more articles of it, which may compose part of other projects not rejected.

101. The half and one more (la mitad y uno mas) of the total number of the deputies, forms a Congress to dedicate measures and procedures which do not obtain the character of a law or decree, but to discuss and decide on projects of laws or decrees, and dictate of much importance, the presence of two-thirds of all the deputies is necessary.

102. If a project of a law or decree, after it is discussed, is approved, it shall be communicated to the Governor, who, if he approves of it, shall immediately proceed to promulgate and circulate it with the corresponding solemnities. But if not, after hearing the council, he shall have power to make such observations as he thinks proper, and shall return it with his remarks to the Congress within ten lawful days, counting from his receipt of it.

103. The project of a law or decree, returned by the Governor according to the antecedent Article, shall be discussed a second time; the Speaker, whom the Governor shall designate, having power to assist at the discussion and to speak upon the subject. If on this second debate, it is approved by two-thirds of the deputies present, it shall be again communicated to the Governor, who shall, without excuse, immediately proceed to its solemn promulgation, but if not approved in this form, it cannot again be proposed until the sessions of the year following.

104. If the Governor shall not return the project of a law or decree within the time prescribed in Article 102, it shall be deemed by this act as sanctioned, and as such shall be promulgated, unless previous to that time the Congress may have closed or suspended its session, in which case the return ought to be made the first day on which Congress may meet.

105. Laws are annulled with the same formalities and by the same procedure with which they are established.

APPENDIX TO THIS TITLE.—*Of the election of Deputies for the General Congress of the Federation*

106. The electoral district assemblies on the same day and in the same form, in which the election of deputies to the Congress of the

State ought to be had, shall proceed to that of the individuals who are to choose deputies for the general Congress of the general Congress of the Union, appointing one individual for every 7000 souls, who shall possess the qualifications required in Article 53 of this Constitution. In the district in which there results an excess of population which passes 3500 souls, there shall be appointed for this fraction another elector; and in those which have not a population of 7000 souls there shall be one named. The said assemblies having concluded the election, shall remit a certified copy of the Act to the Vice-Governor of the State, and shall also pass a corresponding certificate to each one of the elected, which shall serve as his credential.

107. The electors thus appointed shall proceed to the capital of the State, where they shall present themselves to the Vice-Governor, or to him that acts in his place; and having met under the presidency of the one or the other, three days previous to the first Sunday of the month of October in public session, in the edifice deemed the most appropriate; they shall appoint amongst themselves two Tellers and one Secretary, who shall examine the credentials, and on the following day shall report whether they are legal or not. The credentials of the Tellers and Secretary shall be examined by a commission of three individuals to be appointed in the same manner.

108. On the following day they shall meet again to read the returns, and if defects appear in the qualifications of the electors or in their credentials, the meeting in permanent session shall decide upon them, and their sentence shall be executed without appeal for this time and in this instance only, it being understood that the doubt cannot arise upon the provisions of this Constitution or the Law.

109. On the first Sunday of the said month of October, the electors having met, and more than one-half of the whole being present, they shall proceed to the appointment of the deputies, who shall go from the State to the general Congress of the Federation, in the form laid down by this Constitution, for the appointment of those to the State Congress. This being done, the assembly will do what is necessary to comply with the provisions of the 17th Article of the Federal Constitution, and shall dissolve.

Title 2d.—Of the Executive power of the State

Section 1st.—*Of the Governor*

110. The Governor of the State ought to possess, at the time of his appointment, the following qualifications: First, to be a citizen in the exercise of his rights. Second, to be born in the Territory of the Republic. Third, to be of the age of thirty years, complete. Fourth, an inhabitant of this State, with residence in it for five years, and two of them immediately before his election.

111. The ecclesiastics, the military, and others employed by the Federation and in the actual service of the same cannot obtain the office of Governor.

112. The Governor of the State shall continue four years in the discharge of his office, and cannot be rechosen for the same office, until the fourth year after he has ceased from its functions.

113. The prerogatives of the Governor, the attributes, and restrictions of his faculties are the following:—

PREROGATIVES OF THE GOVERNOR

First, the Governor can make observations upon the laws and decrees of Congress, in the manner and form prescribed in Article 102, suspending their publication until the resolution of the same Congress, unless in the cases excepted in this Constitution. Second, he has power to propose laws or reforms to Congress, which he believes may conduce to the general good of the State. Third, he can pardon delinquents under the regulation of the laws. Fourth, the Governor cannot be accused by any one for offences committed at the time of his administration nor during it, nor until one year afterwards, counting from the day on which he has ceased his functions, unless before the Congress, and that time being elapsed, not even before the Congress.

ATTRIBUTES OF THE GOVERNOR

First, to take care for the preservation of order and public tranquillity in the interior of the State and the security of the exterior, disposing for both these objects, of the militia of the State, whereof the said Governor is commander-in-chief. Second, to cause the observance of the Constitutional Act, the general Constitution, and that of the State, and of the laws, decrees, and orders of the Federation, and of the Congress of the State; issuing their decrees and necessary orders for their execution. Third, to form upon consultation with the council, those instructions and regulations which he believes necessary for the better government of the branches of the public administration of the State, which he shall pass to the Congress for its approbation. Fourth, to fill under the regulation of the Constitution and the Laws all the offices of the State which are not electoral, and which are not otherwise provided for by those laws. Fifth, to appoint and freely dismiss the Secretary of State. Sixth, to take care that justice is administered promptly and completely by the tribunals and courts of the State, and that their sentences are executed. Seventh, to take care of the administration and collection of all the rents of the State, and to decree their application in conformity with the laws. Eighth, to suspend from their offices for three months, and even to deprive them of one-half of their salaries for the same time, after hearing the opinion of the council of the State, all those in the employment of the State, under the Executive department thereof and of its nomination and appointment when they infringe its orders and decrees, passing the proceedings upon the matter to the respective tribunal, in case he believes that there is sufficient cause for accusation. Ninth, to propose to the permanent deputation the convocation of Congress to extraordinary sessions, whenever he deems it necessary, first having the opinion of the council.

RESTRICTION OF THE FACULTIES OF THE GOVERNOR

The Governor cannot—First, command in person the civic militia of the State, without the express consent of Congress, or in its recess of the permanent deputation. When he commands, under said circumstances, the Vice-Governor shall take charge of the Government.

Second, he cannot intermeddle in the examination of pending causes, nor dispose in any manner, before judgment, of the persons of criminals. Third, he cannot deprive any person of his liberty, nor impose any punishment. But when the good and security of the State requires the arrest of any person, he has power to do so, placing the persons arrested at the disposition of the tribunal or competent judge within the term of forty-eight hours. Fourth, he cannot occupy the property of any particular person or corporation, nor embarrass him in the possession, use, or profit of it, unless it may be necessary for a known object of general utility, according to the judgment of the council of government; in which case he shall have power, with the consent of the said council, and the approbation of Congress, or in its recess of the permanent deputation, always indemnifying the interested party according to the judgment of good men, chosen by said party, and by the Government. Fifth, he cannot impede or embarrass in any manner or under any pretext, the popular elections determined by this Constitution and the Laws, nor prevent those laws from taking full effect. Sixth, he cannot go from the capital to any other part of the State for more than one month. If a longer absence is necessary, or if he is obliged to go from the Territory of the State, he shall ask leave of Congress, and its recess, of the permanent deputation.

114. In order to publish the laws and decrees of the Congress of the State, the Governor shall use the following form: "The Governor of State of Coahuila and Texas, to all its inhabitants. *Know*, that the Congress of the same State has decreed the following: (here the text of the law or decree.) THEREFORE, I command that it be printed, published, and circulated, in order that it be complied with.

SECTION 2D.—*Of the Vice-Governor*

115. There shall likewise be in the State a Vice-Governor. His qualifications shall be the same as those required for Governor. His term shall be four years, and he cannot be re-elected for the same office, unless at the fourth year after he has ceased from its functions.

116. The Vice-Governor shall be President of the Council, but without a vote, unless in case of a tie. He shall also be a chief of the police of the department of the capital, and when exercising the functions of Governor, the office of chief of police shall be discharged by deputy, who shall be appointed *ad interim* by the Vice-Governor, with the approbation of the council.

117. The Vice-Governor shall discharge the functions of Governor in his absence, or when he shall be impeded in the exercise of his office by decision of Congress or of the permanent deputation.

118. When the Vice-Governor is also absent, the councellor appointed by Congress shall fill the office of Governor. If the Congress should be in recess the permanent deputation shall do it without delay, provisionally, until the meeting of Congress.

119. In case of the death or absolute inability of the Governor or Vice-Governor, in the two first years of the exercise of their offices, a new Governor or Vice-Governor shall be elected at the next election for deputies to Congress.

120. The Vice-Governor during the exercise of his office can be accused before Congress alone, for offences committed during the time of his administration, of whatever description they may be.

Section 3d.—*Of the Council of Government*

121. For the better discharge of the functions of his office, the Governor shall have a council, which shall be denominated *The Council of Government;* and shall be composed of three members proprietaries and two supernumeraries, amongst the whole of whom there can be but one ecclesiastic.

122. To be a member of the Council of Government, the same qualifications are required as for a deputy. Those who are prohibited from being deputies cannot be councellors.

123. Every two years the council shall be removed; the first time, one of the members proprietaries and supernumeraries going out, who have been last appointed, and the second time those other members proprietaries and other supernumerary going out, and so successively.

124. No councellor can be re-elected, except in the fourth year after having ceased from his office.

125. When the Governor of the State assists at the council he shall preside, but without a vote, and in such case the Vice-Governor shall not assist.

126. The Secretary of the Council shall be one of its members in the manner and form which may be established by its interior regulation, which regulation the said council shall form and present to the Governor, who shall pass it to Congress for its approbation.

127. The attributes of the Council are—First, to give a fixed opinion and in writing to the Governor in all those matters in which the law imposes upon him the obligation to ask it, and in all those others in which the same Governor may think proper to consult it. Second, to watch over the observance of the Constitutional Act, the Federal Constitution, and the general laws of the Union, the Constitution and particular laws of the State, giving an account to Congress of the infractions which it may observe. Third, to promote the advancement, and aid in the prosperity of the State in all its branches. Fourth, to recommend appointments to offices, in the cases where the law requires it. Fifth, agree in union with the permanent deputation conformable to the 89th Article, upon the convocation of extraordinary sessions of Congress, and to meet with the same deputation in order to do what may be necessary in those cases mentioned in Article 90. Sixth, examine the accounts of all the public funds, and pass them to Congress for its approbation.

128. The council shall be responsible for all acts relative to the exercise of its powers.

Section 4th.—*Of the Election of Governor, Vice-Governor, and Counsellors*

129. The day following that on which the election of deputies to Congress is made, the electoral district assemblies, all and every one of them shall vote for a Governor, Vice-Governor, and three counsellors, proprietaries, and two supernumeraries, making the said election in the mode and terms prescribed in Articles 71, 72, 73, and 74.

130. The said elections being ended, there shall be immediately posted up in the most public place, a list signed by the Secretary of the assembly, which shall comprehend the names of those elected, and

for what offices they have been elected. These acts shall be attested by the president and the electors, and copies certified by the President, Secretary, and Tellers, shall be remitted to the permanent deputation.

131. On the day of the opening of the first ordinary session of Congress the President of the permanent deputation shall present the aforesaid copies, and after they have been read, the Congress shall appoint a committee of its own body, and pass them to it for its revision, of which the committee shall give the result within three days.

132. On this day the Congress shall proceed to examine the elections had by the districts, and to count the votes.

133. The individual, who has the absolute majority of votes of the electoral district assemblies, computing the whole number of members which compose them, shall be the Governor, Vice-Governor, or Counsellor, as the case may be.

134. If no one has the said majority, the Congress shall choose for those offices one of the two or more individuals who may have the greatest number of votes, and the same shall take place when no one has obtained the respective majority, unless all have an equal number of votes.

135. If only one individual obtains the respective majority, and two or more an equal number of votes, but more than all the others, the Congress shall elect from among them one individual, and he shall enter into competition for the appointment with him that has the respective majority.

136. In case of a tie, the voting shall be repeated once only, and if it results again in a tie, it shall be decided by lot.

137. The offices of Governor, Vice-Governor, and Counsellors, shall be accepted in preference to any other of the State, and this preference shall take place with respect to these offices in the order in which they stand. Those elected for said offices shall occupy them the first day of March, and cannot excuse themselves from serving, unless they are deputies to Congress at the time of the election, and those who, according to the judgment of the same Congress, are physically or morally disqualified.

138. If by any means the Governor elect does not present himself on that day to enter upon the exercise of his functions, the Vice-Governor elect shall enter upon the discharge of them, and if he also does not present himself, that vacancy shall be filled comformable to article 118.

Section 5th.—*Of the Secretary of State*

139. The dispatch of the business of the supreme government of the State, of whatever class it may be, shall be placed in the charge of a secretary, who shall be entitled Secretary of Despatch of the State Government.

140. To be a Secretary of State, it is required to be a citizen in the exercise of his rights, twenty-five years of age, born in the Territory of the Mexican Federation, and an inhabitant of this State, with residence in it three years, one of them immediately before the election. Ecclesiastics cannot obtain this office.

141. All the laws, decrees, orders, instructions, or regulations, which

are circulated to the towns, or are directed to a known corporation or person, by the Governor, as well as the copies which emanate from the Secretary's department, must be attested by the Secretary; and without this requisite, they shall not be obeyed nor entitled to credit.

142. The Secretary shall be responsible in his person and office for that which he officially authorizes contrary to the Constitutional Act, the Constitution, and general laws of the Union, the laws of the State, and the orders of the President of the Republic, which are not manifestly opposed to the same Constitutions and laws, without its being an excuse that the Governor orders it.

143. For the interior Government of the Secretary of State's department, the regulations formed by the Secretary, and approved of by Congress, shall be observed.

144. The Secretary, Governor, Vice-Governor, and Counsellors, whilst they hold those offices, shall cease to discharge the duties of others they may have heretofore held, as soon as they take possession of their new employments.

SECTION 6TH.—*Of the Chiefs of Police of Departments, and the Subaltern or Chiefs of Districts*

145. In the capital of each department of the State there shall be a functionary, to whom shall be entrusted the political government of the same, and he shall be denominated the Political Chief of the Department.

146. To be Chief of Department, it is necessary to be a citizen in the exercise of his rights, of the age of twenty-five years, complete, an inhabitant of the State, and a resident in it three years, and one of them immediately previous to his election.

147. The Governor, on the proposition of the Council, supported by the recommendations of the Ayuntamientos of the respective department, shall appoint the Chief of Department, with the exception of that of the capital.

148. The Chief of Department shall be immediately subject to the Governor of the State, and in no manner to each other. They shall continue four years in their offices, and may be re-appointed, the same formalities concurring as are prescribed for their first nomination.

149. In every capital in the district, except that in which the Chief of Department resides, there shall be a subaltern or district chief appointed by the Governor, on the recommendation of the Chief of Department.

150. The subaltern or district chiefs, ought to possess the same qualifications as those of department, with the difference that their domicile and residence ought to be in the bounds of their district, and shall, besides, have some honest mode of living, sufficient to maintain themselves decently.

151. The duration of the district chiefs in their offices, shall be the same as those of department; and on the proposition of these they can be continued in their offices.

152. No person can be excused from serving in these trusts, except in case of re-election for the same within four years after they have served, or for other sufficient cause in the judgment of the Governor, who shall decide, after hearing from the respective Chief of Department.

153. These chiefs, as well as those of department, are responsible for all their acts against the Constitution, and general laws of the Federation, and the laws of the State, the first to the Chief of Department to whom they are immediately subordinate, and those to the Governor.

154. The attributes of the different chiefs, and the manner in which they shall discharge their duties, shall be detailed in the regulations for the political economical government of the towns.

Section 7th.—*Of the Ayuntamientos*

155. It appertains to the Ayuntamientos to watch over the police and internal government of the towns of the State; and with this view they shall exist in all which have heretofore had them.

156. In the towns which may not have them, and where it is necessary they should be, they shall be placed. The capitals of districts shall have them, whatever their population may be, and also those towns which of themselves or with their precincts, contain 1000 souls, unless they are united to another municipality; in which case, should peculiar circumstances present their separation, it shall be necessary, in order for them to obtain an Ayuntamiento, that Congress shall decree it, on the recommendation of the executive, accompanied by a memorial setting forth the territory which shall compose the new municipality.

157. The towns which have not the prescribed number of souls, but which can with advantage be united to one or more, can form municipalities, which shall be formed, and the Ayuntamiento shall be established in the place which, in the judgment of the Executive, shall be deemed most suitable. In particular circumstances, the Congress may decree, upon previous petition and recommendation of the Governor, Ayuntamientos, in those places of lesser population.

158. In those settlements which cannot have the establishment of an Ayuntamiento, and in the interior government of which, by reason of their distance from other municipalities, cannot be taken care of, the electoral assemblies of the district to which it is attached, shall appoint a commissary of police and one Syndic, (procurador,) who shall discharge the function which the regulation for the political government of the towns shall designate.

159. The Ayuntamientos shall be composed of the Alcalde or Alcaldes, Syndic or Syndics, and Alderman, whose number the said regulation shall designate.

160. To be a member of the Ayuntamiento, it is requisite to be a citizen in the exercise of his rights, more than twenty-five years of age, or being married, twenty-one years of age, to be an inhabitant of the Ayuntamiento district, with residence in it three years, one of them immediately prior to the election; to have a capital or industry upon which he can subsist, and to know how to read and write.

161. The following persons cannot be members of the Ayuntamientos—Those in public employment paid by the State; the military, and those in the actual exercise of offices under the General Government, and ecclesiastics.

162. The Alcaldes shall be renewed totally every year; the Aldermen by one half, and also the Syndics, if there are two, being only one, he shall be changed every year.

163. He that has discharged any of these trusts, cannot obtain any other municipal trust, nor can he be re-chosen for the same which he has discharged, until two years after he has ceased its functions.

164. The members of the Ayuntamientos shall be appointed by means of electoral municipal assemblies, which shall be held in the same form as the municipal assemblies for the appointment of deputies to Congress. These assemblies shall be convoked on the first Sunday in December, and shall meet and discharge their functions the second Sunday and the day following.

165. In consequence of said assemblies, they shall be considered as constitutionally elected, for Alcaldes, Aldermen, and Syndics, who have received the greatest number of votes for those offices respectively. A tie which may be between two or more individuals, the Ayuntamiento sitting at the time of election, shall decide by lot.

166. If any of the individuals of the Ayuntamiento shall die, or for any other cause vacate his trust, the citizen who on the list had the next greatest number of votes, shall proceed to the discharge of its duties.

167. The offices of the Ayuntamiento are municipal charges from which no persons can excuse themselves.

Title 3d.—Of the judicial power

Only Section.—*Of the Administration of Justice in General*

168. The administration of justice in civil and criminal cases, belongs exclusively to those tribunals and courts, which, by the regulation of the Constitution exercise the judicial power.

169. Neither the Congress nor the Governor can interfere in pending causes, neither can they, nor the same tribunals and courts open those finished.

170. Every inhabitant of the State must be judged by tribunals and competent judges established anterior to the act for which he is tried, and in no manner by special commission, nor by retroactive (retroactiva—*ex post facto*) law.

171. The laws shall prescribe the order and formalities to be observed in all processes; which shall be uniform in all the courts and tribunals, and cannot be dispensed with by any authority.

172. The tribunals and courts, as authorities constituted only to apply the laws, have no power to interpret them or suspend their execution.

173. The military and ecclesiastics, resident in the State, shall continue subject to their respective authorities.

174. No suit shall have more than three hearings and as many sentences. The laws shall prescribe which of said sentences shall be executed, and no appeal shall be admitted unless in case of error, and for other causes as the said laws may provide.

175. The judge who has passed sentence in a case in one instance, cannot hear it anew in any other, nor in an appeal for any error brought upon the same.

176. Bribery, corruption, and prevarication are grounds of popular action against the Magistrate or Judge who commits them.

177. Justice shall be administered in the name of the free State of Coahuila and Texas, in the form prescribed by the laws.

PARAGRAPH 1ST.—*Of the Administration of Justice in Civil Cases*

178. Every inhabitant of the State can terminate his differences, be the state of the case what it may, by medium of arbitrators or any other extra-judicial manner; the agreements in this particular shall be religiously observed, and the sentence of the arbitrators executed, if the parties who have made the compromise do not reserve the right of appeal.

179. Affairs of small amount shall be terminated by inferior courts, whose judgment shall be executed without appeal. A particular law shall fix the amount and the mode of procedure in them.

180. In other civil and criminal affairs upon inquiries, an amicable settlement shall first be attempted in the form established by law, and unless it shall appear that such attempt has been made, a suit in writing cannot be sustained, except in those cases which the law shall determine.

PARAGRAPH 2D.—*Of the Administration of Justice in Criminal Cases*

181. Every criminal charged with light offences, that ought to be punished by correctional penalties, shall be judged by inferior courts without the formalities, and from their sentence there shall not be interposed an appeal or any other remedy. A law shall fix these penalties, and class the offences to which they correspond.

182. In weighty offences, there shall be formed a summary examination of the offence, without which requisite, and the corresponding accusation, a copy of which shall be given to the defendant and to the jailor, no person shall be imprisoned.

183. If the judges cannot immediately comply with the provisions of the anterior article, the arrested person shall not be considered a prisoner, but merely as detained; and if in forty-eight hours he shall not be notified of the cause of his detention, and the same is not communicated to the jailor, he shall be set at liberty.

184. He who gives security in cases in which the law does not expressly prohibit it, shall not be imprisoned; and should it appear in any stage of the case, that corporal punishment cannot be inflicted on the prisoner, he shall be discharged on giving bail.

185. Those who have to declare relative to their own acts in criminal cases shall do so without an oath.

186. The delinquent found in the act can be arrested by any person and carried into the presence of the judge.

187. The greatest care shall be taken, that the prisons serve only for the security of the prisoners, and not for their annoyance, (y no paraf molestarlos.)

188. Trials, in criminal cases, shall be public, in the mode and form which the laws may establish, from the time that it is determined either on the confession of the criminal or on the charges against him, to commit him for trial.

189. The penalty of confiscation of goods is forever prohibited, and they can be detained only in cases where the crime involves a pecuniary responsibility, and then solely in proportion to that responsibility.

190. No torments or compulsions shall ever be used, and the penalties which are imposed, whatever may be the crime, cannot be trans-

ferable to the family of him that suffers, but shall have effect solely upon the person convicted.

191. No authority of the State shall issue an order for the search of houses, papers, and other effects of the inhabitants, unless in those cases and in the form which the law prescribe.

192. One of the principal subjects for the attention of Congress shall be to establish in criminal cases, the trial by jury, extending it gradually, and even adopting it in civil cases, in proportion as the advantages of this precious institution may be practically developed.

PARAGRAPH 3D.—*Of the Inferior Courts and Superior Tribunals*

193. The inferior courts shall continue in the mode and form which a law shall prescribe, until there are revenues of the State, which in the judgment of Congress, may permit the appointment of District Judges, (Ineces de letas) who ought to be appointed to each district.

194. In the capital of the State, there shall be a Supreme Tribunal of Justice divided into three halls, each one composed of the magistrate or magistrates which the law designates, and this tribunal shall have one Attorney General, (Fiscal) who shall despatch all the business of the three halls: the same law shall determine whether the hall shall be composed of one judge alone, or whether colleagues ought to be appointed, and the mode and form in which it ought to be done.

195. The two first halls shall take cognizance, in the first and second instance, of civil causes of the inferior courts, and also of the criminal causes, according as the laws shall determine.

196. To the third hall shall appertain—First, to decide the disputes between the subaltern judges. Second, to determine the appeals of error which may be interposed against the sentences to be executed in the 1st, 2d, and 3d instances. Third, to take cognizance of all appeals for grievances which may be sent up from the tribunals and ecclesiastical authorities of the State. Fourth, to examine the lists, which must be monthly remitted, of pending causes in the first, second, and third instances, to pass copies of these to the Governor, to direct their publication by the press. Fifth, to hear points of law which may be offered to the two first halls and to the tribunals of the first instance, and to pass them to Congress by means of the Governor, with the corresponding opinion.

197. The cases for delinquencies in office against the inferior judges, and also those which may be formed for delinquencies, of an equal class against the deputies of Congress, the Governor, Vice-Governor, Counsellors, Secretary of State, and the individuals of the Tribunal of Justice, shall begin and terminate before the Supreme Tribunals. The other faculties of this and its respective halls, the law shall define.

198. In case of a prosecution against the whole of this tribunal, or any of its halls, the Congress shall appoint a special tribunal, composed of the corresponding number of halls, and also the magistrate, or magistrates, which may be deemed necessary to fill them.

199. Of the appeals for errors in causes which may be preferred before the Supreme Court of Justice, in the cases of the individuals which are spoken of in the anterior Article, and in those affairs which belong to the third hall, the special tribunal appointed for these purposes by Congress shall take cognizance.

200. To be a judge or Attorney General, it is necessary to be a citizen in the exercise of his rights, upwards of twenty-five years of age, to be born in some part of the Federation, and a lawyer of probity and learning.

201. The judges and Attorney General shall be appointed by Congress on the recommendation of the Executive. They shall enjoy a competent salary, which the law shall designate, and they cannot be removed from office unless for causes legally ascertained.

202. The individuals of the Supreme Tribunal of Justice are responsible for all their proceedings in the discharge of their functions. and can be impeached before Congress by any individual of the public.

Title Fourth

Only Section.—*Of the Public Revenue*

203. The contributions of the individuals who compose the State, shall form the public Revenue of the same.

204. These contributions can be direct, indirect, general, or municipal, but of whichsoever class they may be, they must be proportioned to the expenses they have to meet, and to the means of the citizens.

205. Taxes cannot be imposed, except to pay the quota of the State, to defray that part which corresponds to the Revenue of the Federation, and to meet the expenses of the State. The taxes for this last object, shall be precisely fixed in the first sessions of every year, in conformity with the estimate which the Governor shall present, and which the Congress shall approve.

206. The present taxes shall continue until Congress shall repeal or alter them.

207. For the receipt, security, and distribution of the Revenues of the State, there shall be in the capital one Treasury General.

208. The chief of said treasury shall not receive credit for any payment which has not been made, to defray the charges approved of by Congress, and by special order of the Governor.

209. A special regulation shall govern the offices relative to the public Revenue of the State.

210. The Congress shall annually appoint three individuals of their own body or out of it, in order to examine the accounts of the Treasury of the State, who shall pass them with their report to Congress, for their approbation. And the resolution of the Congress shall be published and circulated to the Ayuntamientos, with a view that they may do the same within their districts.

Title 5th

Only Section.—*Of the Civic Militia of the State*

211. In all the towns of the State, there shall be established corps of civic militia, and these shall constitute the military force of the same.

212. The formation of these corps, their organization, discipline, and internal government, shall be regulated by Congress, conformably to the general laws of Federation on the subject.

213. The Congress shall regulate the service of this militia, so as to

affect the purposes of their institution, in a manner the most useful to the State and the least burthensome to the citizens.

214. No inhabitant of Coahuila and Texas can be excused from affording his service when required by law.

Title 6th

Only Section.—*Of Public Instruction*

215. In all the towns of the State, there shall be established a competent number of common schools, (primeras letras) in which there shall be taught, reading, writing, and cyphering; the catechism of the christian religion; a short and simple explanation of this Constitution, and the general one of the Republic: the rights and duties of man in society, and that which can most conduce to the better education of youth.

216. In those places in which it may be necessary, and where circumstances permit, there shall be institutions of learning, more suitable for disseminating in the State, public instruction in the useful arts and sciences, and in these shall be fully explained the aforesaid Constitutions.

217. The method of instruction shall be uniform throughout the State, and to facilitate this end, the Congress shall form a general plan for public instruction, and shall regulate by means of statutes and laws, whatever appertains to this most important object.

Title 7th

Only Section.—*Of the Observance of the Constitution*

218. The observance of the Constitution in all its parts, is one of the most sacred obligations of the inhabitants of the State of Coahuila and Texas, and no one can be absolved from it, neither the Congress nor any other authority. And every inhabitant of Coahuila and Texas can insist upon this observance, making representations for this object to the Congress, or to the Executive.

219. Any infraction of this Constitution, creates a personal responsibility. In order to render effective this responsibility, the Congress shall issue the laws and decrees, which it believes conducive to this object. And besides every year at their first session, shall take into consideration the infractions which the permanent deputation and the council of government may present, and shall do what may be necessary thereon.

220. The public functionaries of the State, of whatever class they may be, shall at the time of entering upon their offices, take the oath to observe, sustain and defend, the Constitutional Act, the general Constitution, and that of the State, and to discharge faithfully and completely the duties of their office.

221. Propositions for the reformation, alteration, or abrogation of one or more of the Articles of this Constitution, must be made in writing, and be supported and signed by two-thirds of the deputies.

222. The Congress, in whose time any of these propositions may be made, shall not act otherwise thereon in the second year of their session, than by reading and publishing them with the grounds upon which they are supported.

223. The following Congress will either admit or reject the discussion of these propositions, and being admitted, they shall be published anew by the press, and shall be circulated by the Governor, in order that they may be read in the next electoral assemblies before they shall make the appointment of deputies to Congress.

224. In the following Congress, they shall discuss the proposed alteration, reforms, or abrogations, and if they are approved of, they shall be immediately published with the Constitutional Articles.

225. In making the reforms, alterations, or abrogations indicated, besides the rules prescribed in the anterior articles, there shall be observed all those formalities provided for the passing or repealing of the Laws with the exception of the right conceded to the Governor of making observations, which cannot take place in these cases.

Given in Saltillo, *11th March, 1827.*—Santiago del Valle, President; Juan Vicent Campos, Vice President; Rafael Ramos Valdez, Jose Maria Viesca, Francisco Antonio Guttierez, Jose Isaquim de Arce Rosalez, Mariano Varela, Jose Maria Valdez y Guajardo, Jose Cayetamo Ramos, Deputy and Secretary; Dionisio Elisondo, Deputy and Secretary.

Therefore, I command, That it be printed, published, circulated, and complied with.

Given in Saltillo, 11th, March, 1827.

Jose Ignacio Arispe.

Juan Antonio Vadilla, *Secretary.*

CONSTITUTION OF THE STATE OF TEXAS—1833

[This constitution was framed by a convention which met at San Felipe, April 1, 1833, and completed it labors April 13, 1833. It provided a State organization subordinate to the Supreme Central Government of Mexico. The right of trial by jury, the writ of *habeas corpus*, the right of petition, the freedom of the press, direct and universal suffrage, with a prohibition of banking, were duly inserted, but nothing was said on the subject of religious liberty. This constitution, which may be found in Edwards's History of Texas, pages 196–205, was never recognized by the Mexican government or put into operation, but it was the first step toward the independence of Texas.]

PROVISIONAL CONSTITUTION OF TEXAS—1835 * [a]

PLAN AND POWERS OF THE PROVISIONAL GOVERNMENT OF TEXAS.

Article I

That there shall be, and there is hereby created, a Provisional Government for Texas, which shall consist of a Governor, a Lieutenant-Governor, and a General Council, to be elected from this body, one

* Verified from text in "Laws of Texas, 1837," pp. 1–12.

[a] This Declaration of Independence and Provisional Constitution was framed by a convention which assembled October 17, 1835, at San Felipe de Austin, and adjourned until the 1st day of November. The Provisional Constitution was signed November 13, 1835.

member from each Municipality, by the majority of each separate Delegation present; and the Governor and Lieutenant-Governor shall be elected by this body.

Article II

The Lieutenant-Governor shall be President of the Council, and perform the duties of Governor in case of death, absence, or from other inability of the Governor, during which time a President "pro tem." shall be appointed to perform the duties of the Lieutenant-Governor in Council.

Article III

The duties of the General Council shall be, to devise ways and means, to advise and assist the Governor in the discharge of his functions: they shall pass no laws except such as, in their opinion, the emergency of the country requires—ever keeping in view the Army in the field, and the means necessary for its comfort and support: they shall pursue the most effective and energetic measures to rid the country of her enemies, and place her in the best possible state of defence: two-thirds of the members elect of the General Council shall form a quorum to do business; and in order that no vacancy shall happen in the Council, if any member, from death or other casualty, shall be incapacitated to act, the Governor shall immediately, on information thereof, notify the member elected to fill the place; and on his default, any member who has been elected to this body from the same jurisdiction. The Governor and Council shall be authorized to contract for loans, not to exceed one million of dollars, and to hypothecate the Public Lands and pledge the faith of the Country for the security of the payment: that they have power to impose and regulate Impost and Tonnage Duties, and provide for their collection under such regulations as may be most expedient. They shall have power, and it is hereby made the duty of the Governor and Council, to treat with the several tribes of Indians concerning their Land Claims, and if possible, to secure their friendship.

They shall establish Post-Offices and Post-Roads and regulate the rates of postage, and appoint a Postmaster-General, who shall have competent power for conducting this Department of the Provisional Government, under such rules and regulations as the Governor and Council may prescribe: they shall have power to grant pardons, remit fines, and to hear and judge all cases usual in high Courts of Admiralty, agreeably to the Law of Nations.

They shall have power to appoint their own Secretary and other officers of their own body; also, that they have the power to create and fill such offices as they may deem proper: *provided, nevertheless*, that this power does not extend to officers heretofore rejected by this House.

That the Governor and Council have power to organize, reduce, or increase the regular forces, as they may deem the emergencies of the Country require.

Article IV

The Governor, for the time being, and during the existence of the Provisional Government, shall be clothed with full and ample executive powers, and shall be Commander-in-Chief of the Army and Navy, and of all the military forces of Texas, by sea and land; and he shall have full power by himself, by and with the consent of the Council, and by his proper commander or other officer or officers, from time to time, to train, instruct, exercise and govern the Militia and Navy; and for the special defence and safety of the country, to assemble in martial array, and put in warlike attitude the inhabitants thereof; and to lead and conduct them by his proper officers, and with them to encounter, repel, resist and pursue by force of arms, as well by sea and by land, within or without the limits of Texas; and, also, to destroy, if necessary, and conquer by all proper means and enterprizes whatsoever, all and every such person or persons as shall, at any time, in a hostile manner, attempt or enterprize the destruction of our liberties, or the invasion, detriment, or annoyance of the country; and by his proper officers, use and exercise over the Army and Navy, and the Militia in actual service, the Law Martial in time of war, invasion or rebellion; and to take and surprise by all honorable ways and means consistent with the Law of Nations, all and every such person or persons, with their ships, arms, ammunition and goods as shall, in a hostile manner, invade or attempt the invading or annoying our adopted country; and that the Governor be clothed with all these and all other powers which may be thought necessary by the Permanent Council, calculated to aid and protect the country from her enemies.

Article V

There shall be constituted a Provisional Judiciary in each jurisdiction represented, or which may hereafter be represented in this House, to consist of two judges, a first and second, the latter to act only in the absence or inability of the first, and be nominated by the Council and commissioned by the Governor.

Article VI

Every Judge, so nominated and commissioned, shall have jurisdiction over all crimes and misdemeanors recognized and known to the common law of England: he shall have power to grant writs of "habeas corpus" in all cases known and practised, to and under the same laws; he shall have power to grant writs of sequestration, attachment, or arrest, in all cases established by the "Civil Code" and "Code of Practice" of the State of Louisiana, to be regulated by the forms thereof; shall possess full testamentary powers in all cases; and shall also be made a Court of Records for conveyances which may be made in English, and not on stamped paper; and that the use of stamped paper be, in all cases, dispensed with; and shall be the "Notary Public" for their respective Municipalities: all office fees shall be regulated by the Governor and Council. All other civil proceedings at law shall be suspended until the Governor and General Council shall otherwise direct. Each Municipality shall continue to elect a sheriff, alcalde and other officers of Ayuntamientos.

Article VII

All trials shall be by jury, and in criminal cases the proceedings shall be regulated and conducted upon the principles of the common law of England; and the penalties prescribed by said law, in case of conviction, shall be inflicted, unless the offender shall be pardoned, or fine remitted; for which purpose a reasonable time shall be allowed to every convict to make application to the Governor and Council.

Article VIII

The officers of the Provisional Government, except such as are elected by this House, or the people, shall be appointed by the General Council, and all officers shall be commissioned by the Governor.

Article IX

All Commissions to officers shall be, "in the name of the People, free and sovereign," and signed by the Governor and Secretary; and all pardons and remissions of fines granted, shall be signed in the same manner.

Article X

Every officer and member of the Provisional Government, before entering upon the duties of his office, shall take and subscribe the following oath of office: "I, A. B., do solemnly swear, (or affirm) that I will support the republican principles of the Constitution of Mexico of 1824, and obey the Declarations and Ordinances of the Consultation of the chosen Delegates of all Texas in General Convention assembled, and the Ordinances and Decrees of the Provisional Government; and I will faithfully perform and execute the duties of my office agreeably to law, and to the best of my abilities, so help me God."

Article XI

On charges and specifications being made against any officer of the Provisional Government for malfeasance or misconduct in office, and presented to the Governor and Council, a fair and impartial trial shall be granted, to be conducted before the General Council; and if, in the opinion of two-thirds of the members, cause sufficient be shown, he shall be dismissed from office by the Governor.

Article XII

The Governor and Council shall organize and enter upon their duties immediately after the adjournment of this House, and hold their sessions at such times and places as, in their opinion, will give the most energy and effect to the objects of the people, and to the performance of the duties assigned to them.

Article XIII

The General Council shall appoint a Treasurer, whose duties shall be clearly defined by them, and who shall give approved security for their faithful performance.

Article XIV

That all Land Commissions, Empressarios, Surveyors, or persons in anywise concerned in the location of Land, be ordered, forthwith, to cease their operations during the agitated and unsettled state of the country, and continue to desist from further locations until the Land Offices can be properly systematized by the competent authorities which may be hereafter established; that fit and suitable persons be appointed to take charge of all the archives belonging to the different Land Offices, and deposit the same in safe places, secure from the ravages of fire or devastations of enemies; and that the persons so appointed be fully authorized to carry the same into effect, and be required to take and sign triplicate schedules of all the books, papers and documents found in the several Land Offices, one of which shall be given to the Governor and Council, one left in the hands of the officers of the Land Office, the other to be retained by the said persons: and they are enjoined to hold the said papers and documents in safe custody, subject only to the orders of the Provisional Government, or such competent authority as may hereafter be created. And the said persons shall be three from each Department as Commissioners to be forthwith appointed by this House, to carry this Resolution into full effect, and report thereof to the Governor and Council; that the political chiefs immediately cease their functions. The different Archives of the different primary Judges, Alcaldes and other municipal officers of the various jurisdictions shall be handed over to their successors in office, immediately after their election and appointment; and the archives of the several Political Chiefs of Nacogdoches, Brazos, and Bexar shall be transmitted forthwith to the Governor and Council, for their disposition.

Article XV

All persons, now in Texas, and performing the duties of citizens, who have not acquired their quantum of land, shall be entitled to the benefit of the Laws on Colonization under which they emigrated; and all persons who may emigrate to Texas during her conflict for Constitutional Liberty, and perform the duties of Citizens, shall also receive the benefits of the Law under which they emigrated.

Article XVI

The Governor and Council shall continue to exist as a Provisional Government until the re-assembling of this Consultation, or until other Delegates are elected by the people and another Government established.

Article XVII

This Convention, when it may think proper to adjourn, may stand adjourned, to meet at the town of Washington on the first day of March next, unless sooner called by the Executive and Council.

Article XVIII

All grants, sales and conveyances of lands, illegally or fraudulently made by the legislature of the State of Coahuila and Texas, located, or to be located, within the limits of Texas, are hereby solemnly declared null, void and of no effect.

ARTICLE XIX

All persons who leave the country in its present crisis, with a view to avoid a participation in its present struggle, without permission from the Alcalde, or Judge of their Municipality, shall forfeit all or any lands they may hold, or may have a claim to, for the benefit of this Government: *provided*, nevertheless, that widows and minors are not included in this provision.

ARTICLE XX

All monies now due or that may hereafter become due, on lands lying within the limits of Texas, and all public funds or revenues, shall be at the disposal of the Governor and General Council, and the receipt of the Treasurer shall be a sufficient voucher for any and all persons who may pay monies into the Treasury; and the Governor and Council shall have power to adopt a system of Revenue to meet the exigencies of the country.

ARTICLE XXI

Ample powers and authority shall be delegated, and are hereby given and delegated to the Governor and General Council of the Provisional Government of all Texas, to carry into full effect the provisions and resolutions adopted by "the Consultation of the chosen Delegates of all Texas in General Convention assembled," for the creation, establishment and regulation of said Provisional Government.

OF THE MILITARY

ARTICLE I

There shall be a Regular Army created for the protection of Texas during the present war.

ARTICLE II

The Regular Army of Texas shall consist of one Major-General, who shall be Commander-in-Chief of all the forces called into public service during the war.

ARTICLE III

The Commander-in-Chief of the Regular Army of Texas shall be appointed by the Convention, and commissioned by the Governor.

ARTICLE IV

He shall be subject to the orders of the Governor and Council.

ARTICLE V

His Staff shall consist of one Adjutant-General, one Inspector-General, one Quarter-Master-General, one Pay-Master-General, one Surgeon-General, and four Aids-de-Camp with their respective ranks, as in the United States Army in time of war, to be appointed by the Major-General and commissioned by the Governor.

ARTICLE VI

The regular Army of Texas shall consist of men enlisted for two years, and volunteers for and during the continuance of war.

ARTICLE VII

The regular Army of Texas, while in the service, shall be governed by the rules, regulations and discipline, in all respects applicable to the regular Army of the United States of America, in time of war, so far as applicable to our condition and circumstances.

ARTICLE VIII

The regular Army of Texas shall consist of eleven hundred and twenty men rank and file.

ARTICLE IX

There shall be a corps of Rangers under the command of a Major, to consist of one hundred and fifty men, to be divided into three or more detachments, and which shall compose a batallion, under the Commander-in-Chief when in the field.

ARTICLE X

The Militia of Texas shall be organized as follows: all able bodied men over sixteen, and under fifty years of age, shall be subject to Militia duty.

ARTICLE XI

Every inhabitant of Texas, coming within purview of the preceding article shall, on the third Monday of December next, or as soon thereafter as practicable, assemble at each precinct of their municipality and proceed to elect one captain, one first lieutenant, and one second lieutenant to every fifty-six men.

ARTICLE XII

When said election shall have taken place, the judges shall certify to the Governor, forthwith the names of the respective officers elected, who shall, as soon as practicable, make out and sign, and transmit commissions for the same; that if there shall be found to exist any municipality, more than three Companies, the captain, or commandants on giving due notice thereof shall call together the subalterns of said Companies, and proceed to elect one Major; if of four Companies, one Lieutenant Colonel; if of five or more Companies, one Colonel, for the command of said Companies, which shall constitute a regiment of said municipality; that if there shall be found to exist more than one regiment in said municipality, the whole number of field and Company officers, shall on due notice proceed to elect a Brigadier-General, out of their number who shall command the whole Militia in said municipality.

BRANCH TANNER ARCHER, *President.*

P. B. DEXTER, *Secretary.*

TEXAS DECLARATION OF INDEPENDENCE—1835 * [a]

WHEREAS, General Antonio Lopez de Santa Anna and other Military Chieftains have, by force of arms, overthrown the Federal Institutions of Mexico, and dissolved the Social Compact which existed between Texas and the other Members of the Mexican Confederacy—Now, the good People of Texas, availing themselves of their natural rights, SOLEMNLY DECLARE—

1st. That they have taken up arms in defence of their Rights and Liberties, which were threatened by the encroachments of military despots, and in defence of the Republican Principles of the Federal Constitution of Mexico of eighteen hundred and twenty-four.

2d. That Texas is no longer, morally or civilly, bound by the compact of Union; yet, stimulated by the generosity and sympathy common to a free people, they offer their support and assistance to such of the Members of the Mexican Confederacy as will take up arms against military despotism.

3d. That they do not acknowledge, that the present authorities of the nominal Mexican Republic have the right to govern within the limits of Texas.

4th. That they will not cease to carry on war against the said authorities, whilst their troops are within the limits of Texas.

5th. That they hold it to be their right, during the disorganization of the Federal System and the reign of despotism, to withdraw from the Union, to establish an independent Government, or to adopt such measures as they may deem best calculated to protect their rights and liberties; but that they will continue faithful to the Mexican Government so long as that nation is governed by the Constitution and Laws that were formed for the government of the Political Association.

6th. That Texas is responsible for the expenses of her Armies now in the field.

7th. That the public faith of Texas is pledged for the payment of any debts contracted by her Agents.

8th. That she will reward by donations in Land, all who volunteer their services in her present struggle, and receive them as Citizens.

These DECLARATIONS we solemnly avow to the world, and call GOD to witness their truth and sincerity; and invoke defeat and disgrace upon our heads, should we prove guilty of duplicity.

RICHARD ELLIS, *President.*

H. S. KIMBLE, *Secretary.*

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* Verified by "Declaration in Laws of the Republic of Texas, 1837."

[a] This Declaration was adopted by the consultation of San Felipe de Austin, in November, 1835.

THE UNANIMOUS DECLARATION OF INDEPENDENCE MADE BY THE DELEGATES OF THE PEOPLE OF TEXAS IN GENERAL CONVENTION AT THE TOWN OF WASHINGTON ON THE 2ND DAY OF MARCH, 1836 *

When a government has ceased to protect the lives liberty and property of its people, from whom its legitimate powers are derived, and for the advancement of whose happiness it was instituted, and so far from being a guarantee for the enjoyment of those inestimable and inalienable rights, becomes an instrument in the hands of evil rulers for their oppression: When the Federal Republican Constitution of their country, which they have sworn to support, no longer has a substantial existence, and the whole nature of their government has been forcibly changed without their consent, from a restricted federative republic, composed of sovereign states to a consolidated central military despotism in which every interest is disregarded but that of the army and the priesthood—both the eternal enemies of civil liberty, the ever-ready minions of power, and the usual instruments of tyrants:

When, long after the spirit of the constitution has departed, moderation is at length so far lost by those in power that even the semblance of freedom is removed, and the forms, themselves, of the constitution discontinued; and so far from their petitions and remonstrances being regarded, the agents who bear them are thrown into dungeons; and mercenary armies sent forth to force a new government upon them at the point of the bayonet: When, in consequence of such acts of malfeasance and abdication, on the part of the government, anarchy prevails, and Civil Society is dissolved into its original elements. In such a crisis, the first law of nature, the right of self-preservation—the inherent and unalienable right of the people to appeal to first principles and take their political affairs into their own hands in extreme cases enjoins it as a right towards themselves and a sacred obligation to their posterity to abolish such government and create another in its stead, calculated to rescue them from impending dangers, and to secure their future welfare and happiness.

Nations, as well as individuals, are amenable for their acts to the public opinion of mankind. Statement of a part of our grievance is, therefore, submitted to an impartial world, in justification of the hazardous but unavoidable step now taken of severing our political connection with the Mexican people, and assuming an independent attitude among the nations of the earth.

The Mexican government, by its colonization laws, invited and induced the Anglo-American population of Texas to colonize its wilderness under the pledged faith of a written constitution that they should continue to enjoy that constitutional liberty and republican government to which they had been habituated in the land of their birth, the United States of America. In this expectation they have been cruelly disappointed, in as much as the Mexican nation has acquiesced in the late changes made in the government by General Antonio Lopez de Santa Anna, who, having overturned the constitu-

* A Comprehensive History of Texas 1685–1897, edited by Dudley G. Wooten, 2 vols. Dallas: 1898. Vol. I, pp. 227–237.

tion of his country, now offers as the cruel alternative either to abandon our homes, acquired by so many privations, or submit to the most intolerable of all tyranny, the combined despotism of the sword and the priesthood.

It has sacrificed our welfare to the State of Coahuila, by which our interests have been continually depressed through a jealous and partial course of legislation carried on at a far distant seat of government by a hostile majority, in an unknown tongue; and this too, notwithstanding we have petitioned in the humblest terms, for the establishment of a separate state government, and have, in accordance with the provisions of the national constitution presented to the General Congress a republican constitution which was, without just cause, contemptuously rejected.

It incarcerated in a dungeon, for a long time, one of our citizens, for no other cause but a zealous endeavor to procure the acceptance of our constitution and the establishment of a state government.

It has failed and refused to secure on a firm basis, the right of trial by jury, that palladium of civil liberty, and only safe guarantee for the life, liberty and property of the citizen.

It has failed to establish any public system of education, although possessed of almost boundless resources (the public domain) and although it is an axiom in political science, that unless a people are educated and enlightened it is idle to expect the continuance of civil liberty, or the capacity for self-government.

It has suffered the military commandants stationed among us to exercise arbitrary acts of oppression and tyranny; thus trampling upon the most sacred rights of the citizen and rendering the military superior to the civil power.

It has dissolved by force of arms, the State Congress of Cohuila and Texas, and obliged our representatives to fly for their lives from the seat of government; thus depriving us of the fundamental political right of representation.

It has demanded the surrender of a number of our citizens and ordered military detachments to seize and carry them into the Interior for trial; in contempt of the civil authorities, and in defiance of the laws and the constitution.

It has made piratical attacks upon our commerce, by commissioning foreign desperadoes, and authorizing them to seize our vessels, and convey the property of our citizens to far distant ports for confiscation.

It denies us the right of worshipping the Almighty according to the dictates of our own conscience, by the support of a national religion calculated to promote the temporal interest of its human functionaries rather than the glory of the true and living God.

It has demanded us to deliver up our arms, which are essential to our defence, the rightful property of freemen, and formidable only to tyranical governments.

It has invaded our country by sea and by land, with intent to lay waste our territory and drive us from our homes, and has now a large mercenary army advancing to carry on against us a war of extermination.

It has, through its emisaries, incited the merciless savage, with the tomahawk and scalping knife, to massacre the inhabitants of our defenceless frontiers.

It hath been, during the whole time of our connection with it, the contemptible sport and victim of successive military revolutions, and hath continually exhibited every characteristic of a weak, corrupt, and tyrannical government.

These, and other grievances, were patiently borne by the people of Texas untill they reached that point at which forbearance ceases to be a virtue. We then took up arms in defence of the national constitution. We appealed to our Mexican brethren for assistance. Our appeal has been made in vain. Though months have elapsed, no sympathetic response has yet been heard from the Interior. We are, therefore, forced to the melancholy conclusion that the Mexican people have acquiesced in the destruction of their liberty and the substitution therefore of a Military Government—that they are unfit to be free and incapable of self-government.

The necessity of self-preservation, therefore, now decrees our eternal political separation.

We therefore, the delegates with plenary powers, of the people of Texas, in solemn convention assembled, appealing to a candid world for the necessities of our condition, do hereby resolve and declare that our political connection with the Mexican Nation has forever ended; and that the people of Texas do now constitute a free sovereign and independent republic, and are fully invested with all the rights and attributes which properly belong to independent nations; and conscious of the rectitude of our intentions, we fearlessly and confidently commit the issue to the decision of the Supreme Arbiter of the destinies of Nations.

RICHARD ELLIS, *President.*

Test:

H. S. KIMBLE, *Secretary.*

EXECUTIVE ORDINANCE OF TEXAS—1836 *[a]

WHEREAS, we, the people of Texas, through our delegates in General Convention assembled, for the purpose of framing a Constitution, and organizing a Government under that Constitution, free, sovereign and independent; and finding, from the extreme emergency of the case, and our critical situation, that it is a duty we owe to our fellow-citizens and ourselves, to look upon our present danger with a calmness unruffled, and a determination unsubdued; and at the same time, to pursue a prompt and energetic course for the support of our liberty and protection of our property and lives; therefore,

1st. *Resolved*, That we deem it of vital importance to forthwith, form, organize and establish a Government, "*ad interim*," for the protection of Texas, which shall have full, ample and plenary powers to do all and every thing which is contemplated to be done by the General Congress of the people, under the powers granted to them

* Verified by Ordinance in "Laws of Texas 1837" pp. 149–150.

[a] This ordinance was declared by a convention which assembled at Washington, on the Brazos River, March 16, 1836. The convention then proceeded to frame a constitution.

by the constitution, saving and excepting all legislative and judicial acts.

2nd. *Resolved*, That said Government shall consist of a chief executive officer, to be styled the "President of the Republic of Texas;" a Vice-President, Secretary of State, Secretary at War, Secretary of the Navy, Secretary of the Treasury, and Attorney General, whose salaries shall be fixed and determined by the first Congress of the Republic.

3rd. *Resolved*, That all questions touching the powers hereby confided to these officers, shall be decided by a majority of said officers.

4th. *Resolved*, That the President be elected by this convention: and that the candidate or individual having a majority of the whole number of votes given in, shall be, and is hereby, declared to be duly elected.

5th. *Resolved*, That the Vice-President, the aforesaid Secretaries and Attorney General, be elected by this Convention, a majority of the whole number of votes being requisite to a choice.

6th. *Resolved*, That the members of this body vote for the above named officers "*viva voce*."

7th. *Resolved*, That the officers so elected, be required to take the oath prescribed by the Constitution.

8th. *Resolved*, That the President, by and with the advice and consent of a majority of his cabinet, shall have the appointment of all officers, civil, military and naval, for, and during, the existence of the Government "*ad interim*."

9th. *Resolved*, That the Government aforesaid, shall be invested, and they are hereby, invested with full powers to create a loan, not to exceed one million of dollars; and to pledge the faith and credit of the Republic, and the proceeds of the sale of the public lands, for the repayment of the same, with the interest thereon.

10th. *Resolved*, That the President and his cabinet shall have full power to appropriate the funds of Texas, to the defence of the country, by raising and supporting the army and navy, making fortifications, &c.

11th. *Resolved*, That said officers hold their offices until their successors are chosen and qualified.

12th. *Resolved*, That the President, by and with the advice and consent of his cabinet, shall have power to issue writs of election for senators and representatives, at an earlier day than that fixed by the constitution, and convene them as soon after the election, as may be convenient.

13th. *Resolved*, That said Government have ample and plenary powers to enter into negotiations and treaties with foreign powers.

14. *Resolved*, That the President and his cabinet have power to appoint commissioners to any foreign power.

The foregoing fourteen resolutions were adopted in convention of the people of Texas, assembled at the town of Washington, on the 16th day of March, in the year of our Lord one thousand eight hundred and thirty-six.

Richard Ellis, *President.*

H. S. Kimble, *Secretary.*

CONSTITUTION OF THE REPUBLIC OF TEXAS—1836[a]

We, the people of Texas, in order to form a government, establish justice, insure domestic tranquillity, provide for the common defence and general welfare, and to secure the blessings of liberty to ourselves and our posterity, do ordain and establish this constitution.

Article I

Section 1. The powers of this government shall be divided into three departments, viz: legislative, executive, and judicial, which shall remain forever separate and distinct.

Sec. 2. The legislative power shall be vested in a senate and house of representatives, to be styled the "Congress of the republic of Texas."

Sec. 3. The members of the house of representatives shall be chosen annually, on the first Monday of September each year, until congress shall otherwise provide by law, and shall hold their offices one year from the date of their election.

Sec. 4. No person shall be eligible to a seat in the house of representatives, until he shall have attained the age of twenty-five years, shall be a citizen of the republic, and shall have resided in the county or district six months next preceding his election.

Sec. 5. The house of representatives shall not consist of less than twenty-four, nor more than forty members, until the population shall amount to one hundred thousand souls, after which time the whole number of representatives shall not be less than forty, nor more than one hundred: *Provided, however*, That each county shall be entitled to at least one representative.

Sec. 6. The house of representatives shall choose their speaker and other officers, and shall have the sole power of impeachment.

Sec. 7. The senators shall be chosen by districts, as nearly equal in free population (free negroes and Indians excepted) as practicable; and the number of senators shall never be less than one-third nor more than one-half the number of representatives, and each district shall be entitled to one member and no more.

Sec. 8. The senators shall be chosen for the term of three years, on the first Monday in September; shall be citizens of the republic, reside in the district for which they are respectively chosen at least one year before the election, and shall have attained the age of thirty years.

Sec. 9. At the first session of congress after the adoption of this constitution, the senators shall be divided by lot into three classes, as nearly equal as practicable; the seats of the senators of the first class shall be vacated at the end of the first year; of the second class, at the end of the second year; the third class, at the end of the third year, in such manner that one-third shall be chosen each year thereafter.

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[a] This constitution was framed by a convention which assembled at Washington, on the Brazos River, March 1, 1836; proclaimed a declaration of independence March 2; declared an ordinance establishing a government *ad interim*, and completed its labors March 17, 1836.

SEC. 10. The vice-president of the republic shall be president of the senate, but shall not vote on any question, unless the senate be equally divided.

SEC. 11. The senate shall choose all other officers of their body, and a president *pro tempore*, in the absence of the vice-president, or whenever he shall exercise the office of president; shall have the sole power to try impeachments, and when sitting as a court of impeachment, shall be under oath; but no conviction shall take place without the concurrence of two-thirds of all the members present.

SEC. 12. Judgment in cases of impeachment shall only extend to removal from office, and disqualification to hold any office of honor, trust, or profit under this government; but the party shall nevertheless be liable to indictment, trial, judgment, and punishment, according to law.

SEC. 13. Each house shall be the judge of the elections, qualifications, and returns of its own members. Two-thirds of each house shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and may compel the attendance of absent members.

SEC. 14. Each house may determine the rules of its own proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, may expel a member, but not a second time for the same offense.

SEC. 15. Senators and representatives shall receive a compensation for their services to be fixed by law, but no increase of compensation, or diminution, shall take effect during the session at which such increase or diminution shall have been made. They shall, except in cases of treason, felony, or breach of the peace, be privileged from arrest during the session of congress, and in going to and returning from the same; and for any speech or debate in either house they shall not be questioned in any other place.

SEC. 16. Each house may punish, by imprisonment, during the session, any person not a member, who shall be guilty of any disrespect to the house, by any disorderly conduct in their presence.

SEC. 17. Each house shall keep a journal of its proceedings, and publish the same, except such parts as in its judgment require secrecy. When any three members shall desire the yeas and nays on any question, they shall be entered on the journals.

SEC. 18. Neither house, without the consent of the other, shall adjourn for more than three days, nor to any other place than that in which the two houses may be sitting.

SEC. 19. When vacancies happen in either house, the executive shall issue writs of election to fill such vacancies.

SEC. 20. No bill shall become a law until it shall have been read on three several days in each house and passed by the same, unless, in cases of emergency, two-thirds of the members of the house where the bill originated shall deem it expedient to dispense with the rule.

SEC. 21. After a bill shall have been rejected, no bill containing the same substance shall be passed into a law during the same session.

SEC. 22. The style of the laws of the republic shall be, "*Be it enacted by the senate and house of representatives of the republic of Texas in congress assembled.*"

SEC. 23. No person holding an office of profit under the government shall be eligible to a seat in either house of congress, nor shall any

member of either house be eligible to any office which may be created or the profits of which shall be increased during his term of service.

Sec. 24. No holder of public moneys, or collector thereof, shall be eligible to a seat in either house of congress until he shall have fully acquitted himself of all responsibility, and shall produce the proper officer's receipt thereof. Members of either house may protest against any act or resolution, and may have such protest entered on the journals of their respective houses.

Sec. 25. No money shall be drawn from the public treasury but in strict accordance with appropriations made by law; and no appropriations shall be made for private or local purposes unless two-thirds of each house concur in such appropriations.

Sec. 26. Every act of congress shall be approved and signed by the president before it becomes a law; but if the president will not approve and sign such act, he shall return it to the house in which it shall have originated with his reasons for not approving the same, which shall be spread upon the journals of such house, and the bill shall then be reconsidered, and shall not become a law unless it shall then pass by a vote of two-thirds of both houses. If any act shall be disapproved by the president, the vote on the reconsideration shall be recorded by ayes and noes. If the president shall fail to return a bill within five days (Sundays excepted) after it shall have been presented for his approval and signature, the same shall become a law, unless the congress prevent its return within the time above specified by adjournment.

Sec. 27. All bills, acts, orders, or resolutions to which the concurrence of both houses may be necessary (motions or resolutions for adjournment excepted) shall be approved and signed by the president, or, being disapproved, shall be passed by two-thirds of both houses, in manner and form as specified in section twenty.

Article II

Section 1. Congress shall have power to levy and collect taxes and imposts, excise and tonnage duties; to borrow money on the faith, credit, and property of the government; to pay the debts, and to provide for the common defence and general welfare of the republic.

Sec. 2. To regulate commerce, to coin money, to regulate the value thereof and of foreign coin, to fix the standard of weights and measures; but nothing but gold and silver shall be made a lawful tender.

Sec. 3. To establish post-offices and post-roads, to grant charters of incorporation, patents, and copyrights, and secure to the authors and inventors the exclusive use thereof for a limited time.

Sec. 4. To declare war, grant letters of marque and reprisal, and to regulate captures.

Sec. 5. To provide and maintain an army and navy, and to make all laws and regulations necessary for their government.

Sec. 6. To call out the militia to execute the law, to suppress insurrections, and repel invasion.

Sec. 7. To make all laws which shall be deemed necessary and proper to carry into effect the foregoing express grants of power, and all other powers vested in the government of the republic, or in any officer or department thereof.

Article III

Section 1. The executive authority of this government shall be vested in a chief magistrate, who shall be styled the president of the republic of Texas.

Sec. 2. The first president elected by the people shall hold his office for the term of two years, and shall be ineligible during the next succeeding term; and all subsequent presidents shall be elected for three years, and be alike ineligible; and in the event of a tie, the house of representatives shall determine between the two highest candidates by a *viva-voce* vote.

Sec. 3. The returns of the elections for president and vice-president shall be sealed up and transmitted to the speaker of the house of representatives by the holders of elections of each county; and the speaker of the house of representatives shall open and publish the returns in presence of a majority of each house of congress.

Article IV

Section 1. The judicial powers of the government shall be vested in one supreme court, and such inferior courts as the congress may, from time to time, ordain and establish. The judges of the supreme and inferior courts shall hold their offices for four years, be eligible to re-election, and shall, at stated periods, receive for their services a compensation, not to be increased or diminished during the period for which they were elected.

Sec. 2. The republic of Texas shall be divided into convenient judicial districts, not less than three nor more than eight. There shall be appointed for each district a judge, who shall reside in the same, and hold the courts at such times and places as congress may by law direct.

Sec. 3. In all admiralty and maritime cases, in all cases affecting ambassadors, public ministers, or consuls, and in all capital cases, the district courts shall have exclusive original jurisdiction, and original jurisdiction in all civil cases when the matter in controversy amounts to one hundred dollars.

Sec. 4. The judges, by virtue of their offices, shall be conservators of the peace throughout the republic. The style of all process shall be, "The Republic of Texas:" and all prosecutions shall be carried on in the name and by the authority of the same, and conclude, "against the peace and dignity of the republic."

Sec. 5. There shall be a district attorney appointed for each district, whose duties, salaries, perquisites, and term of service shall be fixed by law.

Sec. 6. The clerks of the district courts shall be elected by the qualified voters for members of congress, in the counties where the courts are established, and shall hold their offices for four years, subject to removal by presentment of a grand jury, and conviction of a petit jury.

Sec. 7. The supreme court shall consist of a chief-justice and associate judges; the district judges shall compose the associate judges, a majority of whom, with the chief-justice, shall constitute a quorum.

Sec. 8. The supreme court shall have appellate jurisdiction only, which shall be conclusive within the limits of the republic; and shall

hold its sessions annually at such times and places as may be fixed by law: *Provided*, That no judge shall sit in a case in the supreme court tried by him in the court below.

Sec. 9. The judges of the supreme and district courts shall be elected by joint ballot of both houses of congress.

Sec. 10. There shall be in each county a county court, and such justices' courts as the congress may, from time to time, establish.

Sec. 11. The republic shall be divided into convenient counties, but no new county shall be established unless it be done on the petition of one hundred free male inhabitants of the territory sought to be laid off and established, and unless the said territory shall contain nine hundred square miles.

Sec. 12. There shall be appointed for each county a convenient number of justices of the peace, one sheriff, one coroner, and a sufficient number of constables, who shall hold their offices for two years, to be elected by the qualified voters of the district or county, as congress may direct. Justices of the peace and sheriff shall be commissioned by the president.

Sec. 13. The congress shall, as early as practicable, introduce, by statute, the common law of England, with such modifications as our circumstances, in their judgment, may require; and in all criminal cases the common law shall be the rule of decision.

Article V

Section 1. Ministers of the gospel being, by their profession, dedicated to God and the care of souls, ought not to be diverted from the great duties of their functions; therefore, no minister of the gospel, or priest of any denomination whatever, shall be eligible to the office of the executive of the republic, nor to a seat in either branch of the congress of the same.

Sec. 2. Each member of the senate and house of representatives shall, before they proceed to business, take an oath to support the constitution, as follows:

"I, A. B., do solemnly swear (or affirm, as the case may be) that, as a member of this general congress, I will support the constitution of the republic, and that I will not propose or assent to any bill, vote, or resolution which shall appear to me injurious to the people."

Sec. 3. Every person who shall be chosen or appointed to any office of trust or profit shall, before entering on the duties thereof, take an oath to support the constitution of the republic, and also an oath of office.

Article VI

Section 1. No person shall be eligible to the office of president who shall not have attained the age of thirty-five years, shall be a citizen of the republic at the time of the adoption of this constitution, or an inhabitant of this republic at least three years immediately preceding his election.

Sec. 2. The president shall enter on the duties of his office on the second Monday in December next succeeding his election, and shall remain in office until his successor shall be duly qualified.

Sec. 3. The president shall, at stated times, receive a compensation for his services, which shall not be increased or diminished during

his continuance in office; and, before entering upon the duties of his office, he shall take and subscribe the following oath or affirmation:

"I, A. B., president of the republic of Texas, do solemnly and sincerely swear (or affirm, as the case may be) that I will faithfully execute the duties of my office, and to the best of my abilities preserve, protect, and defend the constitution of the republic."

SEC. 4. He shall be commander-in-chief of the army and navy of the republic, and militia thereof, but he shall not command in person without the authority of a resolution of congress. He shall have power to remit fines and forfeitures, and to grant reprieves and pardons, except in cases of impeachment.

SEC. 5. He shall, with the advice and consent of two-thirds of the senate, make treaties; and, with the consent of the senate, appoint ministers and consuls, and all officers whose offices are established by this constitution, not herein otherwise provided for.

SEC. 6. The president shall have power to fill all vacancies that may happen during the recess of the senate; but he shall report the same to the senate within ten days after the next congress shall convene; and should the senate reject the same, the president shall not renominate the same individual to the same office.

SEC. 7. He shall, from time to time, give congress information of the state of the republic, and recommend for their consideration such measures as he may deem necessary. He may, upon extraordinary occasions, convene both houses, or either of them. In the event of a disagreement as to the time of adjournment, he may adjourn them to such time as he may think proper. He shall receive all foreign ministers. He shall see that the laws be faithfully executed, and shall commission all the officers of the republic.

SEC. 8. There shall be a seal of the republic, which shall be kept by the president, and used by him officially; it shall be called the great seal of the republic of Texas.

SEC. 9. All grants and commissions shall be in the name and by the authority of the republic of Texas, shall be sealed with the great seal, and signed by the president.

SEC. 10. The president shall have power, by and with the advice and consent of the senate, to appoint a secretary of state, and such other heads of executive departments as may be established by law, who shall remain in office during the term of service of the president, unless sooner removed by the president, with the advice and consent of the senate.

SEC. 11. Every citizen of the republic who has attained the age of twenty-one years, and shall have resided six months within the district or county where the election is held, shall be entitled to vote for members of the general congress.

SEC. 12. All elections shall be by ballot, unless congress shall otherwise direct.

SEC. 13. All elections by joint vote of both houses of congress shall be *viva voce*, shall be entered on the journals, and a majority of the votes shall be necessary to a choice.

SEC. 14. A vice-president shall be chosen at every election for president, in the same manner, continue in office for the same time, and shall possess the same qualifications of the president. In voting for

president and vice-president, the electors shall distinguish for whom they vote as president and for whom as vice-president.

Sec. 15. In cases of impeachment, removal from office, death, resignation, or absence of the president from the republic, the vice-president shall exercise the powers and discharge the duties of the president until a successor be duly qualified or until the president, who may be absent or impeached, shall return or be acquitted.

Sec. 16. The president, vice-president, and all civil officers of the republic shall be removable from office by impeachment for, and on conviction of, treason, bribery, and other high crimes and misdemeanors.

Schedule

Section 1. That no inconvenience may arise from the adoption of this constitution, it is declared by this convention that all laws now in force in Texas, and not inconsistent with this constitution, shall remain in full force until declared void, repealed, altered, or expire by their own limitation.

Sec. 2. All fines, penalties, forfeitures, and escheats which have accrued to Coahuila and Texas, or Texas, shall accrue to this republic.

Sec. 3. Every male citizen who is by this constitution a citizen and shall be otherwise qualified shall be entitled to hold any office or place of honor, trust, or profit under the republic, anything in this constitution to the contrary notwithstanding.

Sec. 4. The first president and vice-president that shall be appointed after the adoption of this constitution shall be chosen by this convention, and shall immediately enter on the duties of their offices, and shall hold said offices until their successors be elected and qualified, as prescribed in this constitution, and shall have the same qualifications, be invested with the same powers, and perform the same duties which are required and conferred on the executive head of the republic by this constitution.

Sec. 5. The president shall issue writs of election directed to the officers authorized to hold elections of the several counties, requiring them to cause an election to be held for president, vice-president, representatives, and senators to congress, at the time and mode prescribed by this constitution, which electon shall be conducted in the manner that elections have been heretofore conducted. The president, vice-president, and members of congress, when duly elected, shall continue to discharge the duties of their respective offices for the time and manner prescribed by this constitution, until their successors be duly qualified.

Sec. 6. Until the first enumeration shall be made as directed by this constitution, the precinct of Austin shall be entitled to one representative; the precinct of Brazoria to two representatives; the precinct of Bexar two representatives; the precinct of Colorado one representative; Sabine one; Gonzales one; Goliad one; Harrisburgh one; Jasper one; Jefferson one; Liberty one; Matagorda one; Mina two; Nacogdoches two; Red River three; Victoria one; San Augustine two; Shelby two; Refugio one; San Patricio one; Washington two; Milam one; and Jackson one representative.

Sec. 7. Until the first enumeration shall be made as described by this constitution, the senatorial districts shall be composed of the following precincts: Bexar shall be entitled to one senator; San Pa-

tricio, Refugio, and Goliad one; Brazoria one; Mina and Gonzales one; Nacogdoches one; Red River one; Shelby and Sabine one; Washington one; Matagorda, Jackson, and Victoria one; Austin and Colorado one; San Augustine one; Milam one; Jasper and Jefferson one; and Liberty and Harrisburgh one senator.

SEC. 8. All judges, sheriffs, commissioners, and other civil officers shall remain in office, and in the discharge of the powers and duties of their respective offices, until there shall be others appointed or elected under the constitution.

GENERAL PROVISIONS

SECTION 1. Laws shall be made to exclude from office, from the right of suffrage, and from serving on juries, those who shall hereafter be convicted of bribery, perjury, or other high crimes and misdemeanors.

SEC. 2. Returns of all elections for officers who are to be commissioned by the president shall be made to the secretary of state of this republic.

SEC. 3. The presidents and heads of departments shall keep their offices at the seat of government, unless removed by the permission of congress, or unless, in cases of emergency in time of war, the public interest may require their removal.

SEC. 4. The president shall make use of his private seal, until a seal of the republic shall be provided.

SEC. 5. It shall be the duty of congress, as soon as circumstances will permit, to provide by law a general system of education.

SEC. 6. All free white persons who shall emigrate to this republic, and who shall, after a residence of six months, make oath before some competent authority that he intends to reside permanently in the same, and shall swear to support this constitution, and that he will bear true allegiance to the republic of Texas, shall be entitled to all the privileges of citizenship.

SEC. 7. So soon as convenience will permit, there shall be a penal code formed on principles of reformation, and not of vindictive justice; and the civil and criminal laws shall be revised, digested, and arranged under different heads; and all laws relating to land-titles shall be translated, revised, and promulgated.

SEC. 8. All persons who shall leave the country for the purpose of evading a participation in the present struggle, or shall refuse to participate in it, or shall give aid or assistance to the present enemy, shall forfeit all rights of citizenship, and such lands as they may hold in the republic.

SEC. 9. All persons of color who were slaves for life previous to their emigration to Texas, and who are now held in bondage, shall remain in the like state of servitude: *Provided*, The said slave shall be the *bona-fide* property of the person so holding said slave as aforesaid. Congress shall pass no laws to prohibit emigrants from bringing their slaves into the republic with them, and holding them by the same tenure by which such slaves were held in the United States; nor shall congress have power to emancipate slaves; nor shall any slaveholder be allowed to emancipate his or her slave or slaves without the consent of congress, unless he or she shall send his or her slave or slaves without the limits of the republic. No free person of African

descent, either in whole or in part, shall be permitted to reside permanently in the republic without the consent of congress; and the importation or admission of Africans or negroes into this republic, excepting from the United States of America, is forever prohibited, and declared to be piracy.

SEC. 10. All persons (Africans, the descendants of Africans, and Indians excepted) who were residing in Texas on the day of the declaration of independence shall be considered citizens of the republic and entitled to all the privileges of such. All citizens now living in Texas who have not received their portion of land in like manner as colonists shall be entitled to their land in the following proportion and manner: Every head of a family shall be entitled to one league and labor of land; and every single man of the age of seventeen and upwards shall be entitled to the third part of one league of land. All citizens who may have, previously to the adoption of this constitution, received their league of land as heads of families, and their quarter of a league of land as single persons, shall receive such additional quantity as will make the quantity of land received by them equal to one league and labor, and one-third of a league, unless by bargain, sale, or exchange they have transferred, or may henceforth transfer, their right to said land, or a portion thereof, to some other citizen of the republic; and in such case, the person to whom such right shall have been transferred shall be entitled to the same as fully and amply as the person making the transfer might or could have been. No alien shall hold land in Texas except by titles emanating directly from the government of this republic. But if any citizen of this republic should die intestate or otherwise his children or heirs shall inherit his estate, and aliens shall have a reasonable time to take possession of and dispose of the same, in a manner hereafter to be pointed out by law. Orphan children whose parents were entitled to land under the colonization laws of Mexico and who now reside in the republic shall be entitled to all the rights of which their parents were possessed at the time of their death. The citizens of the republic shall not be compelled to reside on the land, but shall have their lines plainly marked.

All orders of survey legally obtained by any citizen of the republic from any legally-authorized commissioner, prior to the act of the late consultation closing the land-offices, shall be valid. In all cases, the actual settler and occupant of the soil shall be entitled, in locating his land, to include his improvement, in preference to all other claims not acquired previous to his settlement, according to the law of the land and this constitution: *Provided*, That nothing herein contained shall prejudice the rights of any other citizen from whom a settler may hold land by rent or lease.

And whereas the protection of the public domain from unjust and fraudulent claims and quieting the people in the enjoyment of their lands is one of the great duties of this convention; and whereas the legislature of Coahuila and Texas having passed an act in the year 1834 in behalf of General John T. Mason, of New York, and another on the 14th day of March, 1835, under which the enormous amount of eleven hundred leagues of land has been claimed by sundry individuals, some of whom reside in foreign countries, and are not citizens of the republic—which said acts are contrary to articles fourth, twelfth, and fifteenth of the laws of 1824 of the general congress of

Mexico, and one of said acts for that cause has by said general congress of Mexico been declared null and void—it is hereby declared that the said act of 1834, in favor of John T. Mason, and of the 14th of March, 1835, of the said legislature of Coahuila and Texas, and each and every grant founded thereon, is and was from the beginning null and void; and all surveys made under pretence of authority derived from said acts are hereby declared to be null and void; and all eleven-league claims, located within twenty leagues of the boundary-line between Texas and the United States of America which may have been located contrary to the laws of Mexico, are hereby declared to be null and void. And whereas many surveys and titles to lands have been made whilst most of the people of Texas were absent from home, serving in the campaign against Bexar, it is hereby declared that all the surveys and locations of land made since the act of the late consultation closing the land-offices, and all titles to land made since that time, are and shall be null and void.

And whereas the present unsettled state of the country and the general welfare of the people demand that the operations of the land-office and the whole land-system shall be suspended until persons serving in the army can have a fair and equal chance with those remaining at home to select and locate their lands, it is hereby declared that no survey or title which may hereafter be made shall be valid unless such survey or title shall be authorized by this convention, or some future congress of the republic. And with a view to the simplification of the land-system, and the protection of the people and the government from litigation and fraud, a general land-office shall be established, where all the land-titles of the republic shall be registered, and the whole territory of the republic shall be sectionized, in a manner hereafter to be prescribed by law, which shall enable the officers of the government, or any citizen, to ascertain with certainty the lands that are vacant, and those lands which may be covered with valid titles.

Sec. 11. Any amendment or amendments to this constitution may be proposed in the house of representatives or senate, and if the same shall be agreed to by a majority of the members elected to each of the two houses, such proposed amendment or amendments shall be entered on the journals, with the yeas and nays thereon, and referred to the congress then next to be chosen, and shall be published for three months previous to the election; and if the congress next chosen as aforesaid shall pass said amendment or amendments by a vote of two-thirds of all the members elected to each house, then it shall be the duty of said congress to submit said proposed amendment or amendments to the people in such manner and at such times as the congress shall prescribe; and if the people shall approve and ratify such amendment or amendments by a majority of the electors qualified to vote for members of congress voting thereon, such amendment or amendments shall become a part of this constitution: *Provided, however*, That no amendment or amendments be referred to the people oftener than once in three years.

Declaration of Rights

This declaration of rights is declared to be a part of this constitution, and shall never be violated on any pretence whatever. And in order to guard against the transgression of the high powers

which we have delegated, we declare that everything in this bill of rights contained, and every other right not hereby delegated, is reserved to the people.

1st. All men, when they form a social compact, have equal rights; and no men or set of men are entitled to exclusive public privileges or emoluments from the community.

2d. All political power is inherent in the people, and all free governments are founded on their authority and instituted for their benefit; and they have at all times an inalienable right to alter their government in such manner as they may think proper.

3d. No preference shall be given by law to any religious denomination or mode of worship over another, but every person shall be permitted to worship God according to the dictates of his own conscience.

4th. Every citizen shall be at liberty to speak, write, or publish his opinions on any subject, being responsible for the abuse of that privilege. No law shall ever be passed to curtail the liberty of speech or of the press; and in all prosecutions for libels the truth may be given in evidence, and the jury shall have the right to determine the law and fact, under the direction of the court.

5th. The people shall be secure in their persons, houses, papers, and possessions, from all unreasonable searches and seizures, and no warrant shall issue to search any place or seize any person or thing, without describing the place to be searched or the person or thing to be seized, without probable cause, supported by oath or affirmation.

6th. In all criminal prosecutions the accused shall have the right of being heard, by himself or counsel, or both; he shall have the right to demand the nature and cause of the accusation; shall be confronted with the witnesses against him, and have compulsory process for obtaining witnesses in his favor. And in all prosecutions by presentment or indictment, he shall have the right to a speedy and public trial, by an impartial jury; he shall not be compelled to give evidence against himself, or be deprived of life, liberty, or property, but by due course of law. And no freeman shall be holden to answer for any criminal charge but on presentment or indictment by a grand jury, except in the land and naval forces, or in the militia when in actual service in time of war or public danger, or in cases of impeachment.

7th. No citizen shall be deprived of privileges, outlawed, exiled, or in any manner disfranchised, except by due course of the law of the land.

8th. No title of nobility, hereditary privileges, or honors shall ever be granted or conferred in this republic. No person holding any office of profit or trust shall, without the consent of congress, receive from any foreign state any present, office, or emolument of any kind.

9th. No person, for the same offence, shall be twice put in jeopardy of life or limbs. And the right of trial by jury shall remain inviolate.

10th. All persons shall be bailable by sufficient security, unless for capital crimes, when the proof is evident or presumption strong; and the privilege of the writ of *habeas corpus* shall not be suspended, except in cases of rebellion or invasion the public safety may require it.

11th. Excessive bail shall not be required, nor excessive fines imposed, or cruel or unusual punishments inflicted. All courts shall be open, and every man for any injury done him in his lands, goods, person, or reputation shall have remedy by due course of law.

12th. No person shall be imprisoned for debt in consequence of inability to pay.

13th. No person's particular services shall be demanded, nor property taken or applied to public use, unless by the consent of himself or his representative, without just compensation being made therefor according to law.

14th. Every citizen shall have the right to bear arms in defence of himself and the republic. The military shall at all times and in all cases be subordinate to the civil power.

15th. The sure and certain defence of a free people is a well-regulated militia; and it shall be the duty of the legislature to enact such laws as may be necessary to the organizing of the militia of this republic.

16th. Treason against this republic shall consist only in levying war against it, or adhering to its enemies, giving them aid and support. No retrospective or *ex post facto* law, or laws impairing the obligation of contracts, shall be made.

17th. Perpetuities or monopolies are contrary to the genius of a free government, and shall not be allowed; nor shall the law of primogeniture or entailments ever be in force in this republic.

The foregoing constitution was unanimously adopted by the delegates of Texas, in convention assembled, at the town of Washington, on the 17th day of March, in the year of our Lord one thousand eight hundred and thirty-six, and of the independence of the republic the first year.

In witness whereof we have hereunto subscribed our names.

RICHARD ELLIS, *President.*

ALBERT H. S. KIMBLE, *Secretary.*

CONVENTION BETWEEN THE UNITED STATES AND TEXAS—1838 * [a]

Whereas the treaty of limits made and concluded on the twelfth day of January, in the year of our Lord one thousand eight hundred and twenty-eight, between the United States of America on the one part and the United Mexican States on the other, is binding upon the Republic of Texas, the same having been entered into at a time when Texas formed a part of the said United Mexican States;

And whereas it is deemed proper and expedient, in order to prevent future disputes and collisions between the United States and Texas in regard to the boundary between the two countries as designated by the said treaty, that a portion of the same should be run and marked without unnecessary delay:

The President of the United States has appointed John Forsyth their Plenipotentiary, and the President of the Republic of Texas has appointed Memucan Hunt its Plenipotentiary:

And the said Plenipotentiaries, having exchanged their full powers, have agreed upon and concluded the following articles:

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* Statutes at Large, VIII, p. 510.

[a] This convention was concluded at Washington, United States of America, April 25, 1838; ratifications were exchanged October 12, 1838, and it was proclaimed October 13, 1838. The Congress of the United States passed an act, approved January 11, 1839, for carrying this convention into effect.

ARTICLE I

Each of the contracting parties shall appoint a commissioner and surveyor, who shall meet, before the termination of twelve months from the exchange of the ratifications of this convention, at New Orleans, and proceed to run and mark that portion of the said boundary which extends from the mouth of the Sabine, where that river enters the Gulph of Mexico, to the Red River. They shall make out plans and keep journals of their proceedings, and the result agreed upon by them shall be considered as part of this convention, and shall have the same force as if it were inserted therein. The two Governments will amicably agree respecting the necessary articles to be furnished to those persons, and also as to their respective escorts, should such be deemed necessary.

ARTICLE II

And it is agreed that until this line shall be marked out, as is provided for in the foregoing article, each of the contracting parties shall continue to exercise jurisdiction in all territory over which its jurisdiction has hitherto been exercised; and that the remaining portion of the said boundary line shall be run and marked at such time hereafter as may suit the convenience of both the contracting parties, until which time each of the said parties shall exercise, without the interference of the other, within the territory of which the boundary shall not have been so marked and run, jurisdiction to the same extent to which it has been heretofore usually exercised.

ARTICLE III

The present convention shall be ratified, and the ratifications shall be exchanged at Washington, within the term of six months from the date hereof, or sooner if possible.

In witness whereof we, the respective Plenipotentiaries, have signed the same, and have hereunto affixed our respective seals.

Done at Washington this twenty-fifth day of April, in the year of our Lord one thousand eight hundred and thirty-eight, in the sixty-second year of the Independence of the United States of America, and in the third of that of the Republic of Texas.

JOHN FORSYTH. [L. S.]
MEMUCAN HUNT. [L. S.]

THE ANNEXATION OF TEXAS—1845 [a] [b]

[TWENTY-EIGHTH CONGRESS, SECOND SESSION]

Joint Resolution for annexing Texas to the United States

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Congress doth con-

[a] This joint resolution of Congress was passed in the House of Representatives, by a vote of 120 against 98, February 25, 1845, and in the Senate, by a vote of 27 against 25, March 1, 1845, and it was approved by President Polk March 1, 1845.

[b] Statutes at Large. Vol. V, p. 797.

sent that the territory properly included within, and rightfully belonging to, the Republic of Texas may be erected into a new State, to be called the State of Texas, with a republican form of government, to be adopted by the people of said republic, by deputies in convention assembled, with the consent of the existing government, in order that the same may be admitted as one of the States of this Union.

SEC. 2. *And be it further resolved*, That the foregoing consent of Congress is given upon the following conditions, and with the following guarantees, to wit: First. Said State to be formed, subject to the adjustment by this Government of all questions of boundary that may arise with other governments, and the constitution thereof, with the proper evidence of its adoption by the people of said Republic of Texas, shall be transmitted to the President of the United States, to be laid before Congress for its final action on or before the first day of January, one thousand eight hundred and forty-six. Second. Said State, when admitted into the Union, after ceding to the United States all public edifices, fortifications, barracks, ports, and harbors, navy and navy-yards, docks, magazines, arms, armaments, and all other property and means pertaining to the public defence belonging to said Republic of Texas, shall retain all the public funds, debts, taxes, and dues of every kind which may belong to or be due and owing said republic, and shall also retain all the vacant and unappropriated lands lying within its limits, to be applied to the payment of the debts and liabilities of said Republic of Texas, and the residue of said lands, after discharging said debts and liabilities, to be disposed of as said State may direct, but in no event are said debts and liabilities to become a charge upon the Government of the United States. Third. New States, of convenient size, not exceeding four in number, in addition to said State of Texas, and having sufficient population, may hereafter, by the consent of said State, be formed out of the territory thereof, which shall be entitled to admission under the provisions of the Federal Constitution; and such States as may be formed out of that portion of said territory lying south of thirty-six degrees thirty minutes north latitude, commonly known as the Missouri compromise line, shall be admitted into the Union with or without slavery, as the people of each State asking admission may desire; and in such State or States as shall be formed out of said territory north of said Missouri compromise line, slavery or involuntary servitude (except for crime) shall be prohibited.

SEC. 3. *And be it further resolved*, That if the President of the United States shall in his judgment and discretion deem it most advisable, instead of proceeding to submit the foregoing resolution to the Republic of Texas, as an overture on the part of the United States for admission, to negotiate with that republic; then,

Be it resolved, That a State, to be formed out of the present Republic of Texas, with suitable extent and boundaries, and with two Representatives in Congress, until the next apportionment of representation, shall be admitted into the Union, by virtue of this act, on an equal footing with the existing States, as soon as the terms and conditions of such admission and the cession of the remaining Texan territory to the United States shall be agreed upon by the governments of Texas and the United States; and that the sum of one hundred thousand dollars be, and the same is hereby, appropriated to

defray the expenses of missions and negotiations, to agree upon the terms of said admission and cession, either by treaty to be submitted to the Senate or by articles to be submitted to the two Houses of Congress, as the President may direct.

Approved, March 1, 1845.

CONSENT OF TEXAS TO ANNEXATION—1845

Whereas the Government of the United States hath proposed the following terms, guarantees, and conditions on which the people and territory of the republic of Texas may be erected into a new State, to be called the State of Texas, and admitted as one of the States of the American Union, to wit:

[Here follow the first and second sections of the resolution of the Congress of the United States.] [a]

And whereas, by said terms, the consent of the existing government of Texas is required: Therefore,

Be it resolved by the senate and house of representatives of the republic of Texas in congress assembled, That the government of Texas doth consent that the people and territory of the republic of Texas may be erected into a new State, to be called the State of Texas, with a republican form of government, to be adopted by the people of said republic, by deputies in convention assembled, in order that the same may be admitted as one of the States of the American Union; and said consent is given on the terms, guarantees, and conditions set forth in the preamble to this joint resolution.

SEC. 2. *Be it further resolved*, That the proclamation of the president of the republic of Texas, bearing date May fifth, eighteen hundred and forty-five, and the election of deputies to sit in convention at Austin, on the fourth day of July next, for the adoption of a constitution for the State of Texas, had in accordance therewith, hereby receives the consent of the existing government of Texas.

SEC. 3. *Be it further resolved*, That the president of Texas is hereby requested immediately to furnish the Government of the United States, through their accredited minister near this government, with a copy of this joint resolution; also to furnish the convention to assemble at Austin, on the fourth of July next, a copy of the same. And the same shall take effect from and after its passage.

AN ORDINANCE

Whereas the Congress of the United States of America has passed resolutions providing for the annexation of Texas to that Union, which resolutions were approved by the President of the United States on the first day of March, one thousand eight hundred and forty-five; and whereas the President of the United States has submitted to Texas the first and second sections of the said resolution, as the basis upon which Texas may be admitted as one of the States of the said Union; and whereas the existing government of the republic

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[a] See pages 3545, 3546.

of Texas has assented to the proposals thus made, the terms and conditions of which are as follows:

[Here follow the first and second sections of the resolution of the Congress of the United States, see pages 3544, 3545.]

Now, in order to manifest the assent of the people of this republic, as required in the above-recited portions of the said resolutions, we, the deputies of the people of Texas in convention assembled, in their name and by their authority, do ordain and declare that we assent to and accept the proposals, conditions, and guarantees contained in the first and second sections of the resolution of the Congress of the United States aforesaid.

Done at the city of Austin, republic of Texas, July 4, 1845.

THO. J. RUSK, *President.*

Attest:

JAS. H. RAYMOND, *Secretary.*

CONSTITUTION OF TEXAS—1845 *[a]

We, the people of the Republic of Texas, acknowledging with gratitude the grace and beneficience of God in permitting us to make a choice of our form of government, do, in accordance with the provisions of the joint resolution for annexing Texas to the United States, approved March 1, one thousand eight hundred and forty-five, ordain and establish this constitution.

ARTICLE I

That the general, great, and essential principles of liberty and free government may be recognized and established, we declare that—

SECTION 1. All political power is inherent in the people, and all free governments are founded on their authority and instituted for their benefit; and they have, at all times, the unalienable right to alter, reform, or abolish their form of government, in such manner as they may think expedient.

SEC. 2. All freemen, when they form a social compact, have equal rights; and no man, or set of men, is entitled to exclusive, separate public emoluments or privileges, but in consideration of public services.

SEC. 3. No religious test shall ever be required as a qualification to any office or public trust in this State.

SEC. 4. All men have a natural and indefeasible right to worship God according to the dictates of their own consciences; no man shall be compelled to attend, erect, or support any place of worship, or to maintain any ministry against his consent; no human authority ought, in any case whatever, to control or interfere with the rights of conscience, in matters of religion, and no preference shall ever be given by law to any religious societies or mode of worship; but it shall be the duty of the legislature to pass such laws as may be neces-

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* Verified by "Constitution of the State of Texas. Adopted Unanimously in Convention, at the City of Austin, 1845. Houston: Telegraph Print, 1845."

[a] This constitution was framed by a convention which met at Austin, July 4, 1845, and completed its labors August 27, 1845. It was submitted to the people October 13, 1845, and ratified by 4,174 votes against 312 votes.

sary to protect every religious denomination in the peaceable enjoyment of their own mode of public worship.

Sec. 5. Every citizen shall be at liberty to speak, write, or publish his opinions on any subject, being responsible for the abuse of that privilege; and no law shall ever be passed curtailing the liberty of speech or of the press.

Sec. 6. In prosecutions for the publication of papers investigating the official conduct of officers, or men in a public capacity, or when the matter published is proper for public information, the truth thereof may be given in evidence; and, in all indictments for libels, the jury shall have the right to determine the law and the facts under the direction of the court, as in other cases.

Sec. 7. The people shall be secure in their persons, houses, papers, and possessions from unreasonable seizure or searches; and no warrant to search any place, or to seize any person or thing, shall issue without describing them as near as may be; nor without probable cause, supported by oath or affirmation.

Sec. 8. In all criminal prosecutions the accused shall have a speedy public trial by an impartial jury; he shall not be compelled to give evidence against himself; he shall have the right of being heard by himself or counsel, or both; shall be confronted with the witnesses against him, and shall have compulsory process for obtaining witnesses in his favor; and no person shall be holden to answer for any criminal charge, but on indictment or information, except in cases arising in the land or naval forces, or offences against the laws regulating the militia.

Sec. 9. All prisoners shall be bailable by sufficient sureties, unless for capital offences, when the proof is evident or the presumption great; but this provision shall not be so construed as to prohibit bail after indictment found, upon an examination of the evidence by a judge of the supreme or district court, upon the return of a writ of *habeas corpus*, returnable in the county where the offence is committed.

Sec. 10. The privilege of the writ of *habeas corpus* shall not be suspended, except when, in case of rebellion or invasion, the public safety may require it.

Sec. 11. Excessive bail shall not be required nor excessive fines imposed, nor cruel and unusual punishment inflicted. All courts shall be open; and every person, for an injury done him in his lands, goods, person, or reputation, shall have remedy by due course of law.

Sec. 12. No person, for the same offence, shall be twice put in jeopardy of life or limb; nor shall a person be again put upon trial for the same offence after a verdict of not guilty; and the right of trial by jury shall remain inviolate.

Sec. 13. Every citizen shall have the right to keep and bear arms in the lawful defence of himself or the State.

Sec. 14. No bill of attainder, *ex post facto* law, retroactive law, or any law impairing the obligation of contracts shall be made, and no person's property shall be taken or applied to public use, without adequate compensation being made, unless by the consent of such person.

Sec. 15. No person shall ever be imprisoned for debt.

Sec. 16. No citizen of this State shall be deprived of life, liberty, property, or privileges, outlawed, exiled, or in any manner disfranchised, except by due course of the law of the land.

Sec. 17. The military shall at all times be subordinate to the civil authority.

Sec. 18. Perpetuities and monopolies are contrary to the genius of a free government, and shall never be allowed; nor shall the law of primogeniture or entailments ever be in force in this State.

Sec. 19. The citizens shall have the right, in a peaceable manner, to assemble together for their common good, and to apply to those invested with the powers of government for redress of grievances, or other purposes, by petition, address, or remonstrance.

Sec. 20. No power of suspending laws in this State shall be exercised, except by the legislature or its authority.

Sec. 21. To guard against transgressions of the high powers herein delegated, we declare that everything in this bill of rights is excepted out of the general powers of government, and shall forever remain inviolate; and all laws contrary thereto, or to the following provisions, shall be void.

Article II

DIVISION OF THE POWERS OF GOVERNMENT

The powers of the government of the State of Texas shall be divided into three distinct departments, and each of them to be confided to a separate body of magistracy, to wit: Those which are legislative, to one; those which are executive, to another; and those which are judicial, to another; and no person or collection of persons, being of one of those departments, shall exercise any power properly attached to either of the others, except in the instances herein expressly permitted.

Article III

LEGISLATIVE DEPARTMENT

Section 1. Every free male person who shall have attained the age of twenty-one years, and who shall be a citizen of the United States, or who is at the time of the adoption of this constitution by the Congress of the United States a citizen of the republic of Texas, and shall have resided in this State one year next preceding an election, and the last six months within the district, county, city, or town in which he offers to vote. (Indians not taxed, Africans and descendants of Africans excepted,) shall be deemed a qualified elector; and should such qualified elector happen to be in any other county situated in the district in which he resides at the time of an election, he shall be permitted to vote for any district officer: *Provided*, That the qualified electors shall be permitted to vote anywhere in the State for State officers: *And provided further*, That no soldier, seaman, or marine in the Army or Navy of the United States shall be entitled to vote at any election created by this constitution.

Sec. 2. All free male persons over the age of twenty-one years, (Indians not taxed, Africans and descendants of Africans excepted,) who shall have resided six months in Texas, immediately preceding the acceptance of this constitution by the Congress of the United States, shall be deemed qualified electors.

Sec. 3. Electors in all cases shall be privileged from arrest during their attendance at elections, and in going to and returning from the same, except in cases of treason, felony, or breach of the peace.

Sec. 4. The legislative powers of this State shall be vested in two distinct branches; the one to be styled the senate and the other the house of representatives, and both together the legislature of the *legislature of the State of Texas.*"

State of Texas. The style of all laws shall be, "*Be it enacted by the*

Sec. 5. The members of the house of representatives shall be chosen by the qualified electors, and their term of office shall be two years from the day of the general election; and the sessions of the legislature shall be biennial, at such times as shall be prescribed by law.

Sec. 6. No person shall be a representative unless he be a citizen of the United States, or at the time of the adoption of this constitution a citizen of the Republic of Texas, and shall have been an inhabitant of this State two years next preceding his election, and the last year thereof a citizen of the county, city, or town for which he shall be chosen, and shall have attained the age of twenty-one years at the time of his election.

Sec. 7. All the elections by the people shall be held at such time and places, in the several counties, cities, or towns, as are now or may hereafter be designated by law.

Sec. 8. The senators shall be chosen by the qualified electors for the term of four years; and shall be divided by lot into two classes, as nearly equal as can be. The seats of senators of the first class shall be vacated at the expiration of the first two years, and of the second class at the expiration of four years; so that one-half thereof shall be chosen biennially thereafter.

Sec. 9. Such mode of classifying new additional senators shall be observed as will as nearly as possible preserve an equality of number in each class.

Sec. 10. When a senatorial district shall be composed of two or more counties, it shall not be separated by any county belonging to another district.

Sec. 11. No person shall be a senator unless he be a citizen of the United States, or at the time of the acceptance of this constitution by the Congress of the United States a citizen of the Republic of Texas, and shall have been an inhabitant of this State three years next preceding the election, and the last year thereof a resident of the district for which he shall be chosen, and have attained the age of thirty years.

Sec. 12. The house of representatives, when assembled, shall elect a speaker and its other officers, and the senate shall choose a president for the time being and its other officers. Each house shall judge of the qualifications and elections of its own members; but contested elections shall be determined in such manner as shall be directed by law. Two-thirds of each house shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and compel the atendance of absent members, in such manner and under such penalties as each house may provide.

Sec. 13. Each house may determine the rules of its own proceedings, punish members for disorderly conduct, and, with the consent of two-thirds, expel a member, but not a second time for the same offence.

Sec. 14. Each house shall keep a journal of its own proceedings, and publish the same; and the yeas and nays of the members of either

house on any question shall, at the desire of any three members present, be entered on the journals.

SEC. 15. When vacancies happen in either house, the governor, or the person exercising the power of the governor, shall issue writs of election to fill such vacancies.

SEC. 16. Senators and representatives shall in all cases, except in treason, felony, or breach of the peace, be privileged from arrest during the session of the legislature, and in going to and returning from the same, allowing one day for every twenty miles such member may reside from the place at which the legislature is convened.

SEC. 17. Each house may punish by imprisonment, during the session, any person not a member, for disrespectful or disorderly conduct, in its presence, or for obstructing any of its proceedings: *Provided*, Such imprisonment shall not at any one time exceed forty-eight hours.

SEC. 18. The doors of each house shall be kept open.

SEC. 19. Neither house shall, without the consent of the other, adjourn for more than three days; nor to any other place than that in which they may be sitting, without the concurrence of both houses.

SEC. 20. Bills may originate in either house, and be amended, altered, or rejected by the other; but no bill shall have the force of a law until, on three several days, it be read in each house, and free discussion be allowed thereon, unless, in case of great emergency, four-fifths of the house in which the bill shall be pending may deem it expedient to dispense with this rule; and every bill, having passed both houses, shall be signed by the speaker and president of their respective houses.

SEC. 21. All bills for raising revenue shall originate in the house of representatives, but the senate may amend or reject them as other bills.

SEC. 22. After a bill or resolution has been rejected by either branch of the legislature, no bill or resolution containing the same substance shall be passed into a law during the same session.

SEC. 23. Each member of the legislature shall receive from the public treasury a compensation for his services, which may be increased or diminished by law; but no increase of compensation shall take effect during the session at which such increase shall be made.

SEC. 24. No senator or representative shall, during the term for which he may be elected, be eligible to any civil office of profit under this State, which shall have been created, or the emoluments of which may have been increased, during such term; and no member of either house of the legislature shall, during the term for which he is elected, be eligible to any office or place the appointment to which may be made in whole or in part by either branch of the legislature; nor shall the members thereof be capable of voting for a member of their own body, for any office whatever, except it be in such cases as are herein provided. The president for the time being of the senate, and speaker of the house of representatives, shall be elected from their respective bodies.

SEC. 25. No judge of any court of law or equity, secretary of state, attorney-general, clerk of any court of record, sheriff, or collector, or any person holding a lucrative office under the United States, or this State, or any foreign government, shall be eligible to the legislature,

nor shall at the same time hold or exercise any two offices, agencies, or appointments of trust or profit under this State: *Provided*, That offices of the militia, to which there is attached no annual salary, or the office of justice of the peace, shall not be deemed lucrative.

SEC. 26. No person who at any time may have been a collector of taxes, or who may have been otherwise intrusted with public money, shall be eligible to the legislature or to any office of profit or trust under the State government, until he shall have obtained a discharge for the amount of such collections, and for all public moneys with which he may have been intrusted.

SEC. 27. Ministers of the gospel, being by their profession dedicated to God and the care of souls, ought not to be diverted from the great duties of their functions; therefore, no minister of the gospel, or priest of any denomination whatever, shall be eligible to the legislature.

SEC. 28. Elections for senators and representatives shall be general throughout the State, and shall be regulated by law.

SEC. 29. The legislature shall at their first meeting, and in the year one thousand eight hundred and forty-eight and fifty, and every eight years thereafter, cause an enumeration to be made of all the free inhabitants (Indians not taxed, Africans and descendants of Africans excepted) of the State, designating particularly the number of qualified electors; and the whole number of representatives shall, at the several periods of making such enumeration, be fixed by the legislature, and apportioned among the several counties, cities, or towns, according to the number of free population in each; and shall not be less than forty-five, nor more than ninety.

SEC. 30. Until the first enumeration and apportionment under this constitution, the following shall be the apportionment of representatives amongst the several counties, viz:

The county of Montgomery shall elect four representatives.

The counties of Red River, Harrison, Nacogdoches, Harris, and Washington shall elect three representatives each.

The counties of Fannin, Lamar, Bowie, Shelby, San Augustine, Rusk, Houston, Sabine, Liberty, Robertson, Galveston, Brazoria, Fayette, Colorado, Austin, Gonzales, and Bexar, two representatives each.

The counties of Jefferson, Jasper, Brazos, Milam, Bastrop, Travis, Matagorda, Jackson, Fort Bend, Victoria, Refugio, Goliad, and San Patricio, one representative each.

SEC. 31. The whole number of senators shall, at the next session after the several periods of making the enumeration, be fixed by the legislature, and apportioned among the several districts to be established by law, according to the number of qualified electors, and shall never be less than nineteen, nor more than thirty-three.

SEC. 32. Until the first enumeration, as provided for by this constitution, the senatorial districts shall be as follows, to wit:

The counties of Fannin and Lamar shall constitute the first district, and elect one senator:

The counties of Red River and Bowie, the second district, and elect one senator;

The counties of Fannin, Lamar, Red River, and Bowie, conjointly, shall elect one senator;

The county of Harrison, the third district, shall elect one senator;

The counties of Nacogdoches, Rusk, and Houston, the fourth district, shall elect two senators;

The counties of San Augustine and Shelby, the fifth district, shall elect one senator;

The counties of Sabine and Jasper, the sixth district, shall elect one senator;

The counties of Liberty and Jefferson, the seventh district, shall elect one senator;

The counties of Robertson and Brazos, the eighth district, shall elect one senator;

The county of Montgomery, the ninth district, shall elect one senator;

The county of Harris, the tenth district, shall elect one senator;

The county of Galveston, the eleventh district, shall elect one senator;

The counties of Brazoria and Matagorda, the twelfth district, shall elect one senator;

The counties of Austin and Fort Bend, the thirteenth district, shall elect one senator;

The counties of Colorado and Fayette, the fourteenth district, shall elect one senator;

The counties of Bastrop and Travis, the fifteenth district, shall elect one senator;

The counties of Washington and Milam, the sixteenth district, shall elect one senator;

Te counties of Victoria, Gonzales, and Jackson, the seventeeth district, shall elect one senator;

The county of Bexar, the eighteenth district, shall elect one senator; and

The counties of Goliad, Refugio, and San Patricio, the nineteenth district, shall elect one senator.

Sec. 33. The first session of the legislature after the adoption of this constitution by the Congress of the United States shall be held at the city of Austin, the present seat of government, and thereafter until the year one thousand eight hundred and fifty; after which period the seat of government shall be permanently located by the people.

Sec. 34. The members of the legislature shall, at their first session, receive from the treasury of the State, as their compensation, three dollars for each day they shall be in attendance on, and three dollars for every twenty-five miles travelling to and from the place of convening the legislature.

Sec. 35. In order to settle permanently the seat of government, an election shall be holden throughout the State, at the usual places of holding elections, on the first Monday in March, one thousand eight hundred and fifty, which shall be conducted according to law; at which time the people shall vote for such place as they may see proper for the seat of government. The returns of said election to be transmitted to the governor by the first Monday in June; if either place voted for shall have a majority of the whole number of votes cast, then the same shall be the permanent seat of government until the year one thousand eight hundred and seventy, unless the State shall

sooner be divided. But in case neither place voted for shall have the majority of the whole number of votes given in, then the governor shall issue his proclamation for an election to be holden in the same manner, on the first Monday in October, one thousand eight hundred and fifty, between the two places having the highest number of votes af the first election. The election shall be conducted in the same manner as at the first, and the returns made to the governor, and the place having the highest number of votes shall be the seat of government for the time hereinbefore provided.

Article IV

JUDICIAL DEPARTMENT

Section 1. The judicial power of this State shall be vested in one supreme court, in district courts, and in such inferior courts as the legislature may from time to time ordain and establish, and such jurisdiction may be vested in corporation courts as may be deemed necessary, and be directed by law.

Sec. 2. The supreme court shall consist of a chief justice and two associates, any two of whom shall form a quorum.

Sec. 3. The supreme court shall have appellate jurisdiction only, which shall be coextensive with the limits of the State; but in criminal cases, and in appeals from interlocutory judgments, with such exceptions and under such regulations as the legislature shall make; and the supreme court, and judges thereof, shall have power to issue the writ of *habeas corpus*, and, under such regulations as may be prescribed by law, may issue writ of *mandamus*, and such other writs as shall be necessary to enforce its own jurisdiction; and also compel a judge of the district court to proceed to trial and judgment in a cause; and the supreme court shall hold its sessions once every year, between the months of October and June inclusive, at no more than three places in the State.

Sec. 4. The supreme court shall appoint its own clerks, who shall hold their offices for four years, and be subject to removal by the said court, for neglect of duty, misdemeanor in office, and such other causes as may be prescribed by law.

Sec. 5. The governor shall nominate, and, by and with the advice and consent of two-thirds of the senate, shall appoint the judges of the supreme and district courts, and they shall hold their offices for six years.

Sec. 6. The State shall be divided into convenient judicial districts. For each district there shall be appointed a judge, who shall reside in the same, and hold the courts at one place in each county, and at least twice in each year, in such manner as may be prescribed by law.

Sec. 7. The judges of the supreme court shall receive a salary not less than two thousand dollars annually, and the judges of the district court a salary not less than seventeen hundred and fifty dollars annually; and the salaries of the judges shall not be increased or diminished during their continuance in office.

Sec. 8. The judges of the supreme and district courts shall be removed by the governor, on the address of two-thirds of each house of the legislature, for wilful neglect of duty, or other reasonable cause, which shall not be sufficient ground for impeachment: *Pro-*

vided, however, That the cause or causes for which such removal shall be required shall be stated at length in such address, and entered on the journals of each house: *And provided further*, That the cause or causes shall be notified to the judges so intended to be removed; and he shall be admitted to a hearing in his own defence, before any vote for such address shall pass; and in all such cases the vote shall be taken by yeas and nays and entered on the journals of each house respectively.

Sec. 9. All judges of the supreme and district courts shall, by virtue of their offices, be conservators of the peace throughout the State. The style of all writs and process shall be "The State of Texas." All prosecutions shall be carried on in the name and by the authority of the State of Texas, and conclude "against the peace and dignity of the State."

Sec. 10. The district court shall have original jurisdiction of all criminal cases, of all suits in behalf of the State to recover penalties, forfeitures, and escheats, and of all cases of divorce, and of all suits, complaints, and pleas whatever, without regard to any distinction between law and equity, when the matter in controversy shall be valued at, or amount to, one hundred dollars, exclusive of interest; and the said courts, or the judges thereof, shall have power to issue all writs necessary to enforce their own jurisdiction, and give them a general superintendence and control over inferior jurisdictions. And in the trial of all criminal cases, the jury trying the same shall find and assess the amount of punishment to be inflicted, or fine imposed; except in capital cases, and where the punishment or fine imposed shall be specifically imposed by law.

Sec. 11. There shall be a clerk of the district courts for each county, who shall be elected by the qualified voters for members of the legislature, and who shall hold his office for four years, subject to removal by information, or by presentment of a grand jury and conviction of a petit jury. In case of vacancy, the judge of the district shall have the power to appoint a clerk until a regular election can be held.

Sec. 12. The governor shall nominate and, by and with the advice and consent of two-thirds of the senate, appoint an attorney-general, who shall hold his office for two years; and there shall be elected by joint vote of both houses of the legislature a district attorney for each district, who shall hold his office for two years; and the duties, salaries, and perquisites of the attorney-general and district attorneys shall be prescribed by law.

Sec. 13. There shall be appointed for each county a convenient number of justices of the peace, one sheriff, one coroner, and a sufficient number of constables, who shall hold their offices for two years, to be elected by the qualified voters of the district or county as the legislature may direct. Justices of the peace, sheriffs, and coroners shall be commissioned by the governor. The sheriff shall not be eligible more than four years in every six.

Sec. 14. No judge shall sit in any case wherein he may be interested, or where either of the parties may be connected with him by affinity or consanguinity, within such degrees as may be prescribed by law, or where he shall have been of counsel in the cause. When the supreme court, or any two of its members, shall be thus disqualified to hear and determine any cause or causes in said court, or when no judgment can be rendered in any case or cases in said court, by

reason of the equal division of opinion of said judges, the same shall be certified to the governor of the State, who shall immediately commission the requisite number of persons, learned in the law, for the trial and determination of said case or cases. When the judges of the district court are thus disqualified, the parties may, by consent, appoint a proper person to try the said case; and the judges of the said courts may exchange districts, or hold courts for each other, when they may deem it expedient, and shall do so when directed by law. The disqualifications of judges of inferior tribunals shall be remedied as may hereafter be by law prescribed.

Sec. 15. Inferior tribunals shall be established in each county for appointing guardians, granting letters testamentary and of administration, for settling the accounts of executors, administrators, and guardians, and for the transaction of business appertaining to estates; and the district courts shall have original and appellate jurisdiction, and general control over the said inferior tribunals, and original jurisdiction and control over executors, administrators, guardians, and minors, under such regulations as may be prescribed by law.

Sec. 16. In the trial of all causes in equity in the district court, the plaintiff or defendant shall, upon application made in open court, have the right of trial by jury, to be governed by the rules and regulations prescribed in trials at law.

Sec. 17. Justices of the peace shall have such civil and criminal jurisdiction as shall be provided for by law.

Sec. 18. In all cases arising out of a contract, before any inferior judicial tribunal, when the amount in controversy shall exceed ten dollars, the plaintiff or defendant shall, upon application to the presiding officer, have the right of trial by jury.

Sec. 19. In all cases where justices of the peace or other judicial officers of inferior tribunals shall have jurisdiction in the trial of causes where the penalty for the violation of a law is fine or imprisonment, (except in cases of contempt,) the accused shall have the right of trial by jury.

Article V

EXECUTIVE DEPARTMENT

Section 1. The supreme executive power of this State shall be vested in a chief magistrate, who shall be styled the governor of the State of Texas.

Sec. 2. The governor shall be elected by the qualified electors of the State, at the time and places of elections for members of the legislature.

Sec. 3. The returns of every election for governor, until otherwise provided by law, shall be made out, sealed up, and transmitted to the seat of government, and directed to the speaker of the house of representatives, who shall, during the first week of the session of the legislature thereafter, open and publish them in the presence of both houses of the legislature: the person having the highest number of votes, and being constitutionally eligible, shall be declared by the speaker, under the direction of the legislature, to be governor; but if two or more persons shall have the highest and an equal number of votes, one of them shall be immediately chosen governor by joint vote

of both houses of the legislature. Contested elections for governor shall be determined by both houses of the legislature.

SEC. 4. The governor shall hold his office for the term of two years from the regular time of installation, and until his successor shall be duly qualified, but shall not be eligible for more than four years in any term of six years; he shall be at least thirty years of age, shall be a citizen of the United States, or a citizen of the State of Texas, at the time of the adoption of this constitution, and shall have resided in the same three years immediately preceding his election.

SEC. 5. He shall, at stated times, receive a compensation for his services, which shall not be increased or diminished during the term for which he shall have been elected. The first governor shall receive an annual salary of two thousand dollars, and no more.

SEC. 6. The governor shall be commander-in-chief of the army and navy of this State, and of the militia, except when they shall be called into the service of the United States.

SEC. 7. He may require information in writing from the officers of the executive department on any subject relating to the duties of their respective offices.

SEC. 8. He may, by proclamation, on extraordinary occasions, convene the legislature at the seat of government, or at a different place, if that should be in the actual possession of a public enemy; in case of disagreement between the two houses with respect to adjournment, he may adjourn them to such time as he shall think proper, not beyond the day of the next regular meeting of the legislature.

SEC. 9. He shall, from time to time, give to the legislature information in writing of the state of the government, and recommend to their consideration such measures as he may deem expedient.

SEC. 10. He shall take care that the laws be faithfully executed.

SEC. 11. In all criminal cases, except in those of treason and impeachment, he shall have power, after conviction, to grant reprieves and pardons, and, under such rules as the legislature may prescribe, he shall have power to remit fines and forfeitures. In cases of treason, he shall have power, by and with the advice and consent of the senate, to grant reprieves and pardons, and he may, in the recess of the senate, respite the sentence until the end of the next session of the legislature.

SEC. 12. There shall also be a lieutenant-governor, who shall be chosen at every election for governor, by the same persons and in the same manner, continue in office for the same time, and possess the same qualifications. In voting for governor and lieutenant-governor, the electors shall distinguish for whom they vote as governor and for whom as lieutenant-governor. The lieutenant-governor shall, by virtue of his office, be president of the senate, and have, when in committee of the whole, a right to debate and vote on all questions, and when the senate is equally divided to give the casting vote. In case of the death, resignation, removal from office, inability or refusal of the governor to serve, or of his impeachment or absence from the State, the lieutenant-governor shall exercise the powers and authority appertaining to the office of governor until another be chosen at the periodical election and be duly qualified, or until the governor impeached, absent, or disabled shall be acquitted, return, or his disability be removed.

Sec. 13. Whenever the government shall be administered by the lieutenant-governor, or he shall be unable to attend as president of the senate, the senate shall elect one of their own members as president for the time being. And if, during the vacancy of the office of governor, the lieutenant-governor shall die, resign, refuse to serve, or be removed from office, or be unable to serve, or if he shall be impeached, or absent from the State, the president of the senate for the time being shall, in like manner, administer the government until he shall be superseded by a governor or lieutenant-governor; the lieutenant-governor shall, whilst he acts as president of the senate, receive for his services the same compensation which shall be allowed to the speaker of the house of representatives, and no more, and during the time he administers the government as governor shall receive the same compensation which the governor would have received had he been employed in the duties of his office, and no more. The president for the time being of the senate shall, during the time he administers the government, receive in like manner the same compensation which the governor would have received had he been employed in the duties of his office. If the lieutenant-governor shall be required to administer the government, and shall whilst in such administration die, resign, or be absent from the State, during the recess of the legislature, it shall be the duty of the secretary of state to convene the senate for the purpose of choosing a president for the time being.

Sec. 14. There shall be a seal of the State, which shall be kept by the governor, and used by him officially. The said seal shall be a star of five points, encircled by an olive and live-oak branches, and the words "The State of Texas."

Sec. 15. All commissions shall be in the name and by the authority of the State of Texas, be sealed with the State seal, signed by the governor, and attested by the secretary of state.

Sec. 16. There shall be a secretary of state, who shall be appointed by the governor, by and with the advice and consent of the senate, and shall continue in office during the term of service of the governor-elect. He shall keep a fair register of all official acts and proceedings of the governor, and shall, when required, lay the same, and all papers, minutes, and vouchers relative thereto, before the legislature, or either house thereof, and shall perform such other duties as may be required of him by law.

Sec. 17. Every bill which shall have passed both houses of the legislature shall be presented to the governor; if he approve, he shall sign it; but if not, he shall return it with his objections to the house in which it shall have originated, who shall enter the objections at large upon the journals and proceed to reconsider it; if, after such reconsideration, two-thirds of the members present shall agree to pass the bill, it shall be sent, with the objections, to the other house, by which it shall likewise be reconsidered; if approved by two-thirds of the members present, of that house, it shall become a law; but in such cases the votes of both houses shall be determined by yeas and nays, and the names of the members voting for or against the bill shall be entered on the journals of each house respectively; if any bill shall not be returned by the governor within five days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it. Every bill presented to the governor one day previous to the adjournment of the legislature,

and not returned to the house in which it originated before its adjournment, shall become a law, and have the same force and effect as if signed by the governor.

SEC. 18. Every order, resolution, or vote, to which the concurrence of both houses of the legislature may be necessary, except on questions of adjournment, shall be presented to the governor, and, before it shall take effect, be approved by him; or being disapproved, shall be repassed by both houses according to the rules and limitations prescribed in the case of a bill.

SEC. 19. The governor, by and with the advice and consent of two-thirds of the senate, shall appoint a convenient number of notaries public, not exceeding six for each county, who, in addition to such duties as are prescribed by law, shall discharge such other duties as the legislature may, from time to time, prescribe.

SEC. 20. Nominations to fill all vacancies that may have occurred during the recess shall be made to the senate during the first ten days of its session. And should any nomination so made be rejected, the same individual shall not again be nominated during the session to fill the same office. And should the governor fail to make nominations to fill any vacancy during the session of the senate, such vacancy shall not be filled by the governor until the next meeting of the senate.

SEC. 21. The governor shall reside, during the session of the legislature, at the place where their sessions may be held, and at all other times whenever, in their opinion, the public good may require.

SEC. 22. No person holding the office of governor shall hold any other office or commission, civil or military.

SEC. 23. A State treasurer and comptroller of public accounts shall be biennially elected by the joint ballot of both houses of the legislature; and in case of vacancy in either of said offices during the recess of the legislature, such vacancy shall be filled by the governor, which appointment shall continue until the close of the next session of the legislature thereafter.

ARTICLE VI

MILITIA

SECTION 1. The legislature shall provide by law for organizing and disciplining the militia of this State, in such manner as they shall deem expedient, not incompatible with the Constitution and laws of the United States in relation thereto.

SEC. 2. Any person who conscientiously scruples to bear arms shall not be compelled to do so, but shall pay an equivalent for personal service.

SEC. 3. No licensed minister of the gospel shall be required to perform military duty, work on roads, or serve on juries in this State.

SEC. 4. The governor shall have power to call forth the militia to execute the laws of the State, to suppress insurrections, and to repel invasions.

ARTICLE VII

GENERAL PROVISIONS

SECTION 1. Members of the legislature, and all officers, before they enter upon the duties of their offices, shall take the following oath or affirmation: "I, A. B., do solemnly swear [or affirm] that I will

faithfully and impartially discharge and perform all the duties incumbent on me as ———, according to the best of my skill and ability, agreeably to the Constitution and laws of the United States and of this State; and I do further solemnly swear [or affirm] that since the adoption of this constitution by the Congress of the United States I, being a citizen of this State, have not fought a duel with deadly weapons, within this State nor out of it; nor have I sent or accepted a challenge to fight a duel with deadly weapons; nor have I acted as second in carrying a challenge, or aided, advised, or assisted any person thus offending: So help me God."

SEC. 2. Treason against this State shall consist only in levying war against it, or in adhering to its enemies, giving them aid and comfort; and no person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or his own confession in open court.

SEC. 3. Every person shall be disqualified from holding any office of trust or profit in this State who shall have been convicted of having given or offered a bribe to procure his election or appointment.

SEC. 4. Laws shall be made to exclude from office, serving on juries, and from the right of suffrage those who shall hereafter be convicted of bribery, perjury, forgery, or other high crimes. The privilege of free suffrage shall be supported by laws regulating elections and prohibiting, under adequate penalties, all undue influence thereon, from power, bribery, tumult, or other improper practice.

SEC. 5. Any citizen of this State who shall, after the adoption of this constitution, fight a duel with deadly weapons, or send or accept a challenge to fight a duel with deadly weapons, either within the State or out of it, or who shall act as second, or knowingly aid and assist, in any manner, those thus offending, shall be deprived of holding any office of trust or profit under this State.

SEC. 6. In all elections by the people, the vote shall be by ballot until the legislature shall otherwise direct; and in all elections by the senate and house of representatives, jointly or separately, the vote shall be given *viva voce*, except in the election of their officers.

SEC. 7. The legislature shall provide by law for the compensation of all officers, servants, agents, and public contractors not provided for by this constitution; and shall not grant extra compensation to any officer, agent, servant, or public contractor, after such public service shall have been performed, or contract entered into for the performance of the same; nor grant, by appropriation or otherwise, any amount of money out of the treasury of the State to any individual, on a claim real or pretended, where the same shall not have been provided for by preëxisting law: *Provided*, That nothing in this section shall be so construed as to affect the claims of persons against the Republic of Texas heretofore existing.

SEC. 8. No money shall be drawn from the treasury but in pursuance of specific appropriations made by law; nor shall any appropriation of money be made for a longer term than two years, except for purposes of education; and no appropriation for private or individual purposes, or for purposes of internal improvement, shall be made without the concurrence of two-thirds of both houses of the legislature. A regular statement and account of the receipts and expenditures of all public money shall be published annually, in such

manner as shall be prescribed by law. And in no case shall the legislature have the power to issue treasury warrants, treasury notes, or paper of any description intended to circulate as money.

SEC. 9. All civil officers shall reside within the State; and all district or county officers within their districts or counties, and shall keep their offices at such places therein as may be required by law.

SEC. 10. The duration of all offices not fixed by this constitution shall never exceed four years.

SEC. 11. Absence on the business of this State, or of the United States, shall not forfeit a residence once obtained so as to deprive any one of the right of suffrage, or of being elected or appointed to any office under the exceptions contained in this constitution.

SEC. 12. The legislature shall have power to provide for deductions from the salaries of public officers who may neglect the performance of any duty that may be assigned them by law.

SEC. 13. No member of Congress, nor person holding or exercising any office of profit or trust under the United States, or either of them, or under any foreign power, shall be eligible as a member of the legislature, or hold or exercise any office of profit or trust under this State.

SEC. 14. The legislature shall provide for a change of venue in civil and criminal cases; and for the erection of a penitentiary at as early a day as practicable.

SEC. 15. It shall be the duty of the legislature to pass such laws as may be necessary and proper to decide differences by arbitration, when the parties shall elect that method of trial.

SEC. 16. Within five years after the adoption of this constitution, the laws, civil and criminal, shall be revised, digested, arranged, and published in such manner as the legislature shall direct; and a like revision, digest, and publication shall be made every ten years thereafter.

SEC. 17. No lottery shall be authorized by this State; and the buying or selling of lottery-tickets within this State is prohibited.

SEC. 18. No divorce shall be granted by the legislature.

SEC. 19. All property, both real and personal, of the wife, owned or claimed by her before marriage, and that acquired afterwards by gift, devise, or descent, shall be her separate property; and laws shall be passed more clearly defining the rights of the wife, in relation as well to her separate property, as that held in common with her husband. Laws shall also be passed providing for the registration of the wife's separate property.

SEC. 20. The rights of property and of action which have been acquired under the constitution and laws of the Republic of Texas shall not be divested; nor shall any rights or actions which have been divested, barred, or declared null and void by the constitution and laws of the Republic of Texas be reinvested, revived, or reinstated by this constitution; but the same shall remain precisely in the situation in which they were before the adoption of this constitution.

SEC. 21. All claims, locations, surveys, grants, and titles to land which are declared null and void by the constitution of the Republic of Texas, are, and the same shall remain forever, null and void.

SEC. 22. The legislature shall have power to protect, by law, from forced sale a certain portion of the property of all heads of families. The homestead of a family, not to exceed two hundred acres of land,

(not included in a town or city, or any town or city lot or lots,) in value not to exceed two thousand dollars, shall not be subject to forced sale for any debts hereafter contracted; nor shall the owner, if a married man, be at liberty to alienate the same, unless by the consent of the wife, in such manner as the legislature may hereafter point out.

SEC. 23. The legislature shall provide in what cases officers shall continue to perform the duties of their offices, until their successors shall be duly qualified.

SEC. 24. Every law enacted by the legislature shall embrace but one object, and that shall be expressed in the title.

SEC. 25. No law shall be revised or amended by reference to its title; but in such case the act revised, or section amended, shall be reënacted, and published at length.

SEC. 26. No person shall hold or exercise at the same time more than one civil office of emolument, except that of justice of the peace.

SEC. 27. Taxation shall be equal and uniform throughout the State. All property in this State shall be taxed in proportion to its value, to be ascertained as directed by law; except such property as two-thirds of both houses of the legislature may think proper to exempt from taxation. The legislature shall have power to lay an income-tax, and to tax all persons pursuing any occupation, trade, or profession: *Provided*, That the term "occupation" shall not be construed to apply to pursuits either agricultural or mechanical.

SEC. 28. The legislature shall have power to provide by law for exempting from taxation two hundred and fifty dollars' worth of the household-furniture or other property belonging to each family in this State.

SEC. 29. The assessor and collector of taxes shall be appointed in such manner and under such regulations as the legislature may direct.

SEC. 30. No corporate body shall hereafter be created, renewed, or extended with banking or discounting privileges.

SEC. 31. No private corporation shall be created, unless the bill creating it shall be passed by two-thirds of both houses of the legislature; and two-thirds of the legislature shall have power to revoke and repeal all private corporations, by making compensation for the franchise. And the State shall not be part owner of the stock or property belonging to any corporation.

SEC. 32. The legislature shall prohibit, by law, individuals from issuing bills, checks, promissory notes, or other paper, to circulate as money.

SEC. 33. The aggregate amount of debts hereafter contracted by the legislature shall never exceed the sum of one hundred thousand dollars, except in case of war, to repel invasions, or suppress insurrections. And in no case shall any amount be borrowed, except by a vote of two-thirds of both houses of the legislature.

SEC. 34. The legislature shall at the first session thereof, and may at any subsequent session, establish new counties for the convenience of the inhabitants of such new county or counties: *Provided*, That no new county shall be established which shall reduce the county or counties, or either of them, from which it shall be taken to a less area than nine hundred square miles, (except the county of Bowie,) unless by consent of two-thirds of the legislature; nor shall any county be

laid off of less contents. Every new county, as to the right of suffrage and representation, shall be considered as part of the county or counties from which it was taken, until entitled by numbers to right of separate representation.

SEC. 35. No soldier shall, in time of peace, be quartered in the house or within the inclosure of any individual, without the consent of the owner; nor in time of war but in a manner prescribed by law.

SEC. 36. The salaries of the governor and judges of the supreme and district courts are hereby fixed at the minimum established in the constitution, and shall not be increased for ten years.

MODE OF AMENDING THE CONSTITUTION

SEC. 37. The legislature, whenever two-thirds of each house shall deem it necessary, may propose amendments to this constitution; which proposed amendments shall be duly published in the public prints of the State, at least three months before the next general election of representatives, for the consideration of the people; and it shall be the duty of the several returning officers at the next election which shall be thus holden to open a poll for, and make a return to the secretary of the State of, the names of all those voting for representatives who have voted on such proposed amendments; and if, thereupon, it shall appear that a majority of all the citizens of this State voting for representatives have voted in favor of such proposed amendments, and two-thirds of each house of the next legislature shall, after such election, and before another, ratify the same amendments by yeas and nays, they shall be valid, to all intents and purposes, as parts of this constitution: *Provided*, That the said proposed amendments shall, at each of the said sessions, have been read on three several days in each house.

ARTICLE VIII

SLAVES

SECTION 1. The legislature shall have no power to pass laws for the emancipation of slaves, without the consent of their owners; nor without paying their owners, previous to such emancipation, a full equivalent in money for the slaves so emancipated. They shall have no power to prevent emigrants to this State from bringing with them such persons as are deemed slaves by the laws of any of the United States, so long as any person of the same age or description shall be continued in slavery by the laws of this State: *Provided*, That such slave be the *bona-fide* property of such emigrants: *Provided also*, That laws shall be passed to inhibit the introduction into this State of slaves who have committed high crimes in other States or Territories. They shall have the right to pass laws to permit the owners of slaves to emancipate them, saving the rights of creditors, and preventing them from becoming a public charge. They shall have full power to pass laws which will oblige the owners of slaves to treat them with humanity; to provide for their necessary food and clothing; to abstain from all injuries to them extending to life or limb; and, in case of their neglect or refusal to comply with the directions of such laws, to have such slave or slaves taken from such owner and

sold for the benefit of such owner or owners. They may pass laws to prevent slaves from being brought into this State as merchandise only.

Sec. 2. In the prosecution of slaves for the crimes of a higher grade than petit larceny, the legislature shall have no power to deprive them of an impartial trial by a petit jury.

Sec. 3. Any person who shall maliciously dismember or deprive a slave of life shall suffer such punishment as would be inflicted in case the like offence had been committed upon a free white person, and on the like proof, except in case of insurrection of such slave.

Article IX

IMPEACHMENT

Section 1. The power of impeachment shall be vested in the house of representatives.

Sec. 2. Impeachments of the governor, lieutenant-governor, attorney-general, secretary of state, treasurer, comptroller, and of the judges of the district courts shall be tried by the senate.

Sec. 3. Impeachments of judges of the supreme court shall be tried by the senate. When sitting as a court of impeachment the senators shall be upon oath or affirmation; and no person shall be convicted without the concurrence of two-thirds of the senators present.

Sec. 4. Judgment, in cases of impeachment, shall extend only to removal from office and disqualification from holding any office of honor, trust, or profit under this State; but the parties convicted shall, nevertheless, be subject to indictment, trial, and punishment according to law.

Sec. 5. All officers against whom articles of impeachment may be preferred shall be suspended from the exercise of the duties of their office during the pendency of such impeachment. The appointing power may make a provisional appointment to fill the vacancy occasioned by the suspension of an officer until the decision on the impeachment.

Sec. 6. The legislature shall provide for the trial, punishment, and removal from office of all officers of the State, by indictment or otherwise.

Article X

EDUCATION

Section 1. A general diffusion of knowledge being essential to the preservation of the rights and liberties of the people, it shall be the duty of the legislature of this State to make suitable provision for the support and maintenance of public schools.

Sec. 2. The legislature shall, as early as practicable, establish free schools throughout the State, and shall furnish means for their support by taxation on property; and it shall be the duty of the legislature to set apart not less than one-tenth of the annual revenue of the State, derivable from taxation, as a perpetual fund, which fund shall be appropriated to the support of free public schools; and no law shall ever be made diverting said fund to any other use; and until such time as the legislature shall provide for the establishment of such schools in the several districts of the State, the fund thus created

shall remain as a charge against the State, passed to the credit of the free common-school fund.

Sec. 3. All public lands which have been heretofore, or may hereafter be, granted for public schools to the various counties, or other political divisions in this State, shall not be alienated in fee, nor disposed of otherwise than by lease for a term not exceeding twenty years, in such manner as the legislature may direct.

Sec. 4. The several counties in this State which have not received their quantum of lands for the purposes of education shall be entitled to the same quantity heretofore appropriated by the congress of the Republic of Texas to other counties.

Article XI

Section 1. All certificates for head-right claims to lands issued to fictitious persons, or which were forged, and all locations and surveys thereon, are, and the same were, null and void from the beginning.

Sec. 2. The district courts shall be opened until the first day of July, one thousand eight hundred and forty-seven, for the establishment of certificates for head-rights not recommended by the commissioners appointed under the act to detect fraudulent land certificates, and to provide for issuing patents to legal claimants; and the parties suing shall produce the like proof, and be subjected to the requisitions which were necessary, and were prescribed by law, to sustain the original application for the said certificates; and all certificates above referred to not established or sued upon before the period limited shall be barred; and the said certificates, and all locations and surveys thereon, shall be forever null and void; and all relocations made on such surveys shall not be disturbed until the certificates are established as above directed.

Article XII

Land-office

There shall be one general land-office in the State, which shall be at the seat of government, where all titles which have heretofore emanated, or may hereafter emanate, from government shall be registered; and the legislature may establish, from time to time, such subordinate offices as they may deem requisite.

Article XIII

Schedule

Section 1. That no inconvenience may arise from a change of separate national government to a State government, it is declared that all process which shall be issued in the name of the Republic of Texas, prior to the organization of the State government under this constitution, shall be as valid as if issued in the name of the State of Texas.

Sec. 2. The validity of all bonds and recognizances, executed in conformity with the constitution and laws of the Republic of Texas, shall not be impaired by the change of government, but may be sued for and recovered in the name of the governor of the State of Texas;

and all criminal prosecutions or penal actions which shall have arisen prior to the organization of the State government under this constitution, in any of the courts of the Republic of Texas, shall be prosecuted to judgment and execution in the name of said State. All suits at law and equity which may be depending in any of the courts of the Republic of Texas, prior to the organization of the State government under this constitution, shall be transferred to the proper court of the State which shall have jurisdiction of the subject-matter thereof.

SEC. 3. All laws or parts of laws now in force in the Republic of Texas, which are not repugnant to the Constitution of the United States, the joint resolutions for annexing Texas to the United States, or to the provisions of this constitution, shall continue and remain in force as the laws of this State until they expire by their own limitation, or shall be altered or repealed by the legislature thereof.

SEC. 4. All fines, penalties, forfeitures, and escheats which have accrued to the Republic of Texas under the constitution and laws shall accrue to the State of Texas; and the legislature shall, by law, provide a method for determining what lands may have been forfeited or escheated.

SEC. 5. Immediately after the adjournment of this convention, the President of the republic shall issue his proclamation, directing the chief justices of the several counties of this republic, and the several chief justices and their associates are hereby required, to cause polls to be opened in their respective counties, at the established precincts, on the second Monday of October next, for the purpose of taking the sense of the people of Texas in regard to the adoption or rejection of this constitution; and the votes of all persons entitled to vote under the existing laws or this constitution shall be received. Each voter shall express his opinion by declaring by a *viva-voce* vote for "the constitution accepted" or "the constitution rejected," or some words clearly expressing the intention of the voter, and at the same time the vote shall be taken in like manner for and against annexation. The election shall be conducted in conformity with the existing laws regulating elections, and the chief justices of the several counties shall carefully and promptly make duplicate returns of said polls, one of which shall be transmitted to the secretary of state of the Republic of Texas, and the other deposited in the clerk's office of the county court.

SEC. 6. Upon the receipt of the said returns, or on the second Monday of November next, if the returns be not sooner made, it shall be the duty of the President, in presence of such officers of his cabinet as may be present, and of all persons who may choose to attend, to compare the votes given for the ratification or rejection of this constitution; and if it should appear from the returns that a majority of all the votes given is for the adoption of the constitution, then it shall be the duty of the President to make proclamation of that fact; and thenceforth this constitution shall be ordained and established as the constitution of the State, to go into operation and be of force and effect from and after the organization of the State government under this constitution; and the President of this republic is authorized and required to transmit to the President of the United States duplicate copies of this constitution, properly authenticated, together with certified statements of the number of votes given for the ratification thereof and the number for rejection, one of which copies shall be transmitted by mail, and one copy by a special messenger, in sufficient

time to reach the seat of government of the United States early in December next.

SEC. 7. Should this constitution be accepted by the people of Texas, it shall be the duty of the President, on or before the second Monday in November next, to issue his proclamation, directing and requiring elections to be holden in all the counties of this republic, on the third Monday in December next, for the office of governor, lieutenant-governor, and members of the senate and house of representatives of the State legislature, in accordance with the apportionment of representation directed by this constitution. The returns for members of the legislature of this State shall be made to the department of state of this republic, and those for governor and lieutenant-governor shall be addressed to the speaker of the house of representatives, indorsed "Election returns of ——— county for governor," and directed to the department of state; and should, from any cause whatever, the chief justices of counties fail to cause to be holden any of the polls or elections provided for by this constitution at the times and places herein directed, the people of the precincts where such failure exists are hereby authorized to choose managers, judges, and other officers to conduct said elections.

SEC. 8. Immediately on the President of this republic receiving official information of the acceptance of this constitution by the Congress of the United States, he shall issue his proclamation, convening, at an early day, the legislature of the State of Texas at the seat of government established under this constitution, and after the said legislature shall have organized, the speaker of the house of representatives shall, in presence of both branches of the legislature, open the returns of the elections for governor and lieutenant-governor, count and compare the votes, and declare the names of the persons who shall be elected to the offices of governor and lieutenant-governor, who shall forthwith be installed in their respective offices; and the legislature shall proceed, as early as practicable, to elect Senators to represent this State in the Senate of the United States, and also provide for the election of Representatives to the Congress of the United States. The legislature shall also adopt such measures as may be required to cede to the United States, at the proper time, all public edifices, fortifications, barracks, ports, harbors, navy and navy-yards, docks, magazines, arms and armaments, and all other property and means pertaining to the public defence now belonging to the Republic of Texas, and to make the necessary preparations for transferring to the said United States all custom-houses and other places for the collection of impost duties and other foreign revenues.

SEC. 9. It shall be the duty of the President of Texas, immediately after the inauguration of the governor, to deliver to him all records, public money, documents, archives, and public property of every description whatsoever under the control of the executive branch of the government, and the governor shall dispose of the same in such manner as the legislature may direct.

SEC. 10. That no inconvenience may result from the change of government, it is declared that the laws of this republic relative to the duties of officers, both civil and military, of the same shall remain in full force, and the duties of their several offices shall be performed in conformity with the existing laws, until the organization of the government of the State under this constitution, or until the first day of

the meeting of the legislature; that then the offices of President, Vice-President, of the President's cabinet, foreign ministers, chargés and agents, and others repugnant to this constitution, shall be superseded by the same, and that all others shall be holden and exercised until they expire by their own limitation, or be superseded by the authority of this constitution, or laws made in pursuance thereof.

SEC. 11. In case of any disability on the part of the President of the Republic of Texas to act as herein required, it shall be the duty of the secretary of state of the Republic of Texas, and in case of disability on the part of the secretary of state, then it shall be the duty of the attorney-general of the Republic of Texas, to perform the duties assigned to the President.

SEC. 12. The first general election for governor, lieutenant-governor, and members of the legislature, after the organization of the government, shall take place on the first Monday in November, one thousand eight hundred and forty-seven, and shall be held biennially thereafter on the first Monday in November until otherwise provided by the legislature, and the governor and lieutenant-governer elected in December next shall hold their offices until the installation in office of the governor and lietuenant-governor to be elected in the year one thousand eight hundred and forty-seven.

SEC. 13. The ordinance passed by the convention on the fourth day of July, assenting to the overtures for the annexation of Texas to the United States, shall be attached to this constitution and form a part of the same.

Done in convention by the deputies of the people of Texas, at the city of Austin, this twenty-seventh day of August, in the year of our Lord one thousand eight hundred and forty-five.

THOMAS J. RUSK, *President.*

ADMISSION OF TEXAS INTO THE UNION—1845 *[a]

[TWENTY-NINTH CONGRESS, FIRST SESSION]

Joint Resolution for the admission of the State of Texas into the Union

Whereas the Congress of the United States, by a joint resolution approved March the first, eighteen hundred and forty-five, did consent that the territory properly included within, and rightfully belonging to, the Republic of Texas might be erected into a new State, to be called the State of Texas, with a republican form of government, to be adopted by the people of said republic by deputies in convention assembled, with the consent of the existing government, in order that the same might be admitted as one of the States of the Union, which consent of Congress was given upon certain conditions specified in the first and second sections of said joint resolution; and whereas the people of the said Republic of Texas, by deputies in convention assembled, with the consent of the existing government, did adopt a constitution and erect a new State with a republican form of government, and, in the name of the people of Texas and by their au-

* Statutes at Large, IX, p. 108.

[a] For other statutes relating to Texas see the act to extend the laws of the United States over, act of December 29, 1845; to establish a collection district in, act of December 31, 1845; to establish post-routes in, February 6, 1846; to establish a port of entry in, March 3, 1847; to extend eastern boundary of, July 5, 1848; to establish northern and western boundaries, September 9, 1850.

thority, did ordain and declare that they assented to and accepted the proposals, conditions, and guarantees contained in said first and second sections of said resolution; and whereas the said constitution, with the proper evidence of its adoption by the people of the Republic of Texas, has been transmitted to the President of the United States and laid before Congress, in conformity to the provisions of said joint resolution: Therefore

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the State of Texas shall be one, and is hereby declared to be one, of the United States of America, and admitted into the Union on an equal footing with the original States in all respects whatever.

SEC. 2. *And be it further resolved*, That until the Representatives in Congress shall be apportioned according to an actual enumeration of the inhabitants of the United States, the State of Texas shall be entitled to choose two Representatives.

Approved, December 29, 1845.

TREATY OF GUADALUPE HIDALGO—1848

(See California, p. 377.)

CONSTITUTION OF TEXAS—1861

[A State "people's convention," which assembled at Austin January 21, 1861, passed an ordinance of secession February 1, 1861, which was submitted to the people and ratified by 34,794 votes against 11,235 votes. It also amended the constitution, but the amendments were not submitted to the people.]

CONSTITUTION OF TEXAS—1866 *[a]

We, the people of Texas, acknowledging with gratitude the grace and beneficence of God in permitting us to make a choice of our form of Government, do ordain and establish this constitution.

ARTICLE I

BILL OF RIGHTS

That the general, great, and essential principles of liberty and free government may be recognized and established, we declare that—

SECTION 1. All political power is inherent in the people, and all free governments are founded on their authority and instituted for

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* Verified by "The Constitution as Amended and Ordinances of the Convention of 1866. By authority. Austin: Printed at Gazette office, by Jo. Walker, State Printer. 1866."

[a] This constitution was framed by a convention which assembled at Austin in March, 1866, and completed its labors April 2, 1866. It was submitted to the people June 25, 1866, and ratified by 34,794 votes against 11,235 votes. The convention also adopted twenty-nine ordinances, among which the more important were the following: Declaring the ordinance of seccion null and void; declaring the war debt void, and for other purposes; assuming the direct tax levied upon the State by the United States; consenting to a division of the State, and the formation of one or more new States within its limits; soliciting the Federal Government to construct certain railroads within their territory.

their benefit, and they have, at all times, the unalienable right to alter, reform, or abolish their form of government, in such manner as they may think expedient.

SEC. 2. All freemen, when they form a social compact, have equal rights; and no man, or set of men, is entitled to exclusive, separate public emoluments or privileges but in consideration of public services.

SEC. 3. No religious test shall ever be required as a qualification to any office or public trust in this State.

SEC. 4. All men have a natural and indefeasible right to worship God according to the dictates of their own consciences; no man shall be compelled to attend, erect, or support any place of worship, or to maintain any ministry, against his consent; no human authority ought, in any case whatever, to control or interfere with the rights of conscience in matters of religion, and no preference shall ever be given, by law, to any religious societies or mode of worship; but it shall be the duty of the legislature to pass such laws as shall be necessary to protect every religious denomination in the peaceable enjoyment of their own mode of public worship.

SEC. 5. Every citizen shall be at liberty to speak, write, or publish his opinions on any subject, being responsible for the abuse of that privilege; and no law shall ever be passed curtailing the liberty of speech or of the press.

SEC. 6. In prosecutions for the publication of papers investigating the official conduct of officers or men in a public capacity, or when the matter published is proper for public information, the truth thereof may be given in evidence; and, in all indictments for libels, the jury shall have the right to determine the law and the facts under the direction of the court, as in other cases.

SEC. 7. The people shall be secure in their persons, houses, papers, and possessions from all unreasonable seizures or searches; and no warrant to search any place, or to seize any person or thing, shall issue without describing them as near as may be; nor without probable cause, supported by oath or affirmation.

SEC. 8. In all criminal prosecutions the accused shall have a speedy public trial, by an impartial jury; he shall not be compelled to give evidence against himself; he shall have the right of being heard by himself or counsel, or both; shall be confronted with the witnesses against him, and shall have compulsory process for obtaining witnesses in his favor; and no person shall be holden to answer for any criminal charge but on indictment or information, except in cases arising in the land or naval forces, or offences against the laws regulating the militia: *Provided*, That in criminal prosecutions, the punishment whereof shall be fine not exceeding one hundred dollars and imprisonment not exceeding thirty days, or either, or any less punishment, the accused may be tried for the same by a jury, or otherwise, as the legislature may provide.

SEC. 9. All prisoners shall be bailable by sufficient sureties, unless for capital offences, when the proof is evident; but this provision shall not be so construed as to prohibit bail after indictment found, upon an examination of the evidence by a judge of the supreme or district court, upon the return of a writ of *habeas corpus*, returnable

in the county where the offence is committed; or to such other counties as the same may by consent of parties be made returnable.

Sec. 10. The privilege of the writ of *habeas corpus* shall not be suspended, except when, in case of rebellion or invasion, the public safety may require it.

Sec. 11. Excessive bail shall not be required, nor excessive fines imposed, nor cruel or unusual punishment inflicted. All courts shall be open; and every person, for an injury done him in his lands, goods, person, or reputation, shall have remedy by due course of law.

Sec. 12. No person, for the same offence, shall be twice put in jeopardy of life or limb; nor shall a person be again put upon trial for the same offence, after a verdict of not guilty; and the right of trial by jury shall remain inviolate.

Sec. 13. Every citizen shall have the right to keep and bear arms in the lawful defence of himself or the State.

Sec. 14. No bill of attainder, *ex post facto* law, retroactive law, or any law impairing the obligation of contracts shall be made, and no person's property shall be taken, or applied to public use, without adequate compensation being made, unless by the consent of such person.

Sec. 15. No person shall ever be imprisoned for debt.

Sec. 16. No citizen of this State shall be deprived of life, liberty, property, or privileges, outlawed, exiled, or in any manner disfranchised, except by due course of the law of the land.

Sec. 17. The military shall, at all times, be subordinate to the civil authority.

Sec. 18. Perpetuities and monopolies are contrary to the genius of a free government, and shall never be allowed; nor shall the law of primogeniture or entailments ever be in force in this State.

Sec. 19. The citizens shall have the right, in a peaceable manner, to assemble together for their common good, and to apply to those invested with the powers of government for redress of grievances, or other purposes, by petition, address, or remonstrance.

Sec. 20. No power of suspending laws in this State shall be exercised, except by the legislature or its authority.

Sec. 21. To guard against transgressions of the high powers herein delegated, we declare that everything in this bill of rights is excepted out of the general powers of government, and shall forever remain inviolate; and all laws contrary thereto, or to the following provisions, shall be void.

Article II

Division of the powers of government

The powers of the government of the State of Texas shall be divided into three distinct departments, and each of them to be confided to a separate body of magistracy, to wit: those which are legislative, to one; those which are executive, to another; and those which are judicial, to another; and no person, or collection of persons, being of one of those departments, shall exercise any power properly attached to either of the others, except in the instances herein expressly permitted.

Article III

LEGISLATIVE DEPARTMENT

Section 1. Every free male person who shall have attained the age of twenty-one years, and who shall be a citizen of the United States, and shall have resided in this State one year next preceding an election, and the last six months within the district, county, city, or town in which he offers to vote, (Indians not taxed, Africans and descendants of Africans excepted,) shall be deemed a qualified elector; and should such qualified elector happen to be in any other county situated in the district in which he resides at the time of an election, he shall be permitted to vote for any district officer: *Provided*, That the qualified electors shall be permitted to vote anywhere in the State for State officers: *And provided further*, That no soldier, seaman, or marine in the Army or Navy of the United States shall be entitled to vote at any election created by this constitution.

Sec. 2. Electors in all cases shall be privileged from arrest during their attendance at elections, and in going to and returning from the same, except in cases of treason, felony, or breach of the peace.

Sec. 3. The legislative powers of this State shall be vested in two distinct branches; the one to be styled the senate and the other the house of representatives, and both together the legislature of the State of Texas. The style of all laws shall be, "*Be it enacted by the legislature of the State of Texas.*"

Sec. 4. The members of the house of representatives shall be chosen by the qualified electors, and their term of office shall be two years from the day of the general election; and the sessions of the legislature shall be biennial, at such times as shall be prescribed by law.

Sec. 5. No person shall be a representative unless he be a white citizen of the United States, and shall be a qualified elector at the time of his election, and a resident of the State for five years next preceding his election, and the last year thereof a citizen of the county, city, town, or district for which he shall be chosen.

Sec. 6. All elections by the people shall be held at such time and places, in the several counties, cities, or towns, as are now, or may hereafter be, designated by law.

Sec. 7. The senators shall be chosen by the qualified electors for the term of four years; and shall be divided by lot into two classes, as nearly equal as can be. The seats of senators of the first class shall be vacated at the expiration of the first two years; and of the second class at the expiration of four years; so that one-half thereof shall be chosen biennially thereafter.

Sec. 8. Such mode of classifying new additional senators shall be observed as will as nearly as possible preserve an equality of number in each class.

Sec. 9. When a senatorial district shall be composed of two or more counties, it shall not be separated by any county belonging to another district.

Sec. 10. No person shall be a senator unless he be a white citizen of the United States, and shall have been a qualified elector of this State at the time of his election, and a resident of the State five years next preceding the election; and the last year therof a resident of the dis-

trict for which he shall be chosen, and have attained the age of thirty years.

SEC. 11. The house of representatives, when assembled, shall elect a speaker and its other officers, and the senate shall choose a president for the time being and its other officers. Each house shall judge of the qualifications and elections of its own members, but contested elections shall be determined in such manner as shall be directed by law; two-thirds of each house shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and compel the attendance of absent members, in such manner and under such penalties as each house may provide.

SEC. 12. Each house may determine the rules of its own proceedings, punish members for disorderly conduct, and, with the consent of two-thirds, expel a member, but not a second time for the same offence.

SEC. 13. Each house shall keep a journal of its own proceedings, and publish the same; and the yeas and nays of the members of either house on any question shall, at the desire of any three members present, be entered on the journal.

SEC. 14. When vacancies happen in either house, the governor, or the person exercising the power of the governor, shall issue writs of election to fill such vacancies; and should the governor fail to issue a writ of election to fill such vacancies, the returning officer for the district or county shall be authorized to order an election for that purpose.

SEC. 15. The senators and representatives shall in all cases, except in treason, felony, or breach of the peace, be privileged from arrest during the session of the legislature, and in going to and returning from the same, allowing one day for every twenty miles such member may reside from the place at which the legislature is convened.

SEC. 16. Each house may punish by imprisonment, during the session, any person not a member for disrespectful or disorderly conduct in its presence, or for obstructing any of its proceedings: *Provided*, Such imprisonment shall not at any one time exceed forty-eight hours.

SEC. 17. The doors of each house shall be kept open.

SEC. 18. Neither house shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which they may be sitting, without the concurrence of both houses.

SEC. 19. Bills may originate in either house, and be amended, altered, or rejected by the other; but no bill shall have the force of a law until, on three several days, it be read in each house, and free discussion be allowed thereon, unless, in case of great emergency, four-fifths of the house in which the bill shall be pending may deem it expedient to dispense with this rule; and every bill, having passed both houses, shall be signed by the speaker and president of their respective houses.

SEC. 20. All bills for raising revenue shall originate in the house of representatives, but the senate may amend or reject them as other bills.

SEC. 21. After a bill or resolution has been rejected by either branch of the legislature, no bill or resolution containing the same substance shall be passed into a law during the same session.

SEC. 22. Each member of the legislature shall receive from the public treasury a compensation for his services, which may be increased

or diminished by law; but no increase of compensation shall take effect during the session at which such increase shall be made.

Sec. 23. No senator or representative shall, during the term for which he may be elected, be eligible to any office of profit under this State, which shall have been created or the emoluments of which may have been increased during such term; and no member of either house of the legislature shall, during the term for which he is elected, although he may resign his seat as such member, shall be eligible to any office or place, the appointment to which may be made, in whole or in part, by either branch of the legislature: nor shall members of either house vote for a member of their own body, though he resign his seat in the same, for Senator in the Congress of the United States; nor shall members thereof be capable of voting for a member of their own body for any office whatever, except it be for speaker of the house of representatives and president for the time being of the senate, who shall be elected from their respective bodies.

Sec. 24. No judge of any court of law or equity, secretary of state, attorney-general, clerk of any court of record, sheriff or collector, or any person holding a lucrative office under the United States, or this State, or any foreign government, shall be eligible to the legislature, nor shall at the same time hold or exercise any two offices, agencies, or appointments of trust or profit under this State: *Provided*, That offices of the militia, to which there is attached no annual salary, the office of notary public, and the office of justice of the peace shall not be deemed lucrative, and that one person may hold two or more county offices, if so provided by the legislature.

Sec. 25. No person who at any time may have been a collector of taxes, or who may have been otherwise intrusted with public money, shall be eligible to the legislature, or to any office of profit or trust under the State government, until he shall have obtained a discharge for the amount of such collections, and for all public moneys with which he may have been intrusted.

Sec. 26. Ministers of the gospel, being by their profession dedicated to God and the care of souls, ought not to be diverted from the great duties of their functions; therefore, no minister of the gospel, or priest of any denomination whatever, shall be eligible to the legislature.

Sec. 27. Elections for senators and representatives shall be general throughout the State, and shall be regulated by law.

Sec. 28. The legislature shall cause an enumeration to be made every ten years, commencing on the sixth day of February, A. D. 1875, of all the inhabitants (including Indians taxed) of the State, designating particularly the number of qualified electors and the age, sex, and color of all others, herein following the classification of the United States census, and the whole number of representatives shall, at the several periods of making such enumeration, be fixed by the legislature, and apportioned among the several counties, cities, or towns, according to the number of white population of each; and shall not be less than forty-five, nor more than ninety: *Provided*, That there shall be an enumeration and an apportionment made in the year 1870, in the manner here indicated.

Sec. 29. Until changed by law, the act of apportionment passed the 6th day of February, A. D. 1860, by the legislature of this State, shall remain in force.

SEC. 30. The whole number of senators shall, at the next session after the several periods of making the enumeration, be fixed by the legislature, and apportioned among the several districts to be established by law, according to the number of qualified electors, and shall never be less than nineteen, nor more than thirty-three.

SEC. 31. The members of the legislature shall, at their first session hereafter, receive from the treasury of the State, as their compensation, eight dollars for each day they shall be in attendance, and eight dollars for each twenty-five miles in travelling to and from the seat of government. The above rates of compensation shall remain till changed by law.

SEC. 32. The legislature shall proceed as early as practicable to elect Senators to represent this State in the Senate of the United States, and also provide for the election of Representatives to the Congress of the United States.

SEC. 33. The city of Austin is hereby declared to be the seat of government of this State until removed by an election of the people; and the title to the tract of land surveyed by virtue of the head-right certificate of Samuel Goucher, for one-third of a league, which was selected and condemned to the use of the Republic of Texas, under an act of the Republic of Texas entitled "An act for the permanent location of the seat of government," approved the 14th day of January, A. D. 1839, be, and the same is hereby, confirmed; any irregularity or failure to make proper parties, or other defects in the proceedings had under this act, to the contrary notwithstanding: *Provided, nevertheless*, That the lawful owner of said land, his heirs, assigns, or legal representatives, may, at any time within one year from the adoption of this constitution, institute proceedings and have compensation as provided by act of the legislature of the State of Texas, entitled "An act for quieting the title to real estate in the city of Austin," approved 18th December, 1857.

ARTICLE IV

JUDICIAL DEPARTMENT

SECTION 1. The judicial power of this State shall be vested in one supreme court, in district courts, in county courts, and in such corporation courts and other inferior courts or tribunals as the legislature may from time to time ordain and establish. The legislature may establish criminal courts, in the principal cities within this State, with such criminal jurisdiction, coextensive with the limits of the county wherein such city may be situated, and under such regulations as may be prescribed by law, and the judge therein may preside over the courts of one or more cities, as the legislature may direct.

SEC. 2. The supreme court shall consist of five justices, any three of whom shall constitute a quorum. They shall be elected by the qualified voters of the State at a general election for State or county officers, and they shall elect from their own number a presiding officer, to be styled the chief justice; they shall have arrived at the age of thirty-five years at the time of election, shall hold their offices for the term of ten years, and such of them shall receive an annual salary of at least four thousand five hundred dollars, which shall not be increased or diminished during his term of office.

SEC. 3. The supreme court shall have appellate jurisdictioin only, which shall be coextensive with the limits of the State; but in criminal cases below the grade of felony, and in appeals from interlocutory judgments, with such exceptions and under such regulations as the legislature shall make; and the supreme court and the judges thereof shall have power to issue the writ of *habeas corpus*, and under such regulations as may be prescribed by law; the said court and the judges thereof may issue the writ of *mandamus*, and such other writs as may be necessary to enforce its own jurisdiction. The supreme court shall also have power upon affidavits, or otherwise, as by the court may be thought proper, to ascertain in such matters of fact as may be necessary to the proper exercise of its jurisdiction. The supreme court shall sit for the transaction of business from the first Monday of October until the last Saturday of June of every year, at the capital, and at not more than two other places in the State.

SEC. 4. The supreme court shall appoint its own clerks, who shall give bond in such manner as is now, or may hereafter be, required by law, shall hold their offices for four years, and shall be subject to removal by the said court for good cause, entered of record on the minutes of said court.

SEC. 5. The State shall be divided into convenient judicial districts. For each district there shall be elected by the qualified voters thereof, at a general election for State or county officers, a judge, who shall reside in the same, shall hold his office for the term of eight years, shall receive an annual salary of not less than three thousand five hundred dollars, which shall not be increased or diminished during his term of service, and shall hold the courts at one place in each county in the district at least twice in each year, in such manner as may be prescribed by law.

SEC. 6. The district court shall have original jurisdiction of all criminal cases; of all suits in behalf of the State to recover penalties, forfeitures, and escheats; of all cases of divorce; of all suits to recover damages for slander or defamation of character; of all suits for the trial of title to land; of all suits for the enforcement of liens; of all suits for the trial of the right of property, levied on by virtue of any writ of execution, sequestration, or attachment, when the property levied on shall be equal to or exceed in value one hundred dollars; and of all suits, complaints, or pleas whatever, without regard to any distinction between law and equity, when the matter in controversy shall be valued at, or amount to, one hundred dollars, exclusive of interest; and the said courts and the judges thereof shall have power to issue writs of injunction, *certiorari*, and all other writs necessary to enforce their own jurisdiction, and to give them a general superintendence and control over inferior tribunals. The district courts shall have appellate jurisdiction in cases originating in inferior courts, which may be final in such cases as the legislature may prescribe; and original and appellate jurisdiction and general control over the county established in each county, for appointing guardians, granting letters testamentary and of administration; for settling the accounts of executors, administrators, and guardians, and for the transaction of business appertaining to estates, and original jurisdiction and general control over executors, administrators, guardians, and minors, under such regulations as may be prescribed by law.

SEC. 7. There shall be a clerk of the district court for each county, who shall be elected by the qualified voters for members of the legislature, and who shall hold his office for four years, subject to removal by information, or by indictment of a grand jury and conviction by a petit jury. In case of vacancy, the judge of the district court shall have the power to appoint a clerk, until a regular election can be held.

SEC. 8. In the trial of all causes in equity in the district courts, the plaintiff or defendant shall, upon application made in open court, have the right of trial by jury, to be governed by the rules and regulations prescribed in trials at law.

SEC. 9. All judges of the supreme and district courts shall, by virtue of their offices, be conservators of the peace throughout the State. The style of all writs and process shall be "The State of Texas." All prosecutions shall be carried on in the name and by the authority of the State of Texas, and conclude "against the peace and dignity of the State."

SEC. 10. In the case of a vacancy in the offices of justice of the supreme court, judges of the district court, attorney-general, and district attorneys, the governor of the State shall have power to fill the same by appointment, which shall continue in force until the office can be filled at the next general election for State or county officers, and the successor duly qualified.

SEC. 11. The judges of the supreme and district courts shall be removed by the governor, on the address of two-thirds of each house of the legislature, for wilful neglect of duty or other reasonable cause, which shall not be sufficient ground for impeachment: *Provided, however*, That the cause or causes for which such removal shall be required shall be stated at length in such address, and entered on the journals of each house: *And provided further*, That the cause or causes shall be notified to the judge so intended to be removed; and he shall be admitted to a hearing in his own defence before any vote for such address shall pass. And in all such cases the vote shall be taken by yeas and nays, and entered on the journals of each house respectively.

SEC. 12. No judge shall sit in any case wherein he may be interested, or where either of the parties may be connected with him by affinity or consanguinity, within such degrees as may be prescribed by law, or where he shall have been of counsel in the case. When the supreme court, or any three of its members, shall be thus disqualified to hear and determine any case or cases in said court, or when no judgment can be rendered in any case or cases in said court, by reason of the equal division of opinion of said judges, the same shall be certified to the governor of the State, who shall immediately commission the requisite number of persons, learned in the law, for the trial and determination of said case or cases. When a judge of the district court is thus disqualified, the parties may, by consent, appoint a proper person to try the said case; or, upon their failing to do so, a competent person shall be appointed to try the same in the county where it is pending, in such manner as may be prescribed by law. And the district judges may exchange districts, or hold courts for each other, when they may deem it expedient, and shall do so when directed by law. The disqualification of judges of inferior tribunals shall be remedied, and vacancies in their offices shall be filled, as prescribed by law.

SEC. 13. An attorney-general shall be elected by the people, who shall reside at the capital of the State during his continuance in office, whose duties shall be prescribed by law, who shall hold his office for four years, and who, in addition to perquisites, shall receive an annual salary of three thousand dollars, which shall not be increased or diminished during his term of office.

SEC. 14. There shall be a district attorney for each judicial district in the State, elected by the qualified electors of the district, who shall reside in the district for which he shall be elected, shall hold his office for four years, and, together with the perquisites prescribed by law, shall receive an annual salary of one thousand dollars, which shall not be increased or diminished during his term of office.

SEC. 15. There shall be established in each county in the State an inferior tribunal, styled the county court; and there shall be elected, by the persons in each county who are qualified to vote for members of the legislature, a judge of the county court, who shall be a conservator of the peace, who shall hold his office for four years, and who shall receive such compensation as may be prescribed by law, and who may be removed from office for neglect of duty, incompetency, or malfeasance, in such manner as may be prescribed by law.

SEC. 16. The county court shall have jurisdiction of all misdemeanors and petty offences, as the same are now, or may hereafter be, defined by law; of such civil cases, where the matter in controversy shall not exceed five hundred dollars, exclusive of interest, under such regulations, limitations, and restrictions as may be prescribed by law, without regard to any distinction between law and equity; to probate wills, to appoint guardians of minors, idiots, lunatics, and persons *non compos mentis;* to grant letters testamentary and of administration; to settle the accounts of executors, administrators, and guardians; to transact all business appertaining to the estates of deceased persons, minors, idiots, lunatics, and persons *non compos mentis*, including the settlement, partition, and distribution of such estates; and to apprentice minors under such regulations as may be prescribed by law. One term of the county court shall be held in each county at least once in every two months; and the legislature may provide for the appointment of a county attorney to represent the State and county in said court, whose term of office, duties, and compensation shall be such as may be prescribed by law.

SEC. 17. There shall be elected in each county in the State, by the persons qualified to vote for members of the legislature, four county commissioners, whose term of office shall be four years, who, with the judge of the county court, shall constitute and be styled the police court for the county, whose powers, duties and mode of action, in regulating, promoting, and protecting the public interest relating to the county, shall be the same as that now prescribed by law for the commissioners' court of roads and revenue, until otherwise provided for and regulated by the legislature.

SEC. 18. There shall be elected for each county, by the qualified voters, a county clerk, who shall hold his office for four years, who shall be the clerk of the county and police courts, whose duties and perquisites and fees of office shall be prescribed by the legislature, and a vacancy in whose office shall be filled by the judge of the county court, until the next general election for county or State

offices, who may be removed from office for such cause and in such manner as may be prescribed by law.

SEC. 19. There shall be elected a convenient number of justices of the peace, who shall have such civil and criminal jurisdiction as shall be provided by law, where the matter in controversy shall not exceed in value one hundred dollars, exclusive of interest; also one sheriff, one coroner, and a sufficient number of constables, who shall hold their offices for four years, to be elected by the qualified voters of the district or county, as the legislature may direct. Justices of the peace, sheriffs, and coroners shall be commissioned by the governor. The sheriff shall not be eligible more than eight years in every twelve.

SEC. 20. In all cases of law or equity, where the matter in controversy shall be valued at or exceed twenty dollars, the right of trial by jury shall be preserved.

ARTICLE V

EXECUTIVE DEPARTMENT

SECTION 1. The supreme executive power of this State shall be vested in the chief magistrate, who shall be styled "the governor of the State of Texas."

SEC. 2. The governor shall be elected by the qualified electors of the State, at the time and places of election for members of the legislature.

SEC. 3. The returns of every election for governor, until otherwise provided by law, shall be made out, sealed up, and transmitted to the seat of government, and directed to the speaker of the house of representatives, who shall, during the first week of the session of the legislature thereafter, open and publish them in the presence of both houses of the legislature; the person having the highest number of votes, and being constitutionally eligible, shall be declared by the speaker, under the direction of the legislature, to be governor; but if two or more persons shall have the highest and an equal number of votes, one of them shall be immediately chosen governor, by joint vote of both houses of the legislature. Contested elections for governor shall be determined by both houses of the legislature.

SEC. 4. The governor shall hold his office for the term of four years from the regular time of installation, and until his successor shall be duly qualified, but shall not be eligible for more than eight years in any term of twelve years; he shall be at least thirty years of age, shall be a citizen of the United States, or a citizen of the State of Texas at the time of the adoption of this constitution, and shall have resided in the same six years immediately preceding his election, and shall be inaugurated on the first Thursday after the organization of the legislature, or as soon thereafter as practicable.

SEC. 5. He shall, at stated times, receive a compensation for his services, which shall not be increased or diminished during the term for which he may have been elected. He shall receive an annual salary of four thousand dollars, until otherwise provided by law.

SEC. 6. The governor shall be commander-in-chief of the army and navy of this State, and of the militia, except when they shall be called into the service of the United States.

Sec. 7. He may require information, in writing, from the officers of the executive department on any subject relating to the duties of their respective offices.

Sec. 8. He may, by proclamation, on extraordinary occasions, convene the legislature at the seat of government, or at a different place if that should be dangerous by reason of disease or the public enemy. In case of disagreement between the two houses with respect to adjournment, he may adjourn them to such time as he shall think proper, not beyond the day of the next regular meeting of the legislature.

Sec. 9. He shall from time to time give to the legislature information, in writing, of the state of the government, and recommend to their consideration such measures as he may deem expedient.

Sec. 10. He shall take care that the laws be faithfully executed.

Sec. 11. In all criminal cases, except in those of treason and impeachment, he shall have power, after conviction, to grant reprieves and pardons; and, under such rules as the legislature may prescribe, he shall have power to remit fines and forfeitures. In cases of treason, he shall have power, by and with the advice and consent of the senate, to grant reprieves and pardons; and he may, in the recess of the senate, respite the sentence until the end of the next session of the legislature.

Sec. 12. There shall also be a lieutenant-governor, who shall be chosen at every election for governor, by the same persons and in the same manner, continue in office for the same time, and possess the same qualifications. In voting for governor or lieutenant-governor, the electors shall distinguish for whom they vote as governor and for whom as lieutenant-governor. The lieutenant-governor shall, by virtue of his office, be president of the senate, and have, when in committee of the whole, a right to debate and vote on all questions, and when the senate is equally divided to give the casting vote. In case of death, resignation, removal from office, inability or refusal of the governor to serve, or of his impeachment or absence from the State, the lieutenant-governor shall exercise the powers and authority appertaining to the office of governor, until another be chosen at the periodical election, and be duly qualified, or until the governor impeached, absent, or disabled shall be acquitted, return, or his disability be removed.

Sec. 13. Whenever the government shall be administered by the lieutenant-governor, or he shall be unable to attend as president of the senate, the senate shall elect one of their own members as president for the time being. And if, during the vacancy of the office of governor, the lieutenant-governor shall die, resign, refuse to serve, or be removed from office, or be unable to serve, or if he shall be impeached or absent from the State, the president of the senate for the time being shall in like manner administer the government until he shall be superseded by a governor or lieutenant-governor. The lieutenant-governor shall, whilst he acts as president of the senate, receive for his services the same compensation which shall be allowed to the speaker of the house of representatives, and no more; and during the time he administers the government as governor shall receive the same compensation which the governor would have received had he been employed in the duties of his office, and no more. The president for the time being of the senate shall, during the time he administers

the government, receive in like manner the same compensation which the governor would have received had he been employed in the duties of his office. If the lieutenant-governor shall be required to administer the government, and shall, whilst in such administration, die, resign, or be absent from the State during the recess of the legislature, it shall be the duty of the secretary of state to convene the senate, for the purpose of choosing a president for the time being.

SEC. 14. There shall be a seal of the State, which shall be kept by the governor and used by him officially; the said seal shall be a star of five points encircled by an olive and live-oak branches, and the words "The State of Texas."

SEC. 15. All commissions shall be in the name and by the authority of the State of Texas, be sealed with the State seal, signed by the governor, and attested by the secretary of state.

SEC. 16. There shall be a secretary of state, who shall be appointed by the governor, by and with the advice and consent of the senate, and shall continue in office during the term of service of the governor-elect. He shall keep a fair register of all official acts and proceedings of the governor, and shall, when required, lay the same, and all papers, minutes, and vouchers relative thereto, before the legislature, or either house thereof, and shall perform such other duties as may be required of him by law.

SEC. 17. Every bill which shall have passed both houses of the legislature shall be presented to the governor; if he approve, he shall sign it; but if not, he shall return it, with his objections, to the house in which it shall have originated, who shall enter the objections at large upon the journals and proceed to reconsider it. If, after such reconsideration, two-thirds of the members present shall agree to pass the bill, it shall be sent, with the objection, to the other house, by which it shall likewise be reconsidered. If approved by two-thirds of the members present of that house, it shall become a law; but in such cases the votes of both houses shall be determined by yeas and nays, and the names of the members voting for or against the bill shall be entered on the journals of each house respectively. If any bill shall not be returned by the governor within five days, Sundays excepted, after it shall have been presented to him, the same shall be a law in like manner as if he had signed it. Every bill presented to the governor one day previous to the adjournment of the legislature, and not returned to the house in which it originated before its adjournment, shall become a law, and have the same force and effect as if signed by the governor. The governor may approve any appropriation and disapprove any other appropriation in the same bill. In such case he shall, in signing the bill, designate the appropriations disapproved, and shall return a copy of such appropriations, with his objections, to the house in which the bill shall have originated; and the same proceedings shall then be had as in the case of other bills disapproved by the governor; but if the legislature has adjourned before the bill is returned to the house, he shall return the same to the secretary of state, with his objections, and also to the next session of the legislature.

SEC. 18. Every order, resolution, or vote to which the concurrence of both houses of the legislature may be necessary, except on questions of adjournment, shall be presented to the governor, and before it shall take effect be approved by him, or, being disapproved, shall

be repassed by both houses according to the rules and limitations prescribed in the case of a bill.

Sec. 19. The governor, by and with the advice and consent of two-thirds of the senate, shall appoint a convenient number of notaries public, not exceeding six for each county; who, in addition to such duties as are prescribed by law, shall discharge such other duties as the legislature may from time to time prescribe.

Sec. 20. Nominations to fill all vacancies that may have occurred during the recess shall be made to the senate during the first ten days of its session. And should any nomination so made be rejected, the same individual shall not again be nominated during the session to fill the same office; and should the governor fail to make nominations to fill any vacancy during the session of the senate, such vacancy shall not be filled by the governor until the next meeting of the senate.

Sec. 21. The governor shall reside, during the session of the legislature, at the place where the session may be held, and at all other times wherever, in their opinion, the public good may require.

Sec. 22. No person holding the office of governor shall hold any other office or commission, civil or military.

Sec. 23. There shall be elected by the qualified electors of this State, in the manner prescribed by law, a comptroller of public accounts and a State treasurer, each of whom shall hold his office for the term of four years; and in case of a vacancy in either of said offices, the governor shall have power to fill the same by appointment, which shall continue in force until the office can be filled at the next general election for State and county officers and the successor duly qualified.

Article VI

MILITIA

Section 1. The legislature shall provide by law for organizing and disciplining the militia of the State, in such manner as they shall deem expedient, not incompatible with the Constitution and laws of the United States in relation thereto.

Sec. 2. Any person who conscientiously scruples to bear arms shall not be compelled to do so, but shall pay an equivalent for personal service.

Sec. 3. No licensed minister of the gospel shall be required to perform military duty, work on roads, or serve on juries in this State.

Sec. 4. The governor shall have power to call forth the militia to execute the laws of the State, to suppress insurrections, and to repel invasion.

Article VII

GENERAL PROVISIONS

Section 1. Members of the legislature and all officers, before they enter upon the duties of their offices, shall take the following oath or affirmation: "I, A. B., do solemnly swear [or affirm] that I will faithfully and impartially discharge and perform all the duties incumbent on me as ———, according to the best of my skill and ability, agreeable to the constitution and laws of the United States and

of this State; and I do further solemnly swear [or affirm] that, since the adoption of this constitution by the Congress of the United States, I, being a citizen of this State, have not fought a duel with deadly weapons, within this State nor out of it, nor have I sent or accepted a challenge to fight a duel with deadly weapons, nor have I acted as second in carrying a challenge, or aided, advised, or assisted any person thus offending: So held me God."

SEC. 2. Treason against this State shall consist only in levying war against it, or in adhering to its enemies, giving them aid and comfort; and no persons shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or his own confession in open court.

SEC. 3. Every person shall be disqualified from holding any office of trust or profit in this State who shall have been convicted of having given or offered a bribe to procure his election or appointment.

SEC. 4. Laws shall be made to exclude from office, serving on juries, and from the right of suffrage those who shall hereafter be convicted of bribery, perjury, forgery, or other high crimes. The privelege of free suffrage shall be supported by laws regulating elections, and prohibiting, under adequate penalties, all undue influence thereon from power, bribery, tumult, or other improper practice.

SEC. 5. Any citizen of this State who shall, after the adoption of this constitution, fight a duel with deadly weapons, or send or accept a challenge to fight a duel with deadly weapons, either within the State or out of it, or who shall act as second, or knowingly aid and assist in any manner those thus offending, shall be deprived of holding any office of trust or profit under this State.

SEC. 6. In all elections by the people, the vote shall be by ballot, until the legislature shall otherwise direct; and in all elections by the senate and house of representatives, jointly or separately, the vote shall be given *viva voce*, except in the election of their officers.

SEC. 7. The legislature shall provide by law for the compensation of all officers, servants, agents, and public contractors, not provided for by this constitution, and shall not grant extra compensation to any officer, agent, servant, or public contractor after such public service shall have been performed, or contract entered into for the performance of the same; nor grant, by appropriation or otherwise, any amount of money out of the treasury of the State to any individual on a claim, real or pretended, where the same shall not have been provided for by preëxisting law: *Provided*, That nothing in this section shall be so construed as to affect the claims of persons against the Republic of Texas heretofore existing.

SEC. 8. No money shall be drawn from the treasury but in pursuance of specific appropriations made by law; nor shall any appropriation of money be made for a longer term than two years, except for purposes of education; and no appropriation for private or individual purposes, or for purposes of internal improvement, shall be made without the concurrence of two-thirds of both houses of the legislature. A regular statement and account of the receipt and expenditures of all public money shall be published annually in such manner as shall be prescribed by law. And in no case shall the legislature have the power to issue treasury warrants, treasury notes, or paper of any description, intended to circulate as money.

SEC. 9. All civil officers shall reside within the State, and all district or county officers within their districts or counties, and shall keep their offices at such places therein as may be required by law.

SEC. 10. The duration of all offices, not fixed by this constitution, shall never exceed four years, (except the office of superintendent of the lunatic asylum, or other asylums that may be established by law, who shall continue in office during good behavior: *Provided*, That in all cases where the governor has the authority under this constitution, or laws made in pursuance thereof, to appoint to office, he shall also have power to remove from the same for malfeasance in office, neglect of duty, or other good cause: *Provided*, That a statement of the cause shall, at the time of removal, be furnished the party interested, and a copy thereof shall also be recorded in the office of the secretary of state.)

SEC. 11. Absence on the business of this State, or of the United States, shall not forfeit a residence once obtained, so as to deprive any one of the right of suffrage, or of being elected or appointed to any office, under the exceptions contained in this constitution.

SEC. 12. The legislature shall have power to provide for deduction from the salaries of public officers who may neglect the performance of any duty that may be assigned them by law.

SEC. 13. No member of Congress, nor person holding or exercising any office of profit or trust under the United States, or either of them, or under any foreign power, shall be eligible as a member of the legislature, or hold or exercise any office of profit or trust under this State.

SEC. 14. The legislature shall provide for a change of venue in civil and criminal cases, and for the erection of a penitentiary at as early a day as practicable.

SEC. 15. It shall be the duty of the legislature to pass such laws as may be necessary and proper to decide differences by arbitration, when the parties shall elect that mode of trial.

SEC. 16. Within five years after the adoption of this constitution, the laws, civil and criminal, shall be revised, digested, arranged, and published, in such manner as the legislature shall direct; and a like revision, digest, and publication shall be made every ten years thereafter.

SEC. 17. No lottery shall be authorized by this State; and the buying and selling of lottery-tickets within this State is prohibited.

SEC. 18. No divorce shall be granted by the legislature.

SEC. 19. All property, both real and personal, of the wife, owned or claimed by her before marriage, and that acquired afterward by gift, devise, or descent, shall be her separate property; and laws shall be passed more clearly defining the rights of the wife in relation as well to her separate property as that held in common with her husband. Laws shall also be passed providing for the registration of the wife's separate property.

SEC. 20. The rights of property and of actions which have been acquired under the constitution and laws of the Republic of Texas shall not be divested; nor shall any rights or actions which have been divested, barred, or declared null and void by the constitution and laws of the Republic of Texas be reinvested, revived, or reinstated by this constitution; but the same shall remain precisely in the situation which they were before the adoption of this constitution.

Sec. 21. All claims, locations, surveys, grants, and titles to land which are declared null and void by the constitution of the Republic of Texas, are, and the same shall remain forever, null and void.

Sec. 22. The legislature shall have power to protect, by law, from forced sale a certain portion of the property of all heads of families. The homestead of a family not to exceed two hundred acres of land, (not included in a town or city,) or any town or city lot or lots, in value not to exceed two thousand dollars, shall not be subject to forced sale for any debts hereafter contracted, nor shall the owner, if a married man, be at liberty to alienate the same, unless by the consent of the wife, in such manner as the legislature may hereafter point out.

Sec. 23. The legislature shall provide in what cases officers shall continue to perform the duties of their offices until their successors shall be duly qualified.

Sec. 24. Every law enacted by the legislature shall embrace but one object, and that shall be expressed in the title.

Sec. 25. No law shall be revised or amended by reference to its title; but in such case the act revised, or section amended, shall be reënacted and published at length.

Sec. 26. No person shall hold or exercise at the same time more than one civil office of emolument, except that of justice of the peace.

Sec. 27. Taxation shall be equal and uniform throughout the State. All property in this State shall be taxed in proportion to its value, to be ascertained as directed by law, except such property as two-thirds of both houses of the legislature may think proper to exempt from taxation. The legislature shall have power to lay an income-tax, and to tax all persons pursuing any occupation, trade, or profession: *Provided*, That the term "occupation" shall not be construed to apply to pursuits either agricultural or mechanical.

Sec. 28. The legislature shall have power to provide by law for exemption from taxation, two hundred and fifty dollars' worth of household-furniture, or other property, belonging to each family in this State.

Sec. 29. The assessor and collector of taxes shall be appointed in such manner and under such regulations as the legislature may direct.

Sec. 30. No corporate body shall hereafter be created, renewed, or extended with banking or discounting privileges.

Sec. 31. No private corporation shall be created, unless the bill creating it shall be passed by two-thirds of both houses of the legislature; and two-thirds of the legislature shall have power to revoke and repeal all private corporations by making compensation for the franchise. And the State shall not be part owner of the stock or property belonging to any corporation.

Sec. 32. The legislature shall prohibit, by law, individuals from issuing bills, checks, promissory notes, or other paper to circulate as money.

Sec. 33. The aggregate amount of debts hereafter contracted by the legislature shall never exceed the sum of one hundred thousand dollars, except in case of war, to repel invasion, or suppress insurrections. And in no case shall any amount be borrowed, except by a vote of two-thirds of both houses of the legislature.

Sec. 34. The legislature may, from time to time, establish new

counties for the convenience of the inhabitants of such new county or counties: *Provided*, That no new county shall be established which shall reduce the county or counties, or either of them, from which it shall be taken to a less area than nine hundred square miles, unless by consent of two-thirds of the legislature, nor shall any county be organized of less contents: *Provided further*, That all counties heretofore created are hereby declared to be legally-constituted counties. Every new county has the right of suffrage and representation, shall be considered as part of the county or counties from which it was taken until the next apportionment of representation thereafter: *Provided also*, That no new county shall be laid off when less than one hundred and twenty qualified jurors are at the time resident therein.

SEC. 35. No soldier shall, in time of peace, be quartered in the house, or within the inclosure, of any individual without the consent of the owner, nor in time of war but in a manner prescribed by law.

SEC. 36. A well-regulated system of internal improvements is calculated to develop the resources of the State and promote the happiness and prosperity of her citizens. Therefore the legislature shall have power, and it shall be its duty, to encourage the same; and the legislature shall have power to guarantee the bonds of railroad companies to any amount not exceeding in any case the sum of fifteen thousand dollars per mile: *Provided*, That in no case shall the State guarantee the payment of the bonds of any railroad company until such company shall have previously graded and prepared at least twenty-five miles of its roadway, ready to lay the iron rails thereon, and so on continuously, on each additional section of ten miles, so graded and prepared, after the preceding section has been finished and in operation, until the whole road shall be completed: *Further provided*, That the legislature shall require that the company or companies which receive aid from the State shall use the same exclusively for the purchase of iron rails, fastening and rolling-stock, and placing the same upon the road, and upon the failure to do so shall forfeit all their rights under this provision, together with their property and franchises; and it shall be declared a felony for any officer or agent of any railroad company to misappropriate any funds granted under the provisions of this section, or any other funds or property of the company. The State shall always be secured for all bonds guaranteed for any railroad company by a first lien or mortgage upon the road, rolling-stock, depots, and franchises of the corporation whose bonds may be guaranteed. The legislature shall provide, by law, that the managers of railroad companies shall make reports periodically of their acts, and the condition of the corporation affairs, which shall be officially published for public information. And in no case shall the State guarantee the bonds of railroad companies, as herein provided, except by a vote of two-thirds of both houses of the legislature: *Provided*, The legislature shall have no power, directly or indirectly, to release any railroad company from the payment, in specie, of the principal or interest of the obligations or debts due to the school-fund or to the State. An act entitled "An act supplemental and amendatory of an act to regulate railroad companies, approved February 7th, 1853," approved 21st December, 1857, be, and the same is hereby, repealed and of no further effect; and the franchise or corporate privileges of any incorporated company shall not be sold under judgments,

except for the foreclosure of mortgages or liens created in the manner prescribed by law. The comptroller of the State is authorized to take possession of any railroad, in default of paying any bonds which may be guaranteed by the State, under such regulations as may be prescribed by law.

MODE OF CALLING A CONVENTION AND AMENDING THE CONSTITUTION OF THIS STATE.

SEC. 37. The legislature, by a vote of three-fourths of all the members of each house, with the approval of the governor, shall have the power to call a convention of the people, for the purpose of altering, amending, or reforming the constitution of this State; the manner of electing delegates to the convention, the time and place of assembling them, to be regulated by law.

SEC. 38. The legislature, at any biennial session, by a vote of two-thirds of all the members of each house, may propose amendments to the constitution, to be voted upon by persons legally qualified to vote for members of the house of representatives of the State; which proposed amendments shall be duly published in the public prints of this State, at least three months before the next general election for the representatives to the legislature for the consideration of the people; and it shall be the duty of the several returning officers at said general election to open a poll for, and make returns to the secretary of state of, the number of legal votes cast at said election for and against said amendment; and if more than one be proposed, then the number of legal votes cast for and against each of them; and if it shall appear, from said return, that a majority of the votes cast upon said proposed amendment or amendments have been cast in favor of the same, and two-thirds of each house of the legislature, at the next regular session thereafter, shall ratify said proposed amendment or amendments so voted upon by the people, the same shall be valid to all intents and purposes as parts of the constitution of the State of Texas: *Provided*, That the said proposed amendments shall, at each of said sessions, have been read on three several days in each house of the legislature, and the vote thereon shall have been taken by yeas and nays: *And provided further*, That the rule in the above proviso shall never be suspended by either of said houses.

SEC. 39. That the State of Texas hereby releases to the owner of the soil all mines and mineral substances that may be on the same, subject to such uniform rate of taxation as the legislature may impose. All islands along the Gulf coast of the State not now patented or appropriated by locations under valid land certificates are reserved from location or appropriated [appropriations] in any other manner by private individuals than as the legislature may direct.

ARTICLE VIII

FREEDMEN

SECTION 1. African slavery, as it heretofore existed, having been terminated within this State by the Government of the United States, by force of arms, and its reestablishment being prohibited by the amendment to the Constitution of the United States, it is declared that neither slavery nor involuntary servitude, except as a punish-

ment for crime, whereof the party shall have been duly convicted, shall exist in this State; and Africans and their descendants shall be protected in their rights of person and property by appropriate legislation; they shall have the right to contract and be contracted with; to sue and be sued; to acquire, hold, and transmit property; and all criminal prosecutions against them shall be conducted in the same manner as prosecutions for like offences against the white race, and they shall be subject to like penalties.

Sec. 2. Africans and their descendants shall not be prohibited, on account of their color or race, from testifying orally, as witnesses, in any case, civil or criminal, involving the right of injury to, or crime against, any of them in person or property, under the same rules of evidence that may be applicable to the white race; the credibility of their testimony to be determined by the court or jury hearing the same; and the legislature shall have power to authorize them to testify as witnesses in all other cases, under such regulations as may be prescribed, as to facts hereafter occurring.

Article IX

IMPEACHMENT

Section 1. The power of impeachment shall be vested in the house of representatives.

Sec. 2. Impeachments of the governor, lieutenant-governor, attorney-general, secretary of state, treasurer, comptroller, and of the judges of the district court shall be tried by the senate.

Sec. 3. Impeachment of judges of the supreme court shall be tried by the senate; when sitting as a court of impeachment, the senators shall be upon oath or affirmation; and no person shall be convicted without the concurrence of two-thirds of the senators present.

Sec. 4. Judgment in cases of impeachment shall extend only to removal from office and disqualification from holding any office of honor, trust, or profit under this State; but the parties convicted shall, nevertheless, be subject to indictment, trial, and punishment according to law.

Sec. 5. All officers against whom articles of impeachment may be preferred shall be suspended from the exercise of the duties of their office during the pendency of such impeachment. The appointing power may make a provisional appointment to fill the vacancy occasioned by the suspension of an officer until the decision on the impeachment.

Sec. 6. The legislature shall provide for the trial, punishment, and removal from office of all other officers of the State, by indictment or otherwise.

Article X

EDUCATION

Section 1. A general diffusion of knowledge being essential to the preservation of the rights and liberties of the people, it shall be the duty of the legislature of this State to make suitable provisions for the support and maintenance of public schools.

Sec. 2. The legislature shall, as early as practicable, establish a system of free schools throughout the State; and as a basis for the

endowment and support of said system, all the funds, lands, and other property heretofore set apart and appropriated, or that may hereafter be set apart and appropriated, for the support and maintenance of public schools shall constitute the public-school fund; and said fund and the income derived therefrom shall be a perpetual fund exclusively for the education of all the white scholastic of this State, and no law shall ever be made appropriating said fund to any use or purpose whatever. And until such time as the legislature shall provide for the establishment of such system of public schools in the State, the fund thus created and the income derived therefrom shall remain as a charge against the State, and be passed to the credit of the free common-school fund.

SEC. 3. And all the alternate sections of land reserved by the State out of grants heretofore made, or that may hereafter be made, to railroad companies or other corporations of any nature whatever, for internal improvements, or for the development of the wealth and resources of the State, shall be set apart as a part of the perpetual school-fund of the State: *Provided*, That if at any time hereafter any portion of the public domain of this State shall be sold, and by virtue of said sale the jurisdiction over said land shall be vested in the United States Government, in such event, one-half of the proceeds derived from said sale shall become a part of the perpetual school-fund of the State, and the legislature shall hereafter appropriate one-half of the proceeds resulting from all sales of the public lands to the perpetual public-school fund.

SEC. 4. The legislature shall provide from time to time for the sale of lands belonging to the perpetual public-school fund, upon such time and terms as it may deem expedient: *Provided*, That in cases of sale the preference shall be given to actual settlers: *And provided further*, That the legislature shall have no power to grant relief to purchasers by granting further time for payment, but shall, in all cases, provide for the forfeiture of the land to the State for the benefit of a perpetual public-school fund, and that all interest accruing upon such sales shall be a part of the income belonging to the school-fund, and subject to appropriation annually for educational purposes.

SEC. 5. The legislature shall have no power to appropriate, or loan, or invest, except as follows, any part of the principal sum of the perpetual school-fund for any purpose whatever, and it shall be the duty of the legislature to appropriate annually the income which may be derived from said fund for educational purposes, under such system as it may adopt, and it shall, from time to time, cause the principal sum now on hand and arising from sales of land, or from any other source, to be invested in the bonds of the United States of America, or the bonds of the State of Texas, or such bonds as the State may guarantee.

SEC. 6. All public lands which have been heretofore, or may be hereafter, granted for public schools to the various counties or other political divisions in this State shall be under the control of the legislature, and may be sold on such terms and under such regulations as the legislature shall by law prescribe, and the proceeds of the sale of said lands shall be added to the perpetual school-fund of the State; but each county shall receive the full benefit of the interest arising from the proceeds of the sale of the lands granted to them respectively: *Provided*, That the lands already patented to the counties

shall not be sold without the consent of such county or counties to which the lands may belong.

SEC. 7. The legislature may provide for the levying of a tax for educational purposes: *Provided*, The taxes levied shall be distributed from year to year, as the same may be collected: *And provided*, That all the sums arising from said tax which may be collected from Africans, or persons of African descent, shall be exclusively appropriated for the maintenance of a system of public schools for Africans and their children; and it shall be the duty of the legislature to encourage schools among these people.

SEC. 8. The moneys and lands heretofore granted to, or which may hereafter be granted for, the endowment and support of one or more universities shall constitute a special fund for the maintenance of said universities, and until the university or universities are located and commenced, the principal and the interest arising from the investment of the principal shall be invested in like manner and under the same restrictions as provided for the investment and control of the perpetual public-school fund, in sections four and five in this article of the constitution, and the legislature shall have no power to appropriate the university fund for any other purpose than that of the maintenance of said universities, and the legislature shall, at an early day, make such provisions by law as will organize and put into operation the university.

SEC. 9. The four hundred thousand acres of land that have been surveyed and set apart, under the provisions of a law approved 30th August, A. D. 1856, for the benefit of a lunatic asylum, a deaf and dumb asylum, a blind asylum, and an orphan asylum, shall constitute a fund for the support of such institutions, one-fourth part for each, and the said fund shall never be diverted to any other purpose. The said lands may be sold and the funds invested under the same rules and regulations as provided for the lands belonging to the school-fund. The income of said fund only shall be applied to the support of such institutions, and until so applied shall be invested in the same manner as the principal.

SEC. 10. The governor, by and with the advice and consent of two-thirds of the senate, shall appoint an officer to be styled the superintendent of public instruction. His term of office shall be four years, and his annual salary shall not be less than two thousand dollars, payable at stated times; and the governor, comptroller, and superintendent of public education shall constitute a board to be styled a board of education, and shall have the general management and control of the perpetual school-fund and common schools, under such regulations as the legislature may hereafter prescribe.

SEC. 11. The several counties in this State which have not received their quantum of the lands for the purposes of education shall be entitled to the same quantity heretofore appropriated by the congress of the Republic of Texas (and the State) to other counties; and the counties which have not had the lands to which they are entitled for educational purposes located shall have a right to contract for the location, surveying, and procuring the patents for said lands, and of paying for the same with any portion of said lands so patented, not to exceed one-fourth of the whole amount to be so located, surveyed, and patented, to be divided according to quantity, allowing to each part a fair proportion of land, water, and timber.

Article XI

All certificates for head-right claims to land, issued to fictitious persons, or which were forged, and all locations and surveys thereon, are, and the same were, null and void from the beginning.

Article XII

LAND-OFFICE

There shall be one general land-office in the State, which shall be at the seat of government, where all titles which have heretofore emanated, or may hereafter emanate, from government shall be registered, and the legislature may establish, from time to time, such subordinate officers as they may deem requisite.

Done in convention by the deputies of the people of Texas, at the city of Austin, this second day of April, in the year of our Lord one thousand eight hundred and sixty-six. In testimony whereof we have hereunto subscribed our names.

J. W. Throckmorton, *President.*
D. C. Dickson, *President pro tempore.*
Wm. M. Taylor, *President pro tempore.*

Leigh Chalmers, *Secretary.*

CONSTITUTION OF TEXAS—1868 * [a]

We, the people of Texas, acknowledging with gratitude the grace of God in permitting us to make a choice of our form of government, do hereby ordain and establish this constitution:

Article I

BILL OF RIGHTS

That the heresies of nullification and secession, which brought the country to grief, may be eliminated from future political discussion; that public order may be restored, private property and human life protected, and the great principles of liberty and equality secured to us and our posterity, we declare that—

Section 1. The Constitution of the United States, and the laws and treaties made and to be made in pursuance thereof, are acknowledged to be the supreme law; that this constitution is framed in harmony with and in subordination thereto; and that the fundamental principles embodied herein can only be changed subject to the national authority.

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* Verified by "The Constitution of Texas, Adopted by the Constitutional Convention, Austin, Texas; Printed at the Daily Republican Office, 1869."

[a] This constitution was framed by a convention called, under the reconstruction acts of Congress, by Major-General Hancock, which met at Austin June 1, 1868, and, after two adjournments, completed its labors in December, 1868. It was submitted to the people November 30 to December 3, 1869, and ratified by 72,395 votes against 4,924 votes.

This constitution was laid before Congress March 30, 1869, and an act was passed March 30, 1870, readmitting Texas to representation upon certain fundamental conditions.

SEC. 2. All freemen, when they form a social compact, have equal rights; and no man or set of men is entitled to exclusive separate public emoluments or privileges.

SEC. 3. No religious test shall be required as a qualification to any office of public trust in this State.

SEC. 4. All men have a natural and indefeasible right to worship God according to the dictates of their own consciences. No man shall be compelled to attend, erect, or support any place of worship, or to maintain any ministry, against his consent. No human authority ought, in any case whatever, to control or interfere with the rights of conscience in matters of religion; and no preference shall ever be given, by law, to any religious societies or mode of worship. But it shall be the duty of the legislature to pass such laws as may be necessary to protect every religious denomination in the peaceable enjoyment of their own mode of public worship.

SEC. 5. Every citizen shall be at liberty to speak, write, or publish his opinions on any subject, being responsible for the abuse of that privilege; and no law shall ever be passed curtailing the liberty of speech or of the press.

SEC. 6. In prosecutions for the publication of papers investigating the official conduct of officers, or of men in a public capacity, or when the matter published is proper for public information, the truth thereof may be given in evidence; and in all prosecutions for libels the jury shall have the right to determine the law and the facts, under the direction of the court as in other cases.

SEC. 7. The people shall be secure in their persons, houses, papers, and possessions from all unreasonable seizures or searches; and no warrant to search any place, or to seize any person, or thing, shall issue, without describing such place, person, or thing, as near as may be, nor without probable cause, supported by oath or affirmation.

SEC. 8. In all criminal prosecutions, the accused shall have a speedy public trial, by an impartial jury. He shall not be compelled to give evidence against himself. He shall have the right of being heard by himself, or by counsel, or both; shall be confronted with the witnesses against him, and shall have compulsory process for obtaining witnesses in his favor. And no person shall be holden to answer for any criminal charge but on indictment or information, except in cases arising in the land or naval forces, of offences against the laws regulating the militia.

SEC. 9. All prisoners shall be bailable upon sufficient sureties, unless for capital offences, when the proof is evident; but this provision shall not be so construed as to prohibit bail after indictment found, upon an examination of the evidence by a judge of the supreme or district court, upon the return of the writ of *habeas corpus*, returnable in the county where the offence is committed.

SEC. 10. The privilege of the writ of *habeas corpus* shall not be suspended, except by act of the legislature, in case of rebellion or invasion, when the public safety may require it.

SEC. 11. Excessive bail shall not be required, nor excessive fines imposed, nor cruel nor unusual punishment inflicted. All courts shall be open, and every person, for an injury done him in his lands, goods, person, or reputation, shall have remedy by due course of law.

SEC. 12. No person, for the same offence, shall be twice put in jeopardy of life; nor shall a person be again put upon trial for the same

offence, after a verdict of not guilty; and the right of trial by jury shall remain inviolate.

Sec. 13. Every person shall have the right to keep and bear arms, in the lawful defence of himself or the State, under such regulations as the legislature may prescribe.

Sec. 14. No bill of attainder, *ex post facto* law, retroactive law, or any law impairing the obligation of contracts, shall be made; and no person's property shall be taken or applied to public use without just compensation being made, unless by the consent of such person; nor shall any law be passed depriving a party of any remedy for the enforcement of a contract which existed when the contract was made.

Sec. 15. No person shall be imprisoned for debt.

Sec. 16. No citizen of this State shall be deprived of life, liberty, property, privileges, outlawed, exiled, or in any manner disfranchised, except by due course of the law of the land.

Sec. 17. The military shall at all times be subordinate to the civil authority.

Sec. 18. Perpetuities and monopolies are contrary to the genius of a free government, and shall never be allowed, nor shall the law of primogeniture or entailments ever be in force in this State.

Sec. 19. The people shall have the right, in a peaceable manner, to assemble together for their common good, and to apply to those invested with powers of government for redress of grievances, or other purposes, by petition, address, or remonstance.

Sec. 20. No power of suspending laws in the State shall be exercised, except by the legislature, or its authority.

Sec. 21. The equality of all persons before the law is herein recognized, and shall ever remain inviolate; nor shall any citizen ever be deprived of any right, privilege, or immunity, nor be exempted from any burden or duty, on account of race, color, or previous condition.

Sec. 22. Importations of persons under the name of "coolies," or any other name or designation, or the adoption of any system of peonage, whereby the helpless and unfortunate may be reduced to practical bondage, shall never be authorized or tolerated by the laws of this State; and neither slavery nor involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, shall ever exist in this State.

Sec. 23. To guard against transgressions of the high powers herein delegated, we declare that everything in this bill of rights is excepted out of the general powers of government, and shall forever remain inviolate; and all laws contrary thereto, or the following provisions, shall be void.

Article II

Division of the powers of government

The powers of the government of the State of Texas shall be divided into three distinct departments, and each of them be confided to a separate body of magistracy, to wit: those which are legislative to one, those which are executive to another, and those which are judicial to another; and no person, or collection of persons, being of one of those departments, shall exercise any power properly attached to either of the others, except in the instances herein expressly permitted.

Article III

LEGISLATIVE DEPARTMENT

Section 1. Every male person who shall have attained the age of twenty-one years, and who shall be (or who shall have declared his intention to become) a citizen of the United States, or who is at the time of the acceptance of this constitution by the Congress of the United States a citizen of Texas, and shall have resided in this State one year next preceding an election, and the last six months within the district or county in which he offers to vote, and is duly registered, (Indians not taxed excepted,) shall be deemed a qualified elector; and should such qualified electors happen to be in any other county, situated in the district in which he resides, at the time of an election, he shall be permitted to vote for any district officer: *Provided*, That the qualified electors shall be permitted to vote anywhere in the State for State officers: *And provided further*, That no soldier, seaman, or marine in the Army or Navy of the United States shall be entitled to vote at any election created by this constitution.

Sec. 2. Electors in all cases shall be privileged from arrest during their attendance at elections, and in going to and returning from the same, except in cases of treason, felony, or breach of the peace.

Sec. 3. The legislative power of the State shall be vested in two distinct branches; the one to be styled the senate and the other the house of representatives; and both together, the legislature of the State of Texas. The style of the laws shall be: "*Be it enacted by the legislature of the State of Texas.*"

Sec. 4. The members of the house of representatives shall be chosen by the qualified electors, and their term of office shall be two years from the day of general election; and the sessions of the legislature shall be annual, at such times as shall be prescribed by law.

Sec. 5. No person shall be a representative unless he be a citizen of the United States, and shall have been a citizen of this State two years next preceding his election, and the last year thereof a citizen of the county, city, or town from which he shall be chosen, and shall have attained the age of twenty-one years at the time of his election.

Sec. 6. All elections for State, district, and county officers shall be held at the county seats of the several counties until otherwise provided by law; and the polls shall be opened for four days, from 8 o'clock a. m. until 4 o'clock p. m. of each day.

Sec. 7. The house of representatives shall consist of ninety members, and no more.

Sec. 8. The senators shall be chosen by the qualified electors hereafter for the term of six years. Those elected at the first election shall be divided by lot into three classes, as nearly equal as can be. The seats of senators of the first class shall be vacated at the expiration of the first two years, and of the second class at the expiration of four years, and of the third class at the expiration of six years; so that one-third thereof shall be chosen biennially thereafter.

Sec. 9. Such mode of classifying new additional senators shall be observed as will, as nearly as possible, preserve an equality of number in each class.

Sec. 10. The senate shall consist of thirty senators, and no more.

SEC. 11. A new apportionment for representative and senatorial districts shall be made by the first legislature in session, after the official publication of the United States census, every ten years.

SEC. 12. When a senatorial district shall be composed of two or more counties, it shall not be separated by any county belonging to another district.

SEC. 13. No person shall be a senator unless he be a citizen of the United States, and shall have been a citizen of this State three years next preceding the election, and the last year thereof a resident of the district for which he shall be chosen, and have attained the age of twenty-five years.

SEC. 14. No person shall be eligible to any office, State, county, or municipal, who is not a registered voter in the State.

SEC. 15. The house of representatives, when assembled, shall elect a speaker and its other officers; and the senate shall choose a president, for the time being, and its other officers. Each house shall adjudge of the elections and qualifications of its own members; but contested elections shall be determined in such manner as shall be directed by law. Two-thirds of each house shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and compel the attendance of absent members, in such manner and under such penalties as each house may provide.

SEC. 16. Each house may determine the rules of its own proceedings, punish members for disorderly conduct, and, with the consent of two-thirds, expel a member.

SEC. 17. Each house shall keep a journal of its own proceedings, and publish the same; and the yeas and nays of the members of either house, on any question, shall, at the desire of any three members present, be entered upon the journals.

SEC. 18. Any member of either house shall have liberty to dissent from or protest against any act or resolution which he may think injurious to the public or an individual, and have the reasons for dissent entered on the journals.

SEC. 19. When vacancies happen in either house, the governor, or the person exercising the power of the governor, shall issue writs of election to fill such vacancies; and should the governor fail to issue a writ of election to fill such vacancies, the returning officer for the district or county shall be authorized to order an election for that purpose.

SEC. 20. Senators and representatives shall in all cases, except in treason, felony, or breach of the peace, be privileged from arrest during the session of the legislature and in going to and returning from the same, allowing one day for every twenty-five miles such member may reside from the place at which the legislature is convened.

SEC. 21. Each house, during the session, may punish, by imprisonment, any person, not a member, for disrespectful or disorderly conduct in its presence, or for obstructing any of its proceedings, provided such imprisonment shall not at any one time exceed forty-eight hours.

SEC. 22. The doors of each house shall be kept open, except upon a call of either house, and when there is an executive session of the senate.

SEC. 23. Neither house shall, without the consent of the other,

adjourn for more than three days; nor to any other place than that in which they may be sitting, without the concurrence of both houses.

SEC. 24. Bills may originate in either house, and be amended, altered, or rejected by the other; but no bill shall have the force of a law until on three several days it be read in each house, and free discussion be allowed thereon, unless, in case of great emergency, four-fifths of the house in which the bill shall be pending may deem it expedient to dispense with this rule; and every bill having passed both houses shall be signed by the speaker and president of their respective houses: *Provided*, That the final vote on all bills or joint resolutions, appropriating money or lands for any purpose, shall be by the yeas and nays.

SEC. 25. The legislature shall not authorize, by private or special law, the sale or conveyance of any real estate belonging to any person, or vacate or alter any road laid out by legal authority, or any street in any city or village, or in any recorded town plat, but shall provide for the same by general laws.

SEC. 26. After a bill or resolution has been rejected by either branch of the legislature, no bill or resolution containing the same substance shall be passed into a law during the same session.

SEC. 27. The legislature shall not authorize any lottery, and shall prohibit the sale of lottery-tickets.

SEC. 28. Each member of the legislature shall receive from the public treasury a compensation for his services, which may be increased or diminished by law; but no increase of compensation shall take effect during the session at which such increase shall be made.

SEC. 29. No senator or representative shall, while a member of the legislature, be eligible to any civil office of profit under this State which shall have been created or the emoluments of which may have been increased during such term, except it be in such cases as are herein provided. The president, for the time being, of the senate and speaker of the house of representatives shall be elected from their respective bodies.

SEC. 30. No judge of any court of law or equity, secretary of state, attorney-general, clerk of any court of record, sheriff, or collector, or any person holding a lucrative office under the United States or this State, or any foreign government, shall be eligible to the legislature, nor shall at the same time hold or exercise any two offices, agencies, or appointments of trust or profit under this State: *Provided*, That offices of militia to which there is attached no annual salary, the office of postmaster, notary public, and the office of justice of the peace, shall not be deemed lucrative; and that one person may hold two or more county offices, if so provided by the legislature.

SEC. 31. No person who at any time may have been a collector of taxes, or who may have been otherwise intrusted with public money, shall be eligible to the legislature, or to any office of profit or trust under the State government, until he shall have obtained a discharge for the amount of such collection, and for all public moneys with which he may have been intrusted.

SEC. 32. It shall be the duty of the legislature immediately to expel from the body any member who shall receive or offer a bribe, or suffer his vote influenced by promise of preferment or reward; and every person so offending and so expelled shall thereafter be disabled from holding any office of honor, trust, or profit in this State.

Sec. 33. Elections for senators and representatives shall be general throughout the State, and shall be regulated by law.

Sec. 34. The whole number of senators shall, at the next session after the several periods of making the enumeration, be fixed by the legislature, and apportioned among the several districts to be established by law, according to the number of qualified electors, and shall never be less than nineteen nor more than thirty.

Sec. 35. The members of the legislature shall, at their first session hereafter, receive from the treasury of the State as their compensation eight dollars for each day they shall be in attendance, and eight dollars for each twenty-five miles in travelling to and from the seat of government. The above rates of compensation shall remain till changed by law.

Sec. 36. The legislature shall proceed, as early as practicable, to elect Senators to represent this State in the Senate of the United States, and also provide for future elections of Representatives to the Congress of the United States; and on the second Tuesday after the first assembling of the legislature after the ratification of this constitution, the legislature shall proceed to ratify the thirteenth and fourteenth articles of amendment to the Constitution of the United States of America.

Sec. 37. In order to settle permanently the seat of government, an election shall be holden throughout the State at the usual places of holding elections, at the first general election after the acceptance of this constitution by the Congress of the United States, which shall be conducted according to law, at which time the people shall vote for such place as they may see proper for the seat of government; the returns of said election to be transmitted to the governor with other returns of that election.

If either place voted for shall have a majority of the whole number of votes cast, then the same shall be the permanent seat of government. But in case neither place voted for shall have the majority of the whole number of votes given in, the governor shall issue his proclamation for an election to be holden in the same manner, at the next following general election, between the two places having the highest number of votes at the first election. This election shall be conducted in the same manner as at the first and the returns made to the governor, and the place having the highest number of votes shall be the permanent seat of government.

Sec. 38. The first legislature shall pass such laws as will authorize the clerks of the district court and the justices of the peace of the several counties to issue executions, after the adjournment of each term of their respective courts, against the plaintiff or defendant, for all costs created by them in any suit or suits therein.

Sec. 39. Until otherwise provided by law, the senatorial and representative districts shall be composed of the following counties:

First district.—Counties of Chambers, Jefferson, Orange, Liberty, Hardin, Newton, Jasper, Tyler, and Polk.

Second district.—Counties of Trinity, Angelina, San Augustine, Sabine, Nacogdoches, and Shelby.

Third district.—Counties of Houston and Cherokee.

Fourth district.—Counties of Anderson, Henderson, and Van Zandt.

Fifth district.—Counties of Rusk and Panola.

Sixth district.—Counties of Smith and Upshur.
Seventh district.—County of Harrison.
Eighth district.—Counties of Marion, Davis, and Bowie.
Ninth district.—Counties of Titus and Red River.
Tenth district.—Counties of Wood, Hopkins, and Hunt.
Eleventh district.—Counties of Lamar and Fannin.
Twelfth district.—Counties of Galveston, Brazoria, and Matagorda.
Thirteenth district.—Counties of Wharton, Fort Bend, and Austin.
Fourteenth district.—Counties of Harris and Montgomery.
Fifteenth district.—Counties of Walker, Grimes, and Madison.
Sixteenth district.—County of Washington.
Seventeenth district.—Counties of Burleson, Brazos, and Milam.
Eighteenth district.—Counties of Robertson, Leon, and Freestone.
Nineteenth district.—Counties of McLennan, Limestone, and Falls.
Twentieth district.—Counties of Hill, Navarro, Ellis, and Kaufman.
Twenty-first district.—Counties of Dallas, Collin, and Tarrant.
Twenty-second district.—Counties of Grayson, Cook, Denton, Wise, Montague, Jack, Clay, Young, Wichita, Throckmorton, Baylor, Wilbarger, Haskell, Knox, and Hardeman.
Twenty-third district.—Counties of Bosque, Johnson, Hood, Parker, Erath, Palo Pinto, Eastland, Stephens, Callahan, Jones, Shackelford, and Taylor.
Twenty-fourth district.—Counties of Calhoun, Jackson, Victoria, Refugio, San Patricio, Bee, Goliad, and DeWitt.
Twenty-fifth district.—Counties of Lavaca and Colorado.
Twenty-sixth district.—Counties of Fayette and Bastrop.
Twenty-seventh district.—Counties of Gonzales, Guadaloupe, and Caldwell.
Twenty-eighth district.—Counties of Hays, Travis, Williamson, Bell, Coryell, Lampasas, San Saba, Hamilton, Comanche, Brown, Coleman, Concho, and McCulloch.
Twenty-ninth district.—Bexar, Wilson, Comal, Kendall, Blanco, Burnett, Llano, Mason, Gillespie, Kerr, Bandera, Edwards, Kimball, and Menard.
Thirtieth district.—Cameron, Hidalgo, Starr, Nueces, Duval, Zapata, Live Oak, McMullen, Encinal, La Salle, Webb, Dimmit, Maverick, Zavalla, Frio, Atascosa, Karnes, Kinney, Uvalde, Presidio, and El Paso.

SEC. 40. The senators and representatives shall be apportioned among the several senatorial and representative districts as follows, to wit:

First district, one senator and three representatives.
Second district, one senator and three representatives.
Third district, one senator and three representatives.
Fourth district, one senator and three representatives.
Fifth district, one senator and three representatives.
Sixth district, one senator and three representatives.
Seventh district, one senator and two representatives.
Eighth district, one senator and three representatives.
Ninth district, one senator and three representatives.
Tenth district, one senator and three representatives.
Eleventh district, one senator and three representatives.

Twelfth district, one senator and three representatives.
Thirteenth district, one senator and three representatives.
Fourteenth district, one senator and three representatives.
Fifteenth district, one senator and three representatives.
Sixteenth district, one senator and two representatives.
Seventeenth district, one senator and three representatives.
Eighteenth district, one senator and three representatives.
Nineteenth district, one senator and three representatives.
Twentieth district, one senator and three representatives.
Twenty-first district, one senator and three representatives.
Twenty-second district, one senator and three representatives.
Twenty-third district, one senator and three representatives.
Twenty-fourth district, one senator and three representatives.
Twenty-fifth district, one senator and three representatives.
Twenty-sixth district, one senator and three representatives.
Twenty-seventh district, one senator and three representatives.
Twenty-eighth district, one senator and four representatives.
Twenty-ninth district, one senator and four representatives.
Thirtieth district, one senator and three representatives.

SEC. 41. In the several senatorial and representative districts, composed of more counties than one, the chief justice of the following-named counties shall receive the returns and give certificates of election to the persons respectively receiving the highest number of votes, to wit:

First district, chief justice of Liberty County.
Second district, chief justice of Nacogdoches County.
Third district, chief justice of Cherokee County.
Fourth district, chief justice of Anderson County.
Fifth district, chief justice of Rusk County.
Sixth district, chief justice of Smith County.
Seventh district, chief justice of Harrison County.
Eighth district, chief justice of Marion County.
Ninth district, chief justice of Red River County.
Tenth district, chief justice of Hopkins County.
Eleventh district, chief justice of Lamar County.
Twelfth district, chief justice of Galveston County.
Thirteenth district, chief justice of Fort Bend County.
Fourteenth district, chief justice of Harris County.
Fifteenth district, chief justice of Grimes County.
Sixteenth district, chief justice of Washington County.
Seventeenth district, chief justice of Burleson County.
Eighteenth district, chief justice of Robertson County.
Nineteenth district, chief justice of McLennan County.
Twentieth district, chief justice of Navarro County.
Twenty-first district, chief justice of Dallas County.
Twenty-second district, chief justice of Grayson County.
Twenty-third district, chief justice of Bosque County.
Twenty-fourth district, chief justice of Victoria County.
Twenty-fifth district, chief justice of Colorado County.
Twenty-sixth district, chief justice of Fayette County.
Twenty-seventh district, chief justice of Gonzales County.
Twenty-eighth district, chief justice of Travis County.
Twenty-ninth district, chief justice of Bexar County.
Thirtieth district, chief justice of Nueces County.

Article IV

EXECUTIVE DEPARTMENT

Section 1. The executive department of the State shall consist of a chief magistrate, who shall be styled the governor, a lieutenant-governor, secretary of state, comptroller of public accounts, treasurer, commissioner of the general land-office, attorney-general, and superintendent of public instruction.

Sec. 2. The governor shall be elected by the qualified voters of the State, at the time and places at which they shall vote for representatives to the legislature.

Sec. 3. The returns for every election of governor shall be made out, sealed up, and transmitted by the returning officers to the seat of government, directed to the speaker of the house of representatives, who shall, during the first week of the session of the legislature thereafter, open and publish them, in the presence of both houses of the legislature. The person having the highest number of votes, and being constitutionally eligible, shall be declared by the speaker, under the direction of the legislature, to be governor; but if two or more persons shall have the highest and an equal number of votes, one of them shall be forthwith chosen governor, by a joint vote of both houses of the legislature. Whenever there shall be a contested election for the office of governor, or of any of the executive officers to be elected by the qualified voters of the State, it shall be determined by the joint action of both houses of the legislature.

Sec. 4. The governor shall hold his office for the term of four years from the time of his instalment, and until his successor shall be duly qualified. He shall be at least thirty years of age, a citizen of the United States, and shall have been a resident and citizen of the State of Texas for three years immediately preceding his election. He shall be inaugarated on the first Thursday after the organization of the legislature, or as soon thereafter as practicable.

Sec. 5. The governor shall, at stated times, receive a compensation for his services, which shall not be increased nor diminished during the term for which he may have been elected. His annual salary shall be five thousand dollars, until otherwise provided by law, exclusive of the use and occupation of the governor's mansion, fixtures and furniture.

Sec. 6. He shall be commander-in-chief of the militia of the State except when they are called into the actual service of the United States.

Sec. 7. He may, at all times, require information in writing from all the officers of the executive department, on any subject relating to the duties of their offices. If a vacancy occurs in any of the executive offices, by death, resignation, or removal, or from any other cause, during the recess of the legislature, the governor shall have power, by appointment, to fill such vacancy; which appointment shall continue in force till the succeeding session of the legislature, when he shall communicate such appointment to the senate for confirmation or rejection. If it be confirmed by the senate, the tenure of office shall continue until the regular return of the periodic election of said office.

SEC. 8. He shall have power, by proclamation, on extraordinary occasions, to convene the legislature at the seat of government; but if the prevalence of dangerous disease, or the presence of the public enemy there, shall render it necessary, then at any other place within the State he may deem expedient.

SEC. 9. He shall, from time to time, give to the legislature information, in writing, of the condition of the State, and recommend to their consideration such measures as he may deem expedient.

SEC. 10. He shall take care that the laws be faithfully executed.

SEC. 11. In all criminal cases, except treason and impeachment, he shall have power, after conviction, to grant reprieves and pardons; and under such rules as the legislature may prescribe, he shall have power to remit fines and forfeitures. With the advice and consent of the senate, he may grant pardons in cases of treason; and to this end he may respite a sentence therefor until the close of the succeeding session of the legislature: *Provided*, That in all cases of remission of fines or forfeitures, or grants of reprieve or pardon, the governor shall file, in the office of the secretary of state, his reasons therefor.

SEC. 12. Nominations to fill vacancies occurring in the recess of the legislature shall be made by the governor during the first ten days of its session; and should any such nomination be rejected, the same person shall not again be nominated, during the session, to fill the same office.

SEC. 13. During the sessions of the legislature, the governor shall reside where its sessions are held; and at all other times at the capital, except when, in the opinion of the legislature, the public good may otherwise require.

SEC. 14. No person holding the office of governor shall hold any other office or commission, civil or military.

SEC. 15. At the time of the election of a governor, there shall also be elected by the qualified voters of the State a lieutenant-governor possessing the same qualifications as the governor, and who shall continue in office for the same period of time. He shall, by virtue of his office, be president of the senate; and shall have, when in committee of the whole, the right to debate and vote on all questions; and when the senate is equally divided, to give the casting vote. In case of the death, resignation, removal from office, inability, or refusal of the governor to serve, or of his impeachment or absence from the State, the lieutenant governor shall exercise the powers and authority appertaining to the office of governor, until another be chosen at the periodical election, and be duly qualified; or until the governor impeached, absent, or disabled shall be acquitted, returned, or his disability be removed.

SEC. 16. Whenever the lieutenant-governor shall become the acting governor, or shall be unable to preside over the senate, that body shall elect from its own members a president for the time being. If, during the vacancy in the office of the governor, the lieutenant-governor shall die, resign, refuse to serve, be removed from office, or be unable to serve, or if he be impeached, or absent from the State, the president of the senate for the time being shall, in a like manner, administer the government until he shall be superseded by a governor or lieutenant-governor. The compensation of the lieutenant-governor shall be twice the per diem or pay of a senator, and no

more; and while acting governor, the same compensation as a governor would receive for a like period of service in his office, and no more. The president of the senate, for the time being, if called upon to administer the government in any of the contingencies enumerated, shall be entitled to the portion of the salary of the governor due for the time of such service. If the lieutenant-governor, while acting governor by succession, shall die, resign, or be absent from the State, during the recess of the legislature, it shall be the duty of the secretary of state to convene the senate for the purpose of choosing a president of the senate for the time being.

Sec. 17. There shall be a secretary of state appointed by the governor, by and with the advice and consent of the senate, who shall continue in office during the term of service of the governor-elect. He shall keep a fair register of all official acts and proceedings of the governor, and shall, when required, lay the same, with all papers, minutes, and vouchers relative thereto, before the legislature, or either house thereof, and shall perform such other duties as may be required of him by law.

Sec. 18. There shall be a seal of the State, which shall be kept by the governor and used by him officially. The seal shall be a star of five points, encircled by an olive and live-oak branches, and the words, "The State of Texas."

Sec. 19. All commissions shall be in the name and by the authority of the State of Texas, be sealed with the State seal, signed by the governor, and attested by the secretary of state.

Sec. 20. There shall be a comptroller of public accounts, elected by the qualified voters of the State, at the same time and in the same manner as the governor is elected, and having the same qualifications, who shall hold his office for the term of four years. He shall superintend the fiscal affairs of the State; give instructions to the assessors and collectors of the taxes; settle with them for taxes; take charge of all escheated property; keep an accurate account of all moneys paid into the treasury, and of all lands escheated to the State; publish annually a list of delinquent assessors and collectors, and demand of them an annual list of all tax-payers in their respective counties, to be filed in his office; keep all the accounts of the State; audit all the claims against the State; draw warrants upon the treasury in favor of the public creditors; and perform such other duties as may be prescribed by law.

Sec. 21. There shall be a treasurer of the State elected at the same time of the election of governor, having the same qualifications as the governor and comptroller of public accounts, who shall hold his office for the same period of time. He shall receive and take charge of all public money paid into the treasury; countersign all warrants drawn by the comptroller of public accounts; pay off the public creditors upon the warrant of the comptroller of public accounts; and perform all such other duties as may be prescribed by law.

Sec. 22. A commissioner of the general land-office shall be elected by the qualified voters of the State at the same time and in the same manner as the governor, comptroller of public accounts, and treasurer may be elected, who shall hold his office for a like period of time and shall possess the same qualifications. He shall be the custodian of the archives of the land-titles of the State, the register of all land-

titles hereafter granted, and shall perform such other duties as may be required by law.

SEC. 23. There shall be an attorney-general of the State, having the same qualifications as the governor, lieutenant-governor, comptroller of public accounts, and treasurer, who shall be appointed by the governor, with the advice and consent of the senate. He shall hold his office for the term of four years. He shall reside at the capital of the State during his term of office. He shall represent the interests of the State in all suits or pleas in the supreme court, in which the State may be a party; superintend, instruct, and direct the official action of the district attorneys so as to secure all fines and forfeitures, all escheated estates, and all public moneys to be collected by suit; and he shall, when necessary, give legal advice in writing to all officers of the government, and perform such other duties as may be required by law.

SEC. 24. The secretary of state, comptroller of public accounts, treasurer, commissioner of the general land-office, and attorney-general shall each receive for his services the annual salary of three thousand dollars, and which shall neither be increased nor diminished during his continuance in office.

SEC. 25. Every bill which shall have passed both houses of the legislature shall be presented to the governor for his approval. If he approve, he shall sign it, but if he disapprove it, he shall return it, with his objections, to that house in which it originated; which house shall enter the objections at large upon the journals of the house, and proceed to reconsider it. If, after such reconsideration, two-thirds of the members present shall agree to pass the bill, it shall be sent, with the objections, to the other house, by which it shall likewise be reconsidered. If approved by two-thirds of the members present of that house, it shall become a law; but, in such case, both houses shall determine the question by yeas and nays, with the names of the members respectively entered upon the journals of each house. If a bill shall not be returned by the governor within five days (Sundays excepted) after it shall have been presented to him, it shall become a law in like manner as if he had signed it. Every bill presented to the governor one day before the final adjournment of the two houses, and not signed by him, shall become a law, and shall have the same force and effect as if signed by him. The governor may approve any appropriation and disapprove any other appropriation in the same bill, by signing the bill, and designating the appropriation disapproved, and sending a copy of such appropriation, with his objections, to the house in which it originated; and the same proceedings shall be had, on that part disapproved, as on other bills disapproved by him; but if the legislature shall have adjourned before it is returned, he shall return it, with his objections, to the secretary of state, to be submitted to both houses at the succeeding session of the legislature.

SEC. 26. Every order, resolution, or vote in which the concurrence of both houses shall be required, except the question of adjournment, shall be presented to the governor, and must be approved by him before it can take effect; or, being disapproved, shall be repassed in the manner prescribed in the case of a bill.

Article V

Judicial Department

Section 1. The judicial power of this State shall be vested in one supreme court, in district courts, and in such inferior courts and magistrates as may be created by this constitution, or by the legislature under its authority.

The legislature may establish criminal courts in the principal cities within the State with such criminal jurisdiction, coextensive with the limits of the county wherein such city may be situated, and under such regulations as may be prescribed by law; and the judge thereof may preside over the courts of one or more cities, as the legislature may direct.

Sec. 2. The supreme court shall consist of three judges, any two of whom shall constitute a quorum. They shall be appointed by the governor, by and with the advice and consent of the senate, for a term of nine years. But the judges first appointed under this constitution shall be so classified by lot that the term of one of them shall expire at the end of every three years. The judge whose term shall soonest expire shall be the presiding judge. All vacancies shall be filled for the unexpired term. If a vacancy shall occur, or a term shall expire, when the senate is not in session, the governor shall fill the same by appointment, which shall be sent to the senate within ten days after that body shall assemble, and if not confirmed the office shall immediately become vacant.

Sec. 3. The supreme court shall have appellate jurisdiction only, which, in civil cases, shall be coextensive with the limits of the State. In criminal cases no appeal shall be allowed to the supreme court unless some judge thereof shall, upon inspecting a transcript of the record, believing that some error of law has been committed by the judge before whom the cause was tried: *Provided*, That said transcript of the record shall be presented within sixty days from the date of the trial, under such rules and regulations as shall be prescribed by the legislature. Appeals from interlocutory judgments may be allowed, with such exceptions and under such regulations as the legislature may prescribe. The supreme court, and the judges thereof, shall have power to issue the writ of *habeas corpus*, and, under such regulations as may be prescribed by law, may issue the writ of *mandamus*, and such other writs as may be necessary to enforce its own jurisdiction. The supreme court shall also have power to ascertain such matters of fact as may be necessary to the proper exercise of its jurisdiction.

Sec. 4. The supreme court shall hold its sessions annually at the capital of the State.

Sec. 5. The supreme court shall appoint its own clerk, who shall hold his office for four years, unless sooner removed by the court for good cause, entered of record on the minutes of the court. The said clerk shall give bond in such manner as is now or may be hereafter required by law.

Sec. 6. The State shall be divided into convenient judicial districts, for each of which one judge shall be appointed by the governor, by and with the advice and consent of the senate, for a term of eight years, who shall after his appointment reside within the district, and

shall hold a court three times a year in each county thereof, at such time and place as may be prescribed by law: *Provided*, That at the first general election after the 4th of July, 1876, the question shall be put to the people whether the mode of election of judges of the supreme and district courts shall not be returned to.

SEC. 7. The district court shall have original jurisdiction of all criminal cases; of all causes in behalf of the State to recover penalties, forfeiture, and escheats; and of all suits and cases in which the State may be interested; of all cases of divorce; of all suits to recover damages for slander or defamation of character; of all suits for the trial of title to land; of all suits for the enforcement of liens; and of all suits, complaints, and pleas whatever, without regard to any distinction between law and equity, when the matter in controversy shall be valued at or amount to one hundred dollars, exclusive of interest; and the said courts, and the judges thereof, shall have power to issue the writ of *habeas corpus* and all other writs necessary to enforce their own jurisdiction and to give them a general superintendence and control over inferior tribunals. The district court shall also have appellate jurisdiction in cases originating in inferior courts, with such exceptions and under such regulations as the legislature may prescribe. And the district court shall also have original and exclusive jurisdiction for the probate of wills; for the appointing of guardians; for the granting of letters testamentary and of administration; for settling the accounts of executors, administrators, and guardians; and for the transaction of all business appertaining to the estates of deceased persons, minors, idiots, lunatics, and persons of unsound mind; and for the settlement, partition, and distribution of such estates, under such rules and regulations as may be prescribed by law.

SEC. 8. In the trial of all criminal cases the jury trying the same shall find and assess the amount of punishment to be inflicted, or fine to be imposed, except in cases where the punishment or fine shall be specifically imposed by law: *Provided*, That in all cases where by law it may be provided that capital punishment may be inflicted, the jury shall have the right, in their discretion, to substitute imprisonment at hard labor for life.

SEC. 9. A clerk of the district court for each county shall be elected by the qualified electors in each county, who shall hold his office for four years, subject to removal by the judge of said court for cause spread upon the minutes of the court. The said clerk shall exercise such powers and perform such duties appertaining to the estates of deceased persons, lunatics, idiots, minors, and persons of unsound mind, in vacation, as may be prescribed by law: *Provided*, That all contested issues of law or fact shall be determined by the district court; and the clerk of the district court shall be recorder for the county of all deeds, bonds, and other instruments required by law to be recorded; and also *ex-officio* clerk of the police or county court: and by virtue of his office shall have control of the records, papers, and books of the district and county or police court, and shall generally perform the duties heretofore required of county and district clerks.

SEC. 10. The judges of the supreme and district courts shall be removed by the governor on the address of two-thirds of the members elected to each house of the legislature, for incompetency, neglect of duty, or other reasonable causes, which are not sufficient ground for

impeachment: *Provided, however*, That the cause or causes for which such removal shall be required shall be stated at length in such address, and entered on the journals of each house: *And provided further*, That the cause or causes shall be notified to the judge so intended to be removed, and he shall be admitted to a hearing in his own defence before any vote for such address shall pass; and in all such cases the vote shall be taken by yeas and nays and entered on the journals of each house respectively.

Sec. 11. No judge shall sit in any case wherein he may be interested, or where either of the parties may be connected with him by affinity or consanguinity, within such degrees as may be prescribed by law, or where he shall have been of counsel in the case. When the supreme court, or a quorum thereof, shall be thus disqualified to hear and determine any case or cases in said court, by reason of the equal division of opinion of said judges, the same shall be certified to the governor of the State, who shall immediately commission the requisite number of persons, learned in the law, for the trial and determination of said case or cases. When a judge of the district court is thus disqualified, the parties may, by consent, appoint a proper person to try the case, and upon their failing to do so, the case shall be transferred for trial to the county in the adjoining district whose county-seat is nearest to that of the county where the case is pending. District judges may exchange districts or hold courts for each other when they may deem it expedient, and shall do so when directed by law; and when the district judge is disqualified to try any case or cases within his district, the governor of the State, on such facts being certified to him, may appoint some person, learned in the law, to try such case or cases, who shall receive such compensation as may be given by law. The disqualification of judges of inferior tribunals shall be remedied as prescribed by law.

Sec. 12. There shall be a district attorney elected by the qualified voters of each judicial district, who shall hold his office for four years; and the duties, salaries, and perquisites of district attorney shall be prescribed by law.

Sec. 13. The judges of the supreme court shall receive a salary of not less than four thousand five hundred dollars annually, and the judges of the district court a salary not less than three thousand five hundred dollars annually. And the salaries of the judges shall not be diminished during their continuance in office.

Sec. 14. When a vacancy shall occur in the office of judge of the district court, at a time when the senate is not in session, the governor shall fill the same by appointment, which shall be sent to the senate within ten days after that body shall assemble; and if not confirmed, the office shall immediately become vacant.

Sec. 15. The judges of the supreme and district courts shall, by virtue of their offices, be conservators of the peace throughout the State. The style of all writs and process shall be "The State of Texas." All prosecutions shall be carried on in the name and by the authority of the State of Texas, and conclude, "against the peace and dignity of the State."

Sec. 16. In all cases of law or equity, when the matter in controversy shall be valued at or exceed ten dollars, the right of trial by jury shall be preserved, unless the same shall be waived by the parties or their attorneys, except in cases where a defendant may fail to

appear and answer within the time prescribed by law, and the cause of action is liquidated and proved by an instrument in writing.

Sec. 17. Every criminal offence that may by law be punished by death, or in discretion of the jury by imprisonment to hard labor for life, and every offence that may by law be punished by imprisonment in the State penitentiary, shall be deemed a felony, and shall only be tried upon an indictment found by a grand jury. But all offences of a less grade than a felony may be prosecuted upon complaint, under oath, by any peace officer or citizen, before any justice of the peace or other inferior tribunal that may be established by law; and the party so prosecuted shall have the right of trial by a jury, to be summoned in such manner as may be prescribed by law.

Sec. 18. One sheriff for each county shall be elected by the qualified voters thereof, who shall hold his office for four years, subject to removal by the judge of the district court for said county, for cause spread upon the minutes of the court. Process against the sheriff, and all such writs as, by reason of interest in the suit, or connection with the parties, or for other cause, the sheriff is incompetent to execute, shall issue to and be executed by any constable in the county.

Sec. 19. There shall be elected in each county, by the qualified voters thereof, as may be directed by law, five justices of the peace, one of whom shall reside after his election at the county-seat; and not more than one of said justices shall be a resident of the same justice's precinct. They shall hold their offices for four years; and should a vacancy occur in either of said offices, an election shall be held for the unexpired term.

Sec. 20. Justices of the peace shall have such civil and criminal jurisdiction as shall be provided by law. And the justices of the peace in each county, or any three of them, shall constitute a court, having such jurisdiction, similar to that heretofore exercised by county commissioners and police courts, as may be prescribed by law. And, when sitting as such court, the justice who resides at the county-seat shall be the presiding justice. The times and manner of holding said courts shall be prescribed by law. Justices of the peace shall also be commissioned to act as notaries public. Justices of the peace shall also discharge all the duties of coroner, except such as by section 21 of this article are devolved upon constables.

Sec. 21. Each county shall be divided into five justices' precincts. And the justices of the peace in each county, sitting as a county court, shall appoint one constable for each justice's precinct, who shall hold his office for four years, subject to removal by said court for cause spread upon the minutes of the court. And said constables, or either of them, in addition to the ordinary duties of their office, shall discharge the duties of sheriff in all such cases as heretofore devolved those duties upon the coroner.

Sec. 22. Sheriffs and justices of the peace shall be commissioned by the governor.

Sec. 23. Sheriffs, district clerks, and justices of the peace, when acting as such, and when acting as a county court, shall receive such fees or other compensation as may be provided for by law.

Sec. 24. All county and district officers, whose removals are not otherwise provided for, may be removed, on conviction by a jury, after indictment, for malfeasance, non-feasance, or misfeasance in office.

SEC. 25. In all cases arising out of a contract, before any inferior tribunal, when the amount in controversy shall exceed ten dollars, the plaintiff or defendant shall, upon application to the presiding officer, have the right of trial by jury.

SEC. 26. In the trial of all causes in the district court, the plaintiff or defendant shall, upon application made in open court, have the right of trial by jury, to be governed by the rules and regulations prescribed by law.

ARTICLE VI

RIGHT OF SUFFRAGE

Every male citizen of the United States of the age of twenty-one years and upwards, not laboring under the disabilities named in this constitution, without distinction of race, color, or former condition, who shall be a resident of this State at the time of the adoption of this constitution, or who shall thereafter reside in this State one year, and in the county in which he offers to vote sixty days next preceding any election, shall be entitled to vote for all officers that are now or hereafter may be elected by the people, and upon all questions submitted to the electors at any election: *Provided*, That no person shall be allowed to vote or hold office who is now, or hereafter may be, disqualified therefor by the Constitution of the United States, until such disqualification shall be removed by the Congress of the United States: *Provided further*, That no person while kept in any asylum, or confined in prison, or who has been convicted of a felony, or who is of unsound mind, shall be allowed to vote or hold office.

ARTICLE VII

MILITIA

The governor shall have power to call forth the militia to execute the laws of the State, to suppress insurrection, and to repel invasions.

ARTICLE VIII

IMPEACHMENT

SECTION 1. The power of impeachment shall be vested in the house of representatives.

SEC. 2. Impeachment of the governor, attorney-general, secretary of state, treasurer, comptroller, and of the judges of the district courts shall be tried by the senate.

SEC. 3. Impeachment of judges of the supreme court shall be tried by the senate. When sitting as a court of impeachment, the senators shall be upon oath or affirmation; and no person shall be convicted without the concurrence of two-thirds of the senators present.

SEC. 4. Judgment, in cases of impeachment, shall extend only to removal from office and disqualification from holding any office of honor, trust, or profit under this State; but the parties convicted shall, nevertheless, be subject to indictment, trial, and punishment, according to law.

SEC. 5. All officers against whom articles of impeachment may be preferred shall be suspended from the exercise of the duties of their

office during the pendency of such impeachment. The appointing power may make a provisional appointment to fill the vacancy occasioned by the suspension of an officer, until the decision on the impeachment.

SEC. 6. The legislature shall provide for the trial, punishment, and removal from office of all other officers of the State, by indictment or otherwise.

ARTICLE IX

PUBLIC SCHOOLS

SECTION 1. It shall be the duty of the legislature of this State to make suitable provisions for the support and maintenance of a system of public free schools, for the gratuitous instruction of all the inhabitants of this State between the ages of six and eighteen years.

SEC. 2. There shall be a superintendent of public instruction, who, after the first term of office, shall be elected by the people; the first term of office shall be filled by appointment of the governor, by and with the advice and consent of the senate. The superintendent shall hold his office for the term of four years. He shall receive an annual salary of two thousand five hundred dollars, until otherwise provided by law. In case of vacancy in the office of the superintendent, it shall be filled by appointment of the governor, until the next general election.

SEC. 3. The superintendent shall have the supervision of the public free schools of the State, and shall perform such other duties concerning public instruction as the legislature may direct. The legislature may lay off the State into convenient school districts, and provide for the formation of a board of school directors in each district. It may give the district boards such legislative powers, in regard to the schools, school-houses, and school-fund of the district, as may be deemed necessary and proper. It shall be the duty of the superintendent of public instruction to recommend to the legislature such provisions of law as may be found necessary, in the progress of time, to the establishment and perfection of a complete system of education, adapted to the circumstances and wants of the people of this State. He shall, at each session of the legislature, furnish that body with a complete report of all the free schools in the State, giving an account of the condition of the same, and the progress of education within the State. Whenever required by either house of the legislature, it shall be his duty to furnish all information called for in relation to public schools.

SEC. 4. The legislature shall establish a uniform system of public free schools throughout the State.

SEC. 5. The legislature, at its first session, (or as soon thereafter as may be possible,) shall pass such laws as will require the attendance on the public free schools of the State of all the scholastic population thereof, for the period of at least four months of each and every year: *Provided*, That when any of the scholastic inhabitants may be shown to have received regular instruction, for said period of time in each an every year, from any private teacher having a proper certificate of competency, this shall exempt them from the operation of the laws contemplated by this section.

SEC. 6. As a basis for the establishment and endowment of said public free schools, all the funds, lands, and other property heretofore set apart and appropriated, or that may hereafter be set apart and appropriated, for the support and maintenance of public schools, shall constitute the public-school fund. And all sums of money that may come to this State hereafter from the sale of any portion of the public domain of the State of Texas shall also constitute a part of the public-school fund. And the legislature shall appropriate all the proceeds resulting from sales of public lands of this State to such public-school fund. The legislature shall set apart, for the benefit of public schools, one-fourth of the annual revenue derivable from general taxation; and shall also cause to be levied and collected an annual poll-tax of one dollar, on all male persons in this State between the ages of twenty-one and sixty years, for the benefit of public schools. And said fund, and the income derived therefrom, and the taxes herein provided for school purposes, shall be a perpetual fund, to be applied, as needed, exclusively for the education of all the scholastic inhabitants of this State; and no law shall ever be made appropriating such fund for any other use or purpose whatever.

SEC. 7. The legislature shall, if necessary, in addition to the income derived from the public-school fund, and from the taxes for school purposes provided for in the foregoing section, provide for the raising of such amount by taxation, in the several school districts in the State, as will be necessary to provide the necessary school-houses in each district, and insure the education of all the scholastic inhabitants of the several districts.

SEC. 8. The public lands heretofore given to counties shall be under the control of the legislature, and may be sold under such regulations as the legislature may prescribe; and in such case the proceeds of the same shall be added to the public-school fund.

SEC. 9. The legislature shall, at its first session, (and from time to time thereafter, as may be found necessary,) provide all needful rules and regulations for the purpose of carrying into effect the provisions of this article. It is made the imperative duty of the legislature to see to it that all the children in the State, within the scholastic age, are, without delay, provided with ample means of education. The legislature shall annually appropriate for school purposes, and to be equally distributed among all the scholastic population of the State, the interest accruing on the school-fund, and the income derived from taxation for school purposes; and shall, from time to time, as may be necessary, invest the principal of the school-fund in the bonds of the United States Government, and in no other security.

ARTICLE X

LAND-OFFICE

SECTION 1. There shall be one general land-office in the State, which shall be at the seat of government, where all titles which have heretofore emanated or may hereafter emanate from government shall be registered; and the legislature may establish, from time to time, such subordinate officers as they may deem requisite.

SEC. 2. That the residue of the public lands may be ascertained, it is declared that all surveys of land heretofore made, and not returned

to the general land-office, in accordance with the provisions of an act entitled "An act concerning surveys of land," approved 10th February, 1852, are hereby declared null and void.

Sec. 3. All certificates for land located after the 30th day of October, 1856, upon lands which were titled before such location of certificate, are hereby declared null and void: *Provided*, That in cases where the location, for the want of correct maps, or proper connection of surveys, is found to be in conflict with older surveys, whether titled or not, such certificates may be lifted and relocated.

Sec. 4. All unsatisfied genuine land certificates now in existence shall be surveyed and returned to the general land-office by the first day of January, 1875, or be forever barred.

Sec. 5. All public lands heretofore reserved for the benefit of railroads or railway companies shall hereafter be subject to location and survey by any genuine land certificates.

Sec. 6. The legislature shall not hereafter grant lands to any person or persons, nor shall any certificates for land be sold at the land-office, except to actual settlers upon the same, and in lots not exceeding one hundred and sixty acres.

Sec. 7. All lands granted to railway companies, which have not been alienated by said companies, in conformity with the terms of their charters, respectively, and the laws of the State under which the grants were made, are hereby declared forfeited to the State for the benefit of the school-fund.

Sec. 8. To every head of a family, who has not a homestead, there shall be donated one hundred and sixty acres of land, out of the public domain, upon the condition that he will select, locate, and occupy the same for three years, and pay the office fees on the same. To all single men, twenty-one years of age, there shall be donated eighty acres of land, out of the public domain, upon the same terms and conditions as are imposed upon the head of a family.

Sec. 9. The State of Texas hereby releases to the owner or owners of the soil all mines and mineral substances that may be on the same, subject to such uniform rate of taxation as the legislature may impose.

Article XI

Immigration

Section 1. There shall be a bureau, known as the "bureau of immigration," which shall have supervision and control of all matters connected with immigration. The head of this bureau shall be styled the "superintendent of immigration." He shall be appointed by the governor, by and with the advice and consent of the senate. He shall hold his office for four years, and, until otherwise fixed by law, shall receive an annual compensation of two thousand dollars. He shall have such further powers and duties, connected with immigration, as may be given by law.

Sec. 2. The legislature shall have power to appropriate part of the ordinary revenue of the State for the purpose of promoting and protecting immigration. Such appropriation shall be devoted to defraying the expenses of this bureau, to the support of agencies in foreign sea-ports, or sea-ports of the United States, and to the payment, in part or *in toto*, of the passage of immigrants from Europe to this State, and their transportation within this State.

Article XII

General provisions

Section 1. Members of the legislature, and all officers, before they enter upon the duties of their offices, shall take the following oath or affirmation: "I, A. B., do solemnly swear [or affirm] that I will faithfully and impartially discharge and perform all duties incumbent on me as ——— according to the best of my skill and ability, and that I will support the Constitution and laws of the United States and of this State. And I do further swear [or affirm] that since the acceptance of this constitution by the Congress of the United States, I, being a citizen of this State, have not fought a duel with deadly weapons, or committed an assault upon any person with deadly weapons, or sent or accepted a challenge to fight a duel with deadly weapons, or acted as second in fighting a duel, or knowingly aided or assisted any one thus offending, either within this State or out of it; that I am not disqualified from holding office under the fourteenth amendment to the Constitution of the United States, [or, as the case may be, my disability to hold office under the fourteenth amendment to the Constitution of the United States has been removed by act of Congress;] and further, that I am a qualified elector in this State."

Sec. 2. Laws shall be made to exclude from office, serving on juries, and from the right of suffrage those who shall hereafter be convicted of bribery, perjury, forgery, or other high crimes. The privilege of free suffrage shall be supported by laws regulating elections, and prohibiting, under adequate penalties, all undue influence thereon, from power, bribery, tumult, or other improper practice.

Sec. 3. Any citizen of this State who shall, after the adoption of this constitution, fight a duel with deadly weapons, or commit an assault upon any person with deadly weapons, or send or accept a challenge to fight a duel with deadly weapons, either within this State or out of it, or who shall act as second, or knowingly aid and assist in any manner those thus offending, shall be deprived of the right of suffrage, or of holding any office of trust or profit under this State.

Sec. 4. In all elections by the people, the vote shall be by ballot; and in all elections by the senate and house of representatives, jointly or separately, the vote shall be given *viva voce*, except in the election of their officers.

Sec. 5. The legislature shall provide, by law, for the compensation of all officers, servants, agents, and public contractors, not provided for by this constitution; and shall not grant extra compensation to any officer, agent, servant, or public contractor, after such public service shall have been performed, or contract entered into for the performance of the same; nor grant, by appropriation or otherwise, any amount of money out of the treasury of the State to any individual, on a claim, real or pretended, where the same shall not have been provided for by preëxisting law.

Sec. 6. No money shall be drawn from the treasury but in pursuance of specific appropriation made by law; nor shall any appropriation of money be made for a longer term than two years, except for purposes of education; and no appropriations for private or indi-

vidual purposes, or for purposes of internal improvement, shall be made without the concurrence of two-thirds of both houses of the legislature. A regular statement and account of the receipts and expenditures of all public money shall be published annually, in such manner as shall be provided by law; and in no case shall the legislature have the power to issue treasury warrants, treasury notes, or paper of any description intended to circulate as money.

Sec. 7. Absence on business of the State, or of the United States, shall not forfeit a residence once obtained, so as to deprive any one of the right of suffrage, or being elected or appointed to any office, under the exceptions contained in this constitution.

Sec. 8. The legislature shall have power to provide for deductions from the salaries of public officers who may neglect the performance of any duty that may be assigned them by law.

Sec. 9. No member of Congress, nor person holding or exercising any office of profit or trust under the United States, or either of them, or under any foreign power, shall be eligible as a member of the legislature, or hold or exercise any office of profit or trust under this State.

Sec. 10. The legislature shall provide for a change of venue in civil and criminal cases.

Sec. 11. It shall be the duty of the legislature to pass such laws as may be necessary and proper to decide differences by arbitration, when the parties shall elect that method of trial.

Sec. 12. All civil officers shall reside within the State, and all district or county officers within their district or counties; and shall keep their offices at such places therein as may be required by law.

Sec. 13. General laws regulating the adoption of children, emancipation of minors, and the granting of divorces shall be made; but no special law shall be enacted relating to particular or individual cases.

Sec. 14. The rights of married women to their separate property, real and personal, and the increase of the same, shall be protected by law; and married women, infants, and insane persons shall not be barred of their rights of property by adverse possession, or law of limitation, of less than seven years from and after the removal of each and all of their respective legal disabilities.

Sec. 15. The legislature shall have power, and it shall be their duty, to protect by law from forced sale a certain portion of the property of all heads of families. The homestead of a family, not to exceed two hundred acres of land, (not included in a city, town, or village,) or any city, town, or village lot or lots, not to exceed five thousand dollars in value, at the time of their destination as a homestead, and without reference to the value of any improvements thereon, shall not be subject to forced sale for debts, except they be for the purchase thereof, for the taxes assessed thereon, or for labor and materials expended thereon; nor shall the owner, if a married man, be at liberty to alienate the same, unless by the consent of the wife, and in such manner as may be prescribed by law.

Sec. 16. The legislature shall provide in what cases officers shall continue to perform the duties of their offices until their successors shall be duly qualified.

Sec. 17. Every law enacted by the legislature shall embrace but one object, and that shall be expressed in the title.

SEC. 18. No law shall be revised or amended by reference to its title; but in such cases the act revised or section amended shall be re-enacted and published at length.

SEC. 19. Taxation shall be equal and uniform throughout the State. All property in the State shall be taxed in proportion to its value, to be ascertained as directed by law, except such property as two-thirds of both houses of the legislature may think proper to exempt from taxation. The legislature shall have power to levy an income-tax, and to tax all persons pursuing any occupation, trade, or profession: *Provided*, That the term "occupation" shall not be construed to apply to pursuits either agricultural or mechanical.

SEC. 20. The annual assessments made upon landed property shall be a lien upon the property, and interest shall run thereon upon each year's assessment.

SEC. 21. Landed property shall not be sold for the taxes due thereon, except under a decree of some court of competent jurisdiction.

SEC. 22. Provisions shall be made by the first legislature for the condemnation and sale of all lands for taxes due thereon; and, every five years thereafter, of all lands the taxes upon which have not been paid to that date.

SEC. 23. It shall be the duty of the legislature to provide by law, in all cases where State or county debt is created, adequate means for the payment of the current interest, and 2 per cent. as a sinking-fund for the redemption of the principal; and all such laws shall be irrepealable until principal and interest are fully paid.

SEC. 24. The legislature shall, at the first session thereof, and may at any subsequent session, establish new counties for the convenience of the inhabitants of such new county or counties: *Provided*, That no new county shall be estabished which shall reduce the county or counties, or either of them, from which it shall be taken to a less area than nine hundred square miles, unless by consent of two-thirds of the legislature; nor shall any county be laid off of less contents. Every new county, as to the right of suffrage and representation, shall be considered as part of the county or counties from which it was taken, until entitled, by numbers, to the right of separate representation. No new county shall be laid off with less than one hundred and fifty qualified jurors resident at the time therein; nor where the county (or counties) from which the new county is proposed to be taken would thereby be reduced below that number of qualified jurors; and in all cases where, from the want of qualified jurors, or other cause, the courts cannot properly be held in any county, it shall be the duty of the district judge to certify such fact to the governor; and the governor shall, by proclamation, attach such county, for judicial purposes, to that county the county-seat of which is nearest the county-seat of the county so to be attached.

SEC. 25. Annual pensions may be provided for the surviving veterans of the revolution which separated Texas from Mexico; and for those permanently disabled in the service of the United States during the late rebellion, provided they entered the service from this State.

SEC. 26. Each county in the State shall provide, in such manner as may be prescribed by law, a manual-labor poor-house, for taking care of, managing, employing, and supplying the wants of its indigent and poor inhabitants; and, under such regulations as the legislature may direct, all persons committing petty offences in the county may

be committed to such manual-labor poor-house for correction and employment.

SEC. 27. All persons who, at any time heretofore, lived together as husband and wife, and both of whom, by the law of bondage, were precluded from the rites of matrimony, and continued to live together until the death of one of the parties, shall be considered as having been legally married; and the issue of such cohabitation shall be deemed legitimate. And all such persons as may be now living together in such relation shall be considered as having been legally married; and the children heretofore or hereafter born of such cohabitations shall be deemed legitimate.

SEC. 28. Justices of the peace shall assess the property in their respective precincts, under such laws as shall be provided and enacted by the legislature; and the sheriffs of the several counties of this State shall collect the taxes so assessed.

SEC. 29. Provision shall be made, under adequate penalties, for the complete registration of all births, deaths, and marriages, in every organized county of this State.

SEC. 30. Every person, corporation, or company that may commit a homicide through wilful act, or omission, shall be responsible in exemplary damages to the surviving husband, widow, heirs of his or her body, or such of them as there may be, separately and consecutively, without regard to any criminal proceeding that may or may not be had in relation to the homicide.

SEC. 31. No minister of the gospel or priest of any denomination whatever, who accepts a seat in the legislature as representative, shall, after such acceptance, be allowed to claim exemption from military service, road duty, or serving on juries, by reason of his said profession.

SEC. 32. The inferior courts of the several counties in this State shall have the power, upon a vote of two-thirds of the qualified voters of the respective counties, to assess and provide for the collection of a tax upon the taxable property, to aid in the construction of internal improvements: *Provided*, That said tax shall never exceed 2 per cent. upon the value of such property.

SEC. 33. The ordinance of the convention passed on the first day of February, A. D. 1861, commonly known as the ordinance of secession, was in contravention of the Constitution and laws of the United States, and therefore null and void from the beginning; and all laws and parts of laws founded upon said ordinance were also null and void from the date of their passage. The legislatures which sat in the State of Texas from the 18th day of March, A. D. 1861, until the 6th day of August, A. D. 1866, had no constitutional authority to make laws binding upon the people of the State of Texas: *Provided*, That this section shall not be construed to inhibit the authorities of this State from respecting and enforcing such rules and regulations as were prescribed by the said legislatures which were not in violation of the Constitution and laws of the United States, or in aid of the rebellion against the United States, or prejudicial to the citizens of this State who were loyal to the United States, and which have been actually in force or observed in Texas during the above period of time; nor to affect, prejudicially, private rights which may have grown up under such rules and regulations; nor to invalidate official acts not in aid of the rebellion against the United States during said

period of time. The legislature which assembled in the city of Austin on the 6th day of August, A. D. 1866, was provisional only, and its acts are to be respected only so far as they were not in violation of the Constitution and laws of the United States, or were not intended to reward those who participated in the late rebellion; or to discriminate between the citizens on account of race or color; or to operate prejudicially to any class of citizens.

SEC. 34. All debts created by the so-called State of Texas, from and after the 28th day of January, 1861, and prior to the 5th day of August, 1865, were and are null and void; and the legislature is prohibited from making any provision for the acknowledgment or payment of such debts. All unpaid balances, whether of salary, per diem, or monthly allowance, due to employés of the State, who were in the service thereof on the said 28th day of January, 1861, civil or military, and who gave their aid, countenance, or support to the rebellion then inaugurated against the Government of the United States, or turned their arms against the said Government, thereby forfeited the sums severally due to them. All the 10 per cent. warrants issued for military services, and exchanged during the rebellion at the treasury for non-interest warrants, are hereby declared to have been fully paid and discharged: *Provided*, That any loyal person or his or her heirs or legal representative may, by proper legal proceedings, to be commenced within two years after the acceptance of this constitution by the Congress of the United States, show proof in avoidance of any contract made, or revise or annul any decree or judgment rendered since the said 28th day of January, 1861, when, through fraud practised, or threats of violence used towards such persons, no adequate consideration for the contract has been received; or when, through absence from the State of such person, or through political prejudice against such person, the decision complained of was not fair or impartial.

SEC. 35. Within five years after the acceptance of this constitution, the laws, civil and criminal, shall be revised, digested, arranged, and published in such manner as the legislature shall direct; and a like revision, digest, and publication shall be made every ten years thereafter.

SEC. 36. No lottery shall be authorized by this State, and the buying and selling of lottery-tickets within this State is prohibited.

SEC. 37. No divorce shall be granted by the legislature.

SEC. 38. The duration of all offices not fixed by this constitution shall never exceed four years.

SEC. 39. No soldier shall, in time of peace, be quartered in the house or within the inclosure of any individual, without the consent of the owner; nor in time of war, but in a manner prescribed by law.

SEC. 40. All sales of landed property, made under decrees of courts in this State, shall be offered to bidders in lots of not less than ten nor more than forty acres, except in towns or cities, including sales for taxes.

SEC. 41. All civil officers of this State shall be removable by an address of two-thirds of the members-elect to each house of the legislature, except those whose removal is otherwise provided for by this constitution.

SEC. 42. The accounting officers of this State shall neither draw nor pay a warrant upon the treasury, in favor of any person, for

salary or compensation, as agent, officer, or appointee, who holds, at the same time, any other office or position of honor, trust, or profit under the State, or the United States, except as prescribed in this constitution.

Sec. 43. The statutes of limitation of civil suits were suspended by the so-called act of secession of the 28th of January, 1861, and shall be considered as suspended within this State until the acceptance of this constitution by the United States Congress.

Sec. 44. All usury laws are abolished in this State, and the legislature is forbidden from making laws limiting the parties to contracts in the amount of interest they may agree upon for loans of money or other property: *Provided*, This section is not intended to change the provisions of law fixing rate of interest in contracts, where the rate of interest is not specified.

Sec. 45. All the qualified voters of each county shall also be qualified jurors of such county.

Sec. 46. It shall be the duty of the legislature, after the adoption of this constitution, to levy a special road-tax upon the taxable property of all persons in this State, and appropriate the same to the building of bridges, and the improvement of public roads in the different counties in the State, under such rules and regulations as the legislature shall provide; and no law shall be passed requiring the personal services of any portion of the people on public roads.

Sec. 47. Mechanics and artisans of every class shall have a lien upon the articles manufactured or repaired by them, for the value of their labor done thereon, or materials furnished therefor; and the legislature shall provide by law for the speedy and efficient enforcement of said liens.

Sec. 48. The legislature may prohibit the sale of all intoxicating or spirituous liquors in the immediate vicinity of any college or seminary of learning; provided said college or seminary be located other than at a county seat or at the State capital.

Sec. 49. The legislature shall give effect to the foregoing general provisions, and all other provisions of this constitution, which require legislative action, according to their spirit and intent, by appropriate acts, bills, or joint resolutions.

Sec. 50. The legislature, whenever two-thirds of each house shall deem it necessary, may propose amendments to this constitution; which proposed amendments shall be duly published in the public prints of this State, at least three months before the next general election of representatives, for the consideration of the people; and it shall be the duty of the several returning officers, at the next general election which shall be thus holden, to open a poll for, and make a return to the secretary of state of, the names of all those voting for representatives, who have voted on such proposed amendments, and if thereupon it shall appear that a majority of those voting upon the proposed amendments have voted in favor of such proposed amendments, and two-thirds of each house of the next legislature shall, after such election, ratify the same amendments by yeas and nays, they shall be valid to all intents and purposes as parts of this constitution: *Provided*, That the said proposed amendments shall, at each of the said sessions, have been read on three several days in each house.

DECLARATION

Be it declared by the people of Texas in convention assembled, That the territory comprised within the limits of the following-named counties shall compose the congressional districts of the State of Texas, until otherwise provided by law:

SEC. 2. The first congressional district shall be composed of the counties of Anderson, Angelina, Cherokee, Harrison, Henderson, Houston, Jasper, Jefferson, Liberty, Nacogdoches, Newton, Orange, Panola, Polk, Rusk, Sabine, San Augustine, Shelby, Smith, Trinity, Tyler, Hardin, Chambers, Van Zandt, and Wood.

SEC. 3. The second congressional district shall consist of the counties of Marion, Upshur, Davis, Bowie, Titus, Red River, Lamar, Hopkins, Kaufman, Fannin, Grayson, Hunt, Collin, Dallas, Tarrant, Cooke, Denton, Montague, Wise, Parker, Palo Pinto, Jack, Clay, Wichita, Archer, Young, Throckmorton, Wilbarger, Hardeman, Knox, Haskell, Jones, Shackleford, Stephens, Ellis, Johnson, Callahan, Eastland, Erath, Hood, and Taylor.

SEC. 4. The third congressional district shall consist of the counties of Galveston, Brazoria, Fort Bend, Harris, Austin, Montgomery, Walker, Grimes, Brazos, Washington, Burleson, Milam, Robertson, Madison, Leon, Freestone, Limestone, Falls, McLennan, Matagorda, Wharton, Bosque, Hill, and Navarro.

SEC. 5. The fourth congressional district shall consist of the counties of Colorado, Fayette, Lavaca, Jackson, Bastrop, Travis, Williamson, Bell, Hamilton, Comanche, Brown, Coleman, Runnels, Concho, McCulloch, San Saba, Lampasas, Burnet, Llano, Mason, Kendall, Edwards, Kerr, Gillespie, Blanco, Bandera, Comal, Hays, Caldwell, Guadalupe, Bexar, Wilson, Gonzales, De Witt, Karnes, Goliad, Victoria, Calhoun, Refugio, San Patricio, Nueces, Bee, Live Oak, Atascosa, Medina, Uvalde, Dawson, Zavala, Frio, Dimmitt, La Salle, McMullin, Encinal, Duval, Cameron, Hidalgo, Starr, Zapata, Webb, Kinney, Presidio, Maverick, El Paso, and Coryell.

ELECTION DECLARATION

CONCERNING THE ELECTION FOR RATIFICATION OR REJECTION OF THE CONSTITUTION, AND FOR STATE, DISTRICT, AND COUNTY OFFICERS, AND MEMBERS OF CONGRESS

Be it declared by the people of Texas in convention assembled, That the constitution adopted by this convention be submitted for ratification or rejection to the voters of this State, registered and qualified as provided by the acts of Congress known as the reconstruction laws, at an election commencing on the first Monday in July, 1869, and continuing for the number of days specified in the constitution adopted by this convention, for the holding of general elections. The vote on said constitution shall be "For the constitution," and "Against the constitution." The said election shall be held at the places and under the regulations to be prescribed by the commanding general of this military district, and the returns made to him as directed by law.

Sec. 2. An election shall be held at the same time and place as for the ratification or rejection of the constitution, for senators and representatives in the legislature, and for all State, district, and county officers who are to be elected by the people under this constitution.

Sec. 3. The said election for State, district, and county officers shall be conducted under the same regulations as the election for the ratification or rejection of the constitution, and by the same persons. The returns of elections shall be made to the commanding general, who shall give certificates of election to the persons chosen for the respective offices. The officers as elected shall commence the discharge of the duties of the office for which they have been chosen as soon as elected and qualified, in compliance with the provisions of the constitution herewith submitted, and shall hold their respective offices for the term of years prescribed by the constitution, beginning from the day of their election, and until their successors are elected and qualified.

Sec. 4. An election for members of the United States Congress shall be held in each congressional district as established by this convention, at the same time and place as the election for ratification or rejection of the constitution. Said election shall be conducted by the same persons and under the same regulations as before mentioned in this declaration. The returns shall be made to the commanding general, who shall give the persons chosen certificates of election.

Sec. 5. The members of the legislature, elected under this declaration, shall assemble at the capitol, in the city of Austin, on the second Monday in September, A. D. 1865.

Sec. 6. The commanding general of this military district is requested to enforce this declaration.

Ed. J. Davis, *President.*

Wm. V. Tunstall, *Secretary.*

AMENDMENTS TO THE CONSTITUTION OF 1868

(Ratified 1872)

That section six of article ten be so amended as to read:

Art. X. Sec. 6. The legislature of the State of Texas shall not hereafter grant lands except for purposes of internal improvement, to any person or persons, nor shall any certificate for land be sold at the land-office, except to actual settlers upon the same, and in lots not exceeding one hundred and sixty acres: *Provided*, That the Legislature shall not grant, out of the public domain, more than twenty sections of land for each mile of completed work, in aid of the construction of which land may be granted: *And provided further*, That nothing in the foregoing proviso shall affect any rights granted or secured by laws passed prior to the final adoption of this amendment.

(Ratified 1873)

That section twenty of article one, bill of rights; sections two, three, and four of article five; sections twenty-eight, forty, and forty-eight of article twelve of the general provisions of the constitution be so amended as to read:

Bill of Rights: Art. I. Sec. 20. No power of suspending the laws in the State shall be exercised except by the legislature.

Art. V. Sec. 2. The supreme court shall consist of one chief-justice and four associate justices, any three of whom shall constitute a quorum; they shall be appointed by the governor, by and with the advice and consent of the senate, for a term of nine years. All vacancies shall be filled for the unexpired term. If a vacancy shall occur, or a term shall expire, when the senate is not in session, the governor shall fill the same by appointment, which shall be sent to the senate within ten days after that body shall assemble, and, if not confirmed, the office shall immediately become vacant.

Sec. 3. The supreme court shall have appellate jurisdiction only, which, in civil cases and criminal cases, shall be co-extensive with the limits of the State. Appeal from interlocutory judgments may be allowed with such exceptions and under such regulations as the legislature may prescribe. The supreme court and the judges thereof shall have power to issue the writ of *habeas corpus;* and under such regulations as may be prescribed by law may issue the writ of *mandamus* and such other writs as may be necessary to inforce its own jurisdiction. The supreme court shall also have power to ascertain such matters of fact as may be necessary to the proper exercise of its jurisdiction.

Sec. 4. The supreme court shall hold its sessions at the capital and two other places in the State.

Art. XII. Sec. 28. In each and every organized county in this State there shall be an assessor and collector of taxes elected by the people at the next ensuing general election, and every four years thereafter, who shall assess the property and collect the taxes so assessed in conformity to such laws as now exist, or may be enacted hereafter by the legislature relative to the assessment and collection of taxes.

Sec. 40. The legislature shall not pass local or special laws in any of the following enumerated cases, that is to say, for locating or changing county-seats, regulating county or town affairs, regulating the practice in courts of justice, regulating the duties and jurisdiction of justices of the peace and constables, providing for changes of venue in civil and criminal cases, incorporating cities or towns, or changing or amending the charter of any city or village, providing for the management of common schools, regulating the rate of interest on money, remitting fines, forfeitures, or penalties, changing the laws of descent. In all other cases where a general law can be made applicable, no special law shall be enacted: or in any case where a general law can be made applicable, no special law shall be enacted. The legislature shall pass general laws providing for the cases before enumerated in this section, and for all other cases which in its judgment may be provided by general laws.

CONSTITUTION OF TEXAS—1876 * [a]

PREAMBLE

Humbly invoking the blessing of Almighty God, the people of the State of Texas do ordain and establish this constitution.

ARTICLE I

BILL OF RIGHTS

That the general, great, and essential principles of liberty and free government may be recognized and established, we declare—

SECTION 1. Texas is a free and independent State, subject only to the Constitution of the United States; and the maintenance of our free institutions and the perpetuity of the Union depend upon the preservation of the right of local self-government unimpaired to all the States.

SEC. 2. All political power is inherent in the people, and all free governments are founded on their authority, and instituted for their benefit. The faith of the people of Texas stands pledged to the preservation of a republican form of government, and, subject to this limitation only, they have at all times the inalienable right to alter, reform, or abolish their government in such manner as they may think expedient.

SEC. 3. All free men when they form a social compact have equal rights, and no man, or set of men, is entitled to exclusive separate public emoluments, or privileges, but in consideration of public services.

SEC. 4. No religious test shall ever be required as a qualification to any office, or public trust, in this State; nor shall any one be excluded from holding office on account of his religious sentiments, provided he acknowledge the existence of a Supreme Being.

SEC. 5. No person shall be disqualified to give evidence in any of the courts of this State on account of his religious opinions, or for the want of any religious belief, but all oaths or affirmations shall be administered in the mode most binding upon the conscience, and shall be taken subject to the pains and penalties of perjury.

SEC. 6. All men have a natural and indefeasible right to worship Almighty God according to the dictates of their own consciences.

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* Verified by "Constitution of the State of Texas. Adopted by the Constitutional Convention, at the City of Austin, September 6, 1875. Official. Galveston: Printed at the News Steam Book and Job Establishment."

Verified from "The Constitution of the State of Texas. Adopted by the Constitutional Convention begun and held at the city of Austin on the sixth day of September, 1875. With amendments declared adopted Oct. 14, 1879; Sept. 25, 1883; Dec. 19, 1890; and Sept. 22, 1891. Austin: Press of Deaf-Mute Institute. 1892."

[a] This constitution was framed by a convention which assembled at Austin, September 6, 1875, and completed its labors November 24, 1875. It was submitted to the people February 17, 1876, and ratified by a large majority.

No man shall be compelled to attend, erect, or support any place of worship, or to maintain any ministry against his consent. No human authority ought, in any case whatever, to control or interfere with the rights of conscience in matters of religion, and no preference shall ever be given by law to any religious society or mode of worship. But it shall be the duty of the legislature to pass such laws as may be necessary to protect equally every religious denomination in the peaceable enjoyment of its own mode of public worship.

Sec. 7. No money shall be appropriated or drawn from the treasury for the benefit of any sect or religious society, theological or religious seminary; nor shall property belonging to the State be appropriated for any such purposes.

Sec. 8. Every person shall be at liberty to speak, write, or publish his opinions on any subject, being responsible for the abuse of that privilege; and no law shall ever be passed curtailing the liberty of speech or of the press. In prosecutions for the publication of papers investigating the conduct of officers or men in public capacity, or when the matter published is proper for public information, the truth thereof may be given in evidence. And in all indictments for libels the jury shall have the right to determine the law and the facts under the direction of the court, as in other cases.

Sec. 9. The people shall be secure in their persons, houses, papers, and possessions from all unreasonable seizures or searches; and no warrant to search any place, or to seize any person or thing, shall issue without describing them as near as may be, nor without probable cause, supported by oath or affirmation.

Sec. 10. In all criminal prosecutions the accused shall have a speedy public trial by an impartial jury. He shall have the right to demand the nature and cause of the accusation against him and to have a copy thereof. He shall not be compelled to give evidence against himself. He shall have the right of being heard by himself or counsel, or both; shall be confronted with the witnesses against him, and shall have compulsory process for obtaining witnesses in his favor. And no person shall be held to answer for a criminal offence, unless on indictment of a grand jury, except in cases in which the punishment is by fine, or imprisonment otherwise than in the penitentiary, in cases of impeachment, and in cases arising in the army or navy, or in the militia, when in actual service in time of war or public danger.

Sec. 11. All prisoners shall be bailable by sufficient sureties, unless for capital offences when the proof is evident; but this provision shall not be so construed as to prevent bail after indictment found, upon examination of the evidence in such manner as may be prescribed by law.

Sec. 12. The writ of *habeas corpus* is a writ of right, and shall never be suspended. The legislature shall enact laws to render the remedy speedy and effectual.

Sec. 13. Excessive bail shall not be required, nor excessive fines imposed, nor cruel or unusual punishment inflicted. All courts shall be open, and every person for an injury done him in his lands, goods, person, or reputation, shall have remedy by due course of law.

Sec. 14. No person, for the same offence, shall be twice put in jeopardy of life or liberty; nor shall a person be again put upon

trial for the same offence after a verdict of not guilty in a court of competent jurisdiction.

SEC. 15. The right of trial by jury shall remain inviolate. The legislature shall pass such laws as may be needed to regulate the same, and to maintain its purity and efficiency.

SEC. 16. No bill of attainder, *ex post facto* law, retroactive law, or any law impairing the obligation of contracts, shall be made.

SEC. 17. No person's property shall be taken, damaged, or destroyed for or applied to public use without adequate compensation being made, unless by the consent of such person; and, when taken, except for the use of the State, such compensation shall be first made, or secured, by a deposit of money; and no irrevocable or uncontrollable grant of special privileges or immunities shall be made; but all privileges and franchises granted by the legislature or created under its authority shall be subject to the control thereof.

SEC. 18. No person shall ever be imprisoned for debt.

SEC. 19. No citizen of this State shall be deprived of life, liberty, property, privileges, or immunities, or in any manner disfranchised, except by the due course of the law of the land.

SEC. 20. No citizen shall be outlawed; nor shall any person be transported out of the State for any offence committed within the same.

SEC. 21. No conviction shall work corruption of blood or forfeiture of estate; and the estates of those who destroy their own lives shall descend or vest as in case of natural death.

SEC. 22. Treason against the State shall consist only in levying war against it, or adhering to its enemies, giving them aid and comfort; and no person shall be convicted of treason except on the testimony of two witnesses to the same overt act, or on confession in open court.

SEC. 23. Every citizen shall have the right to keep and bear arms in the lawful defence of himself or the State; but the legislature shall have power by law to regulate the wearing of arms with a view to prevent crime.

SEC. 24. The military shall at all times be subordinate to the civil authority.

SEC. 25. No soldier shall, in time of peace, be quartered in the house of any citizen without the consent of the owner, nor in time of war but in a manner prescribed by law.

SEC. 26. Perpetuities and monopolies are contrary to the genius of a free government, and shall never be allowed; nor shall the law of primogeniture or entailments ever be in force in this State.

SEC. 27. The citizens shall have the right, in a peaceable manner, to assemble together for their common good, and apply to those invested with the power of government for redress of grievances or other purposes by petition, address, or remonstrance.

SEC. 28. No power of suspending laws in this State shall be exercised except by the legislature.

SEC. 29. To guard against transgressions of the high powers herein delegated, we declare that everything in this "Bill of Rights" is excepted out of the general powers of government, and shall forever remain inviolate, and all laws contrary thereto, or to the following provisions, shall be void.

Article II

THE POWERS OF GOVERNMENT

Section 1. The powers of the government of the State of Texas shall be divided into three distinct departments each of which shall be confided to a separate body of magistracy, to wit: Those which are legislative to one, those which are executive to another, and those which are judicial to another; and no person, or collection of persons, being of one of these departments, shall exercise any power properly attached to either of the others, except in the instances herein expressly permitted.

Article III

LEGISLATIVE DEPARTMENT

Section 1. The legislative power of this State shall be vested in a senate and house of representatives, which together shall be styled "The Legislature of the State of Texas."

Sec. 2. The senate shall consist of thirty-one members, and shall never be increased above this number. The house of representatives shall consist of ninety-three members until the first apportionment after the adoption of this constitution, when, or at any apportionment thereafter, the number of representatives may be increased by the legislature, upon the ratio of not more than one representative for every fifteen thousand inhabitants: *Provided*, The number of representatives shall never exceed one hundred and fifty.

Sec. 3. The senators shall be chosen by the qualified electors for the term of four years; but a new senate shall be chosen after every apportionment, and the senators elected after each apportionment shall be divided by lot into two classes. The seats of the senators of the first class shall be vacated at the expiration of the first two years, and those of the second class at the expiration of four years, so that one-half of the senators shall be chosen biennially thereafter.

Sec. 4. The members of the house of representatives shall be chosen by the qualified electors, and their term of office shall be two years from the day of their election.

Sec. 5. The legislature shall meet every two years, at such time as may be provided by law, and at other times when convened by the governor.

Sec. 6. No person shall be a senator unless he be a citizen of the United States, and at the time of his election a qualified elector of this State, and shall have been a resident of this State five years next preceding his election, and the last year thereof a resident of the district for which he shall be chosen, and shall have attained the age of twenty-six years.

Sec. 7. No person shall be a representative unless he be a citizen of the United States and at the time of his election a qualified elector of this State, and shall have been a resident of this State two years next preceding his election, the last year thereof a resident of the district for which he shall be chosen, and shall have attained the age of twenty-one years.

Sec. 8. Each house shall be the judge of the qualifications and election of its own members; but contested elections shall be determined in such a manner as shall be provided by law.

SEC. 9. The senate shall, at the beginning and close of each session, and at such other times as may be necessary, elect one of its members president *pro tempore*, who shall perform the duties of the lieutenant-governor in any case of absence or disability of that officer, and whenever the said office of lieutenant-governor shall be vacant. The house of representatives shall, when it first assembles, organize temporarily, and thereupon proceed to the election of a speaker from its own members; and each house shall choose its other officers.

SEC. 10. Two-thirds of each house shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and compel the attendance of absent members, in such manner and under such penalties as each house may provide.

SEC. 11. Each house may determine the rules of its own proceedings, punish members for disorderly conduct, and, with the consent of two-thirds, expel a member, but not a second time for the same offence.

SEC. 12. Each house shall keep a journal of its proceedings, and publish the same; and the yeas and nays of the members of either house on any question shall, at the desire of any three members present, be entered on the journals.

SEC. 13. When vacancies occur in either house, the governor, or the person exercising the power of the governor, shall issue writs of election to fill such vacancies; and should the governor fail to issue a writ of election to fill any such vacancy within twenty days after it occurs, the returning-officer of the district in which such vacancy may have happened shall be authorized to order an election for that purpose.

SEC. 14. Senators and representatives shall, except in cases of treason, felony, or breach of the peace, be privileged from arrest during the session of the legislature, and in going to and returning from the same, allowing one day for every twenty miles such member may reside from the place at which the legislature is convened.

SEC. 15. Each house may punish, by imprisonment, during its sessions, any person not a member, for disrespectful or disorderly conduct in its presence, or for obstructing any of its proceedings: *Provided*, Such imprisonment shall not, at any one time, exceed forty-eight hours.

SEC. 16. The sessions of each house shall be open, except the senate when in executive session.

SEC. 17. Neither house shall, without the consent of the other, adjourn for more than three days, nor to any other place than that where the legislature may be sitting.

SEC. 18. No senator or representative shall, during the term for which he may be elected, be eligible to any civil office of profit under this State which shall have been created or the emoluments of which may have been increased during such term; no member of either house shall, during the term for which he is elected, be eligible to any office or place, the appointment to which may be made, in whole or in part, by either branch of the legislature; and no member of either house shall vote for any other member for any office whatever which may be filled by a vote of the legislature, except in such cases as are in this constitution provided. Nor shall any member of the legislature be interested, either directly or indirectly, in any contract with the State, or any county thereof, authorized by any law passed during the term for which he shall have been elected.

SEC. 19. No judge of any court, secretary of state, attorney-general, clerk of any court of record, or any person holding a lucrative office under the United States or this State, or any foreign government, shall, during the term for which he is elected or appointed, be eligible to the legislature.

SEC. 20. No person who at any time may have been a collector of taxes, or who may have been otherwise intrusted with public money, shall be eligible to the legislature, or to any office of profit or trust under the State government, until he shall have obtained a discharge for the amount of such collections, or for all public moneys with which he may have been intrusted.

SEC. 21. No member shall be questioned in any other place for words spoken in debate in either house.

SEC. 22. A member who has a personal or private interest in any measure or bill proposed or pending before the legislature, shall disclose the fact to the house of which he is a member, and shall not vote thereon.

SEC. 23. If any senator or representative remove his residence from the district or county for which he was elected, his office shall thereby become vacant, and the vacancy shall be filled as provided in section 13 of this article.

SEC. 24. The members of the legislature shall receive from the public treasury such compensation for their services as may, from time to time, be provided by law, not exceeding five dollars per day for the first sixty days of each session, and after that not exceeding two dollars per day for the remainder of the session; except the first session held under this constitution, when they may receive not exceeding five dollars per day for the first ninety days, and after that not exceeding two dollars per day for the remainder of the session. In addition to the per diem, the members of each house shall be entitled to mileage in going to and returning from the seat of government, which mileage shall not exceed five dollars for every twenty-five miles, the distance to be computed by the nearest and most direct route of travel by land, regardless of railways or water-routes; and the comptroller of the State shall prepare and preserve a table of distances to each county-seat now or hereafter to be established, and by such table the mileage of each member shall be paid; but no member shall be entitled to mileage for any extra session that may be called within one day after the adjournment of a regular or called session.

SEC. 25. The State shall be divided into senatorial districts of contiguous territory, according to the number of qualified electors, as nearly as may be, and each district shall be entitled to elect one senator, and no single county shall be entitled to more than one senator.

SEC. 26. The members of the house of representatives shall be apportioned among the several counties, according to the number of population in each, as nearly as may be, on a ratio obtained by dividing the population of the State, as ascertained by the most recent United States census, by the number of members of which the house is composed: *Provided*, That whenever a single county has sufficient population to be entitled to a representative, such county shall be formed into a separate representative district, and when two or more counties are required to make up the ratio of representation such counties shall be contiguous to each other; and when any one county has more than sufficient population to be entitled to one or more repre-

sentatives, such representative or representatives shall be apportioned to such county, and for any surplus of population it may be joined in a representative district with any other contiguous county or counties.

SEC. 27. Elections for senators and representatives shall be general throughout the State, and shall be regulated by law.

SEC. 28. The legislature shall, at its first session after the publication of each United States decennial census, apportion the State into senatorial and representative districts, agreeably to the provisions of sections 25 and 26 of this article; and until the next decennial census, when the first apportionment shall be made by the legislature, the State shall be, and it is hereby, divided into senatorial and representative districts as provided by an ordinance of the convention on that subject.

PROCEEDINGS

SEC. 29. The enacting clause of all laws shall be, "*Be it enacted by the legislature of the State of Texas.*"

SEC. 30. No law shall be passed except by bill, and no bill shall be so amended in its passage through either house as to change its original purpose.

SEC. 31. Bills may originate in either house, and when passed by such house may be amended, altered, or rejected by the other.

SEC. 32. No bill shall have the force of a law until it has been read on three several days in each house, and free discussion allowed thereon; but in cases of imperative public necessity (which necessity shall be stated in a preamble or in the body of the bill) four-fifths of the house in which the bill may be pending may suspend this rule, the yeas and nays being taken on the question of suspension, and entered upon the journals.

SEC. 33. All bills for raising revenue shall originate in the house of representatives, but the senate may amend or reject them as other bills.

SEC. 34. After a bill has been considered and defeated by either house of the legislature, no bill containing the same substance shall be passed into a law during the same session. After a resolution has been acted on and defeated, no resolution containing the same substance shall be considered at the same session.

SEC. 35. No bill (except general appropriation bills, which may embrace the various subjects and accounts for and on account of which moneys are appropriated) shall contain more than one subject, which shall be expressed in its title. But if any subject shall be embraced in an act which shall not be expressed in the title, such act shall be void only as to so much thereof as shall not be so expressed.

SEC. 36. No law shall be revived or amended by reference to its title; but in such case the act revived or the section or sections amended shall be re-enacted and published at length.

SEC. 37. No bill shall be considered unless it has been first referred to a committee and reported thereon; and no bill shall be passed which has not been presented and referred to and reported from a committee at least three days before the final adjournment of the legislature.

SEC. 38. The presiding officer of each house shall, in the presence of the house over which he presides, sign all bills and joint resolutions passed by the legislature, after their titles have been publicly

read before signing; and the fact of signing shall be entered on the journals.

SEC. 39. No law passed by the legislature, except the general appropriation act, shall take effect or go into force until ninety days after the adjournment of the session at which it was enacted, unless in case of an emergency, which emergency must be expressed in a preamble or in the body of the act, the legislature shall, by a vote of two-thirds of all the members elected to each house, otherwise direct; said vote to be taken by yeas and nays, and entered upon the journals.

SEC. 40. When the legislature shall be convened in special session, there shall be no legislation upon subjects other than those designated in the proclamation of the governor calling such session, or presented to them by the governor; and no such session shall be of longer duration than thirty days.

SEC. 41. In all elections by the senate and house of representatives, jointly or separately, the vote shall be given *viva voce*, except in the election of their officers.

REQUIREMENTS AND LIMITATIONS

SEC. 42. The legislature shall pass such laws as may be necessary to carry into effect the provisions of this constitution.

SEC. 43. The first session of the legislature under this constitution shall provide for revising, digesting, and publishing the laws, civil and criminal; and a like revision, digest, and publication may be made every ten years thereafter: *Provided*, That in the adoption of and giving effect to any such digest or revision the legislature shall not be limited by sections 35 and 36 of this article.

SEC. 44. The legislature shall provide by law for the compensation of all officers, servants, agents, and public contractors not provided for in this constitution, but shall not grant extra compensation to any officer, agent, servant, or public contractors after such public service shall have been performed or contract entered into for the performance of the same; nor grant, by appropriation or otherwise, any amount of money out of the treasury of the State, to any individual, on a claim, real or pretended, when the same shall not have been provided for by pre-existing law; nor employ any one in the name of the State unless authorized by pre-existing law.

SEC. 45. The power to change the venue in civil and criminal cases shall be vested in the courts, to be exercised in such manner as shall be provided by law; and the legislature shall pass laws for that purpose.

SEC. 46. The legislature shall, at its first session after the adoption of this constitution, enact effective vagrant laws.

SEC. 47. The legislature shall pass laws prohibiting the establishment of lotteries and gift enterprises in this State, as well as the sale of tickets in lotteries, gift enterprises, or other evasions involving the lottery principle, established or existing in other States.

SEC. 48. The legislature shall not have the right to levy taxes or impose burdens upon the people, except to raise revenue sufficient for the economical administration of the government, in which may be included the following purposes:

The payment of all interest upon the bonded debt of the State;

The erection and repairs of public buildings;

The benefit of the sinking-fund, which shall not be more than two per centum of the public debt; and for the payment of the present floating debt of the State, including matured bonds for the payment of which the sinking-fund is inadequate;

The support of public schools, in which shall be included colleges and universities established by the State; and the maintenance and support of the Agricultural and Mechanical College of Texas;

The payment of the cost of assessing and collecting the revenue; and the payment of all officers, agents, and employés of the State government, and all incidental expenses connected therewith;

The support of the blind asylum, the deaf and dumb asylum, and the insane asylum, the State cemetery, and the public grounds of the State;

The enforcement of quarantine regulations on the coast of Texas;

The protection of the frontier.

SEC. 49. No debt shall be created by or on behalf of the State, except to supply casual deficiencies of revenue, repel invasion, suppress insurrection, defend the State in war, or pay existing debt; and the debt created to supply deficiencies in the revenue shall never exceed in the aggregate at any one time two hundred thousand dollars.

SEC. 50. The legislature shall have no power to give or to lend, or to authorize the giving or lending, of the credit of the State in aid of, or to any person, association, or corporation, whether municipal or other; or to pledge the credit of the State in any manner whatsoever for the payment of the liabilities, present or prospective, of any individual, association of individuals, municipal or other corporation whatsoever.

SEC. 51. The legislature shall no power to make any grant, or authorize the making of any grant, of public money to any individual, association of individuals, municipal or other corporation whatsover: *Provided*, That this shall not be so construed as to prevent the grant of aid in case of public calamity.

SEC. 52. The legislature shall have no power to authorize any county, city, town, or other political corporation, or subdivision of the State, to lend its credit or to grant public money or thing of value, in aid of or to any individual, association, or corporation whatsoever; or to become a stockholder in such corporation, association, or company.

SEC. 53. The legislature shall have no power to grant, or to authorize any county or municipal authority to grant, any extra compensation, fee, or allowance to a public officer, agent, servant, or contractor after service has been rendered or a contract has been entered into and performed in whole or in part; nor pay, nor authorize the payment of, any claim created against any county or municipality of the State, under any agreement or contract, made without authority of law.

SEC. 54. The legislature shall have no power to release or alienate any lien held by the State upon any railroad, or in anywise change the tenor or meaning, or pass any act explanatory thereof; but the same shall be enforced in accordance with the original terms upon which it was acquired.

SEC. 55. The legislature shall have no power to release or extinguish, or to authorize the releasing or extinguishing, in whole or in

part, the indebtedness, liability, or obligation of any incorporation or individual to this State, or to any county, or other municipal corporation therein.

SEC. 56. The legislature shall not, except as otherwise provided in this constitution, pass any local or special law, authorizing—

The creation, extension, or repairing of liens;

Regulating the affairs of counties, cities, towns, wards, or school districts;

Changing the names of persons or places; changing the venue in civil or criminal cases;

Authorizing the laying out, opening, altering or maintaining of roads, highways, streets, or alleys;

Relating to ferries or bridges, or incorporating ferry or bridge companies, except for the erection of bridges crossing streams which form boundaries between this and any other State;

Vacating roads, town-plats, streets, or alleys;

Relating to cemeteries, graveyards, or public grounds not of the State;

Authorizing the adoption or legitimation of children;

Locating or changing county-seats;

Incorporating cities, towns, or villages, or changing their charters;

For the opening and conducting of elections, or fixing or changing the places of voting;

Granting divorces;

Creating offices, or prescribing the powers and duties of officers, in counties, cities, towns, election or school districts;

Changing the law of descent or succession;

Regulating the practice or jurisdiction of or changing the rules of evidence in any judicial proceeding or inquiry before courts, justices of the peace, sheriffs, commissioners, arbitrators, or other tribunals, or providing or changing methods for the collection of debts, or the enforcing of judgments, or prescribing the effect of judicial sales of real estate;

Regulating the fees, or extending the powers and duties of aldermen, justices of the peace, magistrates, or constables;

Regulating the management of public schools, the building or repairing of school-houses, and the raising of money for such purposes;

Fixing the rate of interest;

Affecting the estates of minors or persons under disability;

Remitting fines, penalties, and forfeitures, and refunding moneys legally paid into the treasury;

Exempting property from taxation;

Regulating labor, trade, mining, and manufacturing;

Declaring any named person of age;

Extending the time for the assessment or collection of taxes, or otherwise relieving any assessor or collector of taxes from the due performance of his official duties, or his securities from liability;

Giving effect to informal or invalid wills or deeds;

Summoning or impanelling grand or petit juries;

For limitation of civil or criminal actions;

For incorporating railroads or other works of internal improvements;

And in all other cases where a general law can be made applicable, no local or special law shall be enacted: *Provided*, That nothing

herein contained shall be construed to prohibit the legislature from passing special laws for the preservation of the game and fish of this State in certain localities.

Sec. 57. No local or special law shall be passed, unless notice of the intention to apply therefor shall have been published in the locality where the matter or thing to be affected may be situated, which notice shall state the substance of the contemplated law, and shall be published at least thirty days prior to the introduction into the legislature of such bill and in the manner to be provided by law. The evidence of such notice having been published shall be exhibited in the legislature before such act shall be passed.

Sec. 58. The legislature shall hold its sessions at the city of Austin, which is hereby declared to be the seat of government.

Article IV

EXECUTIVE DEPARTMENT

Section 1. The executive department of the State shall consist of a governor, who shall be the chief executive officer of the State, a lieutenant-governor, secretary of state, comptroller of public accounts, treasurer, commissioner of the general land-office, and attorney-general.

Sec. 2. All the above officers of the executive department (except secretary of state) shall be elected by the qualified voters of the State at the time and places of election for members of the legislature.

Sec. 3. The returns of every election for said executive officers, until otherwise provided by law, shall be made out, sealed up, and transmitted by the returning-officers prescribed by law, to the seat of government, directed to the secretary of state, who shall deliver the same to the speaker of the house of representatives, as soon as the speaker shall be chosen; and the said speaker shall, during the first week of the session of the legislature, open and publish them in the presence of both houses of the legislature. The person voted for at said election having the highest number of votes for each of said offices respectively, and being constitutionally eligible, shall be declared by the speaker, under sanction of the legislature, to be elected to said office. But if two or more persons shall have the highest and an equal number of votes for either of said offices one of them shall be immediately chosen to such office by joint vote of both houses of the legislature. Contested elections for either of said offices shall be determined by both houses of the legislature in joint session.

Sec. 4. The governor shall be installed on the first Tuesday after the organization of the legislature, or as soon thereafter as practicable, and shall hold his office for the term of two years, or until his successor shall be duly installed. He shall be at least thirty years of age, a citizen of the United States, and shall have resided in this State at least five years immediately preceding his election.

Sec. 5. He shall, at stated times, receive as compensation for his services an annual salary of four thousand dollars and no more, and shall have the use and occupation of the governor's mansion, fixtures, and furniture.

Sec. 6. During the time he holds the office of governor he shall not hold any other office, civil, military, or corporate; nor shall he practice

any profession, and receive compensation, reward, fee, or the promise thereof for the same; nor receive any salary, reward, or compensation, or the promise thereof, from any person or corporation, for any service rendered or performed during the time he is governor, or to be thereafter rendered or performed.

SEC. 7. He shall be commander-in-chief of the military forces of the State, except when they are called into actual service of the United States. He shall have power to call forth the militia to execute the laws of the State, to suppress insurrections, repel invasions, and protect the frontier from hostile incursions by Indians or other predatory bands.

SEC. 8. The governor may, on extraordinary occasions, convene the legislature at the seat of government, or at a different place in case that should be in possession of the public enemy or in case of the prevalence of disease thereat. His proclamation therefor should state specifically the purpose for which the legislature is convened.

SEC. 9. The governor shall, at the commencement of each session of the legislature, and at the close of his term of office, give to the legislature information, by message, of the condition of the State; and he shall recommend to the legislature such measures as he may deem expedient. He shall account to the legislature for all public moneys received and paid out by him from any funds subject to his order, with vouchers; and shall accompany his message with a statement of the same. And at the commencement of each regular session he shall present estimates of the amount of money required to be raised by taxation for all purposes.

SEC. 10. He shall cause the laws to be faithfully executed; and shall conduct, in person, or in such manner as shall be prescribed by law, all intercourse and business of the State with other States and with the United States.

SEC. 11. In all criminal cases, except treason and impeachment, he shall have power, after conviction, to grant reprieves, commutations of punishment, and pardons; and under such rules as the legislature may prescribe he shall have power to remit fines and forfeitures. With the advice and consent of the senate, he may grant pardons in cases of treason, and to this end he may respite a sentence therefor until the close of the succeeding session of the legislature: *Provided*, That in all cases of remissions of fines and forfeitures, or grants of reprieve, commutation of punishment, or pardon, he shall file in the office of the secretary of state his reasons therefor.

SEC. 12. All vacancies in State or district offices, except members of the legislature, shall be filled, unless otherwise provided by law, by appointment of the governor, which appointment, if made during its session, shall be with the advice and consent of two-thirds of the senate present. If made during the recess of the senate, the said appointee, or some other person to fill such vacancy, shall be nominated to the senate during the first ten days of its session. If rejected, said office shall immediately become vacant, and the governor shall, without delay, make further nominations, until a confirmation takes place. But should there be no confirmation during the session of the senate, the governor shall not thereafter appoint any person to fill such vacancy who has been rejected by the senate; but may appoint some other person to fill the vacancy until the next ses-

sion of the senate or until the regular election to said office, should it sooner occur. Appointments to vacancies in office elective by the people shall only continue until the first general election thereafter.

SEC. 13. During the session of the legislature the governor shall reside where its sessions are held, and at all other times at the seat of government, except when by act of the legislature he may be required or authorized to reside elsewhere.

SEC. 14. Every bill which shall have passed both houses of the legislature shall be presented to the governor for his approval. If he approve he shall sign it; but if he disapprove it, he shall return it, with his objections, to the house in which it originated, which house shall enter the objections at large upon its journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of the members present agree to pass the bill, it shall be sent, with the objections, to the other house, by which likewise it shall be reconsidered; and, if approved by two-thirds of the members of that house, it shall become a law; but in such cases the votes of both houses shall be determined by yeas and nays, and the names of the members voting for and against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the governor with his objections within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the legislature, by its adjournment, prevent its return; in which case it shall be a law, unless he shall file the same, with his objections, in the office of the secretary of state, and give notice thereof by public proclamation within twenty days after such adjournment. If any bill presented to the governor contains several items of appropriation, he may object to one or more of such items, and approve the other portion of the bill. In such case he shall append to the bill, at the time of signing it, a statement of the items to which he objects, and no item so objected to shall take effect. If the legislature be in session he shall transmit to the house in which the bill originated a copy of such statement and the items objected to shall be separately reconsidered. If, on reconsideration, one or more of such items be approved by two-thirds of the members present of each house, the same shall be part of the law, notwithstanding the objections of the governor. If any such bill, containing several items of appropriation, not having been presented to the governor ten days (Sundays excepted) prior to adjournment, be in the hands of the governor at the time of adjournment, he shall have twenty days from such adjournment within which to file objections to any items thereof and make proclamation of the same, and such item or items shall not take effect.

SEC. 15. Every order, resolution, or vote to which the concurrence of both houses of the legislature may be necessary, except on questions of adjournment, shall be presented to the governor, and, before it shall take effect, shall be approved by him; or, being disapproved, shall be repassed by both houses; and all the rules, provisions, and limitations shall apply thereto as prescribed in the last preceding section in the case of a bill.

SEC. 16. There shall also be a lieutenant-governor, who shall be chosen at every election for governor by the same electors, in the same

manner, continue in office the same time, and possess the same qualifications. The electors shall distinguish for whom they vote as governor and for whom as lieutenant-governor. The lieutenant-governor shall, by virtue of his office, be president of the Senate, and shall have, when in committee of the whole, a right to debate and vote on all questions; and, when the senate is equally divided, to give the casting vote. In case of the death, resignation, removal from office, inability, or refusal of the governor to serve, or of his impeachment or absence from the State, the lieutenant-governor shall exercise the powers and authority appertaining to the office of governor until another be chosen at the periodical election, and be duly qualified, or until the governor impeached, absent, or disabled, shall be acquitted, return, or his disability be removed.

Sec. 17. If, during the vacancy in the office of governor, the lieutenant-governor should die, resign, refuse to serve, or be removed from office, or be unable to serve, or if he shall be impeached or absent from the State, the president of the senate, for the time being, shall, in like manner, administer the government until he shall be superseded by a governor or lieutenant-governor. The lieutenant-governor shall, while he acts as president of the senate, receive for his services the same compensation and mileage which shall be allowed to the members of the senate, and no more; and during the time he administers the government, as governor, he shall receive in like manner the same compensation which the governor would have received had he been employed in the duties of his office, and no more. The president, for the time being, of the senate, shall, during the time he administers the government, receive in like manner the same compensation which the governor would have received had he been employed in the duties of his office.

Sec. 18. The lieutenant-governor or president of the senate succeeding to the office of governor shall, during the entire term to which he may succeed, be under all the restrictions and inhibitions imposed in this constitution on the governor.

Sec. 19. There shall be a seal of the State, which shall be kept by the secretary of state, and used by him officially under the direction of the governor. The seal of the State shall be a star of five points, encircled by olive and live-oak branches, and the words "The State of Texas."

Sec. 20. All commissions shall be in the name and by the authority of the State of Texas, sealed with the State seal, signed by the governor, and attested by the secretary of state.

Sec. 21. There shall be a secretary of state, who shall be appointed by the governor, by and with the advice and consent of the senate, and who shall continue in office during the term of service of the governor. He shall authenticate the publication of the laws, and keep a fair register of all official acts and proceedings of the governor, and shall, when required, lay the same and all papers, minutes, and vouchers relative thereto before the legislature, or either house thereof, and shall perform such other duties as may be required of him by law. He shall receive for his services an annual salary of two thousand dollars, and no more.

Sec. 22. The attorney-general shall hold his office for two years and until his successor is duly qualified. He shall represent the State in

all suits and pleas in the supreme court of the State in which the State may be a party, and shall especially inquire into the charter-rights of all private corporations, and, from time to time, in the name of the State take such action in the courts as may be proper and necessary to prevent any private corporation from exercising any power or demanding or collecting any species of taxes, tolls, freight, or wharfage not authorized by law. He shall, whenever sufficient cause exists, seek a judicial forfeiture of such charters, unless otherwise expressly directed by law, and give legal advice, in writing, to the governor and other executive officers, when requested by them, and perform such other duties as may be required by law. He shall reside at the seat of government during his continuance in office. He shall receive for his services an annual salary of two thousand dollars, and no more, besides such fees as may be prescribed by law: *Provided*, That the fees which he may receive shall not amount to more than two thousand dollars annually.

Sec. 23. The comptroller of public accounts, the treasurer, and the commissioner of the general land-office shall each hold office for the term of two years, and until his successor is qualified; receive an annual salary of two thousand and five hundred dollars, and no more; reside at the capital of the State during his continuance in office, and perform such duties as are or may be required of him by law. They and the secretary of state shall not receive to their own use any fees, costs, or perquisites of office. All fees that may be payable by law for any service performed by any officer specified in this section, or in his office, shall be paid, when received, into the State treasury.

Sec. 24. An account shall be kept by the officers of the executive department and by all officers and managers of State institutions of all moneys and choses in action received and disbursed, or otherwise disposed of by them, severally, from all sources, and for every service performed; and a semi-annual report thereof shall be made to the governor under oath. The governor may at any time require information in writing from any and all of said officers or managers upon any subject relating to the duties, condition, management, and expenses of their respective offices and institutions, which information shall be required by the governor under oath; and the governor may also inspect their books, accounts, vouchers, and public funds; and any officer or manager who at any time shall wilfully make a false report or give false information shall be guilty of perjury, and so adjudged and punished accordingly, and removed from office.

Sec. 25. The legislature shall pass efficient laws facilitating the investigation of breaches of trust and duty by all custodians of public funds, and providing for their suspension from office on reasonable cause shown, and for the appointment of temporary incumbents of their offices during such suspension.

Sec. 26. The governor, by and with the advice and consent of two-thirds of the senate, shall appoint a convenient number of notaries public for each county, who shall perform such duties as now are or may be prescribed by law.

Article V

JUDICIAL DEPARTMENT

[a] Section 1. The judicial power of this State shall be vested in one supreme court, in a court of appeals, in district courts, in county courts, in commissioners' courts, in courts of justices of the peace, and in such other courts as may be established by law. The legislature may establish criminal district courts with such jurisdiction as it may prescribe, but no such court shall be established unless the district includes a city containing at least thirty thousand inhabitants, as ascertained by the census of the United States or other official census: *Provided*, Such town or city shall support said criminal district courts when established. The criminal district courts of Galveston and Harris Counties shall continue with the district, jurisdiction, and organization now existing by law until otherwise provided by law.

Sec. 2. The supreme court shall consist of a chief-justice and two associate justices, any two of whom shall constitute a quorum, and the concurrence of two judges shall be necessary to the decision of a case. No person shall be eligible to the office of chief-justice or associate justice of the supreme court unless he be at the time of his election a citizen of the United States and of this State, and unless he shall have attained the age of thirty years, and shall have been a practising lawyer or a judge of a court in this State, or such lawyer and judge together, at least seven years. Said chief-justice and associate justices shall be elected by the qualified voters of the State at a general election, shall hold their offices for six years, and shall each receive an annual salary of not more than three thousand five hundred and fifty dollars. In case of a vacancy in the office of chief-justice or associate justice of the supreme court, the governor shall fill the vacancy until the next general election for State officers; and at such general election the vacancy for the unexpired term shall be filled by election by the qualified voters of the State.

Sec. 3. The supreme court shall have appellate jurisdiction only, which shall be co-extensive with the limits of the State, but shall only extend to civil cases, of which the district courts have original or appellate jurisdiction. Appeals may be allowed from interlocutory judgments of the district courts, in such cases and under such regulations as may be provided by law. The supreme court and the judges thereof shall have power to issue, under such regulations as may be prescribed by law, the writ of *mandamus* and all other writs necessary to enforce the jurisdiction of said court. The supreme court shall have power upon affidavit or otherwise, as by the court may be thought proper, to ascertain such matters of fact as may be necessary to the proper exercise of its jurisdiction. The supreme court shall sit for the transaction of business from the first Monday in October until the last Saturday of June of every year, at the seat of government, and at not more than two other places in the State.

Sec. 4. The supreme court shall appoint a clerk for each place at which it may sit, and each of said clerks shall give bond in such manner as is now or may hereafter be required by law; shall hold his

[a] Sections 1–8, Art. V. Amended, 1891.

office for four years, and shall be subject to removal by said court for good cause entered of record on the minutes of said court.

SEC. 5. The court of appeals shall consist of three judges, any two of whom shall constitute a quorum, and the concurrence of two judges shall be necessary to a decision of said court. They shall be elected by the qualified voters of the State at a general election. They shall be citizens of the United States and of this State; shall have arrived at the age of thirty years at the time of election; each shall have been a practising lawyer or a judge of a court in this State, or such lawyer and judge together, for at least seven years. Said judges shall hold their offices for a term of six years, and each of them shall receive an annual salary of three thousand five hundred and fifty dollars, which shall not be increased or diminished during their term of office.

SEC. 6. The court of appeals shall have appellate jurisdiction, coextensive with the limits of the State, in all criminal cases, of whatever grade, and in all civil cases, unless hereafter otherwise provided by law, of which the county courts have original or appellate jurisdiction. In civil cases its opinions shall not be published unless the publication of such opinions be required by law. The court of appeals and the judges thereof shall have power to issue the writ of *habeas corpus*, and under such regulation as may be prescribed by law issue such writs as may be necessary to enforce its own jurisdiction. The court of appeals shall have power upon affidavits or otherwise, as by the court may be thought proper, to ascertain such matters of fact as may be necessary to the exercise of its jurisdiction. The court of appeals shall sit for the transaction of business from the first Monday of October until the last Saturday of June of every year, at the capital, and at not more than two other places in the State, at which the supreme court shall hold its sessions. The court shall appoint a clerk for each place at which it may sit, and each of said clerks shall give bond in such manner as is now or may hereafter be required by law, shall hold his office for four years, and shall be subject to removal by the said court for good cause, entered of record on the minutes of said court.

SEC. 7. The State shall be divided into twenty-six judicial districts, which may be increased or diminished by the legislature. For each district there shall be elected by the qualified voters thereof, at a general election for members of the legislature, a judge, who shall be at least twenty-five years of age, shall be a citizen of the United States, shall have been a practising attorney or a judge of a court in this State for the period of four years, and shall have resided in the district in which he is elected for two years next before his election; shall reside in his district during his term of office; shall hold his office for the term of four years; shall receive an annual salary of twenty-five hundred dollars, which shall not be increased or diminished during his term of service, and shall hold the regular term of court at one place in each county in the district twice in each year, in such manner as may be prescribed by law. The legislature shall have power by general act to authorize the holding of special terms when necessary, and to provide for holding more than two terms of the court in any county for the dispatch of business, and shall provide for the holding of district courts, when the judge thereof is absent or is from any cause disabled or disqualified from presiding.

SEC. 8. The district court shall have original jurisdiction in criminal cases of the grade of felony; of all suits in behalf of the State to recover penalties, forfeitures, and escheats; of all cases of divorce; in cases of misdemeanors involving official misconduct; of all suits to recover damages for slander or defamation of character; of all suits for the trial of title to land, and for the enforcement of liens thereon; of all suits for trial of right to property levied on by virtue of any writ of execution, sequestration, or attachment, when the property levied on shall be equal to or exceed in value five hundred dollars, and of all suits, complaints, or pleas whatever, without regard to any distinction between law and equity, when the matter in controversy shall be valued at or amount to five hundred dollars, exclusive of interest; and the said courts and the judges thereof shall have power to issue writs of *habeas corpus* in felony cases, *mandamus*, injunction, *certiorari*, and all writs necessary to enforce their jurisdiction. The district courts shall have appellate jurisdiction and general control in probate matters over the county court established in each county for appointing guardians, granting letters testamentary and of administration, for settling the accounts of executors, administrators, and guardians, and for the transaction of business appertaining to estates; and original jurisdiction and general control over executors, administrators, guardians, and minors, under such regulations as may be prescribed by the legislature. All cases now pending in the supreme court, of which the court of appeals has appellate jurisdiction under the provisions of this article, shall, as soon as practicable after the establishment of said court of appeals, be certified, and the records transmitted to the court of appeals, and shall be decided by such court of appeals as if the same had been originally appealed to such court.

SEC. 9. There shall be a clerk for the district court of each county, who shall be elected by the qualified voters for the State and county officers, and who shall hold his office for two years, subject to removal by information, or by indictment of a grand jury and conviction by a petit jury. In case of vacancy the judge of the district court shall have the power to appoint a clerk, who shall hold until the office can be filled by election.

SEC. 10. In the trial of all causes in the district courts, the plaintiff or defendant shall, upon application made in open court, have the right of trial by jury; but no jury shall be impanneled in any civil case unless demanded by a party to the case, and a jury fee be paid by the party demanding a jury, for such sum and with such exceptions as may be prescribed by the legislature.

[a] SEC. 11. No judge shall sit in any case wherein he may be interested, or where either of the parties may be connected with him by affinity or consanguinity, within such degree as may be prescribed by law, or where he shall have been counsel in the case. When the supreme court or the appellate court, or any two of the members of either, shall be thus disqualified to hear and determine any case or cases in said court, the same shall be certified to the governor of the State, who shall immediately commission the requisite number of persons learned in the law for the trial and determination of said cause or causes. When a judge of the district court is disqualified

[a] Amended, September 22, 1891.

by any of the causes above stated, the parties may, by consent, appoint a proper person to try said case; or, upon their failing to do so, a competent person may be appointed to try the same in the county where it is pending, in such manner as may be prescribed by law. And the district judges may exchange districts, or hold courts for each other, when they may deem it expedient, and shall do so when directed by law. The disqualification of judges of inferior tribunals shall be remedied, and vacancies in their offices shall be filled as prescribed by law.

[a] SEC. 12. All judges of the supreme court, court of appeals, and district courts shall, by virtue of their offices, be conservators of the peace throughout the State. The style of all writs and process shall be "The State of Texas." All prosecutions shall be carried on in the name and by the authority of "The State of Texas," and conclude "against the peace and dignity of the State."

SEC. 13. Grand and petit juries in the district courts shall be composed of twelve men; but nine members of a grand jury shall be a quorum to transact business and present bills. In trials of civil cases, and in trials of criminal cases below the grade of felony in the district courts, nine members of the jury, concurring, may render a verdict; but when the verdict shall be rendered by less than the whole number it shall be signed by every member of the jury concurring in it. When pending the trial of any case one or more jurors, not exceeding three, may die, or be disabled from sitting, the remainder of the jury shall have the power to render the verdict: *Provided*, That the legislature may change or modify the rule authorizing less than the whole number of the jury to render a verdict.

SEC. 14. The judicial districts in this State and the time of holding the courts therein are fixed by ordinance forming part of this constitution, until otherwise provided by law.

SEC. 15. There shall be established in each county in this State a county court, which shall be a court of record, and there shall be elected in each county, by the qualified voters, a county judge, who shall be well informed in the law of the State, shall be a conservator of the peace, and shall hold his office for two years, and until his successor shall be elected and qualified. He shall receive as a compensation for his services such fees and perquisites as may be prescribed by law.

[a] SEC. 16. The county court shall have original jurisdiction of all misdemeanors, of which exclusive original jurisdiction is not given to the justice's court, as the same are now or may be hereafter prescribed by law, and when the fine to be imposed shall exceed two hundred dollars; and they shall have exclusive original jurisdiction in all civil cases when the matter in controversy shall exceed in value two hundred dollars and not exceed five hundred dollars, exclusive of interest; and concurrent jurisdiction with the district courts when the matter in controversy shall exceed five hundred and not exceed one thousand dollars, exclusive of interest, but shall not have jurisdiction of suits for the recovery of land. They shall have appellate jurisdiction in cases, civil and criminal, of which justices' courts have original jurisdiction, but of such civil cases only when the judgment of the court appealed from shall exceed twenty dollars exclusive of costs,

[a] Amended, September 22, 1891.

under such regulations as may be prescribed by law. In all appeals from justices' courts there shall be a trial *de novo* in the county court, and when the judgment rendered or fine imposed by the county court shall not exceed one hundred dollars such trial shall be final; but if the judgment rendered or fine imposed shall exceed one hundred dollars, as well as in all cases, civil and criminal, of which the county court has exclusive or concurrent original jurisdiction, an appeal shall lie to the court of appeals, under such regulations as may be prescribed by law. The county courts shall have the general jurisdiction of a probate court. They shall probate wills, appoint guardians of minors, idiots, lunatics, persons *non compos mentis*, and common drunkards, grant letters testamentary and of administration, settle accounts of executors, administrators, and guardians, transact all business appertaining to the estates of deceased persons, minors, idiots, lunatics, persons *non compos mentis*, and common drunkards, including the settlement, partition, and distribution of estates of deceased persons, and to apprentice minors as provided by law. And the county courts, or judges thereof, shall have power to issue writs of mandamus, injunction, and all other writs necessary to the enforcement of the jurisdiction of said courts; and to issue writs of *habeas corpus* in cases where the offense charged is within the jurisdiction of the county court, or any other court or tribunal inferior to said court. The county court shall not have criminal jurisdiction in any county where there is a criminal district court, unless expressly conferred by law; and in such counties appeals from justices' courts and other inferior courts and tribunals in criminal cases shall be to the criminal district courts, under such regulations as may be prescribed by law, and in all such cases an appeal shall lie from such district courts to the court of appeals. Any case pending in the county court, which the county judge may be disqualified to try, shall be transferred to the district court of the same county for trial; and where there exists any cause disqualifying the county judge for the trial of a cause of which the county court has jurisdiction the district court of such county shall have original jurisdiction of such cause.

Sec. 17. The county court shall hold a term for civil business at least once in every two months, and shall dispose of probate business, either in term time or vacation, as may be provided by law; and said court shall hold a term for criminal business once in every month, as may be provided by law. Prosecutions may be commenced in said court by information filed by the county attorney or by affidavit, as may be provided by law. Grand juries impanneled in the district courts shall inquire into misdemeanors, and all indictments therefor returned into the district courts shall forthwith be certified to the county courts, or other inferior courts having jurisdiction to try them, for trial; and if such indictment be quashed in the county or other inferior court the person charged shall not be discharged if there is probable cause of guilt, but may be held by such court or magistrate to answer an information or affidavit. A jury in the county court shall consist of six men; but no jury shall be impanelled to try a civil case, unless demanded by one of the parties, who shall pay such jury fee therefor in advance, as may be prescribed by law, unless he makes affidavit that he is unable to pay the same.

Sec. 18. Each organized county in the State now or hereafter existing shall be divided from time to time, for the convenience of the

people, into precincts, not less than four and not more than eight. The present county courts shall make the first division. Subsequent divisions shall be made by the commissioners' court, provided for by this constitution. In each such precinct there shall be elected at each biennial election one justice of the peace and one constable, each of whom shall hold his office for two years and until his successor shall be elected and qualified: *Provided*, That in any precinct in which there may be a city of eight thousand or more inhabitants there shall be elected two justices of the peace. Each county shall in like manner be divided into four commissioners' precincts, in each of which there shall be elected by the qualified voters thereof one county commissioner, who shall hold his office for two years and until his successor shall be elected and qualified. The county commissioners so chosen, with the county judge as presiding officer, shall compose the county commissioners' court, which shall exercise such powers and jurisdiction over all county business as is conferred by this constitution and the laws of this State, or as may be hereafter prescribed.

SEC. 19. Justices of the peace shall have jurisdiction in criminal matters of all cases where the penalty of fine to be imposed by law may not be more than for two hundred dollars, and in civil matters of all cases where the amount in controversy is two hundred dollars or less, exclusive of interest, of which exclusive original jurisdiction is not given to the district or county courts; and such other jurisdiction, criminal and civil, as may be provided by law, under such regulations as may be prescribed by law; and appeals to the county courts shall be allowed in all cases decided in justices' courts where the judgment is for more than twenty dollars, exclusive of costs, and in all criminal cases, under such regulations as may be prescribed by law. And the justices of the peace shall be *ex officio notaries* public, and they shall hold their courts at such times and places as may be provided by law.

SEC. 20. There shall be elected for each county, by the qualified voters, a county clerk, who shall hold his office for two years, who shall be clerk of the county and commissioners' courts and recorder of the county, whose duties, perquisites, and fees of office shall be prescribed by the legislature, and a vacancy in whose office shall be filled by the commissioners' court until the next general election for county and State officers: *Provided*, That in counties having a population of less than eight thousand persons there may be an election of a single clerk, who shall perform the duties of district and county clerks.

SEC. 21. A county attorney, for counties in which there is not a resident criminal district attorney, shall be elected by the qualified voters of each county, who shall be commissioned by the governor, and hold his office for the term of two years. In case of vacancy the commissioners' court of the county shall have power to appoint a county attorney until the next general election. The county attorneys shall represent the State in all cases in the district and inferior courts in their respective counties; but if any county shall be included in a district in which there shall be a district attorney, the respective duties of district attorneys and county attorneys shall in such counties be regulated by the legislature. The legislature may provide for the election of district attorneys in such districts as may be deemed necessary, and make provision for the compensation of district attor-

neys and county attorneys: *Provided*, District attorneys shall receive an annual salary of five hundred dollars, to be paid by the State, and such fees, commissions, and perquisites as may be provided by law. County attorneys shall receive as compensation only such fees, commissions, and perquisites as may be prescribed by law.

SEC. 22. The legislature shall have power, by local or general law, to increase, diminish, or change the civil and criminal jurisdiction of county courts; and in cases of any such change of jurisdiction the legislature shall also conform the jurisdiction of the other courts to such change.

SEC. 23. There shall be elected by the qualified voters of each county a sheriff, who shall hold his office for the term of two years, whose duties and perquisites and fees of office shall be prescribed by the legislature, and vacancies in whose office shall be filled by the commissioners' court until the next general election for county or State officers.

SEC. 24. County judges, county attorneys, clerks of the district and county courts, justices of the peace, constables, and other county officers may be removed by the judges of the district courts for incompetency, official misconduct, habitual drunkenness, or other causes defined by law, upon the cause therefor being set forth in writing and the finding of its truth by a jury.

[a] SEC. 25. The supreme court shall have power to make rules and regulations for the government of said court and the other courts of the State, to regulate proceedings, and expedite the dispatch of business therein.

SEC. 26. The State shall have no right of appeal in criminal cases.

SEC. 27. The legislature shall, at its first session, provide for the transfer of all business, civil and criminal, pending in district courts, over which jurisdiction is given by this constitution to the county courts or other inferior courts, to such county or inferior courts, and for the trial or disposition of all such causes by such county or other inferior courts.

[a] SEC. 28. Vacancies in the office of judges in the supreme court, of the court of appeals, and district court shall be filled by the governor until the next succeeding general election; and vacancies in the office of county judge and justices of the peace shall be filled by the commissioners' court until the next general election for such offices.

[Sec. 29 added by amendment, September 25, 1883.]

ARTICLE VI

SUFFRAGE

SECTION 1. The following classes of persons shall not be allowed to vote in this State, to wit:

First. Persons under twenty-one years of age.

Second. Idiots and lunatics.

Third. All paupers supported by any county.

Fourth. All persons convicted of any felony, subject to such exceptions as the legislature may make.

Fifth. All soldiers, marines, and seamen employed in the service of the Army or Navy of the United States.

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[a] Amended, September 22, 1891.

SEC. 2. Every male person subject to none of the foregoing disqualifications, who shall have attained the age of twenty-one years, and who shall be a citizen of the United States, and who shall have resided in this State one year next preceding an election, and the last six months within the district or county in which he offers to vote, shall be deemed a qualified elector: and every male person of foreign birth, subject to none of the foregoing disqualifications, who, at any time before an election, shall have declared his intention to become a citizen of the United States, in accordance with the Federal naturalization laws, and shall have resided in this State one year next preceding such election, and the last six months in the county in which he offers to vote, shall also be deemed a qualified elector; and all electors shall vote in the election-precinct of their residence: *Provided*, That electors living in any unorganized county may vote at any election-precinct in the county to which such county is attached for judicial purposes.

SEC. 3. All qualified electors of the State, as herein described, who shall have resided for six months immediately preceding an election within the limits of any city or corporate town shall have the right to vote for mayor and all other elective officers; but in all elections to determine expenditure of money or assumption of debt only those shall be qualified to vote who pay taxes on property in said city or incorporated town: *Provided*, That no poll-tax for the payment of debts thus incurred shall be levied upon the persons debarred from voting in relation thereto.

[a] SEC. 4. In all elections by the people the vote shall be by ballot, and the legislature shall provide for the numbering of tickets and make such other regulations as may be necessary to detect and punish fraud and preserve the purity of the ballot-box; but no law shall ever be enacted requiring a registration of the voters of the State.

SEC. 5. Voters shall in all cases, except treason, felony, or breach of the peace, be privileged from arrest during their attendance at elections, and in going to and returning therefrom.

ARTICLE VII

EDUCATION—THE PUBLIC FREE SCHOOLS

SECTION 1. A general diffusion of knowledge being essential to the preservation of the liberties and rights of the people, it shall be the duty of the legislature of the State to establish and make suitable provision for the support and maintenance of an efficient system of public free schools.

SEC. 2. All funds, lands, and other property heretofore set apart and appropriated for the support of public schools; all the alternate sections of land reserved by the State out of grants heretofore made, or that may hereafter be made, to railroads or other corporations of any nature whatsoever; one-half of the public domain of the State; and all sums of money that may come to the State from the sale of any portion of the same, shall constitute a perpetual public-school fund.

[b] SEC. 3. There shall be set apart annually not more than one-fourth of the general revenue of the State, and a poll-tax of one

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[a] Amended, September 22, 1891. [b] Amended, September 25, 1883.

dollar on all male inhabitants in this State between the ages of twenty-one and sixty years, for the benefit of the public free schools.

[a] SEC. 4. The lands herein set apart to the public free-school fund shall be sold, under such regulations, at such times, and on such terms as may be prescribed by law; and the legislature shall not have power to grant any relief to the purchasers thereof. The comptroller shall invest the proceeds of such sales, and of those heretofore made, as may be directed by the board of education herein provided for, in the bonds of this State, if the same can be obtained, otherwise in United States bonds; and the United States bonds now belonging to said fund shall likewise be invested in State bonds, if the same can be obtained on terms advantageous to the school-fund.

[b] SEC. 5. The principal of all bonds and other funds, and the principal arising from the sale of the lands hereinbefore set apart to said school-fund, shall be the permanent school-fund; and all the interest derivable therefrom and the taxes herein authorized and levied shall be the available school-fund, which shall be applied annually to the support of the public free schools. And no law shall ever be enacted appropriating any part of the permanent or available school-fund to any other purpose whatever; nor shall the same or any part thereof ever be appropriated to or used for the support of any sectarian school; and the available school-fund herein provided shall be distributed to the several counties according to their scholastic population, and applied in manner as may be provided by law.

[a] SEC. 6. All lands heretofore or hereafter granted to the several counties of this State for education or schools are of right the property of said counties respectively to which they were granted, and title thereto is vested in said counties, and no adverse possession or limitation shall ever be available against the title of any county. Each county may sell or dispose of its lands, in whole or in part, in manner to be provided by the commissioners' court of the county. Actual settlers residing on said lands shall be protected in the prior right of purchasing the same to the extent of their settlement, not to exceed one hundred and sixty acres, at the price fixed by said court, which price shall not include the value of existing improvements made thereon by such settlers. Said lands and the proceeds thereof, when sold, shall be held by said counties alone as a trust for the benefit of public schools therein; said proceeds to be invested in bonds of the State of Texas or of the United States, and only the interest thereon to be used and expended annually.

SEC. 7. Separate schools shall be provided for the white and colored children, and impartial provision shall be made for both.

SEC. 8. The governor, comptroller, and secretary of state shall constitute a board of education, who shall distribute said funds to the several counties and perform such other duties concerning public schools as may be prescribed by law.

ASYLUMS

SEC. 9. All lands heretofore granted for the benefit of the lunatic, blind, deaf and dumb, and orphan asylums, together with such donations as may have been or may hereafter be made to either of them,

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[a] Amended, September 25, 1883. [b] Amended, September 22, 1891.

respectively, as indicated in the several grants, are hereby set apart to provide a permanent fund for the support, maintenance, and improvement of said asylums. And the legislature may provide for the sale of the lands and the investment of the proceeds in manner as provided for the sale and investment of school lands in section 4 of this article.

UNIVERSITY

SEC. 10. The legislature shall, as soon as practicable, establish, organize, and provide for the maintenance, support, and direction of a university of the first class, to be located by a vote of the people of this State, and styled "The University of Texas," for the promotion of literature and the arts and sciences, including an agricultural and mechanical department.

SEC. 11. In order to enable the legislature to perform the duties set forth in the foregoing section, it is hereby declared that all lands and other property heretofore set apart and appropriated for the establishment and maintenance of "The University of Texas," together with all the proceeds of sales of the same, heretofore made or hereafter so to be made, and all grants, donations, and appropriations that may hereafter be made by the State of Texas, or from any other source, shall constitute and become a permanent university fund. And the same as realized and received into the treasury of the State (together with such sums, belonging to the fund, as may now be in the treasury) shall be invested in bonds of the State of Texas, if the same can be obtained; if not, then in United States bonds, and the interest accuring thereon shall be subject to appropriation by the legislature to accomplish the purpose declared in the foregoing section: *Provided*, That one-tenth of the alternate sections of the lands granted to railroads, reserved by the State, which were set apart and appropriated to the establishment of "The University of Texas," by an act of the legislature of February 11, 1858, entitled "An act to establish 'The University of Texas,'" shall not be included in or constitute a part of the permanent university fund.

SEC. 12. The land herein set apart to the university fund shall be sold under such regulations, at such times, and on such terms, as may be provided by law; and the legislature shall provide for the prompt collection, at maturity, of all debts due on account of university lands heretofore sold, or that may hereafter be sold, and shall in neither event have the power to grant relief to the purchasers.

SEC. 13. The Agricultural and Mechanical College of Texas, established by an act of the legislature, passed April 17, 1871, located in the county of Brazos, is hereby made and constituted a branch of the University of Texas, for instruction in agriculture, the mechanic arts, and the natural sciences connected therewith. And the legislature shall, at its next session, make an appropriation, not to exceed forty thousand dollars, for the construction and completion of the buildings and improvements, and for providing the furniture necessary to put said college in immediate and successful operation.

SEC. 14. The legislature shall also, when deemed practicable, establish and provide for the maintenance of a college or branch university for the instruction of the colored youths of the State, to be located by a vote of the people: *Provided*, That no tax shall be levied and no money appropriated out of the general revenue, either for this

purpose or for the establishment and erection of the buildings of the University of Texas.

SEC. 15. In addition to the lands heretofore granted to the University of Texas, there is hereby set apart and appropriated for the endowment, maintenance, and support of said university and its branches one million acres of the unappropriated public domain of the State, to be designated and surveyed as may be provided by law; and said lands shall be sold under the same regulations, and the proceeds invested in the same manner, as is provided for the sale and investment of the permanent university fund; and the legislature shall not have power to grant any relief to the purchasers of said lands.

ARTICLE VIII

TAXATION AND REVENUE

SECTION 1. Taxation shall be equal and uniform. All property in this State, whether owned by natural persons or corporations, other than municipal, shall be taxed in proportion to its value, which shall be ascertained as may be provided by law. The legislature may impose a poll-tax. It may also impose occupation taxes, both upon natural persons and upon corporations, other than municipal, doing business in this State. It may also tax incomes of both natural persons and corporations, other than municipal, except that persons engaged in mechanical and agricultural pursuits shall never be required to pay an occupation tax: *Provided*, That two hundred and fifty dollars' worth of household and kitchen furniture belonging to each family in this State shall be exempt from taxation: *And provided further*, That the occupation tax levied by any county, city, or town, for any year, on persons or corporations pursuing any profession or business, shall not exceed one-half of the tax levied by the State for the same period on such profession or business.

SEC. 2. All occupation taxes shall be equal and uniform upon the same class of subjects within the limits of the authority levying the tax; but the legislature may, by general laws, exempt from taxation public property used for public purposes, actual places of religious worship, places of burial not held for private or corporate profit, all buildings used exclusively and owned by persons or associations of persons for school purposes, (and the necessary furniture of all schools,) and institutions of purely public charity; and all laws exempting property from taxation, other than the property above mentioned, shall be void.

SEC. 3. Taxes shall be levied and collected by general laws and for public purposes only.

SEC. 4. The power to tax corporations and corporate property shall not be surrendered or suspended by act of the legislature by any contract or grant to which the State shall be a party.

SEC. 5. All property of railroad companies, of whatever description, lying or being within the limits of any city or incorporated town within this State, shall bear its proportionate share of municipal taxation, and if any such property shall not have been heretofore rendered, the authorities of the city or town within which it lies shall have power to require its rendition, and collect the usual municipal tax thereon as on other property lying within said municipality.

SEC. 6. No money shall be drawn from the treasury but in pursuance of specific appropriations made by law; nor shall any appropriation of money be made for a longer term than two years, except by the first legislature to assemble under this constitution, which may make the necessary appropriations to carry on the government until the assemblage of the sixteenth legislature.

SEC. 7. The legislature shall not have power to borrow, or in any manner divert from its purpose, any special fund that may, or ought to, come into the treasury; and shall make it penal for any person or persons to borrow, withhold, or in any manner to divert from its purpose any special fund, or any part thereof.

SEC. 8. All property of railroad companies shall be assessed, and the taxes collected, in the several counties in which said property is situated, including so much of the road-bed and fixtures as shall be in each county. The rolling-stock may be assessed in gross in the county where the principal office of the company is located, and the county tax paid upon it shall be apportioned by the comptroller, in proportion to the distance such road may run through any such county, among the several counties through which the road passes, as a part of their assets.

[a] SEC. 9. The State tax on property, exclusive of the tax necessary to pay the public debt, shall never exceed fifty cents on the one hundred dollars' valuation, and no county, city, or town shall levy more than one-half of said State tax, except for the payment of debts already incurred, and for the erection of public buildings, not to exceed fifty cents on the one hundred dollars in any one year, and except as in this constitution is otherwise provided.

SEC. 10. The legislature shall have no power to release the inhabitants of, or property in, any county, city, or town from the payment of taxes levied for State or county purposes, unless in case of great public calamity in any such county, city, or town, when such release may be made by a vote of two-thirds of each house of the legislature.

SEC. 11. All property, whether owned by persons or corporations, shall be assessed for taxation, and the taxes paid in the county where situated, but the legislature may, by a two-thirds vote, authorize the payment of taxes of non-residents of counties to be made at the office of the comptroller of public accounts. And all lands and other property not rendered for taxation by the owner thereof shall be assessed at its fair value by the proper officer.

SEC. 12. All property subject to taxation in and owned by residents of unorganized counties shall be assessed and the taxes thereon paid in the counties to which such unorganized counties shall be attached for judicial purposes; and lands lying in and owned by non-residents of unorganized counties, and lands lying in the territory not laid off into counties, shall be assessed and the taxes thereon collected at the office of the comptroller of the State.

SEC. 13. Provision shall be made by the first legislature for the speedy sale of a sufficient portion of all lands and other property for the taxes due thereon, and every year thereafter for the sale of all lands and other property upon which the taxes have not been paid, and the deed of conveyance to the purchaser for all lands and other property thus sold shall be held to vest a good and perfect title in the

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[a] Amended, 1883, 1890.

purchaser thereof, subject to be impeached only for actual fraud: *Provided*, That the former owner shall, within two years from date of purchaser's deed, have the right to redeem the land upon the payment of double the amount of money paid for the land.

Sec. 14. There shall be elected by the qualified electors of each county, at the same time and under the same law regulating the election of State and county officers, an assessor of taxes, who shall hold his office for two years and until his successor is elected and qualified.

Sec. 15. The annual assessment made upon landed property shall be a special lien thereon, and all property, both real and personal, belonging to any delinquent taxpayer, shall be liable to seizure and sale for the payment of all the taxes and penalties due by such delinquent; and such property may be sold for the payment of the taxes and penalties due by such delinquent under such regulations as the legislature may provide.

Sec. 16. The sheriff of each county, in addition to his other duties, shall be the collector of taxes therefor. But in counties having ten thousand inhabitants, to be determined by the last preceding census of the United States, a collector of taxes shall be elected to hold office for two years and until his successor shall be elected and qualified.

Sec. 17. The specification of the objects and subjects of taxation shall not deprive the legislature of the power to require other subjects or objects to be taxed in such manner as may be consistent with the principles of taxation fixed in this constitution.

Sec. 18. The legislature shall provide for equalizing, as near as may be, the valuation of all property subject to or rendered for taxation, (the county commissioners' court to constitute a board of equalization;) and may also provide for the classification of all lands, with reference to their value, in the several counties.

[New section 19, amendment, October 14, 1879.]

Article IX

COUNTIES

Section 1. The legislature shall have power to create counties for the convenience of the people, subject to the following provisions:

First. In the territory of the State exterior to all counties now existing, no new counties shall be created with a less area than nine hundred square miles, in a square form, unless prevented by pre-existing boundary-lines. Should the State-lines render this impracticable in border counties, the area may be less. The territory referred to may, at any time, in whole or in part, be divided into counties in advance of population, and attached, for judicial and land-surveying purposes, to the most convenient organized county or counties.

Second. Within the territory of any county or counties now existing, no new county shall be created with a less area than seven hundred square miles, nor shall any such county now existing be reduced to a less area than seven hundred square miles. No new counties shall be created so as to approach nearer than twelve miles of the county-seat of any county from which it may, in whole or in part, be taken. Counties of a less area than nine hundred, but of seven hundred or more square miles, within counties now existing, may be cre-

ated by a two-thirds vote of each house of the legislature, taken by yeas and nays, and entered on the journals. Any county now existing may be reduced to an area of not less than seven hundred square miles by a like two-thirds vote. When any part of a county is stricken off and attached to or created into another county, the part stricken off shall be holden for and obliged to pay its proportion of all the liabilities then existing of the county from which it was taken, in such manner as may be prescribed by law.

Third. No part of any existing county shall be detached from it and attached to another existing county until the proposition for such change shall have been submitted, in such manner as may be provided by law, to a vote of the electors of both counties, and shall have received a majority of those voting on the question in each.

COUNTY-SEATS

SEC. 2. The legislature shall pass laws regulating the manner of removing county-seats, but no county-seat situated within five miles of the geographical centre of the county shall be removed, except by a vote of two-thirds of all the electors voting on the subject. A majority of such electors, however, voting at such election, may remove a county-seat from a point more than five miles from the geographical centre of the county to a point within five miles of such centre, in either case the centre to be determined by a certificate from the commissioner of the general land-office.

ARTICLE X

RAILROADS

SECTION 1. Any railroad corporation or association, organized under the law for the purpose, shall have the right to construct and operate a railroad between any points within this State, and to connect at the State-line with railroads of other States. Every railroad company shall have the right, with its road, to intersect, connect with, or cross any other railroad; and shall receive and transport each the others' passengers, tonnage, and cars, loaded or empty, without delay or discrimination, under such regulations as shall be prescribed by law.

[a] SEC. 2. Railroads heretofore constructed, or that may hereafter be constructed, in this State are hereby declared public highways, and railroad companies common carriers. The legislature shall pass laws to correct abuses and prevent unjust discrimination and extortion in the rates of freight and passenger tariffs on the different railroads in this State; and shall from time to time pass laws establishing reasonable maximum rates of charges for the transportation of passengers and freight on said railroads, and enforce all such laws by adequate penalties.

SEC. 3. Every railroad or other corporation, organized or doing business in this State under the laws or authority thereof, shall have and maintain a public office or place in this State for the transaction of its business, where transfers of stock shall be made, and where shall be kept, for inspection by the stockholders of such corporations,

[a] Amended, December 19, 1890.

books, in which shall be recorded the amount of capital stock subscribed, the names of the owners of the stock, the amounts owned by them respectively, the amount of stock paid, and by whom, the transfer of said stock, with the date of the transfer, the amount of its assets and liabilities, and the names and places of residence of its officers. The directors of every railroad company shall hold one meeting annually in this State, public notice of which shall be given thirty days previously, and the president or superintendent shall report annually, under oath, to the comptroller or governor, their acts and doings, which report shall include such matters relating to railroads as may be prescribed by law. The legislature shall pass laws enforcing by suitable penalties the provisions of this section.

Sec. 4. The rolling-stock and all other movable property belonging to any railroad company or corporation in this State shall be considered personal property, and its real and personal property, or any part thereof, shall be liable to execution and sale in the same manner as the property of individuals; and the legislature shall pass no laws exempting any such property from execution and sale.

Sec. 5. No railroad or other corporation, or the lessees, purchasers, or managers of any railroad corporation, shall consolidate the stock, property, or franchises of such corporation, with, or lease or purchase the works or franchises of, or in any way control any railroad corporation owning or having under its control a parallel or competing line; nor shall any officer of such railroad corporation act as an officer of any other railroad corporation owning or having the control of a parallel or competing line.

Sec. 6. No railroad company organized under the laws of this State shall consolidate, by private or judicial sale or otherwise, with any railroad company organized under the laws of any other State or of the United States.

Sec. 7. No law shall be passed by the legislature granting the right to construct and operate a street-railroad within any city, town, or village, or upon any public highway, without first acquiring the consent of the local authorities having control of the street or highway proposed to be occupied by such street-railroad.

Sec. 8. No railroad corporation in existence at the time of the adoption of this constitution shall have the benefit of any future legislation, except on condition of complete acceptance of all the provisions of this constitution applicable to railroads.

Sec. 9. No railroad hereafter constructed in this State shall pass within a distance of three miles of any county-seat without passing through the same, and establishing and maintaining a depot therein, unless prevented by natural obstacles, such as streams, hills, or mountains: *Provided*, Such town or its citizens shall grant the right of way through its limits and sufficient ground for ordinary depot purposes.

Article XI

Municipal Corporations

Section 1. The several counties of this State are hereby recognized as legal subdivisions of the State.

Sec. 2. The construction of jails, court-houses, and bridges, and the establishment of county poor-houses and farms, and the laying

out, construction, and repairing of county roads shall be provided for by general laws.

SEC. 3. No county, city, or other municipal corporation shall hereafter become a subscriber to the capital of any private corporation or association, or make any appropriation or donation to the same, or in any wise loan its credit; but this shall not be construed to in any way affect any obligation heretofore undertaken pursuant to law.

SEC. 4. Cities and towns having a population of ten thousand inhabitants or less, may be chartered alone by general law. They may levy, assess, and collect an annual tax to defray the current expenses of their local government, but such tax shall never exceed, for any one year, one-fourth of one per cent., and shall be collectible only in current money. And all license and occupation tax levied, and all fines, forfeitures, penalties, and other dues accruing to cities and towns shall be collectible only in current money.

SEC. 5. Cities having more than ten thousand inhabitants may have their charters granted or amended by special act of the legislature, and may levy, assess, and collect such taxes as may be authorized by law, but no tax for any purpose shall ever be lawful, for any one year, which shall exceed two and one-half per cent. of the taxable property of such city; and no debt shall ever be created by any city, unless at the same time provision be made to assess and collect annually a sufficient sum to pay the interest thereon and create a sinking-fund of at least two per cent. thereon.

SEC. 6. Counties, cities, and towns are authorized, in such mode as may now or may hereafter be provided by law, to levy, assess, and collect the taxes necessary to pay the interest and provide a sinking-fund to satisfy any indebtedness heretofore legally made and undertaken; but all such taxes shall be assessed and collected separately from that levied, assessed, and collected for current expenses of municipal government, and shall when levied specify in the act of levying the purpose therefor, and such taxes may be paid in the coupons, bonds, or other indebtedness for the payment of which such tax may have been levied.

SEC. 7. All counties and cities bordering on the coast of the Gulf of Mexico are hereby authorized, upon a vote of two-thirds of the tax-payers therein, (to be ascertained as may be provided by law,) to levy and collect such tax for construction of sea-walls, breakwaters, or sanitary purposes, as may be authorized by law, and may create a debt for such works and issue bonds in evidence thereof. But no debt for any purpose shall ever be incurred in any manner by any city or county, unless provision is made, at the time of creating the same, for levying and collecting a sufficient tax to pay the interest thereon and provide at least two per cent. as a sinking-fund; and the condemnation of the right of way for the erection of such works shall be fully provided for.

SEC. 8. The counties and cities on the Gulf coast being subject to calamitous overflows, and a very large proportion of the general revenue being derived from those otherwise prosperous localities, the legislature is especially authorized to aid by donation of such portion of the public domain as may be deemed proper, and in such mode as may be provided by law, the construction of sea-walls or breakwaters, such aid to be proportioned to the extent and value of the works constructed, or to be constructed, in any locality.

Sec. 9. The property of counties, cities, and towns owned and held only for public purposes, such as public buildings and the sites therefor, fire-engines and the furniture thereof, and all property used or intended for extinguishing fires, public grounds and all other property devoted exclusively to the use and benefit of the public, shall be exempt from forced sale and from taxation: *Provided*, Nothing herein shall prevent the enforcement of the vendor's lien, the mechanic's or builder's lien, or other liens now existing.

Sec. 10. The legislature may constitute any city or town a separate and independent school-district. And when the citizens of any city or town have a charter, authorizing the city authorities to levy and collect a tax for the support and maintenance of a public institution of learning, such tax may hereafter be levied and collected, if, at an election held for that purpose, two-thirds of the tax-payers of such city or town shall vote for such tax.

Article XII

PRIVATE CORPORATIONS

Section 1. No private corporation shall be created except by general laws.

Sec. 2. General laws shall be enacted providing for the creation of private corporations, and shall therein provide fully for the adequate protection of the public and of the individual stockholders.

Sec. 3. The right to authorize and regulate freights, tolls, wharfage, or fares levied and collected, or proposed to be levied and collected, by individuals, companies, or corporations, for the use of highways, landings, wharves, bridges, and ferries devoted to public use, has never been and shall never be relinquished or abandoned by the State, but shall always be under legislative control and depend upon legislative authority.

Sec. 4. The first legislature assembled after the adoption of this constitution shall provide a mode of procedure by the attorney-general and district or county attorneys, in the name and behalf of the State, to prevent and punish the demanding and receiving or collection of any and all charges as freight, wharfage, fares, or tolls, for the use of property devoted to the public, unless the same shall have been specially authorized by law.

Sec. 5. All laws granting the right to demand and collect freights, fares, tolls, or wharfage shall at all times be subject to amendment, modification, or repeal by the legislature.

Sec. 6. No corporation shall issue stock or bonds except for money paid, labor done, or property actually received, and all fictitious increase of stock or indebtedness shall be void.

Sec. 7. Nothing in this article shall be construed to divest or affect rights guaranteed by any existing grant or statute of this State or of the republic of Texas.

Article XIII

SPANISH AND MEXICAN LAND-TITLES

Section 1. All fines, penalties, forfeitures, and escheats which have heretofore accrued to the republic and State of Texas, under their constitutions and laws, shall accrue to the State under this constitution;

and the legislature shall provide a method for determining what lands have been forfeited, and for giving effect to escheats; and all such rights of forfeiture and escheat to the State shall, *ipso facto*, inure to the protection of the innocent holders of junior titles, as provided in sections 2, 3, and 4 of this article.

SEC. 2. Any claim of title or right to land in Texas, issued prior to the 13th day of November, 1835, not duly recorded in the county where the land was situated at the time of such record, or not duly archived in the general land-office, or not in the actual possession of the grantee thereof, or some person claiming under him, prior to the accruing of junior title thereto from the sovereignty of the soil, under circumstances reasonably calculated to give notice to said junior grantee, has never had, and shall not have, standing or effect against such junior title, or color of title, acquired without such or actual notice of such prior claim of title or right; and no condition annexed to such grants, not archived or recorded or occupied as aforesaid, has been, or ever *shall* be, released or waived, but actual performance of all such conditions shall be proved by the person or persons claiming under such title or claim of right in order to maintain action thereon, and the holder of such junior title, or color of title, shall have all the rights of the government which have heretofore existed, or now exist, arising from the non-performance of all such conditions.

SEC. 3. Non-payment of taxes on any claim of title to land, dated prior to the 13th day of November, 1835, not recorded or archived, as provided in section 2, by the person or persons so claiming, or those under whom he or they so claim, from that date up to the date of the adoption of this constitution, shall be held to be a presumption that the right thereto has reverted to the State, and that said claim is a stale demand, which presumption shall only be rebutted by payment of all taxes on said lands, State, county, and city or town, to be assessed on the fair value of such lands by the comptroller, and paid to him without commutation or deduction for any part of the above period.

SEC. 4. No claim of title or right to land, which issued prior to the 13th day of November, 1835, which has not been duly recorded in the county where the land was situated at the time of such record, or which has not been duly archived in the general land-office, shall ever hereafter be deposited in the general land-office, or recorded in this State, or delineated on the maps, or used as evidence in any of the courts of this State, and the same are stale claims; but this shall not affect such rights or presumptions as arise from actual possession. By the words "duly recorded," as used in sections 2 and 4 of this article, it is meant that such claim of title or right to land shall have been recorded in the proper office, and that mere errors in the certificate of registration, or informality, not affecting the fairness and good faith of the holder thereof, with which the record was made, shall not be held to vitiate such record.

SEC. 5. All claims, locations, surveys, grants, and titles of any kind, which are declared null and void by the constitution of the republic or State of Texas, are, and the same shall remain forever, null and void.

SEC. 6. The legislature shall pass stringent laws for the detection and conviction of all forgers of land-titles, and may make such appropriations of money for that purpose as may be necessary.

SEC. 7. Sections 2, 3, 4, and 5 of this article shall not be so construed as to set aside or repeal any law or laws of the republic or State of Texas, releasing the claimants of headrights of colonists of a league of land, or less, from compliance with the conditions on which their grants were made.

ARTICLE XIV

PUBLIC LANDS AND LAND-OFFICE

SECTION 1. There shall be one general land-office in the State, which shall be at the seat of government, where all land-titles which have emanated, or may hereafter emanate, from the State shall be registered, except those titles the registration of which may be prohibited by this constitution. It shall be the duty of the legislature, at the earliest practicable time, to make the land-office self-sustaining, and from time to time the legislature may establish such subordinate offices as may be deemed necessary.

SEC. 2. All unsatisfied genuine land-certificates barred by section 4, article 10, of the constitution of 1869, by reason of the holders or owners thereof failing to have them surveyed and returned to the land-office by the 1st day of January, 1875, are hereby revived. All unsatisfied genuine land-certificates now in existence shall be surveyed and returned to the general land-office within five years after the adoption of this constitution, or be forever barred; and all genuine land-certificates hereafter issued by the State shall be surveyed and returned to the general land-office within five years after issuance, or be forever barred: *Provided*, That all genuine land-certificates heretofore or hereafter issued shall be located, surveyed, or patented only upon vacant and unappropriated public domain, and not upon any land titled or equitably owned under color of title from the sovereignty of the State, evidence of the appropriation of which is on the county records or in the general land-office, or when the appropriation is evidenced by the occupation of the owner, or of some person holding for him.

SEC. 3. The legislature shall have no power to grant any of the lands of this State to any railway company, except upon the following restrictions and conditions:

First. That there shall never be granted to any such corporation more than sixteen sections to the mile, and no reservation of any part of the public domain for the purpose of satisfying such grant shall ever be made.

Second. That no land-certificate shall be issued to such company until they have equipped, constructed, and in running order at least ten miles of road, and on the failure of such company to comply with the terms of its charter, or to alienate its land at a period to be fixed by law, in no event to exceed twelve years from the issuance of the patent, all said land shall be forefeited to the State, and become a portion of the public domain, and liable to location and survey. The legislature shall pass general laws only, to give effect to the provisions of this section.

SEC. 4. No certificate for land shall be sold at the land-office except to actual settlers upon the same, and in lots not to exceed one hundred and sixty acres.

SEC. 5. All lands heretofore or hereafter granted to railway companies, where the charter or law of the State required, or shall hereafter require, their alienation within a certain period, on pain of forfeiture, or is silent on the subject of forfeiture, and which lands have not been or shall not hereafter be alienated, in conformity with the terms of their charters and the laws under which the grants were made, are hereby declared forfeited to the State, and subject to pre-emption, location, and survey as other vacant lands. All lands heretofore granted to said railroad companies to which no forfeiture was attached on their failure to alienate, are not included in the foregoing clause: but in all such last-named cases it shall be the duty of the attorney-general, in every instance where alienations have been or hereafter may be made, to inquire into the same, and if such alienation has been made in fraud of the rights of the State, and is colorable only, the real and beneficial interest being still in such corporation, to institute legal proceedings in the county where the seat of government is situated to forfeit such lands to the State, and if such alienation be judicially ascertained to be fraudulent and colorable as aforesaid, such lands shall be forfeited to the State, and become a part of the vacant public domain, liable to pre-emption, location, and survey.

SEC. 6. To every head of a family without a homestead there shall be donated one hundred and sixty acres of public land, upon condition that he will select and locate said land, and occupy the same three years, and pay the office-fees due thereon. To all single men of eighteen years of age and upwards shall be donated eighty acres of public land, upon the terms and conditions prescribed for heads of families.

SEC. 7. The State of Texas hereby releases to the owner or owners of the soil all mines and minerals that may be on the same, subject to taxation as other property.

SEC. 8. Persons residing between the Nueces River and the Rio Grande, and owning grants for lands which emanated from the government of Spain or that of Mexico, which grants have been recognized and validated by the State, by acts of the legislature, approved February 10, 1852, August 15, 1870, and other acts, and who have been prevented from complying with the requirements of said acts by the unsettled condition of the country, shall be allowed until the 1st day of January, 1880, to complete their surveys and the plots thereof, and to return their field-notes to the general land-office; and all claimants failing to do so shall be forever barred: *Provided*, Nothing in this section shall be so construed as to validate any titles not already valid, or to interfere with the rights of third persons.

ARTICLE XV

IMPEACHMENT

SECTION 1. The power of impeachment shall be vested in the house of representatives.

SEC. 2. Impeachment of the governor, lieutenant-governor, attorney-general, treasurer, commissioner of the general land-office, comptroller, and the judges of the supreme court, court of appeals, and district court shall be tried by the senate.

SEC. 3. When the senate is sitting as a court of impeachment, the

senators shall be on oath, or affirmation, impartially to try the party impeached, and no person shall be convicted without the concurrence of two-thirds of the senators present.

SEC. 4. Judgment in cases of impeachment shall extend only to removal from office, and disqualification from holding any office of honor, trust, or profit under this State. A party convicted on impeachment shall also be subject to indictment, trial, and punishment, according to law.

SEC. 5. All officers against whom articles of impeachment may be preferred shall be suspended from the exercise of the duties of their office during the pendency of such impeachment. The governor may make a provisional appointment to fill the vacancy occasioned by the suspension of an officer until the decision on the impeachment.

SEC. 6. Any judge of the district courts of the State who is incompetent to discharge the duties of his office, or who shall be guilty of partiality, or oppression, or other official misconduct, or whose habits and conduct are such as to render him unfit to hold such office, or who shall negligently fail to perform his duties as judge, or who shall fail to execute in a reasonable measure the business in his courts, may be removed by the supreme court. The supreme court shall have original jurisdiction to hear and determine the causes aforesaid, when presented in writing upon the oaths taken before some judge of a court of record of not less than ten lawyers practising in the courts held by such judge and licensed to practise in the supreme court; said presentment to be founded either upon the knowledge of the persons making it or upon the written oaths as to the facts of creditable witnesses. The supreme court may issue all needful process and prescribe all needful rules to give effect to this section. Causes of this kind shall have precedence and be tried as soon as practicable.

SEC. 7. The legislature shall provide by law for the trial and removal from office of all officers of this State, the modes for which have not been provided in this constitution.

ADDRESS

SEC. 8. The judges of the supreme court, court of appeals, and district courts, shall be removed by the governor on the address of two-thirds of each house of the legislature for willful neglect of duty, incompetency, habitual drunkenness, oppression in office, or other reasonable cause which shall not be sufficient ground for impeachment: *Provided, however*, That the cause or causes for which such removal shall be required shall be stated at length in such address and entered on the journals of each house. *And provided further*, That the cause or causes shall be notified to the judge so intended to be removed, and he shall be admitted to a hearing in his own defense before any vote for such address shall pass; and in all such cases the vote shall be taken by yeas and nays and entered on the journals of each house, respectively.

ARTICLE XVI

GENERAL PROVISIONS

SECTION 1. Members of the legislature, and all officers, before they enter upon the duties of their offices, shall take the following oath or affirmation: "I, —— ——, do solemnly swear (or affirm) that I will

faithfully and impartially discharge and perform all the duties incumbent upon me as ———, according to the best of my skill and ability, agreeably to the Constitution and laws of the United States and of this State; and I do further solemnly swear (or affirm) that since the adoption of the constitution of this State, I being a citizen of this State, have not fought a duel with deadly weapons, within this State nor out of it, nor have I sent or accepted a challenge to fight a duel with deadly weapons, nor have I acted as second in carrying a challenge, or aided, advised or assisted any person thus offending. And I furthermore solemnly swear (or affirm) that I have not directly nor indirectly paid, offered, or promised to pay, contributed, nor promised to contribute any money, or valuable thing, or promised any public office or employment, as a reward for the giving or withholding a vote at the election at which I was elected, (or if the office is one of appointment, to secure my appointment:) So help me God."

Sec. 2. Laws shall be made to exclude from office, serving on juries, and from the right of suffrage those who may have been or shall hereafter be convicted of bribery, perjury, forgery, or other high crimes. The privilege of free suffrage shall be protected by laws regulating elections and prohibiting under adequate penalties all undue influence therein from power, bribery, tumult, or other improper practice.

Sec. 3. The legislature shall make provision whereby persons convicted of misdemeanors and committed to the county jails in default of payment of fines and costs shall be required to discharge such fines and costs by manual labor, under such regulations as may be prescribed by law.

Sec. 4. Any citizen of this State who shall, after the adoption of this constitution, fight a duel with deadly weapons, or send or accept a challenge to fight a duel with deadly weapons, either within this State or out of it, or who shall act as second, or knowingly assist in any manner those thus offending, shall be deprived of the right of suffrage, or of holding any office of trust or profit under this State.

Sec. 5. Every person shall be disqualified from holding any office of profit or trust in this State who shall have been convicted of having given or offered a bribe to procure his election or appointment.

Sec. 6. No appropriation for private or individual purposes shall be made. A regular statement, under oath, and an account of the receipts and expenditures of all public money shall be published annually in such manner as shall be prescribed by law.

Sec. 7. The legislature shall in no case have power to issue "treasury warrants," "treasury notes," or paper of any description intended to circulate as money.

Sec. 8. Each county in the State may provide, in such manner as may be prescribed by law, a manual-labor poor-house and farm, for taking care of, managing, employing, and supplying the wants of its indigent and poor inhabitants.

Sec. 9. Absence on business of the State, or of the United States, shall not forfeit a residence once obtained, so as to deprive any one of the right of suffrage, or of being elected or appointed to any office under the exceptions contained in this constitution.

Sec. 10. The legislature shall provide for deductions from the salaries of public officers who may neglect the performance of any duty that may be assigned them by law.

[a] SEC. 11. The legal rate of interest shall not exceed eight per cent. per annum, in the absence of any contract as to the rate of interest; and by contract parties may agree upon any rate not to exceed twelve per cent. per annum. All interest charged above this last-named rate shall be deemed usurious, and the legislature shall, at its first session, provide appropriate pains and penalties to prevent and punish usury.

SEC. 12. No member of Congress, nor person holding or exercising any office of profit or trust under the United States, or either of them, or under any foreign power, shall be eligible as a member of the legislature, or hold or exercise any office of profit or trust under this State.

SEC. 13. It shall be the duty of the legislature to pass such laws as may be necessary and proper to decide differences by arbitration, when the parties shall elect that method of trial.

SEC. 14. All civil officers shall reside within the State; and all district or county officers within their districts or counties, and shall keep their offices at such places as may be required by law; and failure to comply with this condition shall vacate the office so held.

SEC. 15. All property, both real and personal, of the wife, owned or claimed by her before marriage, and that acquired afterward by gift, devise, or descent, shall be her separate property; and laws shall be passed more clearly defining the rights of the wife in relation as well to her separate property as that held in common with her husband. Laws shall also be passed providing for the registration of the wife's separate property.

SEC. 16. No corporate body shall hereafter be created, renewed, or extended with banking or discounting privileges.

SEC. 17. All officers within this State shall continue to perform the duties of their offices until their successors shall be duly qualified.

SEC. 18. The rights of property and of action, which have been acquired under the constitution and laws of the republic and State, shall not be divested; nor shall any rights or actions which have been divested, barred, or declared null and void by the constitution of the republic and State, be reinvested, renewed, or reinstated by this constitution; but the same shall remain precisely in the situation which they were before the adoption of this constitution, unless otherwise herein provided: *And provided further*, That no cause of action heretofore barred shall be revived.

SEC. 19. The legislature shall prescribe by law the qualification of grand and petit jurors.

[a] SEC. 20. The legislature shall, at its first session, enact a law whereby the qualified voters of any county, justice's precinct, town or city, by a majority vote, from time to time, may determine whether the sale of intoxicating liquors shall be prohibited within the prescribed limits.

SEC. 21. All stationery and printing, except proclamations and such printing as may be done at the deaf and dumb asylum, paper, and fuel used in the legislative and other departments of the government, except the judicial department, shall be furnished, and the printing and binding of the laws, journals, and department reports, and all other printing and binding, and the repairing and furnishing the halls and rooms used for the meetings of the legislature and its committees, shall be performed under contract, to be given to the lowest respon-

[a] Amended, September 22, 1891.

sible bidder, below such maximum price, and under such regulations, as shall be prescribed by law. No member or officer of any department of the government shall be in any way interested in such contracts; and all such contracts shall be subject to the approval of the governor, secretary of state, and comptroller.

SEC. 22. The legislature shall have the power to pass such fence-laws, applicable to any subdivision of the State or counties, as may be needed to meet the wants of the people.

SEC. 23. The legislature may pass laws for the regulation of live stock and the protection of stock-raisers in the stock-raising portion of the State, and exempt from the operation of such laws other portions, sections, or counties; and shall have power to pass general and special laws for the inspection of cattle, stock, and hides, and for the regulation of brands: *Provided*, That any local law thus passed shall be submitted to the freeholders of the section to be affected thereby, and approved by them, before it shall go into effect.

SEC. 24. The legislature shall make provision for laying out and working public roads, for the building of bridges, and for utilizing fines, forfeitures, and convict labor to all these purposes.

SEC. 25. That all drawbacks and rebatement of insurance, freight, transportation, carriage, wharfage, storage, compressing, baling, repairing, or for any other kind of labor or service, of or to any cotton, grain, or any other produce or article of commerce in this State, paid, or allowed, or contracted for, to any common carrier, shipper, merchant, commission-merchant, factor, agent, or middle-man of any kind, not the true and absolute owner thereof, are forever prohibited, and it shall be the duty of the legislature to pass effective laws punishing all persons in this State who pay, receive, or contract for or respecting the same.

SEC. 26. Every person, corporation, or company, that may commit a homicide, through wilful act, or omission, or gross neglect, shall be responsible, in exemplary damages, to the surviving husband, widow, heirs of his or her body, or such of them as there may be, without regard to any criminal proceeding that may or may not be had in relation to the homicide.

SEC. 27. In all elections to fill vacancies of office in this State it shall be to fill the unexpired term only.

SEC. 28. No current wages for personal service shall ever be subject to garnishment.

SEC. 29. The legislature shall provide by law for defining and punishing barratery.

SEC. 30. The duration of all offices not fixed by this constitution shall never exceed two years.

SEC. 31. The legislature may pass laws prescribing the qualifications of practitioners of medicine in this State, and to punish persons for malpractice, but no preference shall ever be given by law to any schools of medicine.

SEC. 32. The legislature may provide by law for the establishment of a board of health and vital statistics, under such rules and regulations as it may deem proper.

SEC. 33. The accounting-officers of this State shall neither draw nor pay a warrant upon the treasury in favor of any person, for salary or compensation as agent, officer, or appointee, who holds at the same time any other office or position of honor, trust, or profit under

this State or the United States, except as prescribed in this constitution.

SEC. 34. The legislature shall pass laws authorizing the governor to lease, or sell to the Government of the United States, a sufficient quantity of the public domain of the State necessary for the erection of forts, barracks, arsenals, and military stations, or camps, and for other needful military purposes; and the action of the governor therein shall be subject to the approval of the legislature.

SEC. 35. The legislature shall, at its first session, pass laws to protect laborers on public buildings, streets, roads, railroads, canals, and other similar public works against the failure of contractors and subcontractors to pay their current wages when due, and to make the corporation, company, or individual for whose benefit the work is done responsible for their ultimate payment.

SEC. 36. The legislature shall, at its first session, provide for the payment, or funding, as they may deem best, of the amounts found to be justly due to the teachers in the public schools, by the State, for service rendered prior to the 1st day of July, 1873, and for the payment by the school-districts in the State of amounts justly due teachers of public schools by such district to January, 1876.

SEC. 37. Mechanics, artisans, and material-men of every class, shall have a lien upon the buildings and articles made or repaired by them for the value of their labor done thereon or material furnished therefor; and the legislature shall provide by law for the speedy and efficient enforcement of said liens.

SEC. 38. The legislature may, at such time as the public interest may require, provide for the office of commissioner of insurance, statistics, and history, whose term of office, duties, and salary shall be prescribed by law.

SEC. 39. The legislature may, from time to time, make appropriations for preserving and perpetuating memorials of the history of Texas, by means of monuments, statues, paintings, and documents of historical value.

SEC. 40. No person shall hold or exercise, at the same time, more than one civil office of emolument, except that of justice of the peace, county commissioner, notary public, and postmaster, unless otherwise specially provided herein.

SEC. 41. Any person who shall, directly or indirectly, offer, give, or promise, any money or thing of value, testimonial, privilege, or personal advantage, to any executive or judicial officer or member of the legislature to influence him in the performance of any of his public or official duties, shall be guilty of bribery, and be punished in such manner as shall be provided by law. And any member of the legislature, or executive or judicial officer, who shall solicit, demand, or receive, or consent to receive, directly or indirectly, for himself or for another, from any company, corporation, or person, any money, appointment, employment, testimonial, reward, thing of value or employment, or of personal advantage or promise thereof, for his vote or official influence, or for withholding the same, or with any understanding, expressed or implied, that his vote or official action shall be in any way influenced thereby, or who shall solicit, demand, and receive any such money or other advantage, matter, or thing aforesaid for another, as the consideration of his vote or official influ-

ence, in consideration of the payment or promise of such money, advantage, matter or thing to another, shall be held guilty of bribery, within the meaning of the constitution, and shall incur the disabilities provided for said offenses, with a forfeiture of the office he may hold, and such other additional punishment as is or shall be provided by law.

SEC. 42. The legislature may establish an inebriate asylum, for the cure of drunkenness and reform of inebriates.

SEC. 43. No man or set of men shall ever be exempted, relieved, or discharged from the performance of any public duty or service imposed by general law by any special law. Exemptions from the performance of such public duty or service shall only be made by general law.

SEC. 44. The legislature shall prescribe the duties and provide for the election, by the qualified voters of each county in this State, of a county treasurer and a county surveyor, who shall have an office at the county-seat, and hold their office for two years, and until their successors are qualified; and shall have such compensation as may be provided by law.

SEC. 45. It shall be the duty of the legislature to provide for collecting, arranging, and safely keeping such records, rolls, correspondence, and other documents, civil and military, relating to the history of Texas, as may be now in the possession of parties willing to confide them to the care and preservation of the State.

SEC. 46. The legislature shall provide by law for organizing and disciplining the militia of the State in such manner as they shall deem expedient, not incompatible with the Constitution and laws of the United States.

SEC. 47. Any person who conscientiously scruples to bear arms shall not be compelled to do so, but shall pay an equivalent for personal service.

SEC. 48. All laws and parts of laws now in force in the State of Texas which are not repugnant to the constitution of the United States or to this constitution shall continue and remain in force as the laws of this State until they expire by their own limitation or shall be amended or repealed by the legislature.

SEC. 49. The legislature shall have power, and it shall be its duty, to protect by law from forced sale a certain portion of the personal property of all heads of families, and also of unmarried adults, male and female.

SEC. 50. The homestead of a family shall be, and is hereby, protected from forced sale, for the payment of all debts except for the purchase-money thereof, or a part of such purchase-money, the taxes due thereon, or for work and material used in constructing improvements thereon, and in this last case only when the work and material are contracted for in writing, with the consent of the wife given in the same manner as is required in making a sale and conveyance of the homestead; nor shall the owner, if a married man, sell the homestead without the consent of the wife, given in such manner as may be prescribed by law. No mortgage, trust-deed, or other lien on the homestead shall ever be valid, except for the purchase-money therefor, or improvements made thereon, as hereinbefore provided, whether such mortgage, or trust-deed, or other lien, shall have been created

by the husband alone, or together with his wife; and all pretended sales of the homestead involving any condition of defeasance shall be void.

SEC. 51. The homestead, not in a town or city, shall consist of not more than two hundred acres of land, which may be in one or more parcels, with the improvements thereon; the homestead in a city, town, or village shall consist of lot, or lots, not to exceed in value five thousand dollars at the time of their designation as the homestead without reference to the value of any improvements thereon: *Provided*, That the same shall be used for the purposes of a home, or as a place to exercise the calling or business of the head of a family: *Provided also*, That any temporary renting of the homestead shall not change the character of the same when no other homestead has been acquired.

SEC. 52. On the death of the husband or wife, or both, the homestead shall descend and vest in like manner as other real property of the deceased, and shall be governed by the same laws of descent and distribution, but it shall not be partitioned among the heirs of the deceased during the life-time of the surviving husband or wife, or so long as the survivor may elect to use or occupy the same as a homestead, or so long as the guardian of the minor children of the deceased may be permitted, under the order of the proper court having the jurisdiction, to use and occupy the same.

SEC. 53. That no inconvenience may arise from the adoption of this constitution, it is declared that all process and writs of all kinds which have been or may be issued and not returned or executed when this constitution is adopted, shall remain valid, and shall not be in any way affected by the adoption of this constitution.

SEC. 54. It shall be the duty of the legislature to provide for the custody and maintenance of indigent lunatics, at the expense of the State, under such regulations and restrictions as the legislature may prescribe.

SEC. 55. The legislature may provide annual pensions, not to exceed one hundred and fifty dollars per annum, to surviving soldiers or volunteers in the war between Texas and Mexico, from the commencement of the revolution in 1835 until the 1st of January, 1837; and also to the surviving signers of the declaration of independence of Texas, and to the surviving widows, continuing unmarried, of such soldiers and signers: *Provided*, That no such pension be granted except to those in indigent circumstances, proof of which shall be made before the county court of the county where the applicant resides, in such manner as may be provided by law.

SEC. 56. The legislature shall have no power to appropriate any of the public money for the establishment and maintenance of a bureau of immigration, or for any purpose of bringing immigrants to this State.

SEC. 57. Three million acres of the public domain are hereby appropriated and set apart for the purpose of erecting a new State capitol and other necessary public buildings at the seat of government, said lands to be sold under the direction of the legislature; and the legislature shall pass suitable laws to carry this section into effect.

Article XVII

Mode of amending the constitution of this state

Section 1. The legislature, at any biennial session, by a vote of two-thirds of all the members elected to each house, to be entered by yeas and nays on the journals, may propose amendments to the constitution, to be voted upon by the qualified electors for members of the legislature, which proposed amendments shall be duly published once a week for four weeks, commencing at least three months before an election, the time of which shall be specified by the legislature, in one weekly newspaper of each county in which such newspaper may be published; and it shall be the duty of the several returning-officers of said election to open a poll for, and make returns to, the secretary of state of the number of legal votes cast at said election for and against said amendments; and if more than one be proposed, then the number of votes cast for and against each of them; and if it shall appear from said return that a majority of the votes cast have been cast in favor of any amendment, the said amendment so receiving a majority of the votes cast shall become a part of this constitution, and proclamation shall be made by the governor thereof.

Done by the delegates of the people of Texas, in convention assembled, in the city of Austin, on this the twenty-fourth day of November, in the year of our Lord one thousand eight hundred and seventy-five.

In testimony whereof we hereunto subscribe our names.

Edward B. Pickett, *President.*

Leigh Chalmers, *Secretary.*

Amendments

(Secs. 1, 2, 3, 4, 5, 6, 7, 8, Art. 5, declared adopted September 22, 1891)

Section 1. The judicial power of this state shall be vested in one supreme court, in courts of civil appeals, in a court of criminal appeals, in district courts, in county courts, in commissioners' courts, in courts of justices of the peace, and in such other courts as may be provided by law. The criminal district court of Galveston and Harris counties shall continue with the district, jurisdiction, and organization now existing by law until otherwise provided by law. The legislature may establish such other courts as it may deem necessary, and prescribe the jurisdiction and organization thereof, and may conform the jurisdiction of the district and other inferior courts thereto.

Sec. 2. The supreme court shall consist of a chief justice and two associate justices, any two of whom shall constitute a quorum, and the concurrence of two judges shall be necessary to the decision of a case. No person shall be eligible to the office of chief justice or associate justice of the supreme court unless he be, at the time of his election, a citizen of the United States and of this state, and unless he shall have attained the age of thirty years, and shall have been a practicing lawyer or a judge of a court, or such lawyer and judge together, at least seven years. Said chief justice and associate jus-

tices shall be elected by the qualified voters of the state at a general election, shall hold their offices six years or until their successors are elected and qualified, and shall each receive an annual salary of four thousand dollars until otherwise provided by law. In case of a vacancy in the office of chief justice of the supreme court the governor shall fill the vacancy until the next general election for state officers, and at such general election the vacancy for the unexpired term shall be filled by election by the qualified voters of the state. The judges of the supreme court who may be in office at the time this amendment takes effect shall continue in office until the expiration of their term of office under the present constitution, and until their successors are elected and qualified.

SEC. 3. The supreme court shall have appellate jurisdiction only, except as herein specified, which shall be co-extensive with the limits of the state. Its appellate jurisdiction shall extend to questions of law arising in cases of which the courts of civil appeals have appellate jurisdiction, under such restrictions and regulations as the legislature may prescribe. Until otherwise provided by law the appellate jurisdiction of the supreme court shall extend to questions of law arising in the cases in the court of civil appeals in which the judges of any court of civil appeals may disagree, or where the several courts of civil appeals may hold differently on the same question of law, or where a statute of the state is held void. The supreme court and the justices thereof shall have power to issue writs of *habeas corpus* as may be prescribed by law, and under such regulations as may be prescribed by law the said courts and the justices thereof may issue the writs of *mandamus*, *procedendo*, *certiorari*, and such other writs as may be necessary to enforce its jurisdiction. The legislature may confer original jurisdiction on the supreme court to issue writs of *quo warranto* and *mandamus* in such cases as may be specified, except as against the governor of the state. The supreme court shall also have power, upon affidavit or otherwise as by the court may be determined, to ascertain such matters of fact as may be necessary to the proper exercise of its jurisdiction. The supreme court shall sit for the transaction of business from the first Monday in October of each year until the last Saturday of June in the next year, inclusive, at the capital of the state. The supreme court shall appoint a clerk, who shall give bond in such manner as is now or may hereafter be required by law, and he may hold his office for four years, and shall be subject to removal by said court for good cause, entered of record on the minutes of said court, who shall receive such compensation as the legislature may provide.

SEC. 4. The court of criminal appeals shall consist of three judges, any two of whom shall constitute a quorum, and the concurrence of two judges shall be necessary to a decision of said court; and the judges shall have the same qualifications and receive the same salaries of the judges of the supreme court. They shall be elected by the qualified voters of the state at a general election, and shall hold their offices for a term of six years. In case of a vacancy in the office of a judge of the court of criminal appeals the governor shall fill such vacancy by appointment for the unexpired term. The judges of the court of appeals who may be in office at the time this amendment takes effect shall continue in office until the expiration of their

term of office under the present constitution and laws as judges of the court of criminal appeals.

SEC. 5. The court of criminal appeals shall have appellate jurisdiction co-extensive with the limits of the state in all criminal cases of whatever grade, with such exceptions and under such regulations as may be prescribed by law. The court of criminal appeals and the judges thereof shall have the power to issue the writ of *habeas corpus*, and, under such regulations as may be prescribed by law, issue such writs as may be necessary to enforce its own jurisdiction. The court of criminal appeals shall have power, upon affidavit or otherwise, to ascertain such matters of fact as may be necessary for the exercise of its jurisdiction. The court of criminal appeals shall sit for the transaction of business from the first Monday in October to the last Saturday of June in each year, at the state capital and two other places (or the capital city) if the legislature shall hereafter so provide. The court of criminal appeals shall appoint a clerk for each place at which it may sit, and each clerk shall give bond in such manner as is now or may hereafter be required by law, and who shall hold his office for four years unless sooner removed by the court for good cause, entered of record on the minutes of said court.

SEC. 6. The legislature shall, as soon as practicable after the adoption of this amendment, divide the state into not less than two nor more than three supreme judicial districts, and thereafter into such additional districts as the increase of population and business may require, and shall establish a court of civil appeals in each of said districts, which shall consist of a chief justice and two associate justices, who shall have the qualifications as herein prescribed for justices of the supreme court. Said court of civil appeals shall have appellate jurisdiction co-extensive with the limits of their respective districts, which shall extend to all civil cases of which the district courts or county courts have original or appellate jurisdiction, under such restrictions and regulations as may be prescribed by law; *provided*, that the decision of said courts shall be conclusive on all questions of fact brought before them on appeal or error. Each of said courts of civil appeals shall hold its sessions at a place in its district to be designated by the legislature, and at such time as may be prescribed by law. Said justices shall be elected by the qualified voters of their respective districts at a general election, for a term of six years, and shall receive for their services the sum of three thousand five hundred dollars per annum until otherwise provided by law. Said courts shall have such other jurisdiction, original and appellate, as may be prescribed by law. Each court of civil appeals shall appoint a clerk, in the same manner as the clerk of the supreme court, which clerk shall receive such compensation as may be fixed by law. Until the organization of the courts of civil appeals and criminal appeals, as herein provided for, the jurisdiction, power, and organization and location of the supreme court, the court of appeals, and the commission of appeals shall continue as they were before the adoption of this amendment. All civil cases which may be pending in the court of appeals shall, as soon as practicable after the organization of the courts of civil appeals, be certified to and the records thereof transmitted to the proper courts of civil appeals, to be decided by said courts. At the first session of the supreme court,

the court of criminal appeals, and such of the courts of civil appeals which may be hereafter created under this article after the first election of the judges of such courts under this amendment, the terms of office of the judges of each court shall be divided into three classes, and the justices thereof shall draw for the different classes. Those who shall draw class No. 1 shall hold their offices two years, those drawing class No. 2 shall hold their offices for four years, and those who may draw class No. 3 shall hold their offices for six years from the date of their election and until their successors are elected and qualified; and thereafter each of the said judges shall hold his office for six years, as provided in this constitution.

Sec. 7. The state shall be divided into as many judicial districts as may now or hereafter be provided by law, which may be increased or diminished by law. For each district there shall be elected by the qualified voters thereof, at a general election, a judge, who shall be a citizen of the United States and of this state, who shall have been a practicing lawyer of this state or a judge of a court in this state for four years next preceding his election; who shall have resided in the district in which he was elected for two years next preceding his election; who shall reside in his district during his term of office; who shall hold his office for the period of four years, and shall receive for his services an annual salary of two thousand five hundred dollars, until otherwise changed by law. He shall hold the regular terms of his court at the county seat of each county in his district at least twice in each year, in such manner as may be prescribed by law. The legislature shall have power by general or special laws to authorize the holding of special terms of the court, or the holding of more than two terms in any county for the dispatch of business. The legislature shall also provide for the holding of district court when the judge thereof is absent, or is from any cause disabled or disqualified from presiding. The district judges who may be in office when this amendment takes effect shall hold their offices until their respective terms shall expire under their present election or appointment.

Sec. 8. The district court shall have original jurisdiction in all criminal cases of the grade of felony; in all suits in behalf of the state to recover penalties, forfeitures, and escheats; of all cases of divorce; of all misdemeanors involving official misconduct; of all suits to recover damages for slander or defamation of character; of all suits for trial of title to land and for the enforcement of liens thereon; of all suits for the trial of the right of property levied upon by virtue of any writ of execution, sequestration, or attachment when the property levied on shall be equal to or exceed in value five hundred dollars; of all suits, complaints, or pleas whatever, without regard to any distinction between law and equity, when the matter in controversy shall be valued at or amount to five hundred dollars exclusive of interest; of contested elections; and said court and the judges thereof shall have power to issue writs of *habeas corpus*, *mandamus*, injunction, and *certiorari*, and all writs necessary to enforce their jurisdiction. The district court shall have appellate jurisdiction and general control in probate matters over the county court established in each county, for appointing guardians, granting letters testamentary and of administration, probating wills, for settling the accounts of executors, administrators, and guardians, and for the transaction of all business appertaining to estates; and original juris-

diction and general control over executors, administrators, guardians, and minors, under such regulations as may be prescribed by law. The district court shall have appellate jurisdiction and general supervisory control over the county commissioners' court, with such exceptions and under such regulations as may be prescribed by law; and shall have general original jurisdiction over all causes of action whatever for which a remedy or jurisdiction is not provided by law or this constitution, and such other jurisdiction, original and appellate, as may be provided by law.

(Secs. 11 and 12, Art. 5, declared adopted September 22, 1891)

SEC. 11. No judge shall sit in any case wherein he may be interested, or when either of the parties may be connected with him either by affinity or consanguinity, within such a degree as may be prescribed by law, or when he shall have been counsel in the case. When the supreme court, the court of criminal appeals, the court of civil appeals, or any member of either, shall be thus disqualified to hear and determine any case or cases in said court, the same shall be certified to the governor of the state, who shall immediately commission the requisite number of persons learned in the law, for the trial and determination of such cause or causes. When a judge of the district court is disqualified by any of the causes above stated, the parties may, by consent, appoint a proper person to try said case; or, upon their failing to do so, a competent person may be appointed to try the same in the county where it is pending, in such manner as may be prescribed by law. And the district judges may exchange districts, or hold courts for each other when they may deem it expedient, and shall do so when required by law. This disqualification of judges of inferior tribunals shall be remedied, and vacancies in their offices filled, as may be prescribed by law.

SEC. 12. All judges of courts of this state (shall), by virtue of their office, be conservators of the peace throughout the state. The style of all writs and process shall be, "The State of Texas." All prosecutions shall be carried on in the name and by authority of the State of Texas, and shall conclude "against the peace and dignity of the state."

(Sec. 16, Art. 5, declared adopted September 22, 1891)

SEC. 16. The county court shall have original jurisdiction of all misdemeanors of which exclusive original jurisdiction is not given to the justice's court as the same is now or may hereafter be prescribed by law, and when the fine to be imposed shall exceed $200; and they shall have exclusive jurisdiction in all civil cases when the matter in controversy shall exceed in value $200 and not exceed $500, exclusive of interest; and concurrent jurisdiction with the district court when the matter in controversy shall exceed $500 and not exceed $1000, exclusive of interest, but shall not have jurisdiction of suits for the recovery of land. They shall have appellate jurisdiction in cases civil and criminal of which justices' courts have original jurisdiction, but of such civil cases only when the judgment of the court appealed from shall exceed $20, exclusive of cost, under such regulations may be prescribed by law. In all appeals from justice's court there shall be a trial *de novo* in the county court, and appeals may be prosecuted from the final judgment rendered in such cases by the county court,

as well as all cases civil and criminal of which the county court has exclusive or concurrent or original jurisdiction of civil appeals in civil cases to the court of civil appeals and in such criminal cases to the court of criminal appeals, with such exceptions and under such regulations as may be prescribed by law. The county court shall have the general jurisdiction of a probate court; they shall probate wills, appoint guardians of minors, idiots, lunatics, persons *non compos mentis*, and common drunkards; grant letters testamentary and of administration; settle accounts of executors; transact all business appertaining to deceased persons, minors, idiots, lunatics, persons *non compos mentis*, and common drunkards, including the settlement, partition, and distribution of estates of deceased persons; and to apprentice minors, as provided by law; and the county court or judge thereof shall have power to issue writs of injunction, *mandamus*, and all writs necessary to the enforcement of the jurisdiction of said court, and to issue writs of *habeas corpus* in cases where the offense charged is within the jurisdiction of the county court or any other court or tribunal inferior to said court. The county court shall not have criminal jurisdiction in any county where there is a criminal district court unless expressly conferred by law; and in such counties appeals from justices' courts and other inferior courts and tribunals in criminal cases shall be to the criminal district court, under such regulations as may be prescribed by law, and in all such cases an appeal shall lie from such district court to the court of criminal appeals. When the judge of the county court is disqualified in any case pending in the county court the parties interested may by consent appoint a proper person to try said case, or upon their failing to do so, a competent person may be appointed to try the same in the county where it is pending, in such manner as may be prescribed by law.

(Sec. 25, Art. 5, declared adopted September 22, 1891)

Sec. 25. The supreme court shall have power to make and establish rules of procedure, not inconsistent with the laws of the state, for the government of said court and the other courts of this state, to expedite the dispatch of business therein.

(Sec. 28, Art. 5, declared adopted September 22, 1891)

Sec. 28. Vacancies in the office of judges of the supreme court, the court of criminal appeals, the court of civil appeals, and district courts, shall be filled by the governor until the next succeeding general election, and vacancies in the office of county judge and justices of the peace shall be filled by the commissioners' court until the next general election for such offices.

(Sec. 29, Art. 5, declared adopted September 25, 1883)

Sec. 29. The county court shall hold at least four terms for both civil and criminal business annually, as may be provided by the legislature, or by the commissioners' court of the county under authority of law, and such other terms each year as may be fixed by the commissioners' court; *provided*, the commissioners' court of any county having fixed the times and number of terms of the county court, shall not change the same again until the expiration of one year. Said court shall dispose of probate business either in term time

or vacation, under such regulation as may be prescribed by law. Prosecutions may be commenced in said courts in such manner as is or may be provided by law, and a jury therein shall consist of six men. Until otherwise provided, the terms of the county court shall be held on the first Mondays in February, May, August and November, and may remain in session three weeks.

(Secs. 4 and 5, Art. 6, declared adopted September 22, 1891)

SEC. 4. In all elections by the people the vote shall be by ballot, and the legislature shall provide for the numbering of tickets and make such other regulations as may be necessary to detect and punish fraud and preserve the purity of the ballot-box; and the legislature may provide by law for the registration of all voters in all cities containing a population of ten thousand inhabitants or more.

SEC. 5. Voters shall, in all cases, except treason, felony or breach of the peace, be privileged from arrest during their attendance at elections, and in going to and returning therefrom.

(Sec. 3, Art. 7, declared adopted September 25, 1883)

SEC. 3. One-fourth of the revenue derived from the state occupation taxes, and a poll tax of one dollar on every male inhabitant of this state between the ages of twenty-one and sixty years, shall be set apart annually for the benefit of the public free schools, and, in addition thereto, there shall be levied and collected an annual *ad valorem* state tax of such an amount, not to exceed twenty cents on the one hundred dollars valuation, as, with the available school fund arising from all other sources, will be sufficient to maintain and support the public free schools of this state for a period of not less than six months in each year; and the legislature may also provide for the formation of school districts within all or any of the counties of this state, by general or special law, without the local notice required in other cases of special legislation, and may authorize an additional annual *ad valorem* tax to be levied and collected within such school districts for the further maintenance of public free schools and the erection of school buildings therein; *provided*, that two-thirds of the qualified property tax-paying voters of the district, voting at an election to be held for that purpose, shall vote such tax, not to exceed in any one year twenty cents on the one hundred dollars valuation of the property subject to taxation in such district, but the limitation upon the amount of district tax herein authorized shall not apply to incorporated cities or towns constituting separate and independent school districts.

(Sec. 4, Art. 7, declared adopted September 25, 1883)

SEC. 4. The lands herein set apart to the public free school fund shall be sold under such regulations, at such times, and on such terms as may be prescribed by law; and the legislature shall not have power to grant any relief to purchasers thereof. The comptroller shall invest the proceeds of such sales, and of those heretofore made, as may be directed by the board of education herein provided for, in the bonds of the United States, the State of Texas, or counties in said state, or in such other securities, and under such restrictions as may be prescribed by law; and the state shall be responsible for all investments.

(Sec. 5, Art. 7, declared adopted September 22, 1891)

SEC. 5. The principal of all bonds and other funds, and the principal arising from the sale of the lands hereinbefore set apart to said school fund, shall be the permanent school fund; and all the interest derivable therefrom and the taxes herein authorized and levied shall be the available school fund, to which the legislature may add not exceeding one per cent annually of the total value of the permanent school fund; such value to be ascertained by the board of education until otherwise provided by law; and the available school fund shall be applied annually to the support of the public free schools. And no law shall ever be enacted appropriating any part of the permanent available school fund to any other purposes whatever; nor shall the same or any part thereof ever be appropriated to or used for the support of any sectarian school; and the available school fund herein provided shall be distributed to the several counties according to their scholastic population and applied in such manner as may be provided by law.

(Sec. 6, Art. 7, declared adopted September 25, 1883)

SEC. 6. All lands heretofore or hereafter granted to the several counties of this state for educational purposes, are of right the property of said counties respectively to which they were granted, and title thereto is vested in said counties, and no adverse possession or limitation shall ever be available against the title of any county. Each county may sell or dispose of its lands in whole or in part, in manner to be provided by the commissioners' court of the county. Actual settlers residing on said lands shall be protected in the prior right of purchasing the same to the extent of their settlement, not to exceed one hundred and sixty acres, at the price fixed by said court, which price shall not include the value of existing improvements made thereon by such settlers. Said lands, and the proceeds thereof, when sold, shall be held by said counties alone as a trust for the benefit of public schools therein; said proceeds to be invested in bonds of the United States, the State of Texas, or counties in said state, or in such other securities, and under such restrictions as may be prescribed by law; and the counties shall be responsible for all investments; the interest thereon, and other revenue, except the principal, shall be available fund.

SEC. 9. The state tax on property, exclusive of the tax necessary to pay the public debt, shall never exceed fifty cents on the one hundred dollars valuation; and no county, city or town shall levy more than one-half of said state tax, except for the payment of debts already incurred, and for the erection of public buildings, not to exceed fifty cents on the one hundred dollars in any one year, and except as in this constitution is otherwise provided. [Const. 1876.]

SEC. 9. The state tax on property, exclusive of the tax necessary to pay the public debt, and of the taxes provided for the benefit of public free schools, shall never exceed thirty-five cents on the one hundred dollars valuation; and no county, city or town shall levy more than twenty-five cents for city or county purposes, and not to exceed fifteen cents for roads and bridges, on the one hundred dollars valuation, except for the payment of debts incurred prior to the adoption of this amendment, and for the erection of public buildings, street, sewer and other permanent improvements, not to exceed twenty-five cens on the one hundred dollars valuation in any one year, and except as is in this constitution otherwise provided. [Amendment 1883.]

(Sec. 9, Art. 8, declared adopted December 19, 1890)

SEC. 9. The state tax on property, exclusive of the tax necessary to pay the public debt and of the taxes provided for the benefit of public free schools, shall never exceed thirty-five cents on the one hundred dollars valuation; and no county, city, or town shall levy more than twenty-five cents for city or county purposes, and not exceed fifteen cents for roads and bridges on the one hundred dollars valuation, except for the payment of debts incurred prior to the adoption of the amendment, September 25, A. D. 1883; and for the erection of public buildings, streets, sewers, water works, and other permanent improvements, not to exceed twenty-five cents on the one hundred dollars valuation in any one year, and except as is in this constitution otherwise provided; and the legislature may also authorize an additional annual ad valorem tax to be levied and collected for the further maintenance of the public roads; *provided*, that a majority of the qualified property tax paying voters of the county, voting at an election to be held for that purpose, shall vote such tax, not to exceed fifteen cents on the one hundred dollars valuation of the property subject to taxation in such county. And the legislature may pass local laws for the maintenance of public roads and highways without the local notice required for special or local laws.

(Sec. 19, Art. 8, declared adopted Oct. 14, 1879)

SEC. 19. Farm products in the hands of the producer and family supplies for home and farm use, are exempt from all taxation until otherwise directed by a two-thirds vote of all the members elect to both houses of the legislature.

(Sec. 2, Art. 10, declared adopted December 19, 1890)

SEC. 2. Railroads heretofore constructed or which may hereafter be constructed in this state are hereby declared public highways and railroad companies common carriers. The legislature shall pass laws to regulate railroad freight and passenger tariffs, to correct abuses, and prevent unjust discrimination and extortion in the rates of freight and passenger tariffs on the different railroads in this state, and enforce the same by adequate penalties; and to the further accomplishments of these objects and purposes may provide and establish all requisite means and agencies invested with such powers as may be deemed adequate and advisable.

(Sec. 11, Art. 16, declared adopted September 22, 1891)

SEC. 11. All contracts for a greater rate of interest than ten per centum per annum shall be deemed usurious, and the first legislature after this amendment is adopted shall provide appropriate pains and penalties to prevent the same; but when no rate of interest is agreed upon, the rate shall not exceed six per centum per annum.

(Sec. 20, Art. 16, declared adopted September 22, 1891)

SEC. 20. The legislature shall at its first session enact a law whereby the qualified voters of any county, justice's precinct, town, city (or such subdivision of a county as may be designated by the commissioner's court of said county) may by a majority vote determine from time to time whether the sale of intoxicating liquors shall be prohibited within the prescribed limits.

(Sec. 2, Art. 6, December 18, 1896)

Sec. 2. Every male person subject to none of the foregoing disqualifications, who shall have attained the age of twenty-one years, and who shall be a citizen of the United States, and who shall have resided in this state one year next preceding an election, and the last six months within the district or county in which he offers to vote, and shall be deemed a qualified elector. And every male person of foreign birth subject to none of the foregoing qualifications, who, not less than six months before any election at which he offers to vote, shall have declared his intention to become a citizen of the United States, in accordance with the Federal naturalization laws, and shall have resided in this state one year next preceding such election, and the last six months in the county in which he offers to vote, shall be deemed a qualified elector; and all electors shall vote in the election precinct of their residence. Provided that all electors living in any unorganized county may vote at any election precinct, in the county, to which county is attached for judicial purposes.

(Sec. 30, Art. 16, December 22, 1894)*

Sec. 30. The duration of all offices not fixed by the constitution shall never exceed two years; provided, that when a railroad commission is created by law it shall be composed of three commissioners, who shall be elected by the people at a general election for state officers, and their terms of office shall be six years; provided, railroad commissioners first elected after this amendment goes into effect shall hold office as follows: One shall serve two years, one four years and one six years, their terms to be decided by lot immediately after they shall have qualified. And one railroad commissioner shall be elected every two years thereafter. In case of vacancy in said office, the governor of the state shall fill said vacancy by appointment until the next general election.

(Sec. 51, Art. 3, 1904)

Sec. 51. The Legislature shall have no power to make any grant or authorize the making of any grant of public money to any individual associations or individuals, municipal or other corporations whatever; *provided*, however, the Legislature may grant aid to indigent and disabled Confederate soldiers and sailors, who came to Texas prior to January 1, 1880, and who are either over sixty years of age or whose disability is the proximate result of actual service in the Confederate army for a period of at least three months, their widows in indigent circumstances, who have never remarried and who have been bona fide residents of the State of Texas since March 1, 1880, and who were married to such soldiers or sailors anterior to March 1, 1880; *provided*, such aid shall not exceed eight dollars per month and *provided further*, that no appropriation shall ever be made for the purpose hereinbefore specified in excess of five hundred thousand dollars for any one year. And also grant aid to the establishment and maintenance of a home for said soldiers and sailors, under such regulations and limitations as may be provided by law:

* Constitution of the State of Texas. Annotated by D. B. Axtell, Austin, Texas: 1891. 409 pp.

provided, the grant to aid such home shall not exceed one hundred thousand dollars for any one year, and no inmate of said home shall be entitled to any other aid from the State, and *provided further*, that the provisions of this section shall not be construed to prevent the grant of aid in case of public calamity.

(Sec. 52, Art. 3, 1904)

SEC. 52. The Legislature shall have no power to authorize any county, city, town or other political corporation or subdivision of the State to lend its credit or grant public money or thing of value in aid of, or to any individual, association or corporation whatsoever, or to become a stockholder in such corporation, association or company; provided, however, that under legislative provision any county, any political subdivision of a county, any number of adjoining counties, or any political subdivision of the State, or any defined district now or hereafter to be described and defined within the State of Texas, and which may or may not include towns, villages or municipal corporations, upon a vote of a two-thirds majority of the resident property taxpayers voting thereon who are qualified electors of such district or territory to be effaced thereby, in addition to all other debts, may issue bonds or otherwise lend its credit in any amount not to exceed one-fourth of the assessed valuation of the real property of such district or territory, except that the total bonded indebtedness of any city or town shall never exceed the limits imposed by other provisions of this Constitution, and levy and collect such taxes to pay the interest thereon and provide a sinking fund for the redemption thereof, as the Legislature may authorize, and in such manner as it may authorize the same, for the following purposes towit:

(*a*) The improvement of rivers, creeks and streams to prevent overflows, and to permit of navigation thereof or irrigation therefrom, or in aid or such purposes.

(*b*) The construction and maintenance of pools, lakes, reservoirs, dams, canals and waterways for the purposes of irrigation, drainage or navigation, or in aid thereof.

(*c*) The construction, maintenance and operation of macadamized, graveled or paved roads and turnpikes, or in aid thereof.

(Sec. 2, Art. 8, 1906)

SEC. 2. All occupation taxes shall be equal and uniform upon the same class of subjects within the limits of the authority levying the tax; but the Legislature may, by general laws, exempt from taxation public property used for public purposes; actual places of religious worship; places of burial not held for private or corporate profit; all buildings used exclusively and owned by persons or associations of persons for school purposes and the necessary furniture of all schools, also the endowment funds of such institutions of learning and religion not used with a view to profit and when the same are invested in bonds or mortgages, or in land or other property which has been and shall hereafter be brought in by such institutions under foreclosure sales made to satisfy or protect such bonds or mortgages; that such exemption of such land and property shall continue for two years after the purchase of the same at such sale by such institutions and no

longer, and institutions of purely public charity; and all laws exempting property from taxation other than the property above mentioned shall be null and void.

(Sec. 9, Art. 8, 1906)

Sec. 9. The State tax on property, exclusive of the tax necessary to pay the public debt, and of the taxes provided for the benefit of the public free schools, shall never exceed thirty-five cents on the one hundred dollars valuation; and no county, city or town shall levy more than twenty-five cents for city or county purposes, and not exceeding fifteen cents for road and bridges, and not exceeding fifteen cents to pay jurors, on the one hundred dollars valuation, except for the payment of debts incurred prior to the adoption of the amendment September 25th, 1883, and for the erection of public buildings, streets, sewers, water works and other permanent improvements, not to exceed twenty-five cents on the one hundred dollars valuation, in any one year, and except as is in this Constitution otherwise provided; and the Legislature may also authorize an additional annual ad valorem tax to be levied and collected for the further maintenance of the public roads; provided, that a majority of the qualified property tax-paying voters of the county voting at an election to be held for that purpose shall vote such tax, not to exceed fifteen cents on the one hundred dollars valuation of the property subject to taxation in such county. And the Legislature may pass local laws for the maintenance of the public roads and highways, without the local notice required for special or local laws.

(Sec. 16, Art. 16, 1904)

Sec. 16. The Legislature shall by general laws, authorize the incorporation of corporate bodies with banking and discounting privileges, and shall provide for a system of State supervision, regulation and control of such bodies which will adequately protect and secure the depositors and creditors thereof.

Each shareholder of such corporate body incorporated in this State, so long as he owns shares therein, and for twelve months after the date of any bona fide transfer thereof shall be personally liable for all debts of such corporate body existing at the date of such transfer, to an amount additional to the par value of such shares so owned or transferred, equal to the par value of such shares so owned or transferred.

No such corporate body shall be chartered until all of the authorized capital stock has been subscribed and paid for in full in cash. Such body corporate shall not be authorized to engage in business at more than one place, which shall be designated in its charter.

No foreign corporation, other than the National banks of the United States, shall be permitted to exercise banking or discounting privileges in this State.

TUTUILA (SAMOA)

GENERAL ACT FOR THE SAMOAN ISLANDS—1889

General act by and between the United States of America, the Empire of Germany, and the United Kingdom of Great Britain and Ireland, providing for the neutrality and autonomous government of the Samoan Islands. Concluded at Berlin June 14, 1889; ratification advised by the Senate February 4, 1890; ratified by the President February 21, 1890; ratifications exchanged at Berlin April 12, 1890; assented to by Samoa April 19, 1890; proclaimed May 21, 1890.

The President of the United States of America, His Majesty the Emperor of Germany, King of Prussia, Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India,

Wishing to provide for the security of the life, property and trade of the citizens and subjects of their respective Governments residing in, or having commercial relations with the Islands of Samoa; and desirous at the same time to avoid all occasions of dissention between their respective Governments and the Government and people of Samoa, while promoting as far as possible the peaceful and orderly civilization of the people of these Islands have resolved, in accordance with the invitation of the Imperial Government of Germany, to resume in Berlin the Conference of Their Plenipotentiaries which was begun in Washington on June 25, 1887; and have named for Their present Plenipotentiaries the following:

The President of the United States of America:

Mr. John A. Kasson,

Mr. William Walter Phelps,

Mr. George H. Bates;

His Majesty the Emperor of Germany, King of Prussia:

Count Bismarck, Minister of State, Secretary of State for Foreign Affairs,

Baron von Holstein, Actual Privy Councillor of Legation,

Dr. Krauel, Privy Councillor of Legation;

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India:

Sir Edward Baldwin Malet, Her Majesty's Ambassador to the Emperor of Germany, King of Prussia,

Charles Stewart Scott, Esquire, Her Majesty's Envoy Extraordinary and Minister Plenipotentiary to the Swiss Confederation,

Joseph Archer Crowe, Esquire, Her Majesty's Commercial Attaché for Europe,

who, furnished with full powers which have been found in good and due form, have successively considered and adopted:

First; A Declaration respecting the independence and neutrality of the Islands of Samoa, and assuring to their respective citizens and subjects equality of rights in said Islands, and providing for the immediate restoration of peace and order therein.

Second; A Declaration respecting the modification of existing treaties, and the assent of the Samoan Government to this Act.

Third; A Declaration respecting the establishment of a Supreme Court of Justice for Samoa, and defining its jurisdiction.

Fourth; A Declaration respecting titles to land in Samoa, restraining the disposition thereof by natives, and providing for the investigation of claims thereto and for the registration of valid titles.

Fifth; A Declaration respecting the Municipal District of Apia, providing a local administration therefor and defining the jurisdiction of the Municipal Magistrate.

Sixth; A Declaration respecting taxation and revenue in Samoa.

Seventh; A Declaration respecting arms and ammunition, and intoxicating liquors, restraining their sale and use.

Eighth; General Dispositions.

Article I

A DECLARATION RESPECTING THE INDEPENDENCE AND NEUTRALITY OF THE ISLANDS OF SAMOA, AND ASSURING TO THE RESPECTIVE CITIZENS AND SUBJECTS OF THE SIGNATORY POWERS EQUALITY OF RIGHTS IN SAID ISLANDS; AND PROVIDING FOR THE IMMEDIATE RESTORATION OF PEACE AND ORDER THEREIN

It is declared that the Islands of Samoa are neutral territory in which the citizens and subjects of the Three Signatory-Powers have equal rights of residence, trade and personal protection. The Three Powers recognize the independence of the Samoan Government and the free right of the natives to elect their Chief or King and choose their form of Government according to their own laws and customs. Neither of the Powers shall exercise any separate control over the Islands or the Government thereof.

It is further declared, with a view to the prompt restoration of peace and good order in the said Islands, and in view of the difficulties which would surround an election in the present disordered condition of their Government, that Malietoa Laupepa, who was formerly made and appointed King on the 12th day of July 1881, and was so recognized by the Three Powers, shall again be so recognized hereafter in the exercise of such authority, unless the Three Powers shall by common accord otherwise declare; and his successor shall be duly elected according to the laws and customs of Samoa.

Article II

A DECLARATION RESPECTING THE MODIFICATION OF EXISTING TREATIES, AND THE ASSENT OF THE SAMOAN GOVERNMENT TO THIS ACT

Considering that the following provisions of this General Act can not be fully effective without a modification of certain provisions of the treaties heretofore existing between the Three Powers, respec-

tively, and the Government of Samoa, it is mutually declared that in every case where the provisions of this Act shall be inconsistent with any provision of such treaty or treaties, the provisions of this Act shall prevail.

Considering further, that the consent of the Samoan Government is requisite to the validity of the stipulations hereinafter contained, the Three Powers mutually agree to request the assent of the Samoan Government to the same, which, when given, shall be certified in writing to each of the Three Governments through the medium of their respective Consuls in Samoa.

Article III

A declaration respecting the establishment of a supreme court of justice for Samoa and defining its jurisdiction

Section 1. A Supreme Court shall be established in Samoa to consist of one Judge, who shall be styled Chief Justice of Samoa, and who shall appoint a Clerk and a Marshal of the Court; and record shall be kept of all orders and decisions made by the Court, or by the Chief Justice in the discharge of any duties imposed on him under this Act. The Clerk and Marshal shall be allowed reasonable fees to be regulated by order of the Court.

Section 2. With a view to secure judicial independence and the equal consideration of the right of all parties, irrespective of nationality, it is agreed that the Chief Justice shall be named by the Three Signatory Powers in common accord; or, failing their agreement, he may be named by the King of Sweden and Norway. He shall be learned in law and equity, of mature years, and of good repute for his sense of honour, impartiality and justice.

His decision upon questions within his jurisdiction shall be final. He shall be appointed by the Samoan Government upon the certificate of his nomination as herein provided. He shall receive an annual salary of six thousand dollars ($6,000.00) in gold, or its equivalent, to be paid the first year in equal proportions by the Three Treaty Powers, and afterward out of the revenues of Samoa apportioned to the use of the Samoan Government, upon which his compensation shall be the first charge. Any deficiency therein shall be made good by the Three Powers in equal shares.

The powers of the Chief Justice, in case of a vacancy of that office from any cause, shall be exercised by the President of the Municipal Council, until a successor shall be duly appointed and qualified.

Section 3. In case either of the four Governments shall at any time have cause of complaint against the Chief Justice for any misconduct in office, such complaint shall be presented to the authority which nominated him, and, if in the judgment of such authority there is sufficient cause for his removal, he shall be removed. If the majority of the Three Treaty Powers so request, he shall be removed. In either case of removal, or in case the office shall become otherwise vacant, his successor shall be appointed as hereinbefore provided.

Section 4. The Supreme Court shall have jurisdiction of all questions arising under the provisions of this General Act; and the decision or order of the Court thereon shall be conclusive upon all

residents of Samoa. The court shall also have appellate jurisdiction over all Municipal Magistrates and officers.

Section 5. The Chief Justice is authorized at his own discretion, and required upon written request of either party litigant, to appoint assessors, one of the nationality of each litigant, to assist the Court, but without voice in the decision.

Section 6. In case any question shall hereafter arise in Samoa respecting the rightful election or appointment of King or of any other Chief claiming authority over the Islands; or respecting the validity of the powers which the King or any Chief may claim in the exercise of his office, such question shall not lead to war but shall be presented for decision to the Chief Justice of Samoa, who shall decide it in writing, conformably to the provisions of this Act and to the laws and customs of Samoa not in conflict therewith; and the Signatory Governments will accept and abide by such decision.

Section 7. In case any difference shall arise between either of the Treaty Powers and Samoa which they shall fail to adjust by mutual accord, such difference shall not be held cause for war, but shall be referred for adjustment on the principles of justice and equity to the Chief Justice of Samoa, who shall make his decision thereon in writing.

Section 8. The Chief Justice may recommend to the Government of Samoa the passage of any law which he shall consider just and expedient for the prevention and punishment of crime and for the promotion of good order in Samoa outside the Municipal District and for the collection of taxes without the District.

Section 9. Upon the organization of the Supreme Court there shall be transferred to its exclusive jurisdiction

1. All civil suits concerning real property situated in Samoa and all rights affecting the same.

2. All civil suits of any kind between natives and foreigners or between foreigners of different nationalities.

3. All crimes and offences committed by natives against foreigners or committed by such foreigners as are not subject to any consular jurisdiction; subject however to the provisions of section 4 Article V defining the jurisdiction of the Municipal Magistrate of the District of Apia.

Section 10. The practice and procedure of Common Law, Equity and Admiralty, as administered in the courts of England, may be—so far as applicable—the practice and procedure of this Court; but the Court may modify such practice and procedure from time to time as shall be required by local circumstances. The Court shall have authority to impose, according to the crime, the punishment established therefor by the laws of the United States, of England, or of Germany, as the Chief Justice shall decide most appropriate; or, in the case of Native Samoans and other Natives of the South Sea Islands, according to the laws and customs of Samoa.

Section 11. Nothing in this article shall be so construed as to affect existing consular jurisdiction over all questions arising between masters and seamen of their respective national vessels; nor shall the Court take any ex post facto or retroactive jurisdiction over crimes or offences committed prior to the organization of the Court.

Article IV

A DECLARATION RESPECTING TITLES TO LAND IN SAMOA AND RESTRAINING THE DISPOSITION THEREOF BY NATIVES; AND PROVIDING FOR THE INVESTIGATION OF CLAIMS THERETO, AND FOR THE REGISTRATION OF VALID TITLES

Section 1. In order that the native Samoans may keep their lands for cultivation by themselves and by their children after them, it is declared that all future alienation of lands in the Islands of Samoa to the citizens or subjects of any foreign country, whether by sale, mortgage or otherwise shall be prohibited, subject to the following exceptions:

(*a*) Town lots and lands within the limits of the Municipal District as defined in this Act may be sold or leased by the owner for a just consideration when approved in writing by the Chief Justice of Samoa;

(*b*) Agriculture lands in the Islands may be leased for a just consideration and with carefully defined boundaries for a term not exceeding forty (40) years when such lease is approved in writing by the Chief Executive Authority of Samoa and by the Chief Justice.

But care shall be taken that the agricultural lands and natural fruit lands of Samoans shall not be unduly diminished.

Section 2. In order to adjust and settle all claims by aliens of titles to land or any interest therein in the Islands of Samoa, it is declared that a Commission shall be appointed to consist of three (3) impartial and competent persons, one to be named by each of the Three Treaty Powers; to be assisted by an officer to be styled "Natives' Advocates," who shall be appointed by the Chief-Executive of Samoa with the approval of the Chief Justice of Samoa.

Each Commissioner shall receive during his necessary term of service, a compensation at the rate of three hundred dollars per month and his reasonable fare to and from Samoa. The reasonable and necessary expenses of the Commission for taking evidence and making surveys (such expenses to be approved by the Chief Justice) shall also be paid, one third by each of the Treaty Powers.

The compensation of the Natives' Advocate shall be fixed and paid by the Samoan Government.

Each Commissioner shall be governed by the provisions of this Act; and shall make and subscribe an oath before the Chief Justice that he will faithfully and impartially perform his duty as such Commissioner.

Section 3. It shall be the duty of this Commission, immediately upon their organization, to give public notice that all claims on the part of any foreigner to any title or interest in lands in Samoa must be presented to them, with due description of such claim and all written evidence thereof, within four months from such notice for the purpose of examination and registration: and that all claims not so presented will be held invalid and forever barred; but the Chief Justice may allow a reasonable extension of time for the production of such evidence when satisfied that the claimant has after due diligence been unable to produce the same within the period aforesaid. This notice shall be published in Samoa in the German, English and Samoan Languages as directed by the Commission.

The labours of the Commission shall be closed in two years, and sooner if practicable.

SECTION 4. It shall be the duty of the Commission to investigate all claims of foreigners to land in Samoa, whether acquired from natives or from aliens, and to report to the Court in every case the character and description of the claim, the consideration paid, the kind of title alleged to be conveyed, and all the circumstances affecting its validity.

They shall especially report

(*a*) Whether the sale or disposition was made by the rightful owner or native entitled to make it.

(*b*) Whether it was for a sufficient consideration.

(*c*) The identification of the property affected by such sale or disposition.

SECTION 5. The Commission whenever the case requires it shall endeavour to effect a just and equitable compromise between litigants. They shall also report to the Court whether the alleged title should be recognized and registered or rejected, in whole or in part, as the case may require.

SECTION 6. All disputed claims to land in Samoa shall be reported by the Commission to the Court, together with all the evidence affecting their validity; and the Court shall make final decision thereon in writing, which shall be entered on its record.

Undisputed claims and such as shall be decided valid by the unanimous voice of the Commission shall be confirmed by the Court in proper form in writing, and be entered of record.

SECTION 7. The Court shall make provision for a complete registry of all valid titles to land in the Islands of Samoa which are or may be owned by foreigners.

SECTION 8. All lands acquired before the 28th day of August 1879—being the date of the Anglo-Samoan Treaty—shall be held as validly acquired, but without prejudice to rights of third parties, if purchased from Samoans in good faith, for a valuable consideration, in a regular and customary manner. Any dispute as to the fact or regularity of such sale shall be examined and determined by the Commission, subject to the revision and confirmation of the Court.

SECTION 9. The undisputed possession and continuous cultivation of lands by aliens for ten years or more, shall constitute a valid title by prescription to the lands so cultivated, and an order for the registration of the title thereto may be made.

SECTION 10. In cases where land acquired in good faith has been improved or cultivated upon a title which is found to be defective, the title may be confirmed in whole or in part upon the payment by the occupant to the person or persons entitled thereto of an additional sum to be ascertained by the Commission and approved by the Court as equitable and just.

SECTION 11. All claims to land, or to any interest therein, shall be rejected and held invalid in the following cases:

(*a*) Claims based upon mere promises to sell, or options to buy.

(*b*) Where the deed, mortgage or other conveyance contained at the time it was signed no description of the land conveyed sufficiently accurate to enable the Commission to define the boundaries thereof.

(*c*) Where no consideration is expressed in the conveyance, or if

expressed has not been paid in full to the grantor, or if the consideration at the time of the conveyance was manifestly inadequate and unreasonable.

(*d*) Where the conveyance whether sale, mortgage or lease was made upon the consideration of a sale of fire arms or munitions of war, or upon the consideration of intoxicating liquors, contrary to the Samoan law of October 25, 1880, or contrary to the Municipal Regulations of January 1, 1880.

SECTION 12. The Land Commission may at its discretion through the Local Government of the District in which the disputed land is situated appoint a native Commission to determine the native grantor's right of ownership and sale; and the result of that investigation, together with all other facts pertinent to the question of validity of title, shall be laid before the Commission to be by them reported to the Court.

ARTICLE V

A DECLARATION RESPECTING THE MUNICIPAL DISTRICT OF APIA, PROVIDING A LOCAL ADMINISTRATION THEREFOR, AND DEFINING THE JURISDICTION OF THE MUNICIPAL MAGISTRATE

SECTION 1. The Municipal District of Apia is defined as follows: Beginning at Vailoa, the boundary passes thence westward along the coast to the mouth of the River Fuluasa; thence following the course of the river upwards to the point at which the Alafuala road crosses said river; thence following the line of said road to the point where it reaches the River Vaisinago; and thence in a straight line to the point of beginning at Vailoa—embracing also the waters of the Harbour of Apia.

SECTION 2. Within the aforesaid District shall be established a Municipal Council, consisting of six members and a President of the Council, who shall also have a vote.

Each member of the Council shall be a resident of the said District and owner of real estate or conductor of a profession or business in said District which is subject to a rate or tax not less in amount than $5 per ann.

For the purpose of the election of members of the Council, the said District shall be divided into two, or three, electoral districts from each of which an equal number of Councillors shall be elected by the taxpayers thereof qualified as aforesaid, and the members elected from each electoral district shall have resided therein for at least six months prior to their election.

It shall be the duty of the Consular Representatives of the Three Treaty Powers to make the said division into electoral districts as soon as practicable after the signing of this act. In case they fail to agree thereon, the Chief Justice shall define the electoral districts. Subsequent changes in the number of Councillors or the number and location of electoral districts may be provided for by municipal ordinance.

The councillors shall hold their appointment for a term of two years and until their successors shall be elected and qualified.

In the absence of the President the Council may elect a Chairman "pro tempore."

Consular Officers shall not be eligible as Councillors, nor shall Councillors exercise any Consular functions during their term of office.

SECTION 3. The Municipal Council shall have jurisdiction over the Municipal District of Apia so far as necessary to enforce therein the provisions of this Act which are applicable to said District, including the appointment of a Municipal Magistrate and of the necessary subordinate officers of justice and of administration therein; and to provide for the security in said District of person and property, for the assessment and collection of the revenues therein as herein authorized; and to provide proper fines and penalties for the violation of the laws and ordinances which shall be in force in said District and not in conflict with this Act, including sanitary and police regulations. They shall establish pilot charges, port dues, quarantine and other regulations of the port of Apia, and may establish a local postal system. They shall also fix the salary of the Municipal Magistrate and establish the fees and charges allowed to other civil officers of the District, excepting Clerk and Marshal of the Supreme Court.

All ordinances, resolutions and regulations passed by this Council before becoming law shall be referred to the Consular Representatives of the Three Treaty Powers sitting conjointly as a Consular Board, who shall either approve and return such regulations or suggest such amendments as may be unanimously deemed necessary by them.

Should the Consular Board not be unanimous in approving the regulations referred to them, or should the amendments unanimously suggested by the Consular Board not be accepted by a majority of the Municipal Council, then the regulations in question shall be referred for modification and final approval to the Chief Justice of Samoa.

SECTION 4. The Municipal Magistrate shall have exclusive jurisdiction in the first instance over all persons irrespective of nationality in case of infraction of any law, ordinance, or regulation passed by the Municipal Council in accordance with the provisions of this Act, provided that the penalty does not exceed a fine of two hundred dollars or imprisonment for a longer term than 180 days.

In cases where the penalty imposed by the Municipal Magistrate shall exceed a fine of twenty dollars or a term of ten days imprisonment an appeal may be taken to the Supreme Court.

SECTION 5. The President of the Municipal Council shall be a man of mature years, and of good reputation for honour, justice and impartiality. He shall be agreed upon by the Three Powers; or, failing such agreement, he shall be selected from the nationality of Sweden, The Netherlands, Switzerland, Mexico or Brazil, and nominated by the Chief Executive of the nation from which he is selected, and appointed by the Samoan Government upon certificate of such nomination.

He may act under the joint instruction of the Three Powers, but shall receive no separate instruction from either. He shall be guided by the spirit and provisions of this General Act, and shall apply himself to the promotion of the peace, good order and civilization of Samoa. He may advise the Samoan Government when occasion requires, and shall give such advice when requested by the King, but always in accordance with the provisions of this Act, and not to the prejudice of the rights of either of the Treaty Powers.

He shall receive an annual compensation of five thousand dollars ($5,000.00), to be paid the first year in equal shares by the Three Treaty Powers, and afterward out of that portion of Samoan revenues assigned to the use of the Municipality, upon which his salary shall be the first charge.

He shall be the Receiver and Custodian of the revenues accruing under the provisions of this act, and shall render quarterly reports of his receipts and disbursement to the King, and to the Municipal Council.

He shall superintend the Harbour and Quarantine regulations, and shall, as the Chief Executive officer be in charge of the administration of the laws and ordinances applicable to the Municipal District of Apia.

SECTION 6. The Chief Justice shall, immediately after assuming the duties of his office in Samoa, make the proper order or orders for the election and inauguration of the local government of the Municipal District, under the provisions of this Act. Each Member of the Municipal Council, including the President, shall, before entering upon his functions, make and subscribe before the Chief Justice an oath, or affirmation that he will well and faithfully perform the duties of his office.

ARTICLE VI

A DECLARATION RESPECTING TAXATION AND REVENUE IN SAMOA

SECTION 1. The port of Apia shall be the port of entry for all dutiable goods arriving in the Samoan Islands; and all foreign goods, wares and merchandise landed on the Islands shall be there entered for examination; but coal and naval stores which either Government has by treaty reserved the right to land at any harbour stipulated for that purpose are not dutiable when imported as authorized by such treaty, and may be there landed as stipulated without such entry or examination.

SECTION 2. To enable the Samoan Government to obtain the necessary revenue for the maintenance of government and good order in the Islands, the following duties, taxes and charges may be levied and collected, without prejudice to the right of the native government to levy and collect other taxes in its discretion upon the natives of the Islands and their property, and with the consent of the Consuls of the Signatory Powers upon all property outside the Municipal District, provided such tax shall bear uniformly upon the same class of property, whether owned by natives or foreigners.

[Here follows in the treaty a list of specific import and export duties and internal taxes.]

SECTION 3. Of the revenues paid into the Treasury the proceeds of the Samoan capitation tax, of the license taxes paid by native Samoans, and of all other taxes which may be collected without the Municipal District, shall be for the use and paid out upon the order of the Samoan Government. The proceeds of the other taxes, which are collected in the Municipal District exclusively, shall be held for the use and paid out upon the order of the Municipal Council to meet the expenses of the Municipal Administration as provided by this Act.

SECTION 4. It is understood that "Dollars" and "Cents," terms of money used in this Act, describe the standard money of the United States of America, or its equivalent in other currencies.

ARTICLE VII

A DECLARATION RESPECTING ARMS AND AMMUNITION, AND INTOXICATING LIQUORS, RESTRAINING THEIR SALE AND USE

SECTION 1. *Arms and ammunition.* The importation into the Islands of Samoa of arms and ammunition by the natives of Samoa, or by the citizens or subjects of any foreign country, shall be prohibited except in the following cases:

(*a*) Guns and ammunition for sporting purposes, for which written license shall have been previously obtained from the President of the Municipal Council.

(*b*) Small arms and ammunition carried by travelers as personal appanage.

The sale of arms and ammunition by any foreigner to any native Samoan subject or other Pacific Islander resident in Samoa is also prohibited.

Any arms or ammunition imported or sold in violation of these provisions shall be forfeited to the Government of Samoa. The Samoan Government retains the right to import suitable arms and ammunition to protect itself and maintain order; but all such arms and ammunition shall be entered at the Customs (without payment of duty) and reported by the President of the Municipal Council to the Consuls of the Three Treaty Powers.

The Three Governments reserve to themselves the future consideration of the further restrictions which it may be necessary to impose upon the importation and use of fire-arms in Samoa.

SECTION 2. *Intoxicating liquors.* No spirituous, vinous or fermented liquors, or intoxicating drinks whatever, shall be sold, given or offered to any native Samoan, or South Sea Islander resident in Samoa, to be taken as a beverage.

Adequate penalties, including imprisonment, for the violation of the provisions of this Article shall be established by the Municipal Council for application within its jurisdiction; and by the Samoan Government for all the Islands.

ARTICLE VIII

GENERAL DISPOSITIONS

SECTION 1. The provisions of this Act shall continue in force until changed by consent of the Three Powers. Upon the request of either Power after three years from the signature hereof, the Powers shall consider by common accord what ameliorations, if any, may be introduced into the provisions of this General Act. In the meantime any special amendment may be adopted by the consent of the Three Powers with the adherence of Samoa.

SECTION 2. The present General Act shall be ratified without unnecessary delay, and within the term of ten months from the date of its signature.

In the meantime the Signatory Powers respectively engage themselves to adopt no measure which may be contrary to the dispositions of the said Act.

Each Power further engages itself to give effect in the meantime to all provisions of this Act which may be within its authority prior to the final ratification.

Ratifications shall be exchanged by the usual diplomatic channels of communication.

The assent of Samoa to this General Act shall be attested by a certificate thereof signed by the King and executed in triplicate, of which one copy shall be delivered to the Consul of each of the Signatory Powers at Apia for immediate transmission to his Government.

Done in triplicate at Berlin this fourteenth day of June, one thousand eight hundred and eighty-nine.

John A. Kasson.
Wm. Walter Phelps.
Geo. H. Bates.
H. Bismarck.
Holstein.
R. Krauel.
Edward B. Malet.
Charles S. Scott.
J. A. Crowe.

CONVENTION FOR THE PARTITION OF SAMOA—1899

Convention between the United States, Germany, and Great Britain to adjust amicably the questions between the three Governments in respect to the Samoan group of islands. Signed, December 2, 1899; ratification advised by the Senate, January 16, 1900; ratified by the President, February 13, 1900; ratifications exchanged, February 16, 1900; proclaimed, February 16, 1900.

The President of the United States of America, His Imperial Majesty the German Emperor, King of Prussia, and Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, desiring to adjust amicably the questions which have arisen between them in respect to the Samoan group of Islands, as well as to avoid all future misunderstanding in respect to their joint or several rights and claims of possession or jurisdiction therein, have agreed to establish and regulate the same by a special convention; and whereas the Governments of Germany and Great Britain have, with the concurrence of that of the United States, made an agreement regarding their respective rights and interests in the aforesaid group, the three Powers before named in furtherance of the ends above mentioned have appointed respectively their Plenipotentiaries as follows:

The President of the United States of America, The Honorable John Hay, Secretary of State of the United States;

His Majesty the German Emperor, King of Prussia, His Ambassador Extraordinary and Plenipotentiary, Herr von Holleben; and

Her Majesty the Queen of Great Britain and Ireland, Empress of India, the Right Honorable Lord Pauncefote of Preston, G. C. B.,

G. C. M. G., Her Britanic Majesty's Ambassador Extraordinary and Plenipotentiary:

who, after having communicated each to the other their respective full powers which were found to be in proper form, have agreed upon and concluded the following articles:

Article I

The General Act concluded and signed by the aforesaid Powers at Berlin on the 14th day of June, A. D. 1889, and all previous treaties, conventions and agreements relating to Samoa, are annulled.

Article II

Germany renounces in favor of the United States of America all her rights and claims over and in respect to the Island of Tutuila and all other islands of the Samoan group east of Longitude 171° west of Greenwich.

Great Britain in like manner renounces in favor of the United States of America all her rights and claims over and in respect to the Island of Tutuila and all other islands of the Samoan group east of Longitude 171° west of Greenwich.

Reciprocally, the United States of America renounce in favor of Germany all their rights and claims over and in respect to the Islands of Upolu and Savaii and all other Islands of the Samoan group west of Longitude 171° west of Greenwich.

Article III

It is understood and agreed that each of the three signatory Powers shall continue to enjoy, in respect to their commerce and commercial vessels, in all the islands of the Samoan group privileges and conditions equal to those enjoyed by the sovereign Power, in all ports which may be open to the commerce of either of them.

Article IV

The present Convention shall be ratified as soon as possible, and shall come into force immediately after the exchange of ratifications.

In faith whereof, we, the respective Plenipotentiaries, have signed this Convention and have hereunto affixed our seals.

Done in triplicate, at Washington, the second day of December, in the year of Our Lord one thousand eight hundred and ninety-nine.

John Hay	[seal.]
Holleben	[seal.]
Pauncefote.	[seal.]

Note.—No statutes of an organic nature have been passed concerning Tutuila. The resident naval commander is in complete control of the government of the islands. See Report of the Secretary of the Navy, 1901, p. 86.—Editor.

UTAH

For organic acts relating to the land now included within Utah see in this work:

Organic Acts of Mexico and Texas, 1824–1845 (Texas, pp. 3475–3547).
Treaty of Guadalupe Hidalgo, 1848 (California, p. 377).

THE TERRITORY OF UTAH—1850[a]

[THIRTY-FIRST CONGRESS, FIRST SESSION]

An Act to establish a territorial government for Utah

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all that part of the territory of the United States included within the following limits, to wit: Bounded on the west by the State of California, on the north by the Territory of Oregon, and on the east by the summit of the Rocky Mountains, and on the south by the thirty-seventh parallel of north latitude, be, and the same is hereby, created into a temporary government, by the name of the Territory of Utah; and, when admitted as a State, the said Territory, or any portion of the same, shall be received into the Union, with or without slavery, as their constitution may prescribe at the time of their admission: *Provided*, That nothing in this act contained shall be construed to inhibit the Government of the United States from dividing said Territory into two or more Territories, in such manner and at such times as Congress shall deem convenient and proper, or from attaching any portion of said Territory to any other State or Territory of the United States.

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[a] For statutes of an organic nature relating to Utah subsequent to 1850, see the act to prohibit slavery in, June 19, 1862; to prohibit polygamy, to annul certain acts of Utah legislative assembly, and to limit amount of real property held by religious corporations, July 1, 1862; to regulate elective franchise in, January 25, 1867; to prohibit special acts of incorporation, March 2, 1867; to create office of surveyor-general and to extend homestead and preemption laws to, July 16, 1868; to empower legislature to pass general laws for the incorporation of certain companies, June 10, 1872; to limit the duration of legislative sessions and to fix the pay of members, January 23, 1873; to regulate courts and duties of judicial officers in, June 23, 1874; to fix number of members and compensation of each house of legislature, June 19, 1878, June 27, 1879; to prohibit polygamy and to appoint a special commission to regulate elections, March 22, 1882; to limit legislature's power to pass special acts of incorporation, March 3, 1885; to prohibit various forms of special legislation, July 30, 1886; to prohibit polygamy, forbid woman suffrage, and amend the election, school, and militia laws of the Territory, March 3, 1887 ("anti-polygamy act"); to permit erection of counties, July 19, 1888.

SEC. 2. *And be it further enacted*, That the executive power and authority in and over said Territory of Utah shall be vested in a governor, who shall hold his office for four years, and until his successor shall be appointed and qualified, unless sooner removed by the President of the United States. The governor shall reside within said Territory, shall be commander-in-chief of the militia thereof, shall perform the duties and receive the emoluments of superintendent of Indian affairs, and shall approve all laws passed by the legislative assembly before they shall take effect. He may grant pardons for offences against the laws of said Territory, and reprieves for offences against the laws of the United States, until the decision of the President can be made known thereon; he shall commission all officers who shall be appointed to office under the laws of the said Territory, and shall take care that the laws be faithfully executed.

SEC. 3. *And be it further enacted*, That there shall be a secretary of said Territory, who shall reside therein, and hold his office for four years, unless sooner removed by the President of the United States. He shall record and preserve all the laws and proceedings of the legislative assembly hereinbefore constituted, and all the acts and proceedings of the governor in his executive department; he shall transmit one copy of the laws, and one copy of the executive proceedings, on or before the first day of December in each year, to the President of the United States, and, at the same time, two copies of the laws to the Speaker of the House of Representatives and the President of the Senate, for the use of Congress. And in the case of the death, removal, resignation, or other necessary absence of the governor from the Territory, the secretary shall have, and he is hereby authorized and required to execute and perform, all the powers and duties of the governor during such vacancy or necessary absence, or until another governor shall be duly appointed to fill such vacancy.

SEC. 4. *And be it further enacted*, That the legislative power and authority of said Territory shall be vested in the governor and a legislative assembly. The legislative assembly shall consist of a council and house of representatives. The council shall consist of thirteen members, having the qualifications of voters as hereinafter prescribed, whose term of service shall continue two years. The house of representatives shall consist of twenty-six members, possessing the same qualifications as prescribed for members of the council, and whose term of service shall continue one year. An apportionment shall be made, as nearly equal as practicable, among the several counties or districts, for the election of the council and house of representatives, giving to each section of the Territory representation in the ratio of its population, Indians excepted, as nearly as may be. And the members of the council and of the house of representatives shall reside in, and be inhabitants of, the district for which they may be elected respectively. Previous to the first election, the governor shall cause a census or enumeration of the inhabitants of the several counties and districts of the Territory to be taken, and the first election shall be held at such time and places, and be conducted in such manner, as the governor shall appoint and direct; and he shall, at the same time, declare the number of members of the council and house of representatives to which each of the counties or districts shall be entitled under this act. The number of persons authorized to be

elected, having the highest number of votes in each of said council districts for members of the council, shall be declared by the governor to be duly elected to the council; and the person or persons authorized to be elected having the highest number of votes for the house of representatives, equal to the number to which each county or district shall be entitled, shall be declared by the governor to be duly elected members of the house of representatives: *Provided*, That in case of a tie between two or more persons voted for, the governor shall order a new election to supply the vacancy made by such a tie. And the persons thus elected to the legislative assembly shall meet at such place, and on such day, as the governor shall appoint; but thereafter, the time, place, and manner of holding and conducting all elections by the people, and the apportioning the representation in the several counties or districts to the council and house of representatives, according to population, shall be prescribed by law, as well as the day of the commencement of the regular sessions of the legislative assembly: *Provided*, That no one session shall exceed the term of forty days.

SEC. 5. *And be it further enacted*, That every free white male inhabitant above the age of twenty-one years, who shall have been a resident of said Territory at the time of the passage of this act, shall be entitled to vote at the first election, and shall be eligible to any office within the said Territory; but the qualifications of voters and of holding office, at all subsequent elections, shall be such as shall be prescribed by the legislative assembly: *Provided*, That the right of suffrage and of holding office shall be exercised only by citizens of the United States, including those recognized as citizens by the treaty with the Republic of Mexico, concluded February second, eighteen hundred and forty-eight.

SEC. 6. *And be it further enacted*, That the legislative power of said Territory shall extend to all rightful subjects of legislation, consistent with the Constitution of the United States and the provisions of this act; but no law shall be passed interfering with the primary disposal of the soil; no tax shall be imposed upon the property of the United States; nor shall the lands or other property of nonresidents be taxed higher than the lands or other property of residents. All the laws passed by the legislative assembly and governor shall be submitted to the Congress of the United States, and, if disapproved, shall be null and of no effect.

SEC. 7. *And be it further enacted*, That all township, district, and county officers, not herein otherwise provided for, shall be appointed or elected, as the case may be, in such manner as shall be provided by the governor and legislative assembly of the Territory of Utah. The governor shall nominate and, by and with the advice and consent of the legislative council, appoint all officers not herein otherwise provided for, and in the first instance the governor alone may appoint all said officers, who shall hold their offices until the end of the first session of the legislative assembly, and shall lay off the necessary districts for members of the council and house of representatives and all other offices.

SEC. 8. *And be it further enacted*, That no member of the legislative assembly shall hold or be appointed to any office which shall have been created, or the salary or emoluments of which shall have been increased, while he was a member, during the term for which he was

elected, and for one year after the expiration of such term; and no person holding a commission or appointment under the United States, except postmasters, shall be a member of the legislative assembly, or shall hold any office under the government of said Territory.

SEC. 9. *And be it further enacted*, That the judicial power of said Territory shall be vested in a supreme court, district courts, probate courts, and in justices of the peace. The supreme court shall consist of a chief justice and two associate justices, any two of whom shall constitute a quorum, and who shall hold a term at the seat of government of said Territory annually, and they shall hold their offices during the period of four years. The said Territory shall be divided into three judicial districts, and a district court shall be held in each of said districts by one of the justices of the supreme court, at such time and place as may be prescribed by law; and the said judges shall, after their appointments, respectively, reside in the districts which shall be assigned them. The jurisdiction of the several courts herein provided for, both appellate and original, and that of the probate courts and of justices of the peace, shall be as limited by law: *Provided*, That justices of the peace shall not have jurisdiction of any matter in controversy when the title or boundaries of land may be in dispute, or where the debt or sum claimed shall exceed one hundred dollars; and the said supreme and district courts, respectively, shall possess chancery as well as common-law jurisdiction. Each district court, or the judge thereof, shall appoint its clerk, who shall also be the register in chancery, and shall keep his office at the place where the court may be held. Writs of error, bills of exception, and appeals, shall be allowed in all cases from the final decisions of said district courts to the supreme court, under such regulations as may be prescribed by law, but in no case removed to the supreme court shall trial by jury be allowed in said court. The supreme court, or the justices thereof, shall appoint its own clerk, and every clerk shall hold his office at the pleasure of the court for which he shall have been appointed. Writs of error and appeals from the final decisions of said supreme court shall be allowed, and may be taken to the Supreme Court of the United States, in the same manner and under the same regulations as from the circuit courts of the United States, where the value of the property, or the amount in controversy, to be ascertained by the oath or affirmation of either party, or other competent witness, shall exceed one thousand dollars; except only that in all cases involving title to slaves, the said writs of error or appeals shall be allowed and decided by the said supreme court, without regard to the value of the matter, property, or title in controversy, and except, also, that a writ of error or appeal shall also be allowed to the Supreme Court of the United States from the decisions of the said supreme court created this act, or of any judge thereof, or of the district courts created by volving the question of personal freedom; and each of the said district courts shall have and exercise the same jurisdiction, in all cases arising under the Constitution and laws of the United States, as is vested in the circuit and district courts of the United States; and the said supreme and district courts of the said Territory, and the respective judges thereof, shall and may grant writs of *habeas corpus* in all cases in which the same are granted by the judges of the United States in the District of Columbia; and the first six days of every term of said courts, or so much thereof as shall be necessary, shall be

appropriated to the trial of causes arising under the said Constitution and laws; and writs of error and appeal in all such cases shall be made to the supreme court of said Territory, the same as in other cases. The said clerk shall receive, in all such cases, the same fees which the clerks of the district courts of Oregon Territory now receive for similar services.

SEC. 10. *And be it further enacted*, That there shall be appointed an attorney for said Territory, who shall continue in office for four years, unless sooner removed by the President, and who shall receive the same fees and salary as the attorney of the United States for the present Territory of Oregon. There shall also be a marshal for the Territory appointed, who shall hold his office for four years, unless sooner removed by the President, and who shall execute all processes issuing from the said courts, when exercising their jurisdiction as circuit and district courts of the United States: he shall perform the duties, be subject to the same regulations and penalties, and be entitled to the same fees as the marshal of the district court of the United States for the present Territory of Oregon; and shall, in addition, be paid two hundred dollars annually as a compensation for extra services.

SEC. 11. *And be it further enacted*, That the governor, secretary, chief justice, and associate justices, attorney, and marshal, shall be nominated, and, by and with the advice and consent of the Senate, appointed by the President of the United States. The governor and secretary, to be appointed as aforesaid, shall, before they act as such, respectively take an oath or affirmation, before the district judge, or some justice of the peace in the limits of said Territory, duly authorized to administer oaths and affirmations by the laws now in force therein, or before the Chief Justice or some associate justice of the Supreme Court of the United States, to support the Constitution of the United States, and faithfully to discharge the duties of their respective offices; which said oaths, when so taken, shall be certified by the person by whom the same shall have been taken, and such certificates shall be received and recorded by the said secretary among the executive proceedings; and the chief Justice and associate justices, and all other civil officers in said Territory, before they act as such, shall take a like oath or affirmation, before the said governor or secretary, or some judge or justice of the peace of the Territory, who may be duly commissioned and qualified, which said oath or affirmation shall be certified and transmitted, by the person taking the same, to the secretary, to be by him recorded as aforesaid; and afterwards the like oath or affirmation shall be taken, certified, and recorded in such manner and form as may be prescribed by law. The governor shall receive an annual salary of fifteen hundred dollars as governor, and one thousand dollars as superintendent of Indian affairs. The chief justice and associate justices shall each receive an annual salary of eighteen hundred dollars. The secretary shall receive an annual salary of eighteen hundred dollars. The said salaries shall be paid quarter-yearly, at the Treasury of the United States. The members of the legislative assembly shall be entitled to receive three dollars each per day during their attendance at the sessions thereof, and three dollars each for twenty miles' travel in going to and returning from the said sessions, estimated according to the nearest usually travelled route. There shall be appropriated, annually, the sum of one

thousand dollars, to be expended by the governor to defray the contingent expenses of the Territory; and there shall also be appropriated, annually, a sufficient sum, to be expended by the secretary of the Territory, and upon an estimate to be made by the Secretary of the Treasury of the United States, to defray the expenses of the legislative assembly, the printing of the laws, and other incidental expenses; and the secretary of the Territory shall annually account to the Secretary of the Treasury of the United States for the manner in which the aforesaid sum shall have been expended.

SEC. 12. *And be it further enacted*, That the legislative assembly of the Territory of Utah shall hold its first session at such time and place in said Territory as the governor thereof shall appoint and direct, and at said first session, or as soon thereafter as they shall deem expedient, the governor and legislative assembly shall proceed to locate and establish the seat of government for said Territory at such place as they may deem eligible, which place, however, shall thereafter be subject to be changed by the said governor and legislative assembly. And the sum of twenty thousand dollars, out of any money in the Treasury not otherwise appropriated, is hereby appropriated and granted to said Territory of Utah to be applied by the governor and legislative assembly to the erection of suitable public buildings at the seat of government.

SEC. 13. *And be it further enacted*, That a Delegate to the House of Representatives of the United States, to serve during each Congress of the United States, may be elected by the voters qualified to elect members of the legislative assembly, who shall be entitled to the same rights and privileges as are exercised and enjoyed by the Delegates from the several other Territories of the United States to the said House of Representatives. The first election shall be held at such time and places, and be conducted in such manner, as the governor shall appoint and direct, and at all subsequent elections the times, places, and manner of holding the elections shall be prescribed by law. The person having the greatest number of votes shall be declared by the governor to be duly elected, and a certificate thereof shall be given accordingly: *Provided*, That said Delegate shall receive no higher sum for mileage than is allowed by law to the Delegate from Oregon.

SEC. 14. *And be it further enacted*, That the sum of five thousand dollars be, and the same is hereby, appropriated out of any moneys in the Treasury not otherwise appropriated, to be expended by and under the direction of the said governor of the Territory of Utah, in the purchase of a library, to be kept at the seat of government for the use of the governor, legislative assembly, judges of the supreme court, secretary, marshal, and attorney of said Territory, and such other persons, and under such regulations, as shall be prescribed by law.

SEC. 15. *And be it further enacted*, That when the lands in the said Territory shall be surveyed under the direction of the Government of the United States, preparatory to bringing the same into market, sections numbered sixteen and thirty-six in each township in said Territory shall be, and the same are hereby, reserved for the purpose of being applied to schools in said Territory and in the States and Territories hereafter to be erected out of the same.

SEC. 16. *And be it further enacted*, That temporarily, and until otherwise provided by law, the governor of said Territory may define

the judicial districts of said Territory, and assign the judges who may be appointed for said Territory to the several districts, and also appoint the times and places for holding courts in the several counties or subdivisions in each of said judicial districts, by proclamation to be issued by him; but the legislative assembly, at their first or any subsequent session, may organize, alter, or modify such judicial districts, and assign the judges, and alter the times and places of holding the courts, as to them shall seem proper and convenient.

SEC. 17. *And be it further enacted*, That the Constitution and laws of the United States are hereby extended over and declared to be in force in said Territory of Utah, so far as the same, or any provision thereof, may be applicable.

Approved, September 9, 1850.

ENABLING ACT FOR UTAH—1894

[FIFTY-THIRD CONGRESS, SECOND SESSION]

An Act to enable the people of Utah to form a constitution and State government, and to be admitted into the Union on an equal footing with the original States

Be it enacted by the Senate and House of Representatives 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 Utah, as at present described, may become the State of Utah, as hereinafter provided.

SEC. 2. That all male citizens of the United States over the age of twenty-one years, who have resided in said Territory for one year next prior to such election, are hereby authorized to vote for and choose delegates to form a convention in said Territory. Such delegates shall possess the qualifications of such electors; and the aforesaid convention shall consist of one hundred and seven delegates, apportioned among the several counties within the limits of the proposed State as follows: Beaver County, two delegates; Box Elder County, four delegates; Cache County, eight delegates; Davis County, three delegates; Emery County, three delegates; Garfield County, one delegate; Grand County, one delegate; Iron County, one delegate; Juab County, three delegates; Kane County, one delegate; Millard County, two delegates; Morgan County, one delegate; Piute County, one delegate; Rich County, one delegate; Salt Lake County, twenty-nine delegates, thus apportioned, to wit: Salt Lake City, first precinct, four delegates; second precinct, six delegates; third precinct, five delegates; fourth precinct, three delegates; fifth precinct, three delegates; all other precincts in said county, outside of Salt Lake City, eight delegates; San Juan County, one delegate; San Pete County, seven delegates; Sevier County, three delegates; Summit County, four delegates; Tooele County, two delegates; Uintah County, one delegate; Utah County, twelve delegates; Wasatch County, two delegates; Washington County, two delegates; Wayne County, one delegate, and Weber County, eleven delegates; and the governor of said Territory shall, on the first day of August, eighteen hundred and ninety-four, issue a proclamation ordering an election of the delegates aforesaid in said Territory to be held on the

Tuesday next after the first Monday in November following. The board of commissioners known as the Utah commission is hereby authorized and required to cause a new and complete registration of voters of said Territory to be made under the provisions of the laws of the United States and said Territory, except that the oath required for registration under said laws shall be so modified as to test the qualifications of the electors as prescribed in this Act; such new registration to be made as nearly conformable with the provisions of such laws as may be; and such election for delegates shall be conducted, the returns made, the result ascertained, and the certificate of persons elected to such convention issued in the same manner as is prescribed by the laws of said Territory regulating elections therein of members of the legislature. Persons possessing the qualifications entitling them to vote for delegates under this Act shall be entitled to vote on the ratification or rejection of the constitution, under such rules or regulations as said convention may prescribe, not in conflict with this Act.

SEC. 3. That the delegates to the convention thus elected shall meet at the seat of government of said Territory on the first Monday in March, eighteen hundred and ninety-five, 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 be, 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, except as to Indians not taxed, and not to be repugnant to the Constitution of the United States and the principles of the Declaration of Independance. And said convention shall provide, by ordinance irrevocable without the consent of the United States and the people of said State—

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: *Provided*, That polygamous or plural marriages are forever prohibited.

Second. That the people inhabiting said proposed State do agree and declare that they forever disclaim all right and title to the unappropriated public lands lying within the boundaries thereof; and to all lands lying within said limits owned or held by any Indian or Indian tribes; and that until the title thereto shall have been extinguished by the United States, the same shall be and remain subject to the disposition of the United States, and said Indian lands shall remain under the absolute jurisdiction and control of the Congress of the United States; that the lands belonging to citizens of the United States residing without the said State shall never be taxed at a higher rate than the lands belonging to residents thereof; that no taxes shall be imposed by the State on lands or property therein belonging to or which may hereafter be purchased by the United States or reserved for its use; but nothing herein, or in the ordinance herein provided for, shall preclude the said State from taxing, as other lands are taxed, any lands owned or held by any Indian who has severed his tribal relations and has obtained from the United States or from any person a title thereto by patent or other grant,

save and except such lands as have been or may be granted to any Indian or Indians under any Act of Congress containing a provision exempting the lands thus granted from taxation; but said ordinance shall provide that all such lands shall be exempt from taxation by said State so long and to such extent as such Act of Congress may prescribe.

Third. That the debts and liabilities of said Territory, under authority of the legislative assembly thereof, shall be assumed and paid by said State.

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

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 provide by ordinance for submitting said constitution to the people of said State for its ratification or rejection, at an election to be held on the Tuesday next after the first Monday in November, eighteen hundred and ninety-five, at which election the qualified voters of said proposed State shall vote directly for or against the proposed constitution, and for or against any provisions separately submitted. The return of said election shall be made to the said Utah commission, who shall cause the same to be canvassed, and if a majority of the votes cast on that question shall be for the constitution, shall certify the result to the President of the United States, together with a 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 government of said proposed State are republican in form, and if all the provisions of this Act have been complied with in the formation thereof, it shall be the duty of the President of the United States to issue his proclamation announcing the result of said election, and thereupon the proposed State of Utah shall be deemed admitted by Congress into the Union, under and by virtue of this Act, on an equal footing with the original States, from and after the date of said proclamation.

SEC. 5. That until the next general census, or until otherwise provided by law, said State shall be entitled to one Representative in the House of Representatives of the United States, which Representative in the Fifty-fourth Congress, together with the governor and other officers provided for in said constitution, may be elected on the same day of the election for the adoption of the constitution; and until said State officers are elected and qualified under the provisions of the constitution, and the State is admitted into the Union, the Territorial officers shall continue to discharge the duties of the respective offices in said Territory.

SEC. 6. That upon the admission of said State into the Union, sections numbered two, sixteen, thirty-two, and thirty-six in every township of said proposed State, and where such sections or any parts thereof have been sold or otherwise disposed of by or under the authority of any Act of Congress other lands equivalent thereto, in legal subdivisions of not less than one quarter section and as contiguous as may be to the section in lieu of which the same is taken, are hereby granted to said State for the support of common schools, such indemnity lands to be selected within said State in such manner as the

legislature may provide, with the approval of the Secretary of the Interior: *Provided*, That the second, sixteenth, thirty-second, and thirty-sixth sections embraced in permanent reservations for national purposes shall not, at any time, be subject to the grants nor to the indemnity provisions of this Act, nor shall any lands embraced in Indian, military, or other reservations of any character be subject to the grants or to the indemnity provisions of this Act until the reservation shall have been extinguished and such lands be restored to and become a part of the public domain.

SEC. 7. That upon the admission of said State into the Union, in accordance with the provisions of this Act, one hundred sections of the unappropriated lands within said State to be selected and located in legal subdivisions as provided in section six of this Act, shall be, and are hereby, granted to said State for the purpose of erecting public buildings at the capital of said State, when permanently located, for legislative, executive, and judicial purposes.

SEC. 8. That lands to the extent of two townships in quantity, authorized by the third section of the Act of February twenty-one, eighteen hundred and fifty-five, to be reserved for the establishment of the University of Utah, are hereby granted to the State of Utah for university purposes, to be held and used in accordance with the provisions of this section; and any portions of said lands that may not have been selected by said Territory may be selected by said State. That in addition to the above, one hundred and ten thousand acres of land, to be selected and located as provided in foregoing section of this Act, and including all saline lands in said State, are hereby granted to said State, for the use of the said university, and two hundred thousand acres for the use of an agricultural college therein. That the proceeds of the sale of said lands, or any portion thereof, shall constitute permanent funds, to be safely invested and held by said State; and the income thereof to be used exclusively for the purposes of such university and agricultural college respectively.

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

SEC. 10. That the proceeds of lands herein granted for educational purposes, except as hereinafter otherwise provided, shall constitute a permanent school fund, the interest of which only shall be expended for the support of said schools, and such land shall not be subject to preëmption, homestead entry, or any other entry under the land laws of the United States, whether surveyed or unsurveyed, but shall be surveyed for school purposes only.

SEC. 11. The schools, colleges, and university provided for in this Act shall forever remain under the exclusive control of said State, and no part of the proceeds arising from the sale or disposal of any lands herein granted for educational purposes, or of the income thereof, shall be used for the support of any sectarian or denominational school, college, or university.

SEC. 12. That in lieu of the grant of land for purposes of internal improvement made to new States by the eighth section of this Act of September fourth, eighteen hundred and forty-one, which section is

hereby repealed as to said State, and in lieu of any claim or demand by the State of Utah under the Act of September twenty-eighth, eighteen hundred and fifty, and section twenty-four hundred and seventy-nine of the Revised Statutes, making a grant of swamp and overflowed lands to certain States, which grant it is hereby declared is not extended to said State of Utah, the following grants of lands are hereby made to said State for the purposes indicated, namely:

For the establishment of permanent water reservoirs for irrigating purposes, five hundred thousand acres; for the establishment and maintenance of an insane asylum, one hundred thousand acres; for the establishment and maintenance of a school of mines in connection with the university, one hundred thousand acres; for the establishment and maintenance of a deaf and dumb asylum, one hundred thousand acres; for the establishment and maintenance of a reform school, one hundred thousand acres; for establishment and maintenance of State normal schools, one hundred thousand acres; for the establishment and maintenance of an institution for the blind, one hundred thousand acres; for a miners' hospital for disabled miners, fifty thousand acres. The United States penitentiary near Salt Lake City and all lands and appurtenances connected therewith and set apart and reserved therefor are hereby granted to the State of Utah.

The said State of Utah shall not be entitled to any further or other grants of land for any purpose than as expressly provided in this Act; and the lands granted by this section shall be held, appropriated, and disposed of exclusively for the purposes herein mentioned, in such manner as the legislature of the State may provide.

SEC. 13. That all land granted in quantity or as indemnity by this Act shall be selected under the direction of the Secretary of the Interior, from the unappropriated public lands of the United States within the limits of said State of Utah.

SEC. 14. That the State of Utah shall constitute one judicial district, which shall be called the district of Utah, and the circuit and district courts thereof shall be held at the capital of this State for the time being. The judge of said district shall receive a yearly salary of five thousand dollars, payable monthly, and shall reside in his district. There shall be appointed clerks of said courts, who shall keep their offices at the capital of said State. There shall be appointed for said district one district judge, one United States attorney, and one United States marshal. The regular terms of said courts shall be held at the place aforesaid on the first Monday in April and the first Monday in November of each year. For judicial purposes, the district of Utah shall be attached to the eighth judicial circuit, and only one grand jury and one petit jury shall be summoned in both of said courts.

SEC. 15. That the circuit and district courts for the district of Utah and the judges thereof, respectively, shall possess the same powers and jurisdiction and perform the same duties possessed and required to be performed by the other circuit and district courts and judges of the United States, and shall be governed by the same laws and regulations.

SEC. 16. That the marshal, district attorney, and clerks of the circuit and district courts of the said district of Utah, and all other officers and other persons performing duty in the administration of jus-

tice therein, shall severally possess the powers and perform the duties lawfully possessed and required to be performed by similar officers in other districts of the United States, and shall, for the services they may perform, receive the same fees and compensation allowed by law to other similar officers and persons performing similar duties.

SEC. 17. That the convention herein provided for shall have the power to provide, by ordinance, for the transfer of actions, cases, proceedings, and matters pending in the supreme or district courts of the Territory of Utah at the time of the admission of the said State into the Union, to such courts as shall be established under the constitution to be thus formed, or to the circuit or district court of the United States for the district of Utah; and no indictment, action, or proceeding shall abate by reason of any change in the courts, but shall be proceeded with in the State or United States courts according to the laws thereof, respectively. That all cases of appeal or writ of error heretofore prosecuted and now pending in the Supreme Court of the United States upon any record from the supreme court of said Territory, or that may hereafter lawfully be prosecuted upon any record from said court, may be heard and determined by said Supreme Court of the United States; and the mandate of execution or of further proceedings shall be directed by the Supreme Court of the United States to the circuit or district court hereby established within the said State from or to the supreme court of such State, as the nature of the case may require. And the circuit, district, and State courts herein named shall, respectively, be the successors of the supreme court of the Territory as to all such cases arising within the limits embraced within the jurisdiction of such courts, respectively, with full power to proceed with the same, and award mesne or final process therein; and that from all judgments and decrees of the supreme court of the Territory, mentioned in this Act, in any case arising within the limits of the proposed State prior to admission, the parties to such judgment shall have the same right to prosecute appeals and writs of error to the Supreme Court of the United States as they shall have had by law prior to the admission of said State into the Union.

SEC. 18. That the sum of thirty thousand dollars, or so much thereof as may be necessary, is hereby appropriated out of any money in the Treasury not otherwise appropriated to said Territory for defraying the expenses of 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.

SEC. 19. That the constitutional convention may by ordinance provide for the election of officers for a full State government, including members of the legislature and Representative in the Fifty-fourth Congress, at the time for the election for the ratification or rejection of the constitution; but the said State government shall remain in abeyance until the State shall be admitted into the Union as proposed by this Act. In case the constitution of said State shall be ratified by the people, but not otherwise, the legislature thereof may assemble, organize, and elect two Senators of the United States in the manner now prescribed by the laws of the United States; and the governor and secretary of state of the proposed State shall certify the election of the Senators and Representatives in the manner required by law, and when such State is admitted into the Union as provided

in this Act, the Senators and Representative shall be entitled to be admitted to seats in Congress, and to all rights and privileges of Senators and Representatives of other States in the Congress of the United States; and the State government formed in pursuance of said constitution, as provided by the constitutional convention, shall proceed to exercise all the functions of State officers; and all laws in force made by said Territory at the time of its admission into the Union shall be in force in said State, except as modified or changed by this Act or by the constitution of the State; and the laws of the United States shall have the same force and effect within the said State as elsewhere within the United States.

SEC. 20. That all Acts or parts of Acts in conflict with the provisions of this Act, whether passed by the legislature of said Territory or by Congress, are hereby repealed.

Approved, July 16, 1894.

PROCLAMATION ANNOUNCING ADMISSION OF UTAH—1896

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

Whereas the Congress of the United States passed an act, which was approved on the 16th day of July, 1894, entitled "An act to enable the people of Utah to form a constitution and State government and to be admitted into the Union on an equal footing with the original States," which act provided for the election of delegates to a constitutional convention to meet at the seat of government of the Territory of Utah on the first Monday in March, 1895, for the purpose of declaring the adoption of the Constitution of the United States by the people of the proposed State and forming a constitution and State government for such State; and

Whereas delegates were accordingly elected, who met, organized, and declared on behalf of the people of said proposed State their adoption of the Constitution of the United States, all as provided in said act; and

Whereas said convention, so organized, did, by ordinance irrevocable without the consent of the United States and the people of said State, as required by said act, provide 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, but that polygamous or plural marriages are forever prohibited, and did also by said ordinance make the other various stipulations recited in section 3 of said act; and

Whereas said convention thereupon formed a constitution and State government for said proposed State, which constitution, including said ordinance, was duly submitted to the people thereof at an election held on the Tuesday next after the first Monday of November, 1895, as directed by said act; and

Whereas the return of said election has been made and canvassed and the result thereof certified to me, together with a statement of the votes cast and a copy of said constitution and ordinance, all as provided in said act, showing that a majority of the votes lawfully

cast at such election was for the ratification and adoption of said constitution and ordinance; and

Whereas the constitution and government of said proposed State are republican in form, said constitution is not repugnant to the Constitution of the United States and the Declaration of Independence, and all the provisions of said act have been complied with in the formation of said constitution and government:

Now, therefore, I, Grover Cleveland, President of the United States of America, in accordance with the act of Congress aforesaid and by authority thereof, announce the result of said election to be as so certified and do hereby declare and proclaim that the terms and conditions prescribed by the Congress of the United States to entitle the State of Utah to admission into the Union have been duly complied with and that the creation of said State and its admission into the Union on an equal footing with the original States is now accomplished.

In testimony whereof I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the city of Washington, this 4th day of January, A. D. 1896, and of the Independence of the United States of [SEAL.] America the one hundred and twentieth.

GROVER CLEVELAND.

By the President:

RICHARD OLNEY,
Secretary of State.

CONSTITUTION OF THE STATE OF UTAH—1895 *[a]

ADDRESS TO THE PEOPLE OF UTAH

The convention assembled to frame a constitution for the proposed State of Utah, after two months of earnest effort present the result of their labors for the consideration of the people of this Territory.

The ruling thought that actuated the convention, from opening to close, was that under the direction and mandates of the enabling act a constitution must be framed that would secure to the people of Utah a wise, just, and economical State government.

In this we believe we have succeeded, and we confidently submit to our fellow-citizens the fruit of our deliberations, knowing that they will bear in mind the impossibility of our presenting any instrument that would not contain imperfections, inasmuch as the more than one hundred delegates who constructed it came together understanding little of each other, all more or less influenced by local ideas and by impressions which the peculiar situation of this Territory for years past could not help but create and intensify. Nevertheless, it has been gratifying to note that there has been less partisan feeling

* Verified from "Constitution of the State of Utah as Framed by the Constitutional Convention in Salt Lake City, Utah, from March 4th, to May 8th, 1895. Published by Authority of the convention under the Supervision of Hon. Richard G. Lambert, Chairman of Committee on printing. Salt Lake City: Tribune Job Printing Company. 1895." 48 pp. With Amendments, the Latter from Official Text furnished by Hon. Charles S. Tingey, Secretary of State. (April 10, 1907.)

[a] As framed by the constitutional convention held in Salt Lake City, Utah, from March 4 to May 8, 1895.

and more unselfish unaimity of sentiment in this convention than in any other political body of like character.

The ispiration behind the declaration of rights came from the great parent Bill of Rights framed by the fathers of our country.

The article on the proposed educational system has absorbed the best thoughts and efforts of the convention, and draws around the public schools such protection and defense as will secure for them, it is believed, the steady upward progress which is the enthusiastic desire of this people.

The legislative article, while permitting future lawmakers to perform any needed thing, circumscribes their powers in a way to prevent either extravagance or the misuse of legislative authority.

The executive article defines clearly the prerogatives and powers of the several State officers, places all necessary authority in the hands of the executive, and at the same time supplies all needed checks to prevent usurpation of power.

The judiciary article makes possible the conducting of the courts effectively by competent judges. It seeks to exalt the judiciary, and yet brings the system within a reasonable expenditure of the people's money. The probate system has been abolished, but power is given the legislature to restore it, if deemed necessary, or to adopt any other plan that may be wise or expedient.

The salaries of all officials have been marked down close to the danger line of extravagant economy.

We have provided to give equal suffrage to women.

We have inhibited for all time polygamous or plural marriages.

We have placed within safe limits the maximum of future taxation.

We have guarded against the possibility of any future great indebtedness of the State.

We have provided for the full development of our manifold industries in such a way that in their expansion they will not feel any harsh friction from unjust laws.

We have provided for the correction of possible defects in the constitution, either by amendments or by the enactment of statutes.

We have guaranteed perfect liberty of speech, freedom to the press, and absolute freedom of conscience.

We recommend our work to the gracious and generous consideration of the men and women of Utah, believing they will esteem it a fitting foundation on which to rear the structure of a glorified State.

If with statehood there will be a slight increase in taxes, the compensating advantages will cause the increased expense to be forgotten. We will be able to utilize the magnificent gift of over 7,000,000 acres of land from our generous Government; we will be able to secure capital for our mines; under the shield of statehood thousands of people will seek homes in our climate, assist to develop our wondrous and varied resources, and rejoice in the manifold blessings bestowed by nature upon our highly favored Commonwealth.

When we reflect that this instrument will secure to us in its highest sense local self-government, with State officers of our own selection, and courts for the swift, capable, and economical administration of the laws by judges of the people's choosing; that it will give us a school system abreast of the foremost in the Union, with power to utilize the lands donated to our educational institutions; give us a voice in the election of Presidents, also two Senators and one Repre-

sentative to present the claims of our new State in the Congress of the nation; add the star of Utah to the hallowed ensign of the Republic, bestow upon us full sovereignty with all that this majestic term implies, and thus draw to us capital and population and invest us with a dignity that can never attach to a Territorial condition, with steadily swelling confidence we submit this constitution to the consideration of the people of Utah, in a certain belief that they will, by an overwhelming majority, indorse and ratify our work.

PREAMBLE

Grateful to Almighty God for life and liberty, we, the people of Utah, in order to secure and perpetuate the principles of free government, do ordain and establish this

CONSTITUTION

ARTICLE I

DECLARATION OF RIGHTS

SECTION 1. All men have the inherent and inalienable right to enjoy and defend their lives and liberties; to acquire, possess, and protect property; to worship according to the dictates of their consciences; to assemble peaceably, protest against wrongs, and petition for redress of grievances; to communicate freely their thoughts and opinions, being responsible for the abuse of that right.

SEC. 2. All political power is inherent in the people, and all free governments are founded on their authority for their equal protection and benefit, and they have the right to alter or reform their government as the public welfare may require.

SEC. 3. The State of Utah is an inseparable part of the Federal Union, and the Constitution of the United States is the supreme law of the land.

SEC. 4. The rights of conscience shall never be infringed. The State shall make no law respecting an establishment of religion or prohibiting the free exercise thereof; no religious test shall be required as a qualification for any office of public trust or for any vote at any election, nor shall any person be incompetent as a witness or juror on account of religious belief or the absence thereof. There shall be no union of church and state, nor shall any church dominate the State or interfere with its functions. No public money or property shall be appropriated for or applied to any religious worship, exercise, or instruction, or for the support of any ecclesiastical establishment. No property qualification shall be required of any person to vote or hold office, except as provided in this constitution.

SEC. 5. The privilege of the writ of habeas corpus shall not be suspended unless, in case of rebellion or invasion, the public safety requires it.

SEC. 6. The people have the right to bear arms for their security and defense, but the legislature may regulate the exercise of this right by law.

SEC. 7. No person shall be deprived of life, liberty, or property without due process of law.

SEC. 8. All prisoners shall be bailable by sufficient sureties, except for capital offenses when the proof is evident or the presumption strong.

SEC. 9. Excessive bail shall not be required; excessive fines shall not be imposed; nor shall cruel and unusual punishments be inflicted. Persons arrested or imprisoned shall not be treated with unnecessary rigor.

SEC. 10. In capital cases the right of trial by jury shall remain inviolate. In courts of general jurisdiction, except in capital cases, a jury shall consist of eight jurors. In courts of inferior jurisdiction a jury shall consist of four jurors. In criminal cases the verdict shall be unanimous. In civil cases three-fourths of the jurors may find a verdict. A jury in civil cases shall be waived unless demanded.

SEC. 11. All courts shall be open, and every person, for an injury done to him in his person, property, or reputation, shall have remedy by due course of law, which shall be administered without denial or unnecessary delay; and no person shall be barred from prosecuting or defending before any tribunal in this State, by himself or counsel, any civil cause to which he is a party.

SEC. 12. In criminal prosecutions the accused shall have the right to appear and defend in person and by counsel, to demand the nature and cause of the accusation against him, to have a copy thereof, to testify in his own behalf, to be confronted by the witnesses against him, to have compulsory process to compel the attendance of witnesses in his own behalf, to have a speedy public trial by an impartial jury of the county or district in which the offense is alleged to have been committed, and the right to appeal in all cases. In no instance shall any accused person, before final judgment, be compelled to advance money or fees to secure the rights herein guaranteed. The accused shall not be compelled to give evidence against himself; a wife shall not be compelled to testify against her husband, nor a husband against his wife, nor shall any person be twice put in jeopardy for the same offense.

SEC. 13. Offenses heretofore required to be prosecuted by indictment shall be prosecuted by information after examination and commitment by a magistrate, unless the examination be waived by the accused with the consent of the State, or by indictment, with or without such examination and commitment. The grand jury shall consist of seven persons, five of whom must concur to find an indictment; but no grand jury shall be drawn or summoned unless, in the opinion of the judge of the district, public interest demands it.

SEC. 14. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures shall not be violated; and no warrant shall issue but upon probable cause supported by oath or affirmation, particularly describing the place to be searched and the person or thing to be seized.

SEC. 15. No law shall be passed to abridge or restrain the freedom of speech or of the press. In all criminal prosecutions for libel the truth may be given in evidence to the jury; and if it shall appear to the jury that the matter charged as libelous is true, and was published with good motives, and for justifiable ends, the party shall be acquitted, and the jury shall have the right to determine the law and the fact.

SEC. 16. There shall be no imprisonment for debt, except in cases of absconding debtors.

SEC. 17. All elections shall be free, and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage. Soldiers in time of war may vote at their post of duty, in or out of the State, under regulations to be prescribed by law.

SEC. 18. No bill of attainder, ex post facto law, or law impairing the obligation of contracts shall be passed.

SEC. 19. Treason against the State shall consist only in levying war against it, or in adhering to its enemies, or in giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act.

SEC. 20. The military shall be in strict subordination to the civil power, and no soldier in time of peace shall be quartered in any house without the consent of the owner; nor in time of war, except in a manner to be prescribed by law.

SEC. 21. Neither slavery nor involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, shall exist within this State.

SEC. 22. Private property shall not be taken or damaged for public use without just compensation.

SEC. 23. No law shall be passed granting irrevocably any franchise, privilege, or immunity.

SEC. 24. All laws of a general nature shall have uniform operation.

SEC. 25. This enumeration of rights shall not be construed to impair or deny others retained by the people.

SEC. 26. The provisions of this constitution are mandatory and prohibitory, unless by express words they are declared to be otherwise.

SEC. 27. Frequent recurrence to fundamental principles is essential to the security of individual rights and the perpetuity of free government.

ARTICLE II

STATE BOUNDARIES

SECTION 1. The boundaries of the State of Utah shall be as follows: Beginning at a point formed by the intersection of the thirty-second degree of longitude west from Washington with the thirty-seventh degree of north latitude; thence due west along said thirty-seventh degree of north latitude to the intersection of the same with the thirty-seventh degree of longitude west from Washington; thence due north along said thirty-seventh degree of west longitude to the intersection of the same with the forty-second degree of north latitude; thence due east along said forty-second degree of north latitude to the intersection of the same with the thirty-fourth degree of longitude west from Washington; thence due south along said thirty-fourth degree of west longitude to the intersection of the same with the forty-first degree of north latitude; thence due east along said forty-first degree of north latitude to the intersection of the same with the thirty-second degree of longitude west from Washington; thence due south along said thirty-second degree of west longitude to the place of beginning.

Article III

ORDINANCE

The following ordinance shall be irrevocable without the consent of the United States and the people of this State:

First. Perfect toleration of religious sentiment is guaranteed. No inhabitant of this State shall ever be molested in person or property on account of his or her mode of religious worship; but polygamous or plural marriages are forever prohibited.

Second. The people inhabiting this State do affirm and declare that they forever disclaim all right and title to the unappropriated public lands lying within the boundaries hereof, and to all lands lying within said limits owned or held by any Indian or Indian tribes, and that until the title thereto shall have been extinguished by the United States the same shall be and remain subject to the disposition of the United States, and said Indian lands shall remain under the absolute jurisdiction and control of the Congress of the United States. The lands belonging to citizens of the United States residing without this State shall never be taxed at a higher rate than the lands belonging to residents of this State; nor shall taxes be imposed by this State on lands or property herein belonging to or which may hereafter be purchased by the United States or reserved for its use; but nothing in this ordinance shall preclude this State from taxing, as other lands are taxed, any lands owned or held by any Indian who has severed his tribal relations and has obtained from the United States or from any person, by patent or other grant, a title thereto, save and except such lands as have been or may be granted to any Indian or Indians under any act of Congress containing a provision exempting the land thus granted from taxation, which last-mentioned lands shall be exempt from taxation so long, and to such extent, as is or may be provided in the act of Congress granting the same.

Third. All debts and liabilities of the Territory of Utah, incurred by authority of the legislative assembly thereof, are hereby assumed and shall be paid by this State.

Fourth. The legislature shall make laws for the establishment and maintenance of a system of public schools, which shall be open to all the children of the State and be free from sectarian control.

Article IV

ELECTIONS AND RIGHT OF SUFFRAGE

Section 1. The rights of citizens of the State of Utah to vote and hold office shall not be denied or abridged on account of sex. Both male and female citizens of this State shall enjoy equally all civil, political, and religious rights and privileges.

Sec. 2. Every citizen of the United States of the age of 21 years and upward, who shall have been a citizen for ninety days, and shall have resided in the State or Territory one year, in the county four months, and in the precinct sixty days next preceding any election, shall be entitled to vote at such election except as herein otherwise provided.

Sec. 3. In all cases except those of treason, felony, or breach of the peace, electors, shall be privileged from arrest on the days of election,

during their attendance at elections, and going to and returning therefrom.

SEC. 4. No elector shall be obliged to perform militia duty on the day of election except in time of war or public danger.

SEC. 5. No person shall be deemed a qualified elector of this State unless such person be a citizen of the United States.

SEC. 6. No idiot, insane person, or person convicted of treason or crime against the elective franchise, unless restored to civil rights, shall be permitted to vote at any election or be eligible to hold office in this State.

SEC. 7. Except in elections levying a special tax or creating indebtedness, no property qualification shall be required for any person to vote or hold office.

SEC. 8. All elections shall be by secret ballot. Nothing in this section shall be construed to prevent the use of any machine or mechanical contrivance for the purpose of receiving and registering the votes cast at any election: *Provided*, That secrecy in voting be preserved.

SEC. 9. All general elections, except for municipal and school officers, shall be held on the Tuesday next following the first Monday in November of the year in which the election is held. Special elections may be held as provided by law. The terms of all officers elected at any general election shall commence on the first Monday in January next following the date of their election. Municipal and school officers shall be elected at such time as may be provided by law.

SEC. 10. All officers made elective or appointive by this constitution or by the laws made in pursuance thereof, before entering upon the duties of their respective offices, shall take and subscribe the following oath or affirmation: "I do solemnly swear (or affirm) that I will support, obey, and defend the Constitution of the United States and the constitution of this State, and that I will discharge the duties of my office with fidelity."

ARTICLE V

DISTRIBUTION OF POWERS

SECTION 1. The powers of the government of the State of Utah shall be divided into three distinct departments, the legislative, the executive, and the judicial; and no person charged with the exercise of powers properly belonging to one of these departments shall exercise any functions appertaining to either of the others, except in the cases herein expressly directed or permitted.

ARTICLE VI

LEGISLATIVE DEPARTMENT

[a] SECTION 1. The legislative power of this State shall be vested in a senate and house of representatives, which shall be designated the legislature of the State of Utah.

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[a] See amendment, November 6, 1900.

SEC. 2. Regular sessions of the legislature shall be held biennially at the seat of the government, and, except the first session thereof, shall commence on the second Monday in January next after the election of members of the house of representatives.

SEC. 3. The members of the house of representatives, after the first election, shall be chosen by the qualified electors of the respective representative districts on the first Tuesday after the first Monday in November, 1896, and biennially thereafter. Their term of office shall be two years from the first day of January next after their election.

SEC. 4. The senators shall be chosen by the qualified electors of the respective senatorial districts at the same times and places as members of the house of representatives, and their term of office shall be four years from the first day of January next after their election: *Provided*, That the senators elected in 1896 shall be divided by lot into two classes as nearly equal as may be; seats of senators of the first class shall be vacated at the expiration of two years, those of the second class at the expiration of four years; so that one-half, as near as possible, shall be chosen biennially thereafter. In case of increase in the number of senators, they shall be annexed by lot to one or the other of the two classes, so as to keep them as nearly equal as practicable.

SEC. 5. No person shall be eligible to the office of senator or representative who is not a citizen of the United States, twenty-five years of age, a qualified voter in the district from which he is chosen, a resident for three years of the State, and for one year of the district from which he is elected.

SEC. 6. No person holding any public office of profit or trust under authority of the United States or of this State shall be a member of the legislature: *Provided*, That appointments in the State militia and the offices of notary public, justice of the peace, United States commissioner, and postmaster of the fourth class shall not, within the meaning of this section, be considered offices of profit or trust.

SEC. 7. No member of the legislature, during the term for which he was elected, shall be appointed or elected to any civil office of profit under this State which shall have been created, or the emoluments of which shall have been increased, during the term for which he was elected.

SEC. 8. Members of the legislature, in all cases except treason, felony, or breach of peace, shall be privileged from arrest during each session of the legislature, for fifteen days next preceding each session, and in returning therefrom; and for words used in any speech or debate in either house they shall not be questioned in any other place.

SEC. 9. The members of the legislature shall receive such per diem and mileage as the legislature may provide, not exceeding four dollars per day and ten cents per mile for the distance necessarily traveled going to and returning from the place of meeting on the most usual route, and they shall receive no other pay or perquisite.

SEC. 10. Each house shall be the judge of the election and qualifications of its members, and may punish them for disorderly conduct, and, with the concurrence of two-thirds of all the members elected, expel a member for cause.

SEC. 11. A majority of the members of each house shall constitute a quorum to transact business, but a smaller number may adjourn

from day to day, and may compel the attendance of absent members in such manner and under such penalties as each house may prescribe.

SEC. 12. Each house shall determine the rules of its proceedings, and choose its own officers and employees.

SEC. 13. The governor shall issue writs of election to fill vacancies that may occur in either house of the legislature.

SEC. 14. Each house shall keep a journal of its proceedings, which, except in case of executive sessions, shall be published, and the yeas and nays on any question, at the request of five members of such house, shall be entered upon the journal.

SEC. 15. All sessions of the legislature, except those of the senate while sitting in executive session, shall be public; and neither house, without the consent of the other, shall adjourn for more than three days, nor to any other place than that in which it may be holding session.

SEC. 16. No regular session of the legislature (except the first, which may sit ninety days) shall exceed sixty days, except in cases of impeachment. No special session shall exceed thirty days, and in such special session, or when a regular session of the legislature trying cases of impeachment exceeds sixty days, the members shall receive for compensation only the usual per diem and mileage.

SEC. 17. The house of representatives shall have the sole power of impeachment, but in order to impeach two-thirds of all the members elected must vote therefor.

SEC. 18. All impeachments shall be tried by the senate, and senators, when sitting for that purpose, shall take oath or make affirmation to do justice according to the law and the evidence. When the governor is on trial the chief justice of the supreme court shall preside. No person shall be convicted without the concurrence of two-thirds of the senators elected.

SEC. 19. The governor and other State and judicial officers, except justices of the peace, shall be liable to impeachment for high crimes, misdemeanors, or malfeasance in office; but judgment in such cases shall extend only to removal from office and disqualification to hold any office of honor, trust, or profit in the State. The party, whether convicted or acquitted, shall, nevertheless, be liable to prosecution, trial, and punishment according to law.

SEC. 20. No person shall be tried on impeachment unless he shall have been served with a copy of the articles thereof at least ten days before the trial, and after such service he shall not exercise the duties of his office until he shall have been acquitted.

SEC. 21. All officers not liable to impeachment shall be removed for any of the offenses specified in this article, in such manner as may be provided by law.

[a] SEC. 22. The enacting clause of every law shall be: "Be it enacted by the legislature of the State of Utah," and no bill or joint resolution shall be passed except with the assent of a majority of all the members elected to each house of the legislature, and after it has been read three times. The vote upon the final passage of all bills shall be by yeas and nays; and no law shall be revised or amended by reference to its title only; but the act as revised, or section as amended, shall be reenacted and published at length.

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[a] See amendment, November 6, 1900.

SEC. 23. Except general appropriation bills, and bills for the codification and general revision of laws, no bill shall be passed containing more than one subject, which shall be clearly expressed in its title.

SEC. 24. The presiding officer of each house, in the presence of the house over which he presides, shall sign all bills and joint resolutions passed by the legislature, after their titles have been publicly read immediately before signing, and the fact of such signing shall be entered upon the journal.

SEC. 25. All acts shall be officially published, and no act shall take effect until so published, nor until sixty days after the adjournment of the session at which it passed, unless the legislature by vote of two-thirds of all the members elected to each house shall otherwise direct.

SEC. 26. The legislature is prohibited from enacting any private or special laws in the following cases:

First. Granting divorce.

Second. Changing the names of persons or places, or constituting one person the heir at law of another.

Third. Locating or changing county seats.

Fourth. Regulating the jurisdiction and duties of justices of the peace.

Fifth. Punishing crimes and misdemeanors.

Sixth. Regulating the practice of courts of justice.

Seventh. Providing for a change of venue in civil or criminal actions.

Eighth. Assessing and collecting taxes.

Ninth. Regulating the interest on money.

Tenth. Changing the law of descent or succession.

Eleventh. Regulating county and township affairs.

Twelfth. Incorporating cities, towns, or villages; changing or amending the charter of any city, town, or village; laying out, opening, vacating, or altering town plats, highways, streets, wards, alleys, or public grounds.

Thirteenth. Providing for sale or mortgage of real estate belonging to minors or others under disability.

Fourteenth. Authorizing persons to keep ferries across streams within the State.

Fifteenth. Remitting fines, penalties, or forfeitures.

Sixteenth. Granting to an individual, association, or corporation any privilege, immunity, or franchise.

Seventeenth. Providing for the management of common schools.

Eighteenth. Creating, increasing, or decreasing fees, percentages, or allowances of public officers during the term for which said officers are elected or appointed.

The legislature may repeal any existing special law relating to the forgoing subdivisions.

In all cases where a general law can be applicable no special law shall be enacted.

Nothing in this section shall be construed to deny or restrict the power of the legislature to establish and regulate the compensation and fees of county and township officers; to establish and regulate the rates of freight, passage, toll, and charges of railroads, toll roads, ditch, flume, and tunnel companies incorporated under the laws of the State or doing business therein.

SEC. 27. The legislature shall have no power to release or extinguish, in whole or in part, the indebtedness, liability, or obligation of any corporation or person to the State, or to any municipal corporation therein.

SEC. 28. The legislature shall not authorize any game of chance, lottery, or gift enterprise under any pretense or for any purpose.

SEC. 29. The legislature shall not delegate to any special commission, private corporation, or association any power to make, supervise, or interfere with any municipal improvement, money, property, or effects, whether held in trust or otherwise, to levy taxes, to select a capitol site, or to perform any municipal functions.

SEC. 30. The legislature shall have no power to grant, or authorize any county or municipal authority to grant, any extra compensation, fee, or allowance to any public officer, agent, servant, or contractor, after service has been rendered or a contract has been entered into and performed in whole or in part, nor pay or authorize the payment of any claim hereafter created against the State, or any county or municipality of the State, under any agreement or contract made without authority of law: *Provided*, That this section shall not apply to claims incurred by public officers in the execution of the laws of the State.

SEC. 31. The legislature shall not authorize the State, or any county, city, town, township, district, or other political subdivision of the State, to lend its credit or subscribe to stock or bonds in aid of any railroad, telegraph, or other private individual or corporate enterprise or undertaking.

ARTICLE VII

EXECUTIVE

SECTION 1. The executive department shall consist of governor, secretary of state, State auditor, State treasurer, attorney-general, and superintendent of public instruction, each of whom shall hold his office for four years, beginning on the first Monday of January next after his election, except that the terms of office of those elected at the first election shall begin when the State shall be admitted into the Union, and shall end on the first Monday in January, A. D. 1901. The officers of the executive department, during their terms of office, shall reside at the seat of government, where they shall keep the public records, books, and papers. They shall perform such duties as are prescribed by this constitution and as may be prescribed by law.

SEC. 2. The officers provided for in section one of this article shall be elected by the qualified electors of the State at the time and place of voting for members of the legislature, and the persons respectively having the highest number of votes cast for the office voted for shall be elected; but if two or more shall have an equal and highest number of votes for any one of said offices, the two houses of the legislature, at its next regular session, shall elect forthwith by joint ballot one of such persons for said office.

SEC. 3. No person shall be eligible to the office of governor or secretary of state unless he shall have attained the age of thirty years at the time of his election, nor to the office of attorney-general unless he shall have attained the age of twenty-five years at the time of his

election and have been admitted to practice in the supreme court of the Territory or of the State of Utah, nor unless he shall be in good standing at the bar at the time of his election. No person shall be eligible to any of the offices provided for in section one of this article unless at the time of his election he shall be a qualified elector and shall have been a resident citizen of the State or Territory for five years next preceding his election. The State auditor and State treasurer shall be ineligible to election as their own successors.

SEC. 4. The governor shall be commander in chief of the military forces of the State, except when they shall be called into the service of the United States. He shall have the power to call out the militia to execute the laws, to suppress insurrection, or to repel invasion.

SEC. 5. The governor shall see that the laws are faithfully executed; he shall transact all executive business with the officers of the government, civil and military, and may require information in writing from the officers of the executive department, and from the officers and managers of State institutions upon any subject relating to the condition, management, and expenses of their respective offices and institutions, and at any time when the legislative assembly is not in session may, if he deem it necessary, appoint a committee to investigate and report to him upon the condition of any executive office or State institution. He shall communicate by message the condition of the State to the legislature at every regular session, and recommend such measures as he may deem expedient.

SEC. 6. On extraordinary occasions the governor may convene the legislature by proclamation, in which shall be stated the purpose for which the legislature is to be convened, and it shall transact no legislative business except that for which it was especially convened, or such other legislative business as the governor may call to its attention while in sesion. The legislature, however, may provide for the expenses of the session and other matters incidental thereto. The governor may also by proclamation convene the senate in extraordinary session for the transaction of executive business.

SEC. 7. In case of a disagreement between the two houses of the legislature at any special session with respect to the time of adjournment, the governor shall have power to adjourn the legislature to such time as he may think proper: *Provided*, That it be not beyond the time fixed for the convening of the next legislature.

SEC. 8. Every bill passed by the legislature, before it becomes a law, shall be presented to the governor. If he approve, he shall sign it, and thereupon it shall become a law; but if he do not approve, he shall return it with his objections to the house in which it originated, which house shall enter the objections at large upon its journal and proceed to reconsider the bill. If, after such reconsideration, it again passes both houses by a yea-and-nay vote of two-thirds of the members elected to each house, it shall become a law, notwithstanding the governor's objections. If any bill be not returned within five days after it shall have been presented to him (Sunday and the day on which he received it excepted), the same shall be a law in like manner as if he had signed it, unless the legislature by its final adjournment prevent such return, in which case it shall be filed with his objections in the office of the Secretary of State within ten days after such adjournment (Sundays excepted) or become a law. If any bill presented to the governor contains several items of appropriations of

money, he may object to one or more such items while approving other portions of the bill. In such case he shall append to the bill at the time of signing it a statement of the item or items which he declines to approve, together with his reasons therefor, and such item or items shall not take effect unless passed over the governor's objection as in this section provided.

SEC. 9. When any State or district office shall become vacant and no mode is provided by the constitution and laws for filling such vacancy, the governor shall have the power to fill the same by granting a commission, which shall expire at the next election and upon qualification of the person elected to such office.

SEC. 10. The governor shall nominate, and by and with the consent of the senate appoint, all State and district officers whose offices are established by this constitution, or which may be created by law, and whose appointment or election is not otherwise provided for. If, during the recess of the senate, a vacancy occur in any State or district office, the governor shall appoint some fit person to discharge the duties thereof until the next meeting of the Senate, when he shall nominate some person to fill such office. If the office of justice of the supreme or district court, secretary of state, State auditor, State treasurer, attorney-general, or superintendent of public instruction be vacated by death, resignation, or otherwise it shall be the duty of the governor to fill the same by appointment, and the appointee shall hold his office until his successor shall be elected and qualified, as may be by law provided.

SEC. 11. In case of the death of the governor, or his impeachment, removal from office, inability to discharge the duties of his office, resignation, or absence from the State, the powers and duties of said office shall devolve upon the secretary of state until the disability shall cease, or until the next general election, when the vacancy shall befilled by election. If, during a vacancy in the office of the governor, the secretary of state resign, die, or become incapable of performing the duties of the office, or be displaced, or be absent from the State, the president pro tempore of the senate shall act as governor until the vacancy be filled or the disability cease. While performing the duties of the governor as in this section provided, the secretary of state or the president pro tempore of the senate, as the case may be, except in cases of temporary disability or absence from the State, shall be entitled to the salary and emoluments of the governor.

SEC. 12. Until otherwise provided by law, the governor, justices of the supreme court, and attorney-general shall constitute a board of pardons, a majority of whom, including the governor, upon such conditions and with such limitations and restrictions as they deem proper, may remit fines and forfeitures, commute punishments, and grant pardons after convictions in all cases except treason and impeachments, subject to such regulations as may be provided by law relative to the manner of applying for pardons; but no fine or forfeiture shall be remitted and no commutation or pardon granted except after a full hearing before the board, in open session, after previous notice of the time and place of such hearing has been given. The proceedings and decisions of the board, with the reasons therefor in each case, together with the dissent of any member who may disagree, shall be reduced to writing and filed, with all the papers used upon the hearing, in the office of the secretary of state.

The governor shall have power to grant respites or reprieves in all cases of convictions for offenses against the State, except treason or conviction on impeachment; but such respites or reprieves shall not extend beyond the next session of the board of pardons; and such board, at such session, shall continue or determine such respite or reprieve, or they may commute the punishment or pardon the offense as herein provided. In case of conviction for treason, the governor shall have the power to suspend execution of the sentence until the case shall be reported to the legislature at its next regular session, when the legislature shall either pardon or commute the sentence or direct its execution; he shall communicate to the legislature at each regular session each case of remission of fine or forfeiture, reprive, commutation, or pardon granted since the last previous report, stating the name of the convict, the crime for which he was convicted, the sentence and its date, the date of remission, commutation, pardon, or reprieve, with the reasons for granting the same, and the objections, if any, of any member of the board made thereto.

Sec. 13. Until otherwise provided by law, the governor, secretary of state, and attorney-general shall constitute a board of State prison commissioners, which board shall have such supervision of all matters connected with the State prison as may be provided by law. They shall also constitute a board of examiners, with power to examine all claims against the State except salaries or compensation of officers fixed by law, and perform such other duties as may be prescribed by law, and no other claim against the State, except for salaries and compensation of officers fixed by law, shall be passed upon by the legislature without having been considered and acted upon by the said board of examiners.

Sec. 14. Until otherwise provided by law, the governor, State treasurer, and state auditor shall constitute a board of insane asylum commissioners. Said board shall have such supervision of all matters connected with the State insane asylum as may be provided by law.

Sec. 15. Until otherwise provided by law, the governor, attorney-general, and superintendent of public instruction shall constitute a board of reform-school commissioners. Said board shall have such supervision of all matters connected with the State reform school as may be provided by law.

Sec. 16. The secretary of state shall keep a record of the official acts of the legislature and executive department of the State, and, when required, shall lay the same and all matters relative thereto before either branch of the legislature, and shall perform such other duties as may be provided by law.

Sec. 17. The auditor shall be auditor of public accounts, and the treasurer shall be the custodian of public moneys, and each shall perform such other duties as may be provided by law.

Sec. 18. The attorney-general shall be the legal adviser of the State officers, and shall perform such other duties as may be provided by law.

Sec. 19. The superintendent of public instruction shall perform such duties as may be provided by law.

Sec. 20. The governor, secretary of state, auditor, treasurer, attorney-general, superintendent of public instruction, and such other

State and district officers as may be provided for by law shall receive for their services quarterly a compensation as fixed by law, which shall not be diminished or increased so as to affect the salary of any officer during his term, or the term next ensuing after the adoption of this Constitution, unless a vacancy occur, in which case the successor of the former incumbent shall receive only such salary as may be provided by law at the time of his election or appointment. The compensation of the officers provided for by this article, until otherwise provided by law, is fixed as follows:

Governor, two thousand dollars per annum.

Secretary of state, two thousand dollars per annum.

State auditor, fifteen hundred dollars per annum.

State treasurer, one thousand dollars per annum.

Attorney-general, fifteen hundred dollars per annum.

Superintendent of public instruction, fifteen hundred dollars per annum.

The compensation for said officers as prescribed in this section, and in all laws enacted pursuant to this constitution, shall be in full for all services rendered by said officers, respectively, in any official capacity or employment during their respective terms of office. No such officer shall receive for the performance of any official duty any fee for his own use, but all fees fixed by law for the performance by either of them of any official duty shall be collected in advance and deposited with the State treasurer quarterly to the credit of the State. The legislature may provide for the payment of actual and necessary expenses of said officers while traveling in the State in the performance of official duty.

SEC. 21. All grants and commissions shall be in the name and by the authority of the State of Utah, sealed with the great seal of the State, signed by the governor, and countersigned by the secretary of state.

SEC. 22. There shall be a seal of the State, which shall be kept by the secretary of state, and used by him officially. Said seal shall be called "the great seal of the State of Utah." The present seal of the Territory of Utah shall be the seal of the State until otherwise provided by law.

SEC. 23. No person while holding any office under the United States Government shall hold any office under the State government of Utah, and the governor shall not be eligible for election to the Senate of the United States during the term for which he shall have been elected governor.

ARTICLE VIII

JUDICIAL DEPARTMENT

SECTION 1. The judicial power of the State shall be vested in the senate sitting as a court of impeachment, in a supreme court, in district courts, in justices of the peace, and such other courts inferior to the supreme court as may be established by law.

SEC. 2. The supreme court shall consist of three judges; but after the year A. D. 1905 the legislature may increase the number thereof to five. A majority of the judges constituting the court shall be necessary to form a quorum or render a decision. If a justice of the supreme court shall be disqualified from sitting in a cause before said

court the remaining judges shall call a district judge to sit with them on the hearing of such cause. The judges of the supreme court shall be elected by the electors of the State at large. The term of office of the judges of the supreme court, excepting as in this article otherwise provided, shall be six years. The judges of the supreme court, immediately after the first election under this constitution, shall be selected by lot, so that one shall hold office for the term of three years, one for the term of five years, and one for the term of seven years. The lots shall be drawn by the judges of the supreme court, who, for that purpose, shall assemble at the seat of government; and they shall cause the result thereof to be certified by the secretary of state, and filed in his office. The judge having the shortest term to serve, not holding his office by appointment or election to fill a vacancy, shall be the chief justice and shall preside at all terms of the supreme court, and in case of his absence the judge having, in like manner, the next shortest term shall preside in his stead.

SEC. 3. Every judge of the supreme court shall be at least thirty years of age, and before his election shall be a member of the bar, learned in the law, and a resident of the Territory or State of Utah for five years next preceding his election.

SEC. 4. The supreme court shall have original jurisdiction to issue writs of mandamus, certiorari, prohibition, quo warranto, and habeas corpus. Each of the justices shall have power to issue writs of habeas corpus, to any part of the State, upon petition by or on behalf of any person held in actual custody, and may make such writs returnable before himself or the supreme court, or before any district court or judge thereof in the State. In other cases the supreme court shall have appellate jurisdiction only, and power to issue writs necessary and proper for the exercise of that jurisdiction. The supreme court shall hold at least three terms every year, and shall sit at the capital of the State.

SEC. 5. The State shall be divided into seven judicial districts, for each of which at least one, and not exceeding three, judges shall be chosen by the qualified electors thereof. The term of office of the district judges shall be four years, except that the district judges elected at the first election shall serve until the first Monday in January, A. D. 1901, and until their successors shall have qualified. Until otherwise provided by law a district court at the county seat of each county shall be held at least four times a year. All civil and criminal business arising in any county must be tried in such county, unless a change of venue be taken in such cases as may be provided by law. Each judge of the district court shall be at least twenty-five years of age, a member of the bar, learned in the law, a resident of the Territory or State of Utah three years next preceding his election, and shall reside in the district for which he shall be elected. Any district judge may hold a district court in any county at the request of the judge of the district, and upon a request of the governor it shall be his duty to do so. Any cause in the district court may be tried by a judge pro tempore, who must be a member of the bar, sworn to try the cause, and agreed upon by the parties or their attorneys of record.

SEC. 6. The legislature may change the limits of any judicial district, or increase or decrease the number of districts, or the judges thereof. No alteration or increase shall have the effect of removing

a judge from office. In every additional district established a judge shall be elected by the electors thereof, and his term of office shall continue as provided in section five of this article.

SEC. 7. The district court shall have original jurisdiction in all matters civil and criminal not excepted in this constitution and not prohibited by law, appellate jurisdiction from all inferior courts and tribunals, and a supervisory control of the same. The district courts or any judge thereof shall have power to issue writs of habeas corpus, mandamus, injunction, quo warranto, certiorari, prohibition, and other writs necessary to carry into effect their orders, judgments, and decrees, and to give them a general control over inferior courts and tribunals within their respective jurisdictions.

SEC. 8. The legislature shall determine the number of justices of the peace to be elected, and shall fix by law their powers, duties, and compensation. The jurisdiction of justices of the peace shall be as now provided by law, but the legislature may restrict the same.

SEC. 9. From all final judgments of the district courts there shall be a right of appeal to the supreme court. The appeal shall be upon the record made in the court below, and under such regulations as may be provided by law. In equity cases the appeal may be on questions of both law and fact; in cases at law the appeal shall be on questions of law alone. Appeals shall also lie from the final orders and decrees of the court in the administration of decedent estates, and in cases of guardianship, as shall be provided by law. Appeals shall also lie from the final judgment of justices of the peace in civil and criminal cases to the district courts on both questions of law and fact, with such limitations and restrictions as shall be provided by law; and the decision of the district courts on such appeals shall be final, except in cases involving the validity or constitutionality of a statute.

SEC. 10. A county attorney shall be elected by the qualified voters of each county, who shall hold his office for a term of two years. The powers and duties of county attorneys, and such other attorneys for the State as the legislature may provide, shall be prescribed by law. In all cases where the attorney for any county or for the State fails or refuses to attend and prosecute according to law the court shall have power to appoint an attorney pro tempore.

SEC. 11. Judges may be removed from office by the concurrent vote of both houses of the legislature, each voting separately; but two-thirds of the members to which each house may be entitled must concur in such vote. The vote shall be determined by yeas and nays, and the names of the members voting for or against a judge, together with the cause or causes of removal, shall be entered on the journal of each house. The judge against whom the house may be about to proceed shall receive notice thereof, accompanied with a copy of the cause alleged for his removal, at least ten days before the day on which either house of the legislature shall act thereon.

SEC. 12. The judges of the supreme and district courts shall receive at stated times compensation for their services, which shall not be increased or diminished during the time for which they are elected.

SEC. 13. Except by consent of all the parties, no judge of the supreme or inferior courts shall preside in the trial of any cause where either of the parties shall be connected with him by affinity or consanguinity within the degree of first cousin, or in which he may have

been of counsel, or in the trial of which he may have presided in any inferior court.

SEC. 14. The supreme court shall appoint a clerk and a reporter of its decisions, who shall hold their offices during the pleasure of the court. Until otherwise provided county clerks shall be ex officio clerks of the district courts in and for their respective counties, and shall perform such other duties as may be provided by law.

SEC. 15. No person related to any judge of any court by affinity or consanguinity within the degree of first cousin shall be appointed by such court or judge to or employed by such court or judge in any office or duty in any court of which such judge may be a member.

SEC. 16. Until otherwise provided by law, the judicial districts of the State shall be constituted as follows:

First district.—The counties of Cache, Boxelder, and Rich.

Second district.—The counties of Weber, Morgan, and Davis.

Third district.—The counties of Summit, Salt Lake, and Tooele, in which there shall be elected three district judges.

Fourth district.—The counties of Utah, Wasatch, and Uinta.

Fifth district.—The counties of Juab, Millard, Beaver, Iron, and Washington.

Sixth district.—The counties of Sevier, Piute, Wayne, Garfield, and Kane.

Seventh district.—The counties of Sanpete, Carbon, Emery, Grand, and San Juan.

SEC. 17. The supreme and district courts shall be courts of record, and each shall have a seal.

SEC. 18. The style of all process shall be "The State of Utah," and all prosecutions shall be conducted in the name and by the authority of the same.

SEC. 19. There shall be but one form of civil action, and law and equity may be administered in the same action.

SEC. 20. Until otherwise provided by law, salaries of supreme and district judges shall be three thousand dollars per annum and mileage, payable quarterly out of the State treasury.

SEC. 21. Judges of the supreme court, district court, and justices of the peace shall be conservators of the peace, and may hold preliminary examinations in cases of felony.

SEC. 22. District judges may at any time report defects and omissions in the law to the supreme court, and the supreme court, on or before the first day of December of each year, shall report in writing to the governor any seeming defect or omission in the law.

SEC. 23. The legislature may provide for the publication of decisions and opinions of the supreme court, but all decisions shall be free to publishers.

SEC. 24. The terms of office of supreme and district judges may be extended by law, but such extension shall not affect the term for which any judge was elected.

SEC. 25. When a judgment or decree is reversed, modified, or affirmed by the supreme court the reasons therefor shall be stated concisely in writing, signed by the judges concurring, filed in the office of the clerk of the supreme court, and preserved with a record of the case. Any judge dissenting therefrom may give the reasons of his dissent in writing over his signature.

SEC. 26. It shall be the duty of the court to prepare a syllabus of all the points adjudicated in each case, which shall be concurred in by a majority of the judges thereof, and it shall be prefixed to the published reports of the case.

SEC. 27. Any judicial officer who shall absent himself from the State or district for more than ninety consecutive days shall be deemed to have forfeited his office: *Provided*, That in case of extreme necessity the governor may extend the leave of absence to such time as the necessity therefor shall exist.

ARTICLE IX

CONGRESSIONAL AND LEGISLATIVE APPORTIONMENT

SECTION 1. One representative in the Congress of the United States shall be elected from the State at large on the Tuesday next after the first Monday in November, A. D. 1895, and thereafter at such times and places and in such manner as may be prescribed by law. When a new apportionment shall be made by Congress, the legislature shall divide the State into Congressional districts accordingly.

SEC. 2. The legislature shall provide by law for an enumeration of the inhabitants of the State A. D. 1905, and every tenth year thereafter, and at the session next following such enumeration, and also at the session next following an enumeration made by the authority of the United States, shall revise and adjust the apportionment for senators and representatives on the basis of such enumeration, according to ratios to be fixed by law.

SEC. 3. The senate shall consist of eighteen members and the house of representatives of forty-five members. The legislature may increase the number of senators and representatives, but the senators shall never exceed thirty in number, and the number of representatives shall never be less than twice nor greater than three times the number of senators.

SEC. 4. When more than one county shall constitute a senatorial district, such counties shall be contiguous, and no county shall be divided in the formation of such districts unless such county contains sufficient population within itself to form two or more districts, nor shall a part of any county be united with any other county in forming any district.

REPRESENTATIVE DISTRICTS

Until otherwise provided by law, representatives shall be apportioned among the several counties of the State as follows: *Provided*, That in any future apportionment made by the legislature each county shall be entitled to at least one representative:

The county of Boxelder shall constitute the first representative district, and be entitled to one representative.

The county of Cache shall constitute the second representative district, and be entitled to three representatives.

The county of Rich shall constitute the third representative district, and be entitled to one representative.

The county of Weber shall constitute the fourth representative district, and be entitled to four representatives.

The county of Morgan shall constitute the fifth representative district, and be entitled to one representative.

The county of Davis shall constitute the sixth representative district, and be entitled to one representative.

The county of Tooele shall constitute the seventh representative district, and be entitled to one representative.

The county of Salt Lake shall constitute the eighth representative district, and be entitled to ten representatives.

The county of Summit shall constitute the ninth representative district, and be entitled to one representative.

The county of Wasatch shall constitute the tenth representative district, and be entitled to one representative.

The county of Utah shall constitute the eleventh representative district, and be entitled to four representatives.

The county of Uinta shall constitute the twelfth representative district, and be entitled to one representative.

The county of Juab shall constitute the thirteenth representative district, and be entitled to one representative.

The county of Sanpete shall constitute the fourteenth representative district, and be entitled to two representatives.

The county of Carbon shall constitute the fifteenth representative district, and be entitled to one representative.

The county of Emery shall constitute the sixteenth representative district, and be entitled to one representative.

The county of Grand shall constitute the seventeenth representative district, and be entitled to one representative.

The county of Sevier shall constitute the eighteenth representative district, and be entitled to one representative.

The county of Millard shall constitute the nineteenth representative district, and be entitled to one representative.

The county of Beaver shall constitute the twentieth representative district, and be entitled to one representative.

The county of Piute shall constitute the twenty-first representative disrtict, and be entitled to one representative.

The county of Wayne shall constitute the twenty-second represetative district, and be entitled to one representative.

The county of Garfield shall constitute the twenty-third representative district, and be entitled to one representative.

The county of Iron shall constitute the twenty-fourth representative district, and be entitled to one representative.

The county of Washington shall constitute the twenty-fifth representative district, and be entitled to one representative.

The county of Kane shall constitute the twenty-sixth representative district, and be entitled to one representative.

The county of San Juan shall constitute the twenty-seventh representative district, and be entitled to one representative.

SENATORIAL DISTRICTS

Until otherwise provided by law, the senatorial districts shall be constituted and numbered as follows

The counties of Boxelder and Tooele shall constitute the first district, and be entitled to one senator.

The county of Cache shall constitute the second district, and be entitled to one senator.

The counties of Rich, Morgan, and Davis shall constitute the third district, and be entitled to one senator.

The county of Weber shall constitute the fourth district, and be entitled to two senators.

The counties of Summit and Wasatch shall constitute the fifth district, and be entitled to one senator.

The county of Salt Lake shall constitute the sixth district, and be entitled to five senators.

The county of Utah shall constitute the seventh district, and be entitled to two senators.

The counties of Juab and Millard shall constitute the eighth district, and be entitled to one senator.

The county of Sanpete shall constitute the ninth district, and be entitled to one senator.

The counties of Sevier, Wayne, Piute, and Garfield shall constitute the tenth district, and be entitled to one senator.

The counties of Beaver, Iron, Washington, and Kane shall constitute the eleventh district, and be entitled to one senator.

The counties of Emery, Carbon, Uinta, Grand, and San Juan shall constitute the twelfth district, and be entitled to one senator.

Article X

EDUCATION

Section 1. The legislature shall provide for the establishment and maintenance of a uniform system of public schools, which shall be open to all the children of the State and free from sectarian control.

[a] Sec. 2. The public school system shall include kindergarten schools; common schools, consisting of primary and grammar grades; high schools, an agricultural college, a university, and such other schools as the legislature may establish. The common school shall be free. The other departments of the system shall be supported as provided by law: *Provided*, That high schools may be maintained free in all cities of the first and second class now constituting school districts, and in such other cities and districts as may be designated by the legislature. But where the proportion of school moneys apportioned or accruing to any city or district shall not be sufficient to maintain all the free schools in such city or district, the high schools shall be supported by local taxation.

Sec. 3. The proceeds of all lands that have been or may be granted by the United States to this State for the support of the common schools, the proceeds of all property that may accrue to the State by escheat or forfeiture, and all unclaimed shares and dividends of any corporation incorporated under the laws of this State, the proceeds of the sale of timber, minerals, or other property from school and State lands other than those granted for specific purposes, and the five per centum of the net proceeds of the sales of public lands lying within the State, which shall be sold by the United States subsequent to the admission of this State into the Union, shall be and remain a perpetual fund, to be called the State school fund, the interest of which only, together with such other means as the legislature may provide, shall be distributed among the several school districts according to the school population residing therein.

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[a] See amendment.

SEC. 4. The location and establishment by existing laws of the University of Utah and Agricultural College are hereby confirmed, and all the rights, immunities, franchises, and endowments heretofore granted or conferred are hereby perpetuated unto said university and agricultural college, respectively.

SEC. 5. The proceeds of the sale of lands reserved by an act of Congress approved February 21, 1855, for the establishment of the University of Utah, and all the lands granted by an act of Congress approved July 16, 1894, shall constitute permanent funds, to be safely invested and held by the State; and the income thereof shall be used exclusively for the support and maintenance of the different institutions and colleges, respectively, in accordance with the requirements and conditions of said acts of Congress.

[a] SEC. 6. In cities of the first and second class the public school system shall be maintained and controlled by the board of education of such cities, separate and apart from the counties in which said cities are located.

SEC. 7. All public school funds shall be guaranteed by the State against loss or diversion.

SEC. 8. The general control and supervision of the public school system shall be vested in a State board of education, consisting of the superintendent of public instruction and such other persons as the legislature may provide.

SEC. 9. Neither the legislature nor the State board of education shall have power to prescribe text-books to be used in the common schools.

SEC. 10. Institutions for the deaf and dumb and for the blind are hereby established. All property belonging to the school for the deaf and dumb, heretofore connected with the University of Utah, shall be transferred to said institution for the deaf and dumb. All the proceeds of the lands granted by the United States for the support of a deaf and dumb asylum and for an institution for the blind shall be a perpetual fund for the maintenance of said institutions. It shall be a trust fund, the principal of which shall remain inviolate, guaranteed by the State against loss or diversion.

SEC. 11. The metric system shall be taught in the public schools of the State.

SEC. 12. Neither religious nor partisan test or qualification shall be required of any person as a condition of admission, as teacher or student, into any public educational institution of the State.

SEC. 13. Neither the legislature nor any county, city, town, school district, or other public corporation shall make any appropriation to aid in the support of any school, seminary, academy, college, university, or other institution controlled in whole or in part by any church, sect, or denomination whatever.

ARTICLE XI

COUNTIES, CITIES, AND TOWNS

SECTION 1. The several counties of the Territory of Utah existing at the time of the adoption of this constitution are hereby recognized as legal subdivisions of this State, and the precincts and school dis-

[a] See amendment, adopted November 6, 1900.

tricts now existing in the said counties as legal subdivisions thereof, and they shall so continue until changed by law in pursuance of this article.

SEC. 2. No county seat shall be removed unless two-thirds of the qualified electors of the county, voting on the proposition at a general election, shall vote in favor of such removal, and two-thirds of the votes cast on the proposition shall be required to relocate a county seat. A proposition of removal shall not be submitted in the same county more than once in four years.

SEC. 3. No territory shall be stricken from any county unless a majority of the voters living in such territory, as well as of the county to which it is to be annexed, shall vote therefor, and then only under such conditions as may be prescribed by general law.

SEC. 4. The legislature shall establish a system of county government, which shall be uniform throughout the State, and by general laws shall provide for precinct and township organizations.

SEC. 5. Corporations for municipal purposes shall not be created by special laws; the legislature, by general laws, shall provide for the incorporation, organization, and classification of cities and towns in proportion to population; which laws may be altered, amended, or repealed.

SEC. 6. No municipal corporation shall directly or indirectly lease, sell, alien, or dispose of any waterworks, water rights, or sources of water supply now or hereafter to be owned or controlled by it, but all such waterworks, water rights, and sources of water supply now owned or hereafter to be acquired by any municipal corporation shall be preserved, maintained, and operated by it for supplying its inhabitants with water at reasonable charges: *Provided*, That nothing herein contained shall be construed to prevent any such municipal corporation from exchanging water rights or sources of water supply for other water rights or sources of water supply of equal value, and to be devoted in like manner to the public supply of its inhabitants.

ARTICLE XII

CORPORATIONS

SECTION 1. Corporations may be formed under general laws, but shall not be created by special acts. All laws relating to corporations may be altered, amended, or repealed by the legislature, and all corporations doing business in this State may, as to such business, be regulated, limited, or restrained by law.

SEC. 2. All existing charters, franchises, special or exclusive privileges under which an actual and bona fide organization shall not have taken place and business been commenced in good faith at the time of the adoption of this constitution shall thereafter have no validity; and no corporation in existence at the time of the adoption of this constitution shall have the benefit of future legislation without first filing in the office of the secretary of state an acceptance of the provisions of this constitution.

SEC. 3. The legislature shall not extend any franchise or charter, nor remit the forfeiture of any franchise or charter of any corporation now existing or which shall hereafter exist under the laws of this State.

SEC. 4. The term "corporation," as used in this article, shall be construed to include all associations and joint stock companies having any powers or privileges of corporations not possessed by individuals or partnerships, and all corporations shall have the right to sue, and shall be subject to be sued, in all courts in like cases as natural persons.

SEC. 5. Corporations shall not issue stock except to bona fide subscribers thereof or their assignee, nor shall any corporation issue any bond or other obligation for the payment of money except for money or property received or labor done. The stock of corporations shall not be increased except in pursuance of general law, nor shall any law authorize the increase of stock without the consent of the person or persons holding the larger amount in value of the stock, or without due notice of the proposed increase having previously been given in such manner as may be prescribed by law. All fictitious increase of stock or indebtedness shall be void.

SEC. 6. No corporations organized outside of this State shall be allowed to transact business within the State on conditions more favorable than those prescribed by law to similar corporations organized under the laws of this State.

SEC. 7. No corporation shall lease or alienate any franchise so as to relieve the franchise or property held thereunder from the liabilities of the lessor or grantor, lessee or grantee, contracted or incurred in operation, use, or enjoyment of such franchise or any of its privileges.

SEC. 8. No law shall be passed granting the right to construct and operate a street railroad, telegraph, telephone, or electric-light plant within any city or incorporated town without the consent of the local authorities who have the control of the street or highway proposed to be occupied for such purposes.

SEC. 9. No corporation shall do business in this State without having one or more places of business, with an authorized agent or agents upon whom process may be served, nor without first filing a certified copy of its articles of incorporation with the secretary of state.

SEC. 10. No corporation shall engage in any business other than that expressly authorized in its charter or articles of incorporation.

SEC. 11. The exercise of the right of eminent domain shall never be so abridged or construed as to prevent the legislature from taking the property and franchises of incorporated companies and subjecting them to public use the same as the property of individuals.

SEC. 12. All railroad and other transportation companies are declared to be common carriers and subject to legislative control, and such companies shall receive and transport each other's passengers and freight without discrimination or unnecessary delay.

SEC. 13. No railroad corporation shall consolidate its stock, property, or franchises with any other railroad corporation owning a competing line.

SEC. 14. The rolling stock and other movable property belonging to any railroad company or corporation in this State shall be considered personal property, and shall be liable to taxation and to execution and sale in the same manner as the personal property of individuals, and such property shall not be exempted from execution and sale.

SEC. 15. The legislature shall pass laws establishing reasonable maximum rates of charges for the transportation of passengers and freight, for correcting abuses, and preventing discrimination and extortion in rates of freight and passenger tariffs by the different railroads and other common carriers in the State, and shall enforce such laws by adequate penalties.

SEC. 16. No corporation or association shall bring any armed person or bodies of men into this State for the preservation of the peace or the suppression of domestic troubles without authority of law.

SEC. 17. No officer, employee, attorney, or agent of any corporation, company, or association doing business under or by virtue of any municipal charter or franchise shall be eligible to or permitted to hold any municipal office in the municipality granting such charter or franchise.

SEC. 18. The stockholders in every corporation and joint stock association for banking purposes, in addition to the amount of capital stock subscribed and fully paid by them, shall be individually responsible for an additional amount equal to the amount of their stock in such corporation for all its debts and liabilities of every kind.

SEC. 19. Every person in this State shall be free to obtain employment whenever possible, and any person, corporation, or agent, servant, or employee thereof, maliciously interfering or hindering in any way any person from obtaining or enjoying employment already obtained from any other corporation or person shall be deemed guilty of a crime. The legislature shall provide by law for the enforcement of this section.

SEC. 20. Any combination by individuals, corporations, or associations having for its object or effect the controlling of the price of any products of the soil, or of any article of manufacture or commerce, or the cost of exchange or transportation, is prohibited and hereby declared unlawful and against public policy. The legislature shall pass laws for the enforcement of this section by adequate penalties, and, in case of incorporated companies, if necessary may declare a forfeiture of their franchise.

ARTICLE XIII

REVENUE AND TAXATION

SECTION 1. The fiscal year shall begin on the first day of January, unless changed by the legislature.

SEC. 2. All property in the State, not exempt under the laws of the United States or under this constitution, shall be taxed in proportion to its value, to be ascertained as provided by law. The word property, as used in this article, is hereby declared to include moneys, credits, bonds, stocks, franchises, and all matters and things (real, personal, and mixed) capable of private ownership; but this shall not be so construed as to authorize the taxation of the stocks of any company or corporation when the property of such company or corporation represented by such stocks has been taxed. The legislature shall provide by law for an annual tax sufficient, with other sources of revenue, to defray the estimated ordinary expenses of the State for each fiscal year. For the purpose of paying the State debt, if any there be, the legislature shall provide for levying a tax annually

sufficient to pay the annual interest and principal of such debt within twenty years from the final passage of the law creating the debt.

[a] SEC. 3. The legislature shall provide by law a uniform and equal rate of assessment and taxation on all property in the State according to its value in money, and shall prescribe by general law such regulations as shall secure a just valuation for taxation of all property; so that every person and corporation shall pay a tax in proportion to the value of his, her, or its property: *Provided*, That a deduction of debits from credits may be authorized: *Provided further*, That the property of the United States, of the State, counties, cities, towns, school districts, municipal corporations, and public libraries, lots with the buildings thereon used exclusively for either religious worship or charitable purposes, and places of burial not held or used for private or corporate benefit shall be exempt from taxation. Ditches, canals, and flumes owned and used by individuals or corporations for irrigating lands owned by such individuals or corporations, or the individual members thereof, shall not be separately taxed so long as they shall be owned and used exclusively for such purpose.

SEC. 4. All mines and mining claims, both placer and rock in place, containing or bearing gold, silver, copper, lead, coal, or other valuable mineral deposits, after purchase thereof from the United States, shall be taxed at the price paid the United States therefor, unless the surface ground, or some part thereof, of such mine or claim is used for other than mining purposes, and has a separate and independent value for such other purposes; in which case said surface ground, or any part thereof, so used for other than mining purposes shall be taxed at its value for such other purposes, as provided by law; and all the machinery used in mining, and all property and surface improvements upon or appurtenant to mines and mining claims, which have a value separate and independent of such mines or mining claims, and the net annual proceeds of all mines and mining claims, shall be taxed as provided by law.

SEC. 5. The legislature shall not impose taxes for the purpose of any county, city, town, or other municipal corporation, but may by law vest in the corporate authorities thereof, respectively, the power to assess and collect taxes for all purposes of such corporation.

SEC. 6. An accurate statement of the receipts and expenditures of the public moneys shall be published annually in such manner as the legislature may provide.

SEC. 7. The rate of taxation on property for State purposes shall never exceed eight mills on each dollar of valuation; and whenever the taxable property within the State shall amount to two hundred million dollars the rate shall not exceed five mills on each dollar of valuation, and whenever the taxable property within the State shall amount to three hundred million dollars the rate shall never thereafter exceed four mills on each dollar of valuation; unless a proposition to increase such rate, specifying the rate proposed and the time during which the same shall be levied, be first submitted to a vote of such of the qualified electors of the State as, in the year next preceding such election, shall have paid a property tax assessed to them within the State, and the majority of those voting thereon shall vote in favor thereof, in such manner as may be provided by law.

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[a] See amendment, November 6, 1900.

SEC. 8. The making of profit out of public moneys, or using the same for any purpose not authorized by law, by any public officer shall be deemed a felony, and shall be punished as provided by law, but part of such punishment shall be disqualification to hold public office.

SEC. 9. No appropriation shall be made or any expenditure authorized by the legislature whereby the expenditure of the State during any fiscal year shall exceed the total tax then provided for by law and applicable for such appropriation or expenditure, unless the legislature making such appropriation shall provide for levying a sufficient tax, not exceeding the rates allowed in section seven of this article, to pay such appropriation or expenditure within such fiscal year. This provision shall not apply to appropriations or expenditures to suppress insurrections, defend the State, or assist in defending the United States in time of war.

SEC. 10. All corporations or persons in this State, or doing business herein, shall be subject to taxation for State, county, school, municipal, or other purposes on the real and personal property owned or used by them within the territorial limits of the authority levying the tax.

SEC. 11. Until otherwise provided by law, there shall be a State board of equalization, consisting of the governor, State auditor, State treasurer, secretary of state, and attorney-general; also, in each county of this State, a county board of equalization, consisting of the board of county commissioners of said county. The duty of the State board of equalization shall be to adjust and equalize the valuation of the real and personal property among the several counties of the State. The duty of the county board of equalization shall be to adjust and equalize the valuation of the real and personal property within their respective counties. Each board shall also perform such other duties as may be prescribed by law.

SEC. 12. Nothing in this constitution shall be construed to prevent the legislature from providing a stamp tax, or a tax based on income, occupation, licenses, franchises, or mortgages.

ARTICLE XIV

PUBLIC DEBT

SECTION. 1. To meet casual deficits or failures in revenue, and for necessary expenditures for public purposes, including the erection of public buildings and for the payment of all Territorial indebtedness assumed by the State, the State may contract debts, not exceeding in the aggregate at any one time the sum of two hundred thousand dollars over and above the amount of the Territorial indebtedness assumed by the State. But when the said Territorial indebtedness shall have been paid the State shall never contract any indebtedness, except as in the next section provided, in excess of the sum of two hundred thousand dollars, and all moneys arising from loans herein authorized shall be applied solely to the purposes for which they were obtained.

SEC. 2. The State may contract debts to repel invasion, suppress insurrection, or to defend the State in war, but the money arising

from the contracting of such debts shall be applied solely to the purpose for which it was obtained.

SEC. 3. No debt in excess of the taxes for the current year shall be created by any county or subdivison thereof, or by any school district therein, or by any city, town, or village, or any subdivision thereof in this State, unless the proposition to create such debt shall have been submitted to a vote of such qualified electors as shall have paid a property tax therein in the year preceding such election, and a majority of those voting thereon shall have voted in favor of incudding such debt.

SEC. 4. When authorized to create indebtedness as provided in section three of this article, no county shall become indebted to an amount, including existing indebtedness, exceeding two per centum. No city, town, school district, or other municipal corporation shall become indebted to an amount, including existing indebtedness, exceeding four per centum of the value of the taxable property therein, the value to be ascertained by the last assessment for State and county purposes previous to the incurring of such indebtedness; except that in incorporated cities the assessment shall be taken from the last assessment for city purposes: *Provided*, That no part of the indebtedness allowed in this section shall be incurred for other than strictly county, city, town, or school district purposes: *Provided further*, That any city or town, when authorized as provided in section three of this article, may be allowed to incur a larger indebtedness, not exceeding four per centum additional for supplying such city or town with water, artificial light, or sewers, when the works for supplying such water, light, and sewers shall be owned and controlled by the municipality.

SEC. 5. All moneys borrowed by or on behalf of the State, or any legal subdivision thereof, shall be used solely for the purposes specified in the law authorizing the loan.

SEC. 6. The State shall not assume the debt, or any part thereof, of any county, city, town, or school district.

SEC. 7. Nothing in this article shall be so construed as to impair or add to the obligation of any debt heretofore contracted, in accordance with the laws of Utah Territory, by any county, city, town, or school district, or to prevent the contracting of any debt, or the issuing of bonds therefor, in accordance with said laws, upon any proposition for that purpose which, according to said laws, may have been submitted to a vote of the qualified electors of any county, city, town, or school district before the day on which this constitution takes effect.

ARTICLE XV

MILITIA

SECTION 1. The militia shall consist of all able-bodied male inhabitants of the State between the ages of eighteen and forty-five years, except such as are exempt by law.

SEC. 2. The legislature shall provide by law for the organization, equipment, and discipline of the militia, which shall conform as nearly as practicable to the regulations for the government of the Armies of the United States.

Article XVI

LABOR

Section 1. The rights of labor shall have just protection through laws calculated to promote the industrial welfare of the State.

Sec. 2. The legislature shall provide by law for a board of labor, conciliation, and arbitration, which shall fairly represent the interests of both capital and labor. The board shall perform duties and receive compensation as prescribed by law.

Sec. 3. The legislature shall prohibit:

First. The employment of women or of children under the age of fourteen years in underground mines.

Second. The contracting of convict labor.

Third. The labor of convicts outside prison grounds, except on public works under the direct control of the State.

Fourth. The political and commercial control of employees.

Sec. 4. The exchange of black lists by railroad companies or other corporations, associations, or persons is prohibited.

Sec. 5. The right of action to recover damages for injuries resulting in death shall never be abrogated, and the amount recoverable shall not be subject to any statutory limitation.

Sec. 6. Eight hours shall constitute a day's work on all works or undertakings carried on or aided by the State, county, or municipal governments, and the legislature shall pass laws to provide for the health and safety of employees in factories, smelters, and mines.

Sec. 7. The legislature, by appropriate legislation, shall provide for the enforcement of the provisions of this article.

Article XVII

WATER RIGHTS

Section 1. All existing rights to the use of any of the waters in this State for any useful or beneficial purpose are hereby recognized and confirmed.

Article XVIII

FORESTRY

Section 1. The legislature shall enact laws to prevent the destruction of and to preserve the forests on the lands of the State and upon any part of the public domain the control of which may be conferred by Congress upon the State.

Article XIX

PUBLIC BUILDINGS AND STATE INSTITUTIONS

Section 1. All institutions and other property of the Territory upon the adoption of this constitution shall become the institutions and property of the State of Utah.

Sec. 2. Reformatory and penal institutions, and those for the benefit of the insane, blind, deaf and dumb, and such other institutions

as the public good may require, shall be established and supported by the State in such manner and under such boards of control as may be prescribed by law.

SEC. 3. The public institutions of the State are hereby permanently located at the places hereinafter named, each to have the lands specifically granted to it by the United States in the act of Congress approved July 16, 1894, to be disposed of and used in such manner as the legislature may provide:

First. The seat of government and the State fair, at Salt Lake City, and the State prison in the county of Salt Lake.

Second. The institutions for the deaf and dumb and the blind and the State reform school, at Ogden City, in the county of Weber.

Third. The State insane asylum, at Provo City, in the county of Utah.

ARTICLE XX

PUBLIC LANDS

SECTION 1. All lands of the State that have been or may hereafter be granted to the State by Congress, and all lands acquired by gift, grant, or devise from any person or corporation, or that may otherwise be acquired, are hereby accepted and declared to be the public lands of the State, and shall be held in trust for the people, to be disposed of as may be provided by law, for the respective purposes for which they have been or may be granted, donated, devised, or otherwise acquired.

ARTICLE XXI

SALARIES

SECTION 1. All State, district, city, county, town, and school officers, excepting notaries public, boards of arbitration, court commissioners, justices of the peace, and constables, shall be paid fixed and definite salaries: *Provided*, That city justices may be paid by salary when so determined by the mayor and council of such cities.

SEC. 2. The legislature shall provide by law the fees which shall be collected by all officers within the State. Notaries public, boards of arbitration, court commissioners, justices of the peace, and constables paid by fees shall accept said fees as their full compensation. But all other State, district, county, city, town, and school officers shall be required by law to keep a true and correct account of all fees collected by them, and to pay the same into the proper treasury, and the officer whose duty it is to collect such fees shall be held responsible under his bond for the same.

ARTICLE XXII

MISCELLANEOUS

SECTION 1. The legislature shall provide by law for the selection by each head of a family an exemption of a homestead, which may consist of one or more parcels of land, together with the appurtenances and improvements thereon, of the value of at least fifteen hundred dollars, from sale on execution.

SEC. 2. Real and personal estate of every female acquired before marriage, and all property to which she may afterwards become entitled by purchase, gift, grant, inheritance, or devise, shall be and remain the estate and property of such female, and shall not be liable for the debts, obligations, or engagements of her husband, and may be conveyed, devised, or bequeathed by her as if she were unmarried.

ARTICLE XXIII

AMENDMENTS

SECTION 1. Any amendment or amendments to this constitution may be proposed in either house of the legislature, and if two-thirds of all the members elected to each of the two houses shall vote in favor thereof such proposed amendment or amendments shall be entered on their respective journals with the yeas and nays taken thereon; and the legislature shall cause the same to be published in at least one newspaper in every county of the State where a newspaper is published, for two months immediately preceding the next general election, at which time the said amendment or amendments shall be submitted to the electors of the State for their approval or rejection, and if a majority of the electors voting thereon shall approve the same, such amendment or amendments shall become part of this constitution. If two or more amendments are proposed, they shall be so submitted as to enable the electors to vote on each of them separately.

SEC. 2. Whenever two-thirds of the members elected to each branch of the legislature shall deem it necessary to call a convention to revise or amend this constitution, they shall recommend to the electors to vote at the next general election for or against a convention, and if a majority of all the electors voting at such election shall vote for a convention, the legislature at its next session shall provide by law for calling the same. The convention shall consist of not less than the number of members in both branches of the legislature.

SEC. 3. No constitution or amendments adopted by such convention shall have validity until submitted to and adopted by a majority of the electors of the State voting at the next general election.

ARTICLE XXIV

SCHEDULE

SECTION 1. In order that no inconvenience may arise by reason of the change from a Territorial to a State government, it is hereby declared that all writs, actions, prosecutions, judgments, claims, and contracts, as well of individuals as of bodies corporate, both public and private, shall continue as if no change had taken place; and all process which may issue under the authority of the Territory of Utah previous to its admission into the Union shall be as valid as if issued in the name of the State of Utah.

SEC. 2. All laws of the Territory of Utah now in force, not repugnant to this constitution, shall remain in force until they expire by their own limitations or are altered or repealed by the legislature. The act of the governor and legislative assembly of the Territory of Utah entitled "An act to punish polygamy and other

kindred offenses," approved February 4, A. D. 1892, in so far as the same defines and imposes penalties for polygamy, is hereby declared to be in force in the State of Utah.

SEC. 3. Any person who, at the time of the admission of the State into the Union, may be confined under lawful commitments, or otherwise lawfully held to answer for alleged violations of any of the criminal laws of the Territory of Utah, shall continue to be so held or confined until discharged therefrom by the proper courts of the State.

SEC. 4. All fines, penalties, and forfeitures accruing to the Territory of Utah, or to the people of the United States in the Territory of Utah, shall inure to this State, and all debts, liabilities, and obligations of said Territory shall be valid against the State and enforced as may be provided by law.

SEC. 5. All recognizances heretofore taken, or which may be taken before the change from a Territorial to a State government, shall remain valid, and shall pass to and be prosecuted in the name of the State; and all bonds executed to the governor of the Territory, or to any other officer or court in his or their official capacity, or to any official board for the benefit of the Territory of Utah, or the people thereof, shall pass to the governor or other officer, court, or board, and his or their successors in office, for the uses therein respectively expressed, and may be sued on and recovered accordingly. Assessed taxes and all revenue, property—real, personal, or mixed—and all judgments, bonds, specialties, choses in action, claims, and debts of whatsoever description, and all records and public archives of the Territory of Utah, shall issue and vest in the State of Utah, and may be sued for and recovered in the same manner and to the same extent by the State of Utah as the same could have been by the Territory of Utah; and all fines, taxes, penalties, and forfeitures due or owing to any county, municipality, or school district therein at the time the State shall be admitted into the Union are hereby respectively assigned and transferred, and the same shall be payable to the county, municipality, or school district, as the case may be, and payment thereof be enforced under the laws of the State.

SEC. 6. All criminal prosecutions and penal actions which may have arisen or which may arise before the change from a Territorial to a State government, and which shall then be pending, shall be prosecuted to judgment and execution in the name of the State, and in the court having jurisdiction thereof. All offenses committed against the laws of the Territory of Utah before the change from a Territorial to a State government, and which shall not have been prosecuted before such change, may be prosecuted in the name and by the authority of the State of Utah, with like effect as though such change had not taken place, and all penalties incurred shall remain the same as if this constitution had not been adopted.

SEC. 7. All actions, cases, proceedings, and matters pending in the supreme and district courts of the Territory of Utah at the time the State shall be admitted into the Union, and all files, records, and indictments relating thereto, except as otherwise provided herein, shall be appropriately transferred to the supreme and district courts of the State, respectively; and thereafter all such actions, matters, and cases shall be proceeded with in the proper State courts. All actions, cases, proceedings, and matters which shall be pending in the district courts

of the Territory of Utah at the time of the admission of the State into the Union whereof the United States circuit or district courts might have had jurisdiction had there been a State government at the time of the commencement thereof, respectively, shall be transferred to the proper United States circuit and district courts, respectively; and all files, records, indictments, and proceedings relating thereto shall be transferred to said United States courts: *Provided*, That no civil actions, other than causes and proceedings of which the said United States courts shall have exclusive jurisdiction, shall be transferred to either of said United States courts except upon motion or petition by one of the parties thereto, made under and in accordance with the act or acts of the Congress of the United States, and such motion and petition not being made, all such cases shall be proceeded with in the proper State courts.

SEC. 8. Upon a change from Territorial to State government, the seal in use by the supreme court of the Territory of Utah, until otherwise provided by law, shall pass to and become the seal of the supreme court of the State, and the several district courts of the State may adopt seals for their respective courts, until otherwise provided by law.

SEC. 9. When the State is admitted into the Union, and the district courts in the respective districts are organized, the books, records, papers, and proceedings of the probate court in each county, and all causes and matters of administration pending therein, upon the expiration of the term of office of the probate judge, on the second Monday in January, 1896, shall pass into the jurisdiction and possession of the district court, which shall proceed to final judgment or decree, order, or other determination in the several matters and causes as the Territorial probate court might have done if this constitution had not been adopted. And until the expiration of the term of office of the probate judges, such probate judges shall perform the duties now imposed upon them by the laws of the Territory. The district court shall have appellate and revisory jurisdiction over the decisions of the probate courts, as now provided by law, until such latter courts expire by limitation.

SEC. 10. All officers, civil and military, now holding their offices and appointments in this Territory by authority of law, shall continue to hold and exercise their respective offices and appointments until superseded under this constitution: *Provided*, That the provisions of this section shall be subject to the provisions of the act of Congress providing for the admission of the State of Utah, approved by the President of the United States on July 16, 1894.

SEC. 11. The election for the adoption or rejection of this constitution, and for State officers herein provided for, shall be held on the Tuesday next after the first Monday in November, 1895, and shall be conducted according to the laws of the Territory and the provisions of the enabling act; the votes cast at said election shall be canvassed and returns made in the same manner as was provided for in the election for delegates to the constitutional convention: *Provided*, That all male citizens of the United States over the age of twenty-one years, who have resided in the Territory for one year prior to such election, are hereby authorized to vote for or against the adoption of this constitution, and for the State officers herein provided for. The

returns of said election shall be made to the Utah commission, who shall cause the same to be canvassed, and shall certify the result of the vote for or against the constitution to the President of the United States in the manner required by the enabling act; and said commission shall issue certificates of election to the persons elected to said offices severally, and shall make and file with the secretary of the Territory an abstract, certified to by them, of the number of votes cast for each person for each of said offices, and of the total number of votes cast in each county.

SEC. 12. The State officers to be voted for at the time of the adoption of this constitution shall be a governor, secretary of state, State auditor, State treasurer, attorney-general, superintendent of public instruction, members of the senate and house of representatives, three supreme judges, nine district judges, and a Representative to Congress.

SEC. 13. In case of a contest of election between candidates at the first general election under this constitution for judges of the district courts, the evidence shall be taken in the manner prescribed by the Territorial laws, and the testimony so taken shall be certified to the secretary of state, and said officer, together with the governor and the treasurer of the State, shall review the evidence and determine who is entitled to the certificate of election.

SEC. 14. This constitution shall be submitted for adoption or rejection to a vote of the qualified electors of the proposed State at the general election to be held on the Tuesday next after the first Monday in November, A. D. 1895. At the said election the ballot shall be in the following form:

For the constitution: Yes. No.

As a heading to each of said ballots there shall be printed on each ballot the following instructions to voters:

All persons desiring to vote for the constitution must erase the word "No."

All persons desiring to vote against the constitution must erase the word "Yes."

SEC. 15. The legislature at its first session shall provide for the election of all officers whose election is not provided for elsewhere in this constitution, and fix the time for the commencement and duration of their terms.

SEC. 16. The provisions of this constitution shall be in force from the day on which the President of the United States shall issue his proclamation declaring the State of Utah admitted into the Union; and the terms of all officers elected at the first election under the provisions of this constitution shall commence on the first Monday next succeeding the issue of said proclamation. Their terms of office shall expire when their successors are elected and qualified under this constitution.

Done in convention at Salt Lake City, in the Territory of Utah, this eighth day of May, in the year of our Lord one thousand eight hundred and ninety-five, and of the independence of the United States the one hundred and nineteenth.

JOHN HENRY SMITH, *President.*

Attest:

PARLEY P. CHRISTENSEN, *Secretary.*

AMENDMENTS

ARTICLE VI

SEC. 1. [*Power vested in Senate, House and People.*] The legislative power of the State shall be vested:

1. In a Senate and House of Representatives, which shall be designated the Legislature of the State of Utah.

2. In the people of the State of Utah as hereinafter stated:

The legal voters or such fractional part thereof of the State of Utah, as may be provided by law, under such conditions and in such manner and within such time as may be provided by law, may initiate any desired legislation and cause the same to be submitted to a vote of the people for approval or rejection, or may require any law passed by the Legislature (except those laws passed by a two-thirds vote of the members elected to each house of the Legislature) to be submitted to the voters of the State before such law shall take effect.

The legal voters, or such fractional part thereof, as may be provided by law, of any legal subdivision of the State, under such conditions and in such manner and within such time as may be provided by law, may initiate any desired legislation and cause the same to be submitted to a vote of the people of said legal subdivision for approval or rejection, or may require any law or odinance passed by the law-making body of said legal subdivision to be submitted to the voters thereof before such law or ordinance shall take effect. [Amendment adopted Nov. 6, 1900.]

SEC. 22. [*Enacting Clause. Passage and amendments of law.*] The enacting clause of every law shall be, "Be it enacted by the Legislature of the State of Utah." Except such laws as may be passed by the vote of the electors as provided in subdivision 2, section 1 of this article, and such laws shall begin as follows: "Be it enacted by the people of the State of Utah." No bill or joint resolution shall be passed, except with the assent of the majority of all the members elected to each house of the Legislature, and after it has been read three times. The vote upon the final passage of all bills shall be by yeas and nays; and no law shall be revised or amended by reference to its title only; but the act as revised, or section as amended, shall be re-enacted and published at length. [Amendment adopted Nov. 6, 1900.]

ARTICLE X

SEC. 2. "The Public School system shall include kindergarten schools, common schools, consisting of primary and grammar grades, High Schools, an Agricultural College, a University, and such other schools as the Legislature may establish. The common schools shall be free. The other departments of the system shall be supported as provided by law. Provided, That High Schools may be maintained free in all cities of the first and second class now constituting school districts, and in such other cities and districts as may be designated by the Legislature. But where the proportion of school monies apportioned or accruing to any city or district shall not be sufficient to maintain all the free schools in such city or district, the High Schools shall be supported by local taxation:

Provided, That when any cities or districts shall establish High Schools, the Legislature may authorize the use of State school funds

to assist in supporting such schools, said funds being apportioned to the cities or districts concerned, by the State Board of Education."

SEC. 6. [*Separate control of city schools.*] In cities of the first and second class the public school system shall be controlled by the Board of Education of such cities, separate and apart from the counties in which said cities are located. [Amendment adopted Nov. 6, 1900.]

ARTICLE XIII

SEC. 3. [*Legislature to provide uniform tax. Exemptions.*] The Legislature shall provide by law a uniform and equal rate of assessment and taxation on all property in the State, according to its value in money, and shall prescribe by general law such regulations as shall secure a just valuation for taxation of all property, so that every person and corporation shall pay a tax in proportion to the value of his, her or its property: provided that a deduction of debits from credits may be authorized: Provided further, that the property of the United States, of the State, counties, cities, towns, school districts, municipal corporations and public libraries, lots with the buildings thereon used exclusively for either religious worship or charitable purposes, and places of burial not held or used for private or corporate benefit, shall be exempt from taxation. Ditches, canals, reservoirs, pipes and flumes owned and used by individuals or corporations for irrigating lands owned by such individuals or corporations, or the individual members thereof, shall not be separately taxed so long as they shall be owned and used exclusively for such purpose. Provided further, that the taxes of the indigent poor may be remitted or abated at such time and in such manner as may be provided by law. [Amendment adopted Nov. 6, 1900.]

SEC. 3. The legislature shall provide by law a uniform and equal rate of assessment and taxation on all property in the state, according to its value in money, any shall prescribe by general law such regulations as shall secure a just valuation for taxation of all property, so that every person and corporation shall pay a tax in proportion to the value of his, her or its property. Provided, that a deduction of debits from credits may be authorized; Provided, further, that the property of the United States, of the state, counties, cities, towns, school districts, municipal corporations and public libraries, lots with the buildings thereon used exclusively for either religious worship or charitable purposes, and places of burial not held or used for private or corporate benefit, shall be exempt from taxation. Ditches, canals, reservoirs, pipes and flumes owned and used by individuals or corporations for irrigating lands owned by such individuals or corporations, or the individual members thereof, shall not be separately taxed as long as they shall be owned and used exclusively for such purpose: Provided, further, that mortgages upon both real and personal property shall be exempt from taxation: Provided, further, that the taxes of the indigent poor may be remitted or abated at such time and in such manner as may be provided by law. 12. (Stamps, income, license, franchise, or mortgage tax permissible). Nothing in this Constitution shall be construed to prevent the legislature from providing a stamp tax, or a tax based on income, occupation, licenses or franchises.

VERMONT[a]

CONSTITUTION OF VERMONT—1777 * [b]

WHEREAS, all government ought to be instituted and supported, for the security and protection of the community, as such, and to enable the individuals who compose it, to enjoy their natural rights, and the other blessings which the Author of existence has bestowed upon man; and whenever those great ends of government are not obtained, the people have a right, by common consent, to change it, and take such measures as to them may appear necessary to promote their safety and happiness.

And whereas, the inhabitants of this State have (in consideration of protection only) heretofore acknowledged allegiance to the King of Great Britain, and the said King has not only withdrawn that protection, but commenced, and still continues to carry on, with unabated vengeance, a most cruel and unjust war against them; employing therein, not only the troops of Great Britain, but foreign mercenaries, savages and slaves, for the avowed purpose of reducing them to a total and abject submission to the despotic domination of the British parliament, with many other acts of tyranny, (more fully set forth in the declaration of Congress) whereby all allegiance and fealty to the said King and his successors, are dissolved and at an end; and all power and authority derived from him, ceased in the American Colonies.

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* Verified from "Vermont State Papers; Being a Collection of Records and Documents, Connected with the Assumption and Establishment of Government by the People of Vermont; together with the Journal of the Council of Safety, the First Constitution, the early Journals of the General Assembly, and the Laws from the year 1779 to 1786, inclusive. To which are added the Proceedings of the First and Second Councils of Censors. Compiled and Published by William Slade Jun. Secretary of State. Middlebury: J. W. Copeland, Printer. 1823." pp. 241–255.

[a] The State of Vermont was originally claimed by Massachusetts, New Hampshire, and New York, and at the commencement of the revolutionary struggle she not only sought independence from British rule, but from the State of New York, which claimed sovereignty over the territory to the west bank of the Connecticut River, and from New Hampshire, which contested the claims of both New York and Vermont. In March, 1781, Massachusetts assented to the independence of Vermont, which adjusted her difficulties with New Hampshire in 1782, but it was 1790 before New York consented to her admission into the Union.

[b] This constitution was framed by a convention which assembled at Windsor, July 2, 1777, and completed its labors July 8, 1777. It was not submitted to the people for ratification. It was affirmed by the legislature at its sessions in 1779 and 1782, and declared to be a part of the laws of the State. The convention subsequently met, on December 24, 1777, after the time of election and the day of meeting of the Assembly.

And whereas, the territory which now comprehends the State of *Vermont*, did antecedently, of right, belong to the government of *New-Hampshire;* and the former Governor thereof, viz. his Excellency *Benning Wentworth*, Esq., granted many charters of lands and corporations, within this State, to the present inhabitants and others. And whereas, the late Lieutenant Governor *Colden*, of *New York*, with others, did, in violation of the tenth command, covet those very lands; and by a false representation made to the court of Great Britain, (in the year 1764, that for the convenience of trade and administration of justice, the inhabitants were desirous of being annexed to that government,) obtained jurisdiction of those very identical lands, *ex-parte;* which ever was, and is, disagreeable to the inhabitants. And whereas, the legislautre of *New-York*, ever have, and still continue to disown the good people of this State, in their landed property, which will appear in the complaints hereafter inserted, and in the 36th section of their present constitution, in which is established the grants of land made by that government.

They have refused to make regrants of our lands to the original proprietors and occupants, unless at the exorbitant rate of 2300 dollars fees for each township; and did enhance the quit-rent, three fold, and demanded an immediate delivery of the title derived before, from *New-Hampshire*.

The judges of their supreme court have made a solemn declaration, that the charters, conveyances, &c. of the lands included in the before described premises, were utterly null and void, on which said title was founded: in consequence of which declaration, writs of possession have been by them issued, and the sheriff of the county of Albany sent, at the head of six or seven hundred men, to enforce the execution thereof.

They have passed an act, annexing a penalty thereto, of thirty pounds fine and six months imprisonment, on any person who should refuse assisting the sheriff, after being requested, for the purpose of executing writs of possession.

The Governors, *Dunmore*, *Tryon* and *Colden*, have made re-grants of several tracts of land, included in the premises, to certain favorite land jobbers in the government of *New-York*, in direct violation of his Britannic majesty's express prohibition, in the year 1767.

They have issued proclamations, wherein they have offered large sums of money, for the purpose of apprehending those very persons who have dared boldly, and publicly, to appear in defence of their just rights.

They did pass twelve acts of outlawry, on the 9th day of March, A. D. 1774, impowering the respective judges of their supreme court, to award execution of death against those inhabitants in said district, that they should judge to be offenders, without trial.

They have, and still continue, an unjust claim to those lands, which greatly retards emigration into, and the settlement of, this State.

They have hired foreign troops, emigrants from *Scotland*, at two different times, and armed them, to drive us out of possession.

They have sent the savages on our frontiers, to distress us.

They have proceeded to erect the counties of Cumberland and Glocester, and establish courts of justice there, after they were discountenanced by the authority of Great Britain.

The free convention of the State of *New-York*, at *Harlem*, in the year 1776, unanimously voted, "That all quit-rents, formerly due to the King of Great Britain, are now due and owing to this Convention, or such future government as shall be hereafter established in this State."

In the several stages of the aforesaid oppressions, we have petitioned his Britannic majesty, in the most humble manner, for redress, and have, at very great expense, received several reports in our favor; and, in other instances, wherein we have petitioned the late legislative authority of *New-York*, those petitions have been treated with neglect.

And whereas, the local situation of this State, from *New-York*, at the extreme part, is upward of four hundred and fifty miles from the seat of that government, which renders it extreme difficult to continue under the jurisdiction of said State.

Therefore, it is absolutely necessary, for the welfare and safety of the inhabitants of this State, that it should be, henceforth, a free and independent State; and that a just, permanent, and proper form of government, should exist in it, derived from, and founded on, the authority of the people only, agreeable to the direction of the honorable American Congress.

We the representatives of the freemen of *Vermont*, in General Convention met, for the express purpose of forming such a government,—confessing the goodness of the Great Governor of the universe, (who alone, knows to what degree of earthly happiness, mankind may attain, by perfecting the arts of government,) in permitting the people of this State, by common consent, and without violence, deliberately to form for themselves, such just rules as they shall think best for governing their future society; and being fully convinced that it is our indispensable duty, to establish such original principles of government, as will best promote the general happiness of the people of this State, and their posterity, and provide for future improvements, without partiality for, or prejudice against, any particular class, sect, or denomination of men whatever,—do, by virtue of authority vested in us, by our constituents, ordain, declare, and establish, the following declaration of rights, and frame of government, to be the CONSTITUTION of this COMMONWEALTH, and to remain in force therein, forever, unaltered, except in such articles, as shall, hereafter, on experience, be found to require improvement, and which shall, by the same authority of the people, fairly delegated, as this frame of government directs, be amended or improved, for the more effectual obtaining and securing the great end and design of all government, herein before mentioned.

CHAPTER I

A DECLARATION OF THE RIGHTS OF THE INHABITANTS OF THE STATE OF VERMONT

I. THAT all men are born equally free and independent, and have certain natural, inherent and unalienable rights, amongst which are the enjoying and defending life and liberty; acquiring, possessing and protecting property, and pursuing and obtaining happiness and safety. Therefore, no male person, born in this country, or brought

from over sea, ought to be holden by law, to serve any person, as a servant, slave or apprentice, after he arrives to the age of twenty-one years, nor female, in like manner, after she arrives to the age of eighteen years, unless they are bound by their own consent, after they arrive to such age, or bound by law, for the payment of debts, damages, fines, costs, or the like.

II. That private property ought to be subservient to public uses, when necessity requires it; nevertheless, whenever any particular man's property is taken for the use of the public, the owner ought to receive an equivalent in money.

III. That all men have a natural and unalienable right to worship ALMIGHTY GOD, according to the dictates of their own consciences and understanding, regulated by the word of GOD; and that no man ought, or of right can be compelled to attend any religious worship, or erect, or support any place of worship, or maintain any minister, contrary to the dictates of his conscience; nor can any man who professes the protestant religion, be justly deprived or abridged of any civil right, as a citizen, on account of his religious sentiment, or peculiar mode of religious worship, and that no authority can, or ought to be vested in, or assumed by, any power whatsoever, that shall, in any case, interfere with, or in any manner controul, the rights of conscience, in the free exercise of religious worship: nevertheless, every sect or denomination of people ought to observe the Sabbath, or the Lord's day, and keep up, and support, some sort of religious worship, which to them shall seem most agreeable to the revealed will of GOD.

IV. That the people of this State have the sole, exclusive and inherent right of governing and regulating the internal police of the same.

V. That all power being originally inherent in, and consequently, derived from, the people; therefore, all officers of government, whether legislative or executive, are their trustees and servants, and at all times accountable to them.

VI. That government is, or ought to be, instituted for the common benefit, protection, and security of the people, nation or community; and not for the particular emolument or advantage of any single man, family or set of men, who are a part only of that community; and that the community hath an indubitable, unalienable and indefeasible right to reform, alter, or abolish, government, in such manner as shall be, by that community, judged most conducive to the public weal.

VII. That those who are employed in the legislative and executive business of the State, may be restrained from oppression, the people have a right, at such periods as they may think proper, to reduce their public officers to a private station, and supply the vacancies by certain and regular elections.

VIII. That all elections ought to be free; and that all freemen, having a sufficient, evident, common interest with, and attachment to, the community, have a right to elect officers, or be elected into office.

IX. That every member of society hath a right to be protected in the enjoyment of life, liberty and property, and therefore, is bound to contribute his proportion towards the expense of that protection, and yield his personal service, when necessary, or an equivalent thereto; but no part of a man's property can be justly taken from him, or applied to public uses, without his own consent, or that of his

legal representatives; nor can any man who is conscientiously scrupulous of bearing arms, be justly compelled thereto, if he will pay such equivalent; nor are the people bound by any law, but such as they have, in like manner, assented to, for their common good.

X. That, in all prosecutions for criminal offences, a man hath a right to be heard, by himself and his counsel—to demand the cause and nature of his accusation—to be confronted with the witnesses—to call for evidence in his favor, and a speedy public trial, by an impartial jury of the country; without the unanimous consent of which jury, he cannot be found guilty; nor can he be compelled to give evidence against himself; nor can any man be justly deprived of his liberty, except by the laws of the land or the judgment of his peers.

XI. That the people have a right to hold themselves, their houses, papers and possessions free from search or seizure; and therefore warrants, without oaths or affirmations first made, affording a sufficient foundation for them, and whereby any officer or messenger may be commanded or required to search suspected places, or to seize any person or persons, his, her or their property, not particularly described, are contrary to that right, and ought not to be granted.

XII. That no warrant or writ to attach the person or estate, of any freeholder within this State, shall be issued in civil action, without the person or persons, who may request such warrant or attachment, first make oath, or affirm, before the authority who may be requested to issue the same, that he, or they, are in danger of losing his, her or their debts.

XIII. That, in controversies respecting property, and in suits between man and man, the parties have a right to a trial by jury; which ought to be held sacred.

XIV. That the people have a right to freedom of speech, and of writing and publishing their sentiments; therefore, the freedom of the press ought not be restrained.

XV. That the people have a right to bear arms for the defence of themselves and the State; and, as standing armies, in the time of peace, are dangerous to liberty, they ought not to be kept up; and that the military should be kept under strict subordination to, and governed by, the civil power.

XVI. That frequent recurrence to fundamental principles, and a firm adherence to justice, moderation, temperance, industry and frugality, are absolutely necessary to preserve the blessings of liberty, and keep government free. The people ought, therefore, to pay particular attention to these points, in the choice of officers and representatives, and have a right to exact a due and constant regard to them, from their legislators and magistrates, in the making and executing such laws as are necessary for the good government of the State.

XVII. That all people have a natural and inherent right to emigrate from one State to another, that will receive them; or to form a new State in vacant countries, or in such countries as they can purchase, whenever they think that thereby they can promote their own happiness.

XVIII. That the people have a right to assemble together, to consult for their common good—to instruct their representatives, and to

apply to the legislature for redress of grievances, by address, petition or remonstrance.

XIX. That no person shall be liable to be transported out of this State for trial, for any offence committed within this State.

Chapter II

Plan or Frame of Government

Section I. The Commonwealth or State of Vermont, shall be governed, hereafter, by a Governor, Deputy Governor, Council, and an Assembly of the Representatives of the Freemen of the same, in manner and form following.

Section II. The supreme legislative power shall be vested in a House of Representatives of the Freemen or Commonwealth or State of *Vermont.*

Section III. The supreme executive power shall be vested in a Governor and Council.

Section IV. Courts of justice shall be established in every county in this State.

Section V. The freemen of this Commonwealth, and their sons, shall be trained and armed for its defence, under such regulations, restrictions and exceptions, as the general assembly shall, by law, direct; preserving always to the people, the right of choosing their colonels of militia, and all commissioned officers under that rank, in such manner, and as often, as by the said laws shall be directed.

Section VI. Every man of the full age of twenty-one years, having resided in this State for the space of one whole year, next before the election of representatives, and who is of a quiet and peaceable behaviour, and will take the following oath (or affirmation) shall be entitled to all the privileges of a freeman of this State.

I ——— ——— solemnly swear, by the ever living God, (or affirm, in the presence of Almighty God,) that whenever I am called to give my vote or suffrage, touching any matter that concerns the State of Vermont, *I will do it so, as in my conscience, I shall judge will most conduce to the best good of the same, as established by the constitution, without fear or favor of any man.*

Section VII. The House of Representatives of the Freemen of this State, shall consist of persons most noted for wisdom and virtue, to be chosen by the freemen of every town in this State, respectively. And no foreigner shall be chosen, unless he has resided in the town for which he shall be elected, one year immediately before said election.

Section VIII. The members of the House of Representatives, shall be chosen annually, by ballot, by the freemen of this State, on the first Tuesday of September, forever, (except this present year) and shall meet on the second Thursday of the succeeding October, and shall be stiled the General Asembly of the Representatives of the Freemen of *Vermont;* and shall have power to choose their Speaker, Secretary of the State, their Clerk, and other necessary officers of the house—sit on their own adjournments—prepare bills and enact them into laws—judge of the elections and qualifications of their own members—they may expel a member, but not a second time for the same cause—They may administer oaths (or affirmations) on examination

of witnesses—redress grievances—impeach State criminals—grant charters of incorporation—constitute towns, boroughs, cities and counties, and shall have all other powers necessary for the legislature of a free State; but they shall have no power to add to, alter, abolish, or infringe any part of this constitution. And for this present year, the members of the General Assembly shall be chosen on the first Tuesday of March next, and shall meet at the meeting-house, in *Windsor*, on the second Thursday of March next."[a]

SECTION IX. A quorum of the house of representatives shall consist of two-thirds of the whole number of members elected; and having met and chosen their speaker, shall, each of them, before they proceed to business, take and subscribe, as well the oath of fidelity and allegiance herein after directed, as the following oath or affirmation, viz.

"I ——— ——— do solemnly swear, by the ever living God, (or, I do solemnly affirm in the presence of Almighty God) that as a member of this assembly, I will not propose or assent to any bill, vote, or resolution, which shall appear to me injurious to the people; nor do or consent to any act or thing whatever, that shall have a tendency to lessen or abridge their rights and privileges, as declared in the Constitution of this State; but will, in all things, conduct myself as a faithful, honest representative and guardian of the people, according to the best of my judgment and abilities."

And each member, before he takes his seat, shall make and subscribe the following declaration, viz.

"I do believe in one God, the Creator and Governor of the universe, the rewarder of the good and punisher of the wicked. And I do acknowledge the scriptures of the old and new testament to be given by divine inspiration, and own and profess the protestant religion."

And no further or other religious test shall ever, hereafter, be required of any civil officer or magistrate in this State.

SECTION X. Delegates to represent this State in Congress shall be chosen, by ballot, by the future General Assembly, at their first meeting, and annually, forever afterward, as long as such representation shall be necessary. Any Delegate may be superceded, at any time, by the General Asembly appointing another in his stead. No man shall sit in Congress longer than two years successively, nor be capable of re election for three years afterwards; and no person who holds any office in the gift of the Congress, shall, thereafter, be elected to represent this State in Congress.

SECTION XI. If any town or towns shall neglect or refuse to elect and send representatives to the General Assembly, two thirds of the members of the towns, that do elect and send representatives, (provided they be a majority of the inhabited towns of the whole State) when met, shall have all the powers of the General Assembly, as fully and amply, as if the whole were present.

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[a] The convention which met on July 2, 1777, "ordered that the first election should be holden in December, 1777, and that the General Assembly, thus elected should meet at Bennington, in January, 1778. The publick attention, being arrested by the evacuation of Tyconderoga, and the progress of the enemy under General Burgoyne; the constitution was not printed, seasonable, to have the election holden in December. The convention was therefore, summoned, by the Council of Safety, to meet at Windsor, on the 24th of Dec. 1777." They met and revised the constitution in this particular.

SECTION XII. The doors of the house in which the representatives of the freemen of this State, shall sit, in General Assembly, shall be and remain open for the admission of all persons, who behave decently, except only, when the welfare of this State may require the doors to be shut.

SECTION XIII. The votes and proceedings of the General Assembly shall be printed, weekly, during their sitting, with the yeas and nays, on any question, vote or resolution, where one-third of the members require it; (except when the votes are taken by ballot) and when the yeas and nays are so taken, every member shall have a right to insert the reasons of his votes upon the minutes, if he desire it.

SECTION XIV. To the end that laws, before they are enacted, may be more maturely considered, and the inconveniency of hasty determination as much as possible prevented, all bills of public nature, shall be first laid before the Governor and Council, for their perusal and proposals of amendment, and shall be printed for the consideration of the people, before they are read in General Assembly, for the last time of debate and amendment; except temporary acts, which, after being laid before the Governor and Council, may (in case of sudden necessity) be passed into laws; and no other shall be passed into laws, until the next session of assembly. And for the more perfect satisfaction of the public, the reasons and motives for making such laws, shall be fully and clearly expressed and set forth in their preambles.

SECTION XV. The style of the laws of this State shall be.—"Be it enacted, and it is hereby enacted, by the Representatives of the Freemen of the State of *Vermont*, in General Assembly met, and by the authority of the same."

SECTION XVI. In order that the Freemen of this State might enjoy the benefit of election, as equally as may be, each town within this State, that consists, or may consist, of eighty taxable inhabitants, within one septenary or seven years, next after the establishing this constitution, may hold elections therein, and choose each, two representatives; and each other inhabited town in this State may, in like manner, choose each, one representative, to represent them in General Assembly, during the said septenary or seven years; and after that, each inhabited town may, in like manner, hold such election, and choose each, one representative, forever thereafter.

SECTION XVII. The Supreme Executive Council of this State, shall consist of a Governor, Lieutenant-Governor, and twelve persons, chosen in the following manner, viz. The Freemen of each town, shall, on the day of election for choosing representatives to attend the General Assembly, bring in their votes for Governor, with his name fairly written, to the constable, who shall seal them up, and write on them, votes for the Governor, and deliver them to the representative chosen to attend the General Assembly; and, at the opening of the General Assembly, there shall be a committee appointed out of the Council and Assembly, who, after being duly sworn to the faithful discharge of their trust, shall proceed to receive, sort, and count, the votes for the Governor, and declare the person who has the major part of the votes, to be Governor, for the year ensuing. And if there be no choice made, then the Council and General Assembly, by their joint ballot, shall make choice of a Governor.

The Lieutenant Governor and Treasurer, shall be chosen in the manner above directed; and each freeman shall give in twelve votes for twelve councillors, in the same manner; and the twelve highest in nomination shall serve for the ensuing year as Councillors.[a]

The Council that shall act in the recess of this Convention, shall supply the place of a Council for the next General Assembly, until the new Council be declared chosen. The Council shall meet annually, at the same time and place with the General Assembly; and every member of the Council shall be a Justice of the Peace for the whole State, by virtue of his office.

Section XVIII. The Governor, and in his absence, the Lieutenant or Deputy Governor, with the Council—seven of whom shall be a quorum—shall have power to appoint and commissionate all officers, (except those who are appointed by the General Assembly,) agreeable to this frame of government, and the laws that may be made hereafter; and shall supply every vacancy in any office, occasioned by death, resignation, removal or disqualification, until the office can be filled, in the time and manner directed by law or this constitution. They are to correspond with other States, and transact business with officers of government, civil and military; and to prepare such business as may appear to them necessary to lay before the General Assembly. They shall sit as judges to hear and determine on impeachments, taking to their assistance, for advice only, the justices of the supreme court; and shall have power to grant pardons, and remit fines, in all cases whatsoever, except cases of impeachment, and in cases of treason and murder—shall have power to grant reprieves, but not to pardon, until the end of the next session of the Assembly: but there shall be no remission or mitigation of punishment, on impeachments, except by act of legislation. They are also, to take care that the laws be faithfully executed. They are to expedite the execution of such measures as may be resolved upon by General Assembly; and they may draw upon the Treasurer for such sums as may be appropriated by the House: they may also lay embargoes, or prohibit the exportation of any commodity for any time, not exceeding thirty days, in the recess of the House only: they may grant such licenses as shall be directed by law, and shall have power to call together the General Assembly, when necessary, before the day to which they shall stand adjourned. The Governor shall be commander-in-chief of the forces of the State; but shall not command in person, except advised thereto by the Council, and then, only as long as they shall approve thereof. The Governor and Council shall have a Secretary, and keep fair books of their proceedings, wherein any Councillor may enter his dissent, with his reasons to support it.

Section XIX. All commissions shall be in the name of the freemen of the State of *Vermont*, sealed with the State seal, signed by the Governor, and in his absence, the Lieutenant Governor, and attested by the Secretary; which seal shall be kept by the Council.

Section XX. Every officer of State, whether judicial or executive, shall be liable to be impeached by the General Assembly, either when in office, or after his resignation, or removal for mal-administration. All impeachments shall be before the Governor or Lieutenant Governor and Council, who shall hear and determine the same.

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[a] The Council of Safety.

Section XXI. The supreme court, and the several courts of common pleas of this State shall, besides the powers usually exercised by such courts, have the powers of a court of chancery, so far as relates to perpetuating testimony, obtaining evidence from places not within this State, and the care of persons and estates of those who are *non compotes mentis*, and such other powers as may be found necessary by future General Assemblies, not inconsistent with this constitution.

Section XXII. Trials shall be by jury; and it is recommended to the legislature of this State to provide by law, against every corruption or partiality in the choice, and return, or appointment, of juries.

Section XXIII. All courts shall be open, and justice shall be impartially administered, without corruption or unnecessary delay; all their officers shall be paid an adequate, but moderate, compensation for their services; and if any officer shall take greater or other fees than the laws allow him, either directly or indirectly, it shall ever after disqualify him from holding any office in this State.

Section XXIV. All prosecution shall commence in the name and by the authority of the freemen of the State of *Vermont*, and all indictments shall conclude with these words, "against the peace and dignity of the same." The style of all process hereafter, in this State, shall be,—The State of *Vermont*.

Section XXV. The person of a debtor, where there is not a strong presumption of fraud, shall not be continued in prison, after delivering up, *bona fide*, all his estate, real and personal, for the use of his creditors, in such manner as shall be hereafter regulated by law. All prisoners shall be bailable by sufficient securities, unless for capital offences, when the proof is evident or presumption great.

Section XXVI. Excessive bail shall not be exacted for bailable offences: and all fines shall be moderate.

Section XXVII. That the General Assembly, when legally formed, shall appoint times and places for county elections, and at such times and places, the freemen in each county respectively, shall have the liberty of choosing the judges of inferior court of common pleas, sheriff, justices of the peace, and judges of probates, commissioned by the Governor and Council, during good behavior, removable by the General Assembly upon proof of mal-administration.

Section XXVIII. That no person, shall be capable of holding any civil office, in this State, except he has acquired, and maintains a good moral character.

Section XXIX. All elections, whether by the people or in General Assembly, shall be by ballot, free and voluntary: and any elector who shall receive any gift or reward for his vote, in meat, drink, monies or otherwise, shall forfeit his right to elect at that time, and suffer such other penalty as future laws shall direct. And any person who shall, directly or indirectly, give, promise, or bestow, any such rewards to be elected, shall, thereby, be rendered incapable to serve for the ensuing year.

Section XXX. All fines, license money, fees and forfeitures, shall be paid, according to the direction hereafter to be made by the General Assembly.

Section XXXI. All deeds and conveyances of land shall be recorded in the town clerk's office, in their respective towns.

Section XXXII. The printing presses shall be free to every per-

son who undertakes to examine the proceedings of the legislature, or any part of government.

SECTION XXXIII. As every freeman, to preserve his independence (if without a sufficient estate) ought to have some profession, calling, trade or farm, whereby he may honestly subsist, there can be no necessity for, nor use in, establishing offices of profit, the usual effects of which are dependence and servility, unbecoming freemen, in the possessors or expectants; faction, contention, corruption and disorder among the people. But if any man is called into public service, to the prejudice of his private affairs, he has a right to a reasonable compensation; and whenever an office, through increase of fees, or otherwise, becomes so profitable as to occasion many to apply for it, the profits ought to be lessened by the legislature.

SECTION XXXIV. The future legislature of this State, shall regulate entails, in such manner as to prevent perpetuities.

SECTION XXXV. To deter more effectually from the commission of crimes, by continued visible punishment of long duration, and to make sanguinary punishments less necessary; houses ought to be provided for punishing, by hard labor, those who shall be convicted of crimes not capital; wherein the criminal shall be employed for the benefit of the public, or for reparation of injuries done to private persons; and all persons, at proper times, shall be admitted to see the prisoners at their labor.

SECTION XXXVI. Every officer, whether judicial, executive or military, in authority under this State, shall take the following oath or affirmation of allegiance, and general oath of office, before he enter on the execution of his office.

THE OATH OR AFFIRMATION OF ALLEGIANCE

"I ——— ——— do solemnly swear by the ever living God, (or affirm in presence of Almighty God,) that I will be true and faithful to the State of *Vermont;* and that I will not, directly or indirectly, do any act or thing, prejudicial or injurious, to the constitution or government thereof, as established by Convention."

THE OATH OR AFFIRMATION OF OFFICE

"I ——— ——— do solemnly swear by the ever living God, (or affirm in presence of Almighty God) that I will faithfully execute the office of ——— for the ——— of ———; and will do equal right and justice to all men, to the best of my judgment and abilities, according to law."

SECTION XXXVII. No public tax, custom or contribution shall be imposed upon, or paid by, the people of this State, except by a law for that purpose; and before any law be made for raising it, the purpose for which any tax is to be raised ought to appear clear to the legislature to be of more service to the community than the money would be, if not collected; which being well observed, taxes can never be burthens.

SECTION XXXVIII. Every foreigner of good character, who comes to settle in this State, having first taken an oath or affirmation of allegiance to the same, may purchase, or by other just means acquire, hold, and transfer, land or other real estate; and after one years

residence, shall be deemed a free denizen thereof, and intitled to all the rights of a natural born subject of this State; except that he shall not be capable of being elected a representative, until after two years residence.

SECTION XXXIX. That the inhabitants of this State, shall have liberty to hunt and fowl, in seasonable times, on the lands they hold; and on other lands (not enclosed;) and, in like manner, to fish in all boatable and other waters, not private property, under proper regulations, to be hereafter made and provided by the General Assembly.

SECTION XL. A school or schools shall be established in each town, by the legislature, for the convenient instruction of youth, with such salaries to the masters, paid by each town; making proper use of school lands in each town, thereby to enable them to instruct youth at low prices. One grammar school in each county, and one university in this State, ought to be established by direction of the General Assembly.

SECTION XLI. Laws for the encouragement of virtue and prevention of vice and immorality, shall be made and constantly kept in force; and provision shall be made for their due execution; and all religious societies or bodies of men, that have or may be hereafter united and incorporated, for the advancement of religion and learning, or for other pious and charitable purposes, shall be encouraged and protected in the enjoyment of the privileges, immunities and estates which they, in justice, ought to enjoy, under such regulations, as the General Assembly of this State shall direct.

SECTION XLII. All field and staff officers, and commissioned officers of the army, and all general officers of the militia, shall be chosen by the General Assembly.

SECTION XLIII. The declaration of rights is hereby declared to be a part of the Constitution of this State, and ought never to be violated, on any pretence whatsoever.

SECTION XLIV. In order that the freedom of this Commonwealth may be preserved inviolate, forever, there shall be chosen, by ballot, by the freemen of this State, on the last Wednesday in March, in the year one thousand seven hundred and eighty-five, and on the last Wednesday in March, in every seven years thereafter, thirteen persons, who shall be chosen in the same manner the council is chosen—except they shall not be out of the Council or General Assembly—to be called the Council of Censors; who shall meet together, on the first Wednesday of June next ensuing their election; the majority of whom shall be a quorum in every case, except as to calling a Convention, in which two-thirds of the whole number elected shall agree; and whose duty it shall be to enquire whether the constitution has been preserved inviolate, in every part; and whether the legislative and executive branches of government have performed their duty as guardians of the people; or assumed to themselves, or exercised, other or greater powers, than they are entitled to by the constitution. They are also to enquire whether the public taxes have been justly laid and collected, in all parts of this Commonwealth—in what manner the public monies have been disposed of, and whether the laws have been duly executed. For these purposes they shall have power to send for persons, papers and records; they shall have authority to pass public censures—to order impeachments, and to recommend to the legislature the repealing such laws as appear to them to have been

enacted contrary to the principles of the constitution. These powers they shall continue to have, for and during the space of one year from the day of their election, and no longer. The said Council of Censors shall also have power to call a Convention, to meet within two years after their sitting, if there appears to them an absolute necessity of amending any article of this constitution which may be defective—explaining such as may be thought not clearly expressed, and of adding such as are necessary for the preservation of the rights and happiness of the people; but the articles to be amended, and the amendments proposed, and such articles as are proposed to be added or abolished, shall be promulgated at least six months before the day appointed for the election of such convention, for the previous consideration of the people, that they may have an opportunity of instructing their delegates on the subject.

CONSTITUTION OF VERMONT—1786 * [a]

Whereas all government ought to be instituted and supported for the security and protection of the community as such, and to enable the individuals, who compose it, to enjoy their natural rights, and the other blessings which the Author of existence has bestowed upon man: and whenever those great ends of government are not obtained, the people have a right, by common consent, to change it, and take such measures as to them may appear necessary to promote their safety and happiness.

And whereas the inhabitants of this State have (in consideration of protection only) heretofore acknowledged allegiance to the King of Great-Britain: and the said King has not only withdrawn that protection, but commenced and still continues to carry on, with unabated vengeance, a most cruel and unjust war against them; employing therein not only the troops of Great-Britain, but foreign mercenaries, savages, and slaves, for the avowed purpose of reducing them to a total and abject submission to the despotic domination of the British Parliament, with many more acts of tyranny, (more fully set forth in the Declaration of Congress) whereby all allegiance and fealty to the said King and his Successors are dissolved and at an

* Verified from text in "The Constitutions of the Sixteen States which Compose the Confederate Republic of America, according to the latest Amendments, to which are prefixed the Declaration of Independence; the Articles of Confederation; the Definitive Treaty of Peace with Great Britain, and the Constitution of the United States with all the Amendments. Boston: Printed by Manning & Loring, 1797."

"Vermont State Papers; being a Collection of Records and Documents connected with the assumption and establishment of Government by the people of Vermont; together with the Journal of the Council of Safety, the First Constitution, the early Journals of the General Assembly and the Laws from the year 1779 to 1786 inclusive. To which are added the Proceedings of the first and second Councils of Censors. Compiled and published by William Slade, Jun., Secretary of State. Middlebury: J. W. Copeland, Printer, 1823." pp. 567.

[a] The original constitution of Vermont provided for the election, at intervals of seven years, commencing in 1785, of a "council of censors," who should not only inquire whether the constitution had been preserved inviolate during the last septenary, and whether the government had been faithfully exercised, but should propose such amendments to the constitution as they might deem proper, and call a convention to meet for the adoption or rejection of them. This constitution was adopted by the legislature and declared to be a part of the laws of the State, in March, 1787.

end; and all power and authority derived from him ceased in the American Colonies. And whereas the Territory, which now comprehends the State of Vermont, did antecedently of right belong to the government of New-Hampshire, and the former Governor thereof, viz. his excellency Benning Wentworth, Esq. granted many charters of lands and corporations within this State to the present inhabitants and others. And whereas the late Lieutenant-Governor Colden, of New York, with others, did, in violation of the tenth command, covet those very lands: and by a false representation, made to the Court of Great-Britain, (in the year 1764, that for the convenience of trade and administration of justice, the inhabitants were desirous of being annexed to that government) obtained jurisdiction of those very identical lands, *ex parte*, which ever was and is disagreeable to the inhabitants. And whereas the Legislature of New-York ever have, and still continue, to disown the good people of this State, in their landed property, which will appear in the complaints hereafter inserted, and in the 36th section of their present Constitution, in which is established the Grants of Land made by that government.

They have refused to make re-grants of our lands to the original Proprietors and Occupants, unless at the exorbitant rate of 2300 dollars fees for each township; and did enhance the quitrent threefold, and demanded an immediate delivery of the title derived from New-Hampshire.

The Judges of their Supreme Court have made a solemn declaration, that the charters, conveyances, &c., of the lands included in the before-described premises, were utterly null and void, on which said title was founded. In consequence of which declaration, writs of possession have been by them issued, and the Sheriff of the county of Albany sent at the head of six or seven hundred men, to enforce the execution thereof.

They have passed an act, annexing a penalty thereto, of thirty pounds' fine, and six months' imprisonment, on any person who should refuse assisting the Sheriff, after being requested, for the purpose of executing writs of possession.

The Governors Dunmore, Tryon, and Colden, have made re-grants of several tracts of land included in the premises, to certain favourite land jobbers in the government of New-York, in direct violation of his Britannic Majesty's express prohibition, in the year 1767.

They have issued proclamations, wherein they have offered large sums of money for the purpose of apprehending those very persons, who have dared boldly and publickly to appear in defence of their just rights.

They did pass twelve acts of outlawry on the ninth day of March, A. D. 1774, empowering the respective Judges of their Supreme Court to award execution of death against those inhabitants in said district, that they should judge to be offenders, without trial.

They have and still continue an unjust claim to those lands, which greatly retards emigration into any settlement of this State.

They have hired foreign troops, emigrants from Scotland, at two different times, and armed them to drive us out of possession.

They have sent the Savages on our frontiers to distress us.

They have proceeded to erect the counties of Cumberland and Gloucester, and establish courts of justice there, after they were discountenanced by the authority of Great-Britain.

The free Convention of the State of New-York, at Harlem, in the year 1776, unanimously voted, "That all quitrents, formerly due to the King of Great-Britain, are now due, and owing to this Convention, or such future government as shall be hereafter established in this State."

In the several stages of the aforesaid oppressions, we have petitioned his Britannic Majesty in the most humble manner for redress, and have, at very great expense, received several reports in our favour: and in other instances, wherein we have petitioned the late legislative authority of New-York, those petitions have been treated with neglect. And whereas, the local situation of this State from New-York, which, at the extreme part, is upward of four hundred and fifty miles from the seat of that government, renders it extreme difficult to continue under the jurisdiction of said State;

Therefore it is absolutely necessary, for the welfare and safety of the inhabitants of this State, that it should be henceforth a free and independent State, and that a just, permanent, and proper form of government should exist in it, derived from and founded on the authority of the people only, agreeable to the direction of the honourable American Congress.

We the Representatives of the freemen of Vermont, in General Convention met, for the express purpose of forming such a government—confessing the goodness of the great Governor of the universe (who alone knows to what degree of earthly happiness mankind may attain by perfecting the arts of government) in permitting the people of this State, by common consent, and without violence, deliberately to form for themselves such just rules as they shall think best, for governing their future society; and being fully convinced, that it is our indispensable duty to establish such original principles of government as will best promote the general happiness of the people of this State, and their posterity, and provide for future improvements, without partiality for, or prejudice against, any particular class, sect, or denomination of men whatever; do, by virtue of authority vested in us by our constituents, ordain, declare and establish the following Declaration of Rights, and Frame of Government, to be the Constitution of this Commonwealth, and to remain in force therein forever unaltered, except in such articles as shall hereafter on experience be found to require improvement, and which shall, by the same authority of the people, fairly delegated, as this Frame of Government directs, be amended or improved, for the more effectual obtaining and securing the great end and design of all government, herein before mentioned.

Chapter I

A declaration of the rights of the inhabitants of the state of vermont

I. That all men are born equally free and independent, and have certain natural, inherent and unalienable rights; amongst which are, the enjoying and defending life and liberty—acquiring, possessing and protecting property—and pursuing and obtaining happiness and safety. Therefore, no male person, born in this country, or brought from over sea, ought to be holden by law to serve any person, as a servant, slave, or apprentice, after he arrives to the age of twenty-

one years; nor female, in like manner, after she arrives to the age of eighteen years; unless they are bound by their own consent after they arrive to such age; or bound by law for the payment of debts, damages, fines, costs, or the like.

II. That private property ought to be subservient to public uses, when necessity requires it; nevertheless, whenever any particular man's property is taken for the use of the public, the owner ought to receive an equivalent in money.

III. That all men have a natural and unalienable right to worship Almighty God according to the dictates of their own consciences and understandings, as in their opinion shall be regulated by the word of God; and that no man ought, or of right can be compelled to attend any religious worship, or erect or support any place of worship, or maintain any minister, contrary to the dictates of his conscience; nor can any man be justly deprived or abridged of any civil right as a citizen, on account of his religious sentiments, or peculiar mode of religious worship; and that no authority can, or ought to be vested in, or assumed by any power whatsoever, that shall in any case interfere with, or in any manner control the rights of conscience, in the free exercise of religious worship: Nevertheless, every sect or denomination of Christians ought to observe the Sabbath or Lord's day, and keep up some sort of religious worship, which to them shall seem most agreeable to the revealed will of God.

IV. Every person within this Commonwealth ought to find a certain remedy, by having recourse to the laws, for all injuries or wrongs which he may receive in his person, property, or character: he ought to obtain right and justice freely, and without being obliged to purchase it—completely, and without any denial—promptly, and without delay; conformably to the laws.

V. That the people of this State, by their legal representatives, have the sole, exclusive and inherent right of governing and regulating the internal police of the same.

VI. That all power being originally inherent in, and consequently derived from the people; therefore, all officers of government, whether legislative or executive, are their trustees and servants, and at all times, in a legal way, accountable to them.

VII. That government is, or ought to be, instituted for the common benefit, protection and security of the people, nation, or community: and that the community hath an indubitable, unalienable, single man, family, or set of men, who are a part only of that community: and that the community hath an indubitable, unalienable, and indefeasible right, to reform or alter government, in such manner as shall be, by that community, judged to be most conducive to the public weal.

VIII. That those who are employed in the legislative and executive business of the State may be restrained from oppression, the people have a right, by their legal representatives, to enact laws for reducing their public officers to a private station, and for supplying their vacancies in a constitutional manner, by regular elections, at such periods as they may think proper.

IX. That all elections ought to be free and without corruption; and that all freemen, having a sufficient evident common interest with, and attachment to the community, have a right to elect officers, and be elected into office.

X. That every member of society hath a right to be protected in the enjoyment of life, liberty and property; and therefore is bound to contribute his proportion towards the expense of that protection, and yield his personal service, when necessary, or an equivalent thereto: but no part of a man's property can be justly taken from him, or applied to public uses, without his own consent, or that of the representative body of the freemen; nor can any man, who is conscientiously scrupulous of bearing arms, be justly compelled thereto, if he will pay such equivalent; nor the people bound by any law, but such as they have in like manner assented to, for their common good. And previous to any law being made to raise a tax, the purpose, for which it is to be raised ought to appear evident to the Legislature to be of more service to the community, than the money would be if not collected.

XI. That in all prosecutions for criminal offences, a man hath a right to be heard by himself and his counsel—to demand the cause and nature of his accusation—to be confronted with the witnesses—to call for evidence in his favour, and a speedy public trial by an impartial jury of the country, without the unanimous consent of which jury he cannot be found guilty—nor can he be compelled to give evidence against himself—nor can any man be justly deprived of his liberty, except by the laws of the land, or the judgment of his peers.

XII. That the people have a right to hold themselves, their houses, papers and possessions, free from search or seizure: and therefore warrants, without oaths or affirmations first made, affording sufficient foundation for them, and whereby any officer or messenger may be commanded or required to search suspected places, or to seize any person or persons, his, her or their property not particularly described, are contrary to that right, and ought not to be granted.

XIII. That no warrant or writ to attach the person or estate of any freeholder within this State, shall be issued in civil action, without the person or persons, who may request such warrant or attachment, first make oath, or affirm before the authority who may be requested to issue the same, that he or they are in danger of losing his, her, or their debts.

XIV. That when an issue in fact, proper for the cognizance of a jury, is joined in a court of law, the parties have a right to a trial by jury; which ought to be held sacred.

XV. That the people have a right of freedom of speech and of writing and publishing their sentiments, concerning the transactions of government—and therefore the freedom of the press ought not to be restrained.

XVI. The freedom of deliberation, speech, and debate, in the legislature, is so essential to the rights of the people, that it can not be the foundation of any accusation or prosecution, action or complaint, in any other court or place whatsoever.

XVII. The power of suspending laws, or the execution of laws, ought never to be exercised, but by the Legislature, or by authority derived from it, to be exercised in such particular cases only as the Legislature shall expressly provide for.

XVIII. That the people have a right to bear arms, for the defence of themselves and the State: and as standing armies, in the time of peace, are dangerous to liberty, they ought not to be kept up; and

that the military should be kept under strict subordination to, and governed by the civil power.

XIX. That no person in this Commonwealth can, in any case, be subject to law-martial or to any penalties or pains, by virtue of that law, except those employed in the army, and the militia in actual service.

XX. That frequent recurrence to fundamental principles, and a firm adherence to justice, moderation, temperance, industry, and frugality, are absolutely necessary to preserve the blessings of liberty, and keep government free; the people ought therefore to pay particular attention to these points, in the choice of officers and representatives; and have a right, in a legal way, to exact a due and constant regard to them, from their legislators and magistrates, in the making and executing such laws as are necessary for the good government of the State.

XXI. That all people have a natural and inherent right to emigrate from one State to another, that will receive them; or to form a new State in vacant countries, or in such countries as they can purchase, whenever they think that thereby they can promote their own happiness.

XXII. That the people have a right to assemble together, to consult for their common good—to instruct their representatives, and to apply to the Legislature for redress of grievances, by address, petition or remonstrance.

XXIII. That no person shall be liable to be transported out of this State, for trial for any offence committed within the same.

Chap. II

Plan or Frame of Government

Sect. I. The Commonwealth or State of Vermont, shall be governed hereafter by a Governor, (or Lieutenant-Governor) Council, and an Assembly of the Representatives of the freemen of the same, in manner and form following:

II. The supreme legislative power shall be vested in a House of Representatives of the freemen, or Commonwealth, or State of Vermont.

III. The supreme executive power shall be vested in a Governor, (or, in his absence, a Lieutenant-Governor) and Council.

IV. Courts of justice shall be maintained in every county in this State, and also in new counties when formed; which courts shall be open for the trial of all causes proper for their cognizance, and justice shall be therein impartially administered, without corruption, or unnecessary delay. The Judges of the Supreme Court shall be Justices of the Peace throughout the State; and the several Judges of the County Courts, in their respective counties, by virtue of their offices, except in the trial of such cases as may be appealed to the County Court.

V. A future legislature may, when they shall conceive the same to be expedient and necessary, erect a Court of Chancery, with such powers as are usually exercised by that Court, or as shall appear for the interest of the Commonwealth: Provided they do not constitute themselves the Judges of the said Court.

VI. The legislative, executive and judiciary departments shall be separate and distinct, so that neither exercise the powers properly belonging to the other.

VII. In order that the freemen of this State may enjoy the benefit of election, as equally as may be, each town within this State, that consists or may consist of eighty taxable inhabitants, within one septenary or seven years next after the establishing this Constitution, may hold elections therein, and choose each two representatives; and each other inhabited town in this State may, in like manner, choose each one representative to represent them in General Assembly, during the said septenary or seven years; and after that, each inhabited town may, in like manner, hold such election, and choose each one representative forever thereafter.

VIII. The House of Representatives of the freemen of this State shall consist of persons most noted for wisdom and virtue, to be chosen by ballot by the freemen of every town in this State respectively, on the first Tuesday of September annually forever.

IX. The representatives, so chosen, (a majority of whom shall constitute a quorum for transacting any other business than raising a State tax, for which two thirds of the members elected shall be present) shall meet on the second Thursday of the succeeding October, and shall be styled, *The General Assembly of the State of Vermont:* they shall have power to choose their Speaker, Secretary of the State, their Clerk and other necessary officers of the house—sit on their own adjournments—prepare bills, and enact them into laws—judge of the elections and qualifications of their own members: they may expel members, but not for causes known to their constituents antecedent to their election: they may administer oaths, or affirmations, in matters depending before them—redress grievances—impeach State criminals—grant charters of incorporation—constitute towns, boroughs, cities and counties: they may annually, in their first session after their election, and at other times when vacancies happen, choose Delegates to Congress: and shall also, in conjunction with the Council, annually, (or oftener if need be) elect Judges of the Supreme and several County and Probate Courts, Sheriffs and Justices of the Peace: and also with the Council, may elect Major-Generals and Brigadier-Generals, from time to time, as often as there shall be occasion: and they shall have all other powers necessary for the Legislature of a free and sovereign State: but they shall have no power to add to, alter, abolish, or infringe, any part of this Constitution.

X. The Supreme Executive Council of this State shall consist of a Governor, Lieutenant-Governor, and twelve persons, chosen in the following manner, viz. The freemen of each town shall, on the day of election for choosing representatives to attend the General Assembly, bring in their votes for Governor, with his name fairly written, to the Constable, who shall seal them up, and write on them, *Votes for the Governor*, and deliver them to the representative chosen to attend the General Assembly: and at the opening of the General Assembly, there shall be a committee appointed out of the Council and Assembly, who, after being duly sworn to the faithful discharge of their trust, shall proceed to receive, sort and count the votes for the Governor, and declare the person who has the major part of the votes to be Governor, for the year ensuing. And if there be no choice

made, then the Council and General Assembly, by their joint ballot, shall make choice of a Governor.

The Lieutenant-Governor and Treasurer shall be chosen in the manner above directed. And each freeman shall give in twelve votes for twelve counsellors, in the same manner: and the twelve highest in nomination shall serve for the ensuing year as counsellors.

XI. The Governor, and in his absence, the Lieutenant-Governor, with the Council, (a major part of whom, including the Governor or Lieutenant-Governor, shall be a quorum to transact business) shall have power to commissionate all officers—and also to appoint officers, except where provision is or shall be otherwise made by law, or this frame of government; and shall supply every vacancy in any office occasioned by death or otherwise, until the office can be filled in the manner directed by law or this Constitution. They are to correspond with other States—transact business with officers of government, civil and military, and to prepare such business as may appear to them necessary to lay before the General Assembly. They shall sit as Judges to hear and determine on impeachments, taking to their assistance, for advice only, the Judges of the Supreme Court; and shall have power to grant pardons, and remit fines in all cases whatsoever, except in treason and murder, in which they shall have power to grant reprieves but not to pardon, until after the end of the next session of Assembly, and except in cases of impeachment, in which there shall be no remission or mitigation of punishment, but by act of legislation. They are also to take care that the laws be faithfully executed. They are to expedite the execution of such measures as may be resolved upon by the General Assembly: and they may draw upon the Treasurer for such sums as may be appropriated by the House of Representatives. They may also lay embargoes, or prohibit the exportation of any commodity, for any time not exceeding thirty days, in the recess of the House only: they may grant such licenses as shall be directed by law, and shall have power to call together the General Assembly, when necessary, before the day to which they shall stand adjourned. The Governor shall be captain-general and commander-in-chief of the forces of the State, but shall not command in person, except advised thereto by the Council, and then only as long as they shall approve thereof: and the Lieutenant-Governor shall, by virtue of his office, be Lieutenant-General of all the forces of the State. The Governor, or Lieutenant-Governor, and the Council, shall meet at the time and place with the General Assembly: the Lieutenant-Governor shall, during the presence of the commander-in-chief, vote and act as one of the Council; and the Governor, and, in his absence, the Lieutenant-Governor, shall, by virtue of their offices, preside in Council, and have a casting, but no other vote. Every member of the Council shall be a Justice of the Peace for the whole State, by virtue of his office. The Governor and Council shall have a Secretary, and keep fair books of their proceedings, wherein any counsellor may enter his dissent, with his reasons to support it.

XII. The representatives, having met, and chosen their speaker and clerk, shall each of them, before they proceed to business, take and subscribe, as well the oath or affirmation of allegiance herein after directed (except where they shall produce certificates of their having heretofore taken and subscribed the same) as the following oath or affirmation, viz.

You ——— ——— do solemnly swear, (or affirm) that, as a member of this Assembly, you will not propose or assent to any bill, vote, or resolution, which shall appear to you injurious to the people; nor do nor consent to any act or thing whatever, that shall have a tendency to lessen or abridge their rights and privileges as declared by the Constitution of this State; but will, in all things, conduct yourself as a faithful, honest representative and guardian of the people, according to the best of your judgment and abilities. (In case of an oath) So help you God. (And in case of an affirmation) Under the pains and penalties of perjury.

And each member, before he takes his seat, shall make and subscribe the following declaration, viz.

You do believe in one God, the Creator and Governor of the Universe, the rewarder of the good, and punisher of the wicked. And you do acknowledge the scriptures of the Old and New Testament to be given by divine inspiration; and own and profess the Protestant religion.

And no further or other religious test shall ever hereafter be required of any civil officer or magistrate, in this State.

XIII. The doors of the House, in which the General Assembly of this Commonwealth shall sit, shall be open for the admission of all persons who behave decently, except only when the welfare of the State may require them to be shut.

XIV. The votes and proceedings of the General Assembly shall be printed (when one third of the members think it necessary) as soon as conveniently may be, after the end of each session, with the yeas and nays on any question, when required by any member, (except where the votes shall be taken by ballot) in which case every member shall have a right to insert the reasons of his vote upon the minutes.

XV. The style of laws of this State, in future to be passed, shall be, *It is hereby enacted by the General Assembly of the State of Vermont.*

XVI. To the end that laws, before they are enacted, may be more maturely considered, and the inconvenience of hasty determinations as much as possible prevented, all bills which originate in the Assembly shall be laid before the Governor and Council for their revision and concurrence, or proposals of amendment; who shall return the same to the Assembly, with their proposals of amendment (if any) in writing: and if the same are not agreed to by the Assembly, it shall be in the power of the Governor and Council to suspend the passing of such bills until the next session of the Legislature. Provided, that if the Governor and Council shall neglect or refuse to return any such bill to the Assembly with written proposals of amendment, within five days, or before the rising of the Legislature, the same shall become a law.

XVII. No person ought, in any case, or in any time, to be declared guilty of treason or felony by the Legislature.

XVIII. Every man, of the full age of twenty-one years, having resided in this State for the space of one whole year, next before the election of representatives, and is of a quiet and peaceable behaviour, and will take the following oath, (or affirmation) shall be entitled to all the privileges of a freeman of this State.

You solemnly swear, (or affirm) that whenever you give your vote or suffrage, touching any matter that concerns the State of Vermont.

you will do it so as in your conscience you shall judge will most conduce to the best good of the same, as established by the Constitution, without fear or favour of any man.

XIX. The inhabitants of this Commonwealth shall be trained and armed for its defence, under such regulations, restrictions, and exceptions, as the General Assembly shall by law direct. The several companies of militia shall, as often as vacancies happen, elect their captains and other inferior officers; and the captains and subalterns shall nominate and recommend the field officers of their respective regiments, who shall appoint their staff-officers.

XX. All commissions shall be in the name of the freemen of the State of Vermont, sealed with the State seal, signed by the Governor, and in his absence the Lieutenant-Governor, and attested by the Secretary; which seal shall be kept by the Council.

XXI. Every officer of State, whether judicial or executive, shall be liable to be impeached by the General Assembly, either when in office, or after his resignation, or removal for mal-administration. All impeachments shall be before the Governor or Lieutenant-Governor, and Council, who shall hear and determine the same, and may award costs.

XXII. As every freeman, to preserve his independence, (if without a sufficient estate) ought to have some profession, calling, trade, or farm, whereby he may honestly subsist, there can be no necessity for, nor use in establishing offices of profit, the usual effects of which are dependence and servility, unbecoming freemen, in the possessors or expectants, faction, contention, corruption and disorder among the people. But if any man is called into public service, to the prejudice of his private affairs, he has a right to a reasonable compensation: and whenever an office, through increase of fees or otherwise, becomes so profitable as to occasion many to apply for it, the profits ought to be lessened by the legislature. And if any officer shall take greater or other fees than the laws allow him, either directly or indirectly, it shall ever after disqualify him from holding any office in this State.

XXIII. No person in this State shall be capable of holding or exercising more than one of the following offices at the same time, viz. Governor, Lieutenant-Governor, Judge of the Supreme Court, Treasurer of the State, member of the Council, member of the General Assembly, Surveyor-General, or Sheriff.

XXIV. The Treasurer of the State shall, before the Governor and Council, give sufficient security to the Secretary of the State, in behalf of the General Assembly; and each High Sheriff, before the first Judge of the County Court, to the Treasurer of their respective counties, previous to their respectively entering upon the execution of their offices, in such manner, and in such sums, as shall be directed by the Legislature.

XXV. The Treasurer's accounts shall be annually audited, and a fair state thereof laid before the General Assembly, at their session in October.

XXVI. Every officer, whether judicial, executive, or military, in authority under this State, before he enter upon the execution of his office, shall take and subscribe the following oath or affirmation of allegiance to this State, (unless he shall produce evidence that he has before taken the same) and also the following oath or affirmation of office, (except such as shall be exempted by the Legislature,) viz.

THE OATH OR AFFIRMATION OF ALLEGIANCE

You do solemnly swear (or affirm) that you will be true and faithful to the State of Vermont; and that you will not, directly nor indirectly, do any act or thing injurious to the Constitution or government thereof, as established by Convention. (If an oath) So help you God. (If an affirmation) Under the pains and penalties of perjury.

THE OATH OR AFFIRMATION OF OFFICE

You ——— ——— do solemnly swear, (or affirm) that you will faithfully execute the office of ——— for the ——— of ———; and will therein do equal right and justice to all men, to the best of your judgment and abilities, according to law. (If an oath) So help you God. (If an affirmation) Under the pains and penalties of perjury.

XXVII. Any delegate to Congress may be superseded at any time, by the General Assembly appointing another in his stead. No man shall be capable of being a delegate to represent this State in Congress for more than three years, in any term of six years;—and no person, who holds any office in the gift of Congress, shall, during the time of his holding such office, be elected to represent this State in Congress.

XXVIII. Trials of issues, proper for the cognizance of a jury, in the Supreme and County Courts, shall be by jury, except where parties otherwise agree: and great care ought to be taken to prevent corruption or partiality in the choice and return, or appointment of juries.

XXIX. All prosecutions shall commence by the authority of the State of Vermont—all indictments shall conclude with these words, *Against the peace and dignity of the State.* And all fines shall be proportionate to the offences.

XXX. The person of a debtor, where there is not strong presumption of fraud, shall not be continued in prison after delivering up and assigning over, *bona fide*, all his estate, real and personal, in possession, reversion, or remainder, for the use ofe his creditors, in such manner as shall be hereafter regulated by law. And all prisoners, unless in execution, or committed for capital offences, when the proof is evident or presumption great, shall be bailable by sufficient sureties: nor shall excessive bail be exacted for bailable offences.

XXXI. All elections, whether by the people, or in General Assembly, shall be by ballot, free and voluntary: and any elector, who shall receive any gift or reward for his vote, in meat, drink, monies or otherwise, shall forfeit his right to elect at that time, and suffer such other penalty as the laws shall direct: and any person who shall, directly or indirectly, give, promise or bestow any such rewards to be elected, shall thereby be rendered incapable to serve for the ensuing year, and be subject to such further punishment as a future Legislature shall direct.

XXXII. All deeds and conveyances of land shall be recorded in the Town Clerk's office, in their respective towns; and, for want thereof, in the County Clerk's office of the same county.

XXXIII. The Legislature shall regulate entails in such manner as to prevent perpetuities.

XXXIV. To deter more effectually from the commission of crimes, by continued visible punishment, of long duration, and to make sanguinary punishment less necessary, means ought to be provided for punishing by hard labour, those who shall be convicted of crimes not capital, whereby the criminal shall be employed for the benefit of the public, or for reparation of injuries done to private persons: and all persons, at proper times, ought to be permitted to see them at their labour.

XXXV. The estates of such persons as may destroy their own lives, shall not for that offence be forfeited, but descend or ascend in the same manner as if such persons had died in a natural way. Nor shall any article, which shall accidentally occasion the death of any person, be henceforth deemed a deodand, or in anywise forfeited on account of such misfortune.

XXXVI. Every person of good character, who comes to settle in this State, having first taken an oath or affirmation of allegiance to the same, may purchase, or by other just means, acquire, hold and transfer land, or other real estate; and, after one year's residence, shall be deemed a free denizen thereof, and entitled to all the rights of a natural born subject of this State, except that he shall not be capable of being elected Governor, Lieutenant-Governor, Treasurer, Counsellor, or Representative in Assembly, until after two years' residence.

XXXVII. The inhabitants of this State shall have liberty, in seasonable times, to hunt and fowl on the lands they hold, and on other lands not inclosed; and in like manner to fish in all boatable and other waters, not private property, under proper regulations, to be hereafter made and provided by the General Assembly.

XXXVIII. Laws for the encouragement of virtue, and prevention of vice and immorality, ought to be constantly kept in force, and duly executed; and a competent number of schools ought to be maintained in each town for the convenient instruction of youth: and one or more grammar schools be incorporated, and properly supported in each county in this State. And all religious societies, or bodies of men, that may be hereafter united or incorporated, for the advancement of religion and learning, or for other pious and charitable purposes, shall be encouraged and protected in the enjoyment of the privileges, immunities, and estates, which they in justice ought to enjoy, under such regulations as the General Assembly of this State shall direct.

XXXIX. The declaration of the political rights and privileges of the inhabitants of this State, is hereby declared to be a part of the Constitution of this Commonwealth; and ought not to be violated on any pretence whatsoever.

XL. In order that the freedom of this Commonwealth may be preserved inviolate forever, there shall be chosen by ballot, by the freemen of this State, on the last Wednesday in March, in the year one thousand seven hundred and eighty-five, and on the last Wednesday in March in every seven years thereafter, thirteen persons, who shall be chosen in the same manner the Council is chosen, except that they shall not be out of the Council or General Assembly, to be called the Council of Censors; who shall meet together on the first Wednesday of June next ensuing their election, the majority of whom shall be a quorum in every case, except as to calling a convention, in which

two-thirds of the whole number elected shall agree; and whose duty it shall be to inquire whether the Constitution has been preserved inviolate in every part, during the last septenary (including the year of their service;) and whether the legislative and executive branches of government have performed their duty, as guardians of the people, or assumed to themselves, or exercised other or greater powers than they are entitled to by the Constitution; they are also to inquire whether the public taxes have been justly laid and collected in all parts of this Commonwealth—in what manner the public monies have been disposed of—and whether the laws have been duly executed. For these purposes, they shall have power to send for persons, papers, and records; they shall have authority to pass public censures—to order impeachments—and to recommend to the Legislature the repealing such laws as appear to them to have been enacted contrary to the principles of the Constitution; these powers they shall continue to have, for, and during the space of one year from the day of their election, and no longer. The said Council of Censors shall also have power to call a Convention, to meet within two years after their sitting, if there appears to them an absolute necessity of amending any article of this Constitution which may be defective—explaining such as may be thought not clearly expressed—and of adding such as are necessary for the preservation of the rights and happiness of the people; but the articles to be amended, and the amendments proposed and such articles as are proposed to be added or abolished, shall be promulgated at least six months before the day appointed for the election of such Convention, for the previous consideration of the people, that they may have an opportunity of instructing their delegates on the subject.

By order of Convention, July 4th, 1786.

MOSES ROBINSON, *President.*

Attest:

ELIJAH PAINE, *Secretary.*

ADMISSION OF THE STATE OF VERMONT—1791 [a]

[FIRST CONGRESS, THIRD SESSION.]

An Act for the admission of the State of Vermont into this Union.

The State of Vermont having petitioned the Congress to be admitted a member of the United States,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, and it is hereby enacted and declared, That on the fourth day of March, one thousand seven hundred and ninety-one, the said State, by the name and style of "the State of Vermont," shall be received and admitted into this Union, as a new and entire member of the United States of America.

Approved, February 18, 1791.

[a] An act approved March 2, 1791, declared that "from and after the third day of March next, all the laws of the United States, which are not locally inapplicable, ought to have, and shall have, the same force and effect within the State of Vermont as elsewhere within the United States."

THE CONSTITUTION OF THE STATE OF VERMONT—1793 * [a]

Chapter I

A DECLARATION OF THE RIGHTS OF THE INHABITANTS OF THE STATE OF VERMONT

Article 1. That all men are born equally free and independent, and have certain natural, inherent, and unalienable rights, amongst which are the enjoying & defending life and liberty, acquiring, possessing, and protecting property, and pursuing and obtaining happiness and safety: therefore no male person born in this country, or brought from over sea, ought to be holden by law, to serve any person as a servant, slave, or apprentice, after he arrives to the age of twenty one years, nor female in like manner, after she arrives to the age of eighteen years, unless they are bound by their own consent, after they arrive to such age, or bound by law for the payment of debts, damages, fines, costs, or the like.

Article 2. That private property ought to be subservient to public uses when necessity requires it, nevertheless, whenever any person's property is taken for the use of the public, the owner ought to receive an equivalent in money.

Article 3. That all men have a natural and unalienable right, to worship Almighty God, according to the dictates of their own consciences and understandings, as in their opinion shall be regulated by the word of God: and that no man ought to, or of right can be compelled to attend any religious worship, or erect or support any place of worship, or maintain any minister, contrary to the dictates of his conscience, nor can any man be justly deprived or abridged of any civil right as a citizen, on account of his religious sentiments, or peculia[r] mode of religious worship: and that no authority can, or ought to be vested in, or assumed by, any power whatever, that shall in any case interfere with, or in any manner control the rights of conscience, in the free exercise of religious worship. Nevertheless, every sect or denomination of christians ought to observe the sabbath or Lord's day, and keep up some sort of religious worship, which to them shall seem most agreeable to the revealed will of God.

Article 4. Every person within this state ought to find a certain remedy, by having recourse to the laws, for all injuries or wrongs which he may receive in his person, property or character: he ought to obtain right and justice, freely, and without being obliged to purchase it; compleatly and without any denial; promptly and without delay; conformably to the laws.

Article 5. That the people of this state by their legal representatives, have the sole, inherent, and exclusive right of governing and regulating the internal police of the same.

Article 6. That all power being originally inherent in and co[n]sequently derived from the people, therefore, all officers of govern-

* Verified from "The Constitution of the State of Vermont: Established by Convention July 10, 1793; and amended by Conventions in 1827, 1836, 1850 and 1870, and by the people in 1883." [Official copy furnished by the Secretary of State of Vermont, April 6, 1907. Editor.]

[a] Established July 9, 1793, and amended in 1828, 1830, 1850, 1870 and 1883.

ment, whether legislative or executive, are their trustees and servants; and at all times, in a legal way, accountable to them.

Article 7. That government is, or ought to be, instituted for the common benefit, protection, and security of the people, nation, or community, and not for the particular emolument or advantage of any single man, family, or set of men, who are a part only of that community; and that the community hath an indubitable, unalienable, and indefeasible right, to reform or alter government, in such manner as shall be, by that community, judged most conducive to the public weal.

Article 8. That all elections ought to be free and without corruption, and that all freemen, having a sufficient, evident, common interest with, and attachment to the community, have a right to elect officers, and be elected into office, agreeably to the regulations made in this constitution.

Article 9. That every member of society hath a right to be protected in the enjoyment of life, liberty, and property, and therefore is bound to contribute his proportion towards the expence of that protection, and yield his personal service, when necessary, or an equivalent thereto, but no part of any person's property can be justly taken from him, or applied to public uses, without his own consent, or that of the Representative Body of the freemen, nor can any man who is conscientiously scrupulous of bearing arms, be justly compelled thereto, if he will pay such equivalent; nor are the people bound by any law but such as they have in like manner assented to, for their common good: and previous to any law being made to raise a tax, the purpose for which it is to be raised ought to appear evident to the Legislature to be of more service to community than the money would be if not collected.

Article 10. That in all prosecutions for criminal offences, a person hath a right to be heard by himself and his counsel: to demand the cause and nature of his accusation; to be confronted with the witnesses; to call for evidence in his favour, and a speedy public trial by an impartial jury of the country; without the unanimous consent of which jury, he cannot be found guilty; nor can he be compelled to give evidence against himself; nor can any person be justly deprived of his liberty, except by the laws of the land, or the judgment of his peers.

Article 11. That the people have a right to hold themselves, their houses, papers, and possessions, free from search or seizure; and therefore warrants, without oath or affirmation first made, affording sufficient foundation for them, and whereby any officer or messenger may be commanded or required to search suspected places, or to seize any person or persons, his, her or their property, not particularly described, are contrary to that right, and ought not to be granted.

Article 12. That when any issue in fact, proper for the cognizance of a jury is joined in a court of law, the parties have a right to trial by jury, which ought to be held sacred.

Article 13. That the people have a right to freedom of speech, and of writing and publishing their sentiments, concerning the transactions of government, and therefore the freedom of the press ought not to be restrained.

Article 14. The freedom of deliberation, speech, and debate, in the Legislature, is so essential to the rights of the people, that it cannot

be the foundation of any accusation or prosecution, action or complaint, in any other court or place whatsoever.

ARTICLE 15. The power of suspending laws, or the executions of laws, ought never to be exercised but by the Legislature, or by authority derived from it, to be exercised in such particular cases, as this constitution, or the Legislature shall provide for.

ARTICLE 16. That the people have a right to bear arms for the defence of themselves and the State—and as standing armies in time of peace are dangerous to liberty, they ought not to be kept up; and that the military should be kept under strict subordination to and governed by the civil power.

ARTICLE 17. That no person in this state can in any case be subjected to law martial, or to any penalties or pains by virtue of that law, except those employed in the army, and the militia in actual service.

ARTICLE 18. That frequent recurrence to fundamental principles, and a firm adherence to justice, moderation, temperance, industry, and frugality, are absolutely necessary to preserve the blessings of liberty, and keep government free; the people ought, therefore, to pay particular attention to these points, in the choice of officers and representatives, and have a right, in a legal way, to exact a due and constant regard to them, from their legislators and magistrates, in making and executing such laws as are necessary for the good government of the State.

ARTICLE 19. That all people have a natural and inherent right to emigrate from one state to another that will receive them.

ARTICLE 20. That the people have a right to assemble together to consult for their common good—to instruct their Representatives—and to apply to the Legislature for redress of grievances, by address, petition or remonstrance.

ARTICLE 21. That no person shall be liable to be transported out of this state for trial for any offence committed within the same.

CHAPTER II

PLAN OR FRAME OF GOVERNMENT

[a] SECTION 1. The Commonwealth, or State of Vermont, shall be governed hereafter, by a Governor (or Lieutenant Governor) Council, and an Assembly of the Representatives of the freemen of the same, in manner and form following:

SECTION 2. The Supreme Legislative power shall be vested in a House of Representatives of the freemen of the Commonwealth, or State of Vermont.

[b] SECTION 3. The Supreme Executive power shall be vested in a Governor, or, in his absence, a Lieutenant Governor, and Council.

SECTION 4. Courts of Justice shall be maintained in every county in this State, and also in new counties, when formed; which courts shall be open for the trial of all causes proper for their cognizance; and justice shall be therein impartially administered, without corruption, or unnecessary delay. The Judges of the Supreme Court shall be Justices of the peace throughout the State: and the several Judges

[a] See amendments 3, 8.

[b] See amendment 8.

of the County Courts, in their respective counties, by virtue of their office, except in the trial of such causes as may be appealed to the County Court.

SECTION 5. A future Legislature may, when they shall conceive the same to be expedient and necessary, erect a Court of Chancery, with such powers as are usually exercised by that Court, or as shall appear for the interest of the Commonwealth.—Provided they do not constitute themselves the Judges of the said court.

SECTION 6. The Legislative, Executive, and Judiciary departments, shall be separate and distinct, so that neither exercise the powers properly belonging to the other.

SECTION 7. In order that the freemen of this State might enjoy the benefit of election as equally as may be, each town within this State, that consists, or may consist of eighty taxable inhabitants, within one septenary or seven years next after the establishing this Constitution, may hold elections therein, and choose each two Representatives; and each other inhabited town in this State, may, in like manner, choose each one Representative to represent them in General Assembly, during the said septenary, or seven years, and after that, each inhabited town may, in like manner hold such election, and choose each one Representative forever thereafter.

[a] SECTION 8. The House of Representatives of the Freemen of this State, shall consist of persons most noted for wisdom and virtue, to be chosen by ballot, by the freemen of every town in this State, respectively, on the first Tuesday of September annually, forever.

[b] SECTION 9. The Representatives so chosen (a majority of whom shall constitute a quorum for transacting any other business than raising a State tax, for which two thirds of the members elected shall be present) shall meet on the second Thursday of the succeeding October, and shall be styled The General Assembly of the State of Vermont: they shall have power to choose their Speaker, Secretary of State, their Clerk, and other necessary officers of the House—sit on their own adjournments—prepare bills and enact them into laws—judge of the elections and qualifications of their own members: they may expel members, but not for causes known to their constituents antecedent to their election: they may administer oaths and affirmations in matters depending before them—redress grievances—impeach state criminals—grant charters of incorporation—constitute towns, boroughs, cities and counties: they may annually on their first session after their election, in conjunction with the Council (or oftener if need be) elect Judges of the Supreme and several county and probate Courts, Sheriffs and Justices of the peace: and also, with the Council, may elect Major-Generals and Brigadier-Generals, from time to time, as often as there shall be occasion: and they shall have all other powers necessary for the Legislature of a free and sovereign State: but they shall have no power to add to, alter, abolish, or infringe any part of this constitution.

[c] SECTION 10. The Supreme Executive Council of this State, shall consist of a Governor, Lieutenant-Governor, and twelve persons, chosen in the following manner, viz. The freemen of each town

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[a] See Amendment 24.
[b] See Amendments 2, 3, 10, 14, 15, 17, 18, 20, 24, 26.
[c] See Amendments 9, 24.

shall, on the day of election for choosing Representatives to attend the General Assembly, bring in their votes for Governor, with his name fairly written, to the Constable, who shall seal them up, and write on them, VOTES FOR THE GOVERNOR, and deliver them to the Representative chosen to attend the General Assembly; and at the opening of the General Assembly, there shall be a committee appointed out of the Council and Assembly, who, after being duly sworn to the faithful discharge of their trust, shall proceed to receive, sort, and count the votes for the Governor, and declare the person who has the major part of the votes, to be Governor for the year ensuing. And if there be no choice made, then the Council and General Assembly, by their joint ballot, shall make choice of a Governor. The Lieutenant Governor and Treasurer shall be chosen in the manner above directed. And each freeman shall give in twelve votes for twelve Counsellors, in the same manner, and the twelve highest in nomination shall serve for the ensuing year as Counsellors.

[a] SECTION 11. The Governor, and in his absence, the Lieutenant Governor, with the Council, (a major part of whom, including the Governor, or Lieutenant Governor, shall be a quorum to transact business) shall have power to commission all officers—and also to appoint officers, except where provision is, or shall be otherwise made, by law or this frame of government—and shall supply every vacancy in any office, occasioned by death or otherwise, until the office can be filled in the manner directed by law or this constitution. They are to correspond with other States—transact business with officers of government civil and military—and to prepare such business as may appear to them necessary, to lay before the General Assembly. They shall sit as Judges to hear and determine on impeachments, taking to their assistance, for advice only, the Judges of the Supreme Court. And shall have power to grant pardons and remit fines, in all cases whatsoever, except in treason and murder; in which they shall have power to grant reprieves, but not to pardon, until after the end of the next Session of Assembly; and except in cases of impeachment, in which there shall be no remission, or mitigation of punishment, but by act of legislation. They are also to take care that the laws be faithfully executed. They are to expedite the execution of such measures as may be resolved upon by the General Assembly. And they may draw upon the Treasury for such sums as may be appropriated by the House of Representatives. They may also lay embargoes, or prohibit the exportation of any commodity, for any time not exceeding thirty days, in the recess of the House only. They may grant such licenses as shall be directed by law; and shall have power to call together the General Assembly, when necessary, before the day to which they shall stand adjourned. The Governor shall be Captain-General and Commander in Chief of the forces of the State, but shall not command in person, except advised thereto by the Council, and then only so long as they shall approve thereof. And the Lieutenant Governor shall, by virtue of his office, be Lieutenant General of all the forces of the State. The Governor, or Lieutenant-Governor, and the Council, shall meet at the time and place with the General Assembly; the Lieutenant Governor shall, during the presence of the Commander in Chief, vote and act as one of the Council:

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[a] See Amendments 6, 7, 8, 21.

and the Governor, and in his absence, the Lieutenant-Governor, shall, by virtue of their offices, preside in Council, and have a casting but no other vote. Every Member of the Council shall be a Justice of the peace for the whole State, by virtue of his office. The Governor and Council shall have a Secretary, and keep fair books of their proceedings, wherein any Counsellor may enter his dissent, with his reasons to support it; and the Governor may appoint a Secretary for himself and his Council.

SECTION 12. The Representatives having met, and chosen their Speaker and Clerk, shall each of them, before they proceed to business, take and subscribe, as well the oath or affirmation of allegiance hereinafter directed (except where they shall produce certificates of their having heretofore taken and subscribed the same) as the following oath or affirmation, viz.

You ——— ——— do solemnly swear (or affirm) that as a Member of this Assembly, you will not propose, or assent to any bill, vote or resolution, which shall appear to you injurious to the people, nor do or consent to any act or thing whatever, that shall have a tendency to lessen or abridge their rights and privileges, as declared by the Constitution of this State; but will, in all things, conduct yourself as a faithful, honest Representative and guardian of the people, according to the best of your judgment and abilities. (*In case of an oath*) so help you God. (*And in case of an affirmation*) under the pains and penalties of perjury.

SECTION 13. The doors of the house in which the General Assembly of this Commonwealth shall sit, shall be open for the admission of all persons who behave decently, except only when the welfare of the State may require them to be shut.

SECTION 14. The votes and proceedings of the General Assembly shall be printed (when one third of the Members think it necessary) as soon as convenient after the end of each session, with the yeas and nays on any question, when required by any Member (except where the votes shall be taken by ballot,) in which case, every member shall have a right to insert the reasons of his vote upon the minutes.

[a] SECTION 15. The stile of the laws of this State in future to be passed, shall be, *It is hereby enacted by the General Assembly of the State of Vermont.*

SECTION 16. To the end that laws, before they are enacted, may be more maturely considered, and the inconvenience of hasty determinations as much as possible prevented, all bills which originate in the Assembly, shall be laid before the Governor and Council for their revision and concurrence, or proposals of amendment: who shall return the same to the Assembly, with their proposals of amendment, if any, in writing: and if the same are not agreed to by the Assembly, it shall be in the power of the Governor and Council to suspend the passing of such bills until the next sessions of the Legislature. Provided, That if the Governor and Council shall neglect or refuse to return any such bill to the Assembly, with written proposals of amendment, within five days, or before the rising of the Legislature, the same shall become a law.

SECTION 17. No money shall be drawn out of the Treasury, unless first appropriated by act of Legislation.

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[a] See amendment 11.

SECTION 18. No person shall be elected a Representative, until he has resided two years in this State; the last of which shall be in the town for which he is elected.

SECTION 19. No member of the Council, or House of Representatives, shall, directly or indirectly, receive any fee or reward, to bring forward, or advocate any bill, petition, or other business, to be transacted in the Legislature; or advocate any cause, as Council in either House of Legislation, except when employed in behalf of the State.

SECTION 20. No person ought in any case, or in any time, to be declared guilty of treason or felony, by the Legislature.

SECTION 21. Every man of the full age of twenty one years, having resided in this State for the space of one whole year next before the election of Representatives, and is of a quiet and peaceable behaviour, and will take the following oath or affirmation, shall be entitled to all the privileges of a freeman of this State.

[a] You solemnly swear (or affirm) that whenever you give your vote or suffrage, touching any matter that concerns the State of Vermont, you will do it so as in your conscience you shall judge will most conduce to the best good of the same, as established by the Constitution, without fear or favour of any man.

SECTION 22. The inhabitants of this State shall be trained and armed for its defence, under such regulations, restrictions, and exceptions, as Congress, agreeably to the Constitution of the United States, and the Legislature of this State, shall direct. The several Companies of Militia shall, as often as vacancies happen, elect their Captain and other Officers, and the Captains and Subalterns shall nominate and recommend the field Officers, of their respective regiments, who shall appoint their staff-officers.

SECTION 23. All Commissions shall be in the name of the freemen of the State of Vermont, sealed with the State-seal, signed by the Governor, and in his absence, the Lieutenant Governor, and attested by the Secretary; which seal shall be kept by the Governor.

[b] SECTION 24. Every officer of State, whether judicial or executive, shall be liable to be impeached by the General Assembly, either when in office, or after his resignation or removal for mal-administration. All impeachments shall be before the Governor, or Lieutenant Governor, and Council, who shall hear and determine the same, and may award costs; and no trial or impeachment shall be a bar to a prosecution at law.

SECTION 25. As every freeman, to preserve his independence (if without a sufficient estate) ought to have some profession, calling, trade, or farm, whereby he may honestly subsist, there can be no necessity for, nor use in, establishing offices of profit, the usual effects of which are, dependence and servility, unbecoming freemen, in the possessors or expectants, and faction, contention and discord among the people. But if any man is called into public service to the prejudice of his private affairs, he has a right to a reasonable compensation; and whenever an office through increase of fees or otherwise, become so profitable as to occasion many to apply for it, the profit ought to be lessened by the Legislature. And if any officer shall wittingly and wilfully, take greater fees than the law allows him, it shall

[a] See amendment 1. [b] See Amendments 7, 8.

ever after disqualify him from holding any office in this State, until he shall be restored by act of Legislation.

SECTION 26. No person in this State shall be capable of holding or exercising more than one of the following offices at the same time, viz. Governor, Lieutenant Governor, Judge of the Supreme Court, Treasurer of the State, Member of the Council, Member of the General Assembly, Surveyor General, or Sheriff. Nor shall any person holding any office of profit or trust under the authority of Congress, be eligible to any appointment in the Legislature, or of holding any executive or judiciary office under this State.

[a] SECTION 27. The Treasurer of the State shall, before the Governor and Council, give sufficient security to the Secretary of the State, in behalf of the General Assembly; and each High-Sheriff, before the first Judge of the County Court, to the Treasurer of their respective Counties, previous to their respectively entering upon the execution of their offices, in such manner, and in such sums, as shall be directed by the Legislature.

SECTION 28. The Treasurer's accounts shall be annually audited, and a fair state thereof laid before the General Assembly, at their session in October.

SECTION 29. Every officer, whether judicial, executive, or military, in autho[r]ity under this State, before he enters upon the execution of his office, shall take and subscribe the following oath or affirmation of allegiance to this State, (unless he shall produce evidence that he has before taken the same) and also the following oath or affirmation of office, except military officers, and such as shall be exempted by the Legislature.

THE OATH OR AFFIRMATION OF ALLEGIANCE

You do solemnly swear (or affirm) that you will be true and faithful to the State of Vermont, and that you will not, directly or indirectly, do any act or thing injurious to the Constitution or Government thereof, as established by Convention. (If an oath) so help you God. (If an affirmation) under the pains and penalties of perjury.

THE OATH OR AFFIRMATION OF OFFICE

You ——— ——— do solemnly swear (or affirm) that you will faithfully execute the office of ——— for the ——— of ———; and will therein do equal right and justice to all men, to the best of your judgment and abilities, according to law. (If an oath) so help you God. (If an affirmation) under the pains and penalties of perjury.

SECTION 30. No person shall be eligible to the office of Governor, or Lieutenant Governor, until he shall have resided in this State four years next preceding the day of his election.

SECTION 31. Trials of issues, proper for the cognizance of a Jury, in the Supreme and County Courts, shall be by Jury, except where parties otherwise agree; and great care ought to be taken to prevent corruption or partiality in the choice and return, or appointment of Juries.

SECTION 32. All prosecutions shall commence, *By the authority of the State of Vermont:*—all Indictments shall conclude with these

[a] See Amendment 22.

words, *against the peace and dignity of the State.* And all fines shall be proportioned to the offences.

SECTION 33. The person of a debtor, where there is not strong presumption of fraud, shall not be continued in prison after delivering up and assigning over, *bona fide*, all his estate, real and personal, in possession, reversion or remainder, for the use of his creditors, in such manner as shall be hereafter regulated by law. And all prisoners, unless in execution, or committed for capital offences, when the proof is evident or presumption great, shall be bailable by sufficient sureties; nor shall excessive bail be exacted for bailable offences.

SECTION 34. All elections, whether by the people or the Legislature, shall be free and voluntary: and any elector who shall receive any gift or reward for his vote, in meat, drink, monies or otherwise, shall forfeit his right to elect at that time, and suffer such other penalty as the law shall direct; and any person who shall directly or indirectly, give, promise, or bestow, any such rewards to be elected, shall thereby be rendered incapable to serve for the ensuing year, and be subject to such further punishment as a future Legislature shall direct.

SECTION 35. All deeds and conveyances of land shall be recorded in the town Clerk's office in their respective towns; and, for want thereof, in the county Clerk's office of the same County.

SECTION 36. The Legislature shall regulate entails in such manner as to prevent perpetuities.

SECTION 37. To deter more effectually from the commission of crimes, by continued visible punishments of long duration, and to make sanguinary punishments less necessary, means ought to be provided for punishing by hard labor, those who shall be convicted of crimes not capital, whereby the criminal shall be employed for the benefit of the public, or for the reparation of injuries done to private persons: and all persons at proper times ought to be permitted to see them at their labor.

SECTION 38. The estates of such persons as may destroy their own lives, shall not, for that offence, be forfeited, but descend or ascend in the same manner as if such persons had died in a natural way. Nor shall any article which shall accidentally occasion the death of any person, be henceforth deemed a deodand, or in any wise forfeited on account of such misfortune.

[a] SECTION 39. Every person, of good character, who comes to settle in this State, having first taken an oath or affirmation of allegiance to the same, may purchase, or by other just means acquire, hold and transfer land, or other real estate; and after one year's residence shall be deemed a free denizen thereof, and entitled to all rights of a natural born subject of this State, except that he shall not be capable of being elected Governor, Lieutenant Governor, Treasurer, Councillor or Representative in Assembly, until after two years' residence.

SECTION 40. The inhabitants of this State shall have liberty in seasonable times, to hunt and fowl on the lands they hold, and on other lands not inclosed: and in like manner to fish in all boatable and other waters (not private property) under proper regulations, to be hereafter made and provided by the General Assembly.

SECTION 41. Laws for the encouragement of virtue and prevention of vice and immorality, ought to be constantly kept in force, and duly

[a] See Amendment 1.

executed: and a competent number of schools ought to be maintained in each town, for the convenient instruction of youth: and one or more grammar schools be incorporated and properly supported, in each County in this State. And all religious societies, or bodies of men, that may be hereafter united or incorporated for the advancement of religion and learning, or for other pious and charitable purposes, shall be encouraged and protected in the enjoyment of the privileges, immunities, and estates, which they in justice ought to enjoy, under such regulations as the General Assembly of this State shall direct.

SECTION 42. The declaration of the political rights and privileges of the inhabitants of this State, is hereby declared to be a part of the Constitution of this Commonwealth: and ought not to be violated, on any pretence whatsoever.

[a] SECTION 43. In order that the freedom of this Commonwealth may be preserved inviolate forever, there shall be chosen, by ballot, by the freemen of this State, on the last Wednesday in March, in the year *one thousand seven hundred and ninety nine*, and on the last Wednesday in March in every seven years thereafter, thirteen persons, who shall be chosen in the same manner the Council is chosen, except they shall not be out of the Council or General Assembly, to be called the Council of Censors; who shall meet together on the first Wednesday of June next ensuing their election, the majority of whom shall be a quorum in every case, except as to calling a Convention, in which two-thirds of the whole number elected shall agree: and whose duty it shall be to inquire, whether the Constitution has been preserved inviolate in every part, during the last septenary, (including the year of their service); and whether the legislative and executive branches of government have performed their duty, as guardians of the people, or assumed to themselves, or exercised, other or greater powers than they are entitled to by the Constitution:—They are also to inquire, whether the public taxes have been justly laid and collected in all parts of this Commonwealth—in what manner the public monies have been disposed of—and whether the laws have been duly executed.—For these purposes they shall have power to send for persons, papers, and records—they shall have authority to pass public censures, to order impeachments, and to recommend to the Legislature the repealing such laws as shall appear to them to have been passed, contrary to the principles of the Constitution: These powers they shall continue to have for and during the space of one year from the day of their election, and no longer. The said Council of Censors shall also have power to call a Convention, to meet within two years after their sitting, if there appears to them an absolute necessity of amending any article of this Constitution, which may be defective—explaining such as may be thought not clearly expressed—and of adding such as are necessary for the preservation of the rights and happiness of the people; but the articles to be amended, and the amendments proposed, and such articles as are proposed to be added or abolished, shall be promulgated at least six months before the day appointed for the election of such Convention, for the previous consideration of the people, that they may have an opportunity of instructing their Delegates on the subject.

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[a] See Amendment 25.

ARTICLES OF AMENDMENT

ARTICLE [1.] No person who is not already a freeman of this State shall be entitled to exercise the privileges of a freeman unless he be a natural born citizen of this or some one of the United States, or until he shall have been naturalized agreeably to the acts of Congress.

ARTICLE [2.] The most numerous branch of the Legislature of this State shall hereafter be styled the House of Representatives.

ARTICLE [3.] The Supreme Legislative power of this State shall hereafter be exercised by a Senate and the House of Representatives; which shall be styled, "The General Assembly of the State of Vermont."—Each shall have and exercise the like powers in all acts of Legislation; and no bill, resolution, or other thing, which shall have been passed by the one, shall have the effect of, or be declared to be, a law, without the concurrence of the other. *Provided*, That all Revenue bills shall originate in the House of Representatives,—but the Senate may propose or concur with amendments, as on other bills. Neither House during the session of the General Assembly, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that, in which the two Houses shall be sitting,—and in case of disagreement between the two Houses, with respect to adjournment, the Governor may adjourn them to such time as he shall think proper.

[a] ARTICLE [4.] The Senate shall be composed of thirty Senators, to be of the freemen of the County for which they are elected, respectively, who are thirty years of age or upwards, and to be annually elected by the freemen of each County respectively.—Each County shall be entitled to one Senator, at least, and the remainder of the Senators shall be apportioned to the several Counties according to their population, as the same was ascertained by the last Census, taken under the authority of the United States,—regard being always had, in such apportionment, to the Counties having the greatest fraction.—But the several Counties shall, until after the next Census of the United States, be entitled to elect, and have their Senators, in the following proportion, to wit:

Bennington County, two; Windham County, three; Rutland County, three; Windsor County, four; Addison County, three; Orange County, three; Washington County, two; Chittenden County, two; Caledonia County, two; Franklin County, three; Orleans County, one; Essex County, one; Grand Isle County, one.

The Legislature shall make a new apportionment of the Senators, to the several Counties, after the taking of each Census of the United States, or Census taken, for the purpose of such apportionment, by order of the Government of this State—always regarding the above provisions in this article.

[b] ARTICLE [5.] The freemen of the several towns in each County shall annually, give their votes for the Senators, apportioned to such County, at the same time, and under the same regulations, as are now provided for the election of Councillors.—And the person or persons, equal in number to the number of Senators, apportioned to such County, having the greatest number of legal votes, in such County respectively, shall be the Senator or Senators, of such County.—

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[a] See Amendment 23.

[b] See Amendment 24.

At every election of Senators, after the votes shall have been taken, the Constable or presiding officer, assisted by the Selectmen and civil authority present, shall sort and count the said votes, and make two lists of the names of each person, with the number of votes given for each annexed to his name, a record of which shall be made in the Town Clerk's office, and shall seal up said lists, separately, and write on each the name of the town, and these words, "Votes for Senator," or "Votes for Senators," as the case may be, one of which lists shall be delivered, by the presiding officer, to the Representative of said town, (if any) and if none be chosen, to the Representative of an adjoining town, to be transmitted to the President of the Senate;—the other list, the said presiding officer, shall within ten days, deliver to the Clerk of the County Court, for the same County,—and the Clerk of each County Court, respectively, or in case of his absence, or disability, to the Sheriff of such County, or in case of the absence or disability of both, to the High Bailiff of such County, on the tenth day after such election, shall publicly, open, sort, and count said votes;—and make a record of the same in the office of the Clerk of such County Court, a copy of which he shall transmit to the Senate:—and shall also within ten days thereafter, transmit to the person, or persons elected, a certificate of his or their election. *Procided*, However, that the General Assembly shall have power to regulate by Law the mode of balloting for Senators, within the several Counties, and to prescribe the means, and the manner by which the result of the balloting shall be ascertained, and through which the Senators chosen shall be certified of their election, and for filling all vacancies in the Senate, which shall happen by death, resignation or otherwise. But they shall not have power to apportion the Senators to the several Counties, otherwise, than according to the population thereof agreeably to the provisions herein before ordained.

Article [6.] The Senate shall have the like powers to decide on the election and qualifications of, and to expel any of its members, make its own rules, and appoint its own officers, as are incident to, or are possessed by, the House of Representatives. A majority shall constitute a quorum. The Lieut. Governor shall be President of the Senate, except when he shall exercise the office of Governor, or when his office shall be vacant, or in his absence, in which cases the Senate shall appoint one of its own members, to be President of the Senate, *pro tempore*. And the President of the Senate shall have a casting vote, but no other.

Article [7.] The Senate shall have the sole power of trying and deciding upon all impeachments—when sitting for that purpose, they shall be on oath, or affirmation, and no person shall be convicted, without the concurrence of two thirds of the members present. Judgment in cases of impeachment, shall not extend farther than to removal from office—and disqualification to hold or enjoying any office of honor, or profit, or trust, under this State. But the party convicted shall, nevertheless, be liable and subject to indictment, trial, judgment, and punishment, according to Law.

[a]Article [8.] The Supreme Executive power of the State, shall be exercised by the Governor, or, in case of his absence, or disability, by the Lieut. Governor: who shall have all the powers, and perform

[a] See Amendment 22.

all the duties vested in, and enjointed upon the Governor and Council, by the Eleventh and Twenty-seventh Sections of the second Chapter of the Constitution, as at present established, excepting that he shall not sit as judge, in case of impeachment, nor grant reprieve or pardon, in any such case; nor shall he command the forces of the State in person, in time of war, or insurrection; unless by the advice and consent of the Senate: and no longer than they shall approve thereof. The Governor may have a Secretary of civil and military affairs, to be by him appointed during pleasure, whose services he may at all times command; and for whose compensation provision shall be made by law.

Article [9.] The votes for Governor, Lieut. Governor, and Treasurer, of the State, shall be sorted and counted, and the result declared, by a committee appointed by the Senate and House of Representatives. If, at any time, there shall be no election, by the freemen, of Governor, Lieut. Governor, and Treasurer, of the State, the Senate and House of Representatives shall, by a joint ballot, elect to fill the office, not filled by the freemen as aforesaid, one of the three candidates for such office, (if there be so many) for whom the greatest number of votes shall have been returned.

Article [10.] The Secretary of State, and all officers, whose elections are not otherwise provided for, and who under the existing provisions of the Constitution, are elected by the Council and House of Representatives, shall, hereafter, be elected by the Senate and House of Representatives, in joint assembly, at which the presiding officer of the Senate, shall preside: and such presiding officer in such joint assembly shall have a casting vote, and no other.

Article [11.] Every bill which shall have passed the Senate and House of Representatives, shall, before it become a law, be presented to the Governor; if he approve, he shall sign it; if not, he shall return it, with his objections in writing, to the House, in which it shall have originated; which shall proceed to reconsider it. If, upon such consideration, a majority of the House shall pass the bill, it shall, together with the objections, be sent to the other House, by which, it shall, likewise, be reconsidered, and, if approved by a majority of that House, it shall become a law. But, in all such cases, the votes of both Houses shall be taken by yeas and nays, and the names of the persons, voting for or against the bill, shall be entered on the journal of each House, respectively. If any bill shall not be returned by the Governor, as aforesaid, within five days, (Sundays excepted) after it shall have been presented to him, the same shall become a law, in like manner, as if he had signed it; unless the two Houses, by their adjournment, within three days after the presentment of such bill, shall prevent its return; in which case, it shall not become a law.

Article [12.] The Writ of Habeas Corpus shall in no case be suspended.—It shall be a writ, issuable of right; and the General Assembly shall make provision to render it a speedy and effectual remedy in all cases proper therefor.

Article [13.] Such parts and provisions only of the Constitution of this State, established by Convention on the ninth day of July, one thousand seven hundred and ninety-three, as are altered or superseded by any of the foregoing amendments, or are repugnant thereto, shall hereafter cease to have effect.

ARTICLE [14.] The Assistant Judges of the County Court shall be elected by the Freemen of their respective Counties.

ARTICLE [15.] Sheriffs and High Bailiffs shall be elected by the Freemen of their respective Counties.

ARTICLE [16.] State's Attorneys shall be elected by the Freemen of their respective Counties.

ARTICLE [17.] Judges of Probate shall be elected by the Freemen of their respective Probate Districts.

ARTICLE [18.] Justices of the Peace shall be elected by the Freemen of their respective towns; and towns having less than one thousand inhabitants may elect any number of Justices of the Peace not exceeding *five;* towns having one thousand, and less than two thousand inhabitants, may elect *seven;* towns having two thousand and less than three thousand inhabitants, may elect *ten;* towns having three thousand and less than five thousand inhabitants, may elect *twelve;* and towns having five thousand, or more, inhabitants, may elect *fifteen* Justices of the Peace.

[a]ARTICLE [19.] All the officers named in the preceding articles of amendment shall be annually elected by ballot and shall hold their offices for one year, said year commencing on the first day of December next after their election.

ARTICLE [20.] The election of the several officers mentioned in the preceding articles, excepting town Representatives, shall be made at the times and in the manner now directed in the Constitution for the choice of Senators. And the presiding officer of each Freeman's meeting, after the votes shall have been taken, sorted and counted, shall, in open meeting, make a certificate of the names of each person voted for, with the number of votes given for each, annexed to his name and designating the office for which the votes were given, a record of which shall be made in the Town Clerk's office, and he shall seal up said certificate, and shall write thereon the name of the town and the words, *Certificate of Votes for* ——— and add thereto, in writing, the title of the office voted for, as the case may be, and shall deliver such certificate to some Representative chosen as a member of the General Assembly, whose duty it shall be to cause such certificate of votes to be delivered to the Committee of the General Assembly appointed to canvass the same. And at the sitting of the General Assembly, next after such balloting for the officers aforesaid, there shall be a Committee appointed of and by the General Assembly, who shall be sworn to the faithful discharge of their duty and whose duty it shall be to examine such certificates and ascertain the number of votes given for each candidate, and the persons receiving the largest number of votes for the respective offices, shall be declared duly elected, and by such Committee be reported to the General Assembly and the officers so elected shall be commissioned by the Governor. And if two or more persons designated for any one of said offices, shall have received an equal number of votes, the General Assembly shall elect one of such persons to such office.

[a] ARTICLE [21.] The term of office of the Governor, Lieutenant Governor, and Treasurer of the State, respectively, shall commence when they shall be chosen and qualified, and shall continue for the term of one year, or until their successors shall be chosen and qualified, or

[a] See Amendment 24.

to the adjournment of the session of the Legislature, at which, by the constitution and laws, their successors are required to be chosen, and not after such adjournment. And the Legislature shall provide, by general law, declaring what officer shall act as Governor whenever there shall be a vacancy in both the offices of Governor and Lieutenant Governor, occasioned by a failure to elect, or by the removal from office, or by the death, resignation, or inability of both Governor and Lieutenant Governor, to exercise the powers and discharge the duties of the office of Governor; and such officer, so designated, shall exercise the powers and discharge the duties appertaining to the office of Governor accordingly until the disability shall be removed, or a Governor shall be elected. And in case there shall be a vacancy in the office of Treasurer, by reason of any of the causes enumerated, the Governor shall appoint a Treasurer for the time being, who shall act as Treasurer until the disability shall be removed, or a new election shall be made.

ARTICLE [22.] The Treasurer of the State shall, before entering upon the duties of his office, give sufficient security to the Secretary of State, in behalf of the State of Vermont, before the Governor of the State or one of the Judges of the Supreme Court. And Sheriffs and High Bailiffs, before entering upon the duties of their respective offices, shall give sufficient security to the Treasurer of their respective Counties, before one of the Judges of the Supreme Court, or the two Assistant Judges of the County Court of their respective Counties, in such manner and in such sums as shall be directed by the Legislature.

[a] ARTICLE [23.] The Senate shall be composed of thirty Senators, to be of the Freemen of the County for which they are elected, respectively, who shall have attained the age of thirty years, and they shall be elected annually by the Freemen of each County respectively.

The Senators shall be apportioned to the several Counties, according to the population, as ascertained by the census taken under the authority of Congress in the year 1840, regard being always had, in such apportionment to the Counties having the largest fraction, and giving to each County at least one Senator.

The Legislature shall make a new apportionment of the Senators to the several Counties, after the taking of each census of the United States, or after a census taken for the purpose of such apportionment, under the authority of this State, always regarding the above provisions of this article.

ARTICLE [24.] Section 1. The General Assembly shall meet on the first Wednesday of October, biennially; the first election shall be on the first Tuesday of September, A. D. 1870; the first session of the General Assembly on the first Wednesday of October, A. D. 1870.

Section 2. The Governor, Lieutenant Governor, Treasurer of the State, senators, town representatives, assistant judges of the county court, sheriffs, high bailiffs, State's attorneys, judges of probate and justices of the peace, shall be elected biennially, on the first Tuesday of September, in the manner prescribed by the Constitution of the State.

Section 3. The term of office of the Governor, Lieutenant Governor and Treasurer of the State, respectively, shall commence when they shall be chosen and qualified, and shall continue for the term of two

[a] See Amendment 24.

years, or until their successors shall be chosen and qualified, or to the adjournment of the session of the Legislature at which, by the Constitution and laws, their successors are required to be chosen, and not after such adjournment.

Section 4. The term of office of senators and town representatives shall be two years, commencing on the first Wednesday of October following their election.

Section 5. The term of office of the assistant judges of the county court, sheriffs, high bailiffs, State's attorneys, judges of probate and justices of the peace, shall be two years, and shall commence on the first day of December next after their election.

ARTICLE [25.] Section 1. At the session of the General Assembly of this State, A. D. 1880, and at the session thereof every tenth year thereafter, the Senate may, by a vote of two-thirds of its members, make proposals of amendment to the Constitution of the State, which proposals of amendment, if concurred in by a majority of the members of the House of Representatives, shall be entered on the journals of the two Houses, and referred to the General Assembly then next to be chosen, and be published in the principal newspapers of the State; and if a majority of the members of the Senate and of the House of Representatives of the next following General Assembly shall respectively concur in the same proposals of amendment, or any of them, it shall be the duty of the General Assembly to submit the proposals of amendment so concurred in to a direct vote of the freemen of the State; and such of said proposals of amendment as shall receive a majority of the votes of the freemen voting thereon shall become a part of the Constitution of this State.

Section 2. The General Assembly shall direct the manner of voting by the people upon the proposed amendments, and enact all such laws as shall be necessary to procure a free and fair vote upon each amendment proposed, and to carry into effect all the provisions of the preceding section.

Section 3. The House of Representatives shall have all the powers now possessed by the Council of Censors to order impeachments, which shall in all cases be by a vote of two-thirds of its members.

Section 4. The forty-third section of the second part of the Constitution of this State is hereby abrogated.

ARTICLE [26.] The Judges of the Supreme Court shall be elected biennially, and their term of office shall be two years.

ARTICLE [27.] Section 1. The representatives having met on the day appointed by law for the commencement of a biennial session of the General Assembly, and chosen their Speaker, and the senators having met, shall, before they proceed to business, take and subscribe the following oath, in addition to the oath now prescribed: "You do solemnly swear (or affirm) that you did not at the time of your election to this body, and that you do not now hold, any office of profit or trust under the authority of Congress. So help you God," (or, in case of affirmation,) "Under the pains and penalties of perjury."

Section 2. The words "office of profit or trust under the authority of Congress" shall be construed to mean any office created directly or indirectly by Congress, and for which emolument is provided from the treasury of the United States.

ARTICLE [28.] Section 1. The Secretary of State and Auditor of Accounts shall be elected by the freemen of the State upon the same ticket with the Governor, Lieutenant-Governor and Treasurer.

Section 2. The Legislature shall carry this article into effect by appropriate legislation.

NOTE.—ADOPTION OF THE CONSTITUTION

The convention which declared Vermont a free and independent state, recommended, at its last session, at Windsor, June 4, 1777, to the freeholders and inhabitants of each town in the state that they should, on the 23d of June, choose delegates to attend a general convention at the meeting-house in Windsor, July 2, 1777, to choose delegates to Congress, a committee of safety, and to form a constitution for the state. This general convention met at Windsor, July 2, "did compose and agree unanimously on a constitution," and adjourned July 8. The first election under this constitution was to be held in December, 1777, when representatives were to be chosen to a general assembly to meet at Bennington in January, 1778. The president of the convention was Capt. Joseph Bowker.

November 25, 1777, the council of safety requested Capt. Bowker to "call together the old convention," to meet at Windsor, December 24; adding that "the business of the convention will be to adjourn the meeting of the general assembly." The convention re-assembled December 24; and postponed the day of election until the first Tuesday of March, 1778, and the inauguration of the state government until the second Thursday, which was the 12th day, of March, 1778. The council of safety, February 6, 1778, announced that the constitution was printed and would be distributed.

The groundwork of the constitution of 1777 was the Pennsylvania constitution of 1776, which had been recommended to the inhabitants of Vermont, as a model, by Dr. Thomas Young. The Pennsylvania convention, of which Benjamin Franklin was president, met July 15, 1776, and adjourned September 28, 1776; and Bancroft says it was a "convention composed of new men, and guided mainly by a schoolmaster, the honest but inexperienced James Cannon," and "formed a constitution under the complex influence of abstract truths and an angry quarrel with the supporters of the old charter of the colony. It extended the elective franchise to every resident tax-payer; while, with the approbation of Franklin, it concentrated legislative power in a single assembly." Radical as were the changes in the government of Pennsylvania made by that convention, much of the early form of law in that colony was kept. So that parts of the Vermont constitution find their origin in the charter of privileges granted by William Penn in 1701; in the "frame of government" granted by Penn in 1696; in the two earlier frames of government granted by him in 1682 and 1683; and even in the charter for Pennsylvania granted March 4, 1681, by King Charles the Second to William Penn. The time has been when these old forms would have aided in the interpretation of our constitution; perhaps now their only use is to gratify the curious.

The Vermont constitution of 1777 had in its declaration of rights nineteen articles and in its frame of government forty-four sections; the Pennsylvania constitution had in its declaration sixteen articles

and in its frame forty-seven sections. Fourteen articles in the Vermont declaration of rights, and twenty-seven sections in the Vermont frame of government, are in substance, and in some cases in wording, identical with the same number of articles and sections in the Pennsylvania constitution. The fourteen Vermont articles thus taken without noticeable change from the Pennsylvania declaration, are the following; the corresponding numbers of the Pennsylvania articles being given in the line beneath the Vermont numbers:

Vt. Const. of 1777, Dec. of Rights,
Arts., 4, 5, 6, 7, 8, 9, 10, 11, 13, 14, 15, 16, 17, 18.
Pa. Const. of 1776, Dec. of Rights,
Arts., 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16.

And the twenty-seven sections of the Vermont frame of government, in like manner taken from the Pennsylvania frame, are the following; the numbering of the Pennsylvania sections adopted being given beneath the Vermont numbers:

Vt. Const. of 1777, Frame of Govt.,
Secs., 1, 2, 3, 4, 5, 8, 10, 11, 12, 14, 18.
Pa. Const. of 1776, Frame of Govt.,
Secs., 1, 2, 3, 4, 5, 9, 11, 12, 13, 15, 20.
Vt. Const. of 1777, Frame of Govt.,
Secs., 19, 20, 21, 22, 24, 25, 26, 29, 32.
Pa. Const. of 1776, Frame of Govt.,
Secs., 21, 22, 24, 25, 27, 28, 29, 32, 35.
Vt. Const. of 1777, Frame of Govt.,
Secs., 33, 34, 35, 37, 38, 40 43.
Pa. Const. of 1776, Frame of Govt.,
Secs., 36, 37, 39, 41, 42, 44, 46.

But the Vermont constitution of 1777 was not a mere copy of the Pennsylvania model. The changes made were many and important. In the preamble no change of substance was made except that there was inserted a recital of charges against New York, which recital followed very closely the "Complaints" set forth June 4 1777, by the convention that declared Vermont independent.

In the Vermont declaration of rights articles 2, 12 and 19 were added, as was the second part of article 1 wherein slavery was prohibited. Article 3, which was article 2 in the Pennsylvania declaration, was changed by adding the Sabbath observance clause and limiting security for full civil rights to those who professed the Protestant religion.

In the Vermont frame of government sections 28 and 42 were added; and sections 8, 23 and 38 of the Pennsylvania frame were dropped. Section 6 changed the right of suffrage from a tax-paying to a manhood basis, and added the freeman's oath. Section 7 changed the qualifications of representatives. Section 9 (which was 10 in the Pennsylvania frame) changed the religious test by adding to the declaration to be subscribed by each representative the words, "and own and profess the Protestant religion." Section 13 was slightly changed from 14 of the Pennsylvania frame. Section 15 left off the requirement in regard to the seal of the laws which Section 16 of the Pennsylvania frame provided for. Section 16 (answering to Sections 17 and 18 of the Pennsylvania frame) entirely changed the system of representation, making it a town system in place of the districts provided for in Pennsylvania according to the number of taxable

inhabitants. Section 17 (19 of the Pennsylvania frame) changed the method of electing the council from a choice by counties to an election by general ticket by the whole state; gave the choice of governor and lieutenant governor (called in Pennsylvania the president and vice-president) to the freemen at large in the first instance, instead of requiring them to be chosen of the council by joint ballot of the council and house of representatives; and gave the choice of treasurer to the freemen instead of the house of representatives. Section 23 did not follow section 26 of the Pennsylvania frame very closely. Section 27 was very unlike Sections 30 and 31 of the Pennsylvania frame, the place of which sections it took. Sections 30 and 31 were considerably changed from the Pennsylvania Sections 33 and 34; and the form of the oath in Section 36 was somewhat changed from that in Section 40 of the Pennsylvania frame. In Sections 39 and 41 slight changes were made from Pennsylvania Sections 43 and 45. And Section 44 (47 of the Pennsylvania frame) fixed thirteen as the number of members to form the council of censors and gave their election to the freemen by general ticket, whereas Pennsylvania provided that each city and county might elect two members of the council of censors.

It has been deemed best to give here the constitution adopted in 1777; without however reprinting such sections as have the same wording as in the constitution of 1793, or those where the wording is so slightly changed that space may be saved by a reference to the corresponding section of that of 1793, noting the change. Reference is also made to the constitution of 1786.

FIRST AMENDMENTS TO THE CONSTITUTION

The first council of censors made, in 1785, many proposals of amendment, the most important of which failed of adoption by the convention of the following year. This council, in proposing amendments, redrafted the constitution, incorporating the proposed changes with the original text. They followed constitutional requirements, by promulgating the entire constitution "as revised" by them and "recommended for the consideration of the people," and the entire constitution of 1777. This council also published, over the date of February 14, 1786, what they entitled their "proceedings"; which was really an address to the freemen, and a state paper of notable merit. The convention called by the first council of censors met at Manchester June 29, 1786; and on the 4th of July, 1786, its president and secretary certified the constitution of 1786.

THE CONVENTION OF 1793

This convention, called by the council of censors of 1792, met at Windsor July 3, 1793, and July 9, 1793, its president and secretary certified the constitution of 1793. This certified constitution, now in the secretary of state's office, has, prefixed, a title-page with the following words: "The Constitution of Vermont. As Adopted by the Convention, holden at Windsor, July fourth, one thousand seven hundred and ninety three." This convention has been criticised for not certifying its amendments alone, and for the use of the word "adopted" on the title-page of the certified constitution. But the

council of censors of 1792, following the precedent of 1785, promulgated the entire constitution as it was proposed to be, and also the entire constitution of 1786. The convention of 1793 refused to adopt the most important amendments proposed by the council, but did adopt many proposed amendments; and it does not appear that either the convention of 1786 or that of 1793 adopted any amendments that were not proposed, although in a very few instances slight verbal changes may have been made, the authority for which may not have appeared in the amendments as proposed. Most of even the more unimportant verbal changes will be found to have been proposed. And it does not appear, considering the way in which the proposed amendments were, by the councils proposing them, incorporated in the original text of the constitution, how the conventions of 1786 and 1793 could have certified separately the amendments adopted as has been done by later conventions.

The convention of 1793, on the day it met, expunged the preamble. In extracts from the journal of this convention, furnished by Lewis R. Morris, its secretary, and printed in *Spooner's Vermont Journal* of July 22, 1793, appears the following: "*Ordered*, That the Preamble to the present Constitution be expunged."

The full authority of the convention to take this action lies in the fact that the council of censors in promulgating the proposed changes set forth the constitution as proposed with the preamble omitted, and the constitution of 1786 with the preamble retained; thus plainly promulgating the preamble as something to be abolished.

THE LATER AMENDMENTS

THE councils of censors of 1813, 1820, 1841 and 1855 proposed amendments, all of which the several conventions called by them refused to adopt. The councils of censors of 1827, 1834, 1848 and 1869 proposed amendments, some of which in each case were adopted by the conventions which they called.

The first article of amendment was adopted by a convention which met at Montpelier June 26, 1828, and adjourned June 28, 1828. The certificate of the president and secretary of the convention shows it was adopted June 27, 1828.

The second to thirteenth articles of amendment, inclusive, were adopted by a convention which met at Montpelier January 6, 1836, and adjourned January 14, 1836. They were certified by the president and secretary of the convention January 14, 1836.

The fourteenth to twenty-third articles of amendment, inclusive, were adopted by a convention which met at Montpelier January 2, 1850, and adjourned January 14, 1850. They were certified by the president and secretary of the convention January 12, 1850.

The twenty-fourth, twenty-fifth and twenty-sixth articles of amendment were adopted by a convention which met at Montpelier June 8, 1870, and adjourned June 15, 1870. They were certified by the president and secretary of the convention June 14, 1870.

The twenty-seventh and twenty-eighth articles of amendment were proposed by the General Assembly at a session held in 1880, concurred in in 1882, and the proclamation of their adoption by vote of the freemen of the State was made by the Governor and Secretary of State on the 10th day of April, A. D. 1883.

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